

ORDINANCE NO. 97-5048

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING FOR THE REPEAL OF CHAPTER 27, SECTIONS 27-101 THROUGH 27-422 AND SECTIONS 27-601 THROUGH 27-604 AND SECTIONS 27-801 THROUGH 27-1311 OF THE CODE OF ORDINANCES, CITY OF BILLINGS, AND DECLARING SAME TO BE NULL AND VOID AND OF NO EFFECT AND REPLACING THOSE REPEALED SECTIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. That Article 27-100, Sections 27-101, 27-102 and 27-103 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-101. Title.

This Resolution/Ordinance and maps shall be known and cited as The City of Billings and Yellowstone County Zoning Regulations for the areas incorporated into the City of Billings, Montana and the unincorporated Yellowstone County, Montana 4½ Mile Jurisdictional Area.

Sec. 27-102. Purpose.

The zoning regulations, classifications, and the districts as herein set forth are in accordance with MCA 76-2-101, MCA 76-2-201, et seq. (County Zoning) and MCA 76-2-301, et seq. (Municipal Zoning).

These regulations have been established in accordance with the 1990 Yellowstone County Comprehensive Plan and have been deemed necessary and developed with consideration, among other things, to the character of each zoning district and its peculiar suitability for particular uses, to conserve the value of buildings, to stabilize property values, to preserve recreation and agriculture lands from conflict with urban development, to promote the interest of health, safety and general welfare, to secure safety from fire and to provide adequate open space for light and air, and to facilitate the economic provision of adequate transportation, water, sewers, schools, parks and other public requirements. To achieve the above stated goals, these regulations shall govern the height and size of buildings and structures, the percentage of lots that may be occupied, the size of yards and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes within the Billings city limits and the unincorporated Yellowstone County 4½ Mile Jurisdictional Area.

The City Council of the City of Billings and Board of County Commissioners of Yellowstone County further declares these Zoning Regulations are adopted for the following specific purposes:

A. To promote and guide development consistent with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan;

B. To prevent waste and inefficiency in land use;

C. To encourage innovations in residential development and renewal so that the needs of the community for housing may be met by greater variety in type and design of dwellings and by conservation of open space; and

D. To provide adequate land and space for the development of commercial and industrial uses and to encourage such developments in locations calculated to benefit the community at large and in a manner consistent with the goals and objectives of the 1990 Yellowstone County Comprehensive Plan.

Sec. 27-103. Scope.

A. This Resolution/Ordinance applies to all lands within the City of Billings and the unincorporated portions of the Yellowstone County 4½ Mile Jurisdictional Area.

B. In their interpretation and application, the provisions of this Resolution/Ordinance may be regarded as the minimum requirements for the protection of the public health, safety, comfort, prosperity and welfare.

C. This Resolution/Ordinance is not intended to abrogate or annul any building permit, certificate of occupancy, variance or other lawful permit issued before the effective date of this Resolution/Ordinance.

Section 2. That Article 27-200, Sections 27-201, 27-202 and 27-203 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-201. Definitions.

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

The word PERSON includes a firm, association, organization, partnership, trust, company or corporation, as well as, an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word SHALL is mandatory, the word MAY is permissive; the words USED or

OCCUPIED include the words INTENDED, DESIGNATED, OR ARRANGED TO BE USED OR OCCUPIED; and the word LOT includes the words PLOT, TRACT OR PARCEL. Where other definitions are necessary and are not defined herein, the dictionary may define such terms.

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

1. **ATTACHED ACCESSORY STRUCTURE:** Any structure or building which has any roof or wall in common with the principal structure. For purposes of zoning, an attached accessory structure is considered part of the principal structure.
2. **DETACHED ACCESSORY STRUCTURE:** Any structure or building which does not have any roof or wall in common with any principal structure or building. For purposes of zoning, a detached accessory structure must maintain a minimum distance of six (6) feet from any other building or structure.

ADULT FOSTER FAMILY CARE HOME: *See* COMMUNITY RESIDENTIAL FACILITIES.

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

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

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

ANTENNA: *See* BMCC Section 27-610.

APARTMENT HOUSE: *See* DWELLING, MULTIPLE-FAMILY.

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

AUTOMOBILE SALES AREA: *See* VEHICLE SALES AREA.

BARS, TAVERNS AND COCKTAIL LOUNGES: An establishment where alcoholic beverages are sold and consumed on the premises.

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

BOARD: The Board of Adjustment of the City of Billings or the Board of Adjustment of Yellowstone County.

BOARDING OR LODGING HOUSE: "Boarding house" means the same as lodging house, but where meals (with or without lodging) are provided for compensation and by prearrangement for a definite period for three (3) or more persons. Boarding houses shall not be construed to mean rest homes or convalescent homes. This definition shall also exclude "Bed & Breakfast Inns".

BOAT SALES AREA: *See* VEHICLE SALES AREA.

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

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

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

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

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

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

CHILD CARE FACILITIES:

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

CHURCH OR OTHER PLACE OF WORSHIP: A building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines and temples.

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

CLINIC, SURGICAL: A clinic where surgery is performed on an outpatient basis

only.

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

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

COMMUNITY GROUP HOME: *See* COMMUNITY RESIDENTIAL FACILITIES.

COMMUNITY RESIDENTIAL FACILITIES:

1. **ADULT FOSTER FAMILY CARE HOME:** A private home licensed by the Montana Department of Family Services owned by one (1) or more persons eighteen (18) years of age or older which offers light personal care or custodial care to disabled adults who are not related to the owner by blood or marriage or which offers light personal care or custodial care to aged persons. The number of aged persons or disabled adults in an adult foster family care home may total no more than four (4).
2. **COMMUNITY GROUP HOME:** A family oriented residence or home licensed by the appropriate state agency designed to provide residential services and facilities for developmentally, severely disabled or mentally disabled persons, but does not provide skilled or intermediate nursing care.
3. **HALFWAY HOUSE:** A place operated in accordance with the regulations of the Montana Department of Health and Environmental Sciences for the rehabilitation of alcohol or drug dependent persons.
4. **YOUTH FOSTER HOME:** A youth care facility licensed by the Montana Department of Family Services in which substitute care is provided to one (1) to six (6) foster children or youths, other than the foster parents' own children, stepchildren or wards.
5. **YOUTH GROUP HOME:** A youth care facility licensed by the Montana Department of Family Services in which substitute care is provided to seven (7) to twelve (12) children or youth.

CONDOMINIUM: Ownership in common with others of a parcel of land and certain parts of a building, together with individual ownership in fee of a particular unit in such building or of an individual detached unit.

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

DAY CARE CENTER: *See* CHILD CARE FACILITIES.

DRIVE-IN SERVICE: A use whose character is dependent on a driveway approach, a drive-through and/or parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages in a vehicle obtained on the premises. Drive-in or drive-up window restaurants, drive-in banking, pickup windows for beverages or food, and other drive-in or drive-through services are included in this category. This definition shall exclude car washes and insurance adjusters.

DUPLEX: *See* DWELLING, TWO-FAMILY.

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

DWELLING, TYPES OF:

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

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

FAMILY: An individual, or two (2) or more persons, related by blood, marriage, adoption or other legal means; or a group of not more than three (3) persons who are not related by blood, marriage or adoption, living together in a dwelling unit.

FAMILY DAY CARE HOME: *See* CHILD CARE FACILITIES.

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

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

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

FIREWORKS STORAGE BUILDING: A structure used for the storage of fireworks.

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

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

GAMBLING ESTABLISHMENT: *See* BMCC Section 27-612.

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

GRADE (ADJACENT GROUND ELEVATION): The lowest point of elevation of the finished surface of the ground, or the lowest point of elevation of the finished surface

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

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

GROUP DAY CARE HOME: *See* CHILD CARE FACILITIES.

HALFWAY HOUSE: *See* COMMUNITY RESIDENTIAL FACILITIES.

HAZARDOUS WASTE FACILITIES: *See* BMCC Sections 27-605, et seq.

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

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

HOME OCCUPATION: *See* BMCC Section 27-606.

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

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

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

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

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

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

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

LANDSCAPING: The combination of living and nonliving elements, as further described in BMCC Sections 27-1101, et seq.

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

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

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

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

LOT FRONTAGE: That portion of the lot nearest the public street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to public streets shall be considered frontage, and yards shall be provided as indicated in

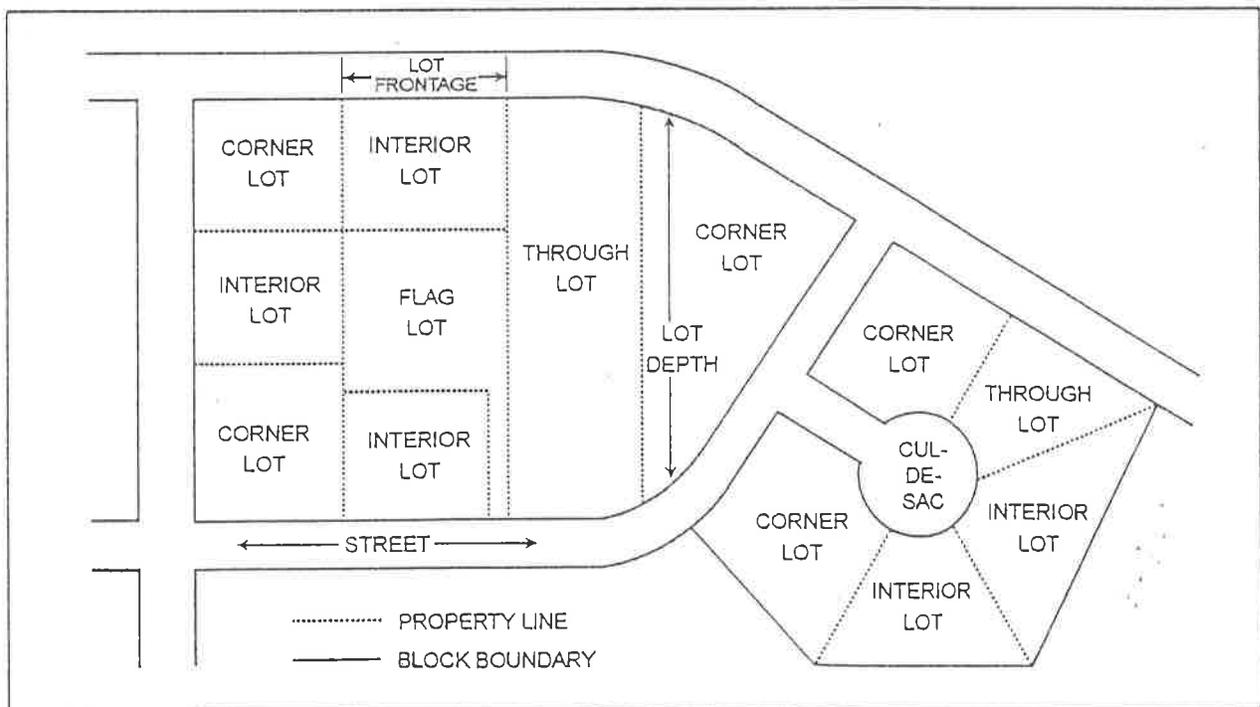
BMCC Sections 27-308 and 27-309, District Regulations.

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

1. **FRONT LOT LINE:** The lot line or lines abutting a public or private street.
2. **REAR LOT LINE:** The lot line not intersecting a front lot line that is most distant from and most clearly parallel to the front lot line.
3. **SIDE LOT LINE:** Any lot line that is not a front or a rear lot line.

LOT TYPES:

1. **CORNER LOT:** A lot located at the intersection of two (2) or more streets.
2. **INTERIOR LOT:** A lot other than a corner lot with only one (1) frontage on a street other than an alley.
3. **THROUGH LOT OR DOUBLE FRONTAGE LOT:** A lot other than a corner lot with frontage on more than one (1) street other than an alley.



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

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

MEDICAL CORRIDOR: The area defined by the Billings Medical Corridor Study as the medical development impact area. This area is of special concern to the city as a potential location for medical or medically related uses, as well as, supporting uses and residential development. See BMCC Sections 27-901, et seq.

MOBILE HOME OR TRAILER: *See* MANUFACTURED HOME.

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

NONCONFORMING LOT: *See* BMCC Section 27-402.

NONCONFORMING STRUCTURE: *See* BMCC Section 27-404.

NONCONFORMING USE: *See* BMCC Sections 27-403 and 27-405.

NURSING HOMES, CONVALESCENT HOMES, ORPHANAGES & CHARITABLE INSTITUTIONS: A home operated similarly to a boarding house but not restricted to any number of guests or guest rooms, and the operator of which is licensed by the state, city or county to give special care and supervision to his/her patients. In such homes, nursing, dietary and other personal services are furnished to convalescents, invalids and aged persons, but within which homes are kept no persons suffering from a contagious or communicable disease, and within which are performed no surgery, maternity or other

primary treatments such as are customarily provided in sanitariums or hospitals, and within which no persons are kept to be served who normally would be admitted to a mental hospital. Adult Foster Family Care Homes are not included in this definition.

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

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

PAWN SHOP: *See* SECONDHAND STORE AND/OR ANTIQUE SHOPS.

PLANNED DEVELOPMENT: *See* BMCC Sections 27-1301, et seq.

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

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

PRINCIPAL USE: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory. The uses listed in BMCC Sections 27-305 and 27-306, District Regulations, are principal uses.

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

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

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

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

RECREATIONAL VEHICLE: *See* TRAVEL TRAILER.

RECREATIONAL VEHICLE PARK: *See* TRAVEL TRAILER PARK.

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

REHABILITATIVE CENTER: A use providing board and room, recreational, counseling and other rehabilitative services to individuals of either sex, who by reason of mental or physical disability, family and school adjustment problems, require specialized attention and care in order to achieve personal independence. An individual participating in a work release, or similar program, such as pre-release centers, from a state institution and under the supervision of a court, state or local agency shall be included within this definition.

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

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

SATELLITE DISH ANTENNA: *See* BMCC Section 27-610.

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

SCHOOL, ELEMENTARY, JUNIOR, AND SENIOR HIGH, INCLUDING PUBLIC, PRIVATE AND PAROCHIAL: An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

SCHOOL, TRADE OR VOCATIONAL-TECHNICAL: A building where instruction is given to pupils in arts, crafts, or trades and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation.

SCRAP OR WASTE PROCESSING YARD: *See* JUNKYARD.

SECONDHAND STORE AND/OR ANTIQUE STORE: Any retail establishment

in which the principal portion of the articles, commodities, or merchandise handled, offered for sale, or sold on the premises are used or not new. Pawn shops are included in this definition.

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

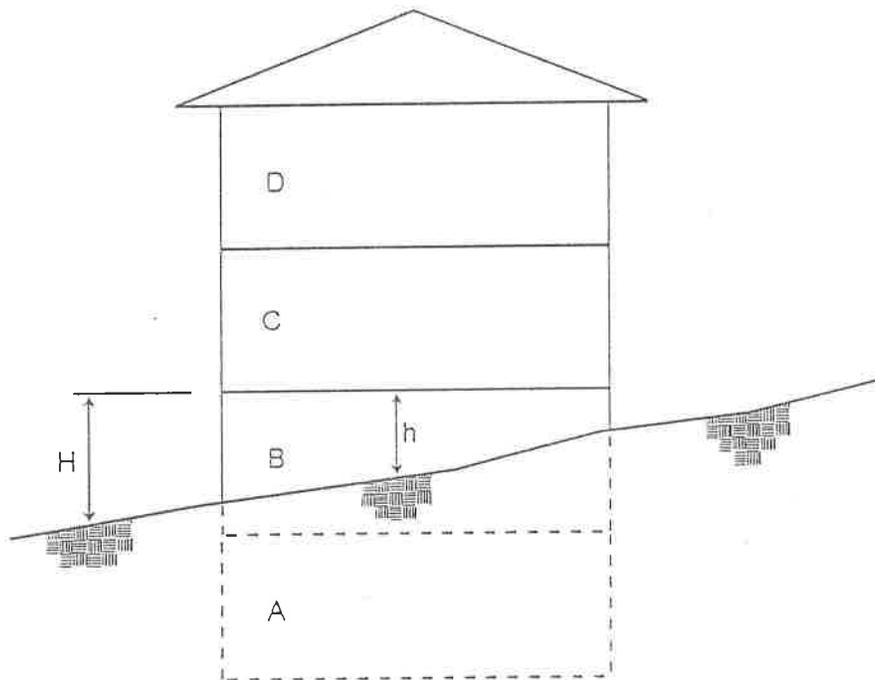
SETBACK: That distance measured from the lot or property line to a supporting point(s) or wall(s) of a structure or building.

SEXUALLY ORIENTED BUSINESS: An "adult" arcade, "adult" bookstore, "adult" video store, "adult" motel or "adult" motion picture theater, as those terms are defined in BMCC Section 27-611.

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

STABLE, COMMERCIAL: A stable other than a private stable.

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



IF $H > 12'$ (AT ANY POINT), OR
IF $h > 6'$ FOR 50 PERCENT OF PERIMETER,
THEN B IS A STORY

STREETS:

1. **STREET:** A public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or however otherwise designated which has been dedicated to or acquired for public use and which extends the full width between right-of-way lines, which includes areas acquired or prescribed through an easement.
2. **ALLEY:** A minor way which is used primarily for vehicular service access or for utility lines to the back or the side of properties otherwise abutting on a street.
3. **ARTERIAL STREET:** A street which is intended to provide for high operating speeds, high levels of service and to serve longer trips through access management and the interconnection of major development areas such as the central business district, large commercial and industrial developments and major residential areas.
4. **COLLECTOR STREET:** A street that functions as a link between local streets and arterial streets and provides both access and movement functions within residential, commercial and industrial areas.
5. **CUL-DE-SAC:** A street that terminates in a vehicular turnaround.
6. **LOCAL STREET:** A street whose primary function is access and whose movement function is incidental and involves traveling to and from a collector. In addition, local streets are characterized by short trip lengths, low traffic volumes, slow speeds and deliberately discouraging through traffic.

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

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

TEMPORARY STRUCTURE: A structure established for a fixed period of time as established by this Resolution/Ordinance.

TEMPORARY USE: A use established for a fixed period of time as established by this Resolution/Ordinance.

THEATER, DRIVE-IN: An establishment to provide entertainment through projection of motion pictures on an outdoor screen for audiences whose seating accommodations are provided by their own motor vehicles parked in car spaces provided on

the same site with the outdoor screen.

TOWNHOUSE: A building or structure that has two (2) or more one (1) family dwelling units erected as a single building, each being separated from the adjoining unit or units by an approved fire wall or walls along individual property lines and providing for fee simple ownership of land and dwelling unit.

TRAILER SALES AREA: *See* VEHICLE SALES AREA.

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

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

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

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

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

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

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

transportation for persons and freight.

VARIANCE: *See* BMCC Sections 27-1501, et seq.

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

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

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

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

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

1. **FRONT YARD:** A yard extending along the full length of the front lot line or lines and which is situated between a principal building and the front lot line or lines.
2. **REAR YARD:** A yard extending along the full length of a rear lot line and situated between the principal building and the rear lot line.
3. **SIDE YARD:** A yard not designated as a front or a rear yard.

YOUTH FOSTER HOME: *See* COMMUNITY RESIDENTIAL FACILITIES.

YOUTH GROUP HOME: *See* COMMUNITY RESIDENTIAL FACILITIES.

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

Section 3. That Article 27-300, Sections 27-301, 27-302, 27-303, 27-304 and 27-305 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-301. Zoning Districts.

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

To carry out the provisions of this Resolution/Ordinance, the City and County 4½ Mile Jurisdictional Area is hereby divided into the following zoning districts in which the erection, construction, alteration, reconstruction, repair or use of buildings, structures and land shall be regulated and restricted. The regulations in each district shall be uniform throughout each district but may differ from those in other districts.

A-1	Agricultural-Open Space (County Only)
A-S	Agricultural-Suburban (County Only)
R-150	Residential 15,000 (County Only)
R-96	Residential 9,600
R-80	Residential 8,000
R-70	Residential 7,000
R-60	Residential 6,000
R-50	Residential 5,000
RMF	Residential Multi-Family
RMF-R	Residential Multi-Family - Restricted
RMH	Residential Manufactured Home
RP	Residential Professional
NC	Neighborhood Commercial
CC	Community Commercial
HC	Highway Commercial
CBD	Central Business District
CI	Controlled Industrial
HI	Heavy Industrial
P	Public
ELC	Entryway Light Commercial
EGC	Entryway General Commercial
EMU	Entryway Mixed Use
	South 27th Street Corridor Zoning District
	Medical Corridor Permit Zoning District

A-1 AGRICULTURAL-OPEN SPACE (COUNTY ONLY): A district to protect and preserve agricultural lands for the performance of a wide range of agricultural functions.

The intent is to limit the scattered intrusion of uses not compatible with an agricultural environment; to encourage agricultural pursuits and protect environmental concerns.

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

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

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

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

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

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

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

RMF RESIDENTIAL MULTI-FAMILY: A residential classification intended to provide adequate sites for multi-family developments including high-rise apartment complexes. Dwelling unit density is increased in this classification to encourage development in areas where it will complement existing developments. Land within the classification should be located with access to major arterial transportation routes plus financial, cultural and retail stores and be served by public water and sewer services.

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

RMH RESIDENTIAL MANUFACTURED HOME: A zone intended to provide stable environments for individual manufactured homes, manufactured home parks and compatible accessory uses.

RP RESIDENTIAL PROFESSIONAL: A zone intended to accommodate limited commercial and professional offices as would be compatible with adjoining residential districts and consistent with the objectives of the Comprehensive Plan.

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

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

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

CBD CENTRAL BUSINESS DISTRICT: The Central Business District classification is intended to primarily accommodate stores, hotels, governmental and cultural centers and service establishments at the central focal point of the city's arterial and transportation system, where the C.B.D. can conveniently serve the population of the entire urban area with a varied and specialized selection of goods and services. In order to protect the public interest and welfare and facilitate an attractive, efficient and prosperous C.B.D., the emphasis is on larger scale building and specialty shops.

CI CONTROLLED INDUSTRIAL: The Controlled Industrial zone is intended to accommodate a variety of business, warehouse and light industrial uses related to wholesale

plus other business and light industries not compatible with other commercial zones, but which need not be restricted in industrial or general commercial zones, and to provide locations directly accessible to arterial and other transportation systems where they can conveniently serve the business and industrial centers of the city and county.

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

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

ELC Entryway Light Commercial: See BMCC Section 27-1004.

EGC Entryway General Commercial: See BMCC Section 27-1004.

EMU Entryway Mixed Use: See BMCC Section 27-1004.

SOUTH 27th STREET CORRIDOR ZONING DISTRICT: See BMCC Sections 27-801, et seq.

MEDICAL CORRIDOR PERMIT ZONING DISTRICT: See BMCC Sections 27-901, et seq.

Sec. 27-302. Official Zoning Map.

A. The City and County are hereby divided into zoning districts as shown on the Official Zoning Map which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution/Ordinance.

B. The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk and also by the County Commissioners attested by the County Clerk and Recorder and shall bear the words "The Official Zoning Map of the City of Billings and Yellowstone County, Montana 4½ Mile Jurisdictional Area". Regardless of the existence of purported copies of the Official Zoning Map which from time to time may be made or published, a copy of the Official Map shall be located in the offices of both the Yellowstone County Board of Planning and the Yellowstone County Clerk and Recorder.

C. Changes made in district boundaries shall be promptly entered on the Official Zoning Map after amendment by either Governing Body. Amendments to the Official Zoning Map shall not become effective until entered on the map.

D. No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the provisions set forth in this Resolution/Ordinance. In the event the Official Zoning Map is damaged or destroyed, the City Council and County Commissioners may, by Resolution/Ordinance, adopt a new Official Zoning Map. No such map shall have the effect of amending the Official Zoning Map or any subsequent amendment thereof.

Sec. 27-303. Rules for Interpretation of District Boundaries.

A. Boundaries indicated as appearing to follow the centerline of streets, highways or alleys shall be construed to follow such centerlines;

B. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines;

C. Boundaries indicated as appearing to follow City Limits shall be construed as following City Limits;

D. Boundaries indicated as appearing to follow 4½ Mile Jurisdictional Limits shall be construed as following 4½ Mile Jurisdictional Limits;

E. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;

F. Boundaries indicated as following shore lines shall be construed to follow such shore lines. In the event of change in the shore line, they shall be construed as moving with the actual shore line. Boundaries indicated as approximately following the centerlines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such centerlines. In the event of change in the location of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as moving with the actual body of water and following the centerlines; and

G. Boundaries indicated as parallel to or extensions of features indicated in above Subsections A. through F. above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map or by specific distances enumerated in a Resolution/Ordinance amending the Official Zoning Map.

Sec. 27-304. Application and General Rules.

Within the various zoning districts as hereinbefore defined and as indicated on the Official Zoning Map and subject to the requirements of BMCC Sections 27-301 through 27-1511, no building or structure shall be erected, reconstructed or structurally altered, nor shall any land, building or structure be used for any purpose except as they are allowed in

the district in which such building, land or use is located. The regulations set forth by this Resolution/Ordinance within each zone shall be minimum regulations and shall apply uniformly to each class or type of structure or land except as hereinafter provided:

A. No building, structure or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered after the effective date of this Resolution/Ordinance unless in conformity with all of the regulations herein specified for the zone in which it is located except nonconforming uses and structures as provided in BMCC Sections 27-401, et seq.;

B. No building or other structure shall hereafter be erected or altered:

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

Sec. 27-305. District Regulations: Residential Uses.

