



Livingston City Commission Agenda

December 17, 2024 — 5:30 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/83803936151?pwd=d01BYU4veVNSVEEdNdERMWEgyK0N6QT09>

Meeting ID: 838 0393 6151

Passcode: 389095

1. Call to Order

Chair Kahle called the meeting to order at 5:34 p.m.

2. Roll Call

Commissioners Present:

- Chair Kahle
- Vice-Chair Nootz
- Commissioner Schwarz
- Commissioner Lyons
- Commissioner Willich

City Staff Present:

- City Manager Grant Gager
- Policy Analyst Greg Anthony
- City Attorney Jon Hesse
- Chief of Police Wayne Hard
- Planning Director Jennifer Severson
- Livingston Fire & Rescue Chief Josh Chabalowski
- Battalion Chief Jonathan Gilbert
- Battalion Chief Josh Pierce



3. Public Comment

Individuals are reminded that public comments should be limited to item over which the City Commission has supervision, control jurisdiction, or advisory power (MCA 2-3-202)

- Leslie Feigel thanked the City Manager for attending a ribbon-cutting, and expressed disappointment at the lack of Commissioner attendance. She announced a new business opening from Italy in January. She requested help receiving a breakdown from HRDC on the Livingston portion of the warming center.
- Malcolm and Paulette Fowlie they are requesting to keep their water rights and not be forced to hook into city water. Paulette stated per the DEQ website their well is showing "active/pending and severed" which indicates to them that their water rights are being taken away without their knowledge. She indicated that Public Works Director Holmes sited, on a handout, a specific law that they stated was outdated and does not apply now.

Vice-Chair Nootz asked what law was being sited.

The City Manager stated the handout being referred to is the MCA section that references a requirement to develop a plan for providing services within a reasonable time of annexation, and that reasonable time is interpreted to be approximately five years.

- Linda Mahr expressed support to the previous commenters in their request.

4. Consent Items

- A. APPROVAL OF MINUTES FROM DECEMBER 03, 2024, REGULAR MEETING [PG. 4](#)**
- B. APPROVAL OF CLAIMS PAID 11/28/24 - 12/11/24 [PG. 12](#)**
- C. AGREEMENT 20141 RIGHT-OF-WAY ENCROACHMENT LICENSE WITH VIEW VISTA COMMUNITY [PG. 24](#)**
- D. AGREEMENT 20142 FOR A RIGHT-OF-WAY ENCROACHMENT WITH NANCY KENNEDY [PG. 40](#)**
- E. REVISED AGREEMENT 20129 WITH CLEARY BUILDING CORPORATION [PG. 56](#)**

Chair Kahle pulled item D to address at a later date.

Vice-Chair Nootz pulled item A requesting a minor amendment to reflect a request for more detailed differentiation in residential rates in the storm water feasibility discussion.

Commissioner Schwarz motioned to approve consent items B,C and E seconded by Commissioner Willich. Unanimously approved.

Vice-Chair Nootz motioned to approve consent item A as amended seconded by Commissioner Schwarz. Unanimously approved.

5. Proclamations

6. Scheduled Public Comment



7. Action Items

A. PRESENTATION OF FIRE ENHANCEMENT FEASIBILITY STUDY BY FITCH & ASSOCIATES PG. 87

The City Manager introduced the agenda item, noting it began over two years ago with a grant to Park County Rural Fire District for feasibility study on fire and emergency services enhancement. He stated Fitch & Associates have prepared a report focusing on the feasibility of potentially consolidating City of Livingston Fire and Rescue with Park County Rural Fire.

Representatives Ian and Steve from Fitch & Associates provided an overview of their findings. They explained the data-driven approach, summarizing that operational and financial consolidation could be feasible but would involve policy decisions, stakeholder input, and consideration of governance and staffing cultures.

Commissioner Willich noticed the PCRFB asked for \$82,475 then it went to \$90,000 and he wondered where the difference went. He then inquired, who Ron Lindroth was as he is referenced in the study.

