

DRAFT: ORDINANCE (11-18-25)

An Ordinance of the Missoula City Council establishing Title 22 - City of Missoula Unified Development Code (UDC), repealing in its entirety Title 16 – Manufactured Housing and Mobile Home Parks; Title 17 – Subdivisions; Title 20 - Missoula City Zoning Ordinance; Title 21 – Form Based Code (Sx^wtpqyen); and further repealing any Planned Unit Development (PUD) or Special District (SD)not expressly retained.

Be it ordained that Title 22, City of Missoula Unified Development Code (UDC), be adopted as shown in attached Exhibit A.

Be it further ordained that Title 16, Title 17, Title 20 and Title 21 of the Missoula Municipal Code are hereby repealed.

Be it further ordained that all existing Planned Unit Development (PUD) or Special District (SD) adopted as part of the City’s zoning map are hereby repealed unless expressly retained as shown in the attached Exhibit B.

Effective date. The provisions of this ordinance shall be effective in 30 days after adoption.

Severability. If any selection, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional. Thus, if any portion of this ordinance is declared invalid or unlawful, then the remaining ordinance provisions shall remain in full force and effect.

PASSED by a ___Ayes, ___Nays, Abstain and ___absent vote and
APPROVED by the Mayor this ___ day of ___, 2025.

ATTEST:

APPROVED:

Claire Trimble

Andrea Davis

City Clerk

Mayor

(SEAL)



TITLE 22:

CITY OF MISSOULA UNIFIED DEVELOPMENT CODE

Effective **x/x/2026**



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INTRODUCTION



CH 1: INTRODUCTION

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INTRODUCTORY PROVISIONS

Division 1.1.01 General

Section 1.1.01-A. Official Name (Title)

The official name of this title (Title 22) is the "City of Missoula Unified Development Code." For convenience, it is referred to throughout this title as the "UDC."

Section 1.1.01-B. Effective Date

The provisions of this UDC became effective and must be complied with beginning [effective date], except as otherwise expressly stated in Division 1.1.04. Development review applications submitted on or before [60 days from effective date] may be reviewed under either this UDC or under the applicable zoning, subdivision, engineering, and any other City standards and regulations in effect immediately prior to adoption of this UDC. All development review applications submitted after [60 days from effective date] are subject to the provisions of this UDC, except as otherwise expressly stated in a prior development review application approval.

Section 1.1.01-C. Authority

This UDC is adopted pursuant to the powers granted and limitations imposed by Montana law and the City of Missoula's self-government authority. The City of Missoula also exercises this authority through the development and enforcement of administrative rules and standards, which may be in the form of, but are not limited to, the "City of Missoula Standards and Specifications Manual," referred to within the UDC as the "Manual."

Section 1.1.01-D. Purposes

This UDC is adopted for the purposes of:

1. Conforming with MCA § 76-25-101, et seq.;
2. Protecting and promoting the public health, safety, and general welfare;
3. Implementing the policies and goals contained in the officially adopted Land Use Plan and other adopted plans;
4. Consolidating and aligning development codes into one consistent and user-friendly structure;
5. Establishing clear and efficient development review and approval procedures; and
6. Accommodating orderly and beneficial development in accordance with the preceding purposes.

Section 1.1.01-E. Applicability

The regulations of this UDC apply to all development within the corporate limits of the City of Missoula and lands proposed for annexation into the City unless otherwise expressly stated.

Section 1.1.01-F. Severability

If any portion of this UDC is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from this UDC and in no way affects the validity of the remainder of this UDC.

Division 1.1.02 Compliance Required

Section 1.1.02-A. General Compliance

Except as otherwise expressly stated in this UDC:

1. A building or structure may not be erected, moved, reconstructed, extended, or structurally altered for any purpose other than one that is permitted in the subject zoning district.
2. Land may not be used for any purpose other than one that is permitted in the subject zoning district.
3. Buildings, structures, infrastructure, and land may be used, arranged, or subdivided only in compliance with the requirements specified in this UDC and the Manual.
4. It is the responsibility of a property owner or applicant proposing development to demonstrate substantial compliance with the applicable standards and regulations of this UDC.
5. The provisions of this UDC are the minimum requirements deemed necessary to carry out this UDC's stated purpose and intent.

Section 1.1.02-B. Compliance with other Applicable Regulations

1. In addition to the requirements of the UDC, all uses and development must comply with all other applicable city, state, and federal regulations. This includes, but is not limited to, the standards and provisions within the Manual.
2. All references in the UDC to other city, state, or federal regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for the City to enforce state or federal regulations.

Section 1.1.02-C. Conflicting Provisions

1. Conflict with State or Federal Regulations

If the provisions of this UDC are inconsistent with those of the state or federal government, the more restrictive provision will control, to the extent permitted by law. The more restrictive provision is the one that imposes more stringent controls.

2. Conflict with Other City Regulations

If the provisions of this UDC are inconsistent with one another, or if they conflict with provisions found in other adopted ordinances or regulations of the City, the more restrictive provision will control unless otherwise expressly stated. The more restrictive provision is the one that imposes more stringent controls.

3. Conflict with Private Agreements and Covenants

This UDC is not intended to interfere with, abrogate, or annul any easement, covenant, deed restriction, or other agreement between private parties. The City does not maintain a record of and is not responsible for the enforcement of private agreements. A property owner shall be responsible for understanding and complying with any applicable private agreements, and shall be responsible for any development that is submitted for review and approved by the City that does not comply with said agreement or covenant.

Division 1.1.03 Rules of Language and Ordinance Construction

Section 1.1.03-A. Meanings and Intent

The language of this UDC must be read literally. Regulations are no more or less strict than stated. Words and terms expressly defined in Chapter 8 or other sections of this UDC or the Manual have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined in this UDC have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

Section 1.1.03-B. Computation of Time

1. References to "days" are to calendar days unless otherwise expressly stated. Reference to "business days" are references to regular working days of the City of Missoula, excluding Saturdays, Sundays, and holidays observed by the City of Missoula.
2. The time in which an act is to be completed is computed by excluding the first day and including the last day. If the last day is a Saturday, Sunday, or holiday observed by the City, that day is excluded and the act is to be completed the next business day.
3. A day concludes at the close of business (5:00 p.m.) and any materials received after that time will be considered to have been received the following day.

Section 1.1.03-C. Tenses and Usage

1. Words used in the singular include the plural. The reverse is also true.
2. Words used in the present tense include the future tense. The reverse is also true.
3. The words "must," "will," "shall", and "may not" are mandatory.
4. The word "may" is permissive. The word "should" is advisory, not mandatory or required.
5. When used with numbers, "up to x," "not more than x" and "a maximum of x" all include "x."

Section 1.1.03-D. Conjunctions

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

1. "and" indicates that all connected items or provisions apply; and
2. "or" indicates that the connected items or provisions may apply singularly or in combination.

Section 1.1.03-E. Headings and Illustrations

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this UDC. In case of any difference of meaning or implication between the text of this UDC and any heading, drawing, table, figure, or illustration, the text controls.

Section 1.1.03-F. Current Versions and Citations

All references to other city, county, state, or federal regulations in this UDC refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, UDC requirements for compliance are no longer in effect.

Section 1.1.03-G. Lists and Examples

Unless otherwise expressly stated, lists of items or examples that use "such as" or similar terms are intended to provide examples only. Lists of items that use "including" require the items following but may also require additional items. They are not to be interpreted as exhaustive lists of all possibilities.

Section 1.1.03-H. Delegation of Authority

Whenever a provision appears requiring the head of a department or another officer or employee of the City to perform an act or duty, that provision will be interpreted as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this UDC expressly prohibit such a delegation.

Section 1.1.03-I. Public Officials and Agencies

All employees, public officials, bodies, and agencies to which references are made are those of the City of Missoula unless otherwise expressly stated.

Section 1.1.03-J. Commentaries

Commentaries are sometimes included in this UDC as a means of clarifying certain provisions or providing supplemental information thought to be useful for UDC users. Text marked as "commentary" is intended to further describe a provision with context or to rephrase or provide examples of a provision as a guide for administrative officials and the public.

Commentary: When commentaries are provided, they will appear in this manner.

Division 1.1.04 Transitional Provisions

Section 1.1.04-A. Applicability

The provisions of this section address the transition from any previous applicable zoning, subdivision, engineering, or other City standard and regulation that was in effect prior to the effective date of this UDC.

Section 1.1.04-B. Applications Submitted Before [Effective Date of Ordinance]

1. Development applications that were submitted in complete form and are pending approval on [effective date] must be reviewed wholly under the terms of all applicable zoning, subdivision, engineering, and any other City standards and regulations in effect immediately before the effective date of this UDC. To be subject to review under this UDC, a development application must be resubmitted after [effective date] or a request must be sent in writing to the Planning Administrator to request review under this UDC by [60 days after effective date].
2. Any building, development, or structure for which a permit application was approved before [effect date] may be completed in conformance with the issued building permit, zoning compliance permit, or any other applicable permits and conditions, even if such building, development, or structure would not be in conformance with the provisions of this UDC. If permitted projects have not commenced or been completed within the time allowed by the original permit, or any approved deadline extension, then any applicable permit application must be resubmitted and the building, development, or structure must comply with the standards of this UDC.

Section 1.1.04-C. Site-Specific Development Plans Approved Before [Effective Date of UDC]

1. Building permits and zoning compliance permits may be issued for previously approved, unexpired site-specific development plans in accordance with the approved plan. Site-specific development plans under Section 1.1.04-C.1 are plans submitted by a landowner or a landowner's authorized representative describing with reasonable certainty the type and intensity of development to be carried out on a specific parcel, and that have been approved by all applicable City departments or by the governing body. Such site-specific development plans may be in the form of a design excellence approval, variance, conditional use approval, or a historic preservation permit approved before [effective date], and will remain valid until [effective date of this ordinance + three years] unless a different lapse of approval date has been previously approved.
 - (a) Zoning Compliance Permit (ZCP) with Phased Construction Plan: Building permits for the first phase must be submitted within 3 years of ZCP approval, and permits for each subsequent phase must be submitted within two years after the previous phase.
 - (b) Zoning Variance, Design Excellence Approval, Historic Preservation Permit, or Conditional Use: Building permit or ZCP must be submitted within 3 years of variance approval.
2. The Planning Administrator is authorized to grant a maximum one-year extension to deadlines contained in previously approved site-specific development plans of Section 1.1.04-C.1 if the Planning Administrator determines that the extension is necessary to address delays beyond the reasonable control of the applicant. The request for extension must be submitted to the City in writing prior to expiration of the permit. After the lapse of approval date, no permits, extensions, or other approvals may be issued except in accordance with the standards and procedures of this UDC.
3. Subdivision site-specific development plans include preliminary plat approvals, final plat approvals, phased development review approval, Master Site Plans approved under Title 21 Zoning Code, and subdivision exemption approvals that have been approved by all applicable City departments or by the governing body. Subdivision site-specific development plans approved before [effective date] will remain valid per effective dates approvals outlined in Division 5.3.03. Subdivision exemption approvals will remain valid until [effective date + two years]. This section is not intended to interfere with any established development agreement between property owners and the City.
4. Subdivision final plats and subdivision exemption amended plats or amended certificates of survey filed from site-specific development plans approved before [effective date] will not be evaluated for compliance with minimum lot width or lot area standards in Chapter 4. Development on the lots shall comply with all other zoning standards in Chapter 4 at the time of building permit or zoning compliance permit.

Section 1.1.04-D. Special Development Plans or Areas in Effect Before [date]

1. Development requirements tied to certain previously adopted or approved "special development plans or areas" are hereby repealed, and any related requirements placed on permits or other approvals are released. For purposes of this section, "special development plans or areas" are zoning overlays or planned neighborhood clusters initiated by a landowner or a landowner's representative or the governing body describing with reasonable certainty the type and intensity of development to be carried out on a specific parcel, a specific area, or areas through a special review or permit process that was approved prior to [effective date] and is no longer deemed to be in conformance with the intent statements of this UDC. Such special development plans or areas include, but are not limited to:
 - (a) Planned Unit Development Zoning District,
 - (b) Special Zoning District,
 - (c) Planned Neighborhood Cluster,
 - (d) Cluster or conservation development,
 - (e) Zoning overlay district,
 - (f) Neighborhood character overlay district,

- (g) Special exemption, or
 - (h) Other similar development plan, as determined by the Planning Administrator.
2. Historic preservation permit approvals are not subject to this provision. Special districts, planned unit developments, and neighborhood character overlays related to historic preservation remain in effect and are listed as Historic Resource Overlay Districts in Article 4.6.
 3. Subdivision preliminary plat approvals, phased development review approvals, and final plat approvals are not subject to this provision.

Section 1.1.04-E. Violations Continue

1. Any violation of the previous zoning, subdivision, engineering, or other applicable City standard or regulation in effect prior to [effective date] will continue to be a violation under this UDC and be subject to penalties and enforcement under Article 2.5 of this UDC.
2. If the use, development, construction, or other activity that was a violation under the previous zoning, subdivision, engineering, or other applicable City standard or regulation in effect prior to [effective date] complies with the express terms of this UDC, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date of this UDC.
3. The adoption of this UDC does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous zoning, subdivision, engineering, or other applicable City standard or regulation in effect prior to the effective date of this UDC that occurred before [effective date].

CHAPTER 2:

ADMINISTRATION AND PROCEDURES



CH 2: ADMINISTRATION AND PROCEDURES CODE

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ADMINISTRATION

Division 2.1.01 City Engineer

Section 2.1.01-A. Appointment

The director of Public Works and Mobility shall designate the position(s) of City Engineer. This is the person(s) designated to review, analyze, administer, enforce, and make final decisions on engineering, subdivision, and other development applications as required by this UDC. The City Engineer carries out the technical and regulatory functions necessary to ensure the safe, orderly, and efficient development and maintenance of the public right-of-way, associated infrastructure, and related standards, specifications, and requirements of this ordinance and other applicable ordinances and manuals.

Section 2.1.01-B. Powers and Duties

The City Engineer has the authority and responsibility for the following items, but not limited to:

1. **Regulatory Duties**

The City Engineer shall perform those duties as specified in the Montana Code Annotated, duties specified in Missoula Municipal Code, and other such duties as specified in this code.

2. **Administrative Duties**

- (a) Maintain official records and files related to permits, licenses, plans, inspections, fee receipts, petitions, agendas, minutes, notices, public hearings, and other matters pertaining to the use, construction, and regulation of the public right-of-way and engineering within the city;
- (b) Ensure such records are properly filed with the City Clerk and County Clerk and Recorder as required by state statutes, and available for public inspection during regular business hours unless otherwise determined by the city attorney;
- (c) Establish and apply technical standards and specifications for sidewalks, paving, curbs, stormwater, fences, utilities, and other right-of-way improvements in accordance with adopted codes and standards;
- (d) Collected and process fees for right-of-way permits, fence permits, and other infrastructure permits.

3. **Decisions and Recommendations**

- (a) Make decisions on right-of-way permits, zoning, subdivision, building permits, traffic impact studies, and other permits in accordance with adopted review procedures, including occupancy, encroachments, approaches, and related requests;
- (b) Approve, conditionally approve, or deny construction plans, traffic control measures, subdivision applications, plats, phasing plans, exemptions, variances, and other development proposals as they relate to infrastructure, based on substantial compliance with applicable regulations and standards;
- (c) Provide written decisions, recommendations, and supporting documentation for matters requiring further action by the City Council, Planning Commission, or other decision-making bodies;
- (d) Grant extensions, modifications, or exceptions to standards where authorized by ordinance;
- (e) Send appeals of certain decisions to the Planning Commission or City Council;
- (f) Make other such decisions or conduct other reviews as required by state law.

4. Staff Support and Coordination

- (a) Act as staff to the City Council on right-of-way, utility, and public works matters.
- (b) Coordinate with City departments, utilities, and other agencies to consolidate technical input and provide a single, streamlined response to development proposals.

5. Code Interpretation and Guidance

- (a) Provide information on right-of-way standards and requirements to the public, contractors, developers, and government agencies;
- (b) Interpret this UDC;
- (c) Promote consistency and uniformity in the administration of engineering standards;
- (d) Issue formal opinions to clarify ambiguities, subject to review and approval by the City Attorney.
- (e) Forward copies of formal opinions to City Council.

6. Enforcement and Maintenance

- (a) Conduct inspections and investigations of alleged violations related to right-of-way construction, use, or maintenance.
- (b) Issue correction notices, stop work orders, and other enforcement actions necessary to achieve compliance.
- (c) Order repair, replacement, or removal of hazardous or non-compliant right-of-way improvements, with costs assessed as provided by law.
- (d) Initiate regular updates to right-of-way standards and specifications to ensure they remain current and effective.

Division 2.1.02 Planning Administrator**Section 2.1.02-A. Appointment**

The Planning Administrator is the Director of the Community Planning, Development and Innovation Department or their designee(s) who will review, analyze, provide recommendations, or make final decisions on any or all zoning, subdivision, and other development applications as required in this UDC.

Section 2.1.02-B. Powers and Duties

The Planning Administrator has the authority and responsibility to:

1. Administrative Duties

- (a) Maintain files and records to document fee receipts, the issuance of permits, petitions, agendas, minutes, record of public hearings, and other matters relating to zoning and subdivision within the city. Such files and records must be available and open for public inspection during regular business hours, unless otherwise determined by the City Attorney;
- (b) Properly file all materials and documents relating to zoning and subdivision within the city with the City Clerk and County Clerk and Recorder, as required by applicable state statutes;
- (c) Develop, implement, and enforce administrative rules, operating procedures, and policies for zoning and subdivision within the city.
- (d) Collect and process fees for processing development and permit applications;

2. Decisions and Recommendations

- (a) Make decisions on matters on which the Planning Administrator is authorized to act in accordance with the review procedures for zoning and subdivision review and provide background information supporting the decision;
- (b) Provide written recommendations in accordance with the review procedures for zoning, annexation, and subdivision review and provide background information supporting the Planning Administrators recommendation;
- (c) Issue final decisions on zoning compliance permits and other ministerial permits;
- (d) May approve, approve with conditions, or deny applications for proposed developments with or without variances, based on substantial compliance with the regulations in accordance with applicable review procedures;
- (e) Review final plat applications and make a determination as to whether the final plat contains all required information;
- (f) Issue written decisions to approve, conditionally approve, or deny a proposed subdivision preliminary plat application, subdivision phasing plan, subdivision phasing plan modification, or subdivision phased development review;
- (g) Issue written decisions to approve a proposed subdivision exemption application or to refer the application to City Council for denial;
- (h) May grant extensions for preliminary plat approval periods;
- (i) Send appeals of certain decisions to the Planning Commission or City Council;
- (j) Make other such decisions or conduct other reviews as required by state law;

3. Public Hearings, Notice, and Engagement

- (a) Publish notice of required public hearings, as required by this UDC, the City's Land Use Public Participation Plan, the Missoula Municipal Code and applicable state statutes;
- (b) Consider relevant public comment as required in applicable review procedures;
- (c) Prepare materials necessary for the Planning Commission and the City Council to properly conduct meetings and public hearings in the administration of this UDC;

4. Staff Support and Coordination

- (a) Coordinate with the City Engineer and other applicable agencies on matters relating to the requirements of annexation to facilitate the smooth transition of land uses from one jurisdiction's zoning district to another;
- (b) Act as staff for the Planning Commission and the City Council;
- (c) Act as the central coordinator for development reviews, consolidating input from all City departments to provide a single, streamlined official response;

5. Code Interpretation and Guidance

- (a) Provide zoning and subdivision information to the public, government agencies and officials;
- (b) Interpret this UDC;
- (c) Promote substantive and procedural uniformity in the administration of this UDC;
- (d) Where ambiguity in the interpretation of this UDC arises, issue Planning Administrator Opinions that serve to clarify the intent of these regulations, subject to the review and approval of the City Attorney;
- (e) Forward copies of all Planning Administrator opinions to the City Council;

6. Enforcement and Maintenance

- (a) Conduct investigations of alleged zoning, subdivision, and development-related violations and, where appropriate, make referrals to the City Attorney;
- (b) Conduct inspections in the performance of duties;
- (c) Initiate regular maintenance of and updates to this UDC.

Division 2.1.03 Planning Commission

Section 2.1.03-A. Planning Commission Established

1. There is hereby established a Planning Commission for the City of Missoula which shall fulfill the following duties and responsibilities as provided in MCA 76-25-101, et seq., the Montana Land Use and Planning Act, herein referred to as the "Act".
2. Requirements for appointments, terms, qualifications, removal, vacancies, meetings, notice of meetings, officers, reimbursement of costs, and bylaws are addressed by resolution adopted by City Council.

Section 2.1.03-B. Duties and Responsibilities

1. Review and make recommendations to the City Council regarding the development, adoption, amendment, review, and approval or denial of the following documents:
 - (a) The Land Use Plan and Future Land Use Map as provided in the Act.
 - (b) Zoning Regulations and Zoning Map as provided for in the Act.
 - (c) Subdivision Regulations as provided for in the Act.
 - (d) Any other legislative land use planning document that the City Council designates.
2. In accordance with MCA 76-25-503, the Planning Commission shall hear and decide appeals from any site-specific land use decisions made by the Planning Administrator pursuant to Section 2.1.02-B. Decisions of the Planning Commission may be appealed to the City Council.

Section 2.1.03-C. Meetings of the Planning Commission

1. The Planning Commission must establish a regular meeting schedule and make the schedule available to the general public. The Planning Commission shall meet at least once every six (6) months. Special meetings may be called by the Chairperson or by simple majority vote of the Planning Commission. Minutes must be kept of all meetings of the Planning Commission and all meetings and records must be open to the public.
2. Meeting notices shall be posted as required by MCA for noticing meetings of public bodies or as otherwise required by Missoula Municipal Code or policies set for general City boards and commissions.

Section 2.1.03-D. Voting

A majority of currently appointed voting members of the Planning Commission constitutes a quorum. A quorum must be present for the Planning Commission to take official action. Action by the Planning Commission requires a favorable majority vote of those commission members present and voting.

Section 2.1.03-E. City Staff Support

The Planning Commission is served primarily by the Planning Administrator, who acts as staff to the Planning Commission and is responsible for announcing meetings of the Planning Commission.

Section 2.1.03-F. Organization and By-Laws

The Planning Commission shall propose by-laws and rules of procedures to be approved by City Council.

Division 2.1.04 Historic Preservation Officer**Section 2.1.04-A. Appointment**

The Director of the Community Planning, Development and Innovation Department must designate a Historic Preservation Officer who demonstrates interest, competence, and knowledge in historic preservation and who has an educational background or professional experience in history, planning, archaeology, architecture, architectural history, historic archaeology, or a closely related field.

Section 2.1.04-B. Powers and Duties

1. The Historic Preservation Officer must assist the Historic Preservation Commission in fulfilling its powers and duties by:
 - (a) Coordinating local historic preservation programs;
 - (b) Conducting and updating historic preservation surveys;
 - (c) Maintaining and keeping records relating to nominations, designation, historic preservation permits, alternative compliance applications and permits, other permits and Historic Preservation Commission actions; and
 - (d) Providing advice and education to the public regarding:
 1. Historic preservation;
 2. Designation process;
 3. Historic Preservation Permit process; and
 4. Alternative Compliance process.
 - (e) Maintaining written minutes of all public meetings of the Historic Preservation Commission, including a summary of relevant testimony and Historic Preservation Commission discussion preceding any actions taken by the Historic Preservation Commission at their meetings.
 - (f) The Historic Preservation Officer serves as a designee for the Planning Administrator as it relates to historic preservation permits by:
 1. Reviewing applications, permits and environmental impact statements pertaining to historic resources or historic districts;
 2. Send appeals of certain decisions to the Planning Commission or City Council;
 3. Approving, approving with conditions, or denying applications for historic preservation permits as outlined in Article 4.6.
 - (g) The Historic Preservation Officer shall ensure the City maintains compliance with the Certified Local Government (CLG) program.

Division 2.1.05 Historic Preservation Commission

Section 2.1.05-A. Purpose

A Historic Preservation Commission is established for the following general purposes:

1. Reviewing and commenting on the conduct of land use, housing and redevelopment, municipal improvement, and other types of planning and programs undertaken by city, county, state or federal agencies, as they relate to historic resources;
2. Participating in the review and development of guidelines and standards to be used by the Historic Preservation Officer in reviewing applications for historic preservation permits;
3. Recommending to the City Council the purchase of fee or less than fee (easements) interests in properties for purposes of historic resource preservation;
4. Providing all interested parties with information available on surveys, technology, and funding sources needed to promote historic resource preservation;
5. Preserving, restoring, maintaining or operating historic properties under the ownership of the Historic Preservation Commission;
6. Ensuring historic preservation concerns are considered at all levels of local government planning and are incorporated as goals of other local, state, and federal projects;
7. Rendering advice and guidance upon request of the property owner regarding restoration, alteration, decoration, landscaping or maintenance of any historic resource;
8. Performing all other duties imposed or authorized by this UDC; and
9. Delegating appropriate responsibility to the Historic Preservation Officer.

Section 2.1.05-B. Authority

The Historic Preservation Commission has the authority to:

1. Review and comment on actions that impact historic resources, including:
 - (a) City, state, and federal planning programs;
 - (b) Environmental assessments, environmental impact statements and other similar documents; and
 - (c) Amendments to this UDC.
2. Consult with the City regarding the acquisition of:
 - (a) Eligible or listed historic resources;
 - (b) Easements or other less-than-fee-simple interests in historic resources; and
 - (c) Rights of first refusal to purchase historic resources.
3. Provide the public with informational, educational and interpretative programs regarding historic preservation; and
4. Apply for and receive funding to further the City's historic preservation goals

Section 2.1.05-C. Membership

The Historic Preservation Commission is a nine-member board, consisting of seven regular members and two alternates, and must have the following composition:

1. There must be one Historic Preservation Commission member from the Downtown Business Improvement District geographic region. This member may either reside or work in that region and be appointed by the City Council.
2. There must be three "at-large members" of the Historic Preservation Commission, who may reside or work in either the city or the unincorporated county and be appointed by the City Council.
3. There must be three "professional members" of the Historic Preservation Commission. Professional members may reside or work in either the city or the unincorporated county and be appointed by the City Council. All professional members must possess professional experience in such fields as architecture, history, architectural history, landscape architecture, archeology, city planning, preservation law, historic preservation, American studies, cultural geography, or cultural anthropology or a closely related field. Professional members must, to the extent possible, meet the Secretary of Interior's Professional Qualification Standards found at 36 C.F.R. 61 and the standards listed in the Montana Certified Local Government Manual.
4. There must be two "at-large alternate members" of the Historic Preservation Commission and be appointed by the City Council with the designation of Alternate 1 or Alternate 2. Alternate members are eligible and encouraged to apply for vacant positions on the board for which they qualify. Alternate members will be called with Alternate 1 being called first and Alternate 2 being called second to serve as a regular voting commission member under the following circumstances:
 - (a) In the absence of any commission member; or
 - (b) In the event of a board vacancy whereupon the board member chooses not to continue until a successor is appointed by City Council.

Section 2.1.05-D. Terms

A Historic Preservation Commission member's term runs for three years, and appointments must be staggered. Members of the Historic Preservation Commission will not be compensated for their services, although members may be reimbursed for expenses incurred in fulfilling their powers and duties under this division.

Section 2.1.05-E. Operation

1. The Historic Preservation Commission must establish a regular meeting schedule and make the schedule available to the general public.
2. Special meetings may be called by the chairperson or by simple majority vote of the Historic Preservation Commission.
3. The Historic Preservation Officer is responsible for announcing meetings of the Historic Preservation Commission.
4. Commission meetings must be open to the public in accordance with applicable state law.
5. The Historic Preservation Commission must adopt its own rules and bylaws, consistent with its powers and duties under this UDC and state law. The Historic Preservation Officer must file a copy of the bylaws in Community Planning Development and Innovation.
6. The Historic Preservation Officer must keep a summary of all actions of the Historic Preservation Commission in the form of minutes or reports.

Section 2.1.05-F. Voting

A quorum of the Historic Preservation Commission requires the presence of at least four members. A quorum must be present for the commission to take official action. Unless stated otherwise, action by the Historic Preservation Commission requires a favorable majority vote of those commission members present and voting.

Section 2.1.05-G. City Staff Support

The Historic Preservation Commission is served primarily by the Historic Preservation Officer, who acts as staff to the Historic Preservation Commission. The Planning Administrator may request other City departments to render such assistance as may be reasonably requested by the Historic Preservation Commission. See Division 2.1.04 for a description of the Historic Preservation Officer's powers and duties.

Division 2.1.06 Urban Forester**Section 2.1.06-A. Appointment**

The Urban Forester or their designee(s) administer, review, enforce, and implement the standards, regulations, and policies governing the urban forest. The Urban Forester shall carry out technical, regulatory, and programmatic functions necessary to maintain and improve a healthy urban forest in accordance with City ordinances, adopted plans, and applicable state and federal laws.

Section 2.1.06-B. Powers and Duties

The Urban Forester has the authority and responsibility to:

1. Administrative Duties

- (a) Maintain official records concerning the urban forest, including records of tree planting and maintenance permits, enforcement actions, fee receipts, petitions, agendas, minutes, and public hearings, making them available for public inspection during regular business hours unless restricted by the City Attorney.
- (b) Oversee issuance and administration of permits for tree planting and maintenance permits.
- (c) Administer policies regarding vegetation, landscaping, and urban forestry, ensuring compliance with City ordinances and adopted standards.

2. Decisions and Recommendations

- (a) Recommend to the Parks and Recreation Board and City Council policies, fees, or regulations necessary for the effective governance of urban forest resources.
- (b) Provide determinations regarding tree protection, planting, or removal in parks, boulevards, and public spaces.

3. Public Hearings, Notice, and Engagement

- (a) Conduct or coordinate public hearings, notices, and consultations on matters related to vegetation management when required by ordinance.
- (b) Provide written or verbal notice to affected property owners or park users regarding enforcement actions, closures, or abatement orders.

4. Staff Support and Coordination

- (a) Provide staff support to the Parks and Recreation Board, Tree Board, and related advisory committees, ensuring timely preparation of reports, records, and recommendations.

- (b) Supervise staff, contractors, and volunteers involved in the planting and maintenance of the urban forest.

5. **Code Interpretation and Guidance**

- (a) Interpret provisions of City ordinances related to the urban forest.
- (b) Ensure consistency of interpretations with adopted master plans, including the Parks, Recreation, Open Space and Trails (PROST) Plan and related policies.
- (c) Provide technical guidance on matters involving accessibility, vegetation standards, and facility safety in coordination with staff specialists.

6. **Enforcement and Maintenance**

- (a) Conduct investigations of alleged urban forest related violations and, where appropriate, make referrals to the City Attorney;
- (b) Direct abatement, removal, or emergency response actions regarding the urban forest when hazards, encroachments, or unsafe conditions are identified.
- (c) Oversee the maintenance of the urban forest in accordance with adopted standards and specifications.

Division 2.1.07 Parks Administrator

Section 2.1.07-A. Appointment

The director of the Parks and Recreation Department or their designee(s) is the Parks Administrator and is the person designated to administer, review, enforce, and implement the standards, regulations, and policies governing City parks, trails, conservation lands, recreational facilities, and related public spaces. The Parks Administrator shall carry out technical, regulatory, and programmatic functions necessary to ensure the safe, orderly, and efficient use, development, and stewardship of public recreational lands and facilities in accordance with City ordinances, adopted plans, and applicable state and federal laws.

Section 2.1.07-B. Powers and Duties

The Parks Administrator has the authority and responsibility to:

1. **Administrative Duties**

- (a) Develop, implement, and enforce administrative rules, operating procedures, and policies for parks, trails, skateparks, bike parks, aquatics facilities, and conservation lands in consultation with the Parks and Recreation Board.
- (b) Maintain official records of park use permits, recreational programming, facility reservations, enforcement actions, fee receipts, petitions, agendas, minutes, and public hearings, making them available for public inspection during regular business hours unless restricted by the City Attorney.
- (c) Oversee issuance and administration of permits for special events, alcohol use, concessions, and other regulated activities within parks and recreational facilities.
- (d) Ensure all recreational facilities and programs comply with accessibility requirements under the Americans with Disabilities Act (ADA) and related regulations.

2. **Decisions and Recommendations**

- (a) Review, approve, approve with conditions, or deny applications for park use, special events, encroachments, vegetation planting, vegetation removal, or other regulated activities within City parks,

trails, and open space and other lands and facilities managed by the City Parks and Recreation Department.

- (b) Make determinations regarding the temporary closure, restriction, or modification of recreational facilities and public lands when necessary for safety, maintenance, or environmental protection.
- (c) Recommend to the Parks and Recreation Board and City Council policies, fees, or regulations necessary for the effective governance of public parks and recreation resources.
- (d) Provide determinations regarding tree protection, planting, or removal in parks, boulevards, and public spaces.

3. **Public Hearings, Notice, and Engagement**

- (a) Conduct or coordinate public hearings, notices, and consultations on matters related to park rules, facility development, or vegetation management when required by ordinance.
- (b) Provide written or verbal notice to affected property owners or park users regarding enforcement actions, closures, or abatement orders.
- (c) Coordinate with public utilities and outside agencies regarding use of easements and rights-of-way across parks and conservation lands, including the required provision of advance notice where applicable.

4. **Staff Support and Coordination**

- (a) Provide staff support to the Parks and Recreation Board, Tree Board, and related advisory committees, ensuring timely preparation of reports, records, and recommendations.
- (b) Coordinate Parks staff, City departments, and community partners to support operations, programs, and public safety.
- (c) Supervise staff, contractors, and volunteers involved in the maintenance, programming, or oversight of park and recreation facilities.

5. **Code Interpretation and Guidance**

- (a) Interpret provisions of City ordinances related to parks, recreation, conservation lands, trails, vegetation management, and permitted uses.
- (b) Issue administrative guidance and written determinations regarding the applicability of park rules and policies.
- (c) Ensure consistency of interpretations with adopted master plans, including the Parks, Recreation, Open Space and Trails (PROST) Plan and related policies.
- (d) Provide technical guidance on matters involving accessibility, vegetation standards, and facility safety in coordination with staff specialists.

6. **Enforcement and Maintenance**

- (a) Enforce ordinances, regulations, and policies governing conduct, use, and permitted activities in City parks, trails, and recreational facilities.
- (b) Conduct investigations of alleged violations related to parks, trails, and recreational facilities, and, where appropriate, issue notices, stop-use orders, permit suspensions, permit revocations, or make referrals to the City Attorney;
- (c) Coordinate with law enforcement and other authorized City personnel to ensure compliance with safety requirements and park rules.
- (d) Direct abatement, removal, or emergency response actions within parks, trails, or conservation lands when hazards, encroachments, or unsafe conditions are identified.
- (e) Oversee the maintenance, safety, and accessibility of park infrastructure, recreational facilities, signage, vegetation, and public amenities in accordance with adopted standards and specifications.

Article 2.2

PROCESS CROSSWALK

Procedures and processes for various development activities are located throughout this Unified Development Code. The tables in this article are intended to act as a table of contents for processes covered by this UDC and to clarify decision making authority.

Table 2.2-1: Zoning Process Crosswalk

Process Name	Decision Making Authority	Code Location
Zoning Processes		
Zoning Amendment	City Council	4.15.03
Annexation	City Council	4.15.05
Zoning Variance	Planning Administrator	4.15.04
Appeal of Administrative Decision	Planning Commission	2.4
Zoning Compliance Review (ZCPs and Building Permits)	Planning Administrator	4.15.02
Sign Permits	Planning Administrator	4.14.05
Comprehensive Sign Packages	Planning Administrator	4.14.04
Townhome Exemption Development	Planning Administrator	4.12.04, 5.05.04
Manufactured Housing Park	Planning Administrator	4.12.05
Historic Preservation Permit	Historic Preservation Officer / Planning Administrator	4.6.03, 4.6.04
Historic Resource Overlay	City Council	4.6.08

Table 2.2-2: Subdivision Process Crosswalk

Process Name	Decision Making Authority	Code Location
Subdivision Processes		
Preliminary Plat	Planning Administrator	5.3.01, 5.3.03
Preliminary Plat Approval Extension	Planning Administrator	5.3.03
Ministerial Small Subdivision	Planning Administrator	5.3.02
Phased Development Review	Planning Administrator	5.3.03
Final Plat	City Council	5.3.03
Vacation of Recorded Plats	City Council	5.3.05
Subdivision Exemptions	Planning Administrator / City Council	5.5.02
Subdivision Variance	Planning Administrator	5.3.04
Mobile Home Park Amendment	Planning Administrator	5.2.09
Condominium and Townhome Exemption Development	Planning Administrator	4.12.04, 5.5.04
Appeal of Administrative Decision	Planning Commission	2.4

Table 2.2-3: Infrastructure Improvements Process Crosswalk

Process Name	Decision Making Authority	Code Location
Public Infrastructure Review Stage Process		
Fence Permit	City Engineer	6.4.07
Construction Stormwater Permit	City Engineer	6.2.06
Private Paving Construction Permit	City Engineer	6.3.04
Right of Way Encroachment Permit	City Engineer	6.2.06
Right of Way Construction Permit	City Engineer	6.2.06
Excavation Permit	City Engineer	6.2.06
Water/Sewer Permit	City Engineer	6.2.06
Stormwater Permit	City Engineer	6.2.06
Stage Process	City Engineer	The Manual
Street Tree Permit	Urban Forester	6.2.06
Vehicle Access Permit	Parks Administrator	6.2.06
Right of Way Vacations and Releases	City Council	6.2.01

Article 2.3

NOTICING REQUIREMENTS

Division 2.3.01 General

Section 2.3.01-A. Applicability

The purpose of this article is to engage the public by making them aware of proposed changes that may affect them. Notice is provided to encourage citizens to participate in decision making which affects their interests and provides opportunity for governing agencies to receive information pertinent to an application that would not otherwise be available. Noticing procedures in this section apply to non-ministerial zoning and subdivision processes.

Section 2.3.01-B. Types of Notice

1. Noticing for privately initiated actions shall comply with the notification types identified for each action in Table 2.3.01-1. Publicly initiated actions shall comply with the adopted Public Participation Plan.
2. **Electronic Notice**
Electronic notices shall include application posting on the City of Missoula's official webpage and on the City's official online engagement platform. Once posted, information shall be updated as necessary and appropriate.
3. **Mailed Notice**
 - (a) Mailed notices must be sent by United States Postal Service first class mail and must include the subject property owner(s) and current residents within 150 feet. The distance shall be measured in a straight line from the parcel boundaries.
 - (b) Addresses must be based on the latest property ownership information available from the Montana Department of Revenue. If for some reason a required property owner fails to receive mail notification of a scheduled public hearing or other public comment opportunity this in no way invalidates the legal notice requirements of the scheduled public hearing or other public comment opportunity.
 - (c) In addition to adjacent property owners, notice shall be sent to the appropriate Neighborhood Councils and Council Ward representatives.
 - (d) Mailed notices must be sent prior to the dates of the final decision or public hearings.
4. **Newspaper Notice**
A notice must be published in a newspaper of general circulation within Missoula no fewer than 15 days prior to the dates of the hearings or final decision.
5. **Posted Notice**
At least one notice sign must be posted on each street frontage, clearly visible to passersby, placed on the property (not in the right-of-way or visibility triangle). The owner/applicant is responsible for maintaining the sign and its visibility. If for some reason one or more of the required posted signs for which the public hearing or other public comment opportunity is being held is inadvertently moved through no fault of the city this in no way invalidates the legal notice requirements of the scheduled public hearing or other public comment opportunity.

Section 2.3.01-C. Content of Notice

All required notices must include the following, or must provide a description of where the following information can be obtained:

1. The name and location of the project;
2. The type of process or application requested and the name of the decision-making body;
3. The time frame for public review, including the date of action that is the subject of the notice;
4. If applicable, indicate the date, time, and location of the public meeting;
5. A description of where to obtain information regarding the general scope, purpose, and review criteria of the application or proposal;
 - (a) If applicable, include a general description of the findings of fact related to the approval, approval with conditions, or denial of the application or proposal;
 - (b) If applicable, specify the timeframe that the decision is in effect;
 - (c) If applicable, include information regarding the appeal process;
6. A description of the type of comments sought from the public and how the public may participate;
7. Indication of where additional information on the matter can be obtained; and
8. A description of how to submit public comment.

Table 2.3-01-1: Notification Requirements for Privately Initiated Requests

Process Name	Notification
Land Use Plan Processes	
Targeted Land Use Plan Amendment	Electronic; Mailed; Posted; Newspaper
Zoning Processes	
Historic Preservation Permit	Mailed; Posted
Zoning Amendment	Electronic; Mailed; Posted; Newspaper
Annexation	Electronic; Newspaper; Posted
Zoning Variance	Electronic
Appeals	Electronic; Mailed; Newspaper
Comprehensive Sign Packages	Electronic
Subdivision Processes	
Subdivision Text Amendments	Electronic; Newspaper
Preliminary Plat	Electronic; Mailed; Posted
Phased Development Review	Electronic; Mailed
Final Plat	Electronic
Vacation of Recorded Plats	Electronic; Newspaper
Subdivision Variance	Electronic

Article 2.4

APPEALS

Division 2.4.01 General

Section 2.4.01-A. Applicability

Appeals of land use decisions decided by the City Council or the Planning Administrator pursuant to provisions within Chapter 4 Zoning and Chapter 5 Subdivision are governed by this article.

Division 2.4.02 Appeal of Adoption or Amendment by City Council

Section 2.4.02-A. Applicability

This division applies to appeals of the adoption of or amendment to a land use plan, zoning regulation, zoning map, or subdivision regulation.

Section 2.4.02-B. Process

1. Any final land use decision of the City Council may be challenged by presenting a petition setting forth the grounds for review of a final land use decision with the district court within 30 calendar days after the written decision is issued.
 2. A challenge in district court to a final land use decision of the City Council is limited to the issues raised by the challenger on administrative appeal.
-

Division 2.4.03 Appeal of Administrative Land Use Decisions

Section 2.4.03-A. Applicability

Any final administrative land use decision, including but not limited to approval or denial of a zoning permit, historic preservation permit, preliminary plat, imposition of a condition on a zoning permit or plat, approval or denial of a variance from a zoning or subdivision regulation, or interpretation of land use regulations or map may be appealed by the applicant or any aggrieved person to the Planning Commission.

Section 2.4.03-B. Process to Appeal to Planning Administrator Decisions

1. An appeal under Division 2.4.03 must be submitted to the Planning Administrator in writing within 15 business days of the challenged decision, stating the facts and raising all grounds for appeal.
2. Upon receipt of a complete request to appeal, the Planning Administrator must transmit to the Planning Commission all papers constituting the record upon which the action appealed is taken.

3. The Planning Commission shall hear the appeal de novo. The Planning Commission is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.
4. A decision of the Planning Commission on appeal takes effect on the date when the Planning Commission issues a written decision.

Section 2.4.03-C. Process to Appeal Planning Commission or City Council Decisions

Appeals of Planning Commission or City Council land use decisions made pursuant to this division must be based on the administrative record as a whole and must be sustained unless the decision being challenged is arbitrary, capricious, or unlawful.

1. Any final land use decision made by the Planning Commission pursuant to this article may be appealed by the applicant, the Planning Administrator, or any aggrieved person to the City Council.
 - (a) An appeal under this section must be submitted in writing to the Planning Administrator within 15 business days of the challenged decision, stating the facts and raising all grounds for appeal.
 - (b) The City Council shall hear the appeal de novo. The City Council is not bound by the decision that has been appealed, but the appeal must be limited to the issues raised on appeal. The appellant has the burden of proving that the appealed decision was made in error.
 - (c) A decision of the City Council on appeal takes effect on the date when the governing body issues a written decision.
2. Any final land use decision of the City Council may be challenged by presenting a petition setting forth the grounds for review of a final land use decision with the district court within 30 calendar days after the written decision is issued.
 - (a) A challenge in district court to a final land use decision of the City Council is limited to the issues raised by the challenger on administrative appeal.
3. No person may challenge a land use decision in district court until that person has exhausted the person's administrative appeal process as provided in this article.

Article 2.5

VIOLATIONS, PENALTIES, AND ENFORCEMENT

Division 2.5.01 Violations

Section 2.5.01-A. General

Failure to comply with the applicable provisions of this UDC or the Manual constitutes a violation of the UDC, and is subject to the provisions of this article.

Section 2.5.01-B. Responsibility for Violations

The following persons may be jointly and severally responsible for violations of this UDC and subject to enforcement:

1. Any owner, tenant, or occupant of property on which a violation of this UDC occurs; and
2. Any architect, engineer, builder, contractor, agent, or any other person who knowingly participates in, assists, directs, creates, or maintains a situation that constitutes a violation of this UDC.

Division 2.5.02 Remedies and Enforcement Powers

Section 2.5.02-A. Applicability

The City may use any lawful remedy or enforcement powers, including those described in this section, to redress any violation of the UDC. The remedies and enforcement powers established in this UDC are cumulative, and the City may exercise them in any order.

Section 2.5.02-B. Withhold Permit or Other Development Authorization

1. The City may deny or withhold all permits, certificates or other forms of authorization on any land, structure, or improvements on property upon which there is an uncorrected violation of a provision of this UDC or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. This enforcement power may be applied regardless of whether the current property owner or applicant is responsible for the violation in question.
2. The City may deny or withhold all permits, certificates or other forms of authorization on any land, structure, or improvements owned or being developed by a person who owns, develops or otherwise causes an uncorrected violation of a provision of this UDC or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. This provision may be applied regardless of whether the property for which the permit or other approval is sought is the property in violation. For purposes of this section, a "person" is defined as any individual or business entity with more than a 20% interest in the subject property.

Section 2.5.02-C. Permits with Conditions

Instead of withholding or denying a permit or other authorization, City officials may grant such authorization subject to the condition that the violation be corrected within a specified period of time. City officials are authorized to require a financial guarantee to ensure that corrective actions will be taken.

Section 2.5.02-D. Stop Work

1. Whenever infrastructure or a structure or part thereof is being constructed, reconstructed, altered, repaired, or other development is occurring in violation of this UDC, the City may order the work to be immediately stopped.
2. The stop work order must be in writing and directed to the person or persons doing the work.
3. The stop work order must state the specific work to be stopped, the specific reasons for the ordered stoppage, and the conditions under which the work may be resumed.

Section 2.5.02-E. Stop Use

Whenever a structure or part thereof is being used in violation of this UDC the City may order the use to be immediately stopped.

Section 2.5.02-F. Forfeiture and Confiscation of Signs

1. Any sign installed or placed on public property, including within a public right-of-way, except in compliance with the regulations of this UDC, will be subject to forfeiture and confiscation by the City.
2. In addition to other remedies and penalties of this section, the City has the right to dispose of signs illegally placed on public property following 15 day notice to the apparent owner of the sign, and to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

Section 2.5.02-G. Removal of Fences

1. Any fence not in compliance with this UDC may be ordered removed by the City Engineer or designee(s).
2. Any fence not removed or brought into compliance within thirty days of notice from the City shall be removed by City labor forces or by an assigned contractor with all associated costs assigned to the property owner to become a recordable lien.

Section 2.5.02-H. Injunctive Relief

The City may seek an injunction or other equitable relief in court to stop any violation of this Unified Development Code.

Section 2.5.02-I. Abatement

The City may seek a court order in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed before the violation.

Section 2.5.02-J. Remedial Action

Any person who violates this Unified Development Code by alteration or modification of a structure to increase the number of dwelling units or living spaces within the structure, or by allowing any such alteration or modification to continue or to be used, is required to remove all fixtures, electrical and plumbing connections, furnishings, partitions, and non-load bearing walls used in the violation.

Division 2.5.03 Penalties

Section 2.5.03-A. Penalties

1. The City may seek to enforce any violation of the Unified Development Code or the Manual as a municipal infraction or a misdemeanor at its discretion. A person found guilty of a municipal infraction may be penalized up to \$300 for a first violation and \$500 for a repeat violation unless expressly stated. A person found guilty of a misdemeanor may be penalized up to \$500 for a violation. Each day that a violation exists constitute a separate offense.
2. Any permittee that fails to correct a violation of the Unified Development Code may have their Business License revoked and/or not reinstated at time of renewal.
3. A re-inspection fee may be assessed for City inspections necessary to conclude that a violation has been corrected.
4. When work regulated by this UDC commences prior to obtaining all applicable permits and a permit is required to correct a violation, the City may charge a penalty fee in addition to the regular permit fee. Penalty fees are established by City Council through resolution. The fee shall be paid at the time of permit submittal, whether or not the permit is subsequently issued.
5. Restitution for code violations may be assessed when an individual or entity is found in violation of the UDC or the Manual and corrective actions or compensation for damages to public infrastructure are required to restore compliance.

Section 2.5.03-B. Other Remedies and Enforcement Powers

The City may seek such other remedies and use other enforcement powers, as allowed by law.

Section 2.5.03-C. Continuation of Previous Enforcement Actions

Nothing in this Unified Development Code will be interpreted to prohibit the continuation of previous enforcement actions undertaken by the City under previous, valid ordinances and laws.

CHAPTER 3:

RESERVED

CHAPTER 4:

ZONING



CH 4: ZONING CODE

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Article 4.1

INTRODUCTION

Article 4.1

INTRODUCTION

Division 4.1.01 General

Section 4.1.01-A Purpose

The Zoning Chapter of this UDC is adopted for the purposes of:

1. Conforming with MCA 76-25-301, et seq.;
2. Protecting and promoting the public health, safety and general welfare;
3. Implementing the policies and goals contained in the officially adopted Land Use Plan and other adopted plans;
4. Establishing a variety of districts to provide locations for the many land uses that constitute the Missoula community; and
5. Providing predictability and reasonable expectations for the use of land within particular districts.

Section 4.1.01-B Applicability

1. The zoning districts and regulations in this UDC apply to all development within the corporate limits of the City of Missoula and lands proposed for annexation into the city unless otherwise expressly stated. These regulations apply uniformly to each building type, parcel, or development within each zoning district as set forth in this chapter.
2. Public agencies proposing development on public land are encouraged to meet, but may deviate from, the applicable zoning standards of the subject zoning district

Division 4.1.02 Zoning District Mapping and Boundaries

Section 4.1.02-A Zoning Map

1. **Purpose**

The zoning map must be clear, accurate, and easy to use. These regulations provide rules for interpreting the map, understanding zoning district boundaries, handling split-zoned parcels, and applying zoning map regulations consistently.

2. **Establishment**

The location and boundaries of the zoning districts established by this UDC are shown on a geographic coverage layer called "Zoning," maintained within the City's geographic information system (GIS) under the direction of the Planning Administrator. This "Zoning" layer serves as the official zoning map for the City of Missoula. The official zoning map, along with all notations, references, and data contained therein, is adopted and incorporated into this UDC and holds the same authority as if actually depicted within its text.

3. Maintenance and Updates

The Planning Administrator is responsible for updating the official zoning map as soon as possible after a zoning amendment (rezoning) takes effect. No unauthorized person may alter or modify the official zoning map. The Planning Administrator may approve the production of printed copies of the official zoning map and must maintain digital or printed records of previous versions of the official zoning map for historical reference.

Section 4.1.02-B District Boundaries

1. District Boundaries

When the zoning map shows a zoning district boundary as following a particular feature or reflects a clear intent that the boundary follows the feature, the boundary will be interpreted as following that feature as it actually exists.

2. Interpretations of District Boundaries

Where any uncertainty exists about a zoning district boundary, the actual location of the boundary will be determined by the Planning Administrator using the following rules of interpretation:

- (a) A boundary shown on the zoning map as approximately following a river, stream, lake or other watercourse will be interpreted as following the actual centerline of the watercourse. If, subsequent to the establishment of the boundary, the centerline of the watercourse should move as a result of natural processes (flooding, erosion, sedimentation, etc.), the boundary will be interpreted as moving with the centerline of the watercourse.
- (b) A boundary shown on the zoning map as approximately following the floodway will be interpreted as following the boundary of the floodway. If subsequent to the establishment of the boundary, the floodway moves as a result of updates to Flood Insurance Rate Maps, the geographic representation of the boundary will be interpreted as moving with the boundary of the designated floodway.
- (c) A boundary shown on the zoning map as approximately following a ridge line or topographic contour line will be interpreted as following the actual ridge line or contour line. If, subsequent to the establishment of the boundary, the ridge line or contour line should move as a result of natural processes (erosion, slippage, subsidence, etc.), the boundary will be interpreted as moving with the ridge line or contour line.
- (d) A boundary shown on the zoning map as approximately following a parcel boundary will be interpreted as following the parcel boundary as it actually existed at the time the zoning boundary was established.
- (e) A boundary shown on the zoning map that approximately follows a street easement will be interpreted as following the centerline of the street, in accordance with 70-16-202, MCA. If a street or alley right-of-way within an easement is vacated, the vacated area will assume the base zoning designation of the adjoining parcel, or portion of the parcel, that it legally merges with. If the entire street width is contained within a single parcel, the zoning district boundary will be interpreted as following the parcel boundary.
- (f) A boundary shown on the zoning map that appears to follow the edge of an adjacent municipality will be interpreted as following that municipality's boundary.
- (g) A boundary shown on the zoning map as approximately parallel to, or as an apparent extension of, a feature described above will be interpreted as being actually parallel to, or an extension of, the feature.

3. Split-Zoned Parcels

- (a) When two or more abutting parcels with different zoning designations are utilized by a developer as a zoning parcel (i.e., one development), the split zoning provisions will apply. Rezoning to align zoning with an existing parcel is not a requirement of zoning compliance permit approval.
- (b) The zoning map may not be amended to classify a single parcel into more than one base zoning district.
- (c) Any newly created parcel may not be classified into more than one base zoning district.

- (d) The following regulations apply to existing parcels that have been classified into more than one base zoning classification:
1. If a parcel of land one acre or smaller lies within two or more zoning districts, the zoning district that covers the majority of the parcel applies to the entire parcel. This rule may be overridden by the Planning Administrator's determination based on site-specific context. The criteria for making such a determination must include an evaluation of site topography, proximity of non-compatible uses adjacent to the subject property, and overall function and compatibility of the development with the surrounding land.
 2. If a parcel of land greater than one acre is located in two or more zoning districts, each part of the parcel is subject to the regulations of the district(s) it is located in.
 3. If a parcel is split-zoned due to floodway designations, the parcel's maximum development potential is determined by the whole area of the parcel. Though OP1 is mapped to the floodway, areas outside of the floodway shall comply with the other mapped zoning district wherein it is located. Construction of buildings in the floodway is prohibited.



Article 4.2

RESIDENTIAL DISTRICTS

Article 4.2

RESIDENTIAL DISTRICTS

Division 4.2.01 General

Section 4.2.01-A. Purpose

The purpose of the Residential districts is to implement the Rural, Limited Urban, and Urban Residential Place Types identified in the *Land Use Plan* and support the City’s long-term vision for equitable, sustainable, connected, and well-integrated neighborhood development.

Section 4.2.01-B. Description

The districts provide a variety of housing opportunities ranging from low-density rural areas to compact, urban neighborhoods. While the zoning districts primarily accommodate residential uses, some nonresidential uses that enhance neighborhood vitality, walkability, and access to services are allowed. Section 4.2.02 Contexts provides general guidance and intent for the Residential district categories and includes graphics for illustrative purposes only.

Section 4.2.01-C. Standards Overview

The Residential district standards are calibrated to provide flexibility in housing types and site design within clearly defined ranges. The standards support the desired scale and physical patterns of existing and developing neighborhoods assigned in the Place Types Map and help implement the goals of the Land Use Plan by promoting housing choice, neighborhood stability, and responsible land use patterns consistent with the City’s values and future growth strategy.

Section 4.2.01-D. Districts Established

The City’s residential districts are listed below.
Higher numeric indicators indicate a wider range of development opportunity.

Table 4.2.01-1 Residential Zoning Districts

Map Symbol	District Name
R-R1	Rural Residential
LU-R1	Limited Urban Residential 1
LU-R2	Limited Urban Residential 2
U-R1	Urban Residential 1
U-R2	Urban Residential 2
U-R3	Urban Residential 3
U-R4	Urban Residential 4

Division 4.2.02 Contexts

Section 4.2.02-A. Rural Residential District

Rural Residential District

- **R-R1** Rural Residential

1. Purpose

The Rural Residential district supports the City’s goals for land stewardship, environmental constraints, and limited infrastructure expansion in rural fringe areas. Limited residential development is allowed to preserve the natural, pastoral character and open landscapes of Missoula’s rural edges and prioritize agricultural uses and safety of residents against environmental hazards.

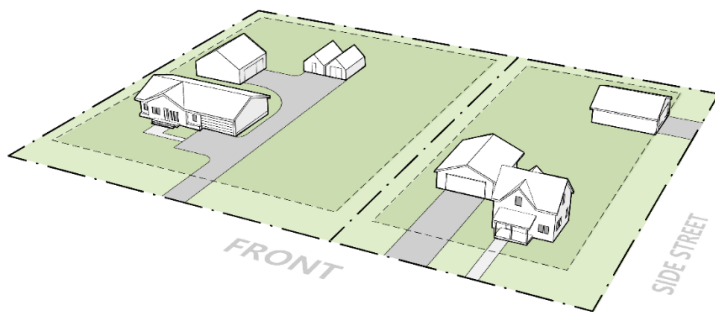
2. Description

Development patterns are predominantly car-dependent along roads with rural cross sections with minimal access to public transit and limited walkability. While some existing dedicated trails and commuter routes support biking and walking to key amenities or connections to urbanized areas, travel is mostly accommodated on roadways. Parcels often have multiple structures that typically have large setbacks from public roads.

3. Standards Overview

The Rural Residential standards support, maintain, and promote a variety of low intensity housing opportunities that emphasize the preservation of open space, natural resources, and rural character.

Figure 4.2.02-1 Rural Residential Context Diagram and Pictures



Section 4.2.02-B. Limited Urban Residential Districts

Limited Urban Residential Districts

- **LU-R1** Limited Urban Residential 1
- **LU-R2** Limited Urban Residential 2

1. Purpose

The Limited Urban Residential districts support the City’s goals for housing diversity, incremental growth, and context-sensitive development at the edges of urban neighborhoods. Moderate intensity residential development is allowed to provide a range of housing options while responding to environmental or topographical constraints.

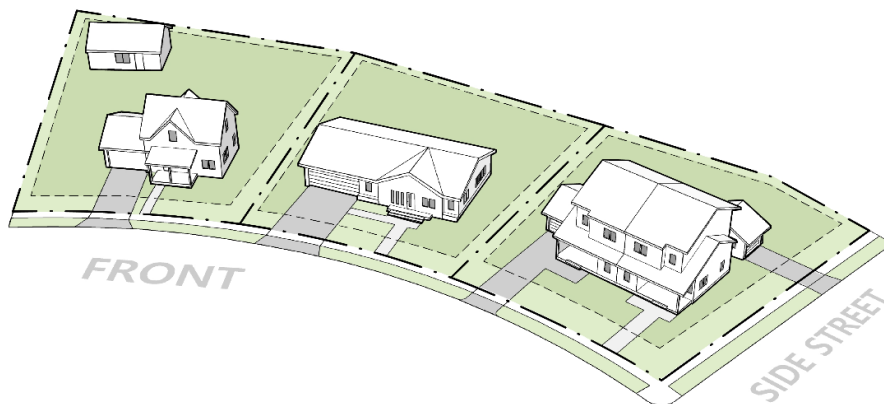
2. Description

Development patterns in Limited Urban Residential areas are likely car-dependent, with limited transit access and moderate walkability. Existing street and block patterns provide limited connectivity and often include large blocks, curvilinear roads, cul-de-sacs, and irregular-shaped parcels. Some blocks do not have existing sidewalks or alleys, and it is not uncommon for driveways and garages to be accessed directly from the street. Buildings typically have medium-to-large street setbacks with driveways that provide on-site parking.

3. Standards Overview

The Limited Urban Residential standards support, maintain, and promote a variety of moderate-intensity housing opportunities—primarily single-family homes, duplexes, and “missing middle” options—while preserving a suburban character.

Figure 4.2.02-2 Limited Urban Residential Context Diagram, Block Pattern, and Pictures



Section 4.2.02-C. Urban Residential Districts

Urban Residential Districts

- **U-R1** Urban Residential 1
- **U-R2** Urban Residential 2
- **U-R3** Urban Residential 3
- **U-R4** Urban Residential 4

1. Purpose

The Urban Residential districts support the City’s goals for housing diversity, sustainable and compact growth, context-sensitive development, and walkable, transit-accessible, and complete neighborhoods within or near the City core. Moderate to high-residential intensities are allowed to provide a full range of housing options in well-connected, service-rich environments that include Missoula’s oldest, and newest, neighborhoods.

2. Description

Development patterns in Urban Residential areas are typically compact and multimodal in ways that are walkable, with development intensity supportive of public transit. Street and block patterns provide high connectivity in rectangular grids of small to medium-sized blocks comprised of small to medium-sized rectangular parcels. Blocks are often tree-lined with sidewalks and include alleys that provide rear access to parking and garages. Buildings typically have small and varied setbacks that shape the public realm.

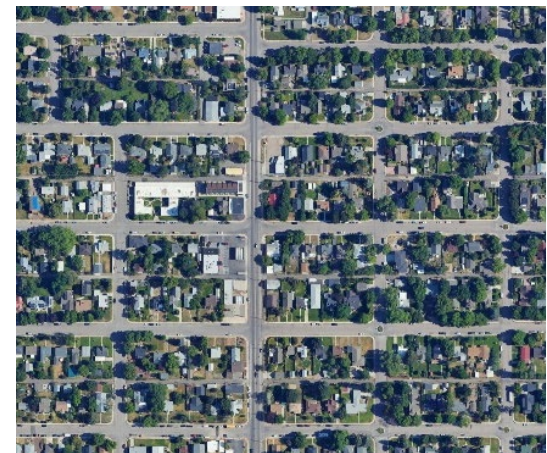
3. Standards Overview

The Urban Residential standards support, maintain, and promote a wide variety of housing opportunities to encourage affordability, walkability, and neighborhood vibrancy. These districts enable context-sensitive infill and redevelopment. The U-R1 and U-R2 districts support smaller scale infill and development while the U-R3 and U-R4 districts allow larger, yet still context-sensitive buildings.



Figure 4.2.02-3

Urban Residential Context Diagram, Block Pattern, and Pictures



Division 4.2.03 Development Standards

Section 4.2.03-A. General Applicability

The standards provided in the tables below apply to all development in residential zoning districts. For more information on related Building Standards, see Article 4.7 Building Standards.

Section 4.2.03-B. Allowed Building Types

1. **Applicability**

- (a) The standards for allowed building types provided below apply to all development in residential zoning districts.
- (b) For the purpose of this UDC, building types are classified into “residential” and “other.” These are described and defined in Article 4.7 Building Standards.

Table 4.2.03-1 Allowed Building Types

Allowed Building Types	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Residential							
One-unit House	■	■	■	■	■	■	■
Duplex	■	■	■	■	■	■	■
Cottage Court	□	■	■	■	■	■	■
Rowhouse	□	■	■	■	■	■	■
Apartment Building	□	■	■	■	■	■	■
Other							
Accessory Structure	■	■	■	■	■	■	■
Neighborhood Commercial	■	■	■	■	■	■	■
General Building	■	□	□	□	□	□	□
Civic Building	■	■	■	■	■	■	■

■ Allowed □ Not Allowed

Section 4.2.03-C. Number of Dwelling Units per Building

1. Purpose

The purpose of prescribing a maximum number of dwelling units per building type is meant to support the Land Use Plan’s goals of providing compatible development, housing diversity, and missing middle housing. Specifically:

- (a) To add buildings to existing neighborhoods that fit within the established context in terms of building size, shape, and location;
- (b) To promote a range of housing types that meet various, diverse needs; and
- (c) To support a range of multi-unit or clustered housing types compatible in scale with single-unit homes, that help meet the growing demand for walkable urban living, respond to shifting household demographics, and meet the need for more housing choices at different price points.

2. Applicability

The standards for number of dwelling units per building provided below apply to all residential and nonresidential development allowed in residential zoning districts. For more information, see Article 4.7 Building Standards.

Table 4.2.03-2 Number of Dwelling Units per Building

Maximum Number of Dwelling Units Per Building	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Residential							
One-unit House	1	1	1	1	1	1	1
Duplex	2	2	2	2	2	2	2
Cottage Court	-	4	4	4	6	8	8
Rowhouse	-	3	4	4	6	8	8
Apartment Building	-	3	4	4	6	12	No Max
Other							
Accessory Structure	-	-	-	-	-	-	-
Neighborhood Commercial	2	3	4	4	6	8	No Max
General Building	-	-	-	-	-	-	-
Civic Building	-	-	-	-	-	-	-

‘-’ Indicates Dwelling Unit ‘Not Permitted’

Section 4.2.03-D. Floor Area Ratio (FAR) and Density

1. Purpose

(a) Floor Area Ratio (FAR)

The purpose of the Floor Area Ratio requirement is to incentivize the construction of more dwelling units and to regulate building intensity by controlling a building's gross floor area relative to the parcel on which it is built in urban and limited urban residential zoning districts.

(b) Maximum Density

The purpose of maximum density is to limit the number of dwelling units in areas that have environmental or other constraints, such as limited road connectivity and flood hazards. Maximum density controls the number of units constructed on parcels in rural and limited urban residential zoning districts while allowing for construction of missing middle housing.

2. Applicability

The floor area ratio and density standards provided below apply to all development in residential zoning districts as indicated in Table 4.2.03-3.

- (a) Exception: One-unit house and duplex building types are exempt from FAR requirements on lots with an area of 3,000 square feet or less.

3. Method

(a) Floor Area Ratio

Floor Area Ratio is calculated by dividing the total gross floor area of all buildings on a parcel by the total area of that parcel. The maximum FAR allowed on a parcel is based on the number of dwelling units included in development of the parcel, as indicated in Table 4.2.03-3.

Gross Floor Area is defined as the gross horizontal area of the subject space, measured from the interior faces of any exterior walls. The maximum gross floor area allowed on a parcel can be calculated by multiplying the FAR in Table 4.2.03-3 by the area of the parcel. The resulting gross floor area is the maximum buildable area permitted on a parcel, inclusive of all structures included in development, and allowing for exceptions as detailed in 4.2.03-D.4.

Commentary: Example Calculation

A property owner intends to construct six dwelling units on a 6,000 square foot parcel in the U-R2 zoning district. Per Table 4.2.03-3, the maximum FAR for 6 dwelling units in U-R2 is 0.9. To find the allowable gross floor area, the maximum FAR is multiplied by the parcel area:

$0.9 \text{ FAR} \times 6,000 \text{ square feet of parcel area} = 5,400 \text{ square feet of gross floor area.}$

The property owner can distribute the maximum gross floor area of 5,400 square feet between the six dwelling units at their discretion. If all units were planned to be the same size, each of the six dwelling units would be 900 square feet: 5,400 square feet divided by 6 dwelling units = 900 square feet.

(b) Maximum Density

Maximum density is calculated as minimum required parcel area per dwelling unit.

4. Exceptions to FAR

The following are exempt from maximum allowed gross floor area when calculating Floor Area Ratio:

- (a) Accessory structures;
- (b) Basements;
- (c) Vertical circulation including stairwells and elevators;
- (d) Garages and parking structures;
- (e) Indoor activity area within principal buildings (See Article 4.9);

ARTICLE 4.2 – RESIDENTIAL DISTRICTS

- (f) Storage units intended to serve individual dwelling units. In order to be exempt from Floor Area Ratio, the storage unit cannot be accessed from within the dwelling unit; and
- (g) Floor area containing non-residential use(s) in a Neighborhood Commercial building.

Table 4.2.03-3 FAR and Density

FAR & Density	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Maximum FAR	Number of Dwelling Units						
.5	-	1-2	1-2	1	1	1	1
.6	-	3+	3	2	2	2	2
.8	-	-	4+	3	3-5	3	3
.9	-	-	-	4+	6+	4-6	-
1.0	-	-	-	-	-	7+	4-6
2.0	-	-	-	-	-	-	7+
Density							
Maximum Density (Any parcel is permitted two dwelling units by right, regardless of parcel area)	1 du / 15,000 sf	1 du / 3,500 sf	1 du / 2,600 sf	-	-	-	-

'+' indicates 'or more'.

Section 4.2.03-E. Lot Standards

1. Purpose

The purpose of prescribing minimum lot width standards is to support the Land Use Plan's goals of providing compatible development by adding buildings to existing neighborhoods that fit within the established context in terms of lot and block structure. Minimum widths also ensure lots are platted to accommodate the densities and building types permitted in each district.

2. Applicability

The minimum lot width standards provided in Table 4.2.03-4 apply to all new or amended lots in residential zoning districts created through subdivision or subdivision exemption. Minimum lot widths are not applicable to TED Ownership Units (TOU) or condominium ownership units. These standards are illustrated in Figures 4.2.03-1 and 2. Lot width is measured along the street frontage. The minimum lot width requirement is not applicable to lots that do not have frontage on a street.

3. **Exception for Lots Intended for Duplex/Rowhouse Development**

Duplexes and rowhouses may be sited with all dwelling units under common ownership or sited with each dwelling unit on a separate lot. When lots are created with the intent of constructing a duplex or rowhouse with each dwelling unit on a separate lot, the following exceptions to minimum lot width apply:

- (a) Duplex;
 - 1. Lots must be platted as a series of two abutting lots.
 - 2. Lots are permitted a minimum lot width of 23 feet.
- (b) Rowhouse;
 - 1. Lots must be platted as a series of three or more abutting lots.
 - 2. Lots intended to contain rowhouse dwelling units attached to other units on both sides are permitted a minimum lot width of 18 feet.
 - 3. Lots intended to contain rowhouse dwelling units at the ends of the building (i.e. attached to another unit on one side) are permitted a minimum lot width of 23 feet.

Table 4.2.03-4 Lot Standards

Lot Standards	RURAL		LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4	
Minimum Lot Width A	80 ft	60 ft	50 ft	40 ft				
When lot is adjacent to an alley	80 ft	60 ft	50 ft	30 ft				

Figure 4.2.03-1 Lot Standards Diagram *(With Alley)*

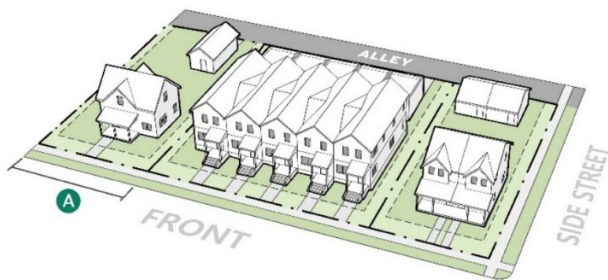
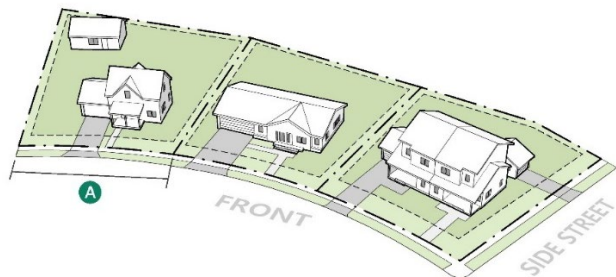


Figure 4.2.03-2 Lot Standards Diagram *(No Alley)*



Section 4.2.03-F. Building Placement

1. Applicability

The building placement standards provided below apply to all development in residential zoning districts. See Article 4.10 for setback measurement rules and exceptions.

Table 4.2.03-5 Building Placement

MINIMUM SETBACK	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Front A	15 ft	15 ft	15 ft	15 ft	10 ft	10 ft	10 ft
Side Street B	12.5 ft	12.5 ft	10 ft	10 ft	10 ft	10 ft	7.5 ft
Side Interior C	10 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft
Rear D	15 ft	5 ft	5 ft	5 ft	5 ft	5 ft	5 ft

Figure 4.2.03-3 Building Placement Diagrams (*Urban*)



Figure 4.2.03-4 Building Placement Diagrams (*Limited Urban*)



Section 4.2.03-G. Building Form and Components

1. Applicability

The standards for building form and components provided below apply to all development in residential zoning districts. For more information, see Article 4.7 Building Standards.

Commentary: Measurement rules for height are located in Article 4.10. Additionally, see “Building Width” in Chapter 8 Definitions.

Table 4.2.03-7 Building Form and Components

Building Form & Components	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Building Massing							
Maximum Height	A	35 ft	35 ft	40 ft	35 ft	35 ft	45 ft
Maximum Width							
Rowhouse Building	B	-	80 ft	80 ft	80 ft	160 ft	200 ft
Apartment Building	-	50 ft	50 ft	50 ft	80 ft	120 ft	200 ft
Building Components							
Allowed Encroachments into Setbacks				Refer to Article 4.10 Measurements and Exceptions			

Figure 4.2.03-6 Building Form Diagram





Article 4.3

MIXED-USE DISTRICTS

Article 4.3

MIXED-USE DISTRICTS

Division 4.3.01 General

Section 4.3.01-A. Purpose

The purpose of the mixed-use districts is to implement the Downtown, Urban Mixed-Use, and Limited-Urban Mixed-Use Place Types identified in the Land Use Plan and support the City’s long-term vision for growing inward, compact development, economic vitality, transportation choice, and vibrant, walkable neighborhoods.

Section 4.3.01-B. Description

The districts provide a range of mixed-use development scales that serve neighborhoods from Downtown to the City’s edge. They accommodate a blend of residential, commercial, civic, and recreational uses to provide residents with convenient access to everyday services with intensities tailored to available mobility options and neighborhood context. Section 4.3.02 Context provides general guidance and intent for the mixed-use district categories and includes graphics for illustrative purposes only.

Section 4.3.01-C. Standards Overview

The mixed-use district standards are calibrated to provide flexibility in building types and site design within clearly defined ranges. The standards support the desired scale and physical patterns of existing and emerging neighborhoods as assigned in the Place Types Map. They also implement the goals of the Land Use Plan by promoting housing and economic opportunities, urban reinvestment, placemaking in designated mixed-use areas, and responsible land use patterns consistent with the City’s values and future growth strategy.

Section 4.3.01-D. Districts Established

The City’s mixed-use districts are listed below.
Higher numeric indicators indicate a wider range of development opportunity.

Table 4.3.01-1 Urban Mixed Zoning Districts

Map Symbol	District Name
U-MU1	Urban Mixed-Use - Neighborhood 1
U-MU2	Urban Mixed-Use - Neighborhood 2
U-MU3	Urban Mixed-Use - Community 1
U-MU4	Urban Mixed-Use - Community 2
D-T	Downtown Transition
D-C	Downtown Core
LU-MU	Limited Urban Mixed-Use

Division 4.3.02 Contexts

Section 4.3.02-A. Urban Mixed-Use

Urban Districts

- **U-MU1** Urban Mixed-Use - Neighborhood 1
- **U-MU2** Urban Mixed-Use - Neighborhood 2
- **U-MU3** Urban Mixed-Use - Community 1
- **U-MU4** Urban Mixed-Use - Community 2

1. Purpose

The Urban Mixed-Use districts support the City's vision for compact, walkable, and transit-supportive development beyond the Downtown core. Low to high intensities of housing, employment, and commercial services are allowed to create vibrant, complete neighborhoods. Urban Mixed-Use districts are intended to direct growth to targeted corridors and centers.

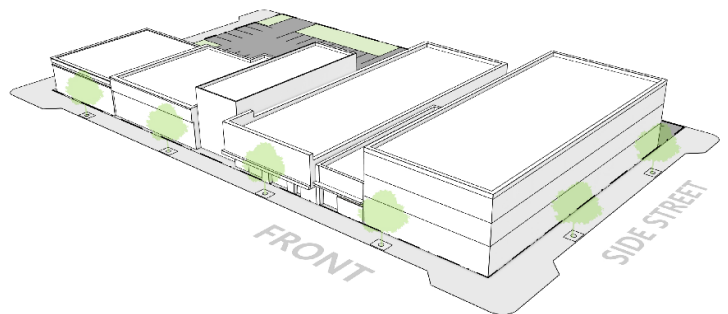
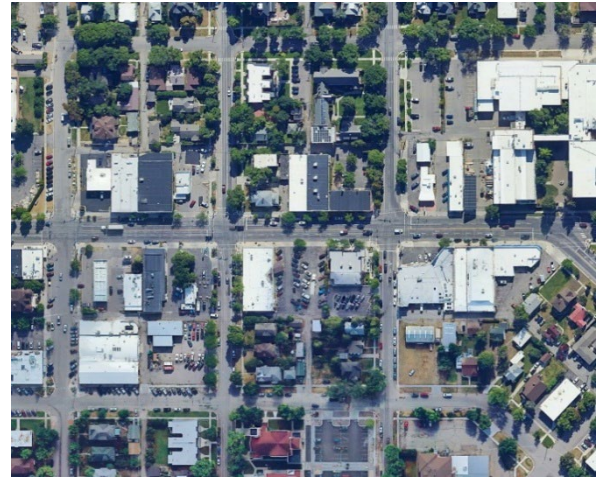
2. Description

Development patterns in Urban Mixed-Use areas are typically compact and multimodal in ways that support public transit and walkability. Street and block patterns provide high connectivity in mostly rectangular grids of small to medium-sized blocks. Blocks have varied parcel sizes ranging from small to full block parcels. The most intensive mixed-use areas have complete streets with multimodal infrastructure that provides for sustainable and alternative commuting, and alleys that provide rear access to parking and loading. In less intensive or primarily residential mixed-use areas, blocks are typically tree-lined with detached sidewalks and include alleys that provide rear access to parking and garages. Buildings typically have consistent setbacks and engaging storefronts that shape and activate the public realm.

3. Standards Overview

The Urban Mixed-Use district standards transition from moderate intensity along residential fringes to high intensity mixed-use development along designated corridors and centers. Development supports a walkable active urban environment. These districts enable context-sensitive infill and redevelopment while providing design flexibility and are consistent with the City's goals for sustainable growth, diverse housing and employment options, sustainable transportation, and complete neighborhoods. The U-MU1 and U-MU2 districts support neighborhood scale infill and development while the U-MU3 and U-MU4 district supports community scale development that includes allowing taller and larger scale buildings.

Figure 4.3.02-1 Urban Mixed-use Context Diagram and Pictures



Section 4.3.02-B. Downtown

Downtown Districts

- **D-T** Downtown Transition
- **D-C** Downtown Core

1. Purpose

The Downtown zoning districts support the City’s vision for a compact, walkable, multimodal and economically vibrant urban core. Moderate to high intensities that provide a dynamic mix of uses and vibrant streetscapes are allowed to reinforce Downtown’s role as the cultural, civic, and commercial heart of the Missoula region. Downtown should also accommodate a wide range of diverse housing types. They are further described in the specific purpose statements for each district:

- D-T Downtown Transition district is intended to establish transitions through use and building form, between higher intensity development in the Downtown Core and adjacent neighborhoods.
- D-C Downtown Core district supports the greatest intensity of commercial uses, services, and public amenities.

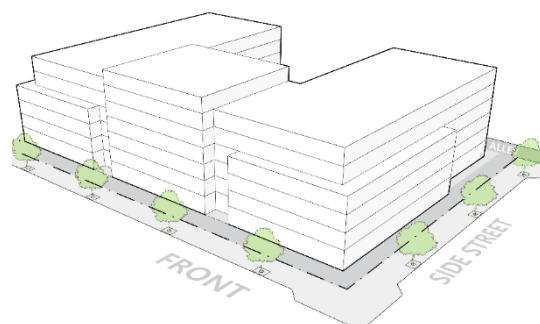
2. Description

Development patterns in Downtown are compact and multimodal in ways that support public transit and a walkable, pedestrian-oriented environment. Street and block patterns provide high connectivity in mostly rectangular grids of small to medium-sized blocks. Blocks have varied parcel sizes ranging from small to full block parcels. They typically have complete streets that include sidewalks and bike lanes, and alleys that provide rear access to parking and loading. Buildings typically have consistent setbacks and engaging storefronts that shape and activate the public realm. Downtown includes Missoula’s tallest and most prominent buildings.

3. Standards Overview

The Downtown district standards transition from moderate intensity within the D-T Downtown Transition district, to high-intensity development within the D-C Downtown Core District, and generally support cohesive, active urban environments. Standards enable infill and redevelopment that respects historic patterns and transitional areas while shaping the desired future form of Downtown. The standards provide design flexibility and advance the goals of the Land Use Plan by promoting diverse housing and employment options, supporting sustainable transportation, and enhancing Downtown’s unique cultural and architectural character.

Figure 4.3.02-2 Downtown Mixed-use Context Diagram and Pictures



Section 4.3.02-C. Limited Urban Mixed-Use

Limited Urban District

- **LU-MU** Limited Urban Mixed-Use

1. Purpose

The Limited Urban Mixed-Use district is mainly commercial in nature. This district offers neighborhood and community-serving businesses and services, with residential uses allowed but not prioritized.

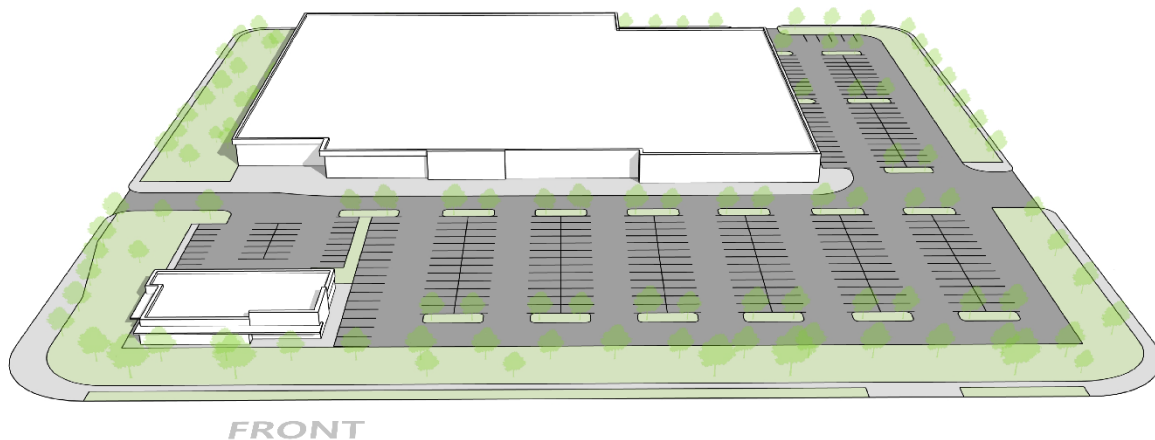
2. Description

This district is often located on the edges of historic City centers, has developed with a strong influence from automobiles, and serves as a hub for large shopping centers, department stores, and a variety of businesses. Buildings are predominantly medium-to-large commercial structures, with some medium-to-large multi-dwelling buildings as well. Comprehensive transportation options may be limited, making driving the preferred choice, though transit service is anticipated to expand over time. Pedestrian safety in high-traffic, automobile-oriented corridors and areas should be a consideration of growth and development.

3. Standards Overview

The Limited Urban Mixed-Use district standards are calibrated to support areas that serve the community’s commercial needs while gradually integrating residential elements. The standards support the desired scale and physical patterns of existing and developing neighborhoods assigned in the Place Types Map and help implement the goals of the Land Use Plan by promoting housing choice, neighborhood stability, and responsible land use patterns consistent with the community’s economic needs and future growth strategy.

Figure 4.3.02-3 Limited Urban Mixed-Use Context Diagram and Pictures



Division 4.3.03 Urban Mixed-Use Development Standards

Section 4.3.03-A. General Applicability

1. **Applicability**

The standards provided in the tables below apply to all development in Mixed-Use zoning districts. For more information, see Article 4.7 Building Standards.

Section 4.3.03-B. Allowed Building Types

1. **Applicability**

(a) The standards for allowed building types provided below apply to all development in mixed-use zoning districts.

(b) For the purpose of this UDC, building types are classified into “residential” and “other.” These are described and defined in Article 4.7 Building Standards.

Table 4.3.03-1 Allowed Building Types

Allowed Building Types	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU
Residential							
One-unit House	■	■	■	■	■	■	■
Duplex	■	■	■	■	■	■	■
Cottage Court	■	■	■	■	■	■	■
Rowhouse	■	■	■	■	■	■	■
Apartment Building	■	■	■	■	■	■	■
Other							
Accessory Structure	■	■	■	■	■	■	■
Mixed-use Building	■	■	■	■	■	■	■
General Building	■	■	■	■	■	■	■
Civic Building	■	■	■	■	■	■	■

■ Allowed □ Not Allowed

Section 4.3.03-C. Number of Dwelling Units per Building

1. Purpose

The purpose of prescribing a maximum number of dwelling units per building type is meant to support the Land Use Plan’s goals of providing compatible development, housing diversity, and missing middle housing. Specifically:

- (a) To add buildings to existing neighborhoods that fit within the established context in terms of building size, shape, and location;
- (b) To promote a range of housing types that meet various, diverse needs; and
- (c) To support range of multi-unit or clustered housing types compatible in scale with single-family homes, that help meet the growing demand for walkable urban living, respond to shifting household demographics, and meet the need for more housing choices at different price points.

2. Applicability

- (a) The standards for number of dwelling units per building provided below apply to all residential and nonresidential development in mixed-use zoning districts. For more information, see Article 4.7 Building Standards.
- (b) Maximum dwelling unit caps are per building, not per parcel, and should not be seen as a cap on overall permitted density. Mixed-use zoning districts do not have specific density limits that are regulated through zoning.

Table 4.3.03-2 Number of Dwelling Units per Building

Maximum Number of Dwelling Units Per Building	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU
Residential							
One-unit House	1	1	1	1	1	1	1
Duplex	2	2	2	2	2	2	2
Cottage Court	8	8	8	8	8	8	8
Rowhouse	No limit	No limit	No limit	No limit	No limit	No limit	No limit
Apartment Building	No limit	No limit	No limit	No limit	No limit	No limit	No limit
Other							
Accessory Structure	-	-	-	-	-	-	-
Mixed-use Building	No limit	No limit	No limit	No limit	No limit	No limit	No limit
General Building	-	-	-	-	-	-	-
Civic Building	-	-	-	-	-	-	-

Section 4.3.03-D. Building Placement

1. Applicability

The building placement standards provided in this section apply to all development in mixed-use zoning districts, except as otherwise stated.

2. Build-to Zone and Build-to Width

(a) Purpose

This purpose of these standards is to regulate the placement of buildings along a street such that:

1. The public right-of-way is framed by a legible and consistent street wall;
2. There is a strong visual and physical connection between the private and public realm;
3. There is adequate space between ground floor uses and high-speed roadways; and
4. Buildings create visual interest along a sidewalk. Buildings enhance pedestrian comfort.

(b) Applicability

1. All new buildings must be placed in the build-to zone and must meet the build-to-width requirements in Table 4.3.03-3, except as allowed by Section 4.3.03-D.2(d).
2. The build-to-zone and build-to-width requirements do not apply to one-unit house and duplex building types.
3. Once the minimum build-to-width requirement has been met, portions of the building, or additional buildings on the site, may be placed outside the build-to zone. No new building shall be placed between the build-to-zone minimum and the street.
4. For parcels with a single street frontage, the build-to zone and width apply to that frontage.
5. On corner lots, the building must be sited so that the build-to zone and width requirements for both the front and side street property lines are met.
6. On through lots, the build-to-zone and width requirements apply to the property line adjacent to the facade containing the primary entrance.
7. On parcels with three or more street frontages, (such as a "half-block" or "full-block" parcel), the build-to-zone and width requirements are only applied to two frontages that create a corner.

(c) Additions to Non-Conforming Buildings Setback Further than the Build-to-Zone Maximum

1. Front additions are allowed outside of the build-to-zone.
2. Side additions no greater than 20% cumulatively of the existing building footprint are allowed outside of the build-to-zone. Once the required build-to-width percentage for the parcel has been met, side additions of any size are allowed.
3. Rear additions no greater than 20% cumulatively of the existing building footprint are allowed outside of the build-to zone. Once the required build-to-width percentage for the parcel has been met, rear additions of any size are allowed.

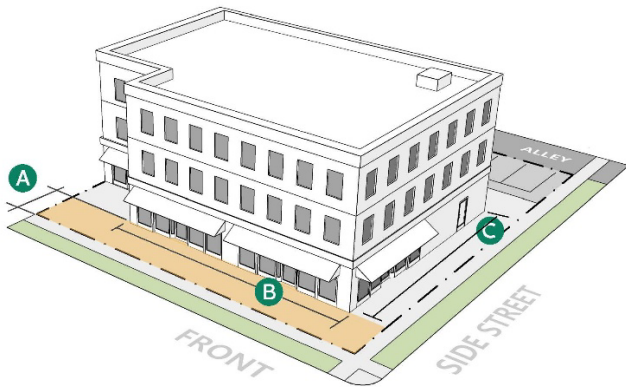
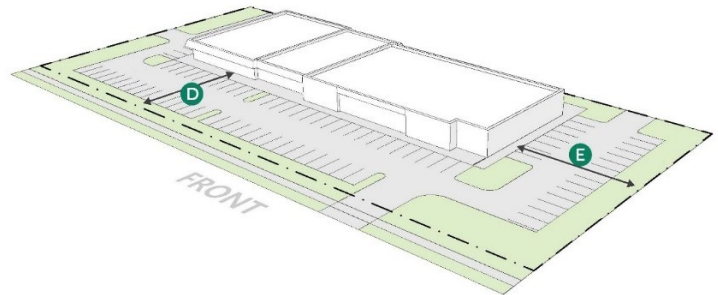
(d) Exceptions

1. When a build to zone is fully occupied by an easement, the building shall be placed as close to the build to zone as feasible.

2. New buildings that are too small to feasibly meet build-to-width are not required to meet the required build-to-width percentage in Table 4.3.03-3 when the following requirements are met:
 - a. The depth of the building shall not be greater than the width of the building;
 - b. The applicant must designate a reserve area along the street frontage that would allow the development to comply with the build-to-width in the future;
 - c. The reserve area must have a depth of at least 30 feet;
 - d. Parking, stormwater detention/retention facilities, and utilities are not allowed within the reserve area; and
 - e. The reserve area must be landscaped in compliance with Article 4.9.