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
ACCESSORY USES AND STRUCTURES ASSOCIATED WITH A PERMITTED PRINCIPAL STRUCTURE	A	A	A	A	A	A	A	A	A	A	A
AGRICULTURAL USES	A	A									
AUCTION HOUSES (EXCLUDING LIVESTOCK)	SR										
AUCTION YARDS (INCLUDING LIVESTOCK)	SR										
BLACKSMITHS	A										
BOARDING, LODGING, AND BED AND BREAKFAST HOUSES	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
BROADCASTING (RADIO AND TELEVISION) STATIONS AND STUDIOS, INCLUDING COMMUNICATION TOWERS AND DISHES	SR	SR									
CAMPGROUNDS, PUBLIC OR PRIVATE	SR	SR									
CEMETERIES	A	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
CHILD CARE FACILITIES:											
Family day care home	A	A	A	A	A	A	A	A	A	A	A
Group day care home	A	A	A	A	A	A	A	A	A	A	A
Day care center	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
CHURCHES AND OTHER PLACES OF WORSHIP, INCLUDING SUNDAY SCHOOL BUILDINGS	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
COMMUNITY RESIDENTIAL FACILITIES SERViNG EIGHT (8) OR FEWER PERSONS, PROVIDING CARE ON A 24-HOUR-A-DAY BASIS	A	A	A	A	A	A	A	A	A	A	A
COMMUNITY RESIDENTIAL FACILITIES SERViNG NINE (9) OR MORE PERSONS	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
COMMUNITY RESIDENTIAL FACILITIES NOT PROVIDING CARE ON A 24-HOUR-A-DAY BASIS	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
CONVALESCENT NURSING HOMES, RETIREMENT HOMES, ORPHANAGES, AND CHARITABLE INSTITUTIONS	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
CONVENTS	SR	SR	SR	SR	SR	SR	SR	SR	A	A	SR
DWELLINGS: Single-family Two-family Multiple-family Manufactured Homes Class A Class B Class C Modular Homes Townhouses (minimum 2,500 square feet) Farm Tenant Houses	A A A SR A	A A SR SR A	A A SR SR A	A A	A A A A	A A A A	A A SR A A	A A A A	A A A A A	A A A A A	A A A A A A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
	EMERGENCY SERVICES, INCLUDING FIRE STATIONS AND AMBULANCE SERVICES	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
EXTRACTIVE INDUSTRIES: Excavation of sand and gravel (county) Excavation of sand and gravel (city)	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
FRATERNITY/SORORITY HOUSE							SR		A	A	
FUR FARMS	SR										
GRAIN ELEVATORS: Commercial Private	SR A										
GREENHOUSES: Commercial Domestic	A A	SR A	SR A	A	A	A	A	A	A	A	A
GUN AND ARCHERY RANGE: INDOOR AND/OR OUTDOOR	SR										
HOME OCCUPATIONS	A	A	A	A	A	A	A	A	A	A	A
KENNELS: Commercial Noncommercial	A A	SR A	A	A	A	A	A	A	A	A	A
LANDFILLS: RECLAMATION, SANITARY DUMP SITES AND SANITARY INCINERATORS	SR										
LIBRARIES, MUSEUMS AND ART GALLERIES	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
LIVESTOCK: COMMERCIAL FEEDING YARDS AND AUCTION HOUSES	SR										
LIVESTOCK AND FOWL * (County Only) * See BMCC Section 27-607 for Minimum Area Requirements	A*	A*	A*	A*		A*					A*
LUMBER, PLYWOOD AND SHINGLE MILLS	SR										
MANUFACTURED HOME PARKS	SR	SR	SR								A
PARKING, PUBLIC	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
PIPELINES AND DISTRIBUTION LINES (OIL AND GAS) AND ACCESSORY STRUCTURES	SR										
PUBLICLY-OWNED OR GOVERNMENT OPERATED BUILDINGS AND USES	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
RECREATION: Commercial Noncommercial	SR A	SR A	SR A	SR A	SR A	SR A	SR A	SR A	SR A	SR A	SR A
REHABILITATIVE CENTERS	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
RODEOS AND INDOOR AND/OR OUTDOOR ROPING ARENAS	SR										

TITLES AND DESCRIPTION OF INDUSTRIES	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
SR - SPECIAL REVIEW A - ALLOWED											
SCHOOLS (PUBLIC OR PRIVATE): Preschool, elementary, junior or senior high Colleges and universities Trade or vocational-technical	SR SR SR	SR SR SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
STABLES: Commercial Private * * See BMCC Section 27-607 for minimum Area Requirements	A A*	SR A*	A*	A*		A*					A*
TRANSMISSION AND DISTRIBUTION LINES (ELECTRIC) AND ACCESSORY STRUCTURES	SR										
TRAVEL TRAILER PARKS	SR	SR									
UTILITIES (PUBLIC SERVICE INSTALLATIONS): Station only Storage yard	A SR	SR	SR	SR	SR	SR	SR	SR	SR	SR	SR
VETERINARY CLINICS: Boarding Outpatient only	A A	SR SR									

Sec. 27-306. District Regulations: Commercial and Industrial Uses.

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION A - AGRICULTURE, FORESTRY AND FISHING 01 AGRICULTURAL PRODUCTION - CROPS: Offices only Production only Sales	A A	A A A	A A A	A A A	A A A	A A A	A A A	A	A
02 AGRICULTURAL PRODUCTION - LIVESTOCK AND ANIMAL SPECIALTIES: Offices only 021 Livestock, except dairy and poultry	A	A	A	A	A	A	A SR		A
07 AGRICULTURAL SERVICES (EXCEPT BELOW): Offices only 0741 Veterinary services for livestock: Boarding Outpatient only 0742 Veterinary services for animal specialties: Boarding Outpatient only 075 Animal services, except veterinary (except below): Dog grooming Public animal shelters	A	A SR	A SR A A	A A SR A A	A	A A A A	A A A A	A A	A SR A
08 FORESTRY: Offices only Retail sales Equipment storage and wholesale sales	A	A	A A	A A A	A A	A A A	A A A		A A
09 FISHING, HUNTING, AND TRAPPING (EXCEPT BELOW): Offices only 092 Fish hatcheries and preserves	A	A	A	A A	A	A A SR	A A SR		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION B - MINING Offices only 1081, 1231, 1241, 1381, 1382, 1389 Mining and oil and gas field services with equipment storage 1442 Construction sand and gravel mining	A SR	A SR	A SR	A A SR	A SR	A A SR	A A SR	SR	A SR
DIVISION C - CONSTRUCTION 15 BUILDING CONSTRUCTION - GENERAL CONTRACTORS AND OPERATIVE BUILDERS: Offices only 152, 153, 154 Residential, operative, and nonresidential builders with storage of equipment and supplies	A	A	A	A SR	A	A A	A A		A
16 HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION - CONTRACTORS: Offices only Storage of equipment and supplies	A	A	A	A SR	A	A A	A A		A
17 CONSTRUCTION - SPECIAL TRADE CONTRACTORS: Offices only Shop with no outside storage of equipment or supplies Storage of equipment and supplies, wholesale sales Retail sales of supplies, 1711, 1721, 1731 (3,000 SF GFA MAX) Over 3,000 SF GFA MAX Retail sales of supplies not above classified	A	A A	A A A SR	A A SR A A A	A A A A A A	A A A A A A	A A A A A A		A A A SR SR

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
21 TOBACCO PRODUCTS: Offices only	A	A	A	A	A	SR A	A A		A
22 TEXTILE MILL PRODUCTS: Offices only	A	A	A	SR A	A	A A	A A		A
23 APPAREL AND OTHER FINISHED PRODUCTS MADE FROM FABRICS AND SIMILAR MATERIALS: Offices only	A	A	A	SR A	A	A A	A A		A
24 LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE: Offices only 2411 Logging 2421 Sawmills and planing mills 2426, 2429 Hardwood and special product sawmills 2431, 2435, 2436, 2439, Millwork, plywood veneer, wood members manufacture 2434 Cabinet manufacture 244 Wood container manufacture 245 Wood buildings and mobile home manufacture 249 Miscellaneous wood products manufacture	A	A	A	A SR SR SR	A A A	A SR A A A A	A SR A A A A A A		A
25 FURNITURE AND FIXTURES: Offices only	A	A	A	SR A	A	A A	A A		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
26 PAPER AND ALLIED PRODUCTS: Offices only	A	A	A	A	A	SR A	A A		A
27 PRINTING, PUBLISHING, AND ALLIED INDUSTRIES: Offices only	A	A	SR A	A A	A A	A A	A A		SR A
28 CHEMICALS AND ALLIED PRODUCTS: Offices only	A	A	A	A	A	A	A A		A
29 PETROLEUM REFINING AND RELATED INDUSTRIES: Offices only 291 Petroleum refining All others	A	A	A	A	A	A	A SR A		A
30 RUBBER AND MISCELLANEOUS PLASTICS PRODUCTS: Offices only	A	A	A	A	A	SR A	SR A		A
31 LEATHER AND LEATHER PRODUCTS: Offices only	A	A	A	SR A	A	A A	A A		A
32 STONE, CLAY, GLASS, AND CONCRETE PRODUCTS (EXCEPT BELOW): Offices only 3231, 3269, 3281 Products made from purchased glaze, pottery products, cut stone products 324, 325, 327 Hydraulic cement; structural clay products; concrete, gypsum, and plaster products	A	A	A	A SR	A	A A A SR	A A A A		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
33 PRIMARY METAL INDUSTRIES (EXCEPT BELOW): Offices only 332, 336 Foundries 3312, 333, 334 Blast furnaces, primary and secondary smelters	A	A	A	A	A	SR A	A A A SR		A
34 FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT (EXCEPT BELOW): Offices only 348 Ordnance and accessories, except vehicles and guided missiles	A	A	A	A	A	SR A	A A SR		A
35 INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT: Offices only	A	A	A	A	A	SR A	A A		A
36 ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT: Offices only	A	A	A	A	A	SR A	A A		A
37 TRANSPORTATION EQUIPMENT: Offices only	A	A	A	A	A	A	A A		A
38 MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC, MEDICAL, AND OPTICAL GOODS; WATCHES AND CLOCKS (3,000 SF GFA MAX): Over 3,000 SF GFA MAX Offices only 3861 Photographic equipment and supplies	A	A	A	A	A	A A A SR	A A A A		A SR A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
39 MISCELLANEOUS MANUFACTURING INDUSTRIES: Offices only 391, 393, 394 Jewelry, silverware, plated ware; musical instruments; dolls, toys, games, sporting, and athletic goods (3,000 SF GFA MAX) Over 3,000 SF GFA MAX 395, 396, 399 Pens, pencils, and artists materials; costume jewelry and novelties; miscellaneous manufacturing industries (3,000 SF GFA MAX) Over 3,000 SF GFA MAX	A	A	A	A A A SR SR	A	A A A A A	A A A A A		A A SR A SR
DIVISION E - TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SEWER 40 RAILROAD TRANSPORTATION: Offices only Switching yards Passenger and freight terminals	A	A	A	A	A A	A A	A A A		A
41 LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION: Offices only 4173 Bus terminal operation only, without maintenance facilities	A	A	A	A A A	A A A	A A A	A A A	A A A	A A A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
42 MOTOR FREIGHT TRANSPORTATION AND WAREHOUSING: Offices only 421, 423 Trucking terminal and maintenance facilities (except below): 4215 Courier services, except by air (without truck terminal facilities) 422 Public warehousing (except below): 4225 General warehousing and storage 4226 Special warehouse and storage	A	A	A	A A A	A A	A A A	A A A		A SR
43 U.S. POSTAL SERVICE: Without truck terminal facilities With truck terminal facilities	A	A	A	A A	A	A A	A A	A A	A
44 WATER TRANSPORTATION: Offices only	A	A	A	A	A	A	A		A
45 TRANSPORTATION BY AIR: Offices only 4513 Air courier services (without truck terminal facilities)	A	A	A	A A	A A	A A	A A	A A	A
46 PIPELINES, EXCEPT NATURAL GAS: Offices only	SR A	SR A	SR A	SR A	SR A	SR A	SR A	SR	SR A
47 TRANSPORTATION SERVICES: Offices only Warehouses, terminals	A	A	A	A A	A	A A	A A		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
48 COMMUNICATIONS: Offices only Broadcasting stations and studios Towers exceeding the maximum height for buildings in BMCC, Section 27-309 Dishes over 12' in diameter	A SR SR SR	A SR SR SR	A A SR A	A A SR A	A A SR A	A A SR A	A A SR A	A A SR SR	A A SR SR
49 ELECTRIC, GAS, AND SANITARY SERVICES: Offices only Municipal water supply (4941) or sewerage (4952) treatment facilities 4953 Refuse systems* Sanitary landfills Transmission and distribution, electric and gas Production, manufacture and generation, electric or gas All others this group * See BMCC Sec. 27-605 Hazardous Waste Facilities	A SR	A SR	A SR	A SR	A SR	A SR SR	A A SR SR	A SR SR	A SR SR
DIVISION F - WHOLESALE TRADE 50 WHOLESALE TRADE - DURABLE GOODS: Offices only Warehouses with no outside storage (3,000 SF GFA MAX) Over 3,000 SF GFA MAX Outside storage 5093 Scrap and waste materials (auto wrecking)	A	A	A	A A A SR	A	A A A A SR	A A A A SR		A A SR

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
51 WHOLESALE TRADE - NONDURABLE GOODS: Offices only 511, 512, 513 Paper, drugs and apparel 514, 518 Groceries; beer, wine and distilled beverages 515 Farm product raw materials (except below): 5154 Livestock auctions 516 Chemicals and allied products 517 Petroleum and petroleum products 518 Beer, wine, and distilled alcoholic beverages 5191, 5198 Farm supplies; paints, varnishes, and supplies 5192, 5193, 5194, 5199 Books, periodicals, and newspapers; flowers, nursery stock and florists' supplies; tobacco and tobacco products; non-durables not elsewhere classified	A	A	A	A A SR	A	A A A SR A	A A A A A A		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION G - RETAIL TRADE * Under 3,000 square feet gross floor area (GFA). A special review is required if over 3,000 square feet GFA. No outside storage and no warehousing of storage in excess of twenty-five (25) percent of total GFA. 52 BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS: 521 Lumber and other building materials stores 523, 525 Paint, glass and wallpaper; hardware stores 526 Nurseries, lawn and garden supply stores 527 Mobile home dealers (manufactured homes)			SR	A		A	A		SR
53 GENERAL MERCHANDISE STORES		A*	A	A	A	A	A		A
54 FOOD STORES Convenience store with gas pump islands		A*	A	A	A	A	A		A
55 AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS (EXCEPT BELOW): 553 Auto supply 554 Gasoline service stations Convenience store Service station Accessory car wash with above two uses Truck stop 556 Recreational vehicle dealers		A*	A	A	A	A	A		A
56 APPAREL AND ACCESSORY STORES		A*	A	A	A	A	A		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
57 HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES		A*	A	A	A	A	A		A
58 EATING AND DRINKING PLACES (SEE BMCC SECTION 27-612) Without the sale of alcoholic beverages With the sale of beer and wine only for on-premise consumption, without gaming With the sale of beer and wine only for on-premise consumption, with gaming With the sale of all alcoholic beverages for on-premise consumption, with gaming * Establishments with drive-in service shall comply with BMCC Section 27-612.		A	A SR SR	A SR SR	A SR SR	A SR SR	A SR SR		A SR SR
59 MISCELLANEOUS RETAIL (STRICTLY CARRYOUT), (EXCEPT BELOW): 598 Fuel dealers * Fireworks stands shall comply with BMCC Section 27-614. ** Sexually oriented business, as classified and defined in BMCC Section 27-611.		A*	A A	A A	A A	A A	A A		A A
DIVISION H - FINANCE, INSURANCE, AND REAL ESTATE (See BMCC Section 27-612). 60 DEPOSITORY INSTITUTIONS	A	A	A	A	A	A	A		A
61 NONDEPOSITORY CREDIT INSTITUTIONS	A	A	A	A	A	A	A		A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
62 SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES, AND SERVICES	A	A	A	A	A	A	A		A
63 INSURANCE CARRIERS	A	A	A	A	A	A	A		A
64 INSURANCE AGENTS, BROKERS, AND SERVICE	A	A	A	A	A	A	A		A
65 REAL ESTATE (EXCEPT BELOW): 6515 Operators of residential mobile home sites 6553 Cemetary subdividers and developers	A	A	A	A	A	A	A	A	A
66 COMBINATIONS OF REAL ESTATE, INSURANCE, LOANS, OR LAW OFFICES	A	A	A	A	A	A	A		A
67 HOLDING AND OTHER INVESTMENT OFFICES	A	A	A	A	A	A	A		A
DIVISION I - SERVICES									
70 HOTELS, ROOMING HOUSES, CAMPS AND OTHER LODGING PLACES: 701 Hotels and motels			A	A	A	A	A		A
702, 704 Rooming, boarding houses; organization hotels and lodging houses, on a membership basis		A	A	A	A	A	A		A
703 Camps and recreational vehicle parks			SR	A		A	A	SR	

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
75 AUTOMOTIVE REPAIR, SERVICES, AND PARKING (EXCEPT BELOW): 7513, 7519 Truck rental and leasing; utility trailer and recreational vehicle rental 752 Automobile parking 7542 Car washes	A	A SR	A A A SR	A A A A	A A A	A A A	A A A		A SR A SR
76 MISCELLANEOUS REPAIR SERVICES (EXCEPT BELOW): 763 Watch, clock, and jewelry repair		A	A A	A A	A A	A A	A A		A A
78 MOTION PICTURES (EXCEPT BELOW): 7833 Drive-in motion picture theaters			A	A SR	A	A SR	A		A
79 AMUSEMENT AND RECREATION SERVICES*: 791, 792 Dance studios, schools, and halls; theatrical producers, bands, orchestras, and entertainers 793, 799 Bowling centers; miscellaneous amusement and recreation services, and gambling operations* (except below): Public swimming pools Riding stables 7992 Public golf courses 794 Commercial sports		A	A A SR	A A A	A A SR	A A SR A	A A SR A	A A A	A A SR
* See BMCC Section 27-612.									

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
80 HEALTH SERVICES (EXCEPT BELOW): Establishments where retail sales constitutes more than an accessory use	A	A	A	A	A	A	A	A	A
		A	A	A	A	A	A		A
81 LEGAL SERVICES	A	A	A	A	A	A	A		A
82 EDUCATIONAL SERVICES (EXCEPT BELOW): 821 Elementary and secondary schools	A	A	A	A	A	A	A	A	A
822 Colleges, universities, professional schools, and junior colleges	SR	SR	SR	SR	SR	SR	SR	A	SR
83 SOCIAL SERVICES (EXCEPT BELOW): 833 Job training and vocational rehabilitation services	A	A	A	A	A	A	A	A	A
	SR	SR	A	A	A	A	A	A	A
84 MUSEUMS, ART GALLERIES, AND BOTANICAL AND ZOOLOGICAL GARDENS: 841 Museums and art galleries		A	A	A	A	A	A	A	A
842 Arboreta and botanical or zoological gardens								A	SR
86 MEMBERSHIP ORGANIZATIONS (EXCEPT BELOW): 864 Civic, social, and fraternal associations*	A	A	A	A	A	A	A		A
			A	A	A	A	A		A
* See also BMCC Section 27-612.									

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
87 ENGINEERING, ACCOUNTING, RESEARCH, MANAGEMENT, AND RELATED SERVICES (EXCEPT BELOW): 871, 872 Engineering, architectural and surveying services; accounting, auditing and bookkeeping services 8731 Commercial physical and biological research 8733 Noncommercial research organizations 8734 Testing laboratories 8744 Facilities support management services	A	A	A SR SR SR	A A A A	A A A A	A A A A SR	A A A A	SR	A A A A SR
88 PRIVATE HOUSEHOLDS	A	A	A	A	A				SR
89 SERVICES, NOT ELSEWHERE CLASSIFIED	A	A	A	A	A	A	A	A	A
DIVISION J - PUBLIC ADMINISTRATION									
91 EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	A	A	A	A	A	A	A	A	A
92 JUSTICE, PUBLIC ORDER, AND SAFETY (EXCEPT BELOW): 9223 Correctional institutions	A	A	A	A	A	SR	A	SR	A SR
93 PUBLIC FINANCE, TAXATION, AND MONETARY POLICY	A	A	A	A	A	A	A	A	A
94 ADMINISTRATION OF HUMAN RESOURCE PROGRAMS	A	A	A	A	A	A	A	A	A
95 ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	A	A	A	A	A	A	A	A	A
96 ADMINISTRATION OF ECONOMIC PROGRAMS	A	A	A	A	A	A	A	A	A

TITLES AND DESCRIPTION OF INDUSTRIES SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
97 NATIONAL SECURITY AND INTERNATIONAL AFFAIRS	A	A	A	A	A	A	A	A	A
DIVISION K - NONCLASSIFIABLE ESTABLISHMENTS 99 NONCLASSIFIABLE ESTABLISHMENTS: THE ZONING DISTRICT AND REQUIREMENTS OF THESE ESTABLISHMENTS WILL BE DETERMINED BY THE PLANNING DIRECTOR.									
DWELLINGS Single-family Two-family Multiple-family Modular home Rowhouse/Townhouse	A A	A A A A SR	A A A A SR	A A A A SR	A A A A SR	SR SR			SR SR SR

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

There is adopted by the City Council and Board of County Commissioners for the purpose of classifying the industries set forth in BMCC Section 27-306, the whole 1987 Edition of the Standard Industrial Classification Manual, published by the Executive Office of the President, Office of Management and Budget, of which manual one copy is now filed in the offices of the City Clerk and the County Clerk and Recorder, and the same is adopted and incorporated as fully as if set out at length in this Chapter, and from the date on which this Resolution/Ordinance is adopted said manual shall take effect.

Sec. 27-308. Area, Yard and Height Requirements - Residential.

ZONING CLASSIFICATION DISTRICTS											
ZONING REQUIREMENTS	Agricultural - Open Space	Agricultural - Suburban	Residential - 15,000	Residential - 9,600	Residential - 8,000	Residential - 7,000	Residential - 6,000	Residential - 5,000	Residential Multi-Family	Residential Multi-Family - Restricted	Residential Manufactured Home
MINIMUM LOT AREA PER DWELLING UNIT: (a) (b) (c)	10A	1A	15,000	9,600	8,000 10,000	7,000 9,600	6,000 7,000 8,500 10,000 11,500 13,000 14,500 16,000 17,500 19,000	5,000 8,000	6,000 7,000 8,500 10,000 11,500 13,000 14,500 16,000	400 each add. unit 1,500 each add. unit	6,000
One Unit											
Two Units											
Three Units											
Four Units											
Five Units											
Six Units											
Seven Units											
Eight Units											
Nine Units											
Ten Units											
MINIMUM YARD REQUIREMENTS: (d) (e)											
Front (f) (g)	35	25	25	20	20	20	15	15	15	15	20
Side (h) (i) (j) (k)	15	10	10	5	5	5	5	5	5	5	8
Side Adjacent to Street (l)	35	25	25	10	10	10	10	10	10	10	10
Rear	35	25	25	20	20	20	20	20	15	15	20
MAXIMUM HEIGHT (m) (n)	30	30	30	30	30	30	34	30	N/A	40	30
MAXIMUM LOT COVERAGE IN PERCENT	15	25	30	30	30	30	40	40	55	55	30

(a) In the A-1 & A-S districts, minimums lot area figures are in Acres. All other minimum lot area figures denote square footage.
 (b) The above requirements are applicable to all structures located on a single lot. For building groups see BMCC Section 27-310(B).
 (c) In the Residential-6,000 zone, three-plexes up through ten-plexes require Special Review approval, see BMCC Section 27-1503 or 27-1509.

- (d) For arterial setback and watercourse setback requirements, See BMCC Sections 27-602 and 27-616, respectively.
- (e) For yard setbacks on corner lots, refer to definitions of lot frontage and yard (side) in BMCC Section 27-201.
- (f) Block frontages which have buildings constructed prior to the effective date of this Resolution/Ordinance shall have a minimum twenty (20) foot front setback for all districts.
- (g) Garages and Carports that have their approach from a street shall be setback a minimum of twenty (20) feet.
- (h) Required side yards shall be increased to eight (8) feet in distance from the nearest second story portion of the building, plus one (1) foot for each story in excess of two (2).
- (i) Townhouses are exempt from the side yard requirements in the Residential-5,000, Residential-6,000, Residential-7,000, Residential-8,000, RMF-R and RMF zoning districts. In addition, townhouses require approval Special Review approval, as delineated in BMCC Section 27-1503 or 27-1509.
- (j) In the Residential-5,000 district, if no alley exists as a secondary means of access, one (1) side yard shall be increased to ten (10) feet.
- (k) In the Residential Manufactured Home district, a site built structure complying with the CABO One and Two Family Dwelling code, may be setback a minimum of five (5) feet from the side property line, unless the structure contains two (2) or more stories.
- (l) Front yard setbacks as required in the district shall be provided on side streets when a side street frontage exceeds one hundred and fifty (150) feet.
- (m) In the A-1 district, maximum height restrictions apply to buildings designed and constructed for human occupancy.
- (n) Where there is a change in the adjacent grade of three (3) feet or more the maximum height will be increased one (1) foot for each two (2) feet of grade change.

NOTE:•

- All height and setback requirements denote feet.
- For height exceptions, see BMCC Section 27-310(F).
- For permitted projections, see BMCC Section 27-310(G).
- For setbacks for detached accessory structures, see BMCC Section 27-310(I).
- N/A = Not Applicable

Sec. 27-309. Area, Yard and Height Requirements - Commercial and Industrial.

ZONING CLASSIFICATION DISTRICTS									
ZONING REQUIREMENTS	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
MINIMUM LOT AREA REQUIREMENT IN SQUARE FEET: (a)	10,000	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
MINIMUM YARD REQUIREMENTS: (a) (b)									
Front	20	20	20	20	N/A	20	20	20	(d)
Side (c)	10	0	0	0	N/A	0	0	0	(d)
Side Adjacent to Street	10	10	10	10	N/A	10	10	10	(d)
Rear (c)	0	0	0	0	N/A	0	0	0	(d)
MAXIMUM HEIGHT	30	30	45	45	N/A	70	N/A	N/A	(d)
MAXIMUM LOT COVERAGE IN PERCENT (a)	50	50	50	75	N/A	75	75	50	50

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

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

(c) Side and rear setbacks shall be increased to fifteen (15) feet when contiguous to residentially zoned property.

(d) Minimum yard requirements and maximum height for property located in the South 27th Street Corridor Zoning District are located in BMCC Sections 27-810 and 27-811, respectively.

NOTE: • All height and setback requirements denote feet; all minimum lot area figures denote square footage.

• For height exceptions, see BMCC Section 27-310(F).

• For permitted projections, see BMCC Section 27-310(G).

• N/A = Not Applicable

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

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

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

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

Wall Sign: Any sign attached parallel to, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface. Wall signs shall not exceed twenty-two (22) inches in depth measured from the face on the wall on which the sign is mounted.

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

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

C. Signs Prohibited. All signs not expressly permitted under this section or exempt from regulation hereunder in accordance with the following section are prohibited. Such signs include, but are not limited to:

1. Beacons;
2. Wind-driven sign, except flags as defined in this section;
3. Strings of lights not permanently mounted to a rigid background, except those exempt under the following section;
4. Inflatable signs and tethered balloons;
5. Portable signs;
6. Animated signs;
7. Above-peak roof signs;
8. Banner signs;
9. Abandoned signs;
10. Snipe signs or signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way; and

11. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).

D. Signs Not Requiring Permits. The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this section:

1. Construction signs of sixteen (16) square feet or less;
2. Special event or holiday lights or decorations;
3. Nameplates of two (2) square feet or less;
4. Public signs or notices, or any sign relating to an emergency;
5. Real estate signs; (see below subsection I, 2)
6. Political signs; (see below subsection I, 4)
7. Interior signs not visible from the exterior of the building; and
8. Directional signs not to exceed twelve (12) square feet in area or six (6) feet in height.

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

F. Maintenance. All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced.

G. Lighting. Unless otherwise prohibited by this section, all signs may be illuminated.

H. Changeable Copy. Unless otherwise specified by this section, any sign herein allowed may use manual, or fixed message electronic sign.

Computer controlled variable message electronic signs shall be permitted provided that the bottom of the reader board is ten (10) feet above the crown of the adjacent road.

I. Signs Permitted in the South 27th Street Corridor Zoning District:

1. One (1) non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed thirty (30) days following completion of construction.
2. One (1) non-illuminated real estate sign per lot or premises not to exceed sixteen (16) square feet in sign area for residential properties and thirty-two (32) square feet for commercial properties. Such signs must be removed fifteen (15) days following sale, rental or lease of the real estate involved.

