



# Livingston City Commission Agenda

October 05, 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 SEPTEMBER 21, 2021 REGULAR MEETING. Pg. 5**
- B. RATIFY CLAIMS PAID 09/15/2021-09/24/2021. Pg. 10**
- C. ACCEPT RECOMMENDATION FROM CITY PLANNING BOARD TO FILL VACANCIES ON BOARD. Pg. 21**

7. Proclamations

8. Scheduled Public Comment

- A. RANDY COOK, PROSPSED HOUSING DEVELOPMENT ON SUMMIT STREET. Pg. 26**

9. Public Hearings

- A. RESOLUTION NO. 4991: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, VACATING A PORTION OF THE SUMMIT STREET RIGHT-OF-WAY ADJACENT TO BLOCK 32 OF THE MINNESOTA ADDITION. Pg. 30**
- B. ORDINANCE NO. 3017: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV AND ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO RADIO STATIONS. Pg. 47**
- C. ORDINANCE NO. 3018: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO BUILDING HEIGHTS. Pg. 80**
- D. ORDINANCE NO. 3019: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2085 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ALTERING THE MEMBERSHIP OF THE BUILDING CODE BOARD OF APPEALS. Pg. 97**

**E. ORDINANCE NO. 3020: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO AMEND ORDINANCE NO. 2085 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE APPENDIX Q OF THE 2018 INTERNATIONAL RESIDENTIAL CODE (IRC). Pg. 103**

**F. PLATEK ZONING COMPLAINT. Pg.107**

10. Ordinances

**A. ORDINANCE NO. 3021: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO BUILDING DESIGN STANDARDS. Pg. 113**

**B. ORDINANCE NO. 3022: 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 THE PARCELS INCLUDING THE PROPERTY BETWEEN NORTH O STREET AND THE YELLOWSTONE RIVER TO INCLUDE THE KPRK RADIO STATION AS MEDIUM DENSITY RESIDENTIAL (R-II) AND NEIGHBORHOOD COMMERCIAL AND TO INCLUDE THE AREAS ZONED NEIGHBORHOOD COMMERCIAL IN THE DESIGN REVIEW OVERLAY ZONE. Pg. 147**

11. Resolutions

**A. RESOLUTION NO. 5002: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2020-2021, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$398,160 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$390,445. Pg. 163**

12. Action Items

**A. DISCUSS: CITY COUNTY HEALTH BOARD'S DECISION ON LOCAL GOVERNING AUTHORITY.**

**B. DISCUSS: LEGAL UPDATE ON COUNTY COMMISSION/ HEALTH BOARD DECISION TO STOP PROVIDING INFORMATION ON COVID-19 POSITIVE INDIVIDUALS TO FIRST RESPONDERS.**

**C. DISCUSS: BOARD COMMUNICATIONS Pg. 167**

**D. CLOSED SESSION: PERSONNEL ISSUE**

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 SEPTEMBER 21, 2021 REGULAR MEETING.**



# Livingston City Commission Minutes

September 21, 2021

5:30 PM

City – County Complex, Community Room

1. Call to Order

2. Roll Call

In attendance: Chair Hoglund; Commissioners Friedman; Mabie and Nootz in attendance; Vice-chair Schwarz absent. Staff in attendance: City Manager Michael Kardoes; City Attorney Courtney Lawellin; Deputy Planning Director Mathieu Menard; and City Clerk Faith Kinnick.

3. Moment of Silence

4. Pledge of Allegiance

5. Public Comment

6. Consent Items (05:37p.m.)

**A. APPROVE MINUTES FROM SEPTEMBER 7, 2021, REGULAR MEETING.**

**B. RATIFY CLAIMS PAID 08/21/2021-09/14/2021.**

- Motion by Nootz to amend the 9/7/2021 minutes, by adding Commissioner Nootz in attendance during roll call. Second by Mabie.
- All in favor passes 4-0.

7. Proclamations

8. Scheduled Public Comment

9. Public Hearings

~~**A. RESOLUTION NO. 4991: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, DISCONTINUING AND VACATING A PORTION OF THE SUMMIT STREET RIGHT OF WAY ADJACENT TO BLOCK 32 OF THE MINNESOTA ADDITION.**~~

- Kardoes recommend pulling item from consideration to allow for information from the draft Active Transportation Plan to be incorporated. All in favor.

**B. RESOLUTION NO. 4992: A RESOLUTION TO THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN LAND WHICH IS WHOLLY SURROUNDED BY THE CITY OF LIVINGSTON AND IS DESCRIBED AS THE AREA NORTH OF THE RAILROAD TRACKS BETWEEN THE RAILROAD TRACKS AND BENNETT AND GALLATIN STREETS. (5:40 p.m.)**

- Kardoes gave opening statements
- No public comments
- No Commissioner Comments

- Motion by Friedman, second by Mabie  
All in favor, passes, 4-0.

**C. RESOLUTION NO. 4993: A RESOLUTION TO THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN LAND WHICH IS WHOLLY SURROUNDED BY THE CITY OF LIVINGSTON AND IS DESCRIBED AS S18, T02 S, R10 E, LOT 10, W2SE4NW4NE4 AND THE UNDESCRIBED PARCEL TO THE EAST. (05:44 p.m.)**

- Kardoes gave opening statement
- Patricia Grabow gave public comment
- Josh Reynolds gave public comment
- Sarah Stands gave public comment
- Nootz made comments
- Hogleund made comments
- Motion by Mabie, second by Friedman  
All in favor, passes, 4-0.

**D. RESOLUTION NO. 4994: A RESOLUTION TO THE CITY OF LIVINGSTON, MONTANA, ANNEXING CERTAIN LAND WHICH IS WHOLLY SURROUNDED BY THE CITY OF LIVINGSTON AND IS DESCRIBED AS 16 LOVES LANE. (05:53 p.m.)**

- Kardoes gave opening statement
- No public comment
- Nootz made comments
- Hogleund made comments
- Motion by Mabie, second by Friedman  
All in favor, passes, 4-0.

**E. 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, MODULAR HOMES AND MANUFACTURED HOMES. (5:57 p.m.)**

- Kardoes gave opening statement
- Mathieu Menard made comments
- Michelle Uberuaga gave public comment
- Nootz made comments
- Hogleund made comments
- Motion by Nootz, second by Mabie  
All in favor, passes, 4-0.

10. Ordinances

11. Resolutions

**A. RESOLUTION NO. 4965: AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT APPROVING THE ASSIGNMENT OF DEVELOPMENT RIGHTS IN THE AGREEMENT BETWEEN YELLOWSTONE COMMUNITY PARTNERS LLC, AND HEADWATERS WALKING**

**HORSE RANCH, LLC. AND THE CITY OF LIVINGSTON, MONTANA. TO HEART K LAND AND CATTLE COMPANY. (06:03 p.m.)**

- Kardoes gave opening statement
- Thomas Blurock made comments
- Walter Kirn made comments
- Steve Woodruff made comments
- Michelle Uberuaga made comments
- Ken Cochrane made comments
- Jerry Weimer made comments
- Josh Reynolds made comment
- Karrie Kahle made comment  
(Ten-minute break 6:38-6:48 p.m.)
- Nootz made comments
- Courtney Lawellin made clarifying comments
- Mabie made comments
- Hogle made comments
- Motion by Mabie, second by Friedman  
All opposed, motion failed.

**B. RESOLUTION NO. 5000: RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND APPLY FOR GRANT WITH MT DNRC WITH AND AUTHORIZATION FOR MATCHING FUNDS. (06:56 p.m.)**

- Kardoes gave opening statement
- No public comment
- Nootz asked clarifying questions
- Hogle made comments
- Mabie made comments
- Motion by Nootz, second by Mabie  
All in favor, passes, 4-0.

**C. RESOLUTION NO. 5001: A RESOLUTION TO THE CITY OF LIVINGSTON, MONTANA, TO ANNEX CERTAIN LAND ON PETITION BY MONTANA 40 ACRE, LLC. (AKA LOVE’S TRUCK STOP) (07:05 p.m.)**

- Kardoes gave opening statement
- Walter Kirn made public comment
- Patricia Grabow made public comment
- Thomas Blurock made public comment
- Karrie Kahle made public comment
- Jerry Weimer made public comment
- Christina Nelson made public comment
- Frank Elley- Love’s Truck Stop Rep. made clarifying comments
- Michelle Uberuaga made public comment
- Sarah Stands made public comment

- Nootz asked clarifying questions
- Mathieu Menard made clarifying comments
- Hogleund made comments
- Mabie made comments
- Friedman made comments
- Courtney Lawellin made clarifying comments
- Motion by Nootz, second by Mabie  
All in favor, passes, 4-0.

## 12. Action Items

### **A. DISCUSS: CREATION OF A JOINT CITY/COUNTY PLANNING BOARD. (8:07p.m.)**

- Kardoes gave opening statement
- Mathieu Menard comments
- Jerry Weimer made comments
- Michelle Uberuaga made comments
- Hogleund made comments
- Nootz made comments
- Mabie made comments
- Friedman made comments
- Commission concurred with concept. Kardoes and/or staff will start discussions with the County.

\*Motion to extend the meeting 8:29 p.m.

## 13. City Manager Comment (08:34 p.m.)

Shared Kardoes recently accepted to serve on the Board of Directors for District 10 of Montana League of Cities and Towns, replacing Ted Barkley the City Manager of Belgrade.

## 14. City Commission Comments (08:36)

Nootz  
Mabie  
Friedman  
Hogleund

## 15. Adjournment (8:52 p.m.)

Calendar of Events

Supplemental Material



**File Attachments for Item:**

**B. RATIFY CLAIMS PAID 09/15/2021-09/24/2021.**

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
<b>AETNA</b>							
10001	AETNA	6211419805	OVERPAYMENT - LADDA000	09/03/2021	114.32	114.32	09/24/2021
Total AETNA:					114.32	114.32	
<b>ALL SERVICE TIRE &amp; ALIGNMENT</b>							
22	ALL SERVICE TIRE & ALIGNME	62168	Flat repair	07/16/2021	40.00	40.00	09/22/2021
22	ALL SERVICE TIRE & ALIGNME	62351	New Tires	08/09/2021	4,794.00	4,794.00	09/22/2021
22	ALL SERVICE TIRE & ALIGNME	62475	New Tires	08/25/2021	4,390.00	4,390.00	09/22/2021
Total ALL SERVICE TIRE & ALIGNMENT:					9,224.00	9,224.00	
<b>BALCO UNIFORM COMPANY, INC.</b>							
3371	BALCO UNIFORM COMPANY, IN	63571-3	Uniform - Grunhurd	09/08/2021	167.00	167.00	09/22/2021
3371	BALCO UNIFORM COMPANY, IN	63741	Walker	09/13/2021	131.00	131.00	09/22/2021
Total BALCO UNIFORM COMPANY, INC.:					298.00	298.00	
<b>BARKER RINKER SEACAT ARCHITECTURE</b>							
10002	BARKER RINKER SEACAT ARC	13873	Professional Services	09/08/2021	1,800.00	1,800.00	09/22/2021
Total BARKER RINKER SEACAT ARCHITECTURE:					1,800.00	1,800.00	
<b>BLACKSTONE PUBLISHING</b>							
2219	BLACKSTONE PUBLISHING	1240515	4 audiobooks	08/23/2021	160.00	160.00	09/22/2021
2219	BLACKSTONE PUBLISHING	1240770	1 Audiobook	08/24/2021	40.00	40.00	09/22/2021
2219	BLACKSTONE PUBLISHING	1242158	4 audiobooks	09/01/2021	160.00	160.00	09/22/2021
Total BLACKSTONE PUBLISHING:					360.00	360.00	
<b>BOUND TREE MEDICAL, LLC</b>							
2662	BOUND TREE MEDICAL, LLC	84200017	Patient Supplies	09/08/2021	94.97	94.97	09/22/2021
2662	BOUND TREE MEDICAL, LLC	84201706	Patient Supplies	09/09/2021	439.92	439.92	09/22/2021
2662	BOUND TREE MEDICAL, LLC	84203674	Patient Supplies	09/10/2021	181.32	181.32	09/22/2021
Total BOUND TREE MEDICAL, LLC:					716.21	716.21	
<b>CARQUEST AUTO PARTS</b>							
23	CARQUEST AUTO PARTS	1912-517554	Air Tank	08/10/2021	35.09	35.09	09/22/2021
23	CARQUEST AUTO PARTS	1912-517576	Credit	08/10/2021	35.09-	35.09-	09/22/2021
23	CARQUEST AUTO PARTS	1912-517682	OIL DRAIN PLUG	08/11/2021	14.70	14.70	09/22/2021
23	CARQUEST AUTO PARTS	1912-517767	AIR FILTER	08/12/2021	33.59	33.59	09/22/2021
23	CARQUEST AUTO PARTS	1912-518175	9007 Twin	08/16/2021	16.79	16.79	09/22/2021
23	CARQUEST AUTO PARTS	1912-518178	Cleaning Supply	08/16/2021	33.11	33.11	09/22/2021
23	CARQUEST AUTO PARTS	1912-518250	AIR FILTER	08/17/2021	37.78	37.78	09/22/2021
23	CARQUEST AUTO PARTS	1912-518553	Grease	08/19/2021	80.71	80.71	09/22/2021
23	CARQUEST AUTO PARTS	1912-518560	Protectant	08/19/2021	4.05	4.05	09/22/2021
23	CARQUEST AUTO PARTS	1912-518588	18 Onyx	08/20/2021	32.14	32.14	09/22/2021
23	CARQUEST AUTO PARTS	1912-519696	Final Charge 50/50	08/31/2021	113.94	113.94	09/22/2021
23	CARQUEST AUTO PARTS	1912-519738	USA DEF2.5	08/31/2021	65.94	65.94	09/22/2021
Total CARQUEST AUTO PARTS:					432.75	432.75	
<b>CASHMAN NURSERY &amp; LANDSCAPING</b>							
10001	CASHMAN NURSERY & LANDS	481525	Shade Trees	07/26/2021	1,315.00	1,315.00	09/22/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total CASHMAN NURSERY & LANDSCAPING:					1,315.00	1,315.00	
<b>CENTRON SERVICES</b>							
682	CENTRON SERVICES	8-26-21 3069	3069 Collections	08/26/2021	95.18	95.18	09/22/2021
Total CENTRON SERVICES:					95.18	95.18	
<b>CITY OF LIVINGSTON</b>							
131	CITY OF LIVINGSTON	TK2021-0090	Bond Conversion - A. Tucker	09/10/2021	1,570.00	1,570.00	09/22/2021
Total CITY OF LIVINGSTON:					1,570.00	1,570.00	
<b>COMDATA</b>							
2671	COMDATA	20356545	XW660 CG72T	09/01/2021	3,074.67	3,074.67	09/22/2021
2671	COMDATA	20356545	XW660 CG73P	09/01/2021	396.73	396.73	09/22/2021
2671	COMDATA	20356547	XW717 CG72S	09/01/2021	2,089.18	2,089.18	09/22/2021
2671	COMDATA	IB986 9.1.2021	BZR70 IB986	09/01/2021	137.80	137.80	09/22/2021
Total COMDATA:					5,698.38	5,698.38	
<b>DD Enterprises</b>							
3528	DD Enterprises	2915	Dust control	09/15/2021	2,597.50	2,597.50	09/22/2021
Total DD Enterprises:					2,597.50	2,597.50	
<b>DELTA SIGNS &amp; GRAPHICS</b>							
509	DELTA SIGNS & GRAPHICS	2526	Door Decals	09/08/2021	60.00	60.00	09/22/2021
509	DELTA SIGNS & GRAPHICS	2526	Door Decals	09/08/2021	60.00	60.00	09/22/2021
509	DELTA SIGNS & GRAPHICS	2526	Door Decals	09/08/2021	60.00	60.00	09/22/2021
509	DELTA SIGNS & GRAPHICS	2526	Door Decals	09/08/2021	60.00	60.00	09/22/2021
509	DELTA SIGNS & GRAPHICS	2526	Door Decals	09/08/2021	60.00	60.00	09/22/2021
Total DELTA SIGNS & GRAPHICS:					300.00	300.00	
<b>DEMCO</b>							
199	DEMCO	6997769	Book Prep Supplies	08/30/2021	258.61	258.61	09/22/2021
Total DEMCO:					258.61	258.61	
<b>ENCODE CORPORATION</b>							
1548	ENCODE CORPORATION	41098	QUARTERLY MAINT.	08/26/2021	1,669.21	1,669.21	09/22/2021
Total ENCODE CORPORATION:					1,669.21	1,669.21	
<b>ENIGMA SOLUTIONS, LLC</b>							
10001	ENIGMA SOLUTIONS, LLC	3109	Webinar - Congleton	09/17/2021	150.00	150.00	09/22/2021
Total ENIGMA SOLUTIONS, LLC:					150.00	150.00	
<b>ENTENMANN-ROVIN CO.</b>							
10003	ENTENMANN-ROVIN CO.	0169717	Badges	09/02/2021	350.00	350.00	09/22/2021
Total ENTENMANN-ROVIN CO.:					350.00	350.00	
<b>ENVIRO-CLEAN EQUIPMENT, INC.</b>							
10003	ENVIRO-CLEAN EQUIPMENT, IN	21-55729	Air Gap Assy	09/08/2021	687.20	687.20	09/22/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
Total ENVIRO-CLEAN EQUIPMENT, INC.:					687.20	687.20	
<b>EXEC U CARE SERVICES, INC.</b>							
3298	EXEC U CARE SERVICES, INC.	2775	Janitorial Services	08/31/2021	2,440.00	2,440.00	09/22/2021
Total EXEC U CARE SERVICES, INC.:					2,440.00	2,440.00	
<b>FARSTAD OIL</b>							
3353	FARSTAD OIL	97376	Diesel 460g	09/03/2021	1,270.98	1,270.98	09/22/2021
3353	FARSTAD OIL	97760	Diesel 660g	09/14/2021	1,862.52	1,862.52	09/22/2021
Total FARSTAD OIL:					3,133.50	3,133.50	
<b>FISHER SAND AND GRAVEL</b>							
2904	FISHER SAND AND GRAVEL	49243	Road gravel	08/21/2021	2,401.43	2,401.43	09/22/2021
2904	FISHER SAND AND GRAVEL	49243	Cover Chips	08/21/2021	12,078.03	12,078.03	09/22/2021
Total FISHER SAND AND GRAVEL:					14,479.46	14,479.46	
<b>FOUR CORNERS RECYCLING, LLC</b>							
2919	FOUR CORNERS RECYCLING,	3103	Pull fees	08/28/2021	6,784.35	6,784.35	09/22/2021
2919	FOUR CORNERS RECYCLING,	CM3103	Credit	08/28/2021	4,802.40-	4,802.40-	09/22/2021
Total FOUR CORNERS RECYCLING, LLC:					1,981.95	1,981.95	
<b>GATEWAY OFFICE SUPPLY</b>							
54	GATEWAY OFFICE SUPPLY	52226	POSTAGE-POLICE	09/07/2021	13.23	13.23	09/22/2021
54	GATEWAY OFFICE SUPPLY	52318	Supplies	09/14/2021	53.05	53.05	09/22/2021
54	GATEWAY OFFICE SUPPLY	52359	Stamp	09/20/2021	8.80	8.80	09/22/2021
Total GATEWAY OFFICE SUPPLY:					75.08	75.08	
<b>HOUSE OF CLEAN</b>							
63	HOUSE OF CLEAN	604361380	Tissue Toilet	06/15/2021	596.42	596.42	09/22/2021
63	HOUSE OF CLEAN	604367355	Towel Roll	06/21/2021	62.32	62.32	09/22/2021
63	HOUSE OF CLEAN	604403155	Liners	07/26/2021	495.80	495.80	09/22/2021
63	HOUSE OF CLEAN	604420315	Towel Roll	08/10/2021	82.18	82.18	09/22/2021
63	HOUSE OF CLEAN	604426668	Tissue Toilet	08/16/2021	525.16	525.16	09/22/2021
63	HOUSE OF CLEAN	604435322	Towels	08/23/2021	70.34	70.34	09/22/2021
63	HOUSE OF CLEAN	604453488	Cleaning supplies	09/08/2021	143.27	143.27	09/22/2021
63	HOUSE OF CLEAN	800541750	Credit	08/24/2021	50.26-	50.26-	09/22/2021
Total HOUSE OF CLEAN:					1,925.23	1,925.23	
<b>INDUSTRIAL TOWEL</b>							
102	INDUSTRIAL TOWEL	73780-00	Civic Center Mats	08/12/2021	126.19	126.19	09/22/2021
102	INDUSTRIAL TOWEL	74742	Mats	08/24/2021	45.50	45.50	09/22/2021
102	INDUSTRIAL TOWEL	76112	Mats	09/07/2021	45.50	45.50	09/22/2021
102	INDUSTRIAL TOWEL	76563	Towel Service	09/09/2021	15.61	15.61	09/22/2021
Total INDUSTRIAL TOWEL:					232.80	232.80	
<b>INGRAM LIBRARY SERVICE</b>							
1539	INGRAM LIBRARY SERVICE	54389191	1 Book	08/19/2021	17.50	17.50	09/22/2021
1539	INGRAM LIBRARY SERVICE	54389192	1 Book	08/19/2021	13.27	13.27	09/22/2021
1539	INGRAM LIBRARY SERVICE	54438997	4 Books	08/23/2021	76.89	76.89	09/22/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
1539	INGRAM LIBRARY SERVICE	54468476	1 Book	08/24/2021	18.66	18.66	09/22/2021
1539	INGRAM LIBRARY SERVICE	54468477	1 Book	08/24/2021	16.29	16.29	09/22/2021
1539	INGRAM LIBRARY SERVICE	54490854	1 Book	08/25/2021	24.64	24.64	09/22/2021
1539	INGRAM LIBRARY SERVICE	54535986	1 Book	08/27/2021	28.98	28.98	09/22/2021
1539	INGRAM LIBRARY SERVICE	54565040	1 Book	08/30/2021	12.41	12.41	09/22/2021
1539	INGRAM LIBRARY SERVICE	54565041	19 BOOKS	08/30/2021	291.94	291.94	09/22/2021
1539	INGRAM LIBRARY SERVICE	54595839	2 Books	08/31/2021	53.47	53.47	09/22/2021
1539	INGRAM LIBRARY SERVICE	54616424	1 Book	09/01/2021	25.84	25.84	09/22/2021
1539	INGRAM LIBRARY SERVICE	54691351	9 books	09/07/2021	158.37	158.37	09/22/2021
Total INGRAM LIBRARY SERVICE:					738.26	738.26	
<b>KELLEY CONNECT</b>							
10001	KELLEY CONNECT	30003976	Finance Printer	08/31/2021	210.06	210.06	09/22/2021
10001	KELLEY CONNECT	IN865145	copier	07/01/2021	5.02	5.02	09/22/2021
10001	KELLEY CONNECT	IN880024	Civic Center Printer	08/03/2021	83.27	83.27	09/22/2021
10001	KELLEY CONNECT	IN894892	copier	09/01/2021	6.59	6.59	09/22/2021
10001	KELLEY CONNECT	IN896849	Bennett St Copier	09/03/2021	67.02	67.02	09/22/2021
Total KELLEY CONNECT:					371.96	371.96	
<b>KEN'S EQUIPMENT REPAIR, INC</b>							
1390	KEN'S EQUIPMENT REPAIR, IN	57545	G2	08/03/2021	293.00	293.00	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57553	JD Backhoe	08/05/2021	21.45	21.45	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57564	Sewer Jet	08/08/2021	1,368.10	1,368.10	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57566	New Yard Dog	08/26/2021	1,634.80	1,634.80	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57573	Rolloff	08/10/2021	90.00	90.00	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57575	G1	08/06/2021	194.00	194.00	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57619	Old Yard Dog	08/18/2021	617.30	617.30	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57624	Old Sweeper	08/19/2021	345.90	345.90	09/22/2021
1390	KEN'S EQUIPMENT REPAIR, IN	57666	IT Loader	08/30/2021	245.00	245.00	09/22/2021
Total KEN'S EQUIPMENT REPAIR, INC:					4,809.55	4,809.55	
<b>KNIFE RIVER</b>							
8	KNIFE RIVER	772493	Plant Mix	08/24/2021	1,422.60	1,422.60	09/22/2021
Total KNIFE RIVER:					1,422.60	1,422.60	
<b>LEHRKIND'S COCA-COLA</b>							
2830	LEHRKIND'S COCA-COLA	1879071	Water	09/08/2021	48.45	48.45	09/22/2021
2830	LEHRKIND'S COCA-COLA	1879072	Water	09/08/2021	24.75	24.75	09/22/2021
Total LEHRKIND'S COCA-COLA:					73.20	73.20	
<b>LIVINGSTON UTILITY BILLING</b>							
147	LIVINGSTON UTILITY BILLING	2021.9.7	1012100 228 W CALLENDER	08/05/2021	129.62	129.62	09/22/2021
Total LIVINGSTON UTILITY BILLING:					129.62	129.62	
<b>LOMCO, INC</b>							
2563	LOMCO, INC	031185-01	Spraying	09/09/2021	2,040.00	2,040.00	09/22/2021
2563	LOMCO, INC	031560-01	HFMS-2	09/09/2021	876.56	876.56	09/22/2021
2563	LOMCO, INC	031561-01	HFMS-2	09/09/2021	1,046.56	1,046.56	09/22/2021
Total LOMCO, INC:					3,963.12	3,963.12	