Table 4.3.03-3 Building Placement

Building Placement	URBAN				DOWNTOWN		LIMITED URBAN	
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU	
Build-to								
Build-to zone (min/max)	A	5 / 15 ft	5 / 15 ft	0 / 15 ft	0 / 15 ft	0 / 15 ft	0 / 10 ft	n/a
Build-to width: Front (min)	B	50%	50%	55%	55%	65%	80%	n/a
Build-to width: Side Street (min)	C	25%	30%	25%	35%	50%	60%	n/a
Required Setbacks								
Front/Side Street	D	n/a					15 ft	
Side Interior	E	n/a					10 ft	
Rear		n/a					10 ft	
Parcel is adjacent to Residential District								
Side Interior		5 ft	5 ft	5 ft	5 ft	0 ft	0 ft	10 ft
Rear		5 ft	5 ft	5 ft	5 ft	0 ft	0 ft	10 ft
Setback from Clark Fork River Top of Bank								
Applicability by Zoning District		n/a				50 ft	n/a	
Standard		This minimum floodplain setback area may contain pedestrian plazas, walkways, bikeways and other pedestrian-oriented facilities, but it may not be used for parking lots, driveways or other vehicular uses.						

Figure 4.3.03-1 Building Placement Diagram (Urban)**Figure 4.3.03-2** Building Placement Diagram (Limited Urban)

Section 4.3.03-E. Building Form and Components

1. Applicability

The standards for building form and components provided below apply to all development in mixed-use zoning districts, except for one-unit house and duplex building types. For more information, see Article 4.7 Building Standards.

2. Standards Related to Upper Story Setback, Depth, and Exception to Street Wall Height

(a) Any building height greater than the maximum street wall height must be set back by the minimum upper story setback depth indicated for the zoning district. The upper story setback depth is measured from the street property line.

1. The upper story setback exception to street wall height is the maximum height and width of building that may deviate from the maximum street wall height and setback depth standards.
2. Setback exception width is measured as the cumulative building width deviating from the maximum street wall height or setback depth divided by the total building width along the street frontage.

3. Standards Related to Transparency

- (a) All new buildings must comply with the transparency requirements of Table 4.3.03-6 Building Components.
- (b) For building additions, the facade of the addition must comply with the transparency requirements but there is no requirement to bring the existing portion of the facade into compliance.
- (c) Modifications to existing buildings are not permitted to increase the degree of deficit or non-conformity with the transparency requirements.

Table 4.3.03-4 Building Form

Building Form	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU
Building Height							
Building Height (max) A	50 ft	75 ft	85 ft	100 ft	125 ft	125 ft	60 ft
Upper Story Setback							
Street Wall Height (max) B	n/a	55 ft	55 ft	85 ft	85 ft	85 ft	n/a
Upper Story Setback Depth Distance from Property Line (min)	n/a	10 ft				n/a	
Upper Story Setback Exception Maximum Width (%) C	n/a	25%				n/a	
Building Width (Maximum) D							
Mixed-use Building	200 ft	200 ft	300 ft	300 ft	300 ft	325 ft	600 ft
General	200 ft	200 ft	300 ft	300 ft	300 ft	325 ft	600 ft
Rowhouse Building Width	200 ft	200 ft	200 ft	200ft	200 ft	200 ft	200ft
Apartment Building	200 ft	200 ft	300 ft	300 ft	300 ft	325 ft	600 ft

Figure 4.3.03-3 Building Form (Urban)

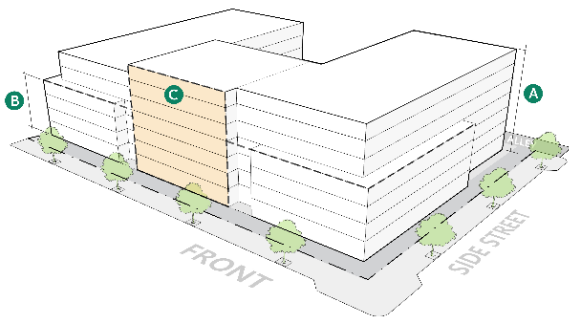


Figure 4.3.03-4 Building Form (Limited Urban)



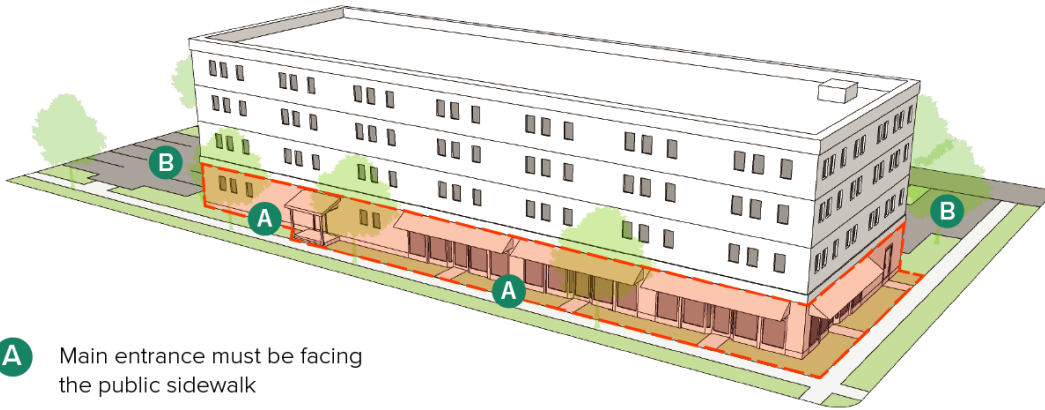
Table 4.3.03-5 Building Components

Building Components	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU
Transparency							
Required Ground Floor Transparency: Front Street Adjacent/Side Street Adjacent (min %)							
Mixed-Use Building	25% / 15%	25% / 15%	25% / 15%	30% / 20%	40% / 25%	50% / 30%	n/a
General Building							
Civic Building							
Street Adjacent Entrance							
Zoning District	Required in all Urban and Downtown Mixed-Use Districts						n/a
Standards	At least one entrance qualifying as a street-facing entrance must meet the following standards: Provide both ingress and egress access to the first floor of a building (not the basement). Must be intended to allow access for residents or customers. Must be facing the public sidewalk. May not be used to provide access to parking, utility areas, or fire stairs. Must connect to the public sidewalk with a direct pedestrian connection that is physically separated from vehicular use areas at least five feet wide.						
Civic Building	n/a						n/a

Figure 4.3.03-5 Street Adjacent Transparency



Figure 4.3.03-6 Street-Adjacent Entrance Diagram



- A** Main entrance must be facing the public sidewalk
- B** Main entrance may not be used to provide access to parking, utility areas, or fire stairs



Article 4.4

SPECIAL USE DISTRICTS

Article 4.4

SPECIAL USE DISTRICTS

Division 4.4.01 General

Section 4.4.01-A. Purpose

1. **Purpose**

The purpose of the Special Use districts is to accommodate specific land uses that serve vital functions within the City, including industrial production, employment, open space, public services, and aviation operations. These districts implement key elements of the Land Use Plan by promoting a strong economy, protecting natural, historic, and cultural resources, and supporting essential infrastructure and institutions.

2. **Description**

The Special Use zoning districts are organized into four groups. Section 4.4.02 Context provides general guidance and intent for the Special Use district groups and includes pictures for illustrative purposes only.

- (a) The **Transitional district** provides flexibility in permitted uses and building form standards to encourage residential, commercial, and low-intensity industrial development in unique areas that are transitioning to a mixed-use context despite typically having industrial lot and block patterns.
- (b) The **Industrial districts** provide locations for manufacturing, warehousing, distribution, and supporting employment uses, with standards that manage impacts and ensure compatibility with adjacent neighborhoods.
- (c) The **Open Space districts** preserve natural resources, protect environmentally sensitive areas, and accommodate public and institutional uses that serve the community.
- (d) The **Civic districts** are tailored to support public serving uses, airport-related activities, significant historic resources and landmarks, exhibit spaces, museums, and compatible commercial, industrial, and transportation uses.

3. **Standards Overview**

The Special Use district standards are tailored to the unique role of each district type and reflect the important roles these areas play in Missoula's physical, economic, and environmental landscape. The standards provide clear parameters for site planning, building form, and operational impacts to ensure compatibility with adjacent development while maintaining flexibility. The standards support the City's long-term growth strategy by guiding the location of high-impact or resource-dependent uses, protecting open space and natural systems, honoring significant historic resources, and accommodating essential public infrastructure in alignment with the goals of the Land Use Plan.

Section 4.4.01-B. Districts Established

The City’s Special Use zoning districts are listed below. Higher numeric indicators indicate a wider range of development intensity.

Table 4.4.01-1 Special Use Zoning Districts

Map Symbol	District Name
T-MU	Transitional Mixed-Use
I-1	Limited Industrial
I-2	Heavy Industrial
OP-1	Open Space
OP-2	Open and Resource Lands
CD-1	Civic District 1
CD-2	Civic District 2
A	Aviation

Division 4.4.02 Contexts

Section 4.4.02-A. Transitional

Transitional Districts

- **T-MU** Transitional Mixed-Use

1. **Purpose**

The Transitional Mixed-Use district is intended to accommodate an extensive mix of uses including residential, commercial, and low-intensity industrial. This district is generally applied where the existing block pattern, including large lots and a disconnected street grid, are not easily converted to an urban development pattern that would be supportive of applying an urban mixed-use zoning district, but there is the potential to evolve toward an urban mixed-use context in the future.

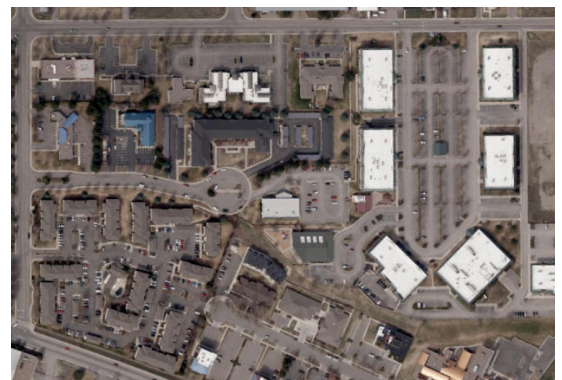
2. **Description**

This district accommodates a broad spectrum of economic activity and a mix of uses and is located in areas that typically have fewer connected street grids.

3. **Standards Overview**

The Transitional Mixed-Use district allows for building types comparable to other mixed-use districts. Due to the lack of a well-connected street grid, a density maximum applies to the district. Unlike mixed-use districts in Article 4.3, the T-MU district has fewer building placement, building form, and building component requirements. Irregular lot shapes, lack of street connectivity, and the presence of existing industrial style buildings requires increased design flexibility to support development.

Figure 4.4.02-1 Transitional Context Pictures



Section 4.4.02-B. Industrial

Industrial Districts

- **I-1** Limited Industrial
- **I-2** Heavy Industrial

1. **Purpose**

The Industrial districts are generally intended to support a wide range of employment-generating uses and regional economic vitality, including manufacturing, warehousing, distribution, logistics, and vehicle-related commercial activities. These districts foster economic diversity and regional job growth. This is supported by the city’s long-term vision for balanced growth that is responsive and adaptive to an evolving economy. These areas accommodate a range of large-scale industrial operations, smaller, flexible spaces for small businesses, local businesses and startups, and office and administrative functions integrated with the uses. They are further described in the specific purpose statements for each district:

- (a) **I-1 Limited Industrial** is intended to support a diverse range of economic activity focused on light industrial uses and commercial activity while discouraging residential use.
- (b) **I-2 Heavy Industrial** supports employment-generating uses such as processing, manufacturing and remanufacturing, and associated support services.

2. **Description**

These districts accommodate a broad spectrum of economic activity and a mix of uses. They are further described below:

- (a) **I-1 Limited Industrial** should not require special permitting by State and Federal agencies to operate. The district accommodates a mixture of office spaces, industrial and manufacturing facilities, research, distribution, and logistics facilities, and support services. It is concentrated along rail and interstate transportation routes.
- (b) **I-2 Heavy Industrial** use may require special permitting by State and Federal agencies to mitigate contaminants caused by heavy industrial activities, necessitating large parcels, setbacks, and buffers.

3. **Standards Overview**

Industrial districts require standards that enforce appropriate siting, buffering, and compliance with state and federal permitting requirements, especially due to the potential environmental impacts of industrial uses. Building height is limited to 5 stories and building scale ranges between a half and full block size or larger.

Figure 4.4.02-2 Industrial Context Pictures



Section 4.4.02-C. Open Space

Open Space Districts

- **OP-1** Open Lands
- **OP-2** Open and Resource Lands

1. **Purpose**

Open Space districts are generally intended to conserve environmentally sensitive lands, protect natural and cultural resources, and minimize development in areas with natural hazards. More specifically, the purpose of each district is described below:

- (a) **OP1 Open Lands** district is intended to preserve in perpetuity lands that are either held by public institutions for either environmentally sensitive lands, historic resources, or for recreation purposes.
- (b) **OP2 Open and Resource Lands** district is primarily intended to preserve open space and sensitive natural resource areas, while also allowing very low-density residential use on private land, ideally in the form of cluster development.

2. **Description**

- (a) **Open Lands district** includes river corridors, wetlands, floodplains, steep slopes, and wildlife habitats.
- (b) **Open and Resource Lands** district may be privately held yet are in ecologically sensitive areas, so allow a limited amount of low-intensity of development to help prevent resident harm and/or destruction of natural habitats.

3. **Standards Overview**

Open Space districts provide minimal standards based on the large, mostly unbuilt nature of the districts. Building height is limited to two stories and setbacks, when applied, are large.

Figure 4.4.02-3 Open Space Context Pictures



Section 4.4.02-D. Civic

Civic Districts

- **CD-1** Civic District 1
- **CD-2** Civic District 2
- **A** Aviation

1. Purpose

Civic districts support the City's long term vision for a people-centered environment that is responsive and adaptive to the evolving economic, social, and cultural aspects of the community while preserving and celebrating our history. They accommodate public- and privately owned facilities that serve essential community, cultural, educational, and governmental functions. The districts are tailored to support public-serving uses, airport-related activities, significant historic resources and landmarks, exhibit spaces, museums, and compatible commercial, industrial, transportation, and limited residential uses. They are further described in the specific purpose statements for each district:

- (a) **CD-1 Civic District 1** focuses on areas where the context is firmly set toward an established character, pattern, or existing uses that are not compatible with residential uses. Areas designated within the district may also be more remote from services such as commercial centers.
- (b) **CD-2 Civic District 2** is intended to focus on the community and government nature of uses while also supporting residential and limited commercial uses, given the nature of the facilities that already exist and the proximity of the district to community services.
- (c) **A Aviation** provides a specific zoning district for aviation and industrial, service, and commercial uses related to or compatible with Airport operations.

2. Description

Civic districts include public and institutional uses, such as government offices, schools, libraries, museums, social service centers, and cultural landmarks. These areas are intended to serve the broader community through educational, administrative, and community-oriented functions. Civic districts may also include undeveloped land held for future public use by jurisdictions such as the City, County, State, or the University of Montana.

3. Standards Overview

While primarily focused on civic and institutional uses, residential and limited commercial development is allowed depending on the specific district. Parcels sizes tend to be larger; building height is moderate; setbacks, when applied, are large; and building scale varies.

Figure 4.4.02-4 Civic Context Diagram and Pictures



Division 4.4.03 Development Standards

Section 4.4.03-A. General Applicability

The standards provided in the tables below apply to all development in special use zoning districts. For more information, see Article 4.7 Building Standards.

Section 4.4.03-B. Allowed Building Types

1. **Applicability**

- (a) The standards for allowed building types provided below apply to all development in special use zoning districts.
- (b) For the purpose of this UDC, building types are classified into “residential” and “other.” These are described and defined in Article 4.7 Building Standards.

Table 4.4.03-1 Allowed Building Types

Allowed Building Types	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		CIVIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Residential								
One-unit House	■	□	□	□	■	□	■	□
Duplex	■	□	□	□	■	□	■	□
Cottage Court	■	□	□	□	□	□	■	□
Rowhouse	■	□	□	□	□	□	■	□
Apartment Building	■	□	□	□	□	□	■	□
Other								
Accessory Structure	■	■	■	■	■	■	■	■
Mixed-use Building	■	□	□	□	□	□	■	□
General	■	■	■	□	■	■	■	■
Civic	■	■	■	■	□	■	■	■

■ Allowed □ Not Allowed

Section 4.4.03-C. Number of Dwelling Units per Building

1. Purpose

The purpose of prescribing a maximum number of dwelling units per building type is meant to support the Land Use Plan’s goals of providing compatible development, housing diversity, and missing middle housing. Specifically:

- (a) To add buildings to existing neighborhoods that fit within the established context in terms of building size, shape, and location;
- (b) To promote a range of housing types that meet various, diverse needs; and
- (c) To support range of multi-unit or clustered housing types compatible in scale with single-family homes, that help meet the growing demand for walkable urban living, respond to shifting household demographics, and meet the need for more housing choices at different price points.

2. Applicability

The standards for number of dwelling units per building provided below apply to all residential and nonresidential development in special use zoning districts. For more information, see Article 4.7 Building Standards.

Table 4.4.03-2 Number of Dwelling Units per Building

Maximum Number of Dwelling Units Per Building	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		CIVIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Residential								
One-unit House	1	-	-	-	1	-	1	-
Duplex	2	-	-	-	2	-	2	-
Cottage Court	8	-	-	-	-	-	8	-
Rowhouse	8	-	-	-	-	-	8	-
Apartment Building	No Limit	-	-	-	-	-	No Limit	-
Other								
Accessory Structure	-	-	-	-	-	-	-	-
Mixed-use Building	No Limit	-	-	-	-	-	No Limit	-
General Building	-	-	-	-	-	-	-	-
Civic Building	-	-	-	-	-	-	-	-

Section 4.4.03-D. Parcel Standards

1. **Applicability**

The parcel standards provided below apply to all development in special use zoning districts.

Table 4.4.03-3 Parcel Standards

Parcel Standards	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		CIVIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Minimum Lot Area (Square Feet)	NA	5,000 sf		NA				
Minimum parcel area per unit (When residential use is permitted, any parcel is permitted two units by right, regardless of parcel area)	1,000 sf per unit	-	-	-	40 acres per unit	-	1,000 sf per unit	-

Section 4.4.03-E. Building Placement

1. **Applicability**

The building placement standards provided below apply to all development in special use zoning districts.

Table 4.4.03-4 Building Placement Standards

Building Placement Standards	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		CIVIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Minimum Setback								
Front (ft)	-	-	-	20 ft	20 ft	30 ft	30 ft	-
Side Street (ft)	-	-	-	10 ft	10 ft	15 ft	15 ft	-
Side Interior (ft)	-	-	-	40 ft	40 ft	10 ft	10 f	-
Rear (ft)	-	-	-	40 ft	40 ft	20 ft	20 ft	
Minimum Setback (when parcel is abutting a residential zoning district)								
Front (ft)	15 ft	15 ft	15 ft	-	-	-	-	-
Side Street (ft)	10 ft	10 ft	10 ft	-	-	-	-	-
Side Interior (ft)	10 ft	10 ft	10 ft	-	-	-	-	-
Rear (ft)	20 ft	20 ft	20 ft	-	-	-	-	-

Section 4.4.03-F. Building Form and Components

1. Applicability

The standards for building form and components provided below apply to all development in special use zoning districts. For more information, see Article 4.7 Building Standards

Table 4.4.03-6 Building Form and Components

Building Form & Components	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		PUBLIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Height (Maximum)								
General	50 ft	65 ft	65 ft	35 ft	35 ft	65 ft	65 ft	-
For Parcels abutting Residential zoning districts	-	40 ft	40 ft	-	-	-	-	-
Building Coverage (Maximum)								
Building Coverage	-	-	-	-	45% of parcel area	-	-	-



Article 4.5

OVERLAY DISTRICTS

Article 4.5

OVERLAY DISTRICTS

Division 4.5.01 *Reserved*

Division 4.5.02 Airport Hazard Overlay

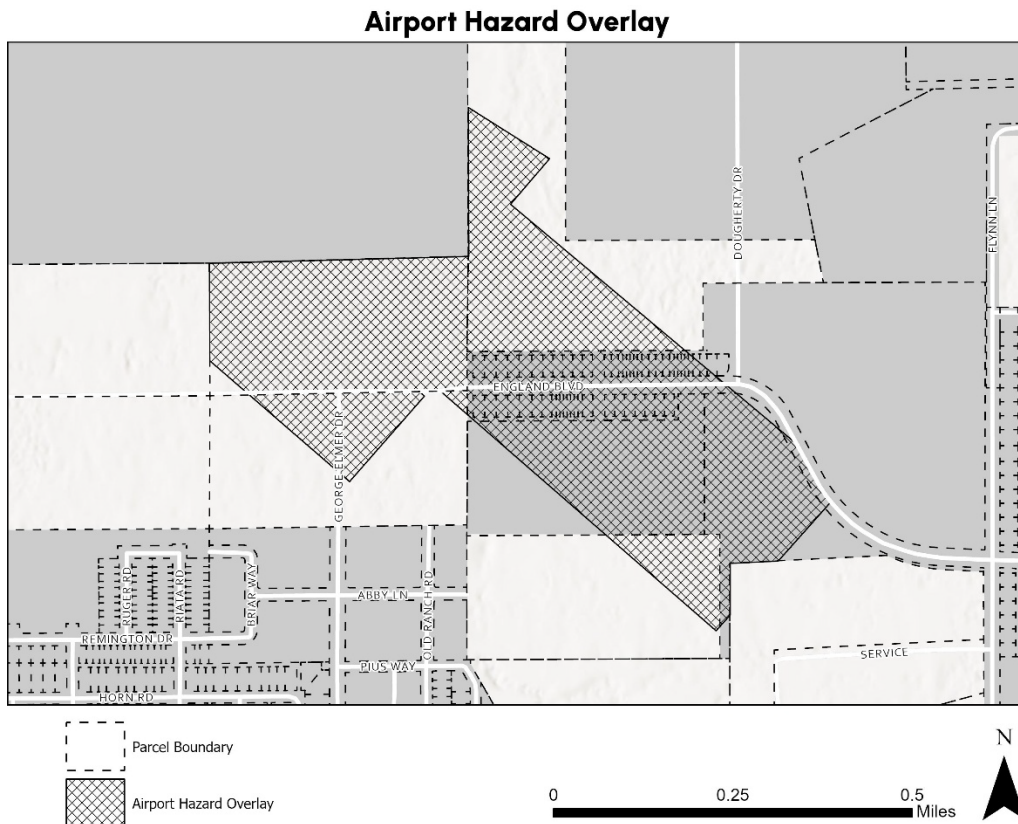
1. **Purpose**

The Airport Hazard Overlay is intended to mitigate risks associated with developing near the airport runway and to mitigate the negative impact of noise from low flying aircraft on quality of life by restricting residential density and prohibiting uses that attract large groups of people.

2. **Location**

A map of the Airport Hazard Overlay follows:

Figure 4.5.02-1 Airport Hazard Overlay



3. **Applicability**

All development within Airport Hazard Overlay shown in Figure 4.6.08-1 must comply with the requirements of this division. The Airport Hazard Overlay is not subject to the split-zoning provisions of 4.1.

4. **Density Restriction**

The maximum permitted residential density is four dwelling units per acre.

5. **Prohibited Uses**

- (a) Schools;
- (b) College/University;
- (c) Hospitals;
- (d) Health Care Facility;
- (e) Day Care Center;
- (f) Pre-School Center;
- (g) Religious Assembly;
- (h) Shelters;
- (i) Entertainment and Spectator Sports; and
- (j) Other uses that attract large groups of people as determined by the Planning Administrator.

Article 4.6

HISTORIC PRESERVATION & HISTORIC OVERLAY

Division 4.6.01 General Provisions

Section 4.6.01-A. Purpose

The City recognizes that our community contains irreplaceable Historic Resources that significantly enhance our sense of place and cultural heritage. Furthermore, these regulations and standards are established to:

1. Identify, promote, and safeguard the City's historically and culturally significant places, landscapes, and heritage;
2. Enhance the City's ability to visually convey its history;
3. Stimulate revitalization and enhance property values in the City;
4. Increase economic and financial benefits to the City and its inhabitants;
5. Attract tourists and visitors to the City;
6. Promote adaptive reuse of existing structures to conserve valuable material and energy resources, limit urban sprawl, and reduce reliance on non-renewable resources; and
7. Promote civic and neighborhood pride and a sense of identity.

Section 4.6.01-B. Relationship to Other Provisions

The designation of a resource as an Historic Resource does not change the underlying zone classification of the Historic Resource and does not exempt Historic Resource owners from complying with other city building and zoning regulations. A designation may place further restrictions upon the Historic Resource than the building or zoning regulations require. Actions subject to review require an Historic Preservation Permit and shall follow the review procedures described in Divisions 4.6.03 and 4.6.04.

Section 4.6.01-C. Development Standards

The City Council may adopt development standards applicable to specific Historic Resources that are consistent with and in addition to the general review criteria for Historic Preservation Permits as set forth in Divisions 4.6.03 and 4.6.04. The existing development standards for the Fort Missoula, Marshall House, and the Roosevelt Block/University Apartment Historic Resource Overlays shall remain in effect (see Division 4.6.08).

Division 4.6.02 Definitions

1. **Adaptive Reuse** is the process of reusing an existing building or structure other than for its historic purpose, typically entailing some modification of the resource.
2. **Adverse Effect** means a circumstance in which a project may alter the characteristics of a property that qualify it for inclusion in the National Register of Historic Places or Missoula Inventory of Historic Resources in a manner that will diminish the integrity of that property.
3. **Alignment** is the pattern formed by building materials repeated throughout a neighborhood area, contributing to a sense of cohesiveness. Windows, signs, columns, ornamentation, and other facade elements also create patterns that unify the look of a building or series of buildings. Buildings also form patterns, particularly when there is a regularity of spaces between them, and a regularity of setbacks from streets. Landscape elements such as trees, planted at regular intervals along the street, can also contribute to a sense of pattern and continuity.
4. **Alteration** is any act or process which changes the exterior architectural features or any exterior features of a structure, site or area, including, but not limited to, the construction, reconstruction, restoration, removal or demolition of any structure or part thereof, excavation, or the addition of an improvement.
5. **Alternative Compliance** is a manner in which an Historic Resource owner may, in cases of exceptional practical difficulty or undue hardship, alternatively comply with the provisions of this Article when seeking an Historic Preservation Permit for New Construction/Exterior Alterations (see Division 4.6.03).
6. **Archeological Significance** is the ability of a site or district (group of sites) to convey important information about the human past. Archeological significance may be based on (a) association with important events in the past; (b) with the lives of important people; (c) examples of engineering or other types of construction that are significant to our shared humanity; or (d) the importance of a place to an indigenous or descendent community.
7. **Archeological Site** means a geographic location of the remains of prehistoric life or of historic human beings. These include, but are not limited to, structures, artifacts, terrain features, graphics (paintings or drawings, etc.) and the evidence of plants or animals.
8. **Architectural Feature** is any feature that helps give a building and/or structure its distinctive architectural character. Such character defining features include, but are not limited to, the color, architectural style, general design and arrangement of the exterior of a structure, including the kind and texture of the building materials, the type and style of all roofs, light fixtures, signs, columns, pilasters, cornices, balustrades, quoins, fanlights, corner boards, window(s) and door frames, transoms, and other appurtenant features.
9. **Architectural Significance** means a determination based on the following criteria: The structure(s) embody distinctive characteristics of a type, period, or method of construction; or the structure(s) represent the work of a nationally or locally noted architect, architectural firm, engineer, builder or craftsman; or the structure(s) possess high artistic value related to a particular period of architecture or architectural style in terms of detail, material, method of construction or workmanship, with no or negligible irreversible alterations to the original structure; or the structure(s) represent a significant and distinguishable entity whose components may lack individual distinction.
10. **Bona Fide** means a diligent effort on behalf of the applicant resulting in substantive and collaborative dialogue between all parties involved regarding economic and public interest, and a willingness of the applicant to provide any information requested and as required.
11. **Certified Local Government (CLG) Program** is a jointly administered program between the National Park Service (NPS) and the State Historic Preservation Office (SHPO), to facilitate state and local government cooperation with federal partners to promote nationwide preservation initiatives. Through the Certified Local Government certification process, communities make a local commitment to historic preservation.
12. **Character Defining Feature(s)** are a structure(s) prominent or distinctive aspects, qualities or characteristics that contribute significantly to its physical structure or appearance.
13. **Compatibility** means the relationship between buildings of scale, height, proportion, setbacks, materials, mass, spaces between buildings and their relationship to the viewscape. A compatible structure is one that

possesses patterns of proportion, scale, mass, form and materials that are found in surrounding buildings. Compatible structures are balanced and in accord with one another and their surroundings.

14. **Consultation** is the act or process of formally engaging in an active and meaningful discussion in order to seek information and advice. Depending on the circumstances, further consultation may be required on matters and issues that initial consultation may not have acknowledged.
15. **Contributing Resources** are all Historic Resources located within the boundaries of a Historic District that reflect the unique elements of the Historic District's architectural, artistic, cultural, engineering, aesthetic, historical, political, economic, social, or other heritage features, and which have been identified as such pursuant to the designation in the National Register of Historic Places or Missoula Inventory of Historic Resources.
16. **Cultural Landscape** is a geographic area, including both cultural and natural resources, associated with a historic event, activity or person, or exhibiting other cultural or aesthetic values.
17. **Cultural Significance** means the role a property, cultural landscape, building, site, structure or object plays in a community's historically rooted beliefs, customs and practices; or it's association with events, or series of events, significant to the cultural traditions of a community.
18. **Demolition/Deconstruction** means the razing, destruction, or dismantling of an historic resource to the degree that its character defining features are substantially obliterated.
19. **Demolition by Neglect** means the act of an owner, or person in charge of a structure or site, allowing a building to deteriorate to the point that demolition becomes necessary, or restoration becomes unreasonable.
20. **Economic Hardship** means that the structure has no viable economic life remaining. "No viable economic life" means that the costs of repair and/or rehabilitation to bring the structure to an occupiable condition is unreasonable. Hardships may not be caused by the owner's neglect or intentional lack of appropriate maintenance (see Section 4.6.04-S), nor is the owner's desire to increase the property's economic return adequate grounds for relief.
21. **Financial Incentives** include, but are not limited to, tax credits, tax abatements, preservation grants or other similar incentives.
22. **Historic American Building Survey/Historic American Engineering Record Documentation ("HABS/HAER")** is archival level documentation, which may include large-or-medium format, black and white photographs, measured drawings, or written historical reports pursuant to Secretary of the Interior standards for architectural and engineering documentation.
23. **Historic Contexts** are the broad patterns or trends in history that help us understand an event, property, or site and its importance within a time period.
24. **Historic District** is a geographically definable area possessing a significant concentration, linkage or continuity of sites, buildings, structures or objects united by past events or aesthetically by plan or development and which collectively contribute to and reflect the unique elements of the architectural, artistic, cultural, engineering, aesthetic, historical, political, economic, social, or other heritage features of the City.
25. **Historic Integrity** means the ability of a property to convey its significance, grounded in an understanding of its physical features and how they relate to its historic context.
26. **Historic Preservation Commission ("Commission")** is the board appointed by the City Council to support the purposes of this Article and as described in Division 2.1.05.
27. **Historic Preservation Officer ("Officer")** is the staff person designated by the Director of Community Planning, Development and Innovation to carry out the purposes of this Article and obligations of the City as a Certified Local Government, and as described in Division 2.1.04.
28. **Historic Resource** means any prehistoric or historic building, structure, object, or site listed in the National Register of Historic Places, Missoula Inventory of Historic Resources or included in a Historic Resource Overlay under Division 4.6.08.
29. **Historic Resource Overlay** is a zoning designation adopted by City Council and applied to a geographic area wherein some or all of the standards of this Article apply.

30. **Historic Preservation Permit ("HPP")** is a permit issued by the Historic Preservation Officer on an action subject to review that complies with this UDC.
31. **Historic Significance** is the meaning or value ascribed to a building, structure, object, site or district based on criteria for evaluation for an established designation program.
32. **Historically Significant Building** is any building listed, or eligible for inclusion on, the National Register of Historic Places as defined in 36 CFR 60.4, any building that is included in Missoula's Inventory of Historic Resources (see Division 4.6.07), or any contributing building in a National Register Historic District.
33. **Landmark** is an exceptional place designation that may be applied to an Historic Resource that possesses regionally significant characteristics like integrity, association, location, design, materials, and workmanship.
34. **Local Historic District** means a geographically definable area, designated by ordinance of the City Council and listed in the Missoula Inventory of Historic Resources, that possesses a significant concentration or linkage of sites, structures or objects united by past events or aesthetically by plan or physical development.
35. **Local Historic Landmark** means any site feature or structure, designated by ordinance of the City Council and listed in the Missoula Inventory of Historic Resources, that is worthy of preservation, rehabilitation, or restoration because of its prehistoric significance, historic significance, architectural significance, archeological significance and/or cultural significance to the City or County.
36. **Local Individually Designated Historic Property** means a property, designated by ordinance of the City Council and listed in the Missoula Inventory of Historic Resources, that is worthy of preservation because the individual property has been determined to have prehistoric significance, historic significance, architectural significance, archeological significance and/or cultural significance and which is not of a national historic landmark or local historic landmark status.
37. **Missoula Inventory of Historic Resources** is a list of all Historic Resources designated pursuant to this Article, which is found at Community Planning, Development and Innovation.
38. **Mitigation** means an action to minimize or offset an adverse effect to a historic resource.
39. **National Register of Historic Places ("National Register")** is the official federal list of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering and culture under the National Historic Preservation Act and 36 C.F.R. 60.
40. **Non-Contributing Resources** are all resources located within the boundaries of a Historic District that do not qualify as Contributing Resources. Upon demolition of the primary building or structure, a Non-Contributing Resource becomes an Unimproved Resource.
41. **Ordinary Repair and Maintenance** is an action that does not change the design, material, or outward appearance of the Historic Resource. Actions to prevent deterioration, decay or damage, or to restore the resource, as nearly as practicable, to the condition prior to the occurrence of deterioration, decay, or damage are ordinary repair and maintenance.
42. **Pattern** means objects arranged in a formal or regular manner, where the arrangement is reproducible. Some of the most familiar patterns are found in building materials. Patterns formed by building materials repeat throughout a neighborhood area, contributing to a sense of cohesiveness. Windows, signs, columns, ornamentation, and other facade elements also create patterns that unify the look of a building or series of buildings. Buildings also form patterns, particularly when there is a regularity of spaces between them, and a regularity of setback from streets. Landscape elements such as trees, planted at regular intervals along the street, can also contribute to a sense of pattern and continuity.
43. **Rehabilitation** is the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values.
44. **Relocation** means moving an historic resource any distance from its original location and setting to a different location and setting.
45. **Shape** means the form of a building or part of a building.
46. **Size** means the dimensions of a building or part of a building.

47. **The Secretary of the Interior's Standards for Rehabilitation** means the publication titled *The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings* codified as 36 CFR Part 67 and intended to promote responsible preservation practices that help protect our nation's irreplaceable cultural resources.
48. **Traditional Cultural Property** means a property eligible for inclusion in the National Register of Historic Places or Missoula Inventory of Historic Resources based on its associations with the cultural practices, traditions, beliefs, lifeways, arts, crafts or social institutions of a living community.
49. **Unimproved Resource** is a lot with no primary buildings or structures and is subject to this Article when new construction in a historic district is proposed.
50. **Unreasonable** means an amount of effort and difficulty that is oppressively burdensome, onerous and/or excessive.

Division 4.6.03 Historic Preservation Permit – New Construction/Exterior Alterations

Section 4.6.03-A. Intent

The purpose of this permit process is to establish a uniform procedure for the protection, enhancement, perpetuation, and use of Historic Resources within the city that reflect unique elements of the City's architectural, cultural, engineering, historical, political, economic, social and other heritage.

Section 4.6.03-B. Authority to File

Applications for an Historic Preservation Permit (HPP) may be initiated only by the owner of the subject property or by the owner's authorized agent.

Section 4.6.03-C. General

A zoning compliance permit for an action subject to review shall not be issued until the Historic Preservation Officer issues an HPP.

1. The HPP shall be in addition to any other required permits, and the City shall not issue a building, demolition or other permit authorizing work on-site until the Historic Preservation Officer issues an HPP.
2. To avoid undue delay, the HPP review should occur prior to or simultaneously with any other permit reviews the applicant has before the City.
3. Any subsequently issued permit shall be consistent with the terms and conditions of the HPP.
4. Actions subject to review include alterations to an historic resource, new construction in historic overlay districts, relocation of an historic resource, and demolition of an historic resource.
5. If an action subject to review occurs without an HPP, the Historic Preservation Officer may request that the Building Division issue a stop work order, and all other enforcement provisions in this Chapter may be applied.
6. Per State of Montana Codes, public development activity on government owned property is not subject to compliance with this Unified Development Code.

Section 4.6.03-D. Application Filing Fee

Application filing fees are required for processing historic preservation permit applications. The fees help offset the cost of providing public notice, personnel costs for plan/permit reviews and field inspections. Fees are non-refundable.

Section 4.6.03-E. Applicability

1. Actions subject to review include:
 - (a) Alterations to an Historic Resource, as defined in this Article.
 - (b) New Construction in Historic Resource Overlays where the standards apply, which includes any free-standing building, structure, object or feature that was not a part of the Historic Resource at the time of designation.
2. Any development or alteration requiring a building permit or zoning compliance permit within a Historic Resource Overlay (/HRO) must be reviewed by the Historic Preservation Officer for an historic preservation permit.
3. Ordinary repair and maintenance, such as painting and repair of windows, is not an action subject to review. Owners and/or managers of Historic Resources should consult with the Historic Preservation Officer if they have questions about what work qualifies as ordinary repair and maintenance.

Section 4.6.03-F. Application Filing

1. Parties seeking an HPP must schedule a pre-application meeting with the Historic Preservation Officer to obtain guidance about the application process, unless otherwise expressly stated.
2. A completed HPP application shall be submitted to the Historic Preservation Officer and shall include the following information:
 - (a) Name, address and telephone number of applicant;
 - (b) Address and legal description of the Historic Resource;
 - (c) Detailed description of the proposed work;
 - (d) Photograph of each elevation for which an action subject to review is proposed, and photographs or drawings that clearly illustrate the nature and extent of the action proposed. Photographs and drawings shall be clearly annotated with the resource address and elevation (front, side, rear façade) and elevation direction (north, south, east, west);
 - (e) A site plan, drawn to scale and oriented with North at the top of page, showing site boundaries, street and alley names and frontages and location of all structures;
 - (f) Historical information, photographs, plans or other documentation that may be relevant to the proposed action subject to review; and
 - (g) A statement demonstrating how the proposed work meets the review criteria and any applicable development guidelines.
 - (h) A proposal for donation of any usable but unwanted material removed from an Historic Resource, if applicable.
3. The Historic Preservation Officer may request the following additional information:
 - (a) Elevation drawings, plans, specifications to scale or other illustrations that will clearly express the proposed action subject to review;
 - (b) Material samples; and
 - (c) Other information necessary to enable the Historic Preservation Officer to address the relevant review criteria and/or submittal requirements.
4. The Historic Preservation Officer may require a new or amended application if there is a change in plans for actions subject to review. If a new or amended application is submitted, the review procedures provided for in this Division shall apply in the same manner as if the application had been submitted for the first time.
5. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria. Applications must address relevant review and decision-making criteria.

Section 4.6.03-G. Historic Preservation Officer Permit Application Review**1. Completeness Review:**

- (a) An application will be considered complete and ready for processing only if it is submitted accurately and includes all required information and is accompanied by the required filing fee.
- (b) If an application is determined to be incomplete, the Historic Preservation Officer (HPO) must provide written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review of the application. No further processing of the application will occur until the deficiencies are corrected. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected and no communication has been received within 180 days from the time written notice was issued, the application will be considered withdrawn.
- (c) Resubmittals continue until the application is complete and accurate and the application is considered sufficient for review.
- (d) Once the application is deemed complete and ready for processing, the Historic Preservation Officer shall notify the applicant.

2. HPO Determination and Public Notice:

- (a) Once the application is deemed complete and ready for processing, the HPO will make an initial determination regarding whether the proposed project is in substantial compliance with the applicable review criteria and any applicable development standards, and whether all impacts resulting from the proposed project were previously analyzed and made available for public review and comment in the adoption, amendment or update of the land use plan, zoning regulations and zoning map.
- (b) The HPO shall issue an initial determination for a 15-business day agency and public comment period in accordance with Article 2.3 of this UDC, that includes the following:
 - 1. A summary of proposed actions subject to review;
 - 2. Applicable review criteria and any applicable development standards triggered by the proposed action subject to review;
 - 3. Description of whether and how the proposed action subject to review is in substantial compliance with the applicable review criteria and any applicable development standards;
 - 4. Description of whether and how all impacts resulting from the proposed project were previously analyzed and made available for public review and comment in the adoption, amendment or update of the land use plan, zoning regulations and zoning map;
 - 5. Any conditions recommended to be imposed on the HPP, if any, in order to substantially comply with all applicable review criteria and development standards; and
 - 6. When an applicant seeks alternative compliance, the recommended manner for alternatively complying with the applicable review criteria and development standards.
- (c) If no agency or public comment is received providing evidence, or the evidence provided is not applicable with Section 4.6.03-G.2(a), the HPO shall issue a final record of decision.
- (d) If agency or public comment is received within the public notice period providing evidence, or the Historic Preservation Officer determines there is evidence, that the proposed action does not substantially comply with the applicable review criteria and any applicable development standards, and/or that all impacts resulting from the proposed action were not previously analyzed and made available for public review and comment in the adoption, amendment or update of the land use plan, zoning regulations and zoning map, the Historic Preservation Officer shall request the applicant to collect additional data or perform additional analysis limited to the lack of substantial compliance and/or any new impacts not previously identified.

- (e) Once data is collected and/or additional analysis is performed, the Historic Preservation Officer may issue a revised determination, taking the applicable agency and public comments, additional data and/or analysis which is limited to the lack of substantial compliance, and any new impacts not previously identified into consideration.
 - (f) The Historic Preservation Officer shall issue the revised determination for an additional 15-business day agency and public comment period and include the agency and public comments already received, and the data and analysis relevant to substantial compliance and any new impacts not previously identified.
 - (g) If no agency or public comment related to the revised determination and the new impacts not previously identified are received providing evidence to the contrary, or the evidence provided is not applicable with Section 4.6.03-G.2(a), the Historic Preservation Officer shall issue a final record of decision.
 - (h) Noticing requirements can be found in Article 2.3 of this UDC.
3. When an applicant seeks alternative compliance, the Historic Preservation Officer shall determine whether the conditions in Section 4.6.03-J have been met.

Section 4.6.03-H. Historic Preservation Officer Action on Permit Applications

1. For HPP applications that do not seek alternative compliance, the Historic Preservation Officer, after completing the determination and public notice process, and consideration of public comment with applicable evidence, may approve, approve with conditions or deny an HPP application as follows:
 - (a) The Historic Preservation Officer shall approve an HPP application if it is determined that the action subject to review substantially meets the review criteria, and any applicable development standards.
 - (b) The Historic Preservation Officer shall approve an HPP application with conditions if it is determined that the action subject to review generally meets the review criteria, and any applicable development standards, and that only minor modifications to the plans for the proposed action subject to review are required to bring it into substantial compliance.
 - (c) The Historic Preservation Officer shall deny an HPP application if it is determined that the action subject to review does not substantially meet the review criteria and any applicable design or development standards, and that more than minor modifications to the plans for the proposed action subject to review are required to bring it into compliance.
2. For HPP applications that seek alternative compliance, the Historic Preservation Officer may, in their discretion, approve, conditionally approve, or deny the application. Before approving or conditionally approving such an application, the Historic Preservation Officer must find that the exceptional practical difficulty to the applicant outweighs the need for strict adherence to this Division.

Section 4.6.03-I. Criteria for Review for New Construction and Exterior Alterations

The characteristics of an historic resource that qualify it for designation shall be preserved and existing setbacks illustrating historic patterns of development shall be retained. The Historic Preservation Officer also shall review the HPP application for substantial compliance with the Secretary of Interior's Standards for Rehabilitation and any applicable development standards and the following criteria:

1. Alterations shall be compatible with the characteristics or character defining features that qualify the Historic Resource for designation and shall not diminish, eliminate, or adversely affect the historic character of the Historic Resource. Consideration shall include, but not be limited to, elements of:
 - (a) Size;
 - (b) Scale;
 - (c) Parcel Coverage;
 - (d) Massing;
 - (e) Proportion;

- (f) Architectural style;
 - (g) Orientation;
 - (h) Surface textures and patterns;
 - (i) Details and embellishments; and
 - (j) Relation of these elements to one another.
2. New construction is not required to conform to specific architectural styles. Design of new construction shall be compatible with the character of historic resources in the immediate area, but shall distinguish itself from Historic Resources and not create a false sense of history.
 3. Alternative materials may be substituted for original materials when they have the same dimensions and form as original materials.
 4. Photovoltaic and solar hot water building fixtures are permitted and are not subject to this Unified Development Code.

Section 4.6.03-J. Alternative Compliance for New Construction or Exterior Alterations

In cases of exceptional practical difficulty or undue hardship, alternative compliance may be available for HPPs for alterations or new construction. Alternative compliance is not available for HPPs for relocation or demolition. A property owner unable to comply with the HPP review criteria and any applicable development standards may propose alternative forms of compliance if the following conditions exist:

1. That by reason of unusual circumstances not of the applicant's own making, the strict application of this Division would result in either:
 - (a) Exceptional practical difficulty due to unique physical circumstances or conditions on the property that preclude an alteration or new construction in compliance with this Division, as based on the following factors:
 1. Irregularity;
 2. Narrowness;
 3. Shallowness;
 4. Topographical slope;
 5. Lot configuration; or
 6. Other physical conditions peculiar to the property;
- OR
- (b) Undue hardship that precludes an alteration or new construction from complying with this Division, as based on the following factors:
 1. The unavailability of any reasonable, historically correct preservation methodology;
 2. The degree of existing architectural significance and integrity of the historic resource; and
 3. Whether the strict application of this chapter would prevent the reasonable use of the property.
 2. Alternative materials may be substituted for original materials when they have the same dimensions and form as original materials, but represent more efficient technology.
 3. An applicant seeking alternative compliance shall provide the Historic Preservation Officer supporting documentation demonstrating that the conditions set forth in this Section are met.

Section 4.6.03-K. Record of Decision on Historic Preservation Permit

1. All decisions of the Historic Preservation Officer related to Historic Preservation Permits shall be memorialized in a written record of decision, which shall include findings of fact and conclusions relied upon in reaching the decision pertaining to the approval, conditional approval, or denial of the Historic Preservation Permit following the end of the final comment period (either after the first public notice or, if there is a second public notice period, after the second public notice).
2. The record of decision shall include findings of fact and conclusions of law regarding the public comment evidence and the determination whether that evidence is valid.
3. The Historic Preservation Officer shall include a copy of the record of decision as part of the documentation maintained on the Historic Resource and shall distribute a copy to the Building Division.

Section 4.6.03-L. Void if Construction Not Commenced

Approved Historic Preservation Permits expire two years from the date of issuance unless the authorized work is started within that time.

Section 4.6.03-M. Transferability

The status of Historic Preservation Officer approval is not affected by changes of tenancy, ownership, or management.

Division 4.6.04 Historic Preservation Permit – Demolition/Relocation**Section 4.6.04-A. Intent**

1. The purpose of this permit process is to evaluate and ensure that the applicant has considered reasonable and economically feasible alternatives to demolition or relocation and sufficiently mitigate the effects of the potential removal of a historic resource.
2. This permit process also ensures that if a historic resource is removed, redevelopment of the site occurs in a way that mitigates the loss and enhances the many elements that are unique to the fabric, theme and character of each neighborhood and area within Missoula and is sensitive to the significance of the site.

Section 4.6.04-B. Authority to File

Applications for a Historic Preservation Permit may be initiated only by the owner of the subject property or by the owner's authorized agent.

Section 4.6.04-C. General

1. The demolition or relocation of Historic Resources are considered significant actions, as historic sites and structures are community resources and contributing elements to the character of Missoula. The removal of Historic Resources alters the established character of the neighborhoods of which they are a part. An application to demolish or relocate an historic resource is held to a very high standard, requiring submittal of comprehensive and detailed application materials.
2. The Historic Preservation Permit (HPP) shall be in addition to any other required permits, and the City shall not issue a building, demolition or other permit authorizing work on-site until the Historic Preservation Officer issues an HPP.
3. Any subsequently issued permit shall be consistent with the terms and conditions of the HPP.

4. Subsequent redevelopment requires a building permit and shall not include plans which leave the site without building(s) or structure(s), unless the existing character of the area does not include building(s) or structure(s).
5. No HPP for demolition or relocation shall be issued unless an Historic Preservation Permit for subsequent redevelopment is issued simultaneously.
6. To obtain an Historic Preservation Permit for demolition or relocation, herein after referred to as "permit," the applicant must demonstrate that:
 - (a) Denying the permit will cause unreasonable economic hardship to the viability of the property (see Section 4.6.04-J);
 - (b) That the applicant has made a bona fide effort to find a reasonable alternative that would result in the preservation, renovation, or adaptive reuse of the historic resource (see Section 4.6.04-J); and
 - (c) That conditions necessary to mitigate the effects of approved demolition/relocation are developed (see Section 4.6.04-M).
7. It is anticipated that every application will have a set of factual circumstances unique unto itself, and that proportionality of the type and scale of the proposed project will be considered during review. The Historic Preservation Officer acknowledges that requirements will vary from one context to another and should be assessed on an individual basis.
8. An application filing fee is required for processing the permit application and is due at the time of the Stage One application submittal. The fee is established through Resolution and is non-refundable.
9. If an action subject to review occurs without an HPP, the Historic Preservation Officer may request that the Building Division issue a stop work order, and all other enforcement provisions in this UDC may be applied.

Section 4.6.04-D. Application Filing Fee

Application filing fees are required for processing Historic Preservation Permit applications. The fees help offset the cost of providing public notice, personnel costs for plan/permit reviews and field inspections. Fees are non-refundable.

Section 4.6.04-E. Applicability

1. **Actions subject to review include:**
 - (a) Any building or structure proposed for demolition or relocation which is individually listed on the National Register of Historic Places or Missoula Inventory of Historic Resources;
 - (b) Any building or structure proposed for demolition or relocation within a Historic Resource Overlay (/HRO).

Section 4.6.04-F. Application Filing

1. The applicant shall work with the Historic Preservation Officer in creating and submitting a permit application which is complete and sufficient for review in accordance with Section 4.6.04-I.
2. The review process for the permit application is developed in two stages:
 - (a) **Stage One:** The first stage application review requires action by the Historic Preservation Officer in the form of approval, approval with conditions, or denial of the permit. Submittal material for Stage One application review is described in Section 4.6.04-J. If the permit is approved, or approved with conditions, in Stage One, then the application proceeds to Stage Two.
 - (b) **Stage Two:** The second stage is the final review and requires submittal of additional information including a redevelopment plan and may consider advice from the Historic Preservation Commission. The Historic Preservation Officer either finally approves, approves with conditions, or denies the permit. Submittal material for Stage Two review is described in Section 4.6.04-M.

3. The Historic Preservation Officer may require a new or amended application if there is a change in plans for actions subject to review. If a new or amended application is submitted, the review procedures provided for in this Division shall apply in the same manner as if the application had been submitted for the first time.
4. The permit is not finalized at stage one and action on the permit cannot go forward until the final approval occurs during stage two.
5. All parts of this Division apply to all actions subject to review, unless otherwise noted.
6. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria. Applications must address relevant review and decision-making criteria.

Section 4.6.04-G. Application Timeline

A complete and accurate application for the permit Stage One application review must be filed with the Historic Preservation Officer in Community Planning, Development and Innovation no sooner than 30 days after a pre-application meeting.

1. Once the Historic Preservation Officer has deemed the permit application complete and ready for Stage One application review, the Historic Preservation Officer shall issue an initial determination regarding the permit application for Stage One approval or denial.
2. If the permit is approved, or approved with conditions, in Stage One, the Historic Preservation Officer shall take no longer than 30 days to work with the applicant in establishing sufficient mitigation efforts for Stage Two application review, see Section 4.6.04-M for more information.
3. The applicant has two years from the date of Stage One approval, or approval with conditions, to complete any approved conditions and substantially comply with requirements for Stage Two application review. If the applicant has not continued to pursue a demolition permit at the end of the two years, the application will be deemed denied by the Historic Preservation Officer and the applicant may start the process again.
4. The applicant may request an extension from the Historic Preservation Officer if they are unable to complete requirements for Stage Two final review within the time frame specified herein, and if no time extension has been granted, the application will stand as denied.

Section 4.6.04-H. Pre-Application Requirements

1. The intent of the pre-application requirement is to initiate active mandatory consultation, review permit application materials, and outline the review process.
2. At least 30 days prior to submitting a permit application, the applicant shall initiate consultation by scheduling a pre-application meeting with the Historic Preservation Officer.
 - (a) If the applicant is not the building owner, such as an architect or consultant, it is strongly encouraged that the building owner be willing and available to work with the Historic Preservation Officer throughout the permit application process.
3. After the pre-application meeting, the Historic Preservation Officer may notify the Missoula Historic Preservation Commission and/or State Historic Preservation Office that the process for a potential permit application has been initiated.

Section 4.6.04-I. Historic Preservation Officer Permit Application Review

1. **Completeness Review**
 - (a) **Applicable to Stage One and Stage Two application filings:**
 1. An application will be considered complete and ready for processing only if it is submitted accurately, includes all required information, and is accompanied by the required filing fee.

2. If an application is determined to be incomplete, the Historic Preservation Officer (HPO) must provide written notice to the applicant along with an explanation of all known deficiencies in the application that will prevent competent review of the application. No further processing of the application will occur until the deficiencies are corrected. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected and no communication has been received within 180 days from the time written notice was issued, the application will be considered withdrawn.
3. Resubmittals continue until the application is complete and accurate and the application is considered sufficient for review.
4. Once the application is deemed complete and ready for processing, the Historic Preservation Officer shall notify the applicant.

(b) Additional completeness review requirements can be found under the Stage One and Stage Two information that follows.

2. HPO Determination and Public Notice Requirements

(a) Applicable to Stage One and Stage Two application filings:

1. Once the application is deemed complete and sufficient for review, the Historic Preservation Officer will make an initial determination regarding whether the proposed project is in substantial compliance with the applicable review criteria and any applicable development standards, and whether all impacts resulting from the proposed project were previously analyzed and made available for public review and comment in the adoption, amendment or update of the land use plan, zoning regulations and zoning map.
2. The HPO shall issue an initial determination for a 15-business day agency and public comment period in accordance with Article 2.3 of this UDC, that includes the following:
 - a. A summary of proposed actions subject to review;
 - b. Applicable review criteria and any applicable development standards triggered by the proposed action subject to review;
 - c. Description of whether and how the proposed action subject to review is in substantial compliance with the applicable review criteria and any applicable development standards;
 - d. Description of whether and how all impacts resulting from the proposed project were previously analyzed and made available for public review and comment in the adoption, amendment or update of the land use plan, zoning regulations and zoning map; and
 - e. Any conditions recommended to be imposed on the HPP, if any, in order to substantially comply with all applicable review criteria and development standards.
3. If no agency or public comment is received providing evidence, or the evidence provided is not applicable with Section 4.6.04-I.2(a)(1), the HPO shall issue a final record of decision.
4. If agency or public comment is received within the public notice period providing evidence, or the HPO determines there is evidence, that the proposed action does not substantially comply with the applicable review criteria and any applicable development standards, and/or that all impacts resulting from the proposed action were not previously analyzed and made available for public review and comment in the adoption, amendment or update of the land use plan, zoning regulations and zoning map, the HPO shall request the applicant to collect additional data or perform additional analysis limited to the lack of substantial compliance and/or any new impacts not previously identified.
5. Once data is collected and/or additional analysis is performed, the HPO may provide a revised determination, taking the applicable public comments, additional data and/or analysis which is limited to the lack of substantial compliance, and any new impacts not previously identified into consideration.
6. The Historic Preservation Officer shall issue the revised determination for an additional 15-business day agency and public comment period and include the agency and public

comments already received, and the data and analysis relevant to substantial compliance and any new impacts not previously identified.

7. If no agency or public comment related to the updated determination and the new impacts not previously identified are received providing evidence to the contrary, or the evidence provided is not applicable with Section 4.6.04-I.2(a)(1), the HPO shall issue a final record of decision.
- (b) Noticing requirements can be found in Article 2.3 of this UDC.
 - (c) Additional determination and noticing requirements can be found under the Stage One and Stage Two information that follows.

Section 4.6.04-J. Application Requirements for Stage One Application Review

After completion of the pre-application requirements, the following application information must be submitted as evidence and considered to address the review criteria:

1. Certificate of Economic Hardship (CEH)

The purpose of the CEH is to provide information as to whether the structure still maintains viable economic life. The burden of proof is on the applicant. The CEH must be submitted in written form and must include and examine the following as it relates to current economic and market rate data for Missoula, Montana:

- (a) The assessed value of the land, and improvements thereon, according to the most recent assessments;
- (b) Property taxes for the previous two years and any arrearages;
- (c) All appraisals obtained within the previous five years by the past and current owner or applicant in connection with the purchase, financing or ownership of the property;
- (d) Any listing of the property, price asked and offers received in the past five years;
- (e) Any environmental assessments or knowledge of environmental hazards associated with the property;
- (f) Any consideration by the owner for profitable adaptive reuses for the property, including renovation studies, structure and site plans, bids; and
- (g) Additional requirements for income-producing property:
 1. Annual gross income from the property for the previous five years;
 2. Itemized operating and maintenance expenses for the previous five years;
 3. Annual cash flow for the previous five years;
 4. Rent charged to tenants for the previous five years and the current market rate for rent;
 5. A comparative economic assessment for the utilization of all financial incentives currently available including but not limited to: potential Missoula Redevelopment Agency funding, Federal Historic Tax Credits, MT Historic Tax Abatement, New Market Tax Credits, historic preservation grants, and any other available funding.
- (h) Optional: Additional information such as the following may be helpful in satisfying the burden of proof and in clarifying whether an economic hardship is taking place:
 1. The date of purchase;
 2. If property was not purchased at or close to market value, an explanation of the circumstances of the purchase and/or sale;
 3. A detailed list with costs of any improvements since purchase and the date incurred;
 4. Annual debt service, if any, for the previous two years; and
 5. Title report and current balance on all mortgages, trust indentures, and on all debts that encumber the property

2. Feasibility Study/Economic Analysis Return

The purpose of the feasibility study is to provide information as to whether the structure is capable of generating a reasonable economic return if preserved, restored or rehabilitated. Each component of the feasibility study must be completed by a third party not associated with the City of Missoula or the project in review, and must be completed by professionals experienced in their field in western Montana. Provisions:

- (a) Written statement and itemized cost list from a licensed engineer and/or a licensed architect with verifiable experience in preservation, renovation, restoration, or rehabilitation as to the structural soundness of the structure and its suitability for continued use, renovation, restoration or rehabilitation.
- (b) Written statement and itemized cost list from a land-use professional which includes real estate consultants, appraisers, or other real estate professionals with verifiable experience in rehabilitation, as to the economic feasibility of preservation, restoration, renovation or rehabilitation of existing historic structures.
- (c) Verification of professional qualifications shall be submitted for each third-party entity. Professional qualifications must align with the scope of the proposed project.
- (d) Submitted materials shall be submitted on the third-party entity's letterhead.

3. Bona Fide Attempt to Rent, Sell or Relocate Resource

The intent of listing the structure is to ensure that parties interested in saving the structure as opposed to demolishing it are alerted and offered a period of time to purchase the structure. It is highly recommended that any structure proposed for demolition or relocation be listed on the National Trust for Historic Preservation's online real estate page for the entire duration that the structure is listed for sale. Provisions:

- (a) The applicant must advertise the historic resource for sale using a licensed real estate broker;
- (b) The applicant must illustrate that the asking price was comparable to the value of equivalent local structures of use and form during the time of listing;
- (c) The applicant must list the property on a Multiple Listing Service (such as Loopnet.com) and the National Trust for Historic Preservation's online real estate page for a period of at least 90 days within the past six months prior to submitting an application.

4. Supplemental Information

Any additional information considered necessary and requested by the Historic Preservation Officer to address review criteria and/or submittal requirements.

Section 4.6.04-K. Historic Preservation Officer Stage One Permit Application Review**1. Completeness Review**

- (a) In addition to complying with the Completeness Review requirements of Section 4.6.04-I, before deeming the application complete and sufficient for review, the Historic Preservation Officer reserves the right to seek outside (third-party) consult from qualified professionals in western Montana, in determining whether the submittal material accurately and sufficiently addresses the required application information; whether the applicant has put forth a bona fide effort; whether reasonable alternatives have been evaluated; and in assessing economic feasibility based on the submitted evidence at no cost to the applicant.

2. HPO Determination and Public Notice Requirements:

- (a) The Historic Preservation Officer shall review the permit application for a Stage One application based on the determination and public notice requirements in Section 4.6.04-I and the following:
 1. Once the permit application has been deemed sufficient for review, a period of no less than 30 days and no more than 120 days is initiated for the Historic Preservation Officer to issue an initial determination regarding the permit Stage One application review pursuant to the review criteria in Section 4.6.04-P.

2. As part of the initial public and agency comment period, the Historic Preservation Officer shall send a copy of the application to the Missoula Historic Preservation Commission and the Montana State Historic Preservation Office, together with a cover letter, requesting review and comment.

Section 4.6.04-L. Historic Preservation Officer Action on Stage One Permit Application

1. After completing the determination and public notice process, the Historic Preservation Officer shall approve, approve with conditions, or deny the Stage One permit. A denial of a permit shall be accompanied by a written statement of the specific reasons for the denial.
2. The Stage One permit will be approved if the Historic Preservation Officer finds that failure to issue the permit will result in unreasonable economic hardship to the viability of the property, and that a bona fide effort has been made to find reasonable alternatives that would result in the preservation, renovation, or adaptive reuse of the historic resource, and no reasonable alternatives exist.

Section 4.6.04-M. Application Requirements for Stage Two Application Review

1. The intent of the application requirements for stage two application review is to ensure that if an approval or approval with conditions for the Stage One Permit Application has been established by the Historic Preservation Officer, then proper mitigation efforts are established and are consistent with the Review Criteria (Section 4.6.04-P) and any applicable Historic Resource Overlays (Division 4.6.08).
2. The applicant shall work with the Historic Preservation Officer to ensure requirements are met and shall establish a plan for each Stage Two application requirement and compliance with any conditions of approval established during the Stage One permit application review.
3. The following mitigation efforts must be submitted:

(a) **Documentation Plan**

All historic resources preliminarily approved for demolition or relocation must be fully documented using Historic American Building Survey (HABS) or HABS-quality procedure as defined in Division 4.6.02.

1. Documentation shall happen before the final demolition/relocation permit is issued;
2. Documentation must be produced by a professional who satisfies professional qualification standards for history, archeology or architectural history, as established by the National Park Service and published in the Code of Federal Regulations, 36 CFR Part 61;
3. Documentation may be submitted as early in the process as the applicant desires to support the requested action.

(b) **Mitigation Plan**

In addition to documentation, the applicant must provide a proposal to mitigate for adverse effect caused by demolition or relocation. Possible mitigation efforts include, but are not limited to, designated interpretive space, brick and mortar projects, National Register nomination updates and additions, a preservation plan utilizing the Secretary of the Interior's Standards, a development agreement with the City, an archeological study among others. Should the applicant be applying for a relocation permit, additional preservation planning documents could apply which may include plans for stabilization and/or restoration.

(c) **Redevelopment Plan**

The applicant shall consult with the Historic Preservation Officer in creating appropriate redevelopment plans for the site and may consider advice from the Historic Preservation Commission.

1. Redevelopment should be compatible with the character of the surrounding neighborhood, reflect the historic resource to be demolished or relocated, be sensitive to the significance of the site, and must adhere to any applicable Historic Resource Overlays within the City of Missoula.

2. Redevelopment plans shall be oriented with a north arrow at the top of the page and shall include exterior elevations, materials, site boundaries, street and alley frontages with names, location of all structures with distances to the nearest foot between buildings and from buildings to property lines and must conform to all applicable regulations.
3. The applicant must demonstrate the ability to complete the project. The City Building Official may require a bond, letter of credit or cash deposit as a demonstration that the financial backing for the replacement structure is adequate to complete the project.

(d) **Deconstruction Plan**

All historic structures approved for demolition must be deconstructed in total rather than demolished, with deconstructed items to be reused. Property owners are held responsible for all costs associated with deconstruction.

1. The applicant shall ensure that a local deconstruction specialist is consulted on the deconstruction process, for purposes of identifying opportunities for recovering and reusing materials within the structure.
2. Prior to the onset of deconstruction, the applicant and the deconstruction contractor shall meet with the Historic Preservation Officer to identify historic features and items within the structure that are important to retain for potential reuse in the new structure or for preservation or interpretive purposes.
3. The applicant shall submit a deconstruction plan summarizing timing and approach including a preliminary list of identified historic items and must be approved by the Historic Preservation Officer.
4. The deconstruction specialist shall use their best effort to recover as many historic or non-historic features and items as is feasible, taking into consideration the age and condition of the materials, the safety of workers engaged in the deconstruction efforts, environmental abatement needs, and other conditions of the structure and worksite.

(e) **Supplemental Information**

Any additional information considered necessary and requested by the Historic Preservation Officer to address the relevant review criteria and/or submittal requirements.

Section 4.6.04-N. Historic Preservation Officer Stage Two Application Review

1. If a permit is approved, or approved with conditions, by the Historic Preservation Officer in Stage One, the applicant shall submit all application requirements for stage two application review to the Historic Preservation Officer to be reviewed for completeness and deemed sufficient for Stage Two application review (Application Requirements for Stage Two Application Review, Section 4.6.04-M).
2. In addition to complying with the Completeness Review requirements of Section 4.6.04-I, the Historic Preservation Officer may consult with the Historic Preservation Commission Chair, the Director of Community Planning, Development and Innovation, and relevant City staff in reviewing application materials for completeness.
3. Historic Preservation Officer Determination and Public Notice Requirements
 - (a) The Historic Preservation Officer shall review the Stage Two application based on the determination and public notice requirements in Section 4.6.04-I and the following:
 1. The Historic Preservation Officer shall determine whether the conditions of stage one approval and requirements of the stage two review have been substantially met.
 2. As part of the initial public and agency comment period, the Historic Preservation Officer shall send a copy of the application to the Missoula Historic Preservation Commission and the Montana State Historic Preservation Office, together with a cover letter, requesting review and comment.

Section 4.6.04-O. Historic Preservation Officer Action on Stage Two Applications

1. If the Historic Preservation Officer finds substantial compliance with the intent of mitigating adverse effect, the stage two permit shall be approved for demolition or relocation and subsequent redevelopment (building permit).
2. The Historic Preservation Officer may consult with the Historic Preservation Commission Chair, the Director of Community Planning, Development and Innovation, and relevant City staff in reaching a final decision.

Section 4.6.04-P. Review Criteria

1. The following must be considered in reviewing and making decisions on Stage One and Stage Two permit applications, as applicable:
 - (a) Whether the structure still maintains viable economic life.
 - (b) Whether the structure is capable of generating a reasonable economic return if preserved, restored or rehabilitated.
 - (c) Whether the applicant has made a bona fide effort to find a reasonable alternative that would result in the preservation, renovation or rehabilitation of the structure.
 - (d) The Historic Preservation Officer must consider whether sufficient mitigation efforts have been met, including but not limited to, documentation, mitigation, redevelopment and deconstruction (see Section 4.6.04-M).
 - (e) For a proposed relocation, the Historic Preservation Officer shall consider setting, location, feeling, and association as it applies to its National Register nomination, whether the structure will maintain its historic significance and integrity having been relocated, and the economic and physical feasibility associated with relocating the structure.
 - (f) The Historic Preservation Officer shall consider the evidence utilizing the following guiding questions: Is the evidence sufficient? Is the evidence relevant? Is the evidence competent? Is the evidence credible? Is the evidence consistent? The Historic Preservation Officer shall also consider any evidence of self-created hardship through deliberate neglect or inadequate maintenance of the property under Section 4.6.04-S.

Section 4.6.04-Q. Exceptions

The Historic Preservation Officer may waive items listed in Section 4.6.04-J or Section 4.6.04-M if they are not applicable to the specific review. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained, the applicant shall file with the permit application a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained. The Historic Preservation Officer shall determine whether the reasons are sufficient or not.

Section 4.6.04-R. Permit Application Checklist

Figure 4.6.04-1: Checklist for Required Permit Application Material

Historic Preservation Permit Demolition/Relocation - Checklist for Required Material	
Stage One Permit Application Review Requirements:	
<input type="checkbox"/>	Certificate of Economic Hardship (CEH)
<input type="checkbox"/>	Feasibility Study
<input type="checkbox"/>	Record of Bona Fide Attempt to Rent, Sell or Relocate Property
<input type="checkbox"/>	Any Additional Supplemental Information Requested or Considered Necessary
Stage Two Permit Application Review Requirements:	
<input type="checkbox"/>	HABS-Quality Documentation Plan of the Historic Resource
<input type="checkbox"/>	Mitigation Plan for Adverse Effect
<input type="checkbox"/>	Redevelopment Plan and Economic Proof
<input type="checkbox"/>	Deconstruction Plan
<input type="checkbox"/>	Any Additional Supplemental Information Requested or Considered Necessary

Section 4.6.04-S. Demolition by Neglect

Neither the owner of, nor the person in charge of, any Historic Resource shall permit such structure or landmark to fall into a state of disrepair which may result in the deterioration of any exterior appurtenances or architectural feature so as to produce or tend to produce a detrimental effect upon the character of the Historic Resource in question, including but not limited to:

1. The deterioration of exterior walls or other vertical supports.
2. The deterioration of roofs or other horizontal members.
3. The deterioration of exterior chimneys.
4. The deterioration or crumbling of exterior plaster or mortar.
5. The ineffective waterproofing of exterior walls, roofs, and foundations including broken windows or doors.
6. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe conditions.

Section 4.6.04-T. Record of Decision on Historic Preservation Permit

1. All decisions of the Historic Preservation Officer related to Historic Preservation Permits shall be memorialized in a written record of decision, which shall include findings of fact and conclusions relied upon in reaching the decision pertaining to the approval, conditional approval, or denial of the HPP application following the end of the final comment period (either after the first public notice or, if there is a second public notice period, after the second public notice).
2. The record of decision shall include findings of fact and conclusions of law regarding the public comment evidence and the determination of whether that evidence is valid.
3. The Historic Preservation Officer shall include a copy of the record of decision as part of the documentation maintained on the Historic Resource and shall distribute a copy to the Building Division.

Section 4.6.04-U. Void if Construction Not Commenced

Approved HPPs expire two years from the date of issuance of a Record of Decision unless the authorized work is started within that time.

Section 4.6.04-V. Transferability

The status of Historic Preservation Officer approval is not affected by changes of tenancy, ownership, or management.

Division 4.6.05 Appeals of Historic Preservation Officer Decisions

Appeals of decisions of the Historic Preservation Officer may be made to the Planning Commission in accordance with the process described in Article 2.4 of this UDC.

Division 4.6.06 Public Safety Exclusion

The Historic Preservation Officer may grant interim permits to stabilize and mitigate immediate and serious threats to public safety in extenuating circumstances such as acts of god, fire, or earthquakes. Upon expiration of the interim permit, any subsequent actions taken that are actions subject to review shall be subject to the HPP process pursuant to this Article.

Division 4.6.07 Missoula Inventory of Historic Resources

Section 4.6.07-A. Designation Criteria for an Historic Resource

1. The City recognizes that within its jurisdiction there exists significant Historic Resources that should be protected. Accordingly, any property individually listed in the National Register of Historic Places (NRHP) is automatically classified as an Historic Resource, included in the Missoula Inventory of Historic Resources, and wherein some or all of the standards of this Article apply. The City also recognizes that the federal process of listing a property in the National Register does not require that the property be protected, thus creating the need for local protection of Historic Resources.
2. The City may also choose to classify any contributing or non-contributing resource in an historic district listed in the National Register of Historic Places as an Historic Resource through the adoption of an Historic Resource Overlay per Division 4.6.08.
3. The federal criteria for evaluating Historic Resources are the following:
 - (a) The quality of the significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:
 1. That are associated with events that have made a significant contribution to the broad patterns of our history; or
 2. That are associated with the lives of persons significant in our past; or
 3. That embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
 4. That have yielded or may be likely to yield, information important in prehistory or history.

Section 4.6.07-B. City Agencies

All City Agencies shall consult the Missoula Inventory of Historic Resources before commencing or permitting any action that might adversely affect an Historic Resource.

Section 4.6.07-C. Delisting of Historic Resources

The City Council may initiate removal of an Historic Resource from the Missoula Inventory of Historic Resources if the Historic Resource no longer satisfies the criteria set forth in Section 4.6.07.A.

Division 4.6.08 Historic Resource Overlays**Section 4.6.08-A. Purpose**

1. The City recognizes that the historic and architectural resources of the City are among its most important assets. It is the purpose of the Historic Resource Overlay (/HRO) to:
 - (a) Identify, preserve, and protect areas of historical, architectural, cultural or archeological significance within the City;
 - (b) Maintain the unique character and heritage of historically significant neighborhoods, structures, and sites, while promoting the appropriate management of change and encouraging compatible development;
 - (c) Promote adaptive reuse of historic buildings as part of Missoula’s broader goals in supporting historic preservation, environmental sustainability , and economic and community development;
 - (d) Foster civic pride, support heritage tourism, encourage investment in historic properties, and ensure that future growth respects and enhances the City’s historical legacy; and
 - (e) By furthering such purposes, to promote the public welfare, to strengthen the cultural and educational life of the City, and to make the City a more desirable place in which to live and work
2. This Division establishes the general authority and procedures for establishing the Historic Resource Overlay regulation, herein referred to as /HRO.

Section 4.6.08-B. Selection Criteria

A Historic Resource Overlay (/HRO) may be established to preserve:

1. Any historic district listed in the National Register of Historic Places or Missoula Inventory of Historic Resources; or
2. Properties and/or landmarks that are individually listed in the National Register of Historic Places or Missoula Inventory of Historic Resources; or
3. Any contributing or non-contributing property within a historic district listed in the National Register of Historic Places or Missoula Inventory of Historic Resources.
4. Requirements for establishing an /HRO will vary from one context to another and will be assessed on a district-by-district basis. Each /HRO is unique and shall be reviewed as it relates to public health, safety and general welfare, as well as its contribution to the preservation of historic buildings.

Section 4.6.08-C. Establishment of an Historic Resource Overlay (/HRO)

1. Historic Resource Overlay (/HRO) regulations and map must be established or amended in accordance with the zoning district amendment procedures of Division 4.15.03.
2. To be designated as an /HRO, the buildings, sites, landmarks, structures, landscapes, properties, or objects proposed for inclusion within the /HRO must be deemed to be of significance in terms of prehistoric, historic, architectural, archeological or cultural value. Such districts must also possess integrity of design, setting, workmanship, materials, feeling, and/or association.
3. Each /HRO shall be designated by a separate ordinance approved by City Council. Such an ordinance shall establish the boundaries of the district and include any applicable design and development standards and regulations.
4. /HRO regulations apply in combination with underlying (base) zoning district regulations and all other applicable regulations of this Unified Development Code. When overlay district standards conflict with standards that would otherwise apply under this Unified Development Code, the regulations of the overlay zoning district govern. Otherwise, all applicable regulations of this Unified Development Code apply in overlay districts.
5. Any alteration, new construction, or proposed demolition or relocation within an /HRO shall be subject to Division 4.6.03 and 4.6.04, as applicable.

Section 4.6.08-D. Uses

An Historic Resource Overlay (/HRO) is an overlay on existing zoning districts. Uses allowed by the underlying zoning district are allowed in the /HRO unless expressly modified when the specific /HRO is adopted.

Section 4.6.08-E. Development and Design Standards

1. In establishing an Historic Resource Overlay, the City Council is authorized to adopt specific design and development standards to guide development and redevelopment within the subject /HRO.
2. When development and design standards have been approved, each application for new construction or structural alteration of an existing building within the designated /HRO must substantially comply with those standards.

Section 4.6.08-F. Procedure

Historic Resource Overlay (/HRO) regulations and map must be established or amended in accordance with the zoning district amendment procedures of Division 4.15.03. Additionally, the Planning Administrator's recommendation to apply an /HRO must be accompanied by a report containing the following information:

1. A map showing the recommended boundaries of the /HRO;
2. An explanation of how the area meets the selection criteria of Section 4.6.08-B and Section 4.6.08-C.2;
3. Any recommended overlay-specific development and design standards applicable to development and redevelopment within the overlay;
4. An explanation of the planning and zoning implications related to the designation of the proposed area and application of the district-specific development and design standards; and
5. Documentation that the Historic Preservation Officer has determined that the area qualifies for an /HRO.

Section 4.6.08-G. Overlays Established

The City’s Historic Resource Overlays are listed below:

Table 4.6.08-1: Historic Resource Overlays

Map Symbol	District Name	Regulations
/HRO-FM	Fort Missoula Historic Resource Overlay	Section 4.6.08-H
/HRO-RB	Roosevelt Block Historic Resource Overlay	Section 4.6.08-I
/HRO-MH	Marshall House Historic Resource Overlay	Section 4.6.08-J
/HRO-SA	Sacajawea House Historic Resource Overlay	Section 4.6.08-K

Section 4.6.08-H. HRO-FM Fort Missoula Historic Resource Overlay

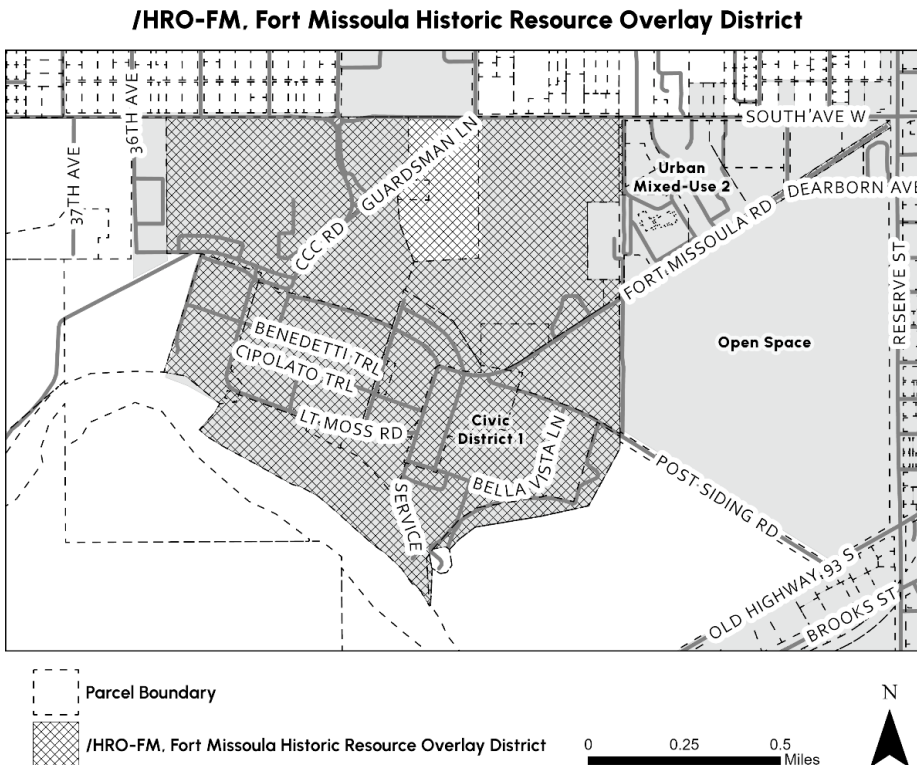
1. **Purpose**

The /HRO-FM, Fort Missoula Historic Resource Overlay, is intended to protect buildings and grounds in the Fort Missoula area from modifications that obscure or eradicate significant features of their historic character; to promote restoration and continued maintenance, and to protect the district from the effects of incompatible development.

2. **Location**

A map of the /HRO-FM follows:

Figure 4.6.08-1: /HRO-FM



3. **Applicability**

The regulatory area is that area listed in the National Register of Historic Places, including the cemetery.

4. **Permitted and Prohibited Uses**

Uses allowed by the underlying zoning district are allowed in the regulatory area of the /HRO-FM overlay district unless expressly prohibited in this section.

(a) Prohibited uses are:

1. Sewage treatment plants;
2. Public or private zoos;
3. Crematories;
4. Airports and landing fields;
5. Medium to Large entertainment spectator sports;
6. Establishments that sell or serve liquor, beer or wine, or provide gambling facilities;
7. The cultivation, manufacturing or sale of cannabis and cannabis products;
8. Detention and correctional facilities;
9. Financial services and retail sales establishments unless Section 4.6.08-H.5 applies;
10. Solar energy conversion system; and
11. Wind energy conversion system.

(b) Permitted uses include the following:

1. Offices;
2. Community residential facilities serving eight or fewer residents;
3. Library/cultural exhibits;
4. Day Care Center;
5. Artist work or sales space;
6. Restaurants, except alcohol serving establishments and food truck parks; and
7. Personal Improvement Services

5. Adaptive Reuse

Adaptive reuse is intended to facilitate the adaptation and continuing use of historically significant buildings in the community. Under the guidance of these regulations and historic preservation review, additional uses listed below may be allowed on properties that would not ordinarily permit them, with the exception of prohibited uses. Adaptive reuse projects must still meet the intent and substantially comply with the criteria of this Section and all applicable standards of Division 4.06.03 and Division 4.06.04, as applicable.

(a) Permitted adaptive reuse uses are the following:

1. Retail sales establishments, except adult entertainment and cannabis dispensaries;
2. Food and beverage retail sales, except establishments that sell or serve liquor, beer or wine;
3. Financial services, except pawnshops, consumer loan agencies, payday loan stores and drive-thru services;
4. Lodging, except recreational vehicle parks and tourist homes.

6. Historic Preservation Permits

In order to preserve the historical integrity of the fort environs, any development or structural alteration requiring a building permit within the /HRO-FM must be reviewed by the Historic Preservation Officer for an historic preservation permit.

- (a) An historic preservation permit is required for any activity that requires a zoning compliance permit. Historic Preservation Permit submittal requirements are described in Division 4.06.03 and Division 4.06.04.
- (b) Appeals of decisions of the Historic Preservation Officer may be made to the Planning Commission, as provided in Article 2.4 of this UDC.

7. **Review Criteria**

All structures must be built with the consideration that they are in an historic district. In addition to the review criteria that apply for all historic resources (Division 4.06.03 and Division 4.06.04), proposals in the Fort Missoula Historic Resource Overlay must be reviewed for compliance with the Development Standards for the Fort Missoula Historic Resource Overlay.

8. **Designated Cultural Resources**

The National Register of Historic Places nomination provides information about the nature of the site and buildings, including contributing elements, in the area.

9. **Development Standards for the Fort Missoula Historic Resource Overlay**

(a) **Intent**

The standards are not intended to limit growth or regulate where growth and development take place. They address only the visual impact of growth. The foundation of the intent of the district's development standards is to be concerned not specifically with styles, periods, or architectural themes, but with relationships of spaces, building details, and streetscape. The final result of development within the district is to represent the construction of buildings that, while modern and contemporary, retain reference and regard for the context within which they are placed. The goal, finally, is the creation of strong visual continuity within the context of contemporary design solutions, playing upon and within historic themes, so that ultimately the development is recognized as a product of the present and not a false product of the past.

1. It is the purpose of these standards to:
 - a. Reinforce the character of the historic Fort Missoula area, and to protect its visual aspects;
 - b. Improve the quality of growth and development;
 - c. Protect the value of public and private investment which might otherwise be threatened by the undesirable consequences of poorly managed growth;
 - d. Provide a tool for designers and their clients to use in making preliminary design decisions; and
 - e. Encourage the development of an architecture that employs major elements that characterize those structures created between 1910 and 1912 in the Fort, but not to result in imitations of this architecture or in the creation of pseudo-old buildings.

(b) **General Historic Context**

1. Fort Missoula, which was first listed in the National Register of Historic Places in 1987, retains the highest degree of historic architectural integrity in the portion of the historic district in the immediate vicinity of the 20th century parade ground. This area was developed between 1900 and 1912 and is characterized by the primarily Mission Revival architecture of the buildings that face the parade ground.
2. These structures are made of reinforced concrete, with the color and texture provided by the broad red tiled hipped roofs. The roof eaves exhibit exposed rafters well beyond the walls of the buildings, and the walls of the structures continue upwards in places forming step parapets and evidence minimal surface ornamentation, such ornamentation consisting primarily of plain string courses that outline gables, balconies, and windows. The architecture of these structures is unique to this region, as Mission Revival architecture had little, if any, precedent in the Northern Rockies at the time of the Fort's construction.
3. Therefore, the development standards for this district have been established according to the principle that the Fort's architecture should not be challenged in its uniqueness. Genuinely historic structures are irreplaceable. Any attempts to duplicate or imitate them with new construction would lessen our understanding of the historic context of the Fort's architecture, diminish the original architectural statement, and would be a poor tribute to their value.

(c) Development Standards

These development standards protect the district from the effects of incompatible development. Particular attention should be paid to the appearance of any new development as it is seen by pedestrians so that there will be a sense of scale appropriate and inviting to the pedestrian. The existing structures should provide a point of departure and reference for the design and development of new structures within the project area.

1. General Site Development

New development shall incorporate the following major site development design aspects as observed in the Fort area:

- a. The existing pattern of regularity in the placement of structures and the spaces between them, front yard setbacks, and type, placement and size of landscape elements;
- b. All on-site parking should be located out of public view as much as possible and should not be at the expense of public on-street parking;
- c. Curb cuts should not be allowed to interrupt the regular placement of boulevard plantings or other site development items, unless required for accessibility;
- d. Cooperative parking between adjacent landowners will be encouraged, and the placement of parking will be done with the goal of minimizing the impact of the automobile on the pedestrian boulevard presentation

2. General Building Development

- a. New structures, development and alterations to existing structures shall take into account existing alignments, patterns, shapes, sizes and other elements that help define the distinct character of what already exists when considering the following:
 - i. Height, scale, setback, rhythm, materials, patterns, textures, details, roof shapes, color.
 - b. Use of materials shall be similar to those historically relevant materials used already.
 - c. All buildings shall have an entry statement visible from the street, including at least a porch.
3. Four terms will be very useful to identify basic relationships among buildings and spaces without specific references to styles of architecture: pattern, alignment, size, and shape. These terms are defined in Division 4.6.02.
 4. All of these different elements need to be developed in place with a sense of alignment, relationship, and continuity, so that there is a sense of unity among all elements, sites, and structures.

10. Maintenance Requirement

Nothing in this overlay district shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this UDC that does not involve a change in design, material, or external appearance, nor do these standards prevent the construction, reconstruction, alteration, restoration, demolition or removal of any feature when a City of Missoula Building Inspector certifies that such action is required for the public safety due to unsafe or dangerous conditions.

Section 4.6.08-I. HRO-RB Roosevelt Block Historic Resource Overlay

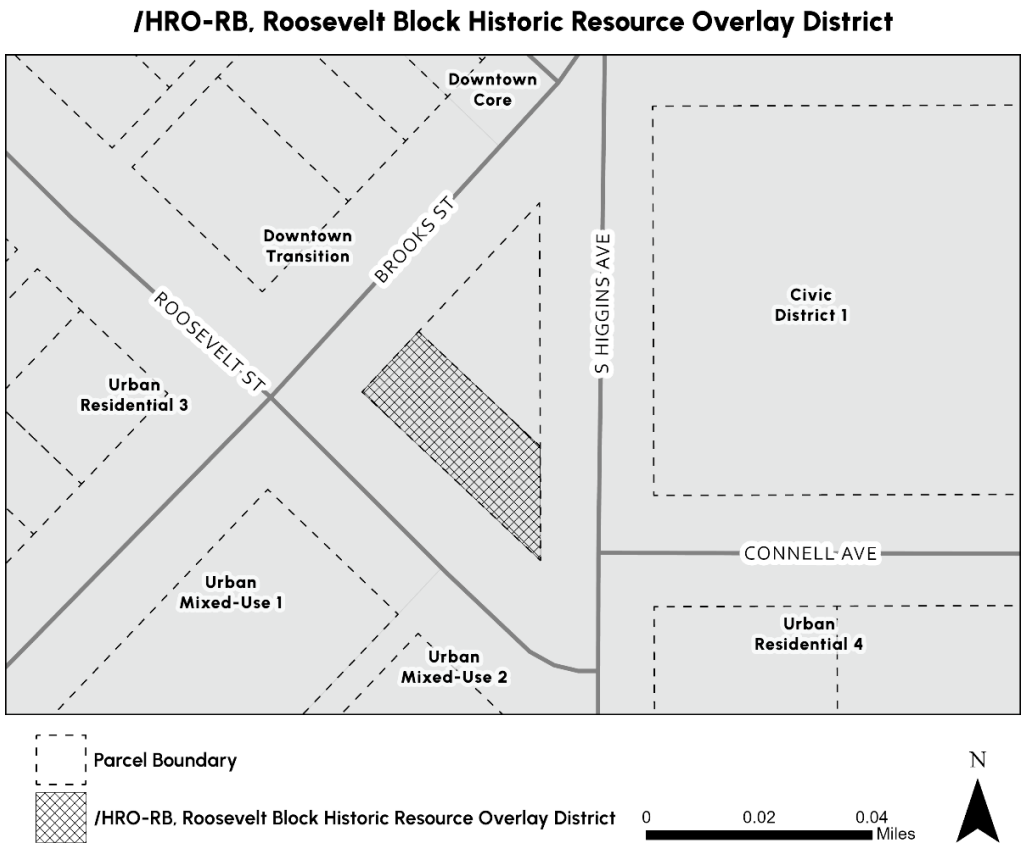
1. Purpose

The purpose of this overlay is to provide for the conservation, enhancement, and use of the University Apartments, at 400 – 422 Roosevelt, as a structure that is listed in the National Register of Historic Places and reflects special elements of the city’s heritage. Furthermore, any new construction within this overlay should be compatible with the aesthetic and historic elements of the University Apartments.

