



# City Commission Agenda

for

## January 16, 2007

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**Please Note:** The City Commission agenda format allows citizens to speak on each issue prior to Commission discussion. We encourage your participation.

**CALL TO ORDER:** 7:00 P.M.

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**PROCLAMATIONS**

Groundhog Job Shadow Day

**PRESENTATIONS**

Ambulance Services Annual Report – Dave Kuhn

**NEIGHBORHOOD COUNCILS**

1. Miscellaneous reports and announcements.

**PUBLIC HEARINGS**

2. Res. 9630, Building, Electrical and Mechanical Permit Fee Increase. Sets new rates for permit fees. Action: Conduct public hearing and adopt or deny Res. 9630. **(Presented by: Jeff Jenkins)**
3. Res. 9632, Vacate Unused Segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North. Action: Conduct public hearing and adopt or deny Res. 9632. **(Presented by: Ben Rangel)**

**OLD BUSINESS**

4. Ord. 2933, Amending OCCGF Title 6, Chapter 8, Pertaining To Animals. Action: Remove from the table and adopt or deny Ord. 2933. **(Presented by: Kory Larsen)**

**NEW BUSINESS**

**ORDINANCES/RESOLUTIONS**

5. Ord. 2950, Great Falls Land Development Code Amendments. Action: Accept Ord. 2950 on first reading and set public hearing for February 6, 2007. **(Presented by: Ben Rangel)**
6. Ord. 2958, Repealing Certain Sections of the Official Codes of the City of Great Falls that were replaced, recodified or in conflict with the Land Development Code. Action: Accept Ord. 2958 on first reading and set public hearing for February 6, 2007. **(Presented by: Peggy Bourne)**

7. Res. 9634, Establishing a three-minute time limit for persons addressing the City Commission during the public comment period; prohibiting vulgar, profane, or impertinent speech; limiting speech to matters of significant interest to the public within City Commission jurisdiction; prohibiting bags or backpacks at the rostrum. Action: Adopt or deny Res. 9634. **(Presented by: Dave Gliko)**

**CONSENT AGENDA** *The Consent Agenda is made up of routine day-to-day items that require Commission action. Items may be pulled from the Consent Agenda for separate discussion/vote by any Commissioner.*

8. Minutes, January 2, 2007, Commission meeting.
9. Total Expenditures of \$1,962,927 for the period of December 29, 2006, through January 10, 2007, to include claims over \$5000, in the amount of \$1,785,367.
10. Contracts list.
11. Approve Memorandum of Understanding between the City of Great Falls and the Upper/Lower River Road Water and Sewer District for Service District #2.
12. Approve Change Order No. 1 in the amount of \$2,700 and Final Payment of \$75,507.73 to Smith Power Products for procurement and delivery of engine, generator and gas treatment equipment to the Wastewater Treatment Plant Cogeneration Project.
13. Approve Contract Amendment No. 1 in the amount of \$25,000 to Thomas, Dean & Hoskins, Inc. for the BNSF/MDT Overlook Drive Water Mains.
14. Award bid for one new 2006 Sewer TV Inspection System to Utility Specialties in the amount of \$62,456 including trade-in and the optional cost for an additional camera.

Action: Approve Consent Agenda or remove items for further discussion and approve remaining items.

#### **BOARDS & COMMISSIONS**

15. Appointments, Community Development Council. Appoint three members for three-year terms through January 31, 2010.
16. Miscellaneous reports and announcements.

#### **CITY MANAGER**

17. Miscellaneous reports and announcements.

#### **CITY COMMISSION**

18. Miscellaneous reports and announcements.

#### **PETITIONS AND COMMUNICATIONS**

19. Miscellaneous reports and announcements.

#### **ADJOURN**

# *PROCLAMATION*

## GROUNDHOG JOB SHADOW DAY



- Whereas, the primary objective of Job Shadowing is to observe the knowledge and skills that are used every day on the job, participate in sample activities, analyze personal skills and aptitudes, and discover the connection between having multiple skills and succeeding in the workplace; and
- Whereas, Groundhog Job Shadow Day was first conducted by the Boston Private Industry Council in 1996 as part of its school-to-work effort and over one million students across America will “shadow” a workplace mentor as he or she goes through a normal day on the job; and
- Whereas, the Great Falls Public School District has demonstrated its commitment to an academically motivating educational activity by coordinating over 500 job shadows to high school juniors last year with an up-close look at the world of work and classwork relevancy; and
- Whereas, Job Shadowing builds community partnerships between schools and businesses and provides a fun and unusual learning experience that taps into a broader array of resources, variety of work, and responsibilities; and
- Whereas, Job Shadowing encourages ongoing relationships between young people and caring adults, builds more prepared and focused workforces of tomorrow, and are unique to every person who participates.

**NOW, THEREFORE,** I Dona Stebbins, Mayor of the City of Great Falls, do hereby declare February 2<sup>nd</sup>, 2007 as Groundhog Job Shadow Day and call on the citizens of Great Falls to assist in providing learning opportunities for our youth where knowledge and skills needed to achieve their dreams will become a reality.



**IN WITNESS WHEREOF,**  
I hereto set my hand and  
cause the Great Seal of the  
City to be affixed this 16<sup>th</sup> day  
of January, 2007.

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Dona R. Stebbins, Mayor

**CITY OF GREAT FALLS, MONTANA**  
**A G E N D A   R E P O R T**

**AGENDA #**       2        
**DATE** January 16, 2007

**ITEM** Res. 9630, Building, Electrical and Mechanical Permit Fee Increase

**INITIATED BY** Community Development Department

**ACTION REQUESTED** Conduct Public Hearing and Adopt Res. 9630

**PREPARED & PRESENTED BY** Jeff Jenkins, Building Official

**REVIEWED & APPROVED BY** Mike Rattray, Community Development Director

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**RECOMMENDATION:**

Staff recommends the City Commission approve the following motion:

**MOTION:**

I move to adopt Resolution 9630.

**SYNOPSIS:**

Resolution 9630 sets new rates for building, plumbing, electrical and mechanical permit fees that were established in 2005. The proposed fee schedule generally represents a 4% increase. Permit fees are calculated based on value of construction. The fee increase is proposed to be effective March 1, 2007.

**BACKGROUND:**

An increase in fees is necessary to cover the cost of service delivery and keep with inflation.

In order to support this enterprise fund, staff will review fee schedules annually to be certain cost of providing the services are recovered. Annual adjustments will avoid the necessity of a large percentage increase at any point in the future.

If approved, the fees for service addressed in Resolution 9630 support the cost of service at existing staffing levels.

| BUILDING PERMIT VALUATIONS | CURRENT  | PROPOSED |
|----------------------------|----------|----------|
| \$1,000                    | \$46.80  | \$49.00  |
| \$10,000                   | \$148.16 | \$154.00 |
| \$30,000                   | \$363.56 | \$378.00 |
| \$100,000                  | \$821.16 | \$854.00 |

The basic fee for issuing an electrical, plumbing and mechanical permit increases from \$26 to \$27.

RESOLUTION NO. 9630

A RESOLUTION TO ESTABLISH RATES IN ACCORDANCE WITH TITLE 15, O.C.C.G.F., RELATING TO PERMIT FEES FOR BUILDING, PLUMBING, MECHANICAL, AND ELECTRICAL PERMITS IN THE CITY OF GREAT FALLS EFFECTIVE MARCH 1, 2007.

\* \* \* \* \*

WHEREAS, the City Commission of the City of Great Falls having met and conducted the hearing this day in regular session at the Civic Center, Great Falls, Montana, at 7:00 p.m., and having considered the cost of service to promote safe buildings for the citizens of Great Falls, do hereby establish and approve the fee schedule, attached as Exhibit A, for the City of Great Falls, Montana.

PASSED by the Commission of the City of Great Falls, Montana, on this 16<sup>th</sup> day of January, 2007.

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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David V. Gliko, City Attorney

State of Montana )  
County of Cascade : ss.  
City of Great Falls )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 9630 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16<sup>th</sup> day of January, 2007, and approved by the Mayor of said City, on the 16<sup>th</sup> day of January, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 16<sup>th</sup> day of January, 2007.

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

CITY OF GREAT FALLS, MONTANA

AGENDA # 3

A G E N D A   R E P O R T

DATE January 16, 2007

ITEM Public Hearing - Resolution No. 9632 to Vacate unused segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North

INITIATED BY Gary Lewis, President, Lewis Construction Company, Abutting Property Owner

ACTION REQUESTED Conduct Public Hearing and Adopt Resolution No. 9632

PREPARED BY Charles Sheets, Planner I

APPROVED & PRESENTED BY Benjamin Rangel, Planning Director

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RECOMMENDATION:

It is recommended the City Commission approve the abandonment of the unused segments of 10<sup>th</sup> Street North, north of 11<sup>th</sup> Alley North and 11<sup>th</sup> Avenue North abutting Block 33, Great Falls Original Townsite and Blocks 30 and 34, First Addition to Great Falls Townsite.

MOTION:

“I move the City Commission adopt Resolution No. 9632 and authorize the appropriate City officials to execute the involved Amended Plat and Easement Agreement.”

SYNOPSIS:

Resolution No. 9632 vacates unused segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North rights-of-way in the vicinity of 1025 11<sup>th</sup> Street North. An amended plat has been prepared to aggregate the proposed vacated rights-of-way and the abutting portions of Block 33, Great Falls Original Townsite and Blocks 30 and 34, First Addition to Great Falls Townsite into one parcel.

BACKGROUND:

The applicant has been working with Owen Robinson of Lumber Yard Supply and the City to rededicate a previously vacated portion of 11<sup>th</sup> Street North between River Drive North and 11<sup>th</sup> Avenue North. The City will continue to maintain the graveled portion of 11<sup>th</sup> Street North proposed to be rededicated and will consider options to improve the street to City standards. An easement from the City to Lewis Construction Company will be required for a portion of the existing building encroaching on the west boundary of 11<sup>th</sup> Street North proposed to be rededicated. It appears that no City utilities are located in the rights-of-way being vacated but there may be private utilities (gas, telephone or power) for which easements will be necessary. Blocks 30 and 34 within the Amended Plat are zoned I-1 Light industrial and Block 33 is zoned M-2 Mixed-use transitional which allows the current light industrial/warehouse uses.

For additional information, please refer to the attached aerial photo of the vicinity, Petition to Abandon a Street, that shows the rights-of-way requested to be vacated, and a reduced copy of the preliminary Amended Plat.

During a meeting held December 12, 2006, the Great Falls Planning Board passed a motion recommending the City Commission approve the vacation of the rights-of-way described on the attached petition, approve the Amended Plat of Portions of Block 33, Great Falls Original Townsite and Blocks 30 and 34, First Addition to Great Falls, and approve the accompanying Easement Agreement, subject to any errors or omissions on the Amended Plat being corrected and necessary utility easements being provided.

Attachments: Vicinity Aerial Photo  
Petition to Abandon a City Street  
Reduced Copy of Amended Plat  
Easement Agreement  
Resolution No. 9632

cc: Lewis Construction Co., Gary Lewis, P.O. Box 2669  
Lumber Yard Supply, Owen Robinson, 1029 17<sup>th</sup> Ave SW



Petition to abandon a City Street

Date:

To the honorable Commission of the City of Great Falls:

We, the undersigned property owners do hereby petition the Honorable Commission to abandon the following Described Street and Avenue:

Name of Street, and Avenue:

11<sup>th</sup> Avenue North, between 11<sup>th</sup> Street North and the west right-of-way of  
10<sup>th</sup> Street North;  
10<sup>th</sup> Street North, between the north right-of-way of 11<sup>th</sup> Alley North and the  
north right-of-way of 11<sup>th</sup> Avenue North

Description of Street and Avenue:

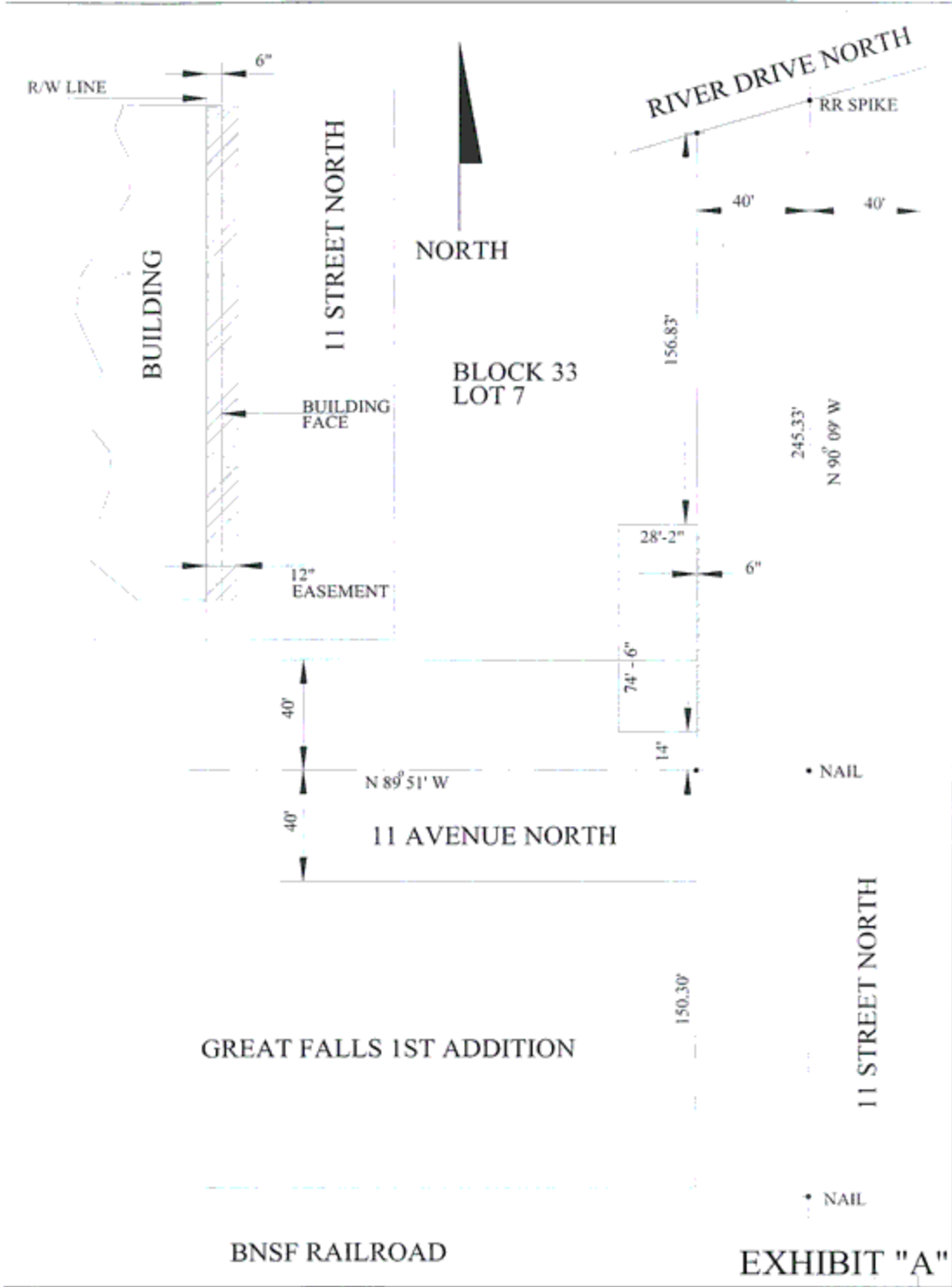
Beginning at the SE corner of Lot 7, Block 34 of the Original Townsite to the City of Great Falls; thence along the northerly RR r/w, N 89° 51' W, 350 feet: to the true point of beginning;

thence north along west boundary of Lot 1, Block 34, Original Townsite; thence S 89° 51.68' E 350 feet along the north boundary of Block 34, Original Townsite, to the NE corner of Lot 7, Block 34, Original Townsite; thence north 80 feet to the SE corner Lot 8, Block 30, Original Townsite; thence 350 feet N 89° 51' W, along the south boundary of Block 30, to the SW corner of Lot 14, Block 30, Original Townsite; thence 25 feet along the west boundary of Lot 14, Block 30, Original Townsite; to a point on the existing fence line, the agreed upon boundary between the City of Great Falls and the property herein described; thence along said fence line S 60° .07' 01" W 20 feet; thence along said fence line, S 52° 35' 59" W 70.64 feet; thence along said fence line S 63° 35' 18" W, 104 feet to a point on the north boundary of Lot 6, Block 33, Original Townsite; thence S 89° 51.68' E 93 feet along the north boundary of Block 33, Original Townsite, to the NE corner of Lot 7, Block 33, Original Townsite; thence south 150.3 feet along the east boundary of Lot 7, Block 33, Original Townsite, to the SE Corner of Lot 7, Block 33, Original Townsite; thence S 89° 51' E 80 feet to the true point of beginning, containing in all 0.8193 acres more or less.

All as shown on the map attached hereto and marked Exhibit "A" and by this reference made a part hereof.

Petitioner

  
Lewis Construction Company, 1025 11<sup>th</sup> Ave N., Great Falls, MT 59405



## **EASEMENT AGREEMENT**

THIS EASEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between, the **City of Great Falls**, Montana, a municipal corporation, the Party of the First Part, and **Lewis Construction Company, Gary Lewis**, of 1025 11<sup>th</sup> Avenue North, Great Falls, Montana, the Party of the Second Part.

### **WITNESSETH:**

That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, in hand paid, the receipt whereof is hereby acknowledged, Party of the First Part does by these presents, hereby bargain, sell, convey, transfer and grant unto the Party of the Second Part, a temporary Right-of-way easement together with all necessary appurtenances thereto, in, under, through and across the real property hereinafter described together. The easement herein mentioned covers a strip of land (1' wide and 74' 6" long) for a temporary easement more particularly described as follows:

Beginning at the intersection (centerline nail) of 11<sup>th</sup> Avenue North and 11<sup>th</sup> Street North in the Great Falls First Addition, thence N 89° 51' W, 40 feet to the west Right-of-way boundary of 11<sup>th</sup> Street North; thence N 90° 09' W, 14 feet to the Southeast corner of Block 33, Lot 7, Great Falls First Addition and the TRUE POINT OF BEGINNING. Continue N 90° 09' W, 74.5 feet, thence S 89° 51' E, 1 foot; thence S 90° 09' E, 74.5 feet, thence N 89° 51' W 1 foot to the TRUE POINT OF BEGINNING, containing in all 0.00171 acres more or less.

This easement is shown on the attached Exhibit "A".

It is understood and agreed that the following covenants and conditions attach and pertain to the foregoing grant of easement.

1. For the protection of the easement, Party of the First Part shall not make or construct any building or other permanent improvement on the land covered by the easement and the said land will revert back to the Right-of-Way of 11<sup>th</sup> Street North at the time the building and foundation are removed, thus voiding this easement.
2. This grant of temporary easement shall run with the land and shall be binding upon and shall inure to the benefit of the City of Great Falls, Montana, its successors and assigns.

IN WITNESS WHEREOF, the Parties do hereunto affix their signatures this 16<sup>th</sup> day of January, 2007.  
PARTY OF THE FIRST PART  
CITY OF GREAT FALLS

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David V. Gliko, City Attorney

State of Montana        )  
County of Cascade       :ss  
City of Great Falls     )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Easement Agreement was placed on its final passage by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16<sup>th</sup> day of January, 2007, wherein it was approved by said Commission.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this the 16<sup>th</sup> day of January, 2007.

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

PARTY OF THE SECOND PART  
LEWIS CONSTRUCTION COMPANY

\_\_\_\_\_  
Gary Lewis (signature)

RESOLUTION NO. 9632

A RESOLUTION BY THE CITY COMMISSION  
OF THE CITY OF GREAT FALLS, MONTANA,  
TO VACATE THE UNUSED SEGMENTS OF  
10<sup>TH</sup> STREET NORTH, NORTH OF 11<sup>TH</sup> ALLEY NORTH,  
AND 11<sup>TH</sup> AVENUE NORTH ABUTTING BLOCK 33,  
GREAT FALLS ORIGINAL TOWNSITE AND BLOCKS 30 AND 34,  
FIRST ADDITION TO GREAT FALLS TOWNSITE,  
IN ACCORDANCE  
WITH THE PROVISIONS OF SECTION 7-14-4114,  
MONTANA CODE ANNOTATED

\* \* \* \* \*

WHEREAS, the segments of rights-of-way of 10<sup>th</sup> Street North, north of 11<sup>th</sup> Alley North and 11<sup>th</sup> Avenue North abutting Block 33, Great Falls Original Townsite and Blocks 30 and 34, First Addition to Great Falls Townsite, were dedicated when the City of Great Falls was incorporated; and

WHEREAS, said segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North dead-end into abutting city-owned land adjacent to River Drive North; and

WHEREAS, said segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North presently contain no roadway improvements; and

WHEREAS, it has been determined retention and eventual improvement of said segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North serve no practical or functional purpose; and

WHEREAS, Gary Lewis of Lewis Construction Company, who owns and uses abutting property for light industrial/warehouse business desires to consolidate the vacated rights-of-way with the balance of his ownership in said Blocks 30, 33 and 34; and

WHEREAS, Gary Lewis and Owen Robinson of Lumber Yard Supply, agree to rededicate their portions of required right-of-way for 11<sup>th</sup> Street North between 11<sup>th</sup> Avenue North and River Drive North; and

WHEREAS, subject rights-of-way proposed to be vacated are shown on the drawing attached as Exhibit "A" and by this reference made a part hereof; and

WHEREAS, an Amended Plat of Portions of Block 33, Great Falls Original Townsite and Blocks 30 and 34, First Addition to Great Falls Townsite, has been prepared which reflects the proposed disposition of the rights-of-way requested to be vacated and dedication of the involved segment of 11<sup>th</sup> Street North; and

WHEREAS, the City Commission of the City of Great Falls, Montana, duly and regularly passed and adopted on the 2<sup>nd</sup> day of January, 2007 Resolution 9631 entitled:

A RESOLUTION OF INTENTION  
BY THE CITY COMMISSION  
OF THE CITY OF GREAT FALLS, MONTANA,  
TO VACATE THE UNUSED SEGMENTS OF  
10<sup>TH</sup> STREET NORTH, NORTH OF 11<sup>TH</sup> ALLEY NORTH,  
AND 11<sup>TH</sup> AVENUE NORTH ABUTTING BLOCK 33,  
GREAT FALLS ORIGINAL TOWNSITE  
AND BLOCKS 30 AND 34,  
FIRST ADDITION TO GREAT FALLS TOWNSITE,  
IN ACCORDANCE  
WITH THE PROVISIONS OF SECTION 7-14-4114,  
MONTANA CODE ANNOTATED, AND  
DIRECTING NOTICE TO BE GIVEN AS PROVIDED BY LAW

WHEREAS, the City Clerk, forthwith caused notice of said Resolution No. 9631 to be:

- 1) published in the Great Falls Tribune, the newspaper published nearest the rights-of-way proposed for vacation; and
- 2) posted in three public places, stating therein the time and place the City Commission shall hear all persons relative to said proposed vacation.

WHEREAS, a hearing was held by the City Commission of the City of Great Falls on the 16<sup>th</sup> day of January, 2007, at 7:00 P.M. in the Commission Chambers of the Great Falls Civic Center, where said Commission heard all persons relative to the proposed vacation.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE CITY OF GREAT FALLS, MONTANA;

That the segments of rights-of-way of 10<sup>th</sup> Street North, north of 11<sup>th</sup> Alley North and 11<sup>th</sup> Avenue North abutting Block 33, Great Falls Original Townsite and Blocks 30 and 34, First Addition to Great Falls Townsite, as shown on the attached Exhibit "A" is hereby vacated.

BE IT FURTHER RESOLVED BY SAID CITY COMMISSION that this Resolution shall become effective thirty (30) days after its passage and approval.

PASSED AND ADOPTED by the City Commission of the City of Great Falls, Montana, on this 16<sup>th</sup> day of January, 2007.

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David V. Gliko, City Attorney

State of Montana        )  
County of Cascade       :ss  
City of Great Falls     )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution No. 9632 was placed on its final passage by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16<sup>th</sup> day of January, 2007, wherein it was approved by said City Commission.

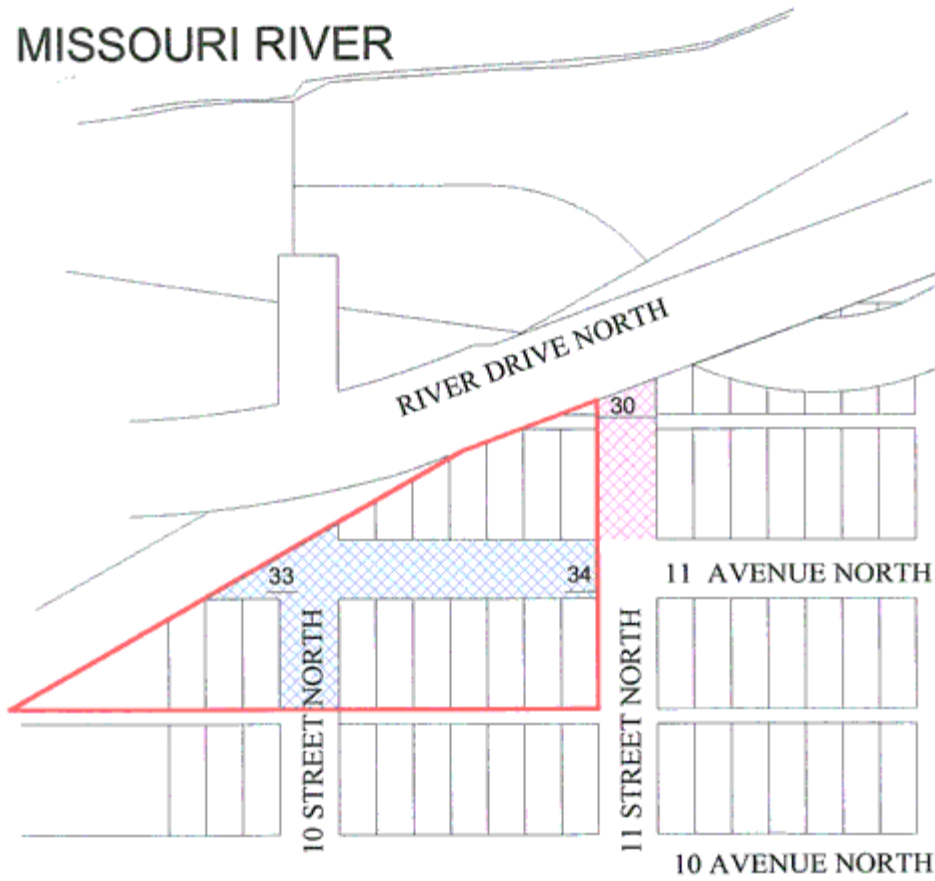
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 16<sup>th</sup> day of January, 2007.

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

(SEAL OF CITY)

# EXHIBIT "A"

MISSOURI RIVER



- AMEND TO ONE PARCEL
- ▨ VACATE
- ▨ DEDICATE







**A G E N D A R E P O R T**

**DATE:** JANUARY 16, 2007

**ITEM** ORDINANCE 2933, AMENDING OCCGF TITLE 6 CHAPTER 8  
PERTAINING TO ANIMALS

**ACTION REQUESTED** REMOVE FROM THE TABLE AND ADOPT ORDINANCE  
2933 AS AMENDED

**PRESENTED BY** KORY LARSEN, CHIEF PROSECUTOR

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**RECOMMENDATION**

Staff recommends the City Commission adopt Ordinance 2933 as amended.

**MOTION 1:**

“I move the City Commission remove Ordinance 2933 from the table.”

**AND**

**MOTION 2:**

“I move the City Commission adopt Ordinance 2933 as amended.”

**SYNOPSIS**

Ordinance 2933 amends and replaces the Official Codes of the City of Great Falls (OCCGF) 6.8 pertaining to Animals.

**BACKGROUND**

Based upon months of hard work by the members of the Blue Ribbon Committee for Animal Control Issues the city was presented with a proposed amended animal ordinance. It was very broad in its scope but presented a community consensus for changes to the Animal Ordinance. After a staff review, some small tweaks were made and the proposed ordinance was presented to the Commission at a work session earlier this year. After some lively discussion, the Commission decided that some areas required public comment and input and thus a public comment period was set. Many community members made comments by email, on the webpage, by letter and by phone and a few hardy souls actually ventured out and made the effort to come to the office and actually speak to me about the amended ordinance. Numerous requests were made for copies of the proposed ordinance and the comments continued to roll in past the deadline.

Based upon the Commissions suggestions, the numerous citizen commentaries and further guided by the facts learned by the contract review conducted by city staff shortly after, several changes were clearly needed. The final version is now ready for final review and adoption. The changes made since the last review do not entail a major overhaul of the original document presented, but rather resolve the questions that were raised at the work session. What has resulted is an ordinance that should have clear community support based upon the plethora of valuable

input provided along the way.

Our existing animal ordinance was re-adopted in 1989 based upon prior code sections adopted in the mid seventies. It is clearly time for a fresh approach to animal issues. With this in mind, the Blue Ribbon Committee reviewed the existing animal control ordinance with an eye for appropriateness, utility, function, effect on animal welfare, and included a review to the current licensing fees and fine schedules with respect to funding of local animal control and welfare efforts. The amended ordinance covers all of these issues and provides a more appropriate fine schedule and fee structure for animal control.

The City Attorney's Office and City staff has reviewed the proposed amendments and fully support the changes.

Attachment A is the newly amended City ordinance. The analysis section below highlights some of the primary ordinance amendments proposed by this draft.

#### ANALYSIS

The following is a summary of changes contained in the revised ordinance:

- Clarify definitions of “dangerous” vs. “vicious” vs. “nuisance”
- Limit number of animals to 2 dogs and 2 cats (no more than 4 total) without a multiple animal permit and Outlines procedures to be followed for issuance of Multiple Animal Permits
- Clarify barking/nuisance animal behavior and reporting requirements
- Clarify when animals may be impounded by animal control
- Set differing fines for altered versus unaltered animals for certain offenses
- Require registration of cats and dogs for appropriate fees
- Clarifies requirement for removal of excrement and increases penalties for failure to remove
- Clarifies issues related to rabies exposure and quarantine
- “Tightens” the leash law (pun intended)
- Clarifies duties upon striking a pet animal with a motor vehicle
- Increases general penalties and impoundment procedures to provide a better deterrent to repeat offenders

The newest amendments will address the concerns raised by citizens at the January 2, 2007 commission meeting.

**ORDINANCE 2933**

**AN ORDINANCE AMENDING OCCGF TITLE 6.8  
PERTAINING TO ANIMALS**

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY  
OF GREAT FALLS, MONTANA:**

Section 1. That OCCGF Title 6 Chapter 8 pertaining to animals be amended as depicted in Exhibit A which replaces the former section found therein.

Section 2. Ordinance 2933 shall become effective July 1, 2007.

**PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS,  
MONTANA, this 16th day of January, 2007.**

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Dona R. Stebbins, Mayor

ATTEST:

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Peggy J. Bourne, City Clerk

(SEAL OF THE CITY)

APPROVED FOR LEGAL CONTENT:

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David V. Gliko, City Attorney

State of Montana                    )  
County of Cascade                 : ss  
City of Great Falls                )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 2933 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 16th day of January, 2007, and approved by the Mayor of said City on the 16th day of January, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 16th day of January, 2007.

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

(SEAL OF CITY)

State of Montana                    )  
County of Cascade                : ss  
City of Great Falls                )

Peggy J. Bourne, being first duly sworn, deposes and says: That on the 16th day of January, 2007, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 2933 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library

\_\_\_\_\_  
J. Bourne, City Clerk

(SEAL OF CITY)

**EXHIBIT “A”**  
**TITLE 6**

Chapter 6.8  
ANIMALS

**Sections:**

|         |   |         |  |
|---------|---|---------|--|
| 6.8.005 | Definitions                             | 6.8.160 | Dangerous Animal   |
| 6.8.010 | Conflict of Laws                        | 6.8.170 | Impounded Animals--Redemption--Disposition                 |
| 6.8.020 | Canine Unit Exemption                   | 6.8.180 | Adoption of Animals  |
| 6.8.030 | Vaccination Required                    | 6.8.190 | Disposal Fee--Dogs and Cats                                |
| 6.8.040 | Dog and Cat Registration                | 6.8.200 | Cruelty to Animals   |
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**6.8.005 Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms shall have the meaning ascribed to each:

“Adequate shelter” means a structure designed specifically to shelter an animal, with a roof and three sides free of leaks or openings to the wind and rain, and a fourth side allowing access that is protected from the elements. The structure must be physically located in a dry area allowing the animal dry keeping and access outside the structure to dry ground that is mud free.

"Animal" means any living vertebrate creature, other than human beings, whether wild or domestic including but not limited to all livestock and any domestic pet.

"Animal Control Officer" means any person charged with the duty of enforcement of the City's animal control ordinances. Animal Control Officers shall be peace officers for the limited purpose of animal control. (Ord. 2656, 1992).

"Animal Shelter" means any premise provided for impounding and caring for dogs and other animals. (Ord. 2656, 1992).

“Animal Control Agency” means the agency designated by the City to administer and enforce this Ordinance, the animal shelter and animal control services;

"At large" means off the premises of the owner and not under the immediate, continuous and effective control of its owner or some other competent person.

"Collar" means a restraining or identifying band of leather, metal, nylon, or plastic placed around the neck of an animal.

"Commercial kennel/cattery" means any building, structure, or premise which is used for the business of charging fees for boarding, training, or breeding of animals, exclusive of medical or surgical care, or for quarantine purposes.

"Dangerous Animal" means any animal that:

- A. Has inflicted bodily injury upon or has caused the death of a person or domestic animal; and/or
- B. Has demonstrated tendencies that would cause a reasonable person to believe that the animal may inflict injury upon or cause the death of any person or domestic animal, including but not limited to the following behaviors:
  - 1. Attacked, without provocation, requiring defensive action by any person to prevent bodily injury and/or property damage in a place where such person is conducting himself peaceably and lawfully;
  - 2. Attacked, without provocation, resulting in an injury to a person in a place where such person is conducting himself peaceably and lawfully;
  - 3. Attacked, without provocation, resulting in injury or death to other animals unless the other animal is trespassing on the attacking animal owner's property, or injuring or attempting to injure the person, family or property of the owner.
- C. Has engaged in or been trained for animal fighting.

"Hybrid animal" means an animal resulting from the crossbreeding between two different species of animals. These may include, but are not limited to, crosses between wild animal species such as lions, tigers, and wolves. For the purpose of this chapter, a hybrid animal will be considered a wild animal.

"Leash" means a cord, rope, chain, or strap attached to the collar or harness of an animal, and used to lead it or hold it in check.

"License Certificate" for the purpose of this chapter means a certificate issued to an individual who intends to keep or maintain a wild animal on their premises but is not a business.

"Licensing authority" means any designated representative of the City or Animal Control Agency charged with administering the issuance and/or revocation of permits and pet registrations under the provisions of this chapter.

"Livestock" means cattle, sheep, swine, poultry, ostriches, emus, goats, horses, mules and llamas.

"Microchip Implant" means a passive electronic device that is injected into an animal by means of a pre-packaged sterilized implanting device for purposes of identification.

"Multiple Animal Permit" means a permit authorizing a household, individual or family unit to keep, harbor or maintain more than the limited number of dogs and cats permitted by this Chapter.

"Owner" means any person owning or harboring a dog or other animal, who is presumed to be the adult head of the household owning or harboring an animal.

"Pet animal" means any animal sold or kept for the purpose of being kept or domesticated as a household pet. Pet animal includes but is not limited to dogs, cats, birds, rabbits, ferrets, hamsters, guinea pigs, gerbils, rats, mice, non-poisonous arachnids, non-poisonous insects, non-venomous snakes and fish.

"Premises" means a building, group of buildings and/or contiguous parcels of land under the control of a single person and used for a single purpose. Continuous parcels of land separated by a public road are considered to be



separate premises. Separate buildings and adjoining buildings in a group of buildings, which are directly accessible to the public and function independently from the others, are separate premises.

“Secure enclosure” means a fence or structure designed to confine an animal in a humane manner.

“Service Animal” means an animal that is individually trained to do work or perform tasks for the benefit of a person with a disability.

"Tether" means a leash or similar device, attached to a well-fitted collar or harness of an animal, and of sufficient strength to restrain and control that animal to which it is attached.

"Vaccination" means the inoculation of a dog, cat, ferret, or horse with anti-rabies vaccine administered under the direction of the public health officer by a licensed veterinarian or with any other vaccine approved by the public health officer and the state veterinarian. “Current vaccination” means the inoculation of a dog, cat, ferret or horse with anti-rabies vaccine. Animals vaccinated initially will receive a booster shot one year after the initial vaccination and thereafter according to manufacturers’ recommendations. (Ord. 2534 §2(Exh. B(part)), 1989).

“Wild Animal” means any living vertebrate animal normally found in the wild state and for which there is no FDA approved anti-rabies vaccination

#### **6.8.010 Conflict of Laws**

In all instances where Montana State Law (as evidenced by the Montana Code Annotated, applicable case law or otherwise) mandates standards or requirements that conflict with the provisions of this Chapter, Montana State law shall govern and the same shall be incorporated by this reference as a part of this Chapter. For purposes of this Chapter, a conflict shall exist where, upon a particular matter, Montana Law addresses the matter in a manner that is more strict than the provisions of this Chapter, where the provision of Montana Law are specifically referenced in this Chapter as providing for criminal penalties or where a matter is addressed by Montana Law that is not addressed by this Chapter. In these two situations, Montana Law shall control. In situations where this Chapter addresses a matter in a manner that is stricter than that of Montana Law, the provisions of this Chapter shall control.

#### **6.8.020 Canine Unit Exemption**

Trained police dogs utilized by an official law enforcement agency as assigned to a sworn peace officer as part of a canine team/unit shall be exempt from all provisions of this chapter.

#### **6.8.030 Vaccination Required**

It is unlawful for any person to keep, maintain or harbor any dog, cat, ferret or horse over six months of age unless it has had a current vaccination, as defined in Section 6.8.005. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500. (Ord. 2534 §2(Exh. B(part)), 1989).

#### **6.8.040 Dog and Cat Registration**

- A. Any person keeping or harboring any dog over six months of age must register such animal as provided for in this section. A keeper of a domestic cat over six months of age must register such cat by paying a registration fee as established in this section.
- B. Registrations shall be issued by duly appointed registration agents upon payment of a registration fee. Registration fees shall be established by resolution of the City Commission.
- C. Registrations for service animals and governmental police dogs shall be furnished without charge.
- D. Registrations shall not be issued to any person under the age of eighteen years unless a parent or guardian signs the application as co-owner. The provisions of this section shall not apply to nonresidents having animals under restraint within the City less than sixty days.
- E. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$250. (Ord. 2534 §(Exh. B(part)), 1989).

#### **6.8.050 Pet Registration--Agents—Reimbursement**

Registration agents shall receive partial reimbursement at a level to be established by resolution of the City Commission. A copy of the Animal Control Agency's action related to reimbursement rates shall be available to anyone who requests it at the Animal Shelter. (Ord. 2656, 1992).

**6.8.060 Tag--Collar**

- A. Upon receipt of a proper application and the pet registration fee, the registration agent shall issue to the applicant a pet registration certificate and metallic tag. The tag shall have stamped thereon a number to correspond with the number of the certificate issued to the applicant.
- B. Every owner is required to provide each dog or cat with a substantial collar or harness, to which the registration tag or other identification tag shall be affixed at all times. In the event a registration tag is lost or destroyed, another tag shall be issued by the Animal Control Agency upon presentation of an affidavit to that effect, a receipt or duplicate receipt showing payment of the pet registration fee for the current year, and the payment of a fee for such duplicate. No refunds shall be made on any pet registration fee because of the death of the pet or the owner leaving the City before the expiration of the registration period. If a dog or cat has a Microchip Implant, no collar or tag is required to be worn, however the animal is still required to be registered pursuant to the provisions of this Title.
- C. Any pet animal found off the owner's premises without a registration tag, or without a Microchip Implant, shall be deemed to be not registered, even though a registration has been issued for such animal. Pet registration tags are not transferable from one animal to another and any animal found with a registration tag issued for another pet animal shall be deemed to be not registered.
- D. It is unlawful for any person to cause or permit a pet registration tag to be placed upon an animal for which it was not issued.
- E. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$250. (Ord. 2573, 1990: Ord. 2534 §2(Exh. B(part)), 1989).

**6.8.070 Number of Dogs/Cats**

- A. It is unlawful for any person, persons, or family to keep, harbor or maintain in or on the same premises a total of more two (2) dogs over six months of age and two (2) cats over six months of age without first obtaining a multiple animal permit as provided in Section 6.8.080. (Ord. 2534 §2(Exh. B(part)), 1989).
- B. Owners of rental properties can establish policies that may place further restrictions on the number of animals allowed on their properties.
- C. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and may also be subject to the other penalties specified in 6.8.310.

**6.8.080 Multiple-Animal Permit / Multiple Animal Hobby Breeder permit**

A Multiple Animal Permit is required for any person, family, or household owning or harboring any more than the number of dogs and cats permitted by Section 6.08.070 for more than thirty (30) days. A Multiple Animal Hobby Breeder Permit is required for any person, family, or household owning or harboring any more than the number of dogs and cats permitted by Section 6.08.070 who intends to breed their animals. The holder of a regular Multiple Animal Permit or a person holding no Multiple Animal Permit must apply for a Multiple Animal Hobby Breeder Permit within ten days of the birth of a litter. Application for these permits shall be made with the Animal Control Agency. The intended facilities are subject to inspection by an Animal Control Officer. The permit shall be issued upon the following conditions:

- A. All dogs must be registered;
- B. Cats must be registered or micro-chipped;
- C. There must be adequate shelter and secure enclosure for animals on the premises;
- D. The owner uses suitable means of disposing of animal feces so that it does not become a nuisance or a health hazard;
- E. That in the investigating officer's opinion, the animals receive proper care, food, water, shelter and humane treatment;
- F. Cat breeders are allowed to have a maximum of 4 litters per year. Other than any animals intended to be kept as pets by the breeder, kittens must be sold or given away within 4 months of birth. Dog breeders are allowed to have maximum of 2 litters per year, and other than any animals intended to be kept as pets by the breeder, puppies must be removed within 4 months.

- G. For a Hobby Breeder Permit, the puppies and kittens can only be sold, given as a gift or other transfer or conveyance from the location listed on the Hobby Breeder Permit.
- H. The Hobby Breeder Permit shall list the maximum number of animals over the age of six months allowed on the premises and if the holder of the permit exceeds that number, it shall be grounds for revocation of all permits for that location.
- I. The Animal Control Agency shall approve or deny the application based on the information submitted by the applicant and on the recommendation of the investigating officer. The Animal Control Agency may issue a conditional permit, but must state the permit conditions on the document and ensure that the applicant is advised of the conditions;
- J. After receiving notification of the Animal Control Agency's approval, the applicant must pay the Animal Control Agency an application fee which shall be established by resolution of the City Commission;
- K. All premises for which a multiple animal permit is issued may be subject to annual inspections by the Animal Control Officer. The inspections may also be instigated if a complaint is filed. The Animal Control Agency, on determining that such premises are not being maintained and/or the conditions of the permit are not met, may recommend a revocation or denial of the permit if it is deemed necessary. The permittee shall be given a 30 day written notice of the Animal Control Agency's recommendation/revocation/denial;
- L. A permit authorized by the Animal Control Agency must contain the following information:
  - 1. Name and address of the person to whom the permit is granted;
  - 2. The number of dogs and cats for which the permit is granted; and
  - 3. Any special conditions required by the Animal Control Agency.
  - 4. A Hobby Breeder Permit must state whether it is for dogs or cats or both
- M. If the holder of a Multiple-Animal permit or a Multiple Animal Hobby Breeder permit moves, he or she must provide written notice of their new address if it is within the city limits of Great Falls within 30 days of moving. The Animal Control Agency will then conduct an inspection and take appropriate action under this section based on any changes at the permit holder's new residence.
- N. The applicant may appeal the denial or revocation of a permit by filing a written request for reconsideration with the Neighborhood Council Coordinator. The written appeal must state the applicant's name and address and should clearly outline the applicant's rebuttal to the reason(s) stated for denial and should include any additional information which may be pertinent to the applicants request for a permit. The appeal may be heard by the Neighborhood Council for the district which includes the location of the requested permit. The Neighborhood Council may set the matter for hearing at either the Council's next regularly scheduled meeting or a special session set at the Council's discretion. The Neighborhood Council Coordinator shall provide written notice to the person filing the appeal as well as the Animal Control Agency of the date and time of the hearing. After hearing testimony and/or reviewing the written appeal, the Council shall recommend that the permit be granted, denied or if they wish, may make no recommendation to the City of Great Falls Police Commission.
- O. If the applicant is not satisfied with the recommendation of the Neighborhood Council or if the Neighborhood Council chooses not to hear the appeal, the applicant may file an appeal to the Great Falls Chief of Police or designee within 30 days of the date on the written recommendation. This written appeal must state the applicant's name and address and should clearly outline the applicant's rebuttal to the reason(s) stated for recommending denial and should include any additional information which may be pertinent to the applicants request for a permit. The Chief of Police may set the matter for hearing before the Police Commission who will act upon the recommendation and either affirm or reverse the permit decision.

#### **6.8.090 Commercial Kennel**

- A. A commercial kennel permit shall be required for any person, persons, or family who wish to engage in the boarding and/or breeding of dogs, cats, reptiles, or any other pet animal for compensation.
  - 1. Inspection. The intended facilities must be inspected by an Animal Control Officer, such inspection to include the physical facilities as well as the effect on the neighborhood.
  - 2. Recommendation. Following the inspection, the Animal Control Officer will recommend to the licensing authority either approval or disapproval of the application.
  - 3. Fee. The annual commercial kennel fee shall be established by resolution of the City Commission.

4. Zoning. Commercial kennels will be permitted only in areas of the City zoned for such usage as defined in Title 17 OCCGF. A zoning permit and safety inspection certificate must be obtained prior to applying for a commercial kennel license.
  5. Renewals. Licenses must be renewed within sixty days of the expiration date or the application will be treated as a new application.
  6. License Revocation. All kennel licenses will expire one year from the date of issuance unless sooner revoked. The Animal Control Officer will investigate all complaints concerning licensing or improperly operated kennels and may recommend revocation of the license if it is deemed necessary. The licensee will be given at least five days written notice of such recommendation during which time the licensee may appeal the Animal Control Officer's recommendation to the Animal Control Agency. The licensing authority will then take action as required. (Ord. 2534 §2(Exh. B(part)), 1989).
- B. Exclusions. No fee may be required of any veterinary hospital, animal shelter or government zoological park.
1. Separate Facilities. Every facility regulated by this section shall be considered a separate enterprise and shall have an individual license.
  2. Penalty. Failure to obtain a license before opening any facility covered in this section shall result in a fine of \$500.

**6.8.100 Removal of Excrement**

- A. It is unlawful for any person in control of an animal to cause or permit such animal to be on any property, public or private, not owned or possessed by such person, to fail to remove feces left by the animal. When accompanying the animal outside his or her property, the owner shall have on his or her person suitable means for the removal of such feces, which then must be placed in a double bag or fly proof container and then in an approved refuse container for sanitary removal. (see also OCCGF 8.32.310)
- B. The provisions of Section A shall not apply to the ownership or use of Seeing Eye dogs by blind persons, dogs when used in law enforcement activities, or tracking dogs when used by or with the permission of the City.
- C. The accumulation of animal feces on any private property is hereby declared a nuisance. Every person who is the owner or occupant of private property or the agent in charge of such property is charged with the duty of keeping such property free of any accumulation of feces.
- D. "Accumulation" for purposes of this section shall mean:
  1. Any quantity that constitutes a hazard to the health, safety, or convenience of persons other than the owner of the animal; or
  2. Any quantity that interferes with the use or enjoyment of any neighboring property as the result of odors, visual blight, or attraction of insects or pests.
- E. Each owner, occupant, or agent having charge of such property who is notified in accordance with the provisions set forth herein by the Animal Control Officer to remove such feces shall be charged with the duty of removing such feces and satisfactorily disposing of the same within 48 hours of the effective date/hour of the notice to do so.
- F. Notice of violation shall set forth in writing the date of inspection, the address of the property found in violation and the fact that an accumulation of feces was observed. Notice may be served either personally by leaving a copy with an occupant of the premises, or by posting notice in a conspicuous place upon the property.
- G. If the premises where an accumulation of feces is found contains only a single-family dwelling, then notice shall be directed to the occupant of such premises whether such occupant be the owner or leasee. If the premises where the accumulation of feces is found contains more than one dwelling unit, then notice shall be directed to the record owner of such premises or the agent in charge of the premises.
- H. Any owner, occupant or agent in charge of such property who violates this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and shall be ordered to remove the excrement within a reasonable time and may also be subject to the other penalties specified in 6.8.310.

**6.8.110 Rabies—Exposure**

- A. Every pet animal, dog, cat or ferret which has been bitten by, or exposed to any animal suspected to have been infected with rabies shall be:
  1. Revaccinated with an appropriate vaccine and released if the animal has a current vaccination history. The animal must be kept under the owner's control and observed for 45 days. Any illness in the animal must be reported to the City/County Health Department.

2. Seized and taken up by the Animal Control Officer or any law enforcement officer and securely and separately impounded if the bitten animal has not been vaccinated or if the vaccination history is obscure. Seized animals shall be quarantined at a licensed veterinary hospital, at the owner's expense, within the City for a period of six months or euthanized and tested for rabies. It shall be the duty of the Animal Control Officer to notify the public health officer of every such animal impounded. If, after observation, such animal is adjudged free of rabies, the animal must then be vaccinated and held in quarantine for an additional ten days after which the owner may reclaim the animal upon payment of the regular keeping fees and upon compliance with registration requirements. In the event that the animal under quarantine is diagnosed as being rabid, it shall be disposed of only under the orders of the public health officer in absolute discretion.

B. Any pet animal which bites or otherwise exposes a person or animal to rabies shall:

1. If not currently vaccinated be quarantined at a veterinarian hospital at the owner's expense for a period of at least ten days after the day of exposure. The owner of such animal shall have twenty-four hours from the time of exposure to provide proof of current vaccination to the Animal Control authority or release the animal to a veterinarian for quarantine. In the event an owner will not voluntarily release the animal for quarantine, the Animal Control authority or law enforcement officer shall obtain a court order to seize the animal and place it in quarantine at the veterinarian hospital of the authority's choice, at the owner's expense. The order, if the owner cannot be found at his/her place of residence, may be served by leaving it with a person of suitable age and discretion or by placing it in a prominent place at the front door of such residence.
2. If the animal is currently vaccinated the animal may at the discretion of the Animal Control authority be quarantined at the owner's home. If at any time the animal is known to run at large during the quarantine period the animal shall be impounded by the Animal Control authority and shall remain at a veterinary hospital for the remainder of the quarantine period at the owner's expense.
3. If the animal is a stray and no owner is identified within seventy-two hours, the animal shall be euthanized and tested for rabies.
4. The aforesaid procedure shall be suspended on order of the City/County Health Department where an animal exhibits symptoms of rabies. (Ord. 2534 §2(Exh. B(part)), 1989).

C. Any hybrid-type animal or any other animal other than those included in Item A of this section which bites or otherwise exposes a person or animal to rabies shall, at the discretion of the City/County Health Department, be quarantined or destroyed and tested for rabies:

1. If the animal is quarantined, the animal shall be placed at a veterinarian hospital at the owner's expense for a period of at least ten days after the day of exposure. In the event an owner will not voluntarily release the animal for quarantine, the Animal Control authority or law enforcement officer shall obtain a court order to seize the animal and place it in quarantine at the veterinarian hospital of the authority's choice, at the owner's expense.
2. If the animal is a stray and no owner is identified within twenty-four hours, the animal may be euthanized and tested for rabies.
3. The aforesaid procedure shall be suspended on order of the City/County Health Department where an animal exhibits symptoms of rabies.

D. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and may also be subject to the other penalties specified in 6.08.310. (Ord. 2534 §2(Exh. B(part)), 1989).

#### **6.8.120 Rabies--Emergency Control**

Upon the positive diagnosis of rabies infection of any animal in the City, the public health officer shall notify the City Manager, or designee, who may issue a citywide quarantine order providing for the summary destruction of all animals known to have been exposed to rabies, or all unconfined animals, or may make such other orders as it deems necessary or expedient for the protection of the public. All orders issued by the City Manager, or designee, under this section shall have the same force and effect as any City law. (Ord. 2534 §2(Exh. B(part)), 1989).

#### **6.8.130 Contagious Disease**

Upon the positive diagnosis of a contagious communicable disease in any animal in the City which poses a community health risk, the diagnosing veterinarian shall notify the City County Health Department Director, or designee, who may issue a city-wide alert. Any animal displaying symptoms of the disease must be quarantined and

confined either upon the premises of the owner or at a licensed veterinary hospital. The location of quarantine shall be determined by the Animal Control authority. (Ord. 2534 §2(Exh. B(part)), 1989).

#### **6.8.140 Animals Running at Large**

- A. It is unlawful for any person who owns or harbors a cat or dog, or the parents or guardians of a person under the age of eighteen, to allow such animal to run at large within the corporate limits of the City. All animals not confined within a secure enclosure (as defined in Section 6.08.005) shall be kept on a leash (as defined in Section 6.08.005) not more than ten feet long. Cats are not required to be on a leash, but they must be confined to the owner's property or be under the physical control of the owner. Any animal which has been duly and properly trained and registered as a service animal as described in Section 6.08.005 is exempt from this section.
  1. When a chain, rope, or other restraint is used to tether an animal, it shall be so placed or attached that it cannot become tangled with the chain of any other animal or with any other object, and will permit the animal to move freely and make all normal body movements in a comfortable, normal position. It shall be affixed by means of a well-fitted collar, and shall be at least 10 feet in length and shall allow the animal convenient access to food, water, and shelter adequate to protect the animal from the elements. Such tethering shall be located so as not to allow the animal to trespass on public or private property, nor in such a manner as to cause harm or danger to persons or animals.
- B. It is unlawful for any firm, person or corporation owning or having control of any goats, cattle, swine, or sheep to keep the same within the corporate limits of the City, except to bring the same to market for commercial or exhibition purposes, and when brought therein for that purpose the same shall be kept and cared for by the owner or person in charge thereof at such place as directed by the Chief of Police. It is unlawful to keep livestock, as defined in Section 6.08.005, within the corporate limits of the City with the exception of suburban districts, as defined in Title 17. In suburban districts livestock must be kept within fences or secured in such a manner which prevents them from running at large. Veterinarian's premises are exempt from this provision.
- C. It is unlawful to allow livestock to run at large within the corporate limits at any time.
- D. It is unlawful for an owner or keeper of any fowl or rabbits to permit them to run at large upon any street, alley, avenue, boulevard or public park or to trespass upon the premises of another person within the City; except, that such animals owned and/or maintained by the City in the City parks are exempt from this provision.
- E. Any person may take up any animal running at large in the City, or tethered therein contrary to the provisions of this chapter, and take the animal to the Animal Control Officer. Neither compensation nor reward shall be paid directly or indirectly for such taking and delivery. (Ord. 2534 §2(Exh. B(part)),1989).
- F. It is unlawful for any person to take or drive any animal out of any enclosure, stable or other building with the intent that such animal shall be impounded.
- G. It is unlawful for any person to open gates or doors or otherwise cause or permit any animal to escape confinement against the wishes of the owner. (Ord. 2534 §2(Exh. B(part)), 1989).
- H. It is unlawful for any person to break open, or in any manner directly or indirectly, aid or assist in, or counsel or advise the breaking open of the Animal Shelter.
- I. It is unlawful for any person to hinder, delay or obstruct any person while engaged in taking to the Animal Shelter any animal liable to be impounded under the provisions of this chapter. (Ord. 2534 §2(Exh. B(part)), 1989).
- J. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500. If the animal is unaltered the minimum fine shall be \$200

#### **6.8.150 Nuisance Animal**

Any person owning or harboring an animal shall ensure it does not engage in any of the following nuisance behavior:

##### **A. Animal Noise.**

1. No person shall allow an animal to bark, howl, or make sounds common to its species in excess, taken to be continuous noise for a period of fifteen (15) or more minutes or intermittent noise for a period of thirty (30) or more minutes, although animal control may investigate any complaint in its sole discretion. Evidence of violation of this section can be served by any of the following:
  - a. Written affirmation from at least two persons having separate residences within a one-block area; and/or
  - b. Videotapes and/or written documentation (such as barking logs); and/or
  - c. Dates, times, and duration of nuisance animal noise as documented by an Animal Control Officer on the scene.

2. The reasonable man standard shall be applied in all cases. "Reasonable man" is defined as the normal healthy person of ordinary habits and sensibilities who is entitled to enjoy ordinary comfort of human existence and not the extra-sensitive or fastidious person or the hardened individual inured to such irritation or annoyance. (Ord. 2534 §2(Exh. B(part)), 1989).

**B. Nuisance Behavior.**

1. Persons who own or harbor an animal must prevent such animal from engaging in any of the following acts:

- a. Chasing vehicles or bicycles in public streets, ways, or parks;
- b. Stealing or causing damage to private or public property;
- c. Chasing persons who are not at the time trespassing on the property of the owner, nor injuring or attempting to injure the owner, his family or property;
- d. Rummaging through or scattering garbage or rubbish;
- e. Defecating on land over which the person does not have the right to possession, without cleaning up and disposing of the waste immediately;
- f. Being inside a public area which is designated as prohibiting animals. Any animal which has been duly and properly trained and registered as a service animal as described in Section 6.08.005 may be allowed in such an area when acting in that capacity.

C. Female in Estrus. Any person owning, possessing or harboring any female animal in heat (estrus) must keep such female animal in a secure and enclosed area not accessible to male animals running at large.

D. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and may also be subject to the other penalties specified in 6.08.310. In addition if the animal is unaltered the minimum fine shall be \$200.

**6.8.160 Dangerous Animal**

It is unlawful for any person to own or harbor a dangerous animal as defined in Section 6.8.005.

A. Any dangerous animal may be immediately taken up and impounded by the Animal Control Officer. Upon a second or subsequent conviction under this chapter or in a single instance where the facts indicate that such action is necessary for the safety of the citizens of this community or their property, the dangerous animal shall be seized by an Animal Control Officer. A court hearing will then determine if the animal is to be ordered spayed or neutered, euthanized or permanently removed from the City.

B. Lawful Presence. For the purposes of this section, a person is peaceably and lawfully upon the private property of an owner when in the performance of any duty imposed by the laws of this state or any city or county, or by the laws or postal regulations of the United States, or when on such property upon invitation, express or implied.

C. Any person may protect their pets, their property, their person, or the person of any other human being by reasonable force against the dangerous animal.

D. Impounded animals may be redeemed by the owner after compliance with all registration and vaccination requirements if the animal is not being held for a court hearing. If the owner wishes to appeal the seizure of the animal the owner may file a petition in Court for the return of the animal.

E. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a minimum fine of \$300 and a maximum fine of \$1,000. If a person has purposely, knowingly or negligently violated this section, up to 12 months in jail may be imposed. The person may also be subject to the other penalties specified in 6.08.310. In addition if the animal is unaltered, the minimum fine shall be \$500.

**6.8.170 Impounded Animals--Redemption—Disposition**

A. The owner of any pet animal which has been impounded, upon proving ownership thereof, may redeem the pet from the Animal Control Agency upon payment of the following:

1. Registration fee (for unregistered pet animals); and
2. An impound fee established by the Animal Control Agency for each day that the animal has been held in the Animal Shelter; and
3. A fee for rabies vaccination if the pet is not vaccinated; and
4. Any veterinary fees incurred.

B. If any unregistered dog or other animal is impounded, the owner shall redeem it within seventy-two hours (Sundays and holidays excluded), or it shall be subject to adoption or disposal by the Animal Control Agency as provided in this chapter. If such impounded animal has a registration tag or microchip, the animal will be held for 96 hours (Sundays and holidays excluded) before being subject to adoption or disposal. In addition, the

Animal Control Officer will attempt to contact the owner by phone and/or in writing. If the animal carries a designation as a service animal together with the phone number or address of the owner, the Animal Control Officer will make an attempt to return the animal. The Animal Control Officer may issue a citation to the person redeeming an impounded animal for violation of any provision of this chapter.

- C. The owner of any animal other than a pet animal (dog or cat) which has been impounded, upon proving ownership thereof, may redeem the animal from the shelter upon satisfying the following conditions and payment of the following:
1. The animal is legally allowed within the incorporated limits;
  2. Proof of compliance that the animal has all required Federal, State or Local permits.
  3. An impound fee established by the Animal Control Agency for each day, or part thereof, that the animal has been held in the Animal Shelter; and
  4. Any veterinary fees incurred. (Ord. 2534 §2(Exh. B(part)), 1989).
- D. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and may also be subject to the other penalties specified in 6.08.310.

#### **6.8.180 Adoption of Animals**

If an animal is not redeemed by the owner within the prescribed time limit, the owner thereof forfeits all right, title and interest therein, and the Animal Control Agency may offer the same for sale to the public.

- A. A person may adopt an animal pursuant to the requirements set by the Animal Control Agency.
- B. It is unlawful for any person to adopt an animal from the animal shelter and fail to comply with the stipulations in the adoption contract. Such violation may result in forfeiture of the animal and a fine of up to \$500.
- C. No animal suffering from an infectious disease will be released unless the public health officer shall so order. (Ord. 2534 §2(Exh. B(part)), 1989).

#### **6.8.190 Surrender / Crematory Fee - Dogs and Cats**

- A. The Animal Control Agency will dispose of dead dogs or dead cats for a fee to be established by the Animal Control Agency if the animal is transported to the Animal Shelter by the owner.
- B. The Animal Control Agency will euthanize and dispose of dogs and cats for an owner who is a resident of the City for unwanted cats and dogs brought to the Animal Shelter by the owner. The resident surrender fee shall be established by the Animal Control Agency and charged to the owner.
- C. The Animal Control Agency will euthanize and dispose of dogs and cats for an owner who is a non-resident of the City for unwanted cats and dogs brought to the Animal Shelter by the owner. The non-resident surrender fee shall be established by the Animal Control Agency and charged to the owner.
- D. These fees do not apply to persons or agencies covered by a contract with the Animal Control Agency or the City for disposal.

#### **6.8.200 Cruelty to Animals.**

Please refer to Montana Code §45-8-211.

#### **6.8.210 Provoking Animals**

It is unlawful for any person to provoke, tease or in any way disturb a dog or other animal with the intent to harass the dog or other animal, cause it to bark, or attack any person (or other animal). Any person violating this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and/or up to six months in jail. (Ord.2534 §2(Exh. B(part)), 1989).

#### **6.8.220 Abandonment**

It is unlawful for any person to abandon any animal within the City. Any person violating this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and shall bear all expenses incurred by the Animal Control Agency in caring for said animal and shall reimburse the Animal Control Agency all said costs as determined by the Animal Control Agency. (Ord. 2534 §2(Exh. B (part), 1989; Ord. 2656, 1992).

#### **6.8.230 Duty of Driver upon Striking a Pet-Animal**



Every operator of a self-propelled vehicle upon the ways of this State open to the public shall immediately upon injuring or striking a pet-animal shall give aid to such animal or immediately notify the Animal Control Officer or police officer, furnishing sufficient facts relative to such injury. Any person violating this section is guilty of a misdemeanor punishable by a maximum fine of \$500. (Ord. 2534 §2(Exh. B(part)), 1989).

#### **6.8.240 Wild Animals**

- A. It is unlawful for any person to allow a wild animal in their possession to be in or upon any public place, including but not limited to public parks and public buildings.
- B. It is unlawful for any person to keep or maintain, or cause to be kept or maintained, any wild animal without first applying for and receiving a License Certificate from the Animal Control Agency. The fee for this license shall be established by resolution of the City Commission. Any animal(s) illegally possessed may be immediately seized by Animal Control with all costs of seizure charged to the person in possession of the wild animal.
- C. The Animal Control Agency shall set written policies as to what animals are exempted from licensing; however no License Certificate may be issued where the purpose is to breed wild animals. "Game farms" as defined in Montana Code Annotated 87-4-406 are not permitted in the City.
- D. The provisions of this section shall not prohibit the keeping or maintaining of animals under the following conditions:
  - 1. Any wild animals which are kept confined in publicly funded zoos, museums, or any other place approved by the Police Department where they are kept as live specimens for the public to view;
  - 2. Any wild animals which are kept confined and placed on exhibit in a circus, carnival, fairground or a sponsored academic exhibit.
  - 3. Wild animals in bona fide, licensed veterinary hospitals for treatment. (Ord. 2534 §2(Exh. B(part)), 1989).
  - 4. Any wild animals placed on exhibit by a commercial business possessing a Safety Inspection Certificate for wild animals. All applicable Federal, State, and Local permits must be obtained prior to bringing the wild animals into the City. (Ord. 2705; 1996)
- E. Any person violating this section is guilty of a misdemeanor punishable by a maximum fine of \$500.00.

#### **6.8.250 Wild Animals—License Certificate**

- A. A Wild Animal License Certificate shall be required for any person, persons, or family who wish to keep or harbor a wild animal. The Animal Control Agency shall issue License Certificates based upon the following:
  - 1. Inspection. The intended location must be inspected by an Animal Control Officer, such inspection to include the physical facilities as well as the effect on the neighborhood.
  - 2. Recommendation. Following the inspection, the Animal Control Officer will recommend to the licensing authority either approval or disapproval of the application.
  - 3. Fee. The annual License Certificate fee shall be established by resolution of the City Commission.
  - 4. Consent. Anyone wishing to harbor wild animals must obtain the written consent of at least seventy-five percent of the adjoining neighbors within two hundred feet east and west and one hundred fifty feet north and south, excluding public right-of-way.
  - 5. Renewals. Licenses must be renewed within sixty days of the expiration date or the application will be treated as a new application.
  - 6. License Revocation. All License Certificates will expire one year from the date of issuance unless sooner revoked. The Animal Control Officer will investigate all complaints concerning licensing or complaints related to the wild animal and may recommend revocation of the license if it is deemed necessary. The licensee will be given at least five days written notice of such recommendation during which time the licensee may appeal the Animal Control Officer's recommendation to the Animal Control Agency. The licensing authority will then take action as required. (Ord. 2534 §2(Exh. B(part)), 1989).
- B. Exclusions. No fee may be required of any veterinary hospital, animal shelter or government zoological park.
- C. Penalty. Failure to obtain a license before harboring any wild animal shall result in a maximum fine of \$500.

#### **6.8.260 Steel Jaw Traps or Snares**

It is unlawful for any person to set any steel jaw traps or snares within the City limits of Great Falls. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a minimum fine of \$300 and a maximum fine of \$1,000 and/or up to six months in jail. (Ord. 2534 §2(Exh. B(part)), 1989).

**6.8.270 Animal Control Officer—Duties**

In addition to the duties and powers of the Animal Control Officer otherwise prescribed, the officer shall:

- A. Keep and maintain adequate records of all animals impounded and of all actions taken in the course of their duties. These records shall be public records and available for viewing at the Animal Control Agency.
- B. Carry out and enforce all of the provisions of this chapter and amendments thereto.
- C. Enforce the licensing and control of all animals in the City as provided in this chapter.
- D. Seize and take up all animals violating the terms of this chapter and maintain the same in a suitable and humane manner at the Animal Shelter.
- E. Where this chapter requires that an animal be put to death, the officer shall accomplish this in a humane manner.
- F. Be empowered to pursue upon private property any animal violating any provision of this chapter in their presence or when acting under a court order, warrant, affidavit of a dangerous animal, or when attempting to seize any animal suspected of having been exposed to rabies.
- G. File complaints in the Municipal Court for violations of this chapter and attend and testify in court when required.
- H. Make a timely notification to the City/County Health Department regarding bite reports submitted to Animal Control.
- I. Maintain regular hours as assigned during which the Animal Shelter shall be open and post the hours in a conspicuous place at the Animal Shelter. (Ord. 2534 §2(Exh. B(part)), 1989).

**6.8.280 Animal Control Officer--Investigative Authority**

- A. For the purpose of discharging the duties imposed by this chapter and enforcing its provisions, the Animal Control Officer or any Police Officer is empowered to demand from the occupants of any premises upon or in which a dog or other animal is kept or harbored the exhibition of such dog or other animal and the registrations and permits for such dog and/or other animals. The Animal Control Officer may make such a demand at the premises where any animal is kept in a reportedly cruel or inhumane manner and examine such animal and take possession of the animal, when it requires humane treatment.
- B. For the purposes of investigating complaints of unsanitary conditions and/or inhumane treatment of animals, Animal Control Officers shall have the right to inspect any premises where animals are kept at any reasonable time. This includes removing animals from vehicles if the animal's health is endangered by such confinement in hot or cold weather.
- C. On refusal of entry, the Animal Control Officer may obtain a search warrant. (Ord. 2534 §2(Exh. B(part)), 1989).

**6.8.290 Animal Control Officer--Interference Prohibited**

- A. It is unlawful for any person to hinder or interfere with the Animal Control Officer or any police officer in the performance of any duty or power imposed on by this chapter, or to release, or attempt to release, any animal in the custody of the Animal Control Officer, except as provided in this chapter. (Ord. 2534 §2(Exh. B(part)), 1989).
- B. It shall be unlawful for any person to remove, alter, damage, or otherwise tamper with any approved traps or equipment lawfully set for the purpose of capturing dogs, cats, or any other animals or wildlife that may be deemed at large or a public nuisance.
- C. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$500 and/or 6 months jail and may also be subject to the other penalties specified in 6.8.310.

**6.8.300 Copies of Regulations**

An abbreviated copy of City code applicable to the control of animals shall be available to all persons adopting or reclaiming an animal. A complete copy of Title 6, Chapter 6.08 shall be from the Animal Control Agency for a fee established by resolution of the City Commission. (Ord. 2534 §2(Exh. B(part)), 1989).

**6.8.310 Violation—Other Penalties**

In addition to any penalties specified in this Chapter, the Court in its discretion may Order any of the following conditions;

- A. The Court may order relinquishment of an animal(s) deemed to be a public safety risk and/or a repetitive nuisance that has not been abated or an animal that is a victim of cruelty, neglect, or abandonment to the Animal Shelter for disposition.
- B. Upon finding of violation under sections pertaining to animal fighting, a dangerous animal jeopardizing public safety, and animal cruelty or neglect (including provoking, poisoning, abandonment of an animal), the court may order no animal ownership for a determinate period.
- C. Violations of this chapter may result in immediate impoundment of the animal(s).
- D. Violation of any provision of this chapter may result in revocation of any license(s) or permit(s).
- E. The Court may in its discretion order any animals on the premises be spayed or neutered.

**6.8.320 Persons Responsible for Violation—Transfer of Registration**

In all prosecutions for violations of this chapter, the person who applied for and obtained the registration for the pet animal in question shall be deemed the person responsible for the violation unless there has been a transfer of ownership prior to the violation. In the event the pet animal is not registered, then the person deemed responsible for the violation is the person who owns, maintains or harbors the animal. Any transfer of ownership must be evidenced by a new registration issued by the licensing authority. (Ord. 2534 §2(Exh. B(part)), 1989).

## Summary of Ordinance 2933 Amendments

**‘To improve is to change. To be perfect is to change often.’**

**Winston Churchill**

**If that saying holds true, the animal ordinance is now just about perfect.**

### **6.8.060 Tag--Collar**

- A. Upon receipt of a proper application and the pet registration fee, the registration agent shall issue to the applicant a pet registration certificate and metallic tag. The tag shall have stamped thereon a number to correspond with the number of the certificate issued to the applicant.
- B. Every owner is required to provide each dog or cat with a substantial collar or harness, to which the registration tag or other identification tag shall be affixed at all times. In the event a registration tag is lost or destroyed, another tag shall be issued by the Animal Control Agency upon presentation of an affidavit to that effect, a receipt or duplicate receipt showing payment of the pet registration fee for the current year, and the payment of a fee for such duplicate. No refunds shall be made on any pet registration fee because of the death of the pet or the owner leaving the City before the expiration of the registration period. **If a dog or cat has a Microchip Implant, no collar or tag is required to be worn, however the animal is still required to be registered pursuant to the provisions of this Title.**
- C. Any pet animal found off the owner's premises without a registration tag, **or without a Microchip Implant**, shall be deemed to be not registered, even though a registration has been issued for such animal. Pet registration tags are not transferable from one animal to another and any animal found with a registration tag issued for another pet animal shall be deemed to be not registered.
- D. It is unlawful for any person to cause or permit a pet registration tag to be placed upon an animal for which it was not issued.
- E. A person found guilty of a violation of this section is guilty of a misdemeanor punishable by a maximum fine of \$250. (Ord. 2573, 1990: Ord. 2534 §2(Exh. B(part)), 1989).

**This section allows owners to not have collars or tags as long as the animal is microchipped – this rewards responsible pet owners and allows us to follow through on the intent which is to locate the owner when the animal is picked up.**

### **6.8.080 Multiple-Animal Permit / **Multiple Animal Hobby Breeder permit****

A Multiple Animal Permit is required for any person, family, or household owning or harboring any more than the number of dogs and cats permitted by Section 6.08.070 for more than thirty (30) days. **A Multiple Animal Hobby Breeder Permit is required for any person, family, or household owning or harboring any more than the number of dogs and cats permitted by Section 6.08.070 who intends to breed their animals. The holder of a regular Multiple Animal Permit or a person holding no Multiple Animal Permit must apply for a Multiple Animal Hobby Breeder Permit within ten days of the birth of a litter.** Application for these permits shall be made with the Animal Control Agency. The intended facilities are subject to inspection by an Animal Control Officer. The permit shall be issued upon the following conditions:

- A. All dogs must be registered;
- B. Cats must be registered or micro-chipped;
- C. There must be adequate shelter and secure enclosure for animals on the premises;
- D. The owner uses suitable means of disposing of animal feces so that it does not become a nuisance or a health hazard;
- E. That in the investigating officer's opinion, the animals receive proper care, food, water, shelter and humane treatment;
- F. **Cat breeders are allowed to have a maximum of 4 litters per year. Other than any animals intended to be kept as pets by the breeder, kittens must be sold or given away within 4 months of birth. Dog breeders are allowed to have maximum of 2 litters per year, and other than any animals intended to be kept as pets by the breeder, puppies must be removed within 4 months.**

- G. For a Hobby Breeder Permit, the puppies and kittens can only be sold, given as a gift or other transfer or conveyance from the location listed on the Hobby Breeder Permit.
- H. The Hobby Breeder Permit shall list the maximum number of animals over the age of six months allowed on the premises and if the holder of the permit exceeds that number, it shall be grounds for revocation of all permits for that location.
- I. The Animal Control Agency shall approve or deny the application based on the information submitted by the applicant and on the recommendation of the investigating officer. The Animal Control Agency may issue a conditional permit, but must state the permit conditions on the document and ensure that the applicant is advised of the conditions;
- J. After receiving notification of the Animal Control Agency's approval, the applicant must pay the Animal Control Agency an application fee which shall be established by resolution of the City Commission;
- K. All premises for which a multiple animal permit is issued may be subject to annual inspections by the Animal Control Officer. The inspections may also be instigated if a complaint is filed. The Animal Control Agency, on determining that such premises are not being maintained and/or the conditions of the permit are not met, may recommend a revocation or denial of the permit if it is deemed necessary. The permittee shall be given a 30 day written notice of the Animal Control Agency's recommendation/revocation/denial;
- L. A permit authorized by the Animal Control Agency must contain the following information:
  1. Name and address of the person to whom the permit is granted;
  2. The number of dogs and cats for which the permit is granted; and
  3. Any special conditions required by the Animal Control Agency.
  4. A Hobby Breeder Permit must state whether it is for dogs or cats or both
- M. If the holder of a Multiple-Animal permit or a Multiple Animal Hobby Breeder permit moves, he or she must provide written notice of their new address if it is within the city limits of Great Falls within 30 days of moving. The Animal Control Agency will then conduct an inspection and take appropriate action under this section based on any changes at the permit holder's new residence.
- N. The applicant may appeal the denial or revocation of a permit by filing a written request for reconsideration with the Neighborhood Council Coordinator. The written appeal must state the applicant's name and address and should clearly outline the applicant's rebuttal to the reason(s) stated for denial and should include any additional information which may be pertinent to the applicants request for a permit. The appeal shall be heard by the Neighborhood Council for the district which includes the location of the requested permit. The Neighborhood Council shall set the matter for hearing at either the Council's next regularly scheduled meeting or a special session set at the Council's discretion. The Neighborhood Council Coordinator shall provide written notice to the person filing the appeal as well as the Animal Control Agency of the date and time of the hearing. After hearing testimony and reviewing the written appeal, the Council shall either affirm or reverse the permit decision.
- O. If the applicant is not satisfied with the decision of the Neighborhood Council, they may file an appeal to the Clerk of Municipal Court within 30 days of the date on the written denial provided by the Neighborhood Council. The written appeal must state the applicant's name and address and should clearly outline the applicant's rebuttal to the reason(s) stated for denial and should include any additional information which may be pertinent to the applicants request for a permit. The Court shall set the matter for hearing and either affirm or reverse the permit decision.

**This change allows breeding for those who wish to have a litter or two of hunting dogs but do not rise to the level of commercial purposes. It also establishes an appeal process for denials of permits.**

#### **6.8.130 Contagious Disease**

Upon the positive diagnosis of a contagious communicable disease in any animal in the City which poses a community health risk, the diagnosing veterinarian shall notify the City County Health Department Director, or designee, who may issue a city-wide alert. Any animal displaying symptoms of the disease must be quarantined and confined either upon the premises of the owner or at a licensed veterinary hospital. The location of quarantine shall be determined by the Animal Control authority. (Ord. 2534 §2(Exh. B(part)), 1989).

**This addresses the question raised @ the hearing while leaving the purpose of the ordinance intact.**

**6.8.190 Surrender / Crematory Fee - Dogs and Cats**

- A. The Animal Control Agency will dispose of dead dogs or dead cats for a fee to be established by the Animal Control Agency if the animal is transported to the Animal Shelter by the owner.
- B. The Animal Control Agency will euthanize and dispose of dogs and cats for an owner who is a resident of the City for unwanted cats and dogs brought to the Animal Shelter by the owner. The resident surrender fee shall be established by the Animal Control Agency and charged to the owner.
- C. The Animal Control Agency will euthanize and dispose of dogs and cats for an owner who is a non-resident of the City for unwanted cats and dogs brought to the Animal Shelter by the owner. The non-resident surrender fee shall be established by the Animal Control Agency and charged to the owner.
- D. These fees do not apply to persons or agencies covered by a contract with the Animal Control Agency or the City for disposal.

**This section was completely re-written to clean up the language and more specifically state the purpose of the fees.**

**CITY OF GREAT FALLS, MONTANA**

**AGENDA #** 5

**A G E N D A   R E P O R T**

**DATE** January 16, 2007

**ITEM** Ordinance 2950 Great Falls Land Development Code Amendments

**INITIATED BY** City Staff

**ACTION REQUESTED** Accept Ordinance 2950 on First Reading and Set Public Hearing

**PREPARED BY** City Staff

**PRESENTED BY** Benjamin Rangel, Planning Director

- - - - -

**RECOMMENDATION:**

It is recommended the City Commission approve the following motion.

**MOTION:**

“I move the City Commission accept Ordinance 2950 on first reading and set public hearing for February 6, 2007.”

**SYNOPSIS:**

Ordinance 2950 amends various chapters of the City Land Development Code to address editorial, typographical and housecleaning items; to provide additional clarification and consistency; to refine wording and definitions; to reduce some procedural steps and requirements; and, to expand some provisions. The amended Code is attached in its entirety as Exhibit “A” to Ordinance 2950. Deletions are “lined through” and additions are “bolded.”

**BACKGROUND:**

In May 2003, the City Commission hired the consulting firm of Vierbicher Associates, Inc. to work with members of the community and City staff to develop a new and updated set of guidelines, requirements and standards to help govern zoning and physical growth and development within the City of Great Falls.

On June 14, 2005, the former Great Falls City-County Planning Board conducted a public hearing on the proposed land development code and zoning map. The Board unanimously passed a motion recommending that the Official Code of the City of Great Falls be amended to include new and updated provisions under “Title 17 – Land Development Code.” Following an additional lengthy public hearing process, the City Commission adopted Title 17 on September 6, 2005, which became effective 30 days later on October 6th.

With just over a year of working experience with the new Code, City staff identified a number of items and provisions warranting further consideration. The majority of proposed amendments can be placed into one of these categories:

- typographical/editorial/housecleaning/debugging items
- clarification/consistency items
- improve and refine wording and definitions for better Code application, interpretation and enforcement
- reduce some procedural steps and requirements
- expand provisions for better Code application

It is offered the proposed amendments will further benefit the general public and specific Code users, as well as assist City staff to more clearly apply, interpret and enforce the Code.

The proposed amendments were reviewed with the City Commission during its work session on December 19, 2006. Copies of the amended Code were provided to the Planning Board/Zoning Commission on December 21, 2006 for review prior to its work session on January 8, 2007. The amended Code, with “lined through” deletions and “bolded” additions, has been available for public review and downloading on the City web site since December 20, 2006. Copies of the amended Code have also been available for review at the Planning Office.

Notice of the Planning Board/Zoning Commission public hearing was published in the Great Falls, Tribune on December 24, 2006.

Following a public hearing on January 9, 2007, the Planning Board/Zoning Commission recommended to the City Commission that the amended Land Development Code be approved, as presented, with the exception that items A. “Legislative Findings” and B. “Purpose” in Section 17.20.5.040 Large format retail stores be retained and that an economic analysis and a building size cap of 100,000 square feet be added to the referenced section.

Also attached is a matrix which summarizes the purpose or basis for the proposed amendments.

Attachments: Ordinance 2950, with amended Code as Exhibit “A”  
Summary of proposed amendments



ORDINANCE 2950

AN ORDINANCE TO REVISE TITLE 17 OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS, MONTANA, PERTAINING TO LAND DEVELOPMENT CODES AND REPEALING ANY AND ALL PREVIOUS ORDINANCES OR INTERIM ORDINANCES

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1. That OCCGF Title 17 pertaining to the Land Development Code be amended as depicted in Exhibit "A" which removes any language indicated by a strike-out code and adds any language which is bolded.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 6<sup>th</sup> day of March, 2007.

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Dona R. Stebbins, Mayor

ATTEST:

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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David V. Gliko, City Attorney

State of Montana        )  
County of Cascade     : ss.  
City of Great Falls    )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 2950 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 6<sup>th</sup> day of March, 2007, and approved by the Mayor of said City on the 6<sup>th</sup> day of March, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City on this 6<sup>th</sup> day of March, 2007.

---

Peggy J. Bourne, City Clerk

(SEAL OF CITY)

State of Montana        )  
County of Cascade     : ss.  
City of Great Falls    )

Peggy J. Bourne, being first duly sworn, deposes and says: That on the 6<sup>th</sup> day of March, 2007, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did publish and post as required by law and as prescribed and directed by the Commission, Ordinance 2950 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

- On the Bulletin Board, first floor, Civic Center Building;
- On the Bulletin Board, first floor, Cascade County Court House;
- On the Bulletin Board, Great Falls Public Library

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

# Zoning & Land Development Code Proposed Amendments 2007

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## Title 17

### LAND DEVELOPMENT CODE

| Chapter |   | Tab |
|---------|---|-----|
| 4       | General Provisions  | 4   |
| 8       | <a href="#">Interpretation, Construction, and Definitions</a>   | 8   |
| 12      | Administrative and Enforcement Bodies   | 12  |
| 16      | <a href="#">Administrative and Enforcement Procedures</a>   | 16  |
| 20      | <a href="#">Land Use</a> <i>Note: Section 17.20.6.250 (Special Standards for Telecommunications Facilities) is still under review and may see additional changes to accomodate requirements from Title 5 OCCGF)</i> | 20  |
| 24      | <a href="#">Subdivision and Platting</a>  | 24  |
| 28      | <a href="#">Design Review</a>   | 28  |
| 32      | <a href="#">Transportation Facilities</a>   | 32  |
| 36      | <a href="#">Parking</a>   | 36  |
| 40      | Outdoor Lighting  | 40  |
| 44      | <a href="#">Landscaping</a>   | 44  |
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| 48      | Erosion Control During Site Development   | 48  |
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| 60      | Signs   | 60  |
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| 68      | <a href="#">Timing of Improvements, Improvement Agreements, and Dedications</a>   | 68  |
|         | Appendix A – Content of Site Plans, Plats, and Surveys  | A   |
|         | Appendix B – List of Required Trees for Boulevard Areas and Street Medians  | B   |
|         | Appendix C – Traffic Calming Measures   | C   |
|         | Appendix D – Sample Hold Harmless Agreement   | D   |
|         | Appendix E – Criteria for Evasion of the Subdivision and Platting Act   | E   |
|         | <a href="#">Appendix F – Land Use Definitions</a>   | F   |

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**Chapter 8**  
**INTERPRETATION, CONSTRUCTION, AND DEFINITIONS**

**Sections:**

|          |   |          |   |
|----------|---|----------|---|
| 17.8.010 | General rules of construction   | 17.8.070 | Interpretation of boundaries and designations for overlay districts |
| 17.8.020 | Responsibility for interpretation   |          |   |
| 17.8.030 | Delegation of authority   | 17.8.080 | General rules of interpretation                                     |
| 17.8.040 | Internal conflicts  | 17.8.090 | Measurements  |
| 17.8.050 | Use of graphics, illustrations, headings, references, and statutory citations | 17.8.100 | Computation of time   |
|          |   | 17.8.110 | Abbreviations   |
| 17.8.060 | Interpretation of boundaries and designations for base land use districts     | 17.8.120 | General definitions   |

**17.8.010            General rules of construction**

- A. **Generally.** In the interpretation and application of this Title, all provisions shall be construed so the true intent and meaning of the Land Development Code is carried out.
- B. **Minimum requirements.** The interpretation and application of any provision of this Title shall be held to be the minimum requirement adopted for the promotion of the public health, safety, and general welfare and not be deemed a limitation or repeal of any other powers granted by Montana State statute.
- C. **Abrogation and greater restriction.** This Title is not intended to repeal, abrogate, annul, impair, or interfere with any easements, covenants, deed restrictions, or other private agreement. However, when this Title imposes a greater restriction, the provisions of this Title shall apply.

**17.8.020            Responsibility for interpretation**

In the event a question arises concerning any provision or the application of any provision of this Title, interpretations shall be provided consistent with Chapter 16 of this Title.

**17.8.030            Delegation of authority**

Wherever a provision in this Title requires an elected official, department supervisor, or some other employee to do some act or perform some duty, it is to be construed to authorize that individual to designate, delegate, and authorize subordinates to perform the required act or duty unless State law or the terms of the provision or section specify otherwise.

**17.8.040            Internal conflicts**

More specific provisions of this Title shall be followed in lieu of more general provisions that may be more lenient than or in conflict with the more specific provision.

**17.8.050            Use of graphics, illustrations, headings, references, and statutory citations**

- A. **Purpose.** Graphics, illustrations, headings, references, and statutory citations are included to improve the readability of this Title and increase reader comprehension. Specifically, graphics and illustrations are included to help the reader visualize the meaning of the text. Headings and subheadings are printed in boldface and generally state the content of that section and are intended to help the reader quickly find the information the reader is looking for. References and statutory citations are included where the section is related to State or local law or is related to another section. These are included to help the reader understand how that section relates to other provisions.
- B. **Interpretation.** In case of any difference of meaning, interpretation, or implication between the text and any graphic, illustration, heading, reference, or statutory citation, the text shall control. They shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of any provision.
- C. **Effect of deficiency.** No provision shall be held invalid by reason of any deficiency in any graphic, illustration, heading, reference, or statutory citation, since the text controls.

**17.8.060 Interpretation of boundaries and designations for base land use districts**

- A. **Boundary line interpretations.** Interpretations regarding boundaries of land use districts shall be made in accordance with the following rules:
1. **Centerlines.** Boundaries shown as following, or approximately following, any easement, railroad, alley, road, street, highway or similar feature shall be construed as following the centerline of such feature.
  2. **Property lines.** Boundaries shown as following, or approximately following, any platted lot line or other property line shall be construed as following such line.
  3. **Political boundaries.** Boundaries shown as following, or approximately following, any political boundary shall be construed as following such line.
  4. **Section lines.** Boundaries shown as following, or approximately following, section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
  5. **Natural boundaries.** Boundaries shown as following, or approximately following, any natural feature such as a stream, river, canal, other bodies of water, or topographical features such as watershed boundaries shall be construed as following such natural feature as verified by field inspection when necessary.
- B. **Division of lots.** Where a lot or parcel is divided into 2 or more districts, the following interpretation of the boundary and designation shall apply:
1. **Lots of 5 acres or less.** For lots of 5 acres or less, the designation of the largest area of the lot shall be applicable to the entire lot.
  2. **Lots larger than 5 acres.** For lots larger than 5 acres, the lot shall be divided as depicted by the district boundary.
- C. **Street abandonments.** Where a public road, street, or alley is officially vacated or abandoned, the regulations applicable to the land to which it reverted shall apply to such vacated or abandoned road, street, or alley.