The City Manager stated that Ron Lindroth was the interim City Fire Chief before the current City Fire Chief, and at the end of his time as interim Chief he was contracted by Livingston and Park County to do data collection which was a precursor to this study and helped inform this study.

Commissioner Willich wondered if his data was made available to Fitch and Associates.

Ian from Fitch and Associates stated yes, it was available and useful as it served as a road map for them on where to go find information.

Vice-Chair Nootz asked about the roll, if any, that the County Commission has over Rural Fire as she has noticed them listed on the county website, and would like clarification on that.

The City Manager stated Park County Rural Fire #1 is a distinct political subdivision of the state of Montana, and they are not part of the standard County government.

Vice-Chair Nootz asked if there were 3 stations in Park County Rural and wonder if they are shown on any of the presentation maps, this question came in mind during the topic of response times.

Ian from Fitch and Associates stated the GIS report shows these, but for the final report they just focus on the stations that actually deploy resources, and stated the other stations in Park County Rural are used to store apparatuses that they use for Wildfire response.

Vice-Chair Nootz clarified that they don't actually have crews deploying from those other two locations.

Ian from Fitch and Associates stated that is correct and further clarified that those other locations are not able to house crews in their facilities.

Vice-Chair Nootz asked they had considered consolidating only Fire and not EMS?

Ian from Fitch and Associates stated they did, but would not recommend it because it is not financially sustainable due to the current nature of the community and its demand.

Chair Kahle asked if Livingston needs another fire station, particularly one on the North side.



Ian from Fitch and Associates stated if we as a community were interested in reducing call time then we could look at placing another station within Livingston, but reiterated that the current station can get anywhere within the city in 8 minutes.

Vice-Chair Nootz asked for clarification that most calls are coming in from the south side of town.

Ian from Fitch and Associates stated yes, that is correct.

Commissioner Willich stated he noticed and option 1 for the city taking over fire services for the county and sees the recommendation is not to pursue that, but wonders why this isn't a good option.

Ian from Fitch and Associates stated the limitations to that were related to legislative restrictions on a timeline required to do something like that.

Vice-Chair Nootz motioned to receive and file the feasibility study seconded by Commissioner Schwarz.

Public Comment:

- Battalion Chief Jonathan Gilbert, Livingston Fire expressed that consolidation can be beneficial but complex. He highlighted the importance of protecting staff, maintaining morale, and ensuring operation are not compromised.
- Fire Chief Chabalowski echoed Battalion Chief Gilbert's concerns. He mentioned growth on the North side and emphasized careful, deliberate planning.

Vice-Chair Nootz asked for clarification for the record in what capacity are they issuing comments. Is it as city staff, union members, or just a community member?

Battalion Chief Gilbert stated he is representing himself as an employee and chief officer offering comments on things important to him and that is largely people or his team.

Vice-Chair Nootz asked if he was in the Fire Union.

Battalion Chief Gilbert stated he is in the Fire Union, but is not here tonight representing them.

Fire Chief Chabalowski stated he represents the department as a whole, and is not a member of the Fire Union, but does support what their mission represents.

Commissioner Willich stated the study is thorough and data-driven, and he values things like adopting performance benchmarks.

Commissioner Lyons appreciates the complexity and incremental approach and trusts the City Manager on the parts of this that require him and city staff to act on. Overall, he does not feel ready to make any decisions to merge or not and would require more detailed information and more continued conversation.

Commissioner Schwarz emphasized the importance of carefully weighing pros and cons. He expressed concern of direct loss of City control.

