



**Planning Advisory Board/Zoning Commission  
June 10, 2025 Agenda  
2 Park Drive South, Great Falls, MT  
Commission Chambers, Civic Center  
3:00 PM**

In order to honor the Right of Participation and the Right to Know (Article II, Sections 8 and 9 of the Montana Constitution), the City of Great Falls and Planning Advisory Board/Zoning Commission are making every effort to meet the requirements of open meeting laws:

- The agenda packet material is available on the City's website: <https://greatfallsmt.net/meetings>. The Public may view and listen to the meeting on government access channel City-190, cable channel 190; or online at <https://greatfallsmt.net/livestream>.
- Public participation is welcome in the following ways:
- Attend in person. Please refrain from attending in person if you are not feeling well.
- Provide public comments via email. Comments may be sent via email before 12:00 PM on Tuesday, June 10, 2025 to: [jnygard@greatfallsmt.net](mailto:jnygard@greatfallsmt.net). Include the agenda item or agenda item number in the subject line, and include the name of the commenter and either an address or whether the commenter is a city resident. Written communication received by that time will be shared with the Planning Advisory Board/Zoning Commission and appropriate City staff for consideration during the agenda item and before final vote on the matter; and, will be so noted in the official record of the meeting.

**OPENING MEETING**

1. Call to Order - 3:00 P.M.
2. Roll Call - Board Introductions

**Tory Mills - Chair**

**Julie Essex - Vice Chair**

**Michael Bicsak**

**David Cantley**

**Michael Gorecki**

**Joe McMillen**

**Jim Wingerter**

3. Staff Recognition
4. Approval of Meeting Minutes - May 13, 2025

**BOARD ACTIONS REQUIRING PUBLIC HEARING**

5. Public Hearing – Request for a Conditional Use Permit (CUP) to allow “marijuana cultivation” within the I-1 Light Industrial zoning district upon the property addressed as 748 Crescent Drive, legally described as Lot 2A, Block 2, BN Car Shop Addition, Great Falls, Montana.

**BOARD ACTIONS NOT REQUIRING PUBLIC HEARING**

## COMMUNICATIONS

6. Planning Board Training Material.

<https://www.youtube.com/watch?v=yZaFe3v2778>

## PUBLIC COMMENT

*Public Comment on any matter and that is within the jurisdiction of the Planning Advisory Board/Zoning Commission. Please keep your remarks to a maximum of five (5) minutes. Speak into the microphone, and state your name and address for the record.*

## ADJOURNMENT

*(Please exit the chambers as quickly as possible. Chamber doors will be closed 5 minutes after adjournment of the meeting.)*

*Assistive listening devices are available for the hard of hearing, please arrive a few minutes early for set up, or contact the City Clerk's Office in advance at 455-8451. Wi-Fi is available during the meetings for viewing of the online meeting documents.*

*Planning Advisory Board/Zoning Commission meetings are televised on cable channel 190 and streamed live at <https://greatfallsmt.net>. Meetings are re-aired on cable channel 190 the following Thursday at 7 p.m.*

**MINUTES OF THE MEETING  
GREAT FALLS PLANNING ADVISORY BOARD/ZONING COMMISSION  
May 13, 2025**

**CALL TO ORDER**

Chair Mills called the regular meeting of the Great Falls Planning Advisory Board/Zoning Commission to order at 3:00 p.m. in the Commission Chambers at the Civic Center.

**ROLL CALL & ATTENDANCE**

**Planning Board Members present:**

Tory Mills, Chair  
Michael Bicsak  
David Cantley  
Michael Gorecki  
Joe McMillen  
Jim Wingerter

**Planning Board Members absent:**

Julie Essex, Vice Chair

**Planning Staff Members present:**

Brock Cherry, Director of Planning and Community Development  
Andrew Finch, Sr. Transportation Planner  
Lonnie Hill, Deputy Director of Planning and Community Development  
Jamie Nygard, Sr. Administrative Assistant

**Other Staff present:**

Mark Juras, Development Review Coordinator, Engineering  
Rachel Taylor, Deputy City Attorney

Mr. Cherry affirmed a quorum of the Board was present.

**MINUTES**

Chair Mills asked if there were any comments or corrections to the meeting minutes on April 22, 2025. Seeing none, Mr. McMillen motioned to approve, which was seconded by Mr. Wingerter. All in favor, the minutes were approved.

### **BOARD ACTIONS REQUIRING A PUBLIC HEARING**

#### **Establish a zoning classification of Planned Unit Development (PID) upon the property addressed as 3015 18<sup>th</sup> Ave South and legally described as Lot 1A1A of Block 1, Mount Olivet Addition.**

Lonnie Hill, Deputy Director of Planning and Community Development, presented to the Board. He stated that Benefis Health Systems was requesting approval for a PUD and a preliminary minor subdivision to dedicate public right-of-way on the property at 3015 18th Ave South, which is approximately 42.91 acres. He noted that the request would replace the existing PUD for Grandview that was adopted as part of Ordinance 3073 in 2011.

Mr. Hill presented a location and zoning map, site photos, layout plan, and preliminary plan.

Mr. Hill stated that the development proposal was to construct independent senior housing with a 64-unit apartment building and 28 single-family villas. He said it would include a walkable neighborhood featuring green space and dedicated gathering areas. The apartment building would consist of a wine bar, an ice cream parlor, and a wellness and fitness center to create a community for seniors to age in place. He stated that public utility mains would need to be extended and a combination of public right-of-way and private streets would need to be improved. He mentioned that the minor subdivision would divide the parcel into four lots.

Mr. Hill stated that the project is set up in PUD Zones, which would include Zone 1, which includes the existing Grandview development on Lot 1, Zone 2, which consists of the apartment building and villas on Lot 2, and Lot 3, which is being held for open space to buffer the neighborhood from the project. Zone 3 will include Lot 4, which will remain undeveloped until a future request to amend the PUD is made.

Mr. Hill stated that the PUD will be governed by standards listed within the Sanavita Estates Planned Unit Development document, which addresses allowable uses, sets development standards such as setbacks, addresses parking and landscaping, and includes an underlying zoning district of Public Lands and Institutional (PLI) for all standards not addressed by the PUD.

Mr. Hill stated that the project would include several public improvements, including:

#### **Utility Infrastructure:**

- Public water and sewer mains are required to be installed according to city policy and to serve the development.

#### **Streets:**

- Removal of the existing roundabout and additional ROW for the extension of 18th Ave South to the east.
- ROW for construction of 31<sup>st</sup> St South for connection to the north (32<sup>nd</sup> Street) in the future.

- Private roads, including Indigo Lane, also serve the project.

Mr. Hill presented the Findings for the Basis of Decision for Planned Unit Development and highlighted a few, stating that the entirety was in the Staff Report in the Agenda Packet.

1. The annexation is consistent with the City's Growth Policy.
  - Soc. 1.4.2 – Expand supply of housing
  - Soc. 1.4.4 – Promote a range of housing options and supportive networks to help the elderly remain independent and age in place.
  - Soc 1.4.6 – Encourage various housing types and densities so that residents can choose by price or rent, location, and place of work.
  - Phy. 4.1.4 – Walkable neighborhoods with mix of housing types
  -
2. The development project is consistent with applicable neighborhood plans, if any;
  - The proposed PUD is consistent with the overall intent of the Great Falls Medical District Master Plan. It supports key goals listed within the plan by providing future connections to adjacent neighborhoods, establishing senior housing, and allows for mixed-use development that offers on-site amenities for residents and their visitors.
3. The development project will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
  - The Sanavita Estates PUD is proposed to replace the existing Grandview PUD.
  - The property has been partially developed, primarily for nursing care and assisted living. Sanavita Estates continues to strive to provide senior living.
  - The development is not expected to impede the normal and orderly development or improvement of surrounding properties for permitted uses.

Mr. Hill stated that the applicant completed a Traffic Impact Study, which recommends installing a stop sign at Indigo and 29th Street South and eliminating the roundabout at the terminus of 18th Avenue South. Mr. Hill stated that staff concurred with the recommendations and determined that the traffic generated from the proposed development should have no negative effect on the existing transportation network.

Mr. Hill stated that the project was presented to Neighborhood Council #5 on April 21, 2025, and Neighborhood Council #6 on May 7, 2025. He mentioned that both councils had concerns about dust control, traffic, and stormwater. He responded that the developer had provided the Traffic Impact Study and Civil Plans addressing these concerns and noted that the City Environmental Division requires a Dust Control Plan, which is included as a condition of approval.

Mr. Hill stated Staff received public comments from a nearby resident who expressed concerns about noise pollution, dirt management, the proximity of the new 31st Street South to her home, and inquired about who would benefit from the project.

Mr. Hill stated that Staff recommended approval of the assignment of PUD zoning, and the Preliminary Plat of Santavita Estates with the following conditions:

1. General Code Compliance. Any future development of the property shall be consistent with the conditions in the report, as well as all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.

Minutes of the May 13, 2025

Planning Advisory Board/Zoning Commission Meeting

Page 4

2. Improvement Agreement. The applicant shall abide by the terms and conditions and pay all fees specified in the attached Improvement Agreement for the subject property. The Improvement Agreement must be signed by the applicant and recorded with the Cascade County Clerk and Recorder.
3. Final Plat. The Final Plat of Sanavita Estates Minor Subdivision shall incorporate correcting any errors or omissions noted by staff.
4. Engineering Drawings. The final engineering drawings, specifications, and cost estimates for public improvements for Sanavita Estates, shall be submitted to the City Public Works Department for review and approval prior to consideration of the Final Plat.
5. Land Use and Zoning. The property's development shall be consistent with the allowed uses and specific development standards of the proposed Planned Unit Development (PUD) zoning district.

### **APPLICANT PRESENTATION**

Nicole Olmstead, a planner with Cushing Terrell, presented to the Board. She shared a slideshow and highlighted some of the project needs, the project vision, alignment with the goals and objectives of the City of Great Falls, and the goals and objectives outlined in the Great Falls Medical District Master Plan.

She presented a map of the area and the proposed lot sites, a rendering of the buffer areas, the proposed community character, and building and neighborhood renderings.

### **PUBLIC QUESTIONS**

None.

### **PROPOSERS**

None.

### **OPPONENTS**

None.

### **BOARD QUESTIONS**

Mr. Cantley asked if there was anything codified for the open space regarding buffering for the surrounding homes. Mr. Hill responded that it is listed in the PUD and preliminary landscape plan submitted with the application, but it is not included as a condition of approval. Mr. Hill stated that Lot 3 is mentioned in the narrative part of the Agenda Report as a 1.25-acre open space buffer; however, upon reviewing the document, one could interpret that there is developmental potential for it because there are allowable uses for it. Mr. Hill stated that as the permit request is reviewed, compliance with the PUD document will be confirmed. Additionally,

Minutes of the May 13, 2025

Planning Advisory Board/Zoning Commission Meeting

Page 5

Mr. Hill mentioned that the Board can add a Condition of Approval to the motion to set boundaries on the proposal.

Mr. Gorecki asked how the project would feed into Russell Park. Ms. Olmstead stated that sidewalks are going to be proposed on both sides of the new roadways. There will also be pedestrian walkways from the apartment complex and the villas out to the sidewalk to create a continuous pathway.

Mr. Wingerter asked why the project could not be connected into 32<sup>nd</sup> St South. Mr. Finch responded that there is a nursing facility there with no public right-of-way and there is also one more property separating the connection.

Mr. Gorecki asked what the consensus was at the Neighborhood Council meetings. Mr. Cherry stated that there were questions but the applicant was present to answer questions and that the neighborhood was aware of the next steps in the process and the meeting that was being held.

Mr. Mills asked if the applicant would need to come back to the Planning Advisory Board/Zoning Commission when they decided to develop Zone 3. Mr. Hill responded that they would have to go through the public process.

## BOARD DISCUSSION AND ACTION

Mr. Mills stated that he appreciated the project as it fills a need and an unused lot.

Mr. McMillen stated that the project will bring added jobs and houses to the City.

**MOTION:** That the Zoning Commission recommend the City Commission approve the establishment of Planned Unit Development zoning designation for the property as legally described in the staff report, the Improvement Agreement, and the accompanying Basis of Decision, subject to the Conditions of Approval being fulfilled by the applicants.

Made by: Mr. McMillen

Second by: Mr. Gorecki

**VOTE:** All in favor, the motion passed 6-0

**MOTION:** That the Zoning Commission recommend the City Commission approve the Minor Subdivision Preliminary Plat of Sanavita Estates and accept the dedication therein of 18<sup>th</sup>

Minutes of the May 13, 2025

Planning Advisory Board/Zoning Commission Meeting

Page 6

Avenue South and 31<sup>st</sup> Street South as public right-of-way as legally described and shown on the plat, subject to the Conditions of Approval being fulfilled by the applicants.

Made by: Mr. Gorecki

Second by: Mr. Wingerter

VOTE: All in favor, the motion passed 6-0

### COMMUNICATIONS

Mr. Cherry asked the new Board Members, Michael Bicsak and Joe McMillen, to introduce themselves. Mr. Cherry stated that there are five out of seven new members, so some educational training is being worked on.

Mr. Gorecki asked if the Agenda Packets could be distributed earlier.

Mr. Cherry stated that the Public Engagement report for the Growth Policy Update has been finalized and published. He informed the Board that the final adopted plan will go through the Planning Advisory Board/Zoning Commission for approval and encouraged the Board members to review the report.

### PUBLIC COMMENT

None.

### ADJOURNMENT

There being no further business, Chair Mills adjourned the meeting at 4:10 p.m.

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CHAIRMAN TORY MILLS

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SECRETARY BROCK CHERRY





Meeting Date: June 10, 2025

**CITY OF GREAT FALLS**  
**PLANNING ADVISORY BOARD / ZONING COMMISSION AGENDA REPORT**

**Item:** Public Hearing – Request for a Conditional Use Permit (CUP) to allow “marijuana cultivation” within the I-1 Light Industrial zoning district upon the property addressed as 748 Crescent Drive, legally described as Lot 2A, Block 2, BN Car Shop Addition, Great Falls, Montana.

**Initiated By:** Bobby Long, Flower

**Presented By:** Lonnie Hill, Deputy Director, Planning and Community Development

**Action Requested:** Recommendation to the City Commission

**Public Hearing:**

1. Chairman of the Board conducts public hearing, pursuant to OCCGF 1.2.050 and Title 17, Chapter 16, Article 6.
2. Chairman of the Board closes public hearing and asks the will of the Board.

**Suggested Motion:**

1. Board Member moves:

“I move that the Zoning Commission recommend the City Commission (approve/deny) the Conditional Use Permit for the subject property as legally described in the Staff Report, and the accompanying Findings of Fact, subject to the Conditions of Approval being fulfilled by the applicants.”

2. Chairman calls for a second, board discussion, and calls for the vote.

**Summary:** Bobby Long with Flower, a cannabis business, submitted an application for a Conditional Use Permit (CUP) to establish a land use of “marijuana cultivation” within the I-1 Light Industrial zoning district upon the property addressed as 748 Crescent Drive and legally described as Lot 2A, Block 2, BN Car Shop Addition, Section 11, T20N, R3E, P.M.M., Great Falls, Montana.

Marijuana cultivation is defined by OCCGF 17.8.120 as, “a use licensed by the State of Montana to:

- (a) plant, cultivate, grow, harvest, and dry marijuana; and
- (b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.”

The request to allow marijuana cultivation is in addition to establishing a marijuana dispensary upon the subject property, which is permitted by right within the I-1 zoning district.

According to the applicant's narrative, the project includes secure indoor cultivation and back-end packaging, State-licensed retail sales (marijuana dispensary), and administrative functions. A site plan of the proposed layout of the building is provided within the attachment titled, *Application Packet*. The applicant states the request represents a long-term investment, which will serve as the hub for the business which he has described as "a secure, enclosed, compliance-driven facility."

The facility will operate during normal business hours and include activities such as plant care within the sealed grow rooms, irrigation maintenance, harvesting, trimming, and processing of cannabis plants. The applicant anticipates a team of 10-15 trained employees on-site during normal business hours. The application states, "The work environment is secure, regulated, and structured – not chaotic or open-ended." In addition to a CUP, the business is required to meet all regulations of the Montana Department of Revenue Cannabis Control Division.

The applicant was asked to provide information regarding common concerns related to the operation of a marijuana cultivation facility, such as odor, security, visibility, and traffic. The following information was provided within the *Application Packet*:

- Odor: The applicant states that odor is managed by the design of the growing environment. The operation is a sealed grow system that utilizes carbon filters and a closed-loop HVAC system. The applicant states odor will not be detectable beyond the facility perimeter under normal operations.
- Security: Security measures are required by the State of Montana, including monitored video surveillance where cannabis products are grown, processed, stored, and sold, controlled-access doors, and alarm systems. The applicant states Flower's security plan includes measures that comply with and exceed the state requirements, such as monitored video surveillance for all back-office space, such as administrative offices. Staff has included a condition of approval that requires a Security Plan detailing safety operations upon the property.
- Visibility: The cultivation component of the business will have no external visual impacts. This includes no outdoor cultivation, no exterior venting or large industrial fans, or cultivation garbage disposal visible to the public. In addition, no signage will identify the activity of cultivation occurring within the building. Staff has included a condition of approval that does not permit exterior signage referencing marijuana cultivation operations, however signage typical of a retail establishment is permitted as allowed by the City sign code. In addition, staff included a condition that states all marijuana cultivation activities shall be conducted entirely within an enclosed, secure, and climate-controlled indoor facility.
- Traffic: The applicant states that traffic will be limited to staff, deliveries, lab testing visits, and equipment testing. Staff finds that the existing street network can accommodate the proposed use.

**Conditional Use Permit:** The 0.758-acre property is located within the I-1 Light Industrial zoning district. The applicant engaged City staff about establishing "marijuana cultivation" within the building and was informed the land use requires a Conditional Use Permit to establish the land use. This requirement was established as part of Ordinance 3249, which was adopted by the City Commission in 2022. The Ordinance established the regulations pertaining to marijuana business activities within City of Great Falls and is provided as an attachment to this agenda report.

The subject property is wholly surrounded by the I-1 zoning district. To the north of the property is a large multi-tenant industrial building, commonly referred to as Buttrey's Warehouse. To the west of the property is 6<sup>th</sup> Street Southwest and a mixture of light industrial and commercial uses, including a

marijuana dispensary. To the south is a multi-tenant commercial building including a coffee shop, casino and lounge, marijuana dispensary, and beauty salon. To the east of the property is the parking lot of Buttrey's Warehouse and other light industrial uses.

The basis of decision for a CUP is listed in OCCGF §17.16.36.040. The Zoning Commission's recommendation and the City Commission's decision to approve, conditionally approve, or deny an application shall be based on whether the application, staff report, public hearing, and additional information demonstrate that the criteria attached as Basis of Decision have been met.

**Business License and Permit Requirements:** In addition to this CUP request, the project will require a business license and may require a building permit. Representatives from the City's Planning Division, Building Division, Engineering Division and Fire will review the required plans and specifications to determine compliance with all local regulations. Within the Conditions of Approval, establishment of a CUP is required within one year of approval. The applicant has indicated that the project is anticipated to commence immediately, if approved.

**Notice of Public Hearing:** Notice of this Public Hearing was published in the Great Falls Tribune on May 25, 2025. Notice was additionally mailed to all property owners within 150 feet of the subject property, and a sign is posted on the property. As of the submission of this report, staff have not received any public comments.

**Neighborhood Council Input:** The subject property is located within the boundary of Neighborhood Council #2. The applicant presented the proposal at the Council's regularly scheduled meeting on May 14th, where members asked questions about the business operations and the State's regulatory framework for marijuana facilities. At the conclusion of the discussion, Neighborhood Council #2 voted 4–1 to "not oppose" the request. It is important to note that "not oppose" is not the same as formal support or approval; rather, it indicates that the Council does not object to the proposal moving forward but also does not actively endorse it. This position often reflects neutrality, general acceptance, or unresolved concerns outside the Council's advisory role, such as broader policy or zoning distribution issues.

The Neighborhood Council shared concerns with City staff about the growing number of marijuana businesses in their area and asked if the City could limit how many dispensaries are allowed. Staff explained that under current City rules, dispensaries are automatically allowed in areas zoned for light industrial use (I-1), and this Council area includes the closest I-1 zoning district to the center of the city. Because of this, businesses are choosing locations near busy commercial areas like 6th Street Southwest instead of on the outskirts of town. As a result, marijuana businesses are ending up more often near neighborhoods that are adjacent to light or heavy industrial zoning, which can unintentionally create an uneven concentration in certain parts of the city.

**Concurrences:** Representatives from the City's Engineering, Great Falls Fire Rescue, and Building Divisions have reviewed the proposal and have no objections to the issuance of the Conditional Use Permit.

**Fiscal Impact:** Approval of the Conditional Use Permit is not anticipated to result in any adverse fiscal impact to the City of Great Falls. All costs associated with site development and improvements will be borne by the applicant. Additionally, the subject property is already within the service area of City Police and Fire departments, requiring no expansion of public safety resources. The proposed use may

also generate modest state-shared marijuana tax revenue for the City under current state distribution policies.

**Staff Recommendation:** Staff is not making a formal recommendation for or against the Conditional Use Permit (CUP) request. However, staff has reviewed the application for compliance with local code and evaluated proposed mitigation measures. Based on this review, staff finds the request acceptable as presented. The CUP process enables the City Commission to determine whether a non-permitted use may be appropriate at a given location with adequate mitigation. Staff has provided relevant information to support that determination.

In response to concerns commonly associated with marijuana cultivation, the applicant submitted a narrative and presented additional information to Neighborhood Council #2 at their May 14th meeting. The applicant has agreed to conditions of approval that reflect those discussions. Should the Commission approve the request, staff recommends the approval be subject to the conditions listed below. If the Commission chooses to deny the request, it must adopt alternative findings to support that decision.

**Conditions of Approval:**

1. **Modifications:** It is understood that minor changes are often necessary during the development and operation of a conditional use. The Administrator (the Administrator is the City employee assigned by the City Manager to administer conditional uses) is hereby authorized to permit minor changes, as provided below.
2. **Changes in Use:** Conditional uses are regulated as such because the use presents the possibility of significant impacts on the community. Therefore, changes in conditional uses must be strictly limited. A significant change in the type or level of activity, may void the conditional use permit. Proposed changes shall be submitted to the Administrator, who may require that the permit be amended following the same public process used for its adoption.
3. **Expiration:** The conditional use permit shall expire one (1) year after the date of issuance, if the operation has not been established for the applicant's request. The Administrator may extend the expiration date if substantial work is ongoing.
4. **Abandonment:** If a conditional use ceases to operate for more than six (6) months, the conditional use permit is void.
5. **Security Plan:** The applicant shall submit a Security Plan detailing the standard operating procedures relating to physical and procedural security. This document shall be submitted and will be kept on-file at the Planning and Community Development Department.
6. **Exterior Signage:** No exterior signage shall be permitted regarding the use or operation of marijuana cultivation, however signage typical of a retail establishment is permitted as allowed by City sign code.
7. **Outdoor Cultivation Prohibited:** All marijuana cultivation activities shall be conducted entirely within an enclosed, secure, and climate-controlled indoor facility. Outdoor cultivation is strictly prohibited on the subject property, including within any greenhouses, hoop houses, or temporary structures.

8. **General Code Compliance:** The proposed project shall be developed consistent with the conditions of approval adopted by the City Commission, and all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.
9. **Acceptance of Conditions:** No zoning or building permits shall be issued until the property owner acknowledges in writing that it has received, understands, and agrees to comply with the conditions of approval.

**Alternatives:** The Zoning Commission could recommend denial of the Conditional Use Permit. If so, an alternative Basis of Decision would be required to support this action.

**Attachments/Exhibits:**

- Basis of Decision
- Location and Zoning Map
- Application Packet
  - Narrative
  - Interior Layout Plan
- Ordinance 3249

## CONDITIONAL USE PERMIT - BASIS OF DECISION

The applicant is requesting a Conditional Use Permit (CUP) to allow “marijuana cultivation” within the I-1 Light Industrial zoning district upon the property addressed as 748 Crescent Drive, legally described as Lot 2A, Block 2, BN Car Shop Addition, Section 11, T20N, R3E, P.M.M., Great Falls, Montana.

**1. The zoning and conditional use is consistent with the City’s Growth Policy and applicable neighborhood plans, if any.**

The proposed conditional use for the subject property is consistent with the overall intent and purpose of the 2013 City Growth Policy Update. The proposed project specifically supports the following goals and policies from the Economic and Physical portions of the Growth Policy:

**Economic Goals and Policies:**

ECO3.4 Continue efforts to expand, retain and attract new businesses in Great Falls. (Page 155)

ECO3.5 Continue efforts to support and develop small businesses in Great Falls. (Page 156)

**Physical Goals and Policies:**

Phy4.1.1 Promote and incentivize infill development that is compatible with the scale and character of established neighborhoods. (Page 162)

Phy4.1.5 Encourage and incentivize the redevelopment or adaptive reuse of vacant or underutilized properties so as to maximize the City's existing infrastructure. (Page 162)

**2. The establishment, maintenance or operation of the zoning and conditional use will not be detrimental to, or endanger the health, safety, morals comfort or general welfare.**

The establishment, maintenance, or operation of the proposed conditional use will not be detrimental to, or endanger the health, safety, morals, comfort, or general welfare of the community. Staff has reviewed the application for compliance with local code and proposed mitigation measures to address common concerns associated with the use. These measures, reflected in the Conditions of Approval, include a required security plan, prohibition of any outdoor cultivation, and a restriction on exterior signage advertising marijuana cultivation. It is also noted that, regardless of general opinion concerning health, safety, morals, comfort, or welfare, the sale and cultivation of marijuana is a legal activity under Montana state law. Accordingly, the applicant must comply with all applicable regulations of the Montana Department of Revenue’s Cannabis Control Division, which provides an additional layer of oversight to ensure lawful operation.

**3. The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.**

The conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted. It is not anticipated that this project would diminish and impair property values within the neighborhood, as it is similar in use and impacts to nearby uses within the Light Industrial zoning district, including other marijuana businesses.

**4. The conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.**

The proposed project will not impede the normal and orderly development and improvement of surrounding properties. The subject property is wholly surrounded by the I-1 zoning district. To the north of the property is a large multi-tenant industrial building. To the west of the property is 6th Street Southwest and a mixture of light industrial and commercial uses, including a marijuana dispensary. To the south is a multi-tenant commercial building including a coffee shop, casino and lounge, marijuana dispensary, and beauty salon. To the east of the property is a large parking lot and other light industrial uses. This area contains a mix of light industrial and commercial uses. For this reason, the Conditional Use is appropriate for the subject property and within the context of the surrounding area.

**5. Adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.**

Utilities, access roads, drainage, and other necessary facilities currently exist around and serve the subject property. The proposed project will continue to use these existing facilities, including existing roads and utility connections.

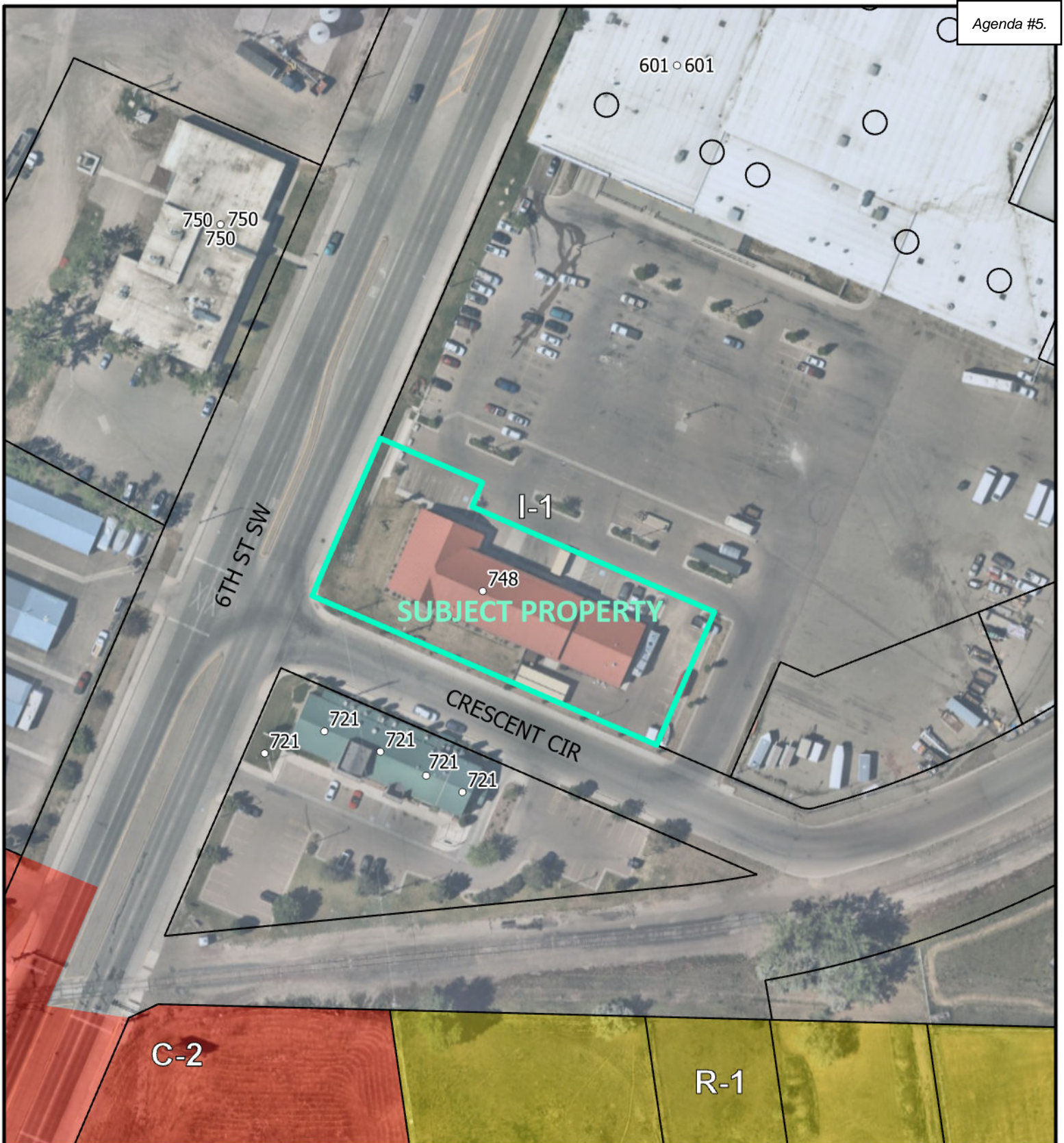
**6. Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.**

The project does not propose to modify any existing ingress or egress. The applicant states that traffic will be limited to staff, deliveries, lab testing visits, and equipment testing. Staff finds that the existing street network can accommodate the proposed use. As a result, there is no concern of additional traffic congestion in the public streets resulting from the approval of the CUP.