**17.8.070 Interpretation of boundaries and designations for overlay districts**

- A. **Generally.** The location of the overlay district boundaries shall be as shown on the zoning map, except as provided in this section.
- B. **Floodplain boundaries.** The boundaries of the 100-year floodplain and floodway shall be determined by scaling distances on the official floodplain maps and using the floodway data table contained in the flood insurance study report. The maps may be used as a guide for determining the 100-year floodplain boundary, but the exact location of the floodplain boundary shall be determined where the base flood elevation intersects the natural ground. For unnumbered A Zones and AO Zone floodplains, where there is a conflict between a mapped floodplain boundary and actual field conditions, the floodplain administrator may interpret the location of the 100-year floodplain boundary based on field conditions or available historical flood information.

**17.8.080 General rules of interpretation**

In the construction of this Title, the following shall be observed, unless such construction would be inconsistent with the text or with the manifest intent of this Title:

1. **Gender.** Words of the masculine gender include the feminine and neuter.
2. **Singular and plural words.** Words in the singular include the plural and words in the plural include the singular.
3. **Tense.** Words in the present tense include the past and future tense and the future tense includes the present tense.
4. **Shall or will.** The word "shall" or "will" is mandatory.
5. **May or should.** The word "may" or "should" is permissive.
6. **Includes or including.** The word "includes" or "including" shall not limit a term to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
7. **Such as.** The phrase "such as" shall not limit a provision to the specific examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.

**17.8.090 Measurements**

In this Title, standards have been adopted to control the size, height, and placement of various structures and buildings. The following rules shall be used in measuring these to ensure compliance:

1. **Height of telecommunication tower.** The height of a telecommunication tower shall be measured from the natural undisturbed ground surface below the center of the base of said tower to the top of the tower itself or, if higher, to the tip of the highest antenna or piece of equipment attached thereto. In the case of building-mounted towers the height of the tower includes the height of the portion of the building on which it is mounted. In the case of "crank-up" or other similar towers whose height can be adjusted, the height of the tower shall be the maximum height to which it is capable of being raised.
2. **Sign height.** The height of a sign is measured from the ground surface on which it is located to the uppermost part of the sign or its support.
3. **Lot area.** Lot area is measured on the horizontal plane.
4. **Lot depth.** Lot depth is measured at a right angle to the front lot line.
5. **Lot width.** Lot width is measured between side lot lines along the front yard setback line.
6. **Lot frontage.** On straight or curvilinear streets, lot frontage is measured along the street right-of-way between the side lot lines (Exhibit 8-1).
7. **Building height.** The height of a building shall be measured from grade plane to the average height of the highest roof surface in accordance with the current adopted edition of the International Building Code, as the average between the highest point and lowest point of finished ground level adjoining the building at the exterior wall to the highest peak of the highest roof.
8. **Floor area.** The floor area of a building shall be measured from exterior face to exterior face, excluding porches, stoops, steps, and the like.
9. **Distance between specified land uses.** Specified minimum distances between land uses shall be measured in a straight line from the structure housing the use to the structure housing the other use, unless otherwise specified in this Title.
10. **Height of outdoor lights.** The height of an outdoor luminaire is the vertical distance from the elevation of the surrounding grade being illuminated to the bottom of the luminaire.
11. **Average slope.** The average slope of a lot shall be determined using the following formula:

$$S = \frac{I * L * 0.0023}{A}$$

Where:

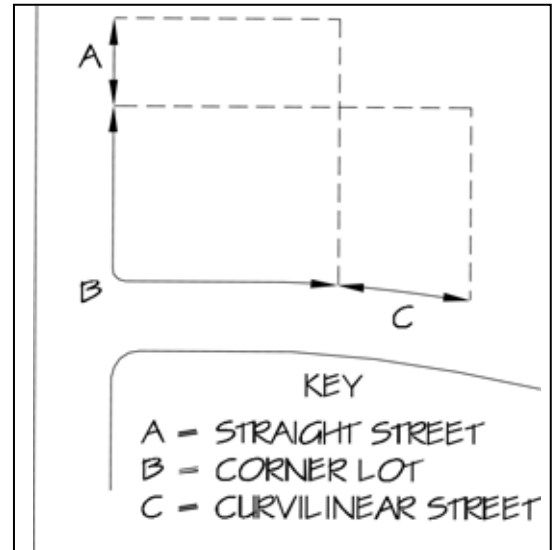
S = Average slope of lot in percent

I = Contour interval (20 feet or less)

L = Sum of length of all contours on lot in feet

A = Area of the lot in acres

**Exhibit 8-1. Lot frontage measurements**



**17.8.100 Computation of time**

When a time period is specified in this Title, the first day shall be the first day after the event that triggered the time clock to start. For example, if an action is to be taken within 35 days following a meeting, the time clock starts the day after the date of the meeting. If the last day is a Saturday, Sunday, or a legal holiday, that day shall be excluded.

**17.8.110 Abbreviations**

The following abbreviations shall be associated with the term as listed:

|        |   |
|--------|---|
| ARM    | Administrative Rules of Montana   |
| ADA    | Americans with Disabilities Act   |
| AASHTO | American Association of State Highway and Transportation Officials (Professional) |
| CFR    | Code of Federal Regulations   |
| DNRC   | Department of Natural Resources & Conservation (Montana)                          |
| DPHHS  | Department of Public Health & Human Services (Montana)                            |
| EPA    | Environmental Protection Agency (Federal)   |
| FEMA   | Federal Emergency Management Agency (Federal)                                     |
| IESNA  | Illuminating Engineering Society of North America (Professional)                  |
| LDC    | Land Development Code   |
| MCA    | Montana Code Annotated  |
| NRCS   | Natural Resources Conservation Service (Federal)                                  |
| SHPO   | State Historic Preservation Office  |
| USC    | United States Code  |
| USCA   | United States Code Annotated  |

**17.8.120 General definitions**

- A. **Words and terms not defined.** Unless specifically defined in this section, words or phrases used in this Title shall be interpreted so as to give them the meaning they have in common usage and to give this Title its most reasonable application.
- B. **Words and terms defined.** For the purpose of this Title, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

**A**

“A-type sign” See: sandwich board sign.

“Abandoned sign” a sign that has not advertised a bona fide business, product or service for a period of 180 consecutive days; a sign that is damaged, in disrepair, or vandalized and not repaired within 30 days from the onset of damages.

“Accessible entrance” means an entrance to a facility meeting the minimum accessibility requirements of the Americans with Disabilities Act.

“Accessible route” means a continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts. (Source: “ADA Standards for Accessible Design” 28 CFR Part 36, revised as of July 1, 1994)

“Accessory building/structure” means any building or structure that is clearly incidental and subordinate to and customarily found with a principal use.

“Accessory land use” See: land use, accessory.

“Accessory use” means a use that is incidental and subordinate to the main use of a property and is located on the same lot as the main use.

“Adjudicative decision” means a decision that is discretionary in nature and that is made by elected or appointed governmental officials in the context of existing standards, requirements, and procedures and that applies to a specific instance. Examples include annexation requests and subdivision proposals.

“Administrative decision” means a decision that is made by a governmental employee in the context of existing standards, requirements, and procedures and that applies to a general or specific instance. For example issuance of a building permit is an administrative decision.

“Administrative government center” means a place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. The term includes post offices, courthouses, correctional facilities, and the like.

“Administrative services” means a place and/or building, or portion thereof, that is used or is intended for providing administrative functions where customers are infrequent. The term includes data processing centers, customer service centers via telecommunications, architectural firms, engineering firms, and the like.

“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 5 or fewer individuals per machine at any one 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.

“Adult book store/adult video store” means a commercial establishment which, as one of its principal business purposes, offers for sale or rental for any form of consideration any one or more of the following:

1. books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions which are characterized by an emphasis on the depiction or descriptions of specified sexual activities or specified anatomical areas;
2. instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

“Adult cabaret” means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. persons who appear semi-nude; or
2. live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
3. film, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.

“Adult motel” means a hotel, motel, or similar commercial establishment which:

1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slide, 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 advertising availability of this type of photographs reproduction; or
2. offers a sleeping room for rent for a period of time that is less than 10 hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than 10 hours.

“Adult motion picture theater” means a commercial establishment which, for any form of consideration, regularly shows films, motion pictures, video cassettes, slides or similar photographic reproductions that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

“Affordable housing” means a dwelling unit that may be purchased or rented by a household earning no more than 120 percent of the median annual income in the specified area and where the monthly housing costs do not exceed 30 percent of the family's total monthly income. For example, in an area with a median income of \$15,000, the term "affordable housing" would only be applied to those households earning less than \$18,000 ( $\$15,000 \times 1.2 = \$18,000$ ). For a household with an annual income of \$15,000, their total housing costs should not exceed \$375 per month ( $(\$15,000 \times 0.3) / 12 \text{ months} = \$375$ ).

“Aggrieved person” means a person that has or likely will suffer an adverse effect resulting from a decision made pursuant to this Title.



“Agricultural commodity storage facility” means a place and/or building, or portion thereof, that is used or is intended to store bulk food stuffs prior to shipment and/or processing. The term includes grain elevators and such facilities.

“Agricultural water user facility” means those facilities which provide water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including ditches, pipes, and head gates.

“Agriculture, horticulture, **nursery**” means a place and/or building, or portion thereof, that is used or is intended for growing fruit, vegetables, flowers, and other plants typically grown on farming operations in the region.

“Agriculture, livestock” means a place and/or building, or portion thereof, that is used or is intended for raising horses and/or cattle, exclusively.

“Agriculture sales” means a place and/or building, or portion thereof, that is used or is intended to be used for retail sale of a product(s) unique to and directly related to farm and ranch operations. The term includes feed/seed sales, irrigation equipment sales, farm machinery sales and repair, and the like. The term does not include wholesale sales.

“Air contaminant” means any fume, smoke, particulate matter, vapor, gas, or any combination. The term does not include water vapor or steam condensation.

“Airport” means a place and/or building, or portion thereof, that is used or is intended for the landing and takeoff of airplanes, helicopters, similar craft, including all necessary facilities for the housing and maintenance of the same.

“Airport, private” means an airport that is used by the owner and other persons authorized by the owner and not open for general public use.

“Airport, public” means an airport that is open for general public use.

“Airport elevation” means the highest point of an airport's usable landing area measured in feet from sea level.

“Airport influence area” means all land in the proximity of an airport within a defined boundary, the use of which may be affected by the airport's existence.

“Alley” means a vehicular accessway providing secondary access to the back of lots that front on a street.

“Alteration” See: structural alteration.

“Amateur radio station” means a radio station operated by a federally licensed amateur radio operator as part of the Amateur Radio Service.

“Animal shelter” means a place and/or building, or portion thereof, that is used or is intended to temporarily house stray pets.

“Annexation” means the process of adding land to the jurisdictional area of a city or town.

“Antenna” means a device that can be used to receive and transmit electromagnetic waves. The term includes directional antennas and omni-directional antennas. The term does not include (1) mobile services providing public information coverage of news events of a temporary nature or (2) hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers, and similar devices.

“Antenna, building-mounted” means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building-mounted mast less than 10 feet tall and 6 inches in diameter, or structure other than a telecommunication tower.

“Antenna, directional (also known as a panel antenna)” means an antenna that transmits and/or receives radio frequency signals in a directional pattern of less than 360 degrees.

“Antenna, ground-mounted” means any antenna with its base, single or multiple posts, placed directly on the ground.

“Antenna, omni-directional” means an antenna that transmits and/or receives radio frequency signals in a 360-degree radial pattern. For the purpose of this Title, an omni-directional antenna is up to 15 feet in height and up to 4 inches in diameter.

“Antenna, parabolic (also known as satellite dish antenna)” means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl or cornucopia-shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations and satellite microwave antennas.

“Antenna, portable” means any device used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern, located on a portable or moveable base designed to be placed either for temporary or long-term use at a given site.

“Antenna, vertical” means a vertical type antenna with no horizontal cross-section greater than one half inch in diameter.

“Appeal” means a process initiated by an aggrieved party to review: (1) a decision made pursuant to this Title; or (2) an alleged failure to act as required by this Title.

“Appellant” means a person who has filed an appeal pursuant to this Title.

“Applicant” means a person who submits an application as required by this Title.

“Approach surface” means a surface longitudinally centered on the extended airport runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.

“Approved plastic” means slow-burning plastic of no greater combustibility than that approved for sign use by Underwriter Laboratories, Inc.

“Aquifer” means a water-bearing, subsurface formation capable of yielding sufficient quantities of water to a water well for a beneficial use.

“Arbicultural standards and specifications” means the standards for the planting, care, and maintenance of trees, shrubs, and landscaping on file with the City Forester.

“Arcade” means a covered walkway often with shops on one side or both.

“Architect” See: registered architect.

“Area of special flood hazard” See: 100-year floodplain.

“Artificial obstruction or development” means any obstruction which is not natural and includes any dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any 100-year floodplain which may impede, retard or alter the pattern of flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of water would carry the same downstream to the damage or detriment of either life or property.

“Artisan shop” means a place and/or building, or portion thereof, that is used or is intended for creating works of art and/or production of handmade craft items on a small-scale. Examples of such items include paintings, sculptures, pottery, jewelry, hand blown glass, small wooden items, candles, soaps, and lotions.

“Assessed value” means that value established by the State of Montana for taxing purposes.

“Auction sales” means a place and/or building, or portion thereof, that is used or is intended to be used for auctioning goods to the general public. The term does not include estate sales and the like. Vehicle auctions are considered as vehicle sales and rentals.

“Automated teller machine (ATM)” means an automated device for conducting financial transactions.

“Automated teller machine (ATM), exterior” means an automated teller machine that is accessed from outside of an enclosed building.

~~“Automated teller machine (ATM), interior” means an automated teller machine that is accessed from inside of an enclosed building.~~

“Average daily traffic (ADT)” means the average number of vehicles passing a specific point on a roadway during a single 24-hour period.

“Average trip generation rate” means the average number of vehicles entering and exiting a site during a 24-hour period.

“Avoid” means to take an action so that a negative impact does not occur.

“Awning or canopy” means a material or structure intended to provide protection from the weather that is mounted on the exterior of a building. Signage placed on an awning or a canopy is calculated as wall signage.

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“Bank stabilization” means any effort to harden the bank of a stream to prevent lateral movement. Such measures include: bio-engineering, native material revetment, rip-rap, bin-walls, barbs, vanes, and other such techniques.

“Banner” means fabric, plastic, paper, or other light, pliable material not enclosed in a rigid frame that is suspended, mounted or attached to buildings or poles at 2 ends or continuously across its longest side.

“Base flood” See: 100-year flood.

“Base flood elevation” means the elevation above sea level of the base flood in relation to National Geodetic Vertical Datum of 1929 unless otherwise specified in the flood hazard study.

“Bed and breakfast” means a single family residence that offers overnight accommodations and a meal for a daily charge and which also serves as a primary residence of the operator or owner. (Refer to: 50-51-102, MCA)

“Bench/transit shelter sign” means an off-premise sign attached to a bench or transit shelter.

“Berm” means a mound or embankment of earth, generally man-made.

“Best management practice (BMP)” means, in relation to erosion control, a practice, technique, or measure that is an effective, practical means of preventing and reducing soil erosion and/or water pollution during land development activities. BMPs can be structural, vegetative, or operational practices.

“Bike lane” means a portion of a roadway which has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.

“Bike path” means a bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the roadway right of way or within an independent right of way.

“Bike route” means a segment of a system of bikeways designated by the jurisdiction having authority with appropriate directional and informational markers, with or without a specific bicycle route number.

“Bikeway” means any road, path, or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

“Billboard” means a sign larger than 200 square feet in area, mounted on a permanent structure, designed to advertise products, services, or businesses not available on the premise upon which the sign is located.

“Block” means a group of lots, tracts, or parcels within well-defined and fixed boundaries (e.g., streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines or subdivision boundary lines).

“Block face” means all of the lots situated on one side of the street.

“Board of Adjustment” means the board of adjustment created by the City Commission and more fully described in this Title.

“Board of County Commissioners” means the governing body of Cascade County, Montana.

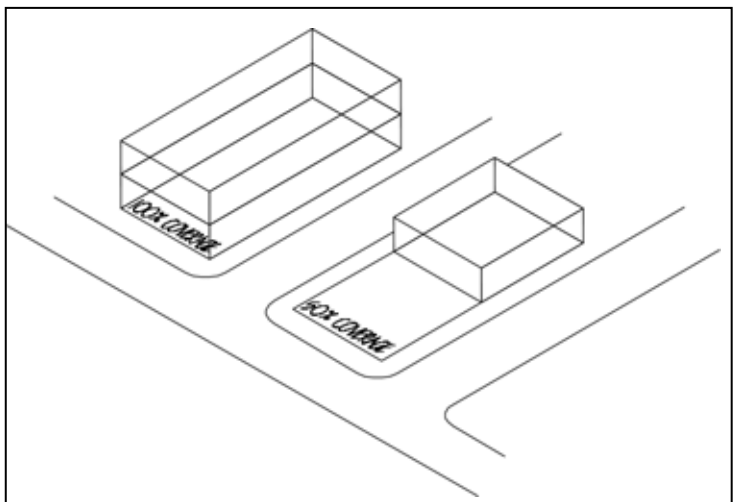
“Boulevard” means that area within the street right-of-way not occupied by street paving, curb and gutter, and sidewalks.

“Boulevard, inside” means that portion of the boulevard between the sidewalk and the lot.

“Boulevard, outside” means that portion of the boulevard between the sidewalk and the street.

“Boulevard banner” means a decorative sign constructed of cloth, canvas, or vinyl that contains upper and lower pole pockets and is secured by a pole banner bracket system. Boulevard banners are designed as attachments to street light poles or boulevard lamps and advertise special community events.

**Exhibit 8-2. Building coverage**



“Buffer area” means a landscaped area intended to separate and partially obstruct the view between uses, serve as an attractive boundary, or both.

“Building” means a structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of people, animals, chattels, or property of any kind.

“Building area” means the total horizontal projected area of a building.

“Building coverage” is a measure of land use intensity. It compares the portion of a site that is covered by a building(s) with the overall area of the site. For example, a development consisting of 2 buildings with a total footprint of 0.6 acres on a 2-acre site has a building coverage of 0.3 or 30 percent ( $0.6 / 2 = 0.3$ ). (Exhibit 8-2)

“Building mass” means the three-dimensional bulk of a building represented by its height, width, and depth.

“Building permit” means a permit that is issued prior to the construction of or addition to a building or structure or the installation of a mobile home.

“Burden of proof” means the obligation of a party to establish a fact by evidence.

“Bus transit terminal” means a place and/or building, or portion thereof, that is used or is intended for loading and unloading of bus passengers along with facilities for ticket sales and food service areas primarily intended for bus passengers.

## C

“Campground” means a place and/or building, or portion thereof, that is used or is intended for public camping, where people can camp, secure tents or cabins, or park trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping and sleeping purposes. The term includes accessory buildings such as a laundromat and retail sales for the convenience of campground guests. (Source: 50-52-101, MCA)

“Cascade County Conservation District” means the governmental subdivision of Montana organized in accordance with Title 76, Chapter 15, Part 2, MCA, that functions in Cascade County to address issues relating to soil and water conservation.

“Casino” means any and all establishments that offer legalized gambling authorized under Title 23, Chapter 5, Part 1, et. seq., MCA and where any one of the following characteristics applies:

- a. the establishment is referenced as a “casino” or “gambling establishment”, or makes any reference to legalized gambling by signage, advertisement or by name; and/or
- b. five or more gambling machines are on the premises; and/or
- c. a card table is on the premises.

“Casino, type I” means a casino allowed in certain zoning districts only if specific development and appearance standards are met.

“Casino, type II” means a casino allowed in certain zoning districts without specific development or appearance standards.

“Cemetery” means a place and/or building, or portion thereof, that is used or is intended for burial purposes. Accessory uses include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.

“Central Business District” means the C-4 Central Business Core zoning district.

“Certificate of appropriateness” means a permit issued indicating conformance with design guidelines or other similar requirements as contained in this Title.

“Certificate of survey (COS)” means a drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.

“Changeable copy sign” means a sign whose content is changed by manual, electric, electromechanical or electronic means. Examples include electronic message boards, time and temperature boards or manually changed reader boards.

“Channelization project” means the excavation and/or construction of an artificial channel for the purpose of diverting the entire flow of a stream from its established course.

“City Attorney” means the position of City Attorney for the City of Great Falls.

“City Clerk” means the position of City Clerk for the City of Great Falls.

“City Commission” means the governing body of the City of Great Falls.

“Civic use facility” means a place and/or building, or portion thereof, that is used or is intended for large gatherings of people. The term includes zoos, arenas, stadiums, fairgrounds, and the like.

“Co-located telecommunication antennae” means an antenna that is mounted on an existing tower.

“Co-location” See: telecommunication facility, co-located.

“Collector street” means a roadway that links local access streets to the arterial roadway network (minor and principal arterials). Speeds are generally lower than on arterials and access to adjacent land uses has a high priority. This is one level in the City’s functional classification system for roads within its jurisdiction.

“Color rendering index (CRI)” means a measurement comparing the color of an object under a light source to a reference light source of comparable color temperature. CRI values generally range from 0 to 100. As the CRI approaches 100, the color of the lit object becomes truer or closer to the original color.

“Commercial educational facility” means an educational facility operated by private institutions or individuals that is used or is intended for preparing students for jobs in trades or professions. The term includes music schools, hair styling schools, real estate schools, and the like.

“Commercial kennel” means a place and/or building, or portion thereof, that is used or is intended for housing 3 or more dogs, cats or other domesticated animals over 6 months of age or for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.

“Commercial use” means a use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form or the right to occupy space over any period of time.

“Commercial zoning district” means any zoning district established by this Title that has a “C” followed by a number as its abbreviation (e.g., C-1).

“Community center” means a place and/or building, or portion thereof, that is used or is intended for short-term and intermittent meetings or gatherings of nonresident individuals that are generally open to the public for purposes of recreation, sharing information, entertainment, social service, or similar activities. The term includes fraternal, social, or civic clubs, lodges, union halls, and the like.

“Community cultural facility” means a place and/or building, or portion thereof, that is used or is intended for studying, reading, personal education, or for viewing the visual arts. The term includes libraries, museums, art galleries, observatories, and the like. The term does not include performing arts.

“Community garden” means an outdoor area that is used to grow vegetables, fruits, flowers, and the like by a group of unrelated individuals who primarily use what is grown for their personal use. The community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.

“Community residential facility” means any one of the following as defined:

- a. “Community group home” means a family-oriented residence that is designed to provide residential services for 2 to 8 individuals with severe disabilities and does not provide skilled or intermediate nursing care. The term does not preclude the provision of skilled or intermediate nursing care by third-person providers. (Source: 52-4-202, MCA)
- b. “Youth foster home” means a youth care facility licensed by the State in which one to 6 children or youth other than the foster parents' own children, stepchildren, or wards are given food shelter, security and safety, guidance, direction, and if necessary, treatment. (Source: 52-2-602, MCA)
- c. “Youth group home” means a youth care facility licensed by the State in which 7 to 12 children or youth are given food shelter, security and safety, guidance, direction, and if necessary, treatment. (Source: 52-2-602, MCA)
- d. “Halfway house” means a place and/or building, or portion thereof, that is used or is intended to provide treatment, rehabilitation, and prevention of chemical dependency. (Source: 53-24-103, MCA)
- e. “Adult foster family care home” means a private residence owned by one or more individuals 18 years of age or older which offer light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or which offer light personal care or custodial care to aged individuals. (Source: 52-3-302 MCA)

“Community residential facility, type I” means a community residential facility with 8 or fewer individuals.

“Community residential facility, type II” means a community residential facility with 9 or more individuals.

“Composting facility” means a place and/or building, or portion thereof, that is used or is intended for collecting and processing vegetation (but not food wastes) for composting. The term includes the storage and manipulation of materials prior to, during, and following composting.

“Comprehensive sign plan” means a plan submitted for Design Review Board approval in conjunction with a permit application for a building or sign. The plan must show all signage for a planned or existing multi-tenant development.

“Conditional use” See: land use, conditional.

“Conditional use permit” means a permit authorizing establishment of a conditional use consistent with the provisions of this Title.

“Condominium” means a form of ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.

“Conical surface” means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of 4,000 feet.

“Conservancy area” means a property or portion of a property designated on a recorded plat, deed, covenant, or other legally binding document to protect the natural features of the area designated.

“Conserve” means to manage and use in a prudent and sustainable manner to provide for future availability.

“Construction materials sales” means a place and/or building, or portion thereof, used or is intended for wholesale or retail sales of bulk construction materials such as roofing, lumber, bricks, component parts (trusses), and the like. The term does not include hardware stores, concrete plants, asphalt mixing plants, or any facility that manufactures building materials and offers them for retail sale on the premises.

“Contractor yard” means a place and/or building, or portion thereof, that is used or is intended to be used by a contractor/builder with one or more of the following: construction material storage, machinery storage or repair, including trucks and heavy equipment, shops, and office space.

“Contractor yard, type I” means a contractor yard that would be compatible in size and scope in a residential setting as defined by performance standards herein described or as may be adopted.

“Contractor yard, type II” means a contractor yard that would be compatible in size and scope with industrial and commercial activities as defined by performance standards herein described or as may be adopted.

“Contributing structure, building or property” means a structure, building or property within a historic district that contributes to the historic integrity of the district.

“Convenience sales” means a place and/or building, or portion thereof, that is used or is intended for personal services or retail sale of a limited product line of frequently needed personal items. The term includes convenience stores, small grocery stores, barber shops, beauty parlors, and the like.

“County Clerk and Recorder” means the clerk and recorder for Cascade County.

“Covenant” means a legally binding agreement contained in a deed, declaration, or other legal document or on the face of a plat that restricts or regulates the use of specified real property.

“Critical habitat” means the area occupied by a species which contains those physical and biological features that are (1) essential to the conservation of the species and (2) which may require special considerations or protection. Critical habitat shall not include the entire geographic area which can be occupied by the species.

“Cumulative effect” means a noticeable overall effect which results from the incremental effects of other projects, where the increment from each project may not necessarily be noticeable or considered unacceptable.

“Curb” means the barrier used to separate roads and other vehicle use areas from the surrounding environs.

“Curb cut” means the width of the opening in the curb along a street that provides vehicular access to private property.

“Curb line” means the line at the back of the curb nearest to the lot line. In the absence of a curb, the curb line is established by the City Engineer.

“Curb radius” means the radius of the circle formed by the curve of the curb at the corner.

“Curb ramp” means a short ramp cutting through a curb or built up to it.

“Cutoff luminaire” means a luminaire where less than 2.5 percent of the lamp lumens occur at or above the horizontal plane and no more than 10 percent of the lamp lumens occur above 80 degrees.

## ***D***

“Date of completeness” means the date an application is deemed complete by the City.



“Day care center” means a place and/or building, or portion thereof, that is used or is intended to provide day care to ~~13~~ ~~or more~~ children on a regular basis. (Source: 52-2-703, MCA)

“Deck” means an above-ground, unroofed platform extending from a building and intended for outdoor living.

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

“Demolition” means an act or process that destroys, in whole or in part, a structure.

“Demolition by neglect” means the gradual destruction of a building or structure due to a lack of normal maintenance.

“Demolition permit” means a permit issued consistent with this Title authorizing the complete or partial demolition of a structure.

“Density” means the number of dwelling units per acre, calculated as follows: number of dwelling units divided by the acreage of the parcel of land, whether gross or net. As the context would indicate, density can be based on the actual, proposed, or permitted number of dwelling units.

“Density, gross” means the density based on the acreage of the entire parcel of land. For example, a development of 20 houses on a 40-acre parcel of land has a gross density of 0.5 dwelling units per gross acre ( $20 / 40 = 0.5$ ).

“Density, net” means the density based on the acreage of the entire parcel of land, excluding the acreage used for parks or which will not be further developed. For example, a development of 20 houses on a 40-acre parcel of land, with 20 acres in a floodplain or a conservation easement, has a net density of 1 dwelling units per net acre ( $40 - 20 / 20 = 1$ ).

**“Department Director” means a City of Great Falls official designated as the head of a specific City Department, or his/her designee, authorized to act on his/her behalf.**

“Design review” means an evaluation of a project’s design features as enumerated in this Title including architecture, site layout, and landscaping.

“Design Review Board” means that board created by the City Commission to administer the design review process consistent with this Title.

“Design wavier” means a grant of relief from the strict application of the adopted regulations that will avoid unintended and unwanted results and therefore result in a better development.

“Detention” means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

“Detention facility” means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

“Development” See: land development.

“Development exaction” means money, land (on-site or off-site), or infrastructure (on-site or off-site) that a developer provides to a local unit of government to alleviate a specified impact created by the proposed development. The nature of the mitigation is determined on a case-by-case basis.

“Deviation, major” means a deviation from the terms of a permit or other approval other than a minor deviation.

“Deviation, minor” means a deviation from the terms of a permit or other approval issued pursuant to this Title that is necessary in light of technical or engineering considerations first discovered after the permit issuance or other approval and not reasonably anticipated during the review process and if had been known during the review process would not have materially altered the decision to issue the permit or approval.

“Diameter at breast height (DBH)” means a tree measured 4½ feet above the ground surface on the uphill side of the tree. For a multi-trunk tree, DBH is the sum of the diameter of the 3 largest trunks.

“Directional sign” means a sign that designates the location or direction of a place or area.

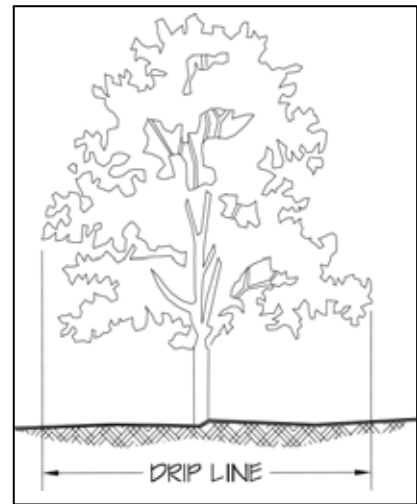
“Discourage” means to avoid or hinder an event or some occurrence.

“Display surface” means the area of a sign structure that displays the advertising message.

“District” See: zoning district.

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

**Exhibit 8-3. Drip line**



“Drainage way” means any channel that conveys surface runoff throughout the site.

“Drip line” means a vertical line that extends from the outermost edge of the tree canopy to the ground. (Exhibit 8-3)

“Dwelling unit” means a single building or portion thereof providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**E**

“Easement” means a less than fee interest to use the property of another for specific purposes.

“Easement, private road and public utility easement” means an easement shown on a plat where private roads are located and where public utility companies may place utility service for customers.

“Easement, public road and public utility easement” means an easement shown on a plat where public roads are located and where public utility companies may place utility service for customers.

“Educational facility (K-12)” means a place and/or building, or portion thereof, that is used or is intended for use as a preschool, elementary, junior high, or high school.

“Educational facility (higher education)” means any place and/or building, or portion thereof, that offers or is intended to provide secondary education. The term includes colleges, universities, community colleges, and vocational schools.

“Electric sign” means a sign containing electrical wiring.

“Electronic message board” See: changeable copy sign.

“Emergency shelter” means a place and/or building, or portion thereof, that is used or is intended to provide temporary housing and ancillary services to primarily indigent, needy, homeless, or transient individuals.

“Encourage” means to stimulate, foster, or help advance an event or some occurrence.

“Engineer” See: registered professional engineer.

“Engineering department” means the engineering department for the City of Great Falls.

“Enhance” means to improve or increase in value or attractiveness.

“Ensure” means to guarantee or make sure something will happen.

“Environmental assessment” means a written report that documents the environmental, social, and cultural impacts and consequences of a proposed development project.

“EPA’s Menu of BMPs” means the manual prepared by the Environmental Protection Agency.

“Erosion” means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

“Erosion and sediment control plan” means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

“Erosion control” means a measure that prevents erosion.

“Erosion control permit” means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

“Establish” means to construct, place, insert, or excavate.

“Exaction” See: development exaction.

“Examining land surveyor” means a registered land surveyor appointed by the City to review surveys and plats submitted for filing.

“Existing manufactured home park or subdivision” means a manufactured home park or subdivision where the construction of facilities for servicing the manufactured home lots is completed before the effective date of the floodplain management regulations. This includes, at a minimum, the installation of utilities, the construction of streets, and either final site or grading, or pouring of concrete pads.

“Ex parte communication” means any form of communication (e.g., written, verbal), whether voluntary or occurring inadvertently, that occurs prior to and outside of the public hearing between an individual who will vote on an adjudicative matter pending before the decision-making body on which he/she serves and another individual and which relates to the matter pending.

|                 |
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| <b><i>F</i></b> |
|-----------------|

“Factory-built home” See: Residence, manufactured/factory built.

“Family” means an individual, or 2 or more individuals related by blood, marriage or adoption or other legal means, or a group of not more than 5 individuals who are not related by blood, marriage or adoption, living together as a single housekeeping unit within a dwelling unit.

“Family day care home” means a private residence in which day care (meaning care is less than 24 hours per day) is provided to 3 to 6 children from separate families on a regular basis. (Source: 52-2-703, MCA)

“Fee in lieu” means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

“Fence” means a structure around the perimeter of a space that provides privacy, aesthetics, or security.

“Financial services” means a place and/or building, or portion thereof, that is used or is intended for providing financial and banking services. The term includes banks, savings and loan institutions, other lending institutions, and check cashing facilities. The term does not include automated teller machines, which are considered an accessory use to commercial enterprises.

“Finding” means a written conclusion or determination that is considered in reaching a decision.

“Fish habitat structure” means any structure that is designed to create fish habitat. Examples include random instream boulder cover and bank cover. This term is to be narrowly construed to exclude any structure which may offer fish habitat as a secondary benefit.

“Flag” means a square, rectangular, or triangular piece of fabric that is mounted along one side upon a pole, cable, or rope.

“Flood or flooding” means a general and temporary condition of partial or complete inundation of normally dry lands from the overflow of a stream, or the unusual and rapid accumulation or runoff of surface waters from any source.

“Flood, 100-year” means a flood having a one percent chance of being equaled or exceeded in any given year. A 100-year flood is the same as a base flood.

“Flood insurance rate map (FIRM)” means the map on which the Federal Emergency Management Agency has delineated both the 100-year floodplains and the risk premium zones.

“Flood insurance study” means the report in which the Federal Emergency Management Agency has provided flood profiles, as well as the flood boundary-floodway map and the water surface profiles.

“Floodplain” means the area generally adjoining a stream which would be covered by floodway. From a regulatory standpoint, it consists of the floodway and floodway fringe.

“Floodplain, 100-year” means the area generally adjoining a stream that would be covered by floodwater during a 100-year flood event except for designated shallow flooding areas that receive less than one foot of water per occurrence.

“Floodplain Administrator” means the individual the Director of Community Development assigns to administer the floodplain regulations contained in this Title.

“Floodplain island” means an area of land that is above the base flood elevation and is wholly surrounded by an area that is below the base flood elevation.

“Floodway” means the channel of a stream and the adjacent overbank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than ½ foot.

“Floodway fringe” means that portion of a floodplain outside the limits of the floodway.

“Floor area” means the total horizontal area contained within the outside perimeter of a building.

“Foot-candle” means a measure of light falling on a given surface. One foot candle is equal to one lumen per square foot.

“Foundation planting” means plant material placed in planting beds along and near a foundation of a building. Intended to complement the building and connect the building to the site.

“Freestanding sign – a.k.a. pole sign” means a sign supported wholly by a pole or poles, I-beam, or a structure in the ground with no part of itself attached to a building.

“Freight terminal” means a place and/or building, or portion thereof, that is used or is intended for **unloading, loading or storage of freight for routing or reshipment** ~~the temporary storage of items that will be reloaded onto trucks for final shipment.~~

“Frontage” means a side of a building that faces a public right-of-way or provides off-street parking, or provides a customer entrance, or any side of a lot or parcel that borders on a public right-of-way.

“Frontage road” See: road, frontage.

“Fuel tank farm” means a place and/or building, or portion thereof, that is used or is intended for commercial bulk storage of petroleum products or any other fuel.

“Fugitive dust” means solid airborne particulate matter resulting from any activity conducted on a parcel zoned, or used, for industrial purposes.

“Full-cutoff luminaire” means a luminaire where no light occurs above the horizontal plane and no more than 10 percent of the lamp lumens occur above 80 degrees.

“Funeral home” means a place and/or building, or portion thereof, used or intended for the care and preparation of human dead for burial. The term includes funeral homes and mortuaries.

## **G**

“Gaming, accessory” means a portion of a hotel, motel, restaurant or tavern with legalized gambling authorized under Title 23, Chapter 5, part 1, et. seq., MCA, permitted with specific development and use standards.

“Garage, private” means a building that is intended to house vehicles and household items belonging to the owner **or occupant** of the principal residence.

**“Garage sales” means the occasional non-business public sale of secondhand household goods and other goods incidental to household uses. The term also includes yard sales, patio sales, and the like. The term does not include any sales defined as itinerant outdoor sales.**

“General repair” means a place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, business equipment, and the like. The term does not include repair of vehicles or industrial equipment.

“General sales” means a place and/or building, or portion thereof, that is used or is intended for retail sale of a diverse product line. The term includes grocery stores, warehouse retail outlets, comparison shopping stores, full-line department stores, and the like.

“General services” means a place and/or building, or portion thereof, that is used or is intended for providing services not otherwise included in any other service type category. The term includes photography studios, weight loss centers, commercial postal services, beauty shops, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, diaper services, and the like.

“Geological hazard” means the potential for geological instability arising from geologic features or conditions, including faults, landslides, avalanches, stream channel movement, fluvial erosion, and the like.

“Glare” means luminance in excessive of what the human eye is accustomed to resulting in annoyance, discomfort, or loss of visual performance and visibility.

“Golf course/driving range” means a place, whether organized for profit or not, that is used or is intended for playing golf.

“Grade control structure” means a structure consisting of stones, rocks, or analogous material that is placed on the bed of a stream to control or otherwise influence the grade of the stream.

“Grading” means the excavation or fill of soil material, including the resulting conditions thereof.

“Groundcover” means a low-growing plant material (other than turf grass) that characteristically does not grow higher than 18 inches and forms a more or less continuous cover over the ground surface.

“Groundwater” means water occupying the voids within a geologic stratum and within the zone of saturation.

“Group day care home” means a private residence in which day care (meaning care is less than 24 hours per day) is provided to 7 to 12 children on a regular basis. (Source: 52-2-703, MCA)

“Growth policy” means that document the City Commission has adopted consistent with 76-1-601, MCA.

## **H**

“Hazard” means any condition, whether man-made or natural, which presents a tangible danger to the public health, safety, and general welfare.

“Hazard to air navigation” means an obstruction determined to have a substantial adverse effect of the safe and efficient utilization of the navigable airspace.

“Hazardous substance” means any material regulated by the "Emergency Planning and Community Right-to-Know Act of 1986" 42 USC 1101-11050, as may be amended.

“Hazardous waste” means a waste or combination of wastes that because of its quantity, concentration, or physical, chemical, or infectious characteristics, may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed. The term does not include substances governed by Title 82, Chapter 4, Part 2, MCA. (Source: 75-10-403, MCA)

“Health care ~~center~~ clinic” means a place and/or building, or portion thereof, that is used or is intended for providing medical services including prevention, diagnosis, treatment, or rehabilitation. The term includes dental clinics, doctor’s offices, and sports medicine facilities. The term does not include those uses as classified as a health care facility.

“Health care facility” means a place and/or building, or portion thereof, whether public or private, excluding federal facilities, whether organized for profit or not, that is used or is intended to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any person or individuals. The term does not include offices of private physicians or dentists. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers as defined in State law. (Source: 50-5-101, MCA)

**“Health care sales and services” means a place and/or building or portion thereof, that is used or intended to provide for the sale of health care products and services. The term includes pharmacies, vision care facilities, hearing aid facilities, prosthetic facilities, etc.**

“Height” means a line of measurement between two given points contained in a plane that is perpendicular to horizontal ground level. **See Section 17.8.090 for definition of “building height.”**

“Heli-pad” means a place that is used or intended to land helicopters.

“Historic district” means a geographically defined area that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

“Historic preservation advisory commission (HPAC)” means the commission created jointly by the Great Falls City Commission and Cascade Board of County Commissioners to administer its local preservation program consistent with State and local requirements and/or guidelines.

“Historic preservation officer” means the individual so designated by the City.

“Historic structure” means any structure that is a contributing or a primary structure or any structure individually listed on the National Register of Historic Places.

“Home occupation” means any occupation, profession, enterprise, or similar activity that is conducted on the premises of a single-family residence as an accessory use and that would be compatible in size and scope in an urban residential setting. The term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of heavy industry.

“Home owners association” means a corporation consisting of homeowners and created pursuant to State law for the purpose of owning, operating, and maintaining various common properties.

“Horizontal surface” means a horizontal plane one hundred fifty feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

“Hotel/motel” means a building that is used, intended, kept, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests (as defined in State law) with or without meals. (Source: 50-51-102, MCA)

“Hotspot” means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

“Household” means one or more individuals (related or unrelated) that usually occupy a dwelling unit.

**I**

“Illuminance” means the amount of light falling on a surface. Illuminance may be measured in lux or in foot-candles.

“Illuminating Engineering Society of North America (IESNA)” means a professional organization that was created to advance knowledge and disseminate information for the improvement of the lighted environment to the benefit of society. Its membership includes engineers, architects, designers, manufacturers, contractors, distributors, utility personnel, educators, students, and scientists.

“Immediate family” means a spouse, children by blood or adoption, and parents.

“Impervious surface” means that portion of a lot that substantially reduces or prevents the infiltration of stormwater into the ground. It includes areas of compacted soil and surfaces such as buildings, sidewalks, parking lots, driveways, and similar features.

“Incidental sign” means a sign indicating services, credit cards, hours of operation, or other similar information that pertains to the premises where the sign is located.

“Indoor entertainment” means a place and/or building, or portion thereof, that is used or is intended for indoor entertainment of all types. The term includes theaters, movie theaters, dance halls, theaters for performing arts, and the like.

“Indoor sports and recreation” means a place and/or building, or portion thereof, that is used or is intended for indoor recreation of all types. The term includes bowling alleys, skating rinks, billiard and pool halls, arcades, athletic clubs, indoor racquetball courts, athletic training centers, gyms, and the like.

“Industrial, heavy” means a place and/or building, or portion thereof, that is used or is intended for the following or similar uses: processing or manufacture of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. The term includes motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, primary metal processing, and the like.

“Industrial, light” means a place and/or building, or portion thereof, that is used or is intended for the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. The term includes furniture production, metal fabrication, apparel manufacturing, printing, publishing, and the like.

“Industrial park” means a planned and coordinated development designed to accommodate a variety of and more than 2 industrial uses.

“Industrial zoning district” means any zoning district established by this Title that has an “I” followed by a number as its abbreviation (e.g., I-1).

**“Inhabited area” means any residence, any other structure regularly occupied by people, or any outdoor area used by people on a regular basis.**

“Infill development” means the construction of new structures on one or more vacant lots within a previously established or approved development or area.



“Instream structure” means any structure that is placed within the ordinary high water mark for irrigation purposes, for controlling lateral or horizontal stream movement. Examples include bank stabilization, grade control structures, headgates, and the like.

“Instructional facility” means any place and/or building, or portion thereof, that is used or is intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the like.

“International Building Code” current, adopted edition of the International Building Code published by the International Codes Council.

“Interstate highway” means a roadway intended to carry vehicles over long distances with access restricted to interchanges. This is one level in the City’s functional classification system for roads within its jurisdiction.

“Itinerant outdoor sales” means a place that is used or is intended for retail sales over a limited duration. The term includes seasonal sales such as fireworks and Christmas trees, flea markets, and the like. The term does not include private yard or garage sales or the sale of agricultural products produced on the premises.

“Irrigation ditch” means a man-made structure to carry water for irrigation purposes.

“Irrigation system” means a permanent, artificial watering system designed to transport and distribute water to landscape plants.

## ***J***

“Junk vehicle” means a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains inoperative or incapable of being driven. (Source: 75-10-501, MCA)

“Junk yard” means a place and/or building, or portion thereof, that is used or is intended for selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials.

## ***L***

“Land clearing” means the removal of trees, understory, shrubbery, brush, groundcover, and/or topsoil from any part of the land. The term does not include standard maintenance practices including lawn mowing, pruning, and the like.

“Land development” means any activity that must comply with the provisions of this Title.

“Land use” means, as the context would indicate, (1) the development that has occurred on the land (2) development that is proposed on the land, or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

“Land use, accessory” means any land use that is clearly incidental and subordinate to and customarily found with a principal land use.

“Land use, beneficial” means any use of a parcel of land that is common in the region, on similarly situated properties, even if it does not involve development.

“Land use, conditional” means a land use that would not be appropriate generally or without restriction throughout a specified area but which, if controlled as to the number, area, location, or relation to the neighborhood, could promote the public health, safety, or general welfare.

“Land use, permitted by right” means a land use that is allowed throughout a specified area. Land uses permitted by right shall be reviewed to ensure that all provisions of local, State, or federal regulations are met.

“Land use, principal” means the dominant land use of a parcel of land.

“Land use, water-dependent” means any land use that is by necessity dependent upon access to a water body for water-borne transportation including ports or marinas, recreation, electrical generating facilities, or water supply.

“Land use, water-related” means any land use that is not by necessity dependent upon access to a water body, but which predominantly provides goods and services that are directly associated with water-dependent land uses.

“Landscape architect” See: registered landscape architect.

“Landscape plan” means a scaled plan that shows the areas of a site to be landscaped and provides design, planting, and irrigation specifications.

“Landscaping” means living material (e.g., turf grass, ground cover, shrubs, vines, hedges) and nonliving durable material commonly used in landscaping (e.g., bark, rocks, pebbles, decorative walls, fences, art and benches).

“Landslide” means a natural movement of a large mass of soil and/or rock moving down slope under gravitational forces.

“Large equipment rental” means a place and/or building, or portion thereof, that is used or is intended for renting large equipment that is normally stored out of doors. Typical items would include trucks, vertical lifts, fork lifts, back hoes, other types of heavy equipment, and modular buildings.

“Larger than utility runway” means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet powered aircraft.

“Lattice tower” means a self supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

“Legislative decision” means a decision generally discretionary in nature, made by elected governmental officials, that creates a new law or that repeals or modifies a previously adopted law. The adoption of a local comprehensive plan or a zoning code is an example of a legislative decision.

“Levee” means a manmade structure, usually earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

“Levee system” means a flood protection system which consists of a levee, or levees, and associated structures, such as drainage and closure devices, which are constructed and operated in accordance with sound engineering practices.

“Local street” means a roadway intended to predominantly provide access to adjoining properties. Traffic speeds are characteristically lower and access to and from driveways is frequent. This is one level in the City’s functional classification system for roads within its jurisdiction.

“Light manufacturing and assembly” means a place and/or building, or portion thereof, that is used or is intended for manufacturing and/or assembly of goods where no air contaminants or potentially offensive odors are emitted outside of the building or area of manufacture/assembly; no radioactive materials or hazardous substances or hazardous wastes or regulated substances are handled or produced. Such uses do not produce offensive noises outside of the building or area of manufacturing/assembly. Such uses typically have relatively small volumes of products shipped in and out, so as to not adversely impact neighboring uses (such as residential, office or commercial in mixed use zones). Typical uses include assembly of computers; testing, producing and/or packaging software; packaging of pre-made goods; etc. This term does not include any uses specifically listed under the definition of “industrial, light”.

“Light meter” means a device that measures the amount of light energy falling on a given surface.

“Light trespass” means light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited.

“Lighting fixture” See: luminaire.

“Loading area” means an off-street area set aside for the purpose of unloading or loading a motor vehicle, trailer, or truck.

“Local services” means any and all services or facilities the City is authorized to provide.

“Logo” means a graphic design representing an activity, service, or business.

“Lot” means a parcel of ground with a definable location based on a recorded survey or similar instrument. (Exhibit 8-4)

“Lot, corner” means a lot situated at the junction of and fronting on 2 or more roadways. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than 135 degrees.

“Lot, flag” means a lot with access provided by a corridor from a street to the bulk of the lot.

“Lot, interior” means a lot that abuts only one road.

“Lot, through” means a lot having a frontage on 2 more or less parallel streets.

“Lot, Z” means a type of interior lot that is generally situated on an angle to the street.

“Lot, zero lot line” means a lot where the building is placed on or near one of the side lot lines.

“Lot area” means the area of the horizontal plane bound by the vertical planes through front, rear, and side lot lines.

“Lot coverage” is a measure of land use intensity. It compares the portion of a site that is covered by impervious surfaces with the overall area of the site. For example, a 2-acre site with 0.5 acres of impervious surface has a lot coverage of 0.25 or 25 percent ( $0.5 / 2 = 0.25$ ).

“Lot line” means a line dividing one lot from another lot or from a street or alley.

“Lot line, front” means a lot line described for each of the following types of lots: on an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a street; or, on a through lot, the lot line abutting

Exhibit 8-4. Examples of lot types

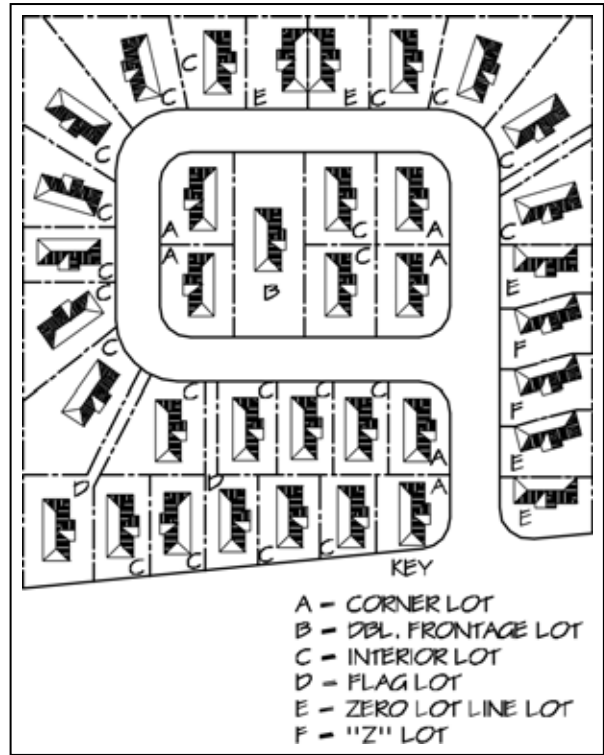
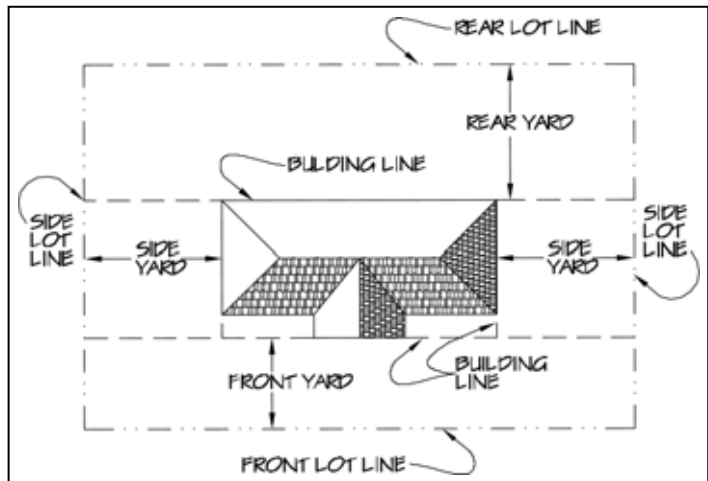


Exhibit 8-5. Lot lines and types of yards



the street providing the primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained (Exhibit 8-5).

“Lot line, rear” means a lot line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line (Exhibit 8-5).

“Lot line, side” means a lot line not a front or rear lot line (Exhibit 8-5).

“Low-profile sign” means a freestanding pole or monument sign with a height limit of 8 feet from finished grade to the top of the sign structure.

“Lowest floor” means any floor used for living purposes, storage, or recreation or that could be converted to such a use.

“Lumen” means a measure of light energy generated by a light source. Manufacturers list ratings for all their lamps. Average lumen ratings are slightly lower than initial lumen ratings.

“Luminaire” means a complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

## ***M***

“Maintain” means to support, keep, and continue in an existing State or condition without decline.

“Manufactured home” See: Residence, manufactured/factory-built.

“Manufactured home park or subdivision” means a parcel or contiguous parcels of land divided into 2 or more manufactured home lots for rent or sale.

“Manufactured housing sales” means a place and/or building, or portion thereof, that is used or is intended for on-site display and sales of mobile homes, modular homes, or other forms of manufactured housing.

“Market value” means the value as reported on Cascade County Assessor’s roll.

“Marquee” means a permanent, roofed structure that projects over public property and is attached to and supported by a building.

“Marquee sign” means a sign attached to a marquee.

“Mean sea level” means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations are referenced.

“Micro-brewery” means a place and/or building, or portion thereof, which is used or is intended for (1) the manufacture of malt beverages and (2) the sale and on-site consumption of those beverages, along with other beverages and food.

“Mini-storage facility” means a place and/or building, or portion thereof, that is divided into individual spaces and that is used or is intended as individual storage units that are rented, leased, or owned. The term includes a tract of land used to store vehicles that are not for sale or trade.

“Miniature golf” means a place and/or building, or portion thereof, that is used or is intended for playing miniature golf.

“Minimize” means that no other alternative would result in a lesser impact.

“Minor arterial” means a roadway that is designed to carry vehicles quickly from place to place, but access to adjacent land use has a high priority. This is one level in the City’s functional classification system for roads within its jurisdiction.

“Mitigate” means to take an action designed to offset or rectify a negative effect.

“Mixed-use building” means a building that contains 2 or more of the following uses: residential, retail, office, employment, or civic.

“Mixed-use zoning district” means any zoning district established by this Title that has an “M” followed by a number as its abbreviation (e.g., M-1).

“Mobile home” means a dwelling unit that is: (1) constructed off-site; and (2) equipped with the necessary utility service connections; and (3) made so as to be readily movable as a unit or units on its (their) own running gear; and (4) designed to be used with or without a permanent foundation.

“Mobile home pad” means the area of a mobile home space which has been prepared for the placement of a mobile home.

“Mobile home park” means a place providing 2 or more mobile home lots for lease or rent to the general public. (Source: 50-52-101 MCA)

“Mobile home space” means a designated portion of a parcel of land designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

“Mobile home subdivision” means a tract of land specifically designed, improved and maintained for locating mobile homes, which is platted into lots, blocks and streets and the lots then sold or rented to the occupant.

“Modular home” See: Residence, manufactured/factory-built.

“Monopole” is a wireless communication facility which consists of a monopolar structure, erected on the ground to support wireless communication antennas and connecting appurtenances.

“Monument” means any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

“Monument sign” means a low-profile, freestanding sign whose entire structure consists of solid material. Monument signs, in their entirety, are limited to a total height of 8 feet.

“Motor vehicle graveyard” means a place and/or building, or portion thereof, that is maintained and operated by a county and that is used or is intended as a collection point for junk motor vehicles prior to their disposal. (Source: 75-10-501, MCA)

“Motor vehicle wrecking facility” means a place and/or building, or portion thereof, that is used or is intended for buying, selling, or dealing in 4 or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification. The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard. (Source: 75-10-501, MCA)

“Mulch” means nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture, and that provide a protective covering around plants to reduce weed growth and to maintain even temperatures around plant roots. Examples include bark, wood chips, and coffee bean hulls.

|          |
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| <i>N</i> |
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“National Register of Historic Places” means the official list of the Nation’s historic places worthy of preservation. Authorized under the National Historic Preservation Act of 1966 and administered by the National Park Service, it is part of a national program to coordinate and support public and private efforts to identify, evaluate and protect our historic and archaeological resources. Properties listed in the National Register include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture.

“Native material revetment” means bank stabilization using root wads, logs, boulders, vegetation plantings, and sod mats. This type of design improves visual and biological values as opposed to some of the more “hard” approaches such as rip-rap.

“Neighborhood council” means the elected body for one of the neighborhood districts within the City.

“Neighborhood district” means the geographic area established pursuant to the City’s charter.

“Neighborhood plan” means a plan for a geographic area within the boundaries of the jurisdictional area that addresses one or more of the elements of the growth policy in more detail. (Source: 76-1-103, MCA)

“New construction” means structures for which the start of construction, substantial improvement, or alteration commences on or after the effective date of these regulations.

**"NIER" means non-ionizing electromagnetic radiation, which is electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum.**

“Noncombustible material” means material that does not ignite at or below a temperature of 1200 degrees Fahrenheit during a five-minute exposure and that does not continue to burn or glow at that temperature, as specified in the current, adopted edition of the International Building Code.

“Nonconforming building” means any building that at the time of construction conformed to existing rules and regulations, but is now inconsistent with this Title.

“Nonconforming structure” means any structure that at the time of construction or placement conformed to existing rules and regulations, but is now inconsistent with this Title.

“Nonconforming use” means any use of land that at the time of establishment conformed to existing rules and regulations, but is now inconsistent with this Title.

“Noncontributing structure, building or property” means a structure, building or property within a historic district that does not contribute to the historic integrity of the district.

“Non-cutoff luminaire” means a luminaire where a considerable amount of light occurs above the horizontal plane.

“Non-ionizing electromagnetic radiation (NIER)” means electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum.

“Non-precision instrument runway” means runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

“Nonstructural trim” means molding battens, caps, nailing strips, latticing, walkways, cutouts, or letters attached to a sign structure.

“Noxious weed” means any exotic plant species established or that may be introduced in the State which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated by the Montana Department of Agriculture or by a weed management district.

“Nursing home” means a place that provides 24-hour services including room and board to unrelated residents who because of their mental or physical condition require nursing care.

## **O**

“Occupancy” means the purpose for which a building, or part thereof, is used or intended to be used.

“Off-premise sign” means a sign that directs attention to a business, commodity, service, activity, or product not sold, conducted, or offered for sale on the premise where the sign is located.

“Off-site facility” means any facility located outside of the subject property.

“Off-site liquor sales” means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for off-site consumption. The term includes package liquor stores.

“On-premise sign” means a sign that directs attention to a business, commodity, service, activity, or product sold, conducted, or offered for sale on the premise where the sign is located.

“On-site construction office” means a building placed on a construction site that is used by the contractor as a field office and removed when construction is complete.

“On-site facility” means any facility located inside of the subject property.

“On-site real estate sales office” means a residential dwelling in a residential development that is temporarily used as a sales office for other on-site residential dwellings.

“Open space” means a vacant, undeveloped or unimproved parcel or area of land that is intended to remain free of development. Such lands typically include undeveloped park lands or other public lands, private lands in high hazard areas or with conservation easements, open water bodies, etc.

“Ordinary high-water mark” means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water mark. (Source: 23-3-301, MCA)

“Outdoor entertainment” means a place and/or structure, or portion thereof, that is used or is intended for outdoor, spectator-type uses or events. The term includes race tracks, motocross courses, sports arenas, concerts, religious assemblages, and the like.

**“Outdoor entertainment, temporary” means a short-term outdoor event such as concerts, performances, religious assemblages and the like. The term does not include sporting events such as motocross, auto racing and the like.**

“Overall development plan” means the master site plan for a single tract of land showing the proposed project submitted for review and the conceptual layout of land excluded from the project. It is intended to show how the entire property will likely be developed over time.

“Overlay district” means a geographic area that is placed over land use districts that adds additional requirements to those of the underlying district.

“Owner of record” means the person, or persons, that are listed in the official county records as the legal owners of a tract of record.

## ***P***

“Parapet” means a low protective wall or railing along the edge of a raised structure such as a roof.

“Parcel of land” means a unit of land all parts of which are contiguous, including contiguous lots, in the possession of, owned by, or managed by the same person.

“Park” means a place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public or by a homeowners' association. The term includes developed and undeveloped areas and neighborhood recreation centers.

“Park dedication” means land set aside by the developer for park purposes.

“Park dedication, cash-in-lieu of” means a cash payment that is equal to the assessed value of the land that would have been dedicated for park dedication purposes.

“Parking garage” means an off-street building used to temporarily park vehicles.

“Parking lot” means an off-street area, located beyond the right-of-way or easement of a street, used to temporarily park vehicles.

**“Parking lot, principal use” means an off-street parking facility intended to temporarily store vehicles, not accessory to any principal use.**

“Parking structure” means a multilevel structure that is used or is intended for parking motor vehicles for a short duration. The term does not include underground parking.

“Pedestrian pass-through” means a walkway that provides unconstrained pedestrian access through a building.

“Pedestrian scale (human scale)” means the proportional relationship between the dimensions of a building or building element, street, outdoor space, or streetscape element and the average dimensions of a human body, taking into account the perceptions and walking speed of a typical pedestrian.

“Perimeter control” means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

“Permanent foundation” means a continuous foundation wall around the perimeter of a building.



“Permit” means a written governmental authorization allowing the holder to take action not otherwise allowed.

“Permitted use” means a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

“Person” means any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

“Planned unit development (PUD)” means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that comprise a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in a common ownership or use. (Source: 76-3-103, MCA)

“Planning Board” means the Great Falls Planning Advisory Board.

“Plat” means a graphical representation of a subdivision showing the division of land into lots, blocks, streets, alleys, and other divisions and dedications.

“Plat, amended” means a plat showing adjustments to a final plat that has been recorded with the County Clerk and Recorder.

“Plat, concept” means a drawing of a proposed subdivision that is general in nature and shows the essential elements of the project.

“Plat, final” means a plat to be filed with the County Clerk and Recorder and that contains all of the elements and requirements set forth in this Title and the Montana Subdivision and Platting Act.

“Plat, preliminary” means a plat that is submitted for review and that contains the minimum information required in this Title and the Montana Subdivision and Platting Act.

“Pole sign – a.k.a. freestanding sign” means a sign supported wholly by a pole or poles, I-beam or structure in the ground and not a part of or attached to a building at any point.

“Pollution or pollutants” means the presence in the outdoor atmosphere, ground, or water of any substance, contaminant, noise, or any other manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air, soils, or water, in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

“Pollution, nonpoint source” means a diffuse source of pollution resulting from the activities of man over a relatively large area, the effects of which normally must be addressed or controlled by a management practice rather than by an engineered containment or structure. (Source: 16.20.1001, ARM)

“Pollution, point source” means a single, discernable source of pollution resulting from the activities of man, the effects of which normally must be addressed or controlled by an engineered system.

“Porch” means a part of a building with a roof of its own that covers an entrance.

“Portable sign” means a sign that is not permanently affixed to a building, structure, or the ground.

“Precision instrument runway” means a runway having an existing instrument approach procedure utilizing an instrument landing system or a precision approach radar. It also” means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

“Premise” means a single tract of land; whether described by metes and bounds, certificate of survey, and/or by lot or lots and block designation as in a recorded plat, which at the time of application for a building permit or for taxation is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control.

“Preserve” means to save from change or loss and reserve for a special purpose.

“Primary structure, building or property” means a structure, building or property within a historic district that contributes to the historic integrity of the district.

“Principal arterial” means a road that carries vehicles efficiently from place to place. Access to adjacent land uses is a minor function for this classification. This is one level in the City’s functional classification system for roads within its jurisdiction.

“Principal building” means the primary building on a lot or a structure that houses a principal use.

“Principal land use” See: land use, principal.

“Private stable/barn” means a place and/or building, or portion thereof, that is used or is intended for noncommercial activities relating to rearing, training, and riding horses or raising other permitted livestock. This term includes pole barns.

“Professional engineer” See: registered professional engineer.

“Professional services” means a building, or portion thereof, that is used or is intended to house services involving predominantly professional, clerical, or similar operations where customers come on a regular basis. The term includes law offices, real estate offices, insurance offices, travel agencies, and the like.

“Projecting sign” means a wall sign that projects from and is supported by a building or structure.

“Projection” means the distance by which a sign extends over public property or beyond the building.

“Public improvement” means any structure or facility constructed to serve the residents of a subdivision or development project or the general public.

“Public notice” means that way in which a government uses or is required to use to formally notify people of a proposed governmental hearing or action.

“Public safety facility” means any place and/or building, or portion thereof, whether public or non-public, that is used or is intended for housing public safety services. The term includes ambulance services, fire stations, police stations, and the like.

“Public service use or facility” means a use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, fire and police protection, solid waste management, transportation or utilities.

“Public view” means a point 6 feet above the surface of the center of any adjacent public right-of-way including but not limited to avenues, streets and alleys.

“Public way” means and includes all public streets and utility easements, now and hereafter owned by the City, but only to the extent of the City’s right, title, interest or authority to grant a license to occupy and use such streets and easements for telecommunications facilities.

**Q**

“Quasi-public use” means a use serving the public at large, and operated by a private entity under a franchise or other similar governmental authorization, designed to promote the interests of the general public or operated by a recognized civic organization for the benefit of the general public.

**R**

“Railroad yard” means a place and/or building, or portion thereof, that is used or is intended for switching train cars, loading and unloading cars, and where train cars and engines are serviced and stored while not in use.

“Readily visible” means an object that stands out as a prominent feature of the landscape when viewed with the naked eye.

“Real estate sign” means a sign pertaining to the sale, lease or rental of land or buildings.

“Recharge” means the replenishment of underground water reserves.

“Recreation trail” means a linear path which may be dedicated to a single use or multiple uses. Examples include hiking trails, bike trails, x-country ski trails, and horse trails.

“Recreational vehicle” means a vehicular type unit primarily designed as a temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

“Recreational vehicle park” means a tract of land available to and principally used by the public for camping, where people can park recreational vehicles for camping and sleeping purposes.

“Recreational vehicle space” means a designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.

“Recycling center” means a place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. The term shall not include a junk yard.

“Redevelopment” means the development of a site where the site was at one time developed and has been, or will be, cleared in whole or in part, to allow new construction.

“Registered architect” means an individual licensed to practice architecture in Montana.

“Registered land surveyor” means an individual licensed to practice surveying in Montana.

“Registered landscape architect” means an individual licensed to practice landscape architecture in Montana.

“Registered professional engineer” means an individual licensed to practice engineering in Montana.

“Regulated substance” means any hazardous substance as defined in 75-10-602, MCA, or petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure. This term does not include hazardous wastes as regulated by State law.

“Related equipment” means all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to cable, conduit, and connectors.

“Remainder” means that part of an original tract which is not created for transfer, but which is left after parcels are segregated for transfer. (See letter of opinion from Montana Attorney General to Robert M. McCarthy, April 22, 1987)

“Remodel” means to only change the interior and/or exterior appearance of a structure, where there is not a change in the footprint and does not constitute alteration or substantial improvement.

**“Residence, accessory” means place and/or building, or portion thereof, that is used, or is intended to provide housing, as a single family residence for a caretaker, employee or owner of the principle use and the like. This residence is accessory to a principle use.**

“Residence, condominiums” means separately owned single-family dwelling units with common elements located on property submitted to the provisions of the Montana unit ownership act, title 70, chapter 23, MCA.

“Residence, manufactured/factory-built” means a single-family dwelling unit built in a factory in accordance with the United States Department of Housing and Urban Development code or approved by the Montana Department of Labor and Industry Building Codes Bureau.

“Residence, multi-family” means a single building situated on one lot and that contains 3 or more separate dwelling units. Entrances to the dwelling units may be separate or combined. The units may be rented or owned as in a condominium.

“Residence, single-family detached” means a single building that is situated on one lot, contains one dwelling unit, and is not attached to any other dwelling unit by any means. The term includes factory-built homes, manufactured homes, and stick-built homes, but excludes mobile homes.

“Residence, townhouse” means a building containing multiple dwelling units where they are adjacent to one another on separate lots each having separate entrances.

“Residence, two-family” means a single building that is situated on one lot and that contains 2 dwelling units.

“Residence, zero lot line” means a single building that is situated on one lot, contains one dwelling unit, and is not attached to any other dwelling unit by any means. The side wall of the building is placed directly on or very close to one of the adjoining side yard property boundary lines. The term includes factory-built homes, manufactured homes, and stick-built homes, but excludes mobile homes.

“Residential zoning district” means any zoning district established by this Title that has an “R” followed by a number as its abbreviation (e.g., R-1).

“Restaurant” means a place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages for immediate consumption on ~~or off site the premises~~, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery **or convenience** store with a food service section. **Such establishments may include a drive-through window, and may or may not include on-site seating.**

“Retirement home” means a place and/or building, or portion thereof, that is used or is intended to provide independent living quarters, either owned or rented, to individuals generally 62 years of age or older. Limited commercial and medical facilities constructed and used for the exclusive use of residents shall be an accessory use of the retirement home.

“Rezoning” See: zoning map amendment.

“Right-of-way” means that land which the Montana Department of Transportation, county, or City has title to, or right of use, for public roads and appurtenances, including utilities.

“Right-of-way” means a strip of land dedicated or acquired for public use.

“Riprap” means a structure consisting of stone and or rocks (not concrete or other cement product) that is placed along the bank or bed of a stream for the purpose of alleviating lateral bank erosion.

“Riverfront Corridor” means the area along River Drive and Giant Springs Road extending between the southern and northeastern limits of the City.

“Road” See: street.

“Road maintenance agreement” means a written instrument recorded with the County Clerk and Recorder that defines how a private road will be maintained in perpetuity, or until such time as the City, county, or the State accepts it as a public road, and the rights and obligations of the parties to the agreement.

“Roadside farmer’s market” means a place and/or building, or portion thereof, that is used or is intended for the retail sale of produce grown exclusively on the premises.

“Roof sign” means a sign attached to roof structure – including parapet, fascia and rake framing, walls and/or columns of a building so that a portion of the advertising display is at or above roof level.

“Rotating sign” means a sign or portion of a sign that revolves or rotates.

“Runway” means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

## S

“Salvage material” means material or fragments of material discarded as waste in manufacturing operations, or machines, tools, equipment or parts of these, no longer in serviceable condition, or such items and materials no longer used for their original intent or purpose or such items or materials which are valuable only as raw material for reprocessing. Examples include metal, rubber, textiles, rope, paper, leather, lumber, plastics, and equipment made of these.

“Sandwich board sign a.k.a. A-type sign” means a portable sign that rests on the ground and is not permanently attached to anything.

“Satellite earth station” means a telecommunication facility consisting of more than a single satellite dish smaller than 10 feet in diameter that transmits to and/or receives signals from an orbiting satellite.

“Screening” means a feature, such as a wall, fence, hedge, berm, or similar feature, used to shield or obscure elements of a development from adjacent sites.

“Secondhand sales” means a place and/or building, or portion thereof, that is used or is intended for retail sale of goods and merchandise which are not being sold for the first time. The term includes secondhand stores, thrift stores, consignment shops, and the like.

“Security lighting” means outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots, and outdoor security where general illumination for safety or security of the grounds is of primary concern.

“Sediment control” means any measure that prevents eroded sediment from leaving the site.

“Semi-cutoff luminaire” means a luminaire where less than 5 percent of the lamp lumens occur above the horizontal plane and no more than 20 percent of the lamp lumens occur above 80 degrees.

Setback” means a specified horizontal distance between two actual or imaginary objects (e.g., property lines, ordinary high water mark, buildings, wells, septic systems, etc.)

“Sexually-oriented business” includes the following types of uses: adult arcades, adult book stores/adult video stores, adult cabarets, adult motels, and adult motion picture theaters.

“Shared parking” means one or more parking spaces that, partially or entirely, meet the parking requirements of two or more uses.

“Shopping center” means more than one sales or service use built on a single site which is planned, developed, owned, and managed as an operating unit.

“Shrub” means a self-supporting woody perennial plant that characteristically grows to a height of 12 feet at maturity. It typically has multiple stems and branches continuous from the base.

“Sidewalk café” means an outdoor dining area located upon public property, including a sidewalk, and operated as an integral part of an adjacent restaurant where food and beverages are sold or served primarily for consumption on the premises.

“Sidewalk food vendor” means the sale of food and beverage from a mobile cart located on public property or within the public right-of-way.

“Sign” means a notice bearing a name, direction, warning, or advertisement that is displayed or posted for public view.

“Sign structure” means the supports, uprights, braces and framework of a sign.

**“Silhouette” means a representation of the outline of a structure, especially a tower and antenna associated with a telecommunication facility, as seen from an elevation perspective.**

“Site-built home” means a dwelling unit that is constructed on the site on which it will be located.

“Site plan” means a plan drawn to scale that shows the layout of existing and proposed features including property lines, easements, structures, uses, utilities, parking areas, streets, signs, buffers, landscaping, adjacent land uses and other information as may be required.

“Small equipment rental” means a place and/or building, or portion thereof, that is used or is intended for renting small equipment and supplies that typically are stored indoors. Typical rentals include hand tools, party equipment, lawn care and yard equipment.

“Soil amendment” means organic and inorganic materials added to soil to improve texture, nutrients, moisture holding capacity, and infiltration.

“Soil stabilization” means the use of practices that prevent exposed soil from eroding.

“Solid waste” means all putrescible and nonputrescible wastes. (Refer to: 75-10-103, MCA)

“Solid waste transfer station” means a place and/or building, or portion thereof, that is used or is intended for temporary collection of solid waste prior to transport to a processing plant or to final disposal. (Refer to: 16.14.403, ARM)

“Special event” means a promotional or community event, e.g. a bazaar, street fair, show, exhibition, sporting event or fun run.

“Special exception” See: conditional use.

“Special improvement district (SID)” means a geographic area established by a local governing body where property owners pay a special assessment to finance public improvements (e.g., sidewalks, lighting).

“Specialty sales” means a place and/or building, or portion thereof, that is used or is intended for retail sale of a limited product line. The term includes antique shops, furniture stores, auto part stores, bookstores, drug stores, clothing boutiques, pet stores, and the like.

“Specified anatomical areas” means the male genital in the state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

“Specified sexual activity” means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth in parts 1 through 3 of this definition.

“Start of construction” means the first land-disturbing activity associated with a development, including land preparation such as land clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

“State” means the State of Montana.

“Stoop” means a raised platform in front of an entrance to a building with one or more steps.

“Stop work order” means an order issued by the City which requires that any activity found in violation of this Title cease.

“Storage container” means an enclosed metal container exceeding 90 cubic feet that is typically used to temporarily store merchandise.

“Stormwater” means water from a rainfall event or melting snow that flows over the ground surface.

“Stormwater detention structure” means a structure designed to collect and temporarily store stormwater with subsequent gradual release.

“Stormwater management” means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

“Stormwater retention structure” means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

“Stormwater retrofit” means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

“Stormwater runoff” means flow on the surface of the ground, resulting from precipitation.

“Stormwater treatment practices” means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

“Stream” means a natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

“Street” means a public access way within a public right-of-way or private easement.

“Structural alteration” means any change or addition to a structure that increases its external dimensions and/or increases its potential flood hazard.

“Structure” means any permanent or temporary object that is constructed, installed, or placed by man, the use of which requires a location on a parcel of land. It includes buildings of all types, bridges, instream structures, storage tanks, fences, swimming pools, towers, poles, pipelines, transmission lines, smokestacks, signs, and other objects.

“Structure ridgeline” means the line along the top of a roof or top of a structure, if it has no roof.

“Subdivider” means any person which causes land to be subdivided or which proposes a subdivision. (Source: 76-3-103(15), MCA).

“Subdivision” means a division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes. (Source: 76-3-103(16), MCA)

“Subdivision, major” means a subdivision not qualifying as a minor subdivision.

“Subdivision, minor” means a subdivision containing 5 or fewer lots where proper access to all lots is provided and where no land in the subdivision will be dedicated to public use for parks or playgrounds, and the subdivision is eligible for review under 76-3-505 or 76-3-609, MCA.

“Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (1) Before the improvement or repair is started; or (2) If the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor, or other structural part of the building commences. The term does not include: (1) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (2) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

“Suitable fill” means material which is stable, compacted, well-graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps, or other organic material; and is fitting for the purpose of supporting the intended use of and/or permanent structure.

“Surveyor” See: registered land surveyor.



**T**

“Tavern” means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for on-site consumption and where food consumption, if any, is clearly secondary to the sale of alcoholic beverages. The term includes bars and lounges.

“Taxi cab dispatch terminal” a place and/or building, or portion thereof, that is used or is intended for dispatching taxi cabs and where taxi cabs are kept while not in use.

**“Telecommunication equipment building, shelter or cabinet” means a cabinet or building used to house equipment used by telecommunication providers to house equipment at a facility.**

“Telecommunication facility” means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

“Telecommunication facility, co-located” means a telecommunication facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

“Telecommunication facility, commercial” means a telecommunication facility that is operated primarily for a business purpose or purposes.

“Telecommunication facility, concealed” means (1) an antenna that a casual observer would consider it a part of the structure to which it is attached or made a part of, or (2) an antennae and tower structure that is camouflaged to blend into the surroundings (e.g., camouflaged trees).

“Telecommunication facility, multiple user” means a telecommunication facility comprised of multiple telecommunication towers or buildings supporting one or more antennas owned or used by more than one public or private entity, excluding research and development industries with antennas to serve internal uses only.

“Telecommunications facility, noncommercial” means a telecommunication facility that is operated solely for a non-business purpose.

“Telecommunication facility, unconcealed” means an antenna mounted on a tower or mounted on the ground.

“Telecommunications tower” means a mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast greater than 10 feet tall and 6 inches in diameter supporting one or more antenna, dishes arrays, etc. shall be considered a telecommunications tower.

“Temporary sign” means a sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood or other light material, with or without frames, intended for display during a limited period of time.

“Tract of record” means an individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder’s office. (Source: 76-3-103(17)(a), MCA)

“Traffic impact analysis” means a written report that documents the traffic impacts and consequences of a proposed development project. Typical components would address each of the following: (1) existing conditions, (2) on-site traffic circulation (3) impacts on public roads; and (4) recommendations/alternatives to alleviate identified impacts.

“Transit shelter sign” means an off-premise sign painted on or posted within a transit shelter.

“Tree” means a self-supporting woody plant that characteristically grows to a minimum height of 15 feet at maturity and has a trunk which can be maintained over 5 feet of clear wood.

**“Tree, protected” means a significant tree on public or private property that may be threatened with removal or damage during a construction project.**

**“Tree, significant” means a tree that is 6 inches or larger in trunk diameter when measured at one foot above the ground.**

~~“Truck terminal” means a place and/or building, or portion thereof, that is used or is intended for storage of freight for routing or reshipment.~~

“Turf or turfgrass” means hybridized grasses, that when regularly mowed characteristically forms a dense growth of leaf blades and roots.

## U

“Uniformity ratio” means the ratio of average illumination to minimum illumination within a given area.

“Use by right” See: land use, permitted by right.

“Utility installation” means a place, building and/or structure, or portion thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services **generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, wind turbines and the like. It does not include public water system wells, sewer lift stations, irrigation ditches, or linear electric, communications or natural gas utilities, and the like. This term shall not include linear electric, communications or natural gas facilities which are not regulated under this Title.**

~~“Utility installation, major” means a utility installation generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, and the like.~~

~~“Utility installation, minor” means a utility installation generally having low impact on neighboring property. The term includes public water system wells, sewer lift stations, irrigation ditches, and the like.~~

“Utility runway” means runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.

## V

“Variance” means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

“Vehicle fuel sales” means a place and/or building, or portion thereof, that is used or is intended for the retail sale of gasoline, kerosene, diesel, or other petroleum-based motor fuels. The term includes the sale of convenience foods and goods, provided it is ancillary to the sale of fuels, and light maintenance activities, such as engine tune-ups, lubrication, minor repairs, and the like.

“Vehicle repair” means a place and/or building, or portion thereof, that is used or is intended for maintenance, service, and repair of vehicles. Typical services include transmission repair, body work and painting, brake repair, vehicle upholstery, tire shop, engine repair and overhauls, and similar activities.

“Vehicle sales and rental” means a place and/or building, or portion thereof, that is used or is intended for buying, selling, exchanging, taking for consignment, renting, or leasing new or used vehicles, including cars, light trucks, snowmobiles, motorcycles, all-terrain vehicles (ATVs), recreational vehicles, personal water craft.

“Vehicle services” means a place and/or building, or portion thereof, that is used or is intended for servicing vehicles where they typically are not left overnight. Examples include quick lube/oil change, car washes, tire stores, vehicle cleaning including cleaning, washing, polishing, waxing, or similar activities.

“Vehicular use area” means those areas of a lot used for vehicle circulation and parking, including loading berths, parking lots, service drives, internal roads, and the like.

“Vendor cart” means a small non-motorized vehicle equipped with all necessary appurtenances to prepare and serve a limited menu and beverages.

“Veterinary clinic” means a place and/or building, or portion thereof, that is used or is intended for the medical care of animals. A veterinary clinic may include office space, medical labs, appurtenant facilities, and kennels and/or enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, animal hospitals, and the like.

“Veterinary clinic, large animal” means a veterinary clinic that specializes in the care and treatment of large animals and livestock.

“Veterinary clinic, small animal” means a veterinary clinic that specializes in the care and treatment of small animals including dogs, cats, birds, and other small domesticated and semi-domesticated animals.

“Vicinity map” means a map that shows the location of a proposed project relative to other parcels and roads in the area.

“Visual runway” means a runway intended solely for the operation of aircraft using visual approach procedures.

## W

“Wall sign” means a sign attached to the wall of a building or structure with the exposed face of the sign in a plane parallel to the plane of the wall. Wall signs include signs painted on awnings and the exterior walls of buildings.

“Warehouse” means a place and/or building, or portion thereof, that is used or is intended for the storage of goods and materials, for wholesale sales, temporary storage, and distribution. The term includes moving and storage facilities. The term does not include fuel tank farms.

“Water quality volume (WQ<sub>v</sub>)” means the storage needed to capture and treat 90 percent of the average annual stormwater runoff volume. Numerically (WQ<sub>v</sub>) will vary as a function of long term rainfall statistical data.

“Water right” means a legal right to use water that is protected under Montana law.

“Waterbody” includes rivers, streams, creeks, irrigation ditches, lakes, and ponds, both natural and man-made.

“Wetland” means those ecological entities so defined by the current edition of the "Federal Manual for Identifying and Delineating Wetlands".

“Wildland fire” means an unplanned and uncontrolled fire spreading through vegetation that may also consume structures or other improvements as well.

“Window sign” means a sign affixed to a window.

“Worship facility” means a place and/or building, or portion thereof, that has tax-exempt status and that is used or is intended as a place where people can regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, ~~and~~ **rectories, and day care centers within the same structure.** The term does not include ~~day care centers~~, community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.

“Written or in writing” means any representation of words, letters, drawings, graphics, or pictures.

## Y

“Yard” means the area on the same lot with a building, that is unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

“Yard, front” means a yard that extends across the front of a lot between the side lot lines from the front line of the building (excluding the front steps) to the front lot line.

“Yard, rear” means a yard that extends across the rear of a lot between the side lot lines from the rear line of the building (excluding steps) to the rear lot line.

“Yard, side” means a yard that extends from the side line of the building (excluding steps) to the side lot line between the front and rear yards.

“Year” means a calendar year.

## Z

“Zoning district” means a geographic area as delineated on the zoning map that identifies a base zoning district.

“Zoning permit” means a permit that is issued prior to the issuance of a building permit to ensure that the proposed use is consistent with the allowable uses within the district in which it is to be located.

**Chapter 16**  
**ADMINISTRATIVE AND ENFORCEMENT PROCEDURES**

**Articles:**

- |  |   |
|--|---|
| 2. Generally                           | 22. Stormwater management permit                        |
| 4. Public notice requirements          | 23. Demolition permit                                   |
| 6. Public hearings                     | 26. Subdivision – preliminary and minor plats           |
| 7. Annexation by petition              | 27. Subdivision – final plat                            |
| 8. Zoning permit                       | 28. Subdivision – final site plan                       |
| 10. Floodplain determination           | 29. Planned unit development                            |
| 12. Floodplain permit                  | 30. Certificate of occupancy                            |
| 14. Emergency floodplain permit waiver | 32. Variance  |
| 16. Sign permit                        | 34. Administrative appeal                               |
| 17. Landscape design review            | 36. Conditional use permit                              |
| 18. Design review                      | 38. Code interpretation                                 |
| 19. Outdoor lighting                   | 40. Amendment to Chapter 20 Land Use and the zoning map |
| 20. Design waiver                      | 46. Enforcement   |
| 21. Erosion control permit             | 48. Request for extension of approval period            |

**Article 2**  
**GENERALLY**

**Sections:**

- |             |   |             |  |
|-------------|---|-------------|--|
| 17.16.2.010 | Legislative findings  | 17.16.2.080 | Review authority                             |
| 17.16.2.020 | Purpose   | 17.16.2.090 | Concurrent review                            |
| 17.16.2.030 | Permission to enter subject property                          | 17.16.2.100 | Application fees                             |
| 17.16.2.040 | Revocation of approval due to false or inaccurate information | 17.16.2.110 | Ex parte communication                       |
| 17.16.2.050 | Burden of proof   | 17.16.2.120 | Building permit                              |
| 17.16.2.060 | Effect of an outstanding violation                            | 17.16.2.130 | Non-confidentiality of submitted information |
| 17.16.2.070 | Types of decisions  |             |  |

**17.16.2.010 Legislative findings**

The City Commission makes the following findings:

1. Excessive procedural requirements add unnecessary costs to development projects.
2. The public, adjacent landowners, and affected agencies have a right to know about proposed projects and have meaningful participation in the review process.
3. Written findings should accompany every adjudicative decision to serve as a permanent record documenting the reasons for approval or denial and the conditions of approval, if any.
4. Enforcing the rules and regulations contained in this Title is an important function of City government.

**17.16.2.020 Purpose**

This chapter is established to promote the public health, safety and welfare and is intended to accomplish the following purposes:

1. provide efficient and timely review of applications and ensure fairness and due process
2. ensure that applications are reviewed consistently by establishing objective criteria in making recommendations and final decisions
3. ensure complete and timely compliance

**17.16.2.030 Permission to enter subject property**

Submission of an application as required in this Title authorizes officials and employees of the City, or other designated agents to enter the subject property to verify information in the application and to conduct other site investigations as may be necessary to review the application. This does not authorize any individual to enter any building on the subject property in the absence of the property owner or his/her authorized agent. Failure to allow access to the subject property shall be sufficient grounds to deny the application.

**17.16.2.040 Revocation of approval due to false or inaccurate information**

The City Commission may revoke, suspend, or reconsider any permit or other authorization if it determines that the information in the application or otherwise provided by the applicant or the applicant's agent is false or inaccurate, and that the misrepresentation materially altered the final outcome.

**17.16.2.050 Burden of proof**

- A. **During application process.** During the application processes, the applicant has the burden of proof to show that the proposed development is consistent with this Title.
- B. **During appeal of an administrative decision.** In instances where an applicant appeals an administrative decision to the Board of Adjustment, the administrative unit or department making said decision has the burden of proof to show that the decision is consistent with this Title.
- C. **During enforcement proceedings.** During enforcement proceedings, the administrative unit or department taking enforcement action has the burden of proof to show that the action or development is in violation of this Title.

**17.16.2.060 Effect of an outstanding violation**

No permit or approval of any kind may be given on a parcel that is in violation of this Title, except to correct the violation.

**17.16.2.070 Types of decisions**

As more fully described in the following articles, there are a number of permits that may be issued in the administration of this Title. Exhibit 16-1 lists whether the decision is legislative, adjudicative, or administrative in nature. The type of decision has a direct bearing on the level of public input, amount of discretion in the review process, type of public notice required (if any), and the type of factors that can be considered.

**17.16.2.080 Review authority**

Exhibit 16-1 identifies in a summary format the entity responsible for rendering decisions for the various permits and approvals required in this Title. In case of discrepancies, the text controls.

**17.16.2.090 Concurrent review**

To the extent possible, development projects requiring multiple reviews shall be done concurrently. Where one approval is a condition precedent to approval of another application, the approvals shall be issued in the requisite order.

**17.16.2.100 Application fees**

At its discretion the City Commission may set and revise application fees by resolution. The City Clerk shall maintain the official fee schedule.

**17.16.2.110 Ex parte communication**

To promote open decision-making and due process, members of the various bodies involved in reviewing an application that is considered adjudicative in nature (See Exhibit 16-1) shall not voluntarily engage in ex parte communication relating to a particular application pending before the body. However, it is acknowledged that a member may involuntarily or inadvertently be part of an ex parte communication. In such instance, the member shall

disclose the content of that communication during the public hearing as specified in Article 6 of this chapter. The intent of this disclosure is to insure that everyone at the public hearing is aware of the content of that communication and is allowed to consider, question, rebut, or respond to such information.

**17.16.2.120 Building permit**

A building permit for new construction or expansion of an existing building shall not be issued until such time as a zoning permit has been issued or a written determination is made that one is not required.

**17.16.2.130 Non-confidentiality of submitted information**

All written information that a potential applicant submits to staff during a pre-submittal meeting is considered part of the public record.

Page reserved for exhibit 16-1



**Article 4  
PUBLIC NOTICE REQUIREMENTS**

**Sections:**

|             |                             |             |  |
|-------------|-----------------------------|-------------|--|
| 17.16.4.010 | When required               | 17.16.4.060 | Property owner notice                      |
| 17.16.4.020 | Content of required notice  | 17.16.4.070 | Premises sign                              |
| 17.16.4.030 | Cost of notice              | 17.16.4.080 | Agency notification                        |
| 17.16.4.040 | Public notice               | 17.16.4.090 | Comment period for floodplain applications |
| 17.16.4.050 | Neighborhood council notice |             |  |

**17.16.4.010 When required**

Public notice as required in this chapter shall be provided for as shown in Exhibit 16-2, except where greater or different notice is specifically required by State or federal law.

