

CHAPTER 5
SUPPLEMENTAL REGULATIONS

SECTION:

- 10-5- 1: Visibility At Intersections
- 10-5- 2: Accessory Buildings
- 10-5- 3: Principal Structures
- 10-5- 4: Height Regulation Exceptions
- 10-5- 5: Access
- 10-5- 6: Fallout Shelters
- 10-5- 7: Outdoor Lighting
- 10-5- 8: Outside Storage, Enclosure Required
- 10-5- 9: Corner Lots
- 10-5-10: Protection Of Street Rights Of Way
- 10-5-11: Fences, Walls, And Hedges
- 10-5-12: Lots In Two Districts
- 10-5-13: Swimming Pools
- 10-5-14: Yard Encroachments
- 10-5-15: Stop Order
- 10-5-16: Expansion Of Nonconforming Uses Or Structures In
Business Districts
- 10-5-17: Sidewalks Required Upon Issuance Of Building Permit

10-5-1: **VISIBILITY AT INTERSECTIONS:** Notwithstanding other provisions of this code in any residential district, fences, walls, hedges, or other planting may be permitted in any required yard; provided, that nothing shall be erected, placed, planted, or allowed to grow in such a manner as materially to impede vision between a height of two and one-half feet ($2\frac{1}{2}'$) and ten feet (10') above the centerline grades of the intersecting streets in the area bounded by street lines of such corner lots and a line joining points along said street lines forty feet (40') from the property line. (Amended Ord. 86-1)

10-5-2: ACCESSORY BUILDINGS:

- A. Placement: No accessory building shall be in any required front yard. Placement of an accessory building on any property shall comply with the current building code.
- B. Height; Area; Location: Any accessory building not to exceed the height requirements in the applicable zoning district, including heating and cooling units, may occupy not more than twenty five percent (25%) of the area of a required rear yard; provided, that placement of an accessory building on any property shall comply with the current building code, meet side setback requirements for side property lines, and be ten feet (10') from the rear property line. (Amended Ord. 86-1)

10-5-3: PRINCIPAL STRUCTURES: In any district, more than one structure housing a permitted and customary accessory use may be erected on a single lot or tract of land; provided, that yard and other requirements of this title shall be met for each structure as though it were on an individual lot. (Amended Ord. 86-1)

10-5-4: HEIGHT REGULATION EXCEPTIONS:

- A. Exceptions: The height limitations contained in any district regulations do not apply to spires, belfries, cupolas, chimneys, water tanks, ventilators, elevator housing, grain elevators, or other agricultural buildings, except where specified by a T district, or prohibited by federal aviation regulations, part 77.
- B. Wireless Communication Towers: Towers for wireless communications (cellular phones) shall be considered permitted conditional uses in B-2 and M-1 districts. Approval of tower must be obtained through the conditional use permit process in chapter 6 of this title. (Amended Ord. 86-1)

10-5-5: ACCESS: Every building hereafter erected or moved shall be on a lot adjacent to a public street, or with access to an approved private street, and all structures shall be located on lots as to provide safe convenient access for servicing, fire protection, and required off street parking. (Amended Ord. 86-1)

10-5-6: **FALLOUT SHELTERS:** Fallout shelters to protect human life during periods of danger may be constructed in or under any required yard, except that if constructed in a front yard or side yard, none of it may protrude above the average grade of the lot. (Amended Ord. 86-1)

10-5-7: **OUTDOOR LIGHTING:** Outdoor lighting of trees, bushes, fountains, swimming pools, or grounds of residences shall not illuminate or be reflected upon any adjacent property. (Amended Ord. 86-1)

10-5-8: **OUTSIDE STORAGE, ENCLOSURE REQUIRED:** All salvage dealers or other persons accumulating, depositing, or storing salvage, raw material, manufacturing material, building material, or other materials within the city area when the accumulating, depositing, or storing thereof shall be without a building or not within a building, either now stored, deposited, or accumulated, or hereafter so deposited, stored or accumulated, shall fence surrounding said materials with a sight obscuring fence at least six feet (6') high, sufficient to enclose said materials from public view from outside the enclosure. (Amended Ord. 86-1)

10-5-9: **CORNER LOTS:**

- A. When a lot faces more than one street and front yard setbacks have been established or, in all probability, will be established on both streets, corner lot setbacks shall be at least as great as established for each street.
- B. When a lot faces more than one street in any residential district, the yard setback established in said respective district by this title for the front yard setback shall exist on the primary street and the yard setback on the secondary or cross street shall be one-half ($\frac{1}{2}$) that of the front yard setback. (Amended Ord. 86-1)

10-5-10: **PROTECTION OF STREET RIGHTS OF WAY:** No building permit shall be issued or use proposed in any street right of way or any proposed street right of way proposed in the Belgrade growth policy. (Amended Ord. 86-1; amd. 2009 Code)

10-5-11: FENCES, WALLS, AND HEDGES:

- A. Height: Fences, walls, and hedges in any district may be located on lot lines provided such fences, walls, and hedges do not exceed eight feet (8') in height. Fences exceeding eight feet (8') in height shall be subject to the minimum yard requirements of the district in which said fences are located. However, no fences, walls, and hedges shall exceed four feet (4') in any "front yard" as defined in this title. An exception to the height restrictions located in this section will be granted for fences used in an agricultural pursuit to retain stock animals.
- B. Barbed Wire, Electric Fences¹:
1. Prohibited: Except for A-S, R-S and R-S-M districts, no barbed wire or other sharp fencing materials and no electrically charged fences shall be erected or maintained in any district created by this title.
 2. Warning Signs Required: When electrically charged fences are used in an A-S, R-S, or R-S-M district, such fence shall be posted with warning signs at intervals not to exceed one hundred fifty feet (150') where such fences are adjacent to public rights of way.
- C. Fence Erected On Top Of Retaining Wall: In case of a fence erected on top of a retaining wall, the height shall be measured from the grade of the high side of the wall. (Amended Ord. 86-1)

10-5-12: **LOTS IN TWO DISTRICTS:** Where a district boundary line as established in this title divides a lot which was of single ownership and of record at the time of adoption of this title, the use thereon and district requirements applying to the least restricted portion of such lot under this title shall be considered as extending to the entire lot, provided the more restricted portion of such lot is entirely within twenty feet (20') of the dividing line, the use so extended shall be deemed to be conforming. (Amended Ord. 86-1)

1. See also section 7-2-3 of this code.

10-5-13: SWIMMING POOLS:

A. Location: No public or private swimming pool in any district shall be located in any required front yard; however, if not more than six feet (6') in height, such use may be located in any required side yard or rear yard.

B. Fence Or Wall:

1. Required: In addition, all swimming pools shall be enclosed in an area with a fence or wall not less than forty two inches (42") in height and no opening therein, other than doors or gates, larger than four inches (4") in any direction. A structure of any type may be used as part of such enclosure.

2. Gates Or Doors: All gates and doors opening through such enclosure shall be kept equipped with a self-closing and self-latching device for keeping the gate or door securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure for private residential pools need not be so equipped.

3. Modifications: The building inspector may make modifications in individual cases, upon showing of good cause with respect to the height, nature, or location of the fence, wall, gates, or latches, or the necessity thereof, provided the protection as sought hereunder is not reduced thereby. (Amended Ord. 86-1)

10-5-14: YARD ENCROACHMENTS: Every part of a required yard or court shall be open and unobstructed by any building or structure from its lowest point upward, except as follows:

A. Cornices, Chimneys, Canopies, Eaves Or Balconies: Cornices, chimneys, canopies, eaves, balconies, or other similar features may extend into a required setback area not more than three feet (3').

B. Steps, Entrance Landings: Open, unwallled, uncovered steps and entrance landings may extend into a required setback area not more than five feet (5'). (Amended Ord. 86-1)

10-5-15: STOP ORDER: Whenever any building work is being done contrary to the provisions of this title, the building inspector

shall order the work stopped by notice, in writing, served upon any person engaged in doing or causing such work to be done, and any such person shall forthwith stop such work until authorized by the building inspector to proceed with the work. (Amended Ord. 86-1)

10-5-16: EXPANSION OF NONCONFORMING USES OR STRUCTURES IN BUSINESS DISTRICTS:

- A. Definitions: For the purpose of this section, the following definitions will be applicable:

BUSINESS DISTRICTS: To be limited only to a B-1 district as defined in chapter 3, article K of this title and B-2 district as defined in chapter 3, article L of this title and B-3 district as defined in chapter 3, article M of this title.

NONCONFORMING STRUCTURE: As defined in section 10-2-2 of this title.

NONCONFORMING USES: As defined in section 10-2-2 of this title.

- B. Criteria For Permit For Expansion: Where a nonconforming use and/or structure as hereinabove defined exists in a business district as hereinabove defined, said nonconforming use and/or structure may be expanded or may be rebuilt even if destroyed beyond fifty percent (50%) of its replacement cost only by issuance of a conditional use permit; provided, that:
1. The use is for single-family residential purposes as defined elsewhere in this title; and
 2. The existing character of the area in which expansion is requested is primarily of a residential character or nature; and
 3. The square footage of the requested expansion is not more than fifty percent (50%) of the total square footage of the existing nonconforming use or structure.
- C. Permit Procedure: Procedure for obtaining permit for expansion or nonconforming uses and/or structure:

1. Application: All applications for a permit to expand a nonconforming use or structure shall be filed in the city offices with the building inspector, accompanied with a filing fee as set forth in chapter 16 of this title. Said application shall be filed contemporaneously with and in addition to an application for a building permit.

2. Transmittal To Planning Director; Investigation: Immediately upon receipt of said application for a permit for expansion of a nonconforming use and/or structure, said building inspector will immediately deliver said application to the planning director in and for the city. Said planning director will immediately cause an investigation of the facts bearing on the application and will provide the necessary information to assure that the action on such application is consistent with the intent and purpose of this title.

3. Hearing Before City-County Planning Board:

a. Required: A hearing on the application shall then be held before the city-county planning board at the time set to gather needed facts from all interested parties.

b. Notice Of Hearing:

(1) Publication: Said hearing shall be held pursuant to notice to be published at least ten (10) days prior to the hearing date on one occasion in a newspaper of general circulation in the city;

(2) Adjoining Landowners: Further notice will be sent to each landowner adjoining said property for which the permit is requested, including all property within a one block radius of the property for which said permit is requested. Names and addresses of adjoining property owners will be provided to the city-county planning office by the applicant and will be certified by the county recorder or an authorized title company.

(3) Posting: The property shall be posted with a notice of the hearing at least ten (10) days prior to the hearing date.

c. Continuance: The city-county planning board may continue such hearing, if need be, to take additional information.

4. Recommendation Of City-County Planning Board: The city-county planning board shall cause to be sent to the city council their

recommendation on the application with any and all pertinent facts. The applicant will also be given a copy of the city-county planning board recommendation to the city council at least ten (10) days prior to the scheduled hearing to be conducted before the city council.

5. Council Action: Upon receipt of the city-county planning board recommendation, the city council shall, after legal notice of not less than ten (10) days, hold a public hearing on said application at which the city-county planning board recommendation shall be read and additional testimony may be taken from interested parties. The property shall be posted with a notice of the hearing at least ten (10) days prior to the hearing date. At the conclusion of said public hearing, the city council shall do one of the following:

- a. Grant a permit for said expansion;
- b. Deny said permit;
- c. Grant said permit with any conditions deemed necessary by the city council; or
- d. Refer said matter back to the city-county planning board with instruction for further investigation and recommendation. (Amended Ord. 86-1)

10-5-17: **SIDEWALKS REQUIRED UPON ISSUANCE OF BUILDING PERMIT:** Sidewalks shall be required to be constructed in accordance with standards established by the city as a condition for the issuance of a building permit for the construction, remodeling, repair or replacement of any building on property located within the city, except for property located within an R-1, R-2, R-2-M, R-2-D, R-3 or R-4 district. Sidewalks shall be required to be constructed in accordance with standards established by the city as a condition for the issuance of a building permit for the construction, remodeling, repair or replacement of a dwelling unit on property located within an R-1, R-2, R-2-M, R-2-D, R-3 or R-4 district in the city. Sidewalks shall be installed prior to the issuance of an occupancy permit, or if no occupancy permit is required, within six (6) months of the issuance of the building permit. An applicant for a building permit may request the city council to allow a variation from the requirements of this section. If the city council determines that a variation from the requirements of this section is appropriate in a specific case, the council may require such mitigating requirements as may be deemed appropriate under the circumstances. (Amended Ord. 86-1)

CHAPTER 6
CONDITIONAL USES

SECTION:

- 10-6-1: Intent
- 10-6-2: Requirements
- 10-6-3: Permit Procedure
- 10-6-4: Conditional Approval
- 10-6-5: Conditional Uses
- 10-6-6: Revocation Of Permit

10-6-1: **INTENT:** The intent of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate in the district under certain safeguards or conditions. Conditional uses may also be used in transitional districts as specified in chapter 3, article S of this title. (Amended Ord. 86-1)

10-6-2: **REQUIREMENTS:** No structure or land may be used for any purpose in any district where such use is not a permitted use, unless such use is listed as a conditional use in this title and approval for that use is obtained through the proper procedure. Conditional use permits shall be granted only by the city council when their findings are that: (Amended Ord. 86-1)

- A. Compliance With Growth Policy And Intent Of Title: The use conforms to the objectives of the growth policy and the intent of this title; and (Amended Ord. 86-1; amd. 2009 Code)
- B. Adverse Effect: Such use will not adversely affect nearby properties or their occupants; and
- C. Compliance With District Regulations: Such use meets density, coverage, yard, height and all other regulations of the district in

which it is to be located, unless otherwise provided for in this title;
and

- D. Public Hearings: Public hearings have been held, after the required legal notices have been given, and the public has been given a chance to be heard upon the matter. (Amended Ord. 86-1)

10-6-3: **PERMIT PROCEDURE:**

- A. Application; Fee: All applicants for conditional use permits shall be filed in the city-county planning office accompanied with a filing fee established as set forth in chapter 16 of this title to cover associated administrative and review costs. All applications must be signed by the property owner.
- B. Investigation: The city-county planning board shall then cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and the purpose of this title.
- C. Notice Of Hearing:
 - 1. Adjoining Property Owners: The city-county planning board shall inform property owners within three hundred feet (300') of the property boundary of the proposed conditional use within ten (10) days of the scheduled hearing date of the proposed conditional use via United States mail. Names and addresses of the adjoining property owners will be provided to the city-county planning office by the applicant and will be certified by the county recorder or an authorized title company.
 - 2. Posting Of Notice: Notice of the public hearings will be posted on the property at least ten (10) days prior to the date of the public hearing before the city-county planning board and at least twenty (20) days prior to the next regularly scheduled city council meeting.
- D. Hearing Before Planning Board: A hearing on the application shall then be held before the city-county planning board at the set time to gather needed facts from all interested parties. The city-county planning board may continue such hearing, if need be, to take additional information.
- E. Recommendation To Council: The city-county planning board shall cause to be sent to the city council their recommendations on the

application with any and all pertinent facts. The applicant will be given a copy of the city-county planning board recommendation to the city council at least ten (10) days prior to the council meeting.

- F. Council Action: Upon receipt of the city-county planning board recommendation, the city council will hold a public hearing on said application at which the city-county planning board recommendation shall be read and additional testimony may be taken from interested parties. The city council shall then either approve or deny the application. If the application is denied, reasons for denial shall be given. (Amended Ord. 86-1)

10-6-4: **CONDITIONAL APPROVAL:** The city council may make the granting of a conditional use permit subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area, or to make it more acceptable in other ways. (Amended Ord. 86-1)

10-6-5: **CONDITIONAL USES:** Permitted conditional uses for each zoning district are listed in the appropriate chapter and article for each zoning district. (Amended Ord. 86-1)

10-6-6: **REVOCAION OF PERMIT:** Failure of any person who holds a conditional use permit issued by the city council to abide by all of the restrictions and conditions of the conditional use permit shall be adequate grounds for the city council to revoke such conditional use permit and order that the conditional use shall be discontinued within thirty (30) days of the revocation of the conditional use permit. (Amended Ord. 86-1)

CHAPTER 7

NONCONFORMING LOTS, USES AND STRUCTURES

SECTION:

10-7-1:	Intent
10-7-2:	Nonconforming Lots Of Record
10-7-3:	Nonconforming Uses Of Land
10-7-4:	Nonconforming Uses Of Structures
10-7-5:	Repairs And Maintenance
10-7-6:	Conditional Uses

10-7-1: **INTENT:**

- A. Existing Nonconformities: It is the intent of this chapter to permit nonconformities which were lawful before the adoption of this title to continue until they are removed, but not to encourage their survival. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded, or be used as grounds for adding other structures, or uses prohibited elsewhere in the same district.
- B. Construction Started Prior To Passage: Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the district involved. However, to avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment to this title and which actual building construction has been carried on diligently. (Amended Ord. 86-1)

10-7-2: **NONCONFORMING LOTS OF RECORD:**

- A. Smaller Than Required: In any district, notwithstanding other limitations imposed by this title, structures permitted in said district may be erected on any single lot of record on the effective date of this title. A lot of record that does not meet lot area or lot width

requirements must still meet other requirements of the district. No variance shall be granted to facilitate the erection, construction or establishment of any structure on a nonconforming lot of record.