**7. The conditional use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the City Commission.**

The proposed CUP will conform to all applicable regulations of the *Title 17 - Land Development Code*, including the dimensional standards of the I-1 zoning district. Any proposed redevelopment of the property or building would require a building permit and would be required to comply with all codes and ordinances of the City of Great Falls, the State of Montana, and all other applicable regulatory agencies.





## Location and Zoning Map



748 Crescent Circle

Lot 2A, Block 2,  
BN Car Shop Addition

Parcels



0 50 100 200 16



# Cover Letter – CUP Application

Robert “Bobby” Long  
Founder & CEO, Flower  
748 Crescent Circle  
Great Falls, MT 59404  
(406)207-1898  
Bobby@flowermontana.com

City of Great Falls  
Planning & Community Development Department  
P.O. Box 5021  
Great Falls, MT 59403

## RE: Conditional Use Permit Application – 748 Crescent Circle

To Whom It May Concern,

Please accept this letter as a formal submission of my Conditional Use Permit (CUP) application for 748 Crescent Circle. The property is zoned I-1 Light Industrial, and I am requesting approval to operate a secure, licensed cannabis cultivation facility in the building with my retail dispensary.

This project represents a long-term investment in the Great Falls community. I am proud to be the first applicant of this kind in the city and have personally purchased this property with no guarantees—because I believe in the potential of Great Falls as a professional base of operations. This facility will not only serve as the future hub for my company, Flower, but will also set a new standard for how cannabis businesses can operate—quietly, respectfully, and with full regulatory compliance.

I have included a comprehensive proposal outlining operational details, zoning justification, community considerations, and the broader vision for how this project aligns with Great Falls’ long-term goals.

Thank you for your time and consideration. I welcome any follow-up and am available to answer questions or provide further documentation at your request.

Sincerely,  
Robert “Bobby” Long  
Founder & CEO, Flower

# Public Hearing Statement – CUP Application

Robert “Bobby” Long | Founder and CEO, Flower

Chair, members of the board, and members of the public,

My name is Bobby Long, and I’m the founder and sole owner of Flower, a Montana-based cannabis company committed to professionalism, safety, and long-term community partnership.

I’m here today as the first person to apply for a Conditional Use Permit of this kind in Great Falls. I’ve personally invested in commercial property at 748 Crescent Circle, with no guarantees of approval, because I believe this is the right time—and the right city—for Flower’s future.

This is not a high-volume retail storefront or speculative project. This is a secure, enclosed, compliance-driven facility that fits the character and zoning of the Crescent Circle industrial corridor. The business model emphasizes quality over quantity, career-track jobs for local workers, and transparency in every aspect of our operation.

I recognize that the cannabis industry has raised concerns in some communities, and not without reason. But I also believe that Flower offers something different: a gold-standard operation that will strengthen the industry by raising expectations and demonstrating how this business can be done right.

Great Falls has a chance to set a clear tone: that if you want to operate here, you do so with professionalism, safety, and respect. Flower is ready to meet that standard—and help set it.

Thank you for your time, and I welcome your questions.

# Conditional Use Permit Proposal

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748 Crescent Circle, Great Falls, MT 59404

Applicant: Robert “Bobby” Long | Founder and CEO, Flower

## Executive Summary

This proposal requests a Conditional Use Permit (CUP) for a cannabis cultivation and adult-use retail facility at 748 Crescent Circle in Great Falls, Montana. The location is zoned I-1 Light Industrial and is ideally suited to this type of secure, low-visibility, compliance-driven use.

The applicant, Robert “Bobby” Long, and his wife Kate Long are the sole owners of Flower, a Montana-based cannabis company founded on regulatory integrity, operational excellence, and long-term community investment. This project represents more than a business expansion — it marks a strategic shift of operations and a foundational investment in the Great Falls community.

## About the Applicant: Background, Vision & Values

Robert “Bobby” Long is the founder and sole owner of Flower, a vertically integrated cannabis business built entirely under Montana’s regulatory framework. What began as a local operation has matured into a proven, profitable model based on thoughtful growth, strict compliance, and quality-first production.

Flower is not a speculative venture or a vehicle for rapid expansion. It is a carefully built, personally guided company that treats cannabis as a long-term industry requiring structure, respect, and standards.

The Great Falls project is not a test market or short-term location — it is the new base of operations for Flower’s future. Bobby Long made the first-ever CUP application of its kind in Great Falls, and purchased commercial property outright with zero guarantees. This was not a gamble; it was a commitment.

His long-term vision is to:

- Transition Flower’s manufacturing and cultivation base to Great Falls
- Create a professional retail experience rooted in community respect
- Demonstrate a branded, quality-driven cannabis model that stands in contrast to the industry’s common quantity-over-quality approach
- Use Flower as a proof of concept for how this industry can — and should — be done in Montana

## Project Description & Facility Use

The proposed facility will occupy 748 Crescent Circle and include:

- Secure Indoor Cultivation
- Limited, State-Licensed Retail Sales
- Back-end Packaging & Administrative Functions

### Key Attributes:

- Fully enclosed operations; no product or process is visible from outside
- Designed to operate professionally and quietly, consistent with surrounding industrial activity

## Daily Workflow & Employee Experience

### Operating Hours:

Generally 9:00 AM – 6:00 PM, with cultivation teams staggered for early/late tasks. A cultivation facility must operate 365 days a year, but greatly reduced staffing levels are done on weekends and holidays and there will be no workers on site during quiet times between 9:00pm and 6:00am.

### Daily Workflow Includes:

- Harvesting, trimming, and processing of plants
- Scheduled plant care in sealed grow rooms
- Inventory tracking via METRC seed-to-sale system
- Irrigation system maintenance and monitoring
- Internal deliveries managed discreetly and during off-peak hours
- Cleaning, audits, and compliance tasks performed daily

### Staffing Model:

- Small, skilled team (10-15 people total on-site during business hours)
- Roles include cultivation techs, harvest techs, packaging staff and managers
- Employees are professionally trained, background-checked, and fully briefed on SOPs
- The work environment is secure, regulated, and structured — not chaotic or open-ended

## Security, Compliance & Safety

The facility will be secured in accordance with — and often exceeding — Montana Department of Revenue regulations:

- 24/7 monitored surveillance (interior and exterior)
- Controlled-access doors with department specific key systems
- Alarm systems and manual shut offs for CO2 and water systems
- Multiple secure areas for product storage at various stages of processing
- Real-time tracking of inventory and disposal

The site's physical footprint is modest. Traffic is minimal. No loitering, no congregation, no external lights, noise, or smell will impact surrounding properties.

## Zoning Justification: I-1 Light Industrial Compatibility

The project fits fully within the intent and design of I-1 zoning. Cannabis cultivation and retail — when conducted at this level of professionalism — are appropriate for industrial corridors like Crescent Circle.

### Why this project fits I-1:

- Activities are entirely enclosed and internal
- There are no residential neighbors or sensitive uses nearby
- The business generates limited traffic, zero emissions, and no external noise
- The site remains visually and operationally consistent with other light industrial tenants

This is not a retail-first dispensary located near residential zones. It is a secured industrial facility with ancillary retail functions — a critical distinction when reviewing CUP compatibility.

## Responding to City & Community Concerns

### Common Concerns:

- Odor: Odor control is managed via sophisticated sealed HVAC and grow area CO2 enrichment. Odor will not be detectable beyond the facility perimeter under normal operating conditions
- Traffic: Limited to staff, deliveries, weekly testing lab visits, and equipment maintenance technicians.

- Visibility: No external venting, large industrial fans, or visible garbage or discarded equipment will be visible to the public. All operations are sealed and enclosed within the building.
- Security: Professional, camera-monitored, alarm-connected, and access-controlled. Flower exceeds state standards.
- Professionalism: Flower is operator-owned, not absentee-owned. Managers will always be present and the owner will make regular visits and monitor all departments remotely.

### **Acknowledging Industry Realities:**

Yes — there are facilities in this industry that do cause concern. Some prioritize scale over safety, and speed over strategy. Flower is the counterpoint. It's built not only to comply, but to set a new bar. By approving this CUP, Great Falls helps elevate the entire industry. Operators who cannot or will not meet this standard will be pressured — by market forces and public expectation — to improve or exit.

### **Long-Term Investment in Great Falls**

This proposal is not speculative. It is the foundation of a strategic, long-term move to Great Falls that includes:

- Permanent commercial property ownership
- Facility renovations and operational infrastructure investment
- Local hiring and supply chain engagement
- Expansion of Flower's core operations into a new region
- Transition of cultivation and manufacturing to Great Falls
- Development of a branded retail experience guided by local values

The city is not being asked to approve a new business. It is being invited to welcome an established, tested, and proven one — now choosing Great Falls as its home.

### **Closing Statement**

Flower represents what this industry can be: professional, secure, compliant, and committed. This proposal is about more than business. It's about doing things the right way, in the right place, for the right reasons.

Great Falls has the opportunity to lead by setting a clear standard — one that rewards responsibility, not recklessness.

Flower is ready to raise that standard. I'm ready to stand behind it.

— Robert "Bobby" Long  
Founder & Owner, Flower

## Robert “Bobby” Long – Founder & CEO, Flower

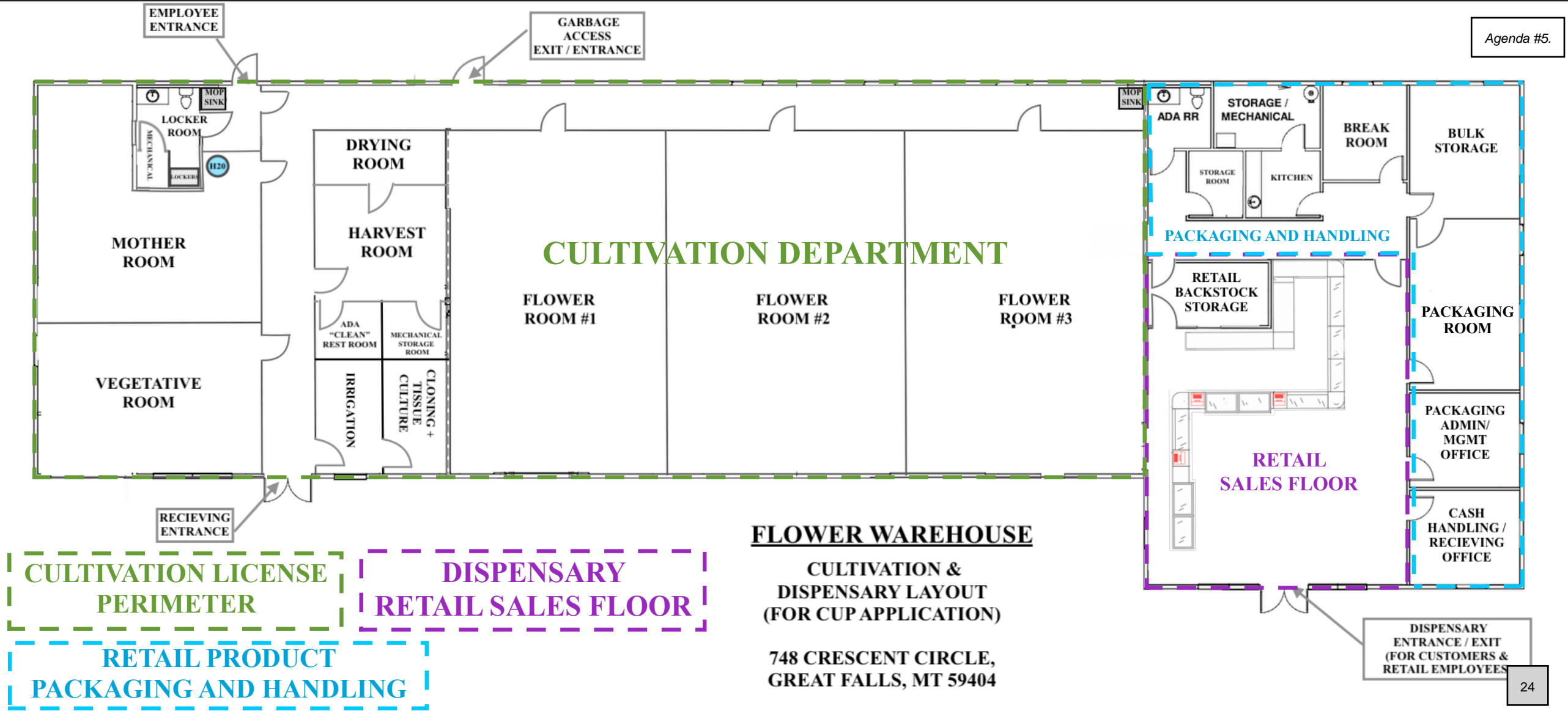
Robert “Bobby” Long is the founder and sole owner of Flower, a Missoula-based cannabis company known for setting the standard in Montana’s regulated market. A resident of the state since 2003, Bobby has been at the forefront of the industry since 2014, when he opened the first street-level dispensary in downtown Missoula with a clear mission: to build a business that reflects professionalism, integrity, and respect for the community it serves.

Bobby’s approach has always blended business discipline with advocacy. He was an early and consistent supporter of medical access in Montana, while also calling for strong regulation and thoughtful integration of cannabis into public life. Through his photography series Expressions, he documented the experiences of patients and providers during a pivotal time in the state’s cannabis history—using art to humanize an industry often misunderstood. He also served as the official photographer for the Initiative 182 campaign and has long been an active member of the Montana Cannabis Industry Association (MTCIA).

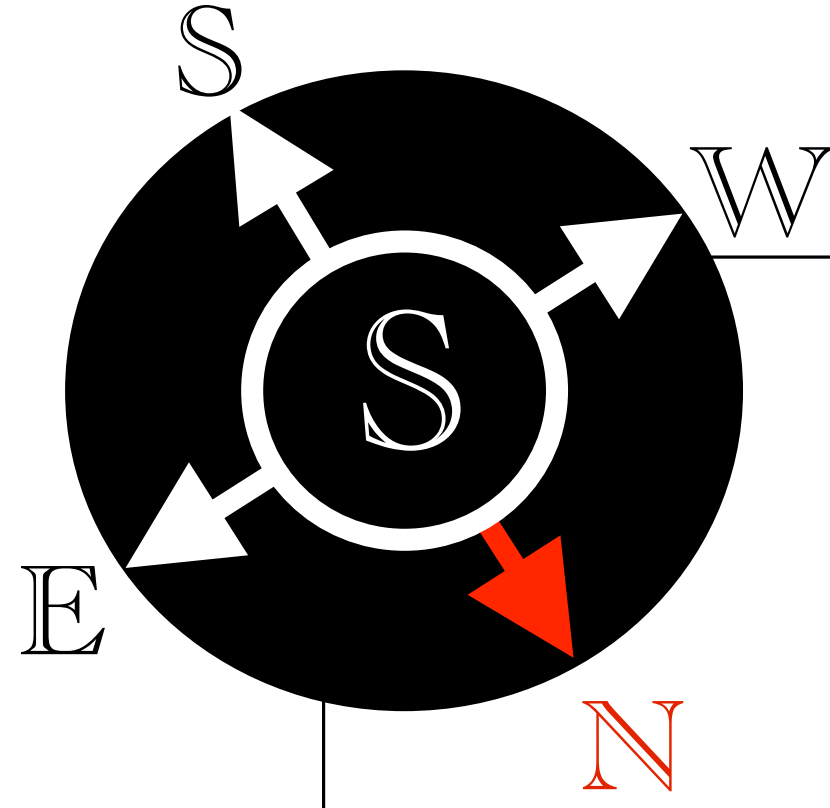
Under Bobby’s leadership, Flower has become Missoula’s most recognized and respected dispensary. It has won “Best of Missoula” honors year after year—not through hype or trend-following, but by consistently delivering high-end products in a professional, accessible setting. Flower’s identity is rooted in quality and quiet credibility. The business is not political, not pretentious, and never overpriced. It is an extension of Bobby’s personal philosophy: handshake-first, honesty always, and no shortcuts.

As one of the most visible and well-known operators in Missoula, Bobby continues to serve as a steady ambassador for what the cannabis industry can—and should—be: accountable, respectful, and here for the long haul.

Behind the scenes, Flower has always been a family effort. Bobby’s wife and partner has worked alongside him for the past 16 years, helping build the company from the ground up with equal parts grit and grace. Together, they are raising two young daughters—Carmen (5) and London (3)—with the same values that guide the business: hard work, humility, and a commitment to doing things the right way.



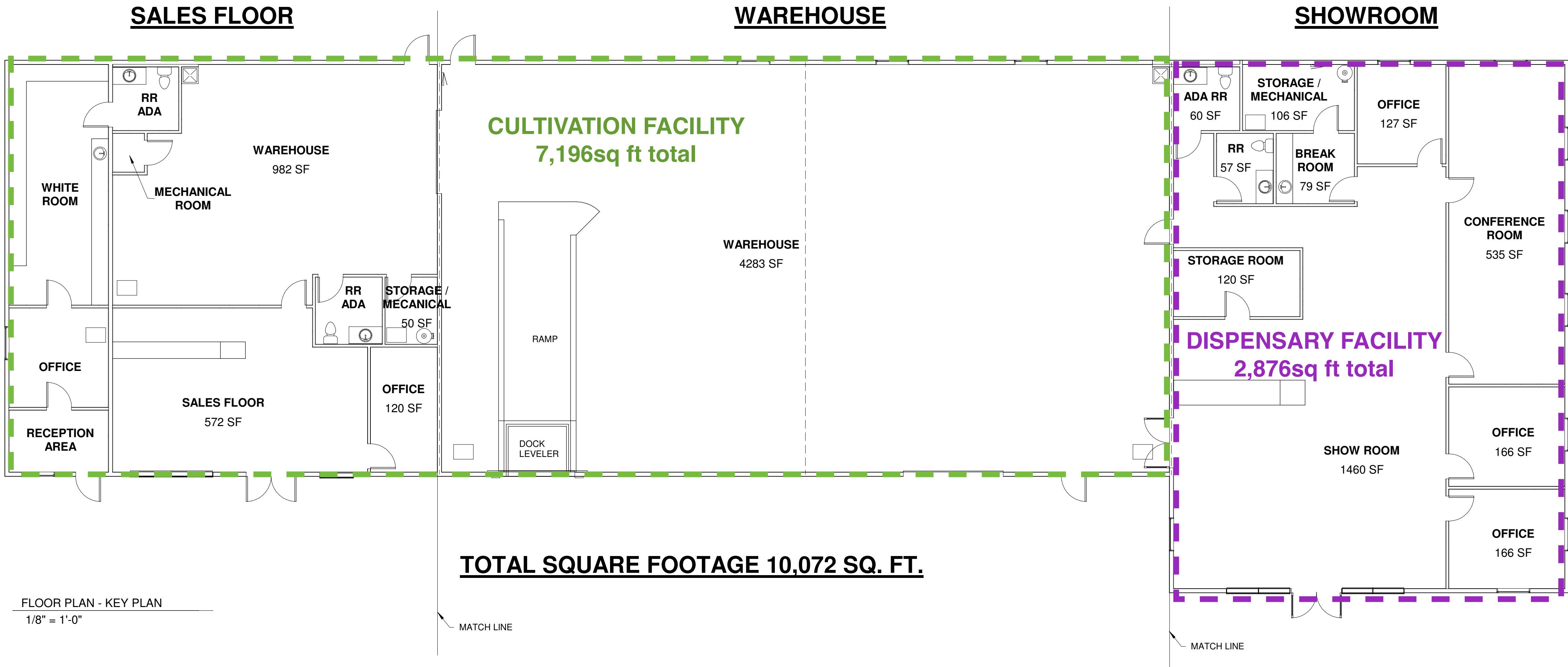




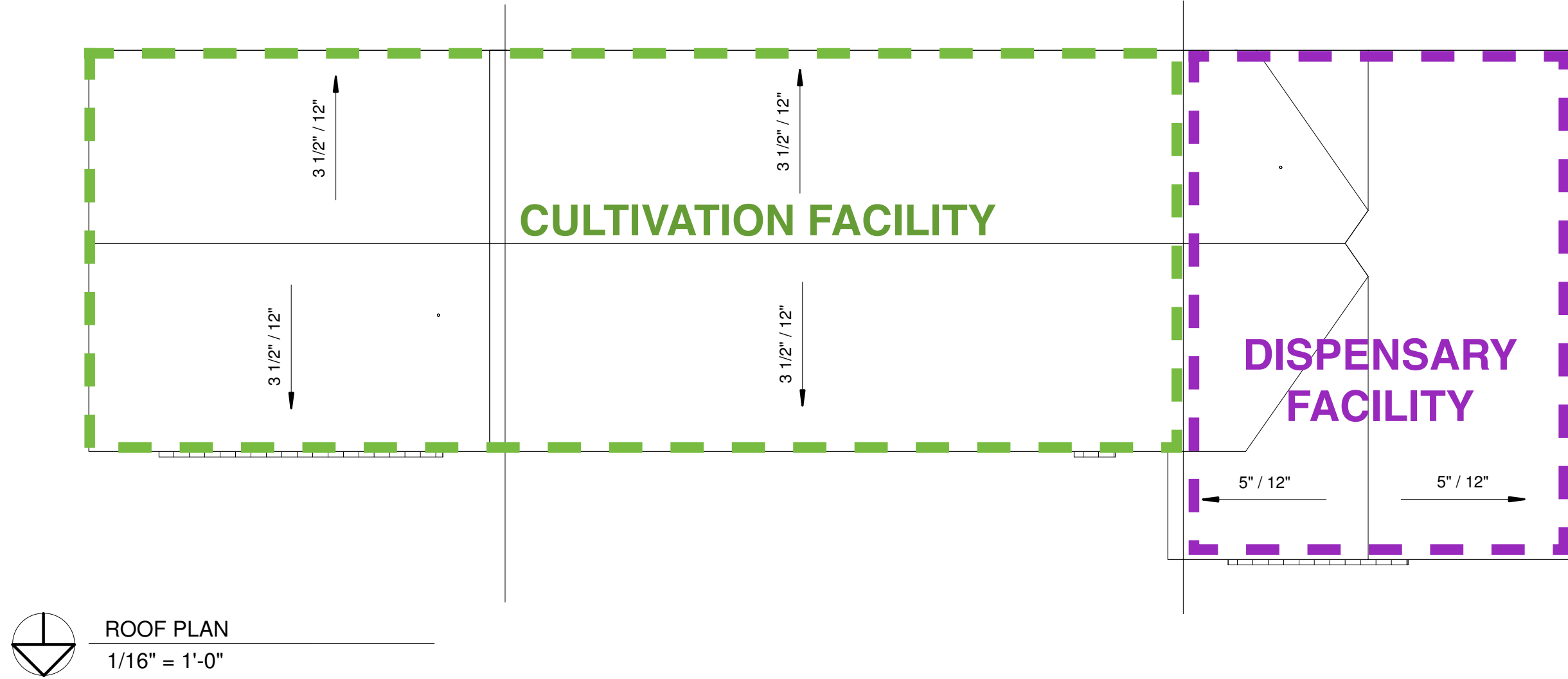
KEY

Indicates Cultivation Location

Indicates Dispensary Location



FLOOR PLAN - KEY PLAN  
1/8" = 1'-0"



FINISH SCHEDULE				
ROOM	FLOOR	WALL	CEILING	
NAME	MATERIAL	MATERIAL	MATERIAL	HEIGHT
RECEPTION AREA	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	ACOUSTICAL TILE DROP CEILING	9' - 0"
OFFICE	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	ACOUSTICAL TILE DROP CEILING	9' - 0"
WHITE ROOM	OWNER OPTION CONCRETE OR VCT	FRP OVER 5/8" GWB PRIMED AND PAINTED	ACOUSTICAL TILE DROP CEILING	9' - 0"
ADA RESTROOM @ RESTROOM	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED FRP ON BOTTOM 4'-0" OF WALL	5/8" TEXTURED PRIMED AND PAINTED ON CEILING JOISTS	9' - 0"
SALES FLOOR	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	5/8" GWB TEXTURED PRIMED AND PAINTED	UNDERSIDE STRUCTURE
RECEPTION AREA	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	5/8" TEXTURED PRIMED AND PAINTED ON CEILING JOISTS	9' - 0"
WAREHOUSE	SEALED CONCRETE	5/8" GWB TEXTURED PRIMED AND PAINTED	5/8" GWB TEXTURED PRIMED AND PAINTED	UNDERSIDE STRUCTURE
STORAGE/MECHANICAL & MECHANICAL	SEALED CONCRETE	5/8" GWB TEXTURED PRIMED AND PAINTED	5/8" GWB TEXTURED PRIMED AND PAINTED	UNDERSIDE STRUCTURE
BREAK ROOM	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	ACOUSTICAL TILE DROP CEILING	9' - 0"
CONFERENCE ROOM	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	ACOUSTICAL TILE DROP CEILING	9' - 0"
STORAGE ROOM	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	5/8" GWB TEXTURED PRIMED AND PAINTED	UNDERSIDE STRUCTURE
SHOWROOM	OWNER OPTION CONCRETE OR VCT	5/8" GWB TEXTURED PRIMED AND PAINTED	5/8" GWB TEXTURED PRIMED AND PAINTED	UNDERSIDE STRUCTURE

NOTES:  
1) ACOUSTICAL TILE CEILING AND SUSPENDED LIGHTING FIXTURES SHALL BE INSTALLED PER MANUFACTURER STANDARD DETAILS FOR SEISMIC DESIGN CATEGORY C.

TETON

DRAFTING SERVICES

136 SOUTH STATE STREET SHELLEY, IDAHO 83274  
PHONE (208) 357-2420 FAX (208) 357-2419

PROJECT NO.  
216059

SHEET NO.  
A1.0

OF SIXTEEN

FRIESEN NUTRITION NEW BUILDING  
FRIESEN NUTRITION  
GREATFALLS, MONTANA

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DRAWN BY:EVB	BY:EVB
REVISIONS	ISSUED FOR REV
DATE	DATE
12/22/16	

## ORDINANCE 3249

### AN ORDINANCE AMENDING TITLE 17, CHAPTER 4, CHAPTER 8, AND CHAPTER 20, OF THE OFFICIAL CODE OF THE CITY OF GREAT FALLS (OCCGF) PERTAINING TO USE OF LAND WITHIN THE CITY OF GREAT FALLS FOR COMMERCIAL MARIJUANA BUSINESS ACTIVITIES

\* \* \* \* \*

**WHEREAS**, the City of Great Falls is authorized by its Charter and Montana law to establish laws to protect the health, safety and welfare of the citizens of Great Falls; and

**WHEREAS**, the City Commission has, in the exercise of those powers, previously established Title 17 of the Official Code of the City of Great Falls (OCCGF), which establishes a comprehensive structure for development and land use within the City of Great Falls; and

**WHEREAS**, the City Commission took action in June of 2010 to adopt Ordinance 3054, as a component of the Title 17, Chapter 4 and Chapter 20, provisions regarding land use, to prohibit any medical marijuana activities in the City of Great Falls;

**WHEREAS**, in November of 2020, a majority of the voters of the State of Montana, including a majority of the voters of Cascade County and the City of Great Falls, voted to approve Initiative Measure 190 ("I-190"), which legalized both the adult use of marijuana under certain limitations and various categories of commercial marijuana business activities; and

**WHEREAS**, I-190, as passed by the voters, contained express limitations on the ability of a charter municipality like the City of Great Falls to completely prohibit certain adult-use marijuana providers and dispensaries from being located in the City; and

**WHEREAS**, the 2021 Montana Legislature took action to enact House Bill 701, which amended I-190 and created a different comprehensive structure to allow for and regulate commercial marijuana business activities in Montana; and

**WHEREAS**, one of the specific changes the Montana Legislature made to I-190 through HB 701 was to remove I-190's express limitation on the ability of a charter municipality like the City of Great Falls to completely prohibit certain commercial marijuana business activities; and

**WHEREAS**, the City Commission has taken action to refer a proposed ordinance specifically prohibiting all types of commercial marijuana business activities from operating within the City of Great Falls to a vote of the electors of the City to be conducted on November 8, 2022; and

**WHEREAS**, a lawsuit has now been filed against the City of Great Falls challenging its authority to prohibit commercial marijuana business activities and seeking an order from the District Court requiring the City to allow for such activities within its boundaries; and

**WHEREAS**, the City Commission now wishes to enact an alternative regulatory framework in its Land Development Code that will allow for commercial marijuana business activities within the City of Great Falls, with such framework to become effective and operative only in the event of either (1) a vote of the electors of the City in November of 2022 to not specifically prohibit such activities or (2) the issuance of a Court order directing that the City allow such activities to be conducted within its boundaries.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:**

Section 1. The provisions of OCCGF Title 17, Chapter 4, Chapter 8, and Chapter 20, are hereby amended as depicted by Exhibit "A" attached hereto and by reference incorporated herein with deleted language identified by ~~strikeout~~ and inserted language **bolded**; and

Section 2. CONTINGENT EFFECTIVE DATE: This ordinance shall in no event be effective any sooner than thirty (30) days after second reading and final adoption as provided by law, but it shall not become effective **except** upon (A) certification by the Cascade County Election Administrator of an election result showing that a majority of the electors of the City of Great Falls voting in the election to be conducted on November 8, 2022 have voted against the enactment of Ordinance 3246 as presented to them via Resolution 10471 OR (B) the issuance of a Court order directing that the City of Great Falls allow commercial marijuana business activities within its boundaries. In the event that neither such contingency ever occurs, this ordinance shall be null, void and of no legal force or effect.

ACCEPTED by the City Commission of the City of Great Falls, Montana on first reading August 16, 2022.

ADOPTED by the City Commission of the City of Great Falls, Montana on second reading and public hearing on September 6, 2022.

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Bob Kelly, Mayor

ATTEST:

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Lisa Kunz, City Clerk

(SEAL OF CITY)

APPROVED FOR LEGAL CONTENT:

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Jeff Hindoien, City Attorney

**17.4.070 Relationship of this Title to other regulations.**

In addition to meeting the regulations contained in this Title, development shall comply with all applicable regulations of Federal and State agencies. In all cases, the strictest of the applicable provisions shall apply. No use of land shall be permitted by right or conditionally permitted within the incorporated City limits that is in violation of Federal, State, or local law, **except for land uses relating to activities licensed by the Montana Department of Revenue under the Montana Marijuana Regulation and Taxation Act and identified as allowed in 17.20.3.010 and its accompanying exhibits.**

(Ord. 3249, 2022; Ord. 3194, 2019)

**17.8.120 General definitions.**

- A. **Words and terms not defined.** Unless specifically defined in this section, words or phrases used in this Title shall be interpreted so as to give them the meaning they have in common usage and to give this Title its most reasonable application.
- B. **Words and terms defined.** For the purpose of this Title, certain terms and phrases are defined below and shall have the meaning ascribed to them, except where the context clearly indicates a different meaning.

