



Livingston City Commission Agenda

July 06, 2021

5:30 PM

City – County Complex, Community Room

1. Call to Order
2. Roll Call
3. Moment of Silence
4. Pledge of Allegiance
5. 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)
6. Consent Items
 - A. APPROVE MINUTES FROM JUNE 15, 2021 REGULAR MEETING.**
 - B. RATIFY CLAIMS PAID 06/11/2021-06/22/2021**
7. Proclamations
8. Scheduled Public Comment
9. Public Hearings
10. Ordinances
 - A. ORDINANCE NO. 3012: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED OFFICIAL ZONING MAP OF THE CITY OF LIVINGSTON BY ZONING PARCELS GENERALLY KNOWN AS 1014 AND 1016 W. PARK STREET AND LEGALLY DESCRIBED AS SECTION 13, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), BENEFICIAL USE OF MRL R/WAY LEASE #502, 120 BRONSON COSMIC ENTERPRISES INC (IMPT ON #28000), AND SECTION 24, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), BENEFICIAL USE OF MRL R/WAY LEASE #500664 MELIN & ASSOCIATES INSURANCE AGENCY (IMPT ON #27950), AS HIGHWAY COMMERCIAL (HC).**
 - B. ORDINANCE NO. 3013: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II, ARTICLE IV, and ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO TINY HOMES, MANUFACTURED AND MODULAR HOMES.**
 - C. ORDINANCE NO. 3014: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE V, ARTICLE VII, ARTICLE VIII, and ARTICLE IX, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING AS IT PERTAINS TO FEES AND PERMITTING.**

- D.** ORDINANCE NO. 3015: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II OF THE LIVINGSTON MUNICIPAL CODE ENTITLED CITY COMMISSION AND CHAIR, AMENDING SECTION 2-12 AS IT PERTAINS TO LOCATION OF CITY COMMISSION POSTING BOARD, AMENDING SECTION 2-16 AS IT PERTAINS TO THE PROCESS FOR SETTING AGENDA, AMENDING SECTION 2-19 BY PERTAINING TO THE PROCEDURE TO CONDUCT BUSINESS.
- E.** ORDINANCE NO. 3016: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND CHAPTER 27 OF THE LIVINGSTON MUNICIPAL CODE SECTION 27-3 ENTITLED MEMBERSHIP OF THE PLANNING BOARD, TERMS OF OFFICE AN QUALIFICATIONS, BY ADDING TWO (2) ADDITIONAL MEMBERS TO THE CITY PLANNING BOARD.

11. Resolutions

- A.** RESOLUTION NO. 4969: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, GIVING NOTICE THAT THE CITY COMMISSION HAS COMPLETED ITS PRELIMINARY BUDGET IN THE AMOUNT OF \$22,935,549 FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2021, AND ENDING JUNE 30, 2022, (FY 22), THAT THE BUDGET IS ON FILE AND AVAILABLE FOR PUBLIC INSPECTION AND ON THE INTERNET AT www.livingstonmontana.org, AND CALLING FOR A PUBLIC HEARING FOR APPROVAL OF THE FINAL BUDGET AND MAKING APPROPRIATIONS.
- B.** RESOLUTION NO. 4970: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WATER SYSTEM.
- C.** RESOLUTION NO. 4971: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WASTEWATER SYSTEM.
- D.** RESOLUTION NO. 4972: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO SPECIFY THE ASSESSMENT OPTION FOR STREET MAINTENANCE AND IMPROVEMENTS DISTRICT NO. 1 FOR THE FISCAL YEAR 2021- 2022 IN AN ESTIMATED AMOUNT OF \$1,278,988, LEVY AND ASSESS ALL PROPERTY WITHIN THE DISTRICT.
- E.** RESOLUTION NO. 4973: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTIMATE THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE AMOUNT OF \$84,600 FOR THE FISCAL YEAR 2021-2022 AND LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT.
- F.** RESOLUTION NO. 4974: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREET LIGHTS AND OTHER APPURTENANCES THEREIN AND TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS OF \$65,000 FOR THE FISCAL YEAR 2021-2022 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID

DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT, AND CALLING FOR A PUBLIC HEARING.

G. RESOLUTION NO. 4976: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO APPLY FOR MINIMUM ALLOCATION GRANTS AND THE COMPETITIVE GRANT PROGRAM OF THE AMERICAN RESCUE PLAN ACT AND AUTHORIZATION TO COMMIT UP TO \$500,000.00 IN MATCHING FUNDS FOR THE MINIMUM ALLOCATION GRANT AND \$2,000,000 FOR THE COMPETITIVE GRANT PROGRAM.

12. Action Items

13. City Manager Comment

14. City Commission Comments

15. Adjournment

Calendar of Events

Supplemental Material

Notice

- **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).
- **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.
- **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.

File Attachments for Item:

A. APPROVE MINUTES FROM JUNE 15, 2021 REGULAR MEETING.



Livingston City Commission Minutes

June 15, 2021

5:30 PM

Via Zoom

1. Call to Order

2. Roll Call

City Commission Members Present: Chair Dorel Hoglund; Vice-Chair Quentin Schwarz; Mel Friedman; Warren Mabie; Melissa Nootz.

Staff Present: City Manager Michael Kardoes; City Attorney Courtney Lawellin; Public Works Director Shannon Holmes; Planning Director Mathieu Menard; and City Clerk Faith Kinnick.

3. Public Comment:

- Jean Keffler made public comment (00:04:16)
- Leslie Feigle made public comment (00:05:56)
- Michelle Uberuaga made public comment (00:10:09)
- Myron Kovash made public comment (00:13:44)
- Jay Keifer made public comment (00:17:06)

4. Consent Items (00:20:20)

A. APPROVE MINUTES FROM JUNE 1, 2021 REGULAR MEETING.

B. RATIFY CLAIMS PAID 05/26/2021-06/10/2021.

- Schwarz made motion to approve consent items A & B, second by Mabie
All in favor, passes 5-0

5. Proclamations (00:21:06)

A. 2021 RODEO DAYS PROCLAMATION

6. Scheduled Public Comment (00:23:32)

A. ADAM STERN PRESENTS LEGION BASEBALL 2021 TOURNAMENT

7. Public Hearings (00:31:24)

A. RESOLUTION NO. 4961: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX CONTIGUOUS GOVERNMENTAL LAND DESCRIBED AS BEING BENNETT STREET, GRANDVIEW BOULEVARD, ARBOR DRIVE, HEFFERLIN AVENUE, WHISKEY CREEK ROAD, SCHEUBER AVENUE, LOCKE BLAIR AVENUE, AND A PORTION OF GARNIER AVENUE FROM ALLSPAUGH STREET TO ARBOR DRIVE, ALL LOCATED IN SECTION 7, TOWNSHIP 2 SOUTH, RANGE 10 EAST.

- Kardoes made opening statements

- Jami Rebsom made public comments (00:33:45)
- Kardoes answered question regarding encroachment (00:35:48)
- Leslie Feigle made public comments (00:36:36)
- Courtney Lawellin answered questions about language (00:37:47)
- Kathy Minor made comments (00:39:00)
- Myron Kovash made comments (00:42:27)
- Jay Keifer made comments (00:44:15)
- Becky DeRosa made comments (00:45:14)
- Courtney answered some questions (00:48:37)
- Nootz relayed some of the questions asked from the Community. (00:51:52)
- Kardoes answered questions (00:52:16)
- Mabie made comments (00:59:10)
- Nootz made comments (01:00:45)
- Nootz made motion to approve, second by Mabie
All in favor, passes 5-0

8. Ordinances (01:02:48)

A. ORDINANCE NO. 3011: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 17 - SAFETY INSPECTION CERTIFICATE, SPECIAL BUSINESS LICENSE, AND ALCOHOL BEVERAGE LICENSE ACT AS ENACTED BY ORDINANCE NO. 2026 REGULATING THE INSPECTION AND LICENSING OF BUSINESSES.

- Courtney Lawellin made opening statements
- Jack Luther gave public comments (01:06:19)
- Jay Keifer gave public comments (01:09:27)
- Kathy Minor gave public comments (01:11:23)
- Hogle asked clarifying questions (01:12:12)
- Courtney Lawellin answered questions (01:12:50)
- Kardoes provided additional clarifying information (01:13:37)
- Schwarz made comments (01:16:36)
- Mabie made comments (01:18:02)
- Schwarz made motion to approve, second by Mabie
All in favor, passes 5-0

5-Minute Break (01:20:17)

9. Resolutions (01:20:44)

A. RESOLUTION NO. 4968: A RESOLUTION OF THE CITY COMMISSIONERS OF THE CITY OF LIVINGSTON, MONTANA, ADOPTING THE PROPOSED GROWTH POLICY.

- Deputy Planning Director, Mathieu Menard made opening statements
- Kardoes made clarifying statements regarding public comments received for this item in protest of annexation received in response to ETJ of the Growth Policy (01:23:45)
- Bev Kovash made public comments (01:28:01)
- Myron Kovash made public comments (01:29:31)
- Tim Stephens made public comments (01:32:10)

- Michelle Uberuaga made public comments (01:33:44)
- Jean Keffler made public comments (01:36:01)
- Leslie Feigle made public comments (01:38:12)
- Karrie Kahle made public comments (01:40:16)
- Jessie Wilcox made public comments (01:41:59)
- Jack Luther made public comments (01:43:16)
- Nootz made comments (01:44:42)
- Mathieu Menard made clarifying comments regarding ETJ (01:45:20)
- Hoglund made comments (01:51:26)
- Mabie made comments (01:55:21)
- Schwarz made comments (01:56:11)
- Nootz made motion to approve, second by Hoglund
All in favor, passes 5-0

B. RESOLUTION NO. 4975: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, TO APPLY THE HISTORIC PROPERTY TAX ABATEMENT PROGRAM TO PROPERTY OWNED BY THOMAS BLUROCK ADDRESSED AS 122 SOUTH 2ND STREET. (01:56:15)

- Deputy Planning Director, Mathieu Menard made opening statements
- Thomas Blurock made additional comments (02:02:38)
- No public comments
- Schwarz made comments (02:04:17)
- Nootz made comments (02:05:02)
- Hoglund made comments (02:05:53)
- Mabie made comments (02:07:58)
- Motion by Mabie, second by Schwarz
All in favor, motion passes 5-0.

10. Action Items: **PULLED FROM DISCUSSION**

~~**A. CLOSED SESSION: HEART K RANCH ASSIGNMENT AGREEMENT**~~

11. City Manager Comment (02:09:21)

Provided update on Purple Air Monitor and station near soccer fields, update on solar electricity produced by system at WRF, provided notice the city received Pot A of the American Response Plan Act (ARPA) funds.

12. City Commission Comments (02:13:46)

- Nootz made comments
- Mabie made comments (02:16:34)
- Friedman made comments (02:17:50)
- Schwarz made comments (02:18:32)
- Hoglund made comments (02:20:15)

13. Adjournment 8:07 p.m. (02:25:54)

File Attachments for Item:**B. RATIFY CLAIMS PAID 06/11/2021-06/22/2021**

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
A-1 MUFFLER, INC.							
2	A-1 MUFFLER, INC.	69964	FUEL PUMP	06/02/2021	572.00	572.00	06/15/2021
Total A-1 MUFFLER, INC.:					572.00	572.00	
AAA CLEANING, LLC							
3727	AAA CLEANING, LLC	2021.5.31	cleaning bennett street	05/31/2021	500.00	500.00	06/15/2021
3727	AAA CLEANING, LLC	2021.5.31.1	cleaning	05/31/2021	1,240.00	1,240.00	06/15/2021
Total AAA CLEANING, LLC:					1,740.00	1,740.00	
ALL SERVICE TIRE & ALIGNMENT							
22	ALL SERVICE TIRE & ALIGNME	61718	Oil Change	05/21/2021	65.00	65.00	06/15/2021
Total ALL SERVICE TIRE & ALIGNMENT:					65.00	65.00	
BIOBOT ANALYTICS, INC							
10001	BIOBOT ANALYTICS, INC	BCE05DE9-00	KIT IDS	04/30/2021	4,080.00	4,080.00	06/15/2021
Total BIOBOT ANALYTICS, INC:					4,080.00	4,080.00	
BOUND TREE MEDICAL, LLC							
2662	BOUND TREE MEDICAL, LLC	84067498	Patient Supplies	05/20/2021	282.83	282.83	06/15/2021
2662	BOUND TREE MEDICAL, LLC	84070646	Patient Supplies	05/24/2021	31.32	31.32	06/15/2021
2662	BOUND TREE MEDICAL, LLC	84080857	Patient Supplies	06/02/2021	157.86	157.86	06/15/2021
2662	BOUND TREE MEDICAL, LLC	84088457	Patient Supplies	06/08/2021	267.98	267.98	06/15/2021
2662	BOUND TREE MEDICAL, LLC	84090261	Patient Supplies	06/09/2021	176.58	176.58	06/15/2021
Total BOUND TREE MEDICAL, LLC:					916.57	916.57	
BUDGET BLINDS OF BOZEMAN							
10002	BUDGET BLINDS OF BOZEMAN	4471	BLINDS	06/08/2021	5,376.06	5,376.06	06/15/2021
Total BUDGET BLINDS OF BOZEMAN:					5,376.06	5,376.06	
CARQUEST AUTO PARTS							
23	CARQUEST AUTO PARTS	1912-507527	M2 REPAIR	05/10/2021	12.98	12.98	06/15/2021
23	CARQUEST AUTO PARTS	1912-507798	OIL FILTER	05/12/2021	153.65	153.65	06/15/2021
23	CARQUEST AUTO PARTS	1912-507806	DiSPENS	05/12/2021	41.18	41.18	06/15/2021
23	CARQUEST AUTO PARTS	1912-507810	DiSPENS	05/12/2021	41.18	41.18	06/15/2021
23	CARQUEST AUTO PARTS	1912-507831	SILVERSTAR	05/12/2021	18.19	18.19	06/15/2021
23	CARQUEST AUTO PARTS	1912-508361	CAR WASH	05/18/2021	12.86	12.86	06/15/2021
23	CARQUEST AUTO PARTS	1912-509280	ANTIFREEZE	05/27/2021	193.68	193.68	06/15/2021
23	CARQUEST AUTO PARTS	1912-509315	TOP TERMINAL	05/28/2021	3.34	3.34	06/15/2021
Total CARQUEST AUTO PARTS:					477.06	477.06	
CASELLE							
3763	CASELLE	2021.6	APPLICATION SOFTWARE	06/01/2021	2,476.28	2,476.28	06/15/2021
3763	CASELLE	2021.6	APPLICATION SOFTWARE	06/01/2021	89.77	89.77	06/15/2021
3763	CASELLE	2021.6	APPLICATION SOFTWARE	06/01/2021	89.77	89.77	06/15/2021
3763	CASELLE	2021.6	APPLICATION SOFTWARE	06/01/2021	150.81	150.81	06/15/2021
3763	CASELLE	2021.6	APPLICATION SOFTWARE	06/01/2021	150.80	150.80	06/15/2021
3763	CASELLE	2021.6	APPLICATION SOFTWARE	06/01/2021	240.57	240.57	06/15/2021
Total CASELLE:					3,198.00	3,198.00	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
CENTURYLINK							
162	CENTURYLINK	2021.5.16	406-222-0137-441B	05/16/2021	75.10	75.10	06/15/2021
Total CENTURYLINK:					75.10	75.10	
COLJ CONFERENCE REGISTRATION							
2660	COLJ CONFERENCE REGISTRA	2021.6.1	CONFERENCE	06/01/2021	250.00	250.00	06/10/2021
Total COLJ CONFERENCE REGISTRATION:					250.00	250.00	
COMDATA							
2671	COMDATA	20354390	CG72T	06/01/2021	2,627.06	2,627.06	06/15/2021
2671	COMDATA	20354390	CG73p	06/01/2021	292.99	292.99	06/15/2021
2671	COMDATA	20354414	CG72P	06/01/2021	275.36	275.36	06/15/2021
2671	COMDATA	20354414	CG72R	06/01/2021	84.32	84.32	06/15/2021
2671	COMDATA	20354414	CG73C-PARKS	06/01/2021	455.78	455.78	06/15/2021
2671	COMDATA	20354414	CG73H	06/01/2021	69.09	69.09	06/15/2021
2671	COMDATA	20354414	CG73L SEWER	06/01/2021	361.19	361.19	06/15/2021
2671	COMDATA	20354414	CG73S-WATER	06/01/2021	899.72	899.72	06/15/2021
2671	COMDATA	20354414	CG74G-STREETS	06/01/2021	394.12	394.12	06/15/2021
2671	COMDATA	20354414	CG74G-STREETS	06/01/2021	67.60	67.60	06/15/2021
2671	COMDATA	20354422	CG72S	06/01/2021	1,873.39	1,873.39	06/15/2021
Total COMDATA:					7,400.62	7,400.62	
CURTIS							
3720	CURTIS	INV470841	VENT DRAIN	03/10/2021	63.67	63.67	06/15/2021
Total CURTIS:					63.67	63.67	
D&R COFFEE SERVICE INC							
10002	D&R COFFEE SERVICE INC	139441	RENTAL FEE	06/25/2021	50.00	50.00	06/15/2021
Total D&R COFFEE SERVICE INC:					50.00	50.00	
DELTA SIGNS & GRAPHICS							
509	DELTA SIGNS & GRAPHICS	2441	FLEXIBLE BANNER	04/25/2021	110.00	110.00	06/15/2021
509	DELTA SIGNS & GRAPHICS	2445	Sign	04/30/2021	390.00	390.00	06/15/2021
Total DELTA SIGNS & GRAPHICS:					500.00	500.00	
DENTON, KRISTINE							
3596	DENTON, KRISTINE	2021.6.14	REIMB CLERKS CONF	06/14/2021	346.50	346.50	06/10/2021
Total DENTON, KRISTINE:					346.50	346.50	
ENERGY LABORATORIES, INC.							
424	ENERGY LABORATORIES, INC.	394795	Analysis parameter	05/21/2021	216.00	216.00	06/15/2021
424	ENERGY LABORATORIES, INC.	396799	Effluent	06/01/2021	1,124.00	1,124.00	06/15/2021
Total ENERGY LABORATORIES, INC.:					1,340.00	1,340.00	
FARSTAD OIL							
3353	FARSTAD OIL	95925	Diesel 120G	05/26/2021	307.56	307.56	06/15/2021
3353	FARSTAD OIL	IN-307412-21	Diesel 600G	06/02/2021	1,573.20	1,573.20	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total FARSTAD OIL:					1,880.76	1,880.76	
FISHER SAND AND GRAVEL							
2904	FISHER SAND AND GRAVEL	01-7840 CM	CREDIT	05/15/2021	480.00-	480.00-	06/15/2021
2904	FISHER SAND AND GRAVEL	41682	FlowFILL	05/15/2021	1,536.00	1,536.00	06/15/2021
Total FISHER SAND AND GRAVEL:					1,056.00	1,056.00	
FORT HARRISON INN							
10000	FORT HARRISON INN	2021.8.16	WALKER-RESERVATION	05/24/2021	154.00	154.00	06/15/2021
Total FORT HARRISON INN:					154.00	154.00	
GATEWAY OFFICE SUPPLY							
54	GATEWAY OFFICE SUPPLY	51288	POSTAGE-POLICE	05/10/2021	13.23	13.23	06/15/2021
54	GATEWAY OFFICE SUPPLY	51339	POSTAGE-POLICE	05/13/2021	12.79	12.79	06/15/2021
54	GATEWAY OFFICE SUPPLY	51429	Office SupplieS-FIRE	05/26/2021	12.45	12.45	06/15/2021
54	GATEWAY OFFICE SUPPLY	51434	POSTAGE-POLICE	05/27/2021	13.23	13.23	06/15/2021
54	GATEWAY OFFICE SUPPLY	51465	Office SupplieS-FINANCE	06/02/2021	32.15	32.15	06/15/2021
54	GATEWAY OFFICE SUPPLY	51478	Office SupplieS-FIRE	06/03/2021	28.59	28.59	06/15/2021
54	GATEWAY OFFICE SUPPLY	51493	Office Supplies	06/07/2021	20.78	20.78	06/15/2021
54	GATEWAY OFFICE SUPPLY	51518	Office SupplieS-JUDGE	06/09/2021	15.00	15.00	06/15/2021
54	GATEWAY OFFICE SUPPLY	51536	Office Supplies	06/09/2021	8.00	8.00	06/15/2021
Total GATEWAY OFFICE SUPPLY:					156.22	156.22	
GENERAL DISTRIBUTING COMPANY							
1845	GENERAL DISTRIBUTING COM	0000998959	Oxygen	05/27/2021	461.44	461.44	06/15/2021
1845	GENERAL DISTRIBUTING COM	0001002109	Oxygen	05/31/2021	29.14	29.14	06/15/2021
Total GENERAL DISTRIBUTING COMPANY:					490.58	490.58	
HANSER'S AUTOMOTIVE & WRECKER							
1687	HANSER'S AUTOMOTIVE & WR	LIV2012	ToYOTA IMPOUND	05/18/2021	135.00	135.00	06/15/2021
Total HANSER'S AUTOMOTIVE & WRECKER:					135.00	135.00	
HIGH COUNTRY WILDLIFE CONTROL							
10002	HIGH COUNTRY WILDLIFE CON	2915	PEST CONTROL	06/01/2021	195.00	195.00	06/15/2021
Total HIGH COUNTRY WILDLIFE CONTROL:					195.00	195.00	
HUGHES FIRE EQUIPMENT, INC							
3721	HUGHES FIRE EQUIPMENT, INC	563875	E1 TAILBOARD	05/25/2021	65.31	65.31	06/15/2021
3721	HUGHES FIRE EQUIPMENT, INC	564148	EI PUMPER	06/01/2021	917.16	917.16	06/15/2021
Total HUGHES FIRE EQUIPMENT, INC:					982.47	982.47	
INDUSTRIAL COMM & ELEC OF BOZEMAN							
3455	INDUSTRIAL COMM & ELEC OF	32728	911 ISSUES	05/01/2021	699.00	699.00	06/15/2021
Total INDUSTRIAL COMM & ELEC OF BOZEMAN:					699.00	699.00	
INDUSTRIAL TOWEL							
102	INDUSTRIAL TOWEL	64193-00	110 s B	06/01/2021	42.10	42.10	06/15/2021
102	INDUSTRIAL TOWEL	66329-00	330 bennett	06/01/2021	45.50	45.50	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total INDUSTRIAL TOWEL:					87.60	87.60	
J & H OFFICE EQUIPMENT							
1783	J & H OFFICE EQUIPMENT	29406488	LEASE	05/27/2021	270.73	270.73	06/15/2021
Total J & H OFFICE EQUIPMENT:					270.73	270.73	
KELLEY CONNECT							
10001	KELLEY CONNECT	IN834411	COPIER CIVIC CENTER	05/03/2021	116.33	116.33	06/15/2021
10001	KELLEY CONNECT	IN849017	OFFICE	06/01/2021	10.41	10.41	06/15/2021
10001	KELLEY CONNECT	IN850131	COPIER 330 BENNETT	06/03/2021	69.89	69.89	06/15/2021
Total KELLEY CONNECT:					196.63	196.63	
KEN'S EQUIPMENT REPAIR, INC							
1390	KEN'S EQUIPMENT REPAIR, IN	56944	410 K JD	03/31/2021	107.40	107.40	06/15/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57262	4307a	06/04/2021	695.00	695.00	06/15/2021
Total KEN'S EQUIPMENT REPAIR, INC:					802.40	802.40	
KENYON NOBLE							
776	KENYON NOBLE	8365571	GALV COUPLING	05/21/2021	68.31	68.31	06/15/2021
776	KENYON NOBLE	8375150	HAMMER	05/26/2021	27.99	27.99	06/15/2021
Total KENYON NOBLE:					96.30	96.30	
KIMBALL MIDWEST							
2863	KIMBALL MIDWEST	8913256	DRILL	05/25/2021	680.22	680.22	06/15/2021
2863	KIMBALL MIDWEST	8935149	Supplies	06/03/2021	59.02	59.02	06/15/2021
2863	KIMBALL MIDWEST	8936412	INTER LUBE PENT	06/03/2021	269.78	269.78	06/15/2021
Total KIMBALL MIDWEST:					1,009.02	1,009.02	
KOCH'S TENNIS COURT SERVICE							
3736	KOCH'S TENNIS COURT SERVI	2021.6.8	RESURFACED 2 TENNIS CORT	06/08/2021	14,870.00	14,870.00	06/15/2021
Total KOCH'S TENNIS COURT SERVICE:					14,870.00	14,870.00	
LEHRKIND'S COCA-COLA							
2830	LEHRKIND'S COCA-COLA	1849218	Water	06/04/2021	42.45	42.45	06/15/2021
2830	LEHRKIND'S COCA-COLA	1849219	Water	06/04/2021	41.25	41.25	06/15/2021
Total LEHRKIND'S COCA-COLA:					83.70	83.70	
LIVINGSTON FIRE SERVICE, INC							
468	LIVINGSTON FIRE SERVICE, IN	AR001624	ExtinguSHER M2	05/17/2021	65.00	65.00	06/15/2021
Total LIVINGSTON FIRE SERVICE, INC:					65.00	65.00	
LIVINGSTON HEALTH CARE							
55	LIVINGSTON HEALTH CARE	0017340	Patient Supplies	05/21/2021	82.40	82.40	06/15/2021
55	LIVINGSTON HEALTH CARE	200120205	770212988 LAB TEST	05/11/2021	29.10	29.10	06/15/2021
55	LIVINGSTON HEALTH CARE	200120275	770225766 LAB TEST	05/18/2021	29.10	29.10	06/15/2021
55	LIVINGSTON HEALTH CARE	4436306	Patient Supplies	06/01/2021	62.85	62.85	06/15/2021
55	LIVINGSTON HEALTH CARE	4439809	Patient Supplies	06/06/2021	15.35	15.35	06/15/2021
55	LIVINGSTON HEALTH CARE	4440225	Patient Supplies	06/07/2021	218.13	218.13	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total LIVINGSTON HEALTH CARE:					436.93	436.93	
MISC							
99999	MISC	2021.6	OVER PAYMENT ON UTILITY AC	06/01/2021	85.57	85.57	06/15/2021
99999	MISC	6007402	OVER PAYMENT ON UTILITY AC	04/26/2021	31.11	31.11	06/15/2021
99999	MISC	TK2021-0044	Bond Release - R. Newville	06/08/2021	290.00	290.00	06/10/2021
99999	MISC	TK2021-0146	Bond Release - A. Brandt	06/10/2021	1,085.00	1,085.00	06/14/2021
Total MISC:					1,491.68	1,491.68	
MONTANA CORRECTIONAL ENTERPRISES							
1180	MONTANA CORRECTIONAL EN	80959	FURNITURE	05/19/2021	22,180.00	22,180.00	06/15/2021
1180	MONTANA CORRECTIONAL EN	80961	FURNITURE	05/20/2021	2,250.00	2,250.00	06/15/2021
1180	MONTANA CORRECTIONAL EN	80962	FURNITURE	05/20/2021	2,690.00	2,690.00	06/15/2021
Total MONTANA CORRECTIONAL ENTERPRISES:					27,120.00	27,120.00	
MONTANA DEPT OF ENVIRONMENTAL							
2346	MONTANA DEPT OF ENVIRONM	2021.6.1	SOLD WASTE LIC #476	06/01/2021	480.00	480.00	06/15/2021
Total MONTANA DEPT OF ENVIRONMENTAL:					480.00	480.00	
MONTANA LAW ENFORCEMENT TESTING CONSORTI							
10000	MONTANA LAW ENFORCEMENT	2021.5.14	LIVINGSTON POLICE DEPT	05/14/2021	49.38	49.38	06/15/2021
Total MONTANA LAW ENFORCEMENT TESTING CONSORTI:					49.38	49.38	
MONTANA LEAGUE OF CITIES & TOWNS							
603	MONTANA LEAGUE OF CITIES	LIV120210630	2021-2022 MEMBERSHIP DUES	06/04/2021	2,922.26	2,922.26	06/15/2021
Total MONTANA LEAGUE OF CITIES & TOWNS:					2,922.26	2,922.26	
MONTANA MAGISTRATES ASSOCIATION							
643	MONTANA MAGISTRATES ASS	2021.6.8	MMADUES	06/08/2021	200.00	200.00	06/15/2021
Total MONTANA MAGISTRATES ASSOCIATION:					200.00	200.00	
MONTANA RAIL LINK							
112	MONTANA RAIL LINK	459687	Agreement 459687	06/01/2021	150.00	150.00	06/15/2021
Total MONTANA RAIL LINK:					150.00	150.00	
MONTANA STATE - FIRE SERVICES TRAINING							
2631	MONTANA STATE - FIRE SERVI	34-169	FF1 Cert viegut	05/17/2021	95.00	95.00	06/15/2021
2631	MONTANA STATE - FIRE SERVI	34-170	INSTRUCTOR COURSE	05/19/2021	95.00	95.00	06/15/2021
Total MONTANA STATE - FIRE SERVICES TRAINING:					190.00	190.00	
MONTANA STATE UNIVERSITY							
3792	MONTANA STATE UNIVERSITY	687-2	Flagging CLASS	05/13/2021	180.00	180.00	06/15/2021
3792	MONTANA STATE UNIVERSITY	687-3	Flagger Certificatio	05/19/2021	60.00	60.00	06/15/2021
Total MONTANA STATE UNIVERSITY:					240.00	240.00	
MOUNTAIN AIR SPORTS							
34	MOUNTAIN AIR SPORTS	10681	SHIRTS	05/17/2021	102.00	102.00	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
34	MOUNTAIN AIR SPORTS	10681	SHIRTS	05/17/2021	102.00	102.00	06/15/2021
34	MOUNTAIN AIR SPORTS	10681	SHIRTS	05/17/2021	102.00	102.00	06/15/2021
34	MOUNTAIN AIR SPORTS	10681	SHIRTS	05/17/2021	102.00	102.00	06/15/2021
34	MOUNTAIN AIR SPORTS	10681	SHIRTS	05/17/2021	102.00	102.00	06/15/2021
Total MOUNTAIN AIR SPORTS:					510.00	510.00	
MOUNTAIN MOBILE AUTO GLASS							
2106	MOUNTAIN MOBILE AUTO GLAS	17124	WINDSHIELD REPAIR	05/26/2021	35.00	35.00	06/15/2021
2106	MOUNTAIN MOBILE AUTO GLAS	17183	M1 WINDSHIELD	06/07/2021	285.00	285.00	06/15/2021
Total MOUNTAIN MOBILE AUTO GLASS:					320.00	320.00	
MUNICIPAL CODE CORPORATION							
3058	MUNICIPAL CODE CORPORATI	00358809	Subscription	06/07/2021	275.00	275.00	06/15/2021
Total MUNICIPAL CODE CORPORATION:					275.00	275.00	
MUNICIPAL EMERGENCY SERVICES							
2604	MUNICIPAL EMERGENCY SERV	IN1584647	FIRE GLOVES	05/28/2021	365.00	365.00	06/15/2021
Total MUNICIPAL EMERGENCY SERVICES:					365.00	365.00	
MURDOCH'S RANCH & HOME SUPPLY							
3688	MURDOCH'S RANCH & HOME S	K00493/37	MARKING FLAGS	05/25/2021	26.07	26.07	06/15/2021
3688	MURDOCH'S RANCH & HOME S	K00501/37	LAWN SEED	05/27/2021	159.99	159.99	06/15/2021
3688	MURDOCH'S RANCH & HOME S	K00522/37	DROP BALL	06/07/2021	59.98	59.98	06/15/2021
Total MURDOCH'S RANCH & HOME SUPPLY:					246.04	246.04	
NATIONAL ASSOCIATION OF CLEAN WATER AGENC							
10001	NATIONAL ASSOCIATION OF CL	66942	2021 MEMBERSHIP DUES	06/07/2021	375.00	375.00	06/15/2021
10001	NATIONAL ASSOCIATION OF CL	66942	2021 MEMBERSHIP DUES	06/07/2021	375.00	375.00	06/15/2021
Total NATIONAL ASSOCIATION OF CLEAN WATER AGENC:					750.00	750.00	
NORTHWESTERN ENERGY							
151	NORTHWESTERN ENERGY	0708370-2	8th & Park Sprinklers	01/15/2019	6.35	6.35	06/15/2021
151	NORTHWESTERN ENERGY	0709877-5	200 E Reservoir (north side hill)	01/08/2019	669.79	669.79	06/15/2021
151	NORTHWESTERN ENERGY	0709880-9	200 River Drive - Pool	01/10/2019	125.75	125.75	06/15/2021
151	NORTHWESTERN ENERGY	0709881-7	229 River Drive - Civic Center	01/10/2019	1,055.53	1,055.53	06/15/2021
151	NORTHWESTERN ENERGY	0709882-5	229 River Drive - Pump Civic Cent	01/17/2019	51.58	51.58	06/15/2021
151	NORTHWESTERN ENERGY	0719271-9	601 Robin Lane - Well	01/09/2019	1,267.86	1,267.86	06/15/2021
151	NORTHWESTERN ENERGY	0719272-7	4 Billman Lane - Well	01/09/2019	1,555.84	1,555.84	06/15/2021
151	NORTHWESTERN ENERGY	0719358-4	Street Lights - Livingston	01/16/2019	3,216.63	3,216.63	06/15/2021
151	NORTHWESTERN ENERGY	0719373-3	229 River Drive	01/15/2019	10.71	10.71	06/15/2021
151	NORTHWESTERN ENERGY	0720113-0	229 River Drive - CC Building	01/10/2019	143.58	143.58	06/15/2021
151	NORTHWESTERN ENERGY	0720122-1	400 North M	01/15/2019	13.34	13.34	06/15/2021
151	NORTHWESTERN ENERGY	0802599-1	608 W Chinook	01/15/2019	37.49	37.49	06/15/2021
151	NORTHWESTERN ENERGY	0933715-5	710 W Callender	01/15/2019	35.31	35.31	06/15/2021
Total NORTHWESTERN ENERGY:					8,189.76	8,189.76	
O'REILLY AUTOMOTIVE, INC							
2437	O'REILLY AUTOMOTIVE, INC	1558-242048	SPRAY LINER	05/11/2021	38.95	38.95	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total O'REILLY AUTOMOTIVE, INC:					38.95	38.95	
PACIFIC STEEL & RECYCLING							
3743	PACIFIC STEEL & RECYCLING	7654774	HR FLAT	05/25/2021	181.11	181.11	06/15/2021
Total PACIFIC STEEL & RECYCLING:					181.11	181.11	
PARISI WESTERN PLUMBING & HEATING							
16	PARISI WESTERN PLUMBING &	T55750	WATER MATERIALS	05/26/2021	42.00	42.00	06/15/2021
Total PARISI WESTERN PLUMBING & HEATING:					42.00	42.00	
PARK COUNTY COMMUNITY JOURNAL							
10001	PARK COUNTY COMMUNITY JO	2021.5.15	REC PROGRAM	05/15/2021	125.00	125.00	06/15/2021
Total PARK COUNTY COMMUNITY JOURNAL:					125.00	125.00	
RAISIN AUTO BODY OF LIVINGSTON							
10002	RAISIN AUTO BODY OF LIVING	92280	M1 REPAIR	04/01/2021	1,678.70	1,678.70	06/15/2021
Total RAISIN AUTO BODY OF LIVINGSTON:					1,678.70	1,678.70	
REDSTONE LEASING							
3842	REDSTONE LEASING	2021.7	Lease33 OF 60	06/01/2021	203.07	203.07	06/15/2021
Total REDSTONE LEASING:					203.07	203.07	
RIVERSIDE HARDWARE LLC							
3659	RIVERSIDE HARDWARE LLC	137883	SUPPLIES	06/09/2021	24.58	24.58	06/15/2021
3659	RIVERSIDE HARDWARE LLC	137908	SUPPLIES	06/09/2021	18.96	18.96	06/15/2021
Total RIVERSIDE HARDWARE LLC:					43.54	43.54	
SCHAEFFER MFG CO.							
1730	SCHAEFFER MFG CO.	AEQ2683-INV1	LUBRICANTS	05/26/2021	3,615.55	3,615.55	06/15/2021
1730	SCHAEFFER MFG CO.	PCINV098991	BAR CART	05/18/2021	45,100.00	45,100.00	06/15/2021
Total SCHAEFFER MFG CO.:					48,715.55	48,715.55	
SECURITY SOLUTIONS, INC.							
3020	SECURITY SOLUTIONS, INC.	2021.3.4	LOCKS	03/04/2021	14,550.00	14,550.00	06/15/2021
Total SECURITY SOLUTIONS, INC.:					14,550.00	14,550.00	
SHI INTERNATIONAL CORP.							
2907	SHI INTERNATIONAL CORP.	S53965429	OFFICE PRO- ROEHL	06/07/2021	401.20	401.20	06/15/2021
Total SHI INTERNATIONAL CORP.:					401.20	401.20	
SPARK LASER CREATIONS							
3361	SPARK LASER CREATIONS	1468	Name Plates	06/03/2021	50.00	50.00	06/15/2021
Total SPARK LASER CREATIONS:					50.00	50.00	
STAFFORD ANIMAL SHELTER							
1439	STAFFORD ANIMAL SHELTER	2021.5	Boarding AND VACC	05/31/2021	1,333.75	1,333.75	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total STAFFORD ANIMAL SHELTER:					1,333.75	1,333.75	
SWANDALL LAW PLLC							
10000	SWANDALL LAW PLLC	6235	PRO TERM JUDGE	05/28/2021	25.00	25.00	06/15/2021
Total SWANDALL LAW PLLC:					25.00	25.00	
TEAR IT UP L.L.C.							
2999	TEAR IT UP L.L.C.	48701	Shredding	05/26/2021	53.58	53.58	06/15/2021
Total TEAR IT UP L.L.C.:					53.58	53.58	
TOWN & COUNTRY FOODS - LIVINGSTON							
2595	TOWN & COUNTRY FOODS - LI	117	Station Supplies	05/26/2021	25.64	25.64	06/15/2021
Total TOWN & COUNTRY FOODS - LIVINGSTON:					25.64	25.64	
TRANSUNION RISK & ALTERNATIVE							
3376	TRANSUNION RISK & ALTERNA	380349-20210	investigative resear	06/01/2021	75.00	75.00	06/15/2021
Total TRANSUNION RISK & ALTERNATIVE:					75.00	75.00	
US BANK St. Paul							
845	US BANK St. Paul	1784381	2021.0039414NS BOND	05/26/2021	35,000.00	35,000.00	06/15/2021
845	US BANK St. Paul	1784381	2021 0039414NS BONDS	05/26/2021	10,146.88	10,146.88	06/15/2021
Total US BANK St. Paul:					45,146.88	45,146.88	
UTILITIES UNDERGROUND LOCATION							
3472	UTILITIES UNDERGROUND LO	1055090	Excavation Notifica	05/31/2021	63.85	63.85	06/15/2021
3472	UTILITIES UNDERGROUND LO	1055090	Excavation Notifica	05/31/2021	63.85	63.85	06/15/2021
3472	UTILITIES UNDERGROUND LO	1055090	Excavation Notifica	05/31/2021	63.84	63.84	06/15/2021
Total UTILITIES UNDERGROUND LOCATION:					191.54	191.54	
VITRUVIAN PLANNING							
10002	VITRUVIAN PLANNING	2021-16	SURVEY DEVELOPMENT	06/10/2021	3,623.00	3,623.00	06/15/2021
Total VITRUVIAN PLANNING:					3,623.00	3,623.00	
WESTERN DRUG							
1396	WESTERN DRUG	324401	BGL TESTING	05/20/2021	70.69	70.69	06/15/2021
Total WESTERN DRUG:					70.69	70.69	
WESTERN MUNICIPAL CONSTRUCTION, INC.							
10000	WESTERN MUNICIPAL CONSTR	2021.5.5	REPAIR IN ALLEY YELLOWSTO	05/05/2021	8,620.29	8,620.29	06/15/2021
Total WESTERN MUNICIPAL CONSTRUCTION, INC.:					8,620.29	8,620.29	
WHISTLER TOWING, LLC							
3237	WHISTLER TOWING, LLC	11581	11 TOYOTA IMPOUND	05/10/2021	125.00	125.00	06/15/2021
3237	WHISTLER TOWING, LLC	11997	88 FORD IMPOUND	05/19/2021	75.00	75.00	06/15/2021
3237	WHISTLER TOWING, LLC	32575	CAMPER IMPOUND	05/25/2021	75.00	75.00	06/15/2021
3237	WHISTLER TOWING, LLC	32576	HONDA IMPOUND	05/25/2021	75.00	75.00	06/15/2021
3237	WHISTLER TOWING, LLC	32577	CHEVY IMPOUND	05/25/2021	75.00	75.00	06/15/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
3237	WHISTLER TOWING, LLC	32578	CHEVY IMPOUND	05/25/2021	75.00	75.00	06/15/2021
3237	WHISTLER TOWING, LLC	32579	PONTIAC IMPOUND	05/25/2021	75.00	75.00	06/15/2021
3237	WHISTLER TOWING, LLC	5668	2012 CHEVY- INJECTOR NOZZL	05/13/2021	418.32	418.32	06/15/2021
3237	WHISTLER TOWING, LLC	5712	OIL LUBE FILTER M1	05/21/2021	207.95	207.95	06/15/2021
Total WHISTLER TOWING, LLC:					1,201.27	1,201.27	
WISPWEST.NET							
2087	WISPWEST.NET	646846	Internet	06/01/2021	50.12	50.12	06/15/2021
Total WISPWEST.NET:					50.12	50.12	
Grand Totals:					220,062.92	220,062.92	

Dated: _____

Mayor: _____

City Council: _____

City Recorder: _____

File Attachments for Item:

A. ORDINANCE NO. 3012: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED OFFICIAL ZONING MAP OF THE CITY OF LIVINGSTON BY ZONING PARCELS GENERALLY KNOWN AS 1014 AND 1016 W. PARK STREET AND LEGALLY DESCRIBED AS SECTION 13, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), BENEFICIAL USE OF MRL R/WAY LEASE #502, 120 BRONSON COSMIC ENTERPRISES INC (IMPT ON #28000), AND SECTION 24, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), BENEFICIAL USE OF MRL R/WAY LEASE #500664 MELIN & ASSOCIATES INSURANCE AGENCY (IMPT ON #27950), AS HIGHWAY COMMERCIAL (HC).

June 21, 2021

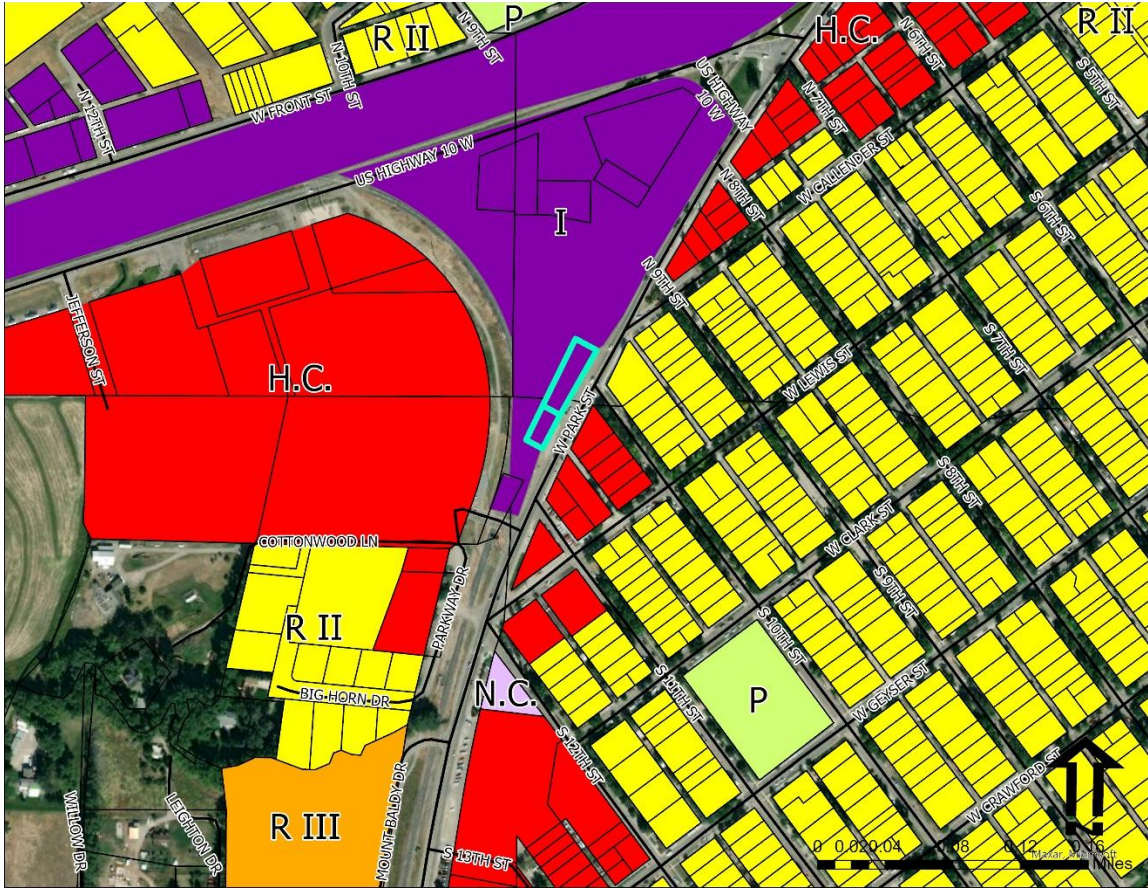
STAFF REPORT
ZONING MAP AMENDMENT – 1014 & 1016 W. Park

Background

Planning Staff has begun the process of rezoning two railroad lease properties containing commercial structures and uses along Park Street. Being railroad property, the current zoning on the two parcels is industrial. The properties are both used commercially as a strip mall and a small office structure, inconsistent with the current zoning of the property. As the properties are railroad leases no data exists on the exact date of construction of the structures but it is estimated that the strip mall was built in the 1970s. As several of the current uses of the strip mall structure would require a Special Exception from the Zoning Ordinance, and the general nature of the area along Park Street and the general area of the structure being commercial, the Planning Department is recommending that the zoning on the parcels be updated to Highway Commercial.



The properties are generally across Park Street from 10th Street, adjacent to the southern extent of Depot Park (map below), addressed as 1014 and 1016 W. Park Street. The parcels are legally described as: Section 13 (S13), Township Two South (T02S), Range Nine East (R09E), Beneficial use of MRL R/way lease #502, 120 Bronson Cosmic Enterprises Inc (IMPT on #28000), Section 24 (S24), Township Two South (T02S), Range Nine East (R09E), Beneficial Use of MRL R/way Lease #500664 Melin & Associates Insurance Agency (IMPT on #27950).