**Exhibit 16-2. Public notice**

| Article | Type of Action  | Neighborhood  |                      | Property           |               | Agency Notification |
|---------|---|---------------|----------------------|--------------------|---------------|---------------------|
|         |   | Public Notice | Council Notification | Owner Notification | Premises Sign |                     |
| 7       | Annexation  | X             | X                    | X                  | X             | X                   |
| 8       | Zoning permit   | -             | -                    | -                  | -             | -                   |
| 10      | Floodplain determination                                      | -             | -                    | -                  | -             | -                   |
| 12      | Floodplain permit   | X             | -                    | X                  | -             | X                   |
| 14      | Emergency floodplain permit waiver                            | -             | -                    | -                  | -             | -                   |
| 16      | Sign permit   | -             | -                    | -                  | -             | -                   |
| 17      | Landscape design review                                       | -             | -                    | -                  | -             | -                   |
| 18      | Design review   | -             | -                    | X                  | -             | -                   |
| 19      | Outdoor lighting permit                                       | -             | -                    | -                  | -             | -                   |
| 20      | Design waiver   | -             | -                    | -                  | -             | -                   |
| 21      | Erosion control permit  | -             | -                    | -                  | -             | -                   |
| 22      | Stormwater management permit                                  | -             | -                    | -                  | -             | -                   |
| 24      | Demolition permit – structure not historically significant    | -             | -                    | -                  | -             | -                   |
| 24      | Demolition permit – structure historically significant        | X             | -                    | -                  | X             | X                   |
| 26      | Subdivision – preliminary plat – major or second minor        | X             | X                    | X                  | X             | X                   |
| 26      | Subdivision – preliminary plat – minor                        | -             | -                    | -                  | -             | X                   |
| 27      | Subdivision – final plat                                      | -             | -                    | -                  | -             | -                   |
| 28      | Subdivision – final site plan                                 | -             | -                    | -                  | -             | -                   |
| 29      | Planned unit development                                      | X             | X                    | X                  | X             | X                   |
| 30      | Certificate of occupancy                                      | -             | -                    | -                  | -             | -                   |
| 32      | Variance <i>(non-subdivision)</i>                             | X             | -                    | X                  | -             | X                   |
| 34      | Administrative appeal   | X             | -                    | -                  | -             | -                   |
| 36      | Conditional use permit  | X             | X                    | X                  | X             | X                   |
| 38      | Code interpretation   | -             | -                    | -                  | -             | -                   |
| 40      | Amendment to this Title – map amendment – landowner initiated | X             | X                    | X                  | X             | X                   |
| 40      | Amendment to this Title – map amendment – City initiated      | X             | X                    | -                  | -             | X                   |
| 40      | Amendment to this Title – text amendment                      | X             | -                    | -                  | -             | X                   |
| 44      | Signature development designation                             | -             | -                    | -                  | -             | -                   |
| 46      | Enforcement   | -             | -                    | -                  | -             | -                   |
| 48      | Request for extension of approval period                      | -             | -                    | -                  | -             | -                   |

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X indicates that that type of notice is required  
 - indicates that that type of notice is not required

**17.16.4.020 Content of required notice**

Notices shall include the information as listed in Exhibit 16-3.

**Exhibit 16-3. Content of notice**

|   | Public<br>Notice | Neighborhood<br>Council<br>Notification | Property<br>Owner<br>Notification | Premises<br>Sign | Agency<br>Notification |
|---|------------------|---|-----------------------------------|------------------|------------------------|
| Applicant name  | X                | X                                       | X                                 | -                | X                      |
| Subject property address or legal description by which the public can locate the property | X                | X                                       | X                                 | -                | X                      |
| Nature of the application   | X                | X                                       | X                                 | X                | X                      |
| A description of the proposed project   | X                | X                                       | X                                 | X                | X                      |
| Name of body or official who will consider the application                                | X                | X                                       | X                                 | X                | X                      |
| Date, time and location of the hearing or for accepting public comment                    | X                | X                                       | X                                 | X                | X                      |
| Location where the public can view the application  | X                | X                                       | X                                 | X                | X                      |
| The criteria that will be used to evaluate the proposal                                   | -                | X                                       | X                                 | -                | X                      |
| Location map  | -                | X                                       | X                                 | -                | X                      |

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X indicates that that type of information is to be provided with that type of notice  
 - indicates that that type of information is not required with that type of notice

**17.16.4.030 Cost of notice**

The City shall pay for all notices required under this article which is recouped through the associated application fees.

**17.16.4.040 Public notice**

When required, the official responsible for processing the application shall place public notice in a newspaper of general circulation consistent with the following provisions:

1. **Time requirements.** The notice shall be published at least 15 days prior to, but no more than 30 days prior to the public hearing or the first day that a decision could be made.
2. **Content.** The notice shall include the information as required by this article. (Exhibit 16-3)

**17.16.4.050 Neighborhood council notice**

When required, the official responsible for processing the application shall mail a notice to the appropriate neighborhood council chair consistent with the following provisions:

1. **Time requirements.** The notice shall be mailed at least 15 days prior to the first scheduled hearing or date of decision.
2. **Content.** The notice shall include the information as required by this article. (Exhibit 16-3)

**17.16.4.060 Property owner notice**

When required, the official responsible for processing the application shall mail notices to all property owners within 150 feet of the property involved in the application consistent with the following provisions:

1. **Time requirements.** The notices shall be mailed at least 15 days prior to the first scheduled hearing or date of decision.
2. **Content.** The notice shall include the information as required by this article. (Exhibit 16-3)
3. **Sources of names and addresses.** The names of property owners shall be deemed to be those listed on the most current ad valorem tax roll maintained by the county.
4. **Failure to notify owner.** The failure of an owner required by this section to receive mailed notice shall not invalidate or otherwise have any effect upon a public hearing or other action taken on the application.
5. **Additional notice.** Where the applicant is the owner of the land adjoining the property involved in the application, the official responsible for processing the application may require that notices be mailed to additional property owners as appropriate.
6. **Special provisions for subdivisions.** Each property owner of property immediately adjoining the proposed

subdivision shall be notified via certified mail or registered mail. (See: 76-3-605, MCA)

**17.16.4.070 Premises sign**

When required, the official responsible for processing the applicant shall post a sign on the premises involved in the application consistent with the following provisions:

1. **Time requirements.** The sign shall be posted the week preceding the date of the meeting when the application will be reviewed.
2. **Size.** The signs shall not be less than 18” in height by 24” in width.
3. **Content.** The notice shall include the information as required by this article. (Exhibit 16-3)
4. **Placement.** Signs shall be posted on the property involved in the application. Where the property does not front on a public road, the official responsible for processing the application shall designate the location where the sign shall be posted. Under all circumstances, the sign shall be plainly visible and unobstructed from the street.

**17.16.4.080 Agency notification**

When required, the official responsible for processing the application shall send a copy of the application and the information as required by this article to other units of government and other service providers substantially affected by the proposal. Public utilities shall be notified of all subdivision applications. (See: 76-3-504, MCA)

**17.16.4.090 Comment period for floodplain applications**

Public notice and landowner letters for floodplain applications shall allow for at least a 15-day comment period.

**Article 6  
PUBLIC HEARINGS**

**Sections:**

|             |                      |             |                |
|-------------|----------------------|-------------|----------------|
| 17.16.6.010 | Legislative findings | 17.16.6.040 | Continuances   |
| 17.16.6.020 | General requirements | 17.16.6.050 | Public comment |
| 17.16.6.030 | Procedure            |             |                |

**17.16.6.010 Legislative findings**

The City Commission makes the following findings:

1. Public hearings should be conducted in an orderly, timely, and efficient manner.
2. Public input is important and should be encouraged.

**17.16.6.020 General requirements**

- A. **Meetings to be public.** All public hearings shall be conducted in a place that is open to the public.
- B. **Notice of meetings.** Notice of public hearings shall be given as provided for in Article 4 of this chapter.
- C. **Minutes.** The body conducting the hearing shall keep minutes of the proceedings, indicating the attendance of each member, and the vote of each member on each question. The body conducting the hearing shall approve the minutes, and upon approval shall become part of the public record.

**17.16.6.030 Procedure**

The body conducting the public hearing shall follow the following general procedure:

1. The presiding officer shall announce the purpose and subject of the public hearing.
2. The presiding officer shall ask the staff to present a staff report, if required.
3. Members of the body conducting the public hearing may direct questions to both the applicant and staff, if present.
4. The presiding officer shall ask for statements from the public who are in favor of the application.
5. The presiding officer shall ask for statements from the public who oppose the application.
6. The presiding officer shall call for discussion of the members of the body conducting the public hearing

- during which time they may ask questions of the applicant and staff, if present.
- 7. The presiding officer shall ask the applicant if he/she wishes to (1) respond to any comment made by an individual during the proceeding; (2) submit additional information; (3) and/or amend the application.
- 8. Following discussion, a motion to approve or deny the application or a motion to recommend approval or denial, as appropriate, shall be made and seconded.

**17.16.6.040 Continuances**

- A. **Initiation.** The applicant may request a continuance during the proceedings and the body conducting the public hearing may agree to the continuance upon a showing of good cause. Likewise, the body conducting the public hearing may ask the applicant for a continuance, who is not under compulsion to grant such continuance.
- B. **Effect.** A continuance stops the time clock for making a decision.

**17.16.6.050 Public comment**

- A. **Time limitations on public comment.** The presiding officer may impose time limits on each individual who wishes to speak to assure completion of the agenda in a timely manner.
- B. **Written comment.** Members of the public may submit written statements to the body conducting the public hearing.

**Article 7  
ANNEXATION BY PETITION**

Note: State statutes prescribe different annexation procedures for different circumstances. This article describes annexation by petition when the majority of property owners seek annexation or when the property owner(s) own more than 50 percent of the land to be annexed. (See Title 7, Chapter 2, Part 46, MCA) Although the Montana State statutes for annexation by petition do not require a public hearing, an annexation typically involves simultaneous establishment of municipal zoning, whose enabling statutes do require public hearing(s). Therefore, the following annexation procedures do incorporate a public hearing before the Planning Board, as the City Zoning Commission, and a public hearing before the City Commission.

**Sections:**

|             |                                  |             |                          |
|-------------|----------------------------------|-------------|--------------------------|
| 17.16.7.010 | Generally                        | 17.16.7.060 | Imposition of conditions |
| 17.16.7.020 | Compliance with State law        | 17.16.7.070 | Staff report content     |
| 17.16.7.030 | Application and review procedure | 17.16.7.080 | Content of decision      |
| 17.16.7.040 | Extension of review period       | 17.16.7.090 | Appeal                   |
| 17.16.7.050 | Basis of decision                |             |                          |

**17.16.7.010 Generally**

This article describes the procedure and requirements for annexation by petition when signed by more than 50 percent of the resident electors owning real property in the area to be annexed; or by the owner(s) of 50 percent of the real property in the area to be annexed. (See Title 7, Chapter 2, Part 46, MCA)

**17.16.7.020 Compliance with State law**

Annexation of land to the City shall be in accordance with this part and with State law in effect at the time of annexation.

**17.16.7.030 Application and review procedure**

- A. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the Director of the Planning Department to:
  - 1. review applicable procedures;
  - 2. review applicable goals and objectives of the City’s growth policy and applicable neighborhood plans, if

- any; and
- 3. review the proposal.

The pre-submittal meeting may, at the discretion of the director and concurrence of the applicant or the applicant's agent, be held via telephone conference. Prior to the conference, the applicant shall submit background information to the director. A representative from the Community Development Department, Public Works Department, Fire Department, and other City departments as appropriate should participate in this preliminary discussion.

- B. **Neighborhood council contact recommended.** Prior to submitting an application, the applicant may meet with representatives of the neighborhood council in which the project is located to present the project and solicit feedback.
- C. **Submittal of application.** The applicant shall submit an application to the Planning Department along with the application fee as may be established by the City Commission.
- D. **Determination of completeness.** Within 10 days, but not sooner than 4 days, of submittal, the director shall determine whether the proposed application is complete or incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- E. **Schedule date of review.** Following a determination of completeness, the director shall schedule a public hearing date to review the application allowing for proper public notice.
- F. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for public notice, neighborhood council notification, property owner notification, agency notification, and posting of a sign on the premises.
- G. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Planning Board, the applicant, and the applicant's agent, if any, at least 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.
- H. **Public hearing.** The Planning Board shall conduct a public hearing to review the application and staff report.
- I. **Planning Board recommendation.** The Planning Board, after considering the comments and recommendations of the staff report, shall make a recommendation to the City Commission, based on the decision criteria contained in this article, to either:
  - 1. approve the annexation,
  - 2. approve the annexation with conditions, or
  - 3. deny the annexation.
- J. **City commission decision.** The City Commission, after considering the comments and recommendation of the Planning Board and after reviewing the staff report, shall make a decision, based on the criteria contained in this article, to either:
  - 1. approve the annexation,
  - 2. approve the annexation with conditions, or
  - 3. deny the annexation.

The decision shall be prepared consistent with the requirements contained in this article.

- K. **Annexation resolution.** City Commission approval shall be done through the adoption of a resolution officially annexing the subject property.
- L. **Compliance.** If the annexation is approved, the applicant shall comply with all the conditions, if any, of the approval.

M. **Filing Recording of resolution.** The City Clerk shall promptly make and certify a copy of **record** the **annexation** resolution and file it with the County Clerk and Recorder. ~~(See: 7-2-4607 (1), MCA)~~

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**17.16.7.040 Extension of review period**

- A. **Generally.** Prior to the final decision of the City Commission, an applicant may request an extension to the review period if the applicant wishes to amend the application with new or different information.
- B. **Procedure.** If the City Commission approves the extension, the Planning Board will rehear the amended application with appropriate notice.
- C. **Extension requirements.** Unless otherwise stated in writing, an extension request automatically extends the

review period to 30 days beyond the date when the Planning Board hears the amended application.

#### **17.16.7.050 Basis of decision**

The Planning Board's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, Planning Board recommendation, or additional information demonstrates that each of the following criteria have been satisfied:

1. The subject property is contiguous to the existing City limits.
2. The proposed annexation is consistent with the City's growth policy.
3. The proposed annexation is consistent with applicable neighborhood plans, if any.
4. The proposed annexation is consistent with other planning documents adopted by the City Commission, including a river corridor plan, transportation plan, and sub-area plans.
5. The City has, or will have, the capacity to provide public services to the subject property.
6. The subject property has been or will be improved to City standards.
7. The owner(s) of the subject property will bear all of the cost of improving the property to City standards and or/ the owner(s) has signed an agreement waiving the right of protest to the creation of a special improvement district created to pay, in whole or in part, any necessary improvement.
8. The subject property has been or will be surveyed and officially recorded with the County Clerk and Recorder.
9. The City will provide both water and sewer service to each of the uses in the subject property that may require potable water and waste water treatment and disposal.
10. The subject property is not located in an area the City Commission has designated as unsuitable for annexation.
11. The subject property is not located in another city or town. (See: 7-2-4608 (1), MCA)
12. The subject property is not used in whole or in part for agriculture, mining, smelting, refining, transportation, or any other industrial or manufacturing purpose or any purpose incidental thereto. (See: 7-2-4608 (2), MCA)

#### **17.16.7.060 Imposition of conditions**

In approving the application, the City Commission may impose such conditions as may be necessary to show the annexation is in the public interest.

#### **17.16.7.070 Staff report content**

At a minimum, the staff report shall contain the following information:

1. A summary of the comments received from the interdepartmental/agency review;
2. Findings for each of the decision criteria listed in this article;
3. A preliminary list of conditions if approval is recommended; and
4. A recommendation to approve the application, approve it with conditions, or deny the application.

#### **17.16.7.080 Content of decision**

A. **Content for approval.** If the application is approved, the decision shall at a minimum include the following:

1. A statement that the annexation is approved subject to filing a resolution.
2. A description of the subject property (e.g., acres, location).
3. Findings for each of the review criteria established in this article.
4. A list of conditions which may be imposed.
5. Specifications and requirements for development improvements, if any.
6. The zoning classification(s) for the subject property.
7. A statement specifying under what conditions the City Commission may withdraw its decision to approve the annexation.
8. How long the decision is valid.
9. A statement that the decision may be appealed to a court of competent jurisdiction.
10. Date of the decision.

11. A signature block for the City Commission.
  12. The extent to which the petitioners have met the terms of approval and a resolution of annexation should therefore be adopted.
- B. **Content for denial.** If the application is denied, the decision shall include the following:
1. A statement that the annexation is denied.
  2. A description of the subject property (e.g., acres, location)
  3. Findings for each of the review criteria established in this article.
  4. A statement that the denial does not limit the applicant's ability to resubmit a revised application for consideration.
  5. A statement that the decision may be appealed to a court of competent jurisdiction.
  6. Date of the decision.
  7. A signature block for the authorized representative of the City Commission.

**17.16.7.090 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 8  
ZONING PERMIT**

**Sections:**

|             |                                  |             |                        |
|-------------|----------------------------------|-------------|------------------------|
| 17.16.8.010 | Legislative findings             | 17.16.8.040 | Basis of decision      |
| 17.16.8.020 | Permit required                  | 17.16.8.050 | Expiration of approval |
| 17.16.8.030 | Application and review procedure | 17.16.8.060 | Appeal                 |

**17.16.8.010 Legislative findings**

The City Commission makes the following findings:

1. Landowners need to know, prior to construction, whether the proposed development complies with this Title.
2. Tenants and landowners need to know prior to moving into an existing non-residential building whether the proposed use complies with this Title.

**17.16.8.020 Permit required**

- A. **New construction.** No building or other structure shall be erected, moved, added to, or structurally altered without a zoning permit.
- B. **Change in use.** A change in use to an existing non-residential building or structure, and occupancy thereof, shall not occur without a zoning permit.

**17.16.8.030 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application to the Planning Department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** Within 2 days of submittal, the Director of the Planning Department shall determine whether the submitted application is complete or incomplete and notify the applicant, in writing, of any deficiencies. If the application is deemed incomplete, the applicant has 20 days to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Determination of compliance.** Within 3 days after a determination of completeness, the director shall either issue or deny issuance of the permit based on the decision criteria established in this article.

**17.16.8.040 Basis of decision**

The decision to issue or deny issuance of the permit shall be based on whether the intended use is consistent with the zoning requirements.

**17.16.8.050 Expiration of approval**

The permit shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.8.060 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 10  
FLOODPLAIN DETERMINATION**

**Sections:**

|              |                                  |              |                   |
|--------------|----------------------------------|--------------|-------------------|
| 17.16.10.010 | Legislative findings             | 17.16.10.030 | Basis of decision |
| 17.16.10.020 | Application and review procedure | 17.16.10.040 | Appeal            |

**17.16.10.010 Legislative findings**

The City Commission makes the following findings:

1. A mechanism is needed to let people know, on a case-by-case basis, whether their property is located within a designated 100-year floodplain and is therefore subject to the floodplain regulations contained in this Title.
2. Because there are numerous companies that make floodplain determinations for flood insurance purposes, it is not necessary for the City to assume this role. (Note: Such companies are required to keep track of each determination and notify those clients when the flood insurance designation on their property changes.)

**17.16.10.020 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application to the floodplain administrator.
- B. **Determination of completeness.** Within 10 days of submittal, the floodplain administrator shall determine whether the application is complete or incomplete and notify the applicant of any deficiencies. If the application is deemed incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The floodplain administrator shall take no further steps to process the application until the deficiencies are remedied.
- C. **Floodplain administrator decision.** Within 10 days after a determination of completeness, the floodplain administrator shall review the application and determine if the property in question, or portion thereof, is located within a designated 100-year floodplain.
- D. **Applicant notification of determination.** Within 5 days following the determination, the floodplain administrator shall mail the determination to the applicant.
- E. **Creation of permanent record.** The floodplain administrator shall maintain such determination as a public record and for future reference.

**17.16.10.030 Basis of decision**

To determine whether the property in question or portion thereof is located in the designated 100-year floodplain, the floodplain administrator shall review the adopted floodplain map(s), contour maps, elevational survey data supplied by the applicant, and other information as may be necessary. The floodplain administrator shall conduct an onsite inspection if deemed appropriate.



**17.16.10.040 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 12  
FLOODPLAIN PERMIT**

**Sections:**

|              |                                  |              |  |
|--------------|----------------------------------|--------------|--|
| 17.16.12.010 | Permit required                  | 17.16.12.060 | Preliminary application form and content |
| 17.16.12.020 | Application and review procedure | 17.16.12.070 | Final application form and content       |
| 17.16.12.030 | Basis of decision                | 17.16.12.080 | Compliance certification requirements    |
| 17.16.12.040 | Imposition of conditions         | 17.16.12.090 | Expiration of approval                   |
| 17.16.12.050 | Content of decision              | 17.16.12.100 | Appeal                                   |

**17.16.12.010 Permit required**

A floodplain permit shall be required before any structure, building, fill, or any other regulated activity occurs in the 100-year floodplain except for those activities specifically exempted.

**17.16.12.020 Application and review procedure**

- A. **Pre-submittal meeting.** The applicant or the applicant's agent shall meet with the floodplain administrator prior to submitting a floodplain application to review the project and identify potential issues and also to review applicable regulations and procedures.
- B. **Submittal of preliminary application.** The applicant shall submit the preliminary floodplain application to the floodplain administrator.
- C. **Notification of requirements for final floodplain application.** Upon receiving the preliminary application, the floodplain administrator shall notify the applicant in writing of additional materials that must be submitted with the final application.
- D. **Submittal of final application.** The applicant shall submit the final application to the floodplain administrator along with the application fee as may be established by the City Commission.
- E. **Determination of completeness.** Within 10 days of submittal, the floodplain administrator shall determine whether the application is complete or incomplete and notify the applicant of any deficiencies. If the application is deemed incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The floodplain administrator shall take no further steps to process the application until the deficiencies are remedied.
- F. **Notice.** Consistent with Article 4 of this chapter, the floodplain administrator shall provide for public notice, property owner notification, and agency notification and provide for a comment period of not less than 15 days.
- G. **Additional notice.** The floodplain administrator shall notify the floodplain administrator and other responsible officials from other jurisdictions when the proposed project could potentially affect their jurisdictions.
- H. **Inter-agency review.** The floodplain administrator shall forward one copy of the complete application to the Department of Natural Resources and Conservation and one copy to the Cascade County Conservation District when the proposed development may impact the bed or bank of a stream.
- I. **Public hearing.** Depending on the magnitude of the project and the comments from adjoining property owners and the general public, the floodplain administrator may require a public hearing.
- J. **Floodplain administrator decision.** Within 60 days after a determination of completeness, the floodplain administrator shall review the final application and shall approve the application, approve it with conditions, or deny it based on the decision criteria as described in this article or request additional information as may be needed to adequately evaluate the application.
- K. **Applicant notification of decision.** Within 7 days following the decision, the floodplain administrator shall mail the floodplain decision to the applicant.
- L. **DNRC notification of decision.** The floodplain administrator shall send a copy of the decision to the Montana

Department of Natural Resources and Conservation, Floodplain Management Section. (See: 36.15.204 (2)(e) ARM)

- M. **Certification of permit compliance.** Within 10 days following completion of the project, the applicant shall provide the floodplain administrator with the certification of compliance as required by this article.

#### **17.16.12.030 Basis of decision**

- A. **Generally.** Decisions to approve, approve with conditions, or deny a floodplain application shall be based on whether the application, public comments, or additional information demonstrates that the proposed project:
1. meets the standards of this Title and the Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA); and
  2. is consistent with the City's growth policy, the applicable neighborhood plan(s), if any, and other planning documents adopted by the City Commission including the transportation plan and river corridor plan.
  3. is in the public interest.
- B. **Review criteria.** To determine whether the proposal would be in the public interest, the floodplain administrator shall consider the following:
1. the danger to life and property due to increased flood heights, increased flood water velocities or alterations in the pattern of flood flow caused by encroachments;
  2. the danger that materials may be swept onto other lands or downstream to the injury of others;
  3. the proposed water supply and sanitation systems, if any, and the ability of these systems to prevent disease, contamination and unsanitary conditions;
  4. the susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;
  5. the likelihood that the structure or building will be threatened due to its proximity to the stream or potential lateral movement of the stream;
  6. the importance of the services provided by the facility to the community;
  7. the requirement of the facility for waterfront location;
  8. the availability of alternative locations not subject to flooding for the proposed use;
  9. the compatibility of the proposed use with existing development and anticipated development in the foreseeable future;
  10. the relationship of the proposed use to the City's growth policy, neighborhood plan, if any, the document entitled, and floodplain management program for the area;
  11. the safety of access to property in times of flooding for ordinary and emergency services;
  12. effects of the project on other properties;
  13. the cumulative effect of the proposed project along with other existing projects; and
  14. such other factors as are in harmony with the purposes of this Title, the Montana Floodplain and Floodway Management Act, and the National Flood Insurance Program.

#### **17.16.12.040 Imposition of conditions**

The floodplain administrator shall impose conditions on the issuance of a permit as may be necessary to allow a positive finding that the project is in the public interest. The floodplain administrator shall require the applicant to file a mitigation agreement with the County Clerk and Recorder's office if there is a possibility that the project may negatively affect the adjoining property or the function/stability of the river. In addition, the floodplain administrator shall require the applicant to file a monitoring agreement with the County Clerk and Recorder's office for projects that will result in a significant alteration of the river or that use experimental designs and/or materials.

#### **17.16.12.050 Content of decision**

- A. **Content for approval.** If the application is approved, the decision shall at a minimum include the following:
1. A statement that the application is approved.
  2. A general description of the project.
  3. An evaluation of the criteria considered in reaching the decision.
  4. Conditions of approval and/or required project specifications, if any.

5. The procedures and requirements when there is a major or minor deviation from the floodplain decision.
  6. A statement specifying under what conditions the floodplain administrator may withdraw the floodplain decision.
  7. How long the floodplain decision is valid.
  8. A statement that the applicant will obtain all other local, State, and federal permits prior to commencement of work (e.g., Section 404 of the Federal Water Pollution Control Act of 1972 and Natural Streambed and Land Preservation Act).
  9. A statement describing how and when the ~~application~~ **applicant** will provide certification to the floodplain administrator following completion of the project to ensure the project met the conditions of approval.
  10. A statement that changes in this Title shall not affect the approval and that no additional conditions shall be imposed.
  11. A statement that the decision may be appealed to a court of competent jurisdiction.
  12. Date of the decision.
  13. A signature block for the floodplain administrator.
- B. **Content for denial.** If the application is denied, the decision shall at a minimum include the following:
1. A statement that the application is denied.
  2. A description of the project.
  3. An evaluation of the criteria considered in reaching the decision.
  4. A statement that the denial does not limit the applicant's ability to resubmit a revised application for consideration.
  5. A statement that the decision may be appealed.
  6. Date of the decision.
  7. A signature block for the floodplain administrator.

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**17.16.12.060 Preliminary application form and content**

- A. **Preparation.** The preliminary application may be prepared by the applicant, registered architect, registered professional engineer, registered land surveyor, or other qualified individual, as appropriate to the project.
- B. **Format.** The application, as may be used by the floodplain administrator, shall be completed.

**17.16.12.070 Final application form and content**

- A. **Preparation.** The final application shall be prepared by a registered professional engineer, registered land surveyor, and/or registered architect, or other qualified individual, as appropriate to the project. When the project entails the practice of engineering, a professional engineer shall complete the application and certification, if required. Examples of such projects include grade control structures, channel shaping / relocation, water diversions, bridges/culverts, utility lines, levees and floodwalls, river channelization, bank stabilization projects in excess of 200 cumulative feet, and dams.
- B. **Required content.** The final application shall include:
  1. an application form, as may be used by the floodplain administrator;
  2. a site plan prepared at a scale of 1"=20' and containing the information listed in Appendix A;
  3. a vicinity map showing the location of the subject property and the location and name of adjacent roads and municipal boundaries;
  4. the names and complete mailing addresses of all owners of record owning property adjoining the subject property, as identified on the most recent tax rolls of the county;
  5. project specifications for floodproofing, filling, excavating, grading, riprapping, storage of materials, and location of utilities;
  6. a plan view of the proposed development indicating external dimensions of structures, street or road finished grade elevations, well locations, individual sewage treatment and disposal sites, excavation and/or fill quantity estimates, site plan and/or construction plans;
  7. copies of issued or requested permits where applicable, including the following:
    - a. 404 Permits, pursuant to Section 404 of the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1334,

- b. 310 Permits, pursuant to Natural Streambed and Land Preservation Act, Title 75, Chapter 7, Part 1 MCA),
  - c. Short-Term Exemption from Surface Water Quality Turbidity Standards;
  - 8. a list of variances, requested or granted, that are relevant to the application and completed applications for all requested variances;
  - 9. design calculations, as may be prepared by a professional engineer or registered architect;
  - 10. as appropriate, certification by a professional engineer or registered architect that the proposed project has been designed to be in compliance with this Title.
- C. **Additional information may be required.** The floodplain administrator may require whatever additional information is necessary to determine whether the proposed activity meets the requirements of this Title. Additional information may include the following:
- 1. A hydraulic study documenting probable effect on upstream, downstream, or adjacent property owners caused by the proposed development; or
  - 2. The calculated increase in the 100-year flood water surface profile caused by the proposed development.

**17.16.12.080 Compliance certification requirements**

- A. **Generally.** To determine that the permit specifications and conditions have been completed, applicants shall furnish the following at the time of an on-site conformance inspection, as appropriate:
  - 1. Certification by a registered professional engineer or registered land surveyor of the actual mean sea level elevation of the lowest floor (including basement) of all new, altered, or substantially improved buildings.
  - 2. If flood proofing techniques were used for buildings, the mean sea level elevation to which the flood proofing was accomplished must be certified by a professional engineer with demonstrated expertise in structural engineering or licensed architect in the same manner.
  - 3. Certification shall also be required, for artificial obstructions other than buildings, verifying that the activity was accomplished in accordance with this Title and the design plans submitted with the application for the permit activity.
  - 4. Certification of a flood proofing and/or elevation shall be provided on a standard form available from the floodplain administrator.
  - 5. Flood proofing must be certified by a registered professional engineer or architect that the flood proofing methods are adequate to withstand the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the 100-year flood.
- B. **Waiver of certification requirements.** The floodplain administrator may waive certain certification requirements when an on-site inspection clearly demonstrates that the conditions of the approval were satisfied.

**17.16.12.090 Expiration of approval**

The permit shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.12.100 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 14  
EMERGENCY FLOODPLAIN PERMIT WAIVER**

**Sections:**

|              |                                  |              |                       |
|--------------|----------------------------------|--------------|-----------------------|
| 17.16.14.010 | Generally                        | 17.16.14.040 | Termination of waiver |
| 17.16.14.020 | Application and review procedure | 17.16.14.050 | Appeal                |
| 17.16.14.030 | Content of written waiver        |              |                       |

**17.16.14.010 Generally**

The floodplain administrator may issue an emergency floodplain permit waiver consistent with this part when in his/her judgment an emergency exists and there is a clear and present danger to public facilities such as roads, public wells, public water and sewer facilities, and flood control works.

**17.16.14.020 Application and review procedure**

- A. **Initiation.** The official responsible for protecting the public facility shall submit the following information to the floodplain administrator in writing, or verbally: the nature of the emergency, the specific threat to the public facility, and the proposed action.
- B. **Determination.** The floodplain administrator shall consider all of the facts known at that time, and determine if an emergency permit is warranted. If a permit is authorized, it initially may be given verbally or in writing. If verbal authorization is given, the floodplain administrator shall provide such determination in writing.
- C. **Establishment of record.** The floodplain administrator shall assign a unique number for this action and establish a permanent written record.

**17.16.14.030 Content of written waiver**

The emergency waiver shall be in writing and shall describe the nature of the emergency, the specific risk to the public facility if action were not taken, the action authorized to abate the threat, and whether verbal authorization was given prior to written authorization.

**17.16.14.040 Termination of waiver**

Upon cessation of the emergency condition that prompted the waiver, the waiver shall be null and void and all work as authorized by the waiver shall cease, except for those specific and limited actions that are needed to protect the immediate public health, safety, and welfare. All subsequent work shall be conducted in conformance with a floodplain permit as issued in this chapter.

**17.16.14.050 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 16  
SIGN PERMIT**

**Sections:**

|              |                                  |              |                              |
|--------------|----------------------------------|--------------|------------------------------|
| 17.16.16.010 | Permit required                  | 17.16.16.040 | Application form and content |
| 17.16.16.020 | Application and review procedure | 17.16.16.050 | Expiration of approval       |
| 17.16.16.030 | Basis of decision                | 17.16.16.060 | Appeal                       |

**17.16.16.010 Permit required**

A sign permit shall be required before any new sign is located within the City or any existing sign is expanded, reconstructed, or moved any distance.

**17.16.16.020 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application to the Community Development Department.
- B. **Determination of completeness.** Within 2 days of submittal, the Director of Community Development shall determine whether the submitted application is complete or incomplete and notify the applicant, of any deficiencies. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Determination of compliance.** Within 3 days after a determination of completeness, the director shall approve

the permit, approve it with conditions, or deny the permit based on the decision criteria established in this article.

- D. **Permit fee.** At the time of issuance of the permit, the applicant shall pay the applicable permit fee as may be established by the City Commission.

**17.16.16.030 Basis of decision**

The decision to approve, approve with conditions, or deny the permit shall be based on whether the application, as submitted, meets the standards and requirements of this Title and applicable Building Code requirements.

**17.16.16.040 Application form and content**

- A. **Preparation.** The applicant shall prepare the application submittal with the assistance of a sign designer/contractor, registered architect, or registered engineer, as may be appropriate.
- B. **Required content.** The application submittal shall include the following:
  1. an elevation drawing of the sign drawn to scale that shows overall dimensions and materials;
  2. a site plan prepared at a scale of 1" = 20' and containing the information listed in Appendix A;
  3. a copy of design waivers or variances that have been granted for the project;
  4. a description of design waivers or variance that are needed for the project;
  5. an application form; and
  6. applicable Building Code requirements as in Title 15, OCCGF.

**17.16.16.050 Expiration of approval**

The permit shall expire 180 days after the date of issuance.

**17.16.16.060 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 17  
LANDSCAPE DESIGN REVIEW**

**Sections:**

|              |                                  |              |                       |
|--------------|----------------------------------|--------------|-----------------------|
| 17.16.17.010 | Application and review procedure | 17.16.17.050 | Irrigation plan       |
| 17.16.17.020 | Basis of decision                | 17.16.17.060 | Plant substitutions   |
| 17.16.17.030 | Application form and content     | 17.16.17.070 | Installation deferral |
| 17.16.17.040 | Landscape plan                   | 17.16.17.080 | Appeal                |

**17.16.17.010 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application to the Community Development Department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** Within 5 days of submittal, the Director of Community Development shall determine whether the submitted application is complete or incomplete and notify the applicant, in writing, of any deficiencies. If the application is deemed incomplete, the applicant has 20 days to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Determination of compliance.** Within 3 days after a determination of completeness, the director shall approve the application, approve it with conditions, or deny the permit based on the decision criteria established in this article.
- D. **Resubmittal of application.** If the application is denied, the applicant has 20 days to submit another application or forfeit the original application fee.

**17.16.17.020 Basis of decision**

The decision to approve, approve with conditions, or deny the submitted landscape plan shall be based on whether the application, as submitted, meets the standards and requirements of this Title.

**17.16.17.030 Application form and content**

The application submittal shall include the following:

1. An application form.
2. A landscape plan prepared consistent with this Title.
3. An irrigation plan prepared consistent with this Title.
4. A list of variances and design waivers, requested or granted, that are relevant to the application.

**17.16.17.040 Landscape plan**

- A. **When required.** A landscape plan as described in this section shall be prepared and submitted when a project must provide landscaping as required by this Title (except single-family residences).
- B. **Qualifications to prepare.** A landscape plan shall be prepared by a registered landscape architect, registered professional engineer, registered architect, or other qualified individual, as appropriate to the project, who is knowledgeable of landscaping principles and plant selection and care.
- C. **Format.** A landscape plan shall be prepared according to the following format:
  1. The page size shall not exceed 24" by 36".
  2. Where multiple sheets are necessary, a cover sheet with an index shall be included.
  3. The plan shall be legible and show all of the required information.
  4. The plan shall be prepared at an appropriate scale to show the required information. For sites smaller than one acre, a scale of 1" = 20' is generally appropriate and for projects larger than one acre, a scale of 1" = 50' is generally appropriate.
- D. **Content.** At a minimum the landscape plan shall contain the information as listed in Appendix A.

**17.16.17.050 Irrigation plan**

- A. **When required.** An irrigation plan as described in this section shall be prepared and submitted when a landscape plan involves the installation of an irrigation system.
- B. **Qualifications to prepare.** An irrigation plan shall be prepared by a person who is knowledgeable of irrigation system components and maintenance, water efficient design principles, evapotranspiration rates, hydrology, local soil conditions, and locally used plant materials and their respective water needs.
- C. **Format.** An irrigation plan shall be prepared in the same format of the submitted landscape plan.
- D. **Content.** At a minimum the irrigation plan shall depict the location of and specifications for all irrigation components and include a recommended watering schedule.

**17.16.17.060 Plant substitutions**

Minor revisions to an approved landscape plan may be requested due to a lack of plant availability or seasonal planting constraints.

**17.16.17.070 Installation deferral**

If climatic conditions or other circumstances prevent proper and complete installation of the landscaping required in this Title prior to issuance of a certificate of occupancy, the City Forester may defer such installation until the next growing season for just cause, provided the property owner / developer provides the City with a financial guarantee pursuant to Chapter 68 of this Title. In no case shall the time for completion be extended beyond June 1 immediately following the completion date.

**17.16.17.080 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 18**  
**DESIGN REVIEW**

**Sections:**

|              |                                  |              |                        |
|--------------|----------------------------------|--------------|------------------------|
| 17.16.18.010 | Application and review procedure | 17.16.18.050 | Staff report content   |
| 17.16.18.020 | Extension of review period       | 17.16.18.060 | Expiration of approval |
| 17.16.18.030 | Basis of decision                | 17.16.18.070 | Appeal                 |
| 17.16.18.040 | Application form and content     |              |                        |

**17.16.18.010 Application and review procedure**

- A. **Pre-submittal conference.** Before submitting an application, the applicant or the applicant's agent is encouraged to meet with the Director of Community Development to:
  - 1. review applicable regulations and procedures;
  - 2. review applicable goals and objectives of the City’s growth policy, neighborhood plans, if any, and other plans, as appropriate; and
  - 3. review a concept drawing of the project.

The pre-submittal conference may, at the discretion of the director and with concurrence of the applicant or the applicant's agent, be held via telephone conference. Prior to the conference, the concept drawing shall be submitted to the director.
- B. **Submittal of application.** The applicant shall submit an application, as described in this article, to the Community Development Department along with the application fee as may be established by the City Commission.
- C. **Determination of completeness.** Within 10 days, but not sooner than 4 days, of submittal, the director shall determine whether the proposed application is complete or incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- D. **Schedule date of review.** Following a determination of completeness, the director shall schedule a meeting with the Design Review Board. Public notice shall be given of the date and time of the meeting.
- E. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Design Review Board, the applicant, and the applicant’s agent, if any, at least 3 days prior to the public meeting. He/she shall also provide a copy to interested people upon request.
- F. **Public hearing.** The board shall conduct a public hearing to review the application.
- G. **Board decision.** Within 10 days of the public meeting (unless the applicant consents in writing to an extension of the review period), the Design Review Board after considering the comments and recommendations of the staff report shall render a decision to:
  - 1. approve the application,
  - 2. approve the application with conditions, or
  - 3. deny the application.
- H. **Applicant notification of decision.** Within 5 days following the decision date, the director shall mail the board’s decision to the applicant.

**17.16.18.020 Extension of review period**

- A. **Generally.** Prior to the final decision of the board, the board or the applicant may request an extension to the review period. The applicant may wish to amend the application with new or different information or the board may request new or additional information.
- B. **Extension requirements.** Unless otherwise stated in writing, an extension request may extend the review an additional 30 days.

**17.16.18.030 Basis of decision**

The Design Review Board’s decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public input, or additional information demonstrates that each of the following



criteria have been satisfied:

1. The proposal meets the required design standards; and
2. The proposal meets the design guidelines to the greatest extent possible.

**17.16.18.040 Application form and content**

- A. **Preparation.** In conjunction with a registered architect or design professional, the applicant shall prepare the application.
- B. **Required content.** The application submittal shall include the following:
  1. building elevations as prepared by an architect or design professional that shows all windows, doors, eaves, roof lines, exterior materials, vents, chimneys, HVAC units, signage, and other similar design features;
  2. a site plan prepared at a scale of 1"=20' and containing the information listed in Appendix A;
  3. a copy of design waivers or variances that have been granted for the project;
  4. a description of design waivers or variances that are needed for the project; and
  5. an application form.
- C. **Optional content.** The application may include other information including colored renderings, three-dimensional models, computer simulation, and other types of visual aids.

**17.16.18.050 Staff report content**

At a minimum, the staff report shall contain the following:

1. an analysis of the building and related site design based on the design standards and guidelines contained in this Title; and
2. a preliminary list of deficiencies, if any.

**17.16.18.060 Expiration of approval**

The approval shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.18.070 Appeal**

Within 30 days of the Design Review Board’s decision, the applicant and/or an aggrieved person may appeal the decision by petitioning the City Commission in writing. A majority vote of the City Commission shall be required in order to place the appeal on the commission’s agenda for formal action. Any City Commission action is superior to the Design Review Board’s decision, unless such decision is upheld. If the City Commission fails to review the project or if the City Commission hears the application, the applicant and/or aggrieved person may appeal the City Commission’s decision by filing an appeal with a court of competent jurisdiction within 30 days of the City Commission’s decision on appeal or decision to not hear the appeal.

**Article 19  
OUTDOOR LIGHTING**

**Sections:**

|              |   |              |                        |
|--------------|---|--------------|------------------------|
| 17.16.19.010 | Permit required   | 17.16.19.060 | Lighting plan          |
| 17.16.19.020 | Reviewing entity  | 17.16.19.070 | Expiration of approval |
| 17.16.19.030 | Application and review procedure for independent review | 17.16.19.080 | Appeal                 |
| 17.16.19.040 | Basis of decision                                       |              |                        |
| 17.16.19.050 | Application form and content                            |              |                        |

**17.16.19.010 Permit required**

An electrical permit and an outdoor lighting application and plan shall be required before any new outdoor lighting is located within the City or any existing lighting is expanded, reconstructed, converted, or moved any distance.

**17.16.19.020 Reviewing entity**

- A. **Review.** When the Design Review Board reviews a project, it shall also review the proposed lighting, if any, to ensure it complies with the lighting standards contained in this Title. The Design Review Board shall follow the review process and render a decision consistent with this article.
- B. **Administrative review.** When an outdoor lighting application is submitted and is not subject to any other review procedure, the Director of Community Development shall conduct the review and render a decision consistent with this article.

**17.16.19.030 Application and review procedure for independent review**

- A. **Submittal of application.** The applicant shall submit a completed application to the Community Development Department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** Within 2 days of submittal, the Director of Community Development shall determine whether the submitted application is complete or incomplete and notify the applicant, in writing, of any deficiencies. If the application is deemed incomplete, the applicant has 20 days to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Determination of compliance.** Within 3 days after a determination of completeness, the director shall approve the permit, approve it with conditions, or deny the permit based on the decision criteria established in this article.
- D. **Applicant notification.** Within 5 days following the decision, the director shall mail the applicant the original (signed) copy of the permit and retain a copy for the public record.

**17.16.19.040 Basis of decision**

The decision to approve, approve with conditions, or deny the permit shall be based on whether the application, as submitted, meets the standards and requirements of this Title and applicable Building Code requirements.

**17.16.19.050 Application form and content**

The application submittal shall include the following:

1. An application form.
2. A lighting plan prepared consistent with this Title.
3. A list of variances, requested or granted, that are relevant to the application.

**17.16.19.060 Lighting plan**

- A. **When required.** A lighting plan as described in this section shall be prepared and submitted when a project includes outdoor lighting.
- B. **Qualifications to prepare.** A lighting plan shall be prepared by a lighting designer/contractor, registered architect, or registered engineer, as may be appropriate.
- C. **Format.** A lighting plan shall be prepared according to the following format:
  1. The page size shall not exceed 24" by 36".
  2. Where multiple sheets are necessary, a cover sheet with an index shall be included.
  3. The plan shall be legible and show all of the required information.
  4. The plan shall be prepared at an appropriate scale to show the required information. For sites smaller than one acre, a scale of 1" = 20' is generally appropriate and for projects larger than one acre, a scale of 1" = 50' is generally appropriate.
- D. **Content.** At a minimum the lighting plan shall contain the information as listed in Appendix A.

**17.16.19.070 Expiration of approval**

The permit shall expire 180 days after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.19.080 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 20  
DESIGN WAIVER**

**Sections:**

|              |  |              |                              |
|--------------|--|--------------|------------------------------|
| 17.16.20.010 | Legislative findings                   | 17.16.20.060 | Application form and content |
| 17.16.20.020 | Application and review procedure       | 17.16.20.070 | Expiration of approval       |
| 17.16.20.030 | Basis of decision                      | 17.16.20.080 | Appeal                       |
| 17.16.20.040 | Limitations on issuing a design waiver |              |                              |
| 17.16.20.050 | Imposition of conditions               |              |                              |

**17.16.20.010 Legislative findings**

The City Commission makes the following findings:

1. There may be instances where certain design requirements of this Title that if enforced may cause unintended and unwanted results, as opposed to a hardship where a variance may be the appropriate remedy.
2. Minor deviations from this Title may help to promote a better development and protect environmental and cultural resources.
3. A mechanism is needed to allow an administrative deviation from this Title when it can be shown that the grant of relief will avoid unintended and unwanted results and result in a better development.
4. Such a mechanism should be simple, handled at the administrative level, and be consistently and fairly applied.
5. Issuance of a design waiver does not imply or guarantee subsequent approval or conditional approval of any review process required by this Title.

**17.16.20.020 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application, as described in this article, to the Community Development Department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** Within 10 days, but not sooner than 4 days, of submittal, the Director of Community Development or appropriate City department director shall determine whether the proposed application is complete or incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Decision.** Within 15 days after submittal, the director shall review the request and approve it, approve it with conditions, or deny it based on the decision criteria established in this article.
- D. **Applicant notification of decision.** Within 5 days following the decision, the director shall mail the decision to the applicant.
- E. **Ratification by reviewing authority.** The board, commission, or official responsible for a subsequent review shall ratify the issuance of the waiver or revoke the waiver if it was not issued in compliance with this article.

**17.16.20.030 Basis of decision**

The director of the appropriate City department shall not approve the application unless he/she makes a positive finding, based on substantial competent evidence, on each of the following:

1. The requirement would cause an unintended or undesirable result if applied to the particular circumstance and if relaxed would result in a better overall development design and/or protect environmental or cultural resources.
2. The exceptional and unique circumstances do not result from the actions of the applicant.

3. The applicant has no other option to improve the development's design or avoid negative impacts on environmental and/or cultural resources.
4. The request is not based exclusively upon a desire to reduce the cost of developing the site or to maximize the developer's profit.
5. The granting of the design waiver will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties.
6. The effect of the proposed design waiver is in harmony with the general intent of this Title and the specific intent of the relevant subject area(s).
7. The design waiver requested is the minimum necessary to accomplish the intent of this part.

**17.16.20.040 Limitations on issuing a design waiver**

The waiver is limited to design requirements only. In no case shall a City department director modify lot size or other requirements to increase the permitted density or intensity of use or consider any waiver application that should be considered a variance.

**17.16.20.050 Imposition of conditions**

In issuing a design waiver, a City department director may impose such conditions and restrictions upon the premises benefited as may be necessary to allow a positive finding to be made on any of the foregoing factors.

**17.16.20.060 Application form and content**

The application submittal shall include the following:

1. An application.
2. Other information as may be necessary for the appropriate City department director to make the findings as required.

**17.16.20.070 Expiration of approval**

A design waiver shall be personal to the owner of record at the time of its approval and shall expire either 18 months after the date of approval or by earlier action by the director issuing the waiver or the City Commission, unless construction has commenced and continues in good faith to completion.

**17.16.20.080 Appeal**

Because the nature of a design waiver is discretionary, an applicant may not appeal the decision of the City department director to deny a design waiver application. If the board, commission, or official responsible for a subsequent review ratifies the issuance of the waiver, an aggrieved person may appeal that decision to the Board of Adjustment.

**Article 21  
EROSION CONTROL PERMIT**

**Sections:**

|              |                                  |              |                        |
|--------------|----------------------------------|--------------|------------------------|
| 17.16.21.010 | Application and review procedure | 17.16.21.040 | Expiration of approval |
| 17.16.21.020 | Basis of decision                | 17.16.21.050 | Appeal                 |
| 17.16.21.030 | Application form and content     |              |                        |

**17.16.21.010 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application to the public works department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** The Director of Public Works shall determine whether the submitted application is complete or incomplete and notify the applicant, in writing, of any deficiencies. If the application is deemed incomplete, the applicant has 20 days to resubmit the application or forfeit the application fee. The

director shall take no further steps to process the application until the deficiencies are remedied.

- C. **Determination of compliance.** After a determination of completeness, the director shall approve the permit, approve it with conditions, or deny the permit based on the decision criteria established in this article.
- D. **Applicant notification.** Following the decision, the director shall mail the applicant the original (signed) copy of the permit and retain a copy for the public record.

#### **17.16.21.020 Basis of decision**

The decision to approve, approve with conditions, or deny the permit shall be based on whether the application, as submitted, meets the standards and requirements of this Title.

#### **17.16.21.030 Application form and content**

- A. **Preparation.** The application shall be prepared by a registered professional engineer, or other qualified individual who is knowledgeable of erosion control practices and procedures, as deemed acceptable by the Director of Public Works.
- B. **Required content.** The application submittal shall include the following:
  - 1. a site plan prepared as described in this part;
  - 2. a copy of design waivers or variances that have been granted for the project;
  - 3. a description of design waivers or variances that are needed for the project; and
  - 4. an application form.
- C. **Site plan format.** A site plan shall be prepared consistent with the following:
  - 1. The page size shall not exceed 24" by 36".
  - 2. Where multiple sheets are necessary, a cover sheet with an index shall be included.
  - 3. The plan shall be legible and show all of the required information.
  - 4. The plan shall be prepared at an appropriate scale to show the required information. For sites smaller than one acre, a scale of 1" = 20' is generally appropriate and for projects larger than one acre, a scale of 1" = 50' is generally appropriate.
  - 5. The site plan shall contain the information as listed in Appendix A and information from the application that can be depicted.
- D. **Application content.** In addition to general information about the applicant and preparer, the application shall, at a minimum, solicit the following information:
  - 1. A sequence of construction of the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, installation of temporary erosion and sediment control measures, and establishment of permanent vegetation.
  - 2. All erosion and sediment control measures necessary to meet the objectives of this chapter throughout all phases of construction and after completion of development of the site. Depending upon the complexity of the project, the drafting of intermediate plans may be required at the close of each season.
  - 3. Seeding mixtures and rates, types of sod, method of seedbed preparation, expected seeding dates, type and rate of lime and fertilizer application, and kind and quantity of mulching for both temporary and permanent vegetative control measures.
  - 4. Provisions for maintenance of control facilities, including easements and estimates of the cost of maintenance.

#### **17.16.21.040 Expiration of approval**

The permit shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

#### **17.16.21.050 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 22**  
**STORMWATER MANAGEMENT PERMIT**

**Sections:**

|              |                                  |              |                        |
|--------------|----------------------------------|--------------|------------------------|
| 17.16.22.010 | Application and review procedure | 17.16.22.040 | Expiration of approval |
| 17.16.22.020 | Basis of decision                | 17.16.22.050 | Appeal                 |
| 17.16.22.030 | Application form and content     |              |                        |

**17.16.22.010 Application and review procedure**

- A. **Submittal of application.** The applicant shall submit a completed application to the public works department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** The Director of Public Works shall determine whether the submitted application is complete or incomplete and notify the applicant, in writing, of any deficiencies. If the application is deemed incomplete, the applicant has 20 days to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Determination of compliance.** After a determination of completeness, the director shall approve the permit, approve it with conditions, or deny the permit based on the decision criteria established in this article.
- D. **Applicant notification.** Following the decision, the director shall mail the applicant the original (signed) copy of the permit and retain a copy for the public record.

**17.16.22.020 Basis of decision**

The decision to approve, approve with conditions, or deny the permit shall be based on whether the application, as submitted, meets the standards and requirements of this Title.

**17.16.22.030 Application form and content**

- A. **Preparation.** In conjunction with a registered engineer, the applicant shall prepare the application submittal.
- B. **Required content.** The application submittal shall include the following:
  - 1. design specifications for all storm water facilities along with documentation for all calculations.
  - 2. The plan shall be prepared at an appropriate scale to show the required information, including the information listed in Appendix A. For sites smaller than one acre, a scale of 1" = 20' is generally appropriate and for projects larger than one acre, a scale of 1" = 50' is generally appropriate.
  - 3. a copy of design waivers or variances that have been granted for the project.
  - 4. a description of design waivers or variances that are needed for the project; and
  - 5. an application form.

**17.16.22.040 Expiration of approval**

The permit shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.22.050 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

Article 23
DEMOLITION PERMIT

Sections:

Table with 4 columns: Section ID, Description, Section ID, Description. Rows include 17.16.23.010 Legislative findings, 17.16.23.020 Permit required, 17.16.23.030 Application and review procedure, 17.16.23.040 Special requirements for condemnation process, 17.16.23.050 Demolition requirements, 17.16.23.060 Expiration of approval, 17.16.23.070 Appeal.

17.16.23.010 Legislative findings

The City Commission makes the following findings:

- 1. If done improperly, building demolition can release carcinogenic and/or other hazardous substances into the atmosphere that can threaten public health, safety, and welfare.
2. Building demolition can have a negative or positive effect on the properties in the area and community character depending on circumstances of the proposed demolition.
3. Historic buildings are valuable assets to the entire community and should be protected from demolition when warranted.

17.16.23.020 Permit required

No private or public building shall be demolished in whole, or in part, without a demolition permit.

17.16.23.030 Application and review procedure

- A. Submittal of application. The applicant shall submit a completed application to the Community Development Department.
B. Determination of completeness. Within 10 days of submittal, the Director of Community Development shall determine if the application is complete.
C. Determination of review authority. In consultation with the Historic Preservation Officer, the Director shall determine if the building proposed for demolition is of historic value...
D. Review if building is not of historic value. If a determination is made that the building is not of historic value, the director shall issue a demolition permit provided the demolition complies with all other requirements of this Title and other laws and ordinances of the State of Montana and City of Great Falls as may apply.
E. Review if building is of historic value. If a determination is made that the building is of historic value, the applicant and the Historic Preservation Officer shall meet to discuss the proposed demolition.
F. Neighborhood council contact recommended. The applicant may meet with representatives of the Neighborhood Council in which the project is located to discuss the proposed demolition and solicit feedback.
G. Staff report. The historic preservation officer shall prepare a staff report as described in this article and mail it to each member of the Historic Preservation Advisory Commission, the applicant, and the applicant's agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.
HG. Additional procedural steps. If the permit is issued, the applicant shall work with the Building Community Development Department to ensure compliance with this part and other regulations that may apply.
HH. Permit fee. At the time of issuance of the permit, the applicant shall pay the applicable permit fee as may be established by the City Commission.

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**17.16.23.040 Special requirements for condemnation process**

In those cases where a condemnation results in an application for demolition, the official responsible for initiating the condemnation proceedings shall meet with the Historic Preservation Officer to discuss options.

**17.16.23.050 Demolition requirements**

- A. **Generally.** The Building Department shall ensure that the methods for demolition do not pose a threat to public health, safety, or welfare.
- B. **Harm to adjoining properties.** The demolition shall not physically harm or endanger adjoining properties.
- C. **Dust abatement and asbestos management.** The applicant shall ensure that dust, asbestos, or other contaminants are not released into the environment.
- D. **Damaged public/private improvements.** The applicant shall be responsible for repairing any public and private improvements (e.g., sidewalks, curb and gutter, roads) that are damaged by the demolition.

**17.16.23.060 Expiration of approval**

The permit shall expire 30 days after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.23.070 Appeal**

- A. ~~Historic buildings.~~ Within 30 days of a final decision, the applicant and/or an aggrieved party may appeal the decision of the commission to the City Commission, which shall hold a public hearing to consider the appeal. If the decision of the commission is appealed to the City Commission, the applicant and/or an aggrieved person may appeal the City Commission's final decision by filing an appeal with a court of competent jurisdiction within 30 days of the City Commission's final decision.
- B. ~~Non-historic buildings.~~ The applicant and/or an aggrieved party may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

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**Article 26  
SUBDIVISION – PRELIMINARY AND MINOR PLATS**

**Sections:**

|              |   |              |  |
|--------------|---|--------------|--|
| 17.16.26.010 | Application and review procedure for a major subdivision  | 17.16.26.070 | Preliminary or minor plat form and content |
| 17.16.26.020 | Application and review procedure for a minor subdivision or for a second or subsequent minor subdivision from a tract of record | 17.16.26.080 | Application form and content               |
| 17.16.26.030 | Extension of review period  | 17.16.26.090 | Staff report content                       |
| 17.16.26.040 | Basis of decision   | 17.16.26.100 | Environmental assessment                   |
| 17.16.26.050 | Content of decision   | 17.16.26.110 | Expiration of approval                     |
| 17.16.26.060 | Concept plat form and content   | 17.16.26.120 | Appeal                                     |

**17.16.26.010 Application and review procedure for a major subdivision** (See: 76-3-601, MCA)

- A. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the Director of the Planning Department to:
  1. review applicable State laws and local regulations and procedures; and,
  2. review applicable goals and objectives of the City's growth policy; and,
  3. review the concept plat; and,
  4. create a list of the public utilities, agencies of local, State and federal government and other entities to be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies and other entities are given to respond.

The pre-application meeting may, at the discretion of the director and concurrence of the applicant or the



applicant's agent, be held via telephone conference within 30 days from the date the subdivider requests such a meeting. Prior to the conference, the concept plat shall be submitted to the director. A representative from the Community Development Department, Public Works Department, Fire Department, and other City departments as appropriate should participate in this preliminary discussion.

- B. **Neighborhood council contact recommended.** Prior to submitting an application, the applicant should meet with representatives of the neighborhood council in which the project is located to present the project and solicit feedback.
- C. **Submittal of application.** The applicant shall submit an application to the Planning Department along with the application fee as may be established by the City Commission, within 6 months of the pre-application meeting referenced in A above.
- D. **Determination of completeness.** Within 5 working days of submittal, the director shall determine whether the proposed application contains all of the listed materials as required by section 17.16.26.080 of this Article, and notify the applicant of any deficiencies. The director has an additional 15 working days to determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under the provisions of this chapter and local regulations adopted pursuant to this chapter. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied. (See: 76-3-604 (1) and (2), MCA)
- E. **Schedule date of review.** Following a determination of completeness, the director shall notify the Planning Board of the application. If more than 2 majors are submitted in any given month, the Planning Department, in consultation with the Planning Board president, may schedule separate meetings to consider them. Applications will be scheduled on a first-come first-serve basis.
- F. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for public notice, neighborhood council notification, property owner notification, agency notification, and posting of a sign on the premises.
- G. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Planning Board, the applicant, and the applicant's agent, if any, at least 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.
- H. **Public hearing.** Allowing for proper public notice, the Planning Board shall conduct a public hearing to review the application. (See: 76-3-501(1)(n) and 76-3-605 (1), MCA)
- I. **Review session.** Allowing for proper notice, the Planning Board may conduct a review session to review the application. The purpose of this session is to allow the Planning Board members and the applicant to informally discuss the preliminary plat without making a formal recommendation.
- J. **Planning Board recommendation.** Within 10 days of the public hearing (unless the applicant consents in writing to an extension of the review period), the Planning Board after considering the comments and recommendations of the staff report shall make a recommendation to the City Commission, based on the decision criteria contained in this article to either:
  - 1. approve the preliminary plat; or,
  - 2. approve the preliminary plat with conditions; or,
  - 3. deny the preliminary plat. (See: 76-3-605 (4) and 76-1-107, MCA)
- K. **Consultation.** If the City Commission intends on imposing conditions of approval to mitigate negative impacts that are different than and/or in excess of those voluntarily included in the application of record by the applicant, the commission shall consult with the applicant and give due weight and consideration to the expressed preference of the applicant. (See: 76-3-608(5)(b), MCA)
- L. **Supplemental consideration.** If as a result of the consultation, the proposed subdivision is materially and substantially different than the original application, the City Commission may direct the Planning Board to conduct another public hearing to consider the application as may be changed by the anticipated mitigation.
- M. **City Commission decision.** Within 60 days of the determination of completeness (unless the applicant consents in writing to an extension of the review period), the City Commission after considering the comments and recommendation of the Planning Board and after reviewing the staff report shall make a decision, based on the decision criteria contained in this article, to either:
  - 1. approve the preliminary plat; or,
  - 2. approve the preliminary plat with conditions; or,

3. deny the preliminary plat. (See: 76-3-604 (2), MCA)

The preliminary plat decision shall be prepared consistent with the requirements contained in this article.

**17.16.26.020 Application and review procedure for a minor subdivision or for a second or subsequent minor subdivision from a tract of record** (See: 76-3-505 (2) and 76-3-609, MCA)

- A. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the Director of the Planning Department to:
1. review applicable subdivision regulations and procedures; and,
  2. review applicable goals and objectives of the City's growth policy; and,
  3. review the concept plat; and,
  4. create a list of the public utilities, agencies of local, State and federal government and other entities to be contacted for comment on the subdivision application and the timeframes that the public utilities, agencies and other entities are given to respond.

The pre-application meeting may, at the discretion of the director and concurrence of the applicant or the applicant's agent, be held via telephone conference within 30 days from the date the subdivider requests such a meeting. Prior to the conference, the concept plat shall be submitted to the director. A representative from the Community Development Department, Public Works Department, Fire Department, and other City departments as appropriate should participate in this preliminary discussion.

- B. **Neighborhood council contact recommended.** Prior to submitting an application, the applicant should meet with representatives of the neighborhood council in which the project is located to present the project and solicit feedback.
- C. **Submittal of application.** The applicant shall submit an application, as described in this article, to the Planning Department along with the application fee as may be established by the City Commission, within 6 months of the pre-application meeting referenced in A above.
- D. **Determination of completeness.** Within 5 working days of submittal, the director shall determine whether the proposed application contains all of the listed materials as required by section 17.16.26.080 of this Article, and notify the applicant of any deficiencies. The director has an additional 15 working days to determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under the provisions of this chapter and local regulations adopted pursuant to this chapter. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied. (See: 76-3-604 (1) and (2), MCA)
- E. **Schedule date of review.** Following a determination of completeness, the director shall notify the Planning Board of the application. If more than 6 minors are submitted in any given month, the Planning Department, in consultation with the Planning Board president, may schedule separate meetings to consider them. Applications will be scheduled on a first-come, first-serve basis.
- F. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for, appropriate notification, depending upon whether the application involves a minor plat or a second or subsequent minor subdivision from a tract of record (See: 76-3-605 (3), MCA).
- G. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Planning Board, the applicant, and the applicant's agent, if any, at least 3 days prior to the date of Planning Board consideration. He/she shall also provide a copy to interested people upon request.
- H. **Public hearing for a second or subsequent minor subdivision from a tract of record.** Allowing for proper public notice, the Planning Board shall conduct a public hearing to review the application for a second or subsequent minor subdivision from a tract of record. (See: 76-3-501(1) and 76-3-605 (1), MCA)
- I. **Planning Board recommendation.** Within 10 days of the public meeting (in the case of a minor plat) or the public hearing (in the case of a second or minor subdivision from a tract of record), (unless the applicant consents in writing to an extension of the review period), the Planning Board after considering the comments and recommendations of the staff report shall make a recommendation to the City Commission, based on the decision criteria contained in this article, to either:
1. approve the minor plat; or,

2. approve the minor plat with conditions; or,
  3. deny the minor plat. (See: 76-3-505 (2)(b), MCA)
- J. **Consultation.** If the City Commission intends on imposing conditions of approval to mitigate negative impacts that are different than and/or in excess of those voluntarily included in the application of record by the applicant, the commission shall consult with the applicant and give due weight and consideration to the expressed preference of the applicant. (See: 76-3-608(5)(b), MCA)
- K. **City Commission decision.** Within 35 days of the determination of completeness (unless the applicant consents in writing to an extension of the review period), the City Commission after considering the comments and recommendation of the Planning Board and after reviewing the staff report shall make a decision, based on the decision criteria contained in this article, to either:
1. approve the minor plat; or,
  2. approve the minor plat with conditions; or,
  3. deny the minor plat. (See: 76-3-604 (2), MCA)
- The minor plat decision shall be prepared consistent with the requirements contained in this article.
- L. **Applicant notification of decision.** Within 5 days following the decision date, the City Commission decision on the minor plat shall be mailed to the applicant.

#### 17.16.26.030 Extension of review period

- A. **Generally.** Prior to the final decision of the City Commission, an applicant may request an extension to the review period if the applicant wishes to amend the application with new or different information. (See: 76-3-604 (2), MCA)
- B. **Procedure.** If the City Commission approves the extension, the Planning Board will rehear the amended application with appropriate notice. If the requested change in the application is minor, the Planning Department shall simply notify the president of the Planning Board of the change.
- C. **Extension requirements.** Unless otherwise stated in writing, an extension request automatically extends the review period to 30 days beyond the date when the Planning Board hears the amended application.

#### 17.16.26.040 Basis of decision

- A. **Generally.** The Planning Board's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, preliminary plat or minor plat, environmental assessment and public hearing, if applicable, or additional information demonstrates that the proposed subdivision:
1. meets the standards of this Title and the Montana Subdivision and Platting Act (Title 76, Chapter 3, MCA);
  2. is consistent with the City's zoning regulations and covenants, if any (See: 76-3-608 (1), MCA); and
  3. is in the public interest.
- B. **Review criteria.** To determine whether the proposal would be in the public interest, the governing body shall weigh and make specific findings regarding each of the following criteria:
1. effects on agriculture, including: effects on the agricultural sector, loss of agricultural ground, and effects on surrounding agricultural activities or practices;
  2. effects on agricultural water-user facilities;
  3. effects on local services, including: public road system, police and fire protection, utilities, and public schools;
  4. effects on the natural environment, including: riparian/wetland areas, soil erosion, vegetation and air pollution, and noxious weeds;
  5. effects on wildlife and wildlife habitat, including: fisheries and mammals; and
  6. effects on public health and safety, including: police and fire protection, wildland fire hazard, traffic safety, and the presence of other known hazards (on-site and off-site) such as high-pressure natural gas lines; airports, railroads, overhead power lines, industrial activities, mining activities, irrigation ditches, and defined dam inundation areas.

In addition, the following criteria shall be weighed and supported by specific findings:

1. compliance with the survey requirements of this Title and State law

2. compliance with these regulations
  3. the provision of easements for the location and installation of any planned utilities
  4. the provision of legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel
- C. **Factors not considered.** The following may not be considered in making a recommendation or decision:
1. Effects on education, if it is the sole negative impact. However, the effects on education may be considered when there are other negative effects. (See: 76-3-608 (1), MCA)
  2. The failure of an agency to complete the review of the subdivision plat. (See: 76-3-504 (1)(h), MCA)
  3. Consistency with the growth policy, until the City Commission adopts a resolution requiring that subdivisions conform to the comprehensive plan. (See: 76-1-606 (1), MCA)
- D. **Mitigation of negative effects of subdivision.** The City Commission may as a condition of approval require the applicant to reasonably mitigate potentially significant adverse impacts, if possible. It is recognized that there may be impacts which can not be sufficiently mitigated and would therefore preclude approval of the plat. (See: 76-3-608 (5), MCA) Such means to minimize the identified impacts may include the following:
1. reduce the number of lots to allow an acceptable amount of impact,
  2. relocate or redesign a road(s),
  3. reconfigure a lot line(s),
  4. relocate or redesign an access point(s) to a private, county, or State road(s),
  5. require fencing to mitigate effects on neighboring properties,
  6. redesign other elements as appropriate,
  7. require appropriate infrastructure (on- and off-site) to support the development, and
  8. other actions as appropriate. (See: 76-3-608 (4), MCA)

For major subdivisions, the Planning Board will rehear the application allowing for appropriate notice, if the required changes materially deviate from the initial preliminary plat application.

#### 17.16.26.050 Content of decision

- A. **Content for approval.** If the preliminary plat or minor plat is approved or conditionally approved, the decision shall at a minimum include the following:
1. A statement that the preliminary plat or minor plat is approved and provides the conditions that apply to the approval, if any.
  2. A description of the project, including acreage and number of lots.
  3. Findings for the public interest assessment and that support the required mitigation, if any. (See: 76-3-608 (2 & 4), MCA)
  4. Findings stating the consistency of the project with the City's growth policy, neighborhood plans, zoning, and covenants, if any.
  5. Identification of the regulations and statutes used in reaching the decision to impose conditions and explaining how they apply to the decision to impose conditions. (See: 76-3-620 (2) MCA)
  6. Provision of the facts and conclusions relied upon to impose conditions, and reference of documents, testimony or other materials that form the basis of the decision. (See: 76-3-620 (3) MCA)
  7. A list of all materials that must be submitted for review of the final plat, to include an abstract of title for the property being subdivided. (See: 76-3-604 (3) and 76-3-612, MCA)
  8. Specifications for the final plat, including the requirements for the survey in a digital format.
  9. A list of special features/statements, if any, that must be shown on the final plat. (See: 76-3-604 (3), MCA)
  10. Specifications and requirements for development improvements, if any. (See: 76-3-604 (3), MCA)
  11. The amount, if any, of land being dedicated or the cash being donated in fulfillment of the park dedication requirements.
  12. A statement that the preliminary plat decision and the decision to file the final plat may be appealed consistent with Section 76-3-625, MCA. (See: 76-3-620 (3), MCA)
  13. Date of the decision.
  14. A signature block for the authorized representative of the City Commission. (See: 76-3-604 (3), MCA)
  15. Signature blocks for appropriate reviewing departments authorizing the filing of the final plat.

- B. **Content for denial.** If the preliminary plat or minor plat is denied, the decision shall include the following:
1. A statement that the preliminary plat or minor plat is denied.
  2. A description of the project, including acreage and number of lots.
  3. Findings for the public interest assessment that support the decision. (See: 76-3-620 and 76-3-608 (2), MCA)
  4. Findings stating the consistency of the project with the City's growth policy, neighborhood plans, zoning, and covenants, if any.
  5. Deficiencies in the preliminary plat or minor plat.
  6. Identification of the regulations and statutes used in reaching the decision to deny, and an explanation of how they apply to the decision to deny. (See: 76-3-630 (2) MCA)
  7. Provision of the facts and conclusions relied upon to deny, and reference of documents, testimony or other materials that form the basis of the decision. (See: 76-3-620 (3) MCA)
  8. A statement that the denial does not limit the applicant's ability to resubmit a revised preliminary plat or minor plat for consideration.
  9. A statement that the preliminary plat or minor plat decision and the decision to file the final plat may be appealed consistent with Section 76-3-625, MCA. (See: 76-3-620 (3), MCA)
  10. Date of the decision.
  11. A signature block for the authorized representative of the City Commission. (See: 76-3-604 (3), MCA)

**17.16.26.060 Concept plat form and content**

- A. **Preparation.** The concept plat may be prepared by the applicant, land use planner, professional engineer, professional land surveyor, or other qualified individual.
- B. **Format.** The concept plat shall be legible showing the layout of proposed features in relation to existing conditions.
- C. **Required content.** The concept plat shall include, at a minimum, the information as listed in Appendix A.

**17.16.26.070 Preliminary or minor plat form and content** (See: 76-3-504 (1)(c), MCA)

- A. **Preparation.** The preliminary plat or minor plat shall be prepared by a land use planner, professional engineer, or a professional land surveyor.
- B. **Format.** The preliminary plat or minor plat shall be prepared according to the following format:
1. The page size shall be 24" x 36" or 18" x 24" (overall dimensions) to include a margin of 1½ inches on the binding (left) side and ½ inch on the remaining sides.
  2. Where multiple sheets are used, a cover sheet with index shall be included and each sheet shall show the number of that sheet and the total number of sheets included.
  3. The plat shall be legible showing all of the required information.
  4. The plat shall be prepared at a scale necessary to show the required information. In most cases, a scale of 1" = 50' is appropriate.
- C. **Required content.** The preliminary plat or minor plat shall include, at a minimum, the information as listed in Appendix A.

**17.16.26.080 Application form and content** (See: 76-3-504 (1)(a), MCA)

- A. **Preparation.** In conjunction with appropriate consultants, the applicant shall prepare the preliminary plat or minor plat application.
- B. **Required content.** The application submittal shall include one copy of the following:
1. agent authorization form
  2. subdivision questionnaire
  3. a preliminary plat or minor plat prepared consistent with this article
  4. a description of variances that are needed for the project
  5. a vicinity map (8½" x 11") which shows the location of the subject property and the location and names of roads in the area
  6. preliminary engineering plans for public infrastructure, if necessary

- 7. traffic impact analysis report, if required
  - 8. grading and drainage plan, if required
  - 9. a copy of existing easements, covenants, deed restrictions, or other similar restrictions that apply to the subject property
- C. **Purpose.** The subdivision application shall constitute the applicant's expressed preference for the subdivision and the proposed mitigation efforts that will be taken to minimize potentially significant adverse impacts. An applicant may amend the application up until the Planning Board makes a motion to approve, approve with conditions, or deny the subdivision. (See: 76-3-608 (5)(b), MCA)

**17.16.26.090 Staff report content**

At a minimum, the staff report shall contain the following:

- 1. a summary of the comments received from the interdepartmental/agency review;
- 2. findings for each of the decision criteria listed in this article;
- 3. deficiencies in the preliminary plat or minor plat;
- 4. a preliminary list of conditions if approval is recommended; and
- 5. a recommendation to approve the application, approve it with conditions, or deny the application. (See: 76-3-604, MCA)

**17.16.26.100 Environmental assessment**

Because the City has a growth policy adopted pursuant to State law, zoning regulations, and a strategy for development, maintenance, and replacement of public infrastructure pursuant to 76-1-601, MCA, an environmental assessment shall not be required of the applicant. (See: 76-3-210, MCA)

**17.16.26.110 Expiration of approval**

An approved preliminary plat shall expire 3 years after the date of decision unless an extended time period is agreed to by the applicant and the City Commission. (See: 76-3-610 (2), MCA)

**17.16.26.120 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 27  
SUBDIVISION – FINAL PLAT**

**Sections:**

|              |                                  |              |                              |
|--------------|----------------------------------|--------------|------------------------------|
| 17.16.27.010 | Application and review procedure | 17.16.27.040 | Final plat form and content  |
| 17.16.27.020 | Basis of decision                | 17.16.27.050 | Application form and content |
| 17.16.27.030 | Content for denial               | 17.16.27.060 | Appeal                       |

**17.16.27.010 Application and review procedure**

- A. **Submittal.** Following approval of the preliminary plat but before the expiration date of the original preliminary plat decision or the extension thereto, the applicant shall submit all of the items as specified in the preliminary plat decision to the Planning Department along with the application fee as may be established by the City Commission.
- B. **Staff review.** Within 10 days of submittal, the Director of the Planning Department shall examine the submitted items and recommend approval only when they conform to the preliminary plat decision, the Montana Subdivision and Platting Act, and this Title.
- C. **County treasurer review.** The County Treasurer shall certify that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid. (See: 76-3-611 (1) (b), MCA)
- D. **Clerk and recorder review.** The County Clerk and Recorder shall examine the final plat to ensure that it

conforms to the Montana Subdivision and Platting Act. The County Clerk and Recorder shall refuse to accept any plat for record that is not in proper form.

- E. **City attorney review.** The City Attorney may review the title abstract or certificate of title and other elements of the final plat submittal as appropriate. (See: 76-3-612 (2), MCA)
- F. **Planning Board recommendation on majors.** The Planning Board shall review the final plat and provide a recommendation to the City Commission.
- G. **City Commission decision.** After considering the comments and recommendations of the Planning Board (only for majors), the City Commission shall review the final plat application and approve the plat or deny it based on the decision criteria as described in this part.
- H. **Resubmittal of final plat.** If the final plat is denied, the applicant may make the necessary corrections and resubmit the final plat for approval provided that it is resubmitted within the approval period of the preliminary plat.
- I. **Filing of final plat.** After approval of the final plat, the County Clerk and Recorder shall officially file the plat according to State law.

#### **17.16.27.020 Basis of decision**

Decisions to approve or deny an application shall be based on whether the application meets the standards and requirements of this Title, Montana law, and all aspects of the preliminary plat decision.

#### **17.16.27.030 Content for denial**

If the City Commission denies the final plat, it shall provide a written decision to the applicant which shall include the following:

1. A statement that the final plat is denied.
2. The reason(s) why the final plat is denied.
3. A statement that the denial does not limit the applicant's ability to resubmit a revised final plat for consideration, provided it is resubmitted before the approval period of the preliminary plat expires.
4. A statement that the decision to deny the submitted plat may be appealed consistent with Section 76-3-625, MCA. (See: 76-3-620 (3), MCA)
5. Date of the decision.

#### **17.16.27.040 Final plat form and content** (See: 76-3-504 (1)(c), MCA)

- A. **Preparation.** A professional land surveyor shall prepare the final plat. All engineering plans, specifications, and reports, when included as part of the plat shall be prepared and certified by a professional engineer.
- B. **Format.** The final plat shall be prepared consistent with the requirements of the preliminary plat.
- C. **Required content.** The final plat shall include, at a minimum, the information as listed in Appendix A.
- D. **Consistency with approved preliminary plat.** The final plat shall conform to the preliminary plat decision.
- E. **Consistency with uniform standards.** The final plat shall comply with the Montana Uniform Standards for Final Subdivision Plats. (ARM 8.94.3003)

#### **17.16.27.050 Application form and content** (See: 76-3-504 (1)(c), MCA)

- A. **Generally.** The application shall include all those elements as required by the preliminary plat decision. This shall include the survey in a digital format as specified by the Director of the Planning Department.
- B. **Final plat as a portion of preliminary plat.** The final plat may constitute a portion of the approved preliminary plat the subdivider wishes to file, provided that such portion conforms to all requirements of this Title and is approved by the City Commission in writing.

#### **17.16.27.060 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 28**  
**SUBDIVISION – FINAL SITE PLAN**

Note: For campgrounds and trailer parks, a site plan must be submitted and recorded with the City Clerk. A final subdivision plat is not filed since no lots are being created for transfer.

**Sections:**

|              |                                  |              |                             |
|--------------|----------------------------------|--------------|-----------------------------|
| 17.16.28.010 | Application and review procedure | 17.16.28.040 | Final plan form and content |
| 17.16.28.020 | Basis of decision                | 17.16.28.050 | Appeal                      |
| 17.16.28.030 | Content for denial               |              |                             |

**17.16.28.010 Application and review procedure** (See: 76-3-504 (1)(b), MCA)

Application and review procedure for final site plans is the same as 17.16.26.010. After approval of the plan, the plan shall be filed with the City Clerk.

**17.16.28.020 Basis of decision**

Decisions to approve or deny a final plan shall be based on whether it meets the standards and requirements of the Montana Subdivision and Platting Act and this Title.

**17.16.28.030 Content for denial**

If the City Commission denies the final plan, it shall provide a written decision to the applicant which shall include the following:

1. A statement that the final plan is denied.
2. The reason(s) why the final plan is denied.
3. A statement that the denial does not limit the applicant's ability to resubmit a revised final plan for consideration.
4. A statement that the decision to deny the submitted plan may be appealed consistent with 76-3-625, MCA. (See: 76-3-620 (3), MCA)
5. Date of the decision.

**17.16.28.040 Final plan form and content** (See: 76-3-504 (1)(c), MCA)

- A. **Preparation.** A professional land surveyor or professional engineer shall prepare the final plan. All engineering plans, specifications, and reports, when included as part of the plan shall be prepared and certified by a professional engineer.
- B. **Required content.** The final plan shall include, at a minimum, the information as listed in Appendix A.

**17.16.28.050 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 29**  
**PLANNED UNIT DEVELOPMENT**

**Sections:**

|              |                                  |                     |   |
|--------------|----------------------------------|---------------------|---|
| 17.16.29.010 | Generally                        | 17.16.29.060        | Application form and content                      |
| 17.16.29.020 | Application and review procedure | 17.16.29.070        | Staff report content                              |
| 17.16.29.030 | Extension of review period       | 17.16.29.080        | Effect of approval                                |
| 17.16.29.040 | Imposition of conditions         | 17.16.29.090        | Appeal  |
| 17.16.29.050 | Basis of decision                | <b>17.16.29.100</b> | <b><i>Changes in Planned Unit Development</i></b> |

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**17.16.29.010 Generally**

A planned unit development may be proposed as a subdivision or as a single development project with multiple buildings involving a homeowners or property owners association. When proposed as a subdivision, PUDs shall follow the procedures herein established. This article applies to single development projects resulting in a new zoning classification.

**17.16.29.020 Application and review procedure**

- A. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the Director of the Planning Department to:
1. review applicable regulations and procedures;
  2. review applicable goals and objectives of the City's growth policy and the applicable neighborhood plan(s), if any; and
  3. review the proposal.
- The pre-submittal meeting may, at the discretion of the director and concurrence of the applicant or the applicant's agent, be held via telephone conference. Prior to the conference, any preliminary drawings and maps shall be submitted to the director. A representative from the Community Development Department, Public Works Department, Fire Department, and other City departments as appropriate should participate in this preliminary discussion.
- B. **Neighborhood council contact recommended.** Prior to submitting an application, the applicant should meet with representatives of the neighborhood council in which the project is located to present the project and solicit feedback.
- C. **Submittal of application.** The applicant shall submit an application to the Planning Department along with the application fee as may be established by the City Commission.
- D. **Determination of completeness.** Within 10 days, but not sooner than 4 days, of submittal, the director shall determine whether the proposed application is complete or incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- E. **Schedule date of review.** Following a determination of completeness, the director shall schedule a public hearing with the Zoning Commission allowing for proper public notice.
- F. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for public notice, neighborhood council notification, property owner notification, agency notification, and posting of a sign on the premises.
- G. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Zoning Commission, the applicant, and the applicant's agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.
- H. **Public hearing.** The Zoning Commission shall conduct a public hearing to review the application.
- I. **Zoning Commission/Planning Board recommendation.** Within 10 days of the public hearing (unless the applicant consents in writing to an extension of the review period), the Zoning Commission after considering the comments and recommendations of the staff report shall make a recommendation to the City Commission, based on the decision criteria contained in this article to either:
1. approve the planned unit development,
  2. approve the planned unit development with conditions, or
  3. deny the planned unit development.
- J. **City Commission public hearing.** Allowing for proper public notice, the City Commission shall conduct a public hearing to consider the application.
- K. **City Commission decision.** Within 10 days of the public hearing (unless the applicant consents in writing to an extension of the review period), the City Commission after considering the comments and recommendation of the Zoning Commission and after reviewing the staff report shall make a decision, based on the decision criteria contained in this article, to either:
1. approve the planned unit development,
  2. approve the planned unit development with conditions, or

3. deny the planned unit development.

The decision shall be prepared consistent with the requirements contained in this article.

#### **17.16.29.030 Extension of review period**

- A. **Generally.** Prior to the final decision of the City Commission, an applicant may request an extension to the review period if the applicant wishes to amend the application with new or different information.
- B. **Procedure.** If the City Commission approves the extension, the Zoning Commission will rehear the amended application with appropriate notice.
- C. **Extension requirements.** Unless otherwise stated in writing, an extension request automatically extends the review period to 30 days beyond the date when the Zoning Commission hears the amended application.

#### **17.16.29.040 Imposition of conditions**

The Zoning Commission may recommend and the City Commission may impose such conditions and restrictions as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, and operation of the use. In addition, the City Commission may require the provision of off-site exactions that may be necessary to approve the application.

#### **17.16.29.050 Basis of decision**

The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, the Zoning Commission's recommendation, or additional information demonstrates that each of the following criteria have been satisfied:

1. The development project is consistent with the City's growth policy;
2. The development project is consistent with applicable neighborhood plans, if any;
3. The establishment, maintenance, or operation of the development project will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare;
4. The development project will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;
5. The development project will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;
6. The proposed design of the building and other structures are compatible with the desired character of the neighborhood;
7. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided;
8. Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.

#### **17.16.29.060 Application form and content**

The application submittal shall include the following:

1. an application form as may be used;
2. a site plan prepared at an appropriate scale and containing the information listed in Appendix A; and
3. a list of variances and design waivers, requested or granted, that are relevant to the application.

#### **17.16.29.070 Staff report content**

At a minimum, the staff report shall contain the following information:

1. a summary of the comments received from the interdepartmental/agency review;
2. findings for each of the decision criteria listed in this article;
3. a preliminary list of conditions if approval is recommended; and
4. a recommendation to approve the application, approve it with conditions, or deny the application.

**17.16.29.080 Effect of approval**

If the City Commission approves the application, the approval shall run with the land and be binding on all subsequent property owners.

**17.16.29.090 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**17.16.29.100 Changes in Planned Unit Development**

*A Planned Unit Development shall be developed only according to the approved final plan and all supporting data. The final plan and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees, and assigns, and shall limit and control the use of premises (including the internal use of buildings and structures) and location of structures in the Planned Unit Development as set forth therein.*

- A. Major Changes. Major changes in the plan of development or supporting data similarly approved shall be considered the same as a new petition, and reapplication shall be made in accordance with the procedures for a new application. Major changes include increase in density, heights of buildings, change in location and types of nonresidential land uses, changes in road standards or alignment, changes in the location and/or amount of land devoted to open space, parks or other common facilities.*
- B. Minor Changes. Minor changes may be approved by the zoning administrator or Planning Director following approval of such change by the appropriate property owners’ association if applicable. Minor changes are defined as any change not defined as a major change.*

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**Article 30  
CERTIFICATE OF OCCUPANCY**

**Sections:**

|              |                      |              |   |
|--------------|----------------------|--------------|---|
| 17.16.30.010 | Certificate required | 17.16.30.030 | Issuance of a certificate when partially complete |
| 17.16.30.020 | Basis of decision    | 17.16.30.040 | Appeal  |

**17.16.30.010 Certificate required**

No newly constructed building shall be occupied until such time as a certificate of occupancy has been issued, in accordance with the current adopted edition of the International Building Code.

**17.16.30.020 Basis of decision**

The Director of Community Development may withhold issuance of a certificate of occupancy when the available evidence shows the structure and associated development does not meet the standards and requirements of this Title, the current adopted edition of the International Building Code or other laws and ordinances of the City of Great Falls and State of Montana that may apply.

**17.16.30.030 Issuance of a certificate when partially complete**

The Director of Community Development may at his/her discretion issue a certificate of occupancy for that area of the building that has been completed, according to the current adopted edition of the International Building Code and other laws and ordinances of the City of Great Falls and State of Montana that may apply.

**17.16.30.040 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.

**Article 32  
VARIANCE**

Note: As described in this article, the City Commission is responsible for considering those variances relating to the subdivision regulations and the Board of Adjustment considers all others.

**Sections:**

|              |  |              |   |
|--------------|--|--------------|---|
| 17.16.32.010 | Legislative findings   | 17.16.32.090 | Airport height variances                    |
| 17.16.32.020 | Application and review procedure for variances that do not relate to the subdivision regulations | 17.16.32.100 | Notifications regarding specified variances |
| 17.16.32.030 | Application and review procedure for variances that relate to the subdivision regulations        | 17.16.32.110 | Staff report content                        |
| 17.16.32.040 | Basis of decision for a dimensional variance   | 17.16.32.120 | Effect of approval                          |
| 17.16.32.050 | Additional findings for a floodplain variance  | 17.16.32.130 | Expiration of approval                      |
| 17.16.32.060 | Vote needed for Board of Adjustment action   | 17.16.32.140 | Appeal                                      |
| 17.16.32.070 | Limitations on issuing a variance  |              |   |
| 17.16.32.080 | Imposition of conditions   |              |   |

**17.16.32.010 Legislative findings**

The City Commission makes the following findings:

1. There may be instances where certain requirements of this Title that if enforced would cause unnecessary hardship to individual landowners.
2. Minor deviations from this Title may help to alleviate those unnecessary hardships without circumventing or undermining the intent of this Title.

**17.16.32.020 Application and review procedure for variances that do not relate to the subdivision regulations**

- A. **Submittal of application.** The applicant shall submit a completed application to the Community Development Department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** Within 10 days of submittal, the Director of Community Development shall determine if the application is complete. If the application is deemed incomplete, it shall be returned to the applicant and the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for public notice, property owner notification, and agency notification.
- D. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Board of Adjustment, the applicant, and the applicant’s agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.
- E. **DNRC notification of application.** If the variance is related to the floodplain regulations, the floodplain administrator shall send a copy of the application to the Montana Department of Natural Resources and Conservation, Floodplain Management Section.
- F. **Public hearing.** Allowing for proper notice, the Board of Adjustment shall hold a public hearing to review the application.
- G. **Decision.** Within 30 days of the determination of completeness, the Board of Adjustment shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.
- H. **DNRC notification of decision.** If the variance is related to the floodplain regulations, the floodplain

administrator shall send a copy of the decision to the Montana Department of Natural Resources and Conservation, Floodplain Management Section.