Vice-Chair Nootz expressed liking the executive recommendations as they seem efficient and useful regardless of the merger or consolidation. She would like to receive more information before making a decision on the best path forward, and is really interested in knowing what the relationship is between Park County Rural Fire and Park County government. She feels it would be beneficial for the community to understand this. She reminded that this



commission puts value in protecting city staff, and invests in staff and says yes, within, reason, when requests for staff come through. She would like to have a public listening session around this topic and really get to know what the community would like to see happen, or if they are even interested in a consolidation. She also wondered if Park County Rural was even interested in this merger or consolidation, and would like the City Manager to reach out about this. She thanked Fitch and Associates for bringing this data to them and shared that it is nice to see the maps and see where calls are going compared to just what is passed along in talking. She felt very comforted to see that there is plenty of capacity in city government, and realized it doesn't always feel like that to staff, but to see that in the study was great and great for the community to hear that we are operating efficiently.

Chair Kahle expressed similar thought on if Park County Rural Fire is interested in consolidating, and would like to know more about the Park County Rural Fire Board and how they operate. She agreed there is a lot of good information in the report of the City of Livingston, but there is a lot of things that should be looked at in more detail. She expressed concerns for staff and doesn't want them to be fearful about coming to work and expressed thanks for all the hard work City Fire and EMS does.

Vice-Chair Nootz asked about the Community Paramedic Program since she did not see that in the study.

The City Manager stated that yes, we have the Community Paramedic Program and we now have the Mobile Crisis Response that is in its early stages. He stated the funding for both of those programs comes through Park County.

Motion unanimously approved.

7:12pm Vice-Chair Nootz motioned for a 10 minute break seconded by Commissioner Lyons. Unanimously approved.

B. ORDINANCE 3056: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 30, ZONING, OF THE LIVINGSTON MUNICIPAL CODE, BY ALTERING SECTION 30.40, SECTION 30.41, SECTION 30.43, AND SECTION 30.51 AS THEY RELATE TO ACCESSORY DWELLING UNITS AND TWO (2) FAMILY DWELLINGS. PG. 189

The City Manager introduced this item as the second reading of Ordinance 3056 and stated these are state code changes that came in the 2023 legislative updates.

Planning Director Severson provided a brief overview, noting that changes are mandated by recent state legislation and clarify that ADUs are only allowed with single-family residences, and the small clarifications requested at the first reading have been incorporated.

Commissioner Schwarz motioned to approve Ordinance 3056 seconded by Commissioner Lyons.

Public Comment:

- Linda Mahr expressed that these ADUs will allow folks to do what the people from a previous denied variance were not permitted to do seems unfair.

Vice-Chair Nootz and Chair Kahle reminded that ADU changes come state mandated.

Chair Kahle stated that the ADUs still have to meet the setback guidelines.

Vice-Chair Nootz stated there has been lots of talk about ADUs but not many permits have come in and asked the City Manager how many have come in since the start of this conversation.



The City Manager stated less than 15 are coming through each year.

The motion to approve Ordinance 3056 was unanimously approved.

C. DISCUSSION OF PROPOSED TECHNIAL AND CONFORMING CHANGES TO THE CITY OF LIVINGSTON SUBDIVISION REGULATIONS PG. 219

The City Manager stated this item is a follow up to the previous meeting and reminded that subdivision regulation updates is one of the key recommendations in the growth policy and updating the regulations to match the provisions in the growth policy makes the most sense to provide the Commission and community the tools to ensure the subdivisions are reflective of the goals of the community with the Growth Policy.

Planning Director Severson then provided a more detail summary of the recommended updates:

1. **Alignment with Current MCA References:** She explained that several statues under MCA have changed since the City's last subdivision regulation update in 2007
2. **Removal of Inapplicable Rural Provisions:** She noted certain language in the current regulations primarily addresses unzoned or rural county subdivisions. Since Livingston is fully within an urban and zoned area, these sections have been removed or revised.
3. **Improved Clarity and Consistency:** She emphasized that they identified internal inconsistencies or outdated references – such as references to departments or boards that no longer exist – removing or correcting for clarity.
4. **Integration of Current Practices:** She highlighted some sections were updated to reflect how City staff currently handles minor subdivisions, sufficiency review, and final plat approvals in practice. These administrative updates ensure the written regulations match actual procedures.