Proposed Findings of Fact

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304): (1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Staff Comments:

- The Future Land Use Map included in the 2021 Growth Policy shows the area as “Neighborhood Commercial”. The proposed zoning of Highway Commercial is consistent with the Growth Policy.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- Any future development on the lot will be required to meet all adopted fire and building codes.
- Generally, the uses allowed in the Highway Commercial district would have a lower fire danger than those allowed in the Industrial district.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- The proposed zoning allows for the continued uses of the property, no impact on public health, safety, or general welfare is anticipated.
- Generally, commercial uses would have less impact on public health, safety, and welfare than the heavy industrial uses allowed under the current zoning.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- Zoning the parcel to maintain the existing use should not affect the provision of transportation. The parcels have direct access to Park Street a main arterial through the City, and a Montana Department of Transportation (MDT) roadway.
- As railroad lease parcels, the rezoning of the parcels should not have any impact on railroad operations. A copy of this staff report was provided to Montana Rail Link (MRL) who has stated that they have no concerns with the zoning.
- Zoning the parcel to maintain the existing use should not affect the provision of schools and parks.
- The lots will continue to be serviced by City water and sewer.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- The Highway Commercial district has identical setback under the zoning to the current zoning on the parcels and a lower maximum building height so there should be no impact to the provision of light and air.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- The intent of the zoning amendment is to continue the current use of the parcels, there is no anticipated change in effect on transportation systems from zoning the lot.
- The parcels have direct access to Park Street a main arterial through the City, and a MDT roadway.
- As railroad lease parcels, the rezoning of the parcels should not have any impact on railroad operations. A copy of this staff report was provided to

Montana Rail Link (MRL) who has stated that they have no concerns with the zoning.

- No impacts on non-motorized transportation systems are anticipated. Currently, the 89 S. Bike Path (the name is a bit of a misnomer as the path is open to all types of non-motorized transportation) runs to the north-west of the parcels and there is no sidewalk along Park Street at that location.

(e) promotion of compatible urban growth;

Staff Comments:

- The intent of the zoning amendment is to zone to continue the current use, there is no anticipated change in use on the parcels.
- The proposed HC zoning of the parcel is consistent with the majority of parcels along Park Street.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- The proposed zoning on the parcels continues the existing commercial use, and consistent with properties in the area, and the majority of parcels along Park Street.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- The proposed map amendment should have no effect on property values.

Spot Zoning Criteria:

(1) the proposed use is significantly different from the prevailing use in the area.

Staff Comments:

- The parcels sit within an existing commercial corridor, and is currently used commercially. The proposed zoning on the parcels continues the current use, consistent with properties in the area and the Park Street corridor.

(2) the area in which the requested use is to apply is rather small from the perspective of concern with the number of separate landowners benefited from the proposed change.

Staff Comments:

- The proposed zoning only applies to railroad properties. The intent of the proposed zoning is to make the zoning consistent with the current uses of the properties, benefitting the lessees of the properties and ensuring that the structures can continue to be used to provide commercial services to the community.

(3) *the change is special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or the general public.*

Staff Comments:

- Rezoning the parcel to Highway Commercial ensures that the current uses can continue to provide services to the community and prevents heavy industrial uses with potentially detrimental impacts to neighboring properties and public ways from being developed on the properties.

Public Hearing

The Zoning Commission heard this item at their regularly scheduled meeting, June 8, 2021. At that time the Zoning Commission voted unanimously (4:0) to approve the zone map amendment.

Staff has made one change to the Staff Report that was provided to the Zoning Commission; as the 2021 Growth Policy was adopted in the interim between the Zoning Commission meeting and the City Commission meeting, the staff analysis on compliance with the Growth Policy section has been updated to analyze the change based on the 2021 Growth Policy rather than the 2017 Growth Policy. This change does not substantially change the analysis of the application as the 2017 Growth Policy did not cover the parcel.

Staff Recommendation

The Zoning Coordinator believes that the proposed zoning designation of Highway Commercial meets both the requirements of the City of Livingston, State Statute, and the spot zoning criteria. Staff recommends that the Commission adopt the proposed zone map amendment.

Attachments

- Attachment I.....Communication with MRL
- Attachment II.....Draft Ordinance

From: Joe Gentri <jgentri@mtrail.com>
Sent: Wednesday, May 26, 2021 10:44 AM
To: Mathieu Menard
Cc: Nick Bailey; Theresa Beckwith
Subject: Railroad Parcel Rezone
Attachments: 1014WParkStaffreport.docx

Mathieu,

Thank you for giving Montana Rail Link ("MRL") the opportunity to comment on the proposed rezoning of the 1014 and 1016 West Park Street "strip mall" railroad lease parcels which are a portion of BNSF Railway-owned and MRL leased property in Livingston.

We understand the commercial strip mall use at 1014 and 1016 West Park Street has existed in its current location since before MRL's inception in 1987, and we have no objection to its continued use.

MRL has no objections to the proposed rezone of the 1014 and 1016 West Park Street property to Highway Commercial zoning as recommended by city staff provided it is understood that in the very unlikely event the lease parcels are ever needed again for railroad use, MRL would anticipate full enjoyment of its rights as a railroad under the purview of the Surface Transportation Board such that this rezoning would not be a hindrance to its plans.

Thanks again for giving us the opportunity to comment and for your patience as we considered this matter.

Kind regards,

Joe

Joe Gentri
Manager Real Estate
101 International Drive
Missoula, MT 59808
Office: (406) 523-1374
www.montanarail.com

ORDINANCE NO. 3016

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING SECTION 30.13 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED OFFICIAL ZONING MAP OF THE CITY OF LIVINGSTON BY ZONING PARCELS GENERALLY KNOWN AS 1014 AND 1016 W. PARK STREET AND LEGALLY DESCRIBED AS SECTION 13, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), BENEFICIAL USE OF MRL R/WAY LEASE #502, 120 BRONSON COSMIC ENTERPRISES INC (IMPT ON #28000), AND SECTION 24, TOWNSHIP TWO SOUTH (T02S), RANGE NINE EAST (R09E), BENEFICIAL USE OF MRL R/WAY LEASE #500664 MELIN & ASSOCIATES INSURANCE AGENCY (IMPT ON #27950), AS HIGHWAY COMMERCIAL (HC).

*** * * * ***

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

WHEREAS, Section 30.71 of the City of Livingston Code of Ordinances authorizes the City Commission to amend the officially adopted Zoning Map;

WHEREAS, the amendments meet the criteria and guidelines for zoning regulations as required by Section 76-2-304 of Montana Code Annotated;

WHEREAS, the amendment meets the Lowe Test for rezoning property; and

WHEREAS, the City of Livingston Zoning Commission, after a public hearing, voted unanimously (4:0) to recommend approval of the zoning of the parcel to Highway Commercial (HC) on the Zoning Map to the City Commission;

NOW, THEREFORE, BE IT ORDAINED by the City Commission that Sec. 30.13 of the Livingston Municipal Code entitled Official Zoning Map, be and the same is hereby amended as follows:

SECTION 1

Zoning of a parcels addressed as 1014 and 1016 West Park Street and legally described as Section 13 (S13), Township Two South (T02S), Range Nine East (R09E), Beneficial use of MRL R/way lease #502, 120 Bronson Cosmic Enterprises Inc (IMPT on #28000), and Section 24 (S24), Township Two South (T02S), Range Nine East (R09E), Beneficial Use of MRL R/way Lease #500664 Melin & Associates Insurance Agency (IMPT on #27950).as shown in Exhibit A as Highway Commercial (HC).

SECTION 2

Statutory Interpretation and Repealer:

Any and all resolutions, ordinances and sections of the Livingston Municipal Code and parts thereof in conflict herewith are hereby repealed.

SECTION 3

Severability:

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court having competent jurisdiction, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and to this end, the provisions of this ordinance are declared to be severable.

SECTION 4

Savings provision:

This ordinance does not affect the rights or duties that mature, penalties and assessments that were incurred or proceedings that begun before the effective date of this ordinance.

SECTION 6

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the _____ day of July, 2021.

DOREL HOGLUND – Chair

ATTEST:

FAITH KINNICK
Recording Secretary

PASSED ADOPTED, AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the _____ day of August, 2021.

DOREL HOGLUND – Chair

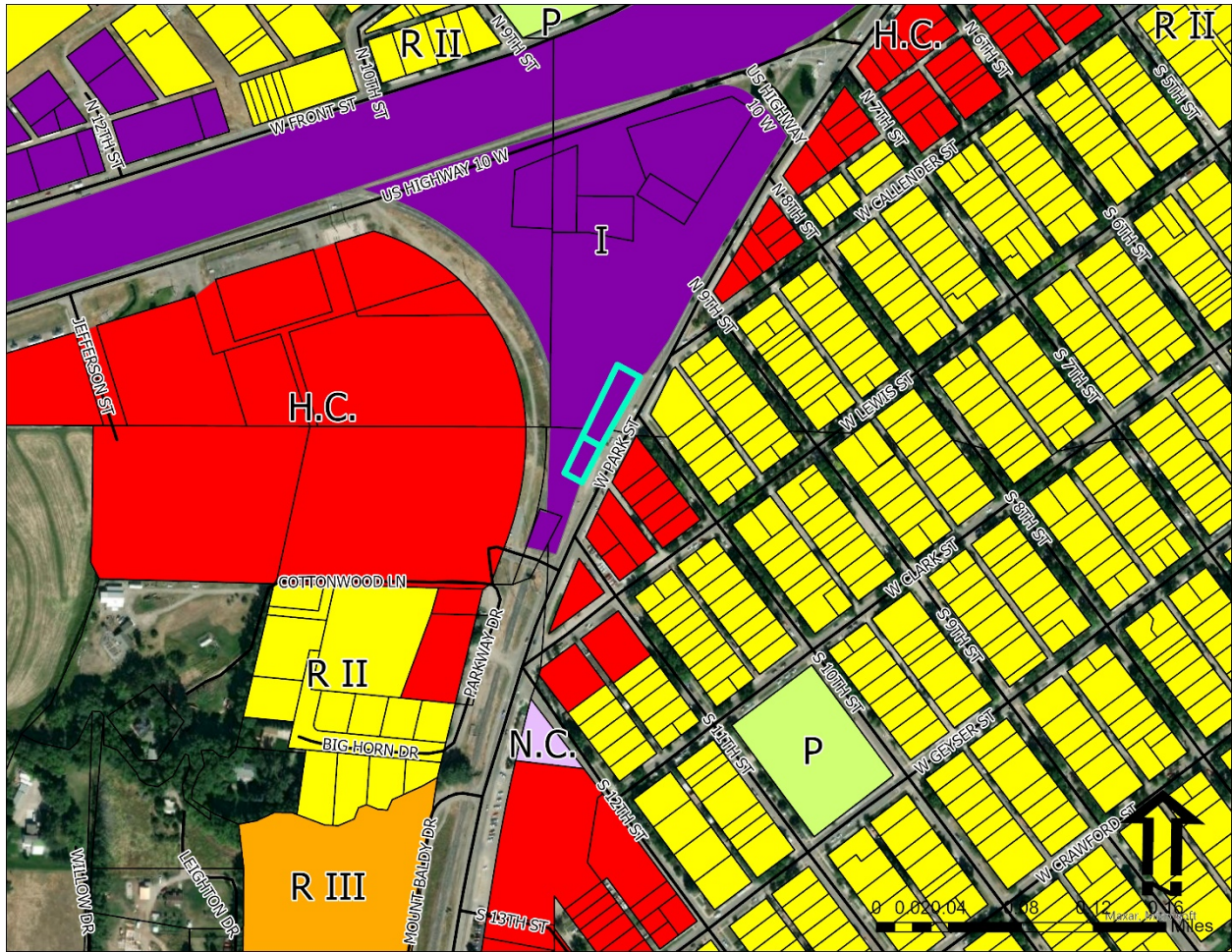
ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

EXHIBIT A



**LEGAL NOTICE OF PUBLIC HEARING BEFORE
THE CITY OF LIVINGSTON CITY COMMISSION**

A public hearing before the Livingston City Commission will be held at 5:30 p.m. on Tuesday, July 6, 2021, in the Community Room of the City-County Complex, 414 East Callender Street. All are welcome to participate and comment when appropriate.

Fees, Permitting, and Staff Roles Zoning Text Amendment: The Purpose of this hearing is to receive public comment regarding a Zone Text Amendment from the provisions of Chapter 30 of the Livingston Municipal Code. Specifically, the amendment is to remove fees from the Zoning Ordinance to be set by resolution, clarify and update staff roles in administering the Zoning Ordinance, and update permit types included in the Zoning Ordinance.

Tiny Home and Manufactured Housing Zoning Text Amendment: The Purpose of this hearing is to receive public comment regarding a Zone Text Amendment from the provisions of Chapter 30 of the Livingston Municipal Code. Specifically, the amendment is to update the Zoning Ordinance to allow tiny homes manufactured off-site as accessory dwelling units. Specifically, the amendment will define tiny homes, consistent with the currently International Building Code, update the definition of manufactured homes, consistent with current U.S. Housing and Urban Development Standards, allow tiny homes to be placed as accessory dwelling units within the City, and set standards for tiny homes.

1014 & 1016 W. Park Street Zoning Map Amendment.: The Purpose of this hearing is to receive public comment regarding a Zone Map Amendment from the provisions of Chapter 30 of the Livingston Municipal Code. Specifically, the amendment is to zone the parcels addressed as 1014 and 1016 W. Park Street as it is currently zoned Industrial but used commercially. The parcels are legally described as: Section 13 (S13), Township Two South (T02S), Range Nine East (R09E), Beneficial use of MRL R/way lease #502, 120 Bronson Cosmic Enterprises Inc (IMPT on #28000) and Section 24 (S24), Township Two South (T02S), Range Nine East (R09E), Beneficial Use of MRL R/way Lease #500664 Melin & Associates Insurance Agency (IMPT on #27950). The proposed zoning for the parcel is Highway Commercial (HC) consistent with other commercial properties along Park Street.

For further information, please contact Mathieu Menard at the City Planning Office at (406)222-4903 or planning@livingstonmontana.org.

Mathieu Menard
City Planner

PLEASE PUBLISH ON TUESDAY, JUNE 15, 2021

File Attachments for Item:

B. ORDINANCE NO. 3013: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II, ARTICLE IV, and ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO TINY HOMES, MANUFACTURED AND MODULAR HOMES.

June 21, 2021

STAFF REPORT
TEXT AMENDMENT – TINY HOMES AND MANUFACTURED HOMES

Background

Over the last weeks, the Planning Department has received several calls inquiring if property owners are able to place tiny homes constructed offsite on their property, specifically as accessory dwelling units (ADUs). Currently, dwelling units constructed on-site in the traditional manner do are only limited in size by the building code. This does not apply to structures built offsite as mobile and manufactured homes have minimum size limits of 800 sq. ft. and 1000 sq. ft. respectively. The 1000 sq. ft. minimum was consistent with the U.S. Department of Housing and Urban Development (HUD) standards for manufactured housing at the time of the adoption of the minimum size standards. The currently HUD standards for manufactured homes have a minimum size of 320 square feet, and the zoning is being proposed to match that size. Furthermore, tiny homes manufactured offsite do not fit well within the definition of manufactured housing that is utilized by HUD or the Zoning Ordinance. These factors are preventing property owners from utilizing tiny homes manufactured offsite as dwelling units. These restrictions limit flexibility in housing type, the placement of potentially more affordable units, discouraging infill on smaller lots, and, as noted above, discourage the public from placing ADUs on their property. Infill, allowing flexibility in housing, affordability, and encouraging ADUs are all stated goals of the 2021 Growth Policy and this update should remove an existing impediment to those goals.

Appendix Q of the 2018 International Building Code (IBC) as adopted by the State of Montana and the City of Livingston deals specifically with standards and the definition of what it calls a “tiny house”, the proposed definition of tiny home is consistent with the definition included in the 2018 IBC. All tiny homes are subject to the adopted building codes, all tiny homes must be placed on a permanent foundation, and will require full utility connections. At this time RV style utilities or inhabitation of an RV is not allowed within the City of Livingston, and as such inhabitation of a trailer style tiny home would not be allowed. Tiny homes are proposed to be allowed in all districts dwelling units are, other than the Central Business District: R-I, R-II, R-II(MH), R-III, RMO, and HC.

The Zoning Commission has requested that staff clarify the difference between mobile homes, manufactured homes, and modular homes. Staff has added a definition of modular homes and updated the definition of mobile and manufactured homes to make this distinction clearer. The distinction is as follows:

- Manufactured homes are dwelling units built in a factory and designed to be transported on their own chassis, and receiving HUD certification. Manufactured homes are generally able to be moved after placement on a property.
- Mobile homes are dwelling units built in a factory and designed to be transported on their own chassis, and built prior to June 15, 1976. Mobile homes are not eligible for HUD certification.

- Modular home are dwelling units built in a factory in sections and designed to be assembled at the building site. Generally, modular homes are not built on a chassis, and once assembled and placed are functionally identical to a dwelling unit built on-site. Modular homes must meet adopted building codes (in Montana 2018 IBC), but are not required to meet HUD standards.

The clarification is for the benefit of the public to minimize confusion while interpreting the Zoning Ordinance and does not functionally change the Zoning Ordinance or its enforcement.

Proposed Findings of Fact

Proposed Zoning Updates: Proposed changes to the Zoning Ordinance can be found in a strikethrough-underline version included as Attachment I. Relevant sections of the Zoning Ordinance are reproduced below.

"Manufactured housing" means a structure manufactured offsite, transportable in one or more sections on its own chassis, and in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or modular home.

"Mobile home" means a trailer or semitrailer, constructed prior to June 15, 1976, which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place and is equipped as a dwelling place, living abode, or sleeping place and is equipped for movement on streets or highways and exceeds twenty-five (25) feet in length exclusive of trailer hitch. A mobile home does not include a manufactured home or modular home.

"Modular Home" means a dwelling unit constructed offsite, in sections, and assembled onsite. Modular homes are not required to be built to United States Department of Housing and Urban Development standards, but must comply with all locally adopted building codes. Modular Homes must be assembled onsite and cannot be transported to a new site once assembled. A modular home does not include a manufactured home or a mobile home.

"Tiny home" is a dwelling unit under 400 square feet of gross floor area and manufactured primarily offsite.

Sec. 30.56.2. - Manufactured homes.

- A. Manufactured homes are permitted in all residential zoning districts. Any manufactured home or replacement of any existing manufactured home must contain a minimum of 320 square feet.
- B. All manufactured homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- C. All manufactured home must be certified by the U.S. Department of Housing and Urban Development (HUD) and have a certification label as required by HUD standards.

Sec. 30.56.3. – Modular homes.

- A. Modular homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. All modular homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.

Sec. 30.56.4. – Tiny homes.

- A. Tiny homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. All tiny homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304): (1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Staff Comments:

- Goal 3.1 States “Prioritize infill over expansion by taking advantage of existing and planned infrastructure...”. Allowing tiny homes should encourage additional property owners to place ADUs on their property, encouraging infill through additional density on lots already served by City infrastructure and minimizing the need to expand the land area of the City to accommodate housing needs. It could also encourage the placement of homes on smaller lots, allowing for additional infill opportunities.
- Strategy 3.4.1.1 states “Amend the Zoning Ordinance...to include Smart Growth Strategies as requirements for all development prior to approval.” While the proposed zoning update does not require the placement of tiny homes prior to approval of developments, it does allow for development consistent with the following Smart Growth Strategies:
 - Take advantage of compact building design
 - Create a range of housing opportunities and choices
 - Strengthen and direct development towards existing communities.
- Strategy 5.1.1.3 states “Evaluate manufactured or similar type structures to create affordable housing inventory.” Updating the Zoning Ordinance

to allow for tiny homes manufactured offsite and by updating the definition of manufactured housing to be consistent with the current HUD definition of manufactured housing should increase the inventory of affordable housing within the City.

- Strategy 5.1.1.4 states “Review and amend zoning ordinance... to identify legislative changes required to provide housing that meets the needs of all residents.” Tiny homes have the potential to increase the stock of lower cost housing options within the City (important note: while tiny homes generally have a lower purchase price due to their small size, if measured in cost per square foot, tiny homes are generally significantly more expensive than traditional housing options). Currently, there is a noted lack of rental options within the City, especially affordable rentals. By allowing property owners to utilize tiny homes as ADUs the inventory of affordable rentals should increase, especially as ADUs must be utilized as rentals.
- Objective 5.1.2 states “Evaluate the impacts of vacation rentals on Livingston”. There are no restrictions in the Zoning Ordinance on utilizing tiny homes as vacation rentals.
- Strategy 5.1.4.3 states “Promote Accessory Dwelling Units (ADU)”. The proposed zoning promotes ADUs by diversifying the types of building that can be used as ADUs, and potentially allowing for a lower construction cost option for those that would like to place an ADU on their property.
- Chapter 11 states “Investigate updating zoning to promote affordable or employee or workforce housing”. The proposed updates should promote lower cost housing options.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- The proposed updates should have no impact on fire safety, all structures will continue to be required to meet building code and building setbacks.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- The proposed updates should have no impact on public safety.
- The provision of safe and secure housing as promoted by the zoning update are a benefit to both public health and general welfare.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- Densities for dwelling units are not proposed to be changed in this update, as such the provision of services should not be impacted. While the placement of tiny homes may encourage additional infill development, the maximum allowed density continues to be governed by the underlying zoning district.
- The allowance for ADUs did substantially increase densities, impacting the provision of public requirements, though the City continues to have adequate capacity in public systems. The proposed zoning update does not allow for any additional densities above the already adopted ADU allowance, though it should encourage the placement of additional ADUs.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- The proposed amendments should not have any impact on light and air, no changes to setbacks or building heights are proposed.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- Densities for dwelling units are not proposed to be changed in this update, as such transportation should not be impacted. While the placement of tiny homes may encourage additional infill development, the maximum allowed density continues to be governed by the underlying zoning district.
- The allowance for ADUs did substantially increase densities, increasing use of transportation systems. The proposed zoning update does not allow for any additional densities above the already adopted ADU allowance, though it should encourage the placement of additional ADUs.

(c) promotion of compatible urban growth;

Staff Comments:

- Under existing building code, site-built structures can be under 400 square feet, this update simply allows structures built off-site to be treated in the same manner as site-built.
- The update allows a different building type than is currently allowed but the allowance for tiny homes should not be incompatible with existing residential and mixed-used neighborhoods.
- The community has shown a marked preference for infill growth rather than outward growth and this update should encourage additional infill growth throughout the residential and mixed-use areas of the City.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- Tiny homes can be used as dwelling units and ADUs, this use does not differ from existing uses in residential and mixed-use districts, and the placement of tiny homes is not incompatible with these areas.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- The proposed Zoning Amendment should have a positive effect on property values as it allows more flexibility in building on existing lots.
- Tiny homes encourage the placement of additional infill and ADUs which is an appropriate use of land in both the residential and mixed-use districts. The Growth Policy notes both the appropriateness of infill development, ADUs, and diverse housing types.

Public Hearing

The Zoning Commission heard this item at their regularly scheduled meeting, June 8, 2021. At that time the Zoning Commission voted unanimously (4:0) to approve the zone map amendment. The zoning commission recommended three (3) changes to the language proposed by staff which have been included in the Draft Ordinance (Attachment II):

- Make the distinction between manufactured, mobile, and modular housing clearer in the zoning regulation.
 - Staff has added language to define modular homes, and updated the definitions of mobile and manufactured housing to clarify the distinctions between the different housing types. The addition of a definition of modular housing does not have any affect on the zoning ordinance as they were already treated as dwelling units.
 - Staff has added modular homes to the use table, to be permitted in all districts which allow single or multi-family dwelling units.
 - Staff has added language to require modular homes be placed on a permanent foundation.
- Allow tiny home as the primary dwelling unit not just as ADUs as proposed by staff:
 - Staff has removed the requirements that tiny homes only be allowed as ADUs.
 - Staff has updated the use table to allow tiny homes in the R-III district, which they were not due to ADUs not being allowed in the R-III district.
- Remove the now unnecessary exception to the size requirements for governments and non-profits.

- Staff has removed this language.

Staff is in full support of these recommended changes.

Staff Recommendation

The Zoning Coordinator believes that the new language listed above meets both the requirements of State Statute and the needs of the City of Livingston. Staff recommends that the Commission adopt the proposed zone text amendment.

Attachments

- Attachment I.....Strikethrough-underline version of amendment
- Attachment II.....Draft Ordinance
- Attachment III.....Zoning Commission Staff Report

ORDINANCE NO. 3013

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II, ARTICLE IV, and ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING.

* * * * *

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

WHEREAS, Section 30.71 of the City of Livingston Code of Ordinances authorizes the City Commission to amend the text of the officially adopted Zoning Ordinance;

WHEREAS, the amendments meet the criteria and guidelines for zoning regulations as required by Section 76-2-304 of Montana Code Annotated;

WHEREAS, the amendments meet the goals and objectives of the Growth Policy as adopted by the City of Livingston; and

WHEREAS, the City of Livingston Zoning Commission voted unanimously (4:0) to recommend approval of the amendments to the Zoning Ordinance to the City Commission;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, as follows:

SECTION 1

That Chapter 30- Zoning Ordinance, Article II – Definitions, Article IV- District Regulations, and Article V- Supplementary General Requirements be amended as follows with deletions struck-through and additions underlined as follows:

SECTION 2

Article II. - Definitions

For the purpose of the ordinance, certain terms or words used herein are defined as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the words "used" or "occupied" include the words "intended," "designated," or "arranged to be used or occupied," and the word "lot" includes the words "plot" or "parcel."

"Accessory" means a use, a building or structure, part of a building or other structure, which is subordinate to, and the use of which is incidental to that of the main building or structure or the use on the same lot, including a private garage. If an accessory building is attached to the main building by a common wall or roof such accessory building shall be considered a part of the main building.

"Adult book store" means a commercial establishment having a substantial portion of its stock in trade consisting of books, magazines, photographs, films, DVD and videos which emphasize, depict or relate to nudity or sexually explicit material and whose clientele must be of at least eighteen (18) years of age.

"Adult movie theater" means a commercial establishment which presents or shows XXX-rated movies, DVDs or videos on a screen or television.

Alley: See Street.

"Alteration" means a change or rearrangement of the structural parts of existing facilities, a reduction in the size of the structure, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another.

"Bars, taverns, cocktail lounges" means an establishment where alcoholic beverages are sold and consumed on the premises even if such sales are incidental to or accessory to the principal business of such establishment.

"Bed and breakfast" means a commercial business operated in a house which is used partially or primarily for providing overnight accommodations to the public even though the owner may live on the premises. The accommodations for a bed and breakfast shall have no more than five (5) guest rooms. Breakfast is the only meal served on the premises, is included in the charge for the room, and there is no other food or beverage served upon the premises.

"Board" means the Board of Adjustment of the City of Livingston.

"Boarding house" means a building, other than a hotel or club, where meals are regularly served for compensation to more than six (6) persons who are not members of the family there residing.

"Building" means a structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, personal property or business activity.

"Building height" means height of building is the vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hip roof.

"Building official" means the City Building Inspector of the City of Livingston or his designated representative.

"Business and professional offices" means a structure used primarily for housing the offices of a physician, dentist, architect, engineer, attorney, musician, artist or similar professional person.

"Clinic" means a building designed and used for the medical, dental, and surgical diagnosis and treatment of patients under the care of doctors and nurses, but where no surgery other than minor emergency care is performed.

"Drive-in restaurant" means a use whose retail character is dependent upon a driveway approach and parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages obtained on the premises, in a vehicle.

Dwelling (types of):

- a. "Dwelling, one (1) family" means a building designed for occupancy by one (1) family and containing one (1) dwelling unit.
- b. "Dwelling, two (2) family (duplex)" means a building designed for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units.
- c. "Dwelling, multiple" means a building designed primarily for occupancy by three (3) or more families living independent of each other, and containing three (3) or more dwelling units.

- d. "Dwelling, accessory" means one (1) independent dwelling unit which is smaller in area and subordinate in use to the principal one (1) family or two (2) family dwelling, or townhouse, on the same lot, whether attached or detached.

"Dwelling unit" means one (1) or more rooms designed for or occupied by one (1) family for living or sleeping purposes or for use solely by one (1) family.

All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. An efficiency apartment constitutes a dwelling unit within the meaning of this ordinance codified in this Chapter.

"Exotic entertainment" means the commercial showing or display of a living person; however, total nudity is prohibited.

"Family" means one (1) or more persons related by blood, adoption, or marriage, or not more than three (3) unrelated persons living, sleeping and usually eating on the premises as a single housekeeping unit.

"Fence" means a barrier composed of posts connected by boards, rails, panels, or wire for the purpose of enclosing space for separating parcels of land. It may include a masonry wall.

"Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

"Gross Floor Area" means the area of each floor within the external walls, not including the thickness of the external walls.

"Health and exercise establishment" means an establishment designed and equipped for the conduct of sports, exercise activities and other customary and usual recreational activities. Permitted accessory uses include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods and restaurant services.

"Health and exercise establishment" means an establishment designed and equipped for the conduct of sports, exercise activities and other customary and usual recreational activities. Permitted accessory uses include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods and restaurant services.

"Heavy manufacturing" means any manufacturing process which requires the storage of component materials within public view, is conducted partially or entirely outdoors or causes significant noise, odor, glare or vibration which is detectable beyond the parcel on which it is located.

"Hotel" means a building in which lodging is provided with or without meals, and open to transient guests.

"Light manufacturing" means any manufacturing process which requires no storage of component material within public view, is entirely contained indoors, and does not cause any significant noise, odor, glare or vibration detectable beyond the parcel on which it is located.

Livestock and Fowl. "Livestock" shall include all animals of the equine, bovine and swine class, including goats, sheep, mules, horses, hogs, cattle and other grazing animals. "Fowl" includes chickens, geese, ducks, turkeys, peacocks and other poultry.

Lot. For the purpose of this ordinance, a "lot" is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such setbacks and other open spaces as are herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:

- a. A single lot of record.
- b. A portion of a lot of record.

- c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Chapter.

"Lot coverage" means that portion of any lot upon which a structure, as herein defined, is located.

"Manufactured housing" means a ~~single family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least one thousand (1,000) square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, structure manufactured offsite, transportable in one or more sections on its own chassis,~~ and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or modular home.

"Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, DVD, or videotape (except a motion picture, DVD or videotape rated G, PG, PG-13 or R by the motion picture association of America).

"Marijuana production facility" means an establishment where marijuana or marijuana products are grown, cultivated, manufactured or processed.

~~Mobile Home.~~ "Mobile home" means a trailer or semitrailer, constructed prior to June 15, 1976, which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place and is equipped as a dwelling place, living abode, or sleeping place and is equipped for movement on streets or highways and exceeds twenty-five (25) feet in length exclusive of trailer hitch. A mobile home does not include a manufactured home or modular home.

"Mobile home park" means any lot, tract or parcel of land used, maintained or intended to be used, leased or rented for occupancy by two (2) or more mobile homes. This definition shall not include trailer sales lots on which unoccupied mobile homes are parked for the purpose of inspection and sales.

"Modular Home" means a dwelling unit constructed offsite, in sections, and assembled onsite. Modular homes are not required to be built to United States Department of Housing and Urban Development standards, but must comply with all locally adopted building codes. Modular Homes must be assembled onsite and cannot be transported to a new site once assembled. A modular home does not include a manufactured home or a mobile home.

"Motel" means a group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, or to a common corridor and where a garage is attached to or a parking space is conveniently located at each unit, all for the temporary use by automobile tourist or transient, and such word shall include tourist courts, motor courts, automobile courts, and motor lodges.

"Personal care center" means a facility which provides services and care to residents needing some assistance in performing the activities of daily living. Includes assisted living facilities and nursing homes.

"Planning board" means the Livingston City Planning Board.

"Public recreation facility" means a facility which is available for use by the public for recreational or civic purposes. A fee may be charged, but the facility may not be owned and/or operated for profit. Uses which are covered by this definition shall include, but are not limited to, a Civic Center, swimming pool, fishing access, and park.

"Restaurant" means a commercial establishment whose primary function is providing prepared meals to customers for consumption within the structure.

"Retail" means the rental or sale of tangible personal property. Includes alcohol and marijuana sales.

"Retail, large-scale" means the rental or sale of tangible personal property where the total area utilized by a single tenant occupies 20,000 square feet or more of gross floor area or outdoor space, exclusive of parking.

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

"School, elementary, junior or senior high" means an institution of learning, either public, parochial or private, which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

"School, commercial" means a building where instruction is given to pupils and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation and not providing instruction for trades.

"School, trade" means a building where primary instruction is given to students in industrial crafts such as auto mechanics, welding and carpentry.

"Setback" means the distance from the corresponding lot line, as defined herein, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the lot line. A required setback refers to a space on a lot which is open, unoccupied, and unobstructed by any structure or portion of a structure; provided, however, that allowed encroachments as listed in Section 30.42, fences, walks, poles, small accessory use structures as defined herein, posts, other customary yard accessories, sidewalks, terraces, and swimming pools may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility in Section 30.52 of Article V.

"Sexually oriented business" means a commercial establishment which operates as an adult book store, adult theater, or features, allows, employs, promotes or sponsors exotic entertainment.

"Special exceptions" means a special exception to the terms of this ordinance to permit uses other than those specifically permitted in each district in appropriate cases and subject to appropriate conditions.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered as a story.

Street:

- a. "Street" is a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or otherwise designated which has been dedicated to or acquired for public use and extends the full width between right-of-way lines, or any dedicated public way as recorded by the County Clerk and Recorder whenever any portion is open to vehicular traffic.
- b. "Alley" is a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.
- c. "Arterial street" is a fast or heavy traffic street used primarily as a traffic artery for intercommunication among large areas.
- d. "Local street" is a street used primarily for access to the abutting properties.
- e. "Collector street" is a street which carries traffic from local streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.

"Street, front" means a street abutting the predominantly narrow sides of the lot within a block. This is the street that homes within a block shall face and shall be the street that addresses are assigned to.

"Street, side" means a street paralleling or nearly paralleling the predominantly long sides of the lots within a block and intersecting at right angles or nearly right angles the front street.

"Structure" means a building or anything constructed in the ground or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences six (6) feet or less in height, paved areas, or small accessory use structures such as storage sheds, which would not require a building permit to be erected under any building code adopted by the City of Livingston, however, in no case will such accessory building be allowed to violate the line of sight restrictions for street and alley or private drive approaches as specified in Section 30.52(B) of this code, or the height limitations of the applicable zoning district.

"Tiny home" means a dwelling unit under 400 square feet of gross floor area and manufactured primarily offsite.

"Townhouses" means two (2) or more self-contained dwelling units situated on their own lots and having one (1) or more common wall(s) where no side setback exists.

"Trailer" or "mobile homes" means a factory-assembled structure, equipped with the necessary service connections and constructed to be readily moveable as a unit or units on its own chassis and designed to be used as a dwelling unit.

"Variance" means an adjustment in the application of the specific regulations of this Chapter pursuant to Section 30.74.

"XXX-rated movies and sexually explicit materials" are those materials which depict or show human genitalia in a state of sexual stimulation or arousal, acts of sexual intercourse, masturbation, cunnilingus, fellatio, anal intercourse or bestiality.

"Zoning Coordinator" means the planner for the Livingston City-County Planning Board, or such other official as the City Commission, by motion, may designate.

Article IV. - District Regulations

Sec. 30.40. - List of uses.

Table 30.40 designates a list of uses permitted within a zoning district. Designated uses shall be permitted only in the zones indicated.

Table 30.40
List of Uses

A = Acceptable S = Special Exception Permit Required N = Not Accepted											
	R-I	R-II	RII-MH	R-III	RMO	NC ²	CBD ₁	HC	LI	I	P
One (1) Family Dwellings*	A	A	A	A	A	N	A	A	N	N	N
Two (2) Family Dwellings	N	A	A	A	N	N	A	A	N	N	N
Multifamily Dwellings	N	N	N	A	N	N	A	A	N	N	N
Accessory Dwellings	A	A	A	N	A	N	N	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	N	N	N
<u>Tiny Homes</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>

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Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
<u>Modular Homes</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Churches	S	S	S	A	N	A	N	A	N	N	N	N
Schools, Public and Commercial	A	A	A	A	A	A	N	N	N	N	A	A
Schools, Trade	N	N	N	N	N	S	A	A	A	A	N	N
Hospitals	N	N	N	A	N	A	N	N	A	N	N	N
Clinics	N	N	N	A	N	A	A	A	A	A	N	N
Adult Foster Care Center ³	N	A	A	A	N	N	N	N	A	N	N	N
Personal Care Center	N	A	A	A	N	A	A	A	N	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	N	N	N
Veterinarian Clinics	N	N	N	N	N	N	N	A	A	A	N	N
Kennels and Catterys	N	N	N	N	N	N	N	A	N	A	N	N
Self-Service Laundry	N	N	N	N	A	A	A	A	N	N	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	N	N	N	N
Motels/Hotels	N	N	N	N	N	N	A	A	A	N	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	A	N	N	N	N
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	S	S
Retail	N	N	N	N	N	A	A	A	A	S	N	N
Large-scale Retail	N	N	N	N	N	N	S	S	S	S	N	N
Barber Shop and Beauty Parlors	N	N	N	N	N	A	A	A	A	S	N	N

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Restaurants	N	N	N	N	N	A	A	A	A	A	N
Bars	N	N	N	N	N	N	A	A	A	A	N
Drive-In Restaurants	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	A	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	S	S	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	A	S	A	N
Light Manufacturing	N	N	N	N	N	N	A	A	A	A	N
Heavy Manufacturing	N	N	N	N	N	N	N	N	N	A	N
Lumberyards	N	N	N	N	N	N	N	A	A	N	N
Transportation Terminals	N	N	N	N	N	N	A	A	N	N	N
Utility Substations	S	S	S	S	S	S	S	S	N	S	S
Armory	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	N	N	N	N	N	A

Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	A	A	N

1. C.B.D.—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."
 2. NC-A single residential unit may be established within a commercial building to allow living space for a business owner.
 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.
- * This includes manufactured homes as defined by Ordinance 1813.

(Ord. 1506, 11/16/82; Ord. 1516, 8/2/83; Ord. 1517, 10/18/83; Ord. 1529, 7/16/84; Ord. 1538, 11/20/85; Ord. 1544, 2/4/86; Ord. 1556, 9/16/86; Ord. 1799, 12/19/94; Ord. 1810, 7/3/95; Ord. 1813, 8/21/95; Ord. 1891, 9/7/99; Ord. 1949, 10/18/04; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 2022, § 2(Exh. A), 9/7/10; Ord. No. 2029, § 1(Exh. A), 4/19/11; Ord. No. [2046](#), § 1(Exh. A), 9/17/13)

Sec. 30.41. - Residential density requirements.

Residential density requirements are set out in Table 30.41.

Table 30.41						
Residential Density Requirements						
Zoning Classification District						
	Low Density R-I	Med. Density R-II	High Density R-III	Mobile Homes (A) RMO	Public (P)	Med. Density R-II(MH)
Min. Lot Area per Dwelling Unit in Square Feet ¹						
One Unit	9,600	3,500	3,500	6,000		3,500
Two Units	N/A	7,000	6,000	12,000		7,000
Three Units	N/A	N/A	7,500	18,000		N/A

Four Units	N/A	N/A	9,000	24,000	N/A	N/A
Five Units	N/A	N/A	10,500	6,000 ft. ²		N/A
Six Units	N/A	N/A	12,000 1,500 ft. ² for each add. unit	for ea. add. unit		N/A
Min. Setback Requirements						
Front Street	25'	25'	20'	20'	20'	25'
Side	15'	5' or B) or C)	5' or B) or C)	10' or C)	5' or C)	5' or C)
Rear	5'	5'	5'	5'	15'	15'
Side Street	15'	10'	10'	10'	10'	10'
Max. Height for all Bldgs.	27'	27'	45'	15'	27'	27'
Off-Street Parking Requirements	2 per one (1) family dwelling 1 per accessory dwelling	2 per dwelling unit in one (1) family and two (2) family dwellings 1 per accessory dwelling	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily dwellings and then 1.5 for each additional unit 1 per accessory dwelling	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily dwellings and then 1.5 for each additional unit 1 per accessory dwelling	Refer to Art. V Sec. 30.51	2 per dwelling unit in one (1) family and two (2) family dwellings 1 per accessory dwelling

1. In all residential zoning districts in which accessory dwellings are permitted the number of accessory dwellings allowed is equivalent to the number of dwelling units allowed 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.

A) Applicable to Mobile Home Subdivisions only.

B) Side setback 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.

(Ord. 1728, 12/7/92; Ord. 1798, 12/19/94; Ord. 1861, 6/16/97)

Sec. 30.42. - Commercial density requirements.

Commercial density requirements are set out in Table 30.42.

Table 30.42					
Commercial Density Requirements					
Zoning Classification District					
	Neighborhood Commercial	Highway Commercial	Industrial	Light Industrial	Central Business District
Min. Lot Requirements in Square Feet	N/A	6,000	6,000	6,000	N/A
Minimum Setback Requirements					
Front Street	20'	20'	20'	0' with boulevard	N/A
				10' without boulevard	
Side	0' or A)	0' or A)	0' or A)	10' or A)	N/A
Side Street	10'	10'	10'	10'	N/A
Rear	0'	0'	0'	20'	N/A
Maximum Height for all Buildings	27'	45'	N/A	33'	N/A

Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51
Loading Space Required	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51

A) 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.

(Ord. 1949, 10/18/04)

30.42. – Allowable Encroachments into Setbacks.

- A. Entranceway awnings and roof eaves may extend up to 18 inches into any setback. The maximum height for an entranceway awning that encroaches into the setback shall be 12 feet.
- B. Entranceway steps and ramps may extend up to five (5) feet into the front street or side street setback. Entranceway steps and ramps that encroach into the setback may only access the ground floor of the attached building.
- C. Ground floor covered or uncovered porches may extend up to five (5) feet into the front street or side street setback. The deck of any first floor porch that extends into the setback shall be no higher than the ground floor level of the attached building. The maximum height for the roof of any ground floor covered porch that encroaches into the setback shall be 12 feet.
- D. Window-wells and below-grade stairwells may project 36 inches into any setback. Window-well projecting beyond 18 inches shall be covered in such a way that is consistent with adopted building codes and such that an individual is prevented from falling into the window-well.

Sec. 30.43 – Accessory dwellings.

- A. Accessory dwellings are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. Detached accessory dwellings shall not be located in the front yard, but may be located in the side or rear yard so long as the required setbacks listed in Table 30.41 are met.
- C. Accessory dwellings shall not exceed 800 square feet of gross floor area and must be smaller in gross floor area than the primary dwelling on the property. If an accessory dwelling is attached to another building only the gross floor area of the accessory dwelling shall be calculated towards the maximum gross floor area. Accessory dwellings attached to existing, primary dwelling units are not subject to the gross floor area limitations, but must be wholly contained within the existing building. Any attached accessory dwelling that increases or modifies the footprint or profile of the primary dwelling unit in any way, whether above or below ground, shall not exceed 800 square feet of gross floor area.
- D. All detached accessory dwellings shall maintain a 6-foot separation, measured from the external walls of the dwelling unit, to all other buildings on site.
- E. Accessory dwellings shall be on the same lot as the primary dwelling.
- F. Accessory dwellings shall not be subdivided or sold separately from the primary dwelling on the lot. If an accessory dwelling is subdivided from the primary dwelling unit, the accessory dwelling is no longer an accessory dwelling and must meet all density requirements listed in Table 30.41. Prior to

use of the accessory dwelling, the property owner must record a deed restriction provided by the City Attorney's Office stating that the accessory dwelling shall not be sold separately from the primary dwelling, and provide a copy of the recorded deed restriction to the Department of Building and Planning prior to the issuance of a Certificate of Occupancy. Accessory dwellings may be rented.

- G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.

Sec. 30.44. - Bed and breakfasts.

- A. "Bed and breakfast" means a commercial business operated in a house which is used partially or primarily for providing overnight accommodations to the public.
- B. The goal of this section is to establish the allowable locations and operations of bed and breakfast facilities.
- C. A bed and breakfast shall be allowed in the following zoning districts: Low Density (R-I), Medium Density Residential (R-II), High Density Residential (R-III), Neighborhood Commercial (N.C.), Highway Commercial (H.C.), and the Central Business District (C.B.D.).
- D. Reserved.
- E. The accommodations for a bed and breakfast shall have no more than five (5) guest rooms. Breakfast shall be the only meal served on the premises, and is included in the charge for the room. No other food or beverage served upon the premises.
- F. Off-street parking shall be provided by all bed and breakfast facilities. There shall be two (2) off-street parking spaces, plus one (1) for each guest room. Off-street parking shall be required to be used by guests.
- G. No bed and breakfast shall be located on a lot closer than two hundred (200) feet in a straight line distance from any other lot containing a bed and breakfast. The owner shall live on the premises.
- H. Signage shall be limited to that allowed for home occupations (twelve (12) inches by twenty-four (24) inches non-illuminated, flush mounted).
- I. Rates shall be charged for single-night occupancy only, weekly or monthly rates will not be allowed.
- J. A bed and breakfast already in existence at the time of this section's effective date shall have ninety (90) days to conform with the provisions of this section except existing establishments shall be grandfathered as to the requirements of subsection (G) of this section.
- K. Any property receiving a special exception for a bed and breakfast shall have ninety (90) days from the date of the final City Commission action to meet any specified conditions and obtain a City business license. If a City business license is not obtained in that time period, the special exception shall be automatically rescinded as of that date. If a license for a bed and breakfast is not renewed within ninety (90) days after January 1 of any calendar year, the special exception for that bed and breakfast shall be automatically rescinded.
- L. Any application for a bed and breakfast shall be accompanied by a detailed plan, drawn to scale, showing all aspects of the physical layout for the property, including the off-street parking provisions.
- M. The table of uses (Table 30.40) is amended to comply with subsection (C) of this section.

(Ord. 1702, 7/20/92; Ord. 1868, 2/2/98; Ord. 1894, 3/6/2000; Ord. No. 2029, § 2, 4/19/11)

Sec. 30.45. - Uses in the Preservation Zoning District.

Uses in the Preservation Zoning District may be reduced or expanded from the uses allowed in the areas surrounding the Preservation Zoning District. Allowable uses will be set forth in the plan adopted for each Preservation Zoning District.

(Ord. 1954, 5/16/05)

Sec. 30.45.1. - Preservation Zoning District Plan.

The Livingston City Zoning Commission shall make a recommendation to the City Commission for a Preservation Zoning District Plan which shall take into consideration the following:

- A. Delineation of the boundaries of each special use zoning district;
- B. Identification of the structure(s) and/or natural features which contributed to the creation of the Preservation Zoning District;
- C. Identification of the uses and development standards or guidelines intended to preserve the structure(s) and/or natural features which may vary from Preservation Zoning District to Preservation Zoning District, but shall take into consideration:
 - 1. Setbacks,
 - 2. Landscaping standards,
 - 3. Signage standards,
 - 4. Parking standards,
 - 5. A list of uses to be allowed,
 - 6. Any other standard that would serve the purpose of preserving historic or architectural structure(s) or natural features in each Preservation Zoning District.