- I. **Applicant notification.** Within 5 days following the decision, the director shall mail the applicant the original (signed) copy of the decision and retain a copy for the public record.
- J. **Additional procedural steps.** If the board grants the variance, the applicant shall then follow other review procedures as may be required.

**17.16.32.030 Application and review procedure for variances that relate to the subdivision regulations**

- A. **Submittal of application.** The applicant shall submit a completed application to the Planning Department along with the application fee ~~as may be established by the City Commission.~~ *for subdivision as provided in Article 26 of this chapter.* Formatted: Strikethrough
- B. ~~**Determination of completeness.** Within 10 days of submittal, the Director of the Planning Department shall determine if the application is complete. If the application is deemed incomplete, it shall be returned to the applicant and the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are modified.~~ ***Procedure. The application for variance shall be processed simultaneously and as a part of the application for subdivision as provided in Article 26 of this chapter including staff report, Planning Board recommendation and City Commission decision.*** Formatted: Strikethrough
- ~~C. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for public notice, property owner notification, agency notification, and posting of a sign on the premises.~~ Formatted: Strikethrough
- ~~D. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the City Commission, the applicant, and the applicant's agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.~~
- ~~E. **Public hearing.** Allowing for proper notice, the City Commission shall hold a public hearing to review the application.~~
- ~~F. **Decision.** Within 30 days of the determination of completeness, the City Commission shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.~~
- ~~G. **Applicant notification.** Within 5 days following the decision, the director shall mail the applicant the original (signed) copy of the decision and retain a copy for the public record.~~
- ~~H. **Additional procedural steps.** If the City Commission grants the variance, the applicant shall then follow other review procedures as may be required.~~

**17.16.32.040 Basis of decision for a dimensional variance**

A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exists:

1. The variance is not contrary to the public interest.
2. A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.
3. The spirit of this Title would be observed and substantial justice done by granting the variance.

**17.16.32.050 Additional findings necessary for a floodplain variance**

In addition to the general findings required above, the following findings shall apply to variances from floodplain requirements:

1. The proposed use will be adequately floodproofed.
2. A reasonable alternate location outside the floodplain is not available.
3. The granting of the variance will not cause increased flood hazards, present additional threats to public safety, create an extraordinary public expense, create a nuisance, or otherwise conflict with federal, State, or other local laws.

**17.16.32.060 Vote needed for Board of Adjustment action**

The concurring vote of 4 members shall be necessary to approve a variance. (See: 76-2-324, MCA)

**17.16.32.070 Limitations on issuing a variance**

The following actions shall not be allowed by a variance:

1. expansion of a nonconforming use
2. modification to lot or other requirements so as to increase the permitted density or intensity of use
3. any project within a floodway that increases flood velocities or elevations
4. allow an amortized sign to continue

**17.16.32.080 Imposition of conditions**

In approving a variance, the Board of Adjustment ~~or City Commission~~ may impose such conditions and restriction as may be necessary to grant approval.

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**17.16.32.090 Airport height variances**

If a variance to the height restrictions for the Great Falls International Airport is granted, the City may require the applicant to permit the City, at its expense to install, operate, and maintain the lights and markers necessary to warn pilots of the presence of the an airport hazard. (See: 67-4-314, MCA)

**17.16.32.100 Notifications regarding specified variances**

If a variance is granted to allow construction of a structure below the 100-year floodplain elevation, the floodplain administrator shall notify the applicant that flood insurance premium rates may be higher than normal and such construction increases risks to life and property.

**17.16.32.110 Staff report content**

At a minimum, the staff report shall contain the following information:

1. a summary of the comments received from the interdepartmental/agency review;
2. findings for each of the decision criteria listed in this article;
3. a preliminary list of conditions if approval is recommended; and
4. a recommendation to approve the application, approve it with conditions, or deny the application.

**17.16.32.120 Effect of approval**

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed.

**17.16.32.130 Expiration of approval**

The variance shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

**17.16.32.140 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision. (See: 76-2-327 (1), MCA)

**Article 34  
ADMINISTRATIVE APPEAL**

**Sections:**

|              |                                  |              |                  |
|--------------|----------------------------------|--------------|------------------|
| 17.16.34.010 | Generally                        | 17.16.34.040 | Effect of appeal |
| 17.16.34.020 | Application and review procedure | 17.16.34.050 | Appeal           |
| 17.16.34.030 | Vote needed for board action     |              |                  |

**17.16.34.010 Generally**

Any person aggrieved by a decision of an administrative official may file an appeal with the Board of Adjustment consistent with this part.

**17.16.34.020 Application and review procedure**

- A. **Submittal of appeal.** The applicant shall submit a written appeal to the Director of Community Development within 2 months of the date of the decision being appealed.
- B. **Notification of appeal.** The director shall provide a copy of the appeal to the Board of Adjustment and the officer who made the decision being appealed or who allegedly failed to act as required.
- C. **Compilation and submittal of record.** The officer who made the decision being appealed or who allegedly failed to act as required shall compile a complete and accurate record relating to the same and submit it to the Board of Adjustment.
- D. **Public hearing.** Allowing for proper public notice and notice to the parties in interest, the board shall conduct a public hearing to hear the appeal and consider the written record and testimony as may be provided.
- E. **Decision.** Within 45 days of the public hearing, the board shall decide to affirm the administrative decision, set aside the decision, or modify the decision.
- F. **Notification of decision.** The board shall notify in writing both the applicant and the officer of its final decision.

**17.16.34.030 Vote needed for board action**

The concurring vote of 4 board members shall be necessary to reverse any administrative decision. (See: 76-2-324, MCA)

**17.16.34.040 Effect of appeal**

An appeal shall stay all legal proceedings in furtherance of the action from which appeal is made, unless the officer from whom the appeal is taken certifies to the board that by reason of facts stated in the certificate a stay would, in his or her opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the board or by a court of record on application, with notice to the officer from whom appeal is made, and on due cause shown. (See: 76-2-326 (3), MCA)

**17.16.34.050 Appeal**

Within 30 days of the final decision made pursuant to this article, the applicant and/or an aggrieved person may file an appeal with a court of competent jurisdiction. (See: 76-2-327 (1), MCA)

**Article 36  
CONDITIONAL USE**

**Sections:**

|              |                                  |              |  |
|--------------|----------------------------------|--------------|--|
| 17.16.36.010 | Generally                        | 17.16.36.070 | Staff report content                   |
| 17.16.36.020 | Application and review procedure | 17.16.36.080 | Content of decision                    |
| 17.16.36.030 | Extension of review period       | 17.16.36.090 | Effect of approval                     |
| 17.16.36.040 | Basis of decision                | 17.16.36.100 | Expiration of approval                 |
| 17.16.36.050 | Imposition of conditions         | 17.16.36.110 | Subsequent modifications and additions |
| 17.16.36.060 | Application form and content     | 17.16.36.120 | Appeal                                 |

**17.16.36.010 Generally**

Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may be appropriate under certain conditions. These are referred to as conditional uses and are listed in Chapter 20 of this Title for each of the districts. This article describes the requirements and procedures for reviewing conditional uses.

**17.16.36.020 Application and review procedure**

- A. **Pre-submittal meeting.** Before submitting an application, the applicant or the applicant's agent shall meet with the Director of the Planning Department to:
1. review applicable regulations and procedures;
  2. review applicable goals and objectives of the City's growth policy and the applicable neighborhood plan(s), if any; and
  3. review the proposal.
- The pre-submittal meeting may, at the discretion of the director and concurrence of the applicant or the applicant's agent, be held via telephone conference. Prior to the conference, any preliminary drawings and maps shall be submitted to the director. A representative from the Community Development Department, Public Works Department, Fire Department, and other City departments as appropriate should participate in this preliminary discussion.
- B. **Neighborhood council contact recommended.** Prior to submitting an application, the applicant should meet with representatives of the neighborhood council in which the project is located to present the project and solicit feedback.
- C. **Submittal of application.** The applicant shall submit an application to the Planning Department along with the application fee as may be established by the City Commission.
- D. **Determination of completeness.** Within 10 days, but not sooner than 4 days, of submittal, the director shall determine whether the proposed application is complete or incomplete and notify the applicant of any deficiencies. If the application is incomplete, the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied.
- E. **Schedule date of review.** Following a determination of completeness, the director shall schedule a public hearing with the Zoning Commission allowing for proper public notice.
- F. **Notice.** Consistent with Article 4 of this chapter, the director shall provide for public notice, neighborhood council notification, property owner notification, agency notification, and posting of a sign on the premises.
- G. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Zoning Commission, the applicant, and the applicant's agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.
- H. **Public hearing.** The Zoning Commission shall conduct a public hearing to review the application.
- I. **Zoning commission recommendation.** Within 10 days of the public hearing (unless the applicant consents in writing to an extension of the review period), the Zoning Commission after considering the comments and recommendations of the staff report shall make a recommendation to the City Commission, based on the decision criteria contained in this article, to either:
1. approve the conditional use permit,
  2. approve the conditional use permit with conditions, or
  3. deny the conditional use permit.
- J. **City commission public hearing.** Allowing for proper public notice, the City Commission shall conduct a public hearing to consider the application.
- K. **City commission decision.** Within 10 days of the public hearing (unless the applicant consents in writing to an extension of the review period), the City Commission after considering the comments and recommendation of the Zoning Commission and after reviewing the staff report shall make a decision, based on the decision criteria contained in this article, to either:
1. approve the conditional use permit,
  2. approve the conditional use permit with conditions, or
  3. deny the conditional use permit.
- The decision shall be prepared consistent with the requirements contained in this article.

**17.16.36.030 Extension of review period**

- A. **Generally.** Prior to the final decision of the City Commission, an applicant may request an extension to the review period if the applicant wishes to amend the application with new or different information.



- B. **Procedure.** If the City Commission approves the extension, the Zoning Commission will rehear the amended application with appropriate notice.
- C. **Extension requirements.** Unless otherwise stated in writing, an extension request automatically extends the review period to 30 days beyond the date when the Zoning Commission hears the amended application.

#### **17.16.36.040 Basis of decision**

The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, Zoning Commission recommendation, or additional information demonstrates that each of the following criteria have been satisfied:

1. The conditional use is consistent with the City's growth policy and applicable neighborhood plans, if any.
2. The establishment, maintenance, or operation of the conditional use will not be detrimental to, or endanger the public health, safety, morals, comfort or general welfare.
3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.
6. Adequate measures have been or will be taken to provide ingress and egress so as to minimize traffic congestion in the public streets.
7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.

#### **17.16.36.050 Imposition of conditions**

The Zoning Commission may recommend and the City Commission may impose such conditions and restrictions as may be necessary to grant approval. Such conditions and restrictions may relate to the establishment, location, construction, maintenance, operation of the use, off-site impacts, and any other aspect of the use that impacts the public health, safety, morals, comfort, or general welfare.

#### **17.16.36.060 Application form and content**

The application submittal shall include the following:

1. an application form as may be used;
2. a site plan prepared at a scale of 1" = 20' and containing the information listed in Appendix A; and
3. a list of variances and design waivers, requested or granted, that are relevant to the application.

#### **17.16.36.070 Staff report content**

At a minimum, the staff report shall contain the following information:

1. a summary of the comments received from the interdepartmental/agency review;
2. findings for each of the decision criteria listed in this article;
3. a preliminary list of conditions if approval is recommended; and
4. a recommendation to approve the application, approve it with conditions, or deny the application.

#### **17.16.36.080 Content of decision**

If the application is denied, the decision shall include the following:

1. A statement that the application is denied.
2. A description of the project, including acreage and proposed use characteristics.
3. Findings for each of the decision criteria.
4. A statement indicating that the denial does not limit the applicant's ability to resubmit a revised application for consideration.
5. A statement that the decision may be appealed to a court of competent jurisdiction.
6. Date of the decision.

**17.16.36.090 Effect of approval**

If the City Commission approves a conditional use, the permit shall be considered a covenant that runs with the land and shall be binding on all subsequent property owners.

**17.16.36.100 Expiration of approval**

- A. **Non-establishment.** The conditional use permit shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.
- B. **Nonuse.** If a conditional use is established, but ceases to operate for more than 6 months, the conditional use permit shall expire.

**17.16.36.110 Subsequent modifications and additions**

If after establishment of a conditional use, the owner proposes to expand or modify the use, buildings, and/or structures, the Director of the Planning Department shall determine in writing if such proposed change would alter the finding for one or more review criteria. If such proposed change would alter a finding, the proposal shall be submitted for review as a new conditional use application. If such proposed change would not alter a finding, the owner shall obtain all other permits as may be required.

**17.16.36.120 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 38  
CODE INTERPRETATION**

**Sections:**

|              |                                   |              |                          |
|--------------|-----------------------------------|--------------|--------------------------|
| 17.16.38.010 | Responsibility for interpretation | 17.16.38.040 | Basis of decision        |
| 17.16.38.020 | Limitations on interpretations    | 17.16.38.050 | Effect of interpretation |
| 17.16.38.030 | Application and review procedure  | 17.16.38.060 | Appeal                   |

**17.16.38.010 Responsibility for interpretation**

In the event a question arises concerning any provision or the application of any provision of this Title, the following individuals shall be responsible for rendering a written interpretation for the specified provisions. Due to overlaying responsibilities, joint interpretation may be required for all other provisions of this Title.

1. Floodplain administrator – floodplain regulations
2. Historic preservation officer – regulations concerning historic structures and buildings
3. Director of Public Works – regulations concerning erosion control and stormwater management
4. Director of Planning – regulations concerning land use, subdivision and platting, airport district and neighborhood district
5. Director of Community Development – regulations concerning design review, parking, hillside development, signs, outdoor lighting, landscaping

**17.16.38.020 Limitations on interpretations**

The responsibility for interpretation shall not be construed as overriding the responsibilities specifically given to any commission, board, or official named in other parts of this Title.

**17.16.38.030 Application and review procedure**

- A. **Submittal of question.** The individual requesting the interpretation shall submit the question in writing to the Director of the Planning Department.
- B. **Decision.** The director shall determine the appropriate individual responsible for such interpretation and forward a copy of the question to that individual. The individual responsible for rendering the interpretation

shall make a written decision within 15 days of receiving the request. However, if an administrative fee has been established, payment may be required before an interpretation is rendered.

- C. **Notification of decision.** The individual responsible for rendering the interpretation shall send a copy of the interpretation to the individual requesting the interpretation and to any board, commission, employee, and official involved in the administration of this Title, as appropriate.
- D. **Permanent record.** The individual rendering the interpretation shall send a copy of the interpretation to the director who shall keep a written record of all interpretations and make them available for public inspection.

**17.16.38.040 Basis of decision**

In consultation with the City Attorney and others as appropriate, the individual responsible for rendering the interpretation shall evaluate the provision(s) in question; consider the overall intent of the code; review the findings and purpose statements as appropriate; and review other applicable interpretations that have been made, and make a decision giving the code its most reasonable application. If the code is unclear to the extent a reasonable interpretation cannot be made, the individual responsible for rendering the decision shall make such a determination and notify the City Commission.

**17.16.38.050 Effect of interpretation**

An interpretation once rendered shall have full effect as if set forth in this Title. Where appropriate, interpretations should be addressed through the amendment process.

**17.16.38.060 Appeal**

The applicant and/or an aggrieved person may, without time constraint, appeal an interpretation made pursuant to this article by filing an appeal with the Board of Adjustment.

**Article 40**

~~AMENDMENT TO CHAPTER 20 LAND USE AND THE ZONING MAP, TITLE 17, RELATIVE TO SUBDIVISIONS AND/OR ZONING~~

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**Sections:**

|              |   |              |                      |
|--------------|---|--------------|----------------------|
| 17.16.40.010 | Generally   | 17.16.40.050 | Application content  |
| 17.16.40.020 | Application and review procedure for map amendments | 17.16.40.060 | Staff report content |
| 17.16.40.030 | Basis of decision                                   | 17.16.40.070 | Appeal               |
| 17.16.40.040 | Vote if protested                                   |              |                      |

**17.16.40.010 Generally**

From time to time it may be necessary to amend the text of Chapter 20 of this Title *relative to subdivisions and/or zoning*, and the associated zoning map, provided the amendment is consistent with the City’s growth policy, neighborhood plans, and other officially adopted plans.

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**17.16.40.020 Application and review procedure for map amendments**

- A. **Submittal of application.** The applicant shall submit a complete application to the Planning Department along with the application fee as may be established by the City Commission.
- B. **Determination of completeness.** Within 10 days of submittal, the Director of the Planning Department shall determine whether the submittal is complete or incomplete and notify the applicant, in writing, of any deficiencies. The director shall take no further steps to process the application until the deficiencies are remedied.
- C. **Determination of review authority.** The director shall determine the appropriate review authority. If the amendment is intended to amend the text of this Title as it relates to the subdivision of land, the Planning Board shall hear the amendment and render a recommendation to the City Commission. The Zoning Commission shall

hear all other amendments *relating to zoning*.

- D. **Transmittal of application to Zoning Commission / Planning Board.** The director shall forward one copy of the application to each member of the Zoning Commission or the Planning Board as appropriate.
- E. **Notice for single-parcel map amendment.** Consistent with Article 4 of this chapter, the director shall provide for public notice, neighborhood council notification, property owner notification, agency notification, and posting of a sign on the premises.
- F. **Notice for multiple-parcel map amendment.** Consistent with Article 4 of this chapter, the director shall provide for public notice, neighborhood council notification, and agency notification.
- G. **Notice for text amendment.** Consistent with Article 4 of this chapter, the director shall provide for public notice and agency notification.
- H. **Neighborhood council contact recommended.** If the amendment involves a change in zoning designation for a single parcel, the applicant should meet with representatives of the neighborhood council in which the project is located to present the project and solicit feedback.
- I. **Interdepartmental/agency review.** The director shall forward one copy of the application to appropriate City personnel and other local units of government that would be directly effected by the proposed amendment.
- J. **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Zoning Commission / Planning Board, the applicant, and the applicant's agent, if any, at least 3 days prior to the first public hearing. He/she shall also provide a copy to interested people upon request.
- K. **First public hearing.** Allowing for proper public notice, the Zoning Commission / Planning Board shall conduct a public hearing to review the application, written comments received from the interdepartmental/agency review, and the staff report and to accept public comment on the application.
- L. **Recommendation.** The Zoning Commission / Planning Board shall make a written recommendation to the City Commission to either: deny the proposed amendment; or approve the proposed amendment without revision; or approve the proposed amendment with revision(s) it deems appropriate. Such revisions to the proposed amendment shall be limited in scope to those matters considered in the public meeting.
- M. **Second public hearing.** The City Commission shall hold a public hearing, allowing for proper public notice, to consider the proposed amendment.
- N. **City commission decision.** After reviewing the application, written comments received from the public, the interdepartmental/agency review, the staff report, and the Zoning Commission's / Planning Board's recommendation, the City Commission shall make a decision to either: deny the proposed amendment; or approve the proposed amendment without revision; or approve the amendment with revision(s) that it deems appropriate. Such revisions to the proposed amendment shall be limited in scope to those matters considered in the public hearing.

#### 17.16.40.030 Basis of decision

The Zoning Commission's / Planning Board's recommendation and the City Commission's decision shall at a minimum consider the following criteria:

1. The amendment is consistent with and furthers the intent of the City's growth policy;
2. The amendment is consistent with and furthers adopted neighborhood plans, if any;
3. The amendment is consistent with other planning documents adopted by the City Commission, including the river corridor plan, transportation plan, and sub-area plans.
4. The code with the amendment is internally consistent;
5. The amendment is the least restrictive approach to address issues of public health, safety, and welfare;
6. The City has or will have the financial and staffing capability to administer and enforce the amendment.

#### 17.16.40.040 Vote if protested

An amendment relating to the zoning provisions of this Title may not become effective except upon a favorable vote of 2/3 of the present and voting members of the City Commission if a protest against the amendment is signed by the owners of 25 percent or more of:

1. the area of the lots included in any proposed change; or
2. those lots 150 feet from a lot included in a proposed change. (See 76-2-305 (2), MCA)

**17.16.40.050 Application content**

- A. **Landowner-initiated rezoning.** An application for a land-owner initiated rezoning shall include the following:
  - 1. a completed application form;
  - 2. a scaled drawing of the subject property;
  - 3. a legal description for each of the parcels in the subject property;
  - 4. a map of the existing land uses occurring on and around the subject property;
  - 5. a written description of the proposed change;
  - 6. a written statement outlining the reason(s) for the amendment;
  - 7. other supporting information the applicant deems appropriate.
- B. **Other amendments.** For all other types of amendments, the application shall include the following:
  - 1. a written description of the proposed change;
  - 2. a written statement outlining the reason(s) for the amendment;
  - 3. other supporting information the applicant deems appropriate.

**17.16.40.060 Staff report content**

At a minimum, the staff report shall contain the following information:

- 1. a summary of the comments received from the interdepartmental/agency review;
- 2. findings for each of the decision criteria listed in this article;
- 3. a preliminary list of conditions if approval is recommended;
- 4. a recommendation to approve the amendment, approve the amendment with revision, or deny the amendment.

**17.16.40.070 Appeal**

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this article by filing an appeal with a court of competent jurisdiction within 30 days of the final decision.

**Article 46  
ENFORCEMENT**

**Sections:**

|              |  |              |  |
|--------------|--|--------------|--|
| 17.16.46.010 | Legislative findings   | 17.16.46.080 | Other remedies                                     |
| 17.16.46.020 | Authority for enforcement  | 17.16.46.090 | Penalties for violation of a subdivision provision |
| 17.16.46.030 | Actions constituting violation   | 17.16.46.100 | Penalties for violation of a floodplain provision  |
| 17.16.46.040 | Enforcement procedure for provisions relating to subdivision process     | 17.16.46.110 | Penalties for violation of other provisions        |
| 17.16.46.050 | Enforcement procedure for provisions not relating to subdivision process | 17.16.46.120 | Failure to maintain stormwater facilities          |
| 17.16.46.060 | Notice of violation  | 17.16.46.130 | Conflicting regulations                            |
| 17.16.46.070 | Stop work order  |              |  |

**17.16.46.010 Legislative findings**

The City Commission makes the following findings:

- 1. State law gives the City certain authority to ensure compliance with this Title.
- 2. The City reserves all rights and remedies provided by State and federal law to ensure compliance.

**17.16.46.020 Authority for enforcement**

- A. **Subdivision provisions.** According to 76-3-105, MCA, the City has the authority to enforce all subdivision requirements, including the authority to prevent the illegal sale, lease, or transfer of land.
- B. **Land use provisions.** According to 76-2-308, MCA, the City has the authority to enforce all land use

requirements including the authority to:

1. prevent unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
2. restrain, correct, or abate a violation;
3. prevent the occupancy of such building, structure, or land; and
4. prevent any illegal act, conduct, business, or use in or about such premises.

**17.16.46.030 Actions constituting a violation**

- A. **Subdivision provisions.** Each separate parcel that is sold, leased, or otherwise transferred in violation of this Title shall constitute a separate and distinct violation. (See: 76-3-105, MCA)
- B. **Land use provisions.** Each separate action that is not in full compliance with this Title or with the conditions of an issued permit or similar approval statement shall constitute a separate and distinct violation.

**17.16.46.040 Enforcement procedure for provisions relating to subdivision process**

- A. **Investigation.** After observing or receiving a complaint of an alleged violation, the City shall investigate to determine if in fact a violation does exist.
- B. **Notification of compliance.** If the City determines that a violation does not exist, it shall notify the complainant, if any, explaining the finding.
- C. **Initiation of court action.** If the City determines that a violation does exist, the appropriate department head, in consultation with the City Attorney, will initiate court action as provided by this part.

**17.16.46.050 Enforcement procedure for provisions not relating to subdivision process**

- A. **Investigation.** After observing or receiving a complaint of an alleged violation, the City shall investigate to determine if in fact a violation does exist.
- B. **Notification of compliance.** If the City determines that a violation does not exist, he/she shall notify the complainant explaining the finding.
- C. **Notification of violation.** If the City determines that a violation does exist, the appropriate department head, in consultation with the City Attorney, will ~~initiate court action as provided in this part.~~ ***send a notice of violation to the property owner as provided for in this Article.***
- D. **Special provision for a violation of floodplain regulations.** When a floodplain regulation is violated, the floodplain administrator shall notify the Montana Department of Natural Resources and Conservation, Floodplain Management Section of such violation.
- E. **Issuance of stop work order.** If a violation continues after the date established in the notice, the appropriate department director shall:
  1. send a stop work order, as described in this part, by certified mail to the property owner or deliver it in person to the property owner, contractor, builder, or any other person engaged in work covered by the order; and
  2. post a stop work order in a prominent location on the site.
- F. **Lifting of stop work order.** Upon substantial evidence that the violation has been removed or otherwise corrected, the director shall lift the stop work order.
- G. **Initiation of court action.** The director shall work with the City Attorney to initiate court action as provided by this part if work does not immediately cease on the premises, except to ensure compliance, or if the violation is not remedied within 30 days of the stop work order.

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**17.16.46.060 Notice of violation**

- A. **Content.** The notice of violation shall include:
  1. A description of the violation.
  2. The section(s) of the code being violated.
  3. A statement describing the measures that would remedy the violation.
  4. The date by which the violation must be remedied and when a stop work order shall be issued if the violation is not remedied.
  5. Information concerning penalties for continued non-compliance.

- B. **Effect of violation notice.** Once a violation notice has been issued pursuant to this part:
  1. All work on the premises that is directly related to the violation, except that which is done to ensure compliance, shall cease. All other work that is in compliance may continue.
  2. The City may not issue any other permits or approvals for any development on the premises that is directly related to the violation.

**17.16.46.070 Stop work order**

- A. **Content.** The stop work order shall include:
  1. A description of the violation.
  2. The section(s) of the code being violated.
  3. A statement describing the measures that would remedy the violation.
  4. A statement that all work on the premises must cease immediately, until the individual issuing the stop work order rescinds the stop work order.
  5. Information concerning penalties for continued non-compliance.
- B. **Effect of stop work order.** Once a stop work order has been issued pursuant to this part:
  1. All work on the premises shall cease until ~~such time as it is~~ **the stop work order has been** lifted.
  2. The City may not issue any other permits or approvals for any development on the premises until ~~such time~~ as the **stop work** order has been lifted.

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**17.16.46.080 Other remedies**

The City or any aggrieved person may apply to a court of competent jurisdiction for temporary and/or permanent injunctive relief to enjoin and restrain any person violating a provision of this Title, and exercise all other rights and remedies provided by law or in equity.

**17.16.46.090 Penalties for violation of a subdivision provision**

Any person who sells, leases, or otherwise transfers land not in conformance with this Title or State law shall be guilty of a misdemeanor, and shall be subject to a fine of not less than \$100 or more than \$500, imprisonment in the county jail for not more than ~~6~~ **3** months, or both. Each sale, lease, or transfer of each separate parcel shall constitute a separate offense. (See: 76-3-105, MCA)

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**17.16.46.100 Penalties for violation of a floodplain provision**

- A. **General penalties.** Any person who violates a floodplain provision shall be guilty of a misdemeanor and shall be subject to a fine of not more than \$100, imprisonment in the county jail for not more than 10 days, or both. Each day a violation continues shall be deemed a separate and distinct offense.
- B. **Public nuisance.** Any person who establishes a development in the 100-year floodplain without obtaining a floodplain permit has created a public nuisance. (See: 76-5-404 (1), MCA)
- C. **Section 1316 Declaration.** The City shall file a Section 1316 Declaration with the National Flood Insurance Program to prevent the current and all future property owners from obtaining flood insurance.

**17.16.46.110 Penalties for violation of other provisions**

Any person who violates any provision of this Title, with the exception of subdivision and floodplain regulations, shall be guilty of a misdemeanor and shall be subject to ~~a fine of not more than \$500 or imprisonment in the county jail for not more than 6 months, or both~~ **the penalties as provided for in OCCGF 1.4.070**; and each day a violation continues to exist shall constitute a separate offense.

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**17.16.46.120 Failure to maintain stormwater facilities**

In addition to the other remedies provided for in this article, if a responsible party fails to meet the requirements of a maintenance covenant for a stormwater facility, the Director of Public Works, after reasonable notice to the responsible party, may perform such necessary work to place the facility in proper working condition. The responsible party shall pay for the cost of such work and shall be a lien on the property until paid.

**17.16.46.130 Conflicting regulations**

Where there exists a conflict between any of the regulations or limitations prescribed in this Title and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern or prevail.

**Article 48****REQUEST FOR EXTENSION OF APPROVAL PERIOD****Sections:**

17.16.48.010 Generally

**17.16.48.010 Generally**

For each type of approval granted pursuant to this chapter, there is a time period for which the approval is valid. If construction has not started or a final plat/plan filed prior to the expiration of the approval period, the holder of the approval may submit a request to extend the approval period consistent with this Title and Montana law.



**Chapter 20  
LAND USE**

**Articles:**

- |                                       |   |
|---------------------------------------|---|
| 1. General provisions                 | 5. General standards                    |
| 2. Zoning districts and zoning map    | 6. Special standards for principal uses |
| 3. Allowable uses                     | 7. Special standards for accessory uses |
| 4. Lot area and dimensional standards | 8. Special standards for temporary uses |

**Article 1  
GENERAL PROVISIONS**

**Sections:**

- 17.20.1.010 Legislative findings
- 17.20.1.020 Purpose

**17.20.1.010 Legislative findings**

The City Commission makes the following findings:

1. The use of land in the City has a direct bearing on the public health, safety, and welfare.
2. Standards are needed to ensure that new development is done in a coordinated manner.
3. The provisions contained in this chapter are adopted consistent with the provisions of State statutes.
4. Each parcel in the City is intended to have a zoning designation.
5. The provisions in this chapter are adopted in accordance with the City’s adopted growth policy.

**17.20.1.020 Purpose**

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. promote a sound development pattern by separating the City into various districts where each has uniformly applicable development standards
2. separate incompatible land uses to the greatest extent possible
3. encourage the most appropriate use of land throughout the City
4. regulate and restrict the erection, construction, reconstruction, alteration, repair, and use of buildings, structures, and land
5. provide for a wide range of housing options
6. allow different, but compatible land uses (i.e., mixed uses) to occur in specified areas of the City
7. avoid, or as a less preferred alternate, minimize congestion
8. avoid, or as a less preferred alternate, minimize environmental degradation
9. implement the City’s adopted growth policy

**Article 2  
ZONING DISTRICTS AND ZONING MAP**

**Sections:**

- 17.20.2.010 Types of zoning districts
- 17.20.2.020 Necessity of district designation
- 17.20.2.030 Official zoning map
- 17.20.2.040 Establishment and purpose of districts
- 17.20.2.050 Airport related zoning map

**17.20.2.010 Types of zoning districts**

The City is divided into a number of base zoning districts so that each parcel is located in at least one district and potentially more. For each of these districts, appropriate types of uses are identified along with development standards. In addition to these base districts, there are a number of overlay districts. These overlay districts are intended to accomplish specific purposes that are not generally applicable to the entire base district. Where the requirements of a base district and overlay district conflict, the most restrictive applies. The zoning map depicts the location of the base districts and overlay districts used in this chapter.

**17.20.2.020 Necessity of district designation**

It is the intent of this chapter that no land shall be without a zoning district designation, unless specifically noted on the official zoning map. In the event a parcel is for any reason deemed to be without a designation, no land development may occur until such time as the City Commission has assigned the parcel an appropriate zoning classification.

**17.20.2.030 Official zoning map**

- A. **Availability.** An official copy of the zoning map shall be on file in the City Clerk's office and available for public inspection upon request.
- B. **Title.** The official zoning map shall bear the title "Official Zoning Map - City of Great Falls, Montana".
- C. **Certification.** The official zoning map shall be identified by the signature of the mayor attested by the City Clerk.
- D. **Preparation of a new official zoning map.** In the event the official zoning map is damaged, lost, or destroyed, and after each amendment to the official zoning map, the Director of the Planning Department shall prepare a new official zoning map and submit it to the City Clerk for certification.
- E. **History of amendment.** After the effective date of this Title, the official zoning map shall be accompanied by a descriptive history of each amendment that has been made, indicating the ordinance number and date of action.
- F. **Archive of superseded zoning maps.** Upon passage of this Title, the Director of the Planning Department shall keep a copy of each superseded zoning map in a permanent archive for historical reference.
- G. **Amendment.** The amendment procedures in Chapter 16 of this Title shall be used to amend the zoning map.

**17.20.2.040 Establishment and purpose of districts**

- A. **Base districts.** Different areas of the City serve uniquely different functions. The narrative below describes each of the districts. Some of the districts may share similar characteristics, but they possess one or more uniquely different qualities that allow a distinction to be drawn between them. Although an area may not now possess each of the attributes in these descriptions, it is intended that as uses change over time they more closely reflect the intended uses. Uses are allowed in the various districts consistent with the development standards in this Title and development limitations that may be present, including steep slopes, floodplains, wetlands, riparian areas, and other environmentally sensitive areas. The City is divided into the following base districts as shown on the official zoning map:
  1. **R-1 Single-family suburban.** This district is intended to accommodate comparatively low-density, single-family residential development on larger lots. Home occupations can occur in this district to the extent they are compatible with residential uses found in this district.
  2. **R-2 Single-family medium density.** This district is intended to accommodate medium-density, single-family residential development on moderate-sized lots. Home occupations can occur in this district to the extent they are compatible with residential uses found in this district. Schools and other public facilities are often found in close proximity.
  3. **R-3 Single-family high density.** This district is intended to accommodate single-family residences at the highest urban density. Home occupations can occur in this district to the extent they are compatible with residential uses found in this district. Schools and other public facilities are often found in close proximity.
  4. **R-5 Multi-family residential medium density.** This district is intended to accommodate multi-family units not exceeding two-stories. Given the higher densities, these districts are typically close to work and leisure.
  5. **R-6 Multi-family residential high density.** This district is intended to accommodate multi-family units of the highest density allowed in the City. These districts are typically found close to work and leisure, and are

- close to the downtown.
6. **R-9 Mixed residential.** This district contains a mix of housing types including single-family, two-family, and multi-family dwellings. New projects developing under this classification must be at least 5 acres in size and include a mix of housing types consistent with a set of prescribed standards.
  7. **R-10 Mobile home park.** This district is for the exclusive use and development of mobile home parks.
  8. **C-1 Neighborhood commercial.** This district is found near established and developing residential areas and is intended to accommodate low intensity commercial activities that serve the nearby residential area. Development standards ensure the compatibility of this district to those residential districts that may adjoin.
  9. **C-2 General commercial.** This district is primarily intended to accommodate high-traffic businesses that focus on vehicle traffic. Where this district abuts a residential district, appropriate screening and landscaping will be provided to lessen associated impacts. Current residential uses are not considered nonconforming. As such, current residential uses existing at the time this Title was adopted are allowed to expand or to be re-established, if damaged.
  10. **C-3 Highway commercial.** This district is intended to accommodate those commercial activities that primarily cater to those traveling on the interstate. As such, this district is only found at interchanges.
  11. **C-4 Central business core.** This district is intended to accommodate and create a high level of business and social activity from morning through the nighttime hours. This district hosts a wide range of employment and businesses. Retail operations and specialty stores are common on the street level along with professional offices. Residential uses can occur in this district primarily on the upper levels of buildings. Entertainment occurs in this district and helps to create a destination. Sidewalk cafes and food vendors are common during the warmer months of the year. Off-street parking is available, but occurs primarily in multi-level parking garages and on-street parking. Civic buildings help to build a critical mass of activity.
  12. **C-5 Central business periphery.** This district is generally found around the core of the downtown. It is intended to serve as a buffer between the downtown area and the surrounding residential districts. Although commercial uses are allowed in this district, they are typically businesses with lower levels of traffic compared to those found in the downtown area. Buildings are smaller in this district to create a physical transition in building bulk from predominant residential uses and the intensely developed downtown area. Buildings have setbacks and landscaping requirements. Exterior storage or display is not allowed.
  13. **M-1 Mixed-use.** The mixed-use district is intended to allow a balanced and harmonious mixture of commercial, residential, institutional uses, and public spaces. Employment opportunities are near a variety of living options. A mix of uses could occur within the same building or in separate buildings in close proximity to one another. The transportation system and buildings are designed with pedestrians in mind.
  14. **M-2 Mixed-use transitional.** This district is intended to promote a transition over time to a predominately mixed-use land use pattern. Because of changing economic conditions and other factors, some current uses do not represent the highest and best use, given other more suitable areas. Current industrial uses and warehouses are not considered nonconforming. As such, current industrial uses and warehouses existing at the time this Title was adopted are allowed to expand or to be re-established, if damaged, provided development and appearance standards under the purview of the Design Review Board are met. (See Chapter 28, Section 17.28.050.) Uses characteristic of this district are the same as those found in the previously described M-1 District.
  15. **PLI Public lands and institutional.** This district is intended to include areas of significant public lands including public schools and significant public and quasi-public institutional uses or facilities.
  16. **POS Parks and open space.** This district is intended to include lands that are undeveloped and unimproved, or are public parks or recreational areas.
  17. **PUD Planned unit development.** A planned unit development district is a special type of zoning district that is proposed by the developer to account for a desired mix of uses. Each district is unique and therefore has its own set of development standards which are documented in the approval. ~~After January 1, 2005, new PUD districts are to be numbered sequentially.~~
  18. **GFIA Great Falls International Airport.** This district is intended to include all lands associated with the Great Falls International Airport including support uses and activities.
  19. **I-1 Light industrial.** This district is intended to accommodate those types of activities typically associated with manufacturing of finished products, storage, and wholesale operations.

- 20. **I-2 Heavy industrial.** This district is intended to accommodate those activities associated with processing raw materials or other activities with potentially significant off-site impacts. Typically, the uses found in this district are not compatible with most types of non-industrial uses.
- B. **Overlay districts.** In addition to the base districts enumerated above, the City is also divided into the following overlay districts as shown on the official zoning map to account for unique conditions or requirements as further described in subsequent chapters:
  - 1. **Neighborhood conservation overlay districts.** This overlay district is intended to protect characteristics typically found in older neighborhoods. Design standards help to perpetuate the best features of the neighborhood as buildings are renovated, maintained, and potentially redeveloped. The provisions relating to this overlay district are contained in Chapter 58 of this Title.
  - 2. **Great Falls International Airport overlay districts.** Overlay districts are established around the Great Falls International Airport to limit the height of buildings and other obstructions near the airport. Noise zones are also established around Great Falls International Airport to ensure that land uses are compatible with the continued functioning of the airport with special consideration on noise compatibility. The provisions relating to these overlay districts are contained in Chapter 54 of this Title.
  - 3. **Floodplain overlay districts.** The floodplain overlay districts are based on flood studies conducted in the City and on approved floodplain maps. Each of the districts has unique development standards based on flooding characteristics. The provisions relating to these overlay districts are contained in Chapter 56 of this Title.
- C. **Unincorporated land.** Within the perimeter of the City limits there are a number of parcels that are not under the jurisdiction of the City. These are noted on the zoning map as “U”.
- D. **Malmstrom Air Force Base.** If property is sold or leased to a non-federal entity, the property may not be used for another use until such time the City Commission has assigned the property an appropriate zoning classification.

**17.20.2.050 Airport related zoning map**

The map of all airport related zoning shall be filed with the County Clerk and Recorder and the City Clerk. (See: 67-4-201(2), MCA)

**Article 3  
ALLOWABLE USES**

**Sections:**

- 17.20.3.010 Allowable uses within zoning districts
- 17.20.3.020 Similarity of uses
- 17.20.3.030 Uses not listed
- 17.20.3.040 Project classified in more than one land use category
- 17.20.3.050 Relationship of a principal use to an accessory use
- 17.20.3.060 Certain land uses shown as permitted may be a conditional use

**17.20.3.010 Allowable uses within zoning districts**

For the purposes of this Title, land uses are categorized as principal, accessory, and temporary. The land uses that are allowable in one or more districts are defined in Chapter 8 of this Title. Exhibit 20-1 through 20-3 lists the uses as allowed in one or more base zoning districts. The coding system, as described below, is used to identify the appropriateness of the land uses in each of the various base districts and the type of review if allowed.

- "P" indicates that the use is permitted in the district by right, provided that all other provisions of this Title are met. These uses do not undergo public review, but are reviewed at the administrative level to ensure compliance.
- "-" indicates that the use is not permitted in the district.
- "C" indicates that the use is permitted in the district as a conditional use.

**17.20.3.020 Similarity of uses**

Because the list of uses cannot include every conceivable type of activity, those uses that are listed shall be interpreted to include other uses that are of a similar nature and have similar impacts to the listed use.

**17.20.3.030 Uses not listed**

Those uses not listed, and which cannot be interpreted to be similar to any listed use, as provided for above, shall be prohibited.

**17.20.3.040 Project classified in more than one land use category**

In the event that the proposed project includes more than one land use category, the following rules shall apply:

1. **Prohibited and allowable uses in project.** If a proposed project includes both an allowable use(s) and a prohibited use(s), the prohibited portion of the project may not occur in the district.
2. **More than one review type or development standard in project.** If a proposed project includes more than one use, with different levels of approval, the strictest of the approval procedures shall apply to the whole project.

**17.20.3.050 Relationship of a principal use to an accessory use**

Before an accessory use may be established, the premises shall host a principal use.

**17.20.3.060 Certain land uses shown as permitted may be a conditional use**

A permitted land use (as shown in Exhibit 20-1, 20-2, 20-3) that emits air contaminants or potentially offensive odors outside of the building, or that handles radioactive materials, hazardous substances, hazardous waste, or regulated substances shall be considered a conditional use in every circumstance.

**Exhibit 20-1. Principal uses by district**

|   | R-1 | R-2 | R-3 | R-5 | R-6 | R-9 | R-10 | C-1 | C-2 | C-3 | C-4 | C-5 | M-1 | M-2 | PLI | POS | GFIA | I-1 | I-2 | Special Standards |
|---|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-------------------|
| <b>Agricultural Uses</b>                |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Agriculture, horticulture, nursery      | GP  | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | -P  | -P  | 17.20.6.005       |
| <b>Residential Uses</b>                 |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Mobile home/park                        | -   | -   | -   | -   | -   | -   | P    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | -   | 17.20.6.010       |
| Residence, single-family detached       | P   | P   | P   | P   | P   | P   | -    | P   | -   | -   | -   | P   | P   | P   | -   | -   | -    | -   | -   | 17.20.6.020       |
| Residence, zero lot line                | -   | -   | GP  | GP  | GP  | GP  | -    | -P  | -   | -   | -   | P   | GP  | GP  | -   | -   | -    | -   | -   | 17.20.6.030       |
| Residence, two-family                   | -   | C   | C   | P   | P   | C   | -    | GP  | -   | -   | -   | P   | P   | P   | -   | -   | -    | -   | -   | 17.20.6.040       |
| Residence, multi-family                 | -   | -   | -   | P   | P   | C   | -    | GP  | -   | -   | GP  | P   | P   | P   | -   | -   | -    | -   | -   | 17.20.6.040       |
| Residence, condominiums                 | -   | -   | -   | P   | P   | C   | -    | GP  | -   | -   | GP  | P   | P   | P   | -   | -   | -    | -   | -   | 17.20.6.040       |
| Residence, townhouse                    | -   | C   | C   | P   | P   | C   | -    | -   | -   | -   | -   | P   | P   | P   | -   | -   | -    | -   | -   | 17.20.6.050       |
| Residence, manufactured/factory-built   | P   | P   | P   | P   | P   | P   | -    | P   | -   | -   | -   | P   | P   | P   | -   | -   | -    | -   | -   | 17.20.6.060       |
| Retirement home                         | -   | C   | PC  | P   | P   | C   | -    | -P  | -   | -   | CP  | P   | P   | P   | -   | -   | -    | -   | -   |                   |
| <b>Special Care Facilities</b>          |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Community residential facility, type I  | P   | P   | P   | P   | P   | P   | -    | -   | -   | -   | -   | P   | P   | P   | -   | -   | -    | -   | -   |                   |
| Community residential facility, type II | C   | C   | C   | C   | C   | C   | -    | -   | -   | -   | -   | -   | C   | C   | -   | -   | -    | -   | -   |                   |
| Day care center                         | C   | C   | C   | C   | C   | C   | -    | P   | P   | -   | P   | GP  | P   | P   | GP  | -   | -    | -   | -   |                   |
| Emergency shelter                       | -   | -   | -   | -   | -   | -   | -    | C   | C   | C   | C   | C   | C   | C   | C   | -   | -    | -   | -   |                   |
| Family day care home                    | P   | P   | P   | P   | P   | P   | -    | -P  | -   | -   | C   | GP  | P   | P   | GP  | -   | -    | -   | -   |                   |
| Group day care home                     | P   | P   | P   | P   | P   | P   | -    | GP  | GP  | -   | C   | GP  | P   | P   | GP  | -   | -    | -   | -   |                   |
| Nursing home                            | -   | -   | C   | C   | C   | C   | -    | GP  | C   | -   | GP  | GP  | P   | P   | GP  | -   | -    | -   | -   |                   |
| <b>Overnight Accommodations</b>         |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Campground                              | -   | -   | -   | -   | -   | -   | -    | -   | C   | GP  | -   | -   | -   | -   | -   | -   | P    | -   | -   | 17.20.6.070       |
| Hotel/motel                             | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | C   | P   | P   | -   | -   | P    | -   | -   |                   |
| <b>Food and Beverage Sales</b>          |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Micro-brewery                           | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | C   | C   | C   | -   | -   | P    | GP  | -   |                   |
| Restaurant                              | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | GP  | GP  | -   | -   | P    | GP  | -   |                   |
| Tavern                                  | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | C   | C   | C   | -   | -   | P    | P   | -   | 17.20.6.080       |
| <b>General Sales</b>                    |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Agriculture sales                       | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Auction sales                           | -   | -   | -   | -   | -   | -   | -    | -   | C   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Construction materials sales            | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Convenience sales                       | C   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | C   | -   | -   | -   | -   | P    | P   | -P  |                   |
| General sales                           | -   | -   | -   | -   | -   | -   | -    | P   | P   | GP  | P   | P   | GP  | GP  | -   | -   | P    | -P  | -P  |                   |
| Manufactured housing sales              | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Off-site liquor sales                   | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | C   | C   | C   | -   | -   | P    | P   | P   |                   |
| Secondhand sales                        | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Shopping center                         | -   | -   | -   | -   | -   | -   | -    | C   | P   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Specialty sales                         | -   | -   | -   | -   | -   | -   | -    | P   | P   | -P  | P   | P   | GP  | GP  | -   | -   | P    | -   | -   |                   |
| <b>General Services</b>                 |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Administrative services                 | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | P   | P   | C   | -   | P    | -   | -   | 17.20.6.090       |
| Commercial kennel                       | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | -   | -   | -   | -   | -   | -   | P    | P   | -   |                   |
| Financial services                      | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | P   | P   | P   | P   | -   | -   | P    | -   | -   |                   |
| Funeral home                            | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | P   | C   | P   | P   | -   | -   | -    | -   | -   |                   |
| General services                        | -   | -   | -   | -   | -   | -   | -    | P   | P   | -P  | P   | GP  | P   | P   | -   | -   | P    | -P  | -P  |                   |
| Professional services                   | -   | -   | -   | -   | C   | C   | -    | P   | P   | -   | P   | P   | P   | P   | -   | -   | P    | -   | -   |                   |
| Sexually-oriented business              | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | P   | P   | 17.20.6.100       |
| Veterinary clinic, large animal         | -   | -   | -   | -   | -   | -   | -    | -   | C   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Veterinary clinic, small animal         | -   | -   | -   | -   | -   | -   | -    | C   | P   | -   | -   | -   | P   | P   | -   | -   | P    | P   | P   | 17.20.6.110       |

continued

**Exhibit 20-1. Principal uses by district - continued**

|  | R-1 | R-2 | R-3 | R-5 | R-6 | R-9 | R-10 | C-1 | C-2 | C-3 | C-4 | C-5 | M-1 | M-2 | PLI | POS | GFIA | I-1 | I-2 | Special Standards |
|--|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|-------------------|
| <b>Rental and General Repair</b>                   |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Large equipment rental                             | -   | -   | -   | -   | -   | -   | -    | -   | C   | C   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Small equipment rental                             | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| General repair                                     | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | P   | P   | -   | -   | -   | -   | P    | P   | P   |                   |
| <b>Vehicle Trade and Service</b>                   |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Vehicle fuel sales                                 | -   | -   | -   | -   | -   | -   | -    | C   | P   | P   | P   | P   | -   | -   | -   | -   | P    | P   | -   | 17.20.6.120       |
| Vehicle repair                                     | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | C   | P   | -   | -   | -   | -   | P    | P   | -   |                   |
| Vehicle sales and rental                           | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | P   | P   | -   | -   | -   | -   | P    | P   | -   |                   |
| Vehicle services                                   | -   | -   | -   | -   | -   | -   | -    | C   | P   | P   | P   | P   | C   | CP  | -   | -   | P    | P   | -   |                   |
| <b>General Storage</b>                             |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Agricultural commodity storage facility            | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P   | 17.20.6.130       |
| Fuel tank farm                                     | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | -   | P   |                   |
| Mini-storage facility                              | -   | -   | -   | -   | -   | -   | -    | -   | -   | C   | -   | -   | -   | C   | -   | -   | P    | P   | P   |                   |
| Truck-Freight terminal                             | -   | -   | -   | -   | -   | -   | -    | -   | -   | C   | -   | -   | -   | -   | -   | -   | P    | P   | P   |                   |
| Warehouse  | -   | -   | -   | -   | -   | -   | -    | -   | -   | C   | -   | -   | -   | C   | -   | -   | P    | P   | P   |                   |
| <b>Indoor Recreation / Sports / Entertainment</b>  |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Casino, type I                                     | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | -   | -   | -   | -   | -   | P    | P   | P   | 17.20.6.140       |
| Casino, type II                                    | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | P   | -   | -   | -   | -   | -   | -    | P   | P   | 17.20.6.150       |
| Indoor entertainment                               | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | C   | C   | C   | C   | -   | P    | -   | -   |                   |
| Indoor sports and recreation                       | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | C   | C   | C   | C   | C   | P    | P   | -   |                   |
| <b>Outdoor Recreation / Sports / Entertainment</b> |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Golf course / driving range                        | C   | C   | C   | C   | C   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | P   | P    | -   | -   |                   |
| Miniature golf                                     | -   | -   | -   | -   | -   | -   | -    | -   | CP  | C   | -   | -   | -   | -C  | -   | -   | P    | C   | -   |                   |
| Outdoor entertainment                              | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | C   | C    | P   | C   |                   |
| Park   | P   | P   | P   | P   | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P   | P   | P    | P   | P   |                   |
| Recreational trail                                 | P   | P   | P   | P   | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P   | P   | P    | P   | P   |                   |
| <b>Community Services / Uses</b>                   |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Administrative governmental center                 | -   | -   | -   | -   | -   | -   | P    | P   | P   | P   | P   | P   | P   | P   | P   | C   | P    | -   | -   | 17.20.6.160       |
| Animal shelter                                     | -   | -   | -   | -   | -   | -   | -    | -   | C   | C   | -   | -   | C   | C   | C   | -   | P    | P   | -   |                   |
| Cemetery   | C   | C   | C   | C   | C   | C   | -C   | -   | -   | -   | -   | -   | -   | -   | P   | P   | P    | -   | -   | 17.20.6.170       |
| Civic use facility                                 | C   | C   | C   | C   | C   | C   | PC   | P   | CP  | -   | P   | P   | P   | P   | P   | C   | -    | -   | -   |                   |
| Community center                                   | C   | C   | C   | C   | C   | C   | PC   | PC  | CP  | -   | P   | P   | P   | P   | P   | C   | -    | -   | -   |                   |
| Community cultural facility                        | C   | C   | C   | C   | C   | C   | PC   | P   | P   | -   | P   | P   | P   | P   | P   | C   | -    | -   | -   |                   |
| Community garden                                   | P   | C   | C   | C   | C   | C   | -C   | -   | -   | -   | -   | -   | P   | P   | P   | P   | P    | C   | C   |                   |
| Public safety facility                             | C   | C   | C   | C   | C   | C   | C    | C   | CP  | C   | P   | P   | P   | P   | P   | -   | P    | P   | -   |                   |
| Worship facility                                   | C   | C   | C   | C   | C   | C   | -C   | P   | -   | -   | C   | CP  | P   | P   | -   | -   | P    | -   | -   | 17.20.6.180       |
| <b>Health Care</b>                                 |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Health care center clinic                          | -   | -   | -   | -   | -   | -   | -    | -P  | P   | -   | P   | P   | P   | P   | P   | P   | -    | -   | -   | 17.20.6.190       |
| Health care facility                               | -   | -   | -   | -   | -   | C   | P    | P   | P   | -   | P   | P   | C   | C   | C   | P   | -    | -   | -   |                   |
| Health care sales and services                     | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | P   | P   | P   | P   | P   | -   | -    | -   | -   |                   |
| <b>Education</b>                                   |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |     |                   |
| Commercial education facility                      | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | CP  | CP  | CP  | CP  | -   | -   | P    | P   | -   | 17.20.6.200       |
| Educational facility (K-12)                        | C   | C   | C   | C   | C   | C   | C    | C   | -   | -   | -   | -C  | C   | C   | P   | -   | -    | -   | -   |                   |
| Educational facility (higher education)            | -   | -   | -   | -   | -   | -   | -    | C   | C   | -   | -   | -C  | C   | C   | P   | -   | P    | -   | -   |                   |
| Instructional facility                             | -   | -   | -   | -   | -   | -   | P    | P   | CP  | -   | CP  | -P  | CP  | CP  | -   | -   | P    | P   | -   |                   |

continued

**Exhibit 20-1. Principal uses by district - continued**

| Solid Waste, Recycling<br>And Composting |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     | Special |             |
|--|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|---------|-------------|
|  | R-1 | R-2 | R-3 | R-5 | R-6 | R-9 | R-10 | C-1 | C-2 | C-3 | C-4 | C-5 | M-1 | M-2 | PLI | POS | GFIA | I-1 | I-2     | Standards   |
| Composting facility                      | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | C   | P       | 17.20.6.210 |
| Recycling center                         | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | C   | P       | 17.20.6.220 |
| Solid waste transfer station             | -   | -   | -   | -   | -   | -   | -    | -   | -   | C   | -   | -   | -   | -   | -   | -   | P    | C   | P       | 17.20.6.230 |
| <b>Telecommunications</b>                |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |         |             |
| Amateur radio station                    | P   | P   | P   | P   | P   | P   | P    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | -       | 17.20.6.240 |
| Telecommunication facility               | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | -       | 17.20.6.250 |
| Concealed facility                       | -C  | -C  | -C  | -C  | -C  | -C  | -C   | P   | P   | P   | P   | C   | CP  | CP  | P   | C   | P    | P   | P       |             |
| Unconcealed facility                     | -   | -   | -   | -   | -   | -   | -    | C   | C   | C   | C   | C   | C   | C   | C   | C   | P    | P   | P       |             |
| Co-located facility                      | C   | C   | C   | C   | C   | C   | C    | P   | P   | P   | P   | C   | C   | C   | C   | C   | P    | P   | P       |             |
| <b>Utilities</b>                         |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |         |             |
| Utility installation, major              | C   | C   | C   | C   | C   | C   | C    | C   | C   | C   | -C  | C   | C   | C   | C   | C   | P    | C   | P       |             |
| Utility installation, minor              | C   | C   | C   | C   | C   | C   | C    | P   | P   | P   | C   | C   | C   | C   | C   | C   | P    | P   | P       |             |
| <b>Transportation</b>                    |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |         |             |
| Airport                                  | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | -   | -       | 17.20.6.260 |
| Bus transit terminal                     | -   | -   | -   | -   | -   | -   | -    | C   | CP  | P   | CP  | -   | C   | C   | C   | -   | P    | P   | -       |             |
| Freight terminal                         | -   | -   | -   | -   | -   | -   | -    | -   | -   | C   | -   | -   | -   | -   | -   | -   | P    | P   | P       |             |
| Heli-pad                                 | -   | -   | -   | -   | -   | -   | -    | -   | C   | C   | C   | C   | -C  | C   | C   | C   | P    | P   | P       |             |
| Parking lot, principal use               | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | P   | P   | P   | P   | P    | P   | P       |             |
| Parking structure                        | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | P   | P   | P   | P   | -   | P    | P   | P       |             |
| Railroad yard                            | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | -P  | P       |             |
| Taxi cab dispatch terminal               | -   | -   | -   | -   | -   | -   | -    | C   | P   | P   | P   | -   | CP  | CP  | -   | -   | P    | P   | -       |             |
| <b>Contractor Yards</b>                  |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |         |             |
| Contractor yard, type I                  | C   | -   | -   | -   | -   | -   | -    | -   | C   | -   | -   | -   | P   | P   | -   | -   | P    | P   | -       | 17.20.6.270 |
| Contractor yard, type II                 | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | C   | C   | -   | -   | P    | P   | P       | 17.20.6.280 |
| <b>Industrial / Manufacturing</b>        |     |     |     |     |     |     |      |     |     |     |     |     |     |     |     |     |      |     |         |             |
| Artisan shop                             | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | P   | P   | -   | -   | P    | P   | -       | 17.20.6.290 |
| Industrial, heavy                        | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | -   | P       |             |
| Industrial, light                        | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P       |             |
| Industrial park                          | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | P   | P       |             |
| Junkyard                                 | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | C   | P       |             |
| Light manufacturing and assembly         | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | P   | P   | P   | P   | -   | -   | P    | P   | P       |             |
| Motor vehicle graveyard                  | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | P       |             |
| Motor vehicle wrecking facility          | -   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | P       |             |

- The use is not permitted in the district

C The use is allowed through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 6 of this chapter, as appropriate

\* Final action on this use in this district is pending



**Exhibit 20-2. Accessory uses by district**

| Use                         | R-1 | R-2 | R-3 | R-5 | R-6 | R-9 | R-10 | C-1 | C-2 | C-3 | C-4 | C-5 | M-1 | M-2 | PLI | POS | GFIA | I-1 | I-2 | Specific Standards |
|-----------------------------|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|--------------------|
| Agriculture, livestock      | P   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | P    | -   | -   | 17.20.7.010        |
| ATM, exterior               | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | P   | P   | P   | -   | P    | -P  | -P  | 17.20.7.020        |
| ATM, interior               | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | P   | P   | -   | -   | P    | C   | -   | -                  |
| Bed and breakfast           | C   | C   | C   | C   | C   | C   | -    | C   | -   | -   | -   | P   | C P | C P | -   | -   | -    | -   | -   | 17.20.7.030        |
| Fences                      | P   | P   | P   | P   | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P   | -P  | P    | P   | P   | 17.20.7.040        |
| Gaming, accessory           | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | P   | -   | -   | P   | -   | -   | P    | P   | P   | 17.20.7.050        |
| Garage, private             | P   | P   | P   | P   | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P   | -   | P    | P   | P   | 17.20.7.060        |
| Home occupation             | P   | P   | P   | P   | P   | P   | P    | -P  | -P  | -P  | -P  | P   | P   | P   | -P  | -   | -    | -P  | -P  | 17.20.7.070        |
| Private stable/barn         | P   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | -   | 17.20.7.080        |
| <b>Residence, accessory</b> | -   | -   | -   | -   | -   | -   | -    | P   | P   | P   | P   | P   | P   | P   | -   | -   | -    | P   | P   | <b>17.20.7.085</b> |
| Roadside farmer's market    | P   | -   | -   | -   | -   | -   | -    | -   | -   | -   | -   | -   | -   | -   | -   | -   | -    | -   | -   | 17.20.7.090        |
| Storage containers          | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | -   | -   | -   | -   | -   | -   | P    | P   | P   | 17.20.7.100        |

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 7 of this chapter, as appropriate

**Exhibit 20-3. Temporary uses by district (see 17.20.8.010 for Special Standards)**

| Use                                     | R-1 | R-2 | R-3 | R-5 | R-6 | R-9 | R-10 | C-1 | C-2 | C-3 | C-4 | C-5 | M-1 | M-2 | PLI | POS | GFIA | I-1 | I-2 | Specific Standards |
|---|-----|-----|-----|-----|-----|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|-----|------|-----|-----|--------------------|
| <b>Garage sales</b>                     | P   | P   | P   | P   | P   | P   | P    | P   | P   | P   | P   | P   | P   | P   | P   | -   | -    | P   | P   | <b>17.20.8.015</b> |
| Itinerant outdoor sales                 | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | -   | -   | -   | -P  | -   | -   | C    | C   | -   | 17.20.8.020        |
| On-site construction office             | P   | P   | P   | P   | P   | P   | -P   | P   | P   | P   | P   | P   | P   | P   | P   | P   | P    | P   | P   | 17.20.8.030        |
| On-site real estate sales office        | P   | P   | P   | P   | P   | P   | -    | -   | -   | -   | -   | -   | P   | P   | -   | -   | -    | -   | -   | 17.20.8.040        |
| Outdoor entertainment, <b>temporary</b> | -   | -   | -   | -   | -   | -   | -    | -   | P   | P   | -   | -   | -   | -   | P   | P   | P    | P   | P   | -                  |
| Sidewalk café                           | -   | -   | -   | -   | -   | -   | -    | P   | P   | -   | P   | P   | P   | P   | C   | C   | -    | -   | -   | 17.20.8.050        |
| Sidewalk food vendor                    | -   | -   | -   | -   | -   | -   | -    | -   | P   | -   | P   | P   | P   | P   | P   | P   | -    | -   | -   | 17.20.8.060        |

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 8 of this chapter, as appropriate

**Article 4**  
**LOT AREA AND DIMENSIONAL STANDARDS**

**Sections:**

- 17.20.4.010    Generally  
17.20.4.020    Exceptions

**17.20.4.010    Generally**

Lots and buildings shall conform to the dimensional standards specified in Exhibit 20-4.

**17.20.4.020    Exceptions**

The following are exemptions to the standards:

1. The requirements for the rear yard on through lots do not apply when the area of such required rear yard is provided elsewhere on the lot.
2. Every part of a required yard shall be open from its lowest points to the sky unobstructed, except for the projections of sills, belt courses, cornices, and ornamental features not to exceed 4 inches.
3. Open or lattice enclosed fire escapes, fireproof outside stairways, and solid floored balconies opening upon fire towers, projecting into a yard not more than 5 feet or into a court not more than 3½ feet and the ordinary projections of chimneys and flues shall be permitted where the same are so placed as not to obstruct the light and ventilation.
4. An unenclosed front porch on a single family residence may extend into the front yard setback up to 9 feet, provided the porch does not occupy more than 60 percent of the width of the main part of the house.
5. Steps and eaves are allowed to encroach into the front and side yard setbacks.

**Exhibit 20-4. Development standards for residential zoning districts (see footnotes [4], & [5] & [7] for general standards)**

| Standard   | R-1   | R-2  | R-3  | R-5   | R-6   | R-9  | R-10                       |
|--|---|--|--|---|---|--|----------------------------|
| Residential density  | -   | -  | -  | 1,875 sq. feet of lot area per dwelling unit  | 500 sq. feet of lot area per dwelling unit  | 1,200 sq. feet of lot area per dwelling unit   | 10 dwelling units per acre |
| Minimum lot size for newly created lots                        | 15,000 sq. feet   | 11,000 sq. feet  | 7,500 sq. feet   | 7,500 sq. feet  | 7,500 sq. feet  | 7,500 sq. feet   | n/a                        |
| Minimum lot width for newly created lots                       | 90 feet   | 80 feet  | 60 feet  | 50 feet   | 50 feet   | 50 feet  | n/a                        |
| Lot proportion for newly created lots (maximum depth to width) | 3:1   | 3:1  | 2.5:1  | 2.5:1   | 2.5:1   | 2.5:1  | n/a                        |
| Maximum building height of principal building [1]              | 35 feet   | 35 feet  | 35 feet  | 45 feet   | 65 feet   | 35 feet, single-family<br>50 feet, multi-family  | 12 feet to exterior wall   |
| Maximum building height of detached garage [1]                 | 24 feet, but may not be higher than the uppermost elevation of the principal building   | 24 feet, but may not be higher than the uppermost elevation of the principal building  | 24 feet, but may not be higher than the uppermost elevation of the principal building  | 24 feet, but may not be higher than the uppermost elevation of the principal building     | 24 feet, but may not be higher than the uppermost elevation of the principal building | 24 feet, but may not be higher than the uppermost elevation of the principal building  | 16 feet                    |
| Maximum building height of other accessory buildings [1]       | 12 feet   | 12 feet  | 12 feet  | 12 feet   | 12 feet   | 12 feet  | 12 feet                    |
| Minimum front yard setback [2]                                 | 30 feet   | 20 feet  | 20 feet  | 10 feet   | 15 feet   | 10 feet  | n/a                        |
| Minimum side yard setback [3]                                  | Principal building: 15 feet each side;<br>accessory building: 2 feet each side provided the front of the building is at least 50 feet from the front lot line | Principal building: 8 feet each side;<br>accessory building: 2 feet each side provided the front of the building is at least 40 feet from the front lot line | Principal building: 6 feet each side;<br>accessory building: 2 feet provided the front of the building is at least 40 feet from the front lot line | 4 feet; 8 feet if adjoining a R-1, R-2, R-3 district                                      | 5 feet; 10 feet if adjoining a R-1, R-2, R-3 district                                 | Principal building: 6 feet each side;<br>accessory building: 2 feet each side provided the front of the building is at least 40 feet from the front lot line | n/a                        |
| Minimum rear yard setback [7]                                  | 20 feet for lots less than 150 feet in depth; 25 feet for lots 150 feet in depth and over   | 15 feet for lots less than 150 feet in depth; 20 feet for lots 150 feet in depth and over  | 10 feet for lots less than 150 feet in depth; 15 feet for lots 150 feet in depth and over  | 10 feet for lots less than 150 feet in depth; 15 feet for lots 150 feet in depth and over | 15 feet   | 10 feet for lots less than 150 feet in depth; 15 feet for lots 150 feet in depth and over  | n/a                        |
| Maximum lot coverage of principal and accessory buildings      | Corner lot: 40%<br>Other types: 30%   | Corner lot: 45%<br>Other types: 35%  | Corner lot: <del>70</del> 55%<br>Other types: <del>60</del> 50%  | Corner lot: 60%<br>Other types: 50%   | Corner lot: 70%<br>Other types: 60%   | Corner lot: 70%<br>Other types: 60%  | none                       |

[1] See the hillside overlay district for more restrictive height requirements which may apply.

[2] An unenclosed front porch on a single family residence may extend into the front yard setback up to 9 feet, provided the porch does not occupy more than 60 percent of the **length of the** main part of the house.

[3] See side yard requirements for zero lot-line projects.

[4] Smaller lots and reduced setbacks and frontages may be accomplished through a Planned Unit Development (PUD).

[5] An existing structure that does not meet the setback requirements stated above can be rebuilt on its original foundation or the original foundation location.

**[6] For townhouses, see Section 17.20.6.050 for additional and superseding requirements.**

**[7] Permitted accessory structures and buildings shall have a minimum rear setback of 2 feet in all residential zoning districts.**

**Exhibit 20-4 (continued).  
Development standards for other  
zoning districts**

|   | M-1  | M-2  | C-1   | C-2   | C-3   | C-4  | C-5   | PLI  | GFIA  | I-1                                | I-2  |
|---|--|--|---|---|---|--|---|--|---|------------------------------------|--|
| Residential density   | 500 sq. feet of lot area per dwelling unit   | 500 sq. feet of lot area per dwelling unit   | n/a   | n/a   | n/a   | n/a  | n/a   | n/a  | n/a   | n/a                                | n/a  |
| Minimum lot size for newly created lots                         | 7,500 sq. feet   | 7,500 sq. feet   | 7,500 sq. feet  | 7,500 sq. feet  | 7,500 sq. feet  | 7,500 sq. feet   | 7,500 sq. feet  | 7,500 sq. feet   | 7,500 sq. feet  | 7,500 sq. feet                     | 7,500 sq. feet   |
| Minimum lot width for newly created lots                        | 50 feet  | 50 feet  | 50 feet   | 50 feet   | 50 feet   | 50 feet  | 50 feet   | 50 feet  | 50 feet   | 50 feet                            | 50 feet  |
| Lot proportion for newly created lots (maximum depth to width)  | n/a  | n/a  | n/a   | n/a   | n/a   | n/a  | n/a   | n/a  | n/a   | 3:1                                | 3:1  |
| Maximum building height of principal building                   | 65 feet except as follows: 35 feet within 200 feet of an R-1, R-2, R-3 district; 45 feet when within 200 feet to 350 feet of an R-1, R-2, R-3 district; and 65 feet when more than 350 feet from an R-1, R-2, R-3 district | 65 feet except as follows: 35 feet within 200 feet of an R-1, R-2, R-3 district; 45 feet when within 200 feet to 350 feet of an R-1, R-2, R-3 district; and 65 feet when more than 350 feet from an R-1, R-2, R-3 district | 35 feet   | 35 feet   | 50 feet   | 100 feet by right; 101 feet to 160 feet as conditional use | 55 feet   | 100 feet by right; 101 feet to 160 feet as conditional use, <b>except as follows; in the proposed medical district master plan area, 160 feet by right</b> | 65 feet   | 45 feet                            | none   |
| Maximum building height of accessory building                   | 24 feet, but may not be higher than the uppermost elevation of the principal building  | 24 feet, but may not be higher than the uppermost elevation of the principal building  | <del>42</del> 24 feet, but may not be higher than the uppermost elevation of the principal building | <del>42</del> 24 feet, but may not be higher than the uppermost elevation of the principal building | 24 feet, but may not be higher than the uppermost elevation of the principal building | n/a  | 24 feet, but may not be higher than the uppermost elevation of the principal building | 24 feet, but may not be higher than the uppermost elevation of the principal building  | 24 feet, but may not be higher than the uppermost elevation of the principal building | 35 feet                            | none   |
| Minimum front yard setback of principal and accessory buildings | none   | Existing Industrial: 20 feet   | 15 feet   | none  | 25 feet   | none   | 15 feet   | 25 feet  | 25 feet   | 20 feet                            | 10 feet  |
| Minimum side yard setback of principal and accessory buildings  | Commercial: none<br>Residential: 5 feet each side  | Commercial: none<br>Residential: 5 feet each side<br>Existing Industrial: 15 feet each side  | 10 feet each side   | 10 feet each side   | 15 feet each side   | none   | 10 feet each side   | 10 feet each side  | none  | 10 feet each side                  | 10 feet each side, 15 feet when side yard abuts a non-industrial zoning district |
| Minimum rear yard setback of principal and accessory buildings  | 10 feet  | 10 feet  | 15 feet   | 1/10 of lot depth but not less than 1/10 of building height   | 1/10 of lot depth but not less than 1/10 of building height                           | none   | 1/10 of lot depth but not less than 1/10 of building height                           | 1/10 of lot depth but not less than 1/10 of building height  | none  | 5 feet                             | 5 feet   |
| Maximum lot coverage of principal and accessory buildings       | Corner lot: 70%<br>Other lots: 65%   | Corner lot: 70%<br>Other lots: 65%   | Corner lot: 50%<br>Other lots: 40%  | Corner lot: 70%<br>Other lots: 60%  | Corner lot: 70%<br>Other lots: 60%  | 100%   | Corner lot: 70%<br>Other lots: 60%  | Corner lot: 70%<br>Other lots: 60%   | none  | Corner lot: 85%<br>Other lots: 70% | Corner lot: 85%<br>Other lots: 70%   |

**Article 5  
GENERAL STANDARDS**

**Sections:**

- 17.20.5.010 Business licenses and safety inspection certificates
- 17.20.5.020 Cart returns
- 17.20.5.030 Outdoor speakers
- 17.20.5.040 Large format retail stores

**17.20.5.010 Business licenses and safety inspection certificates**

In addition to meeting the requirements contained in this chapter, specified land uses and activities shall also meet the regulations for business licenses and safety inspection certificates found primarily in Title 5. Examples of such businesses and activities include, but are not limited to, the following:

1. emergency medical services
2. alarm agencies
3. commercial kennels
4. home occupations
5. sexually-oriented businesses
6. pawnshops
7. sidewalk cafes
8. second hand stores
9. mobile home parks
10. telecommunication facilities
11. bed and breakfasts

**17.20.5.020 Cart returns**

- A. **Applicability.** Each retail project that provides on-site parking in excess of 100 vehicle parking spaces shall provide shopping cart returns as provided in this section.
- B. **Number.** A least one cart return shall be provided for each 100 parking spaces.
- C. **Specifications.** The cart return shall be at least 170 square feet in area and be constructed of durable materials that are compatible with the building and outdoor lighting standards.
- D. **Placement.** No cart return shall be located within 25 feet of the building entrance, unless there is no other practicable location.

**17.20.5.030 Outdoor speakers**

Sound emanating from an outdoor speaker associated with any non-residential establishment shall not be audible from a lot in a residential zoning district.

**17.20.5.040 Large format retail stores**

~~A. **Legislative findings.** The City Commission makes the following findings:~~

- ~~1. Abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.~~
- ~~2. Large retail buildings may be inconsistent with the existing community character and the immediate area.~~
- ~~3. A diverse retail economy is desirable in that it provides consumer choice and fosters competition.~~

~~B. **Purpose.** The provisions of this section are intended to accomplish the following purposes:~~

- ~~1. ensure that large retail projects are consistent with the community character and the surrounding area~~
- ~~2. ensure that large retail stores contribute to a diverse and sound economic base~~
- ~~3. prevent urban blight due to vacant retail stores~~

**CA. Applicability.** This section applies to (1) a single building in excess of 60,000 square feet that houses one tenant and (2) a single building in excess of 60,000 square feet that houses multiple tenants and where the primary retail occupant occupies 70 percent or more of the floor area. When an existing store expands its floor area and exceeds

that threshold, the provisions of this section apply.

**DB. Conditional use.** Large format retail stores shall be subject to the conditional use process.

**EC. Development agreement.** Prior to issuance of a building permit, the property owner shall enter into a developer’s agreement with the City, to run with the land, that includes the following:

1. a provision that prevents the property owner from prohibiting or otherwise limiting, through contract or other legal device, the reuse of the building for retail or other legitimate purposes
2. a provision requiring long-term maintenance of the development if the building is vacated
3. a provision requiring the preparation of an adaptive reuse plan or a demolition plan acceptable to the City
4. other provisions deemed necessary by the City to address the particular circumstances related to the project

**FD. Vacation of existing buildings.** When a large format store is proposed as a replacement for a business already located in the City, the property owner shall not prohibit or otherwise limit, through contract or other legal device, the reuse of its former building.

**GE. Special landscaping.** Large format retail stores must comply with all applicable landscaping requirements in Chapter 44 Landscaping. However, the minimum square footage of interior landscaping, inclusive of landscaping in vehicular use areas and foundation planting areas, shall be 20% of the gross property area to be developed.

**Article 6**

**SPECIAL STANDARDS FOR PRINCIPAL USES**

**Sections:**

|                        |  |                        |                                  |
|------------------------|--|------------------------|----------------------------------|
| <b>17.20.6.005</b>     | <b>Agricultural, horticulture, nursery</b> | 17.20.6.170            | Cemetery                         |
| 17.20.6.010            | Mobile home park                           | 17.20.6.180            | Worship facility                 |
| 17.20.6.020            | Residence, zero lot line                   | <del>17.20.6.190</del> | <del>Health care facility</del>  |
| <del>17.20.6.030</del> | <del>Residence, two-family</del>           | 17.20.6.200            | Educational facility (K-12)      |
| 17.20.6.040            | Residence, multi-family                    | 17.20.6.210            | Composting facility              |
| 17.20.6.050            | Townhouse                                  | 17.20.6.220            | Recycling center                 |
| 17.20.6.060            | Residence, manufactured/factory-built      | 17.20.6.230            | Solid waste transfer station     |
| 17.20.6.070            | Campground or recreational vehicle park    | 17.20.6.240            | Amateur radio station            |
| 17.20.6.080            | Tavern                                     | 17.20.6.250            | Telecommunications facility      |
| 17.20.6.090            | Commercial kennel                          | 17.20.6.260            | Heli-pad                         |
| 17.20.6.100            | Sexually-oriented business                 | 17.20.6.270            | Contractor yard, type I          |
| 17.20.6.110            | Veterinary clinic, small animal            | 17.20.6.280            | Contractor yard, type II         |
| 17.20.6.120            | Vehicle repair                             | 17.20.6.290            | Junk yard                        |
| 17.20.6.130            | Mini-storage facility                      | 17.20.6.300            | Light manufacturing and assembly |
| 17.20.6.140            | Casino, type I                             | 17.20.6.310            | Motor vehicle graveyard          |
| 17.20.6.150            | Casino, type II                            | 17.20.6.320            | Motor vehicle wrecking facility  |
| 17.20.6.160            | Animal shelter                             |                        |                                  |

**17.20.6.005 Agricultural, horticulture, nursery**  
**The production or growing of agricultural, horticultural or nursery products is permitted in the R-1, I-1, and I-2 zoning districts. The sale of such products is only permitted in zoning districts allowing such sales.**

**17.20.6.010 Mobile home park**

**A. Generally.** In addition to the other applicable design and improvement requirements contained in this Title, mobile home parks shall comply with the provisions of this part and applicable State law.

**B. Applicability.** **The design standards of this section shall apply during the establishment of new mobile home parks.**

**BC. Licensing requirements.** The mobile home park shall be licensed by the Montana Department of Public Health and Human Services consistent with State law.

**CD. Maintenance responsibility.** The owner of the mobile home park shall maintain the park in a clean and sanitary manner and may adopt and enforce community rules.

- DE. Adoption of State regulations.** The City adopts by reference the Montana State Department of Public Health and Human Services regulations titled, “Trailer Courts and Tourist Campgrounds”, Administrative Rules of Montana, Title 37, Chapter 111, Sub-Chapter 2. A copy of the above regulation will be filed with the City Clerk as the official code for travel trailer parks, campgrounds and mobile home parks.
- EF. Permitted uses.** Accessory buildings and uses customarily incidental thereto are permitted. No part of any park shall be used for nonresidential purposes, except such uses that are a direct service and for the well-being of the park residents, and for management and maintenance of the park.
- FG. License required.** Prior to the establishment of a mobile home park and before January 2 of each calendar year thereafter, the operator of the mobile home park shall obtain a license from the City.
- GH. Size.** No mobile home park shall be less than one acre in area, be less than 150 feet wide, or fewer than 10 mobile home sites.
- HI. Density.** The maximum density of mobile home parks shall be not more than 10 units per acre.
- IJ. Access.** All mobile home parks shall have access to a public thoroughfare.
- JK. Permanent marking of each mobile home space.** The limits of each mobile home space shall be clearly marked on the ground with permanent markers. The location of mobile home spaces shall be approximately the same as shown on the approved site plan.
- KL. Width of mobile home space.** A mobile home space shall be at least 14 feet wide.
- LM. Shape of mobile home space.** Considering the orientation of principal windows in mobile homes, mobile home spaces should be arranged diagonally to the street (30 degrees from perpendicular).
- MN. Access.** Mobile home spaces shall be arranged to permit the safe and practical placement and removal of mobile homes from a private street internal to the development.
- NO. Mobile home pad.** There shall be a mobile home pad for each mobile home that meets the following requirements:
  1. The size of the pad shall be at least 14 feet wide and at least 70 feet long.
  2. The pad shall provide adequate support for the placement of a mobile home but in no case shall the pad consist of less than 6 inches of crushed gravel over a stabilized base.
- OP. Setbacks.** The placement of mobile homes, including attached structures (e.g., awnings and carports) and accessory structures shall meet the dimensions listed in Exhibit 20-5.

**Exhibit 20-5. Setbacks for Mobile Homes and Accessory Structures**

|  | Mobile Home<br>(feet) | Accessory Structure<br>(feet) |
|--|-----------------------|-------------------------------|
| From the property line of an arterial street or higher       | 50                    | 25                            |
| From the property line of a collector street or local street | 25                    | 25                            |
| From a property boundary line when not a ROW                 | 25                    | 10                            |
| Between mobile homes   | 20                    | n/a                           |

- PQ. Skirting.** Skirting, footings, and piers shall comply with Title 15, Chapter 15.05, OCCGF. Each mobile home shall be skirted within 30 days of placement on the pad.
- QR. Streets.** Street widths should be of adequate widths to accommodate expected traffic load, but in all cases shall meet the following minimum requirements:
  1. Collector street with guest parking shall be 34 feet wide.
  2. Collector street with no parking shall be 22 feet wide.
  3. Minor street with no parking shall be 20 feet wide.
  4. All dead-end streets shall be limited to a maximum length of 300 feet and shall be provided with a cul-de-sac of at least 80 feet in diameter.
  5. Minimum width to each mobile home site shall be 14 feet.
- RS. Internal access.** There shall be a system of paved roadways (concrete or asphalt) to provide access from each and every trailer and automobile parking space within such mobile home park to the public street or highway.
- ST. Recreation area.** A minimum of 10 percent of the gross mobile home park area shall be reserved for park and

recreational development. Such area shall be located in a central area of the mobile home park.

**ⓉU. Common storage area.** The City Commission may require the provision of a common storage area for boats, trailers, recreational vehicles, and similar equipment. Such area shall be screened from view and shall not be considered part of the required common area.

**ⓉV. Mail delivery.** An off-street area for central mail delivery shall be provided.

**ⓉW. Solid waste collection.** An off-street area for the collection of solid waste shall be provided.

**ⓉX. Utilities.** Utilities shall be provided in the following manner or by an alternative manner approved by the City:

1. All sanitary sewage utilities and water facilities, including connections provided to individual sites, shall meet the requirements of the City plumbing and mechanical codes.
2. The plumbing connections to each mobile home lot shall be constructed so that all lines are protected from freezing, from accidental bumping, or from creating any type of nuisance or health hazard.
3. Water shall be piped to each mobile home and the piping shall not be less than ¾ inch for each mobile home unit.
4. Storm drainage facilities, where necessary, shall be so constructed as to protect those that will reside in the mobile home park as well as the property owners adjacent to the park. A storm drainage plan must be submitted for approval to the Director of Public Works.
5. All electric, telephone and other lines from supply poles to each mobile home lot shall be underground. When meters are installed, they shall be uniformly located.
6. All fuel lines leading to mobile home lots shall be underground and so designed as to conform with the requirements of the City plumbing code.
7. Facilities for the storage and disposal of trash and garbage in a sanitary and lawful manner shall be provided in each mobile home park.
8. Street and yard lights, attached to standards, shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night, and shall be effectively related to buildings, trees, walks, steps and ramps.
9. The erection, construction, reconstruction, repair, relocation and/or alteration of all permanent buildings and structures located within a mobile home park shall conform to the most recently adopted codes of the City.
10. All mobile home parks developed under this chapter shall comply with Montana Department of Public Health and Human Services regulations found in Title 24, Chapter 301, and Sub-Chapters 3 and 4, ARM or any amendment thereto concerning plumbing and electrical requirements.

**17.20.6.020 Residence, zero-lot line**

- A. **Generally.** Houses placed within a zero-lot line development shall comply with all applicable standards, except that side yard setbacks are modified. ~~Zero lot line projects are considered a conditional use in several residential districts and are reviewed on a case by case basis.~~
- B. **Intent.** The intent of a zero-lot line development is to develop housing on narrow lots and/or to maximize useable yard area. Creation of zero-lot line developments will expand the range of housing options in the City and allow the creation of affordable housing.
- C. **Standard.** The side yard setback requirement shall be met when the one side yard equals or exceeds the total side yard setbacks for the district. For example, if the district requires a side yard setback of 15 feet on both sides, the zero-lot line house shall be placed so that the side yard setback is 30 feet or greater.
- D. **Setbacks adjacent to surrounding lots.** When a zero-lot line parcel abuts another parcel with conventional setbacks, the zero-lot line shall observe the minimum setback for the district on that side.
- E. **Construction and maintenance easement required.** Each zero-lot line lot with a detached dwelling shall have a construction and maintenance easement from the adjoining lot to allow construction and maintenance of the side of the house on the lot line. Each zero-lot line lot with an attached dwelling shall be subject to a maintenance agreement that specifies the rights and obligations of both property owners.

**17.20.6.030 ~~Residence, two-family~~**

~~Two family residences shall meet the standards for single family residences.~~



**17.20.6.040 Residence, multi-family and residence, condominium**

Multi-family and condominium residential buildings should have separate entrances to each dwelling unit if located in a mixed use zoning district.

**17.20.6.050 Townhouse**

- A. **Number of dwelling units.** Each building shall contain from 3 to 8 dwelling units. No more than 5 dwelling units may be located in one building, if the average lot frontage is less than 20 feet.
- B. **Lot dimension and area.** Each lot shall be a minimum of 1,300 square feet in area. Any portion of the lot less than 16 feet in width shall not be included in the calculation of the minimum required 1,300 square feet lot area. The minimum average lot width for the end dwelling unit of a townhouse structure shall be 32 feet and the minimum lot area of the end dwelling unit shall be 2,600 square feet. The minimum lot width to depth ratio shall be no greater than 1 to 7 and shall be based upon the portion of the lot eligible for inclusion in the above mentioned area calculation.
- C. **Building setback line.**
1. **Front yard.** The minimum depth of a front yard shall be the depth required by the zoning district in which the townhouse is located. (See Exhibit 20-4). In those instances where the entrance to off-street parking spaces for an individual lot is from a public roadway, the minimum building setback line from the public road right-of-way shall be 20 feet.
  2. **Side yard.** Every dwelling which is the end unit of a townhouse structure shall have a minimum side yard depth required by the zoning district in which the townhouse is located. (See Exhibit 20-4).
  3. **Rear yard.** The minimum depth of a rear yard shall be the depth required by the zoning district in which the townhouse is located (See Exhibit 20-4), although the depth of a rear yard for a garage shall be 20 feet where the vehicular entrance crosses the rear property line.
- BD. ~~Lot~~ **Occupied area.** No more than 50 percent of the lot area shall be occupied by a building.
- CE. **Utility service.** Each dwelling unit shall have independent service connections to all utilities, including water, sewer, and electricity.
- DF. **Subsequent divisions.** Individual townhouses may not be further subdivided.
- EG. **Driveways.** When the garage is located in the front of the townhouse, common driveways shall be used whenever possible. The width of a single driveway shall be 11 feet and for a common driveway the width shall be 18 feet.
- FH. **Vertical off-sets.** When 5 or more dwelling units are constructed, there shall be a vertical offset between each adjoining dwelling unit.
- GI. **Accessory buildings.** Accessory buildings, excluding garages and carports, shall not exceed 100 cumulative square feet.
- HJ. **Front entrances.** Front entrances shall be clearly visible from the street and accentuated by a porch or other architectural feature.

**17.20.6.060 Residence, manufactured/factory-built**

- A. **Design and construction.** All manufactured/factory-built dwellings shall meet the following minimum standards:
1. The roof shall have a minimum pitch of 2 to 12.
  2. Suitable roof coverings include clay or ceramic tiles, wood shingles or shakes, fiberglass or asphalt shingles, or a standing seam metal.
  3. The siding must be wood, vinyl, or metal horizontal lap siding, wood shingles, masonry veneer or an Exterior Insulation and Finish System (EIFS).
  4. An overhang shall extend at least ~~42~~ **10** inches beyond the exterior wall.
  5. The building shall be set on and anchored to a continuous permanent foundation that extends around its perimeter, conforming to the criteria of the most recent edition of the International Residential Code adopted by the City of Great Falls.

**17.20.6.070 Campground or recreational vehicle park**

- A. **Generally.** In addition to the other applicable design and improvement requirements contained in this chapter, campgrounds shall comply with the provisions of this part and applicable State law.

- B. **Maintenance responsibility.** The owner of the campground shall maintain the campground in a clean and sanitary manner.
- C. **Accessory facilities.** Accessory facilities (e.g., laundry, food sales) may be allowed as a service to the occupants, but shall be designed, operated, and located to inhibit use by non-occupants.
- D. **Density.** The density shall not exceed 25 spaces per acre (gross).
- E. **Access.** Recreational vehicle spaces shall be arranged to permit the safe and practical placement and removal of vehicles from a private street internal to the development.
- F. **Separation.** A campground space shall be no closer than 65 feet to the perimeter property line of the site.
- G. **Solid waste collection.** An off-street area for the collection of solid waste shall be provided.
- H. **Licensing requirements.** The campground shall be licensed by the Montana Department of Public Health and Human Services consistent with State law.

#### 17.20.6.080 Tavern

- A. Taverns shall comply with the locational standards as may be adopted by the State.
- B. Taverns located in C-1 Districts may not have indoor or outdoor entertainment.

#### 17.20.6.090 Commercial kennel

The standards applicable to animal shelters apply to commercial kennels.

