GALLATIN COUNTY/ BOZEMAN AREA ZONING REGULATION

ADOPTED JULY, 1999

AMENDED MAY, 2014

AMENDED JULY, 2015

AMENDED NOVEMBER, 2016

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ARTICLE I
GENERAL PROVISION

SECTION 1 TITLE, CREATION AND ADOPTION

1.01 These Regulations shall be known as the Gallatin County/Bozeman Area Zoning Regulation (Regulation). They are adopted for the Gallatin County/Bozeman Area Zoning District (GCBAZD) which was created July 27, 1999.

1.02 These Regulation are adopted pursuant to § 76-2-201, MCA, in accordance with the Gallatin County Growth Policy and the Gallatin County/Bozeman Area Plan.

1.03 Copies of these Regulations and Official Zoning Map are on file for public inspection with the Gallatin County Clerk and Recorder's Office and the Gallatin County Planning Department (Planning Department).

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SECTION 2 PURPOSE AND INTENT OF REGULATIONS

2.01 These Regulations have been made in accordance with the Gallatin County Growth Policy (adopted April 15, 2003) and the Gallatin County/Bozeman Area Plan (adopted November 1, 2005) for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with § 76-2-203(1), MCA, these Regulations are designed to:

1. Secure safety from fire and other dangers.
2. Promote public health, safety, and general welfare; and
3. Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

2.02 These Regulations are intended to implement the objectives, goals and policies of the Gallatin County/Bozeman Area Plan and Future Land Use Map. The intent of these Regulations are to regulate and promote orderly development. Any Use not listed herein as a Permitted Principal, Accessory, or Conditional Use is prohibited, except that the County Commission may consider at a public hearing, and on a case by case basis, if a proposed Use is similar in intent, purpose, and impact to other allowable uses in the District, and if the Use may be permitted as a Principal, Accessory, or Conditional Use.

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SECTION 3 APPLICATION OF DISTRICT REGULATIONS

3.01 **Minimum Requirements.** The requirements established by these Regulations are minimum regulations and apply uniformly to each class or kind of Structure or land throughout the District. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the District.

3.02 **Continuation of Non-Conforming Uses**. These Regulations include a "grandfather clause" in accordance with § 76-2-208, MCA, which allows existing Non-Conforming Parcels, Uses of land, Structures, Buildings, and other characteristics which would otherwise be restricted or regulated under the terms of these Regulations, to continue as a pre-existing Non-Conforming Use.

3.03 **Zoning Regulation Conformance**. No Building or Structure in any District shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the District in which it is located.

No Building, Structure, or land in any District may be used or occupied for any purpose unless such use is listed as a permitted or conditional use in the District and approval for that use is obtained through the proper procedure. All other uses are prohibited.

Unless otherwise provided under law, any division of land, or tract of record created after the effective date of these Regulations whether by subdivision review, exemption from subdivision review, court order or other means shall meet the minimum requirements of these Regulations.

Property owners are responsible for ensuring all activity within the District boundaries conform to these Regulations.

3.04 **Exceptions**. Any public utility pipelines, electric transmission lines, well or pump house necessary for provision of services required for public health and safety, may be exempted from the provisions of these Regulations the Zoning Enforcement Agent upon findings that such structures are consistent with the Gallatin County/Bozeman Area Plan and will not create a hardship for other property owners.

3.05 **Vesting**. An application made within the District is subject to the Regulation(s) in effect at the time the application is submitted.

3.06 **Contradictions**. If the requirements of these Regulations conflict with the requirements of any other lawfully adopted rules or regulations, the most restrictive (or higher standard) shall govern.

3.07 **Natural Resources**. As provided under § 76-2-209, MCA, these Regulations may not prevent the complete use, development, or recovery of a mineral, forest, or agricultural resource. The complete use, development, or recovery of a mineral by an operation that mines sand and gravel and that mixes concrete or batches asphalt on a site that is located within a District zoned as residential are subject to the provisions of these Regulations.

3.08 **Interpretations**. The Planning Department, Code Compliance Officer, Gallatin County Planning Board (Planning Board), and the Gallatin County Commission (County Commission) can make official interpretations of the Gallatin County/Bozeman Area Zoning Regulations and Official Zoning Map. If questions arise concerning the appropriate classification of a particular Use, or if the specific Use is not listed, the County Commission shall determine the appropriate classification of the Use (see Subsection 2.02)

In interpreting a Use classification, the County Commission shall consider the matter in an official meeting and determine that the Use:

1. Is compatible with the Uses permitted in the District.
2. Is similar to one or more Uses permitted in the District.
3. Will not adversely affect property in the neighborhood or the District.

4. Will not abrogate the intent of the Plan or these Regulations.

3.09 **Application to Agencies**. As provided under § 76-2-402, MCA, whenever an agency proposes to use public land contrary to these Regulations, the Board of Adjustment (BOA) shall hold a public hearing within 30 days of the date the agency gives notice to the BOA of its intent to develop land contrary to these Regulations. The BOA shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

SECTION 4 ESTABLISHMENT OF ZONE DISTRICTS AND OFFICIAL ZONING MAP

4.01 **Zone Districts**. The Gallatin County/Bozeman Area Zoning District is hereby divided into zones or "Zone Districts," as shown on the Official Zoning Map and as explained in these Regulations.

4.02 **Official Zoning Map**. The Official Zoning Map shall be available in the Office of the Gallatin County Clerk and Recorder and shall bear certificate with the signature of the Chairman of the County Commission attested by the Clerk and Recorder, and the date of adoption of the Official Zoning Map. If any changes to the Official Zoning Map are made by amendment to these Regulations, in accordance with Section 30 hereof, such changes shall be made to the Official Zoning Map and signed, dated and certified upon the map or upon documentation attached thereto.

4.03 **Interpretation of Map Boundaries**. Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown. Boundaries indicated as approximately following the centerline of Streets, highways or Alleys shall be construed to follow such centerlines. Boundaries indicated as approximately following platted Lot Lines shall be construed as following such Lot Lines. Boundaries indicated as approximately following city limits shall be construed as following such city limits. Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s). Boundaries indicated as following the centerline of streams, rivers, canals, or ditches shall be construed to follow such centerlines. Boundaries indicated as parallel to or extensions of features indicated on the Official Zoning Map shall be determined by the scale of the map.

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SECTION 5 INVALIDATION AND SEVERABILITY

5.01 If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of these Regulations, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of these Regulations to render the same operative and reasonably effective for carrying out the main purpose and intention of these Regulations.

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ARTICLE II
ZONING DISTRICTS

SECTION 6 AGRICULTURE SUBURBAN (A-S)

6.01 **Intent**. The intent of the A-S District is to provide for Agricultural Activities and rural residential Uses on larger tracts of land, and to maintain and preserve the rural character and pattern of development of outlying areas in compliance with the Gallatin County/Bozeman Area Plan. For the purpose of § 76-2-209 MCA, the County Commission has determined that the A-S District is residential in nature.

6.02 **Allowed Principal Uses**.

1. Agricultural Activities
2. Dwelling, Single-family OR Dwelling, Single-family Manufactured Home (subject to Subsection 15.15), one (1) Dwelling Unit per Parcel of Record
3. Essential Services (Type 1)
4. Family Day Care Home or Group Day Care Home registered by the Department of Public Health and Human Services § 52-2-7 MCA
5. Fireworks Sales Stands - temporary, subject to Subsection 15.12
6. Nursery, Plant
7. Parks and Playgrounds

6.03 **Allowed Accessory Uses**

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Accessory Dwellings, subject to Subsection 15.02
3. Accessory Uses, Accessory and Minor Accessory Structures incidental to residential or Agricultural Activities.
4. Equestrian Facilities, subject to Subsection 15.09
5. Fences, Walls and Hedges subject to Subsection 15.11
6. Home Occupations, subject to Subsection 15.14
7. On-premise sale of products produced thereon
8. Signs, subject to Section 20
9. Storage of Recreational Vehicles and boats, subject to Subsection 15.17
10. Temporary Occupancy, subject to Subsection 15.20

6.04 **Conditional Uses**.

1. Airfield, personal use
2. Bed and Breakfast Homes
3. Community Residential Facilities as defined in § 76-2-411 MCA
4. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
5. Essential Services (Type II)
6. Golf Courses

7. Hunting and Fishing Clubs
8. Kennels
9. Places of Worship
10. Planned Unit Developments, subject to Section 21
11. Recreational Vehicle Parks and Campgrounds
12. Residence for owner or caretaker of Recreational Vehicle Parks and Campgrounds
13. Sand and Gravel Mining Operations
14. Schools
15. Special Events
16. Personal Wireless Service Facility, subject to Section 19
17. Sports and Fitness Facilities, subject to Subsection 15.18
18. Veterinary Uses

6.05 **Development Options.**

1. Standard Development. One Dwelling Unit per 20 acres, with a minimum Lot size of one (1) acre. No Open Space required.
2. Relocation of Common Boundary. Any relocation of common boundaries between parcels shall not result in a net increase of more than one (1) Dwelling Unit per 20 acres. The County Commission may approve boundary relocations that would otherwise result in a net increase in Dwelling Unit density when land-use controls (e.g. note on survey or plat, deed restriction, etc.) are implemented and recorded to prevent any net increase in Dwelling Unit density.
3. Cluster Development. The development of new Lots shall be subject to the following standards:
    a. Number of Dwelling Units permitted based on total size of tract(s) to be developed (in acres):

Acres	20	25	30	35	40	44	48	52	56	60
Dwelling Units	1	2	3	4	5	6	7	8	9	10
Acres	64	68	72	76	80	➔Continued as a Straight➔				
Dwelling Units	11	12	13	14	15	➔Line Projection➔				

    b. Minimum Lot size shall be one (1) acre.
    c. A minimum of 40 percent of the tract(s) to be subdivided shall be platted as an Open Space Parcel.
        i. Open Space Parcel(s) may be owned in common by an owners' association, privately owned, or a combination of both.
        ii. Open Space may be left in a natural state or used for agriculture or recreation.
4. Planned Unit Development (PUD). Lot Area, Lot Width, Lot Coverage, Open Space, Dwelling Unit design, Yards, Building Height, and the Transfer of Development Rights (TDR) may be established through a PUD. See Section 21, Planned Unit Development.

5. Transfer of Development Rights (TDR). Procedure to exceed the permitted number of Dwelling Units as established under the Standard and Cluster Development options. See Section 22, Transfer of Development Rights.

6.06 **Setbacks.**

1. Every Lot shall have the following minimum Setback to the property line:

Front Yard	35 feet
Rear Yard	25 feet
Side Yard	25 feet each side

2. All Setbacks shall be subject to the provisions of Subsection 15.23 where applicable.

3. Except for pastures, any stable, barn, hutch, pen, shed or other such Building or Structure built to enclose farm animals/livestock/fowl shall have a minimum setback of 50 feet from any Structure used for human occupancy.

6.07 **Height**. The maximum Building Height designed and constructed for residential use shall be as follows:

Roof pitch greater than 6:12	34 feet
Roof pitch between 3:12 and 6:12	30 feet
Roof pitch less than 3:12	24 feet

Only Structures necessary for Agricultural Activities may exceed these allowable heights.

6.08 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

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SECTION 7 RESIDENTIAL SUBURBAN (R-S)

7.01 **Intent**. The intent of the R-S District is to provide for residential single-household country estates in areas that are in compliance with the Gallatin County/Bozeman Area Plan.

7.02 **Allowed Principal Uses**.

1. Agricultural Activities on 2 acres or greater
2. Dwelling, Single-family OR Dwelling, Single-family Manufactured Home (subject to Subsection 15.15), one (1) Dwelling Unit per Parcel of Record
3. Essential Services (Type 1)
4. Family Day Care Home or Group Day Care Home registered by the Department of Public Health and Human Services § 52-2-7 MCA
5. Parks and Playgrounds

7.03 **Allowed Accessory Uses**.

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Accessory Dwellings, subject to Subsection 15.02
3. Equestrian Facilities, subject to Subsection 15.09
4. Fences, Walls and Hedges subject to Subsection 15.11
5. Home Occupations, subject to Subsection 15.14
6. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to residential activities.
7. Signs, subject to Section 20
8. Storage of Recreational Vehicles and boats, subject to Subsection 15.17
9. Temporary Occupancy, subject to Subsection 15.20

7.04 **Conditional Uses.**

1. Agricultural Activities on less than 2 acres
2. Bed and Breakfast Homes
3. Community Residential Facilities as defined in § 76-2-411 MCA
4. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
5. Essential Services (Type II)
6. Golf Courses
7. Places of Worship
8. Planned Unit Developments, subject to Section 21
9. Schools
10. Special Events
11. Sports and Fitness Facilities, subject to Subsection 15.18
12. Personal Wireless Service Facility, subject to Section 19
13. Veterinary Uses

7.05 **Development Options.**

1. Standard Development. Minimum Lot Area shall be one (1) acre, with a minimum Lot Width of 150 feet.
2. Planned Unit Development (PUD). Lot Area, Lot Width, Lot Coverage, Open Space, Dwelling Unit design, Yards, and Building Height may be established through a PUD. See Section 21, Planned Unit Development.

7.06 **Setbacks.**

1. Every lot shall have the following minimum Setback to the property line:

Front Yard	35 feet
Rear Yard	25 feet
Side Yard	25 feet each side

2. All Setbacks shall be subject to the provisions of Subsection 15.23 when applicable.
3. Except for pastures, any stable, barn, hutch, pen, shed or other such Buildings or Structures built to enclose or farm animals/livestock/fowl shall have a minimum setback of 50 feet from any Structure used for human occupancy.

7.07 **Height**. Maximum Building Height designed and constructed for human occupancy shall be as follows:

Roof pitch greater than 6:12	34 feet
Roof pitch between 3:12 and 6:12	30 feet
Roof pitch less than 3:12	24 feet

Only Structures necessary for agricultural uses may exceed these allowable heights.

7.08 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

SECTION 8 RESIDENTIAL EXISTING MEDIUM DENSITY (RX-MD)

8.01 **Intent**. The intent of the RX-MD District is to provide for single-family residential Structures and Uses on Lots within existing recorded subdivisions, or within areas of the planning jurisdiction which have adopted neighborhood specific plans which demonstrate adequacy of the provision of necessary services and infrastructure to facilitated medium density single-family residential subdivision.

8.02 **Allowed Principal Uses**.

1. Dwelling, Single-family OR Dwelling, Single-family Manufactured Home (subject to Subsection 15.15), one (1) Dwelling Unit per Parcel of Record
2. Essential Services (Type I)
3. Family Day Care Home or Group Day Care Home registered by the Department of Public Health and Human Services § 52-2-7 MCA
4. Parks and Playgrounds

8.03 **Allowed Accessory Uses.**

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Accessory Dwelling, subject to Subsection 15.02
3. Fences, Walls and Hedges subject to Subsection 15.11
4. Home Occupations, subject to Subsection 15.14
5. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to residential activities.
6. Signs, subject to Section 20
7. Storage of Recreational Vehicles and boats, subject to Subsection 15.17
8. Temporary Occupancy, subject to Subsection 15.20

8.04 **Conditional Uses.**

1. Bed and Breakfast Homes
2. Community Residential Facilities as defined in § 76-2-411 MCA
3. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
4. Golf Courses
5. Places of Worship
6. Planned Unit Developments, subject to Section 21
7. Schools
8. Personal Wireless Service Facility, subject to Section 19
9. Sports and Fitness Facilities, subject to Subsection 15.18

8.05 **Density.**

1. Lot Area and Width shall be the same as on the recorded subdivision plat.
2. With the exception of relocation of common boundaries, no Lot Area or Lot Width shall be reduced in size.
3. If a neighborhood plan, site or development plan, Planned Unit Development, and/or preliminary plat received County Commission approval prior to May 27, 2014, project density, and/or Lot Area and Width shall be the same as approved on the

neighborhood plan, site or development plan, Planned Unit Development, and/or preliminary plat.

8.06 **Lot Coverage**. Lot Coverage shall not exceed 40% of the Lot Area.

8.07 **Setbacks**.

1. Every Lot district shall have the following minimum Setback to property lines:

Front Yard	25 feet
Rear Yard	20 feet
Side Yard	8 feet each side

2. All Setbacks shall be subject to the provisions of Subsection 15.23 when applicable.

8.08 **Height**. Maximum Building Height shall be as follows:

Roof pitch greater than 6:12	32 feet
Roof pitch between 3:12 and 6:12	28 feet
Roof pitch less than 3:12	24 feet

8.09 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

SECTION 9 RESIDENTIAL EXISTING HIGH DENSITY (RX-HD)

9.01 **Intent**. The intent of the RX-HD District is to provide for one (1) to five (5) family residential Structures and Uses on Lots within existing recorded subdivisions, or within areas of the planning jurisdiction which have adopted neighborhood specific plans which demonstrate adequacy of the provision of necessary services and infrastructure to facilitated higher density single and multi-family residential subdivision.

9.02 **Allowed Principal Uses**

1. Dwelling, Single-family OR Dwelling, Single-family Manufactured Home (subject to Subsection 15.15), one (1) Dwelling Unit per Parcel of Record
2. Dwelling, Two-family, one (1) per existing Parcel of Record
3. Dwelling, Multiple (multi-family), one (1) per existing Parcel of Record
4. Essential Services (Type I)
5. Family Day Care Home or Group Day Care Home registered by the Department of Public Health and Human Services § 52-2-7 MCA
6. Parks and Playgrounds
7. Townhouses

9.03 **Allowed Accessory Uses.**

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Accessory Dwelling, subject to Subsection 15.02
3. Fences, Walls and Hedges subject to Subsection 15.11
4. Home Occupations, subject to Subsection 15.14
5. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to residential activities.
6. Signs, subject to Section 20
7. Storage of Recreational Vehicles and Boats, subject to Subsection 15.17
8. Temporary Occupancy, subject to Subsection 15.20

9.04 **Conditional Uses.**

1. Bed and Breakfast Homes
2. Community Residential Facilities as defined in § 76-2-411 MCA
3. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
4. Golf Courses
5. Places of Worship
6. Planned Unit Developments, subject to Section 21
7. Schools
8. Personal Wireless Service Facility, subject to Section 19
9. Sports and Fitness Facilities, subject to Subsection 15.18

9.05 **Density.**

1. Lot Area and Width shall be the same as on the recorded subdivision plat.
2. With the exception of Townhouses within existing Lots, and relocation of common boundaries, no Lot Area or Lot Width shall be reduced in size.
3. If a neighborhood plan, site or development plan, Planned Unit Development, and/or preliminary plat received County Commission approval prior to May 27, 2014, project density, and/or Lot Area and Width shall be the same as approved on the neighborhood plan, site or development plan, Planned Unit Development, and/or preliminary plat.

9.06 **Lot Coverage.** Lot Coverage shall not exceed 40% of the Lot Area.

9.07 **Setbacks.**

1. Every Lot shall have the following minimum Setback to property lines:

Front Yard	25 feet
Rear Yard	20 feet
Side Yard	8 feet each side (except zero Lot line sides for Townhouse units)

2. All Yards shall be subject to the provisions of Subsection 15.23 when applicable.

9.08 **Height**. Maximum Building Height shall be as follows:

Roof pitch 3:12 or greater	38 feet
Flat roof or roof pitch less than 3:12	32 feet

9.09 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

SECTION 10 RESIDENTIAL MOBILE HOME (R-MH)

10.01 **Intent**. The intent of the R-MH District is to provide for single-family Mobile Home developments at a medium density, and directly related complementary Uses.

10.02 **Allowed Principal Uses**.

1. Essential Services (Type I)
2. Family Day Care Homes or Group Day Care Home registered by the Department of Public Health and Human Services § 52-2-7 MCA
3. Mobile Home Parks on sites of not less than 10 acres
4. Mobile Home Subdivisions on sites of not less than 10 acres
5. Parks and Playgrounds
6. Single-Family Dwelling, Single-Family Mobile Homes, Single-Family Manufactured Home. One (1) Dwelling unit per Parcel of Record or per Mobile Home Park space

10.03 **Allowed Accessory Uses.**

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Fences, Walls and Hedges subject to Subsection 15.11
3. Home Occupations, subject to Subsection 15.14
4. Maintenance Buildings and Facilities
5. Manager's Residence
6. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to residential activities and Mobile Home developments.
7. Signs, subject to Section 20
8. Storage of Recreational Vehicles and Boats, subject to Subsection 15.17

10.04 **Conditional Uses.**

1. Community Residential Facilities as defined in § 76-2-411 MCA
2. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
3. Essential Services (Type II)
4. Places of Worship
5. Planned Unit Developments, subject to Section 21
6. Public Buildings
7. Personal Wireless Service Facility, subject to Section 19

10.05 **Lot Area and Width.**

1. For Mobile Home Park developments, the design and improvement standards provided under Section 12.D., Standards for Mobile Home or Manufactured Housing Parks and Recreational Vehicle Parks, of the Gallatin County Subdivision Regulations, shall apply.
2. For Mobile Home subdivisions, the minimum Lot Area shall be 5,500 square feet where both community water and sewer are available. The minimum Lot Width shall be 55 feet.

10.06 **Setbacks.**

1. For Mobile Home subdivisions, every Lot shall have the following minimum Setback to the property line:

Front Yard	20 feet
Rear Yard	8 feet
Side Yard	8/20 feet (no side yard shall be less than 8 feet; at least one side yard shall be 20 feet)

2. All Setbacks shall be subject to the provisions of Subsection 15.23 when applicable.

10.07 **Height**. Maximum Building Height shall be as follows:

Roof pitch 3:12 or greater	30 feet
Flat roof or roof pitch less than 3:12	24 feet

10.08 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

SECTION 11 RESIDENTIAL OFFICE (R-O)

11.01 **Intent**. The intent of the R-O District is to accommodate the development and operations of Offices and Research and Development Offices, and associated multifamily housing compatible with adjacent land Uses.

11.02 **Allowed Principal Uses**.

1. Apartments located on second or subsequent floors
2. Essential Services (Type I)
3. Family Day Care Homes or Group Day Care Home registered by the Department of Public Health and Human Services § 52-2-7 MCA
4. Medical Offices, Clinics and Centers
5. Offices
6. Parks and Playgrounds
7. Off-site parking, subject to Section 18.04.4
8. Offices, Research & Development, Completely Indoors

11.03 **Allowed Accessory Uses.**

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Fences, Walls and Hedges subject to Subsection 15.11
3. Home Occupations, subject to Subsection 15.14
4. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to professional offices and multifamily residential activities.
5. Signs, subject to Section 20

11.04 **Conditional Uses.**

1. Apartment Buildings and Multifamily Dwellings
2. Bed and Breakfast Homes
3. Community Residential Facilities as defined in § 76-2-411 MCA
4. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
5. Lodging Houses
6. Places of Worship
7. Planned Unit Developments, subject to Section 21
8. Schools
9. Sports and Fitness Facilities, subject to Subsection 15.18
10. Personal Wireless Service Facility, subject to Section 19

11.05 **Lot Area and Width**. Lot Area shall not be less than 5,000 square feet, with a minimum Lot Width of 50 feet.

11.06 **Lot Coverage**. Lot Coverage shall not exceed 50% of the Lot Area.

11.07 **Setbacks.**

1. Every Lot shall have the following minimum Setback to the property line:

Front Yard	25 feet
Rear Yard	20 feet
Side Yard	8 feet each side

2. All Yards shall be subject to the provisions of Subsection 15.23 when applicable.

11.08 **Height**. Maximum Building Height shall be as follows:

Roof pitch 3:12 or greater	38 feet
Flat roof or roof pitch less than 3:12	32 feet

11.09 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

(Amended: County Commission Resolution No. 2018-022)

SECTION 12 NEIGHBORHOOD SERVICE (N-S)

12.01 **Intent**. The intent of the N-S District is to provide for small Retail and service activities frequently required by neighborhood residents on a day-to-day basis, while still maintaining a residential character.

12.02 **Allowed Principal Activities**. Principal activities shall be limited to those which are completely enclosed within a Building not larger than 5,000 square feet in gross Floor Area. Accessory activities such as play areas associated with Day Care Centers and patio dining areas for Restaurants shall be permitted outdoors.

12.03 **Allowed Principal Uses**.

1. Apartments located on second or subsequent floors at a maximum density of six (6) Dwelling Units per acre
2. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
3. Essential Services (Type I)
4. Fireworks Sales Stands - temporary, subject to Subsection 15.12
5. Food stores, such as grocery stores, bakeries, etc
6. Off-site parking, subject to Section 18.04.4
7. Personal and Convenience Services
8. Restaurants
9. Retail Uses
10. Small Scale Wireless Communication Facility, subject to Section 19

12.04 **Allowed Accessory Uses.**

1. Accessory Buildings and Structures, subject to Subsection 15.01
2. Fences, Walls and Hedges subject to Subsection 15.11
3. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to neighborhood Retail and service activities.
4. Signs, subject to Section 20

12.05 **Conditional Uses.**

1. Automobile Service Stations, subject to Subsection 15.03
2. Convenience Uses, subject to Subsection 15.07
3. Drive-in Facilities in connection with Permitted Principal Uses listed under Subsection 12.03
4. Essential Services (Type II)
5. Places of Worship
6. Planned Unit Developments, subject to Section 21
7. Professional and Business Offices
8. Restaurants serving alcoholic beverages
9. Special Events
10. Sports and Fitness Facilities, subject to Subsection 15.18
11. Personal Wireless Service Facility, subject to Section 19

12.06 **Lot Area and Width**. Lot Area shall be adequate to provide for required Yards and Off-Street Parking, but in no case less than 5,000 square feet, and 50 feet in Width.

12.07 **Setbacks**.

1. Every Lot shall have the following minimum Setback to the property line:

Front Yard	25 feet
Rear Yard	20 feet
Side Yard	8 feet each side

2. All Setbacks shall be subject to the provisions of Subsection 15.23 when applicable.

12.08 **Height.**

1. Maximum Building Height shall be as follows:

Roof pitch 3:12 or greater	38 feet
Flat roof or roof pitch less than 3:12	32 feet

2. When adjacent to an R-S, RX-MD, or RX-HD district, the Building Height shall not exceed the allowable height established for the adjacent district.

12.09 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

SECTION 13 MANUFACTURING AND INDUSTRIAL (M-I)

13.01 **Intent.** The intent of the M-I District is to provide for the community's needs for Wholesale trade, storage and Warehousing, trucking and transportation terminals, Manufacturing and Industrial Uses, and other similar activities. The District should be oriented to major transportation facilities yet arranged to minimize adverse effects on residential development.