- B. Larger Than Required: Where lots are larger than required by this title, said lots may be divided, except no parcel may be divided so as to create a lot smaller in lot width or lot area than required by this title. (Amended Ord. 86-1)

10-7-3: **NONCONFORMING USES OF LAND:**

- A. Continued Use: Where, at the time of passage hereof, lawful use of land exists which would not be permitted by the regulations imposed by this title, the use may be continued so long as it remains otherwise lawful, provided:
1. Increase Nonconformity: No such nonconforming structure may be altered or enlarged in any way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
 2. Destruction: Should such nonconforming structure or nonconforming portion of a structure be destroyed by any means to the extent of more than fifty percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this title. (See subsection 10-5-16B of this title for reconstruction of single-family residences in business districts.)
 3. Moved: Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
 4. Use Discontinued: Should a nonconforming use of land be discontinued for a period of ninety (90) days, further use of the property shall conform to this title.
- B. Lack Of Off Street Parking Or Loading: For the purpose of this chapter, the lack of required off street parking as per section 10-3M-7 and chapter 11 of this title and the lack of off street loading as per section 10-3M-8 and chapter 12 of this title as applied to the B-3 central business district shall not render structures as nonconforming at the time of the passage hereof. (Amended Ord. 86-1)

10-7-4: NONCONFORMING USES OF STRUCTURES:

- A. Continued Use: If lawful use of a structure or of structures and premises, exists at the effective date of adoption or amendment hereof that would not be allowed in the district under the terms of this title, the lawful use may be continued so long as it remains otherwise lawful; providing, that:
1. Enlarged, Extended, Constructed, Or Structurally Altered: No existing structure devoted to a nonconforming use shall be enlarged, extended, constructed, or structurally altered, unless the use is changed to a permitted use.
 2. Extended To Another Part Of Building: Any nonconforming use may be extended to any other part of a building designed for such use, but no such use may be extended in any way to occupy land outside the building.
 3. Superseded By Permitted Use: Any structure or structure and land, in or on which a nonconforming use is superseded by a permitted use shall thereafter conform to the regulations of the district in which it is located and the nonconforming use may not thereafter be resumed.
 4. Cease In Use: Whenever a nonconforming use of a structure or a premises ceases for ninety (90) days, the structure or premises shall not thereafter be used except in conformance with the regulations of the district in which it is located. The term "ceases" as used in this subsection shall mean that the activity in question has not been in operation for a period of ninety (90) days.
 5. Status Applies To Both Use And Land: Where nonconforming use status applies to both structure and land, the removal or destruction of the structure shall eliminate the nonconforming status of the land.
- B. Lack Of Off Street Parking Or Loading: For the purpose of this chapter, the lack of required off street parking per section 10-3M-7 and chapter 11 of this title and the lack of off street loading per section 10-3M-8 and chapter 12 of this title as applied to the B-3 central business district shall not render structures as nonconforming as of the passage hereof. (Amended Ord. 86-1)

10-7-5: **REPAIRS AND MAINTENANCE:** On any nonconforming structure or portion of the structure containing a nonconforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of nonbearing walls, to an extent not exceeding ten percent (10%) of the replacement value of the building in any one year; provided, that such work does not increase the cubic content of the building. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or portion thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official. (Amended Ord. 86-1)

10-7-6: **CONDITIONAL USES:** Conditional uses provided for under chapter 6 of this title shall not be deemed a nonconforming use in the district in which it is permitted. (Amended Ord. 86-1)

CHAPTER 8

MANUFACTURED HOME PARKS

SECTION:

- 10-8-1: Intent
- 10-8-2: Definitions
- 10-8-3: Permits
- 10-8-4: Design Standards
- 10-8-5: Building Permits
- 10-8-6: Inspections
- 10-8-7: Manufactured Home Installation Standards
- 10-8-8: Approval

10-8-1: **INTENT:** The intent of this chapter is to provide for manufactured home park development at appropriate locations (which are deemed to be in the R-3 and R-4 districts) and to establish standards for development in order to integrate manufactured homes into an area without adversely affecting surrounding properties and to provide safeguards for residents of manufactured homes. (Amended Ord. 86-1)

10-8-2: **DEFINITIONS:** For the purpose of this chapter, definitions in chapter 2 of this title shall apply except for the following terms:

DENSITY: The number of manufactured home units per acre.

LOT: The total area reserved within a manufactured home park for the placement of one manufactured home and exclusive use of its occupants.

MANUFACTURED HOME STAND: That part of an individual lot which has been reserved for the placement of a manufactured home, appurtenant structures, or additions.

RECREATION AREA: An area including open space and playgrounds and buildings and apparatus designed for recreational activities set aside for the use of the manufactured home residents. (Amended Ord. 86-1)

10-8-3: **PERMITS:** It shall be unlawful for any person to construct, alter, or extend any manufactured home park unless he holds necessary valid permits issued by the division of environmental sanitation, state department of health and environmental sciences, and the city building inspector. (Amended Ord. 86-1)

10-8-4: **DESIGN STANDARDS:** Any person desiring to enlarge, redesign, or establish a manufactured home park shall submit a design plat for approval by the city-county planning board and city council and shall meet or exceed the following design standards:

- A. **Site:** The manufactured home park site shall not be exposed to smoke, dust, noise, odor, or other adverse influences which might create damage to property or bring harm to occupants of the park.
- B. **Site Size:** Minimum site size for manufactured home parks shall be ten (10) acres.
- C. **Density:** The maximum density of manufactured home parks shall be regulated by separation requirements, lot area requirements and recreation area requirements as set forth in this title. In no case shall the density of a manufactured home park exceed the density of the district in which it is located.
- D. **Site Coverage:** Maximum manufactured home lot coverage shall not exceed fifty percent (50%). "Coverage" shall mean any manmade apparatus.
- E. **Access:** All manufactured home parks shall have access to a collector street.
- F. **Lot Size:** Minimum lot area shall be six thousand (6,000) square feet with no less than sixty feet (60') of lot width. Where both municipal or community water and sanitary sewer systems are not available, lot size will be determined by soil and water conditions and approved by the state board of health.

- G. **Manufactured Home Stand:** Each manufactured home lot shall be provided with a well drained stand with a firm base, approved by the city council for the placement of a manufactured home. Each stand must be at least twelve feet by fifty feet (12' x 50') for singlewide units and twenty four feet by fifty feet (24' x 50') for doublewide units.
- H. **Setback:** All manufactured homes and accessory buildings shall be set back not less than twenty feet (20') from all property lines and street property lines. Front and street setbacks shall be the same as the front yard requirements of the district in which the manufactured home park is to be located.
- I. **Height:** Maximum height for any structure within a manufactured home park shall be that of the district in which the park is to be located.
- J. **Streets:** All manufactured home parks shall be provided with safe and convenient vehicular access from abutting public streets and throughout the manufactured home park.
1. **Street Widths:** Street widths should be of adequate widths to accommodate any contemplated parking and expected traffic load, but, in all cases, shall meet the following minimum requirements:
- a. Collector streets with guest parking, thirty six feet (36') wide, face of curb to face of curb.
 - b. Collector streets with no parking, twenty two feet (22') wide, face of curb to face of curb. These collector streets shall be signed with approved no parking signs.
 - c. Minor streets with no parking, twenty feet (20') wide, face of curb to face of curb. These minor streets shall be signed with approved no parking signs.
 - d. All dead end streets shall be limited to a maximum length of five hundred feet (500') and shall be provided with a cul-de-sac of at least one hundred feet (100') in diameter.
 - e. Minimum access width to each manufactured home stand shall be twelve feet (12').
2. **Paving:** All streets in a manufactured home park shall be paved with a surface of bituminous surface mat or asphalt of three inches

(3") over a subbase of three-fourths inch ($\frac{3}{4}$ ") crushed gravel six inches (6") deep.

- K. Parking: Off street parking spaces shall be provided in convenient locations and in sufficient numbers to meet the needs of the occupants of the manufactured home park and their guests, but, in no case, shall the number of spaces be less than two (2) spaces per lot, plus an additional space for each four (4) lots.
- L. Walks: Safe, convenient, all season walks, minimum width of five feet (5'), shall be provided in locations where pedestrian traffic is concentrated.
- M. Recreational Area: A minimum of ten percent (10%) of the gross site area shall be reserved for park and recreation development. Such areas shall be cumulated into central locations and shall be designed with trees, grass, benches, recreational equipment, etc., in relation to park residents.
- N. Landscaping: Landscaping may be required to provide a buffer between manufactured home parks and adjacent properties in other district classifications. Examples of what may be required are:
1. Greenbelt Planting Strip: A greenbelt planting strip of not less than twenty feet (20') in width along the perimeter of the manufactured home park where it abuts public right of way or an area zoned in any other district classification. The greenbelt shall be developed with a mixture of hardy deciduous and coniferous plant material, grass, or ground cover and maintained thereafter in a neat and orderly manner.
 2. Continual Ornamental Wall: A continual ornamental wall six feet (6') in height above grade, erected one foot (1') off property line abutting property of another district classification and six feet (6') from public right of way. Such wall shall be landscaped with suitable plant materials along both sides of the wall except where prohibited by chapter 5 of this title.
- O. Utilities: Utilities shall be provided in the following manner or by an alternative manner approved by the city council:
1. Sanitary Sewage; Water: All sanitary sewage utilities and water facilities, including connections provided to individual lots, shall meet the requirements of the city.

2. Plumbing Connections: The plumbing connections to each manufactured home lot shall be constructed so that all lines are protected from freezing, from accidental bumping, or from creating any type of nuisance or health hazard.

3. Running Water: An adequate amount of running water shall be piped to each manufactured home lot.

4. Storm Drainage: Storm drainage facilities, where necessary, shall be so constructed as to protect those that will reside in the manufactured home park as well as the property owners adjacent to the park. Such park facilities shall be of such capacity to ensure rapid drainage and prevent the accumulation of water in, or adjacent to, the park.

5. Electric, Telephone Lines: All electric, telephone, and other lines from supply poles to each manufactured home lot shall be underground. When meters are installed, they shall be uniformly located.

6. Fuel Lines: All fuel lines leading to manufactured home lots shall be underground. Where separate meters are installed, each shall be located in a uniform manner.

7. Trash And Garbage: Facilities for the storage and disposal of trash and garbage in a sanitary and lawful manner shall be provided in each manufactured home park.

8. Street And Yard Lights: Street and yard lights, attached to standards approved by the city, shall be provided in sufficient number and intensity to permit the safe movement of vehicles and pedestrians at night, and shall be effectively related to buildings, trees, walks, steps, and ramps.

9. Permanent Buildings: The erection, construction, reconstruction, repair, relocation and/or alteration of all permanent buildings and structures located within a manufactured home park shall conform to the requirements of the international building code adopted by the city and any regulations within the regulation 53-43-8, Montana state department of health.

10. U.S. Mail: Facilities for the dispersal and distribution of U.S. mail in a secure and lawful manner shall be provided in each manufactured home park.

- P. Fire Protection: The water supply system serving the manufactured home park shall be subject to the fire prevention rules and regulations of the local fire prevention authority or the system shall meet the standards for adequate fire protection established by the national fire protection association standard NFPA 501A, whichever is more stringent. Nonetheless, fire protection systems must be approved by the fire chief. (Amended Ord. 86-1)

10-8-5: **BUILDING PERMITS:** The owner or the installer of a manufactured home to be used as a residence must obtain a building permit from the city before the manufactured home is installed on any building site. (Amended Ord. 86-1)

10-8-6: **INSPECTIONS:**

- A. Request For Inspection: The installer shall request an inspection after all aspects of the installation have been completed. The building inspector will inspect the installation within five (5) business days after he receives the request. If the inspection is not completed within five (5) business days, the tenant or owner may occupy the manufactured home at his or her own risk. Occupancy before inspection does not imply approval of the installation.
- B. Approval Of Installation: The building inspector shall approve the installation of a manufactured home, and allow the manufactured home to be occupied if the installation complies with the installation requirements listed in section 10-8-7 of this chapter and the conditions of the building permit.
- C. Noncompliance With Installation Requirements: If the installation does not comply with the installation requirements listed in section 10-8-7 of this chapter and the conditions of the building permit, the building inspector shall provide the installer with a list of corrections that the installer must make. The list of corrections shall state a date by which the corrections must be completed. The building inspector shall reinspect the installation after the corrections are completed. If the items that require correction do not endanger the health or safety of the occupants or substantially affect the habitability of the manufactured home, the building inspector may permit the owner of the manufactured home to occupy the manufactured home before such corrections are made.

- D. Criteria For Approval: A manufactured home which does or does not bear an insignia of approval from the U.S. department of housing and urban development may be permitted on rental lots within legally platted manufactured home parks; provided, that the manufactured home has been installed in accordance with section 10-8-7 of this chapter, and inspected by the building inspector of the city during the installation of the home and has been found to be in compliance with the following criteria:
1. Heating Facilities: The home must have operable permanent heating facilities installed and maintained according to the heating equipment manufacturer's specifications.
 2. Plumbing Facilities: The home must be equipped with operable plumbing facilities with hot and cold running water to include: toilet, bathtub or shower, and kitchen sink. All facilities shall be installed and maintained according to the plumbing equipment manufacturer's specifications.
 3. Electrical Equipment: All electrical service entrance conductors, service equipment, switches, lighting outlets, power outlets and appliances shall be installed and maintained according to the electrical equipment manufacturer's specifications.
 4. Weather Protection: The home must be weather protected so as to provide shelter for the occupants against the elements.
 5. Smoke Detector: An operable smoke detector shall be installed and maintained according to the smoke detector manufacturer's specifications within the manufactured home.
 6. Structure: The home shall be structurally sound with no apparent hazardous condition in floors, walls, ceilings, and roof.
 7. General Condition: The home must be in good condition and well maintained to include: a) the exterior painted surfaces, b) the exterior siding is intact and secure, and c) operable windows and doors. In addition, the home shall be free of infestation of insects, vermin, or rodents.
 8. Inspection Statement: The inspection form shall include a statement that inspection does not constitute a warranty that the home is safe or livable. (Amended Ord. 86-1)

10-8-7: MANUFACTURED HOME INSTALLATION STANDARDS:

The installation of any manufactured home structure shall require the approval of the building inspector during all phases of the installation. All manufactured homes will be installed in compliance with the following standards:

A. Foundation System Footings:

1. Footings shall be constructed of either a solid concrete or an approved alternative that is at least three and one-half inches ($3\frac{1}{2}$ ") thick by sixteen inches (16") square; or two (2) eight inch by sixteen inch by four inch (8" x 16" x 4") solid concrete blocks that are laid with their joint parallel to the main frame longitudinal member.

2. Footings shall be:

a. Evenly bedded and leveled;

b. Placed on firm, undisturbed, or compacted soil that is free of organic material;

c. Centered in a line directly under the main frame longitudinal members on both sides of a manufactured home; and

d. Spaced not more than eight feet (8') apart, and not more than two feet (2') from the ends of the main frame. A closer spacing may be required, depending on the load bearing capacity of the soil.

3. A manufactured home with more than one section must have centerline blocking at end walls and at any other point of connection of the sections of the manufactured home that are a ridge beam bearing support. Blocking is also required at both ends of a door opening that is six feet (6') or more wide in an exterior wall.

4. If a manufactured home requires footings on its exterior perimeter, the footings shall be installed below the frost line. Footings for the main frame longitudinal members must be recessed only if frost heave is likely to occur.

5. Footings shall be constructed so that seventy five percent (75%) of the area under the manufactured home has at least eighteen inches (18") clearance between the bottom of the main chassis members and the ground level. The area beneath furnace cross-overs and fireplaces, however, must always have at least eighteen

inches (18") clearance. At no point under the manufactured home may clearance be less than twelve inches (12").

- B. **Foundation System Piers:** An installer must build and position piers and load bearing supports or devices to distribute the required loads evenly. An installer may use manufactured piers or load bearing supports or devices that are listed or approved for the intended use, or may build piers that comply with the following requirements. All blocks must be concrete blocks:
1. A pier may be made of a single stack of eight inch by eight inch by sixteen inch (8" x 8" x 16") blocks, if the blocks are not stacked more than three (3) blocks high. A pier made of a single stack of blocks shall be installed at right angles to the main frame longitudinal member and shall be capped with no more than two (2) two inch by eight inch by sixteen inch (2" x 8" x 16") wood blocks or one four inch by eight inch by sixteen inch (4" x 8" x 16") concrete block.
 2. A pier may be made of a double stack of eight inch by eight inch by sixteen inch (8" x 8" x 16") blocks if the blocks are not stacked more than five (5) blocks high. Each row of blocks in such a pier shall be stacked at right angles to the abutting rows of blocks. A wood block must be of hem fir, douglas fir, or spruce pine fir. The pier shall be capped with two (2) two inch by eight inch by sixteen inch (2" x 8" x 16") wood or concrete blocks. The pier shall be installed so that the joint between the cap blocks is at right angles to the main frame longitudinal member.
 3. A pier may be made with more than five (5) rows of blocks if the stacked blocks are filled with two thousand (2,000) psi concrete or mortar. A licensed architect or professional engineer must approve a foundation system that includes a pier that is higher than seventy two inches (72") (9 blocks) high, or in which more than twenty percent (20%) of the piers exceed forty inches (40") (5 blocks) high.
 4. All blocks shall be set with the cores placed vertically.
- C. **Foundation System Plates And Shims:** An installer may fill a gap between the top of a pier and the main frame with a wood plate that is not more than two inches (2") thick and two (2) opposing wedge shaped shims that are not more than two inches (2") thick. Wood plates and shims must be of hem fir, douglas fir, or spruce pine fir. A shim shall be at least four inches (4") wide and six inches (6") long. The installer shall fit the shim properly and drive it tight between the

wood plate or pier and the main frame to ensure that the manufactured home is level and properly supported at all load bearing points. A block that abuts a wedge shaped shim must be solid.