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
<b>MISC</b>							
99999	MISC	32456063	GAZEBO RENTAL REFUND	09/13/2021	50.00	50.00	09/22/2021
99999	MISC	CR2020-007	Bond Release - S. Anglin	09/14/2021	1,670.00	1,670.00	09/22/2021
99999	MISC	TK2021-0086	Bond Release - L. Davis	09/14/2021	770.00	770.00	09/24/2021
99999	MISC	TK2021-0090	Bond Release - A. Tucker	09/10/2021	440.00	440.00	09/22/2021
Total MISC:					2,930.00	2,930.00	
<b>MONTANA AIR CARTAGE</b>							
3808	MONTANA AIR CARTAGE	41098	QUARTERLY MAINT CONTRACT	08/26/2021	1,669.21	1,669.21	09/22/2021
3808	MONTANA AIR CARTAGE	LVQ83121	8.21 COURIER SERVICE	09/01/2021	232.65	232.65	09/22/2021
Total MONTANA AIR CARTAGE:					1,901.86	1,901.86	
<b>MUNICIPAL EMERGENCY SERVICES</b>							
2604	MUNICIPAL EMERGENCY SERV	IN1616843	SCBA REPAIR	09/03/2021	982.78	982.78	09/22/2021
2604	MUNICIPAL EMERGENCY SERV	IN1617120	FIRE BOOTS	09/03/2021	804.87	804.87	09/22/2021
Total MUNICIPAL EMERGENCY SERVICES:					1,787.65	1,787.65	
<b>MURDOCH'S RANCH &amp; HOME SUPPLY</b>							
3688	MURDOCH'S RANCH & HOME S	K00834	Hose	09/08/2021	39.99	39.99	09/22/2021
3688	MURDOCH'S RANCH & HOME S	K00838	Border Spade	09/09/2021	37.98	37.98	09/22/2021
3688	MURDOCH'S RANCH & HOME S	K00850	Glyphosate	09/13/2021	99.98	99.98	09/22/2021
3688	MURDOCH'S RANCH & HOME S	K00862	Electrode	09/16/2021	24.99	24.99	09/22/2021
Total MURDOCH'S RANCH & HOME SUPPLY:					202.94	202.94	
<b>NEWMAN SIGNS INC.</b>							
64	NEWMAN SIGNS INC.	TRFINV33731	Signs	09/10/2021	3,908.72	3,908.72	09/22/2021
Total NEWMAN SIGNS INC.:					3,908.72	3,908.72	
<b>NORTHWEST PIPE FITTINGS, INC</b>							
423	NORTHWEST PIPE FITTINGS, I	5587939	Parts	09/08/2021	511.86	511.86	09/22/2021
423	NORTHWEST PIPE FITTINGS, I	5589784	Parts	09/08/2021	1,657.70	1,657.70	09/22/2021
Total NORTHWEST PIPE FITTINGS, INC:					2,169.56	2,169.56	
<b>NORTHWESTERN ENERGY</b>							
151	NORTHWESTERN ENERGY	0107897-1 9.2	228 W CALLENDER - 0107897-1	09/10/2021	1,094.75	1,094.75	09/22/2021
Total NORTHWESTERN ENERGY:					1,094.75	1,094.75	
<b>PARK COUNTY</b>							
272	PARK COUNTY	2021_07	City Share	08/01/2021	4.28	4.28	09/23/2021
272	PARK COUNTY	2021_07	City Share	08/01/2021	5.39	5.39	09/23/2021
272	PARK COUNTY	2021_07	July - Power Bill	08/01/2021	2,988.04	2,988.04	09/23/2021
272	PARK COUNTY	2021_07	Analog Line - Loggy Elevators	08/01/2021	8.64	8.64	09/23/2021
272	PARK COUNTY	2021_07	After Hours IT - City	08/01/2021	157.50	157.50	09/23/2021
272	PARK COUNTY	2021_07	City Share	08/01/2021	66.00	66.00	09/23/2021
272	PARK COUNTY	2021_07	City Share	08/01/2021	64.75	64.75	09/23/2021
272	PARK COUNTY	2021_07	City Share	08/01/2021	46.25	46.25	09/23/2021
272	PARK COUNTY	2021_07	City Share	08/01/2021	65.12	65.12	09/23/2021
272	PARK COUNTY	2021_07	City Share	08/01/2021	13.59	13.59	09/23/2021
272	PARK COUNTY	2021_07	COL ph/Int 23.5%	08/01/2021	196.97	196.97	09/23/2021
272	PARK COUNTY	2021_07	COL ph/Int 23.5%	08/01/2021	1,463.15	1,463.15	09/23/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	671.81	671.81	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	190.97	190.97	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	190.97	190.97	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	190.97	190.97	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	190.97	190.97	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	763.86	763.86	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	219.52	219.52	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	219.52	219.52	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	109.76	109.76	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	21.95	21.95	09/23/2021
272	PARK COUNTY	2021_07	COL ph/int Other Sites	08/01/2021	87.79	87.79	09/23/2021
272	PARK COUNTY	2021_07	Janitorial Svs & Sply	08/01/2021	2,481.14	2,481.14	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	201.23	201.23	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	120.74	120.74	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	80.49	80.49	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	65.20	65.20	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	80.49	80.49	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	40.25	40.25	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	120.74	120.74	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	603.70	603.70	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	40.25	40.25	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	281.73	281.73	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	15.29	15.29	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	80.49	80.49	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	402.47	402.47	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	24.55	24.55	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	120.74	120.74	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	33.40	33.40	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	221.36	221.36	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	40.25	40.25	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	34.21	34.21	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	100.62	100.62	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	160.99	160.99	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	40.25	40.25	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	28.58	28.58	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	160.99	160.99	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	40.25	40.25	09/23/2021
272	PARK COUNTY	2021_07	Smartnet Software	08/01/2021	281.72	281.72	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	316.64	316.64	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	189.99	189.99	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	126.66	126.66	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	102.59	102.59	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	126.66	126.66	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	63.33	63.33	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	189.99	189.99	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	949.93	949.93	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	63.33	63.33	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	443.30	443.30	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	24.06	24.06	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	126.66	126.66	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	633.29	633.29	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	38.63	38.63	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	189.99	189.99	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	52.56	52.56	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	348.31	348.31	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	63.33	63.33	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	53.83	53.83	09/23/2021

Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	158.32	158.32	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	253.32	253.32	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	63.33	63.33	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	44.96	44.96	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	253.32	253.32	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	63.33	63.33	09/23/2021
272	PARK COUNTY	2021_07	City - Main prod sns for vsphere	08/01/2021	443.30	443.30	09/23/2021
272	PARK COUNTY	2021_07	July G-Tac -Col	08/01/2021	533.44	533.44	09/23/2021
272	PARK COUNTY	2021_07	July Net Motion Fees - COL	08/01/2021	130.05	130.05	09/23/2021
Total PARK COUNTY:					19,886.34	19,886.34	
<b>PONY EXPRESS LUBE</b>							
10001	PONY EXPRESS LUBE	11-0097359	49-664	09/07/2021	93.70	93.70	09/22/2021
Total PONY EXPRESS LUBE:					93.70	93.70	
<b>POWERPLAN</b>							
1868	POWERPLAN	W1197916	Backhoe Repair	08/17/2021	800.36	800.36	09/22/2021
Total POWERPLAN:					800.36	800.36	
<b>RECREATION SUPPLY CO.</b>							
3033	RECREATION SUPPLY CO.	430458	Master Motor	07/10/2021	45.00	45.00	09/22/2021
Total RECREATION SUPPLY CO.:					45.00	45.00	
<b>SALT LAKE WHOLESALE SPORTS</b>							
2213	SALT LAKE WHOLESALE SPOR	75306	Ammunition	09/08/2021	2,681.06	2,681.06	09/22/2021
Total SALT LAKE WHOLESALE SPORTS:					2,681.06	2,681.06	
<b>SHI INTERNATIONAL CORP.</b>							
2907	SHI INTERNATIONAL CORP.	B14017493	LPD	09/03/2021	8,480.11	8,480.11	09/22/2021
Total SHI INTERNATIONAL CORP.:					8,480.11	8,480.11	
<b>STAFFORD ANIMAL SHELTER</b>							
1439	STAFFORD ANIMAL SHELTER	2021_08	AUGUST SERVICES	09/07/2021	1,550.00	1,550.00	09/22/2021
Total STAFFORD ANIMAL SHELTER:					1,550.00	1,550.00	
<b>SWANDALL LAW PLLC</b>							
10000	SWANDALL LAW PLLC	6364	Judge	07/29/2021	12.50	12.50	09/22/2021
Total SWANDALL LAW PLLC:					12.50	12.50	
<b>T &amp; E THE CAT RENTAL STORE</b>							
533	T & E THE CAT RENTAL STORE	BLWO0210803	Sensor	08/20/2021	1,705.42	1,705.42	09/22/2021
Total T & E THE CAT RENTAL STORE:					1,705.42	1,705.42	
<b>TEAR IT UP L.L.C.</b>							
2999	TEAR IT UP L.L.C.	49788	Shredding	08/25/2021	49.44	49.44	09/22/2021
Total TEAR IT UP L.L.C.:					49.44	49.44	





Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	21.60	21.60	09/22/2021
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	21.61	21.61	09/22/2021
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	13.34	13.34	09/22/2021
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	13.34	13.34	09/22/2021
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	13.34	13.34	09/22/2021
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	21.61	21.61	09/22/2021
879	VERIZON WIRELESS	9887990822	SEPT 2021 CELLPHONES	09/08/2021	13.34	13.34	09/22/2021
Total VERIZON WIRELESS:					1,212.89	1,212.89	
<b>VOICE PRODUCTS</b>							
10002	VOICE PRODUCTS	AR102298	Maintenance Renewal	09/09/2021	2,053.00	2,053.00	09/22/2021
Total VOICE PRODUCTS:					2,053.00	2,053.00	
<b>WARREN WELDING, LLC</b>							
10003	WARREN WELDING, LLC	12269	LADDER RACK REPAIR	08/26/2021	135.00	135.00	09/22/2021
Total WARREN WELDING, LLC:					135.00	135.00	
<b>WESTERN EMULSIONS, INC.</b>							
2963	WESTERN EMULSIONS, INC.	10-481514	HFMS-2	09/06/2021	13,604.25	13,604.25	09/22/2021
2963	WESTERN EMULSIONS, INC.	10-481515	HFMS-2	09/07/2021	13,662.45	13,662.45	09/22/2021
Total WESTERN EMULSIONS, INC.:					27,266.70	27,266.70	
<b>WHISTLER TOWING, LLC</b>							
3237	WHISTLER TOWING, LLC	11299	Towing	09/09/2021	85.00	85.00	09/22/2021
3237	WHISTLER TOWING, LLC	11300	Towing	09/09/2021	85.00	85.00	09/22/2021
3237	WHISTLER TOWING, LLC	11306	Towing	09/13/2021	85.00	85.00	09/22/2021
3237	WHISTLER TOWING, LLC	11445	Towing	09/07/2021	85.00	85.00	09/22/2021
3237	WHISTLER TOWING, LLC	6351	M2 Oil Change	09/01/2021	85.48	85.48	09/22/2021
Total WHISTLER TOWING, LLC:					425.48	425.48	
<b>WISPWEST.NET</b>							
2087	WISPWEST.NET	667518	CC internet	09/01/2021	53.21	53.21	09/22/2021
Total WISPWEST.NET:					53.21	53.21	
Grand Totals:					174,229.73	174,229.73	

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Vendor	Vendor Name	Invoice Number	Description	Invoice Date	Net Invoice Amount	Amount Paid	Date Paid
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Dated: \_\_\_\_\_

Mayor: \_\_\_\_\_

City Council: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

City Recorder: \_\_\_\_\_

**File Attachments for Item:**

**C. ACCEPT RECOMMENDATION FROM CITY PLANNING BOARD TO FILL VACANCIES ON BOARD.**

September 22, 2021

**MEMORANDUM**

**TO:** City of Livingston City Commission

**FROM:** Mathieu Menard, City of Livingston Planning Department

**SUBJECT:** City of Livingston Planning Board Recommendation for Board Appointment

**Background:** The City Commission has expanded the Planning Board to nine (9) members. With the two (2) additional members the City Commission has required that preference be given to non-freeholders. At the September 15<sup>th</sup> City Planning Board meeting the three (3) applicants for the two (2) positions were interviewed and a recommendation was made. The three applicants were Johnathan Hettinger, Heather Vieira, and Michael Petry. Through the interview it was determined that both Johnathan and Michael were non-freeholders where Heather was a freeholder within the City. In line with the Commission’s requirements the Planning Board recommended Johnathan and Michael.

**Staff Recommendation:** Staff concurs with the recommendation of the Planning Board and recommends that Johnathan Hettinger and Michael Petry are appointed to the Planning Board.

# JOHNATHAN HETTINGER

22

1211 North State St., Monticello, IL 61856 | 217-493-9791 | jhett93@gmail.com

## EXPERIENCE

### Midwest Center for Investigative Reporting – Champaign, Ill.

Investigative reporter

Aug. 2016 - Present

- Write long-term investigative projects on the world's largest agribusiness companies
- Frequently mine government documents and data to write stories on federal pesticide policy and legal challenges
- Assist in organizing public discussions of agribusiness issues

### Freelance writer

May 2019 - Present

- Pitch and report stories for publications, such as Montana Free Press and InsideClimateNews
- Focus on issues such as Endangered Species, COVID-19, climate change and energy

### Livingston Enterprise – Livingston, Mt.

Staff writer

May 2018 - May 2019

- Wrote multiple stories each morning to provide daily coverage of Park County as the only full-time reporter
- Attended city and county meetings and community events to provide full-scale picture of Livingston area
- Provided coverage of Yellowstone National Park, Endangered Species Act, wildlife issues and city and county growth

### CU Citizen-Access – Champaign, Ill.

Managing editor

Aug. 2016 - July 2018

- Edited and assigned work by student journalists for online newsroom that regularly partners with legacy media
- Assisted with investigative and public affairs reporting classes at the University of Illinois to provide tips, guidance

### The News-Gazette – Champaign, Ill.

Municipal government reporter

April 2015 - Aug. 2016

- Provided definitive reporting on all aspects of the Champaign and Urbana city governments, including police
- Assisted with coverage of University of Illinois, including administration and athletics

### Chicago Tribune – Chicago, Ill.

Dow Jones sports copy editing intern

June 2014 - Aug. 2014

- Edited copy, wrote headlines and fact-checked sports stories as a full-time intern

### The Daily Illini – Champaign, Ill.

Editor-in-chief

March 2014 - March 2015

- Led a newspaper staff of 150 reporters, editors, designers and photographers
- Oversaw editors to ensure up-to-the-minute news, sports and feature coverage online and in print four days a week

## EDUCATION

University of Illinois at Urbana-Champaign

May 2015

Bachelor of Science in Journalism

## AWARDS

### Montana Newspaper Association (2019)

- 1st, 2nd and 3rd place for continuing news coverage
- 1st and 2nd place for breaking news
- 2nd place for news story
- 3rd place for lifestyle coverage
- 2nd place - Mark Henckel Outdoor Writing Award

### Peter Lisagor Award

- 1st place Best Investigative/Public Service Reporting (editing and research)

### Illinois Press Association

- 1st place in 2016 for government beat reporting for coverage of Champaign-Urbana
- 3rd place in 2016 for news reporting in a series for coverage of Champaign police
- 2nd place in 2015 government beat reporting for coverage of Champaign
- 2nd place in 2015 for public right-to-know
- 2nd place in 2015 business and economic reporting for coverage of housing issues
- 3rd place in 2015 business and economic reporting for coverage of college athletics

## REFERENCES

### Brant Houston

Journalism professor  
University of Illinois  
C: 573-529-3581

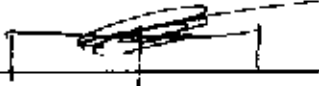
### Lil Levant

Former VP of business development  
The News-Gazette  
C: 217-402-3615  
ljlevant@gmail.com

**City of Livingston**  
**Application for Appointed Office**  
(Revised 3/20/20)

**Appointed Position Seeking:** CITY PLANNING BOARD

**Date of Application:** 8-29-2021

Name: MICHAEL A. PETRY Signed: 

Address: 102 N. 8<sup>th</sup> LIVINGSTON MT 59047

Telephone: daytime 406-224-8520 after 5:00 p.m.: SAME

Fax Number: \_\_\_\_\_ e-mail address: credentare@gmail.com

1. Are you a resident of the City of Livingston? YES

2. Are you a registered voter? YES

3. Will you be at least 18 years of age at the time of the appointment? YES

4. Describe the reasons you are interested in this appointment: I've lived in Livingston for ten years and have witnessed significant growth. I would like to be a part of the explosive growth and planning necessary for Livingston's future.

5. Describe any background, experience and interests that you have which may assist you in performing the responsibilities of this appointment:

- A. Occupation: ENGLISH DEPT. FACULTY MSU (current) SENIOR DESIGN ENGINEER - TACOMA, WA VARIOUS FIRMS
- B. Education: BLA LANDSCAPE ARCHITECTURE & ENVIRONMENTAL PLANNING
- C. Experience: MFA CREATIVE WRITING FOR CHILDREN & YOUNG ADULTS

Engineered new development plans, prepared feasibility studies, coordinated with multiple municipalities, professionals, government agencies, and private organizations.  
(please attach a detailed resume if desired) Resume available on request.

6. Have you served on any previous boards or in any governmental positions in the past? Whittier Community Center Board, Logan, Utah

7. Are you currently serving on any Community Boards? No

A. If yes, please describe those boards. \_\_\_\_\_

8. Current Employer? MOUNTAIN AIR (LIVINGSTON) MSU (BOZEMAN)

9. Are you available for night meetings? YES

10. Are you available for daytime meetings? Sometimes

11. Do you foresee any potential conflicts of interest that you might have in executing the duties of this appointed office? NONE

12. If conflict of interest arose for you, how would you deal with it as an appointed member of this board? I would abstain from that particular vote, proposal, or motion as necessary.

**THIS APPLICATION WILL BE KEPT ON FILE FOR 6 MONTHS AND THEN DISCARDED.**

Return completed applications to Faith Kinnick at [fkinnick@livingstonmontana.org](mailto:fkinnick@livingstonmontana.org) or drop off in person at the City/County Complex 414 E. Callender St.

**City of Livingston**  
**Application for Appointed Office**  
(Revised 3/20/20)

**Appointed Position Seeking:** Livingston Planning Board

**Date of Application:** 8/18/21

Name: Johnathan Hettinger

Signed: 

Address: 2222 Willow Drive, 36B Livingston, MT

Telephone: daytime 217-493-9791

after 5:00 p.m.: Same

Fax Number: \_\_\_\_\_

e-mail address: jhett93@gmail.com

1. Are you a resident of the City of Livingston? Yes

2. Are you a registered voter? Yes

3. Will you be at least 18 years of age at the time of the appointment? Yes

4. Describe the reasons you are interested in this appointment: The Livingston Growth Policy is really strong, and

I'm interested in helping to do the hard work of implementing the Growth Policy. The Planning Board is critical to ensuring an equitable future for Livingston.

5. Describe any background, experience and interests that you have which may assist you in performing the responsibilities of this appointment:

A. Occupation: Communications Director, Park County Environmental Council, and freelance writer

B. Education: B.S. News-Editorial Journalism '15 - University of Illinois

C. Experience: I have attended countless city meetings, including the planning board and work on housing issues.

(please attach a detailed resume if desired)

6. Have you served on any previous boards or in any governmental positions in the past? \_\_\_\_\_

City Conservation Board, Senior Center Board, Elk River Arts and Lectures Board

7. Are you currently serving on any Community Boards? Yes

A. If yes, please describe those boards. Senior Center, Elk River Arts and Lectures

8. Current Employer? Park County Environmental Council, Midwest Center for Investigative Reporting

9. Are you available for night meetings? Yes

10. Are you available for daytime meetings? Yes

11. Do you foresee any potential conflicts of interest that you might have in executing the duties of this appointed office? No

12. If conflict of interest arose for you, how would you deal with it as an appointed member of this board? I would recuse myself.

**THIS APPLICATION WILL BE KEPT ON FILE FOR 6 MONTHS AND THEN DISCARDED.**

Return completed applications to Faith Kinnick at [fkinnick@livingstonmontana.org](mailto:fkinnick@livingstonmontana.org) or drop off in person at the City/County Complex 414 E. Callender St.



**File Attachments for Item:**

**A. RANDY COOK, PROSPSED HOUSING DEVELOPMENT ON SUMMIT STREET.**

**Proposal to discontinue and vacate the portion of Summit Street adjacent to Lots 28-32 of Block 32, Minnesota Addition and supporting that the City will reserve, to the public, a 10-foot pedestrian easement.**

1

### Properties

**X TBD G Street**

- 5 city lots
- Surveying into 2-4 depending on proposal outcome

**X TBD H Street**

- 5 city lots
- Landlocked with no city street access

Platted in early 1900's without regard to topography. Original lots layout are parallel to Summit Street with intention of G and H Street access.




2

### West View of G Street Access




- Excellent opportunity for infill development
- No city street access (grey represents G Street)
- No infrastructure
- Hardship lots, difficult to build on. Black indicates new property line.




3

### Project Scope




- Resurveyed into four 3500 square lots
- 5-8 small, energy efficient, affordable homes
- 2 ADA accessible homes for elderly family members
- For purchase or rent
- All long-term rentals (no short-term vacation rentals)



4

### Project Challenges & Solutions




**Challenges**

- No city street access to either property shrinking buildable space
- No infrastructure
- Difficult to build on based on topography and existing retaining wall.

**Solutions**

- Two driveway easements denoted in brown sacrificing two 20 foot strips of property



5

### Abandonment Proposal

City vacation of Summit Street while preserving a trail easement.



**Blue** indicates width of Summit Street: 66 ft


**Grey** indicates middle of Summit Street and new property line.

**Orange** is edge of the public easement, essentially useable property line.



6

### Land Acquisition Details



Property owners lose a significant portion of the G Street property to create two driveway easements from West side (Red).

Property owners lose two 20 foot easements through their property to access adjacent land locked lots (Grey).

Property owners will be granting a maintenance easement to the city in perpetuity due to no alley access.

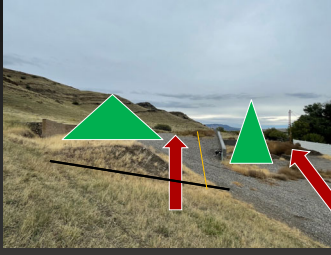
Abandonment restores 23 feet of lost property.

Abandonment preserves future trail potential.

GSM

7

### West View:



- Red arrows denote approximate location of driveway easements
- Yellow is new property line
- Black line indicates G Street.
- Existing layout allows for 32 feet on upper lots for building ADA homes.

GSM

8

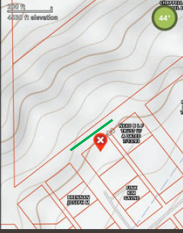
### Trail Potential



GSM

9

### Trail Potential




- Potential for future trail is preserved.
- Potential trail would be shifted 23 feet to the north.
- Topography is unremarkable throughout this portion of Summit Street.
- The pitch is identical from current property line to proposed property line. 2" pitch or a 9 deg slope.

GSM

10

### Topography



GSM

11

### Familiarity of Existing Trails

- This has been our neighborhood for the past 20 years
- When the property became available, we immediately recognized it because we had been using it to access city property several times per week for the past 20 years
- We would LOVE to see a hiking trail that we could access from our property.

GSM

12

## Misinformation

This is not a "quick decision" nor is the "process as easy as asking". We have been working on this for a year with surveyors, architects, civil engineers, other builders and city officials to find solutions.



13

## Misinformation

We are not getting a parcel of land for \$250 but rather accepting that the driveway and maintenance easements are a necessity, and this property modification offsets the impact.



14

## Misinformation

The trail easement is preserved but moved 23 feet north, calling this a "hiccup" in the future of Livingston trails is an exaggeration.



15

## Misinformation

Our neighbors and city officials know and trust us based on 20 years of being vested in our community. Not only did we upcycle an abandoned car wash into Granite Sports Medicine, we created a wellness hub and an awesome place of employment.



16

## Summary

"Developers" can be community minded and support public land access.



17

## Summary

Our initial motivation was to find land that Randy's retired teacher parents could afford so they could be close to us as they age.

Based on the housing crisis, we evolved this to create affordable housing for GSM. This project creates 5-8 homes for our community members.



18

## Summary

These are hardship lots, so it requires someone with Randy's years of experience to create much needed homes. This project is an excellent example of infill development.

19

## Summary

This abandonment makes our project possible. We can build single floor ADA accessible homes for our retired family members and create multiple affordable two-story housing options.

20

## Summary

The development preserves the potential of a future trail system. It does not inhibit trail creation and does not make it harder or impossible to have a trail on the proposed easement.

21

## Current Housing Crisis

Considering the current state of Livingston, what is best for the city is creating more intelligent, thoughtful housing.

- Shields Valley Schools
- Understaffed hospitals and nursing homes
- Restaurants with limited hours due to being understaffed
- Grocery stores understaffed
- GSM can't fill vacant spots

Time is running out to save our community.

22

## Is this a good decision in 50 years?

Is shifting a potential future trail 23 feet to the north more important than creating 8 affordable, small footprint energy efficient homes for our community?

23

**File Attachments for Item:**

**A. RESOLUTION NO. 4991: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, VACATING A PORTION OF THE SUMMIT STREET RIGHT-OF-WAY ADJACENT TO BLOCK 32 OF THE MINNESOTA ADDITION.**

**RESOLUTION NO. 4991**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE SUMMIT STREET RIGHT-OF-WAY ADJACENT TO BLOCK 32 OF THE MINNESOTA ADDITION.**

**WHEREAS** the City has received application from the owners of Lots 28-32 of Block 32, Minnesota Addition, requesting vacation of a 140-foot section of Summit Street from the east side of G Street to the west side of the alley in Block 32; and

**WHEREAS,** the East Summit Street right-of-way is undeveloped and unused from approximately E Street to its east extent at M Street; and

**WHEREAS,** the City will reserve a public, pedestrian easement within the vacated right- of-way for pedestrian connectivity and convenience.

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

That it is the intent of the City Commission to discontinue and vacate that portion of Summit Street adjacent to Lots 28-32 of Block 32, Minnesota Addition and that the City will reserve, to the public, a 10-foot pedestrian easement.

**PASSED** during a first reading by the City Commission of the City of Livingston, Montana, this \_\_\_\_\_ day of August, 2021.

