



Consolidated Land Use Board

October 14, 2025, 2025 — 3:15 PM

City – County Complex, Community Room

<https://us02web.zoom.us/j/85308123364?pwd=SB0DNWb4DchJxKaD4xwFsMCQ1Hjhll.1>

Meeting ID: 853 0812 3364

Passcode: 209818

Phone: 1-669-900-9128

A special meeting of the Consolidated Land Use Board is scheduled for October 14, 2025 at 3:15 PM in Community Room of the City/County Complex at 414 E. Callender St. The meeting is a continuation of the public hearing for the Zoning Code Update and will be facilitated by Board Chair Jessica Wilcox.

1. Roll Call

2. Approval of Minutes – Minutes from the October 8, 2025 meeting will be include on agenda for November meeting.

3. General Public Comment

4. Planning Items - NONE

5. Zoning Items

A. Consideration of Proposed Zoning Code Update (Continued from October 8, 2025) – Continue discussion of proposed code updates and Zoning Text Amendment recommendation to City Commission. Action Requested.

6. Board Comments

7. Adjournment



LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

DATE: October 14, 2025
TO: Chair Wilcox and Consolidated Land Use Board Members
FROM: Jennifer Severson,
RE: **Staff Report for Livingston Zoning Code Update – Text Amendment**

Recommendation and Summary

Staff requests the Board recommend the City Commission approve the proposed text amendments to the City of Livingston Zoning Ordinance in Chapter 30 of the Livingston Municipal Code by adopting the following motion:

"I move to recommend the City Commission approve the proposed text amendments to the City of Livingston Zoning Code, Chapter 30 in the Municipal Code, as proposed by staff."

The reasons for the recommendation are as follows:

- The City must amend its zoning ordinance to align with the Growth Policy, adopted in 2021, and to comply with State-mandated changes to Montana Code Annotated related to municipal zoning.

Introduction and History

In 2021, Livingston adopted a Growth Policy to serve as a guide for future land use patterns and development decisions in the City. One of the key recommendations of the Growth Policy was to perform a comprehensive update to the City's Zoning Ordinance to ensure the code effectively supports the goals, objectives and strategies identified in the Growth Policy. The Zoning Code provides the City with the regulatory means to implement the Growth Policy, and it plays a critical role in shaping how the community grows and evolves by establishing rules that guide development.

Over the past year, the City, in partnership with SCJ Alliance, engaged the citizens of Livingston to assist in revising the Zoning Code through an open and collaborative process. There were numerous opportunities for public participation throughout the process, including a Community



Open House, two online surveys (one, on the Social Pinpoint platform, that allowed for respondents to provide comments based on the posted feedback of others, received over 1,521 individual comments from 227 different contributors), and visits by City Planning Staff to the High School to share information about the update process with students. Public engagement is ongoing as the draft document to be considered for adoption is currently posted online. Feedback received on the draft text and map amendments through October 1, 2025 is included with this staff report (see Attachment D). Additional feedback will be accepted after October 1st to further inform and refine the proposed updates prior to public hearing by the City Commission.

In addition to general public outreach, the SCJ Team met with small “Focus Groups” several times throughout the process, both in person and virtually. Members of these Focus Groups provided insight and feedback in four specific areas important to the code update: Development Community; Housing, Transportation and Human Services; Business Owners; and, Preservation and Conservation. Members of the focus groups were invited from the broader community to participate based on their interests and areas of expertise to ensure diverse sectors of the community were involved. Members of each focus group were invited to one initial meeting with their specific group to identify issues in November 2024, another meeting in May 2025 to review proposed recommendations, and finally were invited to two “drop in” sessions in June 2025 for folks to review the refined recommendations and discuss lingering issues with members from other focus groups. The SCJ Team also presented findings from initial meetings with the Focus Groups and provided an overview of the planning process to the Land Use Board in November, 2024 and the SCJ Team outlined preliminary recommendations to the City Commission in June, 2025.

The resulting proposed Zoning Code updates reflect the values, priorities and vision of the citizens of Livingston identified in the Growth Policy by encouraging responsible growth that will maintain the City’s unique sense of place.