Commissioner Lyons stated the technical updates are a foundational step that bring current regulations in line with the updated MCA references. He wondered if this initial scope is to just get in line with MCA.

The City Manager stated yes, this is to align with MCA, but he also hopes to receive Commissioner feedback through this process.

Planning Director Severson stated the road standards will be in the next reading.

Commissioner Lyons wondered if expedited review is available to any applicant considering subdividing.

Planning Director Severson stated yes, but will need to be looked at a little closer for some things.

Commissioner Lyons expressed support for the phased approach, noting a more substantive policy change – particularly those tied to the Growth Policy.

Vice-Chair Nootz emphasized the need to proactively involve the public, especially because expedited reviews won't allow the Commission to consider primary criteria like agriculture or wildlife. She stated they need to ensure things like wildlife corridors, noise near rail lines and water drainage issues are in the code.

The City Manager stated the more explicit they are with the regulations the easier it is for staff to see whether an application complies or not. Under expedited review, we don't get to weigh those primary criteria at the Commission level, so the code itself needs to reflect community priorities. He stated they are interested in posting the



applications on the website as soon as deemed sufficient to allow for a designated comment period, even for expedited projects.

Vice-Chair Nootz ultimately would like to staff to be able to hear from the public on the expedited reviews. She asked about conditions and where those come in.

Planning Director Severson said that staff is not able to condition.

Chair Kahle pointed out a few typo corrections and updates to include more detail.

Commissioner Lyons asked about a timeline.

The City Manager stated this will come back at the 2nd meeting in January.

Chair Kahle asked the best route to receive public comment on this subject.

The City Manager stated he envisioned that public engagement would start at the second meeting in January.

D. CONSIDERATION OF THE 2025 REGULAR MEETING SCHEDULE OF THE LIVINGSTON CITY COMMISSION PG. 336

The City Manager stated the proposed 2025 schedule follow the traditional first and third Tuesdays. Unlike previous years, no direct conflicts with holidays exist. The Commission may choose to keep the July 1 meeting or not.

Commissioner Lyons motioned to approve the 2025 regular meeting schedule seconded by Commissioner Willich.

Unanimously approved.

Chair Kahle motioned to enter closed session seconded by Vice-Chair Nootz. Unanimously approved.

E. CLOSED SESSION TO DISCUSS LEGAL STRATEGY PURSUANT TO MCA 2-3-203(4)(a) AND ALSO TO DISCUSS MATTERS OF INDIVIDUAL PRIVACY PURSUANT TO MCA 2-3-203(3)

8. City Manager Comment

The City Manager thanked the Commission for their hard work and feedback. He wished everyone a Merry Christmas.

9. City Commission Comments

Commissioner Willich wished everyone a happy holiday season.

Commissioner Lyons: no comment

Commissioner Schwarz referenced a local, informal holiday event with caroling and roasting marshmallows taking place and extended holiday wishes to the community.

Vice-Chair Nootz noted that winter solstice was approaching and it will be getting lighter soon.

Chair Kahle wished the commission and community a happy holiday season and happy New Year.



10. Adjournment

10:30pm Commissioner Lyons motioned to adjourn seconded by Commissioner Schwarz. Unanimously approved.

Calendar of Events

Supplemental Material

Notice

1. **Public Comment:** The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).
2. **Meeting Recording:** An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.
3. **Special Accommodation:** If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.