**A**

"A-type sign" See: sandwich board sign.

"Abandoned sign" a sign that has not advertised a bona fide business, product or service for a period of one hundred eighty (180) consecutive days; a sign that is damaged, in disrepair, or vandalized and not repaired within thirty (30) days from the onset of damages.

"Accessible entrance" means an entrance to a facility meeting the minimum accessibility requirements of the Americans with Disabilities Act.

"Accessible route" means a continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts. (Source: "ADA Standards for Accessible Design" 28 CFR Part 36, revised as of July 1, 1994)

"Accessory building/structure" means any building or structure that is clearly incidental and subordinate to and customarily found with a principal use.

"Accessory land use" See: land use, accessory.

"Accessory living space" means an interior space included as an integral part of a detached garage or other permitted accessory structure that is clearly subordinate to and upon the same lot as a single-family residential home. Similar terms include bonus rooms, craft or hobby rooms, home shops, granny flats, mother-in-law suites, guest houses or bedrooms, carriage houses and the like.

"Accessory use" means a use that is incidental and subordinate to the main use of a property and is located on the same lot as the main use.

"Adjudicative decision" means a decision that is discretionary in nature and that is made by elected or appointed governmental officials in the context of existing standards, requirements, and procedures and that applies to a specific instance. Examples include annexation requests and subdivision proposals.

"Administrative decision" means a decision that is made by a governmental employee in the context of existing standards, requirements, and procedures and that applies to a general or specific instance. For example issuance of a building permit is an administrative decision.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Administrative government center" means a place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. The term includes post offices, courthouses, correctional and related transitional facilities, and the like.

"Administrative services" means a place and/or building, or portion thereof, that is used or is intended for providing administrative functions where customers are infrequent. The term includes data processing centers, customer service centers via telecommunications, architectural firms, engineering firms, and the like.

"Adult arcade" means any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically, or mechanically controlled still or motion picture machines, projectors, or other image-producing devices are maintained to show images to five (5) or fewer individuals per machine at any one (1) time, and where the images so displayed are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

"Adult book store/adult video store" means a commercial establishment which, as one (1) of its principal business purposes, offers for sale or rental for any form of consideration any one (1) or more of the following:

1. Books, magazines, periodicals, or other printed matter, or photographs, films, motion pictures, video cassettes or video reproductions which are characterized by an emphasis on the depiction or descriptions of specified sexual activities or specified anatomical areas;
2. Instruments, devices, or paraphernalia which are designed for use in connection with specified sexual activities.

"Adult cabaret" means a nightclub, bar, restaurant, or similar commercial establishment which regularly features:

1. Persons who appear semi-nude; or
2. Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or
3. Film, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the exhibition or display of specified sexual activities or specified anatomical areas.

"Adult motel" means a hotel, motel, or similar commercial establishment which:

1. offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slide, or other photographic reproductions which are characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas; and has a sign advertising availability of this type of photographs reproduction; or
2. offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

"Adult motion picture theater" means a commercial establishment which, for any form of consideration, regularly shows films, motion pictures, video cassettes, slides or similar photographic reproductions that are distinguished or characterized by an emphasis on the depiction or description of specified sexual activities or specified anatomical areas.

"Affordable housing" means a dwelling unit that may be purchased or rented by a household earning no more than one hundred twenty (120) percent of the median annual income in the specified area and where the monthly housing costs do not exceed thirty (30) percent of the family's total monthly income. For example, in an area with a median income of fifteen thousand dollars (\$15,000.00), the term "affordable housing" would only be applied to those households earning less than eighteen thousand dollars (\$18,000.00) ( $\$15,000.00 \times 1.2 = \$18,000.00$ ). For a household with an annual income of fifteen thousand dollars (\$15,000.00), their total housing costs should not exceed three hundred seventy-five dollars (\$375.00) per month ( $(\$15,000.00 \times 0.3) / 12 \text{ months} = \$375.00$ ).

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Aggrieved person" means a person that has or likely will suffer an adverse effect resulting from a decision made pursuant to this Title.

"Agricultural commodity storage facility" means a place and/or building, or portion thereof, that is used or is intended to store bulk food stuffs prior to shipment and/or processing. The term includes grain elevators and such facilities.

"Agricultural water user facility" means those facilities which provide water for agricultural land as defined in 15-7-202, MCA, or which provide water for the production of agricultural products as defined in 15-1-101, MCA, including ditches, pipes, and head gates.

"Agriculture, horticulture, nursery" means a place and/or building, or portion thereof, that is used or is intended for growing fruit, vegetables, flowers, and other plants typically grown on farming operations in the region.

(Ord. 2950, 2007)

"Agriculture, livestock" means a place and/or building, or portion thereof, that is used or is intended for raising horses and/or cattle, exclusively.

"Agriculture sales" means a place and/or building, or portion thereof, that is used or is intended to be used for retail sale of a product(s) unique to and directly related to farm and ranch operations. The term includes feed/seed sales, irrigation equipment sales, farm machinery sales and repair, and the like. The term does not include wholesale sales.

"Air contaminant" means any fume, smoke, particulate matter, vapor, gas, or any combination. The term does not include water vapor or steam condensation.

"Airport" means a place and/or building, or portion thereof, that is used or is intended for the landing and takeoff of airplanes, helicopters, similar craft, including all necessary facilities for the housing and maintenance of the same.

"Airport, private" means an airport that is used by the owner and other persons authorized by the owner and not open for general public use.

"Airport, public" means an airport that is open for general public use.

"Airport elevation" means the highest point of an airport's usable landing area measured in feet from sea level.

"Airport influence area" means all land in the proximity of an airport within a defined boundary, the use of which may be affected by the airport's existence.

"Alley" means a vehicular accessway providing secondary access to the back of lots that front on a street.

"Alteration" See: structural alteration.

"Amateur radio station" means a radio station operated by a federally licensed amateur radio operator as part of the Amateur Radio Service.

"Animal shelter" means a place and/or building, or portion thereof, that is used or is intended to temporarily house stray pets.

"Annexation" means the process of adding land to the jurisdictional area of a city or town.

"Antenna" means a device that can be used to receive and transmit electromagnetic waves. The term includes directional antennas and omni-directional antennas. The term does not include (1) mobile services providing public information coverage of news events of a temporary nature or (2) hand held devices such as cell phones, business-band mobile radios, walkie-talkies, cordless telephones, garage door openers, and similar devices.

"Antenna, building-mounted" means any antenna, other than an antenna with its supports resting on the ground, directly attached or affixed to a building, tank, tower, building-mounted mast less than ten (10) feet tall and six (6) inches in diameter, or structure other than a telecommunication tower.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Antenna, directional (also known as a panel antenna)" means an antenna that transmits and/or receives radio frequency signals in a directional pattern of less than three hundred sixty (360) degrees.

"Antenna, ground-mounted" means any antenna with its base, single or multiple posts, placed directly on the ground.

"Antenna, omni-directional" means an antenna that transmits and/or receives radio frequency signals in a three hundred sixty-degree radial pattern. For the purpose of this Title, an omni-directional antenna is up to fifteen (15) feet in height and up to four (4) inches in diameter.

"Antenna, parabolic (also known as satellite dish antenna)" means any device incorporating a reflective surface that is solid, open mesh, or bar configured that is shallow dish, cone, horn, bowl or cornucopia-shaped and is used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern. This definition is meant to include, but is not limited to, what are commonly referred to as satellite earth stations and satellite microwave antennas.

"Antenna, portable" means any device used to transmit and/or receive electromagnetic or radio frequency communication/signals in a specific directional pattern, located on a portable or moveable base designed to be placed either for temporary or long-term use at a given site.

"Antenna, vertical" means a vertical type antenna with no horizontal cross-section greater than one-half (½) inch in diameter.

"Appeal" means a process initiated by an aggrieved party to review: (1) a decision made pursuant to this Title; or (2) an alleged failure to act as required by this Title.

"Appellant" means a person who has filed an appeal pursuant to this Title.

"Applicant" means a person who submits an application as required by this Title.

"Approach surface" means a surface longitudinally centered on the extended airport runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope. In plan view, the perimeter of the approach surface coincides with the perimeter of the approach zone.

"Approved plastic" means slow-burning plastic of no greater combustibility than that approved for sign use by Underwriter Laboratories, Inc.

"Aquifer" means a water-bearing, subsurface formation capable of yielding sufficient quantities of water to a water well for a beneficial use.

"Arboricultural standards and specifications" means the standards for the planting, care, and maintenance of trees, shrubs, and landscaping on file with the City Forester.

"Arcade" means a covered walkway often with shops on one (1) side or both.

"Architect" See: registered architect.

"Area of special flood hazard" See: one hundred-year floodplain.

"Artificial obstruction or development" means any obstruction which is not natural and includes any dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any one hundred-year floodplain which may impede, retard or alter the pattern of flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of water would carry the same downstream to the damage or detriment of either life or property.

"Artisan shop" means a place and/or building, or portion thereof, that is used or is intended for creating works of art and/or production of handmade craft items on a small-scale. Examples of such items include paintings, sculptures, pottery, jewelry, hand blown glass, small wooden items, candles, soaps, and lotions.

"Assessed value" means that value established by the State of Montana for taxing purposes.



## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Auction sales" means a place and/or building, or portion thereof, that is used or is intended to be used for auctioning goods to the general public. The term does not include estate sales and the like. Vehicle auctions are considered as vehicle sales and rentals.

"Automated teller machine (ATM)" means an automated device for conducting financial transactions.

"Automated teller machine (ATM), exterior" means an automated teller machine that is accessed from outside of an enclosed building.

(Ord. 2950, 2007)

"Average daily traffic (ADT)" means the average number of vehicles passing a specific point on a roadway during a single twenty-four-hour period.

"Average trip generation rate" means the average number of vehicles entering and exiting a site during a twenty-four-hour period.

"Avoid" means to take an action so that a negative impact does not occur.

"Awning or canopy" means a material or structure intended to provide protection from the weather that is mounted on the exterior of a building. Signage placed on an awning or a canopy is calculated as wall signage.

## B

"Bank stabilization" means any effort to harden the bank of a stream to prevent lateral movement. Such measures include: bio-engineering, native material revetment, rip-rap, bin-walls, barbs, vanes, and other such techniques.

"Banner" means fabric, plastic, paper, or other light, pliable material not enclosed in a rigid frame that is suspended, mounted or attached to buildings or poles at two (2) ends or continuously across its longest side.

"Bed and breakfast" means a single family residence that offers overnight accommodations and a meal for a daily charge and which also serves as a primary residence of the operator or owner. (Refer to: 50-51-102, MCA)

"Bench/transit shelter sign" means an off-premise sign attached to a bench or transit shelter.

"Berm" means a mound or embankment of earth, generally man-made.

"Best management practice (BMP)" means, in relation to erosion control, a practice, technique, or measure that is an effective, practical means of preventing and reducing soil erosion and/or water pollution during land development activities. BMPs can be structural, vegetative, or operational practices.

"Bike lane" means a portion of a roadway which has been designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.

"Bike path" means a bikeway physically separated from motorized vehicular traffic by an open space or barrier and either within the roadway right-of-way or within an independent right-of-way.

"Bike route" means a segment of a system of bikeways designated by the jurisdiction having authority with appropriate directional and informational markers, with or without a specific bicycle route number.

"Bikeway" means any road, path, or way which in some manner is specifically designated as being open to bicycle travel, regardless of whether such facilities are designated for the exclusive use of bicycles or are to be shared with other transportation modes.

"Billboard" means a sign larger than two hundred (200) square feet in area, mounted on a permanent structure, designed to advertise products, services, or businesses not available on the premise upon which the sign is located.

"Block" means a group of lots, tracts, or parcels within well-defined and fixed boundaries (e.g., streets and public parks, cemeteries, railroad rights-of-way, shorelines of waterways, municipal boundary lines or subdivision boundary lines).

"Block face" means all of the lots situated on one (1) side of the street.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Board of Adjustment" means the board of adjustment created by the City Commission and more fully described in this Title.

"Board of County Commissioners" means the governing body of Cascade County, Montana.

"Boulevard" means that area within the street right-of-way not occupied by street paving, curb and gutter, and sidewalks.

"Boulevard, inside" means that portion of the boulevard between the sidewalk and the lot.

"Boulevard, outside" means that portion of the boulevard between the sidewalk and the street.

"Boulevard banner" means a decorative sign constructed of cloth, canvas, or vinyl that contains upper and lower pole pockets and is secured by a pole banner bracket system. Boulevard banners are designed as attachments to street light poles or boulevard lamps and advertise special community events.

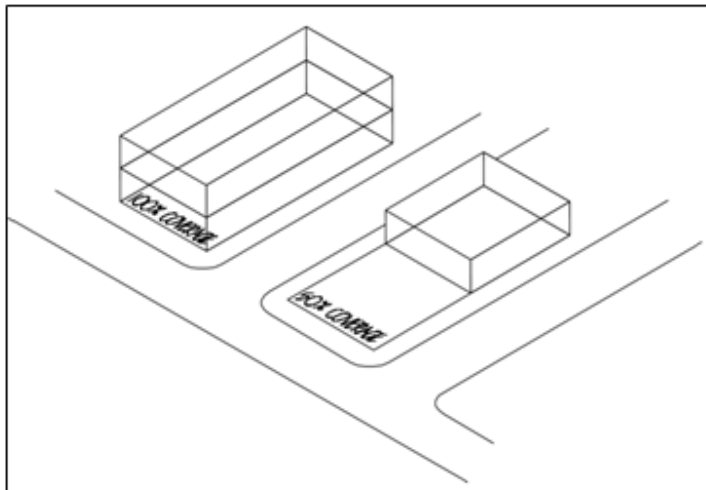
"Buffer area" means a landscaped area intended to separate and partially obstruct the view between uses, serve as an attractive boundary, or both.

"Building" means a structure having a roof supported by walls or columns, or other supports intended for the shelter or enclosure of people, animals, chattels, or property of any kind.

"Building area" means the total horizontal projected area of a building.

"Building coverage" is a measure of land use intensity. It compares the portion of a site that is covered by a building(s) with the overall area of the site. For example, a development consisting of two (2) buildings with a total footprint of 0.6 acres on a 2-acre site has a building coverage of 0.3 or 30 percent ( $0.6 / 2 = 0.3$ ). (Exhibit 8-2)

#### Exhibit 8-2. Building coverage



"Building mass" means the three-dimensional bulk of a building represented by its height, width, and depth.

"Building permit" means a permit that is issued prior to the construction of or addition to a building or structure or the installation of a mobile home.

"Burden of proof" means the obligation of a party to establish a fact by evidence.

"Bus transit terminal" means a place and/or building, or portion thereof, that is used or is intended for loading and unloading of bus passengers along with facilities for ticket sales and food service areas primarily intended for bus passengers.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

## C

"Campground" means a place and/or building, or portion thereof, that is used or is intended for public camping, where people can camp, secure tents or cabins, or park trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping and sleeping purposes. The term includes accessory buildings such as a laundromat and retail sales for the convenience of campground guests. (Source: 50-52-101, MCA)

"Cascade County Conservation District" means the governmental subdivision of Montana organized in accordance with Title 76, Chapter 15, Part 2, MCA, that functions in Cascade County to address issues relating to soil and water conservation.

"Casino" means any and all establishments that offer legalized gambling authorized under Title 23, Chapter 5, Part 1, et seq., MCA and where any one (1) of the following characteristics applies:

- a. The establishment is referenced as a "casino" or "gambling establishment", or makes any reference to legalized gambling by signage, advertisement or by name; and/or
- b. Five (5) or more gambling machines are on the premises; and/or
- c. A card table is on the premises.

"Casino, type I" means a casino allowed in certain zoning districts only if specific development and appearance standards are met.

"Casino, type II" means a casino allowed in certain zoning districts without specific development or appearance standards.

"Cemetery" means a place and/or building, or portion thereof, that is used or is intended for burial purposes. Accessory uses include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.

"Central Business District" means the C-4 Central Business Core zoning district.

"Certificate of appropriateness" means a permit issued indicating conformance with design guidelines or other similar requirements as contained in this Title.

"Certificate of survey (COS)" means a drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.

"Changeable copy sign" means a sign whose content is changed by manual, electric, electromechanical or electronic means. Examples include electronic message boards, time and temperature boards or manually changed reader boards.

"Channelization project" means the excavation and/or construction of an artificial channel for the purpose of diverting the entire flow of a stream from its established course.

"City Attorney" means the position of City Attorney for the City of Great Falls.

"City Clerk" means the position of City Clerk for the City of Great Falls.

"City Commission" means the governing body of the City of Great Falls.

"Civic use facility" means a place and/or building, or portion thereof, that is used or is intended for large gatherings of people. The term includes zoos, arenas, stadiums, fairgrounds, and the like.

"Climate controlled indoor storage" means indoor units, accessed from inside a building, for rent or lease and intended for personal storage. Such storage units are heated for a consistent climate. Document storage services are also included in this definition.

"Co-located telecommunication antennae" means an antenna that is mounted on an existing tower.

"Co-location" See: telecommunication facility, co-located.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Collector street" means a roadway that links local access streets to the arterial roadway network (minor and principal arterials). Speeds are generally lower than on arterials and access to adjacent land uses has a high priority. This is one (1) level in the City's functional classification system for roads within its jurisdiction.

"Color rendering index (CRI)" means a measurement comparing the color of an object under a light source to a reference light source of comparable color temperature. CRI values generally range from 0 to 100. As the CRI approaches 100, the color of the lit object becomes truer or closer to the original color.

"Commercial educational facility" means an educational facility operated by private institutions or individuals that is used or is intended for preparing students for jobs in trades or professions. The term includes music schools, hair styling schools, real estate schools, and the like.

"Commercial kennel" means a place and/or building, or portion thereof, that is used or is intended for housing three (3) or more dogs, cats or other domesticated animals over six (6) months of age or for the purpose of boarding, breeding, training, or sale. The term includes boarding kennels, dog motels, and dog training centers. The term does not include animal hospitals, animal grooming parlors, or pet shops.

"Commercial use" means a use that involves the exchange of cash, goods or services, barter, forgiveness of indebtedness, or any other remuneration in exchange for goods, services, lodging, meals, entertainment in any form or the right to occupy space over any period of time.

"Commercial zoning district" means any zoning district established by this Title that has a "C" followed by a number as its abbreviation (e.g., C-1).

"Community center" means a place and/or building, or portion thereof, that is used or is intended for short-term and intermittent meetings or gatherings of nonresident individuals that are generally open to the public for purposes of recreation, sharing information, entertainment, social service, or similar activities. The term includes fraternal, social, or civic clubs, lodges, union halls, and the like.

"Community cultural facility" means a place and/or building, or portion thereof, that is used or is intended for studying, reading, personal education, or for viewing the visual arts. The term includes libraries, museums, art galleries, observatories, and the like. The term does not include performing arts.

"Community garden" means an outdoor area that is used to grow vegetables, fruits, flowers, and the like by a group of unrelated individuals who primarily use what is grown for their personal use. The community garden can be divided into individual plots of land for the exclusive use of the person assigned each plot, or the entire garden may be a cooperative effort of any number of people, or a combination thereof.

"Community residential facility" means any one (1) of the following as defined:

- a. "Community group home" means a family-oriented residence that is designed to provide residential services for two (2) to eight (8) individuals with severe disabilities and does not provide skilled or intermediate nursing care. The term does not preclude the provision of skilled or intermediate nursing care by third-person providers. (Source: 52-4-202, MCA)
- b. "Youth foster home" means a youth care facility licensed by the State in which one (1) to six (6) children or youth other than the foster parents' own children, stepchildren, or wards are given food shelter, security and safety, guidance, direction, and if necessary, treatment. (Source: 52-2-602, MCA)
- c. "Youth group home" means a youth care facility licensed by the State in which seven (7) to twelve (12) children or youth are given food shelter, security and safety, guidance, direction, and if necessary, treatment. (Source: 52-2-602, MCA)
- d. "Halfway house" means a place and/or building, or portion thereof, that is used or is intended to provide treatment, rehabilitation, and prevention of chemical dependency. (Source: 53-24-103, MCA)
- e. "Adult foster care home" means a private home or other facility that offers only light personal care or custodial care to four (4) or fewer disabled adults or aged persons who are not related to the owner or manager of the home by blood, marriage, or adoption or who are not under the full guardianship of the owner or manager. (Source: 50-5-101, MCA)

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Community residential facility, type I" means a community residential facility with eight (8) or fewer individuals.

"Community residential facility, type II" means a community residential facility with nine (9) or more individuals.

"Composting facility" means a place and/or building, or portion thereof, that is used or is intended for collecting and processing vegetation (but not food wastes) for composting. The term includes the storage and manipulation of materials prior to, during, and following composting.

"Comprehensive sign plan" means a plan submitted for Design Review Board approval in conjunction with a permit application for a building or sign. The plan must show all signage for a planned or existing multi-tenant development.

"Conditional use" See: land use, conditional.

"Conditional use permit" means a permit authorizing establishment of a conditional use consistent with the provisions of this Title.

"Condominium" means a form of ownership with unrestricted right of disposal of one (1) or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units.

"Conical surface" means a surface extending outward and upward from the periphery of the horizontal surface at a slope of 20:1 for a horizontal distance of four thousand (4,000) feet.

"Conservancy area" means a property or portion of a property designated on a recorded plat, deed, covenant, or other legally binding document to protect the natural features of the area designated.

"Conserve" means to manage and use in a prudent and sustainable manner to provide for future availability.

"Construction materials sales" means a place and/or building, or portion thereof, used or is intended for wholesale or retail sales of bulk construction materials such as roofing, lumber, bricks, component parts (trusses), and the like. The term does not include hardware stores, concrete plants, asphalt mixing plants, or any facility that manufactures building materials and offers them for retail sale on the premises.

"Contractor yard" means a place and/or building, or portion thereof, that is used or is intended to be used by a contractor/builder with one (1) or more of the following: construction material storage, machinery storage or repair, including trucks and heavy equipment, shops, and office space.

"Contractor yard, type I" means a contractor yard that would be compatible in size and scope in a residential setting as defined by performance standards herein described or as may be adopted.

"Contractor yard, type II" means a contractor yard that would be compatible in size and scope with industrial and commercial activities as defined by performance standards herein described or as may be adopted.

"Contributing structure, building or property" means a structure, building or property within a historic district that contributes to the historic integrity of the district.

"Convenience sales" means a place and/or building, or portion thereof, that is used or is intended for personal services or retail sale of a limited product line of frequently needed personal items. The term includes convenience stores, small grocery stores, barber shops, beauty parlors, and the like.

"County Clerk and Recorder" means the Clerk and Recorder for Cascade County.

"Covenant" means a legally binding agreement contained in a deed, declaration, or other legal document or on the face of a plat that restricts or regulates the use of specified real property.

"Critical habitat" means the area occupied by a species which contains those physical and biological features that are (1) essential to the conservation of the species and (2) which may require special considerations or protection. Critical habitat shall not include the entire geographic area which can be occupied by the species.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Cumulative effect" means a noticeable overall effect which results from the incremental effects of other projects, where the increment from each project may not necessarily be noticeable or considered unacceptable.

"Curb" means the barrier used to separate roads and other vehicle use areas from the surrounding environs.

"Curb cut" means the width of the opening in the curb along a street that provides vehicular access to private property.

"Curb line" means the line at the back of the curb nearest to the lot line. In the absence of a curb, the curb line is established by the City Engineer.

"Curb radius" means the radius of the circle formed by the curve of the curb at the corner.

"Curb ramp" means a short ramp cutting through a curb or built up to it.

"Cutoff luminaire" means a luminaire where less than two and one-half (2.5) percent of the lamp lumens occur at or above the horizontal plane and no more than ten (10) percent of the lamp lumens occur above eighty (80) degrees.

## D

"Date of completeness" means the date an application is deemed complete by the City.

"Day care center" means a place and/or building, or portion thereof, that is used or is intended to provide day care to children on a regular basis. The operation may include pre-school services/activities (Source: 52-2-703, MCA) (Ord. 2950, 2007)

"Deck" means an above-ground, unroofed platform extending from a building and intended for outdoor living.

"Dedication" means the deliberate appropriation of land by an owner for any general and public use, reserving to the landowner no rights that are incompatible with the full exercise and enjoyment of the public use to which the property has been devoted. (Source: 76-3-103(3), MCA)

"Demolition" means an act or process that destroys, in whole or in part, a structure.

"Demolition by neglect" means the gradual destruction of a building or structure due to a lack of normal maintenance.

"Demolition permit" means a permit issued consistent with this Title authorizing the complete or partial demolition of a structure.

"Density" means the number of dwelling units per acre, calculated as follows: number of dwelling units divided by the acreage of the parcel of land, whether gross or net. As the context would indicate, density can be based on the actual, proposed, or permitted number of dwelling units.

"Density, gross" means the density based on the acreage of the entire parcel of land. For example, a development of twenty (20) houses on a forty-acre parcel of land has a gross density of one-half of one (0.5) dwelling units per gross acre ( $20 / 40 = 0.5$ ).

"Density, net" means the density based on the acreage of the entire parcel of land, excluding the acreage used for parks or which will not be further developed. For example, a development of twenty (20) houses on a forty-acre parcel of land, with twenty (20) acres in a floodplain or a conservation easement, has a net density of 1 dwelling units per net acre ( $40 - 20 / 20 = 1$ ).

"Department Director" means a City of Great Falls official designated as the head of a specific City Department, or his/her designee, authorized to act on his/her behalf.

(Ord. 2950, 2007)

"Design review" means an evaluation of a project's design features as enumerated in this Title including architecture, site layout, and landscaping.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Design Review Board" means that board created by the City Commission to administer the design review process consistent with this Title.

"Design wavier" means a grant of relief from the strict application of the adopted regulations that will avoid unintended and unwanted results and therefore result in a better development.

"Detention" means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.

"Detention facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

"Development" See: land development.

"Development exaction" means money, land (on-site or off-site), or infrastructure (on-site or off-site) that a developer provides to a local unit of government to alleviate a specified impact created by the proposed development. The nature of the mitigation is determined on a case-by-case basis.

"Deviation, major" means a deviation from the terms of a permit or other approval other than a minor deviation.

"Deviation, minor" means a deviation from the terms of a permit or other approval issued pursuant to this Title that is necessary in light of technical or engineering considerations first discovered after the permit issuance or other approval and not reasonably anticipated during the review process and if had been known during the review process would not have materially altered the decision to issue the permit or approval.

"Diameter at breast height (DBH)" means a tree measured four and one-half (4½) feet above the ground surface on the uphill side of the tree. For a multi-trunk tree, DBH is the sum of the diameter of the three (3) largest trunks.

"Directional sign" means a sign that designates the location or direction of a place or area.

"Discourage" means to avoid or hinder an event or some occurrence.

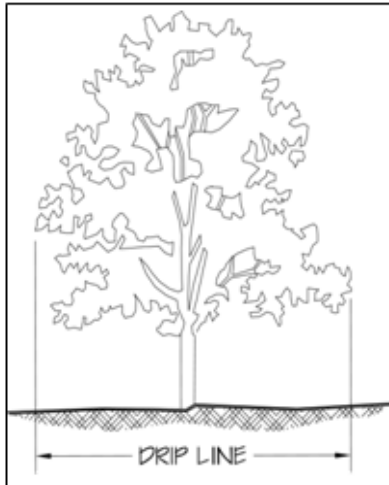
"Display surface" means the area of a sign structure that displays the advertising message.

"District" See: zoning district.

"Division of land" means the segregation of one (1) or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the Montana Subdivision and Platting Act. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not considered a division of land. (Source: 76-3-103(4), MCA)

"Drainage way" means any channel that conveys surface runoff throughout the site.

"Drip line" means a vertical line that extends from the outermost edge of the tree canopy to the ground. (Exhibit 8-3)

**Exhibit 8-3. Drip line**

"Dwelling unit" means a single building or portion thereof providing complete, independent living facilities for one (1) family, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

**E**

"Easement" means a less than fee interest to use the property of another for specific purposes.

"Easement, private road and public utility easement" means an easement shown on a plat where private roads are located and where public utility companies may place utility service for customers.

"Easement, public road and public utility easement" means an easement shown on a plat where public roads are located and where public utility companies may place utility service for customers.

"Educational facility (K—12)" means a place and/or building, or portion thereof, that is used or is intended for use as a preschool, elementary, junior high, or high school.

"Educational facility (higher education)" means any place and/or building, or portion thereof, that offers or is intended to provide secondary education. The term includes colleges, universities, community colleges, and vocational schools. On campus housing and dormitories to accommodate enrolled students are considered an accessory use.

"Electric sign" means a sign containing electrical wiring.

"Electronic message board" See: changeable copy sign.

"Electronic message display" means a sign capable of displaying words, symbols, figures or images that can be electronically or mechanically changed by remote or automatic means. (Ord. 3139, 2016)

"Emergency shelter" means a place and/or building, or portion thereof, that is used or is intended to provide temporary housing and ancillary services to primarily indigent, needy, homeless, or transient individuals.

"Encourage" means to stimulate, foster, or help advance an event or some occurrence.

"Engineer" See: registered professional engineer.

"Engineering department" means the Engineering Department for the City of Great Falls.

"Enhance" means to improve or increase in value or attractiveness.

"Ensure" means to guarantee or make sure something will happen.



## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Environmental assessment" means a written report that documents the environmental, social, and cultural impacts and consequences of a proposed development project.

"EPA's Menu of BMPs" means the manual prepared by the Environmental Protection Agency.

"Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

"Erosion and sediment control plan" means a plan that is designed to minimize the accelerated erosion and sediment runoff at a site during construction activities.

"Erosion control" means a measure that prevents erosion.

"Erosion control permit" means a permit issued by the municipality for the construction or alteration of ground improvements and structures for the control of erosion, runoff, and grading.

"Establish" means to construct, place, insert, or excavate.

"Exaction" See: development exaction.

"Examining land surveyor" means a registered land surveyor appointed by the City to review surveys and plats submitted for filing.

"Existing manufactured home park or subdivision" means a manufactured home park or subdivision where the construction of facilities for servicing the manufactured home lots is completed before the effective date of the floodplain management regulations. This includes, at a minimum, the installation of utilities, the construction of streets, and either final site or grading, or pouring of concrete pads.

"Ex parte communication" means any form of communication (e.g., written, verbal), whether voluntary or occurring inadvertently, that occurs prior to and outside of the public hearing between an individual who will vote on an adjudicative matter pending before the decision-making body on which he/she serves and another individual and which relates to the matter pending.

## F

"Factory-built home" See: Residence, manufactured/factory built.