(Ord. 1954, 5/16/05)

Sec. 30.46. - Building design standards.

- A. This Section provides policies and standards for the design of buildings in the Design Review Overlay Zone. In general, they focus on promoting buildings that will be compatible in scale and appear to "fit" in the community by using materials and forms that are a part of Livingston's design traditions. As such, they address only broad-scale topics and do not dictate specific architectural styles or building details.
- B. Objectives for Building Design.
 - 1. Achieve High Quality Design. Buildings in the overlay zone shall convey a high quality of design, in terms of their materials and details, as well as through a consistent organization of forms and elements. This quality shall establish a standard for design throughout the community.
 - 2. Reflect the Design Traditions of Livingston. Buildings shall reflect the design traditions of the region, in terms of building and roof forms. Distinctive roof forms are a key part of this tradition. Sloping roofs, in gable, hip and shed varieties are historical precedents to promote and they also help reduce the apparent bulk of larger buildings and help to shed snowfall. Flat roofs with varied parapet lines and cornices are also a part of the City's design traditions and shall be encouraged. Buildings that appear to be in scale with those seen traditionally also shall be encouraged. Where a new building would be larger than those existing in the area, it shall establish a transition in scale, to reduce the impact of building scale on the adjacent property, as well as on the neighborhood.
 - 3. Promote Buildings that Fit with the Natural Setting. Structures shall be sited to fit with the land and incorporate colors seen in the natural setting.

4. Promote Buildings that Reflect Pedestrian Scale. Human scale shall be an integral part of all buildings. Large, flat, windowless block buildings do not reflect human scale or the design traditions of Livingston. Thoughtful use of landscaping, color, building materials and architectural details bring human scale to buildings.

C. Building and Topography.

1. Policy. A building shall respect the natural topography of the site.
2. Standards. Step a building foundation to follow the slope of the site when feasible. In general, an exposed building foundation shall not exceed three (3) feet in height.

D. Building Character.

1. Policy. Buildings shall reflect the regional urban character.
2. Guideline.
 - a. Designs that draw upon regional design traditions are preferred. Standardized "franchise" style architecture will be strongly discouraged by following these standards.
 - b. The primary entrance to a building shall have a human scale. Provide a one (1) story element at the building entrance to help establish a sense of scale.
 - c. Where no windows or other obvious indication exists, express the position of each floor in the external skin design of a building to establish a human scale.
 - i. Use belt courses or other horizontal trim bands of contrasting color and materials to define floor lines.
 - ii. Articulate structural elements, or change materials as a method of defining floors.
 - d. Use building materials that help establish a human scale.
 - i. For example, use brick in a standard module to express a human scale.
 - ii. Avoid using large surfaces of panelized products or featureless materials.
 - iii. A large surface of stucco or similar material that lacks articulation or detailing shall be avoided.
 - e. New construction shall relate to adjacent residential and historic resources. Where a new project abuts a residential neighborhood or a historic structure, step the building down at the property edge to minimize abrupt changes in scale, or increase side yards to reduce the impact.

E. Primary Building Entrance.

1. Policy. The primary entrance of a structure shall orient to a street, major sidewalk, pedestrian way, plaza, courtyard or other outdoor public space.
2. Standards.
 - a. Design the main entrance to be clearly identifiable.
 - i. Provide a sheltering element such as a canopy, awning, arcade or portico to signify the primary entrance to a building.
 - ii. Where more than one (1) user shares a structure, each individual entrance shall be identified.
 - b. Orient the primary entrance of a building to face a street, plaza or pedestrian way.
 - i. Focusing an entrance toward a parking lot without also addressing the street is inappropriate.
 - ii. Consider using a "double-fronted" design where the entrance to parking and to the street is required. That is, provide a door to the street and another to the parking lot.

- iii. Consider locating a pedestrian plaza at the entrance; this may be enhanced with landscaping and streetscape furnishings.

F. Street Level Interest.

- 1. Policy. When a building is located close to a street or walkway, it shall be designed to provide interest to pedestrians. For example, commercial buildings with storefronts are of interest to passersby. Such features encourage pedestrian activity and shall be used whenever feasible. The overall mass of a building shall appear to be in scale with buildings seen traditionally. This will help new structures fit with the Livingston context. At the same time, newer structures may be larger than those seen before; they shall simply be articulated in their form and materials such that they convey proportions that are similar to those seen traditionally.
- 2. Standards.
 - a. Develop the street level of a building to provide visual interest to pedestrians. All sides of a building shall include interesting details and materials to avoid presenting a "back side" to neighboring properties. For example, the sides of restaurants and specialty stores shall incorporate windows and display cases over at least a third of the facade area. A large expanse of blank wall is inappropriate on any street-oriented facade.

G. Building Mass and Scale.

- 1. Policy. A building shall appear to have a "human scale." In general, this can be accomplished by using familiar forms and elements that can be interpreted in human dimensions, as noted throughout this Chapter, e.g., "small details/visible to pedestrians."
- 2. Standards. In order to reduce building scale, each major building project shall provide all of the following:
 - a. Divide a building into visual modules that express dimensions of structures seen traditionally.
 - i. Buildings shall employ all of the following design techniques:
 - (A) Change material or color with each building module to reduce the perceived mass;
 - (B) Change the height of a wall plane or building module;
 - (C) Change roof form to help express the different modules of the building mass; and
 - (D) Change the arrangement of windows and other facade articulation features, such as columns or strap work that divide large wall planes into smaller components.
 - ii. Express facade components in ways that will help to establish a human scale (details oriented towards pedestrians).
 - (A) Establish a pattern and rhythm on exterior walls to establish a human scale;
 - (B) Windows, columns and other architectural treatments used repetitively can create this effect;
 - (C) Using windows and doors that are similar in scale to those seen traditionally also can help establish a human scale;
 - (D) Also, recess these elements, even if slightly, and articulate them with headers, sills, columns and/or mullions.

H. Roof Form.

- 1. Policy. The primary roof form of a structure shall help reduce the perceived scale of the building. For that reason, sloping roofs shall be used in most contexts. These also will help the building fit into the mountain backdrop. Varied roof forms in the appropriate context are also encouraged.
- 2. Standards.
 - a. Using sloping roof forms to reduce the perceived scale of a building is encouraged.

- i. Varying roof forms is encouraged.
- ii. Providing variety in ridgeline height is encouraged.
- b. All roof forms shall have no less than two (2) of the following features:
 - i. A flat roof with parapet;
 - ii. A cornice or molding to define the top of a parapet;
 - iii. Overhanging eaves;
 - iv. Sloping roofs with a minimum pitch of 6:12;
 - v. Multiple roof planes.

I. Signage.

- 1. Policy. Signage shall be sensitive to the natural surroundings and shall not detract from the overall visual design of the site. Because signage can easily become the focal point of a development, it will be important within this overlay zone to keep signage as minimal and unobtrusive as possible.
- 2. Standards.
 - a. Free standing and monument signs will be constructed of materials and contain details which match those of the building being advertised.
 - i. Use brick, wood or stone facades on signage structures to help them blend into and match the site;
 - ii. Simulate architectural details of the building, such as colors, textures, and geometric forms, in designing sign structures.
 - b. Signs that detract from the site design of a development shall be avoided. The use of internally backlit signs will not be allowed. Spotlighting or other lighting methods shall be explored.

J. Design Standards Administration. The building design standards and review procedures contained herein shall apply to all large-scale retail uses and all nonresidential property annexed into the City and falling within the Gateway Overlay Zoning District, which has been mapped and amended to the City's Official Zoning Map. If meeting the above criteria, all new construction, exterior remodels and additions to existing buildings will be subject to the following application and review process:

- 1. Application. A completed application form along with a site plan and other detailed drawings, including, but not limited to, building elevations indicating exterior materials, colors and necessary architectural details required to determine compliance with this Section, shall be submitted to the Planning Department along with the required application fee. Once accepted by the Planning Department, the applicant will be notified as to whether or not the plans submitted comply with adopted City standards. This notification will occur as soon as the review is completed but in any case shall not be later than thirty (30) days from the date the application was accepted by the Planning Department. Failure of the City to complete a review and notify the applicant within the allotted thirty (30) day period will constitute approval of the application.

If a plan is rejected for noncompliance, it will be returned to the applicant with an explanation as to how the plan fails to comply with City standards and/or this Section. The applicant will then be allowed to resubmit the application, with no additional application fee, provided the City receives the revised application within sixty (60) days from the original rejection.

- 2. Review Fees. The fee for design review shall be established by separate resolution.

(Ord. 1974, 9/5/07)

Article V. - Supplementary General Requirements

Sec. 30.50. - Signs.

- A. Intent. The intent of this Section is to provide standards for erection, design and placement of all signs and sign structures. Design standards are established to achieve the proper relationship of signs to their environment, enhance the outward appearance of the community as a whole, secure pedestrian and vehicular safety, preserve the historic aspects of the City of Livingston and promote the conservation of energy by regulating lighted signs.
- B. Definitions.
 - 1. "Animated sign" means a sign with action or motion, flashing or intermittent lights and/or color changes requiring electrical energy, electronic or manufactured sources of activation, but not including wind-activated elements such as flags and banners.
 - 2. "Awning signs" means a sign which is an integral part of a window awning assembly, to include the printing or painting of words onto awning material.
 - 3. "Billboard signs" means any standard outdoor advertising sign larger than two hundred (200) square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located.
 - 4. "Free standing signs" means a sign which is supported by one (1) or more columns, uprights, or braces and is permanently fixed in the ground.
 - 5. "Monument sign" means a sign, single- or double-sided mounted, flush with the surface of the grade upon which sets the business, industry, or other commercial enterprise which the sign advertises. A monument sign must be landscaped with grass, shrubs or other plants or other landscape material in an area not less than three (3) feet surrounding such sign in all directions.
 - 6. "Revolving sign" means a sign which revolves three hundred sixty (360) degrees.
 - 7. "Menu board" means a sign specifically designed to advise customers of the menu of food available in the establishment by which the menu board is owned.
 - 8. "Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.
 - 9. "Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.
 - 10. "Temporary sign" means a sign made of paper, or some other limited life-span material advertising a short-term event, like a sale. Temporary signs are not subject to inclusion in a business' sign square footage measurement. Temporary signs shall be removed within twenty-four (24) hours after the completion of the advertised event.
 - 11. "Projecting sign" means a sign installed on the facade of a building which is attached to such building in a perpendicular manner or at an angle to the building wall.
 - 12. "Sandwich board sign" means a sign painted on both of the outside of two (2) boards fastened together at the top with a hinge-like device, designed to be placed on the sidewalk area in front of an establishment.
 - 13. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located, including, but not limited to, signs described in subsections (B)(1) through (B)(12) of this Section. For the purpose of determining number of signs, a sign will be considered to be a single display device with not more than two (2) display surfaces (back-to-back) or display device containing elements organized, related and composed to form a unit. For measurement purposes, the square footage of a sign which employs back-to-back display surfaces will only be considered as the square footage of one (1) side of that sign. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element will be considered a separate sign.

14. Square Footage. The square footage of a sign shall be measured as the product of the total linear foot measurement multiplied by the total height measurement. The linear measurement shall be attained by measuring from the leftmost edge of the sign, continually measured to the rightmost edge of the sign. Any mounting material shall be part of the measurement.
15. "Actual business premises" means the owned or leased real property from which the primary business is actively transacted.
16. "Off-premises sign" means a sign located on property other than the actual business premises.
17. "Banner signs" means a strip of cloth, plastic or other material displaying advertising or other information.
18. "Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise.
19. "Voluntary modification" means any modification to an existing sign which reflects a conscious business or personal decision. This may include a change in corporate color scheme, change of logo, or any other change which would require the replacement of existing sign faces. It does not include the replacement or repair of sign faces with new, identical faces as part of normal maintenance or due to damage by wind, fire or other hazard.

C. General.

1. Nothing in this Section shall be interpreted as prohibiting or excluding such signs as are required by law. This includes legal notices and advertisements prescribed by law or posted by any lawful officer or agent.
2. Any sign which is readily visible from the public right-of-way in an exterior window of a building, whether on the external or internal side of the window, shall be regulated by the provisions of this Section. Temporary sale signs are excluded, however, no single temporary sign shall exceed six (6) square feet in size, and the total of all such temporary signs shall not exceed fifty (50) percent of the transparency of the window in which they are visible.
3. All signs as permitted by this Section shall be maintained by the owner and kept in good repair and shall be painted and repaired at reasonable intervals. The surface of the ground under and about any sign shall be kept clear of weeds, rubbish and flammable waste material.
4. All signs shall be designed and constructed in accordance with the Uniform Sign Code.
5. A permit must be obtained from the Building Official by the person who is erecting the sign prior to the construction of any sign, except for those signs listed in subsection E of this Section.
6. Signs not in use by reason of change of occupancy or use by vacation of the building shall be removed within thirty (30) days of such change by the owner of the sign, or the owner of the property. The City has the option of removing such sign at the end of the thirty (30) day period after giving fifteen (15) days' written notice by certified mail to the owner, and upon such removal, the full charges of removal shall constitute a mechanic's lien against the real property enforceable pursuant to State law.
7. All existing signs that have been constructed pursuant to City sign permits and variances through the official date of the ordinance codified in this Section (Ord. 1749 effective date, October 20, 1993) shall be grandfathered and do not have to conform as to the height, size or prohibited signs subsections of this Section. Other provisions of this Section shall apply to existing signs. Grandfathered signs which are voluntarily modified must meet all requirements of this Section. Signs which have previously been granted variances may continue to exist within the parameters of those variances.
8. The Building Official shall be responsible for the enforcement of this sign ordinance.
9. All buildings with more than one (1) business occupant must submit to the Board of Adjustment a master signage plan which identifies the number and location of all potential signs on the property before any sign permits may be issued. For properties located in the Downtown Historic District,

this master plan will be submitted to the Historic Preservation Commission. Any deviation from an approved master plan must be approved by the appropriate body prior to permit issuance.

10. Pre-existing multi-occupant buildings will not be issued any new sign permits until a master plan is approved by the appropriate body.
11. Any sign variance issued to multi-occupant property shall constitute an amendment to that property's signage master plan.
12. All signs located in the Historic Preservation District must comply with the requirements of the Historic District Overlay Zoning.

D. Prohibited Signs.

1. No animated signs shall be erected in any zoning district, except time and temperature signs which may be erected in the Central Business District only and existing lighted signs in the Downtown Historic Preservation District which flash, chase, move, revolve, rotate, blink, flicker or vary in intensity or color; however, such lights must be turned off when the business is closed.
2. No revolving sign may be permitted in any district.
3. No billboard sign shall be erected in any zoning district.
4. In the Central Business District Zone, no backlit signs are allowed.
5. Visibility at Corners, Alleys and Driveway Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, and on all corner lots, a triangular clear vision zone shall be maintained. The zone shall measure ten (10) feet into the lot, as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley, driveway or street corner along the edge of the sidewalk nearest the property line. No structure of any kind over three (3) feet in height shall be erected or maintained within the above defined clear vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.
6. Notwithstanding any other provisions contained in this Section, no free standing sign shall be erected or maintained upon any spire, chimney, cupola, water tank, water tower, radio aerial or television antenna.
7. No sign shall be erected on any property without the express permission of the occupant, owner, lessee or any authorized agent thereof.
8. No sign shall be erected in such a manner that a portion of the sign or their supports are attached to or will interfere with the free use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator or window.
9. No sign shall be attached to any tree.
10. Menu boards are not permitted on any property other than that occupied by a restaurant-type business.
11. No portable and/or trailer-mounted signs shall be allowed.
12. No sign not in conformance with this Code shall be allowed.

E. Signs Permitted in All Districts Without a Permit. The following signs are permitted in all zoning districts and will not require a permit:

1. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which do not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet. Only two (2) such signs shall be allowed on any one (1) property;
2. Signs bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial promotion;

3. Flags and insignia of the government except when displayed in connection with commercial promotion;
 4. Legal notices: identification, information or directional signs erected or required by governmental bodies;
 5. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
 6. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
 7. Detached bulletin boards for churches, schools, or other public, religious or educational institutions provided such sign is located not less than ten (10) feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections;
 8. Construction information signs, providing the signs are removed immediately following final completion of construction;
 9. Non-illuminated home occupation signs on any residence which is the site of a home occupation in accordance with Section 30.55. Such signs shall not exceed two (2) square feet;
 10. Signs advertising a candidate for political office. Such signs shall not exceed sixteen (16) square feet and shall be removed within seven (7) days after any election;
 11. Signs advertising yard/garage sales, and the like. Such signs shall not exceed two (2) square feet and must be removed by the owner within forty-eight (48) hours of the completion of the sale.
- F. Signs in a Residential District. Within a residential district only, the following signs shall be permitted:
1. Signs listed in subsection E of this Section which do not require a permit; and
 2. Signs advertising a permitted or existing commercial use within a residential district. Such signs require a permit from the Building Official, and shall be permitted only under the following conditions:
 - a. Only one (1) on-premises sign will be allowed for each business.
 - b. The maximum allowable size for each sign shall be twelve (12) square feet.
 - c. Illuminated signs shall be illuminated only as long as the advertised business is open.
 - d. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street.
- G. Signs in Commercial and Industrial Districts Requiring a Permit.
1. Setback. Free standing and monument signs shall be located a minimum of five (5) feet inside all private property lines.
 2. Lighting. All lighting shall comply with the requirements of Ordinance No. 1967 commonly referred to as the Night Sky Protection Ordinance. In no event may an illuminated sign or lighting device be placed or directed so the beams constitute a traffic hazard or nuisance. All wiring, fitting and material used in construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the Uniform Electric Code.
 3. Number of Signs. In Commercial and Industrial Zoning Districts, each use is limited to two (2) wall signs. In addition, one (1) monument sign or one (1) free standing sign is permitted for each building, regardless of the number of businesses or industrial uses conducted in any one (1) building.
 4. Height.
 - a. No monument sign shall exceed five (5) feet in height.
 - b. No free standing sign shall exceed thirty (30) feet in height.

- 5. Permitted Surface Area.
 - a. Wall Signs. The total surface area of all wall signs is limited to one hundred (100) square feet in the Central Business District and otherwise to two (2) square feet of sign for each linear foot of frontage width of the business, provided that the maximum total surface area for all wall signs does not exceed three hundred (300) square feet.
 - b. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area.
 - c. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area.
- 6. Roof-Mounted Signs. Any sign located on the roof of a building shall not exceed twenty-four (24) inches in height and shall not exceed the top of the roof line. The square footage of roof-mounted signs shall be counted as a portion of the limitation on wall-mounted signs, i.e., the total surface area of wall-mounted signs added to any roof-mounted signs may not exceed three hundred (300) square feet maximum, or less if the linear front footage of the building is less than one hundred fifty (150) feet.
- 7. Off-Premises Signs. A business may have up to four (4) off-premises signs; however, the total square footage of these off-premises signs may not exceed one hundred fifty (150) square feet. No other off-premises signs shall be allowed. Excepted from this provision are:
 - a. Garage sale or hobby show signs no greater than two (2) square feet in area on the date only of the activity;
 - b. Auction and special event signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
 - c. Directional signs for public facilities and museums;
 - d. Banner signs for public performances not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.
 - i. No signs in the public right-of-way or in any required right-of-way shall be allowed except for governmental traffic control signs (unless a business premises is on the railroad right-of-way). Properly permitted sandwich board signs not to exceed six (6) square feet per side are excepted from this provision provided that they shall be limited to one (1) per twenty-five (25) feet of building frontage and may only be located in front of the business being advertised. The City Commission, upon request from a property owner in front of whose property a sign is to be located, may, where deemed in the public interest, allow a sandwich board sign to be placed other than in front of the business being advertised.
- 8. Banner Signs. Temporary banner-type signs shall be allowed for a period of no more than sixty (60) days, limited to no more than seventy-five (75) square feet, and used by any business or entity no more than once per year.
- H. Variance Parameters for Signs. Variances may be granted only if there is undue hardship from the application of these sign regulations due to the particular location and site characteristics of the applicant that are different from those cited generally.
- I. Damaged Signs. Any existing sign not in conformity with this Section that is damaged in either surface area of the sign or in the structure by more than fifty (50) percent shall be removed and any new sign shall meet all requirements of this Section.
- J. Complaint and Notice of Violation Procedure. The City Code Enforcement Officer shall issue a notice of violation in person to the offending property owner, business owner or agent, as the case may be, specifying the violation and steps necessary for correction. If the violation is not brought into compliance within fifteen (15) working days from the personal delivery of the notice of violation, the City shall file a civil complaint against the offending person. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.

K. Violation and Civil Penalty. It shall be a civil infraction for any person to violate any provision of this Section. Any violation of any provision of this Section is a civil infraction punishable by a civil fine not to exceed Three Hundred Dollars (\$300.00).

(Ord. 1738, 3/2/93; Ord. 1749, 9/20/93; Ord. 1819, 10/16/95; Ord. 1820, 10/16/95; Ord. 1860, 6/16/97; Ord. 1873, 5/18/98; Ord. 1883, 2/1/99; Ord. 1975, 9/5/06)

Sec. 30.51. - Off street parking and loading zones.

- A. General. Each off-street parking space shall have a net area of not less than one hundred eighty (180) square feet exclusive of driveways or aisles and shall be of usable shape and condition.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:
 - 1. For one (1) family, two (2)family, and accessory dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
 - 2. For multiple dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.
 - 3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
 - 4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
 - 5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear of the primary structure on the lot.
- C. Expansion or Enlargement. Whenever any building is enlarged in gross floor area by more than ten (10) percent, off-street parking shall be provided for the expansion or enlargement portion only in accordance with the requirements of this article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building previously existing before enlargements or for existing buildings that undergo a change in use.
- D. Non-Conforming Use. Voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, even though non-conforming, is allowed and encouraged.
- E. Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.
- F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the City Superintendent or his authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Building Official or his authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
 - 1. Up to fifty percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
 - 2. Up to one hundred percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature. H. Conditions Required for Joint Use. The building for which

application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.

The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.

The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
Bowling alleys.	Five per alley.
Medical and dental clinic.	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service.	One per 400 square feet of gross floor area.
Offices not providing on-site customer services.	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Mortuaries.	One per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries.	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums.	One per 500 square feet of gross floor area.
Schools, elementary and junior high, public, private or parochial.	One per each employee.
School, high school, public or private.	One per each employee and one per 5 students.
Service stations and drive-in restaurants.	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.
Residential, single-family.	2 per dwelling unit.

Residential, duplex or multi-family.	2 per dwelling unit for first 4 dwelling units, then 1.5 for each dwelling unit thereafter.
Boarding houses and similar uses.	One per dwelling unit or lodging unit.
Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals.	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Food or beverage places with sale and consumption on premises.	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores.	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service.	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named.	One per 500 square feet of gross floor area.
Retirement homes, housing projects for senior citizens.	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels, hotels and motor courts.	One per sleeping room.
Hospitals and institutions.	One per 3 beds plus one per 3 employees.
Theaters.	One per 10 seats.
Health and exercise establishment	One per 200 square feet of gross floor area plus 3 per court
Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.

Stadiums, sport arenas and similar open assemblies.	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.
*In calculating minimum required parking, gross floor area shall not include car ports and garage areas.	

- K. Traffic Control Devices. All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
- L. Screening Required. Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property. Such screening shall be located no closer than three feet from the property line and shall be properly maintained.
- M. Lighting Restrictions. Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
- N. Maintenance. Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.
- O. Off-Street Loading Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.
- P. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of 10,000 square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional loading space for each 20,000 square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height.

Sec. 30.52. - Fences and hedges.

- A. Heights. Fences, walls and hedges may be erected or maintained in any residential zoning district provided that no fence, wall or hedge over four (4) feet in height shall be erected or maintained in any front street or side street, or the side yard extending from the foremost edge of the house to the point where the side yard line intersects the front street or side street lot line. Fences and walls located along side yards from the foremost edge of the house to the rear lot line, and along the rear lot line, shall not exceed a height of six (6) feet.

Height, for the purpose of this section, shall be defined as the vertical distance from the top rail, board, wire, or top of hedge to the ground directly below.

- B. Visibility at Alley and Private Drive Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, a triangular clear vision zone shall be maintained. Said zone shall measure ten (10) feet into the lot as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley or driveway, along the edge of the sidewalk nearest the property line. No fence, wall, hedge, or shrub over three (3) feet in height shall be erected or maintained within the above defined clear-vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.

Regardless of other provisions of this section, no fences, wall, or hedge which materially impedes vision of vehicles entering an abutting street shall be erected or maintained.

C. Prohibited Fences. No electric fences shall be permitted in any zoning district. No barbed wire fence shall be permitted in any residential zoning district.

D. Prohibited Locations. No fence, wall or hedge shall be erected or maintained in a public street or right-of-way.

E. Prohibited Materials. All fences shall be constructed from approved fencing materials and shall not be constructed from railroad ties, rubble or salvage.

Sec. 30.53. - Animals.

Prohibited Animals. No livestock or fowl as defined in Article II of this ordinance, may be kept or maintained in any zoning district in the city, except for licensed veterinarian services, and except for those kept pursuant to permit obtained pursuant to Section 4-2 through the office of the Sanitarian.

Sec. 30.54. - Motor vehicles or parts.

All inoperable motor vehicles or any parts thereof parked or stored in the open on any property for a period exceeding five (5) days will not be allowed and will be deemed a public nuisance. Any vehicle that is judged to be abandoned will be removed in accordance with the Livingston City Ordinances.

Sec. 30.55. - Home occupations.

A. General.

1. It is the intent of this ordinance to permit home occupations that meet the following criteria in any residential district. No other home occupations except those meeting this criteria will be allowed. Nonconforming home occupations shall meet the criteria within one year from the effective date of this ordinance.
2. The purpose of this ordinance is to protect the residential characteristic of the neighborhoods in Livingston. It is to ensure that the home occupations which are allowed to operate will not impose any burdens on the neighboring landowners.

B. Definitions.

1. A home occupation is defined as any business or commercial activity that is conducted or petitioned to be conducted from a property which is zoned for residential use and which meets the conditions set forth in Section 30.55.C and Section 30.55.E.1. However, a medical marijuana facility is hereby specifically excluded from consideration as a home occupation.
2. A home occupation permit is a permit issued for a home occupation that is authorized by Section 30.55.E without hearing.
3. A home occupation conditional use permit is a permit authorized by the City Board of Adjustment only after a public hearing by the Board.

C. Criteria. Home occupations must fit all of the following criteria:

1. No person shall be employed other than the residents of said dwelling.
2. The occupation shall be conducted wholly within the dwelling or within an accessory building located on the property.
3. The gross floor area devoted to the occupation shall not exceed fifteen (15) percent of the total gross floor area of the dwelling unit plus accessory buildings on the property.
4. The occupation shall not impose upon adjacent residences unreasonable burdens due to noise, vibration, glare, fumes, odors, hours of operation, traffic, or electrical interference. The above shall not be detectable by normal sensory perception beyond the dwelling or accessory building in which the business is located.
5. Direct sales of products off display shelves or racks is not allowed, but a person may pick up an order which was placed earlier by telephone or at a sales party.

- 6. There shall be no signs erected other than those allowed by this ordinance in residential districts.
- 7. A minimum of one off-street parking space for each business related vehicle shall be provided on the property. Each parking space shall meet minimum standards for off-street parking established elsewhere in this code.
- 8. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.
- 9. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, except for the permitted sign.
- 10. Outdoor storage of materials for the home occupation is prohibited.
- 11. No toxic, flammable, hazardous, or explosive industrial substances shall be used or stored on the premises unless registered with the Local Emergency Planning Committee. Said premises shall be subject to regular fire inspections.
- 12. No home occupation shall be permitted without the prior issuance of a home occupation permit or home occupation conditional use permit.

D. Enforcement.

- 1. The permit shall be valid only for the proposed business as operated by the applicant. The permit shall be non-transferable either to another property or to another owner or operator. It may be revoked upon sufficient showing that a permit holder is violating the terms of the permit.
- 2. The business shall be subject to regular inspections by the City Fire Marshal and/or the City Building Inspector. The inspections shall be done during regular business hours.
- 3. The Building Official shall be responsible for enforcing this section of this ordinance, and shall report any violations to the Livingston City Attorney.

E. Compliance. It is the intent of this subsection to provide the Building Official with the means to enforce the Home Occupation section of this ordinance.

- 1. Businesses shall be divided into two categories based on the expected impact they will have on the residential neighborhood they are proposed for.
 - a. A Major Home Occupation is one which can be expected to have some impact on the neighborhood it is proposed for. It is one which has some visible evidence of the occupation and shall accommodate both the residential and business related parking needs on the property. Additional characteristics include:
 - (1) The business may have a sign; or
 - (2) The business may create some additional traffic for deliveries and customers.
 - b. A Minor Home Occupation is one which has no visible exterior evidence of the conduct of the occupation, which does not generate additional traffic, and in which no equipment other than that normally used in household, domestic, or general office use. Additional characteristics may include:
 - (1) The business shall not have a sign.
 - (2) No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.
 - (3) No hazardous, flammable, explosive or toxic industrial substances may be used in a minor home occupation.
- 2. All Home Occupations in existence at the time of the adoption of this Ordinance and all new home occupations which fit the criteria of a minor home occupation shall be required to get a Home Occupation Permit.

- a. The purpose of the Home Occupation Permit is to ensure compliance with this section of the Ordinance.
 - b. The Home Occupation Permit may be issued by the Building Inspector upon application by the owner of a Home Occupation.
 - c. The application shall be accompanied by a floor plan for the residence with the area to be used for the business clearly marked.
 - d. The application shall be accompanied with a fee of twenty dollars (\$20.00) to cover processing.
3. All new Major Home Occupations shall be required to be reviewed by the City Board of Adjustment for a Home Occupation Conditional Use Permit.
- a. The Home Occupation Conditional Use Permit process shall be initiated by application to the City Zoning Administrator.
 - b. The Zoning Administrator shall review the application for completeness and prepare it for review by the City Board of Adjustment.
 - c. The Zoning Administrator shall schedule a public hearing, advertise it two (2) times beginning at least fifteen (15) and not more than thirty (30) days prior to the public hearing date.
 - d. The Zoning Administrator shall notify the adjoining landowners within three hundred (300) feet of the proposed Home Occupation location, on the proposed business, and the date of the public hearing by mail at least fifteen (15) days prior to the date of the public hearing. The request shall be posted on the property at least ten (10) days prior to the public hearing.
 - e. The City Board of Adjustment shall conduct the public hearing and decide on the application.
 - f. The City Board of Adjustment shall have the power to require any mitigating measures it deems necessary to protect the public health, safety and welfare.
 - g. The Special Review shall have a fee of fifty dollars (\$50.00).

(Ord. No. 2022, § 3, 9/7/10)

Sec. 30.56.1 - Mobile homes.

- A. Residential Mobile Homes. Mobile homes are permitted in approved mobile home (RMO) parks and R-II (MH) districts only. No mobile homes shall be placed in other zoning districts except those specified in Section 30.56B.

Any mobile home or replacement of any existing mobile home moved onto a site in one of the approved zoning districts must contain a minimum of eight hundred (800) square feet, and must meet all of the following requirements before a Certificate of Occupancy can be issued by the Building Official:

- A) All mobile homes must be completely skirted.
- B) All mobile homes must be securely anchored at all four corners.
- C) The running gear must be removed.
- D) The tongue must be removed.
- E) All mobile homes must be placed on a permanent foundation. For the purpose of this part, a permanent foundation means a foundation system which has been designed and certified by a professional engineer or architect, or which has been specified by the mobile home manufacturer.

- B. Commercial Use. Mobile homes shall not be utilized for any commercial use, other than an on-premises office in connection with a mobile home sales business or as a temporary job shack located

on a construction site. Such job shack must be removed within ten (10) days after completion of construction.

(Ord. 1813, 8/21/95)

Sec. 30.56.24. - Manufactured homes.

- A. Manufactured homes are permitted in all residential zoning districts. Any manufactured home or replacement of any existing manufactured home must contain a minimum of ~~one thousand~~320 (1,000) square feet.
- B. All manufactured homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- C. All manufactured homes must be certified by the U.S. Department of Housing and Urban Development (HUD) and have a certification label as required by HUD standards. A manufactured home of less than 1000 square feet may be placed if it meets all of the following conditions:
 - ~~3. The structure is on a permanent foundation.~~
 - ~~4. The tract or parcel of land for the proposed use must be owned by a unit of local government or a community housing development organization.~~
 - ~~5. The home must be used to provide affordable housing to households earning less than 80% of the area median income.~~
 - ~~6. A management plan from the local government or community housing development organization addressing the following factors is submitted to the City Administration and City Commission:~~
 - ~~a. Affordability plan (including proposed rents).~~
 - ~~b. Management plan (including client eligibility and intake).~~
 - ~~c. Proposed deed restrictions to be placed on the property requiring adherence to approved affordability plan.~~

Sec. 30.56.3. – Modular homes.

- A. Modular homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. All modular homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.

Sec. 30.56.4. – Tiny homes.

- A. Tiny homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. All tiny homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.

(Ord. 1813, 8/21/95)

Sec. 30.57. - Commercial buildings in residential districts.

Whenever a commercial building is permitted in a residential district, either as a matter of right or by special use permit, that building must meet the density requirements of the residential zone in which it is located, except for the off-street parking requirements. The minimum off-street parking requirement will be established by the Building Official in accordance with Section 50.51.

Sec. 30.58. - Townhouses.

- A. Townhouses are permitted in RII, RII(MH) and RIII districts only.
- B. All townhouse development must comply with the density and setback requirements set forth in Table 30.41, the off-street parking requirements found in Section 30.51, and all other applicable regulations.

(Ord. 1798, 12/19/94)

Sec. 30.59. - Landscaping regulations.

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for new or altered commercial, industrial, R-III and RMO Zones in order to minimize the visual impact upon public rights-of-way and incompatible uses in said zones and adjacent or abutting R-I or R-II Zones as well as establishing minimum buffering requirements between new or altered commercial, industrial, R-III and RMO Zones and existing incompatible uses and abutting or adjacent R-I or R-II zones and to lessen the impact of lighting.
- B. Definitions. For the purposes of this section, the following definitions shall apply:
 - 1. "Ornamental tree" means any variety of tree which is not expected, at maturity, to reach a height of fifteen (15) or more feet nor be a substantial provider of shade.
 - 2. "Shade tree" means any variety of tree which is expected, at maturity, to be in excess of twenty-five (25) feet in height and sufficiently full in form to provide substantial shading effects.
 - 3. "DBH" means diameter at breast height.
- C. Prohibition. No land shall be used or occupied and no structure shall be designed, erected, used, occupied or altered where a building permit is required, nor shall any variance or special exception be granted, except in conformity with the regulations established in this section.
- D. General Landscaping Requirements. Landscaping shall be required as follows:
 - 1. Parking or Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
 - 2. Requirements for the Interior of Parking Areas.
 - a. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.
 - b. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan.

The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking space area. (i.e., 1 parking space = 180 square feet. Landscape requirement = 5% x 180 x number of spaces.) When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island will contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.

3. Buffering Required Between Different Land Uses. Where commercial, industrial, multi-family or mobile home park land uses abut or are adjacent to lower density residential land uses or zones, either directly or when separated by an alley or street right-of-way or other natural or manmade structure, the commercial, industrial, multi-family or mobile home park use will provide a landscaped buffer zone screening itself from the lower density residential use.

- a. Buffer Zone. The buffer zone shall be a minimum of five (5) feet in width with an additional five (5) feet required for each story of the commercial, industrial or multi-family use above one (1) story, not to exceed twenty-five (25) feet in width.
- b. Screening. Screening shall be installed within the buffer zone which shall consist of vegetation or vegetation and a combination of berm, fencing or masonry walls to a minimum height of six (6) feet in a manner which does not create a safety hazard for vehicular or pedestrian movement or interfere with the requirements of Section 30-52(B) of the Livingston Municipal Code.

c. Shade Trees. In addition, a minimum of one (1) shade tree within each two hundred fifty (250) square feet of buffer zone shall be required. Shade trees required hereunder shall be a minimum of two and one-half (2 ½) inches, DBH, in size at the time of planting. E. Purpose of Lighting Restrictions. The goal in regulating exterior illumination is to direct, to the maximum extent possible, all artificial light onto the property from which it originates. This section does not apply to street lighting provided by a governmental agency.

1. Parking or Storage Area. In any area required to buffer itself from adjacent land uses, all exterior lighting shall be limited in height to no more than sixteen (16) feet and will be required to be of a design which directs light downward through the use of a directional shade.

2. Signs and Decorative Lighting. In commercial and industrial areas adjacent to any land use from which it must be buffered, the following lighting regulations shall apply:

- a. Internally Illuminated Signs. Internally illuminated signs shall not exceed sixteen (16) feet in height. Internally illuminated canopies or structural panels are prohibited. Alternately, spot-lit signs, canopies or panels may be approved at standard heights if they will not adversely effect neighboring property which determination rests with the discretion of the city planning office, subject to appeal to the Board of Adjustment.

F. Penalty. A violation of this section is a misdemeanor punishable by fine not to exceed five hundred dollars (\$500.00). Each day that a violation is allowed to continue shall be deemed a separate and punishable offense.

(Ord. 1852, 4/21/97)

Section 30.60.- Sexually oriented businesses.

No sexually oriented business shall be operated or maintained within the corporate limits of the City of Livingston except within the Industrial Zone with the further limitation that no sexually oriented business shall be front on Park Street and shall be set back from Bennett Street a minimum distance of two hundred fifty (250) feet. No sexually oriented business shall be operated or maintained within six hundred (600) feet of either a City or County residential zone, a church, an elementary or high school, a State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business. The distance limitation in this section shall be measured in a straight line from the main public entrance of said sexually oriented business to the property line of properties in residentially zoned districts, churches,

elementary or high schools, State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business.

Sec. 30.61. - Wind powered generators.

A. Definitions.

1. "Wind Powered Generator(s)" or "WPG" means any device, such as a wind charger, wind mill, or wind turbine, and associated facilities including the support structure of the system, such as a tower, that covers wind energy to electrical energy which has been certified to conform to applicable industry standards by a nationally recognized certifying organization such as Underwriters Laboratories or similar certifying organization.
2. "Wind powered generator height" means the height of a freestanding WPG shall be measured from the ground level to the highest point on the WPG, including the vertical length of any extensions of the WPG, such as the blade.
3. "Tower", as used herein, includes the support structure and all components of the WPG.

B. Special Exception. Wind-powered generators (WPG), as defined herein, are permitted upon the issuance of a Special Exception permit within any zone, provided the following standards, and any related conditions imposed by the Board of Adjustment, are satisfied. No WPG, or modification thereto, shall be constructed within the City of Livingston, unless a permit has been issued by the City.

1. The permit application shall be accompanied with a non-refundable fee in the amount of one hundred dollars (\$100.00).
2. The permit application shall contain a narrative describing the proposed project, the project location, the approximate generating capacity of the facility, a site plan, a photograph of the same type of wind powered generator being proposed and whether the system will be standalone or interconnected to a public utility under the provisions of 69-8-601 et seq. Montana Code Annotated.

C. Maximum Height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or less is limited to sixty (60) feet in height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or more is limited to one hundred (100) feet in height.

1. The Board of Adjustment may increase the height of freestanding WPG, provided that in the residential and commercial, districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall demonstrate, to the Board of Adjustment's satisfaction, that the surrounding topography, structures, vegetation, and other factors make a tower that complies with the height restrictions impractical.
2. Notwithstanding the height limitations of the zoning district, building mounted WPG shall be permitted in all zoning districts, subject to approval by the Board of Adjustment, and shall comply with the following standards:
 - a. Building mounted WPG shall not exceed fifteen (15) feet in height.
 - b. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
 - c. On nonresidential buildings less than four (4) stories and forty-two (42) feet in height, building mounted WPG shall be setback at least ten (10) feet from the front, side, and rear exterior walls of the structure on which it will be mounted.
 - d. Building mounted WPG shall be installed on the top story.
 - e. The structure upon which the proposed WPG is to be mounted shall have the structural integrity to carry the weight and wind loads of the WPG and have minimal vibration impacts on the structure, as determined by a structural engineer.

- 3. Minimum ground clearance. The blade tip of any WPG shall, at its lowest point, have ground clearance of no less than fifteen (15) feet.
- D. Minimum Setback. Minimum setback from any property line shall be one hundred (100) percent of the total tower height, as defined herein and no guy wire may extend close than thirty (30) feet from any property line. No part of the wind generator shall extend over, or across, any part of a public right-of-way.
- E. Noise Standard, Shadow Flicker and Signal Interference:
 - 1. Any noise produced by a WPG, permitted under this Section, shall be less than sixty (60) db as measured from the closest neighboring occupied building; and it is incumbent upon the applicant to demonstrate compliance prior to the issuance of any permits by the Board of Adjustment.
 - 2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building not on the property upon which the WPG is located.
 - 3. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind powered generators.
- F. Fencing Requirement and Warnings. All WPG installations, other than single-pole towers, shall be enclosed by a fence with locking gate, or incorporate other effective measures to discourage unauthorized climbing of the tower. Towers shall not be climbable up to fifteen (15) feet above ground surface. A visible warning sign concerning voltage must be placed at the base of all towers. Reflective and brightly colored tubing shall be placed on guy wires up to a height of ten (10) feet from the ground.
- G. Control and Brakes. All wind powered generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- H. Liability insurance: Construction Phase. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate. Certificates of insurance shall be filed with the City of Livingston who will also be named as an additional insured.
- I. Aesthetics. WPG colors shall be of neutral subdued tones such as each tones or green or brown. Gray, including darkening galvanized gray, is also acceptable. If constructed on top of structure and visible from the ground, the WPG colors shall be a shade of sky blue. WPG shall not be finished in bright or vivid colors intended to draw attention to the structure or property. WPG shall not be illuminated by artificial means, except where required by the Federal Aviation Administration, or other federal, state, or local law.
 - 1. All permitted WPG shall be placed in a reasonably available location that will minimize the visual impact on the surrounding area, and allow the facility to function in accordance with the standards established by this Section, and all other federal, state, and local law.
 - 2. Wind towers shall not display any advertising, except for reasonable identification of the manufacturer and facility owner/operator, not to exceed one (1) square foot in size.
- J. Building, Electrical, Other Permits. All WPG shall comply with all applicable building, electrical, mechanical, and other permits required and issued by the City of Livingston, the State of Montana and/or federal regulations. This is to include any approvals required from the Historic Preservation Commission, or other local entity.
- K. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the Board of Adjustment, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of Adjustment may waive those requirements while still satisfying the original intent and application of this Section. Once every two (2) years, the City shall review existing WPG technology for comparison to this Section, to be sure technological improvements are addressed.

- L. Requirements for Removal. Any WPG that is abandoned, damaged, inoperable, or unused for power generation shall be removed within twelve (12) months of the cessation of operations, unless an extension is approved by the Board of Adjustment. If such an extension is not approved, such WPG shall be deemed a nuisance and require its removal at the property owner's expense. After the WPG removal, the owner of the site shall restore the site to its original, or an improved, condition.
- M. Application of Nuisance Law. If, after a Special Exception permit is issued, by the Board of Adjustment for a WPG, and the same WPG fails to comply with any part of this Section, it may deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.

(Ord. No. 2002, § 1, 8/4/08)

Editor's note— Ord. No. 2002, § 1, adopted Aug. 4, 2008, amended Ch. 30 with the addition of a new, unnumbered section. Said section has been numbered § 30.61 at the discretion of the editor.

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the _____ day of July, 2021.

DOREL HOGLUND – Chair

ATTEST:

FAITH KINNICK
Recording Secretary

PASSED ADOPTED, AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the _____ day of August, 2021.

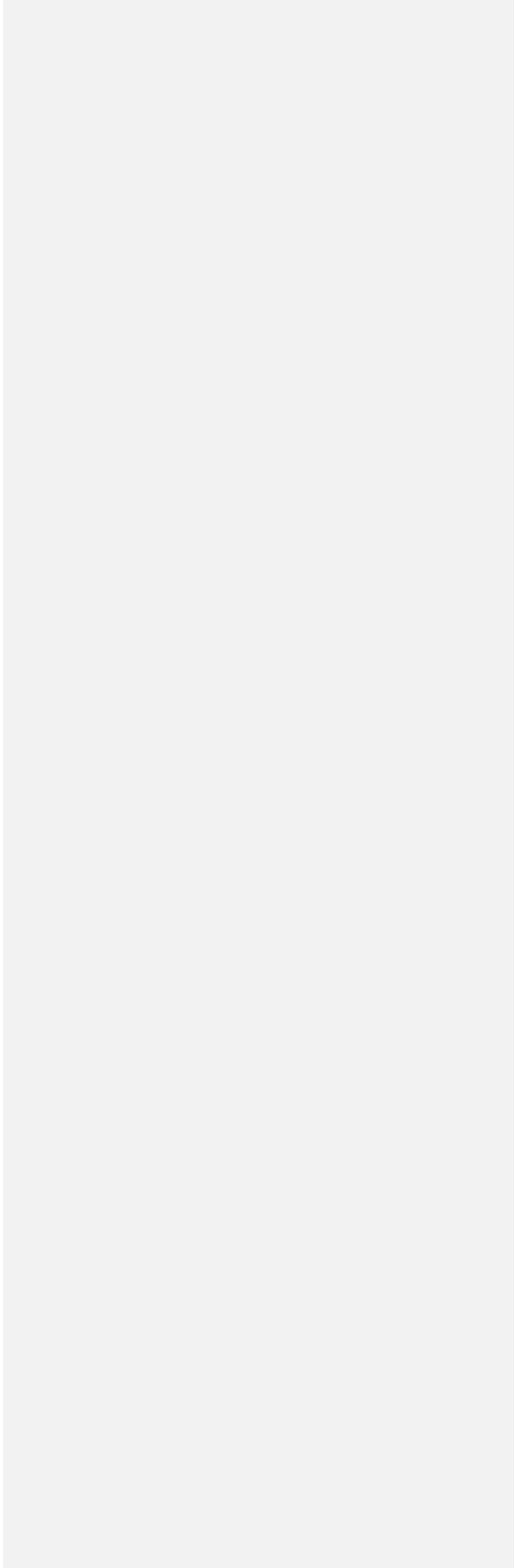
DOREL HOGLUND – Chair

ATTEST:

FAITH KINNICK
Recording Secretary

APPROVED AS TO FORM:

COURTNEY LAWELLIN
City Attorney



May 27, 2021

STAFF REPORT
TEXT AMENDMENT – TINY HOMES AND MANUFACTURED HOMES

Background

Over the last weeks, the Planning Department has received several calls inquiring if property owners are able to place tiny homes constructed offsite on their property, specifically as accessory dwelling units (ADUs). Currently, dwelling units constructed on-site in the traditional manner do are only limited in size by the building code. This does not apply to structures built offsite as mobile and manufactured homes have minimum size limits of 800 sq. ft. and 1000 sq. ft. respectively. The 1000 sq. ft. minimum was consistent with the U.S. Department of Housing and Urban Development (HUD) standards for manufactured housing at the time of the adoption of the minimum size standards. The currently HUD standards for manufactured homes have a minimum size of 320 square feet, and the zoning is being proposed to match that size. Furthermore, tiny homes manufactured offsite do not fit well within the definition of manufactured housing that is utilized by HUD or the Zoning Ordinance. These factors are preventing property owners from utilizing tiny homes manufactured offsite as accessory dwelling units. This potentially limits the number of units created through the ADU Ordinance, a crucial element of affordable rental housing within the City. Appendix Q of the 2018 International Building Code (IBC) as adopted by the State of Montana and the City of Livingston deals specifically with standards and the definition of what it calls a “tiny house”, the proposed definition of tiny home is consistent with the definition included in the 2018 IBC. All tiny homes are subject to the adopted building codes, all tiny homes must be placed on a permanent foundation, and will require full utility connections. At this time RV style utilities or inhabitation of an RV is not allowed within the City of Livingston, and as such inhabitation of a trailer style tiny home would not be allowed. The proposed zoning update also limits the use of tiny homes as ADUs only. A tiny home would only be allowed to be the primary dwelling on the property if the conditions are met in proposed Section 30.56.2.D, which is currently the criteria to allow manufactured homes under 1000 sq. ft., and is allowed for the construction of deed restricted affordable housing. Tiny homes are proposed to be allowed in all districts that ADUs are; R-I, R-II, R-II(MH), RMO, and HC.

