

BILLINGS/YELLOWSTONE COUNTY PROJECT RE:CODE

Article 27-1000 Use Standards

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General Drafting Notes:

This draft is still a combined city/county draft and may have references to the Billings municipal code or Yellowstone County ordinances that will need to be clarified. The draft will be separated into a city version and a county version following Project Re:Code working group and steering committee review.

We will update the zone districts references in this draft when the Project Re:Code working groups and steering committee have reviewed the proposed district line-ups and given a general approval.

This draft includes new sections that have been proposed for city and county review. These sections are labeled (New) in the section title.

The following sections will be separated out for a topic-specific review:

- Eating and Drinking Establishments
- Short-term rentals (VRBO/AirBNB)
- Commercial solar, wind, and biomass facilities
- Wireless communication facilities/related antenna facilities

Review Process:

This draft will be reviewed by the Project Re:Code working groups and steering committee during April 2019. Following that round of review, the draft will be made public for additional comment.

SECTION 27-1001: GENERAL PROVISIONS¹

A. GENERALLY APPLICABLE STANDARDS

The following general standards apply to the uses identified in this article.²

1. A lot may contain more than one use.
2. Each of the uses may function as either a principal use or accessory use on a lot, unless otherwise specified.
3. Uses are either permitted by-right in a district, permitted by-right with specific development or design parameters, or require special review in order to be developed.
4. Each use may have both indoor and outdoor facilities, unless otherwise specified.

B. USE TABLE ORGANIZATION

1. This section identified the uses that are permitted on a lot or in a development for three categories of uses:
 - (a) Table 27-1000-1 identifies the primary uses permitted in each zone district.
 - (b) Table 27-1000-2 identifies the accessory uses permitted in each zone district.
 - (c) Section 27-1006 identifies the temporary uses permitted in each zone district.
2. Definitions for individual uses are provided in Section 1800, Definitions.

C. PRIMARY USE CLASSIFICATION GENERAL DESCRIPTIONS

1. Organization

- (a) To organize the uses in the Table 27-1000-1, Permitted Primary Uses, land uses and activities are classified into general "use categories" that are based on common functional, product, or physical characteristics, such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. The use categories in Table 27-1000-1 are:
 - (1) Residential
 - (2) Public, Civic, and Institutional
 - (3) Commercial
 - (4) Industrial, Wholesale, and Storage
 - (5) Agriculture
- (b) Where there are also groups of uses with a use type, the use type may also be organized into "use groups" and "use type subgroups" where there are a number of possible variations of a use type, such as residential dwellings or group living. This classification provides a systematic basis for assigning present and future land uses into appropriate zoning districts.
- (c) The use categories and use groups are described below for the purpose of providing a general description of each use category and use group along with examples of primary and some accessory uses that might be permitted within the category or group. Not all of these uses are permitted in every

¹ Formatting note: We will clean-up cross-references and update zone district references in the next version of this draft.

² Formatting note: we will only intentionally capitalize proper nouns, including full section titles. This means that we will capitalize Yellowstone County, but not county, and similarly we will capitalize Section 27-1000, Use Standards, but not section. When we have a question, we will rely on the Chicago Manual of Style.

zone district. Accessory uses described in this section may also be allowed as primary uses in some zone districts. To determine which uses are permitted in which district, see Table 27-1000-1.

2. Residential Uses

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

3. Public, Civic, and Institutional Uses

- (a) Use Category Description: This is a use category for public, quasi-public, and private uses that provide unique services that are of benefit to the public at-large.
- (b) Use Types
 - (1) Assembly: Civic and cultural assembly uses are permanent places where persons regularly assemble for religious worship or secular activities, and which are maintained and controlled by a body organized to sustain the religious or public assembly. Civic assembly uses include civic and social organizations such as private lodges, clubs, fraternities, and similar private membership organizations, as well as places of community assembly such as libraries and museums.
 - (2) Education: This use type includes institutions of learning that provide educational instruction to students. Accessory uses include play areas, cafeterias, recreational and sport facilities, auditoriums, and before- or after-school day care.
 - (3) Health Care and Social Assistance: This use type is characterized by activities focusing on medical services, particularly licensed public or private institutions that provide primary health services and medical or surgical care to persons suffering from illness, disease, injury, or other physical or mental conditions. Accessory uses may include laboratories, outpatient, or training facilities, and parking, or other amenities primarily for the use of employees in the firm or building.
 - (4) Parks and Recreation: This use type includes uses that focus on natural areas, large areas consisting mostly of vegetative landscaping or outdoor recreation, community gardens, or public squares. These lands tend to have few structures. Accessory uses may include clubhouses, playgrounds, maintenance facilities, concessions, caretaker's quarters, and parking for cars and RVs as permitted by the [city/county].
 - (5) Transportation: this is a use category that includes uses involving public and private modes of vehicular transportation.
 - (6) Utilities and Public Facilities: This use type includes structures and locations for public or private lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and facilities for the generation of electricity. Utility uses may or may not have regular employees at the site and the services may be public or privately provided.

- (7) Wireless Communication Facilities: This use type includes structures, locations, and equipment for the transmission of voice, data, image, or video programming.

4. Commercial Uses

(a) Use Category Description: This is a use category for any retail, consumer service, or office use.

(b) Use Types

- (1) Amusement and Recreation: This use type includes a broad array of commercial establishments that operate indoor or outdoor facilities or provide services to meet varied artistic, cultural, entertainment, and recreational interests of their patrons. Uses within this category comprise: (1) establishments involved in producing, promoting, or participating in live performances, events, or exhibits intended for public viewing; (2) establishments that create, preserve and exhibit objects and sites of artistic, historical, cultural, sports or educational interest; and (3) establishments that operate facilities or provide services that enable patrons to participate in recreational activities or pursue amusement, hobby, or leisure time interests. Excluded are restaurants and night clubs that provide live entertainment in addition to the sale of food and beverages, which this code categorizes as "eating and drinking establishments."
- (2) Animal Sales and Services: This use category groups uses related to animal care.
- (3) Assembly, Entertainment and Trade: These commercial assembly uses include convention centers, theaters, stadiums, arenas, and wedding venues.
- (4) Child Care: This use type includes the range of child care services permitted by Montana law.
- (5) Commercial Services: This use category includes uses that provide for consumer or business services and for the repair and maintenance of a wide variety of products. Personal services are also included, characterized by establishments that provide individual services related to personal needs such as barber shops or dry cleaners.
- (6) Eating and Drinking: This is a use category for businesses that prepare or serve food or beverages for consumption on or off the premises. Accessory uses may include outdoor seating, offices and parking.
- (7) Financial Services: This use category includes establishments that have a primary purpose of: providing custody, loans, exchange, or issuance of money; extending credit; and transmitting funds, including via drive-in facilities and automatic teller machines.
- (8) Lodging: Uses in this use type provide customers with temporary housing for an agreed upon term of less than 30 consecutive days; any use where temporary housing is offered to the public for compensation, and is open to transient rather than permanent guests. This use type includes hotels, motels, and bed and breakfast inns.
- (9) Office: This type includes uses where people are engaged primarily in on-site administrative, business, or professional activities. These uses are characterized by activities in an office setting that focus on the provision of off-site sale of goods or on-site information-based services, usually by professionals. Typical examples include real estate, insurance, property management, investment, employment, travel, advertising, law, architecture, design, engineering, accounting, call centers, and similar offices. This category may also include laboratory services that are conducted entirely within an office-type setting. Accessory uses may include cafeterias, health facilities, parking or other amenities primarily for the use of employees in the firm or building.
- (10) Parking, Commercial: A use type that distinguishes commercial parking facilities from accessory parking.

- (11) Retail Sales: This is a use type for businesses involved in the sale, lease, or rental of new or used products to the general public. Such uses may include, but are not limited to: convenience food store, drug store, grocery store, hardware store, general merchandise store, garden supplies, furniture, home furnishings and equipment. Accessory uses may include offices, parking, storage of goods, and assembly, repackaging or repair of goods for in-site sales.
- (12) Vehicle and Sales and Services: This use type includes a broad range of uses for the maintenance, sale, or rental of motor vehicles and related equipment. Accessory uses may include incidental repair and storage and offices.

5. Manufacturing, Processing, and Assembly

- (a) Use Category Description: This is a use category including uses that produce goods from extracted and raw materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced.
- (b) Use Types
 - (1) Alternative Energy Production: this is a use category that includes energy produced at a commercial scale from resources that are regenerative.
 - (2) Industrial and Construction Services: This use type is characterized by companies that are engaged in the repair or servicing of heavy machinery, equipment, products, or by-products, or the provision of heavy services including construction or contracting. Accessory activities and uses may include sales, offices, parking, and storage.
 - (3) Industrial Manufacturing, Assembly, or Processing: A use type including establishments involved in the manufacturing, processing, fabrication, packaging, or assembly of goods. Natural, constructed, raw, secondary, or partially completed materials may be used. Products may be finished or semi-finished, and are generally made for the wholesale market, for transfer to other plants, or to order for firms or consumers. Goods are generally not displayed or sold on site, but if so, such activity is a subordinate part of sales. Relatively few customers come to the manufacturing site. Accessory activities may include retail sales, offices, cafeterias, parking, employee recreational facilities, warehouses, storage yards, repair facilities, truck fleets, and caretaker's quarters.
 - (4) Natural Resource Extraction: This use type includes removal of resources from the ground.
 - (5) Warehousing and Wholesale Sales and Distribution: This use type includes facilities used for the sale, lease, or rent of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or order taking, and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited as a result of the way in which the firm operates. Products may be picked up on site or delivered to the customer.
 - (6) Waste and Salvage: This is a use category for uses that collect, store, process, or sell waste or salvage materials, or collect and process recyclable material, for the purpose of marketing or reusing the material in the manufacturing of new, reused, or reconstituted products.

6. Agricultural Uses

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

SECTION 27-1002: USES BY DISTRICT

A. USE TABLE

Table 27-1000-1, Permitted Primary Uses, identifies the permitted primary uses in each zoning district. Each use is given one of the following designations for each zoning district in which that use is permitted.

1. Permitted /P/. These uses are permitted by-right in the zone districts in which they are listed. Permitted uses are required to comply with applicable use-specific standards identified in this article.
2. Permitted in upper stories/back of structure /P*/. These uses are permitted by-right in the districts in which they are listed, provided that the uses are located in the upper stories of a structure. These uses may also be located in the ground story provided that they are located beyond a depth of at least 30 feet from the front facade.
3. Requires a special review /SR/. These uses require special review by the [city/county]³ zoning commission in order to be permitted in the districts in which they are listed and must follow any applicable development standards associated with the use as well as meet the requirements of the special review.
4. Uses that are not permitted are indicated by a blank space.

B. INTERPRETATION

1. Classification of New or Unlisted Uses

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

2. Uses Not Subject to Use Interpretation

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

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

3. Request for Use Interpretation

Requests for a use not prohibited in the previous section and not specifically addressed in any zoning district shall be submitted to the planning and community services director⁴ for review, based on the following standards.

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

³ Drafting note: The April 2019 version of this draft is still a consolidated city/county draft for the purposes of public review. The contents of this article will be divided into separate city standards and county standards following public review.

⁴ We've referred to the "planning and community services director" in this draft. We'd like to know if this should be shortened to "director"? Also, when we choose a term, that term will be defined to include the director's designees.

- (b) If the use is not addressed in the appropriate use table, the planning and community services director shall select the use listed which most closely approximates the proposed use, using criteria such as:
- (1) Appropriate use category in Section 27-1001.C;
 - (2) Conformance with the currently adopted growth policy and purpose of the zoning district in which the use is proposed;
 - (3) Types of equipment and/or processes to be used;
 - (4) Aesthetics, traffic characteristics, and potential nuisance effects (noise, vibration, dust, smoke, odor, glare, hours of operation) on adjacent and surrounding uses and structures;
 - (5) Number of employees, visitors, or customers generated;
 - (6) Parking demands associated with the use; and
 - (7) Special public utility requirements for serving the proposed use type, including, but not limited to, electricity, water supply, wastewater output, pre-treatment of wastes and emissions required or recommended, and any significant power structures or infrastructure and communications towers or facilities;
- (c) Once a similar use is determined, the planning and community services director shall issue a zoning determination letter and the proposed use shall comply with any conditions and review procedures that may apply to that use, including prescribed conditions or special use requirements, as applicable.
- (d) If, based on the criteria identified above and the Section 27-1001.C, Use Categories, the planning and community services director determines that a use can reasonably be determined to be similar to more than one use or category of uses, the director shall select the use or category of uses that provides the most exact, narrowest, and appropriate fit.
- (e) The determination as to whether a proposed use is similar in nature and class to another use within a district shall be considered an expansion of the use regulations, not a variance applying to a particular situation. Any use determined by the planning and community services director to be similar shall thereafter be included in the enumeration of the uses via the appropriate code amendment process.
- (f) Determination of Non-Similarity
- (1) The planning and community services director may determine that a proposed use is not substantially similar to any use identified in Table 27-1000-1 because either:
 - a. The potential impacts of the use, as identified in Section 27-1001.C.3, are significantly more impactful on the site, street, or neighborhood, than other permitted uses in the same use category and that the use would not otherwise be permitted without prescribed conditions or through a public review process; or
 - b. There are no similar uses permitted on the site or in the applicable zone district;
 - (2) When this is the case, the planning and community services director shall provide the applicant with a written determination of non-similarity within 14 business days of the request for interpretation.
- (g) Post-Decision Actions
- (1) Following a determination of non-similarity, the applicant may submit an application for code amendment.
 - (2) The planning and community services director's decision is appealable to the board of adjustment.