3. One (1) non-illuminated attached building nameplate per occupancy, not to exceed two (2) square feet in sign area.
4. One (1) non-illuminated political sign not to exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than forty-five (45) days prior to the election or referendum concerned and shall be removed ten (10) days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
5. One (1) subdivision sign per street frontage not to exceed forty-eight (48) square feet in sign area in each location.
6. One (1) identification sign per entrance to apartment or condominium complex, not to exceed thirty-six (36) square feet in sign area.
7. The total square footage of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage. This frontage shall be calculated using local streets, not the interstate highway.
8. One (1) freestanding sign within the South 27th Street Corridor Zoning District may be installed to a height of forty (40) feet and may be a maximum of three hundred-fifty (350) square feet if the principal purpose of such signs is to address interstate traffic. The sign must be oriented perpendicularly to the interstate so the sign is visible to the interstate traveller. In addition, the property must be adjacent to the Interstate right-of-way.
9. Freestanding signs which do not address interstate traffic may be installed to a maximum height of twenty-four (24) feet and may have a maximum size of one hundred-fifty (150) square feet.
10. The setback for the leading edge of freestanding signs shall be a minimum of ten (10) feet.
11. No sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs.
12. One (1) freestanding sign per frontage, including the interstate highway, shall be allowed. Where a street frontage exceeds five hundred (500) feet, one (1) additional freestanding sign may be allowed per five hundred (500) foot increment. Freestanding signs shall have a minimum distance of one hundred-fifty (150) feet between signs. The total square footage of all freestanding signs shall not exceed the total allowable square footage for freestanding signs.

13. Wall signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. Electric awning and canopy signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. The combination of wall signs, electric awning, canopy signs and projecting signs shall not exceed twenty (20) percent of the allowed wall sign area.
14. Integrated roof signs may be used instead of wall signs. The integrated roof sign size shall not exceed the allowable size for a wall sign. Integrated roof signs shall be constructed so as to conceal all structures and fastenings. The height of the sign shall not exceed the roof to which it is attached.
15. Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten (10) feet over sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher. Projecting sign size shall not exceed the allowable size for a wall sign.
16. One (1) under-canopy sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of nine (9) feet from the sidewalk.
17. Window signs shall not cover more than thirty (30) percent of the window area.
18. On-site directional signs as required.

J. Shopping Center Signs:

1. Shopping centers shall be allowed one (1) freestanding sign directory sign per frontage. The sign shall not exceed one hundred-fifty (150) square feet plus five (5) percent of the one hundred-fifty (150) square feet per tenant. Maximum sign size shall not exceed three hundred-fifty (350) square feet.
2. Shopping centers signs shall not exceed the maximum allowable freestanding signage.
3. Shopping center signs cannot be used if the Common Signage Plan is used.

K. Common Signage Plan:

1. Common Signage Plan. If the owners of two (2) or more contiguous or adjacent (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (excluding accessory buildings) or multiple use buildings file with the Planning Director for such lot(s) a Common Signage Plan conforming with the provisions of this section, a twenty-five (25) percent increase in the

maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.

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

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

- a. Color scheme;
 - b. Letter or graphic style;
 - c. Lighting;
 - d. Location of each sign on the building(s);
 - e. Material; and
 - f. Sign proportions.
3. Limit on Number of Freestanding Signs Under Common Signage Plan. The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the lots included in the plan have frontage and shall provide for shared or common usage of such signs. Where street frontage exceeds five hundred (500) feet, one additional freestanding sign may be allowed per five hundred (500) foot increment.
4. Other Provisions of the Common Signage Plan. The Common Signage Plan may contain other restrictions as the owners of the lots may reasonably determine.

5. Consent. Common Signage Plan shall be signed by all owners or their authorized agents in such form as the Planning Director shall require.
6. Procedures. Common Signage Plan shall be included in any development plan, site plan, planned development or other official plan required by the City or County for the proposed development and shall be processed simultaneously with such other plan.
7. Amendment. Common Signage Plan may be amended by filing a new Common Signage Plan that conforms with all requirements of the chapter then in effect.
8. Existing Signs Not Conforming to Common Signage Plan. If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within five (5) years, all signs not conforming to the proposed amended plan or to the requirements of this section effective on the date of submission.
9. Binding Effect. After approval of a Common Signage Plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plan, and such may be enforced in the same way as any provision of this chapter. In case of any conflict between the provisions of this section and Common Signage Plan, the section shall control.
10. Dissolution of Common Signage Plan. If the signatories of a Common Signage Plan wish to dissolve the Common Signage Plan, written notice must be submitted to the Planning Director. All signs on the property for which the Common Signage Plan was dissolved must bring all signs into conformance with this section within thirty (30) days of the date written notice was submitted to the Planning Director.

L. Nonconforming Signs. Existing signs which do not conform to the specific provisions of this section may be eligible for the designation "legal nonconforming" provided that:

1. The Planning Director determines such signs are properly maintained and do not in any way endanger the public;
2. The sign was installed in conformance with a valid permit or variance or complied with all applicable laws on the date of adoption of this section; and
3. The sign owner registers the sign with the Planning Director within six (6) months of the adoption of this section. If the owner fails to register the nonconforming sign with the Planning Director, the sign then must be brought into compliance with this section within thirty (30) days.

A legal nonconforming sign may lose this designation if:

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

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

M. Construction Specifications:

1. All signs shall be installed in compliance with the Uniform Building Code (UBC) and the National Electric Code (NEC).
2. All signs shall be inspected by the City of Billings Building Division for compliance with all applicable codes. (Including, but not limited to structure, wind load, and electrical hook-up.)
3. All electrical freestanding signs must have underground electrical service to such signs.

Section 7. That Article 27-900, Sections 27-901 through 27-916 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-901. Title.

This chapter shall be known, cited and referred to as the "Medical Corridor Permit Zoning District."

Sec. 27-902. Purpose.

The purpose of this chapter is to promote the most compatible, rational pattern of land uses in the medical corridor while establishing a core area in Billings which has a concentration of facilities offering medically-related services. To that end, a permit system has been developed to best accomplish this goal for a centralized area which is also designed for compatibility with neighboring, existing land uses.

Sec. 27-903. Criteria Generally.

In the medical corridor no specific land use is automatically allowed on a particular site as is the case under traditional zoning districts. Instead, a set of both absolute and relative criteria has been established which gives greater assurance that a centralized medical area

can exist and be compatible with adjacent land uses, as well as, foster a healthy growth pattern in the medical corridor. Site and development plans are required to evaluate an applicant's success or failure to address these criteria. If the criteria are met, the land use may proceed. A developer must meet all the absolute criteria to qualify for a permit. In addition, in the relative criteria category, the developer must also attain a minimum of at least seventy (70) percent of the maximum points possible in order to proceed if the proposed development is medically-related and seventy-five (75) percent if it is not medically-related to qualify for a permit. (See BMCC Section 27-912, "Land Use Relative Criterion" for definitions of land use). The requirements and procedures of this newly adopted district are contained in this part.

Sec. 27-904. Official Zoning Map.

In order for the changes in zoning within this district to become effective, they must be entered on the official zoning map which is located in the office of the Yellowstone County Board of Planning. Such map shall be the final authority as to the current zoning status of land inside the city.

Sec. 27-905. Boundaries.

The boundaries of the Medical Corridor Permit Zoning District are described as follows:

The area in the city which is inside the boundaries described, beginning with the point of intersection of center lines of 7th Avenue North and North 27th Street; thence in a northwesterly direction along the centerline of North 27th Street to the intersection of North 27th Street and Poly Drive; thence westerly along the centerline of Poly Drive to the intersection of Poly Drive and North Broadway; thence southeasterly along the centerline of North Broadway to the intersection of North Broadway and the northern border of Lot 15, Block 2, Normal Subdivision; thence southwesterly along the northern border of Lot 15 to the alley; thence in a northwesterly direction along the centerline of the alley to Poly Drive; thence westerly along the centerline of Poly Drive to the intersection of Poly Drive and North 29th Street; thence southeasterly along the centerline of North 29th Street to the intersection of North 29th Street and Elevation Avenue; thence southwesterly along the centerline of Elevation Avenue to the intersection of Elevation Avenue and Grandview Boulevard; thence westerly along the centerline of Grandview Boulevard; to the intersection of Grandview Boulevard and Locust Street; thence southerly along the centerline of Locust Street to the intersection of Locust Street and the vacated portion of Elevation Avenue (Resolution 83-14404 vacated Elevation Street between North 30th and North 31st Streets on September 26, 1983); thence northeasterly along the centerline of the vacated portion of Elevation Avenue to the intersection of vacated Elevation Avenue and the alley between North 31st Street and North 30th Street; thence southeasterly along the centerline of the alley to the intersection of the alley and 7th Avenue North; thence northeasterly along the centerline of 7th Avenue North; to the intersection of 7th Avenue North and North 27th Street, which is the point of beginning.

Sec. 27-906. Medical Corridor Permit Zoning System Process.

A. The permit zoning system process is a review of development proposals against a set of absolute and relative criteria. Permit zoning allows those land uses that can meet the criteria pertinent to a specific site.

B. Every land use must satisfy the criteria listed in the "all development" category, as well as, any other applicable criteria from the "special requirements" categories. The specific criteria which a proposal must satisfy are dependent upon the type of land use being proposed.

C. The absolute criteria must be satisfied before approval can be granted. These include assuming compatibility and compliance with adopted official plans, minimum engineering and public service requirements and environmental standards as outlined in this document. Each of the applicable absolute criteria must be answered yes before approval can be granted.

D. Relative criteria are the "points" of the system. Each development must achieve a specified minimum percentage of these criteria. A score above the minimum percentage may be used to receive extra points. The absolute criteria are designed to address public service requirements and reduce negative impact of development, while the relative criteria focus on the actual design of a project including but not limited to: building layout, open space, landscaping, pedestrian circulation, and architectural design. The design of a site plan is thus evaluated against the relative criteria and scored on a point chart.

E. The performance of a particular development plan shall be evaluated as follows:

1. Absolute Criteria. Each of the absolute criteria is answered yes, no, or not applicable. A "no" answer to any applicable absolute criteria will automatically exclude the plan, as proposed, from further consideration. Modifications to correct any problems would have to be made before further consideration could be given to the development proposal.

2. Relative Criteria. The development plan is evaluated against each applicable relative criteria and assigned a "score." The numerical score is assigned based on the following:

- 2 = For an excellent job of implementing the criteria or for doing the best job possible, given the constraints and opportunities of the site.
- 1 = For an adequate job of implementing the criterion.
- 0 = For no effort or failure to implement the criterion.

Each relative criteria has been preassigned a "multiplier" which determines the relative importance of that criterion to the other criteria. The meaning of each multiplier is as follows:

- 3 = Very important
- 2 = Average importance
- 1 = Minor importance

The points earned for each criterion are the product of multiplying the "score" times the "multiplier." The maximum points possible in each category are added together, as are the total points earned by the proposal. The points the proposal has earned must equal at least seventy (70) percent of the maximum points possible in order to proceed if the proposed development is medically-related and seventy-five (75) percent if it is not medically-related. The objective is to receive the maximum number of points.

Sec. 27-907. Special Requirements.

The following special requirements shall apply to any area development.

1. Residential Developments. The maximum density permitted shall not be allowed as a matter of right, and the actual density shall be as determined by the final plan and approved in accordance with the permit zoning process. A score of seventy-five (75) percent or more must be achieved among the relative criteria for a proposal which is not medically-related to proceed.
2. The city shall have the right to establish general design standards, guidelines, and policies, for the purpose of implementing and interpreting the permit zoning.

Sec. 27-908. Procedures.

A. Conceptual Review. This is an opportunity for applicants to discuss requirements, standards, and policies that apply to development proposals. Major problems can be identified and solved before a formal application is made. The applicant must arrange a conceptual review meeting with the Zoning Coordinator or his/her designee. Representatives of the Building, Engineering, Parks and Recreation, Community Services, City-County Health, Public Works Administration, Public Utilities, Fire, Traffic and Planning Departments will be sent notification of the conceptual review meeting along with copies of building and/or site plans. Should it be necessary, department representation may be reviewed and changed, subject to the City Administrator's directive. Representatives from the departments will decide at the conceptual review whether any of the absolute or relative criteria are not applicable for the application in question and whether their department needs to participate at the preliminary and final review stages.

The general outline of the proposal, evidenced schematically by sketch plans, shall be submitted by the applicant and reviewed by the Zoning Coordinator. Following the review the Zoning Coordinator shall furnish the applicant with written comments regarding the

application, including appropriate recommendations to inform and assist the applicant prior to preparing the formal application.

The applicant shall allow two (2) weeks from the conceptual review meeting for written staff evaluation of the conceptual review and the recommendation(s) of the Zoning Coordinator.

B. Preliminary Plans. An application for preliminary review may be filed with the Zoning Coordinator upon completion of the conceptual review meeting and after the recommendation of the Zoning Coordinator has been made. If the Zoning Coordinator has not made written comments within the required two (2) weeks after the conceptual review, then the applicant may submit a preliminary plan at any time thereafter. It is at this point that the applicant addresses the pertinent absolute and relative criteria. A review meeting is held between the applicant, Zoning Coordinator, and other departments and agencies. Adjacent property owners (including the property owners adjacent to, in the rear of and to either side, and directly across the street from and to either side of the proposal site) will be invited to attend and participate in the meeting. Adjacent property owners will be notified by the Zoning Coordinator by letter which includes a brief explanation of what the developer proposes to build so those persons have an opportunity to review and comment on the proposal and to attend the preliminary plan review meeting. The preliminary plan review meeting will be held within thirty days (30) days of the submittal unless the developer agrees to an extension.

Two (2) weeks from the review meeting date are allowed for the written evaluation of the preliminary plan by the appropriate departments/agencies having responsibility for review of such proposals, as determined by the Zoning Coordinator.

If approval is granted following the review, then preliminary approval will be valid for one hundred eighty (180) days.

Applications requiring a major subdivision, abandonment of rights-of-way or other items requiring City Council action by ordinance will be subject to City Council approval before the final plan approval can be granted.

If no revisions are required of the preliminary plan, then the plan shall be automatically considered as the final plan and the final plan review meeting will be waived.

C. Final Plans. The submittal of the final plan follows within one hundred eighty (180) days of the granting of the preliminary plan, and it will be in substantial compliance with the approved preliminary plan. The submitted final plan will not:

1. Change the use or character of the development; or
2. Cause changes in the development that will reduce the total points earned by more than five (5) percent or to a point below the minimum point total required for the proposed development.

A final plan review meeting will be held within thirty (30) days of the final plan submittal, between the applicant, Zoning Coordinator, as well as, other departments and agencies. Adjacent property owners will again be invited to attend and participate in the meeting. As with the preliminary plan review, the Zoning Coordinator shall notify adjacent property owners by letter of the final plan submittal, inviting their comments prior to and at the meeting. The Zoning Coordinator will distribute plans to the departments and agencies which participated in the conceptual and preliminary reviews for their evaluation. The applicant shall allow thirty (30) days from the date of submittal for receipt of the written staff evaluation of the final plan review.

Applicant and adjacent property owners dissatisfied with the decision of the Zoning Coordinator shall have the process of appeal to the City Council, as outlined below in Section 27-916.

Sec. 27-909. Content of Development Submittal.

A. Applications for site and building permit review are not required for the conceptual review, as this stage of the process is intended to allow the developer to meet informally with the Zoning Coordinator and other appropriate staff to determine if the proposal is worth pursuing before he/she has incurred any substantial expense. The conceptual review stage is also provided so that a developer can obtain initial feedback from the Zoning Coordinator as to what he/she and other departments may want to include in the preliminary and final plans.

B. For the preliminary and final review process, copies of the site plan and complete building and supporting data, as determined necessary, shall be submitted to the Zoning Coordinator, along with the application fee which shall be set by the City Administrator. In this regard, the following will be required:

1. A legal and general description of the tracts upon which review is sought.
2. Names and addresses of owners of real property adjacent to the project site plus legal descriptions of the adjacent properties.
3. Statement of proposed use.
4. A site plan at a suitable scale (no greater than 1" = 4' or no less than 1" = 50'), and indicating:
 - a. Suggested plans for proposed storm water drainage system sufficient to drain and dispose of all surface water accumulation within the area, indication of sanitary sewer, water, gas, electric, etc., easements, and written notifications that they have been reviewed by the City Engineer and Public Utilities Department for feasibility purposes;
 - b. Landscape plans including species, size and spacing of trees and shrubs;
 - c. Locations of all existing and proposed buildings, recreation areas, utility and service areas, fire hydrants, access drives, full width of street and adjacent drives, parking areas, storage areas, existing and proposed utility lines, and easements;

- d. Location and description of all other existing and proposed site improvements including fences, walls, signs, lighting, walkways, patios, decks, and barriers;
 - e. A clear delineation of all areas to be paved or surfaced, including a description of surfacing material to be used;
 - f. The planned use of all yards;
 - g. Location and description of all off-site improvements and right-of-way dedication; and
 - h. Payment of application fees.
5. Building plans for all structures including:
 - a. The size, alignment and intended use of all structures;
 - b. Architectural plans for proposed buildings complete with exterior finishes and including floor plans and elevations; and
 - c. These plans shall also indicate unit sizes, ratios of dwelling unit to total lot sizes and parking spaces.
 6. A timetable for the proposed construction project.
 7. Any other information pertinent to the particular project which, in the opinion of the Zoning Coordinator and/or city staff, is determined to be necessary for the review of the project (i.e., traffic accessibility study).

Sec. 27-910. Review Procedures.

The following review procedures have been established to assure that the process as outlined in this document is handled in a smooth and timely manner for a developer in the medical corridor and to protect the interests of adjacent property owners.

1. It will be the responsibility of the Zoning Coordinator to process permit requests under this system in the following manner:
 - a. A developer will bring his/her request for a permit to the Planning Department.
 - b. The Zoning Coordinator shall determine the time and place of the conceptual plan review with the developer. A formal application and payment of any required fees under this system is not required at this time.
 - c. The Zoning Coordinator shall notify all departments and/or agencies regarding the conceptual review meeting. Those parties will determine whether their attendance is necessary at the future meetings.
 - d. Following the conceptual review the applicant shall pay required fees and prepare a formal application at the time of preliminary plan submittal.
 - e. The Zoning Coordinator shall distribute copies of building and site plans submitted at the preliminary plan review stage and the final plan stage to all departments and/or agencies who have participated in the conceptual review.
 - f. The Zoning Coordinator shall notify adjacent property owners, by certified letter, of the development proposal and afford them the opportunity to review the preliminary plan after submission to the Zoning Coordinator. Staff will have thirty (30) days to review the preliminary plan and adjacent property owners are encouraged to give their comments during this period prior to the

preliminary plan review meeting so that the developer can be made aware of any major differences or concerns on the part of any adjacent property owners to the development proposal. Feedback during this period will also minimize any major problems for the developer and the city prior to approval of the final plan. If necessary, the Zoning Coordinator can arrange a separate meeting between the developer and adjacent property owners to resolve differences. Adjacent property owners will be invited to attend the preliminary plan review meeting.

- g. Following the preliminary plan review meeting the Zoning Coordinator shall again notify adjacent property owners as outlined in this document, by letter, of the time and place of the final plan review meeting to afford them another opportunity to comment on the proposal.

Should either the developer and/or adjacent property owner be dissatisfied with the final decision, either party has the right to appeal the decision directly to the City Council as outlined in BMCC Section 27-916 of this document.

2. The review may result in disapproval, approval, or approval with certain conditions of the proposed development. Approval of the preliminary plan does not constitute final approval, but rather indicates an expression of intent. The issuance of the building permit itself constitutes final approval.
3. Activities authorized by granting of the building permit shall be initiated within six (6) months and completed within twelve (12) months after issuance of the permit, or within the approved time schedule submitted and approved for larger projects. The Building Official has the ability to grant a six (6) month extension under this system. Time schedules are included to assure the timely development of the area. Should the time period expire and an extension is not granted, the developer shall file a new application which will require resubmission of building and site plans and payment of fees as in the original application, as outlined in BMCC Section 27-909 of this document.

Sec. 27-911. Point Chart for All Development - Absolute Criterion.

(To be completed by Zoning Coordinator and city staff)

ABSOLUTE CRITERION	Is the Criterion Applicable?		Is the Criterion Complied With?	
	Yes	No	Yes	No
Building Standards				
Utilities				
Vehicular Traffic				
Pedestrian Access				
Public Facilities				
Public Right-of-Way				
Lighting				
Drainage				
Signage				
Noise				
Parking				

A proposal must receive a "yes" answer to all applicable criteria in order to qualify for approval.

Building

Standards: Does all construction conform to the adopted building and site development codes?

All structures to be constructed in the medical corridor shall require site approval by the Planning and Engineering Departments and building plan approval by the Building Official before a building permit can be issued. Any structure will also require Fire Department approval of the structure's fire design.

Developer:

Building Official:
(building plan)

Criterion complied with: Yes___No___

Planning:
(site plan)

Criterion complied with: Yes___No___

Fire Department:
(fire design)

Criterion Complied with: Yes___No___

Standards: Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations":
All sections except Section 6-1100.

Utilities: Is the proposed development served by city services (water, sanitary and storm sewer) with adequate capacity or have arrangements been made for extension and augmentation?

Developer: _____

Public Utilities: _____

Criterion complied with: Yes___No___

Public Works: _____

Criterion complied with: Yes___No___

Fire Department: _____

Criterion complied with: Yes___No___

Standards: No definite answer exists for the amount of new development which could be sustained in the medical corridor area because it depends upon the type of development proposed. Assessing the capacity of existing sewer and water lines is very difficult on a small scale basis due to a number of variables.

Large multiple family, commercial, and institutional complexes or projects would require increased capacity in order to meet the sanitation, water and fire protection needs. Property owners and developers of such complexes will be required to comply with the Public Utilities Department policy regarding fire suppression water facilities, stating that:

It is the Public Utilities Department's policy to require property annexed to the City of Billings and property rezoned or redeveloped within the corporate city limits to upgrade water lines and appurtenances and to install the proper number of fire hydrants, if necessary, in order to provide the required fire

suppression water for the city's fire department. Such facilities shall be constructed by public works contractors either by special improvement district methods or by private contract and the cost of such construction will be directly assessed to the properties benefitted from the construction of said facilities.

Property owners and developers will have to include the cost of upgrading the water and sanitary sewer mains and appurtenances and installing the proper number of fire hydrants within their expected cost of development. Since the utility systems rely on system components outside the immediate development area for proper functioning, upgrading may involve more than just those facilities in the specific development site area. Any designs for the upgrading of water mains, appurtenances, and fire hydrants must have plans and specifications stamped by a Montana Registered professional engineer. Any such plans and specifications must be approved by the Public Utilities Department and the State Department of Environmental Quality.

The Billings Fire Department will determine the required fire suppression water flow.

**Vehicular
Traffic:**

What will be the impacts of the traffic generated by the proposed development project, and how does the developer propose to mitigate these impacts?

In assessing these impacts the developer should be as specific as possible in addressing the present and future capacity of the street system so that the city traffic engineer can evaluate the proposed development.

Developer: _____

City Traffic
Engineer:

Criterion complied with: Yes___No___

Standards: If development generates more than five hundred (500) vehicle trips a day, an accessibility study will be required. See BMCC Section 6-1208(d). Traffic accessibility studies will also be required if the proposal includes a drive-up window or special traffic characteristics:
BMCC Section 27-604: (Fences and Hedges); and
BMCC Section 27-615: (Visibility at Intersections).

See the report entitled "Traffic Accessibility Studies" available from the Traffic Engineering Division, if there are any questions regarding whether an accessibility study is required and what its contents should be.

Pedestrian

Access: Pedestrian access must be provided to every building in the proposed development. It may be achieved in two (2) ways: "Public," as normally required and specified in the engineering standards of the city, and/or "private," a system of pedestrian sidewalks and paths which provides to the satisfaction of the city equal or better performance than the "public" system. The developer is to assess the condition of the present city sidewalks.

Developer:

City
Engineer:

Criterion complied with: Yes___No___

Standards: Billings, Montana City Code, Chapter 22, "Streets, Sidewalks and Other Public Places": Articles 22-200 and 22-400.

Public works department standards.

Public

Facilities: Does the project comply with all city design standards, requirements, and specifications for the following?

- Fire equipment accessibility
- Fire protection
- Street lighting
- Streets
- Utility services
- Clear vision
- Handicapped access (public and private)
- Traffic control devices
- Trash collection
- Walks
- Curb cuts
- Arterial setbacks

Developer:

Fire
Department:

Criterion complied with: Yes ___ No ___

Planning:

Criterion complied with: Yes ___ No ___

Public
Utilities:

Criterion complied with: Yes ___ No ___

Public Works:

Criterion complied with: Yes___No___

**Building
Official:**

Criterion complied with: Yes___No___

Standards: Billings, Montana City Code:

- Chapter 14, "Fire Prevention and Protection": All sections.
- Chapter 6, "Buildings and Building Regulations": Section 6-300, Section 6-305 and Section 6-301.
- Chapter 22, "Streets, Sidewalks, and Other Public Places": All sections.
- Chapter 24, "Traffic and Motor Vehicles": Sections 24-100 and 24-400.
- Chapter 21, "Solid Waste": All sections.
- Chapter 26, "Water and Wastewater Utilities": All sections.
- Chapter 27, "Zoning": Sections 27-602 and 27-615.

Public Works Department standards.

Public Utilities Department standards.

Building Division standards.

**Public Right-
of-Way:**

Does the proposed project require either dedication of additional right-of-way or vacation of a public right-of-way (a right-of-way is a strip of land dedicated or acquired for use as a public way)?

Developer:

Public Utilities:

Criterion complied with: Yes___No___

Public Works:

Criterion complied with: Yes___No___

Standards: Billings, Montana City Code, Chapter 22, "Streets, Sidewalks and Other Public Places": Article 22-600.

Example. If an alley is vacated, any and all public utilities located therein will have to be relocated at the expense of the developer or owner as the city will not want public utilities such as sewer and water lines located within privately-owned land.

Lighting: Is sufficient exterior lighting proposed and will it be installed so the light source sufficiently avoids spillover of light and glare on operators of motor vehicles, pedestrians, and land uses in the proximity of the light source? (This criterion does not include public street lighting which is regulated under the *public facilities* criterion.)

Developer:

Public Works:

Criterion complied with: Yes___No___

Standards: Definitions:

Candlepower: The amount of light that will illuminate a surface one foot distant from a light source to an intensity of one footcandle. Peak candlepower is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

Cutoff: The point at which all light rays emitted by a lamp, light source, or luminaire are completely eliminated at a specific angle above the ground.

Cutoff angle: The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

Cutoff-type luminaire: A luminaire with elements such as shields reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.

Footcandle: A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of one candle.