**ATTEST:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

**PASSED, ADOPTED AND APPROVED** by the City Commission of the City of Livingston, during a second reading this \_\_\_\_\_ day of October, 2021.

\_\_\_\_\_  
**DOREL HOGLUND – Chair**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
**City Attorney**

\*\*\*\*\*

**NOTICE OF PUBLIC HEARING**

**NOTICE**, is hereby given, the Livingston City Commission will convene for a regular session Tuesday, October 5, 2021, at 5:30 p.m. in the Community Room of the City/County Complex. During which meeting a public hearing will be conducted after the second reading of **RESOLUTION NO. 4991** entitled **A RESOLUTION OF THE CITY COMMISSION MONTANA, OF ITS INTENT TO DISCONTINUE AND VACATE A PORTION OF THE SUMMIT STREET RIGHT-OF-WAY ADJACENT TO BLOCK 32 OF THE MINNESOTA ADDITION.** The public is welcome to provide comments when appropriate. For additional information regarding this meeting, contact Faith Kinnick at (406) 823-6002.

Please publish Friday, September 24, 2021, and October 1st, 2021.

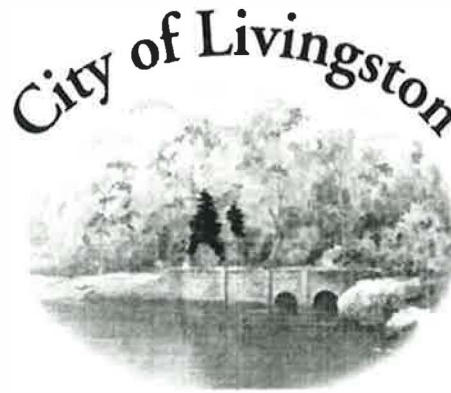
Faith Kinnick  
City of Livingston  
September 22, 2021



**City Manager**  
Michael Kardoes

220 E. Park Street  
(406) 823-6000 phone

citymanager@livingstonmontana.org  
www.livingstonmontana.org



*Incorporated 1889*

**Chairperson**  
Dorel Hoglund

**Vice Chair**  
Quentin Schwarz

**Commissioners**  
Mel Friedman  
Warren Mabie  
Melissa Nootz

July 26, 2021

## **STAFF REPORT**

### **STREET VACATION – COOK**

#### **Background**

Noel and Kathryn Cook, owners of property described as Lots, 28-32, Block 32, Minnesota Addition, are requesting that the City Commission vacate the Summit Street right-of-way between G Street and the alley of Block 32. The applicant intends to create four building sites on this property and in order to provide for access and utility easements they would like to be able to use the additional 33-feet that they would gain should this application be approved.

#### **Findings of Fact**

The Summit Street right-of-way in this area has never been improved or used as a street. It is completely undeveloped from the intersection of North E Street to the end of the right-of-way at North M Street. The subject property is accessed by G Street. The developed part of G Street ends approximately 100-feet south of the Summit Street right-of-way and the rest of the distance to the applicant's property is basically a drive-way. Due to the Livingston Ditch, there are no other connections to Summit Street from north/south streets as you look east of this location. Due to topography, East Summit Street is unbuildable in the location that it is platted.

This project will provide access and utility easements to the alley, which will allow for legal and physical access, to the neighbor to the east.

**Staff Recommendation**

Based on the Findings of Fact section of this staff report, City Staff feels that it is appropriate for the City Commission to **approve** this vacation request with the stipulation that a 10-foot pedestrian easement be reserved to the public.

---

Jim Woodhull  
Director of Building/Planning

**List of Attachments**

- Attachment I..... Cook application
- Attachment II..... Site Map

APPLICATION FOR STREET/ALLEY VACATION\*

- 1. Applicant's Name: Noel + Kathryn Cook
- 2. Applicant's Address: 2222 Willow dr. unit 35B  
Livingston, MT 59047
- 3. Applicant's Telephone Number: (406) 546-5907
- 4. Description of street/alley requested for vacation:  
140 ft section of Summit st between intersection of  
North G st (north terminus of G st) and the intersection with  
the alley to the east (north terminus of alley)
- 5. Attach map/diagram of proposed vacation with the following:
  - a. location in city
  - b. the street/alley proposed for vacation
  - c. applicant's property
  - d. abutting property owners
  - e. utilities; and
  - f. adjacent buildings/fixtures
- 6. Attach names and addresses of all landowners adjacent to the street/alley being sought to be vacated.
- 7. Is the Street/Alley improved? (circle appropriate response):  
Yes                       No
- 8. Attach statements from utility companies indicating whether they consent, consent with conditions and stating conditions or object to proposed vacation.
- \* 9. Attach title report showing all ownership interests and easements in property abutting the proposed vacation.  
could only substitute property record cards from Cadastral.com
- 10. A nonrefundable Application Fee for street/alley vacation in the amount of \$ 225.00 must accompany the application.

\*NOTE: A. Submission of Application for street/alley vacation with appropriate fees in no way obligates the City to vacate said street or alley; the City Council will ultimately decide whether the street/alley vacation can be done without detriment to the public interest.

B. The City reserves the right to maintain a strip of land in the vacated street or alley for purposes of a public thoroughfare.

June 28, 2021

**Cover Letter for Application for Street Vacation**

**Applicants:**

Noel and Kathryn Cook  
2222 Willow Drive, Unit 35B  
Livingston, MT 59047  
(406) 546-5907

**Primary Contact:**

Randy Cook  
511 East Gallatin St.  
Livingston, MT 59047  
(406) 223-2764  
[randyccook@hotmail.com](mailto:randyccook@hotmail.com)

To Whom It May Concern,

The proposed vacation is the 140 ft section of Summit Street between the intersection with North G Street to the west and the intersection with the alley to the east.

The property directly south of the proposed vacation is owned by the applicants. The legal description is: Lots 28-32 of Block 32 of the Minnesota addition to the city of Livingston. Located in the SW1/4, SE1/4 of Section 12, Township 2 South, Range 9 East, P.M.M.

**Explanation of Purpose of Street Vacation:**

We are requesting the vacation of the 140 ft section of Summit Street abutting the north boundary of our property listed above. This section runs the length of the property between G street and the alley to the east.

Due to slope angle and accessibility, this section of plotted Summit Street is not a reasonable location for a functioning street. There is a vacated section of Summit Street directly to the west of the proposition. There are no utilities in the proposed section of Summit Street, nor is there likely to be any in the future as the property to the north is too steep and rocky to be developed. There are no structures adjacent to the proposed street section.

The property proposes a series of difficult hardships to development due to the combination of lot size, slope variances, and access. The lots 28-32 owned by the applicants were purchased as five lots and are currently being surveyed into four lots out of necessity for construction of future homes. We are building ADA accessible single level homes making appropriate layout and reasonable access a necessity.

Possibly the largest challenge is that G street terminates into an extreme slope angle before it reaches the northernmost lots, preventing street access to them. Creating driveways to access to the homes will require a substantial sacrifice in property to connect the properties to the G St termination.

The utility extensions must be expanded and buried through the alley between G and H Street. This alley does not continue south unbroken, but rather terminates at a private property and irrigation ditch less than a block from our properties. The building department has informed us of the need for

maintenance access to the new utility extensions. This access will require setting aside an easement in the form of a wide driveway, which further restricts building size and layout on an already challenging landscape.

To summarize, the vacation of this section of Summit Street and subsequent addition of acreage would facilitate an efficient solution to some of these larger barriers to the development of our property. Gaining the additional 140 ft by 33 ft (to the center of Summit Street) of land would provide access to the utilities for maintenance, create reasonable access between G St and the homes, and would provide necessary space to develop the most affected lots into ADA accessible single level homes. Additionally, we do not foresee this having a negative impact on any adjacent property owners.

We appreciate the City's consideration of this vacation application and the issues we face in developing these city lots. Please direct all communication to the primary contact, Randy Cook. Randy is the son of the applicants and is handling the development of the property and the construction contracting in the future.

Sincerely,

Randy Cook

Noel and Kathryn Cook

Application Map



① Mike Chappelle (only actual abutting property owner)  
 ② Walter Nead

③ Leisa Jo Madling  
 ④ Kirk Edward Chapman

Map navigation controls including zoom in (+) and zoom out (-) buttons, a 'Street' layer selector, a 'Topo' layer selector, a 'Print' button, and a 'Previous/Next' navigation button.

Application Map

CHAPPELL MICHAEL E  
1010 E PARK ST  
LIVINGSTON MINNESOTA, S12, T02 S, R09 E,  
Lot 2, COS 634

Proposed Vacation  
Summit Street

Applicant's Property

Alley for utility extensions

15th N

private drive

alley term.

E Mendota St

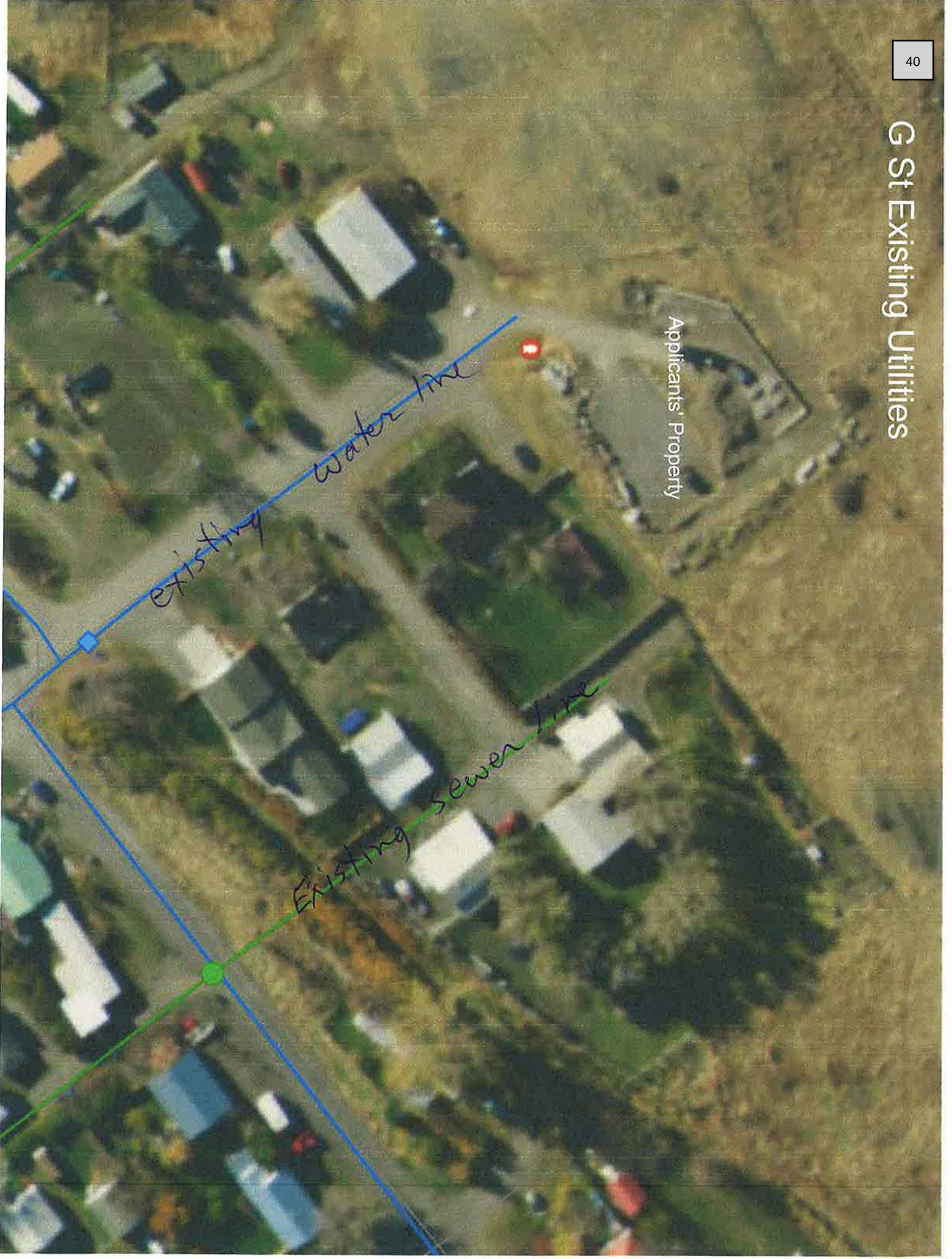
irrigation ditch blocking access

15th N

Map navigation controls including:

- Print icon
- Previous/Next navigation arrows
- Topo map style button
- Aerial map style button (highlighted)
- Street map style button
- Zoom in (+) and zoom out (-) buttons

# G St Existing Utilities





6/23/2021

**Utilities Statement Of Consent Or Objection**

Regarding proposed street vacation application:

Section of Summit Street from the intersection with G Street extending 140 feet to the intersection with the alley to the east. This section is directly adjacent to the north of the following listed property:

Lots 28-32 of block 32 of the Minnesota Addition to the city of Livingston. Located in the SW 1/4, SE 1/4 of section 12, township 2 south , range 9 east, P.M.M.  
City of Livingston, County of Park, State of Montana

This statement affirms Northwestern Energy has no existing utility infrastructure within the proposed vacation and has no objection to the proposed vacation of the section of Summit Street listed in this document above.

*Dustin Workman*

Dustin Workman

Construction Manager NW Energy

Date 6/23/2021

Utilities statement of consent or objection

Regarding proposed street vacation application

Section of Summit street from its intersection with G street extending 140 feet to its intersection with the alley to the east. This section is directly adjacent to the north of the following listed property.

the legal description of the property directly adjacent to the south:  
Lots 28-32 of block 32 of the Minnesota edition to the city of Livingston. Located in the SW1/4,SE1/4 of section 12 township 2 south , range 9 east, P.M.M.  
City of Livingston, County of Park, State of Montana

This statement affirms Charter has no existing utility infrastructure within the proposed vacation, and has no objection to the proposed vacation of the section of Summit street listed in this document above.

Edward Luke  
Construction Coordinator



Public Comment



August 17th, 2021

Dear City Commissioners,

We would like to submit a comment on the resolution to vacate a portion of Summit Street.

Firstly, thank you to the staff for considering a 10-foot public easement, as connectivity and multi-use trails are expressed as community desires in the Growth Policy. However, it seems that many assumptions are being made.

The City Commission should therefore reject this resolution because approval of this vacancy would put the construction of a long-planned public access trail at risk.

This abandonment deserves more thought and consideration before any decision is made. For more than a decade, Livingston residents have asked for more trail connectivity, and Summit Street has been identified as an essential and primary public access right-of-way corridor. I refer to the Growth Policy Update Objective 8.2.4 and respectfully request that more consideration be made to evaluate this corridor.

*Objective 8.2.4: Ensure that bicycle, pedestrian, and trail connectivity is evaluated in all requests for modification or abandonment of public rights-of-way or access easements.*

Vacating this public right-of-way with only a 10-foot easement may be insufficient for long-term public access needs and minimizes the potential for active mobility of our residents on the northside.

Instead, please consider:

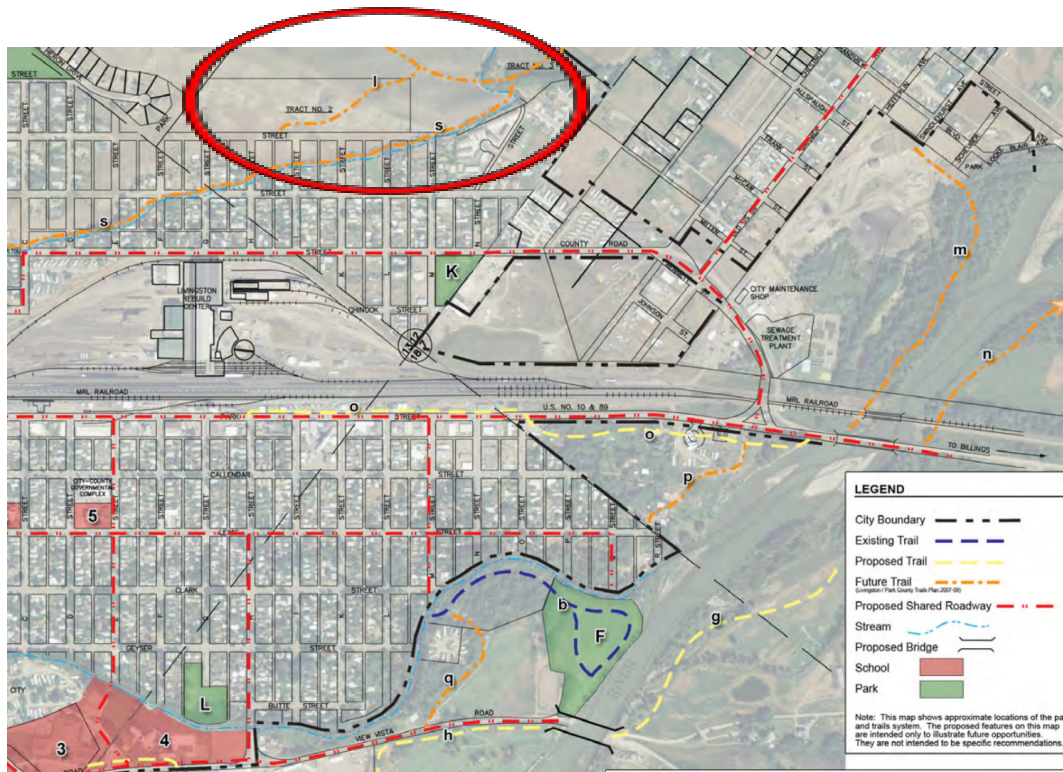
1. Delaying this decision until the Trails and Active Transportation plan process is complete, we are nearly there.
2. Maximize rather than minimize the public trail easement width - to accommodate future generational use of a multi-use easement along with AASHTO guidelines, and
3. Consult with the Parks and Trails Committee (facilitating public input) on this and any future city right-of-way abandonments and applications for vacancy of public land prior to making a decision.

The figure below shows all potential trails on the northside on City land right-of-way, the yellow loop is along Summit Street and connects to M Street. What the trail doesn't show is how this trail

has the potential to connect to Katie Bonnell Park (a priority in the adopted Parks and Trails Plan 2010), towards Green Acres and the EJI.



Further, the City's adopted Trails and Parks Plan (2010), has planned several trails in the area, connecting to Summit Street and along the ditch. The engineering and expense of a ditch bridge seems somewhat financially unfeasible, and therefore, the Summit trail becomes this possibility to create linkages.



While a 10-foot easement has been recommended, the Summit Trail Connector’s future use and development for recreation and active transportation needs are not yet determined, and therefore the required width cannot be determined.

The suggested 10-foot easement is insufficient for several reasons:

- The adopted [Trails and Parks Plan \(2012\) page 13](#) suggests that AASHTO Guidelines are followed. [AASHTO guidelines](#) recommend a minimum of 10 feet for multi-use trails; however, where heavy use is anticipated, a 12- to 14-foot width is recommended. Single shoulders should be at least 5 feet wide, while dual shoulders (one on each side) should be between 2 and 2.5 feet wide.
- Most shared use paths are designed for two-way travel and 10 feet is only suitable for one way.
- A path width easement should plan for and accommodate future growth for users decades from now. For example, this path may be the only option for Northside residents to travel east and west away from a road, if traffic increases there may be a need for a primary, hard-surfaced path exclusively for bicyclists and strollers, with softer shoulders set aside for pedestrians, trail advocates and equestrians. Applying a minimum width eliminates the possibility for future development of a shared use pathway potentially forever.
- A maximum width should be allocated for public use to accommodate future generations, as we do not know the level of growth that will occur, and user needs decades from now.

Lastly, by increasing the public trail easement, the application letter from the developers/landowners stated “it’s a substantial sacrifice” to the property, thus it implies that maximizing public access will not inhibit the housing development from going forward, only the final footprint and ease of access to the residents.

Thanks for your consideration and opportunity to comment,

Sincerely,



Sarah Stands

Active Transportation Coalition Coordinator

Erica Lighthiser



Deputy Director

Park County Environmental Council

ADDENDUMS:

1. [2010 Parks and Trails Plan](#)

Existing Park Analysis: M-Street

- Situated as a neighborhood park. No real connections to the neighborhoods or greater community exists. Need for screening along the east, west and south boundaries.
- Parking area is minimal and lacks any clear delineation of space. Opportunity to rework and incorporate sidewalks and trails to link site together

Future trails are approved in the plan (see image above) to connect between H and I Street along the Summit Street right of way.

2. Washington State guidelines also support a wider path easement, 12’ excluding a shoulder on each side.

<https://www.americantrails.org/images/documents/shared-use-path-design-manual.pdf>

1515.02(2) Widths, Cross Slopes, Side Slopes, and Clearances

1515.02(2)(a) Shared-Use Path Widths

The appropriate paved width for a shared-use path depends on the context, volume, and mix of users. The desirable paved width of a shared-use path, excluding the shoulders on either side, is 12 feet. The minimum paved width, excluding the shoulders on either side, is 10 feet.

A paved width of more than 12 feet, excluding the shoulders on either side, may be appropriate when substantial use by both pedestrians and bicyclists is expected or maintenance vehicles are anticipated.

\*\*\*\*

**File Attachments for Item:**

**B. ORDINANCE NO. 3017: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV AND ARTICLE V, CHAPTER 30 OF THE LIVINGSTION MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO RADIO STATIONS.**

**ORDINANCE NO. 3017**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV AND ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO RADIO STATIONS.**

\* \* \* \* \*

**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 (5:0) 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 IV- District Regulations and Article V- Supplementary General Requirements be amended as follows with deletions struck-through and additions underlined as follows:

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 <sup>2</sup>	CBD <sub>1</sub>	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
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 <sup>3</sup>	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
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	S
Retail Stores	N	N	N	N	N	A	A	A	A	S	N
Barber Shop and Beauty Parlors	N	N	N	N	N	A	A	A	A	S	N
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
<u>Radio Stations<sup>4</sup></u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
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
Medical Marijuana 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. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.

\* This includes manufactured homes as defined by Ordinance 1813.

(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 <sup>1</sup>						
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. <sup>2</sup>		N/A
Six Units	N/A	N/A	12,000 1,500 ft. <sup>2</sup> 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	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily	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 per accessory dwelling	dwelling and then 1.5 for each additional unit	dwelling and then 1.5 for each additional unit  1 per accessory dwelling		
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1. In all residential zoning districts in which accessory dwellings are permitted the maximum number of accessory dwellings allowed is equivalent to the number of primary dwelling units allowed on the lot as shown 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. There shall be not be a greater number of accessory dwellings than primary dwellings on any lot. E.g.: a 7,000 square foot lot in with one (1) primary dwelling the R-II zoning district allows one (1) accessory dwelling unit and the same lot with two (2) two primary dwelling units allows 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 be located to the rear of the primary dwelling on the property.

- 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. Either the primary dwelling unit or the accessory dwelling unit on the property shall be owner occupied or occupied by a member of their immediate family as defined under Montana Code Annotated 76-3-103(8). Either the primary dwelling unit or the accessory dwelling unit on the property may be rented so long as the owner occupies one of the dwelling units on the property.
- G. 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.
- H. 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 nonresidential property annexed into the City and falling within the Gateway

Overlay Zoning District, which has been mapped and amended to the City's Growth Policy. These design standards will be applied through the use of an overlay zone that will add the provisions of this Section to the underlying zoning designation. Within the Design Review Overlay Zone, 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.

- 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.
<u>Radio Stations</u>	<u>One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.</u>
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 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 (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)

**SECTION 2**

**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 September, 2021.

\_\_\_\_\_  
**QUENTIN SCHWARZ** Vice – 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 October, 2021.

\_\_\_\_\_  
**DOREL HOGLUND** – Chair

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
Recording Secretary

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
City Attorney

**File Attachments for Item:**

**C. ORDINANCE NO. 3018: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO BUILDING HEIGHTS.**

**ORDINANCE NO. 3018**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO BUILDING HEIGHTS.**

\* \* \* \* \*

**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 (5:0) 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 IV- District Regulations be amended as follows with deletions struck-through and additions underlined as follows:

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 <sup>2</sup>	CBD <sub>1</sub>	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
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 <sup>3</sup>	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
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	S
Retail Stores	N	N	N	N	N	A	A	A	A	S	N
Barber Shop and Beauty Parlors	N	N	N	N	N	A	A	A	A	S	N
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
Medical Marijuana 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 <sup>1</sup>						
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. <sup>2</sup>		N/A
Six Units	N/A	N/A	12,000 1,500 ft. <sup>2</sup> 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.	<u>Roof Pitch ≥ 3:12: 34'</u> <u>Roof pitch &lt; 3:12: 27'</u>	<u>Roof Pitch ≥ 3:12: 34'</u> <u>Roof pitch &lt; 3:12: 27'</u>	45'	15'	27'	<u>Roof Pitch ≥ 3:12: 34'</u> <u>Roof pitch &lt; 3:12: 27'27'</u>
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 per dwelling unit for first 6 units in one (1) family, two (2) family,	2 per dwelling unit for first 6 units in one (1) family, two (2) family,	Refer to Art. V Sec. 30.51	2 per dwelling unit in one (1) family and two (2) family dwellings

		(2) family dwellings 1 per accessory dwelling	and multifamily dwellings and then 1.5 for each additional unit	and multifamily dwellings and then 1.5 for each additional unit  1 per accessory dwelling		1 per accessory dwelling
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1. In all residential zoning districts in which accessory dwellings are permitted the maximum number of accessory dwellings allowed is equivalent to the number of primary dwelling units allowed on the lot as shown 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. There shall be not be a greater number of accessory dwellings than primary dwellings on any lot. E.g.: a 7,000 square foot lot in with one (1) primary dwelling the R-II zoning district allows one (1) accessory dwelling unit and the same lot with two (2) two primary dwelling units allows 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 be located to the rear of the primary dwelling on the property.