2. Location

This overlay district applies to Lots 6 – 14, Block 1, South Missoula Addition.

Figure 4.6.08-2: /HRO-RB



3. Applicability

Any new construction, demolition or alterations which affect exterior appearances within this district shall require a Historic Preservation Permit. A complete building permit submittal for construction within this district shall include an approved Historic Preservation Permit.

4. Historic Preservation Permits

Any new construction, demolition or alterations which affect the exterior appearance within this district shall require a Historic Preservation Permit. A complete building permit submittal for construction within this district shall include an approved Historic Preservation Permit.

- (a) An Historic Preservation Permit is required for any activity that requires a building permit or zoning compliance permit. Historic Preservation Permit submittal requirements are described in Division 4.06.03 and Division 4.06.04.

- (b) In addition to the review criteria that apply for all historic resources (Division 4.06.03 and Division 4.06.04), any application for a permit for construction of a new building or structure within this district, or alteration or demolition of the University Apartments, shall be subject to the criteria contained in Section 4.6.08-I.5 and shall be reviewed by the Historic Preservation Officer.
- (c) Appeals of decisions of the Historic Preservation Officer may be made to the Planning Commission as provided in Article 2.4 of this UDC.

5. Review Criteria

- (a) The Historic Preservation Officer shall review each application for a permit using the following applicable provisions:
 1. The historical and architectural characteristics of the University Apartments which make them unique shall be preserved and any changes shall be compatible with the character of the structures located within this district.
 2. No specific architectural style shall be required for the design of a new building or other structures within the /HRO; however, such buildings and structures shall be compatible with the character of the University Apartments, the Historic Southside Neighborhood and the University Area Historic District.
- (b) The following elements shall be considered by the Historic Preservation Officer when reviewing a permit application:
 1. Height: The relationship between the proposed height of alterations or new construction to the height of the University Apartments. New construction or alterations may exceed the height standards of the underlying zoning district if the proposed design is compatible with structures located within the /HRO-RB and parking is located underground.
 2. Setbacks: The relationship between the setbacks proposed for alterations or new construction to the prevailing setbacks existing within the /HRO-RB. New construction shall be compatible with the historic development pattern and may encroach into the setback areas designated by the underlying zoning district.
 3. Proportion: The relationship between the height and width of the front elevation of the building on the street or publicly visible frontages;
 4. Recurrent patterns of openings on the front façade;
 5. Roof types;
 6. Surface textures and material of buildings;
 7. Projects and recessions: The presence or absence of porches, steps, awnings, overhangs, etc.;
 8. Architectural details: Cornices, lintels, arches, grill work, shutters, etc.;
 9. Parking lot and parking structure design: The University Apartments shall not be demolished to produce a parking lot.

6. Maintenance Requirement

Nothing in this overlay district shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this UDC that does not involve a change in design, material, or external appearance, nor do these standards prevent the construction, reconstruction, alteration, restoration, demolition or removal of any feature when the building inspector certifies that such action is required for the public safety due to unsafe or dangerous conditions.

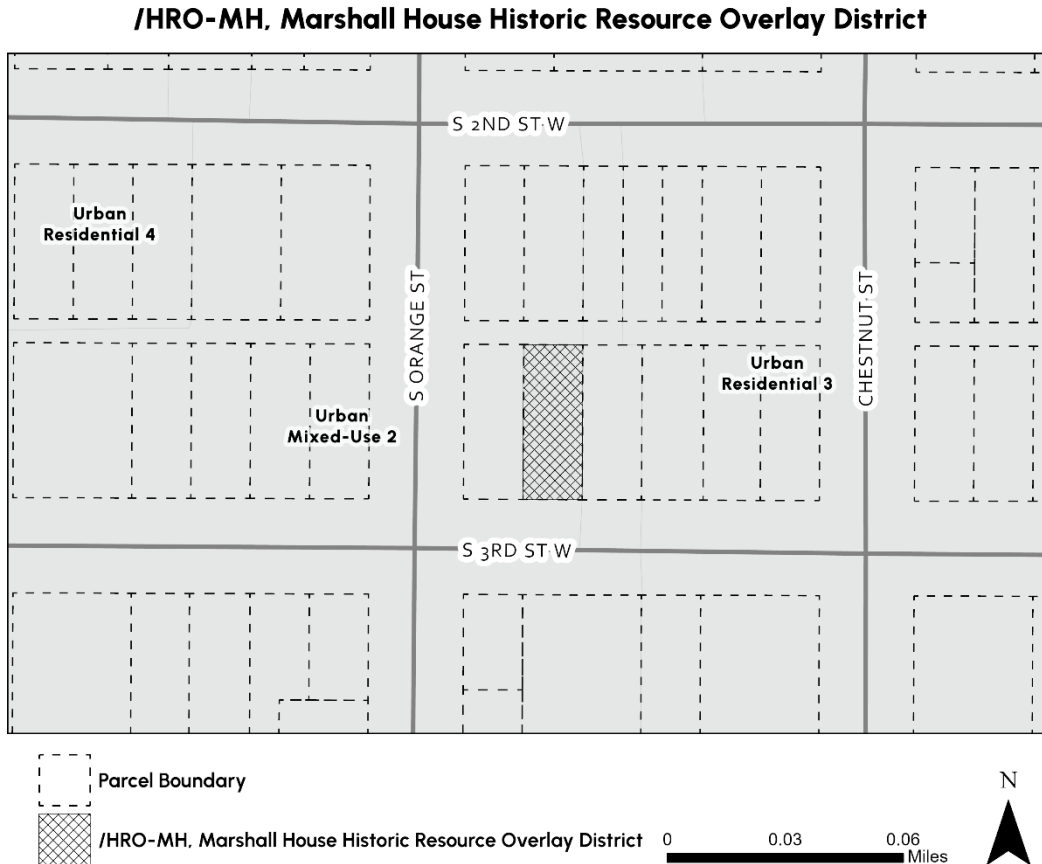
Section 4.6.08-J. HRO-MH Marshall House Historic Resource Overlay

1. Purpose

This overlay provides for the conservation, enhancement, and use of the Marshall House, as a structure that is listed on the National Register of Historic Places and reflects special elements of the city’s heritage. Any new construction or exterior alterations within this district should reflect and be compatible with the aesthetic and historic elements of 436 South Third Street West and the Historic Southside Neighborhood.

2. Location

Figure 4.6.08-3: /HRO-MH



3. Applicability

The provisions of this special district shall be applicable to Lot 8, Block 33, Knowles #1, commonly known as the Marshall House and located at 436 South Third Street West.

4. Historic Preservation Permits

Any new construction, demolition or alterations which affect the exterior appearance within this district shall require a Historic Preservation Permit. A complete building permit submittal for construction within this district shall include an approved Historic Preservation Permit.

- (a) An Historic Preservation Permit is required for any activity that requires a building permit or zoning compliance permit. Historic Preservation Permit submittal requirements are described in Division 4.06.03 and Division 4.06.04.
- (b) In addition to the review criteria that apply for all historic resources (Division 4.06.03 and Division 4.06.04), any application for a permit for construction of a new building or structure within this district,

or alteration of an existing building structure, shall be subject to the criteria contained in Section 4.6.08-J.5 and shall be reviewed by the Historic Preservation Officer.

- (c) Appeals of decisions of the Historic Preservation Officer may be made to the Planning Commission as provided in Article 2.4 of this UDC.

5. Review Criteria

- (a) **The Historic Preservation Officer shall review each application for a permit using the following applicable provisions:**

1. The historical and architectural characteristics of the existing structure at 436 South Third Street West that make it unique shall be preserved and any changes shall be compatible with the character of the structures located within the Historic South Side Neighborhood.
2. No specific architectural style shall be required for the design of a new building or other structures within this district. However, such buildings and structures shall generally conform to the character of the existing structure at 436 South Third Street West and the Historic Southside Neighborhood.

- (b) **The following elements shall be considered by the Historic Preservation Officer when reviewing a permit application:**

1. Height: The relationship between the proposed height of alterations or new construction to the height of the existing structure at 436 South Third Street West. New construction or alterations may exceed the height standards of this district if the proposed design is compatible with structures located within this district and approved by the Historic Preservation Officer.
2. Setbacks: The relationship between the setbacks proposed for alterations or new construction to the prevailing setbacks existing within this district. New construction or alterations may encroach into the setback areas designated by this district if the proposed design is compatible with the development pattern of this district.
3. Proportion: The relationship between height and width of the front elevation of the building on the street or publicly visible frontages;
4. Recurrent pattern of openings in the front facade;
5. Roof types;
6. Surface texture and material of buildings;
7. Projections and recessions: The presence or absence of porches, steps, awnings, overhangs, etc.;
8. Architectural details: Cornices, lintels, arches, grill work, shutters, etc.
9. Parking lot and parking structure design: The existing structure at 436 South Third Street West shall not be demolished to produce a surface parking lot.

- (c) **Space and Bulk Requirements**

1. Minimum Required Yard

a. Front

Except as provided in Section 4.6.08-J.5(b), there shall be a front yard having a depth of not less than twenty feet. Where there are lots comprising forty (40) percent or more of the frontage developed with buildings between cross streets, having an average front yard with a variation in depth of not more than six (6) feet, no building, hereafter erected or altered, shall project beyond the front yard line so established; provided further, that this regulation shall not require a front yard of more than thirty (30) feet in depth.

b. Side

There shall be a side yard of not less than the side yard of the structure existing at the time of the adoption of this district. Any new or replacement structure shall have a side yard of not less than five (5) feet or one third of the height of the building, whichever is greater.

c. Rear

Except as provided in Section 4.6.08-J.5(b), there shall be a rear yard having a depth of not less than twenty (20) feet.

2. Accessory buildings incidental to the permitted uses and located on the same lot including one private garage shall be not less than five (5) feet from the rear lot line.

3. Minimum lot area

- a. Every residence, duplex or other building to be erected, structurally altered or maintained for one or more of the uses permitted in this district shall provide a lot area of not less than two thousand seven hundred (2,700) square feet per dwelling unit, or larger to comply with the land use plan. In no event shall the overall lot area be less than five thousand four hundred (5,400) square feet.

4. Maximum building height

- a. Except as provided in Section 4.6.08-J.5(b), no building shall exceed thirty (30) feet or two (2) stories in height, whichever is less.

(d) Additional Standards

1. Landscaping shall conform to the site plan. The boulevard area along South Third Street West shall be landscaped with lawn or vegetative ground cover and shall include street trees at an average of forty-five (45) feet on center, subject to approval of the Urban Forester and the City Engineer.
2. There shall be no outside storage or display of material, merchandise or equipment.
3. Four (4) paved, off-street parking spaces shall be provided in the rear of the lot, as shown on the site plan.
4. Handicap accessibility shall be provided.
5. Signage shall be limited to one sign, integrated architecturally with the building and attached to the building. The sign shall not exceed eight (8) square feet.

6. Maintenance Requirement

Nothing in this district shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property in this district that does not involve a change in design, material, or external appearance, nor do these standards prevent the construction, reconstruction, alteration, restoration, demolition or removal of any feature when the building inspector certifies that such action is required for the public safety due to unsafe or dangerous conditions.

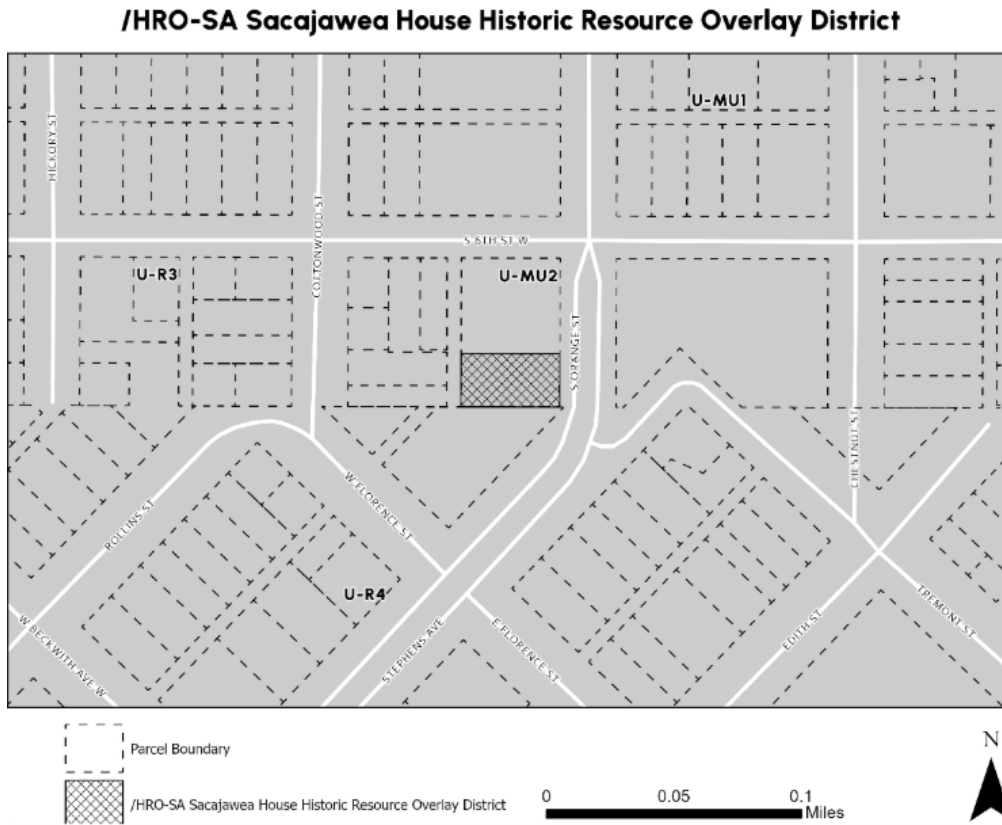
Section 4.6.08-K. HRO-SA Sacajawea House Historic Resource Overlay**1. Purpose**

This overlay provides for the conservation, enhancement, and use of the historic home located at 821 S. Orange Street, as a structure that is listed on the National Register of Historic Places. The historic residence has retained its original design and materials, which contributes to the historic elements of the neighborhood. Any new construction or exterior alterations within this overlay should reflect and be compatible with the aesthetic and historic elements of 821 S. Orange Street and the McCormick Historic District.

2. **Location**

This overlay applies to Knowles #2-S1/2 of Lot 5, all of 6 & 7 Block 80.

Figure 4.6.08-4: /HRO-SA



3. **Applicability**

Any new construction, demolition, or alterations which affect exterior appearances within this district, shall require an Historic Preservation Permit. A complete building permit submittal for construction within this district shall include an approved Historic Preservation Permit. The garage is an exemption and may be demolished without an Historic Preservation Permit.

4. **Historic Preservation Permits**

Any new construction, demolition, or alterations which affect exterior appearances within this district, shall require an Historic Preservation Permit.

- (a) An Historic Preservation Permit is required for any activity that requires a building permit or zoning compliance permit. Historic Preservation Permit submittal requirements are described in Division 4.6.03 and Division 4.6.04.
- (b) In addition to the review criteria that apply for all historic resources (Division 4.06.03 and Division 4.06.04), any application for a permit for construction of a new building or structure within this district, or alteration or demolition of the existing structure at 821 S. Orange Street, shall be subject to the criteria contained in Section 4.6.08-K.5 and shall be reviewed by the Historic Preservation Officer.
- (c) Appeals of decisions of the Historic Preservation Officer may be made to the Planning Commission as provided in Article 2.4 of this UDC.

5. Review Criteria

- (a) The Historic Preservation Officer shall review each application for a permit using the following applicable provisions:
1. The historical and architectural characteristics of 821 S. Orange Street which make it unique shall be preserved and any changes shall be compatible with the character of the structures located within this district.
 2. No specific architectural style shall be required for the design of a new building or other structures within the /HRO; however, such buildings and structures shall be compatible with the character of the neighborhood.
- (b) The following elements shall be considered by the Historic Preservation Officer when reviewing a permit application:
1. Height: The relationship between the proposed height of alterations or new construction to the height of the existing structure at 821 S. Orange Street. New construction or alterations may exceed the height standards of the underlying zoning district if the proposed design is compatible with structures located within this district and approved by the Historic Preservation Officer.
 2. Setbacks: The relationship between the setbacks proposed for alterations or new construction to the prevailing setbacks existing within this district. New construction or alterations may encroach into the setback areas designated by this district if the proposed design is compatible with the development pattern of this district.
 3. Proportion: The relationship between the height and width of the front elevation of the building on the street or publicly visible frontages;
 4. Recurrent patterns of openings on the front façade;
 5. Roof types;
 6. Surface textures and material of buildings;
 7. Projects and recessions: The presence or absence of porches, steps, awnings, overhangs, etc.;
 8. Architectural details: Cornices, lintels, arches, grill work, shutters, etc.;
 9. Parking lot and parking structure design: The existing structure at 821 S. Orange Street shall not be demolished to produce a surface parking lot.

6. Maintenance Requirement

Nothing in this overlay district shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on any property covered by this UDC that does not involve a change in design, material, or external appearance, nor do these standards prevent the construction, reconstruction, alteration, restoration, demolition or removal of any feature when a City of Missoula Building Inspector certifies that such action is required for the public safety due to unsafe or dangerous conditions.



Article 4.7

BUILDING STANDARDS

Article 4.7

BUILDING STANDARDS

Division 4.7.01 General

Section 4.7.01-A. Purpose

1. **Purpose**

The purpose of the Building Standards article is to establish a clear and consistent framework for regulating the physical form and scale of buildings that are allowed throughout the city and support Missoula's long-term vision for equitable, sustainable, and context-sensitive development.

2. **Description**

This article is organized by building type, ranging from small, house-scale structures to larger, block-scale buildings, and includes both residential and non-residential building types. Each type has distinct characteristics such as width, height, connections to the street, and number of units allowed. Zoning districts determine where each building type is allowed and establish additional standards, when needed, to ensure compatibility across a range of contexts.

3. **Standards Overview**

It is the intent of this chapter that any use/development must be reviewed under one of the building types listed below. For each building type, this article includes a written description, illustrative diagram, and in some cases additional standards or exceptions to standards of the zoning district. These standards are calibrated to provide flexibility within defined ranges and reinforce the intended development patterns described in the City's Land Use Plan.

Division 4.7.02 Building Types

The following buildings are allowed as described in each zoning district.

1. **Residential Building Types:**

- (a) One-unit House
- (b) Duplex
- (c) Cottage Court
- (d) Rowhouse
- (e) Apartment Building
- (f) Neighborhood Commercial Building

2. **Other Building Types:**

- (a) Accessory Structure
- (b) Mixed-Use Building
- (c) General Building
- (d) Civic Building

Section 4.7.02-B. One-unit House

1. Applicability

The building standards provided in the table below apply to development of one-unit houses. All new development must comply with the standards of this section.

2. Description:

A One-Unit House is a standalone primary structure with no shared walls comprised of one dwelling unit. It typically has front, side, and rear yards and an entrance visible from the street. Garages may be attached to or detached from the primary structure and accessed from an alley or driveway. A one-unit house building type is associated with stick-built single dwellings, manufactured housing and modular single dwelling units, tiny houses as defined in Appendix Q of the International Residential Code, as well as single-residence occupancy (SRO) and group living facilities.

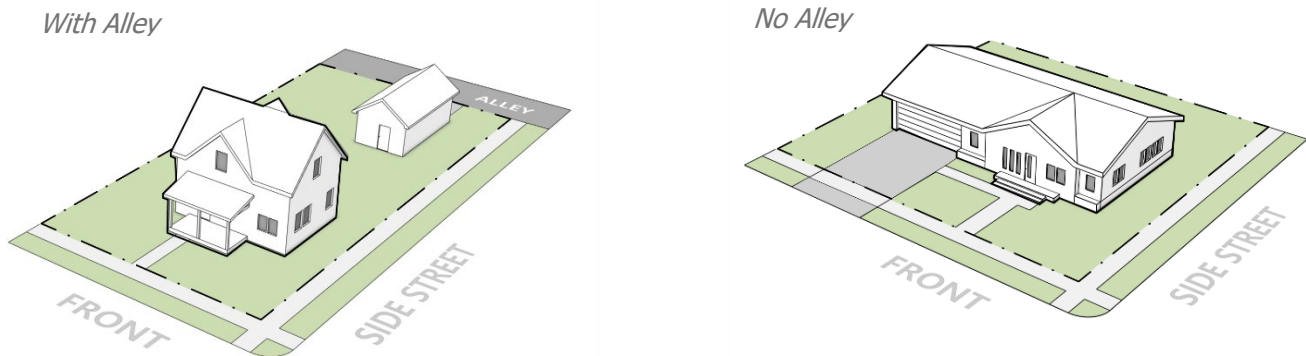
3. Manufactured Housing and Mobile Homes

- (a) All manufactured housing must be built to construction standards established by the United States Department of Housing Land and Urban Development (HUD) and bear certification to that effect.
- (b) Mobile homes or manufactured housing that are not constructed pursuant to HUD standards or which do not possess a HUD certification shall not be moved into the City and utilized for residential purposes. All current-ly noncompliant mobile homes already located within City limits now or at the time of annexation may continue to be located or relocated within the City and utilized for residential purposes.
- (c) For additional information, see the definitions for Manufactured Housing and Mobile Home

Table 4.7.02-1 One Unit House Building Standards

Building Standards	
Number of Units per Building	1
Building Placement	See Zoning District
Building Form and Components	Not required

Figure 4.7.02-1 One-Unit House



Section 4.7.02-C. Duplex (2 units)

1. Applicability

The building standards provided in the table below apply to development of duplexes. All new development must comply with these standards.

2. Description

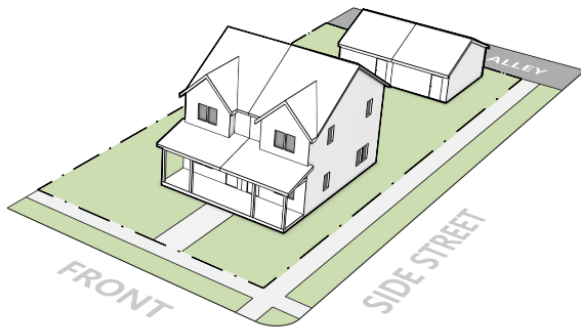
A Duplex is a standalone primary structure consisting of two side-by-side or stacked dwelling units. It typically has front, side, and rear yards (individual or shared) and at least one unit with an entrance visible from the street. Garages may be attached to or detached from the primary structure and accessed from an alley or a driveway.

Table 4.7.02-2 Duplex Building Standards

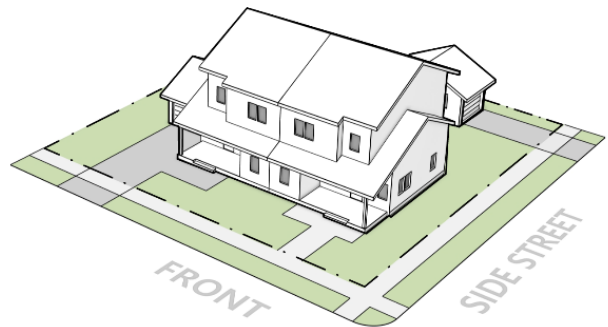
Building Standards	
Number of Units per Building	2
Building Placement	See Zoning Districts
Building Form and Components	Not required

Figure 4.7.02-2 Duplex

With Alley



No Alley



Section 4.7.02-D. Cottage Court (3-8 units)

1. Applicability

The building standards provided in the table below apply to development of cottage courts. All new development must comply with these standards. Multiple one-unit houses on a parcel are encouraged but are not required to be designed as a Cottage Court.

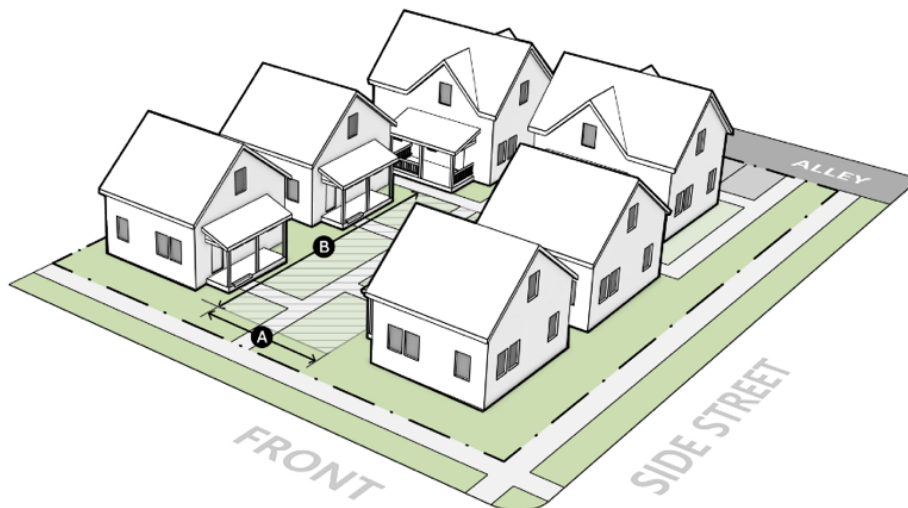
2. Description

A Cottage Court consists of a series of small, one-unit houses arranged to define a shared, semi-private court that opens to the street and provides access to each dwelling unit. Each dwelling unit has at least one entrance facing the shared court and/or the street. Garages are typically detached, and parking areas are typically located in the rear of the parcel and accessed from an alley or shared driveway. A Cottage Court may be configured with all dwelling units on one parcel or each dwelling unit on its own parcel.

Table 4.7.02-3 Cottage Court Building Standards

Building Standards		
Number of Units per Building	3 min / 8 max See Zoning District	
Building Placement	See Zoning District	
Building Form and Components	See Zoning District	
Separation between dwelling units (min)	5 ft	
Shared Court Width	A (min)	25 ft
Shared Court Depth	B (min)	30 ft

Figure 4.7.02-3 Cottage Court



Section 4.7.02-E. Rowhouse (3+ units)

1. Applicability

The building standards provided in the table below apply to development of rowhouses. All new development must comply with these standards.

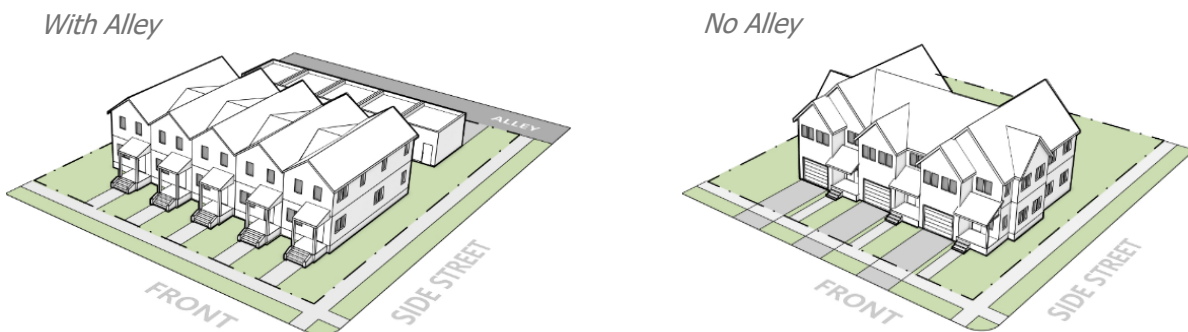
2. Description

A Rowhouse is a standalone primary structure consisting of 3 or more attached dwelling units with shared sidewalls. Each dwelling unit has an individual entrance facing a street or shared open space. Garages may be attached to or detached from the primary structure and accessed from an alley or shared driveways. A Rowhouse may be configured with all dwelling units on one parcel or each dwelling unit on its own parcel.

Table 4.7.02-4 Rowhouse Building Standards

Building Standards		
Number of Units per Building	3 min, See Zoning District	
Building Placement	See Zoning District	
Building Form and Components	See Zoning District	
Entrances	Each unit must have a separate ground-floor entrance that is on the facade adjacent to the street or right-of-way (other than an alley). Parcels with less than 10 feet of frontage on a street are exempt from the entrance requirement.	
Garages	When garages face the street, no more than two garage doors may face the street in succession.	
Total Transparency of all Facades: Street Facing/Non-street facing (min %)	12% / 8% (Applies to 4+ units)	The required transparency for non-street facing facades is measured cumulatively, not singularly to each individual façade. Zero lot line facades are exempt from the calculation.

Figure 4.7.02-4 Rowhouse



Section 4.7.02-F. Apartment Building (3+ units)

1. **Applicability**

The building standards provided in the table below apply to development of apartment buildings. All new development must comply with these standards.

2. **Description**

An Apartment Building is a medium to large-sized standalone primary structure consisting of multiple attached dwelling units with one or more shared entrances visible from the street.

Table 4.7.02-5 Apartment Building Standards

Building Standards		
Number of Units per Building	3 or more units, See Zoning District	
Building Placement	See Zoning District	
Building Form and Components	See Zoning District	
Entrances	At least one shared building entrance must be provided on the facade adjacent to the street or right-of-way (other than an alley). The entrance must be covered and at least six (6) feet deep. Parcels with less than 10 feet of frontage on a street are exempt from the entrance requirement below.	
Total Transparency of all Facades: Street Adjacent/Non-street Adjacent (min %)	12% / 8% (Applies to 4+ units)	The required transparency for non-street facing facades is measured cumulatively, not singularly to each individual façade. Zero lot line facades are exempt from the calculation.

Figure 4.7.02-5 Apartment Buildings



Section 4.7.02-G. Neighborhood Commercial Building

1. Applicability

The building standards and building clarifications provided in the table below apply to development of neighborhood commercial buildings. All new development must comply with these standards

2. Description

A Neighborhood Commercial building is a small standalone or mixed-use primary structure consisting of commercial uses that are appropriate in residential areas and support neighborhood vitality and walkability. Parking areas are in the rear or side of the parcel and accessed from an alley or a shared driveway.

3. Lot Requirement

New neighborhood commercial structures are only permitted on corner lots. For conversion of structures on mid-block lots to neighborhood commercial, see Table 4.7.02-6.

Table 4.7.02-6 Neighborhood Commercial Building Standards

Building Standards	
Number of Units per Building	See Zoning District
Building Placement	See Zoning District
Setback Exemption	Exempt from Front and Side Street setbacks in the U-R4 and LU-R2 Districts
Building Form and Components	See Zoning District
Building Specific Standards:	
Size: New Structure	Urban Residential Zoning Districts are limited to 2,000 sf
	Limited Urban and Rural Zoning Districts are limited to 3,500 sf
Size: Conversion of Existing Structure	When an existing structure that was built prior to 2026 is converted to a neighborhood commercial building, there is no limit to the allowed floor area. If the conversion adds to the floor area of the existing structure, the maximum size cannot exceed the square footage limits stated for new structures.
Entrance	In Urban Residential Zoning Districts, the primary entrance must be provided on the facade adjacent to the street or right-of-way (other than an alley).
Parking Access	Urban Residential Zoning Districts are exempt from minimum parking requirements.
	In Limited Urban and Rural Zoning Districts, minimum off-street parking requirements apply.

Table 4.7.02-7 Neighborhood Commercial Building Type Clarifications

Figure 4.7.02-6 Neighborhood Commercial Building

Building Type Clarifications
Permitted Uses
See Article 4.8 for permitted uses.
Operational Standards
Hours of operation are limited to 7:00 am to 10:00 pm.
Delivery and loading activities must be directed to the adjacent street or alley.
Uses must comply with City noise ordinance.



Section 4.7.02-H. Accessory Structure

1. Applicability:

The building standards provided in the table below apply to development of accessory structures. All new development must comply with these standards.

2. Description

An Accessory Structure is subordinate to the principal building on a parcel and serves the occupants of the principal building. Examples include detached garages, sheds and other, standalone buildings on a parcel that do not contain a dwelling unit.

Figure 4.7.02-7 Accessory Structure

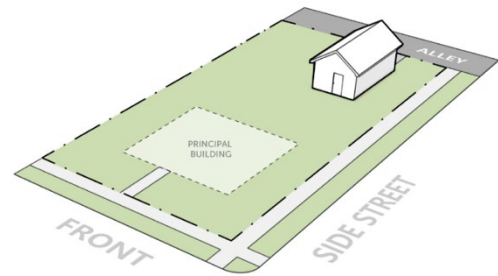


Table 4.7.02-8 Accessory Structure Building Standards

Building Standards	
Number of Units per Building	None
Building Placement	
Setbacks	See Zoning District for front and side street setbacks. Interior Side: 3 ft. Rear: 3 ft. no alley / 0 ft. abutting an alley.
Location	Accessory structures are prohibited in front and side street yards, and they may not be closer to the street than the principal building.
Building Coverage (Max)	50% of rear yard for all combined detached accessory structures
Standards for accessory structures for livestock or fowl.	Must be located: 100 feet from any dwelling unit under separate ownership from the accessory structure; 100 feet from any waterway; 50 feet from all property lines (This provision does not apply to accessory structures for the keeping of up to six chickens, in accordance with Title 6 of Missoula Municipal Code.)
Exceptions	Through lots are exempt from the Location standard above. Greenhouses are exempt from the Location and Building Coverage standards above.
Building Form and Components	Accessory structures are exempt from building form and component standards.
Height (Max)	25 ft
Permitting	Permitting is required for structures 200 sf or more.

Section 4.7.02-I. Mixed-Use Building

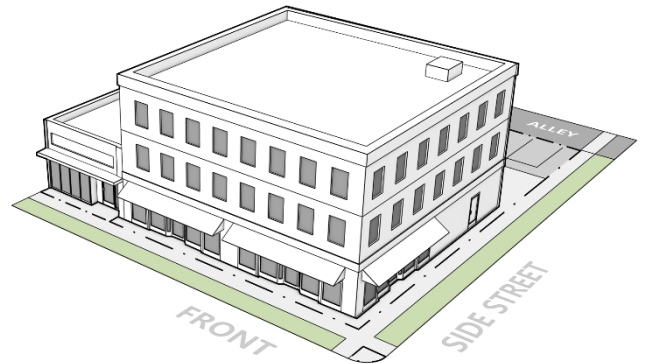
1. **Applicability**

Mixed-Use Buildings must comply with the standards of the zoning district.

2. **Description**

A Mixed-Use Building is a medium to large-sized standalone primary structure consisting of ground floor pedestrian oriented uses and commercial and/or residential uses on upper floors. Upper floor uses are typically accessed by a separate, common entry visible from the street that may be shared with other ground floor uses.

Figure 4.7.02-8 Mixed-Use Buildings



Section 4.7.02-J. General Building

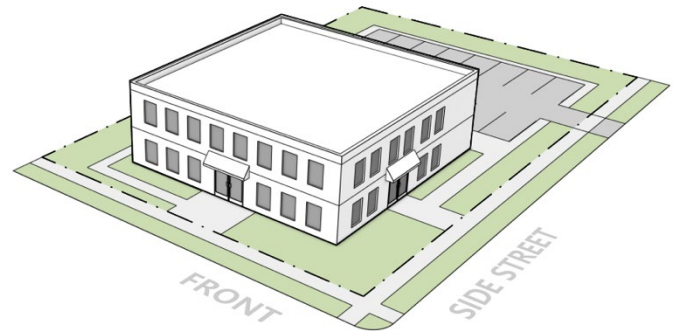
1. **Applicability**

General buildings must comply with the standards of the zoning district.

2. **Description**

A General Building is a medium to large-sized standalone primary structure with non-residential uses on all floors and has one or more shared entrances visible from the street. The building type is not for residential use.

Figure 4.7.02-9 General Building



Section 4.7.02-K. Civic Building

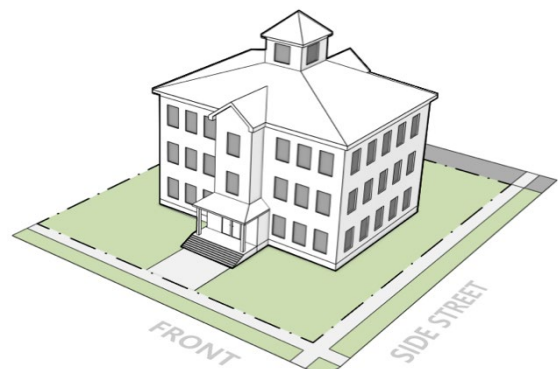
1. **Applicability**

Civic Buildings must comply with the standards of the zoning district.

2. **Description**

A Civic Building is a small to large-sized standalone primary structure with primarily civic uses with one or more shared entrances visible from the street. This building type is not for residential uses.

Figure 4.7.02-10 Civic Building



Article 4.8

USES

Division 4.8.01 General

Section 4.8.01-A. Purpose

The purpose of this article is to indicate which uses are permitted in each of the zoning districts, in compliance with the place types in the Land Use Plan. This article is also intended to describe use classifications along with use-specific standards.

Section 4.8.01-B. Use Groups

This article classifies land uses into seven major groupings: Residential, Public and Civic, Commercial, Industrial, Aviation, Temporary, and Other. These are collectively referred to as use groups.

Section 4.8.01-C. Use Categories

Each use group is further divided into more specific use categories. Use categories classify land uses based on common functional, product, or physical characteristics. These characteristics may include the type and intensity of activity, the type of customers or residents served, the method of goods or services sale and delivery, and relevant site conditions.

Section 4.8.01-D. Typical Uses

Typical uses listed within each use category are intended as illustrative examples. They are not exclusive or restrictive.

Section 4.8.01-E. Use Standards

Some uses have specific requirements associated with the particular use. Use-specific standards may be necessary in order to mitigate adverse impacts associated with a particular use, or to provide clarity on how zoning requirements are applied to a particular use. Use-specific standards are identified with the use classification definitions in Divisions 4.8.03 through 4.8.08.

Section 4.8.01-F. Interpretations

The Planning Administrator is authorized to classify specific uses into the appropriate use categories based on the descriptions in this article. When a specific use type does not clearly fall into a use category or appears to fit into multiple use categories, the Planning Administrator shall determine the most similar and appropriate use category using the following considerations:

1. The actual or anticipated characteristics of the use in relationship to those described for each use type;
2. The proportion of site area, floor area, and equipment devoted to the use;
3. The relative share of sales generated by the use;
4. The type of customer served;

5. The number of employees involved;
6. Hours of operation;
7. Building and site layout;
8. Types of vehicles associated with the use;
9. The volume of vehicle trips generated by the use;
10. The nature and extent of signage;
11. Marketing and advertising methods; and
12. Whether the use is likely to be found independent of the other uses on the site.

Division 4.8.02 Use Table

Section 4.8.02-A. Allowed Uses

Uses are permitted in each zoning district in accordance with Table 4.8.02-1 of this division.

Table 4.8.02-1 Allowed Uses

■ Permitted - Prohibited

ZONE	Motor Vehicle Parking	Short-Term Bicycle Storage	Long-Term Bicycle Storage	Residential Zoning Districts							Mixed-Use Zoning Districts						Special Zoning Districts									
				R-1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU	T-MU	I-1	I-2	OP1	OP2	CD-1	CD-2	A	
RESIDENTIAL																										
Household Living	none	none	1 space per DU, unless garage provided	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	-	■	-	
Group Living	see below	see below	see below																							
Group Living, Other	none	1 space per 20 beds, Minimum is 4 spaces	1 space per 2 beds	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	-	■	-	
Community Res. Facility (8 or fewer)	none	1 space per 20 beds, Minimum is 4 spaces	1 space per 2 beds	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	-	■	-	
Community Res. Facility (9+)	none	1 space per 20 beds, Minimum is 4 spaces	1 space per 2 beds	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	-	■	-	
Fraternity/Sorority	none	1 space per 20 beds, Minimum is 4 spaces	1 space per 2 beds	-	-	-	-	-	■	■	■	■	■	■	■	■	-	■	-	-	-	-	-	■	-	
Convent/Monastery	none	1 space per 20 beds, Minimum is 4 spaces	1 space per 2 beds	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	-	-	-	-	-	■	-	
Single-Room Occupancy Developments	none	1 space per 8 DU, minimum is 2 spaces	1 space for studio or first bedroom, 0.5 spaces per additional bedroom	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	■	-	
Day Care: Residential Day Care	none	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	-	■	-	
Home Digital Asset Mining	none	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	■	-	
PUBLIC / CIVIC																										
College/University	1 space per 1,000 sf	1 space for each 10 students of planned capacity, 2 spaces minimum	1.5 spaces per 10 employees plus 1 space for each 10 students of planned capacity, or 1 space for each 20,000 sf of floor area, whichever is greater	-	-	-	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■	-	
Day Care: Day Care Center	none	1 space for each 10 children of planned capacity, 2 spaces minimum	1.5 spaces per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	■	■	■	-	
Detention and Correctional Facilities	none	1 space per 20,000 sf, 2 spaces minimum	1 space per 10 employees, 2 spaces minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-		
Fraternal Organization	1 space per 5,000 sf	Spaces for 10% of maximum expected attendance	1 space per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	-	-	-	
Health Care Facility	1 per 500 sf	1 space per 20,000 sf, 2 spaces minimum	1 space per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■	-	
Hospital	none	1 space per 20,000 sf, 2 spaces minimum	1 space per 10 employees, 2 spaces minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	-	-	-	-	■	■	-	
Library/ Cultural exhibit	1 space per 720 sf	1 space per 5,000 sf, 2 spaces minimum	1 space per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■	■	
Meal Center	none	1 space per 4 seats	1 space per 10 employees, 2 spaces minimum	-	-	-	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	■	-	
Park/Recreation	none	Spaces for 5% of maximum expected attendance	1 space per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	■	■	■	■	
Preschool (1-12)	none	1 space for each 10 children of planned capacity, 2 spaces minimum	1.5 spaces per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■	-	
Preschool Center (13+)	1 space per 1,000 sf	1 space for each 10 children of planned capacity, 2 spaces minimum	1.5 spaces per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■	-	
Religious Assembly	none	spaces for 5% of maximum expected attendance	1 space per 10 employees, 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	■	■	-	

ZONE	Motor Vehicle Parking	Short-Term Bicycle Storage	Long-Term Bicycle Storage	Residential Zoning Districts							Mixed-Use Zoning Districts						Special Zoning Districts									
				R-1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU	T-MU	I-1	I-2	OP1	OP2	CD-1	CD-2	A	
Safety Services	none	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	■	■	■	
School	see below	see below	see below																							
School, General	1 space per 1,000 sf	1 space per 10 students of planned capacity. 2 spaces minimum	1.5 spaces per 10 employees. 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■	-	
Commercial Trade School	1 space per 1,000 sf	1 space per 10 students of planned capacity. 2 spaces minimum	1.5 spaces per 10 employees. 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Industrial Trade School	1 space per 1,000 sf	1 space per 10 students of planned capacity. 2 spaces minimum	1.5 spaces per 10 employees. 2 spaces minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	■	
Shelter	see below	see below	see below																							
Emergency Shelter	None	1 space per 4 beds	1 space per 10 employees. 1 space per 2 beds. 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Houseless Shelter: Small	1 space per 1,000 sf	1 space per 4 beds	1 space per 10 employees. 1 space per 2 beds. 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	■	■	-
Houseless Shelter: Medium	1 space per 1,000 sf	1 space per 4 beds	1 space per 10 employees. 1 space per 2 beds. 2 spaces minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	-	-	-	■	■	■	-
Houseless Shelter: Large	1 space per 1,000 sf	1 space per 4 beds	1 space per 10 employees. 1 space per 2 beds. 2 spaces minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	-	-	-	■	■	■	-
Solar Energy Conversion System	none	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Utility Services, Minor	none	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
Utility Services, Major	none	none	none	-	-	-	-	-	-	-	-	-	-	-	■	-	-	■	■	■	■	-	-	-	■	
Wind Energy Conversion System	none	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	
COMMERCIAL																										
Animal Services	see below	see below	see below																							
Animal Sales	1 space per 1,200 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 1 spaces minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	
Grooming and Veterinary	1 space per 1,200 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 1 spaces minimum	■	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	
Animal Shelter or Boarding Kennel	1 space per 1,200 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 1 spaces minimum	■	-	-	-	-	-	-	■	■	-	-	■	■	■	■	■	■	-	-	-	-	-	
Stable	1 space per 1,200 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 1 spaces minimum	■	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	
Artist Work or Sales Space	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 10 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	-	-	-	
Building Maintenance Service	1 space per 2,400 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	
Business Equipment Sales and Service	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 10 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	-	-	■	
Cannabis Dispensary	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	
Construction Sales and Service	1 space per 2,400 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	-	-	■	■	■	■	-	-	-	-	-	
Eating and Drinking Establishments	see below	see below	see below																							
Restaurant	1 space per 4,000 sf in urban districts 1 space per 1,500 sf in all other districts	1 space per 4 seats. 2 spaces minimum	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	
Tavern or Nightclub	1 space per 4,000 sf	1 space per 4 seats. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	-	-	-	-	-	■	
Mobile Food Vending	none	none	none	-	-	-	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	■	■	
Food Truck Park	none	1 space per food truck. 2 spaces minimum	none	-	-	-	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	■	-		

ZONE	Motor Vehicle Parking	Short-Term Bicycle Storage	Long-Term Bicycle Storage	Residential Zoning Districts								Mixed-Use Zoning Districts						Special Zoning Districts								
				R-1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU	T-MU	I-1	I-2	OP1	OP2	CD-1	CD-2	A	
Entertainment and Spectator Sports	see below	see below	see below																							
Small Venue	1 space per 1,000 sf	spaces for 5% of maximum attendance	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	■	■	-	
Medium - Large Venue	1 space per 1,000 sf	spaces for 5% of maximum attendance	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	■	-	■	■	-	
Financial Services	see below	see below	see below																							
Bank	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	■	■	■	
Check-Cashing/Loan Service	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	■	■	■	
Pawn Shop	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	
Food and Beverage Retail Sales	1 space per 500 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	■	■	■	
Funeral and Internment Services	see below	see below	see below																							
Cemetery/ Columbarium/ Mausoleum	1 space per 1,000 sf	Spaces for 5% of maximum attendance	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	■	■	-	
Cremating	1 space per 1,000 sf	Spaces for 5% of maximum attendance	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	-	-	■	■	-	
Undertaking	1 space per 1,000 sf	Spaces for 5% of maximum attendance	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	-	-	■	■	■	■	-	-	■	■	-	
Gasoline and Fuel Sales	1 space per 500 sf retail area	1 space per 2,000 sf. retail area. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	-	
EV Charging Hub	1 space per 500 sf retail area	1 space per 2,000 sf. retail area. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	
Truck Stop/Travel Plaza	1 space per 500 sf retail area	1 space per 2,000 sf. retail area. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-	-	
Lodging	see below	see below	see below																							
Bed and Breakfast	1 space per room	1 space per guest room	1 space for primary DU + 1 space for every 2 guest rooms. 2 spaces minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	■	-
Hostel	1 space per room	1 space per every 4 guests	1 space per 5 employees + 1 space for every 4 guests	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	-	-	-	-	-	■	-
Hotel/ Motel	1 space per room	1 space per 20 beds. Minimum is 4 spaces	1 space per 2 beds	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■	■
Recreational Vehicle Park	1 space per room	1 space per 5 RV/camping site, 2 spaces minimum	1 space per 5 employees	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	-	-	■	-	-	■	-	
Tourist Home	1 space per room	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	-	■	-
Office	1 space per 500 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	■	■	■
Parking, Non-accessory	none	1 space per 20,000 sf. 2 spaces minimum	1 space per 10 motor vehicle spaces. 1 space minimum.	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	■	-	-	■	■	■
Personal Improvement Service	1 space per 1,000 sf	1 space per 2,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	■	■	-	
Retail Sales	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	■	■	■	
Sports and Recreation, Participant	1 space per 1,000 sf	1 space per 4,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-	
Casino	1 spaces per 4,000 sf	1 space per 2,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	■	■	■	■	■	-	■	■	-	-	-	-	-	
Vehicle Sales and Service	see below	see below	see below																							
Car Wash/Cleaning Service	1 space per 2,000 sf	2 space minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	-	

ZONE	Motor Vehicle Parking	Short-Term Bicycle Storage	Long-Term Bicycle Storage	Residential Zoning Districts								Mixed-Use Zoning Districts						Special Zoning Districts									
				R-1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU	T-MU	I-1	I-2	OP1	OP2	CD-1	CD-2	A		
Heavy Equipment Sales/Rentals	1 space per 2,000 sf	2 space minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	■	■	-	-	■	■	■	-	-	-	-	-	■		
Light Equipment Sales/Rentals	1 space per 2,000 sf	2 space minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■		
Motor vehicle Repair, Limited	1 space per 2,000 sf	2 space minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-		
Motor Vehicle Repair, General	1 space per 2,000 sf	2 space minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	-		
Vehicle Storage and Towing	1 space per 2,000 sf	none	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	■		
INDUSTRIAL																											
Auto Wrecking	1 space per 4,000 sf	2 space minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-	-	
Cidery	1 space per 4,000 sf	1 space per 4 seats. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■		
Data Center	1 space per 4,000 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	-	-	-	-		
Digital Asset Mining	1 space per 4,000 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	-	-	-	-		
Junk/ Salvage Yard	1 space per 4,000 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-		
Manufacturing, Production and Industrial Service	see below	see below	see below																								
Artisan	1 space per 4,000 sf	1 space per 4,000 SF, 2 spaces minimum	1 space per 5 employees. 1 space minimum	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■		
Limited	1 space per 4,000 sf	1 space per 4,000 SF, 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■		
General	1 space per 4,000 sf	1 space per 20,000 SF, 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	■		
Intensive	1 space per 4,000 sf	1 space per 20,000 SF, 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	-	-	-	-		
Microbrewery/ Microdistillery	1 space per 4,000 sf	1 space per 4 seats. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■		
Mining/ Quarrying	1 space per 4,000 sf	none	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-		
Recycling Service Limited	1 space per 4,000 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	■	■	-	-	-	■	■	■	-	-	-	-	■		
Recycling Service General	1 space per 4,000 sf	1 space per 20,000 sf. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	-	-	-	-	■		
Residential Storage Warehouse	1 space per 4,000 sf	1 space per 25 storage units. 2 spaces minimum	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	■		
Warehousing, Wholesaling, and Freight Movement	see below	see below	see below																								
Limited	1 space per 4,000 sf	1 space for each 4,000 sf of floor area. Minimum is 2 spaces	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	■	■	■	■	■	■	■	■	■	■	-	-	-	-	■		
General	1 space per 4,000 sf	none	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	■	■	-	-	-	-	■		
Waste-Related Use	see below	see below	see below	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-		
Compost Service Limited	1 space per 4,000 sf	none	none	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	■	-	-	-	-	-		
Compost Service General	1 space per 4,000 sf	2 spaces minimum	1 space per 5 employees. 1 space minimum	■	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	■	-	-	-	-		
Demolition Debris Landfill	1 space per 4,000 sf	none	1 space per 5 employees. 1 space minimum	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	■	-	-	-	-		

Division 4.8.03 Residential Use Group

The Residential Use Group includes uses that provide living accommodations for one or more persons, as well as provisions for home occupations.

Section 4.8.03-A. Household Living Category

Residential occupancy of a dwelling unit by a household. When dwelling units are rented, tenancy is arranged on a month-to-month or longer basis. Uses where tenancy may be arranged for a shorter period are not considered residential; they are considered a form of lodging. Domestic Violence Shelters are considered a type of household living.

Section 4.8.03-B. Group Living

Residential occupancy of a dwelling by other than a "household," typically providing communal kitchen/dining facilities. Maximum density for this use class is determined by the largest Floor Area Ratio allowed in the base zoning district. Examples of group living uses include, but are not limited to, fraternities, sororities, convents, monasteries, nursing homes and the following specific use types:

1. Community Residential Facility

Any of the following, as defined by MCA § 76-2-411:

- (a) A group, foster or other home specifically provided as a place of residence serving developmentally disabled or handicapped persons who do not require nursing care;
- (b) A district youth guidance home serving youths in need of supervision, or youths in need of care or delinquent youths, and established pursuant to the Montana Youth Court Act;
- (c) Detention, receiving or shelter homes, and established pursuant to the Montana Youth Court Act;
- (d) A halfway house operated in accordance with regulations of the Department of Health and Environmental Sciences for the rehabilitation of alcoholics or drug dependent persons;
- (e) A licensed adult foster family care home; or
- (f) An assisted living facility licensed pursuant to state law.

2. Convent/Monastery

A residential facility occupied by persons (such as nuns or monks) under religious vows.

3. Single-Room Occupancy Developments

A housing type consisting of individual rooms, typically with shared kitchen, dining, and bathroom facilities, intended for long-term residential occupancy.

Section 4.8.03-C. Residential Day Care

Uses providing care, protection and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. Residential Day Care are provided within a dwelling unit for up to 15 children or adults, in addition to members of the day care provider's household.

Section 4.8.03-D. Home Occupations

1. General

A home occupation is a commercial activity occurring on a residential lot or in a dwelling unit and is considered accessory to the residential dwelling use.

2. **Purpose**

The regulations of this section are primarily intended to ensure that a home occupation will not adversely affect the character and livability of the surrounding neighborhood. These also intend to ensure that the home occupation remains an accessory use and that the residential dwelling use is maintained. The regulations consider that many types of work can be done in a home with little or no effect on the surrounding neighborhood.

3. **Applicability**

Home occupations must comply with all of the standards of this section.

4. **Exemptions**

- (a) Residential Day Care Residential Day Care uses are not regulated as home occupations and are exempt from the regulations of this section.
- (b) Bed and Breakfast Bed and Breakfast uses are not regulated as home occupations and are exempt from the regulations of this section.
- (c) Home Digital Asset Mining Home Digital Asset Mining uses are not regulated as home occupations and are exempt from the regulations of this section. Home Digital Asset Mining is permitted in all residences, regardless of zoning district.

5. **Standards**

A dwelling unit may be used for one or more home occupations subject to compliance with all of the following standards:

- (a) The home occupation must be accessory and secondary to the use of a dwelling unit for residential purposes and it must not change or adversely affect the residential character of the residential building or the character of the surrounding neighborhood. Adverse effects and changes include, for example, producing light, noise, vibration, odor, parking demand, traffic, or any exterior activity that is inconsistent with the character of a residential area.
- (b) There may be no external structural alterations or construction that would change the residential character of the property upon which the home occupation is located. Examples of such prohibited alterations include construction of parking lots, paving of required setbacks, and the addition of commercial-like exterior lighting.
- (c) No separate entrance from the outside of the building may be added to the residential building for the sole use of the home occupation.
- (d) The home occupation and all related activities, including storage (other than the lawful parking or storage of vehicles), must be conducted entirely within a completely enclosed building, either the principal residential building or an allowed accessory building (e.g., detached garage).
- (e) In addition to the resident business owner, up to three nonresident persons, including employees, associates, and customers, may be present on the property at any time.
- (f) The home occupation is limited to one non-illuminated, building-mounted sign, not exceeding six square feet in area.
- (g) Truck deliveries or pick-ups of supplies or products, associated with the home occupation, are allowed at the site of the home occupation only between 8:00 a.m. and 7:00 p.m. Vehicles used for delivery and pick-up may not include semi-tractor trailers.
- (h) The following uses are expressly prohibited as home occupations:
 - 1. Any type of repair or assembly of vehicles or equipment with internal combustion engines (such as autos, motorcycles, scooters, snowmobiles, outboard marine engines, lawn mowers, chain saws, and other small engines) or of large appliances (such as washing machines, dryers, and refrigerators) or any other work related to automobiles and their parts;
 - 2. Dispatch centers or other businesses where employees come to the site and are dispatched to other locations;
 - 3. Vehicle or heavy equipment rental businesses;
 - 4. Vehicle storage or towing services;

5. Material or equipment storage businesses;
 6. Restaurants;
 7. Funeral or interment services;
 8. Animal boarding businesses; and
 9. Commercial cannabis cultivation or manufacturing.
-

Division 4.8.04 Public and Civic Use Group

The Public and Civic Use Group includes uses that provide public or quasi-public services. The Public and Civic Use Group includes the following use categories:

Section 4.8.04-A. College/University

Colleges and other institutions of higher learning that offer courses of general or specialized study leading to a degree. They are certified by the state or by a recognized accrediting agency. Colleges tend to be in campus-like settings or on multiple blocks. Examples include universities, liberal arts colleges, community colleges, nursing and medical schools not accessory to a hospital, conservatories and seminaries.

Section 4.8.04-B. Day Care Center

Uses providing care, protection, and supervision for children or adults on a regular basis away from their primary residence for less than 24 hours per day. Day Care Centers provide care for 16 or more children or adults.

Section 4.8.04-C. Detention and Correctional Facilities

Facilities for the judicially required detention or incarceration of people. Inmates and detainees are under 24-hour supervision by peace officers, except when on an approved leave. Examples include prisons, jails, probation centers and juvenile detention homes.

Section 4.8.04-D. Fraternal Organization

A not-for-profit organization that restricts access to its facility to bona fide, annual dues-paying members and their occasional guests.

Section 4.8.04-E. Health Care Facility

As defined in MCA § 50-5-101.

Section 4.8.04-F. Hospital

A facility providing medical or surgical care, and offering inpatient (overnight) care.

Section 4.8.04-G. Library/Cultural Exhibit

Facilities dedicated to the exhibition or preservation of art, culture, science, or literature. Examples include museums, galleries, and libraries housing collections of books, manuscripts, and other media for public use.

Section 4.8.04-H. Park/Recreation

Facilities or open spaces designed for recreational, social, conservation, or multipurpose use, including public parks, playgrounds, golf courses, sports fields, public open spaces, and public community centers.

Section 4.8.04-I. Preschool

Facilities that provide educational instruction for children five years of age or younger, with limited hours of instruction per child:

1. **Preschool (1—12)**
Educational services for up to 12 children.
2. **Preschool Center (13+)**
Education al services for 13 or more children.

Section 4.8.04-J. Religious Assembly

Facilities used for religious services such as those occurring in churches, synagogues, mosques, and temples. This category includes the following:

1. Religious assemblies are authorized to function as Short Term Shelters as described in Section 4.8.04-O, regardless of zoning designation.
2. Overnight accommodations for religious retreats, ministry programs, overnight events, and emergencies in accordance with MCA § 50-60-203(9)(a), subject to the requirements of Temporary Uses.

Section 4.8.04-K. Safety Services

Facilities providing emergency response and life-safety services. Typical uses include fire stations, police stations, and ambulance services, including the storage and maintenance of emergency vehicles.

Section 4.8.04-L. School

Public or private institutions providing state-mandated primary or secondary education (elementary, middle, or high school levels).

Section 4.8.04-M. Trade School

A facility that provides vocational education and hands-on training in skilled trades or technical fields. Trade schools may vary in their classification based on the type of trades taught and the nature of the facility's operations:

1. Commercial trade schools train for jobs in public-facing businesses like restaurants, retail, offices, and clinics. Trades include electricians, plumbers, HVAC techs, and carpenters. Focus is on customer service, aesthetics, and public safety.
2. Industrial trade schools train for manufacturing and heavy industry jobs like welding, machinery maintenance, and industrial electricians. Focus is on complex machinery and strict safety.

Section 4.8.04-N. Shelter

The following are shelter use types:

1. **Houseless Shelter**
A housing shelter for any unhoused person, for any length of time.
 - (a) There are three size categories for this use type:

1. Small: A shelter with up to 20 beds.
2. Medium: A shelter with 21 through 50 beds.
3. Large: A shelter with 51+ beds.

(b) **Location Buffers**

1. Small shelters shall be located at least 500 feet from schools and other shelters.
2. Medium shelters shall be located at least 750 feet from schools, 1,000 feet from other shelters, and 200 feet from parcels zoned Residential.
3. Large shelters shall be located at least 1,000 feet from schools, 1,500 feet from other shelters, and 300 feet from parcels zoned Residential.
4. Buffers from schools and other Houseless Shelters are to be measured from property line to property line.
5. Buffers from residential zoning districts are to be measured from property line to closest residential zoning district boundary line.
6. Shelters shall be located within 1/4 mile of a public transportation route.

(c) **Management Plan**

The operator of a Houseless Shelter shall provide a written management plan to the Houseless Programs Department and Police Department addressing the following factors:

1. Provision for continuous on-site management from an employee or volunteer during all hours of operation.
2. Staff training.
3. Protocols to manage behaviors around the shelter that may cause neighborhood disturbance or safety concerns, such as loitering, trespassing, or substance use.
4. A clear and defined approach of the shelter's rules to ensure those who use and operate the facility are well informed of all policies and procedures. An example would be posting a large sign of the rules that is visible at all times.
5. Safety and maintenance protocols to include at a minimum: maintenance of hygiene facilities, building cleanliness, cleanliness of adjacent rights-of-way, and participant safety.
6. Neighborhood relations plan. The plan shall establish a staff liaison to coordinate with the City, Police, School District officials, local businesses, neighborhood association or neighborhood council representatives, and residents on issues related to the operation of the facility. The plan shall outline a process to receive and record efforts to resolve complaints or issues from neighbors, and record any municipal code violations.

(d) **Design**

1. Storage Lockers. Provide one locker with a minimum of nine cubic feet of storage space with lock per bed.
2. Lighting. External lighting shall be sufficient to provide illumination and clear visibility to all outdoor areas and maintain compliance with the Missoula Outdoor Lighting Ordinance.
3. Waiting Areas. Provide adequate onsite inside and outside waiting/communal/gathering areas adequate to prevent the anticipated number of clients from queuing into or otherwise waiting outside the facility or in the public right-of-way.
4. Security Cameras. Provide security cameras sufficient to monitor all outdoor areas on the property.

2. **Short-Term Shelter**

A short-term shelter, usually as an accessory use; used for Houseless Shelter overflow, extreme cold/heat/weather events for any person at-risk, and similar situations.

(a) **Applicability**

In the event of an immediate emergency requiring a shelter, see Emergency Shelter Section and Office of Emergency Management Pre-Disaster Mitigation Plan. An intermittently operating shelter, that is accessory to a primary use, provides for at-risk populations during weather events and emergencies (such as extreme heat, cold, smoke, or wind) where human life is at risk, and subject to the following standards.

(b) **Standards**

1. Shelter facilities must comply with all applicable City requirements and other local/state/federal regulations.
2. A Short-Term Shelter is permitted in any zoning district.
3. Management plans are required at time of Zoning Compliance application and/or should be reviewed annually with the assistance of the Houseless Programs Division in coordination with the City Fire Department and Building Division.
4. The building must comply with applicable building and fire codes deemed necessary by City officials who are qualified to make such a determination.
5. The site contains permanent or temporary restrooms adequate for the determined occupancy load.
6. The Planning Administrator may require features such as fences to regulate egress and ingress to the site.

(c) **Management Plan**

The operator of a Short-Term Shelter shall provide a written management plan to the Houseless Programs Division meeting the requirements for Management Plan for Houseless Shelters.

3. **Emergency Shelter**

Can be primary or accessory but always temporary; used during an immediate emergency (flood, hazardous spill, etc.,). The location is usually not determined until immediately before, during, or after an event.

Section 4.8.04-O. Meal Center (Soup Kitchen)

Primary use facilities providing on-site meal-service at little or no cost.

Section 4.8.04-P. Solar Energy Conversion System

1. The components and subsystems required to convert solar energy into electric or thermal energy suitable for use. The area of the system includes all the land inside the perimeter of the system, which extends to any fencing. The term applies, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. Solar energy conversion systems have three categories:
 - (a) Small-Scale Solar Energy Conversion System: An active SECS that occupies 2,500 square feet of surface area or less (equivalent to a rated nameplate capacity of about 25 kW DC or less).
 - (b) Medium-Scale Solar Energy Conversion System: An active SECS that occupies more than 2,500 but less than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 25 - 250 kW DC).
 - (c) Large-Scale Solar Energy Conversion System: An active SECS that occupies more than 40,000 square feet of surface area (equivalent to a rated nameplate capacity of about 250 kW DC or greater).

2. **Applicability**

The requirements of this section shall apply to all solar energy conversion systems modified or installed after the effective date of this UDC, however; modifications to an existing accessory SECS that increases the SECS area by less than ten percent of the original footprint shall not be subjected to this ordinance. Building-integrated systems are not subject to the requirements of this section.

Commentary: Like-kind replacements of SECS or systems that change type (photovoltaic to thermal or vice versa) and do not change size are not subject to zoning compliance, but will require review by the City Building Division.

3. **Location, Setbacks and Height**

- (a) Solar energy conversion systems are allowed within all setbacks but cannot be located any closer than 1/2 of the required setback of the zoning district.
- (b) Solar energy conversion systems shall not be located within drainage, utility or other established easements.
- (c) All power transmission and telemetry lines from the SECS to any building or structure must be placed underground.
- (d) Roof-mounted solar panels are allowed to exceed the maximum building height.
- (e) All size ground-mounted SECS are exempt from lot coverage and impervious surface requirements if the area under the system contains vegetative ground cover.

4. **Additional requirements for Ground-Mounted SECS**

- (a) The height of ground-mounted solar collector and any mounts shall not exceed 22 feet when oriented at maximum tilt.
- (b) Ground-mounted SECS must not impair sight distance for safe access to or from the property or other properties in the vicinity per the Manual.
- (c) Medium and large-scale SECS projects shall provide proof of soil stabilization to be approved by the Public Works and Mobility Department.

5. **General Regulations**

- (a) Solar energy conversion systems are subject to Missoula building, electrical, plumbing and fire codes.
- (b) Grid-connected solar energy systems shall comply with the interconnection requirements of the local electric utility.

Section 4.8.04-Q. Utilities and Services

1. **Minor**

Infrastructure services necessary to provide localized service, generally unmanned and with minimal impact on surrounding areas. Typical examples include:

- (a) Water and sewer pump stations;
- (b) Minor water towers and reservoirs;
- (c) Minor electrical substations;
- (d) Stormwater facilities and water conveyance systems;
- (e) Telephone switching equipment and emergency communication broadcast facilities;
- (f) The equipment necessary to allow the facility to function, like communication towers and associated equipment; and
- (g) Bus and rail passenger facilities for local or subregional service, such as Mountain Line stops and transfer centers, are classified as "minor utilities and services."

2. Major

Infrastructure facilities with substantial land-use impacts on surrounding areas. Typical uses include, but are not limited to:

- (a) Water and wastewater treatment facilities;
- (b) Major water storage facilities; and
- (c) Electric generation plants.

Section 4.8.04-R. Wind Energy Conversion Systems

A device that directly converts wind energy into usable thermal, mechanical, or electrical energy, including such devices as windmills and wind turbines. The "system" includes towers and supporting structures and directly connected facilities such as generators, alternators, inverters, batteries, and associated control equipment.

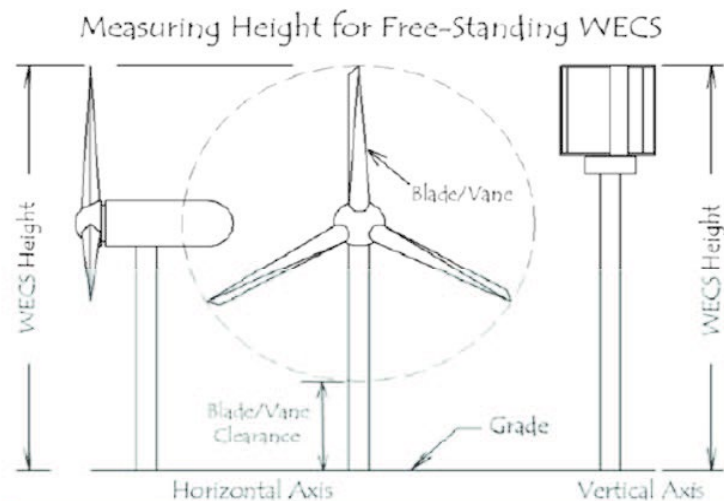
1. Applicability

Unless otherwise expressly stated, the regulations of this section apply to all ground-mounted wind energy conversion systems. However, modifications to an existing accessory WECS that increases the WECS area by less than ten percent of the original area shall not be subject to this ordinance.

2. Location, Setbacks, and Height

- (a) Unless otherwise expressly stated, all wind energy conversion systems shall be set back from all property lines by a distance at least equal to 1.1 times the overall height of the system, measured from existing grade to the highest point of the system structure, which includes the tip of the top blade when the blade is in its highest position.
- (b) Wind energy conversion systems may not be located within drainage, utility, or other established easements.
- (c) No portion of a system may extend on or over a property line. Blades may not extend over driveways, parking areas, sidewalks or trails.
- (d) The lowest point of any moving elements, such as blades, or vanes, must be at least 20 feet above the ground beneath such feature for horizontal axis wind energy conversion systems and at least ten feet above the ground beneath such features for vertical axis Wind Energy Conversion Systems.
- (e) All power transmission and telemetry lines from the tower to any building or other structure must be placed underground.

Figure 4.8.04-1: Measuring Height for Freestanding WECS



3. **Operational and Performance Standards**

- (a) Operational noise may not exceed 55dB at the property line except during short-term high wind speed events such as storms.
- (b) All systems must be equipped with manual and automatic (mechanical or electrical) over-speed controls to limit the blade rotation speed to within the design limits of the system.
- (c) Towers, rotors, and turbines may not be illuminated unless required by a state or federal agency, such as the FAA.

4. **Design**

- (a) Lattice type towers and towers using guy wires are prohibited.
- (b) All structures and equipment must maintain factory colors or be finished in a non-reflective, matte-finished, neutral color.
- (c) No commercial messages may be placed or painted on the tower, rotor, turbine, generator, or tail vane that is legible from off-site. This provision is not intended to prohibit warning signs or manufacturer's logos.
- (d) For horizontal axis Wind Energy Conversion Systems, all climbing pegs, ladders, and similar apparatus on freestanding towers must be located at least 12 feet above the ground at the base of the structure.

5. **Building and Electrical Codes**

Wind Energy Conversion Systems are subject to Missoula building and electrical codes.

6. **Required Permit Information**

The following information must be submitted with a Zoning Compliance Permit application for a Wind Energy Conversion System:

- (a) A description of the system, including its maximum power-rated output capacity.
- (b) The make, model, an illustrative photograph or brochure, manufacturer's specifications including noise data (decibels) for the proposed Wind Energy Conversion System, the support structure, and method of attachment to the ground and/or structure.
- (c) Elevation drawing of the Wind Energy Conversion System showing total height, turbine dimensions, tower and turbine colors, distance between ground and lowest point of any blade, and if proposed, the location of climbing apparatus.
- (d) Site plan illustrating the property upon which the Wind Energy Conversion System is proposed for construction, including the parcel dimensions, any existing structures, any required system or building setbacks, and any existing and/or proposed easements and/or rights-of-way encumbering the property.
- (e) If the Wind Energy Conversion System is not certified as meeting the IEEE 1547 standards (Institute of Electrical and Electronic Engineers), then an assessment of potential electromagnetic interference with microwave, radio, television, personal communication systems, and other wireless communication is required (from an electrical engineer).
- (f) Grid-connected Wind Energy Conversion Systems shall comply with the interconnection requirements of the local electric utility.

7. **Maintenance and Abandonment**

- (a) Maintenance: All Wind Energy Conversion Systems and their identification tags, supports, braces, mechanical and electrical equipment, and associated apparatus must be kept fully operable and maintained in safe condition. Any Wind Energy Conversion System that is in a state of disrepair and a threat to public safety must be dismantled by the property owner.

Division 4.8.05 Commercial Use Group

The Commercial Use Group includes uses that provide a business service or involve the selling, leasing, or renting of merchandise. The commercial use group includes the following use categories:

Section 4.8.05-A. Animal Services

The following are Animal Services use types:

1. **Animal Sales**

The sales of dogs, cats, and similar small animals. Pet supply stores that do not sell live animals are classified under Retail Sales.

2. **Grooming and Veterinary**

The grooming and medical care of dogs, cats, and similar small animals. Typical uses include grooming salons, indoor training facilities, pet clinics, and animal hospitals.

3. **Shelter or Boarding Kennel**

Facilities offering animal shelters and kennel services for dogs, cats, and small animals. Typical uses include boarding kennels, pet day-cares, pet resorts/hotels, dog training centers, and animal rescue shelters.

4. **Stable**

Boarding facilities for horses and similar large animals.

Section 4.8.05-B. Artist Work or Sales Space

Floor space devoted to the production, showing, or sale of art. Typical uses include art galleries, artist and photography studios, but not including art museums. Art museums are classified in the Libraries and Cultural Exhibits use category.

Section 4.8.05-C. Building Maintenance Service

Provision of janitorial, custodial, landscaping, window cleaning, and exterminator services for residential, commercial, or industrial properties.

Section 4.8.05-D. Business Equipment Sales and Service

Sales, rentals, or repairs of office, professional and service equipment, and supplies to companies rather than to individuals. Excludes Automotive and Heavy Equipment Sales or Service. Typical uses include office equipment and supply firms, small business machine repair shops, and hotel equipment and supply firms.

Section 4.8.05-E. Cannabis Dispensary

Retail establishment licensed to sell cannabis and cannabis-derived products for medical or recreational use.

1. **Purpose**

The purpose of these regulations is to manage the overall number of dispensaries in Missoula in alignment with public health and safety recommendations.

2. **Location Buffers**

- (a) Cannabis dispensaries shall be located a minimum distance of 1,000' from other cannabis dispensaries. Distances shall be measured from parcel line to parcel line and apply to ground floor dispensary businesses only.
- (b) Cannabis dispensaries shall be located a minimum distance of 1,000' from youth-serving facilities, schools, parks and recreation facilities, and substance treatment centers. Distances shall be measured from parcel line to parcel line.

3. **Window Treatment**

- (a) Dispensaries must comply with the requirements for window signs in Article 4.14.
- (b) Dispensaries must comply with the transparency requirements of the zoning district in which it is located, including the minimum light transmittance. Frosted glass, window stickers, and other methods for obstructing visibility shall not be applied to windows required to meet the transparency requirements.

Section 4.8.05-F. Construction Sales and Services

Uses related to construction and development not located on active construction or development sites. Typical uses include tool and equipment rental or sales and building contracting/construction businesses. Office-only uses with no on-site equipment or vehicle storage are classified as offices.

Section 4.8.05-G. Eating and Drinking Establishments

Facilities providing prepared food and/or beverages for on- or off-premises consumption. Typical uses include:

1. **Restaurant**

Establishments whose primary focus is the sale of prepared foods for on-premise or take-away consumption.

2. **Tavern or Nightclub**

Establishments whose primary focus is the serving and sale of alcoholic beverages for on-site consumption. These uses may offer live entertainment and dancing. The incidental sales of alcoholic beverages in conjunction with certain primary uses (e.g. restaurant, entertainment and spectator sports) is considered an accessory use, and does not constitute a tavern use.

Commentary: Microbreweries and Wineries are classified as industrial uses.

3. **Mobile Food Vending (Food Truck)**

Mobile vehicles or trailers equipped to prepare and sell food or beverages. This use excludes permanent coffee kiosks.

- (a) Mobile Food Vending is permitted on sidewalks and in the street in the D-T and D-C districts and may operate until 9:00 p.m.
- (b) Mobile Food Vending is permitted on private property, with authorization from the property owner, within districts where the use is allowed and may operate at all hours.

4. **Food Truck Park**

A permanent site containing two or more mobile food vendors (food trucks) which operate concurrently or on a recurring basis. Such sites may provide shared facilities, including but not limited to seating areas, restrooms, or utility connections.

Section 4.8.05-H. Entertainment and Spectator Sports

Facilities providing cultural, entertainment, athletic and other events to spectator events, including:

1. **Small Venue**

Entertainment and spectator sports establishments with a capacity of no more than 149 persons, such as small theaters or banquet halls.

2. **Medium/Large Venue**

Establishments with a capacity of 150 or more, including stadiums, large theaters, multi-screen cinemas and large meeting or banquet halls.

Section 4.8.05-I. Financial Services

Businesses providing financial or securities brokerage services. Typical uses include:

1. **Bank**

State- or federally chartered banks, credit unions, savings and loans, and trust companies.

2. **Check-Cashing/Loan Service**

Businesses cashing checks or providing short-term loans to the public (e.g., payday loans, title, signature, small loans, and other similar loans, but not including pawn shops).

3. **Pawn Shop**

Businesses that lend money on the security of pledged goods or that is engaged in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time.

Section 4.8.05-J. Food and Beverage Retail Sales

Retail sale of food and beverages for home consumption. Typical uses include groceries, liquor stores and wine stores.

Section 4.8.05-K. Funeral Interment Services

Provision of services involving the care, preparation or disposition of human dead. The following are funeral and interment services use types:

1. **Cemetery/Columbarium/Mausoleum**

Land or facilities used for burial of the dead, including pet cemeteries.

2. **Cremating**

Crematory services involving the purification and reduction of the human body by fire. Typical uses include crematories and crematoriums.

3. **Undertaking**

Undertaking services such as preparing the dead for burial and arranging and managing funerals. Typical uses include funeral homes and mortuaries.

Section 4.8.05-L. Gasoline and Fuel Sales

Retail sale of motor vehicle fuels, oils, and accessories, with incidental repair and car washing. No vehicle sales or rental are included. Gasoline and fuel sales uses, other than truck stops and travel plazas, are subject to the following standards:

1. Gasoline and fuel sales uses must be located on parcels with frontage on a Regional Connector street or an Industrial street, as defined in the Manual.
2. Gas pumps must be set back at least 50 feet from property lines abutting Residential zoning districts or parcels occupied by residential dwelling units. Gas pumps must be set back at least 30 feet from any other property line.
3. No restroom entrance doors may be located on the exterior of the building.
4. Pump island canopies may not exceed 22 feet in height.

Section 4.8.05-M. Electric Vehicle Charging Hub

Electric Vehicle Charging stations which are not accessory to another use and are the principal use of a parcel or business. Electric Vehicle Charging Hubs typically feature a cluster of charging stations allowing several drivers to charge electric vehicles at once. Electric Vehicle Charging stations that are accessory to another use, such as a dwelling unit or business, are not considered charging hubs and are permitted in all zoning districts.

Section 4.8.05-N. Truck Stop/Travel Plaza

Facilities servicing large trucks with fuel sales and customary driver support amenities, designed for semi-tractor/trailer combinations and travelers. Truck stops and travel plazas are subject to the following standards:

1. The minimum parcel area for establishment of a new truck stop or travel plaza is ten acres.
2. The parcel on which the truck stop/travel plaza is located must have frontage on an Regional Connector street, as defined in the Manual, and be within 2,000 feet of the centerline of the nearest interstate highway exit/entry ramp.
3. Pump island canopies may not exceed 22 feet in height.
4. All vehicle service and/or repair activities must be conducted within a completely enclosed building. Parts, equipment, lubricants, fuels, tires or other materials must be screened from abutting streets and property.
5. If the parcel on which the truck stop/travel plaza is located is within 1,320 feet of a Residential zoning district, the applicant must provide a noise impact study prepared by a qualified acoustical consultant and must propose necessary mitigation measures to ensure that noise levels at the boundary of the nearest Residential zoning districts will not exceed 60 dB(A) between the hours of 10:00 p.m. and 7:00 a.m. The applicant must also propose idling time restrictions and means of ensuring compliance with such restrictions. The purpose of such restrictions is to reduce noise and air quality-related impacts.
6. Other business activities which are customarily accessory and clearly incidental and subordinate to the truck stop/travel plaza may include scales, truck wash, tire repair and sales, barber shop, restaurant, shower facility, convenience store, truckers lounge (for services such as television/exercise/internet access, etc.), laundry, chain rental, and gasoline and propane dispensing.

Section 4.8.05-O. Lodging

Temporary lodging services with incidental food, drink, and guest services, including:

1. **Bed and Breakfast**
A one-unit house that is owner or manager occupied offering overnight accommodations and meals for compensation. The number of guests does not exceed 18.
2. **Hostel**
An establishment, other than a bed and breakfast or hotel/motel use, that provides dormitory sleeping accommodations or shared guest rooms as low-cost public travel accommodations to recreational travelers. Hostels typically have shared kitchen and sanitary facilities for use by transient guests.
3. **Hotel/Motel**
An establishment, other than a bed and breakfast, in which short-term lodging is offered for compensation and that may or may not include the service of one or more meals to guests. Typical uses include hotels and motels.
4. **Recreational Vehicle Park**
A parcel designed, maintained or intended to be used for the purpose of providing short-term accommodation, no more than 30 days, for placement of two or more recreational vehicles, include all buildings used or maintained for the use of the occupants in the recreational vehicle park.

5. **Short-Term Rentals**

A private home that is rented, leased, or furnished in its entirety to transient guests on a daily or weekly basis for a period of occupancy less than 28 consecutive days. Transient guest is defined as a guest for only a brief stay, such as the traveling public (MCA § 50-51-102(13)).

(a) **Purpose**

Short-Term Rental regulations are intended to encourage efficient use of housing and infrastructure, to support tourism while balancing the needs of residents and to promote public health, safety and welfare.

(b) **Applicability**

1. There are three types of Short-Term Rentals:
 - a. Type 1: Tourist Homes are not owner or manager occupied and do not have a primary long-term resident. This includes additional dwelling units on the same parcel as the host's primary residence, regardless of whether the host is present in their primary residence during the rental period.
 - b. Type 2: A dwelling unit that is rented when the host is not occupying the unit during the rental period. The unit is the host's primary residence when not rented.
 - c. Type 3: A room with shared living facilities that is owner-occupied during the rental period. Type 3 are exempt from registration and may voluntarily declare their exemption.

Commentary: In Short-Term Rental context, occupancy means the use of a dwelling unit for living purposes, typically demonstrated by the physical presence of the occupant in the unit and use of facilities for sleeping, bathing, or other daily living activities. Incidental or temporary use of the unit, such as storage or brief visits, does not constitute occupancy under this section.

2. The Short-Term Rental regulations are not intended to interfere with, abrogate, or annul any legal or lawful private homeowner association covenants that are in effect in any specific subdivision. It is the responsibility of the applicant to research any private covenants prior to registering a tourist home or short-term rental.

Commentary: The city does not maintain a record of and is not responsible for enforcement of private agreements.

Commentary: RVs and travel trailers are not lawfully established dwelling units.

(c) **Registration Requirement**

Registration is required for all Type 1 and Type 2 Short-Term Rentals and shall be renewed annually in compliance with Title 5 Business Licenses and Registrations. Registrations must be compliant with standards in effect at time of renewal (i.e. there is no legal non-conforming status for Tourist Homes or Short-Term Rental uses). Prior to registration and approval of the registration, the applicant must:

1. Provide the name, telephone number, address, and email address of the property owner and of the person or business ("responsible party") that is responsible for addressing all maintenance and safety concerns. If the responsible party or property owner is a business, the name(s) and contact information of all business owners must be provided.
2. After the registration has been approved by the City, a letter shall be sent by the City to the adjacent parcels, residents and owners, confirming that a Short-Term Rental has been permitted. The letter shall contain contact information for the property owner and the Responsible Party.

Figure 4.8.05-1: Example Notification Areas



(d) **Denial or Revocation of Registration**

If Development Services determines that any violation of any City ordinance or law occurs at a Short-Term Rental, the registration to operate a Short-Term Rental shall be revoked at that location for a period of one year.

(e) **Establishment**

A Short-Term Rental shall only be registered in a legal, existing dwelling unit. The burden of proving the lawful establishment of a dwelling unit lies with the property owner.

(f) **Number**

1. No more than one Type 1 or Type 2 Short-Term Rental unit is permitted per parcel in Residential zoning districts.
2. No more than two Type 1 Short-Term Rental registrations are allowed per building.
3. No individual or property owner shall register more than two Type 1 Short-Term Rentals and no more than one Type 2 Short-Term Rentals.

(g) **Maximum Occupancy**

The maximum number of paying guests shall not exceed more than one guest per 150 square feet of floor area. The maximum occupancy shall be conspicuously posted.

(h) **Responsible Party**

The name and telephone number of the local responsible party, along with regulatory agency contact information, shall be conspicuously posted within the tourist home or short-term rental unit. The responsible party shall answer calls 24 hours a day, seven days a week for the duration of each short-term rental period to address problems associated with the Short-Term Rental.

(i) **Compliance with Applicable Building and Fire Code**

Short-Term Rental units shall meet all applicable development codes including but not limited to clearly posted exterior address, working smoke alarms and carbon monoxide alarms, sleeping rooms with egress windows or doors, and unobstructed exits.

(j) **Signage**

Signs are prohibited.

Section 4.8.05-P. Office

Professional, governmental, executive, and administrative offices of private organizations or government agencies. Typical uses include law, architectural, and insurance offices, day labor agencies, medical and dental clinics, chiropractic, physical therapy, mental health offices, health maintenance organizations, blood banks, and plasma centers. Excludes hospitals and other specifically classified uses.

Section 4.8.05-Q. Parking, Non-Accessory

Parking facilities available to the general public and not exclusively serving a specific use or its visitors. Facilities providing both accessory and non-accessory parking are classified as non-accessory.

Section 4.8.05-R. Personal Improvement Service

Non-professional services focused on personal care or instruction. Typical uses include hair and beauty salons, barber shops, nail salons, yoga and dance studios, gyms, driving schools, and martial arts studios.

Section 4.8.05-S. Retail Sales

Businesses involved in the sale, lease or rent of new or used products, merchandise to consumers. Typical uses include drug stores, grocery stores, department stores, apparel stores and personal repair and maintenance services like appliance repair or laundry/dry cleaning.

Section 4.8.05-T. Sports and Recreation, Participant

Provision of sports or recreation primarily by and for participants. (Spectators would be incidental and on a nonrecurring basis.) Examples include bowling alleys, health clubs, skating rinks, bingo halls, casinos, billiard parlors, driving ranges and miniature golf courses, shooting and archery ranges, batting cages, and go-cart tracks.

1. Casino

Any establishment that offers legalized gambling authorized under MCA Title 23, Chapter 5, Part 1 et seq., and where any one of the following characteristics applies:

- (a) Referred to as a "casino" or "gambling establishment" in signage or advertising;
- (b) Housing five or more gambling machines; or
- (c) Featuring card tables.

Section 4.8.05-U. Vehicle Sales and Service

Facilities selling or servicing motor vehicles. Subcategories include:

1. Car Wash/Cleaning Service

Facilities for washing vehicles, either automated or manual.

2. Heavy Equipment Sales/Rentals

Sale or rental of heavy construction equipment, trucks, and aircraft, including incidental maintenance.

3. Light Equipment Sales/Rentals

Sale or rental of automobiles, noncommercial trucks, motorcycles, trailers under 10,000 pounds, recreational vehicles, and boats, including incidental maintenance. Display or sale of more than three vehicles on a parcel is classified as light equipment sales/rental.

4. Motor Vehicle Repair, Limited

Maintenance services such as lubrication and fluid changes, tire, muffler, and transmission repairs that exclude body work or painting. Customers generally wait on-site.

5. **Motor Vehicle Repair, General**

All other vehicle repair activities, including body work and painting.

6. **Vehicle Storage and Towing**

Storage or towing of operational motor vehicles. Includes towing services, impound yards, private tow lots, and fleet storage. Temporary storage not exceeding 15 days is included, excluding vehicles stored for sale, rent, salvage, or repair.

Division 4.8.06 Industrial Use Group

The Industrial Use Group includes businesses that manufacture, assemble, process, store, or distribute goods and materials - either raw, recycled, or pre-processed. This group also includes facilities that manage waste, extract natural resources, or support industrial activities. The following are the primary use categories:

Section 4.8.06-A. Auto Wrecking

The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

Section 4.8.06-B. Cidery

A cidery licensed in accordance with MCA § 16-4-107.

Section 4.8.06-C. Data Center

A use involving a building or premises in which the majority of the use is occupied by computers, telecommunications, or related equipment, including supporting equipment, where information is processed, transferred, and stored, as reflected in MCA § 69-3-1.

Section 4.8.06-D. Digital Asset Mining

The use of electricity to power a computer for the purpose of securing a blockchain network. Usually a group of computers working at a single site that consume more than 1 megawatt of energy on an average annual basis for the purpose of generating digital assets by securing a blockchain network, as reflected in MCA § 69-3-1.

1. **Home Digital Asset Mining**

Digital asset mining conducted in residential zones, consuming less than 1 megawatt of electricity annually, per MCA § 69-3-1.

Section 4.8.06-E. Junk/Salvage Yard

An open-air facility where scrap materials, such as metal, paper, tires, or bottles, are stored, processed, or exchanged. Includes auto wrecking yards but excludes recycling centers and waste management facilities.

Section 4.8.06-F. Manufacturing, Production, and Industrial Services

1. Artisan

Small-scale, hand-crafted production within fully enclosed spaces, no larger than 4,000 sq. ft. Examples include woodworking, ceramics, jewelry making, food preparation, and cannabis cultivation (a canopy of up to 1,000 square feet at one indoor cultivation facility). No external impacts allowed.

2. Limited

Manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; manufacturing of cannabis products that do not utilize flammable solvents and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes cannabis cultivation (a canopy of up to 2,500 square feet at up to two indoor cultivation facilities) and "artisan manufacturing/production" type uses that do not comply with the enclosed building, floor area and/or outside operations/storage criteria that apply to artisan manufacturing/production uses.

3. General

- (a) Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and manufacturing of cannabis products. Also includes cannabis cultivation, medical, scientific or technology-related research establishments that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.
- (b) Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services."

4. Intensive

Heavy manufacturing with higher environmental impact, such as production of chemicals, petroleum, fertilizers, explosives, and radioactive materials. Also includes oil refining and animal slaughtering.

Section 4.8.06-G. Microbrewery/Microdistillery

A brewery (for malt beverages) that has an annual nation-wide production of not less than 100 barrels or more than 10,000 barrels. An existing microbrewery that obtains a retail beer and wine sales permit may be co-located at the same location as the microbrewery so long as:

1. Brewing remains the primary use, and
2. Operating hours do not exceed:
3. Sunday–Thursday: until 10:00 p.m., and
4. Friday–Saturday: until 11:00 p.m.

A distillery that produces 25,000 proof gallons or less of liquor annually in accordance with MCA §§ 16-4-310 through 16-4-312

Section 4.8.06-H. Mining/Quarrying

The extraction of mineral or aggregate resources from the ground for off-site use. Examples include quarrying or dredging for sand, gravel or other aggregate materials; mining; and oil and gas drilling.