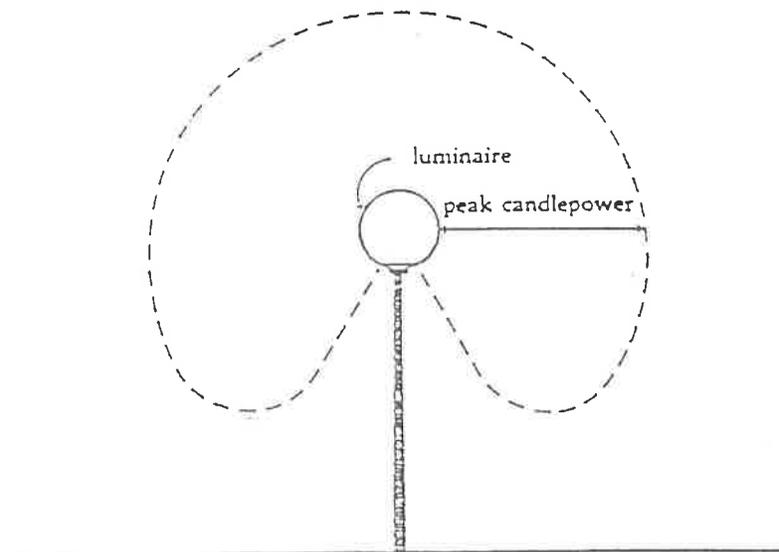
Luminaire: A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Maximum permitted illumination: The maximum illumination measured in footcandles at the interior bufferyard line at ground level in accordance with the following standards.

The maximum height of light posts is correlated to the amount of cutoff provided. Exterior lighting must meet one of these options:

A. When a light source or luminaire has no cutoff:

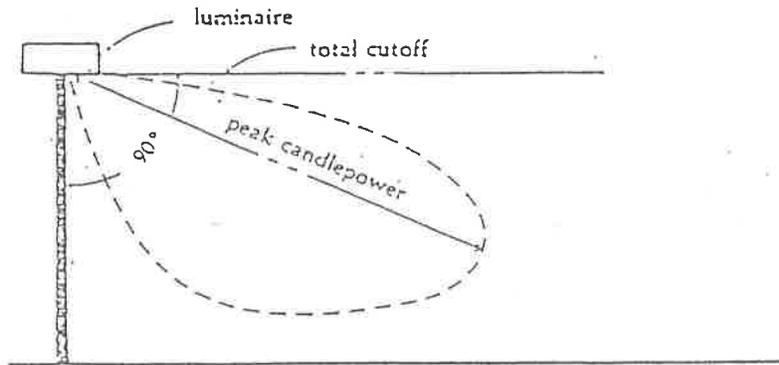
- Maximum permitted illumination - 0.30
- Maximum permitted height of luminaire - 20 feet



NO CUTOFF LUMINAIRE

- B. When a luminaire has total cutoff of an angle equal to ninety (90) degrees, the maximum illumination and the maximum permitted luminaire height shall be:

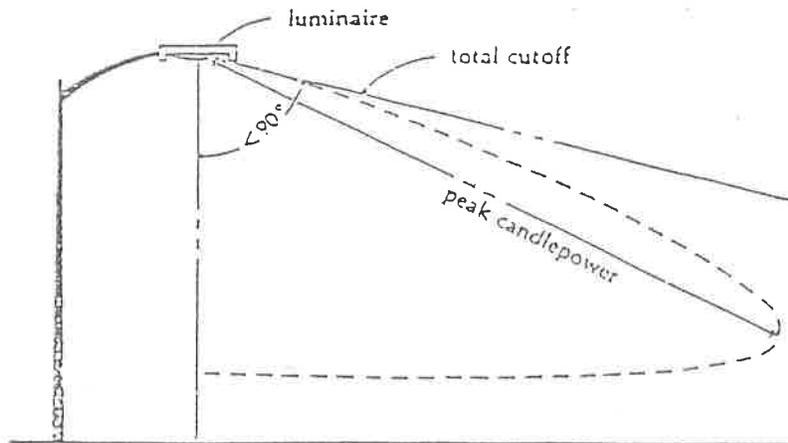
Maximum permitted illumination - 1.0
 Maximum permitted height of post - 30 feet



90° CUTOFF LUMINAIRE

- C. When a luminaire has total cutoff of light at an angle less than ninety (90) degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five (5) feet above the ground at the point where the cutoff angle intersects the ground, then the maximum illumination and maximum permitted height of the luminaire shall be:

Maximum permitted illumination - 3.0
 Maximum permitted height of post - 40 feet



LUMINAIRE WITH LESS THAN 90° CUTOFF

No flickering or flashing lights are permitted.

Light sources or luminaires are not allowed within bufferyard areas, except on pedestrian walkways.

Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": Section 6-1203(q)(5) (Lighting of parking lots).

Drainage: The project will have the proper drainage as per city standards.

Developer: _____

City Engineer: _____

Criterion complied with: Yes___No___

Standards: Billings, Montana City Code: Chapter 6, "Buildings and Building Regulations", Articles 6-200 and 6-1200.

Public works department standards.

Ordinance No. 83-4565, Section 3.

Signage: Signs will be constructed to conform with the Sign Code. Signs shall not be mounted on a roof. There shall be no signs in a clear vision area. No moving, flashing or blinking signs shall be allowed.

Developer: _____

Sign Code

Administrator:

Criterion complied with: Yes ___ No ___

Standards: Sign Code and all other applicable ordinances regulating signs.

Noise: Projects will be designed to protect against noise pollution on the part of or happening to the project users.

Developer:

Building

Official:

Criterion complied with: Yes ___ No ___

Standards Billings, Montana City Code, Sections 17-101 through 17-112, "Noise."

For purposes of this criterion, the applicable district corresponding with the medical corridor will be "residential." (See Section 17-101, definition of "residential area" and BMCC Section 17-104, Table I)

Examples of design methods to reduce external noise intrusion include insulation, double-glazed windows, solid core doors, and acoustical ceiling tiles.

Parking: Projects shall meet or exceed the city standards for off-street parking and loading area requirements.

Developer:

**Building
Official:**

Criterion complied with: Yes___No___

**Standards: Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations":
Article 6-1200.**

Sec. 27-912. Point Chart for All Development - Relative Criterion.

(To be completed by Zoning Coordinator and city staff)

RELATIVE CRITERION	Is the Criterion Applicable?		Awarded Score 0-1-2	Multiplier	Points Earned	Maximum Points
	Yes	No				
Building Scale				3		6
Landscaping				3		6
Parking				3		6
Land Use				3		6
Density				3		6
Compatibility				3		6
Access on North 27th Street				2		4
Architectural Design				2		4
Building Materials				2		4
Removal of Dwellings				1		2
Residential Multi- Family				1		2
Transit				1		2
Multiple-Use				1		2
Pollution				1		2
TOTAL						58

Note: All medically-related proposals must achieve a minimum score of seventy (70) percent of the applicable criterion points possible in the relative criteria rating before a project can be approved, in addition to receiving "yes" answers to all applicable absolute criteria. If the land use proposal is not medically-related, then the proposal must achieve seventy-five (75) percent of the total points possible plus a "yes" answer to all applicable absolute criteria. Thus if all the relative criteria are applicable, a project

must score forty (41) points (seventy (70) percent) or forty-four (44) points (seventy-five (75) percent), depending on its land use.

Building

Scale: The scale of a building (its height, bulk, setback, and lot coverage) is encouraged to be sensitive to the immediate environment and, when possible, compatible in appearance with the scale of neighboring buildings. Property located between North 30th Street and the alley toward North 31st Street must maintain at least a ten (10) foot minimum setback from the alley. Where access is a problem for fire equipment, the Fire Department will require built-in fire protection systems.

Developer: _____

Requested Score _____

Planning: _____

Recommended Score _____
Multiplier x3 _____
Total Points _____

Final Plan Review: _____

Awarded Score _____
Multiplier x3 _____
Total Points _____

Standards and Scoring: For arterial setbacks see Chapter 27, "Zoning": Section 27-602.

See BMCC Sections 27-308 and 27-309 for general requirements for the Residential Multi-Family - Restricted, Residential Professional, Community Commercial, and Central Business Districts and BMCC Section 27-310 for Supplemental Area, Yard and Height Restrictions.

Points	Scale of Project
2	Fifty (50) percent or less lot coverage; same maximum height and minimum yard requirements as Residential Professional zoning classification for commercial uses and Residential Multi-Family Restricted for multiple family dwellings.
1	Standards for Community Commercial zoning classification met.
0	Standards for Central Business District zoning classification met.

Landscaping:

A project is encouraged to be landscaped in such a way as to provide public open space and areas of pedestrian activity and create an aesthetically pleasing setting around buildings and parking lots, and to create buffers between the proposed development and potentially incompatible uses (e.g., between parking lots and residential area).

Developer: _____

Requested Score _____

Planning: _____

Recommended Score _____
Multiplier x3 _____
Total Points _____

Final Plan
Review: _____

Awarded Score _____
Multiplier x3 _____
Total Points _____

Standards

and Scoring: Existing, healthy plant material may be counted for contributing toward the total plant material required. All plantings in right-of-way are subject to review and approval by the Parks Department and may be counted for up to twenty-five (25) percent required landscaping area.

Adequate maintenance must be included in the proposal to assure upkeep of all plant materials and landscaping treatments.

Appropriate plant materials are set forth in Section 27-913 and the "Plant Materials" reference document.

Understory trees may be substituted for canopy trees where it is found that canopy trees would destroy solar access on adjacent properties.

User safety is to be considered when selecting plant materials for landscaping areas heavily used at night.

The standards are applied proportionately when the total linear feet of building perimeter is over three hundred (300) feet for non-residential uses or ten (10) residential dwelling units.

Number of plant units required per three hundred (300) square feet of nonresidential use or ten (10) dwelling units:

- 2 Canopy;
- 2 Understory;
- 10 Shrubs.

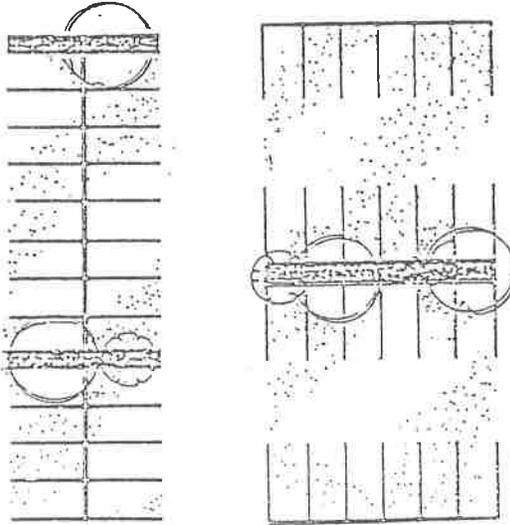
The number and type of plant units suggested per twenty-four (24) automobile spaces in an off-street parking area is shown below. The standards shall be applied proportionally to any number of spaces over twenty-four (24).

Minimum area within which recommended planting should be provided - three hundred sixty (360) square feet:

- 2 Canopy;
- 1 Understory;
- 4 Shrubs.

360 S.F./24 Stalls

- 2 Canopy
- 1 Understory
- 4 Shrubs



Example

Points	Plant Material
2	Greater than 100% of standard.
1	Meets 100% of standard.
0	Meets less than 100% of standard or no effort made.

Note: Lot area set aside for green areas and landscaping are not to include concrete, asphalt, cement, or gravel treatments. However, consideration to point adjustment will be given based on quality (e.g. benches, lawn areas, usable space, pedestrian plazas, and plantings).

Parking: Parking garage construction or joint use agreements are encouraged in order to reduce the amount of land being used for parking.

Developer: _____

Requested Score _____

**Building
Official:**

Recommended Score _____
 Multiplier x3 _____
 Total Points _____

**Final Plan
Review:**

Awarded Score _____
 Multiplier x3 _____
 Total Points _____

**Standards
and Scoring:** Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations":
 Article 6-1200.

Maintain parking according to building code occupancy for employees (one space per employee). In addition to this, meet "Table of Minimum Standards-Off-Street Parking" (BMCC Section 6-1203(j)) according to proposed land use.

Points	Parking Requirement
2	Provide 20% over minimum parking standard plus joint use agreements for at least 25% of the parking provided, or a parking garage for at least the minimum parking standard.
1	Provide 10%-20% over minimum parking standard, or provide minimum standard plus a plan to promote mass transit or carpooling (as approved by MET).
0	Less than 10% over the minimum standard met for parking.

Land Use: The land use of the development is encouraged to be medically-related, given that the primary reason for establishing the medical corridor is to provide for a systematic development of medical services in this area and to have its development be consistent with high quality standards.

Developer: _____

Requested Score _____

Planning: _____

Recommended Score _____
Multiplier x3 _____
Total Points _____

Final Plan Review: _____

Awarded Score _____
Multiplier x3 _____
Total Points _____

Standards and Scoring: Set forth below are general and specific land use definitions.

Generally:

Points	Land Use
2	Offices for physicians and surgeons, dentists and dental surgeons, osteopathic physicians, or chiropractors; hospitals and clinics; medical laboratories; dental laboratories; convalescent homes; health and allied services.
1	Medical support services, accessory uses.
0	All other land uses.

Specific land use definitions:

Point Value - 2

Offices of physicians and surgeons:

Clinics (operated by physician groups)

Gynecologists

Neurologists

Nuclear medicine and radio-therapists

Obstetrics

Oculists

Offices of physicians and surgeons

Ophthalmologists

Pathologists

Psychiatrists

Psychoanalysts

Radiologists

Offices of dentists and dental surgeons

Offices of osteopathic physicians

Offices of chiropractors

Hospitals:

Hospitals for humans

Hospital-operated clinics

Nurses' training schools

Medical laboratories:

Laboratories (not manufacturing) for biological, bacteriological, chemist, medical, x-ray (picture and treatment)

Pathological laboratories

Research laboratories (medically-related)

Dental laboratories

Denturists

Convalescent homes:

Convalescent homes

Nursing homes

Rest homes

Health and allied services:

Birth control clinics
Blood banks
Clinics, not operated by hospitals or physician groups
Dieticians and diet centers
Group health associations
Medical photography
Mental health centers
Nursing services
Occupational therapist
Optometrists
Out-patient treatment clinics for alcoholism and drug abuse
Physiotherapy
Psychiatric clinics
Podiatrists
Prosthetists
Orthopedic Supply
Audiologists
Psychotherapists
Rehabilitation centers (therapy and treatment)
Speech defect clinics

Point Value - 1

Medical support services:

Day care centers
Group homes
Medically-related office space
Medical educational facilities
Out-patient medical and surgical support services
Pharmacies

Accessory uses and uses incidental to any of the above uses:

Cafeteria
Churches, chapels, houses of worship
Heliport (no bulk-fuel storage will be allowed)
Hotels, motels
Mortuaries
Off-street parking garages and lots
Recreational facilities
Restaurant (without beer/wine or all beverage liquor license)
Restaurant (affiliated with hotel or motel, without beer/wine or all beverage liquor license)

Point Value - 0

All other land uses.

Density: Increased density of dwelling units is encouraged in order to provide increased housing opportunities close to the hospitals, Central Business District and near major employers and Montana State University - Billings.

Developer: _____

Requested Score _____

Planning: _____

Recommended Score _____
Multiplier x3 _____
Total Points _____

Final Plan Review: _____

Awarded Score _____
Multiplier x3 _____
Total Points _____

**Standards
and Scoring:**

Minimum Lot Size	Number of Units
2,500 square feet	1
4,000 square feet	2
5,000 square feet	3
6,000 square feet (500 square feet)	4 (each additional unit)

Points	Density
2	21% or more units than the standard
1	Up to 20% more units than the standard
0	Fewer units than the standard

Compatibility:

All efforts toward promoting neighborhood compatibility are encouraged, such as:

1. Having resolved all differences between proposed development and the affected neighborhood;
2. Keeping the development compatible with and sensitive to the immediate environment of the site and neighborhood relative to architectural design; scale, bulk and building height, disposition and orientation of buildings on the lot, and visual integrity;
3. Having conflicts between the proposed development and the surrounding land uses effectively mitigated; and
4. Designing the project so that any additional traffic generated does not have significant adverse impact on surrounding development, and the street system.

Developer: _____

Requested Score _____

Planning:

Recommended Score _____
Multiplier x3 _____
Total Points _____

**Final Plan
Review:**

Awarded Score _____
Multiplier x3 _____
Total Points _____

**Standards
and Scoring:**

Compatibility has been stressed throughout this document. The reason for that is the desire to protect the residents in the area and to preserve the neighborhood-type setting now enjoyed. Past construction activity has threatened that quality, and this chapter is an attempt to instead enhance the area.

Again, it is recognized that the primary purpose for the corridor is to serve as a central location for medically-related services and products, with all other land uses being secondary in importance. However, the permit zoning system will allow the city to have more control over the area's development than in the past in order to protect both the existing residences and the area to the immediate west of the medical corridor from encroachment by unsightly or inappropriate land uses. At the same time, the city will be able to encourage development which will be beneficial to the entire community in terms of design, health care, and economic return.

Protection of the remaining areas of single-family residences must be assured through communication between the developers and the property owners, and through design. In particular, compatibility is sought for the homes south of 11th Avenue North on North 30th Street, between 12th and 10th Avenues North on North Broadway, and the areas of homes south of 11th Avenue North on North 29th Street. It is these areas which are most in need of compatible, sensitive development around their environs.

Points	Compatibility Effort
2	Developer met with adjacent property owners on own accord in effort to keep differences to a minimum and achieved high degree of compatibility with immediate environment.
1	Developer either met with adjacent property owners on own accord to assure compatibility or achieved high degree of architectural compatibility.
0	No effort made.

**Access on
North 27th
Street:**

If the project is proposed on property adjacent to North 27th Street, it is encouraged that limited access be provided on North 27th Street and, where applicable, side streets be used for accessibility.

Developer: _____

Requested Score _____

City Traffic
 Engineer: _____

Recommended Score _____
 Multiplier x2 _____
 Total Points _____

Final Plan
 Review: _____

Awarded Score _____
 Multiplier x2 _____
 Total Points _____

Standards

and Scoring: Billings, Montana City Code; Chapter 6, "Buildings and Building Regulations," Section 6-1208 (Curb Cut Regulations).

If property abuts an avenue, access to the site is to be provided by a curb into the avenue rather than North 27th Street.

The minimum standards from the Curb Cut Ordinance shall be met, as well as the American Association of State Highway and Transportation Officials' standards for site distance.

Points	Access
2	O access on North 27th Street if avenue is available; otherwise 1 access when frontage is only along North 27th Street; shared access between two properties with property widths of 60 feet or less.
1	1 access for property with 60 feet or less frontage; 2 accesses for any single property tract or business establishment in excess of 60 feet frontage when distance between curb cuts exceeds minimum standard of 25 feet.
0	2 accesses for property or business establishment in excess of 60 feet frontage with 25 feet distance between curb cuts; no effort to use avenue for access when possible to do so.

Architectural

Design: Development design is encouraged to be either compatible in design with the neighboring properties or promote harmonious transitions in scale and character in areas between different land uses. Design should thus be appropriate to the site and function of the project and should promote interior energy conservation measures.

Developer: _____

Requested Score _____

Building
Official:

Recommended Score _____
Multiplier x2 _____
Total Points _____

Planning:

Recommended Score _____
Multiplier x2 _____
Total Points _____

Final Plan
Review:

Awarded Score _____
Multiplier x2 _____
Total Points _____

Standards
and Scoring:

Examples of design features promoting energy conservation include double-glazed windows, thickness or density of walls and doors, insulation, and sealing around windows and doors.

Examples of compatibility are use of similar building materials, closeness in scale with neighboring structures, color or style similarities.

Solar collectors are to be designed as harmoniously as possible with the natural features of the building or property.

Billings, Montana City Code, Chapter 6, "Buildings and Building Regulations": All appropriate sections.

Points	Scale of Project
2	Either achieves highest possible compatibility in design with surrounding area or provides for maximum level of effort to be harmonious with adjacent, differing land uses, plus incorporating interior energy conservation measures.
1	Makes an effort to be compatible or harmonious and incorporates interior energy conservation measures.
0	No effort made in design or interior energy conservation.

Building

Materials: The use of building materials for structures and fences which are compatible with the surrounding environment is encouraged.

Developer: _____

Requested Score _____

**Building
Official:**

Recommended Score _____
Multiplier x2 _____
Total Points _____

Planning: _____

Recommended Score _____
Multiplier x2 _____
Total Points _____

**Final Plan
Review:**

Awarded Score _____
Multiplier x2 _____
Total Points _____

Standards

and Scoring: The use of materials such as wood, brick, or siding which have subdued colors and help blend the building into the landscape is encouraged.

Loud, obnoxious colors, untreated block, and plain metal buildings visible from streets are discouraged.

Points	Materials Used
2	When feasible, building materials are natural; colors are otherwise subdued; exceptional effort made to be compatible with neighboring building materials.
1	Colors are subdued and building materials are generally compatible.
0	Loud colors, untreated block, plain metal buildings visible from street, and incompatible materials with surroundings.

Removal of

Dwellings: The removal of existing dwellings more than forty-five (45) days prior to the start of construction is discouraged. In addition to this, the proper abandonment of existing utility services is required, unless services will be reused.

Developer:

Requested Score _____

**Building
Official:**

Recommended Score _____
Multiplier x1 _____
Total Points _____

**Final Plan
Review:**

Awarded Score _____
Multiplier x1 _____
Total Points _____

Standards

and Scoring: Billings, Montana, Chapter 6, "Buildings and Building Regulations": Article 6-1000.

A cash bond will be deposited with the City in order to ensure the meeting of the deadlines when either "2" or "1" point(s) are sought. The City Administrator will set the terms and conditions of the bond.

Points	Removal of Dwellings
2	Dwelling to be removed less than 30 days prior to project start-up date.
1	Dwelling to be removed 45 to 30 days prior to project start-up date.
0	Dwelling to be removed over 45 days in advance of project start-up date.

Residential

Multi-

Family:

Residential multiple family development is encouraged in the southern portion of the medical corridor area and along the west side of North 30th Street.

Developer: _____

Requested Score _____

Planning: _____

Recommended Score _____
Multiplier x1 _____
Total Points _____

Final Plan
Review: _____

Awarded Score _____
Multiplier x1 _____
Total Points _____

Standards
and Scoring: 1990 Yellowstone County Comprehensive Plan.

Points	Location of Proposed Multi-Family Development
2	Between 9th Avenue North and 7th Avenue North; or along the west side of North 30th Street between 9th Avenue North and Grandview Boulevard.
1	Between 11th Avenue North and 9th Avenue North.
0	North of 11th Avenue North.

Transit: Developments are encouraged to promote the use of MET by residents, employees and patrons.

Developer: _____

Requested Score _____

MET Transit: _____

Recommended Score _____
Multiplier x1 _____
Total Points _____

Final Plan Review: _____

Awarded Score _____
Multiplier x1 _____
Total Points _____

Standards and Scoring: MET Transit Bus Shelter Specifications. Billings, Montana City Code, Chapter 7, "Businesses and Business Regulations": Article 7-1000.

Upon the developer's request, staff will establish criteria for awarding one (1) or two (2) points for each specific development. These criteria may include, but are not limited to, such items as providing funding for bus shelters, benches, shelter maintenance agreements, subsidized bus passes or fares for development users, schedule displays, and advertising.

The developer can then secure the one (1) or two (2) points by agreeing to comply with the criteria. If the developer does not agree that the criteria are appropriate for the specific development, the criteria established can be appealed to the City Council.

No effort made will result in a zero score.

**Multiple-Use
Development:**

A development which provides facilities for more than one function is encouraged. Examples of such developments are an office building with child care facilities for employees and a building offering ground floor commercial/office space, as well as, multiple family units on the upper floors.

Developer: _____

Requested Score _____

Planning: _____

Recommended Score _____
Multiplier x1 _____
Total Points _____

Final Plan
Review: _____

Awarded Score _____
Multiplier x1 _____
Total Points _____

Standards
and Scoring: Billings, Montana City Code:

Chapter 6, "Building and Building Regulations," Article 6-1200.

1990 Yellowstone County Comprehensive Plan.

Uses being proposed in a development should be uses which are allowed within the existing zoning categories of either Residential Professional or Neighborhood Commercial.

Points	Number of Uses
2	3 or more
1	2
0	1

Pollution: Developments are encouraged to be designed so that odor and air quality are controlled at its source or by the structure from which it is emitted so it does not constitute a nuisance.

Developer: _____

Requested Score _____

City Engineer: _____

Recommended Score _____
Multiplier x1 _____
Total Points _____

Final Plan Review: _____

Awarded Score _____
Multiplier x1 _____
Total Points _____

Standards

and Scoring: If determined that the proposed development will adversely affect air quality, the city can refer the proposal to the County Air Pollution Control Board.

Points	Mechanism
2	Maximum protection from generating air and odor pollution will be given.
1	Adequate protection from generating air and odor pollution will be given.
0	Minimal effort to be made to protect from possibility of generating air and odor pollution.

Sec. 27-913. Plant Materials for Landscaping and Bufferyards.

A. Rules and Regulations. The City Administrator shall promulgate and publish rules and regulations which will be on file at the Parks, Recreation, and Public Lands Department specifying the plant materials and standards which must be met in order to satisfy the requirements of landscaping and bufferyards. The rules and regulations will be used to determine which plant materials will satisfy the requirements of this chapter. The plant materials are listed by type: Conifers and evergreen trees, evergreen shrubs, deciduous trees, deciduous shrubs, ground covers, and vines.

Although the rules and regulations will not generally specify the location or spacing of plant material required, all plant materials shall be installed to maximize achieving the purpose(s) for which the planting is required. In the case of bufferyard planting, this means that plant material shall be located so as to achieve the maximum level of protection to the less intense use.

B. Minimum Plant Size. Unless otherwise specifically indicated elsewhere in this chapter, all plant materials shall meet the minimum size standards set forth in Table 1.

TABLE 1.

<i>Plant Material Type</i>	<i>Minimum Size</i>	
	<i>Planting in Bufferyards Abutting Vacant Lands</i>	<i>All Other Plantings</i>
Canopy tree:		
Single stem	1½ inch caliper	2½ inch caliper
Multi-stem clump	6 feet (height)	10 feet (height)
Understory tree	4 feet (height)	1½ inch caliper
Evergreen tree	3 feet (height)	5 feet (height)
Shrub:		
Deciduous	15 inch (height)	24 inch (height)
Evergreen	12 inch (height)	18 inch (height)

C. Existing Plant Material. Existing, healthy plant material may be counted as contributing to the total plant material required by this regulation.

Sec. 27-914. Review Chart - All Criteria.

A. Absolute Criteria:

Complied With

- | | |
|------------------------|--------------------|
| 1. Building Standards | Yes___No___N/A___ |
| 2. Utilities | Yes___No___N/A___ |
| 3. Vehicular Traffic | Yes___No___N/A___ |
| 4. Pedestrian Access | Yes___No___N/A___ |
| 5. Public Facilities | Yes___No___N/A___ |
| 6. Public Right-of-Way | Yes___No___N/A___ |
| 7. Lighting | Yes___No___N/A___ |
| 8. Drainage | Yes___No___N/A___ |
| 9. Signage | Yes___No___N/A___ |
| 10. Noise | Yes___No___N/A___ |
| 11. Parking | Yes___ No___N/A___ |

A proposal must receive a "Yes" answer to all of the above criteria, if applicable, in order to be considered for approval.