13.02 **Allowed Principal Uses**.

1. Automobile, Boat or Recreational Vehicle Sales, Service and/or Rental
2. Automobile Parking Lot or Garage (public or private)
3. Automobile Service Station, subject to Subsection 15.03
4. Automobile Washing Establishment, subject to Subsection 15.04
5. Automotive Repair Facilities, subject to Subsection 15.05
6. Banks and Other Financial Institutions
7. Building Materials Sales
8. Food Stores, such as Grocery Stores, Bakeries, etc
9. Community Center or Meeting Hall
10. Convenience Uses, subject to Subsection 15.07
11. Drive-In Facilities
12. Emergency Service Facilities
13. Essential Services (Type I)
14. Fireworks Sales Stands, Temporary, subject to Subsection 15.12
15. Hotel or Motel
16. Manufacturing, Light, and Completely Indoors
17. Medical Offices, Clinics and Centers
18. Messenger or Telegraph Service Station
19. Nursery, Plant
20. Offices
21. Off-site parking, subject to Section 18.04.4
22. Places of Worship
23. Public buildings
24. Radio and Television Studio, without Transmission Towers
25. Repair and Service Establishment for Light Consumer Goods, such as Office Equipment, Appliances and Furniture
26. Research Laboratories
27. Restaurants
28. Sports and Fitness Facilities, subject to Subsection 15.18
29. Trade Schools
30. Truck, Bus and Rail Terminal Facilities
31. Warehouses

32. Warehouses, Residential Storage (mini-warehouse), subject to Subsection 15.21

13.03 **Allowed Accessory Uses.**

1. Accessory Buildings, subject to Subsection 15.01
2. Any residential use which is clearly incidental to the operation of an Allowed Principal or Conditional Use.
3. Garbage Enclosures, subject to Subsection 15.13
4. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to Manufacturing and Industrial activities.
5. Outside storage if accessory to an Allowed Principal Use and if screened from the Street and surrounding properties by a solid fence or dense plantings at least six feet (6') high.
6. Personnel service facilities providing services, education, recreation, entertainment, food and convenience goods primarily for those personnel employed in the Allowed Principal Use.
7. Signs, subject to Section 20

13.04 **Conditional Uses.**

1. Adult Business, located no closer than 500 feet from any other Adult Business, home, residential district, school, place of worship, public park, or any youth-oriented establishment
2. Amusement and Recreational Facilities
3. Animal Shelters
4. Bars
5. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
6. Essential Services (Type II)
7. Flour and Feed Mills
8. Food Processing Plants
9. Garbage Transfer Station
10. Grain Elevators
11. Junk Salvage Yard
12. Kennels
13. Machine Shops
14. Planned Unit Developments, subject to Section 21
15. Production Manufacturing and Generation Facilities (electric and gas)
16. Restaurants serving Alcoholic Beverages
17. Retail Establishments other than Allowed Principal Uses listed in Subsection 13.02
18. Sand and Gravel Operations, including Mixing of Concrete and Asphalt Batching
19. Schools
20. Solid Waste Landfill
21. Special Events

22. Truck Repair Facilities
23. Truck Stop and/or Service Station
24. Truck Washing Establishment
25. Veterinary Clinics
26. Personal Wireless Service Facility, subject to Section 19

13.05 **Lot Area and Width**. Lot Area shall be not be less than 7,500 square feet and no Lot Width shall be less than 75 feet, and the lot area shall provide all required Yard areas and Off-Street Parking and loading.

13.06 **Setbacks**.

1. Every Lot shall have the following minimum Setback to the property line:

Front Yard	20 feet
Rear Yard	none*
Side Yard	none*

*When a lot is adjacent to or across the Street from another zone, the Yard requirements shall be the same as the adjoining zone and Buildings shall be screened with either a decorative fence or plantings. The Yard setbacks of A-S, R-S, and PLI shall be interpreted as those of RX-MD.

2. All Setbacks shall be subject to the provisions of Subsection 15.23 when applicable.

13.07 **Height**. Maximum Building Height shall be 40 feet.

13.08 **General Development Standards**. See Article III (Sections 15-20) for all applicable standards.

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SECTION 14 PUBLIC LANDS AND INSTITUTIONS (PLI)

14.01 **Intent**. The intent of the PLI District is to provide for public and quasi-public Uses.

14.02 **Applicability**. All Principal and any Accessory Uses shall be subject to Site Plan review and any conditions required as part of Site Plan approval.

14.03 **Allowed Principal Uses**.

1. Emergency Service Facilities
2. Cemeteries, subject to Subsection 15.06
3. Essential Services (Type I)
4. Museums, Zoos, Historic and Cultural Facilities and Exhibits
5. Public Buildings, i.e., water and sanitation facilities, other Government Buildings
6. Public and Nonprofit, Quasi-Public Institutions, i.e., Universities, Elementary, Junior and Senior High Schools, and Hospitals.
7. Off-site parking, subject to Section 18.04.4
8. Publicly Owned Parks, Playgrounds and Open Space

14.04 **Allowed Accessory Uses.**

1. Accessory Buildings, subject to Subsection 15.01
2. Other Accessory Uses, Accessory and Minor Accessory Structures incidental to public and quasi-public activities.

14.05 **Conditional Uses.**

1. Day Care Centers registered by the Department of Public Health and Human Services § 52-2-7 MCA
2. Essential Services (Type II)
3. Planned Unit Developments, subject to Section 21
4. Solid Waste Landfill Facilities
5. Personal Wireless Service Facility, subject to Section 19

14.06 **Lot Area and Width**. There is no requirement for Lot Area and Width.

14.07 **Setbacks**.

1. There are no Setback requirements, except when a Lot is adjacent to another district. The Setbacks then shall be the same as the adjacent district.
2. All Setbacks shall be subject to the provisions of Subsection 15.23 when applicable.

14.08 **General Development Standards.** See Article III (Sections 15-20) for all applicable standards.

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ARTICLE III
GENERAL DEVELOPMENT STANDARDS

SECTION 15 BUILDING AND DEVELOPMENT STANDARDS

15.01 **Accessory Buildings and Structures.**

1. Except within the A-S and R-S Districts, no Accessory Building or Accessory Structure shall be constructed or erected between the Front Lot Line and Front Building Line. In the A-S and R-S Districts an Accessory Building or Accessory Structure may be constructed or erected between the Front Lot Line and Front Building Line.
2. No Accessory Building or Accessory Structure shall be located in any required Front or Side Yard Setbacks.
3. A detached Structure wall shall maintain a minimum of six feet (6') separation from the Principal Building wall.

15.02 **Accessory Dwellings.**

1. Only one Accessory Dwelling per Parcel is permitted.
2. An Accessory Dwelling may either be an independent living facility located within the principal Dwelling, or a standalone Accessory Building.
3. The living quarters of an Accessory Dwelling shall not exceed the square footage of the principal Dwelling. For standalone Accessory Dwellings on Parcels one (1) acre or greater, the Accessory Dwelling shall not exceed 2000 square feet. For standalone Accessory Dwellings on Parcels less than one (1) acre, the Accessory Dwelling shall not exceed 1200 square feet. The square footage of the Accessory Dwelling may be computed by encompassing a standalone Building, or calculating specific square footage devoted to the living quarters if it is part of a larger standalone Building, such as a barn or Garage, or within a principal Dwelling.
4. Nothing herein precludes the construction of the principal Dwelling after the Accessory Dwelling provided all applicable regulations are met.

15.03 **Automobile Service Station.**

1. All requirements for Convenience Uses shall apply (see Subsection 15.07).
2. Gas pump and pump island canopies are to be located no closer than 10 feet to any side or rear property line. The maximum height of the canopy shall not exceed 18 feet. Design of the canopy shall match the design of the main Building. All canopy lighting must project downward, not upward or outward from the Structure.
3. All on-site activities except those normally performed at the fuel pumps are to be performed within a completely enclosed Building.
4. Where towing service is to be provided, a parking bay for the towing vehicle is to be provided.
5. Parking space for two vehicles per each service stall in the station, but no less than four (4) spaces, shall be provided. Pump islands shall not be considered as service bays. Interior circulation areas shall not be used as parking areas in calculating required parking spaces.

15.04 **Automobile Washing Establishment.**

1. All requirements for Convenience Uses shall apply (see Subsection 15.07).
2. Canopies are to be located no closer than 10 feet to any side or rear property line. The maximum height of the canopy shall not exceed 18 feet. Design of the canopy shall

match the design of the main Building. All canopy lighting must project downward, not upward or outward from the Structure.

15.05 **Automotive Repair Facilities.**

1. All repairs shall be performed within a Building.
2. No Site Plan shall be approved which exposes unassembled vehicles, auto repair activities or auto parts to any Street or residential district.
3. All vehicles awaiting repair shall be screened from view by masonry or wood wall or approved landscape screen.

15.06 **Cemeteries.**

1. Total site area, including business Office and storage Building, shall be a minimum of 20 acres.
2. Accessory Uses may include a chapel, mortuary, Office, mausoleum, and other Industrial Uses which are incidental to the operation of a Cemetery. Industrial Uses may include such things as the manufacture of burial vaults and headstone foundations, provided all of the products are used on the site and are not offered for sale and use elsewhere. The Cemetery shall not include Uses of an Industrial nature other than those stated in this subsection.

15.07 **Convenience Uses.**

1. Convenience Uses shall only be located at intersections of Arterial Streets as designated in the *Greater Bozeman Area Transportation Plan (Current Edition)*.
2. Exterior Building detailing shall be consistent on all four sides of the Building. Renderings of Buildings shall accompany each application and construction shall be in conformity thereto.
3. Noise from drive-through speakers shall not be audible from adjacent residential districts.

15.08 **Drive Access Requirements.**

1. All drive Accesses installed, altered, changed, replaced or extended after the effective date of this Regulation shall comply with the following requirements:
    a. Single-family residences, townhouse units having separated parking facilities, and residential complexes having fewer than four Dwelling Units shall have a drive Access opening not to exceed 24 feet in width, measured at the right-of-way line and 30 feet in width measured at the curb line.
    b. Commercial and residential complexes having four or more Dwelling Units shall have a drive Access opening not to exceed 35 feet in width, measured at the inside edge of the drive Access extended, at its intersection with the projected curb line of the intersecting Street. Two-way drive Access shall be a minimum of 24 feet and one-way drive Access shall be a minimum of 16 feet.
    c. Industrial drive Access widths shall be a maximum of 40 feet measured at the inside edge of the drive Access extended, at its intersection with the projected curb line of the intersecting Street. Two-way drive Accesses shall be a minimum of 24 feet and one-way drive Accesses shall be a minimum of 16 feet.
    d. Drive Accesses for all multiple tenant commercial Buildings or complexes/centers, or industrial drive Accesses shall be set back a minimum of 15 feet from the adjacent property line unless such drive Access is approved as a shared drive Access.

e. Drive Accesses to drive-in theaters, stadiums, racetracks, funeral homes, or Uses generating very heavy periodic traffic conflicts shall be located not closer than 200 feet to any pedestrian or vehicular entrance or exit to a School, college, university, church, Hospital, public emergency shelter or other place of public assembly.

f. All commercial and Industrial drive Accesses on Arterial Streets shall have 15 foot return radii unless otherwise approved. All commercial and Industrial drive Accesses on other Streets may have either return radii or depressed curbs. The minimum radius allowed is four feet (4').

2. Distance from Intersection. Driveway Access distance from Street intersections for all Lots created after the effective date of this Regulation shall be subject to the following minimum dimensions, unless otherwise approved by the Road and Bridge Superintendent as part of an approved Site Plan.

	Driveway Access Located on Collector Streets Distances from Intersection		**Driveway Access Located on Arterial Streets Distances from Intersection**	
Nearest Intersecting Street	**In Res. Dist.**	**In Comm/Ind. Dist.**	**In Res. Dist.**	**In Comm/Ind. Dist.**
Arterial	100'	150'	150'	200'
Collector	40'	150'	150'	150'
Local	40'	100'	100'	150'

Note: All distances shall be measured from the inside edge of the drive access, extended at its intersection with the projected curb line of the intersecting street.

3. Drive Access Spacing. The distance between drive Accesses on a public Street, except for Single-Family Dwellings, shall be measured from inside of drive to inside of drive according to the following specified distances, unless otherwise approved by the Road and Bridge Superintendent as part of an approved Site Plan.

	Driveway Access Located on Collector Streets		**Driveway Access Located on Arterial Streets**	
Average Spacing	**Res. Dist.**	**Comm/Ind. Dist.**	**Res. Dist.**	**Comm/Ind. Dist.**
Partial Access*	60'	80'	80'	150'
Full Access**	100'	150'	100'	150'
Minimum Separation	60'	80'	60'	100'

Notes: * Partial access includes right turn in and out only.
** Full access allows all turn movements, in and out.

4. Number and Location of Drive Accesses.

a. Single-family Uses shall be limited to one drive Access per Street face, except on properties abutting Arterial Streets in which case circular driveways, or driveways facilitating the turning of automobiles on-site, shall be required. Circular driveways with two openings on a single Street Frontage may be permitted in A-S and R-S Districts.

b. Notwithstanding any other provisions of this Regulation, drive Accesses may not be located closer than eight feet (8') to any side property line, unless shared Access with the adjoining property is approved.

5. Modification of Drive Access Standards.

a. Some of the Access standards listed in subsections 1. through 4. of Subsection 15.08 above, may be modified if it is shown during the Site Plan review process that more efficient design can be accomplished without jeopardizing the public's health, safety and welfare.

b. Modified Access standards shall be approved at the discretion of the Road and Bridge Superintendent.

c. Commercial developments (including residential complexes having four or more Dwelling Units) which may not be able to meet the requirements of subsections 1. through 4. of Subsection 15.08 above, and are requesting modification from the standards, shall submit to the Road and Bridge Superintendent a report certified by a professional engineer addressing the following site conditions, both present and future:

   i. Traffic volumes;

   ii. Turning movements;

   iii. Traffic controls;

   iv. Site design;

   v. Sight distances;

   vi. Location and alignment of other Access points.

d. Based upon the above data, the Road and Bridge Superintendent shall determine whether a modification of the required standards is justified and, if so, what alternative requirements will be necessary.

15.09 **Equestrian Facilities.**

1. The minimum Parcel size for a Commercial Equestrian Facility shall be 10 acres.
2. The minimum Parcel size for a Personal Equestrian Facility shall be two acres.

15.10 **Exterior Lighting.**

1. Any lighting used to illuminate an Off-Street Parking area, Loading Bay, outdoor recreational facilities, or other Structure, shall be arranged so as to deflect light down and/or away from any adjoining residential district and shall not detract from driver visibility on adjacent Streets.
2. All lighting (except for security purposes) shall be turned off between 11 p.m. and 6 a.m. Exceptions will be allowed to those Businesses which are operating during these hours.
3. Lighting used to illuminate Off-Street Parking areas shall not exceed 20 feet or the height of the tallest Building on the Lot, whichever is lower.

15.11 **Fences, Wall and Hedges.**

1. Except as provided in Subsection15.19, 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 such fences are located. However, no fences, walls or hedges shall exceed four feet (4') in any Corner Side Yard or Front Yard, as defined in these Regulations. Fences used in an agricultural pursuit to retain stock animals shall be excepted.
2. Fences located in the Rear Yard Setback of properties adjoining any linear Park shall have a maximum height of four feet (4').

3. 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.

4. Fencing of Utilities and Outdoor Storage Areas:

    a. All utility substations, wells, storage facilities, or other utilities shall be screened from view by a wall, fence, hedge or landscape screen.

    b. All storage for commercial operations shall be conducted within a completed enclosed Building or within an area completely enclosed, except for Access points, by a wall, fence, hedge or landscape screen at least six feet (6') in height.

15.12 **Fireworks Sales Stands, Temporary.**

1. A fireworks Business shall only be permissible as a Temporary Use in the A-S, N-S, or M-I Districts.

2. A fireworks Business shall be on a Lot which meets the Access and frontage requirements of these Regulations.

3. All related Fireworks Sales Stand Structures shall meet all Setback requirements of the zoning district in which it is located.

4. Hours of operation, regulation of parking, noise and lighting on the premises shall be determined by the Planning Department in accordance with the Temporary Use Permit procedures of these Regulations (see Section 27).

5. The appropriate fire protection authority (local fire district chief or County Fire Marshall) shall provide written certification that the site, Buildings, landscaping, fire Access, etc., comply with applicable fire safety standards.

6. A fireworks Business shall provide adequate sanitary facilities for employees.

7. The fireworks Business operator shall install signage as requested by the City of Bozeman. The text for this sign shall read "IT IS ILLEGAL TO DISCHARGE FIREWORKS IN THE CITY OF BOZEMAN EXCEPT AS PROVIDED BY CITY ORDINANCE (SECTION 8.12 OF BOZEMAN MUNICIPAL CODE) UNDER PENALTY OF LAW", in letters at least two inches tall, where customers are most likely to read it. In the event that the Gallatin County Commission passes a resolution declaring an extreme fire danger in the County, and notify fireworks businesses of same, fireworks businesses shall cease all sales of fireworks immediately and shall prominently display a sign within the fireworks business stating in bold letters "DUE TO EXTREME FIRE DANGER, IT IS UNLAWFUL TO SELL OR DISCHARGE FIREWORKS IN GALLATIN COUNTY". Fireworks Business shall be notified within a reasonable time that a ban is in place or has been lifted.

8. The fireworks Business operator shall provide a certificate of general liability insurance with limits of $750,000 per claim, $1,500,000 per occurrence, naming Gallatin County as an additional insured, before any use permit is issued. Such general liability insurance must be in effect not less than 30 days after the permit expires.

15.13 **Garbage Enclosures.**

1. Enclosure. A permanent trash enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for all nonresidential uses, except where a property is entirely surrounded by Screening.

2. Visibility. Trash enclosures shall be constructed so that contents are not visible from a height of five feet (5') above Grade from any adjacent Road or property.

3. Location. Trash enclosures, surrounding standard stall bins (dumpsters), shall be located on the site for convenient pickup service, and the location shall be shown on required Site Plans. Except within the A-S and R-S Districts, garbage enclosures shall

not be located in required Front Yards, and shall be situated so that containers can be pulled straight out of the enclosure or so the sanitation truck can back straight into it.

4. Construction. Trash enclosures shall be constructed of solid or ornamental pierced masonry walls or other appropriate materials, with a solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall be less than four feet (4') in height above Grade.

15.14 **Home Occupation.**

1. General. A Home Occupation is an Accessory Use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The Use shall be clearly incidental and secondary to the Use of the Dwelling for residential purposes, and shall not change the character thereof or adversely affect the Uses Permitted in the residential district of which it is a part. When a Use is a Home Occupation, it means that the owner, lessee, or other persons who have a legal right to the Use of the Dwelling Unit also have the vested right to conduct the Home Occupation without securing special permission to do so. However, such person shall be subject to all conditions set forth in this Regulation, such as Off-Street Parking, and to all other permits required by the County, such as Business and health licenses, and shall consult with officials before establishing such Home Occupation.

2. Specific. Home Occupations are Permitted Accessory Uses in residential districts only so long as all the following conditions are observed:

    a. Such occupation shall be conducted solely by resident occupants in their residence or Accessory Building with not more than one half-time nonresident employee.

    b. No Use shall require internal or external Alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the Structure.

    c. No Home Occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for Dwelling and Home Occupation purposes exceeds the average for residences in the neighborhood.

    d. There shall be no outside storage of any kind related to the Home Occupation.

    e. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time.

    f. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in a residential neighborhood.

3. Examples of the Uses that Frequently Qualify as Home Occupations. Uses which may qualify as Home Occupations are not limited to those named in this subsection (nor does the listing of a use in this subsection automatically qualify as a Home Occupation): accountant; architect; artist; attorney-at-law; author, consultant; seamstress, individual musical instrument instruction; individual tutoring; insurance; and realtor.

4. Uses That Are Prohibited. The following uses shall not be permitted as Home Occupations: auto repair, minor or major; barbershop; carpentry work; contractor's offices, unless no construction activity or storage of materials and/or equipment occurs at the residence; Medical Offices; painting of vehicles, trailers, or boats; private Schools with organized classes; upholstering; beauty salons; appliance repair.

5. Home Occupation Procedure. Any individual having the intent of operating a Business from his/her home, shall acknowledge by signature his/her understanding of the requirements and conditions of Subsection 15.14 of this Regulation.

15.15 **Manufactured Homes on Individual Lots.** The following construction standards are required for any Manufactured Home proposed on an individual Lot:

1. Manufactured Homes shall be approved for location on individual building Lots only if they have been certified as meeting the National Manufactured Housing Construction and Safety Standards of the U.S. Department of Housing and Urban Development.
2. The roof shall have sloping lines with Eaves, such as gable, mansard and shed style roofs. The pitch of the main roof shall not be less than one foot of rise for each four feet of horizontal run. Minimum distance from Eaves to ridge shall be 10 feet.
3. The exterior covering material shall extend to the ground. If a solid concrete or masonry perimeter Foundation is used, the exterior covering material shall extend below the top of the Foundation.

15.16 **Off-Street Loading Facilities Requirements**. All off-street loading facilities or berths shall conform to the following standards:

1. Aisle and maneuvering space may occupy all or any part of any required Yard space, except Front and exterior Side Yards, and shall not be located closer than 50 feet to any Lot in any residential zone unless separated from such zone, except at the Accesses, by screening not less than eight feet (8') in height.
2. Sufficient room for turning and maneuvering vehicles shall be provided.
3. Each loading berth shall be accessible from a Street or Alley or from an aisle or drive connecting with a Street or Alley, without traversing a residential district.
4. The loading area, aisles and Access drives shall be Paved so as to provide a durable, dustless surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, Streets or Alleys.
5. Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facility.

15.17 **Recreational Vehicle/Boat Storage**. The outdoor storage of common Recreational Vehicles and boats such as Recreational Vehicles (RV's), tow behind campers, pop-up campers, jet skis, snowmobiles, horse trailers, etc. may not block sidewalks or interfere with driver visibility on adjacent Streets.

15.18 **Sports and Fitness Facilities.**

1. Examples of Sports and Fitness Facilities include, but are not limited; to bowling alleys, health and fitness centers, tennis and racquet centers, golf driving ranges, skating rinks, swim centers and skate Parks.
2. The facility shall be compatible with adjacent residential uses with respect to traffic and noise generation from the site. Perimeter fencing of the site may be required.
3. Access to the facility shall be provided by an Arterial or Collector Street as designated in the *Greater Bozeman Area Transportation Plan (Current Edition)*.
4. Fencing of outdoor courts shall not exceed 16 feet in height.
5. A 50 foot landscaped buffer strip shall be provided adjacent to any residential zoning district.

15.19 **Street Vision Triangle.**

1. Arterial Streets. On corner lots on Arterial Streets in all districts, no fence, wall or planting in excess of 30 inches above the Street centerline Grade shall be permitted

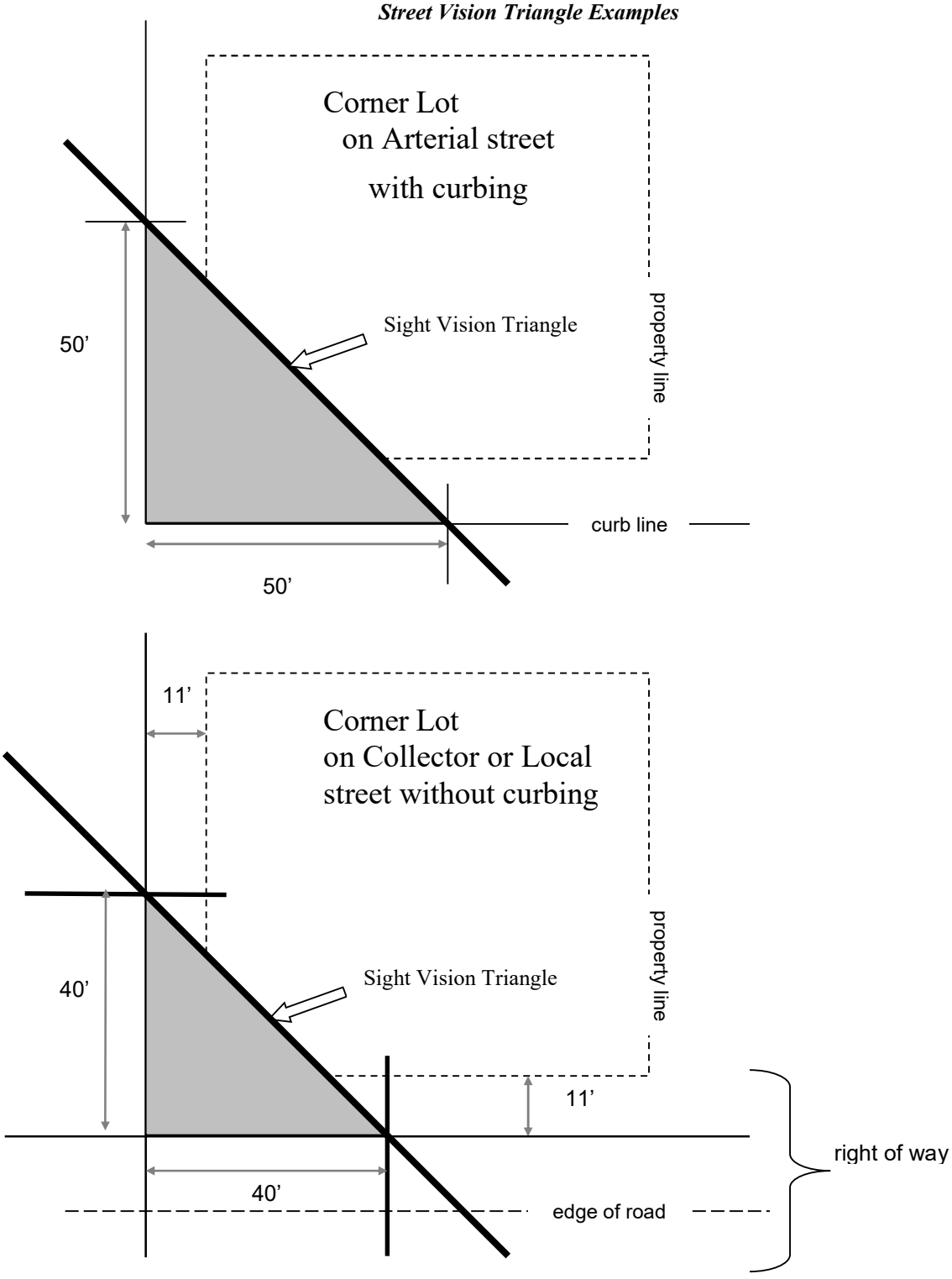
within a triangular area defined as follows: beginning at the intersection of the projected curb lines of the two intersecting Streets, thence 50 feet along one curb line, thence diagonally to the point 50 feet from the point of beginning on the other curb lines, then to the point of beginning. Where curbing is not provided the measurement shall be taken from a line 11 feet inside of the right-of way or from the edge of pavement if closer than 11 feet.