D. Foundation Fascia:

1. Required: A manufactured home shall have an approved foundation fascia around its entire perimeter. The wood of the fascia shall be at least three inches (3") from the ground unless it is pressure treated wood. Metal fasteners shall be galvanized, stainless steel or other corrosion resistant material. Ferrous metal members in contact with the earth, other than those that are galvanized or stainless steel, shall be coated with an asphaltic emulsion.

2. Ventilation Openings:

a. Nonrecessed Site: A manufactured home that is installed on a nonrecessed site and that has a metal foundation fascia shall have ventilation openings with a net area of at least one and one-half ($1\frac{1}{2}$) square inches per linear foot.

b. Recessed Site: A manufactured home that has been installed on a recessed site or that has a foundation fascia that is not made of metal shall have ventilation openings in the foundation fascia with a net area of at least one and one-half ($1\frac{1}{2}$) square feet for each twenty five (25) linear feet of fascia.

c. Openings: The openings shall be designed to provide cross ventilation on at least two (2) approximately opposite sides of the manufactured home. The installer shall locate the openings as close to the corners of the manufactured home as practical, and shall cover the openings with corrosion resistant wire mesh or louvers.

3. Dryer Vents; Hot Water Tank Pressure Relief Valves: Dryer vents and hot water tank pressure relief valves shall exhaust on the exterior of the foundation fascia.

4. Access To Crawl Space: The fascia for each section of a manufactured home shall have an opening of at least eighteen inches by twenty four inches (18" x 24"), with a cover of metal or pressure treated wood, to allow access to the crawl space.

5. Installation Deadline: The foundation fascia must be installed within thirty (30) days after the manufactured home is occupied.

E. Assembly:

1. Connections:

a. Sections Of Home; Heat Ducts, Electrical Connections; Fixtures: Sections of a multiple section manufactured home shall be aligned, closed and securely fastened at the required points along the ridge beam, end walls, and floor line. Heat ducts, electrical connections and other fixtures and connections required between sections of a manufactured home shall be properly installed.

b. Floor: The floor of the manufactured home shall be level within the tolerances given in the following table. Tolerances may not exceed the following amounts (L equals the clear span between supports, twice the length of a cantilever):

Floor	L/240
Roof and ceiling	L/180
Headers, beams, girders (vertical load)	L/180
Walls and partitions	L/180

2. Heat Ducts; Air Leaks; Water Leaks: The installer shall provide adequate clearance to ensure that the crossover heat duct does not touch the ground and is not compressed. The installer shall insulate the crossover duct at the intersection. The installer shall insulate and seal areas of potential air leaks to ensure that the manufactured home is airtight, and shall seal areas of potential water leaks with metal flashing or trim, if required, and with putty, tape or other approved caulking to ensure the manufactured home is watertight.

3. Water Pipe Connection: The water pipe connection to the manufactured home shall have a main shutoff valve approved by the city building inspector.

4. Utility Connections: In all other respects, utility connections to the manufactured home, including water, sewer, electricity and gas, shall comply with the same standards as housing of conventional construction.

5. Accessory Structures: Accessory structures attached to or located next to a manufactured home, such as awnings, carports, garages, porches, or steps, shall be constructed in conformance with the same construction standards as apply to conventional housing. (Amended Ord. 86-1)

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10-8-8: **APPROVAL:** Approval of a manufactured home park shall be obtained through conditional use permit procedures as specified in chapter 6 of this title. The city council may require other standards and safeguards as specific locations and circumstances dictate and as provided in chapter 6 of this title. (Amend Ord. 86-1)

CHAPTER 9

RECREATIONAL VEHICLE AND TRAVEL TRAILER PARKS

SECTION:

10-9-1:	Intent
10-9-2:	Definitions
10-9-3:	Permitted Uses
10-9-4:	Conflict With Other Laws
10-9-5:	Permits
10-9-6:	Design Standards
10-9-7:	Approval

10-9-1: **INTENT:** The intent of this chapter is to provide for recreational vehicle and travel trailer park development at appropriate locations and to establish standards for development in order to integrate recreational vehicle and travel trailer parks into certain areas of the community without adversely affecting surrounding properties. (Amended Ord. 86-1)

10-9-2: **DEFINITIONS:** For the purpose of this chapter, definitions in chapter 2 of this title shall apply, except for the following term:

SITE: The entire gross area of the recreational vehicle and travel trailer park. (Amended Ord. 86-1)

10-9-3: **PERMITTED USES:**

- A. **Accessory Uses:** Accessory uses related to park management and occupant need and enjoyment and according to the following schedule: management headquarters, recreational facilities, gift and souvenir shops, and other uses and structures customarily incidental to the operation of recreational vehicle and travel trailer parks.

- B. **Limitations On Other Uses:** Other uses may be allowed when approved by the city council and in conformity to following limitations:
1. Such other uses, including parking areas for such other uses, occupy not more than ten percent (10%) of the total park area.
 2. Such uses shall be restricted in use to occupants of the park or so located that the use will not interfere with the park use.
 3. The use is a permitted use of the district in which the park is to be located.
- C. **Temporary Uses:** Recreational vehicle and travel trailer parks may be used for recreational vehicles, travel trailers, equivalent facilities in or on automotive vehicles, tents, or other short term recreational shelter arrangements on a temporary basis only. (Amended Ord. 86-1)

10-9-4: **CONFLICT WITH OTHER LAWS:** If there appears to be a conflict between the regulations and standards in this chapter with any other local, state, or federal regulations for recreational vehicle and travel trailer parks, the more restrictive regulations shall be followed. (Amended Ord. 86-1)

10-9-5: **PERMITS:** It shall be unlawful for any person to construct, alter, or extend any recreational vehicle and travel trailer park unless he holds necessary valid permits issued by the division of environmental sanitation, state department of health and environmental sciences, and the city building inspector. (Amended Ord. 86-1)

10-9-6: **DESIGN STANDARDS:** Any person desiring to enlarge or establish a recreational vehicle and travel trailer park shall meet or exceed the following design standards:

- A. **Size:** Minimum site size for recreational vehicle and travel trailer parks shall be two (2) acres.
- B. **Access:** All recreational vehicle and travel trailer parks shall have access to an arterial or collector street with a right of way width of sixty feet (60') or more which is a through route for tourist traffic.

Entrances and exits shall be designed for safe and convenient movement of traffic into and out of the park, and to minimize congestion of free moving traffic on adjacent streets.

- C. **Setback:** All facilities for recreational vehicles, travel trailers, or other temporary shelter apparatus shall be set back at least twenty five feet (25') from all property lines. The area created by such setback shall be used for landscaping to screen recreational vehicle and travel trailer parks from adjoining properties as directed by the city council.
- D. **Height:** Maximum height for any structure within a recreational vehicle and travel trailer park shall be that of the district in which the park is to be located.
- E. **Streets:**
 - 1. **Interior Streets:** Interior streets within the park shall provide for safe, convenient circulation without interference or hazard to general park activities.
 - 2. **Street Widths:** Street widths should be of adequate widths to accommodate any contemplated parking and expected traffic load, but, in all cases, shall meet the following minimum requirements:
 - a. Collector streets with guest parking, thirty six feet (36') wide, face of curb to face of curb.
 - b. Collector streets with no parking, twenty two feet (22') wide, face of curb to face of curb. These collector streets shall be signed with approved no parking signs.
 - c. Minor streets with no parking, twenty feet (20') wide, face of curb to face of curb. These minor streets shall be signed with approved no parking signs.
 - d. All dead end streets shall be limited to a maximum length of five hundred feet (500') and shall be provided with a cul-de-sac of at least one hundred feet (100') in diameter.
 - e. Minimum access width to each manufactured home stand shall be twelve feet (12').
 - 3. **Paving:** All streets in a recreational vehicle and travel trailer park shall be paved with a surface of bituminous surface mat or asphalt of

three inches (3") over a subbase of three-fourths inch (³/₄") crushed gravel six inches (6") deep.

F. Service Areas: Accessory uses and service areas shall be located centrally in the recreational vehicle and travel trailer park. Service areas shall be provided in the following manner:

1. Toilet And Other Plumbing Fixtures: At least one service building containing necessary toilet and other plumbing fixtures specified shall be provided in the park. Service buildings shall be conveniently located within a radius of approximately three hundred feet (300') to all spaces to be served. Laundry facilities shall be required in addition to the following. If commercial laundry facilities are conveniently located to the recreational vehicle and travel trailer park, the laundry facility requirement may be considered for waiver by the city council.

Number Of Dependent Parking Spaces	Toilets		Urinals	Wash Basins		Showers		Other Fixtures
	Men	Women	Men	Men	Women	Men	Women	
1 - 15	1	1	1	1	1	1	1	At least 1 janitor sink per service building.
16 - 30	1	2	1	2	2	1	1	
31 - 45	2	3	2	3	3	2	2	
46 - 60	2	4	2	4	4	2	2	A disposal station is to be provided.
61 - 80	3	5	2	4	4	3	3	
81 - 100	3	5	2	4	4	3	3	

2. Storage And Disposal Of Trash: Facilities for storage and disposal of trash and garbage in a sanitary manner shall be provided in each park.

3. Street And Yard Lights: Street and yard lights, attached to light structures approved by the city, shall be provided in sufficient number and intensity to permit safe movement of vehicles and pedestrians at night and shall be effectively related to buildings, trees, walks, steps and ramps.

G. Parking: Parking for all uses within the recreational vehicle and travel trailer park shall be provided in accordance with chapter 11 of this title.

- H. Fire Protection: The water supply system serving the recreational vehicle and travel trailer park shall be subject to the rules and regulations of the local fire prevention authority or the system shall meet the standards for adequate fire protection established by the national fire protections association standard NFPA 501A, whichever is more stringent. Nonetheless, fire protections systems must be approved by the fire chief. (Amended Ord. 86-1)

10-9-7: **APPROVAL:** Approval of a recreational vehicle and travel trailer park shall be obtained through conditional use permit procedures as specified in chapter 6 of this title. The city council may require other standards and safeguards as specific locations and circumstances dictate and as provided in chapter 6 of this title. (Amended Ord. 86-1)

CHAPTER 10
TOWNHOUSE STANDARDS

SECTION:

10-10- 1:	Intent
10-10- 2:	Definitions
10-10- 3:	Development Criteria
10-10- 4:	Setbacks And Yards
10-10- 5:	Parking And Access
10-10- 6:	Curb Cuts
10-10- 7:	Open Space
10-10- 8:	Accessory Buildings
10-10- 9:	Utilities And Services
10-10-10:	Supplemental Regulations
10-10-11:	Application And Submittal Requirements

10-10-1: INTENT:

- A. It is the purpose and intent of this chapter to provide for the design and development of innovative housing forms which incorporate a higher density living situation and at the same time preserve the desirability of an individually owned housing unit. This is accomplished by efficiently utilizing buildable space within a given area by allowing reduced lot size as well as lot width and compensating for the reduction by incorporating open spaces, scenic and recreational areas and other amenities. The following standards have been developed for the city that will apply to a variety of such attached and semiattached housing forms including, but surely not limited to, townhouses.
- B. Specifically, this chapter is formulated to allow the grouping of separately owned single-family dwelling units into a group of attached and semiattached housing forms that will be both aesthetically pleasing and conscientiously designed, as well as preserve the health, welfare, safety and convenience of the surrounding neighborhood. (Amended Ord. 86-1)

10-10-2: **DEFINITIONS:** These definitions shall be in addition to the definitions set forth in chapter 2 of this title and shall apply solely in townhouse developments:

TOWNHOUSE: An attached, privately owned single-family dwelling unit which is a part of and adjacent to other similarly owned single-family dwelling units that are connected to but separated from one another by a common party wall having no doors, windows, or other provisions for human passage or visibility. A townhouse is a form of planned unit development as set forth in chapter 4 of this title and therefore is subject to the requirements listed in said chapter 4, except for the project size requirement listed therein.

TOWNHOUSE GROUP: A cluster or grouping of townhouse units containing no less than two (2) or more than six (6) townhouse dwelling units contiguous to one another.

TOWNHOUSE LOT: A properly recorded and deeded lot upon which a townhouse unit is found. (Amended Ord. 86-1)

10-10-3: **DEVELOPMENT CRITERIA:**

- A. Density: Overall density in a particular townhouse project shall not exceed the maximum density allowed within the zoning district in which it is located, except when designed and developed as a planned unit development under provisions set forth in chapter 4 of this title.
- B. Lot Area: No townhouse lot shall contain an area of less than one thousand six hundred (1,600) square feet and a minimum lot and building width of twenty feet (20'). The remaining lot area that would normally be required in the zoning district, per dwelling unit, shall be incorporated into usable and accessible open space and/or private or common vehicular access or parking area for the townhouse project site.
- C. Location: Townhouse developments may be allowed in the R-3 and R-4 districts.

- D. **Project Site:** As used in this chapter, a townhouse project site is the entire parcel of land for which townhouse units are proposed prior to the creation of any townhouse lots (as required in title 11 of this code).
- E. **Unit Size:** Every townhouse dwelling unit shall have a minimum gross floor area equal to that required in the specific district in which the townhouse is proposed.
- F. **Height Of Structure:** Maximum height for any townhouse structure shall not be greater than thirty two feet (32').
- G. **Dwelling Unit Access:** Each townhouse unit shall have two (2) separate entries from the ground on which the structure is erected.
- H. **Size Of Project Site:** Minimum size of the site to be developed for a group of townhouse units shall be twenty five thousand (25,000) square feet.
- I. **Building Coverage:** In no event shall a townhouse, including any accessory buildings, cover more than forty five percent (45%) of the individual lot area.
- J. **Street Frontage:** Each townhouse project site shall border on a public street, provided that they face private or common open areas as set forth in this title. (Amended Ord. 86-1)

10-10-4: **SETBACKS AND YARDS:**

- A. **Right Of Way Setback:** No townhouse unit shall be located closer than twenty five feet (25') from any public right of way or within fifteen feet (15') of a private drive, access road, or common open parking area to the front or rear of such dwelling.
- B. **Yard Requirements:** Each individual townhouse lot shall have a minimum front yard of twenty five feet (25') and a rear yard of twenty feet (20'). The minimum side yard requirements shall be eight feet (8') from any adjoining property line of the townhouse project site. If, due to unique and innovative design techniques, townhouse units are arranged such that said setback requirements are not feasible, a variance may be requested at the time of project submittal.
- C. **Setback Variation:** No more than two (2) abutting townhouses or townhouse groupings within the townhouse project site shall have a

common front building setback. Variations in the setback of front building faces shall be at least two feet (2'). Height variations shall also be incorporated, if feasible, in townhouse design.

- D. Distances Between Townhouse Groups: Townhouse groups, as defined in this chapter, shall be separated by at least sixteen feet (16'). (Amended Ord. 86-1)

10-10-5: PARKING AND ACCESS:

- A. Spaces Required: A minimum of two (2) off street parking spaces shall be provided for the residents of each townhouse unit. One space as required may be within the driveway of the front yard setback area.
- B. Location: Parking spaces may be provided on the lot of the townhouse or in a commonly owned and maintained off street parking bay or facility; provided, that such a parking facility is easily accessible and of a reasonable distance from the townhouse unit it is serving (maximum of 100 feet).
1. Required parking spaces shall not be located in any front or side yard, except in a driveway.
 2. Access drives to parking areas shall be allowed in front and side yards, but shall not exceed twenty feet (20') in width.
- C. Construction: All permanent off street parking spaces and access areas thereto shall be paved. Temporary exemptions for access approaches from the property line to the street surface may be granted based on public street paving schedules established by the city. Individual unit parking spaces and/or townhouse site parking bay facilities shall be designed and constructed according to stipulations set forth in chapter 11 of this title. (Amended Ord. 86-1)

10-10-6: CURB CUTS:

- A. Minimum Distance Between Curb Cuts: A minimum distance of forty feet (40') shall be maintained between all curb cuts (centerlines). Not more than one curb cut shall be permitted per two (2) townhouses. On corner lots, placement of curb cuts shall be at a minimum of fifteen feet (15') from the property line at controlled intersections and

thirty feet (30') from the property line at controlled (either signed or signal lighted) intersections.

- B. **Unsafe Or Hazardous Curb Cuts Prohibited:** In no case shall any curb cut be permitted which, in the opinions of the city engineer and city planner, may cause an unsafe or hazardous driving condition. (Amended Ord. 86-1)

10-10-7: OPEN SPACE:

- A. **Open Space Required:** In those instances where the proposed townhouse lot has a gross area of less than the per unit lot area requirement of the specific zoning district, compensating open space must be established and provided within the project site. Such open space must be equal to a minimum of thirty percent (30%) of the site to be developed if more than one townhouse group is proposed.
- B. **Maintenance Of Common Areas:** All common areas and facilities including, but not limited to, recreational facilities, off street parking and common open space shall be maintained in a satisfactory manner without expense to the general taxpayers of the city. In order to ensure the maintenance of and the payment of taxes on the commonly held nonpublic property, a mandatory homeowners' association shall be created and be recorded in the public records of Gallatin County, if satisfactory to the city council. (Amended Ord. 86-1)

10-10-8: ACCESSORY BUILDINGS: No accessory building shall be erected in any required front yard or side yard setback area, and no separate accessory building shall be erected within ten feet (10') of any principal building. An accessory building shall not be located within ten feet (10') of the rear property line or occupy more than twenty five percent (25%) of the rear yard area. (Ord. 86-1, 8-4-1986)

10-10-9: UTILITIES AND SERVICES:

- A. **Individual Connections To Water And Sewer Required:** Each individual townhouse unit shall be connected to and serviced by public water and sewer lines, or connected to a sewer and water system that has been approved by the Montana department of health

and environmental sciences. The water and sewer lines shall be independent of any other townhouse unit or structure.