Does the proposal qualify for a permit based on the above criteria? Yes___No___

B. <i>Relative Criteria</i>	<i>Points Earned</i>
1. Building Scale	_____
2. Landscaping	_____
3. Parking	_____
4. Land Use	_____
5. Density	_____
6. Compatibility	_____
7. Access on North 27th Street	_____
8. Architectural Design	_____
9. Building Materials	_____
10. Removal of Dwellings	_____
11. Residential Multi-Family	_____
12. Transit	_____
13. Multiple-Use	_____
14. Pollution	_____
TOTAL	_____

Minimum Points Required. Seventy (70) percent of total applicable points possible for medically-related land use proposal; seventy-five (75) percent of total applicable points possible for nonmedical-related land use proposal.

Proposal (has____)(has not____) attained minimum points required to total applicable points.

Proposal qualifies for a permit. Yes___ No___

Sec. 27-915. Existing Development.

A. Should an existing development propose to externally remodel fifty (50) percent or more of the building, have an addition put on in excess of ten (10) percent of the existing building, change its use, or create some nonbuilding improvements (e.g., parking lots, fences), then certain provisions shall be complied with. The property will have to comply with all of the applicable absolute criteria and address four (4) of the relative criteria of the permit system before a permit is issued by the Zoning Coordinator.

B. Existing developments which involve the external remodeling of less than fifty (50) percent of the building or an addition of ten (10) percent or less onto an existing building must comply with the absolute criteria. The relative criteria will not be addressed by these projects. However, if the existing development is a single-family dwelling or a duplex now meeting and proposed to continue meeting the standards of the Residential 6,000 (R-60) zoning category, then it will not need to go through this permit procedure for remodeling, additions, or fences. When these conditions are met, the building permit shall be issued for these development types.

C. Internal remodeling projects (which are not changing the use of the building) will be exempt from this chapter and will go through the regular building permit process.

D. Parking lots for existing developments which are proposed to add ten (10) or fewer spaces for off-street parking will go through this section's process. All other parking lots will go through the entire permit zoning procedure.

<i>Relative Criterion</i>	<i>Awarded Score</i>	<i>Multiplier</i>	<i>Points Earned</i>	<i>Maximum Points</i>
Building Scale		3		6
Landscaping		3		6
Architectural Design		2		4
Building Materials		2		4
Total Maximum Points				20

E. All building permit applications for existing development must receive a "yes" to all applicable absolute criteria plus achieve a minimum score of seventy-five (75) percent among the applicable relative criteria before a project can be approved and a building permit issued. Thus if all four (4) criteria apply, the applicant must achieve at least fifteen (15) points before a permit is issued. The Zoning Coordinator will notify the applicant of the

awarded scores. Depending upon the scope of the project it is suggested that the Zoning Coordinator "fast track" this process and allow no more than two (2) weeks for departmental review of the preliminary plan BMCC Section 27-908(B) and one (1) week for review of the final plan BMCC Section 27-908(C). A conceptual review BMCC Section 27-908(A) is not required for this section but is highly recommended. The same notification procedures will be used as is outlined in BMCC Section 27-908 for contacting department representatives and adjacent property owners.

Sec. 27-916. Appeal Process Relating to Issuance of Denial of Permit.

A. Generally. The following outlines the appeal process which can be exercised by either a developer who is denied a permit or an adjacent property owner who wishes to protest or appeal the city staff decision to grant a permit for a particular development.

B. Developer Appeal. Should a permit be denied, a developer will receive a written explanation from the Zoning Coordinator as to the reasons for the denial within two (2) weeks of the final plan's submittal. The developer then has fourteen (14) days from the date on the letter in which to file a request for appeal before the City Council. The petition requesting an appeal and a copy of the Zoning Coordinator's letter giving the reason(s) for the denial of the permit shall be filed with the City Clerk and shall be placed on the City Council agenda within thirty (30) days after receipt of the petition. The City Council will review the petition and vote (by simple majority) whether an appeal may be filed for their consideration. If permission to appeal is not granted, then the Zoning Coordinator's denial of the permit stands. Should permission be given to hear an appeal, then the developer will have thirty (30) days in which to file a written appeal with the City Clerk. It shall include a copy of the Zoning Coordinator's explanation for denial of the permit, and the developer's reasons why the permit should be issued. A copy of this appeal must be sent to the Zoning Coordinator.

The City Clerk shall then place the item on the City Council agenda. The City Clerk shall notify all adjacent property owners as outlined in this document, by letter, of the time and place of the City Council meeting so that they may appear and comment on the appeal.

C. Adjacent Property Owner Appeal. Once the Zoning Coordinator decides to grant a permit, the Zoning Coordinator must notify all adjacent property owners (including all lands directly opposite the site) by letter and inform them that they have fourteen (14) days from the date of the letter to submit a request of an appeal of the decision to the City Council. If a request for appeal is not submitted for council consideration, then the decision of the Zoning Coordinator stands. If the property owners want to submit a petition requesting an appeal, it shall be filed along with the Zoning Coordinator's letter with the City Clerk, and the clerk shall place the petition on the City Council agenda within thirty (30) days. Should the council agree to hear the appeal, then the property owners filing the request must submit, in writing, reasons why adjacent property owners feel the permit should not be granted. The filing must take place within thirty (30) days of the granting of permission by the City Council to hear the appeal and shall be filed with the City Clerk.

If the affected property owners do not appeal the decision to grant the permit within the fourteen (14) day period, they have waived their right to appeal and the Zoning Coordinator shall then issue a permit for the proposed development. If a request for an appeal is filed, a copy must be sent to the Zoning Coordinator by the City Clerk, and any issuance of a permit shall be delayed until the City Council can resolve the matter.

Section 8. That Article 27-1000, Sections 27-1001 through 27-1011 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-1001. Intent.

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

Objectives

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

Sec. 27-1002. Application and Approval Process.

All plans and applications for development and signs shall be submitted to the City-County Planning Department. All applications must be submitted in person and signed by

the property owner, lessee, the contract purchaser or the authorized agent of the property owner.

Planning Department approval is to ensure compliance with the Zoning Regulations. This does not in anyway construe approval by any other city or county department. A building permit and Planning Department approval are required prior to construction.

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

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

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

Sec. 27-1003. Definitions.

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

Sec. 27-1004. Zoning Districts.

Entryway Light Commercial Zone (ELC)

The purpose of the Entryway Light Commercial zone is to provide limited entryway commercial convenience facilities, serving the nearby community.

Permitted Uses:

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

Accessory uses and structures associated with a permitted principal structure

Apparel and accessory stores
Bakeries, retail
Banking and financial institutions
Barber and beauty shops
Book and stationery stores
Coin-operated laundry and dry-cleaning pick up station
Convenience stores, with or without gas sales
Food stores
General merchandise stores
Hardware stores
Home furniture and furnishing stores
Mailing, photocopying, blueprinting and duplicating services
Newsstands
Offices
Paint stores
Pharmacies
Photo-finishing labs
Restaurants without the sale of alcoholic beverages
Shoe repair shops
Watch, clock and jewelry repair

Special Review Uses:

Any of the above-permitted uses greater than three thousand (3,000) square feet GFA

Car washes

Commercial recreation uses only as listed below:

Arcades
Batting cages
Boat Rentals
Bowling alleys
Canoe and kayak rentals
Day camps
Driving ranges
Golf courses
Handball courts
Ice skating rinks
Miniature golf
Parks
Playing fields
Racquetball courts
Riding stables
Roller skating rinks
Schools and camps for sports instruction
Swimming pools
Tennis courts

Waterslides

Gravel and/or sand extraction

Mixed use developments which include residential uses

Other retail uses similar in nature to those listed above

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

Entryway General Commercial Zone (EGC)

The purpose of the Entryway General Commercial Zone is to provide a specialized classification for hotels, restaurants and other tourist-related facilities near major highway interchanges.

Permitted Uses:

Accessory uses and structures associated with a permitted principal structure

Apparel and accessory stores

Automobile and truck sales (New and Used)

Automobile rental agencies

Automotive service stations

Bakeries, retail

Banking and financial institutions

Barber and beauty shops

Book and stationery stores

Broadcasting studios, radio and television

Car washes

Coin-operated laundry and dry-cleaning pick up station

Commercial recreation uses only as listed below:

Arcades

Batting cages

Boat rentals

Bowling alleys

Canoe and kayak rentals

Day camps

Driving ranges

Golf courses

Handball courts

Ice skating rinks

Miniature golf

Parks

Playing fields

Racquetball courts

Riding stables

Roller skating rinks

Schools and camps for sports instruction

Swimming pools

Tennis courts

Waterslides

- Convenience stores, with or without gas sales
- Food stores
- General merchandise stores
- Hardware stores
- Home furniture and furnishing stores
- Hotels/Motels
- Laundry and dry-cleaning establishments
- Mailing, photocopying, blueprinting and duplicating services
- Newsstands
- Offices
- Paint stores
- Pharmacies
- Photo-finishing labs
- Recreational vehicle sales and service
- Restaurants without the sale of alcoholic beverages
- Retail nurseries, lawn and garden supply stores
- Shoe repair shops
- Signs, computer controlled variable message
- Theaters (Indoor)
- Tire sales
- Watch, clock and jewelry repair
- Wholesale uses not to exceed three thousand (3,000) square feet gross floor area (GFA)

Special Review Uses

Campgrounds

Commercial Recreation uses only listed as below:

- Go-cart tracks
- Rodeos
- Roping arenas
- Gravel and/or sand extraction
- Mixed use developments which include residential uses
- Other retail uses similar in nature to those listed above
- Restaurants with the sale of alcoholic beverages for on-premise consumption
- Truck stops
- Veterinary clinics
 - a. Boarding
 - b. Outpatient Only
- Wholesale uses not to exceed ten thousand (10,000) square feet gross floor area (GFA)
- Zoos

Entryway Mixed Use Zone (EMU)

The purpose of the Entryway Mixed Use Zone is to provide for commercial recreation development and a mixture of low intensity residential and low intensity commercial/office use. This zone allows for low impact commercial and residential development that will have minimal adverse effect on adjacent natural resources and existing uses.

Permitted Uses:

Accessory uses and structures associated with a permitted principal structure

Campgrounds

Commercial recreation uses only listed as below:

Batting cages

Boat rentals

Canoe and kayak rentals

Day camps

Driving ranges

Golf courses

Handball courts

Ice skating rinks

Miniature golf

Parks

Playing fields

Racquetball courts

Riding stables

Schools and camps for sports instruction

Swimming pools

Tennis courts

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

Residential, Single-family

Residential, Multi-family

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

Special Review Uses:

Commercial Recreation uses only listed as below:

Go-cart tracks

Rodeos

Roping arenas

Gravel and/or extraction

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

Sec. 27-1005. Development Standards.

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

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

Minimum building setback from property line:

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

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

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

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

Traffic Accessibility Studies

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

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

Drive-through services
Truck stops

Sec. 27-1006. Landscaping Standards.

A. Definitions:

Canopy tree: A species of tree which normally bears crown foliage no lower than six (6) feet above ground level upon maturity. Minimum size of canopy trees shall be two and one-half (2½) inches in caliper.

Evergreen tree or shrub: A tree or shrub of a species which normally retains leaves/needles throughout the year. Minimum size of evergreen trees shall be five (5) feet in height.

B. Street Frontage Landscaping. All commercial zones are required to place a bufferyard (landscaping strip) adjacent to and along the length of all rights-of-way, excluding driveways. Rights-of-way include the following: ditches adjacent to streets, principal arterial streets, minor arterial streets, collector streets, local streets and US Interstate 90.

The developer shall have the option of bufferyard widths (see options below). Placement and landscaping design shall be at the discretion of the developer. It is recommended that a design professional or local nursery be contacted for assistance with the development of the landscape design.

Bufferyard Requirements

The developer shall have the option of one (1) of the following three (3) bufferyards. Bufferyard depth is measured from the property line inward. Any buffer area which overlaps another buffer area shall be subtracted from the total to avoid double counting.

Number of trees and shrubs required per one hundred (100) feet of frontage:

1. 25 foot wide bufferyard
 - 5 Canopy or evergreen trees
 - 10 Shrubs

2. 20 foot wide bufferyard
10 Canopy or evergreen trees
15 Shrubs
3. 15 foot wide bufferyard
15 Canopy or evergreen trees
20 Shrubs

The following criteria shall also apply to the bufferyards.

1. The landscape strip shall be contoured. Berming shall be one (1) foot of rise to four (4) feet of run with a minimum of three (3) feet in height. Depressions shall be no lower than the existing grade of the site.
2. All landscaped areas shall contain ground cover such as sod, shrubs, flower beds or organic materials. No more than ten (10) percent of the landscaped area shall contain fountains, rock, bark chips, stepping stones or similar material.
3. All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter.

C. Off-Street Parking Lot Landscaping. Landscaping shall be provided within all parking areas. The following requirements shall apply:

1. A minimum of twenty (20) square feet of landscaped area shall be provided for each parking space.
2. Two (2) canopy and/or evergreen trees and five (5) shrubs shall be required for every nine (9) parking spaces.
3. All landscaped areas shall contain ground cover such as sod, shrubs, flower beds or organic materials. No more than ten (10) percent of the landscaped area shall contain fountains, rock, bark chips, stepping stones or similar material.
4. The minimum width and/or length of any parking lot landscaped area shall be five (5) feet.
5. Internal parking lot landscaping provided shall be proportionately dispersed, at the developers discretion, in order to define aisles and limit unbroken rows of parking. The maximum horizontal or vertical unbroken length shall be limited to one hundred (100) feet. Landscaped areas provided shall be in a scale proportionate to parking lot.
6. Any development that has parking abutting a required bufferyard, may extend the width of that bufferyard a minimum of five (5) feet and include the additional

required parking landscaping plant material. The minimum bufferyard width and landscaping material is required in addition to the parking landscaping.

7. All landscaped areas shall be irrigated, maintained and kept free of weeds, debris and litter.

D. Protection of Landscaped Areas. Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved permanent barriers.

E. Commercial Uses Abutting Residential Uses. All commercial uses abutting residential uses shall install a bufferyard. The bufferyard shall be ten (10) feet wide and shall contain ten (10) evergreen and/or canopy trees and ten (10) shrubs per one hundred (100) lineal feet. A solid fence or wall that is architecturally compatible in color and design with the building, shall be required on the property line. The fence height shall be a minimum of six (6) feet. Chain link or other wire fencing material is prohibited.

F. Recommended Tree Types. It is recommended that the developer work with the City Parks Department, a local greenhouse operator, landscape architect or other design professional to determine the species of trees that are most suitable for each situation. The use of native, drought-tolerant plant material is strongly encouraged. Evergreen trees are encouraged for bufferyards and canopy trees are encouraged for parking areas, however, the planting of trees should be done in such a manner as to provide maximum solar efficiency throughout the site.

A list of recommended native plant material shall be available at the Planning Department.

G. Fractions in the Calculation of Number of Trees and Shrubs. In the calculation of trees and shrubs for bufferyards or parking landscaping, all fractions shall be rounded to the nearest whole number.

Sec. 27-1007. Building Design Standards.

A. All buildings shall be completed on all sides with an acceptable finishing material. The following materials are acceptable: brick, fluted block, colored textured block, glass, stucco, architectural concealed fastener metal panels, exterior insulation and finishing systems (i.e. Dryvit, etc.), stone or wood. Exposed seam metal buildings shall be prohibited unless covered with an acceptable finishing material.

B. Roofs shall be finished with a material that is architecturally compatible in color and design with the construction of the building. Metal roofs, fascia and mansards shall be limited to the following: standing seam, metal shakes or shingles and architectural metal treatments. All mechanical equipment placed on top of any roof shall be screened by a

parapet or other similar architectural apparatus being at least the height of the mechanical equipment. Pitched roofs are encouraged whenever possible.

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

Sec. 27-1008. Additional Provisions for Commercial Uses.

A. Storage of Merchandise. Any permitted storage of merchandise outside an approved building shall be within an area enclosed with a sight obscuring fence at least six (6) feet in height that is architecturally compatible in color and design with the building. However, promotional displays, vehicle sales lots and plant materials may be displayed outside of an approved building or enclosed area so long as they are placed appurtenant to a building wherein the business displays the bulk of its goods for sale. In addition, retail nurseries shall be exempt from the enclosure of plant materials. Bufferyards or required landscaping shall not be used for the displaying of merchandise. Chain link or other type of wire fencing is prohibited.

B. Site Lighting:

1. All outdoor lighting shall be designed, located and mounted at heights no greater than:
 - a. Eighteen (18) feet above grade for non-cutoff lights; and
 - b. Thirty-five (35) feet above grade for cutoff lights.
2. Maximum Illumination. All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line shall not exceed three-tenths (0.3) footcandle for non-cutoff lights and one and five-tenths (1.5) footcandles for cutoff lights.

C. Storage of Junk. No person shall store junk, partially or completely dismantled vehicles, or salvaged materials in any commercial zone outside a building. In the case of automobile repair shops, such materials must be enclosed within a building or an area having a sight obscuring fence at least six (6) feet in height. Chain link or other type of wire fencing is prohibited.

D. Solid Waste Area. All solid waste storage facilities shall be located within an area enclosed with a sight obscuring fence or wall that is architecturally compatible in color and design with the building. Chain link or other type of wire fencing is prohibited.

Sec. 27-1009. Signs.

A. Intent. This section shall not regulate official traffic or government signs; the copy and message of signs; signs not intended to be viewed from a public right-of-way; window displays; product dispensers and point of purchase displays; scoreboards on athletic fields; flags of any nation, government or fraternal organization; gravestones; barber poles; religious symbols; or any display or construction not defined herein as a sign.

B. Definitions. Words and phrases used in this section are defined in this section. Principles for computing sign area are outlined in subsection E of this section.

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

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

For computing the areas of any wall or canopy sign which consists of letters mounted or painted on a wall or canopy, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters. (See below subsection E for calculation of sign area.)

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

Beacon: Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same lot as the light source; also, any light with one (1) or more beams that rotate or move.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Portable Sign: Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted to A- or T-frames; menu and sandwich board signs; balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operations of the business.

Principal Building: A structure accommodating the principal use to which the property is devoted. Lots with multiple principal uses may have multiple principal buildings, but storage buildings, garages and other clearly accessory uses shall not be considered principal buildings.

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

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

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

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

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

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

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

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

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

Wall Sign: Any sign attached parallel to, painted on the wall surface or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall or building, and which displays only one (1) sign surface. Wall signs shall not exceed twenty-two (22) inches in depth measured from the face on the wall on which the sign is mounted.

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

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

C. Signs Prohibited. All signs not expressly permitted under this section or exempt from regulation hereunder in accordance with the following section are prohibited. Such signs include, but are not limited to:

1. Beacons;
2. Wind-driven sign, except flags as defined in this section;
3. Strings of lights not permanently mounted to a rigid background, except those exempt under the following section;
4. Inflatable signs and tethered balloons;
5. Portable signs;
6. Animated signs;
7. Above-peak roof signs;
8. Banner signs;
9. Abandoned signs;
10. Snipe signs or signs attached to trees, telephone poles, public benches, streetlights or placed on any public property or public right-of-way; and

11. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said signs (this does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business).

D. Signs Not Requiring Permits. The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of this section:

1. Construction signs of sixteen (16) square feet or less;
2. Special event or holiday lights or decorations;
3. Nameplates of two (2) square feet or less;
4. Public signs or notices, or any sign relating to an emergency;
5. Real estate signs; (see below subsection I, 2)
6. Political signs; (see below subsection I, 4)
7. Interior signs not visible from the exterior of the building; and
8. Directional signs not to exceed twelve (12) square feet in area or six (6) feet in height.

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

F. Maintenance. All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced.

G. Lighting. Unless otherwise prohibited by this section, all signs may be illuminated.

H. Changeable Copy. Unless otherwise specified by this section, any sign herein allowed may use manual, or fixed message electronic sign.

Computer controlled variable message electronic signs shall be permitted provided that the bottom of the reader board is ten (10) feet above the crown of the adjacent road. Computer controlled variable message electronic signs shall not be permitted in the Entryway Light Commercial (ELC) and the Entryway Mixed Use (EMU) zones.

I. Signs Permitted in Residential Districts:

1. One (1) non-illuminated sign for each street frontage of a construction project, not to exceed forty-eight (48) square feet in sign area. Such signs may be erected thirty (30) days prior to beginning of construction and shall be removed thirty (30) days following completion of construction.
2. One (1) non-illuminated real estate sign per lot or premises not to exceed sixteen (16) square feet in sign area for residential properties and thirty-two (32) square

feet for commercial properties. Such signs must be removed fifteen (15) days following sale, rental or lease of the real estate involved.

3. One (1) non-illuminated attached building nameplate per occupancy, not to exceed two (2) square feet in sign area.
4. One (1) non-illuminated political sign not to exceed sixteen (16) square feet in sign area. Such signs shall not be erected more than forty-five (45) days prior to the election or referendum concerned and shall be removed ten (10) days following such election or referendum. Political signs may be placed only on private property and only with the permission of the property owner.
5. One (1) subdivision sign per street frontage not to exceed forty-eight (48) square feet in sign area in each location.
6. One (1) identification sign per entrance to apartment or condominium complex, not to exceed thirty-six (36) square feet in sign area.

J. Signs Permitted in Commercial Districts:

1. All signs permitted in residential districts as listed in above subsection I.
2. The total square footage of all signs located on the property, including, but not limited to freestanding, wall, projecting, integrated roof, canopy, under-canopy and directional signs, shall not exceed three (3) square feet in sign area for each lineal foot of property frontage. This frontage shall be calculated using local streets, not the interstate highway.
3. One (1) freestanding sign within the Interchange/Entryway Zoning District may be installed to a height of forty (40) feet and may be a maximum of three hundred-fifty (350) square feet if the principal purpose of such signs is to address interstate traffic. The sign must be oriented perpendicularly to the interstate so the sign is visible to the interstate traveller. In addition, the property must be adjacent to the Interstate right-of-way.
4. Freestanding signs which do not address interstate traffic may be installed to a maximum height of twenty-four (24) feet and may have a maximum size of one hundred-fifty (150) square feet.
5. The setback for the leading edge of freestanding signs shall be a minimum of ten (10) feet.
6. No sign may be placed or designed so as to simulate or interfere with traffic control devices or official highway directional/informational signs.

7. One (1) freestanding sign per frontage, including the interstate highway, shall be allowed. Where a street frontage exceeds five hundred (500) feet, one (1) additional freestanding sign may be allowed per five hundred (500) foot increment. Freestanding signs shall have a minimum distance of one hundred-fifty (150) feet between signs. The total square footage of all freestanding signs shall not exceed the total allowable square footage for freestanding signs.
8. Wall signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. Electric awning and canopy signs shall not exceed twenty (20) percent of the square footage of the wall area upon which they are installed. The combination of wall signs, electric awning, canopy signs and projecting signs shall not exceed twenty (20) percent of the allowed wall sign area.
9. Integrated roof signs may be used instead of wall signs. The integrated roof sign size shall not exceed the allowable size for a wall sign. Integrated roof signs shall be constructed so as to conceal all structures and fastenings. The height of the sign shall not exceed the roof to which it is attached.
10. Projecting signs may be used instead of any wall or freestanding signs provided they do not project beyond the property line and maintain a clearance of ten (10) feet over sidewalk and fourteen (14) feet over any parking lot, driveway or crown of the street, whichever is higher. Projecting sign size shall not exceed the allowable size for a wall sign.
11. One (1) under-canopy sign for each separate occupancy or separate entrance not to exceed eight (8) square feet in sign area. Under-canopy signs must have a minimum clearance of nine (9) feet from the sidewalk.
12. Window signs shall not cover more than thirty (30) percent of the window area.
13. On-site directional signs as required.

K. Shopping Center Signs:

1. Shopping centers shall be allowed one (1) freestanding sign directory sign per frontage. The sign shall not exceed one hundred-fifty (150) square feet plus five (5) percent of the one hundred-fifty (150) square feet per tenant. Maximum sign size shall not exceed three hundred-fifty (350) square feet.
2. Shopping centers signs shall not exceed the maximum allowable freestanding signage.
3. Shopping center signs cannot be used if the Common Signage Plan is used.

L. Common Signage Plan:

1. **Common Signage Plan.** If the owners of two (2) or more contiguous or adjacent (disregarding intervening streets and alleys) lots or the owner of a single lot with more than one building (excluding accessory buildings) or multiple use buildings file with the Planning Director for such lot(s) a Common Signage Plan conforming with the provisions of this section, a twenty-five (25) percent increase in the maximum total sign area shall be allowed for each included lot. This bonus shall be allocated within each lot as the owner(s) elects.
2. **Provisions of Common Signage Plan.** The Common Signage Plan shall contain all of the following information:
 - a. An accurate plot plan of the lot, at such scale as the Planning Director may reasonably require;
 - b. Location of buildings, parking lots, driveways, clear vision triangles and landscaped areas on such lot;
 - c. Computation of the maximum total sign area, the maximum area for individual signs, the height of signs and the number of freestanding signs allowed on the lot(s) included in the plan under this chapter; and
 - d. An accurate indication on the plot plan of the proposed location of each present and future sign of any type, whether requiring a permit or not.
 - e. Window signs may simply indicate the areas of the windows to be covered by window signs and the general type of the window signs (e.g., paper affixed to window, painted, etched on glass, or some other material hung inside the window) and need not specify the exact dimension or nature of every window sign.

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

- a. Color scheme;
 - b. Letter or graphic style;
 - c. Lighting;
 - d. Location of each sign on the building(s);
 - e. Material; and
 - f. Sign proportions.
3. **Limit on Number of Freestanding Signs Under Common Signage Plan.** The Common Signage Plan, for all lots with multiple uses or multiple users, shall limit the number of freestanding signs to a total of one (1) for each street on which the lots included in the plan have frontage and shall provide for shared or common

usage of such signs. Where street frontage exceeds five hundred (500) feet, one additional freestanding sign may be allowed per five hundred (500) foot increment.

4. Other Provisions of the Common Signage Plan. The Common Signage Plan may contain other restrictions as the owners of the lots may reasonably determine.
5. Consent. Common Signage Plan shall be signed by all owners or their authorized agents in such form as the Planning Director shall require.
6. Procedures. Common Signage Plan shall be included in any development plan, site plan, planned development or other official plan required by the City or County for the proposed development and shall be processed simultaneously with such other plan.
7. Amendment. Common Signage Plan may be amended by filing a new Common Signage Plan that conforms with all requirements of the chapter then in effect.
8. Existing Signs Not Conforming to Common Signage Plan. If any new or amended Common Signage Plan is filed for a property on which existing signs are located, it shall include a schedule for bringing into conformance, within five (5) years, all signs not conforming to the proposed amended plan or to the requirements of this section effective on the date of submission.
9. Binding Effect. After approval of a Common Signage Plan, no sign shall be erected, placed, painted or maintained, except in conformance with such plan, and such may be enforced in the same way as any provision of this chapter. In case of any conflict between the provisions of this section and Common Signage Plan, the section shall control.
10. Dissolution of Common Signage Plan. If the signatories of a Common Signage Plan wish to dissolve the Common Signage Plan, written notice must be submitted to the Planning Director. All signs on the property for which the Common Signage Plan was dissolved must bring all signs into conformance with this section within thirty (30) days of the date written notice was submitted to the Planning Director.