Section 4.8.06-I. Recycling Service

Any building, portion of building or area in which recyclable material is collected, stored, or processed for the purpose of marketing the material for use as raw material in the manufacturing process of new, reused or reconstituted products.

1. **Limited**

A recycling facility in which recyclable materials are temporarily stored, collected, or processed by manual separation. (Note: consumer-oriented collection boxes for newspapers, cans and glass items are considered an accessory use and may be allowed in any zoning district.)

2. **General**

A recycling facility that, in addition to any activity permitted as part of a limited recycling service, engages in processing of recyclable materials such as cleaning, bundling, compacting or packing of recyclable materials.

Section 4.8.06-J. Residential Storage Warehouses

Facilities that allow individuals or businesses to store goods. Not for retail, manufacturing, or other business uses. Occupancy limited to transporting or maintaining stored items. Residential storage warehouses are subject to the following standards

1. All driveways, interior aisles, and walkways must be paved.
2. No cubicle may be used to store explosives, toxic substances, hazardous materials, or radioactive materials.
3. Only storage uses are allowed. No portion of the site may be used for retail sales, service, manufacturing or any similar use.

Section 4.8.06-K. Warehousing, Wholesaling, and Freight Movement

1. **Limited**

Wholesale operations connected to a retail storefront. Includes businesses that sell to both consumers and other businesses.

2. **General**

Bulk storage and distribution not open to the public. Includes trucking firms, freight hubs, and wholesale-only warehouses.

Section 4.8.06-L. Waste-Related Use

Facilities that manage waste or convert organic waste into goods or energy. Includes:

1. **Compost Service**

The collection, storage, and processing of compostable materials (Including food scraps, yard waste, and other organic materials) for the purpose of producing composting, reducing landfill waste, or providing soil enrichment. This includes operations at any scale and may occur within buildings, outdoor areas, or designated containers. This may involve on-site use, local distribution, or resale of finished compost.

(a) **Limited**

A small-scale composting operation where compostable materials are temporarily stored, collected, or processed, primarily by manual or low-impact mechanical methods. These facilities may be operated by individuals, nonprofits, farms, or small businesses and are intended to serve a limited area. Limited composting facilities typically produce a modest volume of material and do not rely on intensive industrial processes. (Note: consumer-oriented collection boxes for compost items are considered an accessory use and may be allowed in any zoning district).

(b) General

A composting facility that, in addition to any activity permitted as part of a limited recycling service, engages in processing of recyclable materials such as cleaning, bundling, compacting or packing of recyclable materials.

2. **Demolition Debris Landfill**

Sites for disposing of construction waste, soil, rock, wood, and other inert materials.

3. **Solid Waste Separation Facility**

A facility where mixed municipal solid waste is separated into recovered materials and other components either manually or mechanically and further processed for transporting to other facilities, including a solid waste disposal area.

4. **Transfer Station**

A facility for the transfer and packing of solid waste from smaller collecting vehicles to larger transport vehicles.

Section 4.8.06-M. Winery

A winery licensed in accordance with MCA § 16-4-107.

Division 4.8.07 Aviation Use Group

The Aviation Use Group includes the following use categories:

Section 4.8.07-A. Air Medical Services

The use of airplanes or helicopters to transport patients to or from healthcare facilities or emergency scenes. Services include emergency, critical care, and prehospital treatment provided during aeromedical evacuations or rescues by air.

Section 4.8.07-B. Mail and Distribution

The use by a postal agent for storage, distribution, and transfer of parcels regionally, nationally, and internationally.

Section 4.8.07-C. Private and Public Airports

See the Federal Aviation Administration (FAA) description in 14 CFR Part 139.

Section 4.8.07-D. Airport Facilities

This use includes, but not limited to, terminals, hangars, and other facilities necessary for the safe and efficient operation of the Airport. Aviation programs and flight training schools are permitted aviation-related uses.

Division 4.8.08 Temporary Use Group

The Temporary Use Group includes the use of property that does not require a building permit and that may or may not comply with the use or parcel and building standards of the zoning district in which the temporary use is located. Temporary uses shall be consistent with the overall purposes of this ordinance and when the operation of the temporary use will not be detrimental to the public health, safety, or general welfare.

Section 4.8.08-A. Authority to Approve

1. Except as expressly stated in Section 4.8.08-B, all temporary uses are subject to City permits and requirements.
2. The Planning Administrator is authorized to approve temporary uses that comply with the provisions of this section and to impose conditions on the operation of temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning chapter.

Section 4.8.08-B. Exemptions

The following are permitted as temporary uses without complying with the permit requirements of this section:

1. Garage sales conducted in Residential districts or on parcels occupied by residential dwelling units for no more than 12 days total in any calendar year; and
2. Temporary uses of no more than three days duration conducted on City parkland or public property, provided such uses have been approved by the City Council or other duly authorized City official.

Section 4.8.08-C. Authorized Uses

The following may be approved as temporary uses when the planning administrator determines that the operation of such use will be generally compatible with surrounding uses and will not be detrimental to public safety:

1. Christmas tree and similar holiday sales lots;
2. Outdoor carnivals;
3. Outdoor concerts, festivals and similar events;
4. Temporary sales offices;
5. Temporary portable storage containers, subject to 4.8.08-E;
6. Auctions;
7. Short term weather shelters or temporary overnight visitors within a Religious Assembly;
8. Other temporary uses allowed by State Law; and
9. Other similar uses and activities.

Section 4.8.08-D. Conditions of Approval

In approving a temporary use, the Planning Administrator is authorized to impose conditions on the operation of temporary uses that will help to ensure that they do not create unreasonable adverse impacts on surrounding uses and that they operate safely, consistent with the general purposes of this zoning ordinance. Such conditions may include the following:

1. Requirements for vehicle access and parking, subject to review and approval by the City Engineer;

2. Restrictions on hours of operation;
3. Limitations on signs and outdoor lighting (See Temporary Signs in Article 4.14);
4. Requirements for financial guarantees for cleanup and/or removal of structures or equipment; and
5. Other conditions necessary to carry out the general purposes of this zoning ordinance.

Section 4.8.08-E. Regulations for Temporary Portable Storage Containers

Temporary portable storage containers are an allowed temporary, accessory use. The following regulations apply to parcels containing a dwelling unit:

1. Temporary portable storage containers are permitted for a period not to exceed a total of 30 days within any consecutive six-month period. However, in cases where a dwelling has been damaged by natural disaster or casualty, the Planning Administrator is authorized to allow a temporary portable storage container for a longer period.
2. Temporary portable storage containers may not exceed 8.5 feet in height or more than 260 square feet in floor area.
3. Temporary portable storage containers may not be located in the public right-of-way or as a visibility obstruction within sight-triangles.
4. Temporary portable storage containers may not be located in a front or street side setback unless located on a driveway or other paved surface.
5. Rail cars, semi-trailers, and similar structures may not be used for temporary or permanent storage on parcels containing a dwelling.

Section 4.8.08-F. Time Limit

1. In Residential zoning districts temporary uses may be permitted up to four times per calendar year per parcel for a maximum of ten days per occurrence. Upon expiration of a temporary use permit, another permit for the same premises may not be obtained for at least 30 days. This limitation does not apply to Short-Term Shelters and Religious Assemblies accommodating temporary overnight visitors.
2. In nonresidential zoning districts temporary uses may be permitted for up to 90 days per calendar year per parcel. There is no limit on the number of occurrences or events as long as the 90-day cumulative limit is not exceeded.
3. The applicant must submit a written explanation of the length of time needed for a proposed temporary use.
4. Religious Assemblies may not accommodate temporary overnight visitors for more than 75 days per calendar year in any zoning district.

Section 4.8.08-G. Procedure

Upon receipt of a complete application for a temporary use, the planning administrator must review the proposed use for its likely effects on surrounding properties and its compliance with the provisions of this section. The planning administrator may impose conditions of approval necessary to ensure compliance with this section and consistency with the overall purpose of this zoning ordinance.

Division 4.8.09 Other Use Group

The "Other" Use Group includes the following:

Section 4.8.09-A. Agriculture, Crop

The use of land for growing, raising, or marketing of plants to produce food, feed, or fiber commodities. Examples of crop agriculture include cultivation and tillage of the soil and growing and harvesting of agricultural or horticultural commodities. Crop agriculture includes the sale of crops grown on site and the manufacturing of products using crops grown at the same location. Crop agriculture does not include personal (household) gardens, or landscaping for aesthetic purposes.

Section 4.8.09-B. Agriculture, Animal

The use of land for raising animals to produce food or fiber commodities. Examples of animal agriculture include dairying and the raising of livestock, bees, fur-bearing animals, and poultry. Animal agriculture includes the sale of animal products at the same site the animals are raised, and the manufacturing of animal products, such as cheese, produced by the animals raised at the same location. Animal agriculture does not include the keeping of up to six female chickens, in accordance with Title 6.12 of the Municipal Code.

Section 4.8.09-C. Community Garden

Land used for vegetable, fruit or flower gardening by individuals or groups who may or may not own or lease the subject land.

Section 4.8.09-D. Transportation Terminal

Facilities for regional bus service and regional rail service including loading and unloading areas and passenger waiting areas. Note: Bus and rail passenger facilities for local or subregional service, such as Mountain Line stops and transfer centers are classified as "minor utilities."

Section 4.8.09-E. Wireless Communication Facility

1. Facilities that transmit or receive radio signals using the radio frequency spectrum. Examples include, but are not limited to, radio towers and television towers, telephone exchanges, microwave relay towers, commercial mobile radio service facilities, and other similar personal wireless services such as cellular and paging systems. This use also encompasses all associated equipment which may include antennae, equipment shelters or platforms, lighting, monopole towers, mounting hardware, supporting electrical or mechanical equipment, access roads, and guy systems.
 - (a) **Collocated Facility**

A Wireless Communication Facility that is attached to an existing pole, tower, or other structure including, but not limited to, a structure that can accommodate the future installation of two or more antenna systems.
 - (b) **Freestanding Facility**

A new tower, monopole, or other unattached structure erected to support wireless communication antennas and connecting appurtenances.

2. **Purpose**

It is the duty of the city to protect the public health, safety and welfare of all residents. The City has authority to regulate the placement, construction and modification Wireless Communication Facilities in the advancement of that duty. The City recognizes the need to respond to the policies in the Telecommunications Act of 1996 and the Spectrum Act of 2012. These regulations have been constructed to ensure adequate provision of personal wireless services while ensuring compatibility with the surrounding land uses. Nothing in these regulations is intended to contravene the Telecommunications Act of 1996 and/or the Spectrum Act of 2012. The regulations of this section are specifically intended to:

- (a) Regulate the location and height of personal wireless services support structures and facilities to ensure compatibility with surrounding land uses;
- (b) Promote and encourage co-location of wireless communication facilities on existing support structures as a primary option rather than construction of additional single use wireless communication facilities support structures;
- (c) Avoid potential physical damage to property caused by wireless communication facility support structures by ensuring such structures are soundly and carefully designed, constructed, modified, maintained, and removed when no longer used or are determined to be structurally unsound;
- (d) Ensure adequate and effective personal wireless services to the citizens of Missoula and its environs; and
- (e) Provide for the efficient modification and upgrading of existing facilities to accommodate changing technologies.

3. **Applicability**

This section applies to all Wireless Communication Facilities, except that those associated solely with the following are exempt from these regulations (including height and setbacks):

- (a) Public safety services (e.g., police and fire);
- (b) Amateur radio stations;
- (c) Land mobile radio;
- (d) Television; and
- (e) Distributed Antenna Systems (DAS), small cell networks, or wireless facilities located within a building, stadium or similar structure; not visible from outside the building, stadium or similar structure; and intended primarily to provide wireless coverage within that building, stadium or similar structure.

The public lands and agencies exemption from compliance with zoning in Article 4.1 does not apply to private entities utilizing publicly owned lands.

4. **Prohibited Locations and Support Structure Type**

The following locations and support structures are not permitted:

- (a) Wireless Communication Facilities in the public right-of-way; and
- (b) Lattice and guyed tower support structures for Wireless Communication Facilities.

5. **Permitted Locations**

- (a) Existing Facilities

Modifications to existing Wireless Communication Facilities are permitted in all zoning districts, subject to compliance with other applicable standards of this section.

- (b) Building-Mounted Support Structures

Wireless Communication Facilities located on building-mounted support structures are permitted in all zoning districts, subject to compliance with other applicable standards of this section.

- (c) Ground-Mounted Support Structures (Tower)

Ground-mounted support structures for Wireless Communication Facilities are permitted in all zoning districts, subject to compliance with other applicable standards of this section. Ground-mounted support structures in residential districts are subject to the maximum height of the base zoning district.

6. **Historic District Overlays**

In addition to compliance with applicable standards contained in this section, proposed development located in or within 300 feet of a Historic Resource Overlay district must be reviewed by the Historic Preservation Officer for consistency with applicable overlay district regulations and applicable requirements of Article 4.6, when a Historic Preservation Permit is required. Modifications exempt from setback and height requirements as identified in 7.2 below are exempt from Historic Preservation review.

7. **Development Standards**

Development standards are based on the activity pursued. They are addressed in the form of modifications to existing facilities or new facilities.

(a) **Modifications**

Modifications are improvements to existing facilities (conforming and nonconforming) that result in some material change to the facility or support structure. Modifications include collocation of new transmission equipment, replacement of support structure, removal or replacement of transmission equipment, and increases in height, .

- (b) If the proposed modification is considered a substantial modification (subsections a through e below) pursuant to 47 C.F.R 1.6100, the modification must meet height and setback requirements outlined in Table 4.8.09-1:
1. It increases the height of the tower by more than ten percent, or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater; for other support structures, it increases the height of the structure by more than ten percent or more than ten feet, whichever is greater;
 2. It involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than 20 feet, or more than the width of the tower structure at the level of the appurtenance, whichever is greater; for other support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;
 3. For any support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure; or involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure;
 4. It involves excavation outside the current existing facility site, defined as the current boundaries of the leased or owned property surrounding the existing structure and any access or utility easements currently related to the site;
 5. The proposed antenna would defeat the concealment elements of the current existing facility site; or
 6. The proposed antenna does not comply with the conditions associated with the prior approval of the existing structure unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed corresponding substantial change thresholds

(c) **Schedule**

The following standards in Table 4.8.09-1 apply to wireless communication facility supports:

Table 4.8.09-1 Wireless Communication Facility Supports

Support Type	Maximum Height (feet)	Setback (feet)
Building-Mounted Support Structures	Support structure and antenna height together may not exceed 10 ft above the building height	N/A
Ground-Mounted Support Structures in Residential Districts	Maximum height of base zoning district	From property line: 100% of structure height; minimum 20-foot setback
Ground-Mounted Support Structures in Mixed-Use and Special Use Districts	Support structure and antenna height together may not exceed the largest distance of the structure from property lines (e.g. 40 ft. setback = 40 ft. max height).	From property line: 100% of structure height; minimum 20-foot setback
Radio Towers in Residential Districts*	100 feet	From property line: 100% of structure height; minimum 20-foot setback
Radio Towers in Mixed-Use and Special Use Districts*	No max	From property line: 100% of structure height; minimum 20-foot setback

*Does not include amateur radio stations per Section 4.8.09-E.3.

8. Screening

Screening must be provided in accordance with Article 4.9 for ground mounted Wireless Communications Facilities.

9. Existing Facilities Maintenance and Removal

(a) Ordinary Maintenance of Existing Personal Wireless Service Facilities

1. Ordinary maintenance of existing facilities and support structures shall be exempt from zoning requirements.
2. Ordinary maintenance includes inspections, testing and modifications that maintain functional capacity. Ordinary maintenance includes: (i) replacing existing antennas with antennas of a similar size and color, (ii) replacing accessory equipment with equivalent accessory equipment within an existing facility, and (iii) relocating the antennas of approved facilities to different height levels on an existing support structure upon which they are currently located. Ordinary maintenance does not include minor and major modifications.

(b) Removal and Abandonment of Personal Wireless Service Facilities

1. Providers must notify the city in writing when a Wireless Communication Facility is no longer being utilized. Any facilities that are not utilized for the provision of personal wireless services for a continuous period of six months or more will be considered abandoned. All abandoned facilities must be removed within six months of the cessation of operations. If a facility is not removed within six months, the city is authorized to remove the facility at the facility owner's or landowner's expense.

2. Where multiple users share a support structure, the non-operational antenna and equipment enclosure must be removed. Any necessary shared facilities may be retained until all users have terminated the utilization of the support structure.
3. Providers must apply for a demolition permit from the city when a personal wireless service facility, other than a DAS or small cell network, is being removed.
4. Providers must notify the city in writing when a DAS or small cell network system is abandoned or removed.

10. Submittal Requirements for New Facilities and Modifications

- (a) A zoning compliance permit must be obtained before construction or erection of any new Wireless Communication Facilities, or modification to existing facilities.
- (b) A building permit may be required depending on the proposal.
- (c) In addition to the submittal requirements required elsewhere in this code, permit applications for new Wireless Communication Facilities and modification requests to existing facilities shall be accompanied by the following information:
 1. Written statements from the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority stating that the proposed tower complies with regulations administered by that agency or that the tower is exempt from those regulations; and
 2. A report from a qualified and licensed professional engineer which does the following: describes the tower height and design including a cross section and elevation; demonstrates the tower's compliance with the aforementioned structural and electrical standards; documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas; describes the tower's capacity, including the number and type of antennas that it can accommodate; and documents what steps the applicant will take to avoid interference with established public safety communications;
- (d) A permit application for a new Wireless Communication Facility or modification to an existing facility must also include:
 1. An application containing ownership, applicant's representative or contact, and lease terms.
 2. A site plan drawn to scale showing the following:
 3. North point;
 4. Boundaries, easements and ownership as set forth in the legal description;
 5. Topography at two-foot contour intervals;
 6. Existing structures and improvements;
 7. Location of existing vegetation including trees over ten inches in diameter (DBH) that might be impacted by the proposal, watercourses, other natural features and areas of slope greater than 25%;
 8. Proposed improvements, if any;
 9. Utilities;
 10. All adjacent streets and rights-of-way; and
 11. Elevation drawings and/or photographs of all existing and proposed structures with documentation prepared by a professional structural engineer licensed to practice in the State of Montana establishing the structural integrity of the wireless communications support structure; including documented loading calculations for wind, snow and seismic forces under circumstances of maximum capacity loading, and the equipment enclosures capacity. Loading criteria, as required by the building inspection division, are those set forth in the edition of the applicable building code most recently adopted by the city;
 12. Written statements from the Federal Aviation Administration, Federal Communications Commission, and any appropriate state review authority stating that the proposed tower

complies with regulations administered by that agency or that the tower is exempt from those regulations; and

13. A report from a qualified and licensed professional engineer which does the following: describes the tower height and design including a cross section and elevation; demonstrates the tower's compliance with the aforementioned structural and electrical standards; documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distances between antennas; describes the tower's capacity, including the number and type of antennas that it can accommodate; and documents what steps the applicant will take to avoid interference with established public safety communications.
- (e) The Planning Administrator may waive any submittal requirement upon determination that the requirement is not applicable to the scope of work proposed with the modification.
- (f) If proposing a new ground-mounted support structure, applicants must provide, in addition to the above submittal requirements, the following:
1. A list of all existing Wireless Communication Facilities operated by the applicant and the service area of the existing and proposed facilities;
 2. Evidence that no existing buildings, structures or other ground-mounted support structures within the same geographic service area of the proposed structure could be used as alternative locations. Evidence must include a map of the area to be served by the facility, its relationship to other sites in the applicant's network, a list and evaluation of all existing buildings, structures and ground-mounted support structures reviewed by the applicant within the same geographic service area of the proposed site, demonstration that the provider contacted the landowners or owners of the alternative sites listed, asked permission to locate on the site, and was denied;
 3. Evidence demonstrating a genuine effort to solicit co-location by other users/providers on the proposed ground-mounted support structure; copies of notice sent by certified mail, return receipt requested, to all other providers of wireless communications in the city advising of the intent to construct a new ground-mounted support structure, identifying the location, inviting the joint use and sharing of costs and requesting a written response in 15 business days; and
 4. An agreement, subject to review and approval of the city attorney, to encourage and promote future joint use of support structures within the city and to commit no act or omission that would have the effect of excluding, obstructing or delaying the joint use of any support structure where fair and reasonable compensation is offered for such use.
- (g) Permit fees, as required.



Article 4.9

SITE DEVELOPMENT STANDARDS

Article 4.9

SITE DEVELOPMENT STANDARDS

Division 4.9.01 General

Section 4.9.01-A. Purpose

The purpose of the Site Development Standards article is to establish a clear and consistent framework for regulating how sites are designed and improved. These standards are calibrated to support Missoula's vision for sustainable growth, including a thriving urban forest, reduced environmental impacts, and a built environment that aligns with the Land Use Plan.

These standards support Missoula's goals for pedestrian-friendly, climate-responsive development and are intended to:

1. Mitigate the impacts of development, as identified and analyzed during the land use planning process;
2. Reinforce neighborhood context and the built environment;
3. Ensure buildings, parking area, landscaping, and access contribute to safe, high-quality spaces; and
4. Promote comfort, resilience, and safety for all modes of travel.

Additional standards related to parking facilities are found in Chapter 6 Infrastructure Improvements.

Division 4.9.02 Landscaping

Section 4.9.02-A. General

1. Purpose

Landscaping is a fundamental part of site development that improves comfort and livability, and supports community goals related to sustainability, climate resilience, and environmental health. These standards are intended to:

- (a) Reduce visual and noise impacts from streets, parking lots, and adjacent uses.
- (b) Provide shade, reduce heat island effects, improve air quality, and manage and filter stormwater.
- (c) Mitigate the impacts from additional impervious surface and increased motorized transportation resulting from development.
- (d) Support healthy vegetation in Missoula's challenging climate conditions through proper selection, installation, spacing, and maintenance.

2. Applicability

- (a) The landscaping requirements of this division apply to all land. The applicability of specific landscaping requirements varies and is addressed in each section of this division.
- (b) The landscaping standards of this division do not apply to the D-C Downtown Core district.
- (c) Unless otherwise expressly stated, there is no requirement to address existing lawful landscaping deficits. Modifications to existing sites are not permitted to increase the degree of deficit or non-conformity with the requirements of this division.

3. General Standards

- (a) All areas of a parcel that are not covered by structures, driveways, parking areas, or other paved surfaces shall be landscaped.
- (b) When five or more trees are planted on a parcel to meet the requirements this division, a mix of species shall be provided so that no one species may comprise more than 20% of the total trees.
- (c) All landscaping requirements shall be met on-site. Landscaped areas, fences, trees, and shrubs located on abutting properties and rights-of-way do not meet the requirements of this division.
- (d) When a calculation results in a fractional number of trees or shrubs:
 - 1. any fraction of less than 0.5 is rounded down to the next lower whole number, and;
 - 2. any fraction of 0.5 or more is rounded up the next higher whole number.
- (e) Boulevard Landscaping and street trees are required in addition to any requirements in this section. Landscaping in the right-of-way shall comply with the standards in Chapter 6 and the Manual.

Section 4.9.02-B. General Site Landscaping

1. Applicability

The general site landscaping requirements of this section apply to the following:

- (a) New mixed-use and non-residential buildings;
- (b) New residential development with seven or more dwelling units;
- (c) Townhome Exemption Developments of seven or more dwelling units (based on a single declaration);
- (d) Existing residential development that is expanded to seven or more dwelling units;
- (e) Building additions on parcels with seven or more dwelling units, mixed use development with any number of residential units, or non-residential development;
 - 1. Applications must demonstrate compliance with the applicable percentage of general site landscaping specified in Articles 4.2, 4.3, and 4.4.
 - 2. Building additions smaller than 15% of the gross floor area of the existing building are exempt from coming into full compliance with general site landscaping tree and shrub requirements. In other words, the parcel is not required to be brought into full compliance with this section but cannot create or increase a landscaping deficit.
- (f) The construction or expansion of parking lots or vehicular use areas.
 - 1. Applications must demonstrate compliance with the applicable percentage of general site landscaping specified in Articles 4.2, 4.3, and 4.4.
 - 2. Expansions of existing parking lots and vehicular use areas that equal less than 25% of the gross paved area are exempt coming into full compliance with general site landscaping tree and shrub requirements. In other words, the parcel is not required to be brought into full compliance with this section but cannot create or increase a landscaping deficit.

2. Standards

- (a) General site landscaping shall meet the minimum area required in each zoning district per Tables 4.9.02-1, 4.9.02-2, and 4.9.02-3. General site landscaping must be calculated for the entire parcel.
- (b) General site landscaping must consist of one Class 2 tree per 800 square feet of required general site landscaping area. Tree classes are described in Section 4.09.02-I.
 - 1. Class 1 trees may be substituted at a ratio of two Class 1 trees to one Class 2 tree.
 - 2. Class 3 trees may be substituted at a ratio of one Class 3 tree to two Class 2 trees.

- (c) General site landscaping must consist of six shrubs per 1,000 square feet of required general site landscaping area.
 - 1. Trees may be substituted for shrubs at a ratio of one tree to six shrubs.
 - 2. Perennials may be substituted for shrubs at a ratio of three perennials to one shrub.
- (d) All landscape areas and plant material provided to meet any requirement in the Landscaping Division count toward satisfying the general site landscaping requirements of this section.
- (e) Existing healthy trees and shrubs count toward meeting the general site landscaping requirements of this section if they comply with the plant height and size requirements of Section 4.9.02-I.
- (f) General site landscaping on TEDs shall be calculated based on the parent tract, not individual TED Ownership Units (TOUs).
 - 1. Landscaping in common areas shall be installed prior to filing of the TED declaration.
 - 2. Landscaping located on individual TOUs shall be installed per the approved Zoning Compliance Permit with the construction of each associated dwelling unit.

Table 4.9.02-1 General Landscaping Requirements in Residential

General Landscaping	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Minimum Required Landscaping							
Percent of parcel (min)	n / a	25%	25%	20%	20%	20%	20%

Table 4.9.02-2 General Landscaping Requirement in Mixed Use Districts

Site Development	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LU-MU
Minimum Required Landscaping							
Percent of parcel (min)	A	15%			10%	NA	20%

Figure 4.9.02-1 General Landscaping in Mixed-Use Districts

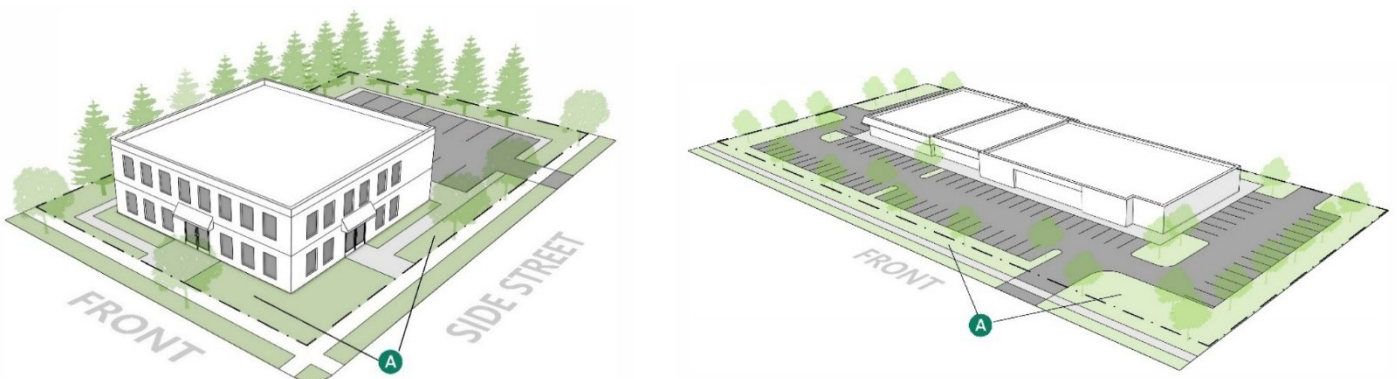


Table 4.9.01-3 General Landscaping Requirement in Special Use Districts

Site Development	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		PUBLIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Minimum Required Landscaping								
Percent of parcel (min)	15%	-	-	-	15%	15%	15%	-

3. General Site Landscaping Reductions

- (a) The required general site landscaping area may be reduced by a maximum of 30% when at least one of the following planting systems is provided:
 - 1. Pollinator gardens incorporating native shrubs and native flowering plants meeting the following:
 - a. A minimum of six different native species must be provided.
 - b. Selected species must provide nectar and pollen across three seasons.
 - c. A minimum six-inch soil depth is required.
 - 2. Native prairie area with a minimum width and length of eight feet.
 - a. The prairie area must incorporate native shrubs, forbs and grasses typical of western Montana Palouse Prairie grasslands/bunchgrass grassland.
 - b. A minimum of six different native species must be provided.
 - c. Plant species must be selected to provide 70% vegetation coverage within two years of planting.
 - d. Grass varieties shall not include invasive rhizomatous species.
 - e. A minimum six-inch soil depth is required.
- (b) The required general site landscaping area may be reduced by a maximum of 50% when a green roof is provided. Green roofs must incorporate herbaceous plants and shrubs. Green roofs shall have at least a four-inch soil depth and 70% vegetation coverage.
- (c) The reductions in 3.a and 3.b cannot be combined.
- (d) The landscaping reductions in this section do not reduce the required number of general site landscaping trees and shrubs. Required vegetation may and should be integrated into the above planting systems.

Section 4.9.02-C. Tree Conservation

- 1. Established trees with a diameter breast height (DBH) of six inch or greater should be retained and protected whenever possible. These retained trees count towards the general site landscaping tree requirements, and shall be protected during construction by establishing a tree protection zone that does not allow for any disturbance within the inner 1/2 of the drip line of the retained tree.
- 2. Unless otherwise approved by the Urban Forester, the removal of desirable trees in good condition with a diameter breast height (DBH) of six inches or greater, single stem, must be mitigated by providing one or more replacement trees with a total combined DBH that is at least equal to the total DBH of trees that are removed.
 - (a) A minimum of 1 replacement tree and maximum of 6 replacement trees are required per removed tree

- (b) When landscaping is required, the total replacement trees required for the project shall not exceed 200% of the number of trees required by this article.
 - (c) For projects that do not require general site landscaping, 1 replacement tree shall be required per tree removed.
 - (d) Replacement trees shall count towards the tree planting requirements of this article.
3. When it is determined that the removed trees are hazardous, diseased or of an undesirable species, the Urban Forester may waive the tree replacement requirement. Undesirable species include: Blue Spruce, Siberian Elm, Autumn Blaze Maple, non-native Willows, hybrid Poplars (including Siouland poplar), and Junipers.
 4. The Urban Forester is authorized to collect a mitigation fee, not to exceed \$1,000 per replacement tree, to fund off-site tree planting when inadequate area exists on the project site for the healthy growth of replacement trees.

Section 4.9.02-D. Activity Area

1. Purpose

The purpose of activity areas is to ensure opportunities for “close to home” outdoor recreation, relaxation, and community gathering are provided with new residential developments. Activity areas address quality of life and health of residents through the installation of usable outdoor space. The activity area standards are intended to:

- (a) Ensure activity areas are appropriately sized and accessible;
- (b) Ensure activity areas include amenities that support the desired activity, whether that be outdoor recreation and relaxation spaces or indoor community spaces.

2. Applicability

- (a) Activity area is required for the following:
 1. New residential and mixed-use developments of seven or more dwelling units;
 2. Townhome Exemption Developments of seven or more dwelling units;
 3. Existing residential development that is expanded to seven or more dwelling units on a parcel.
- (b) The activity area requirements of this section do not apply to the following:
 1. Development on parcels in subdivisions approved subject to the parkland dedication requirements in effect on or after the effective date of this UDC (Article 1.1).
 2. Development on parcels in the D-C Downtown Core district.

3. General Standards

- (a) Activity area must be provided at a rate of 150 square feet per dwelling unit, up to a maximum square footage equal to 20% of the parcel area.
- (b) All activity areas must have a minimum dimension of 15 feet unless otherwise stated.
- (c) Activity areas may be dispersed across multiple locations but shall be located as to be accessible and convenient to the residential units the activity area serves.
- (d) Outdoor activity areas must be separated from buildings, vehicular use areas, and rights-of-way using one of the following options:
 1. A minimum 5-foot-wide landscaped buffer containing at least one tree for every 30 linear feet of buffer length. Shrub beds or other planting systems may be used but are not required;
 2. On-site sidewalks;
 3. Fencing complying with the requirements of Article 6.4 Fences.

- (e) Activity areas cannot be used for snow storage.
- (f) The required recreational space shall be usable for recreation by the residents and shall not be occupied by at-grade stormwater features, above ground utilities, stairways, or other facilities that would diminish its utility for recreation purposes.

4. Types of Activity Areas

The activity area requirements must be satisfied using one or more of the following activity area types:

- (a) **Fruit and/or Vegetable Garden.** Gardens installed to meet the requirements of this section shall:
 1. Provide tool storage areas for common use by residents;
 2. Be enclosed with a six-foot-tall fence to exclude deer and pets. The fence may be four feet tall when required by Article 6.4 Fences. The fence must be high transparency, such as wood-framed hog panel;
 3. Provide access to water, such as a hose bib, in a location accessible to all garden beds;
 4. Provide topsoil at a minimum depth of one foot;
 5. Be located to receive adequate sunlight throughout growing season. Gardens located south, west, or southwest of the building(s) are preferred. Gardens located to the southeast of the building(s) are acceptable.
- (b) **Playground.** Playgrounds installed to meet the requirements of this section shall:
 1. Be a minimum area of 550 square feet. On-site sidewalks are not counted towards the minimum area;
 2. Contain elements to support active play for children ages two to twelve such as slides, balance features, swings, and climbing features. Natural elements such as logs and boulders meet this requirement if arranged in such a manner as to create a play space for enjoyment by children. Equipment shall meet Consumer Product Safety Commission (CPSC) Public Playground and ASTM standards for playground safety.
- (c) **Common Area Courtyard.** Courtyards installed to meet the requirements of this section shall:
 1. Be surfaced with ADA accessible hardscape;
 2. Have seasonal shade on at least 30% of the courtyard provided by trees or by structure (e.g. pergolas, shade sale);
 3. Include seating. Areas containing grills, tables, outdoor games, and additional landscaping count towards the courtyard space.
- (d) **Active Recreation Lawn.** Active recreation lawns installed to meet the requirements of this section shall:
 1. Have a minimum length and width of 40 feet;
 2. Have a slope of 2% or less;
 3. Be irrigated and planted with turf grass;
 4. Have topsoil with a minimum six-inch depth;
 5. Not contain above ground utilities and sidewalks.
- (e) **Sports Court.** Sport courts installed to meet the requirements of this section shall:
 1. Be paved with asphalt or concrete to support the proposed activity. Alternative surfaces may be approved by Parks and Recreation;
 2. Be sized to support the proposed activity. For example, a basketball court must be at least half of a court;
 3. Provide features required to support the proposed activity (e.g. pickleball net, basketball hoop, etc.);

4. Be physically separated from vehicles. Sports courts may be used as an emergency access or fire turn around if approved by the Fire Department. Bollards or a gate preventing regular vehicle uses must be provided.
- (f) **Ornamental Garden.** Gardens installed to meet the requirements of this section shall:
1. Contain internal pathways;
 2. Contain automated irrigation;
 3. Have a minimum soil depth of one foot;
 4. Include ornamental plantings, trees, and other amenities such as benches, hammocks, and gazebos to support resident use of the space;
 5. Provide a plan for continuous maintenance at the time of permitting.
- (g) **Trail Corridor.** Trail corridors installed to meet the requirements of this section shall support active transportation or recreation.
1. If supporting recreation, the trail shall be located within a natural or park-like area, create a loop and/or have a destination amenity.
 2. If supporting active commuting, the trail shall connect with the broader active transportation network, be approved by Parks and Recreation, and must meet standards found in the Manual.
- (h) **Shared Rooftop Deck.** Rooftop decks installed to meet the requirements of this section shall:
1. Be accessible to all residents;
 2. Contain seating;
 3. Incorporate landscaping elements such as planters or green roof areas. A minimum of 10% of the deck area shall be occupied by planters or green roof planting areas. Planters shall include 24 in. soil depth and may be grouped to allow design flexibility.
 4. Provide lighting.
- (i) **Indoor Activity Area.** Indoor activity areas installed to meet the requirements of this section shall be designed for active recreation and include supporting amenities. The following may be counted as indoor activity area:
1. Community rooms with seating, tables, televisions, games, and other amenities;
 2. Exercise spaces with workout equipment.
 3. Office or coworking spaces do not count as indoor activity area.
5. **Cash-In-Lieu**
- (a) The activity area requirements may be met through cash-in-lieu. A combination of on-site activity area and cash-in-lieu is permitted.
 - (b) Cash-in-lieu for activity areas shall be provided at an amount of 0.01 acres per dwelling unit. City Council determines the cash value of 0.01 acres of activity area by resolution.
 - (c) Cash-in-lieu shall be dedicated to the Parks and Recreation Department to support improvements to nearby public parks that serve the residents of the development.

Section 4.9.02-E. Interior Parking Lot Landscaping

1. Purpose

The purpose of interior parking lot landscaping is to provide landscaped areas within parking lots that are designed to facilitate movement of traffic, break-up large areas of impervious surfaces, reduce heat island effects, and filter stormwater.

2. Applicability

The interior parking lot landscaping standards apply to the following:

- (a) Any new parking lot or vehicular use area containing ten or more parking spaces or more than 3,000 square feet of paved area;
- (b) The expansion of any existing parking lot or vehicular use if the expansion would create ten or more new parking spaces or more than 3,000 square feet of additional paved area. The requirements of this section apply only to the expanded area;
- (c) The excavation and reconstruction of existing parking lots or vehicular use areas containing ten or more parking spaces or more than 3,000 square feet of paved area if such excavation and reconstruction involve the removal of more than 25% of the paved surface. The requirements of this section apply only to the portion of the parking lot or vehicular use area that is excavated and reconstructed.
- (d) Interior parking lot landscaping does not apply to parking structures or drive-throughs.

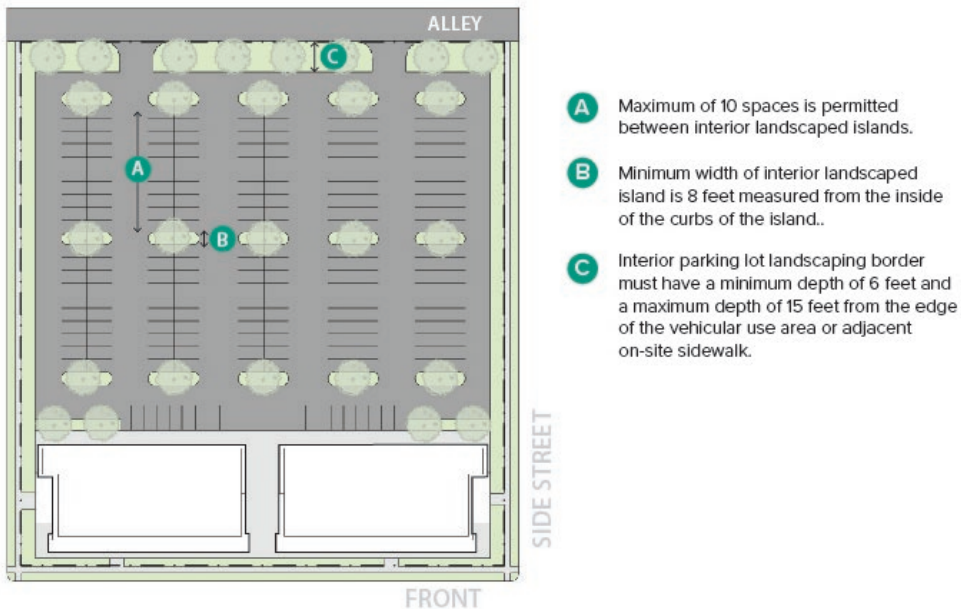
3. Standards

(a) Minimum Area

1. At least 10% of the total parking lot or vehicular use area must be devoted to interior parking lot landscaping.
2. Vehicular use areas that are covered by carports, canopies or similar structures must be included when calculating the minimum 10% interior parking lot landscaping requirement, but installation of landscaping is not required beneath carports, canopies or other structures that block sunlight and rainfall.
3. At least one Class 2 deciduous tree is required per 150 square feet of required interior parking lot landscaping area.

(b) Location and Design

1. Parking lot landscaped islands are required. No linear grouping of parking spaces shall exceed 10 spaces in a row without a landscaped island.
2. Required landscaped islands must have a minimum width of eight feet, not including the width of curbs, and extend the depth of the adjacent parking space(s).
3. Required landscaped islands must have a minimum soil depth of three feet.
4. Required landscaped islands must contain at least one Class 2 or Class 3 tree. Class 1 trees shall only be allowed where a larger class of tree would create conflicts with overhead utility lines or fire apparatus access.
5. Any parking row that ends adjacent to a paved driving surface, regardless of the aisle's length, must have a landscaped island at that end of the parking row.
6. If the minimum ten percent interior parking lot landscaping requirement is not met by providing interior landscaped islands, then landscaping bordering paved parking and vehicular use areas may be counted to meet interior parking lot landscaping requirements. In order to be counted, the border landscaping must have a minimum depth of six feet and a maximum depth of fifteen feet from the edge of the vehicular use area or adjacent on-site sidewalk.

Figure 4.9.02-2 Interior Parking Lot Landscaping Diagram

Section 4.9.02-F. Perimeter Parking Lot Landscaping

1. Purpose

The purpose of perimeter parking lot landscaping is to minimize the impact of automobile-dominated areas on the public right-of-way and to promote a comfortable, safe, engaging, and attractive streetscape.

2. Applicability

The perimeter parking lot landscaping requirements apply to the following:

- (a) Installation or expansion of surface parking lots, drive-throughs, or vehicular use areas within 30 feet of a street or trail.
- (b) The excavation and reconstruction of existing surface parking lots, drive-throughs, or vehicular use areas if such excavation and reconstruction involves more than 25% of the paved surface or 3,000 square feet of paving, whichever is less.
- (c) The requirements of this section do not apply to driveways.

3. Standards

- (a) A minimum ten-foot-wide perimeter parking lot landscape area is required between the vehicular use area and any street or trail.
- (b) Perimeter parking lot landscaping requirements shall be satisfied by providing at least one of the following options between the parking lot and street or trail:

1. Landscape Bed:

- a. One Class 2 is required for every 30 linear feet of perimeter parking lot landscape area. The tree substitution allowance in General Site Landscaping applies.
- b. Shrubs selected to reach a minimum height of three feet within three years of planting are required at a maximum spacing of three feet, for the length of the perimeter parking lot landscape area.

- c. Pollinator gardens may be utilized in lieu of the shrub requirement above when planted with at least six different species, spanning the length of the parking lot. Selected species must provide nectar and pollen across three seasons.

2. Landscape Wall or Fence:

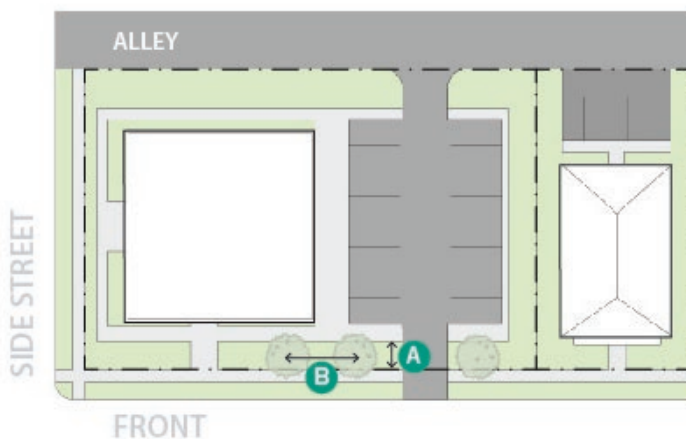
- a. One Class 2 tree is required for every 30 linear feet of perimeter parking lot landscape area. The tree substitution allowance in General Site Landscaping applies.
- b. A minimum three-foot-tall fence or wall is required for the length of the perimeter parking lot landscape area.
- c. When the fence or wall has a transparency of 25% or greater, perennials must be planted along the fence at a spacing of three feet for the length of the required fence.

3. Landscape Berm:

- a. A landscape berm with a height between three and four feet shall be installed for the length of the perimeter parking lot landscape area.
- b. The berm shall have a maximum slope of 3:1.
- c. Landscape berms are only allowed to meet the requirements of this section in Rural Residential, Limited Urban Residential, Limited Urban Mixed Use, and Special Use zoning districts.
- d. Landscape berms are only allowed to meet the requirements of this section in Limited Urban Mixed-Use districts when the abutting right-of-way contains a landscape boulevard.

- (c) The City Engineer is authorized to approve reductions in height to perimeter parking lot landscaping features when necessary to improve visibility at intersections. All fences must comply with the requirements of Chapter 6 Infrastructure Improvements.

Figure 4.9.02-3 Perimeter Parking Lot Landscaping Diagram



- A** Minimum 10 foot wide perimeter parking lot landscape area required between vehicular use area and any street or trail.
- B** A minimum of one Class 2 or 3 tree is required for every 30 linear feet of perimeter parking lot landscape area.

Section 4.9.02-G. Buffers**1. Purpose**

Buffers are intended to mitigate adverse impact of vehicular use areas, drive-throughs, and industrial uses on abutting property. Adverse impacts include but are not limited to noise, exhaust from idling cars, and lighting associated with vehicle headlights and industrial uses.

2. Applicability

- (a) A buffer must be provided between new or expanded vehicular use areas and abutting Residential zoned parcels, parcels used for single purpose residential, and public parks.
 - 1. The buffer must extend the length of the vehicular use area.
 - 2. The buffer requirement does not apply to driveways.
- (b) A buffer must be provided between new or modified drive through facilities and abutting parcels zoned Residential, Mixed-Use, or T-MU.
 - 1. The buffer must extend the length of the drive through facilities, including the service area and stacking lanes.
- (c) A buffer must be provided when a new or expanded industrial use abuts a parcel zoned Mixed-Use, Residential, or T-MU.
 - 1. The buffer shall extend the full length of the property line abutting the applicable zoning districts.
 - 2. This buffer requirement does not apply to the following industrial uses: winery, cidery, and Microbrewery/Microdistillery. Buffering of vehicular use areas per 2.a. are still required.

3. Standards

- (a) Minimum buffer widths are based on the zoning district. Buffers shall be a minimum width of:
 - 1. Six feet in D-T, UR-4, and Urban Mixed-Use zoning districts;
 - 2. Eight feet in T-MU, CD-2, U-R1, U-R2, U-R3, Rural Residential, and Limited Urban Residential zoning districts; and
 - 3. Ten feet in LU-MU, I-1, I-2, OP-1, OP-2, and CD-1 zoning districts;
- (b) Landscape buffers shall provide a landscaped area with a minimum six-foot-tall opaque fence. The fence may be four feet tall where a six-foot fence is prohibited by Article 6.4 Fences. One tree and six shrubs are required per 30 linear feet of fence or wall.
 - 1. In Limited Urban Mixed Use and Special Use zoning districts, the buffer requirement may be met with a landscape berm instead of a landscape area with fence. The height of the berm must be between 4 and 6 feet. The berm shall have a maximum slope of 3:1.

Section 4.9.02-H. Screening**1. Purpose**

Screening is intended to minimize the adverse impacts of mechanical equipment, utilities, and service spaces, such as trash and outdoor storage, from the street and abutting residential zoning districts and uses, while also providing protection and shelter for these elements.

2. Applicability

- (a) Screening applies when any of the features to be screen, identified in Section 4.9.02-H.3, are installed or expanded.
- (b) Screening does not apply to solar energy conversion systems (solar panels).

3. Features to be screened

(a) Ground-mounted Mechanical Equipment

1. Ground-mounted mechanical equipment may not be located within 5 feet of the property line of a parcel used or zoned for residential purposes.
2. Ground mounted mechanical equipment within 15 feet of an interior side property line must be screened from view of abutting residential uses and abutting residential zoning districts by a dense hedge, solid wall or solid fence.
3. Ground mounted mechanical equipment shall be screened from streets by a dense hedge, solid wall, or solid fence.

(b) Structure-mounted Mechanical Equipment

When exterior mechanical equipment must be located on a building elevation it must be screened from view of streets, abutting residential uses, and abutting residential zoning districts by a dense hedge, solid wall, or solid fence.

(c) Trash Receptacles

Trash receptacle serving commercial uses, industrial uses, or three or more units must be contained and screened from streets, trails, and all abutting parcels with a solid wall or fence. Trash receptacles may not be located in the front or street side setback area.

(d) Utility Cabinets

Above-ground utility cabinets that are 30 or more inches in height and located within 25 feet of a street and visible from the street must be screened along the street by a solid fence, solid wall, or dense hedge.

(e) Materials, Supplies and Equipment

All stored materials, supplies, merchandise, equipment, storage or shipping containers, or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user must be screened from streets, trails, parks, and parcels used or zoned for residential purposes by a fence, wall, dense hedge, or combination of such features

- (f) For screening purposes, walls and fences must be tall enough to screen the applicable feature, up to the maximum height permitted in Article 6.4 Fences. Plant material used for screening must reach a minimum height of three feet within three years of planting.

Section 4.9.02-I. Landscaping Materials, Plantings, Installation, and Maintenance

1. Purpose

This section ensures that all required landscaping is functional, resilient, and contributes to Missoula's broader climate, habitat, and urban forestry goals.

2. Applicability

Landscaping installed to meet the requirements of this article shall comply with the provisions of this section.

3. Wildland-Urban Interface

For developments located in the wildland-urban interface area, as shown on the Missoula County Wildfire Risk Assessment and Wildland-Urban Interface map, landscaping must be designed and maintained according to best management practices to create a defensible space:

- (a) Landscaping shall be designed to create defensible space around buildings and structures by ensuring trees and shrubs are not located within 5 feet of a building;
- (b) Plants shall be fire-resistant;
- (c) Plants shall have low fuel volume or high moisture content; and;

(d) Not be species that tend to accumulate excessive dead wood or debris.

4. **Plant Selection**

- (a) Plant materials must be adapted to Missoula's climate and site conditions.
- (b) Preference should be given to native, drought-tolerant, pollinator friendly, and climate-resilient species.
- (c) Invasive species are prohibited.
- (d) Shrubs must be at least five-gallon size at the time of planting.
- (e) Perennials shall be at least one-gallon size at the time of planting.
- (f) Native plant species grown in other industry standard container sizes than those required by Section 4.9.02-I.4.d and e are permitted.
- (g) Some incentives require native plant species. Appropriate native plant species can be found in the Montana State University Extensions Publication "Native Plants for Montana's Home Gardens".

5. **Trees**

All trees planted pursuant to this Section shall comply with the following standards:

- (a) Evergreen trees shall be a minimum height of 6 feet at the time of planting.
- (b) Deciduous trees must be 1.75 to 2.25-inch caliper at the time of planting.
- (c) Class 1 trees are defined as trees with a mature height of less than 30 feet.
- (d) Class 2 trees are defined as trees with a mature height between 30 and 60 feet.
- (e) Class 3 trees are defined as trees with a mature height over 60 feet.
- (f) Street trees required by Chapter 6 Infrastructure Improvements shall be selected from the City of Missoula Approved Tree List and comply with requirements of the Manual.

6. **Mulch**

When the landscaping requirements of this division are applicable to a parcel, all mulch shall meet the following requirements:

- (a) Mulch shall be applied at a minimum depth of three inches.
- (b) Weed barrier material shall not be visible in mulched areas.
- (c) All mulch within two feet of trees or shrubs shall be organic, such as bark, shredded wood, wood chips, or other organic matter.
- (d) At least 50% of the total mulch area on a parcel must be comprised of organic mulch such as bark, shredded wood, wood chips, or other organic matter. The remaining mulch area may be comprised of mineral mulch such as decorative stone, river stone, or decomposed granite.

7. **Fences and Walls**

Chain link fences may not be used to satisfy any of the requirements of this article.

8. **Installation**

- (a) Landscaping must be installed according to approved plans.
- (b) All required landscaping and irrigation must be installed prior to issuance of a certificate of occupancy or final zoning inspection.
- (c) If planting is not feasible due to weather or seasonal constraints, the Planning Administrator may grant a temporary certificate of occupancy with the requirement that full installation occur during the next planting season.

9. **Irrigation**

- (a) All landscaping shall be served with an automatic underground irrigation system.

- (b) Areas of landscaping that will not require supplemental watering after initial establishment are not required to have permanent irrigation. Examples include landscaped areas containing dryland grass and other xeric native landscaping, but does not include landscaped areas containing trees. Temporary irrigation is required to establish these plantings. A plan for providing regular irrigation during establishment must be provided with permit applications.
- (c) Irrigation systems shall be designed and maintained to prevent watering of adjacent hardscaped areas and follow best practices for water conservation and efficiency.

10. **Maintenance**

- (a) All required landscaping must be maintained in a healthy and orderly condition.
- (b) Dead or dying plant materials must be replaced within the next growing season.

Division 4.9.03 Vehicle Parking and Drive-Throughs

Section 4.9.03-A. Required Vehicle Parking

1. **Purpose**

The purpose of this section is to ensure the minimum provision of on-site vehicle parking in rough proportion to the parking demands of different land uses, while also acknowledging parking as a barrier to housing development. This section provides optional parking reductions intended to promote alternative methods of transportation and to reduce impervious surfaces, promoting Missoula's Environmental Quality and Resilience Goals.

2. **Applicability**

- (a) Parking is required for development of new non-residential buildings and uses.
- (b) Parking must be provided for non-residential building additions as well as expansions of non-residential uses;
 - 1. Additional parking spaces are only required for the area of the addition or use expansion.
 - 2. Additional parking spaces are not required for expansions of use within existing buildings.
 - 3. There is no requirement to address existing legal parking deficits.
- (c) Parking is not required in the D-C Downtown Core zoning district.
- (d) Parking is not required for residential uses. See the Use Tables in Article 4.8.
- (e) The parking requirements of this section do not apply to changes of use in existing buildings.
- (f) Accessible parking may be required for any use or development, as determined by Building Code, regardless of applicability statements in this section.

3. **Minimum Number of Parking Spaces Required**

- (a) Parking must be provided at the ratio listed in the Use Tables in Article 4.8.
- (b) Parking spaces containing EV charging stations count towards the required number of spaces.
- (c) For parcels with more than one primary use, parking must equal the sum of the parking requirements for each use.
- (d) All area based (square footage) parking requirements are based on gross floor area.
- (e) When a calculation results in a fractional number of parking spaces:
 - 1. any fraction of less than $\frac{1}{2}$ is rounded down to the next lower whole number, and;
 - 2. any fraction of $\frac{1}{2}$ or more is rounded up to the next higher whole number.

4. Use of Required Parking Areas

- (a) Required off-street parking spaces are intended to serve patrons, employees, or guests of the principal use. Required off-street parking spaces may be used solely for the temporary parking of licensed motor vehicles in operating condition.
- (b) Required off-street parking spaces may not be used for the display of goods for sale or lease.
- (c) Required off-street parking spaces must be maintained for the life of the primary use(s).

5. Parking Reductions and Exemptions

(a) Maximum Reduction

1. The maximum parking reduction is applied to the total number of required parking spaces on a parcel.
2. Parking reductions may be combined. In other words, the maximum parking reduction for each type of reduction may be stacked.

(b) Transit-Served Location

1. The transit-served location parking reduction applies to parcels within 500 feet of a transit stop served at intervals of 30 minutes or less between 7:00 a.m. and 6:00 p.m.
2. The maximum parking reduction is 25%.

(c) Motorcycle Parking

1. Two motorcycle parking spaces may be substituted for one required vehicle parking space.
2. The maximum parking reduction is 5% or five parking spaces, whichever is less.

(d) Landmarks and Historic Districts

The Historic Preservation Officer is authorized to approve exceptions and waivers to minimum parking requirements for additions to the following;

1. Buildings individually listed in the National Register of Historic Places;
2. Buildings designated as local historic resources;
3. Contributing buildings in National Register Historic Districts; or
4. Buildings in locally designated historic districts.

Section 4.9.03-B. Parking and Drive-Through Location

1. Purpose

The purpose of this section is to minimize the impact of automobile dominated areas on the public right-of-way and to promote an engaging, walkable streetscape. In some districts, parking location promotes a streetscape with a high level of pedestrian interest and comfort and prioritizes connection between buildings and the public right-of-way. In districts with high vehicle dependency, this section is intended to allow siting flexibility.

2. Applicability

This section applies to all new or expanded driveways, parking lots, drive-throughs, and vehicular use areas.

- (a) Ordinary maintenance, resurfacing, and repaving of existing legal non-conforming vehicular use areas are exempt from the requirements of this section. However, compliance with the Landscaping requirements of Division 4.9.02 may be required.

3. General Standards

- (a) All vehicular use areas, driveways, and approaches shall comply with Chapter 6 Infrastructure Improvements and the Manual.

- (b) Except as allowed by Section 4.9.03-B.6 Off-Site Parking, parking spaces required by Section 4.9.03-A Required Vehicle Parking must be located on the same parcel as the building or use they are required to serve.

4. Driveways Providing Parking for One-Unit House, Duplex, and Rowhouse Building Types

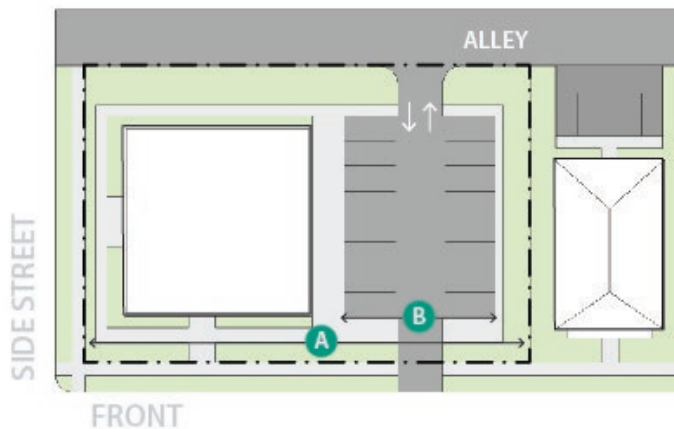
- (a) All garage doors and carport entrances must be set back a minimum of 20 feet from the abutting sidewalk. When no sidewalk exists, the setback is measured from back of curb or edge of asphalt. This requirement does not apply to parking structures.
- (b) Driveways shall have a maximum width of 25 feet.
- (c) The width of driveway approaches is regulated by Chapter 6 and the Manual.
- (d) Driveways must not occupy more than 40% of the front yard area.
- (e) Driveways must not occupy more than 25% of the side street yard area.

5. Surface Parking Facility

- (a) The placement of surface parking facilities (i.e. parking lots) must comply with Tables 4.9.03-1, 4.9.03-2, and 4.9.03-3.
- (b) All surface parking facilities must be setback at least 10 feet from front and side street property lines. See Division 4.9.02 for Perimeter Parking Lot Landscaping requirements.
- (c) Parking shall be located behind the building or to the side of the building when surface parking facilities are prohibited between the building and the street, per Tables 4.9.03-1, 4.9.03-2, and 4.9.03-3.
 - 1. Parking may be located between one of the adjacent streets and the building on through parcels and parcels with three or more street frontages.
- (d) When surface parking facilities are located to the side of a building, the width of the parking lot shall not exceed the percentage of street frontage identified in Tables 4.9.03-1, 4.9.03-2, and 4.9.03-3. The maximum parking lot width does not apply to parking areas located behind buildings.

Commentary: Corner lots do not have a rear yard. Parking lots adjacent to the side street property line is considered to be to the side of a building.

Figure 4.9.03-1: Parking Prohibited Between Building and Street



- A** Total parcel width
- B** Total permitted parking lot width

Table 4.9.03-1: Parking Lot Placement in Residential Districts

Surface Parking Lot Placement	RURAL	LIMITED URBAN		URBAN			
	R-R1	LU-R1	LU-R2	U-R1	U-R2	U-R3	U-R4
Parking Between Building and Street	■	□	□	□	□	□	□
Percentage of Street Frontage (Max)							
Front	No Max	50%	50%	50%	50%	50%	40%
Side Street	No Max	No Max	No Max	No Max	50%	35%	30%

■ Allowed □ Not Allowed

Table 4.9.03-2: Parking Lot Placement in Mixed-Use Districts

Surface Parking Lot Placement	URBAN				DOWNTOWN		LIMITED URBAN
	U-MU1	U-MU2	U-MU3	U-MU4	D-T	D-C	LUMU
Parking Between Building and Street	□	□	□	□	□	□	■
Percentage of Street Frontage (Max)							
Front	45%	45%	40%	40%	30%	15%	No Max
Side Street	50%	50%	50%	50%	40%	30%	No Max

■ Allowed □ Not Allowed

Table 4.9.03-3: Parking Lot Placement in Special Use Districts

Surface Parking Lot Placement	TRANSITIONAL	INDUSTRIAL		OPEN SPACE		CIVIC		
	T-MU	I-1	I-2	OP-1	OP-2	CD-1	CD-2	A
Parking Between Building and Street	□	■	■	■	■	■	□	■
Percentage of Street Frontage (Max)								
Front	50%	No Max	No Max	No Max	No Max	No Max	50%	No Max
Side Street	50%	No Max	No Max	No Max	No Max	No Max	50%	No Max

■ Allowed □ Not Allowed

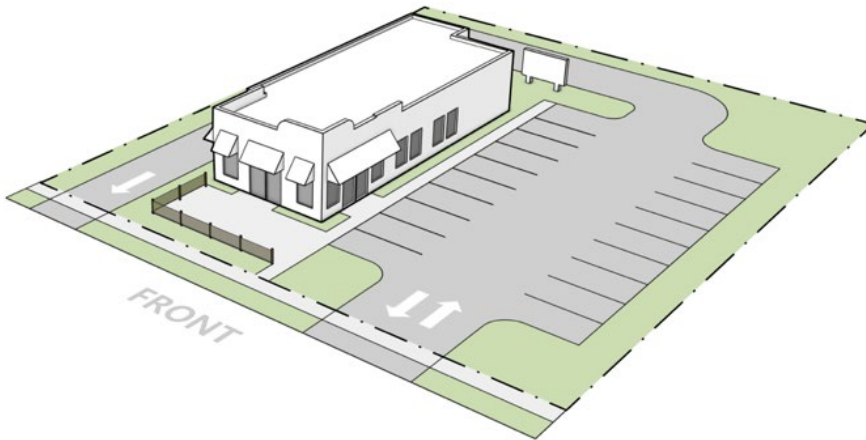
6. Off-Site Parking

- (a) The purpose of the off-site parking requirements is to provide flexibility when parking requirements cannot be met on site, while ensuring off-site parking remains available to the use it is intended to serve. Off-site parking is also intended to reduce the amount of land consumed by parking through use of excess parking on nearby parcels.
- (b) All or a portion of required off-street parking may be provided off-site, in accordance with the provisions of this section.
- (c) Required accessible parking spaces may not be located off-site.
- (d) Location
 - 1. Off-site parking must be located within a 500-foot radius of the use served by such parking, measured from the use entrance to the furthest parking space within the off-site parking lot.
 - 2. Off-site parking must be located on a parcel that is zoned for the same or higher intensity use category as the use it serves.
- (e) Ownership or Off-Site Parking Agreement
 - 1. Off-site parking must be under the same ownership as the parcel it serves or secured by a shared parking agreement complying with this section.
- (f) Off-Site Parking Agreement Requirements
 - 1. Off-Site parking agreements are required for off-site parking under separate ownership from the parcel it serves.
 - 2. The parking agreement shall guarantee the long-term availability of the parking lot, commensurate with the use served by the parking lot.
 - 3. The parking agreement must be binding on all parties and remain valid for the entire duration of the use they serve.
 - 4. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.
 - 5. The parking agreement must identify all participating parcels, uses, and specify the number and location of shared spaces.
 - 6. The parking agreement must be recorded with the Missoula County Clerk and Recorder.

7. Drive-Through Facilities

- (a) New drive-through facilities are prohibited in D-C, D-T, U-MU1, U-MU2, OP1, OP2, and all Residential zoning districts.
- (b) A drive-through facility is composed of two parts:
 - 1. The stacking lanes, which are the space occupied by vehicles queuing for the service to be provided; and
 - 2. The service area, where the service occurs. In uses with service windows, the service area starts at the service window. In uses where the service occurs indoors such as car washes, the service area is the area within the building where the service occurs.
- (c) Stacking lanes must contain the minimum number of vehicle spaces required by Chapter 6 Infrastructure Improvements and the Manual.
- (d) Service areas and stacking lanes must be set back at least 20 feet from all streets.
- (e) Service areas and stacking lanes must be setback at least 50 feet from Residential zoning districts.
- (f) See Division 4.9.02 for Landscape Buffer and Perimeter Parking Lot Landscaping Requirements.

Commentary: Drive-through facilities are not a right; the size of the parcel or the size and location of existing structures may make it impossible to meet the regulations of this section.

Figure 4.9.03-2: Example Drive Through

Division 4.9.04 Bicycle Storage

Section 4.9.04-A. Purpose

The purpose of this division is to support development that encourages sustainable transportation options by providing secure, accessible bicycle storage. Long-term bicycle storage offers residents and employees a safe and weather-protected place to store their bicycles, promoting regular bicycle use for commuting and daily activities. Short-term bicycle storage is intended to accommodate customers, patrons, and visitors, making bicycling a convenient option for short trips and errands.

Section 4.9.04-B. Applicability

1. The requirements of this division apply to all new construction and to additions to existing buildings for any use that has required long-term or short-term bicycle parking.
2. For additions, the requirements apply only to the area of the addition; there is no obligation to remedy any existing legal deficits related to bicycle storage. However, if any existing required bicycle storage spaces are removed, displaced, or damaged, they must be replaced in compliance with the standards of this division.

Section 4.9.04-C. Bicycle Storage Spaces Required

1. Short-term and long-term bicycle storage must be provided in the amount identified for each use in the Use Tables of Article 4.8.
2. Residential dwelling units with a private garage are exempt from both short-term and long-term bicycle storage requirements.

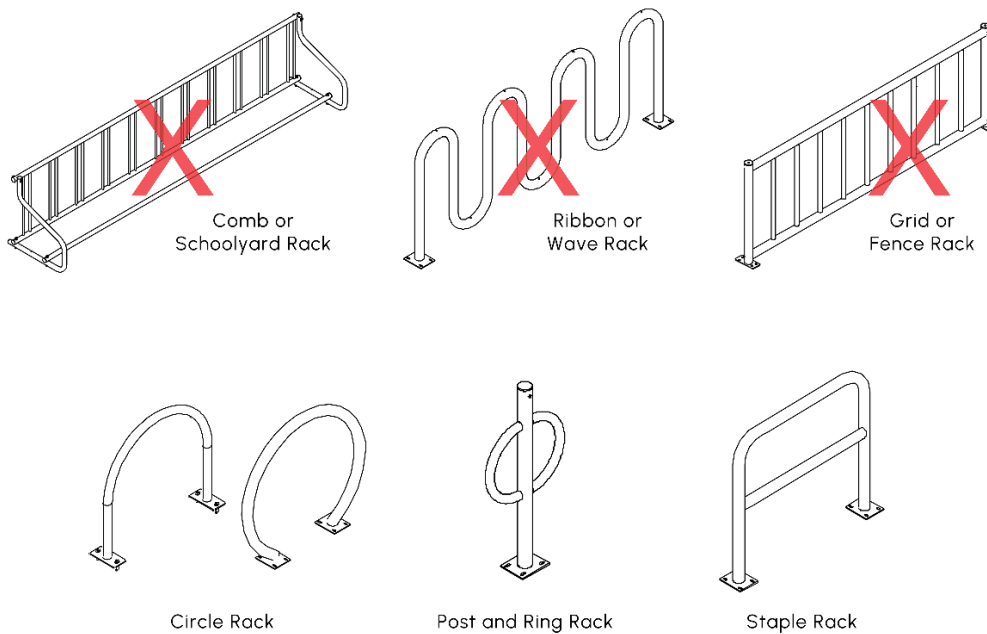
Section 4.9.04-D. Bicycle Storage Design

All bicycle storage spaces must:

1. Consist of bike racks or lockers that are anchored so that they cannot be easily removed;

2. Be of solid construction, resistant to rust, corrosion, hammers and saws;
3. Be designed so as not to cause damage to the bicycle as shown in Figure 4.9.04-1;
4. Facilitate easy locking without interference from or to adjacent bicycles as shown in Figure 4.9.04-1;
5. Have minimum dimensions of two feet in width by six feet in length, with a minimum overhead vertical clearance of seven feet. Bicycle lockers provided for long-term bicycle storage are exempt from overhead clearance requirements; and
6. Be accessed from the outside of the individual dwelling unit.

Figure 4.9.04-1 Approved Bicycle Racks



Section 4.9.04-E. Short-Term Bicycle Storage

1. Purpose

Short-term bicycle storage is generally intended to serve the needs of people who store their bicycles for short time periods, including customers, clients, students and other short-term visitors.

2. Design and Location

- (a) Required short-term bicycle storage spaces must allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock;
- (b) At least 50% of required bicycle storage spaces must be located within 50 feet of a customer or tenant entrance, and the remainder must be located within 100 feet of any entrance.
- (c) If required short-term bicycle storage spaces are not visible from the abutting street or the main customer entrance, signs must be posted indicating their location.
- (d) Required bicycle storage must be located on site. However, short-term bicycle spaces may be located in right-of-way in U-MU3, U-MU4, and Downtown zoning districts if approved by the City Engineer.

Section 4.9.04-F. Long-Term Bicycle Storage

1. Purpose

Long-term bicycle storage is generally intended to serve the needs of people who store their bicycles for long time periods, including employees and residents.

2. Design and Location

- (a) Required long-term bicycle storage spaces must be protected from weather and access by unauthorized persons.
- (b) The following locations meet the requirements of long-term bicycle storage spaces:
 1. In covered stationary racks or lockers that comply with the short-term bicycle storage location of Section 4.9.04-E.2.b;
 2. In a designated locked room;
 3. In a covered, locked area that is enclosed by a fence or wall with a minimum height of seven feet;
 4. In a private storage room that serves an individual dwelling unit and is accessed from outside of the dwelling unit. Bike racks are not required for long-term bicycle storage spaces in private storage rooms;
 5. In a covered area within clear view of an attendant or security personnel;
 6. In a covered area continuously monitored by security cameras; or
 7. In a covered area that is visible from employee work areas.
- (c) Access to bicycle storage space shall not require the use stairs or escalators.

Division 4.9.05 Retaining Walls

Section 4.9.05-A. Purpose

Retaining walls can be used to support steep slopes, can help reduce the steepness of man-made slopes, and can provide planting pockets conducive to re-vegetation.

Section 4.9.05-B. Requirements

Retaining walls must comply with the following requirements:

1. Retaining walls four feet or less in height from finished grade and detached from a building must comply with all City Engineer requirements for grading and drainage.
2. Retaining walls attached to a building, regardless of height, require a building permit. Retaining walls exceeding four feet in height from finished grade require a building permit and must be designed by a qualified engineer.
3. Retaining walls shall not exceed four feet in height from finished grade in front or side street yards (between the building and the street). Retaining walls may be terraced with planting pockets, so that each individual wall does not exceed four feet in height.
4. Retaining walls, including those in a front or side street yard, that are used to accommodate vehicle or pedestrian access to a building may be up to eight feet in height from finished grade.

Article 4.10

MEASUREMENTS AND EXCEPTIONS

Division 4.10.01 Setbacks

Section 4.10.01-A. General

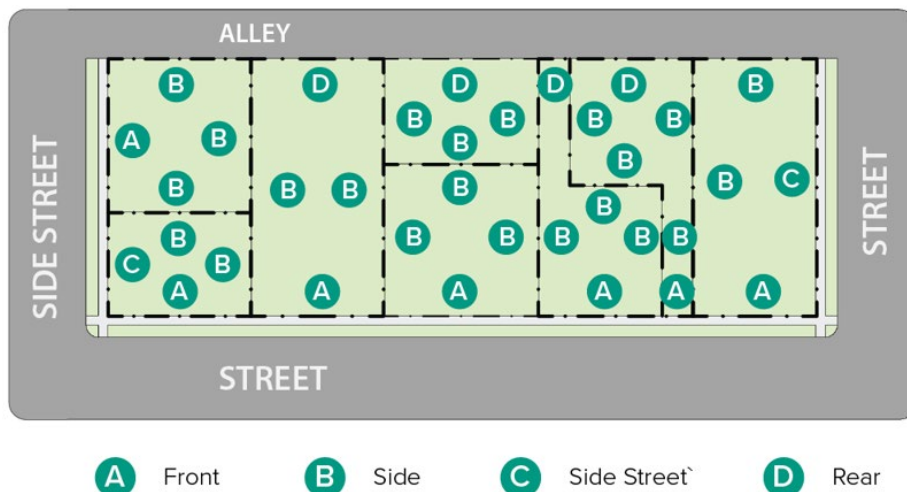
Setbacks are the minimum required distance that must be maintained between a structure and a property line in which building is prohibited but driveways, sidewalks, and other surface improvements may exist.

Section 4.10.01-B. Measurement

Structure setbacks are measured from a property line to the closest point of a building wall. For the provisions of this chapter, the determination of setback designations is based on the following classification criteria:

1. Front setbacks are measured from the front property line, which is the property line that "faces" and is adjacent to the street. On corner parcels, the front property line is the property line that is parallel to the alley that serves the parcel.
2. Rear setbacks are measured from the rear property line, which is the property line that is usually parallel to the front property line and abuts the alley.
3. Side Street setbacks are measured from the side street property line, which is the property line on a corner parcel that abuts a street or public right-of-way but is perpendicular to the alley.
4. Side setbacks are measured from the side property line, which is the property line that does not abut a street, public right-of-way, or the alley.
5. When no alley exists or in an area with an irregular block pattern, the Planning Administrator is authorized to establish the front property line and the side street property line.
6. A through parcel has property lines abutting two generally parallel streets. A through parcel may also have one or more side street setbacks if it is abutting more than two streets. On through parcels both (opposing) street lines are considered front property lines and front setback standards apply. Rear setback standards do not apply.

Figure 4.10.01-1 Setback Determination Diagram



Section 4.10.01-C. Permitted Setback Encroachments

Required setbacks must be unobstructed and unoccupied from the ground to the sky except that features are allowed to encroach into required setbacks to the extent indicated in the following table:

Table 4.10.01-1 Setback Encroachments

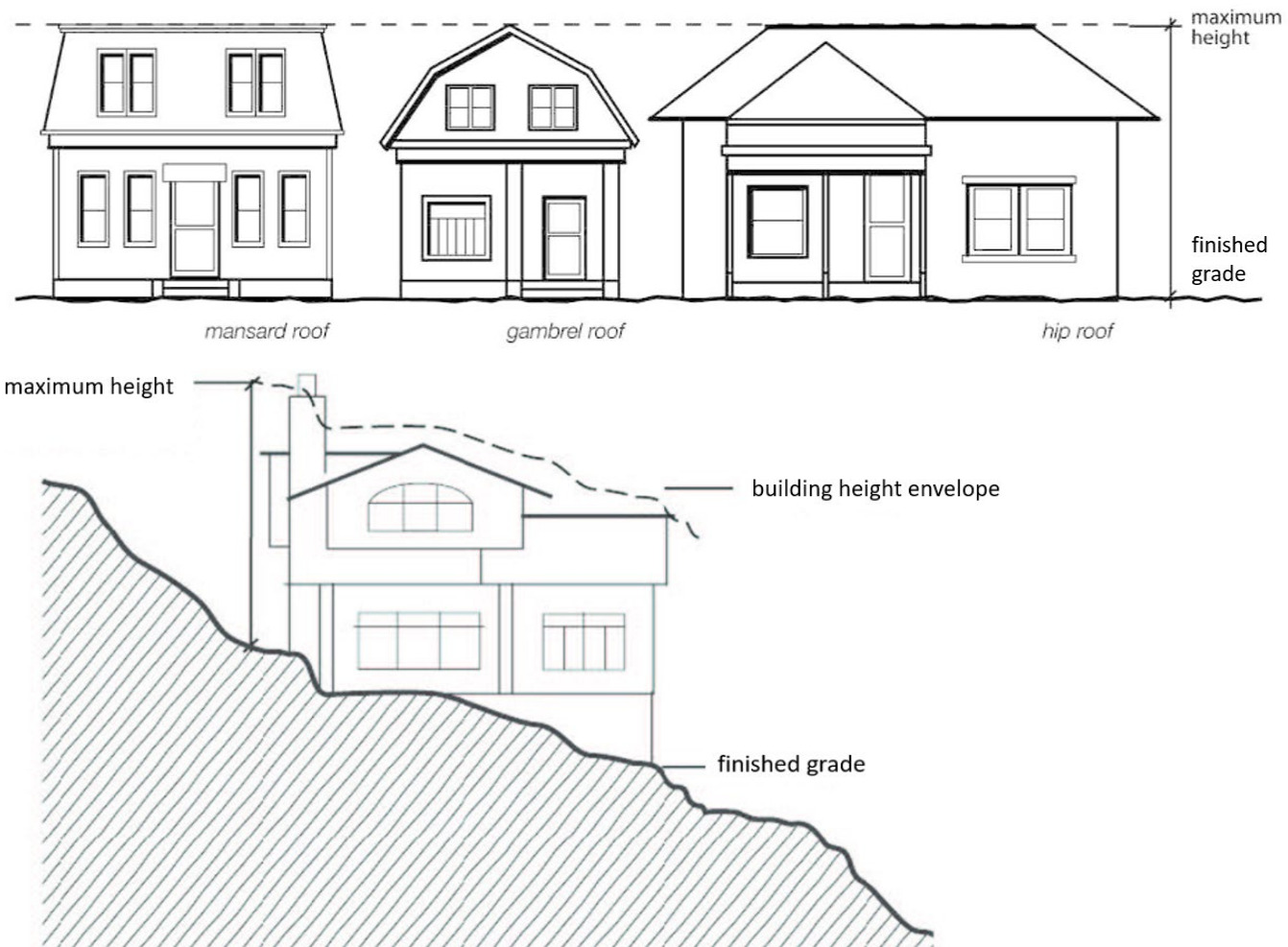
Encroachment Into Required Setback	Front / Street Side	Side	Rear
Arbors and trellises	Yes	Yes	Yes
Awnings and canopies projecting no more than 5 feet into the setback	Yes	Yes	Yes
Balconies that project no more than 8 feet into the setback	Yes	No	Yes
Bay windows that project a maximum 32 inches into the setback and have a minimum 12" clearance from exterior finished grade	Yes	Yes	Yes
Chimneys and flues that project no more than 24 inches into the setback	Yes	Yes	Yes
Decks, patios, and other features less than 30 inches in height above grade, excluding attachments such as railings	Yes	Yes	Yes
Satellite dish antennas, not exceeding 1 meter (39.37 inches) in diameter	Yes	Yes	Yes
Satellite dish antennas, over 1 meter but not exceeding 2.4 meters (94.49 inches) in diameter	No	No	Yes
Eaves and gutters projecting 48 inches or less into the setback, provided they are set back at least 3 feet from the property line	Yes	Yes	Yes
Fences	Yes	Yes	Yes
Fire escape, open or lattice enclosed; projecting no more than 5 feet into the setback	No	Yes	Yes
Fireproof outside stairway projecting no more than 5 feet into the setback	No	Yes	Yes
Flagpoles and solar panels	Yes	Yes	Yes
Mechanical equipment, provided the unit is not more than 48 inches in height.	No	Yes	Yes
Covered porches or decks, excluding steps, that are open on at least 3 sides and project no more than 8 feet into the setback, provided all elements, including steps, are a minimum of 4 feet from all property lines	Yes	No	Yes
Recreational equipment (e.g., swing sets and basketball hoops)	Yes	Yes	Yes
Sills, belt courses, cornices, buttresses and other minor architectural features	Yes	Yes	Yes
Steps and stairs (primary access) up to 30 inches in height above grade, excluding attachments such as railings, and set back at least 4 feet from all property lines	Yes	Yes	Yes
Wheelchair lifts and ramps or similar accessibility features that meet federal, state and local accessibility standards	Yes	Yes	Yes
Window wells that are not part of the foundation wall and not more than 30 inches in height above grade	Yes	Yes	Yes

Division 4.10.02 Building Height

Section 4.10.02-A. Measurement

1. Building height is measured as the vertical distance between finished grade and the highest point of the subject building. The highest point of the building is the coping of a flat roof, the top of a mansard roof or shed roof, or the peak of the highest gable of a gambrel or hip roof.
2. For parcels without a uniform finished grade, the maximum building height is measured with a building height envelope where the bottom portion of the building height envelope is referred to as the "ground plane," which is a plane that follows finished grade beneath the building and all projections of the building's roof and roof overhang, and the upper portion of the building height envelope is an imaginary plane that parallels the ground plane at a vertical distance equal to the maximum height limit of the subject zoning district.
3. The lowest point for measuring the height of any new structure built in a Regulated Flood Hazard Area is two feet above base flood elevation, or finished grade, whichever is higher.
4. All portions of a building must fit within the vertical maximum building height measurement, excluding those building height exceptions allowed by Section 4.10.04-B.

Figure 4.10.01-2 Building Height Diagrams



Section 4.10.02-B. Exceptions

1. The following features are not counted in the measurement of building height:
 - (a) Chimneys, vents, or ventilation stacks;
 - (b) Antennas or wireless communication facility antenna arrays;
 - (c) Steeples, belfries, clock towers, or flag poles;
 - (d) Grain elevators or water towers;
 - (e) Skylights;
 - (f) Solar panels, wind energy conversion systems, and mechanical equipment, including open guard rails;
 - (g) Stair and elevator penthouses;
 - (h) Egress window wells;
 - (i) Basement stairwells not exceeding five feet in width;
 - (j) Similar elements as determined by the Planning Administrator that do not add habitable floor area to a building.

Section 4.10.02-C. Limitations to Height

1. In some cases, a building or structure may be unable to be constructed to the maximum building height of the zoning district it is within due to requirements of other City codes or standards regarding access, life safety, or other provisions.
2. All new construction, alterations, or expansions of buildings and structures must comply with the minimum clearance requirements for overhead powerlines as mandated by local and state codes.

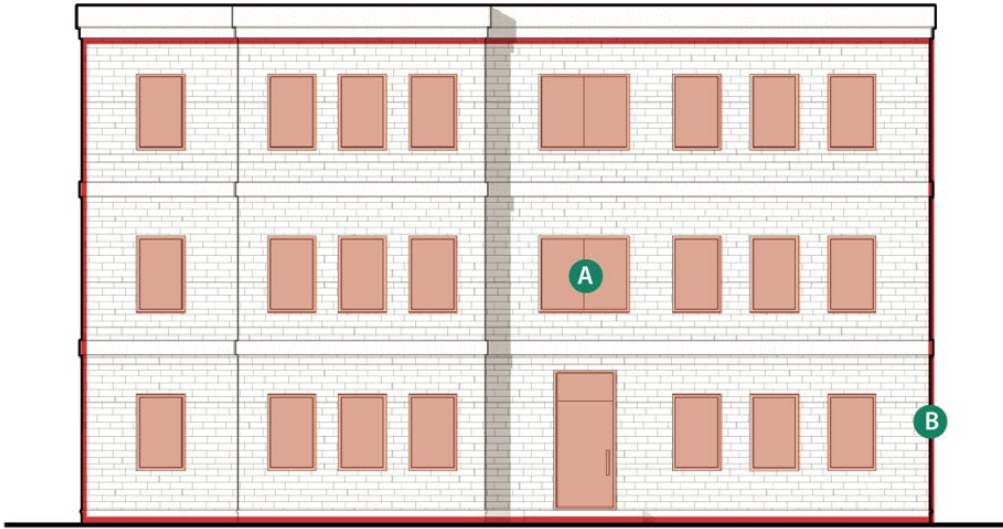
Division 4.10.03 Transparency**Section 4.10.03-A. Measurement**

1. The transparency of a facade is measured as the total area of all glass within a given façade (that meets light transmittance and reflectance standards), divided by the total area of the façade.
2. A façade is measured all exterior planes which internally face habitable space (i.e. from finished floor to finished ceiling), measured parallel to the applicable front or street side property line.
3. When ground floor transparency is required, it is measured as the total area of all glass between two feet and 10 feet above finished grade divided by the total façade area between two feet and ten feet above finished grade.

Section 4.10.03-B. Standards

1. Windows into garages or in garage doors may not be counted towards meeting transparency requirements.
2. Muntins, mullions, window sashes, window frames, door frames, trim or any non-glass portions of the window assembly may not be counted towards meeting transparency requirements.
3. Highly reflective or darkly tinted glass shall not be used. For glass to comply with transparency standards, it must have:
 - (a) Visible light transmittance of 60% or more; and
 - (b) External reflectance of 20% or less.

Figure 4.10.03-1 Full Façade Transparency Measurement



A Total area of all glass within a given façade that meets light transmittance and reflectance standards.

B Total area of the given façade.

Figure 4.10.03-2 Ground Floor Transparency Measurement



Article 4.11

Natural Resource Protection

Division 4.11.01 *Reserved*

Division 4.11.02 Riparian Resource Protection

Section 4.11.02-A. Purpose

1. The riparian resource protection regulations of this division are intended to promote resource conservation when any construction, or disturbance, is proposed in, through, or near an area of riparian resource.
2. Protecting areas of riparian resource promotes the public health, safety, and welfare of residents. More specifically, it is the purpose of these regulations to ensure that:
 - (a) Areas of riparian resource remain available to support diverse and productive aquatic and terrestrial riparian systems and habitats;
 - (b) Stream channels and banks are protected;
 - (c) Areas of riparian resource are preserved to act as an effective sediment filter to maintain water quality and quantity;
 - (d) Areas of riparian resource are protected to preserve large, woody debris that is eventually recruited into a stream to maintain riffles, pools and other elements of channel structure and provide shade to regulate stream temperature;
 - (e) Areas of riparian resource are protected to preserve connectivity corridors for wildlife;
 - (f) Areas of riparian resource are preserved to promote floodplain and channel stability;
 - (g) Any allowed disturbance within the riparian buffer area protects and maintains the integrity and function of riparian resource areas; and
 - (h) The area of riparian resource is preserved to promote the high quality of life in the city, for a healthy natural environment.

Section 4.11.02-B. Applicability

1. The requirements of this division, including submission of a Riparian Resource Management Plan, applies when development is proposed within 100 feet of a riparian resource area.
 - (a) If a parcel or associated subdivision already has a riparian resource management plan on file with the City, and said plan was approved in or after 2009, submission of a new Riparian Resource Management Plan is not required.
 - (b) The Planning Administrator may waive the requirement for a riparian resource management plan when the riparian area and buffer are not located on the parcel subject to development, and the development will not cause adverse impact to the riparian resource area or buffer.

- (c) A riparian resource management plan is not required for installation of fences when the fence is located outside of the riparian area, required buffer, and the floodplain.
- 2. Areas of riparian resource are typed by site-specific soil, habitat and community types. To determine whether vegetation qualifies as a riparian resource area, consultation with a qualified professional, the Missoula Conservation District, or the Planning Administrator is recommended prior to submitting for a building permit or zoning compliance permit.
- 3. When controversy arises concerning the presence or absence of a riparian resource, the Planning Administrator may require a report from a professional biologist, ecologist, botanist, or similarly qualified professional, documenting the vegetation community types to determine whether these rules apply.
- 4. Applications for subdivision must comply with the Riparian Resource Area requirements in Chapter 5 in lieu of this division.

Section 4.11.02-C. Development Prohibition

Except as otherwise expressly allowed by this UDC, disturbance of riparian resource areas and riparian buffers is prohibited. Bank stabilization, flood control, habitat restoration, and similar projects are allowed within the riparian resource area and/or buffer if approved by the Floodplain Administrator.

Section 4.11.02-D. Riparian Buffers

- 1. All development, regardless of permit or process, within 100 feet of a riparian resource area requires the designation of a riparian buffer. The buffer shall be delineated on the vegetation map in the riparian resource management plan. The buffer width, measured from the edge of the riparian resource, shall comply with Table 4.11.02-1.

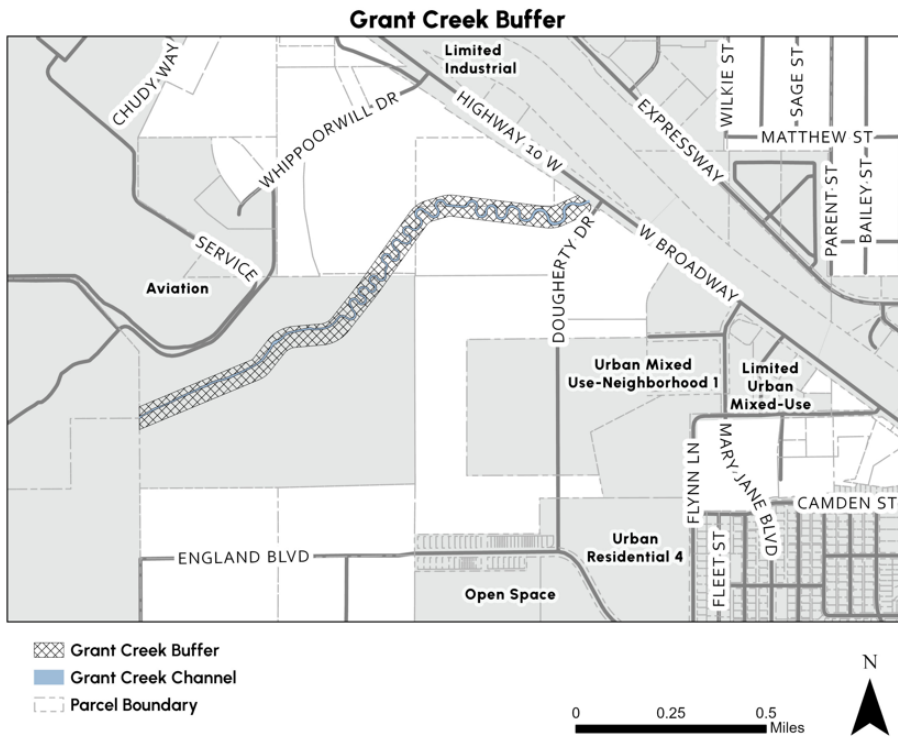
Table 4.11.02-1: Riparian Buffer Widths

Water Body	Buffer Width (Feet)
Bitterroot River	50
Clark Fork River	50
Butler Creek	10
Grant Creek	30
LaValle Creek	10
Miller Creek	10
Pattee Creek	10
Rattlesnake Creek	30
All others	10

2. Special Grant Creek Buffer

Any development adjacent to the stretch of Grant Creek depicted in Figure 4.11.02-1 must maintain a 200-foot buffer measured from the centerline of the floodway of relocated Grant Creek. Development within this buffer shall be limited to trails, bridges, irrigation infrastructure, and those improvements necessary for life safety or emergency purposes, or improvements for airport operations.