- B. Curb Stop And Valve: Water service shall have a curb stop and valve for each townhouse unit.
- C. Cleanouts: Sewer lines shall have strategically placed cleanouts as required by the city engineer.
- D. Easements: Necessary easements shall be indicated and recorded on the townhouse plat and be of a width that is satisfactory to the city engineer.

E. Design Of Utility Services:

1. All utility services shall be designed for subdivisions that are platted for townhouse development at the time of plat submittal. (Amended Ord. 86-1)

2. The city engineer and/or public works director shall review said utility plans with any necessary recommendations. (Amended Ord. 86-1; amd. 2009 Code)

3. Utility services shall be designed such that unnecessary disturbance of paved streets shall be avoided. For existing multi-family platted and zoned lots and structures, where street paving exists, services will be provided subject to the condition that the street blacktop in the region of the service cuts will be removed and replaced, upon review and approval of the city engineer. (Amended Ord. 86-1)

10-10-10: SUPPLEMENTAL REGULATIONS:

- A. Conversion: Conversion of existing structures to a townhouse project shall be avoided, except if all townhouse development standards, as outlined in this chapter, can be satisfied. If said requirements cannot be met, the conversion will be disallowed.
- B. Building Permit: A legal subdivision plat shall be placed on the public records of Gallatin County prior to the issuance of any building permit within a townhouse development.
- C. Landscaping: Not less than seventy five percent (75%) of each yard shall be landscaped. Plans for such landscaping shall be submitted

as a part of the application for building permit and installed in accordance with a time schedule established by the city building inspector.

- D. Building Standards: All townhouse developments shall be designed and constructed in accordance with the international building codes and any federal or state programs that are applicable. (Amended Ord. 86-1)

10-10-11: **APPLICATION AND SUBMITTAL REQUIREMENTS:** Applications and submittal requirements shall be those set forth in the planned unit development chapter of this title, except as follows:

- A. Townhouse developments comprised of five (5) or fewer lots can be submitted for minor subdivision review as set forth in title 11 of this code. (Amended Ord. 86-1)

CHAPTER 11
OFF STREET PARKING

SECTION:

- 10-11-1: Intent
- 10-11-2: Design
- 10-11-3: Combined Occupancies
- 10-11-4: Joint Use
- 10-11-5: Spaces Required

10-11-1: **INTENT:** The intent of this chapter is to reduce traffic congestion and the need for parking on public streets and hazards caused thereby, and to provide off street parking adequate for each type of development in terms of both quantity and location. (Amended Ord. 86-1)

10-11-2: **DESIGN:** Off street parking required for uses herein specified shall be for use only by vehicles of employers, employees, customers, and residents of the activity served. (Amended Ord. 86-1; amd. 2009 Code)

A. Location:

1. Specifications: Off street parking as required by this title shall be located as specified herein:

a. Single-family dwellings: On the same lot with the dwelling they are required to serve.

b. Multi-family dwellings: On the same lot with the dwelling they are required to serve.

c. Hospitals, sanitariums, apartments, rooming and boarding houses, fraternity and sorority houses: Not more than one hundred

feet (100') from the building of the use the parking lot is required to serve.

d. Commercial and industrial districts: Within three hundred feet (300') from the building of the use the parking lot is required to serve.

2. Distance Measurement: Where a distance is specified, such distance shall be measured by a straight line from the nearest point of the building such parking area is required to serve.

3. Accessibility: Such off site parking areas must be accessible by a public street or alley and shall be owned or leased by the owner or lessee of the building being served by such parking, and such parking lot shall have a recorded land covenant requiring such land be maintained as a parking lot so long as the building and/or use served is in operation or another suitable parking area is established to the satisfaction of the building inspector.

4. Front Or Side Yard: Required parking spaces shall not be located in any required front or side yard, except one required off street parking space for each residence may fall into the front yard setback in single-family uses. In addition, multi-family dwelling units not served by an alley may place one off street parking space per dwelling unit in the required front yard setback area.

B. Size:

1. Minimum Size: An off street parking space shall be at least nine feet (9') in width and eighteen feet (18') in length, exclusive of access drives, yards, or ramps. Such spaces shall have a vertical clearance of at least seven feet (7').

2. Arrangement For More Than Three Spaces: Where more than three (3) off street parking spaces are required, the parking area shall be arranged according to one of the four (4) designs outlined in figure 1 of subsection 10-11-5B2 of this chapter.

C. Plans: A plan of the proposed off street parking facility shall be submitted along with the application for the building permit for the building the off street parking is required to serve. Said plan shall clearly indicate curb cuts, lighting, landscaping, construction details, fencing and other features which may be required by the building inspector.

- D. Construction: All permanent off street parking spaces and access areas thereto shall be paved with two inches (2") of asphalt material over a packed base composed of three-fourths inch ($\frac{3}{4}$ ") crushed rock with a minimum depth of three inches (3") or four inches (4") of concrete with three inches (3") of subbase gravel. All off street parking areas shall be designed and constructed to allow proper drainage.
- E. Screening:
1. Required: Any parking area built to serve any commercial or industrial use with ten (10) or more parking spaces shall be screened from view at ground level by a decorative wall or landscaping from adjacent property zoned residential.
 2. Landscaping: Any use having more than three thousand five hundred (3,500) square feet of required permanent parking shall have two percent (2%) of the gross parking area landscaped with suitable trees and/or shrubs having a low profile. Such landscaping shall be in place before occupancy of the building or use being served.
 3. Request For Extension Of Time: If, due to climatic conditions, the parking area cannot be improved as prescribed, a written request for an extension of time shall be submitted to the building inspector. Said extension may then be granted for a time period not to exceed nine (9) months.
- F. Lighting: Lighting used to illuminate a parking area shall be arranged in such a manner that it will not be a hazard to passing motorists or constitute a nuisance of any kind. Where said parking area is within one hundred fifty feet (150') of any property classified as residential by this title and where the parking area is directly visible by the residents within one hundred fifty feet (150'), illuminating devices shall be shaded in a manner that would direct the light away from the residential property. (Amended Ord. 86-1)

10-11-3: **COMBINED OCCUPANCIES:** Where two (2) or more uses are combined in one development, the total parking spaces shall be the sum total of the spaces required for each individual use. Off street parking for one use shall not be considered for joint use as hereinafter specified. (Amended Ord. 86-1)

10-11-4: **JOINT USE:**

A. Conditions Required For Authorization: The city council may authorize the joint use of off street parking facilities for the following uses or activities under the conditions specified:

1. Up to fifty percent (50%) of the required off street parking for primarily "nighttime" uses such as theaters, bowling alleys, bars, and supper clubs may be supplied by the parking requirement for primarily "daytime" uses such as banks, offices, retail and personal service establishments.

2. Subsection A1 of this section may be reversed so that parking for "daytime" uses may be used for "nighttime" activities.

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

B. Application: Where joint use is desired, an application shall be made to the board of adjustment. Said application shall contain proof that there will be no substantial conflict in the principal operating hours of the two (2) buildings or uses for which the joint use is proposed; that all other conditions within this chapter are met; and legal documents executed by the parties involved in the joint use guaranteeing use by both parties. Said legal document shall be approved by the city attorney and recorded with the county clerk and recorder. (Amended Ord. 86-1)

10-11-5: **SPACES REQUIRED:**

A. Residential Uses: The following number of off street parking spaces per use are required in residential uses:

<u>Use</u>	<u>Spaces Required</u>
Elderly housing projects (where 90 percent of the units are occupied by persons 60 years or older)	1 space per dwelling or lodging unit
Homes of the aged, disabled or handicapped	1 space per 5 bed care patients, plus 1 space for every other dwelling or lodging unit

<u>Use</u>	<u>Spaces Required</u>
Mobile home parks	2 spaces for each mobile home, plus 1 guest space for each 2 mobile home units
Multi-family dwelling and apartments	2 spaces per dwelling unit, plus 1 guest space for each 2 units
Rooming and boarding house	1 space per guestroom, plus 2 spaces for the resident family
Single-family dwelling	2 spaces per dwelling unit
Two-family dwelling	2 spaces per dwelling unit

(Amended Ord. 86-1; amd. Ord. 2007-7, 10-15-2007)

B. Nonresidential Uses:

1. Definitions: As used in this section, the following words and terms shall have the meanings ascribed to them in this subsection:

CAPACITY: The maximum number of persons which may be accommodated by the use as determined by its design or by fire code regulations, whichever is greater.

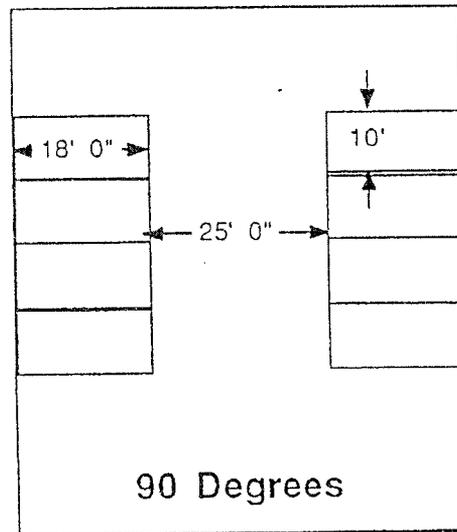
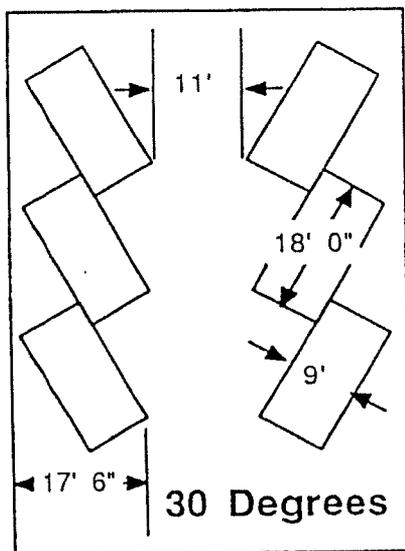
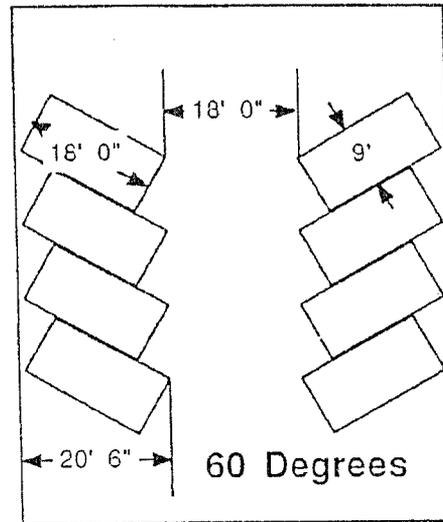
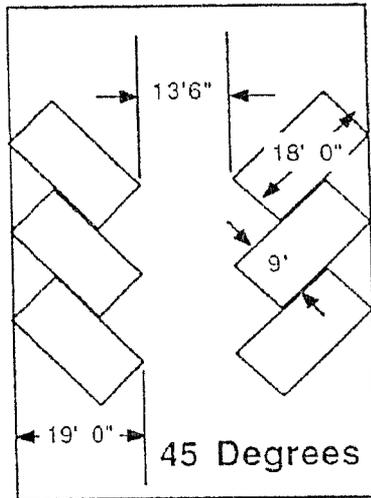
EMPLOYEE(S) ON THE LARGEST WORK SHIFT: The maximum number of employees employed at the facility regardless of the time period during which this occurs and regardless of whether any such person is a full time employee. The largest work shift may be a particular day of the week or a lunch or dinner period in the case of a restaurant.

TRUCK: A vehicle used for commercial delivery or commercial transportation.

2. Arrangement: Where more than three (3) off street parking spaces are required, the parking area shall be arranged according to one of the four (4) designs outlined below:

(see following page)

FIGURE ONE



3. Required Spaces: The following minimum number of parking spaces shall be required of the nonresidential uses specified below.

The minimum size of each parking stall shall be nine feet by eighteen feet (9' x 18'), exclusive of aisle width:

<u>Use</u>	<u>Spaces Required</u>
Agricultural	1 space per employee on the largest shift
Agricultural support	1 space per employee on the largest shift, plus 1 space per 200 square feet of gross floor area provided for customer sales and service operations
Assisted living facilities	1 space per 2 residents, plus 1 space per employee on the largest work shift
Banks	1 space per 150 square feet of gross floor area of customer sales and service, plus 1 space per 200 square feet of storage and/or office gross floor area, plus 5 spaces off street waiting (loading) spaces per drive-in lane
Beauty and barber shops	3 spaces per operator or 1 space per 100 square feet of gross floor area, whichever is larger, plus 1 space per employee on the largest shift
Bowling alley	5 spaces per lane, plus 1 space per employee on the largest work shift
Camps, day or youth	1 space per employee on the largest shift, plus 1 space per camp vehicle normally parked on the premises
Cemetery	1 space per employee, plus 1 space per 1,000 square feet of developed ground area
Church	1 space per 3 seats of maximum capacity of the main chapel area

<u>Use</u>	<u>Spaces Required</u>
Commercial and entertainment uses, except as specifically designated elsewhere	1 space per 150 square feet of gross floor area of customer sales and service area, plus 1 space per 200 square feet of storage and/or office gross floor area, or, if the use has at least 100,000 square feet of gross floor area, 5.5 spaces per 1,000 square feet of gross floor area
Commercial/recreational	1 space per 4 patrons to the maximum capacity of facility, plus 1 space per 2 employees on the largest work shift
Community and recreation center	1 space per 250 square feet of gross floor area, or 1 space per 4 patrons to the maximum capacity, plus 1 space per employee on the largest shift
Convenience grocery	1 space per 100 square feet of gross floor area
Drive-in theater	1 space per automobile station, plus 1 space per employee
Extraction	1 space per employee on the largest shift
Fast food restaurant	1 space per 50 square feet of gross floor area, plus 1 space per employee on the largest work shift
Funeral home	1 space per 4 patron seats or 25 spaces per chapel unit, whichever is greater
Golf courses (9 and 18 holes)	36 spaces per 9 holes, plus 1 space per employee on the largest shift, plus 50 percent of spaces required for any accessory uses (e.g., bars, restaurants)

<u>Use</u>	<u>Spaces Required</u>
Golf courses (par 3)	36 spaces per 9 holes, plus 1 space per employee on the largest shift, plus 50 percent of spaces required for any accessory uses (e.g., bars, restaurants)
Golf driving range	1 space per tee, plus 1 space per employee on the largest work shift
Grocery or supermarket	1 space per 100 square feet of gross floor area of customer sales and service, plus 1 space per 200 square feet gross floor area of storage and office space
Group dwellings	1 space per bedroom or sleeping room
Hardware stores	1 space per 300 square feet of gross floor area
Heavy industrial	1 space per employee on the largest shift, plus 1 space per company vehicle normally left on the premises
Highway commercial	1 space per 200 square feet of gross floor area, plus 1 space per employee on the largest shift
Hospital	2 spaces per 3 patient beds, plus 1 space per staff doctor and each other employee on the largest work shift
Hotel or motel	1 space per room or suite, plus 1 space per every 3 employees on the largest work shift, plus 1 space per every 3 persons to the maximum capacity of each public meeting and/or banquet room, plus 50 percent of the spaces otherwise required for accessory uses (e.g., restaurants and bars)
Institutional, indoor, recreational, and special residential	1 space per patron to the maximum capacity, plus 1 space per employee on the largest shift

<u>Use</u>	<u>Spaces Required</u>
Junkyards and wrecking yards	1 space per 10,000 square feet of gross land area, plus 1 space per employee on the largest shift
Libraries and museums	1 space per 250 square feet of floor area or 1 space per 4 seats to maximum capacity, whichever is greater, plus 1 space per employee on the largest shift
Light industrial	1 space per employee on the largest shift, plus 1 space per company vehicle regularly stored on premises
Medical offices	1 space per 150 square feet of gross floor area plus 1 space per employee of the largest shift and 1 space per doctor or professional
Miniature golf course	1.5 spaces per hole, plus 1 space per employee on the largest work shift
Miniwarehouses	1 space per 10 storage cubicles plus 2 spaces per manager's residence, plus 1 space per 25 storage cubicles located at the warehouse office
Monasteries, convents	1 space per 6 residents, plus 1 space per employee on the largest shift, plus 1 space per 5 chapel seats if the public may attend
Nursery and landscaping supply	1 space per employee on the largest shift, plus 1 space per 200 square feet of gross floor area of inside sales or display
Nursing homes	1 space per 3 patient beds, plus 1 space per employee on the largest shift, plus 1 space per staff member and visiting doctor
Office	1 space per 250 square feet of gross floor area or 1 space per employee of the largest shift