2. Collector and Local Streets. On corner Lots, on Collector and Local Streets, all districts, no fence, wall or planting in excess of 30 inches above the Street centerline Grades shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curb lines of two intersecting Streets, thence 40 feet along one curb line, thence diagonally to a point 40 feet from the point of beginning on the other curb line, then to the point of beginning. Where curbing is not provided the measurement shall be taken from a line 11 feet inside of the right-of way or from the edge of pavement if closer than 11 feet.

3. Driveways and Alleys. At the intersection of each driveway or Alley with a Street, a triangular area where corners are defined by two (2) points on the right-of-way line, 15 feet on each side of the centerline of the driveway or Alley and a point on centerline 10 feet outside the right-of-way.

4. Provision for Trees in Street Vision Triangle. Existing and new trees may be permitted in Street Vision Triangles as described in this Subsection, provided that mature trees do not significantly affect safe driving conditions and are maintained such that no canopy foliage exists below a height of 10 feet above centerline of intersecting Streets.

Street Vision Triangle Examples



15.20 **Temporary Occupancy**. The intent of this Subsection is to provide for temporary occupancy during the construction of a permanent Dwelling, and to accommodate temporary visitors who may stay in a Recreational Vehicle.

1. A property owner may reside in a Mobile Home, Recreational Vehicle, or Accessory building while a permanent Dwelling is under construction, provided:
    a. A land use permit has been approved for a permanent Dwelling.
    b. The temporary occupancy shall not exceed one (1) year. The Planning Department may approve a six (6) month extension provided all exterior work on the permanent Dwelling has been completed. Only one (1) extension may be granted.
    c. The temporary Structure complies with Setback requirements.
2. Temporary visitor occupancy of a Recreational Vehicle is permitted provided:
    a. Only one (1) Recreational Vehicle may be occupied on a residential Lot at any one time.
    b. The Recreational Vehicle may not block sidewalks or interfere with driver visibility on adjacent Streets.
    c. The Recreational Vehicle may not occupy any Lot for a period longer than three (3) weeks in any 90 day time period, except for storage purposes.

15.21 **Warehouses, Residential Storage (mini-warehouses).**

1. Minimum site size shall be one acre.
2. For projects having more than 25 storage cubicles, a minimum of two entrance/exits shall be provided for the site.
3. All on-site one-way driveways shall provide for one 10 foot parking lane and one 12 foot travel lane. Traffic direction and parking shall be designated by signing or painting.
4. All on-site two-way driveways shall provide for one 10 foot parking lane and two 10 foot travel lanes.
5. The parking lanes may be eliminated when the driveway does not serve storage cubicles.

15.22 **Watercourse Setbacks**. No newly constructed Structure, addition to an existing Structure, parking lot or similar improvements shall be located closer than 35 feet to the mean high water mark of a Watercourse as defined in these Regulations. For the purpose of this Subsection, the mean high water mark shall be defined as the line which the water impresses on the soil by covering it for sufficient periods to deprive it of vegetation.

15.23 **Yard and Height Encroachments, Limitations and Exceptions**.

1. Permitted Encroachments Into Yards:
    a. Architectural features such as chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, cornices, Eaves, gutters, awnings, fire escapes, and steps, provided such architectural features do not extend more than five feet (5') into any required Yard.
    b. Terraces and patios, uncovered decks and stoops, or similar features, provided that such features shall not extend above the height of the ground floor level of the Principal Structure, and no more than five feet (5') into any required Yard.

c. Porches, covered terraces, and covered decks, provided such features shall not occupy more than one-third (1/3) of the length of the Building wall and shall not extend more than five feet (5') into any required Yard.

d. Wheelchair ramps may encroach into any required Yard, but shall not be located closer than three feet (3') from any property line.

e. Accessory Structures may be located one foot (1') from property lines in Rear Yards.

f. Minor Accessory Structures.

g. Detached Garages may be located 10 feet from the rear property lines in districts where Rear Yard Setback requirements exceed 10 feet for Principal Buildings or Structures.

2. Zero Lot Line Conditions.

a. Where an individual owns two (2) adjoining Lots, a zero Lot line concept may be used to construct attached Single-Family Dwelling Units (e.g. Townhouse, Two-family Dwelling, etc.) in districts permitting such structures.

b. Where an individual owns two (2) or more adjoining Lots and a deed restriction or similar legal instrument is in place to ensure that the Lots cannot be conveyed separately from one another, the Lots may be treated as a single Lot and structures may be allowed to straddle the common interior property line(s).

c. In all cases, the minimum required Side Yard setback of the district shall be maintained adjacent to the exterior side, or non-zero lot line side, of the Structure.

3. Corner Yard Setbacks:

a. The Corner Side Yard for any corner Lot not located on an Arterial Street as designated in the *Greater Bozeman Area Transportation Plan (Current Edition),* shall be equal to the adjacent Yard of the adjacent Lot, but in no case shall the Corner Side Yard be less than 15 feet.

b. A 25 foot Corner Side or Front Yard shall be provided on all Arterial Streets designated in the *Greater Bozeman Area Transportation Plan (Current Edition)*.

4. Height Limitation Exceptions:

a. Height limitations shall not apply to church spires, belfries, cupolas and domes; monuments; chimneys and smoke stacks; flag poles; public and private utility facilities; transmission Towers of commercial and private radio broadcasting stations; and television Antennae, excluding, however any such facility regulated under Section 20 of these Regulations; Parapet Walls extending no more than four feet above the limiting height of the Building; and solar energy collectors and equipment used for the mounting or operation of such collectors.

b. Towers and monuments, cooling Towers, gas holders or other Structures where the Manufacturing process requires a greater height are exempt from these Regulations; provided that any Structure above the height otherwise permitted in the district shall occupy no more than 25% of the area of the Lot and shall be at least 25 feet from every Lot line.

c. Structures used for Agricultural Activities are exempt from the height limitations of these Regulations provided that the structure does not incorporate any residential or other non-agricultural use.

d. Personal Wireless Service Facilities, Antennas, and Antenna Towers are exempt from these Regulations subject to Section 19.

SECTION 16 ENTRYWAY CORRIDOR

16.01 **Intent**. There are Arterial corridors entering the Bozeman area that introduce visitors and residents alike to Bozeman and the Gallatin Valley. It is the intent and purpose of this Section to ensure the quality of development along these corridors will enhance the impression and enjoyment of the community both by guiding development and improvements in Signage (Section 20), Landscaping (Section 17), Access and other contributing elements of entry corridor appearance and function. It is further the intent of this section to establish development standards and review procedures that will allow the county to review and direct, in a fair and equitable manner, the development and redevelopment of future and existing properties and facilities within the entry corridors.

16.02 **Application**. The provisions of this section shall be applied, in addition to any other applicable regulations of these Regulations, to all development wholly or partially within 660 feet of the centerline of the following roadways:

1. East and west frontage roads on the north side of Interstate 90 within the Gallatin County/Bozeman Area zoning jurisdictional boundary;
2. U.S. Highway 191, west to the Gallatin County/Bozeman Area zoning jurisdictional boundary.

16.03 **Development Standards.**

1. Initial Access provision to properties fronting on any entryway corridor roadway shall be designed so Access points on said roadway are spaced no more closely than every 660 feet.
2. Revised Access schemes to previously developed or subdivided property shall consolidate Access points on entryway roadways whenever possible and shall add no additional points of Access to the roadways unless such addition can be demonstrated to improve the operation of the entryway roadway. It shall be the obligation of the applicant to determine an acceptable method of Access to his/her property including securing Access easements from adjacent properties, if necessary. Access standards shall be interpreted in a practical manner allowing for continuing reasonable Access to properties along entryway corridors.
3. Parking areas and Buildings shall be set back at least 50 feet from any entryway corridor roadway right-of-way. The Setback from any entryway corridor roadway right-of-way shall be landscaped in accordance with Section 17.

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SECTION 17 LANDSCAPING

17.01 **Purpose**. The economic base of Gallatin County can be protected through the preservation and enhancement of the area's unique natural beauty and environment. Recognizing that the general objectives of this Section are to promote and protect the health, safety and welfare of the public, these Landscaping regulations are adopted for the following specific purposes:

1. To aid in stabilizing the environment's ecological balance by contributing to the process of air purification, oxygen regeneration, groundwater recharge and storm water runoff retardation, while at the same time aiding in noise, glare and heat abatement;
2. To provide visual buffering between land Uses of differing character;
3. To enhance the beauty of the zoning jurisdiction;
4. To protect the character and stability of residential, Business, institutional and Industrial areas;
5. To preserve the value of land and Buildings; and
6. To conserve energy.

17.02 **Application.**

1. The provisions of this section shall apply to a Lot or site when an application is being made for:
    a. Site Plan approval pursuant to Section 26;
    b. Signs pursuant to Section 20 where Landscaping is required;
    c. Personal Wireless Service Facility pursuant to Section 19 where Landscaping is required.
2. Not withstanding the application of Subsection 1 above, these provisions shall not apply to the following:
    a. Lots containing only single-family and/or residential duplex Uses when located outside entryway corridors, except that such Lots shall be subject to Subsection 17.04.(3) (Street Frontage Landscaping Required);
    b. Lots or sites within an approved Planned Unit Development which has been approved with its own landscape plan;

17.03 **General Landscaping Provisions.**

1. Designation of Artificial Lot. If a building site is over two (2) acres in size, the applicant may request that the Planning Department create an artificial lot to satisfy the requirements of this Section. An artificial lot must be a delineated area on which the development is to occur, and have an area that does not exceed 50% of the area of the original site.
2. Landscape Plan Submission.
    a. Submittal with Site Plan Application. If these landscape regulations apply to a Lot or site subject to Site Plan review and approval outlined in Section 26, a separate landscape plan shall be submitted as part of the Site Plan application unless the required landscape information can be included in a clear and uncluttered manner on a one inch to twenty feet site plan.
    b. Two copies of the landscape plan, drawn to scale, shall include:
        i. Date, scale, north arrow;

ii. Location of existing boundary lines and dimensions of the Lot, the zoning classification of the Lot, and the zoning classification of adjacent properties;

iii. Approximate centerlines of existing Watercourses and the location of any one hundred-year floodplain; the approximate location of significant drainage features; and the location and size of existing and proposed Streets and Alleys, utility easements, utility lines, driveways, and sidewalks on the Lot and/or adjacent to the Lot;

iv. Location, height and material of proposed screening and fencing (with Berms to be delineated by one-foot contours);

v. Locations and dimensions of proposed landscape buffer strips;

vi. Complete landscape legend providing a description of plant materials shown on the plan, including typical symbols, names (common and botanical name), locations, quantities, container or caliper sizes at installation, heights, spread, and spacing. The location and type of all existing trees on the lot over six inches in caliper must be specifically indicated;

vii. Complete description of Landscaping and screening to be provided in or near Off-Street Parking and loading areas, including information as to the amount (in square feet) of landscape area to be provided internal to parking areas and the number and location of required Off-Street Parking and loading spaces;

viii. An indication of how existing healthy trees (if any) are to be retained and protected from damage during construction;

ix. Size, height, location, and material of proposed seating, lighting, planters, sculptures, and water features;

x. A description of proposed watering methods;

xi. Location of visibility triangles on the Lot (if applicable);

xii. Designated snow removal storage areas;

xiii. Complete description and details of Pavement, curbs, sidewalks and gutters;

xiv. Show location of existing and/or proposed drainage facilities which are to be used for drainage control;

xv. Existing and proposed Grade;

xvi. Footprint of existing and proposed Buildings, fences and walls.

3. Landscape Plan Review.

   a. The Planning Department shall review each landscape plan to determine whether or not it complies with the requirements of this Section.

17.04 **Mandatory Landscaping Provisions.**

1. Parking Lot Landscaping. For purposes of defining parking lot Landscaping requirements, the term "parking lot" means the area within the perimeter of the paved portion of the parking lot, including driving aisles but not including access drives. All surface parking lots shall be landscaped in accordance with the following paragraphs which describe Landscaping requirements for the site:

a. Parking Lot Screening Required.

i. All parking lots located on a Lot adjacent to any residential district must be screened from that residential district.

ii. Except in the M-I district, all parking lots located between a Principal Structure and a public Street and all off-site parking proposed as a Principal Use must be screened from the public Street.

iii. The screening required shall be not less than four feet (4') in width and shall be maintained at a height of four to six feet (4'-6') except as otherwise restricted by fence and hedge height limits within required Front Yards and Street Vision Triangles.

b. Large Canopy Trees, large non-canopy trees or Small Trees must be provided in, or within 20 feet of, all parking lots at a minimum average density of:

i. One (1) large Canopy Tree; or

ii. One (1) large non-canopy tree and one (1) Small Tree; or

iii. Three (3) Small Trees; for each nine (9) parking spaces required or provided, whichever is greater.

c. No tree may be planted closer than four feet (4') to the paved portion of the parking lot.

d. Additionally, any parking lot providing 15 or more parking spaces shall have a minimum of 20 square feet of landscape area within the parking lot for each Off-Street Parking space in the Lot provided as follows:

i. Wherever possible, the interior parking lot landscaping shall be designed to facilitate, control and denote proper vehicular circulation patterns.

ii. Internal parking lot Landscaping provided shall be proportionately dispersed so as to define aisles and limit unbroken rows of parking to a maximum of 100 feet, with landscaped areas provided in an appropriate scale to the size of the parking lot.

iii. The minimum width and/or length of any parking lot landscaped area shall be eight feet (8').

e. Screening of Off-Street Loading Spaces.

i. All off-street loading spaces on a Lot with adjacent to any residential district must be screened from that residential district.

ii. In all districts except the M-I district, all off-street loading spaces on a Lot must be screened from all public Streets adjacent to that Lot.

iii. The screening must be at least six feet (6') in height.

2. Street Frontage Landscaping.

a. Except in A-S and R-S districts, all new developments and new subdivisions having paved roads, curbs, gutters and sidewalks shall include one (1) large Canopy Tree for each 50 feet of public right-of-way Street Frontage.

b. Where it may be impractical or difficult to plant large Canopy Trees within the public right-of-way Street Frontage (due to the presence of overhead power

lines, for instance) the requirement for one (1) large Canopy Tree for each 50 feet of Street Frontage may be substituted with two (2) Small Trees per 50 feet of Street Frontage.

3. Yard Landscaping. New commercial or industrial developments adjacent to any residential district shall provide the following yard landscaping for each 50 linear feet:

    a. One (1) large canopy tree and one (1) large non-canopy tree; or

    b. One (1) large canopy tree and two (2) small trees; or

    c. One (1) large canopy tree and five (5) evergreen shrubs; or

    d. One (1) large canopy tree, one (1) small tree, and two (2) large evergreen shrubs; or

    e. Two (2) large canopy trees, and one (1) small tree.

4. Acceptable Landscape Materials.

    a. No artificial plant materials may be used to satisfy the requirements of this Section.

    b. Acceptable plant materials shall be those listed in *Tree and Shrub Selection Guide* by Cooperative Extension Service, Montana State University, Circular No. SKU EB0123, *Latest Edition*. However, in the case of Street Frontage Landscaping as required in Subsection 17.04(3) above, acceptable tree species shall be limited to those listed therein.

    c. Plant materials used to satisfy the requirements of this Section must comply with the following minimum size requirements at the time of installation (depending on the standard measuring technique for the species).

        i. Large trees must have a minimum Caliper of one and one-half inches to two inches (1½" to 2"), or a minimum height of 10 feet.

        ii. Small Trees must have a minimum Caliper of one inch to one and one-half inches (1" to 1½") or a minimum height of eight feet (8').

        iii. Large Evergreen Shrubs must have a minimum height of two feet (2') or, if of a spreading form, a minimum spread of two feet (2').

        iv. For purposes of this Section, height is measured from the top of the root ball or, if the plant is in a container, from the top soil level in the container.

5. Protection of Landscape Areas. Landscape areas within parking lots (i.e., landscape islands or peninsulas) must be protected from vehicular traffic through the use of continuous concrete curbs, or other permanent barriers approved by the Road and Bridge Superintendent. Railroad ties, rolled asphalt, pin down wheel stops or similar methods of curbing are not acceptable methods of landscape protection within parking lots.

6. Landscaping Completion. All required Landscaping must be completed or improvements secured at the time of final Site Plan approval, final subdivision plat approval, or Land Use Permit approval (Section 25**)**.

7. Landscaping Maintenance.

    a. Required Landscaping must be maintained in a healthy, growing condition at all times. The property owner is responsible for regular weeding, mowing of grass, irrigating, fertilizing, pruning, and other maintenance of all plantings as

needed. Any plant that dies must be replaced with another living plant that complies with the approved landscape plan. Failure to maintain required Landscaping in a healthy growing condition at all times may result in revocation of permit. When enforcing this provision of this Section, external factors such as seasonality and availability of landscape stock shall be considered before any action to revoke a permit is taken.

b. Maintenance of Landscaping installed within any portion of the Street Frontage public right-of-way shall be the responsibility of adjacent property owners.

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SECTION 18 PARKING

18.01 Floor Area.

1. The term "floor area," for the purpose of calculating the number of Off-Street Parking spaces required, shall mean the "Gross Floor Area", measured on the basis of the exterior-area dimensions of the Building, minus the following:
    a. Window display areas;
    b. Storage areas;
    c. Areas used for incidental repair of equipment used or sold on the premises;
    d. Areas occupied by toilets and restrooms;
    e. Areas occupied by public utility facilities;
    f. Areas occupied by dressing rooms, fitting or alteration rooms incidental to the sale of clothing;
    g. Areas occupied by stairways and elevators;
    h. Corridors connecting rooms or suites of rooms.
2. Provided, however, at the election of the owner thereof, floor area shall mean eighty-five percent (85%) of the Gross Floor Area of the Building (*without* deduction of exceptions set above in Subsection 18.01(1)). Such election shall be made in writing to the Planning Department, shall be signed and acknowledged by the owner and shall be filed with the Planning Department prior to the issuance of a Land Use Permit for such Building. The owner shall also be responsible for certifying other information upon which parking requirements may be based, such as seats, and the number of employees on maximum working shift.
3. Where applicable, the number of spaces required in Subsection 18.04 below will be the total of the spaces required for the component activities of certain Uses, each calculated separately.

18.02 Design and Improvement Standards.

1. Parking Dimensions. The following shall be the minimum parking space dimensions for surface parking:

Angle	Width[1]			Length			Aisle Width
	Standard	Disabled	Compact[5]	Standard	Disabled	Compact[5]	
90°	9’	13’	8’	18/20’[2]	18/20’[2]	16’	26’[3]
60°	9’	13’	8’	18/20’	18/20’	16’	18/23’[4]
45°	9’	13’	8’	18/20’	18/20’	16’	15/23’[4]

Notes:

1. *As measured by a line perpendicular to the stall line at a point on the outside end of the stall. Except when the stall is on the inside edge of a curve, in which case the point of measurement shall be on the inside end of the stall.*
2. *18 feet if measured from a curb on the inside edge of the stall; 20 feet if measured from a painted line on the inside edge of the stall. Stall length variations are subject to approval.*
3. *For 90-degree parking, aisles are two-way.*
4. *First number refers to one-way traffic; second number to two-way traffic. If the aisle is needed as a fire lane, a 20-foot minimum is required.*
5. *Unless otherwise approved, all parking spaces shall be of standard width and length. In any parking facility containing 20 or more parking spaces, a maximum of 25% of the required parking spaces may be reduced in size for small cars, provided these spaces shall be clearly identified with a sign permanently affixed immediately in front of each space containing the notation, "Compacts Only." Where feasible, all small car spaces shall be located in one or more contiguous areas and/or*

adjacent to ingress-egress points within parking facilities. Location of compact car parking spaces shall not create traffic congestion or impede traffic flows.

2. Circulation Between Bays. Except in the case of one to three-family Dwellings and individual townhouse Units, parking areas shall be designed so that circulation between parking bays occurs within the designated parking lot and does not depend upon a public Street or Alley.

    a. Backing into Public Right-of-Ways. Except in the case of one to three-family Dwellings and individual townhouse Units, parking area design which requires backing into the public Street or Alley is prohibited. In all cases where backing occurs, the required aisle width shall be provided. The aisle width calculation may incorporate the width of the public right-of-way.

3. Parallel Parking Spaces. Parallel parking spaces shall be a minimum of 24 feet in length.

4. Surfacing. Except for single-family development on individual Lots, all areas intended to be utilized for permanent parking space and driveways shall be paved with concrete or asphaltic concrete, or approved pavers, to control dust and drainage. All proposed parking areas and driveway improvements shall require a grading and drainage plan.

    a. Paving shall not be required for Permitted and Conditional Uses in the A-S and R-S Districts when all of the following circumstances exist:

        i. The Use is required to provide fewer than 15 parking spaces and no loading spaces under the provisions of this Section;

        ii. The Lot or tract on which the Use is located is not adjacent to a paved Street or Road; and

    b. Striping. Except for one to three-family Dwellings and individual townhouse Units, all parking stalls shall be marked with painted lines not less than four inches (4") wide.

5. Signs. No Sign shall be so located as to restrict the sight lines and orderly operation and traffic movement within any parking area. All Signs shall conform to the requirements of Section 20.

6. Parking Lot Curbing.

    a. Except for individual townhouse Units and one to three-family Dwellings, all open Off-Street Parking areas and driveways shall have a six inch (6") by six inch (6") perimeter concrete curb around the entire parking lot, including driving Access ways. Continuous concrete curbing shall be built according to standards provided by the Road and Bridge Superintendent.

    b. Concrete pin-down wheel stops may be permitted as an alternative to continuous concrete curbing in front of parking spaces which front on the perimeter of the parking lot. However, continuous concrete curbing as described above shall be provided in all situations where deemed necessary by the Road and Bridge Superintendent to control drainage and soil erosion.

    c. Alternative perimeter treatment may be permitted adjacent to snow storage areas subject to approval.

    d. Requirements for perimeter curbing shall not preclude opportunities for shared Access between adjacent parking lots.

    e. All on-site parking stalls which abut property lines shall be designed and constructed such that parked vehicles shall not protrude over property lines.

7. Pedestrian Facilities in Parking Lots. Concrete sidewalks a minimum of three feet (3') in width, or as required by ADA, shall be provided between any existing or proposed

Building and adjacent parking lot. Where sidewalk curbs serve as wheel stops, an additional two feet (2') of sidewalk width is required.

8. Snow Removal Storage Areas. Snow removal storage areas shall be provided sufficient to store snow accumulation on site. Such areas shall not cause unsafe ingress/egress to the parking areas, shall not cause snow to be deposited on public rights-of-way, shall not include areas provided for required parking Access and spaces, and shall not be placed in such a manner as to damage Landscaping.

9. Parking and Stacking for Drive-In/Drive Through Facilities. Required parking and stacking spaces for waiting automobiles shall not in any manner inhibit onsite or off-site vehicular circulation.

10. Storm Water Drainage. Storm water and snow storage drainage from parking lots shall be directed into landscaped detention/retention facilities and water quality improvement facilities as required or in compliance with any adopted storm water drainage regulation.

11. Stacking of Off-Street Parking Spaces. Required parking spaces shall be located so as to preclude stacking of off-street parking spaces, with the exception of single-family Dwellings and individual townhouse Units, and duplexes with physically separated individual driveways.

12. No Parking in Required Front or Side Yards. Required parking spaces shall not be located in any required Front or Side Yard Setbacks, except that detached Single-Family Dwellings and townhouses, and duplexes with physically separated individual driveways, may have one space located within a driveway area in the required Front Yard.

18.03 **Maintenance.**

1. Responsibility. It shall be the joint and separate responsibility of the lessee and owner of the Principal Use, Uses or Building to maintain in a neat and adequate manner, the parking space, Access ways, striping, Landscaping and required fences or screening.

2. Use of Required Parking Areas for Parking Only. Required Off-Street Parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles, except when permitted as a Temporary Use.

18.04 **Number of Spaces Required.**

1. Minimum Requirements. The following minimum number of off-street, paved parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective Uses. If the resulting number of required parking spaces results in a fractional number, any fraction of .5 or greater shall be calculated as an additional space. All Land Use Permits, Site Plans, and non-residential Conditional Use Permits submitted for permitting purposes shall identify parking space allocations.