Review of Subdivision Regulations

City Commission Meeting
December 17, 2024

PRESENTATION OVERVIEW

- Statutory Authority
- Scope of Review
- Initial Recommendations

PURPOSE OF LOCAL SUBDIVISION REGULATIONS

MCA 76-3-501

(1) The governing body of every...city...shall adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for:

- (a) the **orderly development** of their jurisdiction;
- (b) the **coordination of roads** within subdivided land with other roads (existing and planned);
- (c) the **dedication of land for roadways and public utility easements;**
- (d) the **improvement of roads;**
- (e) the provision of **adequate open spaces for travel, light, air, and recreation;**

PURPOSE OF LOCAL SUBDIVISION REGULATIONS

MCA 76-3-501

(1) The governing body of every ...city...shall adopt and provide for the enforcement and administration of subdivision regulations reasonably providing for: *(cont.)*

(f) the provision of **adequate transportation, water, and drainage;**

(g) **N/A;**

(h) the **avoidance or minimization of congestion;** and

(i) the **avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural hazard, including but not limited to fire and wildland fire, or the lack of water, drainage, access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services.**

PURPOSE OF LOCAL SUBDIVISION REGULATIONS

MCA 76-3-501

(2) Any action that is not specifically prohibited in the conditions of subdivision approval is ...allowed or is otherwise subject to additional restrictions that may be provided in the governing documents of the subdivision and applicable zoning regulations.

(3) If a local government has historically interpreted and enforced, or chosen not to enforce, a condition of subdivision approval to the benefit of a parcel owner, the...government may not undertake a different interpretation or enforcement action against a similarly situated parcel owner in the same subdivision.

CRITERIA FOR LOCAL GOVERNMENT REVIEW

MCA 76-3-608

The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of this chapter.

CRITERIA FOR LOCAL GOVERNMENT REVIEW

MCA 76-3-608

- (3) A subdivision proposal must undergo review for the following primary criteria:**
- (a) except when the governing body has established an exemption...as provided...76-3-609(2) or (4), or 76-3-616 (N/A), the specific, documentable, and clearly defined impact on:**
- agriculture
 - agricultural water user facilities
 - local services,
 - the natural environment,
 - wildlife,
 - wildlife habitat, and
 - public health and safety, excluding any consideration of...resulting loss of agricultural soils;

CRITERIA FOR LOCAL GOVERNMENT REVIEW

MCA 76-3-608

(3) A subdivision proposal must undergo review for the following primary criteria: (cont.)

(b) compliance with:

(i) the survey requirements provided for in part 4 of this chapter;

(ii) the local subdivision regulations provided for in part 5 of this chapter; and

(iii) the local subdivision review procedure provided for in this part [i.e. 76-3-608.3(a)];

(c) the provision of easements within and to the proposed subdivision for the location and installation of any planned utilities; and

(d) the provision of legal and physical access to each parcel within the proposed subdivision and the required notation of that access on the applicable plat and any instrument of transfer concerning the parcel.

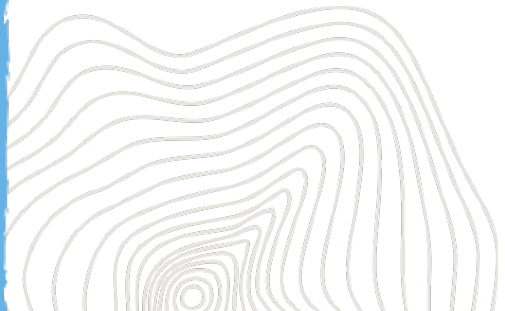
PRESENTATION OVERVIEW

- Statutory Authority
- Scope of Review
- Initial Recommendations

SCOPE OF REVIEW OF SUBDIVISION REGULATIONS

Three Types of Changes:

- Technical and Conforming
- Growth Policy Recommendations
- Community Experience



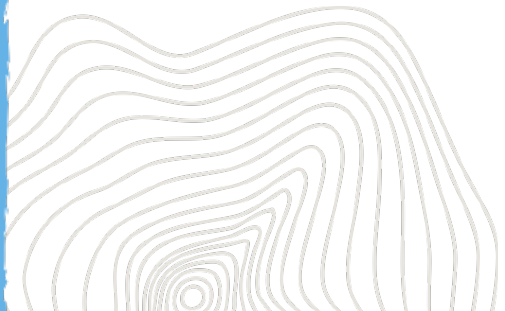
TECHNICAL AND CONFORMING CHANGES

- Reflect compliance with state-mandated changes
- Remove language not applicable to the City
- Align with current city policies and practices
- Improve clarity to make code easier to understand