M. Nonconforming Signs. Existing signs which do not conform to the specific provisions of this section may be eligible for the designation "legal nonconforming" provided that:

1. The Planning Director determines such signs are properly maintained and do not in any way endanger the public;
2. The sign was installed in conformance with a valid permit or variance or complied with all applicable laws on the date of adoption of this section; and

3. The sign owner registers the sign with the Planning Director within six (6) months of the adoption of this section. If the owner fails to register the nonconforming sign with the Planning Director, the sign then must be brought into compliance with this section within thirty (30) days.

A legal nonconforming sign may lose this designation if:

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

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

N. Construction Specifications:

1. All signs shall be installed in compliance with the Uniform Building Code (UBC) and the National Electric Code (NEC).
2. All signs shall be inspected by the City of Billings Building Division for compliance with all applicable codes. (Including, but not limited to structure, wind load, and electrical hook-up.)
3. All electrical freestanding signs must have underground electrical service to such signs.

Sec. 27-1010. Special Review Process.

Special reviews shall follow the procedure as outlined in BMCC Sections 27-1503 (City) and 27-1509 (County).

Sec. 27-1011. Variances.

Variances from this chapter shall follow the process outlined in BMCC Sections 27-1506 (City) and 27-1511 (County).

Section 9. That Article 27-1100, Sections 27-1101 through 27-1111 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-1101. Purpose.

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

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

Sec. 27-1102. Scope.

Development which satisfies one of the following criteria shall be exempt from this section:

- A. Single or two-family developments where each unit is located on an individual lot;
- B. Submitted or approved plans, building permits and/or development existing prior to the effective date of this chapter shall comply with the regulations which were in effect at the time of approval; or
- C. Development located within one of the following zoning classifications:
 - 1. Central Business District (C.B.D.) Zone
 - 2. Entryway Light Commercial (E.L.C.) Zone
 - 3. Entryway General Commercial (E.G.C.) Zone
 - 4. Entryway Mixed Use (E.M.U.) Zone
 - 5. Heavy Industrial (H.I.) Zone
 - 6. Medical Corridor Permit Zoning District
 - 7. Planned Development (P.D.) Zone
 - 8. South 27th Street Corridor Zoning District

The provisions of this section shall apply to development which meets one of the following and is not exempt under above subsection C:

- A. All new development which has not applied for a building permit before the effective date of this chapter; or
- B. Existing development in which the gross floor area (GFA) or the number of parking stalls is increased by twenty-five (25) percent.

Sec. 27-1103. Administrative Relief.

Administrative Relief is provided to add flexibility in the application of the landscaping regulations in this section when a standard is inapplicable or inappropriate to a specific use or design proposal. However, the granting of Administrative Relief should not always mean that a requirement is reduced without compensation. For example, the granting of a reduced bufferyard depth should be compensated by the planting of additional trees, shrubs or other plants.

A written request for Administrative Relief shall be submitted to the Planning Director or his/her designee either before or in conjunction with the building permit review process. The written request shall include a justification in terms of the findings necessary to grant Administrative Relief. The written request shall close with a section for the Planning Department's use which will include a block for the decision of approval/denial, the Planning Director or his/her designee's signature, and decision date. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate. An example of this written request shall be available from the Planning Department.

The Planning Director or his/her designee must make all of the following findings in order to grant Administrative Relief:

- A. The strict application of the regulation in question is unreasonable given the development proposal or the measures proposed by the applicant or that the property has extraordinary or exceptional physical conditions that do not generally exist in nearby properties in the same general area and such conditions will not allow a reasonable use of the property in its current zone in absence of relief;
- B. The intent of the landscaping section and the specific regulation in question is preserved; and
- C. The granting of the Administrative Relief will not result in an adverse impact upon surrounding properties.

The Planning Director or his/her designee shall render a decision on the request within five (5) working days of receipt of the request and all required information. An appeal of the Planning Director's decision may be made to the Board of Adjustment with jurisdiction over the property, within ten (10) days after the decision. At this time, the appeal will be put on the agenda for the next Board of Adjustment meeting which allows for the required public notice.

Policies

1. The Planning Department recognizes that the specific landscape requirements in this section cannot and do not anticipate all possible landscape situations. In addition, the Planning Department recognizes that there may be landscape proposals which conform to the purpose, intent and objectives of the landscape regulations, but were not anticipated in the specific regulations. Therefore, the

Planning Department may grant Administrative Relief in the event of these situations and proposals.

2. The Planning Department recognizes that a proposed development of a relatively small commercial or industrial lot which was created prior to the current landscape requirements may present unusual difficulties in complying with the current requirements.

The Planning Department shall attempt to balance the reasonable use of such lot with the provision of required landscaping. This balance will be affected by the site's characteristics, as well as, the proposed development plan.

The Planning Department also recognizes that to allow reasonable development there should be an upper limit to the amount of a site that is required to be landscaped. As a general guideline for relatively small commercial or industrial lots (such as one (1) acre or less), the requirements should not exceed twenty-five (25) percent of a site.

The reasonable development of a site may require the granting of Administrative Relief to some of the requirements. Although all of the categories of landscape requirements are considered important, the Planning Department generally assigns the following priorities for compliance with the landscape requirements:

First, adjacent residential uses should be buffered,

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

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

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

Sec. 27-1104. Definitions.

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

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

Caliper: A standard for trunk measurement of nursery stock that is measured from a specified distance above the ground.

Commercial Uses: Land uses which are allowed by right or through the special review process in the Residential Professional, Neighborhood Commercial, Community Commercial, or Highway Commercial zones, as listed in BMCC Section 27-306 of the Zoning Regulations.

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

Deciduous: A plant with foliage that is shed annually.

Development: The division of a parcel of land into two (2) or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any structure or any use or extension of the use of the land.

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

Drought Avoidance: The ability of a plant to withstand drought without showing signs of stress.

Drought Tolerance: The ability of a plant to withstand drought without dying.

Industrial Uses: Uses of land which are allowed by right or through the special review process only in the Controlled or Heavy Industrial zoning classifications, as listed in BMCC Section 27-306, of the Zoning Regulations.

Landscaping Material, Inorganic: Nonliving material such as river rock, stone, bark chips, mulch, flower tubs, fountains, outdoor plazas or other environmental amenities as approved by the Zoning Coordinator.

Landscaping Material, Organic: Living vegetative material such as trees, shrubs, vines, turf, and flower beds.

Perimeter Landscaping: The landscaping located appurtenant to the outer property lines, exclusive of the property line(s) which abut a public street right-of-way.

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

Public Uses: Uses of land which are considered public in nature such as parks and recreation areas, public or private schools, colleges, playgrounds, day care centers or churches, or other public buildings.

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

Vegetation, Native: Plant life which is indigenous to a geographic region.

Vehicular Use Area: The area of a site devoted to vehicular parking and driving isles.

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

Wall or Fence: An artificially constructed barrier of posts connected by boards, rails, or panels, erected for the purpose of enclosing space to separate parcels of land, or to screen or enclose areas of land. This term also includes a masonry wall.

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

Sec. 27-1105. Required Bufferyards.

A. For developments with less than 130,000 square feet in lot area, the following standards shall apply:

1. The development shall provide a minimum of ten (10) percent of the lot area for landscaping, less the square footage of the building footprint. In addition, fifty (50) percent of this required landscaping shall be placed so that it abuts adjoining public right-of-way, excluding alleys.
2. A six (6) foot high sight-obscuring fence or wall shall be provided on the property line where commercial or industrial uses are adjacent or across an alley from residential uses. A continuous hedge may be substituted for the required fence or wall, as long as it has a minimum height at installation of three (3) feet and maintains such size or reaches six (6) feet or more at maturity.

B. For developments with 130,000 square feet or more in lot area, the following standards shall apply:

1. Street Frontage Landscaping

The area along any property line which abuts a public street right-of-way must be landscaped using one (1) or a combination of two (2) or more of the following four (4) options which the developer may choose.

- Option 1: • 20' minimum bufferyard width
• 1 tree per 40 linear feet of frontage

- Option 2: • 10' minimum bufferyard width
• 2 trees per 40 linear feet of frontage

- Option 3: • Landscaped berm with 2' minimum average height
• 1' rise: 4' run maximum slope
• No minimum or maximum berm width
• 1 tree per 40 linear feet of frontage

- Option 4: • 5' minimum bufferyard
• 1 tree per 40 linear feet of frontage
• 30" high decorative or nondecorative wall located appurtenant to the parking area. A nondecorative wall shall be covered with vines on the street side of the wall.

Placement and landscaping design shall be at the discretion of the developer, including the placement of the required trees within the required bufferyard. Bufferyard depth is measured from the property line inward. Any buffer area which overlaps another buffer area shall be subtracted from the total to avoid double counting.

2. Perimeter Landscaping

The exterior boundaries of the lot which do not abut a public street right-of-way shall meet the bufferyard requirements shown below, depending upon the adjacent land use. If the adjacent land use is a vacant building or ground, then the zoning shall be used in place of the land use.

	Residential Uses	Commercial Uses	Industrial Uses	Public Uses
Residential Uses	A	C	D	A
Commercial Uses	C	A	B	B
Industrial Uses	D	B	A	D
Public Uses	A	B	D	A

Note: If a use does not conform with one of the above categories, the Zoning Coordinator shall determine which category best matches the use.

Bufferyard Classification Requirements:

Bufferyard A: • 5' minimum bufferyard
• 1 tree per 40 linear feet

Bufferyard B: • 10' minimum bufferyard
• 2 trees per 40 linear feet

Bufferyard C: • 15' minimum bufferyard
• 3 trees per 40 linear feet
• 6' sight obscuring fence or wall located on the property line*

Bufferyard D: • 15' minimum bufferyard
• 4 trees per 40 linear feet
• 6' sight obscuring fence or wall located on the property line*

* A continuous hedge may be substituted for the required fence or wall in Bufferyards C and D, as long as it has a minimum height at installation of three (3) feet and maintains such size or reaches six (6) feet or more at maturity.

Placement and landscaping design shall be at the discretion of the developer, including the placement of the required trees within the required bufferyard. Bufferyard depth is measured from the property line inward. Any buffer area which overlaps another buffer area shall be subtracted from the total to avoid double counting.

C. Bufferyard Standards for All Developments

All required bufferyards must contain a minimum of seventy-five (75) percent organic landscaping material, with a maximum of twenty-five (25) percent nonliving landscaping materials.

All required bufferyards shall be irrigated, maintained and kept free of weeds, debris and litter.

The use of coniferous trees is encouraged in the perimeter bufferyards.

Sec. 27-1106. Off-Street Parking Lot Landscaping.

The following requirements shall be met for off-street parking lots which are not exempt from this chapter or for developments whose lot area is 130,000 square feet or more.

- A. There shall be one (1) tree provided for every ten (10) parking stalls.
- B. Depending on the number of spaces, the following square feet of landscaped area must be placed in the vehicle use areas. The required landscaped area shall be "stepped" up to the number of stalls which will be provided. For example, a parking lot with 52 stalls shall provide no square feet for the first 9 parking stalls, stalls 10-25 shall provide 15 square feet per stall, stalls 26-50 shall provide 18 square feet per stall, and stalls 51-52 shall provide 25 square feet per stall.

<u>Number of Stalls</u>	<u>Required Landscaped Area</u>
0-9	None required
10-25	15 sq. ft. per stall
26-50	18 sq. ft. per stall
51-99	25 sq. ft. per stall
100 or more	35 sq. ft. per stall

- C. No parking stall shall be more than one hundred and twenty (120) feet from a required landscaped area.
- D. The developer is encouraged to utilize landscaped terminal islands at the end of parking rows and/or divider strips between parking rows to help disperse the required landscaping throughout the entire parking lot.
- E. Parking stalls that abut a required bufferyard may increase the width of this bufferyard a minimum of five (5) feet and count this toward the required off-street parking landscaped area.
- F. Landscaped areas within parking lots or the along perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved permanent barriers.
- G. Clear vision areas within the off-street parking area must be established at intersections by maintaining a maximum height for shrubs and ground cover of thirty (30) inches and tree branches must be trimmed up eight (8) feet from the ground.
- H. The minimum width or length of any landscaped area shall be five (5) feet, however the recommended minimum size is eight (8) feet. All of the required landscaped areas must contain a minimum of seventy-five (75) percent living landscaping material, with a maximum of twenty-five (25) percent nonliving landscaping material. Approved sidewalks are not counted toward this percentage.
- I. Parking lots containing between 200-749 parking stalls are encouraged to divide the lot into two or more lots, separated by a landscaped strip which may be counted toward the required off-street parking landscaping area. Parking lots with more than 750 stalls are required to divide the lot into at least two parking lots with a

landscaped strip separating them. The minimum width of these landscaping strips shall be ten (10) feet.

- J. A landscaped divider strip that separates either parking rows or parking lots shall be allowed to count a sidewalk located within this divider strip toward a part of the required off-street parking lot landscaping. The intent of this sidewalk is to help facilitate safe pedestrian movement. This sidewalk must meet the following criteria if it is to be counted toward the required landscaping:
1. The sidewalk has a five (5) foot wide walking path and shall add two (2) feet for vehicle overhang, if the sidewalk abuts a parking stall.
 2. The sidewalk runs the entire length of the divider strip.
 3. The sidewalk is bordered on at least one side by landscaping, of which the sidewalk cannot account for more than fifty (50) percent of the area of the divider strip.
- K. Deciduous trees are encouraged within the parking lot.

Sec. 27-1107. Supplemental Standards.

All landscaped areas must comply with the clear vision standards for intersections as established in BMCC Section 27-615 of the Zoning Regulations. These sections regulate the allowed height and placement of fences, walls, signs, landscaping materials, in addition to other objects.

Chain link or wire fencing is prohibited where a sight obscuring fence is required in a bufferyard.

All landscaping shall be located so that it does not interfere with utilities, easements or fire hydrants.

Where appropriate, the use of porous pavement and/or specially designed brick or block should be considered to increase on-site water retention for plant material and groundwater supplies and to reduce problems associated with runoff.

All solid waste storage facilities shall be enclosed on three (3) sides by a sight obscuring fence or wall and by a sight obscuring gate on the remaining side. This requirement shall exclude up to two (2) recycling centers for general public access which are set up in the parking lot of commercially zoned properties.

Any permitted outside storage of merchandise shall be enclosed by a sight obscuring fence or wall. Exceptions to this requirement are temporary promotional displays, vehicle sales lots and plant materials that are located appurtenant to an approved building.

Sec. 27-1108. Landscaping Plan Requirements.

A landscaping plan must be approved by the Planning Director or his/her designee before the issuance of a building permit. The developer is encouraged to work with a local landscape architect, nurseryman or design professional to make the landscaping an integral part of the overall site design by using site-specific materials which are:

- A. Appropriate to the conditions in which they are planted;
- B. Have noninvasive growth habits;
- C. Encourage low maintenance, high quality design; and
- D. Be otherwise consistent with the intent of this chapter.

A list of recommended plants can be obtained from the Planning Department or the Montana State University Extension Service.

The landscaping plan should contain the following elements:

- A. Scale: $\frac{1}{4}'' = 1'0''$ to $1'' = 40'$
- B. Property lines, easements and public rights-of-way, including clear vision triangles.
- C. Buildings or structures - both new and existing.
- D. Drive approaches, parking spaces, light standards, circulation and pedestrian walkways.
- E. Landscaping materials:
 - 1. Location and spacing of proposed plant materials.
 - 2. Location of existing trees or landscaping to be preserved or eliminated.
 - 3. Types and location of new vegetation identified by botanical and common names and listed on a plant schedule.
 - 4. Size of materials, in diameter and height at installation and maturity.
 - 5. Quantity of each planting materials to be used.
 - 6. Types and location of inorganic landscaping material.
- F. Location of walls, fences and refuse storage areas.
- G. Methods of protecting the landscaped areas.
- H. Proposed treatment of all ground surfaces (concrete or asphalt paving, pavers, turf or gravel).

Sec. 27-1109. Landscaping Material Standards.

- A. Plants shall conform to the measurements specified in the plant schedule submitted with the landscaping plan.
- B. Landscaping materials shall comply with the following minimum size standards at the time of planting, with caliper measurements taken six (6) inches above grade.
 - 1. Minimum height for shade trees shall be eight (8) feet.
 - 2. Minimum size for shade trees shall be a one and one-half ($1\frac{1}{2}$) inch caliper.
 - 3. Minimum size for evergreen trees shall be five (5) feet in height.

4. Minimum size for shrubs shall be one (1) gallon container for low and medium shrubs and five (5) gallon container for tall shrubs.
- C. It is recommended that a professional horticulturist, nurseryman or design professional be consulted to determine the proper time to move and install all plant materials, so that stress to the plants will be minimized.

Sec. 27-1110. Installation and Maintenance.

A performance bond or letter of credit for one hundred fifty (150) percent of the landscaping materials and labor costs shall be posted with the Planning Department to ensure the placement of the required landscaping. The property shall be inspected by the Planning Director or his/her designee to make sure that the required landscaping has been planted before the Certificate of Occupancy is signed off. The planting of the required landscaping may be delayed until the next suitable planting season with written approval from the Planning Director or his/her designee.

The responsibility for the maintenance of the landscaping shall lie with the property owner, his/her successor and/or their agents. All landscaping elements shall be permanently maintained in good growing condition and, whenever necessary, replaced with new plant materials to ensure continued compliance with this section. In addition, all walls and fences shall also be maintained in good condition and, when necessary, be repaired or replaced.

Sec. 27-1111. Administration and Enforcement.

The administration and enforcement of this article shall reside with the Zoning Coordinator as stated in BMCC Sections 27-1602 and 27-1603.

Section 10. That Article 27-1200, Sections 27-1201 through 27-1216 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-1201. Intent.

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

Sec. 27-1202. Definitions.

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

A. NUMBER OF EMPLOYEES: The largest number of employees who are on the premises during the peak working shift, as determined by Zoning Coordinator.

B. PARKING LOT: A structure or an area other than a public street or alley, together with ways of ingress, egress, isles, and maneuvering and backing areas, designed or used for the temporary parking of motor vehicles serving a use permitted in the district in which such parcel is situated, and available for public use whether free, for compensation, or an accommodation for customers or clients.

C. OFF-STREET PARKING SPACE: An area, other than a public street, alleyway or other public property (and exclusive of off-street loading spaces) permanently reserved or set aside for the parking of one (1) motor vehicle.

Sec. 27-1203. Parking Requirements - General.

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

Sec. 27-1204. Expansion and Enlargement.

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

Sec. 27-1205. Nonconforming Uses.

Nothing in this chapter shall be deemed to prevent the voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings even though nonconforming, provided that all regulations herein governing the location, design, size and space standards and operation of such facilities are adhered to.

Sec. 27-1206. Combined or Mixed Occupancies.

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

Sec. 27-1207. Use Not Specified.

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

Sec. 27-1208. Reduction in Spaces.

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

Sec. 27-1209. Fractional Spaces.

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

Sec. 27-1210. Joint Use.

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

A. Up to fifty (50) percent of the required off-street parking for primarily "nighttime" uses such as theaters, bowling alleys, bars or restaurants and related uses may be supplied by the parking requirements for primarily "daytime" uses such as banks, offices, retail uses, personal service establishments, clothing, food, furniture, manufacturing or wholesale and related uses.

B. Subsection A of this Section may be reversed so that parking for "nighttime" uses may be used for "daytime" uses.

C. Up to fifty (50) percent of the parking facilities required by this chapter for churches or auditoriums may be supplied by the parking facilities provided for primarily "daytime" uses.

D. Conditions required for joint use or lease. The building or use for which application is being made to utilize the off-street parking facilities provided by another

building or use, shall be located within five hundred (500) feet of such parking facilities, in addition to which:

1. The application shall show that there is no substantial conflict in the principal operating hours of the two (2) buildings or uses for which a joint use of off-street parking facilities is proposed.
2. The applicant shall present to the Zoning Coordinator a legal agreement (lease) executed by the parties concerned for joint use or lease of off-street parking facilities. The lease must be for a minimum of ten (10) years and contain a notification requirement whereby the Planning Department will be informed in writing of any termination or complication experienced during the term of the lease. The legal document shall be recorded with the County Clerk and Recorder.

Sec. 27-1211. Design Standards - Location.

A. Off-street parking area(s) as required by this chapter shall be located as specified herein:

1. Single- and two-family dwellings: On the same building site with the dwelling they are required to serve.
2. Multi-family dwellings, townhouses, retirement homes, lodging, boarding and bed and breakfast houses: Within one hundred (100) feet of the use to be served.
3. Hospitals, sanitariums, convalescent nursing homes, rest homes, homes for the aged and asylums: Within six hundred (600) feet for employees and three hundred (300) feet for visitors.
4. Other uses not specified above: Within four hundred (400) feet of the use they are required to serve.

B. Where a distance is specified, such distance shall be measured in walking distance measured from the nearest point of the parking facility to the nearest point of the lot such facility is required to serve. The off-street parking shall not be located across a major arterial street except when both properties are contiguous to an intersection with traffic control lights. Off-street parking should not be located across a minor arterial or collector street from the business or residence.

C. Off-street parking areas must be accessible by a public street or alley, and shall be owned or leased by the owner or lessee of the building or use being served by such parking. Such parking lot shall be maintained as a parking lot so long as the building and/or

use served is in operation or until another suitable parking area is established for such building or use.

D. Customer access via an alley to any commercial use on a lot which is adjacent to an alley and which abuts a Residential zone shall not be permitted over that alley. Employee parking may be allowed in the alley if the alley is paved and if the parking will not conflict with the adjacent residential uses.

E. Required parking spaces shall be located so as to preclude backing maneuvers onto any public right-of-way from any use, with the exception of single- and two-family dwellings, as defined in this Resolution/Ordinance. Required parking spaces shall not be located in any required front or side yard, except for detached single-family dwellings, townhouses and manufactured homes. See BMCC Section 27-602 for Arterial Setbacks on required parking.

F. A Drive Approach Permit must be obtained from the County Public Works Department prior to constructing any access.

Sec. 27-1212. Design Standards - Off-Street Loading Spaces.

A. Off-street loading berths shall be provided on the same lot as the use it serves and shall not be located within the required front setback.

B. No loading berths shall be located closer than fifty (50) feet to a residentially zoned property, except when the berth area is enclosed, or screened by a six (6) foot minimum high wall or solid fence and the loading berth shall also meet the required setbacks from the adjacent residentially zoned property.

C. Each loading berth shall be designed with access to a public street or alley and so designed as not to interfere with normal traffic movement. No loading berth shall be located in the alley if it is adjacent to a Residential zone.

D. Each berth shall be not less than twenty (20) feet in width, twenty-five (25) feet in length, and fourteen (14) feet in height.

E. Loading berths shall not be considered as off-street parking spaces.

F. All or part of the required loading berths may be within buildings.

G. Off-Street Loading - Retail and Commercial. In any district, any building or part thereof having a gross floor area of ten thousand (10,000) square feet or more which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at

least one (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (20,000) feet or fraction thereof of gross floor area. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.

H. Off-Street Loading - Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities will be determined by the Zoning Coordinator or County Public Works Director. Such loading space shall be located so as to preclude backing maneuvers on the public right-of-way.

Sec. 27-1213. Design Standards - Size of Parking Spaces and Aisles.

A. The minimum width of two-way aisles shall be twenty-six (26) feet. Off-street parking spaces parallel with a wall, fence, or curb shall be a minimum of twenty-two (22) feet in length. Angle parking with one ingress/egress shall be prohibited if there is only one isle of parking.

B. Off-street parking spaces shall have a minimum dimension of nine (9) feet in width. All other minimum dimensions will be based upon standards on file in the County Public Works Director's office.

Sec. 27-1214. Handicapped Parking Requirements.

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

Sec. 27-1215. Construction Specifications.

A. Surfacing.

1. Every off-street parking, loading and driveway area shall be paved with asphaltic or portland cement concrete, except for single-family development on individual lots.
2. Surfacing shall be designed by accepted engineering methods, subject to the approval of the County Public Works Director.

B. Drainage. All off-street parking and loading areas shall be graded and drained so as to adequately dispose of all surface water generated by that impervious surface. Surface water shall not be drained across public sidewalks or alleys. Drainage plans for uses requiring more than ten (10) parking spaces shall be submitted to and approved by the County Public Works Director prior to the issuance of a building permit.

C. Walkways. Walkways a minimum of five (5) feet in width shall be provided between any building and adjacent parking lot. Where sidewalk curbs serve as wheel stops, an additional two (2) feet of sidewalk width is required.

D. Lighting. Lighting used to illuminate a parking area shall be arranged in such a manner as to not be a hazard to passing motorists or constitute a nuisance of any kind. Where said parking area is within one hundred and fifty (150) feet of any property zoned Residential by this Resolution/Ordinance and where the parking area is directly visible by the residents within one hundred and fifty (150) feet, illuminating devices shall be shaded in a manner as to direct light away from the residential property.

E. Wheel Stops. Wheel stops shall be installed at least thirty (30) inches from all adjacent sidewalks, fences and walls. Such stops shall be either a concrete piece at least sixty (60) inches long and five (5) inches high and affixed securely to the parking surface, or a continuous concrete curb. This requirement may be modified, provided other design features will be equally effective in prohibiting a vehicle from obstructing a sidewalk or making contact with a walk, fence or landscaped area, and which will promote safe pedestrian access.

F. Traffic Control Devices. Parking spaces shall be designated by pavement markings. All traffic control devices such as pavement markings, signs, rails, curbs and other similar development proposals shall be installed and completed as shown on the approved plans.

G. Maintenance. Maintenance of all areas provided for off-street parking shall include repair and maintenance of drain and repair of traffic control devices, signs, lights, standards, surfacing materials, curbs and sidewalks.

H. Accesses. The accesses to parking lots shall be approved by the County Public Works Department or the Montana Department of Transportation, depending upon jurisdiction.

I. Improvement Schedule. All parking area improvements to include surfacing, drainage, walkways, lighting, landscaping, screening, traffic control, etc., shall be installed before occupancy of the building or use to be served by such parking. Where parking area improvements will not be completed before occupancy of the building, a performance bond or an irrevocable letter of credit will be accepted for the completion of the required improvements. The performance bond or letter of credit shall be equal to one and one half (1½) times the cost of the parking area improvements to be completed. A cost estimate for improvements not installed at the time of occupancy shall be presented to the Building Official for approval. Performance bonds or letters of credit will not be released until all required improvements shown on the approved plan are installed and accepted. Foreclosure proceedings shall be brought against the performance bond or irrevocable letter of credit if the required improvements have not been completed within twelve (12) months of the posting of the bond or letter of credit.

Sec. 27-1216. Required Parking and Loading Spaces For Specific Uses.