#### 17.20.6.100 Sexually-oriented business

- A. **Purpose.** This section is intended to regulate sexually-oriented businesses to promote the health, safety, morals, and the general welfare of City residents and to establish reasonable and uniform regulations to prevent the continued deleterious location and concentration of adult businesses within the City. These provisions have neither the intent, purpose, or effect of imposing a limitation or restriction on the content of any communicative materials, including sexually-oriented materials. Similarly, it is not the intent, purpose, or effect of these provisions to restrict or deny access by adults to distributors and exhibitors of sexually-oriented entertainment to their intended market. Neither is it the intent, purpose, or effect to condone or legitimize the distribution of obscene material.
- B. **Legislative findings.** Based upon analyses of sexually-oriented business by Indianapolis, Indiana; Rochester, New York; and Denver, Colorado, which analyses are found applicable and relevant to the City, the City Commission makes the following findings:
  - 1. The establishment of sexually-oriented businesses in business districts which are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and residential segments of the neighborhood, causing or contributing to blight and a downgrading of property values.
  - 2. The establishment of more than 2 sexually-oriented businesses within 600 feet of each other has a deleterious effect on surrounding residential and business areas and the fostering of such businesses within a close proximity tends to create a “skid row” atmosphere.
  - 3. The concentration of several sexually-oriented businesses in the same neighborhood tends to attract undesirable quantity and quality of transients, a circumstance which adversely affects property values, causes an increase in crime and encourages residents and businesses to move elsewhere.
  - 4. Concern for, and pride in, the orderly planning and development of a neighborhood should be encouraged and fostered in those persons comprising residential and business segments of that neighborhood.
- C. **Classification.** A sexually-oriented business includes the following as defined in Chapter 8 of this Title:
  - 1. adult arcades
  - 2. adult book stores/adult video stores
  - 3. adult cabarets
  - 4. adult motels
  - 5. adult motion picture theaters
- D. **Applicability.** Upon the following events, a sexually-oriented business shall comply with the provisions of this section.
  - 1. the opening or commencement of a sexually-oriented business
  - 2. the conversion of an existing business, whether or not a sexually-oriented business, to a sexually-oriented

- business
- 3. the addition of a sexually-oriented business to an existing sexually-oriented business
- 4. the relocation of a sexually-oriented business
- 5. the sale, lease, or sublease of a sexually-oriented business
- 6. the transfer of securities which constitute a controlling interest in the sexually-oriented business, whether by sale, exchange, or similar means
- 7. the establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the sexually-oriented business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control
- E. **Proximity to specified zoning districts.** A sexually-oriented business shall not be located within 350 feet of a zoning district that allows residential development.
- F. **Proximity to another establishment of the same kind.** A sexually-oriented business shall not be located within 600 feet of another sexually-oriented business.
- G. **Proximity to other specified uses.** A sexually-oriented business shall not be located within 600 feet of the following:
  - 1. public library
  - 2. public playground or park
  - 3. educational facility (K-12) including its grounds
  - 4. a State licensed family day care home, group day care home, or day care center
  - 5. worship facility
  - 6. any youth-oriented establishment

If one of these specified uses locates within this area of separation after the sexually-oriented business has been granted a building permit or occupancy permit, the sexually-oriented business shall not be required to relocate.
- H. **Measurement of distances.** For the purpose of this section, specified distances shall be measured in a straight line, without regard to intervening structures or streets, from the property line of the parcel with the sexually-oriented business to the property boundary line with the specified uses or to the specified zoning districts.
- I. **Sale of alcohol.** A sexually-oriented business shall not sell, distribute, or allow consumption of alcohol on the premises.
- J. **Building standards.** All building openings, entries and windows shall be located, covered, or screened in such manner as to prevent the interior of such premises from being viewed from outside the establishment.

**17.20.6.110 Veterinary clinic, small animal**

The standards applicable to animal shelters apply to small animal veterinary clinics.

**17.20.6.120 Vehicle repair**

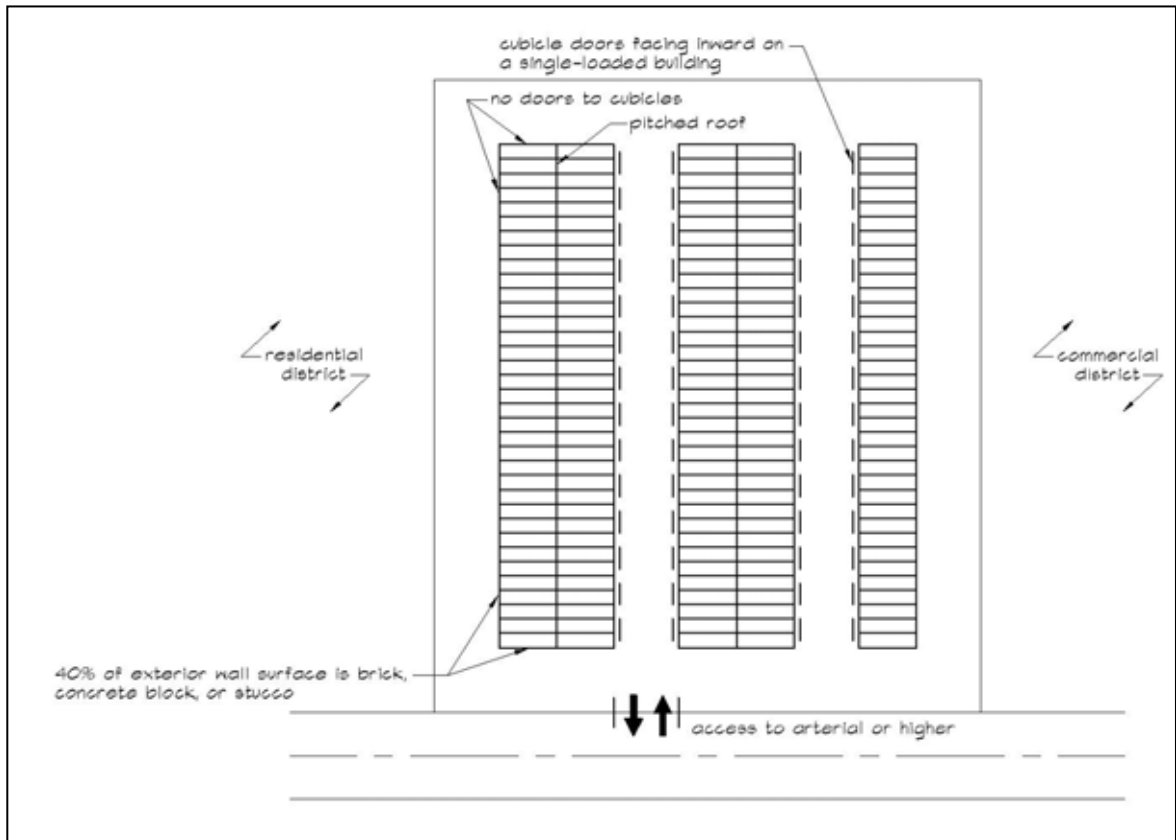
No vehicle shall be serviced or repaired outside of the principal structure intended for such use.

**17.20.6.130 Mini-storage facility**

- A. **Minimum lot size.** The lot on which a mini-storage facility is located shall be at least one acre in size.
- B. **Access.** The access to a cubicle shall not open directly onto a public street or alley.
- C. **Access.** A mini-storage facility shall front on and have direct access to a roadway classified as a collector or a higher classification.
- D. **Paving required.** All driveways, interior aisles, and walkways shall be concrete or asphalt.
- E. **Storage of prohibited substances.** No cubicle shall be used to store explosives, toxic substances, hazardous materials, or radioactive materials.
- F. **Uses.** Only uses which are specific to storage shall occur. No portion of the site may be used for fabrication or any similar use.
- G. **Special standards and guidelines for mini-storage facilities in a commercial zoning district.** When a mini-storage facility is allowed in a commercial zoning district it shall meet the following architectural design standards and guidelines (See Exhibit 20-6):
  - 1. **Roof.** The roof shall have a minimum pitch of 4 and 12 and be covered with sculptured asphalt, wood, or tile

- shingles.
2. **Door adjacent to a residential district.** No door providing access to a rental cubicle shall be located on the outer perimeter of the building when abutting a residential district.
  3. **Placement of doors on a single-loaded building.** When a mini-storage facility is single-loaded (i.e., cubicle doors only on one side), the cubicle doors shall not face the outer perimeter of the site.
  4. **Exterior material.** At least 40 percent of the wall surface facing toward the outer perimeter of the site shall be brick, decorative concrete block (e.g., ground face or split face), stucco, or a combination thereof.
  5. **Fencing.** Fences shall be placed on the interior of buffer areas, if required. Fences should be decorative, but at a minimum shall be vinyl coated chain link fence material with support posts 3” or greater in diameter. Vinyl banding shall not be inserted into a chain link fence.

**Exhibit 20-6. Key design features of a mini-storage facility project**



**17.20.6.140 Casino, type I**

- A. **Purpose.** This section is intended to allow the location of **new casinos or the relocation of existing casinos** in certain zoning districts provided they meet more stringent development and appearance standards than type II casinos.
- B. **Classification.** A casino shall be identified by definition in Chapter 8 of this Title.
- C. **Proximity to residentially zoned properties.** There is no minimum distance requirement from residential uses or between casinos.
- D. **Proximity to other specified uses.**
  - 1. Casinos shall not locate within 600 feet of an education facility (K through post-secondary), worship facility, park or playground. The distance shall be measured by direct line, without regard to intervening structures or streets, between closest property boundaries; and,
  - 2. Casinos shall not locate on premises operating a sexually oriented business.
- E. **Design Review Board approval.** The Design Review Board shall review and approve the exterior building design and finishes; and landscaping, signage, lighting and parking plan for any new **or relocated** casino, or an expansion **or exterior renovation** of an existing casino.
- F. **Special landscaping.** Casinos must comply with all applicable landscaping requirements in Chapter 44 Landscaping. Additional or special landscaping requirements for type I casinos include the following:
  - 1. Minimum square footage of interior landscaping, inclusive of landscaping in vehicular use areas and foundation planting areas, shall be 20% of the gross property area to be developed.
  - 2. 50% of said landscaping shall be located between the front lot line and the building.
- G. **Special signage.** The following signage requirements shall apply:
  - 1. No freestanding signs shall be allowed.
  - 2. Wall signs shall not exceed 7.5% of the building wall area per frontage.
  - 3. No exterior or interior signage indicating any form of gaming shall be allowed to face an adjacent residential use.

**17.20.6.150 Casino, type II**

- A. **Purpose.** This section is intended to prohibit casino gambling in certain zoning districts in the City of Great Falls to promote public health, safety and welfare by preserving aesthetic appearances within the City and by reducing the public exposure to casino gambling, thereby promoting moral, social and cultural values within the City.
- B. **Classification.** A casino shall be identified by definition in Chapter 8 of this Title.
- C. **Proximity to residentially zoned properties.** Casinos shall not be located within 350 feet of any residentially zoned property. The distance shall be measured by direct line, without regard to intervening structures or streets, between closest property boundaries.
- D. **Proximity to other specified uses.**
1. Casinos shall not locate within 600 feet of an education facility (K through post-secondary), worship facility, park or playground. The distance shall be measured by direct line, without regard to intervening structures or streets, between closest property boundaries; and,
  2. Casinos shall not locate within 350 feet of any other casino. The distance shall be measured by direct line, without regard to intervening structures or streets, between closest property boundaries; and,
  3. Casinos shall not locate on premises operating a sexually oriented business.
- E. **Design Review Board Approval.** The Design Review Board shall review and approve the exterior building design and finishes; and landscaping, signage, lighting and parking plan for any new **or relocated** casino, or an expansion **or exterior renovation** of an existing casino.

**17.20.6.160 Animal shelter**

- A. **Confinement of animals.** All animals shall be confined to an enclosed building. ~~In an industrial zoning district,~~ ¶The facility may include a fenced or otherwise confined exercise area provided:
1. it is at least 200 feet from the property boundary line of a residentially zoned parcel, and
  2. no animal is allowed to remain in the exercise area from dusk to dawn.
- B. **Noise control.** The building shall be designed and operated so that noise from the animals at the facility cannot be heard beyond the property boundary line of the parcel on which it is located.

**17.20.6.170 Cemetery**

Cemeteries shall comply with the following standards:

1. A cemetery shall have at least 75 double burial plots measuring at least 10 feet by 10 feet to accommodate 2 adult burials.
2. Burial plots shall not be located in the floodplain or in wetland areas, nor shall internment occur below the groundwater table.
3. Burial plots shall not be located within 50 feet of a public street right-of-way.
4. A permanent marker stating the name of the deceased and the birth and death dates, if known, shall identify the location of each occupied burial plot.
5. The deceased shall be contained in a casket.
6. Private drives shall be concrete or asphalt.
7. Each burial plot shall have access to a private drive at no greater distance than 20 burial plots apart or be located in a building.
8. The cemetery shall have a formal name, which shall be placed on a permanent sign located by the main entrance to the cemetery.

**17.20.6.180 Worship facility**

At least one property boundary line shall abut on a collector street or a higher street classification.

~~**17.20.6.190 Health care facility**~~

~~A heliport or heli pad may only be allowed as a conditional use when used for transporting patients to and from a hospital.~~

**17.20.6.200 Educational facility (K-12)**

- A. **Modular buildings.** Modular buildings may only occur (as a conditional use) in connection with an educational facility to accommodate overflow activity while efforts are made to secure a permanent structure. Under no circumstance shall modular buildings be located on the premises for more than 2 years.
- B. **Access.** At least one property boundary line shall abut on a collector street or higher classification.

**17.20.6.210 Composting facility**

A composting facility shall not be located within 600 feet of a residential zoning district, educational facility, worship facility, or any other place where the public congregates.

**17.20.6.220 Recycling center**

All material shall be fully contained within an enclosed building.

**17.20.6.230 Solid waste transfer station**

A solid waste transfer station shall not be located within 600 feet of a residential zoning district, educational facility, worship facility, or any other place where the public congregates.

**17.20.6.240 Amateur radio station**

Amateur radio stations may be installed, erected, maintained and/or operated in any residential zoning district except historic districts, without benefit of a building permit or other entitlement process, so long as all the following conditions are met:

1. The antenna is operated by a federally licensed amateur radio operator as part of the Amateur Radio Service and is less than 80 feet in height.
2. The antenna use involved is accessory to the primary use of the property which is not a telecommunications facility.
3. The premises contains no more than 3 antenna support structures.
4. Sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.

**17.20.6.250 Telecommunications facility**

- A. **Purpose.** The provisions of this section are established to promote the public health, safety, and welfare, while at the same time not unduly restricting the development of needed telecommunications facilities, and are intended to accomplish the following purposes, to the full extent permitted by law:
1. protect the visual character of the City from the potential adverse effects of telecommunication facility development and minor antenna installation
  2. insure against the creation of visual blight within or along the City's scenic corridors and ridgelines
  3. retain local responsibility for and control over the use of public rights-of-way to protect citizens and enhance the quality of their lives
  4. protect City residents from the possible adverse health effects associated with exposure to high levels of non-ionizing electromagnetic radiation (NIER)
  5. protect environmental resources
  6. insure that a competitive and broad range of telecommunications services and high quality telecommunications infrastructure are provided
  7. create and preserve telecommunication facilities that will serve as an important and effective part of the City's emergency response network
- B. **Applicability.** The provisions of this section apply to all telecommunication facilities, except City **government owned or public service use/facility owned** and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater, pump stations and/or irrigation systems, **public education and transportation** with heights not exceeding 35 feet. **Additionally, the provisions of this section do not apply to single satellite dishes smaller than 10 inches in diameter.**

- C. **City licensing.** Telecommunications carriers and providers engaged in the business of transmitting, supplying, or furnishing of telecommunications originating or terminating in the City shall register with the City pursuant to Title 5, OCCGF.
- D. **Other permitting and licensing.** Prior to issuance of a building permit, the applicant shall obtain other applicable permits/approvals from other governmental agencies which may have jurisdiction over the project.
- E. **FCC compliance.** Commercial telecommunication facilities and antennas shall comply at all times with FCC rules, regulations, and standards. In event of conflict between federal law and this chapter, federal law shall prevail.
- F. **Yard setbacks.** Facilities and antennas shall not be located in the required yard setback of the zoning district in which it is located.
- G. **Placement of satellite dish and parabolic antennas.** Satellite dish and parabolic antennas shall be situated as close to the ground as possible to reduce visual impact without compromising their function.
- H. **Historic districts.** Commercial telecommunication facilities and antennas shall not be located in a historic district, unless fully concealed and not otherwise visible.
- I. **Structural requirements.** No telecommunication facility shall be designed and/or sited such that it poses a potential hazard to nearby residences or surrounding properties or improvements. To this end, any telecommunication tower, located at a distance of less than 110 percent of its height from an inhabited area or other tower shall be designed and maintained to withstand without failure the maximum forces expected from wind and earthquakes when the tower is fully loaded with antennas, transmitters and other equipment, and camouflaging, if any.
1. **Initial compliance.** Initial demonstration of compliance with this chapter shall be provided via submission of a report to the City Building Official prepared by a structural engineer licensed by the State that describes the tower structure, specifying the number and type of antennas it is designed to accommodate, providing the basis for the calculations done, and documenting the actual calculations performed.
  2. **Continued compliance.** Proof of ongoing compliance shall be provided via submission to the City Building Official at least every 5 (self-supporting and guyed towers)/10 (monopoles) years of an inspection report prepared by a structural engineer licensed by the State indicating the number and types of antennas and related equipment actually present and indicating the structural integrity of the tower. Based on this report, the building official may require repair or, if a serious safety problem exists, removal of the tower.
- J. **Basic tower and building design.** All telecommunication facilities shall be designed to blend into the surrounding environment. To this end, all the following measures shall be implemented:
1. Telecommunication towers shall be constructed out of metal or other non-flammable material, unless specifically conditioned by the City to be otherwise.
  2. Telecommunication towers taller than 35 feet shall be monopoles or guyed/lattice towers except where satisfactory evidence is submitted to the Director of Community Development that a self-supporting tower is required to provide the height and/or capacity necessary for the proposed telecommunication use to minimize the need for screening from adjacent properties, or to reduce the potential for bird strikes.
  3. Satellite dishes other than microwave dishes shall be of mesh construction, except where technical evidence shows that this is not feasible.
  4. Telecommunication support facilities (e.g., vaults, equipment rooms, utilities, and equipment enclosures) shall be constructed out of non-reflective materials (visible exterior surfaces only) and shall be placed in underground vaults to the greatest extent possible.
  5. Telecommunication support facilities shall be no taller than 15 feet and shall be designed and constructed to look like a building or facility typically found in the area.
  6. Telecommunication support facilities in areas of high visibility shall, where possible, be sited below the ridgeline or designed (i.e., placed underground, depressed, or located behind earth berms) to minimize their profile.
  7. All buildings, poles, towers, antenna supports, antennas, and other components of each telecommunications site shall be initially painted and thereafter repainted as necessary with a "flat" paint. The color selected shall be one that will minimize their visibility to the greatest extent feasible. Improvements which will be primarily viewed against soils, trees, or grasslands shall be painted colors matching these landscapes while elements which rise above the horizon shall be painted a blue gray that matches the typical sky color at that location.



- 8. The project description and permit shall include a specific maximum allowable gross cross-sectional area, or silhouette of the facility. The silhouette shall be measured from the "worst case" elevation perspective.
  - 9. The City shall have the authority to require special design of the telecommunication facilities where findings of particular sensitivity are made (e.g., proximity to historic or aesthetically significant structures, views and/or community features).
  - 10. Antennas and supporting electrical/mechanical equipment installed on the rooftop or above a structure shall be screened, constructed, and/or colored to match the structure to which they are attached.
  - 11. Telecommunication facilities shall insure that sufficient anti-climbing measures have been incorporated into the facility, as needed, to reduce potential for trespass and injury.
  - 12. No sign shall be placed on a tower.
  - 13. When a telecommunication facility is located in a residential zoning district, no employee shall be based at the site. Routine maintenance and monitoring is permissible.
- K. Required setback.** Telecommunication towers shall be set back at least 25 percent of the tower height from all property lines. Guy wire anchors shall be set back at least 20 feet from any property line.
- L. Maximum height.** Towers shall not exceed the heights listed in Exhibit 20-7. Notwithstanding the preceding, no tower shall exceed the height limitations described in Chapter 54 of this Title.

**Exhibit 20-7. Maximum tower/antenna height**

| Maximum Height               |   |
|------------------------------|---|
| Residential zoning districts | 35 feet   |
| Commercial zoning districts  | 45 feet   |
| Mixed use zoning districts   | 45 feet   |
| Industrial zoning districts  | 100 feet, 50 additional feet may be added to accommodate co-location if the applicant submits information certifying the capacity of the tower for 2 additional providers and a letter of intent from the applicant indicating their intent to share space. A lightening rod, not to exceed 10 feet, shall not be included within the height limitations. |

- M. Visibility.** All telecommunication facilities shall be located so as to minimize their visibility and the number of distinct facilities present. To this end all of the following measures shall be implemented for all telecommunications facilities:
- 1. No telecommunication facility shall be installed within the influence zone of the Great Falls International Airport or any helipad unless the airport owner/operator indicates that it will not adversely affect the operation of the airport or helipad;
  - 2. No telecommunication facility shall be installed at a location where special painting or lighting will be required by the FAA regulations unless technical evidence acceptable to the Director of Community Development is submitted showing that this is the only technically feasible location for this facility;
  - 3. No telecommunication facility shall be installed on an exposed ridgeline, in or at a location readily visible from Interstate 15, a public trail, public park or other outdoor recreation area, or in property designated as a floodway unless it blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable and a finding is made that no other location is technically feasible;
  - 4. No telecommunication facility that is readily visible from off-site shall be installed closer than one-half mile from another readily visible, un-camouflaged or unscreened, telecommunication facility unless it is a co-located facility, situated on a multiple-user site, or blends with the surrounding existing natural and man-made environment in such a manner as to be effectively unnoticeable; or technical evidence acceptable to the Director of Community Development is submitted showing a clear need for this facility and the unfeasibility of co-locating it on one of these former sites;
  - 5. No telecommunication facility that is readily visible from off-site shall be installed on a site that is not already developed with telecommunication facilities or other public or quasi-public uses unless it blends with the surrounding existing natural and man-made environment in such a manner so as to be effectively unnoticeable or technical evidence acceptable to the Director of Community Development is submitted showing a clear need for this facility and the unfeasibility of co-locating it on one of these former sites; and

- N. **Lighting.** Lighting shall comply with the standards contained in Chapter 40 of this Title.
- O. **Vegetation protection and facility screening.** All telecommunications facilities shall be installed in such a manner so as to maintain and enhance existing native vegetation and to install suitable landscaping to screen the facility, where necessary. To this end, all of the following measures shall be implemented for all telecommunication facilities:
1. A landscape plan shall be submitted with project application submittal indicating all existing vegetation, identifying landscaping that is to be retained on the site and any additional vegetation that is needed to satisfactorily screen the facility from adjacent land uses and public view areas. The landscape plan shall be subject to approval during the site plan review process.
  2. Existing trees and other screening vegetation in the vicinity of the facility and along the access roads and power/telecommunication line routes involved shall be protected from damage, both during the construction period and thereafter.
  3. All areas disturbed during project construction other than the access road and parking areas required under Chapter 36 of this Title shall be replanted with vegetation compatible with the vegetation in the surrounding area (e.g., ornamental shrubs or natural brush, depending upon the circumstances) to the satisfaction of the Director of Community Development.
  4. Any existing trees or significant vegetation, on the site or along the affected access area that die shall be replaced with native trees and vegetation of a size and species acceptable to the Director of Community Development.
- P. **Fire prevention.** All telecommunication facilities shall be designed and operated in such a manner so as to minimize the risk of igniting a fire or intensifying one that otherwise occurs. To this end, all of the following measures shall be implemented, when determined necessary by the Building Official:
1. At least one-hour fire resistant interior surfaces shall be used in the construction of all buildings.
  2. Monitored automatic fire extinguishing systems shall be installed in all equipment buildings and enclosures.
  3. Rapid entry systems shall be installed.
- Q. **Environmental resource protection.** All telecommunication facilities shall be sited so as to minimize the effect on environmental resources. To that end the following measures shall be implemented for all telecommunication facilities:
1. No telecommunications facility or related improvements shall be sited such that their construction will damage an archaeological site or have an adverse effect on the historic character of a historic feature or site;
  2. No telecommunications facility shall be sited such that its presence threatens the health or safety of migratory birds;
  3. Potential adverse visual impacts which might result from project related grading or road construction shall be minimized;
  4. Potential adverse impacts upon nearby public use areas such as parks or trails shall be minimized.
- R. **Noise.** Telecommunication facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to the residents of nearby homes and the users of nearby recreational areas such as public parks and trails.
- S. **Use of backup generators.** Backup generators shall only be operated during power outages and for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m. If the facility is located within 100 feet of a residential dwelling, noise levels at the property boundary shall not exceed an Ldn (Day-Night Average Level) of 50 dB (decibels).
- T. **Visual compatibility.** Facility structures and equipment shall be located, designed, and screened to blend with the existing natural or built surroundings so as to reduce visual impacts to the extent feasible considering the technological requirements of the proposed telecommunication service and the need to be compatible with neighboring residences and the character of the community.
- U. **Visual analysis.** A visual analysis, which may include photo montage, field mock-up, or other techniques, shall be prepared by or on behalf of the applicant that identifies the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from public areas as well as from private residences. The analysis shall assess the cumulative impacts of the proposed facility and other existing and foreseeable telecommunication facilities in the area, and shall identify and include all feasible mitigation measures consistent with the technological requirements of the proposed telecommunication service. All costs for the visual analysis,

and applicable administrative costs, shall be borne by the applicant. The City may require the applicant to provide funding to the City to cover the cost of a second analysis if the analysis submitted by the applicant does not accurately or completely analyze the visual effects of the proposed project.

- V. **NIER (non-ionizing electromagnetic radiation) exposure.** No telecommunication facility shall be sited or operated in such a manner that it poses, either by itself or in combination with other such facilities, a potential threat to public health. To that end, no telecommunication facility or combination of facilities shall produce at any time power densities in any inhabited area that exceed the ANSI C95.1-1992 standard for human exposure or any more restrictive standard subsequently adopted or promulgated by the City, county, State, or the federal government.
1. **Initial compliance.** Initial compliance with this requirement shall be demonstrated for any facility within 400 feet of residential uses or sensitive receptors such as schools, churches, hospitals, etc. and all broadcast radio and television facilities, regardless of adjacent land uses, through submission, at the time of application for the necessary permit or entitlement, of NIER calculations specifying NIER levels in the inhabited area where the levels produced are projected to be highest. If these calculated NIER levels exceed 80 percent of the NIER standard established by this Section, the applicant shall hire a qualified electrical engineer licensed by the State to measure NIER levels at said location after the facility is in operation. A report of these measurements and his/her findings with respect to compliance with the established NIER standard shall be submitted to the Director of Community Development. Said facility shall not commence normal operations until it complies with, or has been modified, to comply with this standard. Proof of said compliance shall be a certification provided by the engineer who prepared the original report. In order to assure the objectivity of the analysis, the City may require, at the applicant's expense, independent verification of the results of the analysis.
  2. **Ongoing compliance.** Every telecommunication facility within 400 feet of an inhabited area and all broadcast radio and television facilities shall demonstrate continued compliance with the NIER standard established by this section. Every 5 years a report listing each transmitter and antenna present at the facility and the effective radiated power radiated shall be submitted to the Director of Community Development. If either the equipment or effective radiated power has changed, calculations specifying NIER levels in the inhabited areas where said levels are projected to be highest shall be prepared. NIER calculations shall also be prepared every time the adopted NIER standard changes. If calculated levels in either of these cases exceed 80 percent of the standard established by this section, the operator of the facility shall hire a qualified electrical engineer licensed by the State to measure the actual NIER levels produced. A report of these calculations, required measurements, if any, and the author's/engineer's findings with respect to compliance with the current NIER standard shall be submitted to the Director of Community Development within 5 years of facility approval and every 5 years thereafter. In the case of a change in the standard, the required report shall be submitted within 90 days of the date said change becomes effective.
  3. **Failure to submit required reports.** Failure to supply the required reports or to remain in continued compliance with the NIER standard established by this section shall be grounds for revocation of the use permit or other entitlement.
- W. **Co-located and multiple-user facilities.** An analysis shall be prepared by or on behalf of the applicant, which identifies all reasonable, technically feasible, alternative locations and/or facilities which would provide the proposed telecommunication service. The intention of the alternatives analysis is to present alternative strategies which would minimize the number, size, and adverse environmental impacts of facilities necessary to provide the needed services to the City and surrounding rural and urban areas. The analysis shall address the potential for co-location at an existing or a new site and the potential to locate facilities as close as possible to the intended service area. It shall also explain the rationale for selection of the proposed site in view of the relative merits of any of the feasible alternatives. Approval of the project is subject to a finding that the proposed site results in fewer or less severe environmental impacts than any feasible alternative site. The City may require independent verification of this analysis at the applicant's expense. Facilities which are not proposed to be co-located with another telecommunication facility shall provide a written explanation why the subject facility is not a candidate for co-location.
1. All co-located and multiple-user telecommunication facilities shall be designed to promote facility and site sharing. To this end telecommunication towers and necessary appurtenances, including but not limited to,

- parking areas, access roads, utilities and equipment buildings shall be shared by site users when, in the determination of the Director of Community Development, this will minimize overall visual impact to the community.
2. The facility shall make available unused space for co-location of other telecommunication facilities, including space for these entities providing similar, competing services. A good faith effort in achieving co-location shall be required of the host entity. Requests for utilization of facility space and responses to such requests shall be made in a timely manner and in writing and copies shall be provided to the City. Unresolved disputes may be mediated by the Board of Adjustment. Co-location is not required in cases where the addition of the new service or facilities would cause quality of service impairment to the existing facility or if it became necessary for the host to go off-line for a significant period of time.
  3. Approval for the establishment of facilities improved with an existing microwave band or other public service use or facility, which creates interference or interference is anticipated as a result of said establishment of additional facilities, shall include provisions for the relocation of said existing public use facilities. All costs associated with said relocation shall be borne by the applicant for the additional facilities.
- X. **Waiver.** The City Commission may grant a waiver to the requirements specified in this section when the waiver would not increase the visibility of the facility or decrease public safety. Tower setback requirements may be waived when:
1. the facility is proposed to be co-located onto an existing, legally-established telecommunication tower; or
  2. the reduced setback enables further mitigation of adverse visual and other environmental impacts than would otherwise be possible.

#### 17.20.6.260 Heli-pad

- A. **Surface.** The surface of the heli-pad shall be of concrete or asphalt.
- B. **Location.** A heli-pad may be located on the ground or on top of a building with a roof engineered **for such use**.
- C. **FAA requirements.** Heli-pads shall obtain all approvals and licenses as may be required.
- D. **Landscaping.** Landscaping shall be provided as determined by the City on a case-by-case basis.

#### 17.20.6.270 Contractor yard, type I

- A. **Generally.** These standards do not apply to contractor yards in Industrial zoning districts
- B. **Lot size requirements.** The minimum lot size shall be one acre.
- C. **Limitations on equipment.** No more than 2 pieces of heavy equipment exceeding 3 tons may be stored on the premises.
- D. **Storage of material.** Exterior storage of construction materials, wastes, or any other material related to the operation of the contractor yard is prohibited.
- E. **Buildings.** A building(s) not exceeding a cumulative total of ~~4,500~~ **3,000** square feet shall be constructed on the premises to accommodate the contractor's operations.

#### 17.20.6.280 Contractor yard, type II

- A. **Lot size requirements.** There are no minimum lot size requirements.
- B. **Limitations on equipment.** There are no limitations on the number of trucks, trailers, or other heavy equipment.
- C. **Storage of material.** Exterior storage of construction materials, wastes, or any other material related to the operation of the contractor yard is permitted.
- D. **Buildings.** The size of the building(s) shall conform to the dimensional requirements as appropriate for the district.

#### 17.20.6.290 Junk yard

- A. **Generally.** All salvage material not fully enclosed within a building with walls, shall be screened from public view. Acceptable screening includes fencing or other manmade barriers and natural barriers as herein described.
- B. **Standards for fences.** If a fence is used, the boards may be spaced and/or slanted to reduce wind load. The space which can be seen from a broadside view will not be more than 1½ inches wide when viewed at any angle from 45 degrees to 90 degrees to the fence. The interval between spaces will not be less than 7½ inches. Chain-link metal fences with standard fiberglass or other inserts are acceptable, provided the gap between adjacent slats does not

exceed 1½ inches. The breaks in the fence may be vertical or at any angle; they cannot be horizontal. Fences are to be constructed of sound building materials. Rough dimensional lumber or better is acceptable. Slabs are not considered rough dimensional lumber. Plastics or other materials that are placed over the salvage or scrap are not acceptable. Trees and shrubs can best be used in conjunction with other screening materials to improve the appearance of the salvage or scrap facility. Chain-link type metal fence with slats inserted is acceptable. Other screening than the two types of fencing specifically approved above (metal and wood) but of equivalent permanence, attractiveness, and screening qualities are also acceptable if approved by the Board of Adjustment.

- C. **Standards for other types of screening.** Screening with shrubs and trees, while not subject to precise measurements, is to provide a similar degree of screening at all times of the year as would a fence. A berm may be constructed of any solid material, including stumps, demolition debris, etc. The slopes of the berm are to be covered and graded smooth, with not less than 3 inches of topsoil and seeded with an adequate seeding formula.
- D. **Height of screening.** Screening must be of sufficient height so that none of the salvage material on the premises is visible from public view. This is not intended to require that permanent buildings, other structures, utility poles, cranes or derricks or similar structures be screened.
- E. **Consistent use of materials.** No more than one of the approved screening materials is to be used on one side of the facility. Trees and shrubs may be placed on the outside of the screening material. Other sides may use different approved materials.
- F. **Maintenance.** The screening is to be maintained by the facility operator in a neat and workmanlike manner. It is to be replaced where necessary by the operator. Damage by vandals or other causes is the risk of the operator and is not to be a reason for not maintaining the screening.

**17.20.6.300 Light manufacturing and assembly**

- A. **Outside storage prohibited.** Outdoor storage of materials shall be prohibited except in I-1 districts.
- B. **Separate loading/unloading area required.** A separate loading/unloading area and entrance shall be provided.
- C. **Impact of air contaminants and odors.** No air contaminants or potentially offensive odors shall be emitted outside of the building or area of manufacture/assembly.
- D. **Prohibition on certain materials.** No radioactive materials, hazardous substances, hazardous wastes or regulated substances shall be handled or produced.
- E. **Noise impact on neighboring uses.** Such uses shall not produce loud or offensive noises outside of the building or area of manufacturing/assembly. If necessary, buildings and/or areas housing such uses shall be soundproofed.

**17.20.6.310 Motor vehicle graveyard**

This use must meet all requirements as required by State law.

**17.20.6.320 Motor vehicle wrecking facility**

This use must meet all requirements as required by State law.

**Article 7  
SPECIAL STANDARDS FOR ACCESSORY USES**

**Sections:**

|             |                                    |                    |                             |
|-------------|------------------------------------|--------------------|-----------------------------|
| 17.20.7.010 | Agriculture, livestock             | 17.20.7.070        | Home occupation             |
| 17.20.7.020 | Automated teller machine, exterior | 17.20.7.080        | Private stable              |
| 17.20.7.030 | Bed and breakfast                  | <b>17.20.7.085</b> | <b>Residence, accessory</b> |
| 17.20.7.040 | Fences                             | 17.20.7.090        | Roadside farmer’s market    |
| 17.20.7.050 | Gaming, accessory                  | 17.20.7.100        | Storage container           |
| 17.20.7.060 | Garage, private                    |                    |                             |

**17.20.7.010 Agriculture, livestock**

- A. **Enclosure required.** Horses and cattle shall be kept within fences or other enclosures.

- B. **Building setbacks.** All buildings intended to house horses or cattle shall be located at least 50 feet from all property boundary lines.

**17.20.7.020 Automated teller machine, exterior**

- A. **Weather protection.** When an ATM is located on the exterior of a building, weather protection must be provided. Examples include awnings or a shallow portico.
- B. **Security.** ATMs shall be located in such a location to be readily visible.
- C. **Lighting.** Proper lighting levels shall be maintained for security purposes.
- D. **Litter.** At least one trash receptacle shall be provided.

**17.20.7.030 Bed and breakfast**

- A. **Intent.** This provision is intended to allow entrepreneurs to open up their homes to itinerant overnight guests. This will allow residents to provide a valuable service and make more efficient use of large existing homes in the City.
- B. **Standards.** Bed and breakfasts shall comply with each of the following standards:
  1. **Type of dwelling.** A bed and breakfast shall only occur within a single-family dwelling.
  2. **Number of allowable guest rooms.** No more than 6 guest rooms shall be offered.
  3. **Residency requirement.** The operator of the bed and breakfast shall reside within the single family dwelling on a permanent basis.
  4. **Exterior character of the dwelling unit.** The exterior appearance of the building shall not be altered from its single-family appearance.
  5. **Food preparation.** No food preparation or cooking shall be allowed in guest rooms.
  6. **Meals.** Meals shall only be offered to overnight guests.
  7. **Signs.** Signs shall be consistent with the provisions of Chapter 60 of this Title.

**17.20.7.040 Fences**

- A. **Orientation.** All non-decorative posts, horizontal supports, cross-members, and the like shall be oriented inward to the lot on which the fence is located.
- B. **Materials and maximum coverage.** Fences shall be constructed of typical building materials commonly used for fence construction.

**Exhibit 20-8. Standards for fences**

Single strand wire or barbed wire may not be used in residential zoning districts, except in the R-1 district for

|   | <b>Residential<br/>Zoning<br/>Districts</b> | <b>Commercial<br/>Zoning<br/>Districts</b> | <b>Industrial<br/>Zoning<br/>Districts</b> |
|---|---|--|--|
| <b>Maximum height (feet)</b>                              |   |  |  |
| Between front lot line and front of principal building    | 4   | 6  | 8 12                                       |
| From the front of principal building to the rear lot line | 6   | 6  | 8 12                                       |

agricultural purposes. In residential zoning districts, fences located between the front lot line and the front of the principal building shall have a maximum opacity of 50 percent.

- C. **Maximum height.** Fences shall not exceed the heights listed in Exhibit 20-8. **Fences shall comply with landscape screening requirements and standards of this Title.**

**17.20.7.050 Gaming, Accessory**

- A. **Applicability.** Gaming is allowed as an accessory use to the primary, permitted use of the building. Primary, permitted uses are limited to taverns, restaurants, hotels and motels.
- B. **Standards.** Accessory gaming shall comply with each of the following standards:
  1. **Separation from primary use area.** Accessory gaming shall be separated from the area occupied by the primary use, with only doorway access and with no open windows to the primary use area. The size and location of doorway access shall be in accordance with official building code requirements.
  2. **Maximum area.** The maximum square footage of the accessory gaming area shall not exceed 500 square feet and shall not exceed 15 percent of the total square footage of the area occupied by the primary use.
  3. **Exterior signage.** Exterior signage indicating any form of gaming is allowed only on one frontage of

building wall and shall not exceed 15 percent of the total wall sign allocation for that one building frontage. The 15 percent is inclusive of the total wall sign allocation for that building frontage.

- 4. **Accessory gaming entrance.** The primary entrance to the establishment shall not be through the gaming area. Additionally, general public access to restroom facilities shall not be through the gaming area.

**17.20.7.060 Garage, private**

Private garages shall occupy no more than the space shown in Exhibit 20-9, provided other development standards can be met.

**Exhibit 20-9. Garage area limitations**

| Parcel Size                 | Total Maximum Garage Area |
|-----------------------------|---------------------------|
| (Square Feet)               | (Square Feet)             |
| 7,500                       | 1,200                     |
| 7,501 to 10,000             | 1,400                     |
| 10,001 and higher to 43,599 | 1,600                     |
| 43,600 (1 acre) and higher  | 1,800                     |

**17.20.7.070 Home occupation**

- A. **Validity of use.** The individual primarily responsible for the home occupation must reside in a dwelling unit on the parcel.
- B. **Location and space limitation.** The home occupation shall occur entirely within the dwelling unit and space specifically designated for use of the home occupation shall occupy no more than 30 percent of the total floor area.
- C. **Employees.** No more than 1 nonresident employee may work on the property at a time. (Note: There is no restriction on the number of people that may be employed and that work off-site.)
- D. **Exterior character of the dwelling unit.** The exterior character of the dwelling unit shall not be substantially altered to accommodate the home occupation.
- E. **Storage of materials.** Exterior storage of materials or equipment is prohibited.
- F. **Signs.** ~~No exterior display shall be permitted except that one non illuminated nameplate or home occupation sign shall be allowed. The sign shall be limited to 144 square inches (one square foot) in area. Such sign or nameplate shall be placed flat against the dwelling unit.~~ **Signage for home occupations must conform to the requirements in section 17.60.2.020(K) of chapter 60 of this Title.**
- G. **Retail sales.** The indoor display or retail sales of those products manufactured or otherwise made on the premises are permitted. All other on-site sales are prohibited.
- H. **Limitations on business vehicles.** No vehicle used for the home occupation shall exceed a one-ton rate capacity. No more than one such vehicle shall be parked on the site.
- I. **Prohibited uses.** The following uses do not qualify as a home occupation: veterinary services, medical offices, animal boarding or grooming, barber, hair care, restaurant, vehicle repair, or any other similar **high traffic generation** activity.

**17.20.7.080 Private stable/barn**

- A. **Minimum lot size.** No livestock shall be kept on a lot less than one acre.
- B. **Density.** No more than 2 head of livestock over the age of 6 months shall be maintained per acre.
- C. **Building setbacks.** New barns, pole barns, stables, and other similar buildings used to house livestock shall observe the building setback standards established for the district plus an additional 10 feet.
- D. **Enclosure required.** Livestock shall be confined within a fence or other suitable enclosure.

**17.20.7.085 Residence, accessory**

**In the C-4 zoning district, only upper level residences are permitted.**

**17.20.7.090 Roadside farmer’s market**

- A. **Time limits.** Sales may occur within a temporary structure not exceeding 100 square feet. The structure shall be removed from November 15 through May 1.
- B. **Parking.** Adequate parking shall be provided in sufficient quantity to satisfy demand.

**17.20.7.100 Storage container**

- A. **Location.** Storage containers on commercially zoned parcels shall conform to the following locational standards:
  - 1. Storage containers shall not be located in a parking area required by this Title.
  - 2. Storage containers shall only be located between the back of the building and rear lot line.

- 3. Storage containers shall observe the setback requirements for the district in which located.
- 4. Storage containers shall not be located in a buffer as may be required by this Title.
- B. **Number.** No more than one storage container shall be located on a commercially zoned parcel.
- C. **Removal of nonconforming containers.** Within 1 month following the effective date of this Title, all existing containers will be made to conform to this section.

**Article 8  
SPECIAL STANDARDS FOR TEMPORARY USES**

**Sections:**

|                    |                             |             |                                  |
|--------------------|-----------------------------|-------------|----------------------------------|
| 17.20.8.010        | General provisions          | 17.20.8.040 | On-site real estate sales office |
| <b>17.20.8.015</b> | <b>Garage Sales</b>         | 17.20.8.050 | Sidewalk café                    |
| 17.20.8.020        | Itinerant outdoor sales     | 17.20.8.060 | Sidewalk food vendor             |
| 17.20.8.030        | On-site construction office |             |                                  |

**17.20.8.010 General provisions**

- A. **Generally.** Prior to establishment, all temporary uses **except for garage sales** shall obtain a temporary use permit from the City. The requirements listed in this section are intended to address land-use related issues. As such, the City Commission may adopt additional requirements relating to the permitting process, hours of operation, specific use requirements, hold harmless provisions, insurance, and others appropriate to the temporary use. At its discretion, the City may develop a single application for all temporary uses or develop an application for each use. No temporary use included in this chapter may be allowed until the City has developed an appropriate application and supplemental requirements.
- B. **Imposition of conditions.** Through the licensing/permitting process, the City may impose additional conditions to ensure that a temporary use does not negatively affect surrounding properties or the public health, safety, or welfare.
- C. **Transfer.** Permits issued by the City are not transferable to another person without the prior written consent of the entity issuing the authorization.
- D. **Temporary uses.** Temporary uses are allowed during a specified time period. When the permit expires, all rights conferred to the permit holder expire as well. The City is under no obligation to reissue a permit.

**17.20.8.015 Garage sales**

- A. **Generally.** A temporary use permit from the City is not required for this temporary use.
- B. **Frequency and duration.** Sales are intended to be conducted no more than twice during a calendar year, for a period of not more than three consecutive days per occurrence.

**17.20.8.020 Itinerant outdoor sales**

- A. **Time limits.** Itinerant outdoor sales shall observe the following time limitations:
  - 1. Christmas trees                      November 15 through December 25
  - 2. Fireworks                                June 30 through July 4
  - 3. Other                                        No more than 5 days in a month on a given parcel of land or more than 20 in a year
- B. **Removal and clean up.** All features associated with the sale shall be removed within 48 hours following the termination of the sale.
- C. **Access.** The premises hosting the itinerant outdoor sale shall have direct access to a collector street or a higher street classification.



**17.20.8.030 On-site construction office**

- A. **Time limits.** A construction office shall be removed within 2 weeks after the issuance of the last occupancy permit for the building under construction.
- B. **Limitation on use.** The use of the office shall be limited to construction management activities associated with the construction activities occurring on the parcel on which it is located.
- C. **Location.** On-site construction offices shall be placed in a reasonable location to limit the impact to adjoining property owners.

**17.20.8.040 On-site real estate sales office**

- A. **When allowed.** An on-site real estate office may be established when the project is developed by a single developer and the project has more than 75 dwelling units available for sale in the first two phases.
- B. **Appearance.** The building that houses the sales office shall be of the same type and character as the dwelling units being offered for sale within the development.
- C. **Time limits.** The office shall be closed when 80 percent of the dwelling units of the entire development have been sold.
- D. **Limitation on use.** The sales office is intended to facilitate the sale of residential housing occurring within the development in which it occurs and off-site sales activity shall be clearly incidental. The sales staff shall be limited to 2 licensed realtors and 1 support staff.

**17.20.8.050 Sidewalk café**

- A. **Generally.** The provisions of this section provide the opportunity for restaurants in identified areas of the City to use adjoining public sidewalks and other public rights-of-way (not to include those controlled by the State of Montana) for the purpose of providing outdoor seating.
- B. **Purpose.** The provisions of this section are intended to accomplish the following purposes:
  - 1. enhance the pedestrian ambiance of the City by promoting additional activity on City sidewalks and visual interest
  - 2. enhance the appropriate use of existing public spaces
  - 3. increase economic activity in the area
- C. **Location.** A sidewalk café shall be located directly in front of the restaurant with which it is associated and it shall be operated solely in conjunction with such restaurant.
- D. **Obstructions.** A sidewalk café may not interfere with any public service facilities located within the street right-of-way, including public telephones, mailboxes, public signs, public benches, public art, public fountains, and bus stops. In addition, a sidewalk café may not interfere with fire escapes, drop ladders, building access points, and other points of normal or emergency access.
- E. **Pedestrian movement.** No portion of the sidewalk café may impede pedestrian movement. Generally, a 4-foot wide unobstructed walkway allows adequate pedestrian movement.
- F. **Planters.** Planters may be used as a visual amenity and to frame off the space allocated for the sidewalk café. The size of plant materials shall be compatible in scale with the immediate area. Hanging planters are not permitted.
- G. **Lighting.** Lighting shall be limited to table top lamps of low intensity. The Director of Community Development may allow additional lighting to provide appropriate levels for safety.
- H. **Furnishings.** All furnishings shall fit the character of a public streetscape. Umbrellas over each table may be permitted if it does not create an obstruction.
- I. **Floor covering.** A floor covering may not be used in the sidewalk café.
- J. **Tables.** Round tables may not exceed 36 inches in diameter and square tables may not exceed 36 inches in width.
- K. **Food preparation.** All food shall be prepared within the restaurant.

**17.20.8.060 Sidewalk food vendor**

- A. **Vendor cart requirements.** Vendor carts shall be wheeled and mobile so that one individual can move and maneuver the cart along the sidewalk, but not motorized. Vendor carts, including all appurtenances, shall not be larger than 36 inches wide, 72 inches long, and 84 inches high.
- B. **Generally.** Vendor carts shall be located upon the sidewalk while in operation. When not in operation, vendor

carts shall be stored on private property consistent with the remainder of this Title.

- C. **Limitations on location.** No vendor shall be located:
  - 1. within 250 feet of any premises selling the same commodity, unless the vendor is associated with said premises,
  - 2. within 100 feet of another vendor, or
  - 3. within 15 feet of a street intersection.
- D. **Trash and litter.** Vendors shall be responsible for maintaining the area around the cart in a neat, clean appearance. Vendors shall provide a trash receptacle and dispose of the refuse at an off-site location (not in public waste receptacles).
- E. **Posting of permits.** All permits necessary to operate the vendor cart shall be posted on the cart in plain view.

**Chapter 24**  
**SUBDIVISION AND PLATTING**

**Sections:**

|           |                               |           |   |
|-----------|-------------------------------|-----------|---|
| 17.24.010 | Legislative findings          | 17.24.110 | Lots  |
| 17.24.020 | Purpose                       | 17.24.120 | Blocks  |
| 17.24.030 | Applicability                 | 17.24.130 | Improvements                                      |
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**17.24.010 Legislative findings**

The City Commission makes the following findings:

1. The Montana Subdivision and Platting Act (MSPA) – Title 76, Chapter 3, MCA, requires each county, city, and town to adopt subdivision regulations consistent with the act.
2. The subdivision of land directly affects the form and function of the City and the quality of life of City residents.
3. Subdivision regulations are needed to recognize and balance the sometimes diverse interests in the subdivision process.
4. The Montana Subdivision and Platting Act prohibits a local unit of government from adopting subdivision regulations that are more stringent than State requirements, unless the local unit of government makes a written finding, after a public hearing and public comment and based on evidence in the public record, that the local standard or requirement (a) protects public health or the environment; and (b) can mitigate harm to the public or environment and is achievable under current technology.
5. Nothing contained in this chapter is intended to be more stringent than State requirements.
6. The provisions of this chapter are adopted in accordance with the City’s adopted growth policy.

**17.24.020 Purpose**

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. prevent the overcrowding of land
2. lessen congestion in the streets and highways
3. provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public improvements
4. require development to be in harmony with the natural environment
5. protect the rights of property owners
6. require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey
7. comply with the requirements of the Montana Subdivision and Platting Act (MSPA) – Title 76, Chapter 3, MCA
8. implement the City’s adopted growth policy

**17.24.030 Applicability**

This chapter applies to all subdivisions submitted for review after the effective date of this Title. The design and development standards do not apply to existing subdivisions and/or lots, unless they are further subdivided.

**17.24.040 Exemptions**

- A. **Exemption for certain divisions of land** (See: 76-3-201, MCA). Unless the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter do not apply to any of the following:
1. A division of land created by order of any court of record in this State or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this State pursuant to the law of eminent domain, Title 70, Chapter 30, MCA. Before a court of record orders a division of land, the court shall notify the City Commission of the pending division and allow the City Commission to present written comment on the division.
  2. A division of land created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes. This exemption applies to the following:
    - a. A division of land of any size.
    - b. If the land that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. A transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection subjects the division of land to the requirements of this chapter.
    - c. To a parcel that is created to provide security. The remainder of the tract of land is subject to the provisions of this chapter if applicable.
  3. A division of land that creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property.
  4. A division of land that creates cemetery lots.
  5. A division of land created by the reservation of a life estate.
  6. A division of land created by lease or rental for farming and agricultural purposes.
  7. A division of land in a location over which the State does not have jurisdiction.
  8. A division of land created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter.
- B. **Structures on complying subdivided lands** (See: 76-3-202, MCA). When the land upon which an improvement is situated has been subdivided in compliance with the requirements of this chapter, the sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement situated on one or more parcels of land is not a division of land and is therefore not subject to the requirements of this chapter.
- C. **Certain condominiums** (See: 76-3-203, MCA). Condominiums constructed on land divided in compliance with this chapter are exempt from the provisions of this chapter if:
1. the approval of the original division of land expressly contemplated the construction of the condominiums and any applicable park dedication requirements in 76-3-621, MCA are complied with; or
  2. the condominium proposal is in conformance with the zoning regulations contained in this Title.
- D. **Conveyances of one or more parts of a structure or improvement** (See: 76-3-204, MCA). The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land, as that term is defined in this chapter, and is not subject to the requirements of this chapter.
- E. **Airport land and State-owned lands** (See: 76-3-205, MCA). A division of land created by lease or rental of contiguous airport-related land owned by a city, a county, the State, or a municipal or regional airport authority is not subject to the requirements of this chapter if the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier-related activities. A division of State-owned land is not subject to the requirements of this chapter unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1974.
- F. **Conveyances executed prior to July 1, 1974** (See: 76-3-206, MCA). The requirements of this chapter do not apply to deeds, contracts, leases, or other conveyances executed prior to July 1, 1974.
- G. **Subdivisions exempted from review but subject to survey requirements and zoning regulations** (See: 76-3-207, MCA). Unless the method of disposition is adopted for the purpose of evading this chapter, the following are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401, MCA and zoning regulations provided by Chapter 20 of this Title:

1. A division of land made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;
2. A division of land made outside of platted subdivisions for the purpose of a single gift or sale in the county to each member of the landowner's immediate family;
3. A division of land made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the governing body and the property owner that the divided land will be used exclusively for agricultural purposes. A change in use of the land exempted for anything other than agricultural purposes subjects the division to the provisions of this chapter.
4. Relocation of common boundaries affecting 5 or fewer lots within a platted subdivision.
5. Aggregation of lots within a platted subdivision.
6. Relocation of a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

A division of land may not be made under this section unless the County Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid. If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made. The County Treasurer may accept the amount of the tax prorated pursuant to this subsection as a partial payment of the total tax that is due.

- H. **Subdivisions exempted from surveying and filing requirements but subject to review provisions** (See: 76-3-208, MCA). Subdivisions created by rent or lease are exempt from the surveying and filing requirements of this chapter but must be submitted for review and approved by the City Commission before portions thereof may be rented or leased.
- I. **Exemption from surveying and platting requirements for lands acquired for State highways** (See: 76-3-209, MCA). Instruments of transfer of land which are acquired for State highways may refer by parcel and project number to State highway plans which have been recorded in compliance with 60-2-209, MCA, and are exempted from the surveying and platting requirements of this chapter. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

#### **17.24.050 Effect of recorded plat**

A final subdivision plat once recorded with the County Clerk and Recorder creates each of the parcels so noted on the plat. A recorded plat may be vacated in whole, or in part, consistent with 76-3-305, MCA. Writing (e.g., notations or statements) on the face of the plat, which relate to the lots being created, shall run with the land, as may be applicable to each parcel, and be binding on each and every property owner of said parcel.

#### **17.24.060 Construction timing**

The subdivider shall not proceed with any construction work, including grading and excavation relating to public improvements, until the governing body has approved the preliminary plat and other permits as may be required by this Title or State law, have been obtained.

#### **17.24.070 Title transfers**

A final subdivision plat shall be filed with the County Clerk and Recorder before title to the subdivided land may be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved, or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following circumstances are met (See: 76-3-303, MCA):

1. Under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in Montana.

2. Under the terms of the contracts and the escrow agreement, the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the County Clerk and Recorder.
3. The contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the County Clerk and Recorder within 2 years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments he has made under the contract.
4. The County Treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent.
5. The contracts conspicuously contain the following language: “The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the County Clerk and Recorder, title to the property cannot be transferred in any manner.”

#### **17.24.080 Overall development plan**

When a proposed subdivision does not cover the entire parcel and the remainder has development potential, the subdivider shall prepare and submit an overall development plan for the entire property as part of the subdivision application. While the submittal of an overall development plan does not bind future development of the remainder, it ensures that the development of the entire property will be coordinated and well conceived.

#### **17.24.090 Disposition of water rights**

If a subdivision will create lots averaging less than 5 acres in size, the subdivider shall submit evidence with the final plat that the subdivider has:

1. reserved all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transferred these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;
2. if the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a landowner’s water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
3. reserved and severed all surface water rights from the land proposed for subdivision.

#### **17.24.100 Subdivision design principles**

- A. **Generally.** Subdivisions shall be designed to avoid adverse impacts. If avoidance of an adverse impact is not possible, then that impact shall be minimized to an acceptable level, if possible, and mitigated as appropriate. It is recognized that unmitigated impacts may be unacceptable and may preclude approval (76-3-608(5), MCA).
- B. **Building sites.** The design and development of a subdivision shall provide satisfactory building sites, which are properly related to topography, and shall, to the extent possible, preserve the natural terrain, natural drainage, trees, and other existing vegetation.
- C. **Specific standards.** Subdivisions shall be designed to:
  1. minimize the amount of impervious surface within the subdivision
  2. preserve the character of the surrounding area
  3. preserve natural features, including wetlands, riparian habitat, and drainage ways
  4. promote a walkable and bicycle-friendly community
  5. create street continuity and an interconnected street network
  6. accommodate the housing needs of City residents
  7. promote other purposes in the City’s growth policy plan

#### **17.24.110 Lots**

- A. **Lot design.** Lots shall conform to the following standards:
  1. No lot shall be divided by another parcel, by a public street right-of-way, or by a private road easement.
  2. No lot shall be divided by a municipal boundary.

3. Each lot shall abut a public or private street that meets the standards of this Title and provides legal and physical access.
  4. Side lot lines shall be at substantially right angles to straight road lines and radial to curved road lines.
  5. No lot shall be wholly located within the 100-year floodplain unless a permanent deed restriction is recorded with the County Clerk and Recorder indicating that the parcel may only be used for agriculture, recreation, or similar use and that no building shall be constructed.
  6. Double frontage lots may only be used to provide separation of residential development from traffic arterials or to overcome specific disadvantages of topography or orientation. Physical and legal access shall only be provided off of the street with the lowest street classification.
- B. **Flag lots.** Flag lots shall be avoided. In no circumstances shall the stem of the parcel exceed 150 feet.
- C. **Lot size.** Lot sizes shall conform to each of the following:
1. Each lot shall have an area sufficient to meet all design and development standards in this Title.
  2. Each lot shall meet the lot size requirements included in Chapter 20 of this Title.
- D. **Buildable area.** Each lot intended to accommodate a building shall contain a suitable site for the intended use. For a single-family lot, the minimum building area is 2,000 square feet configured to accommodate a building footprint of 1,300 square feet. Lots not intended for building purposes shall be so noted on the face of the plat along with the intended use.

#### 17.24.120 Blocks

- A. **Generally.** Blocks shall be designed to:
1. create street continuity and an interconnected street network,
  2. foster bicycle and pedestrian travel,
  3. assure traffic safety,
  4. accommodate the special needs of the use contemplated, and
  5. take advantage of the opportunities or constraints posed by topography or natural features.
- B. **Single- and double-tier blocks.** Blocks with one tier of lots may be located on the perimeter of the subdivision or within the interior of the subdivision when the lots front on a green space or similar feature. Elsewhere, blocks shall consist of two tiers of lots.
- C. **Block dimensions.** A double-tier block shall not be longer than 1,300 feet or less than 300 feet, except where necessary due to topography or other natural feature. The length of a single-tier block on the perimeter of the subdivision shall conform to the standards of a double-tier block, except when the street network from a previously developed area cannot be carried over into the proposed subdivision or when a street from the proposed subdivision can not be carried over into the abutting vacant land due to topography and other similar factors. When a single-tier block fronts on a linear green space that is narrower than 3 times the average width of the lots in the block, the block length shall not exceed 1,600 linear feet. There is no limitation on the length of a single-tier block fronting on a non-linear green space (e.g., park, open space).
- D. **Mid-block pedestrian crossing.** If the length of a double-tier block exceeds 900 feet (as allowed by this part), a mid-block pedestrian sidewalk within an easement or public right-of-way may be provided. Other mid-block pedestrian sidewalks may be required to provide pedestrian access to public amenities, commercial or employment centers, or other pedestrian-oriented areas. Mid-block pedestrian sidewalks shall be well-lit to provide visibility.

#### 17.24.130 Improvements

- A. **Generally.** The subdivider shall provide all infrastructure (on-site and off-site) necessary to serve the subdivision prior to filing of the final plat or enter into an improvement agreement consistent with the provisions of Chapter 68 of this Title. Examples of infrastructure include streets, bridges, alleys, sidewalks, street lights, traffic control signs and other devices, stormwater facilities, water and sewer facilities, telephone lines, natural gas lines, and off-street mail delivery facilities. All off-site improvements shall be directly attributable to the project (76-3-510, MCA).
- B. **Design.** Infrastructure shall meet the requirements of this Title, State and federal requirements, and specifications of service providers as appropriate.

**17.24.140 Utility easements and right-of-way**

- A. **Provision of easements.** The subdivider shall provide easements of sufficient width for the construction and maintenance of utilities that are not located within a right-of-way dedicated to the City.
- B. **Prior authorization within a public right-of-way.** If utility lines are to be placed within an existing public right-of-way, the provider shall obtain prior authorization from the City, county, or State, as appropriate.
- C. **Required easement statement.** In addition to showing the location of utility easements on the subdivision plat, the following statement must appear on the final plat:

The undersigned grants those duly licensed persons providing or offering to provide telephone, electric power, natural gas, cable television, water and sewer service, or other similar service, the right to the joint use of the utility easements shown on this plat for the construction, maintenance, repair, or removal of their lines and other facilities upon advance notice to the affected landowners and consistent with requirements as may be imposed by the City of Great Falls now or in the future.

**17.24.150 Ditch easements**

- A. The subdivider shall establish ditch easements in the subdivision, in locations of appropriate topographic characteristics and sufficient width, to allow the physical placement and unobstructed maintenance of open ditches or belowground pipelines for the delivery of water for irrigation to persons and lands legally entitled to water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of water on the subdivision lots. Establishment of easements is not required if:
  1. The average lot size is less than 1 acre or less and the subdivider provides for disclosure, in a manner acceptable to the City Commission, that adequately notifies potential buyers of lots that are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable(See: 76-3-504(i)(i), MCA); or
  2. The water rights are removed or the process has been initiated to remove the water rights from the subdivided land through an appropriate legal or administrative process and if the removal or intended removal is denoted on the preliminary plat. If removal of water rights is not complete upon filing of the final plat, the subdivider shall provide written notification to prospective buyers of the intent to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions. (See: 76-3-504(i)(ii), MCA)
- B. The subdivider shall, unless otherwise provided for under separate written agreement or filed easement, file and record ditch easements for unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. (See: 76-3-504(k), MCA)

**17.24.160 Street maintenance agreement**

When a street within a subdivision is to remain under private ownership, a street maintenance agreement shall be prepared and recorded consistent with Chapter 32 of this Title.

**17.24.170 Property owner's association**

- A. **When required.** When land (open space, park area, etc.) and/or facilities for the benefit of the subdivision or other development project are held in common by multiple owners, a property owner's association shall be formed consistent with State law and this part.
- B. **Minimum requirements.** The property owner's association shall, at a minimum, provide an agreement that contains the following:
  1. The parcels which are party to the agreement.
  2. A description of the common property (e.g., land and/or facilities) that the property owners will own in common.
  3. The reservation of the common property shall be perpetual, unless otherwise terminated by the City Commission in writing and supported by written findings of fact.



4. The agreement is binding on any person having an interest in a parcel that is subject to the agreement.
  5. A specific mechanism for decision making.
  6. The association is responsible for liability insurance, local taxes, and the maintenance of the common property facilities.
  7. The association shall assess property owners for all costs associated with the common property.
  8. In the event that an assessment becomes delinquent, the assessment, together with interest thereon and the cost of collection shall become a continuing lien on the lot until satisfied.
- C. **Recordation of agreement.** The agreement governing the ownership of the property shall be legally recorded.

**17.24.180 Special provisions for mobile home parks**

Mobile home parks shall meet the special standards contained in Chapter 20 of this Title.

**17.24.190 Special provisions for recreational vehicle parks**

Recreational vehicle parks and campgrounds shall meet the special standards contained in Chapter 20 of this Title.

## Chapter 28 DESIGN REVIEW

### Sections:

|           |   |
|-----------|---|
| 17.28.010 | Generally   |
| 17.28.020 | Legislative findings  |
| 17.28.030 | Purpose   |
| 17.28.040 | Purpose of diagrams and sketches                              |
| 17.28.050 | Standards and guidelines for specified projects and buildings |

### **17.28.010**      **Generally**

This chapter contains both standards and guidelines. Standards are minimum requirements, which must be met and are preceded by “shall”. In contrast, guidelines are preceded by “should”.

### **17.28.020**      **Legislative findings**

The City Commission makes the following findings:

1. The size, location, orientation, and outward appearance of buildings and many other types of structures affect the public realm.
2. Buildings should fit into the context in which they occur.
3. The guidelines in this chapter are intended to provide meaningful guidance to applicants, design professionals, and public officials charged with administering this chapter without dictating a certain architectural style.
4. This chapter is not intended to limit or infringe upon reasonable accommodations to afford a handicapped person equal opportunity to use and enjoy a building.

### **17.28.030**      **Purpose**

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. promote development that is compatible with nearby properties, neighborhood character, and natural features
2. promote street activity
3. reinforce public spaces
4. promote public safety
5. visually enhance development

This chapter is not intended to dictate a certain architectural style, or to restrict creativity, variety, or innovation, but is intended to insure quality of the built environment.

### **17.28.040**      **Purpose of diagrams and sketches**

Diagrams and sketches are used in this chapter to illustrate various provisions and are not intended to limit creativity or alternative design approaches.

### **17.28.050**      **Standards and guidelines for specified projects and buildings**

The following shall comply with the standards and guidelines as listed in Exhibit 28-1, as applicable:

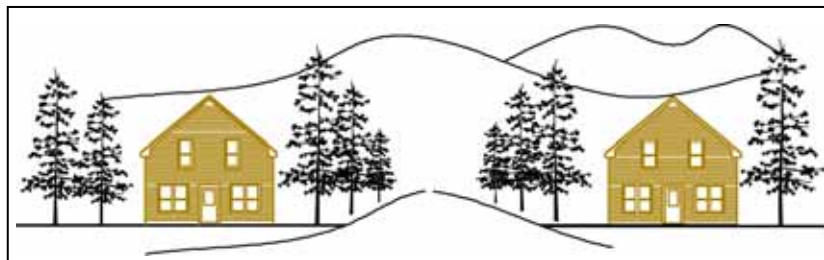
1. commercial buildings in a commercial, **mixed-use (M-1 and M-2), Public Lands and Institutional (PLI), and all residential** zoning districts, including new construction, additions that exceed 500 square feet, and exterior renovations;
2. institutional buildings, including new construction, additions that exceed 500 square feet, and exterior renovations;
3. casinos, including new or relocated casinos, or an expansion or exterior renovation of an existing casino;
4. industrial uses and warehouses in an M-2 Mixed-Use Transitional zoning district;

5. telecommunication towers;
6. new planned unit development (PUD) projects (non-subdivisions);
7. buildings in existing planned unit development (PUD) projects;
8. multi-family residential buildings containing 8 or more dwelling units, including new construction and **exterior** renovations;
9. multi-family residential buildings when additional dwelling units are added resulting in 8 or more units; and
10. any single development project with 2 or more buildings containing a total of 8 or more dwelling units, including exterior renovations to such buildings. (Note: this is not intended to apply to single family development on single lots).
11. Any development project forwarded by the City Commission as a condition of approval for zoning, subdivision, or annexation.

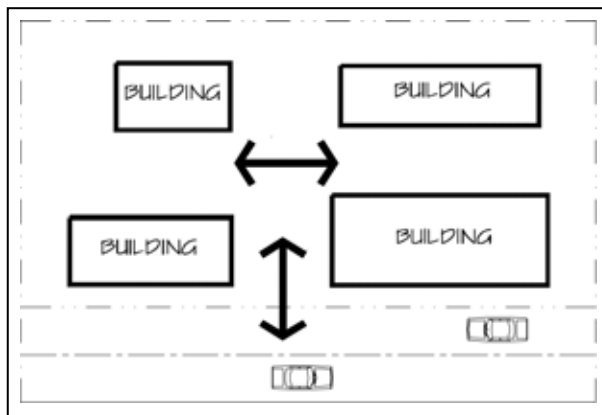
**Exhibit 28-2. Solar exposure**



**Exhibit 28-3. Views**



**Exhibit 28-4. Joint and cross access**



**Exhibit 28-1. Standards and guidelines for specified projects and buildings**

| Applicability    |           |                     |           |          |   |
|------------------|-----------|---------------------|-----------|----------|---|
| New Construction | Expansion | Exterior Renovation | Guideline | Standard |   |
| X                | X         |                     |           |          | 1. <b>Relationship to site conditions.</b> The placement and massing of the building should positively address the natural terrain of the site and how the building will be viewed from outside the site, its relationship and proximity to adjoining buildings, and how the building will be viewed from outside the site from all directions.   |
| X                | X         |                     |           |          | 2. <b>Building placement.</b> Buildings should be located to: (1) take advantage of the site's natural topography and drainage, existing vegetation, and other natural features; (2) maximize natural surveillance and visibility, (3) enhance the character of the surrounding area; and (4) facilitate pedestrian access and circulation.   |
| X                | X         |                     |           |          | 3. <b>Solar exposure.</b> Buildings should be located to take advantage of passive solar efficiencies whenever possible. (See Exhibit 28-2)   |
| X                | X         |                     |           |          | 4. <b>Building shadows.</b> Buildings should be sited and designed to minimize the impacts of shadows on residences, common areas, public spaces, and pedestrian facilities.  |
| X                | X         |                     | X         |          | 5. <b>Views.</b> Whenever possible, buildings should be sited to take advantage of viewsheds. In addition, the obstruction of view-corridors from public rights-of-ways should be avoided. (See Exhibit 28-3)   |
| X                | X         |                     | X         |          | 6. <b>Northerly exposure.</b> In new construction, entrances, drainage facilities, drive-through facilities, etc., should be located on east, west, or south side of a building. Whenever it is absolutely necessary to locate such facilities on a building's north side, corrective measures should be taken to mitigate hazardous accumulations of snow and ice.   |
| X                |           |                     | X         |          | 7. <b>Relation of façade to front lot line.</b> At least 50 percent of the front façade of any building facing the street should be located as close to the front lot line as allowed by the underlying zoning district. (Need to verify applicability to the zoning districts)   |
| X                | X         | X                   | X         |          | 8. <b>Compatibility of exterior materials and finishes with surrounding buildings.</b> Exterior materials should be compatible with those of surrounding buildings.   |
| X                | X         | X                   | X         |          | 9. <b>Consistent use of exterior materials and finishes.</b> Exterior materials and the appearance of rear and side façades should be similar to and compatible with the front façade.  |
| X                | X         | X                   | X         |          | 10. <b>Use of certain exterior materials prohibited.</b> Plain face concrete block may be used as an exterior treatment provided it is not readily visible from a public street or from a residential district. No more than 20 percent of the wall area may be plain face concrete block.  |
| X                | X         |                     | X         |          | 11. <b>Orientation of primary entry.</b> The building's primary entrance should face the public street rather than the interior or rear of the site.  |
| X                | X         |                     | X         |          | 12. <b>Design of primary entry.</b> Primary entrances to buildings should be emphasized with a larger door or "framing" devices (e.g., deep overhangs, recesses, porches, arches, arcades, etc.) or other architectural treatment.  |
| X                | X         |                     | X         |          | 13. <b>Building service areas.</b> Building service areas should be conveniently located and accessible for normal service and maintenance needs. Approaches to such facilities should be adequately engineered for convenient access.  |
| X                | X         |                     | X         |          | 14. <b>Joint and cross-access.</b> Similar, complimentary, and adjacent land uses should provide cross-access between properties and joint access to arterials adjacent to the property. (See Exhibit 28-4)   |
| X                | X         | X                   | X         |          | 15. <b>Consistent architectural standards.</b> Architectural standards within a project should be applied consistently on sides of buildings visible from public rights-of-way and/or adjacent residential zones.   |
| X                | X         | X                   | X         |          | 16. <b>Visual interest and appeal.</b> Architectural design should create visual interest.  |
| X                | X         | X                   | X         |          | 17. <b>Window tinting.</b> Windows on the first floor should be clear or lightly tinted to allow views into the building  |
| X                | X         | X                   | X         |          | 18. <b>Façade design.</b> Use of different textures, complementary colors, shadow lines and contrasting shapes to produce attractive façades should be used. Use of a single color, minimal detailing, and blank walls is discouraged.  |
| X                | X         |                     | X         |          | 19. <b>Building mass.</b> The mass of the proposed building should be compatible with those of surrounding buildings. Potential approaches to reduce the apparent mass include dividing the building mass into smaller sections with the use of vertical and horizontal offsets.  |
| X                | X         | X                   | X         |          | 20. <b>Choice of exterior materials.</b> All exterior materials should be sufficiently durable to insure stability, maintainability, and long life. Natural materials, conveying permanence, such as stone, masonry, beveled wood siding are preferred.   |
| X                | X         | X                   | X         |          | 21. <b>Glare.</b> Reflective surfaces that produce hazardous glares should not be used.   |
| X                | X         | X                   | X         |          | 22. <b>Colors.</b> Development projects involving a large number of buildings should vary the architecture to create visual interest, as well as deter the monotony of identical treatments. One common and effective way to do this is to vary the use of exterior colors. This does not mean that groups of buildings need to drastically vary in color. Rather, to vary wall and trim colors in the same "family" of colors, versus use of identical colors for a substantial number of buildings.   |
| X                | X         |                     |           | X        | 23. <b>Mechanical equipment.</b> Mechanical equipment shall be screened with material compatible with that used architecturally in the structure. The most desirable treatment is where such screening is used as an element of the building design and is consequently made a part of the architecture of the building.  |
| X                | X         |                     | X         |          | 24. <b>Signage.</b> Signs should consist of materials and colors that are similar to and compliment the primary structure. Lettering should be consistent throughout the entire project   |
| X                | X         |                     | X         |          | 25. <b>Minimum proportion of doors and windows.</b> At least 30 percent of the first floor façade facing a public street should consist of windows and doors. Windows should be distributed in a more or less even manner.  |
| X                | X         |                     | X         |          | 26. <b>Large building elevations.</b> When the front elevation of a building is more than 750 square feet in area, the elevation should be divided into distinct planes of 500 square feet or less. This division can occur using various means. The following design features can be used to meet this provision: (1) fascias; (2) canopies and awnings; (3) arcades; (4) functional porches at least 6 feet wide with a roof; (5) bay windows at least 3 feet wide and protruding at least 18 inches from the wall that extends from the top of building foundation to the eave; (6) vertical offsets at least 2 feet wide; and (7) other multidimensional design features. |
| X                | X         | X                   |           | X        | 27. <b>Outdoor lighting.</b> Outdoor lighting shall be consistent with chapter 40 of this Title and as recommended by the Design Review Board.  |
| X                | X         | X                   |           | X        | 28. <b>Landscaping.</b> Landscaping shall be provided consistent with chapter 44 of this Title and as recommended by the Design Review Board.   |
|                  | X         | X                   |           | X        | 29. <b>Exterior storage of materials.</b> Exterior storage of materials in an M-2 zoning district must <b>shall</b> be attractively screened.   |

**Chapter 32**  
**TRANSPORTATION FACILITIES**

**Sections:**

|           |   |           |                                   |
|-----------|---|-----------|-----------------------------------|
| 17.32.010 | Legislative findings                            | 17.32.130 | Traffic calming                   |
| 17.32.020 | Purpose   | 17.32.140 | Common driveways                  |
| 17.32.030 | Street classification                           | 17.32.150 | Driveway access                   |
| 17.32.040 | Improvements constructed at developer's expense | 17.32.160 | Intersection visibility           |
| 17.32.050 | Timing of improvements                          | 17.32.170 | Dedication of streets             |
| 17.32.060 | Traffic impact analysis                         | 17.32.180 | Right-of-way                      |
| 17.32.070 | Facility design requirements                    | 17.32.190 | Bridges                           |
| 17.32.080 | Street layout considerations                    | 17.32.200 | Culverts                          |
| 17.32.090 | Street design standards                         | 17.32.210 | Sidewalks                         |
| 17.32.100 | Alleys  | 17.32.220 | Public transit facilities         |
| 17.32.110 | Street intersections                            | 17.32.230 | Signs and traffic control devices |
| 17.32.120 | Acceleration, deceleration, and bypass lanes    | 17.32.240 | Street name signs                 |
|           |   | 17.32.250 | Off-site improvements             |

**17.32.010 Legislative findings**

The City Commission makes the following findings:

1. A well-developed and well-maintained street system is needed to provide proper access to property and efficient traffic circulation.
2. Streets serve two competing functions: property access and movement of goods and people. When the number of accesses onto a high-traffic street increases, traffic efficiency declines and safety is jeopardized.
3. The function of a street, number of lots served, traffic level, requirements of emergency services, and driver expectations should dictate the street standards in terms of surface width, right-of-way width, maximum grade, and so on. For example, a high-traffic street should be built to a higher standard than a street that serves a few residential lots.
4. An interconnected street system is preferable to a street system where cul-de-sacs are used extensively.
5. Streets are an important factor in community and subdivision design. Improperly designed streets and intersections can negatively affect the safety and efficiency of public streets, create unnecessary maintenance costs, limit a parcel's development potential, and limit a project's desirability.
6. Excessive street standards that do not further the public health, safety, and welfare are unnecessary and add to development costs.
7. Traffic control devices at high-traffic locations are needed to ensure efficient and safe vehicular and pedestrian movement.
8. The advantages of a single access point to a major residential project (greater sense of security and elimination of through-traffic) are outweighed by the advantages of multiple access points, which include reduced internal congestion and diffusion of the development's full traffic impact to the external public street system.
9. Street intersections are points of conflict and potential hazard. Street intersections should be designed to afford drivers complete and unobstructed view of approaching traffic to enable them to safely enter or cross the traffic flow.
10. Traffic calming techniques, when properly designed, can be used to enhance safety.

**17.32.020 Purpose**

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. establish a hierarchy of street types with corresponding development standards
2. optimize efficient traffic movement
3. optimize traffic safety

4. ensure legal access to all parcels of land
5. minimize adverse environmental impacts from street development
6. create functional and attractive developments that will be an asset to the community
7. reduce the number of conflict points between pedestrians and vehicles
8. ensure that all streets accommodate the requirements of emergency vehicles for ingress and egress
9. establish standards to ensure adequate sight distances at street intersections so that motorists at an intersection are able to see approaching traffic and allow them to safely enter or cross the traffic flow
10. minimize the surface area of streets, thereby reducing stormwater runoff and increasing groundwater infiltration

#### **17.32.030 Street classification**

- A. **Street types.** All existing and proposed streets in the City shall be classified as one of the following:
1. principal arterial
  2. minor arterial
  3. collector
  4. local
- B. **Classification of existing streets.** Existing streets are classified as documented in the “Great Falls Area Transportation Plan – 2003”, as may be amended from time to time.
- C. **Classification of proposed streets.** Proposed streets shall be classified based on function, anticipated traffic speed, and average daily traffic (ADT). The estimates for ADT shall be based on trip generation rates from the most current edition of "Trip Generation" (published by the Institute of Transportation Engineers). Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions.

#### **17.32.040 Improvements constructed at developer's expense**

The developer shall provide streets and associated improvements consistent with this chapter.

#### **17.32.050 Timing of improvements**

Improvements required by this chapter shall be completed according to the schedule in Chapter 68 of this Title.

#### **17.32.060 Traffic impact analysis**

- A. **When required.** A traffic impact analysis shall be prepared when the peak hour traffic of the proposed development at build-out exceeds 300 trip ends. When the peak hour traffic is between 200 and 299 trip ends, the City may require a traffic impact analysis when circumstances warrant such review.
- B. **Preparation.** When a traffic impact analysis is required, the applicant shall hire an engineer as approved by the City. The approved engineer shall have expertise in transportation planning.
- C. **Trip generation rates.** Trip generation rates for various land uses shall be based on the manual entitled "Trip Generation" (latest edition) published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if it can be shown that the alternative source better reflects local conditions.
- D. **Form and content.** The traffic impact analysis shall be in written form along with supporting maps and other information as appropriate. At a minimum, the report shall include the following elements:
1. existing traffic circulation conditions and patterns
  2. anticipated traffic circulation conditions and patterns
  3. effects of the project on the street network
  4. recommendations/alternatives to alleviate negative effects

#### **17.32.070 Facility design requirements**

- A. **Qualifications.** All transportation facilities that may be required in this chapter shall be designed by and constructed under the supervision of a registered professional engineer.
- B. **Approval required prior to construction.** Prior to construction, the registered professional engineer shall submit a complete set of plans and specifications for the project to the City Engineer for review and approval.
- C. **As-built drawings.** A registered professional engineer shall submit a set of as-built drawings to the City Engineer

within 4 months following completion of the work.

**17.32.080 Street layout considerations**

- A. **Consistency with growth policy and others.** All new streets shall be consistent with the City’s adopted growth policy, the document entitled the “Great Falls Area Transportation Plan – 2003”, and neighborhood plans that may be adopted, all of which may be amended from time to time.
- B. **Avoidance of environmentally sensitive areas.** Streets shall be laid out to avoid environmentally sensitive areas, such as wetlands.
- C. **Through traffic.** Streets shall be laid out to encourage inter-neighborhood travel but discourage unrelated through travel and speeding.
- D. **Coordination with adjoining parcels.** Streets in a new development shall be connected to right-of-way in adjacent areas to allow for inter-neighborhood traffic flow. If adjacent lands are unplatted, stub outs in the new development shall be provided for future connection to the adjacent unplatted land. When topographic or other conditions make such continuation undesirable, and/or impractical, the Director of the Planning Department, in consultation with the City Engineer, may waive or modify this requirement.
- E. **River crossings.** Where a street crosses a river or stream, the street shall intersect the waterbody at right angles, except where impracticable due to environmental damage, excessive construction costs, and other factors.
- F. **Divided streets.** The City Engineer may permit and may require divided streets to protect environmental features. For divided streets, the design standards shall be applied to the aggregate dimensions of the two segments.

**17.32.090 Street design standards**

- A. **Guardrails.** In areas of excessive fill or steep back slopes, roadside guardrail shall be installed consistent with the standards in “Roadside Design Guide” (January 1996) as published by the American Association of State Highway and Transportation Officials (AASHTO).
- B. **Pavement design.** A pavement design report shall be prepared for all street projects by a registered professional engineer, or other qualified professional approved by the City Engineer, and submitted to the City Engineer for review and approval. The design shall be based on site characteristics (e.g., soils) and based on at least a 20-year performance period traffic volume; however, the minimum design lane equivalent 18,000 pound single axle load (ESAL) used in the pavement design must not be less than 50,000 ESAL. Pavement thickness shall be consistent with the standards contained in the current AASHTO “Guide for Design of Pavement Structures” or the current Asphalt Institute Manual Series No. 1 (MS-1).
- C. **Cut and fill slopes.** Cut and fill slopes shall meet the standards in Exhibit 32-1. When these standards can not be met because of steep terrain, limited right-of-way, or other site constraint, a geotechnical report shall be prepared by a professional engineer and submitted to the City Engineer for review and approval. The geotechnical report shall contain, at a minimum, the following:
  - 1. An explanation of why the standards can not be met.
  - 2. A description of the soil types encountered at the site and their properties.
  - 3. An assessment of soil slope stability.
  - 4. A copy of any boring logs, if any were taken.
  - 5. A description of the recommended design, supported by design calculations.
 If other slope stabilization measures are necessary (e.g., soil pinning, retaining walls), the geotechnical report shall also include the following information:
  - 1. Settlement characteristics of the soil, including amount of settlement expected, time rate of settlement, surcharge or camber if required.

**Exhibit 32-1. Standards for back slope and fill slope under normal conditions**

| Allowable Back Slope |            |
|----------------------|------------|
| Cut Depth            | Back Slope |
| 0 – 5 feet           | 5:1        |
| 5 – 10 feet          | 4:1        |
| 10 – 15 feet         | 3:1        |
| 15 – 20 feet         | 2:1        |
| > 20 feet            | 1.5:1      |
| Allowable Fill Slope |            |
| Fill Height          | Fill Slope |
| 0 – 10 feet          | 6:1        |
| 10 – 20 feet         | 4:1        |
| 20 – 30 feet         | 3:1        |
| > 30 feet            | 2:1        |

- 2. Bearing capacity of the soil.
- 3. Expected skin friction of the soil if piles or drilled shafts are proposed.
- 4. Soil pressure, stability, and alternates (if a soil retaining wall is being considered).
- D. **Cul-de-sacs.** Cul-de-sacs must meet a 42½-foot radius from center of cul-de-sac to back of curb, a 55-foot radius on the right-of-way, and cannot be longer than 500 feet.
- E. **Temporary dead-end streets.** When a street terminates in the first phase of a multi-phase project or where it is intended that the street will continue into an adjoining vacant parcel when it develops, a temporary cul-de-sac shall be provided. Upon completion of the connection, the temporary cul-de-sac shall be removed and the street cross-section completed.
- F. **Street grades.** Street grades shall conform to the standards of Exhibit 32-2.

**Exhibit 32-2. Street and alley standards**

|                           | <b>Principal Arterial</b> | <b>Minor Arterial</b> | <b>Collector</b> | <b>Local Street</b> | <b>Alley</b> |
|---------------------------|---------------------------|-----------------------|------------------|---------------------|--------------|
| Right-of-way width (feet) | 110                       | 100                   | 80               | 60                  | 20           |
| Maximum grade (percent)   | 5                         | 7                     | 10               | 10                  | 10           |
| Minimum grade (percent)   | 0.5                       | 0.5                   | 0.5              | 0.5                 | 0.5          |

- G. **Curved streets.** Curved collector streets shall have a centerline radius of not less than two hundred fifty feet. Curved local (minor) streets shall have a centerline radius of not less than one hundred feet.

**17.32.100 Alleys**

- A. **Generally.** Alleys may be used to provide access to the rear yard. When an alley is available, vehicular access to the lot is encouraged from the alley and not from the street. If located on a corner lot, access may be from the side of the lot.
- B. **Standards.** The travel surface of an alley shall be between 10 and 12 feet wide within a right-of-way width as specified in Exhibit 32-2.

**17.32.110 Street intersections**

Street intersections shall meet the following standards:

- 1. **Offsets.** New intersections along one side on an existing street shall, where possible, coincide with existing intersections. When an offset is necessary, the distance between centerlines of the intersecting streets shall be no less than 125 feet for local streets. When the street is a collector or arterial, the minimum separation shall be 300 feet.
- 2. **Angle of intersection.** Streets shall intersect at right angles, except when topography or other natural features precludes such alignment. In no case shall the angle of intersection be less than 60 degrees.
- 3. **Number of streets.** No more than 2 streets may intersect at a given location.

**17.32.120 Acceleration, deceleration, and bypass lanes**

Acceleration, deceleration, and bypass lanes shall be provided on principal and minor arterials as may be required to maintain traffic safety and/or efficiency.

**17.32.130 Traffic calming**

A developer may propose and the City may require traffic calming techniques when necessary to provide for traffic safety and to promote pedestrian travel. Examples are included in Appendix C to this Title. The specific measure being proposed, or required, shall be determined on a case-by-case basis.

**17.32.140 Common driveways**

- A. **Generally.** A common driveway with one curb cut shall be used on minor arterials or principal arterials whenever possible to serve two or more properties.
- B. **Easement required.** The common driveway shall be located within an easement which shall be recorded with the



County Clerk and Recorder. The easement shall run with the land and can only be terminated by written agreement of all of the affected property owners.

**17.32.150 Driveway access**

A. **Generally.** Prior to the installation of a driveway curb cut or other access point onto a public street or right of way, the developer or owner shall obtain approval from the Montana Department of Transportation, Cascade County, or from the City.

B. **Width.** Curb cuts shall not be wider than the widths listed in Exhibit 32-3. For single family and duplex uses, the width of curb cuts shall conform to the standards listed in Exhibit 32-3 or the following, whichever is more restrictive:

1. for lots less than 61 feet in width of frontage, the cumulative width of curb cuts shall not be more than 30% of the lot frontage width.
2. for lots 61 feet or greater width of frontage, the cumulative width of curb cuts shall not be more than 35% of the lot frontage width.

C. **Number.** The number of curb cuts shall conform to the standards listed in Exhibit 32-4.

D. **Location.** Curb cuts shall be located at the discretion and by the approval of the City Engineer to ensure traffic safety and the character of the neighborhood is maintained.

E. **Off street parking.** Approval of curb cuts to serve off street parking that is not connected to a garage or covered carport in residential areas is discouraged and shall be at the discretion of the City Engineer.

F. **Drainage structures.** All driveways shall be constructed so as to not impair drainage within the right-of-way nor alter the stability of the roadway subgrade and at the same time not impair or materially alter drainage of the adjacent areas. All drainage structures required within the public right of way and under the driveways as a result of the property being developed shall be installed in accordance with the standards of the City.

G. **Driveway paving.** Driveways connecting to a public street must be surfaced and maintained with a cement or asphaltic concrete. Paving of driveways connecting to a public street in an R-1 Zoning District shall be required at the discretion of the City Engineer.