Residential Dwelling Types	**Parking Spaces Required per Dwelling**
Accessory Dwelling	1 per bedroom, not to exceed 2
Lodginghouse	.75 spaces per occupant
Efficiency Unit	1.25
One-bedroom	1.5
Two-bedroom	2
Three-bedroom	3
More than three-bedrooms	4
Manufactured Home	2
Group Homes and Community Residential Facilities	.75 spaces per occupant

Bed and Breakfast Home	2 (additional)

Non-Residential Uses	**Off-Street or Off-Road Parking Spaces Required**
Automobile sales	1 space per 200 square feet of indoor floor area, plus 1 spaces per 20 outdoor vehicle display spaces
Automobile service station	2 spaces per service stall, but no less than 4 spaces
Automobile Washing Establishment	Drive-through: 3 spaces or 1 for each employee on maximum shift, plus stacking space Self-service: 2 spaces per stall not including washing or drying spaces
Bank, financial institutions	1 space per 300 square feet
Bowling alley	2 spaces per alley; plus 2 spaces per billiard table; plus 1 space per each 5 visitor gallery seats
Place of Worship	1 space per 4 seats or 6 linear feet of space in each Building based upon design capacity of main assembly hall; Public assembly areas, recreational Buildings - 1 space per 200 square feet; Classroom - 1 space per 4 seats
Community or recreation center	1 space per 200 square feet of floor area
Dancehalls, or similar uses	1 space per 300 square feet of floor area
Sports and Fitness Facilities	1 space per 200 square feet of floor area; plus 3 spaces per court
Day Care Centers	1 space per staff; plus 1 space per 15 children
Elderly (senior citizens) housing	1 space per Unit
Furniture stores over 20,000 square feet	3 spaces per 1,000 square feet of floor area
Golf courses	1 space per 200 square feet of main Building floor area; plus 1 space for every 2 practice tees in driving range; plus 4 spaces per each green in the playing area
Hospitals	1 space per bed
Medical and dental offices	4 spaces for each full time equivalent doctor or dentist; plus 1 space for each full time equivalent employee
Manufacturing and Industrial Uses	1 space per 1,000 square feet of floor area; plus 1 space per 2 employees on maximum working shifts
Motels, Hotels a. Restaurants, Bars, dining b. Commercial area c. Public assembly areas	1.1 spaces per each guest room; plus 1 space per employee on maximum shift; plus spaces for Accessory Uses as follows: a. 1 space per sixty square feet of floor area b. 1 space per each 400 square feet of floor area c. 1 space for each 5 seats based upon design capacity, except that total Off-Street Parking for public assembly may be reduced by 1 space for every 4 guest rooms
Nursing homes, rest homes or similar uses	4 spaces; plus 1 space for each 3 beds; plus 1 space for each employee on maximum shift
Offices, except med. and dental	1 space per 250 square feet of floor area
Outdoor sales (plant nurseries, building materials, equipment rental and similar)	1 space per 500 square feet of sales and/or display area. The size of the sales and/or display area shall be determined on a case by case basis.
Restaurants, cafes, Bars and similar uses	1 space per 50 square feet of indoor public serving area; plus 1 space per 100 square feet of outdoor (patio) area
Retail store and service establishments	1 space per 300 square feet of floor area
Sales sites; model homes	1 space per 250 square feet of model floor areas; plus 1 space per employee

Schools: a. Elementary and/or Junior high b. Senior High c. Business or similar school	 a. 1.5 spaces for each classroom, library, lecture hall and cafeteria; plus 1 space per each 3 fixed seats in the in area of public assembly, or 1 space for each 25 square feet of area available for public assembly if fixed seats are not provided. b. 1.5 spaces for each classroom or lecture hall; plus 1 space per each 5 students; plus 1 space for each non-teaching employee; plus 1 space per each 3 fixed seats in the area of public assembly, or 1 space per 25 square feet of area available for public assembly if fixed seats are not provided. c. 1 space for each 1.5 students
Theater, auditorium or similar	1 space per 4 seats based upon place of assembly design capacity
Warehousing, storage or handling of bulk goods	1 space per 1,000 square feet of floor area devoted to storage of goods, plus; appropriate spaces to support accessory Office or retail sales facilities at one space per 350 square feet of floor area

2. Disabled Accessible Parking Spaces.

   a. Disabled parking spaces shall be provided subject to federal standards enumerated in the Americans with Disabilities Act (ADA) dated January 26, 1992, and Federal Standard 795, (Uniform Federal Accessibility Standards) dated April 1, 1988, Section 4 (Accessible Elements and Spaces: Scope and Technical Requirements).

   b. All parking lots and facilities shall be subject to current International Building Code guidelines for accessibility, and shall contain a minimum number of disabled accessible parking spaces as set forth in the table below:

Total Parking in Lot	**Required Minimum Number of Accessible Spaces**
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 percent of total
1001 and over	20 plus 1 for each 100 over 1000

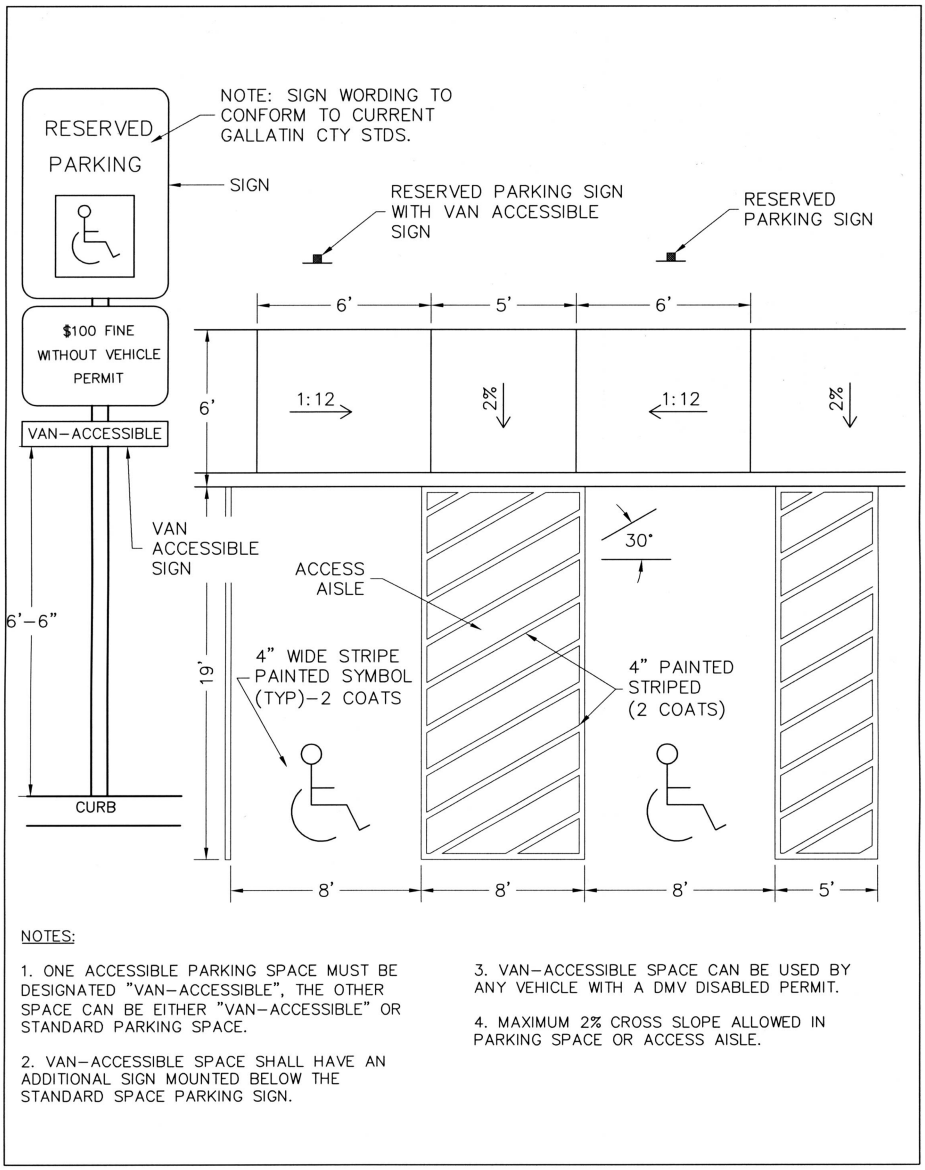
   i. One in every eight (8) accessible spaces shall have an aisle eight feet (8') wide (rather than five feet) and shall be signed "van accessible."

   ii. Accessible spaces shall be located as near as practical to a primary entrance(s) and shall be designated as those spaces closest to the primary entrance(s) to a facility. Parking spaces and access aisles shall be level with slopes not exceeding 1:50 in all directions and shall be maintained in an ice and snow free condition.

   iii. The minimum number of accessible parking spaces shall be in addition to any required parking spaces.

   c. All accessible parking spaces shall be designated as reserved for the disabled by a Sign showing the symbol of accessibility at each space. Such Signs shall not be obscured by a vehicle parked in the space. Signs and symbols painted on the pavement as the only means of identification, do not

meet this requirement. Raised Signs shall be located at a distance no greater than five feet (5') from the front of each accessible space and shall be subject to review and approval by the Planning Department.



Accessible Parking Signage & Striping Detail

d. Provision of an accessible path of travel from each disabled accessible parking space to the entrance of the facility shall include ramped access where necessary and an unencumbered minimum three-foot wide walk, sidewalk or ramps. The accessible path of travel shall be paved, smooth surface, free of defects or design features that would restrict, inhibit or unreasonably impede the movement of a physically disabled individual. The maximum slope of a ramp in new construction shall be 1:12, cross slopes shall not exceed 0.25 inch per foot. The maximum rise for any run shall be 30 inches.

e. Exception: Group R occupancies containing three (3) or less Dwelling Units or congregate residences accommodating 10 persons or less.

3. Joint Use of Parking Facilities.

    a. Up to 80% of the non-residential parking facilities required by Subsection 18.04 may be provided through shared parking. The Planning Department may make a determination for shared parking based on a parking study submitted by a registered professional engineer, architect or landscape architect.

    b. Conditions Required for Joint Use.

        i. The Building or Use for which application is being made to utilize the Off-Street Parking facilities provided by another Building or Use shall be located within 1,000 feet of such parking facilities;

        ii. The applicant shall show that there is no substantial conflict in the operating hours of the two Buildings or Uses for which joint use of Off-Street Parking facilities is proposed; and

        iii. A properly drawn legal instrument, executed by the parties concerned for joint use of Off-Street Parking facilities, duly approved as to form and manner of execution by the County Attorney, shall be filed and recorded with the County Clerk and Recorder.

4. Off-Site Parking. Any off-site parking shall be reviewed by the Planning Department for compliance with these Regulations and shall be subject to the conditions listed below.

    a. Off-site parking shall be developed and maintained in compliance with all requirements and standards of these Regulations, including the Landscaping and Setback requirements;

    b. Reasonable continuous pedestrian and vehicle Access from off-site parking facilities to the Use being served shall be provided;

    c. Off-site parking for Single-Family and Two-Family Dwellings shall not be permitted;

    d. Off-site parking for Multiple-Family Dwellings shall not be located more than 100 feet from any commonly used entrance of the Principal Use served;

    e. Off-site parking for non-residential uses shall not be located more than 1,000 feet from the entrance of the Principal Use and shall not be provided within a residential zoning district (A-S, R-S, RX-MD, RX-HD and R-MH);

    f. Any Use which depends upon off-site parking to meet the requirements of these Regulations shall maintain ownership or provide evidence of a long-term lease agreement, revocable with County Commission approval, running with the term of the designated Use, for parking utilization of the off-site location.

    g. Up to 80% of the non-residential parking facilities required by Subsection 18.04 may be provided through off-site Parking.

    h. Accessible parking spaces used to meet the requirements of these Regulations shall not be provided in Off-Site Parking areas.

5. Improvement Schedule. All parking area improvements to include surfacing, drainage, walkways, lighting, Landscaping, screening, traffic control, etc. shall be installed according to the provisions of Section 26.

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SECTION 19 PERSONAL WIRELESS SERVICE FACILITIES

19.01 **Intent**. The intent of this Section is to regulate the placement, construction, and modification of Personal Wireless Service Facilities by: determining the appropriate location for placement of Towers and Antennas to serve local residents and businesses; promoting Collocation and use of alternative Tower structures to minimize the need to construct new Towers; minimizing the adverse visual impacts of Towers and Antennas through careful siting, design, landscape Screening, and innovative Camouflaging Screening; and, ensuring against potential health and safety hazards to citizens and prevent damage to adjacent properties.

19.02 **Scope.**

1. All uses listed in this Section shall be subject to the specific standards described for each Use, in addition to all other applicable standards which may apply, and limited to those districts specified. The provisions of this Section apply to Personal Wireless Service Facilities as defined in Section 33. The provisions of this Section do not apply to facilities which meet the definition of Essential Services (Type I) or Essential Services (Type II) as defined in Section 33.
2. If any of these provisions conflict with any applicable Telecommunications Laws, the requirements or limitations of the Telecommunications Law shall control.
3. The Regulations contained in this Section supersede all other provisions in the Regulation that may be applied to Personal Wireless Communication Facilities and Modifications of Eligible Wireless Service Support Structures, except as specially stated in this Section.

19.03 **Permitting Requirements for Personal Wireless Service Facilities.**

1. A Personal Wireless Service Facility shall be considered as a Conditional Use in all Districts and subject to Conditional Use Permit review as described in Section 28.
2. A Land Use Permit shall be obtained prior to the installation of any Personal Wireless Service Facility (see Section 25).

19.04 **Submittal Requirements for Personal Wireless Service Facilities**. The following information and data shall be submitted for Personal Wireless Service Facility plan review.

1. Cover letter describing the design of the Personal Wireless Service Facilities, and the reason for this Facility.
2. Plans for reclamation of all disturbances associated with project(s), including re-vegetation and noxious weed control.
3. The Lease, if applicable, or proof of ownership of the real property on which the Personal Wireless Service Facility will be located.
4. Proof of legal access to the location of where the Personal Wireless Service Facility will be located, in the form of a public right of way, recorded easement, or other means defining the scope of access.
5. An inventory of existing Personal Wireless Service Facilities within 1 mile of the proposed Facility site in the GC/BA Zoning District and evidence documenting the infeasibility of locating the planned Personal Wireless Service Facility upon an Existing Antenna Tower or Base Station, building, or alternative structure as required by Section 19.05 (5).
6. Elevation plans for the Personal Wireless Service Facility, including all Antenna Towers, equipment enclosures, fencing, and other improvements accessory to a Facility, with scaled dimensions.
7. A site development plan prepared by a Montana registered land surveyor, architect or professional engineer, containing the following information:

a. Vicinity maps, including:

i. Scale and north arrow.

ii. A copy of the section of the 1:240,000 USGS quadrangle showing the proposed site and latitude and longitude coordinates.

b. A detailed site map, including:

i. Scale and north arrow.

ii. The name, address and telephone number, signature and seal of the professional preparing the site development plan.

iii. All identifiable Structures located on the parcel, all private and public roads, highways and underground and overhead utilities.

iv. Surveyed boundary lines, and corners of the parcel containing the proposed Antenna Tower construction and its fall zone.

v. The ground elevation of the proposed Antenna Tower's base and any Base Station.

vi. Location and size of all proposed Structures and access to any Personal Wireless Service Facility, including existing roads and any roads proposed to be constructed in connection with construction or operation of the Personal Wireless Service Facility.

vii. Delineation of vegetative cover and slopes in excess of 30%.

viii. Proposed landscaping including a legend providing a description of plant materials shown on the plan, including typical symbols, names (common and/or botanical name), locations, quantities, container or caliper sizes at installation, heights, spread, and spacing.

ix. Materials list and photos of proposed fencing materials (if any) that are to be used to enclose the Personal Wireless Service Facility.

x. Description of all adjacent land uses and property owner names.

8. Federal Certifications.

a. FAA certification that the proposed Personal Wireless Service Facility has received a "Determination of No Hazard to Air Navigation" and an indication of whether or not the Facility and Antenna Tower require lighting by the FAA.

b. A copy of the FCC Type Acceptance number and information for all transmitting equipment. As new equipment is added, the FCC Type Acceptance information shall be provided to the Planning Department.

9. An accurate photo simulation of the site with the proposed Facility in place. The simulation shall be to scale, and include all feasible Antennae depicted on the tower. Landscaping which is not shown or proposed on the accompanying Site Plan shall not be included in the simulation unless it exists on adjoining properties

19.05 **Standards.**

1. A Personal Wireless Service Facility shall comply with all applicable Telecommunication Laws.

2. To the greatest extent possible, a Personal Wireless Services Facility shall be designed to survive fire, wind and other disasters. If a Personal Wireless Services Facility is damaged due to a natural disaster, a Carrier on Wheels (COW) facility is permitted for a period of not more than one hundred twenty (120) consecutive days in a calendar year for temporary use related to replacement or repair of the damaged Personal Wireless Services Facility. Prior review or approval is not required for temporary use of a COW facility for the initial 120-day period. A COW facility may be used for an additional 60-day period if, prior to the expiration of the current period, the Planning Department approves the extension request upon a showing of good cause. More than one extension may be requested.

3. No grading shall occur on slopes in excess of 30%.

4. Safety.

    a. All Personal Wireless Service Facilities shall meet or exceed current standards and regulations of the Federal Communications Commission FCC, Federal Aviation Administration (FAA), and any other agency with the authority to regulate Antenna Towers and Antennas.

    b. Antenna Towers with a base located at Grade shall be enclosed within a secure fence not less than six feet (6') in height or the Tower itself shall be equipped with an appropriate anti-climbing device.

5. New Facilities.

    a. Antenna Towers greater than 60 feet in height shall accommodate up to three (3) service providers with accompanying area for equipment and access. Where multiple providers will be utilizing the same area and/or support structure, consideration should be given to the provision of a single equipment enclosure or other similar integration of equipment housing. A new Antenna Tower may meet this requirement by correctly sizing the foundation and other structural elements to allow the future addition of height to the Structure to accommodate additional users rather than immediately constructing the entire Antenna Tower. The BOA may waive this requirement upon a showing of fact that multiple Antenna on the Antenna Tower would result in a prohibition of services.

    b. An application for a new Facility shall not be approved unless the Applicant demonstrates that existing or approved Towers, buildings, or alternative structures more than 60 feet in height (after first considering electric transmission towers) within a one-mile search radius of the proposed Facility cannot accommodate equipment planned for the proposed Facility and provide functionally equivalent coverage to a specified service area. The Applicant should provide evidence of the effort made to locate on such structures including a coverage/interference analysis, capacity analysis, and technological feasibility, and a brief statement as to any other reasons for success or failure in locating on an existing Tower, building, or alternative structure.

6. Aesthetics.

    a. To the greatest extent possible, a Facility shall be constructed to conceal all Towers, Antennas, and accessory structures. FAA and FCC regulations may require visual marking and lighting and may not be overridden by local regulations in this area. Unless otherwise required by the FAA or FCC, Towers shall be of a galvanized finish or be painted in neutral colors. Facilities and equipment mounted on existing Structures shall be visually incorporated into the Structure or background by the use of architectural elements, color, painting, landscaping, screening, artificial trees, or other

methods. Installations located within the Entryway Corridor shall be reviewed against the criteria of Section 16 as applicable. Stealth or Camouflaged installations shall be required for all Antenna Towers in excess of 40 feet in Height.

b. No signage except a single four (4) square foot business identification sign is allowed unless such signage is required by federal, state, or local law or regulation.

c. Facilities shall not be illuminated by artificial means and shall not display strobe lights or other warning lighting, unless required by the FAA, FCC or other State or local requirements.

d. Visual Screening shall be provided in all residential areas and where a Personal Wireless Service Facility is located within a non-residential area which is visible, at Grade, from a residential area. Screening shall provide an opaque screen within 18 months of establishment and be a minimum of four feet (4') in height. Screening vegetation shall be provided for service road cuts and site grading, where it does not already exist and/or replacement of existing vegetation. The Screening may be of landscape materials or a fence which otherwise complies with these Regulations. The Site shall comply with the landscaping provisions contained in Section 17.

e. Materials on the exterior of equipment enclosures used in residential areas shall be of materials commonly used in the neighborhood. The architectural design of the enclosure shall be compatible with surrounding residential Structures. The intent of the requirements of this paragraph may be met by providing fencing or other visual Screening compatible with the neighborhood, in compliance with all other sections of these Regulations, which will obscure the entire equipment enclosure. The Screening shall be in place prior to the commencement of operations of the facility.

f. All Personal Wireless Service Facilities established in an entryway corridor overlay district shall be installed in such a way as to maintain the historic or architectural character of the host site. All Sites shall maintain the least possible visual obtrusiveness.

7. Setbacks.

a. Residential district Setbacks for a Personal Wireless Service Facilities shall be 100% of Tower height which may be reduced to no less than 50% upon the provision and approval of an engineered design, stamped by a professional structural engineer licensed to practice in the state of Montana, establishing a smaller structural collapse area that will avoid damage and injury to adjoining property.

b. A Personal Wireless Service Facility in non-residential zones shall provide a minimum Setback from the property lines of 75% of Tower height which may be reduced to no less than 20% of Tower height upon the provision and approval of an engineered design, stamped by a professional structural engineer licensed to practice in the state of Montana, establishing a smaller structural collapse area that will avoid damage and injury to adjoining property.

c. All installations shall maintain the minimum zoning district Setbacks including special Setbacks for entryway corridors.

d. An application for a Personal Wireless Service Facility located less than 100% of the Tower height from the property line shall include a narrative addressing the issue of ice fall.

8. Height. Antenna Towers and equipment enclosures compromising the Personal Wireless Service Facility shall conform to the following Height requirements:

   a. The maximum Height of all and Antenna Towers shall be determined as a condition of approval, except that no Antenna Tower shall exceed more than 30 feet above the average height of the mature vegetative canopy or 85 feet in total, whichever is greater, unless the Applicant demonstrates that: (1) a taller design maintains adequate concealment and prevents greater impacts from multiple Antenna Support Structures and Antenna Towers, or (2) avoids a prohibition of service contrary to federal law.

   b. The mature vegetative canopy used for screening shall not be harvested or otherwise removed unless necessary to prevent interference or degradation of wireless services. Should the mature vegetative canopy used for screening be destroyed by wildfire or other means caused by Applicant or related to the Personal Wireless Service Facility, Applicant shall replant evergreen trees in the location of the preexisting vegetation that measure at least 10 feet in height and in an amount that satisfies silviculture standards for ground cover.

   c. The Building Height of equipment enclosures shall not exceed the Building Height limit of the underlying zoning district unless the Applicant demonstrates that a taller design will reduce the number of equipment enclosures at the Personal Wireless Service Facility and maintains adequate concealment; or avoids a prohibition of service contrary to Federal law.

9. Applicant Requirements.

   a. The Applicant must currently be licensed by the FCC to provide fixed or mobile wireless communication services or, if the Applicant is not such an FCC licensee, must demonstrate prior to issuance of a LUP that it has binding commitments from one or more current FCC licensees to utilize the proposed Personal Wireless Service Facility.

   b. The Applicant shall maintain commercial general liability insurance on an occurrence basis for all operations by or on behalf of Applicant, insuring against all liabilities, claims and demands for injuries, loss and/or damage which result from the approval, placement, construction, or modification of the Personal Wireless Services Facility, including coverage for bodily injury (including death), property damage, personal and advertising injury, and contractual liability. The minimum amount of this insurance shall be $1,500,000 per occurrence for liability and at least $2,000,000.00 aggregate. Such policy or policies shall name the fee simple landowner (if not the Applicant) and Gallatin County as additional insureds, shall include a standard cross liability endorsement or severability of interest clause and, shall be primary as respects the additional insureds, with any insurance maintained by the additional insureds being excess and noncontributing. Such insurance policies may not be canceled or materially altered without thirty (30) days' prior written notice to Applicant and ten (10) days' prior written notice if such cancellation is due to non-payment of premiums. The Applicant, or its successor or assign, shall maintain such coverage in full force until such time as all above-ground portions of the Facility have been removed and the area reclaimed to its natural state. Evidence (i.e., certificate) of the liability insurance prescribed above shall be required prior to Land Use Permit approval.

10. Administrative Provisions.

   a. No Facilities may be established in residential areas which require employees to be present on a routine basis, with the exception of periodic maintenance

activities, unless the zone allows Offices as an allowed or Conditional Use and appropriate review has been completed.

b. Any Modifications may only occur in compliance with the review procedures required at Section 19.08 ("Request for Modifications").

19.06 **Review Time for Application Completeness for Personal Wireless Service Facilities.**

1. Within thirty (30) days of the receipt of an application for a CUP the Planning Department shall notify an Applicant in writing that its application is:

    a. Complete; or

    b. Incomplete.

2. A determination of incompleteness must state the specific reasons why the application is incomplete and does not meet the submittal requirements, including reference to the specific regulations, application instructions, or otherwise publically-stated procedures that require the information to be submitted. Following a supplemental submission in response to a determination of incompleteness, if the Planning Department determines that the application remains incomplete, the Planning Department shall notify the Applicant in writing, within ten (10) days of its receipt of the supplemental submission, and specifically identify the information the Applicant failed to supply in response to the original notice of incompleteness.

3. If the Planning Department informs the Applicant that its application is incomplete, the overall timeframe for review is suspended until the Applicant provides the requested information. The period for review may not thereafter be further suspended for incompleteness.

19.07 **Conditional Use Permit Approval.**

1. Applications for a Personal Wireless Service Facility Conditional Use Permit may be approved, conditionally approved, or denied by the Board of Adjustment (BOA). The BOA may make the granting of the Personal Wireless Service Facility CUP subject to reasonable limitations or conditions, as allowed by all applicable laws and regulations, as it deems necessary or appropriate to protect the health, safety, and general welfare of the citizens of the County; to mitigate or avoid any and all adverse impacts; and to make the proposed Personal Wireless Service Facility conditional use more compatible and consistent with the *Goals and Policies of the Gallatin County / Bozeman Area Plan* and intent of the Zoning Regulation. Potential conditions that may be required are listed under Section 28.03 of these Regulations.

2. Timing.

    a. An application for a new freestanding Personal Wireless Service Facility shall be approved, conditionally approved, or denied within 150 days of its submittal to the Planning Department. An application for a collocation, Modification or relocation (excluding Modifications found to not result in a Substantial Change) shall be approved, conditionally approved, or denied within 90 days of its submittal to the Planning Department.

    b. The 150-day or 90-day period may be extended by mutual written consent of the Applicant and the Planning Department.

    c. If an application is incomplete as filed, the 150-day and 90-day timeframes do not include the time the Applicant takes to respond to the Planning Department's requests for additional information under Section 19.06 of these Regulations.

3. Notice of the public hearing to consider the application shall be provided according to the procedure in Section 28 Conditional Use Permits in this Regulation. In addition, notices advertising the scheduled public hearing for a proposed Facility shall be posted

in at least three (3) locations visible to the public on or near the parcel containing the proposed Facility, or on a nearby public road. Such signs shall be posted at least fifteen (15) days prior to any public hearing.

4. Approval Criteria. The BOA may grant a permit for a use classified as a Personal Wireless Service Facility Conditional Use Permit only if it is found, in addition to the requirements of Section 28.02 of these Regulations ("Conditional Use Permits, Requirements") that:

    a. The use meets the standards in Section 19.05 of these Regulations.

    b. The use increases availability of or access to communications services to residents of and visitors in the GC/BA Zoning District.

    c. The decision to grant or deny conditional approval of the use would not:

        i. Unreasonably discriminate among providers of functionally equivalent services; or

        ii. Prohibit or have the effect of prohibiting the provision of Personal Wireless Services;

5. A decision to deny an application for a Personal Wireless Service Facility shall not be made on the basis of the environmental effects of radio frequency emissions to the extent that the facility complies with the FCC's regulations concerning emissions.

6. The decision to approve, conditionally approve, or deny an application for a Personal Wireless Service Facility shall be in writing and supported by substantial evidence contained in a written record. The written decision must be issued within the 90-day or 150-day review period, as applicable.