Preliminary Review Draft 04.19

Table 27-1000-1: Billings Permitted Primary Uses /Residential Districts	Residential Neighborhood							Additional Standards
	Key: P = Permitted, P* = Location Limits, SR = Special Review							
See Table 27-xxx for mixed-use and non-residential uses	N3	N2	N1	NX1	NX2	NX3	RMH	
Health Care and Social Assistance								
Adult Day Care								
Chemical Dependency Facility								
Emergency and Homeless Shelter								
Hospice Facility	P	P	P	P	P	P	P	
Hospital or Health Care Facility								
Long-Term Care Facility								
Mental Health Center								
Outpatient Surgical Services								
Residential Treatment Facility					P	P		
Parks and Recreation								
Arboretums/Botanic Gardens/Zoos								
Golf Course/Swimming Pool (Public)								
Public Parks and Playgrounds	P	P	P	P	P	P		
Public Recreation Facilities	P	P	P	P	P	P		
COMMERCIAL								
Assembly, Entertainment and Trade								
Large								
Small	SR	SR	SR	SR	SR	SR	SR	
Child Care								
Child Care Center							SR	27-1003.C
Family Child Care Home	P	P	P	P	P	P	P	27-1003.C
Group Child Care Home	P	P	P	P	P	P	P	27-1003.C
Lodging								
Boarding	SR	SR	SR	SR	SR	SR	SR	
Bed and Breakfast Inn	SR	SR	SR	SR	SR	SR	SR	27-1003.C
Campground/RV Park								27-1003.C

Table 27-1000-1: Billings Permitted Primary Uses /Residential Districts	Residential Neighborhood							Additional Standards
	N3	N2	N1	NX1	NX2	NX3	RMH	
See Table 27-xxx for mixed-use and non-residential uses								
Hotel/Motel								
Short-Term Rental			SR	SR	SR	SR		27-1003.C
Parking, Commercial	SR	SR	SR	SR	SR	SR	SR	
TRANSPORTATION, UTILITIES, AND COMMUNICATIONS								
Utilities and Public Facilities								
Major								
Minor (e.g., lift stations, substations, pump stations)	SR	SR	SR	SR	SR	SR	SR	
Offices, Buildings, Yards, and Land								
Pipelines (except natural gas)	P	P	P	P	P	P	P	
Transmission and Distribution Lines	P	P	P	P	P	P	P	
Wireless Communication Facilities								
Amateur Radio, less than 100' high	P	P	P	P	P	P	P	
Greater than 100' high	SR	SR	SR	SR	SR	SR	SR	
AGRICULTURE								
Agriculture								
Farm Stand								
Greenhouse, Non-Commercial	P	P	P	P	P	P	P	
Hobby Farm								
Livestock and Fowl								27-1003.F
Stable, Commercial								
Private								
Urban Agriculture	P	P	P	P	P			
Community Gardens	P	P	P	P	P	P	P	27-1003.F
Veterinary, Livestock								
Boarding								

D. YELLOWSTONE COUNTY RESIDENTIAL USE TABLE

Table 27-1000-1: Yellowstone County Permitted Primary Uses/ Residential Districts	Base Zone Districts					PND Districts (Must have public water and sewer, see Section xx.xxx)						Additional Standards
	A	RR1	RR3	N4	RM H	N3	N2	N1	NX1	NX2	NX3	
See Table 27-xxx for mixed-use and non-residential uses	Key: P = Permitted, P* = Location Limits, SR = Special Review											
RESIDENTIAL												
Households Living												
1 dwelling unit/structure	P	P		P	P	P	P	P	P			
2 dwelling units/structure							P	P	P	P		
3-4 dwelling units/structure									P	P	P	
5-8 dwelling units/structure										P	P	
9+ dwelling units/structure											P	
Manufactured Home												27-1003.A
Class A and B	P	P			P							
Class C	SR	SR			P							
Group Household Living												
Community Residential Facility, Limited	SR	SR		SR	SR	SR	SR	SR	SR	SR	P	27-1003.A
Community Residential Facility, Large	SR	SR		SR	SR	SR	SR	SR	SR	SR	P	27-1003.A
Community Residential Facility, Small	P	P		P	P	P	P	P	P	P	P	27-1003.A
Fraternity/Sorority House										P	P	
Group Living Facility	SR	SR		SR	SR	SR	SR	SR	P	P	P	
Retirement Home or Village	SR	SR		SR	SR	SR	SR	SR	SR	SR	P	
Travel Trailer Park/ Campground	SR	SR										
PUBLIC, CIVIC, AND INSTITUTIONAL												
Assembly												
Civic Assembly	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	
Religious Assembly	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	27-1003.B

Table 27-1000-1: Yellowstone County Permitted Primary Uses/ Residential Districts	Base Zone Districts					PND Districts (Must have public water and sewer, see Section xx.xxx)						Additional Standards
	A	RR1	RR3	N4	RM H	N3	N2	N1	NX1	NX2	NX3	
See Table 27-xxx for mixed-use and non-residential uses												
Education												
School, College or University												
School, Primary and Secondary	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	
School, Trade, Business, Technology, Vocational												
Health Care and Social Assistance												
Adult Day Care												
Chemical Dependency Facility												
Emergency and Homeless Shelter												
Hospice Facility	P	P		P	P	P	P	P	P	P	P	
Hospital or Health Care Facility												
Long-Term Care Facility												
Mental Health Center												
Outpatient Center for Surgical Services												
Residential Treatment Facility										P	P	
Parks and Recreation												
Arboretums/Botanic Gardens/Zoos												
Golf Course or Swimming Pool, Public												
Public Parks and Playgrounds	P	P		P	P	P	P	P	P	P	P	
Public Recreation Facilities	P	P		P	P	P	P	P	P	P	P	
COMMERCIAL												
Amusement and Recreation												
Amusement, Indoor												
Large												
Small	SR	SR		SR	SR							
Amusement, Outdoor												

Preliminary Draft: Working Group and Steering Committee Review
ARTICLE 27-1000 USE-SPECIFIC STANDARDS

Table 27-1000-1: Yellowstone County Permitted Primary Uses/ Residential Districts	Base Zone Districts					PND Districts (Must have public water and sewer, see Section xx.xxx)						Additional Standards
	A	RR1	RR3	N4	RM H	N3	N2	N1	NX1	NX2	NX3	
See Table 27-xxx for mixed-use and non-residential uses	Key: P = Permitted, P* = Location Limits, SR = Special Review											
Large												
Small	SR	SR		SR	SR							
Adult Entertainment												
Animal Sales and Services												
Boarding/Kennel	P	SR										27-1003.C
General Sales and Services	P											
Shelter, Public or Private												
Small animal Veterinary w/o boarding	P	SR										
with boarding	P											27-1003.C
Large Animal Veterinary (with or w/o boarding)	P											27-1003.C
Assembly, Entertainment and Trade												
Large	SR											
Small	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	
Child Care												
Child Care Center	SR	SR		SR	SR							27-1003.C
Family Child Care Home	P	P		P	P	P	P	P	P	P	P	27-1003.C
Group Child Care Home	P	P		P	P	P	P	P	P	P	P	27-1003.C
Commercial Service												
Crematorium/ Funeral Services												
Cemetery	P											
Lodging												
Boarding	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	
Bed and Breakfast Inn	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	27-1003.C
Campground/RV Park												27-1003.C
Hotel/Motel												

Table 27-1000-1: Yellowstone County Permitted Primary Uses/ Residential Districts	Base Zone Districts					PND Districts (Must have public water and sewer, see Section xx.xxx)						Additional Standards
	A	RR1	RR3	N4	RM H	N3	N2	N1	NX1	NX2	NX3	
See Table 27-xxx for mixed-use and non-residential uses	Key: P = Permitted, P* = Location Limits, SR = Special Review											
Short-Term Rental								SR	SR	SR	SR	27-1003.C
Office												
Business or Professional												
Medical and Dental												
Research and Testing Laboratories												
Parking, Commercial				SR		SR	SR	SR	SR	SR	SR	
Retail Sales												
Commercial Greenhouse	P	SR										
INDUSTRIAL, WHOLESALE, AND STORAGE												
Alternative Energy Production												
Solar Power Array, large/commercial												
Wind Energy Conversion Systems, large/commercial												
BioMass Conversion Systems, large/commercial												
Industrial and Construction Services												
Auction House	SR											
Contractor Yard, General/Trade												
Heavy												
Grain Elevator	SR											
Transportation, Utilities, and Communications												
Utilities and Public Facilities												
Major												
Minor (e.g., lift stations, substations, pump stations)	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	
Offices, Buildings, Yards, and Land												

Table 27-1000-1: Yellowstone County Permitted Primary Uses/ Residential Districts	Base Zone Districts					PND Districts (Must have public water and sewer, see Section xx.xxx)						Additional Standards
	A	RR1	RR3	N4	RM H	N3	N2	N1	NX1	NX2	NX3	
See Table 27-xxx for mixed-use and non-residential uses	Key: P = Permitted, P* = Location Limits, SR = Special Review											
Pipelines (except natural gas)	P	P		P	P	P	P	P	P	P	P	
Transmission and Distribution Lines	P	P		P	P	P	P	P	P	P	P	
Wireless Communication Facilities												
<i>to be updated to comply with new FCC regs</i>												
Amateur Radio, less than 100' high	P	P		P	P	P	P	P	P	P	P	
Greater than 100' high	SR	SR		SR	SR	SR	SR	SR	SR	SR	SR	
Agriculture												
Agriculture												
Livestock and Crops	P	P										
Auction Yard, Livestock	SR											
Commercial Feeding Yard, Livestock (Not Dairy, Swine or Poultry)	SR											
Farm Stand	P	P										
Greenhouse, Non-Commercial	P	P		P	P	P	P	P	P	P	P	
Hobby Farm	P	P	P	P	P							
Production	P											
Crops	P											
Livestock	P											27-1003.F
Milling: Lumber, Plywood, and Shingles	SR											
Sales												
Services	SR											
Stable, Commercial	P	P										
Private	P	P		P								
Urban Agriculture	P	P		P		P	P	P	P	P		
Community Gardens	P	P		P		P	P	P	P	P	P	27-1003.F
Veterinary, Livestock	P											

Table 27-1000-1: Yellowstone County Permitted Primary Uses/ Residential Districts	Base Zone Districts					PND Districts (Must have public water and sewer, see Section xx.xxx)					Additional Standards	
	A	RR1	RR3	N4	RM H	N3	N2	N1	NX1	NX2		NX3
See Table 27-xxx for mixed-use and non-residential uses												
Boarding	P	SR										

Preliminary Review Draft 01.19

SECTION 27-1003: USE-SPECIFIC STANDARDS

A. RESIDENTIAL USES

1. Community Residential Facilities

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

2. Manufactured Homes

Manufactured or mobile homes shall not be used for any commercial use other than an on-premise office in connection with a manufactured home sales area.⁵

B. PUBLIC, CIVIC, AND INSTITUTIONAL USES

1. Religious Assembly

Supplemental Special Review Standards.⁶ Religious assembly uses shall be reviewed as a special review use in all residential zones. The following exemptions from the special review requirements shall only apply to those religious assembly uses that have previously been approved pursuant to a special review by the [city council/county commission] or which are legal nonconforming uses:

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

⁵ Current Sec. 27-608(7). We've moved the other manufactured and modular home information to the general definitions.

⁶ Current Sec. 27-613(b)

- (3) Access shall be provided as follows: 1-200 seats shall have access from local or residential streets; 201-1000 seats shall have access from a collector street or higher; 1001 seats and over shall have access from an arterial street.

C. COMMERCIAL USES

1. Adult Entertainment⁷

- (a) Purpose and intent. It is the purpose of this section to regulate sexually oriented businesses to promote the health, safety, morals, and the general welfare of the citizens of the city and to establish reasonable uniform regulations to prevent the continued deleterious location and concentration of sexually oriented businesses within the city. The provisions of this section have neither the purpose nor effect of imposing a limitation or restriction on the content of any communicative materials, including sexually oriented materials. Similarly it is not the intent or effect of these regulations to restrict or deny access by adults to distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of these regulations to condone or legitimize the distribution of obscene materials.
- (b) Findings and determinations. The [city council/county commission] hereby finds and determines that:
 - (1) The establishment of adult uses in commercial districts that are immediately adjacent to and which serve residential neighborhoods has a deleterious effect on both the business and residential segments of the neighborhood, causing or contributing to blight and a downgrading of property values.
 - (2) The establishment of more than two adult uses within 600 feet of each other has a deleterious effect on surrounding residential and business areas and the fostering of such businesses within a close proximity tends to create a "skid row" atmosphere.
 - (3) The location of several adult uses in the same neighborhood tends to attract an undesirable quantity and quality of transients, a circumstance which adversely affects property values, causes an increase in crime and encourages residents and businesses to move elsewhere.
 - (4) Concern for, and pride in, the orderly planning and development of a neighborhood should be encouraged and fostered in those persons comprising residential and business segments of that neighborhood.
- (c) Classification. Sexually oriented businesses are classified as follows:
 - (1) Adult arcades;
 - (2) Adult book stores or adult video stores;
 - (3) Adult cabarets;
 - (4) Adult motels; and
 - (5) Adult motion picture theaters.
- (d) Location of sexually oriented business
 - (1) A sexually oriented business shall not be operated within 1,000 feet of the following:

[Drafting note: zone district names will be updated once the new district line-up has been approved]

 - a. Residential zones:
 - i. Residential 9,600 (R-96) zone;

⁷Current section 27-611; definitions have been moved to Section 27-1803.

- ii. Residential 8,000 (R-80) zone;
- iii. Residential 7,000 restricted (R-70R) zone;
- iv. Residential 7,000 (R-70) zone;
- v. Residential 6,000 restricted (R-60R) zone;
- vi. Residential 6,000 (R-60) zone;
- vii. Residential 5,000 (R-50) zone;
- viii. Residential multi-family (RMF) zone;
- ix. Residential multi-family—Restricted (RMF-R) zone;
- x. Residential manufactured home (RMH) zone;
- xi. Entryway mixed use (EMU) zone; or
- xii. Any planned development zone that allows residential uses unless such zone is separated from the location of a sexually oriented business by an interstate highway.

(2) Land uses:

- i. Public library;
- ii. Public playground or park (for purposes of this section, publicly owned multiuse trails shall be deemed to be a park);
- iii. Public or private school and its grounds, from pre-school through twelfth grade;
- iv. A state licensed community residential facility, family day care home, group day care home, day care center, religious assembly, or
- v. A cemetery.

(3) A sexually oriented business shall not be located within 600 feet of another sexually oriented business.

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

(5) In addition to the preceding requirements, sexually oriented businesses are permitted in the following zones only:

[Drafting note: these zone district names will be updated once the new district line-up has been approved]

- a. Central business district (CBD) zone;
- b. Highway commercial (HC) zone;
- c. Controlled industrial (CI) zone; or
- d. Heavy industrial (HI) zone.

(e) Nonconforming use—Amortization period established. (Refer to subsection 27-4.05(g))

2. Animal Sales and Services with Outdoor Facilities (New)

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

(a) General Requirements

The facilities shall:

- (1) Only be used between the hours of 7:00 AM and 10:00 PM;
 - (2) Be supervised by qualified personnel;
 - (3) Be located at least 300 feet from any residential zone;
 - (4) Not cause loud and incessant noise or fouling of the air by odor thereby creating annoyance or discomfort to the neighbors or others in close proximity;
 - (5) Not foster an excessive number of flies or other insects; and
 - (6) Not otherwise cause any unsanitary conditions in the enclosure(s) or the surroundings where the animals are kept.
- (b) Kennel
- (1) All facilities, including pens, kennels, cages and exercise runs in [_____] districts shall be maintained within a completely enclosed, soundproof building so that, to the maximum extent feasible, noise and odor are not detectable off-premises.
 - (2) Facilities in the [_____] district(s) may have outdoor facilities, including runs and exercise areas, but such facilities must not be located within 1,000 feet of any residential district.
- (c) Veterinary Services (with outdoor facilities)
- Facilities in the [_____] district(s) may have outdoor facilities, including runs and exercise areas, but such facilities must not be located within 1,000 feet of any residential district.
- 3. Bank or Financial Institution (New)**
- Banks or financial institutions that are located within 100-feet of a residential zoning district shall comply with the following requirements:
- (a) The use shall be compatible with the neighborhood and shall not be detrimental to the same due to:
 - (1) Increased automobile traffic, or
 - (2) Noise generated from within the site.
 - (b) If the bank is to include drive-through services, a maximum of two drive-through windows lanes shall be permitted along with a non-drive-through escape lane. The drive-through area shall be designed pursuant to Section 27-1003.x, Vehicle Stacking Requirements and shall be screened either by site perimeter landscaping or a landscape buffer, whichever is applicable pursuant to Section xx.xxx.
- 4. Bed and Breakfast Inn (New)**
- (a) The owner-operator shall reside on the premises.
 - (b) The bed and breakfast shall be located within a structure that was originally permitted within the district.
 - (c) There shall be no more than 5 guest rooms.
 - (d) The individual guest rooms shall have no cooking implements, including, but not limited to, stoves, grills or ovens.
 - (e) Parking shall not be allowed in any front setback.
- 5. Campground/RV Park (New)**
- (a) The intent of these standards is to enable the orderly, safe, and nuisance-free development and use of campgrounds and RV parks.