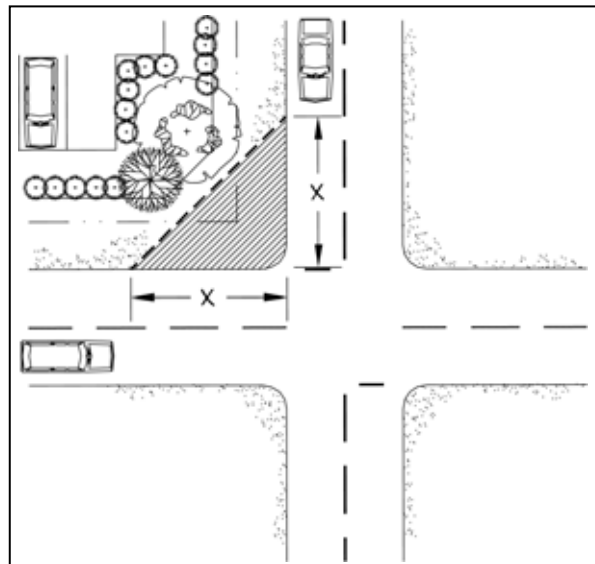
**Exhibit 32-3. Maximum curbcut widths**

| Type of Use   | Maximum Width  |
|---|--|
| Single-family residential & Duplex<br><i>*(see 17.32.150(B) for further restrictions)</i> | <ul style="list-style-type: none"> <li>• One stall, 10 feet*</li> <li>• Two stalls, 20 feet*</li> <li>• Three or more stalls, 30 feet*</li> <li>• 30 feet is the maximum allowed width*</li> </ul> |
| Multi-family  | <ul style="list-style-type: none"> <li>• 24 feet, two-way</li> <li>• 12 feet, one-way</li> </ul>   |
| Commercial zoning district  | <ul style="list-style-type: none"> <li>• 36 feet, two-way</li> <li>• 45 feet with City Engineer approval</li> </ul>  |
| Industrial zoning district  | <ul style="list-style-type: none"> <li>• 45 feet</li> <li>• 55 feet with City Engineer approval</li> </ul>   |

**Exhibit 32-4. Number of curb cuts**

| Residential Lot Frontage               | Number Allowed |
|--|----------------|
| less than 101 feet                     | 1              |
| 101 feet or more                       | 2              |
| Commercial/Industrial/PLI Lot Frontage | Number Allowed |
| Less than 51 feet                      | 1              |
| 51 feet to 600 feet                    | 2              |
| More than 600 feet                     | 3              |

**Exhibit 32-5. Clear visibility triangle**



**17.32.160 Intersection visibility**

A. **Generally.** To provide motorists with a clear view of

intersecting streets, **alleys and driveways**, nothing within the clear visibility triangle shall be erected, placed, parked, planted, or allowed to grow at a level between 2.5 feet and 8 feet above the adjoining street center line surface elevation. A tree whose branches are 8 feet or higher may be located in this area.

- B. Size.** The configuration of a clear visibility triangle is shown in Exhibit 32-5 and the length of each leg **measured along the curbline or edge of roadway**, (indicated on Exhibit 32-5 as “x”) shall be **45 feet for street intersections, and 10 feet for alleys and 15 feet for driveways.**
- C. Exemption.** **Properties in the C-4 Central Business zoning district are required to comply with the provisions in this section unless compliance is not possible due to the setback of the building.**

**17.32.170 Dedication of streets**

- A. Streets shall be dedicated to the City upon completion, inspection, and acceptance by the City.
- B. Private streets may be allowed within developments that will remain under common ownership, provided they are designed and constructed pursuant to the standards as provided for in this chapter, a homeowner’s association is formed to own the parcel containing the street and a street maintenance agreement is filed as provided for in this chapter.

**17.32.180 Right-of-way**

- A. **Width.** Right-of-way widths shall be provided for new streets and alleys consistent with Exhibit 32-2.
- B. **Allowable uses within right-of-way.** The following may be placed within the right-of-way subject to applicable specifications: streets, sidewalks, pedestrian ways, bikeways, and public or private utilities, including, sanitary sewer, potable water, telephone wires, cable television wires, gas lines, or electricity transmission.

**17.32.190 Bridges**

- A. **Load capacity.** Bridges shall have a load capacity of H-20 (as described by the American Association of State Highway Officials).
- B. **Width.** The bridge shall be at least as wide as the street surface.
- C. **Vertical clearance over another street.** Where a bridge passes over another street, there shall be a vertical clearance of at least 14.5 feet.
- D. **Bridges.** When a bridge crosses a watercourse or channel, it shall be designed to handle storm events as listed in Exhibit 32-6.

**17.32.200 Culverts**

Culverts shall be installed where appropriate and designed to handle storm events as listed in Exhibit 32-6. Under no circumstance shall the cross-section of the culvert be smaller than 15 inches in diameter.

**17.32.210 Sidewalks**

- A. **When required.** Sidewalks shall be provided on both sides of public and private streets, but not alleys. In addition, sidewalks shall be constructed within a development when necessary to provide safe pedestrian access within the project.
- B. **Location.** Sidewalks in residential areas shall be separated from the street by a boulevard area that is at least 6 feet in width. In areas where the topography or other physical feature prevents this type of placement, the City Engineer shall approve a suitable alternative.
- C. **Cross-walks within development projects.** When a sidewalk crosses a street internal to the project, a pedestrian crossing shall be constructed to provide for safe passage. Appropriate design features may include pavement treatments, signals, lighting, traffic-calming features, median-refuge areas, signs, and striping.
- D. **Access for physically handicapped persons.** Sidewalks shall be handicapped accessible consistent with federal, State, and local requirements.

**Exhibit 32-6. Sizing for bridges and culverts**

|                    | <b>Storm Event</b> |
|--------------------|--------------------|
| Principal arterial | 50-year            |
| Minor arterial     | 50-year            |
| Collector          | 25-year            |
| Local              | 25-year            |
| Driveway           | 10-year            |

**17.32.220 Public transit facilities**

If the proposed development project fronts on, or contains, a public street designated as a transit route by the Great Falls Transit District and the potential ridership generated by the proposed project at build-out warrants the establishment of a transit stop, the City Commission may require the developer to provide those facilities necessary to accommodate a transit stop. Such facilities include, a pull-out lane, signage, pedestrian access, lighting, and bike racks.

**17.32.230 Signs and traffic control devices**

Traffic control devices shall be installed at intersections and other locations deemed necessary by the City Engineer to provide safety for motorists and pedestrians. Such devices shall meet the specifications contained in the Manual of Uniform Traffic Control Devices (MUTCD) and any amendments made thereto.

**17.32.240 Street name signs**

- A. **Number and where required.** At least one street name sign shall be installed at a street intersection.
- B. **Sign appearance.** When the street is a public street, street name signs shall be consistent with City standards. When the street is private, the developer may install alternate signs, provided the street maintenance agreement includes a mechanism for maintenance of the signs and the design is consistent throughout the project.
- C. **Names.** Street names shall be approved by the Planning Department.

**17.32.250 Off-site improvements**

The developer shall provide off-site transportation improvements to the extent deemed necessary by the City to accommodate the development project. The requirement for such improvements would be based upon a direct correlation between the development project and any corresponding offsite improvements identified through a traffic impact analysis, if required.

## Chapter 36 PARKING

### Articles:

1. General provisions
2. Vehicle parking
3. Bicycle parking
4. Loading areas

### Article 1 GENERAL PROVISIONS

#### Sections:

- 17.36.1.010 Legislative findings
- 17.36.1.020 Purpose
- 17.36.1.030 Applicability
- 17.36.1.040 Calculations

#### **17.36.1.010 Legislative findings**

The City Commission makes the following findings:

1. The design of parking areas is critically important to the economic viability of commercial areas, pedestrian and driver safety, the efficient and safe operation of adjoining streets, and community image and livability.
2. Standards are needed to establish the minimum and maximum number of parking spaces that are needed to serve various land uses.
3. Excessive parking lots reduce density, increase the cost of development, create an unhealthy built environment, contribute to the heat island effect associated with urban areas, and decrease the infiltration of stormwater into the ground.
4. Special standards are needed to accommodate the needs of the disabled.
5. A growing number of people use or would like to use bicycles for recreation, commuting, and general transportation.
6. Inadequate bicycle parking facilities and fear of theft are major deterrents to bicycle transportation.
7. Shared parking can reduce parking facility costs (including aesthetic and environmental impacts), allows greater flexibility in facility location and site design, and encourages more efficient land use.
8. Parking lots and their access represent a vital connection between the local transportation network and land development.
9. Incorrectly designed parking lots and site access have negative impacts on the site itself, the adjacent and nearby public roadways and the image of the business district, river corridor, and the City.

#### **17.36.1.020 Purpose**

This chapter is established to promote the public health, safety, and general welfare and is intended to accomplish the following purposes:

1. increase the safety and capacity of public streets by requiring off-street parking or off-street loading facilities
2. minimize adverse effects of off-street parking and off-street loading facilities on adjacent properties and surrounding neighborhoods through the requirement of design and maintenance standards
3. lessen congestion and prevent the overtaxing of public streets by regulating the location and capacity of accessory off-street parking or off-street loading facilities
4. maintain and enhance a safe and efficient transportation system
5. provide adequate and safe facilities for the storage of bicycles

**17.36.1.030 Applicability**

- A. **New construction/uses.** For all buildings and structures erected and all uses of land established after the effective date of this chapter, facilities required in this chapter shall be provided as specified.
- B. **Same use with an increase in intensity of use.** When a building, structure, or premises is increased through the addition of dwelling units, gross floor area, seating capacity, or other unit of measurement specified herein, facilities required in this chapter shall be provided for the amount being added.
- C. **Change in use.** When an existing use is changed to a new use, facilities required in this chapter shall be provided as required for such new use. However, if the building or structure housing the new use was erected prior to the effective date of this chapter, facilities required in this chapter shall be provided in the amount to account for the difference between the new and old use.
- D. **Restriping.** When a parking area is restriped, accessible parking spaces, as required by the federal Americans with Disabilities Act, shall be marked and designated consistent with this chapter.

**17.36.1.040 Calculations**

When a calculation results in a fraction, the minimum shall be rounded up to the next whole number.

**Article 2  
VEHICLE PARKING**

**Sections:**

|             |   |             |  |
|-------------|---|-------------|--|
| 17.36.2.010 | General requirements                      | 17.36.2.060 | Shared parking                           |
| 17.36.2.020 | Minimum off-street parking requirements   | 17.36.2.070 | Accessible parking and passenger loading |
| 17.36.2.030 | Construction and maintenance requirements | 17.36.2.080 | Passenger loading zone                   |
| 17.36.2.040 | Design requirements                       |             |  |
| 17.36.2.050 | Payment in lieu of parking                |             |  |

**17.36.2.010 General requirements**

- A. **Location of parking.** All parking spaces provided pursuant to this article shall be on the same lot or an adjoining lot with the building, except that the Director of Community Development may permit the parking spaces to be on a lot within 400 feet of the lot served by the parking lot if he/she determines that it is impractical to provide parking on the same or adjoining lot.
- B. **Off-site parking agreements.** If required parking is to be provided off-site, the use of such a site for parking shall be secured with a long-term agreement acceptable to the City and recorded with the County Clerk and Recorder. The City shall be named in that agreement as one of the parties with rights of enforcement.
- ~~C. **Front and side yard prohibition.** Off street parking for residential uses shall not be located within the setback of a lot frontage. This may be either a front or side yard setback, depending upon the lot location and configuration. It is not intended to apply to the rear yard setback of a lot bordering an alley.~~
- ~~D. **Change in use.** Any area once designated as required parking shall not be changed to any other use unless and until equal facilities are provided elsewhere, in accordance with this article.~~
- ~~E. **Accessibility.** All parking spaces shall be accessible at all times, from a street, alley, or driveway intended to serve such parking.~~
- ~~F. **Use of parking spaces.** The required off-street parking shall be for occupants, employees, visitors, and patrons. The storage of merchandise, supplies, motor vehicles for sale, or the repair of vehicles on such parking area is prohibited. In addition, the use of a parking lot for overnight camping, including recreational vehicle camping, is prohibited.~~

**17.36.2.020 Minimum off-street parking requirements**

- A. **Minimum number of spaces.** The number of off-street parking spaces required shall be no less than as set forth in Exhibit 36-1, except as otherwise provided for in this chapter.
- B. **Maximum number of spaces.** The number of parking spaces provided in a ground surface parking lot may not exceed the minimum number by more than 20 percent. However, there shall be no limitation on the number of parking spaces provided when the spaces exceeding the minimum are located in a parking garage or similar structure. Any additional ground parking spaces above 20 percent shall be allowed only as a conditional use and shall be granted upon a finding that additional spaces are needed for that particular use and/or location.
- C. **Unspecified uses.** For uses not specifically listed in this table, parking requirements shall be based on the most comparable use.
- D. **Mixed use requirements.** For mixed uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses. Off-street parking facilities for one use shall not be considered as providing parking facilities for any other use except when considered shared parking as herein provided.
- E. **Compact cars.** Up to 10 percent of the required number of parking spaces may be sized for compact cars.

**Exhibit 36-1. Non-accessible parking requirements**

| Residential  | Minimum number of required spaces  |
|--|--|
| Single-family dwelling   | 2 per dwelling   |
| Two-family dwelling  | 2 per dwelling   |
| Multi-family dwelling  | 1.5 per dwelling   |
| Retirement home, housing projects for senior citizens              | 1 per 3 dwelling units, plus 1 per employee per shift  |
| Motel, hotel   | 1 per guest unit, plus 1 per employee per shift  |
| Fraternalities, sororities, cooperatives, and dormitories          | 1 for each 3 occupants for which sleeping facilities are provided  |
| Boarding houses, lodging homes, and similar                        | 1 per guest unit   |
| Institutional  |  |
| Convalescent homes, nursing home, rest home                        | 1 per 5 beds, plus 1 per employee per shift  |
| Church, temple, club, lodge, funeral home, auditorium, and similar | 1 per 5 seats or 1 per 50 square feet of assemblage area, whichever is greater   |
| Hospitals  | 1 per bed plus 1 per employee per shift  |
| Libraries, museums, art galleries, cultural institutions           | 1 per 50 square feet   |
| Day care centers, preschools, nursery schools                      | 1 per employee per shift plus 1 for each five children the facility is licensed by the State to accommodate  |
| Schools, elementary and junior high                                | 2 per classroom or 1 per 5 seats in the auditorium or gymnasium or 1 per 50 square feet of assemblage area, whichever is greater   |
| Schools, senior high, colleges or universities                     | 2 per classroom plus 1 for each 4 students the school is designed to accommodate or 1 per 5 seats in the auditorium or gymnasium or 1 per 50 square feet of assemblage area whichever is greater |
| Commercial   |  |
| Amusement centers, arcades, dance studios, skating rinks           | 1 per 200 square feet of gross floor area  |
| Banks, savings and finance companies                               | 1 per 300 square feet of gross floor area  |
| Bars, lounges, night clubs, taverns, casinos                       | 1 per 2.5 seats plus 1 per employee per shift  |
| Beauty and barber shops  | 2 per barber or beauty shop chair  |
| Bowling alleys   | 5 per alley  |

|  |  |
|--|--|
| Drive-in restaurants, fast-food restaurants                                  | 1 per 2.5 seats plus 1 per employee per shift                                      |
| Exercise facilities, health spas   | 1 per 200 square feet of gross floor area  |
| Furniture, home furnishing, appliances                                       | 1 per 800 square feet of gross floor area  |
| Golf Courses   | 3 spaces per hole of main course   |
| Household appliance, small engine, TV, radio and furniture repair            | 1 per 300 square feet of gross floor area  |
| Medical and dental laboratories and clinics                                  | 1 per 250 square feet of gross floor area  |
| Miniature golf courses   | 1 per hole   |
| Motor vehicle maintenance and service shops                                  | 2 per service area including or work bays plus 1 per employee per shift            |
| Movie theaters   | 1 per 4 seats  |
| Newspaper and printing houses, advertising agencies                          | 1 per 300 square feet of gross floor area  |
| Office, business and professional and photography studio                     | 1 per 250 square feet of gross floor area or 1.1 per employee whichever is greater |
| Restaurants, cafes   | 1 per 2.5 seats plus 1 per employee per shift                                      |
| Retail home improvement center   | 1 per 300 square feet of gross floor area  |
| Retail sales if less than 5,000 square feet of floor space                   | 1 per 240 square feet of gross floor area  |
| Retail sales if over 5,000 square feet of floor space                        | 20 plus 1 per 300 square feet in excess of 5,000 square feet                       |
| Stadiums, sports arenas and similar open assemblies                          | 1 per 5 seats plus 1 per 100 square feet of assemblage area without seats          |
| Shoe, clothing and hat repair, laundry, dry cleaning, tailor shop, locksmith | 1 per 300 square feet of gross floor areas   |
| Veterinary clinics   | 1 per examination room plus 1 per employee per shift                               |
| <b>Industrial</b>  |  |
| Warehouses, storage, fright terminals  | 1 per employee per shift   |
| Wholesale business   | 1 per employee per shift plus 1 per 1,000 square feet of gross floor area          |
| Manufacturing, production, assembling, research testing and processing       | 1 per employee per shift   |
| Lumber yards and building supplies   | 1 per employee per shift plus 1 per 1,000 square feet of gross floor area          |
| Heavy equipment, tractor and farm equipment sales and service                | 1 per employee per shift plus 1 per 1,000 square feet of gross floor area          |

**17.36.2.030 Construction and maintenance requirements**

- A. **Surfacing.** All off-street parking areas shall be surfaced and maintained with cement or asphaltic concrete in accordance with standards prescribed by the City Engineer.
- B. **Border barricades.** Every parking area located adjacent to a property line shall be provided with a suitable curb (asphalt or concrete) so as to protect the adjacent property. Such curb shall be placed at least 2 feet from the property line to prevent extension of vehicles beyond the property line.
- C. **Outdoor lighting.** Outdoor lighting shall be provided consistent with chapter 40 of this Title.
- D. **Landscaping.** Landscaping shall be provided consistent with chapter 44 of this Title.
- E. **Curb cuts and driveway access.** Curb cuts and driveway accesses to parking areas shall be provided consistent with chapter 32 of this Title.

**17.36.2.040 Design requirements**

- A. **Parking space dimensions.** Standard and compact parking spaces shall conform to the dimensions in Exhibit 36-2.
- B. **Service drive, when required.** Groups of 3 or more parking spaces, except those in conjunction with single-family or two-family dwellings on a single lot, shall be served by a service drive so that no backward movement or other maneuvering of a vehicle within a public right of way, other than an alley, will be required.
- C. **Service drive, standards.** Service drives shall be designated and constructed to facilitate the flow of traffic, provide maximum safety in traffic ingress and egress and maximum safety of pedestrian and vehicular traffic on the site, and meet the dimensional standards in Exhibit 36-2.
- D. **Drive-through stacking requirements.** Drive-through facilities shall have stacking room for at least six vehicles, including one vehicle at the window (or call box, etc.). Stacked vehicles shall not extend into any public street, road, alley or right-of-way, or required service drive.

**Exhibit 36-2. Dimensional standards for standard and compact parking spaces**

| Angle (a) | Parking Type | Stall Width (b)         | Curb Length (c) | 1-Way aisle Width (d) | 2-Way aisle Width (d) | Stall Depth (e)              |
|-----------|--------------|-------------------------|-----------------|-----------------------|-----------------------|------------------------------|
| 0°        | Standard     | 9 ft.                   | 22 ft. 6 in.    | 12 ft.                | 24 ft.                | <del>8 ft.</del> 9 ft.       |
|           | Compact      | 8 ft.                   | 19 ft. 6 in.    | 12 ft.                | 24 ft.                | <del>7 ft. 6 in.</del> 8 ft. |
| 30°       | Standard     | 10 ft.                  | 18 ft.          | 12 ft.                | 24 ft.                | 17 ft.                       |
|           | Compact      | 8 ft.                   | 15 ft.          | 12 ft.                | 24 ft.                | 14 ft.                       |
| 45°       | Standard     | 10 ft.                  | 12 ft. 6 in.    | 12 ft.                | 24 ft.                | 19 ft.                       |
|           | Compact      | 8 ft.                   | 10 ft. 6 in.    | 12 ft.                | 24 ft.                | 16 ft.                       |
| 60°       | Standard     | 10 ft.                  | 10 ft. 6 in.    | 18 ft.                | 24 ft.                | 20 ft.                       |
|           | Compact      | 8 ft.                   | 8 ft. 6 in.     | 15 ft.                | 24 ft.                | 16 ft. 6 in.                 |
| 90°       | Standard     | <del>10 ft. 6 in.</del> | 9 ft. 6 in.     | 24 ft.                | 25 ft.                | 19 ft.                       |
|           | Compact      | 8 ft.                   | 7 ft. 6 in.     | 22 ft.                | 24 ft.                | 15 ft.                       |

**17.36.2.050 Payment in lieu of parking**

- A. **Generally.** In the central business core district the Director of Community Development may reduce the number of required parking spaces depending on the circumstances of the property and surrounding land uses.
- B. **Payment required.** If the number of required parking spaces is reduced, the applicant shall pay the City \$1,000 for each space reduced. These payments shall be used to provide, maintain, and improve parking areas that serve the central business core district as authorized by the City Commission.



**17.36.2.060 Shared parking**

There may be instances where 2 or more land uses could share the same parking facilities as shown in Exhibit 36-3. The Director of Community Development may, upon application, authorize the joint use of parking facilities required by said uses, provided that:

1. The applicant shows that there is no substantial conflict or overlap in the principal operating hours of the building or use for which the joint use of parking facilities is proposed; and,
2. The parking facility for which joint use is proposed shall be located within 400 feet of the building or use required to provide parking; and,
3. The parties concerned in the joint use of off-street parking facilities shall evidence their agreement for such joint use by a legal instrument approved by the City Attorney as to form and content. Such instrument, when approved as conforming to the provisions of this chapter, shall be recorded in the office of the County Clerk and Recorder and a copy filed with the Community Development Department; and,
4. directional signage is provided where appropriate; and,
5. pedestrian links are direct, clear, and safe; and,
6. Parking lots are located within the same zoning district as the use they serve.

**Exhibit 36-3. Examples of uses that could potentially share a parking area**

| Land uses with typical<br>Weekday peaks   | Land uses with typical<br>evening peaks   | Land uses with typical<br>weekend peaks                            |
|---|---|--|
| Banks<br>Schools<br>Distribution facilities<br>Factories<br>Medical clinics<br>Offices<br>Professional services | Auditoriums<br>Bars and dance halls<br>Meeting halls<br>Restaurants (some types, but not all)<br>Movie theaters | Religious institutions<br>Parks<br>Malls (some types, but not all) |

**17.36.2.070 Accessible parking and passenger loading**

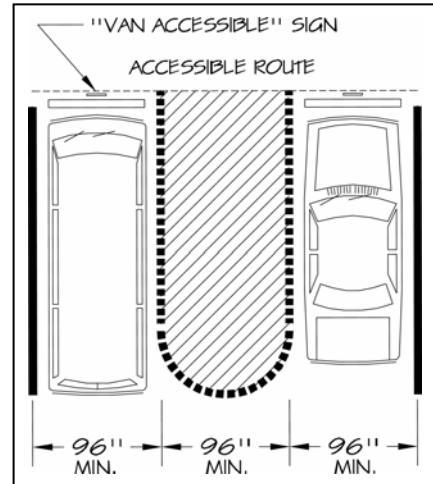
- A. **Generally.** Accessible parking spaces shall be provided subject to this part, the Americans with Disabilities Act (ADA), “ADA Standards for Accessible Design” 28 CFR 36, revised as of July 1, 1994, and amendments thereto.
- B. **Number required.** If parking spaces are required, then accessible spaces shall be provided, ~~in addition to~~ **inclusive of** the required number of regular spaces, in the quantity as shown in Exhibit 36-4. One of 8 accessible parking spaces, but always at least one, must be van-accessible.
- C. **Location.** Accessible spaces serving a particular building shall be located on the shortest accessible route of travel between the parking and the accessible entrance. When there are multiple entrances to a building of similar prominence (e.g., shopping mall) with near-by parking, accessible spaces shall be dispersed and provided at each location. In parking facilities that do not serve a particular building, accessible parking shall be located on the shortest accessible route of travel to an accessible pedestrian entrance of the parking facility.
- D. **Dimensions.** Accessible parking spaces shall be at least 96 inches wide.
- E. **Vertical clearance.** For van-accessible parking spaces, a 98-inch high clearance shall be maintained above the space, access aisle, and on the route to and from the van-accessible space.

**Exhibit 36-4. Minimum number of required accessible parking spaces**

| Total number of<br>required parking<br>spaces | Minimum number of<br>additional    |
|---|------------------------------------|
|   | accessible spaces                  |
| 1 to 25                                       | 1                                  |
| 26 to 50                                      | 2                                  |
| 51 to 75                                      | 3                                  |
| 76 to 100                                     | 4                                  |
| 101 to 150                                    | 5                                  |
| 151 to 200                                    | 6                                  |
| 201 to 300                                    | 7                                  |
| 301 to 400                                    | 8                                  |
| 401 to 500                                    | 9                                  |
| 501 to 1000                                   | 2 percent of total                 |
| 1,001 and over                                | 20, plus 1 for each 100 over 1,000 |

- F. **Maximum slope.** Accessible spaces and adjoining access aisles shall have a maximum slope of 1:50 in all directions. When accessible spaces are provided in an existing parking lot, the spaces shall be located on the most level surface close to the accessible building entrance.
- G. **Signage.** Each accessible space shall be so designated with a sign identified by the international symbol of accessibility mounted on a vertical pole. In addition, van-accessible spaces shall be so designated with a sign indicating “Van Accessible”. Such signs shall be located so they cannot be obscured by a vehicle parked in the space (a minimum of 6 feet in height).
- H. **Pavement striping and markings.** The boundary of the access aisle must be marked and the end of which may be squared or a semicircle. Additional pavement markings denoting the space are optional.
- I. **Accessible route.** An accessible route must be provided from the accessible parking space to the accessible entrance of the building. It must be at least 36 inches wide, without steps or curbs. It shall be paved and not contain any feature that would restrict, inhibit, or unreasonably impeded the movement of a physically disabled individual. (See Exhibit 36-5)
- J. **Access aisle.** An access aisle for an accessible space shall be the same length as the adjacent parking space it serves and be at least 60 inches wide for car access and 96 inches wide for van-accessibility. Two adjoining accessible parking spaces may share a common access aisle. (See Exhibit 36-5) An access aisle for a passenger loading zone shall be 60 inches wide and 20 feet long and adjacent and parallel to the space.

**Exhibit 36-5. Layout of standard and van accessible parking spaces**



**17.36.2.080 Passenger loading zone**

If passenger loading zones are provided in the project, then at least one shall be accessible pursuant to this chapter.

**Article 3  
BICYCLE PARKING**

**17.36.3.010 Bicycle parking**

- A. **Generally.** Bicycle parking may be provided consistent with the recommended standards contained in Exhibit 36-6. When bicycle parking is provided, each such space may substitute for a vehicular parking space up to a maximum of 5 percent of the required number of vehicle parking spaces or 10 spaces, whichever is less. For example, if the standards as applied to a project call for 100 vehicle parking spaces, no more than 5 bicycle parking spaces may be provided if substituted for vehicle parking spaces (95 vehicle parking spaces and 5 bicycle parking spaces).

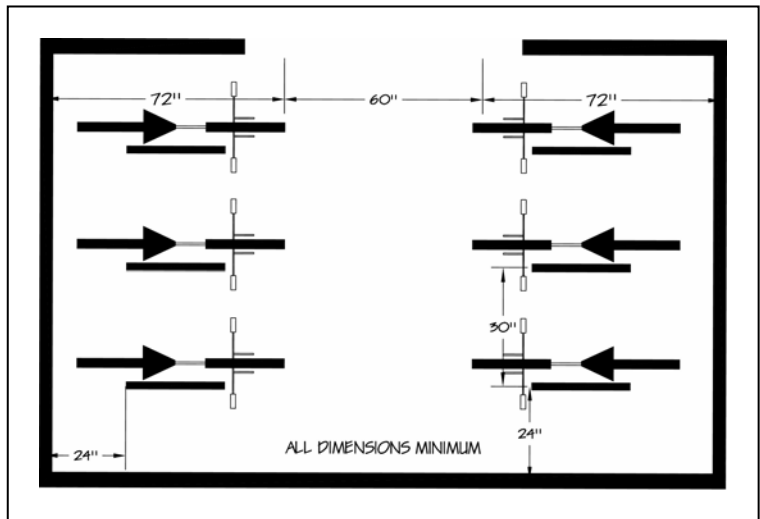
**Exhibit 36-6. Recommended number of bicycle parking spaces**

| Land use                        | Number of recommended spaces                                      |
|---------------------------------|---|
| Multi-family                    | 1 space per 2 apartments  |
| Primary or secondary school     | 10% of the number of students, plus 3% of the number of employees |
| College or university           | 6% of the number of students, plus 3% of the number of employees  |
| Dorms, fraternities, sororities | 1 space per 3 students  |
| Shopping mall                   | 5% of the number of vehicle parking spaces                        |
| Office                          | 5% of the number of vehicle parking spaces                        |
| Governmental                    | 10% of the number of vehicle parking spaces                       |
| Movie theater                   | 5% of the number of vehicle parking spaces                        |
| Restaurant                      | 5% of the number of vehicle parking spaces                        |
| Manufacturing / industrial      | 3% of the number of vehicle parking spaces                        |

|       |   |
|-------|---|
| Other | 5% to 10% of the number of vehicle parking spaces |
|-------|---|

- B. **Location.** Bicycle parking shall be located in visible and prominent locations near the building entrance and shall be as close or closer to the entrance than the nearest parking space. Under no circumstance should bicycle parking be more than 100 feet from the entrance. Where there is more than one building on a site, or where a building has more than one main entrance, the parking must be distributed to serve all buildings or main entrances. If possible, racks should be protected from the elements by an awning, overhang, or similar covering. Racks should not be placed so they block the entrance or inhibit pedestrian flow in or out of the building.
- C. **Design.** Bicycle parking areas should be incorporated into the overall building design, parking lot layout, and pedestrian circulation and coordinated with street furniture (e.g., benches, street lights, planters) when it is part of the overall project.
- D. **Accessibility.** Each parking space shall be accessible without moving another bicycle - generally, allow for 2 feet by 6 feet for each bicycle parking space. Provide an aisle at least 5 feet wide behind all bicycle parking to allow room for maneuvering. (Exhibit 36-7)
- E. **Lighting.** Bicycle parking spaces shall have adequate lighting to promote security and avoid vandalism and theft.
- F. **Rack design.** Bicycle parking may be provided in floor, wall, or ceiling mounted racks. Racks shall meet the following requirements:
  1. Holds the bicycle frame, not just a wheel.
  2. Can be used with a U-shaped shackle lock.
  3. Accommodates a wide range of bicycle sizes, wheel sizes, and types.
  4. Is covered with material that will not chip the paint of a bicycle that leans against it.
  5. Does not have hazards, such as sharp edges.
  6. Is securely fastened to the ground.

**Exhibit 36-7. Layout of bicycle parking spaces**



**Article 4  
LOADING AREAS**

**17.36.4.010 Loading areas**

- A. **Number required.** The following and similar types of land uses shall provide loading berths as listed in Exhibit 36-8: museums, banks and other financial institutions, schools (e.g., colleges, universities, high schools, elementary schools, trade schools) hotels/motels, hospitals, health care clinics, department stores, professional offices, warehouses, wholesale facilities, industrial facilities, manufacturing facilities, and trucking terminals.
- B. **Use.** A loading berth, when required, shall be available at all times.
- C. **Location.** Loading facilities shall be located on the same site they are intended to serve. A loading berth may not be located within 75 feet of a residential zoning district.
- D. **Direct access.** Each loading berth shall have direct access to a street or alley without traversing a residential

**Exhibit 36-8. Required number of loading berths**

| Aggregate floor area                      | Number of berths required |
|---|---------------------------|
| Less than 24,999 square feet              | 0                         |
| 25,000 square feet to 50,000 square feet  | 1                         |
| 50,001 square feet to 100,000 square feet | 2                         |
| For each additional 75,000 square feet    | 1 additional              |

zoning district.

- E. **Size.** Exclusive of aisle and maneuvering space, a loading berth shall be at least 12 feet wide, at least 45 feet long, and have at least 14 feet of vertical clearance.
- F. **Surfacing.** All loading areas shall be surfaced and maintained with cement or asphaltic concrete in accordance with standards prescribed by the City Engineer.

**Chapter 44  
LANDSCAPING**

**Articles:**

1. General provisions
2. Boulevard areas and street medians
3. Design standards for commercial, ~~industrial~~, institutional and civic-use buildings
- 4. Design standards for industrial buildings**
45. Design standards for single family, duplex and multi-family dwellings

**Article 1  
GENERAL PROVISIONS**

**Sections:**

|  |  |
|--|--|
| <p>17.44.1.010 Legislative findings</p> <p>17.44.1.020 Purpose</p> <p>17.44.1.030 Installation and maintenance</p> | <p>17.44.1.040 Specifications for landscaping materials</p> <p>17.44.1.050 <del>Use of low-water adaptive vegetation</del><br/><b>Retaining wall standards</b></p> <p>17.44.1.060 Calculations</p> |
|--|--|

**17.44.1.010 Legislative findings**

The City Commission makes the following findings:

1. A healthy environment is an indication of a healthy community.
2. Landscaping is a means of making City living more pleasant.
3. Landscaping helps to maintain and increase property values.
4. Trees and landscaping provide lasting social, economic, environmental, and aesthetic benefits to the community.
5. Flexible standards allow alternative design options that may better fit the needs of the landowner and that may be needed to address unique site characteristics.
6. Landscaped buffers are needed between parcels of incompatible land uses, and as the degree of incompatibility increases, the amount of buffering (width and landscaping) should increase, and vice versa.

**17.44.1.020 Purpose**

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. Make the City more attractive and aesthetically pleasing.
2. Provide flexible standards where possible, rather than rigid requirements.
3. Promote and improve public health and safety through the abatement of noise, glare of lights, dust, and air pollution.
4. Improve the aesthetic appearance of the built environment.
5. Ensure that land uses of different intensity have sufficient buffering between them to minimize negative effects.
6. Create beautiful tree-lined streetscapes.
7. Promote economic development by providing a high quality of life.
8. Enhance ambient environmental conditions by providing shade, air purification, oxygen regeneration, groundwater recharge, storm water runoff retardation, and noise, glare and heat abatement.
9. Encourage the preservation, expansion, protection, and proper maintenance of the community forest.

**17.44.1.030 Installation and maintenance**

- A. **Landscaping and certificate of occupancy.** Prior to the issuance of a certificate of occupancy, all landscaping required in this chapter shall be installed or an improvement guarantee shall be filed and accepted by the City consistent with Chapter 68 of this Title. Interior landscaping for single-family dwellings shall be installed within 1

year from the date of the certificate of occupancy.

**B. Landscape and screening maintenance and replacement. The property owner shall:**

1. **Maintain the landscaping plan as originally approved**
2. **Replace plant materials that have died or have otherwise been damaged or removed**
3. **Maintain all non-live landscaping materials.**

**BC. Standards.** All landscaping shall be installed in accordance with “Arboricultural Standards and Specifications” and shall be live vegetation.

**CD. Mature tree credit.** Mature coverage of existing canopy trees will be computed and applied directly to the required landscaping.

**DE. General maintenance and appearance.** Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance, free from refuse, weeds and debris.

**EF. Joint maintenance responsibility.** The owner, tenant or agent, if any, shall be jointly responsible for the maintenance of all landscaping.

**G. Tree protection and replacement. Existing significant trees that are alive and in healthy condition shall be preserved to the extent reasonably feasible during development or redevelopment, and may help satisfy the landscaping requirements of this chapter. Such trees shall be considered “protected” trees within the meaning of this chapter subject to the exceptions contained in item 3 below. Streets, buildings and lot layouts shall be designed to minimize the disturbance to existing significant trees. All required landscape plans shall accurately identify the locations, species, size and condition of all existing significant trees, each labeled showing the applicant’s intent to either remove, transplant or protect. Where it is not feasible to protect and retain existing significant tree(s), owners are encouraged to transplant them to another on-site location.**

1. **All existing street trees that are located on City rights-of-way abutting the development or redevelopment shall be accurately identified by species, size, location and condition on required landscape plans, and shall be preserved and protected in accordance with the City of Great Falls, “Arboricultural Standards and Specifications.” Unauthorized removal or destruction of such trees shall require the following:**
  - a. **Payment to the City of Great Falls of the value of the trees removed or damaged. The party responsible for the removal or destruction shall select either the City Forester or a qualified landscape appraiser to determine such loss based upon an appraisal of the tree to be removed by using the most recent published methods established by the Council of Tree and Landscape Appraisers; or,**
  - b. **Replacement of lost or damaged trees, as directed by the City, with a sum of total trunk diameters equal to 100% of the trunk diameters of the trees removed. Replacement shall conform to the requirements in Article 2 to this chapter.**
2. **Replacement trees shall meet the following minimum size requirements:**
  - a. **Canopy Shade Trees      2.0” caliper balled and burlap or equivalent**
  - b. **Ornamental Trees        2.0” caliper balled and burlap or equivalent**
  - c. **Evergreen Trees         6’ height balled and burlap or equivalent**
3. **Trees that meet one or more of the following removal criteria shall be exempt from the requirements of this subsection.**
  - a. **dead, dying or naturally fallen trees, or trees found to be a threat to public health, safety or welfare;**
  - b. **trees that are determined by the City to substantially obstruct clear visibility at driveways and intersections;**
  - c. **tree species that constitute a nuisance to the public such as cotton-bearing cottonwood, Siberian Elm and Russian Olive. However, native cotton-bearing cottonwood trees, when located in a natural area buffer zone or riparian area, are not nuisance tree species.**

**17.44.1.040 Specifications for landscaping materials**

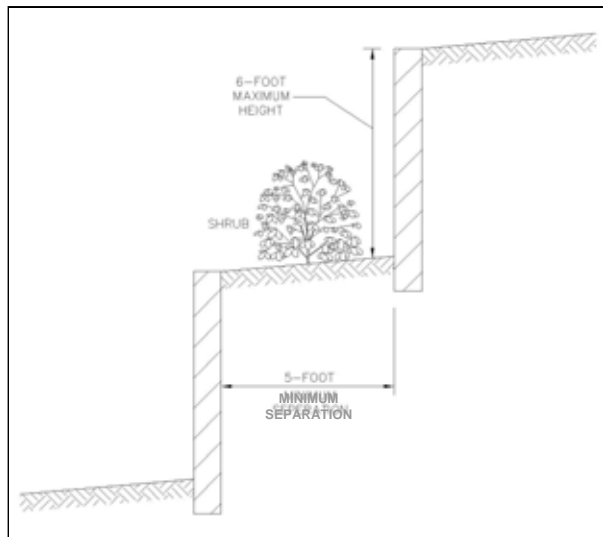
**A. Generally.** All plant material shall be healthy, vigorous, and free of disease and insects. Plant material shall conform to the specifications of the American Association of Nurserymen (AAN) for No. 1 grade.

- B. **Trees.** Trees shall meet the following standards:
  1. Shade trees shall be at least 1½ inches trunk caliper, measured 1 foot above the ground.
  2. Ornamental trees shall be at least 1¼ inches trunk caliper measured 1 foot above the ground.
  3. Evergreen trees shall have a minimum planting height of 5 feet.
- C. **Shrubs.** Shrubs shall be at least 2-gallon container-grown material or of equivalent size if bare-root.
- D. **Groundcover.** Groundcover shall be at least 1-gallon container-grown material or of equivalent size if bare-root.
- E. **Turf.** Turf areas may be sodded or seeded. In areas subject to erosion, sod shall be used. Sod shall be commercially grown and clean and free of weeds, noxious pests, and diseases.
- F. **Mulch.** Where mulch is used as a ground treatment, it shall be applied to a depth of 4 inches. A suitable landscape fabric shall be placed between the soil and mulch to impede weed growth.
- G. **Lawn edging.** It is recommended that lawn edging be installed around all shrub beds.

**17.44.1.050 Use of low-water adaptive vegetation Retaining wall standards**

The use of low-water adaptive vegetation should be incorporated into landscape designs to the extent possible. When the total amount of landscaping in a project, excluding boulevard areas, exceeds 5,000 square feet, at least 30% of the required vegetation shall be low-water adaptive vegetation and planted in one or more groupings. **Retaining walls shall not be taller than 6 feet. A series of more or less parallel retaining walls may be used provided there is at least a 5-foot horizontal separation between the 2 walls and the area is landscaped with shrubs at a rate of at least 10 shrubs per 100 feet (Exhibit 44-1).**

**Exhibit 44-1. Dimensional standards for retaining walls**



**17.44.1.060 Calculations**

When a calculation is used to determine the number of required trees, or the like, and results in a fraction, the requirement shall be considered the whole number (rounded up).

**Article 2  
BOULEVARD AREAS AND STREET MEDIANS**

**Sections:**

- 17.44.2.010 General provisions
- 17.44.2.020 Responsibility for installation of street trees
- 17.44.2.030 Landscaping for street medians
- 17.44.2.040 Landscaping for boulevard areas

**17.44.2.010 General provisions**

- A. **Permit required.** A permit is required to:
  1. plant trees in the boulevard area
  2. remove or prune existing trees in the boulevard area
- B. **Vertical clearance.** Trees shall be pruned to provide vertical clearance of 8 feet over sidewalks and 14 feet over streets.
- C. **Supplemental uses.** Street medians and boulevard areas may contain sidewalks, utility installations, signs, benches, and other structures installed by a public agency.
- D. **Tree selection.** Trees required in this article shall be selected from the list contained in Appendix B.
- E. **Required removal.** Any landscaping in the boulevard area or street median that impedes pedestrian travel or is deemed detrimental to public safety shall be removed immediately by the property owner or agent upon written

notification by the City.

- F. **Mulch.** Mulch must be contained so as to not spill into the street and/or onto the sidewalk. Property owners are required to remove any spillage.

#### **17.44.2.020 Responsibility for installation of street trees**

The property owner wishing to construct a principal building on a vacant lot shall be responsible for installing the street trees consistent with this article.

#### **17.44.2.030 Landscaping for street medians**

- A. **Applicability.** When a median is incorporated into a subdivision, the provisions of this section apply.
- B. **Installation and maintenance responsibility.** The developer shall be responsible for installing the landscaping as part of the project and a homeowners association shall be responsible for perpetual maintenance or the City, at its discretion, may accept responsibility.
- C. **Number of trees required.** At least 2 ornamental trees or one for each 25 feet of length of the median, whichever is more, shall be planted and maintained within the median. By way of example, a median 440 feet long will require 18 ornamental trees and a 40-foot median requires 2 trees.
- D. **Placement of trees.** Ornamental trees shall be planted at least 3 feet from any curb or other pavement.
- E. **Spacing of trees.** Trees shall be spaced more or less evenly along the length of the median taking into account the location of light poles, fire hydrants, and the like and the mature canopy width of existing trees and those being planted.
- F. **Shrubs, flowers and turf grass.** Shrubs, ground cover, and flower beds may be planted in the median to supplement the trees. Turf grass shall be installed within the median except in those areas occupied planting beds for shrubs, ground cover, and/or flowers.

#### **17.44.2.040 Landscaping for boulevard areas**

- A. **Responsibility.** The property owner shall maintain landscaping within the boulevard area not occupied by roadways, curb and gutter, driveways, sidewalks, or crosswalks according to the standards in this article.
- B. **Boulevards in residential areas.** Boulevards in residential areas shall conform to the following standards:
1. Boulevards shall contain grass and trees (with organic mulched reservoirs) and may include shrubs, flowers and/or ornamental plants (with organic mulched reservoirs).
  2. At least one canopy type tree shall be planted and maintained in a boulevard section for each 35 lineal feet of street and avenue frontage or portion thereof, **not covered by driveway, sidewalks, or other approved hard surface.**
  3. Trees shall be spaced more or less evenly along the length of the boulevard area, taking into account the location of light poles, fire hydrants, and the like and the mature canopy width of existing trees and those being planted.
  4. No shrub shall be planted within 5 feet of a fire hydrant or within a clear visibility triangle (as defined in Chapter 32, Section 17.32.160 of this Title) if its mature height will exceed 2½ feet. The height shall be measured from the adjoining street centerline surface elevation.
  5. Landscaping shall be maintained, and those plantings which fail to survive shall be replaced with approved plantings within 3 months.
  6. Materials and vegetation prohibited in a residential boulevard include, but are not limited to, the following:
    - a. artificial vegetation including, but not limited to, trees, shrubs, vines, bushes, flowers, and grass.
    - b. all non-living material except as specifically allowed by this chapter.
    - c. fences/walls (unless approved via a Boulevard Encroachment Permit by the City Engineer).
    - d. gravel/decomposed granite/cobble.
    - e. sand.
- C. **Boulevards in non-residential areas.** Boulevards in non-residential areas shall conform to the following standards:
1. Boulevards shall contain grass and trees, and may contain shrubs, flowers, and/or ornamental plants.
  2. Limited amounts of non-living materials (mulches) are permitted when used in conjunction with shrub and



tree plantings. Acceptable mulches include organic materials (wood chips and shredded bark), and inert inorganic materials (decomposed granite, cobble and gravel). Where mulch is used, a suitable landscape fabric shall be placed between the soil and mulch material to impede weed growth. However, the use of these substitute materials must be specifically approved by the City as part of a landscape plan.

3. In no case shall the boulevard area include more than 25% non-living material, excluding driveways.
4. At least one canopy type tree shall be planted and maintained in the boulevard section for each 35 lineal feet of street and avenue frontage or portion thereof.
5. Trees shall be spaced more or less evenly along the length of the boulevard area, taking into account the location of light poles, fire hydrants, and the like and the mature canopy width of existing trees and those being planted.
6. No shrub shall be planted within 5 feet of a fire hydrant or within a clear visibility triangle (as defined in chapter 32, section 17.32.160 of this Title) if its mature height will exceed 2½ feet. The height shall be measured from the adjoining street centerline surface elevation.
7. Any landscaping in the boulevard area that impedes pedestrian travel or is deemed detrimental to public safety shall be removed immediately by the property owner, tenant, or agency upon written notification of the City.
8. Landscaping shall be maintained and those plantings which fail to survive shall be replaced with approved plantings within 3 months.
9. An automatic irrigation system shall be required of all commercial projects and multi-family projects with 4 or more dwelling units.
10. All non-living material must be contained and shall not spill into the street and/or onto the sidewalk. Owners are required to remove any spillage.
11. Materials and vegetation prohibited in a non-residential boulevard include, but are not limited to, the following:
  - a. artificial vegetation including, but not limited to, trees, shrubs, vines, bushes, flowers, and grass.
  - b. fences/walls (unless approved via a Boulevard Encroachment Permit by the City Engineer).
  - c. sand.

**Article 3**  
**DESIGN STANDARDS FOR COMMERCIAL, INDUSTRIAL, INSTITUTIONAL AND CIVIC-USE BUILDINGS**

**Sections:**

- 17.44.3.010    Applicability
- 17.44.3.020    Submittals
- 17.44.3.030    Landscaping requirements

**17.44.3.010    Applicability**

A. **General applicability.** The landscaping requirements set forth in this article apply to:

1. New buildings constructed after the effective date of this chapter.
2. All buildings being increased in size by at least 20%.
3. **All buildings greater than 20,000 sq. ft. changing occupancy or undergoing interior or exterior remodeling.**
- ~~3.4.~~ New vehicular use areas constructed after the effective date of this chapter.
- ~~4.5.~~ An expansion of a vehicular use area by 20%, if it equates to 5 or more parking spaces.
- ~~5-6.~~ All buildings and vehicular use areas which have been cumulatively increased in size by 25% over a 10-year period.

B. **Exemption.** The following are exempt:

1. Vehicle use areas located within a parking garage or within a building.
- ~~2. Single family dwellings or duplex units.~~

**17.44.3.020 Submittals**

Three copies of all landscape specifications, plans, etc. shall be submitted to the City for review and approval. Plans shall be at a scale of 1" = 20' (for sites one acre or less in size) or 1" = 50' (for sites larger than one acre), and shall include at a minimum:

1. A plant list containing botanical names, common name, plant size, number and variety of each plant used and mature area of coverage of canopy trees.
2. A site plan showing dimensioned location of all plant materials, site amenities (signage, benches, etc.), north arrow, property lines, easements, utilities and otherwise, and adjacent land uses.
3. A plan showing location and construction details for all irrigation systems to be installed.

**17.44.3.030 Landscaping requirements**

- A. **Minimum requirements for interior landscaping.** Minimum square footage of interior landscaping, inclusive of landscaping in vehicular use areas and foundation planting areas, shall be 15% of the gross property area to be developed **or redeveloped** for property located in a commercial zone, and 17% of the gross area to be developed for non-residential uses in residential zones.
- B. **Vehicular use areas requirements.** A portion of the required landscaping, equal to at least 10% of the vehicular use areas, must be located within the vehicular use areas. The following specific standards shall apply:
  1. Each row of parking spaces in interior parking areas shall be terminated by a landscaped island.
  2. There shall be no more than 20 parking spaces in a row without a landscaped island.
  3. Landscaped islands shall have a minimum island dimension (inside curb face to inside curb face) of ~~6~~ **8** feet and shall extend the length of the parking space.
  4. Landscaped areas within a vehicle use area shall be bounded by a continuous concrete curb or other similar barrier approved by the City Engineer.
  5. ~~At least 75% of the area within landscaped islands shall be in turf grass.~~ **Landscaped islands shall contain canopy shade trees, shrubs and/or turf grass.**
  6. Where a vehicular use area abuts a public-use roadway, a minimum 6 feet of landscaping shall be provided between the vehicular use area and the sidewalk with at least 75% of the area in turf grass.
- C. **Mounding requirement adjacent to vehicular use areas.** Landscaping shall be mounded a minimum of 6 inches above the height of adjacent vehicular use areas, but not exceeding 3:1 slope, and shall be protected from vehicular traffic with curbing or other similar barrier approved by the City Engineer.
- D. **Natural amenities.** When a site abuts a natural amenity such as a flood plain, canal, park or other open space, the landscape plan shall integrate with and respect the natural integrity of the amenity.
- E. **Detention and retention areas.** By design, detention and retention areas shall be physically, functionally, and visually integrated into adjacent landscape areas. Standing water is discouraged and shall be properly drained unless incorporated into re-circulating water features or irrigation systems.
- F. **Rate of plantings.** There shall be a minimum of 1 tree and 7 shrubs planted and maintained per 400 square feet, or fraction thereof, of required interior landscaping.
- G. **Buffer and screening between uses.** Where a commercial or non-residential use abuts a residential use, a minimum 15-foot landscape buffer shall be provided along the shared property line. Where vehicular use areas abut adjacent residential property, the lot shall be screened with a decorative masonry or concrete wall at least 4 feet in height, or with evergreen and deciduous trees and shrubs in combination with low soil berms that will provide ample screening within three growing seasons to protect the residential property.
- H. **Boulevard landscaping credit.** 25% of the boulevard landscaping, **excluding sidewalks and driveways**, may be credited to the interior landscaping requirement specified in **item A** above.
- I. **Foundation planting requirements.** For commercial, institutional and civic-use buildings in all commercial ~~and industrial~~ zoning districts, except the C-4 Central Business Core district, at least 50% of the frontage of the building face shall be occupied by a foundation planting bed(s) and at least 20% of the frontage of the side of the building shall be occupied by a foundation planting bed(s). The planting beds shall be at least 4 feet wide, mulched, and contain a mix of vegetation types (annual flowers, perennial flowers, ground cover and shrubs). For example, if a building measures 120 feet on its face (length) by 50 feet (depth), there would be 60 feet of foundation plantings on the face and 10 feet on each of the sides.

**Article 4**  
**DESIGN STANDARDS FOR INDUSTRIAL BUILDINGS**

**Sections:**

- 17.44.4.010**    **Applicability**  
**17.44.4.020**    **Submittals**  
**17.44.4.030**    **Landscaping requirements**

**17.44.4.010**    **Applicability**

- A. General applicability.** The landscaping requirements set forth in this article apply to:
- 1. New buildings constructed after the effective date of this chapter.**
  - 2. New vehicular use areas constructed after the effective date of this chapter.**
  - 3. All buildings and vehicular use areas which have been cumulatively increased in size by 25% over a 10-year period.**
- B. Exemption.** The following are exempt:
- 1. Vehicle use areas located within a parking garage or within a building.**

**17.44.4.020**    **Submittals**

Three copies of all landscape specifications, plans, etc. shall be submitted to the City for review and approval. Plans shall be at a scale of 1" = 20' (for sites one acre or less in size) or 1" = 50' (for sites larger than one acre), and shall include at a minimum:

- 1. A plant list containing botanical names, common name, plant size, number and variety of each plant used and mature area of coverage of canopy trees.**
- 2. A site plan showing dimensioned location of all plant materials, site amenities (signage, benches, etc.), north arrow, property lines, easements, utilities and otherwise, and adjacent land uses.**
- 3. A plan showing location and construction details for all irrigation systems to be installed.**

**17.44.4.030**    **Landscaping requirements**

- A. A minimum of 10% of off-street vehicular use areas must be landscaped. The following specific standards shall apply:**
- 1. Each row of parking spaces in interior parking areas shall be terminated by a landscaped island.**
  - 2. There shall be no more than 20 parking spaces in a row without a landscaped island.**
  - 3. Landscaped islands shall have a minimum island dimension (inside curb face to inside curb face) of 6 feet and shall extend the length of the parking space.**
  - 4. Landscaped areas within a vehicle use area shall be bounded by a continuous concrete curb or other similar barrier approved by the City Engineer.**
  - 5. Landscaped islands shall contain canopy shade trees, shrubs, and/or turf grass.**
  - 6. Where a vehicular use area abuts a public-use roadway, a minimum of 8 feet (in depth) of landscaping shall be provided between the vehicular use area and the sidewalk with at least 75% of the area in turf grass.**
- B. Boulevard Landscaping.** Landscaping for boulevards in the Industrial Use areas will conform to the standards listed in 17.44.2.040(C).
- C. Foundation planting requirements.** For buildings in all industrial zoning districts, at least 50% of the frontage of the building face shall be occupied by a foundation planting bed(s). The planting beds shall be at least 4 feet wide, mulched, and contain a mix of vegetation types (annual flowers, perennial flowers, ground cover and shrubs). For example, if a building measures 120 feet on its face, there would be 60 feet of foundation plantings.
- D. Buffer and screening between uses.** Where an industrial use abuts a non-industrial use, a minimum 15-foot landscape buffer shall be provided along the shared property line. Where vehicular use areas abut adjacent residential property, the lot shall be screened with a decorative masonry or concrete wall at least 4 feet in height, or with evergreen and deciduous trees and shrubs in combination with low soil berms that will provide ample screening within three growing seasons to protect the residential property.

- E. Natural amenities.** When a site abuts a natural amenity such as a flood plain, canal, park or other open space, the landscape plan shall integrate with and respect the natural integrity of the amenity.
- F. Detention and retention areas.** By design, detention and retention areas shall be physically, functionally, and visually integrated into adjacent landscape areas. Standing water is discouraged and shall be properly drained unless incorporated into re-circulating water features or irrigation systems.

## **Article 4 5**

### **DESIGN STANDARDS FOR SINGLE FAMILY, DUPLEX AND MULTI-FAMILY DWELLINGS**

#### **Sections:**

- 17.44.45.010      Applicability  
17.44.45.020      Submittals  
17.44.25.030      Landscaping requirements

#### **17.44.45.010    Applicability**

The landscaping requirements set forth in this article apply to:

1.    New residential dwellings constructed after the effective date of this chapter.
2.    All residential dwellings being increased in size by at least 50%.

#### **17.44.45.020    Submittals**

All landscape specifications, plans, etc. shall be submitted for review and approval to the City before a building permit will be issued.

#### **17.44.45.030    Landscaping requirements**

1.    A canopy tree or evergreen tree shall be planted and maintained for each 1,500 square feet of net lot area. Up to 2 shade trees located in the boulevard area may be applied to this requirement, provided that at least one canopy tree or evergreen tree shall be planted within the interior.
2.    Turf grass or ground cover plants shall cover at least 50% of the net lot area.

**Chapter 56**  
**FLOODPLAIN OVERLAY DISTRICTS**

**Articles:**

1. General provisions
2. Specific standards
3. Floodproofing requirements

**Article 1**  
**GENERAL PROVISIONS**

**Sections:**

|             |                          |             |                                     |
|-------------|--------------------------|-------------|-------------------------------------|
| 17.56.1.010 | Authority                | 17.56.1.060 | Warning and disclaimer of liability |
| 17.56.1.020 | Applicability            | 17.56.1.070 | Disclosure                          |
| 17.56.1.030 | Purpose                  | 17.56.1.080 | Variances                           |
| 17.56.1.040 | Floodplain administrator | 17.56.1.090 | Emergency preparedness planning     |
| 17.56.1.050 | Compliance               |             |                                     |

**17.56.1.010 Authority**

The Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA) authorizes the adoption of this chapter.

**17.56.1.020 Applicability**

These regulations apply to all land within the ~~100-year floodplain boundaries~~ **special flood hazard areas** shown on the flood insurance rate maps as adopted by the Federal Emergency Management Agency (FEMA) on February 15, 2002, and as may be amended. These maps are on file in the office of the floodplain administrator and are available for public inspection. Copies of these maps may be purchased directly from FEMA.

**17.56.1.030 Purpose**

This chapter is established to comply with the Montana Floodplain and Floodway Management Act (Title 76, Chapter 5, MCA), ensure compliance with the requirements for the City’s continued participation in the National Flood Insurance Program, and promote the public health, safety, and general welfare. To that end, this chapter is intended to accomplish the following purposes:

1. protect human life and health to the greatest extent possible
2. control land uses and development within the 100-year floodplain
3. minimize flood losses in areas subject to flood hazards
4. promote the wise use of the floodplain
5. recognize the right and need of watercourses to periodically carry more than the normal flow of water
6. ensure the regulations and minimum standards adopted, insofar as possible, balance the greatest public good with the least private injury
7. restrict or prohibit uses which are dangerous to health, safety, and property in times of flood, or that cause increased flood heights and velocities
8. require that uses vulnerable to floods, including public facilities, be provided with flood protection at the time of initial construction or reconstruction
9. identify lands unsuitable for certain development purposes because of flood hazards
10. minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public
11. ensure that potential buyers are notified that property is within a 100-year floodplain and subject to the provisions of these regulations
12. ensure that those who occupy 100-year floodplains assume responsibility for their actions

- 13. limit filling, grading, dredging, and other similar development which may increase erosion, sedimentation, or flood damage

**17.56.1.040 Floodplain administrator**

- A. **Appointment.** The zoning technician with the Community Development Department is the designated floodplain administrator.
- B. **Administrative procedures.** The floodplain administrator shall adopt such administrative procedures as may be necessary to efficiently administer the provisions of these regulations.
- C. **Records.** The floodplain administrator shall maintain such files and records as may be necessary to document nonconforming uses, base flood elevation, floodproofing and elevation certification, fee receipts, the issuance of permits, agendas, minutes, records of public meetings, and any other matters related to floodplain management in the City of Great Falls. Such files and records shall be open for public inspection.

**17.56.1.050 Compliance**

No structure or land use shall be located, extended, converted or structurally altered without full compliance with the provisions of these regulations and other applicable regulations. These regulations meet the minimum floodplain development requirements as set forth by the Montana Board of Natural Resources and Conservation and in the National Flood Insurance Program regulations.

**17.56.1.060 Warning and disclaimer of liability**

These regulations do not imply that areas outside the delineated floodplain boundaries or permitted land uses will always be totally free from flooding or flood damage. These regulations shall not create a liability or cause of action against the City of Great Falls, or any officer or employee thereof, for flood damages that may result from reliance upon these regulations.

**17.56.1.070 Disclosure**

All owners of property in an identified 100-year floodplain as indicated on the official floodplain maps must notify potential buyers or their agents that such property is subject to the provisions of these and other applicable regulations.

**17.56.1.080 Variances**

The Board of Adjustment may issue a variance from these standards only in conformance with Chapter 16 of this Title.

**17.56.1.090 Emergency preparedness planning**

In formulating community development goals, the City shall consider the development of a plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas. This plan should be developed, filed with, and approved by appropriate community emergency management authorities.

**Article 2  
SPECIFIC STANDARDS**

**Sections:**

- 17.56.2.010 Generally
- 17.56.2.020 Floodway
- 17.56.2.030 Floodway fringe
- 17.56.2.040 Floodplain areas with flood elevations and no delineated floodway

**17.56.2.010 Generally**

The minimum floodplain development standards listed in this chapter apply to the floodway and floodway fringe portions of the 100-year floodplain as delineated on the flood boundary-floodway maps, and also correspond to the numbered A or AE Zones depicted on the flood insurance rate maps.

**17.56.2.020 Floodway**

- A. **Uses allowed without a permit.** The following open space uses shall be allowed without a permit within the floodway, provided that such uses conform to the provisions of Article 3 of this chapter, are not prohibited by any other ordinance, resolution or statute and do not require fill, excavation, permanent storage of materials, or equipment or structures other than portable structures;
1. agricultural uses;
  2. accessory uses such as loading and parking areas, or emergency land strips associated with industrial and commercial facilities;
  3. private and public recreational uses such as golf courses, driving ranges, archery ranges, picnic grounds, boat launching ramps, parks, wildlife management and natural areas, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking or horseback riding trails;
  4. forestry, including processing of forest products with portable equipment;
  5. residential uses such as lawns, gardens, parking areas, and play areas;
  6. irrigation and livestock supply wells, provided that they are located at least five hundred feet from domestic water supply wells;
  7. fences, except permanent fences crossing channels; and
  8. recreational vehicles provided that they be on the site for fewer than one hundred eighty consecutive days or be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.
- B. **Uses requiring a permit.** The following may be permitted in the floodway subject to the issuance of a permit by the floodplain administrator, and subject to all other applicable laws and regulations of other local and State agencies:
1. excavation of material from pits and pools, provided that: (a) a buffer strip of undisturbed land is left between the edge of the channel and the edge of the excavation of sufficient width to prevent flood flows from channeling into the excavation; (b) the excavation meets all applicable laws and regulations of other local and State agencies; and (c) excavated material is stockpiled outside the floodway;
  2. railroad, highways, and street stream crossings, provided the crossings are designed to offer minimal obstruction to flood flow. Stream crossings shall not increase elevation of the 100-year flood more than one-half foot nor cause a significant increase in flood velocities;
  3. limited filling for highway, street, and railroad embankments not associated with stream crossings, provided that: (a) reasonable alternate transportation routes outside the designated floodway are not available; and (b) such floodway encroachment is located as far from the stream channel as possible and shall not result in a cumulative increase in base flood elevations, after allowable encroachments into the floodway fringe, exceeding one-half foot;
  4. buried or suspended utility transmission lines, provided that: (a) suspended utility transmission lines are designed so the lowest point of the suspended line is at least 6 feet higher than the elevation of the 100-year flood; (b) towers and other appurtenance structures are designed and placed to withstand and minimally obstruct flood flows; and (c) utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum depth of scour for a 100-year flood. The maximum depth of scour shall be determined by hydraulic engineering methods, acceptable to the floodplain administrator.
  5. storage of materials and equipment, provided that: (a) the material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; or (b) the material or equipment is readily moveable within the limited time available after flood warning. Storage of flammable, toxic, or explosive materials shall not be permitted.
  6. domestic water supply wells, provided that: (a) they are driven or drilled wells located on ground higher than the surrounding ground to assure positive drainage from the well; (b) well casings are watertight to a distance of at least twenty-five feet below the ground surface; (c) water supply and electrical lines have a watertight seal where the lines enter the casing; (d) all pumps, electrical lines and equipment are either submersible or adequately floodproofed; and (e) check valves are installed on main water lines at wells and at all building entry locations;

7. buried and sealed vaults for sewage disposal in recreational areas, provided they meet applicable laws and standards administered by the Montana Department of Health and Environmental Sciences;
  8. public and private campgrounds, provided that: (a) access roads require only limited fill and do not obstruct or divert floodwaters; and (b) recreational vehicles and travel trailers are licensed and ready for highway use (i.e., They are ready for highway use if on wheels or jacking system with wheels intact, are attached to the site with only quick disconnect type utilities and securing devices, and have no permanently attached additions).
  9. structures accessory to the uses permitted in this section such as boat docks, marinas, sheds, picnic shelters, tables and toilets, provided that: (a) the structures are not intended for human habitation; (b) the structures will have a low flood damage potential; (c) the structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible; (d) the floodproofing standards of this chapter are met; and (e) the structures will be constructed and placed so as to offer minimal obstruction to flood flows and are anchored to prevent flotation;
  10. substantial improvements to any structure, provided that the provisions of subsections (B)(3) and (B)(4) of Section 17.56.2.030 of this chapter are met. In the floodway the structure must be floodproofed or elevated on a permanent foundation rather than on fill.
  11. all other artificial obstructions, substantial improvements, or nonconforming uses not specifically listed or prohibited by these regulations.
- C. **Permits for flood control works.** Flood control works shall be allowed within floodways subject to the issuance of a permit by the floodplain administrator, and subject to all other applicable laws and regulations of other local and State agencies, with the following conditions:
1. levees and floodwalls provided: (a) the proposed levee or floodwall is designed and constructed to safely convey a 100-year flood, and (b) the cumulative effect of the levee or floodwall combined with allowable floodway fringe encroachments does not increase the unobstructed elevation of the 100-year flood more than one-half foot. The floodplain administrator may establish either a lower or higher permissible increase in the elevation of the 100-year flood for individual levee projects. Any change must be in concurrence with the Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency based upon consideration of the following criteria: (i) the estimated cumulative effect of any anticipated future reasonable permissible uses, and (ii) the type and amount of existing flood-prone development in the affected area, (c) the proposed levee or floodwall, except those to protect agricultural land, are constructed at least 3 feet higher than the elevation of a 100-year flood;
  2. riprap, except that which is hand-laced, if: (a) the riprap is designed to withstand a 100-year flood; (b) the riprap does not increase the elevation of the 100-year flood; and (c) the riprap will not increase erosion upstream, downstream or adjacent to the riprap site;
  3. channelization projects if they do not significantly increase the magnitude, velocity, or elevation of the 100-year flood in the proximity of the project;
  4. dams, provided that: (a) they are designed and constructed in accordance with the Montana Dam Safety Act and applicable safety standards; and (b) they will not increase flood hazards down-stream, either through operational procedures or improper hydrologic design.
- D. **Permits for water diversions.** Permits for the establishment of a water diversion or change in place of diversion shall not be issued if, in the judgment of the floodplain administrator:
1. the proposed diversion will significantly increase the upstream elevation of the 100-year flood to the detriment of neighboring property;
  2. the proposed diversion is not designed and constructed to minimize potential erosion from a 100-year flood; and
  3. any permanent diversion structure crossing the full width of the stream channel is not designed and constructed to safely withstand up to a 100-year flood.
- E. **Prohibited uses.** The following artificial obstructions and nonconforming uses are prohibited within the floodway:
1. New construction, substantial improvements and alterations of any residential, commercial or industrial structure;
  2. Encroachments, including fill, new construction, alterations, substantial improvements, and other



development within the adopted regulatory floodway that would result in erosion of the embankment, obstruction of the natural flow of waters, or increase in flood levels within the community during the occurrence of the 100-year flood;

3. The construction or permanent storage of an object subject to flotation or movement during flooding;
4. Solid waste disposal, sewage treatment, and sewage disposal systems, except as allowed or approved under the laws and standards administered by the Montana Department of Health and Environmental Sciences;
5. Storage of toxic, flammable, hazardous, or explosive materials;
6. Alterations of structures unless it can be shown the alteration will not raise flood heights; and
7. Manufactured homes or replacement of manufactured homes in or out of a manufactured home subdivision or park.

#### **17.56.2.030 Floodway fringe**

- A. **Uses allowed without a permit.** All uses allowed without a permit in the floodway shall also be allowed without a permit in the floodway fringe. In addition, individual or multiple family subsurface sewage disposal systems are allowed only when they are reviewed and approved under laws and regulations administered by the Department of Health and Environmental Sciences or the local health board.
- B. **Uses requiring a permit.** All uses allowed in the floodway subject to the issuance of a permit shall also be allowed by permit within the floodway fringe. In addition, new construction, substantial improvements, and alterations to structures are allowed by permit. This includes but is not limited to residential, commercial and industrial construction, and suitable fill to be allowed by permit from the floodplain administrator and subject to the following conditions:
  1. Such structures or fill must not be prohibited by any other statute, regulation, ordinance, or resolution;
  2. Such structures or fill must be compatible with local comprehensive plans and zoning regulations;
  3. The new construction, alterations, and substantial improvements of residential structures including manufactured homes must be constructed on suitable fill such that the lowest floor elevation (including basement) is 2 feet or more above the elevation of the 100-year flood elevation. The suitable fill shall be at an elevation no lower than the elevation of the 100-year flood elevation. The suitable fill shall be at an elevation no lower than the elevation of the 100-year flood and shall extend for at least fifteen feet, at that elevation, beyond the structure(s) in all directions;
  4. The new construction, alteration, and substantial improvement of commercial and industrial structures can be constructed on suitable fill as specified in subparagraph (B)(3) of this section. If not constructed on fill, commercial and industrial structures must be adequately floodproofed to an elevation no lower than 2 feet above the elevation of the 100-year flood. Flood-proofing must be certified by a registered professional engineer or architect that the floodproofing methods are adequate to withstand the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the 100-year flood. If the structure is designed to allow internal flooding of the lowest floor, use of the lowest floor shall be limited to parking, loading areas, building access and storage of equipment or materials not appreciably affected by floodwaters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than 2 feet above the 100-year flood elevation. Walls shall be designed to automatically equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, other coverings, or devices which permit the automatic entry and exit of floodwaters. Structures whose lowest floors are used for a purpose other than parking, loading, or storage of materials resistant to flooding shall be waterproofed to an elevation lower than two feet above the 100-year flood elevation. Floodproofing shall include impermeable membranes or materials for floors and walls and watertight enclosures for all windows, doors, and other openings. These structures shall be designed to withstand the hydrostatic, hydrodynamic and buoyancy effects of a 100-year flood. Floodproofing shall also be accomplished in accordance with Article 3 of this chapter;
  5. All manufactured homes placed in the floodway fringe must have the chassis securely anchored to a foundation system that will resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, over-the-top or frame ties to ground anchors. The following conditions also apply: (a) When a manufactured home is altered, replaced because of substantial damage as a result of a flood, or replaced on an individual site, the lowest floor must be elevated 2 feet above the base flood

- elevation. The home can be elevated on fill or raised on a permanent foundation of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength. (b) Replacement or substantial improvement of manufactured homes in an existing manufactured home park or subdivision must be raised on a permanent foundation. The lowest floor must be 2 feet above the base flood elevation. The foundation must consist of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength. (c) Manufactured homes proposed for use as commercial or industrial structures must be elevated and anchored, rather than floodproofed;
6. Fill material placed in the floodway fringe must be stable, compacted, well-graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and appropriate for the purpose of supporting the intending use and/or permanent structure;
  7. Roads, streets, highways and rail lines shall be designed to minimize increase in flood heights. Where failure or interruption of transportation facilities would result in danger to the public health or safety, the facility shall be located 2 feet above the elevation of the 100-year flood;
  8. Agricultural structures that have a low damage potential, such as sheds, barns, shelters and hay and grain storage structures, must be adequately anchored to prevent flotation or collapse and all electrical facilities shall be placed above the base flood elevation; and
  9. Recreational vehicles, if they are on the site for more than 180 consecutive days or are not ready for highway use, must meet the elevating requirements of subparagraph (B)(3) of this section.
- C. **Prohibited uses.** The following artificial obstructions and nonconforming uses are prohibited within the floodway fringe:
1. Solid waste disposal, sewage treatment, and sewage disposal systems, except as allowed or approved under the laws and standards administered by the Montana Department of Health and Environmental Sciences; and
  2. Storage of highly toxic, flammable, or explosive materials. Storage of petroleum products may be allowed by permit if buried in tightly sealed impermeable containers or if stored on compacted fill at least 2 feet above the elevation of the 100-year flood and anchored to prevent downstream movement.

**17.56.2.040 Floodplain areas with flood elevations and no delineated floodway**

- A. A development proposed for location within a 100-year floodplain, where water surface elevations are available but no floodway is delineated, may not significantly increase flood velocities or depths or generally alter patterns of flood flow. The provisions of Section 17.56.2.030 shall apply to these areas. The floodplain administrator may require a permit applicant to furnish additional hydraulic data before acting on a permit application for such a floodplain. The data may include, but is not limited to, any of the following:
1. A hydraulic study documenting probable effects on upstream or downstream property owners caused by the proposed development; or
  2. The calculated increase in the 100-year flood frequency water surface profile caused by the proposed development.
- B. Permits for such proposed development may be modified or denied if the additional information shows that the proposed use would cause an additional flood hazard to adjacent property or significantly increase flood heights. A significant increase in flood heights is one-half foot unless existing or anticipated development in the area dictates a lesser amount of allowable increase.

**Article 3  
FLOODPROOFING REQUIREMENTS**

**Sections:**

- 17.56.3.010 Certification
- 17.56.3.020 Conformance
- 17.56.3.030 Standards

**17.56.3.010 Certification**

If the following floodproofing requirements are to be applied to a proposed structure, as stipulated by the floodplain administrator in accordance with these regulations, the methods used must be certified as adequate by a registered professional engineer or architect.

**17.56.3.020 Conformance**

Permitted floodproof systems shall conform to the conditions listed below and the floodproofing standards listed in subsection (B)(4) of Section 17.56.2.030 of these regulations for commercial and industrial structures.

**17.56.3.030 Standards**

Commercial and industrial buildings that are not elevated 2 feet or more above the 100-year flood elevation shall be floodproofed to an elevation no lower than 2 feet above the elevation of the 100-year flood consistent with the following standards:

1. If the structure is designed to allow internal flooding of the lowest floor, use of the lowest floor shall be limited to parking, loading areas, building access and storage of equipment or materials not appreciably affected by floodwaters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than 2 feet above the 100-year flood elevation. Walls shall be designed to automatically equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, other coverings, or devices which permit the automatic entry and exit of floodwaters.
2. Structures whose lowest floors are used for a purpose other than parking, loading, or storage of materials resistant to flooding shall be waterproofed to an elevation lower than 2 feet above the 100-year flood elevation. Floodproofing shall include impermeable membranes or materials for floors and walls and watertight enclosures for all windows, doors, and other openings. These structures shall be designed to withstand the hydrostatic, hydrodynamic and buoyancy effects of a 100-year flood.
3. Electrical systems shall meet the following criteria: (a) All incoming power service equipment, including all metering equipment, control centers, transformers, distribution and lighting panels, and all other stationary equipment must be located at least 2 feet above the elevation of the 100-year flood; (b) Portable or moveable electrical equipment may be placed below the elevation of the 100-year flood, if the equipment can be disconnected by a single submersible plug-and-socket assembly; (c) The main power service line shall have automatic or manually operated electrical disconnect equipment located at an accessible location outside the 100-year floodplain and above the elevation of the 100-year flood; and (d) All electrical wiring systems installed at or below the elevations of the 100-year flood shall be suitable for continuous submergence and may not contain fibrous components.
4. Heating systems shall meet the following criteria: (a) Float operated automatic control valves must be installed in gas furnace supply lines so that the fuel supply is automatically shut off when floodwaters reach the floor level where the furnace is located. (b) Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the elevation of the 100-year flood. (c) Electric heating systems must be installed in accordance with the standards for electrical systems.
5. Plumbing systems shall meet the following criteria: (a) Sewer lines, except those to be buried and sealed in vaults, must have check valves installed to prevent sewage backup into permitted structures. (b) All toilet stools, sinks, urinals and drains must be located so the lowest point of possible water is at least 2 feet above the elevation of the 100-year flood.

**Chapter 64  
NONCONFORMITIES**

**Sections:**

|           |                          |           |                          |
|-----------|--------------------------|-----------|--------------------------|
| 17.64.010 | Legislative findings     | 17.64.040 | Nonconforming signs      |
| 17.64.020 | Nonconforming uses       | 17.64.050 | Nonconforming billboards |
| 17.64.030 | Nonconforming structures |           |                          |

**17.64.010 Legislative findings**

The City Commission makes the following findings:

1. Within the districts established by this title, or within districts established or changed by future amendment, there may exist uses and signs which were lawful before the adoption of this title, or amendment, but which are nonconforming under the provisions of this title or amendment thereto.
2. It is reasonable to generally allow, but not encourage, nonconformities to continue until such time as they are **moved**, removed or discontinued.
3. Nonconformities that are **moved**, removed, discontinued, changed, extended, or enlarged shall be made to conform with the regulations that apply to all other parcels of land within the district. **However, changes in use may be allowed under certain circumstances.**
4. It is reasonable to allow a nonconforming use to resume in certain circumstances if the structure in which it takes place is only partially damaged or destroyed.

**17.64.020 Nonconforming uses**

A. **Generally.** A nonconforming use may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. **Change or expansion of nonresidential uses.**

a. ~~A nonconforming, nonresidential use shall not be changed except in conformance with the zoning district in which it is located.~~

**b.a. A nonconforming nonresidential use may be changed to another nonconforming nonresidential use, or may be increased or expanded, if the Planning Director determines the application for the proposed, expanded or increased use meets the following criteria, without requiring or requesting any dimensional, lighting, parking, landscaping or other similar variance:**

1. The off-street parking and loading requirements for and traffic generated by the proposed, expanded or increased use do not exceed that of the existing or most recent use.
2. The proposed use is permitted in the same zoning district in which the existing or most recent use is first permitted in Table 20-4 of Chapter 20 to this Title. For the purposes of this Chapter, “first permitted” shall mean the first zoning district in Table 20-4 in which a “P” occurs, when reading the table from left to right.
3. The intensity of onsite and offsite impacts from noise, dust, smoke and other environmental impacts associated with the proposed, expanded or increased use is equal to or less than that associated with the existing or most recent use.

**Such application may require a fee, as may be established by the City Commission.**

**e.b. Alternatively, a nonconforming, nonresidential use may also be changed to another nonconforming use, or may be increased or expanded, through a conditional use permit procedure as set forth in Chapter 16.**

2. **Expansion of residential uses.** The expansion of nonconforming residential dwellings is allowed, in compliance with applicable building codes, up to 20% of the existing total residential area, as long as the number of dwelling units on the lot is not increased.
3. **Change of location.** A nonconforming use shall not be moved in whole or in part to any other portion of the lot or to another structure than what was occupied at the effective date of this title or any amendment thereto which creates said nonconforming use.
4. **Discontinuance of use.** If a nonconforming use ceases for any reason for more than 24 months, any subsequent use shall conform with this Title.

**17.64.030 Nonconforming structures**

- A. **Generally.** A nonconforming structure may continue so long as it remains otherwise lawful, subject to the following provisions:
1. **Change in extent.** A nonconforming structure shall not be enlarged or altered in a way to increase its nonconformity.
  2. **Conformance required if moved.** If a nonconforming structure is moved for any reason for any distance, it shall thereafter conform with this Title.
  3. A nonconforming structure that is removed, razed or damaged by fire or other cause may be rebuilt on the structure's original foundation or on a new foundation in the same location. Construction must be completed within 24 months of the date of such damage, removal or razing. If repair or rehabilitation does not occur within 24 months, the structure shall be reconstructed only in conformance with this Title without resort to variance.
- B. **Unsafe conditions, ordinary maintenance, and remodeling.** Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or part thereof, ordinary repair and maintenance, or remodeling.

**17.64.040 Nonconforming signs**

- A. **Compliance.**
1. Except as otherwise provided in this chapter, all signs and supporting structures which do not conform to the provisions of this Code, but were constructed in compliance with previous regulations, shall be regarded as nonconforming. Nonconforming signs may remain until December 31, 2015, if such signs are properly repaired and maintained as required by Section 17.60.7.090.
  2. The copy face of a sign may be changed or altered in any manner which does not require structural alteration, subject to the permit requirements of this Code, until December 31, 2012. After December 31, 2012, any sign change, including copy change, shall require compliance with the provisions of the Sign Code.
  3. Any sign user may file for an exemption as set forth in subsection B below ("grandfather" exemption), and the provisions of that subsection B shall govern. However, neither this subsection nor subsection B provides any right of continuance after the adoption of the Sign Code of those types of signs specifically prohibited in Section 17.60.2.010, with the exception of roof signs. Grandfather exemptions will not be granted to freestanding signs that overhang or encroach into the public right-of-way or overhang or encroach upon adjoining property.
- B. **Grandfather exemption.**
1. Signs that exceed the code for size and/or height for which an exemption has been filed as set out below may remain in perpetuity, provided the sign is properly maintained and is not changed in any manner, either structurally or copy changes. Any sign which is so changed shall be brought into immediate compliance with all provisions of this Code. This code would allow a change in the name of a tenant on a multi-tenant identification sign without loss of the grandfather exemption.
  2. A grandfather exemption may be obtained by the sign owner or user by filing for such an exemption with the Community Development Department on or before July 1, 2006, or as provided in subsections C below. Each application for exemption must be accompanied with a color photograph, dimensions and location of each sign for which the exemption is sought, and in such form as may be prescribed by the department. A fifty (50) dollar fee per premise plus ten (10) dollars per sign to be exempted, shall be levied for each application to help cover processing costs.
- C. **Change of nonconforming sign.** Any nonconforming sign which is structurally altered, relocated (on the same or another lot) or replaced shall immediately comply with all provisions of this Code. Any signs, which is accidentally damaged or destroyed may be repaired or replaced within sixty (60) days to the sign's original condition subject to the permit requirement of this Code.
- D. **Administrative authority.** The Director of Community Development is granted authority to perform an administrative review and make appropriate decisions to allow some flexibility in individual nonconforming situations where the strict interpretation and application of the code will be unworkable for the property owner and/or tenants. All decisions must be consistent with the overall goal of bringing nonconforming signage closer to compliance and should be consistently applied to similar circumstances.

- E. **Removal.** The Director of Community Development may order the removal of any sign, or sign structure, that is not in compliance with the provisions of this chapter.
1. Removal is the responsibility of the owner of the sign or the property owner.
  2. Failure of the property owner or sign owner to comply with the removal notice will result in the removal of the sign by the City. Removal costs and administrative fees will be assessed against the property.

**17.64.050 Nonconforming billboards**

Billboard signs that do not conform to the provisions of this code, but were legally constructed and permitted at the time of their installation shall be considered legally nonconforming and allowed to remain subject to the following:

- A. Downsizing required. Nonconforming billboards exceeding height and area limitations specified in this code must be downsized to meet requirements of area and height specified in this code by December 31, 2015, or be removed by the sign owner or the property owner. This is not intended to eliminate legally sanctioned side-by-side billboards.
- B. Any nonconforming billboard sign destroyed or damaged beyond fifty (50) percent of its replacement value for any cause whatsoever shall be reconstructed only in compliance with all provisions of this chapter or be removed by the sign owner or property owner.
- C. In no case may a billboard be repaired or maintained resulting in substantial upgrading or replacement of the structural support of the billboard that would extend the life of the structure. Substantial upgrading may include, but is not limited to, conversion from wood to steel support structure or a conversion from a multi-pole to a single-pole structure.
- D. A non-illuminated billboard may be illuminated provided it is not non-conforming because of its proximity to a residential area or its location within an entry or scenic corridor pursuant to 17.60.5.210.
- E. Any signs on property annexed to the City of Great Falls after the effective date of this chapter are subject to all the provisions of this code.

**Chapter 68**  
**TIMING OF IMPROVEMENTS, IMPROVEMENT AGREEMENTS, AND DEDICATIONS**

**Sections:**

- 17.68.010 Legislative findings
- 17.68.020 Purpose
- 17.68.030 Timing of improvements
- 17.68.040 Improvement agreements
- 17.68.050 Dedication of improvements
- 17.68.060 Dedication of land

**17.68.10 Legislative findings**

The City Commission makes the following findings:

1. Required improvements installed in a timely manner protect the public health, safety, and welfare.
2. There may be instances where the installation of all required improvements is not possible, or desirable, prior to commencing construction of buildings.
3. To minimize the risk that the City would have to use public funds to install the required improvements subject to an improvement agreement, the amount of the financial security should be greater than the estimated installation cost to account for the administration of the agreement, pricing uncertainties, product availability, inflation, and other similar factors that may exist during the life of the agreement.

**17.68.20 Purpose**

This chapter is established to promote the public health, safety, and welfare and is intended to accomplish the following purposes:

1. ensure that the improvements needed to accommodate development projects are provided in a timely manner
2. ensure that land dedicated to the City is suitable and acceptable for the intended purpose

**17.68.030 Timing of improvements**

A. **Generally.** Improvements shall be installed consistent with the schedule shown in Exhibit 68-1. For some of the improvements, it is possible to enter into an improvement agreement with the City consistent with this chapter.

**Exhibit 68-1. Timing of Improvements**

| Improvement                   | Subdivisions   |                                 | Non-Subdivision Projects     |                                 |
|-------------------------------|--|---------------------------------|------------------------------|---------------------------------|
|                               | Completion prior to . . .  | Improvement Agreement Allowable | Completion prior to . . .    | Improvement Agreement Allowable |
| Site grading - rough          | Issuance of building permit  | No                              | Issuance of building permit  | No                              |
| Site grading - final          | Issuance of building permit  | No                              | Issuance of building permit  | Yes                             |
| Potable water infrastructure  | Issuance of building permit  | Yes No                          | Issuance of occupancy permit | No                              |
| Sewer infrastructure          | Issuance of building permit  | Yes No                          | Issuance of occupancy permit | No                              |
| Landscaping                   | Filing of final plat <b>Issuance of occupancy permit</b>             | Yes                             | Issuance of occupancy permit | No                              |
| Screening                     | Filing of final subdivision plat <b>Issuance of occupancy permit</b> | Yes                             | Issuance of occupancy permit | Yes                             |
| Street / alleys - base course | Issuance of building permit  | Yes No                          | Issuance of building permit  | Yes                             |
| Street / alleys - pavement    | Filing of final subdivision plat <b>Issuance of occupancy permit</b> | Yes                             | Issuance of occupancy permit | No                              |
| Sidewalks                     | Issuance of occupancy permit   | Yes                             | Issuance of occupancy permit | Yes                             |
| Parking                       | Filing of final subdivision plat <b>Issuance of occupancy permit</b> | No                              | Issuance of occupancy permit | Yes                             |
| Lighting                      | Filing of final subdivision plat <b>Issuance of occupancy permit</b> | No Yes                          | Issuance of occupancy permit | No                              |

|                       |                             |        |                             |    |
|-----------------------|-----------------------------|--------|-----------------------------|----|
| Stormwater facilities | Issuance of building permit | Yes No | Issuance of building permit | No |
|-----------------------|-----------------------------|--------|-----------------------------|----|

- B. **Uses not listed.** For improvements not listed, improvement agreements may be used at the City’s discretion.
- C. **Exceptions.** The City shall not enter into an improvement agreement when a delay in the completion of the improvement could present a tangible danger or hazard. In addition, the City may limit the number, type, and scope of improvements subject to the agreement and subsequent agreements.

**17.68.040 Improvement agreements**

- A. **City Attorney approval.** The improvement agreement and form of financial security shall be satisfactory to the City Attorney.
- B. **Amount of security.** The amount of the financial security shall be the total cost of the improvements subject to the agreement, as estimated by a registered professional engineer, or other qualified professional as appropriate, plus 35 percent. The City Engineer may require the developer to submit a second cost estimate from another source to verify the cost of the improvements.
- C. **Content.** An improvement agreement shall contain the following:
  - 1. A list of all on-site and off-site improvements subject to the agreement.
  - 2. Detailed construction plans and cost estimates for the improvements subject to the agreement. A registered professional engineer shall prepare the plan and estimates for all work elements requiring engineering. Other professionals, as appropriate, shall prepare plans and estimates for those work elements not requiring engineering.
  - 3. A timetable for completing each of the improvements subject to the agreement.
  - 4. A description of the type of financial security used to secure the completion of the improvements subject to the agreement.
  - 5. A provision allowing the City to claim the financial security when the developer has not satisfactorily completed the improvements by the date specified in the agreement or has not otherwise complied with the terms of the agreement.
  - 6. The financial security shall be released in full only upon submission of as-built plans when required and written certification by a registered professional engineer, or other qualified professional, that the improvements have been installed in accordance with the development approval and other applicable provisions of this Title.
  - 7. A provision stating that the City may release a portion of the financial security in an amount equal to 135 percent of the estimated cost of the improvement that has been satisfactorily completed.
  - 8. A provision that the developer indemnifies, defends, and holds the City, its employees, agents and assigns harmless from and against any and all liabilities, loss, claims, causes of action, judgements and damages resulting from or arising out of the execution of the improvement agreement.
  - 9. A provision stating that if the developer has not satisfactorily completed the improvements by the date specified in the agreement, the City can use a portion of the security as reimbursement for time and expense in administering the installation and inspection of the improvements subject to the agreement,
  - 10. A provision stating that the City Engineer must inspect the improvements to verify compliance with the development approval and this Title before releasing the financial security, in whole or part.
  - 11. The term of the agreement.
  - 12. A provision allowing amendment with the written consent of all parties, provided the minimum requirements of this Title are satisfied.
  - 13. Any other provision deemed appropriate by the City to accomplish the purposes of this Title and to protect its interests.
- D. **Types of financial security.** The following types of financial security may be acceptable:
  - 1. cash paid directly to the City Treasurer and held in a separate account
  - 2. an irrevocable letter of credit from an approved financial institution
  - 3. cash escrow held by the City or an approved escrow agent and subject to an executed escrow agreement
  - 4. bank assignment of funds
  - 5. performance bonds, at the discretion of the City Attorney



**17.68.050 Dedication of improvements**

- A. **Minimum standards.** All improvements to be dedicated to the City shall meet the standards and requirements of this title, State law, and other standards and specifications the City may adopt.
- B. **As-built.** Record drawings, meeting City specifications, shall be submitted for review and approval prior to acceptance.
- C. **Certification required.** All improvements to be dedicated to the City shall be certified by a registered professional engineer prior to acceptance.
- D. **Lien release required.** Lien releases from contractors, suppliers, and others as appropriate shall be submitted prior to acceptance.
- E. ~~**Administration.** The Director of the Planning Department shall be responsible for signing agreements and administering them on behalf of the City.~~

**17.68.060 Dedication of land**

For all land dedicated to the City, the City Commission shall affirm the dedication before it becomes effective. Prior to acceptance, the City shall ensure that all property taxes that have been levied and assessed have been paid proportionate to the amount of land being dedicated.