"Family" means an individual, or two (2) or more individuals related by blood, marriage or adoption or other legal means, or a group of not more than five (5) individuals who are not related by blood, marriage or adoption, living together as a single housekeeping unit within a dwelling unit.

"Family day care home" means a private residence in which day care (meaning care is less than twenty-four (24) hours per day) is provided to three (3) to six (6) children from separate families on a regular basis. (Source: 52-2-703, MCA)

"Family, immediate" means a person who is a natural or legally defined offspring, spouse, sibling, parent, grandchild, grandparent, mother-in-law or father-in-law.

"Feather pole banner" means a sign with or without characters, letters, illustrations, or ornamentations applied to cloth, paper, flexible plastic, or fabric of any kind with only such material for backing. Feather flags are generally a single sign attached to a support post and typically having a dimensional ratio of 4 feet high to 1 foot wide and less than fifteen (15) feet height. This definition also applies to tear drop flags, windfeather flags, bow flags, and other similar type signs. (Ord. 3139, 2016)

"Fee in lieu" means a payment of money in place of meeting all or part of the storm water performance standards required by this ordinance.

"Fence" means a structure around the perimeter of a space that provides privacy, aesthetics, or security.

"Financial services" means a place and/or building, or portion thereof, that is used or is intended for providing financial and banking services. The term includes banks, savings and loan institutions, other lending institutions, and check cashing facilities. The term does not include automated teller machines, which are considered an accessory use to commercial enterprises.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Finding" means a written conclusion or determination that is considered in reaching a decision.

"Fish habitat structure" means any structure that is designed to create fish habitat. Examples include random instream boulder cover and bank cover. This term is to be narrowly construed to exclude any structure which may offer fish habitat as a secondary benefit.

"Flag" means a square, rectangular, or triangular piece of fabric that is mounted along one (1) side upon a pole, cable, or rope.

"Floor area" means the total horizontal area contained within the outside perimeter of a building.

"Foot-candle" means a measure of light falling on a given surface. One (1) foot candle is equal to one (1) lumen per square foot.

"Foundation planting" means plant material placed in planting beds along and near a foundation of a building. Intended to complement the building and connect the building to the site.

"Freestanding sign - a.k.a. pole sign" means a sign supported wholly by a pole or poles, I-beam, or a structure in the ground with no part of itself attached to a building.

"Freight terminal" means a place and/or building, or portion thereof, that is used or is intended for unloading, loading or storage of freight for routing or reshipment.

(Ord. 2950, 2007)

"Frontage" means a side of a building that faces a public right-of-way or provides off-street parking, or provides a customer entrance, or any side of a lot or parcel that borders on a public right-of-way.

"Frontage road" See: road, frontage.

"Fuel tank farm" means a place and/or building, or portion thereof, that is used or is intended for commercial bulk storage of petroleum products or any other fuel.

"Fugitive dust" means solid airborne particulate matter resulting from any activity conducted on a parcel zoned, or used, for industrial purposes.

"Full-cutoff luminaire" means a luminaire where no light occurs above the horizontal plane and no more than ten (10) percent of the lamp lumens occur above eighty (80) degrees.

"Funeral home" means a place and/or building, or portion thereof, used or intended for the care and preparation of human dead for burial. The term includes funeral homes and mortuaries.

## G

"Gaming, accessory" means a portion of a hotel, motel, restaurant or tavern with legalized gambling authorized under Title 23, Chapter 5, part 1, et seq., MCA, permitted with specific development and use standards.

"Garage, attached private" means a private garage sharing and attached to all or a portion of one or more walls of the primary residence, or included as an integral part of the residence. A private garage attached by a breezeway or similar connection to a primary residence is considered a detached private garage.

"Garage, detached private" means a private garage that is physically separated from the principal residence, or attached to the principal residence by means of a breezeway or similar connection.

"Garage, private" means a building that is intended to house vehicles and household items belonging to the owner or occupant of the principal residence.

(Ord. 2950, 2007)

"Garage sales" means the occasional non-business public sale of secondhand household goods and other goods incidental to household uses. The term also includes yard sales, patio sales, and the like. The term does not include any sales defined as itinerant outdoor sales.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

(Ord. 2950, 2007)

"General repair" means a place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, business equipment, small engines, and the like. The term does not include repair of vehicles or industrial equipment.

"General sales" means a place and/or building, or portion thereof, that is used or is intended for retail sale of goods, commodities, or products to the end consumer.

"General services" means a place and/or building, or portion thereof, that is used or is intended for providing services not otherwise included in any other service type category. The term includes photography studios, weight loss centers, commercial postal services, beauty shops, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, diaper services, and the like.

"Geological hazard" means the potential for geological instability arising from geologic features or conditions, including faults, landslides, avalanches, stream channel movement, fluvial erosion, and the like.

"Glare" means luminance in excessive of what the human eye is accustomed to resulting in annoyance, discomfort, or loss of visual performance and visibility.

"Golf course/driving range" means a place, whether organized for profit or not, that is used or is intended for playing golf.

"Grade control structure" means a structure consisting of stones, rocks, or analogous material that is placed on the bed of a stream to control or otherwise influence the grade of the stream.

"Grading" means the excavation or fill of soil material, including the resulting conditions thereof.

"Groundcover" means a low-growing plant material (other than turf grass) that characteristically does not grow higher than eighteen (18) inches and forms a more or less continuous cover over the ground surface.

"Groundwater" means water occupying the voids within a geologic stratum and within the zone of saturation.

"Group day care home" means a private residence in which day care (meaning care is less than twenty-four (24) hours per day) is provided to seven (7) to twelve (12) children on a regular basis. (Source: 52-2-703, MCA)

"Growth policy" means that document the City Commission has adopted consistent with 76-1-601, MCA.

## H

"Hazard" means any condition, whether man-made or natural, which presents a tangible danger to the public health, safety, and general welfare.

"Hazard to air navigation" means an obstruction determined to have a substantial adverse effect of the safe and efficient utilization of the navigable airspace.

"Hazardous substance" means any material regulated by the "Emergency Planning and Community Right-to-Know Act of 1986" 42 USC 1101-11050, as may be amended.

"Hazardous waste" means a waste or combination of wastes that because of its quantity, concentration, or physical, chemical, or infectious characteristics, may (1) cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or (2) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed. The term does not include substances governed by Title 82, Chapter 4, Part 2, MCA. (Source: 75-10-403, MCA)

"Health care clinic" means a place and/or building, or portion thereof, that is used or is intended for providing medical services including prevention, diagnosis, treatment, or rehabilitation. The term includes dental clinics, doctor's offices, and sports medicine facilities. The term does not include those uses as classified as a health care facility.

(Ord. 2950, 2007)

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Health care facility" means a place and/or building, or portion thereof, whether public or private, excluding federal facilities, whether organized for profit or not, that is used or is intended to provide health services, medical treatment, or nursing, rehabilitative, or preventative care to any person or individuals. The term does not include offices of private physicians or dentists. The term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long-term care facilities, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, residential treatment facilities, and adult day-care centers as defined in State law. (Source: 50-5-101, MCA)

"Health care sales and services" means a place and/or building or portion thereof, that is used or intended to provide for the sale of health care products and services. The term includes pharmacies, vision care facilities, hearing aid facilities, prosthetic facilities, etc.

(Ord. 2950, 2007)

"Height" means a line of measurement between two (2) given points contained in a plane that is perpendicular to horizontal ground level. See Section 17.8.090 for definition of "building height." (Ord. 2950, 2007)

"Heli-pad" means a place that is used or intended to land helicopters.

"Historic district" means a geographically defined area that possesses a significant concentration, linkage or continuity of sites, buildings, structures or objects united historically or aesthetically by plan or physical development.

"Historic Preservation Advisory Commission (HPAC)" means the commission created jointly by the Great Falls City Commission and Cascade Board of County Commissioners to administer its local preservation program consistent with State and local requirements and/or guidelines.

"Historic Preservation Officer" means the individual so designated by the City.

"Historic structure" means any structure that is a contributing or a primary structure or any structure individually listed on the National Register of Historic Places.

"Home occupation" means any occupation, profession, enterprise, or similar activity that is conducted on the premises of a single-family residence as an accessory use and that would be compatible in size and scope in an urban residential setting. The term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of heavy industry.

"Homeowners association" means a corporation consisting of homeowners and created pursuant to State law for the purpose of owning, operating, and maintaining various common properties.

"Horizontal surface" means a horizontal plane one hundred fifty (150) feet above the established airport elevation, the perimeter of which in plan coincides with the perimeter of the horizontal zone.

"Hotel/motel" means a building that is used, intended, kept, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests (as defined in State law) with or without meals. (Source: 50-51-102, MCA)

"Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

"Household" means one (1) or more individuals (related or unrelated) that usually occupy a dwelling unit.

I

"Illuminance" means the amount of light falling on a surface. Illuminance may be measured in lux or in foot-candles.

"Illuminating Engineering Society of North America (IESNA)" means a professional organization that was created to advance knowledge and disseminate information for the improvement of the lighted environment to the benefit of

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

society. Its membership includes engineers, architects, designers, manufacturers, contractors, distributors, utility personnel, educators, students, and scientists.

"Immediate family" means a spouse, children by blood or adoption, and parents.

"Impervious surface" means that portion of a lot that substantially reduces or prevents the infiltration of stormwater into the ground. It includes areas of compacted soil and surfaces such as buildings, sidewalks, parking lots, driveways, and similar features.

"Incidental sign" means a sign indicating services, credit cards, hours of operation, or other similar information that pertains to the premises where the sign is located.

"Indoor entertainment" means a place and/or building, or portion thereof, that is used or is intended for indoor entertainment of all types. The term includes theaters, movie theaters, dance halls, theaters for performing arts, and the like.

"Indoor sports and recreation" means a place and/or building, or portion thereof, that is used or is intended for indoor recreation of all types. The term includes bowling alleys, skating rinks, billiard and pool halls, arcades, athletic clubs, indoor racquetball courts, athletic training centers, gyms, and the like.

"Industrial, heavy" means a place and/or building, or portion thereof, that is used or is intended for the following or similar uses: processing or manufacture of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage or manufacturing processes that potentially involve hazardous or commonly recognized offensive conditions. The term includes motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, primary metal processing, and the like.

"Industrial, light" means a place and/or building, or portion thereof, that is used or is intended for the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products, but excluding basic industrial processing. The term includes furniture production, metal fabrication, apparel manufacturing, printing, publishing, and the like.

"Industrial park" means a planned and coordinated development designed to accommodate a variety of and more than two (2) industrial uses.

"Industrial zoning district" means any zoning district established by this Title that has an "I" followed by a number as its abbreviation (e.g., I-1).

"Infill development" means the construction of new structures on one (1) or more vacant lots within a previously established or approved development or area.

"Inhabited area" means any residence, any other structure regularly occupied by people, or any outdoor area used by people on a regular basis.

(Ord. 2950, 2007)

"Institutional use" means a public and/or quasi-public land use typically engaged in community service, health care, or educational land uses including but not limited to: governmental facilities, worship facilities, community centers, K—12 and higher education facilities, and health care facilities.

"Instream structure" means any structure that is placed within the ordinary high water mark for irrigation purposes, for controlling lateral or horizontal stream movement. Examples include bank stabilization, grade control structures, headgates, and the like.

"Instructional facility" means any place and/or building, or portion thereof, that is used or is intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the like.

"International Building Code" current, adopted edition of the International Building Code published by the International Codes Council.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Interstate highway" means a roadway intended to carry vehicles over long distances with access restricted to interchanges. This is one (1) level in the City's functional classification system for roads within its jurisdiction.

"Itinerant outdoor sales" means a place that is used or is intended for retail sales over a limited duration. The term includes seasonal sales such as fireworks and Christmas trees, flea markets, and the like. The term does not include private yard or garage sales or the sale of agricultural products produced on the premises.

"Irrigation ditch" means a man-made structure to carry water for irrigation purposes.

"Irrigation system" means a permanent, artificial watering system designed to transport and distribute water to landscape plants.

## J

"Junk vehicle" means a discarded, ruined, wrecked, or dismantled motor vehicle, including component parts, which is not lawfully and validly licensed and remains inoperative or incapable of being driven. (Source: 75-10-501, MCA)

"Junk yard" means a place and/or building, or portion thereof, that is used or is intended for selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials.

## L

"Land clearing" means the removal of trees, understory, shrubbery, brush, groundcover, and/or topsoil from any part of the land. The term does not include standard maintenance practices including lawn mowing, pruning, and the like.

"Land development" means any activity that must comply with the provisions of this Title.

"Landscape architect" See: registered landscape architect.

"Landscape plan" means a scaled plan that shows the areas of a site to be landscaped and provides design, planting, and irrigation specifications.

"Landscaping" means living material (e.g., turf grass, ground cover, shrubs, vines, hedges) and nonliving durable material commonly used in landscaping (e.g., bark, rocks, pebbles, decorative walls, fences, art and benches).

"Landslide" means a natural movement of a large mass of soil and/or rock moving down slope under gravitational forces.

"Land use" means, as the context would indicate, (1) the development that has occurred on the land (2) development that is proposed on the land, or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

"Land use, accessory" means any land use that is clearly incidental and subordinate to and customarily found with a principal land use.

"Land use, beneficial" means any use of a parcel of land that is common in the region, on similarly situated properties, even if it does not involve development.

"Land use, conditional" means a land use that would not be appropriate generally or without restriction throughout a specified area but which, if controlled as to the number, area, location, or relation to the neighborhood, could promote the public health, safety, or general welfare.

"Land use, permitted by right" means a land use that is allowed throughout a specified area. Land uses permitted by right shall be reviewed to ensure that all provisions of local, State, or federal regulations are met.

"Land use, principal" means the dominant land use of a parcel of land.

"Land use, water-dependent" means any land use that is by necessity dependent upon access to a water body for water-borne transportation including ports or marinas, recreation, electrical generating facilities, or water supply.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Land use, water-related" means any land use that is not by necessity dependent upon access to a water body, but which predominantly provides goods and services that are directly associated with water-dependent land uses.

"Large equipment rental" means a place and/or building, or portion thereof, that is used or is intended for renting large equipment that is normally stored out of doors. Typical items would include trucks, vertical lifts, fork lifts, back hoes, other types of heavy equipment, and modular buildings.

"Larger than utility runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft of greater than twelve thousand five hundred (12,500) pounds maximum gross weight and jet powered aircraft.

"Lattice tower" means a self supporting support structure, erected on the ground, which consists of metal crossed strips or bars to support antennas and related equipment.

"Legislative decision" means a decision generally discretionary in nature, made by elected governmental officials, that creates a new law or that repeals or modifies a previously adopted law. The adoption of a local comprehensive plan or a zoning code is an example of a legislative decision.

"Levee" means a manmade structure, usually earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

"Levee system" means a flood protection system which consists of a levee, or levees, and associated structures, such as drainage and closure devices, which are constructed and operated in accordance with sound engineering practices.

"Local street" means a roadway intended to predominantly provide access to adjoining properties. Traffic speeds are characteristically lower and access to and from driveways is frequent. This is one (1) level in the City's functional classification system for roads within its jurisdiction.

"Light manufacturing and assembly" means a place and/or building, or portion thereof, that is used or is intended for manufacturing and/or assembly of goods where no air contaminants or potentially offensive odors are emitted outside of the building or area of manufacture/assembly; no radioactive materials or hazardous substances or hazardous wastes or regulated substances are handled or produced. Such uses do not produce offensive noises outside of the building or area of manufacturing/assembly. Such uses typically have relatively small volumes of products shipped in and out, so as to not adversely impact neighboring uses (such as residential, office or commercial in mixed use zones). Typical uses include assembly of computers; testing, producing and/or packaging software; packaging of pre-made goods; etc. This term does not include any uses specifically listed under the definition of "industrial, light".

"Light meter" means a device that measures the amount of light energy falling on a given surface.

"Light trespass" means light emitted by a lighting installation that falls outside the boundaries of the property on which the installation is sited.

"Lighting fixture" See: luminaire.

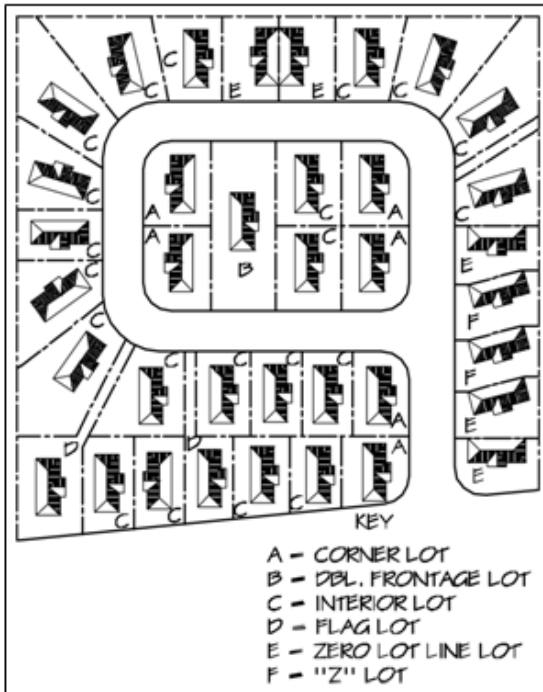
"Loading area" means an off-street area set aside for the purpose of unloading or loading a motor vehicle, trailer, or truck.

"Local services" means any and all services or facilities the City is authorized to provide.

"Logo" means a graphic design representing an activity, service, or business.

"Lot" means a parcel of ground with a definable location based on a recorded survey or similar instrument. (Exhibit 8-4)

## Examples of lot types



"Lot, corner" means a lot situated at the junction of and fronting on two (2) or more roadways. A lot abutting on a curved street shall be considered a corner lot if straight lines drawn from the foremost points of the side lot lines to the foremost point of the lot meet at an interior angle of less than one hundred thirty-five degrees.

"Lot, flag" means a lot with access provided by a corridor from a street to the bulk of the lot.

"Lot, interior" means a lot that abuts only one (1) road.

"Lot, through" means a lot having a frontage on two (2) more or less parallel streets.

"Lot, Z" means a type of interior lot that is generally situated on an angle to the street.

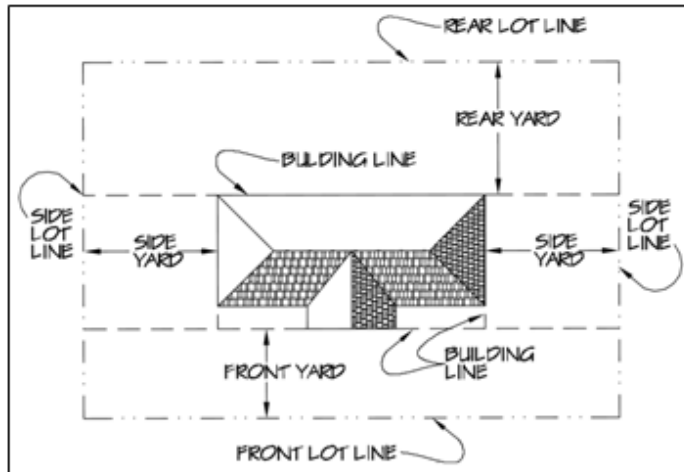
"Lot, zero lot line" means a lot where the building is placed on or near one (1) of the side lot lines.

"Lot area" means the area of the horizontal plane bound by the vertical planes through front, rear, and side lot lines.

"Lot coverage" is a measure of land use intensity. It compares the portion of a site that is covered by impervious surfaces with the overall area of the site. For example, a two-acre site with one-half of one (0.5) acres of impervious surface has a lot coverage of 0.25 or twenty-five (25) percent ( $0.5 / 2 = 0.25$ ).

"Lot line" means a line dividing one (1) lot from another lot or from a street or alley.



**Exhibit 8-5. Lot lines and types of yards**

"Lot line, front" means a lot line described for each of the following types of lots: on an interior lot, the lot line abutting a street; or, on a corner lot, the shorter lot line abutting a street; or, on a through lot, the lot line abutting the street providing the primary access to the lot; or, on a flag lot, the interior lot line most parallel to and nearest the street from which access is obtained (Exhibit 8-5).

"Lot line, rear" means a lot line that does not intersect a front lot line and that is most distant from and most closely parallel to the front lot line (Exhibit 8-5).

"Lot line, side" means a lot line not a front or rear lot line (Exhibit 8-5).

"Low-profile sign" means a freestanding pole or monument sign with a height limit of 8 feet from finished grade to the top of the sign structure.

"Lowest floor" means any floor used for living purposes, storage, or recreation or that could be converted to such a use.

"Lumen" means a measure of light energy generated by a light source. Manufacturers list ratings for all their lamps. Average lumen ratings are slightly lower than initial lumen ratings.

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

**M**

"Maintain" means to support, keep, and continue in an existing State or condition without decline.

"Manufactured home" See: Residence, manufactured/factory-built.

"Manufactured home park or subdivision" means a parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.

"Manufactured housing sales" means a place and/or building, or portion thereof, that is used or is intended for on-site display and sales of mobile homes, modular homes, or other forms of manufactured housing.

**"Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. The term does not include hemp, including any part of that plant, including the seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts, and salts of isomers, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3% on a dry weight basis, or commodities or products manufactured with hemp, or any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other products. The term does not include a drug approved by the**

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

United States food and drug administration pursuant to section 505 of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301, et seq.

(Ord. 3249, 2022)

"Marijuana cultivation" means a use licensed by the State of Montana to: (a) plant, cultivate, grow, harvest, and dry marijuana; and (b) package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

(Ord. 3249, 2022)

"Marijuana dispensary" means a use licensed by the State of Montana to: (a) obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved under this chapter; and (b) sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age or older, or both.

(Ord. 3249, 2022)

"Marijuana manufacturing" means a use licensed by the State of Montana to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extracts and package, repack, label, or relabel marijuana products.

(Ord. 3249, 2022)

"Marijuana testing laboratory" means a use licensed by the State of Montana to: (a) provide testing of representative samples of marijuana and marijuana products; and (b) provide information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

(Ord. 3249, 2022)

"Marijuana transporter" means a use licensed by the State of Montana to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

(Ord. 3249, 2022)

"Market value" means the value as reported on Cascade County Assessor's roll.

"Marquee" means a permanent, roofed structure that projects over public property and is attached to and supported by a building.

"Marquee sign" means a sign attached to a marquee.

"Mean sea level" means the National Geodetic Vertical Datum (NGVD) of 1929 or other datum to which base flood elevations are referenced.

"Micro-brewery" means a place and/or building, or portion thereof, which is used or is intended for (1) the manufacture of malt beverages and (2) the sale and on-site consumption of those beverages, along with other beverages and food.

"Mini-storage facility" means a place and/or building, or portion thereof, that is divided into individual spaces and that is used or is intended as individual storage units that are rented, leased, or owned. The term includes a tract of land used to store vehicles that are not for sale or trade.

"Miniature golf" means a place and/or building, or portion thereof, that is used or is intended for playing miniature golf.

"Minimize" means that no other alternative would result in a lesser impact.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Minor arterial" means a roadway that is designed to carry vehicles quickly from place to place, but access to adjacent land use has a high priority. This is one (1) level in the City's functional classification system for roads within its jurisdiction.

"Mitigate" means to take an action designed to offset or rectify a negative effect.

"Mixed-use building" means a building that contains two (2) or more of the following uses: residential, retail, office, employment, or civic.

"Mixed-use zoning district" means any zoning district established by this Title that has an "M" followed by a number as its abbreviation (e.g., M-1).

"Mobile home" means a dwelling unit that is: (1) constructed off-site; and (2) equipped with the necessary utility service connections; and (3) made so as to be readily movable as a unit or units on its (their) own running gear; and (4) designed to be used with or without a permanent foundation.

"Mobile home pad" means the area of a mobile home space which has been prepared for the placement of a mobile home.

"Mobile home park" means a place providing two (2) or more mobile home lots for lease or rent to the general public. (Source: 50-52-101 MCA)

"Mobile home space" means a designated portion of a parcel of land designed for the accommodation of one (1) mobile home and its accessory buildings or structures for the exclusive use of the occupants.

"Mobile home subdivision" means a tract of land specifically designed, improved and maintained for locating mobile homes, which is platted into lots, blocks and streets and the lots then sold or rented to the occupant.

"Modular home" See: Residence, manufactured/factory-built.

"Monopole" is a wireless communication facility which consists of a monopolar structure, erected on the ground to support wireless communication antennas and connecting appurtenances.

"Monument" means any structure of masonry, metal, or other permanent, durable material placed in the ground, which is exclusively identifiable as a monument to a survey point, expressly placed for surveying reference.

"Monument sign" means a low-profile, freestanding sign whose entire structure consists of solid material. Monument signs, in their entirety, are limited to a total height of eight (8) feet.

"Motor vehicle graveyard" means a place and/or building, or portion thereof, that is maintained and operated by a county and that is used or is intended as a collection point for junk motor vehicles prior to their disposal. (Source: 75-10-501, MCA)

"Motor vehicle wrecking facility" means a place and/or building, or portion thereof, that is used or is intended for buying, selling, or dealing in four (4) or more vehicles per year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle; or a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification. The term does not include a garage where wrecked or disabled motor vehicles are temporarily stored for a reasonable period of time for inspection, repairs, or subsequent removal to a junkyard. (Source: 75-10-501, MCA)

"Mulch" means nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture, and that provide a protective covering around plants to reduce weed growth and to maintain even temperatures around plant roots. Examples include bark, wood chips, and coffee bean hulls.

## N

"National Register of Historic Places" means the official list of the Nation's historic places worthy of preservation. Authorized under the National Historic Preservation Act of 1966 and administered by the National Park Service, it is part of a national program to coordinate and support public and private efforts to identify, evaluate and protect

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

our historic and archaeological resources. Properties listed in the National Register include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture.

"Native material revetment" means bank stabilization using root wads, logs, boulders, vegetation plantings, and sod mats. This type of design improves visual and biological values as opposed to some of the more "hard" approaches such as rip-rap.

"Neighborhood council" means the elected body for one (1) of the neighborhood districts within the City.

"Neighborhood district" means the geographic area established pursuant to the City's Charter.

"Neighborhood plan" means a plan for a geographic area within the boundaries of the jurisdictional area that addresses one (1) or more of the elements of the growth policy in more detail. (Source: 76-1-103, MCA)

"New construction" means structures for which the start of construction, substantial improvement, or alteration commences on or after the effective date of these regulations.

"NIER" means non-ionizing electromagnetic radiation, which is electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum.

(Ord. 2950, 2007)

"Noncombustible material" means material that does not ignite at or below a temperature of one thousand two hundred (1,200) degrees Fahrenheit during a five-minute exposure and that does not continue to burn or glow at that temperature, as specified in the current, adopted edition of the International Building Code.

"Nonconforming building" means any building that at the time of construction conformed to existing rules and regulations, but is now inconsistent with this Title.

"Nonconforming structure" means any structure that at the time of construction or placement conformed to existing rules and regulations, but is now inconsistent with this Title.

"Nonconforming use" means any use of land that at the time of establishment conformed to existing rules and regulations, but is now inconsistent with this Title.

"Noncontributing structure, building or property" means a structure, building or property within a historic district that does not contribute to the historic integrity of the district.

"Non-cutoff luminaire" means a luminaire where a considerable amount of light occurs above the horizontal plane.

"Non-ionizing electromagnetic radiation (NIER)" means electromagnetic radiation primarily in the visible, infrared, and radio frequency portions of the electromagnetic spectrum.

"Non-precision instrument runway" means runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in non-precision instrument approach procedure has been approved or planned.

"Nonstructural trim" means molding battens, caps, nailing strips, latticing, walkways, cutouts, or letters attached to a sign structure.

"Noxious weed" means any exotic plant species established or that may be introduced in the State which may render land unfit for agriculture, forestry, livestock, wildlife, or other beneficial uses or that may harm native plant communities and that is designated by the Montana Department of Agriculture or by a weed management district.

"Nursing home" means a place that provides twenty-four-hour services including room and board to unrelated residents who because of their mental or physical condition require nursing care.

## O

"Occupancy" means the purpose for which a building, or part thereof, is used or intended to be used.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Off-premise sign" means a sign that directs attention to a business, commodity, service, activity, or product not sold, conducted, or offered for sale on the premise where the sign is located.

"Off-site facility" means any facility located outside of the subject property.

"Off-site liquor sales" means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for off-site consumption. The term includes package liquor stores.

"On-premise sign" means a sign that directs attention to a business, commodity, service, activity, or product sold, conducted, or offered for sale on the premise where the sign is located.

"On-site construction office" means a building placed on a construction site that is used by the contractor as a field office and removed when construction is complete.

"On-site facility" means any facility located inside of the subject property.

"On-site real estate sales office" means a residential dwelling in a residential development that is temporarily used as a sales office for other on-site residential dwellings.

"Open space" means a vacant, undeveloped or unimproved parcel or area of land that is intended to remain free of development. Such lands typically include undeveloped park lands or other public lands, private lands in high hazard areas or with conservation easements, open water bodies, etc.

"Ordinary high-water mark" means the line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line include, when appropriate, but are not limited to deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value. A floodplain adjacent to surface waters is not considered to lie within the surface waters' high-water mark. (Source: 23-3-301, MCA)

"Outdoor entertainment" means a place and/or structure, or portion thereof, that is used or is intended for outdoor, spectator-type uses or events. The term includes race tracks, motocross courses, sports arenas, concerts, religious assemblages, and the like.

"Outdoor entertainment, temporary" means a short-term outdoor event such as concerts, performances, religious assemblages and the like. The term does not include sporting events such as motocross, auto racing and the like.

(Ord. 2950, 2007)

"Overall development plan" means the master site plan for a single tract of land showing the proposed project submitted for review and the conceptual layout of land excluded from the project. It is intended to show how the entire property will likely be developed over time.

"Overlay district" means a geographic area that is placed over land use districts that adds additional requirements to those of the underlying district.

"Owner of record" means the person, or persons, that are listed in the official county records as the legal owners of a tract of record.

**P**

"Parapet" means a low protective wall or railing along the edge of a raised structure such as a roof.

"Parcel of land" means a unit of land all parts of which are contiguous, including contiguous lots, in the possession of, owned by, or managed by the same person.

"Park" means a place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public or by a homeowners' association. The term includes developed and undeveloped areas and neighborhood recreation centers.

"Park dedication" means land set aside by the developer for park purposes.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Park dedication, cash-in-lieu of" means a cash payment that is equal to the assessed value of the land that would have been dedicated for park dedication purposes.

"Parking garage" means an off-street building used to temporarily park vehicles.

"Parking lot" means an off-street area, located beyond the right-of-way or easement of a street, used to temporarily park vehicles.

"Parking lot, principal use" means an off-street parking facility intended to temporarily store vehicles, not accessory to any principal use.

(Ord. 2950, 2007)

"Parking structure" means a multilevel structure that is used or is intended for parking motor vehicles for a short duration. The term does not include underground parking.