Proposed Findings of Fact

Proposed Zoning Updates: Proposed changes to the Zoning Ordinance can be found in a strikethrough-underline version included as Attachment I. Relevant sections of the Zoning Ordinance are reproduced below.

"Manufactured housing" means a structure manufactured offsite, transportable in one or more sections, and in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home.

“Tiny home” is a dwelling unit under 400 square feet of gross floor area and manufactured primarily offsite.

- 4. Tiny homes shall not be allowed to be the primary dwelling unity on the property unless meeting all the criteria listed in Sec. 30.56.2.D of this Ordinance, and are subject to all of the accessory dwelling unit and tiny home standards.

Sec. 30.56.1. - Manufactured homes.

- A. Manufactured homes are permitted in all residential zoning districts. Any manufactured home or replacement of any existing manufactured home must contain a minimum of 320 square feet.
- B. All manufactured homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- C. All manufactured home must be certified by the U.S. Department of Housing and Urban Development (HUD) and have a certification label as required by HUD standards.

Sec. 30.56.2. – Tiny homes.

- A. Tiny homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. Tiny homes may only be utilized as accessory dwelling units unless meeting Sec. 30.56.2.D. Unless meeting the criteria of Sec. 30.56.2.D, all tiny homes are subject to Sec. 30.43 of the Zoning Ordinance.
- C. All tiny homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- D. A tiny home may be placed as the primary dwelling unit on a property if it meets all of the following conditions:
 - a. The structure is on a permanent foundation.
 - b. The tract or parcel of land for the proposed use must be owned by a unit of local government or a community housing development organization.
 - c. The home must be used to provide affordable housing to households earning less than 80% of the area median income.
 - d. A management plan from the local government or community housing development organization addressing the following factors is submitted to the Planning Department and City Commission:
 - i. Affordability plan (including proposed rents).

- ii. Management plan (including client eligibility and intake).
- iii. Proposed deed restrictions to be placed on the property requiring adherence to approved affordability plan.

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304): (1) Zoning regulations must be:

(a) made in accordance with a growth policy:

Staff Comments: (Note: while not yet adopted, the City Commission has signed a resolution of intention to adopt the 2021 Growth Policy. As this will likely occur prior to the Commission hearing the proposed ordinance change, the zoning update has been analyzed against the 2021 Growth Policy.)

- Goal 3.1 States “Prioritize infill over expansion by taking advantage of existing and planned infrastructure...”. Allowing tiny homes as ADUs should encourage additional property owners to place ADUs on their property, encouraging infill through additional density on lots already served by City infrastructure and minimizing the need to expand the land area of the City to accommodate housing needs.
- Strategy 3.4.1.1 states “Amend the Zoning Ordinance...to include Smart Growth Strategies as requirements for all development prior to approval.” While the proposed zoning update does not require the placement of tiny homes prior to approval of developments, it does allow for development consistent with the following Smart Growth Strategies:
 - Take advantage of compact building design
 - Create a range of housing opportunities and choices
 - Strengthen and direct development towards existing communities.
- Strategy 5.1.1.3 states “Evaluate manufactured or similar type structures to create affordable housing inventory.” Updating the Zoning Ordinance to allow for tiny homes manufactured offsite and by updating the definition of manufactured housing to be consistent with the current HUD definition of manufactured housing should increase the inventory of affordable housing within the City.
- Strategy 5.1.1.4 states “Review and amend zoning ordinance... to identify legislative changes required to provide housing that meets the needs of all residents.” Currently, there is a noted lack of rental options within the City, especially affordable rentals. By allowing property owners to utilize tiny homes as ADUs the inventory of affordable rentals should increase, especially as ADUs must be utilized as rentals.
- Objective 5.1.2 states “Evaluate the impacts of vacation rentals on Livingston”. There are no restrictions in the Zoning Ordinance on utilizing ADUs or tiny homes as vacation rentals.

- Strategy 5.1.4.3 states “Promote Accessory Dwelling Units (ADU)”. The proposed zoning promotes ADUs by diversifying the types of building that can be used as ADUs, and potentially allowing for a lower construction cost option for those that would like to place an ADU on their property.
- Chapter 11 states “Investigate updating zoning to promote affordable or employee or workforce housing”. The proposed updates should promote lower cost housing options.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- The proposed updates should have no impact on fire safety, all structures will continue to be required to meet building code and building setbacks.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- The proposed updates should have no impact on public safety.
- The provision of safe and secure housing as promoted by the zoning update are a benefit to both public health and general welfare.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- The allowance for ADUs did substantially increase densities, impacting the provision of public requirements, though the City continues to have adequate capacity in public systems. The proposed zoning update does not allow for any additional densities above the already adopted ADU allowance, though it should encourage the placement of additional ADUs.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- The proposed amendments should not have any impact on light and air, no changes to setbacks or building heights are proposed.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- The allowance for ADUs did substantially increase densities, increasing use of transportation systems. The proposed zoning update does not allow for any additional densities above the already adopted ADU allowance, though it should encourage the placement of additional ADUs.

(c) promotion of compatible urban growth;

Staff Comments:

- The update allows a different building size than is currently allowed but the allowance for tiny homes should not be incompatible with existing ADUs or residential and mixed-used neighborhoods.
- The community has shown a marked preference for infill growth rather than outward growth and this update should encourage additional infill growth throughout the residential and mixed-use areas of the City.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- Accessory Dwelling Units are common in historic residential areas throughout the City and the allowance to utilize a tiny home as an ADU should not change the suitability of ADUs to fit within the character of the community.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- The proposed Zoning Amendment should have a positive effect on property values as ADUs generally increase the value of property
- Tiny homes encourage ADUs which is an appropriate use of land in both the residential and mixed-use districts. The Growth Policy notes both the appropriateness of infill development, ADUs, and diverse housing types.

Public Hearing

Staff Recommendation

The Zoning Coordinator believes that the new language listed above meets both the requirements of State Statute and the needs of the City of Livingston. Staff recommends that the Commission adopt the proposed zone text amendment.

Attachments

Attachment I.....Strikethrough-underline version of amendment

Chapter 30 - ZONING

Articles:

Article I. - Introductory Provisions

Sec. 30.10. - Title.

This ordinance shall be known as the Zoning Ordinance of the City of Livingston, Montana and may be referred to as the "Zoning Ordinance" and the map referred to herein is identified by the title "Official Zoning Map, Livingston, Montana" and may be known as the "Zoning Map".

Sec. 30.11. - Purpose.

The purpose of this ordinance is to promote the health, safety, and general welfare of the community by regulating the height and size of buildings and structures, the percentage of lots that may be occupied, the size of setbacks and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence, or other purposes within the city limits.

Sec. 30.12. - Territorial jurisdiction.

The zoning jurisdiction of the City of Livingston shall include the land within the corporate limits of the City.

Sec. 30.13. - Incorporation of Official Zoning Map.

The "Official Zoning Map, Livingston, Montana", and all notations, references, and other information shown on the map are hereby incorporated by reference and made a part of this ordinance.

The Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this is the Official Zoning Map referred to in Section 30.13 of the Zoning Ordinance of the City of Livingston, Montana", together with the date of adoption of this ordinance.

If, in accordance with the provisions of this ordinance, changes are made in district boundaries or other matter portrayed on the Official Zoning Map, such changes shall be entered on the Official Zoning Map promptly after the amendment has been approved by the City Council, with an entry on the Official Zoning Map as follows: "On (date), by official action of the City Council, the following (change) changes were made in the Official Zoning Map (brief description of nature of change)," which entry shall be signed by the Mayor and attested by the City Clerk. In case of a conflict between the ordinance and the Official Zoning Map, the text of the ordinance shall govern.

No changes of any nature shall be made on the Official Zoning Map or matter shown thereon except in conformity with the procedures set forth in this ordinance.

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Council may by ordinance adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Mayor attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Livingston, Montana." Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

Sec. 30.14. - Rules for interpretation of zoning boundaries.

The boundaries of zones as shown on the Official Map shall be interpreted according to the following rules:

- A. The boundaries indicated as appearing to follow the center lines of streets, highways or alleys shall be construed to follow such center lines.
- B. Boundaries indicated as appearing to follow platted lot lines shall be construed to follow such lot lines.
- C. Boundaries indicated as appearing to follow city limits shall be construed to follow the City limits.
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines, and in the event of natural changes in the shore line, shall be construed as moving with the actual shore line boundaries indicated as approximately following the shore line of the streams, rivers, canals, lakes and other bodies of water, and in the event of natural changes in location of streams, rivers, canals, lakes and other bodies of water, shall be construed as moving with the actual body of water and following the shore lines.
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E above shall be so construed. Distances not specifically indicated on the Official Map may be determined by the scale of the map.

(Zoning Map Amendments: Ord. 1482, 7/6/81; Ord. 1496, 3/15/82; Ord. 1534, 11/19/84; Ord. 1532, 11/5/84; Ord. 1545, 3/3/86; Ord. 1559, 11/3/86; Ord. 1564, 2/2/87; Ord. 1576, 7/6/87; Ord. 1586, 2/1/88; Ord. 1628, 8/7/89; Ord. 1629, 8/14/89; Ord. 1635, 11/89; Ord. 1654, 5/7/90; Ord. 1661, 6/4/90; Ord. 1662, 6/4/90; Ord. 1663, 6/18/90; Ord. 1669, 9/4/90; Ord. 1670, 9/4/90; Ord. 1671, 9/4/90; Ord. 1672, 9/4/90; Ord. 1699, 1/21/92; Ord. 1700, 1/21/92; Ord. 1723, 10/19/92; Ord. 1828, 2/5/96; Ord. 1840, 9/3/96; Ord. 1930, 11/17/03; Ord. 1936, 2/2/04; Ord. 1976, 9/18/06; Ord. 1985, 4/16/07; Ord. 1986, 4/16/07; Ord. 1987, 8/20/07; Ord. 1988, 8/20/07; Ord. 1989, 10/15/07; Ord. 1993, 12/17/07; Ord. 1994, 12/17/07; Ord. No. 2005, § 1, 8/18/08; Ord. No. 2006, § 1, 9/2/08)

Article II. - Definitions

For the purpose of the ordinance, certain terms or words used herein are defined as follows:

The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual; the present tense includes the future tense, the singular number includes the plural, and the plural number includes the singular; the word "shall" is mandatory, the word "may" is permissive; the words "used" or "occupied" include the words "intended," "designated," or "arranged to be used or occupied," and the word "lot" includes the words "plot" or "parcel."

"Accessory" means a use, a building or structure, part of a building or other structure, which is subordinate to, and the use of which is incidental to that of the main building or structure or the use on the same lot, including a private garage. If an accessory building is attached to the main building by a common wall or roof such accessory building shall be considered a part of the main building.

"Adult book store" means a commercial establishment having a substantial portion of its stock in trade consisting of books, magazines, photographs, films, DVD and videos which emphasize, depict or relate to nudity or sexually explicit material and whose clientele must be of at least eighteen (18) years of age.

"Adult movie theater" means a commercial establishment which presents or shows XXX-rated movies, DVDs or videos on a screen or television.

Alley: See Street.

"Alteration" means a change or rearrangement of the structural parts of existing facilities, a reduction in the size of the structure, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another.

"Bars, taverns, cocktail lounges" means an establishment where alcoholic beverages are sold and consumed on the premises even if such sales are incidental to or accessory to the principal business of such establishment.

"Bed and breakfast" means a commercial business operated in a house which is used partially or primarily for providing overnight accommodations to the public even though the owner may live on the premises. The accommodations for a bed and breakfast shall have no more than five (5) guest rooms. Breakfast is the only meal served on the premises, is included in the charge for the room, and there is no other food or beverage served upon the premises.

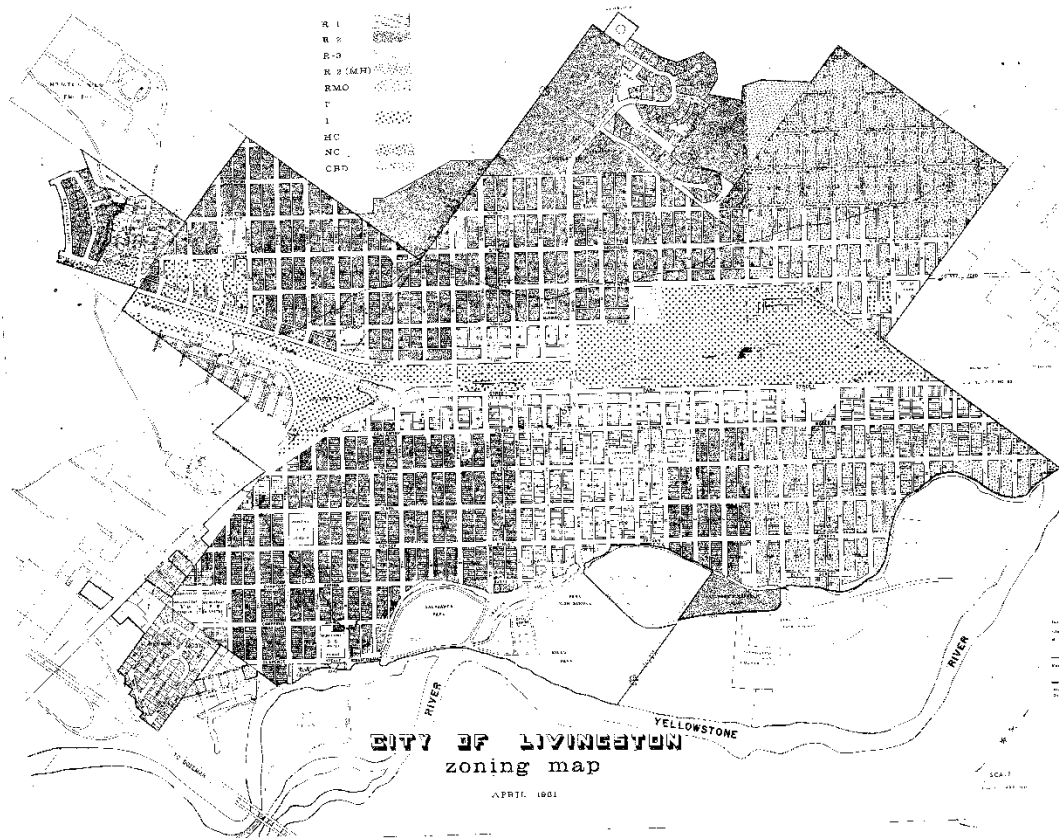
"Board" means the Board of Adjustment of the City of Livingston.

"Boarding house" means a building, other than a hotel or club, where meals are regularly served for compensation to more than six (6) persons who are not members of the family there residing.

"Building" means a structure, of more or less permanent construction, having a roof and intended to be used for sheltering people, animals, personal property or business activity.

"Building height" means height of building is the vertical distance from the "grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hip roof.

"Building official" means the City Building Inspector of the City of Livingston or his designated representative.



"Business and professional offices" means a structure used primarily for housing the offices of a physician, dentist, architect, engineer, attorney, musician, artist or similar professional person.

"Clinic" means a building designed and used for the medical, dental, and surgical diagnosis and treatment of patients under the care of doctors and nurses, but where no surgery other than minor emergency care is performed.

"Drive-in restaurant" means a use whose retail character is dependent upon a driveway approach and parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages obtained on the premises, in a vehicle.

Dwelling (types of):

- a. "Dwelling, one (1) family" means a building designed for occupancy by one (1) family and containing one (1) dwelling unit.
- b. "Dwelling, two (2) family (duplex)" means a building designed for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units.
- c. "Dwelling, multiple" means a building designed primarily for occupancy by three (3) or more families living independent of each other, and containing three (3) or more dwelling units.
- d. "Dwelling, accessory" means one (1) independent dwelling unit which is smaller in area and subordinate in use to the principal one (1) family or two (2) family dwelling, or townhouse, on the same lot, whether attached or detached.

"Dwelling unit" means one (1) or more rooms designed for or occupied by one (1) family for living or sleeping purposes or for use solely by one (1) family.

All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit. An efficiency apartment constitutes a dwelling unit within the meaning of this ordinance codified in this Chapter.

"Exotic entertainment" means the commercial showing or display of a living person; however, total nudity is prohibited.

"Family" means one (1) or more persons related by blood, adoption, or marriage, or not more than three (3) unrelated persons living, sleeping and usually eating on the premises as a single housekeeping unit.

"Fence" means a barrier composed of posts connected by boards, rails, panels, or wire for the purpose of enclosing space for separating parcels of land. It may include a masonry wall.

"Grade" means the lowest point of elevation of the finished surface of the ground, paving or sidewalk within the area between the building and the property line or, when the property line is more than five (5) feet from the building, between the building and a line five (5) feet from the building.

"Gross Floor Area" means the area of each floor within the external walls, not including the thickness of the external walls.

"Health and exercise establishment" means an establishment designed and equipped for the conduct of sports, exercise activities and other customary and usual recreational activities. Permitted accessory uses include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods and restaurant services.

"Health and exercise establishment" means an establishment designed and equipped for the conduct of sports, exercise activities and other customary and usual recreational activities. Permitted accessory uses include child care, sun tanning booths, massage, health and nutrition counseling services, retail sales of sporting goods and restaurant services.

"Heavy manufacturing" means any manufacturing process which requires the storage of component materials within public view, is conducted partially or entirely outdoors or causes significant noise, odor, glare or vibration which is detectable beyond the parcel on which it is located.

"Hotel" means a building in which lodging is provided with or without meals, and open to transient guests.

"Light manufacturing" means any manufacturing process which requires no storage of component material within public view, is entirely contained indoors, and does not cause any significant noise, odor, glare or vibration detectable beyond the parcel on which it is located.

Livestock and Fowl. "Livestock" shall include all animals of the equine, bovine and swine class, including goats, sheep, mules, horses, hogs, cattle and other grazing animals. "Fowl" includes chickens, geese, ducks, turkeys, peacocks and other poultry.

Lot. For the purpose of this ordinance, a "lot" is a parcel of land of at least sufficient size to meet minimum zoning requirements for use, coverage, and area, and to provide such setbacks and other open spaces as are herein required. Such lot shall have frontage on a public street, or on an approved private street, and may consist of:

- a. A single lot of record.
- b. A portion of a lot of record.
- c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.
- d. A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Chapter.

"Lot coverage" means that portion of any lot upon which a structure, as herein defined, is located.

"Manufactured housing" means a ~~single family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least one thousand (1,000) square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, structure manufactured offsite, transportable in one or more sections,~~ and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home.

"Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, DVD, or videotape (except a motion picture, DVD or videotape rated G, PG, PG-13 or R by the motion picture association of America).

"Marijuana production facility" means an establishment where marijuana or marijuana products are grown, cultivated, manufactured or processed.

~~Mobile Home.~~ "Mobile home" means a trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place and is equipped as a dwelling place, living abode, or sleeping place and is equipped for movement on streets or highways and exceeds twenty-five (25) feet in length exclusive of trailer hitch.

"Mobile home park" means any lot, tract or parcel of land used, maintained or intended to be used, leased or rented for occupancy by two (2) or more mobile homes. This definition shall not include trailer sales lots on which unoccupied mobile homes are parked for the purpose of inspection and sales.

"Motel" means a group of attached or detached buildings containing individual sleeping units where a majority of such units open individually and directly to the outside, or to a common corridor and where a garage is attached to or a parking space is conveniently located at each unit, all for the temporary use by automobile tourist or transient, and such word shall include tourist courts, motor courts, automobile courts, and motor lodges.

"Personal care center" means a facility which provides services and care to residents needing some assistance in performing the activities of daily living. Includes assisted living facilities and nursing homes.

"Planning board" means the Livingston City Planning Board.

"Public recreation facility" means a facility which is available for use by the public for recreational or civic purposes. A fee may be charged, but the facility may not be owned and/or operated for profit. Uses which are covered by this definition shall include, but are not limited to, a Civic Center, swimming pool, fishing access, and park.

"Restaurant" means a commercial establishment whose primary function is providing prepared meals to customers for consumption within the structure.

"Retail" means the rental or sale of tangible personal property. Includes alcohol and marijuana sales.

"Retail, large-scale" means the rental or sale of tangible personal property where the total area utilized by a single tenant occupies 20,000 square feet or more of gross floor area or outdoor space, exclusive of parking.

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

"School, elementary, junior or senior high" means an institution of learning, either public, parochial or private, which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

"School, commercial" means a building where instruction is given to pupils and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation and not providing instruction for trades.

"School, trade" means a building where primary instruction is given to students in industrial crafts such as auto mechanics, welding and carpentry.

"Setback" means the distance from the corresponding lot line, as defined herein, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the lot line. A required setback refers to a space on a lot which is open, unoccupied, and unobstructed by any structure or portion of a structure; provided, however, that allowed encroachments as listed in Section 30.42, fences, walks, poles, small accessory use structures as defined herein, posts, other customary yard accessories, sidewalks, terraces, and swimming pools may be permitted in any setback subject to height limitations and requirements limiting obstruction of visibility in Section 30.52 of Article V.

"Sexually oriented business" means a commercial establishment which operates as an adult book store, adult theater, or features, allows, employs, promotes or sponsors exotic entertainment.

"Special exceptions" means a special exception to the terms of this ordinance to permit uses other than those specifically permitted in each district in appropriate cases and subject to appropriate conditions.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement cellar or unused under-floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar or unused under-floor space shall be considered as a story.

Street:

- a. "Street" is a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, thoroughway, road, avenue, boulevard, land, place, or otherwise designated which has been dedicated to or acquired for public use and extends the full width between right-of-way lines, or any dedicated public way as recorded by the County Clerk and Recorder whenever any portion is open to vehicular traffic.
- b. "Alley" is a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.
- c. "Arterial street" is a fast or heavy traffic street used primarily as a traffic artery for intercommunication among large areas.

- d. "Local street" is a street used primarily for access to the abutting properties.
- e. "Collector street" is a street which carries traffic from local streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.

"Street, front" means a street abutting the predominantly narrow sides of the lot within a block. This is the street that homes within a block shall face and shall be the street that addresses are assigned to.

"Street, side" means a street paralleling or nearly paralleling the predominantly long sides of the lots within a block and intersecting at right angles or nearly right angles the front street.

"Structure" means a building or anything constructed in the ground or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences six (6) feet or less in height, paved areas, or small accessory use structures such as storage sheds, which would not require a building permit to be erected under any building code adopted by the City of Livingston, however, in no case will such accessory building be allowed to violate the line of sight restrictions for street and alley or private drive approaches as specified in Section 30.52(B) of this code, or the height limitations of the applicable zoning district.

"Tiny home" is a dwelling unit under 400 square feet of gross floor area and manufactured primarily onsite.

"Townhouses" means two (2) or more self-contained dwelling units situated on their own lots and having one (1) or more common wall(s) where no side setback exists.

"Trailer" or "mobile homes" means a factory-assembled structure, equipped with the necessary service connections and constructed to be readily moveable as a unit or units on its own chassis and designed to be used as a dwelling unit.

"Variance" means an adjustment in the application of the specific regulations of this Chapter pursuant to Section 30.74.

"XXX-rated movies and sexually explicit materials" are those materials which depict or show human genitalia in a state of sexual stimulation or arousal, acts of sexual intercourse, masturbation, cunnilingus, fellatio, anal intercourse or bestiality.

"Zoning Coordinator" means the planner for the Livingston City-County Planning Board, or such other official as the City Commission, by motion, may designate.

(Ord. 1798, 12/19/94; Ord. 1810, 7/3/95; Ord. 1868, 2/2/98; Ord. 1894 § 1, 3/6/2000; Ord. 1949, 10/18/04; Ord. No. 2011, § 1, 4/6/09; Ord. No. 2022, § 1, 9/7/10)

Article III. - Zoning Districts

Sec. 30.30. - Zoning districts.

To carry out the provisions of this Chapter, the City is divided into the following zoning districts in which the erection, construction, alteration, reconstruction, repair or use of buildings, structures and land shall be regulated and restricted. The regulation in each district shall be uniform throughout each district but may differ from those in other districts.

DISTRICT	DESIGNATION
Low Density Residential	R-1

Medium Density Residential	R-II
Medium Density Residential: Mobile Home	R-II (MH)
High Density Residential	R-III
Mobile Home Residential	RMO
Public	P
Industrial	I
Light Industrial	LI
Highway Commercial	H.C.
Neighborhood Commercial	N.C.
Central Business District	C.B.D.
Preservation Zoning District	PZD

R-I Low Density. A single-family residence district with a large plat area required and including customary residential accessory uses.

R-II Medium Density. Primarily a single-family residence district. Duplexes and two (2) family dwellings may also be accommodated on lots of adequate plat sizes.

R-II Medium Density: Mobile Home. A district primarily intended for single and two (2) family dwellings which also allows for the placement of mobile homes.

R-III High Density Residential. A residential classification intended to provide adequate sites for multifamily developments, including condominiums and townhouses.

RMO Residential Mobile Home. A district permitting mobile home development.

P Public. The public zone is intended to reserve land exclusively for public and semi-public uses in order to preserve and provide adequate land for a variety of community facilities which serve the public health, safety and general welfare.

I Industrial. A district intended to accommodate a variety of businesses, warehousing, transportation terminals and light and heavy industries.

LI Light Industrial. A district intended to accommodate all types of light industry, including those defined as light manufacturing as well as business and professional offices.

H.C. Highway Commercial. A district intended to provide areas for residential structures, commercial and service enterprises which serve the needs of the tourist, traveler, recreationalist or the general traveling

public. Areas designated as Highway Commercial should be located in the vicinity of freeway interchanges, intersections on limited access highways, or adjacent to primary and secondary highways.

N.C. Neighborhood Commercial. The Neighborhood Commercial classification is intended to primarily provide for community retail services, office facilities or convenience retail development.

C.B.D. Central Business District. The Central Business District is intended to accommodate stores, hotels, government and cultural centers, professional offices, service establishments and all manner of housing with an emphasis on high density apartment housing. In order to protect the public interest and welfare and to facilitate an attractive, efficient and prosperous C.B.D., the emphasis is on large scale, dense buildings.

PZD. The Preservation Zoning District is designed to supplement land uses and development standards by recognizing the unique characteristics of an existing structure(s) which may be important to the community to preserve from either a historical or architectural design perspective or by recognizing the unique characteristics of a specific piece of property due to natural features, including topographic features, watercourses, woodlands and wildlife habitats. It is the intent that the uses to be allowed are an inducement to the preservation of the historic or architectural design of the building(s) or the natural features, and shall not be construed as creating a benefit for the owner of the property to the detriment of other property owners surrounding the Preservation Zoning District, i.e., this is not to be construed as creating special legislation for the benefit of the Preservation Zoning District property owner(s), but rather a method for the preservation of historic or architectural designs or natural features important to the community.

In the case of a use not specifically mentioned in the list of uses in Article IV of this Chapter, the decision regarding whether the proposed use of a structure is allowable in a specific zone shall be made by the Zoning Coordinator, such decisions shall be based upon the most compatible uses contained in Article IV of this Chapter.

(Ord. 1949, 10/18/04; Ord. 1954, 5/16/05; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08)

Article IV. - District Regulations

Sec. 30.40. - List of uses.

Table 30.40 designates a list of uses permitted within a zoning district. Designated uses shall be permitted only in the zones indicated.

Table 30.40
List of Uses

A = Acceptable S = Special Exception Permit Required N = Not Accepted											
	R-I	R-II	RII-MH	R-III	RMO	NC ²	CBD ₁	HC	LI	I	P
One (1) Family Dwellings*	A	A	A	A	A	N	A	A	N	N	N
Two (2) Family Dwellings	N	A	A	A	N	N	A	A	N	N	N
Multifamily Dwellings	N	N	N	A	N	N	A	A	N	N	N

Accessory Dwellings	A	A	A	N	A	N	N	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	N	N	N
<u>Tiny Homes⁴</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N
Churches	S	S	S	A	N	A	N	A	N	N	N
Schools, Public and Commercial	A	A	A	A	A	A	N	N	N	N	A
Schools, Trade	N	N	N	N	N	S	A	A	A	A	N
Hospitals	N	N	N	A	N	A	N	N	A	N	N
Clinics	N	N	N	A	N	A	A	A	A	A	N
Adult Foster Care Center ³	N	A	A	A	N	N	N	N	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	N	A	A	A	N
Kennels and Catterys	N	N	N	N	N	N	N	A	N	A	N
Self-Service Laundry	N	N	N	N	A	A	A	A	N	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	A	N	N	N

Lumberyards	N	N	N	N	N	N	N	A	A	N	N
Transportation Terminals	N	N	N	N	N	N	A	A	N	N	N
Utility Substations	S	S	S	S	S	S	S	S	N	S	S
Armory	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	N	N	N	N	N	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	A	A	N

1. C.B.D.—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."

2. NC-A single residential unit may be established within a commercial building to allow living space for a business owner.

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. Tiny homes shall not be allowed to be the primary dwelling unity on the property unless meeting all the criteria listed in Sec. 30.56.2.D of this Ordinance, and are subject to all of the accessory dwelling unit and tiny home standards.

~~4.~~

* This includes manufactured homes as defined by Ordinance 1813.

(Ord. 1506, 11/16/82; Ord. 1516, 8/2/83; Ord. 1517, 10/18/83; Ord. 1529, 7/16/84; Ord. 1538, 11/20/85; Ord. 1544, 2/4/86; Ord. 1556, 9/16/86; Ord. 1799, 12/19/94; Ord. 1810, 7/3/95; Ord. 1813, 8/21/95; Ord. 1891, 9/7/99; Ord. 1949, 10/18/04; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 2022, § 2(Exh. A), 9/7/10; Ord. No. 2029, § 1(Exh. A), 4/19/11; Ord. No. [2046](#), § 1(Exh. A), 9/17/13)

Sec. 30.41. - Residential density requirements.

Residential density requirements are set out in Table 30.41.

Table 30.41						
Residential Density Requirements						
Zoning Classification District						
	Low Density R-I	Med. Density R-II	High Density R-III	Mobile Homes (A) RMO	Public (P)	Med. Density R-II(MH)
Min. Lot Area per Dwelling Unit in Square Feet ¹						
One Unit	9,600	3,500	3,500	6,000		3,500
Two Units	N/A	7,000	6,000	12,000		7,000
Three Units	N/A	N/A	7,500	18,000		N/A
Four Units	N/A	N/A	9,000	24,000	N/A	N/A
Five Units	N/A	N/A	10,500	6,000 ft. ²		N/A
Six Units	N/A	N/A	12,000 1,500 ft. ² for each add. unit	for ea. add. unit		N/A
Min. Setback Requirements						
Front Street	25'	25'	20'	20'	20'	25'
Side	15'	5' or B) or C)	5' or B) or C)	10' or C)	5' or C)	5' or C)
Rear	5'	5'	5'	5'	15'	15'
Side Street	15'	10'	10'	10'	10'	10'
Max. Height for all Bldgs.	27'	27'	45'	15'	27'	27'

Off-Street Parking Requirements	2 per one (1) family dwelling 1 per accessory dwelling	2 per dwelling unit in one (1) family and two (2) family dwellings 1 per accessory dwelling	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily dwellings and then 1.5 for each additional unit 1 per accessory dwelling	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily dwellings and then 1.5 for each additional unit 1 per accessory dwelling	Refer to Art. V Sec. 30.51	2 per dwelling unit in one (1) family and two (2) family dwellings 1 per accessory dwelling
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1. In all residential zoning districts in which accessory dwellings are permitted the number of accessory dwellings allowed is equivalent to the number of dwelling units allowed 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.

A) Applicable to Mobile Home Subdivisions only.

B) Side setback 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.

(Ord. 1728, 12/7/92; Ord. 1798, 12/19/94; Ord. 1861, 6/16/97)

Sec. 30.42. - Commercial density requirements.

Commercial density requirements are set out in Table 30.42.

Table 30.42
Commercial Density Requirements
Zoning Classification District

	Neighborhood Commercial	Highway Commercial	Industrial	Light Industrial	Central Business District
Min. Lot Requirements in Square Feet	N/A	6,000	6,000	6,000	N/A
Minimum Setback Requirements					
Front Street	20'	20'	20'	0' with boulevard	N/A
				10' without boulevard	
Side	0' or A)	0' or A)	0' or A)	10' or A)	N/A
Side Street	10'	10'	10'	10'	N/A
Rear	0'	0'	0'	20'	N/A
Maximum Height for all Buildings	27'	45'	N/A	33'	N/A
Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51
Loading Space Required	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51

A) 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.

(Ord. 1949, 10/18/04)

30.42. – Allowable Encroachments into Setbacks.

- A. Entranceway awnings and roof eaves may extend up to 18 inches into any setback. The maximum height for an entranceway awning that encroaches into the setback shall be 12 feet.
- B. Entranceway steps and ramps may extend up to five (5) feet into the front street or side street setback. Entranceway steps and ramps that encroach into the setback may only access the ground floor of the attached building.

- C. Ground floor covered or uncovered porches may extend up to five (5) feet into the front street or side street setback. The deck of any first floor porch that extends into the setback shall be no higher than the ground floor level of the attached building. The maximum height for the roof of any ground floor covered porch that encroaches into the setback shall be 12 feet.
- D. Window-wells and below-grade stairwells may project 36 inches into any setback. Window-well projecting beyond 18 inches shall be covered in such a way that is consistent with adopted building codes and such that an individual is prevented from falling into the window-well.

Sec. 30.43 – Accessory dwellings.

- A. Accessory dwellings are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. Detached accessory dwellings shall not be located in the front yard, but may be located in the side or rear yard so long as the required setbacks listed in Table 30.41 are met.
- C. Accessory dwellings shall not exceed 800 square feet of gross floor area and must be smaller in gross floor area than the primary dwelling on the property. If an accessory dwelling is attached to another building only the gross floor area of the accessory dwelling shall be calculated towards the maximum gross floor area. Accessory dwellings attached to existing, primary dwelling units are not subject to the gross floor area limitations, but must be wholly contained within the existing building. Any attached accessory dwelling that increases or modifies the footprint or profile of the primary dwelling unit in any way, whether above or below ground, shall not exceed 800 square feet of gross floor area.
- D. All detached accessory dwellings shall maintain a 6-foot separation, measured from the external walls of the dwelling unit, to all other buildings on site.
- E. Accessory dwellings shall be on the same lot as the primary dwelling.
- F. Accessory dwellings shall not be subdivided or sold separately from the primary dwelling on the lot. If an accessory dwelling is subdivided from the primary dwelling unit, the accessory dwelling is no longer an accessory dwelling and must meet all density requirements listed in Table 30.41. Prior to use of the accessory dwelling, the property owner must record a deed restriction provided by the City Attorney’s Office stating that the accessory dwelling shall not be sold separately from the primary dwelling, and provide a copy of the recorded deed restriction to the Department of Building and Planning prior to the issuance of a Certificate of Occupancy. Accessory dwellings may be rented.
- G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.

Sec. 30.44.. - Bed and breakfasts.

- A. "Bed and breakfast" means a commercial business operated in a house which is used partially or primarily for providing overnight accommodations to the public.
- B. The goal of this section is to establish the allowable locations and operations of bed and breakfast facilities.
- C. A bed and breakfast shall be allowed in the following zoning districts: Low Density (R-I), Medium Density Residential (R-II), High Density Residential (R-III), Neighborhood Commercial (N.C.), Highway Commercial (H.C.), and the Central Business District (C.B.D.).
- D. Reserved.
- E. The accommodations for a bed and breakfast shall have no more than five (5) guest rooms. Breakfast shall be the only meal served on the premises, and is included in the charge for the room. No other food or beverage served upon the premises.

- F. Off-street parking shall be provided by all bed and breakfast facilities. There shall be two (2) off-street parking spaces, plus one (1) for each guest room. Off-street parking shall be required to be used by guests.
- G. No bed and breakfast shall be located on a lot closer than two hundred (200) feet in a straight line distance from any other lot containing a bed and breakfast. The owner shall live on the premises.
- H. Signage shall be limited to that allowed for home occupations (twelve (12) inches by twenty-four (24) inches non-illuminated, flush mounted).
- I. Rates shall be charged for single-night occupancy only, weekly or monthly rates will not be allowed.
- J. A bed and breakfast already in existence at the time of this section's effective date shall have ninety (90) days to conform with the provisions of this section except existing establishments shall be grandfathered as to the requirements of subsection (G) of this section.
- K. Any property receiving a special exception for a bed and breakfast shall have ninety (90) days from the date of the final City Commission action to meet any specified conditions and obtain a City business license. If a City business license is not obtained in that time period, the special exception shall be automatically rescinded as of that date. If a license for a bed and breakfast is not renewed within ninety (90) days after January 1 of any calendar year, the special exception for that bed and breakfast shall be automatically rescinded.
- L. Any application for a bed and breakfast shall be accompanied by a detailed plan, drawn to scale, showing all aspects of the physical layout for the property, including the off-street parking provisions.
- M. The table of uses (Table 30.40) is amended to comply with subsection (C) of this section.

(Ord. 1702, 7/20/92; Ord. 1868, 2/2/98; Ord. 1894, 3/6/2000; Ord. No. 2029, § 2, 4/19/11)

Sec. 30.45. - Uses in the Preservation Zoning District.

Uses in the Preservation Zoning District may be reduced or expanded from the uses allowed in the areas surrounding the Preservation Zoning District. Allowable uses will be set forth in the plan adopted for each Preservation Zoning District.

(Ord. 1954, 5/16/05)

Sec. 30.45.1. - Preservation Zoning District Plan.

The Livingston City Zoning Commission shall make a recommendation to the City Commission for a Preservation Zoning District Plan which shall take into consideration the following:

- A. Delineation of the boundaries of each special use zoning district;
- B. Identification of the structure(s) and/or natural features which contributed to the creation of the Preservation Zoning District;
- C. Identification of the uses and development standards or guidelines intended to preserve the structure(s) and/or natural features which may vary from Preservation Zoning District to Preservation Zoning District, but shall take into consideration:
 - 1. Setbacks,
 - 2. Landscaping standards,
 - 3. Signage standards,
 - 4. Parking standards,

- 5. A list of uses to be allowed,
- 6. Any other standard that would serve the purpose of preserving historic or architectural structure(s) or natural features in each Preservation Zoning District.

(Ord. 1954, 5/16/05)

Sec. 30.46. - Building design standards.

- A. This Section provides policies and standards for the design of buildings in the Design Review Overlay Zone. In general, they focus on promoting buildings that will be compatible in scale and appear to "fit" in the community by using materials and forms that are a part of Livingston's design traditions. As such, they address only broad-scale topics and do not dictate specific architectural styles or building details.
- B. Objectives for Building Design.
 - 1. Achieve High Quality Design. Buildings in the overlay zone shall convey a high quality of design, in terms of their materials and details, as well as through a consistent organization of forms and elements. This quality shall establish a standard for design throughout the community.
 - 2. Reflect the Design Traditions of Livingston. Buildings shall reflect the design traditions of the region, in terms of building and roof forms. Distinctive roof forms are a key part of this tradition. Sloping roofs, in gable, hip and shed varieties are historical precedents to promote and they also help reduce the apparent bulk of larger buildings and help to shed snowfall. Flat roofs with varied parapet lines and cornices are also a part of the City's design traditions and shall be encouraged. Buildings that appear to be in scale with those seen traditionally also shall be encouraged. Where a new building would be larger than those existing in the area, it shall establish a transition in scale, to reduce the impact of building scale on the adjacent property, as well as on the neighborhood.
 - 3. Promote Buildings that Fit with the Natural Setting. Structures shall be sited to fit with the land and incorporate colors seen in the natural setting.
 - 4. Promote Buildings that Reflect Pedestrian Scale. Human scale shall be an integral part of all buildings. Large, flat, windowless block buildings do not reflect human scale or the design traditions of Livingston. Thoughtful use of landscaping, color, building materials and architectural details bring human scale to buildings.
- C. Building and Topography.
 - 1. Policy. A building shall respect the natural topography of the site.
 - 2. Standards. Step a building foundation to follow the slope of the site when feasible. In general, an exposed building foundation shall not exceed three (3) feet in height.
- D. Building Character.
 - 1. Policy. Buildings shall reflect the regional urban character.
 - 2. Guideline.
 - a. Designs that draw upon regional design traditions are preferred. Standardized "franchise" style architecture will be strongly discouraged by following these standards.
 - b. The primary entrance to a building shall have a human scale. Provide a one (1) story element at the building entrance to help establish a sense of scale.
 - c. Where no windows or other obvious indication exists, express the position of each floor in the external skin design of a building to establish a human scale.
 - i. Use belt courses or other horizontal trim bands of contrasting color and materials to define floor lines.

- ii. Articulate structural elements, or change materials as a method of defining floors.
 - d. Use building materials that help establish a human scale.
 - i. For example, use brick in a standard module to express a human scale.
 - ii. Avoid using large surfaces of panelized products or featureless materials.
 - iii. A large surface of stucco or similar material that lacks articulation or detailing shall be avoided.
 - e. New construction shall relate to adjacent residential and historic resources. Where a new project abuts a residential neighborhood or a historic structure, step the building down at the property edge to minimize abrupt changes in scale, or increase side yards to reduce the impact.
- E. Primary Building Entrance.
 1. Policy. The primary entrance of a structure shall orient to a street, major sidewalk, pedestrian way, plaza, courtyard or other outdoor public space.
 2. Standards.
 - a. Design the main entrance to be clearly identifiable.
 - i. Provide a sheltering element such as a canopy, awning, arcade or portico to signify the primary entrance to a building.
 - ii. Where more than one (1) user shares a structure, each individual entrance shall be identified.
 - b. Orient the primary entrance of a building to face a street, plaza or pedestrian way.
 - i. Focusing an entrance toward a parking lot without also addressing the street is inappropriate.
 - ii. Consider using a "double-fronted" design where the entrance to parking and to the street is required. That is, provide a door to the street and another to the parking lot.
 - iii. Consider locating a pedestrian plaza at the entrance; this may be enhanced with landscaping and streetscape furnishings.
- F. Street Level Interest.
 1. Policy. When a building is located close to a street or walkway, it shall be designed to provide interest to pedestrians. For example, commercial buildings with storefronts are of interest to passersby. Such features encourage pedestrian activity and shall be used whenever feasible. The overall mass of a building shall appear to be in scale with buildings seen traditionally. This will help new structures fit with the Livingston context. At the same time, newer structures may be larger than those seen before; they shall simply be articulated in their form and materials such that they convey proportions that are similar to those seen traditionally.
 2. Standards.
 - a. Develop the street level of a building to provide visual interest to pedestrians. All sides of a building shall include interesting details and materials to avoid presenting a "back side" to neighboring properties. For example, the sides of restaurants and specialty stores shall incorporate windows and display cases over at least a third of the facade area. A large expanse of blank wall is inappropriate on any street-oriented facade.
- G. Building Mass and Scale.
 1. Policy. A building shall appear to have a "human scale." In general, this can be accomplished by using familiar forms and elements that can be interpreted in human dimensions, as noted throughout this Chapter, e.g., "small details/visible to pedestrians."

2. Standards. In order to reduce building scale, each major building project shall provide all of the following:
 - a. Divide a building into visual modules that express dimensions of structures seen traditionally.
 - i. Buildings shall employ all of the following design techniques:
 - (A) Change material or color with each building module to reduce the perceived mass;
 - (B) Change the height of a wall plane or building module;
 - (C) Change roof form to help express the different modules of the building mass; and
 - (D) Change the arrangement of windows and other facade articulation features, such as columns or strap work that divide large wall planes into smaller components.
 - ii. Express facade components in ways that will help to establish a human scale (details oriented towards pedestrians).
 - (A) Establish a pattern and rhythm on exterior walls to establish a human scale;
 - (B) Windows, columns and other architectural treatments used repetitively can create this effect;
 - (C) Using windows and doors that are similar in scale to those seen traditionally also can help establish a human scale;
 - (D) Also, recess these elements, even if slightly, and articulate them with headers, sills, columns and/or mullions.

H. Roof Form.

1. Policy. The primary roof form of a structure shall help reduce the perceived scale of the building. For that reason, sloping roofs shall be used in most contexts. These also will help the building fit into the mountain backdrop. Varied roof forms in the appropriate context are also encouraged.
2. Standards.
 - a. Using sloping roof forms to reduce the perceived scale of a building is encouraged.
 - i. Varying roof forms is encouraged.
 - ii. Providing variety in ridgeline height is encouraged.
 - b. All roof forms shall have no less than two (2) of the following features:
 - i. A flat roof with parapet;
 - ii. A cornice or molding to define the top of a parapet;
 - iii. Overhanging eaves;
 - iv. Sloping roofs with a minimum pitch of 6:12;
 - v. Multiple roof planes.