Figure 4.11.02-1: Special Grant Creek Buffer

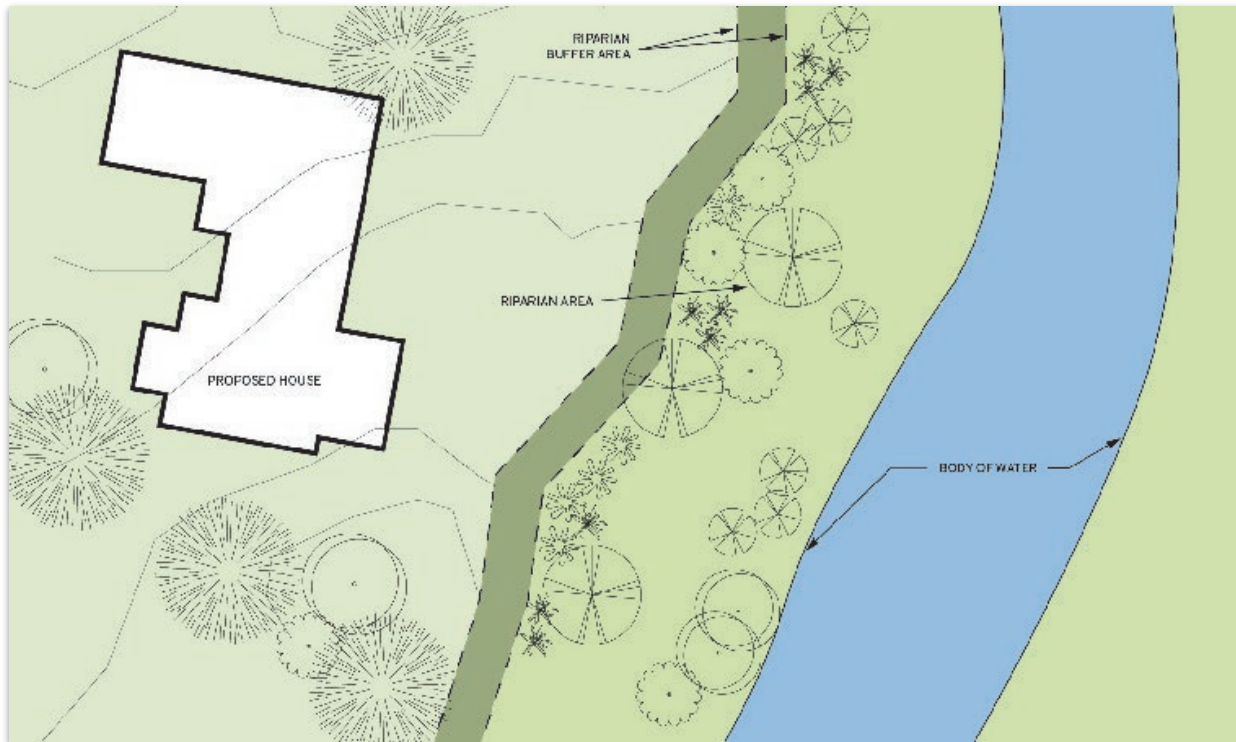


Section 4.11.02-E. Riparian Resource Management Plan

1. A riparian resource management plan must be submitted to the Planning Administrator for approval, approval with conditions, or denial.
2. The management plan must be prepared by a qualified professional.
3. The plan must include:
 - (a) A vegetation map showing the location of vegetation associated with riparian areas, delineation of the riparian resource area, and the riparian buffer area.
 - (b) A description of the following:
 1. The vegetation types associated with riparian areas that are present;
 2. Contribution of the vegetation to stream bank stabilization;
 3. Contribution of the vegetation in preventing erosion; and
 4. Contribution of the vegetation to fish and wildlife habitat, including big game species, bird species, fisheries, and threatened or endangered species.
 - (c) A description of how the area of riparian resource will be maintained, restored or enhanced. The description must include at least the following information:
 1. Proposed disturbance of the area of riparian resource, including access to or through the area, if proposed;
 2. Alteration, enhancement, and restoration plan including planned restoration of the area with native species;
 3. Planned mitigation of impacts from all proposed disturbance;
 4. Planting plan when applicable; and

5. Streambank stabilization plan when applicable.
6. A maintenance and monitoring plan outlining how the area of riparian resource will be cared for after occupancy. The approved management plan must be carried out and enforced. It may not be altered without express approval of the Planning Administrator.

Figure 4.11.02-2: Example Vegetation Map



Section 4.11.02-F. Street Construction

1. Street construction is prohibited within riparian resource areas except in cases when there is no other practical route to access all or a portion of the parcel or when a street is necessary to provide emergency vehicle access to adjacent property. Street construction for any other reason is prohibited in riparian resource areas and buffers unless the street or crossing is depicted in adopted City Plans, or a variance is approved.
2. If street construction is allowed in accordance with this section, the following regulations apply and must be addressed in the riparian resource management plan:
 - (a) All crossings of riparian resources must occur at a perpendicular angle and in such a manner as to minimize the number of crossings and minimize disturbance of the riparian resource area;
 - (b) The intentional side casting of street material into a riparian resource during street construction or maintenance is prohibited;
 - (c) Routes must be chosen based on the avoidance of negative impact to riparian vegetation and sensitive environmental conditions;
 - (d) Effective erosion and sedimentation control practices must be conducted during all clearing, construction or reconstruction operations in compliance with the Manual;
 - (e) Street fill material may not be deposited in the area of riparian resource or in a location or manner such that adverse impacts will result to the riparian resource area; and
 - (f) A floodplain permit, 310 permit, or other permits may be required.

Section 4.11.02-G. Trail Construction

1. Trails shall meet the requirements of this UDC, the Manual, and the Street and Trail Typologies.
2. Public and private trails located within or adjacent to sensitive natural resource and riparian resource areas or buffers must be designed and located to mitigate adverse impacts on those resources and may require a 310 permit per The Natural Streambed and Land Preservation Act and/or a floodplain permit.
3. Trails require approval of the Planning Administrator and shall meet the following standards:
 - (a) Opportunities for public or private access must be consolidated to protect areas of riparian resource from excessive disturbance;
 - (b) The function of the proposed trail, the level of use, the potential impacts and the management strategy to mitigate any adverse effects on the area of riparian resource must be defined;
 - (c) To serve safety and security, construction, landscaping, and signage must clearly define the trail and mark the transition from public to private space;
 - (d) A mechanism must be provided assuring continued maintenance of the trail;
 - (e) Removal or disturbance of riparian resources must be minimized. To the greatest extent possible, existing landforms must be preserved, including following natural contours and minimizing grading;
 - (f) No motorized vehicle is allowed within the area of riparian resource, except as necessary for maintenance, agricultural management or safety;
 - (g) A buffer must be established between the trail and any adjacent water bodies; and
 - (h) Trails may not be located on steep banks.

Article 4.12

MULTIPLE BUILDINGS ON A PARCEL

Division 4.12.01 General Requirements

Section 4.12.01-A. Purpose

The purpose of this article is to clarify development requirements and process for construction of multiple buildings on a parcel.

Section 4.12.01-B. Applicability

The requirements of this article apply to the construction of multiple buildings on one parcel.

Section 4.12.01-C. Standards

1. The entire parcel must comply with all applicable zoning standards.
2. Building permit and zoning compliance permit submittals shall provide a site plan showing all existing and proposed structures, vehicular use areas, landscaping, parking, and pedestrian connections. The site plan must show the full parcel.
 - (a) When a phasing plan is approved per Division 4.12.02, building permit submittals must include the approved phasing plan. Zoning compliance must be shown for the applicable phase.

Section 4.12.01-D. Shared Utility Lines for One-Unit Houses

1. When two one-unit houses are located on the same parcel, the City Engineer may classify one house as an accessory structure, as defined by Administrative Rules of Montana (ARM) 17-38-101(3)(a), for the purpose of allowing the houses to share a utility line per Division 6.2.02 Municipal Utility System.
2. The designation as an accessory structure for the purpose of utility connection does not classify the structure as accessory for the purpose of zoning compliance. For the purpose of zoning compliance, the unit shall continue to be classified as a one-unit house.

Division 4.12.02 Phased Construction

Section 4.12.02-A. Purpose

A zoning compliance permit for phased construction of multiple buildings on one parcel is an optional process for the purpose of determining compliance with all applicable provisions of this UDC across multiple phases. This procedure is intended to allow construction of large developments to proceed in a coordinated and efficient manner consistent with the approved site plan.

Section 4.12.02-B. Applicability

1. The use of a phased zoning compliance permit is optional and at the discretion of the applicant.

2. This division applies to developments that include more than one primary structure on a single parcel and intend to phase the occupancy of multiple structures.
3. This division shall not be interpreted to waive or reduce compliance with any applicable zoning or development standard.
4. This division is not applicable to Townhome Exemption Developments (TED) or Manufactured Housing Parks. Processes for these development types are covered in Division 4.12.04 and Division 4.12.05, respectively.

Section 4.12.02-C. Standards

1. Each phase of construction must be clearly delineated on a comprehensive site plan, including but not limited to, the location of buildings, parking, bicycle storage, landscaping, access, and utilities.
2. Each subsequent phase shall build upon and incorporate compliance of all prior phases, ensuring that the combined development phases meet all applicable requirements.
3. Each phase shall contain at least one primary structure. The improvements shown in each phase are tied to the final zoning compliance approval, required by Division 4.15.02, for the structure(s) in each phase.
4. A deadline must be provided for each phase in the application. All building permits associated with each phase must be submitted by the deadline.
 - (a) Inspections for final zoning compliance approval cannot be scheduled for a phase until the previous phase has received final zoning compliance approval.
 - (b) Building permits for the first phase must be submitted within three years of zoning compliance permit issuance. The deadline of each subsequent phase shall not exceed two years from the deadline of the previous phase.
5. When parking is required by Article 4.9, each phase shall include the number of parking spaces required to serve the structure(s) in each applicable phase.
6. When activity area is required by Article 4.9, each phase shall contain the quantity of activity area required to serve the number of dwelling units in each applicable phase.
7. Improvements required by Chapter 6 and Building Code to serve a structure shall be included with the applicable phase for the structure(s).

Section 4.12.02-D. Procedures

An applicant submitting a phased zoning compliance permit shall submit a phasing plan as part of a comprehensive site plan. The phasing plan shall demonstrate compliance with each applicable zoning requirement per structure per phase.

1. An application for a zoning compliance permit for phased construction shall include:
 - (a) A comprehensive site plan including all proposed buildings;
 - (b) A clear delineation and description of each individual proposed phase, including deadlines for building permit submittal; and
 - (c) All documentation necessary to demonstrate compliance with this UDC and applicable development standards, as well as any additional information the Planning Administrator deems necessary to determine compliance.
2. The Planning Administrator shall review the zoning compliance permit application and act to approve, approve with conditions, or deny a zoning compliance permit based on whether the proposed use, structures, and development complies with all applicable requirements.
3. Approval of a zoning compliance permit for phased construction does not permit construction; separate building permits are required.

4. Approved zoning compliance permits for phased construction shall be binding upon the property owner(s) and their successors, transferees, and assigns.
5. No permit shall be issued for any building, structure, or use that does not conform to an approved zoning compliance permit unless a new zoning compliance permit amending the phasing plan is approved.

Figure 4.12.02-1 Phasing Plan Example



Section 4.12.02-E. Lapse of Approval

1. A zoning compliance permit for a phasing plan will lapse and have no further effect three years after it is issued by the Planning Administrator unless a building permit has been issued.
2. When a property owner receives final zoning compliance approval for the first phase of a development, but fails to meet the deadline for any subsequent phase, they must submit a new zoning compliance permit demonstrating how the remainder of the site will be brought into compliance with all applicable regulations. The zoning compliance permit may establish a new phasing plan with updated deadlines. If a new phasing plan is not established, the development included with the zoning compliance permit shall be completed within three years of issuance.

Division 4.12.03 Evaluation for Street Connectivity and Subdivision

Section 4.12.03-A. Purpose

The purpose of this division is to ensure large developments contribute to the connectivity goals in the Land Use Plan and the mobility characteristics of the Place Type designations are implemented. The creation of blocks, which create connectivity through neighborhoods, is achieved through the subdivision process.

Section 4.12.03-B. Applicability

The requirements of this division apply to proposals for construction of multiple buildings on a parcel located outside of a platted subdivision, including proposals for Townhome Exemption Developments.

Section 4.12.03-C. Evaluation for Requirement to Subdivide

1. Proposals for multiple buildings on a parcel shall be evaluated by the Planning Administrator to determine if subdivision is required prior to issuance of building permits. Scheduling a meeting with the Planning Administrator prior to building permit submittal is strongly encouraged.
2. Subdivision shall be required prior to building permit issuance in the following instances:
 - (a) When the parcel is larger than one acre and is not within an existing block meeting the following block perimeter and length requirements:
 1. In Urban Residential, Urban Mixed-Use, and Downtown zoning districts: 1,500 lineal feet maximum block perimeter and 600 lineal feet maximum block length.
 2. In Transitional Mixed-Use, Limited Urban Residential, and Limited Urban Mixed-Use zoning districts: 2,400 lineal feet maximum block perimeter and 800 lineal feet maximum block length.
 3. In remaining zoning districts, subdivision is not required to meet block perimeter requirements.
 - (b) When a public street dead-ends at the parcel line, and continuation of the public street would contribute to the creation of a block meeting the maximum perimeters above. The City Engineer may waive the requirement for subdivision when continuation of the street can be achieved through other processes.
3. The Planning Administrator may waive the requirement to subdivide in the following instances:
 - (a) When a development plan for the parcel was approved through Zoning Compliance Permit prior to the effective date of this UDC (Article 1.1).
 - (b) When physical constraints or barriers prevent the creation of blocks. Examples of physical constraints or barriers include but are not limited to steep slopes, railroad tracks, water ways, and abutting lots that are configured in such a way where creation of a block is infeasible.

Division 4.12.04 Townhome Exemption Developments (TED)**Section 4.12.04-A. Purpose**

1. Townhome Exemption Developments (TED) are intended to encourage affordable residential development opportunities for home ownership without subdivision review.
2. The Townhome Exemption Development tool is intended to encourage residential infill development in concert with the goals of the Land Use Plan, including the development of compact and walkable neighborhoods, the effective use of existing infrastructure, and the building of new, affordable housing in a timely manner.
3. The Townhome Exemption Development tool is not intended for greenfield development in areas that are lacking in existing infrastructure; or for sites that would jeopardize the City's ability to manage development in a manner that protects and promotes the general health and safety of the community. The subdivision process is more appropriate in these instances.

Section 4.12.04-B. Applicability

1. This division applies to all new and amended Townhome Exemption Developments (TED).
2. The TED process shall not be used for nonresidential developments.
3. A TED cannot be filed on land that is already included in a filed TED Declaration. An existing TED may be amended to include additional TED Ownership Units (TOUs).

Section 4.12.04-C. General Standards

1. The number of dwelling units permitted in a TED is determined based on the area of the original/parent parcel and must comply with the density maximum and/or floor area ratio of the zoning district.
2. TEDs in Rural, Limited Urban Residential, and OP2 zoning districts shall not exceed 10 dwelling units.
3. TEDs in Urban Residential, Mixed-Use, T-MU, and CD-2 zoning districts shall not exceed 20 dwelling units.
4. The only permitted building types that can be included in a TED are one-unit houses, duplexes with side-by-side units (i.e. not stacked), rowhouses, and accessory structures, as allowed in the applicable zoning district.
 - (a) Legal-nonconforming TEDs containing apartment buildings may be amended if the degree of non-conformity with this division is not increased, and if all new structures comply with the permitted building types listed in this section.
5. Only one dwelling unit is permitted on each TED Ownership Unit (TOU).
6. Structures in TEDs are required to meet setback standards for the zoning district. Setbacks only apply to the property lines of the original parcel. In other words, setbacks only apply to the outer boundary of the TED. Setbacks are not required from TOU separation lines. Depending on the design of the TED project, not every setback will apply to every TOU.
7. If a TED parcel is adjacent to a public or private street, each TOU shall be provided with legal pedestrian access to that street. When a TED Parcel is adjacent to more than one street, each TOU shall be provided with legal pedestrian access to at least one of those streets. When legal access to a street is required for a TOU that does not abut the street, access must be provided in the form of an easement.
8. If a TED parcel is adjacent to a public or private alley, each TOU shall be provided pedestrian access to that alley. When a TED Parcel is adjacent to more than one alley, each TOU shall be provided with legal pedestrian access to at least one of those alleys. When legal access to an alley is required for a TOU that does not abut the alley, access must be provided in the form of an easement.
9. TEDs shall comply with all applicable requirements of this UDC and the Manual, including stormwater requirements.

Section 4.12.04-D. On-Site Constraints

1. Slopes over 25% must be surveyed and designated No Build/No Improvement zones in the project application and in the survey accompanying the final TED declaration. The Planning Administrator is authorized to require a survey showing elevation contours in order to determine compliance with this requirement.
2. TEDs shall not be approved on parcels containing floodway, or other land determined by the City to be subject to flooding, unless each TOU provides for an adequate building site outside of the floodway.
 - (a) When a parcel contains 1% annual chance floodplain, the floodplain boundary and FIRM Panel date shall be shown on the site plan in the survey accompanying the final TED declaration.
 - (b) Floodways shall be designated No Build/No Improvement zones in the project application and in the survey accompanying the final TED declaration.
 - (c) A statement notifying owners of the floodplain shall be included in the TED declaration.

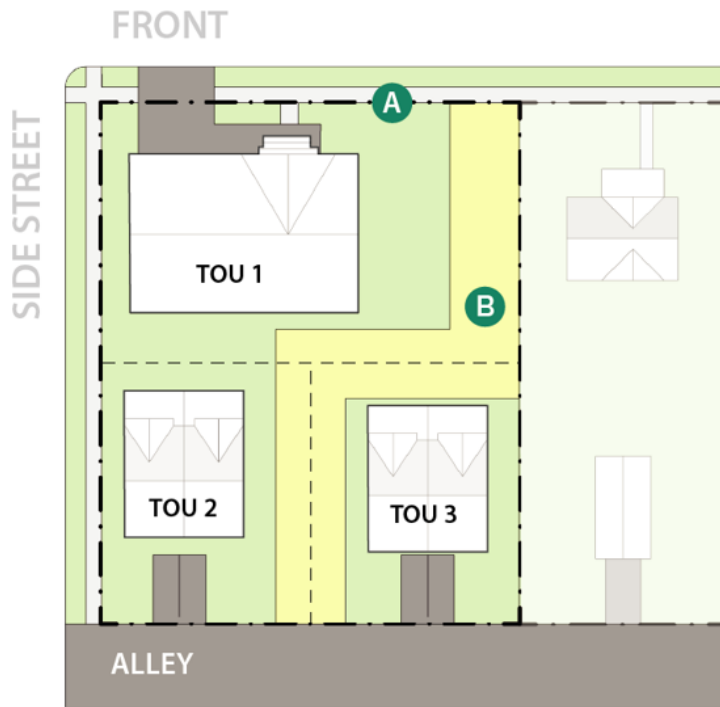
3. A detailed flood hazard evaluation (Hydrologic and Hydraulic study), including base flood elevations for the 1% annual chance flood and a map depicting the 1% annual chance floodplain boundaries, is required prior to approval of a zoning compliance permit for a TED on land containing floodplains without a designated floodway. The detailed flood hazard evaluation (Hydrologic and Hydraulic study) must be performed by a licensed professional engineer experienced in this field of work.
4. Zoning Compliance Permits for TEDs on land with potential for expansive soils, landslides, slope instability, and high groundwater must include a complete geotechnical report prepared by an engineer that evaluates the safety of construction on the subject property. On land with potential for high groundwater, the report must include an evaluation of groundwater depth relative to basement construction.
 - (a) Construction shall comply with the recommendations of the geotechnical report.
 - (b) Basements shall be prohibited when the evaluation of groundwater depth shows basements may be subjected to flooding or hydrostatic pressure. A statement notifying owners that basements are prohibited shall be included in the filed TED declaration.

Section 4.12.04-E. Procedures

1. Submittal Requirements

- (a) A master site plan for a TED must be submitted as a zoning compliance permit.
- (b) The zoning compliance permit shall include supplementary documents when required, such as a geotechnical report or Hydrologic and Hydraulic study. See the Manual for stormwater requirements.
- (c) The zoning compliance permit must include a site plan showing the following information:
 1. Property lines;
 2. Abutting rights-of-way and required improvements, including street trees;
 3. The boundaries and dimensions of TED Ownership Units (TOUs);
 4. Common areas and/or limited common areas, when proposed;
 5. Building envelopes for each dwelling unit;
 6. The building type of each dwelling unit;
 7. Setbacks;
 8. Density calculations and/or floor area ratio calculations, as required by the zoning district;
 9. Proposed parking and existing parking to remain, including information required to show compliance with Chapter 6 and Article 4.9;
 10. Landscaping and/or activity area when required by Article 4.9,
 11. Easements, including but not limited to easements for access and utilities;
 12. On-site streets;
 13. Sewer and water lines and mains;
 14. Floodplain boundaries, when applicable;
 15. Required No Build/No Improvement Zones; and
 16. Other information identified by the Planning Administrator or City Engineer necessary to determine compliance with applicable regulations.

Figure 4.12.04-1 Example TED Site Plan



- A** Parent Parcel
- B** Access/Utility Easement

2. Review and Decision by Planning Administrator

- (a) The Planning Administrator shall approve or deny a zoning compliance permit for a TED within 20 working days of receipt of a complete application. Approval or denial shall be based on compliance with all applicable regulations.
- (b) Approval of a zoning compliance permit for a TED shall not be conditioned.
- (c) A subsequent building permit is required for each structure.
- (d) Final zoning compliance approval, as described in Division 4.15.02, is required for structures in TEDs. Final zoning compliance approval shall not be issued for any structure in the TED until the declaration is filed with the County Clerk and Recorder.

3. Lapse of Approval

The zoning compliance permit will lapse and have no further effect three years after it is issued by the Planning Administrator and the TED approval is rendered invalid unless the declaration has been filed with the County Clerk and Recorder.

4. Declarations

- (a) TED Declarations must be filed with the County Clerk and Recorder. The County Clerk and Recorder implements additional regulations and submittal requirements not covered by this UDC.

- (b) The Planning Administrator shall review and approve TED declarations prior to filing with the County Clerk and Recorder. The County Clerk and Recorder will contact the Planning Administrator for review prior to filing. The TED declaration shall be approved for filing when:
 - 1. The site plan in the declaration substantially conforms to the approved zoning compliance permit;
 - 2. All required public access easements are filed;
 - 3. The declaration includes language required by this division, such as a notice of floodplain or prohibition of basements, when applicable;
 - 4. The declaration includes a process for assessments and maintenance of common area(s) and/or common elements by the Owner’s Association, when common areas and/or common elements are proposed; and
 - 5. All infrastructure improvements, including, but not limited to, streets, curbs, gutters, utilities, sidewalks, and stormwater facilities are installed and approved by the City Engineer, or secured through an improvements agreement complying with the Manual.
- 5. Amendments to filed TED declarations:**
- (a) Amendments to filed TED declarations typically require approval of other TOU owners, as specified in the declaration. Compliance with the amendment requirements of the declaration must be demonstrated to the County Clerk and Recorder at the time of filing.
 - (b) Approval of a new zoning compliance permit is required for all amendments to filed TED declarations unless the Planning Administrator has determined that the amendment complies with the following criteria:
 - 1. Incidental changes or modifications to building design that fit within the approved building envelope; and
 - 2. Changes that do not affect site plan layout, easements, infrastructure improvements, or other requirements of this UDC or the manual.

Division 4.12.05 Manufactured Housing Parks

Section 4.12.05-A. Purpose

This purpose of this division is to provide an orderly process for the development of manufactured housing parks in order to encourage affordable opportunities for home ownership.

Section 4.12.05-B. Applicability

- 1. A manufactured housing park is a development type in which multiple manufactured homes are located on one parcel and the dwelling units are owned by a different entity than the land on which they are located. The land in a Manufactured Housing Park is leased, held by a community land trust, or owned collectively by an owner’s association comprising of all home owners in the manufactured housing park.
- 2. Per state law a manufactured home does not include a mobile home. Manufactured homes were constructed after June 15, 1976 and are built to construction standards established by the United States Department of Housing Land and Urban Development (HUD). Mobile home communities in which the majority of dwelling units were built prior to June 15, 1976 or do not bear a HUD certification are regulated by Division 5.2.09.

3. Manufactured homes are considered one-unit houses per Article 4.7.
4. Per 4.12.05-B.1, this division does not apply to one or more manufactured homes located on a parcel where the dwelling unit(s) are leased or inhabited by the property owner, and the land is not leased.

Section 4.12.05-C. General Standards

1. Manufactured housing parks must comply with all provisions of this UDC, the Manual, and the zoning district in which it is located except as stated below:
 - (a) The build-to-zone and build-to-width requirements do not apply to manufactured housing parks in Mixed-Use districts.
 - (b) For the purpose of demonstrating compliance with Floor Area Ratio requirements, the gross floor area of manufactured homes shall be estimated at the time of manufactured housing park approval based the number of manufactured home lease spaces, designation of lease spaces for single-wide or double-wide manufactured home placement, and standard manufactured housing sizes. Once the manufactured housing park is approved per the applicable review process in 4.12.05-E, Floor Area Ratio requirements do not apply at the time of permitting for individual manufactured homes within the manufactured housing park.
2. Manufactured housing parks must comply with all applicable Health Department and Building Code requirements, including building separation and foundation requirements.
3. Manufactured home lease spaces must be designated on the approved site plan or plat and shall meet the following requirements:
 - (a) Each manufactured home lease space shall allow for only one manufactured home;
 - (b) Each manufactured home lease space must have frontage on a street in order to facilitate the installation and removal of homes;
 - (c) Manufactured home lease spaces intended for single-wide manufactured homes must have a minimum width of 25 feet;
 - (d) Manufactured home lease spaces intended for double-wide manufactured homes must have a minimum width of 40 feet;
 - (e) Each manufactured home lease space shall be provided with water, sewer, and electrical utility services. Septic tanks are allowed in lieu of sewer when approved by the City/County Health Department and the City Engineer;
 - (f) Manufactured home lease spaces shall not contain areas designated as floodway.
4. Double-wide manufactured homes cannot be placed on manufactured home lease spaces designated for single-wide manufactured homes.
5. Setbacks do not apply to the manufactured home lease spaces. Setbacks are applicable to the parcel lines.
6. All manufactured homes must be setback at least 5 feet from all parcel lines. When the setbacks of the zoning district exceed 5 feet, the setbacks of the zoning district must be met.
7. Manufactured homes shall be located in approximately the center of the manufactured home lease space.
8. In addition to manufactured home lease spaces, manufactured housing parks may contain land that is not intended to be leased and is used for other purposes than manufactured housing.

Section 4.12.05-D. On-Site Constraints

1. Slopes over 25% must be surveyed and designated No Build/No Improvement zones on the application site plan or plat. The Planning Administrator is authorized to require a survey showing elevation contours in order to determine compliance with this requirement.
2. When a manufactured housing park contains 1% annual chance floodplain, the floodplain boundary and FIRM Panel date shall be shown on the site plan or plat.
3. A detailed flood hazard evaluation (Hydrologic and Hydraulic study), including base flood elevations for the 1% annual chance flood and a map depicting the 1% annual chance floodplain boundaries, is required prior to approval of a manufactured housing park on land containing floodplains without a designated floodway. The detailed flood hazard evaluation (Hydrologic and Hydraulic study) must be performed by a licensed professional engineer experienced in this field of work.

Section 4.12.05-E. Procedures

1. Manufactured housing parks may be approved either through subdivision in compliance with Chapter 5 or through zoning compliance permit. Manufactured housing parks are subject to Division 4.12.03 Evaluation for Street Connectivity and Subdivision.
2. For manufactured housing parks approved through subdivision, a lot may be created for each manufactured home, or larger lots may be created with the intent of establishing lease spaces through zoning compliance permit following final plat approval.
 - (a) When lots are created for each manufactured home, the lots shall comply with the requirements for manufactured home lease spaces of Section 4.12.05-C.3 in addition to the lot requirements of the zoning district.
3. The application for manufactured housing parks shall include supplementary documents when required, including but not limited to a Hydrologic and Hydraulic study, infrastructure plans, or information deemed necessary by Public Works and Mobility to determine compliance with the Manual.
4. Zoning compliance permits for manufactured housing parks must include a site plan showing the following information:
 - (a) Property lines;
 - (b) Abutting rights-of-way and required improvements, including street trees;
 - (c) The boundaries and dimensions of manufactured home lease spaces;
 - (d) Designation of each manufactured home lease space as a site for a single-wide or a double-wide manufactured home;
 - (e) Common areas and land not intended to be leased, when proposed;
 - (f) On-site structures not defined as manufactured housing;
 - (g) Setbacks;
 - (h) Density calculations and/or floor area ratio calculations, as required by the zoning district;
 - (i) Proposed parking and existing parking to remain, including information required to show compliance with Chapter 6 and Article 4.9;
 - (j) Landscaping and/or activity area when required by Article 4.9,
 - (k) Easements, including but not limited to easements for access and utilities;
 - (l) On-site streets;
 - (m) Sewer and water lines and mains;

ARTICLE 4.12 – MULTIPLE BUILDINGS ON A PARCEL

- (n) Floodplain boundaries, when applicable;
 - (o) Required No Build/No Improvement Zones; and
 - (p) Other information identified by the Planning Administrator or City Engineer necessary to determine compliance with applicable regulations.
5. All development in manufactured housing parks must comply with the approved zoning compliance permit.
 6. The zoning compliance permit will lapse and have no further effect three years after it is issued by the Planning Administrator and the approval is rendered invalid unless at least one manufactured home has been placed on the parcel prior to expiration of the zoning compliance permit.
 7. The Planning Administrator is required to retain all approved manufactured housing park site plans in perpetuity.
 8. Approved manufactured housing parks may be amended through zoning compliance permit.

Article 4.13

NONCONFORMITIES

Division 4.13.01 General

Section 4.13.01-A. Purpose

Occasionally, parcels, uses, and structures that were lawfully established (i.e., in compliance with all regulations in effect at the time of their establishment) have been made nonconforming because of changes in the zoning regulations that apply to the subject property (e.g., through annexations or zoning amendments). The regulations of this chapter are intended to clarify the effect of such nonconforming status and distinguish it from "illegal" buildings and uses (those established in violation of applicable zoning regulations). The regulations of this chapter are also intended to:

1. Recognize the interests of landowners in continuing to use their property for uses and activities that were lawfully established;
2. Promote maintenance, reuse and rehabilitation of existing buildings; and
3. Place reasonable limits on nonconformities that have the potential to adversely affect surrounding properties.

Section 4.13.01-B. Authority to Continue

Any lawfully established nonconformity that existed prior to the effective date of this UDC per Article 1.1 or any lot, use, or structure that was previously in conformance with the applicable standards and becomes nonconforming upon adoption of any amendment to this zoning chapter may be continued in accordance with the regulations of this article unless otherwise expressly stated.

Section 4.13.01-C. Determination of Nonconforming Status

1. The burden of proving that a nonconformity exists (as opposed to a violation of this zoning chapter) rests with the subject landowner.
2. The Planning Administrator is authorized to determine whether adequate proof of nonconforming status has been provided by the subject landowner.
3. Evidence must be provided and be sufficient to show that the nonconformity was lawfully established prior to annexation or prior to the adoption of the subject regulations. Evidence must also indicate that the nonconformity has been continuous and that it has not lost its nonconforming status. Examples of reliable evidence include: business licenses; building permits; zoning compliance permits; city/county billing records; utility billing records; annexation resolutions; assessment, tax or rent records; and City directory listings.
4. The use of any building, structure, or land that existed prior to January 1, 1950, is presumed to be a legally existing nonconformity when the use of the building, structure, or land can be satisfactorily documented as having been continuous by a substantial preponderance of evidence.
5. When the Planning Administrator determines that a legal nonconformity exists through zoning compliance review, it shall be included with the permit record for future reference.
6. Any appeal of the Planning Administrator's determination on nonconforming status must follow the appeal process in Chapter 2 of this UDC.

Section 4.13.01-D. Repairs and Maintenance

1. Nonconformities must be maintained to be safe and in good repair.
2. Repairs, remodels, and normal maintenance that do not increase the nonconformity of a nonconforming structure and that are necessary to keep a nonconformity in sound condition are permitted unless otherwise expressly prohibited by this zoning chapter.
3. Nothing in this chapter is intended to prevent nonconformities from being structurally strengthened or restored to a safe condition in accordance with an order from a duly authorized City official.

Section 4.13.01-E. Change of Tenancy or Ownership

Nonconforming status runs with the land and is not affected by changes of tenancy, ownership or management.

Division 4.13.02 Nonconforming Lots

Section 4.13.02-A. Description

1. The provisions of this section apply to any lot or lawfully created tract of record, shown on a plat or survey map recorded in the office of the County Clerk and Recorder, that does not comply with all applicable minimum lot width or lot area standards of the zoning district in which the lot is located.
2. Lots with nonconforming widths or areas are recognized as legal tracts of record and may continue to be used and developed in accordance with the standards of the zoning district.
3. Lots with nonconforming widths or areas may not be adjusted in size or shape to create a new nonconformity or increase the degree of nonconformity to lot width, area, setbacks or other applicable parcel and building standards. Subdivision exemptions for boundary line relocations and lot aggregations that decrease the extent of nonconformity are allowed.

Commentary: TED Ownership Units (TOUs) are not classified as lots

Section 4.13.02-B. Use of Lots with Nonconforming Width or Area

A lot that is nonconforming to minimum width or area may be used as a building site and developed with a use allowed in the subject zoning district.

Section 4.13.02-C. Parcel and Building Standards

Development on lots that are nonconforming to minimum lot width or area must comply with all other parcel and building standards of the subject zoning district unless otherwise expressly stated.

Division 4.13.03 Nonconforming Structures

Section 4.13.03-A. Description

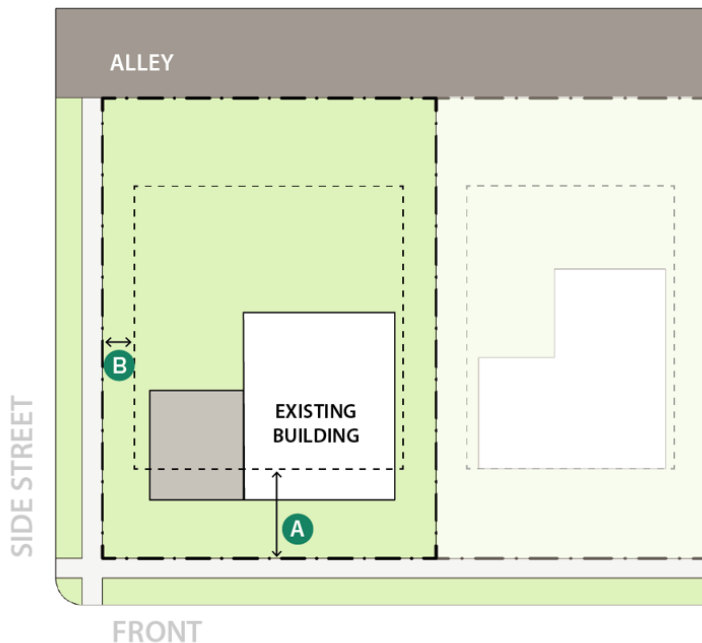
A nonconforming structure is any building or structure, other than a sign, that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment that no longer complies with the parcel and building standards of the zoning district in which it is located.

Section 4.13.03-B. Alterations and Expansions

1. Nonconforming structures may be expanded horizontally along the existing nonconforming building line to the point of another setback requirement, (e.g. a structure with a nonconforming side setback may be expanded to the rear if the expansion complies with the applicable rear setback standards).
2. Nonconforming structures may be expanded vertically in alignment with the nonconforming front, side, rear, or side street setback to the permitted height of the subject zoning district.
3. When a lawfully established residential building exceeds the height limit of the subject zoning district, additions to that building may also extend beyond the height limit, but no further than the total existing nonconforming building height.

Commentary: All new construction, alterations, or expansions of buildings and structures must comply with the minimum clearance requirements for overhead powerlines as mandated by local and state codes.

Figure 4.13.03-1 Nonconforming Addition



A Front Setback

B Side Setback

Section 4.13.03-C. Moving or Relocation

A nonconforming structure may be moved in whole or in part to another location on the same or different parcel only if the movement or relocation eliminates or reduces the extent of nonconformity. Relocation of a structure requires a Moving Permit from the Building Division, and may require a Water and Sewer Service Connection Permit, Right-of-Way Use Permit for temporary traffic control or street closures, and a permit from the Montana Department of Transportation for movement on state routes.

Section 4.13.03-D. Replacement

1. Nonconforming structures may be replaced or reconstructed with the same encroachments as the existing nonconforming structure, without the loss of nonconforming status, provided that no new nonconformities are created and that the existing degree of nonconformity is not increased.
2. Replacement or reconstruction of a nonconforming structure requires a building permit be obtained within twenty-four (24) months of the date the structure is removed or demolished.

Commentary: It is the responsibility of the property owner to ensure there are means to construct and maintain the nonconforming structure without trespassing on adjacent properties.

Division 4.13.04 Nonconforming Uses**Section 4.13.04-A. Description**

1. A nonconforming use is a land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment that is no longer allowed within the zoning district in which it is located.
2. All nonconforming uses are subject to nonconformity determination provisions of 4.13.1-C.

Section 4.13.04-B. Change or Expansion of Use

1. The Planning Administrator is authorized to approve a nonconforming use expansion or substitution provided the expanded or substituted use is no more intensive and creates no greater adverse impacts than the previous nonconforming use. In order to approve a nonconforming use expansion or substitution, the Planning Administrator must determine, based on information provided by the applicant, that there will be no new or increased adverse impacts on the surrounding area than the previous nonconforming use of the property. In making such a determination, the Planning Administrator must consider all of the following factors, as applicable:
 - (a) Traffic to and from the site;
 - (b) Hours of operation;
 - (c) Compliance with off-street parking requirements;
 - (d) Compliance with landscaping and screening requirements as they relate to use;
 - (e) Outdoor display, storage and work activities;
 - (f) On-site and off-site impacts from noise, dust, light, smoke, surface or groundwater contamination or other environmental impacts; and
 - (g) Other factors likely to substantially affect the immediate area in which the use is located.
2. A nonconforming use may be changed to any other use that is allowed in the subject zoning district. Once changed to a conforming use, a nonconforming use may not be re-established.

Article 4.14

SIGNS

Division 4.14.01 General

Section 4.14.01-A. Purpose

The sign regulations of this chapter are intended to protect the health, safety and general welfare of the public by establishing standards for the design, construction, location, illumination, maintenance, and review of commercial signs, sign structures, and building graphics. Such regulations are necessary and desirable for the following reasons:

1. To protect the public safety by requiring that all traffic signs remain visible, legible, and free from obstruction or visual interference; and
2. To reduce hazards to pedestrians, bicyclists, and motorists by preventing the placement, illumination, movement, or over concentration of signs that create distractions or physical barriers; and
3. To protect public health and safety by requiring that signs are properly designed, constructed, installed, and maintained to withstand environmental conditions; and
4. To preserve Missoula's historic character by ensuring that signage respects the architectural integrity and cultural significance of historic buildings and districts; and
5. To reinforce the city's unique identity by aligning signage and murals with adopted community plans, design guidelines, and the visual character of the built environment; and
6. To protect valued landscapes and streetscapes by limiting the size, placement, density, and use of signs and other attention-gathering paraphernalia in order to preserve the right of citizens to enjoy Missoula's history, culture, and natural and scenic beauty; and
7. To address the ongoing technological advancements in the sign industry that continue to result in new sign types; and
8. To ensure fair and equitable enforcement of standards across all applicants; and
9. To protect freedom of speech while balancing public safety and placemaking.

Section 4.14.01-B. General Sign Regulations

1. Property Owner's Responsibility

Each property owner is responsible for proper permitting, installation, and maintenance of all signs on their property.

Commentary: Trimming or removal of trees in the right-of-way (ROW) for the installation or maintenance of a sign must comply with all applicable standards of this UDC and the Manual and requires review and approval by the Parks Department.

2. Noncommercial Messages

- (a) Any sign permitted under this chapter may display a lawful noncommercial message, meaning the message does not promote or direct attention to any business, logo, product, service, or other commercial interest or activity.
- (b) Noncommercial signs must comply with all applicable requirements of this chapter.
- (c) The Planning Administrator and other authorized decision makers shall not evaluate a sign based on the content of speech or the viewpoint of the speaker, except to determine the applicability of Section 4.14.01-D.

- (d) Commercial messages are any message that advertises: a business or logo; services rendered; or goods produced or sold.

3. **Parcel Boundaries and Building Frontage**

- (a) No sign, including temporary signs, or supporting structures may extend beyond any property line of the subject parcel except as otherwise expressly stated.
- (b) Where a parcel contains nonintersecting street frontage on two or more streets, a ground sign is permitted on each nonintersecting street frontage. The formula for each sign is the same as the formula used to determine the maximum allowable sign area for one ground sign.
- (c) When the permitted size of a ground sign includes a bonus derived from street frontages on intersecting streets (i.e., a corner parcel), the location of the sign must be as close as practicable to the corner of the parcel at the street intersection.

4. **Encroachment**

- (a) Signs approved to be placed within the public right-of-way must obtain an encroachment permit and comply with Section 6.2.01-F. Signs located within Montana Department of Transportation rights-of-way shall be subject to MDT review and approval, prior to issuance of a City sign permit.
- (b) Allowed signs above sidewalks and other pedestrian areas must maintain a vertical clearance from the ground of at least nine feet.
- (c) Signs and supporting structures that overhang or extend within vehicle traffic lanes or parking spaces must have a minimum vertical clearance of 14 feet.
- (d) Signage placed in the public right-of-way in accordance with the City's comprehensive Wayfinding Plan are not subject to this ordinance, but are subject to other City and State requirements, including encroachment permits.

5. **Construction**

Construction and erection of all signs and supporting structures must comply with the International Building Code (commercial), as adopted by the City Council. Building permits are required for all ground signs over seven feet in height and any signs that overhang a sidewalk or other pedestrian areas.

6. **Historic Preservation Considerations**

Signs, murals, or building graphics placed on buildings individually listed in the National Register of Historic Places, or contributing to a National Register of Historic Places listed historic district, must receive approval by the Historic Preservation Officer prior to installation, regardless of whether a sign permit is required.

Section 4.14.01-C. Prohibited Signs and Sign Characteristics

The following signs are expressly prohibited in all zoning districts unless expressly allowed by other provisions of this chapter:

1. Signs that simulate or which are likely to be confused with traffic control signs commonly used by agencies of government and construction contractors to draw attention to traffic or roadway hazards;
2. Searchlights;
3. Animated, flashing, blinking or scintillating signs;
4. Roof signs;
5. Signs that are located so as to obstruct the view of traffic-control devices or vehicles at intersections or pedestrians at marked crosswalks, as determined by the City Engineer;
6. Billboards, including Billboards with dynamic displays and Mobile billboards;
7. Vehicle signs are not permitted in public rights-of-way, on public property or on private property where such objects are visible from the public right-of-way;

8. Inflatable signs, any sign that moves or gives the appearance of moving, and any sign which flutters, undulates, swings, rotates, oscillates or otherwise moves by natural or artificial means, including balloons, flags, pennants, streamers, spinners or other types of wind signs, except governmental flags;
9. Human signs, human directional signs, and sign walkers that display, advertise, or promote commercial activity or provide direction to commercial activity;
10. Signs and sign placements not expressly allowed by the regulations of this chapter.

Section 4.14.01-D. Signs Allowed Without a Sign Permit

The following signs are allowed without a permit and are not counted toward the applicable limits on the number or area of signs allowed, unless otherwise noted. In order to be exempt from sign permit requirements, such signs may not be internally illuminated, cause glare, or cast light onto adjacent property:

1. **Business Directional Minor Signs**

Each business may display up to six small directional signs, with each sign limited to a maximum area of six square feet. Commercial messages may comprise no more than 50% of the area of any sign;

2. **Informational Minor Sign**

These convey routine, non-promotional messages (e.g., "Open", "Employees Only," "No Soliciting" or business hours) and may not exceed two square feet in area;

3. **Governmental or Regulatory Signage**

Signs posted or required to be posted by any government entity may include temporary, directional, warning, traffic, or other official notices. These signs are exempt from permitting requirements regardless of size or internal illumination, as long as any lighting complies with the Missoula Outdoor Lighting Ordinance and does not create glare or cast light onto adjacent properties.

4. **Private Property Signs**

Signs located on private property that are not visible from a public right-of-way or public lands;

5. **Barber-pole Signs**

These may not exceed four feet in height and must be attached to a building;

6. **National Register of Historic Places Identification Signs;**

7. **Ideological Signs;**

8. **Flags, Emblems, and Insignia**

Flags, emblems, crests or insignia of any nation, or governmental subdivision located on a pole a minimum of 20 feet from the property line. A maximum of three poles will be permitted. The United States flag shall be flown in accordance with Federal Law (Title 4 U.S.C.); and

9. **Certain Temporary Signs**, as noted in 4.14.03-A.14.

Division 4.14.02 Standards by Zoning District

Section 4.14.02-A. Signs in Residential, Open Space and Open and Resource Lands, and Civic Zoning Districts

1. **Applicability**

The sign regulations of this subsection (4.14.02-A) apply in the R-R1, LU-R1, LU-R2, U-R1, U-R2, U-R3, U-R4, OP-1, OP-2, CD-1, and CD-2 zoning districts.

2. **Regulations**

- (a) The regulations of Sections 4.14.01-D and 4.14.03-A.14 apply to one-unit houses, duplexes, rowhouses, and cottage courts in R-R1, LU-R1, LU-R2, U-R1, U-R2, U-R3, U-R4, OP-1, OP-2, CD-1, and CD-2 districts.
- (b) Signs for other uses allowed in R-R1, LU-R1, LU-R2, U-R1, U-R2, U-R3, U-R4, OP-1, OP-2, CD-1, and CD-2 districts are subject to the following standards:

Table 4.14.02-1: Signs in Residential, Open Space and Open and Resource Lands, and Civic Zoning Districts

District/Sign Type	Maximum Number	Maximum Area (sq. ft)	Maximum Height (ft)
LU-R1, LU-R2, U-R1, U-R2, U-R3 and U-R4			
Wall	1	12	6
Ground	1	24	6
Other Signs	See 4.14.01-D and 4.14.03-A		
RR-1, OP-1, OP-2, CD-1 and CD-2			
Wall	1	24	22
Ground	1	24	6
Other Signs	See 4.14.01-D and 4.14.03-A		

Section 4.14.02-B. Signs in Urban Mixed-Use Zoning Districts

1. **Applicability**

The sign regulations of this section (4.14.02-B) apply in the U-MU1, U-MU2, U-MU3, and U-MU4 zoning districts.

2. **Regulations**

- (a) The regulations of Sections 4.14.01-D and 4.14.03-A.14 apply to one-unit houses, duplexes, rowhouses, and cottage courts, in U-MU1, U-MU2, U-MU3, and U-MU4 districts.
- (b) All other uses allowed in U-MU1, U-MU2, U-MU3, and U-MU4 districts are subject to the following standards:

Table 4.14.02-2: Signs in U-MU1, U-MU2, U-MU3, and U-MU4 Districts

District/Sign Type	Maximum Number	Maximum Area (sq. ft)	Maximum Height (ft)
Wall	1 per building frontage	50	N/A
Ground	1 per parcel	30	10
Other Signs	>See 4.14.01-D and 4.14.03-A		

Section 4.14.02-C. Signs in Industrial, Transitional, Limited-Urban Mixed-Use, and Aviation Zoning Districts

1. **Applicability**

- (a) The regulations of this section (4.14.02-C) apply in the A, I, T-MU, and LU-MU zoning districts.
- (b) Any sign located within 100 feet of a Residential zoning district is subject to the regulations of Section 4.14.02-B.

2. **Regulations**

- (a) The regulations of Sections 4.14.01-D and 4.14.03-A.14 apply to one-unit houses, duplexes, rowhouses, and cottage courts, in A, I, T-MU, and LU-MU districts.
- (b) All other uses allowed in A, I, T-MU, and LU-MU districts are subject to the following standards:

Table 4.14.02-3: Signs in A, I, T-MU, and LU-MU Districts

Sign Type	Maximum Number	Maximum Area (sq. ft)	Bonus Area	Maximum Height (ft)
Wall	1 per Building frontage	50 square feet, plus a bonus of 1 square foot of additional sign area for each linear foot of building frontage beyond 50 feet.	Parcels without ground signs may increase the area of 1 wall sign by 25%. Each building on a parcel in single ownership may use the 25% wall sign bonus.	N/A
Ground	1 per parcel	50 square feet, plus a bonus of 1 square foot for every 2 linear feet of street frontage over 100 feet, up to a maximum of 72 square feet.	An additional 2 sq. ft. in sign area is allowed for each linear ft. the sign is set back from the right-of-way, up to a maximum of 122 sq. ft.	22
Projecting	1	16 square feet, plus a bonus of 1 square foot for every 3 linear feet of building frontage beyond 50 feet, up to a maximum of 32 square feet.	N/A	14
Other Signs		See 4.14.01-D and 4.14.03-A		

Section 4.14.02-D. Signs in Downtown Core and Downtown Transition Zoning Districts

1. Applicability

- (a) The provisions of this section (4.14.02-D) apply in the D-C and D-T zoning districts.
- (b) Any sign located within 100 feet of a residential zoning district that is visible from that residential zoning district, is subject to the regulations of subsection 4.14.02-B.

2. Regulations

- (a) The regulations of Sections 4.14.01-D and 4.14.03-A.14 apply to one-unit houses, duplexes, rowhouses, and cottage courts, in D-C and D-T districts.
- (b) All other uses allowed in D-C and D-T districts are subject to the following standards:

Table 4.14.02-4: Signs in the Downtown Core and Downtown Transition Districts

Sign Type	Maximum Number	Maximum Area (sq. ft)	Maximum Height (ft)
Wall	1 per building frontage	50 square feet, plus a bonus of 1 square foot of additional sign area for each linear foot of building frontage beyond 50 feet.	N/A
Ground	1 per parcel	32 sq. ft.	22
Projecting	1	12 sq. ft.	14
Other Signs		See 4.14.01-D and 4.14.03-A	

Division 4.14.03 Sign Regulations and Measurement Rules

Section 4.14.03-A. Regulations for Specific Types of Signs

1. Awning Sign

(a) Measurement

- 1. In calculating the length and area of an awning or canopy only the single longest plane of the awning or canopy may be counted. This generally means that the valance and sides (ends) of the awning or canopy are not counted for purposes of measuring length or area.

(b) Size and Height

- 1. When an awning and a wall sign are not installed on the same building frontage, the maximum area for the awning is the same as that for wall signs, and the awning area counts against the maximum wall sign allowance.
- 2. When an awning and a wall sign are installed on the same building frontage, up to six square feet of sign (copy) area may be displayed on the border (valance) or end panels of the awning. This sign (copy) area does not count against the maximum wall sign allowance. Any additional awning signs shall count against the maximum wall sign allowance.
- 3. Letters, logos and symbols on awning signs are limited to a maximum area of one square foot per one foot of awning length. The total combined length of letters, logos, and symbols may not exceed 70% of awning length.

2. **Banner Sign**

(a) **Size and Height**

1. Banners may not exceed the maximum square footage allowed for wall signs in the zoning district.
2. Banners can be a maximum of 32 square feet, or 20% of the total wall sign allowance permitted by the zoning district, whichever is greater.
3. The maximum height of banners is 8 feet.

(b) **Location**

Except as otherwise expressly stated, banners may only be placed on a wall or fence.

(c) **Design and Materials**

1. When made of non-rigid material, Banner signs must be enclosed in a rigid frame or secured or mounted on a wall or fence so as to prevent movement of the sign caused by movement of the atmosphere.
2. Banners, or other signs constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight materials not well suited to provide a durable substrate, or if made of some other material is neither permanently installed in the ground nor permanently affixed to a building or structure, are instead classified as Temporary (see Temporary Signs Section 4.14.03-A.14).

(d) **Number**

One banner is allowed on each building frontage, and each must receive a permit.

(e) **Timing**

Banner Signs are allowed for two consecutive weeks, three times a year.

3. **Billboard Sign**

The billboard sign regulations in this article are intended to protect the health, safety, and general welfare of Missoula's residents and visitors; to protect property values; enhance the city's appearance; and support the tourism industry by limiting where Billboards may be located.

(a) **Location**

1. Billboards may not be installed or enlarged after February 14, 1985, within any zoning district in the City of Missoula.
2. If a parcel with a lawfully established billboard is rezoned or annexed into an A, D, CD, LU-MU, LU-R, OP, R, U-MU1, U-MU2, or U-R zoning classification, the billboard must be removed.
3. All lawfully established billboards in place within any I, T-MU, U-MU3, U-MU4 zoning districts may remain in place.
4. Unless the City Council directs otherwise, the provisions of 4.14.03-A.3 may not be enforced within 660 feet of Federal-aid NHS Primary or Interstate Highway Systems in the city if, as of the date at which enforcement is begun, federal law provides for the automatic imposition of penalties against the City or the state upon the uncompensated abatement of billboards and off-premises signs located within the 660-foot strip of land on either side of such highways.

(b) **Timing**

The Planning Administrator is authorized to grant an extension of required timeframe for removal of nonconforming billboards referred to in 4.14.03-A.3 to any owner or lessee of a billboard. The maximum extension that may be granted is three years. In determining whether to grant an extension, and the duration of any extension granted, the Planning Administrator must consider:

1. The number of billboards belonging to the applicant that are affected by the removal requirement;
2. The ability and cost to the applicant of relocating affected billboards;
3. Depreciation of billboards for tax purposes;

4. The nature of the applicant's business and the impact thereon of loss of affected billboards;
 5. The character of the neighborhood in which affected billboards are situated; and
 6. The monopoly or advantage, if any, occurring to the applicant as a result of the imposition of nonconforming use status on the land in which affected billboards are situated.
4. **Bus Stops**
- (a) **Size and Height**
Signs on shelters may not exceed 32 square feet in area.
 - (b) **Location**
 1. Signs on bus stop benches and transit shelters are allowed in any zoning district.
 2. Signs are restricted to the side of the bench backrest or shelter that faces the public right-of-way and may not extend above or beyond the bench or the top of the shelter.
 3. Off-premises signs are allowed.
 - (c) **Design and Materials**
Signs may not be illuminated.
 - (d) **Conditions**
 1. This allowance extends only to those benches and shelters placed under agreement with the City of Missoula at locations specified by the Missoula Urban Transit District.
 2. Signs on bus stop benches and transit shelters are subject to all the traffic safety and maintenance-related provisions of this chapter.
 3. For the purpose of enforcing traffic safety and maintenance requirements, benches and shelters are considered part of the sign.
5. **Canopy Sign**
- (a) **Size and Height**
 1. Canopy signs may not exceed ten square feet in area.
 2. Wall sign height limit also applies to signs on canopy structures, such as porte-cocheres and all other structures.
 - (b) **Location**
 1. Hanging signs must be suspended below the under-side of the structure, such as a marquee or canopy.
 2. Signs on or above canopies cannot be placed on freestanding canopies.
 - (c) **Design and Materials**
 1. Hanging signs may be constructed of rigid material.
 2. These may have up to two sign faces.
 3. Signs on or above canopies must be channel letters mounted flush on top of or on a canopy or marquee.
 - (d) **Number**
One hanging sign is allowed per public entrance.
 - (e) **Exceptions**
Canopy signs are allowed in addition to other signs allowed by this chapter, and they do not count against the maximum wall sign allowance.

6. Changeable-Copy Sign

(a) Size and Height

Changeable-copy signs for theaters may include up to 60 square feet per theater screen or auditorium up to a maximum 180 square feet total sign area.

(b) Design and Materials

Changeable-copy signs for theaters may be illuminated.

(c) Number

1. One manual changeable copy sign is allowed per parcel for public and civic uses in R and OP districts and all allowed uses in other districts.
2. Indoor cinemas or theaters are allowed two changeable-copy signs affixed to the building or marquee, so that it may be visible from the street from both directions of approach;
3. One changeable copy (wall or ground) sign as allowed by Division 4.14.02; and
4. One changeable copy sign is permitted per street frontage on which a gas station gains access, subject to the following:
 - a. Signs may not be larger than 15 square feet in area; and
 - b. Signs may be double-faced and illuminated; and
 - c. Signs shall contain static messages only.

7. Dynamic Display Sign, Generally

(a) Size and Height

The dynamic display portion of the sign may not exceed 40 square feet or 50% of the total area of the sign, whichever is less, and must be computed as part of the sign's total area. The remainder of the sign may not have the capability to have dynamic displays even if not used.

(b) Location

1. Dynamic displays are permitted for all allowed uses in LU-MU, T-MU, I-1, and I-2 zoning districts.
2. Signs must be located on parcels with frontage on principal arterials not in an historic district.

(c) Design and Materials

1. Only one, contiguous dynamic display area is allowed on a sign face.
2. The sign face must be oriented away from adjacent residential uses and zoning districts.
3. Dynamic displays may not change or move more often than once every second.
4. The transition from one image or display to the next must be accomplished in one second or less. Fading, scaling, scrolling, and dissolving effects may be used as part of the transition.
5. Dynamic displays may not exceed a maximum illumination of 5,000 cd/m² (candelas per square meter) during daylight hours or more than 500 cd/m² during nighttime hours (between dusk and dawn), as measured from the sign's face at maximum brightness. Dynamic displays must be equipped with automatic dimming technology that automatically adjusts the display's brightness based on ambient light conditions.
6. Dynamic displays may not use blinking, bursting, distorting, flashing, oscillating, rotating, shimmering, sparkling, streaming, tracing, traveling text or twinkling effects. Audio or pyrotechnic elements are also prohibited.

(d) Conditions

1. The sign owner must stop the dynamic display within 24 hours of receiving notice from the city that it is malfunctioning or otherwise not complying with the standards of this zoning ordinance.
2. Dynamic displays are prohibited to be used on Billboards.

(e) **Exceptions**

Dynamic displays existing on November 4, 2009, must comply with all the operational standards of this subsection. An existing dynamic display that does not meet the structural requirements of subsection 4.14.03-A.7 may continue as a nonconforming sign subject to the nonconforming sign regulations of Section 4.14.04-A.

8. **Heritage Sign**(a) **Conditions**

1. Heritage Signs may only be permitted when the Planning Administrator finds such signs in conformance with the overall purpose and intent of this chapter and appropriate to the type of development or structure to which they are related.
2. New Heritage Signs may only be approved when the Planning Administrator finds that the granting of approval would result in superior design for the overall site, makes a significant artistic or historic contribution to the community, and reflects a historically accurate sign that was on site previously.
 - a. In addition to other required submittal information, the applicant must submit photographic documentation of the past sign, design of the new sign showing the historically accurate relationship to the past sign, and proof of consultation with the Historic Preservation Officer.

9. **Multi-Tenant Sign**(a) **Size and Height**

Multi-tenant signs may not exceed 16 square feet in area and, if freestanding, may not exceed six feet in height.

(b) **Number**

In addition to other allowed signs, multi-tenant developments may have up to one multi-tenant sign per building entrance that is open to the general public.

(c) **Exceptions**

Businesses that do not have ground floor building frontage or that are not visible from a public street may erect and use one multi-tenant sign per public building entrance. Such signs may not be directly illuminated and may not exceed eight square feet in area.

10. **Projecting Sign**(a) **Design and Materials**

Projecting signs may have copy on only two sides. The lowest point of the projecting signs must be at least nine feet above the sidewalk, driveway, or grade line beneath the sign.

(b) **Conditions**

1. A projecting sign may be used instead of, but not in addition to, a ground sign;
2. Projecting signs are not permitted on any building frontage that also contains a wall sign associated with the same business or entity

11. **Pump Top Unit Sign, Service Station**

The intent of the following standards is to reduce the impact of pump top units to the point of contact with the direct user of that device.

(a) **Size and Height**

Units with visual display screens that exceed 21.5" (measured on the diagonal) are required to be permitted as a ground sign.

(b) Design and Materials

1. Units with visual display illumination that exceeds 1,000 cd/m² (candelas per square meter) are required to be permitted as a ground sign.
2. Units with visual display that exceed a 70° (from horizontal) viewing angle are required to be permitted as a ground sign.
3. Units with a visual display that turns off over two minutes after a customer leaves are required to be permitted as a ground sign.

(c) Conditions

The audio component of the device must comply with the City of Missoula's Noise Ordinance.

12. Sidewalk Sign**(a) Size and Height**

Sidewalk signs may have no more than two faces and are limited to five feet in height and three feet in width.

(b) Location

1. Each sidewalk sign shall have a solid surface within two inches of the ground along both faces of the sign.
2. Sidewalk signs must be placed immediately in front of the building being occupied by the advertiser on the sign.
3. Sidewalk signs must be placed to accommodate a minimum six-foot pedestrian clear zone on the sidewalk. Sidewalk signs are not permitted if there is no sidewalk, or not a wide enough sidewalk to accommodate the minimum six-foot pedestrian clear zone in front of the building being occupied by the advertiser on the sign.
4. Sidewalk signs may be displayed during business hours only.

(c) Number

Each business may have one sidewalk sign, regardless of frontage.

(d) Conditions

Sidewalk signs are allowed only on parcels that have no ground signs.

(e) Exceptions

1. Businesses that do not have ground floor building frontage or that are not visible from a public street may erect and use sidewalk signs as allowed by this subsection.
2. Within a Downtown zoning district, the following exceptions will apply. Any business taking advantage of the exception will be required to come into immediate compliance with all other portions of Article 4.14.

a. Number

Each business may have two sidewalk signs, regardless of frontage.

b. Location

- i. If a business has only one sidewalk sign, it may be placed on the sidewalk on the same side of the street, and within three blocks, of the building being occupied by the advertiser on the sign.
- ii. If a business has two sidewalk signs, one of the signs must be placed immediately in front of the building occupied by the advertiser on the sign. The second sign may be placed on the sidewalk on the same side of the street, and within three blocks, of the building being occupied by the advertiser on the sign.

c. Other Requirements

All other requirements of subsection 4.14.03-A.12 apply to a second sidewalk sign.

13. Stacking Lane Sign

Stacking lane signs accessory to allowed drive-through uses are permitted in addition to other allowed signs.

(a) Size and Height

1. A primary sign shall not exceed 36 square feet in area or eight feet in height.
2. A secondary sign shall not exceed 16 square feet in area or six feet in height.

(b) Location

Stacking lane signs are intended to convey information to vehicles within the boundaries of the development site and therefore may not be located or oriented to be legible from a public right-of-way or adjacent parcel.

(c) Number

1. Up to two primary menus boards are allowed per parcel.
2. One secondary sign is allowed per parcel.

14. Temporary Sign

Temporary Signs may be displayed with a permit and may include but are not limited to: public notices concerning off-premises special events or public meetings, announcements of on-premises special events, and announcements of sales and specials.

(a) Size and Height

1. The maximum height of a general temporary sign is 8 feet.
2. Temporary window signs shall not cover more than 25% of the window area.

(b) Location

Except as otherwise expressly stated, temporary signs allowed on a parcel may be placed on the ground or on a building, structure or fence.

(c) Design and Materials

1. When made of non-rigid material, a temporary sign must be enclosed in a rigid frame or secured or mounted on a wall or fence so as to prevent movement of the sign caused by movement of the atmosphere.
2. Banners, or other signs constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight materials not well suited to provide a durable substrate, or if made of some other material, and is neither permanently installed in the ground nor permanently affixed to a building or structure, are instead classified as temporary signs.

(d) Number

One temporary sign or banner is allowed on each building frontage, and each must receive a permit.

(e) Timing

Temporary signs may be displayed until the completion of the activity. They must be removed on the day following the event as advertised.

(f) Exceptions

The following temporary signs, provided they are compliant with temporary sign size regulations in this subsection and are removed upon completion of the activity identified on the sign:

1. Notices posted by public agencies (i.e., notice of proposed rezoning);
2. Temporary signs protecting private property or identifying property hazards.

15. Wall Sign**(a) Size and Height**

See Division 4.14.02.

(b) Location

Except as otherwise expressly stated, wall signs allowed on a parcel may be placed on a building frontage and ground signs may be placed along any frontage upon which the parcel has frontage.

(c) Exceptions

Businesses that do not have a ground floor building frontage or that are not visible from a public street may erect and use one wall-mounted sign that is not directly illuminated and that does not exceed four square feet in area.

16. Window Sign

Permanent window signs are allowed in addition to other signs allowed by this article. For temporary window signs, see 4.14.03-A.14 Temporary Signs.

(a) Size and Height

Not more than 30% of the window area, i.e. the pane of glass on which the sign is placed, may be covered by a permanent window sign.

(b) Location

1. Permanent window signs affixed to a ground floor exterior window are permitted.
2. Permanent window signs for businesses that are not located on the ground floor are permitted. Such window signs are permitted only for businesses located within the room situated behind the window on which such signs are located.

(c) Exceptions

Businesses that do not have a ground floor building frontage or that are not visible from a public street may erect and use window signs as allowed by this subsection.

Section 4.14.03-B. Off-Premises Sign Options**1. Off-Premises Ground Sign Criteria**

- (a) An applicant for an off-premises ground sign must provide any supplemental information deemed necessary by the Planning Administrator to complete the review of the sign permit.
- (b) The Planning Administrator may issue an off-premises ground sign permit if all of the following conditions are met:
 1. The location of the business precludes the placement of a sign that is visible from a street, or the business is located on a parcel that does not abut a public street;
 2. The business requesting the off-premises ground sign has explicit permission from, or an easement granted by, the property owner of the parcel the sign is proposed to be located on; and
 3. The use or business applying for an off-premises ground sign is not located within a residential zoning district.
- (c) Approved off-premises ground signs must comply with the strictest ground sign regulations of the zoning district in which they are located.

Section 4.14.03-C. Murals

1. Description

A mural is a work of art that is:

- (a) Purposefully integrated into the interior or exterior of the property on which it is located;
- (b) For decorative purposes only;
- (c) Lacking any content promoting the business where it is located; and
- (d) Created with the written consent of the property owner.

2. Applicability

- (a) Murals that are placed on buildings individually listed in the National Register of Historic Places, or contributing to a National Register of Historic Places listed historic district, require review and approval by the Planning Administrator with consultation from the Historic Preservation Officer. In this case, a Sign Permit is required demonstrating compliance with the following review criteria:
 1. The Mural must have minimal impact on the property's distinctive materials, features, spaces, and spatial relationship.
 2. The historic character of the property must be maintained.
 3. The design changes may not create a false sense of history of historical development, or incorporate features or elements taken from other historical properties.
 4. Distinctive materials, features, finishes, and construction techniques or examples of fine craftsmanship that characterize the property must be preserved.
 5. All specified chemical or physical treatments on historic materials must be undertaken using the gentlest means possible.
 6. The applicant must clearly identify that, upon alteration or removal of the Mural, the forms and integrity of the historic property and environment will be preserved.
- (b) Murals that are not placed on buildings individually listed in the National Register of Historic Places, or contributing to a National Register of Historic Places listed historic district, do not require review or approval by the Planning Administrator.
- (c) A work of art that contains commercial messaging is not considered a mural and is subject to the Wall Sign standards of this chapter.

3. Size

Murals may be of any size.

4. Design and Materials

Murals can be created with any type of medium (such as paint, tile, paper, etc.,) that will not adversely affect the historic materials of the building.

Section 4.14.03-D. Measurement Rules

This section sets forth rules for measuring sign area and other regulated dimensional features.

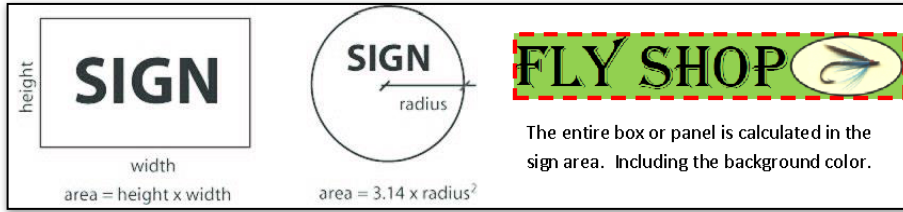
1. Box Signs

The area of a box sign (also referred to as a "cabinet sign") is determined based on the outer dimensions of the cabinet. Signs with more than one plane, such as boxes, balls, cylinders, etc., must be computed by determining the total surface area of the box required to enclose the sign divided by two.

2. Panel Signs

The area of a panel sign is the outer dimensions of the panel.

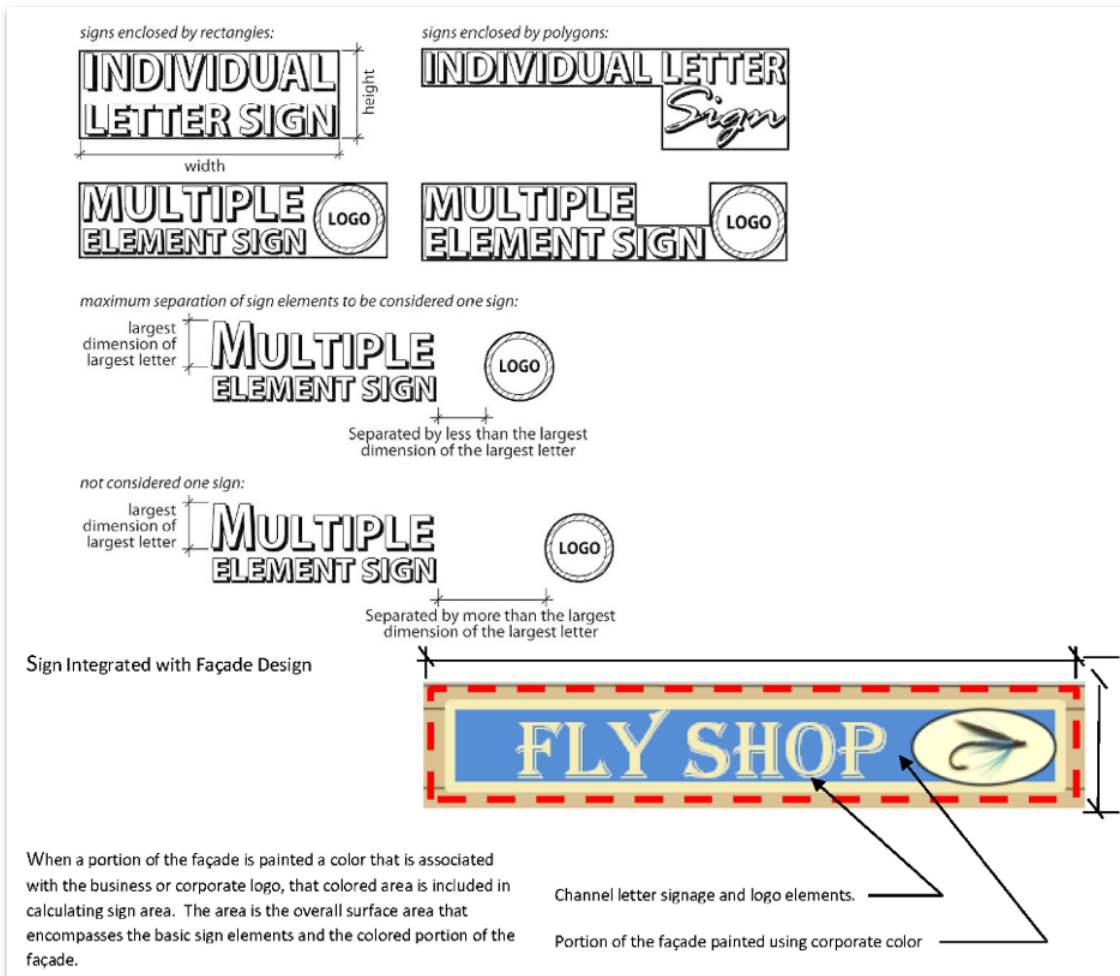
Figure 4.14.03-1: Signs, Measurement Rules, Box and Panel Signs



3. Channel (individual) Letter Signs

- (a) The area of a sign comprised of individual letters or elements to a building wall is determined by calculating the area of the smallest geometric figure (e.g., square, rectangle, circle, polygon, etc.) that can be drawn around the letters and/or elements, including any material or corporate color (unless muted) used on the wall of a building to form a background for the sign or to differentiate the sign from the surface against which it is to be placed.
- (b) When the background of the building wall is not differentiated from the sign and appears to function as part of the sign, that area shall be included.
- (c) Signs consisting of individual letters and/or elements will be measured as one sign when the distance between the letters and/or elements is less than the largest dimension of the largest sign letter.

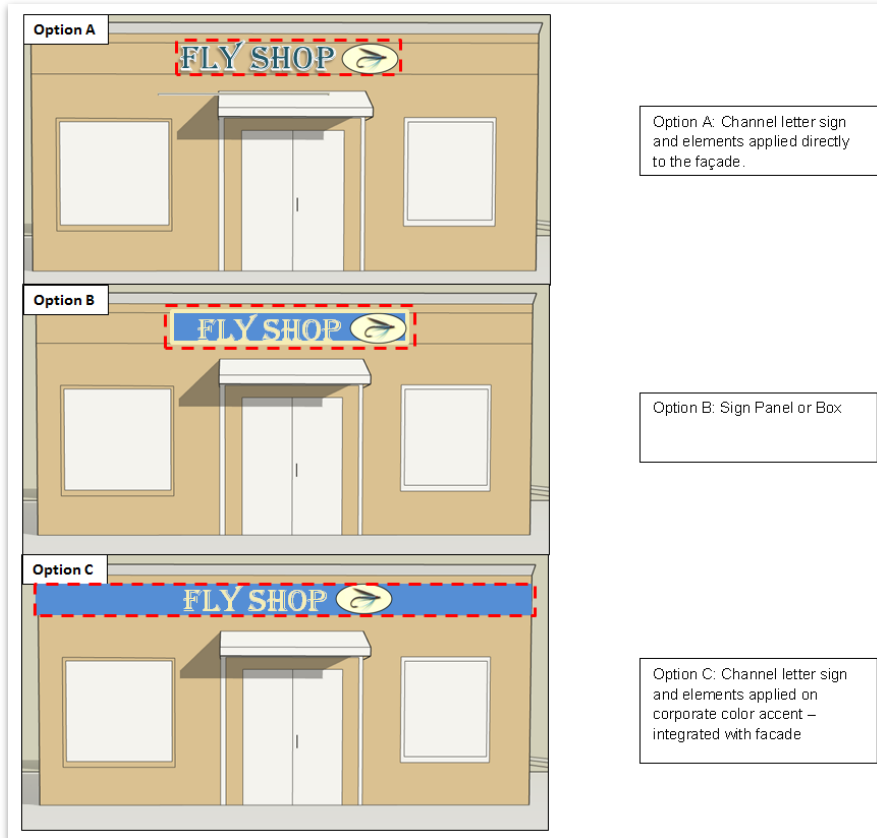
Figure 4.14.03-2: Signs, Measurement Rules, Channel (individual) Letter Signs



4. Signs Applied to the Façade

The following three options are examples of how to measure signs applied to the façade, with background corporate color as a factor in Options B and C.

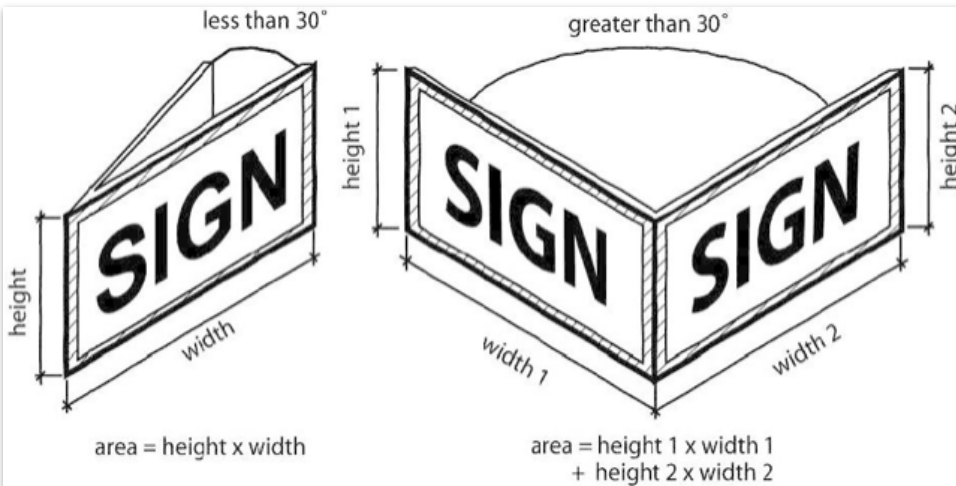
Figure 4.14.03-3: Examples of Signs Applied to the Façade



5. Multi-sided Signs

When the sign faces of a multi-sided sign are parallel or within 30 degrees of parallel, only the largest single side is counted. If the sign faces are not parallel or within 30 degrees of parallel, all sign faces are counted.

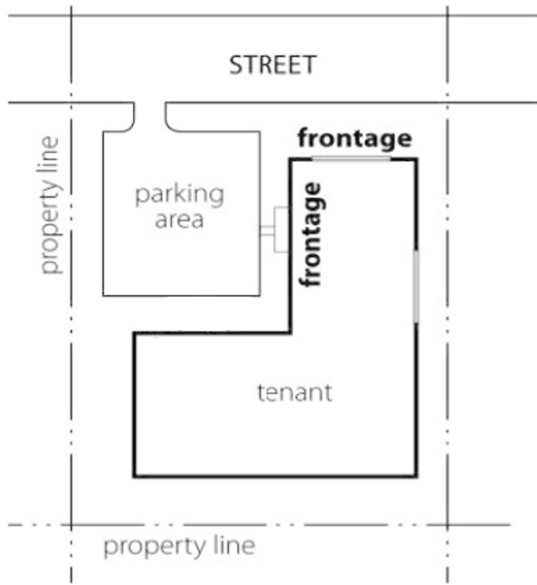
Figure 4.14.03-4: Signs, Measurement Rules, Multi-Sided Signs



6. **Building Frontage**

- (a) The wall sign regulations of this chapter are based on building frontage. Building frontage is the portion of a building's exterior wall that directly abuts the tenant's interior floor space and faces the public right-of-way, an off-street parking area, or contains a customer entrance.
- (b) Allowed wall sign area for a building that has two or more building frontages must be calculated on the basis of each individual building frontage.

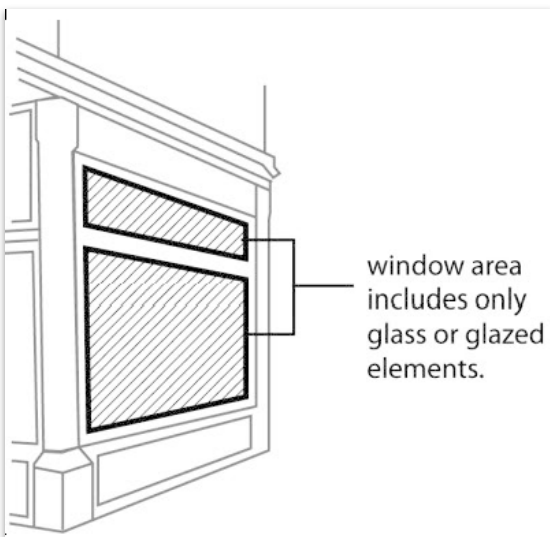
Figure 4.14.03-5: Signs, Measurement Rules, Building Frontage for Buildings with More Than One Tenant



7. **Window Area**

The area of a window includes only the glass or glazed elements of the window. Frames, mullions and similar features are not counted as part of the window area

Figure 4.14.03-6: Signs, Measurement Rules, Window Area



Division 4.14.04 Nonconforming Signs and Sign Packages

Section 4.14.04-A. Nonconforming Signs

1. Description

A nonconforming sign is any sign or sign structure that was lawfully established but no longer complies with the sign regulations of this ordinance.

2. General

Nonconforming signs may remain, subject to the regulations of this section. Nonconforming signs must be maintained in sound condition and appearance.

3. Alterations

- (a) Change of copy or the substitution of panels or faces on nonconforming signs is permitted without affecting the legal status of a sign as a nonconforming sign, subject to applicable permit requirements. No other alterations are allowed, except for routine maintenance and repair.
- (b) Any nonconforming sign that is structurally altered, relocated on the same or another parcel, or that is replaced must immediately comply with all provisions of this article.
- (c) Any sign, however, that is accidentally damaged or destroyed may be repaired or replaced within 90 days to the sign's original condition subject to the permit requirements of this chapter.

Section 4.14.04-B. Administrative Comprehensive Sign Packages

In addition to the regulations of this section, comprehensive sign packages are subject to the standards in Division 4.15.01 of this chapter.

1. Purpose

- (a) The administrative comprehensive sign package procedure of this section is intended to provide a process for review and consideration of deviations from otherwise applicable sign standards.
- (b) Signs that are not in strict compliance with the regulations of this chapter may be approved when the Planning Administrator determines that the signs are part of a comprehensive sign package that meets the applicable review criteria of this section.
- (c) To qualify for review as a comprehensive sign package, the applicant must address the complete system of signage for the site, along with proposed lighting and architectural detailing that may be considered to support the sign.

2. Applicability

- (a) The comprehensive sign package review procedure is applicable only when unique site conditions (such as building orientation, lot size or shape, topography, existing structures, natural features, or surrounding context) create unnecessary hardships resulting from the strict application of the sign standards in this article.
- (b) Any comprehensive sign package may be subject to conditions of approval as determined by the Planning Administrator to balance flexibility of applicable sign standards with compatibility, equity, and protection of community character.

3. Authority to File

Applications for design review of sign packages may be initiated only by the owner of the subject property or by the owner's authorized agent.

4. Application Filing

- (a) Applications for a comprehensive sign package approval must be filed with appropriate personnel in the Community Planning, Development, and Innovation Department.
- (b) In order for the Planning Administrator to determine that an application is complete, the applicant must provide the following information:
 - 1. Legal description of the subject property;
 - 2. Ownership and mailing address of all owners of the subject property;
 - 3. Cover letter addressing from which standards each sign will vary, and the applicable review criteria of this section; and
 - 4. Any additional submittal materials required for review by the Planning Administrator, which may include scaled elevation drawings or photographs of any existing and proposed buildings, a site plan showing landscaping, parking areas, and the locations and measurements of all signs on-site, including any associated lighting or support structures.

5. Review and Decision—Planning Administrator

- (a) Comprehensive sign package requests must be reviewed and approved or denied by the Planning Administrator, whose decision must be supported by written findings of fact. The Planning Administrator's decision is final, and no further action may be taken except as provided in Article 2.4 of this UDC.
- (b) Comprehensive sign package applications may be approved by the Planning Administrator only when they determine that the following review criteria, as applicable, have been satisfied. All of the applicable review criteria must be addressed in the applicant's cover letter in support of their comprehensive sign package.
 - 1. That the proposed comprehensive sign package meets the purposes listed in Section 4.14.01-A of this article;
 - 2. That the number and height of all proposed signage fosters a positive relationship with their environment, both urban and natural;
 - 3. That the sign design responds to unique site conditions, such as building orientation, open space, lighting, views, lot size or shape, existing structures, topography, or other physical features on or near the property, including the protection of natural features;
 - 4. That signs and their support structures and lighting are compatible with adjacent properties and uses in terms of physical design elements such as volume and mass management, open space design, screening, and any other design elements determined to be important by the Planning Administrator;
 - 5. That the overall sign package will be functional and safe in terms of pedestrian, bicycle and vehicular access, parking, loading, and servicing.

6. Transferability

Comprehensive sign package approval runs with the land and is not affected by changes of tenancy, ownership or management.

7. Amendments

A request for an amendment to an approved comprehensive sign package or to any associated conditions of approval must be processed as a new application.

8. Notification and Public Comment

Public noticing requirements and procedures are found in Article 2.3. of this UDC.

Division 4.14.05 Maintenance, Administration, and Enforcement

Section 4.14.05-A. Administration and Enforcement

1. Permits Required

No sign may be erected, constructed, affixed, painted, changed in copy, altered, or relocated unless a sign permit authorizing such work has been issued by the Community Planning, Development, and Innovation Department. A sign permit is valid only if the sign and its location comply with the standards of this article. An issued sign permit cannot be transferred to another property.

2. Permit Submittal Requirements

Sign permit applications must be submitted to the Community Planning, Development, and Innovation Department using the provided forms and include all required information as specified by the Planning Administrator.

3. Permit Fees

The fee for a sign permit shall be established by resolution of the City Council. Payment of the applicable fee is required in full prior to the issuance of any permit authorizing the construction, installation, or placement of a sign.

4. Lapse of Sign Permit Approval

If a sign authorized by a sign permit issued pursuant to this article is not installed within 180 days after the date of issue, such permit is void.

5. Inspections

The Community Planning, Development, and Innovation Department may conduct inspections to determine that signs were erected in compliance with the issued permit. The Planning Administrator is authorized to require that any existing on-site signs erected in violation of this article or that in any way deviate from a prior approved sign permit be dismantled and removed prior to the issuance of a new sign permit.

6. Violations, Penalties, and Enforcement

Violations, penalties, and enforcement provisions are found in Article 2.5 of this UDC.

Section 4.14.05-B. Maintenance and Removal

1. Maintenance

All signs and their supports, braces, guys, anchors, and electrical equipment must be kept fully operable and maintained in a safe, neat, clean, and attractive condition or the signs must be removed. Failure to comply with the maintenance provisions of this section constitutes a violation and is subject to the enforcement proceedings found in Article 2.5 of this UDC.

2. Unsafe or Inadequately Maintained Signs

- (a) The Planning Administrator is authorized to require that any sign found to be unsafe or not adequately constructed and maintained as required by this article be removed or brought into compliance with all applicable regulations. Before bringing such action, the Planning Administrator must provide to the owner of the sign or the owner of the premises on which the sign is located the reasons for removal, specifying the deficiencies and violations; and such notice must specify what repairs, if any, will make the sign and its support structure conform to the requirements of this article.
- (b) If the owner or lessee of the sign fails to remove the sign within the allowed time after receiving written notice, the Planning Administrator is authorized to remove the sign at the owner's expense.

3. **Dangerous Signs**

- (a) If the Planning Administrator finds that any sign or sign support is in violation of this article, and that by reason of its condition it presents an immediate danger to the public, they are authorized to order either the immediate repair or immediate removal of said sign or structure.
- (b) The Planning Administrator is authorized to remove the sign or support structure if the person responsible cannot be found or refuses to repair or remove the sign within ten days.

4. **Abandoned Signs**

Any person who owns or leases a sign must remove the sign within 30 days after it becomes an abandoned sign as defined by this chapter. If the owner or lessee cannot be located, the Planning Administrator is authorized to remove the sign. The cost of removal must be borne by the owner of the sign. In the event that the sign structure complies with the regulations of this chapter, the Planning Administrator may approve a sign permit to install a blank insert for the structure.

Article 4.15

ZONING PROCEDURES

Division 4.15.01 General

Section 4.15.01-A. Applicability

The zoning procedures in this article are subject to the general provisions of this division, unless otherwise expressly stated.

Section 4.15.01-B. Application Submittal

1. Scoping meetings are highly recommended but not required. To schedule a scoping meeting, complete an intake form and submit it to the Community Planning, Development, and Innovation Department.
2. Applications can be found on the City's website. A completed application with required supporting documentation must be filed with appropriate personnel in the Community Planning, Development, and Innovation Department.
3. Each application must be accompanied by any additional information that the Planning Administrator determines is necessary to allow a competent determination of whether the applicable review criteria have been addressed. In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria. Applications must address relevant review and decision-making criteria.
4. The Planning Administrator will review the application for completeness and accuracy. If the application is determined to be incomplete, the Planning Administrator must provide written notice including an explanation of all known deficiencies that will prevent competent review of the application. If deficiencies are not corrected and no communication has been received within 180 days from the time written notice was issued, the application will be considered withdrawn.
5. Applications deemed complete will be added to the processing cycle where the Planning Administrator will complete a review in accordance with applicable review and approval procedures.

Section 4.15.01-C. Application Filing Fee

Application filing fees are required for processing development review and permit applications. The fees help offset the cost of providing public notice, personnel costs for plan/permit reviews and field inspections. Fees are non-refundable.

Section 4.15.01-D. Conditions of Approval

When applications are approved with conditions, there must be:

1. A nexus between the conditions and the impacts caused by the proposed use or development, and
2. Rough proportionality between the conditions imposed and the impacts of the use or development.

Section 4.15.01-E. Substantial Compliance

The Planning Administrator is authorized to determine if a project is in substantial compliance with the regulations. In making this determination, the Planning Administrator shall ensure the intent of the regulation is being met even though its formal requirement may not be complied with. See definition of substantial compliance.

Section 4.15.01-F. Notification and Public Comment

When a process requires public notification, the Planning Administrator shall follow the notification requirements and procedures found in Article 2.3.

Division 4.15.02 Zoning Compliance Review

Section 4.15.02-A. Purpose

Zoning compliance review of building permits and zoning compliance permits is required to determine whether a proposed project complies with the regulations of this zoning chapter, and any other applicable regulations within the UDC and the Manual. Unless stated otherwise, the term zoning compliance review shall encompass both zoning compliance review of zoning compliance permits and building permits.