Analysis

Although the recommended revisions to the current zoning code are too numerous to list here, some of the most significant changes are summarized below:

- Introduce Short-Term Rental uses (Tbl 30.40) and regulate their use (Sec 30.57) to balance economic benefits with housing needs
- Allow for small-scale commercial uses with minimal neighborhood impacts in residential zones (Tbl 30.40) through conditional use permits (Sec 30.84)
- Reconfigured NC, RIII and MU districts, resulting in LMU and HMU districts; HC renamed as GC (Sec 30.30)



- Environmental Protection: added riparian setback requirements and mitigation requirements for development on slopes > 25% (Sec 30.58)
- Building Heights: Changed unlimited building height allowed in I and CBD districts to 60-foot minimum allowed by new state law; increased building height allowed in GC and LI districts to 60-foot minimum allowed by new state law. Increased height allowed in R1 to 30' or 36 feet if roof pitch $\geq 3:12$ (from 27 feet or 34 feet if roof pitch $\geq 3:12$). Increased height allowed in R2 to 36 feet (from 34 feet) regardless of roof pitch. Reduced height allowed in MU (60 feet) to LMU (36 feet). HMU maximum height of 50 feet is same as RIII. (TbIs 30.41.1 and 30.41.2)
- Parking: updated Parking Requirements to align with current best practices and comply with state mandates; added compact parking allowance for commercial development and (Sec 30.51.A.5 and B.6) and vehicular parking reduction allowance for additional bike parking in the CBD (Sec 30.51.J)
- Reorganized definitions (Sec 30.20) and classified uses (Table 30.40) into Residential, Community, Commercial, Industrial, and Other.
- Renamed HC as GC and reduced HC area along Park Street, reclassifying blocks between Geyser and J Streets as LMU, where height is limited to 36 feet (vs. 60 feet for GC). (Tbl 30.41.2)
- Remove R2MH and RMO districts from code to align with existing laws that allow mobile/manufactured homes anywhere single-family homes are allowed
- Move the following regulations from elsewhere in the Municipal Code to Chapter 30: Site Plan Review Process (Chapter 2); Dark Sky Ordinance (Chapter 18); and Historic Preservation Commission (Chapter 31)
- Incorporate state-mandated changes resulting from the 2025 Montana Legislative session

Below are bills passed by the 2025 State Legislature that necessitate this zoning code update and a brief summary of the impacts to the City's zoning code:

SB 214: Employees of a municipality must review and determine compliance with local design review standards; the municipality may not require review by an external board (such as the Historic Preservation Commission).

SB 243: Sets 'By Right' building heights on buildings located in downtown commercial, heavy commercial and industrial zones at a minimum of 60 feet.



HB 492: Reduces parking minimum requirements. No parking is required for existing buildings undergoing a change of use, child-care facilities, deed-restricted affordable housing units, and assisted living facilities. One-half (1/2) parking space is required for each residential unit under 1,200 square feet in size. One (1) parking space is required for each residential unit over 1,200 square feet in size.

HB 713: Provides for zoning map amendments to be adopted by resolution only (previously, an Ordinance was required); the boundary change is effective immediately (previously, 30 days until effective). Additionally, this bill repealed the public's right to file a formal petition to protest a zoning map amendment. NOTE: adoption by resolution requires only a single public hearing and reading; therefore, the review of map amendments will be performed by the City Commission.

A link to a version of the proposed text amendments showing language removed (red strikethrough) and new language (blue text) is included as Attachment A. A link to a clean copy of the updated zoning code showing only the proposed text is included as Attachment B.

A link to the proposed zoning map associated with the proposed text amendments presented in this Staff Report has been included as Attachment C; however, as noted above, per HB713, no action will be taken or recommendation made to the City Commission by the Land Use Board about the proposed zoning map amendment. Instead, the map is provided to provide context for the proposed zoning text amendments.

Criteria and Guidelines for Zoning Regulations (MCA 76-2-304):

(1) Zoning regulations must be:

(a) made in accordance with a growth policy:

- While some of the proposed text amendments are mandated by the State, the majority are proposed to align the zoning code with the adopted Growth Policy. Staff finds the proposed text amendments to the City's Zoning Ordinance support the goals and strategies identified in the Growth Policy.

(b) designed to:

(i) secure safety from fire and other dangers;

- Staff does not anticipate the proposed text amendments will adversely impact public safety with regards to fire and other dangers.