I. Signage.

1. Policy. Signage shall be sensitive to the natural surroundings and shall not detract from the overall visual design of the site. Because signage can easily become the focal point of a development, it will be important within this overlay zone to keep signage as minimal and unobtrusive as possible.
2. Standards.
 - a. Free standing and monument signs will be constructed of materials and contain details which match those of the building being advertised.
 - i. Use brick, wood or stone facades on signage structures to help them blend into and match the site;

- ii. Simulate architectural details of the building, such as colors, textures, and geometric forms, in designing sign structures.
 - b. Signs that detract from the site design of a development shall be avoided. The use of internally backlit signs will not be allowed. Spotlighting or other lighting methods shall be explored.
- J. Design Standards Administration. The building design standards and review procedures contained herein shall apply to all large-scale retail uses and all nonresidential property annexed into the City and falling within the Gateway Overlay Zoning District, which has been mapped and amended to the City's Official Zoning Map. If meeting the above criteria, all new construction, exterior remodels and additions to existing buildings will be subject to the following application and review process:
 - 1. Application. A completed application form along with a site plan and other detailed drawings, including, but not limited to, building elevations indicating exterior materials, colors and necessary architectural details required to determine compliance with this Section, shall be submitted to the Planning Department along with the required application fee. Once accepted by the Planning Department, the applicant will be notified as to whether or not the plans submitted comply with adopted City standards. This notification will occur as soon as the review is completed but in any case shall not be later than thirty (30) days from the date the application was accepted by the Planning Department. Failure of the City to complete a review and notify the applicant within the allotted thirty (30) day period will constitute approval of the application.

If a plan is rejected for noncompliance, it will be returned to the applicant with an explanation as to how the plan fails to comply with City standards and/or this Section. The applicant will then be allowed to resubmit the application, with no additional application fee, provided the City receives the revised application within sixty (60) days from the original rejection.
 - 2. Review Fees. The fee for design review shall be established by separate resolution.

(Ord. 1974, 9/5/07)

Article V. - Supplementary General Requirements

Sec. 30.50. - Signs.

- A. Intent. The intent of this Section is to provide standards for erection, design and placement of all signs and sign structures. Design standards are established to achieve the proper relationship of signs to their environment, enhance the outward appearance of the community as a whole, secure pedestrian and vehicular safety, preserve the historic aspects of the City of Livingston and promote the conservation of energy by regulating lighted signs.
- B. Definitions.
 - 1. "Animated sign" means a sign with action or motion, flashing or intermittent lights and/or color changes requiring electrical energy, electronic or manufactured sources of activation, but not including wind-activated elements such as flags and banners.
 - 2. "Awning signs" means a sign which is an integral part of a window awning assembly, to include the printing or painting of words onto awning material.
 - 3. "Billboard signs" means any standard outdoor advertising sign larger than two hundred (200) square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located.
 - 4. "Free standing signs" means a sign which is supported by one (1) or more columns, uprights, or braces and is permanently fixed in the ground.
 - 5. "Monument sign" means a sign, single- or double-sided mounted, flush with the surface of the grade upon which sets the business, industry, or other commercial enterprise which the sign

advertises. A monument sign must be landscaped with grass, shrubs or other plants or other landscape material in an area not less than three (3) feet surrounding such sign in all directions.

6. "Revolving sign" means a sign which revolves three hundred sixty (360) degrees.
7. "Menu board" means a sign specifically designed to advise customers of the menu of food available in the establishment by which the menu board is owned.
8. "Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.
9. "Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.
10. "Temporary sign" means a sign made of paper, or some other limited life-span material advertising a short-term event, like a sale. Temporary signs are not subject to inclusion in a business' sign square footage measurement. Temporary signs shall be removed within twenty-four (24) hours after the completion of the advertised event.
11. "Projecting sign" means a sign installed on the facade of a building which is attached to such building in a perpendicular manner or at an angle to the building wall.
12. "Sandwich board sign" means a sign painted on both of the outside of two (2) boards fastened together at the top with a hinge-like device, designed to be placed on the sidewalk area in front of an establishment.
13. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located, including, but not limited to, signs described in subsections (B)(1) through (B)(12) of this Section. For the purpose of determining number of signs, a sign will be considered to be a single display device with not more than two (2) display surfaces (back-to-back) or display device containing elements organized, related and composed to form a unit. For measurement purposes, the square footage of a sign which employs back-to-back display surfaces will only be considered as the square footage of one (1) side of that sign. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element will be considered a separate sign.
14. Square Footage. The square footage of a sign shall be measured as the product of the total linear foot measurement multiplied by the total height measurement. The linear measurement shall be attained by measuring from the leftmost edge of the sign, continually measured to the rightmost edge of the sign. Any mounting material shall be part of the measurement.
15. "Actual business premises" means the owned or leased real property from which the primary business is actively transacted.
16. "Off-premises sign" means a sign located on property other than the actual business premises.
17. "Banner signs" means a strip of cloth, plastic or other material displaying advertising or other information.
18. "Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise.
19. "Voluntary modification" means any modification to an existing sign which reflects a conscious business or personal decision. This may include a change in corporate color scheme, change of logo, or any other change which would require the replacement of existing sign faces. It does not include the replacement or repair of sign faces with new, identical faces as part of normal maintenance or due to damage by wind, fire or other hazard.

C. General.

1. Nothing in this Section shall be interpreted as prohibiting or excluding such signs as are required by law. This includes legal notices and advertisements prescribed by law or posted by any lawful officer or agent.

2. Any sign which is readily visible from the public right-of-way in an exterior window of a building, whether on the external or internal side of the window, shall be regulated by the provisions of this Section. Temporary sale signs are excluded, however, no single temporary sign shall exceed six (6) square feet in size, and the total of all such temporary signs shall not exceed fifty (50) percent of the transparency of the window in which they are visible.
 3. All signs as permitted by this Section shall be maintained by the owner and kept in good repair and shall be painted and repaired at reasonable intervals. The surface of the ground under and about any sign shall be kept clear of weeds, rubbish and flammable waste material.
 4. All signs shall be designed and constructed in accordance with the Uniform Sign Code.
 5. A permit must be obtained from the Building Official by the person who is erecting the sign prior to the construction of any sign, except for those signs listed in subsection E of this Section.
 6. Signs not in use by reason of change of occupancy or use by vacation of the building shall be removed within thirty (30) days of such change by the owner of the sign, or the owner of the property. The City has the option of removing such sign at the end of the thirty (30) day period after giving fifteen (15) days' written notice by certified mail to the owner, and upon such removal, the full charges of removal shall constitute a mechanic's lien against the real property enforceable pursuant to State law.
 7. All existing signs that have been constructed pursuant to City sign permits and variances through the official date of the ordinance codified in this Section (Ord. 1749 effective date, October 20, 1993) shall be grandfathered and do not have to conform as to the height, size or prohibited signs subsections of this Section. Other provisions of this Section shall apply to existing signs. Grandfathered signs which are voluntarily modified must meet all requirements of this Section. Signs which have previously been granted variances may continue to exist within the parameters of those variances.
 8. The Building Official shall be responsible for the enforcement of this sign ordinance.
 9. All buildings with more than one (1) business occupant must submit to the Board of Adjustment a master signage plan which identifies the number and location of all potential signs on the property before any sign permits may be issued. For properties located in the Downtown Historic District, this master plan will be submitted to the Historic Preservation Commission. Any deviation from an approved master plan must be approved by the appropriate body prior to permit issuance.
 10. Pre-existing multi-occupant buildings will not be issued any new sign permits until a master plan is approved by the appropriate body.
 11. Any sign variance issued to multi-occupant property shall constitute an amendment to that property's signage master plan.
 12. All signs located in the Historic Preservation District must comply with the requirements of the Historic District Overlay Zoning.
- D. Prohibited Signs.
1. No animated signs shall be erected in any zoning district, except time and temperature signs which may be erected in the Central Business District only and existing lighted signs in the Downtown Historic Preservation District which flash, chase, move, revolve, rotate, blink, flicker or vary in intensity or color; however, such lights must be turned off when the business is closed.
 2. No revolving sign may be permitted in any district.
 3. No billboard sign shall be erected in any zoning district.
 4. In the Central Business District Zone, no backlit signs are allowed.
 5. Visibility at Corners, Alleys and Driveway Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, and on all corner lots, a triangular clear vision zone shall be maintained. The zone shall measure ten (10) feet into the lot, as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from

the edge of any alley, driveway or street corner along the edge of the sidewalk nearest the property line. No structure of any kind over three (3) feet in height shall be erected or maintained within the above defined clear vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.

6. Notwithstanding any other provisions contained in this Section, no free standing sign shall be erected or maintained upon any spire, chimney, cupola, water tank, water tower, radio aerial or television antenna.
 7. No sign shall be erected on any property without the express permission of the occupant, owner, lessee or any authorized agent thereof.
 8. No sign shall be erected in such a manner that a portion of the sign or their supports are attached to or will interfere with the free use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator or window.
 9. No sign shall be attached to any tree.
 10. Menu boards are not permitted on any property other than that occupied by a restaurant-type business.
 11. No portable and/or trailer-mounted signs shall be allowed.
 12. No sign not in conformance with this Code shall be allowed.
- E. Signs Permitted in All Districts Without a Permit. The following signs are permitted in all zoning districts and will not require a permit:
1. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which do not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet. Only two (2) such signs shall be allowed on any one (1) property;
 2. Signs bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial promotion;
 3. Flags and insignia of the government except when displayed in connection with commercial promotion;
 4. Legal notices: identification, information or directional signs erected or required by governmental bodies;
 5. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
 6. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
 7. Detached bulletin boards for churches, schools, or other public, religious or educational institutions provided such sign is located not less than ten (10) feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections;
 8. Construction information signs, providing the signs are removed immediately following final completion of construction;
 9. Non-illuminated home occupation signs on any residence which is the site of a home occupation in accordance with Section 30.55. Such signs shall not exceed two (2) square feet;
 10. Signs advertising a candidate for political office. Such signs shall not exceed sixteen (16) square feet and shall be removed within seven (7) days after any election;
 11. Signs advertising yard/garage sales, and the like. Such signs shall not exceed two (2) square feet and must be removed by the owner within forty-eight (48) hours of the completion of the sale.

- F. Signs in a Residential District. Within a residential district only, the following signs shall be permitted:
1. Signs listed in subsection E of this Section which do not require a permit; and
 2. Signs advertising a permitted or existing commercial use within a residential district. Such signs require a permit from the Building Official, and shall be permitted only under the following conditions:
 - a. Only one (1) on-premises sign will be allowed for each business.
 - b. The maximum allowable size for each sign shall be twelve (12) square feet.
 - c. Illuminated signs shall be illuminated only as long as the advertised business is open.
 - d. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street.
- G. Signs in Commercial and Industrial Districts Requiring a Permit.
1. Setback. Free standing and monument signs shall be located a minimum of five (5) feet inside all private property lines.
 2. Lighting. All lighting shall comply with the requirements of Ordinance No. 1967 commonly referred to as the Night Sky Protection Ordinance. In no event may an illuminated sign or lighting device be placed or directed so the beams constitute a traffic hazard or nuisance. All wiring, fitting and material used in construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the Uniform Electric Code.
 3. Number of Signs. In Commercial and Industrial Zoning Districts, each use is limited to two (2) wall signs. In addition, one (1) monument sign or one (1) free standing sign is permitted for each building, regardless of the number of businesses or industrial uses conducted in any one (1) building.
 4. Height.
 - a. No monument sign shall exceed five (5) feet in height.
 - b. No free standing sign shall exceed thirty (30) feet in height.
 5. Permitted Surface Area.
 - a. Wall Signs. The total surface area of all wall signs is limited to one hundred (100) square feet in the Central Business District and otherwise to two (2) square feet of sign for each lineal foot of frontage width of the business, provided that the maximum total surface area for all wall signs does not exceed three hundred (300) square feet.
 - b. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area.
 - c. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area.
 6. Roof-Mounted Signs. Any sign located on the roof of a building shall not exceed twenty-four (24) inches in height and shall not exceed the top of the roof line. The square footage of roof-mounted signs shall be counted as a portion of the limitation on wall-mounted signs, i.e., the total surface area of wall-mounted signs added to any roof-mounted signs may not exceed three hundred (300) square feet maximum, or less if the linear front footage of the building is less than one hundred fifty (150) feet.
 7. Off-Premises Signs. A business may have up to four (4) off-premises signs; however, the total square footage of these off-premises signs may not exceed one hundred fifty (150) square feet. No other off-premises signs shall be allowed. Excepted from this provision are:
 - a. Garage sale or hobby show signs no greater than two (2) square feet in area on the date only of the activity;

- b. Auction and special event signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
 - c. Directional signs for public facilities and museums;
 - d. Banner signs for public performances not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.
 - i. No signs in the public right-of-way or in any required right-of-way shall be allowed except for governmental traffic control signs (unless a business premises is on the railroad right-of-way). Properly permitted sandwich board signs not to exceed six (6) square feet per side are excepted from this provision provided that they shall be limited to one (1) per twenty-five (25) feet of building frontage and may only be located in front of the business being advertised. The City Commission, upon request from a property owner in front of whose property a sign is to be located, may, where deemed in the public interest, allow a sandwich board sign to be placed other than in front of the business being advertised.
8. Banner Signs. Temporary banner-type signs shall be allowed for a period of no more than sixty (60) days, limited to no more than seventy-five (75) square feet, and used by any business or entity no more than once per year.
- H. Variance Parameters for Signs. Variances may be granted only if there is undue hardship from the application of these sign regulations due to the particular location and site characteristics of the applicant that are different from those cited generally.
- I. Damaged Signs. Any existing sign not in conformity with this Section that is damaged in either surface area of the sign or in the structure by more than fifty (50) percent shall be removed and any new sign shall meet all requirements of this Section.
- J. Complaint and Notice of Violation Procedure. The City Code Enforcement Officer shall issue a notice of violation in person to the offending property owner, business owner or agent, as the case may be, specifying the violation and steps necessary for correction. If the violation is not brought into compliance within fifteen (15) working days from the personal delivery of the notice of violation, the City shall file a civil complaint against the offending person. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.
- K. Violation and Civil Penalty. It shall be a civil infraction for any person to violate any provision of this Section. Any violation of any provision of this Section is a civil infraction punishable by a civil fine not to exceed Three Hundred Dollars (\$300.00).

(Ord. 1738, 3/2/93; Ord. 1749, 9/20/93; Ord. 1819, 10/16/95; Ord. 1820, 10/16/95; Ord. 1860, 6/16/97; Ord. 1873, 5/18/98; Ord. 1883, 2/1/99; Ord. 1975, 9/5/06)

Sec. 30.51. - Off street parking and loading zones.

- A. General. Each off-street parking space shall have a net area of not less than one hundred eighty (180) square feet exclusive of driveways or aisles and shall be of usable shape and condition.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:
 - 1. For one (1) family, two (2)family, and accessory dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
 - 2. For multiple dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.

- 3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
- 4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
- 5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear of the primary structure on the lot.
- C. Expansion or Enlargement. Whenever any building is enlarged in gross floor area by more than ten (10) percent, off-street parking shall be provided for the expansion or enlargement portion only in accordance with the requirements of this article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building previously existing before enlargements or for existing buildings that undergo a change in use.
- D. Non-Conforming Use. Voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, even though non-conforming, is allowed and encouraged.
- E. Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.
- F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the City Superintendent or his authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Building Official or his authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
 - 1. Up to fifty percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
 - 2. Up to one hundred percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature. H. Conditions Required for Joint Use. The building for which application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.

The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.

The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
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Bowling alleys.	Five per alley.
Medical and dental clinic.	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service.	One per 400 square feet of gross floor area.
Offices not providing on-site customer services.	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Mortuaries.	One per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries.	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums.	One per 500 square feet of gross floor area.
Schools, elementary and junior high, public, private or parochial.	One per each employee.
School, high school, public or private.	One per each employee and one per 5 students.
Service stations and drive-in restaurants.	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.
Residential, single-family.	2 per dwelling unit.
Residential, duplex or multi-family.	2 per dwelling unit for first 4 dwelling units, then 1.5 for each dwelling unit thereafter.
Boarding houses and similar uses.	One per dwelling unit or lodging unit.
Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals.	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.

Food or beverage places with sale and consumption on premises.	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores.	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service.	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named.	One per 500 square feet of gross floor area.
Retirement homes, housing projects for senior citizens.	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels, hotels and motor courts.	One per sleeping room.
Hospitals and institutions.	One per 3 beds plus one per 3 employees.
Theaters.	One per 10 seats.
Health and exercise establishment	One per 200 square feet of gross floor area plus 3 per court
Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.
Stadiums, sport arenas and similar open assemblies.	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.

*In calculating minimum required parking, gross floor area shall not include car ports and garage areas.

- K. Traffic Control Devices. All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
- L. Screening Required. Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property.

Such screening shall be located no closer than three feet from the property line and shall be properly maintained.

- M. Lighting Restrictions. Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
- N. Maintenance. Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.
- O. Off-Street Loading Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.
- P. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of 10,000 square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional loading space for each 20,000 square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height.

Sec. 30.52. - Fences and hedges.

- A. Heights. Fences, walls and hedges may be erected or maintained in any residential zoning district provided that no fence, wall or hedge over four (4) feet in height shall be erected or maintained in any front street or side street, or the side yard extending from the foremost edge of the house to the point where the side yard line intersects the front street or side street lot line. Fences and walls located along side yards from the foremost edge of the house to the rear lot line, and along the rear lot line, shall not exceed a height of six (6) feet.

Height, for the purpose of this section, shall be defined as the vertical distance from the top rail, board, wire, or top of hedge to the ground directly below.

- B. Visibility at Alley and Private Drive Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, a triangular clear vision zone shall be maintained. Said zone shall measure ten (10) feet into the lot as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley or driveway, along the edge of the sidewalk nearest the property line. No fence, wall, hedge, or shrub over three (3) feet in height shall be erected or maintained within the above defined clear-vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.

Regardless of other provisions of this section, no fences, wall, or hedge which materially impedes vision of vehicles entering an abutting street shall be erected or maintained.

- C. Prohibited Fences. No electric fences shall be permitted in any zoning district. No barbed wire fence shall be permitted in any residential zoning district.
- D. Prohibited Locations. No fence, wall or hedge shall be erected or maintained in a public street or right-of-way.
- E. Prohibited Materials. All fences shall be constructed from approved fencing materials and shall not be constructed from railroad ties, rubble or salvage.

Sec. 30.53. - Animals.

Prohibited Animals. No livestock or fowl as defined in Article II of this ordinance, may be kept or maintained in any zoning district in the city, except for licensed veterinarian services, and except for those kept pursuant to permit obtained pursuant to Section 4-2 through the office of the Sanitarian.

Sec. 30.54. - Motor vehicles or parts.

All inoperable motor vehicles or any parts thereof parked or stored in the open on any property for a period exceeding five (5) days will not be allowed and will be deemed a public nuisance. Any vehicle that is judged to be abandoned will be removed in accordance with the Livingston City Ordinances.

Sec. 30.55. - Home occupations.

A. General.

1. It is the intent of this ordinance to permit home occupations that meet the following criteria in any residential district. No other home occupations except those meeting this criteria will be allowed. Nonconforming home occupations shall meet the criteria within one year from the effective date of this ordinance.
2. The purpose of this ordinance is to protect the residential characteristic of the neighborhoods in Livingston. It is to ensure that the home occupations which are allowed to operate will not impose any burdens on the neighboring landowners.

B. Definitions.

1. A home occupation is defined as any business or commercial activity that is conducted or petitioned to be conducted from a property which is zoned for residential use and which meets the conditions set forth in Section 30.55.C and Section 30.55.E.1. However, a medical marijuana facility is hereby specifically excluded from consideration as a home occupation.
2. A home occupation permit is a permit issued for a home occupation that is authorized by Section 30.55.E without hearing.
3. A home occupation conditional use permit is a permit authorized by the City Board of Adjustment only after a public hearing by the Board.

C. Criteria. Home occupations must fit all of the following criteria:

1. No person shall be employed other than the residents of said dwelling.
2. The occupation shall be conducted wholly within the dwelling or within an accessory building located on the property.
3. The gross floor area devoted to the occupation shall not exceed fifteen (15) percent of the total gross floor area of the dwelling unit plus accessory buildings on the property.
4. The occupation shall not impose upon adjacent residences unreasonable burdens due to noise, vibration, glare, fumes, odors, hours of operation, traffic, or electrical interference. The above shall not be detectable by normal sensory perception beyond the dwelling or accessory building in which the business is located.
5. Direct sales of products off display shelves or racks is not allowed, but a person may pick up an order which was placed earlier by telephone or at a sales party.
6. There shall be no signs erected other than those allowed by this ordinance in residential districts.
7. A minimum of one off-street parking space for each business related vehicle shall be provided on the property. Each parking space shall meet minimum standards for off-street parking established elsewhere in this code.
8. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.
9. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, except for the permitted sign.
10. Outdoor storage of materials for the home occupation is prohibited.

11. No toxic, flammable, hazardous, or explosive industrial substances shall be used or stored on the premises unless registered with the Local Emergency Planning Committee. Said premises shall be subject to regular fire inspections.
 12. No home occupation shall be permitted without the prior issuance of a home occupation permit or home occupation conditional use permit.
- D. Enforcement.
1. The permit shall be valid only for the proposed business as operated by the applicant. The permit shall be non-transferable either to another property or to another owner or operator. It may be revoked upon sufficient showing that a permit holder is violating the terms of the permit.
 2. The business shall be subject to regular inspections by the City Fire Marshal and/or the City Building Inspector. The inspections shall be done during regular business hours.
 3. The Building Official shall be responsible for enforcing this section of this ordinance, and shall report any violations to the Livingston City Attorney.
- E. Compliance. It is the intent of this subsection to provide the Building Official with the means to enforce the Home Occupation section of this ordinance.
1. Businesses shall be divided into two categories based on the expected impact they will have on the residential neighborhood they are proposed for.
 - a. A Major Home Occupation is one which can be expected to have some impact on the neighborhood it is proposed for. It is one which has some visible evidence of the occupation and shall accommodate both the residential and business related parking needs on the property. Additional characteristics include:
 - (1) The business may have a sign; or
 - (2) The business may create some additional traffic for deliveries and customers.
 - b. A Minor Home Occupation is one which has no visible exterior evidence of the conduct of the occupation, which does not generate additional traffic, and in which no equipment other than that normally used in household, domestic, or general office use. Additional characteristics may include:
 - (1) The business shall not have a sign.
 - (2) No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.
 - (3) No hazardous, flammable, explosive or toxic industrial substances may be used in a minor home occupation.
 2. All Home Occupations in existence at the time of the adoption of this Ordinance and all new home occupations which fit the criteria of a minor home occupation shall be required to get a Home Occupation Permit.
 - a. The purpose of the Home Occupation Permit is to ensure compliance with this section of the Ordinance.
 - b. The Home Occupation Permit may be issued by the Building Inspector upon application by the owner of a Home Occupation.
 - c. The application shall be accompanied by a floor plan for the residence with the area to be used for the business clearly marked.
 - d. The application shall be accompanied with a fee of twenty dollars (\$20.00) to cover processing.
 3. All new Major Home Occupations shall be required to be reviewed by the City Board of Adjustment for a Home Occupation Conditional Use Permit.

- a. The Home Occupation Conditional Use Permit process shall be initiated by application to the City Zoning Administrator.
- b. The Zoning Administrator shall review the application for completeness and prepare it for review by the City Board of Adjustment.
- c. The Zoning Administrator shall schedule a public hearing, advertise it two (2) times beginning at least fifteen (15) and not more than thirty (30) days prior to the public hearing date.
- d. The Zoning Administrator shall notify the adjoining landowners within three hundred (300) feet of the proposed Home Occupation location, on the proposed business, and the date of the public hearing by mail at least fifteen (15) days prior to the date of the public hearing. The request shall be posted on the property at least ten (10) days prior to the public hearing.
- e. The City Board of Adjustment shall conduct the public hearing and decide on the application.
- f. The City Board of Adjustment shall have the power to require any mitigating measures it deems necessary to protect the public health, safety and welfare.
- g. The Special Review shall have a fee of fifty dollars (\$50.00).

(Ord. No. 2022, § 3, 9/7/10)

Sec. 30.56. - Mobile homes.

- A. Residential Mobile Homes. Mobile homes are permitted in approved mobile home (RMO) parks and R-II (MH) districts only. No mobile homes shall be placed in other zoning districts except those specified in Section 30.56B.

Any mobile home or replacement of any existing mobile home moved onto a site in one of the approved zoning districts must contain a minimum of eight hundred (800) square feet, and must meet all of the following requirements before a Certificate of Occupancy can be issued by the Building Official:

- A) All mobile homes must be completely skirted.
- B) All mobile homes must be securely anchored at all four corners.
- C) The running gear must be removed.
- D) The tongue must be removed.
- E) All mobile homes must be placed on a permanent foundation. For the purpose of this part, a permanent foundation means a foundation system which has been designed and certified by a professional engineer or architect, or which has been specified by the mobile home manufacturer.

- B. Commercial Use. Mobile homes shall not be utilized for any commercial use, other than an on-premises office in connection with a mobile home sales business or as a temporary job shack located on a construction site. Such job shack must be removed within ten (10) days after completion of construction.

(Ord. 1813, 8/21/95)

Sec. 30.56.1. - Manufactured homes.

- A. Manufactured homes are permitted in all residential zoning districts. Any manufactured home or replacement of any existing manufactured home must contain a minimum of ~~one thousand~~320 (1,000) square feet.

- B. All manufactured homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- C. ~~All manufactured homes must be certified by the U.S. Department of Housing and Urban Development (HUD) and have a certification label as required by HUD standards. A manufactured home of less than 4000 square feet may be placed if it meets all of the following conditions:~~
 - ~~a. The structure is on a permanent foundation.~~
 - ~~b. The tract or parcel of land for the proposed use must be owned by a unit of local government or a community housing development organization.~~
 - ~~c. The home must be used to provide affordable housing to households earning less than 80% of the area median income.~~
 - ~~d. A management plan from the local government or community housing development organization addressing the following factors is submitted to the City Administration and City Commission:~~
 - ~~i. Affordability plan (including proposed rents).~~
 - ~~ii. Management plan (including client eligibility and intake).~~
 - ~~iii. Proposed deed restrictions to be placed on the property requiring adherence to approved affordability plan.~~

Sec. 30.56.2. – Tiny homes.

- A. Tiny homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. Tiny homes may only be utilized as accessory dwelling units unless meeting Sec. 30.56.2.D. Unless meeting the criteria of Sec. 30.56.2.D, all tiny homes are subject to Sec. 30.43 of the Zoning Ordinance.
- C. All tiny homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- D. A tiny home may be placed as the primary dwelling unit on a property if it meets all of the following conditions:
 - a. The structure is on a permanent foundation.
 - b. The tract or parcel of land for the proposed use must be owned by a unit of local government or a community housing development organization.
 - c. The home must be used to provide affordable housing to households earning less than 80% of the area median income.
 - d. A management plan from the local government or community housing development organization addressing the following factors is submitted to the Planning Department and City Commission:
 - i. Affordability plan (including proposed rents).
 - ii. Management plan (including client eligibility and intake).
 - iii. Proposed deed restrictions to be placed on the property requiring adherence to approved affordability plan.

(Ord. 1813, 8/21/95)

Sec. 30.57. - Commercial buildings in residential districts.

Whenever a commercial building is permitted in a residential district, either as a matter of right or by special use permit, that building must meet the density requirements of the residential zone in which it is located, except for the off-street parking requirements. The minimum off-street parking requirement will be established by the Building Official in accordance with Section 50.51.

Sec. 30.58. - Townhouses.

- A. Townhouses are permitted in RII, RII(MH) and RIII districts only.
- B. All townhouse development must comply with the density and setback requirements set forth in Table 30.41, the off-street parking requirements found in Section 30.51, and all other applicable regulations.

(Ord. 1798, 12/19/94)

Sec. 30.59. - Landscaping regulations.

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for new or altered commercial, industrial, R-III and RMO Zones in order to minimize the visual impact upon public rights-of-way and incompatible uses in said zones and adjacent or abutting R-I or R-II Zones as well as establishing minimum buffering requirements between new or altered commercial, industrial, R-III and RMO Zones and existing incompatible uses and abutting or adjacent R-I or R-II zones and to lessen the impact of lighting.
- B. Definitions. For the purposes of this section, the following definitions shall apply:
 - 1. "Ornamental tree" means any variety of tree which is not expected, at maturity, to reach a height of fifteen (15) or more feet nor be a substantial provider of shade.
 - 2. "Shade tree" means any variety of tree which is expected, at maturity, to be in excess of twenty-five (25) feet in height and sufficiently full in form to provide substantial shading effects.
 - 3. "DBH" means diameter at breast height.
- C. Prohibition. No land shall be used or occupied and no structure shall be designed, erected, used, occupied or altered where a building permit is required, nor shall any variance or special exception be granted, except in conformity with the regulations established in this section.
- D. General Landscaping Requirements. Landscaping shall be required as follows:
 - 1. Parking or Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
 - 2. Requirements for the Interior of Parking Areas.
 - a. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.

- b. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan. The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking space area. (i.e., 1 parking space = 180 square feet. Landscape requirement = 5% x 180 x number of spaces.) When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island will contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.
- 3. Buffering Required Between Different Land Uses. Where commercial, industrial, multi-family or mobile home park land uses abut or are adjacent to lower density residential land uses or zones, either directly or when separated by an alley or street right-of-way or other natural or manmade structure, the commercial, industrial, multi-family or mobile home park use will provide a landscaped buffer zone screening itself from the lower density residential use.
 - a. Buffer Zone. The buffer zone shall be a minimum of five (5) feet in width with an additional five (5) feet required for each story of the commercial, industrial or multi-family use above one (1) story, not to exceed twenty-five (25) feet in width.
 - b. Screening. Screening shall be installed within the buffer zone which shall consist of vegetation or vegetation and a combination of berm, fencing or masonry walls to a minimum height of six (6) feet in a manner which does not create a safety hazard for vehicular or pedestrian movement or interfere with the requirements of Section 30-52(B) of the Livingston Municipal Code.
- c. Shade Trees. In addition, a minimum of one (1) shade tree within each two hundred fifty (250) square feet of buffer zone shall be required. Shade trees required hereunder shall be a minimum of two and one-half (2 ½) inches, DBH, in size at the time of planting. E. Purpose of Lighting Restrictions. The goal in regulating exterior illumination is to direct, to the maximum extent possible, all artificial light onto the property from which it originates. This section does not apply to street lighting provided by a governmental agency.
 - 1. Parking or Storage Area. In any area required to buffer itself from adjacent land uses, all exterior lighting shall be limited in height to no more than sixteen (16) feet and will be required to be of a design which directs light downward through the use of a directional shade.
 - 2. Signs and Decorative Lighting. In commercial and industrial areas adjacent to any land use from which it must be buffered, the following lighting regulations shall apply:
 - a. Internally Illuminated Signs. Internally illuminated signs shall not exceed sixteen (16) feet in height. Internally illuminated canopies or structural panels are prohibited. Alternately, spot-lit signs, canopies or panels may be approved at standard heights if they will not adversely effect neighboring property which determination rests with the discretion of the city planning office, subject to appeal to the Board of Adjustment.
- F. Penalty. A violation of this section is a misdemeanor punishable by fine not to exceed five hundred dollars (\$500.00). Each day that a violation is allowed to continue shall be deemed a separate and punishable offense.

(Ord. 1852, 4/21/97)

Section 30.60.- Sexually oriented businesses.

No sexually oriented business shall be operated or maintained within the corporate limits of the City of Livingston except within the Industrial Zone with the further limitation that no sexually oriented business shall be front on Park Street and shall be set back from Bennett Street a minimum distance of two hundred fifty (250) feet. No sexually oriented business shall be operated or maintained within six hundred (600) feet of either a City or County residential zone, a church, an elementary or high school, a State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business.

The distance limitation in this section shall be measured in a straight line from the main public entrance of said sexually oriented business to the property line of properties in residentially zoned districts, churches, elementary or high schools, State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business.

Sec. 30.61. - Wind powered generators.

A. Definitions.

1. "Wind Powered Generator(s)" or "WPG" means any device, such as a wind charger, wind mill, or wind turbine, and associated facilities including the support structure of the system, such as a tower, that covers wind energy to electrical energy which has been certified to conform to applicable industry standards by a nationally recognized certifying organization such as Underwriters Laboratories or similar certifying organization.
2. "Wind powered generator height" means the height of a freestanding WPG shall be measured from the ground level to the highest point on the WPG, including the vertical length of any extensions of the WPG, such as the blade.
3. "Tower", as used herein, includes the support structure and all components of the WPG.

B. Special Exception. Wind-powered generators (WPG), as defined herein, are permitted upon the issuance of a Special Exception permit within any zone, provided the following standards, and any related conditions imposed by the Board of Adjustment, are satisfied. No WPG, or modification thereto, shall be constructed within the City of Livingston, unless a permit has been issued by the City.

1. The permit application shall be accompanied with a non-refundable fee in the amount of one hundred dollars (\$100.00).
2. The permit application shall contain a narrative describing the proposed project, the project location, the approximate generating capacity of the facility, a site plan, a photograph of the same type of wind powered generator being proposed and whether the system will be standalone or interconnected to a public utility under the provisions of 69-8-601 et seq. Montana Code Annotated.

C. Maximum Height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or less is limited to sixty (60) feet in height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or more is limited to one hundred (100) feet in height.

1. The Board of Adjustment may increase the height of freestanding WPG, provided that in the residential and commercial, districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall demonstrate, to the Board of Adjustment's satisfaction, that the surrounding topography, structures, vegetation, and other factors make a tower that complies with the height restrictions impractical.
2. Notwithstanding the height limitations of the zoning district, building mounted WPG shall be permitted in all zoning districts, subject to approval by the Board of Adjustment, and shall comply with the following standards:
 - a. Building mounted WPG shall not exceed fifteen (15) feet in height.
 - b. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
 - c. On nonresidential buildings less than four (4) stories and forty-two (42) feet in height, building mounted WPG shall be setback at least ten (10) feet from the front, side, and rear exterior walls of the structure on which it will be mounted.
 - d. Building mounted WPG shall be installed on the top story.

- e. The structure upon which the proposed WPG is to be mounted shall have the structural integrity to carry the weight and wind loads of the WPG and have minimal vibration impacts on the structure, as determined by a structural engineer.
- 3. Minimum ground clearance. The blade tip of any WPG shall, at its lowest point, have ground clearance of no less than fifteen (15) feet.
- D. Minimum Setback. Minimum setback from any property line shall be one hundred (100) percent of the total tower height, as defined herein and no guy wire may extend closer than thirty (30) feet from any property line. No part of the wind generator shall extend over, or across, any part of a public right-of-way.
- E. Noise Standard, Shadow Flicker and Signal Interference:
 - 1. Any noise produced by a WPG, permitted under this Section, shall be less than sixty (60) db as measured from the closest neighboring occupied building; and it is incumbent upon the applicant to demonstrate compliance prior to the issuance of any permits by the Board of Adjustment.
 - 2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building not on the property upon which the WPG is located.
 - 3. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind powered generators.
- F. Fencing Requirement and Warnings. All WPG installations, other than single-pole towers, shall be enclosed by a fence with locking gate, or incorporate other effective measures to discourage unauthorized climbing of the tower. Towers shall not be climbable up to fifteen (15) feet above ground surface. A visible warning sign concerning voltage must be placed at the base of all towers. Reflective and brightly colored tubing shall be placed on guy wires up to a height of ten (10) feet from the ground.
- G. Control and Brakes. All wind powered generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- H. Liability insurance: Construction Phase. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate. Certificates of insurance shall be filed with the City of Livingston who will also be named as an additional insured.
- I. Aesthetics. WPG colors shall be of neutral subdued tones such as each tones or green or brown. Gray, including darkening galvanized gray, is also acceptable. If constructed on top of structure and visible from the ground, the WPG colors shall be a shade of sky blue. WPG shall not be finished in bright or vivid colors intended to draw attention to the structure or property. WPG shall not be illuminated by artificial means, except where required by the Federal Aviation Administration, or other federal, state, or local law.
 - 1. All permitted WPG shall be placed in a reasonably available location that will minimize the visual impact on the surrounding area, and allow the facility to function in accordance with the standards established by this Section, and all other federal, state, and local law.
 - 2. Wind towers shall not display any advertising, except for reasonable identification of the manufacturer and facility owner/operator, not to exceed one (1) square foot in size.
- J. Building, Electrical, Other Permits. All WPG shall comply with all applicable building, electrical, mechanical, and other permits required and issued by the City of Livingston, the State of Montana and/or federal regulations. This is to include any approvals required from the Historic Preservation Commission, or other local entity.
- K. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the Board of Adjustment, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of Adjustment may waive those requirements while still satisfying the original intent and application of this Section. Once every two (2) years, the City shall

review existing WPG technology for comparison to this Section, to be sure technological improvements are addressed.

- L. Requirements for Removal. Any WPG that is abandoned, damaged, inoperable, or unused for power generation shall be removed within twelve (12) months of the cessation of operations, unless an extension is approved by the Board of Adjustment. If such an extension is not approved, such WPG shall be deemed a nuisance and require its removal at the property owner's expense. After the WPG removal, the owner of the site shall restore the site to its original, or an improved, condition.
- M. Application of Nuisance Law. If, after a Special Exception permit is issued, by the Board of Adjustment for a WPG, and the same WPG fails to comply with any part of this Section, it may deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.

(Ord. No. 2002, § 1, 8/4/08)

Editor's note— Ord. No. 2002, § 1, adopted Aug. 4, 2008, amended Ch. 30 with the addition of a new, unnumbered section. Said section has been numbered § 30.61 at the discretion of the editor.

Article VI. - Non-conforming Lots, Uses and Structures

Sec. 30.62. - Intent.

Within the districts established by this chapter or amendments that may later be adopted there exists:

- A. Lots,
- B. Structures, and
- C. Uses of land and structures which were lawful before this chapter was passed or amended, but which would be prohibited, regulated, or restricted under the terms of this chapter or future amendment. It is the intent of this chapter to permit these non-conformities to continue until they are removed, but not to encourage their survival. Further, the intent of this chapter is that non-conformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction or preparatory excavation or demolition was lawfully begun prior to the effective date of adoption or amendment of this chapter.

It is the specific intention of this ordinance to bring nonconforming signs into compliance with the terms of this ordinance within five (5) years after the adoption of this ordinance, and to bring non-conforming home occupations into compliance with the terms of this ordinance within one (1) year after the adoption of this ordinance, and therefore the terms of this section shall not apply in those instances.

Sec. 30.63. - Non-conforming lots of record.

In any district the authorized uses may be continued on any single lot of record at the effective date of adoption or amendment of this ordinance, even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the district and provided that lot dimensions for the district can be met. Such lot must be in separate ownership and not of continuous frontage with other lots in the same ownership. Variance of lot requirements shall be obtained only through action of the Board of Adjustment.

If two or more lots or combination of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if any of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

Sec. 30.64. - Non-conforming uses of land and structure.

Where, at the time of passage of this ordinance a lawful use of land or a structure exists which would not be permitted by the regulations imposed by this ordinance, the use may be continued where it remains otherwise lawful, provided:

1. No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land or structure than was occupied at the effective date of adoption or amendment of this ordinance.
2. No such non-conforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.
3. If any such non-conforming use ceases for any reason for a period of more than one (1) year, any subsequent use of such land or structure shall conform to the regulations specified by this chapter for the district in which such land is located. If a building used for commercial purposes is not open to the public for a period of one (1) year, its use shall subsequently conform to the regulations of this chapter. This subsection shall not apply to structures which come into the possession of financial institutions or other lien holders to include the Veterans Administration, Federal Housing Administration, and Farmer's Home Administration through the process of foreclosure or default.
4. No additional structure not conforming to the requirements of this ordinance shall be erected in connection with such non-conforming use of land or structure.
5. One (1) non-conforming use may not be converted to another non-conforming use.

(Ord. 1763, 4/4/94)

Sec. 30.65. - Non-conforming structures.

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage, height, setbacks, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

1. No such non-conforming structure may be enlarged or altered in a way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity.
2. Should such non-conforming structure or non-conforming portion of structure be destroyed by any means to an extent of more than seventy (70) percent of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter.

Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

Sec. 30.66. - Exemption for non-conforming residential structures.

The reconstruction of existing non-conforming residential dwelling units is allowed, in compliance with applicable fire and building codes, including expansion of up to twenty (20) percent of the existing dwelling unit, as long as the number of dwelling units on the parcel is not increased.

Further, it is the intent of this section to allow non-conforming residential dwelling units to be reconstructed even though the lot or parcel on which they exist fails to meet the size requirements for that zone type. The lot dimension and setback requirements for the district in which the piece of land is located may be reduced by the smallest amount that will permit reconstruction or the allowed twenty (20) percent expansion. Such reduction shall be determined by the Board of Adjustment.

(Ord. 1782, 9/6/94; Ord. 1814, 9/18/95)

Article VII. - Zoning Commission and Board of Adjustment

Sec. 30.70. - Zoning commission.

There is created for the City of Livingston a Zoning Commission as provided by statute, consisting of five (5) citizen members, appointed by the Chairman and subject to the confirmation of the City Commission. Terms of each member shall run concurrent with the term of the Chairman.

- A. Powers and Duties. The duties and powers of the Zoning Commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and to make recommendations to the City Commission on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The City Commission shall not hold its public hearings or take action until it has received a final report from the Zoning Commission.
- B. Proceedings of the Zoning Commission. The Zoning Commission shall hold its meetings in the City-County Complex and the presence of three (3) members shall constitute a quorum.

The Zoning Commission shall keep minutes of their proceedings, showing the vote of each member, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Zoning Coordinator. The official minutes of the Zoning Commission's proceedings shall be signed by the Chairman or acting chairman and attested to by the secretary.

(Ord. 1868, 2/2/98)

Sec. 30.71. - Amendments to City zoning ordinance and zone change.

- A. General. This chapter, including the Official Zoning Map, may be amended by the City Commission by a regular ordinance amendment, but no amendment shall become effective unless it shall have been submitted to the City Zoning Commission for review according to the procedures in Section 30.71E and recommendation.
- B. Applications for Map Amendments and Amendments to Text. Unless initiated by the City Commission or the Zoning Commission, all applications for Official Map amendments must be submitted by the owner of such property. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months.

Each application to amend the Official Map shall be filed with the Zoning Coordinator, and each application shall be submitted under the following conditions:

- 1. It shall include but not be limited to the following information:
 - a. A legal description of the tract(s) proposed to be re-zoned;
 - b. A map showing the dimensions, acreage and location of the tract(s) and adjacent land uses;
 - c. The names and addresses of the owners of the adjacent land;
 - d. A receipt showing payment of all applicable fees to the City.
- 2. In the case of an application to amend the text of this chapter, the application shall include the proposed change of the text and that portion of the text proposed to be changed.
- 3. An application for amendment to the Official Map or text shall be submitted at least twenty (20) days prior to the date of the public hearing before the City Zoning Commission.

4. An application for a zone change may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission. An applicant may be allowed to withdraw at the time of the Zoning Commission hearing by a majority vote of the members present without requiring City Commission approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
- C. Zoning Coordinator's Study and Responsibility. The Zoning Coordinator, upon receiving an application for re-zoning of an area or a particular piece of property or for an amendment to the text shall do the following:
1. Consult with other departments of the City or County to evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
 2. Study each application with reference to its appropriateness and effect on existing and proposed land use;
 3. In the case of a protest petition filed in the matter of an application for re-zoning, determine the validity of such petition;
 4. Advertise in the legal newspaper fifteen (15) days in advance of the time and place of the public hearing, at the same time, publish a site map of the subject property in the legal newspaper.
 5. Notify, by certified, return receipt requested mail, the applicant and all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the re-zoning: of the time, date, place of the public hearing and the existing and proposed land use classification. Such notification shall be mailed to the applicant and the surrounding property owners no sooner than ten (10) days and no later than five (5) days prior to the date of the public hearing. Post the subject property not less than five (5) days prior to the public hearing. Posted notice shall include the nature of the change being requested as well as the time, date and location of the public hearing;
 6. Report the findings and conclusions, in writing, to the City Zoning Commission. Such report shall be a matter of public record, and shall be forwarded to the City Commission with the Zoning Commission's recommendation.
- D. City Zoning Commission Action. The City Zoning Commission shall review and take action upon each application in accordance with the provisions of this article, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the Zoning Commission by the Zoning Coordinator, together with his findings and conclusions on the matter. A written report of the Zoning Commission's decision and the Zoning Coordinator's findings and conclusions including the basis for the decision shall be submitted to the City Commission.

The City Zoning Commission shall make a recommendation to the City Commission to:

1. Deny the application for amendment to the Official Map; or
2. Grant the application for amendment to the Official Map; or
3. Delay action on the application for a period not to exceed thirty (30) days.

The City Zoning Commission shall use Roberts Rules of Order for the conduct of public hearings and meetings.

No member of the Zoning Commission may vote on any request which he or she or any partner has worked, or in which he or she or any partner has any financial interest or ownership.

The recommendation of the Zoning Commission and the time and place of the City Commission's hearing shall be published in the newspaper at least fifteen (15) days prior to the date of the hearing by the City Commission. The City Commission may vote upon the first reading of the amendment at the same meeting at which the public hearing is held. Such a vote may only be taken after the public hearing is held.

- E. City Commission Public Hearing. Before taking action on an application for an amendment to the Official Map, and after presentation of the Zoning Commission report, the City Commission shall hold a public hearing on the application.

In case, however, of a valid protest petition against such change signed by the owners of twenty (20) percent or more either of the area of the lot included in such proposed change, or of those immediately adjacent in the rear of extending one hundred fifty (150) feet from the street frontage of such opposite lots. Such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the City Commission.

When such proposed amendment has been denied by the City Commission neither it nor one involving the same tract(s) shall be offered for adoption within one (1) year after such denial.

(Ord. 1861, 6/16/97; Ord. 1868, 2/2/98; Ord. No. 2004, § 1, 8/4/08)

Sec. 30.72. - Reserved.

Editor's note— Ord. No. 2004, § 1, adopted Aug. 4, 2008, repealed § 30.72 which pertained classification of newly annexed area and derived from Ord. No. 1868, adopted Feb. 2, 1998.

Sec. 30.73 -

- B. Hearings, Appeals, Notices. The City commission shall hear and decide appeals where it is alleged that there is an error in any order requirement, decision, or determination made by an administrative official in enforcement of the City's zoning regulations.

The City Commission shall fix a reasonable time for the hearing of appeal not to exceed thirty (30) days, give public notice thereof as well as due notice to the parties in interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person or by attorney.

- C. Appeals: Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the City Commission after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.
- D. Decisions, Appeals Re-Hearing. In exercising the above mentioned powers, City Commission may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the City Commission shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution.

Any person or persons, jointly or severally, aggrieved by any decision of the, City Commission made under this part, or any taxpayer, or any officer, department, or board of the City may present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision in the office of the City Commission.

If an application for an administrative review is denied by the City Commission, another application shall not be filed within a period of one year from the date of denial, except upon the initiation of the City Commission after a showing of a change of circumstances which would warrant a re-hearing.

(Ord. No. 2004, § 1, 8/4/08)

Sec. 30.74. - Variances—application procedures.