Section 4.15.02-B. Applicability

1. Zoning compliance review is required before any structure, or part of a structure is created, erected, changed or converted, wholly or in part, in its use, occupancy, or construction.
2. Zoning compliance review is required prior to any modifications of the site, including but not limited to parking and landscaping.

Section 4.15.02-C. Application Filing

Each application for a building permit or zoning compliance permit must be accompanied by a site plan drawn to scale, and in such form as may be prescribed by the Planning Administrator, showing the actual size and dimensions of the parcel to be built upon, the size of the building to be erected, and such other information as the Planning Administrator determines necessary to allow a competent determination of whether an application substantially complies with all applicable requirements.

Section 4.15.02-D. Review and Decision by Planning Administrator

1. The Planning Administrator must review each application for zoning compliance and act to approve, approve with conditions, or deny a zoning compliance permit based solely on whether the proposed use, structure, or development substantially complies with all applicable requirements.
2. Zoning compliance permits and other ministerial permits may be issued by the Planning Administrator without any further discretionary review or analysis.
3. Final land use determinations made by the Planning Administrator may be appealed as provided in Article 2.4 of this UDC.

Section 4.15.02-E. Lapse of Approval

A zoning compliance approval will lapse and have no further effect three years after it is issued by the Planning Administrator.

Section 4.15.02-F. Compliance Required

1. The Planning Administrator may conduct a final inspection of a building or premises to determine whether the site has been developed in compliance with the approved permit. No building or premises other than a one-unit house or duplex may be used or occupied until the Planning Administrator has conducted a final inspection.
2. Temporary final zoning compliance approvals may be issued for a period of up to six months, during the completion of any alterations or during partial occupancy of such building or site.
3. Such temporary final zoning compliance approval may be extended, but may not in any way affect the rights, duties and obligations of the owner or the City, relative to the use or occupancy of the premises converted, or any other matter covered by this UDC.
4. The Planning Administrator is authorized to require a financial guarantee, in a form approved by the City Attorney, before issuance of a temporary final zoning compliance approval.
 - (a) Required financial guarantees must be held by the Planning Administrator for the duration of the temporary final zoning compliance approval.
 - (b) The amount of any required financial guarantee must be equal to at least 110% of the amount deemed necessary to complete the development in accordance with all applicable requirements of this UDC.
 - (c) The financial guarantee may only be returned to the property owner upon the issuance of a final zoning compliance approval.
 - (d) If the temporary final zoning compliance approval expires and the development is not completed in accordance with all applicable requirements of this ordinance, the City is authorized to exercise the financial guarantee and use the funds to cause the completion of the development.

Division 4.15.03 Zoning Amendments**Section 4.15.03-A. Applicability**

Amendments to an adopted zoning regulation or map may be initiated by:

1. By majority vote of the governing body;
2. On petition of at least 15% of the electors of the local government jurisdiction to which the regulations apply, as registered at the last general election; or
3. By property owner, as related to an application for any zoning, subdivision, or other land use permit or approval.

Section 4.15.03-B. Application Filing

Each application for an amendment to a zoning regulation or map must address all relevant review criteria and be accompanied by any supplemental maps or documents in such form as may be prescribed by the Planning Administrator.

1. The applicant shall submit an application and fee to the Planning Administrator.

2. The Planning Administrator shall review the application for completeness and accuracy and provide a list of application deficiencies to the applicant.
3. The process in 4.15.03-B.1 and B.2 continues until the application is determined by the Planning Administrator to be complete and accurate.

Section 4.15.03-C. Review and Report by Planning Administrator

1. Upon receipt of a complete application for an amendment to an adopted zoning regulation or the zoning map, the Planning Administrator must prepare a report that evaluates the proposed amendment and make a preliminary determination as to whether the proposed amendment:
 - (a) Is in substantial compliance with the adopted Land Use Plan; and
 - (b) Results in new or increased impacts to or from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessment conducted for the Land Use Plan; and
 - (c) Complies with the criteria as set forth in 76-25-304(2)(c), MCA, including but not limited to:
 1. Reflects allowable uses and densities in areas that may be adequately served by public safety, emergency, utility, transportation, education, and any other local facilities or services identified by the local government in 76-25-207;
 2. Protects and maximizes the potential use of natural resources within the area, as identified in 76-25-209;
 3. Minimizes or avoids impacts to the natural environment within the area, as identified in 76-25-209; and
 4. Avoids or minimizes dangers associated with natural hazards in the jurisdiction, as identified in 76-25-209; and
2. If the Planning Administrator determines there are new or increased impacts from the proposed regulation, map, or amendment from those previously described and analyzed in the assessment conducted for the Land Use Plan, the Planning Administrator shall collect additional data and conduct additional analysis necessary to provide the Planning Commission and the public with the opportunity to comment on and consider all potential impacts resulting from adoption of the amended zoning regulation or map.

Section 4.15.03-D. Planning Commission Meeting and Recommendation

1. The Planning Commission must hold a public meeting on each proposed amendment to an adopted zoning regulation or map, and make a preliminary determination as to whether the proposed amendment:
 - (a) Is in substantial compliance with the adopted Land Use Plan; and
 - (b) Complies with the applicable criteria set forth in 76-25-304(2)(c), MCA; and
 - (c) Results in new or increased impacts to or from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessment conducted for the Land Use Plan.
2. The Planning Commission must provide adequate opportunity at the public hearing for the public to provide testimony. The Planning Commission must accept, consider, and respond to public comment received on the proposed amendment. All public comment received must be part of the administrative record transmitted to the City Council.
3. The Planning Commission shall make a preliminary determination whether there are new or increased impacts to or from local facilities, services, natural resources, natural environment, or natural hazards from those previously described and analyzed in the assessment conducted for the Land Use Plan.

- (a) If the Planning Commission determines the Planning Administrator analysis and recommendation is accurate, the Planning Commission makes a final recommendation to City Council to approve, modify, or reject the proposed zoning regulation or map amendment.
- (b) If the Planning Commission determines there are new or increase impacts not specified in the staff report of the Planning Administrator, City staff shall proceed as follows:
 1. City staff collects additional data, conducts additional analysis necessary;
 2. The Planning Administrator notifies the public regarding the additional data and analysis; and
 3. The Planning Administrator presents additional data and analysis for Planning Commission consideration of all impacts resulting from the proposed zoning map amendment.
4. After the preliminary determination is made and any additional analysis is completed, and once the Planning Commission and the public have had the opportunity to comment on and consider all potential impacts resulting from the proposed amendment, the Planning Commission shall make a final recommendation to the City Council to approve, modify, or reject the proposed zoning regulation or map amendment.

Section 4.15.03-E. City Council Meeting and Final Action

1. The City Council must hold a public meeting to consider each proposed amendment to an adopted zoning regulation or map recommended by the Planning Commission.
2. Following the public meeting, the City Council may act to adopt, adopt with revisions, or reject the proposed amendment. City Council may not adopt or amend a zoning regulation or map unless they determine that:
 - (a) The regulation, map, or amendment is in substantial compliance with the Land Use Plan; and
 - (b) The impacts resulting from development in substantial compliance with the proposed zoning regulation, map, or amendment have been made available for public review and comment and have been fully considered by the City Council.
3. City Council may not condition an amendment to a zoning regulation or map.

Section 4.15.03-F. Noticing Requirements

Public noticing is required for zoning amendments. Requirements and procedures are found in Article 2.3.

Division 4.15.04 Variances

Section 4.15.04-A. Applicability

1. Zoning variances must be for the relief from land or building form design standards of this chapter. Zoning variance applications must be considered and approved, approved with conditions, or denied prior to or in conjunction with an application for a zoning compliance permit or building permit.
2. A zoning variance may not be used to:
 - (a) Waive, modify or amend any definition or use classification;
 - (b) Waive, modify or otherwise vary any of the review and approval procedures of this UDC; or
 - (c) Waive, vary, modify or otherwise override a condition of approval or requirement imposed by the Planning Administrator or another authorized board or commission.

Section 4.15.04-B. Review & Decision by Planning Administrator

1. Variance requests must be reviewed and approved, approved with conditions, or denied by the Planning Administrator; the Planning Administrator's decision is final, and no further action may be taken except as provided in Article 2.4 of this UDC.
2. Upon receipt of a complete application for a zoning variance to a land or building form design standard, the Planning Administrator must prepare a report that evaluates if the granting of a variance meets all of the following criteria:
 - (a) The variance is not detrimental to public health, safety or general welfare;
 - (b) The variance is due to conditions peculiar to the property, such as physical surroundings, shape, or topographical conditions;
 - (c) Strict application of the regulations to the property results in an unnecessary hardship to the owner as compared to others subject to the same regulations and that is not self-imposed;
 - (d) The variance may not cause a substantial increase in public costs; and
 - (e) The variance may not place the property in nonconformance with any other regulations.
3. Additional criteria may apply if the variance is associated with a floodplain or floodway pursuant to the requirements of Title 76, Chapter 5, MCA.

Section 4.15.04-C. Lapse of Approval

1. A variance approval to land or building form design standards will lapse and have no further effect three years after it is granted by the Planning Administrator unless a building permit or zoning compliance permit has been issued.
2. A zoning variance approval also lapses upon revocation of a building permit for violations of conditions of approval or upon the expiration of a building permit or zoning compliance permit.

Section 4.15.04-D. Transferability

A zoning variance approval runs with the land and is not affected by changes of tenancy, ownership or management.

Section 4.15.04-E. Noticing Requirements

Public noticing is required for variances. Requirements and procedures are found in Article 2.3.

Division 4.15.05 Annexation**Section 4.15.05-A. Applicability**

Property owners may petition for annexation into the city limits in conjunction with a proposed development plan or as a standalone request. The City Council shall review and consider an annexation petition of unincorporated County properties into the city limits as outlined in MCA 7-2-46.

Section 4.15.05-B. Review and Report by Planning Administrator

1. Upon receipt of a complete petition for annexation, in conjunction with a proposed development plan or as a standalone request, the Planning Administrator must prepare a report that evaluates the request to determine

if the subject property would be accepted by the City, and determine the appropriate zoning designation for the property once it is annexed.

2. A petition for annexation will occur simultaneously with a proposed zoning map amendment, and will follow the procedures in Section 4.15.03. In addition to the review criteria stated in Section 4.15.03-C, the Planning Administrator will also evaluate the request by the following criteria:
 - (a) Compliance with the City’s adopted Annexation Policy;
 - (b) Compliance with the place type designation of the subject property as shown in the adopted Land Use Plan, and the relatable UDC zoning district designations;
 - (c) Any applicable additional criteria deemed necessary by the Planning Administrator.

Section 4.15.05-C. Noticing Requirements

Public noticing is required for annexations. Requirements and procedures are found in Article 2.3

CHAPTER 5:

SUBDIVISION



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Article 5.1

INTRODUCTION

Division 5.1.01 General

Section 5.1.01-A. Purpose

1. The purpose of these regulations is to promote public health, safety, and general welfare by regulating the subdivision of land to:
 - (a) Implement the goals and place types of the Land Use Plan;
 - (b) Lessen or manage congestion in streets and highways;
 - (c) Provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements;
 - (d) Require development in harmony with the natural environment;
 - (e) Protect the rights of property owners;
 - (f) Require uniform monumentation of land subdivisions and transfer of interests in real property by reference to plat or Certificate of Survey; and to
 - (g) Provide for phased developments as required by MCA 76-25-408(6), as amended.
2. These regulations are also intended to promote:
 - (a) The orderly development of the jurisdictional area;
 - (b) The coordination of streets within subdivided land (including provision for non-motorized transportation) with other roads, both existing and planned;
 - (c) The dedication of land for roadways and for public utility easements;
 - (d) The provision of proper physical and legal road access, including obtaining necessary easements;
 - (e) The provision of adequate open spaces for travel, light, air, recreation, plant and animal habitat, and scenic views;
 - (f) The provision of adequate transportation, water, drainage, and sanitary facilities;
 - (g) The avoidance of any subdivision that would involve unnecessary environmental degradation, pursuant to these regulations;
 - (h) The avoidance of danger or injury by reason of natural hazard or the lack of water, drainage, access, transportation, or other public services;
 - (i) The avoidance of excessive expenditure of public funds for the supply of public services;
 - (j) The definition of the manner and form of making and filing any plat for subdivided lands;
 - (k) The administration of these regulations by defining the powers and duties of approving authorities as well as procedures for review and approval of all plats of subdivision covered by these provisions;
 - (l) Meeting minimum guidelines for provision of emergency services;
 - (m) The reduction of risk of fire damage by reducing and managing the buildup of fuels, building and maintaining adequate road systems, providing adequate water to fire fighters, and using fire-resistant materials and designs for homes and outbuildings;

- (n) The diversity and originality in subdivision layout and individual building design to achieve the best possible relationship between development and the land and provide for a diversity of housing sizes and types, accommodating a variety of age and income groups;
 - (o) The design of residential subdivisions that results in the creation of neighborhoods with distinct identities, a sense of community, and access to other neighborhoods, parks, common areas, open space, playgrounds, schools, transportation, bus stops, shopping and community facilities.
3. Review of subdivisions according to established standards and procedures benefits both the public and the subdivider. By incorporating standards in preparation for the review process, the subdivider can avoid excessive expenditures of time and money to rectify errors or omissions. The administration of these regulations assures the subdivider that treatment of the subdivision plat will be equitable, consistent, and expeditious.

Section 5.1.01-B. Applicability

This chapter applies to the subdivision and platting of land, and exemptions to subdivision.

Article 5.2

SUBDIVISION DESIGN STANDARDS

Division 5.2.01 General Standards

Section 5.2.01-A. Applicable Regulations

In addition to the requirements established herein, as required by MCA 76-25-401, as amended, all subdivision plats are subject to all applicable laws, ordinances, and regulations, including but not limited to:

1. All applicable provisions of the Montana Code Annotated, as amended;
2. The International Building Codes adopted by the City of Missoula or the State of Montana; City of Missoula Floodplain Hazard Management Regulations; Fire Code; applicable Missoula Municipal Code and all other applicable regulations of the City of Missoula;
3. Capital Improvements Program of the City of Missoula;
4. The Missoula City/County Health Code;
5. The requirements of the Montana Department of Transportation if the subdivision or any lot contained therein abuts a State highway or connecting street. Any subdivision that abuts a city street must meet the city access requirement;
6. Any other federal, state or local regulations applicable to the land proposed for subdivision, including but not limited to irrigation district regulations;
7. The Missoula City/County Air Pollution Control Program;
8. All applicable portions of this Unified Development Code, herein referred to as the UDC; and
9. The Manual, including but not limited to the street and trail typologies and stormwater regulations.

Section 5.2.01-B. Development Constraints or Hazards

1. Subdivisions may be denied where unmitigable natural hazards exist. Land on which there is evidence of hazards shall not be approved for subdividing until an engineering or other relevant professional submits design sufficient to alleviate or adequately mitigate the forgoing constraint, hazard or burden, and the designs or plans have been submitted by the applicant and approved by the City.
2. Hazards include but are not limited to the following:
 - (a) Floodway or floodplains;
 - (b) Swelling soils, subsidence, rockslides, and landslides;
 - (c) Improper drainage;
 - (d) Sloped sites as identified in Division 5.2.12 Hillside Protection;
 - (e) Adverse geological formations or topography;
 - (f) Snow avalanches;
 - (g) Wildland Urban Interface;
 - (h) High water table, polluted or non-potable water supply;
 - (i) High-voltage lines, high-pressure gas lines;

- (j) Aircraft or vehicular traffic hazards or congestion;
- (k) Potential for toxic or hazardous waste exposure;
- (l) Other features that will be harmful to the health, safety, and/or welfare of the present or future inhabitants of the subdivision or its environs; or
- (m) Features that will impose unreasonable burdens upon the general public such as environmental degradation or requirements for the excessive expenditure of public funds.

Section 5.2.01-C. Floodplains

1. Land located within the floodway, or other land determined by the City to be subject to flooding, shall not be subdivided for building or for other uses prohibited by the City of Missoula Floodplain Hazard Management Regulations, unless the lot created provides for an adequate building site outside of the floodway.
2. A detailed flood hazard evaluation (Hydrologic and Hydraulic study), including base flood elevations for the 1% annual chance flood and a map depicting the 1% annual chance floodplain boundaries, is required for the following:
 - (a) For land designated Flood Zone A, AH or AO;
 - (b) If a proposed building site within a proposed subdivision is within 20 vertical feet and 1,000 horizontal feet of a stream draining an area of 15 square miles or more and in the same drainage basin, and no official floodway delineation or floodway studies of the stream have been made.
3. Detailed flood hazard evaluations (Hydrologic and Hydraulic study) must be performed by a licensed professional engineer experienced in this field of work. Land identified within the floodplain is subject to the City of Missoula Floodplain Hazard Management Regulations.

Section 5.2.01-D. Wildland/Urban Interface

In areas of Wildland/Urban Interface (WUI) designated as zone High or Very High on the Missoula County Wildfire Hazard Assessment map, the following standards apply:

1. Major subdivisions must provide two access streets into and out of the subdivision for subdivisions where compliance with Appendix D in the applicable Fire code is triggered. Note Fire Code may require two access streets in other WUI designations.
2. The subdivider shall include in a development agreement or maintenance covenant (restrictive easement) the requirements found in Exhibit 1 and Article 5.4.
3. Fire protection water supply must be provided by City fire hydrants capable of delivering the required flow.

Section 5.2.01-E. Developable Lots

1. All subdivisions must result in the creation of lots that are represented by the subdivider as developable and intended to be built upon in accordance with this UDC. A subdivision may, however, also contain tracts that are not intended as building lots but are necessary for other purposes. All such tracts must be shown on the plat and designated as to their purposes.
2. Approval of a subdivision does not constitute a warranty by the city as to the ability to develop the lot or the suitability for any particular use of any lot.

Section 5.2.01-F. Public Facilities and Services

The subdivision must be served by public facilities and services, such as water systems, sanitary sewer systems, stormwater systems, transportation systems, parks, solid waste disposal, and public services such as police and fire protection; or the subdivider will provide the infrastructure and services in accordance with this UDC and the Manual.

Section 5.2.01-G. Access

The subdivision design must provide pedestrian, vehicular and fire access to each lot within the subdivision in accordance with Chapter 6 and the Manual. The subdivision design must provide connectivity between lots within the subdivision, to adjacent roads abutting the subdivision and connect the subdivision to open space, other neighborhoods, parks, common areas, playgrounds, schools, transportation, bus stops, shopping, and community facilities.

Section 5.2.01-H. Natural, Cultural, or Historic Features

The subdivision shall not result in the destruction, loss, or damage of significant natural, cultural, or historic features.

Section 5.2.01-I. Potential Impacts

The applicant must mitigate any new or significantly increased potential adverse impacts resulting from the subdivision that were previously identified and considered in the adoption of the Land Use Plan, this UDC, and the Manual.

Section 5.2.01-J. Professional Plans

Engineering and survey plans, specifications, and reports required in connection with improvements and other elements of the subdivision shall be prepared in accordance with this UDC and the Manual.

Division 5.2.02 Transportation**Section 5.2.02-A. Purpose**

The purpose of this division is to:

1. Provide minimum development standards to safeguard life, health, and public safety;
2. Promote safe, efficient, and convenient multi-modal transportation systems and fire access to each lot within the subdivision;
3. Provide connectivity and continuation of multi-modal transportation systems and fire access within the subdivision, establishing a grid network of connected transportation corridors, extending from the subdivision to:
 - (a) existing streets and pedestrian easements abutting the subdivision; and
 - (b) the boundaries of the subdivision to adjacent vacant land for future development.

Section 5.2.02-B. Standards

1. Plans and reports required by this UDC or the Manual must be prepared by appropriately qualified persons in accordance with Chapter 6 Infrastructure Improvements and the Manual.
2. All public and private street and transportation improvements, including trails and shared use pathways, pavement, curbs, sidewalks, bike facilities, landscaped boulevards, and drainage, must be designed and constructed in accordance with Chapter 6 Infrastructure Improvements and the Manual.

Section 5.2.02-C. Access, Rights-of-Ways, and Easements**1. Easements and Rights-of-Ways**

Legal and physical pedestrian, vehicle, and fire access must be provided to each lot.

- (a) All easements must be granted by each property owner through a document that grants the easement in a legally sufficient form acceptable to the City Attorney's Office. The location and existence of any easement must be noted on the face of the final plat. Documentation of existing legal and physical access must be included with the preliminary plat application submittal.
- (b) Public streets within a subdivision must be within a dedicated public right-of-way parcel or within a public right-of-way easement. Private streets, when allowed, must be within a public access and private maintenance easement.
- (c) Rights-of-way and easements must comply with Chapter 6 Infrastructure Improvements and the Manual. All transportation facilities must be within a public right-of-way parcel, a public right-of-way easement, or a public access easement.
- (d) In order to mitigate impacts from the proposed subdivision, additional rights-of-way may be required for pedestrian, vehicular, or fire access.

2. Access Control

- (a) Driveway approaches from the street frontage may be restricted for lot widths of 40 feet or less in compliance with this UDC and the Manual, and the Street and Trail Typologies.

Section 5.2.02-D. Street Design and Improvements**1. Connectivity**

- (a) Street connections must be provided to any existing or approved street, right-of-way, and trail extension abutting the subdivision. The street and trail connections shall provide a continuation of the Street and Trail typology through a property.
- (b) The circulation pattern for the subdivision must be designed to extend streets and trails to the exterior boundaries of the subdivision to provide connectivity to future development and to connect to existing streets and trails abutting the subdivision. The circulation system must provide for various modes of transportation such as vehicles, pedestrians, bicycles, buses, and emergency vehicles.
- (c) Streets ending in a Fire Code compliant turnaround, cul-de-sac and circle streets are only permitted where existing physical, or other constraints, such as steep slopes, waterways or a natural drainage gulch, prevent connection to another road unless otherwise expressly permitted by Chapter 6 Infrastructure Improvements and the Manual. Dead-end streets are prohibited. A public pedestrian access easement shall connect the cul-de-sac to existing or planned streets.
- (d) Traffic studies or traffic evaluations may be required for subdivisions in situations indicated in this UDC and the Manual.

2. Improvements

- (a) When development is adjacent to or within ¼ mile of an established public transit or school bus route, subdivider may be required by the City Engineer to construct bus stop facilities along with accessible routes, meeting ADA standards, to those facilities. Subdividers should consult with the Missoula Urban Transportation District and Missoula County Public Schools early in the planning and design process.
- (b) Off-site street and trail improvements may be required upon recommendation of the City Engineer.
- (c) Street accessories shall be required in compliance with Chapter 6 Infrastructure Improvements and the Manual. Design, locations, types, and numbers of street accessories shall be determined during the stage review process. Installation of street accessories is required prior to final plat approval unless included in an improvements agreement guaranteed by a security.

Section 5.2.02-E. Trails**1. Applicability**

Trails must be provided as follows:

- (a) Connecting any existing or approved trail abutting the subdivision; and
- (b) New trails that are planned for in the Trail Typologies Map.
- (c) The new trails and trail connections shall provide a continuation of the Trail typology through a property.

2. Standards

- (a) Trails must be constructed concurrently with other required transportation infrastructure in accordance with the standards of Chapter 6 Infrastructure Improvements and the Manual and the design must be approved by Parks and Recreation.
- (b) Trails must be located within a public pedestrian access easement and shall not be combined or overlaid with a utility easement, unless allowed by a design deviation in the Manual. Trails adjacent to streets shall be within a street right-of-way parcel, a street right-of-way easement, or a public pedestrian access easement.
- (c) Additional trail pavement or public access easement width may be required in hillside areas to accommodate switchbacks for trails, etc.
- (d) Trails located within or adjacent to sensitive natural resource and riparian resource areas must be designed and located to mitigate adverse impacts on those resources and may require a 310 permit per The Natural Streambed and Land Preservation Act.
- (e) Trails must remain clear and open and shall not be obstructed with fences, structures, utility pedestals, or other above-ground utilities that obstruct use.
- (f) Trailhead parking and trail accessories shall be required in compliance with Chapter 6 Infrastructure Improvements and the Manual. Design, locations, types, and numbers of trail accessories shall be determined during the stage review process. Installation of trail accessories is required prior to final plat approval unless included in an improvements agreement guaranteed by a security.

Section 5.2.02-F. Short Courts**1. Short Courts**

Short courts are a type of private street within a public access and private maintenance easement. Short Courts must meet the standards in the Manual. Short Courts shall also meet the following standards:

- (a) Provide a snow removal maintenance plan.
- (b) Provide a private maintenance agreement specifying that the property owners adjacent to the short court shall be responsible for the costs associated with the maintenance, repair and/or replacement of all surface infrastructure.
- (c) Provide signage on short courts for addressing and no parking areas.

Section 5.2.02-G. Driveways

1. Driveway access location to each lot must be shown on a preliminary plat supplemental data sheet, along with boulevard tree plan and utility service connection lines for blocks with lot widths of 60 feet or less.
2. Layout of driveways, boulevard trees and utility service connection lines must comply with Chapters 4 and 6 of this UDC, the Manual, and the Street and Trail typologies.

Section 5.2.02-H. Alleys

1. Alleys must be located within public right-of-way easements.
2. Alleys shall not dead end.

Section 5.2.02-I. Half Streets

1. Street easements along the boundary line of a subdivision that provide approximately half of the total street easement width are prohibited.
2. Where an existing street right-of-way is adjacent to and follows the exterior boundary of a subdivision, the subdivider shall dedicate sufficient public right-of-way easement and install improvements including the roadway (back of curb to back of curb) curb, gutter, boulevard, and sidewalk within the subdivision.

Section 5.2.02-J. Street Names

Street names shall comply with Chapter 6 Infrastructure Improvements prior to final plat approval.

Division 5.2.03 Lots and Blocks**Section 5.2.03-A. Lots**

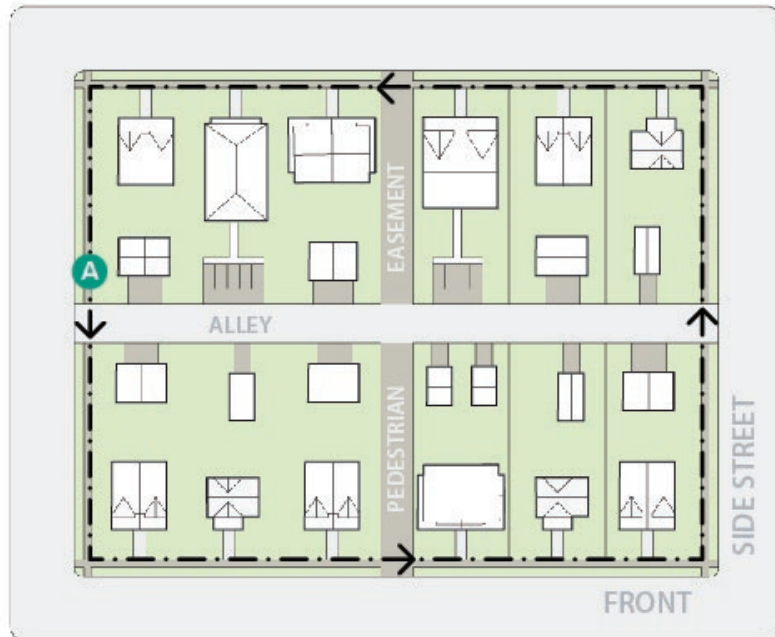
1. Lots shall comply with the applicable minimum lot widths and/or minimum lot areas in Chapter 4 Zoning.
2. Subdivision lots on land with an existing slope of 25% or greater shall comply with the Hillside Protection standards of Division 5.2.12.
3. The design of lots must meet the following standards:
 - (a) A single lot shall not be divided by a municipal or county boundary line.
 - (b) Pedestrian, vehicular and fire access must be provided to each lot.
 - (c) Corner lots must be configured so that driveway approaches meet engineering standards for separation from a street intersection per Chapter 6 Infrastructure Improvements and the Manual.
 - (d) Through lots are prohibited unless a variance is approved because of topography or other physical site constraints.

Section 5.2.03-B. Blocks

1. Blocks must be designed to assure traffic safety, ease of circulation, connectivity within and between subdivisions, and to provide pedestrian, vehicular and fire access.
2. Blocks must meet the following maximum block perimeters and maximum block length standards:
 - (a) In Urban Residential, Urban Mixed Use, and Downtown zoning districts: 1,500 lineal feet maximum block perimeter and 600 lineal feet maximum block length.
 - (b) In Transitional Mixed-Use, Limited Urban Residential and Limited Urban Mixed Use zoning districts: 2,400 lineal feet maximum block perimeter and 800 lineal feet maximum block length.
 - (c) In remaining zoning districts: no maximum block perimeter or maximum block length standards are required.
 - (d) Blocks that are partially in more than one zoning district shall meet the larger of block length perimeter for the zoning districts.

- (e) Half blocks at the boundary of the subdivision shall meet half the maximum block perimeter and the full maximum block length, unless bordering a physical or topographic feature that prevents a street connection.
- (f) If a dead-end or circle street is permitted through Section 5.2.02-D, then compliance with the maximum block perimeter and maximum block length is not required. Pedestrian access easements may be required to create convenient pedestrian access between existing or planned roads.

Figure 5.2.03-1: Maximum Block Perimeter



- A** Maximum permitted block length as measured by the aggregate of lots, passages, and alleys circumscribed by streets.

3. Pedestrian access easements that create a break within a block are required where there is a special need to provide convenient pedestrian access to bus stops, schools, playgrounds, shopping, transportation, parks, common areas or open space, other lots, adjoining neighborhoods and community facilities.
4. Blocks may be wide enough to allow for only one tier of lots, if the topography or other factors require that design. All other blocks must be wide enough to allow for two tiers of lots.

Division 5.2.04 Grading, Drainage, and Erosion Control

Section 5.2.04-A. Purpose

The objective of this section is to provide minimum standards for site grading and the control of storm water runoff, both quantity and quality, erosion and sedimentation control, preservation of natural drainage systems, flood mitigation, and protection of property.

Section 5.2.04-B. Requirements

The subdivider must provide:

1. A complete grading and drainage plan showing the proposed grades of streets, and proposed drainage facilities for all lots, blocks, and other areas per the submittal requirements of Article 5.4 of this chapter in compliance with Chapter 6 Infrastructure Improvements, the Manual, and all applicable state and local regulations. Grading plans must be of sufficient detail to identify flow paths from the lowest point of each lot to the right of way or to a drainage facility. The subdivider shall provide stormwater easements to convey water from the lowest point of each lot to the right of way or a drainage facility; and
2. Suitable drainage facilities, as determined by the City Engineer, for any surface run-off affecting the subdivision. These facilities must be located in the street rights-of-way or in perpetual easements of appropriate widths, subject to the approval of the City Engineer. Design of such drainage facilities must be based upon local soil factors, topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water. Drainage facilities must be designed and maintained to handle both upstream and local drainage, and shall comply with Chapter 6 Infrastructure Improvements, the Manual, and all applicable state and local regulations.

Section 5.2.04-C. Grading and Drainage Systems

1. Swales, storm sewers, or some accepted method of storm water management are required, accounting for the character of the area, density of development, and adjoining properties.
2. Unless adequate storm water infrastructure exists or is provided, all surface run-off in addition to that normally present before subdivision must be retained on site or released from the site at pre-development levels. Restrictive covenants may be required to mitigate adverse effects of property drainage. Mitigation may involve the installation of drainage structures or the connection to an existing storm drainage system. Drainage easements across adjoining land to the nearest drainage way may be required.
3. Facilities for the collection of stormwater runoff must be installed prior to or concurrent with any other improvements and be designed to divert surface water away from cut faces or sloping surfaces of a fill. All storm water facilities must be protected from erosion or silt deposition during construction of both public and private improvements.
4. Public drainage easements must be granted by the subdivider to prevent encroachment upon or disruption of drainage ways or drainage facilities. Easements for surface storm drainage must remain clear and open and shall not be obstructed with fences, structures, etc.
5. If located on common areas or on a lot, drainage facilities must be maintained by a property-owner's association or by a maintenance agreement.
6. Natural drainage ways must be preserved.
7. All disturbed slopes must be graded or have retaining structures constructed according to an approved grading plan. The required grading plans must be designed to accomplish the following:

- (a) Cut-and-fill slopes, and intersections of manufactured and natural slopes, must have curved configurations that reflect the forms and shapes of surrounding topography.
 - (b) Grading must incorporate elements to protect drainage systems and must integrate landscaping design to provide erosion protection to the site.
 8. Graded slopes must be planted with a vegetative ground cover. Landowners must replant areas of disturbance no later than the first growing season to prevent erosion and weed invasion, in consultation with the County Extension Office. Where site grading is necessary, topsoil must be salvaged or imported to redistribute on areas to be revegetated.
 9. All cut and fill must be confined to stated right-of-way widths, street easement widths or construction easements. All cut and fill for lot development shall not negatively impact the use or development of parks or trails for public use.
 10. All stormwater facilities outside of the public right-of-way shall be privately owned and maintained unless otherwise approved by the City Engineer.
-

Division 5.2.05 Utilities

Section 5.2.05-A. Requirements

1. The subdivider shall provide existing and proposed water and sewer infrastructure plans located on and adjacent to the subdivision.
 2. If the subdivision is proposed to be served by City water and sewer, the subdivider shall provide documentation that the subdivision qualifies for a municipal facilities exemption and provide the distance from the subdivision boundary to the nearest public water main and nearest public sewer main.
 3. All public and private utilities must be placed underground in compliance with State or local law.
 4. Utility locations are subject to approval by the appropriate utility company and City Engineer.
 5. City water and sewer mains may need to be installed beyond subdivision boundaries or subdivision phase boundaries to ensure proper functioning of the utility system.
-

Division 5.2.06 Easements

Section 5.2.06-A. Requirements

1. Easements must be provided for utilities, drainage, watercourse, channel, ditch, stream, vehicular, and pedestrian access. Platted easements shall be included in a stand-alone document referencing the rights and responsibilities.
2. Any feature or improvement of a proposed subdivision encroaching onto adjoining private property, in a manner that is not otherwise provided for under state law, cannot be approved unless the owner of the adjoining private property authorizes the encroachment in the form of an easement.
3. The subdivider must establish watercourse and irrigation (ditch) easements within the subdivision that:
 - (a) Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

- (b) Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and
 - (c) Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner.
4. The subdivider need not establish irrigation easements if:
- (a) The subdivider reserves all or a portion of the appropriation water rights owned by an owner of the subject property or transfers the water rights to a single entity for use by landowners within the subdivision who have a legal right to the water, and reserves and severs any remaining surface water rights from the land;
 - (b) If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide the use of a water right on the subdivision lots, establish a landowner's water use agreement that is administered through a single entity and that specifies administration and the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or
 - (c) The subdivider reserves and severs all surface rights from the land.
 - (d) The subdivider must, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and dedicate on the final plat, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights.

Division 5.2.07 Water Supply, Sewage Disposal and Solid Waste

Section 5.2.07-A. Requirements

1. Water supply, sewage disposal, and solid waste systems must meet the minimum standards of Chapter 6 Infrastructure Improvements, the Manual, and all applicable state and local regulations.
2. Water supply for fire protection must be provided.

Division 5.2.08 Parks and Open Space Requirements

Section 5.2.08-A. Purpose

The purpose of parkland dedication and park improvement standards is:

1. Preservation and protection of wildlife habitat, species of special concern and their habitat, agricultural uses, historical and cultural features, natural drainage areas and systems, and other desirable features of the natural environment, such as healthy long-lived trees, topography, significant plant communities, ground and surface water, wetlands, and riparian resource areas;
2. Provision of open space areas for conservation or passive recreation;
3. Provision of active recreational areas for use by residents of the development and, where specified, the larger community;
4. Provision of areas for social interaction and livability;
5. Arrangement of open space to be accessible and functional for use by the residents of the development and where specified, the larger community;
6. Protection of sensitive environmental features and natural areas by providing landscape buffers within open space areas.

Section 5.2.08-B. Exemptions

Parkland dedication is not required for the following subdivisions:

1. Land proposed for subdivision into lots or tracts larger than five acres;
2. Subdivision into lots where the zoning does not permit residential uses;
3. A subdivision in which only one additional lot is created; or
4. A development in which lots are not created, except when that development provides permanent multiple spaces for recreational camping vehicles.

Section 5.2.08-C. Requirements for Parkland Dedication

1. Parkland dedication must be based on the estimated of the number of dwelling units per each lot in a subdivision. The subdivider shall include in the preliminary plat application the number of dwelling units proposed for each lot.
2. Land area must be either dedicated or set aside as open space lands for parks, open space lands as defined in these regulations, conservation easements, or common area held by the property owner (where lots or dwelling units are leased or rented), or held by a property owners association, a land conservation entity, or City Council.
 - (a) Open space lands set aside as common area rather than dedicated to public use shall not experience a change of use without the approval of the City Council and the property owner (where lots or dwelling units are leased or rented) or entities in whose name the title to the property is held.
3. Except as provided in this section, a subdivider must provide parkland dedication in the form of land, land with improvements above the requirements of the Manual, cash-in-lieu or combination of land and cash-in-lieu as follows:
 - (a) The subdivider shall designate the number of dwelling units proposed for each lot.
 - (b) The total number of dwellings units for the subdivision is calculated as the sum of the dwelling units proposed for each lot within the subdivision.
 - (c) The total amount of parkland dedication required at time of subdivision is calculated as follows:
 1. For land zoned Rural Residential or Limited Urban Residential parkland is calculated as 0.02 acres per dwelling unit for the total number of dwelling units proposed on all lots with this zoning; and
 2. For all other zoning districts parkland dedication is calculated as 0.01 acres per dwelling unit for the total number of dwelling units proposed on all lots with this zoning.
4. At the time of building permit, cash-in-lieu is required for any additional dwelling units on a lot in excess of what was delineated in the application packet at preliminary plat approval.
5. For parcels where all or a portion of the parcel is within the Airport Hazard Zoning Overlay, the required parkland dedication will include land in the form of parks, open space and common area, which shall be located within the portion of a parcel covered by the Airport Hazard Zoning Overlay. See Chapter 4 Zoning.

Section 5.2.08-D. Land Donation and Cash-in-Lieu

1. The Planning Administrator, in consultation with the Director of Parks and Recreation or their designee, shall determine whether the park dedication must be a land donation, a land donation with improvements above the minimum requirements of the Manual, a cash donation in-lieu of land donation, or a combination of land donation and cash-in-lieu.
2. Land donations shall comply with the standards in this UDC and the Manual. Land donations may be located inside or outside of the subdivision.
 - (a) If parkland is dedicated outside of the subdivision, the parkland shall serve the residents of the subdivision.
 - (b) Parkland dedication may be met through a land donation to a public school district to be used for school facilities or buildings, subject to approval of City Council and acceptance by the school district trustees.
 - (c) When parkland is dedicated to the City, legal ownership of any water rights associated with that land shall be transferred to the City.
 - (d) Land donations shall be improved to minimum park standards in compliance with Chapter 9-2 of the Manual.
 - (e) The city's municipal water supply may be used for irrigation of parkland, but only if wells and existing irrigation water rights are inadequate to meet the water demands of the parkland.
3. Cash-in-lieu of land dedications are preferred for subdivisions within the service area of an existing park, typically a half mile walking distance, and for subdivisions with 25 or fewer dwelling units.
4. When the parkland dedication requirement is satisfied using a combination of land dedication and cash donation, the amount of cash donated is not required to exceed the proportional amount of value of the land not covered by the land dedication.
 - (a) Construction of park improvements above the minimum required by the Manual may be approved as a portion of the cash-in-lieu donation when the parkland dedication is a combination of land donation and cash-in-lieu of land donation.

Section 5.2.08-E. Valuation for Cash-in-lieu

Cash-in-lieu must be equal to the fair market value of the amount of land statutorily required to be dedicated. The fair market value is the value of the unsubdivided, unimproved land based upon the zoning designation applicable to the property at the time of preliminary plat approval, including zoning applied upon annexation and rezoning approved at the time of preliminary plat approval. Satisfactory evidence of fair market value shall be demonstrated by one of the following:

1. The City shall establish fair market value of land that is within the Land Use Plan boundary through the use of licensed appraisers. The city shall periodically update the market value as deemed necessary to reflect changes in the price of land. The valuation used for calculating the amount of cash in lieu due will be the valuation in effect at the time an application for final plat or final plan approval is complete.
2. An appraisal report prepared within six months of the date that a complete final plat application is submitted for approval and conducted by a Montana State licensed general real estate appraiser (as provided under MCA 37-54-201-, et seq) chosen by the City. The City shall hire the appraiser, but the appraisal fee shall be the responsibility of the subdivider. Any appraisal fees paid by the City to hire an appraiser to determine fair market value shall be reimbursed by the subdivider prior to final plat approval; or
3. The sale price of the property being subdivided, documented by a purchase and sell agreement or other executed contract, if it was purchased within one year of the date of the final plat application submittal, provided the property's zoning designation remains unchanged and the sale was an arm's length transaction.

Section 5.2.08-F. Parkland Standards

Parks, open space, and common area dedication must meet at least one of the following three criteria:

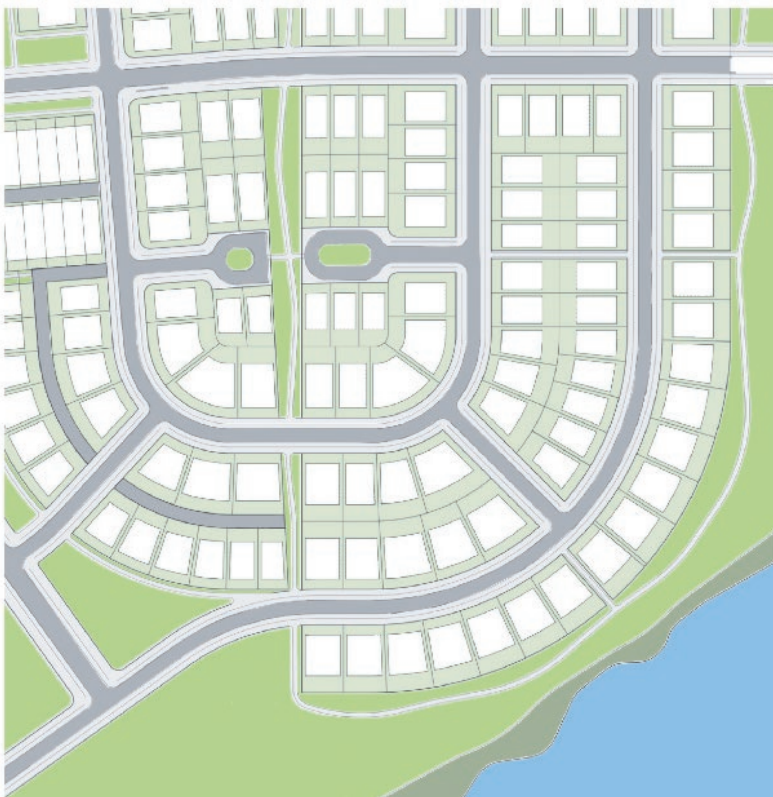
1. Provides for the preservation of a physical amenity such as a meadow, a stand of trees, significant wildlife habitat or a wildlife corridor, a scenic hillside with slopes less than 25%, a stream or other significant water body, a riparian resource area or some other natural feature that the Planning Administrator in consultation with the Director of Parks and Recreation (or their designee) determines is significant enough for parkland dedication.
 - (a) Open space must be managed to remain in a near natural state when it has been dedicated for preservation or conservation purposes and managed for noxious weeds and public safety concerns such as wildland fire and hazard trees.
 - (b) Public trails are permitted.
2. Provides a site for active recreation and public gathering, the design of which must substantially conform to the following standards:
 - (a) Have a size of five acres or greater, unless the required amount of parkland dedication is less than 5 acres, but shall be large enough to provide enough space for the elements listed under Section 5.2.08-F.2.f.
 - (b) Be centrally located within the proposed subdivision or adjacent to other planned or existing park or open space;
 - (c) Have public streets adjacent to at least 50% of the park's perimeter;
 - (d) Be accessible to bicycle and pedestrian trails where possible;
 - (e) At least 50% of the park must have 2% or less slope to accommodate active recreation; and
 - (f) Park design should include elements that provide a complete park experience, which means each park should include at least one amenity that supports recreation opportunities in each of the following categories. The applicant is not required to construct these elements unless the applicant chooses the infrastructure in lieu option in Section 5.2.08-D.4.a. All park amenities must comply with the Manual.
 1. Social gathering space (e.g. pavilion, gazebo, picnic area, amphitheater etc.);
 2. Active recreation space (e.g. playing field, sports court, recreational trails etc.);
 3. Play Space (e.g. playground, bicycle pump track, water spray deck etc.); and
 4. Nature Space (e.g. native meadow with trees, rain garden, grove of mature trees, garden space etc.).
3. Linear Parks that create a pedestrian/bicycle greenway corridor having a primarily recreational and/or commuter function, in locations approved by the Director of Parks and Recreation and designated on the Trail Typologies Map.

Figure 5.2.08-1: Parkland



A Park must be centrally located and adjacent to a public street on at least 50% of the park's perimeter.

Figure 5.2.08-2: Linear Park



Section 5.2.08-G. Land Excluded from Parkland Dedication

Unless the Planning Administrator, in consultation with City Parks and Recreation, determines otherwise, the following areas within a subdivision will not count toward the parkland dedication:

1. Hillsides with a slope over 25%;
2. Riparian resource areas associated with irrigation or roadside ditches, unless part of larger parcel of parkland and approved by the Director of Parks and Recreation;
3. Monument entry areas and central landscaped boulevards;
4. Utility easement areas;
5. Stormwater infrastructure that conveys or retains water from less than a 10-year storm event, such as but not limited to detention or retention ponds, or swales; and
 - (a) When the Planning Administrator, in consultation with City Parks and Recreation, allows for stormwater infrastructure in parks, all stormwater infrastructure must be designed and constructed to serve as an amenity to the park and fit into the planned uses and improvements to the park. An example of a stormwater feature that is an amenity to a park could be a bio swale or rain garden or retention pond with surface water that contains appropriate vegetation that adds wildlife habitat and interest to the park, or a retention basin with max 4:1 side slopes that drains to the edge and is large enough to fit a recreational sports field.
6. Parking areas for more than five cars and road rights-of-way that are located within the parkland, open space, or common area, unless the parking is provided for the utilization of the parkland, open space, or common area.

Section 5.2.08-H. Public Pedestrian Access Easements

1. Public pedestrian access easements for trails, must be provided where needed to connect parkland or common area to public streets.
2. Pedestrian access easements on hillsides may require additional width to accommodate switchbacks for trails, etc.
3. Setbacks for structures other than fences adjacent to the access easement shall comply with this UDC and the Manual.
4. The Director of Parks and Recreation or their designee may require that the developer construct a trail leading into the park or common area.

Section 5.2.08-I. Parkland Dedication Waiver

1. The Planning Administrator, with approval from the Director of Parks and Recreation, may waive the park dedication requirement if they find the preliminary plat provides long-term protection of:
 - (a) Critical wildlife habitat;
 - (b) Cultural, historical, agricultural, or natural resources; or
 - (c) Viewshed value.
2. The area determined to provide the protection of a resource counts towards the required amount of parkland dedication.

Division 5.2.09 Mobile Home Communities

Section 5.2.09-A. Purpose

The purpose of this division is to provide standards for amendments to existing mobile home communities to add or subtract mobile home lots.

Section 5.2.09-B. Applicability

These standards apply to amendments to existing Mobile Home Communities on tracts of land providing two or more mobile home lots for lease or rent.

1. Per state law mobile homes were constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.
2. The City of Missoula prohibits additional mobile homes (manufactured pre-June 15,1976) from being brought into the City.
3. This section of Code does not apply to amendments of existing manufactured housing parks or the creation of new manufactured housing parks. Manufactured housing parks shall be processed in accordance with Article 4.12 of the Zoning Chapter, or as a subdivision.
4. Per state law a manufactured home does not include a mobile home. Manufactured homes were constructed after June 15,1976 meeting the federal Manufactured Home Construction and Safety Standards.

Section 5.2.09-C. Design Standards

Amendments to existing Mobile home communities must comply with the following divisions of Article 5.2 for the amended portion of the Mobile Home Community, as applicable:

1. Division 5.2.01 General Standards;
2. Division 5.2.02 Streets, Sidewalks and Trails;
3. Division 5.2.04 Grading and Drainage;
4. Division 5.2.05 Utilities;
5. Division 5.2.06 Easements;
6. Division 5.2.07 Water Supply, Sewage Disposal and Solid Waste;
7. Division 5.2.11 Riparian Resource Areas; and
8. Division 5.2.12 Hillside Protection.

Section 5.2.09-D. Streets

1. Private street easements or public access easements are not required in mobile home communities.
2. Streets in the amended portion of the mobile home communities must comply with the appropriate design standards for streets specified in Chapter 6 Infrastructure Improvements and the Manual.

Section 5.2.09-E. Mobile Home Lot

Mobile home lots must be arranged to permit the safe and practical placement and removal of mobile home units.

Section 5.2.09-F. Recreation Area

Recreation Areas created at the time the original mobile home community was created must be maintained. Maintenance of recreation areas is the responsibility of the community owner. New recreation areas are not required at the time a mobile home community is amended to add or subtract mobile home lots.

Section 5.2.09-G. Additional provisions

1. Amendments to Mobile Home Communities shall comply with all requirements set by the City/County Health Department.
2. The City Engineer may require provision of the following:
 - (a) An off-street area for mail delivery; and
 - (b) Street lighting.

Division 5.2.10 Recreational Vehicle Parks**Section 5.2.10-A. Purpose**

The purpose of this division is to provide standards for amendments to existing or creation of new Recreational Vehicle Parks.

Section 5.2.10-B. Applicability

This division applies to amendments to existing or the creation of new Recreational Vehicle Parks.

Section 5.2.10-C. Design Standards

Recreational vehicle parks must comply with the zoning district standards, this UDC, and the Manual. Recreational vehicle parks must comply with all applicable state and local regulations, including standards set by the City/County Health Department.

Section 5.2.10-D. Streets and Recreational Vehicle Spaces

1. Streets in recreational vehicle parks must comply with the design standards for streets specified in Chapter 6 Infrastructure Improvements and the Manual.
2. All recreational vehicle spaces must be provided with safe and convenient vehicular access from abutting streets. Surfacing is to be paved.
3. Exposed ground surfaces in all parts of every recreational vehicle space must be paved, covered with stone screening or other solid material, or protected with a vegetative growth that is capable of preventing soil erosion and of reducing dust.
4. Arrangement of recreational vehicle spaces must allow easy placing and removing of vehicles from individual spaces.

Division 5.2.11 Riparian Resource Areas

Section 5.2.11-A. Purpose

1. The riparian resource protection regulations of this division are intended to promote resource conservation when a parcel containing or near a riparian resource is subdivided.
2. Protecting areas of riparian resource promotes the public health, safety, and welfare of residents. More specifically, it is the purpose of these regulations to ensure that:
 - (a) Areas of riparian resource remain available to support diverse and productive aquatic and terrestrial riparian systems and habitats;
 - (b) Stream channels and banks are protected;
 - (c) Areas of riparian resource are preserved to act as an effective sediment filter to maintain water quality and quantity;
 - (d) Areas of riparian resource are protected to preserve large, woody debris that is eventually recruited into a stream to maintain riffles, pools and other elements of channel structure and provide shade to regulate stream temperature;
 - (e) Areas of riparian resource are protected to preserve connectivity corridors for wildlife;
 - (f) Areas of riparian resource are preserved to promote floodplain and channel stability;
 - (g) Any allowed disturbance within the riparian buffer area protects and maintains the integrity and function of riparian resource areas; and
 - (h) The area of riparian resource is preserved to promote the high quality of life in the city, for a healthy natural environment.

Section 5.2.11-B. Applicability

1. The requirements of this Division apply when a subdivision is proposed on property containing or abutting a riparian resource.
2. Areas of riparian resource are typed by site-specific soil, habitat and community types. To determine whether vegetation qualifies as a riparian resource area, consultation with a qualified professional, the Missoula Conservation District, or the Planning Administrator is recommended prior to submitting a subdivision application.
3. When controversy arises concerning the presence or absence of a riparian resource, the Planning Administrator may require the subdivider to provide a report from a professional biologist, ecologist, botanist, or similarly qualified professional, documenting the vegetation community types to determine whether these rules apply.

Section 5.2.11-C. Requirements

1. A riparian management plan for riparian resource areas must be submitted with the preliminary plat application. The plan must meet the requirements of Section 5.4.02-B.13.k 5 and include a vegetation map.
2. Except as otherwise expressly allowed by this UDC, disturbance of riparian resource areas and riparian buffers is prohibited. Bank stabilization, flood control, habitat restoration, and similar projects are allowed within the riparian resource area and/or buffer if approved by the Floodplain Administrator.

Section 5.2.11-D. Riparian Buffer Width

1. The riparian buffer extends landward or upland from the edge of the delineated riparian resource. The riparian buffer widths specified in Table 5.2.11-1 shall be delineated on the vegetation map in riparian resource management plan.

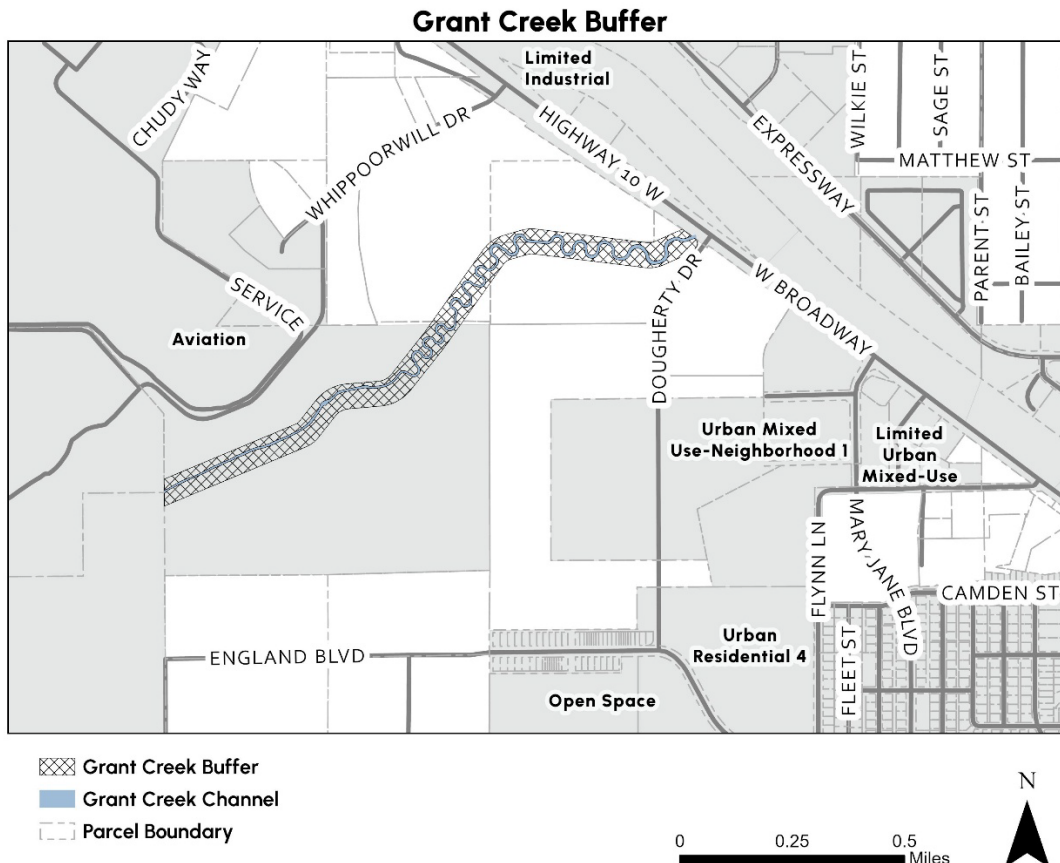
Table 5.2.11-1: Riparian Buffer Widths

Water Body	Buffer Width (Feet)
Bitterroot River	50
Clark Fork River	50
Butler Creek	10
Grant Creek	30
LaValle Creek	10
Miller Creek	10
Pattee Creek	10
Rattlesnake Creek	30
All others	10

2. Special Grant Creek Buffer

The stretch of Grant Creek depicted in Figure 5.2.11-1 must maintain a 200-foot buffer measured from the centerline of the floodway of relocated Grant Creek. Development within this buffer shall be limited to trails, bridges, irrigation infrastructure, and those improvements necessary for life safety or emergency purposes, or improvements for airport operations.

Figure 5.2.11-1: Special Grant Creek Buffer



Section 5.2.11-E. Street Construction

1. Street construction is prohibited within riparian resource areas except in cases when there is no other practical route to access all or a portion of the subdivision or when a street is necessary to provide emergency vehicle access to adjacent property. Street construction for any other reason is prohibited in riparian resource areas and buffers unless the street or crossing is depicted in adopted City Plans, or a variance is approved.
2. If street construction is allowed in accordance with this section, the following regulations apply and must be addressed in the riparian resource management plan:
 - (a) All crossings of riparian resources must occur at a perpendicular angle and in such a manner as to minimize the number of crossings and minimize disturbance of the riparian resource area;
 - (b) The intentional side casting of street material into a riparian resource during street construction or maintenance is prohibited;
 - (c) Routes must be chosen based on the avoidance of negative impact to riparian vegetation and sensitive environmental conditions;
 - (d) Effective erosion and sedimentation control practices must be conducted during all clearing, construction or reconstruction operations in compliance with the Manual;
 - (e) Street fill material may not be deposited in the riparian resource area in such a location or manner as to cause adverse impacts to the riparian resource area; and
 - (f) A floodplain permit, 310 permit, or other permits may be required.

Section 5.2.11-F. Trail Construction

1. Trails shall meet this UDC, the Manual, and the Street and Trail Typologies.
2. Public and private trails located within or adjacent to sensitive natural resource and riparian resource areas or buffers must be designed and located to mitigate adverse impacts on those resources and may require a 310 permit per The Natural Streambed and Land Preservation Act and/or a floodplain permit.
3. Trails require approval of the Planning Administrator and shall meet the following standards:
 - (a) Opportunities for public or private access must be consolidated to protect riparian resource areas from excessive disturbance;
 - (b) The function of the proposed trail, the level of use, the potential impacts and the management strategy to mitigate any adverse effects on the riparian resource area must be defined;
 - (c) To serve safety and security, construction, landscaping, and signage must clearly define the trail and mark the transition from public to private space;
 - (d) A mechanism must be provided assuring continued maintenance of the trail;
 - (e) Removal or disturbance of riparian vegetation must be minimized. Existing landforms must be preserved, to the maximum extent possible, including following natural contours and minimizing grading;
 - (f) No motorized vehicles are allowed within riparian resource areas, except as necessary for maintenance, agricultural management, or safety;
 - (g) A buffer must be established between the trail and any adjacent water bodies; and
 - (h) Trails may not be located on steep stream banks.

Division 5.2.12 Hillside Protection

Section 5.2.12-A. Purpose

1. Missoula's hillsides are characterized by slope, vegetation, drainage, rock outcroppings, geologic hazards, and other physical factors which, if disturbed for the purposes of development, can cause physical damage to public and private property. Therefore, the development of such areas and adjacent land requires special care.
2. The hillside protection regulations of this section are intended to supplement other standards within these regulations, in order to substantially accomplish the following objectives:
 - (a) The protection of the public from natural hazards due to seismic activity, soil characteristics that are limiting, landslides, slope instability, sedimentation, stormwater runoff, sheet flooding on frozen surfaces, soil erosion, and groundwater;
 - (b) The minimization of land disturbance and retention of natural topographic features, such as drainage channels, streams, ridge lines, rock outcroppings, vistas, trees and native vegetation;
 - (c) The preservation and enhancement of environmental quality by use of soil stability techniques and erosion controls;
 - (d) The encouragement of innovative planning, design, and construction techniques for development in environmentally sensitive areas; and
 - (e) The mitigation of adverse environmental impacts, including, but not limited to, erosion and the degradation of water quality.

Section 5.2.12-B. Applicability

The hillside protection regulations of this division apply where any area proposed for development has an average natural (pre-development) slope of 25% or greater.

Section 5.2.12-C. Geotechnical Evaluation Required

1. A geotechnical report is required to be submitted with the subdivision preliminary plat application.
2. The report shall be stamped by a licensed professional engineer and address overall site conditions, subsurface conditions, slope stability, and recommendations for slope stability, erosion control, and development of the subdivision lots.
3. Development shall comply with the recommendations of the geotechnical report.

Section 5.2.12-D. Additional Street Signage

1. Street signage restricting parking along hillside streets in the winter months to allow snow removal may be required by the City Engineer.

Article 5.3

SUBDIVISION PROCEDURES

Division 5.3.01 General Application and Process

Section 5.3.01-A. Pre-application Meeting Request

The subdivider may request a pre-application meeting for a proposed subdivision. The request must be in writing and the subdivider must provide Development Services with the following general information:

1. A draft preliminary plat drawn to scale showing general information on the current status of the site, including:
 - (a) Location;
 - (b) Approximate tract and lot boundaries of existing tracts of record;
 - (c) Description of general terrain;
 - (d) Natural features, e.g., lakes, streams and riparian vegetation;
 - (e) Existing structures and improvements;
 - (f) Approximate location of existing utility lines and facilities;
 - (g) Approximate location of existing easements and rights-of-way; and
 - (h) Parks and open space.
2. A draft preliminary plat drawn to scale showing general information on the proposed subdivision, including:
 - (a) Approximate location tract and lot boundaries;
 - (b) Building/lot layout;
 - (c) Proposed access;
 - (d) Proposed public improvements;
 - (e) General location of proposed utility lines and facilities;
 - (f) Approximate location of easements and rights-of-way; and
 - (g) Parks and open space, if applicable.
3. General maps and information including:
 - (a) A brief narrative of the project;
 - (b) Zoning map with site identified, if applicable;
 - (c) Land Use Plan map with site identified;
 - (d) Floodplain map with site identified, if applicable;
 - (e) Vicinity sketch showing adjacent uses with site identified;
 - (f) Topographic map with site identified;
 - (g) Aerial photograph, if available, with site identified; and
 - (h) Slope category map, if applicable.

4. A phasing plan diagram (if applicable) in the form of a draft preliminary plat of the full subdivision indicating all independent platted development phases, with a number or letter for each phase, and a legend that includes the deadline for submittal of the final plat for each phase for review.

Section 5.3.01-B. Preapplication Meeting Process:

1. If requested, a pre-application meeting must occur within 30 days after the subdivider submits a written request to CPDI, Development Services.
2. At the pre-application meeting, the Planning Administrator will identify, for informational purposes, the state laws, local regulations and Land Use Plan provisions that may apply to the subdivision review process.
3. The Planning Administrator will identify any additional information that will be required for review of the subdivision application. This does not limit the ability of the Planning Administrator to request additional information at a later time.

Section 5.3.01-C. Subdivision Application and Preliminary Plat Submittal

One paper copy and a digital copy of the following information and documents, and the appropriate subdivision review fee, must be supplied by the subdivider to CPDI, Development Services:

1. The completed subdivision application.
2. The preliminary plat of the proposed subdivision that contains the information and supplements required by Article 5.4 and that conforms to the design and improvement standards established in Article 5.2, including compliance with Chapter 6 Infrastructure Improvements and the Manual.
3. A phasing plan if the subdivision is proposed for phased final plat submittals, meeting Section 5.3.03.B. The phasing plan must include the preliminary plat as a phasing plan map that demonstrates what lots will be included with each phase, what public improvements will be completed with each phase, and the final plat submittal deadlines for each phase.
4. For a proposed subdivision that will create one or more parcels containing fewer than 20 acres, the subdivider must provide evidence of approval from the Department of Environmental Quality (DEQ) / Missoula City County Public Health Department (MCCPH) prior to the Planning Administrator determining the application is complete.
5. For a proposed subdivision that will create one or more parcels containing 20 acres or more, the subdivider must certify on the application whether the regulations associated with MCA 76-4-101, et seq. apply. If so the subdivider must comply with 5.3.01-C.4.

Section 5.3.01-D. Subdivision Application Completeness Review Process

A subdivision application is considered to be received on the date of delivery to CPDI, Development Services when accompanied by the review fee. Within 20 business days of receiving the application and the review fee, the Planning Administrator must determine whether the application contains all information and materials necessary to complete the review of the application as set forth in Article 5.4, Chapter 6 Infrastructure Improvements, and the Manual.

1. If the Planning Administrator determines there are items missing from or inaccuracies in the application, the deficient items shall be identified in a written notification to the subdivider. No further action may be taken on the application until the application is resubmitted.
 - (a) Upon the re-submittal of the application, the Planning Administrator has 20 business days to notify the subdivider whether the resubmitted application contains all the missing items and the deficiencies noted during the original review of the application have been corrected.

- (b) This completeness review process must be repeated until the subdivider submits an application containing all of the information and materials necessary to complete the review of the application.
 - (c) Each repeated completeness review shall address only the items identified as missing or deficient in the prior completeness review.
2. A determination that an application contains sufficient information for review as provided for in the completeness review process of this subsection does not ensure approval or conditional approval of the proposed subdivision and does not limit the ability of the Planning Administrator to request additional information during the review process where it is necessary to determine substantial compliance with the applicable plans and regulations.

Section 5.3.01-E. Public Notification Following Complete Subdivision Application

1. After accepting a complete subdivision application for a site, the Planning Administrator shall make an initial determination of whether:
 - (a) A subdivision application, with or without variances from the adopted standards, is in substantial compliance with this UDC and the Manual, and
 - (b) All impacts resulting from the subdivision application were previously analyzed and made available for public review and comment in the adoption, amendment, or update of the Land Use Plan, UDC, the Manual, and Zoning Map.
2. The Planning Administrator shall provide public notice of the initial determination in accordance with the noticing provisions in Chapter 2, commencing a 15-business day written public comment period.
3. Following the public comment period, the Planning Administrator shall issue an administrative decision in writing to approve, approve with conditions, or deny the proposed subdivision preliminary plat application within 30 business days from the end date of the public comment period, unless:
 - (a) The Planning Administrator determines the subdivision preliminary plat application fails to meet either one or both of the requirements of Section 5.3.01-E.1.a and b; or
 - (b) Written comment was received during the public comment period referenced in Section 5.3.01-E.2 providing evidence that the proposed subdivision fails to meet either one or both of Section 5.3.01-E.1.a and b.
 1. The evidence shall address specific examples where the proposed subdivision fails to substantially comply with this UDC and the Manual rather than general opposition to the proposed subdivision; and
 2. The Planning Administrator shall evaluate whether the evidence is new or whether it had been previously considered during development of the plans and regulations pursuant to 76-25-101, et seq., MCA.
4. If during the Public Comment period of Section 5.3.01-E.2 the Planning Administrator determines the proposed subdivision application fails to meet Section 5.3.01-E.1.a and b and the provisions of 5.3.01-E.3.a and b apply, the Planning Administrator shall proceed as follows:
 - (a) The Planning Administrator shall request the applicant collect additional data and perform additional analysis necessary to appropriately consider any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the Land Use Plan, this UDC, and the Manual;
 - (b) The Planning Administrator shall collect additional data and perform additional analysis necessary to appropriately consider any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the land use plan, UDC, and the Manual;
 - (c) The Planning Administrator shall provide public notice of the initial or revised initial determination and provide a second 15-business day written public comment period during which the public has the opportunity to participate and comment on the data collected and analysis performed pursuant to Section 5.3.01-E.1.a and b; and

- (d) The additional data, analysis, comment or consideration described in Section 5.3.01-E.1.a and b must be limited to any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the Land Use Plan, UDC, and the Manual.

Section 5.3.01-F. Administrative Decision

1. The Planning Administrator shall issue a written decision to approve, approve with conditions or deny the proposed subdivision preliminary plat application within 30 business days following the end of the final public comment period. The written decision shall:
 - (a) Be based on the administrative record as a whole and a finding that the application, with or without variances or deviations from the adopted standards meets or fails to meet the following:
 1. Substantially complies with this UDC and the Manual;
 2. Meets the survey requirements provided in MCA 76-25-412(1);
 3. Provides the necessary easements within and to the subdivision for the location and installation of any planned utilities; and
 4. Provides the necessary legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and stand-alone easement documentation granting the access.
 - (b) Identify each finding required in Section 5.3.01-F.1.a through d that supports the decision to approve, conditionally approve, or deny the subdivision preliminary plat application, including any conditions placed on the approval that must be satisfied before a final plat may be approved.
 - (c) Contain findings of fact stating the results of the public comment period(s).
 - (d) Contain a determination of whether the public comment included new evidence, data or analysis or whether the evidence provided was in general opposition to the proposed subdivision and included impacts already analyzed.
2. The written decision must identify all facts that support the basis for each finding and each condition and identify the regulations and statutes used in reaching each finding and each condition.
3. When requiring mitigation as a condition of approval, the Planning Administrator may not unreasonably restrict the landowner's ability to develop land, however the Planning Administrator may determine that the impacts of a proposed development are unmitigable and preclude approval of the subdivision.
4. The written decision shall be:
 - (a) Provided to the applicant;
 - (b) Made available to the public;
 - (c) Include information regarding the appeal process; and
 - (d) State the timeframe that the preliminary plat approval is in effect.
5. The Planning Administrator's decision is final, but may be appealed to the Planning Commission per the process described in Chapter 2 of this UDC.

Division 5.3.02 Ministerial Small Subdivision Review Process

Section 5.3.02-A. Applicability

A subdivision of land one acre in size or less, meeting the definition of Ministerial Small Subdivision that complies with the applicable zoning district standards and the following:

1. The subdivision is entirely within City limits prior to subdivision preliminary plat application submittal;
2. The subdivision will be served by municipal water and sewer service;
3. The subdivision is served by existing public road infrastructure;
4. The subdivision complies with this UDC and the Manual without approval of a variance; and,
5. The land to be subdivided does not contain any of the constraints or hazards identified in Section 5.2.01-B.

Section 5.3.02-B. Process

1. The subdivider may request a pre-application meeting per Section 5.3.01-A and B.
2. Subdivision and Preliminary Plat Application is required per Section 5.3.01-C.
3. Completeness review is required per Section 5.3.01-D.
4. Following receipt of a complete application the Planning Administrator will issue an administrative decision as follows:
 - (a) The Planning Administrator shall issue an administrative decision in writing to approve, approve with conditions, or deny the proposed subdivision preliminary plat application within 30 business days from the date the Planning Administrator has determined the application is complete.
 - (b) The written decision is based on the administrative record as a whole and a finding that the application, meets or fails to meet the following:
 1. Complies with this UDC and the Manual;
 2. Meets the survey requirements provided in MCA 76-25-412(1);
 3. Provides the necessary easements within and to the subdivision for the location and installation of any planned utilities; and
 4. Provides the necessary legal and physical access to each parcel within the subdivision and the required notation of that access on the applicable plat and stand-alone easement documentation granting the access.
 - (c) The written decision must identify each finding required in Section 5.3.02-B.4.b.i through iv that supports the decision to approve, conditionally approve, or deny the subdivision preliminary plat application, including any conditions placed on the approval that must be satisfied before a final plat may be approved. The decision must be based solely on objective standards, involving little or no personal judgment.
 - (d) The written decision must identify all facts that support the basis for each finding and each condition and identify the regulations and statutes used in reaching each finding and each condition.
 - (e) The Planning Administrator may impose conditions of approval related to infrastructure improvements and timing considerations.
 - (f) The written decision shall be provided to the applicant, made available to the public, include information regarding the appeal process, and state the timeframe that the preliminary plat approval is in effect.

5. The planning administrator’s decision is final but may be appealed to the Planning Commission per the process described in Chapter 2 of this UDC.

Division 5.3.03 Preliminary and Final Plats

Section 5.3.03-A. Non-phased Development

1. Effective Period of Preliminary Plat Approval

- (a) An approved or conditionally approved preliminary plat application is in effect for 5 years from the date of administrative approval, or 5 years from the date of the final decision if the administrative approval was appealed.
- (b) The subdivider must submit the final plat for the entire area shown on the preliminary plat, or request an extension to the approval period prior to the submittal deadline.
- (c) If the final plat has not been submitted or if no extension has been requested before the deadline, the preliminary plat is expired.

2. Preliminary Plat Approval Extensions

- (a) The subdivider may request an extension of the preliminary plat approval period, subject to the following:
 1. The subdivider provides in writing the request for extension prior to the expiration date of the subdivision preliminary plat approval period; and
 2. The subdivider’s written request addresses whether the subdivision substantially complies with the current UDC and the Manual, effective at the time of the request for extension.
- (b) The Planning Administrator may approve the first extension of the preliminary plat approval period, extending the period by 2 years, subject to the following:
 1. The Planning Administrator determines that the subdivision remains in substantial compliance with this UDC and the Manual.
 2. If the subdivision is no longer in compliance with this UDC and the Manual, the extension may not be granted.
 3. The Planning Administrator may not impose additional conditions of approval within the original or first extension of the subdivision preliminary plat approval period.
- (c) Following the administrative approval of the first extension request of the preliminary plat approval period, subsequent extension requests must be reviewed and approved by City Council.
 1. City Council may amend or impose additional conditions of approval if necessary to mitigate any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the Land Use Plan, UDC, and the Manual.

Section 5.3.03-B. Subdivision Phasing Plans

1. Applicability:

In order to phase the submittal of final plats for a subdivision, the subdivision preliminary plat approval must have included approval of a phasing plan.

2. Phasing Plan General Standards:

- (a) The phasing plan must include the preliminary plat as a phasing plan map that demonstrates what lots will be included with each phase, what public improvements will be completed with each phase, and the final plat submittal deadlines for each phase.
- (b) The final plats for phases are required to be submitted sequentially for filing.

- (c) The Planning Administrator has the authority to administratively approve phasing plans, phasing plan extensions and phasing plan amendments where the final plat submittal deadlines for the phasing plan are within 20 years of preliminary plat approval.
- (d) For phased subdivisions, easements for surface transportation and subsurface utilities may be required through future phases where the easements are necessary to ensure functional utilities and circulation plans servicing the development as determined by the City Engineer.

3. **Phasing plan extensions and amendments:**

- (a) Requests for phasing plan extensions where the final plat submittal deadlines for the phasing plan extend beyond 20 years of preliminary plat approval, require review and approval of City Council.
 - 1. City Council may amend or impose additional conditions of approval if necessary to mitigate any new or significantly increased potential impacts not previously identified and considered in the adoption, amendment, or update of the Land Use Plan, UDC, and the Manual.
 - 2. All final plats shall be reviewed and approved or denied within 30 years of preliminary plat approval.

4. **Phased Development Review for Each Phase:**

Any phase of an approved subdivision, submitted for final plat approval more than five years after the date of preliminary plat approval, must comply with the following procedures:

- (a) Prior to submitting the final plat submittal packet for a particular phase, the subdivider shall provide written notice to the Planning Administrator expressing the desire of a subdivider to commence with a phase. Written notice may not be provided more than one year in advance of submitting the final plat. The final plat shall be filed within three years of phased development approval for each phase.
- (b) The written notice shall include an application packet with the following:
 - 1. Cover letter stating the applicant's intent to commence with improvements prior to submitting the final plat submittal packet for a phase;
 - 2. Final plat drawing for the particular phase;
 - 3. Typical road sections for this phase;
 - 4. Current approved Phasing Plan diagram and schedule;
 - 5. A revised phasing plan diagram with a revised legend, showing the new schedule, for any proposed changes to the phasing plan layout or schedule; and,
 - 6. A narrative addressing whether the phase will result in new or significantly increased potential impacts that had not been previously identified and considered in the adoption of the Land Use Plan, UDC, and the Manual, or during the review and approval of the phased preliminary plat application.
- (c) The Planning Administrator will review and determine if a phase may result in new or significantly increased potential impacts that have not been previously identified and considered in the review and preliminary plat approval of the subdivision or in the adoption of the Land Use Plan, UDC, and the Manual.
- (d) If the Planning Administrator identifies any new or significantly increased potential impacts not previously identified and considered, the Planning Administrator shall proceed as set forth in Section 5.3.010-E.4.
- (e) The Planning Administrator may impose additional conditions of approval on any phase in order to mitigate impacts identified in Section 5.3.010-E.3.a and b.
- (f) The Planning Administrator shall issue a written statement of the phased development review decision which shall include supplemental findings of fact for any additional conditions imposed.
- (g) The subdivider shall submit the final plat for each phase no later than the final plat submittal deadline in the approved phasing plan and file the final plat with the County Clerk and Recorder within three years of phased development approval for each phase.

Section 5.3.03-C. Final Plat

The final plat shall substantially comply with the subdivision preliminary plat approval, which includes the subdivision preliminary plat application as amended by any conditions of approval. Any changes to the approved preliminary plat, beyond those required by conditions of approval, that increases the number of lots or redesigns or rearranges six or more lots must undergo consideration and preliminary plat approval per the process in Division 5.3.01.

1. Final Plat Application:

- (a) Final plat applications shall be submitted to the Missoula County Clerk and Recorder and the fee shall be submitted to the City Planning Administrator. The County examining land surveyor shall certify compliance with the final plat prior to submitting the final plat application to the Missoula County Clerk and Recorder.
- (b) The final plat application shall include the following information:
 1. Documentation that demonstrates the final plat includes all applicable final plat submittal information in Article 5.4 and conforms to the written decision and all conditions of approval have been met;
 2. Installation of improvements is required prior to final plat submittal unless City Engineer has approved an estimate of probable cost, and an Improvements Agreement is executed per the Manual requirements.
 3. Demonstration that the final plat meets the survey requirements provided in 76-25-4412, MCA; and
 4. Certification from the County Treasurer that all real property taxes and special assessments assessed and levied on the land to be subdivided have been paid.

2. Final Plat Review Process:

- (a) Within 10 business days of receipt of the final plat by the Missoula County Clerk and Recorder, certification of compliance of the final plat by the County Examining Land Surveyor, and receipt of payment of the fee by the Planning Administrator, the Planning Administrator shall determine whether the final plat contains sufficient information for review required in 5.3.03-C.1 and notify the subdivider of the final plat completeness determination in writing.
- (b) If the Planning Administrator determines there are items missing from the application, the final plat deficiencies shall be identified in the written notification. No further action may be taken on the application until the application is resubmitted.
 1. Upon the re-submittal of the final plat application, the Planning Administrator has 10 business days to notify the subdivider whether the resubmitted application contains all the missing items and deficiencies noted during the original review of the application.
 2. This completeness review process must be repeated until the subdivider submits a final plat application containing all of the information and materials necessary to complete the review of the application as set forth in Article 5.4 and Section 5.3.03-C.1.b.
 3. Each repeated completeness review shall address only the items identified as missing or deficient in the prior completeness review.
- (c) A determination that the application for a final plat contains sufficient information for review does not ensure approval of the final plat and does not limit the ability of the Planning Administrator to request additional information during the review process.
- (d) The subdivider or the subdivider's agent and the Planning Administrator may mutually agree to extend the review periods provided in Section 5.3.03-C.2. The mutual agreement to extend the review period shall be in writing.
- (e) Once a determination is made by the Planning Administrator that the final plat contains the information required under Section 5.3.03-C.1.b the City Council shall approve or deny the final plat within 20 business days.

- (f) For phased subdivisions, final plat applications for any phase within five years of preliminary plat approval shall follow the process in Section 5.3.03-C.2.
- (g) For phased subdivisions, final plat applications for any phase more than five years from preliminary plat approval shall require phased development review per Section 5.3.03-B.4. Following phased development review approval or conditional approval, the final plat application shall proceed per Section 5.3.03-C.2.

Division 5.3.04 Subdivision Variances

Section 5.3.04-A. General

The Planning Administrator may grant a variance from these regulations when the subdivider's preliminary plat application does not substantially comply with this UDC and the Manual, subject the subdivider demonstrating compliance will the criteria in Section 5.3.04-C.

Section 5.3.04-B. Procedure

1. When requesting a variance, the subdivider shall request a variance for each situation where the subdivision application is not in substantial compliance with the regulation or standard.
2. The subdivider shall identify the regulations and standards and include a written description of how each variance satisfies the criteria in Section 5.3.04-C.
3. The subdivision application must include all requests for variance in order for the application to be deemed complete.
4. The Planning Administrator must consider the criteria in Section 5.3.04-C and make a decision to approve, approve with conditions, or deny each variance request.

Section 5.3.04-C. Variance Criteria

The subdivider shall provide evidence in support of each variance request demonstrating compliance with each of the following criteria:

1. The granting of the variance is not detrimental to the public health, safety, or general welfare;
2. The variance is due to conditions peculiar to the property, such as physical surroundings, shape, or topographical conditions;
3. Strict application of the regulations to the property results in an unnecessary hardship to the subdivider as compared to others subject to the same regulations and the hardship is not self-imposed;
4. The variance will not cause a substantial increase in public costs; and
5. The variance may not place the property in nonconformance with any other federal, state, or local regulations nor in nonconformance with any other provisions of this UDC or the Manual.
6. Additional criteria if the variance is associated with a floodplain or floodway pursuant to the City Floodplain Regulations in Title 18 and the requirements of Title 76, chapter.

Section 5.3.04-D. Written Decision and Appeal

1. The Planning Administrator shall prepare a written decision on the subdivision preliminary plat application. The written decision must identify all facts, including facts for each variance request, that support the basis for each finding and each condition and identify the regulations and statutes used in reaching each finding and each condition.
 2. The Planning Administrator’s decision to approve, approve with conditions, or deny a variance is final.
 3. The Planning Administrator’s decision may be appealed to the Planning Commission per provisions in Chapter 2.
-

Division 5.3.05 Vacating Recorded Plats**Section 5.3.05-A. Procedure**

To remove or vacate a plat, in whole or in part, from county records under the provisions of MCA Title 76-25-411, 7-14-4114 (1) and (2), and 7-14-4115, the following procedure must be followed:

1. A petition for vacating the plat must be presented to the City Council specifically identifying the plat and stating whether the petitioners are the owners of all the land described in the plat, and stating further whether rights of any other person would be adversely affected by the cancellation or annulment of the plat;
2. The City Council must hold a public hearing on the plat vacation. Notice of the public hearing should be given by mail to the landowners, adjacent owners, and anyone else with an interest in the land (including mortgage holders);
3. Public notice of the hearing must comply with the noticing provisions in Chapter 2, including posting in three public places and publishing in a newspaper of general circulation in the county at least one week prior to the hearing on the petition; and
4. The determination of the City Council should be based on public interest factors, including those that would be relevant to vacating public roads. If the plat is to be vacated, the order of vacation must designate to which properties the title to the streets and alleys must revert and that interior streets may pass to the adjoining landowners, with each adjoining landowner taking title to the center of the street. The City Council must consider the following in making its determination:
 - (a) Previous platting;
 - (b) The manner in which the right-of-way was originally dedicated, granted or conveyed;
 - (c) The reasons stated in the petition requesting the vacation; and
 - (d) Any agreements between the adjacent property owners regarding the use of the vacated area.

Article 5.4

PRELIMINARY PLAT AND FINAL PLAT SUBMITTAL

Division 5.4.01 Preliminary Plat Requirements

Section 5.4.01-A. Preparation

The preliminary plat and accompanying documents must be prepared by a registered land surveyor licensed to practice in the State of Montana.

Section 5.4.01-B. Format

1. All plats must be the standard size of 24 inches by 36 inches overall; and
2. Each sheet must show the number of that sheet and the total number of sheets included.

Section 5.4.01-C. Identifying Information

The following information must be clearly indicated on the plat or on separate sheets referenced on the face of the plat:

1. Subdivision or development name;
2. Legal description;
3. North arrow;
4. Scale used on the plat;
5. Name of owners of record and subdivider; and
6. Date plat was drawn.

Section 5.4.01-D. Survey Information

The following information must be shown on the preliminary plat or must be contained in a written statement or supplementary drawing accompanying the plat, pursuant to the Montana Uniform Standards Governing Monumentation, Certificates of Survey, and Final Subdivision Plats and these regulations:

1. The exterior boundaries of the platted tract;
2. The legal description;
3. All lots and blocks designated by number and the area and approximate dimensions of each lot;
4. All streets, alleys, and highways and the proposed width of each, with existing street names and approval for new street names;
5. The area, location, boundaries, and dimensions of all parks, common areas, and other areas dedicated for public use;
6. The total gross area of the subdivision and the total net area, exclusive of public areas and rights-of-way;

7. Ground elevations of the tract: elevations and benchmarks. Contour intervals for the entire subdivision must be provided at vertical intervals of 2 feet where the average slope of the subdivision is less than 15% and at intervals of 5 feet where the average slope of the subdivision is 15% or greater;
8. The approximate location and identification of all existing and proposed public and private easements and rights-of-way, including descriptions of their widths and purposes;
9. Existing and/or proposed irrigation ditch easements;
10. Identified hazard areas must be prominently shown on the subdivision plat and in other records of conveyance;
11. Existing trees with a diameter breast height (DBH) of 6 inches or greater;
12. Any proposed “no-build” or “no-build/no-alteration” areas; and
13. The area of the subdivision within the floodway, and/or flood fringe, and the date of the Flood Insurance Rate Map panel (or Hydrologic and Hydraulic study), if applicable.

Division 5.4.02 Application Form and Preliminary Plat Supplements

A completed subdivision application must accompany the preliminary plat. See Fees, Forms and Applications on the City’s website. The subdivision application must be complete and contain:

Section 5.4.02-A. General Information

1. Contact information for the party or parties applying for the subdivision.
2. Certification that the applicant is also the owner of the property or, if the applicant is not the owner, certification that the owner is in concurrence with the subdivision application.
3. Information about the location of the property, as identified in detail in the subdivision application form.
4. Information about the current zoning and anticipated use of the land proposed to be subdivided;
5. Information relating to the current Place Type designation from the Land Use Plan for the property, including evidence demonstrating compliance with this UDC and the Manual; and
6. Information pertaining to access to the property, including when applicable, copies of easements, agreements, and access permits sufficient to demonstrate the existence of perpetual, legal access required by Section 5.2.03-A.

Section 5.4.02-B. Review Criteria for Preliminary Plat Applications

Information required by the City necessary to perform an adequate review pursuant to the Montana Land Use and Planning Act that includes specific information demonstrating compliance with this UDC and the Manual, and addressing each of the following criteria:

1. Design Standards

The subdivision shall comply with the design standards in Missoula Municipal Code, this UDC, and the Manual, including but not limited to:

- (a) Standards for grading and erosion control;
- (b) Standards for the design and arrangement of lots, streets and roads;
- (c) Standards for the location and installation of public facilities, including water supply, and sewage and solid waste disposal;
- (d) Standards for the provision of other public improvements; and

- (e) Standards for the provision of legal and physical access to each lot within the subdivision and the required notation of that access on the preliminary plat.

2. **Water Rights**

The subdivider shall comply with 76-25-404(1)(c) MCA and provide evidence regarding reservation, severance or disposition of all surface water rights.

3. **Irrigation Ditches**

In areas where irrigation ditch facilities exist on the subject property or adjoin the property the subdivider shall comply with 76-25-404(1)(d) MCA and provide ditch easements unless the average lot size is one acre or less and the subdivider provides evidence of compliance with 76-25-404(3) MCA.

- (a) Where easements are required, locations and widths of easements shall comply with the UDC and the Manual.
- (b) Where easements are required, the subdivider shall provide for the unobstructed use and maintenance of the existing irrigation ditch facilities in compliance with Section 5.2.06-A.

4. **Development Constraints or Hazards**

The subdivider shall identify locations on the subject property where development constraints or hazards exist per Section 5.2.010-B, evaluate the impacts and propose adequate mitigation to alleviate the constraint, hazard or burden.

5. **Floodplains**

The subdivider shall identify locations on the subject property within the Floodway or Floodplain per Sections 5.2.010-B and C and provide evidence of compliance with this UDC, the Manual, and the City of Missoula Floodplain Hazard Management Regulations.

6. **Wildland/Urban Interface**

The subdivider shall identify locations on the subject property within zone High or Very High on the Missoula County Wildfire Hazard Assessment Map per Section 5.2.01-B and provide evidence of compliance with this UDC and the Manual.

7. **Project Summary**

The subdivider must provide a summary of the proposed project fully describing existing site conditions, the project proposal, zoning, land use plan compliance and variances requested.

8. **Supplemental Maps**

- (a) A vicinity sketch or sketches showing the relationship of the proposed development to adjacent subdivisions, certificates of survey, and public rights-of-way as well as any other access;
- (b) A map showing the ownership of adjacent lands, including lands across public and private rights-of-way;
- (c) Certificate of Survey history of subject property and adjacent properties, when requested by the Planning Administrator;
- (d) An aerial photograph showing the location of the proposed subdivision and areas located within 200 feet of the proposal.
- (e) An Existing Conditions Map including location, current land use, land cover (e.g. cultivated areas, paved areas, etc.), description of general terrain, natural features (e.g. lakes, streams, and riparian vegetation), all existing structures and improvements, and all encumbrances, such as easements; and
- (f) Other maps as a result of addressing the review criteria this section.

9. Street Plans

- (a) Typical cross-sections for each type of street proposed or street improvement;
- (b) Street profiles and cross-sections for all proposed streets and roads that have grades exceeding 7% or cuts and fills exceeding 3 feet;
- (c) Grades, pavement and base thickness, pavement width, and type and location of sidewalks and curbs must be shown;
- (d) Street names;
- (e) Minimum sight distances and curb radii at corners;
- (f) Locations and characteristics of bridges and culverts; and
- (g) For cul-de-sac streets, provide the widths of turn-around radii, minimum right-of-way widths at turn-arounds, minimum surface widths at turn-arounds, and total length.