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



- The proposed amendments are not anticipated to negatively impact public health, safety or welfare as all development must comply with zoning setbacks, fire and building codes.

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

- It is not anticipated the proposed text amendments will impact the adequate provision of transportation, water, sewerage, schools, or parks. In fact, encouraging infill development and additional height allowance in some commercial districts will allow for a more effective use of public infrastructure and services.

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

(a) reasonable provision of adequate light and air;

- It is not anticipated the proposed text amendments will impact the reasonable provision of adequate light or air. In fact, reducing the maximum height allowed in the CBD and Industrial districts may be expected to improve that provision.

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

- Although the proposed code update will eliminate off-street parking requirements for some residential development, those revisions are mandated by the state. Additional text revisions recommended by staff include reductions in vehicular parking in the CBD if replaced with additional bike parking, which may be expected to slightly improve vehicular traffic movements within and to the CBD.

(c) promotion of compatible urban growth;

- Staff does not find the proposed amendments to be incompatible with the City's existing urban growth pattern. Although the state-mandated changes for height increases in certain commercial zones could impact viewsheds and community character, staff has proposed to introduce the LMU district along much of Park Street, where building height is limited to 36 feet. This should help to preserve existing community character, particularly near the core area of the City.

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



- It is not anticipated that the proposed text amendments recommended by Staff (vs. those mandated by the state) will adversely impact the character of any zoning district nor its suitability for particular uses.

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

- It is anticipated that the proposed text amendments will encourage the most appropriate use of land in the City of Livingston, while not adversely impacting the building values in the City.

Therefore, as proposed, staff finds these text amendments to the City of Livingston Zoning Code comply with MCA 76-2-304 for Zoning Regulations.

Consolidated Land Use Board Consideration

At the September 17, 2025 Land Use Board meeting, several members of the public requested the board delay taking action on the proposed code amendments to allow more time to review the updates and submit comments. City Staff offered to extend the public comment period and host a public Open House before the next board meeting to provide additional opportunity for the public to ask questions and provide feedback on the proposed code changes. The Board voted to continue the public hearing for the code amendments until October 8.

The City hosted an Open House on September 30, 2025 where key code updates were presented and members of the public who attended were able to engage in informal Q&A with City Staff. Additional comments were submitted as feedback for consideration by the Land Use Board. On October 8, the board continued the hearing and discussion about the code updates. Key discussion points included: short-term rentals, riparian setbacks and flooding, changes to zoning along Park Street, and reducing the size of the Central Business District (CBD). All comments received through October 10, 2025 are attached (Attachment D). Revisions to the draft zoning code text made after the October 8 Board meeting have been highlighted yellow in the draft text documents in Attachments A and B.

Strategic Alignment

Although several of the proposed text amendments are required to comply with state-mandated updates to Montana Code Annotated, the majority of the proposed updates represent an important step toward implementation of the 2021 Growth Policy. The proposed updates to the zoning code support the following strategies and objectives identified in the Growth Policy:



Strategy 2.1.2.3 Update codes to promote traditional neighborhood designs that are compatible with existing neighborhoods;

Objective 2.2.3: Support traditional neighborhood design and active transportation.

Objective 3.1.1: Encourage higher densities and a wider range of land uses that are compatible with adopted plans and where existing or planned shortrange community facilities and infrastructure can support them.

Strategy 3.1.1.2: Evaluate and amend the zoning ordinance to allow for higher densities and wider land uses in areas that can support such development.

Strategy 3.1.1.8: Reduce urban sprawl through compact development consistent with the Future Land Use Map of this Growth Policy.

Strategy 3.2.2.1: Initiate a comprehensive review of the Zoning Ordinance and adopt changes based on the Growth Policy; and

Strategy 3.4.1.1: Amend Zoning Ordinance and Subdivision Regulations to include Smart Growth strategies as requirements for all development prior to approval.

Strategy 3.4.3.2: Encourage development near transit routes and active transportation infrastructure to promote development that produces minimal strain on the environment and existing transportation infrastructure.

Strategy 4.1.3.3: Reduce climate disruption through compact growth and increased transportation choices that reduce the need for driving.

Objective 5.1.4: Promote a mix of housing within neighborhoods that supports a variety of household income levels, household age groups, and housing types.