- C. Accessory dwellings shall not exceed 600 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 600 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. Either the primary dwelling unit or the accessory dwelling unit on the property shall be owner occupied or occupied by a member of their immediate family as defined under Montana Code Annotated 76-3-103(8). Either the primary dwelling unit or the accessory dwelling unit on the property may be rented so long as the owner occupies one of the dwelling units on the property.
- G. 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.
- H. 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 nonresidential property annexed into the City and falling within the Gateway

Overlay Zoning District, which has been mapped and amended to the City's Growth Policy. These design standards will be applied through the use of an overlay zone that will add the provisions of this Section to the underlying zoning designation. Within the Design Review Overlay Zone, 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.

**SECTION 2**

**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 September, 2021.

\_\_\_\_\_  
**QUENTIN SCHWARZ, Vice- Chair**

**ATTEST:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

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**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 October, 2021.

\_\_\_\_\_  
**DOREL HOGLUND – Chair**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
**City Attorney**

August 4, 2021

**STAFF REPORT**  
**TEXT AMENDMENT – BUILDING HEIGHTS**

**Background** CP Build, on behalf of Vegan Tritip, LLC, has submitted an application for a Zone Text Amendment (Attachment I) to allow for higher maximum building heights in the R-I and R-II zoning districts if the roof has a pitch of greater than 3:12, the exact language has been included as Attachment II.

**Proposed Findings of Fact**

***Proposed Zoning Updates:*** The only change to the zoning is shown in Table 30.40 of the Zoning Ordinance which is 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:

- **Strategy 4.3.3.2: Establish design guidelines that limit the impact of development on scenic vistas and viewsheds.** Increasing building height could have a negative impact on scenic vistas, but the inclusion of a pitch requirement should minimize this impact, and residential buildings would continue to be generally limited to two above ground stories.
- The Growth Policy doesn't specifically address building heights outside of the Central Business District.

*(b) designed to:*

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

Staff Comments:

- The increase in height is minor and should not have any effect on safety from fire and other dangers.

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

Staff Comments:

- The proposed Zoning Amendment should have minimal impact on the general health, safety, and welfare of the public.

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

Staff Comments:

- No density increases are proposed with this update, and as such the update should have no impact on the provision of services.

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

*(a) reasonable provision of adequate light and air;*

Staff Comments:

- The increase in heights could have a minimal impact on shadowing on neighboring properties. This impact is expected to be extremely limited.
- As noted in the application, the increase in building heights allows for larger windows, providing more light within the home.

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

Staff Comments:

- No density increases are proposed with this update, and as such the update should have no impact on transportation systems.

*(c) promotion of compatible urban growth;*

Staff Comments:

- No changes in use are proposed with this zoning update, and the change in heights would apply to every R-I and R-II zoned property in the City.

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

Staff Comments:

- No changes in use are proposed with the zoning update.
- Allowing slightly taller residential structures with sloped roofs is generally consistent with historic home designs within the City.

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

Staff Comments:

- No use change is proposed with this update.
- Increasing building heights should no effect on building values, but does allow for more flexibility in building design throughout the City.

**Public Hearing**

**Staff Recommendation**

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

**Attachments**

- Attachment I.....Application
- Attachment II.....Strikethrough-underline of the proposed changes



**File Attachments for Item:**

**D. ORDINANCE NO. 3019: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2085 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ALTERING THE MEMBERSHIP OF THE BUILDING CODE BOARD OF APPEALS.**

**ORDINANCE NO. 3019**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ORDINANCE NO. 2085 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ALTERING THE MEMBERSHIP OF THE BUILDING CODE BOARD OF APPEALS.**

**Preamble.**

The purpose of this Ordinance is provide for the public health, safety and welfare by regulating the construction and alterations of buildings within the City.

**WHEREAS**, the 2018 International Residential Code (IRC) requires that the governing body appoint a Board of Appeals to review determinations and interpretations of the Building Official in the application of the code; and

**WHEREAS**, the International Codes do not specify either the number of Board members nor the specific professional qualification of the members; and

**WHEREAS**, the City has been unable to obtain membership for the Board with the specific expertise required in the current City Ordinance.

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Livingston, Montana, that Ordinance No. 2085 as codified in Chapter 6 of the Livingston Municipal Code be and the same is hereby amended with additions underlined and deletions struck through, as follows:

**SECTION I.**

**Article IV. Establishment of Board of Appeals.**

**Section 6-200. Establishment of Board of Appeals.**

In order to hear and decide appeals of orders, decisions or determinations made by the

building official relative to the application and interpretation of this code, there shall be and is hereby created a board of appeals consisting of members who are qualified by experience and training to pass judgment upon matters pertaining to building construction and who are not employees of the City of Livingston. (Ord. 1880, 10/19/98)

**Section. 6-201. Membership of Board of Appeals.**

The City Commission shall appoint members to the board of appeals and shall hold office At the city commission's pleasure. The board shall consist of ~~five (5)~~ three (3) members, ~~four (4)~~ of which who shall be knowledgeable of the construction industry, ~~and shall consist of two (2) engineers, one (1) architect, and one (1) general contractor, and the fifth member shall be a lay person to represent the layman's point of view.~~ The building official shall be a nonvoting ex officio member, who shall act as secretary to the Board. (Ord. 1880, 10/19/98)

**Section 6-203. Jurisdiction and limitations.**

The board of appeals may consider items which lie within the limits of professional discretion and which item is not a specific code mandate. The board shall not act on matters pertaining to electrical, plumbing and mechanical questions. The board shall have no authority relative to interpretation of the administrative provisions of the code nor shall the board be empowered to waive requirements of the codes. (Ord. 1880, 10/19/98)

**Section 6-204. Rules of procedure.**

The board of appeals shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official. (Ord. 1880, 10/19/98)

**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, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision 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 matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

**SECTION 5**

**Effective date:**

This ordinance will become effective 30 days after second 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 September, 2021.

\_\_\_\_\_  
**DOREL HOGLUND, CHAIR**

**ATTEST:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\*\*\*\*\*

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

**ATTEST:**

**APPROVED TO AS FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
**City Attorney**

**File Attachments for Item:**

**E. ORDINANCE NO. 3020: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO AMEND ORDINANCE NO. 2085 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE APPENDIX Q OF THE 2018 INTERNATIONAL RESIDENTIAL CODE (IRC).**

**ORDINANCE NO. 3020**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT’S INTENT TO AMEND ORDINANCE NO. 2085 AS CODIFIED BY CHAPTER 6 OF THE LIVINGSTON MUNICIPAL CODE, BY ADOPTING BY REFERENCE APPENDIX Q OF THE 2018 INTERNATIONAL RESIDENTIAL CODE (IRC).**

**Preamble.**

The purpose of this Ordinance is provide for the public health, safety and welfare by regulating the construction and alterations of buildings within the City.

\*\*\*\*\*

**WHEREAS**, the City of Livingston has recently adopted zoning regulation allowing for tiny homes; and

**WHEREAS**, the State of Montana specifically allows local governments at their discretion, to adopt appendix Q, Tiny Homes, of the 2018 International Residential Code (IRC).

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission of the City of Livingston, Montana, that Ordinance No. 2085 as codified in Chapter 6 of the Livingston Municipal Code be and the same is hereby amended with additions underlined and deletions struck through, as follows:

**SECTION I.**

**ARTICLE I - ADOPTING BUILDING CODES**

**Section 6-2 Adopting International Residential Code (IRC) 2018 Edition, by reference.**

There is hereby adopted for enforcement by the City of Livingston that certain building code known as the International Residential Code (IRC) 2018 Edition, and all accompanying appendices, amendments and modifications adopted or required to be adopted by the Building

Code Bureau Montana Department of Labor and Industry, as set out in the Administrative Rules of Montana, as may be amended from time to time are adopted by this reference and incorporated herein as if set forth in full, except for any exceptions noted or any regulations not applicable to local governmental jurisdictions. The City of Livingston hereby specifically adopts Appendix Q, Tiny Homes, of the IRC, 2018 Edition. Fees shall be set by the City Commission by separate resolution.

**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, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provision 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 matured, penalties and assessments that were incurred or proceedings that begun before the effective dates of this ordinance.

**SECTION 5**

**Effective date:**

This ordinance will become effective 30 days after second 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 September, 2021.

\_\_\_\_\_  
**DOREL HOGLUND, CHAIR**

**ATTEST:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\*\*\*\*\*

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

**ATTEST:**

**APPROVED TO AS FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
**City Attorney**

**File Attachments for Item:**

**F. PLATEK ZONING COMPLAINT.**

1 HON. BRENDA R. GILBERT  
2 District Judge  
3 Sixth Judicial District Court  
4 414 East Callender Street  
5 Livingston, Montana 59047  
6 406-222-4130

7 **MONTANA SIXTH JUDICIAL DISTRICT COURT, PARK COUNTY**

8 DON PLATEK, ) CAUSE No. DV 20-97

9 Plaintiff, )

10 vs. )

11 LIVINGSTON CITY COMMISSION, )  
12 Acting as the City's Board of Adjustments, )  
13 LIVINGSTON, MONTANA, )

14 Defendant. )

15 **ORDER GRANTING DEFENDANTS'**  
16 **MOTION FOR SUMMARY JUDGMENT**  
17 **AND ORDER DENYING PLAINTIFF'S**  
18 **MOTION TO ENFORCE ZONING**

19 The Court has reviewed the Defendants' Motion for Summary Judgment and Brief in  
20 Support, the Plaintiff's Response, the Defendants' Reply, Plaintiff's Motion to Enforce Zoning and  
21 Defendant's Response, and with good cause appearing, now enters the following Decision and  
22 Order.

23 **DECISION**

24 **I. Standard for Summary Judgment**

25 Summary judgment should only be granted when the moving party proves a complete  
26 absence of any genuine issue of material fact, and where the facts entitle the moving party to  
27 judgment as a matter of law. *Lone Moose Meadows, LLC v. Boyne USA, Inc.*, 2017 MT 142, ¶ 8.

28 A fact is material if it carries with it the potential to affect the outcome of the suit under the  
applicable law. *Mickelson v. Montana Rail Link, Inc.*, 2000 MT 111, ¶130, 299 Mont. 348, 999  
P.2d 985.



1 of Motion on July 2, 2021, to which Platek Responded on July 19, 2021, and the City Replied on  
2 August 5, 2021.

3 **III. Arguments on City’s Motion for Summary Judgment**

4 Property zoned R-11, Medium Zoning, where the lot size is at or over 7000 square feet is,  
5 under Ordinance 2090, allowing two (2) primary dwelling units. In addition, such properties are  
6 permitted to have accessory dwellings (“ADUs”) that are equivalent to the number of primary  
7 dwelling units allowed on the lot. The City argues that, in this case there are two primary dwelling  
8 units, (or alternatively, one dwelling unit and one ADU).

9  
10 In his Amended Complaint, Platek alleges that the subject property violates R2, (R-II)  
11 zoning. In its Motion for Summary Judgment, the City argues that, pursuant to the City’s  
12 Ordinances, the Board of Adjustments (in this case the City Commission), is responsible for  
13 handling alleged zoning violations following action by a Building Official. Only after the Board of  
14 Adjustments renders a decision on the issue, argues the City, does a party (in this case Platek) have  
15 the ability to petition a district court concerning the decision. See City Ordinance §30-73. Platek  
16 has failed to file a Complaint with the Board of Adjustments, the City argues, and therefore, the  
17 Amended Complaint should be dismissed.  
18

19  
20 The City then argues, that even assuming Platek was not required to bring a claim before the  
21 Board of Adjustments, the Amended Complaint should be dismissed because it fails to state a claim  
22 upon which relief can be granted and is moot. Platek asks the Court for a writ of mandate, but the  
23 City argues that such a writ can only be issued by a Court where there is a specific ministerial,  
24 statutory duty, or administrative rule the City has violated. In this case, the City argues, Platek  
25 asks the Court to mandate actions that are, in fact, and by statute, discretionary actions that cannot  
26 be compelled by a writ of mandate.  
27  
28

1 The City also argues it is entitled to summary judgment on Platek’s claim for nuisance. The  
 2 City argues that there is no longer a 14-day quarantine requirement for travelers to Montana for  
 3 COVID 19, and so any issue regarding quarantining is moot. Additionally, the City argues that  
 4 Platek has provided no expert testimony that his property value has been diminished or that he has  
 5 been unable to use his own home.  
 6

7 Platek argues that, in the previous case regarding this property, (Park County Cause No. DV  
 8 19-165), he allowed a dismissal because the owners were notified that they could not occupy three  
 9 dwellings on an R-II lot and Platek presumed the matter was concluded. However, now, Platek  
 10 argues, the owners of 228 S. Yellowstone St. have three dwelling units on the property, which is not  
 11 allowed in R-II zoning areas, and that at least one of the units, used for commercial purposes was  
 12 not open to the public for a period of one year, and therefore, its use must conform to the  
 13 regulations- which is presumably two dwelling units only. Platek asks that the Court direct the  
 14 defendant to perform their duties and ensure that the owners bring the property into compliance  
 15 with all requirements as stated in Ordinance 2090.  
 16

17 In its Reply, the City notes that Platek did not contest the fact that he did not file a complaint  
 18 with the Board of Adjustments before filing his Amended Complaint with the Court. Further, a writ  
 19 of mandate is not appropriate where actions are discretionary, argues the City. The subject property  
 20 complies with Ordinance 2090, argues the City, and the claim for nuisance should be dismissed  
 21 because Platek failed to address the nuisance claim. Thus, the City argues, summary judgment for  
 22 the City should be granted and the Amended Complaint should be dismissed.  
 23

24 **IV. Analysis**

25 First, the Court notes that it need not address the issues of the writ of mandate or nuisance.  
 26 The key, and only issue which must be addressed in this matter, is that Plaintiff did not bring a  
 27  
 28

1 claim before the Board of Adjustments prior to filing the Complaint or Amended Complaint in this  
 2 action. § 30.80 of the City Ordinances addresses the duties of the City Building official. While it is  
 3 not glaringly obvious, the Ordinance provides that any complaints regarding perceived zoning  
 4 violations should first be directed to the Building Official. Then, pursuant to § 30.82 of the City  
 5 Ordinances, if the actions of the Building Official do not meet the needs of the complainant, the  
 6 complainant may appeal from the actions of the Building Official to the Board of Adjustments in  
 7 conformance with the provisions of Article VII of the City Ordinance.  
 8

9 While there is no evidence in the record regarding whether Platek did, or did not file a  
 10 complaint with the Building Official, it is clear that Platek did not appeal to, or file a complaint  
 11 with, the Board of Adjustments regarding 228 S. Yellowstone Street in Livingston, Montana.  
 12 Because Platek failed to file a complaint or appeal to the Board of Adjustments, the Court should  
 13 grant the City’s Motion for Summary Judgment and dismiss the Amended Complaint.  
 14

15 Further, for the reasons set forth herein, Plaintiff’s Motion to Enforce Zoning should be  
 16 denied.  
 17

18 From the foregoing, the Court now issues the following Order:

19 **ORDER**

20 **I.**

21 Defendant Livingston City Commission, acting as the City’s Board of Adjustments,  
 22 Livingston, Montana’s Motion for Summary Judgment is GRANTED.  
 23

24 **II.**

25 Plaintiff’s Don Platek’s Motion to Enforce Municipal Zoning Ordinance and curtail non-  
 26 conforming use at 228 S. Yellowstone St., Livingston, T is DENIED.  
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**III.**

This cause is hereby DISMISSED.

**IV.**

Counsel for the City shall prepare a judgment for the Court’s consideration.

**ELECTRONICALLY SIGNED AND DATED BELOW**

cc: Don Platek  
Bridget W. leFeber



**File Attachments for Item:**

**A. ORDINANCE NO. 3021: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE IV, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO BUILDING DESIGN STANDARDS.**

September 22, 2021

**STAFF REPORT**  
**ZONING TEXT AMENDMENT – BUILDING DESIGN STANDARDS**

**Background**

Over the past several years, the Zoning Commission has worked on the creation of regulations for what has come to be known as large-scale retail (LSR). Planning Staff has worked with the Zoning Commission to integrate their proposed LSR language into the Zoning Ordinance (Zoning Commission materials included as Attachment II). Over the past several months the City Commission has approved zoning amendments related to LSR; defining LSR as a specific use, requiring that it be subject to the building design standards, setting parking requirements, and updating landscaping standards. This update integrates the language provided by the Zoning Commission in regards to building design elements and features. The intent of the updates are to ensure that all LSR uses, and all commercial and industrial uses within the Design Review Overlay Zone (DROZ), utilize building design that relates to human scale, the pedestrian realm, and discourages standardized “franchise” style design. This update to the building design standards adds significant language to ensure that buildings close to sidewalks do not provided blank walls to pedestrians, use building design that demarcate traditional story locations, and provide identifiable sidewalk-side entrances. The update also significantly strengthens the existing design standards by replacing many instances of optional “should” language with required “shall” language. Finally, the update requires several additional permit submittal requirements if the property is in the DROZ.

**Proposed Findings of Fact**

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

***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:**

- *Strategy 2.1.1.2: Review, update, and enforce the policies, procedures, and building design guidelines in Livingston’s gateways.*
  - The proposed zoning updates the building design standards, significantly strengthening them. It should be noted that the design standards only apply to large-scale retail and areas within the DROZ so implementation of the building design standards will require a zoning map amendment to apply the DROZ to specific parcels.
- *Chapter 11:*

- a. Investigate implementing commercial (“big box”) design standards.
- b. Investigate implementing building design standards.
  - o The proposed zoning updates would apply to all large-scale retail uses (or “big box” retail). The updates significantly strengthen and expand the current building design standards.

(b) designed to:

(i) secure safety from fire and other dangers;

Staff Comments:

- The proposed updates should have no impact on safety from fire or other dangers, all structures will continue to be required to meet building and fire codes.

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

Staff Comments:

- Updating the building design standards should have minimal impact to the public health and safety.
- The community has shown that it is in the public’s interest and welfare to implement building design standards as shown by the Growth Policy.

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

Staff Comments:

- The zoning amendment should not have a greater impact on public requirements than the existing zoning regulations as no density or use changes are proposed.

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

(a) reasonable provision of adequate light and air;

Staff Comments:

- No impact to the provision of light or air is expected from any of the proposed changes, no setback or height changes are proposed.

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

Staff Comments:

- The zoning amendment should not have a greater impact on motorized transportation systems than the existing zoning regulations as no density or use changes are proposed.
- The proposed design standards are intended to improve the relationship between buildings and the sidewalk, generally making Livingston a

better place to walk, as such the amendments should have a positive impact on non-motorized transportation systems.

*(c) promotion of compatible urban growth;*

Staff Comments:

- The intent of the amendment is to promote buildings that fit in with the local context and related to the adjacent pedestrian realm.

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

Staff Comments:

- No zoning map changes are proposed with this amendment. Implementation of the DROZ will be required for specific districts with future amendments.

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

Staff Comments:

- The proposed Zoning Amendment increase the value of land adjacent to large-scale retail uses and any adopted DROZs.
- No use changes are proposed with this amendment.

**Zoning Commission**

The Zoning Commission voted unanimously (4:0) to recommend approval of the proposed zoning to the City Commission. No changes have been made to the language included in the zoning ordinance or staff report between the Zoning Commission and City Commission hearings.

**Staff Notes**

The Zoning Commission expressed concern, as is standard with any long-term project concluding, that they had missed something that should be included in the zoning or that there would be consequences of the updated language that would have a negative impact on the City. Staff noted at the meeting, but would like to reiterate, that the Zoning Ordinance is a living document and can be changed at the request of the City Commission, Zoning Commission, citizens, or staff. There is always the possibility for unintended consequences with any zoning update, but if they do arise the City is able to be responsive to ensure they are minimized.

Staff would also like to commend the Zoning Commission (and Planning Board before them) for all of the work they have done on updating the design standards and other portions of the Zoning over several years to ensure large-scale retail uses do not have negative impacts on the City as requested by the City Commission. This update is in essence the insertion of that work into the Zoning Ordinance and

staff believes that it makes significant headway into strengthening the regulations and ensuring that they are responsive to the needs and desires of the City to have buildings that related to the sidewalk and pedestrian realm and that fit in with the historic nature of the City. The next, and likely concluding step, of the large-scale retail regulation update project is to discuss updating the Official Zoning Map to add areas to the DROZ. The beginning of these discussions are slated to occur at the October Zoning Commission meeting.

**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 Ordinance
- Attachment II.....Zoning Commission generated documents

**Design Guidelines For Large Format Retail Stores  
LIVINGSTON, MT**

August 11, 2020

LIVINGSTON CODE OF ORDINANCES

**30.43.2. Large Format Retail Design Guideline Ordinance**

2.1. **Title:** The ordinance codified in this chapter shall be known as the Large Format Retail Design Guideline Ordinance of the City of Livingston

**2.2. Purpose and Intent.**

- A. The design guidelines in this Section are intended to encourage appropriate development of large format retail stores and retail centers. These buildings should be adapted to the needs and goals of Livingston as described in the most current version of the Livingston’s Growth Policy. The intent is to make these projects viable over the long term, and make our community more people and visitor friendly. In general, these projects will provide more pedestrian orientation and be of a more suitable size and scale compared to more conventional projects of this type elsewhere.
- B. The following concerns must be addressed in any new project

**a. Mitigation list**

**2.3. Applicability:**

- A. These Design Guidelines shall be applicable in all buildings above 20,000 sqft and/or retail centers of 5 or more shops. Retail and Commercial buildings shall be limited in size to 40,000 sqft.

**2.4. Impact Assessments and Community Input**

- A. Proposed buildings above 20,000 sqft in size shall have the following:
  - 2.4.A.1.** Economic Analysis: Types and volumes of goods and services to be offered, impact on existing businesses, wage scales, percentage of local ownership and employees.
  - 2.4.A.2.** Traffic Analysis: Parking capacity, peak and average use, effect on traffic on adjacent streets at peak times, need for additional traffic control infrastructure
  - 2.4.A.3.** Wildlife and Natural Resources: Effect on existing and optimal wildlife habitat and migration routes; water run-off, maintaining existing natural viewshed
  - 2.4.A.4.** Energy Efficiency:
    - 2.4.A.4.1.** Building energy use including shell, HVAC, lighting. Credit to be given for measures significantly stricter than current codes
    - 2.4.A.4.2.** Energy use associated with increased traffic
  - 2.4.A.5.** All studies to be conducted by outside experts selected by the city of Livingston. Studies to be paid for by the Applicant
  - 2.4.A.6.** The results of these studies shall be published and then presented in detail at community hearings with opportunity for public comment and additional expert testimony.
  - 2.4.A.7.** The Zoning Commission shall develop a scoring mechanism for each of these Criteria to guide them in their deliberations.

**2.5. Zoning:**

- A. Buildings over 20,000 sqft shall be allowed in the following Zones
- 2.5.A.1.** HC: Highway Commercial
- 2.5.A.2.** I: Industrial
- 2.5.A.3.** LI: Light Industrial

**2.6. Site Planning**

- A. As part of the proposal, a Site Plan shall be provided.
- B. Higher density is encouraged with mixed use multi-story buildings and shared parking spaces.
- C. Sites adjacent to major arterials shall provide a 20 foot landscaped buffer between the arterial and the site. A pedestrian/bicycle path should be included in this buffer.
- D. Access to the site should be on secondary streets rather than the arterial.
- E. The main façade shall face, and be adjacent to secondary streets with setback sufficient for sidewalks, landscaping and social gatherings.
- F. Incorporating smaller retail shops facing the street is encouraged.
- G. Parking shall be located at the sides and back of the building away from major arterials and secondary streets. Secondary buildings on a site should be placed around the perimeter of the site to visually shield the public from the parking areas.
- H. Where possible face the main entrances away from the prevailing winds.
- I. Walking trails, bicycle paths and wildlife corridors shall be included in the site plan. They shall be designed to enhance and extend Livingston’s existing trail system in consultation with Livingston’s Parks and Trails committee.

**2.7. Parking Areas**

- A. **Purpose:** The purpose of this section is to 1) Reduce the visual dominance of parking lots typical of large retail stores, 2) encourage active transportation, and 3) encourage social engagement between users of the building.
- B. **Location:**
  - 2.7.B.1.** Parking areas should not be concentrated on the street side of the lot. In general, parking areas should be located on the sides and the rear of the main building.
  - 2.7.B.2.** Parking areas should be broken up into a number of areas so that the expanse of parking does not dominate the site.
- C. **Number of parking spaces**
  - 2.7.C.1.** The owner shall provide between one parking space per 800 square feet of building area and one parking space per 1000 square feet of building area.
- D. **Exchange of parking places**
  - 2.7.D.1. For landscaping:** 20 % of zoning required parking areas can be replaced with additional landscaping, storm water swales, bicycle parking or social areas.
  - 2.7.D.2. For bicycle parking:** For every 20 standard dimension automobile parking spaces, one additional space of the same dimension shall be allocated

for bicycle parking. Bicycle racks shall be provided to allow for locking. These spaces shall be located as close to the entrance of the building as possible.

**2.8. Building Design**

**A. Agreement with the city to allow immediate re-occupation of the building should it be vacated.**

**B. Create long term sustainability by accommodating eventual re-use in the design**

**2.8.B.1.** Purpose: Over their lifespan, most buildings are occupied by multiple tenants. Although the original tenant may occupy the whole building, subsequent use of the building often requires sub-dividing the space. The intent of this section is to facilitate the re-use of the building as soon as possible should the original tenant vacate the building.

**2.8.B.2.** Design Requirements for multiple tenants

**2.8.B.2.1.** Buildings taller than 24 feet shall be structured such that intermediate floors can be retrofitted into the building

**2.8.B.2.2.** Buildings should have multiple entrances to minimize the distance from parking spot to the building.

**2.8.B.2.3.** Loading docks located so that all areas of the building can be serviced should the building be sub-divided

**2.8.B.3.** Distributed utilities including energy, water and sewer

**2.8.B.3.1.** Electrical subpanels

**2.8.B.3.2.** Provisions for multiple restrooms

**2.8.B.3.3.** Multiple, distributed loading docks adjacent to sub areas of the building

**C. Create Sustainability through Energy Conservation and local Energy Production**

**2.8.C.1.** Buildings should have a certified energy analysis prior to construction. The overall EUI (Energy Utilization Index) should be 20% less than the same building built to current energy codes.