7. If an application is denied, the BOA must issue written Findings of Fact and Conclusions of Law that contain a clear statement of the reasons for the denial separate from any references to the oral record (e.g. any audio recording). The Findings of Fact and Conclusions of Law must be provided or made available to the Applicant at the same time as the BOA issues the written denial.

8. Prior to the transfer of ownership of an existing Personal Wireless Service Facility, the Applicant shall submit an application to the Planning Department for transfer of the original Conditional Use Permit. The application must include a statement from the new owner/operator that they agree to abide by all conditions of the issued Conditional Use Permit and evidence of insurance.

19.08 **Requests for Modification**

1. A request for a Modification of an Eligible Wireless Services Support Structure shall be made in writing to the Planning Department.

2. The Planning Director shall approve a request for a Modification if the Modification does not substantially change the physical dimensions of the Existing Antenna Tower or Base Station.

3. Substantial Change. A Modification substantially changes the physical dimensions of an Eligible Wireless Services Support Structure if it meets any of the following criteria:

    a. Height: For Towers other than Towers in the public rights-of-way, it increases the height of the Tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing Antenna not to exceed twenty (20) feet, whichever is greater; for other Eligible Wireless Services Support Structures, it increases the height of the structure by more than 10% or more than ten (10) feet, whichever is greater;

        i. Changes in height should be measured from the original support structure in cases where deployments are or will be separated

horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured from the dimensions of the Tower or Base Station, inclusive of originally approved appurtenances and any Modifications that were approved prior to the passage of the Middle Class Tax Relief and Job Creation Action of 2012, Pub. L. No. 112-96, 126 Stat. 156 (Spectrum Act) (February 22, 2012).

b. Equipment Cabinets: For any Eligible Wireless Services Support Structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four (4) cabinets; or, for Towers in the public right-of-way and Base Stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

c. Width: For Towers other than Towers in the public rights-of-way, it involves adding an appurtenance to the body of the Tower that would protrude from the edge of the Tower more than twenty (20) feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater, for the other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six (6) feet;

d. Excavation: The Modification involves excavation or deployment outside the current Site;

e. Concealment: The Modification would defeat the concealment elements of the current Eligible Wireless Services Support Structure; or

f. Conditions of Approval: The Modification does not comply with the conditions associated with the prior approval of the Eligible Wireless Service Support Structure unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the corresponding Substantial Change thresholds.

4. Structural Enhancements. A Modification may include structural enhancements to the underlying structure if such enhancements are performed in connection with and are necessary for the Modification. A structural enhancement, however, may not include the replacement of the underlying structure or otherwise constitute a substantial change.

5. The approval of a Request for Modification may be conditioned on the Applicant's compliance with the standards and regulations for Wireless Facilities.

6. Approval of a Modification may be made subject to compliance with generally applicable building, structural, electrical and safety codes, and with other laws and regulations that are reasonably related to health and safety.

7. Documentation Required for Review. In response to a request for Modification, the Planning Department may require the Applicant to provide documentation or information that is reasonably related to determining whether the request meets the requirements of this Section. Such documentation may not include documentation intended to illustrate the need for the Personal Wireless Service Facility or to justify the business decision to modify the Facility.

8. Review Time for Modification Submittals

a. If the Planning Department requires additional information from the Applicant to consider its request for a Modification, it shall notify the Applicant within

thirty (30) days from the time it receives the request that the request as submitted is incomplete.

b. A determination of incompleteness must clearly and specifically delineate all missing documents or information.

c. Following a supplemental submission in response to a determination of incompleteness, if the Planning Department determines that the application remains incomplete, the Planning Department shall notify the Applicant in writing within ten (10) days of its receipt of the supplemental submission

d. If the Planning Department informs the Applicant that its application is incomplete under either a. or c. above, the overall timeframe for review is suspended.

e. A request for Modification shall be approved or denied within 60 days of its submittal to the Planning Department. The 60-day timeframe does not include the time that the Applicant takes to respond to the Planning Department's requests for additional information.

f. The 60-day period may be extended by mutual written consent of the Applicant and the Planning Department.

19.09 **Appeals**

1. Any person adversely affected by any final action or failure to act by Gallatin County or any instrumentality thereof regarding the placement, construction, or Modification of a Personal Wireless Service Facility may, within 30 days after such action or failure to act, commence an action in any court of competent jurisdiction.

19.10 **Abandonment and Removal**

1. If at any time the use of an approved Personal Wireless Service Facility is discontinued for nine (9) months, upon proof of such abandonment the Planning Director may declare the Facility to be abandoned.

2. Upon the Planning Director's declaration that a facility is abandoned, the Planning Director shall provide the Applicant with written notice that it shall either (1) continue use of the Facility within ninety (90) days or (2) dismantle and remove the Facility within ninety (90) days.

3. Within ninety (90) days of the removal of a Facility, the Applicant shall reclaim any area disturbed by the Facility to the satisfaction of the Planning Director and as required by any applicable local, state, or federal law.

4. If reactivation, remediation, or dismantling does not occur as required herein, Gallatin County may conduct the work or contract to have the work performed and assess the owner or operator for all costs associated with such work.

5. The Planning Director may grant an Applicant's request for an extension of the time limits provided in subsection (2) upon the Applicant's showing of good cause.

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SECTION 20 SIGNS

20.01 **Intent**. It is the intent of this Section to promote the health, safety and welfare of the residents and visitors of the Gallatin County/Bozeman Area Zoning District by regulating and controlling the size, location, type, quality of materials, height, maintenance and construction of all Signs and Sign Structures not located within a Building for the following reasons: to preserve the area's natural scenic beauty; to contribute to inviting entrances into Gallatin County/Bozeman Area Zoning District by eliminating clutter associated, in part, with the unrestricted proliferation of Signs, lights, and stringed devices; to encourage area beautification through creative, interrelated design of signage, Landscaping, Buildings, Access and parking that enhances the community's built and natural environment; to give all Businesses an equal opportunity to have a Sign that will help people find the services they need; and, to ensure that pedestrians and motorists are protected from damage or injury caused or partly attributable to the distractions and obstructions which are caused by improperly situated Signs.

20.02 **Sign Permit Requirements**. If a Sign requiring a permit under the provision of this Section is to be placed, constructed, erected, or modified on a Lot or Artificial Lot, the owner of the Lot shall secure a sign permit prior to the construction, placement, erection, or modification of such a Sign. Furthermore, the property owner shall maintain in force, at all times, a permit for such Sign. No permit of any kind shall be issued for an existing Sign or proposed Sign unless such Sign is consistent with the requirements of this Section.

20.03 **Prohibited Signs**. All Signs not expressly permitted under this Section, or exempt from regulation, are prohibited in the jurisdiction. Such Signs include, but are not limited to:

1. Portable Signs.
2. Roof Signs.
3. Revolving Signs.
4. Beacons.
5. Flashing Signs.
6. Pennants.
7. Stringed flags.
8. Inflatable Signs and tethered balloons (except as permitted per Subsection 20.04).
9. Signs located in public Rights-of-way (except for those permitted in Subsection 20.05(3)).

20.04 **Permitted Temporary and Special Event Signs**. Temporary and Special Event Signs, such as Banners, tethered balloons and inflatable Signs, shall be allowed only as follows:

1. Special Event Signs are permitted in the zones described in Subsections 20.07(1) [Commercial, Manufacturing, and Public Land Zones] and 20.07(2) [Neighborhood Services and Office Zones].
2. Such Signs shall be displayed for a consecutive period not to exceed 15 days, for a maximum of 30 days per year with the exception of grand opening Banners which may be displayed for a period not to exceed 60 days. Only one (1) grand opening Banner shall be permitted for the life of a Business. A subsequent grand opening Banner may be permitted when business ownership, has transferred to another owner.
3. Such Banners shall be consistent with the standards of this Section as to location, height, and type.
4. Applicants for such Banners must apply for, and have approved, a Temporary Sign permit.

20.05 **Signs Exempt From Permit Requirements**. The following Signs shall be exempt from regulation under this Section:

1. Residential Zones (A-S, R-S, RX-MD, RX-HD, R-MH). Temporary non-illuminated, real estate sale, and Non-Commercial Speech Signs that do not exceed nine (9) square feet in total area and, if Freestanding, five feet (5') in height. No more than one such Sign per Street Frontage.
2. Commercial and Manufacturing Zones (R-O, N-S, M-I, PLI).
    a. Window Signs painted on the window or affixed to the interior of a window provided that such Signs do not occupy more than 25% of the area of the window in which it is displayed. If it exceeds 25% of the area of the window, it will be classified as a Wall Sign.
    b. Signs within a Structure or Building or other enclosed area of property when such Signs are not intended to be viewed from outside the Structure or property.
    c. Four on-premises Directional Signs not exceeding four (4) square feet in area which shall not contain any Commercial Messages.
3. All Zones.
    a. Government and Public Utility Signs. Directional, warning, Street, Building identification, traffic control, informational or temporary Special Event Signs that are erected, installed, or placed by or on behalf of any federal, state, county, or city government. Public utility Signs showing locations of underground facilities or public telephones, and safety Signs on construction sites are included within this exemption.
    b. Incidental Signs. A Sign, generally informational, that has a purpose secondary to the use of the Lot or Artificial Lot on which it is located, such as "no parking," "entrance," "loading only," and other similar directives. No Sign with a Commercial Message which is designed with the intent to be legible from a position off the Artificial Lot on which the Sign is located shall be considered Incidental.

20.06 **Area of Signs**. The area of a Sign shall be computed by enclosing the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure, or character together with any other material or color forming an integral part of the display or used to differentiate such Sign from a Building on which it is placed. The area of a Sign having no such perimeter shall be computed by enclosing the entire area within parallelograms, triangles, or circles in a size sufficient to cover the entire area of the sign copy and computing the size of such area. In the case of a two-sided Sign, the area shall be computed as including only the maximum single display surface which is visible from any ground position at one time. If the angle between the two sign faces is greater than 45 degrees, the sign area will be the sum of the areas of the two (2) faces. The supports or uprights on which any Sign is supported should not be included in determining the sign area unless such supports or uprights are designed in such a manner as to form an integral background of the Sign. In the case of any spherical, conical, or cylindrical Sign one half of the total surface area shall be computed as the area of the Sign.

20.07 **Signs Permitted Upon the Issuance of a Sign Permit**. The following on-premise signs are permitted in the indicated zones subject to a sign permit:

1. Manufacturing and Industrial, and Public Land Zones (M-I, PLI). The maximum allowable total signage listed herein shall not exceed 250 square feet per lot. A comprehensive sign plan is required for all commercial centers consisting of two (2) or more tenant spaces on a Lot and shall be designed in accordance with Subsection 20.08.

a. Freestanding Signs. One Freestanding Sign is permitted per Lot or Artificial Lot. The maximum area for a Freestanding Sign shall be 32 square feet. A low profile Freestanding Sign shall be set back a minimum of five feet (5') with a maximum height of five feet (5'). A Pole-Style Freestanding Sign shall be set back a minimum of 15 feet with a maximum height of 13 feet. The Pole-Style Sign will maintain at least an eight feet (8') minimum vertical clearance from the ground.

b. Wall Signs. Wall Signs are not to exceed a total signage allowance of one and one half (1.5) square feet per linear foot of Building Frontage minus any area devoted to Freestanding or Projecting Signs. Canopy, Window, and Awning Signs shall be classified as Wall Signs. Wall Signs shall not project above the top of a wall or Parapet. Lots fronting on two or more Streets shall be permitted an additional 35% of the already permitted Wall Sign area for each subsequent Building Frontage.

c. Projecting Signs. One Projecting Sign per tenant. Projecting Signs shall not exceed eight (8) square feet in area nor extend more than four feet (4') from the Building. Projecting Signs shall provide a minimum sidewalk clearance of eight feet (8').

2. Neighborhood Services and Office Zones (N-S, R-O). The maximum allowable total signage for a Lot shall not exceed 80 square feet in an N-S District, and 32 square feet in an R-O District. A comprehensive sign plan is required for all commercial centers consisting of two (2) or more tenant spaces on a Lot. Such plans shall be designed in accordance with Subsection 20.08.

a. Low Profile Freestanding Signs. One Low Profile Sign not to exceed 32 square feet in area in the N-S District, and 12 square feet in area in the R-O District. In both the N-S and the R-O Districts, the Low Profile Sign shall have a minimum Setback of five feet (5') and a maximum height of five feet (5'). Pole-Style Freestanding Signs are not permitted in the N-S and R-O Districts.

b. Wall Signs. Wall Signs in the N-S District are not to exceed a total signage allowance of one (1) square foot per linear foot of Building Frontage minus any area devoted to Freestanding or Projecting Signs. Wall Signs in the R-O District are not to exceed a total signage allowance of half (.5) of a square foot per linear foot of Building Frontage minus any area devoted to Freestanding and/or Projecting Signs. Canopy, Window, and Awning Signs shall be classified as Wall Signs. Wall Signs shall not project above the top of a wall or Parapet. Lots fronting on two or more Streets shall be permitted an additional 35% of the already permitted Wall Sign area for each subsequent Building Frontage.

c. Projecting Signs. One Projecting Sign per tenant. Projecting Signs shall not exceed eight (8) square feet in area nor extend more than four feet (4') from the Building. Projecting Signs shall provide a minimum sidewalk clearance of eight feet (8').

3. Residential and Agricultural Zones (A-S, R-S, RX-MD, RX-HD, R-MH).

a. Residential Building Identification Signs. For properties used for multi-family residential buildings, one residential identification Wall Sign per Street Frontage. Each Sign shall not exceed eight (8) square feet in area.

b. Signs Appurtenant To Residential Principal and Conditional Uses and Home Occupations.

i. Principal residential Uses and Home Occupations shall be permitted Commercial Message signage not to exceed four (4) square feet in area and shall not be located in any required

Setback area. In addition, Home Occupations shall be permitted one (1) square foot signage on a mailbox or lamp post or one and one half (1 1/2) square feet of freestanding signage located a minimum of five feet (5') from the property line.

ii. Principal residential uses shall be permitted Non-Commercial Speech Signs which do not exceed 32 square feet in area nor five feet in height (5'). Such Sign(s) must be setback at least 15 feet from the property line.

iii. Conditional nonresidential type uses, such as Churches, Veterinary Uses, golf courses, Day Care Centers and Schools shall be permitted signage as if the underlying zoning were N-S. Conditional residential type Uses such as Bed and Breakfast Homes, and fraternity and sorority houses, shall be permitted signage as if the underlying zoning were R-O. Such Signs may only be illuminated during the hours of operation.

c. Planned Unit Developments. Commercial establishments within Planned Unit Developments where the underlying zoning is residential or agricultural shall be permitted signage as if the Lot were in a N-S District.

20.08 **Comprehensive Sign Plan**. A comprehensive sign plan shall be submitted for all commercial, Office, Industrial, and civic Uses consisting of two or more tenant or occupant spaces on a Lot or two or more Lots subject to a common development permit or plan. A comprehensive sign wplan shall not be approved unless it is consistent with this Section, the underlying zoning regulations applicable to the property and any discretionary development permit or plan for the wproperty. The plan should include the size and location of Buildings and the size and location of existing and proposed Signs. The purpose of the plan is to coordinate graphics and Signs with Building design. The coordination shall be achieved by:

1. Using the same type of cabinet supports or method of mounting for Signs of the same type; using the same type of construction for components, such as Sign Copy, cabinet and supports; using other types of integrating techniques, such as common color elements, determined appropriate by the Planning Department.

2. Using the same form of illumination for all Signs, or by using varied forms of illuminations determined compatible by the Planning Department.

20.09 **Multi-tenant Complexes with less than 100,000 Square Feet of Ground Floor Area**. The guidelines for the underlying zoning districts apply unless otherwise addressed below:

The maximum permitted Wall Sign area allowed for each tenant space shall be the percentage of the total floor area on the Lot or Artificial Lot that the tenant occupies multiplied by the wall area allowed by Subsection 20.07(1)b. or 20.07(2)b. If the Lot has more than one Building Frontage, the individual tenant space may derive sign area only from the Frontage(s) which the space faces. Lots under this Section shall be allowed a Low Profile Sign that identifies the complex, which otherwise conforms to this Section, in addition to the sign area already permitted under Subsection 20.07(1)b. or 20.07(2)b.

20.10 **Multi-tenant Complexes with more than 100,000 Square Feet of Ground Floor Area**. The guidelines for the underlying zoning districts apply unless otherwise addressed below:

1. Freestanding Signs.

a. Pole-Style Signs. One Pole-Style Sign per Street Frontage not to exceed 48 square feet in area or 16 feet in height. The sign area computed for a Pole-Style Sign shall not be subtracted from the maximum allowable Wall Signage permitted for the entire complex.

b. Low-Profile Signs. One Low-Profile Sign shall be permitted at each secondary entrance of the complex, provided each Sign shall not exceed 32 square feet

in area, not five feet (5') in height, and must be Setback a minimum of five feet (5') from the property lines. All Low-Profile Signs shall only identify the complex and must display the street number address in figures which are at least six inches (6") high. Low Profile Signs complying with these Regulations will not be factored when calculating the maximum permitted Wall Sign area.

2. Wall Signs. Each tenant shall be permitted Wall Signage square footage calculated from one and one-half (1.5) times the linear store Frontage. For indoor shopping mall complexes, each Anchor Tenant shall be permitted 300 square feet of Wall Signage, and each tenant with an exclusive outdoor customer entrance shall be permitted Wall Signage square footage calculated from five percent (5%) of the ground floor area.

20.11 **Illumination**. Illumination, if any, shall be provided by artificial light which is constant in intensity and color. Internally illuminated "can signs" are acceptable provided background and copy are coordinated to avoid excessive light output. Neon and other gas type transformers shall be limited to 60 milliamperes and fluorescent transformers shall be limited to 800 milliamperes to soften light output. Additionally, neon and other gas type Signs with exposed tubing shall be equipped with dimmers.

20.12 **Street Vision Triangles**. Signs shall not be placed in Street Vision Triangles as defined in these Regulations.

20.13 **Required Address Signs**. Street numbers shall be required for all residential, commercial, Industrial, and civic uses in all zones, consistent with the requirements of the fire district. All Freestanding Signs shall display the address of the Lot in six-inch (6") numbers.

20.14 **Off-premise Advertising Signs**.

1. Off-premise Commercial Advertising Signs, or Billboards, are not permitted within the Zoning District.

2. Subdivision Identification Signs. Subdivisions consisting of more than four (4) Lots may have one (1) Low-Profile, Freestanding, neighborhood identification Sign per development entrance on each Road, with a sign permit. Subdivision identification signs may not identify specific commercial firms or Uses. The identification Sign shall not exceed 16 square feet in area or five feet (5') in height from the finished Grade, and must be set back at least five feet (5') from the property line.

20.15 **Signs Erected in Conjunction with Non-profit Activities on Public Property**. Signs erected on public property in support of non-profit activities, such as Signs advertising sponsors of youth and sports activities, shall be allowed only as follows:

1. The Sign(s) shall be permitted only at developed facilities in public Parks or other publicly owned lands.

2. The Sign(s) may be erected two (2) weeks prior to the commencement of the activity and shall be removed within one (1) week after the cessation of the activity for which the Sign(s) were erected.

3. Each individual Sign shall be no larger than 32 square feet. Freestanding Signs must be set back a minimum of 15 feet from the property line with a maximum height of five feet (5'). Signs attached to walls or scoreboards shall not be subject to the five foot (5') height limitation. However, Signs attached to walls or scoreboards shall not exceed the height of the wall or scoreboard to which they are attached. All Signs shall be oriented towards spectators attending the activity who are at the facility.

4. The Sign(s) shall not:

    a. advertise alcoholic beverages or tobacco products;

    b. be individually illuminated; nor

c. be placed in Street Vision Triangles or otherwise impede or obstruct the view of the traveling public.

5. Applicants for such Sign(s) must apply for, and have approved, a temporary and special event sign permit detailing the nature of the Sign(s) to be erected and the duration the Sign(s) will remain in place.

20.16 **Historic or Culturally Significant Signs**. Signs which have historical or cultural significance but do not conform to the provisions of this Section, maybe permitted provided that the County Commission adopts findings supporting the historical or cultural significance of the Sign and issues a sign permit. Such findings shall be adopted by resolution of the County Commission.

20.17 **Application**. An application for a Sign shall be made on forms provided by the Planning Department. The application shall contain sufficient information and plans to permit review pursuant to this Section, including but not limited to: building Elevations; photographs; proposed locations of Signs on building Elevations; Sign design layout showing number, types, and dimensions of all Signs, and a Site Plan showing proposed location of all Signs.

20.18 **Maintenance of Permitted Signs**. All Signs shall be continuously maintained in a state of security, safety and repair. If any Sign is found not to be so maintained or is in need of repair, it shall be the duty of the owner and the occupant of the premises to repair or remove the Sign within ten (10) days after receiving written notice to do so from the Planning Department. If the Sign is not so repaired or removed within such time, the County shall cause the Sign to be removed at the expense of the owner of the premises.

20.19 **Non-conforming Signs**.

1. All Signs which were legally permitted prior to July 27, 1999, are considered legal, permitted Signs under this Section. Except as provided for in Subsection 20.19(2) below, said Sign, if non-conforming with this Section, may not be:

    a. Replaced except with a conforming Sign;

    b. Changed in copy (except for signs specifically designed to be changed in copy);

    c. Structurally altered to extend its useful life;

    d. Expanded, moved, or relocated.

2. No Non-conforming Sign may be altered or enlarged in any way which increases its non-conformity, but any existing signage, or portions thereof, may be altered by decreasing its nonconformity.

3. Except as otherwise provided herein, the owner of any Lot, Artificial Lot or other premises on which exists a Sign that does not conform with the requirements of this Section, and for which there is no prior valid sign permit, shall remove such Sign.

ARTICLE IV
DEVELOPMENT OPTIONS

SECTION 21 PLANNED UNIT DEVELOPMENT

21.01 Intent.

1. Ensure that future growth and development occurring within the zoning jurisdiction is in accord with the *Gallatin County/Bozeman Area Plan*, its specific elements and its goals and policies.
2. Promote development standard flexibility and innovation in the development of land and the design of development projects.
3. Minimize adverse environmental impacts of development and to protect special features of the geography.
4. Foster the safe, efficient and economic use of land and transportation and other public facilities.
5. Ensure adequate provision of public services such as water, sewer, electricity, Open Space and Parks.
6. Improve the design, quality and character of new development.
7. Protect existing neighborhoods from the potential harmful encroachment of new incompatible developments.
8. Enhance the visual impact of development.
9. Encourage patterns of development which decrease automobile travel and encourage trip consolidation, thereby reducing traffic congestion and degradation of air quality.
10. Promote the use of bicycles and walking, and horses where appropriate, as effective modes of transportation.
11. Promote logical development patterns of residential, commercial, office and industrial uses that will mutually benefit the developer, the neighborhood, and the community as a whole.

21.02 **Application and Uses of a Planned Unit Development.**

1. A Planned Unit Development may be applied to any development or redevelopment proposing one or more Principal Uses or Structures on a single Parcel of real property or contiguous Parcels of real property. Any Use or combination of Uses may be allowed in a Planned Unit Development provided such Uses are consistent with the underlying zoning district(s) in which it is to be located and the *Gallatin County/Bozeman Area Plan*.
2. All Planned Unit Developments shall consist of a harmonious arrangement of Uses, Buildings, parking areas, circulation, pedestrian facilities, and Open Spaces. All Planned Unit Developments shall be designed as an integrated unit, in such a manner as to constitute a safe, efficient and convenient development.
3. Lots and Structures in a Planned Unit Development need not comply with the specific required design standards (Lot size, Building Height, Dwelling Unit design, Setbacks) of the underlying zoning classification.
4. The site design shall consider the relationship of the site to the surrounding area. The site perimeter shall be designed to minimize undesirable impacts between the site and surrounding Uses.

5. A Planned Unit Development may be used in conjunction with the Transfer of Development Rights option to establish development design standards necessary to accommodate increased Dwelling Units achieved under the Transfer of Development Rights option.

6. All Planned Unit Developments shall be reviewed as a Conditional Use according to the provisions of Section 28 of this Regulation.

21.03 **Special Conditions of a Planned Unit Development**. The following special conditions shall apply to any Planned Unit Development.

1. Single Ownership. The tract or Parcel of land of record involved shall be either in one ownership or the subject of an application filed jointly by the owners of all the property to be included.

2. Title Holdings. The approved final Planned Unit Development shall specify the manner of holding title to areas and facilities of joint use. Normally such areas and facilities shall be retained in title by the developers of the development or deeded to an organization composed of all owners in the development.

3. Open Space. Any required Open Space areas may either be held/owned perpetually in common by an owners' association, dedicated as a Park, permanently preserved through a conservation easement, or a combination thereof. The application shall specify the means of maintaining Common Open Space or of permanently preserving it.

4. Use of General Development Standards (Article III). All Planned Unit Development proposals shall be reviewed for compliance with all applicable general development standards established in these Regulations. Variations to the applicable general development standards may be approved by the Board of Adjustment (BOA), based upon a finding by the BOA that the Planned Unit Development proposal is consistent with the intent and purpose of the general development standards and the intent of a Planned Unit Development.

5. Establishing Additional Standards. In addition to, or in lieu of, the underlying zoning classification design standards and the general development standards established in these Regulations, the BOA may establish general design standards, guidelines and policies, for the purpose of implementing and interpreting the provisions of this Section.

6. Conformance to Sign Standards. All Signs proposed in conjunction with a Planned Unit Development shall be reviewed against the provisions of the sign standards of these Regulations, Section 20. All signage must be approved as part of the Planned Unit Development proposal and shall be designed as an integral element of the overall Planned Unit Development. Approval of Signs within a Planned Unit Development shall rest upon a finding by the BOA, as proved by the specific proposal, that the intent of the Sign standards are achieved.

21.04 **Planned Unit Development Application Procedure.**

1. Pre-application Meeting and Concept Plan Review. A minimum of 30 days prior to the date of application submittal, the applicant shall meet with a member of the Planning Staff to review the appropriate procedures, standards, documentation and any other requirements, including design standards, necessary for the complete processing of a Planned Unit Development application. This step represents an opportunity to identify any major problems that may exist and solutions to those problems before formal application. The following information and data shall be submitted for concept plan review:

    a. Data regarding site conditions, land characteristics, available community facilities and utilities and other related general information about adjacent land Uses and the Uses of land within one-half mile of the subject Parcel of land.

b. Conceptual (sketch) drawing showing the proposed location of the Uses of land, major Streets and other significant features on the site and within one-half mile of the site.