<u>Use</u>	<u>Spaces Required</u>
Outdoor recreational	1 space per 4 expected patrons at capacity
Outdoor swimming pool	1 space per 75 square feet of gross water area plus 1 space per employee of the largest shift
Personal/professional services	1 space per 200 square feet of basement and first floor gross floor area, plus 1 space per 300 square feet of any additional floor area for customer service, plus 1 space per employee on the largest shift
Private clubs	1 space per 3 persons to the maximum capacity of the facility
Public service	1 space per employee on the largest work shift, plus 1 space per company vehicle normally stored on premises
Recreational vehicle park	1.5 spaces per each recreational vehicle site, plus 1 space per employee on the largest shift
Repair services	1 space per 300 square feet of gross floor area, plus 1 space per employee on the largest shift
Restaurant	1 space per 3 patron seats or 1 space per 100 square feet of gross floor area, whichever is greater, plus 1 space per employee on the largest work shift
Schools:	
Daycare home, daycare center, group daycare home or nursery school	1 space per teacher/employee on the largest shift plus 1 off street loading space per 6 students
Elementary and junior high	1 space per teacher and staff member, plus 1 space per 2 classrooms

<u>Use</u>	<u>Spaces Required</u>
Senior high	1 space per teacher and staff member on the largest shift, plus 1 space per 3 students
College	1 space per staff member on the largest shift, plus 1 space per 2 students of the largest class attendance period
Commercial or trade school	1 space per 3 students, plus 1 space per employee (including faculty) at capacity class attendance period
Shopping center	5 spaces per 1,000 square feet of gross floor area
Skating rink, ice or roller	1 space per 300 square feet of gross floor area
Swimming facility	1 space per 75 square feet of gross water area, plus 1 space per employee on the largest shift
Taverns, dance halls, clubs and lounges	1 space per 50 square feet of gross floor area, plus 1 space per employee on the largest shift
Tennis court	3 spaces per court
Tennis, racquetball, handball courts	4 spaces per, court, plus 1 space per employee on the largest shift
Theater	1 space per 3 patrons to the maximum capacity of the facility inclusive of both indoor and outdoor capability
Theaters and auditoriums	1 space per 3 patrons based on maximum capacity. This requirement may be satisfied on a space by space basis by a facility providing written proof that it has the use of nearby parking lot available to its patrons (e.g., by contractual arrangement)

<u>Use</u>	<u>Spaces Required</u>
Truck terminal	1 space per employee on the largest shift, plus 1 space per truck normally parked on the premises, plus 1 space per 3 patrons to the maximum capacity
Vehicle repair and maintenance services	1 space per 400 square feet of gross floor area, plus 1 space per employee on the largest work shift
Vehicle sales and service	1 space per 1,500 square feet of gross floor area, plus 1 space per employee on the largest shift
Veterinary office with enclosed kennels and/or pens	3 spaces per doctor, plus 1 space per employee on the largest shift

(Amended Ord. 86-1; amd. Ord. 2006-6, 2-2-2007)

CHAPTER 12
OFF STREET LOADING

SECTION:

- 10-12-1: Intent
10-12-2: Standards
10-12-3: Berths Required

10-12-1: **INTENT:** The intent of this chapter is to reduce traffic hazards and congestion by providing off street loading berths on the same lot as the building to be served by deliveries of goods without adverse effects on adjacent properties. (Amended Ord. 86-1)

10-12-2: **STANDARDS:**

- A. **Located On Same Lot:** Off street loading berths shall be provided on the same lot as the use it serves and shall not occupy the front yard.
- B. **Proximity To Residential District:** No loading berth shall be located closer to a residential zoned lot than fifty feet (50') unless enclosed by a wall or solid fence, not less than six feet (6') in height.
- C. **Access:** Each loading berth shall be designed with access to a public street or alley and so designed as not to interfere with normal traffic movement.
- D. **Specifications:** Each berth shall be at least twelve feet by thirty five feet (12' x 35') in size with a height clearance of eighteen feet (18').
- E. **Not Considered Parking Spaces:** Loading berths shall not be considered as off street parking spaces.
- F. **Located Within Building:** All or part of the required loading berths may be within buildings. (Amended Ord. 86-1)

10-12-3: **BERTHS REQUIRED:** Off street loading berths shall be provided in accordance with the following schedule. If more than one use is combined in one building, the number of berths can be reduced as determined by the building inspector. Where uses are not specifically mentioned, the number of berths shall be determined by the building inspector using as a guide the most similar use listed below. Downtown buildings without off street loading berths may be changed from one permitted use to another permitted use without compliance of this section:

<u>Use</u>	<u>Gross Floor Area Square Feet</u>	<u>Number Of Berths Required</u>
Multiple dwellings with over 16 units and more than 3 floors	-	1
Schools, auditoriums, meeting halls	Over 20,000	1
	50,000 - 150,000	1
	150,000 - 300,000	2
	Each additional 300,000	1
Department stores and other retail shops, restaurants, funeral homes	7,000 - 14,000	1
	14,000 - 40,000	2
	40,000 - 80,000	3
	Each additional 50,000	1
Hospitals, clinics, jails	10,000 - 100,000	1
	Each additional 250,000	1
Hotel or office building	25,000 - 40,000	1
	40,000 - 100,000	2
	Each additional 100,000	1
Industrial plant, manufacturing, or wholesale establishment	10,000 - 40,000	1
	40,000 - 65,000	2
	65,000 - 100,000	3
	Each additional 50,000	1

(Amended Ord. 86-1)

CHAPTER 13

SIGNS

SECTION:

- 10-13- 1: Title
- 10-13- 2: Intent
- 10-13- 3: Definitions
- 10-13- 4: Hazardous Signs; Sign Maintenance
- 10-13- 5: Permitted Signs
- 10-13- 6: Applicable Sign Code
- 10-13- 7: Commercial Districts
- 10-13- 8: Residential Districts
- 10-13- 9: Billboards
- 10-13-10: Procedure For Signs Exceeding Requirements

10-13-1: **TITLE:** These regulations shall be known as the *BELGRADE AREA SIGN OVERLAY DISTRICT REGULATIONS* and may be cited as the Belgrade sign code. (Amended Ord. 86-1)

10-13-2: **INTENT:** The intent of this chapter is to coordinate the physical dimensions of signs to different land uses in the city zoning jurisdiction; to recognize commercial communication requirements of all sectors of the business community; to encourage the innovative use of design; to promote both renovation and proper maintenance; to mitigate the impacts of commercial signs on Belgrade's surrounding natural scenic beauty; to allow for special circumstances; to ensure that signs are constructed and installed properly; and to protect the public health, safety, and general welfare. (Amended Ord. 86-1)

10-13-3: **DEFINITIONS:** The following definitions shall be in addition to the definitions set forth in chapter 2 of this title:

BILLBOARD: A sign larger than two hundred (200) square feet in area which is designed to advertise

	<p>products, services, or businesses not located on the premises on which the sign is located. A sign shall not be considered a "billboard" unless the sign is designed with a surface on which temporary poster panels or painted bulletin panels are mounted for the purpose of conveying a visual advertising message.</p>
CONSTRUCTION SIGN:	<p>A sign identifying a project and/or the developer, realtor, architect, engineer, contractor(s), suppliers, etc., involved in the construction on the property on which the sign is located.</p>
FREESTANDING SIGN:	<p>A sign supported by one or more poles, posts, or other structures or supports that are permanently affixed to, or anchored in the ground and that are independent from any building or other form of structural support.</p>
HEIGHT OF SIGN:	<p>The vertical distance measured from the finished ground level grade to the highest point of the sign. Exaggerated or artificial berming to increase height of sign shall not be permitted.</p>
NONCONFORMING SIGN:	<p>A sign which was lawfully erected and maintained prior to the adoption hereof and all amendments, which now fails to conform to all applicable regulations and restrictions of this chapter.</p>
PARCEL:	<p>A tract of record, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land using documents on file in the records of the Gallatin County clerk and recorder's office.</p>
READER BOARD:	<p>A sign containing a message for public display that is manually altered periodically.</p>
ROOF SIGN:	<p>A sign which is erected upon or above any portion of a roof or parapet wall of a building and which is wholly or partially supported by the building.</p>

SIGN AREA:

The area of a sign shall only have the largest face counted in calculating its area. The largest portion of the sign that can be seen from a direction at any one time shall constitute a sign face. For example, cube signs shall have two (2) sides counted as one face in calculating area. Pole covers and other embellishments shall not be included in the area of measurement provided that there is not written advertising copy on such embellishments.

**TEMPORARY/
PORTABLE SIGN:**

An outdoor sign not affixed to a building nor permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to: banners; signs attached to a chassis designed to be transported by means of wheels (whether or not the wheels are removed is immaterial); A- or T-frame signs; inflatable signs; and signs attached or painted on vehicles (including trailers) parked and visible from the public right of way, unless the vehicle is used in the normal day to day operations of the business occurring on the premises. (Amended Ord. 86-1)

10-13-4: HAZARDOUS SIGNS; SIGN MAINTENANCE:

- A. **Creating Hazard Prohibited:** No sign permitted by this chapter shall, due to its location, lighting, size, intensity or color, create a hazard to the safe, efficient movement of vehicular or pedestrian traffic.
- B. **Maintenance:** All signs as permitted by this chapter shall be maintained by the owner and kept in good condition. In addition, all parts and supports shall be routinely painted and repaired when in an unsafe, deteriorated, or rotted condition. The surface of the ground under and about any freestanding sign shall be kept free of weeds, rubbish, or flammable waste material.
- C. **Notice To Remove, Repair Or Modify:** Any sign determined to be hazardous by the chief of police, fire chief, or building inspector shall be removed by the owner of the sign or be repaired or modified so that the hazardous condition no longer exists within thirty (30) days

of written notification of the hazard unless otherwise specified¹.
(Amended Ord. 86-1)

10-13-5: PERMITTED SIGNS:

- A. **Political Signs:** Political signs are permitted on private property in any zoning district with the expressed consent of the owner or occupant of such property. Such signs may not be posted more than sixty (60) days prior to the election and must be removed by those responsible for the erection of the sign or the property owner within seven (7) days following the election. Such sign shall not exceed six feet (6') in height.
- B. **Construction Sign:** One construction sign is allowed per construction project. The sign shall be removed not more than five (5) days after completion of construction.
- C. **Temporary/Portable Signs:** Temporary/portable signs as defined in subsection 10-13-3 of this chapter, including, but not limited to, banners, pennants, or portable signs may be used as temporary supplemental signage by an organization or licensed business in connection with a special event, or specific major commercial sales event such as, but not limited to, grand opening, closeout sales, going out of business sales or truckload sales. The use of said signs shall not exceed a maximum of thirty (30) days at any one time nor occur on more than four (4) separate occasions within any calendar year.
- D. **Nonconforming Signs:** Nonconforming signs are permitted to remain subject to chapter 7 of this title. Nonconforming signs are also subject to all requirements of this title regarding safety, maintenance, and repair. A change in copy on a nonconforming sign shall not be construed as changing a sign's nonconforming status and requiring the sign to be in full compliance with this chapter. Temporary/portable signs in use prior to adoption of this chapter are not considered nonconforming uses and must be removed within thirty (30) days of the date this chapter takes effect.
- E. **Garage Sales, Real Estate Signs, Open House, Special Events:** Garage sale signs, real estate signs, open house signs, construction signs, special event signs, and otherwise permitted temporary or

1. See chapter 17 of this title for appeal procedure.

portable signage shall not be located in public rights of way, including alleys and street and highway rights of way for a period in excess of seventy two (72) hours. Signs located in public rights of way may be required to be relocated at any time if determined to cause a traffic or pedestrian hazard or obstruction as per section 10-13-4 of this chapter.

- F. Permanently Attached To Building: Signs permanently attached to a building in B-1, B-2, B-3, M-1, M-2, BP, and BP-10 zoning districts, other than roof signs, that are a customary accessory use of a building are permitted. (Amended Ord. 86-1)

10-13-6: **APPLICABLE SIGN CODE:** All signs within the city zoning jurisdiction shall be constructed in accordance with the uniform sign code, 1997 edition, and all subsequent editions and amendments thereto. (Amended Ord. 86-1)

10-13-7: **COMMERCIAL DISTRICTS:** Freestanding signs or roof signs in B-1, B-2, B-3, M-1, M-2, BP, and BP-10 zoning districts shall not exceed thirty five feet (35') in height and one hundred (100) square feet in area except per the following provisions and section 10-13-10 of this chapter:

- A. Freestanding signs or roof signs not to exceed sixty five feet (65') in height and three hundred (300) square feet in area are permitted within three-fourths ($\frac{3}{4}$) of a mile of the median of I-90 where it intersects with Jackrabbit Lane and south of Northern Pacific Avenue in B-2, M-1, and M-2 districts.
- B. Each parcel is permitted a maximum of two (2) freestanding signs or roof signs. Only one freestanding sign per parcel is allowed to exceed fifteen feet (15') in height or fifty (50) square feet in area. Signs less than six feet (6') in height do not count towards the maximum number of freestanding signs.
- C. Freestanding signs are permitted one changeable copy reader board below the main sign and/or electronic time and temperature sign. The square footage of the reader board and/or time and temperature sign does not count toward the maximum square footage of the sign. (Amended Ord. 86-1)

10-13-8: RESIDENTIAL DISTRICTS:

- A. Home Occupations: Major home occupations are allowed one nameplate or sign attached to the main door or suspended in a window that shall not exceed two (2) square feet in area. Signs are prohibited for minor home occupations.
- B. Daycare And Childcare Facilities: Family daycare homes, private and public childcare facilities, and private and public daycare homes are allowed one sign. The sign must be attached to the building and shall not exceed eight (8) square feet in area.
- C. Other Businesses: Other businesses listed as permitted conditional uses in residential zones (i.e., medical or professional offices), churches and other organizations, institutions, and apartment complexes are allowed one freestanding sign or sign attached to the building. The sign shall not exceed eight feet (8') in height or twelve (12) square feet in area. (Amended Ord. 86-1)

10-13-9: BILLBOARDS: Billboards shall not be allowed within any zoning district. (Amended Ord. 86-1; amd. 2009 Code)

10-13-10: PROCEDURE FOR SIGNS EXCEEDING REQUIREMENTS:

- A. Allowed As Permitted Conditional Use: Signs that are proposed to exceed the requirements (height, area, number per parcel, etc.) set forth in this chapter may be allowed as permitted conditional uses in all zoning districts.
- B. Request For Conditional Use Permit: An applicant must request a conditional use permit from the city to allow a sign to exceed the requirements of this chapter¹.
- C. Additional Requirements: If the city council determines that a sign exceeding the requirements of this chapter is appropriate in a specific case, the council may require landscaping, architectural features, or other aesthetic or mitigating features as a condition of allowing the sign. (Amended Ord. 86-1)

1. See chapter 6 of this title for conditional use procedure.

CHAPTER 14
LANDSCAPING

SECTION:

- 10-14-1: Purpose; Intent
- 10-14-2: Application; Scope
- 10-14-3: Minimum Landscaping Requirements
- 10-14-4: Appropriate Landscaping Materials
- 10-14-5: Transitional Areas
- 10-14-6: Irrigation And Maintenance Requirements
- 10-14-7: Clear Vision Standards
- 10-14-8: Site Plan, Completion Of Landscaping, And Bond
- 10-14-9: Conditional Use Permit

10-14-1: **PURPOSE; INTENT:** The purpose and intent of this chapter is to protect the health, safety and welfare of the public by providing a visual buffering between land uses of differing character, by enhancing the beauty of the city, by protecting the character and stability of different uses of property, by preserving the value of land and buildings, by retarding the spread of noxious weeds, and other purposes beneficial to the public. (Amended Ord. 86-1)

10-14-2: **APPLICATION; SCOPE:** The provisions of this chapter shall apply to property located in zoning districts B-1, B-2, B-3, except property zoned B-3 that is adjacent to Main Street, BP, BP-10, M-1, M-2, PLI, R-3, and R-4, when a building permit application is being made pursuant to chapter 16 of this title. (Amended Ord. 86-1)

10-14-3: **MINIMUM LANDSCAPING REQUIREMENTS:**

- A. A total of five percent (5%) of a lot, or ten percent (10%) of approved parking areas on a lot, whichever is greater, shall be landscaped with appropriate landscaping material.