Staff Recommendation

Based on the reasons stated above, Staff finds the proposed amendments to Chapter 30 comply with the requirements of State statute and support the goals, objectives and strategies identified in the Growth Policy. Staff recommends the Consolidated Land Use Board, acting in its capacity as the Zoning Commission, recommend the City Commission adopt the text amendments to the Livingston Zoning Ordinance as proposed.

Attachments

- A. Redlined Draft Zoning Code Text Amendments
- B. Clean copy of Draft Zoning Code Text Amendments



- C. [Link to Current and Proposed Zoning Maps](#)
- D. Public Comments received through October 10, 2025

**REVISIONS made after October 8 Land Use
Board mtg highlighted in yellow.**

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Chapter 30 – ZONING

Article I. - Introductory Provisions

Sec. 30.10. - Title.

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

Sec. 30.11. - Purpose.

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

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.12. - Territorial jurisdiction.

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

Sec. 30.13. - Incorporation of Official Zoning Map.

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

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

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

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

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

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

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

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

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

(Zoning Map Amendments: Ord. 1482, 7/6/81; Ord. 1496, 3/15/82; Ord. 1534, 11/19/84; Ord. 1532, 11/5/84; Ord. 1545, 3/3/86; Ord. 1559, 11/3/86; Ord. 1564, 2/2/87; Ord. 1576, 7/6/87; Ord. 1586, 2/1/88; Ord. 1628, 8/7/89; Ord. 1629, 8/14/89; Ord. 1635, 11/89; Ord. 1654, 5/7/90; Ord. 1661, 6/4/90; Ord. 1662, 6/4/90; Ord. 1663, 6/18/90; Ord. 1669, 9/4/90; Ord. 1670, 9/4/90; Ord. 1671, 9/4/90; Ord. 1672, 9/4/90; Ord. 1699, 1/21/92; Ord. 1700, 1/21/92; Ord. 1723, 10/19/92; Ord. 1828, 2/5/96; Ord. 1840, 9/3/96; Ord. 1930, 11/17/03; Ord. 1936, 2/2/04; Ord. 1976, 9/18/06; Ord. 1985, 4/16/07; Ord.

1986, 4/16/07; Ord. 1987, 8/20/07; Ord. 1988, 8/20/07; Ord. 1989, 10/15/07; Ord. 1993, 12/17/07; Ord. 1994, 12/17/07; Ord. No. 2005, § 1, 8/18/08; Ord. No. 2006, § 1, 9/2/08)

Article II. - Definitions

Sec. 30.20. Definitions

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

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

Sec 30.20.1. Residential Uses

"Accessory Dwelling Unit" means an independent dwelling unit which is accessory to a primary dwelling unit on the same lot, and that complies with Section 30.43.

"Accessory Structure" means a building on a property that is subordinate to a principal, structure and supports its use. ~~a non-residential structure on the same lot as the principal building, the use of which is incidental to the main use of the property.~~ Examples include garages, sheds, greenhouses, and storage buildings. Accessory structures are allowed in all zones subject to compliance with applicable district regulations.

"Co-Living Housing" means a residential arrangement where ~~a maximum of 10 private garage.~~ If an accessory building is attached to the main building by a common wall or roof such accessory building shall be considered a part of the main building ~~sleeping quarters are combined with shared kitchen, living, and bathroom facilities. Typically intended for unrelated individuals who live cooperatively.~~

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

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

~~Alley: See Street.~~

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

~~"Manufactured Homes" means a factory-built single-family dwellings constructed after June 15, 1976, in accordance with the National Manufactured Housing Construction and Safety Standards Act,~~

~~transported to the site and placed on a permanent or semi-permanent foundation. Manufacture homes are allowed anywhere in all districts where a single-family dwellings are is allowed.~~

~~"Mobile Home" means a factory-built dwelling unit that is transportable in one or more sections, built on a permanent chassis, and designed for use as a residence with or without a permanent foundation when connected to utilities. Mobile homes are considered a type of single-family dwelling and are permitted in any all zoning districts where a single-family dwellings are is allowed, subject to the same standards.~~

"Multifamily Dwelling" means a building or portion thereof containing three or more dwelling units, designed for occupancy by separate households, including apartments, triplexes, and similar configurations.