2. Application Submittal Requirements. All Planned Unit Development applications shall include the following:

   a. Completed and signed Conditional Use Permit application form.

   b. All applicable fees.

   c. Twelve (12) copies of a Site Plan showing:

      i. Property lines and easements, with dimensions and area.

      ii. Topographic information.

      iii. Existing vegetation, wildlife habitat, Watercourses, wetlands, soil types and floodplains.

      iv. Existing land Uses.

      v. Location and dimensions of existing and proposed Structures, utilities, trails and improvements.

      vi. Land use designations.

      vii. General circulation system, including Streets and multi-use pathways.

      viii. Number and types of Dwelling Units and Accessory Structures.

      ix. Number and types of commercial Structures.

      x. Number of Off-Street Parking places.

      xi. General Landscape plan.

      xii. Amount and location of Open Space.

      xiii. Amount, location and use of common space.

      xiv. Proposed treatment of perimeter boundary of the Planned Unit Development.

   d. Standards for Principal and Accessory Structures and Uses:

      i. Minimum Lot Areas.

      ii. Minimum Lot Width.

      iii. Minimum Yard Setbacks.

      iv. Maximum Building Heights.

      v. Maximum Lot Coverage.

   e. A traffic study, if the proposed development will generate 500 or more vehicular trips per day.

   f. Drainage plan.

   g. Proposed covenants and property owners' association documents which provide for the maintenance of common areas and facilities, and which appropriately limit the use of Open Space, assign the right to use common property to each Lot owner and provide for association assessments.

   h. If a Planned Unit Development is not required to be reviewed as a subdivision, the applicant must submit information on water supply and

sewage treatment, public safety (including fire, police, emergency medical response and road access) and historic or archeological resources.

i. Projected population.

j. Proposed development schedule and phasing, if applicable.

21.05 **Approval Criteria**. A Planned Unit Development may be approved by the BOA when the BOA finds:

1. The Planned Unit Development conforms to the goals and policies of the *Gallatin County/Bozeman Area Plan*.
2. The intent, Uses and special conditions of this Section have been met.
3. The Planned Unit Development maximizes the preservation of natural features, including trees, drainage areas, recreation, views, wildlife habitat and riparian areas.
4. The Planned Unit Development serves the public interest.

SECTION 22 TRANSFER OF DEVELOPMENT RIGHTS

22.01 **Intent and Purpose**. The intent of this Section is to establish the opportunity and procedures to Transfer Development Rights (Dwelling Units) within the Gallatin County/Bozeman Area Zoning District. The purpose of this Section is to implement the Gallatin County/Bozeman Area Plan by protecting environmentally sensitive lands within the Gallatin County/Bozeman Area Zoning District, while allowing the opportunity for landowners to develop properties more appropriate for residential growth within the Gallatin County/Bozeman Zoning District.

22.02 **Transfer of Development Rights Defined**. Transfer of Development Rights or TDRs is a market based technique that encourages the voluntary transfer of growth from places where a community would like to see less development (*sending areas*) to places where services exist or where a community would like to see more development (*receiving areas*).

22.03 **Applicability**. The Transfer of Development Rights option is only available to properties having a zoning district designation of A-S. Development proposals which exceed the permitted number of Dwelling Units established in the A-S District must comply with the TDR requirements set forth in this Section.

22.04 **Use of Transferred Development Rights**. TDRs cannot be used in any manner not expressly authorized by this Section. TDRs may be sold or purchased, or otherwise transferred or received.

22.05 **Transfer of Development Rights Sending Area**. TDR sending areas include those properties having a zoning designation of A-S, and which are designated as Agricultural/Rural Residential Transitional Area within the Gallatin County/Bozeman Area Future Land Use Map.

22.06 **Transfer of Development Rights Receiving Area**. TDR receiving areas include those properties having a zoning designation of A-S, and which are designated as Moderate Intensity Developments within the Gallatin County/Bozeman Area Future Land Use Map.

22.07 **Transfer of Development Rights Sending Area Development Rights.** Sending areas within the A-S District have one Development Right for every 20 acres (or one for any parcel less than 20 acres existing at the time of adoption of these Regulations) that can be transferred.

22.08 **Transfer of Development Rights Receiving Area Development Rights**. One (1) TDR shall be required for each residential Lot or Dwelling Unit in excess of the underlying permitted Lots or Dwelling Units as established in the A-S District (see Subsections 6.05(1) and 6.05(2)).

1. TDR Example #1. An existing 20-acre Parcel in the A-S District, under the Standard Development Option (Subsection 6.05(1)), is permitted a maximum of one (1) Dwelling Unit. A developer chooses to transfer and incorporate one (1) additional Development Right into the development, resulting in two (2) Lots, with a minimum Lot size of one (1) acre, subject to subdivision review and approval.
2. TDR Example #2. An existing 40-acre Parcel in the A-S District, under the Cluster Development Option (Subsection 6.05(2)), is permitted a maximum of five (5) Dwelling Units. A developer chooses to transfer and incorporate two (2) additional Development Rights into the Cluster Development, resulting in seven (7) one-acre Lots and a 33-acre Open Space Parcel, subject to subdivision review and approval.

22.09 **Transfer of Development Right Procedures.**

1. The use of TDR's shall be reviewed by the Planning Department. Upon submittal of an application for the use of TDR's, the Planning Department shall determine that the TDR's comply with the requirements of these Regulations. Reviews shall be completed within 15 working days of receipt of an application for the use of TDR's.
2. TDR's must be used in conjunction with a PUD. See Section 21, Planned Unit Development.

3. TDR's shall become affixed or appurtenant to a receiving Parcel upon County approval of a final subdivision plat or approval of subdivision exemption claim, in accordance with the Gallatin County Subdivision Regulations.

4. Documentation, as prescribed by the County, shall be recorded with the Gallatin County Clerk & Recorder indicating the following:

    a. the name(s) of the owner (grantor) of the sending area Parcel(s) where each TDR is being severed or transferred, along with the legal description and acreage of the Parcel(s).

    b. description of the existing permitted Development Right totals for each sending area Parcel, total number of Development Rights being severed and transferred, and the total number of retained Development Rights on each sending area Parcel

5. The Gallatin County Attorney's Office shall review all required documents for adequacy prior to recordation.

ARTICLE V
ADMINISTRATIVE PROVISIONS

SECTION 23 ADMINISTRATION

23.01 **Zoning Enforcement Agent**. The Zoning Enforcement Agent is appointed to be the Gallatin County Department of Planning and Community Development (Planning Department). The Planning Department supervises and enforces the provisions of these Regulation pursuant to § 76-2-210, MCA. This consists of, but is not limited to, issuing Site Plan and Land Use Permits, enforcing violations, and reviewing applications for Conditional Use Permits, Variances, Planned Unit Developments, Transfer of Development Rights, rezoning requests and amendments to the Regulation.

23.02 **Code Compliance Officer.** Pursuant to § 76-2-210(2), MCA, the Code Compliance Officer is the duly authorized agent appointed by the County Commission, who in conjunction with the Zoning Enforcement Agent ensures compliance with the provisions of this Regulation. This consists of, but is not limited to, revoking permits, issuing cease and desist orders, requiring removal/dismantling of Structures, determining compliance with these Regulations and issuing fines. All decisions made by the Code Compliance Officer follow the same administrative and appeals procedures as that of the Planning Department.

23.03 **Advisory Committee**. The County Commission may create a non-remunerative advisory committee, of up to five members, to make recommendations within the District. Members are freeholders in the District. Advisory Committee members are appointed for two-year staggered terms. Initially, two members are appointed for one-year terms and three members are appointed for two-year terms.

Advisory Committee recommendations are advisory only and are not binding upon the County Commission. Advisory Committee meetings are open to the public and noticed accordingly. The Advisory Committee may also notify the Zoning Enforcement Agent of alleged violations within the District.

23.04 **Board of Adjustment**. Pursuant to § 76-2-221, MCA, the County Commission has appointed a five-member Board of Adjustment (the "BOA"). The BOA shall have jurisdiction over all matters within the Gallatin County/Bozeman Area Zoning District within the BOA's powers. Those powers shall be:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Regulation.
2. To hear and decide Variances to these Regulations that will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the Regulations will result in an unnecessary hardship, and so that the spirit of the Regulation is observed and substantial justice done.
3. To hear and decide Conditional Use Permits 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.
4. In exercising the above mentioned powers, the BOA may, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or administrative determination made by the Planning Department or Code Compliance Specialist appealed and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all of the powers of the officer from whom the appeal is taken (§ 76-2-223, MCA).

5. The concurring vote of three members of the BOA shall be necessary to grant a Variance, reverse any order, requirement, decision, or determination of any such administrative official (§ 76-2-224, MCA).

23.05 **County Planning Board**. The Gallatin County Planning Board (Planning Board) consists of resident freeholders serving in an advisory capacity to the County Commission. The Planning Board's role is to make recommendations on the revision of boundaries and the amendment of regulations (§ 76-2-204 and § 76-2-205, MCA).

23.06 **Schedule of Fees**. The County Commission sets fees for all applications; including but not limited to Land Use Permits, zone map amendments, zone text amendments, Conditional Use Permits, and Variances. The Commission will not take action on an item until fees are paid in full. Fees are non-refundable.

23.07 **Violations and Penalties**. A violation of this Regulation, any condition imposed through the authority of this Regulation, or any Variance granted through this Regulation is a misdemeanor and shall be punishable by a fine not exceeding $500 or imprisonment in the county jail not exceeding six (6) months or both (§ 76-2-211, MCA).

SECTION 24 NON-CONFORMING PARCELS, USES AND STRUCTURES

24.01 **Intent**. Within the districts established by these Regulations, there are Non-Conforming Parcels, Uses and Structures that were lawful prior to the adoption of these Regulations or any amendment to these Regulations, but no longer conform to present Regulation requirements. Montana law, §76-2-208, MCA (2011) provides that such uses, parcels, and Structures are "grandfathered" and thus may remain and/or continue in their present state and location (§ 76-2-208, MCA). However, such non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other Structures or uses prohibited by these Regulations.

Non-Conforming Uses are incompatible with Permitted Uses in the district. However, to avoid undue hardship, nothing in these Regulations shall be deemed to require a change in the plans, construction or designated use of any Structure on which actual construction lawfully began prior to the effective date of adoption or amendment to these Regulations. Actual construction is hereby defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Excavation, demolition, or removal of an existing Building shall be deemed to be actual construction, provided such construction is carried on diligently and completed in a timely manner.

24.02 **Non-Conforming Parcels of Record**. In any district, Structures permitted in said district may be erected on any Non-Conforming Parcel, which was of record on the effective date of this Regulation. All other requirements and restrictions of the district apply to a Parcel of Record that does not meet Parcel area requirements.

A Non-Conforming Parcel of land shall not be divided or changed in any way to increase its non-conformity.

24.03 **Non-Conforming Uses of Land**. Where at the time of the adoption of these Regulations lawful Use of land exists which would not be permitted by these Regulations, the Use may be continued so long as it remains otherwise lawful, provided:

1. A Non-Conforming Use shall not be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the adoption and/or amendment of these Regulations, unless Conditional Use Permit approval is granted by the Board of Adjustment pursuant to Section 28.
2. A Non-Conforming Use shall only be moved in whole or in part to any portion of the Parcel not occupied by such use at the adoption and/or amendment of these Regulations, unless Conditional Use Permit approval is granted by the Board of Adjustment pursuant to Section 28.
3. If any such Non-Conforming Use of land ceases for any reason for a period of more than 12 months, any subsequent Use of such land shall conform to these Regulations. If a seasonal Use ceases for two consecutive seasons, then subsequent Use of such land shall conform with these Regulations.
4. Any Non-Conforming Use of land replaced by a Permitted Use shall thereafter conform to the regulations of the Sub-district in which it is located, and the Non-Conforming Use may not thereafter be resumed.

24.04 **Non-Conforming Structures**. Where a lawful Structure exists at the effective date of adoption or amendment of these Regulations that could not be built under the terms of these Regulations by reason of restriction on Parcel, area, height, Yards, its location on the Parcel, or other requirements concerning the Structure, such Structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. A Non-Conforming Structure shall not be Altered or enlarged in any way which increases its non-conformity unless approval is granted by the Board of Adjustment pursuant to Section 28. A Non-Conforming Structure or portion thereof may be Altered to decrease its non-conformity by issuance of a Land Use Permit.

2. Should such Non-Conforming Structure or non-conforming portion of a Structure be destroyed by a catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction and does not require prior approval by the Board of Adjustment. Any Structure which is not substantially the same as the original Structure shall conform with the applicable provisions of these Regulations and applicable federal, state, and local building codes.

3. Should such Structure be moved, it shall thereafter conform to these Regulations.

4. Any Non-Conforming Structure Altered to conform to these Regulations of the Sub-district in which it is located shall thereafter remain in conformance with these Regulations.

24.05 **Non-Conforming Uses of Structures**. If a lawful Use of a Structure, or of Structures and premises exist at the effective date of adoption or amendment of these Regulations that would not be allowed in the district under the terms of these Regulations, the lawful Use may be continued so long as it remains otherwise lawful provided that:

1. An existing Structure devoted to a legal Non-Conforming Use shall not be enlarged, extended, constructed, or structurally Altered unless approval is granted by the Board of Adjustment pursuant to Section 28. A Non-Conforming Use of a Structure may be changed to a Permitted Use.

2. Any Non-Conforming Use may be extended to any other part of a Structure designed for such use, but no such use may be extended in any way to occupy land outside the Structure.

3. Any Non-Conforming Use replaced by a Permitted Use shall thereafter conform to the regulations of the Sub-district in which it is located. The Non-Conforming Use may not thereafter be resumed.

4. If a Non-Conforming Use of a Structure ceases for a period of more than 12 months, any subsequent Use of such Structure shall conform to these Regulations. If a seasonal Use ceases for two (2) consecutive seasons, then subsequent Uses of such Structure shall conform with these Regulations.

24.06 **Repairs and Maintenance**. On any Non-Conforming Structure or portion of the Structure containing a Non-Conforming Use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-load-bearing walls, to the extent not to exceed 15% 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 these Regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any Building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official or other person qualified to make such a declaration.

24.07 **Determination of Status of Non-Conforming Uses and Structures**. It shall be the responsibility of the Planning Department to determine the status of Non-Conforming Uses and Structures. If the Planning Department determines that a Use or Structure meets the applicable criteria in these Regulations and above, the Use or Structure shall be deemed an approved Non-Conforming Use or Structure. The following procedures shall be followed to determine the status of Non-Conforming Uses and Structures:

1. The owner of record of the subject Use or Structure shall make an application, accompanied by the required review fee, for a determination of the status of a Use or Structure.

2. It shall be the burden of the applicant to prove entitlement to approved non-conforming status by furnishing the Planning Department with supporting information. Such information may include, but not be limited to, septic or sewer hook-up permits, building permits, business licenses and dated photographs.

3. The Planning Department shall determine on a case-by-case basis whether a Use or Structure is an existing Non-Conforming Use or Structure.

4. Appeals of the Planning Department's decision may be under the Administrative Appeals Process.

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SECTION 25 LAND USE PERMITS

25.01 **Intent**. A Land Use Permit (LUP) is required prior to construction of most Structures within the District. An approved LUP shows conformity with Regulation requirements.

25.02 **Process**. Landowners shall submit LUP applications (with accompanying fee) to the Planning Department for new Structures as defined by these Regulations. The Planning Department inspects applications to determine if projects comply with provisions of these Regulations.

25.03 **Structures Requiring LUP Approval**. Buildings larger than 120 square feet; Personal Wireless Service Facility; fences and walls exceeding eight (8) feet in height; and, Structures associated with Temporary Uses and Home Occupations.

25.04 **Structure Requiring Site Plan Approval Prior to LUP Approval**. Prior to the issuance of a LUP, the following Structures are subject to Site Plan review and approval, in accordance with Section 26 of these Regulations: 12 or more Dwelling Units in a multiple family Structure or Structures; 15,000 or more square feet of Office space, Retail Commercial space, service commercial space or Industrial space; more than one (1) Building on one (1) site for permitted Office Uses, permitted Retail Commercial Uses, permitted service Commercial Uses, permitted Industrial or permitted combination of Uses; 20,000 or more square feet of exterior storage of materials or goods; and parking for more than 40 vehicles.

25.05 **Structures Exempt from Obtaining LUP Approval**. Buildings and Structures used exclusively for Agricultural Activities, Accessory Structures and Minor Accessory Structures.

25.06 **Septic Permits**. Landowners shall provide proof of septic or sewer permits with those projects which contemplate new facilities or extension of existing facilities.

25.07 **Appeals**. Appeals of Planning Department decisions may be submitted under the Administrative Appeal Process.

25.08 **Expiration**. LUPs expire if building or work authorized by the permit has not commenced within 12 months from the original permit date and if work authorized by the permit is not completed within 24 months of the original permit issuance date. Landowners must obtain a new permit, to re-commence work after the permit expires.

25.09 **Certificate of Completion (COC)**. Upon completion of exterior construction, the Landowner shall submit an application to the Planning Department to receive a COC. Upon receipt of an COC application, the Planning Department shall confirm that all exterior construction has taken place in accordance with the approved LUP, including any special conditions imposed upon the development. Any part of the construction found not to be in compliance with the approved LUP shall constitute a violation of these Regulations. A COC shall be required for all Uses and Structures that require approval of a Site Plan (Section 26). No COC shall be issued for any development for which Site Plan review is required until certification has been provided demonstrating that all terms and conditions of Site Plan approval have been complied with.

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SECTION 26 SITE PLAN REVIEW AND APPROVAL

26.01 **General.**

1. All development proposals meeting the criteria of Subsection 26.02 are subject to Site Plan review and approval prior to the issuance of any Land Use Permit.
2. A Certificate of Completion (COC) (Subsection 26.09) shall be required for all Uses and Structures that require approval of a Site Plan. No COC shall be issued for any development for which Site Plan review is required until certification has been provided demonstrating that all terms and conditions of Site Plan approval have been complied with.
3. Special development proposals (i.e., PUD's, CUP's, etc.) require other information to be submitted in conjunction with Site Plans, and are subject to requirements specific to the type of proposal.

26.02 **Site Plan Review Applicability**. A Site Plan is required for the following applications:

1. Twelve (12) or more Dwelling Units in a multiple family Structure or Structures.
2. Fifteen thousand (15,000) or more square feet of Office space, Retail and/or Commercial space, service commercial space or Industrial space.
3. More than one (1) Building on one site for permitted Office uses, permitted Retail and/or Commercial Uses, permitted service Commercial Uses, permitted Industrial Uses or permitted combination of Uses.
4. Twenty thousand (20,000) or more square feet of exterior storage of materials or goods.
5. Parking for more than 40 vehicles.

26.03 **Site Plan Submittal Requirements**. Applications for all Site Plan approvals shall be submitted to the Planning Department on forms provided. The Site Plan application shall be accompanied by the appropriate fee and development plans showing sufficient information for the Planning Department to determine whether the proposed development will meet the development requirements of the Zoning Regulations. Five (5) copies of the application and required supplemental information addressing the following shall be submitted:

1. General Information.
    a. Name of project/development.
    b. Location/vicinity map.
    c. Name and mailing address of developer and owner, engineer/architect, landscape architect and/or planner.
    d. Date of plan preparation and changes.
    e. Zoning classification of site and adjacent properties.
    f. Listing of specific land uses being proposed.
    g. Total number, type and density of proposed residential Dwelling Units.
    h. Complete, signed application.
2. Site Plan Information.
    a. Boundary line of property with dimensions.
    b. Parcel size in gross acres and square feet
    c. North point indicator.

d. Suggested scale of one inch to twenty feet (1":20'), but not less than one inch to one hundred feet (1":100').

e. Location, identification and dimension of the following existing and proposed data:

i. Topographic contours, at a minimum of two (2) feet.

ii. Adjacent Roads and road Rights-of-Way to a distance of 200 feet.

iii. On-site Roads and Rights-of-Way.

iv. Ingress and egress points.

v. On-site traffic movement.

vi. Utility easements.

vii. Buildings and Structures.

viii. Percentage and square footage coverage for Buildings, driveways, parking, Open Space and/or Landscaping within the Parcel.

ix. Ponds, streams, irrigation ditches, and wetlands.

x. Flood Insurance Rate Maps designated floodplains.

xi. Grading and drainage facilities plan as certified by a licensed engineer.

xii. Detail plan of all parking facilities as per Section 18.

xiii. Sidewalks, trails, bikeways, driveways, loading areas and docks.

xiv. Fences and walls.

xv. Freestanding Signs as per Section 20.

xvi. Refuse collection areas.

xvii. Freestanding exterior lighting.

xviii. Landscaping as per Section 17.

xix. Snow storage areas.

26.04 **Site Plan Review Criteria.**

1. In considering applications for Site Plan approval, the Planning Department shall consider the following:

a. Relationship of the Site Plan elements to conditions both on and off the property.

b. Conformance with these Regulations, including cessation of any current violations.

c. Conformance with applicable Gallatin County administered regulations.

d. The impact of the proposal on existing and anticipated traffic and parking conditions.

e. Vehicular and pedestrian ingress and egress.

f. Building location and Setbacks.

g. Landscaping and screening.

h. Lighting.

i. Provision for utilities.

j. Site grading and surface drainage.

k. Open Space.

l. Loading and unloading areas.

m. Signage.

n. Entryway corridor standards.

2. If the Planning Department determines that the proposed Site Plan is in compliance with the requirements of this Section and these Regulations, and all other applicable laws and regulations, approval shall be granted, and such conditions and safeguards may be imposed as deemed necessary.

3. Site Plan approval may be denied upon determination that the conditions required for approval have not been met.

26.05 **Amendments to Site Plans**. Any amendment or modification of an approved Site Plan shall be submitted to the Planning Department for review and possible approval. Proposals for further development, reuse, or change in use of sites shall also be reviewed as an amendment to an approved Site Plan. All amendments shall be shown on a revised Site Plan drawing. Amendments to approved Site Plans shall be reviewed and may be approved by the Planning Department upon finding that the amended Site Plan is in substantial compliance with the originally approved Site Plan. If it is determined that the amended Site Plan is not in substantial compliance with the originally approved Site Plan, the application shall be resubmitted as a new application and shall be subject to all Site Plan review and approval provisions of this Section.

26.06 **Appeals**. Planning Department Site Plan Review determinations may be appealed in accordance with Section 31 of these Regulations.

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SECTION 27 TEMPORARY USE PERMITS

27.01 **General**. Uses permitted subject to a temporary use permit are those Temporary Uses which are required for the proper function of the community or are temporarily required in the process of establishing a Permitted Use. Such Uses shall be so conducted that they will not be detrimental in any way to the surrounding properties or to the community. Uses permitted subject to a temporary use permit may include:

1. Fireworks Sales Stands subject to Subsection 15.12.
2. Events intended to attract small crowds having little or no off-premise impacts.
3. Roadside stands for the sale of locally produced agricultural products.
4. Temporary sales and office buildings.
5. Such other Uses as the Planning Department may deem to be within the intent and purpose of these Regulations.

27.02 **Application and Filing Fee**. Application for a temporary use permit may be made by a property owner or his authorized agent. Such application and filing fee shall be filed with the Planning Department. The Planning Department may require any information deemed necessary to support the approval of a temporary use permit.

27.03 **Decision**. Application for a temporary use permit shall be reviewed by the Planning Department who shall approve, conditionally approve, or disapprove such application. Approval or conditional approval shall be given only when in the judgment of the Planning Department such approval is within the intent and purposes of this Section. Any person aggrieved by the decision of the Planning Department may file an appeal within 15 days of such decision with the Board of Adjustment pursuant to Section 31.

27.04 **Conditions**. In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties. Such conditions may include the following:

1. Regulation of parking.
2. Regulation of hours.
3. Regulation of noise.
4. Regulation of lights.
5. Requirement of financial guarantees for cleanup or removal of structure or equipment.
6. Such other condition deemed necessary to carry out the intent and purpose of these Regulations.

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SECTION 28 CONDITIONAL USE PERMITS

28.01 **Intent**. A Conditional Use Permit (CUP) is required prior to operation of a Use that is not an Allowed Principal Use, but allowed conditionally under these Regulations.

28.02 **Requirements**. Structures or land within the District may not be used for any purpose unless such Use is specifically listed as an Allowed Principal Use or Conditional Use in these Regulations. The Board of Adjustment (BOA) may grant a Conditional Use for CUP when they find:

1. The Use conforms to the objectives of the Gallatin County/Bozeman Area Plan and the purpose and intent of these Regulations.
2. The Use will not adversely affect nearby properties or their occupants.
3. The Use meets all regulations of the district in which it is located, unless otherwise provided in these Regulations.
4. A public hearing, after notice has been given, has been held.

28.03 **Conditional Approval**. The BOA may make the granting of a CUP 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. The conditions may include but not be limited to the following:

1. Landscaping and its maintenance.
2. Regulation of height.
3. Regulation of lighting.
4. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat and noise.
5. Regulation of placement of Uses on the property.
6. Regulation of Signs.
7. Regulation of the length of time such Use may be permitted.
8. Regulation of the nature and extent of the Use.
9. Regulation of time of activities that have off-site impacts.
10. Regulation of vehicular ingress and egress.
11. Requirement for dedication or improvements of Rights-of-Way.
12. Requirements for restoration of property.
13. Special Setbacks, Yards, Open Spaces, buffers, fences and walls.
14. Appropriate fire mitigation.
15. Time schedule of proposed development.
16. Impacts of increased traffic.

28.04 **Procedure**. All CUP applications shall be submitted to the Planning Department on the required form with the accompanying fee. A public hearing on the matter is scheduled before the BOA and they shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate project impacts. Use cannot commence until all conditions have been met.

28.05 **Notice**. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

28.06 **Issuance of Land Use Permit (LUP) and Site Plan**. No LUP or Site Plan shall be issued other than in accordance with the conditions and terms of the Conditional Use Permit.

28.07 **Revocation or Modification**. The BOA may initiate an action to revoke or modify a CUP under the following circumstances (under the procedure described above):

1. Circumstances have changed substantially since original approval.
2. Revocation or modification is necessary to protect the health, safety, or welfare of the area, or is necessary to preserve the integrity of existing use patterns in the area.
3. The person holding the permit has not complied with the required conditions, or has not materially changed their position by detrimentally relying on said permit.

28.08 **Expiration/Extensions**. The BOA may issue a CUP for a definite term. Extensions can be obtained through written application made 30 days prior to expiration, with accompanying fee, and notification sent to adjacent property owners. An extension shall be granted if no objection is received. A public hearing will be held if objection is received.