- A. Applications. An application for variance shall be filed with the Zoning Coordinator under the following conditions:
 - 1. The application shall include, but not be limited to the following:
 - a. A legal and general description of the tract(s) upon which a variance is sought.
 - b. The name and address of the owner(s) of the land subject to the variance.
 - 2. The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property.
 - 3. The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:
 - a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation, and;
 - b. The location and size of all existing and proposed buildings, structures, and improvements, and;
 - c. The existing buildings, structures, and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures, and improvements shall be labeled as such and indicated by a dashed or dotted line.
 - 4. The reason why the variance is being sought.
 - 5. Be accompanied by proof of payment of all applicable fees.
 - 6. An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this article shall have first appeared.
- B. Zoning Coordinator Action. The Zoning Coordinator, upon receiving an application for a variance, shall do the following:
 - 1. Consult with other departments of the City to fully evaluate the impact upon public facilities and services.
 - 2. Study each application with reference to its appropriateness and effect on existing and proposed land uses.
 - 3. Place notice of the time, date and place of the public hearing in a newspaper of general circulation at least fifteen (15) days in advance of the date set for the public hearing.
 - 4. Notify the applicant and property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date and place of the public hearing and the proposed variance on the subject property at least ten (10) days prior to the date of the public hearing.
 - 5. Place a notice of the time, date, and place of the public hearing on the property at least ten (10) days prior to the hearing date.
 - 6. Report the findings to the City Commission.
- D. The City Commission may authorize upon appeal in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

Under no circumstances shall the City Commission grant a variance that would allow a use not permissible under the terms of the ordinance in the district involved. A variance shall not be a grant of special privilege inconsistent with the limitations placed upon property in the district.

The City Commission may prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance.

(Ord. No. 2004, § 1, 8/4/08)

Sec. 30.75. - Special exceptions.

A. General. Special Exceptions for uses other than those specifically permitted in each district, are intended to provide, in appropriate cases, and subject to appropriate conditions and safeguards, to be Special Exceptions to the terms of the Zoning Ordinance of the City of Livingston, when granted in harmony with its general purposes and intent of the ordinance.

No Special Exceptions shall be granted by the City Commission unless the Board of Adjustment finds:

1. The use will not place a substantial adverse affect upon nearby properties or their occupants.
2. That the proposed use is in harmony with the general purposes and intent of the zoning ordinance.
3. If desired, the City Commission may add such requirements as it deems necessary to protect the surrounding neighborhood from the effects of the granted Special Exception.

B. Applications. An application for a Special Exception must be filed by the property owner.

Such application shall be filed with the Zoning Coordinator and shall be submitted under the following conditions:

1. The application shall include, but not be limited to the following information:
 - a. A legal and general description of the tract(s) upon which the Special Exception is sought.
 - b. The map showing the dimensions, acreage and location of the tract(s).
 - c. The name and address of the owner(s) of the tract(s).
 - d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading, when required, service and refuse areas; means of ingress and egress; landscaping, screening signs, and open space areas.
 - e. A time schedule for development.
 - f. Any other information the applicant believes will support his request.

The application must be submitted to the Zoning Coordinator. Proof of payment of all applicable fees from the City must accompany all applications. No application defect shall effect the validity of any such application.

C. Zoning Coordinator Action. The Zoning Coordinator, upon receiving an application for a Special Exception shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of the use(s) contemplated under the application upon public facilities and services.
2. Study each application with reference to its appropriateness and effect on existing and proposed land uses.
3. Place a notice of the time, date, and place of the public hearing before the appropriate body in the legal newspaper of the City at least fifteen (15) days in advance of the date of the public hearing.
4. Notify the applicant and property owners by first class mail, within three hundred (300) feet of the exterior boundaries of the tract(s) of the proposed Special Exception area of the time, date, place

of the public hearing and the proposed use(s) of the subject property at least ten (10) days prior to the date of the public hearing.

- D. City Commission Action. The City Commission shall consider each application in accordance with provisions of this Article, and at a public hearing at which time the application has been legally advertised. Each application shall be presented by the Zoning Coordinator, together with conclusions and recommendations.

The City Commission shall:

1. Deny the application for a Special Exception, or
2. Grant the application for a Special Exception, or
3. Delay action on the application for a period not to exceed thirty (30) days, or
4. Grant the application with special conditions and safeguards.

(Ord. No. 2004, § 1, 8/4/08)

Article VIII. - Administration and Enforcement

Sec. 30.80. - Building official.

The provisions of this ordinance shall be enforced by the Building Official, subject to such variations or interpretations as may be made by the Board of Adjustment.

The Building Official shall:

1. Issue building permits for all construction, alteration, demolition, or movement of buildings or structures after first determining that all applicable provisions of this ordinance are complied with.
2. Conduct inspections as are necessary to ensure compliance with the provisions of this ordinance.
3. Institute appropriate action or proceedings to prevent or correct unlawful construction, alteration, or movement of buildings or structures or unlawful occupancy of buildings, structures or land.

Sec. 30.81. - Zoning coordinator.

The Zoning Coordinator shall administer and coordinate the Zoning Ordinance for the City of Livingston.

The Zoning Coordinator shall supervise and facilitate the processing of applications for amendments to the Official Zoning Map, Special Exceptions, and requests for variances. Further, it shall be the responsibility of the Zoning Coordinator to present any applications or requests to the appropriate board.

It shall further be the responsibility of the Zoning Coordinator to aid the various boards and departments in transmitting recommendations, records, and reports to the City Council and to otherwise promote procedural regularity in the administration of this ordinance.

The Zoning Coordinator shall not have authority to act in any final reviewing capacity and any question as to interpretation or enforcement shall be determined by the appropriate body.

Sec. 30.82. - Procedure in abatement of violation.

If on any inspection the condition of a building or premises, or its use or occupancy is found not to conform to the provisions of this ordinance, the Building Official shall issue written notice to the owner or tenant, specifying the manner in which the building or premises, or its use or occupancy fails to conform, and the owner or tenant shall take steps to make it conform as directed by the Building Official.

Appeal from the actions of the Building Official shall be made with the Board of Adjustment in conformance with the provisions of Article VII of this ordinance.

Sec. 30.83. - Penalties for violation.

Violation of the provisions of this ordinance or failure to comply with written notice of correction shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than six (6) months, or both. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation or to bring an action to enforce any violation of this ordinance.

Sec. 30.84. - Investigation fee.

Whenever work for which a variance is required has commenced without first obtaining a variance, an investigation fee, in addition to the variance filing fee, shall be charged. The investigation fee shall be Fifty Dollars (\$50.00). The fee must be paid prior to submission of a variance application. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this ordinance, nor from any penalty prescribed by law.

Article IX. - Conflict With Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees, Effective Date

Sec. 30.90. - Conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this chapter are in variance with requirements of any lawfully adopted rules, regulation, ordinance deeds, restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern.

Sec. 30.91. - Separability clause.

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Sec. 30.92. - Repeal of conflicting ordinances.

All ordinances or parts of the ordinance in conflict herewith are hereby repealed to the extent necessary to give this chapter full force and effect.

Sec. 30.93. - Schedule of application fees.

The following fee must be paid to the City at the time an application is submitted:

Change of Zone \$575.00

Variance, Single Family Unit \$ 35.00

Variance, All Others \$100.00

Special Exceptions \$250.00

(Ord. 1479, 3/16/81; Ord. 1532, 11/5/84; Ord. 1544, 2/4/86; Ord. 1548, 4/21/86; Ord. 1573, 5/4/87; Ord. 1578, 10/5/87; Ord. 1667, 7/3/90; Ord. 1861, 6/16/97; Ord. 1871, 4/20/98)

File Attachments for Item:

C. ORDINANCE NO. 3014: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE V, ARTICLE VII, ARTICLE VIII, and ARTICLE IX, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING AS IT PERTAINS TO FEES AND PERMITTING.

June 21, 2021

STAFF REPORT
TEXT AMENDMENT – PERMITTING AND FEES

Background

Planning Staff has begun the process of updating fees and permitting processes to accommodate organizational changes within the Building and Planning Department (soon to be departments), and the public’s stated interest in ensuring developers cover the cost of development rather than shifting the cost burden to the taxpayers. To this end the Planning Department is creating additional permitting applications to bring the zoning review under the purview of the Planning Department rather than being handled through the Building Permitting process. This will allow the Planning and Building departments to be separated into two departments as is the plan to increase staff capacity as development continues to increase within the City. Updates to fees have been calculated using the estimated fiscal year 2021-2022 planning department hourly cost which came out to be slightly under \$100/hour. Using that cost planning staff has estimated the number of hours per application to generate the proposed fees (Attachment I).

Currently, the zoning application fees are set by the Zoning Ordinance, Section 30.93, and are significantly out-of-date. The proposed text amendment removes the fees from the Zoning Ordinance to allow fees to be set by resolution. This avoids the approximately four (4) month process of updating the ordinance allowing the Planning Department to be more proactive in updating fees. The proposal to remove the fees from the Zoning Ordinance is coupled with an update to set the fees by resolution of the City Commission. Additionally, minor updates have been made to the administration to clarify and update the roles of the building official, zoning coordinator, and code compliance.

Proposed Findings of Fact

Proposed Zoning Updates: Proposed changes to the Zoning Ordinance can be found in a strikethrough-underline version included as Attachment II.

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304): (1) *Zoning regulations must be:*

(a) *made in accordance with a growth policy:*

Staff Comments:

- The 2021 Growth Policy updates includes a recommendation to evaluate zoning fees to cover departmental costs of reviewing applications. This update is anticipated to work towards achieving that goal.

(b) *designed to:*

(i) *secure safety from fire and other dangers;*

Staff Comments:

- The proposed updates are administrative in nature and should have no impact on safety from fire or other dangers.

(ii) promote public health, public safety, and the general welfare; and

Staff Comments:

- The proposed updates are administrative in nature and should have no impact on the public health, safety, and general welfare.
- The current zoning is adopted to promote the public health, safety, and welfare, and this update ensures that the zoning is enforced in an accurate and timely manner.

(iii) facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

Staff Comments:

- The proposed updates are administrative in nature and should have no impact on the provision of public requirements.

(2) In the adoption of zoning regulations, the municipal governing body shall consider:

(a) reasonable provision of adequate light and air;

Staff Comments:

- The proposed updates are administrative in nature and should have no impact on adequate light and air, no changes to setbacks or building heights are proposed.

(b) the effect on motorized and nonmotorized transportation systems;

Staff Comments:

- The proposed updates are administrative in nature and should have no impact on transportation systems.

(c) promotion of compatible urban growth;

Staff Comments:

- The updates do not address uses, and are administrative in nature.

(d) the character of the district and its peculiar suitability for particular uses;

Staff Comments:

- As noted above, the proposed changes do not address uses.

(e) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area.

Staff Comments:

- The updates do not address uses, and are administrative in nature. There should be no impact on property values.

Public Hearing

The Zoning Commission heard this item at their regularly scheduled meeting, June 8, 2021. At that time the Zoning Commission voted unanimously (4:0) to approve the zone map amendment. The zoning commission recommended one change to the language proposed by staff, which was to remove all references to the Board of Adjustment within the affected sections. Staff is in agreement with this recommendation and has provided the City Commission a draft ordinance with this change included.

Staff has made one change to the Staff Report that was provided to the Zoning Commission; as the 2021 Growth Policy was adopted in the interim between the Zoning Commission meeting and the City Commission meeting, the staff analysis in the Zoning Commission Staff Report analyzed the amendment based on both the 2017 and the not yet adopted 2021 Growth Policies. The compliance with the Growth Policy section has been updated to analyze the change based solely on the 2021 Growth Policy rather than the 2017 Growth Policy. This change does not substantially change the analysis of the application as the 2017 Growth Policy did not speak of permitting fees.

Staff Recommendation

The Zoning Coordinator believes that the new language listed above meets both the requirements of State Statute and the needs of the City of Livingston. Staff recommends that the Commission adopt the proposed zone text amendment.

Attachments

- Attachment I.....Draft Fee Schedule
- Attachment II.....Draft Ordinance

ORDINANCE NO. 3014

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE V, ARTICLE VII, ARTICLE VIII, and ARTICLE IX, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING.

* * * * *

Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

WHEREAS, Section 30.71 of the City of Livingston Code of Ordinances authorizes the City Commission to amend the text of the officially adopted Zoning Ordinance;

WHEREAS, the amendments meet the criteria and guidelines for zoning regulations as required by Section 76-2-304 of Montana Code Annotated;

WHEREAS, the amendments meet the goals and objectives of the Growth Policy as adopted by the City of Livingston; and

WHEREAS, the City of Livingston Zoning Commission voted unanimously (4:0) to recommend approval of the amendments to the Zoning Ordinance to the City Commission;

NOW, THEREFORE, BE IT ORDAINED by the City Commission of the City of Livingston, Montana, as follows:

SECTION 1

That Chapter 30- Zoning Ordinance, Article V- Supplementary General Requirements, Article VII- Zoning Commission and Board of Adjustment, Article VIII- Administration and Enforcement and Article IX- Conflict with Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees, be amended as follows with deletions struck-through and additions underlined as follows:

SECTION 2

Article V. - Supplementary General Requirements

Sec. 30.50. - Signs.

- A. Intent. The intent of this Section is to provide standards for erection, design and placement of all signs and sign structures. Design standards are established to achieve the proper relationship of signs to their environment, enhance the outward appearance of the community as a whole, secure pedestrian and vehicular safety, preserve the historic aspects of the City of Livingston and promote the conservation of energy by regulating lighted signs.

B. Definitions.

1. "Animated sign" means a sign with action or motion, flashing or intermittent lights and/or color changes requiring electrical energy, electronic or manufactured sources of activation, but not including wind-activated elements such as flags and banners.
2. "Awning signs" means a sign which is an integral part of a window awning assembly, to include the printing or painting of words onto awning material.
3. "Billboard signs" means any standard outdoor advertising sign larger than two hundred (200) square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located.
4. "Free standing signs" means a sign which is supported by one (1) or more columns, uprights, or braces and is permanently fixed in the ground.
5. "Monument sign" means a sign, single- or double-sided mounted, flush with the surface of the grade upon which sets the business, industry, or other commercial enterprise which the sign advertises. A monument sign must be landscaped with grass, shrubs or other plants or other landscape material in an area not less than three (3) feet surrounding such sign in all directions.
6. "Revolving sign" means a sign which revolves three hundred sixty (360) degrees.
7. "Menu board" means a sign specifically designed to advise customers of the menu of food available in the establishment by which the menu board is owned.
8. "Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.
9. "Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.
10. "Temporary sign" means a sign made of paper, or some other limited life-span material advertising a short-term event, like a sale. Temporary signs are not subject to inclusion in a business' sign square footage measurement. Temporary signs shall be removed within twenty-four (24) hours after the completion of the advertised event.
11. "Projecting sign" means a sign installed on the facade of a building which is attached to such building in a perpendicular manner or at an angle to the building wall.
12. "Sandwich board sign" means a sign painted on both of the outside of two (2) boards fastened together at the top with a hinge-like device, designed to be placed on the sidewalk area in front of an establishment.
13. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located, including, but not limited to, signs described in subsections (B)(1) through (B)(12) of this Section. For the purpose of determining number of signs, a sign will be considered to be a single display device with not more than two (2) display surfaces (back-to-back) or display device containing elements organized, related and composed to form a unit. For measurement purposes, the square footage of a sign which employs back-to-back display surfaces will only be considered as the square footage of one (1) side of that sign. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element will be considered a separate sign.
14. Square Footage. The square footage of a sign shall be measured as the product of the total linear foot measurement multiplied by the total height measurement. The linear measurement shall be attained by measuring from the leftmost edge of the sign, continually measured to the rightmost edge of the sign. Any mounting material shall be part of the measurement.
15. "Actual business premises" means the owned or leased real property from which the primary business is actively transacted.
16. "Off-premises sign" means a sign located on property other than the actual business premises.

- 17. "Banner signs" means a strip of cloth, plastic or other material displaying advertising or other information.
- 18. "Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise.
- 19. "Voluntary modification" means any modification to an existing sign which reflects a conscious business or personal decision. This may include a change in corporate color scheme, change of logo, or any other change which would require the replacement of existing sign faces. It does not include the replacement or repair of sign faces with new, identical faces as part of normal maintenance or due to damage by wind, fire or other hazard.

C. General.

- 1. Nothing in this Section shall be interpreted as prohibiting or excluding such signs as are required by law. This includes legal notices and advertisements prescribed by law or posted by any lawful officer or agent.
- 2. Any sign which is readily visible from the public right-of-way in an exterior window of a building, whether on the external or internal side of the window, shall be regulated by the provisions of this Section. Temporary sale signs are excluded, however, no single temporary sign shall exceed six (6) square feet in size, and the total of all such temporary signs shall not exceed fifty (50) percent of the transparency of the window in which they are visible.
- 3. All signs as permitted by this Section shall be maintained by the owner and kept in good repair and shall be painted and repaired at reasonable intervals. The surface of the ground under and about any sign shall be kept clear of weeds, rubbish and flammable waste material.
- 4. All signs shall be designed and constructed in accordance with the Uniform Sign Code.
- 5. A permit must be obtained from the Building Official by the person who is erecting the sign prior to the construction of any sign, except for those signs listed in subsection E of this Section.
- 6. Signs not in use by reason of change of occupancy or use by vacation of the building shall be removed within thirty (30) days of such change by the owner of the sign, or the owner of the property. The City has the option of removing such sign at the end of the thirty (30) day period after giving fifteen (15) days' written notice by certified mail to the owner, and upon such removal, the full charges of removal shall constitute a mechanic's lien against the real property enforceable pursuant to State law.
- 7. All existing signs that have been constructed pursuant to City sign permits and variances through the official date of the ordinance codified in this Section (Ord. 1749 effective date, October 20, 1993) shall be grandfathered and do not have to conform as to the height, size or prohibited signs subsections of this Section. Other provisions of this Section shall apply to existing signs. Grandfathered signs which are voluntarily modified must meet all requirements of this Section. Signs which have previously been granted variances may continue to exist within the parameters of those variances.
- 8. The Building Official shall be responsible for the enforcement of this sign ordinance.
- 9. All buildings with more than one (1) business occupant must submit to the Board of Adjustment a master signage plan which identifies the number and location of all potential signs on the property before any sign permits may be issued. For properties located in the Downtown Historic District, this master plan will be submitted to the Historic Preservation Commission. Any deviation from an approved master plan must be approved by the appropriate body prior to permit issuance.
- 10. Pre-existing multi-occupant buildings will not be issued any new sign permits until a master plan is approved by the appropriate body.
- 11. Any sign variance issued to multi-occupant property shall constitute an amendment to that property's signage master plan.

12. All signs located in the Historic Preservation District must comply with the requirements of the Historic District Overlay Zoning.

D. Prohibited Signs.

1. No animated signs shall be erected in any zoning district, except time and temperature signs which may be erected in the Central Business District only and existing lighted signs in the Downtown Historic Preservation District which flash, chase, move, revolve, rotate, blink, flicker or vary in intensity or color; however, such lights must be turned off when the business is closed.
2. No revolving sign may be permitted in any district.
3. No billboard sign shall be erected in any zoning district.
4. In the Central Business District Zone, no backlit signs are allowed.
5. Visibility at Corners, Alleys and Driveway Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, and on all corner lots, a triangular clear vision zone shall be maintained. The zone shall measure ten (10) feet into the lot, as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley, driveway or street corner along the edge of the sidewalk nearest the property line. No structure of any kind over three (3) feet in height shall be erected or maintained within the above defined clear vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.
6. Notwithstanding any other provisions contained in this Section, no free standing sign shall be erected or maintained upon any spire, chimney, cupola, water tank, water tower, radio aerial or television antenna.
7. No sign shall be erected on any property without the express permission of the occupant, owner, lessee or any authorized agent thereof.
8. No sign shall be erected in such a manner that a portion of the sign or their supports are attached to or will interfere with the free use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator or window.
9. No sign shall be attached to any tree.
10. Menu boards are not permitted on any property other than that occupied by a restaurant-type business.
11. No portable and/or trailer-mounted signs shall be allowed.
12. No sign not in conformance with this Code shall be allowed.

E. Signs Permitted in All Districts Without a Permit. The following signs are permitted in all zoning districts and will not require a permit:

1. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which do not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet. Only two (2) such signs shall be allowed on any one (1) property;
2. Signs bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial promotion;
3. Flags and insignia of the government except when displayed in connection with commercial promotion;
4. Legal notices: identification, information or directional signs erected or required by governmental bodies;
5. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;

6. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
 7. Detached bulletin boards for churches, schools, or other public, religious or educational institutions provided such sign is located not less than ten (10) feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections;
 8. Construction information signs, providing the signs are removed immediately following final completion of construction;
 9. Non-illuminated home occupation signs on any residence which is the site of a home occupation in accordance with Section 30.55. Such signs shall not exceed two (2) square feet;
 10. Signs advertising a candidate for political office. Such signs shall not exceed sixteen (16) square feet and shall be removed within seven (7) days after any election;
 11. Signs advertising yard/garage sales, and the like. Such signs shall not exceed two (2) square feet and must be removed by the owner within forty-eight (48) hours of the completion of the sale.
- F. Signs in a Residential District. Within a residential district only, the following signs shall be permitted:
1. Signs listed in subsection E of this Section which do not require a permit; and
 2. Signs advertising a permitted or existing commercial use within a residential district. Such signs require a permit from the Building Official, and shall be permitted only under the following conditions:
 - a. Only one (1) on-premises sign will be allowed for each business.
 - b. The maximum allowable size for each sign shall be twelve (12) square feet.
 - c. Illuminated signs shall be illuminated only as long as the advertised business is open.
 - d. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street.
- G. Signs in Commercial and Industrial Districts Requiring a Permit.
1. Setback. Free standing and monument signs shall be located a minimum of five (5) feet inside all private property lines.
 2. Lighting. All lighting shall comply with the requirements of Ordinance No. 1967 commonly referred to as the Night Sky Protection Ordinance. In no event may an illuminated sign or lighting device be placed or directed so the beams constitute a traffic hazard or nuisance. All wiring, fitting and material used in construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the Uniform Electric Code.
 3. Number of Signs. In Commercial and Industrial Zoning Districts, each use is limited to two (2) wall signs. In addition, one (1) monument sign or one (1) free standing sign is permitted for each building, regardless of the number of businesses or industrial uses conducted in any one (1) building.
 4. Height.
 - a. No monument sign shall exceed five (5) feet in height.
 - b. No free standing sign shall exceed thirty (30) feet in height.
 5. Permitted Surface Area.
 - a. Wall Signs. The total surface area of all wall signs is limited to one hundred (100) square feet in the Central Business District and otherwise to two (2) square feet of sign for each lineal foot of frontage width of the business, provided that the maximum total surface area for all wall signs does not exceed three hundred (300) square feet.

- b. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area.
 - c. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area.
- 6. Roof-Mounted Signs. Any sign located on the roof of a building shall not exceed twenty-four (24) inches in height and shall not exceed the top of the roof line. The square footage of roof-mounted signs shall be counted as a portion of the limitation on wall-mounted signs, i.e., the total surface area of wall-mounted signs added to any roof-mounted signs may not exceed three hundred (300) square feet maximum, or less if the linear front footage of the building is less than one hundred fifty (150) feet.
- 7. Off-Premises Signs. A business may have up to four (4) off-premises signs; however, the total square footage of these off-premises signs may not exceed one hundred fifty (150) square feet. No other off-premises signs shall be allowed. Excepted from this provision are:
 - a. Garage sale or hobby show signs no greater than two (2) square feet in area on the date only of the activity;
 - b. Auction and special event signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
 - c. Directional signs for public facilities and museums;
 - d. Banner signs for public performances not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.
 - i. No signs in the public right-of-way or in any required right-of-way shall be allowed except for governmental traffic control signs (unless a business premises is on the railroad right-of-way). Properly permitted sandwich board signs not to exceed six (6) square feet per side are excepted from this provision provided that they shall be limited to one (1) per twenty-five (25) feet of building frontage and may only be located in front of the business being advertised. The City Commission, upon request from a property owner in front of whose property a sign is to be located, may, where deemed in the public interest, allow a sandwich board sign to be placed other than in front of the business being advertised.
- 8. Banner Signs. Temporary banner-type signs shall be allowed for a period of no more than sixty (60) days, limited to no more than seventy-five (75) square feet, and used by any business or entity no more than once per year.
- H. Variance Parameters for Signs. Variances may be granted only if there is undue hardship from the application of these sign regulations due to the particular location and site characteristics of the applicant that are different from those cited generally.
- I. Damaged Signs. Any existing sign not in conformity with this Section that is damaged in either surface area of the sign or in the structure by more than fifty (50) percent shall be removed and any new sign shall meet all requirements of this Section.
- J. Complaint and Notice of Violation Procedure. The City Code Enforcement Officer shall issue a notice of violation in person to the offending property owner, business owner or agent, as the case may be, specifying the violation and steps necessary for correction. If the violation is not brought into compliance within fifteen (15) working days from the personal delivery of the notice of violation, the City shall file a civil complaint against the offending person. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.
- K. Violation and Civil Penalty. It shall be a civil infraction for any person to violate any provision of this Section. Any violation of any provision of this Section is a civil infraction punishable by a civil fine not to exceed Three Hundred Dollars (\$300.00).

(Ord. 1738, 3/2/93; Ord. 1749, 9/20/93; Ord. 1819, 10/16/95; Ord. 1820, 10/16/95; Ord. 1860, 6/16/97; Ord. 1873, 5/18/98; Ord. 1883, 2/1/99; Ord. 1975, 9/5/06)

Sec. 30.51. - Off street parking and loading zones.

- A. General. Each off-street parking space shall have a net area of not less than one hundred eighty (180) square feet exclusive of driveways or aisles and shall be of usable shape and condition.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:
 - 1. For one (1) family, two (2)family, and accessory dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
 - 2. For multiple dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.
 - 3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
 - 4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
- C. Expansion or Enlargement. Whenever any building is enlarged in gross floor area by more than ten (10) percent, off-street parking shall be provided for the expansion or enlargement portion only in accordance with the requirements of this article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building previously existing before enlargements or for existing buildings that undergo a change in use.
- D. Non-Conforming Use. Voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, even though non-conforming, is allowed and encouraged.
- E. Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.
- F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the City Superintendent or his authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Building Official or his authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
 - 1. Up to fifty percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
 - 2. Up to one hundred percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature.
- H. Conditions Required for Joint Use. The building for which application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.

The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.

The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
Bowling alleys.	Five per alley.
Medical and dental clinic.	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service.	One per 400 square feet of gross floor area.
Offices not providing on-site customer services.	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Mortuaries.	One per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries.	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums.	One per 500 square feet of gross floor area.
Schools, elementary and junior high, public, private or parochial.	One per each employee.
School, high school, public or private.	One per each employee and one per 5 students.
Service stations and drive-in restaurants.	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.
Residential, single-family.	2 per dwelling unit.
Residential, duplex or multi-family.	2 per dwelling unit for first 4 dwelling units, then 1.5 for each dwelling unit thereafter.
Boarding houses and similar uses.	One per dwelling unit or lodging unit.

Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals.	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Food or beverage places with sale and consumption on premises.	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores.	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service.	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named.	One per 500 square feet of gross floor area.
Retirement homes, housing projects for senior citizens.	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels, hotels and motor courts.	One per sleeping room.
Hospitals and institutions.	One per 3 beds plus one per 3 employees.
Theaters.	One per 10 seats.
Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.
Stadiums, sport arenas and similar open assemblies.	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.
*In calculating minimum required parking, gross floor area shall not include car ports and garage areas.	

- K. **Traffic Control Devices.** All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
- L. **Screening Required.** Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property. Such screening shall be located no closer than three feet from the property line and shall be properly maintained.
- M. **Lighting Restrictions.** Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
- N. **Maintenance.** Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.
- O. **Off-Street Loading Warehouse and Wholesale.** Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.
- P. **Off-Street Loading, Retail and Commercial.** In any building or part thereof having a gross floor area of 10,000 square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional loading space for each 20,000 square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height.

Sec. 30.52. - Fences and hedges.

- A. **Heights.** Fences, walls and hedges may be erected or maintained in any residential zoning district provided that no fence, wall or hedge over four (4) feet in height shall be erected or maintained in any front street or side street, or the side yard extending from the foremost edge of the house to the point where the side yard line intersects the front street or side street lot line. Fences and walls located along side yards from the foremost edge of the house to the rear lot line, and along the rear lot line, shall not exceed a height of six (6) feet.

Height, for the purpose of this section, shall be defined as the vertical distance from the top rail, board, wire, or top of hedge to the ground directly below.

- B. **Visibility at Alley and Private Drive Approaches.** On the street side of all lots where an alley or driveway enters the street right-of-way, a triangular clear vision zone shall be maintained. Said zone shall measure ten (10) feet into the lot as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley or driveway, along the edge of the sidewalk nearest the property line. No fence, wall, hedge, or shrub over three (3) feet in height shall be erected or maintained within the above defined clear-vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.

Regardless of other provisions of this section, no fences, wall, or hedge which materially impedes vision of vehicles entering an abutting street shall be erected or maintained.

- C. **Prohibited Fences.** No electric fences shall be permitted in any zoning district. No barbed wire fence shall be permitted in any residential zoning district.
- D. **Prohibited Locations.** No fence, wall or hedge shall be erected or maintained in a public street or right-of-way.
- E. **Prohibited Materials.** All fences shall be constructed from approved fencing materials and shall not be constructed from railroad ties, rubble or salvage.

Sec. 30.53. - Animals.

Prohibited Animals. No livestock or fowl as defined in Article II of this ordinance, may be kept or maintained in any zoning district in the city, except for licensed veterinarian services, and except for those kept pursuant to permit obtained pursuant to Section 4-2 through the office of the Sanitarian.

Sec. 30.54. - Motor vehicles or parts.

All inoperable motor vehicles or any parts thereof parked or stored in the open on any property for a period exceeding five (5) days will not be allowed and will be deemed a public nuisance. Any vehicle that is judged to be abandoned will be removed in accordance with the Livingston City Ordinances.

Sec. 30.55. - Home occupations.

A. General.

1. It is the intent of this ordinance to permit home occupations that meet the following criteria in any residential district. No other home occupations except those meeting this criteria will be allowed. Nonconforming home occupations shall meet the criteria within one year from the effective date of this ordinance.
2. The purpose of this ordinance is to protect the residential characteristic of the neighborhoods in Livingston. It is to ensure that the home occupations which are allowed to operate will not impose any burdens on the neighboring landowners.

B. Definitions.

1. A home occupation is defined as any business or commercial activity that is conducted or petitioned to be conducted from a property which is zoned for residential use and which meets the conditions set forth in Section 30.55.C and Section 30.55.E.1. However, a medical marijuana facility is hereby specifically excluded from consideration as a home occupation.
2. A home occupation permit is a permit issued for a home occupation that is authorized by Section 30.55.E without hearing.
3. A home occupation conditional use permit is a permit authorized by the City ~~Board of Adjustment~~ Commission only after a public hearing by the Board.

C. Criteria. Home occupations must fit all of the following criteria:

1. No person shall be employed other than the residents of said dwelling.
2. The occupation shall be conducted wholly within the dwelling or within an accessory building located on the property.
3. The gross floor area devoted to the occupation shall not exceed fifteen (15) percent of the total gross floor area of the dwelling unit plus accessory buildings on the property.
4. The occupation shall not impose upon adjacent residences unreasonable burdens due to noise, vibration, glare, fumes, odors, hours of operation, traffic, or electrical interference. The above shall not be detectable by normal sensory perception beyond the dwelling or accessory building in which the business is located.
5. Direct sales of products off display shelves or racks is not allowed, but a person may pick up an order which was placed earlier by telephone or at a sales party.
6. There shall be no signs erected other than those allowed by this ordinance in residential districts.
7. A minimum of one off-street parking space for each business related vehicle shall be provided on the property. Each parking space shall meet minimum standards for off-street parking established elsewhere in this code.
8. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.

- 9. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, except for the permitted sign.
- 10. Outdoor storage of materials for the home occupation is prohibited.
- 11. No toxic, flammable, hazardous, or explosive industrial substances shall be used or stored on the premises unless registered with the Local Emergency Planning Committee. Said premises shall be subject to regular fire inspections.
- 12. No home occupation shall be permitted without the prior issuance of a home occupation permit or home occupation conditional use permit.

D. Enforcement.

- 1. The permit shall be valid only for the proposed business as operated by the applicant. The permit shall be non-transferable either to another property or to another owner or operator. It may be revoked upon sufficient showing that a permit holder is violating the terms of the permit.
- 2. The business shall be subject to regular inspections by the City Fire Marshal and/or the City Building Inspector. The inspections shall be done during regular business hours.
- 3. The Building Official shall be responsible for enforcing this section of this ordinance, and shall report any violations to the Livingston City Attorney.

E. Compliance. It is the intent of this subsection to provide the Building Official with the means to enforce the Home Occupation section of this ordinance.

- 1. Businesses shall be divided into two categories based on the expected impact they will have on the residential neighborhood they are proposed for.
 - a. A Major Home Occupation is one which can be expected to have some impact on the neighborhood it is proposed for. It is one which has some visible evidence of the occupation and shall accommodate both the residential and business related parking needs on the property. Additional characteristics include:
 - (1) The business may have a sign; or
 - (2) The business may create some additional traffic for deliveries and customers.
 - b. A Minor Home Occupation is one which has no visible exterior evidence of the conduct of the occupation, which does not generate additional traffic, and in which no equipment other than that normally used in household, domestic, or general office use. Additional characteristics may include:
 - (1) The business shall not have a sign.
 - (2) No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.
 - (3) No hazardous, flammable, explosive or toxic industrial substances may be used in a minor home occupation.
- 2. All Home Occupations in existence at the time of the adoption of this Ordinance and all new home occupations which fit the criteria of a minor home occupation shall be required to get a Home Occupation Permit.
 - a. The purpose of the Home Occupation Permit is to ensure compliance with this section of the Ordinance.
 - b. The Home Occupation Permit may be issued by the ~~Building Inspector~~Zoning Coordinator upon application by the owner of a Home Occupation.
 - c. The application shall be accompanied by a floor plan for the residence with the area to be used for the business clearly marked.

~~d. The application shall be accompanied with a fee of twenty dollars (\$20.00) to cover processing.~~

3. All new Major Home Occupations shall be required to be reviewed by the City ~~Board of Adjustment~~Commission for a Home Occupation Conditional Use Permit.

a. The Home Occupation Conditional Use Permit process shall be initiated by application to the City Zoning Administrator.

b. The Zoning Administrator shall review the application for completeness and prepare it for review by the City ~~Board of Adjustment~~ Commission.

c. The Zoning Administrator shall schedule a public hearing, advertise it two (2) times beginning at least fifteen (15) and not more than thirty (30) days prior to the public hearing date.

d. The Zoning Administrator shall notify the adjoining landowners within three hundred (300) feet of the proposed Home Occupation location, on the proposed business, and the date of the public hearing by mail at least fifteen (15) days prior to the date of the public hearing. The request shall be posted on the property at least ten (10) days prior to the public hearing.

e. The City ~~Board of Adjustment~~ Commission shall conduct the public hearing and decide on the application.

f. The City ~~Board of Adjustment~~ Commission shall have the power to require any mitigating measures it deems necessary to protect the public health, safety and welfare.

~~g. The Special Review shall have a fee of fifty dollars (\$50.00).~~

(Ord. No. 2022, § 3, 9/7/10)

Sec. 30.56. - Mobile homes.

A. Residential Mobile Homes. Mobile homes are permitted in approved mobile home (RMO) parks and R-II (MH) districts only. No mobile homes shall be placed in other zoning districts except those specified in Section 30.56B.

Any mobile home or replacement of any existing mobile home moved onto a site in one of the approved zoning districts must contain a minimum of eight hundred (800) square feet, and must meet all of the following requirements before a Certificate of Occupancy can be issued by the Building Official:

- A) All mobile homes must be completely skirted.
- B) All mobile homes must be securely anchored at all four corners.
- C) The running gear must be removed.
- D) The tongue must be removed.
- E) All mobile homes must be placed on a permanent foundation. For the purpose of this part, a permanent foundation means a foundation system which has been designed and certified by a professional engineer or architect, or which has been specified by the mobile home manufacturer.

B. Commercial Use. Mobile homes shall not be utilized for any commercial use, other than an on-premises office in connection with a mobile home sales business or as a temporary job shack located on a construction site. Such job shack must be removed within ten (10) days after completion of construction.

(Ord. 1813, 8/21/95)

Sec. 30.56.1. - Manufactured homes.

- A. Manufactured homes are permitted in all residential zoning districts. Any manufactured home or replacement of any existing manufactured home must contain a minimum of one thousand (1,000) square feet.
- B. All manufactured homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- C. A manufactured home of less than 1000 square feet may be placed if it meets all of the following conditions:
 - a. The structure is on a permanent foundation.
 - b. The tract or parcel of land for the proposed use must be owned by a unit of local government or a community housing development organization.
 - c. The home must be used to provide affordable housing to households earning less than 80% of the area median income.
 - d. A management plan from the local government or community housing development organization addressing the following factors is submitted to the City Administration and City Commission:
 - i. Affordability plan (including proposed rents).
 - ii. Management plan (including client eligibility and intake).
 - iii. Proposed deed restrictions to be placed on the property requiring adherence to approved affordability plan.

(Ord. 1813, 8/21/95)

Sec. 30.57. - Commercial buildings in residential districts.

Whenever a commercial building is permitted in a residential district, either as a matter of right or by special use permit, that building must meet the density requirements of the residential zone in which it is located, except for the off-street parking requirements. The minimum off-street parking requirement will be established by the Building Official in accordance with Section 50.51.

Sec. 30.58. - Townhouses.

- A. Townhouses are permitted in RII, RII(MH) and RIII districts only.
- B. All townhouse development must comply with the density and setback requirements set forth in Table 30.41, the off-street parking requirements found in Section 30.51, and all other applicable regulations.

(Ord. 1798, 12/19/94)

Sec. 30.59. - Landscaping regulations.

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for new or altered commercial, industrial, R-III and RMO Zones in order to minimize the visual impact upon public rights-of-way and incompatible uses in said zones and adjacent or abutting R-I or R-II Zones as well as establishing minimum buffering requirements between new or altered commercial, industrial, R-III and RMO Zones and existing incompatible uses and abutting or adjacent R-I or R-II zones and to lessen the impact of lighting.
- B. Definitions. For the purposes of this section, the following definitions shall apply:
 - 1. "Ornamental tree" means any variety of tree which is not expected, at maturity, to reach a height of fifteen (15) or more feet nor be a substantial provider of shade.

2. "Shade tree" means any variety of tree which is expected, at maturity, to be in excess of twenty-five (25) feet in height and sufficiently full in form to provide substantial shading effects.
 3. "DBH" means diameter at breast height.
- C. Prohibition. No land shall be used or occupied and no structure shall be designed, erected, used, occupied or altered where a building permit is required, nor shall any variance or special exception be granted, except in conformity with the regulations established in this section.
- D. General Landscaping Requirements. Landscaping shall be required as follows:
1. Parking or Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
 2. Requirements for the Interior of Parking Areas.
 - a. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.
 - b. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan. The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking space area. (i.e., 1 parking space = 180 square feet. Landscape requirement = 5% × 180 × number of spaces.) When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island will contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.
 3. Buffering Required Between Different Land Uses. Where commercial, industrial, multi-family or mobile home park land uses abut or are adjacent to lower density residential land uses or zones, either directly or when separated by an alley or street right-of-way or other natural or manmade structure, the commercial, industrial, multi-family or mobile home park use will provide a landscaped buffer zone screening itself from the lower density residential use.
 - a. Buffer Zone. The buffer zone shall be a minimum of five (5) feet in width with an additional five (5) feet required for each story of the commercial, industrial or multi-family use above one (1) story, not to exceed twenty-five (25) feet in width.
 - b. Screening. Screening shall be installed within the buffer zone which shall consist of vegetation or vegetation and a combination of berm, fencing or masonry walls to a minimum height of six (6) feet in a manner which does not create a safety hazard for vehicular or pedestrian movement or interfere with the requirements of Section 30-52(B) of the Livingston Municipal Code.
 - c. Shade Trees. In addition, a minimum of one (1) shade tree within each two hundred fifty (250) square feet of buffer zone shall be required. Shade trees required hereunder shall be a minimum of two and one-half (2 ½) inches, DBH, in size at the time of planting.
- E. Purpose of Lighting Restrictions. The goal in regulating exterior illumination is to direct, to the maximum extent possible, all artificial light onto the property from which it originates. This section does not apply to street lighting provided by a governmental agency.

1. Parking or Storage Area. In any area required to buffer itself from adjacent land uses, all exterior lighting shall be limited in height to no more than sixteen (16) feet and will be required to be of a design which directs light downward through the use of a directional shade.
 2. Signs and Decorative Lighting. In commercial and industrial areas adjacent to any land use from which it must be buffered, the following lighting regulations shall apply:
 - a. Internally Illuminated Signs. Internally illuminated signs shall not exceed sixteen (16) feet in height. Internally illuminated canopies or structural panels are prohibited. Alternately, spot-lit signs, canopies or panels may be approved at standard heights if they will not adversely effect neighboring property which determination rests with the discretion of the city planning office, subject to appeal to the Board of Adjustment.
- F. Penalty. A violation of this section is a misdemeanor punishable by fine not to exceed five hundred dollars (\$500.00). Each day that a violation is allowed to continue shall be deemed a separate and punishable offense.

(Ord. 1852, 4/21/97)

Section 30.60.- Sexually oriented businesses.

No sexually oriented business shall be operated or maintained within the corporate limits of the City of Livingston except within the Industrial Zone with the further limitation that no sexually oriented business shall be front on Park Street and shall be set back from Bennett Street a minimum distance of two hundred fifty (250) feet. No sexually oriented business shall be operated or maintained within six hundred (600) feet of either a City or County residential zone, a church, an elementary or high school, a State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business. The distance limitation in this section shall be measured in a straight line from the main public entrance of said sexually oriented business to the property line of properties in residentially zoned districts, churches, elementary or high schools, State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business.

Sec. 30.61. - Wind powered generators.

A. Definitions.

1. "Wind Powered Generator(s)" or "WPG" means any device, such as a wind charger, wind mill, or wind turbine, and associated facilities including the support structure of the system, such as a tower, that covers wind energy to electrical energy which has been certified to conform to applicable industry standards by a nationally recognized certifying organization such as Underwriters Laboratories or similar certifying organization.
2. "Wind powered generator height" means the height of a freestanding WPG shall be measured from the ground level to the highest point on the WPG, including the vertical length of any extensions of the WPG, such as the blade.
3. "Tower", as used herein, includes the support structure and all components of the WPG.

B. Special Exception. Wind-powered generators (WPG), as defined herein, are permitted upon the issuance of a Special Exception permit within any zone, provided the following standards, and any related conditions imposed by the Board of Adjustment, are satisfied. No WPG, or modification thereto, shall be constructed within the City of Livingston, unless a permit has been issued by the City.

1. The permit application shall be accompanied with a non-refundable fee in the amount of one hundred dollars (\$100.00).
2. The permit application shall contain a narrative describing the proposed project, the project location, the approximate generating capacity of the facility, a site plan, a photograph of the same type of wind powered generator being proposed and whether the system will be standalone or

interconnected to a public utility under the provisions of 69-8-601 et seq. Montana Code Annotated.

- C. **Maximum Height.** The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or less is limited to sixty (60) feet in height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or more is limited to one hundred (100) feet in height.
1. The Board of Adjustment may increase the height of freestanding WPG, provided that in the residential and commercial, districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall demonstrate, to the Board of Adjustment's satisfaction, that the surrounding topography, structures, vegetation, and other factors make a tower that complies with the height restrictions impractical.
 2. Notwithstanding the height limitations of the zoning district, building mounted WPG shall be permitted in all zoning districts, subject to approval by the Board of Adjustment, and shall comply with the following standards:
 - a. Building mounted WPG shall not exceed fifteen (15) feet in height.
 - b. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
 - c. On nonresidential buildings less than four (4) stories and forty-two (42) feet in height, building mounted WPG shall be setback at least ten (10) feet from the front, side, and rear exterior walls of the structure on which it will be mounted.
 - d. Building mounted WPG shall be installed on the top story.
 - e. The structure upon which the proposed WPG is to be mounted shall have the structural integrity to carry the weight and wind loads of the WPG and have minimal vibration impacts on the structure, as determined by a structural engineer.
 3. **Minimum ground clearance.** The blade tip of any WPG shall, at its lowest point, have ground clearance of no less than fifteen (15) feet.
- D. **Minimum Setback.** Minimum setback from any property line shall be one hundred (100) percent of the total tower height, as defined herein and no guy wire may extend close than thirty (30) feet from any property line. No part of the wind generator shall extend over, or across, any part of a public right-of-way.
- E. **Noise Standard, Shadow Flicker and Signal Interference:**
1. Any noise produced by a WPG, permitted under this Section, shall be less than sixty (60) db as measured from the closest neighboring occupied building; and it is incumbent upon the applicant to demonstrate compliance prior to the issuance of any permits by the Board of Adjustment.
 2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building not on the property upon which the WPG is located.
 3. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind powered generators.
- F. **Fencing Requirement and Warnings.** All WPG installations, other than single-pole towers, shall be enclosed by a fence with locking gate, or incorporate other effective measures to discourage unauthorized climbing of the tower. Towers shall not be climbable up to fifteen (15) feet above ground surface. A visible warning sign concerning voltage must be placed at the base of all towers. Reflective and brightly colored tubing shall be placed on guy wires up to a height of ten (10) feet from the ground.
- G. **Control and Brakes.** All wind powered generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.

- H. Liability insurance: Construction Phase. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate. Certificates of insurance shall be filed with the City of Livingston who will also be named as an additional insured.
- I. Aesthetics. WPG colors shall be of neutral subdued tones such as each tones or green or brown. Gray, including darkening galvanized gray, is also acceptable. If constructed on top of structure and visible from the ground, the WPG colors shall be a shade of sky blue. WPG shall not be finished in bright or vivid colors intended to draw attention to the structure or property. WPG shall not be illuminated by artificial means, except where required by the Federal Aviation Administration, or other federal, state, or local law.
 - 1. All permitted WPG shall be placed in a reasonably available location that will minimize the visual impact on the surrounding area, and allow the facility to function in accordance with the standards established by this Section, and all other federal, state, and local law.
 - 2. Wind towers shall not display any advertising, except for reasonable identification of the manufacturer and facility owner/operator, not to exceed one (1) square foot in size.
- J. Building, Electrical, Other Permits. All WPG shall comply with all applicable building, electrical, mechanical, and other permits required and issued by the City of Livingston, the State of Montana and/or federal regulations. This is to include any approvals required from the Historic Preservation Commission, or other local entity.
- K. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the Board of Adjustment, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of Adjustment may waive those requirements while still satisfying the original intent and application of this Section. Once every two (2) years, the City shall review existing WPG technology for comparison to this Section, to be sure technological improvements are addressed.
- L. Requirements for Removal. Any WPG that is abandoned, damaged, inoperable, or unused for power generation shall be removed within twelve (12) months of the cessation of operations, unless an extension is approved by the Board of Adjustment. If such an extension is not approved, such WPG shall be deemed a nuisance and require its removal at the property owner's expense. After the WPG removal, the owner of the site shall restore the site to its original, or an improved, condition.
- M. Application of Nuisance Law. If, after a Special Exception permit is issued, by the Board of Adjustment for a WPG, and the same WPG fails to comply with any part of this Section, it may deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.