- (b) The overall RV park lot or parcel shall be not less than two acres, inclusive of rights-of-way, easements or dedications, and shall observe the minimum area standards set forth herein.
- (c) Site Layout
 - (1) Each recreational vehicle space shall have an area of not less than 1,500 square feet and a width of not less than 30 feet.
 - a. Each space shall be limited to one RV and one motor vehicle.
 - b. All RVs shall be located in a space.
 - (2) Recreational vehicles shall be located on spaces so as to provide a minimum setback from the nearest edge of any interior drive or roadway of not less than five feet and so as to provide a minimum setback from any RV space boundary not in common with the edge of any interior drive or roadway of not less than five feet, except that in the case of RV spaces having boundaries in common with two or more interior drives or roadways then the minimum setback from the nearest edge of the interior drive or roadway shall be not less than 20 feet on the recreational vehicle entry side and not less than five feet on the nonentry side.
 - (3) The minimum distance between recreational vehicles in the same park shall be 15 feet.
 - (4) The RV park shall be screened from adjoining lots or parcels, not in RV park use, by a solid fence or wall of not less than four feet in height nor more than six feet in height. The screening fence or wall shall be constructed within six months from date of approval of the RV park plans.
 - (5) 30% of the property, exclusive of roads and parking, shall be maintained as meaningful open space.
- (d) Construction and Operation
 - (1) A permit to construct shall not be issued until the sanitation facilities and water supply have been approved by the [city/county/state].
 - (2) No RV shall remain in a park for more than four consecutive months in any calendar year.
 - (3) Commercial service and retail service uses may be permitted as accessory uses. These uses shall not occupy more than five percent of the total gross area of the RV park.
 - (4) A responsible caretaker, owner, or manager shall be placed in charge of any RV park to keep all grounds, facilities and equipment in a clean, orderly, and sanitary condition, and shall be answerable to the owner for any violation of the provisions of this or any other applicable code or ordinance.

6. Child Care (New)

Child care facilities shall comply with all applicable Montana statutory requirements.

7. Eating and Drinking Establishments⁸

- (a) Alcoholic Beverages: The use of any premises or the construction or alteration of any new or existing building or structure where alcoholic beverages are served for on-premises consumption as a primary or accessory use shall only be allowed in mixed-use, commercial, or industrial zoning districts.
- (b) No building, structure or premises shall be used for the on-premise consumption of alcoholic beverages unless a distance of 600 feet between property lines, measured in a straight line,⁹ is

⁸ Current Section 27-612. This section will be subject to more specific review in April to better clarify alcohol and gambling standards.

⁹ Drafting note: measurements will be standardized in Section 27-1300, Site and Structure Standards.

maintained from any building that is predominantly used as religious assembly, a school, or from a public park that contains a children's playground or playfield.

- (1) Properties or establishments which are located in the Central Business District zoning district are exempt from subsection (a).
- (2) Properties may be granted a waiver from the 600-foot separation required in subsection (b) if the governing body finds that a physical barrier exists between the proposed use requiring the 600-foot separation. These barriers include, but are not limited to, the following:
 - a. An arterial street with no existing or proposed signalized pedestrian crossing;
 - b. A building or buildings that entirely obstruct the view between the separated uses; and
 - c. No direct physical access exists between the separated uses.

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

- (3) Exemptions to above subsection (a) for establishments previously granted a special review are located in [BMCC/YCZC] section 27-613.
- (c) Drive-in Service. Any persons desiring to use any premises or to erect, construct, or alter any new or existing building or structure for a drive-in service as defined in [BMCC/YCZC] section 27-201 shall satisfy the following criteria, based upon the adjoining zoning district(s).
- (1) A drive-in establishment that adjoins (including any location across an alley) residentially zoned property, is subject to special review. The application will conform to all the standards within subsection 27-612(e).
 - (2) All other drive-in establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:
 - a. A traffic accessibility study shall be completed and approved by the [city/county] engineer; and
 - b. The use shall comply with all other sections of this Code.
- (d) Gambling Operation. Any gambling operation as defined in this Code, other than for nonprofit organizations, shall be allowed only in those zones specified in [BMCC/YCZC] section 27-306, and shall meet all of the rules, regulations and requirements of this chapter pertaining to bars, taverns and lounges, except that this provision shall not apply to bingo.
- (e) Outdoor Seating Special Review Approval.¹⁰ An eating or drinking establishment that was approved by special review that seeks to remodel or expand pursuant to Section xx.xx, Special Review Use, to add outdoor seating shall be required to meet the standards of Section 27-1003.L and obtain a separate special review approval.

8. Outside Storage (New)

- (a) All outside storage areas, whether permitted as a principal or accessory use, shall comply with the following standards:
 - (1) Type of Materials: Storage shall be limited to goods and materials customarily stored outside and resistant to damage and deterioration from exposure to the elements. Outside storage shall include the parking/storage of vehicles to be serviced at a collision service or towing/wrecker

¹⁰ Current Sec. 27-613. The remainder of 27-613 will be consolidated into the Special Review procedures.

service use and all parking/storage of vehicular equipment, such as farm or construction machinery or equipment and commercial delivery vehicles. The placement of storage vaults or shipping containers shall be regarded as outside storage, except as may be otherwise permitted by this code.

- (2) Location: When permitted as a principal or accessory use, outside storage shall comply with the following locational standards:
 - a. Outside storage shall not be located within any required front or exterior side setback;
 - b. In form-based districts, outdoor storage shall not be located in a front yard or street side yard between a primary structure and the street.
 - c. Outside storage shall not obstruct or eliminate any required parking or loading space, access drive or fire lane; nor occupy any street right-of-way.
 - d. Outside storage shall not be located within any required landscaping area.
 - (3) Secured Storage: All outside storage, except for the storage of operable vehicles, shall be located within a secured area.
 - (4) Screening: Screening of all outdoor storage areas from right of way and adjacent properties shall be provided according to Service Area Screening and Requirements – Sec.xx.xx [to be included in landscaping provisions].
 - (5) Height: Storage of stacked materials shall not exceed the height of the screening fence or eight feet, whichever is less. Individual items of greater height may be stored, but may not exceed one-half the height of the principal building.
 - (6) Surfacing: Storage areas shall be surfaced as follows:
 - a. Storage of goods and materials shall be conducted only on a paved surface or an approved all-weather surface that is maintained in a dust-free condition.
 - b. The storage of vehicles, trailers, and equipment, which is normally intended to be mobile, whether self-propelled or towed, shall be conducted only on a surface that is provided in accordance with the requirements for parking areas.
- (b) Shipping Containers Permanent Off-Chassis and On-Site (New)
- (1) Permanent use is restricted to the following commercial zoning districts: _____ [list permitted districts].
 - (c) Use
 - (1) Permanent shipping containers shall be used for storage purposes only.
 - (2) Permanent shipping containers shall not be permitted as a principal building.
 - (3) Permanent shipping containers shall not be permitted to be rented or leased to a use not located on the same lot.
 - (d) Quantity
 - (1) A maximum of one permanent shipping container per site shall be permitted on lots of one acre or less.
 - (2) One additional permanent shipping container per acre may be permitted for lots greater than one acre.

(e) Dimensions

Permanent shipping containers shall not exceed the dimensions of 40 feet in length, eight feet in width, and 10 feet in height.

(f) Exterior Appearance

- (1) Permanent shipping containers shall be maintained in good condition free from structural damage, rust, and deterioration.
- (2) Containers shall be painted tan, brown, dark forest green, or light gray.
- (3) Permanent shipping containers shall not be stacked vertically.

(g) Signs

No signs or lettering shall be permitted on permanent shipping containers.

(h) Location

- (1) Permanent shipping containers shall meet all building setback requirements and shall be located on the rear half of the lot.
- (2) Permanent shipping containers shall not be permitted in any parking areas, required buffers or setbacks.
- (3) No permanent off-chassis shipping containers shall be permitted in loading areas.

(i) Screening

- (1) All permanent shipping containers shall be screened from view from any public right-of-way or private street, and any residential use or residential zoning district.
- (2) Screening shall be accomplished by a wooden privacy fence or a brick or stucco screen wall at a height no greater than or less than seven feet.
- (3) The exterior of the fence or wall shall be lined with foundation plantings that reach a minimum of three feet in height at maturity and spaced appropriately for the species which must be listed in the "Approved Plantings List" in the city's Technical Standards [and Specifications Manual].

(j) Site Plan

Businesses shall submit a site plan showing any permanent container and its relationship to the overall site. The plan shall indicate how the container meets all permanent requirements, including stormwater, traffic circulation, screening requirements, other development codes and technical standards, and inspection requirements.

9. Short-Term Rentals

[this section, addressing AirBNB and VRBO-type rentals, will be drafted following working group review of the general standards]

10. Vehicle Service¹¹

- (a) Service bays. Vehicular service bays, including garages and car wash bays, shall not be located on the front facade, unless otherwise permitted by the frontage type.
- (b) Outdoor storage. Disabled or inoperable vehicles and those awaiting pick-up may be stored outdoors if:

¹¹ Current Sec. 27-1806(k), EBURD.

- (1) The vehicles are not stored for more than two days.
 - (2) The storage area is located in the rear yard screened from view of the front lot line.
 - (3) The storage area is screened using the side and rear yard buffer outlined in [BMCC/YCZC] subsection 27-1815(j), regardless of the adjacent land uses.
- (c) Outdoor activities
- (1) All repairs or washing activities must occur inside a structure.
 - (2) Vacuuming activities may occur in open air but must be located in the side or rear yards, screened from the front lot line.
 - (3) Temporary outdoor display of seasonal items, such as windshield wiper fluid or salt, is permitted during business hours under the canopy and adjacent to the principal structure.

D. INDUSTRIAL, WHOLESALE, AND STORAGE USES

1. Artisan Manufacturing

In the form-based districts where an artisan industrial use is permitted with development standards, the following apply:¹²

- (a) 20,000 square feet is the maximum permitted overall gross floor area.
- (b) A minimum 20 percent of gross floor area shall be dedicated to a showroom located at the front of the space.
- (c) Outdoor activities and storage of goods are not permitted.

2. Biomass Conversion System, Large

[DRAFTING NOTE: We will work with the County Issues Working Group to draft these standards]

3. Hazardous Waste Facilities¹³

(a) Intent. The purpose and intent of this section is to establish review criteria for the citing of any new hazardous waste facility as defined herein, in order to prevent any significant threat to human health or the environment. When used in citing new hazardous waste facilities, the criteria shall:

- (1) Protect the residents of the [City of Billings/Yellowstone County];
- (2) Ensure the structural stability of the new hazardous waste facility;
- (3) Protect surface water;
- (4) Protect groundwater;
- (5) Provide for the safe transportation of hazardous waste to new hazardous waste facilities;
- (6) Protect environmentally sensitive areas; and
- (7) Protect air quality.

(b) Definitions. For the purposes of this section, the following definitions shall apply:¹⁴

- (1) Hazardous waste: Means a waste or combination of wastes that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may:

¹² Current Sec. 27-1806(m), EBURD

¹³ Current Section 27-605

¹⁴ Drafting note: move to general definitions

- a. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness;
 - b. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed; or
 - c. A material which is classified by the Environmental Protection Agency (EPA) as being Hazardous or Extremely Hazardous.
- (2) Facility (hazardous waste management facility): Means all contiguous land and structures, other appurtenances, and improvements on the land used for treating, storing, or disposing of hazardous wastes. A facility may consist of several treatment, storage or disposal operational units.
- (3) Transfer facility: Means any transporter-owned or operated land, structure, or improvement, including loading docks, parking areas, holding sites, and other similar areas used for the transfer and temporary storage of hazardous wastes and where shipments of hazardous waste are held temporarily for a period of ten (10) days or less during the normal course of transportation, up to but not including the point of ultimate treatment, storage, or disposal.
- (4) Long-term storage facility: This facility is the same as a "transfer facility", except that it is designed to store hazardous wastes for a period longer than 10 days.
- (c) Use allowed. Any hazardous waste facility shall only be allowed in the heavy industrial (HI) zoning district and must be approved through the special review procedure as outlined in [BMCC/YCZC] section 27-1501, et seq.
- (d) Supplemental requirements. Any hazardous waste facility shall, in addition to meeting all other requirements of this ordinance, comply with the following supplemental requirements:
- (1) Submit with the required special review application, 20 copies of a community and environmental impact statement which shall include the following elements:
 - a. Description of impact of proposal upon existing environmental conditions:
 - i. Population and land use.
 - ii. Soils.
 - iii. Drainage.
 - iv. Vegetation.
 - v. Topography.
 - vi. Wildlife.
 - vii. Air quality.
 - viii. Surface water quality.
 - ix. Ground water quality.
 - x. Floodplain data.
 - xi. Scenic vistas.
 - xii. Historic and cultural sites.
 - b. Description of impact of proposal upon existing and required services:
 - i. Public Utilities: Water, Sewer, Drainage, Electric, Gas, Telephone
 - ii. Schools

- (2) The applicant(s) shall document the adequacy and availability of fire, police, medical and other emergency management facilities and services in the area, as well as, their familiarity with the substance(s) being treated, disposed or stored. Documentation shall also be required as to the adequacy and availability of transportation means and routes for the purposes of evacuation of the population at risk in the event of an accident. Evacuation methods and routes shall be indicated. In addition, information shall be provided on spill mitigation measures and pollution risk analysis.
 - (3) Applicants requesting special review for a hazardous waste facility shall address each element of the community and environmental impact statement, indicating what impacts are foreseen. Methods shall be proposed to avoid or to mitigate any potential adverse impacts. Failure to provide sufficient documentation for each element or failure to demonstrate effective avoidance or mitigation techniques shall be considered sufficient grounds for denial of the application.
 - (4) Statements in writing which grant preliminary, tentative or conditional approvals as required by any local, county, state, federal, or public authority shall be submitted to the planning department along with all other materials as required by this chapter. These documents shall be submitted along with the information required through the special review process.
 - (5) The applicant shall submit any information or documentation, in addition to the above, that the Planning Department deems necessary to fully evaluate the proposal.
- (e) Review criteria. The planning department, zoning commission and governing body, shall, at every step of the review process, take into consideration the following:
- (1) The density of population in proximity to the facility;
 - (2) The size and type of the facility;
 - (3) The type of waste expected to be present at the facility;
 - (4) The transportation means and routes available to evacuate the population at risk in an accident, including both spills and fires;
 - (5) The size and types of other hazardous waste facilities and facilities that handle hazardous waste materials in the adjacent area; and
 - (6) The availability of fire, police, and other emergency management personnel and medical facilities in the area.
- (f) Siting criteria. Any new hazardous waste facility shall, in addition to all other requirements of this ordinance, meet the following siting criteria:
- (1) No hazardous waste treatment facility shall be located any closer than two thousand (2,000) feet from any residence, school, playground, public park, public recreation area, church or other public building.
 - (2) No hazardous waste disposal or long-term storage facility, as defined in this section, shall be located any closer than 2,600 feet from any residence, school, playground, public park, public recreation area, church or other public building.