- B. A minimum fifteen foot (15') wide landscaping strip is required adjacent to and along all streets and avenues, excluding driveways which may not exceed twenty five feet (25') in width in B-1, R-3, and R-4 districts, and forty feet (40') in width in B-2, B-3, BP, BP-10, M-1, M-2, and PLI districts.
- C. All areas not developed with either approved parking lot material or structures shall be landscaped.
- D. Landscaped areas within parking lots or along the perimeter of the property must be protected from vehicular traffic through the use of continuous concrete curbs, extruded asphalt or other approved permanent barrier.
- E. Landscaping shall be permitted within the required front, side and rear setback areas. No landscaping shall be placed within public rights of way without first obtaining written approval from the city. (Amended Ord. 86-1)

10-14-4: **APPROPRIATE LANDSCAPING MATERIALS:** Appropriate landscaping material shall include turf, shrubs, trees, flower beds, vines or other live plant cover and shall make up at least eighty five percent (85%) of the required landscaping. No more than fifteen percent (15%) of the landscaped area shall contain fountains, rocks, bark chips, stepping stones or similar inorganic materials. (Amended Ord. 86-1)

10-14-5: **TRANSITIONAL AREAS:** There shall be a fifteen foot (15') landscaping strip along and immediately adjacent to a property line between property located in a zoning district that is subject to this chapter and property located in zoning district A-S, R-S, R-S-M, R-1, R-2, R-2-D, or PLI. There shall also be a sight obscuring fence or wall along such adjoining property line that is architecturally compatible in color and design with the structure located on the property that is subject to this chapter. The fence or wall shall be a minimum of six feet (6') in height, and shall not be constructed of chainlink or other wire fencing material. (Amended Ord. 86-1)

10-14-6: **IRRIGATION AND MAINTENANCE REQUIREMENTS:** All landscaped areas shall be irrigated with an automatic irrigation system. All landscaping elements shall be maintained in good growing condition and kept free of weeds, debris and litter, and whenever

necessary, replaced with new plant materials to ensure continued compliance with this chapter. All walls and fences shall be maintained in good condition and, when necessary, be repaired or replaced. The owner of the property shall be responsible for compliance with this chapter. (Amended Ord. 86-1)

10-14-7: **CLEAR VISION STANDARDS:** All landscaped areas must comply with the clear vision standards for intersections and driveways, including the allowed height and placement of fences, walls, signs, landscaping materials, in addition to other objects located within the clear vision triangle(s). (Amended Ord. 86-1)

10-14-8: **SITE PLAN, COMPLETION OF LANDSCAPING, AND BOND:**

- A. Site Plan: A fully dimensional site plan of all proposed landscaping, including the composition of the landscaping, shall be submitted with a building permit application under chapter 16 of this title.
- B. Completion Of Landscaping: A certificate of occupancy for the property shall not be issued until the landscaping is completed, or a bond in the amount of one hundred fifty percent (150%) of the cost of completion of the landscaping is provided to the city. The cost of completion of the landscaping shall be determined by a professional landscaping business approved by the city.
- C. Bond: The bond shall be in the form of cash, certificate of deposit, letter of credit issued by a federally insured lending institution, completion bond issued by an approved insurance or bonding company, or in such other manner as shall be approved by the city. In the event that the landscaping is not completed according to the approved plan within one year after the issuance of the certificate of occupancy, the city may obtain the proceeds from the bond and contract to have the landscaping completed. The applicant shall be responsible for the entire cost of completing the landscaping, including any cost in excess of the amount of the bond. (Amended Ord. 86-1)

10-14-9: **CONDITIONAL USE PERMIT:** An applicant may request a conditional use permit from the city to allow a variation from the requirements of this chapter. If the city council determines that a

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variation from the requirements of this chapter is appropriate in a specific case, the council may require such landscaping, architectural, and other mitigating features and requirements as may be deemed appropriate under the circumstances. (Amended Ord. 86-1)

CHAPTER 15

ADULT ORIENTED BUSINESSES

SECTION:

- 10-15- 1: Definitions
- 10-15- 2: Classifications
- 10-15- 3: Conditional Use Permit Required
- 10-15- 4: Requirements To Obtain License
- 10-15- 5: List Of Employees
- 10-15- 6: Issuance Of Operator's License
- 10-15- 7: Fees
- 10-15- 8: Inspection
- 10-15- 9: Special Location Restrictions
- 10-15-10: Transferring Of License
- 10-15-11: Amortization Of Nonconforming Uses
- 10-15-12: Additional Regulations
- 10-15-13: Exhibition Of Sexually Explicit Films And Videos
- 10-15-14: Exterior Portions Of Business
- 10-15-15: Signage
- 10-15-16: Sale, Use Or Consumption Of Alcoholic Beverages
- 10-15-17: Age Restriction; Attendant
- 10-15-18: Exemptions
- 10-15-19: Suspension
- 10-15-20: Revocation
- 10-15-21: Notices
- 10-15-22: Injunction
- 10-15-23: Judicial Review

10-15-1: **DEFINITIONS:** As used in this chapter, the following words and terms shall have the meanings ascribed to them in this section:

ADULT ARCADE: Any place to which the public is permitted or invited wherein coin operated or slug operated or electrically or mechanically controlled still or motion picture machines, projectors, videos or

other image producing devices are maintained to show images to five (5) or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of "specified sexual activities" or "specified anatomical areas".

ADULT BOOKSTORE: An establishment that has thirty percent (30%) or more, in value or floor area, of its stock in trade in books, magazines, periodicals, or other printed matter, or of photographs, films, motion pictures, videocassettes, slides, tapes, records or other forms of visual or audio representations or instruments, adult entertainment merchandise, or devices or paraphernalia which are distinguished or by an emphasis upon the depiction or description of "specified sexual activities" and/or "specified anatomical areas".

ADULT CABARET: A nightclub, bar, restaurant, cafe or similar commercial establishment that regularly, commonly, habitually or consistently features:

A. Persons who appear in a state of nudity or seminudity; or

B. Live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities"; or

C. Films, motion pictures, videocassettes, slides, photographic reproductions or other image producing devices that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas"; or

D. Persons who engage in nude or partially nude "exotic" or erotic dancing or performances that are intended for the sexual interests or titillation of an audience or customers.

ADULT MOTEL: A hotel, motel or similar commercial establishment that:

A. Offers accommodation to the public for any form of consideration and provides patrons with closed circuit television transmissions, films, motion pictures, videocassettes, slides or other photographic reproductions that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas", and has a sign visible from the public right of way that advertises the availability of this adult type of photographic reproductions; or

B. Offers a sleeping room for rent more than two (2) times during a period of time that is less than twenty four (24) hours; or

C. Allows a tenant or occupant of a sleeping room to subrent the room for a period of time that is less than twenty four (24) hours.

**ADULT MOTION
PICTURE THEATER:**

A commercial establishment where, for any form of consideration, films, motion pictures, videocassettes, slides or similar photographic reproductions are regularly, commonly, habitually and consistently shown that are characterized by the depiction or description of "specified sexual activities" or "specified anatomical areas".

**ADULT ORIENTED
BUSINESS:**

An adult arcade, adult bookstore, adult cabaret, adult motel, adult motion picture theater, adult theater, escort agency, nude model studio or sexual encounter center.

ADULT THEATER:

A theater, concert hall, auditorium or similar commercial establishment that regularly, commonly, habitually and consistently features persons who appear in person, in a state of nudity and/or seminudity, and/or live performances that are characterized by the exposure of "specified anatomical areas" or by "specified sexual activities".

DIRECTOR:

The Belgrade city manager and such employee(s) of the city as he may designate to

perform the duties of the director under this chapter.

EMPLOYEE:

A person who performs any service on the premises of a adult oriented business on a full time, part time, contract basis or independent basis, whether or not the person is denominated an employee, independent contractor, agent, or otherwise, and whether or not the said person is paid a salary, wage or other compensation by the operator of said business. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises, or for the delivery of goods to the premises, nor does employee include a person exclusively on the premises as a patron or customer.

ESCORT:

A person who, for consideration, agrees or offers to act as a companion, guide or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

ESCORT AGENCY:

A person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

ESTABLISHMENT:

Means and includes any of the following:

A. The opening or commencement of any adult oriented business as a new business;

B. The conversion of an existing business, whether or not an adult oriented business, to any adult oriented business;

C. The addition of any adult oriented business to any other existing adult oriented business;

D. The relocation of any adult oriented business;

	E. An adult oriented business or premises on which the adult oriented business is located; or
	F. An existing business that occasionally offers adult oriented business activities.
LICENSED CHILDCARE FACILITIES:	A facility as defined in section 10-2-2 of this title.
LICENSEE:	A person in whose name a license has been issued, as well as the individual listed as an applicant on the application for a license.
LIVE THEATRICAL PERFORMANCE:	A play, skit, opera, ballet, concert, comedy or musical drama.
NUDE MODEL STUDIO:	Any place where a person who repeatedly or regularly appears in a state of nudity or displays "specified anatomical areas" is provided to be observed, sketched, drawn, painted, sculptured, photographed or similarly depicted by other persons for consideration.
NUDITY OR STATE OF NUDITY:	The appearance of a human bare buttock, anus, anal cleft or cleavage, pubic area, male genitals, female genitals or vulva, with less than a fully opaque covering; or a breast with less than a fully opaque covering or any part of the areola; or human male genitals in a discernibly turgid state even if completely and opaquely covered.
PERSON:	An individual, proprietorship, partnership, corporation, association or other legal entity.
PREMISES:	The real property upon which the adult oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult oriented business, the grounds, private walkways and parking lots and/or parking garages adjacent thereto, under the ownership, control or supervision of the licensee.

**SEMINUDE OR
SEMINUDITY:**

The appearance of the female breast below a horizontal line across the top of the areola at its highest point. This definition shall include the entire lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breast exhibited by a dress, blouse, skirt, leotard, bathing suit or other wearing apparel provided the areola is not exposed in whole or in part.

**SEXUAL ENCOUNTER
CENTER:**

A business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

A. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or

B. Activities or physical contact between persons of the opposite sex and/or persons of the same sex when one or more of the persons is in a state of nudity or seminudity.

**SPECIFIED
ANATOMICAL AREAS:**

A. The human male genitals in a discernibly turgid state, even if fully and opaquely covered;

B. Less than completely and opaquely covered human genitals, pubic region, buttocks or a female breast below a point immediately above the top of the areola.

**SPECIFIED CRIMINAL
ACTIVITY:**

Any of the following offenses:

A. Prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness, indecent exposure; indecency with a child, sexual assault; molestation of a child; incest; endangering the welfare of children, or any similar sex related offenses to those described above under the criminal or penal

code of this state, or other states or other countries;

B. For which:

1. Less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a misdemeanor offense;

2. Less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is of a felony offense;

3. Less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for two (2) or more misdemeanor offenses or combination of misdemeanor offenses occurring within any twenty four (24) month period;

C. The fact that a conviction is being appealed shall have no effect on the disqualification of the applicant.

SPECIFIED SEXUAL ACTIVITIES:

Means and includes any of the following:

A. The fondling or other erotic touching of human genitals, pubic region, buttocks, anus or female breast, whether covered or uncovered;

B. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation or sodomy;

C. Masturbation, actual or simulated; or

D. Excretory functions as part of or in connection with any of the activities set forth in subsections A through C of this definition.

**SUBSTANTIAL
ENLARGEMENT:**

The increase in floor area occupied by the business by more than twenty five percent (25%), as the floor area existed as of the date hereof.

**TRANSFER OF
OWNERSHIP OR
CONTROL:**

Means and includes any of the following:

A. The sale, lease or sublease of the business;

B. The transfer of securities that form a controlling interest in the business, whether by sale, exchange or similar means; or

C. The establishment of a trust, gift or other similar legal devise that transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control. (Amended Ord. 86-1; amd. Ord. 2004-17, 2-7-2005; 2009 Code)

10-15-2: **CLASSIFICATIONS:** Adult oriented businesses are classified as follows:

- A. Adult arcades;
- B. Adult bookstore;
- C. Adult cabarets;
- D. Adult motels;
- E. Adult motion picture theaters;
- F. Adult theaters;
- G. Escort agencies;
- H. Nude model studios; and

- I. Sexual encounter centers. (Amended Ord. 86-1)

10-15-3: **CONDITIONAL USE PERMIT REQUIRED:**

- A. Permit And License Required: An adult oriented business may be operated as a conditional use in the M-1 and M-2 districts subject to the provisions of this chapter and any other local, state and federal laws, rules, and regulations. It shall be unlawful for any person to operate an adult oriented business without first obtaining a conditional use permit pursuant to chapter 6 of this title, and an adult oriented business operator's license ("operator's license") issued by the city as hereinafter provided. (Amended Ord. 86-1; amd. 2009 Code)
- B. Conditions: Such conditional use permit is subject to the following:
 - 1. Obtainment of a valid adult oriented business operator's license issued by the city;
 - 2. Any person who operates an adult oriented business and has employees who work and/or perform services on the premises of the adult oriented business must, at all times, keep a current list of all employees that will be provided to the city as described herein; and
 - 3. Any person employed with an adult oriented business must ensure their presence on a list of all employees to be provided to the city as described herein.
- C. Defense: It shall be a defense to subsections B2 and B3 of this section if the employment is of limited duration and for the sole purpose of repair and/or maintenance of machinery, equipment or the premises.
- D. Violations: Violations of any provision within this section shall constitute a misdemeanor. (Amended Ord. 86-1)

10-15-4: **REQUIREMENTS TO OBTAIN LICENSE:**

- A. Application: An application for an adult oriented business operator's license must be made in the manner set forth in chapter 6 of this title for obtaining a conditional use permit, and as further described herein. Applications may be picked up at the city office, and completed applications are also to be turned in at the city office.

- B. **Qualifications:** All applicants for a license must be qualified according to the provisions of this chapter. The application may request, and the applicant shall provide, such information reasonably necessary (including fingerprints) to enable the city to determine whether the applicant meets the qualifications established under this chapter. The applicant has an affirmative duty to supplement their employee list, as set forth herein, with new information received subsequent to the date the application was deemed completed.
- C. **Ownership:** If a person who wishes to own or operate an adult oriented business is an individual, he must sign the application for an operator's license as applicant. If a person who wishes to operate an adult oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business must sign the application for an operator's license as applicant. If a corporation is listed as owner of an adult oriented business or as the entity that wishes to operate such a business, all corporate officers and directors must sign the application for an operator's license as applicant.
- D. **Previous Denials, Suspensions Or Revocations:** The applicant must detail whether they have had a previous license under this chapter or other similar adult oriented business ordinance from another city or county denied, suspended or revoked, including the name and location of the adult oriented business for which the business license was denied, suspended or revoked, as well as the date of the denial, suspension or revocation, and whether the applicant is or has been a partner in a partnership or an officer, director or principal stockholder of a corporation that is or was licensed under an adult oriented business ordinance whose business license has previously been denied, suspended or revoked, including the name and location of the adult oriented business for which the business license was denied, suspended or revoked as well as the date of denial, suspension or revocation.
- E. **Other Licenses:** The applicant must disclose any other licenses under this chapter or other similar adult oriented business ordinance from another city or county and, if so, the names and locations of such other licenses businesses.
- F. **Single Classification:** The applicant must pick a single classification of license for which the applicant is filing.
- G. **Telephone:** The applicant must have a telephone number of the establishment.

- H. **Address And Legal Description:** The applicant will disclose the address and legal description of the tract of land on which the establishment is to be located.
- I. **Date Established:**
1. **Already In Operation:** If the establishment is in operation, the applicant must give the date on which the owner(s) acquired the establishment for which the business license is sought, and the date on which the establishment began operations as an adult oriented business at the location for which the business license is sought;
 2. **Not Already In Operation:** If the establishment is not in operation, the expected startup date (which shall be expressed in number of days from the date of issuance of the business license) must be given. If the expected startup date is to be more than ten (10) days following the date of issuance of the business license, then a detailed explanation of the construction, repair or remodeling work or other cause of the expected delay and a statement of the owner's time schedule and plan for accomplishing the same.
- J. **Operation Other Than Adult Motel:** If an applicant wishes to operate an adult oriented business, other than an adult motel, which shall exhibit on the premises, in a viewing room or booth of less than one hundred fifty (150) square feet of floor space, films, videocassettes, other video reproductions or live entertainment which depict specified sexual activities or specified anatomical areas, then the applicant shall comply with the application requirements.
- K. **Additional Requirements:** Each application for an operator's license shall be accompanied by the following:
1. Payment of the application fee in full;
 2. If the establishment is a Montana corporation, a certified copy of the articles of incorporation, together with all amendments thereto;
 3. If the establishment is a foreign corporation, a certified copy of the certificate of authority to transact business in this state, together with all amendments thereto;
 4. If the establishment is a limited partnership formed under the laws of the state of Montana, a certified copy of the certificate of limited partnership, together with all amendments thereto;

5. If the establishment is a foreign limited partnership, a certified copy of the certificate of limited partnership and the qualification documents, together with all amendments thereto;

6. Proof of the current fee ownership of the tract of land on which the establishment is to be situated in the form of a copy of the recorded deed;

7. If the persons identified as the fee owner(s) of the tract of land in subsection K6 of this section is not also the owner of the adult oriented business, then the lease, purchase contract, purchase option contract, lease option contract or other document(s) evidencing the legally enforceable right of the owner(s) or proposed owner(s) of the adult oriented business to have or obtain the use and possession of the tract or portion thereof that is to be used for the adult oriented business;

8. A current certificate and straight line drawing prepared within thirty (30) days prior to application by a registered land surveyor depicting the property lines and the structures containing any existing adult oriented businesses within four hundred fifty feet (450') of the property to be certified; and the property lines of any established religious institution/synagogue, school, public park, residential or recreation area, within four hundred fifty feet (450') of the property to be certified. For purposes of this section, a use shall be considered existing or established if it is in existence at the time an application is submitted.