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

RESIDENTIAL SINGLE-FAMILY OR DUPLEX DWELLING

2 parking spaces per dwelling unit

RESIDENTIAL MULTI-FAMILY DWELLING

1 parking space per one (1) bedroom dwelling unit

1½ parking space per two (2) or more bedroom dwelling unit

FRATERNITY AND SORORITY

1 parking space per two (2) sleeping rooms or 1 parking space per three (3) beds, whichever is greater

RETIREMENT HOMES AND HOUSING PROJECTS FOR THE ELDERLY WHICH HAVE RECEIVED A DECLARATORY RULING FROM THE MONTANA HUMAN RIGHTS COMMISSION ALLOWING SALE OR LEASE OF THE UNITS EXCLUSIVELY TO PERSONS SIXTY (60) YEARS OF AGE OR OLDER*

1-6 dwelling unit(s) require 0.5 parking space per dwelling unit

7-18 dwelling units require 0.33 parking space per dwelling unit

Over 18 dwelling units require 0.25 parking space per dwelling unit, with a minimum of 5 parking spaces

* Conversion to apartments will require the building to meet the residential multi-family dwelling parking requirements

BOARDING, LODGING, BED AND BREAKFAST HOUSES, AND SIMILAR USES

1 parking space per dwelling or lodging unit

MOTELS / HOTELS

1 parking space per sleeping room plus ½ parking space per employee per shift

HOSPITALS AND INSTITUTIONS

With less than 100 beds based upon state licensed bed count:

1½ parking spaces for each one thousand (1,000) square feet of total area or 1.2 spaces per bed

With over 100 beds based upon state licensed bed count:

1.2 parking spaces per bed

CONVALESCENT NURSING HOMES AND RETIREMENT HOMES

1½ parking spaces per one thousand (1,000) square feet

DAY CARE, NURSERY AND PRESCHOOLS

1 parking space per employee and 1 parking space per six (6) children

SCHOOLS: ELEMENTARY AND JUNIOR HIGH (PUBLIC OR PRIVATE)

5 parking spaces plus 1 per classroom with minimum auditorium requirements

SCHOOLS: HIGH SCHOOL, COLLEGE, VOCATIONAL AND TRADE (PUBLIC OR PRIVATE)

1 parking space per employee and 1 parking space per five (5) students

BANKS, BUSINESS AND PROFESSIONAL OFFICES

1 parking space per three hundred (300) square feet of floor area

MEDICAL AND DENTAL OFFICES OR CLINICS

1 parking space per two hundred (200) square feet of floor area

LIBRARIES AND MUSEUMS

1 parking space per five hundred (500) square feet of floor area

THEATERS, AUDITORIUMS, STADIUMS, SPORTS ARENAS, AND OTHER SIMILAR OPEN ASSEMBLIES

1 parking space per four (4) fixed seats or 1 parking space per one hundred (100) square feet of assembly space without fixed seats

SKATING RINKS, DANCE HALLS, AND RECREATION ESTABLISHMENTS

1 parking space per two hundred (200) square feet of floor area

BOWLING ALLEYS

6 parking spaces per alley

CHURCHES, AUDITORIUMS, BINGO PARLORS, AND OTHER SIMILAR PLACES OF ASSEMBLY

1 parking space per four (4) fixed seats or 1 parking space per one hundred (100) linear inches of pew or 1 parking space per sixty-five (65) square feet of floor area used for assembly purposes

MORTUARIES AND FUNERAL HOMES

1 parking space per four (4) seats

PRIVATE CLUBS AND LODGES

1 parking space per two hundred (200) square feet of floor area

RESTAURANTS AND BARS

1 parking space per one hundred (100) square feet of floor area

RESTAURANTS, WITH DRIVE-IN SERVICE

1 parking space per eighty (80) square feet of floor area, with 10 parking spaces minimum

RETAIL STORES - LESS THAN FIVE THOUSAND (5,000) SQUARE FEET

1 parking space per two hundred (200) square feet of floor area

RETAIL STORES - GREATER THAN FIVE THOUSAND (5,000) SQUARE FEET

25 parking spaces plus 1 parking space per three hundred (300) square feet in excess of five thousand (5,000) square feet

circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this Resolution/Ordinance and the objectives of the Comprehensive Plan.

B. Application Procedure. An application for a special review may be submitted by the property owner, contract purchaser or his/her authorized agent. Such application shall be filed with the Zoning Coordinator and shall be submitted under the following conditions:

1. The application shall include, but not be limited to, the following information:
 - a. A legal and general description of the tract(s) upon which the special review use is sought;
 - b. A map showing the dimensions, acreage and location of the tract(s);
 - c. The names and addresses of the owner(s) of the tract(s) and his/her authorized agent, if any, along with the recorded property owner's signature;
 - d. A certified list of the names and addresses of the owners of property within a radius of three hundred (300) or more feet, as determined by the Zoning Coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - f. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs and open space areas;
 - g. The application must be accompanied by the payment of all applicable fees; and
 - h. Any other information the applicant believes will support his/her request or other information as requested by the Zoning Coordinator or Planning Department.
2. An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the County Zoning Commission. After legal notice for the County Zoning Commission public hearing has been published, the request for withdrawal shall be submitted to the Planning Department office at least twenty-four (24) hours prior to the public hearing. The County Zoning Commission may allow withdrawal of the application, after advertisement of the Zoning Commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
3. An applicant may request a delay for a period not to exceed thirty (30) days on the hearing of his/her application before the County Zoning Commission. The request

for the delay and reasons must be submitted in writing to the Planning Office or Chairperson of the County Zoning Commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring County Commission approval of the delay. Only one (1) such delay shall be allowed on any application.

4. The application must be submitted, together with all applicable fees, to the Zoning Coordinator twenty (20) days prior to the date of the public hearing.

C. Planning Department Action. The Zoning Coordinator, upon receiving an application for a special review use, shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;
2. Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the Comprehensive Plan;
3. Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the County Zoning Commission public hearing. The notice shall contain the time, date and place of the County Zoning Commission public hearing;
4. Notify, by mail, the applicant and/or his/her authorized agent, of the time, date and place of the public hearing five (5) days in advance of that date;
5. Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the tract(s) subject to the special review of the time, date, place and proposed use at least fifteen (15) days prior to the public hearing date. The Zoning Coordinator may notify property owners within a distance greater than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;
6. Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and
7. Report his/her conclusions and findings, in writing, to the County Zoning Commission, which report shall become a matter of public record.

D. County Zoning Commission Action. The County Zoning Commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be

presented to the County Zoning Commission, by the Zoning Coordinator or his/her designee, together with his/her conclusions and findings on the matter. The County Zoning Commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the Commission's decision and recommendation and the Zoning Coordinator's report shall be submitted to the Board of County Commissioners.

The County Zoning Commission shall make a *recommendation* to the Board of County Commissioners to:

1. Approve the application;
2. Conditionally approve the application; or
3. Deny the application.

Recommendations from the County Zoning Commission shall be based on findings of fact and shall be transmitted to the applicant, or his/her agent and the Board of County Commissioners within fifteen (15) days of the date of the public hearing before the Commission.

Before approving a special review use, the County Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this chapter;
2. Is consistent with the objectives and purposes of this Resolution/Ordinance and the Comprehensive Plan; and
3. Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the County Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;

6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

E. Board of County Commissioners Action. Notice of the Board of County Commissioners public hearing shall be placed in a newspaper of general circulation. The notice shall contain the time, date and place of the Board of County Commissioners public hearing. Before taking any action on an application for a special review use, the Board of County Commissioners shall first consider the findings and recommendations of the County Zoning Commission. In no case shall the Board approve a special review use other than the one advertised. The Board shall:

1. Approve the application;
2. Conditionally approve the application;
3. Deny the application;
4. Allow withdrawal of the application; or
5. Delay the application for a period not to exceed thirty (30) days.

Sec. 27-1510. County Board Of Adjustment.

A. Created. There is hereby created a Yellowstone County Board of Adjustment consisting of five (5) members residing on property, any part of which lies within the Unincorporated Jurisdictional Area of this Resolution/Ordinance, but outside the limits of the City of Billings. The members are to be appointed by the Board of County Commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.

B. Proceedings. Meetings of the County Board of Adjustment shall be scheduled at a regular time each month and special meetings may also be called by the chairperson. The chairperson may cancel the regular monthly meeting if no matters are pending for the Board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public. In exercising its powers and duties under this chapter, not less than three (3) members of the Board shall constitute a quorum.

The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact. The Board shall keep

records of its examinations and other official actions, all of which shall be public record and shall be filed in the office of the Yellowstone County Board of Planning, with copies forwarded to the Board of County Commissioners and Zoning Coordinator within thirty (30) days. The official minutes of the Board's proceedings shall be signed by the chairperson or acting chairperson. The decision of the Board shall become effective immediately, unless otherwise directed by the Board. The Board shall adopt bylaws for the conduct of its affairs and responsibilities under this Resolution/Ordinance.

C. Hearing, Appeals, Notices. Appeals to the County Board of Adjustment may be taken by any person aggrieved or by any office, department or bureau of the County affected by any decisions of the administrative officer. Such appeal shall be taken within a reasonable time, not to exceed thirty (30) days, by filing a notice of appeal specifying the grounds thereof with the officer from whom the appeal is taken and with the County Board of Adjustment. The officer from whom the appeal is taken shall forthwith transmit to the Board all papers constituting the record upon which the action appealed was taken.

The County Board of Adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person, by agent or attorney.

D. Appeals, Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the County Board of Adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate, a stay would in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the County Board of Adjustment or by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

E. Powers and Duties. The County Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this Resolution/Ordinance or of any resolution/ordinance adopted pursuant thereto;
2. To authorize upon appeal in specific cases such variance from the terms of this Resolution/Ordinance as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Resolution/Ordinance will result in unnecessary hardship, and so that the spirit of this Resolution/Ordinance shall be observed and substantial justice done.

F. Decision and Appeals. In exercising the above mentioned powers, the County Board of Adjustment may, in conformity with the provisions of this Resolution/Ordinance, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken. The concurring vote of three (3) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/ordinance, or to effect any variation in the application of this Resolution/Ordinance.

Any person aggrieved by any decision of the County Board of Adjustment, or any affected taxpayer, or any officer, department, board or bureau of the County may appeal the Board's decision, subject to the following procedure:

1. Present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision of the Board;
2. That all action permitted by a grant of variance pursuant to the authority granted herein shall be stayed pending a petition to a court of record. The stay shall continue until the court has made a final determination;
3. If the County Board of Adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter denied and may immediately proceed by appeal as provided in this BMCC Section 27-1510(F).

If an application for an administrative review or variance is denied by the County Board of Adjustment, another application shall not be filed within a period of one (1) year from the date of denial.

Sec. 27-1511. County Variances.

A. Authority. The County Board of Adjustment shall have the authority to grant a variance from the terms of the Resolution/Ordinance in specific cases where it is found that the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the Resolution/Ordinance would result in unnecessary hardship.

B. Application Procedure. An application for a variance shall be filed with Zoning Coordinator under the following conditions:

1. The application shall include, but not be limited to, the following:

- a. A legal and general description of the tract(s) upon which the variance is sought;
 - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
 - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the Zoning Coordinator, of the exterior boundaries of the tract(s); and
 - d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
2. The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property;
 3. The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:
 - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation;
 - b. The location and size of all existing and proposed buildings, structures and improvements; and
 - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.
 4. The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
 5. The application must be submitted at least twenty (20) days prior to the date of public hearing;
 6. The application must be accompanied by the payment of all applicable fees; and
 7. An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this Section shall have first appeared. However, the County Board of Adjustment may, by a two-thirds vote of all members, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.

C. Planning Department Action. The Zoning Coordinator, upon receiving an application for a variance, shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;

2. Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the Comprehensive Plan;
3. Place notice of the time, date and place for the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
4. Notify, by mail, the owner(s) of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
5. Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date, and place of the public hearing and the proposed variance request at least fifteen (15) days prior to the public hearing. The Zoning Coordinator may notify property owners within a radius of more than three hundred (300) feet, if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
6. Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and
7. Report his/her findings, in writing, to the County Board of Adjustment, which report shall be a matter of public record.

D. County Board of Adjustment Action. The County Board of Adjustment, before it grants a variance shall determine:

1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
2. That a literal interpretation of the provisions of this Resolution/Ordinance would deprive the applicant of rights commonly enjoyed by other tracts in the same district;
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Resolution/Ordinance to other land in the same district;
4. That the granting of the variance will be in harmony with the general purpose and intent of this Resolution/Ordinance and with the Comprehensive Plan;

5. In granting any variance, the Board may prescribe appropriate conditions and safeguards in conformity with this Resolution/Ordinance. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Resolution/Ordinance;
6. The Board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and
7. Under no circumstances shall the Board grant a variance to allow a use not permissible under the terms of this Resolution/Ordinance in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the same district.

Section 14. That the Code of Ordinances of the City of Billings be amended by adding an Article to be numbered 27-1600, Sections 27-1601 through 27-1604, to read as follows:

Sec. 27-1601. Intent.

It is the intent of this Resolution/Ordinance to provide for the efficient, reasonable, and impartial enforcement of this Resolution/Ordinance by authorizing an enforcement officer, the basic procedures for complying with the Resolution/Ordinance, and the penalties for violations.

Sec. 27-1602. Administration.

A. The Zoning Coordinator is hereby given the authority to administer the provisions of this Resolution/Ordinance for the City of Billings and the unincorporated Jurisdictional Area of Yellowstone County.

B. The Zoning Coordinator shall supervise and effectuate the processing of applications for amendments to the Official Zoning Map, special review applications, requests for variances, and other applications under the terms of this Resolution/Ordinance. Further it shall be his/her responsibility to present any applications or requests to the appropriate board or commission.

C. It shall further be the responsibility of the Zoning Coordinator to aid the various Boards, Commissions and Departments in transmitting appeal records to the Board of County Commissioners and the City Council and to otherwise promote procedural regularity in the administration of this Resolution/Ordinance. The position of Zoning

Coordinator shall be within the organizational structure of the Yellowstone County Board of Planning.

D. The Zoning Coordinator shall not have authority to act in any final reviewing capacity and any questions as to interpretation or enforcement shall be determined by the appropriate board, commission or department, unless such authority is specifically allowed in a chapter.

Sec. 27-1603. Zoning Enforcement Officer.

It shall be the duty of the Zoning Coordinator or his/her designee to be the Enforcement Officer for the Zoning Regulations. He/she is hereby given the authority to enforce the provisions of this Resolution/Ordinance for the City of Billings and the unincorporated Jurisdictional Area of Yellowstone County.

Sec. 27-1604. Penalties for Violation.

A. A violation of this act or any Resolution/Ordinance adopted pursuant thereto is hereby declared to be a misdemeanor and shall be punishable by a fine not exceeding five hundred (\$500) dollars or imprisonment in the County Jail not exceeding six (6) months, or both, and in addition shall pay all costs and expenses involved. Each day such violation continues shall be considered to be a separate offense.

B. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this act, or of any Resolution/Ordinance made under authority conferred hereby, the proper authorities of the City or County may institute any appropriate action or proceedings, in addition to other remedies, to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land to prevent any illegal act, conduct, business, or use in or about such premises.

Section 15. That the Code of Ordinances of the City of Billings be amended by adding an Article to be numbered 27-1700, Sections 27-1701 through 27-1704, to read as follows:

Sec. 27-1701. Provisions of this Resolution/Ordinance Developed to Be Minimum Standards.

In their interpretation and application, the provisions of this Resolution/Ordinance shall be held to be the minimum requirements adopted for the promotion of the public health, safety and general welfare.

Whenever the requirements of this Resolution/Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions or covenants, the most restrictive or that imposing the higher standards shall govern.

Sec. 27-1702. Separability Clause.

If any provision of this Resolution/Ordinance or its application to any person or circumstances is held invalid, the remainder of the Resolution/Ordinance or the application of the provision to other persons or circumstances is not affected.

Sec. 27-1703. Repeal of Conflicting Resolutions/Ordinances and Effective Date.

Resolutions/Ordinances or parts of Resolutions/Ordinances in conflict with this Resolution/ Ordinance are hereby repealed to the extent necessary to give this Resolution/Ordinance full force and effect. This Zoning Resolution/Ordinance for the City of Billings and the unincorporated 4½ Mile Jurisdictional Area of Yellowstone County shall become effective on February 1, 1998.

Sec. 27-1704. Schedule of Fees, Charges and Expenses.

The City Council and Board of County Commissioners shall establish a schedule of fees, charges and expenses and a collection procedure for appeals and other matters pertaining to this Resolution/Ordinance. Said schedule may be amended from time to time by resolution/ordinance of the City Council and Board of County Commissioners. Within this schedule of fees, the City Administrator shall be responsible for setting the fee for the Medical Corridor Permit Zoning Preliminary and Final Reviews, as established in BMCC Section 27-909(B).

No zone change, special review or variance shall be issued unless or until such costs, charged, fees or expenses listed below have been paid in full nor shall any action be taken on proceedings before the City or County Board of Adjustment or Zoning Commission unless or until charges and fees have been paid in full to the Planning Department.

SCHEDULE OF APPLICATION FEES

Board of Adjustment - Variance - Residential	\$150.00
Board of Adjustment - Variance - Commercial	\$190.00
Zoning Commission - Zone Change	\$330.00
Zoning Commission - Special Review	\$330.00

Planned Development - Preliminary Review and Zone Change \$600.00

Section 16. EFFECTIVE DATE. This ordinance shall be effective February 1, 1998.

Section 17. REPEALER. All resolutions, ordinances, and sections of the City Code inconsistent herewith are hereby repealed.

Section 18. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

PASSED by the City Council on first reading this 8th day of December, 1997.

PASSED, ADOPTED and APPROVED on second reading this 22nd day of December, 1997.



CITY OF BILLINGS

By Charles F. Tolley
Mayor

ATTEST:

By Marita Herold
City Clerk

FURNITURE, APPLIANCE, HOUSEHOLD, AND EQUIPMENT SALES

1 parking space per six hundred (600) square feet

OPEN SALES AREA, TRAILER SALES AND RENTAL, MANUFACTURED HOME SALES, AND GARAGES

1 parking space per one thousand five hundred (1,500) square feet of sales area

SERVICE STATIONS, AUTOMOBILE REPAIR AND SERVICES

1 parking space per eighty (80) square feet of gross floor area, with 10 spaces minimum

(pump lanes not counted as parking spaces)

CONVENIENCE STORE/GAS COMBINATION

1 parking space per eighty (80) square feet of gross floor area, with 10 spaces minimum

(pump lanes not counted as parking spaces)

MOTOR VEHICLE AND BOAT SHOWROOMS, MACHINERY SALES AND SERVICE, PLUMBING, HEATING AND VENTILATING, UPHOLSTERY, BUILDING MATERIAL SUPPLIES, SALES AND SERVICE

1 parking space per one thousand (1,000) square feet plus 1 parking space per employee

MANUFACTURING USES, RESEARCH, TESTING OR REPAIR OF MATERIALS OR COMMODITIES AND PROCESSING, ASSEMBLING, ALL INDUSTRIES

1 parking space per two (2) employees on maximum shift, but not less than 1 parking space per eight hundred (800) square feet of gross floor area

WHOLESALE ESTABLISHMENTS

5 parking spaces for the first one thousand (1,000) square feet of area and 1 additional space for each one thousand (1,000) square feet or 0.6 spaces per employee

WAREHOUSING OR STORAGE BUILDINGS, FREIGHT TERMINALS

10 spaces for the first twenty thousand (20,000) square feet of area and 1 additional space for each additional ten thousand (10,000) square feet or 0.6 spaces per employee

Section 11. That Article 27-1300, Sections 27-1301 through 27-1310 of the Billings Montana City Code is hereby repealed and replaced as follows:

Sec. 27-1301. Intent Statement.

The intent of this zoning district is to provide flexible land use and design regulations through the creation of individualized Planned Developments (PD). It is further the intent to encourage unique development or re-development through a flexible, timely and efficient process. Developments which utilize innovative, progressive planning and site design techniques and methods to allow a mixture of land uses, densities, setbacks and building heights will be encouraged. In addition, this zone is intended to encourage the preservation and enhancement of the physical characteristics of the site.

It is further intended that each PD zone will be a separate zone, each having differing design criteria to provide for the uses and improvements based on its particular site specific situation.

Sec. 27-1302. Objectives.

The Planned Development (PD) zoning district is intended to include and promote consideration of the following:

- A. To permit the development or enlargement of planned industrial, commercial, residential or mixed use development zones, while protecting the character and quality of adjacent uses.
- B. To permit clusters of multiple family developments in appropriate locations within single family residential or commercial zones.
- C. To permit flexibility in design and use of an individually owned property or a group of separately owned properties to allow for economy, convenience and amenity in development.
- D. Preserve, enhance and retain the existing natural environmental qualities in the landscape such as topographic variation, views, water areas and native vegetation.
- E. Ensure adequate provision of public services such as water, sewer, public safety, public parks, open space, storm water control and vehicular and pedestrian circulation.

- F. Encourage patterns of development which decrease automobile travel and encourage trip consolidation and promotes the use of public transit, bicycles and walking as effective modes of transportation, thereby reducing traffic congestion and degradation of the existing air quality.

Sec. 27-1303. PD Zone Guidelines.

A PD zone is intended to replace the previous zoning classification of the subject property. Areas rezoned in accordance with this chapter shall be designated with a "PD-_" preceding a numerical designation (example: PD-1) and each new PD district shall be added as an amendment to the Zoning Regulations.

The PD zoning district is unique among the zoning districts in that it allows zoning and/or site development standards to be "customized" to fit its particular site and/or development situation. With due consideration of public safety, the Governing Body can approve a PD that permits greater or lesser standards in such areas as density, use, bulk, height, parking, signage, traffic circulation, landscaping, lot sizes or other elements. However, these considerations for allowing greater or lesser standards should be balanced within the PD. For example, permitting greater density in a PD could be approved, in exchange for a greater amount of open space than a similar project, not located in a Planned Development zone, would be required to provide.

Sec. 27-1304. PD Application Process.

A PD zone shall be established by following the procedure described below, which includes review by City and/or County staff, the City or County Zoning Commission and the appropriate Governing Body, including the participation of interested citizens.

The applicant is encouraged to submit a proposed PD project for conceptual review with City and/or County staff. This review is intended to get input from staff and to indicate any potential problem areas before a formal application is submitted.

If the project is required to go through the subdivision review process, it is recommended that this platting process occur concurrently with the PD Zone Change process.

Sec. 27-1305. PD Zone Change Submittal Requirements.

The applicant or his/her authorized agent shall submit the following information to the Planning Department to begin the PD Zone Change Process (see also BMCC Sections 27-1502 or 27-1508, City and County Zoning Commissions & City and County Boards of Adjustment):

1. Legal description of the subject parcel(s), along with a map showing the dimensions, acreage and location of the parcel(s);
2. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the Zoning Coordinator, from the exterior boundaries of the tract(s);
3. Two (2) sets of gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
4. The names and addresses of the owner(s) of the subject property and their agent(s), if any, along with the recorded property owner's signature;
5. A development plan which shall consist of the following:
 - a. A written text description of the PD, which will be added as an amendment to the Zoning Regulations. The subjects addressed in the text amendment may refer back to the Zoning Regulations or Site Development Regulations for the PD's standards or describe the PD's unique standards. This amendment should address some or all of the following subjects:
 1. Purpose
 2. Underlying land use classification(s)
 3. Permitted uses
 4. Special review uses
 5. Prohibited uses
 6. Minimum or maximum lot sizes
 7. Minimum setbacks
 8. Maximum lot coverage
 9. Maximum height
 10. Permitted projections
 11. Density
 12. Building design standards
 13. Signs
 14. Fencing
 15. Landscaping in perimeter bufferyards and/or parking areas
 16. Open space
 17. Bicycle and/or pedestrian facilities
 18. Application of site development standards
 19. Vehicular access
 20. Outside storage
 21. Parking area development standards
 22. Loading and unloading areas
 23. Installation of improvements

24. Lighting
25. Other required documents
26. Other regulations

This list is not intended to be a complete list of all potential subjects which can be addressed in the PD amendment.

- b. A site plan or master plan which shows the specific location of proposed land uses, i.e. lot(s) and block(s), along with building envelopes (for multiple family, commercial or industrial uses only), designated parks and/or open space, site circulation, etc. Plans for small scale projects should resemble site plans, by showing specific locations of building(s), parking, landscaping, etc. Larger scale projects, however, do not need to show exact building footprints, but may be used to illustrate possible locations within the approved building envelope.
6. A tabulation of the total land use area and percentage thereof designated for various proposed uses. The PD should include a balance between areas which are developed and those designated as open space or park. For Commercial/Industrial developments, landscaped areas may also be counted towards open space;
 7. General circulation patterns indicating both public and private vehicular, pedestrian and bicycle ways. A traffic accessibility study will be required for any project that exceeds five hundred (500) vehicle trips per day;
 8. Relationships of present and future land uses to the following: the surrounding area; the 1990 Yellowstone County Comprehensive Plan; the Billings Urban Area Transportation Plan; BikeNet; the Public Utilities Department Facilities Plan; any specific master plan or neighborhood plan adopted for the area and any other pertinent City or County plans;
 9. A statement of provisions for ultimate ownership and maintenance of all parts of the development;
 10. A preliminary report indicating provisions for storm drainage, solid waste disposal, grading and public or private utilities;
 11. Proposed development phasing, if any, and an approximate time schedule for development;
 12. Payment of all applicable fees; and

13. Any other information the applicant believes will support his/her request or other information as requested by the Zoning Coordinator or Planning Department.

The Planning Department shall review the application for completeness. If the application is determined incomplete by the Planning Department, the Zoning Coordinator or his/her designee shall notify the applicant of all deficiencies. Once the application is determined complete, the application will proceed to be processed as described in the following Sections.

Sec. 27-1306. Planning Department Review and Responsibility.

The Zoning Coordinator or his/her designee, upon receiving a complete application for a PD Zone Change and Development Plan shall do the following:

1. Distribute copies of the PD Zone Change and Development Plan to appropriate departments of the City and/or County to fully evaluate the impact of the Planned Development upon public facilities and services;
2. Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its relationship to the comprehensive plan;
3. Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the preliminary review of the date, time and place of such review;
4. Notify, by mail, all property owners within three hundred (300) or more feet, as determined by the Zoning Coordinator, from the exterior boundaries of the property subject to the PD Zone Change, at least fifteen (15) days in advance of the time, date, place of the preliminary review, along with the existing and proposed use(s) and the Development Plan; and
5. Place notice of the preliminary review on the property subject to the PD Zone Change at least fifteen (15) days in advance of the date of public hearing.

Sec. 27-1307. Preliminary Review by the Development Review Committee.

The Preliminary Review is intended to provide an opportunity for the Development Review Committee to review the PD Zone Change and Development Plan with the applicant and surrounding property owners. The surrounding property owners are encouraged to give their comments during the period prior to the preliminary review meeting so that the developer can be made aware of any major differences or concerns on the part of the surrounding property owners.

The Zoning Coordinator or his/her designee shall conduct the Preliminary Review and lead the DRC in examining the PD Zone Change and Development Plan. The DRC shall also make a recommendation on the PD Zone Change and Development Plan. The DRC, applicant and/or surrounding property owners shall be allowed to discuss any concerns in the proposal. Any changes/deficiencies found at the Preliminary Review should be incorporated into the proposal and resubmitted to the Zoning Coordinator. This resubmittal shall be returned to the DRC for review, along with a recommendation which will be forwarded to the Zoning Commission.