(Ord. No. 2002, § 1, 8/4/08)

Editor's note— Ord. No. 2002, § 1, adopted Aug. 4, 2008, amended Ch. 30 with the addition of a new, unnumbered section. Said section has been numbered § 30.61 at the discretion of the editor.

Article VII. - Zoning Commission ~~and Board of Adjustment~~

Sec. 30.70. - Zoning commission.

There is created for the City of Livingston a Zoning Commission as provided by statute, consisting of five (5) citizen members, appointed by the Chairman and subject to the confirmation of the City Commission. Terms of each member shall run concurrent with the term of the Chairman.

- A. Powers and Duties. The duties and powers of the Zoning Commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and to make recommendations to the City Commission on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and

boundaries in the zoning districts. The City Commission shall not hold its public hearings or take action until it has received a final report from the Zoning Commission.

- B. Proceedings of the Zoning Commission. The Zoning Commission shall hold its meetings in the City-County Complex and the presence of three (3) members shall constitute a quorum.

The Zoning Commission shall keep minutes of their proceedings, showing the vote of each member, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Zoning Coordinator. The official minutes of the Zoning Commission's proceedings shall be signed by the Chairman or acting chairman and attested to by the secretary.

(Ord. 1868, 2/2/98)

Sec. 30.71. - Amendments to City zoning ordinance and zone change.

- A. General. This chapter, including the Official Zoning Map, may be amended by the City Commission by a regular ordinance amendment, but no amendment shall become effective unless it shall have been submitted to the City Zoning Commission for review according to the procedures in Section 30.71E and recommendation.
- B. Applications for Map Amendments and Amendments to Text. Unless initiated by the City Commission or the Zoning Commission, all applications for Official Map amendments must be submitted by the owner of such property. An application for an amendment affecting the same property shall not be submitted more often than once every twelve (12) months.

Each application to amend the Official Map shall be filed with the Zoning Coordinator, and each application shall be submitted under the following conditions:

1. It shall include but not be limited to the following information:
 - a. A legal description of the tract(s) proposed to be re-zoned;
 - b. A map showing the dimensions, acreage and location of the tract(s) and adjacent land uses;
 - c. The names and addresses of the owners of the adjacent land;
 - d. A receipt showing payment of all applicable fees to the City.
 2. In the case of an application to amend the text of this chapter, the application shall include the proposed change of the text and that portion of the text proposed to be changed.
 3. An application for amendment to the Official Map or text shall be submitted at least twenty (20) days prior to the date of the public hearing before the City Zoning Commission.
 4. An application for a zone change may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission. An applicant may be allowed to withdraw at the time of the Zoning Commission hearing by a majority vote of the members present without requiring City Commission approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
- C. Zoning Coordinator's Study and Responsibility. The Zoning Coordinator, upon receiving an application for re-zoning of an area or a particular piece of property or for an amendment to the text shall do the following:
 1. Consult with other departments of the City or County to evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;

2. Study each application with reference to its appropriateness and effect on existing and proposed land use;
 3. In the case of a protest petition filed in the matter of an application for re-zoning, determine the validity of such petition;
 4. Advertise in the legal newspaper fifteen (15) days in advance of the time and place of the public hearing, at the same time, publish a site map of the subject property in the legal newspaper.
 5. Notify, by certified, return receipt requested mail, the applicant and all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the re-zoning: of the time, date, place of the public hearing and the existing and proposed land use classification. Such notification shall be mailed to the applicant and the surrounding property owners no sooner than ten (10) days and no later than five (5) days prior to the date of the public hearing. Post the subject property not less than five (5) days prior to the public hearing. Posted notice shall include the nature of the change being requested as well as the time, date and location of the public hearing;
 6. Report the findings and conclusions, in writing, to the City Zoning Commission. Such report shall be a matter of public record, and shall be forwarded to the City Commission with the Zoning Commission's recommendation.
- D. City Zoning Commission Action. The City Zoning Commission shall review and take action upon each application in accordance with the provisions of this article, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the Zoning Commission by the Zoning Coordinator, together with his findings and conclusions on the matter. A written report of the Zoning Commission's decision and the Zoning Coordinator's findings and conclusions including the basis for the decision shall be submitted to the City Commission.

The City Zoning Commission shall make a recommendation to the City Commission to:

1. Deny the application for amendment to the Official Map; or
2. Grant the application for amendment to the Official Map; or
3. Delay action on the application for a period not to exceed thirty (30) days.

The City Zoning Commission shall use Roberts Rules of Order for the conduct of public hearings and meetings.

No member of the Zoning Commission may vote on any request which he or she or any partner has worked, or in which he or she or any partner has any financial interest or ownership.

The recommendation of the Zoning Commission and the time and place of the City Commission's hearing shall be published in the newspaper at least fifteen (15) days prior to the date of the hearing by the City Commission. The City Commission may vote upon the first reading of the amendment at the same meeting at which the public hearing is held. Such a vote may only be taken after the public hearing is held.

- E. City Commission Public Hearing. Before taking action on an application for an amendment to the Official Map, and after presentation of the Zoning Commission report, the City Commission shall hold a public hearing on the application.

In case, however, of a valid protest petition against such change signed by the owners of twenty (20) percent or more either of the area of the lot included in such proposed change, or of those immediately adjacent in the rear of extending one hundred fifty (150) feet from the street frontage of such opposite lots. Such amendment shall not become effective except by the favorable vote of two-thirds (2/3) of all the members of the City Commission.

When such proposed amendment has been denied by the City Commission neither it nor one involving the same tract(s) shall be offered for adoption within one (1) year after such denial.

(Ord. 1861, 6/16/97; Ord. 1868, 2/2/98; Ord. No. 2004, § 1, 8/4/08)

Sec. 30.72. - Reserved.

Editor's note— Ord. No. 2004, § 1, adopted Aug. 4, 2008, repealed § 30.72 which pertained classification of newly annexed area and derived from Ord. No. 1868, adopted Feb. 2, 1998.

Sec. 30.73 - Hearings, Appeals, Notices

~~AB. Appeals.—Hearings, Appeals, Notices.~~ The City commission shall hear and decide appeals where it is alleged that there is an error in any order requirement, decision, or determination made by an administrative official in enforcement of the City's zoning regulations.

The City Commission shall fix a reasonable time for the hearing of appeal not to exceed thirty (30) days, give public notice thereof as well as due notice to the parties in interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At the hearing any party may appear in person or by attorney.

~~BC.~~ Appeals: Stay of Proceedings. An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the City Commission after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property.

~~CD.~~ Decisions, Appeals Re-Hearing. In exercising the ~~above-mentioned~~~~above-mentioned~~ powers, City Commission may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the City Commission shall be necessary to reverse any order, requirement, decision, or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution.

Any person or persons, jointly or severally, aggrieved by any decision of the, City Commission made under this part, or any taxpayer, or any officer, department, or board of the City may present to a court of record a petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision in the office of the City Commission.

If an application for an administrative review is denied by the City Commission, another application shall not be filed within a period of one year from the date of denial, except upon the initiation of the City Commission after a showing of a change of circumstances which would warrant a re-hearing.

(Ord. No. 2004, § 1, 8/4/08)

Sec. 30.74. - Variances—application procedures.

A. Applications. An application for variance shall be filed with the Zoning Coordinator under the following conditions:

1. The application shall include, but not be limited to the following:
 - a. A legal and general description of the tract(s) upon which a variance is sought.
 - b. The name and address of the owner(s) of the land subject to the variance.
2. The applicant shall present a map showing the location of the property for which the application is submitted, and its relationship to adjoining property.
3. The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:

- a. The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelizations and traffic circulation, and;
 - b. The location and size of all existing and proposed buildings, structures, and improvements, and;
 - c. The existing buildings, structures, and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures, and improvements shall be labeled as such and indicated by a dashed or dotted line.
4. The reason why the variance is being sought.
 5. Be accompanied by proof of payment of all applicable fees.
 6. An application for a variance may not be withdrawn or amended by the applicant after the legal advertising as required by this article shall have first appeared.
- B. Zoning Coordinator Action. The Zoning Coordinator, upon receiving an application for a variance, shall do the following:
1. Consult with other departments of the City to fully evaluate the impact upon public facilities and services.
 2. Study each application with reference to its appropriateness and effect on existing and proposed land uses.
 3. Place notice of the time, date and place of the public hearing in a newspaper of general circulation at least fifteen (15) days in advance of the date set for the public hearing.
 4. Notify the applicant and property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date and place of the public hearing and the proposed variance on the subject property at least ten (10) days prior to the date of the public hearing.
 5. Place a notice of the time, date, and place of the public hearing on the property at least ten (10) days prior to the hearing date.
 6. Report the findings to the City Commission.

CD. The City Commission may authorize upon appeal in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

Under no circumstances shall the City Commission grant a variance that would allow a use not permissible under the terms of the ordinance in the district involved. A variance shall not be a grant of special privilege inconsistent with the limitations placed upon property in the district.

The City Commission may prescribe a time limit within which the action for which the variance is required shall be begun or completed, or both. Failure to begin or complete such action within the time limit set shall void the variance.

(Ord. No. 2004, § 1, 8/4/08)

Sec. 30.75. - Special exceptions.

A. General. Special Exceptions for uses other than those specifically permitted in each district, are intended to provide, in appropriate cases, and subject to appropriate conditions and safeguards, to be Special Exceptions to the terms of the Zoning Ordinance of the City of Livingston, when granted in harmony with its general purposes and intent of the ordinance.

No Special Exceptions shall be granted by the City Commission unless the ~~y~~ Board of Adjustment finds:

1. The use will not place a substantial adverse affect upon nearby properties or their occupants.
2. That the proposed use is in harmony with the general purposes and intent of the zoning ordinance.
3. If desired, the City Commission may add such requirements as it deems necessary to protect the surrounding neighborhood from the effects of the granted Special Exception.

B. Applications. An application for a Special Exception must be filed by the property owner.

Such application shall be filed with the Zoning Coordinator and shall be submitted under the following conditions:

1. The application shall include, but not be limited to the following information:
 - a. A legal and general description of the tract(s) upon which the Special Exception is sought.
 - b. The map showing the dimensions, acreage and location of the tract(s).
 - c. The name and address of the owner(s) of the tract(s).
 - d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading, when required, service and refuse areas; means of ingress and egress; landscaping, screening signs, and open space areas.
 - e. A time schedule for development.
 - f. Any other information the applicant believes will support his request.

The application must be submitted to the Zoning Coordinator. Proof of payment of all applicable fees from the City must accompany all applications. No application defect shall effect the validity of any such application.

C. Zoning Coordinator Action. The Zoning Coordinator, upon receiving an application for a Special Exception shall do the following:

1. Consult with other departments of the City and/or County to fully evaluate the impact of the use(s) contemplated under the application upon public facilities and services.
2. Study each application with reference to its appropriateness and effect on existing and proposed land uses.
3. Place a notice of the time, date, and place of the public hearing before the appropriate body in the legal newspaper of the City at least fifteen (15) days in advance of the date of the public hearing.
4. Notify the applicant and property owners by first class mail, within three hundred (300) feet of the exterior boundaries of the tract(s) of the proposed Special Exception area of the time, date, place of the public hearing and the proposed use(s) of the subject property at least ten (10) days prior to the date of the public hearing.

D. City Commission Action. The City Commission shall consider each application in accordance with provisions of this Article, and at a public hearing at which time the application has been legally advertised. Each application shall be presented by the Zoning Coordinator, together with conclusions and recommendations.

The City Commission shall:

1. Deny the application for a Special Exception, or
2. Grant the application for a Special Exception, or
3. Delay action on the application for a period not to exceed thirty (30) days, or
4. Grant the application with special conditions and safeguards.

(Ord. No. 2004, § 1, 8/4/08)

Article VIII. - Administration and Enforcement

Sec. 30.80. - Building official.

~~The Building Official shall enforce building codes as adopted by the City of Livingston. The provisions of this ordinance shall be enforced by the Building Official, subject to such variations or interpretations as may be made by the Board of Adjustment.~~

The Building Official shall:

- 1. Issue building permits for all construction, alteration, demolition, or movement of buildings or structures ~~after first determining that all applicable provisions of this ordinance are complied with.~~
- 2. Conduct inspections as are necessary to ensure compliance with the provisions of this ordinance.
- ~~3. Institute appropriate action or proceedings to prevent or correct unlawful construction, alteration, or movement of buildings or structures or unlawful occupancy of buildings, structures or land.~~

Sec. 30.81. - Zoning coordinator.

The Zoning Coordinator shall enforce, administer, and coordinate the Zoning Ordinance for the City of Livingston, additionally the Zooning Coordinator shall:

- 1. Issue Zoning Permits for all construction, expansion, or movement of buildings or structures.
- 2. Issue Sign Permits for the placement of signs.
- 3. Process amendments to the Official Zoning Map.
- 4. Process amendments to the text of the Zoning Ordinance.
- 5. Process Special Exception Applications.
- 6. Process Variance Applications.
- 7. Conduct inspections as are necessary to ensure compliance with the provisions of this ordinance.

~~The Zoning Coordinator shall supervise and facilitate the processing of applications for amendments to the Official Zoning Map, Special Exceptions, and requests for variances. Further, it shall be the responsibility of the Zoning Coordinator to present any applications or requests to the appropriate board. It shall further be the responsibility of the Zoning Coordinator to aid the various boards and departments in transmitting recommendations, records, and reports to the City Council and to otherwise promote procedural regularity in the administration of this ordinance.~~

~~The Zoning Coordinator shall not have authority to act in any final reviewing capacity and any question as to interpretation or enforcement shall be determined by the appropriate body.~~

Sec. 30.82. - Procedure in abatement of violation.

If on any inspection the condition of a building or premises, or its use or occupancy is found not to conform to the provisions of this ordinance, the ~~Building Official~~ written notice shall ~~be issued~~ written notice to the owner or tenant, specifying the manner in which the building or premises, or its use or occupancy fails to conform, and the owner or tenant shall take steps to make it conform as directed by the Building Official or Code Compliance Officer.

Appeal from the actions of the Building Official or Code Compliance Officer shall be made ~~with the Board of Adjustment~~ in conformance with the provisions of Article VII of this ordinance.

Sec. 30.83. - Penalties for violation.

Violation of the provisions of this ordinance or failure to comply with written notice of correction shall constitute a misdemeanor. Any person who violates this ordinance or fails to comply with any of its

requirements shall upon conviction thereof be fined not more than \$500 or imprisoned for not more than six (6) months, or both. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation or to bring an action to enjoin any violation of this ordinance.

Sec. 30.84. - Investigation fee.

Whenever work for which a variance is required has commenced without first obtaining a variance, an investigation fee, in addition to the variance filing fee, shall be charged. The investigation fee shall be Fifty Dollars (\$50.00). The fee must be paid prior to submission of a variance application. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this ordinance, nor from any penalty prescribed by law.

Article IX. - Conflict ~~w~~With Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees, ~~Effective Date~~

Sec. 30.90. - Conflict with other laws.

In their interpretation and application, the provisions of this chapter shall be held to the minimum requirements adopted for the promotion of the public health, safety and general welfare. Whenever the requirements of this chapter are in variance with requirements of any lawfully adopted rules, regulation, ordinance deeds, restrictions or covenants, the most restrictive, or that imposing the higher standards, shall govern.

Sec. 30.91. - Separability clause.

If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Sec. 30.92. - Repeal of conflicting ordinances.

All ordinances or parts of the ordinance in conflict herewith are hereby repealed to the extent necessary to give this chapter full force and effect.

Sec. 30.93. - Schedule of application fees.

~~Application fees shall be set by separate resolution.~~

~~The following fee must be paid to the City at the time an application is submitted:~~

~~Change of Zone \$575.00~~

~~Variance, Single Family Unit \$ 35.00~~

~~Variance, All Others \$100.00~~

~~Special Exceptions \$250.00~~

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the _____ day of July, 2021.

DOREL HOGLUND – Chair

ATTEST:

FAITH KINNICK
Recording Secretary

PASSED ADOPTED, AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the _____ day of August, 2021.

DOREL HOGLUND – Chair

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

PERMITTING FEE SCHEDULE FOR DEVELOPMENT OR REDEVELOPMENT OF PARCELS IN LIVINGSTON

Zoning and Site Plan (Planning Department)

- Zoning Permit:** \$500.
- Sign Permit:** \$500.
- Site Plan Review:** \$1000.
- Special Exception Permit:** \$500+ \$7/ property within 300 feet.
- Variance:** \$500 + \$7/ property within 300 feet.
- Zoning Map Amendment:** \$750 + \$7/ property within 300 feet.
- Zoning Text Amendment:** \$750.
- Plan Amendment:** \$750.
- Historic District Design Review:** None.

Building (Building Department)

- Building Permit:** See Building Permit Fee Schedule.
- Certificate of Occupancy:** None.

Subdivision (Planning Department)

- Subdivision Review:**
 - **First Minor Subdivision:** \$2000 + \$7/ adjacent property.
 - **Subsequent Minor Subdivision:** \$2000 + \$50/ proposed lot + \$7/ adjacent property.
 - **Major Subdivision:** \$2500 + \$50/ proposed lot + \$7/adjacent property.
 - **Final Plat (Major and Minor):** \$500.
 - **Amended Plat (no hearing required):** \$500.
 - **Amended Plat (hearing required):** \$1500 + \$7/ adjacent property.
 - **Preliminary Plat Extension:** \$250.
- Subdivision Exemption:** \$200.
- Condominium Exemption:** \$200.

Streets, Utilities, and Trees (Public Works Department)

- Infrastructure Plans and Specifications Review:**
- Street Cut Permit:** See Street Cut Permit.
- Sidewalk and Driveway Curb Cut Permit:**
 - Within 2 hr. zone: \$100.
 - All other locations: \$30.
- Public Right-of-Way Utility Occupancy Permit:**
- Boulevard Tree Removal/Pruning Permit:**
- Permit to Plant Trees:**

Business (Finance Department)

- Business License:** See Business License Application.

File Attachments for Item:

D. ORDINANCE NO. 3015: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II OF THE LIVINGSTON MUNICIPAL CODE ENTITLED CITY COMMISSION AND CHAIR, AMENDING SECTION 2-12 AS IT PERTAINS TO LOCATION OF CITY COMMISSION POSTING BOARD, AMENDING SECTION 2-16 AS IT PERTAINS TO THE PROCESS FOR SETTING AGENDA, AMENDING SECTION 2-19 BY PERTAINING TO THE PROCEDURE TO CONDUCT BUSINESS.

ORDINANCE NO. 3015:

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II OF THE LIVINGSTON MUNICIPAL CODE ENTITLED CITY COMMISSION AND CHAIR BY AMENDING SECTION 2-12 AS IT PERTAINS TO LOCATION OF CITY COMMISSION POSTING BOARD, AMENDING SECTION 2-16 AS IT PERTAINS TO THE PROCESS FOR SETTING AGENDA, AMENDING SECTION 2-19 BY PERTAINING TO THE PROCEDURE TO CONDUCT BUSINESS.

Article II. - City Commission and Chairman

Sec. 2-10. - Preamble.

Pursuant to [7-1-4142](#) Montana Code Annotated (MCA), the City Commission of Livingston Montana, hereby adopts its rules of procedure for its public meetings in which to conduct open, fair, efficient and orderly business to enact legislation and to encourage public participation in the City Commission decisions prior to final decision which may have a significant interest to the public and to preserve a public record of such proceedings.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-11. - Reserved.

Editor's note— Ord. No. 2019, § 1, adopted April 19, 2010, repealed § 2-11 which pertained to Robert's Rules of Order and derived from Ord. No. 1869, adopted Feb. 17, 1998; Ord. No. 1921, § 1(part), adopted Feb. 3, 2003, and Ord. No. 1962, adopted Feb. 21, 2006.

Sec. 2-12. - Posting board and notice.

The City Commission hereby designates the bulletin board attached to the wall of the **entryway** ~~hallway immediately outside of,~~ **between the two entry doors,** and to the left of door to the City Offices of City Hall located at **220 East Park** ~~414 East Callender Street,~~ Livingston, Montana as its official posting board for the purpose of posting public information. ([7-1-4135](#) MCA).

When notice of a public hearing or other official action is required, unless provided elsewhere in the statutes, notice shall be published twice with at least six (6) days separating each publication. The published notice shall contain the date, time and place at which the hearing or other action will occur, a brief statement of the action to be taken and the address and telephone number of the person who can be contacted for further information.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, 10/19/09; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-13. - Commission meetings.

- A. Open Meetings. All meetings of the City Commission shall be open to the public, except as provided by [2-3-203](#) MCA.
- B. Regular Meetings. The City Commission shall hold its regular meetings in the City Commission Chambers in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on the first and third Tuesdays of each month commencing at the hour of ~~5:30~~ 8:30 p.m. and ending at ~~9:30~~ 8:30 p.m. unless extended by a majority vote of the City Commission, provided, however, that when the day set for any regular meeting of the Commission falls upon a day designated by law as a legal holiday, such meeting shall be held at the same hour on the next succeeding day which is not a holiday. Nothing herein precludes the Commission from meeting at different time, date or location, provided, however, that adequate notice is given to the public.
- C. Work Sessions. The City Commission may meet at a set time and location for the purpose of a general work session with the City Manager. No official action may be taken at a work session, nor will minutes of such work session recorded. Work Sessions shall be open to the public unless otherwise properly closed to discuss topics for which closure is proper under Montana's Open Meeting Law.
- D. Public Hearings. When a matter is required by law to have a public hearing, or when a matter is set for a public hearing by the City Commission upon a motion of a City Commission person, duly seconded and passed, all public hearing will be held at a regular meeting of the Commission after due notice as required by law which notice shall specify the purpose of the hearing and the date, time and location thereof and invite the public to attend and make comments.
- E. Special Meetings. Special meetings of the Commission may be called by the Chairman, two members of the Commission or the City Manager upon at least twelve (12) hours written notice which shall state the date, time, location and subject of the meeting and shall be personally served upon each member of the Commission or left at his or her usual place of residence; a copy of said notice shall also be posted on the official posting board and delivered to the media. Special meetings of the Commission are not the preferred manner of conducting City business. The business of a special meeting must be restricted to the object stated in notice.
- F. Training Sessions. The City Manager shall hold a series of training sessions for newly elected City Commission members. The training sessions shall include, but not be limited to review of the City commission budget responsibilities, the role of the City Manager in hiring, supervising and discharging all employees, a review of the government and administration section of the Code of City Ordinances, a discussion and tour of facilities with each department head, and specific briefing on availability of the City Manager and staff to facilitate a City Commission member's responsibility. This Section shall also apply to Commission members elected by the City Commission to fill term vacancies.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2003, § 1, 7-21-08; Ord. No. 2016, § 1, 10/19/09; Ord. No. 2021, § 1, 8/16/10; Ord. No. [2051](#), § 1, 8/19/14)

Sec. 2-14. - Officers and duties.

- A. General. Election, voting, absence and vacancy. The City Commission shall annually elect a chair and a vice chair at the first meeting in January to serve until the next chair and vice chair are elected. The chair and vice chair shall retain all the rights and responsibilities held as a member of the commission, including the right to vote. The chair, or in his/her absence the vice chair, shall be the presiding officer at meetings of the commission. In the absence of both the chair and vice chair, the Recording Secretary shall call the meeting to order, call for the roll and the commission members present shall then appoint an acting chair to preside over the meeting.
- B. Chairman. The presiding officer of the City Commission shall be the Chairman who shall preserve strict order and decorum at all meetings of the Commission. The chairman shall assign each Commission member to a seat at the Commission table, as he or she may deem appropriate. The Chairman shall state, or cause to be stated, every motion coming before the Commission, announce the decision of the Commission on all subjects, and decide all questions of order, subject, however, to

an appeal to the Commission at large, in which event a majority vote of the Commission shall govern and conclusively determine such question of order.

- C. Vice Chairman. In the Chairman's absence or in the case of the Chairman's inability to act, the Vice Chair shall be designated by the Commission to perform the duties of the Chairman.
- D. Recording Secretary. The Recording Secretary shall record the proceedings of the City Commission and prepare and maintain permanent minutes of the Commission proceedings and shall file and preserve the recordings of the meetings and preserve and maintain the minutes and records in the City Office, which minutes and records shall be a public record; and shall be the custodian of the files and records of the Commission.
- E. Sergeant at arms. The Chief of Police, or such other officer may be designated by the Commission, shall be the Sergeant at Arms who shall assist the Chairman in preserving strict order and decorum at all meetings and shall keep track of the time when the chairman has place time limits upon a speaker's presentation.
- F. Procedure to fill Vacancy in office of City Commissioner. In the event of a vacancy in the office of City Commissioner under Section [7-4-4111](#), Montana Code Annotated, the City Commission shall use the follow process to fill the vacancy.
 - 1. The City Commission shall determine that a vacancy in the office of a City Commissioner has occurred at either the next scheduled regular meeting of the City Commission or at a duly noticed special meeting as a duly noticed agenda item.
 - 2. At the aforementioned meeting, the City Commission shall direct staff to publish in the local newspaper, once per week for two (2) successive weeks, and shall post on the City's official posting board a request to have interested person submit an application to fill said vacancy. The vacancy is required by law to be filled within thirty (30) days of the vacancy with the term being limited to the unexpired term of the person who created the vacancy.
 - a. The notice shall state the deadline for submitting applications which shall no more than fifteen (15) days from the date of first publication and that the following application is available from the City Offices:

APPLICATION FOR CITY COMMISSIONER

- 1. Name: _____
 - 2. Address: _____
 - 3. How long have you resided in Livingston _____
 - 4. Are you at least 18 years of age? Yes ___ No ___
 - 5. Are you a citizen of the United States? Yes ___ No ___
 - 6. Have you resided in the State of Montana for more than 30 days? Yes ___ No ___
 - 7. Have you resided in Park County for more than 30 days? Yes ___ No ___
 - 8. Have you ever been convicted of a felony? Yes ___ No ___
- Why do you want to be a city commissioner? _____

Do you have any prior experience in local government? If so, please describe? _____

Do you have any special qualifications which you believe would be an asset to the city commission?

What do you see as the most important needs facing the City of Livingston? _____

- b. The qualifications of the applicant which include that the applicant is a citizen of the United States, a resident of the City of Livingston for at least thirty (30) days, at least eighteen (18) years of age and a registered voter.
 - c. All applicants shall receive a letter acknowledging the receipt of their application along with a copy of the procedure to fill vacancy in the office of the City Commission:
3. The City Commission shall meet in a public session to review all applications to determine that the applicants meet the minimum qualifications as set forth by state law.
 4. The City Commission shall then notice a public meeting wherein all qualifying applicants are interviewed. Interviews of each applicant shall follow the same format. Questions for the candidates will be established by the City Commission in advance of the interview.
 5. Thereafter, the City Commission, at a regular meeting or a duly notice special meeting shall appoint by a majority vote a qualified person to fill the vacancy who shall serve the unexpired term of the person creating the vacancy and until a successor is elected and qualified at the next general municipal election.
 6. After appointment has been made, the City Commission will write a letter to all applicants thanking each applicant for their time and desire to serve the public in making the City of Livingston a better place to live.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-15. - Quorum.

A quorum shall consist of three (3) Commission members. However, an affirmative vote of a majority of the entire Commission shall be necessary to adopt or reject any motion, resolution or ordinance or pass any measure unless a greater number is required by law. However, in the event of an emergency expenditure, such expenditure must be charged to the emergency budget appropriations and adopted by two-thirds (2/3) of the members of a governing body who are present at the meeting (Section [7-6-4302](#), MCA).

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06)

Sec. 2-16. - Agenda.

The City Manager shall prepare the agenda for the City Commission and make recommendations thereon for the City Commission's consideration. (Sections [7-3-304\(6\)](#) and [\(7\)](#), MCA).

Two (2) City Commissioners, when not in session, may make a request to the City Manager to have an item placed upon the agenda for consideration, but such request must meet the requirements set forth in the Rules of Procedure. Upon receipt of such request, the City Manager shall schedule the item for the next regularly scheduled meeting of the City Commission.

All reports, communications, ordinances, resolutions, contract documents, or other matters to be submitted to the Commission from the City Commissioners or City staff, shall be submitted ~~by twelve (12) noon on the Monday immediately preceding the next regularly scheduled Commission meeting~~ **as set forth by the Commission in a Resolution**. All requests from the public to be placed on the agenda must be in to the City Manager by the Tuesday immediately preceding the next regularly scheduled Commission meeting. ~~The Commission agenda shall be set by five (5) p.m. on the Tuesday immediately preceding the City Commission meeting~~ **The process for submitting the Commission agenda shall be set by Resolution**. Whereupon, the City Manager shall immediately arrange a list of such matters according to the order of

business specified herein, and provide each member of the Commission with a copy of the same no later than the ~~date set forth in the Commission Meeting Resolution Thursday immediately preceding the Commission meeting~~. Copies of the agenda shall be available to the public from the Recording Secretary of the Commission and one (1) copy shall be available ~~posted at the designated posting board~~ for public viewing. The City Manager may approve late submittals deemed to be in the City's best interest by delivering the same to the Recording Secretary of the Commission for delivery to the City Commission; however, late submittals are not the favored manner in which to do business and should be limited to unusual circumstances.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06)

Sec. 2-17. - Order of business.

The City Manager shall prepare the Commission agenda, which shall be in substantially the following form:

- A. Call to order.
- B. Roll call.
- C. Moment of silence.
- D. Pledge of Allegiance.
- E. Public Comment
- F. Consent agenda (no discussion should be necessary).*
 - 1. Approval of minutes.
 - 2. General business/miscellaneous.
 - 3. Renewal of licenses.
 - 4. Applications for special licenses.
 - 5. Claims (paying the bills).

* Consent items are those upon which the City Manager anticipates that no discussion should be necessary, however, by placing an item on the consent agenda does not limit the ability of a Commissioner from asking questions or making comments thereon. In the event a Commissioner believes that an item on the consent agenda should not be on the consent agenda, the Commissioner, at the beginning of any meeting may request one (1) or more items to be removed from the consent agenda for a separate vote. The presiding officer shall schedule such discussion and vote following adoption of the consent agenda.

- G. Items removed from consent agenda.
- H. City business, including proclamations, variances and scheduled public comment.
- I. Public hearings.
- J. Ordinances.
- K. Resolutions.
- L. Action items.
- M. City manager's report.
- N. Commissioner's comments, i.e. reports, introduction of measures, concerns and proposals by members of the Commission.

N. ~~Public comment.~~

O. Adjournment.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10; Ord. No. 2040, § 1, 7/19/12)

Sec. 2-18. - Summary minutes and recording of meeting.

All regular and special meetings of the City Commission, except executive sessions, shall be recorded and a copy of the recording shall be retained as the official record of the proceedings of the City Commission. In addition, summary minutes of all regular and special meetings of the City Commission shall be taken. The summary minutes must include at the minimum the date, time and place of the meeting, a list of the members of the City Commission in attendance, the substance of all matters proposed, discussed or decided and a record of all votes taken ([7-5-4121](#) MCA). Summary minutes shall be approved by the Commission. It shall not be necessary to formally read the minutes aloud during the commission meeting prior to approval. Such minutes may be revised by the Recording Secretary to correct spelling, numbering, and other such non-substantive mistakes. Prior to approval, any Commission member may, through the Chairman, request the privilege of amending or correcting the minutes to accurately reflect the substance of the prior meeting. If objection is made by any Commission member to such amendment or correction, a majority vote of the Commission shall be necessary for adoption of the correction or amendment.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09)

Sec. 2-19. - Procedure to conduct business and motions.

A. Procedure to Conduct Business.

1. The Chair shall clearly announce the agenda item to be considered.
2. Following announcement of agenda item, the Chair shall invite the appropriate person or persons to report on the item, including any recommendation that they might have. The appropriate person or persons may be the Chair, a member of the body, a staff person, or a committee chair charged with providing input on the agenda item.
3. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers. To be recognized, each person desiring to give comment, testimony or evidence shall sit down at the table provided and after being recognized, give his or her name and address before testifying commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be is closed).
4. The Chair shall ask members of the body if they have any technical questions of clarification. At this point, members of the body may ask clarifying questions to the person or persons who reported on the item, and that person or persons should be given time to respond.
- .5. The Chair shall invite a motion. The Chair shall announce the name of the member of the body who makes the motion.
6. The Chair shall determine if any member of the body wishes to second the motion. The Chair shall announce the name of the member of the body who seconds the motion. No motion shall be debated or put to a vote unless the same shall be seconded. If the motion is made and

seconded, the Chair should make sure everyone understands the motion. This is done in one (1) of three (3) ways: (1) The Chair can ask the maker of the motion to repeat it. (2) The Chair can repeat the motion. (3) The Chair can ask the recording secretary to repeat the motion.

- a. The Chair shall now invite discussion/debate of the motion by the body. Every member desiring to speak shall address the presiding officer, and upon recognition, shall confine himself to the question under debate, avoiding all personalities and indecorous language.
- b. A member, once recognized, shall not be interrupted when speaking unless it is to call him to order or as herein otherwise provided.
 - i. If a member, while speaking is called to order, he shall cease speaking until the question of order is determined, and, if in order, he shall be permitted to proceed.
- c. Order of rotation in matters of debate or discussion shall be at the discretion of the presiding officer.
 - i. A member shall not speak more than twice on the same subject without leave of the chair, nor more than once until every member desiring to speak on the pending question has had an opportunity to do so.

~~6. The Chair shall invite public comments, or if appropriate at a formal meeting, should open the public meeting for public input on the agenda item being considered. If numerous members of the public indicate a desire to speak to the subject, the Chair may limit the time of public speakers. To be recognized, each person desiring to give comment, testimony or evidence shall sit down at the table provided and after being recognized, give his or her name and address before testifying, commenting or presenting other evidence. All comments, testimony and evidence shall be directed to the presiding officer. No questions shall be asked of a Commission member except through the presiding officer. At the conclusion of the public comments, the Chair shall announce that public input has concluded (or the public hearing as the case may be is closed).~~

7. If there is no desired discussion, or after the discussion has ended, the Chair should announce that the body will vote on the motion. If there has been no discussion or very brief discussion, then the vote on the motion should proceed immediately and there is no need to repeat the motion. If there has been substantial discussion, then it is normally best to make sure everyone understands the motion by repeating it.

8. The Chair shall direct the Recording Secretary to take a roll call vote. If members of the body do not vote, then they "abstain". Unless the rules of the body provide otherwise (or unless a super-majority is required as delineated in these rules) then a simple majority determines whether the motion passes or is defeated.

9. The Chair should announce the result of the vote and should announce what action (if any) the body has taken.

B. Motions, Majority Approval, Debatable or not and Exceptions.

1. The Basic Motion. The basic motion is the one that puts forward a decision for the body's consideration. A basic motion might be: "I move that we create a 5-member committee to plan and put on our annual fundraiser."

2. The Motion to Amend. If a member wants to change a basic motion that is before the body, they would move to amend it. A motion to amend might be: "I move that we amend the motion to have a ten-member committee." A motion to amend takes the basic motion which is before the body and seeks to change it in some way. A motion to amend seeks to retain the basic motion on the floor, but modify it in some way.

3. The Substitute Motion. If a member wants to completely do away with the basic motion that is before the body, and put a new motion before the body, they would move a substitute motion. A substitute motion might be: "I move a substitute motion that we cancel the annual fundraiser this year." A substitute motion seeks to throw out the basic motion on the floor, and substitute a new and different motion for it.

4. Order of Consideration of Motions. There can only be three (3) motions on the floor at the same time. The Chair can reject a fourth motion until the Chair has dealt with the three (3) that are on the floor and has resolved them. When there are two (2) or three (3) motions on the floor (after motions and seconds) at the same time, the vote should proceed first on the last motion that is made. So, for example, assume the first motion is a basic "motion to have a five-member committee to plan and put on our annual fundraiser." During the discussion of this motion, a member might make a second motion to "amend the main motion to have a ten-member committee, not a five-member committee to plan and put on our annual fundraiser." And perhaps, during that discussion, a member makes yet a third motion as a "substitute motion that we not have an annual fundraiser this year."
 - a. First, the Chair would deal with the third (the last) motion on the floor, the substitute motion. After discussion and debate, a vote would be taken first on the third motion. If the substitute motion passed, it would be a substitute for the basic motion and would eliminate it. The first motion would be moot, as would the second motion (which sought to amend the first motion), and the action on the agenda item would be completed on the passage by the body of the third motion (the substitute motion). No vote would be taken on the first or second motions. On the other hand, if the substitute motion (the third motion) failed then the Chair would proceed to consideration of the second (now, the last) motion on the floor, the motion to amend.
 - b. Second, if the substitute motion failed, the Chair would now deal with the second (now, the last) motion on the floor, the motion to amend. The discussion and debate would focus strictly on the amendment (should the committee be five (5) members or ten (10) members). If the motion to amend passed the Chair would now move to consider the main motion (the first motion) as amended. If the motion to amend failed the Chair would now move to consider the main motion (the first motion) in its original format, not amended.
 - c. Third, the Chair would now deal with the first motion that was placed on the floor. The original motion would either be in its original format (five-member committee), or, if amended, would be in its amended format (ten-member committee), and the question on the floor for discussion and decision would be whether a committee should plan and put on the annual fundraiser.
5. Motion to Reconsider. A motion to reconsider requires a majority vote to pass, but there are two (2) special rules that apply only to the motion to reconsider.
 - a. First, is timing. A motion to reconsider must be made at the meeting where the item was first voted upon or at the very next meeting of the body following due notice. A motion to reconsider made at a later time is untimely. (The body, however, can always vote to suspend the rules and by a two-thirds (2/3) majority, can allow a motion to reconsider to be made at another time following due notice.)
 - b. Second, a motion to reconsider can only be made by certain members of the body. Accordingly, a motion to reconsider can only be made by a member who voted in the majority on the original motion. If such a member has a change of heart, he or she can make the motion to reconsider (any other member of the body may second the motion). If a member who voted in the minority seeks to make the motion to reconsider, it must be ruled out of order. The purpose of this rule is finality. If a member of the minority could make a motion to reconsider, then the item could be brought back to the body again and again. That would defeat the purpose of finality.
 - c. If the motion to reconsider passes, then the original matter is back before the body, and a new original motion is then in order. The matter can be discussed and debated as if it were on the floor for the first time.
6. Simple Majority and Exceptions. All motions require a simple majority, but there are a few exceptions. The exceptions come up when the body is taking an action which, effectively, cuts off the ability of a minority of the body to take an action or discuss an item. These extraordinary motions require a two-thirds (2/3) vote of the entire commission (a super-majority) to pass:

- a. Motion to Limit Debate. Whether a member says "I move the previous question" or "I move the question" or "I call the question" or "I move to limit debate", it all amounts to an attempt to cut off the ability of the minority to discuss an item, and it requires a two-thirds (2/3) vote of the entire commission to pass.
 - b. Motion to Close Nominations. When choosing officers of the body (like the Chair) nominations are in order either from a nominating committee or from the floor of the body. A motion to close nominations effectively cuts off the right of the minority to nominate officers, and it requires a two-thirds (2/3) vote of the entire commission to pass.
 - c. Motion to Object to the Consideration of a Question. Normally, such a motion is unnecessary since the objectionable item can be tabled, or defeated straight up. However, when members of a body do not even want an item on the agenda to be considered, then such a motion is in order. It is not debatable, and it requires a two-thirds (2/3) vote of the entire commission to pass.
 - d. Emergency Measures. In the case of emergency measures, the emergency must be expressed in the preamble or in the body of the measure and the measure must receive a two-thirds (2/3) vote of the entire commission. In emergency ordinances, the resolutions shall include only such measures as are immediately necessary for the preservation of peace, health, and safety and shall not include a franchise to a corporation or individual, any provisions for the sale of real estate, any lease or letting of any property for a period exceeding one (1) year, or the purchase or sale of personal property exceeding five thousand dollars (\$5,000.00) in value. ([7-5-4204](#) MCA)
 - e. Motion to Punish and Expel. The commission may punish a member and expel any member for the improper conduct upon a two-thirds (2/3) vote of the entire commission members. ([7-5-4103](#) MCA).
7. Motions Debatable, Exceptions. The basic rule of motions is that they are subject to discussion and debate. Accordingly, basic motions, motions to amend, and substitute motions are all eligible, each in their turn, for full discussion before and by the body. The debate can continue as long as members of the body wish to discuss an item, subject to the decision of the Chair that it is time to move on and take action.
- a. Exceptions. There are exceptions to the general rule of free and open debate on motions. The exceptions all apply when there is a desire of the body to move on. The following motions are not debatable (that is, when the following motions are made and seconded, the Chair must immediately call for a vote of the body without debate on the motion):
 - i. A Motion to Adjourn. This motion, if passed, requires the body to immediately adjourn to its next regularly scheduled meeting. It requires a simple majority vote.
 - ii. A Motion to Recess. This motion, if passed, requires the body to immediately take a recess. Normally, the Chair determines the length of the recess which may be a few minutes or an hour. It requires a simple majority vote.
 - iii. A Motion to Fix the Time to Adjourn. This motion, if passed, requires the body to adjourn the meeting at the specific time set in the motion. For example, the motion might be: "I move we adjourn this meeting at midnight." It requires a simple majority vote.
 - iv. A Motion to Postpone Consideration. This motion, if passed, requires discussion of the agenda item to be halted and the agenda item to be placed on "hold". The motion can contain a specific time in which the item can come back to the body: "I move we postpone consideration of this item until our regular meeting in October." Or the motion can contain no specific time for the return of the item, in which case a motion to consider the item and bring it back to the body will have to be taken at a future meeting. A motion to postpone consideration an item (or to bring it back to the body) requires a simple majority vote.

- v. A Motion to Limit Debate. The most common form of this motion is to say: "I move the previous question" or "I move the question" or "I call the question." When a member of the body makes such a motion, the member is really saying: "I've had enough debate. Let's get on with the vote". When such a motion is made, the Chair should ask for a second, stop debate, and vote on the motion to limit debate. The motion to limit debate requires a two-thirds (2/3) vote of the body. Note: that a motion to limit debate could include a time limit. For example: "I move we limit debate on this agenda item to 15 minutes." Even in this format, the motion to limit debate requires a two-thirds (2/3) vote of the body.
- vi. Motion to Object to Consideration of an Item. This motion is not debatable, and if passed, precludes the body from even considering an item on the agenda. It also requires a two-thirds (2/3) vote.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-20. - Reserved.

Editor's note— Ord. No. 2019, § 1, adopted April 19, 2010, repealed § 2-20 which pertained to procedure for the presentation of agenda items to the City Commission to encourage public participation in regular meetings and public hearings, and derived from Ord. No. 1869, adopted Feb. 17, 1998; Ord. No. 1921, § 1(part), adopted Feb. 3, 2003; and Ord. No. 1962, adopted Feb. 21, 2006.

Sec. 2-21. - Public hearings.

- A. The Commission may conduct public hearings or may appoint a hearing officer for that purpose, except for budget hearings, as provided in Section [7-1-4131](#), MCA.
- B. When heard by the Commission, the items will be presented to the Commission in the same format, as described in Section 2-19 of this Chapter.
- C. In addition, when public hearings and public interest matters are being heard and it is anticipated that a large number of the public may wish to participate, the presiding officer, with the consent of the Commission, may, prior to the meeting, establish reasonable guidelines for conducting the meeting.
- D. Witness may be required to testify under oath and all testimonies shall be directed to the presiding officer only.
- E. The Commission shall not be bound by the strict rules of evidence, and may exclude irrelevant, immaterial, incompetent or unduly repetitious comments, testimony or evidence. The presiding officer shall, with advise from the City Attorney, rule on all questions relating to admissibility of testimony or evidence. The ruling of the presiding officer may be overruled by a majority vote of the Commission.
- F. The proponents or opponents, their agents or attorneys, may submit petitions and written comments during or prior to the closing of the hearing and the same shall be entered by reference into the minutes and considered as other testimony received at the hearing.
- G. Following the presentation of all comments, testimony and evidence, the Commission may:
 1. Continue the hearing to a date certain to allow additional information to be submitted to the Commission as a body on any unresolved issues;
 2. Close the public hearing and proceed to Commission debate of the matter; or
 3. Continue the Commission debate and vote to a date certain.

H. A public hearing which has been formally closed may not be reopened. If additional information is required before a decision can be made, the Commission, upon motion duly made, seconded and passed, may call for an additional public hearing, which hearing shall be duly noticed, specifying date, time, place and subject matter of the hearing.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Sec. 2-22. - Addressing the Commission.

- A. The City will provide sign-up sheets for each agenda item to be discussed at each meeting. Anyone desiring to address the City Commission shall sign the appropriate sheet which shall be collected by the City prior to the opening of the meeting.
 - 1. At the appropriate time on the agenda, the chair will invite the person(s) who has signed up to the table. Each person shall then be given the opportunity to make his or her presentation.
 - 2. Following the statements from those who signed up, the chair may ask for additional public comment from those who did not sign-up.
 - 3. Once a person has made his presentation, that person shall not speak on the same subject unless granted permission by the presiding officer and then only if the presentation provides new information not previously presented.
- B. The public is invited to speak: on any item under discussion by the Commission after recognition by the presiding officer.
- C. The speaker should step to the front of the room, and sit at the table provided, provide the speaker's name and address on the signup sheet located at the table, and for the record, give his/her name and address and, if applicable, the person, firm or organization represented.
- D. Prepared statements are welcomed and should be given to the Recording Secretary of the Commission. All prepared statements shall become a part of the permanent record.
- E. While the Commission is in session, the members must preserve order and decorum. A member shall not delay or interrupt the proceedings or the peace of the Commission nor disturb any member while speaking or refuse to obey the orders of the Commission or its presiding officer.
- F. Any person making personal, impertinent or slanderous remarks or who shall become boisterous or disruptive during the Commission meeting shall be forthwith barred from further presentation to the Commission by the presiding officer, unless permission to continue be granted by a majority vote of the Commission.

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2016, § 1, 10/19/09; Ord. No. [2051](#), § 1, 8/19/14)

Sec. 2-23. - Ordinances and resolutions.