4. Heavy Manufacturing

In the form-based districts where a heavy manufacturing use is permitted with development standards, the following apply:¹⁵

¹⁵ Current Sec. 27-1806(p), EBURD

- (a) Noise, odor, and other noxious by-products shall not be measurable on adjacent properties.
- (b) Waste products shall be disposed of off-site, without entering the sanitary sewer system.

5. Self-Service Storage (New)

- (a) No business activity other than rental of storage units shall be conducted within a self-service storage unit.
- (b) Screening of individual self-storage units, unit doors, loading areas or other service areas shall be provided from a public right-of-way and any adjacent non-industrial districts.
- (c) Security fencing or gates shall be located behind any required landscaping area. Use of chain-link fencing, barbed wire, razor wire, or other such materials are prohibited.
- (d) Security gates shall be located so that two vehicles awaiting entry do not stack into the public right of way or any pedestrian path. This may be reduced to one vehicle for facilities with fewer than 25 units or where security gates are only locked outside of normal business hours.
- (e) The following standards apply in form-based districts:
 - (1) Individual storage units or areas shall be located completely within an enclosed structure and shall not be individually accessed from the outside.
 - (2) No more than 2 garage or overhead doors providing access to the individual storage areas shall be permitted. The intent is to permit a secure interior area for the loading and unloading of material to be stored.
 - (3) Individual structures shall not exceed 250 feet on any side.
 - (4) All facade elevations for self-service storage facilities shall comply with the design requirements for the district.
- (f) The following standards apply in standard districts:
 - (1) Exterior doors serving individual units shall not be oriented towards a public right of way unless located behind other structures.
 - (2) Individual units accessed from outdoors shall be located at least 100 feet from a front or street set property line.
 - (3) No self-service storage facility shall exceed 3 acres in size.

6. Solar Power Array

[DRAFTING NOTE: We will work with the County Issues Working Group to draft these standards]

7. Warehousing

In the form-based districts where warehousing is permitted with development standards, the following apply:¹⁶

- (a) *Truck access.* Truck access is permitted only off a boulevard street type (refer to [BMCC/YCZC] section 27-1817, Street Types).
- (b) *Loading bays.* Loading bays, if permitted by frontage type, shall be located directly off a boulevard street type.

8. Wind Energy Conversion System, Large

[DRAFTING NOTE: We will work with the County Issues Working Group to draft these standards]

¹⁶ Current Sec. 27-1806(o), EBURD

E. TRANSPORTATION, UTILITIES, AND COMMUNICATIONS

1. Land Mobile Radio and Broadcast Antennae and Antenna Support Structures¹⁷

[DRAFTING NOTE: All wireless and communication antenna standards, including this section, will be revised to comply with new FCC standards during the second phase of the project.]

- (a) Purpose. The purpose of this section is to establish regulations for the siting of broadcast facilities, including land mobile radio services and radio and television broadcast antennae, antenna support structures and associated equipment and buildings on public and private property. The goals of this section, developed with the assistance and participation of the Broadcast and Land Mobile Radio industry in Yellowstone County, are to:
- (1) Encourage the location of broadcast facilities in non-residential areas and minimize the total number of antenna support structures throughout the community;
 - (2) Strongly encourage the joint use of new and existing broadcast antenna support structures;
 - (3) Require broadcast facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (4) Require broadcast facilities to be configured in a way that minimizes the adverse visual impact of antenna support structures and antennae; and
 - (5) Enhance the ability of the providers of land mobile radio services and radio and television broadcast services to provide such services to the community, as quickly, effectively, and efficiently as possible.

- (b) Applicability. All land mobile radio service and radio and television broadcast antenna and antenna support structures located within the city zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to broadcast antenna and antenna support structures upon state and federal lands to the extent of the [city/county]'s and/'s jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.

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

- (c) Broadcast antenna support structures and antennae located in residential zoning districts.
- (1) Land mobile radio and radio and television broadcast antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - a. Alternative broadcast antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than 20 feet to the total height of the building on which it is mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections 27-1503 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency.¹⁸ The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1505(c), [BMCC/YCZC]. The board

¹⁷ Current Sec. 27-621. Drafting note: When updating x-refs, all letter sections starting at (c) were renumbered one letter previous because definitions were moved.

¹⁸ Drafting note: clarify order of preference.

of adjustment shall forward comments and recommendations to the affected government agency for their consideration.

- b. Antennae co-located on existing or approved alternative broadcast antenna support structures or existing or approved broadcast antenna support structures, which have previously received, all required approvals and permits shall be permitted as an allowed use.
- (d) Broadcast antenna support structures and antennae located in commercial zoning districts.
- (1) Broadcast antenna support structures 50 feet in height or less shall be permitted as an allowed use.
 - (2) Broadcast antenna support structures that exceed 50 feet in height or the maximum height limitations in the underlying commercial and industrial zoning districts as indicated in section 27-306, [BMCC/YCZC] (whichever is greater) are permitted by special review.
 - (3) Broadcast antenna or tower farms are permitted by special review, except in the CBD and South 27th Street zoning districts.
 - (4) All broadcast antenna support structures located in heavy industrial (HI) shall be permitted as an allowed use, including broadcast antenna or tower farms.
 - (5) All broadcast facilities located within the boundaries of an approved or preexisting broadcast antenna or tower farm shall be permitted as an allowed use.
- (e) General requirements. The requirements set forth in this section shall govern the location and construction of all land mobile radio service and radio and television transmission facilities governed by this section.
- (1) Building codes and safety standards. To ensure the structural integrity of broadcast facilities, the owner of a facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such facilities.
 - (2) Regulatory compliance. All broadcast facilities must meet current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section.
 - (3) Setbacks.
 - a. Broadcast antenna support structures adjacent to residential uses or zoning. Broadcast antenna support structures must be set back, from all property lines, a distance equal to one-half ($\frac{1}{2}$) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures, such as equipment enclosures or transmitter buildings, must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - b. Commercial and industrial zoning setbacks: Broadcast antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - c. Broadcast facilities in broadcast antenna or tower farms: Antenna support structures and accessory facilities located in antenna or tower farms must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
 - (4) Lot coverage and height. Broadcast antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Building

and equipment enclosures shall not exceed the height restrictions for the zoning district in which they are located.

(5) Fencing and buffering.

a. Fencing. A chain link or solid wood fence, or masonry wall at least six feet in height (eight feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the broadcast antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least 6 feet in height are required adjacent to residences and residentially zoned property. All AM broadcast antenna support structures must be surrounded by a suitable fence as required by FCC regulations.

b. Landscaping adjacent to residential uses and/or residential zoning. For broadcast facilities located in a residential zoning district, adjacent to a residential use, or adjacent to a residentially zoned parcel, the following will be required: a continuous evergreen hedge at least 4 feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes. AM Broadcast stations are exempt from this requirement due to overriding FCC regulations regarding vegetation in ground radial systems.¹⁹

A performance bond or letter of credit for 150 percent of the landscaping and fencing materials and labor costs shall be posted with the planning department to ensure the placement of required landscaping and fencing in accordance with section 27-1110, [BMCC/YCZC].

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

d. Exceptions for city airport airfield area. If federal safety and security standards within the city airport's airfield area prevent a broadcast antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.

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

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

(8) Maintenance.

a. Equipment at a broadcast facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.

b. All property used for the siting of a broadcast antenna support structure or antenna shall be maintained, without expense to the [city/county], so as to be safe, orderly, attractive, and in

¹⁹ Drafting note: conform landscaping requirements to updated landscaping standards.

conformity with [city/county] codes including those regarding the removal of weeds, trash and landscape maintenance.

- (9) Visual impact/aesthetics.
 - a. Broadcast antenna support structures shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - b. If a broadcast antenna is installed on a structure other than a tower, the associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the related equipment as visually unobtrusive as possible. Broadcast antennae and antenna support structures may be mounted on existing buildings that are 30 feet or more in height above the street grade.
 - c. Roof-mounted antennae and antenna support structures shall not add more than 20 feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other background. Crow's nest antennae arrays are prohibited on rooftop structures.
 - d. Broadcast antenna or antenna support structures attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
- (f) Nonconforming broadcast facilities. Broadcast facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, are subject to the following provisions:
 - (1) Nonconforming broadcast facilities may continue their present use, but may not be expanded without complying with these regulations, except as further provided in this section.
 - (2) Nonconforming broadcast antenna support structures which are hereafter damaged and destroyed, by less than 50 percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If a broadcast antenna support structure is destroyed or damaged by 50 percent or more of its replacement the broadcast antenna support structure must be brought into compliance with these regulations.
 - (3) The owner of any nonconforming broadcast antenna support structure may make minor modifications in order to improve the structural integrity of the structure, to allow the structure to accommodate co-located antennae, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (g) Modifications of existing or broadcast facilities that meet the requirements of these regulations.
 - (1) Minor modifications. Minor modifications to facilities permitted under these regulations shall be approved by the city-county planning department so long as they comply with the original approved design. Minor modifications are as follows:

- a. The addition of one or more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than 20 feet in height to the facility and the increase in height of the support structure is no greater than 10 percent.
 - b. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.
 - c. Repairs to or replacement of existing antennae or feedlines or support members (such as guy wires) are not considered modifications under this part.
- (2) Major modifications. Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (h) Abandonment. Broadcast facilities will be considered abandoned if they are unused by all providers at the facility for a period of 6 months. Determination of abandonment shall be made by the city-county planning department which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have 90 days to:
- (1) Re-use the facility or transfer the facility to another owner who will re-use it; or
 - (2) Dismantle the facility. If the facility is not removed within 90 days of abandonment, the [city/county] and may remove the facility at the facility and/or property owner's expense. If the facility is removed, [city/county] approval of the facility will expire. If the facility owner is unable to remove the facility within the 90 days due to unusual circumstances, the city-county planning department may grant the facility owner an additional 90 days in which to comply with the requirements of this section.
- (i) Special review uses.
- A request for a special review shall be initiated by application to the city-county planning department and handled in accordance with the special review procedure.
- (j) Nuisances. Broadcast facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the [city/county] noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.

2. Wireless Communication Facilities

[DRAFTING NOTE: All wireless and communication antenna standards, including this section, will be revised to comply with new FCC standards during the second phase of the project.]

- (a) Purpose. The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:
- (1) Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the community;
 - (2) Strongly encourage the joint use of new and existing antenna support structures;
 - (3) Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal;
 - (4) Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae; and
 - (5) Enhance the ability of the providers of wireless communication services to provide such services to the community, as quickly, effectively, and efficiently as possible.

- (b) Applicability. All wireless communication facilities located within the city zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to wireless communication facilities upon state and federal lands to the extent of the city's and/s jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.
- (1) Amateur radio stations and antenna support structures (See sections 27-305; 27-306 and 27-619, [BMCC/YCZC].)
 - (2) Antennae and antenna support structures for land mobile radio and radio and television (See sections 27-305, 27-306 and 27-621 [BMCC/YCZC]).
 - (3) Pre-existing antenna support structures or antennae. Pre-existing antenna support structures and pre-existing antennae shall not be required to meet the requirements of this section, so long as said pre-existing antenna support structures have received all required approvals, permits and exceptions prior to adoption of this section. (See subsection (h) of this section),
- (c) Commercial antenna support structures and antennae located in residential zoning districts.
- (1) Antenna support structures and antennae shall be permitted as an allowed use in all residential zoning districts provided they meet all of the following criteria:
 - a. Alternative antenna support structures conforming to all applicable provisions of this Code and roof-mounted antennae that do not add more than 20 feet to the total height of the building on which they are mounted shall be permitted as an allowed use only when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections 27-1503 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1505(c) [BMCC/YCZC]. The board of adjustment shall forward comments and recommendations to the affected government agency for their consideration.
 - b. Antennae co-located on existing or approved alternative antenna support structures or existing or approved antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use.
- (d) Commercial antenna support structures and antennae located in commercial zoning districts.²⁰
- (1) Alternative antenna support structures shall be permitted as an allowed use in all commercial zoning districts.
 - (2) Antenna support structures shall be permitted as an allowed use in all commercial zoning districts when located on school, government-owned utility, and other government sites. Proposed antennae or antenna support structures that are contrary to this section are subject to the special review requirements as provided in sections 27-1503 of these zoning regulations, or may be submitted to the board of adjustment for a hearing, whichever is the preference of the owner/agency. The board of adjustment shall hold a public hearing at a time requested by the owner/agency, in accordance with subsection 27-1505(c), [BMCC/YCZC]. The board of

²⁰ Drafting note: When updating x-refs, all letter sections starting at (c) were renumbered one letter previous because definitions were moved.

adjustment shall forward comments and recommendations to the affected government agency for their consideration.