**2.8.C.2.** All buildings should be commissioned prior to, or within the first 6 months of occupancy to identify and correct operational problems related to energy use.

**2.8.C.3.** Storefront window frames shall be thermally broken. Glass shall be U-.28 maximum.

**2.8.C.4.** Concrete slabs should be insulated both under the slab and around the perimeter. Avoid gaps in the insulation system.

**2.8.C.5.** Roof top mechanical systems are to be avoided.

**2.8.C.6.** On site generation of electricity using renewable energy is encouraged and can be used to meet the EUI target.

**2.8.C.7.** All energy appliances and water fixtures shall use the most efficient commercially available

**D. Building height**

**2.8.D.1.1.** Multi-floor designs, including mixed use with residential floors above, are encouraged



**2.8.D.1.2.** Maximum height shall be 48 feet above the average finished grade

**E. Building Massing and Wall Design**

**2.8.E.1.** Avoid long expanses of un-differentiated wall on the public entrance and street sides of the building. Break up the form of the wall into smaller sizes that reflects the scale of Livingston's traditional commercial buildings. At the same time, avoid random changes in massing. Relate the massing to the functionality of the building.

**2.8.E.2.** Articulate the walls with horizontal coursework related to the foundation, interior floors and wall terminations.

**2.8.E.2.1.**

**F. Entrances**

**2.8.F.1.** Make entrances inviting with landscaping, changes in paving, architectural details and places to socialize. Lower the height of the entrance to reflect human scale. Suspended roofs that extend out from the building and break up the building mass in these areas.

**2.8.F.2.** Locate customer amenities near the entrance such as seating areas, coffee shops, customer service stations

**2.8.F.3.** Avoid shopping cart storage at the entrance, either outside or in the vestibule of the building

**G. Exterior wall materials**

**2.8.G.1.** The exterior of buildings should use durable materials that will last for many generations.

**2.8.G.2.** Natural materials are preferred over synthetic

**2.8.G.3.** The mix of exterior materials should form a cohesive design package. One material and color should be chosen for 80% of the building, with accent materials and colors used to articulate openings, building foundations and roof terminations

**2.8.G.4.** Loading docks, trash collection areas, outdoor storage, and similar facilities should be incorporated into the overall design of the building and landscaped, so that the visual and acoustic impacts of these functions are fully contained, and out of view from adjacent properties and streets. Screening materials should be of the same type and quality as the main building.

**H. Windows**

**2.8.H.1.** The public sides of buildings should include 60% minimum of windows on the ground floor.

**2.8.H.2.** Avoid large expanses of plate glass by breaking up window arrays with mullions. Size and locate windows to reflect human scale. Use repetition and patterns of windows to create interest.

**2.8.H.3.** On tall walls, place windows in courses that reflect future interior floors. Coordinate upper windows vertically with windows below.

**2.8.H.4.** Locate and size windows such that exterior views of the mountains are framed by users of the building and that help as way-finding guides.

- I. **Roof lines**
  - 2.8.I.1. Roofs may be gable, sloped or flat, and should be integrated with the overall design concept of the building and should reflect the local architectural vocabulary.
  - 2.8.I.2. Flat roofs should typically include parapets and substantial articulated cornices
  - 2.8.I.3. Roof top mechanical equipment should not be visible by passersby or motorists.
  - 2.8.I.4. Multiple rooflines, that reflect the variegated massing of the building (see \_\_\_\_\_ above) below and that match the scale of Livingston’s traditional commercial buildings are recommended
- J. **Location of secondary uses:** Secondary uses or departments including pharmacies, photo finishing/development, snack bars, dry cleaning, offices, storage, etc., should be oriented to the outside of the building by projecting them outward or recessing them inward. This includes providing the individual uses with separate entrances and windows facing the outside of the building. The intent is to break up the appearance of the large, primary building with more human-scale elements.
- K. **Loading areas**
  - 2.8.K.1. Loading Docks should be located on the sides and rear of the building away from the main entrances. They should spatially service multiple areas of the building.

2.9. Landscaping

- 2.9.A.1. Purpose: the intent of this section is reduce the impact of large parking areas by maintaining the area’s natural beauty, save as much of the original vegetation as possible, reduce storm water issues, reduce heat island effects, provide summer shade and winter wind protection. Landscaping should be seen as a feature of the site, rather than as subservient to parking requirements.
- 2.9.A.2. Site Design:
  - 2.9.A.2.1. Increase vegetation/parking ratios
  - 2.9.A.2.2. Use larger clusters of plantings to break up large parking areas into smaller units.
  - 2.9.A.2.3. All landscaping areas should have a minimum width of 6 feet.
  - 2.9.A.2.4. Provide shade trees and windbreaks for customer comfort
- 2.9.A.3. Encourage biological diversity, hardiness, long term survival
  - 2.9.A.3.1. Irrigation and fertilizer shall be provided to all planting areas
  - 2.9.A.3.2. Use hardy, native varieties that will survive in Livingston’s climate.
  - 2.9.A.3.3. Provide habitat, food and migratory routes for songbirds, migratory waterfowl, resident mammals, and pollinators
- 2.9.A.4. On Site Storm water retention
  - 2.9.A.4.1. Storm water from all hard surfaces shall be routed to onsite retention. Where possible, use retention water for irrigation.

**2.9.A.4.2.** Storm water retention devices, such as drainage swales, can be combined with other landscaping features.

**2.10. Outdoor lighting**

**2.10.A.1.** Parking lot lighting shall be high efficiency, long life fixtures.

**2.10.A.2.** All fixtures shall be night sky shielded. Lighting levels should be as low as possible while providing for public safety. Lighting shall be zoned so that only areas close to the building shall be lit during times of low use. Lighting in parking areas shall be turned off when not in use.

**2.10.A.3.** Overall building lighting is to be avoided. Exterior building lighting shall be related to and accentuate the subordinate forms of the building and provide lighting for the entrances and pathways.

**2.11. Signs**

**2.11.A.1.**

## SCORING WORKSHEET: LARGE FORMAT RETAIL ORDINANCE

Category	Approve: Y,N, ?	To Do
Purpose & Intent		
Applicability		
Impact Assessments and Community Input		
Zoning		
Site Planning		
Parking Areas		
Building Design		
Re-occupancy		
Sustainability		
Bldg Height and Massing		
Entrances		
Exterior Materials		
Windows		

Roof Lines		
Secondary Uses		
Landscaping		
Outdoor Lighting		
Signage		

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**ORDINANCE NO.**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON,  
MONTANA, AMENDING ARTICLE IV, 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 IV- District Regulations, be amended as follows with deletions struck-through and additions underlined as follows:

Chapter 30 - ZONING

**Articles**

**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 <sup>2</sup>	CBD <sup>1</sup>	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	A	A	N	N	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	N	N	N
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 <sup>3</sup>	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
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	S
Retail	N	N	N	N	N	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	S	S	S	S	N
Barber Shop and Beauty Parlors	N	N	N	N	N	A	A	A	A	S	N
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	N	A	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	N	S	S	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Light Manufacturing	N	N	N	N	N	N	N	A	A	A	A	N
Heavy Manufacturing	N	N	N	N	N	N	N	N	N	N	A	N
Lumberyards	N	N	N	N	N	N	N	N	A	A	N	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	N	N	N
Utility Substations	S	S	S	S	S	S	S	S	S	N	S	S
Armory	N	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	N	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	N	N	N	N	N	N	A
Health and Exercise Establishment	N	N	N	N	N	N	A	A	A	A	S	S
Marijuana Production Facility	N	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; Ord. No. 2090, § 1, 10/6/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21)

**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 <sup>1</sup>						
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. <sup>2</sup>		N/A
Six Units	N/A	N/A	12,000 1,500 ft. <sup>2</sup> for each add. unit	for ea. add. unit		N/A
Min. Setback Requirements						
Front Street	25'	25'	20'	20'	20'	25'
Side	15' or B) or C)	5' or B) or C)	5' or B) or C)	10' or C)	5' or C)	5' or B) 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; Ord. No. 2090 , § 1, 11/5/20; Ord. No. 2097 , § 1, 1/5/21)

**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 10' without boulevard	N/A
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; Ord. No. 2097 , § 1, 1/5/21)

**Sec. 30.42.1. Allowable Encroachments into Setbacks.**

- A. Entranceway awnings and roof eaves may extend up to eighteen (18) inches into any setback. The maximum height for an entranceway awning that encroaches into the setback shall be twelve (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 thirty-six (36) inches into any setback. Window-well projecting beyond eighteen (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.

( Ord. No. 2097 , § 1, 1/5/21)

**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 be located to the rear of the primary dwelling on the property.
- C. Accessory dwellings shall not exceed eight hundred (800) square feet of gross floor area. Accessory dwellings 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 the above listed maximum gross floor area for an accessory dwelling.
- D. All detached accessory dwellings shall maintain a (6) six-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.
- G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.

( Ord. No. 2090 , § 1, 11/5/20)

**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.
- N. 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.

(Ord. 1702, 7/20/92; Ord. 1868, 2/2/98; Ord. 1894, 3/6/2000; Ord. No. 2029, § 2, 4/19/11; Ord. No. 2090 , § 1, 11/5/20)

Editor's note(s)—Ordinance No. 2090 , § 1, adopted September 5, 2020, renumbered section 30.43.1 as 30.44.

**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. 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. Applicability of the Building Design Standards. The standards and requirements found in this section shall apply to any commercial and/or industrial project that requires a building permit within any adopted Design Review Overlay Zone, and any large-scale retail uses regardless of location within the City.

**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. ~~Structures shall demonstrate pedestrian friendly design that relate to the adjoining public streets, sidewalks, and spaces. 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. Higher density buildings are encouraged with mixed use multi-story buildings and shared parking.
    - c. Incorporating smaller retail shops facing the street is encouraged.
    - d. Secondary buildings on a site should be placed around the perimeter of the site to visually shield the public from the parking areas.
    - e. Where possible main entrances should face away from the prevailing winds.
    - f. Buildings should have multiple entrances to minimize the distance from parking spot to the building.
    - g. If present on site, wildlife corridors shall be included in the site plan.
    - b-h. On site generation of electricity using renewable energy is highly encouraged
    - e.i. b. ——— The primary entrance to a building shall have a human scale. Provide a 1 (1) story element at the building entrance to help establish a sense of scale shall be provided.
  - c. Where no windows or other obvious indication exists, ~~express~~ the position of each floor in the external skin design of a building shall be expressed 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 b~~ Building materials that help establish a human scale shall be utilized.
  - 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 not be allowed~~avoided~~.
  - iv. The mix of exterior materials should form a cohesive design package. One material and color should be chosen for 80% of the building, with accent materials and colors used to articulate openings, building foundations and roof terminations.
- 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 shall be designed to be clearly identifiable.
    - i. ~~Provide a~~ sheltering element such as a canopy, awning, arcade or portico shall be provided to signify the primary entrance to a building.
    - ii. Where more than one (1) user shares a structure, each individual entrance shall be identified.
    - iii. Customer amenities such as seating areas, coffee shops, customer service stations are encouraged to be located near the main entrance.
    - iv. Shopping cart storage at the entrance, either outside or in the vestibule of the building is encouraged to be avoided.
  - 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~~ alf the building is adjacent to a street "double-fronted" design ~~where the providing an~~ entrance to parking and to the street is required. That is, provide a door to the street and another to the parking lot.
    - iii. A transitional area, including landscaping, between the parking lot and entrance to the building shall be provided. 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~~ not permitted on any street-oriented facade.

b. All building walls located within 10 feet of a public sidewalk shall have a minimum of 60% coverage of wall square footage with ground floor windows.

c. Loading docks, trash collection areas, outdoor storage, and similar facilities must be incorporated into the overall design of the building. Loading docks, trash collection areas, outdoor storage, and similar facilities must be shielded from view from adjacent properties and public rights-of-way with screening such as fencing, landscaping or walls.

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 the visual impacts 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.

(E) Large expanses of plate glass shall be avoided by breaking up window arrays with mullions. Repletion and patterns of windows shall be used to create interest.

(F) On multi-story walls, windows shall be placed in courses that reflect potential interior floors. Upper windows shall be coordinated vertically with windows below.

(G) Secondary uses or departments including pharmacies, photo finishing/development, snack bars, dry cleaning, offices, storage, etc., should be oriented to the outside of the building by projecting them outward or recessing them inward. This includes providing the individual uses with separate entrances and windows facing the outside of the building.

- 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.
  - (E) If possible, Windows such that exterior views of the mountains are framed by users of the building are highly encouraged.

#### 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.
    - iii. Rooftop mechanical equipment shall be screened from view from adjacent public rights-of-way. Rooftop solar panels are excluded from this requirement but may not reflect sunlight or create glare onto neighboring properties or rights-of-way.
  - 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 Submittal Requirements.
    - a. A completed application form.
    - b. 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.~~
    - c. An economic analysis, including types and volumes of goods and services to be offered, impact on existing businesses, wage scales, percentage of local ownership and employees.
    - d. A traffic impact study, certified by a professional engineer if the project is anticipated to generate over 250 ADT.
    - e. A wildlife and natural resource study, including effect on existing wildlife habitat and migration routes; water run-off, how natural viewsheds are to be maintained.

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.

**SECTION 2**

**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 October, 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 November, 2021.

\_\_\_\_\_  
**DOREL HOGLUND – Chair**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
**Recording Secretary**

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
**City Attorney**

**Livingston Zoning Commission**  
**Large Format Retail Ordinance Planning**  
*March 16, 2020*

*Mitigation List (What problems or potential problems do we want to address? Also, what do we want to encourage?)*

Note: Some of these suggestions are related to but not unique to LFT issues. Specific ordinances may be located in different sections of the Municipal Code or the Growth Policy.

1. **Problem:** Maintaining the scale, visual coherence and historic appeal of Livingston
  - a. **Description:** Livingston is popular because of its size, spatial logic as it relates to our topography, the railroad and the river, and the historic coherence of the city core. It was largely built prior to automobiles and on a fine grained, more human scale. It is a town with a unique story to tell.
  - b. **Description:** LFR has the potential to diminish those qualities by distorting the scale and range of the built environment, by increasing traffic, and by shifting business to the periphery.
  - c. **Goal:** We need to develop an Architectural language and craft Design Guidelines that are coordinated with and reflect the existing fabric of the community. The current guidelines are very general and are not sufficient. With new buildings, we need to build to a similar or graduated scale relative to adjacent buildings. We should avoid generic building facades of all styles. We also need to promote a variety of small developments over time rather than a few large projects. Encourage creativity, uniqueness and quirky details.
  - d. **Proposed Ordinances**
    - i. Limit LFR to HC, LI and I Zones, (but see vii below), CBD under special review (is the Historic Overlay sufficient?).
    - ii. Limit size of LFR to 40,000 sqft
    - iii. Specific ordinances for LFR kick in at 20,000 sqft
      1. Building are placed adjacent to the streets
      2. Parking is hidden, reduced # of spaces
      3. Emphasize Landscaping, vistas
      4. Create Design Guidelines that are related to the 4 districts (vii below)
      5. In larger projects, repeat the building patterns of Main Street by integrating smaller businesses into the large buildings and around the perimeter of the site
    - iv. Create specific (Overlay) districts with different functions (and different aesthetics?) at the 3 entrances
      1. East:
        - a. Hospital, medical offices, retirement housing clustered around a plaza
      2. South 89:
        - a. Travel & tourist related services
      3. West End: PFL related auxiliary functions
        - a. Other high tech businesses
        - b. Employee housing

- c. Employee services, social gathering,
- d. Dual purpose highway service and tech service

4. CBD:

- a. Traditional retail including essential groceries, clothing
- b. Downtown apartments
- c. Dining and Bars
- d. Arts and events
- e. Creative incubator

5. Link the 4 districts with bus routes

2. **Problem:** Increased traffic on Park Street, 89 South and Highway 10, and increased difficulty getting around town by bike or foot because of distances.

- a. **Description:** Park Street is becoming a bottleneck during periods of high traffic. Traffic on Park Street and the 5<sup>th</sup> St crossing has more than doubled in the last two decades. On occasion, the entire length from the 7<sup>th</sup> St light to the Eastern edge has been blocked by diverted freeway traffic. Increasingly hard to merge with Park Street traffic so there is need for more stop lights which also slows traffic flow.
- b. **Description:** LFR would probably be located at one of Livingston’s Gateways. The further apart shopping is located, the more traffic increases on Park Street, and the harder it is to shop without an auto.
- c. **Proposed Ordinances:**
  - i. Reduce access to Park Street to a few locations with lights, especially at the gateways. Shift access to businesses and parking to the side streets.
  - ii. Reduce parking space requirements at LFR locations to discourage peak shopping events
  - iii. Encourage busses and active transportation with paths and bus stops
  - iv. Allow mixed use building types to connect employment to residences
  - v. Owner funded traffic studies on all projects over 20,000 sqft.
  - vi. Owner funding of all traffic remediation such as neighborhood pathways, street improvements, traffic lights, etc.

3. **Problem:** Visual appearance at Gateways and on Park Street:

- a. **Description:** The unattractiveness of our entrances is a barrier to visitors.
- b. **Description:** Because the railroad borders one side of Park Street, the driving experience is often as through a parking lot with automobiles on both sides. The three entrances are becoming, generic, auto-centric and visually chaotic
- c. **Goal:** Park Street, 89 South and Highway 10 should be lined with attractive buildings and landscaping instead of parking lots
- d. **Proposed Ordinances**
  - i. Locate all new buildings close to the street, place parking to the rear
  - ii. Create clearly defined entrances to town
  - iii. Line the gateway arterials with landscaping where possible
    - 1. Use Landscaping as wayfinding: cluster at major entrances
  - iv. Develop and encourage local architectural character instead of generic buildings

4. **Problem:** Economic effects of growth and sprawl

- a. **Description:** Large properties developed at the periphery are financial liabilities to the city compared to the Central Business District. Tax rates per acre are very low, cost of infrastructure is high

- b. **Description:** LFR negatively effects local businesses, reduces wages and extracts wealth from the community.
  - c. **Description:** Sprawl and expanded infrastructure is a reaction to economic pressures but also result in the future growth of those problems. Problems are shifted in time and space, but continue over time at a larger scale.
  - d. **Goals:** Encourage expansion of businesses in the CBD, encourage residential and commercial density. Incentivize value added business activities
    - i. Provide local economic support: local ownership, jobs & wages
    - ii. Guard against cheap buildings with short life spans.
  - e. **Proposed Ordinances:**
    - i. Economic studies on all projects over 20,000 sqft. Include effects on existing businesses, % of local ownership, wage and benefit scale
    - ii. Develop a differentiated tax rate based on location, cost of infrastructure and value/size ratios
    - iii. Insist that LFR buildings be of high quality with long lifespan
    - iv. Have a contract with the owner for when the LFR building is vacated
    - v. Zone the CBD as an incubator location
      - 1. Encourage the creation of locally made products
5. **Problem:** Social cohesion, local identity and resilience
- a. **Description:** Automobile culture and suburban driving patterns are barriers to social interaction and community identity.
  - b. **Description:** Community is built through face-to-face interactions. The intimacy of small businesses in close proximity to each other is one of the foundations of community
  - c. **Description:** Emergencies, natural disasters and persistent problems are best handled when citizens know and trust each other.
  - d. **Goals:**
    - i. Promote the CBD as a place for business, for entertainment, and for community
    - ii. Create themed business hubs at the 3 entrances
    - iii. Build out active infrastructure to draw residents to the CBD
    - iv. Encourage human interaction through concentrated activities at central locations
  - e. **Proposed Ordinances:**
    - i. Integrate social gathering places into LFR: seating, landscaping, coffee shops at entrances, etc
    - ii. Community bulletin boards in building entrances
6. **Problem:** Protecting the natural environment
- a. **Description:** With increased sprawl, more traffic and more impervious surfaces, the natural world is experienced less frequently. Native varieties and species are in retreat, pollution is increased, energy use is increased, and water quality issues are increased.
  - b. **Goals:**
    - i. Increase density to reduce energy use
    - ii. Reduce impervious surfaces as much as possible
    - iii. Integrate landscaping into the built environment on all levels.
    - iv. Link populated areas to the river, to local trails and to gardens
  - c. **Proposed Ordinances:**
    - i. Limit parking spaces, treat run-off on site
    - ii. Mandate EV charging stations at all LFR locations with provisions for expansion
    - iii. Encourage Active Transportation so that people experience the outdoors



- iv. Strengthen landscaping requirements around LFR buildings that integrate with wildlife corridors and active transportation pathways
- v. Regulate lighting on buildings and parking lots with night sky, time of use and lumen details.

**File Attachments for Item:**

**B. ORDINANCE NO. 3022: 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 THE PARCELS INCLUDING THE PROPERTY BETWEEN NORTH O STREET AND THE YELLOWSTONE RIVER TO INCLUDE THE KPRK RADIO STATION AS MEDIUM DENSITY RESIDENTIAL (R-II) AND NEIGHBORHOOD COMMERCIAL AND TO INCLUDE THE AREAS ZONED NEIGHBORHOOD COMMERCIAL IN THE DESIGN REVIEW OVERLAY ZONE.**

September 22, 2021

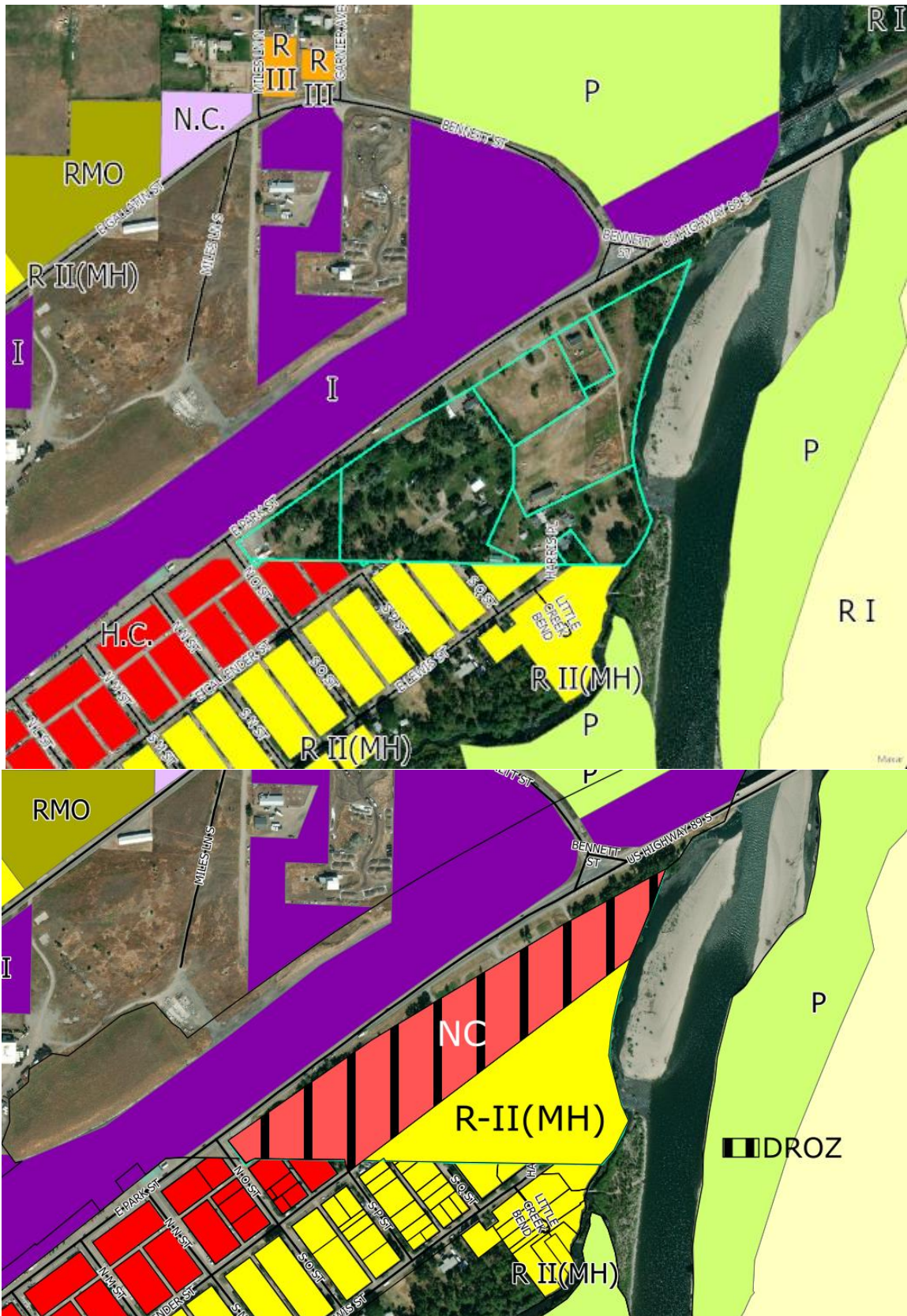
**STAFF REPORT**  
**ZONING MAP AMENDMENT – N. O St. to the Yellowstone River South of Park Street**

**Background**

On April 6<sup>th</sup>, 2021, the City Commission Adopted a Resolution (No. 4948) (Attachment I) approving the second reading of the annexation of the area between North O Street and the Yellowstone River to include KPRK.

As the property was annexed into the City a zoning amendment must be undertaken to update the Official Zoning Map to include the parcels. Staff is recommended that the area be zoned to match the entirety of the south side of the Park Street between N. E St. and N. O St., with the block north of Callender St. being zoned Highway Commercial (HC) and the remainder of the area south of Callender St. being zoned R-II(MH). The Zoning Commission disagreed with the staff recommendation, recommending that the area shown as HC be zoned Neighborhood Commercial (NC) and included in the Design Review Overlay Zone. The area currently contains parcels that are utilized both residentially and commercially. RX Coffee, the KPRK radio station, and Last Stand Fireworks are located in the area adjacent to Park Street, there are also several houses in the area. Residences are allowed in both the HC and R-II(MH) zones, importantly residences are not allowed in the NC zone and the Zoning Commission’s recommended zoning would create a non-conformity out of at least one home in the area. The Zoning Commission made their recommendation with the understanding that the City would be perusing a neighborhood oriented mixed use zoning district in the near future (expected to be on the September Zoning Commission Agenda) and the area would be re-zoned to Mixed Use after passage of the new district. Coffee shops are allowed in the HC and NC zones. Currently, fireworks stands, radio stations, or radio towers are not addressed by the zoning, and all three (3) uses would be considered non-conforming uses and allowed until the use ceases for a period of more than one (1) year. The text of the Zoning Ordinance would need to be updated to allow any of these uses as either a permitted use or a special exception. An update to allow radio stations in all commercial and industrial zones was recommended to be approved concurrently with this proposed zone map amendment by the Zoning Commission.