"Pedestrian pass-through" means a walkway that provides unconstrained pedestrian access through a building.

"Pedestrian scale (human scale)" means the proportional relationship between the dimensions of a building or building element, street, outdoor space, or streetscape element and the average dimensions of a human body, taking into account the perceptions and walking speed of a typical pedestrian.

"Perimeter control" means a barrier that prevents sediment from leaving a site by filtering sediment-laden runoff or diverting it to a sediment trap or basin.

"Permanent foundation" means a continuous foundation wall around the perimeter of a building.

"Permit" means a written governmental authorization allowing the holder to take action not otherwise allowed.

"Permitted use" means a use which may be lawfully established in a particular district or districts provided it conforms with all requirements, regulations, and standards of such district.

"Person" means any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two (2) or more persons having a joint or common interest, or any other legal entity.

"Planned unit development (PUD)" means a land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that comprise 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. (Source: 76-3-103, MCA)

"Planning Board" means the Great Falls Planning Advisory Board.

"Plat" means a graphical representation of a subdivision showing the division of land into lots, blocks, streets, alleys, and other divisions and dedications.

"Plat, amended" means a plat showing adjustments to a final plat that has been recorded with the County Clerk and Recorder.

"Plat, concept" means a drawing of a proposed subdivision that is general in nature and shows the essential elements of the project.

"Plat, final" means a plat to be filed with the County Clerk and Recorder and that contains all of the elements and requirements set forth in this Title and the Montana Subdivision and Platting Act.

"Plat, preliminary" means a plat that is submitted for review and that contains the minimum information required in this Title and the Montana Subdivision and Platting Act.

"Pole sign - a.k.a. freestanding sign" means a sign supported wholly by a pole or poles, I-beam or structure in the ground and not a part of or attached to a building at any point.

"Pollution or pollutants" means the presence in the outdoor atmosphere, ground, or water of any substance, contaminant, noise, or any other manmade or man-induced alteration of the chemical, physical, biological, or radiological integrity of air, soils, or water, in quantities or at levels which are or may be potentially harmful or

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

injurious to human health or welfare, animal or plant life, or property, or unreasonably interfere with the enjoyment of life or property.

"Pollution, nonpoint source" means a diffuse source of pollution resulting from the activities of man over a relatively large area, the effects of which normally must be addressed or controlled by a management practice rather than by an engineered containment or structure. (Source: 16.20.1001, ARM)

"Pollution, point source" means a single, discernable source of pollution resulting from the activities of man, the effects of which normally must be addressed or controlled by an engineered system.

"Porch" means a part of a building with a roof of its own that covers an entrance.

"Portable sign" means a sign that is not permanently affixed to a building, structure, or the ground.

"Precision instrument runway" means a runway having an existing instrument approach procedure utilizing an instrument landing system or a precision approach radar. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.

"Premise" means a single tract of land; whether described by metes and bounds, certificate of survey, and/or by lot or lots and block designation as in a recorded plat, which at the time of application for a building permit or for taxation is designated by its owner or developer as the tract to be used, developed or built upon as a unit of land under single ownership or control.

"Preserve" means to save from change or loss and reserve for a special purpose.

"Primary structure, building or property" means a structure, building or property within a historic district that contributes to the historic integrity of the district.

"Principal arterial" means a road that carries vehicles efficiently from place to place. Access to adjacent land uses is a minor function for this classification. This is one (1) level in the City's functional classification system for roads within its jurisdiction.

"Principal building" means the primary building on a lot or a structure that houses a principal use.

"Principal land use" See: land use, principal.

"Private stable/barn" means a place and/or building, or portion thereof, that is used or is intended for noncommercial activities relating to rearing, training, and riding horses or raising other permitted livestock. This term includes pole barns.

"Professional engineer" See: registered professional engineer.

"Professional services" means a building, or portion thereof, that is used or is intended to house services involving predominantly professional, clerical, or similar operations where customers come on a regular basis. The term includes law offices, real estate offices, insurance offices, travel agencies, and the like.

"Prohibited lawn signs" include, yard signs, bandit signs, placards, and road signs, among other names used for advertising, products, businesses, services, and charities, educational, political, ideological, or religious advertisement that are temporary in nature and placed in landscaped areas of a premise. (Ord. 3139, 2016)

"Projecting signs" means those signs which project over the public rights-of-way at any point. All other signs projecting from the building face are designated as "free standing signs" provided they are contained upon private property entirely. (Ord. 3139, 2016)

"Projection" means the distance by which a sign extends over public property or beyond the building.

"Public improvement" means any structure or facility constructed to serve the residents of a subdivision or development project or the general public.

"Public notice" means that way in which a government uses or is required to use to formally notify people of a proposed governmental hearing or action.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Public safety facility" means any place and/or building, or portion thereof, whether public or non-public, that is used or is intended for housing public safety services. The term includes ambulance services, fire stations, police stations, and the like.

"Public service use or facility" means a use operated or used by a public body or public utility in connection with any of the following services: water, waste water management, public education, parks and recreation, fire and police protection, solid waste management, transportation or utilities.

"Public view" means a point six (6) feet above the surface of the center of any adjacent public right-of-way including but not limited to avenues, streets and alleys.

"Public way" means and includes all public streets and utility easements, now and hereafter owned by the City, but only to the extent of the City's right, title, interest or authority to grant a license to occupy and use such streets and easements for telecommunications facilities.

**Q**

"Quasi-public use" means a use serving the public at large, and operated by a private entity under a franchise or other similar governmental authorization, designed to promote the interests of the general public or operated by a recognized civic organization for the benefit of the general public.

**R**

"Railroad yard" means a place and/or building, or portion thereof, that is used or is intended for switching train cars, loading and unloading cars, and where train cars and engines are serviced and stored while not in use.

"Readily visible" means an object that stands out as a prominent feature of the landscape when viewed with the naked eye.

"Real estate sign" means a sign pertaining to the sale, lease or rental of land or buildings.

"Recharge" means the replenishment of underground water reserves.

"Recreation trail" means a linear path which may be dedicated to a single use or multiple uses. Examples include hiking trails, bike trails, x-country ski trails, and horse trails.

"Recreational vehicle" means a vehicular type unit primarily designed as a temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

"Recreational vehicle park" means a tract of land available to and principally used by the public for camping, where people can park recreational vehicles for camping and sleeping purposes.

"Recreational vehicle space" means a designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle and the exclusive use of its occupants.

"Recycling center" means a place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. The term shall not include a junk yard.

"Redevelopment" means the development of a site where the site was at one (1) time developed and has been, or will be, cleared in whole or in part, to allow new construction.

"Registered architect" means an individual licensed to practice architecture in Montana.

"Registered land surveyor" means an individual licensed to practice surveying in Montana.

"Registered landscape architect" means an individual licensed to practice landscape architecture in Montana.

"Registered professional engineer" means an individual licensed to practice engineering in Montana.



## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Regulated substance" means any hazardous substance as defined in 75-10-602, MCA, or petroleum, including crude oil or any fraction thereof, which is liquid at standard conditions of temperature and pressure. This term does not include hazardous wastes as regulated by State law.

"Related equipment" means all equipment ancillary to the transmission and reception of voice and data via radio frequencies. Such equipment may include, but is not limited to cable, conduit, and connectors.

"Remainder" means that part of an original tract which is not created for transfer, but which is left after parcels are segregated for transfer. (See letter of opinion from Montana Attorney General to Robert M. McCarthy, April 22, 1987)

"Remodel" means to only change the interior and/or exterior appearance of a structure, where there is not a change in the footprint and does not constitute alteration or substantial improvement.

"Residence, accessory" means a place and/or building, or portion thereof, that is used, or is intended to provide housing, as a single-family residence for a caretaker, employee or owner of the non-residential principal use and the like. This residence is accessory to a non-residential principal use. (Ord. 2950, 2007; Ord. ~~No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012~~)

"Residence, condominiums" means separately owned single-family dwelling units with common elements located on property submitted to the provisions of the Montana Unit Ownership Act, Title 70, Chapter 23, MCA.

"Residence, manufactured/factory-built" means a single-family dwelling unit built in a factory in accordance with the United States Department of Housing and Urban Development code or approved by the Montana Department of Labor and Industry Building Codes Bureau.

"Residence, multi-family" means a single building situated on one (1) lot and that contains three (3) or more separate dwelling units. Entrances to the dwelling units may be separate or combined. The units may be rented or owned as in a condominium. (Ord. ~~No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012~~)

"Residence, single-family detached" means a single building that is situated on one (1) lot, contains one (1) dwelling unit, and is not attached to any other dwelling unit by any means. The term includes factory-built homes, manufactured homes, and stick-built homes, but excludes mobile homes.

"Residence, townhouse" means a building containing multiple dwelling units where they are adjacent to one another on separate lots each having separate entrances.

"Residence, two-family" means a building or buildings that are situated on one (1) lot and that contains a total of two (2) dwelling units. (Ord. ~~No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012~~)

"Residence, zero lot line" means a single building that is situated on one (1) lot, contains one (1) dwelling unit, and is not attached to any other dwelling unit by any means. The side wall of the building is placed directly on or very close to one (1) of the adjoining side yard property boundary lines. The term includes factory-built homes, manufactured homes, and stick-built homes, but excludes mobile homes.

"Residential zoning district" means any zoning district established by this Title that has an "R" followed by a number as its abbreviation (e.g., R-1).

"Restaurant" means a place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages for consumption on or off site, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery or convenience store with a food service section. Such establishments may include a drive-through window, and may or may not include on-site seating.

(Ord. 2950, 2007)

"Retirement home" means a place and/or building, or portion thereof, that is used or is intended to provide living quarters for individuals generally sixty-two (62) years of age or older. Limited commercial and medical facilities constructed and used for the exclusive use of residents shall be an accessory use of the retirement home. The term includes assisted living facilities wherein skilled or intermediate nursing care is not provided on a full time basis.

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Rezoning" See: zoning map amendment.

"Right-of-way" means that land which the Montana Department of Transportation, county, or City has title to, or right of use, for public roads and appurtenances, including utilities.

"Right-of-way" means a strip of land dedicated or acquired for public use.

"Riprap" means a structure consisting of stone and or rocks (not concrete or other cement product) that is placed along the bank or bed of a stream for the purpose of alleviating lateral bank erosion.

"Riverfront Corridor" means the area along River Drive and Giant Springs Road extending between the southern and northeastern limits of the City.

"Road" See: street.

"Road maintenance agreement" means a written instrument recorded with the County Clerk and Recorder that defines how a private road will be maintained in perpetuity, or until such time as the City, county, or the State accepts it as a public road, and the rights and obligations of the parties to the agreement.

"Roadside farmer's market" means a place and/or building, or portion thereof, that is used or is intended for the retail sale of produce grown exclusively on the premises.

"Roof sign" means a sign attached to roof structure - including parapet, fascia and rake framing, walls and/or columns of a building so that a portion of the advertising display is at or above roof level.

"Rotating sign" means a sign or portion of a sign that revolves or rotates.

"Runway" means a defined area on an airport prepared for landing and takeoff of aircraft along its length.

## S

"Salvage material" means material or fragments of material discarded as waste in manufacturing operations, or machines, tools, equipment or parts of these, no longer in serviceable condition, or such items and materials no longer used for their original intent or purpose or such items or materials which are valuable only as raw material for reprocessing. Examples include metal, rubber, textiles, rope, paper, leather, lumber, plastics, and equipment made of these.

"Sandwich board sign a.k.a. A-type sign" means a portable sign that rests on the ground and is not permanently attached to anything.

"Satellite earth station" means a telecommunication facility consisting of more than a single satellite dish smaller than ten (10) feet in diameter that transmits to and/or receives signals from an orbiting satellite.

"Screening" means a feature, such as a wall, fence, hedge, berm, or similar feature, used to shield or obscure elements of a development from adjacent sites.

"Secondhand sales" means a place and/or building, or portion thereof, that is used or is intended for retail sale of goods and merchandise which are not being sold for the first time. The term includes secondhand stores, thrift stores, consignment shops, and the like.

"Security lighting" means outdoor lighting used for, but not limited to, illumination for walkways, roadways, equipment yards, parking lots, and outdoor security where general illumination for safety or security of the grounds is of primary concern.

"Sediment control" means any measure that prevents eroded sediment from leaving the site.

"Semi-cutoff luminaire" means a luminaire where less than five (5) percent of the lamp lumens occur above the horizontal plane and no more than twenty (20) percent of the lamp lumens occur above eighty (80) degrees.

"Setback" means a specified horizontal distance between two (2) actual or imaginary objects (e.g., property lines, ordinary high water mark, buildings, wells, septic systems, etc.)

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Sexually-oriented business" includes the following types of uses: adult arcades, adult book stores/adult video stores, adult cabarets, adult motels, and adult motion picture theaters.

"Shared parking" means one (1) or more parking spaces that, partially or entirely, meet the parking requirements of two (2) or more uses.

"Shopping center" means more than one (1) sales or service use built on a single site which is planned, developed, and managed as an operating unit and has an accumulated gross floor area exceeding thirty-five thousand (35,000) square feet on a site at least two (2) acres in size. Typical features include one (1) or more anchor tenant(s), freestanding buildings containing restaurants or other commercial uses, and on-site employee and customer parking.

"Shrub" means a self-supporting woody perennial plant that characteristically grows to a height of twelve (12) feet at maturity. It typically has multiple stems and branches continuous from the base.

"Sidewalk café" means an outdoor dining area located upon public property, including a sidewalk, and operated as an integral part of an adjacent restaurant where food and beverages are sold or served primarily for consumption on the premises.

"Sidewalk food vendor" means the sale of food and beverage from a mobile cart located on public property or within the public right-of-way.

"Sign" means a notice bearing a name, direction, warning, or advertisement that is displayed or posted for public view.

"Sign structure" means the supports, uprights, braces and framework of a sign.

"Silhouette" means a representation of the outline of a structure, especially a tower and antenna associated with a telecommunication facility, as seen from an elevation perspective.

(Ord. 2950, 2007)

"Site-built home" means a dwelling unit that is constructed on the site on which it will be located.

"Site plan" means a plan drawn to scale that shows the layout of existing and proposed features including property lines, easements, structures, uses, utilities, parking areas, streets, signs, buffers, landscaping, adjacent land uses and other information as may be required.

"Small equipment rental" means a place and/or building, or portion thereof, that is used or is intended for renting small equipment and supplies that typically are stored indoors. Typical rentals include hand tools, party equipment, lawn care and yard equipment.

"Soil amendment" means organic and inorganic materials added to soil to improve texture, nutrients, moisture holding capacity, and infiltration.

"Soil stabilization" means the use of practices that prevent exposed soil from eroding.

"Solid waste" means all putrescible and nonputrescible wastes. (Refer to: 75-10-103, MCA)

"Solid waste transfer station" means a place and/or building, or portion thereof, that is used or is intended for temporary collection of solid waste prior to transport to a processing plant or to final disposal. (Refer to: 16.14.403, ARM)

"Special event" means a promotional or community event, e.g. a bazaar, street fair, show, exhibition, sporting event or fun run.

"Special exception" See: conditional use.

"Special improvement district (SID)" means a geographic area established by a local governing body where property owners pay a special assessment to finance public improvements (e.g., sidewalks, lighting).

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Specified anatomical areas" means the male genital in the state of sexual arousal and/or the vulva or more intimate parts of the female genitals.

"Specified sexual activity" means and includes any of the following: (1) the fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breasts; (2) sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy; (3) masturbation, actual or simulated; or (4) excretory functions as part of or in connection with any of the activities set forth in parts 1 through 3 of this definition.

"Start of construction" means the first land-disturbing activity associated with a development, including land preparation such as land clearing, grading, and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.

"State" means the State of Montana.

"Stoop" means a raised platform in front of an entrance to a building with one (1) or more steps.

"Stop work order" means an order issued by the City which requires that any activity found in violation of this Title cease.

"Storage container" means an enclosed metal container exceeding ninety (90) cubic feet that is typically used to temporarily store merchandise.

"Stormwater" means water from a rainfall event or melting snow that flows over the ground surface.

"Stormwater detention structure" means a structure designed to collect and temporarily store stormwater with subsequent gradual release.

"Stormwater management" means the use of structural or non-structural practices that are designed to reduce storm water runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

"Stormwater retention structure" means a structure designed to collect and prevent the release of a given volume of stormwater by complete on-site storage.

"Stormwater retrofit" means a stormwater management practice designed for an existing development site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

"Stormwater runoff" means flow on the surface of the ground, resulting from precipitation.

"Stormwater treatment practices" means measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.

"Stream" means a natural body of running water flowing continuously or intermittently in a channel on or below the surface of the ground.

"Street" means a public access way within a public right-of-way or private easement.

"Structural alteration" means any change or addition to a structure that increases its external dimensions and/or increases its potential flood hazard.

"Structure" means any permanent or temporary object that is constructed, installed, or placed by man, the use of which requires a location on a parcel of land. It includes buildings of all types, bridges, instream structures, storage tanks, fences, swimming pools, towers, poles, pipelines, transmission lines, smokestacks, signs, and other objects.

"Structure ridgeline" means the line along the top of a roof or top of a structure, if it has no roof.

"Subdivider" means any person which causes land to be subdivided or which proposes a subdivision. (Source: 76-3-103(15), MCA).

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Subdivision" means a division of land or land so divided that it creates one (1) or more parcels containing less than one hundred sixty (160) acres that cannot be described as a one-quarter ( $\frac{1}{4}$ ) aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed and includes any re-subdivision and further includes a condominium or area, regardless of its size, that provides or will provide multiple space for recreational camping vehicles or mobile homes. (Source: 76-3-103(16), MCA)

"Subdivision, major" means a subdivision not qualifying as a minor subdivision.

"Subdivision, minor" means a subdivision containing five (5) or fewer lots where proper access to all lots is provided and where no land in the subdivision will be dedicated to public use for parks or playgrounds, and the subdivision is eligible for review under 76-3-505 or 76-3-609, MCA.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either: (1) Before the improvement or repair is started; or (2) If the structure has been damaged, and is being restored, before the damage occurred. For the purposes of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor, or other structural part of the building commences. The term does not include: (1) Any project for improvement of a structure to comply with existing State or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or (2) Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

"Suitable fill" means material which is stable, compacted, well-graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps, or other organic material; and is fitting for the purpose of supporting the intended use of and/or permanent structure.

"Surveyor" See: registered land surveyor.

## T

"Tavern" means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for on-site consumption and where food consumption, if any, is clearly secondary to the sale of alcoholic beverages. The term includes bars and lounges.

"Taxi cab dispatch terminal" a place and/or building, or portion thereof, that is used or is intended for dispatching taxi cabs and where taxi cabs are kept while not in use.

"Telecommunication equipment building, shelter or cabinet" means a cabinet or building used to house equipment used by telecommunication providers to house equipment at a facility.

(Ord. 2950, 2007)

"Telecommunication facility" means a facility that transmits and/or receives electromagnetic signals. It includes antennas, microwave dishes, horns, and other types of equipment for the transmission or receipt of such signals, telecommunication towers or similar structures supporting said equipment, equipment buildings, parking area, and other accessory development.

"Telecommunication facility, co-located" means a telecommunication facility comprised of a single telecommunication tower or building supporting one (1) or more antennas, dishes, or similar devices owned or used by more than one (1) public or private entity.

"Telecommunication facility, commercial" means a telecommunication facility that is operated primarily for a business purpose or purposes.

"Telecommunication facility, concealed" means (1) an antenna that a casual observer would consider it a part of the structure to which it is attached or made a part of, or (2) an antennae and tower structure that is camouflaged to blend into the surroundings (e.g., camouflaged trees).

"Telecommunication facility, multiple user" means a telecommunication facility comprised of multiple telecommunication towers or buildings supporting one (1) or more antennas owned or used by more than

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

one (1) public or private entity, excluding research and development industries with antennas to serve internal uses only.

"Telecommunications facility, noncommercial" means a telecommunication facility that is operated solely for a non-business purpose.

"Telecommunication facility, unconcealed" means an antenna mounted on a tower or mounted on the ground.

"Telecommunications tower" means a mast, pole, monopole, guyed tower, lattice tower, free-standing tower, or other structure designed and primarily used to support antennas. A ground or building mounted mast greater than ten (10) feet tall and six (6) inches in diameter supporting one (1) or more antenna, dishes arrays, etc. shall be considered a telecommunications tower.

"Temporary sign" means a sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, plywood or other light material, with or without frames, intended for display during a limited period of time.

"Tract of record" means 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. (Source: 76-3-103(17)(a), MCA)

"Traffic impact analysis" means a written report that documents the traffic impacts and consequences of a proposed development project. Typical components would address each of the following: (1) existing conditions, (2) on-site traffic circulation (3) impacts on public roads; and (4) recommendations/alternatives to alleviate identified impacts.

"Transit shelter sign" means an off-premise sign painted on or posted within a transit shelter.

"Tree" means a self-supporting woody plant that characteristically grows to a minimum height of fifteen (15) feet at maturity and has a trunk which can be maintained over five (5) feet of clear wood.

"Tree, protected" means a tree on public property that may be threatened with removal or damage during a construction project.

(Ord. 2950, 2007)

"Tree, significant" means a tree that is six (6) inches or larger in trunk diameter when measured at one (1) foot above the ground.

(Ord. 2950, 2007)

"Turf or turfgrass" means hybridized grasses, that when regularly mowed characteristically forms a dense growth of leaf blades and roots.

## U

"Uniformity ratio" means the ratio of average illumination to minimum illumination within a given area.

"Use by right" See: land use, permitted by right.

"Utility installation" means a place, building and/or structure, or portion thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers and the like. It does not include public water system wells, sewer lift stations, irrigation ditches, or linear electric, communications or natural gas utilities, and the like.

"Utility runway" means runway that is constructed for and intended to be used by propeller-driven aircraft of twelve thousand five hundred (12,500) pounds maximum gross weight and less.

## V

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

"Variance" means a grant of relief from the strict application of a rule or regulation that would permit development in a manner otherwise prohibited.

"Vehicle fuel sales" means a place and/or building, or portion thereof, that is used or is intended for the retail sale of gasoline, kerosene, diesel, or other petroleum-based motor fuels. The term includes the sale of convenience foods and goods, provided it is ancillary to the sale of fuels, and light maintenance activities, such as engine tune-ups, lubrication, minor repairs, and the like.

"Vehicle repair" means a place and/or building, or portion thereof, that is used or is intended for maintenance, service, and repair of vehicles. Typical services include transmission repair, body work and painting, brake repair, vehicle upholstery, tire shop, engine repair and overhauls, and similar activities.

"Vehicle sales and rental" means a place and/or building, or portion thereof, that is used or is intended for buying, selling, exchanging, taking for consignment, renting, or leasing new or used vehicles, including cars, light trucks, snowmobiles, motorcycles, all-terrain vehicles (ATVs), recreational vehicles, personal water craft.

"Vehicle services" means a place and/or building, or portion thereof, that is used or is intended for servicing vehicles where they typically are not left overnight. Examples include quick lube/oil change, car washes, tire stores, vehicle cleaning including cleaning, washing, polishing, waxing, or similar activities.

"Vehicular use area" means those areas of a lot used for vehicle circulation and parking, including loading berths, parking lots, service drives, internal roads, and the like.

"Vendor cart" means a small non-motorized vehicle equipped with all necessary appurtenances to prepare and serve a limited menu and beverages.

"Veterinary clinic" means a place and/or building, or portion thereof, that is used or is intended for the medical care of animals. A veterinary clinic may include office space, medical labs, appurtenant facilities, and kennels and/or enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, animal hospitals, and the like.

"Veterinary clinic, large animal" means a veterinary clinic that specializes in the care and treatment of large animals and livestock.

"Veterinary clinic, small animal" means a veterinary clinic that specializes in the care and treatment of small animals including dogs, cats, birds, and other small domesticated and semi-domesticated animals.

"Vicinity map" means a map that shows the location of a proposed project relative to other parcels and roads in the area.

"Visual runway" means a runway intended solely for the operation of aircraft using visual approach procedures.

## W

"Wall sign" means a sign attached to the wall of a building or structure with the exposed face of the sign in a plane parallel to the plane of the wall. Wall signs include signs painted on awnings and the exterior walls of buildings.

"Warehouse" means a place and/or building, or portion thereof, that is used or is intended for the storage of goods and materials, for wholesale sales, temporary storage, and distribution. The term includes moving and storage facilities. The term does not include fuel tank farms.

"Water quality volume (WQ<sub>v</sub>)" means the storage needed to capture and treat ninety (90) percent of the average annual stormwater runoff volume. Numerically (WQ<sub>v</sub>) will vary as a function of long term rainfall statistical data.

"Water right" means a legal right to use water that is protected under Montana law.

"Waterbody" includes rivers, streams, creeks, irrigation ditches, lakes, and ponds, both natural and man-made.

"Wind-powered electricity systems" means

"Small wind-powered electricity systems" have a rated capacity of up to and including one hundred (100) kilowatts (kW) and are incidental and subordinate to a permitted use on the same parcel. A system is

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

considered a small wind-powered electricity system only if it supplies electrical power solely for on-site use, except that when a parcel on which the system is installed also receives electrical power supplied by a utility company, excess electrical power generated and not presently needed for on-site use may be used by the utility company as may be governed by applicable state statutes.

"Large wind-powered electricity systems" have a rated capacity of over one hundred (100) kilowatts (kW) and are intended to produce electricity for use on-site and/or sale to a rate regulated utility company or other off-site provider of electric power. Such systems may also be termed as "commercial wind-powered electricity systems".

"Tower Height" means the vertical measurement from the base of the tower to the top of the tower itself or the tip of the highest piece of equipment attached thereto. In the case of building-mounted towers the height of the tower does not include the height of the building on which it is mounted.

"Wetland" means those ecological entities so defined by the current edition of the "Federal Manual for Identifying and Delineating Wetlands".

"Wildland fire" means an unplanned and uncontrolled fire spreading through vegetation that may also consume structures or other improvements as well.

"Window sign" means a sign affixed to a window.

"Worship facility" means a place and/or building, or portion thereof, that has tax-exempt status and that is used or is intended as a place where people can regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, rectories, and day care centers within the same structure. The term does not include, community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.

(Ord. 2950, 2007)

"Written or in writing" means any representation of words, letters, drawings, graphics, or pictures.

## Y

"Yard" means the area on the same lot with a building, that is unoccupied and unobstructed from the ground upward, except by trees or shrubbery or as otherwise provided herein.

"Yard, front" means a yard that extends across the front of a lot between the side lot lines from the front line of the building (excluding the front steps) to the front lot line.

"Yard, rear" means a yard that extends across the rear of a lot between the side lot lines from the rear line of the building (excluding steps) to the rear lot line.

"Yard, side" means a yard that extends from the side line of the building (excluding steps) to the side lot line between the front and rear yards.

"Year" means a calendar year.

## Z

"Zoning district" means a geographic area as delineated on the zoning map that identifies a base zoning district.

"Zoning permit" means a permit that is issued prior to the issuance of a building permit to ensure that the proposed use is consistent with the allowable uses within the district in which it is to be located.

**(Ord. 3249, 2022; Ord. No. 3034, §§ 2, 4, 7-21-2009; Ord. No. 3056, § 1, 8-17-2010; Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012; Ord. No. 3102, § 3(Attach. A), 3-5-2013)**



## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

**17.20.3.060 Certain land uses shown as permitted may be a conditional use.**

A permitted land use (as shown in Exhibit 20-1, 20-2, 20-3) that emits air contaminants or potentially offensive odors outside of the building, or that handles radioactive materials, hazardous substances, hazardous waste, or regulated substances shall be considered a conditional use in every circumstance.