- (3) Antennae co-located on existing alternative antenna support structures or existing antenna support structures which have previously received all required approvals and permits shall be permitted as an allowed use in all commercial zones.
- (4) Antenna support structures and antennae located in Residential Professional (RP), Neighborhood Commercial (NC), and Entryway Mixed Use (EMU) that do not meet the requirements of subsections E 1, E 2, and E 3 shall be required to obtain special review approval. Wireless communication facility tower farms are not allowed in these zoning districts.
- (5) New antenna support structures erected in the medical corridor shall be required to follow the permit zoning approval procedures in section 27-901, [BMCC/YCZC]. Antennae may be placed on existing antenna support structures and alternative antenna support structures that have previously received all required approvals and permits and meet the provisions and requirements of these regulations, without obtaining permit zoning approval.
- (6) Antenna support structures and antennae located in Community Commercial (CC), Highway Commercial (HC), Controlled Industrial (CI), South 27th Street, Central Business District (CBD), Entryway Light Commercial (ELC), Entryway General Commercial (EGC), Entryway Light Industrial (ELI) and Public (P) zoning districts shall be permitted as an allowed use provided that the towers meet the requirements subsections E 1, E 2, and E 3, or:
 - a. Roof-mounted antenna that do not add more than 20 feet to the total height of the building on which it is mounted shall be permitted as an allowed use. See additional requirements for roof-mounted antenna in subsection (g)(10)b. of this section.
 - b. Antenna support structures 50 feet in height or less shall be permitted as an allowed use.
 - c. Antenna support structures that are greater than 50 feet in height shall be required to obtain special review approval.
 - d. Wireless communication facility tower farms are permitted with special review approval, except in the CBD and South 27th Street zoning districts.
- (7) All antenna support structures located in Heavy Industrial (HI) shall be permitted as an allowed use, including tower farms.
- (e) Antenna support structures located in parks. The presence of certain wireless communication facilities may conflict with the purpose of some city owned parks. Wireless communication facilities will be considered only following a recommendation by the city-county planning department; the city parks, recreation, and cemetery advisory board, and approved by the [city council/county commission]. Factors that will be considered include:
 - (1) Public parks of a sufficient scale and character that are adjacent to an existing commercial or industrial use;
 - (2) Commercial recreation areas and major playfields; and,
 - (3) Park maintenance facilities.
- (f) General requirements. The requirements set forth in this section shall govern the location and construction of all wireless communications facilities governed by this section.
 - (1) Building codes and safety standards. To ensure the structural integrity of wireless communication facilities, the owner of a facility shall ensure that it is maintained in compliance

with standards contained in applicable local building codes and the applicable standards for such wireless communication facilities, as amended from time to time.

- (2) Regulatory compliance. All wireless communication facilities must meet or exceed current standards and regulations of the FAA, the FCC, and other local, state or federal agencies with the authority to regulate facilities governed by this section. All wireless communication facilities must comply with all revised standards and regulations within the date established by the agency promulgating the standards or regulations.
- (3) Setbacks
 - a. Antenna support structures adjacent to residential uses or zoning. Antenna support structures must be set back, from all property lines, a distance equal to one-half (½) the height of the structure from any off-site residential structure or residentially zoned lot. Accessory structures must maintain a minimum of a 15-foot setback from any lot line adjacent to a residential structure or residentially zoned lot, or the required setback of the zoning district where the antenna support structure is located, whichever is greater.
 - b. Commercial and industrial zoning setbacks antenna support structures and accessory facilities must meet the minimum yard setback requirements, including arterial setbacks, for the zoning district in which they are located.
- (4) Lot coverage and height. Antenna support structures and accessory structures shall not exceed lot coverage requirements for the zoning district in which they are located. Accessory structures shall not exceed the height restrictions for the zoning district in which they are located.
- (5) Fencing and buffering.
 - a. Fencing. A chain link or solid wood fence, or masonry wall at least six feet in height (eight feet if razor or barbed wire is to be used) shall be constructed and maintained around the perimeter of the antenna support structure site. Climb-proof shields can be substituted for a fence or wall around the structure. Solid fences, at least six feet in height are required adjacent to residential uses and residentially zoned property.
 - b. Landscaping. For all facilities the following will be required: a continuous evergreen hedge at least four feet in height when planted, shall be planted and maintained around the perimeter of the antenna support structure outside of the required fencing and spaced close together to provide a continuous visual screen. Shrubs shall also be planted and maintained around the guy anchors for visual screening purposes.

A performance bond or letter of credit for 150 percent of the landscaping and fencing materials and labor costs shall be posted with the planning department, prior to building permit approval, to ensure the placement of required landscaping and fencing in accordance with section 27-1110, [\[BMCC/YCZC\]](#).
 - c. Commercial landscaping. Landscaping requirements shall not apply to antenna support structures located in the Heavy Industrial (HI) zoning district.
 - d. Exceptions for city airport airfield area. If federal safety and security standards within the city airport's airfield area prevent an antenna support structure from being fenced or landscaped, items (5)(a) and (5)(b) will not apply. Documentation of these standards must be submitted with the building permit or special review applications.
- (6) Lighting. Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons is preferred to flashing strobe lights. Security lighting on site may be mounted up to 20 feet high

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

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

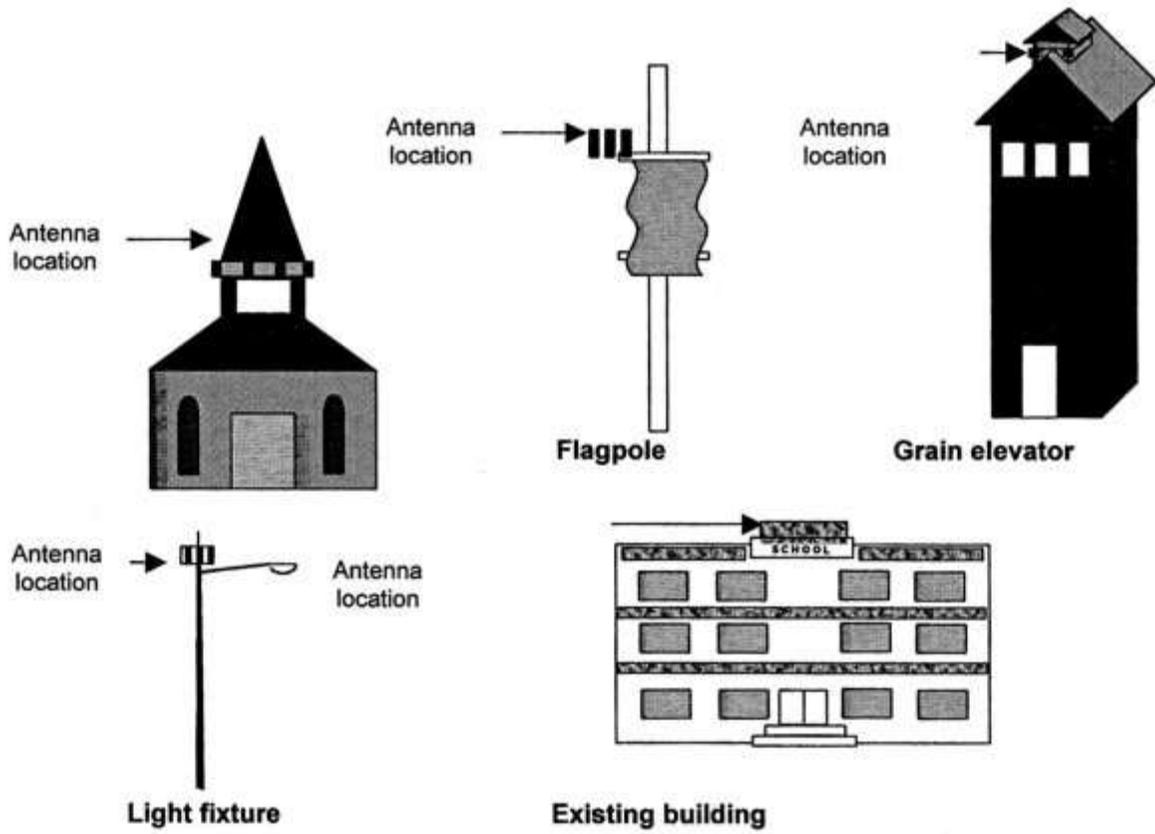
- (7) Signage. Signage shall be limited to non-illuminated warning and equipment identification signs.
- (8) Co-location
 - a. Antenna support structures should be designed in all respects to accommodate both the applicant's antennae and antennae for at least two additional comparable antennae if the antenna support structure is over 100 feet in height or for at least one additional comparable antennae if the tower is between 50 feet and 100 feet in height.
 - b. All new antennae must co-locate on existing or approved antenna support structures or alternative antenna support structures unless it can be demonstrated co-location is not feasible as provided for in subsection (k)(7) of this section.
- (9) Maintenance
 - a. Equipment at a wireless communication facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street.
 - b. All property used for the siting of an antenna support structure or antenna shall be maintained, without expense to the city and/, so as to be safe, orderly, attractive, and in conformity with city and/ codes including those regarding the removal of weeds, trash and landscape maintenance.
- (10) Visual impact/aesthetics
 - a. Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - b. If an antenna is installed on a structure other than a tower, the antenna and associated electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Antennae and antenna support structures may be mounted on existing buildings that are 30 feet or more in height above the street grade.
 - c. Roof-mounted antennae and antenna support structures shall not add more than 20 feet to the total height of the building on which they are mounted. Roof-mounted equipment shall be made visually unobtrusive to match existing air conditioning units, stair, elevator towers or other architectural elements. Only monopole antennae support structures with omni-directional (whip) or low profile single-directional (panel) shall be installed on building roofs. Examples of acceptable designs are shown in subsection (o) of this section. Crow's nest antennae arrays are prohibited on roof-top structures.

- d. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
 - e. Wireless communication facilities shall be located as to minimize their visibility and not be placed within historic or scenic view corridors as designated by the [city council/county commission], or by any state or federal law or agency.
- (11) Antenna support structure separation. All antenna support structures over 50 feet in height, regardless of the zoning district in which the structure is located, shall be located at least one mile from any other antenna support structure that is over 50 feet. Up to three antenna support structures located within an approved wireless communication facility tower farm shall be located at least one mile from any other tower farm.

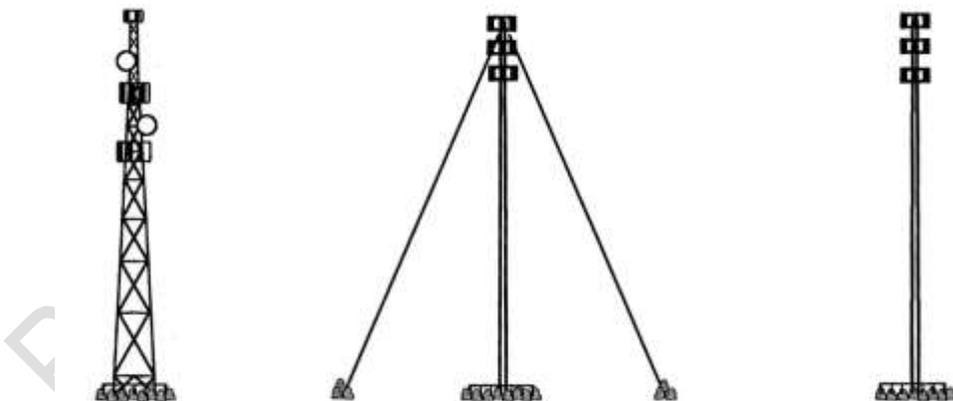
Exceptions to the terms of subsection (g)(11) of this section may be granted by the governing body during the special review process when it is found that no existing or approved antenna support structure within the required separation distance of the proposed site can accommodate the applicant's proposed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

- (g) Nonconforming wireless communication facilities. Antenna support structures and/or facilities in existence on the date of the adoption of these regulations, that do not comply with the requirements of these regulations, (nonconforming antenna support structures) are subject to the following provisions:
- (1) Nonconforming antenna support structures may continue their present use, but may not be expanded or increased in height without complying with these regulations, except as further provided in this section.
 - (2) Nonconforming antenna support structures which are hereafter damaged and destroyed, by less than 50 percent of its replacement value, due to any reason or cause may be repaired and restored to their former use, location, and physical dimensions subject to obtaining a building permit and other necessary approvals thereof, but without otherwise complying with these regulations. If an antenna support structure is destroyed or damaged by more than 50 percent of its replacement the antenna support structure must be brought into compliance with these regulations.
 - (3) The owner of any nonconforming antenna support structure may make minor modifications in order to improve the structural integrity of the facility, to allow the facility to accommodate co-located antennae or facilities, or to upgrade the facilities to current engineering, technological or communications standards, without having to conform to the provisions of these regulations.
- (h) Modifications of existing wireless communication facilities that meet the requirements of these regulations.
- (1) Minor modifications. Minor modifications to facilities permitted under these regulations shall be approved by the city-county planning department so long as they comply with the original approved design. Minor modifications are as follows: the addition of more antenna arrays to any existing antenna support structure, so long as the addition of the antenna arrays add no more than 20 feet in height to the facility and the increase in height of the support structure is no greater than 10 percent. Placement of additional antennae, up to the number the antenna support structure was originally designed to accommodate, shall be considered a minor modification.

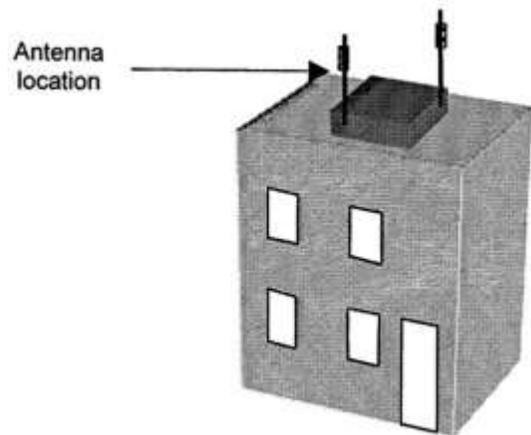
- (2) Major modifications. Major modifications to antenna support structures permitted under these regulations shall be approved through a special review. Major modifications are any that exceed the definition of minor modifications.
- (i) Abandonment. Wireless communications facilities will be considered abandoned if they are unused by all providers at the facility for a period of six months. Determination of abandonment shall be made by the city-county planning department, which shall have the right to request documentation from the facility owner regarding support or antenna usage. Upon abandonment, the facility owner shall have 90 days to:
- (1) Re-use the facility, or transfer the facility to another owner who will re-use it; or
 - (2) Dismantle the facility. If the facility is not removed within 90 days of abandonment, the city may remove the facility at the facility and/or property owner's expense. If the facility is removed, city approval of the facility will expire.
 - (3) If the facility owner is unable to remove the facility within the 90 days due to unusual circumstances, the city-county planning department may grant the facility owner an additional 90 days in which to comply with the requirements of this section.
- (j) Special review uses
- A request for a special review shall be initiated by application to the city-county planning department and handled in accordance with the special review procedure.
- (k) Nuisances. Wireless communication facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the [city/county] noise regulations, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.
- (l) Wireless communication facilities. Illustrated examples.
- (1) Alternative antenna support structures:



(2) Antenna support structures:



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



F. AGRICULTURAL USES

1. Community Gardens (New)

(a) Location

- (1) Community gardens shall not be located on designated or dedicated park or open space land without approval from the Planning Commission. Exceptions may be granted for park or open space land that does not contain sensitive habitat and is not contiguous to open space land with sensitive habitat.
- (2) Community gardens shall be located in areas that receive adequate sunlight for the intended purpose without the removal or excessive trimming of trees.

(b) Use Standards

- (1) The site shall be designed and maintained so that water and fertilizer will not drain to adjacent property.
- (2) A minimum three foot wide, clearly marked entrance path shall be provided from the public right-of-way to the garden.
- (3) Community gardens shall be located on land that is level enough to support the intended use and meet all Americans with Disabilities Act requirements without the use of retaining walls that exceed three feet in height.
- (4) Unless permitted by the underlying zoning district, or approved as a special use, on-site sale of community garden products is prohibited except when permitted as an approved temporary use.
- (5) Lawn and garden equipment of the type customarily used by consumers for household lawn and garden care is the only type of motorized equipment allowed. The use of motorized equipment is restricted to hours beginning at 7:00 AM and ending at 9:00 PM.
- (6) An on-site trash storage container must be provided and located as close as practicable to the rear lot line. Compost bins or piles must also be located as close as practicable to the rear lot line. Trash must be removed from the site at least once a week.
- (7) The keeping of animals is prohibited.