It should be noted that there is a significant amount of floodplain in the area.





**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 Extra-territorial Jurisdiction Future Land Use Map (FLUM) of the Growth Policy (Appendix A) (Attachment II) shows the whole area as Low Density Residential, stating “Low Density Residential is more likely with continuation of development patterns seen at the edge of Livingston”. The R-II(MH) zoning is consistent with the continuation of adjoining areas within the City. The recommended NC designations are not consistent with the admittedly broad-brush low-density residential designation, though the zone does allow for residential development. It should be noted that NC does not, and as such is not consistent with the FLUM. Additionally, as the parcels are no longer in the ETJ, the

evaluating the future land uses as they are shown on the FLUM may not be appropriate as conditions relating to the property have changed. Staff has noted other relevant goals and objectives of the Growth Policy below and analyzed the Growth Policy for zoning the area NC and R-II(MH).

- Objective 2.1.1.3 reads “Explore adopting design overlay zones in gateways.” The proposed zone map amendment adds a design overlay zone as one crosses the Yellowstone River to enter Livingston.
- Objective 3.1.1 reads “Encourage higher densities and a wider range of land uses that a compatible with adopted plans and where existing or planned short-range community facilities can support them.” By zoning the northernmost block of the area along park street NC a mix of commercial uses is allowed it does not allow an increase in density, or any residential uses.
- Strategy 3.1.1.4 reads “Promote any growth that maintains the compact, historic development patterns found in the historic city center.” By zoning the area in a manner that is identical to much of the area south of Park Street the City is encouraging development consistent with the historic patterns in the City. Zoning the area NC would be a departure from the historic zoning, though a very slight departure, and generally would be consistent with the historic development pattern of commercial along the first block of Park Street.
- Strategy 3.1.1.6 reads “Encourage residential developments to provide neighborhood commercial areas serving residents within walking distance.” While no development is proposed with this zoning amendment, allowing NC zoning along Park St. allows for commercial development that could serve existing and future residents alike. Currently, there is a noted lack of neighborhood oriented commercial services on the east and north-eastern end of town, and is generally limited to RX Coffee at the corner of O St. and Park and Neptune’s Brewery on N. L St. The designation of the corner of O St. and Park St. as NC also ensures that RX Coffee remains a permitted use in its existing location. Zoning the area NC would also allow neighborhood commercial areas, Zoning Commission had concerns that the proposed HC designation of the area as HC would lead to additional “strip” development along Park Street rather than neighborhood oriented commercial. The HC zone does allow for highway, non-neighborhood oriented commercial uses such as auto repair and sales, hotels, gas stations, and large-scale retail uses, which the NC zone does not. By zoning the area NC these uses would be prevented from moving into the area. The Mixed Use zone will also be proposed to not allow highway oriented uses.
- Objective 3.4.2 reads “Evaluate each new development after construction against the ten Smart Growth Strategies to ensure property implementation and coordination”. While no new development is proposed at this time both the NC zoning meets several smart growth

principles, including mixing land uses, creating walkable neighborhoods, and strengthening and directing development towards existing communities.

- Goal 3.5 reads “Rehabilitate brownfields for new development”. Ideally, by zoning the properties for City levels of density should encourage the redevelopment and therefore rehabilitation of parcels within the area to be zoned that are known to be or have been contaminated, this applies to any area that is annexed and zoned into the City, regardless of the zoning district proposed.
- Objective 6.1.1 reads “Support existing businesses.” The proposed NC zoning allows RX Coffee to continue operating as a permitted use. The existing fireworks stands and radio station are not addressed by the Zoning Ordinance and would become non-conforming uses, this does not prevent the businesses from operating until the use ceases for more than one (1) year, but it does prevent the businesses from expanding in any way. If adopted the NC zoning designation would not allow residential uses, placing at least one residence in non-conformance with the Zoning Ordinance. The same restrictions would apply to the residential non-conforming use as listed for commercial non-conforming uses above. An update to the text of the Zoning Ordinance would be required to allow these uses to be listed as permitted or as a special exception under the Zoning Ordinance. At this time a Zoning Update has been initiated by staff to allow radio stations as an allowed use in all commercial and industrial zones, including NC.
- Chapter 11.D reads “Investigate zoning to discourage food deserts.” The zoning designation of NC would allow for a grocery store or other establishment that could provide a local food option. The area is approximately ¾-1 mile away from the nearest grocery store, Foodworks. The nearest location to buy groceries would be Town Pump, approximately ½-¾ mile from the area, and not a full-service grocery. Zoning cannot ensure that a grocery store is placed in that location, simply that one would be allowed. As NC does not allow large-scale retail, all grocery uses would be restricted to 20,000 sq. ft. of gross floor area, it should be noted that neither Albertsons nor Town and County would meet this requirement.
- Additionally, Goal 3.3 and much of Chapter 4 (Natural Resources) discuss protecting the Yellowstone River and associated riparian, natural areas, and floodplain. While zoning the properties has no negative effect on the river or surrounding areas, significant development could negatively impact the river. All developments in this area will need to be carefully evaluated for their impacts to the natural environment.

*(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.
- The standards in the zoning regulations should increase safety over the existing unzoned state of the area.

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

Staff Comments:

- The current Zoning Ordinance was adopted to promote the public health, safety, and welfare. Limiting uses and the additions of standards to currently unregulated parcels should improve the health, safety, and welfare of the area.

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

Staff Comments:

- As the parcels have been annexed all future developments will be required to meet City infrastructure standards.
- The adoption of zoning on the parcels sets out maximum densities, ensuring the City can anticipate approximate maximum demand for public services from the development.
- Zoning the parcel should not affect the provision of schools and parks.

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

*(a) reasonable provision of adequate light and air;*

Staff Comments:

- By zoning the area, any new structures will be required to meet the setbacks and height requirements as listed in the City’s Zoning Ordinance which do not currently apply to the area, ensuring separation between structures for light and air.

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

Staff Comments:

- By zoning the area City density standards apply, as Park Street and the O Street Connector both run along the north side of the area there is plentiful access to motorized and nonmotorized transportation systems from the area being zoned. No impact on these systems is anticipated, and future development will need to be reviewed for transportation adequacy.

*(c) promotion of compatible urban growth;*



Staff Comments:

- The proposed zoning is identical to much of the south side of the City and is compatible with the adjoining properties, as the zoning will be matched between the two areas.
- By zoning the area, the density and uses will be compatible with adjoining City development as opposed to unzoned parcels which could be developed in a manner incompatible with the adjacent residential neighborhood and river.

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

Staff Comments:

- The proposed zoning is identical to much of the City, and allows commercial uses from Park St. to Callender St. placing the commercial uses along the roadway with the heaviest traffic loads and separating the residential neighborhoods from the commercial areas.

*(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 little effect on property values. Generally, annexation and the provision of City services would increase the value of property as properties can be developed at higher intensities.

***Spot zoning Criteria:***

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

Staff Comments:

- The uses are identical to much of the south side of the City.

*(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 is for an annexation of an area that is required to be zoned. The area is approximately 25 acres and the parcels are owned by several different landowners.

(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:**

- As the lot was annexed zoning the parcel under the City’s Zoning Ordinance is a benefit to the surrounding parcels to ensure that the use of the parcels remains consistent with the surrounding area and all adopted zoning requirements are applied to the property.

**Public Hearing**

As noted above, the Zoning Commission recommended modifying the areas shown in the image on page 2 from HC to NC, as well as applying the Design Review Overlay Zone to the area shown as HC, citing concerns with continuing the development pattern on the east end of Park Street which generally lacks neighborhood services. The Zoning Commission voted unanimously to recommend approval of the zone map amendment with the changes listed above (5:0).

Staff brought the issue to the City Commission as an action item to discuss whether the preference of the Commission was to zone the commercial area HC in line with staff recommendation or NC in line with the Zoning Commission’s recommendation. At that meeting the City Commission voted to recommend that the commercial area be zoned NC. Staff has provided a draft ordinance showing the area as NC.

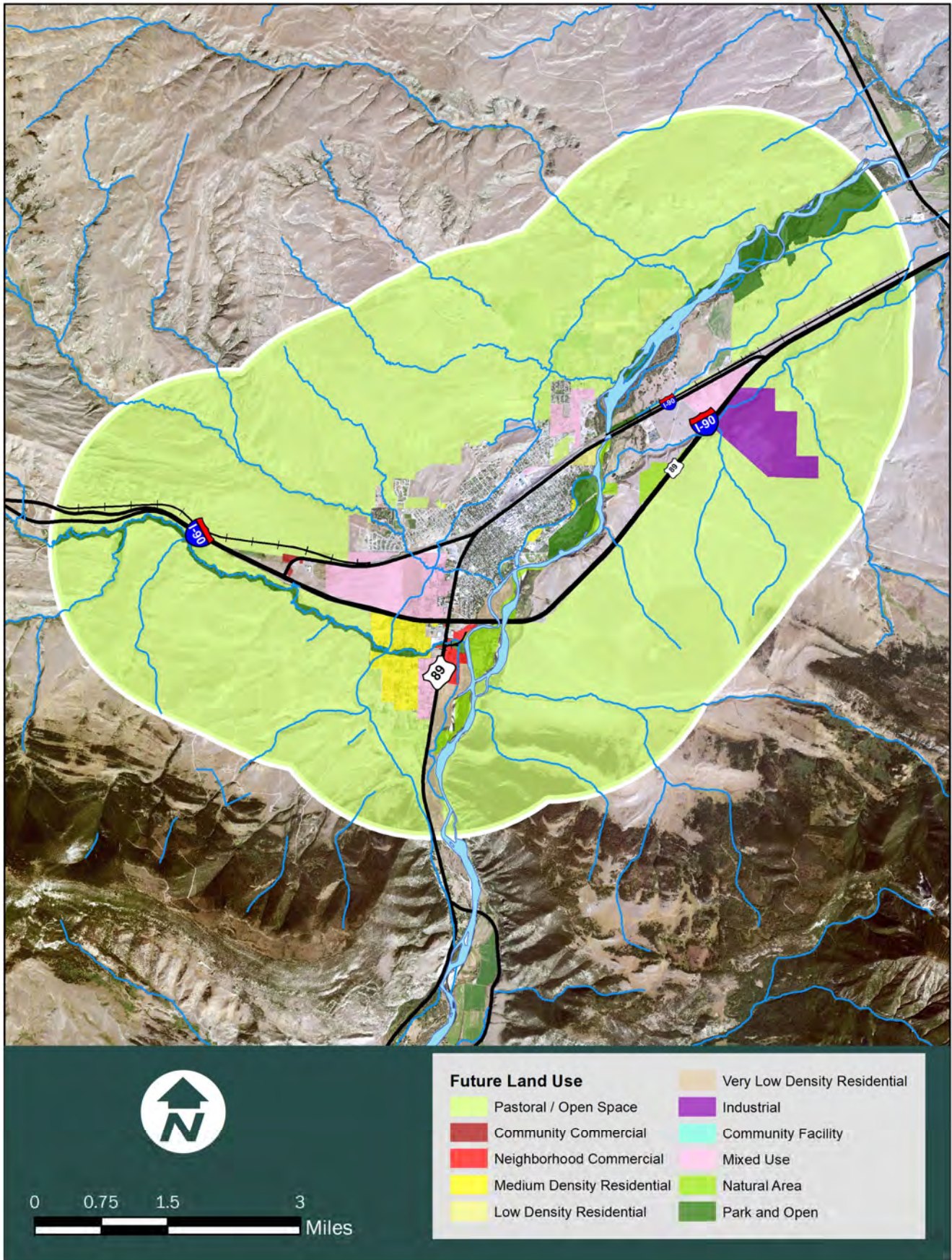
**Staff Recommendation**

The Zoning Coordinator can only support the NC zoning proposed by the Zoning Commission if it is the City Commission’s intention to re-zone the area Mixed Use as soon as the new zoning is adopted. This intention also relies on the assumption that the proposed Mixed Use district is acceptable to the City Commission and adopted. The Zoning Coordinator believes that zoning this area to create a non-conformity out of an existing residence and not allow residential development in perpetuity is inconsistent with the housing needs of the City and is an unnecessary restriction on an existing use of the area. Other than the above listed concerns, the Zoning Coordinator believes that the proposed zoning designation of HC or NC, R-II(MH), and the Design Review Overlay Zone meets 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.....Resolution 4922
- Attachment II.....FLUM
- Attachment III.....Draft Ordinance

Exhibit 2.9: Recommended Future Land Use Map



**RESOLUTION NO. 4948**

**A RESOLUTION TO THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO ANNEX CERTAIN LAND WHICH ARE CONTIGUOUS TO THE CITY OF LIVINGSTON AND INCLUDE THE PROPERTY BETWEEN NORTH O AND THE RIVER TO INCLUDE KPRK RADIO STATION.**

**WHEREAS**, Section 7-2-4301, Montana Code Annotated, authorizes annexation of contiguous land; and

**WHEREAS**, the City Commission of the City of Livingston, Montana, has determined that it is in the best interest of the City and the inhabitants of the properties identified in the City’s Annexation Policy that the boundaries of the City of Livingston be extended to include the property between North O Street and the River, to include KPRK, and some of which have City services and are wholly surrounded by other property within the corporate limits of the City;


**WHEREAS**, Section 7-2-4325 MCA allows for two or more adjacent tracts to be included in one resolution; and

**WHEREAS**, the provision of services can be accomplished with no additional capital expenditure on the part of the City.

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


It is the intent of the City Commission to annex contiguous land more particularly described as:

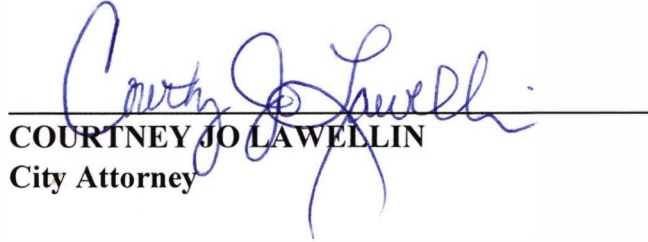
- 1. 1404 East Park Street  
Parcel in the S ½ SW ¼ less Certificate of Survey 1226 in Section 7 of Township 2 South Range 10 East, on file with the Park County Clerk and Recorder.**
- 2. 1500 East Park Street  
Parcel in the S ½ SW ¼ containing 14,78 acres more or less in Section 7 of Township 2 South Range 10 East, on file with the Park County Clerk and Recorder.**
- 3. 5 Harris Place  
Parcel B in Certificate of Survey 303 in the S ½ SW ½ East of the River in Section 7 of Township 2 South Range 10 East, on file with the Park County Clerk and Recorder.**

  
DOREL HOGLUND- Chair

ATTEST:

APPROVED TO AS FORM:

  
FAITH KINNICK  
Recording Secretary

  
COURTNEY JO LAWELLIN  
City Attorney

**PUBLIC NOTICE**

**NOTICE** is hereby given, a public hearing will be conducted by the Livingston City Commission on Tuesday, April 6, 2021, during a second reading of **RESOLUTION NO. 4948: entitled A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF IT'S INTENT TO ANNEX CERTAIN LAND WHICH ARE CONTIGUOUS TO THE CITY OF LIVINGSTON AND ARE DESCRIBED AS THE PROPERTY BETWEEN NORTH O AND THE RIVER TO INCLUDE KPRK RADIO STATION.** This hearing will be conducted via Zoom. All interested parties are invited to attend and give their comments. To join this meeting <http://us02web.zoom.us> Meeting ID: 890 8543 7403 Passcode: 514741 or by phone at (669) 900-6833. For additional information contact Faith Kinnick at (406) 823-6002.

Please publish Friday, March 5, 2021 and April 2, 2021.

Faith Kinnick  
City of Livingston  
March 2, 2021

**423276 Fee: \$21.00 Page(s): 3**  
Park County, MT Recorded 4/27/2021 At 4:39 PM  
Maritza H Reddington , Clk & Rcdr By PS **AG** Return To:  
CITY OF LIVINGSTON 110 S B ST  
LIVINGSTON, MT 59047



Windows taskbar with icons for File Explorer, Microsoft Word, and other applications. System tray on the right shows the time as 8:36 AM and the date as 2/25/2025.

Resolution No. 4948, Intent to Annex to include the property between North O St. and the River to include KPRK Radio Station

**ORDINANCE NO.**

**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 THE PARCELS INCLUDING THE PROPERTY BETWEEN NORTH O STREET AND THE YELLOWSTONE RIVER TO INCLUDE THE KPRK RADIO STATION AS MEDIUM DENSITY RESIDENTIAL (R-II) AND NEIGHBORHOOD COMMERCIAL AND TO INCLUDE THE AREAS ZONED NEIGHBORHOOD COMMERCIAL IN THE DESIGN REVIEW OVERLAY ZONE.**

\* \* \* \* \*

**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 City Commission of the City of Livingston, Montana annexed the Subject Parcel by passing Resolution 4922 on April 20, 2021;

**WHEREAS**, being within the jurisdiction of the City, the parcel is required by the City's Zoning Ordinance to be given a zoning designation;

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

**WHEREAS**, the City of Livingston Zoning Commission, after a public hearing, voted unanimously (5:0) to recommend approval of the zoning of the parcel to Medium Density Residential (R-II) and Neighborhood Commercial, with the Neighborhood Commercial areas to be included in the Design Review Overlay Zone 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 parcels legally described as:**

**1. 1404 East Park Street**

Parcel in the S ½ SW ¼ less Certificate of Survey 1226 in Section 7 of Township 2 South Range 10 East, on file with the Park County Clerk and

Recorder.

**2. 1500 East Park Street**

Parcel in the S ½SW¼ containing 14,78 acres \_more or less in Section 7 of Township 2 South Range 10 East, on file with the Park County Clerk and Recorder.

**3. 5 Harris Place**

Parcel B in Certificate of Survey 303 in the S ½ SW ½ East of the River in Section 7 of Township 2 South Range 10 East, on file with the Park County Clerk and Recorder.

**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 October, 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 November, 2021.

\_\_\_\_\_  
**DOREL HOGLUND – Chair**

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
**FAITH KINNICK**  
Recording Secretary

\_\_\_\_\_  
**COURTNEY LAWELLIN**  
City Attorney



**File Attachments for Item:**

**A. RESOLUTION NO. 5002: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2020-2021, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$398,160 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$390,445.**

**RESOLUTION NO. 5002**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2020-2021, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$398,160 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$390,445.**

**WHEREAS**, by Resolution No. 4919 the City of Livingston adopted its budget for Fiscal Year 2020-2021 (FY 20-21); and

**WHEREAS**, Mont. Code Ann. §§ 7-6-4006(4), 7-6-4031(2) and 7-6-4006(3) provide that the budget may be amended by conducting a public hearing thereon; and

**WHEREAS**, any proposed budget amendment which provides for additional appropriations must identify the fund reserves, unanticipated revenue or previously unbudgeted revenue that will fund the appropriations; and

**WHEREAS**, the budget for FY 20-21 requires a budget amendment by making appropriation adjustments in the amount of \$398,160 and revenue adjustments in the amount of \$390,445 as specified herein.

**NOW, THEREFORE**, be it resolved by the City Commission of the City of Livingston, Montana, that the budget for Fiscal year 2020-2021 is amended as follows:

**Revenue Estimate Adjustments**

Fund	Description/Purpose	Account	Amount
General	Building Permits	1000-323010	113,000
	Rent/Leases	1000-361000	26,000
	Administrative Cost Allocation	1000-396000	181,445
Sidewalk	Sidewalk Assessments	2600-363030	70,000
<b>TOTAL</b>			<b>\$ 390,445</b>

**Appropriation Adjustments**

Fund	Description/Purpose	Account	Amount	Fund Reserves	Unanticipated Revenues	Unbudgeted Revenues
General	Legal Notices	1000-401-410130-331	\$ 9,400	X		
	Zoom	1000-401-410130-333	1,925		X	
	Code Updates	1000-401-410130-337	3,375	X		
	NWE Building Design	1000-401-410130-350	7,805	X		
	Employee Appreciation	1000-403-410400-312	6,500	X		
	Park Local Development	1000-403-410400-824	10,000		X	
	Credit Card Fees	1000-404-410550-630	7,060			X
	Growth Policy	1000-406-411030-351	22,600	X		
	City Building Janitorial Services	1000-421-411230-360	15,650	X		
	County Building Janitorial Services	1000-421-411230-364	11,560	X		
	220 E Park Improvements	1000-421-411230-924	273,485	X		
	ADA Compliant Website	1000-422-411300-940	10,000		X	
	Sidewalk	First Interstate Sidewalks	2600-400-430240-914	17,300		X
BID	Professional Services	2650-400-470100-350	1,500	X		
<b>TOTAL</b>			<b>\$ 398,160</b>			

**Resolution No. 5002**

**Amending the budget for Fiscal Year 2020-2021 by making appropriation adjustments in the amount of \$398,160 and revenue adjustments in the amount of \$390,445.**

Dated this 5<sup>th</sup> day of October, 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 October 19<sup>th</sup>, 2021, at 5:30 p.m. in the Community Room of the City County Complex, 414 East Callender Street, Livingston, Montana, on **Resolution No. 5002** entitled **A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, OF ITS INTENT TO AMEND THE BUDGET FOR FISCAL YEAR 2020-2021, BY MAKING APPROPRIATION ADJUSTMENTS IN THE AMOUNT OF \$398,1600 AND REVENUE ADJUSTMENTS IN THE AMOUNT OF \$390,445 AND CALLING FOR A PUBLIC HEARING** by making amendments as follows:

**Revenue Estimate Adjustments**

Fund	Description/Purpose	Account	Amount
General	Building Permits	1000-323010	113,000
	Rent/Leases	1000-361000	26,000
	Administrative Cost Allocation	1000-396000	181,445
Sidewalk	Sidewalk Assessments	2600-363030	70,000
<b>TOTAL</b>			<b>\$ 390,445</b>

**Appropriation Adjustments**

Fund	Description/Purpose	Account	Amount	Fund Reserves	Unanticipated Revenues	Unbudgeted Revenues
General	Legal Notices	1000-401-410130-331	\$ 9,400	X		
	Zoom	1000-401-410130-333	1,925		X	
	Code Updates	1000-401-410130-337	3,375	X		
	NWE Building Design	1000-401-410130-350	7,805	X		
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	Park Local Development	1000-403-410400-824	10,000		X	
	Credit Card Fees	1000-404-410550-630	7,060			X
	Growth Policy	1000-406-411030-351	22,600	X		
	City Building Janitorial Services	1000-421-411230-360	15,650	X		
	County Building Janitorial Services	1000-421-411230-364	11,560	X		
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	Sidewalk	First Interstate Sidewalks	2600-400-430240-914	17,300		X
BID	Professional Services	2650-400-470100-350	1,500	X		
<b>TOTAL</b>			<b>\$ 398,160</b>			

All interested persons are invited to attend and give their comments. For additional information contact Paige Fetterhoff, Finance Officer, 220 E Park Street, Livingston, MT 59047, or by phone at 823-6003.

Please publish Friday October 1, 2021, and Friday October 15, 2021.

Faith Kinnick  
 City of Livingston  
 September 28, 2021

**Resolution No. 5002**  
**Amending the budget for Fiscal Year 2020-2021 by making appropriation adjustments in the amount of \$398,160 and revenue adjustments in the amount of \$390,445.**

**File Attachments for Item:**

**D. DISCUSS: BOARD COMMUNICATIONS**

**From:** [Michael Kardoes](#)  
**To:** [Faith Kinnick](#)  
**Subject:** Clarifying Board Communications  
**Date:** Tuesday, August 31, 2021 2:54:07 PM

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Board Chairs,

There have been some questions lately about the process for communication between boards, the public, and the different arms of the City. While not complex, consistently finding the appropriate avenues for different types of communication issues can be confusing. To help standardize how boards communicate effectively, I will try to lay out the best practices for information to flow between the public, the City’s boards, and the City, with the most clarity consistent with State ethics.

Before discussing “how” information flows, I think it is equally important to understand “what” information flows. Understanding the types of communications makes understanding the mechanisms easier and makes the whole process more efficient. Starting with the purpose of City Boards is the easiest way to understand the “what”. All of Livingston’s City Boards are advisory boards. With that as a baseline, we can look at what an advisory board does.

**ADVISORY BOARDS**

Advisory boards exist to make recommendations to the City Commission on the subject matter associated with their board. These boards and their recommendations are to enhance public participation of citizens encouraged in the Montana law and Constitution. These recommendations and advice imply two things that guide the types of communications that should emanate from advisory boards. First, the communication should be directed to the City Commission. Second, the communication should be recommendations for decisions of the City Commission. In general, that means that recommendations should be on policy level items. The Commission sets policy and strategically plans the path for the City. They do not delve into operational issues or direct how staff spends its time on a day-to-day basis. If your recommendation delves into how staff will execute an item, that is too detailed



for a recommendation to the City Commission. If your recommendation details what materials to use, which contractor to hire, or when something should be done, that is also operational and should not be contained in a recommendation.