9. Any of subsections K2 through K8 of this section shall not be required to submit a renewal application if the applicant states that the documents previously furnished to the city council with the original application or previous renewals thereof remain correct and current. (Amended Ord. 86-1)

10-15-5: LIST OF EMPLOYEES:

A. Required Information: Operators of adult oriented businesses must maintain a list of all employees at their business. Such list shall include the following information:

1. The applicant's given name, and any other names by which the applicant is or has been known, including "state" names and/or aliases;

2. Age, and date and place of birth;
3. Height, weight, hair color and eye color;
4. Present business address and telephone number;
5. Date, issuing state and number of photo driver's license, or other state issued identification card information;
6. Social security number;
7. A color photograph of the applicant clearly showing the applicant's face and the applicant's fingerprints on a form provided by the city. Any fees for the photographs and fingerprints shall be paid by the applicant;
8. A statement detailing the license history of the applicant for the five (5) years immediately preceding the date of the filing of the application including whether such applicant, in this, or any other city, county, state or country, has ever had any license, permit or authorization to do business denied, revoked or suspended, or had any professional or vocational license or permit denied, revoked or suspended. In the event of any such denial, revocation or suspension, state the name(s) under which the license was sought and/or issued, the name(s) of the issuing or denying jurisdiction and describe in full the reason(s) for the denial, revocation and suspension. A copy of any order of denial, revocation or suspension shall be attached to the application;
9. A statement whether the applicant has, within the past five (5) years, been convicted or is awaiting trial on pending charges, of a "specified criminal activity" as defined herein and, if so, the "specified criminal activity" involved, the date, place and jurisdiction of each.

B. List To Remain Current; Confidential:

1. The list of employees of adult oriented businesses shall be provided to the city in such a manner that the city is always in possession of a current list. Once an initial list has been provided to the city, all operators of adult oriented businesses will provide an update to the list upon the hiring of any new employees. Such update will occur by the operator turning in an updated list to the city within one day of the hiring of a new employee.

2. The personal information provided in this subsection shall be confidential and shall not be disclosed to the public except to the extent required by state or federal law.

- C. Permits And/Or Licenses From Other Jurisdictions: The fact that a person possesses other types of state or city permits and/or licenses does not exempt him/her from the requirement of obtaining an adult oriented business operator's license. (Amended Ord. 86-1)

10-15-6: ISSUANCE OF OPERATOR'S LICENSE:

A. Processing Of Applications For Operator's License:

1. If application is made for an adult oriented business operator's license, the city shall take action on the application within forty five (45) days of receipt of the completed application. The city shall issue a license to an applicant unless it is determined, by a preponderance of the evidence, that one or more of the following findings is true:

a. An applicant has failed to provide the information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;

b. An applicant is under the age of eighteen (18) years;

c. An applicant has been denied a license by the city to operate an adult oriented business within the preceding twelve (12) months, or whose license to operate an adult oriented business has been revoked within the preceding twelve (12) months;

d. An applicant is overdue in payment to the city for taxes, fees, fines or penalties assessed against or imposed upon him/her in relation to the adult oriented business for which license is sought, or the property on which the adult oriented business is located or will be located;

e. An applicant has been convicted of a "specified criminal activity" as defined in section 10-15-1 of this chapter;

f. The premises to be used for the adult oriented business have not been approved by the city as being in compliance with applicable laws and ordinances, if such approval is required under other sections of this chapter;

g. The license fee required under this chapter has not been paid; or

h. An applicant of the proposed establishment is in violation of or is not in compliance with one or more of the provisions of this chapter.

2. A license issued pursuant to this chapter, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, the address of the adult oriented business and the classification for which the license is issued. The license shall be posted in a conspicuous place at or near the entrance to the adult oriented business so that it may be easily read at any time.

3. As part of the application process, the city will complete an inspection of the premises where the adult business is proposed to operate in order to ensure compliance with all provisions of this chapter.

4. An adult oriented business license shall issue for only one classification.

5. In the event that the city determines that an applicant is not eligible for an adult oriented operator's license, the applicant shall be given notice, in writing, of the reasons for the denial.

6. An applicant may appeal the decision of the city regarding a denial of the adult oriented business operator's license by filing a written notice of appeal with the city director of finance within ten (10) days after service of notice upon the applicant of the decision. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof. After reviewing such memoranda, if any, and exhibits submitted, the city council shall vote either to uphold or overrule the decision. Such vote shall be taken at the next regularly scheduled city council meeting, providing that the city council has had sufficient time to examine the appeal and any memoranda or other writings prior to the meeting. The status quo immediately prior to denial of the license shall be maintained during the pendency of the appeal. Judicial review of the city council decision may be made pursuant to section 10-15-23 of this chapter. The status quo shall continue to be maintained during the pendency of judicial review.

7. A license issued pursuant to the subsection A1 of this section shall be subject to annual renewal upon the written application of the applicant and a finding by the city that the applicant has not been convicted of any "specified criminal activity" as defined in this chapter, or committed any act during the existence of the previous license which would be grounds to deny the initial license application. The decision whether to renew a license shall be made within forty five (45) days of the completed application. The renewal of a license shall be subject to the fee as set forth in section 10-15-7 of this chapter.

8. "Annual renewal" shall mean that such license fees for established places of business shall be due and payable January 1 of each year, and shall be subject to a penalty of ten percent (10%) of the fee due if not paid prior to March 15 of the year due. (Amended Ord. 86-1)

10-15-7: **FEES:** The initial fee for an adult oriented business operator's license shall be one thousand dollars (\$1,000.00). The annual fee for an adult oriented business operator's license for renewal is five hundred dollars (\$500.00). These fees shall be used to pay for the cost of administration and enforcement of this chapter. (Amended Ord. 86-1)

10-15-8: **INSPECTION:**

- A. Regular Inspections: The city shall regularly inspect the premises of the adult oriented business in order to ensure compliance with the provisions of this chapter. An applicant or licensee shall permit representatives of the city to inspect the premises at any time the establishment is open for business. Such inspection shall be limited to visual assessment of the activities conducted in areas to which patrons have access or are allowed access; to requests for inspection of the licenses required under this chapter; and to requests for identification of those individuals who reasonably appear to be under the age of eighteen (18).

- B. Refusal To Permit: A person who operates an adult oriented business or his agent or employee commits a misdemeanor if he/she refuses to promptly permit any such lawful inspection of the premises. (Amended Ord. 86-1)

10-15-9: SPECIAL LOCATION RESTRICTIONS:

A. Prohibited Locations: Adult oriented businesses that meet the required criteria to operate may be conditionally permitted in any M-1 or M-2 zoning district; provided, that the adult oriented business may not be operated within: (Amended Ord. 86-1)

1. Three hundred feet (300') of a church, synagogue, mosque, temple or building which is used primarily for religious worship and related religious activities;

2. Three hundred feet (300') of a public or private educational facility including, but not limited to, child daycare facilities, nursery school, preschools, kindergartens, elementary schools, private schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, special education schools, junior colleges and universities; school includes the school ground, but does not include the facilities used primarily for another purpose and only incidentally as a school;

3. Three hundred feet (300') of a public park or recreational area which has been designated for park or recreational activities including, but not limited to, a park, playground, nature trails, swimming pool, reservoir, athletic field, basketball or tennis courts, skating rink, pedestrian/bicycle paths, wilderness areas or other similar public land within the city which is under the control, operation or management of the city park and recreation authorities;

4. Three hundred feet (300') of the property line of a lot zoned for residential use and devoted to a residential use as defined in the zoning code; or (Amended Ord. 86-1; amd. 2009 Code)

5. Eight hundred feet (800') of another adult oriented business.

B. Same Building Or Structure: An adult oriented business may not be operated in the same building, structure or portion thereof, containing another adult oriented business. (Amended Ord. 86-1)

10-15-10: TRANSFERRING OF LICENSE:

A. A licensee shall not transfer his/her license to another, nor shall a licensee operate an adult oriented business under the authority of a license at any place other than the address designated in the application and set forth in the operator's license.

10-15-10

10-15-12

- B. An operator's license shall not be transferable from one location to another. (Amended Ord. 86-1)

10-15-11: AMORTIZATION OF NONCONFORMING USES:

- A. **Preexisting Uses:** Any business lawfully operating on the effective date hereof that is in violation of the locational or structural configuration requirements of this chapter shall be deemed a nonconforming use. The nonconforming use will be permitted to continue for a period not to exceed two (2) years, unless sooner terminated for any reason, or voluntarily discontinued for a period of thirty (30) days or more. Such nonconforming uses shall not be increased, enlarged, extended or altered except that the use may be changed to a conforming use. If two (2) or more adult oriented businesses are within eight hundred feet (800') of one another and otherwise in a permissible location, the adult oriented business that was first established and continually operated at a particular location is the conforming use and the later established business(es) is nonconforming. (Amended Ord. 86-1)
- B. **Lawfully Operating As Conforming Use:** An adult oriented business lawfully operating as a conforming use is not rendered a nonconforming use by the location, subsequent to the grant or renewal of the adult oriented business license, of a church, synagogue or regular place of religious worship, public or private elementary or secondary school, licensed daycare center, public park, residential district, within three hundred feet (300') of the adult oriented business. This provision applies only to the renewal of a valid business license, and does not apply when an application for a business license is submitted after an operator's license has expired or has been revoked. (Amended Ord. 86-1; amd. 2009 Code)

10-15-12: ADDITIONAL REGULATIONS:

- A. **Adult Motel:**
 - 1. Evidence that a sleeping room in a hotel, motel or a similar commercial enterprise has been rented and vacated two (2) or more times in a period of time that is less than ten (10) hours creates a rebuttable presumption that the enterprise is an "adult motel", as that term is defined in this chapter.

2. It is unlawful if a person, as the person in control of a sleeping room in a hotel, motel or similar commercial enterprise that does not have a adult oriented business license, rents or subrents a sleeping room to a person and, within ten (10) hours from the time the room is rented, he rents or subrents the same sleeping room again.

3. For purposes of subsection A2 of this section, the terms "rent" or "subrent" mean the act of permitting a room to be occupied for any form of consideration.

4. Violation of subsection A2 of this section shall constitute a misdemeanor.

B. Escort Agencies:

1. An escort agency shall not employ any person under the age of eighteen (18) years.

2. A person commits an offense if the person acts as an escort or agrees to act as an escort for any person under the age of eighteen (18) years.

3. Violation of this subsection shall constitute a misdemeanor.

C. Nude Model Studios:

1. A nude model studio shall not employ any person under the age of eighteen (18) years.

2. A person under the age of eighteen (18) years commits a misdemeanor if the person appears seminude or in a state of nudity in or on the premises of a nude model studio.

3. A person commits a misdemeanor if the person appears in a state of nudity, or with knowledge, allows another to appear in a state of nudity in an area of a nude model studio premises which can be viewed from the public right of way.

D. Public Nudity:

1. It shall be a misdemeanor for a person who, with knowledge and intent, appears in person in a nude or seminude condition in an adult oriented business, unless the person is an employee who, while nude or seminude, is at least ten feet (10') from any patron or customer and on a stage at least two feet (2') from the floor.

2. It shall be a misdemeanor for an employee, while nude or seminude, to solicit any pay or gratuity from any patron or customer on the adult oriented business premises, or for any patron or customer to pay or give any gratuity to any employee, while said employee is nude or seminude on the adult oriented business premises.

3. It shall be a misdemeanor for an employee, while nude or seminude, to touch a patron or the clothing of a patron, or for a patron to touch a nude or seminude employee or the clothing of a nude or seminude employee, while the employee is on the adult oriented business premises. (Amended Ord. 86-1)

10-15-13: EXHIBITION OF SEXUALLY EXPLICIT FILMS AND VIDEOS:

A. **Duty To Comply:** A person who operates or causes to be operated an adult oriented business, other than adult motel, which exhibits on the premises in a viewing room of less than one hundred fifty (150) square feet of floor space, a film, videocassette or other video reproduction, that depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

1. Upon application for an adult oriented business license, the application shall be accompanied by a diagram of the premises showing a plan thereof specifying the location of one or more manager stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. The diagram shall also designate the place at which the business license will be conspicuously posted, if granted. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram should be oriented to the north or to some designated street or object and should be drawn to a designated scale or with marked dimensions sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six inches ($\pm 6"$). The city council may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since said diagram was prepared.

2. The application shall be sworn to be true and correct by the applicant.

3. No alteration in the configuration or location of a manager station may be made without the prior approval of the city council.

4. It is the duty of the owners and operators of the premises to ensure that at least one employee is on duty and situated in each manager station at all times that any patron is present inside the premises.

5. The interior of the premises shall be configured in such a manner that there is an unobstructed view from a manager station of the entire area of the premises to which any patron is permitted access for any purpose, excluding restrooms. Restrooms may not contain video reproduction equipment. If the premises has two (2) or more manager stations designated, then the interior of the premises shall be configured in such manner that there is an unobstructed view of the entire area of the premises to which any patron is permitted access for any purpose from at least one of the manager stations. The view required in this subsection must be by direct line of sight from the manager station.

6. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the view area specified in subsection A5 of this section remains unobstructed at all times. No doors, walls, partitions, curtains, merchandise, display racks or other object(s) shall obstruct from view of the manager station any portion of the premises to which patrons have access. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no patron is permitted access to any area of the premises that has been designated as an area in which patrons will not be permitted, as designated in the application filed pursuant to subsection A1 of this section.

7. The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access at an illumination of not less than five (5.0) foot-lumens as measured at the floor level.

8. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that the illumination described above is maintained at all times that any patron is present in the premises.

9. No viewing room or booth may be occupied by more than one person any time.

10. No opening of any kind shall exist between viewing rooms or booths.

11. It shall be the duty of the operator, and it shall also be the duty of any agents and employees present in the premises, to ensure that no more than one person at a time occupies a viewing booth or room, and to ensure that no person attempts to make an opening of any kind between the viewing booths and rooms.

12. The operator of the adult oriented business shall, each business day, inspect the walls between the viewing booths to determine if any openings or holes exist.

13. The operator of the adult oriented business shall cause all floor coverings in viewing booths to be nonporous, easily cleanable surfaces, with no rugs or carpeting.

14. The operator of the adult oriented business shall cause all wall surfaces and ceiling surfaces in viewing booths to be constructed of, or permanently covered by, nonporous, easily cleanable materials. No wood, plywood, composition board or other porous material shall be used within forty eight inches (48") of the floor.

- B. Misdemeanor: A person having a duty under subsections A1 through A14 of this section commits a misdemeanor if he/she, with knowledge, fails to fulfill that duty. (Amended Ord. 86-1)

10-15-14: **EXTERIOR PORTIONS OF BUSINESS:**

- A. Visibility From Outside: It shall be unlawful for an owner or operator of an adult oriented business to allow the merchandise or activities of the establishment to be visible from a point outside the establishment.
- B. Prohibited: It shall be unlawful for the owner or operator of an adult oriented business to allow the exterior portion of the adult oriented business to have flashing lights, or any words, lettering, photographs, silhouettes, drawings or pictorial representations of any manner, except to the extent permitted by the provisions of this chapter.
- C. Unpainted Exterior: Nothing in this chapter shall be construed to require the painting of an otherwise unpainted exterior portion of an adult oriented business.

- D. Violation: A violation of any provision of this section shall constitute a misdemeanor. (Amended Ord. 86-1)

10-15-15: **SIGNAGE:**

- A. Allowed Sign: Notwithstanding any other city ordinance, code or regulation to the contrary, it shall be unlawful for the operator of any adult oriented business or any other person to erect, construct or maintain any sign for the adult oriented business other than one primary sign or one secondary sign, as provided herein.
- B. Primary Sign:
1. Primary signs shall have no more than two (2) display surfaces. Each such display surface shall:
 - a. Not contain any flashing lights;
 - b. Be a flat plane, rectangular in shape;
 - c. Not exceed seventy five (75) square feet in area; and
 - d. Not exceed ten feet (10') in height or ten feet (10') in length.
 2. Primary signs shall contain no photographs, silhouettes, drawings or pictorial representations in any manner, and may contain only the name of the enterprise.
 3. Each letter forming a word on a primary sign shall be of solid color, and each such letter shall be the same print type, size and color. The background behind such lettering on the display surface of a primary sign shall be of a uniform and solid color.
- C. Secondary Sign:
1. Secondary signs shall have only one display surface. Such display surface shall:
 - a. Be a flat plane, rectangular in shape;
 - b. Not exceed twenty (20) square feet in area;
 - c. Not exceed five feet (5') in height and four feet (4') in width; and

d. Be affixed or attached to any wall or door of the enterprise.

2. The provisions of subsections B1a, B2 and B3 of this section shall also apply to secondary signs.

D. Violation: Violation of any provision of this section shall constitute a misdemeanor. (Amended Ord. 86-1)

10-15-16: SALE, USE OR CONSUMPTION OF ALCOHOLIC BEVERAGES:

A. Prohibited: The sale, use, consumption, or possession of alcoholic beverages on the premises of a adult oriented business is prohibited.

B. Violation: Any violation of this section shall constitute a misdemeanor. (Amended Ord. 86-1)

10-15-17: AGE RESTRICTION; ATTENDANT:

A. Under Eighteen Prohibited: It shall be unlawful to allow a person who is younger than eighteen (18) years of age to enter or be on the premises of an adult oriented business at any time the adult oriented business is open for business.

B. Attendant Required: It shall be the duty of the operator of each adult oriented business to ensure that an attendant is stationed at each public entrance to the adult oriented business at all times during such adult oriented business' regular business hours. It shall be the duty of the attendant to prohibit any person under the age of eighteen (18) years from entering the adult oriented business. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished:

1. A valid operator's, commercial operator's, or chauffeur's driver's license; or

2. A valid personal identification certificate issued by the state of Montana reflecting that such person is eighteen (18) years of age or older.