- (8) The property must be maintained free of tall weeds and debris. Dead garden plants must be regularly removed and, in any instance, no later than November 15 of each year.
- (9) Within a residential zoning district, operating hours for community garden activities are restricted to between 5:00 AM and 11:00 PM daily.
- (10) Customary accessory uses are regulated in the accessory use section.

(c) Signs

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

2. Livestock and Fowl²¹

- (a) Livestock, as defined in [BMCC/YCZC] section 27-201, shall not be maintained in any zoning district located within the limits of the city except as provided within section 27-305 or 27-306.
- (b) Horses may be permitted in the city when located within a planned development, as described in section 27-1303, that is specifically designed to accommodate horses and/or equestrian centers.
- (c) Fowl, as defined in [BMCC/YCZC] section 27-201 except chicken hens, shall not be maintained in any zoning district located within the limits of city. Chicken hens may be kept within the limits of the city in residential zoning districts or on property used for residential purposes as provided in section 27-305 or 27-306 subject to limitations and permitting requirements in [BMCC/YCZC] section 4-303.

²¹ Current Section 27-607

SECTION 27-1004: ACCESSORY USES

A. GENERAL PROVISIONS (NEW)

1. Time of Construction or Establishment

No accessory structure or use shall be constructed or established more than 120 days prior to the time of completion of the construction or establishment of the principal structure or use to which it is accessory.

2. Interpretation of Unidentified Accessory Uses and Structures

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

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

3. Compliance with this Code

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

4. Location

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

B. ACCESSORY USE TABLE

Accessory uses may be permitted in the following districts and subject to applicable standards.

1. Permitted by Right Accessory Use

/P/ in a cell indicates the accessory use is permitted by right in the district. Permitted accessory uses are subject to all other applicable standards of these regulations and the requirements of Article xx, Development Standards.

2. Permitted Accessory Uses Subject to Accessory Use Permit²²

/A/ in a cell indicates the accessory use is allowed only if it complies with applicable standards of this code, including use-specific standards in Section 27-1004 and the requirements of the applicable zone district. Compliance with applicable use-specific standards shall be determined through Section xx.xx, Site Plan Review.

3. Accessory Uses Subject to Special Review Permits

/SR/ in a cell indicates the accessory use requires special review by the [city/county] zoning commission in order to be permitted in the districts in which they are listed and must follow any applicable development standards associated with the use as well as meet the requirements of the special review.

Table 27-1000-2: Billings Accessory Uses/Residential Districts

	Use Specific Stand.	N3	N2	N1	NX1	NX2	NX3	RMH
Accessory Day Care Facility	27-1004.C	P	P	P	P	P	P	
Accessory Dwelling Unit	27-1004.D	SR	SR	SR				
Amateur Radio Support Tower	27-1004.E	P	P	P	P	P	P	P
Drive-Through Facility								
Electric Vehicle Charging Facility								
Employee/ Caretaker Unit								
Home Occupation	27-1004.I	P	P	P	P	P	P	P
Kennel, Private	27-1004.J	P	P	P				
Outdoor Sales Lot								
Outdoor Seating								
Outdoor Storage								
Satellite Antenna and Dishes	27-1004.N	P	P	P	P	P	P	P
Solar Array	27-1004.O	P	P	P	P	P	P	P
Solar Collection	27-1004.P	P	P	P	P	P	P	P
Wind Energy Conversion Systems (single, accessory)	27-1004.Q	P	P	P	P	P	P	P

Table 27-1000-2: Yellowstone County Accessory Uses

	Use Specific Stand.	A	RR1	RR2	N4	RMH	N3	N2	N1	NX1	NX2	NX3
Accessory Day Care Facility	27-1004.C	P	P	P	P		P	P	P	P	P	P

²² Some communities prefer to review the location or design of accessory uses such as ADUs or outdoor storage, so we suggest establishing an accessory use permit process with administrative approval.

Table 27-1000-2: Yellowstone County Accessory Uses

	Use Specific Stand.	A	RR1	RR2	N4	RMH	N3	N2	N1	NX1	NX2	NX3
Accessory Dwelling Unit	27-1004.D	SR	SR	SR	SR		SR	SR	SR			
Amateur Radio Support Tower	?											
Drive-Through Facility												
Electric Vehicle Charging Facility												
Employee/ Caretaker Unit												
Home Occupation	27-1004.I	P	P	P	P	P	P	P	P	P	P	P
Kennel, Private	27-1004.J	P	P	P	P		P	P	P			
Outdoor Sales Lot												
Outdoor Seating												
Outdoor Storage												
Satellite Antenna and Dishes	27-1004.N	P	P	P	P	P	P	P	P	P	P	P
Solar Array	27-1004.O	P	P	P	P	P	P	P	P	P	P	P
Solar Collection	27-1004.P	P	P	P	P	P	P	P	P	P	P	P
Wind Energy Conversion Systems (single, accessory)	27-1004.Q	P	P	P	P	P	P	P	P	P	P	P

C. ACCESSORY DAY CARE FACILITY (NEW)

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

D. ACCESSORY DWELLING UNITS (NEW)

1. Applicability

- (a) Accessory dwelling units are permitted on any parcel where a single dwelling unit is permitted or currently exists.
- (b) The minimum lot size for a lot that has both a primary dwelling unit and an accessory dwelling unit is 3,000 sq. ft.

2. Ownership and Occupancy

- (a) The property owner shall live in either the primary or accessory dwelling unit.
- (b) The accessory dwelling unit shall not be sold separately or subdivided from the principal dwelling unit or lot.

3. Dimensional Standards and Location

- (a) One accessory dwelling unit is permitted per residential lot. The ADU shall be located on the same lot as the principal unit.
- (b) Unless specifically addressed in this section, accessory dwelling units are subject to the dimensional regulations for a principal building of the underlying zone district; e.g., setback/yard requirements and building coverage.
 - (1) An accessory dwelling unit shall not cover more than 30 percent of the available rear yard between the primary structure building line and the rear yard setback line.

- (2) These standards do not apply to legally established detached garages that contain an accessory dwelling unit. Any expansion of a detached garage for conversion into an ADU shall comply with the appropriate setback and yard requirements for the detached garage.
 - (3) Maximum height for a new, detached accessory dwelling unit is 25 feet.
 - (c) An existing accessory structure whose height or setback(s) does not meet the requirements for a dwelling in the zone district may be converted into an accessory dwelling unit, but the structure may not be altered in any manner that would increase the degree of non-compliance.
 - (d) The ADU shall be located and designed so as to not provide direct views of outdoor patios or decks by or to adjacent residents and yards.
- 4. Size**
- (a) The maximum size of an accessory dwelling unit shall be no more than 80 percent of the square foot of the principal dwelling unit or 1000 square feet, whichever is less.
 - (b) [Yellowstone County] The minimum habitable size of an accessory dwelling unit shall be 300 square feet, not including bathrooms and closets.
 - (c) No more than 40 percent of an existing structure may be converted into an attached ADU.
- 5. Construction**
- (a) Accessory dwelling units must contain a kitchen, bathroom, and sleeping area for the sole use of the unit. ADUs may not contain more than two bedrooms and one bathroom.
 - (b) Water and sewer service shall be provided. The principal unit and accessory unit may share utilities.
 - (c) [Billings] All accessory dwelling units shall comply with the adopted building code.
 - (d) Mobile homes, manufactured housing, recreational vehicles, travel trailers, and any other wheeled or transportable structure shall not be used as accessory dwelling units.
 - (e) A new street address for the ADU is required to assist in emergency response.
- 6. Design**
- (a) Accessory dwelling units may be incorporated within or added onto an existing house, garage, or other accessory structure, or may be built as a separate, detached structure on a lot where a single-family dwelling exists.
 - (b) An ADU, either detached or an extension of an existing structure, shall be designed to maintain the architectural design, style, appearance, and character of the primary structure, including compatibility with the existing facade, roof pitch, siding materials, and windows.
- 7. Parking**
- (a) [Yellowstone County] ADUs shall be provided a minimum of one, but not more than two, off-street parking spaces for the ADU in addition to the off-street parking provided for the primary residence.
 - (b) [Billings] [suggest establishing district-appropriate standards]
- 8. Home Occupations**
Home occupations are permitted in an accessory dwelling unit.
- 9. Short-Term Rentals**
Short-term rentals are prohibited in accessory dwelling units.

E. AMATEUR RADIO SUPPORT TOWERS²³

1. Applicability. All amateur radio antenna support structures and antennae located within the city zoning jurisdiction whether upon private or public lands shall be subject to this section. This section shall apply to amateur radio antenna support structures and antennae upon state and federal lands to the extent of the city's jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise. Only the following facilities shall be exempted from the application of this section.

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

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

F. DRIVE-THROUGH FACILITY (NEW)

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

1. Location of Services Areas and Use of Audible Electronic Devices
 - (a) Audible electronic devices such as loudspeakers, automobile service order devices, and similar instruments shall not be located within 250 feet of any residential dwelling unit.
 - (b) No service shall be rendered, deliveries made, or sales conducted within the required front yard or corner side yard; customers served in vehicles shall be parked to the sides and/or rear of the principal building.

²³ Current Sec. 27-619. Do these standards apply in Yellowstone County also?

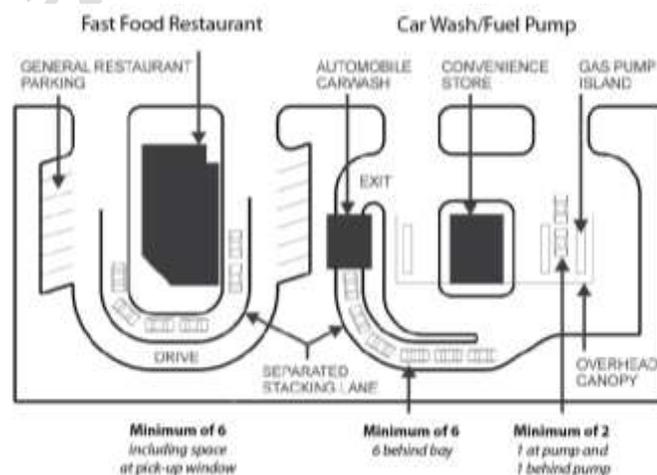
- (c) All drive-through areas, including but not limited to menu boards, stacking lanes, trash receptacles, loudspeakers, drive up windows, and other objects associated with the drive-through area shall be located in the side or rear yard of a property to the maximum extent feasible, and shall not cross, interfere with, or impede any public right-of-way.
2. Design of Stacking Lanes
- (a) Any facility offering drive-through service shall provide stacking lanes which are a minimum of eight feet in width and which provide direct forward access to each service window, station, or other point of service.
 - (b) Such stacking lane shall be marked and shall be separate from any other driveway, parking space, or aisle.
 - (c) Stacking lanes shall be measured from the point of service and shall provide 20 feet per vehicle.
 - (d) Common stacking lanes for several service points may be used for financial and restaurant uses, provided that separate stacking for at least three vehicles is provided for each point of service before stacking is merged into a common lane.

3. Required Number of Stacking Spaces

Where drive-through windows are provided, the following minimum number of stacking spaces shall be provided:²⁴

Table 27-1000-x: Stacking Space Requirements

Activity	Min. No. Stacking Spaces (per lane)	Measured From:
Financial Institution, ATM	3	Teller or Window
Restaurant	6	3 from Pick-Up Window and 3 from Order Speaker
Full Service Car Wash	6	Washing Bay
Self Service Car Wash	3	Washing Bay
Retail Uses	3	Pick-up Window
Others	As determined by Planning and community services director	



²⁴ We will update this table and image to match the approved minimum stacking requirements.

G. ELECTRIC VEHICLE CHARGING FACILITY

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

H. EMPLOYEE/CARETAKER UNIT

1. General Standards (new)

- (a) Occupants: The residential unit may be occupied solely by the person engaged in the principal use or a full-time employee, and their family members residing with them.
- (b) Floor Area: The maximum gross floor area for the residential unit shall be the lesser of 2,000 square feet or the maximum gross floor area of the principal use.
- (c) Location: The residential unit shall be located totally above the ground floor or totally to the rear of the principal use so as not to interrupt the commercial frontage.

2. Form-Based Districts²⁵

In the form-based districts where employee/caretaker units are permitted with development standards, the following development standards apply:

- (a) Up to two residential units per 10,000 square feet of gross building floor area.
- (b) Units shall be provided to employees, security personnel, or caretakers, as a benefit to the business only.

I. HOME OCCUPATIONS²⁶

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

1. Standards of Operation

- (a) The home occupation should not generate traffic before 7:30 a.m. or after 6:00 p.m.
- (b) The occupation should not generate, on average, more than four vehicle trips to the residence during any hour.
- (c) Uses not listed above may be allowed with written approval from the planning and development director, if they meet the spirit and intent of this section and will conform to all of the restrictions of this section.
- (d) No person shall be employed other than the residents of the dwelling.
- (e) The occupation shall be conducted entirely within the dwelling or an accessory building.
- (f) The floor area devoted to the occupation shall not exceed 500 square feet or 25 percent of the total ground area occupied by the buildings, whichever is less.

²⁵ Current Sec. 27-1806(w)(2).

²⁶ Current Sec. 27-606. The definition was moved to Art. 1800, Definitions. We've proposed revisions to this section to update and broaden the range of permitted uses while establishing a two-tier registration and review process.

- (g) The occupation shall not produce light, noise, vibration, glare, fumes, odors, electrical interference, etc., which is inconsistent with the character of the residential area.
- (h) There shall be no sign advertising or calling attention to the home occupation on the premises.
- (i) There shall be no display, evidence or activity apparent from the exterior of the lot which would indicate that the premises are being used for any purpose other than that of a dwelling.
- (j) There shall be no group instruction, assembly or activity for greater than five persons.
- (k) One business vehicle that is associated with the home occupation and which does not exceed 8,000 pounds gross vehicle weight (G.V.W.), may be parked or stored on the premises. In addition, there shall be no outside storage of materials or equipment related to the home occupation, except the one allowed business vehicle.

2. Uses Permitted by Registration

The following uses shall require home occupation registration²⁷ but shall not require approval as a special review, provided that full compliance with all standards of operation can be achieved, except as modified herein.

(a) Home Office

An office for the clerical and administrative purposes of receiving mail and telephone calls, maintaining records, and similar functions is permitted.

(b) Off-Site Sales Offices

Home offices may include offices for direct sales distribution for manufacturer's representatives, and other similar activities provided that all sales are conducted off-site and that storage and deliveries do not exceed the limitations stated above.

(c) Off-Site Services Offices

Home offices may include offices for services provided off-site, including but not limited to such activities as house cleaning service, yard/garden service, locksmiths, appliance repair, contractors, and similar activities, provided that all services are provided off-site, that storage does not exceed the limitations stated above, that no other employees regularly visit the premises, and that no more than one commercial vehicle is parked at the residence on a regular basis.