**LINES OF COMMUNICATION**

City Commission -

Now that we have discussed the types of communication that should originate from boards, it is important to understand who boards should be communicating with. The two basic lines of communication from boards run to the City Commission and the City Staff. Communication to the City Commission should take one of two forms – communications to Board assigned Commissioners or to the City Commission as a body. Some boards have assigned Commissioners who can act as a liaison between the Commission and the board. This is an informal line of communication and exists for consistent communications on small issues, but should not be used for formal guidance. Formal communication to the City Commission should be in written form as either a recommendation or a report. These formal communications need to be voted on by the entire board and sent forward only if the issue receives a majority vote. The method to get those final written communications formally to the Commission is through the City Manager’s Administrative Assistant. The item will then either be placed on a City Commission Agenda or delivered to the Commissioners individually if the item does not need an agenda item. If chairs wish to communicate with the entire Commission informally, care must be taken to clarify if the chair is speaking on their own behalf or on behalf of their board (i.e. a vote has been taken). In general, if a vote has been taken it should take the form of a formal communication and the chair should be forwarding only the recommendation of the board. Once a vote has been taken a member of a board should not undermine the will of the board by expressing a contrary personal position to the Commission.

City Staff –

If a board needs to communicate with City Staff, the line of communication runs through the City Manager. The exceptions to this are the Planning Board and Zoning Commission who normally work through the Planning Director or

designee. Those two boards have very specific legal requirements that necessitate the involvement of city staff during their board processes. Additionally, board secretaries/chairs can communicate with the City Manager’s Administrative Assistant on topics such as minutes, agendas, notices, etc. Outside of those exceptions, all board communication for staff should be directed to the City Manager. The City Manager will determine which staff will answer questions and assign priority and timelines to ensure that overall city priorities are accomplished in the appropriate order. City Staff may contact boards to clarify issues if needed and boards may respond to staff inquiries.

**COMMUNICATION PROCESS**

In general board communications should follow this flow:

Board requests a policy/strategic project from Commission ---If approved, Commission assigns item to City Staff --- City Staff prioritizes item and determines workflow --- Staff provides plan to Board for review --- Board considers staff plan, votes on a recommendation, and provides its written recommendation to Commission--- Staff presents Board recommendation to City Commission accompanied by staff recommendations --- Commission approves final plan --- Staff prioritizes, funds, and executes plan under the direction of the City Manager

This is the ideal process as boards are not required to write detailed plans about costs, staff time, or other technical aspects. It also clearly delineates board roles in helping develop policy, and the staff role in executing.

**DISCOURAGED COMMUNICATIONS**

In most cases the following types of communication should not be initiated by boards:

- Communication to city staff other than the City Manager or their Administrative Assistant
- Public Outreach outside of noticed board meetings with recorded minutes
- Communicating directly with individual city residents on a specific issue

outside of public meetings (property owners, etc.)

- Communicating with outside agencies
- Communicating with residents about city operations – specific requests or complaints should be directed to the City Manager
- Communicating about enforcement with contractors, residents, or the public as a city representative
- Requesting quotes for any service or material (or even donations)

While this is not an exhaustive list of what to do or not to do, it should outline the basic framework of communication for boards. Please let me know if you have any questions.

Sincerely,

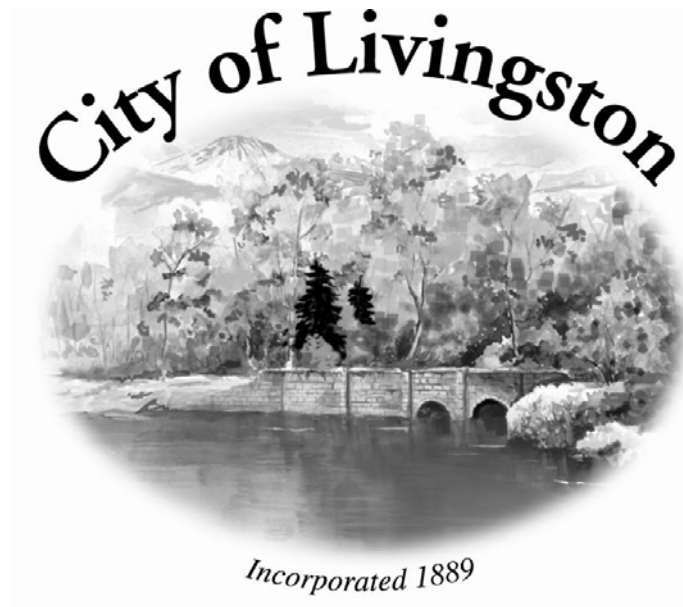
Michael Kardoes  
City Manager  
Livingston, MT 59047  
P: 823-6000  
[citymanager@livingstonmontana.org](mailto:citymanager@livingstonmontana.org)



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# CITY OF LIVINGSTON BOARD AND COMMITTEE POLICIES HANDBOOK

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Updated November 2019

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*APPROVED AND ADOPTED BY LIVINGSTON CITY COMMISSION DECEMBER 3, 2019*

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## FORWARD

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Welcome Livingston City Board and Committee Members!

The purpose of this handbook is to provide the City board and Committee members with guidelines, policies and best practices when serving on a City Board or Committee.

This handbook is separated into the following general categories:

- Mission/Vision/Values/Goals
- Organizational Personnel and Structure
- List of City Boards/Committees
- Purpose/ Membership/ Governance
- Legal Requirements for Boards and Committees
- Human Resource Considerations

The City Manager will provide orientation training sessions to newly appointed City Boards and Committee. This orientation will consist of general overview of policies and procedures.

In our form of government, the City Commission works with and through the City Manager as its primary liaison to all other City staff and resources. The City Manager is responsible for all City employees and everything that those employees do relative to performing their jobs. The City Manager is also responsible and accountable to determine how the allocation of resources happens so that all objectives and needs of the City, the Commission and the residents of our community are met.

If you would like an idea researched or some task performed, or want to introduce a project or issue through the City Commission, please ask the City Manager to research, arrange a City Commission Work Session for preliminary discussion of the item, or to place it on the agenda for Commission direction on how to approach it and what level of resources to devote to it. The “Commission Comments” section of the regular Commission agenda is another way that issues can be brought up to determine Commission concurrence on how to approach them.

Thank you for the interest and commitment to your community that you have displayed by pursuing and achieving local elected office. I look forward to working for and with you in the service of our community.

Michael J. Kardoes  
CITY MANAGER

---

ORGANIZATIONAL MISSION, VISION, VALUES AND GOALS

---

### **Mission of the City**

We provide essential services,  
quality of life opportunities,  
and maintain what is best about Livingston,  
while providing for growth in a manner, that is  
fiscally responsible, with integrity and compassion.

### **Organizational Vision of the City**

A dedicated team of leaders working in collaboration,  
with a diverse community to create  
a vibrant home surrounded by natural beauty,  
respectful of our unique history and full of opportunity



# City of Livingston

## Values

### We Value People Who:

- **Collaborative:** We work together effectively and transparently with the public, our boards and committees, community partners, private entities, other governments, and within our own organization.
- **Excellence:** We provide dependable, quality services through flexible and customer focused efforts with maximum competence.
- **Integrity:** We are transparent, trustworthy, and honest; committed to doing what is fair and just while maintaining a sense of humor and sense of community.
- **Innovation:** We are creative and efficient in seeking new ways to solve problems and embrace change.
- **Stewardship:** We carefully and responsibly manage our city's infrastructure, employees, fiscal resources, environmental impacts.

# City of Livingston Goals Summary

1. **Quality Workforce:** Instill a culture that attracts and sustains knowledgeable and engaged employees that embody the City’s organizational values.
2. **Financial Stewardship:** Create and maintain a financially sustainable budget to fund first the City’s responsibilities and then community enhancements by incorporating the City’s values and innovative funding sources.
3. **Infrastructure:** Build and maintain infrastructure now and into the future that promotes and sustains existing neighborhoods and accommodates growth.
4. **Public Engagement/Collaboration:** Inform and empower the community through open dialogue, user friendly access to information and a welcoming environment.
5. **Safe and Healthy Community:** Foster community resilience by facilitating access to health and wellness resources, enhancing multimodal connectivity and providing stewardship of our natural environment.

## CITY ORGANIZATION

---

The City's workforce is organized into 4 major areas for more efficient operations. These departments are:

- Administrative Services
- Police, Fire/Ambulance
- Public Works
- Planning & Building/ Code Enforcement

The Department Heads are appointed by the City Manager, with, the exception of the Fire Chief whose nomination and appointment by the City Manager requires Commission concurrence.

The Chair of the City Commission nominates the following Advisory Boards and Commissions to advise the Commission:

- Historical Preservation Commission
- City Conservation Board

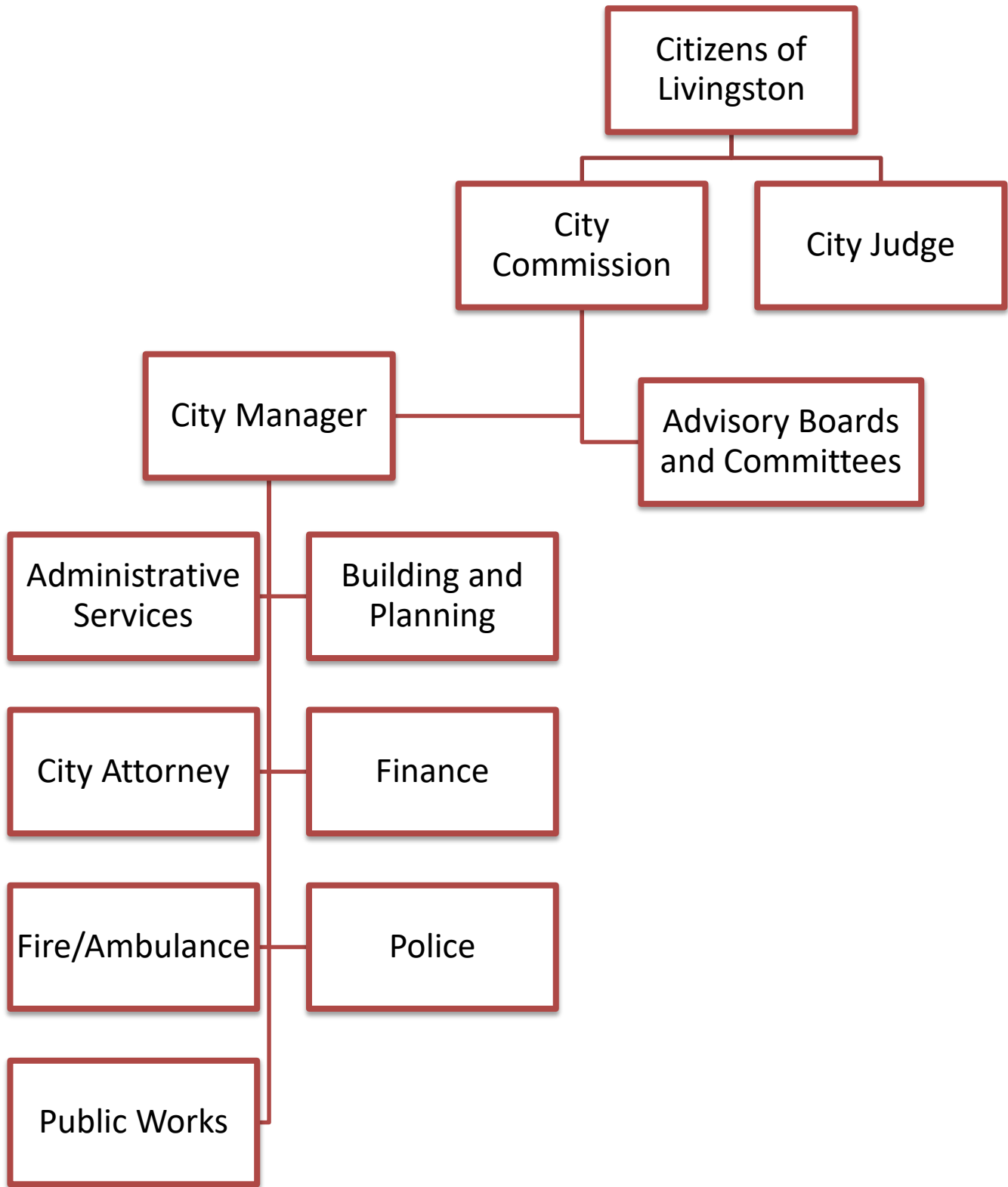
The Chairperson of the Commission appoints the City's representatives to the following Joint Advisory Boards:

- City-County Airport Board
- City-County Health Board

City Commissioners and employees interact with various County Boards.

The City Manager hires and dismisses all City non-elected employees, with the exception of the Fire Chief whose hiring requires Commission concurrence. The City Manager nominates Police Commissioners and the City Commission confirms these nominations. The City Manager also may appoint task forces and committees as necessary.

See the following charts for more detailed information:



## ORGANIZATIONAL PERSONEL AND STRUCTURE

---

**City Manager** **Michael J. Kardoes**

---

Administrative Assistant Faith Kinnick

*All City Departments and personnel report to the City Manager and the City Manager has authority over all City operations. The City Manager reports to the City Commission and is an appointed position.*

**City Attorney** *(interim attorney)* **Courtney Lawellin, JD**

---

Legal Analyst Lisa Harreld

*The Legal Department oversees all municipal criminal prosecutions, legal research, contracting, liability matters and legal issues which arise for the City.*

**Finance Officer** **Paige Fetterhoff**

---

*The City Finance department develops the annual CIP and General Budget, oversees all accounts receivable and payable, utility billing and revenue collection, business licensing fees and other fee based revenue. The Finance office also serves as point of contact for dog licenses, payroll and Employee Benefits.*

**Building and Planning Director** **Jim Woodhull**

---

*The Building Department provides counsel on all zoning and land use regulatory matters, building plan reviews and permitting and provides for code enforcement such as parking, blight and snow removal.*

**Public Works Director** **Shannon Holmes**

---

*The Public Works Department is responsible for the installation, repair and maintenance of all City Infrastructure such as water mains, sewer mains, street maintenance and all the City Parks and Cemetery Maintenance as well as the proper running of the Waste Water Treatment Plant. The City Public Works Department also provides services such as grave digging, street closures, animal control, recycling drop off, utility locates and snow removal.*

**Police Chief** **Dale Johnson**

---

Assistant Chief Wayne Hard  
Communications Director Peggy Glass

*The City Police Department is responsible for the maintenance of Civil Order, traffic control and apprehension of criminals. The Police Department is staffed 24/7/365 and has Detectives, Sergeants, Patrol Officers, K9 Officer and a staff member serves as the School Resource Officer and is stationed at Park High School.*

**Fire Chief**

**Ken MacInnes**

*The City Fire Department responds to all Fire and EMS emergencies in the City limits and within the 5-mile automatic mutual aid zone. The EMS service provides first response medical care County wide and the Fire Department works collaboratively to share needed resources with Rural and County Fire Departments when needed. All Fire Department career personnel are Fire and Paramedic certified.*

**Administrative Services Director**

**Lisa L. Lowy**

*The Administrative Services Department oversees Human Resources, Grant Writing, Communications and Media, Risk Management as well as Parks and Recreation including the City Pool. The AST Director also serves as the Human Resources Director and Public Information Officer.*

**LIST OF CITY BOARDS/COMMITTEES AS OF NOVEMBER 2019**

ALL CITY BOARD/COMMITTEE MEETINGS WILL BE HELD IN THE COMMUNITY ROOM OF THE CITY/COUNTY COMPLEX UNLESS NOTED OTHERWISE.

**BOARD OF APPEALS (BUILDING)**

Terms – Serves at the pleasure of the Commission

MEETS AS NECESSARY

**CITY TREE BOARD \***

MEETS 3<sup>RD</sup> THURSDAY, MONTHLY NOON

**PARKS AND TRAILS COMMITTEE \***

MEETS 4<sup>TH</sup> WEDNESDAY AT 6:00PM

**HISTORICAL PRESERVATION COMMISSION**

MEETS 2<sup>ND</sup> TUESDAY OF EACH MONTH, 3:30 P.M.

**LIBRARY BOARD \***

MEETS 3<sup>RD</sup> THURSDAY, 4:00 P.M. – LIBRARY

**SKATE PARK COMMITTEE**

MEETS 1<sup>ST</sup> WEDNESDAY OF MONTH, 7:00P.M. – LIBRARY COMMUNITY ROOM

**CITY PLANNING BOARD\***

MEETS 3<sup>RD</sup> WEDNESDAY OF THE MONTH, 5:00 P.M.

**CITY ZONING COMMISSION\***

MEETS 2<sup>ND</sup> TUESDAY OF MONTH 5:30 P.M.

**URBAN RENEWAL AGENCY \***

MEETS QUARTERLY

**CITY CONSERVATION BOARD**

**STARTING 1/2020**

MEETS 2<sup>ND</sup> THURSDAY, MONTHLY, 5:30 P.M.

**CITY-COUNTY AIRPORT BOARD**

MEETS 4<sup>TH</sup> TUESDAY, 12:00 P.M. – AS NEEDED

**LIVINGSTON URBAN**

**TRANSPORTATION COMMITTEE – (Also known as the Transportation Coordinating Committee – TCC).**

MEETS QUARTERLY – JANUARY, APRIL, JULY AND OCTOBER, 4<sup>TH</sup> WEDNESDAY, 1:30 P.M.

**SISTER CITY COMMITTEE**

MEETS – 3<sup>RD</sup> WEDNESDAY OF EACH MONTH, 7:00 P.M. –LIBRARY

**POLICE COMMISSION**

MEETS AS NEEDED

CITY BOARDS AND COMMITTEES CHAIRS RESERVE THE RIGHT TO RE-SCHEDULE SET MEETING DATES AROUND RECOGNIZED HOLIDAYS OR CANCEL DUE TO INCLEMENT WEATHER.

\* NOTES CITY COMMISSION REPRESENTATION ON BOARD

## PURPOSE OF BOARDS AND COMMITTEES

---

The City of Livingston has formed a variety of boards and committees to help with the administration of the roles and duties of the city. Some boards are required by Montana law, while others are discretionary. All boards and committees exist to enhance public participation in local government.

The City Commission intends that boards and committees are an avenue for the citizenry to express their desires in how the city government functions while taking advantage of the expertise they possess to achieve the best results for the community.

Every board or committee, when it is formed will have a specific statement of purpose and function, which will be re-examined periodically by the City Commission to determine its effectiveness. This statement will include purpose, membership, authority, and expectations. The City Commission may determine any specific guidelines or tasks to be referred to the board or committee by motion or resolution.

## MEMBERSHIP

---

Each board and committee has its own requirements for membership, but overall, the city is looking for enthusiastic people willing to work in a group setting. Ethical behavior, good judgment, dignity and respect are required.

### *MEMBERSHIP ON MORE THAN ONE BOARD OR COMMITTEE*

---

It is the intent of the City Commission that board and committee members not serve on more than one board, committee, commission, or task force at any time in order to provide opportunities for diverse citizen input. However, there may be extenuating circumstances that will justify multiple memberships. Specifically, the City Commission will consider appointing a citizen to multiple memberships if a board or committee does not have enough membership for a quorum, there have been vacant positions on a board or committee for more than six months, or other circumstances determined by the City Commission.

### *RESIDENCY REQUIREMENT*

---

Unless specified by the resolution establishing the board or committee every member will have been a resident of Park County for one year. In most cases preference will be given to citizens of the City of Livingston, but there are positions that are appropriate for citizens of the county who own property in the city, work in the city, or have expertise that will be beneficial to a board or committee.

### *DIVERSITY*

---

The City of Livingston is dedicated to ensuring the greatest diversity of representation as possible on its boards and committees. Consideration of the diversity of boards and committees will be



given during the selection process. Additionally, the City of Livingston feels it is important to include the community’s youth in the governing process and will identify youth-specific seats on specific boards to increase their representation. Youth-specific seats will be held for citizens ages 15-19, with differing age ranges depending on the type of seat to be filled and will be governed by the by-laws for each board or committee.

*SELECTING BOARD AND COMMITTEE MEMBERS*

---

Board and committee members will be interviewed by the board. Recommendations will be presented by the board chair to the City Manager who will prepare to go before the City Commission for appointment. All applications for open positions will be provided to the selecting authority. If the selection authority is the City Commission Chair or City Commission as a whole, the applications will be accompanied by a recommendation from the City Manager. Once the selection has been made, all applicants will be notified if they were selected or not selected.

*BOARD AND COMMITTEE MEMBERS*

---

Each board and committee will have a specified term of office in its by-laws. The City of Livingston does not set a limit on the number of terms a citizen may serve; however, at the end of each term the seat will be opened up to the public for applications, and the current member will reapply for the seat and be evaluated along with any new applicants. If a member is not able to complete their term or office or are removed for cause, the selecting authority will appoint a new member to serve out the original term of office.

*REMOVAL FOR CAUSE*

---

Unless otherwise specified, the selecting authority for a board or committee has the ability to remove a member for cause. Situations that could result in removal for cause include but are not limited to: habitual absenteeism, inability to hold to the rules of conduct, inability to work respectfully as part of the board or committee, improper conduct, or failure to interact with the public in a productive manner.

*RESTRICTIONS ON CITY EMPLOYEES AS MEMBERS*

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Unless otherwise specified, city employees will not act as members of city boards and committees.

**BOARD AND COMMITTEE GOVERNANCE**

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*BY-LAWS*

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Each board and committee will pass a set of by-laws that govern their composition and operations. By- laws follow the format of Attachment A.

## *QUORUM*

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All meetings of boards and committees require a quorum as defined by the by-laws in order to be valid. If a quorum for a meeting does not exist, the meeting will be canceled and no discussion of current topics will take place.

## *AGENDAS*

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Each board and committee will produce an agenda prior to each meeting. The agenda will be publically posted and included on the board or committee webpage on the city website a minimum of 48 hours before the meeting. Discussion by the board and committee will be limited to the items on the agenda for that meeting.

## *MINUTES*

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Each board and committee will produce meeting minutes that capture the content of each meeting and provide the minutes for the public record, using the template provided. As a minimum, minutes will include:

- Date, time, and place of meeting
- A list of the individual members of the board or committee in attendance
- The substance of all matters proposed, discussed or decided
- At the request of any member, a record by individual members of any votes taken
- Public comment received at the meeting

The MCA states that if an audio recording of a meeting is made and designated as official, the recording constitutes the official record of the meeting but a written record of the meeting must also be made available for inspection. A log or time stamp for each main agenda item is also required (MCA 2-3-212). The City of Livingston audio recordings, will serve as official meeting minutes while written minutes will be considered supplemental.

There is no distinction in the MCA between draft minutes and approved minutes (those accepted by the body). Boards should submit the minutes of its proceedings within one week 7 working days after the minutes have been approved by that body for electronic storage and retention in accordance with the provisions of MCA 2-6-12. More information about this provision is in MCA 7-1-204 and 7-11-1030.

In addition, public comment received at a meeting must be incorporated into the official minutes of the meeting (MCA 2-3-103). For municipalities, there is additional statutory language about “copying” that states, “Appropriate minutes shall be kept of all public meetings and shall be made available upon request to the public for inspection and copying” (MCA 7-1-4141).

*OPEN MEETINGS*

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In accordance with Montana Code All boards, or committee meetings will be open to all members of the public.

There are four essential elements in the open meetings law:

1. If a quorum, defined as the number members legally required to conduct business, is convened by either physical presence or by means of electronic equipment (MCA 2-3-202) and,
2. Members will hear, discuss or act upon issues that it has jurisdiction over, (MCA 2-3-202), then,
3. The meeting must be open to the public and the press must be permitted to record the meeting (MCA 2-3- 211) and,
4. Appropriate minutes of all meetings shall be kept and made available for the public (MCA 2-3-212).

*MEETING PROCEDURES*

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Meetings will be conducted in accordance with the parliamentary rules adopted in the specific by-laws. In all cases the board or committee chair will preside over the meeting, or in their absence the vice chair. If both the chair and vice chair are absent the chair will appoint the presiding member for that meeting.

*BOARD AND COMMITTEE EXPECTATIONS*

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All Boards and Committees are expected to:

- Interpret community opinions, attitudes, and needs to department staff and the commissioners
- Study programs and services, and analyze problems and needs
- Offer new proposals and recommend changes in programs and policies
- Provide fellow community members with information about city policies, programs and budgets
- Focus their efforts on the goals adopted by the Commission in the Strategic Plan and the priorities identified in the Growth Policy

During meetings all board and committee members will:

- Be fair, impartial, and respectful of the public, staff, and each other

- Respect the limitations of their individual and collective authority. The role of members is to advise the city commission, not to make final decisions
- Appreciate differences in approach and point of view
- Participate in the discussion and work assignments without dominating the discussion or activity of the group
- Attempt to reach consensus. If consensus is not possible, strong differing opinions should be recorded and acknowledged in the report to the City Commission as the “minority opinion”

Products and reports from the board or committee will:

- Be in written form
- Be expressed in clear and concise language
- Provide solutions that are viable and cost-effective
- Identify the reasons for suggested changes

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## MAKING MEETINGS MORE EFFECTIVE

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All of the City of Livingston boards and committees rely on parliamentary procedure and Robert’s Rules of Order to structure meetings and provide uniformity regarding interaction with the public. This section contains information on parliamentary procedure, Roberts Rules of Order, and the use of motions.

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### *PARLIAMENTARY PROCEDURE AND ROBERTS RULES OF ORDER*

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Parliamentary procedure is a method used to assist deliberative democratic assemblies in conducting meetings by using explicit rules and relying on transparency and consistency. These rules allow participants in a meeting the chance to be heard while maintaining order. Parliamentary procedure provides an important tool to ensure that decisions are reached in an orderly, equitable and deliberative manner.

The general principles of parliamentary procedure are based on the will of the majority, the right of the minority to be heard, protection of the rights of absentees, courtesy and justice for all, and consideration of one subject at a time. Robert’s Rules of Order provide a common language that incorporates these principles to conduct a meeting.