SECTION 29 VARIANCES

29.01 **Intent**. It is the intent of this Section to provide a process to seek relief from dimensional standards of this Regulation. If strict application of the Regulation's dimensional standards unreasonably restrict the use of a particular Parcel of land, then a Variance from the Regulations may be appropriate. In granting Variances, the Board of Adjustment (BOA) shall permit only the relief needed to provide reasonable use of the parcel, and no more. No Variance shall be granted to allow the use or development of property for a use not already permitted within the zone in which the proposed development would be located.

29.02 **Criteria**. In granting a Variance, the BOA shall consider the following criteria and issue findings setting forth factual evidence that all of the following criteria have been met:

1. The Variance meets the intent of Subsection 29.01, the intent and purpose of this Regulation (Section 2), and the intent of the district in which the variance is being requested, including the Gallatin County/Bozeman Area Plan;
2. The Variance will not endanger the public health, safety, and welfare;
3. The Variance will not be contrary to the public interest, and;
4. The Variance is necessary, owing to conditions unique to the property, to avoid unnecessary hardship which would result from this Regulation. In deciding whether this criteria is met, the following applies:
    a. Hardship does not include difficulties arising from actions, or otherwise are self-imposed, by the applicant or previous predecessors in interest, or potential for greater financial returns; and
    b. Conditions unique to the property may include, but are not limited to, slope, presence of watercourses, after the fact imposition of additional regulations on parcels where uses or buildings conformed to the law before the additional regulations, and governmental actions outside of property owner's control.

29.03 **Procedure**. All Variance applications shall be submitted to the Planning Department on the required form with the accompanying fee. A hearing on the matter is scheduled before the BOA, and the BOA shall either approve or deny the application based on the facts. The BOA may impose reasonable conditions, as it may deem necessary to mitigate project impacts. The concurring vote of three members of the BOA shall be necessary to decide in favor, wholly or partly, of any Variance from this Regulation.

29.04 **Notice**. Notice of the public hearing shall be published at least once 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be noticed by certified mail.

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SECTION 30 AMENDMENTS

30.01 **Intent**. These Regulations and the boundaries of the Official Zoning Map may be amended or revised whenever the public health, safety and general welfare requires such amendment. Amendments shall follow the procedure prescribed by § 76-2-201 et seq., MCA, and these Regulations.

30.02 **Procedure**. An amendment may be initiated by submittal of one of the following to the Planning Department:

1. An application of one or more landowners in the District. The application shall be filed on the required application and accompanied by the required fee.
2. Resolution of intention of the County Commission.
3. Resolution of intention of the Planning Board.

30.03 **Planning Board**. The Planning Board shall make recommendations on the revision of boundaries and the amendment of these Regulations to the County Commission.

30.04 **Hearing**. The County Commission shall consider all proposed amendments at a public hearing. The County Commission may adopt the amendment in accordance with the procedure prescribed by § 76-2-205, MCA.

30.05 **Notice**. Notice of the public hearing shall be published in a newspaper of general circulation pursuant to § 76-2-205, MCA.

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SECTION 31 APPEALS PROCESS

31.01 **Appeal from Planning Department or Code Compliance Officer**. Pursuant to MCA § 76-2-226, the Board of Adjustment (BOA) shall hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination by the Planning Department, or Code Compliance Officer, where such order, requirement, decision or determination is based upon this Regulation. The BOA may reverse or affirm, wholly or party, or modify the order, decision, or determination of the Planning Department or Code Compliance Officer.

1. An appeal from any final order, decision, or determination of the Planning Department or Code Compliance Officer may be made to the BOA within 30 days after the date the written decision is filed. In the case of official interpretations of these Regulations and/or the Official Zoning Map, appeal may be made to the BOA within 30 days of the written official interpretation. The appeal must be timely received by the Planning Department via certified mail or hand delivery, be accompanied by the appeal fee as established by the County Commission, and state the basis for the appeal.
2. Upon receipt of appeal, a public hearing shall be scheduled before the BOA. Notice of the public hearing shall be sent to adjacent property owners via certified mail, and be published in a newspaper of general circulation at least once 15 days prior to the hearing.
3. Testimony and evidence presented during hearings should be confined only to the issues raised in the appeal. The board chair shall conduct hearings in a manner that follows, to the greatest extent possible, the Montana Rules of Evidence.
4. The order of presentation at hearings shall be as follows: staff presentation; appellant presentation; staff rebuttal; appellant rebuttal; board discussion and decision. The chair may determine, given the complexity of the issues raised in appeal, the time limitations for each presentation made to the board. The entirety of the hearing must be recorded verbatim.

31.02 **Appeal from Board of Adjustment**. Pursuant to MCA § 76-2-227, a decision from the BOA may be appealed to the Eighteenth Judicial District Court within 30 days from the date the decision is filed in the office of the board.

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SECTION 32 COMPLAINTS AND ENFORCEMENT

32.01 **Complaints**. Any person may file a signed, written complaint with the Planning Department or the Compliance Department addressing an alleged violation of these Regulations. Upon receipt of a written, signed complaint or discovery of an alleged violation by other means, the Planning Department/Compliance Department may record and investigate an alleged violation, and determine if a violation exists. If the Planning Department/Compliance Department determines a violation exists, they may take appropriate action to resolve the violation.

32.02 **Administrative Remedies**. If the Planning Department/Code Compliance Officer finds that a violation of these Regulations has occurred, the Planning Department/Code Compliance Officer shall attempt to obtain voluntary compliance pursuant to § 76-2-210, MCA.

1. The Planning Department/Code Compliance Officer may compel compliance with these Regulations using any appropriate action authorized by law.
2. Persons liable for violations and compliance with any order, determination, decision, fine, penalty, proceeding, and remedial action shall include without limitation, any and all owners, tenants, leaseholders, or other persons or entities that commits, maintains, participates, assists, causes or contributes to such violation; hereinafter "persons."
3. The owner of any Building, Sign, Structure, premises, or part thereof, shall be held liable for any and all violations, remedies, remedial actions, fines, penalties, enforcement actions or proceedings, and shall be required to comply with any order, determination and decision of the Planning Department/Code Compliance Officer. In addition to the owner, any person as defined herein shall each, jointly and severally, be held liable for any and all violations, remedies, remedial actions, fines, penalties, enforcement actions or proceedings, and shall be required to comply with any order, determination and decision of the Planning Department/Code Compliance Officer.
4. Gallatin County, and/or the Planning Department/Code Compliance Officer shall have the right to proceed or take action jointly or severally against any or all persons, and the failure to proceed or take action against any person or persons shall not constitute a waiver of any rights or remedies whatsoever against any person or persons.

32.03 **Criminal Penalty**. A violation of this Regulation, any conditions imposed through the authority of this Regulation, or any Variance granted through this Regulation shall constitute a misdemeanor. A person convicted of a violation under this section shall be punished by a fine not exceeding $500.00 or imprisonment in the county jail not to exceed six (6) months, or both.

32.04 **Remedies**. The County Commission, through the County Attorney or otherwise, may bring an action in the name of Gallatin County in the District Court to enforce these Regulations, which may include without limitation injunctive relief. The remedies provided for herein shall be cumulative and not exclusive.

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ARTICLE VI
DEFINITIONS

SECTION 33 DEFINITIONS

33.01 **Intent**. For the purpose of these Regulations certain words and terms used herein are defined. All words used in these Regulations shall be first defined as provided herein, and, if not defined herein, shall be defined in the Gallatin County Growth Policy and, if not defined therein, shall have their customary dictionary definitions.

33.02 **Rules of Interpretation**. The following rules of interpretation apply to the definitions for the Gallatin County/Bozeman Area Zoning District. The Rules of Interpretation include:

1. the present tense includes the future tense;
2. all words in the plural number include the singular number unless the natural construction of the wording indicates otherwise;
3. the word *shall* is always mandatory;
4. the word *person* includes a firm, association, organization, partnership, trust, company or corporation as well as individual or individuals;
5. the word *Lot* includes the words *plot or Parcel*;
6. the words *map* or *zoning map* mean the zoning map(s) of the zoning jurisdiction of the Gallatin County/Bozeman Area Zoning District that delineate the area to be governed by these Regulations; and
7. the word *used* as applied to any land or Structures, shall be construed to include the words *intended, arranged, or designed to be used, or occupied*.

33.03 **Definitions.**

1. **Access**. The place, mean or way by which pedestrians and vehicles shall have adequate and useable ingress and egress to property or use as required by these Regulations.
2. **Adult Business**. An establishment which advertises, trades, exchanges, transfers, sells, presents, shows, offers or exhibits materials, activities, reproductions, likenesses, services and/or objects defined as obscene by § 45-8-201(2), MCA. Adult business as defined in this Subsection shall include, but need not be limited to, adult bookstores, adult motion picture theaters, massage parlors, exotic dance studios, nude art studios, nude photographic studios and nude body painting studios.
3. **Agricultural Activities**. Agricultural activities include those activities as defined under § 76-2-902, MCA. For the purposes of this Regulation, agricultural activities do not include any agriculture industry or business such as game farms, animal hospitals, commercial dog kennels, or similar uses.
4. **Airfield, Personal Use**. Any un-surfaced earth or turf area or facility of land which is privately owned and operated, and is designed, used or intended to be used for landing and taking off by private single-engine, fixed-wing aircraft, not exceeding two hundred horsepower, including not more than one support building for covered storage and small quantities of supplies. A personal use airfield as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner which is not directed toward business or commercial functions.
5. **Alley**. A permanent public thoroughfare providing a secondary means of Access to abutting lands.

6. **Antenna**. Any equipment or device used to receive or transmit electromagnetic waves for the provision of any FCC-licensed or authorized wireless transmission including, but not limited to, cellular, personal communication services (PCS), and microwave communications. Antennas include, but are not limited to, directional antennas, such as panels, microwave and satellite dishes, and omnidirectional antennas, such as whips. This definition does not apply to antennas designated for amateur radio use or satellite dishes designed for residential or household purposes.

7. **Antenna Tower (or "Tower").** Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas, including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

8. **Antenna Tower, Height.** The vertical distance measured from the lowest base elevation of the structure's foundation to the highest point of the structure.

9. **Apartment**. A habitable room or suite of two (2) or more habitable rooms meeting the requirements of the International Building Code, located in an Apartment Building. Efficiency units and studios qualify as an apartment.

10. **Apartment Building**. A Building other than a Hotel or Motel containing five (5) or more Dwelling Units under single ownership.

11. **Applicant, Personal Wireless Service Facility.** The owner or operator, or authorized representative thereof, of a Personal Wireless Service Facility or Eligible Wireless Services Support Structure who applies for a Land Use Permit, Conditional Use Permit or Modification.

12. **Automobile Service Station**. An establishment with the primary business function of the Retail sale of gasoline for passenger car use with or without minor service and repair work incidental to the operation of passenger automobiles.

13. **Automobile Repair Facility**. General repair, rebuilding, or reconditioning of engines, motor vehicles, trailers, including body and frame work, welding, and major painting services.

14. **Automobile Washing Establishment**. A Building which has its primary purpose as washing automobiles. Such facilities shall be considered incidental to Automobile Service Stations if not more than one auto may be washed at one time and if the service station is clearly the Principal Use.

15. **Bar (tavern, cocktail lounge)**. An establishment where alcoholic beverages are served on premises and where the total sales of alcohol exceeds the total sales of food.

16. **Base Station.** The supporting structure and equipment at a fixed location that enable FCC-licensed or authorized wireless communication between user equipment and a communications network. The term does not encompass an Antenna Tower or any equipment associated with an Antenna Tower.

    a. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services and fixed wireless services such as microwave backhaul.

    b. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiberoptic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems, and small-cell networks).

    c. The term includes any structure other than Antenna Tower that, at the time a Request for Modification is filed under Section 19, Personal Wireless Service

Facilities, supports or houses equipment described in subsections (i)-(ii) of this definition that has been reviewed and approved under Section 19, Personal Wireless Service Facilities, or under another State or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.

d. The term does not include any structure that, at the time the Request for Modification filed under Section 19, Personal Wireless Service Facilities, does not support or house equipment described in subsections (i)-(ii) of this definition.

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

18. **Bed and Breakfast Home**. A Single-family Dwelling which remains owner-occupied at all times providing one (1) or more guest rooms for compensation, and where food service is limited to breakfast which may be served to over-night guests only.

19. **Berm**. A mound of earth two (2) to six feet (6') high, planted with vegetative Groundcover, with a slope not exceeding one foot (1') of rise for each two feet (2') of run.

20. **Board of Adjustment (BOA)**. A five-member board appointed by the County Commission to hear and decide Variances, Special Exceptions, and to hear administrative decision appeals within a zoning district created pursuant to § 76-3-201, MCA.

21. **Building**. Any Structure greater than 120 square feet, having enclosed space and a roof for the housing and/or enclosure of persons, animals or chattels, except Mobile Homes, Recreational Vehicles and mobile offices.

    a. **Building, Accessory**. A subordinate Building, or portion of the Principal Building, located on the same Lot as the Principal Building, or a subordinate Use of land, either of which is customarily incidental to the Principal Building or to the Principal Use of land. Where part of an accessory building is connected to part of the Principal Building in a substantial manner as by a roof, such accessory building shall be counted as part of the Principal Building. Accessory Buildings include, but are not limited to, a Garage, personal use shop, barn, large Greenhouse, sports court, Swimming Pool, riding arena, and standalone Accessory Dwelling. Individual public utility Buildings installed aboveground are considered Accessory Buildings.

    b. **Building Area**. The maximum horizontal projected area of the Principal and Accessory Building, excluding open steps and terraces. Building area, as that portion of a Lot upon which construction is permitted, is as follows: That area of a Lot that lies within the boundaries of the Front, Side and Rear Yard Setback requirements measured from the actual Lot line.

    c. **Building Frontage**. The maximum dimension of the Building front measured on a straight line parallel to the Street.

    d. **Building Height**. The vertical distance measured from Grade as defined in this Section to the highest point on the roof or Parapet wall. Where a Building utilizes multiple roof styles or pitches, the highest point of each type of roof or Parapet wall shall be in conformance with applicable height regulations as established for the respective roof pitches in each zoning district. Where the vertical difference between Grade as defined in this Section is greater than two feet between opposite Elevations of the Building, the height of the Building may be increased by one foot (1') for every one foot (1') in Grade difference up to a maximum of six (6) additional feet.

e. **Building Line, Front**. The line nearest to the front and across a Lot establishing the minimum Open Space to be provided between the front line of a Building and the front Lot line.

f. **Building Line, Rear**. The line nearest to the rear and across a Lot establishing the minimum Open Space to be provided between the rear line of a Building and the rear Lot line.

g. **Building Line, Side**. The line nearest to the side and extending between the required Front Building Line and required Rear Building Line establishing the minimum Open Space to be provided between the side line of a Building and the side Lot line.

h. **Building, Principal**. A building in which is conducted the main, or Principal, Use of the Lot on which the Building is situated.

i. **Building, Public**. A Building, supported by government funds, to be used in an official capacity on behalf of the entire community.

22. **Campground**. Any area of land used to temporarily accommodate two or more camping parties, including cabins, tents, Recreational Vehicles or other camping outfits.

23. **Carport**. A Structure, open on at least two (2) sides, consisting of a roof and either walls or columns for the purpose of housing automotive vehicles and other chattels. The Structure shall be considered as an Accessory Building when detached from the Principal Building and as a part of the Principal Building when attached to the Principal Building along one (1) or more sides of the carport or Principal Building.

24. **"Carrier on Wheels" or "Cell on Wheels" ("COW") Facility.** A portable self-contained Personal Wireless Service Facility that can be moved to a location and set up to provide temporary Personal Wireless Services. A COW is normally either vehicle-mounted or trailer mounted and typically has a telescoping boom as the Antenna Tower.

25. **Cemetery**. Land used for the burial of the dead and dedicated for cemetery purposes, including crematories, mausoleums and mortuaries when operated in conjunction with and within the boundary of such cemetery.

26. **Certificate of Completion.** A certificate issued by the Zoning Enforcement Agent, which certifies that a completed Structure or Building is in compliance with all applicable zoning regulation.

27. **Club, Private**. A nonprofit association of persons who are bona fide members paying annual dues which owns, hires or leases a Building, or a portion thereof-, the use of such premises being restricted to member's and their guests.

28. **Cluster Development**. A development design technique that concentrates Buildings on a part of the site to allow the remaining land to be used for recreation, common Open Spaces and/or preservation of environmentally sensitive features.

29. **Collocation**. The mounting or installation of Transmission Equipment on an Eligible Wireless Service Support Structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

30. **Commercial Message**. Any Sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service, or other commercial activity.

31. **Commission, Gallatin County**. The elected Board of County Commissioners for Gallatin County, Montana and the governing body of Gallatin County/Bozeman Area Zoning District.

32. **Community Residential Facility**. A Community Residential Facilities includes those uses as defined under § 76-2-411 and 76-2-412 MCA.

33. **Conditional Use Permit**. Legal authorization to construct, develop or operate a Conditional Use as listed in these Regulations.

34. **Condominium**. A Building or group of Buildings in which Units are owned individually and the Structure, common areas and facilities are owned by all owners on a proportional, undivided basis. Condominiums may be residential, Commercial or Industrial in nature.

35. **Convenience Use**. Retail Commercial Uses which have relatively high traffic generation rates per 1,000 square feet compared to other Commercial Uses. A Use is designated as a convenience use if method of operation includes: a) retail motor fuel is sold; b) the primary business is the sale of food or drink for consumption, either on or off premises, over a counter, or from an outdoor service window or automobile service window. Of the food or drink sold, at least 20% is in disposable or carry-out containers; and c) drive-in and drive-through Restaurants.

36. **Day Care Center**. An out-of-home place in which day care is provided to 13 or more children on a regular basis.

37. **Day Care Home, Family**. A private residence in which day care is provided to three (3) to six (6) children on a regular basis.

38. **Day Care Home, Group**. A private residence or other Structure in which day care is provided to seven (7) to 12 children on a regular.

39. **Development Right**. The right to construct a Single-family Dwelling Unit on a Parcel in accordance with applicable regulations.

40. **Drive Access**. That area between the curb of a Street, or edge of the traveled portion of a Street when no curb exists, and the Right-of-Way/property line over which the county will permit vehicular travel from the traveled portion of a Street to an individual property, or Off-street Parking space(s).

41. **Drive-in Facilities**. Any business in which people are provided a service or a product, where a sale is made without the customer being required to leave the vehicle. Such businesses include, but are not limited to, the following: drive-in theater, drive-in bank, freestanding automated teller machine, drive-in laundry or dry cleaning pickup station, drive-in Restaurant, and any business offering take-home food services.

42. **Dwelling**. A Building, or portion thereof, used primarily for residential occupancy, including Single-family, Two-family, Multiple-family Dwellings and Group Homes, but not including Hotels, Motels or tourist homes.

    a. **Dwelling, Accessory.** A dwelling, subordinate to the principal Dwelling, and which may be attached or detached from the principal Dwelling, that provides separate and complete living facilities which may be further defined as a caretaker's residence, Guest House, or efficiency Apartment.

    b. **Dwelling, Single-family**. A Building used for residential occupancy by one (1) Family.

    c. **Dwelling, Two-family**. A Building, or portion thereof, used for occupancy by two (2) Families living independently of each other with the Units completely separated by a common wall, floor and/or ceiling. Also referred to as "duplex."

    d. **Dwelling, Multiple (multi-family)**. A Building, or portion thereof, used for occupancy by three (3) or four (4) Families living independently of each other, with the Units completely separated by a common wall, floor and/or ceiling.

e. **Dwelling Unit**. A Dwelling, or portion of a Dwelling, used by one (1) household for residential purposes.

43. **Eaves**. The projecting lower edges of a roof overhanging the wall of a Building.

44. **Eligible Wireless Service Support Structure.** Any Antenna Tower or Base Station, provided that it is Existing at the time the relevant application is filed in accordance with Section 19, Personal Wireless Service Facilities.

45. **Equestrian Facility, Commercial**. Commercial horse barn open to the public, and offering a range of equestrian services including, but not limited to riding lessons, horse boarding, training, clinics, shows and summer camps. Equine facilities typically include amenities such as indoor/outdoor arena, horse pastures, stalls, paddocks, and tack room.

46. **Equestrian Facility, Personal**. Limited Commercial horse boarding and/or training service that may include renting pasture or paddocks to a small number of boarders/horses and/or training a few horses as a Home Occupation. The use is secondary to the primary use of the property for residential purposes. No large events such as shows, clinics, or summer camps are held.

47. **Essential Services (Type I)**. Water pumping stations; storm water drainage facilities (including collection lines, retention/detention ponds and drainage ways); sanitary sewer and storm sewer lift stations; local service telephone, electrical distribution, cable television, and electronic data transmission lines and cables; water and sanitary sewer distribution and collection lines; public and amateur radio antennae and towers; water fill stations for firefighting equipment; except those facilities that are considered Personal Wireless Service Facilities.

48. **Essential Services (Type II)**. Transport gas, oil and coal pipelines (interstate and intrastate); electric substations; electrical transmission lines (interstate and intrastate); public supply facilities (electric and gas); public treatment facilities (water, sanitary sewer and storm sewer); public domestic water storage facilities; telephone satellite community dial offices; telephone exchanges and repeater stations,; other accessory facilities, equipment and structures; police and fire stations; except those facilities that are considered Personal Wireless Service Facilities.

49. **Existing, Eligible Wireless Support Structure.** A constructed Antenna Tower or Base Station that has been reviewed and approved under Section 19, Personal Wireless Service Facilities, or under another State or local regulatory review process, such as authorization from the Montana Public Service Commission for the deployment of existing Transmission Equipment on the structure, and including an Antenna Tower that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed under all applicable laws and regulations.

50. **Family**. a) A person living alone; b) any number of people related by blood, marriage, adoption, guardianship or other authorized custodial relationship; c) two (2) unrelated people and any children related to either of them; d) not more than four (4) unrelated people living together as a single nonprofit housekeeping unit and sharing common living, sleeping, cooking, and eating facilities.

51. **Fence**. A barrier constructed of materials erected for the purpose of protection, confinement, enclosure or privacy.

52. **Floor Area (Gross)**. The sum of the gross horizontal areas of the several floors of a Building measured from the exterior face of exterior walls, or from the centerline of a wall separating two (2) Buildings, but not including interior parking spaces, loading space for motor vehicles, or any space where the floor-to-ceiling height is less than six feet (6').

53. **Frontage**. The side of the Lot abutting on a Street; the Front Lot Line.

54. **Fireworks Sales Stand**. A Temporary Structure on the premises for the seasonal sale of fireworks.

55. **Garage**. A Structure that is accessory to a residential Structure and that is designed or primarily used for the storage of vehicles owned and operated by the residents thereof.

56. **Grade**. The lowest point of Elevation of the finished surface of the ground. "Finished surface of the ground" shall not include window wells, stairwells, or other similar features, but shall include features such as usable patio areas.

57. **Greenhouse**. A Building or Structure constructed chiefly of glass, glass-like translucent material, cloth, lath or similar materials which is devoted to the protection or cultivation of flowers or other plants.

58. **Groundcover**. Natural mulch or plants of species which normally reach a height of less than two feet upon maturity, installed in such a manner so as to form a continuous cover over the ground.

59. **Growth Policy, Gallatin County**. The official document adopted by Gallatin County and used by the local government as a general guide for development and conservation decisions. It is not a regulation; rather, it is an official statement of public policy to guide growth and change in the unincorporated areas of Gallatin County. The required and optional elements of a growth policy are listed in § 76-1-601, MCA.

60. **Guest House**. An attached or detached Accessory Building used to house guests of the occupants of the Principal Building.

61. **Home Occupation**. Any Use conducted within a Dwelling or Accessory Building, which use is clearly incidental and secondary to the Use of the Dwelling for residential purposes and which meets the requirements of these Regulations.

62. **Hospital**. An institution for the diagnosis, treatment, or other cure of human ailments and includes sanitarium or clinic, provided such institution is operated by, or treatment is given, under direct supervision of a physician licensed to practice by the State of Montana.

63. **Hotel or Motel**. A Building or a group of Buildings, in which lodging is provided and offered to transient guests for compensation; shall not include a boarding house, Lodging House or rooming house.

64. **Hunting and Fishing Clubs**. The use of Structures and/or land for social, educational, and recreational purposes, to which membership is required for participation. Does not include granting individuals permission to hunt or fish on private property; does not include Commercial outfitting operations; does not include shooting ranges.

65. **Industrial**. The Manufacture, fabrication, processing, reduction, or destruction of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character, or appearance thereof, and includes wholesale trade, storage and Warehousing, trucking and transportation terminals, and other similar Uses and activities.

66. **Junk Salvage Yard**. Any place at which personal property is or may be salvaged for reuse, resale, or reduction or similar disposition and is owned, possessed, collected, accumulated, dismantled or sorted, including but not limited to: use of salvaged base metal or metals, their compounds or combinations; used or salvaged rope, bags, rags, glass, rubber, lumber, millwork, brick, automobiles and similar property which are used, owned or possessed for the purpose of wrecking or salvaging parts there from.

67. **Kennel**. A commercial establishment in which dogs or domesticated animals are housed, groomed, bred, boarded, trained, or sold, all for a fee or compensation.

68. **Landscape Architect**. A person licensed to practice landscape architecture in the State of Montana.

69. **Landscaping**. The coverage of an area with natural grass, vegetative Groundcover, or other natural living plant materials, and which also may include coverage with non-vegetative decorative landscape design elements such as washed rock, lava rock, bark chips, and ornamental features such as pools, fountains, benches, etc. For purposes of these Regulations, the term landscaping shall be considered to have the same meaning as the terms landscape, landscaped and landscaped area.

70. **Large Shrub**. A shrub which normally reaches a height of five feet (5') or more upon maturity, and usually has five (5) or more canes.

71. **Lease, Personal Wireless Service Facilities.** With respect to a Personal Wireless Service Facility or Eligible Wireless Service Support Structure, an agreement, however designated (such as, without limitation, lease, license, easement, right to use, access right), by means of which a property owner grants to the Personal Wireless Service Facility or Eligible Wireless Service Support Structure operator a right to construct or operate the same on his property.

72. **Loading and Unloading Bays**. The off-street area required for the receipt of or distribution, by vehicles, of material or merchandise.