**Exhibit 20-1. Principal Uses by District**

Use	R-1	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Special Standards
<b>Agricultural Uses</b>																				
Agriculture, horticulture, nursery	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	17.20.6.005
<b>Marijuana cultivation</b>																		<u>C</u>	<u>P</u>	
<b>Residential Uses</b>																				
Mobile home/park	-	-	-	-	-	-	P	-	-	-	-	-	-	-	-	-	-	-	-	17.20.6.010
Residence, single-family detached	P	P	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	
Residence, zero lot line	-	-	P	P	P	P	-	-	-	-	-	P	P	P	-	-	-	-	-	17.20.6.020
Residence, two-family	-	C	C	P	P	C	-	P	-	-	-	P	P	P	-	-	-	-	-	
Residence, multi-family	-	-	-	P	P	C	-	P	-	-	P	P	P	P	-	-	-	-	-	17.20.6.040
Residence, townhouse	-	C	C	P	P	C	-	-	-	-	-	P	P	P	-	-	-	-	-	17.20.6.050
Residence, manufactured/factory-built	P	P	P	P	P	P	-	P	-	-	-	P	P	P	-	-	-	-	-	17.20.6.060
Retirement home	-	C	C	P	P	C	-	P	-	-	P	P	P	P	-	-	-	-	-	
<b>Special Care Facilities</b>																				
Community residential facility, type I	P	P	P	P	P	P	-	-	-	-	-	P	P	P	-	-	-	-	-	
Community residential facility, type II	C	C	C	P	P	P	-	-	-	-	-	-	C	C	-	-	-	-	-	
Day care center	C	C	C	C	C	C	-	P	P	-	P	P	P	P	P	-	-	-	-	
Emergency shelter	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	-	-	-	-	
Family day care home	P	P	P	P	P	P	-	P	-	-	C	P	P	P	-	-	-	-	-	
Group day care home	P	P	P	P	P	P	-	P	-	-	C	P	P	P	-	-	-	-	-	
Nursing home	-	-	C	C	C	C	-	P	C	-	P	P	P	P	P	-	-	-	-	
<b>Overnight Accommodations</b>																				
Campground	-	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-	P	-	-	17.20.6.070
Hotel/motel	-	-	-	-	-	-	-	P	P	P	P	C	P	P	-	-	P	-	-	
<b>Food and Beverage Sales</b>																				
Micro-brewery	-	-	-	-	-	-	-	-	P	-	P	C	C	C	-	-	P	P	-	17.20.6.080
Restaurant	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	17.20.6.080
Tavern	-	-	-	-	-	-	-	P	P	P	P	C	C	C	-	-	P	P	P	17.20.6.080
<b>General Sales</b>																				
Agriculture sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Auction sales	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	P	P	P	
Construction materials sales	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	P	
Convenience sales	C	-	-	-	-	-	-	P	P	P	P	C	-	-	-	-	P	P	P	
General sales	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

Manufactured housing sales	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
<b>Marijuana dispensary</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<u>P</u>	<u>P</u>	
Off-site liquor sales	-	-	-	-	-	-	-	P	P	P	P	C	C	C	-	-	P	P	P	
Secondhand sales	-	-	-	-	-	-	-	P	P	-	P	P	-	-	-	-	P	P	P	
Shopping center	-	-	-	-	-	-	-	C	P	-	-	-	-	-	-	-	P	P	P	
General Services																				
Administrative services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	C	-	P	-	-	
Commercial kennel	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	-	17.20.6.090
Financial services	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	-	-	
Funeral home	-	-	-	-	-	-	-	P	P	-	P	C	P	P	-	-	-	-	-	
General services	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	
Professional services	-	-	-	-	-	C	C	-	P	P	-	P	P	P	P	-	P	-	-	
Sexually-oriented business	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	17.20.6.100
Veterinary clinic, large animal	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	-	P	P	P	
Veterinary clinic, small animal	-	-	-	-	-	-	-	C	P	-	-	-	P	P	-	-	P	P	P	17.20.6.110
Rental and General Repair																				
Large equipment rental	-	-	-	-	-	-	-	-	C	C	-	-	-	-	-	-	P	P	P	
Small equipment rental	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	P	P	P	
General repair	-	-	-	-	-	-	-	P	P	-	P	P	-	-	-	-	P	P	P	
Vehicle Trade and Service																				
Vehicle fuel sales	-	-	-	-	-	-	-	C	P	P	P	P	-	-	-	-	P	P	-	
Vehicle repair	-	-	-	-	-	-	-	-	P	P	C	P	-	-	-	-	P	P	-	17.20.6.120
Vehicle sales and rental	-	-	-	-	-	-	-	-	P	P	P	P	-	-	-	-	P	P	-	
Vehicle services	-	-	-	-	-	-	-	C	P	P	P	P	C	P	-	-	P	P	-	
General Storage																				
Agricultural commodity storage facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Climate controlled indoor storage	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	
Fuel tank farm	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	
<b>Marijuana transporter</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	<u>P</u>	<u>P</u>	
Mini-storage facility	-	-	-	-	-	-	-	-	-	C	-	-	-	C	-	-	P	P	P	17.20.6.130
Freight terminal	-	-	-	-	-	-	-	-	-	C	-	-	-	-	-	-	P	P	P	
Warehouse	-	-	-	-	-	-	-	-	-	C	-	-	-	C	-	-	P	P	P	
Indoor Recreation/Sports/Entertainment																				
Casino, type I	-	-	-	-	-	-	-	-	P	-	P	-	-	-	-	-	P	P	P	17.20.6.140
Casino, type II	-	-	-	-	-	-	-	-	-	-	P	-	-	-	-	-	-	P	P	17.20.6.150
Indoor entertainment	-	-	-	-	-	-	-	-	P	-	P	C	C	C	C	-	P	-	-	
Indoor sports and recreation	-	-	-	-	-	-	-	-	P	-	P	C	C	C	C	C	P	P	-	
Outdoor Recreation/Sports/Entertainment																				
Golf course/driving range	C	C	C	C	C	-	-	-	-	-	-	-	-	-	-	P	P	-	-	
Miniature golf	-	-	-	-	-	-	-	-	P	C	-	-	-	C	-	-	P	C	-	
Outdoor entertainment	-	-	-	-	-	-	-	-	-	-	-	-	-	-	C	C	P	C	-	

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

Park	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Recreational trail	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Community Services/Uses																					
Administrative governmental center	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	C	P	-	-		
Animal shelter	-	-	-	-	-	-	-	-	C	C	-	-	C	C	C	-	P	P	-	17.20.6.160	
Cemetery	C	C	C	C	C	C	C	-	-	-	-	-	-	-	P	P	P	-	-	17.20.6.170	
Civic use facility	C	C	C	C	C	C	C	-	P	-	P	P	P	P	P	C	-	-	-		
Community center	C	C	C	C	C	C	C	C	P	-	P	P	P	P	P	C	-	-	-		
Community cultural facility	C	C	C	C	C	C	C	P	P	-	P	P	P	P	P	C	-	-	-		
Community garden	P	P	P	P	P	P	P	C	C	C	C	P	P	P	P	P	P	C	C	17.20.6.175	
Public safety facility	C	C	C	C	C	C	C	C	P	C	P	P	P	P	P	-	P	P	-		
Worship facility	C	C	C	C	C	C	C	P	P	-	C	P	P	P	P	-	P	-	-	17.20.6.180	
Health Care																					
Health care clinic	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-		
Health care facility	-	-	-	-	-	-	-	-	P	-	P	P	C	C	P	-	-	-	-		
Health care sales and services	-	-	-	-	-	-	-	P	P	-	P	P	P	P	P	-	-	-	-		
Education																					
Commercial education facility	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	P	-		
Educational facility (K—12)	C	C	C	C	C	C	C	C	-	-	-	C	C	C	P	-	-	-	-	17.20.6.200	
Educational facility (higher education)	-	-	-	-	-	-	-	C	C	-	-	C	C	C	P	-	P	-	-		
Instructional facility	-	-	-	-	-	-	-	P	P	-	P	P	P	P	-	-	P	P	-		
Solid Waste, Recycling and Composting																					
Composting facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.210	
Recycling center	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.220	
Solid waste transfer station	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.230	
Telecommunications																					
Amateur radio station	P	P	P	P	P	P	P	-	-	-	-	-	-	-	-	-	-	-	-	17.20.6.240	
Telecommunication facility																				17.20.6.250	
Concealed facility	C	C	C	C	C	C	C	P	P	P	P	C	P	P	P	C	P	P	P		
Unconcealed facility	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	C	P	P	P		
Co-located facility	-	-	-	-	-	-	-	P	P	P	P	C	C	C	C	C	P	P	P		
Utilities																					
Utility installation	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	C	P	C	P		
Transportation																					
Airport	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-		
Bus transit terminal	-	-	-	-	-	-	-	-	P	P	P	-	C	C	C	-	P	P	-		
Heli-pad	-	-	-	-	-	-	-	-	C	C	C	C	C	C	C	C	P	P	P	17.20.6.260	
Parking lot, principal use	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	P	P	P	P		
Parking structure	-	-	-	-	-	-	-	-	P	-	P	P	P	P	P	P	-	P	P		
Railroad yard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P		
Taxi cab dispatch terminal	-	-	-	-	-	-	-	-	P	P	P	-	P	P	-	-	P	P	-		
Contractor Yards																					
Contractor yard, type I	C	-	-	-	-	-	-	-	C	-	-	-	P	P	-	-	P	P	-	17.20.6.270	

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

Contractor yard, type II	-	-	-	-	-	-	-	-	-	-	-	-	C	C	-	-	P	P	P	17.20.6.280
Industrial/Manufacturing																				
Artisan shop	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	-	
Industrial, heavy	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	P	
Industrial, light	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Industrial park	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	P	P	
Junkyard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	C	P	17.20.6.290
Light manufacturing and assembly	-	-	-	-	-	-	-	-	P	P	P	P	P	P	-	-	P	P	P	17.20.6.300
<b><u>Marijuana manufacturing</u></b>																			<u>P</u>	
<b><u>Marijuana testing laboratory</u></b>																		<u>P</u>	<u>P</u>	
Motor vehicle graveyard	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	17.20.6.310
Motor vehicle wrecking facility	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	17.20.6.320

- The use is not permitted in the district

C The use is allowed through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 6 of this chapter, as appropriate

(Ord. 3249, 2022; Ord. No. 3056, ~~§ 1, 8-17-2010~~; Ord. No. 3068, ~~§ 2, 4-5-2011~~; Ord. No. 3087, ~~§ 1(Exh. A), 6-19-2012, eff. 7-19-2012~~; Ord. 3166, 2017; Ord. 3221, 2020)

## Exhibit 20-2. Accessory uses by district

Use	R-1	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Special Standards
Accessory living space	P	P	P	P	P	P	-	P	P	P	P	P	P	P	P	-	-	-	-	17.20.7.010
Agriculture, livestock	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	17.20.7.080
ATM, exterior	-	-	-	-	-	-	-	P	P	P	P	P	P	P	P	-	P	P	P	17.20.7.020
Bed and breakfast	C	C	C	C	C	C	-	C	-	-	-	P	P	P	-	-	-	-	-	17.20.7.030
Fences	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	17.20.7.040
Gaming, accessory	-	-	-	-	-	-	-	-	P	P	P	-	-	P	-	-	P	P	P	17.20.7.050
Garage, private	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	P	P	P	17.20.7.060
Home occupation	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	17.20.7.070
Private stable/barn	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	P	-	-	17.20.7.080
Residence, accessory	-	-	-	-	-	-	-	P	P	P	P	P	P	P	-	-	P	P	P	17.20.7.085
Roadside farmer's market	P	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	17.20.7.090

## EXHIBIT "A" – Bold/Strikethrough Version of Text Amendment

Storage containers	-	-	-	-	-	-	-	-	P	P	-	-	-	-	-	-	P	P	P	17.20.7.100
Wind-powered electricity systems	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	17.20.7.110

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 7 of this chapter, as appropriate

(Ord. 3249, 2022; Ord. No. 3034, § 1, 7-21-2009; Ord. No. 3056, § 1, 8-17-2010; Ord. No. 3087, § 1(Exh. A), 6-19-2012, eff. 7-19-2012)

### Exhibit 20-3. Temporary uses by district (see 17.20.8.010 for Special Standards)

Use	R-1	R-2	R-3	R-5	R-6	R-9	R-10	C-1	C-2	C-3	C-4	C-5	M-1	M-2	PLI	POS	GFIA	I-1	I-2	Special Standards
Garage sales	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	-	-	P	P	17.20.8.015
Itinerant outdoor sales	-	-	-	-	-	-	-	-	P	P	-	-	-	P	-	-	C	C	-	17.20.8.020
On-site construction office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	17.20.8.030
On-site real estate sales office	P	P	P	P	P	P	-	-	-	-	-	-	P	P	-	-	-	-	-	17.20.8.040
Outdoor entertainment, temporary	-	-	-	-	-	-	-	-	P	P	-	-	-	-	P	P	P	P	P	
Sidewalk café	-	-	-	-	-	-	-	P	P	-	P	P	P	P	C	C	-	-	-	17.20.8.050
Sidewalk food vendor	-	-	-	-	-	-	-	-	P	-	P	P	P	P	P	P	-	-	-	17.20.8.060

- The use is not permitted in the district

C The use is allowed in the district through the conditional use process

P The use is permitted in the district by right, consistent with the development standards contained in Article 8 of this chapter, as appropriate

(Ord. 3249, 2022; Ord. No. 3056, § 1, 8-17-2010; Ord. 3221, 2020)

### 17.20.3.070 Prohibited land uses.

No use of land shall be permitted by right or conditionally permitted within the City of Great Falls that is in violation of federal, state or local law, except for land uses relating to activities licensed by the Montana Department of Revenue under the Montana Marijuana Regulation and Taxation Act and identified as allowed in 17.20.3.010 and its accompanying exhibits.

(Ord. 3249, 2022; Ord. No. 3054, § 1, 6-1-2010)

September 2020  
Prepared by  
WGM Group

# Montana Planning Board Member's Handbook

# INTRODUCTION

To all the planning board members in the state of Montana, we thank you for volunteering your time to do this important work in your community!

This planning board handbook is a practical guide for new planning board members as well as those with more experience.

Many planning board members come to the position without any training or experience in planning, land use regulations, or serving in an official public role. For many planning board members, fulfilling their roles can feel like a constant game of catch-up.

Our intent is to provide a handbook that covers a broad spectrum of planning board roles and point you in the direction of other resources for more detail. In particular, we recommend you become familiar with your local growth policy, local subdivision regulations, other regulations for which you are responsible, and applicable Montana statutes. These statutes authorize planning boards and provide many details regarding how to conduct meetings, review subdivisions, and prepare growth policies. All Montana statutes are subject to change with every legislative session and hardly a session has passed without some change to land use law. It can be a challenge to prepare a handbook that can last over time and still reflect principles of state statute.

This handbook is an update of a previous version prepared in 2009. Much of what is in that version is still valid and much is incorporated into this document. We have worked to make this version a little more reader-friendly, with fewer technical details, such as excerpts of exact language of state statute. We have, however, worked assiduously to ensure requirements of state statute as it exists in 2020 are the foundation for what is presented here, along with solid general principles that apply to planning boards across the nation.

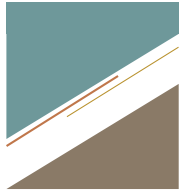
This resource book is clearly not intended to provide a comprehensive review and explanation of all the detailed nuances of Montana's land use law. If you would like additional information about a specific topic, please refer to the resources in the appendices. This book does not replace the legal advice of the city or county attorney.

Again, thank you for your interest and dedication to the planning board in your community!

# CONTENTS

<b>CHAPTER 1: PURPOSE AND IMPORTANCE OF A PLANNING BOARD .....</b>	<b>1</b>
What is a Planning Board? .....	1
Why Have a Planning Board? .....	1
Planning Board Role on Land Use Matters – Montana Requirements .....	2
<b>Planning Board – Overview of Creation, Organization, and Staffing .....</b>	<b>4</b>
Planning Board Fundamentals .....	5
<b>CHAPTER 2: PLANNING BASICS – THE GROWTH POLICY .....</b>	<b>7</b>
Why Plan? .....	7
Growth Policy: Purpose and Content .....	8
Planning Board Role in Developing and Updating a Growth Policy .....	9
Role of Planning Board in Implementing Growth Policy .....	10
<b>CHAPTER 3: PLANNING BOARD ROLE IN SUBDIVISION REVIEW .....</b>	<b>13</b>
<b>Subdivision Review Process .....</b>	<b>14</b>
Planning Board Recommendations .....	17
Review Criteria .....	18
Findings of Fact and Conclusions .....	18
Conditions of Approval .....	20
Variances .....	21
Other Regulations Important for Subdivision Review .....	21
Sanitation in Subdivision .....	21
Floodplain Regulations .....	21
Zoning Regulations .....	21
<b>CHAPTER 4: CONDUCTING MEETINGS AND HEARINGS .....</b>	<b>22</b>
Public’s Right to Know and Participate .....	22
Planning Board Meetings: Regular and Special .....	23
Public Hearings .....	25
Planning Board Responsibilities at Meetings and Hearings .....	27
<b>CHAPTER 5: PLANNING BOARD ORGANIZATION &amp; OPERATIONS .....</b>	<b>29</b>
Type of Planning Boards – Jurisdictional Areas and Membership .....	29
Bylaws .....	30
<b>Responsibilities of Board Officers and Members .....</b>	<b>32</b>
Planning Board Member Ethics .....	33
Planning Board Working Relationships .....	35
<b>CHAPTER 6: PLANNING BOARD MEMBER – BEST PRACTICES .....</b>	<b>37</b>
Ten Best Practices for Planning Board Members .....	37
 <b>APPENDICES</b>	
<b>A – 2019 STATUTORY AUTHORITY AND REQUIREMENTS FOR PLANNING BOARD-RELATED MATTERS</b>	
<b>B – ADDITIONAL “BEST PRACTICES” MONTANA ASSOCIATION OF COUNTIES – PLANNING BOARD TRAINING</b>	





## CHAPTER 1: PURPOSE & IMPORTANCE OF A PLANNING BOARD

### What is a Planning Board?

A planning board is a group of citizens who advise on planning, land use, and community development for towns, cities, and counties. The governing bodies of the local jurisdiction appoint them. The governing body of a county is the board of county commissioners and the governing body of a city or town is the city council or city commission. The planning board is an advisory board; the governing body makes decisions on land use matters.

In Montana, each planning board has a legally defined area for which it is responsible, the planning board's "jurisdictional area." The jurisdictional area can be a city, a county, or a combination of cities, or cities and counties. The number of planning board members and what jurisdictions they represent varies by what is included in the planning board's jurisdictional area.

Planning boards  
in other states  
are called  
"Planning  
Commissions."

One of the first  
planning boards  
was created  
in 1902 in  
Cleveland, Ohio.

### Why Have a Planning Board?

Governing bodies rely on the advice of planning boards for informed citizen-level perspectives on land use matters including subdivision review and growth policies.

An informed planning board with members who can represent various local interests helps pave the way for better decision-making. Informed planning board members understand the need for planning and land use regulations at a deeper level than the general public. New planning board members may not be more informed than the public when they first get on the board but they have a responsibility to learn over time. This handbook provides guidance for both new and more experienced members.

As a group, planning board members represent a balance of the various interests and perspectives in the community. Planning boards often are the first public body to hear comments from the public on a proposed action. Governing bodies rely on planning board recommendations to objectively consider public comment, staff input, and compliance with local plans and regulations. Although final decisions rest with the governing body, planning board recommendations are a crucial step in that process.

Planning boards are not just a good idea; in Montana they are required by state statute (Montana Code Annotated or MCA) for certain actions.

## Planning Board Role on Land Use Matters – Montana Requirements

This section provides more information on what Montana statute requires planning board members to do on certain land use matters. This section also identifies other planning board activities that are authorized, but not required, in Montana statute.

Although there are several land use matters that involve a planning board, most planning board members are involved in only a few. Some of the requirements apply only in counties and some apply only in cities.

In most Montana communities, planning boards spend more time on subdivision review than any other function. Developing and implementing growth policies is typically next in terms of work effort. Because these two functions comprise such a major portion of planning board efforts, separate chapters on growth policies and subdivision are included later in this handbook.

### Growth Policy

A growth policy is a long-range plan that guides decisions regarding the community's physical development. Planning for the development of land, roads, water, sewer, and other services is an important part of a growth policy.

**Planning board role:** The planning board is the entity responsible for preparing the document, holding a public hearing and submitting a recommendation to the governing body. (MCA 76-1-603)

### Subdivision

Subdivision, generally speaking, is a division of land into parcels intended for sale or other transfer of ownership. The plat is the document that creates the land into subdivision lots.

**Planning board role:** In jurisdictions that have adopted a growth policy and subdivision regulations, the governing body is required to seek the advice of the planning board on subdivision review. In addition, the planning board can provide recommendations on subdivision regulations. (MCA 76-1-107 and MCA 76-1-106)

### Zoning

Zoning regulates land uses and its primary purpose is to segregate incompatible uses. It can also address building dimensions and siting on a lot. In traditional zoning, the segregation of uses is accomplished by mapping use districts, such as residential, commercial, or industrial.

**Planning board role:** If county commissioners propose an area within the county to be zoned, statute requires the commissioners to ask the planning board to develop and recommend boundaries and regulations. Planning boards also can function as a zoning commission for municipalities. (MCA 76-1-108 and MCA 76-2-204)

## MONTANA STATUTE ON PLANNING BOARD ROLE

The statutory requirements discussed in this planning board handbook are those in the 2019 Montana Code Annotated (MCA). The statutory requirements may change over time as the legislature reviews and makes changes to portions of the MCA every two years. Appendix A includes more information on where to find the statutory requirements applicable to planning boards.



## Lakeshore Regulations

Lakeshore regulations address activities on the perimeter of lakes that could affect water quality, fish or wildlife habitat, recreation, public safety, or scenic values. Proposed activities that meet requirements for impacts are issued permits to construct. Activities that need lakeshore regulations include dredging, filling, or construction of various types including wharves, pilings, or docks. (MCA 75-7-201, 204, and 208)

Planning board role: When counties have planning boards, the governing bodies are required to seek the planning board's recommendations on lakeshore regulations and on the issuance of lakeshore permits. (MCA 75-7-207 and 211)

## Urban Renewal District Plans

An urban renewal plan is a plan for an area that has become blighted in an incorporated city or town. One of the major reasons for creating an urban renewal district is to utilize the tax-increment financing provision, which can target property tax revenues to address public infrastructure in the blighted area.

Planning board role: Statute requires planning board members to review a proposed urban renewal plan for conformity with the growth policy and make a recommendation to the governing body of the city. (MCA 7-15-4213)

## Conservation Easements

A conservation easement is a voluntary legal agreement that a landowner enters into to restrict the type and amount of development that may occur on his or her property.

Planning board role: Before a landowner can record a conservation easement with the clerk and recorder, the easement must be submitted to the planning board for review and comment regarding how the easement aligns with the growth policy. The conservation easement may be recorded after the landowner receives comments or after 90 days have elapsed since the time the easement was submitted to the planning board, whichever comes first. This is the one review process in which the planning board operates on its own, rather than making recommendations to the governing body. By statute, planning board comments on conservation easements are non-binding. (MCA 76-6-206)

## Authorization to Develop Other Policies and Requirements (MCA 76-1-106)

In an advisory capacity, the planning board can develop and propose policies and requirements for the following:

- Subdivision regulations
- Regulations for the development of public streets/roads, public facilities, public buildings and public-private utilities
- Plans for public infrastructure, including roads, water, sewer, parks, etc.

## Advice on Other Land Use Matters (MCA 76-1-102)

Planning boards may be requested to advise on other plans and actions related to community development and the health, safety, and welfare of residents.

**Other Plans** – There are a variety of other plans that the planning board may be asked to review for compliance with the growth policy. Examples include capital improvement plans or downtown master plans. More information on these other plans is included in the next chapter on growth policies.

**Zoning Amendments** – Even when the planning board has no other responsibility for zoning, it is a good idea to have a planning board review new zoning or proposed changes for compliance with the growth policy. All municipal zoning must be based on guidance in the growth policy. (MCA 76-2-304)

## Planning Board – Overview of Creation, Organization, and Staffing

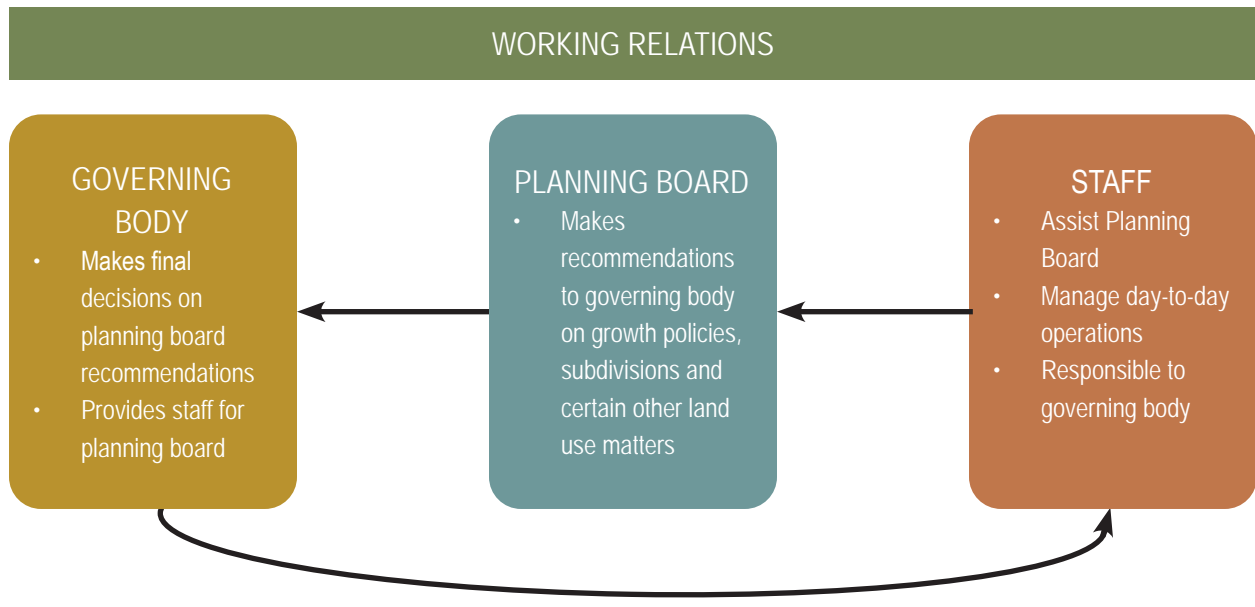
This section provides a brief overview of the planning board organization. Chapter 6 provides more detail on each of the following topics.

**Bylaws** – State statute instructs planning boards to develop “regulations” for planning board affairs. Planning boards adopt and operate under bylaws to fulfill this statutory duty.

**Governing Body** – The governing body establishes the planning board and appoints members. The planning board serves in an advisory capacity to the governing body. The planning board can make recommendations on land use matters, but the governing body makes the final decisions. The governing body is responsible for final decisions on budget and work plans that the planning board may recommend for planning related activities.

**Staff** – State statute recognizes that planning boards will need staff and requires governing bodies to provide staff. Staff typically administer local regulations and prepare detailed written reports for planning board review on proposed subdivisions, growth policies, and other land use matters. Chapters 2 and 3 contain more information on the role of staff in growth policies and subdivision review.

**Consultants** – Consultants may be hired by the governing body on a long-term basis to fulfill the role of staff or to work on shorter-term special projects, such as updating a growth policy or subdivision regulations.



## Planning Board Fundamentals

This planning board handbook provides information on planning board roles in growth policies, subdivisions, meetings, hearings, and general board operations. The following are fundamentals to guide how you act in any task you take on as a board member.

### 1. Act in the Public Interest

Planning board members must act and make decisions in the “public interest.” The public interest represents the benefits to society rather than to a certain group or an individual. For the planning board, the society is the community that you serve in your jurisdictional area.

The actions of the planning board should be transparent to the public. Part of acting in the public interest is ensuring that the public has the right to know about proposed actions and is provided an opportunity to review documents and submit comments prior to a decision. Public right to know and right to participate are embedded in the Montana Constitution.

### 2. Provide Objective Decisions

Objective, reasonable decision-making based on facts is fundamental to sound and legally defensible decisions. Objective, reasonable decisions also are fundamental to acting in the public interest.

Every decision on a land use application reviewed by the planning board should have a written record, called “Findings of Fact.”

### 3. Understand Plans and Regulations

Planning board members need to understand the basics of land use planning and the purpose of regulations. Read and be familiar with the local growth policy, local subdivision regulations, and any other regulations and plans the planning board deals with on a regular basis. Doing so will help to ensure objective decision making.

### 4. Work to Update Local Regulations to Conform to State Statute

Much of what you review as a planning board member is explicitly required by Montana statute. Montana land use statutes have been changed in nearly every legislative session for the past 20 years. Those changes can affect the scope of local land use decisions and how communities make those decisions. If local regulations, including subdivision regulations, are not updated to conform to state statute, it can result in confusion and potential legal issues.

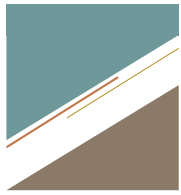
Work with planning board staff to identify needed updates. Communicate with the governing body about any need for changes and advocate for local regulations and planning processes to continually reflect current state law.

### 5. Involve the Public and Build Awareness

Encouraging public involvement, communicating the value of planning, and consensus building are important for planning board members. Planning board members learn what is important to everyone in the community by listening to citizens' concerns, especially those concerns of differing views. A planning effort should involve as broad a segment of the community as possible to assure that the community's opinions are heard. Consensus on issues can be difficult to achieve, and when it is not possible, demonstrate leadership in working toward compromise.

Promoting transparency and openness  
is critical to building trust in government.

– International City/County Management Association,  
excerpted from the “Checklist for Building Trust and Confidence in the Community”



## CHAPTER 2: PLANNING BASICS – THE GROWTH POLICY

This section and the following sections provide some key points for planning board members to know about growth policies. The Montana Department of Commerce has prepared a separate Growth Policy Handbook that is a far more detailed resource.

### Why Plan?

There are many reasons for a community to undertake land use planning; the following are some of the most important:

#### Ten Reasons to Plan:

1. Good planning helps communities drive constructive change – starting with a broad vision, developing achievable goals, and realizing them builds credibility and support for planned projects.
2. Communities that do not actively plan can be left behind.
3. Planning improves results – successful communities build momentum by undertaking priority projects that align with the community vision.





4. Planning identifies pressing issues and available resources – and makes sure that initiatives are not redundant or going in different directions.
5. Anticipating is more cost effective than reacting to problems – planning paves the way for more efficient use of local services and infrastructure. Unplanned spatial patterns are inefficient and require more resources to maintain. Communities can save tax dollars with good planning.
6. Planning provides predictability and fairness – for citizens, elected officials, city staff, and the development community regarding future development.
7. Provides more consistency for private development – identifies where and what type of development is desired, making it easier for private individuals to assess the costs and benefits associated with selling or developing land.
8. Provides for ensured continuity of plans through political cycles – establishing a stable road map and priorities that are acted upon, producing results and instilling public confidence.
9. Planning positively impacts the economy – communities compete to attract investment with a view to create and maintain jobs. Planning coordinates spatial location and distribution of economic activity.
10. Planning can help conserve landscapes that provide important public benefits such as wildlife habitat, storage of floodwaters, groundwater recharge and view sheds that would be difficult and expensive to replace if damaged.

## Growth Policy: Purpose and Content

In Montana, a growth policy – often referred to in other states as comprehensive plans, master plans, or general plans – is the plan that describes the community's long-term vision and the general steps needed to achieve the vision. The term growth policy is equally applicable to Montana communities that are experiencing dramatic population increases and those that have static or declining populations. All communities can benefit from establishing a vision for their future.



MY COMMUNITY IS NOT GROWING... WHY HAVE A GROWTH POLICY?

Communities with no population growth or declining populations need growth policies to help plan for the future, at a minimum to address aging infrastructure. More positively, growth policies can stimulate a vision for what the community wants to become and identify steps to achieve the vision.



State statute has a long list of required contents for a growth policy.

The following content requirements are of particular interest to planning boards for their roles in growth policy implementation and reviewing other plans and regulations for conformance with the growth policy:

## Vision for the Future

Although not required, many growth policies include a generalized description of what the community would like to see for the future.

## Goals and Objectives

Includes discussion of future land use, specific goals and objectives, and may include a future land use map – these are important for the planning board when considering whether a particular action or plan complies with the growth policy or when establishing new or considering changes to existing zoning.

## Implementation Strategy

These are the action steps needed to implement the growth policy, which may be accompanied by a schedule or priority ranking.

## Provisions for Revising or Updating the Growth Policy

These provisions trigger when the growth policy needs updating. The role of the planning board is the same for updating/revising a growth policy as it is for developing the original growth policy.

## Subdivision Specifics

The growth policy must include specific content for subdivisions, as follows:

1. **“608(3)(a) criteria:”** The growth policy must define the criteria for reviewing subdivisions. These criteria are referred to as 608(3)(a) criteria, a reference to MCA 76-3-608, the portion of state law that require subdivision regulations to include criteria to assess the impact of subdivisions on agriculture, agricultural water user facilities, local services, natural environment, wildlife, wildlife habitat, and public health and safety.
2. **Public hearing process:** The growth policy is required to identify how public hearings on subdivisions will be conducted. If addressed in subdivision regulations or planning board bylaws, those documents will need to conform to the growth policy’s statement.
3. **Update subdivision regulations:** Statute requires subdivision regulations to conform to the growth policy.

## Planning Board Role in Developing and Updating a Growth Policy

In Montana, a planning board is responsible for preparing or updating a growth policy at the request of the governing body. A community cannot have a growth policy without planning board involvement, but the planning board is not charged with actually writing the document.

Planning boards typically work with staff or consultants who are familiar with statutory requirements for content and process and who have the experience and time to write the plan document.