(d) Professional Services

Home offices may include offices/studios for engineers, draftsmen, and similar services provided that client consultation is conducted off-site.

(e) Home Instruction

Individual tutoring or lessons in art, dance, music, swimming, or similar activities are permitted, provided that a maximum of six students per day shall be permitted at the premises.

(f) Home Arts/Crafts

The preparation of small arts/crafts items for off-site display and sale, including ceramics with a maximum kiln size of six cubic feet and including dressmaking/sewing with a maximum of one machine, shall be permitted, provided that all ordering, fittings, and delivery are conducted off-site. The preparation or creation of larger items requiring frequent delivery of materials, movement by vehicles other than passenger vehicles, larger or noisy equipment, or storage exceeding the limits stated above shall not be allowed.

²⁷ We will include a home occupation registration process in the procedures section.

3. Uses Permitted with Special Review

A home occupation may be approved by special review if it is determined that the activity will be incidental and subordinate to the residential purpose of the property, will comply with the spirit and intent of these regulations, will not create adverse impacts on adjacent properties, and will be compatible with the residential character of the area.

4. Prohibited Uses

The following types of uses will not be approved as home occupations unless unusual or special circumstances exist:

- (a) Uses involving regular client visits, such as photographic studios, small appliance repair shops, barber/beauty shops, medical offices, etc.;
- (b) Uses involving large goods or materials, such as upholstery or furniture repair, arts/crafts other than small items, etc.;
- (c) Uses involving nuisances (noise, dust, etc.) or which cannot be conducted within a totally enclosed structure, such as automobile, lawn mower, or other engine repair, welding or machine shops, etc.;
- (d) Uses where other employees visit the site, such as operating/dispatch offices for contractors, offices for businesses having employees who are not occupants, etc.;
- (e) Uses involving handling and/or storage of quantities of goods or materials, such as retail/wholesale operations or manufacturing/assembly; or
- (f) Uses involving the grooming, breeding, or boarding of animals.

J. KENNEL, PRIVATE (NEW)

1. Accessory Use

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

2. Location

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

3. Setback

The setback of any accessory structure or enclosure associated with the kennel shall be no closer than 25 feet to any property line.²⁸

4. Density

The number of animals permitted in private kennels shall be limited to one animal per 2,500 square feet of lot area, or five animals, whichever is greater. This regulation applies whether the animals are kept indoors or outdoors.

5. Maximum Area

The area of the private kennel site shall be limited to 10 percent of the total area of the lot if the animals are housed outdoors and 10 percent of the principal structure if the animals are housed indoors.

6. Buffer

Outdoor animal facilities shall be separated by a naturalized vegetative buffer of not less than 50 feet from any stream, wetland, or natural surface water feature. This provision can be met by implementing a

²⁸ This section addresses setback but not noise because setback is easier to enforce. Let's discuss whether the city or county also want to establish a noise standard.

stormwater control plan per Section xx designed to maximize fecal die-off, if approved by the planning and community services director.

K. OUTDOOR SALES LOT

1. General Provisions (new)

- (a) Display and sales area are not allowed in required parking spaces.
- (b) Display areas shall not exceed 10% of the total gross square footage of the principal permitted building.²⁹
- (c) In addition to the 10% outdoor display and sales area, store front sidewalks excluding any public sidewalks, shall be allowed for outdoor display and sales provided these outdoor display and sales areas comply with all provisions of applicable zoning ordinances, building codes, and other city codes and regulations.
- (d) All outdoor display and sales areas shall be maintained in an neat, clean, orderly fashion to avoid pedestrian hazards and ensure personal safety. assure that no adverse impacts will be caused to adjoining properties due to lack of poor maintenance.
- (e) Display areas shall be located outside of drive aisles, fire lanes, parking areas, required landscape areas, or pedestrian ways.
- (f) Display areas shall not exceed eight feet in height.
- (g) Display areas shall not be located within landscaped areas.

2. Form-Based Districts³⁰

- (a) Loose material must be stored in compliance with the standards in [BMCC/YCZC] subsection 27-601(b), Parking and storage restrictions.
- (b) Limited to lots fronting on Boulevard Street Types (1st Avenue N, 4th Avenue N, and 6th Avenue N).

L. OUTDOOR SEATING (NEW)³¹

1. Eating and drinking establishments may provide outdoor seating areas, including rooftop seating, for customers following design review and issuance of a liquor license where applicable. The approval of outdoor seating shall be reviewed against the following criteria:
 - (a) Outdoor seating areas may not occupy required parking spaces or parking area access aisles.
 - (b) An outdoor seating area exceeding 10% of the indoor building floor area is counted as floor area for purposes of determining off-street parking and loading requirements.
2. Sidewalk seating may be permitted under the following conditions:
 - (a) The area of occupancy must be abutting and contiguous to the restaurant in which food preparation, sanitation and related services for the sidewalk cafe will be performed.
 - (b) Sidewalk seating may not be enclosed by fixed walls, unless such walls are necessary to comply with requirements to serve alcohol, and shall be open to the air, except that it may have a canopy.

²⁹ This is drafted for outdoor sales and display as an accessory use. We should discuss how you want to approach uses where the sales lot is much larger, such as car dealerships.

³⁰ Current Sec. 28-1806(h), EBURD.

³¹ This new section is intended to provide standards for outdoor seating. We need to determine whether this can be done as an accessory approval for uses that were approved by special review or whether these standards should be applied to a new special review permit.

- (c) There shall be unimpeded sidewalk remaining for pedestrian flow from the face of the curb and the area of sidewalk seating.
- (d) The sidewalk seating shall be located a minimum of five feet from driveway and alleys, and ten feet from intersections.
- (e) All curbs, alleys, sidewalks and public rights-of-way adjacent to the sidewalk seating shall be kept in a clean and orderly condition.

M. OUTSIDE STORAGE³²

1. Intent

Any use requiring outside storage of material, equipment or business related supplies must obtain a special review permit.

2. Solid Waste

- (a) 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.
- (b) Chain link or other type of wire fencing is prohibited.
- (c) The [city/county] public works department shall approve the solid waste storage facility for minimum opening, accessibility, and other criteria deemed necessary for the removal of solid waste from the site.

3. Merchandise Storage

- (a) Any permitted storage of merchandise outside an approved building, except as provided in subsection M.3.b, shall be within an area enclosed with a sight obscuring fence at least six feet in height that is architecturally compatible in color and design with the building.
- (b) 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.
- (c) Bufferyards or required landscaping shall not be used for the displaying of merchandise.
- (d) Chain link or other type of wire fencing is prohibited.

4. Junk Storage

- (a) Junk, partially or completely dismantled vehicles, or salvaged materials shall not be stored in any commercial zone outside a building except as provided in the following subsection.
- (b) Automobile repair shops may store such materials must be enclosed within a building or an area having a sight obscuring fence at least six feet in height. Chain link or other type of wire fencing is prohibited.

5. Form-Based Districts

In the form-based districts where outdoor storage of goods is permitted with development standards, the following development standards apply:³³

- (a) Within the Central Works and 13th Street Main Street Districts:
 - (1) Outdoor storage areas shall be located in the rear or side yard of the lot.

³² Current Sections 27-1003.C.3, 27-808, 27-1008, 27-1408, and EBURD. We've consolidated these provisions for city/county review.

³³ Current Sec. 27-1806(w)(1), EBURD

- (2) Loose materials shall not be stacked higher than six feet.
- (3) Loose materials shall at a minimum be stored in a three-sided shelter and shall be covered.
- (4) Materials shall be set back a minimum of five feet from any lot line.
- (5) All outdoor storage areas shall be screened from view of adjacent parcels and vehicular rights-of-way using the heavy side or rear buffer, refer to [BMCC/YCZC] subsection 27-1815(j), Side and Rear Buffer.

N. SATELLITE ANTENNAS AND DISHES³⁴

1. Residential Districts

The following setbacks and height restrictions shall apply in residential zoning districts:

- (a) Satellite dish antennas shall be placed only in the rear yard.
- (b) In the event that a usable satellite signal cannot be obtained from the rear yard, the satellite dish antenna may be located on the side or front yard provided that no satellite dish antenna shall be placed in a required front or side setback or arterial setback.
- (c) In the event that a usable satellite signal cannot be obtained by locating the satellite dish antenna on the rear, side or front yard of the property, such satellite dish antenna may be placed on the roof of the dwelling structure. These satellite dish antennas or pole mounted antennas shall not extend more than 10 feet above the height limit established for the zone in which the structure is located.
- (d) In either above subsections (2) or (3), it is the responsibility of the owner to provide proof, satisfactory to the zoning coordinator, that a usable satellite signal cannot be obtained from the required location.
- (e) No satellite dish antenna shall exceed a diameter of 12 feet.
- (f) No satellite dish antenna may be installed on a portable or movable device except as a temporary means (not to exceed 30 days) to test for a usable satellite signal.

2. Commercial and Industrial Districts

The following setbacks and height restrictions shall apply in commercial and/or industrial zoning districts:

- (a) No satellite dish antenna shall be placed in any required front yard, side adjacent to street or arterial setback.
- (b) No satellite dish antenna shall be placed in any required side setback when contiguous to residentially zoned property.
- (c) A satellite dish antenna may be permanently mounted or may be installed on a portable or movable device.
- (d) No satellite dish antenna (whether permanent or portable) shall be installed in a required parking space.
- (e) No satellite dish antenna shall exceed the maximum height of the zoning district.

3. Permit Required

Before any satellite antenna is erected in any zoning district, the property owner(s) shall first obtain the applicable permits from the Building Official.

- (a) A building permit is not required for installation of satellite dish antennas which are four feet or less in diameter.

³⁴ Current Sec. 27-610. Definitions were moved to Art. 1800, Definitions.

- (b) All satellite dish antennas and the construction and installation thereof shall conform to the building and electrical codes adopted by the building division.
- (c) Satellite dish antennas shall meet all manufacturer's specifications, be of noncombustible and corrosive-resistant material, and be erected in a secure, wind-resistant manner.

O. SOLAR ARRAY (NEW)³⁵

1. Setbacks, Location, and Height

- (a) A solar array shall not be located in the front yard between the principal structure and the public right-of-way except in industrial districts.
- (b) A solar array shall be located a minimum of six feet from all property lines and other structures.
- (c) An accessory solar array in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of accessory arrays in mixed-use and non-residential districts shall not exceed one-half of the footprint of the principal structure.
- (d) There shall be no size limits on solar arrays as a primary use on a site in any [identify appropriate commercial and industrial districts] district. However, the maximum lot coverage of any solar array shall not exceed 80 percent.
- (e) A solar array shall not exceed 20 feet in height.

2. Code Compliance

Solar arrays shall comply with all applicable [city/county] building³⁶ and electrical codes.

3. Solar Easement

A property owner who has installed or intends to install a solar array shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the [city/county].

P. SOLAR COLLECTION SYSTEM (NEW)³⁷

1. Setbacks, Location, and Height

- (a) A solar collection system shall be located a minimum of five feet from all property lines and other structures, except the structure on which it is mounted.
- (b) A solar collection system shall not exceed by more than three feet the maximum height permitted in the zoning district in which it is located or shall not extend more than 12 inches above the roofline of the structure upon which it is mounted, whichever is less.
- (c) A solar collection system may be located on an accessory structure.

³⁵ We've added the following definition to Section 1800: A "solar array" shall mean a free-standing, ground-mounted solar collection system consisting of a linked series of photovoltaic modules with a rated capacity of up to 10 kilowatts. The primary purpose of which is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating on-site; however, the energy output may be delivered to a power grid to offset the cost of energy on-site.

³⁶ Drafting note: No county building code.

³⁷ We've added the following definition to Section 1800: A "solar collection system, small" shall mean a roof-mounted, wall-mounted panel, or other solar energy device with a rated capacity of up to 10 kilowatts. The primary purpose of a small solar collection system is to provide for the collection, inversion, storage, and distribution of solar energy for electricity generation, space heating, space cooling, or water heating on-site; however, the energy output may be delivered to a power grid to offset the cost of energy on-site.

(d) A development proposed to have a solar collection system located on the roof or attached to a structure, or an application to establish a system on an existing structure, shall provide a structural certification as part of the building permit application.

2. Code Compliance

Solar collection systems shall comply with all applicable [city/county] building³⁸ and electrical codes.

3. Solar Access³⁹

No vegetation or site features such as tall fences shall be planted, installed, or constructed on any lot in a new subdivision subject to this section that would block solar access to the south wall of a dwelling unit in the subdivision or would block sunlight 50 percent or more of the time on any day of the year⁴⁰ from the south facing roof of the dwelling. This provision shall not apply to the planting of vegetation or trees on any existing lot and shall not be interpreted to require the cutting down of existing trees or removal of existing vegetation.

Q. WIND: SMALL WIND ENERGY SYSTEM (NEW)⁴¹

1. Setback

The base of the tower shall be set back from all property lines, public right-of-ways, and public utility lines a distance equal to the total extended height (e.g., if on a roof, roof height + tower height) plus five feet. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written permission and the installation poses no interference with public utility lines or public road and rail right-of-ways. Guy wires and other support devices shall be setback at least five feet from all property lines.

2. Tower Height⁴²

(a) Option 1: Where the total extended height meets the sound (Section 3) and setback (Section 1) requirements of this section, there shall be no specific height limitation, except as imposed by Federal Aviation Administration (FAA) regulations per subsection J, below.

³⁸ Drafting note: no county building code.

³⁹ Protecting solar access is important to ensuring the viability of solar power. Communities tend to approach this in a variety of ways, including: 1) requiring solar users to negotiate necessary solar access; 2) establishing basic standards that prevent the construction of structures or planting of vegetation that would block the sun; and 3) establish a formal system to protect "solar access" and "solar access rights," administered by the county, and require applicants to apply for a solar access permit. For example, Teton County, Wyoming, has had such a process in place since 1982 that establishes parameters for such permits. We have provided a fairly basic approach to maintaining access and would like to know if the city or county want to consider more detailed methods?

⁴⁰ In many communities, solar access is required to be available from 9:00 a.m. through 3:00 p.m. on December 21st, the day of the year with the longest shadows. The provision in this draft is written slightly less stringently, allowing some sunlight to be blocked by the neighbors provided sunlight is available at least 50% of the time on any day. Please let us know what your preference is.

⁴¹ We've added the following definition to Section 1800: A "small wind energy system" shall mean a wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics that has a rated capacity of not more than 100 kilowatts (kW) and that is intended to primarily reduce on-site consumption of utility power.