10. Grading and Drainage

- (a) A complete grading and drainage plan must be submitted showing the proposed grades of streets and proposed drainage facilities for all lots, blocks, and other areas, displaying accurate dimensions, courses, elevations, existing and proposed contours, and demonstrating compliance with Division 5.2.04, Chapter 6 Infrastructure Improvements, the Manual, and all applicable state and local regulations.
- (b) All drainage facilities are subject to the approval of the City Engineer and when installed or constructed must be in conformance with the applicant's approved drainage plan for the affected basin where the subdivision is situated. Suitable drainage facilities must be provided for any surface run-off affecting the subdivision and shall comply with this UDC, the Manual, and all applicable state and local regulations. These facilities must be located in the street rights-of-way or in perpetual easements of appropriate widths, subject to the approval of the City Engineer. Design of such drainage facilities must be based upon local soil factors, topography, natural drainages, gullies and swales, aesthetics, and capacity for proper disposal of excess water. Drainage facilities must be designed to handle both the subdivision and the adjacent drainage basin.
- (c) Description and calculations of the proposed storm drainage plan analyzing on-site pre- and post-development flows as required by the Manual. All drainage plans for the subdivision must provide for conveyance, treatment, and disposal. A complete grading and drainage plan must include accurate dimensions, courses, and elevations, showing the proposed grades and drainage improvements, existing and proposed contours, graded slopes, and indicating approval by the City Engineer.
- (d) A slope category map must be submitted showing grades between 5–14.99%, 15–20%, 20.01–25%, and over 25%. This map may be combined with the Slope Category Map required with hillside submittal requirements (see Division 5.2.12) when slopes of 25% or greater occur on the site.

11. Utility Plan

Submit a plan that shows existing and proposed infrastructure and proposed utilities located on and adjacent to the tract, in compliance with Divisions 5.2.05 and 5.2.06, Chapter 6 Infrastructure Improvements, and the Manual, including:

- (a) The approximate location, size, and depth of the nearest sanitary and storm sewers;
- (b) The approximate location, size, and depth of water mains, water lines, wells, and fire hydrants if within 500 feet; and
- (c) The approximate location of the nearest gas lines, electric, cable TV, telephone lines, and street lights.

12. Water and Sanitation

- (a) If the subdivision is proposed to be served by City Water and Sewer the subdivider must provide documentation that the subdivision qualifies for a municipal facilities exclusion and provide the distance from the subdivision boundary to the nearest public water main and public sewer main.
- (b) If City Water and Sewer service is not available to serve the subdivision, as determined by the City Engineer, the subdivider shall provide water and sanitation information in compliance with this UDC, the Manual, and all applicable state and local regulations.

13. Other Supplemental Material

- (a) If a phased subdivision is proposed per 5.3.01-C and 5.3.03-B, include a phasing plan that includes the following information:
 - 1. A map showing the area, lots and improvements to be included in each independent platted development phase with a number or letter for each phase, and the amount of parkland required and provided in each phase; and
 - 2. A map legend that lists each phase and the specific final plat submittal deadline for each phase. Phases are required to be submitted sequentially.
- (b) In areas with the potential for land sliding, slope instability, and high ground water, provide a report by a qualified soil or geotechnical engineer indicating the locations, character, and extent of all areas subject to land sliding, slope instability and high groundwater. These areas must be prominently designated on the subdivision plat.
- (c) When evidence of high groundwater or unstable soil is present provide a groundwater drainage mitigation plan prepared by a licensed professional engineer to mitigate the problem. The plan must include, but not be limited to, measures to prevent the migration of groundwater through water, sewer, and drainage trenches.
- (d) If required by Section 5.2.01-C, submit a flood hazard evaluation report.
- (e) If the subdivision has sites proposed for development located on slopes over 25%, the subdivider must address the following hillside requirements. A report must accompany an application for hillside development summarizing the soil, geological and hydrological characteristics with an application for hillside development. The report must be submitted by a professional engineer registered in the State of Montana. This report must include:
 - 1. Slope category map, with contour intervals in accordance Section 5.4.01-D.7;
 - 2. Data regarding the nature, distribution, and strength of existing soils;
 - 3. Adequate description of the geology and hydrology of the site;
 - 4. Conclusions and recommendations for grading procedures;
 - 5. Plans or design for any proposed corrective measures;
 - 6. Opinions and recommendations covering the adequacy of sites to be developed;
 - 7. When evidence of high ground water or unstable soils is present, the developer must present a groundwater drainage mitigation plan prepared by a licensed professional engineer. The plan must include, but not be limited to, measures to prevent the migration of ground water through water, sewer and drainage trenches and subject to approval by the City Engineer; and
 - 8. A storm water management plan that must address management of storm water and snow melt that affects ground water, and impacts of utility trenches.
- (f) In areas identified as WUI, the standards found in Exhibit 1 must be included in a development agreement between the City Council and the developer or in a maintenance covenant (restrictive easement), except in those cases when the need to protect riparian resource areas or habitat for species of special concern outweigh the danger of wildfire.

- (g) Conditions of adjacent land showing the following:
1. The names of platted subdivisions and numbers of Certificates of Survey previously recorded;
 2. The ownership of lands adjacent to the exterior boundaries of the subdivision and to any access road leading from a present public right-of-way to the boundary of the proposed subdivision;
 3. Location of any buildings, railroads, powerlines, towers, roads, and other land uses;
 4. Any existing or proposed zoning; and
 5. Lands separated from the exterior boundary of the subdivision by public or private rights-of-way are deemed to be adjacent for the purpose of this requirement.
- (h) Landscaping and maintenance plans for common areas, parkland, and landscape buffer strips and screening, may be required.
- (i) When covenants and restrictions are proposed, drafts of covenants and restrictions must be provided.
- (j) If common property is to be deeded to a property owners' association, the subdivider must file a draft of the covenants and restrictions that will govern the association. These covenants and restrictions must, at a minimum, provide that:
1. Membership is mandatory for each property buyer and any subsequent buyer;
 2. The open-space restrictions must be perpetual;
 3. The association is responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
 4. Property owners must pay their pro rata share of association costs and that the assessment charged by the association can become a lien on the property;
 5. The association may adjust the assessment to meet changed needs;
 6. Prior to final plat approval, the property owners' association articles of incorporation, bylaws, covenants, and restrictions must be prepared or reviewed by an attorney licensed to practice law in the State of Montana in order that applicable property owners' association requirements are met;
 7. There are means of enforcement and means of receiving and processing complaints;
 8. The permission of the City is required before the association can be dissolved or the restrictions required by the City modified; and
 9. There is a regular maintenance program for private roads, parks, buildings, drainage facilities, and other mutually controlled facilities.
- (k) When riparian or wetland areas are within or adjacent to the proposed subdivision, show the riparian resource area, and riparian buffer on the plat or supplemental data sheet and provide a Riparian Management Plan that must include, but not be limited to the following:
1. vegetation map showing the location of vegetation associated with riparian areas, delineation of the riparian resource area, and the riparian buffer area;
 2. A description of the following:
 - a. vegetation types present;
 - b. contribution of the vegetation type to stream bank stabilization;
 - c. contribution of the vegetation to preventing erosion; and
 - d. contribution of the vegetation to fish and wildlife habitat, including big game species, bird species, fisheries, and threatened or endangered species.

3. A description of how the area of riparian resource will be maintained, restored, or enhanced. The description must include at least the following information:
 - a. Proposed disturbance of the area of riparian resource, including access to or through the area, if proposed;
 - b. Alteration, enhancement, and restoration plan including planned restoration of the area with native species;
 - c. Planned mitigation of impacts from all proposed disturbance;
 - d. Planting plan when applicable; and
 - e. Streambank stabilization plan when applicable.
 - f. A maintenance and monitoring plan must be submitted outlining how the riparian resource area will be cared for.
 4. The riparian management plan must include a provision stating that all owners are subject to and must abide by the riparian resource management plan.
 5. The approved riparian management plan shall be appended to the development covenants or recorded with the final plat.
 6. Approved riparian resource management plans must be implemented in perpetuity and may not be altered without City Council approval.
- (l) If the City Engineer requires a traffic study, it must be submitted as described in the Manual.
- (m) Provide information regarding compliance with the parkland requirements of Division 5.2.08, as described in the subdivision application.

Division 5.4.03 Submittal Requirements for Mobile Home Communities

Section 5.4.03-A. Applicability

This division applies to amendments to existing mobile home communities that add or subtract mobile home lots. New mobile home communities are prohibited. See Chapter 4 Zoning for information regarding manufactured housing parks.

Section 5.4.03-B. Preparation

The subdivider must provide the plan and accompanying documents. If the data include engineering plans and specifications, certification of a professional engineer licensed to practice in the State of Montana must also be included.

Section 5.4.03-C. Application

The subdivider shall provide information required by the City necessary to perform an adequate review pursuant to the *Montana Land Use and Planning Act* that includes specific information demonstrating compliance with this UDC and the Manual, and addressing the applicable criteria noted in Division 5.2.09.

Section 5.4.03-D. Preliminary Plans for Amendments to a Mobile Home Community

Applicable information in Divisions 5.4.01 and 5.4.02.

Division 5.4.04 Submittal Requirements for Recreational Vehicle Park Subdivisions

Section 5.4.04-A. Applicability

This division applies to amendments to existing or creation of new recreational vehicle park subdivisions.

Section 5.4.04-B. Preparation

The subdivider must provide the plan and accompanying documents. If the data include engineering plans and specifications, certification of a professional engineer licensed to practice in the State of Montana must also be included.

Section 5.4.04-C. Application

The subdivider shall provide information required by the City necessary to perform an adequate review pursuant to the Montana Land Use and Planning Act that includes specific information demonstrating compliance with the zoning district standards, this UDC, and the Manual, and addressing the applicable criteria noted in Division 5.2.10.

Section 5.4.04-D. Preliminary Plans for Amendments to a Mobile Home Community

Applicable information in Divisions 5.4.01 and 5.4.02.

Division 5.4.05 Final Plat Requirements

Section 5.4.05-A. Preparation

The final plat must be prepared by a professional land surveyor and shall comply with Montana Code Annotated 76-3-402 Survey and Platting Requirements for Subdivided Lands. All engineering plans, specifications, and reports required in connection with the preliminary plat approval must be prepared and certified by a professional engineer.

Section 5.4.05-B. Required Information

The final plat submitted for approval must show or contain the following on the face of the plat or on separate sheets referenced on the face of the plat, demonstrating the final plat conforms to the written decision and the subdivision preliminary plat application as amended by the conditions of approval set forth on the preliminary plat and in compliance with 76-25-412 MCA:

1. The name of the subdivision or development, location, north arrow, scale, names of the owners, and date. The title of the plat must contain the words "plat" and either "subdivision" or "addition".
2. The exterior boundaries of the platted tracts, giving such boundaries by bearings and distances. Excepted lands must be labeled "NOT INCLUDED IN THIS SUBDIVISION" or "NOT INCLUDED IN THIS PLAT".
3. Survey information in compliance with the Montana Uniform Standards Governing Monumentation, Certificates of Survey, and Final Subdivision Plats and these regulations.

4. Location of all lots and blocks, designated by number or letter. Location of each park or other common area. The net area of each lot and each park or other common area.
5. All streets, alleys, and highways, their widths and bearings, the widths of all rights-of-way, and the names of all streets, avenues, roads, and highways.
6. Gross acreage of the subdivision.
7. Utility easement(s) located on and adjacent to the tract.
8. Certification of the professional land surveyor, and certification of professional engineer (if the data includes engineering plans and specifications).
9. Certification of the subdivider that final plat conforms to the preliminary plat as previously reviewed and approved by the City Council.
10. When any private access is proposed, certification that the city is not required to improve or maintain the access must be provided, and the certification must be so noted on the plat.
11. Notary block.
12. A memorandum of any oaths administered under 76-25-412 MCA;
13. The dated, signed, and acknowledged consent to the subdivision of the owner of the land to be subdivided. For purposes of these regulations, when the parcel of land proposed for subdivision is being conveyed under a contract-for-deed, the terms "property owner," "landowner," and "owner" mean the seller of the land under the contract-for-deed;
14. The landowner's certificate of dedication of streets, alleys, avenues, roads, highways, parks, playground easements, or other public improvements;
15. The landowner(s)' certification statement(s) as follows:
 - (a) A statement that federal, state, and local plans, policies, regulations, and/or conditions of subdivision approval that may limit the use of the property, including the location, size, and use are shown on the Conditions of Approval sheet or as otherwise stated.
 - (b) A statement that buyers of property should ensure that they have obtained and reviewed all sheets of the plat and all documents recorded and filed in conjunction with the plat and that buyers of property are strongly encouraged to contact the local planning department and become informed of any limitations on the use of the property prior to closing.
 - (c) A statement that all or part of the required public improvements have been installed and/or security requirements pursuant to 76-25-413, MCA, secure the future construction of any remaining public improvements to be installed.
16. A certificate of the governing body accepting any dedicated land, easements, or improvements;
17. Space for the clerk and recorder's filing information with a minimum two- inch by four-inch blank space below the clerk and recorder's filing information for the recording numbers of the documents.
18. In addition to showing the location of the utility easements, the final plat must include the following statement:

The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, fiber, electric power, gas, cable television, water, or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever.
19. Certification of parks and open space: certificate of dedication of parkland to the public or common area to the property owners' association in perpetuity or of cash payment in lieu of dedication as noted on the face of the plat.
20. Where private roads are proposed, each plat and instrument of conveyance must contain the following statement:

The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance, and snow removal are the obligation of the owner or property owners' association and that the City of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the City of Missoula for maintenance.

21. Whenever an SID waiver statement is required, the statement must specify the street(s) the SID applies to and must be provided on the plat and on each instrument of conveyance indicating that the purchasers of any lots in the subdivision will be required to waive the right to protest the creation of an SID for the subject improvements. This waiver of the right to protest formation of a SID expires 20 years after the date the final subdivision plat is recorded with the County Clerk and Recorder.
22. A statement must be included on the subdivision plat that acceptance of a deed for a lot within the subdivision constitutes the assent of the owners to any future SID, based on benefit, for future improvements and maintenance, including but not limited to paving, curbs and gutters, the installation of non-motorized facilities, street widening and drainage facilities.

Section 5.4.05-C. Conditions of Approval

The following information must be submitted with a final plat demonstrating the final plat conforms to the written decision and the subdivision preliminary plat application as amended by the conditions of approval set forth on the preliminary plat:

1. (Pursuant to ARM 24.183.1107 Uniform Standards for Final Subdivision Plats, or most recent version of the ARM.) Sheet(s) of the plat prepared by the landowner(s) or their representative(s) depicting conformance with subdivision application approval shall be entitled "Conditions of Approval of [insert name of subdivision]" with a title block including the quarter-section, section, township, range, principal meridian, county, and city in which the subdivision is located, and shall contain:
 - (a) Any text and/or graphic representations of requirements by the planning administrator for final plat approval including, but not limited to, setbacks from streams, riparian areas or riparian buffer areas, floodplain boundaries, no-build areas, building envelopes, or the use of particular parcels;
 - (b) A certification statement by the landowner that the text and/or graphics shown on the Conditions of Approval sheet(s) represent(s) requirements by the planning administrator for final plat approval and that all conditions of subdivision application have been satisfied;
 - (c) A notation stating that the information shown is current as of the date of the certification required in 1.b, and that changes to any land-use restrictions or encumbrances may be made by amendments to covenants, zoning regulations, easements, or other documents as allowed by law or by local regulations;
 - (d) Land use restrictions and encumbrances related to the approval by the planning administrator may not be deleted or amended without prior written consent by the planning administrator;
 - (e) Certification of zoning change, when applicable;
 - (f) Floodway, flood fringe, or floodplain delineation lines on the face of the plat, including the date of the FIRM panel (or Hydrologic and Hydraulic study) when applicable; and
 - (g) When applicable, no build zones, Riparian Resource and Buffer Areas, steep slope areas with slopes at or greater than 25% shall be shown with bearings and distances.

Section 5.4.05-D. Final Plat Supplements

The following information must be submitted with a final plat demonstrating the final plat conforms to the written decision and the subdivision preliminary plat application as amended by the conditions of approval set forth on the preliminary plat:

1. Where applicable, State Highway Access Permit: a copy of the State Highway Access Permit is required when a new street will intersect with a State highway.
2. Final road, grading, drainage, and storm water facility plans: all engineering plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required and approved as released for construction by the City Engineer and certification of the professional engineer.
3. Boulevard landscaping plan meeting this UDC and the Manual, approved and released for construction by City Engineer and Parks Administrator.
4. Public Improvements Agreement, pursuant to MCA 76-25-413, as amended: certification by the subdivider that all or part of required public improvements have been installed and/or that a subdivision improvements agreement exists that is acceptable to the City securing the future construction of public improvements, in compliance with this UDC and the Manual. The City may require a percentage of improvements or specific types of improvements necessary to protect public health and safety to be completed before allowing bonding or other reasonable security per MCA 76-25-413 for purposes of filing a final plat.
5. Where applicable, Covenants and restrictions: copies of covenants and restrictions encumbering each lot.
6. Where appropriate, a copy of the property owners' association articles of incorporation, together with proof of filing with the Secretary of State and the bylaws. The property owners' association documents, covenants, and restrictions referred to above must bear the certification of the attorney who prepared or reviewed them that such attorney is licensed to practice law in the State of Montana and, further, that the documents contain the applicable provisions upon which plat approval was based or conditioned and that the provisions do not conflict.
7. Platting Report.
8. Certificate of approval by the Department of Environmental Quality.
9. Certificates, acknowledgments, and descriptions include the following:
 - (a) Certification by the County Treasurer that all taxes and fees levied and assessed against the property have been paid; and
 - (b) A subdivision guarantee (MCA 76-25-413) issued by an authorized title insurer or its title insurance producer, showing the names of the owners of record of the land to be subdivided and the names of lien-holders or claimants of record against the land and the written consent to the subdivision by the owners of the land, if other than the subdivider, and any lien-holders or claimants of record against the land.

Article 5.5

SUBDIVISION EXEMPTIONS

Division 5.5.01 Exempt Divisions of Land

Section 5.5.01-A. General

All divisions or subdivisions of land are subject to the surveying, plat filing and review process set forth in these regulations unless specifically exempt from some or all requirements.

1. Even if a division of land is exempt from survey, subdivision review or plat filing, it may nevertheless be subject to other land use regulations not covered here, including but not limited to floodplain, zoning, and sanitation in subdivision regulation.
2. Any claimed exemption may be denied if the method of disposition is adopted for the purpose of evading the Montana Land Use and Platting Act, as determined under Division 5.5.02.

Section 5.5.01-B. Exempt Divisions of Land

The following divisions, if made in substantial compliance with zoning regulations adopted pursuant to 76-25-301 MCA, are exempt from subdivision review per MCA 76-25-402.

1. Court ordered division creating not more than four new lots or parcels (for a total not to exceed 5 lots or parcels including the parent parcel); and created by court order, operation of law, or one that could be created pursuant to the law of eminent domain in the absence of agreement between the parties.
 - (a) Before a court of record orders a division of land, the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division;
2. Division created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing, if the land being divided complies with 76-25-402(1)(b) as follows:
 - (a) The parcel created to provide security for a mortgage, lien or trust indenture may only be transferred by the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien or trust indenture; and
 - (b) A transfer of the parcel created to provide security for a mortgage, lien or trust indenture to anyone not listed in Section 5.5.01-B.2.a is not exempt from subdivision review;
3. Division creating an interest in oil, gas, mineral or water severed from the surface ownership;
4. Divisions creating cemetery lots;
5. Division reserving a life estate on a portion of a lot;
6. Division for lease or rental for farming or agricultural purposes;
7. Divisions created for rights-of-way or utility sites;
8. Divisions created prior to July 1, 1974, as evidenced by conveyances executed prior to that date;
9. Divisions of the lease or rental of contiguous airport-related land owned by a city, a county, the state or a municipal or regional airport authority;
10. Divisions of state-owned land unless the division creates a second parcel from a single tract for the sale, rent, or lease for residential purposes after July 1, 1974;

11. The relocation of common boundary lines between adjoining properties or aggregations of adjoining properties that does not result in the increase in the number of lots or redesigns or rearranges six or more lots;
12. A single gift or sale in each county to each member of the landowner's immediate family;
13. Divisions that create lots by deed, contract, lease or other conveyance in which the landowner enters into a covenant with the governing body that runs with the land that providing the following:
 - (a) The divided land must be used exclusively for agricultural purposes; and
 - (b) The governing body, in its discretion, may revoke the agricultural covenant without subdivision review if the original lot lines are restored through aggregation prior to or in conjunction with the revocation of the covenant; and
14. Division of property over which the state does not have jurisdiction.

Division 5.5.02 Exemption Procedures for Exemptions Under 5.5.01-B

Any person seeking exemption from the requirements of the Montana Land Use and Planning Act, under Section 5.5.01-B must submit a completed and approved application submittal checklist, existing site layout, proposed site layout, complete the exemption affidavit and sign the affidavit before a notary public, prior to submitting a certificate of survey, amended plat or deed for review by the City and/or recording by the County Clerk and Recorder.

Section 5.5.02-A. Application and Review

The use of an exemption under Section 5.5.01-B requires the submittal of the Application Submittal Checklist, affidavits, Existing and Proposed Site Layout Exhibits, surveys, deeds or other documents claiming entitlement to use an exemption to Development Services along with the fee;

1. Except for applications that appear to involve evasion under Section 5.5.02-B, below, applications for a division or aggregation of land under Section 5.5.01-B, the City Council delegates to the Planning Administrator the ability to approve such applications where they meet the applicable regulations. Such an approval decision must be made within 20 working days upon receipt of a complete application containing all materials and information required in Division 5.5.03 and the fee.
2. If the Planning Administrator determines that the application either does not meet the applicable regulations or determines that the application appears to involve evasion under Subsection B, below, the Planning Administrator shall make a preliminary denial decision within 20 working days upon receipt of an application containing all materials and information required by City Council and the application fee. The application should be referred to City Council to make a final decision as quickly as possible.
3. Applicability and standards for the use of the following specific exemptions:
 - (a) Boundary line relocations: For lots that front on two (or fewer) public rights-of-way, rearrangement or redesign of lots shall not eliminate an existing access or reduce an access to less than 5 feet in width. Access may be provided in the form of an easement.

Section 5.5.02-B. Determination of Evasion:

City Council will determine whether an applicant is entitled to the exemption, and will consider all relevant circumstances in determining whether a subdivision review is required. Relevant circumstances may include:

1. Conveyances of property back to the sellers where exemptions were used by the buyers to divide the property;
2. Divisions of land where the land was included as part of a subdivision plat previously rejected;

3. Divisions of land where the applicant discontinues filing the final plats of a subdivision in order to avoid installation of improvements and having to meet the conditions of approval of the subdivision;
4. Simultaneous filing of similar surveys for contiguous tracts of land, where there is a relationship between the subdivider and the surveyor and between the subdivider and the other claimants and where the subdivider is the one originating the survey, or transactions;
5. Nature of claimant’s business (i.e., whether claimant is in the business of dividing and selling land);
6. Prior history of the tract in question (i.e., whether this claimant is engaged in prior exempt transactions involving the tract);
7. Proposed configuration of the tract after the transaction is completed; and,
8. The transaction is not substantial.

Section 5.5.02-C. Conditions of Approval:

Conditions may not be imposed on the approval of a division of land reviewed under Division 5.5.01-B except for conditions necessary to comply with survey requirements.

Division 5.5.03 Application for Filing an Amended Plat or Amended Certificate of Survey

Following City approval of the subdivision exemptions listed in Division 5.5.01, the applicant shall apply for approval of an amended plat or certificate of survey by submitting the following documentation to the Missoula County Clerk and Recorder.

Section 5.5.03-A. Application Required Information

1. The amended plat or certificate of survey shall comply with the approved application and layout for the subdivision exemption.
2. The amended plat or certificate of survey shall comply with Montana Code Annotated 76-3-402 Survey and Platting Requirements for Subdivided Lands.
3. Utility easement(s) located on and adjacent to the tract.
4. In addition to showing the location of the utility easements, the amended plat or amended certificate of survey must include the following statement:

The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, fiber, electric power, gas, cable television, water, or sewer service to the public, the right to the joint use of an easement for the construction, maintenance, repair, and removal of their lines and other facilities, in, over, under, and across each area designated on this plat as "Utility Easement" to have and to hold forever.

5. Where private roads are proposed, each plat and instrument of conveyance must contain the following statement:

The purchaser and/or owner of the lot or parcel understands and agrees that private road construction, maintenance, and snow removal are the obligation of the owner or property owners’ association and that the City of Missoula is in no way obligated to perform such maintenance or upkeep until the roads are brought up to standards and accepted by the City of Missoula for maintenance.

6. Floodway, flood fringe, or floodplain delineation lines, and the associated FIRM panel date on the face of the amended plat or certificate of survey, when applicable.

7. When applicable to the lots prior to the approval of the subdivision exemption, no build zones, Riparian Resource and Buffer Areas, steep slope areas with slopes at or greater than 25% shall be shown with bearings and distances.
8. Platting report.
9. Certificate of approval of the Department of Environmental Quality.
10. The subdivision exemption approval letter and approved lot layout.

Division 5.5.04 Review Procedure for Condominium or Townhome Exemption Development Proposals

Section 5.5.04-A. Applicability

A condominium, townhome or conversion proposal, if constructed on land subdivided in compliance with State law (76-25-402 MCA) or on lots within incorporated cities and towns, is exempt from subdivision review if the proposal complies with this UDC and the Manual.

Section 5.5.04-B. Procedures

Condominium and townhome proposals exempt from subdivision review must be reviewed under the following procedures:

1. Preliminary Plan Review and Approval:
 - (a) Condominium, townhome exemption development, and conversion proposals must be submitted as a Zoning Compliance Permit application for review and approval by the Planning Administrator.
 - (b) Condominium, townhome, and conversion proposals must comply with this UDC and the Manual in order to receive approval. See Article 4.12 for additional Townhome Exemption Development requirements.
 - (c) The Planning Administrator shall approve or deny the Zoning Compliance Permit for a condominium, townhome, or conversion proposal within 20 working days of the receipt of a complete application. A complete application contains all materials and information necessary to determine compliance with this UDC and the fee.
 - (d) The Planning Administrator shall not impose conditions of approval on a condominium, townhome, or conversion proposal.

Section 5.5.04-C. Declaration Review and Approval

1. If a condominium, townhome exemption development, or conversion proposal meets the criteria in Section 5.5.04-B and has received preliminary plan approval from the Planning Administrator, the owner of the parcel must file a Declaration of Condominium or Townhome Unit Ownership with the County Clerk and Recorder's Office.
2. Prior to recording, the Planning Administrator shall review the declaration for compliance with the preliminary plans approved with the Zoning Compliance Permit.
3. Condominiums and TEDs shall comply with the applicable provisions of the Unit Ownership Act in state law.

Exhibit 1

WILDLAND/URBAN INTERFACE

In areas of Wildland/Urban Interface the following standards shall be included in a development agreement between the governing body and the developer or in the covenants, except in those cases when the need to protect areas of riparian resource or habitat for species of special concern outweighs the danger of wildfire:

“The property owner shall create a defensible space for fire protection purposes as approved by the City Fire Chief. Vegetation shall be removed and reduced around each building according to the slope. Single ornamental trees or shrubs need not be removed as long as all vegetation near them is reduced according to the guideline. Ornamental trees and shrubs should not touch any buildings. When planting, the property owner shall select trees, shrubs, and vegetation that limit or retard fire spread as suggested below:

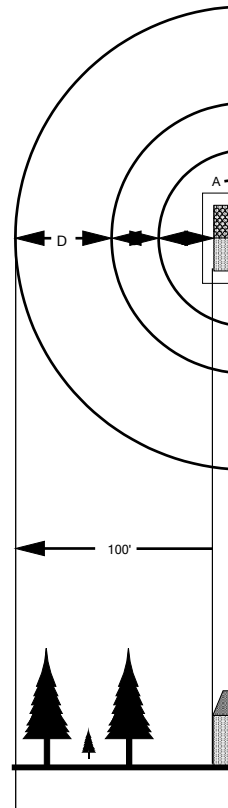
- (i) Perennial: Choose hardy perennial flowers that are adapted to Missoula’s climate. These green, leafy, succulent plants are difficult to burn. Watering and regular weeding improves fire resistance;
- (ii) Shrubs: Evergreen shrubs such as dwarf conifers or junipers tend to ignite easily: avoid them unless well spaced; and
- (iii) Trees: Deciduous trees can be clumped, scattered, or planted in greenbelts or windbreak patterns. Evergreen trees tend to ignite easily and should be spaced in accordance with the Vegetation Reduction Guidelines in the next section.

Roof Construction: In areas of Wildland/Urban Interface the following standards shall be used in roof construction:

Use only Class A or B fire-rated roofing materials.

Fire Rating	Type of Material	Spread Index
Class A	Slate	0-25
	Rock shingle	
	Concrete tile	
Class B	Fiberglass based: -asphalt shingle -rolled roofing	26-75
	Aluminum shingle	
	Aluminum or steel panels	

VEGETATION REDUCTION GUIDELINES: 0% TO 1-% SLOPE



A = THE FIRST THREE (3) FEET OF B

Maintain an area of non-combustible material - flowers, plants, concrete, gravel, mineral soil, etc.

B = TEN (10) FEET

Remove all trees and downed woody fuels.

C = TWENTY (20) FEET

Thin trees to ten (10) feet between crowns.

Prune limbs of all remaining trees to fifteen (15) feet or one-third (1/3) the total live crown height, whichever is less.

Maintain surface vegetation at three (3) inches or less.

Remove all downed woody fuels.

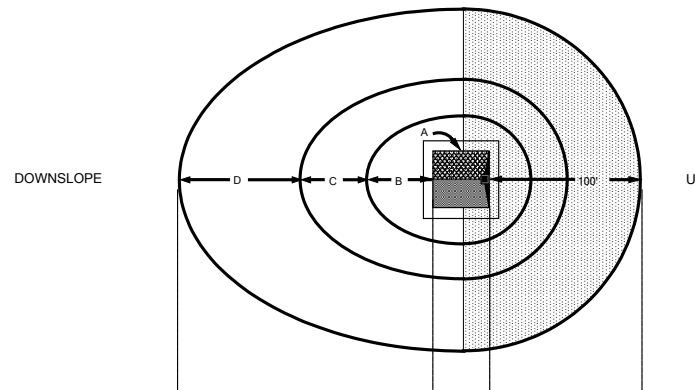
D = SEVENTY (70) FEET

Thin trees to ten (10) feet between crowns.

Prune limbs of all remaining trees to fifteen (15) feet or one-third (1/3) the total live crown height, whichever is less.

Remove all downed woody fuels more than three (3) inches in diameter.

VEGETATION REDUCTION GUIDELINES: 10% TO 20% SLOPE



The shaded areas (upslope) of B, C, & D remain a constant distance of ten (10) feet, twenty (20) feet, and seventy (70) feet respectively. The shaded area begins from the mid-section of a structure. The unshaded areas (downslope) of B, C, and D increase with slope as detailed below:

A = THE FIRST THREE (3) FEET OF B

Maintain an area of non-combustible material – flowers, plants, concrete, gravel, mineral soil, etc.

B = FIFTEEN (15) FEET

Remove all trees and downed woody fuels.

C = TWENTY FIVE (25) FEET

Thin trees to ten (10) feet between crowns.

Prune limbs of all remaining trees to fifteen (15) feet or one-third (1/3) the total live crown height, whichever is less.

Maintain surface vegetation at three (3) inches or less.

Remove all downed woody fuels.

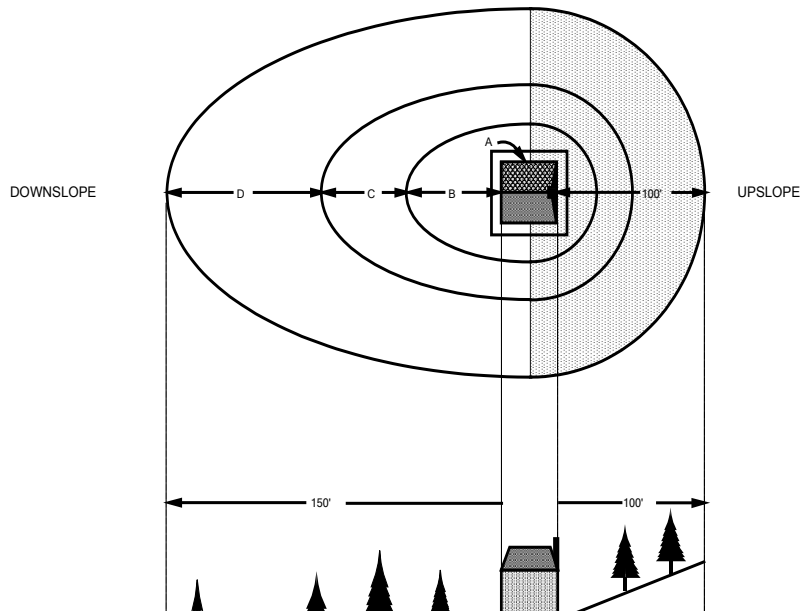
D = EIGHTY (80) FEET

Thin trees to ten (10) feet between crowns.

Prune limbs of all remaining trees to fifteen (15) feet or one-third ($1/3$) the total live crown height, whichever is less.

Remove all downed woody fuels more than three (3) inches in diameter.

VEGETATION REDUCTION GUIDELINES: 20% TO 30% SLOPE



The shaded areas (upslope) of B, C, & D remain a constant distance of ten (10) feet, twenty (20) feet, and seventy (70) feet respectively. The shaded area begins from the mid-section of a structure. The unshaded areas (downslope) of B, C, & D increase with the slope as detailed below:

A = THE FIRST THREE (3) FEET OF B

Maintain an area of non-combustible material – flowers, plants, concrete, gravel, mineral soil, etc.

B = TWENTY (20) FEET

Remove all trees and downed woody fuels.

C = THIRTY (30) FEET

Thin trees to ten (10) feet between crowns.

Prune limbs of all remaining trees to fifteen (15) feet or one-third (1/3) the total live crown height, whichever is less. Maintain surface vegetation at three (3) inches or less.

Remove all downed woody fuels.

D = ONE HUNDRED (100) FEET

Thin trees to ten (10) feet between crowns.

Prune limbs of all remaining trees to fifteen (15) feet or one-third (1/3) the total live crown height, whichever is less. Remove all downed woody fuels more than three (3) inches in diameter.

VEGETATION REDUCTION GUIDELINES: THINNING AND PRUNING



In areas where vegetation modification is prescribed, use the following guidelines:

A. THINNING

Thin trees to ten (10) feet between crowns.

B. PRUNING

Prune the limbs of all remaining trees to fifteen (15) feet or one-third (1/3) the total live crown height, whichever is less.

C. SURFACE VEGETATION

Maintain surface vegetation at three (3) feet to twelve (12) feet as detailed.

CHAPTER 6:

**INFRASTRUCTURE
IMPROVEMENTS**



CH 6: INFRASTRUCTURE IMPROVEMENTS

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Article 6.1

INTRODUCTION

Division 6.1.01 General

Section 6.1.01-A. Purpose

1. The Infrastructure Improvements Chapter establishes the design, construction, and permitting requirements for infrastructure improvements required during development. Infrastructure improvements are necessary to promote public safety, create facilities and systems for private and public use, allow efficient and effective movement of people and goods, and to improve quality of life, mobility and access.

Section 6.1.01-B. Authority

1. The Director of Public Works and Mobility shall adopt, by administrative rule, the City of Missoula Standards and Specifications Manual (the "Manual") containing standards and specifications for the uniform design and construction of infrastructure improvements, as well as the processes to implement the requirements of this Chapter.
2. The City Engineer shall approve the design, construction specifications, and installation of infrastructure improvements in accordance with Manual.
3. The Director of Public Works and Mobility or their designee may grant exceptions to the standards identified in this chapter as well as design standards in the Manual.

Section 6.1.01-C. Applicability

1. This chapter applies to rights-of-way, public easements, and private property within the City of Missoula.
2. Private property within Missoula County desiring connection to City of Missoula public facilities shall comply with the provisions of this chapter in accordance with MCA 7-13-4312, MCA 7-13-4312, and MCA 7-2-4203.

Article 6.2

RIGHT OF WAY IMPROVEMENTS

Division 6.2.01 General

Section 6.2.01-A. Requirements

1. Right-of-way infrastructure includes, but is not limited to, the installation, construction, reconstruction, repair, removal, or replacement of the following:
 - (a) Curb and gutter;
 - (b) Sidewalks;
 - (c) Trails;
 - (d) Streets and alleys;
 - (e) Grading;
 - (f) Drainage structures and appurtenances;
 - (g) Bridges (vehicular and / or pedestrian);
 - (h) Railings and retaining walls;
 - (i) Boulevard and / or median improvements;
 - (j) Street and alley approaches / aprons;
 - (k) Curb ramps;
 - (l) Landscaping and street trees;
 - (m) Street and trail lighting;
 - (n) Curb and pavement marking;
 - (o) Traffic management signage;
 - (p) Traffic management and control structures;
 - (q) Utility main/ service connections, installations, repairs, or replacements; and
 - (r) Other appurtenances related to infrastructure construction as required by the Unified Development Code (UDC).
2. Right-of-way infrastructure shall be installed directly adjacent to new development in accordance with the Manual where existing infrastructure is incomplete, missing, or otherwise inadequate to mitigate the impacts of the development for the following conditions:
 - (a) New construction that results in a total of seven or more combined new or existing dwelling units, including mixed-use construction;
 - (b) New construction that results in a total of five or more new on-site parking spaces;
 - (c) New construction of a driveway approach onto a public or private street;
 - (d) Non-residential construction which requires additional new on-site parking;

- (e) Exception for street trees:
 - a. Street trees shall be installed in accordance with the Manual where none currently exist for the following:
 - i. Residential projects that create 1 or more new dwelling units with a maximum of 1 tree required per dwelling unit;
 - ii. All new non-residential projects.
- 3. Right-of-way infrastructure directly adjacent to the development which is deemed to be hazardous by the City Engineer or designee upon any inspection shall be replaced, repaired, or otherwise improved to current standards.
- 4. Right-of-way infrastructure improvements shall be shown on plans as required for the issuance of the appropriate permit.
- 5. Right-of-way infrastructure improvements shall be installed prior to the issuance of a permanent certificate of occupancy or financially secured prior to the issuance of a temporary certificate of occupancy.
 - (a) Exception for street trees in typical boulevard conditions:
 - 1. Option 1
 - a. The developer or property owner may make a street tree mitigation payment at the time of building permit for boulevard tree planting, establishment, tree maintenance (including supplemental watering) for the first 2 years after planting, and a 2-year warranty.
 - b. After a certificate of occupancy has been issued the city will plant the required street trees.
 - c. Boulevard tree planting will not be linked to the certificate of occupancy, and a boulevard landscaping permit is not required.
 - d. Other boulevard landscaping improvements such as soil, irrigation and turf remain the responsibility of the developer or property owner.
 - 2. Option 2
 - a. The developer or property owner shall install required street tree(s) and associated landscaping improvements prior to certificate of occupancy, through the building permit process.
 - b. A security check with an expiration on no less than 6 months from the anticipated final inspection, will be held by the City of Missoula from the builder for the required trees. If the trees have not been installed at the time of the final inspection request, and cannot be due to seasonal constraints, a temporary certificate of occupancy may be issued with an expiration date of the following June 30th. If the temporary certificate of occupancy expires, the security check will be cashed and the trees installed by the City.
 - 3. The Urban Forester or designee shall have the authority to require a mitigation payment in lieu of street tree planting.
- 6. Property owners may finance through the City the costs of right-of-way infrastructure improvements adjacent to their property, payable in installments extending over a period of eight, twelve, or twenty years as specified by the property owner. If the property owner does not specify the number of years, the default term shall be twenty years.

7. All rights-of-way or public easements shall have sufficient width to accommodate the required infrastructure in accordance with the Manual. The right-of-way or easement shall incorporate all infrastructure elements detailed in the Manual unless otherwise approved by the City Engineer.
 - (a) At a minimum, adjacent development is required to design and install half street improvements including curb, gutter, and sidewalk on one side as well as enough pavement for two drive lanes, and where required, bi-directional bike lanes on one side. The City Engineer may require installation of curb on the opposite side of the street as well as full width of right-of-way or public easement.
8. Provisions must be made for service access, such as off-street loading or unloading and parking, that is adequate for the uses proposed.

Section 6.2.01-B. Connectivity

1. Developments shall be reviewed to ensure appropriate infrastructure connectivity.
2. Reviews shall consider the safety and well-being of the public, access to reliable infrastructure, and opportunities for future development to connect to and benefit from existing infrastructure.
3. Infrastructure connectivity shall be consistent with applicable goals and policies of the Land Use Plan, facility plans, and community planning documents.
4. Connectivity and required infrastructure improvements shall consider proportionate measures to mitigate the impacts of the development.
5. The City Engineer may require:
 - (a) Utility connections and corresponding easements that extend existing or planned utility networks or that are necessary for proper utility system operation.
 - (b) Transportation connections and corresponding easements that extend existing or planned multimodal transportation circulation networks adjacent to the development, adjacent land uses, nearby destinations such as schools, parks, transit stops, trails, employment centers, and commercial areas as well as community and regional transportation corridors, non-motorized transportation corridors, and future phases of development, or to connect internal streets and parking areas to adjacent external streets and parking areas.

Section 6.2.01-C. Right-of-Way Vacations and Easement Releases

1. **Purpose**
 - (a) The purpose of this section is to provide a uniform policy for the petitioning and review of proposed right-of-way vacations, closures of dedicated public right-of-way, and releases of public easements.
 - (b) The procedures for right-of-way vacations and easement releases shall comply with the Manual.
2. **General**
 - (a) Public rights-of-way and easements were dedicated to the public by private property owners to be held in public trust for the benefit and use of the public. There may be good reason for returning a dedicated right-of-way or easement to private ownership or for altering or closing a public right-of-way to public use. Right-of-way vacations and easement releases allow the city to relinquish all legal interest in and authority to use or manage the right-of-way on behalf of the community and may place the property onto the property tax rolls. The vacated right-of-way may revert to private property ownership in equal portions or to the property from which the right-of-way or easement was originally taken. The private property owner then assumes payment of taxes, liability, and maintenance on the vacated right-of-way.

- (b) Right-of-way closure or discontinuance may not be permanent in nature. Discontinuance or closure of right-of-way allows the city to retain all authority to use, manage or reopen the public right-of-way on behalf of the public. However, by discontinuing or closing the right-of-way, the city may allow temporary usage of it by the adjacent private property owners in equal portions or simply close and alter the use of it. The City may apply a term limiting the length of the closure and may require that no permanent structures be built upon the dedicated public right-of-way, may require the private user of the closed right-of-way take liability for the condition and any incidents occurring on the right-of-way, and the City may charge an annual usage fee for private usage of the right-of-way.
- (c) The vacation or closure of dedicated public rights-of-way remove and / or limit the benefits they were intended to provide. This ordinance requires the evaluation of those lost benefits and the alternative private and public good that may be provided or required with the vacations and/or closures prior to action by the city council. The administrative procedures for vacations and closures may include a survey of city staff and local utilities, a public hearing as required by Section 7-14-4114 of the Montana Code Annotated (MCA), and may take up to ninety (90) calendar days to complete
- (d) When the City Council acts adversely upon a petition to discontinue any street or alley within the city under the provisions of MCA no further petition to discontinue such street or alley shall be considered by the City Council until the expiration date of one year.
- (e) At the time any petition is submitted by property owners or their consultant, the petitioning property owners shall also pay a fee to the city for the purpose of defraying the necessary costs of background research by city staff. The fee shall be established and / or amended by City Council resolution after a public hearing has been conducted. The money so received shall be deposited by the city treasurer in the appropriate City fund. All costs associated with the preparation and review of any exhibits and amended plats / re-platting, or other work, shall be the obligation of the petitioner.

Section 6.2.01-D. Infrastructure Capacity Cost-Share Agreements

1. General

- (a) Property owners or Developers may contract to install public water, sewer, stormwater, or right-of-way infrastructure within rights-of-way or public easements at their own expense after obtaining applicable approval from the City, and where applicable state authorities, and obtaining applicable permits. Any such public infrastructure improvements ("Improvements") must be installed in conformance with the regulations and rules of both City and state and under the direction of the City Engineer.
- (b) Future growth opportunities shall be considered when planning for any infrastructure expansion project. In certain circumstances, the City may request a Developer installing water, sewer, and/or stormwater system improvements; extra depth of street section, width of street, bike lane, boulevard, sidewalk, path, and/or surface transportation system improvements ("Improvements") to provide extra capacity of the Improvements beyond the minimum capacity required for their development, for the purpose of serving other developable properties.

2. Upsizing Agreement

- (a) The Developer ("the Sponsor") may finance the cost of the Improvements but enter into an upsizing agreement with the City, through which the City utility would pay the difference in cost between the capacity required for the proposed development and the capacity required by the City.
- (b) Upsize agreements are intended for situations in which the Improvements benefit a large number of properties. The City Engineer has the discretion to determine if an upsize agreement is appropriate.
- (c) The Director of Public Works and Mobility is authorized to adopt administrative rules or official management directives addressing eligible projects, the process, deadlines, methodology, reimbursable costs, repayment procedure, and any other provisions necessary to administer these upsize agreements.
- (d) Any upsizing agreement that is developed pursuant to these adopted rules will require Director of Public Works and Mobility approval.

- (e) An upsizing agreement must be signed in accordance with the City's procurement policies prior to the start of construction with an amendment to adjust to final construction costs.

3. **Latecomer Agreement**

- (a) The Developer ("the Sponsor") may finance the cost of the Improvements but enter into a latecomer's agreement with the City, through which other later owners seeking to develop a property that benefits from the Improvements shall pay the Sponsor a proportionate share of the total cost of the facilities.
- (b) Latecomer's agreements are intended for situations in which the Improvements are intended to serve a finite number of properties. The City Engineer has the discretion to determine if a latecomer's agreement is appropriate.
- (c) The Director of Public Works and Mobility is authorized to adopt administrative rules or official management directives addressing eligible projects, the process, deadlines, methodology, reimbursable costs, repayment procedure, and any other provisions necessary to administer these latecomer's agreements.
- (d) Any latecomer's agreement that is developed pursuant to these adopted rules will require City Council approval.
- (e) Owners of any properties subject to a latecomer's agreement shall be provided with a copy of the latecomer's agreement in writing.
- (f) An executed latecomer's agreement shall remain in effect for ten (10) years after the date the latecomer's agreement is executed. Upon approval by City Council the timeframe can be extended up to twenty (20) years for projects with extraordinary circumstances. Developers connecting to the Improvements shall pay a 5% administrative fee to offset the City's cost of administering the program. The administrative fees shall be deposited in the enterprise fund associated with the Improvements.
- (g) Latecomer's agreements cannot be combined with other refund or crediting systems provided by the Missoula Municipal Code or administrative rules.
- (h) Once a latecomer's agreement has been approved by the City, for a period of ten (10) years after the City's approval and acceptance of the Improvements, no property owner or their representative desiring to develop adjacent to those Improvements shall be issued any building permit or be allowed to access onto the street or connect to any utilities until their proportionate latecomer's fee, as determined by the City, has been paid to the City Finance Officer or designee.

Section 6.2.01-E. Design Standards and Construction Specifications

Right-of-way improvements shall be designed and constructed in accordance with the Manual.

Section 6.2.01-F. Encroachments

Objects placed upon, over, or within which encroach into the public right-of-way or easements shall comply with MMC Section 12.14.

Section 6.2.01-G. Visibility Obstructions

Right-of-way improvements and encroachments shall be reviewed to ensure appropriate sight visibility and prevent visibility obstructions in accordance with the Manual and MMC Section 12.28.

Section 6.2.01-H. Construction

1. Construction of infrastructure improvements shall be completed with as little impact to existing infrastructure as possible and in accordance with the Manual. All existing infrastructure impacted during construction shall be returned to pre-construction conditions.
2. Construction traffic control shall be required for all work that impacts transportation facilities within the right-of-way or public easements in accordance with the Manual. Traffic control plans shall be reviewed and approved prior to issuance of permits.
3. Fire Protection Requirements.
 - (a) A fire hydrant fire-flow, location, and distribution plan shall be approved by the City Fire Marshal and City Engineer prior to building permit issuance.
 - (b) The approved water supply must be available to provide the required fire flow upon delivery of combustible materials or the start of vertical combustible construction.
4. Construction Access
 - (a) Prior to building permit issuance, adjacent public utility and surface infrastructure must be installed, tested, then approved by the City of Missoula.
 - (b) Access(es) from an existing paved "in-service" street to the construction site must include installed, tested, and accepted sub-grade, sub-base course, base course, and asphalt surfacing along with curb and gutter.
 1. The City Engineer may grant an exception per the Manual provided the following criteria are met:
 - a. Any access(es) shall have tested and approved sub-grade, sub-base course and base course layers.
 - b. Before asphalt placement, all track-on or other debris shall be completely removed, the base course shall be scarified, recompact to 95% proctor density, and re-tested.
 - c. A minimum 20-foot unobstructed width must be provided for the entire access. Construction materials, vehicles, trailers, or other obstructions are not permitted within the 20-foot-wide access.
 - d. Street name signs meeting MUTCD and City of Missoula standards must be installed at all intersections.
 - e. Approval from the City Fire Marshal and City Engineer are required prior to any building permit approval.
 - (c) Construction gates and/or access limiting features must be approved by the City Fire Marshal and City Engineer prior to installation.

Division 6.2.02 Municipal Utility System**Section 6.2.02-A. General**

1. All municipal utility system connections, extensions, and improvements shall comply with Missoula Municipal Code Title 13, the latest edition of the Manual, and this UDC.
2. Municipal utility main extensions and improvements shall be installed within the public right-of-way or within public utility easements granted to the City by the owners of the property involved. All locations shall be reviewed and approved by the City Engineer.

3. No new publicly owned STEP mains will be allowed.

Section 6.2.02-B. Utility Service Connections

1. A single water, sewer, and / or stormwater service line may serve a main building and an accessory building, such as a garage, workshop, guesthouse, art studio, etc., as defined in the Administrative Rules of Montana (ARM) 17-38-101(3)(a).
2. For the purpose of this Section, a guesthouse includes any single accessory dwelling.
3. If a parcel includes more than one building with a shared water, sewer, or stormwater service and that parcel is later subdivided such that the buildings served are on separate parcels, each building shall require a separate water and / or sewer service line. The service lines shall meet all applicable standards and specifications for new service lines.
4. When an accessory building is to be connected to an existing water service line, two curb stops shall be installed such that each building served can be shutoff independently. In that instance, the curb stop can be placed inside the private property provided there is an existing curb stop near the right-of-way.
5. Existing three-quarters of an inch galvanized service lines are generally not large enough to serve a main building and single accessory dwelling and shall be fully replaced or a water service sizing analysis per the latest edition of the Uniform Plumbing Code shall be submitted.
6. Each building shall be metered for water, either separately or with a single meter installed ahead of the connection point of the accessory building. In all cases, the curb stop shall be placed within a visible and accessible curb box.
7. The City reserves the right to determine the size of water meters to be installed on service lines.
8. Service lines shall be equipped with an approved backflow prevention device as outlined in the "Cross-Connection Control Program and Plan of Operation" portion of the Municipal Water Utility Rules and Regulations on file in the City Clerk's Office and available on the City web site.

Division 6.2.03 Stormwater Management

Section 6.2.03-A. General

Compliance with these requirements shall be demonstrated in accordance with Missoula Municipal Code Title 13, the latest edition of the Manual and this UDC.

These documents provide the standards, specifications, and administrative rules necessary to ensure construction activities and post-construction stormwater management are planned, implemented, and maintained in a manner that protects water quality and meets City stormwater requirements.

Section 6.2.03-B. Construction Requirements

1. Construction activities that result in a total land disturbance of 2,500 square feet or greater, or which alter the grade by 3 feet or more, must apply for coverage under a Construction Stormwater Permit (SWP). Once permanent erosion control has been established on 70% or greater of the disturbed area, the permittee may close their permit. Construction activity involving grading, erosion control, sediment control, or waterway crossing shall meet the design criteria set forth in the most recent versions of the Construction Site BMP Manuals and COMSSM. The design criteria shall be adequate to prevent transportation of sediment and/or pollutants from the site, to the satisfaction of the City.

2. Permittees shall follow the minimum standards described as Non-Numeric Technology-Based Effluent Limits in the most current Construction General Permit.
3. Concrete operations (e.g., washout and slurry) shall require BMPs that allow for the capture and disposal of generated pollutants.
4. Clearing and Grading Requirements
 - (a) Clearing and grading of natural resources, such as water bodies and wetlands, shall not be permitted, except when in compliance with all other required permits.
 - (b) Clearing techniques that retain natural vegetation and retain natural drainage patterns shall be used.
 - (c) Phasing shall be required on all sites disturbing equal to or greater than 30 acres, with the size of each phase to be established at plan review and as approved by the City.
 - (d) Clearing, except that necessary to establish sediment control devices, shall not begin until all sediment control devices have been installed and have been stabilized.
5. Construction Site Access Requirements
 - (a) Ingress and egress point BMPs shall mitigate the tracking of debris off site onto the right-of-way.
 - (b) At least one temporary access entrance shall be provided at all sites.
 - (c) Other measures may be required at the discretion of the City in order to ensure that sediment is not tracked onto public streets by construction vehicles, or washed into storm drains.
6. Erosion Prevention Requirements
 - (a) Soil must be stabilized using recommended methods described in the Construction Site BMP Manuals.
 - (b) Soil stockpiles shall be stabilized or covered at the end of each workday.
 - (c) Techniques shall be employed to prevent the blowing of dust or sediment from the site.
 - (d) Techniques that divert upland runoff past disturbed slopes shall be employed.
7. Noxious Weeds
 - (a) Disturbed areas shall be managed to prevent noxious weeds from becoming established in the short and long term. Per the Montana County Weed Control Act (§7-22-2101 to 2154, MCA), it is unlawful to permit noxious weeds to propagate.
 - (b) The City or County reserves the right to prioritize management of non-native species that are not listed as noxious weeds, for site-specific management.
 - (c) Permittees are responsible for ensuring their projects comply with state and local weed management regulations.
8. Removal of Temporary BMPs
 - (a) Upon establishing 70% or greater permanent ground cover, all temporary stormwater management control devices shall be removed.
9. Sediment Control Requirements
 - (a) Where necessary, sediment controls shall be provided in the form of settling basins or sediment traps or tanks, temporary seeding, perimeter controls, or other methods described in the Construction Site BMP Manuals.
 - (b) Adjacent properties shall be protected by the use of a vegetative buffer, silt fence, fiber rolls, or other BMPs outlined in the Construction Site BMP Manuals.

10. Activity involving waterways and watercourses
 - (a) When a watercourse must be crossed regularly during construction, a temporary stream crossing shall be provided and an approval obtained from the City and all other authorized permitting agencies.
 - (b) When in-channel work is conducted, the channel shall be stabilized before, during and after work.
 - (c) Stabilization adequate to prevent erosion must be provided at the outlets of all pipes and paved channels.
 - (d) Stabilization methods shall follow those described in the Construction Site BMP Manuals or administrative rules.
11. Winterization Requirements
 - (a) Winterization BMPs shall be implemented on projects prior to seasonal shutdowns or downtime of one month or longer.

Section 6.2.03-C. Post-Construction Requirements

1. The permittee shall create, manage, and maintain post-construction stormwater controls in accordance with the Post- Construction BMP Design Manual, COMSSM, and any other applicable administrative rules. The permittee shall also comply with MMC §20.50.030, when applicable.
 - (a) All development and redevelopment projects requiring coverage under a SWP shall incorporate green infrastructure in site design and construction.
 - (b) Green infrastructure measures incorporated into approved plans shall not be eliminated, reduced, or materially altered through value engineering or other cost-reduction measures.
 - (c) The City Utility Engineer may approve modification or removal of a green infrastructure measure only upon a written finding that:
 1. The measure is technically infeasible due to site-specific constraints; or
 2. An alternative practice provides equal or greater protection of water quality and stormwater management benefits.
2. Post-construction stormwater management controls shall be designed to infiltrate, evapotranspire, and/or capture for reuse the post-construction runoff generated from the first 0.5 inches of rainfall from a 24-hour storm preceded by 48 hours of no measurable precipitation.
 - (a) For projects that cannot meet 100% of the runoff reduction requirement, the remainder of the runoff from the first 0.5 inches of rainfall must be either:
 1. Treated onsite using post-construction stormwater management control(s) expected to remove 80% total suspended solids (TSS);
 2. Managed offsite within the same sub-watershed using post-construction stormwater management controls designed to infiltrate, evapotranspire, and/or capture for reuse; or
 3. Treated offsite within the same sub-watershed using post-construction stormwater management control(s) expected to remove 80% TSS.
 - (b) Any new stormwater outfalls to a named waterbody, or projects that propose alterations of the existing outfall and/or its associated infrastructure, shall implement BMPs to reduce pollutant discharge to the maximum extent practicable.
 - (c) Riparian resource buffer areas (MMC §20.50.030) shall be clearly defined in the Stormwater Management Site Plan.

- (d) When applicable, a recorded utility easement, covenant for maintenance, and as-built plan for any required private stormwater systems shall be provided in a form acceptable to the City.
1. The utility easement shall provide sufficient space for vehicle or heavy machinery access for inspection and maintenance, as appropriate for the facility and determined by a Montana-licensed professional engineer.
 2. The covenant shall give the City the right to inspect the facilities and provide a guarantee to the City that the private stormwater system will be maintained by the owner or operator, such that the facility will function as designed in perpetuity.

Division 6.2.04 Non-Municipal Utilities

Section 6.2.04-A. Applicability

This division shall apply to all non-municipal utilities with buried or above ground infrastructure within right-of-way or public easements.

Section 6.2.04-B. Comprehensive Development Plan

1. Upon request from the City, each non-municipal utility company operating within the city shall provide a comprehensive development plan for the use of rights-of-way or public utility easements for their utilities. The plan shall be a five year plan plus information regarding long-range plans. Supplemental updates of the plan shall be provided each year prior to January 1. The plan and yearly supplements shall include, but shall not be limited to the following:
 - (a) Master plan of the utility in rights-of-way and public utility easements;
 - (b) Reconstruction, extension or replacement plans;
 - (c) Yearly program for construction planned;
 - (d) Schedules of overall improvements;
 - (e) Location of the proposed improvements within rights-of-way and public utility easements.

Section 6.2.04-C. Utility Locations and Plan Review

1. Locations of utilities placed in rights-of-way and public utility easements shall be approved by the City Engineer or designee. Locations of utilities placed in lands maintained by Missoula Parks and Recreation shall additionally be reviewed by Parks and Recreation, and an easement may be required. The construction plans shall be drawn as per the requirements of the Manual.
2. All new utilities shall be placed underground unless otherwise approved by the City Engineer. No poles shall be installed on paved streets or trails, and no overhead wires shall be permitted along such streets. Utilities shall instead be located in underground conduits within the street or alley.
3. The conduits, manholes, and laterals necessary for the maintenance and operation of underground utilities shall be constructed with the approval of the City Engineer. Such facilities shall be located and constructed so as not to interfere with any existing utility.
4. Where above-ground poles are permitted by the City Engineer, poles shall be located in streets and alleys in a manner that minimizes inconvenience to the public and adjacent property owners; placed on lot boundaries where practicable; positioned to avoid interference with sewers, drainage systems, gas or water mains, and pipes; and set so as not to obstruct access to building entrances, exits, yards, or grounds.

Section 6.2.04-D. Minimum Interference

1. All transmission and distribution structures, lines and equipment erected by a non-municipal utility shall be located so as minimize interference with the use of rights-of-way, public utility easements, and other public places and minimize interference with the rights and reasonable convenience of property owners who adjoin any of the rights-of-way, public utility easements, and public places.
2. Non-municipal utilities shall provide advance notice to any private property owner and shall obtain authorization prior to commencing work on private property.

Section 6.2.04-E. Disturbance or Damage

Any and all rights-of-way, or public or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance, expansion, extension, or reconstruction of non-municipal utility work shall be promptly and fully restored by the non-municipal utility, at its expense, to a condition as good as that prevailing prior to the non-municipal utility's work. A non-municipal utility's obligation under this paragraph will extend to the removal, disturbance, or damage to existing trees, shrubs and related City owned plantings located on public property absent the City's prior approval.

Section 6.2.04-F. Relocation

Non-municipal utilities shall, at their own expense, protect, relocate, support, temporarily disconnect any of its facilities when a City project or activity makes disconnection, removal, or relocation necessary for benefit of the public.

Section 6.2.04-G. Emergency

Whenever, in case of fire or other emergency, it becomes necessary in the judgment of the City Clerk, police chief, fire chief, Director or their delegates, to remove or damage any of non-municipal utility facilities, no charge shall be made by the non-municipal utility against City for restoration, repair, or damages.

Section 6.2.04-H. Tree Protection

Non-municipal utilities shall protect and trim trees in accordance with the Manual and any other provisions of Applicable Law.

Section 6.2.04-I. Protection of Facilities

Nothing contained in this division shall relieve any entity from liability arising out of the failure to exercise reasonable care to avoid damaging non-municipal utility facilities while performing any work connected with grading, regrading, or changing the line of any rights-of-way, public utility easements, or public place or the construction or reconstruction of any sewer or water system.

Section 6.2.04-J. Installation records

Each non-municipal utility shall keep accurate installation records of the location of all facilities in the rights-of-way, public utility easements, and other public places and furnish them to City upon request. Non-municipal utilities shall cooperate with City to furnish such information in an electronic mapping format, if possible compatible with the then-current City electronic mapping format. Upon completion of new or relocation construction of underground facilities in the rights-of-way, public utility easements, and other public places, non-municipal utilities shall provide City with installation records in

an electronic format, if possible compatible with the then-current City electronic mapping format showing the location of the underground and above ground facilities.

Section 6.2.04-K. Locating Facilities

Non-municipal utilities shall comply with the State of Montana’s One-call system for locating facilities in the right-of-way as set forth in MCA Sections 69-4-501 through 69-4-530. Non-municipal utilities are obligated to furnish location information to the City in a timely manner, but in no case longer than thirty (30) days.

Section 6.2.04-L. Relocation Delays

1. If a non-municipal utility’s relocation effort delays construction of a City project causing City to be liable for delay damages, the non-municipal utility shall reimburse City for those damages attributable to the delay created by the non-municipal utility. In the event the non-municipal utility should dispute the amount of damages, the matter shall be referred to the City Engineer for a decision. In the event that the non-municipal utility disagrees with the City Engineer’s decision, the matter shall be submitted to the City Public Works and Mobility Director for determination, whose decision shall be final and binding upon the non-municipal utility as a matter of City review, but nothing herein waives any right of appeal to the courts.
2. In the event City becomes aware of a potential relocation delay involving non-municipal utility facilities, City shall promptly notify non-municipal utility and place them on notice of potential delay damages.

Section 6.2.04-M. Interference with City Facilities

The installation, use, and maintenance of the non-municipal utility facilities within the rights-of-way, public utility easements, and public places authorized herein shall be in such a manner as not to interfere with City’s placement, construction, use and maintenance of its rights-of-way, public utility easement, and public ways, street lighting, water pipes, drains, sewers, traffic signal systems or other City systems that have been, or may be, installed, maintained, used, or authorized by City.

Section 6.2.04-N. Interference with Utility Facilities

The non-municipal utility shall exercise reasonable care in installing, maintaining or using any of its facilities in such a manner that will not damage or interfere with any existing facilities of another utility located within the rights-of-way, public utility easements, and public places and shall relocate its facilities, if determined to be necessary by the City Engineer, to accommodate another facilities’ relocation. Nothing in this section is meant to limit any rights a non-municipal utility may have under Applicable Laws to be compensated for the cost of relocating its facilities from the utility that is requesting the relocation.

Section 6.2.04-O. Colocation

To maximize public and employee safety, to minimize visual clutter, and to minimize the amount of trenching and excavation in and along rights-of-way, public utility easements, and public places, non-municipal utilities shall make every commercially reasonable effort to co-locate compatible facilities within rights-of-way, public utility easements, and public spaces, subject to the engineering requirements of the owners of utility poles and other facilities.

Section 6.2.04-P. Safety Requirements

1. Non-municipal utilities shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injuries.
2. Non-municipal utilities shall install and maintain their system and other equipment in accordance with City's codes and the requirements of the National Electric Safety Code and all other applicable FCC, state, and local regulations, and in such manner that they shall not interfere with City communications technology related to health, safety and welfare of the residents.

Section 6.2.04-Q. Cleaning Up of Excavation Site

The contractor shall prevent all mud, rocks, or debris from being spilled or dragged onto rights-of-way outside the excavation site. Upon completion of excavation work, the entire area in all directions shall be cleared of all debris, boulders and all other excess materials from excavation, backfill and resurfacing operations to the satisfaction of the City Engineer. This clean up requirement shall include private property, as well as public rights-of-way.

Section 6.2.04-R. Violations

Violations shall comply with Article 2.5 Violations, Penalties, and Enforcement. Further, any person convicted of a violation of this division shall be required to post with the City Treasurer a cash bond in the amount of five thousand (\$5,000.00) dollars before they may perform any further excavating work within the city. The cash bond shall be used on order of the City Engineer to repair and maintain any further excavations made by such person.

Division 6.2.05 Transportation System**Section 6.2.05-A. General**

All transportation system improvements shall comply with the latest edition of the Manual and this UDC.

Section 6.2.05-B. Street and Trail Type Maps

1. **Street Type Map**
 - (a) The location of street types established by the Our Missoula 2045 Land Use Plan are shown on a geographic coverage layer called "Streets" maintained within the City's geographic information system (GIS) under the direction of the City Engineer. This layer serves as the official street type map for the City of Missoula. The official street type map, along with all notations, references, and data contained therein, is adopted and incorporated into this UDC and holds the same authority as if actually depicted within its text.
 - (b) The City Engineer is responsible for maintaining the official street type map including attributing new streets and modifying existing streets.
2. **Trail Type Map**
 - (a) The location of trail types established by the Missoula Parks Recreation Open Space and Trails plan (PROST) are shown on a geographic coverage layer called "Trails" maintained within the City's geographic information system (GIS) under the direction of the Parks Administrator. This layer serves as the official trail type map for the City of Missoula. The official trail type map, along with all notations,

references, and data contained therein, is adopted and incorporated into this UDC and holds the same authority as if actually depicted within its text.

- (b) The Parks Administrator is responsible for maintaining the official trail type map including attributing new trails and modifying existing trails.

Section 6.2.05-C. Fire Access

1. At the discretion of the City Engineer, and in coordination with the City Fire Marshal, any access serving as the primary fire access route may be required to be constructed as a private street in accordance with the following:
 - (a) may include concrete curb/gutter, concrete sidewalks and stormwater drainage / management in accordance with the Manual;
 - (b) shall be paved along the entire length starting at the existing adjacent intersecting street;
 - (c) shall include wayfinding or private street signage;
 - (d) shall be located within a public access easement; and
 - (e) include a snow removal and maintenance plan that meets City of Missoula sidewalk and street maintenance standards which includes an agreement that the property owners shall be responsible for the costs associated with the maintenance, repair, and replacement of all surface infrastructure.

Section 6.2.05-D. Streets Names

1. Street names shall be approved by Missoula County and City GIS Division.
2. New streets that align with existing streets shall have the same name as the existing street.
3. Street names for non-continuing streets shall not duplicate nor be named so as to be confused with existing street names.

Section 6.2.05-E. Approaches

1. All new approaches onto right-of-way shall be approved by the City Engineer.
2. Approaches may be permitted in the following scenarios:
 - (a) From Streets:
 1. Existing paved approach and driveway.
 2. Existing unpaved approach or driveway serving an existing garage or other parking facility.
 3. Where a building permit has been submitted and approved for the construction of on-site parking facility.
 4. To access an approved parking facility located per required setbacks.
 5. Where the approved parking facility is at least twenty (20') feet from the most restrictive of these elements:
 - a. the property line,
 - b. edge of access easement on public street frontages, or
 - c. from the edge of asphalt, back of curb, or back of sidewalk (when / where present or required) on private streets and / or within a public access easement.
 6. Existing through lots whose backyard fronts a public right-of-way may have an additional approach to the backyard, if approved by City Engineer.

- (b) From Alleys:
 - 1. An approach from the alley may be added if there is an existing approach meeting the requirements of this chapter from a public or private street.
- 3. Approaches are prohibited in the following scenarios:
 - (a) To access unpaved areas, including but not limited to front, back or side yards, boulevards, secondary unpaved areas, and unimproved areas.
 - (b) To access illegal or nonconforming parking areas such as the area within the right-of-way or in building setbacks as defined in building code(s) or the UDC.
 - (c) Locations with adverse sight distance, proximity to intersection(s), or any other safety concerns as determined by City Engineer.
- 4. Approach locations that do not meet the requirements for sight distance, grade, proximity to intersection(s), or any other hazardous or unsafe traffic condition, as determined by the City Engineer, may be mitigated by controlling the approach configuration (i.e. right-in, right-out) if approved by the City Engineer.
- 5. Each one-unit house shall be limited to one approach unless additional approaches may be justified and approved by the City Engineer.
- 6. Approaches shall be located per the following:
 - (a) Mid-block parcels shall prioritize approaches in the following order:
 - 1. Alley access
 - 2. Fronting street access
 - (b) Corner parcels shall prioritize approaches in the following order:
 - 1. Alley access
 - 2. Side street or lowest traffic volume street access
 - 3. Fronting street or highest traffic volume street access
 - (c) Through lots shall prioritize approaches in the following order:
 - 1. Side street or lowest traffic volume street access
 - 2. Fronting street or highest traffic volume street access
 - (d) Approaches onto Community or Regional streets shall be avoided when other options are available especially for driveways where vehicles enter the street with a backing movement.
 - (e) An approach to any Montana Department of Transportation (MDT) State Route, shall be reviewed and approved by MDT prior to City Engineer review and approval.
- 7. An existing curb-cut and approach shall be removed, the curb restored to full height, and the previous parking area shall be landscaped if the parking facility is or has been removed. Whenever the use of any existing approach is planned to or will be discontinued by reason of a change in the use or design of the private property, the owner of the property shall repair the sidewalk, curb/gutter and boulevard affected by the abandoned approach as directed by the City Engineer unless the existing driveway meets the requirements set forth in Article 6.3 Parking. If the owner of the property fails to repair the sidewalk or curb/gutter, and boulevard, the City Engineer may order the repair and the cost thereof be assessed against the private property.
- 8. Existing approaches impacted by city-initiated right-of-way infrastructure improvement projects shall be reviewed and may be approved by the City Engineer.

9. A permit for the construction of new approach(es) shall not be issued unless vehicles to be served or serviced can be parked entirely within the private property lines and meets all applicable requirements of the UDC and the Manual.

Section 6.2.05-F. Sidewalks

1. Accessibility Standards.
 - (a) Sidewalks within a right-of-way, right-of-way easement, or public access easement shall meet the requirements of PROWAG (or Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way).
 - (b) Sidewalks on private property open to the public shall meet the requirements of the ADA Standards for Accessible Design (aka ADAAG) and / or International Code Council (ICC) A117.1 – Standard for Accessible and Usable Buildings and Facilities
 - (c) Sidewalks on private property closed to the public shall meet the requirements of Montana Building Code.
2. Sidewalks providing emergency access shall meet the requirements of the International Fire Code (IFC) and be approved by the City Fire Marshal.
3. Sidewalk maintenance within the right-of-way, right-of-way easement, or public access easement is the responsibility of the adjacent property owner in accordance with MMC 12.16.

Section 6.2.05-G. Right-of-Way Landscaping

1. Right-of-way landscaping, including street tree planting and associated landscaping, shall be a required component of all right-of-way infrastructure improvements and construction of new rights-of-way.
2. All right-of-way landscaping plans and street tree plans shall be approved by the Urban Forester or designee.
3. Established street trees shall be retained whenever possible. These retained trees may count towards the street tree requirements for the project.
4. Unless otherwise approved by the Urban Forester, the removal of desirable trees in good condition must be mitigated by providing one or more replacement trees with a total combined diameter breast height (DBH) that is at least equal to the total DBH of trees that are removed.
5. When it is determined that the removed trees are hazardous, diseased or of a prohibited species, the Urban Forester may waive the tree replacement requirements.
6. The Urban Forester is authorized to collect a mitigation fee, not to exceed \$1,000 per replacement tree, to fund tree planting when inadequate area exists along the right of way frontage of the project site for the healthy growth of replacement trees.

Division 6.2.06 Permits

Section 6.2.06-A. Permits Required

1. Applications for permits shall be submitted to the City and shall include all applicable plans and specifications.
2. The City Engineer, Parks Administrator, Urban Forester, and City Fire Marshal, as applicable, shall review and approve all required plans and specifications in accordance with the Manual and all other applicable federal, state and local regulations and requirements.

3. The City of Missoula reviewed, stamped, and approved set of plans shall always be available on-site for review by inspectors.
4. Other permits beyond those listed in this Division may be required by other agencies including, but not limited to, Montana Department of Transportation, Montana Department of Environmental Quality, Missoula County, and other local, State, and Federal agencies and shall be obtained prior to issuance of a City of Missoula permit.
5. **Excavation (EXC) Permit**
 - (a) An Excavation Permit shall be required for installation, removal, abandonment, relocation, or reconstruction of municipal water mains, sanitary sewer mains, and stormwater mains; stormwater drywells, non-municipal utility mains, miscellaneous dry utility excavations, and excavating or potholing in any street, alley, public utility easement or public right-of-way. This permit shall also serve as a permission to remove and replace concrete curb and sidewalk within the limits of the excavation work authorized by the permit.
 - (b) The following exceptions apply:
 1. During periods when City offices are closed, emergency repairs may be performed before obtaining a permit. The permit shall be obtained within eight working hours after City offices are open.
 2. Minor non-municipal utility maintenance work.
 3. The installation, maintenance, removal, repair or replacement of utility poles shall only require an excavation permit if the owner of the pole does not have a written agreement with the City of Missoula for the relocation of their utility poles.
 4. Landscaping sprinklers and irrigation systems shall only require an excavation permit if the installation is in a State Route right-of-way or if excavation is at point of source, such as curb stop. Repair of landscaping sprinkler and irrigation system does not require an excavation permit.
6. **Sewer (SWR) Permit, Water (WTR) Permit, or Stormwater (STM) Permit**
 - (a) A permit shall be required for installing, maintaining, replacing, removing, repairing or investigating water, sewer, or stormwater service connection lines, including all service line work outside of the mainline trench, currently connected or proposing connection to a public utility in the streets, alleys, public rights-of-way, easements, and private property. This permit shall also serve as a permission to remove and replace concrete curb and sidewalk, and asphalt, within the limits of the excavation work authorized by the permit.
7. **Construction Stormwater (SWP) Permit**
 - (a) A Construction Stormwater Permit shall be required to conduct any type of earthwork that shall result in more than twenty-five hundred (2,500 sf) square feet of land disturbance or change the grade by three (3') feet or more.
 - (b) The following exceptions apply:
 1. Land disturbance activities related to agricultural practices or improvements are exempt from this requirement, as is any emergency activity that is immediately necessary for the protection of life, property, or natural resources.
 - (c) Activities that disturb one acre or more of land, or less than one acre but are part of a larger common plan of development, are also required to obtain coverage under a Construction General Permit, in addition to the SWP. The Construction General Permit shall be obtained prior to issuance of the SWP.
 - (d) The SWP application shall be submitted to the City no more than one hundred eighty (180) days and no fewer than sixty (60) days from the start date of construction.

8. Right-of-Way Construction (RWC) Permit

- (a) A Right-of-Way Construction Permit shall be required for the installation, maintenance, removal, repair, or replacement of curb and gutter, sidewalk and approaches, street and alley paving, curb painting, street striping or other markings, crack sealing, cutting, grinding, mud-jacking, sawing and other concrete work that does not require complete removal and replacement.
- (b) When both private and right-of-way paving permits are required, only a right-of-way construction permit shall be issued. Fees shall be based on the total quantity of both private and right-of-way paving from the Public Works and Mobility Fee Schedule.

9. Street Tree Permit

- (a) A New Construction Tree Planting Permit from City of Missoula Parks and Recreation shall be required for all new tree plantings associated with building permits.
- (b) A Tree Maintenance Permit is required for all maintenance on right-of-way trees, including pruning, planting, pest control, removal and stump grinding and shall be obtained by a licensed, insured and certified arborist or contractor.

10. Vehicle Access Permit

- (a) A Vehicle Access Permit shall be required from City of Missoula Parks and Recreation for work requiring vehicle access on lands maintained by Missoula Parks and Recreation.
- (b) Full restoration must occur within thirty (30) days of initial disturbance. Deadline extensions for living restoration outside of the growing season may be granted by the City of Missoula Parks and Recreation.

Section 6.2.06-B. Contractor Requirements

1. Contractors shall be bonded, insured, and licensed as required by MMC Section 5.08.
2. Contractors shall provide a locate number from the Underground Location Center (811) in accordance with MCA 69-4-502 prior to any permit being issued. The contractor shall locate and protect all public and private utility lines.
3. Contractors acting under approved permits assume full responsibility for injury to persons or losses or damage to private or public property incurred by reason of, or arising out of, any act or omission of such work or to properly barricade, guard, and warn the public of such work.
4. Excavators shall have a competent person, as defined by OSHA, on site during all work.
5. Concrete placing / finishing crews shall have at least one American Concrete Institute (ACI) Certified Flatwork Finisher level or above on site at all times.
6. The contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the work. Such responsibility does not relieve subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety laws and regulations. The contractor shall take all necessary precautions for the safety of and shall provide the necessary protection to prevent damage, injury, or loss to:
 - (a) All persons on the site or who may be affected by the work;
 - (b) All the work and materials and equipment to be incorporated therein, whether in storage on or off the site; and
 - (c) Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and underground facilities not designated for removal, relocation, or replacement during construction.

7. The contractor shall comply with all applicable laws and regulations relating to the safety of persons or property; ensure the protection of persons or property from damage, injury, or loss; and erect and maintain all necessary safeguards for such safety and protection.
8. The contractor shall notify owners of adjacent property and of underground facilities and other utility owners when conducting the work that may affect them and shall cooperate with them in the protection, removal, relocation, and replacement of their property.
9. The contractor shall comply with the applicable requirements of owner's safety programs, if any. The Supplementary Conditions within the Construction Contract identify any owner's safety programs that are applicable to the work.
10. The contractor shall inform owner and engineer of the specific requirements of contractor's safety program with which owner's and engineer's employees and representatives must comply while at the site.
11. All work shall meet current OSHA Safety and Health Standards. Failure to comply with OSHA rules may result in an immediate termination of the excavation permit. The contractor shall take all necessary precautions to prevent injury to workers and others, and to protect any and all adjacent private and public property. This shall include protecting drywells, storm drains, sidewalks, curbs, sprinkler systems, traffic loops, traffic signals, etc.
12. Contractors who fail to perform their work on infrastructure in accordance with the adopted rules and regulations of the City, or who execute that work unskillfully, or to the damage of the infrastructure property, may be prohibited from performing further work on the infrastructure by order of the Director of Public Works and Mobility.

Section 6.2.06-C. Fees

1. All permit fees shall be paid prior to issuance of any permit except in the following instances:
 - (a) Maintenance / repair work performed by the City shall be exempt from permit fees, however the City Department performing the work shall submit and obtain permit approval prior to commencing work.
2. Permit fees shall be based on the average direct and indirect costs to provide plan review, permit administration, field inspection, record management, and warranty inspection.
3. City Council shall establish and amend permit fees by City Resolution after conducting a public hearing.
4. Revenue from permit fees shall be credited to the appropriate City fund.
5. Unless otherwise approved by City Council, refund of permit fees shall only be given when permit errors or mistakes are caused by the City. Refunds shall be approved by the City Engineer.
6. The City reserves the right to charge a penalty fee if it determines that work has started before the required permit has been issued, per Division 2.5.03 Penalties. In addition to the penalty fee, the City Engineer may require further mitigation measures, including but not limited to removal of concrete, pavement or other material(s). The City Engineer may waive the penalty fee upon written request from the contractor if it is in the best interest of the City to do so.
7. Additional fees as listed in approved fee schedules shall be paid prior to the issuance of a permit.

Section 6.2.06-D. Inspection

1. **General**
 - (a) Inspections are required for right-of-way infrastructure improvements contained in this section.
 - (b) All inspections are a 'snapshot-in-time' and shall in no way relieve the contractor performing the work from their obligation to ensure compliance of the completed work with all regulations.

- (c) Inspections shall be requested the day before or prior to 7:00 AM on the day of the inspection.
- (d) Inspections shall occur Monday through Friday during normal working hours 8:00 AM to 5:00 PM and shall not occur on City-observed holidays.

2. **Municipal Utility System**

- (a) Excavations shall be inspected and performed to the approval of the City Engineer. The City Engineer may at any time, when excavations are not performed in accordance with this chapter, have authority to order the excavation contractor to suspend work until excavation work conforms with the specifications set forth in this chapter. Inspections shall be required to meet all federal, state, and local requirements.
- (b) All persons performing installation of or repair work on a Municipal Utility service line shall contact the City for inspection and mapping of the service line before the trench is filled and before utility service shall be made available.
- (c) If inspection of excavation, once commenced, finds methods being practiced not conforming to this chapter, a correction notice shall be issued by PWM staff identifying items or procedures not meeting requirements of this chapter. If corrections listed on notice are not brought to conformity with this chapter, a stop work order for the project shall be issued. Work on the project shall only resume after a meeting with the excavator and PWM staff. If the project continues to not comply with this chapter PWM staff will act to bring it into alignment at a cost to be borne by the Contractor. Costs associated with this work shall be assessed to the excavator's bond with action against the excavator's city business license, per MMC 5.08.

3. **Stormwater Management**

- (a) An authorized agent may inspect—at a reasonable time and in a reasonable manner—the premises for which a permit application has been filed or the premises for which the City has issued a permit.
- (b) The City will conduct all inspections of any activities within its jurisdiction that require a Stormwater Permit, Drywell Approval, and/or Construction General Permit; and the City will conduct them pursuant to adopted administrative rules.
- (c) If the site fails an inspection, the permittee shall be assessed a re-inspection fee. Failure to pay the re-inspection fee shall result in a hold on the issuance of any new City permits to the permittee and/or a hold on the Certificate of Occupancy until the fee is paid. See Chapter 2 for Violations, Penalties, and Enforcement.
- (d) Once construction activities are completed, post-construction stormwater management controls shall be inspected. For medium- and high-priority sites, per the Site Evaluation Form, annual inspections and periodic maintenance are required to ensure the stormwater system continues to function as designed. The City shall have the right to inspect all private post-construction stormwater management controls within the City limits but is not responsible for maintenance.

4. **Surface**

- (a) All right-of-way infrastructure improvements shall be performed and inspected to the approval of the City Engineer. The City Engineer may at any time, when right-of-way infrastructure improvements are not being constructed in accordance with this chapter, have authority to order the contractor constructing right-of-way infrastructure improvements to suspend work until construction conforms with the specifications set forth in this chapter.
- (b) Sidewalk/curb/approach inspections shall be required once base course is prepped and forms are set. A final inspection shall be required once concrete is poured, and forms are removed.
- (c) Repair work that does not require complete removal and replacement shall also require an inspection.
- (d) Asphalt paving inspections shall be required at (1) subgrade installation, (2) subbase / base installation, (3) striping, and (4) final inspection.

Section 6.2.06-E. Expiration

1. Permits shall expire by limitation and become null and void if authorized work is not commenced within one hundred and eighty (180) calendar days after date of issuance. Also, permits shall expire by limitation and become null and void if work authorized by the permit is suspended or abandoned by the permittee for more than 180 calendar days. Extension of time on permits may be granted by the City Engineer.
2. Exception:
 - (a) The SWP for low-priority projects (per the Site Evaluation Form) and the Drywell Approval shall expire one year from date of issuance. If work begins, resumes, or continues after the permit expires, then the permittee shall renew their permit and pay a full permit fee. Additionally, if permanent erosion control is not established on 70% or greater of the disturbed areas before the SWP expires, then the permit must be renewed. After construction is complete, all medium- to high-priority projects (per the Site Evaluation Form) shall require a renewal of their SWP every five years.

Section 6.2.06-F. Warranty

1. The holder of the permit shall warranty the materials, workmanship and improvements in the public right-of-way for a period of two years following the date of final acceptance by the City of Missoula.
2. Any evidence of settlement of backfill or deterioration or failure of excavator's patch applied to the surface in the public right-of-way within two years after completion and acceptance of the work shall be deemed conclusive evidence of defective backfill or surface restoration by the permittee and / or excavator and in such event, after three days' notice to the excavator and their bondsman, the City Engineer or a designated agent may elect to re-excavate and backfill properly or to repair defective surface restorations, or both, in accordance with the provisions of this chapter, and the costs thereof shall be assessed against the bond provided for by this section and any bond filed under this section shall so recite the right of the City to do so.
3. The City shall assume no responsibility for excavator's surface patches or for any backfills. The City Engineer's report upon failure of any excavator's backfill substance or upon any surface failure shall be conclusive.

Article 6.3

PARKING

Division 6.3.01 General

Section 6.3.01-A. Requirements

1. This division shall apply to the design and construction of driveways and parking facilities as required by:
 - (a) Application and issuance of a Building Permit;
 - (b) Application and issuance of a Zoning Compliance Permit;
 - (c) Application and issuance of a Private Paving Construction Permit;
 - (d) Subdivision Development; or
 - (e) Townhome Exemption Development.
2. All existing and new parking shall comply with current standards when changes or alterations to the existing parking and / or approaches are made.
3. Driveways and parking facilities shall be laid out, designed, and constructed in accordance with the Manual and the Missoula City-County Air Pollution Program, Chapter 8.
4. Driveways and parking facilities within the public rights-of-way shall be grade-separated from sidewalks or walkways a minimum of four (4") inches or separated by bollards or raised curb. Pin-down curbs or wheel stops shall not be used.
5. Driveways and parking facilities drive aisles serving as an approved fire apparatus access road shall meet the requirements of the International Fire Code (IFC), Appendix D as adopted by the City.
6. Driveways and parking facilities may include the street and / or alley for minimum backing distance in accordance with the Manual.
7. Existing driveways and parking facilities shall not be altered to violate the requirements of this chapter including allowing vehicles to park in areas not designated for parking per the approved site plan.
8. The City Engineer may approve use of the public right-of-way for parking. Such use may be discontinued if deemed hazardous by the City Engineer or determined not to be in the public interest by the Missoula City Council.

Section 6.3.01-B. Connectivity

1. At the discretion of the City Engineer, when any building or development permit is required, accessible pedestrian connections and vehicle connections may be required to connect various facilities as follows:
 - (a) Pedestrian connections (sidewalks and / or trails) including but not limited to:
 1. Parking facilities with entrances to structures;
 2. Multiple structures on the same site;
 3. Structures to parking facilities, mailboxes, and garbage collection points;
 4. Structures and/or parking facilities on adjacent parcels;
 5. Activity Areas;

6. Existing or future pedestrian facilities (such as sidewalk or trails) in the right-of-way or a public access easement.
- (b) Vehicular connections (driveways, roads, alleys or other travel ways) including but not limited to:
 1. Adjacent destinations;
 2. Internal roads to adjacent public or private roads / alleys / other travel ways;
 3. Internal roads to each other.

Section 6.3.01-C. Design Standards and Construction Specifications

1. All private property paving construction work for driveways and parking facilities shall be constructed in accordance with the most current published version of:
 - (a) Unified Development Code (UDC);
 - (b) City of Missoula Standards and Specifications Manual (COMSSM or the Manual);
 - (c) Montana Pollutant Discharge Elimination System (MPDES);
 - (d) Americans with Disabilities Act (ADA); and
 - (e) Missoula City-County Air Pollution Control Program regulations.
2. In the event of conflict or discrepancy in the above documentation and related specifications, the most stringent shall prevail and govern.

Division 6.3.02 Driveways

Section 6.3.02-A. General

1. Right-of-way infrastructure improvements, including but not limited to curb and gutter, curb cuts, approaches, driveways, sidewalk, etc., shall be installed and maintained in accordance with the Manual.
2. Driveway paving requirements shall be per Missoula City-County Air Pollution Control Program and Fire Code. The use of self-draining solid surface materials, such as interlocking block pavers, may be allowed by the City Engineer.
3. Driveways shall be paved a minimum distance of 20 feet directly behind the abutting sidewalk, or back of curb/edge of asphalt or curb if a sidewalk is not present, when intersecting a paved street or alley.
4. Driveway shall be removed and landscaped if the existing adjacent parking space(s) are removed
5. Driveways providing fire apparatus access to the property shall meet the design and construction requirements of the adopted Fire Code and Appendix D.
6. Driveway minimum width shall be:
 - (a) 8.5 feet if the driveway is less than or equal to 150 feet in length; or
 - (b) 12 feet if the driveway exceeds 150 feet in length.
7. Where any portion of an exterior wall of the first story of a building is located more than 150 feet from a fire apparatus access road, driveways used as emergency access shall provide:
 - (a) A minimum unobstructed width of 12 feet and a minimum vertical clearance of 13 feet 6 inches.

- (b) An approved all-weather driving surface capable of supporting the imposed loads of fire apparatus.
 - (c) An approved turnaround when the driveway exceeds 150 feet in length.
 - (d) A gradient not to exceed 10 percent unless approved by the fire code official.
8. If not a fire apparatus access road, driveways shall have a maximum grade of 15% within 15 feet of a sidewalk or property line, if sidewalk is not present, and a maximum grade of 20% elsewhere.