The applicant shall be allowed to withdraw the application at any time prior to the publication of the legal advertisement for the public hearing before the Zoning Commission, without penalty regarding the four (4) month or one (1) year waiting periods. After publication of the legal advertisement, any withdrawal shall be governed by the requirements found in BMCC Sections 27-1502 or 27-1508.

Sec. 27-1308. Zoning Commission Action.

The Zoning Commission, with jurisdiction over the project, shall review and hold a public hearing on the PD Zone Change and make a recommendation to its Governing Body on the Zone Change, as specified in BMCC Section 27-1502 (City Zoning Commission), subsection D or BMCC Section 27-1508 (County Zoning Commission), subsection D. In addition, the Zoning Commission shall also make a recommendation to its Governing Body on the Development Plan.

Sec. 27-1309. Governing Body Action.

The Governing Body with jurisdiction over the project shall review, hold a public hearing and take action on the PD Zone Change as specified in BMCC Sections 27-1502 (City Zoning Commission), subsections E and F or BMCC Section 27-1508 (County Zoning Commission), subsection E. In addition, the Governing Body shall also take action on the Development Plan.

Sec. 27-1310. Modification of the Approved Development Plan.

Any modification of the approved Development Plan requested by the developer shall be processed using the same procedures for a new application, as set forth in above BMCC Sections 27-1304 through 27-1309. However, minor modifications may be approved by the Zoning Coordinator if he/she makes the following findings:

1. No change in the overall character of the development;
2. No increase in the number of residential units greater than two (2) percent;
3. No additional allowed uses;
4. No reduction in open space greater than two (2) percent; and

5. No change in the approved minimum setbacks, maximum lot coverage or maximum allowed height.

Section 12. That the Code of Ordinances of the City of Billings be amended by adding an Article to be numbered 27-1400, and that said Article 27-1400 shall be reserved for a future Article.

Section 13. That the Code of Ordinances of the City of Billings be amended by adding an Article to be numbered 27-1500, Sections 27-1501 through 27-1511, to read as follows:

Sec. 27-1501. City Zoning Commission Created.

There is hereby created a City of Billings Zoning Commission to consist of five (5) members residing on property, any part of which lies within the limits of the City of Billings. The members are to be appointed by the mayor, subject to confirmation by the City Council, for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year.

The members of said City Zoning Commission are required to attend all City Zoning Commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.

The duties and powers of the City Zoning Commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the City Council on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The City Council shall not hold its public hearing or take any action until it has received a final report from such Commission.

Sec. 27-1502. Amendments to Chapter.

A. General. This chapter, including the official zoning map, may be amended only by the City Council but no amendment shall be finally approved by the City Council unless it has been submitted to the City Zoning Commission for review and recommendation. Proposals to amend this chapter, including the official zoning map, may be initiated by the City Council or by the Board of Planning. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the City Zoning Commission. Before enacting an amendment to this chapter, the City Council shall give public notice and hold a public hearing thereon. Before enacting on its own motion an amendment to the official zoning map, the City Council shall provide written notification by mail of such amendment to each property owner whose name appears on the last tax record of the property subject to the amendment. The notification shall include what the proposed amendment is, the time, date and place of the public hearing on the proposed amendment. Such notification shall be made

no less than fifteen (15) days nor more than thirty (30) days in advance of the date of public hearing.

B. Applications for Map Amendments. Unless initiated by the City Council or Board of Planning, all applications for official map amendments must be submitted by the owner of such property, the contract purchaser, or the authorized agent of the owner. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months. Each application to amend the official map shall be filed with the Zoning Coordinator, and each application shall be submitted under the following conditions:

1. It shall include but not be limited to the following information:
 - a. A legal description of the tract(s) proposed to be rezoned;
 - b. A map showing the dimensions, acreage and location of the tract(s) being changed;
 - c. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature;
 - d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the Zoning Coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list; and
 - f. Payment of all applicable fees.
2. An application for amendment to the official map shall be submitted at least twenty (20) days prior to the date of the public hearing before the City Zoning Commission.
3. An application for a zone change may be withdrawn or amended as follows:
 - a. No application may be amended after the legal advertising, as required by below subsection (C) herein has been published.
 - b. An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the City Zoning Commission without respect to the twelve (12) month waiting period. After legal notice for the City Zoning Commission has been published, the request for withdrawal shall be submitted to the Planning Department office at least twenty-four (24) hours prior to the public hearing. The City Zoning Commission may allow withdrawal of the application, after advertisement of the Zoning Commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. After the City Zoning Commission hearing, a request for withdrawal shall be submitted to the City Clerk and shall be submitted by the property owner or authorized agent, as listed on the

application. The City Council shall have exclusive authority to act on any request for withdrawal after notice of the City Council public hearing has been published.

- c. An applicant may withdraw an application for any particular property only once within the twelve (12) month period commencing with the submittal of the original application.
- d. After withdrawal of an application, no new application for the same property shall be made until four (4) months after the date of withdrawal of the original application.

C. Planning Department Study and Responsibility. The Zoning Coordinator, upon receiving an application for rezoning of an area or a particular piece of property shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
2. Study each application with reference to its appropriateness and effect on existing and proposed land use, and references to the comprehensive plan;
3. In the case of a protest petition filed in the matter of any application for rezoning, determine the validity of such petition;
4. Advertise notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the City Zoning Commission public hearing. The notice shall contain: the classification sought, the location of the property, and the date, time and place of the City Zoning Commission public hearing;
5. Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the City Zoning Commission public hearing of the date, time and place of such hearing;
6. Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning at least fifteen (15) days in advance of the time, date, place of the City Zoning Commission public hearing and the existing and proposed classification. The Zoning Coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;

7. Place notice of the City Zoning Commission public hearing on the property subject to rezoning at least fifteen (15) days in advance of the date of public hearing; and
8. Report his/her findings and conclusions in writing to the City Zoning Commission, which report shall be a matter of public record.

D. City Zoning Commission Action. The City Zoning Commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the City Zoning Commission by the Zoning Coordinator, together with his/her findings and conclusions on the matter. The City Zoning Commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A report of the commission's decision and the Zoning Coordinator's findings and conclusions shall be submitted to the City Council. The City Zoning Commission shall make a *recommendation* to the City Council to:

1. Deny the application; or
2. Grant the application.

The City Zoning Commission shall submit its recommendations in writing along with a statement indicating its reasons for granting, denying, or recommending withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the City Zoning Commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.

In making its recommendation to the City Council for an amendment to the Official Map or text of this Resolution/Ordinance, the City Zoning Commission shall consider, among other things, the following:

1. Whether the new zoning was designed in accordance with the Comprehensive Plan;
2. Whether the new zoning was designed to lessen congestion in the streets;
3. Whether the new zoning will promote health and general welfare;
4. Whether the new zoning will secure safety from fire, panic and other dangers;
5. Whether the new zoning will provide adequate light and air;
6. Whether the new zoning will prevent the overcrowding of land;
7. Whether the new zoning will avoid undue concentration of population;

8. Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks, fire, police and other public requirements;
9. Whether the new zoning gives reasonable consideration to the character of the district;
10. Whether the new zoning gives reasonable consideration to peculiar suitability of the property for particular uses;
11. Whether the new zoning was adopted with a view to conserving the value of buildings; and
12. Whether the new zoning will encourage the most appropriate use of land throughout the City of Billings.

The City Zoning Commission shall adopt such rules and regulations for the conduct of public hearings and meetings, which shall be published and available to the public, as well as conflict of interest rules, to ensure that no member is entitled to vote on a matter in which he/she has a direct or indirect interest .

E. City Council Public Hearing. Before taking action on an application for an amendment to the official map, and after presentation of the City Zoning Commission report, the City Council shall hold a public hearing on the application.

In case, however, of a valid protest petition against such change signed by the owners of twenty (20) percent or more either of the area of the lots included in such proposed change or of those immediately adjacent in the rear thereof extending one hundred fifty (150) feet therefrom or of those adjacent on either side thereof within the same block or of those directly opposite thereof extending one hundred fifty (150) feet from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of all the members of the City Council. Said protest petition must be received in the Planning Department office by 5:00 p.m. on the Friday preceding the first reading of the amendment and the first public hearing of the City Council.

The recommendation of the City Zoning Commission and notice of the City Council's upcoming public hearing on the first reading of the resolution/ordinance shall be published in an official paper or a newspaper of general circulation in the City. Fifteen (15) days after publication of such notice, a public hearing shall be held at the next regular meeting of the City Council. An additional public hearing shall be held at second reading of the resolution/ordinance as required by section 2.223 of the Billings, Montana City Code.

F. City Council Action. Before taking any action on an application for an amendment to the Official Map, or amendment to the text of this resolution/ordinance, the City Council

shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve an amendment for a classification other than the one advertised. The City Council shall:

1. Approve the application;
2. Deny the application;
3. Allow withdrawal of the application; or
4. Delay the application for a period not to exceed thirty (30) days.

When such proposed amendment has been denied by the City Council neither it nor one involving the same tract shall be submitted for adoption within one (1) year after such denial.

Sec. 27-1503. Special Review by City Zoning Commission.

A. General. Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

B. Application for Special Review; Procedure. An application for a special review may be filed by the property owner, contract purchaser, or his/her authorized agent. Such application shall be filed with the Zoning Coordinator and shall be submitted under the following conditions:

1. The application shall include, but not be limited to the following information:
 - a. A legal and general description of the tract(s) upon which the special review use is sought;
 - b. A map showing the dimensions, acreage and location of the tract(s);
 - c. The names and addresses of the owner(s) of the tract and his/her agent, if any, along with the recorded property owner's signature;
 - d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs, and open space areas;

- e. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the Zoning Coordinator, of the exterior boundaries of the tract(s);
 - f. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - g. The application must be accompanied by the payment of all applicable fees; and
 - h. Any other information the applicant believes will support his/her request or other information as requested by the Zoning Coordinator or Planning Department.
2. The application must be submitted at least twenty (20) days prior to the date of the public hearing before the City Zoning Commission.
 3. An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the City Zoning Commission. After legal notice for the City Zoning Commission has been published, the request for withdrawal shall be submitted to the Planning Department office at least twenty-four (24) hours prior to the public hearing. The City Zoning Commission may allow withdrawal of the application, after advertisement of the Zoning Commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. After the City Zoning Commission hearing, a request for withdrawal shall be submitted to the City Clerk and shall be submitted by the property owner or authorized agent, as listed on the application. The City Council shall have exclusive authority to act on any request for withdrawal after notice of the City Council public hearing has been published.

C. Planning Department Action. The Zoning Coordinator, upon receiving an application for a special review use shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;
2. Study each application with references to its appropriateness and effect on existing and proposed land uses, and its relationship to the comprehensive plan;
3. Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the public hearing. The notice shall contain: the use proposed, the location of the property, and the date, time and place of the public hearing;

4. Notify, by mail, the applicant and/or his/her authorized agent five (5) days prior to the date of the public hearing of the date, time and place of such hearing;
5. Notify, by mail, all the property owners within three hundred (300) feet of the exterior boundaries of the tract subject to the special review, fifteen (15) days in advance of the time, date, place and proposed use. The Zoning Coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;
6. Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and
7. Report his/her conclusions and findings, in writing, to the City Zoning Commission which report shall become a matter of public record.

D. City Zoning Commission Action. The City Zoning Commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the City Zoning Commission, by the Zoning Coordinator or his/her designee, together with his/her conclusions and findings on the matter. The City Zoning Commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the Zoning Coordinator's report shall be submitted to the City Council.

The City Zoning Commission shall make a *recommendation* to the City Council to:

1. Deny the application;
2. Approve the application; or
3. Conditionally approve the application.

Recommendations from the City Zoning Commission shall be based on findings of fact and shall be transmitted to the applicant or his/her agent, and the City Council within fifteen (15) days of the date of the public hearing before the commission.

Before approving a special review use, the City Zoning Commission shall find that the contemplated use:

1. Complies with all requirements of this chapter;

2. Is consistent with the objectives and purposes of this Resolution/Ordinance and the Comprehensive Plan; and
3. Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the City Zoning Commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

1. Street and road capacity;
2. Ingress and egress to adjoining streets;
3. Off-street parking;
4. Fencing, screening and landscaping;
5. Building bulk and location;
6. Usable open space;
7. Signs and lighting; and/or
8. Noise, vibration, air pollution and similar environmental influences.

E. City Council Action. The recommendation of the City Zoning Commission shall be published in a newspaper of general circulation and at least fifteen (15) days after the first publication of such notice, a public hearing shall be held by the City Council. Before taking any action on an application for a special review use, the City Council shall first consider the findings and recommendations of the City Zoning Commission. In no case shall the City Council approve a special review use other than the one advertised. The City Council shall:

1. Approve the application;
2. Conditionally approve the application;
3. Deny the application;
4. Allow withdrawal of the application; or
5. Delay the application for a period not to exceed thirty (30) days.

Sec. 27-1504. Classification of Newly Annexed Area.

A. Annexations of land into the City of Billings may be effected under several statutory procedures. When a parcel of land is annexed to the City under any procedure except annexation by petition, the appropriate zone shall be determined as follows:

1. Immediately subsequent to the adoption of resolution/ordinance of intent to annex, the Zoning Coordinator and planning staff will determine the most appropriate zone. They will work closely with the owner of the land. The land owner shall have adequate opportunity to have full input, but the final classification shall be made by the Zoning Coordinator and the planning staff.
2. Upon determination of the classification the Zoning Coordinator shall follow the procedure set forth in above BMCC Section 27-1502(C) except that the report, findings and conclusions shall be submitted to the City Council prior to or concurrently with the services report that is required by the annexation statutes.
3. A public hearing on the zoning classification shall be held concurrently with the public hearing on the annexation before the City Council, provided that the hearing shall not be sooner than fifteen (15) days after notice of the proposed zone has been given.
4. If the zoning classification is not approved by the City Council, the land shall retain the zone classification it had in the county; provided, that if the county classification is not identical to the City classification the City classification established will be the closest equivalent zone.

B. When the proposed annexation is by petition pursuant to MCA Title 7, Chapter 2, Part 46 (section 7-2-4601, et seq.), the petitioners shall, concurrently with the petition for annexation, make an application for change of zoning that the petitioner may desire. All fees shall be paid by petitioner upon filing the application for zoning. Upon filing the application, the Zoning Coordinator shall follow the procedure set forth in above Section 2. If no application is filed or the application is denied the land shall retain the same zone classification it had in the county provided, that if the county classification is not identical, the City classification established will be the closest equivalent zone. The provisions of this subsection shall not be construed to preclude the City from fixing the zone classification as provided in subparagraph (A). hereinabove.

Sec. 27-1505. City Board of Adjustment.

A. Created. There is hereby created for the City of Billings, a Board of Adjustment as provided by statute, consisting of seven (7) members appointed by the mayor, with the consent of the City Council. The terms of each member shall run concurrent to that of the mayor's. Vacancies shall be filled for the unexpired terms of any members whose terms are interrupted for any reason.

B. Proceedings. The City Board of Adjustment shall schedule regular meetings, along with special meetings which may also be called by the chairperson. The chairperson may cancel the regularly scheduled meeting if no matters are pending for the board's consideration. The chairperson, or in his/her absence, the acting chairperson may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.

The board shall keep minutes of its proceedings, showing the vote of each member, or if absent or failure to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be a public record and shall be filed in the office of the Yellowstone County Board of Planning. Whenever the City Board of Adjustment grants an application for a variance, the minutes shall specifically state the hardship upon which the variance is granted. The official minutes of the board's proceedings shall be signed by the chairperson or acting chairperson. The decision of the board shall become effective immediately, unless otherwise directed by the board. The Zoning Coordinator in coordination with each board shall designate a secretary of the board and shall be custodian of all records of the meetings, findings, conclusions and orders of the board.

C. Hearings, Appeals, Notices. Appeals to the City Board of Adjustment may be taken by any person aggrieved or by any officer, department, board or bureau of the City affected by any decisions of the administrative office made under the terms of this chapter. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken and with the City Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed was taken.

The City Board of Adjustment shall fix a reasonable time for the hearing of appeal, not to exceed thirty (30) days, give public notice thereof, as well as due notice to the parties in interest, and render a decision within a reasonable time, not to exceed ten (10) days thereafter. At the hearing, any party may appear in person or by agent or attorney.

D. Appeals; Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the City Board of Adjustment, after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed other than by a restraining order which may be granted by the City Board of Adjustment or by a court of record upon application to same and notice to the officer from whom the appeal is taken and on due cause shown.

E. Powers and Duties. The City Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of this chapter or of any Resolution/Ordinance adopted pursuant thereto; and
2. To authorize upon appeal in specific cases such variance from the terms of this chapter as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed and substantial justice done.

F. Decisions, Appeals, Rehearing. In exercising the above mentioned powers, the City Board of Adjustment may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution/ordinance, or to effect any variation in the application of this chapter.

Any person aggrieved by any decision of the City Board of Adjustment, or any affected taxpayer, or any officer, department, board, or bureau of the City may appeal the decision by presenting a petition to a court of record. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) calendar days after the filing of the decision of the board.

If the City Board of Adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter be denied and may immediately proceed by appeal as provided in this subsection (F).

If an application for an administrative review or variance is denied by the City Board of Adjustment, another application shall not be filed within a period one (1) year from the date of denial, except upon the initiation of the City Board of Adjustment after a showing of a change of circumstances which would warrant a rehearing.

Sec. 27-1506. City Variances.

A. Authority. The City Board of Adjustment shall have the authority to grant a variance from the terms of this Resolution/Ordinance in specific cases where it is found that

the granting of the variance will not be contrary to the public interest and where, because of special conditions with respect to the lot shape or topography, a literal enforcement of the provisions of the chapter would result in unnecessary hardship.

B. Applications. An application for a variance shall be filed with the Zoning Coordinator under the following conditions:

1. The application shall include, but not be limited to the following:
 - a. A legal and general description of the tract(s) upon which a variance is sought;
 - b. The names and addresses of the owner(s) of the land subject to the variance, and his/her agent, if any, along with the recorded property owner's signature;
 - c. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet of the exterior boundaries of the tract(s); and
 - d. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list.
2. The applicant shall present a map showing the location of the property for which the application is submitted, and its relation to adjoining property;
3. The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not necessarily be limited to, the following:
 - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulations;
 - b. The location and size of all existing and proposed buildings, structures and improvements; and
 - c. The existing buildings, structures and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures and improvements shall be labeled as such and indicated by a dashed or dotted line.
4. The application shall state reasons why the variance is being sought and shall specify the facts of hardship upon which the request for a variance is based;
5. The application must be submitted at least twenty (20) days prior to the date of the public hearing;
6. The application must be accompanied by payment of all applicable fees; and
7. An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this chapter shall have first appeared. However, the City Board of Adjustment may, by majority vote of members

present, allow the application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this chapter.

C. Planning Department Action. The Zoning Coordinator, upon receiving an application for a variance shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of the variance contemplated under the application upon public facilities and services;
2. Study each application with reference to its appropriateness and effect on existing and proposed land uses; and its relationship to the comprehensive plan;
3. Place notice of the time, date and place of the public hearing in a newspaper of general circulation fifteen (15) days in advance of the date set for the public hearing;
4. Notify, by mail, the owner of the property and/or his/her agent, of the time, date and place of the public hearing five (5) days in advance of that date;
5. Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the subject property of the time, date, place and proposed variance. The Zoning Coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed variance would likely have a substantial impact on the surrounding land uses;
6. Place a notice of the time, date and place of the public hearing on the property fifteen (15) days prior to the hearing date; and
7. Report his/her findings, in writing, to the City Board of Adjustment which report shall be a matter or public record.

D. City Board of Adjustment Action. The City Board of Adjustment, before it grants a variance shall determine:

1. That special conditions and circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands in the same district;
2. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other tracts in the same district;

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other land in the same district;
4. That the granting of the variance will be in harmony with the general purpose and intent of this chapter and with the comprehensive plan;
5. In granting any variance, the board may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this chapter;
6. The board shall prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance; and
7. Under no circumstances shall the board grant a variance to allow a use not permissible under the terms of this chapter in the district involved. A variance shall not be a grant of special privilege inconsistent with limitations placed upon other property in the district.

Sec. 27-1507. County Zoning Commission Created.

There is hereby created a Yellowstone County Zoning Commission to consist of five (5) members residing on property, any part of which lies within the Unincorporated Jurisdictional Area of this Resolution/Ordinance, but outside the limits of the City of Billings. The members are to be appointed by the Board of County Commissioners for a term of two (2) years and the terms of the members shall be staggered so that a minimum number of terms shall expire in any one (1) year. At the first regular meeting of the County Zoning Commission, the Commission shall select a chairman and adopt written procedures for the conduct of its responsibilities as established in this Section.

The members of said County Zoning Commission are required to attend all County Zoning Commission meetings advertised publicly, except in the case of an excused absence. The presence of three (3) members shall constitute a quorum.

The duties and powers of the County Zoning Commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and make recommendations to the Board of County Commissioners on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The Board of County Commissioners shall not take any action until it has received a final report from such Commission.

Sec. 27-1508. Amendments to Chapter.

A. General. The regulations, restrictions and boundaries set forth in this Resolution/Ordinance may, from time to time, be amended, supplemented, changed or repealed by the Board of County Commissioners provided, however, that no action on any application for amendment, change or repeal may be taken until the application has first been processed and advertised in accordance with the provisions of this chapter.

B. Application for Map Amendments. Unless initiated by the Board of Planning or Board of County Commissioners, all applications for an amendment to the Official Map, or to the text of this Resolution/Ordinance must be submitted in person by the property owner, the contract purchaser or the authorized agent of the property owner. Proposals to amend this chapter, except for the official zoning map, may also be initiated by the County Zoning Commission. An application for an amendment affecting the same property shall not be submitted more than once every twelve (12) months.

Each application to amend the Official Map or text shall be filed with the Zoning Coordinator, and each application shall be submitted under the following conditions:

1. It shall include, but not be limited to, the following information:
 - a. A legal description of the tract(s) proposed to be rezoned;
 - b. A map showing the dimensions, acreage, and location of the tract(s) and adjacent land uses;
 - c. The present and proposed classification for the tract(s);
 - d. A certified list of the names, addresses and legal descriptions of the owners of property within a radius of three hundred (300) or more feet, as determined by the Zoning Coordinator, of the exterior boundaries of the tract(s);
 - e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;
 - f. The names and addresses of the owner(s) of the land and their agents, if any, along with the recorded property owner's signature; and
 - g. Payment of all applicable fees.
2. Any application for an amendment to the Official Map must be submitted together with all applicable fees, to the Zoning Coordinator twenty (20) days prior to the date of the public hearing before the Yellowstone County Zoning Commission.
3. An application may be withdrawn at any time prior to the publication of the legal advertisement for the public hearing before the County Zoning Commission without respect to the twelve (12) month waiting period. After legal notice for the County Zoning Commission public hearing has been published, the request for withdrawal shall be submitted to the Planning Department office at least twenty-four (24) hours prior to the public hearing. The County Zoning Commission may

allow withdrawal of the application, after advertisement of the Zoning Commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

4. An applicant requesting a zone change may request a thirty (30) day delay on the hearing of his/her application before the County Zoning Commission. The request for the delay and reasons must be submitted in writing to the Planning Office or Chairman of the County Zoning Commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring County Commission approval of the delay. Only one such delay shall be allowed on any application.

C. Planning Department Action. The Zoning Coordinator, upon receiving an application for rezoning an area or a particular piece of property, shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of any zoning change upon public facilities and services including, but not limited to schools, drainage, traffic and related facilities;
2. Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the Comprehensive Plan;
3. Advertise notice of the application in a newspaper of general circulation at least fifteen (15) days in advance of the date of the County Zoning Commission public hearing. The notice shall contain: the classification sought, the location of the property, and the date, time and place of the County Zoning Commission public hearing;
4. Notify, by mail, the applicant and/or his/her authorized agent at least five (5) days prior to the date of the County Zoning Commission public hearing of the date, time and place of such hearing;
5. Notify, by mail, all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the rezoning of the date, time and place of the County Zoning Commission public hearing and the existing and proposed classification at least fifteen (15) days in advance of that date. The Zoning Coordinator may notify property owners within a radius of more than three hundred (300) feet if he/she determines that the proposed rezoning of the property would likely have a substantial impact on the surrounding land uses;

6. Place notice of the County Zoning Commission public hearing on the property subject to rezoning at least fifteen (15) days in advance of the date of the public hearing; and
7. Report his/her findings and conclusions in writing to the County Zoning Commission, which report shall be a matter of public record.

D. County Zoning Commission Action. The County Zoning Commission shall review and take action upon each application in accordance with the provisions of this chapter, and after a public hearing for which the application has been legally advertised. Each application shall be presented to the County Zoning Commission by the Zoning Coordinator or his/her designee, together with his/her findings and conclusions on the matter. The County Zoning Commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A report of the Commission's decision and the Zoning Coordinator's findings and conclusions shall be submitted to the Board of County Commissioners.

The County Zoning Commission shall make a *recommendation* to the Board of County Commissioners to:

1. Approve the application; or
2. Deny the application.

The County Zoning Commission shall submit its recommendations in writing along with a statement indicating its reasons for granting, denying, or allowing withdrawal of the amendment within fifteen (15) days following the public hearing. In no case shall the County Zoning Commission make a recommendation that an amendment be granted for an amendment that was not legally advertised.

In making its recommendation to the Board of County Commissioners for an amendment to the Official Map or text of this Resolution/Ordinance, the County Zoning Commission shall consider, among other things, the following:

1. Whether the new zoning was designed in accordance with the Comprehensive Plan;
2. Whether the new zoning was designed to lessen congestion in the streets;
3. Whether the new zoning will promote health and general welfare;
4. Whether the new zoning will secure safety from fire, panic and other dangers;
5. Whether the new zoning will provide adequate light and air;

6. Whether the new zoning will prevent the overcrowding of land;
7. Whether the new zoning will avoid undue concentration of population;
8. Whether the new zoning will facilitate the adequate provision of transportation, water, sewerage, schools, parks, fire, police and other public requirements;
9. Whether the new zoning gives reasonable consideration to the character of the district;
10. Whether the new zoning gives reasonable consideration to peculiar suitability of the property for particular uses;
11. Whether the new zoning was adopted with a view to conserving the value of buildings; and
12. Whether the new zoning will encourage the most appropriate use of land throughout Yellowstone County.

E. Board of County Commissioners Action. Notice of the Board of County Commissioners public hearing shall be placed in a newspaper of general circulation. The notice shall contain the time, date and place of the Board of County Commissioners public hearing. Before taking any action on an application for an amendment to the Official Map, or amendment to the text of this Resolution/Ordinance, the Board of County Commissioners shall first consider the findings and recommendations of the County Zoning Commission. In no case shall the Board approve an amendment for a classification other than the one advertised. The Board shall:

1. Approve the application;
2. Deny the application;
3. Allow withdrawal of the application; or
4. Delay action on the application for a period not to exceed thirty (30) days.

Sec. 27-1509. Special Review by County Zoning Commission.

A. General. Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the