Planning board members' roles generally include:

- Guiding development of the growth policy overall, with particular attention to the goals and objectives that help achieve the community's vision for the future
- Understanding why a growth policy is important and being able to communicate that to others
- Reviewing draft documents and other growth policy materials
- Discussing drafts and other growth policy items with staff or consultants, as part of scheduled planning board meetings
- Encouraging opportunities for sharing information with the public and obtaining comments to help shape the growth policy before the required public hearing
- Holding a public hearing, and considering comments prior to making a recommendation to the governing body (This last item is a requirement of Montana statute)

## Role of Planning Board in Implementing Growth Policy

The planning board plays an essential role in implementing the growth policy by advising the governing body on planning related issues. Planning boards review to ensure that new actions do not conflict with the growth policy and other plans. When serious conflicts arise due to new facts or data in another plan, it may be time to consider an updated growth policy.



## Planning Board Review of Other Plans

The growth policy is a long-range and comprehensive plan providing general guidance on a broad range of topics. Additional, more detailed planning is needed on some topics. Other plans include the following:

- *Area Plans Amended into the Growth Policy (Neighborhood Plans)*

Growth policies can include specific plans for smaller geographic areas. Referred to as "Neighborhood Plans" in Montana statute, they often are developed after the growth policy has been adopted. Downtown master plans, for example, are adopted in many communities as amendments to the growth policy.



- *Capital Improvement Plans (CIP)*

A CIP is a detailed document that helps communities identify their public facility needs (e.g. water, sewer, roads, buildings), establish priorities for projects, and outline a long-range program for the scheduling and funding of projects. CIPs are important because they provide detailed plans for infrastructure to serve areas and purposes planned for in the growth policy. Many communities use the term CIP for annual or five-year budgets for infrastructure costs. That is not the same as the comprehensive needs assessment and priority-setting in a CIP as described here.

- *Pre-Disaster Mitigation Plans*

Most Montana communities have a pre-disaster mitigation plan because it is a prerequisite for receiving government disaster mitigation funding. A pre-disaster mitigation plan profiles significant hazards to the community and identifies mitigation projects that can reduce those impacts. The purpose is to promote sound public policy to protect residents, critical facilities, infrastructure, private property, and the environment from natural and man-made hazards. These plans contain information that is useful in developing or updating a growth policy or other more specific plans and actions because they identify areas that are unsuitable for certain developments.

- *Annexation Plans/Policies*

An annexation policy or plan assists in providing a comprehensive policy and guidance for city decision-makers regarding annexation. The annexation policy will provide greater detail than the growth policy regarding annexation process and approval criteria, including what areas are desirable or suitable for annexation. The annexation policy should support annexation in areas planned for in the growth policy and determine effective provisions for sewer, water, and other public services.

- *Extension of Services Plans/Policies*

Extension of service plans or policies are developed to outline where services such as police, fire, emergency medical services, solid waste services, streets, street maintenance, and sometimes

water and sewer services, may extend beyond the municipal boundary or existing service area. These plans typically show anticipated development a minimum of five years in the future and how the municipality (or other service provider) plans to extend services.

- *Other Plans: Transportation, Housing, Trails, Parks, etc.*

There is a variety of other plans that communities use at a more detailed level than the growth policy. These include transportation plans that may include bike and pedestrian facilities in addition to vehicle roadways in the plan. Affordable housing has become another planning focus in Montana communities.

## Planning Board Review of Other Actions

Other actions reviewed by the planning board for growth policy compliance include:

- **Regulations**

Land use regulations, such as subdivision and zoning, need to conform to the growth policy. Once a growth policy or updated growth policy is adopted, regulations should be reviewed and updated as needed. Municipal zoning is required to follow the guidance of a growth policy. The subdivision regulation provisions of “608(3)(a) criteria” and subdivision hearing” will need to conform to the update. Other goals, objectives or implementation steps may also necessitate changes.

- **Proposed subdivisions**
- **Conservation easements**
- **Other development proposals**

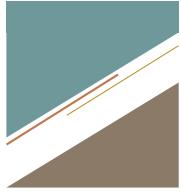
When the planning board reviews and comments on land use proposals, substantial consideration should be given to the growth policy’s goals, objectives, and future land use map.

## Planning Board Role in Monitoring Implementation

Planning boards can play an important role in growth policy implementation.

1. **Provide annual progress reports to the governing body**
2. **Be advocates for moving action strategies forward**
  - Communicate with the governing body on a regular basis regarding growth policy implementation
  - Work with staff to prepare recommendations to the governing body on project priorities, implementation schedule, and identify needed resource opportunities
3. **Be proactive about updates**

State statute requires growth policies to be reviewed at least every five years to determine if an update is needed. As part of your annual report, review the growth policy criteria for updating a growth policy and determine if updates are needed.

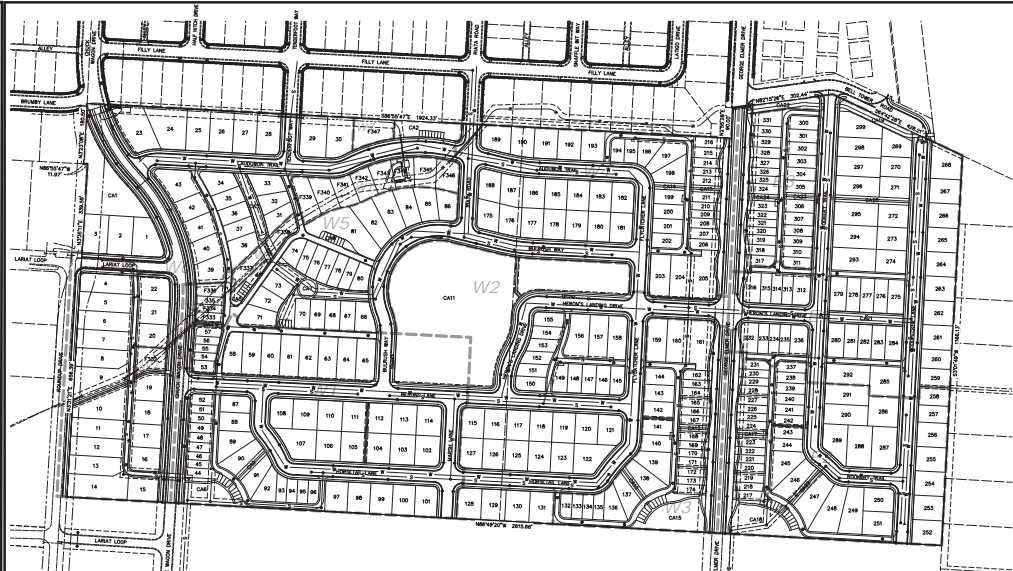


## CHAPTER 3: PLANNING BOARD ROLE IN SUBDIVISION REVIEW

Planning boards typically spend more time on subdivision review than any other responsibility. The planning board's role is to review the application and staff report and make a recommendation to the city council or county commissioners on whether to approve, approve with conditions, or deny the application. The recommendations must be documented with findings of fact that explain the rationale behind the recommendation.

There are two types of subdivisions, minor subdivisions and major subdivisions. Minor subdivisions contain five or fewer lots and do not, and cannot, require a public hearing. Major subdivisions, and subsequent minor subdivisions (Any subdivision of five or fewer parcels that is not a first minor subdivision), require a hearing.

Subdivision  
Plat – a  
detailed  
drawing  
showing the  
layout of the  
subdivision  
with streets,  
alleys, lots,  
blocks,  
boundaries,  
and  
parklands.



City of Missoula - [ci.missoula.mt.us/DocumentCenter/View/52380/21-preliminary-plat?bidId=](https://ci.missoula.mt.us/DocumentCenter/View/52380/21-preliminary-plat?bidId=)

## Subdivision Review Process

The Montana Subdivision and Platting Act, a separate chapter in Montana statute, mandates subdivision review. The review process includes the following steps.

### 1. Pre-Application Meeting

State statute requires local subdivision regulations to include a pre-application process. Typically, staff meet with the client to review the initial proposed subdivision concept and subdivision requirements. Information includes the applicable laws and regulations, growth policy provisions, agencies to contact for comments, and time limits for submitting the application.

### 2. Submitting the Preliminary Plat Application

The requirements for what must be included in an application are included in the local subdivision regulations.

The Montana Subdivision and Platting Act (MSPA) requires local subdivision regulations to list the materials required for an application. The MSPA provides a framework for the types of information that can be required, but allows local governments the latitude to specify exactly what an application must contain and how detailed the information should be.

The following items are generally required in a subdivision application:

- Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, boundaries, utility easements, proposed improvements, and parklands
- A Location or Vicinity Map: Identifies the location of the subdivision within the jurisdiction, and its relationship to the overall community and local services
- A Topographic Map: Showing the subdivision (lots, roads, etc.) in relation to the terrain
- An Environmental Assessment: This provides information needed for assessing the impact of the subdivision on the "608(3)(a)" criteria – agriculture, agricultural water user facilities, local services, natural environment, wildlife, wildlife habitat, and public health and safety
- Preliminary water and sanitation information (as required by the "Sanitation in Subdivisions Act")
- Supplemental Information: including storm-water drainage plans, traffic impact studies, floodplain studies, and groundwater availability analyses all generally compiled by a professional engineer

In addition, local regulations may require information such as:

- A reduced copy of the plat for inclusion in mailed correspondence to adjacent landowners and state and local agencies
- A list of the adjacent landowners



- Copies of proposed covenants and restrictions, if any, to be included in deeds or contracts of sale
- Any approach permits where proposed roads or access points will intersect with public streets or roads
- Fire protection plan
- A letter of approval from the appropriate governing body where a zoning change is necessary (if not handled concurrently with the subdivision proposal)
- Ownership of mineral and water rights associated with the subdivision

### 3. **Application Review: Element and Sufficiency**

Required by statute, this step determines if the application is ready for review. It consists of two steps: **Element Review** and **Sufficiency Review**. Staff are typically responsible for this review.

#### *Element Review*

Staff has five working days to determine if the application contains all of the basic elements required under statute and local regulations. If the application is deficient, staff notify the subdivider in writing and stop processing the application until the required elements are included. If it contains all the required elements, the application may move on to sufficiency review.

#### *Sufficiency Review*

Staff has 15 working days to determine if the material provided is sufficient for agency review. If the material is not sufficient then staff notify the subdivider in writing and stop processing the application. If the necessary elements are provided, then the subdivision review period may begin.

### 4. **Site Inspection**

A site inspection allows staff, planning board members, and other local officials to view the property in relation to the proposed subdivision and consider the physical features of the site as they relate to the proposed design.



## 5. Agency/Utility Review

Statute requires local subdivision regulations to include provisions for review of the subdivision application by utility companies and local, state, and federal government agencies. The comments help to determine if a proposed subdivision meets other applicable regulations and can provide useful information about impacts to the 608(3)(a) criteria.

## 6. Staff Report

The staff report is the primary document used by the planning board to develop a recommendation to the governing body. Staff reports typically provide five primary parts, an introduction, background information, findings of fact, conclusions of law, and a recommendation for approval, approval with conditions, or denial.

## 7. Public Comment

Prior to making a recommendation to the governing body, the planning board must provide a meaningful opportunity for public review of and comment on the proposed subdivision. The planning board typically does this with a meeting or a hearing. The Montana Subdivision and Platting Act requires at least one public hearing. Many communities have a hearing with the planning board and another with the governing body. Refer to the chapter on “Conducting Meetings and Hearings” in this handbook for more information.

## 8. Preliminary Plat – Planning Board Review and Recommendation

After considering the application, staff report, comments from the applicant, agencies, and the public, the planning board provides a written recommendation. It addresses the following topics: (1) findings of fact about the proposal, (2) conclusions of law regarding compliance with the Montana Subdivision and Platting Act and local subdivision regulations, and (3) whether to approve, conditionally approve, or deny the proposed subdivision. A recommendation for conditional approval is accompanied by the specific conditions for approval, e.g., road construction, parkland dedication, DEQ approval, etc. The board should provide a rationale for the recommendation provided.

This recommendation, along with a copy of the staff report, subdivider’s application, agency and public comments, technical reports, and a written transcript or minutes of the hearing, are provided to the governing body for final action.

## 9. Preliminary Plat – Action by Governing Body

The governing body makes the final decision to approve, conditionally approve, or deny the proposed subdivision. Prior to their final decision, they also provide another opportunity for public comment. If the planning board has not held a public hearing, then the governing body holds the hearing. The governing body’s final decision also includes (1) findings of fact about the proposal, (2) conclusions of law regarding compliance with the Montana Subdivision and Platting Act and local subdivision regulations, and (3) whether to approve, conditionally approve or deny the proposed subdivision.



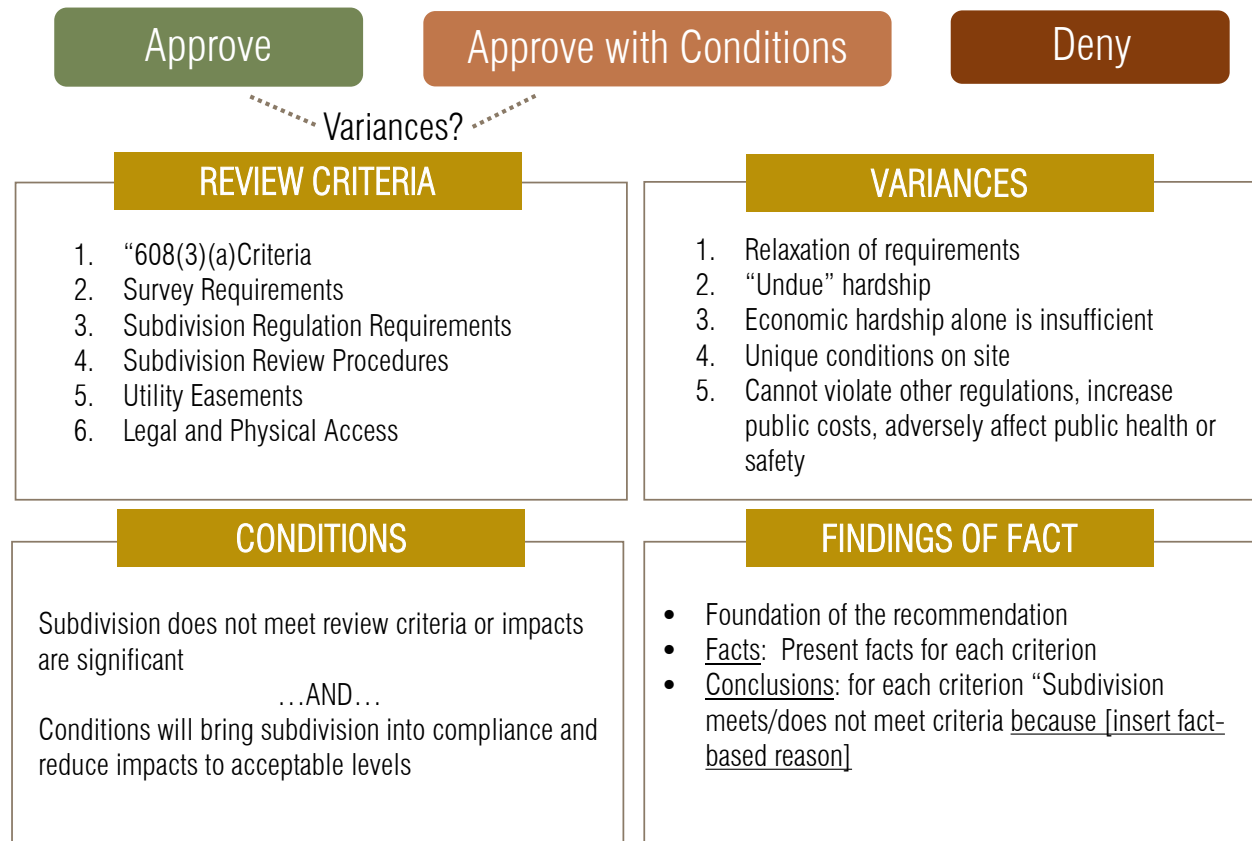
## 10. Final Plat

The governing body reviews the final plat and required materials, including documentation that conditions of approval have been satisfied. The governing body approves a final plat when the subdivision is determined to meet all requirements for a final plat. Requirements for final plats are included in state statute and local regulations. Upon receiving final plat approval, the subdivider may file the plat with the clerk and recorder, and the lots are officially recognized as individual parcels for transfer.

## Planning Board Recommendations

When a planning board makes a recommendation, it will come in one of these three forms:

1. **Approval:** This means that the reviewing body found that the facts and evidence indicate the criteria are satisfied.
2. **Approval with conditions:** This means that the reviewing body has found that the facts and evidence do not demonstrate the criteria are fully satisfied, but, through the application of conditions, the criteria can be satisfied.
3. **Denial:** This means the reviewing body has found that the facts and evidence have not demonstrated that the criteria are satisfied and the application cannot be made to comply with conditions attached to it.



The planning board submits their recommendation with the following information to the governing body:

1. **Findings of Fact**
2. **Conclusions**
3. **Recommendation to Approve, Conditionally Approve, or Deny and include:**
  - The rationale for the planning board's recommendation
  - A list of specific conditions if the recommendation is for conditional approval.
4. **Materials Used in Arriving at the Recommendation**
  - Copy of the staff report
  - Minutes or transcript of the planning board's public hearing or meeting
  - Other comments received
  - Application and materials submitted with the application
  - Technical reports, if any

## Review Criteria

The governing body's decision to approve, approve with conditions, or deny the subdivision must address the following review criteria specified in MCA 76-3-608. The planning board's recommendation must also address these criteria:

- The impacts on agriculture, agricultural water user facilities, local services, the natural environment, wildlife, wildlife habitat, and public health and safety
- Compliance with the survey requirements of the subdivision and platting act
- Compliance with local subdivision regulations
- Compliance with local subdivision review procedures
- The provision of easements within and to the proposed subdivision for the location and installation of utilities
- The provision of legal and physical access to each parcel within the subdivision, and the required notation on the plat and any instrument of transfer that access is available

## Findings of Fact and Conclusions

Findings of fact provide the facts and reasoning for the planning board's recommendation. "Findings of fact" is a term that originates from the courts, where judges often explain their determinations by issuing documents entitled "Findings of Fact and Conclusions of Law." These documents make conclusions by

applying facts to relevant legal criteria. Like courts, cities and counties need to apply facts to criteria when reviewing subdivisions.

**Findings of fact do the following:**

- Identify the subdivision review criteria
- Explain the relevant facts relating to the subdivision
- Apply those facts to the criteria to reach a conclusion

Sometimes more than one conclusion is possible. If the planning board takes care to develop thoughtful findings of fact that relate to the criteria, then there should be no mystery as to why the city reached the decision it did.

One of the most common reasons counties or cities lose legal challenges on subdivision applications is that findings of fact were missing or inadequate to support the decision that is ultimately made by the governing body. Planning boards can lead the way to more defensible decisions by including sound findings of fact with the planning board recommendation.

If there was no evidence given to prove one or more of the necessary elements, the findings of fact should declare the lack of information. If conditions are proposed, there should be findings that justify them. If the planning board rejects evidence because they believe it to be unreliable, then the planning board should state why it was determined to be unreliable, or why other evidence was more reliable.

The best findings will identify the review criteria, explain fact-by-fact why the evidence does or does not establish that the criteria has been met, and any mitigation efforts offered by the subdivider or proposed by staff. The planning board can determine their own mitigation measures but must provide rationale in the findings of fact. Any mitigation measure needed to meet criteria necessitates a condition of approval.

**A good way to prepare findings is to:**

- Identify all of the applicable criteria
- Discuss each criterion separately and identify:
  - » Facts – Discuss the relevant facts related to the criterion
  - » Conclusion – State whether the subdivision meets the criterion, or if it will meet criterion with specific mitigation measures. A simple way to ensure findings sufficiently connect the decision to legal criteria is to use the word “because” as in the following statement: “The subdivision meets the criteria for legal access because (insert the reason based on the facts) ... ”
- When a criterion is not applicable, state why it is not applicable
- Where there is conflicting evidence, the safest course is to state there was conflicting evidence, and explain the planning board’s rationale for relying on certain evidence

## Conditions of Approval

When a subdivision has an adverse impact on the review criteria, and facts indicate those impacts can be reduced to reasonable levels with mitigation, the planning board can recommend conditional approval.

The findings of fact and conclusions provide the rational connection between the impacts of the subdivision and the steps (conditions) that would provide the appropriate mitigation for those impacts. The findings and conclusions explain why the planning board recommended a condition of approval.

Conditions of approval requiring payment of a fee, the dedication of land, or funding of a public improvement are sometimes referred to as “exactions.” The United States Supreme Court has long held that the regulation of land use, including requirements for exactions and imposition of conditions, does not constitute a “taking” of property if the regulation substantially advances a legitimate governmental interest and does not deny the property owner economically viable use of the land.

The planning board’s recommendation for conditions should have a solid foundation in findings of fact that clearly establish the relationship between the condition and review criteria and standards. Conditions should also reflect a “rationale connection” and “rough proportionality” between the condition and the impact (see inset on “Nollan and Dolan” below).

### Conditions should meet two basic tests:

1. Is there a “rational nexus” that connects the condition to the regulations and is there a legitimate purpose for the condition? (Nollan case)
2. Is there a “rough proportionality” or a reasonable relationship between the condition and the impact caused by the development? (Dolan case)

On the Nollan case, the U.S. Supreme Court determined there must be a connection (a “rational nexus”) between the condition and the applicable regulations. There also must be a legitimate public purpose for the condition and the public purpose must relate to the impact of the specific proposal. The Nollan case involved a building permit for a beachfront residence and the California Coastal Commission’s requirement that the applicant dedicate a 10-foot wide pedestrian easement across the parcel’s beach frontage. The condition was based on a finding that the house would block the view of the beach and would be a “psychological barrier” because the public could not see the beach. The court held the trail dedication constituted a taking. The Court held that, although protection of the public’s ability to see the beach was a legitimate governmental interest, no nexus or connection existed between the identified impact of the project (obstruction of the ocean view) and the easement condition (physical access across a beach). However, the Court stated that requiring the dedication of a viewing spot on the Nollan property might have been legal since there would be a nexus.

*The Nollan case tells local governments that there must be a rational connection between the impact of a proposed development and the condition imposed on it.*

On the Dolan case, the U.S. Supreme Court determined there must be a “reasonable proportionality” between the exaction and the condition based on an individualized determination of the property’s impact. The case involved the doubling of an existing 9,000 square-foot plumbing supply store and addition of 39 paved parking spaces. The city required a 7,000 square-foot dedication for storm water and a bicycle path, based on drainage and bicycle master plans, under the assumption that customers and employees could use the path and it would offset some traffic impact. The city held that flood protection and reduction in traffic congestion are legitimate public purposes and that the conditions would substantially advance those purposes. After analyzing the findings upon which the city relied, the Court stated that the city had not shown the “required reasonable relationship” and “rough proportionality” between the floodplain easement and petitioner’s proposed new building.

*The Dolan case tells local governments that exactions should be roughly proportionate to the impact of the development. For subdivisions, for example, requiring a subdivider to pay for the entirety of extending infrastructure, such as water and sewer lines, may be disproportionate to the impact if others will benefit from the extension now or in the future.*

## Variances

A variance is an exception from the strict requirements of the subdivision regulations. It allows for the relaxation of the regulations when strict compliance will cause undue hardship. Economic hardship alone is insufficient to claim undue hardship.

The variance cannot pose a threat to the public safety, health, or welfare or be injurious to other property. Generally, unique conditions must be present on the site that are not applicable to other properties. If a variance is granted, it cannot violate other regulations or cause an increase in cost to the public.

Any variance granted must be based on the specific variance criteria contained in the subdivision regulations. The staff report will set out the facts of the request. Conditions may be applied to the variance to ensure the subdivision will meet the intent of the regulations.

## Other Regulations Important for Subdivision Review

All subdivisions need to comply with other regulations that could potentially affect a subdivision's design, layout or the ability to build on a lot. The following briefly discusses three key regulations that are typically included in the review of subdivision applications. Your jurisdiction's subdivision regulations may identify other relevant regulations. The staff report provides an analysis of how a proposed subdivision complies with these and other regulations that could affect lots, design, or layout of the subdivision.

## Sanitation in Subdivision

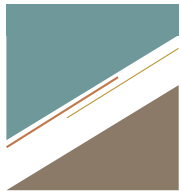
All subdivisions must comply with regulations for water supply, wastewater systems, and solid waste as required by Montana's Sanitation in Subdivisions Act. The Sanitation in Subdivisions Act is entirely different from the Montana Subdivision and Platting Act in Montana's statute.

## Floodplain Regulations

Floodplain regulations identify flood hazard areas and establish standards for construction in floodplains. Flood-prone areas have issues for development or may be unsuitable for development. Where appropriate and/or provided for by ordinance, mitigation measures, such as no-build zones or flood proofing, may be necessary.

## Zoning Regulations

When proposed subdivisions fall within zoning districts, lots need to meet requirements for zoning district use (such as "residential" or "industrial"), lot size and dimensions. The review at the subdivision stage also addresses lot capacity for building setback requirements and other zoning requirements that could affect the ability to build on the lot.



## CHAPTER 4: CONDUCTING MEETINGS & HEARINGS

### Public's Right to Know and Participate

The Montana Constitution establishes the public's right to know and participate in government actions. The public has a right to examine documents, observe deliberations, and participate prior to final decisions.

Montana's Open Meeting laws require all local government meetings, including planning board meetings, to be open to the public. Any time a quorum of members is present at a location, or in a car, or via phone or online, could constitute a meeting subject to the open meeting requirements.

#### Regular Meetings

- Held "regularly"
- Follow Bylaws
- Noticing: If none identified in bylaws, follow reasonable notice per open meeting laws

#### Special Meetings

- Called by chair or request of any 2 board members
- Noticing - at least 2 days, can be less under specific conditions

MONTANA STATUTE REQUIRES  
ALL PLANNING BOARD MEETINGS  
TO BE OPEN TO THE PUBLIC.



Stella - stock.adobe.com

#### Meetings/Hearings - General Info

- Quorum: majority
- No action official without a quorum
- Follow open meeting law
- How/where to notice
- Access to materials to be discussed
- Meeting record
- Robert Rules of Order or similar
- Adjourn - or continue as a special meeting

### Basic Public Participation Requirements

1. Notice prior to the meeting – date, time, place, and agenda, plus information on how to submit comments separate from the meeting and a deadline for all comments. The notice must occur in a "reasonable period" before the meeting. A general rule of thumb for minimum notice is 48 hours, but be aware there are specific and longer noticing requirements for hearings.
2. Information – the public should have an opportunity to obtain information for every agenda item when notice is published (decision-makers and public should be on equal footing with respect to participation in the decision).

3. No new items added to the agenda at the meeting or hearing – carry over new items to the next regularly scheduled meeting or a special meeting with two days posted notice of new items.
4. Provide the opportunity for public comment on each agenda item.
5. The public must have the opportunity to comment on items that are not on the agenda.

## Comment Provisions for Those Who Cannot Attend Meetings or Have Physical Limitations

Those who cannot attend or who need special accommodations must be given the opportunity to comment. Consider what may be needed for those with limited physical abilities – mobility, hearing, or sight.

For persons who cannot attend, provide information on how to submit comments and where to access meeting information. Issues associated with COVID-19, the pandemic that began in 2020, have highlighted the particular issue of persons who cannot attend meetings. Many communities have held in-person meetings with physical distancing, masking, rooms with good ventilation, or outdoor meetings. Others have opted for online meetings using Zoom or other software – and others have used both simultaneously.

Always provide contact information for questions and comments when persons cannot submit comments at a meeting.

Set a deadline for public comment in your notice. Setting a deadline that allows for all comments to be received before planning board deliberation is good practice.

## Planning Board Consideration of Public Comment

Public comments need to be considered before a final decision is made; that is part of the right to participate. The planning board does not need to respond to questions or comments individually; they need to listen to comments overall and then consider them in their entirety before making a decision.

The purpose of a comment period at a meeting or via other means is to obtain the broadest possible participation and comment.

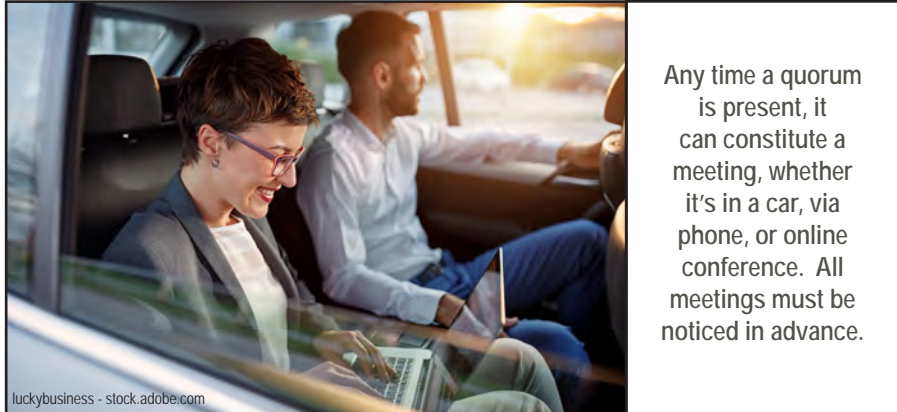
Responding to each comment in a public meeting or hearing can result in a lengthier meeting, and possible back-and-forth dialogue with a handful of participants, potentially limiting others' ability to discuss their concerns.

## Planning Board Meetings: Regular and Special

There are two types of planning board meetings – regular and special. A regular meeting is held according to a schedule and location identified in the bylaws. A special meeting is called by the chair, or upon request of any two board members.

All of the Open Meeting Law's basic public participation items listed above apply to both regular and special meetings.





## Noticing – Regular and Special Meetings

The bylaws should specify the noticing requirements for both regular and special meetings. Typically regular meeting notices are posted a week or more in advance. Planning statute requires a two-day minimum notice for special meetings but that requirement can be waived if the time of the special meeting is set at a regular meeting with all planning board members present. Before setting a special meeting without two-day notice, the planning board should consider if the matters to be discussed are of public interest and necessitate a longer notice period.

## Noticing – Planning Board Meetings Combined with a Hearing

Public hearings conducted by the planning board often are held in conjunction with regularly scheduled meetings. When that occurs, noticing must adhere to the specific notice requirements for the type of hearing (refer to Public Hearing section below).