⁴² The language in Option 1 allows for maximum flexibility. On small lots, setbacks required in Section 1.5.2.A effectively limit height. However, other communities have opted to impose specific height limitations. For example, the Washington County, Maryland, ordinance specifies that, "Small Wind Energy Systems attached to any building shall not exceed the permitted height for principle structures within the zoning district." Laramie, Wyoming, has a 75-foot height limit for small wind systems. The downside of imposing such restrictions is that the height limitations may reduce the effectiveness of the systems due to the inability to clear surrounding obstacles to wind flows. Most small wind systems are manufactured so that they do not exceed a total height of 120 feet. To be effective, turbines must be

- (b) Option 2: The maximum height of any small wind energy system shall be the maximum height allowed in the zone district plus 50 feet.
- 3. Sound**

Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dBA for any period of time. The 55 dBA sound level may be exceeded during short-term events out of the owner's control such as utility outages and/or severe wind storms.
 - 4. Appearance, Color, and Finish**

The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer. Bright, luminescent, or neon colors are prohibited
 - 5. Clearance**

The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades.
 - 6. Signage Prohibited**

All signs on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification, shall be prohibited.
 - 7. Lighting**

No illumination of the turbine or tower shall be allowed unless required by the FAA.
 - 8. Access**

Any climbing foot pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed.
 - 9. Requirement for Engineered Drawings**

Building permit applications for small wind energy systems shall be accompanied by standard drawings of the wind turbine structure and stamped engineered drawings of the tower, base, footings, and/or foundation as provided by the manufacturer.
 - 10. Compliance with FAA Regulations**

No small wind energy system shall be constructed, altered, or maintained so as to project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection.
 - 11. Compliance with Municipal Code**

Small wind energy systems and all associated components shall comply with all applicable building and electrical codes.
 - 12. Utility Notification**

No small wind energy system shall be installed until evidence has been submitted to the [city or county] that the relevant electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.
 - 13. Abandonment**

If a wind turbine is inoperable for six consecutive months the owner shall be notified that they must, within six months of receiving the notice, restore their system to operating condition. If the owner(s) fails to restore their system to operating condition within the six-month time frame, then the owner shall be required, at his or her expense, to remove the wind turbine from the tower for safety reasons. If the owner(s) fails to remove

at least 25 to 35 feet above all surrounding obstacles such as trees and buildings within 300 feet and ideally twice that height above a potential obstacle.

the wind turbine from the tower, the county may pursue legal action to have the wind generator removed at the owner's expense.

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SECTION 27-1005: TEMPORARY USES⁴³

A. TEMPORARY USES IN NONRESIDENTIAL ZONING DISTRICTS

1. Group 1 Temporary Uses

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

- (a) Such use shall be an allowed use in the underlying zoning district;
- (b) Any temporary structure must be setback five feet behind all property lines;
- (c) No part of the temporary use or temporary structure shall block any defined clear vision area (section 27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;
- (d) Signs advertising the temporary use or activity are allowed at the same location as the temporary use.
 - (1) Signage may not exceed 100 square feet in area and may be displayed while the temporary use is on the property.
 - (2) Wall signs affixed to temporary structures and freestanding signs are allowed.
 - (3) The maximum height of any freestanding sign is eight feet from finished grade.
 - (4) Paper or cardboard signs are prohibited.
 - (5) Banner signs are exempt from the limitations found in the City Sign Code [subsection 27-700(b)(1)b.].
- (e) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

2. Group 2 Temporary Uses

This group shall be defined as temporary uses of property continuing for longer than 72 hours but less than 61 days and are required to obtain a temporary use/structure permit from the planning and community services department.

- (a) The following temporary uses may be allowed in this temporary use group: ⁴⁴ seasonal sales or other uses as allowed in the district regulations in section 27-306.
- (b) Supplemental Standards

Uses in this group shall comply with the following:

- (1) Such use shall be an allowed use in the underlying zoning district;
- (2) Any temporary structure must be setback five feet behind all property lines;
- (3) No part of the temporary use or temporary structure shall block any defined clear vision area (section 27-615) for driving aisles, drive approaches from streets, or at the intersection of streets or alleys;

⁴³ We've carried forward the current provisions from Sec. 27-614 with a few changes as noted in the footnotes. We'd like your input on whether this section is working well and how we can coordinate it with temporary sign regulations as we draft those. Also, we'd like to know if it would be helpful to create a temporary use table?

⁴⁴ We've moved carnival and circus to Section 27-1006, Special Events.

- (4) Signs advertising the temporary use or activity are allowed at the same location as the temporary use.
 - a. Signage may not exceed 100 square feet in area and may be displayed while the temporary use is on the property.
 - b. Wall signs affixed to temporary structures and freestanding signs are allowed.
 - c. The maximum height of any freestanding sign is eight feet from finished grade.
 - d. Paper or cardboard signs are prohibited.
 - e. Banner signs are exempt from the limitations found in the City Sign Code {subsection 27-700(b)(1)b.}
- (5) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.
- (6) New access drives to public right-of-ways must be approved by the city engineering division.
- (7) A business license for temporary uses located within the city limits must be obtained if required by Billings Municipal City Code ([BMCC/YCZC]) chapter 13-400 (finance and revenue).

3. Group 3 Temporary Uses

This group shall be defined as temporary uses of property continuing for longer than 61 days but less than one year and are required to obtain a temporary use permit from the planning and community services department.

- (a) The following temporary uses may be allowed in this temporary use group, but must be located in a district that allows the use, as specified in the district regulations in sections 27-305 and 27-306:
 - (1) Greenhouses or other similar seasonal-oriented uses, as determined by the zoning coordinator;
 - (2) Portable classrooms;
 - (3) Portable offices; or
 - (4) Other uses, such as carry-out food and/or beverage service.
- (b) Location restrictions:
 - (1) Any group 3 temporary use/structure existing upon adoption of this chapter, which does not comply, depending upon its location, with the applicable city site development regulations, shall comply with such standards within one year from the date of the enactment of this section or any amendment thereto;
 - (2) Any new or relocated temporary use must be located on a site which complies, depending upon its location, with the applicable city site development regulations, including landscaping, surfacing and number of required off-street parking spaces;
 - (3) The structure shall be a factory-built structure and shall not have an axle(s). Temporary structures which do not comply with one or both of these requirement(s) and which exist on the date of adoption of these regulations, shall be deemed legal nonconforming structures and may continue to be used as a temporary structure, provided the temporary use and structure complies with all other requirements of this section; and
 - (4) Temporary uses as listed in subsection (3)a.4. shall also comply with the following criteria:
 - a. Maximum size of the structure shall be 10 feet by 12 feet or 120 square feet;

- b. Site circulation shall be approved by the city traffic engineer, along with the location of any drive-in window. This group of temporary uses shall be exempt from any special review requirements for drive-in service;
 - c. The temporary use must provide the required number of paved off-street parking spaces. In addition, the temporary use shall not utilize any parking spaces that would make the principal use deficient in the required number of off-street parking spaces;
 - d. Utilities to serve the temporary use shall be located underground or suspended overhead, in compliance with all applicable codes; and
 - e. All structures are subject to local, and state requirements and must obtain all relevant licenses before a temporary use/structure permit is issued.
- (c) Supplemental standards:
- (1) When submitting for a temporary use/structure permit, a group 3 use shall provide the following:
 - a. Existing site plan, including parking stalls and buildings;
 - b. Proposed site plan, including location of temporary use and its relationship to existing site circulation and off-street parking spaces and driving aisles, including existing and proposed surfacing;
 - c. Location of drive-in service, if applicable;
 - d. Setbacks from property lines and arterial streets;
 - e. Size of temporary structure; and
 - f. Proposed use of the temporary structure.
 - (2) Signs advertising the temporary use or activity are allowed at the same location as the temporary use.
 - a. Signage may not exceed 100 square feet in area and may be displayed while the temporary use is on the property.
 - b. Wall signs affixed to temporary structures and freestanding signs are allowed.
 - c. The maximum height of a freestanding sign is eight feet from finished grade.
 - d. Banner signs, paper or cardboard signs are prohibited.
 - (3) The temporary use must provide sufficient space to accommodate the structure and paved off-street parking for customer and use-related vehicles;
 - (4) Clear vision standards set forth in section 27-615 shall be followed;
 - (5) Access to any public right-of-way must be approved by the city engineering division;
 - (6) It shall be the responsibility of the owner of the temporary structure to ensure that the structure is secured to withstand an 80 miles per hour (m.p.h.) wind load and to meet all applicable Americans with Disabilities Act (A.D.A.) and accessibility standards;
 - (7) All group 3 temporary structures, regardless of size, which contain electrical wiring, and are placed on property within the city limits, shall have such electrical wiring permitted, inspected and approved by the city building division. All temporary structures that exceed 120 square feet, except greenhouses, shall have the structure permitted, inspected and approved by the city building division or labeled as a factory-built structure by the State Building Codes Bureau prior

to issuance of a temporary use/structure permit. A temporary use/structure permit shall be obtained by the owner and a business license, if required, shall be obtained by the operator. Such temporary use/structure permit shall be valid for a period of not more than one year. An annual renewal may be given by the zoning coordinator, provided that the use complies with the above requirements. However, permits for portable offices or classrooms may be renewed only one time per location.

B. TEMPORARY USES IN RESIDENTIAL ZONING DISTRICTS

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

1. Seasonal Sales

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

- (a) The sale must be conducted on a church, school or other tax exempt premises which provides sufficient space to accommodate the seasonal sales and off-street parking for customer and other sale related vehicles;
- (b) Signs advertising the temporary use or activity are allowed at the same location as the temporary use.
 - (1) Signage may not exceed 32 square feet in area and may be displayed while the temporary use is on the property.
 - (2) Wall signs affixed to temporary structures and freestanding signs are allowed.
 - (3) The maximum height of any freestanding sign is eight feet from finished grade.
 - (4) Banner signs, paper or cardboard signs are prohibited.
- (c) Clear vision standards set forth in section 27-615 shall be followed; and
- (d) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

2. Roadside Stands

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

- (a) Only items which are produced on the premises may be sold on the premises;
- (b) Any structure used must be portable and removed after the temporary use/structure has ceased operation.
- (c) Signs advertising the temporary use or activity are allowed at the same location as the temporary use.
 - (1) Signage may not exceed 32 square feet in area and may be displayed while the temporary use is on the property.
 - (2) Wall signs affixed to temporary structures and freestanding signs are allowed.
 - (3) The maximum height of any freestanding sign is eight feet from finished grade.
 - (4) Banner signs, paper or cardboard signs are prohibited.
- (d) The use must provide sufficient space to accommodate the stand and off-street parking for customer and other sale related vehicles;

- (e) No structure, either temporary or permanent, nor any parking area shall be located within any public right-of-way and shall meet the clear vision standards set forth in section 27-615;
- (f) New access to any public right-of-way must be approved by the city engineering division; and
- (g) All signage and temporary structures must be removed at the time the temporary use has ceased on the property.

C. TEMPORARY USES AND STRUCTURES

1. Construction Equipment, Sheds, and Materials

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

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

2. Other Temporary Structures

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

- (a) For group 3 uses, the structure shall meet the applicable setbacks for the zone in which it is located, including arterial setbacks as found in section 27-602;
- (b) The structure shall meet the clear vision standards set forth in section 27-615;
- (c) No such structure shall be used for living or sleeping purposes; and
- (d) The use of the structure shall comply with subsections 27-614(b) and 27-614(c), whichever is applicable.
- (e) A temporary use/structure permit shall be obtained for each location by the owner for group 2 and group 3 uses as defined in subsection 27-614(b).
- (f) A temporary use/structure permit shall be obtained for each location by the owner for seasonal sales and roadside stands in residential and noncommercial zoning districts as defined in subsection 27-614(c).

3. Time Limit Established

The zoning coordinator shall establish the time period that a building or modular structure can be used on a temporary basis. This time period shall coincide with the temporary use/structure permit time period established under above subsection (b) or (c), whichever is applicable. The structure shall be removed when the temporary

use is discontinued or the permit has expired. An extension for the renewal of the temporary structure permit only, may be granted by the zoning coordinator, if it is found that unusual and/or extraordinary circumstances exist.

D. TEMPORARY USE/STRUCTURE PERMIT REQUIRED

1. Before any group 2 or group 3 temporary use or structure is established, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee.
2. For group 3 temporary uses, the temporary use permit holder shall post a \$1,500.00 bond, money order or cashier's check for each location with the planning and community services department to ensure timely removal of the use and/or structure.
3. Before any seasonal sale or roadside stand is established in a residential or noncommercial zoning district, the property owner shall obtain a temporary use/structure permit for each location from the zoning coordinator or his/her designee.

SECTION 27-1006: SPECIAL EVENTS⁴⁵ (NEW)

A. PURPOSE

The [city/county] requires permitting for certain special events that may impact the health and safety of the community. These special events include preplanned, single gathering events or series of related consecutive daily gatherings or events, of an entertainment, cultural, recreational, educational, political, religious, sporting, or of any other nature, sponsored by an individual or entity, and proposed to be held at a public facility, and which could result in activity impeding or impairing the normal flow of vehicles and pedestrians on streets, sidewalks or other public facilities used primarily for travel; require the partial closing or obstruction of such; or requires the necessity of public safety or traffic control measures not already provided at the proposed site of the event.

B. PERMIT REQUIRED

It shall be unlawful for any person to sponsor or knowingly participate in any special event without a special event permit issued by the planning division to the special event sponsor.

C. RESPONSIBILITY FOR EXPENSES INCURRED BY COUNTY

The special event sponsors, and any other individuals or organizations named in the permit, may be responsible for any expenses incurred by the [city/county] as a result of their event. The [city/county] may require a deposit or bond prior to the issuance of a special event permit.

D. DURATION

Permits shall be valid for a maximum of five days within a consecutive 14-day period. A repeat special event shall not occur more frequently than once every 60 days.

E. DUTY TO RESTORE EVENT LOCATION

1. Special event sponsors shall be responsible for the cleaning and restoration of the location the event occupies, and/or causes debris or litter upon, within 48 hours of the conclusion of the event, or at such other time as may be set forth in the permit, to the condition which existed prior to the event, and shall provide waste disposal receptacles and toilet facilities for use of those attending the event.
2. Special event sponsors may be required to submit a deposit for the cleaning and restoration of areas adjacent to the special event location.

F. EXEMPT EVENTS

Any event sponsored by the [city/county], as well as any emergency services program, military exercise simulation, or training drill, or any governmental agency acting within the scope of its functions, shall be exempt from complying with the requirements of this chapter.

G. TEMPORARY EVENTS

Any activity or event defined as a temporary event or regulated in Section 27-1005 shall not be considered a special event.

H. EVENT ADVERTISING

1. **Temporary Signs**
Event signage shall comply with Section xx.xx, Temporary Signs.
2. **Generally**
 - (a) Advertising shall not be installed without an approved event banner sticker from the planning division.

⁴⁵ This is a proposed new section to differentiate temporary uses on private property from events held on or including public property/spaces.

- (b) Weathered or torn advertisements shall not be permitted, and planning division staff may remove any event advertising in violation of this subsection.
- (c) The advertising shall not block any line of sight and must not be located within a right-of-way.
- (d) Depending on the location of the advertising, special restrictions may apply, including, but not limited to, restricted distance from the right-of-way or pavement and restricted angle of the advertisement facing the road.

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