73. **Lodging House**. A Building with more than two (2) but not more than 10 guest rooms where lodging with or without meals is provided for compensation. Also referred to as a boardinghouse.

74. **Lot**. A designated Parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

    a. **Lot, Area**. The total area within the lot lines of a Lot, excluding any Street Rights-of-Way.

    b. **Lot, Artificial**. An area within the building site that is delineated by the Zoning Enforcement Agent for the sole purpose of satisfying the applicable requirements of the Zoning Regulations. An artificial lot need not be platted, however it must be designated on plans approved by the Planning Department.

    c. **Lot, Corner**. A Lot abutting upon two (2) or more Streets at their intersection.

    d. **Lot, Interior**. A Lot with Frontage on only one (1) Street; not a corner lot.

    e. **Lot, Through**. A Lot that fronts upon two (2) parallel Streets or that fronts two (2) Streets that do not intersect at the boundaries of the Lot. Also referred to as a double frontage lot.

    f. **Lot Coverage**. The percentage of Lot Area covered by Buildings.

    g. **Lot Depth**. The horizontal distance of a line measured at a right angle to the Front Lot Line and running between the Front Lot Line and Rear Lot Line of a Lot.

    h. **Lot Line, Front**. In the case of an interior Lot, a line separating the Lot from the Street. In the case of a through Lot, a line separating the Lot from the Street from which a Drive Access may be permitted by the County.

    i. **Lot Line, Rear**. A Lot line which is opposite and most distant from the Front Lot Line and, in the case of an irregular or triangular shaped Lot, a line ten feet in length within the Lot, parallel to and at the maximum distance from the Front Lot Line.

    j. **Lot Line, Side**. Any Lot line other than front or rear.

    k. **Lot Line, Zero**. The location of a Structure on a Lot in such a manner that one or more of the Structure's sides rests directly on a Lot line.

l. **Lot Width**. The horizontal distance between the side lines of a Lot measured at right angles to its depth along a straight line parallel to the Front Lot Line at the minimum required Building Setback Line.

75. **Manufactured Home**. A residential dwelling built in a factory in accordance with the United States Department of Housing and Urban Development code and the Federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home or a housetrailer.

76. **Manufacturing**. The creation of products either with machinery or by hand according to an organized plan and with the division of labor.

77. **Medical Offices, Clinics and Centers**. An establishment where patients are admitted for special study and treatment by licensed health care professionals.

78. **Mobile Home**. A transportable, manufactured Structure, suitable for year-round single-family household occupancy and having water, electrical and sewage connections similar to those of conventional Dwellings. This definition applies to only units constructed prior to Federal Manufacturing Housing Construction and Safety Standards Act of 1974, which became effective June 15, 1976. Compare with the definition of Manufactured Home.

    a. **Mobile Home Park**. Any plot of ground upon which two (2) or more Mobile Homes, occupied or intended to be occupied for Dwelling or sleeping purposes, are located.

    b. **Mobile Home Space**. A plot of ground within a mobile home park designed for the accommodation of one (1) Mobile Home.

    c. **Mobile Home Stand**. That portion of an individual Mobile Home Space which has been reserved for the placement of a Mobile Home and Structures or additions appurtenant to the Mobile Home.

79. **Mobile Office**. A factory-assembled Structure or Structures exceeding eight feet (8') in width, originally equipped with the necessary service connections, and originally made so as to be readily movable as a unit or units on its (their) own running gear and designed to be used as an Office without a permanent Foundation, in compliance with all applicable state regulations, whether or not the running gear has been removed.

80. **Modification, Personal Wireless Service Facilities.** Any alteration of an Existing Antenna Tower or Base Station that involves: (1) the Collocation of a new Antenna or Transmission Equipment; (2) the removal of an Antenna or Transmission Equipment; or (3) the replacement of an Antenna or Transmission Equipment.

81. **Modular Home**. A Dwelling Unit meeting the standards of the International Building Code (IBC) which was mass produced in a factory, designed and constructed for transportation to a site for occupancy when connected to the required utilities and when permanently anchored to a permanent Foundation, whether intended for a use as an independent, individual Unit or in combination with other Units to form a larger Structure, and which does not have integral wheel, axles, or hitch.

82. **Nursing Home**. An extended or intermediate care facility licensed or approved to provide fulltime convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves.

83. **Nursery, Plant**. Facilities for Commercial development, growth and sale of plants and/or for the utilization of and storage of equipment for Landscaping operation and Wholesale and/or retail or Commercial gardening supplies.

84. **Offices**. Buildings or portions of Structures in which Commercial activities take place but where goods are not produced, sold, or repaired. These include but are not limited to general and professional offices, governmental offices; insurance offices; real estate

offices; taxicab offices (but not taxi stands); travel agency or transportation ticket offices; telephone exchange; utility offices; radio broadcasting and similar uses.

85. **Office, Research and Development**. Buildings or portions of Structures in which the conduct of research, development, testing and assembly which occurs and is conducted completely indoors. These include but are not limited to chemistry, biotechnology, pharmacy, medicine, electricity, transportation, computers, and engineering.

86. **Open Space**. Any Parcel or area of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment or for the use and enjoyment or owners, occupants, or their guests of land adjoining or neighboring such open space.

    a. **Open Space, Common**. Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents and their guests of the development and may include such complementary Structures and improvements as are necessary and appropriate.

    b. **Open Space, Private**. Common Open Space, the use of which is normally limited to the occupants of a single Dwelling, Structure, or property.

    c. **Open Space, Public**. Open Space owned by a public agency and maintained by it for the use and enjoyment of the general public.

    d. **Open Space, Useable**. That space which is capable of being used by the public for recreation, relaxation and social purposes. Parking lots and perimeter Landscaping are specifically excluded from this definition of useable open space.

87. **Parapet Wall**. That portion of a wall which extends above the roof line.

88. **Parcel**. A contiguous Lot or tract of land owned and recorded as a property of the same persons or controlled by a single entity.

    a. **Parcel, Non-Conforming**. A Parcel, the area, dimensions or location of which was lawful prior to the adoption, revision, or amendment of a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.

    b. **Parcel of Record**. An individual Parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other Parcel of land, using documents on file in the records of the County Clerk and Recorder's Office.

89. **Park**. Any public or community (i.e., property owner's association) owned parcel of land, with or without Structures, for the purpose of passive and active recreational uses.

90. **Parking, Off-Street**. A temporary storage for a motor vehicle in a space located off any public Right-of-Way with room to exit either side of vehicle, and with adequate maneuvering space and Access to public Roads.

91. **Parking, On-Street**. A temporary storage area for a motor vehicle that is located on a dedicated Street Right-of-Way.

92. **Pavement**. A created, hardened surface such as concrete or asphalt.

93. **Personal and Convenience Services**. Businesses offering services such as barbershops, beauty shops, shoe repair, laundromats, laundry and dry cleaning pickup and delivery stations, and similar Uses.

94. **Personal Wireless Services**. As defined by 47 U.S.C. 332 ("mobile services"). Commercial mobile services, unlicensed wireless services, and common carrier wireless exchange access services.

95. **Personal Wireless Service Facility (or "Facility")**. A facility that is or will be used for the provision of Personal Wireless Services, typically consisting of an equipment enclosure, an Antenna Tower, one or more Antennas, a Base Station, and accessory equipment. A Personal Wireless Service Facility also includes Distributed Antenna Systems, Small-cell facilities, and third-party facilities, such as neutral-host deployments shared by more than one carrier, to the extent that such facilities are or will be used for the provision of Personal Wireless Services.

96. **Places of Worship**. A Building, together with its Accessory Buildings and Uses, where persons regularly assemble for religious worship, and which Building, together with its Accessory Buildings and Uses, is maintained and controlled by a religious body organized to sustain public worship.

97. **Planned Unit Development (PUD)**. A land development project, reviewed as a conditional use, consisting of residential clusters, industrial parks, shopping centers, or office building parks, or any combination thereof which includes a planned mixture of land uses built in a prearranged relationship to each other and having Open Space and community facilities in a common ownership or Use.

98. **Planning Board, Gallatin County**. The Gallatin County Planning Board, the appointed body responsible for making recommendations to the County Commission relative to these Regulations and the zoning jurisdiction of the Gallatin County/Bozeman Area Zoning District.

99. **Property Owner**. Any person, firm, corporation or other entity shown as being the legal owner of a tract, Parcel, or Lot in the records of the County Clerk and Recorder.

100. **Recreational Vehicle (RV)**. A vehicular-type portable Structure without a permanent Foundation that can be towed, hauled or driven and primarily designed as a temporary living accommodation for recreational, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

101. **Recreational Vehicle Park**. A plot of ground upon which two (2) or more sites are located, established or maintained for occupancy by the general public as temporary living quarters for travel, recreation or vacation purposes.

102. **Restaurant**. a) Any restaurant (except a drive-in restaurant), coffee shop, cafeteria, short-order cafe, luncheonette, sandwich stand, drugstore, or soda fountain serving food. b) An establishment whose principal business is the sale of foods, frozen desserts, or nonalcoholic beverages to the consumer in a ready-to-eat state for consumption either within the premises or for carry-out with consumption either on or off the premises and whose design or principal method of operation includes: (i) foods, frozen desserts, or nonalcoholic beverages are usually served in edible containers or in paper, plastic or other disposable containers; and (ii) the customer is not served food at his/her table by an employee but receives it at a counter, window or similar facility for carrying to another location for consumption either on or off the premises.

103. **Retail**. The rental or sale of tangible personal property for any purpose other than for resale.

104. **Right-of-way**. a) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a Road, crosswalk, railroad, electric transmission lines, oil and gas pipeline, water line, storm water, sewer, and other similar uses: b) generally, the right of one to pass over the property of another.

105. **Sand and Gravel Mining Operation**. An open land area where sand, gravel and rock fragment are mined or excavated for sale or off-site use. Does not include the mixing of concrete or the batching of asphalt.

106. **School**. a) any pre-primary, primary or grammar, public, parochial or private school, high school; b) preparatory school or academy, public or founded, or owner or conducted by or under the sponsorship of a religious or charitable organization; c) private preparatory school or academy furnishing courses of instruction substantially equivalent to the courses offered by public high schools for preparation of admission to college or universities which award B.A. or B.S. degrees; d) junior college or university, public or founded or conducted by or under the sponsorship of a religious or charitable organization; or e) private school when not conducted as a Commercial enterprise for the profit of individual owners or stockholders.

107. **Screening**. A method of visually shielding or obscuring one abutting or nearby Structure or Use from another by Fencing, walls, Berms, or densely planted vegetation.

108. **Setback**. The distance from the property line to the nearest part of the applicable Building, Structure, or Sign, measured perpendicularly to the property line.

109. **Setback Line**. That line that is required minimum distance from the Street Right-of-Way or public Access easement line or any other Lot line that establishes the area within which Structures must be placed.

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

    a. **Sign, Awning**. A roof-like Structure, which is generally composed of a skeletal frame, covered in a fabric or other skin-type material, and typically open on the bottom side, which projects beyond a Building or extending along and projecting beyond the wall of the Building. For the purposes of these Regulations, a Sign on an awning shall be considered to be a Wall Sign.

    b. **Sign, Banner**. Any Sign of lightweight fabric or similar material that is permanently mounted to a pole or a Building by a permanent frame at one or more edges. National flags, state or municipal flags, or the official flag of any institution or business shall not be considered banners.

    c. **Sign, Canopy**. Any open, permanent roof-like Accessory Structure which is not attached or part of a Principal Building. For the purposes of these Regulations, a Sign located on a canopy shall be considered a Wall Sign.

    d. **Sign, Directional**. An on-premise Sign which is intended to convey information regarding the location of specific features of the site or to convey on-premise regulations including traffic and circulation regulations.

    e. **Sign, Freestanding**. Any Sign supported by Structures or supports that are placed on, or anchored in, the ground and that are independent from any Building or other Structure.

    f. **Sign Height, Low Profile**. The vertical distance between the finished Grade and the highest component of the Sign.

    g. **Sign Height, Pole Style**. The vertical distance between the Elevation of the adjacent Street curb, or edge of pavement if no curb exists, to the highest attached component of the Sign. In the event that the finished Grade of the Sign location is higher, or lower, than the adjacent Street curb or edge of pavement, the height shall be determined as the vertical distance from the median Elevation between the adjacent Street curb or edge of Pavement and the lowest finished Grade at the base of the Sign to the highest attached component of the Sign.

h. **Sign, Incidental**. A Sign, generally informational, that has a purpose secondary to the use of the Artificial Lot on which it is located, such as "no parking," "entrance," "loading only," "telephone," and other similar directives. No Sign with a Commercial Message which is designed with the intent to be legible from a position off the Artificial Lot on which the Sign is located shall be considered incidental.

i. **Sign, Low-profile**. A Freestanding Sign composed of a solid Structure between finished Grade and the top of the Sign. Also referred to as a monument sign.

j. **Sign, Non-commercial Speech**. Any sign wording, logo, or other representation that does not, directly or indirectly, name, advertise, or call attention to a business, product, service, or other Commercial activity.

k. **Sign, Non-conforming**. A Sign that does not conform to the provisions of these Regulations.

l. **Sign, Off-premise**. A Sign which advertises or directs attention to products or activities that are not provided on the Parcel upon which the Sign is located.

m. **Sign, Pennant**. Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.

n. **Sign, Pole-style**. A Freestanding Sign which is supported by a column(s) or other structural member(s) that is permanently attached to the ground or a ground-mounted Structure and provides a minimum of eight feet (8') of visible, vertical clearance between the Sign and finished Grade.

o. **Sign, Portable**. Any Sign not permanently attached to the ground or other permanent Structure, or a Sign designed to be transported, including, but not limited to, Signs designed to be transported by means of wheels; Signs converted to A- or T-frames; balloons used as Signs; umbrellas used for advertising; and Signs attached to or painted on vehicles parked and visible from the public Right-of-Way, unless said vehicle is used in the normal day-to-day operations of the business.

p. **Sign, Projecting**. Any Sign affixed to a Building or wall in such a manner that its leading edge extends more than six inches (6") beyond the surface of such Building or wall and is perpendicular to such Building or wall.

q. **Sign, Revolving**. Any Sign which all, or a portion of, may rotate either on an intermittent or constant basis.

r. **Sign, Roof**. Any Sign erected and constructed on and over the roof of a Building, supported by the roof Structure, and extending vertically above any portion of the roof. Roof Signs shall not include Signs located on a mansard roof if the Sign is mounted vertically and integrated with the roof. For the purpose of these Regulations, architecturally integrated mansard Signs and other architecturally integrated Signs located below the principal roof line shall be classified as Wall Signs.

s. **Sign, Special Event**. A Temporary Sign which advertises special civic events and activities such as street fairs, community festivals, parades, farmers markets and charity benefits.

t. **Sign, Temporary**. Any Sign that is used only temporarily and is not permanently mounted.

u. **Sign, Wall**. Any Sign painted on, attached to, or erected against the wall of a Building, Structure, canopy or awning with the exposed face of the Sign

parallel to the plane of said wall or Structure. The Sign must be attached in a manner so that it does not extend beyond six inches of the wall.

v. **Sign, Window**. Any Sign painted, attached, glued, or otherwise affixed to a window for the purpose of being visible from the exterior of the Building.

111. **Site, Personal Wireless Service Facilities.** For Antenna Towers other than Antenna Towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the Antenna Tower and any access or utility easements currently related to the site, and, for other Eligible Wireless Service Support Structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

112. **Site Plan**. The development plan for one (1) or more Lots on which shows the existing and proposed conditions of the Lot, including topography, vegetation, drainage, flood plains, wetlands, and Watercourses; Landscaping and Open Spaces; walkways; means of ingress and egress; circulations; utility services; Structures; Signs and lighting; berms, buffers, and Screening devices; surrounding development; and any other information that may be required by these Regulations, in order that an informed decision can be made by the approving authority.

113. **Special Event**. The temporary or intermittent use of private property and/or facility which is intended to or likely to attract substantial crowds and vehicular traffic that extends beyond the normal uses and standards allowed by the Zoning Regulation. Special events include, but are not limited to circuses, fairs, carnivals, flea markets, Swap Meets, entertainment (musical and theatrical), sport competitions, and exhibitions.

114. **Sports and Fitness Facilities**. A public establishment designed and equipped for the conduct of sports, exercise activities, and other customary and usual recreational activities, including tennis, racquetball, handball and squash courts, weight and aerobic exercise rooms, running facilities, Swimming Pools, and whirlpool and sauna facilities. Accessory uses include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods, and Restaurant services.

115. **Stealth or Camouflaged**. Placement of a Personal Wireless Service Facility in such a way that it may not be discerned as being separate from the principal Use of the Site. This may be accomplished through visual screening, use of color, or encasement of the Facility within an existing Structure such as a steeple. A Stealth installation may also include the placement of a new Structure to contain the Facility so long as the new Structure complies with the height, Setback, and other requirements of the Zoning Regulation or is otherwise exempt from those requirements.

116. **Street**. A Right-of-Way, other than an Alley, dedicated or otherwise legally established for public use, usually affording the principal means of Access to abutting property.

    a. **Street, Arterial**. A Street or Road, moving relatively large volumes of traffic in two (2) or four (4) lanes, having the primary function of moving through traffic and the secondary function of providing Access to adjacent land.

    b. **Street, Collector**. A Street or Road generally with two (2) traffic lanes and two (2) parking lanes serving the equally important functions of moving through traffic and providing Access to adjacent land.

    c. **Street, Local**. A Street or Road with two (2) traffic lanes and one (1) or two (2) parking lanes having a primary function of providing Access to adjacent property, and to discourage through traffic.

    d. **Street, Public**. A Street or Road for which the Right-of-Way has been dedicated to the public, or is otherwise publicly owned.

117. **Street Frontage**. Any property line separating a Lot from a Street; the Front Lot Line.

118. **Street Vision Triangle**. A triangular-shaped portion of land established at Street intersections in which nothing is erected, placed, planted, or allowed to grow in such a manner as to limit or obstruct the sight distance of motorists entering or leaving the intersection. Also know as a sight easement.

119. **Structure**. A combination of materials to form a construction for Use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water.

    a. **Structure, Accessory.** A freestanding Structure less than 120 square feet in size, including but not limited to small storage sheds, playhouses, play equipment, pet houses, small green houses, gazebos, firewood enclosures and garbage enclosures.

    b. **Structure, Minor Accessory.** A freestanding Structure, including but not limited to lawn ornaments, bird feeders, utility service boxes and poles, mailboxes, flag poles, ornamental features, landscaping, walkways and nameplate Signs.

    c. **Structure, Non-Conforming**. A Structure, the size, dimensions or location of which was lawful prior to the adoption, revision or amendment to a zoning regulation but fails by reason of such adoption, revision or amendment to conform to the present requirements of the zoning regulation.

120. **Structural Alteration**. Any change in the shape or size of any portion of a Building or of the supporting members of the Building or Structure such as walls, columns, beams, arches, girders, floor joist, or roof rafters.

121. **Subdivision or Development Construction Yard**. A temporary Office and/or vehicular and material storage yard.

122. **Swap Meet**. Any permanent or temporary sales, or lot where the sale or trade of goods, materials and merchandise takes place outside any permanent Structure, from within temporary Structures or from vehicles and where several sellers or traders may congregate for the purpose of selling or trading.

123. **Swimming Pool**. Either a portable or permanent water container used for recreational purposes which at its deepest point is over 18 inches and has a volume in excess of 150 cubic feet of water.

124. **Telecommunications Law.** Any statute or regulation enacted by any federal, state, or local governmental agency that in any way governs (a) telecommunications, (b) the construction, maintenance, Modification, or operation of a Personal Wireless Service Facility, (c) radio frequency emissions or their environmental impact, or (d) building, fire, plumbing, or mechanical standards applicable to a Personal Wireless Service Facility; and any applicable judicial or administrative interpretation of any of the foregoing.

125. **Townhouse**. A Building consisting of multiple non-communicating, attached Single-family Dwelling Units placed side by side and/or back to back, having a common wall between each two (2) adjacent Units, and where persons own their own Units and hold separate title to the land beneath their Units, but under which they may jointly own the common areas and facilities.

126. **Transfer of Development Rights (TDR)**. The removal of the right to develop or build a residential Dwelling Unit from a designated sending area to land in a designated receiving area within a zoning district where such transfer is permitted.

127. **Transmission Equipment, Personal Wireless Service Facilities.** Equipment that facilitates transmission for any FCC-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private broadcast,

and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

128. **Tree, Caliper**. The diameter of the tree trunk measured six inches (6") above ground level up to and including four inch (4") caliper size, and measured 12 inches above ground level if the measurement taken at six inches (6") above ground level exceeds four inches (4"). If a tree is of a multi-trunk variety, the caliper of the tree is the average caliper of all of its trunks.
129. **Tree, Canopy**. A species of tree which normally bears crown foliage no lower than six feet (6') above ground level upon maturity.
130. **Tree, Large.** A tree of a species which normally reaches a height of 25 feet or more upon maturity.
131. **Tree or Shrub, Evergreen**. A non-canopy tree or shrub of a species which normally retains its leaves/needles throughout the year.
132. **Tree, Small**. A tree of a species which normally reaches a height of less than 25 feet upon maturity.
133. **Truck Service Station**. An occupancy which provides especially for the servicing of trucks, with incidental operations similar to those permitted for automobile service stations.
134. **Truck Stop**. A facility for the servicing of diesel powered trucks and tractor trailers. A truck stop shall mean any one or more of the following: a) four (4) or more diesel fuel dispensers; b) two (2) or more bays for truck washing; and c) facilities for diesel engine repair. Other Uses present at the same facility such as Convenience Uses or Restaurants shall not be determinative of whether or not the facility is a truck stop.
135. **Truck Washing Establishment**. A facility designed to primarily serve to semi-trailer and tractor travel as a place to have such vehicles cleaned.
136. **Unit**. A residential Lot, a commercial Lot, a condominium, a townhouse, an individual Recreational Vehicle parking site or a Manufactured Home Lot.
137. **Use**. Any purpose for which a Building or other Structure or a tract of land may be designed, arranged, intended, maintained, or occupied for any activity, occupation, business, or operation carried on or intended to be carried on in a Building or other Structure or on a tract of land.
    a. **Use, Accessory**. A subordinate Use of land which is customarily incidental to the Principal Use of the land.
    b. **Use, Conditional**. Either a public or private Use as listed in this Regulation which, because of its unique characteristics, cannot be properly classified as a Permitted Principal Use or Accessory Use in a particular district. After consideration in each case of the impact of such Use upon neighboring land and of the public need for the particular Use at the particular location, a permit for such Conditional Use may or may not be granted, with or without conditions, in addition to any condition specifically stated in this Regulation for any particular Conditional Use, including time limits, pursuant to the requirements of this Regulation.
    c. **Use, Conforming**. Any Use allowed by the Regulations as a Permitted Use or Conditional Use.
    d. **Use, Existing**. The Use of a Lot or Structure at the time of the adoption of a zoning regulation.
    e. **Use, Non-conforming**. An existing Use of land or Building which was legal prior to the effective date of the regulation codified in this Regulation but

which fails to comply with the requirements set forth in this Regulation applicable to the zone in which such Use is located.

f. **Use, Permitted**. A Use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations, and performance standards of such district. A Permitted Use may be a Principal Use, an Accessory Use, or a Conditional Use.

g. **Use, Temporary**. A Use established for a fixed period of time with the intent to discontinue such Use upon the expiration of the time period.

138. **Variance**. A provision which allows modification to a regulation or waiver of the Building and development standards when a literal enforcement would result in unnecessary or undue hardship and the granting of the Variance is not contrary to the public's health, safety, and general welfare.

139. **Veterinary Clinic**. A place where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. Outside pens, kennels or runs are not permitted as part of an animal hospital operation. The short-term interior boarding is permitted.

140. **Violation**. The failure of a Structure, subdivision, Use of land, or other development to be fully compliant with these Regulations.

141. **Warehouse**. An enclosed Building designed and used primarily for the storage of goods and materials.

142. **Warehouse, Residential Storage (mini-warehouse)**. A Building or group of Buildings in a controlled Access and fenced or Screened compound that contains relatively small storage spaces of varying sizes and/or spaces for Recreational Vehicles or boats, having individual, compartmentalized and controlled Access for the dead storage of excess personal property of an individual or family generally stored in residential Accessory Structures, when such Building or group of Buildings are not located on the Lot of the residence.

143. **Watercourse**. Any stream, river, creek, ditch, channel, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which some or all of the water is naturally occurring, such as runoff and springs, and which water flows in a definite direction or course, either continuously or intermittently, and has a definite channel, bed, and banks and includes any area adjacent thereto subject to inundation by reason of overflow or floodwater.

144. **Wholesale Establishment**. An establishment for the sale of goods and merchandise for resale instead of for direct consumption.

145. **Yard**. A space on the same Lot with a Principal Building, which is open and unoccupied from the ground upward or from the ground downward other than by steps, walks, terraces, driveways, lamp posts and similar Structures, and unobstructed by Structures, except as otherwise provided in this Regulation.

    a. **Yard, Corner Side**. A Yard on a Corner Lot, the area of which is bounded by a line extending from the front of the Principal Building (the Front Building Line) to a point intersecting the side Street Right-of-Way line (Side Lot Line), then along the Side Lot Line to a point intersecting the Rear Lot Line, then along the Rear Lot Line to a point intersecting the line formed by extending the wall of the nearest Principal Building paralleling the Side Lot Line.

    b. **Yard, Front**. A Yard extending across the full width of the Lot between two Side Lot Lines the depth of which is the least distance between the Street Right-of-Way and the Front Building Line.

c. **Yard, Rear**. A Yard extending across the full width of the Lot between the two Side Lot Lines and between the rear line and a parallel line tangent to the rear of the Principal Building and the depth of which is the least distance between the Rear Lot Line and the parallel line.

d. **Yard, Required**. The minimum dimension of a Front, Side or Rear Yard as established by the Use regulations for each district. See also definition of Building Line.

e. **Yard, Side**. A Yard extending between the Front Building Line and the Rear Building Line, the width of which is the least distance between the Side Lot Line and the nearest part of the Principal Building.

146. **Zoning Enforcement Agent**. The duly authorized agent appointed by the County Commission for the purpose of administering and enforcing these Regulations. The Zoning Enforcement Agent is the staff of the Gallatin County Department of Planning and Community Development working under the direction of the Planning Director.

147. **Zoning Map**. The map or maps that are a part of these Regulations and delineate the boundaries of the zone districts.

(Amended: County Commission Resolution No. 2018-022)