- A. All ordinances and resolutions shall be prepared or reviewed by the City Attorney. No ordinance or resolution shall be prepared for presentation to the Commission unless ordered by a majority vote of the Commission or requested by the City Manager.
- B. The ordinances and resolutions, before presentation to the Commission, shall be approved as to form and legality by the City Attorney and shall have been examined by the City Manager who may refer it for comment to the head of the department under whose jurisdiction the subject matter of the ordinance or resolution is to be administered.
- C. A draft of the proposed ordinance or resolution shall be presented to the Commission for review and comment with the public being notified of the proposed action and invited to make comment.

- D. If the draft ordinance is approved by the Commission, it shall then be placed on the agenda for the first reading and provisional adoption, with the second reading and final adoption occurring at least twelve (12) days after the first reading and provisional adoption. After being provisionally adopted, the ordinance shall be posted in a conspicuous place in the City/County Complex and copies thereof shall be available to the public from the Recording Secretary of the Commission. The reading of the ordinance's or resolution's title and number shall be sufficient to constitute a reading and an actual oral pronouncement of each word contained therein of the proposed ordinance or resolution is not required and shall be waived unless required by a majority vote of the City Commission.
- E. All ordinances, except emergency ordinances, shall become effective thirty (30) days after the second reading and final adoption. All resolutions and emergency ordinances shall become effective upon passage or at the time specified therein. Emergency ordinances and resolutions, which are defined as those measures which are immediately necessary for the preservation of peace, health and safety, require a two-thirds (2/3) vote of the entire commission

(Ord. 1869, 2/17/98; Ord. 1921 § 1 (part), 2/3/03; Ord. 1962, 2/21/06; Ord. No. 2019, § 1, 4/19/10)

Secs. 2-24—2-39. - Reserved.

Effective Date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, during a first reading at a regular session thereof held the _____ day of July, 2021.

DOREL HOGLUND, Chair

ATTEST:

FAITH KINNICK
Recording Secretary

PASSED, APPROVED, AND ADOPTED by the City Commission of the City of Livingston, Montana, during a second reading at a regular session thereof held the _____ day of August, 2021.

DOREL HOGLUND, Chair

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY JO LAWELLIN
City Attorney

File Attachments for Item:

E. ORDINANCE NO. 3016: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND CHAPTER 27 OF THE LIVINGSTON MUNICIPAL CODE SECTION 27-3 ENTITLED MEMBERSHIP OF THE PLANNING BOARD, TERMS OF OFFICE AN QUALIFICATIONS, BY ADDING TWO (2) ADDITIONAL MEMBERS TO THE CITY PLANNING BOARD.

ORDINANCE NO. 3016

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND CHAPTER 27 OF THE LIVINGSTON MUNICIPAL CODE SECTION 27-3 ENTITLED MEMBERSHIP OF THE PLANNING BOARD, TERMS OF OFFICE AN QUALIFICATIONS, BY ADDING TWO (2) ADDITIONAL MEMBERS TO THE CITY PLANNING BOARD.

WHEREAS, the City Commission voted unanimously to expand the membership of the City Planning Board from 7 to 9 members during the May 18, 2021, City Commission Meeting.

Chapter 27 - CITY PLANNING BOARD

Sec. 27-1. - Established—powers and duties.

Pursuant to and under the provisions of [Title 76](#), Montana Code Annotated, the City Commission of the City of Livingston does hereby create and establish a City Planning Board to be known as the "Livingston Planning Board," and does by this Chapter adopt by reference all of the sections of the laws of the State of Montana aforementioned that specifically pertain to City Planning Boards, granting and delegating to the City Planning Board all of the rights, privileges, powers, duties and responsibilities thereto appertaining.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-2. - Jurisdictional area.

The Livingston Planning Board shall have such jurisdiction in the corporate limits of the City of Livingston, as such limits may be amended from time to time and as may be provided by State law.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-3. - Membership of Planning Board, terms of office and qualifications.

A. The Livingston Planning Board shall consist of seven ~~(7) members~~ **nine (9) members**, as follows:

1. One (1) member appointed by the City Commission from its own membership;
2. One (1) member appointed by the City Commission who, at the Commission's discretion, may be an employee of the City of Livingston or hold public office in Livingston or Park County;
3. One (1) member appointed by the Chair of the Commission, upon designation by the Board of County Commissioners of Park County; and
4. Four (4) citizen members appointed by the Chair of the Commission who shall be resident freeholders within the City of Livingston, who shall be qualified by knowledge and experience in matters pertaining to the development of the City and hold no other office in City government.
5. **Two (2) citizen members appointed by the Chair of the Commission who shall be residents within the City of Livingston, who shall be qualified by knowledge and experience in matters pertaining**

to the development of the City and hold no other office in City government. Priority shall be given to applicants who are not freeholders within the City of Livingston.

- B. The term of the City Commissioner appointed to the City Planning Board shall be for one year after being appointed by the Commission. The City Commission shall make a new appointment each calendar year whether or not the City Commission member changes.. All other members of the Planning Board shall be appointed to two (2) year overlapping terms of office. To establish the overlapping terms of office, the appointment of three (3) Planning Board members shall be appointed for one (1) year and three (3) members shall be appointed for two (2) years. Thereafter, except for the appointed City Commissioner, all other appointments to the Planning Board shall be for two (2) year terms.
- C. The Recording Secretary shall certify the members appointed by the City Commission. The certificates shall be sent to and become a part of the records of the Livingston Planning Board. The Chairman of the Commission shall make similar certifications for the appointment of citizen members.
- D. Any citizen appointee may be removed from office by a majority vote of the City Commission.
- E. The Planning Board members shall receive no salary for serving on the Planning Board, but may be reimbursed for transportation and actual expenses incurred in attending Planning Board meetings. When the Planning Board determines that it is necessary for members or employees to attend a regional or national conference or interview in another City, County or State dealing with planning or related problems, the Planning Board may pay the actual expense of the attending members or employees provided the amount has been made available in the Board's appropriation.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Sec. 27-4. - Organization and administration.

- A. Meetings. The Planning Board shall fix the time for holding regular meetings, but shall meet at least once in the months of January, April, July and October. Special meetings of the Planning Board may be called by the president or by two (2) members upon written request to the Secretary. The Secretary shall send to all members, at least two (2) days' written notice stating the purpose, time and place of the meeting.
- B. Officers. The Planning Board, at its first regular meeting in each year, shall hold annual elections to elect a President and a Vice-President who shall preside in the absence of the President.
- C. Secretary. The Planning Board may appoint and prescribe the duties and fix the compensation of a Secretary, which may be the City Planning Officer, and such employees as are necessary for the discharge of the duties and responsibilities of the Board. The Board shall have the power and duty to prescribe the qualifications of, appoint, remove and fix the compensation of the employees of the Board and delegate to employee's authority to perform ministerial acts in all cases, except where final action of the Board is necessary.
- D. Quorum. A majority of members shall constitute a quorum. However, no action of the Planning Board is official unless authorized by a majority of the total membership of the Board at a regular or properly called special meeting.
- E. Administration of Board. The Planning Board shall have the power and duty to:
 1. Exercise general supervision of and make regulations for the administration of the affairs of the Board;
 2. Prescribe uniform rules pertaining to investigations and hearings;
 3. Keep an accurate and complete record of all departmental proceedings, record and file all bonds and contracts, and assume responsibility for the custody and preservation of all papers and documents of the Board;

- 4. Make recommendations and an annual report to any governing bodies represented on the Board concerning the operation of the Board and the status of planning within its jurisdiction;
- 5. Prepare, publish and distribute reports, proposed ordinances and proposed resolutions and other material relating to the activities authorized by law.

(Ord. 1922, 2/18/03; Ord. 1965, 3/20/06)

Effective Date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, during a first reading at a regular session thereof held the _____ day of July, 2021.

DOREL HOGLUND, Chair

ATTEST:

FAITH KINNICK
Recording Secretary

PASSED, APPROVED, AND ADOPTED by the City Commission of the City of Livingston, Montana, during a second reading at a regular session thereof held the _____ day of August, 2021.

DOREL HOGLUND, Chair

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY JO LAWELLIN
City Attorney

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN the Livingston City Commission will convene for a regular session Tuesday, August 3, 2021, at 5:30 p.m. in the Community Room of the City/County Complex, 414 E. Callender St. Livingston, MT. The Commission will conduct a public hearing after the second reading of **ORDINANCE NO. 3016** entitled **AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II OF THE LIVINGSTON MUNICIPAL CODE ENTITLED CITY COMMISSION AND CHAIR BY AMENDING SECTION 2-12 AS IT PERTAINS TO LOCATION OF CITY COMMISSION POSTING BOARD, AMENDING SECTION 2-16 AS IT PERTAINS TO THE PROCESS FOR SETTING AGENDA, AMENDING SECTION 2-19 BY PERTAINING TO THE PROCEDURE TO CONDUCT BUSINESS.** All interested persons are invited to attend the public hearing, to make comments or make objections thereto. For additional information contact the City Offices at 220 E Park Street, Livingston, MT, 59047, or by phone at 823-6000.

Please publish Friday, July 9th, 2021 and July 23rd, 2021.

Faith Kinnick
City of Livingston
06/22/2021

File Attachments for Item:

A. RESOLUTION NO. 4969: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, GIVING NOTICE THAT THE CITY COMMISSION HAS COMPLETED ITS PRELIMINARY BUDGET IN THE AMOUNT OF \$22,935,549 FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2021, AND ENDING JUNE 30, 2022, (FY 22), THAT THE BUDGET IS ON FILE AND AVAILABLE FOR PUBLIC INSPECTION AND ON THE INTERNET AT www.livingstonmontana.org, AND CALLING FOR A PUBLIC HEARING FOR APPROVAL OF THE FINAL BUDGET AND MAKING APPROPRIATIONS.

RESOLUTION NO. 4969

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, GIVING NOTICE THAT THE CITY COMMISSION HAS COMPLETED ITS PRELIMINARY BUDGET IN THE AMOUNT OF \$22,935,549 FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2021, AND ENDING JUNE 30, 2022, (FY 22), THAT THE BUDGET IS ON FILE AND AVAILABLE FOR PUBLIC INSPECTION AND ON THE INTERNET AT www.livingstonmontana.org, AND CALLING FOR A PUBLIC HEARING FOR APPROVAL OF THE FINAL BUDGET AND MAKING APPROPRIATIONS.

WHEREAS, the City Manager has presented the City Manager’s Preliminary Budget recommendation for Fiscal Year 2021-2022 in the amount of \$22,935,549 to the City Commission as required by 7-6-4020 Montana Code Annotated (MCA); and

WHEREAS, the City Commission has completed its Preliminary Budget for Fiscal Year 2021-2022, an overview of which is attached hereto as Exhibit A and incorporated into this Resolution by this reference as though fully set forth herein; and

WHEREAS, a copy of the completed Preliminary Budget for Fiscal Year 2021-2022 has been placed for public inspection in the office of the Finance Officer located at 220 E Park Street, Livingston, Montana, and on the City of Livingston’s web page at www.livingstonmontana.org; and

WHEREAS, pursuant to 7-6-4001 *et seq.* MCA, the City Commission shall meet on July 20th, 2021, at which time a public hearing on the proposed preliminary budget will be held during which time any taxpayer or resident of the City will be heard for or against any part of the proposed preliminary budget; and

WHEREAS, the hearing may be continued from day to day and must be concluded and the budget finally approved and adopted and appropriations made by resolution by the later of the first Thursday after the first Tuesday in September (September 9th) or within 30 calendar days (September 1st) of receiving certified taxable values from the Montana Department of Revenue; and

WHEREAS, the City Commission intends to consider the proposed preliminary budget for FY 2021-2022 and make revisions, reductions, additions and changes thereto as deemed appropriate and to establish spending limits at the level of appropriations detailed in Exhibit A which is attached hereto and incorporated by this reference as though fully set forth herein; and

WHEREAS, the City Commission intends to authorize and appropriate expenditures of governmental fund types (general fund, special revenues funds, debt service funds and capital project funds) and operating expenses for proprietary fund types (enterprise funds and internal service funds) and fiduciary fund types (permanent funds) for budget units and purposes set forth herein, in the amounts designated herein;

Resolution No. 4969 Giving notice of Preliminary Budget for FY 2021-2022, of its availability for public inspection and calling for a public hearing.

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

That the City Manager’s Preliminary Budget recommendations for FY 2021-2022 have been received by the City Commission and the City Commission has made revisions, reductions, additions and changes thereto as they have deemed appropriate and the Preliminary Budget is now deemed completed and ready for public review and comment and a copy of the Preliminary Budget has been placed on file and is open for public inspection in the City Finance Offices located at 220 E Park Street, Livingston, Montana and at www.livingstonmontana.org.

BE IT FURTHER RESOLVED by the City Commission that a public hearing on the Preliminary Budget for FY 2021-2022 will be held on July 20th, 2021 at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, at which time any taxpayer or resident may appear and be heard for or against any part of the preliminary budget which hearing may be continued from day to day and must be concluded and the budget finally approved and adopted by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving certified taxable values from the Montana Department of Revenue at which time the City Commission will adopt the Final Budget for Fiscal Year 2021-2022 and make appropriations accordingly.

BE IT FURTHER RESOVLED by the City Commission of the City of Livingston, Montana, that the notice attached hereto as Exhibit B be published and posted as required by 7-1-4127, MCA.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 6th day of July, 2021.

DOREL HOGLUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

EXHIBIT A to Resolution No. 4969

CHANGES IN FUND BALANCE/WORKING CAPITAL					
Fund #	Fund Name	Projected Beginning Fund Balance June 30, 2021	Budgeted Revenues	Budgeted Expenditures	Projected Ending Fund Balance June 30, 2022
GENERAL FUND					
1000	General Fund	2,095,454	6,519,618	6,669,100	1,945,972
SPECIAL REVENUE FUNDS					
2190	Comprehensive Liability	19,178	-	-	19,178
2220	Library	452,713	723,599	654,978	521,334
2300	Communications/Dispatch Services	46,614	861,449	858,845	49,218
2310	Tax Increment District - Downtown	312,407	460,900	460,875	312,432
2372	Permissive Health Levy	37,757	531,350	539,100	30,007
2397	CDBG Economic Dev Revolving	622,282	20,000	14,000	628,282
2399	Impact Fees - Fire	85,806	107,592	11,000	182,398
	Impact Fees - Transportation	273,718	176,706	350,000	100,424
	Impact Fees - Police	19,551	11,790	35,000	(3,659)
	Impact Fees - Parks	114,572	145,980	68,500	192,052
	Unassigned	1,500	1,500	-	3,000
2400	Light Maintenance	66,927	150,150	151,000	66,077
2500	Street Maintenance	328,542	1,630,365	1,630,545	328,362
2600	Sidewalks	(102,308)	66,895	-	(35,413)
2650	Business Improvement District	18,541	42,670	60,000	1,211
2700	Park Improvement SRF	70,695	-	70,500	195
2750	Law Enforcement Joint Equipment	6,564	30	6,593	1
2820	Gas Tax	111,687	316,825	316,500	112,012
TOTAL SPECIAL REVENUE FUNDS		2,486,746	5,247,801	5,227,436	2,507,111
DEBT SERVICE FUNDS					
3002	2016 Fire Truck GOB	14,740	60,575	54,944	20,371
3003	2000 Fire Truck GOB	5,107	-	-	5,107
3200	West End Tax Increment District	449,404	144,189	440,807	152,786
3400	SID Revolving	24,384	100	-	24,484
3550	SID 179 - West End	25,748	34,506	33,350	26,904
3955	SID 180 - Carol Lane	(1,696)	3,379	-	1,683
TOTAL DEBT SERVICE FUNDS		517,687	242,749	529,101	231,335
CAPITAL PROJECT FUNDS					
4010	Capital Improvement	118,531	50	110,000	8,581
4020	Library Capital Improvement	25,381	150	25,531	-
4099	Railroad Crossing Levy	11	-	-	11
TOTAL CAPITAL PROJECT FUNDS		143,923	200	135,531	8,592
ENTERPRISE FUNDS					
5210	Water	1,745,861	1,902,227	2,466,631	1,181,457
5310	Sewer	1,074,647	3,075,812	3,516,156	634,303
5410	Solid Waste	234,092	2,604,206	2,402,496	435,802
5510	Ambulance Services	1,004,254	2,385,461	1,987,598	1,402,117
TOTAL ENTERPRISE FUNDS		4,058,854	9,967,706	10,372,881	3,653,679
PERMANENT FUNDS					
8010	Perpetual Cemetery	247,378	4,000	1,500	249,878
TOTAL ALL FUNDS		9,550,042	21,982,074	22,935,549	8,596,567

Resolution No. 4969 Giving notice of Preliminary Budget for FY 2021-2022, of its availability for public inspection and calling for a public hearing.

EXHIBIT B to Resolution No. 4969

NOTICE

NOTICE is hereby given that the City Commission of Livingston, Montana, has completed its Preliminary Budget for Fiscal Year 2021-2022, that the budget is on file and open for public inspection in the office of the Finance Officer, 220 E Park Street, Livingston, Montana and for further information contact Finance Officer Paige Fetterhoff at 823-6003 and that a public hearing on **Resolution No. 4969** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, GIVING NOTICE THAT THE CITY COMMISSION HAS COMPLETED ITS PRELIMINARY BUDGET IN THE AMOUNT OF \$22,935,549 FOR THE FISCAL YEAR BEGINNING ON JULY 1, 2021, AND ENDING JUNE 30, 2022, (FY 22), THAT THE BUDGET IS ON FILE AND AVAILABLE FOR PUBLIC INSPECTION AND ON THE INTERNET AT www.livingstonmontana.org, AND CALLING FOR A PUBLIC HEARING FOR APPROVAL OF THE FINAL BUDGET AND MAKING APPROPRIATIONS**, which will be held by the City Commission on July 20th, 2021 at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, at which time the public is invited to attend and comment thereon and which hearing may be continued from day to day and must be concluded and the budget finally approved and adopted and appropriations made by the later of the first Thursday after the first Tuesday in September or within 30 calendar days of receiving certified taxable value from the Montana Department of Revenue.

(Publish notice twice at least 6 days apart and the notice needs also to be posted and copies made available to the public.)

File Attachments for Item:

B. RESOLUTION NO. 4970: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WATER SYSTEM.

RESOLUTION NO. 4970

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WATER SYSTEM.

WHEREAS, the City of Livingston operates water facilities and services as enterprise funds, i.e. that the cost of providing the services to the general public on a continuing basis are financed or recovered through user charges and are not supported by the general tax levy; and

WHEREAS, 69-7-101 *et seq.* Montana Code Annotated (MCA), authorizes increases in utility rates when deemed necessary by the City Commission; and

WHEREAS, the costs of providing water services, improving infrastructure, and meeting bonded debt coverage continues to rise necessitating a rate increase; and

WHEREAS, a 3.3% increase in the connection fee and usage rate, which will result in a monthly increase of approximately 43¢ to \$1.43, depending on the amount of water consumed by the customer all as set forth in Exhibit A, which is attached hereto and incorporated by this reference as though fully set forth herein; and

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

The City Commission of the City of Livingston, Montana intends to increase the water connection fee 3.33% and water usage rate 3.33% for its customers to become effective for water usage starting July 2021, to be billed in August 2021 and that a public hearing will be held by the City Commission at 5:30 p.m. on July 20th, 2021, at which time the public is invited to attend and comment on its intent.

BE IT FURTHER RESOLVED that Notice, attached hereto as Exhibit B and incorporated herein by reference, be published in accordance with law, and a copy of this Resolution be mailed to the Montana Consumer Counsel as required by 69-7-111(5) MCA.

BE IT FURTHER RESOLVED that Notice, attached hereto as Exhibit C, and incorporated herein by reference be mailed to each customer in accordance with law.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 6th day of July, 2021.

DOREL HOGLUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

Exhibit A to Resolution No. 4970

Residential Rates
(based on a standard 5/8" meter)

Water Minimum Charge \$ 13.43 per month, plus \$3.10 per 1000 gallons

Gallons	Current	Proposed	Difference
0	\$ 13.00	\$ 13.43	\$ 0.43
1000	\$ 16.00	\$ 16.53	\$ 0.53
2000	\$ 19.00	\$ 19.63	\$ 0.63
3000	\$ 22.00	\$ 22.73	\$ 0.73
4000	\$ 25.00	\$ 25.83	\$ 0.83
5000	\$ 28.00	\$ 28.93	\$ 0.93
6000	\$ 31.00	\$ 32.03	\$ 1.03
7000	\$ 34.00	\$ 35.13	\$ 1.13
8000	\$ 37.00	\$ 38.23	\$ 1.23
9000	\$ 40.00	\$ 41.33	\$ 1.33
10000	\$ 43.00	\$ 44.43	\$ 1.43

Commercial Rates

METER SIZE	GALLONS	BASE CHARGE	PER 1000 GALLONS
3/4"	Up to 7,000	\$35.13	\$3.00 for usage above 7,000 gallons
1"	Up to 15,000	\$59.93	\$3.00 for usage above 15,000 gallons
1 1/2"	Up to 25,000	\$90.93	\$3.00 for usage above 25,000 gallons
2"	Up to 42,000	\$143.63	\$3.00 for usage above 42,000 gallons
3"	Up to 60,000	\$199.43	\$3.00 for usage above 60,000 gallons
4"	Up to 100,000	\$323.33	\$3.00 for usage above 100,000 gallons
6"	Up to 275,000	\$865.93	\$3.00 for usage above 275,000 gallons

Exhibit B – Public Notice

Notice is hereby given that the Livingston City Commission will conduct a public hearing in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on July 20th, 2021, at 5:30 p.m. on **Resolution No. 4970**, entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT’S INTENT TO ADJUST RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WATER SYSTEM**, resulting in an increase of approximately 43¢ to \$1.43 for residential customers, depending on the amount of water consumed by the customer. All interested persons are invited to attend the public hearing, to make comments or make objections thereto. For additional information contact the City of Livingston Finance Department at 220 E Park Street, Livingston, MT, 59047, or by phone at 222-1142.

Please publish three (3) times at least 6 (six) days apart, with the first publication being no more than 28 days prior to the hearing and the last being no less than 3 days prior to the hearing. In addition, please mail a copy to the Consumer Counsel in Helena.

**COMBINED NOTICE OF PUBLIC HEARINGS ON
PROPOSED RATE INCREASES FOR WATER AND
WASTE WATER EFFECTIVE JULY 2021**

Notice is hereby given that the City Commission of Livingston, Montana, will conduct public hearings on Resolutions 4970 & 4971 in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on July 20th, 2021, at 5:30 p.m. of its intent to increase the Water Rate in the amount of 3.3% (approximately 43¢ to \$1.43, depending on the amount of water consumed by the customer) and the Sewer Rate in the amount of 3.0% (approximately 57¢ to \$2.87. See attached schedules. The public is invited to attend and comment on the proposed rate increases. For further information, contact the City of Livingston Finance Department at 220 E Par Street, Livingston, MT, 59047, or by phone at 222-1142.

Please mail at least 7 days and no more than 30 days prior to the hearing to each customer including an estimate of the amount the customer’s average bill will increase.

Water Minimum Charge \$ 13.43 per month, plus \$3.10 per 1000 gallons

Sewer Minimum Charge \$19.51 per month; plus \$7.74 per 1000 gallons

Gallons	Current	Proposed	Difference
0	\$ 13.00	\$ 13.43	\$ 0.43
1000	\$ 16.00	\$ 16.53	\$ 0.53
2000	\$ 19.00	\$ 19.63	\$ 0.63
3000	\$ 22.00	\$ 22.73	\$ 0.73
4000	\$ 25.00	\$ 25.83	\$ 0.83
5000	\$ 28.00	\$ 28.93	\$ 0.93
6000	\$ 31.00	\$ 32.03	\$ 1.03
7000	\$ 34.00	\$ 35.13	\$ 1.13
8000	\$ 37.00	\$ 38.23	\$ 1.23
9000	\$ 40.00	\$ 41.33	\$ 1.33
10000	\$ 43.00	\$ 44.43	\$ 1.43

Gallons	Current	Proposed	Difference
0	\$18.94	\$19.51	\$0.57
1000	\$26.45	\$27.25	\$0.80
2000	\$33.96	\$34.99	\$1.03
3000	\$41.47	\$42.73	\$1.26
4000	\$48.98	\$50.47	\$1.49
5000	\$56.49	\$58.21	\$1.72
6000	\$64.00	\$65.95	\$1.95
7000	\$71.51	\$73.69	\$2.18
8000	\$79.02	\$81.43	\$2.41
9000	\$86.53	\$89.17	\$2.64
10000	\$94.04	\$96.91	\$2.87

File Attachments for Item:

C. RESOLUTION NO. 4971: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WASTEWATER SYSTEM.

RESOLUTION NO. 4971

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ADJUST ALL RATES FOR ALL CUSTOMERS OF THE CITY OF LIVINGSTON WASTEWATER SYSTEM.

WHEREAS, the City of Livingston operates water and sewer facilities and services as enterprise funds, i.e. that the cost of providing the services to the general public on a continuing basis are financed or recovered through user charges and are not supported by the general tax levy; and

WHEREAS, 69-7-101 *et seq.* Montana Code Annotated (MCA), authorizes increases in utility rates when deemed necessary by the City Commission; and

WHEREAS, the costs of providing wastewater services, improving infrastructure, and meeting bonded debt coverage continues to rise necessitating a rate increase; and

WHEREAS, a 3.0% increase in sewer rates will result in a monthly increase of 57¢ to \$2.87 per month increase depending on sewer usage, all as set forth in Exhibit A, which is attached hereto and incorporated by this reference as though fully set forth herein; and

NOW, THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

The City Commission of the City of Livingston, Montana intends to increase the wastewater rate for its customers in the amount of 3.0% to become effective for sewer usage starting July 2021, to be billed in August 2021 and that a public hearing will be held by the City Commission at 5:30 p.m. on July 20th, 2021, at which time the public is invited to attend and comment on its intent.

BE IT FURTHER RESOLVED that Notice, attached hereto as Exhibit B and incorporated herein by reference, be published in accordance with law, and a copy of this Resolution be mailed to the Montana Consumer Counsel as required by 69-7-111(5) MCA.

BE IT FURTHER RESOLVED that Notice, attached hereto as Exhibit C, and incorporated herein by reference be mailed to each customer in accordance with law.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 6th day of July, 2021.

DOREL HOGLUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

Exhibit A- Sewer Rate changes based on 3.0% increase

Sewer Minimum Charge \$19.51 per month; plus \$7.74 per 1000 gallons

Gallons	Current	Proposed	Difference
0	\$18.94	\$19.51	\$0.57
1000	\$26.45	\$27.25	\$0.80
2000	\$33.96	\$34.99	\$1.03
3000	\$41.47	\$42.73	\$1.26
4000	\$48.98	\$50.47	\$1.49
5000	\$56.49	\$58.21	\$1.72
6000	\$64.00	\$65.95	\$1.95
7000	\$71.51	\$73.69	\$2.18
8000	\$79.02	\$81.43	\$2.41
9000	\$86.53	\$89.17	\$2.64
10000	\$94.04	\$96.91	\$2.87

Exhibit B- Public Notice

NOTICE

Notice is hereby given that the Livingston City Commission will conduct a public hearing in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on July 20th, 2021, at 5:30 p.m. on **Resolution No. 4971**, entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO INCREASE THE WASTEWATER RATE IN THE AMOUNT OF 3.0% TO BECOME EFFECTIVE FOR JULY 2021 SEWER USAGE, BILLED IN AUGUST 2021**, resulting in an increase of approximately 57¢ to \$2.87, depending on the amount of wastewater used by the customer. All interested persons are invited to attend the public hearing, to make comments or make objections thereto. For additional information contact the City of Livingston Finance Department at 220 E Park Street, Livingston, MT, 59047, or by phone at 222-1142.

Please publish three (3) times at least 6 (six) days apart, with the first publication being no more than 28 days prior to the hearing and the last being no less than 3 days prior to the hearing. In addition, please mail a copy to the Consumer Counsel in Helena.

Exhibit C- Public Notice Mailing

**COMBINED NOTICE OF PUBLIC HEARINGS ON
PROPOSED RATE INCREASES FOR WATER AND
WASTE WATER EFFECTIVE JULY 2021**

Notice is hereby given that the City Commission of Livingston, Montana, will conduct public hearings on Resolutions 4970 & 4971 in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on July 20th, 2021, at 5:30 p.m. of its intent to increase the Water Rate in the amount of 3.3% (approximately 43¢ to \$1.43, depending on the amount of water consumed by the customer) and the Sewer Rate in the amount of 3.0% (approximately 57¢ to \$2.87. See attached schedules. The public is invited to attend and comment on the proposed rate increases. For further information, contact the City of Livingston Finance Department at 220 E Par Street, Livingston, MT, 59047, or by phone at 222-1142.

Please mail at least 7 days and no more than 30 days prior to the hearing to each customer including an estimate of the amount the customer’s average bill will increase.

*Water Minimum Charge \$ 13.43 per month, plus
\$3.10 per 1000 gallons*

Gallons	Current	Proposed	Difference
0	\$ 13.00	\$ 13.43	\$ 0.43
1000	\$ 16.00	\$ 16.53	\$ 0.53
2000	\$ 19.00	\$ 19.63	\$ 0.63
3000	\$ 22.00	\$ 22.73	\$ 0.73
4000	\$ 25.00	\$ 25.83	\$ 0.83
5000	\$ 28.00	\$ 28.93	\$ 0.93
6000	\$ 31.00	\$ 32.03	\$ 1.03
7000	\$ 34.00	\$ 35.13	\$ 1.13
8000	\$ 37.00	\$ 38.23	\$ 1.23
9000	\$ 40.00	\$ 41.33	\$ 1.33
10000	\$ 43.00	\$ 44.43	\$ 1.43

*Sewer Minimum Charge \$19.51 per month; plus
\$7.74 per 1000 gallons*

Gallons	Current	Proposed	Difference
0	\$18.94	\$19.51	\$0.57
1000	\$26.45	\$27.25	\$0.80
2000	\$33.96	\$34.99	\$1.03
3000	\$41.47	\$42.73	\$1.26
4000	\$48.98	\$50.47	\$1.49
5000	\$56.49	\$58.21	\$1.72
6000	\$64.00	\$65.95	\$1.95
7000	\$71.51	\$73.69	\$2.18
8000	\$79.02	\$81.43	\$2.41
9000	\$86.53	\$89.17	\$2.64
10000	\$94.04	\$96.91	\$2.87

File Attachments for Item:

D. RESOLUTION NO. 4972: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO SPECIFY THE ASSESSMENT OPTION FOR STREET MAINTENANCE AND IMPROVEMENTS DISTRICT NO. 1 FOR THE FISCAL YEAR 2021- 2022 IN AN ESTIMATED AMOUNT OF \$1,278,988, LEVY AND ASSESS ALL PROPERTY WITHIN THE DISTRICT.

RESOLUTION NO. 4972

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO SPECIFY THE ASSESSMENT OPTION FOR STREET MAINTENANCE AND IMPROVEMENTS DISTRICT NO. 1 FOR THE FISCAL YEAR 2021-2022 IN AN ESTIMATED AMOUNT OF \$1,278,988, LEVY AND ASSESS ALL PROPERTY WITHIN THE DISTRICT.

WHEREAS, in 1994, pursuant to 7-12-4401 *et seq.* Montana Code Annotated (MCA), the City of Livingston enacted Ordinances Nos. 1778 and 1779 which authorized the creation of street maintenance districts and by providing the method of doing the maintenance and of paying for the maintenance; and

WHEREAS, the City created Street Maintenance District No. 1 which encompassed the entire jurisdictional limits of the City of Livingston; and

WHEREAS, pursuant to 7-12-4405 MCA, the City Commission enacted Ordinance Nos. 1877, 1890 and 1973 authorizing the City to improve streets, avenues and alleys within the maintenance district so that the maintenance would be of a durable and continuing benefit; and

WHEREAS, it is the City’s intent to levy and assess 100 percent of the costs for improvements and maintenance of streets and alleys against each parcel of land within said district for that part of the cost which its assessable area bears to the assessable area of the district which such parcel is located exclusive of streets, avenues, alleys and public places; and

WHEREAS, the City Commission finds that all parcels of property located within the district will be benefitted from said street and alley improvements and maintenance as all residents of the City use said public ways; and

WHEREAS, a list of all parcels of property to be assessed within said district which contain the name of each parcel owner and the amount to be levied and assessed thereon is on file and open for public inspection in the office of the City of Livingston, 414 East Callender Street, Livingston, Montana; and

WHEREAS, pursuant to 7-12-4427, MCA, the City Commission will meet on July 20th, 2021, at 5:30 p.m. to hear all objections which may be made to such assessment or any part thereof and may adjourn from time to time for that purpose and may by resolution modify such assessment in whole or in part.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Livingston, Montana, as follows:

That Street Maintenance District No. 1 is defined as including each and every parcel of property located in the City of Livingston, including all annexations thereto.

BE IT FURTHER RESOLVED that it is the intent of the City Commission to levy and assesses for Fiscal Year 2021-2022 100% of the cost of improving and maintaining streets and alleys in Street Maintenance District No. 1 in the amount of \$1,278,988, representing a 24.3% increase from the previous fiscal year, against each and every parcel of land within said district for that part of the cost which its assessable area bears to the assessable area of the entire district exclusive of streets, avenues, alleys and public places, all as set forth in the list of all parcels of property in said district which contains the name of each parcel owner and the amount levied thereon. A copy of said list is on file and open for public inspection in the office of the City of Livingston, 414 East Callender Street, Livingston, Montana.

BE IT FURTHER RESOLVED that the City Commission will conduct a public hearing on July 20th, 2021, at 5:30 p.m. in the Community Room of the City County Complex, and a copy of the Notice attached hereto as Exhibit A, and incorporated herein by reference, be posted and published as required by law.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 6th day of July, 2021.

DOREL HOGLUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

Exhibit A – Public Notice

NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on July 20th, at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana on **RESOLUTION No. 4972** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO SPECIFY THE ASSESSMENT OPTION FOR STREET MAINTENANCE AND IMPROVMENTS DISTRICT NO. 1 FOR FISCAL YEAR 2021-2022 IN AN ESTIMATED AMOUNT OF \$1,278,988, LEVY AND ASSESS ALL PROPERTY WITHIN THE DISTRICT.** All interested persons are invited to attend the public hearing, to make comments or make objections to said assessments. For additional information, contact the City of Livingston at 414 East Callender Street, Livingston, MT 59047, or by phone at 823-6001.

Please publish twice at least six (6) days apart and the notice needs also to be posted and copies made available to the public. The hearing must be at least five days after the date of final publication.

File Attachments for Item:

E. RESOLUTION NO. 4973: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTIMATE THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE AMOUNT OF \$84,600 FOR THE FISCAL YEAR 2021-2022 AND LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT.

RESOLUTION NO. 4973

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ESTIMATE THE COST OF MAINTAINING LIGHTS AND SUPPLYING ELECTRICAL CURRENT TO SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 IN THE AMOUNT OF \$84,600 FOR FISCAL YEAR 2021-2022 AND LEVYING AND ASSESSING 100% OF THE ESTIMATED COSTS AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT.



WHEREAS, the City of Livingston has created Special Improvement Lighting District No. 20 for the purpose of providing for general public health, safety and welfare by lighting streets for vehicular and pedestrian safety and as a deterrent to criminal activity; and

WHEREAS, the estimated costs of maintaining lights and supplying electrical current for Lighting District No. 20 for Fiscal Year 2021-2022 is \$84,600; and

WHEREAS, it is the City’s intent to levy and assess 100% of the costs for maintaining the lights and supplying electrical current against each parcel of land within said district for that part of the cost which its assessable area bears to the assessable area of the district which such parcel is located exclusive of streets, avenues, alleys and public places; and

WHEREAS, the City Commission finds that all parcels of property located within the district will be benefitted from maintaining lights and supplying electrical current for Lighting District No. 20; and

WHEREAS, a list of all parcels of property to be assessed within said district which contain the name of each parcel owner and the amount to be levied and assessed thereon is on file and open for public inspection in the office of the City of Livingston, 414 East Callender Street, Livingston, Montana; and

WHEREAS, pursuant to 7-12-4351, MCA, the City Commission will meet on July 20th, 2021, to hear all objections which may be made to such assessment or any part thereof and may adjourn from time to time for that purpose and may by resolution modify such assessment in whole or in part.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Livingston, Montana, as follows:

That Special Improvement Lighting District No. 20 is defined as including each and every parcel of property located in the City of Livingston, including all annexations thereto.

BE IT FURTHER RESOLVED that the City Commission hereby intends to levy and assess for Fiscal Year 2021-2022 100% of the cost of maintaining and supplying electrical current for Special Lighting District No. 20 is in the amount of \$84,600 against each and every parcel of land within said district for that part of the cost which its assessable area bears to the assessable area of the entire district exclusive of streets, avenues, alleys and public places, all as set forth in the list of all parcels of property in said district which contains the name of each parcel owner and the amount levied thereon. A copy of said list is on file and open for public inspection in the office of the City of Livingston, 414 East Callender Street, Livingston, Montana.

BE IT FURTHER RESOLVED, that the City Commission will conduct a public hearing on July 20th, 2021 and a copy of the Notice attached hereto as Exhibit A will be posted and published as required by law.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 6th day of July, 2020.

DOREL HOGULUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on July 20th, 2021, at 5:30 p.m. in the Community Room of the City/County Complex, 414 East Callender Street, Livingston, Montana, on **RESOLUTION NO. 4973** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY MAINTAINING STREET LIGHTS AND OTHER APPURTENANCES THEREIN AND TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS OF \$84,600 FOR FISCAL YEAR 2021-2022 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT, AND CALLING FOR A PUBLIC HEARING.** All interested persons are invited to attend the public hearing, to make comments or make objections thereto. For additional information contact the City of Livingston Finance Department at 220 E Park Street, Livingston, MT, 59047, or by phone at 222-1142.

Please advertise twice, six (6) days apart.

File Attachments for Item:

F. RESOLUTION NO. 4974: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREET LIGHTS AND OTHER APPURTENANCES THEREIN AND TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS OF \$65,000 FOR THE FISCAL YEAR 2021-2022 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT, AND CALLING FOR A PUBLIC HEARING.

RESOLUTION NO. 4974

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREET LIGHTS AND OTHER APPURTENANCES THEREIN AND TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS OF \$65,000 FOR FISCAL YEAR 2021-2022 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT, AND CALLING FOR A PUBLIC HEARING.

WHEREAS, the City of Livingston has created Special Improvement Lighting District No. 20 for the purpose of providing for general public health, safety and welfare by lighting streets for vehicular and pedestrian safety and as a deterrent to criminal activity; and

WHEREAS, pursuant to 7-12-4351, MCA, it is the intent of the City Commission to make a modification to Street Lighting District No. 20 by replacing existing street lights; and

WHEREAS, it is the intent to replace street lights in conjunction with the street improvements plans where necessary and/or desirable; and

WHEREAS, it is the City’s intent to levy and assess 100 percent of the estimated costs of \$65,000 for replacing street lights against each parcel of land within said district for Fiscal Year 2021-2022 for that part of the cost which its assessable area bears to the assessable area of the district which such parcel is located exclusive of streets, avenues, alleys and public places; and

WHEREAS, the City Commission finds that all parcels of property located within the district will be benefitted from replaced street lights; and

WHEREAS, a list of all parcels of property to be assessed within said district which contain the name of each parcel owner and the amount to be levied and assessed thereon is on file and open for public inspection in the office of the City of Livingston, 414 East Callender Street, Livingston, Montana; and

WHEREAS, pursuant to 7-12-4351, MCA, the City Commission will meet on July 20th, 2021, to hear all objections which may be made to such assessment or any part thereof and may adjourn from time to time for that purpose and may by resolution modify such assessment in whole or in part.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Livingston, Montana, as follows:

That Special Improvement Lighting District No. 20 is defined as including each and every parcel of property located in the City of Livingston, including all annexations thereto.

BE IT FURTHER RESOLVED that the City Commission intends to modify Special Improvements Lighting District by replacing lights and appurtenances therein and hereby intends to levy and assess for Fiscal Year 2021-2022 100% of the cost of replacing street lights in the amount of \$65,000 against each and every parcel of land within said district for that part of the cost which its assessable area bears to the assessable area of the entire district exclusive of streets, avenues, alleys and public places, all as set forth in the list of all parcels of property in said district which contains the name of each parcel owner and the amount levied thereon. A copy of said list is on file and open for public inspection in the office of the City of Livingston, 414 East Callender Street, Livingston, Montana.

BE IT FURTHER RESOLVED, that the City Commission will conduct a public hearing on July 20th, 2021 and a copy of the Notice attached hereto as Exhibit A will be posted and published as required by law.

PASSED AND ADOPTED by the City Commission of the City of Livingston, this 6th day of July, 2021.

DOREL HOGLUND - Chairperson

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney

NOTICE

A public hearing will be held by the City Commission of Livingston, Montana, on July 20th, 2021, at 5:30 p.m. in the Community Room of the City/County Complex, 414 East Callender Street, Livingston, Montana, on **RESOLUTION NO. 4974** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO MODIFY SPECIAL IMPROVEMENT LIGHTING DISTRICT NO. 20 BY REPLACING STREET LIGHTS AND OTHER APPURTENANCES THEREIN AND TO LEVY AND ASSESS 100% OF THE ESTIMATED COSTS OF \$65,000 FOR FISCAL YEAR 2021-2022 AGAINST EVERY PARCEL OF PROPERTY WITHIN SAID DISTRICT FOR THAT PART OF THE COST WHICH ITS ASSESSABLE AREA BEARS TO THE ASSESSABLE AREA OF THE DISTRICT, AND CALLING FOR A PUBLIC HEARING.** All interested persons are invited to attend the public hearing, to make comments or make objections thereto. For additional information contact the City of Livingston Finance Department at 220 E Park Street, Livingston, MT, 59047, or by phone at 222-1142.

Please advertise twice, six (6) days apart.

File Attachments for Item:

G. RESOLUTION NO. 4976: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO APPLY FOR MINIMUM ALLOCATION GRANTS AND THE COMPETITIVE GRANT PROGRAM OF THE AMERICAN RESCUE PLAN ACT AND AUTHORIZATION TO COMMIT UP TO \$500,000.00 IN MATCHING FUNDS FOR THE MINIMUM ALLOCATION GRANT AND \$2,000,000 FOR THE COMPETITIVE GRANT PROGRAM.

American Recovery Plan Act
(ARPA)

ARPA funds are federal funds made available to states, cities, and counties to provide assistance in recovering from the effects of COVID-19. ARPA funds are targeted to help with direct costs associated with COVID-19 or for water and sewer infrastructure. There are three main categories of ARPA funding: Local Fiscal Recovery Funds, Minimum Allocation Grants, and the Competitive Grant Program. Local Fiscal Recovery Funds are governed by the U.S. Treasury program while the Minimum Allocation Grants and the Competitive Grant Program are governed by Montana HB 632.

Local Fiscal Recovery Funds:

- Non-competitive
- Must apply for funds (completed)
- \$996,341.08 was paid in May 2021
- \$996,341.08 will be paid in May 2022 (estimated)
- \$1,992,682.16 total funds
- Eligible Uses:
 - o Public Health
 - o Address negative economic impacts of COVID-19
 - o Replace lost revenue
 - o Premium pay for essential workers
 - o Water, sewer, and broadband infrastructure
- Money already allocated
 - o \$120,00 (over 3 years) for an additional Economic Development Agent from Extension
- Initial recommended uses
 - o Recreation Department lost revenue replacement
 - o Premium pay bonus for essential city employees

Minimum Allocation Grants:

- Non-competitive
- Governed by HB 632, Section 4
- Estimated \$1.32 M for Livingston
- Eligible Uses:
 - o Water & Sewer Infrastructure
- Must apply for funds
 - o Deadline of 1/1/2023
 - o If deadline is missed, funds are moved to Competitive Grant Program
- Required Match
 - o Lesser of 1:1 or 25% of Local Fiscal Recovery Funds
 - 25% = \$498,170.54
- Proposed use
 - o Hold in reserve until competitive processes are completed
 - o If other projects are successful:
 - East Side Well

- Bennett Street Water Loop

Competitive Grant Program:

- Competitive
- Governed by HB 632, Section 3
- \$177 M available statewide
- \$25 M cap per project
- Eligible Uses:
 - Water & Sewer Infrastructure
- Must submit competitive application
 - 7/15/2021 deadline – sooner is recommended
- Required Match
 - No requirement stated, but more match is more competitive
- Proposed Use:
 - Green Acres sewer program (\$2.8M project)
 - \$1,232,000 funding request
 - 56% match (\$1,568,000)
 - Inflow & Infiltration construction (\$6.5M project)
 - \$2,860,000 funding request
 - 56% match (\$3,640,000)

And now.....a plot twist. Running concurrently with the ARPA programs is a new federal program – Community Projects Funding (CPF). CPF is not an ARPA program, but is governed by Congressionally Directed Funding Rules. CPF is also directed towards infrastructure projects and has similar timelines as ARPA.

Community Projects Funding:

- Competitive
- Governed by member offices
- Unknown funding availability
- Eligible Uses:
 - Community Infrastructure Projects
- Application required through Senator Tester’s Office
 - 6/23/2021 application deadline
- Required Match
 - None stated, but more match is more competitive
- Proposed Use:
 - 6th & 7th St Water and 9th & 10th St Sewer projects (\$1,883,000 project)
 - \$1,318,100 funding request
 - 30% Match (\$564,900)

RESOLUTION NO. 4976

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AUTHORIZING THE CITY MANAGER TO APPLY FOR MINIMUM ALLOCATION GRANTS AND THE COMPETITIVE GRANT PROGRAM OF THE AMERICAN RESCUE PLAN ACT AND AUTHORIZATION TO COMMIT UP TO \$500,000.00 IN MATCHING FUNDS FOR THE MINIMUM ALLOCATION GRANT AND \$2,000,000 FOR THE COMPETITIVE GRANT PROGRAM.

WHEREAS, the City of Livingston, Montana, being a local government and eligible to receive American Rescue Plan Act Funds and

WHEREAS, the City of Livingston, seeks to apply for grant funding from the American Rescue Plan Act programs for the purpose of improving water and sewer infrastructure; and

WHEREAS, the proposed projects will extend sewer service to eliminate over 90 septic systems in the city, correct inflow and infiltration problems which will increase the capacity and efficiency of our water reclamation facility; and

WHEREAS, upon Commission approval, the City commits to meeting grant funding application requirements for all submitted projects; and

NOW THEREFORE, BE IT RESOLVED, by the City Commission of the City of Livingston, Montana, as follows:

The Livingston City Commission hereby authorizes the City Manager to submit grant applications American Rescue Plan Act programs on behalf of the City of Livingston, and is hereby authorized to act on its behalf and provide such additional information as required.

DATED, this _____ day of July, 2021.

DOREL HOGLUND, Chair

ATTEST:

APPROVED TO AS FORM:

FAITH KINNICK
Recording Secretary

COURTNEY JO LAWELLIN
City Attorney