## **Appendix F LAND USE DEFINITIONS**

For the purpose of this Title, certain land uses are defined below for ease of use, and shall have the following meanings ascribed to them.

For ease of reference and use, these definitions have been separated by type of land use (i.e., Residential, General Sales, Temporary Uses, etc.) under this Appendix. These same definitions can also be found in strict alphabetical format in Chapter 8 of this Title.

### ***AGRICULTURAL USES***

“Agriculture, horticulture, **nursery**” means a place and/or building, or portion thereof, that is used or is intended for growing fruit, vegetables, flowers, and other plants typically grown on farming operations in the region.

### ***RESIDENTIAL USES***

“Mobile home park” means a place providing 2 or more mobile home lots for lease or rent to the general public. (Source: 50-52-101 MCA)

“Residence, single-family detached” means a single building that is situated on one lot, contains one dwelling unit, and is not attached to any other dwelling unit by any means. The term includes factory-built homes, manufactured homes, and stick-built homes, but excludes mobile homes.

“Residence, zero lot line” means a single building that is situated on one lot, contains one dwelling unit, and is not attached to any other dwelling unit by any means. The side wall of the building is placed directly on or very close to one of the adjoining side yard property boundary lines. The term includes factory-built homes, manufactured homes, and stick-built homes, but excludes mobile homes.

“Residence, two-family” means a single building that is situated on one lot and that contains 2 dwelling units.

“Residence, multi-family” means a single building situated on one lot and that contains 3 or more separate dwelling units. Entrances to the dwelling units may be separate or combined. The units may be rented or owned as in a condominium.

**“Residence, condominiums” means separately owned single-family dwelling units with common elements located on property submitted to the provisions of the Montana unit ownership act, title 70, chapter 23, MCA.**

“Residence, townhouse” means a building containing multiple dwelling units where they are adjacent to one another on separate lots each having separate entrances.

“Residence, manufactured/factory-built” means a single-family dwelling unit built in a factory in accordance with the United States Department of Housing and Urban Development code or approved by the Montana Department of Labor and Industry Building Codes Bureau.

“Retirement home” means a place and/or building, or portion thereof, that is used or is intended to provide independent living quarters, either owned or rented, to individuals generally 62 years of age or older. Limited commercial and medical facilities constructed and used for the exclusive use of residents shall be an accessory use of the retirement home.

### ***SPECIAL CARE FACILITIES***

“Community residential facility” means any one of the following as defined:

- a. “Community group home” means a family-oriented residence that is designed to provide residential services for 2 to 8 individuals with severe disabilities and does not provide skilled or intermediate nursing care. The term does not preclude the provision of skilled or intermediate nursing care by third-person providers. (Source: 52-4-202, MCA)
- b. “Youth foster home” means a youth care facility licensed by the State in which one to 6 children or youth other than the foster parents' own children, stepchildren, or wards are given food shelter, security and safety, guidance, direction, and if necessary, treatment. (Source: 52-2-602, MCA)
- c. “Youth group home” means a youth care facility licensed by the State in which 7 to 12 children or youth are given food shelter, security and safety, guidance, direction, and if necessary, treatment. (Source: 52-2-602, MCA)
- d. “Halfway house” means a place and/or building, or portion thereof, that is used or is intended to provide treatment, rehabilitation, and prevention of chemical dependency. (Source: 53-24-103, MCA)
- e. “Adult foster family care home” means a private residence owned by one or more individuals 18 years of age or older which offer light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or which offer light personal care or custodial care to aged individuals. (Source: 52-3-302 MCA)

“Community residential facility, type I” means a community residential facility with 8 or fewer individuals.

“Community residential facility, type II” means a community residential facility with 9 or more individuals.

“Day care center” means a place and/or building, or portion thereof, that is used or is intended to provide day care to ~~13 or more~~ children on a regular basis. (Source: 52-2-703, MCA)

“Emergency shelter” means a place and/or building, or portion thereof, that is used or is intended to provide temporary housing and ancillary services to primarily indigent, needy, homeless, or transient individuals.

“Family day care home” means a private residence in which day care (meaning care is less than 24 hours per day) is provided to 3 to 6 children from separate families on a regular basis. (Source: 52-2-703, MCA)

“Group day care home” means a private residence in which day care (meaning care is less than 24 hours per day) is provided to 7 to 12 children on a regular basis. (Source: 52-2-703, MCA)

“Nursing home” means a place that provides 24-hour services including room and board to unrelated residents who because of their mental or physical condition require nursing care.

### ***OVERNIGHT ACCOMMODATIONS***

“Campground” means a place and/or building, or portion thereof, that is used or is intended for public camping, where people can camp, secure tents or cabins, or park trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping and sleeping purposes. The term includes accessory buildings such as a laundromat and retail sales for the convenience of campground guests. (Source: 50-52-101, MCA)

“Hotel/motel” means a building that is used, intended, kept, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests (as defined in State law) with or without meals. (Source: 50-51-102, MCA)

#### ***FOOD AND BEVERAGE SALES***

“Micro-brewery” means a place and/or building, or portion thereof, that is used or is intended for (1) the manufacture of malt beverages and (2) the sale and on-site consumption of those beverages, along with other beverages and food.

“Restaurant” means a place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages for immediate consumption on **or off site** ~~the premises~~, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery **or convenience** store with a food service section. **Such establishments may include a drive-through window, and may or may not include on-site seating.**

“Tavern” means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for on-site consumption and where food consumption, if any, is clearly secondary to the sale of alcoholic beverages. The term includes bars and lounges.

#### ***GENERAL SALES***

“Agriculture sales” means a place and/or building, or portion thereof, that is used or is intended to be used for retail sale of a product(s) unique to and directly related to farm and ranch operations. The term includes feed/seed sales, irrigation equipment sales, farm machinery sales and repair, and the like. The term does not include wholesale sales.

“Auction sales” means a place and/or building, or portion thereof, that is used or is intended to be used for auctioning goods to the general public. The term does not include estate sales and the like. Vehicle auctions are considered as vehicle sales and rentals.

“Construction materials sales” means a place and/or building, or portion thereof, used or is intended for wholesale or retail sales of bulk construction materials such as roofing, lumber, bricks, component parts (trusses), and the like. The term does not include hardware stores, concrete plants, asphalt mixing plants, or any facility that manufactures building materials and offers them for retail sale on the premises.

“Convenience sales” means a place and/or building, or portion thereof, that is used or is intended for personal services or retail sale of a limited product line of frequently needed personal items. The term includes convenience stores, small grocery stores, barber shops, beauty parlors, and the like.

“General sales” means a place and/or building, or portion thereof, that is used or is intended for retail sale of a diverse product line. The term includes grocery stores, warehouse retail outlets, comparison shopping stores, full-line department stores, and the like.

“Manufactured housing sales” means a place and/or building, or portion thereof, that is used or is intended for on-site display and sales of mobile homes, modular homes, or other forms of manufactured housing.

“Off-site liquor sales” means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for off-site consumption. The term includes package liquor stores.

“Secondhand sales” means a place and/or building, or portion thereof, that is used or is intended for retail sale of goods and merchandise which are not being sold for the first time. The term includes secondhand stores, thrift stores, consignment shops, and the like.

“Shopping center” means more than one sales or service use built on a single site which is planned, developed, owned, and managed as an operating unit.

“Specialty sales” means a place and/or building, or portion thereof, that is used or is intended for retail sale of a limited product line. The term includes antique shops, furniture stores, auto part stores, bookstores, drug stores, clothing boutiques, pet stores, and the like.

#### ***GENERAL SERVICES***

“Administrative services” means a place and/or building, or portion thereof, that is used or is intended for providing administrative functions where customers are infrequent. The term includes data processing centers, customer service centers via telecommunications, architectural firms, engineering firms, and the like.

“Commercial kennel” means a place and/or building, or portion thereof, that is used or is intended for housing 3 or more dogs, cats or other domesticated animals over 6 months of age or for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.

“Financial services” means a place and/or building, or portion thereof, that is used or is intended for providing financial and banking services. The term includes banks, savings and loan institutions, other lending institutions, and check cashing facilities. The term does not include automated teller machines, which are considered an accessory use to commercial enterprises.

“Funeral home” means a place and/or building, or portion thereof, used or intended for the care and preparation of human dead for burial. The term includes funeral homes and mortuaries.

“General services” means a place and/or building, or portion thereof, that is used or is intended for providing services not otherwise included in any other service type category. The term includes photography studios, weight loss centers, commercial postal services, beauty shops, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, diaper services, and the like.

“Professional services” means a building, or portion thereof, that is used or is intended to house services involving predominantly professional, clerical, or similar operations where customers come on a regular basis. The term includes law offices, real estate offices, insurance offices, travel agencies, and the like.

“Sexually-oriented business” includes the following types of uses: adult arcades, adult book stores/adult video stores, adult cabarets, adult motels, and adult motion picture theaters.

“Veterinary clinic” means a place and/or building, or portion thereof, that is used or is intended for the medical care of animals. A veterinary clinic may include office space, medical labs, appurtenant facilities, and kennels and/or enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, animal hospitals, and the like.

“Veterinary clinic, large animal” means a veterinary clinic that specializes in the care and treatment of large animals and livestock.

“Veterinary clinic, small animal” means a veterinary clinic that specializes in the care and treatment of small animals including dogs, cats, birds, and other small domesticated and semi-domesticated animals.

#### ***RENTAL AND GENERAL REPAIR***

“Large equipment rental” means a place and/or building, or portion thereof, that is used or is intended for renting large equipment that is normally stored out of doors. Typical items would include trucks, vertical lifts, fork lifts, back hoes, other types of heavy equipment, and modular buildings.

“Small equipment rental” means a place and/or building, or portion thereof, that is used or is intended for renting small equipment and supplies that typically are stored indoors. Typical rentals include hand tools, party equipment, lawn care and yard equipment.

“General repair” means a place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, business equipment, and the like. The term does not include repair of vehicles or industrial equipment.

#### ***VEHICLE TRADE AND SERVICE***

“Vehicle fuel sales” means a place and/or building, or portion thereof, that is used or is intended for the retail sale of gasoline, kerosene, diesel, or other petroleum-based motor fuels. The term includes the sale of convenience foods and goods, provided it is ancillary to the sale of fuels, and light maintenance activities, such as engine tune-ups, lubrication, minor repairs, and the like.

“Vehicle repair” means a place and/or building, or portion thereof, that is used or is intended for maintenance, service, and repair of vehicles. Typical services include transmission repair, body work and painting, brake repair, vehicle upholstery, tire shop, engine repair and overhauls, and similar activities.

“Vehicle sales and rental” means a place and/or building, or portion thereof, that is used or is intended for buying, selling, exchanging, taking for consignment, renting, or leasing new or used vehicles, including cars, light trucks, snowmobiles, motorcycles, all-terrain vehicles (ATVs), recreational vehicles, personal water craft.

“Vehicle services” means a place and/or building, or portion thereof, that is used or is intended for servicing vehicles where they typically are not left overnight. Examples include quick lube/oil change, car washes, tire stores, vehicle cleaning including cleaning, washing, polishing, waxing, or similar activities.

***GENERAL STORAGE***

“Agricultural commodity storage facility” means a place and/or building, or portion thereof, that is used or is intended to store bulk food stuffs prior to shipment and/or processing. The term includes grain elevators and such facilities.

“Fuel tank farm” means a place and/or building, or portion thereof, that is used or is intended for commercial bulk storage of petroleum products or any other fuel.

“Mini-storage facility” means a place and/or building, or portion thereof, that is divided into individual spaces and that is used or is intended as individual storage units that are rented, leased, or owned. The term includes a tract of land used to store vehicles that are not for sale or trade.

“~~Truck~~ **Freight** terminal” means a place and/or building, or portion thereof, that is used or is intended for **unloading, loading or** storage of freight for routing or reshipment.

“Warehouse” means a place and/or building, or portion thereof, that is used or is intended for the storage of goods and materials, for wholesale sales, temporary storage, and distribution. The term includes moving and storage facilities. The term does not include fuel tank farms.

***INDOOR RECREATION / SPORTS / ENTERTAINMENT***

“Casino” means any and all establishments that offer legalized gambling authorized under Title 23, Chapter 5, Part 1, et. seq., MCA and where any one of the following characteristics applies:

- a. the establishment is referenced as a “casino” or “gambling establishment”, or makes any reference to legalized gambling by signage, advertisement or by name; and/or
- b. five or more gambling machines are on the premises; and/or
- c. a card table is on the premises.

“Casino, type I” means a casino allowed in certain zoning districts only if specific development and appearance standards are met.

“Casino, type II” means a casino allowed in certain zoning districts without specific development or appearance standards.

“Indoor entertainment” means a place and/or building, or portion thereof, that is used or is intended for indoor entertainment of all types. The term includes theaters, movie theaters, dance halls, theaters for performing arts, and the like.

“Indoor sports and recreation” means a place and/or building, or portion thereof, that is used or is intended for indoor recreation of all types. The term includes bowling alleys, skating rinks, billiard and pool halls, arcades, athletic clubs, indoor racquetball courts, athletic training centers, gyms, and the like.

***OUTDOOR RECREATION / SPORTS / ENTERTAINMENT***

“Golf course/driving range” means a place, whether organized for profit or not, that is used or is intended for playing golf.

“Miniature golf” means a place and/or building, or portion thereof, that is used or is intended for playing miniature golf.

“Open space” means a vacant, undeveloped or unimproved parcel or area of land that is intended to remain free of development. Such lands typically include undeveloped park lands or other public lands, private lands in high hazard areas or with conservation easements, open water bodies, etc.

“Outdoor entertainment” means a place and/or structure, or portion thereof, that is used or is intended for outdoor, spectator-type uses or events. The term includes race tracks, motocross courses, sports arenas, concerts, religious assemblages, and the like.

“Park” means a place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public or by a homeowners' association. The term includes developed and undeveloped areas and neighborhood recreation centers.

“Recreation trail” means a linear path which may be dedicated to a single use or multiple uses. Examples include hiking trails, bike trails, x-country ski trails, and horse trails.

#### ***COMMUNITY SERVICES/USES***

“Administrative government center” means a place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. The term includes post offices, courthouses, correctional facilities, and the like.

“Animal shelter” means a place and/or building, or portion thereof, that is used or is intended to temporarily house stray pets.

“Cemetery” means a place and/or building, or portion thereof, that is used or is intended for burial purposes. Accessory uses include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.

“Civic use facility” means a place and/or building, or portion thereof, that is used or is intended for large gatherings of people. The term includes zoos, arenas, stadiums, fairgrounds, and the like.

“Community center” means a place and/or building, or portion thereof, that is used or is intended for short-term and intermittent meetings or gatherings of nonresident individuals that are generally open to the public for purposes of recreation, sharing information, entertainment, social service, or similar activities. The term includes fraternal, social, or civic clubs, lodges, union halls, and the like.

“Community cultural facility” means a place and/or building, or portion thereof, that is used or is intended for studying, reading, personal education, or for viewing the visual arts. The term includes libraries, museums, art galleries, observatories, and the like. The term does not include performing arts.

“Community garden” means an outdoor area that is used to grow vegetables, fruits, flowers, and the like by a group of unrelated individuals who primarily use what is grown for their personal use. The community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.



“Public safety facility” means any place and/or building, or portion thereof, whether public or non-public, that is used or is intended for housing public safety services. The term includes ambulance services, fire stations, police stations, and the like.

“Worship facility” means a place and/or building, or portion thereof, that has tax-exempt status and that is used or is intended as a place where people can regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, ~~and~~ **rectories, and day care centers within the same structure.** The term does not include ~~day care centers,~~ community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.

### ***HEALTH CARE***

“Health care ~~center~~ **clinic**” means a place and/or building, or portion thereof, that is used or is intended for providing medical services including prevention, diagnosis, treatment, or rehabilitation. The term includes dental clinics, doctor’s offices, and sports medicine facilities. The term does not include those uses as classified as a health care facility.

“Health care facility” means a place and/or building, or portion thereof, whether public or private, excluding federal facilities, whether organized for profit or not, that is used or is intended to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any person or individuals. The term does not include offices of private physicians or dentists. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers as defined in State law. (Source: 50-5-101, MCA)

**“Health care sales and services” means a place and/or building or portion thereof, that is used or intended to provide for the sale of health care products and services. The term includes pharmacies, vision care facilities, hearing aid facilities, prosthetic facilities, etc.**

### ***EDUCATION***

“Commercial educational facility” means an educational facility operated by private institutions or individuals that is used or is intended for preparing students for jobs in trades or professions. The term includes music schools, hair styling schools, real estate schools, and the like.

“Educational facility (K-12)” means a place and/or building, or portion thereof, that is used or is intended for use as a preschool, elementary, junior high, or high school.

“Educational facility (higher education)” means any place and/or building, or portion thereof, that offers or is intended to provide secondary education. The term includes colleges, universities, community colleges, and vocational schools.

“Instructional facility” means any place and/or building, or portion thereof, that is used or is intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the like.

***SOLID WASTE, RECYCLING, AND COMPOSTING***

“Composting facility” means a place and/or building, or portion thereof, that is used or is intended for collecting and processing vegetation (but not food wastes) for composting. The term includes the storage and manipulation of materials prior to, during, and following composting.

“Recycling center” means a place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. The term shall not include a junk yard.

“Solid waste transfer station” means a place and/or building, or portion thereof, that is used or is intended for temporary collection of solid waste prior to transport to a processing plant or to final disposal. (Refer to: 16.14.403, ARM)

***TELECOMMUNICATIONS***

“Amateur radio station” means a radio station operated by a federally licensed amateur radio operator as part of the Amateur Radio Service.

“Telecommunication facility” means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

“Telecommunication facility, co-located” means a telecommunication facility comprised of a single telecommunication tower or building supporting one or more antennas, dishes, or similar devices owned or used by more than one public or private entity.

“Telecommunication facility, concealed” means (1) an antenna that a casual observer would consider it a part of the structure to which it is attached or made a part of, or (2) an antennae and tower structure that is camouflaged to blend into the surroundings (e.g., camouflaged trees).

“Telecommunication facility, unconcealed” means an antenna mounted on a tower or mounted on the ground.

***UTILITIES***

“Utility installation” means a place, building and/or structure, or portion thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services. ~~“Utility installation, major” means a utility installation generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, wind turbines and the like. It does not include “Utility installation, minor” means a utility installation generally having low impact on neighboring property. The term includes public water system wells, sewer lift stations, irrigation ditches, or linear electric, communications or natural gas utilities, and the like.~~

**TRANSPORTATION**

“Airport” means a place and/or building, or portion thereof, that is used or is intended for the landing and takeoff of airplanes, helicopters, similar craft, including all necessary facilities for the housing and maintenance of the same.

~~“Airport, private” means an airport that is used by the owner and other persons authorized by the owner and not open for general public use.~~

~~“Airport, public” means an airport that is open for general public use.~~

“Bus transit terminal” means a place and/or building, or portion thereof, that is used or is intended for loading and unloading of bus passengers along with facilities for ticket sales and food service areas primarily intended for bus passengers.

~~“Freight terminal” means a place and/or building, or portion thereof, that is used or is intended for the temporary storage of items that will be reloaded onto trucks for final shipment.~~

“Heli-pad” means a place that is used or intended to land helicopters.

**“Parking lot, principal use” means an off-street parking facility intended to temporarily store vehicles, not accessory to any principal use.**

“Parking structure” means a multilevel structure that is used or is intended for parking motor vehicles for a short duration. The term does not include underground parking.

“Railroad yard” means a place and/or building, or portion thereof, that is used or is intended for switching train cars, loading and unloading cars, and where train cars and engines are serviced and stored while not in use.

“Taxi cab dispatch terminal” a place and/or building, or portion thereof, that is used or is intended for dispatching taxi cabs and where taxi cabs are kept while not in use.

**CONTRACTOR YARDS**

“Contractor yard” means a place and/or building, or portion thereof, that is used or is intended to be used by a contractor/builder with one or more of the following: construction material storage, machinery storage or repair, including trucks and heavy equipment, shops, and office space.

“Contractor yard, type I” means a contractor yard that would be compatible in size and scope in a residential setting as defined by performance standards herein described or as may be adopted.

“Contractor yard, type II” means a contractor yard that would be compatible in size and scope with industrial and commercial activities as defined by performance standards herein described or as may be adopted.

**INDUSTRIAL**

“Artisan shop” means a place and/or building, or portion thereof, that is used or is intended for creating works of art and/or production of handmade craft items on a small-scale. Examples of such items include paintings, sculptures, pottery, jewelry, hand blown glass, small wooden items, candles, soaps, and lotions.

“Industrial, heavy” means a place and/or building, or portion thereof, that is used or is intended for the following or similar uses: processing or manufacture of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. The term includes motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, primary metal processing, and the like.

“Industrial, light” means a place and/or building, or portion thereof, that is used or is intended for the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. The term includes furniture production, metal fabrication, apparel manufacturing, printing, publishing, and the like.

“Industrial park” means a planned and coordinated development designed to accommodate a variety of and more than 2 industrial uses.

“Junk yard” means a place and/or building, or portion thereof, that is used or is intended for selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials.

“Light manufacturing and assembly” means a place and/or building, or portion thereof, that is used or is intended for manufacturing and/or assembly of goods where no air contaminants or potentially offensive odors are emitted outside of the building or area of manufacture/assembly; no radioactive materials or hazardous substances or hazardous wastes or regulated substances are handled or produced. Such uses do not produce offensive noises outside of the building or area of manufacturing/assembly. Such uses typically have relatively small volumes of products shipped in and out, so as to not adversely impact neighboring uses (such as residential, office or commercial in mixed use zones). Typical uses include assembly of computers; testing, producing and/or packaging software; packaging of pre-made goods; etc. This term does not include any uses specifically listed under the definition of “industrial, light”.

“Motor vehicle graveyard” means a place and/or building, or portion thereof, that is maintained and operated by a county and that is used or is intended as a collection point for junk motor vehicles prior to their disposal. (Source: 75-10-501, MCA)

“Motor vehicle wrecking facility” means a place and/or building, or portion thereof, that is used or is intended for buying, selling, or dealing in 4 or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification. The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard. (Source: 75-10-501, MCA)

## ***ACCESSORY USES***

“Agriculture, livestock” means a place and/or building, or portion thereof, that is used or is intended for raising horses and/or cattle, exclusively.

“Automated teller machine (ATM)” means an automated device for conducting financial transactions.

“Automated teller machine (ATM), exterior” means an automated teller machine that is accessed from outside of an enclosed building.

~~“Automated teller machine (ATM), interior” means an automated teller machine that is accessed from inside of an enclosed building.~~

“Bed and breakfast” means a single family residence that offers overnight accommodations and a meal for a daily charge and which also serves as a primary residence of the operator or owner. (Refer to: 50-51-102, MCA)

“Fences” means a structure around the perimeter of a space that provides privacy, aesthetics, or security.

“Gaming, accessory” means a portion of a hotel, motel, restaurant or tavern with legalized gambling authorized under Title 23, Chapter 5, part 1, et. seq., MCA, permitted with specific development and use standards.

“Garage, private” means a building that is intended to house vehicles and household items belonging to the owner **or occupant** of the principal residence.

“Home occupation” means any occupation, profession, enterprise, or similar activity that is conducted on the premises of a single-family residence as an accessory use and that would be compatible in size and scope in an urban residential setting. The term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of heavy industry.

“Private stable/barn” means a place and/or building, or portion thereof, that is used or is intended for noncommercial activities relating to rearing, training, and riding horses or other permitted livestock. This term includes pole barns.

**“Residence, accessory” means a place and/or building, or portion thereof, that is used, or is intended to provide housing, as a single family residence for a caretaker, employee or owner of the principal use and the like. This residence is accessory to a principal use.**

“Roadside farmer’s market” means a place and/or building, or portion thereof, that is used or is intended for the retail sale of produce grown exclusively on the premises.

“Storage container” means an enclosed metal container exceeding 90 cubic feet that is typically used to temporarily store merchandise.

#### **TEMPORARY USES**

**“Garage sales” means the occasional non-business public sale of secondhand household goods and other goods incidental to household uses. The term also includes yard sales, patio sales, and the like. The term does not include any sales defined as itinerant outdoor sales.**

“Itinerant outdoor sales” means a place that is used or is intended for retail sales over a limited duration. The term includes seasonal sales such as fireworks and Christmas trees, flea markets, and the like. The term does not include private yard or garage sales or the sale of agricultural products produced on the premises.

“On-site construction office” means a building placed on a construction site that is used by the contractor as a field office and removed when construction is complete.

“On-site real estate sales office” means a residential dwelling in a residential development that is temporarily used as a sales office for other on-site residential dwellings.

**“Outdoor entertainment, temporary” means a short-term outdoor event such as concerts, performances, religious assemblages and the like. The term does not include sporting events such as motocross, auto racing and the like.**

“Sidewalk café” means an outdoor dining area located upon public property, including a sidewalk, and operated as an integral part of an adjacent restaurant where food and beverages are sold or served primarily for consumption on the premises.

“Sidewalk food vendor” means the sale of food and beverage from a mobile cart located on public property or within the public right-of-way.

**Land Development Code (Title 17)  
Summary of Proposed Amendments**

| Title, Chapter, Article, Section | Proposed Amendment  | Reason for Amendment   | Additionally Requested Information |
|----------------------------------|---|--|------------------------------------|
| 17.8.090.07<br>Measurements      | <del>Building height. The height of a building shall be measured from grade plane to the average height of the highest roof surface in accordance with the current adopted edition of the International Building Code.</del> <b>as the average between the highest point and lowest point of finished ground level adjoining the building at the exterior wall to the highest peak of the highest roof.</b> | Simplified/clarified definition  |                                    |
| 17.8.120<br>General Definitions  | “Agriculture, horticulture, <b>nursery</b> ” means a place and/or building, or portion thereof that is used or is intended for growing fruit, vegetables, flowers, and other plants typically grown on farming operations in the region.  | Expanded/clarified definition  |                                    |
| 17.8.120<br>General Definitions  | <del>“Automated teller machine (ATM), interior” means an automated teller machine that is accessed from inside of an enclosed building.</del>   | Removed definition, as this use is not regulated   |                                    |
| 17.8.120<br>General Definitions  | <b>“Department Director” means a City of Great Falls official designated as the head of a specific City Department, or his/her designee, authorized to act on his/her behalf.</b>   | Added definition for clarification   |                                    |
| 17.8.120<br>General Definitions  | “Freight terminal” means a place and/or building, or portion thereof that is used or is intended for <b>unloading, loading or storage of freight for routing or reshipment</b> <del>the temporary storage of items that will be reloaded onto trucks for final shipment.</del>  | Combined definition of Freight Terminal and Truck Terminal, which were nearly synonymous |                                    |
| 17.8.120<br>General Definitions  | “Garage, private” means a building that is intended to house vehicles and household items belonging to the owner <b>or occupant</b> of the principal residence.   | Clarified definition   |                                    |
| 17.8.120<br>General Definitions  | <b>“Garage sales” means the occasional non-business public sale of secondhand household goods and other goods incidental to household uses. The term also includes yard sales, patio sales, and the like. The term does not include any sales defined as itinerant outdoor sales.</b>   | New definition for new temporary land use category                                       |                                    |
| 17.8.120<br>General Definitions  | <b>“Health care sales and services” means a place and/or building or portion thereof, that is used or intended to provide for the sale of health care products and services. The term includes pharmacies, vision care facilities, hearing aid facilities, prosthetic facilities, etc.</b>  | New definition for new principle land use category                                       |                                    |
| 17.8.120<br>General Definitions  | <b>“Inhabited area” means any residence, or other structure regularly occupied by people, or any outdoor area used by people on a regular basis.</b>  | Definition was missed, added from Title 5  |                                    |
| 17.8.120<br>General Definitions  | <b>“NEIR” means a non-ionizing electromagnetic radiation, which is electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum.</b>  | Definition was missed, added from Title 5  |                                    |

|                                 |   |   |  |
|---------------------------------|---|---|--|
| 17.8.120<br>General Definitions | <b>“Outdoor entertainment, temporary” means a short-term outdoor event such as concerts, performances, religious assemblages and the like. The term does not include sporting events such as motocross, auto racing and the like.</b>   | Added missing definition  |  |
| 17.8.120<br>General Definitions | <b>“Parking lot, principal use” means an off-street parking facility intended to temporarily store vehicles, not accessory to any principal use.</b>  | Definition was missed   |  |
| 17.8.120<br>General Definitions | <b>“Residence, accessory” means place and/or building, or portion thereof, that is used, or is intended to provide housing, as a single family residence for a caretaker, employee or owner of the principle use and the like. This residence is accessory to a principle use.</b>  | New definition for new accessory land use category  |  |
| 17.8.120<br>General Definitions | <b>“Restaurant” means a place and/or building, or portion thereof that is used or is intended for the preparation and sale of food and beverages for immediate consumption on <del>or off site</del> the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery or convenience store with a food service section. Such establishments may include a drive-through window, and may or may not include on-site seating.</b> | Clarified/expanded definition   |  |
| 17.8.120<br>General Definitions | <b>“Silhouette” means a representation of the outline of a structure, especially a tower and antenna associated with a telecommunication facility, as seen from an elevation perspective.</b>   | Definition was missed, added from Title 5   |  |
| 17.8.120<br>General Definitions | <b>“Telecommunication equipment building, shelter or cabinet” means a cabinet or building used to house equipment used by telecommunication providers to house equipment at a facility.</b>   | Definition was missed, added from Title 5   |  |
| 17.8.120<br>General Definitions | <b>“Tree, protected” means a significant tree on public or private property that may be threatened with removal or damage during a construction project.</b>  | New definition, used in Landscaping Chapter (Chapter 44)  |  |
| 17.8.120<br>General Definitions | <b>“Tree, significant” means a tree that is 6 inches or larger in trunk diameter when measured at one foot above the ground.</b>  | New definition, used in Landscaping Chapter (Chapter 44)  |  |
| 17.8.120<br>General Definitions | <del>“Truck terminal” means a place and/or building, or portion thereof, that is used or is intended for storage of freight for routing or reshipment.</del>  | See “Freight Terminal”, above   |  |
| 17.8.120<br>General Definitions | <b>“Utility installation” means a place, building and/or structure, or portion thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, wind turbines and the like. It does not include public water system wells, sewer lift stations, irrigation ditches, or linear electric, communications or</b>       | Eliminated definition of “minor utility installation”, as this is not regulated. Combined definition of “major utility installation” and “utility installation” into one definition |  |



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|  | <del>natural gas utilities, and the like. This term shall not include linear electric, communications or natural gas facilities which are not regulated under this Title.</del>   |  |  |
| 17.8.120<br>General Definitions                  | <del>“Utility installation, major” means a utility installation generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, and the like.</del>   | See above  |  |
| 17.8.120<br>General Definitions                  | <del>“Utility installation, minor” means a utility installation generally having low impact on neighboring property. The term includes public water system wells, sewer lift stations, irrigation ditches, and the like.</del>  | See above  |  |
| 17.8.120<br>General Definitions                  | “Worship facility” means a place and/or building, or portion thereof, that has tax-exempt status and that is used or is intended as a place where people can regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, <del>and</del> <b>rectories, and day care centers within the same structure.</b> The term does not include <del>day care centers,</del> community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like. | Added Day Care Centers as allowable use  |  |
| 17.16-Exhibit 16-2<br>Public Notice              | (non-subdivision) was added to the ‘type of action’ under Article 32  | Clarified applicability  |  |
| 17.16-Exhibit 16-2<br>Public Notice              | Public Notices are required for Article 34, “Administrative appeal”   | Clarified process  |  |
| 17.16.7.030<br>Application and Review Procedure  | M. <b>Filing Recording of resolution.</b> The City Clerk shall <del>promptly make and certify a copy of record</del> the <b>annexation</b> resolution <del>and file it</del> with the County Clerk and Recorder. ( <del>See: 7-2-4607 (1), MCA</del> )  | Clarified wording  |  |
| 17.16.23.030<br>Application and Review Procedure | <del>G. <b>Staff report.</b> The historic preservation officer shall prepare a staff report as described in this article and mail it to each member of the Historic Preservation Advisory Commission, the applicant, and the applicant’s agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.</del>   | Clarified process – no HPAC involvement intended. This was missed during original drafting |  |
| 17.16.23.070<br>Appeal                           | A. <b>Historic buildings.</b> <del>Within 30 days of a final decision, the applicant and/or an aggrieved party may appeal the decision of the commission to the City Commission, which shall hold a public hearing to consider the appeal. If the decision of the commission is appealed to the City Commission, the applicant and/or an aggrieved person may appeal the City Commission’s final decision by filing an appeal with a court of competent jurisdiction within 30 days of the City Commission’s final decision.</del>  | See above  |  |

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|  | <p><b>B. — <del>Non-historic buildings.</del></b> The applicant and/or an aggrieved party may appeal a final decision made pursuant to this article by filing an appeal with the Board of Adjustment within 30 days of the final decision.</p>  |  |  |
| <p>17.16.29.100<br/>Changes in Planned Unit Development</p>  | <p><b>Changes in Planned Unit Development</b><br/> <b>A Planned Unit Development shall be developed only according to the approved final plan and all supporting data. The final plan and supporting data together with all recorded amendments shall be binding on the applicants, their successors, grantees, and assigns, and shall limit and control the use of premises (including the internal use of buildings and structures) and location of structures in the Planned Unit Development as set forth therein.</b></p> <p><b>A. Major Changes.</b> Major changes in the plan of development or supporting data similarly approved shall be considered the same as a new petition, and reapplication shall be made in accordance with the procedures for a new application. Major changes include increase in density, heights of buildings, change in location and types of nonresidential land uses, changes in road standards or alignment, changes in the location and/or amount of land devoted to open space, parks or other common facilities.</p> <p><b>B. Minor Changes.</b> Minor changes may be approved by the zoning administrator or Planning Director following approval of such change by the appropriate property owners' association if applicable. Minor changes are defined as any change not defined as a major change.</p> | <p>Added to make the process more efficient - language taken from old Code</p> |  |
| <p>17.16.32.030<br/>Application and review procedures for variances that relate to the subdivision regulations</p> | <p><b>A. Submittal of application.</b> The applicant shall submit a completed application to the Planning Department along with the application fee <del>as may be established by the City Commission.</del> <b>for subdivision as provided in Article 26 of this chapter.</b></p> <p><b>B. <del>Determination of completeness.</del></b> <del>Within 10 days of submittal, the Director of the Planning Department shall determine if the application is complete. If the application is deemed incomplete, it shall be returned to the applicant and the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are modified.</del> <b>Procedure. The application for variance shall be processed simultaneously and as a part of the application for subdivision as provided in Article 26 of this chapter including staff report, Planning Board recommendation and City Commission decision.</b></p> <p><b>C. <del>Notice.</del></b> <del>Consistent with Article 4 of this chapter, the director shall</del></p>   | <p>Clarified and simplified process</p>  |  |

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|   | <p>provide for public notice, property owner notification, agency notification, and posting of a sign on the premises.</p> <p><del>D. <b>Staff report.</b> The director shall prepare a written staff report as described in this article and mail it to each member of the City Commission, the applicant, and the applicant's agent, if any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.</del></p> <p><del>E. <b>Public hearing.</b> Allowing for proper notice, the City Commission shall hold a public hearing to review the application.</del></p> <p><del>F. <b>Decision.</b> Within 30 days of the determination of completeness, the City Commission shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.</del></p> <p><del>G. <b>Applicant notification.</b> Within 5 days following the decision, the director shall mail the applicant the original (signed) copy of the decision and retain a copy for the public record.</del></p> <p><del>H. <b>Additional procedural steps.</b> If the City Commission grants the variance, the applicant shall then follow other review procedures as may be required.</del></p> |                         |  |
| 17.16.32.080<br>Imposition of conditions                                    | In approving a variance, the Board of Adjustment <del>or City Commission</del> may impose such conditions and restriction as may be necessary to grant approval.   | Clarified process       |  |
| 17.16.40.010<br>Generally   | From time to time it may be necessary to amend the text of <del>Chapter 20 of this Title</del> <b>relative to subdivisions and/or zoning</b> , and the associated zoning map, provided the amendment is consistent with the City's growth policy, neighborhood plans, and other officially adopted plans.  | Clarified applicability |  |
| 17.16.40.020<br>Application and review procedure for map amendments         | C. <b>Determination of review authority.</b> The director shall determine the appropriate review authority. If the amendment is intended to amend the text of this Title as it relates to the subdivision of land, the Planning Board shall hear the amendment and render a recommendation to the City Commission. The Zoning Commission shall hear all other amendments <b>relating to zoning.</b>  | Clarified authority     |  |
| 17.16.46.050<br>Enforcement procedure for provisions <u>not</u> relating to | C. <b>Notification of violation.</b> If the City determines that a violation does exist, the appropriate department head, in consultation with the City Attorney, will <del>initiate court action as provided in this part.</del> <b>send a notice of violation to the property owner as provided for in this Article.</b>   | Clarified process       |  |

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| subdivision process  |  |  |   |
| 17.16.46.090<br>Penalties for violation of a subdivision provision | Any person who sells, leases, or otherwise transfers land not in conformance with this Title or State law shall be guilty of a misdemeanor, and shall be subject to a fine of not less than \$100 or more than \$500, imprisonment in the county jail for not more than <del>6</del> <b>3</b> months, or both. Each sale, lease, or transfer of each separate parcel shall constitute a separate offense. (See: 76-3-105, MCA)       | Edited to conform with State law   |   |
| 17.16.46.110<br>Penalties for violation for other provisions       | Any person who violates any provision of this Title, with the exception of subdivision and floodplain regulations, shall be guilty of a misdemeanor and shall be subject to <del>a fine of not more than \$500 or imprisonment in the county jail for not more than 6 months, or both</del> <b>the penalties as provided for in OCCGF 1.4.070</b> ; and each day a violation continues to exist shall constitute a separate offense. | Edited to ensure conformance with OCCGF (Title 4)  |   |
| 17.20.2.040.A.17<br>Establishment and purpose of districts         | <del>After January 1, 2005, new PUD districts are to be numbered sequentially.</del>   | Clarified process - PUDs named, not numbered   |   |
| 17.20-Exhibit 20-1<br>Principal uses by district                   | <b>See Exhibit for changes</b>   | Some land uses were adjusted to be consistent with similar uses and zoning districts and to allow for flexibility. A few new uses were added, a few removed. |   |
| 17.20-Exhibit 20-2<br>Accessory uses by district                   | <b>See Exhibit for changes</b>   | Some land uses were adjusted to be consistent with similar uses and zoning districts and to allow for flexibility. One new use was added, one removed.       |   |
| 17.20-Exhibit 20-3<br>Temporary uses by district                   | <b>See Exhibit for changes</b>   | Some land uses were adjusted to be consistent with similar uses and zoning districts and to allow for flexibility. One new use was added.                    |   |
| 17.20-Exhibit 20-4<br>Development standards table                  | The 'Maximum building height of detached garage [1]' for R-5 added the following: <b>but may not be higher than the uppermost elevation of the principal building</b>  | Refined standard for consistency   | <b>The additional wording is meant to be consistent with the other residential zoning districts R-1, R-2, R-3 and R-9</b>                 |
| 17.20-Exhibit 20-4<br>Development standards table                  | The 'Maximum building height of detached garage [1]' for R-6 added the following: <b>but may not be higher than the uppermost elevation of the principal building</b>  | Refined standard for consistency   | <b>The additional wording is meant to be consistent with the other residential zoning districts R-1, R-2, R-3 and R-9</b>                 |
| 17.20-Exhibit 20-4<br>Development standards table                  | The 'Maximum lot coverage of principal and accessory buildings' for R-3 deleted a Corner Lot coverage of 70% and changed it to 55%, and deleted Other Types coverage of 60% and changed it to 50%.   | Refined standards  | <b>This was an error in the original LDC. The prior code stated maximum lot coverage for single family districts was 45% for a corner</b> |

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|  |   |  | lot and 35% for other lots. The proposed change is more lenient at 55% for corner lots and 50% for other lots zoned R-3.                         |
| 17.20-Exhibit 20-4 Development standards table | Footnote [6] was added. It reads: <b>For townhouses, see Section 17.20.6.050 for additional and superseding requirements.</b>   | Reference provided for ease of application   |  |
| 17.20-Exhibit 20-4 Development standards table | Footnote [7] was added. It reads: <b>Permitted accessory structures and buildings shall have a minimum rear setback of 2 feet in all residential zoning districts.</b>  | Added standard for completeness  |  |
| 17.20-Exhibit 20-4 Development standards table | The ‘Maximum building height of a principal building’ for C-2 has been changed from 35 feet to 65 feet.   | Refined standard   | Increased allowable height to accommodate larger buildings in the General Commercial district  |
| 17.20-Exhibit 20-4 Development standards table | The ‘Maximum building height of a principal building’ for PLI has been modified to include: <b>except as follows: in the proposed medical district master plan area, 160 feet by right.</b>   | Refined standard and clarified applicability of standard   | Increased height limit to accommodate hospital buildings in only the proposed “medical district”.  |
| 17.20-Exhibit 20-4 Development standards table | The ‘Maximum building height of an accessory building’ for C-1 has been modified in the following way: <b>12 24 feet, but may not be higher than the uppermost elevation of the principal building</b>  | Refined standard   | To address accessory buildings in the Neighborhood Commercial districts to be consistent with other commercial and transitional zoning districts |
| 17.20-Exhibit 20-4 Development standards table | The ‘Maximum building height of an accessory building’ for C-2 has been modified in the following way: <b>12 24 feet, but may not be higher than the uppermost elevation of the principal building</b>  | Refined standard   | To address accessory buildings in the General Commercial districts to be consistent with other commercial and transitional zoning districts      |
| 17.20.5.040 Large format retail stores         | <p><b>A. Legislative findings.</b> The City Commission makes the following findings:</p> <ol style="list-style-type: none"> <li>1. <del>Abandoned buildings are a blighting influence on the community and large vacant stores are especially detrimental.</del></li> <li>2. <del>Large retail buildings may be inconsistent with the existing community character and the immediate area.</del></li> <li>3. <del>A diverse retail economy is desirable in that it provides consumer choice and fosters competition.</del></li> </ol> <p><b>B. Purpose.</b> The provisions of this section are intended to accomplish the following purposes:</p> <ol style="list-style-type: none"> <li>1. <del>ensure that large retail projects are consistent with the community character and the surrounding area</del></li> <li>2. <del>ensure that large retail stores contribute to a diverse and sound economic base</del></li> <li>3. <del>prevent urban blight due to vacant retail stores</del></li> </ol> | Removed Legislative Findings & Purpose language to be consistent with standard format of Article and which may have unintentionally provided some basis for applying other unintended provisions to large format retail stores |  |
| 17.20.6.005                                    | <b>Agricultural, horticulture, nursery</b>  | New standard added for clarification of  |  |

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| Agriculture, horticulture, nursery        | <b>The production or growing of agricultural, horticultural or nursery products is permitted in the R-1, I-1, and I-2 zoning districts. The sale of such products is only permitted in zoning districts allowing such sales.</b>   | applicability   |  |
| 17.20.6.010.B<br>Mobile home park         | <b>Applicability. The design standards of this section shall apply during the establishment of new mobile home parks.</b>  | Clarified applicability                                   |  |
| 17.20.6.020.A<br>Residence, zero-lot line | <b>Generally.</b> Houses placed within a zero-lot line development shall comply with all applicable standards, except that side yard setbacks are modified. <del>Zero-lot line projects are considered a conditional use in several residential districts and are reviewed on a case-by-case basis.</del>  | Simplified process  |  |
| 17.20.6.030<br>Residence, two family      | <del>Two family residences shall meet the standards for single family residences.</del>  | Referenced standards do not exist                         |  |
| 17.20.6.050<br>Townhouse                  | <p><b>B. Lot dimension and area. Each lot shall be a minimum of 1,300 square feet in area. Any portion of the lot less than 16 feet in width shall not be included in the calculation of the minimum required 1,300 square feet lot area. The minimum average lot width for the end dwelling unit of a townhouse structure shall be 32 feet and the minimum lot area of the end dwelling unit shall be 2,600 square feet. The minimum lot width to depth ratio shall be no greater than 1 to 7 and shall be based upon the portion of the lot eligible for inclusion in the above mentioned area calculation.</b></p> <p><b>C. Building setback line.</b></p> <p><b>1. Front yard. The minimum depth of a front yard shall be the depth required by the zoning district in which the townhouse is located. (See Exhibit 20-4). In those instances where the entrance to off-street parking spaces for an individual lot is from a public roadway, the minimum building setback line from the public road right-of-way shall be 20 feet.</b></p> <p><b>2. Side yard. Every dwelling which is the end unit of a townhouse structure shall have a minimum side yard depth required by the zoning district in which the townhouse is located. (See Exhibit 20-4).</b></p> <p><b>3. Rear yard. The minimum depth of a rear yard shall be the depth required by the zoning district in which the townhouse is located (See Exhibit 20-4), although the depth of a rear yard for a garage shall be 20 feet where the vehicular entrance crosses the rear property line.</b></p> <p><b>BD. Lot Occupied area. No more than 50 percent of the lot area shall be occupied by a building.</b></p> | Standards and provisions were missed, added from old Code |  |
| 17.20.6.060.A.4<br>Residence,             | An overhang shall extend at least <del>12</del> <b>10</b> inches beyond the exterior wall.   | Reduced to conform with industry standard                 |  |

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| manufactured, factory-built                  |  |  |  |
| 17.20.6.140.A<br>Casino, type 1              | <b>Purpose.</b> This section is intended to allow the location of <b>new casinos or the relocation of existing casinos</b> in certain zoning districts provided they meet more stringent development and appearance standards than type II casinos.  | Clarified applicability                                |  |
| 17.20.6.140.E<br>Casino, type 1              | <b>Design Review Board approval.</b> The Design Review Board shall review and approve the exterior building design and finishes; and landscaping, signage, lighting and parking plan for any new <b>or relocated</b> casino, or an expansion <b>or exterior renovation</b> of an existing casino.  | Clarified applicability                                |  |
| 17.20.6.150.E<br>Casino, type II             | <b>Design Review Board Approval.</b> The Design Review Board shall review and approve the exterior building design and finishes; and landscaping, signage, lighting and parking plan for any new <b>or relocated</b> casino, or an expansion <b>or exterior renovation</b> of an existing casino.  | Clarified applicability                                |  |
| 17.20.6.160.A<br>Animal Shelter              | <b>Confinement of animals.</b> All animals shall be confined to an enclosed building. <del>In an industrial zoning district,</del> The facility may include a fenced or otherwise confined exercise area provided:   | Refined applicability of standard                      |  |
| 17.20.6.190<br>Health care facility          | <del>A heliport or heli pad may only be allowed as a conditional use when used for transporting patients to and from a hospital.</del>   | Removed as unnecessary                                 |  |
| 17.20.6.250.B<br>Telecommunications facility | <b>Applicability.</b> The provisions of this section apply to all telecommunication facilities, except City <b>government owned or public service use/facility owned</b> and operated receive and/or transmit telemetry station antennas for supervisory control and data acquisition (SCADA) systems for water, flood alert, traffic control devices and signals, stormwater, pump stations and/or irrigation systems, <b>public education and transportation</b> with heights not exceeding 35 feet. <b>Additionally, the provisions of this section do not apply to single satellite dishes smaller than 10 inches in diameter.</b> | Refined to reflect applicability from Title 5 of OCCGF |  |
| 17.20.6.270.E<br>Contractor yard, type I     | <b>Buildings.</b> A building(s) not exceeding a cumulative total of <del>4,500</del> <b>3,000</b> square feet shall be constructed on the premises to accommodate the contractor's operations.   | Refined standard                                       |  |
| 17.20-Exhibit 20-8<br>Standards for fences   | Changed the maximum height for fences in Industrial Zoning Districts between the front lot line and the front of the principal building from 8 to 12.  | Refined standard                                       |  |
| 17.20-Exhibit 20-8<br>Standards for fences   | Changed the maximum height for fences in Industrial Zoning Districts from the front of the principal building to the rear lot line from 8 to 12.   | Refined standard                                       |  |
| 17.20.7.040.C<br>Fences                      | <b>Maximum height.</b> Fences shall not exceed the heights listed in Exhibit 20-8. <b>Fences shall comply with landscape screening requirements and standards of this Title.</b>   | Refined standard                                       |  |
| 17.20-Exhibit 20-9                           | Changed the Parcel Size from 10,001 and higher to 10,001 to 43,599 (square   | Refined standard                                       |  |

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| Garage area limitations                       | feet)   |   |  |
| 17.20-Exhibit 20-9<br>Garage area limitations | Added the Parcel Size 43,600 (1 acre) and higher with a total maximum garage area of 1,800 (square feet)  | Refined standard  |  |
| 17.20.7.070.F<br>Home occupation              | <del>Signs. No exterior display shall be permitted except that one non-illuminated nameplate or home occupation sign shall be allowed. The sign shall be limited to 144 square inches (one square foot) in area. Such sign or nameplate shall be placed flat against the dwelling unit.</del> <b>Signage for home occupations must conform to the requirements in section 17.60.2.020(K) of chapter 60 of this Title.</b>   | Moved requirement to Sign chapter                             |  |
| 17.20.7.070.I<br>Home occupation              | <b>Prohibited uses.</b> The following uses do not qualify as a home occupation: veterinary services, medical offices, animal boarding or grooming, barber, hair care, restaurant, vehicle repair, or any other similar <b>high traffic generation</b> activity.   | Clarified applicability                                       |  |
| 17.20.7.085<br>Residence,<br>accessory        | <b>In the C-4 zoning district, only upper level residences are permitted.</b>   | Clarified allowed use downtown                                |  |
| 17.20.8.010.A<br>General provisions           | <b>Generally.</b> Prior to establishment, all temporary uses <b>except for garage sales</b> shall obtain a temporary use permit from the City. The requirements listed in this section are intended to address land-use related issues. As such, the City Commission may adopt additional requirements relating to the permitting process, hours of operation, specific use requirements, hold harmless provisions, insurance, and others appropriate to the temporary use. At its discretion, the City may develop a single application for all temporary uses or develop an application for each use. No temporary use included in this chapter may be allowed until the City has developed an appropriate application and supplemental requirements. | Clarified exemption of garage sales from temporary use permit |  |
| 17.20.8.015<br>Garage sales                   | <b>A. Generally. A temporary use permit from the City is not required for this temporary use.</b><br><b>B. Frequency and duration. Sales are intended to be conducted no more than twice during a calendar year, for a period of not more than three consecutive days per occurrence.</b>   | New standards for added use                                   |  |
| 17.24.040.G<br>Exemptions                     | <b>Subdivisions exempted from review but subject to survey requirements and zoning regulations</b> (See: 76-3-207, MCA). Unless the method of disposition is adopted for the purpose of evading this chapter, the following are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401, MCA <b>and zoning regulations provided by</b>  | Clarified applicability                                       |  |



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|  | <b>Chapter 20 of this Title:</b>   |                                      |  |
| 17.28.050.I<br>Standards and guidelines for specified projects and buildings | commercial buildings in a commercial, <b>mixed-use (M-1 and M-2), Public Lands and Institutional (PLI), and all residential</b> zoning districts, including new construction, additions that exceed 500 square feet, and exterior renovations;   | Clarified applicability              |  |
| 17.32.090<br>Street design standards   | <b>G. Curved streets. Curved collector streets shall have a centerline radius of not less than two hundred fifty feet. Curved local (minor) streets shall have a centerline radius of not less than one hundred feet.</b>  | Added missing standard               |  |
| 17.32.150<br>Driveway access   | <b>G. Driveway paving. Driveways connecting to a public street must be surfaced and maintained with a cement or asphaltic concrete. Paving of driveways connecting to a public street in an R-1 Zoning District shall be required at the discretion of the City Engineer.</b>  | Clarified standard and applicability |  |
| 17.32.160<br>Intersection visibility   | <b>A. Generally.</b> To provide motorists with a clear view of intersecting streets, <b>alleys and driveways</b> , nothing within the clear visibility triangle shall be erected, placed, parked, planted, or allowed to grow at a level between 2.5 feet and 8 feet above the adjoining street center line surface elevation. A tree whose branches are 8 feet or higher may be located in this area. | Expanded applicability               |  |
| 17.32.160<br>Intersection visibility   | <b>B. Size.</b> The configuration of a clear visibility triangle is shown in Exhibit 32-5 and the length of each leg <b>measured along the curbline or edge of roadway</b> , (indicated on Exhibit 32-5 as “x”) shall be 45 feet <b>for street intersections, and 10 feet for alleys and 15 feet for driveways.</b>  | Clarified standard                   |  |
| 17.32.160<br>Intersection visibility   | <b>C. Exemption. Properties in the C-4 Central Business zoning district are required to comply with the provisions in this section unless compliance is not possible due to the setback of the building.</b>   | Clarified applicability exemption    |  |
| 17.36.2.010<br>General requirements  | <del><b>H. Front and side yard prohibition.</b> Off street parking for residential uses shall not be located within the setback of a lot frontage. This may be either a front or side yard setback, depending upon the lot location and configuration. It is not intended to apply to the rear yard setback of a lot bordering an alley.</del>   | Removed parking prohibition          |  |
| 17.36-Exhibit 36-1<br>Non-accessible parking requirements                    | The minimum number of required spaces for commercial motor vehicle maintenance and service shops has been modified in the following way: 2 per service area <del>including</del> or work bays plus 1 per employee per shift  | Clarified standard                   |  |
| 17.36.2.040<br>Design requirements   | <b>D. Drive-through stacking requirements. Drive-through facilities shall have stacking room for at least six vehicles, including one vehicle at the window (or call box, etc.). Stacked vehicles shall not extend into any public</b>   | Added standard                       |  |

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|   | <b>street, road, alley or right-of-way, or required service drive.</b>   |   |  |
| 17.36.2.070<br>Accessible parking and passenger loading | <b>B. Number required.</b> If parking spaces are required, then accessible spaces shall be provided, <del>in addition to</del> <b>inclusive of</b> the required number of regular spaces, in the quantity as shown in Exhibit 36-4. One of 8 accessible parking spaces, but always at least one, must be van-accessible.   | Clarified standard  |  |
| 17.44.1.030<br>Installation and maintenance             | <p><b>G. Tree protection and replacement. Existing significant trees that are alive and in healthy condition shall be preserved to the extent reasonably feasible during development or redevelopment, and may help satisfy the landscaping requirements of this chapter. Such trees shall be considered “protected” trees within the meaning of this chapter subject to the exceptions contained in item 3 below. Streets, buildings and lot layouts shall be designed to minimize the disturbance to existing significant trees. All required landscape plans shall accurately identify the locations, species, size and condition of all existing significant trees, each labeled showing the applicant’s intent to either remove, transplant or protect. Where it is not feasible to protect and retain existing significant tree(s), owners are encouraged to transplant them to another on-site location.</b></p> <p><b>1. All existing street trees that are located on City rights-of-way abutting the development or redevelopment shall be accurately identified by species, size, location and condition on required landscape plans, and shall be preserved and protected in accordance with the City of Great Falls, “Arboricultural Standards and Specifications.” Unauthorized removal or destruction of such trees shall require the following:</b></p> <p><b>a. Payment to the City of Great Falls of the value of the trees removed or damaged. The party responsible for the removal or destruction shall select either the City Forester or a qualified landscape appraiser to determine such loss based upon an appraisal of the tree to be removed by using the most recent published methods established by the Council of Tree and Landscape Appraisers; or,</b></p> <p><b>b. Replacement of lost or damaged trees, as directed by the City, with a sum of total trunk diameters equal to 100% of the trunk diameters of the trees removed. Replacement shall conform to the requirements in Article 2 to this chapter.</b></p> <p><b>2. Replacement trees shall meet the following minimum size requirements:</b></p> <p><b>a. Canopy Shade Trees 2.0” caliper balled and burlap or</b></p> | New standard added to provide for better mature tree protection | <p>New standard added to provide for better mature tree protection. Damage to trees, both private and public, during development has been substantial and persistent for many years with many mature trees succumbing to the damage several years after project completion. Often, trees scheduled to be saved and protected by the developer are part of the landscape requirements for interior trees and boulevard trees.</p> <p>The Design Review Board has expressed concerns for sometime that trees which are scheduled to be saved and protected during construction in fact are not. On many projects throughout the community, mature trees suffer extensive and preventable root loss, soil compaction, wounds to trunks and branches and poisoning from concrete wash and other construction materials deposited over their root systems. This results in the death of the trees often several years after project completion.</p> <p>This code is proactive in that it requires that developers and contractors consider the lay out of the project and its impacts to mature trees and present a plan for protecting those trees which they have selected to remain. It does not require reimbursement for those trees which may be damaged or destroyed</p> |

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|   | <p>equivalent</p> <p>b. Ornamental Trees 2.0” caliper balled and burlap or equivalent</p> <p>c. Evergreen Trees 6’ height balled and burlap or equivalent</p> <p>3. Trees that meet one or more of the following removal criteria shall be exempt from the requirements of this subsection.</p> <p>a. dead, dying or naturally fallen trees, or trees found to be a threat to public health, safety or welfare;</p> <p>b. trees that are determined by the City to substantially obstruct clear visibility at driveways and intersections;</p> <p>c. tree species that constitute a nuisance to the public such as cotton-bearing cottonwood, Siberian Elm and Russian Olive. However, native cotton-bearing cottonwood trees, when located in a natural area buffer zone or riparian area, are not nuisance tree species.</p> |   | <p>on private property. It does require reimbursement for trees damaged or destroyed which are public trees located on public property such as boulevards.</p> <p>The valuation methods and damage assessment protocol will be done using nationally accepted and adopted standards developed by the Council of Landscape appraisers and the International Society of Arboriculture.</p> <p>Tree damage is not understood well by developers or contractors. An education program should be implemented as an integral part of this program.</p> |
| 17.44.1.050<br><b>Use of low water adaptive vegetation Retaining wall standards</b> | <p>The use of low water adaptive vegetation should be incorporated into landscape designs to the extent possible. When the total amount of landscaping in a project, excluding boulevard areas, exceeds 5,000 square feet, at least 30% of the required vegetation shall be low water adaptive vegetation and planted in one or more groupings. <b>Retaining walls shall not be taller than 6 feet. A series of more or less parallel retaining walls may be used provided there is at least a 5-foot horizontal separation between the 2 walls and the area is landscaped with shrubs at a rate of at least 10 shrubs per 100 feet (Exhibit 44-1).</b></p>  | Removed low-water adaptive vegetation standard and added retaining wall standard from eliminated Hillside Standards chapter |  |
| 17.44-Exhibit 44-1<br>Dimensional standards for retaining walls                     | A dimensional standard exhibit for retaining walls was added.  | See above   |  |
| 17.44.2.2.040.B<br>Landscaping for boulevard areas                                  | 2. At least one canopy type tree shall be planted and maintained in a boulevard section for each 35 lineal feet of street and avenue frontage or portion thereof, <b>not covered by driveway, sidewalks, or other approved hard surface.</b>   | Clarified calculation methodology   |  |
| 17.44.3.010.A<br>Applicability  | 3. <b>All buildings greater than 20,000 sq. ft. changing occupancy or undergoing interior or exterior remodeling.</b>  | Added requirement and clarified applicability   |  |
| 17.44.3.010.B   | 2. <del>Single family dwellings or duplex units.</del>   | Removed unnecessary exemption language  |  |

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| Applicability  |   |  |  |
| 17.44.3.030.B<br>Landscaping requirements            | <del>5. At least 75% of the area within landscaped islands shall be in turf grass.</del><br><b>Landscaped islands shall contain canopy shade trees, shrubs and/or turf grass.</b>   | Modified standard  |  |
| 17.44.3.030<br>Landscaping requirements              | <b>H. Boulevard landscaping credit.</b> 25% of the boulevard landscaping, <b>excluding sidewalks and driveways</b> , may be credited to the interior landscaping requirement specified in <b>item A</b> above.  | Clarified standard   |  |
| 17.44.4<br>Design Standards for Industrial Buildings | Added Article 4, (Landscaping) Design Standards For Industrial Buildings. See actual Chapter for complete text.   | Separated Industrial landscaping requirements from Commercial landscaping requirements             |  |
| 17.64.010<br>Legislative findings                    | 2. It is reasonable to generally allow, but not encourage, nonconformities to continue until such time as they are <b>moved</b> , removed or discontinued.  | Clarified applicability  |  |
| 17.64.010<br>Legislative findings                    | 3. Nonconformities that are <b>moved</b> , removed, discontinued, changed, extended, or enlarged shall be made to conform with the regulations that apply to all other parcels of land within the district. <b>However, changes in use may be allowed under certain circumstances.</b>  | Clarified applicability and acknowledged the need to allow for changes under certain circumstances |  |
| 17.64.020.A<br>Nonconforming uses                    | <b>1. Change or expansion of nonresidential uses.</b><br><del>a. A nonconforming, nonresidential use shall not be changed except in conformance with the zoning district in which it is located.</del><br><b>b.a. A nonconforming nonresidential use may be changed to another nonconforming nonresidential use, or may be increased or expanded, if the Planning Director determines the application for the proposed, expanded or increased use meets the following criteria, without requiring or requesting any dimensional, lighting, parking, landscaping or other similar variance:</b><br><b>1. The off-street parking and loading requirements for and traffic generated by the proposed, expanded or increased use do not exceed that of the existing or most recent use.</b><br><b>2. The proposed use is permitted in the same zoning district in which the existing or most recent use is first permitted in Table 20-4 of Chapter 20 to this Title. For the purposes of this Chapter, “first permitted” shall mean the first zoning district in Table 20-4 in which a “P” occurs, when reading the table from left to right.</b><br><b>3. The intensity of onsite and offsite impacts from noise, dust, smoke and other environmental impacts associated with the proposed, expanded or increased use is equal to</b> | Expanded ability to change existing nonconforming nonresidential uses                              |  |

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|   | <p><b>or less than that associated with the existing or most recent use.</b></p> <p><b>Such application may require a fee, as may be established by the City Commission.</b></p> <p><b>e-b. Alternatively, a nonconforming, nonresidential use may also be changed to another nonconforming use, or may be increased or expanded, through a conditional use permit procedure as set forth in Chapter 16</b></p> |                     |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “improvement agreement allowable” for the potable water infrastructure improvement was changed from no to yes.  | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “improvement agreement allowable” for the sewer infrastructure improvement was changed from no to yes.  | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “completion prior to requirement” for the landscaping improvement was changed from ‘filing of final plat,’ to ‘issuance of occupancy permit.’   | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “completion prior to...” requirement for the screening improvement was changed from ‘filing of final subdivision plat,’ to ‘issuance of occupancy permit.’  | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “improvement agreement allowable” for the street/alleys – base course improvement was changed from no to yes.   | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “completion prior to...” requirement for the street/alleys – pavement improvement was changed from ‘filing of final subdivision plat’ to ‘issuance of occupancy permit.’  | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “completion prior to...” requirement for the parking improvement was changed from ‘filing of final subdivision plat’ to ‘issuance of occupancy permit.’   | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “completion prior to...” requirement for the lighting improvement was changed from ‘filing of final subdivision plat’ to ‘issuance of occupancy permit.’  | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of<br>improvements | The “improvement agreement allowable” for the lighting improvement was changed from yes to no.  | Refined requirement |  |
| 17.68-Exhibit 68-1<br>Timing of                 | The “improvement agreement allowable” for the stormwater facilities improvement was changed from no to yes.   | Refined requirement |  |

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| improvements                               |  |  |  |
| 17.68.050<br>Dedication of<br>improvements | <del><b>E. Administration.</b> The Director of the Planning Department shall be responsible for signing agreements and administering them on behalf of the City.</del>   | Clarified authority                            |  |
| Appendix F<br>Agricultural Uses            | “Agriculture, horticulture, <b>nursery</b> ” means a place and/or building, or portion thereof, that is used or is intended for growing fruit, vegetables, flowers, and other plants typically grown on farming operations in the region.  | Clarified/expanded definition                  |  |
| Appendix F<br>Residential Uses             | <b>“Residence, condominiums” means separately owned single-family dwelling units with common elements located on property submitted to the provisions of the Montana unit ownership act, title 70, chapter 23, MCA.</b>  | Added missing definition                       |  |
| Appendix F<br>Special Care<br>Facilities   | “Day care center” means a place and/or building, or portion thereof, that is used or is intended to provide day care to <del>13 or more</del> children on a regular basis. (Source: 52-2-703, MCA)   | Clarified definition                           |  |
| Appendix F<br>Food and Beverage<br>Sales   | “Restaurant” means a place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages for <del>immediate</del> consumption on <b>or off site</b> the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery <b>or convenience</b> store with a food service section. <b>Such establishments may include a drive-through window, and may or may not include on-site seating.</b>   | Clarified/expanded definition                  |  |
| Appendix F<br>General Storage              | <del>“Truck Freight</del> terminal” means a place and/or building, or portion thereof, that is used or is intended for <b>unloading, loading or</b> storage of freight for routing or reshipment.  | Combined similar land uses, revised definition |  |
| Appendix F<br>Community<br>Services/Uses   | “Worship facility” means a place and/or building, or portion thereof, that has tax-exempt status and that is used or is intended as a place where people can regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, <del>and</del> rectories, <b>and day care centers within the same structure.</b> The term does not include <del>day care centers</del> , community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like. | Added day care centers as allowable use        |  |
| Appendix F<br>Health Care                  | <b>“Health care sales and services” means a place and/or building or portion thereof, that is used or intended to provide for the sale of health care products and services. The term includes pharmacies, vision care facilities, hearing aid facilities, prosthetic facilities, etc.</b>   | New definition for new land use category       |  |
| Appendix F                                 | “Utility installation” means a place, building and/or structure, or portion  | Revised definition to reflect removal of       |  |

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| Utilities                 | thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services. <del>“Utility installation, major” means a utility installation generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, wind turbines and the like. It does not include</del> <del>“Utility installation, minor” means a utility installation generally having low impact on neighboring property. The term includes public water system wells, sewer lift stations, irrigation ditches, or linear electric, communications or natural gas utilities, and the like.</del> | Minor Utility Installation as a regulated use   |  |
| Appendix F Transportation | <del>“Airport, private” means an airport that is used by the owner and other persons authorized by the owner and not open for general public use.</del><br><br><del>“Airport, public” means an airport that is open for general public use.</del>   | Removed definitions as unnecessary              |  |
| Appendix F Transportation | <del>“Freight terminal” means a place and/or building, or portion thereof, that is used or is intended for the temporary storage of items that will be reloaded onto trucks for final shipment.</del>   | See “Truck Terminal” above                      |  |
| Appendix F Transportation | <b>“Parking lot, principal use” means an off-street parking facility intended to temporarily store vehicles, not accessory to any principal use.</b>  | Added missing definition                        |  |
| Appendix F Accessory Uses | <del>“Automated teller machine (ATM), interior” means an automated teller machine that is accessed from inside of an enclosed building.</del>   | Removed definition as this use is not regulated |  |
| Appendix F Accessory Uses | <del>“Garage, private” means a building that is intended to house vehicles and household items belonging to the owner or occupant of the principal residence.</del>   | Clarified definition                            |  |
| Appendix F Accessory Uses | <b>“Residence, accessory” means a place and/or building, or portion thereof, that is used, or is intended to provide housing, as a single family residence for a caretaker, employee or owner of the principal use and the like. This residence is accessory to a principal use.</b>  | New definition for new land use category        |  |
| Appendix F Temporary Uses | <b>“Garage sales” means the occasional non-business public sale of secondhand household goods and other goods incidental to household uses. The term also includes yard sales, patio sales, and the like. The term does not include any sales defined as itinerant outdoor sales.</b>   | New definition for new land use category        |  |
| Appendix F Temporary Uses | <b>“Outdoor entertainment, temporary” means a short-term outdoor event such as concerts, performances, religious assemblages and the like. The term does not include sporting events such as motocross, auto racing and the like.</b>   | Added missing definition                        |  |

**A G E N D A   R E P O R T**

**DATE** January 16, 2007

**ITEM**            Ordinance 2958, Repealing Certain Sections of the Official Codes of the City of Great Falls that were replaced with the Land Development Code (Ordinance 2923)

**ACTION REQUESTED** Accept Ordinance 2958 on first reading and set the public hearing and final reading for February 6, 2007 at 7 pm.

**PRESENTED BY:** Peggy J. Bourne, City Clerk

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**RECOMMENDATION:**

It is recommended the City Commission accept Ordinance 2958 on first reading and set the public hearing and final reading for February 6, 2007, at 7 pm.

**MOTION:**

I move the City Commission accept Ordinance 2958 on first reading and set the public hearing and final reading for February 6, 2007, at 7 pm.

**SYNOPSIS:**

The Great Falls City Commission adopted Ordinance 2923 on September 6, 2005, known as the "Land Development Code" which replaced OCCGF Title 17, but did not remove any other affected sections of the OCCGF. In order to reduce confusion and conflict between other Titles of the OCCGF, certain sections of OCCGF need to be repealed.

The sections in particular requested to be officially repealed from the Code book include:

- 2.28 – Board of Adjustment
- 2.30 – Design Review Board
- 2.40 – Historic Preservation Advisory Commission
- 2.46 – Planning Advisory Board
- 2.47 – City Zoning Commission
- 12.41 – Landscape Design Standards
- Title 16 – Subdivisions



**ORDINANCE 2958**

**AN ORDINANCE OFFICIALLY REPEALING SECTIONS OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS THAT WERE SUPERSEDED OR REPLACED UPON ADOPTION OF THE LAND DEVELOPMENT CODE (ORDINANCE 2923)**

**WHEREAS**, the Great Falls City Commission adopted Ordinance 2923 on September 6, 2005, known as the “Land Development Code”; and

**WHEREAS**, Ordinance 2923 replaced OCCGF Title 17, but did not remove and/or replace any other affected sections of the OCCGF; and

**WHEREAS**, in order to reduce confusion and conflict between Titles of the OCCGF, certain sections of OCCGF need to be repealed.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

Section 1. That OCCGF Titles, Chapters and Sections 2.28; 2.30; 2.40; 2.46; 2.47; 12.41 and Title 16 as depicted in Exhibit A are hereby repealed.

**PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 6th day of February, 2007.**

\_\_\_\_\_  
Dona R. Stebbins, Mayor

ATTEST:

\_\_\_\_\_  
Peggy J. Bourne, City Clerk

(SEAL OF THE CITY)

APPROVED FOR LEGAL CONTENT:

\_\_\_\_\_  
David V. Gliko, City Attorney

State of Montana )

(09/01/97)

County of Cascade : ss  
City of Great Falls )

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 2958 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 6th day of February, 2007, and approved by the Mayor of said City on the 6th day of February, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City this 6<sup>th</sup> day of February, 2007.

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

State of Montana )  
County of Cascade : ss  
City of Great Falls )

Peggy J. Bourne, being first duly sworn, deposes and says: That on the 6<sup>th</sup> day of February, 2007, and prior thereto, she was the City Clerk of the City of Great Falls, Montana; that as said City Clerk she did post as required by law and as prescribed and directed by the Commission, Ordinance 2958 of the City of Great Falls, in three conspicuous places within the limits of said City to-wit:

On the Bulletin Board, first floor, Civic Center Building;  
On the Bulletin Board, first floor, Cascade County Court House;  
On the Bulletin Board, Great Falls Public Library

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

(09/01/97)

**Ordinance 2958**  
**EXHIBIT A**  
Chapter 2.28

BOARD OF ADJUSTMENT

**Sections:**

|          |   |
|----------|---|
| 2.28.010 | Members--Terms.                         |
| 2.28.020 | Meetings--Rules.                        |
| 2.28.030 | Powers and Duties.                      |
| 2.28.040 | Notice of Hearing.                      |
| 2.28.050 | Appeals--Filing.                        |
| 2.28.060 | Action by City Commission.              |
| 2.28.070 | Action without Board's Recommendations. |
| 2.28.080 | Variance--Consideration and Conditions. |

**2.28.010 Members--terms.** A Board of Adjustment is hereby established. The Board shall consist of five members, residents of the City, appointed by the City Commission. Each of the members shall be appointed to hold office for a period of three years and until a successor is appointed and qualified. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. All of the members of the Board shall serve without compensation, and are subject to removal by the City Commission for cause upon written charges and after public hearing. (Ord. 2652, 1993; Ord. 2037, 1979; Ord. 1858 2 (part) 1975; prior code 2-1-1).

**2.28.020 Meetings--rules.** Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. (Ord. 2652, 1993).

**2.28.030 Powers and duties.** The Board of Adjustment shall have the following powers and duties:

A. To hear and decide appeals from any order, requirement, permit decision or refusal or determination made by administrative official(s) under the zoning, housing and building ordinances and from interpretation of the text of the zoning, housing and building ordinances.

B. To hear and decide, subject to City Commission review, requests for variances from the terms of the zoning, housing and building ordinances in the manner and subject to the standards set forth in those ordinances except requests for "use variances" which shall not be permitted under any circumstances.

C. To hear and decide all matters referred to the Board or upon which it is required to act under the zoning, housing and building ordinances. (Ord. 2652, 1993).

**2.28.040 Notice of Hearing.** The Board shall fix a reasonable time for the hearing of the appeal, give notice thereof, as well as due notice to the parties in interest, and transmit its decision to the City Commission within a reasonable time. (Ord. 2652, 1993; Ord. 2228, 1980; prior code 2-1-5).

(09/01/97)

**2.28.050 Appeals--filing.** An appeal may be filed with the Board by notice specifying the grounds thereof. The record appealed from shall be transmitted to the Board. An appeal stays all proceedings unless the officer, from whom the appeal is taken, certifies to the Board that, on facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board or by a court of record on application, or notice to the officer from whom the appeal is taken and on due cause shown. (Ord. 2652, 1993; Ord. 2091, 1980; Ord. 1858 (part) 1975; prior code ' 2-1-3).

**2.28.060 Action by City Commission.** The Board's decision shall be final unless the City Commission concurs by three affirmative votes to review the Board's decision. (Ord. 2652, 1993; Ord. 2228, 1980; Ord. 2190, 1980).

**2.28.070 Action without Board's recommendations.** If no decision is made by the Board within sixty days after the request for variance is filed with the Board, the City Commission may take action on the request. (Ord. 2652, 1993; Ord. 2228, 1980).

**2.28.080 Variance--Consideration and Conditions.** In considering variances, the Board or City Commission shall consider the effect of the proposed variance upon the health, safety and welfare of the community, existing and anticipated traffic conditions, light and air, danger of fire, risk to the public safety, and the effect of the proposed variances, upon the comprehensive plan. If the Board or City Commission determines by order or resolution that the special conditions applying to structure or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to adjacent land or structures, and that a variance is necessary for the preservation and enjoyment of a substantial property right of the applicant and that granting the variance will not impair an adequate supply of light and air to adjacent property, unreasonably increase the congestion in the public streets, increase the danger of fire, endanger the public safety, unreasonably diminish or impair established property values in the surrounding area, or in any other way impair health, safety, comfort, morals, and the comprehensive plan, and that such variance will not merely serve as a convenience to the applicant, but is necessary to alleviate demonstrable hardship or difficulty, the Board or City Commission may grant such variance and impose conditions and safeguards therein. (Ord. 2652, 1993; Ord. 2228, 1980; Ord. 2037, 1978).

## Chapter 2.30

### DESIGN REVIEW BOARD

#### **Sections:**

|          |                            |
|----------|----------------------------|
| 2.30.010 | Purpose.                   |
| 2.30.020 | Establishment.             |
| 2.30.030 | Authority of the Board.    |
| 2.30.040 | Membership.                |
| 2.30.050 | Terms of Membership.       |
| 2.30.060 | Review of Board Decisions. |
| 2.30.070 | City Staff Support.        |
| 2.30.080 | Operation of the Board.    |

**2.30.010 Purpose.** It is declared to be the intent of the City to protect and promote the general welfare of the citizens and their quality of life by establishing a Design Review Board.

**2.30.020 Establishment.** The Design Review Board (or “Board”) is hereby established pursuant to this chapter.

**2.30.030 Authority of the Board.** A. The Design Review Board is given the authority and responsibility of furthering the stated purposes of various ordinances which the City Commission may pass which provide for design review. Those areas of development which affect surrounding properties and should be reviewed by the Board shall include but not be limited to:

1. Site conditions;
2. Building design;
3. Exterior lighting;
4. Landscape plans;
5. Parking plans;
6. Signage requests.

B. To further promote the health, safety and general welfare of the City, the Design Review Board, shall have the authority to review projects assigned to the Board by the Commission via ordinances, resolutions and City policy. The Board, in harmony with all applicable ordinances, resolutions, policies of the City Commission - approved review criteria, may approve or deny, in whole or in part, or may modify and set conditions for approval, or provide advice and counsel, for any request pursuant to this chapter.

**2.30.040 Membership.** A. All members of the Board shall be residents of the City of Great Falls. Four volunteer members shall be appointed by the City Commission, with an effort to achieve a diversity of expertise, background and interest. Such diversity preferably should include:

1. Two architects;
2. Two individuals chosen for their demonstrated interest in and knowledge of the cultural and environmental heritage of Great Falls; and

B. One City staff member (Board secretary) will be appointed with voting privileges.

**2.30.050 Terms of Membership.** All volunteer members of the Board shall be appointed by the City Commission. The term shall be three years. The expiration of initial terms of Board members will be staggered to assure continuity.

**2.30.060 Review of Board Decisions.** Upon written request to the Board's secretary within four working days of any official Board decision, any aggrieved party may petition the City Commission to rehear the request and overrule the Board's decision. A majority vote of the City Commission shall be required in order to place the appeal of the Commission's agenda for formal action. Any City Commission action shall be considered preemptive of the Design Review Board's decisions, unless such decisions are upheld.

**2.30.070 City Staff Support.** A. The Board shall be served primarily by the Director of Community Development, or designee, who shall act as secretary. The Staff member may request assistance from any other City department or advice and council, in order to lend additional expertise to the Board.

B. Meetings. The secretary of the Board shall schedule all meetings of the Board as required by law and applicable City ordinances.

C. Records. The secretary shall keep a summary of all actions of the Board in the form of minutes or reports of the Board's actions.

**2.30.080 Operation of the Board.** A. A quorum shall be three members of the Board.

B. The Board shall adopt its own rules and bylaws, consistent with its powers and duties under the provisions of this chapter.

C. No member of the Board may vote on any project in which he/she or any partner has worked or has any financial, personal, or other direct interest.

## Chapter 2.40

### HISTORIC PRESERVATION ADVISORY COMMISSION

#### **Sections:**

|          |                     |
|----------|---------------------|
| 2.40.010 | Purpose and intent. |
| 2.40.020 | Scope.              |
| 2.40.030 | Definitions.        |
| 2.40.040 | Creation.           |
| 2.40.050 | Membership.         |
| 2.40.060 | Term.               |
| 2.40.070 | Staff.              |
| 2.40.080 | Powers and duties.  |

**2.40.010 Purpose and intent.** The purpose and intent of this chapter is to establish a local Historic Preservation program to promote the preservation of historic and prehistoric sites,

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structures, buildings and districts through the identification, evaluation and protection of historic resources within the jurisdiction of Cascade County and the City. This program is to promote the public interest and welfare by:

- A. Enhancing the visual character of the City by encouraging preservation ideals;
- B. Promoting the tourist industry of the City and County by encouraging the preservation of historically significant buildings and structures;
- C. Fostering public appreciation of and civic pride in the beauty of the community and the accomplishments of the past;
- D. Integrating historic preservation into local, state and federal planning and decision-making processes;
- E. Safeguarding the heritage of the community by providing a system for identification and evaluation of historic buildings and structures representing significant elements of its history. (Ord. 2652, 1993; Ord. 2563 (Exh. B, 1990).

**2.40.020 Scope.** The City-County Historical Preservation Advisory Commission shall serve in an advisory capacity to Cascade County and the City, to include, but not limited to the County Commissioners, the City Commission, City-County Planning Board, and the Business Improvement District. (Ord. 2652, 1993; Ord. 2563 (Exh. B), 1990).

**2.40.030 Definitions.** A. "City Commission" means the governing body of the City of Great Falls, Montana.

B. "County Commission" means the governing body of Cascade County, Montana.

C. "Historic Preservation Advisory Commission" means the Commission created by this chapter. (Ord. 2652, 1993; Ord. 2563 2(Exh. B), 1990).

**2.40.040 Creation.** In order to carry out the purpose of this chapter, a Historical Preservation Advisory Commission is hereby created. (Ord. 2652, 1993; Ord. 2563 ' 2(Exh. B), 1990).

**2.40.050 Membership.** This Commission shall consist of nine members whose expertise/qualifications will lie in the following areas: history, planning, archaeology, architecture, architectural history, historic archaeology or other history preservation-related disciplines such as cultural geography or cultural anthropology. Ownership of property nominated to the National Register of Historic Places may also qualify a person to serve on this Commission. The Commission will consist of the following mix:

- A. Four members appointed by the City Commission;
- B. Four members appointed by the County Commission;
- C. One member with professional architectural expertise. This member is to be chosen by a simple majority of the other eight members. (Ord. 2652, 1993; Ord. 2563 (Exh. B), 1990).

**2.40.060 Term.** Terms of office of the Commission members shall be staggered and three years in duration. Upon enactment of this chapter, two members shall be appointed to one-year terms. (Ord. 2652, 1993; Ord. 2563 (Exh. B), 1990).

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**2.40.070 Staff.** A. A Historic Preservation Officer for Cascade County--Great Falls shall be and appointed to act as staff to the Historic Preservation Advisory Commission. This individual will be qualified and appointed by the Board.

B. Duties of the Preservation Officer include coordinating the local historic preservation programs, helping in the development of local surveys, projects and historic preservation planning documents, advising and providing assistance to the Commission, government agencies and the public, and ensuring to the extent practicable that the duties and responsibilities delegated by this chapter are carried out. (Ord. 2652, 1993; Ord. 2563 (Exh. B), 1990).

**2.40.080 Powers and Duties.** The Historic Preservation Advisory Commission shall have the power to:

A. Maintain a system for the survey and inventory of historic properties. The Commission shall maintain this inventory of identified districts, sites and/or structures within Cascade County and the City and make this information available to the public;

B. Use the National Register of Historic Places criteria for designation of historic and prehistoric properties;

C. Participate in the process of nominating to the National Register of Historic Places according to the Montana State Regulations for Certified Local Governments. This includes reviewing and commenting on any National Register nominations of property within Cascade County and the City;

D. Consult with the City, County, State and Federal agencies on all applications, environmental assessments, environmental impact statements, and other similar documents pertaining to historic districts, landmark sites, landmarks or properties;

E. Review the City's zoning regulations for their applicability to issues of historic preservation and make appropriate recommendations to the City-County Planning Board concerning any changes or modifications to the zoning regulations and zoning district boundaries;

F. Render advice and guidance upon request of property owners as to the restorations, alterations, decoration, landscaping or maintenance of historic buildings or structures. The Commission shall create design guidelines which will be made available to the public for assistance in preservation projects;

G. Provide a means of informing owners of property, buildings and structures of potential tax incentives and federal and/or State grants that might be obtained through the preservation of historic facilities;

H. Participate in, promote and conduct public informational, educational and interpretive programs pertaining to historic preservation;

I. Advise on State guidelines and make recommendations in an attempt to ensure compliance regarding certification;

J. In carrying out the listed powers and duties of the Commission, the Commission shall at all times ensure that any surveys, analyses, evaluations, reviews or reports relating to any property or project within the City are completed within the current time frames for development. Should the Commission fail to complete any of the above actions in time to be included for final action of the City or County Commissions, such failure shall not in any way impede the decision of the City or County Commission. (Ord. 2652, 1993; Ord. 2563 (Exh. B), 1990).

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Chapter 2.46

PLANNING ADVISORY BOARD

**Sections:**

|          |   |
|----------|---|
| 2.46.010 | Creation of Board.                          |
| 2.46.020 | Jurisdiction.                               |
| 2.46.030 | Membership.                                 |
| 2.46.040 | Term.                                       |
| 2.46.050 | Vacancies.                                  |
| 2.46.060 | Qualifications.                             |
| 2.46.070 | Meetings.                                   |
| 2.46.080 | Special meetings.                           |
| 2.46.090 | Quorum – official action.                   |
| 2.46.100 | Chairman and Vice-chairman                  |
| 2.46.110 | Staff.                                      |
| 2.46.120 | Contracts and Agreements.                   |
| 2.46.130 | Compensation and expenses of board members. |
| 2.46.140 | Fiscal Administration -- Budget             |
| 2.46.150 | Duties, Services and Functions              |
| 2.46.160 | Ethics                                      |
| 2.46.170 | Robert’s Rules of Order                     |
| 2.46.180 | Repealing Clause                            |
| 2.46.190 | Severability                                |
| 2.46.200 | Saving Provision                            |

**2.46.010 Creation Of Board.** There is hereby created an advisory board, pursuant to and under the provisions of the Charter of the City of Great Falls, to be designated and known as the “Great Falls Planning Advisory Board.” (Ord. 2913, 2005).

**2.46.020 Jurisdiction.** The Board shall have jurisdiction within the incorporated limits of the City of Great Falls, as currently exist and as may change over time through annexation, and as may be granted or authorized pursuant to any existing or future intergovernmental agreements. (Ord. 2913, 2005).

**2.46.030 Membership.** The Board shall consist of nine (9) members all of whom shall be residents of the City of Great Falls. The Board shall consist of citizen members and shall not include any City employees or elected officials. Members shall be appointed by the City Commission. (Ord. 2913, 2005).

**2.46.040 Term.** The term of office of each member shall be for three years and shall be initially appointed as follows: three for a term of one year, three for a term of two years, and three for a term of three years, and their terms of office shall expire on the first day of January of the first, second and third years respectively following their initial appointment. Thereafter, as their terms

expire, each new appointment shall be for a term of three years. Members may be removed from office by a majority vote of the City Commission. Each member may be reappointed when their term has expired to the extent that City policy regarding reappointments allows. (Ord. 2913, 2005).

**2.46.050 Vacancies.** Vacancies shall be filled by the City Commission for the unexpired terms of any member whose term becomes vacant. (Ord. 2913, 2005).

**2.46.060 Qualifications.** Members shall be qualified by having interest in and knowledge of community planning and development. (Ord. 2913, 2005).

**2.46.070 Meetings.** The Board shall fix the time for holding regular meetings, but shall meet at least once each month during the year. (Ord. 2913, 2005).

**2.46.080 Special Meetings.** Special meetings of the Board may be called by the President or by two members upon written request to the Secretary of the Board. The Secretary shall send to all members, at least two days in advance of a special meeting, a written notice fixing the time and place of the meeting. Written notice of a special meeting is not required if the time of the special meeting has been fixed in a regular meeting, or if all members are present at the special meeting. (Ord. 2913, 2005).

**2.46.090 Quorum -- Official Action.** Five members shall constitute a quorum. No action of the Board is official, however, unless authorized by five or more members of the Board at a regular or properly called special meeting. (Ord. 2913, 2005).

**2.46.100 Chairman And Vice Chairman.** As soon as practicable after its creation, the Board shall meet and organize by electing from its members a Chairman and a Vice Chairman. Thereafter, at its first regular meeting in each year, the Board shall elect from its members a Chairman and Vice Chairman. The Vice Chairman shall have authority to act as Chairman of the Board during the absence or disability of the Chairman. (Ord. 2913, 2005).

**2.46.110 Staff.** The City shall assign staff employed by the City to assist the Board in conducting its duties. The Board may delegate to assigned staff the authority to perform ministerial acts in all cases except when final action of the Board is necessary. The director of the assigned staff shall function as the Secretary of the Board and shall perform the duties of the director, as may be described in the Board by-laws. The staff will be responsive and responsible to the Board for all work necessary to carry out its responsibilities. (Ord. 2913, 2005).

**2.46.120 Contracts and Agreements.** Through the City, the Board may accept, receive, and expend funds, grants, and services from the Federal government or its agencies and instrumentalities, from State or local governments or their agencies and instrumentalities, or from civic sources; may contract with respect thereto; and may provide such information and reports as may be necessary to secure such financial aid. The City may make all contracts for special or temporary services and any professional services to assist the Board. (Ord. 2913, 2005).