C. Violation: Violation of this section shall constitute a misdemeanor. (Amended Ord. 86-1)

10-15-18: EXEMPTIONS:

- A. **Defense To Prosecution:** It is a defense to prosecution under this chapter that a person appearing in a state of nudity did so in a modeling class operated:
1. By a proprietary school, licensed by the state of Montana, a college, junior college or university supported entirely or partly by taxation;
 2. By a private college or university that maintains and operates educational programs in which credits are transferable to a college, junior college or university supported entirely or partly by taxation.
- B. **Movies:** Notwithstanding any other provision in this chapter movies rated G, PG, PG-13 or R by the Motion Picture Association of America (MPAA), or live political value, that depict or describe specified anatomical areas or specified sexual activities, are expressly exempted from regulation under this chapter. (Amended Ord. 86-1)

10-15-19: SUSPENSION: Temporary suspension of a license to operate an adult oriented business may occur based upon violations of this chapter. On determining that grounds exist for a suspension, the city shall furnish written notice of the proposed suspension to the license holder. Such notice shall set forth the time and place of a suspension hearing before the city council, the grounds for the proposing of such suspension, the pertinent city code sections involved, and a brief statement of the factual matters in support thereof. The notice shall be mailed to the last known address of the license holder or shall be delivered to the license holder personally, at least ten (10) days prior to the hearing date. Hearings shall be conducted in accordance with procedures established for regular meetings of the city council. At the close of the hearing, the city council may deny the suspension of the license, suspend the license for a period not to exceed six (6) months, or it may take other appropriate action, including the imposition of additional conditions. Finally, it may decide that permanent revocation of the license is warranted, in which case the procedures set out in section 10-15-20 of this chapter will be followed. (Amended Ord. 86-1)

10-15-20: REVOCATION: Permanent revocation of a license to operate an adult oriented business may occur based upon violations

of this chapter. On determining that grounds exist for a revocation, the city shall furnish written notice of the proposed revocation to the license holder. Such notice shall set forth the time and place of the revocation hearing before the city council, the grounds for the proposing of such revocation, the pertinent city code sections involved, and a brief statement of the factual matters in support thereof. The notice shall be mailed to the last known address of the license holder or shall be delivered to the license holder personally, at least ten (10) days prior to the hearing date. Hearings shall be conducted in accordance with procedures established for regular meetings of the city council. At the close of the hearing, the city council may deny the revocation of the license or it may take other appropriate action, including the imposition of additional conditions. (Amended Ord. 86-1)

10-15-21: NOTICES:

- A. **Service:** Any notice required or permitted to be given by any city office, division, department or other agency under this chapter to any applicant, operator or owner of an adult oriented business may be given either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or any notice of address change that has been received by the city. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the city shall cause it to be posted at the principal entrance to the establishment.
- B. **Deemed Given:** Any notice required or permitted to be given to the city by any person under this chapter shall not be deemed given until and unless it is received in the office of the city.
- C. **Change Of Residence Or Mailing Address:** It shall be the duty of each owner who is designated on the license application and each operator to furnish notice to the city, in writing, of any change of residence or mailing address. (Amended Ord. 86-1)

10-15-22: INJUNCTION: A person who operates or causes to be operated an adult oriented business without a valid operator's license, or in violation of relevant sections of this chapter, is subject to a suit for injunction as well as prosecution for criminal violations. Each day that an adult oriented business so operates is a separate offense or violation. (Amended Ord. 86-1)

10-15-23

10-15-23

10-15-23: **JUDICIAL REVIEW:** Within thirty (30) days of a denial of an initial or renewal application by the city, or suspension or revocation of a license by the city, the applicant or licensee may seek prompt judicial review of such action in the district court of the eighteenth judicial district court, in and for the county of Gallatin, state of Montana. (Amended Ord. 86-1)

CHAPTER 16

ADMINISTRATION AND ENFORCEMENT OF PERMITS

SECTION:

10-16-1:	Administration And Enforcement
10-16-2:	Permits
10-16-3:	Conformance
10-16-4:	Expiration Of Permits
10-16-5:	Permits Issued Contrary To Title
10-16-6:	Duties Of Building Inspector
10-16-7:	Schedule Of Fees, Charges, And Expenses

10-16-1: **ADMINISTRATION AND ENFORCEMENT:**

- A. Designation: The zoning officer and building inspector as designated by the city council shall administer and enforce this title. He may be provided with the assistance of such other persons as the city council may direct and those assistants shall have essentially the same responsibilities as directed by the building inspector.
- B. Notice Of Violation: If the building inspector shall find that any of the provisions of this title are being violated: 1) he shall notify, in writing, the person responsible for such violations indicating the nature of the violation and ordering the action necessary to correct it, 2) he shall order discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures, or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or 3) shall take any other action authorized by this title to ensure compliance with or prevent violation of its provisions. (Amended Ord. 86-1)

10-16-2: **PERMITS:**

- A. Permits Required: No buildings or other structures shall be erected, moved, added to, or structurally altered and no land use shall be changed without valid permits as prescribed herein.

1. Within City Limits: Within the limits of the city, building permits shall be obtained by following the international building code (IBC) as per section 10-16-8 of this chapter.

2. Outside City Limits: Outside the corporate limits of the city, but within the extraterritorial limits of this title, a valid state or city building permit shall be required. Building permits shall be obtained by following the international building code. Said residential building permit shall be obtained by application to the city building inspector. Commercial building permits must be obtained from the state of Montana building codes division.

- B. Additional Information: The applications shall include such other information as lawfully may be required by the building inspector, including existing or proposed building and land; the number of families, housing units, or rental units the building is designed to accommodate; conditions existing on the lot; and such other matters as may be necessary to determine conformance with and provided for the enforcement of this title.
- C. Plans: One copy of the plans shall be returned to the applicant by the building inspector, after he shall have marked such copy either as approved or disapproved and attested to same by his signature. The second copy similarly marked shall be retained by the building inspector. (Amended Ord. 86-1)

10-16-3: CONFORMANCE:

- A. Required: No permit of any type shall be issued unless in conformance with the regulations contained within this title. Permits issued on the basis of plans and applications approved by the building inspector authorize only the use, arrangement and construction set forth in such approved plans and applications, and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this title punishable as provided in chapter 19 of this title.
- B. Conditional Use Permits; Variances: Conditional use permits approved by the city council and variances granted by the board of adjustment shall be deemed in conformance with the terms of this title. However, building permits or land use permits shall be issued only in accordance with the terms set forth in the conditional use permit and variance sections of this title. (Amended Ord. 86-1)

10-16-4: EXPIRATION OF PERMITS:

- A. Expiration: Every permit issued by the building inspector under the provisions of this chapter shall expire by limitation and become null and void, if the building or work authorized by such permit has not commenced within ninety (90) days from the date of such permit, or if the building or work authorized by such permit is suspended or abandoned at any time after the work is commenced for a period of one hundred twenty (120) days.
- B. New Permit Required: Before such work can be recommenced, a new permit shall first be obtained to do so, and the fee therefor shall be one-half ($\frac{1}{2}$) the amount required for the new permit for such work, provided no changes have been made or will be made in the original plans and specifications for the work; and, provided further, that such suspension or abandonment has not exceeded one year. (Amended Ord. 86-1)

10-16-5: PERMITS ISSUED CONTRARY TO TITLE: Any building permit, or any authorization issued, granted, or approved in violation of the provisions of this title shall be null and void and of no effect without the necessity of any proceedings or a revocation or nullification thereof, and any work undertaken or use established pursuant to any such building permit or other authorization shall be unlawful. (Amended Ord. 86-1)

10-16-6: DUTIES OF BUILDING INSPECTOR:

- A. Check For Compliance: It is the intent of this title that the building inspector shall check all plans and applications for permits for compliance with this title both before and during construction.
- B. Noncompliance: If, during this procedure, the building inspector deems that the proposed plan or construction does not comply with this title, he shall inform the applicant of the infraction and shall stop all construction of the project until such time as the applicant, builder or principal revises his plan to conform to this title, or obtains a variance, conditional use permit, or zone change as set forth herein. (Amended Ord. 86-1)

10-16-7: SCHEDULE OF FEES, CHARGES, AND EXPENSES:

- A. Established: The city council shall establish a schedule of fees, charges, and expenses and a collection procedure for building permits, land use permits, appeals and other matters pertaining to this title.
- B. Posted: The schedule of fees shall be posted in the office of the building inspector and may be altered or amended only by the city council.
- C. Schedule: No permit, zone change, conditional use, or variance shall be issued unless or until such costs, charges, fees, or expenses have been paid in full, nor shall any action be taken on proceedings before the city-county planning board, city council, or the board or adjustment unless or until preliminary charges and fees have been paid in full. (Amended Ord. 86-1)

CHAPTER 17

BOARD OF ADJUSTMENT

SECTION:

10-17-1:	Creation
10-17-2:	Officers
10-17-3:	Powers And Duties
10-17-4:	Procedure
10-17-5:	Hearing And Notice
10-17-6:	Approval
10-17-7:	Conditions Of Approval
10-17-8:	Appeals
10-17-9:	Time Decision Effective

10-17-1: **CREATION:**

- A. Created: The board of adjustment is hereby established to act on variance applications as herein detailed.
- B. Membership; Appointment; Term: Said board shall consist of seven (7) members appointed by the mayor for three (3) year terms (with staggered terms) and subject to confirmation by the council. (Amended Ord. 86-1)

10-17-2: **OFFICERS:**

- A. Appointment: At the first meeting each year, the board shall appoint one of its members to serve as chairman and one member to serve as vice chairman.
- B. City Building Inspector: The city building inspector shall be at the disposal of the board to receive and process applications of appeal and to give advice to said board.

- C. Office; Files: The board office shall be that of the city and all files of said board shall be held therein. (Amended Ord. 86-1)

10-17-3: **POWERS AND DUTIES:** The board shall set its operating rules in accordance with the laws of the state of Montana and shall have the following powers:

- A. Appeals: To hear appeals and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this title or of any ordinance adopted pursuant hereto.
- B. Variances:
1. Authority To Authorize: To authorize, upon appeal in specific cases, such variance from the terms of this title as shall not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title will result in unnecessary hardship, and so that the spirit of this title shall be observed and substantial justice done. An unnecessary hardship shall not be construed to be an event or situation caused or created by the applicant or previous property owner.
 2. Modifiable Requirements: More specifically, the board shall, after public notice and hearing, conditionally approve, deny, or approve any request to modify the following requirements, only if the application satisfies the requirements outlined above:
 - a. Setback requirements.
 - b. Yard requirements.
 - c. Area requirements.
 - d. Height requirements.
 - e. Parking requirements.
 - f. Loading requirements.
- C. Required Vote: The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of

the application on any matter upon which it is required to pass under this title, or to affect any variation of this title. (Amended Ord. 86-1)

10-17-4: **PROCEDURE:**

- A. Application: Written applications for appeals or modifications (variance) shall be filed in the office of the building inspector.
- B. Fee: Notwithstanding any other provisions of this title, the uniform fee to be established by the city council as provided in section 10-16-7 of this title shall be paid to the city upon filing of each application for the purpose of defraying expenses related to the proceedings. No application will be regarded as having been filed until such fee has been paid.
- C. Investigation: The board shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and purpose of this title.
- D. Construction To Cease During Appeal: During the time of appeal, all construction shall cease and shall not commence until such time of approval by the board of adjustment. (Amended Ord. 86-1)

10-17-5: **HEARING AND NOTICE:**

- A. Hearing: There shall be a hearing for each application of appeal or modification. Said hearing shall be held at an appointed time and place within forty five (45) days of the date of application. Testimony shall be taken by the board from persons interested in said application.
- B. Notice Of Hearing:
 - 1. Publication: Notice of hearing shall be published once in a newspaper of general circulation within the city at least ten (10) days prior to the hearing date.
 - 2. Posted: A notice will be posted on the proposed site of the variance for ten (10) days prior to the hearing; giving notice that an application for a variance has been filed on the property, giving the hearing date and hearing location, and a telephone number for further information. (Amended Ord. 86-1)

10-17-6: **APPROVAL:** In approving applications of appeal or modification, the board shall designate such lawful conditions as will secure substantial protection for the public health, safety and general welfare, and shall find as follows: (Amended Ord. 86-1)

- A. **Consistent With Title And/Or Growth Policy:** Such modifications will not be inconsistent with the intent and purpose of this title and/or any adopted growth policy. (Amended Ord. 86-1; amd. 2009 Code)
- B. **Unnecessary Hardship:** Strict compliance with the provisions of this title would create unnecessary hardship or unreasonable situation on a particular property due to unusual or extreme topography, unusual shape of the property, or the prevalence of similar conditions in the immediate vicinity of the property.
- C. **Adverse Effect:** Such modifications will have minimal adverse effect on abutting properties or the permitted uses thereof.
- D. **Conditions Of Approval:** The lawful conditions stated in the approval are deemed necessary to protect the public health, safety, morals, and general welfare, which provisions may include:
 - 1. A time period within which the proposed structures shall be erected.
 - 2. Requiring landscaping and maintenance thereof.
 - 3. Requiring the surfacing and marking of off street parking and loading areas.
 - 4. Any other conditions as will make possible the development of the city in an orderly and efficient manner and in conformity with the intent and purpose set forth in this section. (Amended Ord. 86-1)

10-17-7: **CONDITIONS OF APPROVAL:** Any approval under this chapter shall be subject to the terms of the conditions designated in connection herewith. (Amended Ord. 86-1)

10-17-8: **APPEALS:** Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, board, or bureau of the municipality may present to a court of record a petition, duly verified, setting forth that

10-17-8

10-17-9

such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in office of the board. (Amended Ord. 86-1)

10-17-9: **TIME DECISION EFFECTIVE:** The decision of the board of adjustment shall be final except as provided in section 10-17-8 of this chapter, and if a building permit or occupancy permit is not obtained for the subject property within six (6) months from the date of the board decision, the variance shall be automatically cancelled and become null and void. (Amended Ord. 86-1)

CHAPTER 18

AMENDMENTS AND CHANGES

SECTION:

- 10-18-1: Initiation And Amendment
10-18-2: Investigation
10-18-3: Hearing

10-18-1: **INITIATION AND AMENDMENT:**

- A. City Council Or City-County Planning Board: The city council may, from time to time, amend, supplement, or change this title and the regulation of maps appertaining hereto. An amendment, supplement, or change may be initiated by the city council or the city-county planning board.
- B. Property Owner: Whenever the property owner of any land or building desires a reclassification of his property or change in regulations applicable thereto, he may file with the city director of finance or the city-county planning board office a petition duly signed and verified by him requesting an amendment or change of regulations prescribed for such property. (Amended Ord. 86-1)

10-18-2: **INVESTIGATION:** Upon initiation of an amendment by the city council or the city-county planning board, or upon petition from a property owner, the city-county planning board shall cause to be made such an investigation of facts bearing on such initiation or petition as will provide necessary information to assure that the action of each such petition is consistent with the intent and purpose of this title. (Amended Ord. 86-1)

10-18-3: **HEARING:**

- A. Hearing Required: The city-county planning board shall hold public hearings on the matters referred to in such initiation or petition at

which parties in interest and citizens shall have an opportunity to be heard.

B. Notice Of Hearing:

1. Publication: At least fifteen (15) days' notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in the city.

2. Mail: All property owners within three hundred feet (300') of the site of the proposed district change shall be notified of the proposed change via the United States mail at least ten (10) days prior to the public hearing. Names and addresses of adjoining property owners will be provided to the city-county planning office by the applicant and will be certified by the county recorder or an authorized title company.

3. Posted: The project site shall be posted indicating the time and location of the public hearing at least ten (10) days prior to the hearing date.

C. Reports And Recommendations: After such hearing or hearings, the city-county planning board will make reports and recommendations on said petition or initiation to the city council.

D. Amendment Or Supplement Recommended:

1. Hearing Required: When the city-county planning board has recommended an amendment or supplement to this title, including a change in the district boundaries, a public hearing shall be held by the city council for the purpose of acting upon the proposed amendment or supplement after public notice.

2. Notice Of Hearing:

a. Publication: Such public notice shall be published in an official paper or a paper of general circulation in the city, telling the time and place of the meeting at least fifteen (15) days prior to the meeting date.

b. Posted: The project site shall be posted indicating the time and location of the public hearing at least ten (10) days prior to the hearing date.

3. Protest; Required Vote: In case, however, of protest against such changes, signed by the owners of twenty percent (20%) or more either of the area of the lots included in such proposed change or of those lots immediately adjacent in the rear thereof extending one hundred fifty feet (150') therefrom or of those lots adjacent on either side thereof within the block or of those directly opposite thereof extending one hundred fifty feet (150') from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths ($\frac{3}{4}$) of all members of the city council. (Amended Ord. 86-1)

CHAPTER 19

ENFORCEMENT; PENALTY

SECTION:

- 10-19-1: Enforcement
10-19-2: Violation
10-19-3: Penalties

10-19-1: **ENFORCEMENT:** This title shall be enforced by the city council and their authorized representatives. No building permit or business or occupational use license shall be issued except in compliance with the provisions of this title. (Amended Ord. 86-1)

10-19-2: **VIOLATION:** Whenever a violation of this title occurs or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the building inspector. He shall record properly such complaint and immediately investigate and take action thereon as provided in this title. (Amended Ord. 86-1)

10-19-3: **PENALTIES:**

- A. Misdemeanor: Violation of the provisions of this title or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the grant of variances or conditional uses or any of the requirements for conditions imposed by the city council, shall constitute a misdemeanor. Any person who violates any of the provisions of this title, or fails to comply with any of its requirements, shall, upon conviction thereof, be subject to penalty as provided in section 1-4-1 of this code.
- B. Separate Offense: The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists, or

maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

- C. Additional Remedies: Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. (Amended Ord. 86-1)