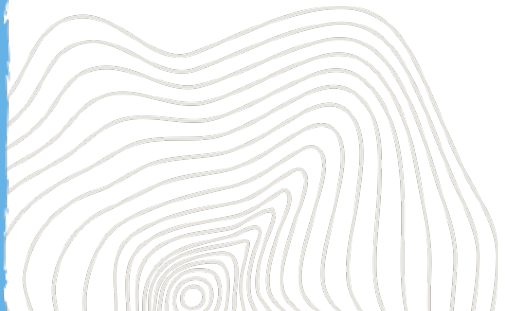
GROWTH POLICY RECOMMENDED CHANGES

- Updated Street Design Standards
- More Restrictive Variance Criteria
- Consideration of Viewshed/ Ridgeline protection language



COMMUNITY EXPERIENCE CHANGES

- Integrate language from MT Dept of Commerce Model Subdivision Regulations
- Updated Fire Protection Language
- Integrate Best Practices for Wildland Urban Interface (WUI) considerations
- Other, as directed by City Commission



PRESENTATION OVERVIEW

- Statutory Authority
- Scope of Review
- Initial Recommendations

TECHNICAL AND CONFORMING CHANGES

- State-mandated Revisions and related updates necessitated by those revisions (through 2023 MT Legislative Session)
- Consistency between State and City regulations
- Removal of language not applicable to the City (rural areas)
- Alignment with current city policies and practices
- Formatting, Nomenclature, Consistency and Clarity within Ch. 28

STRATEGIC ALIGNMENT

The proposed updates support Land Use Recommendations for Subdivisions identified in Chapter 11 in the Growth Policy:

- Update regulations to add language from the MT Subdivision and Platting Act.
- Include definitions within document (i.e. Subdivision Regulations in Ch. 28).
- All definitions should be updated to meet the intent of the zoning code, subdivision regulations, recommendations of the Growth Policy and compliance with state, county, and local laws.
- Ensure references to MCA and MSPA are up to date.
- Ensure all fees are included and cover staff and City resource costs to process each application.

QUESTIONS?



LIVINGSTON
M O N T A N A



STATE-MANDATED ZONING TEXT AMENDMENT

Accessory Dwelling Units (ADUs) and Duplexes

CITY COMMISSION MEETING

DECEMBER 17, 2024

PURPOSE & SUMMARY OF UPDATES

Updates mandated by 2023 State Laws

- SB 323- Duplexes allowed anywhere Single Family Residential (SFR) allowed
 - Duplexes now allowed in R-I and RMO districts
 - All other zones already allow duplex where SFR allowed
- SB 528- ADUs allowed anywhere SFR exists; limits restrictions on ADUs
 - ADU allowed anywhere a SFR exists (key change is CBD)
 - Removes requirements for parking, Impact Fees and design*

CHANGES TO TABLE 30.40

List of Uses

A = Allowed S = Special Exception Permit Required N = Not Allowed												
	R-I	R-II	RII-MH	R-III	RMO	NC ¹	MU	CBD ²	HC	LI	I	P
One (1) Family Dwellings [±]	A	A	A	A	A	A	A	A <u>N</u>	A	N	N	N
Two (2) Family Dwellings	N <u>A</u>	A	A	A	N <u>A</u>	A	A	A <u>N</u>	A	N	N	N
Multifamily Dwellings	N	A	A	A	N	A	A	A	A	N	N	N
Accessory Dwellings	A	A	A	A	A	<u>N*</u>	A	<u>N*</u>	A	<u>N*</u>	<u>N*</u>	<u>N*</u>