**2.46.130 Compensation and Expenses Of Board Members.** Board members shall receive no salary for serving on the Board but may be reimbursed for transportation and actual expenses up to but not exceeding state transportation reimbursements and allowable expenses for attendance at conferences, workshops, training sessions, etc. (Ord. 2913, 2005).

**2.46.140 Fiscal Administration -- Budget.** To finance the yearly operations of the board, the director of the assigned staff shall prepare a budget for approval by the Board and the City, in the same manner as City departments. The budget shall be based on projected revenue from all sources and shall estimate projected expenditures. Further, the budget shall be limited in all expenditures to the provisions made therefore by the City. (Ord. 2913, 2005).

**2.46.150 Duties, Services And Functions.** The Board shall perform and provide the duties, services and functions specified in this section. The Board shall have all of the authorities that may be granted by ordinances, resolutions, agreements, etc and shall perform all 3 duties required thereunder. In accomplishing this objective, the Board shall serve in an advisory capacity to the City Commission. The Board shall advise on all community planning and land development activities specified in this section, as well as any other duties, functions, services and activities requested or assigned. These shall generally include:

- A. If requested by the City, initiate, prepare, review, hear and make recommendations on the adoption or amendment of a growth policy and of such ordinances and resolutions necessary to implement the growth policy;
- B. Initiate, prepare, review, hear and make recommendations on the adoption or amendment of any planning documents designed to guide the orderly development of the community;
- C. Review, hear and make recommendations on subdivision applications and plats;
- D. Review, hear and make recommendations on annexations;
- E. Review, hear and make recommendations on zoning and rezoning petitions;
- F. Review, hear and make recommendations on conditional use permits;
- G. Review, prioritize and recommend projects for use of Community Transportation Enhancement Program (CTEP) funds;
- H. Serve as the Metropolitan Planning Organization for the Great Falls Urbanized Area Transportation Planning Process, including participation in said process; and,
- I. Undertake and perform other duties, services and functions, as requested by the City Commission. (Ord. 2913, 2005).

**2.46.160 Ethics.** All members of the Board shall comply with the provisions of the City of Great Falls Code of Ethics. (Ord. 2913, 2005).

**2.46.170 Rules Of Order.** The Board shall be governed by the rules contained in the "*Robert's Rules of Order, Revised,*" in all parliamentary procedures, as applicable. (Ord. 2913, 2005).

**2.46.180 Repealing Clause.** All ordinances, resolutions and sections of the Official Code of the City of Great Falls and parts thereof in conflict with the application of this ordinance are hereby repealed. (Ord. 2913, 2005).

**2.46.190 Severability.** If any provisions of this ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision or application and, to this end, the provisions of this ordinance are declared to be severable. (Ord. 2913, 2005).

**2.46.200 Saving Provision.** This ordinance does not affect the rights or duties that matured, penalties and assessments that were incurred or proceedings that began before the effective date of this ordinance. (Ord. 2913, 2005).

#### Chapter 2.47

### CITY ZONING COMMISSION

That the Great Falls Planning Advisory Board be designated as the body to perform the duties and functions of the City Zoning Commission. (Ord. 2914, 2005)

#### Chapter 12.41

### LANDSCAPE DESIGN STANDARDS<sup>1</sup>

#### **Sections:**

- 12.41.010 Intent.
- 12.41.020 Definitions.
- 12.41.030 Installation and maintenance.
- 12.41.040 Planting regulations.
- 12.41.050 Boulevard landscaping requirements.
- 12.41.060 Design standards for commercial, industrial and semi-public uses.
- 12.41.070 Incentive provision.
- 12.41.080 Bond provision.
- 12.41.090 Design standards for residential uses.
- 12.41.100 Violation and penalty.
- 12.41.120 Appeal.

**12.41.010 Intent.** This chapter establishes policies, regulations and standards necessary to ensure that the City will continue to realize the benefits provided by its community forest. The provisions of this chapter are enacted to:

- A. To enhance ambient environmental conditions by providing shade, air purification,

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<sup>1</sup>Prior ordinance history: Ord. 2185.

oxygen regeneration, groundwater recharge, storm water runoff retardation and noise, glare and heat abatement;

B. To provide landscaping to enhance and perpetuate the aesthetic qualities of the community;

C. Encourage the preservation, expansion, protection and proper maintenance of the community forest;

D. To buffer distinguishable land uses and generally enhance the quality and appearance over the entire site of the project. (Ord. 2687 Ex. B (part), 1995: Ord. 2549 §1(part), 1989: Ord. 2404 Ex. A (part), 1985).

**12.41.020 Definitions.** The following terms shall have the meaning given:

A. "Arboricultural Standards and Specifications" means the standards for the planting, care, and maintenance of trees, shrubs, and landscaping on file with the City Forester.

B. "Boulevard" is defined in Section 12.04.010A.

C. "Clear vision triangle" is defined in Section 12.04.030.

D. "Community Forest" means the sum of all trees and shrubs within the City of Great Falls.

E. "Groundcovers" means and includes living, low-growing plant materials other than turf grass, which reach a maximum height of not more than eighteen inches, and may be used in lieu of grass. Groundcovers must present a finished appearance and reasonably complete coverage at the time of planting.

F. "Landscaping" means living material (i.e., turf grass, ground cover, shrubs, vines, hedges) and nonliving durable material commonly used in landscaping (i.e., bark, rocks, pebbles, decorative walls, fences, art and benches).

G. "Lot" is defined in Section 17.09.280.

H. "Semipublic places" means and includes, but is not limited to, fraternity houses, hospitals, public service substations, utility sites, churches, charity organization sites, medical clinics, airports and related structures, apartment houses with three or more units or complexes, condominiums, schools and the like.

I. "Shrubs" means self-supporting woody deciduous or evergreen species and shall have a minimum height of eighteen inches upon maturity.

J. "Trees" means self-supporting woody plants which normally grow to a minimum height of fifteen feet or greater in the county and have trunks which can be maintained over five feet of clear wood. All trees shall have a minimum caliper, at six inches above the ground level, of at least one and one-half inches.

K. "Turf grass" means a species of perennial grass normally grown in the County as permanent lawns or for landscape purposes as distinguished from those species grown for agricultural or commercial seed purposes. Grass may be seeded, sodded, plugged or sprigged, except in areas subject to erosion in which case the area must be sodded or planted with nurse grass for immediate effect and protection until coverage is otherwise achieved. Grass sod shall be commercially grown, clean and free of weeds and noxious pests and diseases.

L. "Vehicular use area" means and includes all areas used for circulation, parking and/or display of any and all types of vehicles, boats or heavy construction equipment, whether self-propelled or not, and all land upon which vehicles traverse as a function of the primary use. This shall include, but not be limited to, activities of a drive-in nature such as service stations,

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convenience stores, banks, restaurants, and the like. Only driveways and parking spaces serving single-family and two-family uses shall be an exception to this definition. (Ord. 2687 Ex. B (part), 1995: Ord. 2549 §1(part), 1989: Ord. 2404 Ex. A(part), 1985).

**12.41.030 Installation and Maintenance.** All landscaping shall be installed in accordance with the Arboricultural Standards and Specifications. All landscaping required shall be live vegetation. Mature coverage of canopy trees will be computed and applied directly to the required landscaping. Landscaping shall be maintained in good condition so as to present a healthy, neat and orderly appearance, free from refuse, weeds and debris. Automatic irrigation systems are required of all commercial development. The owner, tenant or agent, if any, shall be jointly responsible for the maintenance of all landscaping. All vehicular use areas on any property determined to comply with this chapter shall be surfaced and maintained with asphalt or cement. All landscaping material shall be in place and healthy prior to issuance of occupancy permit. A temporary permit may be issued without the installation, provided the bond required in Section 12.41.070 of this chapter is in force and that written assurances are given that the planting will take place when the proper season arrives. (Ord. 2687 Ex. B (part), 1995: Ord. 2404 Ex. A(part), 1985).

**12.41.040 Boulevard landscaping requirements.** The owners and tenants of any premises within the limits of the *City shall* maintain the boulevard section in front of and adjoining their premises in a safe and substantial condition. Any portion of the right-of-way which is not occupied by roadway section, curb and gutter, driveway, sidewalk or crosswalk *shall* be maintained according to the standards listed below. ( Ord. 2734, 1998; Ord. 2687 Ex. B (part), 1995)

A. Boulevards in residential areas shall contain grass and trees (with organic mulched reservoirs) and *may* include shrubs, flowers and/or ornamental plants (with organic mulched reservoirs). In addition, the boulevard *may* also contain sidewalks, bus benches, driveways, mailboxes, utility installations; and signs and structures erected by a public agency.

1. Driveway width shall not exceed ten feet per stall to a maximum width of thirty feet (three stalls).

2. At least one canopy type tree shall be planted and maintained in a boulevard section of each fifty lineal feet of street and avenue frontage or portion thereof.

3. Trees shall be spaced thirty to fifty feet apart depending on the mature height and width of the type tree planted. All trees shall have a minimum caliper, at six inches above the ground level, of at least one and one-half inches. All trees will have organic mulched reservoirs.

4. No shrub shall be planted within five feet of a fire hydrant or within a clear vision triangle, as defined in 12.04.020, if its mature height will exceed three feet. The three foot maximum height shall be measured from the adjacent curb flowline.

5. All trees and shrubs placed in the boulevard area shall be the "Boulevard Tree Planting Standards and Specifications" as outlined in the current City of Great Falls "Arboricultural Standards and Specifications."

6. Any landscaping in the boulevard area that impedes pedestrian travel or is deemed detrimental to public safety shall be removed immediately by the property owner or agent upon written notification by the *City*.

7. Existing mature trees located in the boulevard or public rights-of-way *shall* not be removed, damaged, or encroached upon unless an application has been approved in accordance with OCCGF 12.44.

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8. Landscaping *shall* be maintained and those plantings which fail to survive *shall* be replaced with approved plantings within six months.

9. The following list includes, but is not limited to, those materials and vegetation which will not be approved in the residential boulevard:

- a. all artificial vegetation including but not limited to trees, shrubs, vines, bushes, flowers, and grass;
- b. all non-living material except as stated above;
- c. fences/walls (unless approved via Boulevard Encroachment Permit by the City Engineer);
- d. gravel/decomposed granite/cobble;
- e. sand.

B. Boulevards in non-residential areas *shall* contain grass and trees, and *may* contain shrubs, flowers, and/or ornamental plants. In addition, the boulevard *may* contain sidewalks, bus benches, driveways, utility installations; and signs and structures erected by a public agency. Limited amounts of non-living materials (mulches) are permitted when used in conjunction with shrub and tree plantings. Acceptable mulches include organic materials (wood chips and shredded bark), and inert inorganic materials (decomposed granite, cobble and gravel). Where mulch is used, a suitable landscape fabric shall be placed between the soil and mulch material to impede weed growth. However, the use of these substitute materials must be specifically approved by *City* officials as part of a landscape plan.

1. Mulches shall be applied to a depth of four inches (4") over bare soil, around trees, and in shrub beds.

2. In no case shall the boulevard area include more than twenty-five percent non-living material, excluding driveways.

3. Non-residential use driveway width *shall* be limited to forty-five feet. However, in Industrial Use zoning districts, the driveway width may be fifty-five feet, if approved by the City Engineer.

4. At least one canopy type tree shall be planted and maintained in the boulevard section for each fifty lineal feet of street and avenue frontage or portion thereof.

5. All trees and shrubs placed in the boulevard area shall meet the "Boulevard Tree Planting Standards and Specifications" as outlined in the current City of Great Falls Arboricultural Standards and Specifications."

6. No shrub shall be planted within five feet of a fire hydrant or within a clear vision triangle as defined in OCCGF 12.04.020, if its mature height will exceed three feet. The three foot maximum height shall be measured from the adjacent curb flow line.

7. Any landscaping in the boulevard area that impedes pedestrian travel or is deemed detrimental to public safety shall be removed immediately by the property owner, tenant, or agency upon written notification of the City.

8. Landscaping shall be maintained and those plantings which fail to survive shall be replaced with approved plantings within six months.

9. Non-residential landscaping shall include an adequate irrigation system approved by the Community Development Department.

10. All non-living material must be contained and shall not spill into the street and/or onto the sidewalk. Owners are required to remove any spillage.

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11. Existing mature trees located within the boulevard or public rights-of-way shall not be removed, damaged or encroached upon unless an application has been approved in accordance with OCCGF 12.44.

12. The following list includes, but is not limited to, those materials and vegetation which are prohibited in the non-residential boulevard:

a. artificial vegetation including but not limited to trees, shrubs, vines, bushes, flowers, and grass.

b. fences/walls (unless approved via Boulevard Encroachment Permit by the City Engineer).

c. sand.

(Ord. 2734, 1998).

**12.41.050 Design standards for commercial, industrial and semipublic uses.** A.

Determination of Applicability. The landscaping requirements set forth in this chapter shall apply to:

1. All new buildings, other than single-family dwellings or duplex construction;
2. All buildings being increased in size by at least twenty percent (20%);
3. All new vehicular use areas;
4. All vehicular use areas being increased in size by at least twenty percent (20%).
5. All buildings and vehicular use areas which have been cumulatively increased in

size by twenty-five percent over a period of ten years.

B. Submission for Review. All landscape data shall be submitted for review and approval to the building inspector or delegate before any building permit can be issued. Three copies of all landscape data submitted should be at a scale of one inch equals twenty feet for less than one acre or one inch equals fifty feet for sites larger than one acre and will include:

1. A plant list containing botanical names, common name, plant size, number and variety of each plant used and mature area of coverage of canopy trees;

2. A site plan showing dimensioned location of all plant materials, site amenities (signage, benches, etc.), North arrow, property lines, easements, utilities and otherwise, and adjacent land use;

3. A plan showing location and construction details of all required irrigation systems to be installed.

C. Interior Landscaping Requirements.

1. Minimum square footage of interior landscaping shall be ten percent (10%) of the gross property area to be developed for property located in a commercial zone, and twelve percent (12%) of the gross area to be developed for non-residential uses in residential zones. A portion of the required landscaping, equal to at least five percent (5%) of the vehicular use area, must be located within the vehicular use area.

2. All required landscaping must be live vegetation and maintained in good condition so as to present a healthy, neat and orderly appearance, free from refuse and debris.

3. When a site abuts a natural amenity such as a flood plain, canal, park or other open space, the landscape plan shall integrate with, and respect the natural integrity of the amenity. By design, detention and retention ponds shall be physically, functionally, and visually integrated into adjacent landscape uses. Standing water is discouraged and shall be properly drained unless

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incorporated into recirculating water features or irrigation systems.

4. Interior landscaping shall be mounded a minimum of six inches above the height of adjacent vehicular uses areas but not exceeding 3:1 slope and shall be protected from automobile traffic by curbing or some other effective barrier to the passage of automobiles.

5. There shall be a minimum of one tree and seven shrubs planted and maintained per four hundred square feet or fraction thereof of required interior landscaping.

6. Where a commercial or non-residential use abuts a residential use a minimum of a five (5) foot landscape buffer shall be provided along the shared property line. Where vehicular use areas abut adjacent residential property the lot shall be screened by the use of a decorative masonry or concrete wall at least four feet in height, or evergreen and deciduous trees and shrubs in combination with low soil berms that will provide ample screening within three growing seasons to protect the residential nature of the adjoining property.

7. Twenty-five percent (25%) of the boulevard landscaping being provided may be credited to the interior landscaping requirement. (Ord. 2687 Ex. B (part), 1995; Ord. 2404 Ex. A(part), 1985).

**12.41.060 Incentive provision.** The Community Development Director may reduce the off-street parking requirement by up to five percent (5%) of the required number of spaces if the proposed landscape plan incorporates the retention of significant trees, particularly in the interior of the site, or if the proposed landscaping area exceeds the required landscaping by fifteen percent (15%). (Ord. 2687 Ex. B (part), 1995).

**12.41.070 Bond provision.** A. All required landscaping must be completed prior to the issuance of an occupancy permit.

B. A temporary occupancy permit may be issued, provided that a security is provided equal to one hundred percent (100%) of the estimated cost of landscaping improvements and installation. Security may consist of a faithful performance bond payable to the City, cash, certified check, time certificates of deposit, assignment of savings account, or other such assurance of completion as shall meet the approval of the City Attorney.

C. The security bond will be held until the end of the second growing season at which time the bond may be used to complete installation of the landscaping. Upon completion of installation, any portion of the remaining security deposit with the City shall be returned to the applicant. (Ord. 2687 Ex. B (part), 1995; Ord. 2599 §2(part), 1991).

**12.41.080 Design standards for residential uses.** All new buildings for dwelling or containing dwelling units and all dwelling structures being increased in size by at least fifty percent (50%) shall conform to the minimum landscaping requirements hereinafter provided by this chapter.

A. Submission for Review. All data showing residential landscaping requirements listed below shall be submitted for review to the building inspector before a building permit can be issued.

B. Landscaping Requirements. Within one year from the date of issuance of a building permit, the structure whether single-family or multiple units and its lot or lots shall be completed the following:

1. A canopy tree or evergreen tree shall be planted and maintained for each one thousand five hundred square feet or major portion thereof of gross lot area. A maximum of two

boulevard trees may be applied to this requirement.

2. Turf grass or groundcover plants shall be installed and maintained and shall cover fifty percent of the net lot area (gross lot area minus square footage occupied by buildings and parking lots). (Ord. 2404 Ex. A(part), 1985).

3. All vehicular use areas shall be surfaced and maintained in asphalt or concrete. (Ord. 2687 Ex. B (part), 1995).

**12.41.090 Violation and penalty.** Whenever in any section of this chapter the doing of any act is required, prohibited or declared to be unlawful, the person, firm or corporation who is convicted of a violation of any such section shall for each offense be fined not less than two hundred fifty dollars and not more than five hundred dollars or imprisoned for a period not to exceed six months, or both so fined and imprisoned. Each day such violation is committed or permitted to continue shall constitute a separate offense. (Ord. 2599 §2(part), 1991).

**12.41.100 Appeal.** Any person or persons, jointly or separately, aggrieved by any decision, order or action as a result of the enforcement of this code as contained in this chapter, may appeal such decision, order or action to the Board of Adjustment as provided for in Chapter 2.28 of this Code. (Ord. 2599 §2(part), 1991).

## **Title 16** **SUBDIVISIONS**

### **Chapters:**

|              |                           |
|--------------|---------------------------|
| <u>16.04</u> | <u>General Provisions</u> |
| <u>16.08</u> | <u>Definitions</u>        |
| <u>16.12</u> | <u>Plats and Data</u>     |
| <u>16.16</u> | <u>Design Standards</u>   |
| <u>16.20</u> | <u>Improvements</u>       |
| <u>16.24</u> | <u>Variances</u>          |

### **Chapter 16.04**

#### **GENERAL PROVISIONS**

### **Sections:**

|           |  |
|-----------|--|
| 16.04.010 | Purpose.                                   |
| 16.04.020 | Planning Commission--Powers and duties.    |
| 16.04.030 | Governing body--Power to reject proposals. |

**16.04.010 Purpose.** The purpose of this title is to establish minimum standards to which owners of land or other persons shall comply in order to obtain the approval of the Planning

Commission, the governing body, and obtain a building permit. The provisions of this chapter where established to promote orderly growth and development of the City; proper use of land; conservation, stabilization and protection of the use value of property; adequate provisions for utilities, streets and convenience; public health, safety and general welfare. (Prior code §9-8-1(A)).

**16.04.020 Planning Commission--Powers and duties.** The Planning Commission is charged with the duty of making investigations and reports to the governing body on the design and improvement of proposed additions; and is authorized to approve, conditionally approve or disapprove tentative plats of additions prepared and filed in accordance with the provisions of this title. Any variances authorized by the Commission, under Chapter 16.24 of this title, will be explained in detail in the report to the governing body. (Prior code §9-8-1(C)).

**16.04.030 Governing body--Power to reject proposals.** This title shall not in any manner restrict or alter the right of the governing body to reject any proposed addition or plat presented to the governing body for consideration. (Prior code §9-8-9).

#### Chapter 16.08

#### DEFINITIONS

#### **Sections:**

|           |               |
|-----------|---------------|
| 16.08.010 | Definitions.  |
| 16.08.020 | Block.        |
| 16.08.030 | Commission.   |
| 16.08.040 | Director.     |
| 16.08.050 | Lot.          |
| 16.08.060 | Street.       |
| 16.08.070 | Zoning title. |

**16.08.010 Definitions.** For the purpose of this title certain terms and words are defined as set forth in this chapter. (Prior code §9-8-1(D) (part)).

**16.08.020 Block.** "Block" means a piece or tract of land entirely surrounded by public highways, streets, waterways, railway rights-of-way or parks or a combination thereof. (Prior code §9-8-1(D)(1)).

**16.08.030 Commission.** "Commission" means the City Planning Commission. (Prior code §9-8-1(D)(4)).

**16.08.040 Director.** "Director" means the Director of Public Works. (Prior code §9-8-1(D)(5)).

**16.08.050 Lot.** "Lot" means a plat or tract of land occupied or proposed to be occupied by a building or an integrated group of buildings and uses customarily incident and accessory thereto, including such open spaces as required by the zoning ordinance Title 17, and such open spaces as are arranged and designed to be used in connection with any such building and having its principal frontage on a street or place. (Prior code §9-8-1(D) (2)).

**16.08.060 Street.** "Street" means a way for vehicular traffic designated as a street, highway, thoroughfare, parkway, road, avenue, boulevard, lane, place, drive or otherwise.

A. "Arterial streets and highways" are those which are used primarily for fast or heavy traffic.

B. "Collector streets" are those which carry traffic from minor streets to the major systems of arterial streets and highways, including the principal entrance streets of a residential development and streets for circulation within such a development.

C. "Minor streets" are those which are used primarily for access to the abutting properties.

D. "Marginal access streets" are minor streets which are parallel and adjacent to arterial streets and highways; and which provide access to abutting properties and protection from through traffic.

E. "Cul-de-sacs" are dead-end streets with a turn-around facility.

F. "Alleys" are minor ways which are used primarily for vehicular service access to the back or side of properties otherwise abutting on a street. (Prior code §9-8-1(D)(3)).

**16.08.070 Zoning title.** "Zoning title" means the zoning title included in this code. (Prior code §9-8-1(D)(6)).

## Chapter 16.12

### PLATS AND DATA

#### **Sections:**

16.12.010 Tentative plat--Preapplication--Procedure.

|           |  |
|-----------|--|
| 16.12.020 | Tentative plat--Preapplication plan--Topographic survey. |
| 16.12.030 | Tentative plat--Information required.                    |
| 16.12.040 | Tentative plat--Conditional approval.                    |
| 16.12.050 | Final plat--Conformance to tentative plat.               |
| 16.12.060 | Final plat--Approval.                                    |

**16.12.010 Tentative plat--Preapplication--Procedure.** A. Previous to submitting an application for the conditional approval of the tentative plat (defined in Section 16.12.030), the petitioner shall submit to the City Planning Commission preapplication plans and data (defined in Section 16.12.020). This step does not require formal application, fee or filing of plat.

B. Within thirty days, the Planning Commission shall inform the petitioner that the plans and data as submitted or as modified do or do not meet the requirements of these regulations. When the Commission finds that the plans and data do not meet the objectives of these regulations, it shall express its reasons therefor. (Prior code §9-8-2(A)).

**16.12.020 Tentative plat--Preapplication plan--Topographic survey.** A. A preapplication plan of the proposed addition may be a freehand pencil sketch made directly on a print of the topographic survey required for the tentative plat. In any event the preapplication plan shall show, in simple sketch form, the information listed below, or such of this information as the Planning Commission determines is necessary, as follows:

1. Boundary lines, bearings and distances sufficient to locate the exact area proposed for addition;
2. Topographical features of the proposed addition and of adjacent tracts; approximate direction and gradient of ground slope, including any embankments; water courses or drainage channels, rock outcrop, wooded areas, railroads, power lines, towers, character and location of buildings and other significant features;
3. Information describing the proposed addition; number of residential lots, typical lot size, sites to be reserved or dedicated for parks, playgrounds or other public areas;
4. Zoning on areas adjacent to the tract and proposed zoning for the tract; indicate sites, if any, for multi-family dwellings, shopping centers, business areas, churches, schools, industry or other public uses exclusive of single-family dwellings;
5. Streets; name and right-of-way width on and adjacent to the tract;
6. Easements; location, width and purpose;
7. Utilities; on and adjacent to the tract; location and size of sanitary sewers; location and size of water mains and fire hydrants. If water mains and/or sanitary sewer lines are not on or adjacent to the tract, indicate the direction, distance to and size of nearest ones;
8. Name of the proposed addition, name and address of the owner; name of the registered civil engineer or land surveyor platting the tract, date of survey. Adjacent unplatted land shall show property lines and owners of record;
9. Scale, north arrow, and notation stating total acreage.

B. Supporting data shall consist of a written draft of general information which describes or outlines the existing conditions of the site and the proposed development as necessary to supplement the preapplication plan. Such data shall describe the general class of residences contemplated for residential areas. (Prior code §9-8-3(A)).

**16.12.030 Tentative plat--Information required.** A. Five copies of the proposed addition drawn to a scale of one hundred feet to one inch or larger shall show all of the information required in Section 16.12.020; and in addition shall show the following:

1. A topographical survey showing ground elevations on the tract based on the City datum. For land that slopes less than approximately two percent, spot elevations at all breaks in grade, along all drainage channels, and at selected points not more than one hundred feet apart in all directions shall be shown. For land that slopes more than approximately two percent, contours with an interval of not more than ten feet shall be shown;

2. Lot lines, lot numbers and block letters;

3. Location and exact acreage of parks, playgrounds, school sites and other public areas;

4. Street roadway widths, approximate grades and gradients; similar data for alleys, if any;

5. Names of owners and description of land owned by respective owners.

B. Data. Supporting data shall consist of a written draft of the following:

1. A draft of protective covenants whereby the petitioner proposes to regulate land use in the addition and otherwise protect the proposed development;

2. Subsurface conditions of the tract, if required by the Planning Commission; location and results of tests made to ascertain subsurface soil, rock and ground water conditions; location and results of soil percolation tests if individual sewage disposal systems are proposed. (Prior code §9-8-3(B)).

**16.12.040 Tentative plat--Conditional approval.** A. On reaching conclusions, informally as recommended in Section 16.12.010, regarding the general program and objectives, the petitioner shall cause to be prepared a tentative plat, together with improvement plans and other supplementary material (defined in Section 16.12.030).

B. Five copies of the tentative plat and supplementary material specified shall be submitted to the Planning Commission with written application for conditional approval at least five days prior to the meeting at which it is to be considered.

C. The following notice shall be stamped on the face of each tentative plat by the secretary of the Planning Commission: "Tentative Plat - for inspection purposes only, and in no way official or approved for record purposes."

D. Following the review of the tentative plat and other material submitted for conformity thereof to these regulations, together with negotiations with the petitioner on changes deemed advisable, the Planning Commission within thirty days shall express its approval as conditional approval and state the conditions of such approval, if any, or if disapproved, shall express its disapproval and its reasons therefore.

E. The action of the Planning Commission shall be noted on two copies of the tentative plat, referenced and attached to any conditions determined. One copy shall be returned to the petitioner and the other retained by the Planning Commission.

F. Conditional approval of a tentative plat shall not constitute approval of the final plat. Rather it shall be deemed an expression of approval to the general plan submitted on the tentative plat as a guide to the preparation of the final plat which will be submitted for approval of the Planning Commission and the governing body. (Ord. 1990 §1(part), 1977; prior code §9-8-2(B)).

**16.12.050 Final plat--Conformance to tentative plat.** A. The final plat shall conform to the tentative plat as conditionally approved and to all requirements of the statutes of the State.

B. If desired by the petitioner, the final plat may constitute only that portion of the approved tentative plat which he proposes to record and develop at the time; provided, however, that such portion conforms to all the requirements of these regulations. (Prior code §9-8-3(C)).

**16.12.060 Final plat--Approval.** A. After receiving conditional approval on the tentative plat, the petitioner shall cause to be prepared a final plat (defined in Section 16.12.050).

B. The final plat shall be submitted to the Planning Commission and following a review of the final plat for conformity thereof to these regulations, the Planning Commission within thirty days shall express its approval, or if disapproved, shall express its disapproval and its reasons therefore.

C. The *Planning Commission* shall notify the petitioner and the governing body of its action.

D. After receiving the approval of the Planning Commission on the final plat, the petitioner shall submit the final plat to the governing body and Board of County Commissioners as required by the statutes of the State. (Ord. 1990 §1(part), 1977; prior code §9-8-2(C)).

## Chapter 16.16

### DESIGN STANDARDS

#### Sections:

- 16.16.010 Streets.
- 16.16.020 Alleys.
- 16.16.030 Blocks.

**16.16.010 Streets.** A. The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and in their appropriate relation to the proposed uses of the land to be served by such streets.

B. The arrangement of streets in an addition shall:

1. Provide for the continuation of appropriate projection of existing principal streets in surrounding areas;

2. Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

C. Minor street shall be so laid out that their use by through traffic will be discouraged.

D. Where an addition abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage with screen planting contained in a nonaccess reservation along the rear property line, or deep lots with rear service alleys or such other treatment as may be necessary for adequate protection of through and local traffic.

E. Where an addition borders on or contains a railroad right-of-way or a limited access highway right-of-way, the Planning Commission may require a street approximately parallel to and one each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts or for commercial or industrial purposes in

appropriate districts. Such distances shall also be determined with due regard to the requirements of approach grades and future grade separations.

F. Street jogs with centerline offsets of less than one hundred twenty-five feet shall be avoided.

G. Streets which are a continuation of streets in contiguous territory shall be so aligned as to assure that their centerline shall coincide. In cases where straight continuations are not physically possible, such centerline shall be continued by curves.

H. Streets shall be laid out so as to intersect as nearly as possible at right angles, and no street shall intersect any other street at less than sixty degrees.

I. Property lines at street intersection shall be rounded with a radius of not less than twenty feet or of greater radius where the Planning Commission may deem it necessary.

J. Curved collector streets shall have a centerline radius of not less than two hundred fifty feet.

K. Curved minor streets shall have a centerline radius of not less than one hundred feet.

L. Streets which are a continuation of streets in contiguous territory shall have a right-of-way width identical to that of the existing street, unless otherwise required by the planning commission. Right-of-way widths for other streets shall be not less than as follows:

| Street Type                         | Right-of-way<br>(in feet, property<br>line to property line) |
|-------------------------------------|--|
| Undivided arterial                  | 80-100   |
| Collector                           | 60-80  |
| Minor, for rowhouses and apartments | 60   |
| Minor, for other residences         | 50   |
| Marginal access                     | 40   |

M. Half streets shall be prohibited. Wherever a half street is adjacent to a proposed addition, the other half of the street shall be platted within such tract.

N. Dead-end streets (cul-de-sacs), designed to be so permanently, shall not be longer than five hundred feet and shall be provided at the closed end with a turnaround having an outside roadway diameter of at least eighty feet, and a street property line diameter of at least one hundred feet.

O. No street names shall be used which will duplicate or be confused with the names of existing streets. Street names shall be subject to approval of the Planning Commission.

P. Street grades, wherever feasible, shall not exceed the following, with due allowance for reasonable vertical curves.

| Street Type     | Grade |
|-----------------|-------|
| Arterial        | 5%    |
| Collector       | 7%    |
| Minor           | 10%   |
| Marginal Access | 10%   |



Q. No street grades shall be less than five-tenths percent. (Prior code §9-8-4(A)).

**16.16.020 Alleys.** A. Alleys shall be provided in commercial and industrial districts, except that the Planning Commission may waive these requirements where other definite and assured provision is made for service access, such as off-street loading, unloading and parking consistent with and adequate for the uses proposed.

B. The width of an alley shall be twenty feet.

C. Alley intersections and sharp changes in alignment shall be avoided, but where necessary, corners shall be cut off sufficiently to permit safe vehicular movement.

D. Dead-end alleys shall be avoided where possible, but if unavoidable, shall be provided with adequate turnaround facilities at the dead end, as determined by the Planning Commission.

E. Easement shall follow lot lines wherever possible and shall be not less than twenty feet wide. (Prior code §9-8-4(B)).

**16.16.030 Blocks.** The lengths, widths and shapes of blocks shall be determined with due regard to:

A. Provision of adequate building sites suitable to the special need of the type of use contemplated;

B. Needs for convenient access, circulation, control and safety of street traffic;

C. Limitations and opportunity of topography. (Prior code §9-8-4(C)).

## Chapter 16.20

### IMPROVEMENTS

#### Sections:

16.20.010 Required when.

16.20.020 Made when.

16.20.030 Water and sewer lines--Specifications and cost.

**16.20.010 Required when.** After approval of the final plat by the governing body, the following improvements shall be installed in conformance with plans and specifications prepared or approved by the Director of Public Works at the time hereinafter provided:

A. Street Improvements. All streets and alleys within the addition shall be excavated or filled within three-tenths (plus or minus) of a foot of the grade established by the Director of Public Works and the street surface compacted sufficiently to be traversable by motor vehicles under normal seasonal conditions or a graveled surface be placed thereon.

B. Irregular Land. Land which is considered to be excessively irregular shall be provided with proper drainage.

C. Curbs. Concrete curbs shall be installed on all streets, except alleys within the addition.

D. Water. Waterlines shall be installed to serve all lots within the addition in accordance with the requirements of the Director of Public Works and the City Water Department.

E. Fire Hydrants. Fire hydrants shall be installed within the addition in accordance with the requirements of the Director of Public Works and the City Water Department.

F. Sewers. Sewer lines shall be installed to serve all lots within the addition in accordance with the requirements of the Director of Public Works and the City Sewer Department. (Prior code §9-8-5).

**16.20.020 Made when.** The improvements required to be made under Section 16.20.010 of this chapter shall be installed at the following times:

A. The street and alley improvement, grading, drainage, waterlines and fire hydrants and sewer lines will be installed before the issuance of the building permit or permits upon the lots in the addition.

B. Curbs will be installed before the time of final approval of the building or buildings upon the lot or lots in the addition by the Building Inspector. (Prior code §9-8-6).

**16.20.030 Water and sewer lines--Specifications and costs.** A. With respect to waterlines, the minimum pipe size for feeder mains shall be six inches. If lines larger than eight inches are required, and such lines will be of some benefit to the entire City, the City Commission, at its discretion, may authorize payment of the difference in cost between an eight-inch pipe and the required size.

B. With respect to sewer lines, the minimum size shall be eight inches. If a larger pipe size is required, and such pipe will be of some benefit to the entire City, the City Commission at its discretion, may authorize payment of the difference in cost between an eight-inch pipe and the required size. (Prior code §9-8-7; Ord. 2221, 1980).

## Chapter 16.24

### VARIANCES

#### Sections:

- |           |                            |
|-----------|----------------------------|
| 16.24.010 | Conditions--Determination. |
| 16.24.020 | Conditions for granting.   |

**16.24.010 Conditions--Determination.** The Planning Commission may vary or waive the regulations of this title if it finds that the following conditions exist:

A. Hardship. The strict application of the provisions of these regulations would result in practical difficulties or unnecessary hardships inconsistent with the purpose and intent of these regulations;

B. Absence of Detriment. The granting of a variance will not be materially detrimental to the public welfare or injurious to surrounding improvements or additions. (Prior code §9-8-8(A)).

**16.24.020 Conditions for granting.** In granting variances and modifications, the Planning Commission may require such conditions as will, in its judgment, secure substantially the objectives of the standards or requirements so varied or modified. (Prior code §9-8-8(B)).



AGENDA REPORT

DATE: January 16, 2007

ITEM Resolution 9634, A Resolution Establishing a Rules During the Public Comment Period of City Commission Meetings

ACTION REQUESTED Adopt Resolution 9634

PRESENTED BY David V. Gliko, City Attorney

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**RECOMMENDATION:**

Staff recommends the City Commission adopt Resolution 9634.

**MOTION:**

I move the City Commission adopt Resolution 9634.

**SYNOPSIS:**

It is deemed necessary to maintain the proper decorum at City Commission meetings to ensure a safe and orderly forum for public participation by: (1) establishing a three minute time limit for each person speaking during the "Public Comment" (Petitions and Communications) period; (2) prohibiting vulgar, profane and impertinent speech; (3) limiting speech to matters of significant public interest within the City jurisdiction; and (4) prohibiting bags or backpacks at the rostrum.

**BACKGROUND:**

Such time, place and manner limitations on public participation have been upheld by the Courts. See Sa'ad El-amin v. West, 1988 U.S. Dist. LIXIS 17511, where the U. S. District Court affirmed the Richmond City Counsel's time limits and profane language prohibition citing: "In Madison School District v. Wisconsin Employment Comm'n, the Supreme Court clearly acknowledged a public body's right to structure the public-discussion portions of its open meetings. The Court said: 'Plainly, public bodies may confine their meetings to specified subject matter ... .' In his concurring opinion in the case, Justice Stewart referred to a public body's legitimate interest 'in trying to best serve its informational needs while rationing its time,' and agreed with the Court that a public body 'has broad authority to structure the discussion of matters that it chooses to open to the public.' "

Eloquently, the Supreme Court has spoken on the limitations of First Amendment activity in this context through the opinion of Chief Justice Burger in Bethel School District No. 403 v. Fraser, 92 LEd. 2d 549: "The fundamental values of habits and manners of civility essential to a democratic society must, of course, include tolerance of divergent political and religious views, even when the views expressed may be unpopular. But these fundamental values must also take into account consideration of the sensibilities of others .... Even the most heated political discourse in a democratic society requires consideration for the personal sensibilities of the other participants and audiences."

In Montana, citing 7-1-4142 and 2-3-103, MCA, the Attorney General has opined that: "A city council must provide an Agenda item for public comment on non-agenda matters only for issues that are of significant interest to the public." 51 Op. Att'y Gen. 12. I would also advise that the statutory language of 2-3-103, MCA, not only limits the scope of public participation to items that are of "significant interest to the public" but also limits consideration to only those matters "within the jurisdiction" of the City Commission.

Therefore, the limitations to public participation referenced in Resolution 9634 are clearly sanctioned under the law.

## RESOLUTION 9634

### A RESOLUTION ESTABLISHING A THREE MINUTE TIME LIMIT FOR PERSONS ADDRESSING THE CITY COMMISSION DURING THE PUBLIC COMMENT (PETITIONS AND COMMUNICATIONS) PERIOD; PROHIBITING VULGAR, PROFANE OR IMPERTINENT SPEECH; LIMITING SPEECH TO MATTERS OF SIGNIFICANT INTEREST TO THE PUBLIC WITHIN CITY COMMISSION JURISDICTION; PROHIBITING BAGS OR BACKPACKS AT THE ROSTRUM

**WHEREAS**, it is deemed necessary to maintain the proper decorum of City Commission meetings to ensure a safe and orderly forum for public participation; and,

**WHEREAS**, the City Commission Agenda provides a period for "Public Comment" (Petitions and Communications) to allow public participation by any and all members of the public on any matter of significant interest to the public within the scope of jurisdiction of the City Commission; and,

**WHEREAS**, proper decorum for City Commission meetings requires management of the time, place and manner of public participation while guaranteeing the content-neutrality of such regulation by: (1) establishing a reasonable time limit of three minutes for all persons speaking during the "Public Comment" (Petitions and Communications) period of the Agenda; (2) prohibiting the use of vulgar, profane or impertinent speech; (3) limiting the "Public Comment " (Petitions and Communications) period to matters of significant public interest within City Commission jurisdiction; (4) prohibiting bags or backpacks at the public rostrum;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** by the City Commission of the City of Great Falls, Montana:

1. That each person speaking during the "Public Comment" (Petitions and Communications) period of the City Commission Agenda shall be limited to three minutes unless specially authorized to exceed such limit by the Mayor with the concurrence of the City Commission; and,
2. That the use of vulgar, profane or impertinent speech is prohibited at City Commission meetings; and,
3. That the "Public Comment" (Petitions and Communications) period shall be limited to matters of significant interest to the public that are within the scope of jurisdiction of the City Commission; and,
4. That bags or backpacks are prohibited at the public rostrum.

**PASSED AND ADOPTED**, by the City Commission of the City of Great Falls, Montana, on the 16th day of January 2007.

---

Dona R. Stebbins, Mayor

ATTEST:

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Peggy J. Bourne, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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David V. Gliko, City Attorney

State of Montana )  
County of Cascade: ss.  
City of Great Falls )

I, PEGGY J. BOURNE, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Resolution 9634 was placed on its final passage and adoption, and was passed and adopted by the City Commission of said City at a Regular Meeting thereof held on the 16th day of January, 2007, and approved by the Mayor of said City, on the 16th day of January, 2007.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City, this 16<sup>th</sup> day of January, 2007.

---

Peggy J. Bourne, City Clerk

(SEAL OF CITY)

Regular City Commission Meeting

Mayor Stebbins presiding

**CALL TO ORDER:** 7:00 PM

**PLEDGE OF ALLEGIANCE**

**ROLL CALL:** City Commissioners present: Dona Stebbins, Bill Beecher, Sandy Hinz, Diane Jovick-Kuntz and John Rosenbaum. Also present were the City Manager, Assistant City Manager, City Attorney, Directors of Community Development, Planning, Park and Recreation, Fiscal Services, Library, Police Chief, Fire Chief, Acting Public Works Director, and the City Clerk.

**PROCLAMATIONS:** Mayor Stebbins read a proclamation for Groundhog Job Shadow Day.

**PRESENTATION:** Dave Kuhn and Dean Stockton, Great Falls Emergency Services, provided a brief presentation and annual report to the City Commission regarding the services they provide.

**NEIGHBORHOOD COUNCILS**

**West Bank  
Urban Renewal  
District.**

**1A. Bob Mehlhoff, NC2,** stated he did not realize how much park land was on the west side and asked to expand the Urban Renewal District to include all the park land adjacent or near the proposed boundaries of the proposed District.

**Pedestrian  
Crossing**

**1B. Erin Tropila, NC7,** expressed concern about pedestrian safety on 9<sup>th</sup> Street. She asked staff to consider doing PSAs to help educate the public about the crosswalks and for the Police Department to provide additional enforcement.

**PUBLIC HEARINGS**

**Res. 9630,  
Building,  
Electrical and  
Mechanical  
Permit Fees.  
Adopted.**

**2. RESOLUTION 9630, BUILDING, ELECTRICAL AND MECHANICAL PERMIT FEE INCREASE.**

Building Inspector Jeff Jenkins reported that Resolution 9630 sets new fees for building, plumbing, electrical and mechanical permits. The proposed fee schedule generally represented a 4 percent increase and would take effect March 1, 2007.

Mayor Stebbins declared the public hearing open. No one appeared to speak in support of or opposition to the Resolution. Mayor Stebbins declared the public hearing closed and asked for the direction of the City Commission.

**Commissioner Beecher moved, seconded by Commissioner Jovick-Kuntz, that the City Commission adopt Resolution 9630.**

Motion carried 5-0.

**Res. 9632, Vacate Unused Segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North. (Amended Plat GF Townsite, B33 and GF 1<sup>st</sup> Add., B30 and B34.) Adopted.**

**3. RESOLUTION 9632, VACATE UNUSED SEGMENTS OF 10<sup>TH</sup> STREET NORTH AND 11<sup>TH</sup> AVENUE NORTH, (GF TOWNSITE BLOCK 33 AND 1<sup>ST</sup> ADDITION TO GF TOWNSITE BLOCKS 30 AND 34.**

Planning Director Ben Rangel reported Resolution 9632 vacates unused segments of 10<sup>th</sup> Street North and 11<sup>th</sup> Avenue North rights-of-way in the vicinity of 1025 11<sup>th</sup> Street North. An amended plat was prepared to aggregate the proposed vacated rights-of-way and the abutting portions of Block 33, GF Townsite and Blocks 30 and 34, 1<sup>st</sup> Addition to GF Townsite into one parcel.

Mayor Stebbins declared the public hearing open. No one spoke in support of or opposition to Resolution 9632. Mayor Stebbins declared the public hearing closed.

**Commissioner Jovick-Kuntz moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9632 and authorize the appropriate City officials to execute the involved Amended Plat and Easement Agreement.**

Motion carried 5-0.

**OLD BUSINESS**

**Ord. 2933, Amending OCCGF Title 6, Chapter 8, Pertaining to Animals. Adopted.**

**4. ORDINANCE 2933, AMENDING OCCGF TITLE 6, CHAPTER 8, PERTAINING TO ANIMALS.**

Chief Prosecutor Kory Larsen reported that following the public hearing on January 2, 2007, staff proposed several amendments to Ordinance 2933. The amendments pertained to establishing an appeal process for those people who may be denied a multiple animal permit; to allow cats to be chipped rather than wearing a collar and modifying language related to the surrender of animals section.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum that Ordinance 2933 be removed from the table.**

Motion carried 5-0.

**Commissioner Beecher moved, seconded by Commissioner Jovick-Kuntz that the City Commission adopt Ordinance 2933 as amended.**

Motion carried 5-0.



**NEW BUSINESS**

**Ord. 2950,  
OCCGF Title 17,  
(Land  
Development  
Code  
Amendments).  
Accepted on first  
reading and  
public hearing set  
for February 6,  
2007.**

**5. ORDINANCE 2950, GREAT FALLS LAND DEVELOPMENT  
CODE AMENDMENTS (OCCGF TITLE 17).**

Planning Department Director Ben Rangel reported that Ordinance 2950 amends various chapters of the City Land Development Code to address editorial, typographical and housecleaning items; to provide additional clarification and consistency; to refine wording and definitions; to reduce some procedural steps and requirements; and to expand some provisions.

**Commissioner Hinz moved, seconded by Commissioner Jovick-Kuntz, that the City Commission accept Ordinance 2950 on first reading and set the public hearing for February 6, 2007.**

Motion carried 5-0.

**Ord. 2958,  
Repealing  
Certain Sections  
of the OCCGF.  
Accepted on first  
reading and  
public hearing set  
for February 6,  
2007.**

**6. ORDINANCE 2958, REPEALING CERTAIN SECTIONS OF THE  
OFFICIAL CODES OF THE CITY OF GREAT FALLS THAT  
WERE REPLACED, RECODIFIED OR IN CONFLICT WITH THE  
LAND DEVELOPMENT CODE.**

City Clerk Peggy Bourne reported that the City Commission adopted Ordinance 2923 on September 6, 2005, known as the "Land Development Code" which replaced OCCGF Title 17, but did not remove any other affected sections of the code book. In order to reduce confusion and conflict between other Titles, certain sections of OCCGF needed to be repealed.

**Commissioner Rosenbaum moved, seconded by Commissioner Hinz, that the City Commission accept Ordinance 2958 on first reading and set the public hearing for February 6, 2007.**

Motion carried 5-0.

**Res. 9634,  
Establishing a  
three-minute  
time limit for  
persons  
addressing the  
City Commission  
during the public  
comment period.  
Adopted.**

**7. RESOLUTION 9634, ESTABLISHING A THREE-MINUTE TIME  
LIMIT FOR PERSONS ADDRESSING THE CITY COMMISSION  
DURING THE PUBLIC COMMENT PERIOD.**

City Attorney David Gliko reported that it was deemed necessary to maintain the proper decorum at City Commission meetings to ensure a safe and orderly forum for public participation by: establishing a three minute time limit for each person speaking during the "Public Comment" (Petitions and Communications) period; prohibiting vulgar, profane and impertinent speech; limiting speech to matters of significant public interest within the City jurisdiction; and prohibiting bags or backpacks at the rostrum.

**Commissioner Beecher moved, seconded by Commissioner Rosenbaum, that the City Commission adopt Resolution 9634.**

Commissioner Hinz stated that she was not comfortable limiting public participation. However, this Resolution did not affect those addressing the Commission during public hearings. Additionally, the Commission may extend the time limit with appropriate permissions.

Motion carried 5-0.

**Consent Agenda.  
Approved as  
printed.**

**CONSENT AGENDA**

8. Minutes, January 2, 2007, Commission meeting.
9. Total Expenditures of \$1,962,927 for the period of December 29, 2006, through January 10, 2007, to include claims over \$5000, in the amount of \$1,785,367.
10. Contracts list.
11. Memorandum of Understanding between the City of Great Falls and the Upper/Lower River Road Water and Sewer District for Service District #2 (O.F. 1354).
12. Change Order 1 in the amount of \$2,700 and Final Payment of \$75,507.73 to Smith Power Products for procurement and delivery of engine, generator and gas treatment equipment to the Wastewater Treatment Plant Cogeneration Project (O.F. 1404).
13. Contract Amendment 1 in the amount of \$25,000 to Thomas Dean & Hoskins, Inc. for the BNSF/MDT Overlook Drive Water Mains (O.F. 1307).
14. Award Bid for one new 2006 Sewer TV Inspection System to Utility Specialties in the amount of \$62,456 including trade-in and the optional cost for an additional camera.

**Commissioner Rosenbaum moved, seconded by Commissioner Beecher, that the City Commission approve the Consent Agenda as presented.**

Motion carried 5-0.

**BOARDS & COMMISSIONS**

**Community  
Development  
Council.  
Appointed  
Barron, Boham  
and Bos for  
three-year terms  
through January  
31, 2010.**

15. **APPOINTMENTS TO THE COMMUNITY DEVELOPMENT COUNCIL.**

Arthur Bundtrock served on the Community Development Council since 2003. He was eligible for, but not interested in reappointment. David Davis and Mary Dupuis served since 2001 and were not eligible for reappointment. Therefore, it was necessary to appoint three members to the Community Development Council.

**Commissioner Hinz moved, seconded by Commissioner Beecher, that the City Commission appoint L. Annie Barron, Russell Boham and Darlene Bos for three-year terms through January 31, 2010, to the Community Development Council.**

Motion carried 5-0.

**17. CITY MANAGER'S REPORT.****Response to public comments regarding the Highwood Generating Station and Electric City Power, Inc.**

City Manager John Lawton and consultant Ken Reich presented information in response to questions related to Electric City Power Inc., Southern Montana Electric (SME) and the Highwood Generating Station. General topics of discussion included:

- The City's position in the Highwood Generating Station and in Southern Montana Electric G&T.
- The City's energy related expenditures as of June 30, 2006.
- The Environmental Impact Statement status and process.

**19. PETITIONS AND COMMUNICATIONS****Highwood Generating Station.**

John Stevens spoke in support of the Highwood Generating Plant. The following spoke in opposition to it: **Cheryl Reichert, Pamela Morris, Larry Resentes, Charles Christianson, Calanthe Wilson-Pant, Ron Mathson, Andree Deligdisch, Butch Hankins, Paul Stevens, Kathy Zippen-Guisman, Charles Boccock; John Hubbard, and Merton Freyholtz.**

General topics of opposition to the Highwood Generating Station included:

- Presentation of a petition with over 1000 signatures opposing the plant.
- Need for renewable energy sources such as wind and solar power.
- Impact of mercury, carbon dioxide and methylmercury on the community's health.
- Need for a complete feasibility study to justify expenditures to date on the plant.
- Concern Electric City Power Inc., is losing money while at the same time incurring debt to SME.
- Environmental impact the plant will have on the planet.
- The economics of the proposed plant.

**Res. 9634.**

Pamela Morris also commented on Resolution 9634 stating she did not support limiting public comment at public meetings.

**Street Conditions.**

Clayton M. Braden expressed concern over roadway conditions at 10<sup>th</sup> Avenue South and 26<sup>th</sup> Street and on Central Avenue West and 27<sup>th</sup> Street.

Adjourn.

**ADJOURNMENT**

There being no further business to come before the Commission, the regular meeting of January 16, 2007, adjourned at 9:22 p.m.

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Mayor Dona R. Stebbins

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Peggy Bourne, City Clerk

**ITEM:** \$5000 Report  
 Budget or Contract Claims in Excess of \$5000

**PRESENTED BY:** City Controller

**ACTION REQUESTED:** Approval With Consent Agenda

APPROVAL: \_\_\_\_\_

**TOTAL CHECKS ISSUED AND WIRE TRANSFERS MADE ARE NOTED BELOW WITH AN ITEMIZED LISTING OF ALL TRANSACTIONS GREATER THAN \$5000:**

---

|   |                            |
|---|----------------------------|
| MASTER ACCOUNT CHECK RUN FOR JANUARY 3, 2007            | 349,122.88                 |
| MASTER ACCOUNT CHECK RUN FOR JANUARY 10, 2006           | 470,497.81                 |
| MUNICIPAL COURT ACCOUNT CHECK RUN FOR DECEMBER 29, 2006 | 45,726.00                  |
| MUNICIPAL COURT ACCOUNT CHECK RUN FOR JANUARY 5, 2007   | 1,226.00                   |
| WIRE TRANSFERS FROM DECEMBER 28-29, 2006                | 1,009,124.68               |
| WIRE TRANSFERS FROM JANUARY 3, 2007                     | <u>38,608.28</u>           |
| WIRE TRANSFERS FROM JANUARY 10, 2007                    | <u>48,621.54</u>           |
| <b>TOTAL: \$</b>  | <u><u>1,962,927.19</u></u> |

**GENERAL FUND**

---

**POLICE**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 496.85   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 2,325.23 |

**FIRE**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 685.87   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 7,287.25 |

**PARK & RECREATION**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 233.22   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 6,928.82 |

**SPECIAL REVENUE FUND**

---

**LIGHTING DISTRICT**

|                     |                  |           |
|---------------------|------------------|-----------|
| NORTHWESTERN ENERGY | DECEMBER CHARGES | 54,133.26 |
| NORTHWESTERN ENERGY | DECEMBER CHARGES | 7,523.59  |

**SPECIAL REVENUE FUND CONTINUED**

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**SUPPORT & INNOVATION FUND**

|                                   |                                  |            |
|-----------------------------------|----------------------------------|------------|
| CITY COUNTY HEALTH DEPARTMENT     | BUDGETED AMT FOR FY2007 2ND HALF | 125,000.00 |
| GRT FLS BUSINESS IMPROVE DISTRICT | NOVEMBER 2006 TAX DISTRIBUTION   | 76,369.24  |

**STREET DISTRICT**

|                           |                             |          |
|---------------------------|-----------------------------|----------|
| MT DEPT OF TRANSPORTATION | PMT#8 MACI SIDEWALK PROGRAM | 5,429.92 |
|---------------------------|-----------------------------|----------|

**LIBRARY**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 747.05   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 4,387.15 |

**ECONOMIC REVOLVING**

|             |                          |        |
|-------------|--------------------------|--------|
| ENERGY WEST | DECEMBER CHARGES (SPLIT) | 159.72 |
|-------------|--------------------------|--------|

**DEBT SERVICE**

---

**SID BONDS**

|                                |                                |           |
|--------------------------------|--------------------------------|-----------|
| COGF SPECIAL IMPROVEMENT BONDS | DEBT SERVICE PAYMENT DIST 1210 | 5,525.00  |
| COGF SPECIAL IMPROVEMENT BONDS | DEBT SERVICE PAYMENT DIST 1266 | 12,400.00 |
| COGF SPECIAL IMPROVEMENT BONDS | DEBT SERVICE PAYMENT DIST 1210 | 300.00    |
| COGF SPECIAL IMPROVEMENT BONDS | DEBT SERVICE PAYMENT DIST 1266 | 300.00    |

**SOCCER PARK BONDS**

|                               |                      |           |
|-------------------------------|----------------------|-----------|
| COGF GENERAL OBLIGATION BONDS | DEBT SERVICE PAYMENT | 48,037.50 |
|-------------------------------|----------------------|-----------|

**ENTERPRISE FUNDS**

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**WATER**

|                                  |                                    |            |
|----------------------------------|------------------------------------|------------|
| GF MT DEPT OF NATURAL RESOURCES  | DEBT SERVICE PROGRAM               | 109,880.00 |
| ED BOLAND CONSTRUCTION           | FINAL PAY OF1450                   | 61,280.29  |
| INDUSTRIAL AUTOMATION CONSULTING | WONDERWARE SOFTWARE SUPPORT        | 6,092.00   |
| PHILLIPS CONSTRUCTION            | PMT#2 2ND AVE SW, OF1391.1         | 9,815.44   |
| CETA GROUP                       | PHS 1 OF 1445.1 EMERALD GREENS DEV | 15,960.48  |
| NORTHWESTERN ENERGY              | NOVEMBER CHARGES (SPLIT)           | 7,268.28   |
| ENERGY WEST                      | DECEMBER CHARGES (SPLIT)           | 9,573.34   |

**SEWER**

|                                 |                             |            |
|---------------------------------|-----------------------------|------------|
| GF MT DEPT OF NATURAL RESOURCES | DEBT SERVICE PROGRAM        | 409,760.00 |
| MORRISON MAIERLE                | PMT#4 OF 1476 , SPLIT PMT   | 212.85     |
| MORRISON MAIERLE                | PMT#3 OF 1476 SPLIT PMT     | 1,131.51   |
| PHILLIPS CONSTRUCTION           | PMT#2 2ND AVE SW, OF1391.1  | 56,090.34  |
| STANLEY CONSULTANTS             | PMT#14 WWTP, CO-GEN PROJECT | 19,347.04  |

**ENTERPRISE FUNDS CONTINUED**

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**STORM DRAIN**

|                                  |                                      |            |
|----------------------------------|--------------------------------------|------------|
| GF MT DEPT OF NATURAL RESOURCES  | DEBT SERVICE PROGRAM                 | 157,037.50 |
| GF MT STORM DRAIN SYSTEM REVENUE | DEBT SERVICE PROGRAM-RFND BONDS      | 191,426.25 |
| MORRISON MAIERLE                 | PMT#4 OF 1476, SPLIT PMT             | 5,312.27   |
| MORRISON MAIERLE                 | PMT#3 OF 1476 SPLIT PMT              | 1,935.01   |
| WICKENS CONSTRUCTION             | FINAL PMT OF 1058.2, RETUENTION POND | 120,953.25 |

**SANITATION**

|                     |                          |        |
|---------------------|--------------------------|--------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 302.69 |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 414.70 |

**ELECTRIC UTILITY**

|                               |                      |           |
|-------------------------------|----------------------|-----------|
| ELECTRIC UTILITY FUND GENERAL | DEBT SERVICE PAYMENT | 51,505.85 |
|-------------------------------|----------------------|-----------|

**SAFETY SERVICES**

|                     |                          |        |
|---------------------|--------------------------|--------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 124.21 |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 581.31 |

**PARKING**

|                     |                          |        |
|---------------------|--------------------------|--------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 538.94 |
|---------------------|--------------------------|--------|

**GOLF COURSES**

|             |                          |        |
|-------------|--------------------------|--------|
| ENERGY WEST | DECEMBER CHARGES (SPLIT) | 819.81 |
|-------------|--------------------------|--------|

**SWIM POOLS**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 264.72   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 3,525.85 |

**RECREATION**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 464.50   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 2,019.11 |

**INTERNAL SERVICES FUND**

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**HEALTH INSURANCE**

|                        |                                       |           |
|------------------------|---------------------------------------|-----------|
| BLUE CROSS BLUE SHIELD | GROUP AND HMO CLM 12/27-12/31 1/1-1/2 | 38,608.28 |
| BLUE CROSS BLUE SHIELD | GROUP AND HMO CLM 1/3/07-1/9/07       | 48,621.54 |

**FISCAL CONTROL**

|         |                |           |
|---------|----------------|-----------|
| HTE INC | LICENSING FEES | 22,300.00 |
|---------|----------------|-----------|

**HUMAN RESOURCES**

|            |                       |          |
|------------|-----------------------|----------|
| TONY ROMAS | REBECCA RYAN LUNCHEON | 5,050.00 |
|------------|-----------------------|----------|

**INTERNAL SERVICES FUND CONTINUED**

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**PUBLIC WORKS**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 882.61   |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 9,680.84 |

**PARK & RECREATION ADMINISTRATION**

|                     |                          |        |
|---------------------|--------------------------|--------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 293.75 |
|---------------------|--------------------------|--------|

**FACILITY SERVICES**

|                     |                          |          |
|---------------------|--------------------------|----------|
| NORTHWESTERN ENERGY | NOVEMBER CHARGES (SPLIT) | 1,359.00 |
| ENERGY WEST         | DECEMBER CHARGES (SPLIT) | 5,686.02 |

**TRUST AND AGENCY**

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**UPPER/LOWER RIVER ROAD PROJECT**

|                                   |                      |           |
|-----------------------------------|----------------------|-----------|
| ULRR MT DEPT OF NATURAL RESOURCES | DEBT SERVICE PAYMENT | 17,283.23 |
| ULRR MT DEPT OF NATURAL RESOURCES | DEBT SERVICE PAYMENT | 5,669.35  |

**MUNICIPAL COURT**

|                     |                      |           |
|---------------------|----------------------|-----------|
| CITY OF GREAT FALLS | FINES AND FORTITURES | 28,025.00 |
|---------------------|----------------------|-----------|

**CLAIMS OVER \$5000 TOTAL:** \$ 1,785,366.83



**CITY OF GREAT FALLS, MONTANA  
COMMUNICATION TO THE CITY COMMISSION**

**AGENDA: 10  
DATE: January 16, 2007**

**ITEM:** CONTRACT LIST  
Itemizing contracts not otherwise approved or ratified by City Commission Action  
(Listed contracts are available for inspection in the City Clerks Office.)

**PRESENTED BY:** Peggy J. Bourne, City Clerk

**ACTION REQUESTED:** Ratification of Contracts through the Consent Agenda

**MAYOR'S SIGNATURE:** \_\_\_\_\_

**CONTRACT LIST**

|          | <b>DEPARTMENT</b>     | <b>OTHER PARTY<br/>(PERSON OR<br/>ENTITY)</b>        | <b>PERIOD</b>              | <b>FUND</b>          | <b>AMOUNT</b> | <b>PURPOSE</b>   |
|----------|-----------------------|--|----------------------------|----------------------|---------------|--|
| <b>A</b> | Fiscal Services       | Contract Flooring                                    | Current                    | 411-1511-511-9399    | \$13,085      | Installation of Carpeting for Rooms 102 and 104 –Fiscal Services Offices.  |
| <b>B</b> | City Manager          | Crowley, Haughey, Hanson, Toole & Dietrich, P.L.L.P. | 01/03/07 through 06/30/07  | 100-1111-511-3599    | \$15,000      | Lobbying Services  |
| <b>C</b> | Public Works          | Montana Department of Transportation                 | 12/2006 through 2007 (est) | No funding required. | None          | O.F. 1505 Construction Agreement between the City of Great Falls and MDT for overlay of the I315/14 <sup>th</sup> Street SW Interchange. |
| <b>D</b> | Community Development | Eagle Properties of Great Falls, LLC                 | Feb 2006 through Feb 2011  | 274-7152-571-5759    | None          | Amendment to 09/17/04 HOME Investment Partnership Program (HOME) Deed Restriction  |

AGENDA REPORT

DATE January 16, 2007

**ITEM** MOU Between the City of Great Falls and Upper/Lower River Road Water and Sewer District (ULRRWSD) for Service District #2, O.F. 1354.1

**INITIATED BY** ULRRWSD

**ACTION REQUESTED** Approve Memorandum of Understanding

**PRESENTED BY** Cheryl Patton, Assistant City Manager

**RECOMMENDATION:** It is recommended that the City Commission approve the Memorandum of Understanding (MOU) with Upper/Lower River Road Water and Sewer District for Service District #2, O.F. 1354.

**MOTION:** I move the City Commission approve the Memorandum of Understanding between the City and Upper/Lower River Road Water and Sewer District for Service District #2 and authorize the City Manager to execute the agreement.

**SYNOPSIS:** The City has been involved in discussions with City County Health Department and residents of the Upper/Lower River Road area since 1996 concerning the significant groundwater and drinking water quality problems experienced by the area. A water and sewer district was formed by the residents to determine the most cost effective method of correcting the situation and providing utility service.

This MOU outlines phase 2, to finance and install water and sewer lines to be connected to City utility systems for District #2. Annexation to the City of Great Falls is proposed to occur after each phase of improvements are installed. Service District #2 will construct both water and sewer utility lines with annexation expected by the end of 2007.

Estimated construction cost for Service District #2 is \$1,600,000. The MOU proposes the City continue its \$1,000,000 commitment of CDBG funds to assist the low/moderate income residents of the whole district with the costs of the utility extensions. The portion of the CDBG funds estimated for Service District #2 is \$332,000. City CDBG Housing programs for owner occupied and rental rehab assistance are recommended for eligible properties with code improvements or to cover the cost of utility service lines.

**BACKGROUND:** While the Upper/Lower River Road area is not currently within the corporate limits of the City of Great Falls, the area and its residents are considered part of our community. Annexation will occur soon for Service District #1 whose improvements were completed in 2006.

An income survey was completed in January of 2003. This survey documented that 70% of the District #2 households are low/moderate income by HUD definition.

Over the last several years, the District's Board has investigated several ways to provide acceptable water and sewer service to the area. The most affordable alternative is for the property owners to annex into the City of Great Falls and receive municipal water and sewer service. The cost of extending the municipal utility lines is the responsibility of the District's property owners.

The City is willing to assist the District in providing an affordable method for landowners to proceed with the project. The project involves the District incurring debt to finance the required utilities, and with the understanding that the landowners, in Service District #2, agree to annex to the City of Great Falls upon completion of construction of both water and sewer lines. Therefore, the City is proposing:

1. To allow annexation to the Service District #2 upon receiving the necessary petition immediately following construction.
2. To allow the entire district to construct improvements by phases. The second phase will complete water and sewer improvements for Service District #2.
3. To assist in lessening the financial burden for the system improvements by agreeing to provide up to \$1,000,000 of CDBG assistance to the whole district. Service District #2, based on its proportion of low/moderate income households, is estimated to receive \$332,000.
4. No service line will be connected until a service agreement and annexation petition are received from the property owner.
5. To delay other normal city annexation requirements until debt service for water and sewer have been met. District residents understand that while the City will maintain roads within newly annexed territory, capital improvements will be delayed until such time as the property owners are willing to bear the expense of bringing the roadways up to acceptable city standards.

The public health and safety issues of the area support the City deviating from its established annexation policies. Annexation will occur by phase when utility lines have been extended by the District. The City of Great Falls will receive additional tax base, increased water and sewer utility revenues, increased population by some estimated 400 households when the whole district is annexed, and increased development potential.

Attachment: MOU for Service District #2, ULRRWSD

CC: ULRRWSD Board  
Lyle Meeks, Neil Consultants  
Jim Rearden, Director of Public Works  
David Dobbs, City Engineer  
Ben Rangel, Director of Planning  
Bill Walters, Senior Planner  
Mike Rattray, Director of Community Development

# **MEMORANDUM OF UNDERSTANDING**

## **UTILITY CONNECTION CONDITIONS**

**Between**

**UPPER/LOWER RIVER ROAD WATER AND SEWER DISTRICT**

**Service District No. 2**

**And**

**CITY OF GREAT FALLS, MONTANA**

This agreement is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2006, by and among the City of Great Falls, Montana, a municipal corporation organized under the laws of the State, hereinafter referred to as the City, and the Upper/Lower River Road Water and Sewer District, Montana, a duly organized and incorporated county water and sewer district, hereinafter referred to as the District (collectively, the “Parties”).

WHEREAS, the City currently owns and operates a municipal water system and a municipal sewer system (the “City Utilities”); and

WHEREAS, District and City have a mutual interest in improving water quality, resolving public health issues, removing sources of groundwater contamination, and improving the tax base of the community; and

WHEREAS, the District has determined that the most feasible way to provide water and sewer service is to divide the District into Service Districts, and pursuant thereto the District has provided water and sewer service to Service District No. 1 which is currently being annexed to the City of Great Falls, and is now preparing to provide water and sewer service to the residents of Service District No. 2; and

WHEREAS, neither public water nor sewer service is available to the residents of Service District No. 2; and

WHEREAS, District and City have worked together in an attempt to provide affordable water and sewer service to District residents; and

WHEREAS, the District and the City have determined that the most cost effective manner of providing water and sewer services to serve Service District No. 2 is for the District to finance and install water and sewer lines and related necessary improvements to connect to the City’s water and sewer systems (the Water Improvements and the Sewer Improvements, collectively, the “Project”); and

WHEREAS, the City’s stated policy is to require annexation as a condition precedent to the provision of City Utilities; and

WHEREAS, the Parties have developed a preliminary plan to assist in financing water and sewer improvements with Grant and Low Interest Loan funds; and

WHEREAS, the Parties recognize the Project must be affordable to low and moderate income residents who make up 70% of Service District No. 2 population; and

WHEREAS, in an effort to encourage the construction of the Project and make it more affordable, the City is willing to modify its annexation requirements and make its City Utilities available to the residents of Service District No. 2 on terms the District deems favorable and as set forth in this agreement; and

WHEREAS, the District Board has held public meetings and accepted input from District residents, and has taken this input into consideration.

WITNESSETH:

IN CONSIDERATION OF THE PERFORMANCE OF THE TERMS AND CONDITIONS,  
THE PARTIES HERETO MUTUALLY AGREE AS FOLLOWS:

Section 1. Purpose. The purpose of this agreement is to set forth general conditions for water and sewer connections to Service District No. 2 of the Upper and Lower River Road Water and Sewer District to the City Utilities and the subsequent annexation of properties in the District to the City. It is mutually agreed that more specific and detailed conditions will be set forth in an Interlocal Agreement between the Parties.

Section 2. The Improvements. The District has determined that the most affordable and feasible method for bringing water and sewer service to the District is to create a number of "Service Districts" within the District and to bring water and sewer service to the Service Districts in phases. The Board has determined that a portion of the District shown on Exhibit A shall be Water and Sewer Service District No.2 (herein Service District No. 2). The District has been awarded grants for sewer and water improvements, which can be used for Service District No. 2 and anticipates receiving approval from voters in Service District No.2 for bond issuance in December of 2006. Construction will be completed in 2007. This Memorandum of Understanding shall apply to Service District No. 2 but the Board intends to create additional water and sewer Service District(s) and obtain funding for water and sewer construction in such additional Service Districts. Thus, it is contemplated that this Memorandum of Understanding shall apply to water and sewer projects for such additional Service Districts, with such changes as are necessary to Sections 7, 12.2, 14, and 15 to fit each particular Service District.

Section 3. Petition for annexation. The owner of each parcel of land in Service District No. 2 which is to receive a water or sewer connection shall sign, as a condition to receiving City

water or sewer service, a petition requesting annexation and waiving the right of protest of annexation which agreement shall be recorded and shall bind all heirs, successors, and assigns thereof. The District will provide the City with the Certificate of Survey(s) and metes and bounds descriptions necessary to annex Service District No. 2 prior to awarding the contract for construction of improvements for District No. 2. Annexation of District No. 2 will be completed before connection of any parcels to City services.

Section 4. City Water and Sewer Contracts. Once water or sewer service is available in Service District No.2, neither replacement drain fields nor other drinking water systems will be allowed within Service District No. 2. Individual irrigation wells are allowable, if no cross connection occurs between irrigation and public water mains. No service lines will be connected to the City's sewer or water system until the City has received executed water and sewer service agreements from the owners of the properties to be served and all applicable utility service line tapping, connection and inspection fees have been paid. Property owners in Service District No. 2 not signing an appropriate water or sewer service agreement will still be assessed or charged for the Service District No. 2 Improvements.

Section 5. Zoning; Legal Non-Conforming Use. Once the property in Service District No. 2 is annexed to the City, the City will zone the property consistent with the existing suburban residential and other mixed land uses in the area. All existing commercial, multifamily, and light industrial uses, which were legally established under zoning in effect at the time of annexation, will be allowed to continue.

Section 6. Ownership, Operation and Maintenance. The City will assume ownership of the Improvements in Service District No. 2 upon substantial completion of the Improvements and acceptance by the City. The City will be responsible for the operation and maintenance of the Improvements, at citywide standard rates per user. The City will bill each user directly for the costs of operations and maintenance. The City will give legal notice of any proposed rate increase. The capital costs of the Project will be payable separately by the users or property owners in Service District No. 2 in accordance with the method of financing used to construct the Improvements. The City will provide administrative services to Service District No. 2 at no additional cost, for accounts management, billing, and debt service collection as appropriate.

#### Section 7. Reimbursements.

7.1. The District agrees to reimburse the City for Harold Mora for \$36,522 and for Roy Volk for \$92,320, per their annexation agreements, and to the City for the cost of an eight (8) inch equivalent water main (\$170,456) not to exceed \$299,298 total. The District has to date reimbursed the City \$132,000, due to Mora and Volk, of this amount as part of the construction costs of the water and sewer improvements constructed in Service District No. 1. The remaining reimbursement shall be prorated among the Service Districts within the District based on population. The pro rata share for Service District No. 2 is determined to be \$82,300.

Subsequently created Service Districts shall bear their respective pro rata shares until the City is reimbursed the total sum of \$299,298 for all phases. Reimbursement for each phase will be determined by percentage of taps in that phase in comparison to total number of taps in District.

7.2. Reimbursement to the City for previous construction of South Interceptor sewer main, Schedule IV, Section One (1) through the District will not be required. In addition to the \$299,320 reimbursement referenced above, the District will reimburse the City for the 15-inch sewer pipe in Lower River Road made at the rate of \$6.24 per lineal foot of pipe between the Mora south property line to the connection to the South Interceptor (\$8,736)

Section 8. Parkland and Storm Drain Fee.

8.1. The City will waive the Parkland dedication requirement as well as payment in lieu of Parkland dedication associated with the annexation of the District property to the City.

8.2. Upon annexation of Service Districts to the City, the District will pay the standard storm drain fee (\$250 per acre). The City agrees to the extent possible to use such storm sewer fees to construct and install storm drainage facilities in the Service Districts.

Section 9. No Waiver of Right to Protest Other Special Improvement Districts.

9.1. The City will not require residents of Service District No. 2 to waive their right of protest for future special improvement districts for roadway, street lighting, and storm drain improvements. It is mutually agreed and understood that the District will not be involved in formation of roadway, storm drain, lighting, or other Special Improvement Districts.

Section 11. Life Safety Code Inspection, Expense.

11.1. The City will conduct life safety code inspections of all mobile home parks in Service District No. 2. Mobile home court owners will then have until the date of annexation to make necessary improvements for code compliance. Upon annexation, mobile home courts shall be subject to City code enforcement ordinances.

11.2. The City will utilize no interest “deferred payment” CDBG housing rehab funds to assist income eligible residents in meeting life safety codes and / or constructing utility service lines.

Section 12. City Contributions.

12.1. The City will bear the cost of over-sizing of all water and sewer pipelines in the District that are required for future growth to the south, east and west of the District as determined by the City.

12.2. The City of Great Falls will provide a minimum of \$1 million in City CDBG funds to defray costs of construction of the improvements for HUD eligible Service District residents. \$332,000 of this amount has been spent to defray the costs of construction in Service District No. 1. The city CDBG contribution for Service District 2 shall be \$332,000.

12.3. The City will endorse and support all District efforts for funding of the Project.

### Section 13. Permits and Connections

13.1. The District will obtain a water service permit and a sewer permit from the City as specified by current City ordinance for each property to be served. These permits may not include the cost of the corporation, curb stop and curb box as those materials may be part of the project.

13.2. A licensed plumbing contractor will be required for all water service line installations. Each individual property owner will employ a licensed plumbing contractor to obtain necessary permits from the City to extend the service from the curb box to the house. The City retains the right of inspection and approval of water service lines.

13.3. Each individual sewer connector to the District's sewer main, while it is under the jurisdiction of the District, will obtain a City sewer permit for extension of the service line from the property line to the building. The City will then inspect the sewer service line from the property line to the house connection.

13.4. The District will inspect main line and service piping within the public easements and rights of way consistent with City inspection policy.

13.5. The District will enact an ordinance specifying that users of water and sewer service within the District shall be subject to applicable city water and sewer ordinances.

### Section 14. Debt for District Improvements.

14.1. The District shall be responsible for paying the costs of the Improvements, except as provided in Section 13.

14.2. The District Board has determined that bonded indebtedness shall be repaid from special assessments based on an equal method of assessment (the equivalent dwelling unit method). The District will enact ordinances and resolutions as may be required for the repayment of District debt, including ordinances that will require that new subdivisions or users who obtain new or additional water and/or sewer service after original construction and who have not contributed to the capital costs of the Improvements shall pay a pro-rata share of the costs of the Improvements.



Section 15. Other Public Systems. The remaining privately owned systems that are designated Public Systems by the Montana Department of Environmental Quality (the mobile home court systems), shall remain in private ownership, but will connect to the City Utilities in public rights of way or easements.

Section 16. Individual Annexation. The annexation conditions and concessions of this Memorandum will not apply to individual properties within the District wishing to annex prior to or separate from overall District annexation. The City will administer such annexations in accordance with standard City policies and procedures.

Section 17. Reimbursements to District residents. Future users who connect to District financed water and sewer main extensions will pay a connection fee equal to the pro-rated cost of the project improvements, even after annexation. Connection fee revenues shall be utilized in the best interest of overall water and sewer district residents, as determined by the District Board.

Section 18. Annexation Survey. District shall cause to be prepared a certificate of survey of those segments of BNSF Right of Way and Lower River Road between that being annexed with Service District No. 1 and the Water Plant Addition and that segment of Upper River Road between the north boundary of the Water and Sewer District and the Water Plant Addition. District and City shall share in the expense of preparing said survey. District's proportionate share of the cost of said survey shall be based upon those segments of BNSF Right of Way and Lower River Road between that being annexed with Service District No. 1 and the north boundary of the Water and Sewer District projected westerly to the Missouri River. The City's proportionate share shall be based upon those segments of BNSF Right of Way, Lower River Road and Upper River Road between the north boundary of the Water and Sewer District projected westerly to the Missouri River and the Water Plant Addition.

Section 19. Monthly Storm Drain Fees. All lots in all Service Districts will be assessed monthly storm drain fees per "Land Use Classification Group E", regardless of land use or number of dwelling units on the parcel, under the City Storm Drain Ordinance for developed property that does not discharge to an underground storm drainage system. Changes can be made to the Land Use Classifications for a property or group of properties if underground storm drainage improvements are made or if the land use code for a property changes. It is mutually understood that if or when formal storm drain capital improvements are installed by the City, the user classifications may change.

Section 20. Haul of fill material to Pearson Addition Lagoon. The City of Great Falls will endeavor to ask their public works department and construction contractors for city projects to haul clean fill material to the Pearson Lagoon site on an "as available" basis for District spreading and processing in reclaiming the lagoon site.

***By the City of Great Falls:***

\_\_\_\_\_  
John W. Lawton, City Manager

Attest: \_\_\_\_\_

***By the District:***

\_\_\_\_\_  
John Stephenson-Love, President

Attest: \_\_\_\_\_

**CITY OF GREAT FALLS, MONTANA**

**AGENDA #** 12

**A G E N D A   R E P O R T**

**DATE** January 16, 2007

**ITEM: CHANGE ORDER NO. 1 AND FINAL PAYMENT: WASTEWATER TREATMENT PLANT COGENERATION PROJECT, O.F. 1404, CONTRACT 01 – SUPPLY OF ENGINE / GENERATOR / GAS TREATMENT EQUIPMENT**

**INITIATED BY:** PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION

**ACTION REQUESTED:** APPROVE CHANGE ORDER NO. 1 AND FINAL PAY REQUEST

**PRESENTED BY:** JIM REARDEN, PUBLIC WORKS DIRECTOR

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**RECOMMENDATION:** Approve Change Order No. 1 and Final Payment to Smith Power Products (Smith) for procurement and delivery of engine, generator and gas treatment equipment for the Wastewater Treatment Plant Cogeneration Project O.F. 1404.

**MOTION:** "I move the City Commission approve Change Order No. 1 for \$2,700 and final payment of \$75,507.73 to Smith Power Products for procurement and delivery of engine, generator and gas treatment equipment to the Wastewater Treatment Plant Cogeneration Project, O.F. 1404, and authorize the City Manager to execute the contract."

**CONTRACT AMOUNT:** \$750,302.00 Base Bid plus \$4,775.27 Spare Parts Additive and \$2,700 for Change Order No. 1.

**SYNOPSIS:** Smith delivered the engine generator to the Waster Water Treatment Plant on January 5, 2007, which was the last remaining equipment left under the contract. Smith personnel field checked all equipment onsite to assure that it was delivered in good condition and that all parts were accounted for. All the equipment will be installed by NewMech Companies, Inc., the contractor for the construction portion of the project. NewMech has started working on site and is scheduled to have the project finished by early spring of 2007. Once the engine generator and support equipment is installed, digester gas produced during the solids treatment process will be used to generate electricity and heat to meet over half of the plant's energy requirements.

Change Order No. 1 involved adding a SCADA interface to the engine generator at the manufacturing plant and adding weather proofing to the equipment before delivery. The SCADA interface will allow the engine/generator to be wired into the existing Waste Water Treatment Plant monitoring systems, allowing plant personnel to monitor the engine directly from the control room. The weather proofing was added to the equipment because it will need to be stored outside while indoor construction is completed prior to installation. The weather proofing will ensure the equipment will not be damaged during this time.

**BACKGROUND:** On May 2, 2006, the City Commission approved a procurement contract with Smith Power Products to provide an engine/generator and supporting equipment. Smith began delivering equipment to the Waste Water Plant in October of 2006. Stanley Consultants, Inc., was the engineering firm hired to design the Cogeneration project at the Waste Water Treatment Plant and generate the necessary equipment and construction contracts for the City. Construction started in December, 2006. Stanley Consultants will oversee the project with support from city and plant staff.

Attachment: Change Order No. 1  
Claim and Pay Estimate #7, Final (Not available online. On file in City Clerk's Office.)

## CHANGE ORDER{PRIVATE }

No. 1

DATE OF ISSUANCE January 8, 2007 EFFECTIVE DATE January 16, 2007

OWNER City of Great Falls

CONTRACTOR Smith Power Products Inc.

Contract: Wastewater Treatment Plant Cogeneration Project, O.F. 1404.0

OWNER'S Contract No. O.F. 1404.0 ENGINEER'S Contract No. \_\_\_\_\_

You are directed to make the following changes in the Contract Documents.

Description: Interface DIA.NEXT with plant SCADA System at a cost of \$1,500.00. Storage / Handling and Weather Protection for WHB at a cost of \$1,200.00.

Reason for Change Order: The SCADA interface will allow the engine/generator to be wired directly into the Waste Water Plant's existing monitoring systems. The weather proofing is required to allow storage of the engine/generator outside while indoor construction is completed

Attachments: (List documents supporting change)

| {PRIVATE } CHANGE IN CONTRACT PRICE:                                      | CHANGE IN CONTRACT TIMES:  |
|---|--|
| Original Contract Price<br>\$ <u>755,077.27</u>                           | Original Contract Times<br>Substantial Completion: _____ days<br>Ready for final payment: _____ days or dates                        |
| Net changes from previous Change Orders No. _____ to _____<br>\$ <u>0</u> | Net change from previous Change Orders No. _____ to No. _____<br>_____ days  |
| Contract Price prior to this Change Order<br>\$ <u>755,077.27</u>         | Contract Times prior to this Change Order<br>Substantial Completion: _____ days<br>Ready for final payment: _____ days or dates      |
| Net Increase (decrease) of this Change Order<br>\$ <u>2,700.00</u>        | Net Increase (decrease) of this Change Order<br>_____ days   |
| Contract Price with all approved Change Orders<br>\$ <u>757,777.27</u>    | Contract Times with all approved Change Orders<br>Substantial Completion: _____ days<br>Ready for final payment: _____ days or dates |

RECOMMENDED:

APPROVED:

ACCEPTED:

By: \_\_\_\_\_  
Engineer (Authorized Signature)

By: \_\_\_\_\_  
Owner (Authorized Signature)

By: \_\_\_\_\_  
Contractor (Authorized Signature)

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Change Order No. 1 (page 2)

Date: January 8, 2007

Agreement Date: November 8, 2006

Project: Wastewater Treatment Plant Cogeneration Project, O.F. 1404.0

Approvals Required:

Approved by: \_\_\_\_\_  
John Lawton, City Manager

Attest: \_\_\_\_\_  
Peggy Bourne, City Clerk

(Seal of the City)

Approved as to Form: \_\_\_\_\_  
David Gliko, City Attorney

AGENDA REPORT

DATE January 16, 2007

ITEM: CONTRACT AMENDMENT NO. 1 TO THE CONSULTANT ENGINEERING  
AGREEMENT FOR THE BNSF / MDT OVERLOOK DRIVE WATER MAINS,  
O.F.1307

INITIATED BY: PUBLIC WORKS DEPARTMENT / ENGINEERING DIVISION

ACTION REQUESTED: APPROVE CONTRACT AMENDMENT NO. 1

PRESENTED BY: JIM REARDEN, PUBLIC WORKS DIRECTOR

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**RECOMMENDATION:** Staff recommends that Contract Amendment No. 1 for the BNSF/MDT Overlook Drive Water Mains, O.F. 1307, be approved and the necessary documents executed by the City Manager.

**MOTION:** "I move the City Commission approve Contract Amendment No. 1 in the amount of \$25,000.00 for Thomas, Dean & Hoskins, Inc. (TD&H), for the BNSF/MDT Overlook Drive Water Mains, O.F. 1307, and authorize the City Manager to execute the documents."

**SYNOPSIS:** On November 1, 2005, TD&H was awarded a contract to design the BNSF/MDT Overlook Drive Water Mains. The scope of work proposed under the original project was expanded to include master plan recommendations for the water plant area. This contract amendment will pay for the required additional work.

**BACKGROUND:** This project is part of a continuing improvement and maintenance program to the City's water system in conjunction and cooperation with the Montana Department of Transportation's (MDT) reconstruction program in the City of Great Falls. MDT is scheduled to replace the existing bridge over the railroad track just north of the City's Water Treatment Plant in 2007 or 2008. The roadway will also be improved and River's Edge Trail will be extended. The City has several key domestic and irrigation water transmission mains that will be affected by the construction.

TD&H evaluated and recommended options for consolidation and reduction of the number of water mains in the construction area. Catastrophic failures of old mains under the deep road fill will hopefully be averted as a result of this study. Design work has been in progress since November 2005.

MDT gave the City the authority to manage the water project design. MDT will review and approve the design. The City and consultant must follow MDT guidelines which has also increased the design costs.

Attachment: Contract Amendment No. 1 (Not available online. On file in City Clerk's Office.)

**CITY OF GREAT FALLS, MONTANA**

**AGENDA #** 14

**AGENDA REPORT**

**DATE** January 16, 2007

**ITEM:** ONE NEW 2006 SEWER TV INSPECTION SYSTEM

**INITIATED BY:** PUBLIC WORKS DEPARTMENT

**ACTION REQUESTED:** AWARD BID

**PRESENTED BY:** JIM REARDEN, PUBLIC WORKS DIRECTOR

**RECOMMENDATION:**

Staff recommends that the City Commission award the bid for one new 2006 sewer TV inspection system to Utility Specialties, Inc. of Butte, Montana, for \$62,456.00 including trade-in and the optional cost for an additional camera.

**MOTION:**

I move that the City Commission award the bid for one new 2006 sewer TV inspection system to Utility Specialties, Inc. of Butte, Montana, for \$62,456.00 including trade-in and the optional cost for an additional camera.

**SYNOPSIS:**

The specifications were advertised three times in the Great Falls Tribune and mailed to four prospective bidders. The bids were opened on January 3, 2007 with two bidders responding.

Staff recommends accepting the trade-in offer of \$12,000 for the City's 1996 TV system offered by Utility Specialties, Inc.

**BACKGROUND:**

This system will be used for sewer inspections. Funds for its purchase were provided in the FY 2006-2007 Utilities Sewer Collection Budget.





**SEWER TV INSPECTION SYSTEM  
BID LIST**

Kois Brothers  
P.O. Box 1728  
Great Falls, MT 594031728

Utility Specialties, Inc.  
1150 West Steel Street  
Butte, MT 59701

Sewer Equipment of America  
1148 Depot Street  
Glenview, IL 60025

Cues West  
640 Eubanks Ct., Suite 300  
Vacaville, CA 95688

AGENDA REPORT

DATE January 16, 2007

ITEM Appointments, Community Development Council

INITIATED BY City Commission

ACTION REQUESTED Appoint Three New Members

PRESENTED BY Mike Rattray, Community Development Director

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**RECOMMENDATION:**

It is recommended that the City Commission appoint three new members to the Community Development Council.

**MOTION:**

I move the City Commission appoint \_\_\_\_\_, \_\_\_\_\_ and \_\_\_\_\_ for three-year terms through January 31, 2010, to the Community Development Council.

**SYNOPSIS:**

Arthur Bundrock has served on the Community Development Council since 2003. He is eligible for, but not interested in reappointment. David Davis and Mary Dupuis have both served since 2001 and are not eligible for reappointment. Therefore, it is necessary to appoint three members to the Community Development Council.

**BACKGROUND:**

To ensure citizen participation in the CDBG allocation process, a ten-member volunteer advisory board is appointed by the City Commission. The Community Development Council makes funding recommendations for projects applying for CDBG funding to the City Commission. Members must live within the city limits.

Continuing members of this board are:

- Elmer Feldman
- Shannon Hoiland
- Aaron Kueffler
- John Martin
- Dale Schwanke
- Fred Shauer
- Sandra Wittke

Citizens interested in serving on this board are:

- L. Annie Barron
- Russell V. Boham
- Darlene Bos
- Dawn L. Curtis
- Denise Halvorsen
- Charles Tyler
- Gary A. Vik
- Spencer Woith