Division 6.3.03 Parking Facilities

Section 6.3.03-A. General

1. Parking facilities shall comply with ARM 24.301.901-24.301.905 and the currently adopted edition of ICC/ANSI A117.1 for accessibility.
2. Accessible parking facilities shall be provided in accordance with current Americans with Disabilities Act (ADA) and the Manual.
3. For parking facilities with five or more new parking spaces, ADA accessible features and facilities, pedestrian routes, right-of-way infrastructure improvements and facilities (at grade, above grade and below grade) shall be designed by a licensed professional civil engineer or licensed professional architect and submitted plans shall be stamped by said licensed professional and included with the building permit application, zoning compliance permit application and / or any other required permit application.
4. Parking facilities with five or more new parking spaces shall be constrained by poured-in-place concrete curbing, fencing, bollards, or other means to physically prevent access to unpaved areas. Adequate stormwater management is required in all cases.
5. Parking facilities with five or more new parking spaces shall be designed so that ingress and egress from the public street from and to a parking facility shall occur by driving forward, except for parking spaces served directly off of an alley.
6. In certain situations, areas not designated and approved for parking shall be clearly marked by applying yellow epoxy paint to the curb or asphalt and signed appropriately and as required by the City Engineer as such, i.e. "NO PARKING".
7. Parking facilities shall have the most restrictive ADA compliance requirements applicable, based on the use of each site.
8. If utilizing an adjacent transit stop for a parking reduction as allowed by Zoning, an accessible route between the referenced transit stop and all on-site accessible routes must be provided.
9. Where a total of four or fewer parking spaces, including accessible parking spaces, are provided on a site, identification of accessible parking spaces shall not be required. This rule also applies to each separate parking facility of four or fewer parking spaces on a site. However, all other requirements for accessible parking spaces, including access aisles, shall apply. The combined total of all parking facilities on a site determines the number of accessible spaces to be signed.
10. For new facilities, loading and unloading of goods from vehicles shall occur on-site and shall not be accessed by backing into the private property from streets. All maneuvering, backing and turning movements shall be limited to on-site areas only and shall comply with the Manual.

Section 6.3.03-B. Snow Removal

1. All parking facilities shall provide a snow removal plan. The snow removal plan shall include the removal or storage of accumulated snowfall (snow) within the site.

- (a) The snow removal plan may include:
 - 1. Storage areas located on-site within landscape, lawn or turf areas;
 - 2. Storage areas located on-site within excess parking areas, i.e. parking areas exceeding the minimum required parking;
 - 3. Storage areas located off-site where snow may be legally disposed of.
- (b) Storage of snow is prohibited in locations that:
 - 1. Are within the right-of-way;
 - 2. Create a visibility obstruction per the requirements stated elsewhere in this chapter;
 - 3. Obstruct fire apparatus access roads or fire service features, including fire hydrants, fire department connections (FDCs), fire pumps, or other fire protection equipment;
 - 4. Reduce the quantity of parking spaces below minimum required;
 - 5. Inhibit vehicular, pedestrian, or bicycle movements;
 - 6. Adversely affect vehicular, pedestrian, or bicyclist safety;
 - 7. Obstruct ADA accessible parking spaces, routes, aisles, or other accessible site amenities;
 - 8. Obstruct entrances, fire exits, mailboxes, storage areas, trash enclosures or other accessible site amenities;
 - 9. Block or obstruct required bicycle parking locations;
 - 10. Adversely affects or obstructs a public or private access easement;
 - 11. Obstruct stormwater facilities;
 - 12. Is within a riparian resource area or riparian buffer zone, wetlands, levee, irrigation or other open waterway;
 - 13. Is within a private, public or community wellhead isolation or protection zone;
 - 14. Violate the Clean Water Act (CWA), the Montana Pollutant Discharge Elimination System (MPDES), or any other federal, state or local law / statute.

Section 6.3.03-C. Maintenance

- 1. Many parking facilities are altered to a different configuration which does not comply with the original approved plans and may result in conflicts with zoning and engineering standards. Parking facility maintenance work shall include the following work on private or public parking facilities:
 - (a) Paving Work: Any surface material used in previously unpaved areas where vehicles may drive, park or be stored, may include but is not be limited to; hot mix asphalt, portland cement concrete, or any other material approved by the City Engineer;
 - (b) Repaving Work: The removal of any layer of existing asphalt, concrete or other surface material and the subsequent installation of a new paved surface;
 - (c) Reconstruction Work: shall include one or more of the following work activities: installation and / or removal of existing parking facility surface and / or re-grading, re-constructing, re-organizing of the parking facility, stormwater drainage / management improvements, installation or maintenance of curb and gutter or the installation or maintenance of pedestrian access routes (including sidewalks).
 - (d) Surfacing Work: shall include surface treatment work activities: crack seal / seal coating, chip & seal, striping and / or re-striping, including the installation and maintenance of required Accessibility signage.
- 2. A Private Paving Construction Permit shall be required for any parking facility maintenance work.

Division 6.3.04 Drive-Throughs

Section 6.3.04-A. General

1. Drive-throughs shall provide adequate on-site maneuvering and circulation areas to ensure that vehicle queuing / stacking does not impede traffic on adjacent rights-of-way (roads, streets and sidewalks) and that traffic is not a nuisance nor an impact to adjacent properties.
2. Vehicle queuing / stacking lanes shall be designed to not interfere with parking, site ingress / egress and vehicle circulation.
3. Vehicle queuing / stacking lanes shall be clearly delineated by curbing, landscaping, signing / striping, vehicle delineators, or other methods approved by the City Engineer.
4. Vehicle queue length shall be 20'6" per vehicle.
5. Vehicle queue measurement shall start from the center of the first order position of drive through or key / code box of gated facility or site.
6. Drive-throughs shall meet the minimum queuing provided in Table 6.3.04-1.

Table 6.3.04-1: Drive-Through Queuing

Drive-Through Service	Minimum Queuing
BANK / ATM / ITM	6 / window or lane
CAR WASH; automatic drive through - standalone	8 / wash unit -or- 4 / internal lane(s)
CAR WASH; hand / manual / wand-wash	3 / wash bay
COFFEE and / or DONUT - drive through only each window shall be staffed for 2-side service	4 / window or lane 8 minimum for 2-side service
FOOD SERVICE / RESTAURANT / COFFEE - with sit-down	3 / window or lane
LAUNDRY / DRY CLEANING	1 / window or lane
MEDICAL DIAGNOSTIC / TESTING; ex. COVID-19 testing	1 / window or lane
PHARMACY	3 / window or lane
REFUEL STATIONS; Diesel, Gasoline, Electric	1 + service space / lane
GATED STORAGE FACILITY / OTHER GATE or DOOR including security checkpoint	1-2 / gate, <i>per City Engineer</i>
VEHICLE SERVICE; Lube, Oil, Filter, etc	2 + service space / bay

Division 6.3.05 Permits

Section 6.3.05-A. General

1. Private Paving Construction (PAV) Permit shall be required for paving, repaving or reconstruction of any parking facility. The fee for this permit shall be set by resolution. The following shall be required for permit review:
 - (a) A site plan(s) drawn to a scale not greater than 1'=20' and includes north arrow;
 - (b) If re-striping is to exactly match the existing layout then the applicant may submit copies of the original site plan(s) provided that the existing layout complies with all current standards;
 - (c) Show property lines and complete legal description of the parcel(s);

- (d) Show all existing structures and entrances;
 - (e) Show construction notes and City Standard Drawing references;
 - (f) Show existing and proposed stormwater drainage / management, snow storage area(s), landscaping, and lighting systems (a Photometrics Plan may also be required);
 - (g) Show existing and proposed pedestrian access routes (sidewalks) and driveways on private property, adjacent right-of-way, and easements;
 - (h) Show asphalt / concrete pavement thickness and base materials thickness;
 - (i) Show parking arrangements, space dimensions, layout, quantity, markings, and configuration; and
 - (j) Show ADA accessible parking facilities on the site plan including signing, striping, ramps, and site / structure access.
2. Upon approval of a Private Paving Construction (PAV) Permit, all applicable additional permits, including but not limited to: Zoning Compliance Permit (ZCP), Right-of-Way Construction (RWC) Permit, Floodplain Permit, or Construction Stormwater Permit (SWP), shall be issued prior to parking facility construction and / or maintenance work commencement.
 3. Application for permit(s) for private property paving construction and / or maintenance work specified in this chapter shall be made to the City Engineer as required, electronically or on permit application form(s) provided for such permitting purposes.
 4. Upon approval of private property paving construction work, all applicable permits including but not limited to a Private Paving Construction (PAV) Permit and Construction Stormwater (SWP) Permit, shall be issued before paving construction work shall begin.
 5. Private paving construction work performed for driveways or parking facilities shall conform to this UDC and any deviation from this Chapter shall be reviewed and approved by the City Engineer prior to any paving construction work activities.

Section 6.3.05-B. Fees

1. Prior to approval of a Private Paving Construction (PAV) Permit, the payment of fee(s) as required by Missoula Municipal Code (MMC) and as established by City Resolution, staff shall review and determine that the proposed improvement(s) is / are in conformance with the provisions and standards set forth in Missoula Municipal Code (MMC), the UDC, the Manual and all other applicable federal, state and local regulations and requirements.
2. Permit fees are based on the average direct and indirect costs to provide plan checks, permit administration, review, field inspection, and record management. The fee for obtaining a permit shall be established and / or amended by Resolution approved by City Council, after conducting a public hearing. Revenue from these fees shall be credited to the appropriate City fund.
3. Exceptions:
 - (a) Any contractor doing work for the City may be exempted from permit fees.
 - (b) Work performed by the City is exempt from permit fees.
4. Whenever any work for which a permit is required by this ordinance has been commenced without first obtaining said permit, a special investigation shall be made before a permit may be issued for such work.
5. Penalties, including but not limited to, re-inspection fees and penalty fees may apply. See Chapter 2 for Violations, Penalties, and Enforcement.
6. Unless otherwise approved by City Council, refunds or credits of permit fees shall only be given when permit application errors or mistakes are caused by the City.

Section 6.3.05-C. Inspection

1. All private property paving construction work shall be inspected after paving is complete.
2. All driveway and parking facility work shall be executed and completed to the satisfaction of the City inspector.
3. All inspections are required to be scheduled no later than 7:00 AM the day of the inspection.
4. The City of Missoula reviewed, stamped and approved set of plans shall be available on any / all construction site(s) at the time of any inspection(s).

Article 6.4

FENCES

Division 6.4.01 General

Section 6.4.01-A. Fence Maintenance

1. The property owner shall assume, by way of an approved fence permit application, all responsibility to maintain approved fence in good repair at all times at their sole expense.
2. The fence that is approved to be constructed shall always be maintained in a condition that is deemed safe and satisfactory, as determined by the City Engineer.

Section 6.4.01-B. Fence Liability

1. The property owner shall assume, by way of an approved fence permit application, all liability resulting from any incident involving the approved fence installation and maintenance and shall hold the City harmless from all damages resulting from such incident.

Section 6.4.01-C. Fence Responsibilities

1. The property owner shall assume, by way of an approved fence permit application, all responsibility to install the fence on the property owners' property.
2. All fences shall be installed inside the property line so that no component; post, footing / base, or any other portion of the fence extends beyond the property line. If the location of the property line is unknown or unclear, it is recommended that, at minimum, a retracement survey be performed by a Montana licensed professional land surveyor, prior to fence installation. A dispute over property line location between neighbors is a civil matter and shall be directed to the Civil Court system.
3. In the event the installation of a private fence location has been observed and is considered by the City Engineer to be off-property or existing within the right-of-way, and a Fence Encroachment has not been approved by the City Engineer, the Property Owner shall relocate the fence so as to be out of the right-of-way, or provide a survey with the property corners evidenced by survey markers set by a Montana Licensed Professional Surveyor. No existing fence shall be exempted from this requirement to be relocated."

Section 6.4.01-D. Fence Permit Revocation

1. The property owner acknowledges, by way of an approved fence permit application, that if the fence is not constructed in accordance with the approved plans or is constructed so to encroach into the public right-of-way, the issued fence permit may be revoked.
2. If a fence permit is revoked, the property owner agrees to immediately take corrective action and/or remove the fence and restore the premises to its original condition. See Chapter 2 for Violations, Penalties, and Enforcement.

Section 6.4.01-E. Covenants, Conditions, and Restrictions

1. Homeowners are encouraged to check their Condominium Association, Homeowners Association or other organization for private requirements found in Covenants, Conditions, and Restrictions that may apply to the construction of fences on their property or in their subdivision, before applying for fence permits. Enforcement of these private requirements shall not be the responsibility of the City.

Section 6.4.01-F. Building Permits

1. Any fence exceeding eighty-four (84") inches or seven (7') feet in height shall be designed and engineered for safety, structural soundness, and lateral / wind load analysis and shall require a City Building Permit in addition to the required City Fence Permit.

Section 6.4.01-G. Determining Yards

1. Designation of the 'Front Yard' and 'Rear Yard' shall be determined by the 'Front Door' of the home, as constructed.
2. From the front door forward to the street or front property line shall be the 'Front Yard', while from the front door rearward to the alley or back property line shall be the 'Back Yard'.

Section 6.4.01-H. Maximum Fence Heights Exception

1. Requests to exceed the maximum height standards provided in this article may be approved if the City Engineer finds that there are extenuating and unusual circumstances that warrant the additional height.
2. Fences greater than the maximum height standards shall not create a negative impact on residential neighbors.
3. The property owner may be required to provide comment from the adjacent property owners to be included with the exception request.

Section 6.4.01-I. Fence Installation Relative to Public Sidewalks

1. Where public sidewalks do not exist, fences shall be installed no closer than twenty-four (24") inches or two (2') feet to the back of any future public sidewalk as determined by the City Engineer. This is to facilitate the installation of the future sidewalk without disturbance to the fence.
2. Where public sidewalks do exist, no fence shall be installed closer than twelve (12") inches or one (1') foot to the back edge of the existing sidewalk. This shall facilitate future maintenance and / or replacement of the existing sidewalk without disturbance to the fence.
3. The fence shall be located on private property, regardless of existing or future sidewalk location, unless a Fence Encroachment Permit has been approved per Division 6.4.02 Fence Encroachments.

Section 6.4.01-J. Fences within an Easement

1. The property owner acknowledges, by way of an approved fence permit application, that certain types of fences may be permitted to encroach only into certain types of easements, and as may be approved by the City Engineer.
2. Property Owner(s), fence permittee(s), and fence contractors shall review the plat and / or any separate easement document(s) for the subject property prior to submitting for an application for a Fence Permit.

3. Property Owners accept that any / all fences approved for construction over, upon, or within an easement, may be removed at any time and without notice.
4. Property owner(s) / fence permittee(s) accept any and all liability for damage, maintenance, or repair to the easement as a result of the constructed fence and / or the installation thereof.

Section 6.4.01-K. Fences in the Floodplain

1. Fences located on properties within the floodplain shall be reviewed and approved by the Floodplain Administrator prior to review and approval of the City Engineer. A floodplain permit may be required depending on the design and placement of the fence.

Section 6.4.01-L. Fences Adjacent to a Levee

1. For properties located through, upon, or within a levee; no fence of any kind shall be constructed through, upon, or within the levee.
2. No flood control device shall be altered, damaged, impeded, or removed as a result of fence installation.

Division 6.4.02 Fence Encroachments

Section 6.4.02-A. General Requirements

1. The City Engineer is authorized to review and if / when / where appropriate, grant a Fence Encroachment Permit to the Property Owner of land adjacent to City right-of-way for a temporary and revocable privilege to construct, install, and maintain a fence upon a portion of the public right-of-way that is not currently or prospectively used or needed in the near future for any public travel or public use.
2. No fence shall be allowed to encroach into Montana Department of Transportation (MDT) right-of-way without MDT approval in addition to a City of Missoula Fence Encroachment Permit.
3. If no public sidewalk or curb exists, the City Engineer shall determine the most probable location of the future sidewalk and / or curb/gutter and approve the fence location based on this information. The City Engineer, at their discretion, may require the installation of curb and sidewalk prior to approval of the Fence Encroachment Permit.
4. Encroaching fences shall have posts not exceeding two and three-eighths (2-3/8") inches outside diameter for metal pipe or four (4") inch square dimension for wooden posts.
5. No fences shall be constructed of stone, rock, masonry, any metal with pointed or projecting tops, cable, or chain.
6. Prior to the issuance of the Fence Encroachment Permit, the fence design shall be approved by the City Engineer or a designee to ensure conformity to this article and to be reviewed for potential hazards.
7. No other structure or storage of personal property inclusive of motorized vehicles other than landscape materials detailed in the Manual shall be allowed in the public right-of-way behind a permitted encroaching fence.
8. There shall be no shrubs, bushes, or hedges exceeding the height of the permitted fence in the public right-of-way, behind a permitted encroaching fence.
9. No electric, barbed wire, or razor wire fences shall be allowed as Encroachment Fences.
10. Encroaching fences shall meet all applicable requirements of this chapter.

Section 6.4.02-B. Existing Fence Encroachments

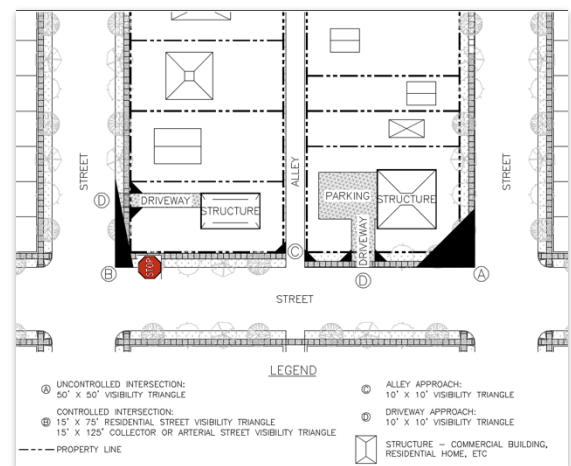
1. Existing fences that encroach upon a portion of the public right-of-way shall be approved by the City Engineer and are subject to all requirements of this chapter.
2. When twenty-five (25') feet or more of an existing fence in the public right-of-way is replaced, repaired, or reconstructed, a new fence encroachment permit shall be obtained from the City prior to re-construction of the fence.
3. When an existing fence in the public right-of-way is replaced, repaired, or re-constructed and the reconstruction results in a reduction to the amount of encroachment, the encroachment permit fee shall be waived.
4. The City Engineer may order that an encroaching fence be removed, modified, or relocated due to:
 - (a) Causing a sight / visibility obstruction in accordance with Missoula Municipal Code (MMC) Section 12.28;
 - (b) Installation of any public improvements within the right-of-way;
 - (c) Installation of a traffic control device;
 - (d) An order by the City Council;
 - (e) The owner replacing, reconstructing, or repairing twenty-five (25') feet or more of the existing encroaching fence; or
 - (f) If the fence is in a deteriorated and / or hazardous condition.

Division 6.4.03 Residential Uses

Section 6.4.03-A. General

1. No fence shall be constructed or installed anywhere which restricts or obstructs sight visibility as described in UDC or Missoula Municipal Code (MMC) Section 12.28 and illustrated in Figure 6.4.03-1.
2. No fence in a residential area shall be constructed of, or contain:
 - (a) Broken glass;
 - (b) Barbed wire;
 - (c) Razor wire.
3. No fence in a residential area adjacent to a public sidewalk shall be constructed of, or contain, materials having sharp, hazardous points, or protrusions.

Figure 6.4.03-1 Sight Visibility

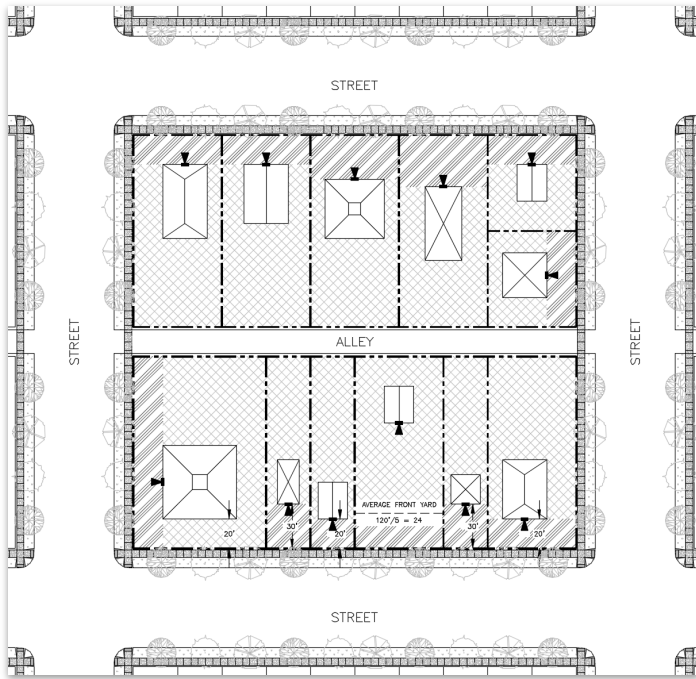


Section 6.4.03-B. Fence Height

1. Yards where fences are restricted to a maximum height of four (4') feet are illustrated in Figure 6.4.03-2.
2. Front Yard fences shall have a maximum height of forty-eight (48") inches or four (4') feet. Front Yard height is to be measured at the ground level immediately adjacent to the fence or the adjacent sidewalk grade (existing sidewalk or future / proposed sidewalk) to the top of the fence and posts.

3. When an existing home is further from the front property line than the other homes on the same side of the block a front yard fence on the subject parcel may be constructed at the location of the average front yard depth of the parcels within the block face.
4. Exceptions from maximum fence height may be granted by the City Engineer or designee to allow a six foot (6') fence height in the following cases:
 - (a) Where portions of a pre-existing one-unit house are immediately adjacent to, or directly across the street from, a new commercial or industrial use that has generated new or additional impacts.
 - (b) Fences in residential areas that are facing or fronting property with railroad tracks that are active or used daily.
5. Rear Yard Fences shall have a maximum height of seventy-two (72") inches, or six (6') feet. Rear Yard fence height shall be measured from the height of the ground level adjacent to the fence.
6. Height of fences built upon or immediately behind a retaining wall shall be limited to the maximum height of either four (4') feet or six (6') feet, depending on the fence location. The maximum height shall be measured from the grade / elevation of the ground retained by the retaining wall to the top of the fence.
7. Wildlife fences designed to exclude deer or elk from residential gardens, up to ninety-six (96") inches or eight (8') feet in height, may be permitted subject to the following restrictions:
 - (a) The wildlife fence is in the rear yard and encloses the minimum area necessary to protect planted area(s). The planted area(s) shall be delineated on a site plan (this provision is not intended to promote the fencing of entire yards).
 - (b) The wildlife fence has a maximum of ten (10%) percent opacity, and the fence material is standard woven wire or custom high-tensile wire / mesh. In order to protect wildlife from injury there may be gaps of no more than eighteen (18") inches between the horizontal wire strands, no barbed wire or other components or attachments injurious to wildlife and there shall be a high-visibility top rail (flags may be used).
8. Wildlife fences that do not meet the standards above may be permitted as an exception, if the design is deemed to be an acceptable alternative by the City Engineer, that protects gardens while being safe for wildlife, sensitive to neighborhood character, and not have a negative impact on residential neighbors. The property owner may be required to provide comment from the adjacent property owners to be included with the exception request, as determined by the City Engineer.
9. Fences in excess of eighty-four (84") inches or seven (7') feet in height shall require a City Building Permit, in addition to the required City Fence Permit.

Figure 6.4.03-2 Yards and Fence Heights



Section 6.4.03-C. Electric Fences

1. Electric fences for deterring bears from apiaries (beehives), fruit trees, gardens, livestock pens, rabbit hutches, garbage containers, dog kennels, chicken coops, compost piles, storage sheds, and other uses may be permitted with approval of the City Engineer, within the Bear Buffer Zone as shown in Appendix A of Missoula City Resolution #7503 or on a parcel where a documented incident has occurred involving a bear on the property. The fence shall enclose the minimum area necessary to protect the use.
2. Electric fences shall not be erected along or adjacent to any street, alley, sidewalk, or other public right-of-way or public property or along any dividing line between separate pieces, parcels, or lots of land.
3. Montana Fish, Wildlife & Parks' publication Deterring Bears with Electrified Fencing: A starter's guide is a resource for design and specifications.

Division 6.4.04 Commercial, Industrial, or Agricultural Uses

Section 6.4.04-A. Standards

1. No fence shall be constructed, or installed anywhere which restricts, or obstructs, sight visibility as described in Missoula Municipal Code (MMC) Section 12.28.
2. Commercial / Industrial / Agricultural fences shall not encroach into the public right-of-way. Exceptions may only be granted by the City Engineer when it has been determined that the public safety / public interest will be served by issuing a Fence Encroachment Permit. If an exception is granted, all requirements of this division shall apply.

Section 6.4.04-B. Fence Height

1. Commercial / Industrial / Agricultural fences shall have a maximum height of ninety-six (96") inches or eight (8') feet on all sides.
2. Fences in excess of eighty-four (84") inches or seven (7') feet in height shall require a City Building Permit in addition to the required City Fence Permit.
3. In cases where portions of an existing one-unit house are immediately adjacent to a commercial / industrial development, the maximum height of the commercial / industrial fencing shall be seventy-two (72") inches or six (6') feet.

Section 6.4.04-C. Barbed Wire / Razor Wire Fences

1. Barbed wire or razor wire used on Commercial / Industrial fences may be permitted, with prior approval of the City Engineer.
2. Barbed wire or razor wire used along the top of the fence shall start at a height of not less than seventy-two (72") inches or six (6') feet and shall not be angled so as to extend beyond the property line. Barbed wire or razor wire along the top of a fence is considered to be part of the fence and shall not extend beyond a total height of ninety-six (96") inches or eight (8') feet.
3. Barbed wire fences may be used to secure livestock for agricultural purposes.
4. Barbed wire or razor wire fencing shall not be installed to project over top of any street, alley, sidewalk, or other public right-of-way or public property (including Parks).

Section 6.4.04-D. Electric Fences

1. Electric fences may be permitted with approval of the City Engineer on commercial, industrial, or agricultural properties where there is a demonstrated general security need or a need to secure agricultural livestock or protect agricultural crops.
2. Where permitted, electric fences shall consist of any commercially available (off-the-shelf), packaged fencing system of one joule or less and six thousand (6,000) volts or less that is connected to:
 - (a) Any standard 110/120-volt receptacle outlet;
 - (b) Any hydro, solar, wind, or other natural-resource power system.
 - (c) The fence charger shall be installed not less than six (6') feet above ground.
3. The electric fence shall, at minimum, have one sign at each end and/or corner of the electric fence consisting of, at minimum, eighty (80 sq. in.) square inches (i.e. eight (8") inches by ten (10") inches). Signage language shall include "WARNING" or "CAUTION" and "ELECTRIC FENCE" and display electrical symbols such as a lightning bolt.
4. All modified or altered commercial fencing systems, home-built fencing systems, or automotive / marine battery-operated fencing systems shall not be permitted.
5. Electric fences shall not be erected along or adjacent to any street, alley, sidewalk, or other public right-of-way or public property or along any dividing line between separate pieces, parcels, or lots of land.

Division 6.4.05 Fence Gates and Arbors

Section 6.4.05-A. Standards

1. No gate shall open in any way so as to extend beyond the property line and / or into the street, alley, sidewalk, or other public right-of-way. All gates shall open into the property or be offset into the property at least a distance equal to the width of the gate. All gates shall be subject to the same height restriction(s) as the fence segment in which the gate is located.
 2. An arbor may be used over a gate where there is a walkway. The arbor shall have a minimum of six (6') foot, eight (8") inches height clearance and shall not exceed an overall height of ten 10' (foot) and shall be outside of the right-of-way.
-

Division 6.4.06 Construction Site Fences

Section 6.4.06-A. Standards

1. No construction site fence shall be constructed or installed which restricts or obstructs sight visibility in accordance with Missoula Municipal Code (MMC) 12.28.
 2. Construction fencing on private property does not require a fence permit.
 3. Construction fencing may be up to seventy-two (72") inches or six (6') feet in height on all sides of the worksite.
 4. A construction fencing base shall not obstruct any bicycle, pedestrian or vehicular traffic on sidewalks, streets, alleys, or any public right-of-way.
 5. Construction fencing shall not be permitted in the public right-of-way without prior issuance of a Right-Of-Way Occupancy / Use Permit.
 6. Construction fencing shall be maintained in a safe condition for the duration of the construction project, as determined by the City Engineer.
 7. Construction fencing shall be subject to all other fence restrictions identified in the UDC.
-

Division 6.4.07 Permits

Section 6.4.07-A. General

1. Any property owner or contractor constructing a new fence, or any time twenty-five (25') feet or more of any portion of any existing fence (front or rear) is replaced, reconstructed, or repaired by a property owner or contractor, a fence permit shall be obtained from the City, prior to the construction or reconstruction of said fence.
2. Fence permit fees are established by Resolution.
3. One fence permit is required per physical location, parcel, lot, or address. One permit shall not be issued for multiple locations or addresses unless one physical location, parcel, or lot has multiple addresses (such as a

parcel with two houses). All work under this permit shall be completed within one hundred eighty (180) days of issuance. Any work to be done after one hundred eighty (180) days of the issuance date of the permit, shall require a new permit.

4. For Violations, Penalties, and Enforcement see Chapter 2.

Section 6.4.07-B. Fence Encroachments

1. A Fence Encroachment Permit shall be required for any fence that encroaches into the right-of-way.
2. The Fence Encroachment Permit is a temporary, revocable privilege and consists of a Fence Encroachment Permit and a notice signed by the property owner that will be filed at the Missoula County Clerk and Recorder office. The notice must contain the following statements:
 - (a) The Property Owner recognizes that the City retains its right to use and to access the public right-of-way subject to the fence encroachment permit;
 - (b) The Property Owner recognizes that the permit is revocable by the City at any time upon thirty (30) days' notice to the Permittee. The Permittee shall be required to remove the fence and restore the land to its former condition, all at the Permittee's expense, upon receipt of such notice;
 - (c) The Permittee / Property Owner shall assume all liability resulting from any incident involving an encroaching fence and shall hold the City harmless from all damages resulting from such incident and the assumption of liability shall be binding on successors in interest;
 - (d) Any future / subsequent Property Owner shall bare and have the same conditions, responsibilities, and honor all covenants as agreed by the original Property Owner receiving the original Fence Encroachment Permit;
 - (e) The encroaching fence shall comply with all provisions of this fence ordinance; and
 - (f) The Property Owner shall pay a fence encroachment permit fee as established by City Resolution.

Section 6.4.07-C. Appeal Process

Appeals of decisions regarding a fence permit by the City Engineer may be filed by any person aggrieved by the decision to the Missoula City Council by submitting a formal letter to City Engineer requesting that the issue be referred to the City Council citing justification as to why the City Engineer decision should be reconsidered.

CHAPTER 7:

RESERVED BUILDINGS AND CONSTRUCTION

CHAPTER 8:

DEFINITIONS

DEFINITIONS

The words and terms expressly defined in this chapter have the specific meanings assigned, unless the context expressly indicates another meaning. Words that are not expressly defined have the meaning given in the latest edition of Merriam-Webster's Unabridged Dictionary.

#

100-year Flood

One percent (1%) annual chance flood. See Base Flood.

A

Abuts / Abutting

Having property or zoning district boundaries in common; for example, two lots are abutting if they have property line(s) in common.

Access

See Legal Access and Physical Access.

Accessible Parking Space

Any parking space that meets current minimum Americans with Disabilities Act (ADA) parking requirements.

Accessible Route

A pedestrian walkway that connects and provides ADA compliant access to accessible elements of a development(s), site(s) and/or structure(s) with other elements, including but not limited to accessible parking spaces to accessible entrances, accessible entrances to other accessible entrances, accessible entrances to public sidewalks, access to solid waste (garbage) collection area(s), long-term/short-term storage area(s) and postal services or mailboxes.

Accessory Structure

A structure that is subordinate in area, extent, or purpose to the principal use and building on the parcel and that is customarily used in conjunction with a permitted accessory use. Also see Accessory Structure in Article 4.7 Building Standards.

Accessory Use

The use of any land, building, or structure that is customarily associated with and incidental and subordinate to the principal use located on the same parcel.

Affordable Housing

Affordable housing means a development that has been approved by the Office of Housing and Community Development, as a Tier 1 or Tier 2 project within the affordable housing incentive program established by the Office of Housing and Community Development.

Single Dwelling Unit Development Incentive Tiers

For Sale

Tier 1 - For sale housing below 80% AMI*, rental housing below 60% AMI

Tier 2 - For sale housing below 120% AMI, rental housing below 80% AMI or Voucher preference unit
Multiple Dwelling Unit Development Incentive Tiers

Rental

Tier 1 - 75% of units below 60% AMI or qualifying LIHTC projects

Tier 2 - 25% of units below 80% AMI

Ownership

Tier 1 - 10% of units below 80% AMI, 25% at 120% AMI in projects <10 units

Tier 2 - 25% of units below 120% AMI

* AMI Area Median Income for the Missoula area as defined by the U.S. Department of Housing and Urban Development and administered by Missoula Housing and Community Development."

Agent

A person duly authorized to act on behalf of the subject property owner.

Agricultural Land

Land used for agriculture or having a soil type defined by the Natural Resources Conservation Service as having agricultural importance, including prime farmland, farmland of state-wide importance, and farmland of local importance.

Alley / Alley Approach

Any subordinate right-of-way between the connected street(s) used to access private or public property.

Alley Approach Improvements

Any millings, asphalt, concrete or other dust control improvements along any length of an alley.

Amended Plat

The final drawing of any change to a filed platted subdivision, or any lots within a filed platted subdivision.

Antenna

Any equipment or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antenna such as panels, micro-cells, small cell antennas, antennas for distributed antenna systems (DAS), microwave dishes, and satellite dishes, and omni-directional antenna such as whip antenna but not including satellite earth stations.

Applicant

A person who seeks a land use permit or other approval of a development proposal (See also "Subdivider").

Approach

The area from the edge of street or alley to the property line or edge of public access easement which is intended to provide access for vehicles to a parking facility. Component parts of a "approach" include and are referred to as the "curb cut" (laydown), the "apron" and the "sidewalk section".

Apron

That portion of the approach extending from the back of curb to the property line excluding the sidewalk

Arbor

A fence feature forming a latticework or archway over a gate

Attached

Two or more structures are considered attached when they share at least part of a common wall or are connected by structural elements such as a covered porch, portico or passageway, the roof of which is an extension of the principal building or designed to be visually integrated.

Attic

The interior part of a building contained within a pitched roof structure.

Awning

A roof-like structure of rigid material or fabric or similar non-rigid material attached to a rigid frame that is supported completely or partially by either an exterior building wall or wall exterior to an individual tenant space.

B**Balcony**

An open habitable portion of an upper floor extending beyond a building's exterior wall that is not supported from below by vertical columns or piers but is instead supported by either a cantilever or brackets.

Base Zoning District

Any zoning district that is not an overlay district.

Base Flood (Flood of 100 Year Frequency)

A flood having a one percent (1%) chance of being equaled or exceeded in any given year (ARM 36.15.101(4) & (44 CFR 59.1)

Base Flood Elevation (BFE)

The elevation above sea level of the Base Flood in relation to the National Geodetic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified. (ARM 36.15.101(5)). The BFE for AO Zones is measured at the highest adjacent grade up to as high as the depth number specified in feet on the Flood Insurance Rate Maps (FIRMs); or at least two feet if no depth number is specified.

Basement

Any area of a building, except a crawl space, having its lowest floor below finished grade on all sides.

Bay Window

A building projection that: (1) is primarily comprised of a large window or series of windows; (2) is not supported by a building foundation beneath the window; and (3) has glazing over at least 33% of its vertical surface area.

Billboard

A sign designed to advertise products, services or businesses not necessarily located on the premises on which the sign is located. A sign will not be considered "billboard" unless the sign is designed with a surface on which temporary poster panels or bulletins are mounted for the purpose of conveying a commercial or noncommercial message.

Billboard Dynamic Display

A billboard with a dynamic display (See Sign, Dynamic Display).

Billboard, Mobile

A billboard mounted on an operable motor vehicle or trailer that travels over public streets or is parked on private property. Commercial vehicles used in the day-to-day operation of a business that display text, logos, or any other images related solely to the operation of the subject business (e.g., business names or logo on delivery vehicles) are not mobile billboards. Public transportation vehicles (e.g., Mountain Line buses and taxis) are not mobile billboards.

Block

The smallest group of lots, tracts, or parcels surrounded by streets.

Block Face

All parcels abutting one side of a street between the two nearest intersecting streets.

Boulevard

An area of right-of-way between the edge of the street, whether curbed or not, and the edge of the clear path that are usually landscaped with grass or other vegetation and trees.

Boulevard Sidewalk

Sidewalks located so as to create a boulevard between the curb/gutter or edge of the paved street and the sidewalk

Boulevard Tree

Any tree which exists in an area of right-of-way between the edges of the street, whether curbed or not, and the adjacent private property line; within a public easement; or more than one-half of the tree trunk at ground level is within the right-of-way.

Building

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of any person, animal, process, vehicle, equipment, goods or material of any kind or nature; including a gas or liquid storage tank that is principally above ground.

Building Code

The International Building Code as adopted by the City of Missoula and as amended from time to time.

Building Frontage

The portion of a building which is parallel to and faces the right-of-way.

Building Graphic

Any mosaic, mural, painting, or graphic art technique that is not associated with the business being conducted and is applied or implanted directly onto a wall or fence. (See "Mural".)

Building-Integrated System

A solar photovoltaic system that is constructed as an integral part of a principal or accessory building or structure and where the building-integrated system features maintain a uniform profile or surface of vertical walls, window openings and roofing. Such a system is used in lieu of a separate mechanical device, replacing or substituting for an architectural or structural component of the building or structure that appends or interrupts the uniform surfaces of walls, window openings and roofing. A building-integrated system may occur within vertical facades, replacing view glass, spandrel glass or other facade material; into semitransparent skylight systems; into roofing systems, replacing traditional roofing materials; or other building or structure envelope systems.

Building Line

An imaginary line representing the vertical projection (or plumb line) of an exterior building wall that encloses interior floor space.

Building Materials/Fire-wise Construction

Building materials and construction techniques that can safeguard homes.

Building Site

Any lot or parcel of land or contiguous combination thereof, under the same ownership intended to be used for building or development.

Building Width

The width of a building measured parallel to the street from exterior wall to exterior wall.

Build-to-Zone

The area on a parcel between the minimum and maximum setbacks that the primary building is required to occupy.

Build-to-Width

The minimum cumulative building width that must occupy the build-to zone, based on the width of the parcel at the street.

C**Cannabis**

A term used in this zoning code replacing the term "marijuana" used in state statutes and defined by the State of Montana (MCA §16-12-102). The term does not include hemp as defined in state law (MCA § 16-12-102).

Cannabis, Canopy

The total amount of square footage dedicated to live plant production at a registered premise consisting of the area of the floor, platform, or means of support or suspension of the plant.

Cannabis, Cultivation

The growing, harvesting, and curing of cannabis.

Cannabis, Manufacturing

The converting or compounding of cannabis into cannabis products, cannabis concentrates, or cannabis extracts.

Cannabis, Products

Products containing THC, derived from cannabis, for consumption. The term does not include hemp as defined in State law (MCA § 16-12-102).

Cannabis, Recreational

A term used in this zoning code replacing the term "adult-use" used in state statutes and defined by the State of Montana (MCA § 16-12-102).

Canopy

A permanent roof-like shelter constructed of some durable material such as metal, glass, or plastic that may be free standing or attached to a building.

Certificate of Survey

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

Channel

The geographical area within either the natural or artificial banks of a watercourse or drainway. (MCA 76-5-103(2)).

Channel Letter

A fabricated or formed three-dimensional letter, number or symbol.

Circle Street

A street that closes in on itself.

Collocation

The act of siting facilities on an existing structure without the need to construct a new support structure and without a substantial change in the size of an existing wireless communication facility.

Commercial Message

Any sign, wording, logo, or other representation that directly or indirectly, names, advertises, or calls attention to a business, product, service or other commercial activity.

Community-Scale Solar Energy System

A primary-use solar energy system with a rated capacity up to 5 MW.

Complete Application

An application that includes all applicable submittal requirements required for the reviewer to determine compliance with the regulations.

Completely Enclosed Building

A building separated on all sides from the adjacent open space, or from other buildings or other structures, by a permanent roof and by exterior walls or party walls, pierced only by windows and normal entrance or exit doors.

Condominium

A form of individual ownership with unrestricted right of disposal of one or more units in a multiple-unit project, with the land and other parts of the project held in common ownership or use with owners of the other units.

Conservation Easement

An easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement or restriction.

Conservation Lands

Lands that exist in a primarily natural state. They support wildlife and native plants and may also serve to store flood water and recharge our aquifer. Conservation Lands also may support secondary uses such as developed recreation and education areas and related facilities, where such activities are compatible.

Construction

Means and is synonymous with install, installation, maintain, maintenance, reconstruct, reconstruction, remove/replace, and/or repair.

Contiguous Tract

A parcel of land abutting another individual parcel of land.

Copy (Permanent and Temporary)

The wording and images on a sign surface, either in permanent or removable-letter form.

Copy Change

The replacement of inserts within sign frames, modules or cans, but does not include any alteration or replacement of the sign frame, modules or cans.

Corner Lot / Corner Parcel

A lot or parcel located at the intersection of two streets.

Cornice

Projecting horizontal decorative molding along the top of a wall or building.

Corporate Color

Any color part of a trademark or service mark used by a company, including any similar color described in ordinary language such as red or maroon.

Courtyard

A landscaped outdoor space, typically a common area, that is surrounded on at least three sides by building walls, fences, or other structures.

Covenant (Restrictive)

Written covenants, running with the land that restrict or regulate the use of the property or the kind, character, and location of buildings or other structures that may be located thereon.

Crawl Space

An enclosure that has its interior floor area no more than 5 feet below the top of the next highest floor.

Cul-De-Sac

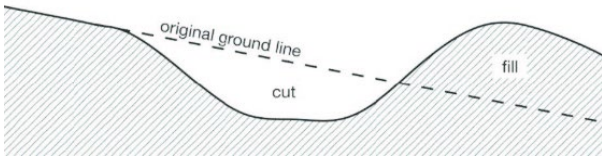
A street that terminates in a vehicular turnaround area.

Curb Cut

The portion of curb at the driveway approach or alley approach constructed to facilitate the passage of vehicles to and from the street to private property (also referred to as a laydown).

Cut and Fill

The excavating of material in one place and depositing of it as fill in an adjacent place.



D

Day

Calendar day, unless otherwise expressly stated. Business days are working days, exclusive of weekends or legal holidays observed by the City of Missoula.

Dead-End Street

A street temporarily having only one outlet for vehicular traffic and intended to be extended in the future.

Dedication

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

Defensible Space

A natural or human-made area where material capable of allowing a fire to spread unchecked has been treated, removed, or modified to slow the rate and intensity of an advancing wildfire and to provide a safe working area for wildfire suppression operations to occur while protecting life and improved property.

Density

The number of dwelling units occupying a given amount of land area.

Developer

A person who creates a development or causes a development to be created.

Development

Any human-made change to real estate or property, including buildings or other structures. This includes construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure within the jurisdiction of the City as well as any manmade change or alteration to the landscape, including but not limited to mining, drilling, dredging, grading, paving, excavating, and filling.

Commentary: In the context of "new development", the code is referring to the construction of a new building or use.

Development Application

Any application or petition for approval in accordance with the procedures of this UDC for approval of a permit or application to commence land clearing, grading, building, or development.

Diameter-at-Breast Height (DBH)

Tree trunk diameter measured at a height of 4.5 feet above grade level at the base of the tree.

Distributed Antenna System (DAS)

A distributed antenna system network consisting of one or more nodes connected by a fiber system to a carrier's base transceiver station or other location commonly referred to in the communications industry as an "eNodeB", or "NodeB", or similar designation.

Division of Land

The segregation of one or more parcels of land from a larger tract, held in single or undivided ownership, by transferring or contracting to transfer title to a portion of the tract or by properly filing a Certificate of Survey or subdivision plat establishing the identification of the segregated parcels pursuant to the Montana Land Use Planning Act, as required by MCA 76-25-103.

Drainage

A general term applied to the removal of surface or subsurface water from a given area either by gravity or by pumping.

Drainage System

The surface and subsurface system for the removal of water from the land, including both the natural elements of streams, marshes, swales, and ponds, whether of an intermittent or continuous nature, and the manufactured elements that includes culverts, ditches, channels, retention facilities, and stormwater systems.

Drive-through Facility

Any service window, automated device or other facility that provides goods or services to individuals in a motor vehicle.

Driveway

An area on private property where motorized and/or non-motorized vehicles are operated or allows access between a parking facility and a street.

Dry Well

A subsurface structure that allows storm water to flow into the ground under the force of gravity.

Dwelling Unit

A single residential unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. The intent is to be consistent with the building code.

Commentary: The presence of the following are indicators of a dwelling unit: counters, stove, refrigerator, sink, 220V electrical outlet, and bathroom including bathing facilities. In addition, the unit shall have independent access and no access from another dwelling unit. This is not an exhaustive list. One of these indicators on its own is not proof of a dwelling unit.

Dynamic Display

See Sign, Dynamic Display.

E**Easement**

Authorization by a property owner for use of all or a designated portion of the subject property by another property owner or entity.

Electric Fence

Any commercially available (off-the-shelf), packaged fencing system of one (1) joule or less and six thousand (6,000) volts or less that is connected to:

1. Any standard 110/120-volt receptacle/outlet.
2. Any hydro, solar, wind, or other natural-resource power system.

Encroaching Fence

Any portion of a fence that extends beyond private property into the public right-of-way; towards the sidewalk, street, alley, or any other public space; above and/or below the ground.

Encroachment

A structural or architectural element that breaks the plane of a vertical or horizontal regulatory limit extending into a Setback or Right-of-Way.

Engineer (Professional Engineer)

A person licensed in conformance with MCA Title 37, Chapter 67, to practice engineering in the State of Montana.

Equipment Enclosure

A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing personal wireless service signals. Associated equipment may include air conditioning, backup power supplies, emergency generators and other equipment necessary for operation of the facility.

Erected

Attached, altered, built, constructed, reconstructed, enlarged or moved, and includes the painting of walls, signs, or the relocation, placement or alteration of individual sign letters, modules, or cans.

Erosion

The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as water, wind, ice, gravity, or artificial means.

Examining Land Surveyor

The examining land surveyor duly appointed by the Missoula County Board of County Commissioners to review surveys and plats for errors and omissions and verification that the survey meets state law and local regulations prior to filing with the Missoula County Clerk and Recorder, as required by MCA 76-3-103 and 76-3-611(2)(a), as amended.

Excavation

The removal, replacement or the change in grade of any soils or finish surfacing materials on public or private property for the purpose of installing, repairing, maintaining, replacing, removing or investigating underground facilities including but not limited to monitor wells, water, sewer, gas, electric, telephone, television cable, utility poles, and those underground items necessary for their function.

Excavator

Only those individuals, persons, firms or corporations who are authorized, licensed and bonded as required by Missoula Municipal Code (MMC) 5.08, to excavate.

F

Facade

All the wall planes of a building seen from one side or view.

Façade Transparency

The amount of transparent window glass or other openings in the Façade of a building, relative to the overall surface area of the façade.

Fence

Any kind of wall, enclosure, or barrier around the property that does not otherwise structurally function as a retaining wall (a wall built to keep earth or water in place) or as a structural, integral part of a building as defined by the International Building Code (IBC) and International Residential Code (IRC).

Final Plat

The final drawing of the subdivision and dedication required by these regulations to be prepared for filing for record with the County Clerk and Recorder, containing all elements and requirements set forth in these regulations.

Flag Lot

A lot of regular or irregular shape having a narrow frontage connecting it to a street or alley.

Flashing

A pattern of changing light illumination where the sign illumination alternates suddenly between fully illuminated and fully non-illuminated for the purpose of drawing attention to the sign.

Flood Fringe

The identified portion of the Floodplain of the Regulated Flood Hazard Area outside the limits of the Floodway. (ARM 36.15.101(10)).

Flood Insurance Rate Map (FIRM)

Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community.

Floodplain

The area of the Regulated Flood Hazard Area including and adjoining the watercourse or drainway that would be covered by the floodwater of a Base Flood. The area is partitioned into a Flood Fringe and Floodway where specifically designated. See Regulated Flood Hazard Area.

Floodplain Regulations

Ordinance No. 3267 of the City of Missoula, Montana, as amended.

Floodway

The identified portion of the Floodplain of the Regulated Flood Hazard Area that is the channel and the area adjoining the channel that is reasonably required to carry the discharge of the Base Flood without cumulatively increasing the water surface by more than one half foot. (MCA 76-5-103(11)) (MCA 76-5-103(5)).

Floor Area, Gross

The gross horizontal area of the subject space, measured from the interior faces of any exterior walls.

Floor Area Ratio (FAR)

Floor Area Ratio (FAR) regulates building intensity by controlling a building's Gross Floor Area relative to the parcel on which it is built. It is calculated by dividing the total gross floor area of all buildings on a parcel by the total area of that parcel.

Front Property Line

The property line that faces and is adjacent to the street. On corner parcels, the front property line is the property line that is parallel to the alley that serves the parcel. When no alley exists, the zoning officer is authorized to establish the front property line and the street side property line.

Front Yard Fence

A fence that is intended to contain people and pets, to prevent intrusion by people or pets, or to simply mark a boundary and are not meant for privacy or to restrict vision, but for openness and continuity along the street frontage

Frontage (Street Frontage)

The boundary of a parcel that abuts a street right-of-way.

G**Garage**

A covered structure designed to provide shelter for vehicles and that is accessory to a one-unit house, duplex, or rowhouse. Carports are considered garages. A garage may be attached to or detached from the principal building.

Gate

A device at a passageway or a moveable barrier, located in a section of a fence that can swing, slide, raise/lower, or otherwise provide access, ingress, and/or egress to the property or enclosed area.

Grade, Existing

The grade or elevation of the ground surface as approved with the final plat. In situations when a final plat is not available or the elevation information is not available on the final plat, existing grade is the grade that exists at the time of application for permit.

Grade, Finished

The grade of a site after grading and building construction, inclusive of any retaining walls, built up grade or other changes to existing grade.

Grading

The mechanical movement of dirt, gravel, rock, sand, or soil to adjust the level or steepness (grade) of a construction site, development, parcel, or lot.

Grid-Connected Solar Energy System

A solar photovoltaic system that is connected to an electric circuit served by an electric utility company.

Ground Floor

The first floor of a building (as measured from the lowest floor upward) that has more than 50% of its floor-to-ceiling height above finished grade.

Ground-Mounted Solar Energy System (Accessory Use)

A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and the system is accessory to the primary use.

Ground-mounted solar energy system (Primary Use)

A solar photovoltaic system mounted on a rack or pole that is ballasted on, or is attached to, the ground and is the primary land use for the parcel(s) on which it is located. Primary use systems are permitted through a discretionary approval process.

H**Habitable Space**

Space in a structure for living, sleeping, eating, working, or cooking. Habitable space excludes garages and parking structures.

Half-Street

A portion of the width of a street or road, usually along the outside perimeter and adjacent to a subdivision, up to the right-of-way or road easement centerline.

Hazard

Any natural or human-created condition that presents danger to the public health, safety, or welfare.

Household

One or more persons living, sleeping, and usually cooking and eating on the premises as a single housekeeping unit.

I**Illumination, External**

A source of illumination that is not internal which lights the sign but which is largely itself not visible to persons viewing the sign. The light fixture may be visible, but the source of light should be largely not visible.

Illumination, Internal

A source of illumination entirely within the sign that makes the sign visible at night by means of lighting the background, light being transmitted through a translucent material or the character (i.e., letter) itself being opaque and thus silhouetted against the background. The source of illumination may not be visible.

Immediate Family

For the purpose of utilizing the exemption from subdivision review provided in MCA 76-25-402(n), immediate family means a spouse, children by blood or adoption, and parents.

Impervious Surface

Any surface that either prevents or retards the entry of water into the soil profile, (the area from ground surface to parent material), as under natural conditions prior to development, and/or a surface area that causes water to run off the surface in greater quantities or at an increased rate of flow from the flow present under natural conditions prior to development. Surfaces that impede the natural infiltration of surface and storm water runoff are impervious. Drainage swales are not considered impervious under this definition.

Improvement Agreement

A contractual agreement required to ensure the construction of such improvements as required by these regulations. The improvement agreement may require collateral to secure the construction of such improvements, such as the deposit of certified funds, irrevocable letters of credit, performance or property bonds, private or public escrow agreements, or similar financial guarantees.

Interior Side Property Line

A side property line that does not abut a street or alley.

Irrigation Ditch

A human-made feature that carries only irrigation water to or away from irrigated lands.

J**K****kW (Kilowatt-hour)**

A unit of energy equivalent to one kilowatt of power expended for one hour of time.

L**Landscape Plan**

A legible drawing required for the purpose of determining compliance with the landscaping regulations of Article 4.9.

Landscape/Landscaping

The act of enhancing the appearance of the land by altering its contours, and planting trees, shrubs, vines, flowers, turf, groundcover, natural grasses, and other plant materials for aesthetic effect.

Lawfully Established

A use, building, structure, parcel or sign (as the context indicates) that was established in conformance with all applicable zoning and subdivision regulations in effect at the time of its establishment.

Legal Access

Access to a street or other feature required by this UDC that is provided through an easement or right-of-way.

Light Transmittance

The measure of the amount of light able to pass through a material, such as a window.

Local Facilities or Services

Any and all facilities and services that local governments, public or private utilities are authorized to provide for the benefit of its citizens including but not limited to law enforcement, fire, emergency, and public health services, as well as schools, bussing and roads.

Lot

A contiguous area of land with defined boundaries created by subdivision, subdivision exemption or their legal equivalent. TED Ownership Units (TOUs) are not lots.

Lot Area

The area of a lot exclusive of street, highway, alley, road, or other rights-of-way, unless otherwise expressly stated.

Lot Coverage

The portion of a Lot, expressed as a percentage, which may be occupied by a Principal Building and Accessory Buildings, as well as sidewalks, patios, pools, parking and loading areas, driveways, and other impermeable or man-made surfaces. Pervious Paving does not count towards Lot Coverage.

Lot Width

The dimension of a lot measured along a street frontage.

M**Malt Beverage**

An alcoholic beverage made by the fermentation of an infusion or decoction, or a combination of both, in potable brewing water, of malted barley with or without hops or their parts or their products and with or without other malted cereals and with or without the addition of unmalted or prepared cereals, other carbohydrates, or products prepared from carbohydrates and with or without other wholesome products suitable for human food consumption.

Manufactured Home / Manufactured Housing

A dwelling for a single household, built offsite in a factory that is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A manufactured home does not include a mobile home or housetrailer, as defined in MCA 15-1-101.

Manufactured Home, Single-Wide

A manufactured home that is built as one contiguous unit and moved in its entirety.

Manufactured Home, Double-Wide

A manufactured home that is transported in more than one piece and joined at the final site.

Manufactured Housing Park

A development type in which multiple manufactured homes are located on one parcel and the dwelling units are owned by a different entity than the land on which they are located. The land in a Manufactured Housing Park is leased, held by a community land trust, or owned collectively by an owner's association comprising of all home owners in the manufactured housing park.

Manufactured Home Lease Space

An area of land within a Manufactured Housing Park that is intended to be occupied by a Manufactured Home and may be leased or rented to the owner of a Manufactured Home. See Article 4.12.

Mobile Home

Forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence. Mobile home were constructed before the federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976. Homes constructed after this date that comply with the federal Manufactured Home Construction and Safety Standards are defined as manufactured homes.

Mobile Home Community

A tract of land providing two or more mobile home lots for lease or rent to the general public.

Mobile Home Lot

A designated portion of a mobile home community designed to accommodate one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

Ministerial Permit

A permit granted upon a determination that a proposed project complies with the zoning map and the established standards set forth in the zoning regulations. The determination must be based on objective standards, involving little or no personal judgment, and must be issued by the Planning Administrator.

Ministerial Small Subdivision

A subdivision on land of one acre or less, entirely within the City limits, served by City water and sewer infrastructure and existing public road infrastructure, complies with the Unified Development Code, the Manual, the Park Infrastructure Manual and the Street and Trail typologies without approval of a variance, and does not contain restraints or hazards as identified in Chapter 5.

Mixed-use Building

A building that houses residential uses in combination with nonresidential uses.

Monument (Permanent Monument)

A structure of masonry, metal, or other permanent material, placed on or in the ground, which is exclusively identifiable as a monument to a survey point expressly placed for surveying reference.

Mulch

Material applied to the soil surface to retain soil moisture, control erosion, inhibit weeds, and/or regulate soil temperatures.

Multi-Modal Transportation

An approach to transport that incorporates all modes people use to get around. These may include automobiles, commuter railways, buses, bicycles, walking, micro-mobility modes such as e-bikes and scooters. A fully multi-modal transportation system features not only roadways that can support a variety of methods, but also well-integrated trails, sidewalks, bike lanes, and transit systems.

Multi-Tenant Development

A development typically under unified ownership and control consisting of two or more business establishments. The tenants of multi-tenant development typically share vehicle access and parking facilities. A multi-tenant development may consist of a single (multi-tenant) building or multiple buildings on a single development site.

Mural

A large-scale, graphic art technique, applied to a wall or fence, a mural is typically painted, depicting words or imagery. A mural does not have a commercial message and is not associated with the business being conducted.

N

Natural Environment

The physical conditions that exist within a given area, including land, air, water, mineral, flora, fauna, sound, light and objects of historic and aesthetic significance.

No-Access Easement

A line designated on a subdivision plat for the purpose of restricting or limiting vehicular access.

Noncomplying Activity

An activity involving the handling of a Regulated Substance in an amount equal to or greater than its threshold quantity within a Future Wellhead Reservation Area.

Nonconforming Parcel

A lawfully created parcel, shown on a plat or survey map recorded in the office of the County Clerk and Recorder that does not comply with all applicable minimum parcel area or parcel width standards of the zoning district in which the parcel is located. See Article 4.13.

Nonconforming Structure

Any building or structure, other than a sign, that was lawfully established but no longer complies with the parcel and building standards of the zoning district in which it is located. See Article 4.13.

Nonconforming Use

A land use that was lawfully established in accordance with all zoning regulations in effect at the time of its establishment but that is no longer allowed by the use regulations of the zoning district in which the use is now located. See Article 4.13.

Nonconformity

Any development, infrastructure, or landscaping which does not comply with the regulations of this UDC.

Non-Motorized Transportation

Any form of transportation that does not rely on an engine or motor to move, meaning it is powered solely by human or animal power such as walking, cycling, or skating.

Non-Residential

Any building, structure, use or development designed, intended, or used for purposes other than those of a dwelling or its accessory buildings.

O

Open Porch or Deck

A porch or deck that is open on at least three sides and with at least 50% of the total area of the vertical plane on those three sides unobstructed in any manner.

Open Space

A broad term generally including parks, trail corridors, greenbelts or greenways, conservation lands, riparian areas, and agricultural lands.

Open Space Land

Any land that is provided or preserved for: (a) park or recreational purposes; (b) conservation of land or other natural resources; or (c) historic or scenic purposes.

Open-Air Uses

Storage yards, construction debris sites, used vehicle sales lots, vehicle impound yards, auto wrecking, junkyards, and similar open-air uses when the only buildings on the parcel are incidental and accessory to the open-air use of the parcel.

Outcrop

That part of a rock formation that is exposed at the earth's surface.

Outdoor Display Area

A portion of a parcel used for exhibiting in an orderly manner, completely assembled or finished products sold by a retail business located on the same parcel pursuant to an approved permit.

Outdoor Sales Area

An outdoor area used pursuant to an approved permit for the display or sales of seasonal products, new merchandise or the supply of services.

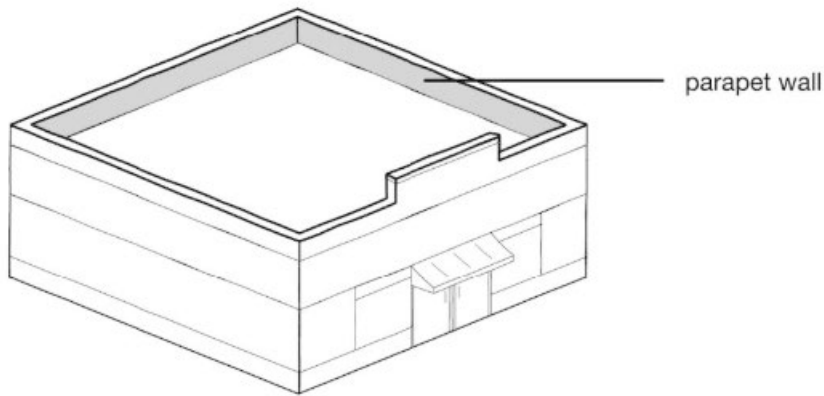
Overlay District

A zoning district that overlays one or more base zoning districts and imposes requirements in addition to those of the base district or modifies the standards otherwise applicable in the base zoning district.

P

Parapet / Parapet Wall

For sign purposes, a wall-like barrier at the edge of a flat roof that acts as a vertical extension of an exterior building wall that extends no more than eight feet above the roof height of the building.



(Zoning) Parcel

A contiguous area of land that is designated by ownership, at the time of application for a zoning compliance permit, as a site to be used, developed, or built upon as a unit, under single ownership or control.

Commentary: Two or more abutting lots might, for example, be combined into a single parcel by virtue of placing a building on the lots in a way that it spans the multiple lots. Under this example, applicable parcel and building standards (e.g., building setbacks) would apply to the parcel as a whole.

Park

A public area of land used for active or passive recreation, owned and maintained by the City of Missoula.

Parking Facility

An area where vehicles are allowed to be parked or stored and shall include but is not limited to pads, carports, driveways, garages, parking lots, or structures. The term "surface parking facility" means surface parking lots intended to park multiple vehicles.

Parking Structure

A covered structure or portion of a covered structure, other than a "garage," that provides parking for motor vehicles. See also Garage.

Paved

Surface treatment consisting of asphalt, concrete or other City Engineer approved hard surface material including the appropriate subsurface materials.

Pedestrian Access Easement

An easement for non-motorized facilities.

Personal Wireless Service

Commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio (SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Pervious Paving

Paving material that permits water to infiltrate into the ground.

Person

An individual, corporation, company, associated, partnership, municipality, public utility, or other public body or institution.

Physical Access

That a street provides vehicular and pedestrian access from a public or private street to the subdivision.

Platting Report

A report from a title service company on the condition of title to property proposed for subdivision that identifies the owners of record of the property, lien holders, encumbrances, easements and restrictions of record, and all other conditions of title of public record, issued within 30 days of the date of submission of the platting report to the City Attorney's Office, and accompanied by a guarantee of the accuracy of the report to the extent of \$5,000.00 from the title insurance agent or its underwriter.

Playground

An Open Space designed and equipped for children's recreation.

Pollinator Plant

A flowering plant that provides nectar and pollen to support pollinators like bees, butterflies, and other insects.

Primary / Principal Structure

The main building on a lot where the primary use takes place. It is typically the largest or most important structure, distinguished from accessory buildings by its size, placement, and function.

Primary / Principal Building

A building or combination of buildings of chief importance or function on a parcel. In general, the principal use is carried out in a principal building.

Primary Entrance

The main point of access for pedestrians into a building.

Primary / Principal Use

An activity or combination of activities of chief importance on the parcel. One of the main purposes for which the land, buildings or structures are intended, designed, or ordinarily used.

Private Street

A street owned and maintained by one or more individuals, organizations, or companies rather than by the City of Missoula or State of Montana.

Product Display Window

An illuminated window display area in which products and goods are displayed to pedestrians but that do not generally allow visibility into the interior of the building.

Property Line

The boundary of a parcel, as shown on a subdivision plat or on a survey represented by the parcel's owner or developer as the boundary of the parcel to be used, developed, or built upon as a unit, under single ownership or control.

Public Access Easement

An easement for public benefit and use. Public access easements may contain streets, curb/gutter, sidewalks, trails and other related features (these may also be designated as: public easement, public sidewalk easement, public right-of-way easement, public non-motorized easement etc.). Public access easements shall be subject to the same specifications, fees, inspections and requirements as public right-of-way.

Public Agency

A board, bureau, commission, department, district, an authority, or other entity of state or local government.

Public Health and Safety

The prevailing healthful, sanitary condition, of well-being for the community at large.

Public Infrastructure

Public improvements which are designed to the standards within this UDC and the Manual that will be accepted, operated, and maintained by the City of Missoula, or under agreement with the City of Missoula, including but not limited to: water systems, sanitary sewer systems, stormwater systems, transportation systems, and park systems.

Pump Top Unit

Integrated equipment on the top of a gas pump structure intended to be used as advertising space by use of electronic video display.

Q**R****Rear Property Line**

That property line that is most distant from and is most parallel to the front property line. See Article 4.10.

Commentary: Not all parcels have rear property lines.

Rear Yard Fence

A fence that is intended to foster privacy, but with height limitations.

Recreational Vehicle

A camping vehicle designed to be towed or a motorized home or pickup coach designed and constructed for human habitation that can be operated independently or with utility connections and that is used as a temporary vacation dwelling.

Recreational Vehicle Park

A place used for public camping where persons can rent space to park individual recreational vehicles or automobiles for transient dwelling purposes.

Recreational Vehicle Space

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

Regulated Flood Hazard Area

A Floodplain whose limits have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and is determined to be the area adjoining the watercourse that would be covered by the floodwater of a Base Flood. The Regulated Flood Hazard Area consists of the Floodway and Flood Fringe where specifically designated. (MCA 76-5-103(4)), (MCA 76-5-103(10)), (ARM 36-15-101(11))

Right-of-Way (ROW)

Land, property, and any interest in land or property and is generally acquired, dedicated, and devoted to public use.

Right-of-Way Encroachment

Any activity, object or obstacle occurring, placed, constructed, or located upon, over, or within the right-of-way or public access easement and that is owned, possessed, or controlled by an entity other than a governmental body or a public utility. A right-of-way encroachment is semi-permanent in nature with a duration exceeding 36 months.

Right-of-Way Improvement or Public Infrastructure Improvement

Includes all construction work in the right-of-way and/or public easement. Improvements include, but are not limited to: all materials, equipment and labor to install or repair curb/gutter, sidewalk, road, street, alley, grading, drainage structure, bridge (vehicular and pedestrian), railing, retaining wall, boulevard or median improvement, driveway approach, alley approach, curb ramp, landscaping, street lighting, traffic management sign, traffic signal, curb and pavement marking, traffic management structure, and utility.

Right-of-Way Occupancy

Any activity, object, and/or obstacle occurring, placed, constructed, or located upon, over, or within the right-of-way or public access easement that impedes free and safe movement of vehicular, bicycle, or pedestrian travel, and/or access or parking. A right-of-way occupancy is temporary in nature with a maximum duration of thirty-six 36 months or less.

Riparian Buffer

An area of varying width extending from the edge of a delineated riparian resource, where development may have a negative impact on wildlife habitat, water quality and quantity, fish, or other aquatic resources.

Riparian Resource

Vegetation and habitat associated with a stream, creek, river, pond, wet meadow, woody draw, wetland, or other body of water.

Riparian Resource Area

An area containing a riparian resource.

Roadway

That portion of a street or highway improved, designed, or ordinarily used for vehicular travel or parking, exclusive of the berm or shoulder.

Roof-Mounted Solar Energy System

A solar photovoltaic system mounted on a rack that is ballasted on, or is attached to, the roof of a building or structure. Roof-mount systems are accessory to the primary use.

Runoff

That part of precipitation that flows off the land without filtering into the soil or being absorbed by plant material.

S

Satellite Dish Antenna

A device designed or used for the reception or the transmission of television or other electric communication signal broadcast or, relayed from a satellite. It may be a solid, open mesh, or bar configured structure, in the shape of a shallow dish or parabola.

Sediment

Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, or gravity as a product of erosion.

Sedimentation

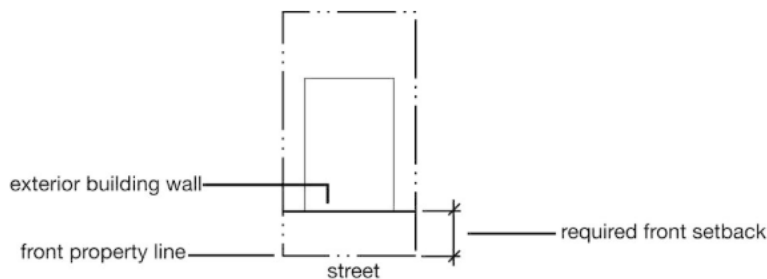
The process of depositing materials from a liquid, especially in bodies of water.

Setback

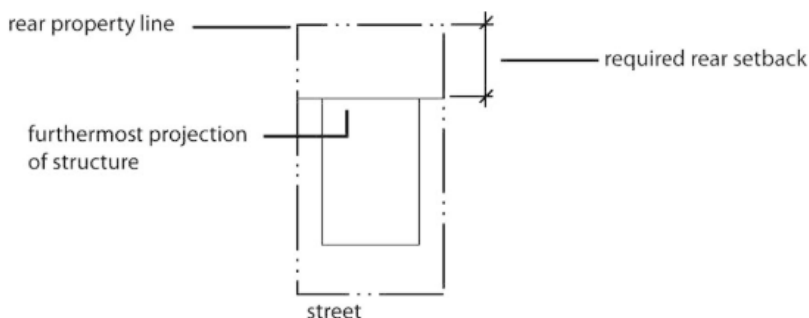
An open, unobstructed area that is required by zoning to be provided from the furthestmost projection of a structure to the property line of the parcel on which the building is located. See Article 4.10 for additional regulations regarding measurement of setbacks and exceptions to setback rules.

Setback, Front

The minimum setback required between a building and the front property line of the parcel on which the building is located, extending along the full length of the front property line between the side property lines. See Article 4.10 for exceptions and rules of measurement.

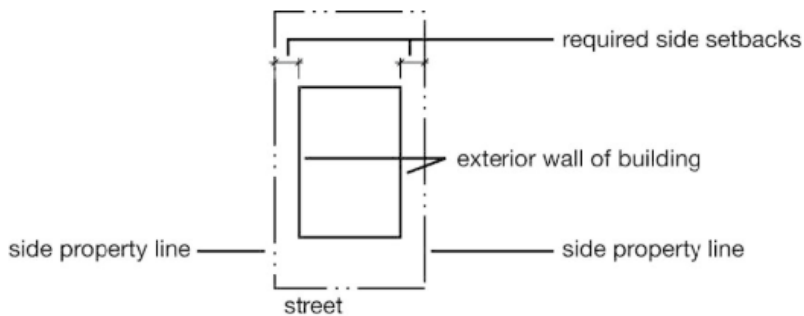
**Setback, Rear**

The minimum setback required between a building and the rear property line of the parcel on which the building is located, extending along the full length of the rear property line between the side property lines. See Article 4.10 for exceptions and rules of measurement.



Setback, Side (Interior)

The minimum setback required between a principal building and the side property line of the parcel on which the building is located, extending along a side property line from the point of the minimum front setback to the point of the minimum rear setback. See Article 4.10 for exceptions and rules of measurement.



Setback, Side Street

The minimum setback required between a principal building and the side street property line of the parcel on which the building is located. See Article 4.10 for exceptions and rules of measurement.

Service Connection

The point of connection of a user's piping to the Missoula Water system.

Sewer Main

In accordance with MT ARM 17.38.101, the City of Missoula defines a sanitary sewer main as any liner providing sanitary sewer connections to more than one property and any line that is designed to sewer main specifications.

Sewer Service Connection

In accordance with MT ARM 17.38.101, the City of Missoula defines a sanitary sewer service connection as a line that provides sewer service to a single building, or main building with accessory buildings, and that is designed to sewer service line specifications.

Short Court

A private street serving three to six lots or dwelling units.

Side Property Line

Any property line that is not a front property line or a rear property line.

Side Street Property Line

The side property line that "faces" and is adjacent to a street on a corner parcel. The side street property line is the property line that is generally perpendicular to the alley that serves the parcel. When no alley exists, the Planning Administrator is authorized to establish the front property line and the street side property line.

Sidcasting

The act of moving excess earthen material over the sides of a road during road maintenance operations or excavation for structural improvements.

Sidewalk

That portion of the public right of way between the curb lines or the lateral lines of a roadway and the adjacent property lines and that which is designated, utilized, maintained, and improved for pedestrian travel.

Sign

Any identification, description, illustration or device, illuminated or non-illuminated, that is visible from any public place or is located on private property and exposed to the public and that directs attention to a product, service, place, activity, person, institution, business or solicitation, including any permanently installed or situation merchandise; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays, and flags emblems, crests or insignia of any nation, or governmental subdivision. The term sign also includes the sign's structure.

Sign Area

The area of a sign including the area within a perimeter that forms the outside shape including the frame, forming an integral part of the display, but excluding the necessary supports or uprights on which the sign may be placed. The sign area may also include background corporate color.

Sign, Abandoned

A sign that no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product or activity conducted or product available on the premises where the sign is displayed.

Sign, Animated

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

Sign, Awning

A sign painted on, printed, or otherwise attached flat against the surface of an awning.

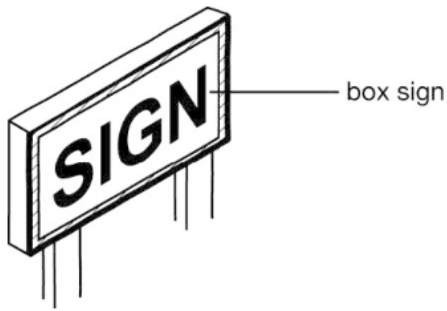


Sign, Banner

A type of temporary sign made of fabric, or any non-rigid material, secured or mounted on a wall or fence so as to prevent movement of the sign caused by movement of the atmosphere.

Sign, Box (AKA Cabinet Sign)

A sign with text or symbols printed on plastic, an acrylic sheet or similar material (including "flex face", fabric-like material) that is mounted on a cabinet or box that houses any lighting source and equipment.



Sign, Canopy

A building-mounted sign that is mounted flush on top of or on a canopy. (see Canopy).

Sign, Changeable Copy

A manual changeable copy sign or a dynamic display.

Sign, Directional

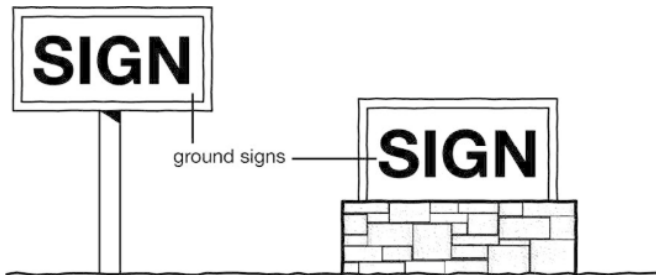
Any sign that serves solely to designate the location or direction of any place or area.

Sign, Dynamic Display

Signs capable of displaying words, symbols, figures, or images that can electronically or mechanically changed by remote or automatic means.

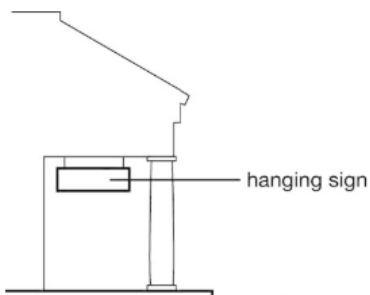
Sign, Ground

A sign erected on a freestanding frame, mast, or pole and not attached to any building.



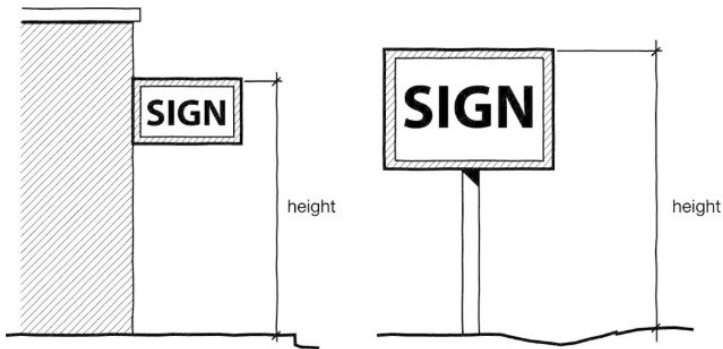
Sign, Hanging

A sign that is suspended below the ceiling, roof, awning, canopy, marquee, or floor overhang.



Sign, Height

The vertical distance measured from finished grade to the highest point of the sign.



Sign, Heritage

A heritage sign is one that employs distinctive graphics, symbols and lighting that is a unique design to the community and are historically-accurate, reflecting the heritage of Missoula. Heritage signs maybe in the form of nonconforming signs or new signs that do not fit within the typical definition and measurements of wall, ground, or other sign.

Sign, Ideological

A sign communicating a message or ideas for non-commercial purposes.

Sign, Inflatable

Any sign which uses compressed or forced gas to provide movement and/or support.

Sign, Manual Changeable Copy

A sign that has a reader board for the display of text information in which each alphanumeric character, graphic or symbol may be changed or re-arranged manually without altering the face or the surface of the sign.

Sign, Menu Board

A type of Stacking Lane sign displaying goods or services available through a drive-up window or available through a drive-in or drive-through establishment.

Sign, Minor

An on-premises sign that does not exceed six square feet in area, is not illuminated, and commercial messages comprise not more than 50% of the area.

Sign, Multi-tenant

A sign on a multi-tenant development site that is intended to convey tenant information to pedestrians and motorists who have entered the site.

Sign, National Register District Identification

A sign provided by the Montana Historical Society that identifies an historic resource listed in the National Register of Historic Places.

Sign, Nonconforming

A sign that was lawfully established, in accordance with all zoning and sign regulations in effect at the time of its establishment but that is no longer allowed by the regulations of this UDC.

Sign, Off-Premises

Any sign advertising goods or services that are not available on the parcel on which the sign is located (see also Billboard).

Sign, On-Premises

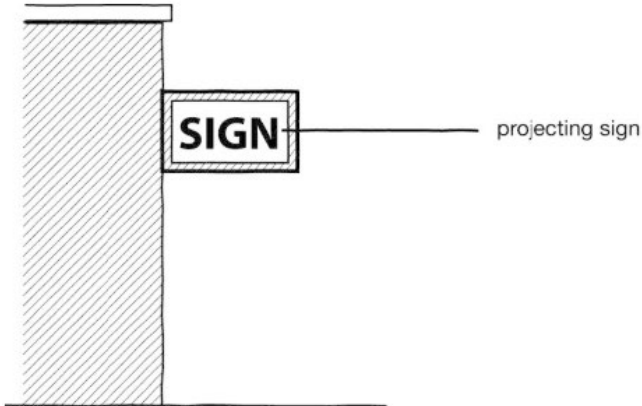
Any sign identifying or advertising a business, person, activity, goods, products or service located on the premises where the sign is installed and maintained.

Sign, Panel

A panel sign is a flat board, of any number of materials, on which copy is placed and then the panel is mounted on the face of a building.

Sign, Projecting

A sign, other than a wall sign, that is attached to and projects from a structure or building face.

**Sign, Roof**

Any sign erected upon, against or directly above any portion of the roof, except signs on parapet walls. Any sign on a parapet wall is considered a roof sign if any portion of the sign is above the parapet wall.

Sign, Sidewalk

A sign that rests on the ground, and that is not permanently attached to the ground or other structure. (See Sign, Off-Premises).

Sign, Stacking Lane

A sign displaying goods or services available through a drive-up window or available through a drive-in or drive-through establishment.

Sign Structure

Any structure that supports, has supported or is capable of supporting a sign, including decorative cover.

Sign, Temporary

A sign constructed of cloth, canvas, vinyl, paper, plywood, fabric, or other lightweight materials not well suited to provide a durable substrate or, if made of some other material is neither permanently installed in the ground nor permanently affixed to a building or structure. When made of non-rigid material, temporary signs must be enclosed in a rigid frame. Temporary signs are intended to be signs such as yard sale, for rent, for sale, construction, development, and special event. (See also Sign, Banner).

Sign, Vehicle

A type of Mobile Billboard sign on vehicles or trailers existing for the primary purpose of on-premises and off-premises advertising. Commercial transportation vehicles that are licensed, self-propelled, in compliance with State and City statute

and/or ordinance requirements and are operating in the function for which they are intended are not subject to this prohibition. This definition shall not limit political signs mounted on vehicles.

Sign, Wall

A sign attached to or erected against the wall of a building with the face in a parallel plane to the place of the building wall, including a sign attached to a parapet wall that may be constructed specifically for the purpose of attaching a sign.

Sign, Wind

An attention-getting device with or without copy, or a series of devices such as flags (excluding those flags in Section 4.14.01-D.7), including feather flags, pennants, streamers, spinners, balloons and inflatables with or without copy, fastened in such a manner as to move in the wind.

Sign, Window

A sign installed inside a window for purposes of viewing from outside the premises. This term does not include merchandise located in a window.

Single-Purpose Residential

A residential building or parcel that does not contain any non-residential uses.

Slide

The downhill mass movement of soil, rock, or snow resulting from failure of that material under stress.

Slope

The inclination of the surface of the land from the horizontal.

Small Cell Network

A network consisting of one or more nodes connected, directly or indirectly, by fiber to a carrier's mobile switching center or other point of interconnection.

Snow Storage Area

A designated or specified area within private property that is reserved for the storage or stockpiling of accumulated snow when plowed, shoveled, or removed from paved areas and walkways.

Solar Panels

Devices containing photovoltaic cells that convert sunlight into direct current electricity or that use thermal energy from sunlight to heat water.

Solar Photovoltaic System

A solar energy system that converts solar energy directly into electricity, the primary components of which are solar panels, mounting devices, inverters, and wiring.

Split-Zoned

Classification of a single parcel into two or more base zoning districts. See Article 4.1.

Stormwater

Precipitation and melted snow that runs off impervious surfaces, like roads, sidewalks, and rooftops, and pervious surfaces like yards, potentially carrying pollutants. It eventually drains into local waterways and/or the stormwater system.

Stormwater Management

The process of collection, conveyance, storage, treatment, and disposal of stormwater to ensure control of the magnitude and frequency of runoff and to minimize the hazards associated with flooding. Also includes implementing controls to reduce the discharge of pollutants, including management practices, control techniques and systems, and design and engineering methods.

Stormwater System

The physical facilities, private and public, temporary or permanent, designed to treat, collect, and transport stormwater, including but not limited to curbs, inlets, pipe, culverts, drywells, swales, ditches, ponds, French drains, boulder pits, wattles, and silt fences. It also includes the City's flood control devices, such as levees, floodwall, high-hazard dams, and their appurtenances.

Stream

A natural watercourse of perceptible extent that has a generally sandy or rocky bottom of definite banks and that confines and conducts continuously or intermittently flowing water.

Street Tree

A tree located in the public right-of-way within the Boulevard/Furniture Zone and maintained by the City of Missoula.

Structural, Alteration

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders.

Structure

Anything constructed or erected, that requires location on the ground, or attached to something having a location on the ground, including but not limited to, buildings, signs, billboards and poster panels, but excluding fences, and garden and retaining walls.

Subdivider

A person, firm, corporation, or other entity who causes land to be subdivided, or who proposes a subdivision of land, as stated in MCA 76-25-103, as amended.

Subdivision

A subdivision of land meeting MCA 76-25-103 creating lots that substantially comply with the adopted land use plan, Unified Development Code, the Standards and Specifications Manual, Parks Infrastructure Manual and the Street and Trail Typologies. The term also means land for recreational vehicle parks and mobile home parks.

Subsidence

Gradual downward, local, mass movement of the earth's surface.

Substantial Compliance

1. With respect to the amendment of an adopted land use plan, that all facets of the proposed amendments, when taken together, comply, not strictly and rigidly but substantially, with the densities, standards, and community intent for development of the community as set forth in the jurisdiction's adopted land use plan;
2. With respect to the adoption or amendment of a zoning map, zoning regulation, or subdivision regulation, that all facets of the proposed map, regulation, or amendment, when taken together, comply, not strictly and rigidly but substantially, with the densities, standards, and community intent for development of the site as set forth in the jurisdiction's applicable adopted land use plan; and
3. With respect to the proposed development of a particular site, that all facets of the proposed development, when taken together, comply, not strictly and rigidly but substantially, with the densities and standards for development of the site as set forth in the jurisdiction's applicable adopted zoning regulations, zoning map, and subdivision regulations.

Surveyor (Registered Land Surveyor)

A person licensed in conformance with MCA Title 37, Chapter 67, to practice surveying in the State of Montana.

Swale

A drainage channel or depression designed to direct water flow.

T

TED Ownership Unit

A parcel created through Townhome Exemption in Division 5.5.04 that includes the land beneath each dwelling unit and can include land adjacent to each dwelling unit as shown in the approved Townhome Declaration Site Plan. Only one dwelling unit is associated with each TED ownership unit. TED Ownership Units (TOUs) are not lots.

Through Parcel

A parcel with opposing property lines along two more or less parallel streets.

Topography

General term to include characteristics of the ground surface such as plains, hills, mountains, degree of relief, steepness of slope, and other physiographic features.

Tower

Any ground-mounted support structure and associated on-site fencing, equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with that tower, but not installed as part of an antenna as defined herein. A tower is also considered a Wireless Communication facility.

Townhome Exemption Development (TED)

A residential development containing one or more dwelling units that are owned subject to an arrangement under which persons own their own dwelling units and hold separate title to the land beneath their dwelling units but under which they may jointly own the common area and facilities. See Articles 4.12 and 5.5.

Tract of Record

A lot, irrespective of ownership, that can be identified by legal description, independent of any other lot, using documents on file in the records of the County Clerk and Recorder's Office, as stated in MCA 76-25-103(34), as amended.

Traffic Control Plan

A plan for the safe management and passage of motor vehicles, bicyclists, and pedestrians, as well as workers, equipment, and materials. Traffic control plans shall be submitted, reviewed, and approved by the City Engineer or designee prior to use of the right-of-way or public access easement whether a right-of-way occupancy permit is required or not. Traffic control plans shall comply with the current version of the Manual on Uniform Traffic Control Devices (MUTCD), Montana Department of Transportation (MDT), Americans with Disabilities Act (ADA), and the Manual.

Trail

A route for multi-modal, active transportation separated from vehicle traffic; these include shared-use paths. Types of trails in the City of Missoula system include Regional, Community, Neighborhood, Connector, and Recreational.

Transmission Equipment

Equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular backup power supply.

Transparency

The portion of a façade that is comprised of glass (which meets light transmittance and reflectance standards), including windows, glass block walls and windows in doors.

Tree Canopy Coverage

The area that is covered by the layer of leaves, branches, and stems of trees that cover the ground when viewed from above.

U

V**Vacated Plat**

A plat that has been removed from county record under the provisions of MCA 76-25-411(5), 7-5-2501, 7-5-2502, 7-14-2616(1), (2), 7-14-2617, 7-14- 4114 (1), (2), and 7-14-4115.

Vegetation Reduction Guidelines

Guidelines to reduce flammable vegetation and other hazards around buildings to provide a defensible space for firefighters and residents and reduce the exposure of structures to flames and radiant heat during a wildfire.

Vehicular Use Area

Any area on a parcel that is not located within any enclosed or partially enclosed building and that is devoted to a use by or for motor vehicles including parking, storage of automobiles, trucks or other vehicles, gas stations, car washes, vehicle repair establishments, loading areas, drive-through service areas, and access drives and driveways.

Vicinity Sketch

A map at a scale suitable to locate the proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

W

Watercourse

Any depression two (2) feet or more below the surrounding land serving to give direction to a current of water at least nine (9) months of the year, having a bed and well-defined banks; provided that it shall, upon order of the Board of Natural Resources, also include any particular depression which would not otherwise be within the definition of watercourse.

Wellhead Isolation Zone

Wellhead isolation zone means the area within a 100-foot radius of a water well.

Wet Meadow

An herbaceous wetland on mineral soil. Generally, wet meadows occur in seasonally flooded basins and flats. Soils are usually dry for part of the growing season.

Wetlands

Those areas that are inundated or saturated by surface or groundwater at frequency and duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands include marshes, swamps, bogs, and similar areas.

Wildfire Hazard Assessment

Map from Missoula County Community Wildfire Protection Plan that shows where the WUI is located in Missoula County and the current wildfire risk and hazard concerns. The Wildfire Hazard Assessment Map designates areas as low, moderate, high and very high for wildfire hazard.

Wireless Communication Facility or Facilities

An un-staffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, a support structure, transmission equipment, including one or more antenna. See Article 4.8.

Woody Draw

Areas that support woody vegetation, such as tall shrub and tree species, in small intermittent and ephemeral drainages. The vegetation is a result of higher moisture availability than the surrounding area. The duration of surface water, however, is shorter than that of other streamside riparian resource areas (e.g. cottonwood and dogwood communities).

X

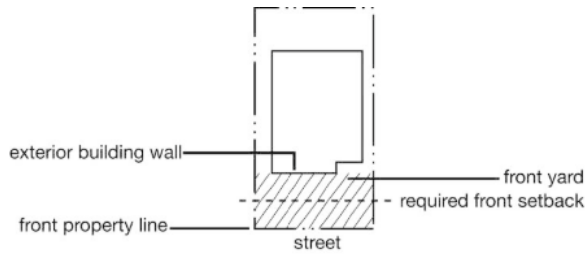
Y

Yard

The actual (as opposed to required) horizontal distance that exists between a principal building and a property line.

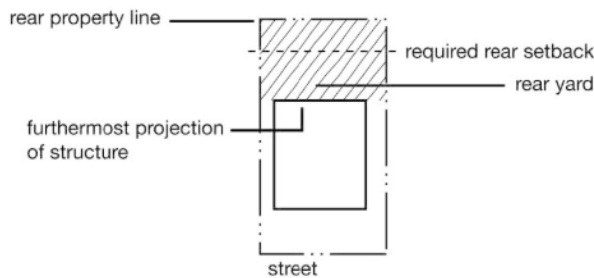
Yard, Front

The yard that exists between a principal building and the front property line of the parcel on which the building is located, extending along the full length of the front property line between the side property lines.



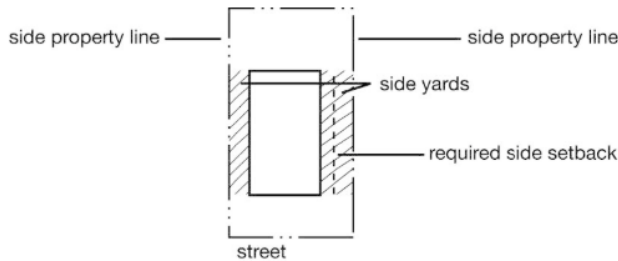
Yard, Rear

The yard that exists between a principal building and the rear property line of the parcel on which the building is located, extending along the full length of the rear property line between the side property lines.



Yard, Side

The yard that exists between a building and the side property line of the parcel on which the building is located, extending along a side property line from the point of the minimum front setback to the point of the minimum rear setback.



Z