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### *PREPARING YOUR AGENDA*

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Preparing for your board meeting, and ensuring that board members have all of the necessary materials to be prepared for the meeting is critical. The agenda should be provided well in advance and as required in 2-3-103, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within

the jurisdiction of the board. Board member packets can also be prepared and distributed to members prior to the meeting, and can contain the:

- Agenda
- Unapproved minutes from previous meeting
- Notes from members / governing body
- Committee and other reports
- Details of proposed actions
- Any supporting information (correspondence, reports, etc.)
- Other useful documents

Approved meeting agenda and minutes templates have been provided. Unless noted otherwise, the agenda will be structured as follows:

1. Roll Call
2. Approval of Minutes: These are the minutes from the previous meeting. The body should vote to approve without changes or approve with changes.
3. Public Comment: This is the time set aside for the public to comment on any subject over which the board has jurisdiction or regarding an agenda item. The subject does not have to be on the agenda but the council cannot act on anything during public comment. If council action is required, the item must be placed on the next meeting agenda.
4. Old Business: a. Officer Reports: for example, the treasurer may have a report to provide and explain b. Committee Reports: these can include a report of current activities or special committee reports.
5. New Business: a. Approval of consent items if any; these are routine items, voted on in a single motion to approve b. Other scheduled matters.
6. Unscheduled matters / Concerns: This is a time when members can bring a concern forward before the body that is not otherwise listed on the agenda. No action can be taken at this time.
7. Adjournment

### *HOW TO USE MOTIONS*

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Four basic types of motions (main, privileged, subsidiary, and incidental) are used within a meeting to introduce topics or ask membership to take action on an issue. These types of motions allow participants the opportunity at various occasions during the meeting to make motions, second motions, debate motions and vote on motions.

A main motion serves to announce items to be taken under consideration by the meeting attendees. Main motions are secondary to privileged, subsidiary and incidental motions and not allowed if another motion is already being discussed.

Subsidiary motions are used to change the method of handling a main motion and must be voted on prior to voting on the main motion. Privileged motions allow subjects that are

urgent to be discussed even when they do not relate to the business currently at hand. Incidental motions are used by members who wish to question how another motion is being processed. Incidental motions then take precedent before the original motion can continue.

### *PRESENTING A MOTION*

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When a member would like to present a motion they must first obtain the floor by waiting until the previous speaker has finished and then rising and addressing the chairperson (or president) and saying, “Mr. (or Madam) Chairman,” and then waiting to be recognized. Motions are made in a positive manner and generally begin with, “I move that we...”. After the motion is presented, another member must second the motion for the motion to move forward. The chairperson will then restate the motion and begin by saying, “It has been moved and seconded that we...”; this statement opens up the motion for debate and turns the motion into “assembly property.”

If debate is not necessary or allowed on a motion, a vote can then take place. If debate is needed, the individual who made the motion is allowed to speak first. Other members are then given opportunity to present thoughts on the motion. The member who presented the motion cannot speak on the matter again unless directed by the chairperson or until everyone else has had an opportunity. A time limit per speaker is often set up prior to discussion. All discussion is directed towards the chairperson. After debating the motion, the chairperson will ask, “Are you ready to vote on the question?” A vote is then taken if no more discussion is necessary.

### *PROCEDURES FOR VOTING ON A MOTION*

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The method used to vote depends on the assembly’s needs. More often, a simple voice vote is taken with the chairperson stating, “everyone in favor of the motion say aye, and everyone opposed to the motion say no.” A variation can be used when records need to be kept indicating how everyone votes. For the roll call method, each person’s name is called and a vote is verbally given. The chairperson may also choose to bypass the vote and obtain general consent. The chairperson would say, “If there is no objection...”; anyone can speak up at this point and state they do object followed by a vote.

### *VOCABULARY USED IN A BOARD MEETING*

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Robert’s Rules of Order and other parliamentary procedures contain specific vocabulary to be used at board meetings.

- **Point of Privilege:** This term refers to the right of the person speaking to have the floor and not be interrupted by others.

- **Parliamentary Inquiry:** Method to raise a point of order or to ask how to proceed when unsure of the proper motion.
- **Point of Information:** This term refers to the method used to ask the speaker a question.
- **Orders of the Day (Agenda):** If the meeting is not following the agenda a member may call orders of the day to remind the assembly to adhere to the agenda. If the members would like to deviate from the agenda, “suspending the rules” is necessary.
- **Point of Order:** Point of order is raised if a rule has been broken or a member is not using the proper meeting protocol to speak. A point of order needs to be raised right after the error occurs.
- **Divide the Question:** This term is used when a motion is split into two or more new separate motions.
- **Consider by Paragraph:** When considering adoption of a document, adoption of the full document can be postponed until each and every paragraph has been debated and if necessary amended.
- **Withdraw/Modify Motion:** After the question is stated; the person who made the motion may accept an amendment to the motion.
- **Commit /Refer/Recommit to Committee:** Sometimes a committee is needed to research a motion. In this case, an already established committee is assigned the question or a new committee is appointed. If a new committee is necessary, the chairperson may indicate how many members are needed and how selection of committee members should occur.
- **Extend Debate:** Calling to extend debate can be used for the question currently under debate and usually has a time limit.
- **Limit Debate:** This term is used to refer to the time limit placed upon debate and when debate should be considered closed.
- **Postpone:** If a motion or agenda item needs to be postponed, it is necessary to determine and state when it will be resumed.
- **Object to Consideration:** Objection must be stated before discussion or another motion is stated.
- **Lay on the Table:** This tool is used after a motion is closed to debate or is pending closure and can temporarily stop further consideration or action on the open motion.
- **Take from the Table:** If a motion has been previously “laid on the table,” it can be opened and considered again by stating the motion to “take from the table.”
- **Reconsider:** If a member on the prevailing side of a debate changes their view, they can state they have reconsidered.
- **Postpone Indefinitely:** Postponing a motion indefinitely stops the motion from proceeding forward just in that particular session, unless a motion to reconsider is made.
- **Informal Consideration:** This term refers to changing the debate to an informal format similar to that of a committee. To move to an informal consideration,

format a member moves that the assembly go into “Committee of the Whole.” Voting is still done formally and is still valid while the meeting is in an informal mode.

- **Appeal Decision of the Chair:** The membership may appeal a decision made by the chair if the appeal does not relate to the violation of order of business or parliamentary rules. Appeals must also take place prior to other unrelated business.
- **Suspend the Rules:** This allows specific, stated rules with the exception of the assembly’s constitution to be suspended.

## *GROUND RULES*

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Ground rules can be thought of simply as the guidelines a board adopts to ensure the meeting progresses as efficiently and respectfully as possible. Ground rules can be used in addition to using Robert’s Rules of Order, or if Robert’s Rules are not implemented, as the basis for the format and structure of the meeting. Ground rules allow for a ‘level playing field’ whereby all voices can be heard and all participants are given the time and respect they need and deserve.

Examples of common ground rules can include the following:

- If you are making a comment, please stand at the podium, clearly state your name and address for the public record.
- All comments will be delivered from the podium, not from your seat [unless the commenter needs a reasonable accommodation].
- Please direct all comments to the Chair.
- Engage in active listening.
- Please use respectful language absolutely no swearing
- no derogatory language
- no threats
- no personal attacks
- no signs
- no heckling or applause
- Make your comments concise and solution oriented.
- Observe the established minute time limit per speaker (use the reasonableness criteria set in Montana code).
- If questions are asked, they will be responded to at the discretion of the Chair.
- Everyone agrees not to interrupt the speaking opportunity of others.
- Cell phones should be turned off or silenced.
- No single party will be allowed to dominate the meeting.
- The chair or facilitator reserves the right to keep the meeting on-schedule.
- Discussion can pertain to any item related to the Board’s business.



Ground rules should be discussed and written and posted before the start of the first meeting and then reposted at each subsequent meeting. It should be made explicit that the rules can be amended by majority vote or consensus at any time. The rules should also not be in conflict with the Montana Code or city or county ordinances.

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## LEGAL REQUIREMENTS FOR BOARDS

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### *ETHICS*

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Board and committee members will ensure they comply with Montana’s Code of Ethics that prohibits conflict between public duty and private interest. At no time should a board or committee member benefit personally from their positions. If there is a conflict of interest, a member will recuse themselves from the discussion and decision on that topic. If there is an apparent or possible conflict of interest the member will declare it at the beginning of the discussion and provide reasoning if they do not believe it is a conflict and choose to participate in the matter in question.

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### *EX PARTE COMMUNICATIONS*

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Ex parte communications are private conversations between a decision maker and a party or person concerning issues before the decision maker. Board and committee members will declare any conversations about specific issues before the board or committee and relay the information and parties involved in the conversation.

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### *GROUP EMAILS AND COMMUNICATIONS*

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Board and committee members may not send group emails, hold conference calls, video chats, or any other type of communication that discuss issues before the board or issues likely to come before the board. This type of communication constitutes a quorum and violates the Montana Open Meeting laws. Group communications that communicate only administrative topics such as meeting times or provide the official agenda to members are allowed.

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### *BOARD MEMBER LIABILITY*

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Board members acting in good faith cannot be held personally liable if they are acting within the course and scope of their authority. In addition, members adhering to city policies and procedures will be included under city liability coverage.

### *PUBLIC RECORDS*

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All boards and committees will maintain a page on the city’s website with all pertinent information relating to that board or committee. As a minimum, the page will include:

- Creating resolution
- Statement of purpose
- By-laws
- A list of current members and term of office
- Agendas
- Minutes for the last 12 months
- Reports to the City Commission

### *CITY COMMISSION UPDATES*

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Each board and committee will present an annual report in December to the City Commission outlining the work it has accomplished over the previous 12 months. The report will be presented by the chair at a regularly scheduled meeting of the City Commission. Additionally, the report will focus on any work currently underway but not yet presented to the Commission and topics the board or committee intends to review during the next 12 months.

### *ROLE OF THE CITY MANAGER*

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Boards and committees work under the direction of the City Commission and do not report to the City Manager. However, it is the job of the City Manager to review products from boards and committees prior to presentation to the City Commission; ensure all boards and committees are adhering to state laws, city ordinances, and the policies set forth in this chapter; and act as a conduit of information between the City Commission and its boards and committees outside of formal meetings.

Serving on a board requires competence of both procedure and process in order to meet the letter of the law and instill a sense of trust and credibility. The section below describes several of the more significant aspects of serving on a board including Montana’s open meetings law, code of ethics, nepotism, discrimination, ex parte consultation, and liability.

### *RIGHT TO KNOW, RIGHT TO PARTICIPATE*

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Montana’s “sunshine laws” are described as among the most stringent in the nation. These laws are outlined in Article II Section 8 (Right of participation) and Section 9 (Right to know) of Montana’s State Constitution.

In Title 2, Chapter 3, Public Participation in Governmental Operations, the Montana Code Annotated (MCA) describes provisions of the required “Notice and Opportunity to be Heard” in Part 1, and “Open Meetings” in Part 2. The open meetings law affords

“reasonable opportunity to participate in the operation of governmental agencies prior to the final decision of the agency” (MCA 2-3-201). These open meetings laws apply to all City boards, and commissions, committees.

*OPEN MEETINGS LAW*

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The language is clear in the MCA that any legal interpretation of the open meetings laws will be liberal. The language of the code is clear and unambiguous in 2-3-201: “Public boards, commissions, councils, and other public agencies in this state exist to aid in the conduct of the peoples’ business. It is the intent of this part that actions and deliberations of all public agencies shall be conducted openly. The people of the state do not wish to abdicate their sovereignty to the agencies which serve them. Toward these ends, the provisions of the part shall be liberally construed.”

There are four essential elements in the open meetings law:

1. If a quorum, defined as the number members legally required to conduct business, is convened by either physical presence or by means of electronic equipment (MCA 2-3-202) and,
2. Members will hear, discuss or act upon issues that it has jurisdiction over, (MCA 2-3-202), then,
3. The meeting must be open to the public and the press must be permitted to record the meeting (MCA 2-3- 211) and,
4. Appropriate minutes of all meetings shall be kept and made available for the public (MCA 2-3-212).

The issue of whether the public’s right to know and right to participate provisions applies to organizations such as a local chamber of commerce. The MCA contains language that references “organizations or agencies supported in whole or in part by public funds” (MCA 2-3-203).

Additionally, the Montana Attorney General determined that, “The meetings of a local chamber of commerce or other organization recognized and acting as a non-profit convention and visitor’s bureau which receives and spends bed tax funds must, as they pertain to the receipt and expenditure of bed tax monies, be open to the public in accordance with section 2-3-203, MCA.” (44 A.G. Op. 40 (1992).

*NOTICE AND OPPORTUNITY TO BE HEARD*

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Each board must develop procedures and adopt rules to facilitate public participation in decisions that are of significant interest to the public (MCA 2-3-103). The procedures include a schedule of regular meeting times and agenda prepared and posted sufficiently in advance to provide notice of the topics to be discussed and actions to be considered. The public must also be afforded a reasonable opportunity to offer information and opinions, either orally or written, before final decisions are made.

A matter of significant public interest is defined as one “involving any non-ministerial decision or action...which has meaning to, or affects a portion of the community.” Discrepancies as to whether a meeting is of a significant public interest should always err on the side of transparency and opportunities for public participation. Regarding the amount of time required for noticing a meeting, the Attorney General has opined that, “Forty-eight hours is generally considered sufficient to notify the public of contemplated action. ...The amount of notice given should increase with the relative significance of the decision to be made.”

It is critical to follow the established procedures and to make the procedures known to the public. There is no violation in the law by giving more notice or opportunity to be heard than is required. The agenda for a meeting, as defined in MCA 2-3-202, must include an item allowing public comment on any public matter that is not on the agenda of the meeting and that is within the board’s jurisdiction. However, the board may not take action on any matter discussed unless specific notice of that matter is included on an agenda and public comment has been allowed on that matter. There are exceptions to the noticing statutes and include those that involve a decision that must be made to deal with an emergency situation affecting the public health, welfare, or safety or a decision involving no more than a ministerial act (MCA 2-3-112).

For municipalities, there is additional statutory language that states, “In any meeting required to be open to the public, the governing body, committee, board, authority, or entity shall adopt rules for conducting the meeting, affording citizens a reasonable opportunity to participate prior to the final decision” (MCA 7-1-4143). Cities and towns are required by statute to specify by resolution a public location for posting and provide a posting board.

When notice is required, the document must be placed on the board and a copy made available at the municipal office (MCA 7-1-4135). Board members should note that meetings can be statutorily different than hearings regarding the noticing requirements. See the specific statutes describing your board and the corresponding publication or mail requirements (MCA 7-1-4131 for municipalities).

### *PRIVACY ISSUES*

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The Montana Constitution (Art. II, Sec. 10) states, “the right of individual privacy is essential to the well-being of a free society and shall not be infringed without the showing of a compelling state interest.”

While the open meetings law clearly provides for the right to know and right to participate, the presiding officer of any meeting may close a meeting during the time the discussion relates to a matter of individual privacy and then if and only if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure (MCA 2-3-203). The right of individual privacy may be waived by the

individual about whom the discussion pertains and, in that event, the meeting must be open.

The Montana courts employ a balancing test to determine whether individual privacy justifies closure of a meeting. The first part of the test is whether the individual has a subjective expectation of privacy; the second part is whether the expectation is one which society is willing to recognize. The question becomes whether protection of the private interest outweighs the merits of public disclosure. Legal opinion has determined that certain personnel records could be closed, including matters related to family problems, health problems, employee evaluations, military records, IQ test results, prison records, drug and alcohol problems, and information “most individuals would not willingly disclose publicly.”

Individual privacy does not extend to such issues as salary or compensation paid a public employee, to a decision on the award of a contract, or to any other expenditure of public funds or mistakes made in the course of performing official duties. For municipalities, there is additional statutory language that states, “Personal records, medical records, and other records which relate to matters in which the right to individual privacy exceeds the merits of public disclosure shall not be available to the public unless the person they concern requests they be made public. Except as provided by law and as determined by the chief law enforcement administrator, law enforcement records which relate to matters in which the right to individual privacy or law enforcement security exceeds the merits of public disclosure shall not be available to the public (MCA 7-1-4144).

Certain exceptions are detailed in 2-3-203 and also include whether the discussion relates to litigation when an open meeting would have a detrimental effect on the litigating position (this does not apply regarding litigation between two government agencies or bodies) or any judicial deliberations in an adversarial proceeding.

### *CODE OF ETHICS*

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Montana’s Code of Ethics defines and prohibits conflict between public duty and private interest (MCA 2-2-101). In short, the statute establishes that board members cannot benefit personally or financially from their position stating, “The holding of public office or employment is a public trust, created by the confidence that the electorate reposes in the integrity of public officers, legislators, and public employees. A public officer, legislator, or public employee shall carry out the individual’s duties for the benefit of the people of the state” (MCA 2-2-103).

Specifically, there can be no “business” conflicts, (includes a corporation, partnership, trust, foundation, or any organization, whether or not operated for profit), financial compensation, or “gifts of substantial value,” generally defined as \$50 or more or of substantial value or economic benefit that would tend improperly to influence a board member to depart from impartial discharge of duties (MCA 2-2-102). The statute does not apply to a gift that is not used and returned within three days, food and beverages

consumed while participating in events related to board duties, educational materials related to board duties, or an award publicly presented in recognition of public service.

Board members may not disclose or use confidential information obtained through the board that would benefit them personally or financially (MCA 2-2-104). Rules of conduct also dictate that a public officer may not use public time, facilities, equipment, supplies, personnel, or funds for private business purposes or, to solicit support for or opposition to any political committee, the nomination or election of any person to public office, or the passage of a ballot issue. Board members may not use public time, facilities, equipment, supplies or funds to determine the impact of passage or failure of a ballot issue on state or local government operations (MCA 2-2-121). There is also a disclose clause in the MCA that states, "Public officer or public employee shall, prior to acting in a manner that may impinge on public duty, including the award of a permit, contract, or license, disclose the nature of the private interest that creates the conflict" (MCA 2-2-131).

*NEPOTISM*

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Nepotism is defined as the bestowal of political patronage by reason of relationship rather than of merit (MCA 2-2-301). Board members may appoint to any position of trust or emolument any person related by "consanguinity within the fourth degree or by affinity within the second degree" (MCA 2-2-302). Relationship by affinity is defined as "the relation which one spouse has, by virtue of the marriage, to blood relatives of the other. Therefore, a person has the same relation by affinity to a spouse's blood relatives as a spouse has to them by consanguinity and vice versa. Degrees of relationship by affinity are computed in the same manner as degrees of relationship by consanguinity" (MCA 1-1-219). Agreements to appoint relatives to office are unlawful and considered a misdemeanor with fines of \$50 to \$1,000 and imprisonment up to 6 months (MCA 2-2-304). There are exceptions depending on the county population and other specific criteria (MCA 2-2-302).

*REPORTING*

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While there is no general language requiring filing of reports for boards under county jurisdiction or special districts, there is additional statutory language for municipalities that states, "All departments, boards, and authorities shall file an annual report with the chief executive, who shall compile the reports and present them to the governing body" (MCA 7-1-4146). The chief executive may specify the "form, content, and deadline for filing reports" (MCA 7-1-4146(2)).

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**HUMAN RESOUCE CONSIDERATIONS**

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Board members should also be aware of the various civil rights, discrimination and wrongful discharge laws pertaining to their involvement on the board. These statutes are

detailed in the Montana Human Rights Act in MCA Title 49 and more specifically, in the Montana Governmental Code of Fair Practices (MCA 49-3-101).

*DISCRIMINATION*

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The Montana Human Rights Act provides guidance regarding discrimination. It is unlawful to discriminate in credit, education, employment, financing, housing, insurance, public accommodations, and state and local governmental services and employment. It is unlawful to discriminate because of age, marital status, national origin, physical or mental disability, race or color, religion or creed, sex (including pregnancy, maternity and sexual harassment), familial status (housing only) and political beliefs or ideas (public employees).

The laws also make it unlawful to retaliate against a person for opposing unlawful discriminatory practices or for participating in a human rights proceeding. Generally, complaints must be filed within 180 days of the date of the alleged discrimination under Montana law. More information about Montana’s Discrimination laws is available through the Montana Human Rights Bureau.

*WRONGFUL DISCHARGE*

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Some boards may have individuals with specific responsibilities. The “supervisor” for a board employee should be detailed in the board resolution. Depending on the language in the statute or resolution for each board, the governing authority for board members will in many cases be the local government within which the board resides or will be outlined in an interlocal agreement between multiple local government bodies. The governing authority is responsible to ensure that board members are properly trained, supervised, evaluated and warned if not performing satisfactorily.

In Montana, an employee can be discharged only for good cause after completing the employer’s probationary period. Good cause is defined as reasonable, job-related grounds for dismissal based on a failure to satisfactorily perform job duties, disruption of the employer’s operation, or other legitimate business reason. Board members should also be familiar with Montana’s Wrongful Discharge from Employment Act (MCA 39-2-901). Do not rush into the discipline or dismissal of any employee or board member. If a board member is elected, the voting process is used to remove the member from office. If a board member is appointed, the appointing body may remove a board member. However, competent legal counsel should always be consulted prior to taking any action.

For termination purposes, management must show that the employee violated a specific policy, rule, performance requirement, or standard of employment and that the employee knew about the policy, rule, performance requirement, or standard of employment. During an employee’s probationary period, employment may be terminated for any reason or no reason (but not for reason contrary to public policy such as discrimination).

Employers that have written personnel policies must follow those policies in making a discharge. An employee who wins a wrongful discharge suit may collect lost wages and fringe benefits for a period of up to four years from the date of discharge. Arbitration is encouraged to save the expense of lawsuits, and an employer may benefit if it offers arbitration to a discharged employee. An established grievance process can be an effective tool for minimizing claims of wrongful or constructive discharge/termination against Montana’s local governments. The grievance process should be part of the written Personnel Policy Manual and all employees and supervisors should be instructed in its use upon hire.

*CONFIDENTIALITY*

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Before discussing confidential employee information, or releasing documents of a confidential nature, seek competent legal counsel. In Montana, each employee has a right to privacy of certain records. If you are unsure whether a document is confidential or accessible to the public, consult competent legal advice.

Sometimes you can provide a citizen with information he or she seeks without allowing him or her to look at confidential portions of records. You can do this by reading the record yourself and giving the person information verbally or by photocopying the record and blocking out confidential portions. Board members may not use knowledge gained through their service to achieve personal gain for themselves or anyone else. Board members cannot disclose or use confidential information concerning their board service to advance personal or private interest.



[ATTACHMENT A]

SAMPLE BOARD BY-LAWS

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ARTICLE I, NAME, PURPOSE

Section 1: The name of the municipal board shall be \_\_\_.

Section 2: The \_\_\_\_\_ is organized for the purpose of [insert language used in enabling resolution or corresponding MCA code], as authorized by resolution # \_\_\_\_\_ more specifically to.

ARTICLE II-MEMBERSHIP

Section 1: Membership shall consist only of the members appointed by the City of Livingston City Commissioners.

ARTICLE III-MEETINGS

Section 1: Meetings.

The [monthly/quarterly/etc.] meetings will be held on the [insert first, second, third, fourth weekday], of the second month or each quarter at the \_\_\_\_\_ meeting room starting at \_\_\_\_:\_\_\_\_ p.m.

Section 2: Special Meetings.

Special meetings may be called by the [Chair/Chair and one Board Member/ Executive Committee/??].

Section 3: Notice.

Each Board Chair is responsible for submitting notice to members.

ARTICLE IV - GOVERNING/ ADVISORY BOARD

Section 1: Board Role, Size, Compensation.

The Board is responsible for (see enabling resolution). The Board shall have up to \_\_\_\_\_ and not fewer than \_\_\_\_\_ members. The board receives no compensation other than reasonable expenses.

Section 2: Meetings.

The [monthly/quarterly/etc.] meetings will be held on at the \_\_\_\_\_ meeting room starting at \_:00 p.m. The Board reserves the right to reschedule set meeting dates

around recognized holidays, or cancel due to inclement weather.

Section 3: Terms.

All Board members shall serve \_\_\_ year terms and no more than \_\_\_ consecutive terms. Board members are appointed or reappointment by the City of Livingston City Commission.

Section 4: Quorum.

A quorum consists of a majority of appointed board members and no official action can be transacted or motions made or passed without a quorum present.

Section 5: Officers and Duties.

There shall be \_\_\_\_\_ officers of the Board consisting of a Chair, Vice Chair and Secretary. Their duties are as follows:

- 1. The Chair shall convene regularly scheduled Board meetings, shall preside or arrange for other members of the executive committee to preside at each meeting in the following order: Vice-Chair and Secretary.
- 2. The Vice-Chair will chair committees on special subjects as designated by the board.
- 3. The Secretary shall be responsible for keeping records of Board actions and/or recommendations, including overseeing the taking of minutes at all board meetings, sending out meeting announcements, and distributing copies of minutes and the agenda to each Board member.

Section 6: Vacancies.

When a vacancy on the Board exists, the board will request the City Clerk circulate an advertisement in the local paper for applications.

Section 7: Resignation, Termination and Absences.

Resignation from the Board must be in writing and received by the Secretary. A recommendation for removal from the board will be given to the governing body when a Board member has three unexcused absences from Board meetings in a year. A Board member may be removed for other reasons by a three-fourths vote of the remaining directors.

Section 8: Special Meetings.

Special meetings of the Board shall be called upon the request of the Chair or one- third of the Board. Notices of special meetings shall follow City/County noticing policy.

Section 9: Voting.

The chairperson shall \_\_\_\_\_. In the event of a tie vote, \_\_\_\_\_.

ARTICLE V-COMMITTEES

Section 1: The Board may create committees as needed. The Board Chair appoints all committee chairs.

ARTICLE VI-AMENDMENTS

SECTION 1: These By-laws may be amended when necessary by a two-thirds majority of the Board or by resolution passed by the governing authority. Proposed amendments must be submitted to the Secretary to be sent out with regular Board announcements.

These draft by-laws were approved at a meeting of the \_\_\_\_\_ Board on this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

These By-laws were reviewed and approved by the City of Livingston, Montana City Commission on \_\_\_\_\_ m 20\_\_\_\_\_.

\_\_\_\_\_  
SIGNED BY- CLERK OF THE  
CITY OF LIVINGSTON CITY COMMISSION

(This sample By-Law format was approved and adopted by the Livingston City Commission 3/19/2019)