1. NC- Any number of residential units may be established within a building that also contains a commercial use.
2. CBD—Any number of ~~apartment~~residential units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High-Density Multifamily Residential."
*New ADUs are allowed in these districts only if a single family residential use already exists on the parcel.
3. Adult Foster Care Center.
 - a. No more than four (4) residents;
 - b. Staff member must be on board twenty-four (24) hours a day.
4. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.
~~*This includes manufactured homes as defined by Ordinance 1813.~~

ADDITIONAL REVISION TBL 30.41 – RESIDENTIAL DENSITY REQUIREMENTS

- ADUs do not apply to duplexes, multi-family, townhomes or condos (ensures 'gentle infill' by limiting ADUs to SFR)
- Not required by the state, but in response to feedback from January 2024 City Commission

1. In all ~~residential~~ zoning districts in which accessory dwellings are permitted, the number of accessory dwellings allowed is equivalent to the number of one (1) family dwelling units ~~allowed present~~ on the lot ~~as show in Table 30.41 above. The total number of dwelling units allowed on any lot is the allowed density of the lot in Table 30.41 above plus the equivalent number of accessory dwellings. E.g.: a 7,000 square foot lot in the R-II zoning district allows two (2) dwelling units and two (2) accessory dwellings. Accessory dwelling units shall not apply to two (2) family and multi-family dwellings.~~

A) Applicable to Mobile Home Subdivisions only.

B) Side setback not required for approved townhouse development.

C) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

CRITERIA FOR ZONING REGULATIONS (MCA 76-2-304)

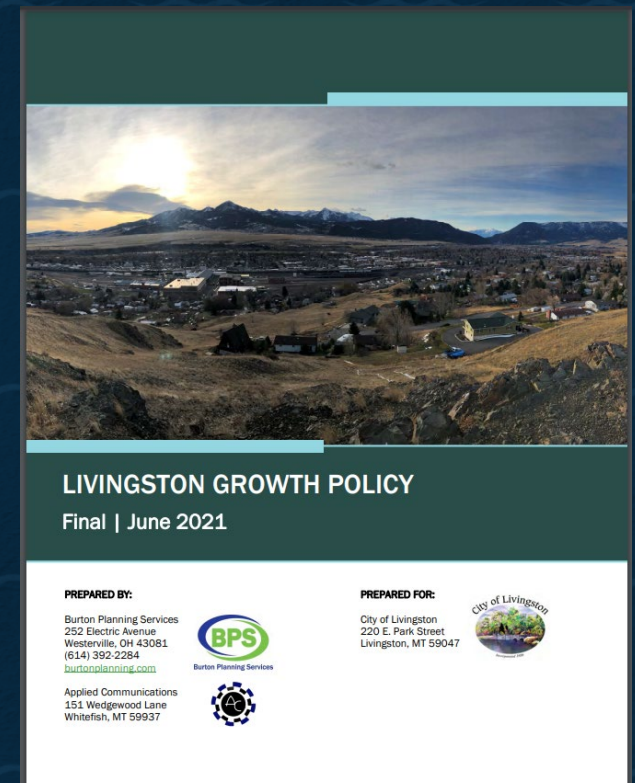
- Made in accordance with Growth Policy
- Secure safety from fire/ other dangers
- Promote public health, safety and general welfare
- Adequate provision of transportation, water, sewer, schools, parks, and other public requirements
- Reasonable provision of light and air
- Effect on motorized and nonmotorized transportation
- Promotion of compatible urban growth
- Zoning district character and suitability for particular uses
- Conserve building values and encourage appropriate land uses

RECOMMENDATION

Staff recommends the City Commission follow the recommendation of the Consolidated Land Use Board and adopt the text amendments as proposed by Staff and as shown in the attached Draft Ordinance 3056

QUESTIONS ?

Thank you



LIVINGSTON GROWTH POLICY
Final | June 2021

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