## Procedures for a Planning Board Meeting

Follow the meeting procedures in your bylaws. Typical meeting procedures include the following:

1. **Provide notice**
  - Include date, time, location, and agenda – it can be a good idea to include both start and ending times for a meeting to avoid meetings that go late into the night
  - Refer to planning board bylaws for information on when to provide notice and how to distribute the notice
  - Provide a contact number for those who may need special assistance to attend, e.g., sight, hearing, or physically impaired
2. **Provide access to materials to be discussed**
  - Paper copies available at planning office, local library, or other
  - Online copies available on city or county website



### 3. Procedures at Meeting

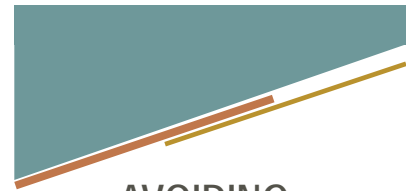
- Bylaws – Follow meeting procedures in your bylaws
- Sign-in Sheet – Have guests sign in before the meeting
- Call to order – President/Chair calls meeting to order, takes roll call, introduces the agenda and topics on the agenda, explains how the meeting will be conducted
- Comment – Chair allows for comment on each agenda item, prior to board discussion
- No new agenda items – They can be added to the next meeting's agenda
- No action on items not on agenda – Allow opportunity for comment on items not on the agenda, but no action can be taken on those items until they have been posted in a subsequent agenda
- Official Decisions and Actions by Parliamentary Procedure – Use Roberts Rules of Order or similar for planning board members to introduce a motion, discuss, revise the motion if needed, and vote
- Adjourn – Or set a date and time to continue the meeting if needed as a special meeting

## Public Hearings

### 1. Provide Notice

Montana statute sets out specific noticing requirements for hearings on certain topics. Hearings also must comply with open meeting law requirements for making materials available to the public.

- Subdivision Application (At least one hearing required – typically both the planning board and governing body have one each)
  - » Notice in newspaper of general circulation in county not less than 15 days prior to hearing



## AVOIDING CONTENTIOUS PUBLIC HEARINGS

1. Hold Neighborhood Meetings in Advance of a Hearing
2. Have a Plan for Citizen Participation
3. Conduct a Site Visit (With Proper Notification as a Meeting)
4. Make the Meeting Noticeable
5. Review the Agenda
6. Make your Introductions Count
7. Stay on Target
8. Have Visible Information
9. Allocate Time to Foster Useful Input
10. Stay Cool: Use Recesses, Continuances, or Multi-session Hearings
11. Show Respect

SOURCE: PLANNERS WEB  
[HTTP://PLANNERSWEB.COM/2010/01/DEALING-WITH-CONTENTIOUS-PUBLIC-HEARINGS/](http://plannersweb.com/2010/01/dealing-with-contentious-public-hearings/)

- » Notice to subdivider, land owners, and adjoining landowners must be notified by registered or certified mail no less than 15 days prior to hearing
- Growth Policy
  - » Notice in newspaper of general circulation in county at least 10 days prior to hearing
- Other Hearings
  - » Noticing requirements for zoning amendments, other regulations and other types of plans – refer to the requirements in statute for the particular action

## 2. Procedures at Hearing

Typical hearing procedures include the following.

- Bylaws – Follow hearing procedures in your bylaws and consider the following
- Subdivision Hearing Procedures addressed in Growth Policy – Montana statute requires procedures for a subdivision hearing to be included in the growth policy – follow what is in your growth policy.
- Sign-in Sheet – Have guests sign in before the meeting.
- Call to order – President/Chair calls meeting to order, takes roll call, introduces the agenda and topics on the agenda, explains how the meeting will be conducted.
- Staff Report Presentation – Staff presents the review of the application and staff report.
- Public Comment – The planning board may start by requesting comment from the applicant and then comments from the public. Anyone who comments should state their name and address for the record. To reduce repetition and lengthy meetings, you can request that individuals limit their comments to 3-5 minutes, and that others do not repeat topics, but merely indicate support for something already stated. When all have had a chance to speak, you can ask those who have already spoken if they have more to say.
- Close Public Testimony – Once all comment is completed, public testimony is closed.
- Board Questions – At this point, the hearing is open for questions from the board to staff, the applicant or others.
- Deliberation and Action – This is the point at which the planning board formulates their recommendation to the governing body
- Official Decisions and Actions by Parliamentary Procedure – Use Roberts Rules of Order or similar for planning board members to introduce a motion, discuss, revise the motion if needed, and vote.
- Adjourn or Set a Date to Continue – If a hearing is continued, the date and time should be announced to those in attendance and posted as soon as possible for those not in attendance. A two-day notice falls within the minimum requirements of the open meeting law.

# Planning Board Responsibilities at Meetings and Hearings

## Responsibilities of the Chair

The planning board chair controls the success of a hearing or a meeting. A responsible chair conducts a hearing according to the agenda and can bring the board to a decision even on difficult issues. The board should expect the chair to be tactful, decisive, respectful, articulate, and knowledgeable about the issues presented to them.

Some of the chair's procedural duties include:

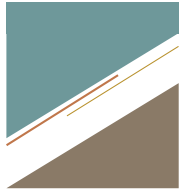
- Running a timely meeting. Other board members, staff, and the public look to the chair for leadership.
- Maintaining order. At the beginning of the meeting, the chair should formally introduce the agenda and topics on the agenda, explain how the hearing will be conducted, how to make comments, how the record will be released and how to make comments after the hearing, but before the governing body's decision.
- Keeping business moving. The planning board should avoid endless debate, continual requests for new information, or otherwise delay making a decision when the information needed for doing so has been presented. The chair should move the decision along by summarizing the facts and the positions presented by planning board members and bringing matters to a vote.
- Managing public testimony. A reasonable length of time should be established at the beginning of hearing or meeting for each person to provide his or her testimony. This is particularly important if a larger number of people want to address the board.
- Preventing arguments. The dialogue between the board, those testifying, and other members of the audience should be limited to fact gathering. The chair should require that comments and questions are directed to the chair.
- Understanding parliamentary procedure. To run an orderly meeting, the chair must be familiar with the basics of parliamentary procedure. The chair must understand motions and amendments to motions, the order in which business is conducted, motions that are and are not debatable, and so on.
- Providing a summary. The chair should be able to take into account public testimony, planning board deliberations, and the issue at hand, and guide the board toward a decision.

## Responsibilities of Other Members

To be an effective planning board member here are a few practical tips.

- Be on time for all meetings and hearings. It is unfair to the public and the other members of the planning board when board members are absent or tardy.
- Be familiar with the regulations and policies within your jurisdiction. These documents provide a basis for many of the decisions that a planning board member will make.

- Read the staff report. The staff report will contain the necessary facts and details that can be used to formulate your decision. A staff presentation will be given at the hearing, however, it is likely that the presentation is a general overview of the project and may not contain all the details.
- Consider all information. Before forming an opinion, consider all the facts within the staff report and public testimony given, including any testimony that is given at the hearing.
- Rely on facts, not opinions. Decisions must be based on facts and not opinions. Facts may be disputed or contended, and in some instances, you must rely on your best judgment to determine which facts are the most factual.
- Ask questions, take part in the debate. Decision making improves when all members contribute to the discussion. Ask questions and take initiative to educate yourself on issues you may know less about.
- Follow your bylaws. Allow the chair to run the meeting and maintain an orderly agenda and follow the parliamentary procedures as outlined in your bylaws.



## CHAPTER 5: PLANNING BOARD ORGANIZATION & OPERATIONS

### Type of Planning Boards – Jurisdictional Areas and Membership

In Montana, each planning board is responsible for a specific geographic area, called the jurisdictional area of the planning board. There are five types of planning boards authorized in Montana statute, each based on the type of jurisdictional area – city, county, or various combinations of cities and/or county. Each type of planning board has different requirements for membership.

The following summarizes types of planning boards and required membership in 2019 Montana statute.

#### 1. County planning board, MCA 76-1-211

*Required:* At least five members.

- All appointed by the board of county commissioners
- At least one member must be a member or associate member of the conservation district board or a member of a state cooperative grazing district, assuming they reside in the county

#### 2. City planning board, MCA 76-1-221

*Required:* At least seven members.

- A city council member
- A person appointed by the city council who may be an employee or hold public office in the city or county
- A member designated by the county commissioners and appointed by the mayor
- Four citizen members appointed by the mayor

#### 3. City-County planning board, MCA 76-1-201

*Required:* At least nine members.

Membership is a combination of persons living within and outside of city limits.

- County commissioners appoint four members
- City council appoints two members
- The mayor appoints two members

- The ninth member is a member of the conservation district, appointed by the board of the conservation district. If there is no conservation district member who can serve, the eight other planning board members select a member with approval of county commissioners and city council.

#### 4. Consolidated planning board, MCA 76-1-112

*Required membership:* As specified by interlocal agreement.

Any existing city, county, or city-county board must be dissolved.

#### 5. Joint planning board, MCA 76-1-112

*Required membership:* As specified by interlocal agreement.

The existing planning boards remain intact and the joint board's role and responsibilities are as described in the interlocal agreement.

## Bylaws

Along with state law and local regulations, planning boards have bylaws that govern the operation of the board. Ideally, your jurisdiction has formally adopted bylaws for the planning board. If it has, obtain a copy so that you understand the operation and make-up of your board. If not, work with staff to develop bylaws.

Along with reading the bylaws, take the time to observe more experienced board members for the first few meetings; this can help you understand how a board meeting is conducted.

Bylaws typically include the following information:

#### 1. Authority, Purpose, Power, and Duties

This section includes a citation to state statute regarding the legal authority for creating the planning board as well as its purpose, powers, and duties.

#### 2. Jurisdictional Area

Describes the jurisdictional area of the planning board. Include a map and descriptive text that mirror what is filed with the clerk and recorder for a county or city-county planning board.

#### 3. Members and Terms

Describes number of members, qualifications, and length of terms. Although these are addressed in state statute and vary by type of planning board, the bylaws can provide additional information on topics such as absences, vacancies, and removal of a board member.

#### 4. Board Officers, Terms, and Duties

Includes how and when to elect a president (chair) and vice-president (vice-chair). Montana statute requires officer election at the first regular meeting of each year. This section also typically addresses roles of the president and vice-president, officer vacancies, absences, removal of officers, and terms of office.

## 5. Meetings, Quorum, and Procedures

Provides detail for regular and special meetings, public hearings, what constitutes a quorum, noticing meetings, and procedures for board discussion and action (such as Robert's Rules of Order).

There are several statutory requirements to consider, including:

- Required regular meetings in January, April, July, and October
- Special meetings may be called by the president or two members upon written request to the secretary
- A quorum is a majority of members and no action is official without a quorum present
- Procedures for conducting open meetings and public hearings
- Procedures for public hearings on subdivisions as described in the area's growth policy
- Noticing requirements prior to meetings and hearings

More detail on public meetings and hearings is included in Chapter 4.

## 6. Board Member Ethics and Conduct

Provides information on adhering to the principles of operating in the public interest, and avoiding conflict of interest and ex parte communication.

## 7. Committees

Provides information on how committees might be established to advise the planning board.

## 8. Administration and Legal

Addresses board record-keeping, providing for a board secretary, which could be a staff person, to notice meetings, take minutes, and other administrative functions including financial record-keeping. Also clarifies the board will seek legal advice from the city or county attorney for the planning board jurisdiction. This may also address financial issues, such as reimbursement to planning board members for travel.

## 9. Staff

Discusses role of staff. The governing body provides staff to assist the planning board in routine functions. Functions typically include role of secretary, preparing staff reports on subdivisions or other applications, financial management, drafting an annual report and annual budget to be reviewed and approved by planning board prior to submission to governing body.

## 10. Amendment and Repeal Provisions

Identifies procedures for amending bylaws and for repealing previous bylaws.

## Responsibilities of Board Officers and Members

General responsibilities of the president, vice-president, secretary, and general members of the planning board are briefly described below.

### President (Chair)

- Preside over all meetings and hearings of the board and maintain order
- Call special meetings of the board in accordance with the board bylaws
- Sign official documents of the board
- See that all actions of the board are properly taken
- Keep all other board members informed of the business before the board
- Represent the board in discussions with the governing body or in other public forums

### Vice-Chair (Vice-President)

- During the absence, disability, or disqualification of the Chair, the Vice-Chair will exercise or perform all the duties and responsibilities of the Chair

### Secretary (Planner or Other Staff)

- Keep the minutes of all board meetings and hearings
- Give or serve all notices required by law
- Prepares agendas for board meetings
- Be the custodian of board records
- Inform the board of correspondence sent to the board
- Sign official documents of the board (as delegated by the board)

### All Members

- Attend all meetings and provide notification in advance when you are unable to attend
- Be prepared for discussion, read meeting materials in advance, contact staff if you have questions about materials they have developed
- Be familiar with the Bylaws and follow them
- Be familiar with the growth policy, subdivision regulations, and other plans and regulations applicable to your planning board's responsibilities (these can vary)
- Be objective and base decisions on facts, recorded in the "Findings of Fact"
- Act ethically and avoid conflicts of interest



# Planning Board Member Ethics

## Act in the Public Interest

Planning board members must act and make decisions in the “public interest.” Unlike a special interest, where a limited number of people would stand to benefit or profit, the public interest represents the benefits to society.

Planning board members have to determine what constitutes the public interest as decisions are made on subdivision applications and other matters. The following pointers may help to keep the public interest foremost in the decision-making process:

- 1. Remember you serve the public.**

It can be easy to think that an applicant is the “client,” but when you serve the public interest, the client is everyone in the community.

- 2. Who benefits?**

Does the applicant benefit at the expense of the public? Does the public benefit? Both? Work to ensure that the public at large benefits and not just certain individuals or groups.

- 3. Consider the future.**

Decisions made in the public interest should consider, to the extent possible, future as well as current generations.

## Conflict of Interest

A conflict of interest occurs when a board member could obtain some private benefit as the result of a planning board action. A private benefit may be either direct or indirect, such as creating a material personal gain or providing an advantage to relatives, neighbors, friends, or groups and associations to which the board member belongs.

Montana law requires that a public official experiencing a conflict of interest declare the conflict publicly. A conflict of interest may exist even though a board member may not believe that a conflict exists.

A board member who has any question about a potential conflict of interest should follow protocol in the planning board bylaws. If there is no guidance in the bylaws, raise the matter with planning staff and the county or city attorney’s office so a determination may be made as to whether a conflict of interest exists.

Having a conflict of interest does not necessarily mean that you have done something wrong; it is normal for conflicts to arise from time to time. Not declaring a potential conflict of interest is wrong. It is illegal to fail to declare a substantial conflict of interest or to participate in discussion on issues or decisions where such conflict exists.



## Gifts and Favors

Gifts, favors, or advantages should not be accepted if they are offered to influence the board member or if it could appear to the public that the gift was offered for that purpose. Even minor considerations that come in the form of business lunches or small gifts are not acceptable. The best guide to follow regarding gifts and favors is this: If in doubt, decline the gift.

## Ex Parte Communication

Ex parte is a Latin term that means, “from or on one side only.” It is related to the public interest because it deals with planning board members being influenced from outside the public forum without the benefit of hearing all sides of an issue.

Ex parte communication occurs separate from a public meeting or hearing and can include telephone calls, informal meetings, lunches, emails, or even a casual encounter on a street corner. The essential element of ex parte contact is that someone with a direct interest – an applicant or an opponent of the project – is attempting to influence a planning board member before they have had an opportunity to hear all sides of the matter. The individual is trying to influence decision-making before all sides have had an opportunity to present at public meetings, hearings, or other official means of submitting comment.



EX PARTE COMMUNICATION ... CAN HAPPEN ANYTIME AND WITHOUT APPOINTMENTS, SUCH AS ENCOUNTERS ON THE STREET.

Citizens have a right to contact planning board members regarding their viewpoints on general matters. Public officials, including planning board members, have a responsibility to uphold the integrity of their office and maintain it as free of influence as possible.

### How to Deal with Ex Parte Contact:

1. Adhere to the planning board bylaws for ex parte communication
2. Stop the conversation when it veers to ex parte communication and invite the individual(s) to present testimony before the entire planning board
3. If the person is unwilling to testify, encourage them to send a letter to planning staff so it is on the record
4. If you receive written information not sent to other planning board members, send it to planning staff to include in planning board packets
5. If you have ex parte contact, disclose that fact on the record before the meeting begins

# Planning Board Working Relationships

## Governing Body

Planning boards plan for future development and make recommendations on land use regulations and subdivisions. Only the governing bodies can make the decision on a subdivision or adopt a local growth policy, other plans, or local regulations. It is the planning board's responsibility to make objective recommendations based on the facts and findings and independent of how they anticipate the governing body will decide.

Planning boards that meet periodically with the governing body to share ideas and concerns about land use will help assure good working relationships with each other. At a minimum, an annual meeting is recommended to review a planning board's annual report and to discuss upcoming planning or regulatory items for the following year.

## Staff

The governing body provides staff to assist in fulfilling the planning board's duties. Staff are employed or contracted by the governing body. Staff work directly with the planning board, but are ultimately responsible to the governing body.

**Staff typically have the following roles and responsibilities:**

- Possess the knowledge and experience to administer local regulations and help implement the growth policy
- Act as the planning board secretary (see "Secretary Responsibilities" in the preceding section)
- Non-Board subdivision review – meet with applicant for subdivisions, review applications for required elements and sufficiency, and prepare the materials needed for planning board review of subdivision applications
- Work respectfully with the public and applicants
- Stay informed of statutory changes and court decisions affecting local regulations and planning matters
- Assist the board in understanding the growth policy, regulations, and state statutes that govern local regulations
- Notify the planning board of needed changes to local regulations
- Act professionally and ethically
- Coordinate with contractors who may be hired for special projects

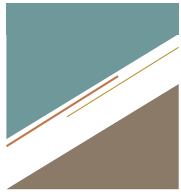
### Planning board members also have some responsibilities to staff, including:

- Respect your staff's professional expertise and consider their recommendations carefully
- Communicate with staff between meetings and ask questions to better understand growth policies, regulations and application materials
- Treat staff respectfully, especially in public meetings and hearings
- Reserve legitimate criticism for private meetings between staff and the board
- Be an advocate for staff to the governing body, particularly for continuing professional development
- Submit complaints about staff work to the governing body only as a board action and only after meeting with the staff

Following the responsibilities discussed above creates and maintains a good working relationship between staff and the planning board and is essential for the community planning process to succeed.

## Consultants

Private planning consultants often are retained when there is no in-house staff or if the existing staff does not have the time or resources to handle certain planning tasks, such as updating local regulations or assisting with a growth policy. Consultants may be called upon for on a temporary or long-term basis. The working relationship and expectations for the board and consultant are similar to those described for the staff and board. The board should work closely with the consultant, with the board providing local input, and the consultant providing professional advice. When there are existing staff and a consultant is hired for a special project, the existing staff also may be involved in working or coordinating with the consultant.

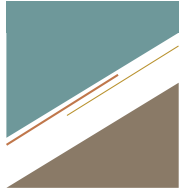


## CHAPTER 6: PLANNING BOARD MEMBER – BEST PRACTICES

After a person has been on the planning board for a while, they will begin to recognize best practices about how the planning board should conduct its business. Listed below are some pointers for effective planning boards:

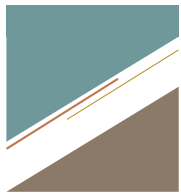
### Ten Best Practices for Planning Board Members

1. Prepare and maintain a growth policy, refer to it, make decisions that are consistent with its policies, and implement them
2. Develop and adopt bylaws and procedures and stick to them
3. Annually reexamine what you are doing as a planning board member, how well you are doing, and how to do better
4. Prepare an annual report that summarizes work of the past year and recommends priorities for the next year; submit the report to the governing body and share with the public
5. Consider a public forum every year or so – ask the public about how things are going and what they want to be done
6. As a board, ask to participate in preparing the planning agency's budget
7. Attend meetings with the governing body and planning board to exchange ideas and assess objectives
8. As a board, Communicate with staff what information you want that you may not be receiving, how you want materials presented to you, etc.
9. Educate yourself, attend courses on planning techniques or land use law
10. Advocate for good planning



# ADDITIONAL RESOURCES FOR PLANNING BOARD MEMBERS

- Montana Department of Commerce – Community Development Division
- Materials available online and person-to-person assistance at [commerce.mt.gov](http://commerce.mt.gov), 406.841.2700
  - › “Planning Boards: An Introduction to the Basics” – a webinar based on this handbook
  - › Webinars, handbooks, and other materials available on a variety of planning topics, including growth policies
- American Planning Association
- Montana Association of Counties
- Montana Association of Planners
- Montana League of Cities and Towns
- Planners Web: News and Information for Citizen Planners – <http://plannersweb.com/>
- Planetizen – <https://www.planetizen.com/>
- Robert’s Rules of Order Online – <http://www.rulesonline.com/>



# APPENDIX A

## 2019 STATUTORY AUTHORITY AND REQUIREMENTS FOR PLANNING BOARD-RELATED MATTERS

## APPENDIX A

# 2019 STATUTORY AUTHORITY AND REQUIREMENTS FOR PLANNING BOARD-RELATED MATTERS

The following provides a general guide to Montana statute as it applies to planning boards.

State statute specifically addresses or requires many planning board functions and responsibilities. The Montana Code Annotated (MCA) is Montana's statute. The 2019 MCA was the current statute when this handbook was prepared.

The Montana Legislature meets every two years to consider and enact changes to the statute. If statute that affects planning boards changes over time, planning board members can track how it might affect what is in this handbook by comparing future statutes to the 2019 MCA.

The State of Montana provides online access to the following (including online links active at the time this handbook was prepared):

- Current MCA (<https://leg.mt.gov/statute>)
- Previous versions of the MCA from 1995 to the present (<https://leg.mt.gov/statute>)
- Proposed legislation and changes to the MCA (<https://leg.mt.gov>)
- Montana Constitution

## REFERENCES TO MONTANA CODE ANNOTATED IN THIS HANDBOOK

Statutes as discussed in this handbook are highlighted in the following list.

### 1. PLANNING BOARDS

TITLE 76. LAND RESOURCES AND USE  
CHAPTER 1. PLANNING BOARDS

Part 1. General Provisions

Part 2. Membership

Part 3. Organization and Administration

Part 4. Financial Administration

Part 5. Jurisdictional Area

Part 6. Growth Policy

### 2. GROWTH POLICY

TITLE 76. LAND RESOURCES AND USE  
CHAPTER 1. PLANNING BOARDS

Part 1. General Provisions

Part 2. Membership

Part 3. Organization and Administration

Part 4. Financial Administration

Part 5. Jurisdictional Area

Part 6. Growth Policy



### 3. SUBDIVISION

#### TITLE 76. LAND RESOURCES AND USE

##### CHAPTER 3. LOCAL REGULATION OF SUBDIVISIONS

Part 1. General Provisions

Part 2. Miscellaneous Exemptions

Part 3. Land Transfers

Part 4. Survey Requirements

Part 5. Local Regulations

Part 6. Local Review Procedure

### 4. ZONING

#### TITLE 76. LAND RESOURCES AND USE

##### CHAPTER 2. PLANNING AND ZONING

Part 1. County Planning and Zoning Commission

Part 2. County Zoning

Part 3. Municipal Zoning

Part 4. Application to Governmental Agencies Group and Foster Homes

Parts 5 through 8 reserved

Part 9. Agricultural Activities

### 5. LAKESHORE REGULATIONS

#### TITLE 75. ENVIRONMENTAL PROTECTION

##### CHAPTER 7. AQUATIC ECOSYSTEM PROTECTIONS

Part 1. Streambeds

Part 2. Lakeshores

Part 3. Flathead Basin Commission

Part 4. Phosphorus Compounds -- Model Rule

### 6. URBAN RENEWAL DISTRICT PLANS

#### TITLE 7. LOCAL GOVERNMENT

##### CHAPTER 15. HOUSING AND CONSTRUCTION

Parts 1 through 20 reserved

Part 21. County Housing Authorities

Parts 22 through 40 reserved

Part 41. General Provisions Related to Municipal Housing and Construction

Part 42. Urban Renewal

Part 43. Urban Renewal Continued

Part 44. Municipal Housing Authorities

Part 45. Municipal Housing Authorities Continued

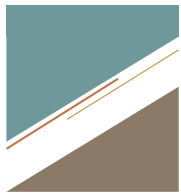
### 7. CONSERVATION EASEMENTS

#### TITLE 76. LAND RESOURCES AND USE

##### CHAPTER 6. OPEN SPACES

Part 1. General Provisions

Part 2. Conservation Easements



## APPENDIX B

### ADDITIONAL "BEST PRACTICES" MONTANA ASSOCIATION OF COUNTIES – PLANNING BOARD TRAINING

## APPENDIX B

# ADDITIONAL “BEST PRACTICES” MONTANA ASSOCIATION OF COUNTIES – PLANNING BOARD TRAINING

The following “Best Practices” document prepared by Tara DePuy, Land Use Attorney, with MACo, provides additional detail on a number of topics discussed in the Planning Board Handbook. Ms. DePuy prepared this for a planning board training session in Park County.

## BEST PRACTICES FOR PLANNING BOARD MEMBERS

### 1. PLANNING BOARD MEMBERS SHOULD BE COGNIZANT OF OPEN MEETING STATUTES

- a) Electronic meetings by email are a violation of the Open Meeting Act.
- b) All subcommittee meetings must be noticed, public comment must be taken and minutes must be kept.
- c) Emails regarding Planning Board activities should not be deleted and should be kept in a separate folder. In *Delaney & Co. v. City of Bozeman*, Delaney was awarded \$3,000,000 in damages for abuse of discovery; the abuse was that the City of Bozeman failed to retain emails that Delaney alleged would have shown that the City of Bozeman intentionally undermined his purchase of the Mandeville property after he disclosed to the City of Bozeman his intention to purchase and develop this property.
- d) Limit the number of emails you use for Planning Board activities.
- e) Copying parties outside of the Planning Board or County on Planning Board Activities may appear to be a conflict of interest and subject that party to email discovery if there is litigation.

### 2. THE PLANNING BOARD SHOULD ACT AS A BOARD; NOT AS INDIVIDUAL MEMBERS

- a) All information regarding Planning Board activities should be shared with the entire Board so that all Board members have the same information when taking action on issues.
- b) Inviting speakers to present to the Planning Board is Board action; not an individual member action.
- c) If a matter is under the jurisdiction of the Planning Board, stating that you are representing yourself and not the Planning Board in regards to that matter may create a conflict of interest for you to act on that matter as a Planning Board member. The majority of the Zoning Board of Adjustments in Three Forks was recently removed for cause after they signed a petition against a development. The development application included a variance, which is heard by the Zoning Board of Adjustments.
- d) The Planning Board acting as a Board should determine Planning Board work plans, agenda items and best use of staff time.

### 3. PLANNING BOARD MEMBERS SHOULD NOT HIRE OUTSIDE CONSULTANTS TO ADVISE THE PLANNING BOARD

- a) State statutes states that all “staff” must be approved by resolution. 7-1-201(2)(d), MCA.
- b) County employees and county hired contractors have a duty to represent the best interests of the county. Outside consultants hired by private individuals have no duty to represent the best interests of the county.
- c) The County has disciplinary control and contract provisions to address county employee and county hired contractor actions. 2-2-121, MCA is a Code of Ethics for Public Employees.
- d) County employees and county hired contractors are not allowed to have conflicts of interest in regards to County activities upon which they provide advice to the County.

**4. PLANNING BOARD MEMBERS SHOULD FREQUENTLY REVIEW PLANNING BOARD POLICIES AND COUNTY REGULATIONS**

- a) Planning Board Bylaws should be consulted in regards to proper protocols for Board actions and activities. Bylaws can be amended to include protocols the Board wishes to put in place, subject to County Commission approval.
- b) The Growth Policy is a living document that by statute should be updated every 5 years and it should be read frequently so the Planning Board knows what action items it is supposed to address in what time frame and to be familiar with the Growth Policy when reviewing subdivision applications.
- c) Outdated regulations are a liability to the County as they do not accurately reflect state law and may misinform the public. Subdivision regulations should be updated to conform to the goals and objectives of the Growth Policy and state statutes.
- d) County imposed zoning must be consistent with the goals and objectives of the Growth Policy and cannot be enacted without a Growth Policy.

**5. PLANNING BOARD MEMBERS SHOULD BE COGNIZANT OF WHEN EX PARTE CONTACT IS PROHIBITED**

- a) Planning Board members should understand whether they are taking action on a legislative matter or a quasi-judicial matter.
- b) Planning Board members do not take action on zoning permits, variances, or enforcement so where zoning is concerned, the Planning Board is only involved in legislative activities.
- c) Subdivision review is strictly a quasi-judicial matter:
  - i. Planning Board members should not meet with a subdivider, neighbors or other agency outside of public meetings on the subdivision that have been noticed correctly.
  - ii. Site visits must be conducted in such a manner as limit ex parte contact with the subdivider or his representatives. If present, contact with the subdivider or his representatives should be limited to answering specific questions about location of subdivision features on the ground, i.e. where the fire fill site is located.

**6. PLANNING BOARD MEMBERS SHOULD DETERMINE HOW THE BOARD INTERACTS WITH THE PRESS**

- a) Planning Board members should determine who has the authority to speak to the press on behalf of the entire Board.
- b) Planning Board members should make sure that any representations to the press by comments in articles in the newspaper or letters to the editor represent the positions of the entire Board or those comments should be made as an individual and not as a member of the Planning Board.
- c) Care should be taken to make sure that information repeated to the press is accurate so as to not misinform the public.

**7. PLANNING BOARD MEMBERS SHOULD MAKE SURE THAT PUBLIC COMMENTS ARE CAPTURED AND ANALYZED**

- a) While Planning Staff captures all oral public comments at public meetings and written public comments, comments made to Planning Board members on legislative activities should be conveyed to the entire Board and made a part of the record.
- b) In *Citizens for a Better Flathead v. Flathead County* the allegations were that both the County Commission and the Planning Board failed to consider and analyze public comment. The MSCt found that all public comments had been captured, made a part of the record, and analyzed.

**8. PLANNING BOARD MEMBERS SHOULD BE COGNIZANT THAT LAND USE DECISIONS ARE FREQUENTLY LITIGATED**

- a) Land use issues are contentious across the State of Montana and Planning Board members should be aware that their activities and decisions will be under intense public scrutiny.

b) Planning Board members should remember that even if they follow proper protocols and processes they still may be involved in litigation. While this litigant was not successful, the Touris II complaint against Flathead County asserted 11 counts:

- I violation of due process by the Bigfork Land Use Advisory Committee;
- II negligence/negligence per se by the Bigfork Land Use Advisory Committee;
- III violation of equal protection by the Bigfork Land Use Advisory Committee;
- IV a negligence by the Planning Board;
- V violation of equal protection by the Board of Commissioners;
- VI negligence by the Board of Commissioners;
- VII violation of substantive due process by the Board of Commissioners;
- VIII negligent misrepresentation by the Flathead County Planning and Zoning Office;
- IX violation of equal protection by the Flathead County Planning and Zoning Office;
- X violation of procedural due process by Jeff Harris; and
- XI failure by Flathead County to adequately train and supervise employees and board members.