"One (1) Family Dwellings" means a detached residential building designed for and occupied exclusively by one household, containing one dwelling unit. Condominiums, townhomes, mobile homes, manufactured homes, modular homes and tiny homes are permitted in all districts where a single-family dwelling is allowed, subject to compliance with district density regulations.

"Supportive/ Transitional Housing" means a residential facility providing a maximum of temporary housing units and support services to individuals transitioning from homelessness, institutional care, or rehabilitation into permanent housing.

"Two (2) Family Dwellings" means a single structure containing two separate dwelling units, each with its own kitchen, sleeping, and sanitary facilities. Also referred to as a duplex.

Sec 30.20.2. Community Facilities

"Adult Foster Care Center" means a licensed residential facility that provides a family-like living environment for adults who are unable to live independently due to physical, developmental, or mental health conditions. Care includes room, board, supervision, and personal services. Staff member must be on site 24-hours a day.

"Assisted Living" means a residential facility that provides private or semi-private housing with support services such as meals, housekeeping, transportation, personal care, and limited health services for elderly or disabled individuals.

"Armory" means a facility used for the training and housing of military personnel and storage of military equipment. May include offices, training grounds, and assembly halls.

"Cemetery" means a parcel of land used for the interment of human or animal remains. Includes burial grounds, mausoleums, columbaria, and associated structures.

"Child Care Center" means a facility licensed by the state to provide non-residential care, protection, and supervision for children, typically for periods of less than 24 hours, and serving more than a specified number of children as defined by state regulations.

~~“Churches” are~~ means a place ~~s~~-of worship or religious assembly, including related facilities such as a fellowship halls, offices, classrooms, and recreational area ~~s~~-that are operated by a religious organization.

~~“Community Garden” is~~ means a shared plot of land managed and cultivated by a group of people to grow fruits, vegetables, flowers, or ornamental plants, often for personal use or donation.

~~“Emergency Shelter” is~~ means a facility providing temporary housing, food, and support services to individuals or families in crisis situations, such as homelessness, domestic violence, or natural disaster displacement.

~~“Government Offices”~~ means a buildings owned or leased by government agencies that are used for administrative, clerical, or regulatory functions and the provision of public services.

~~“Hospitals/Institutions” are~~ means a facility~~ies~~ licensed to provide inpatient medical care, surgical services, and related treatment for individuals requiring physical or mental health services. May include an emergency services, laboratory~~ories~~, and specialized care units.

~~“Medical/Dental Clinics” are~~ means a facility~~ies~~ that provides outpatient diagnostic and therapeutic services under the supervision of licensed medical or dental professionals. Does not include overnight patient care.

~~“Public Recreation Facility” are~~ means a publicly owned and operated facility for active or passive recreational use, including playgrounds, sports fields, trails, swimming pools, and community centers.

~~“Public Safety Facility~~ies~~” are~~ means a ~~facilities~~ facility used by police, fire, emergency medical services, and similar public safety operations. May include an offices, garages, training facility~~ies~~, and communications equipment.

~~“Radio Stations” are~~ means a facility~~ies~~ used for the production and transmission of radio signals, including studios and related infrastructure, but not wireless communication facilities.

~~“Schools - Public, Private, and Parochial” are~~ means a ~~facilities~~ facility offering instruction to students in pre-kindergarten through grade 12, including a public schools operated by school districts and a private or religious schools operated independently.

~~“Schools, Trade” are~~ means an institutions offering technical, vocational, or professional education and training in trades such as automotive repair, cosmetology, welding, or computer programming.

~~“Utility Substation” is~~ Substation” is means a facility used to transform, switch, or regulate electric current, or to control, monitor, or relay telecommunications or other public utility services. Typically Typically, fenced and unmanned.

"Wireless Communication Facility" ~~is~~ means a structure or equipment used to transmit, receive, or relay wireless communications, including antennas, towers, equipment cabinets, and associated support infrastructure.

Sec 30.20.3. Commercial Uses

"Alcohol Producing Businesses" ~~are~~is means an establishments engaged in the brewing, distilling, fermenting, or bottling of alcoholic beverages such as beer, wine, or spirits. May include a tasting rooms or on-site sales areas.

"Banks (Non-Drive-Through)" ~~are~~is means a financial institutions offering services such as deposits, loans, and currency exchange, without the inclusion of a drive-through facility.

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

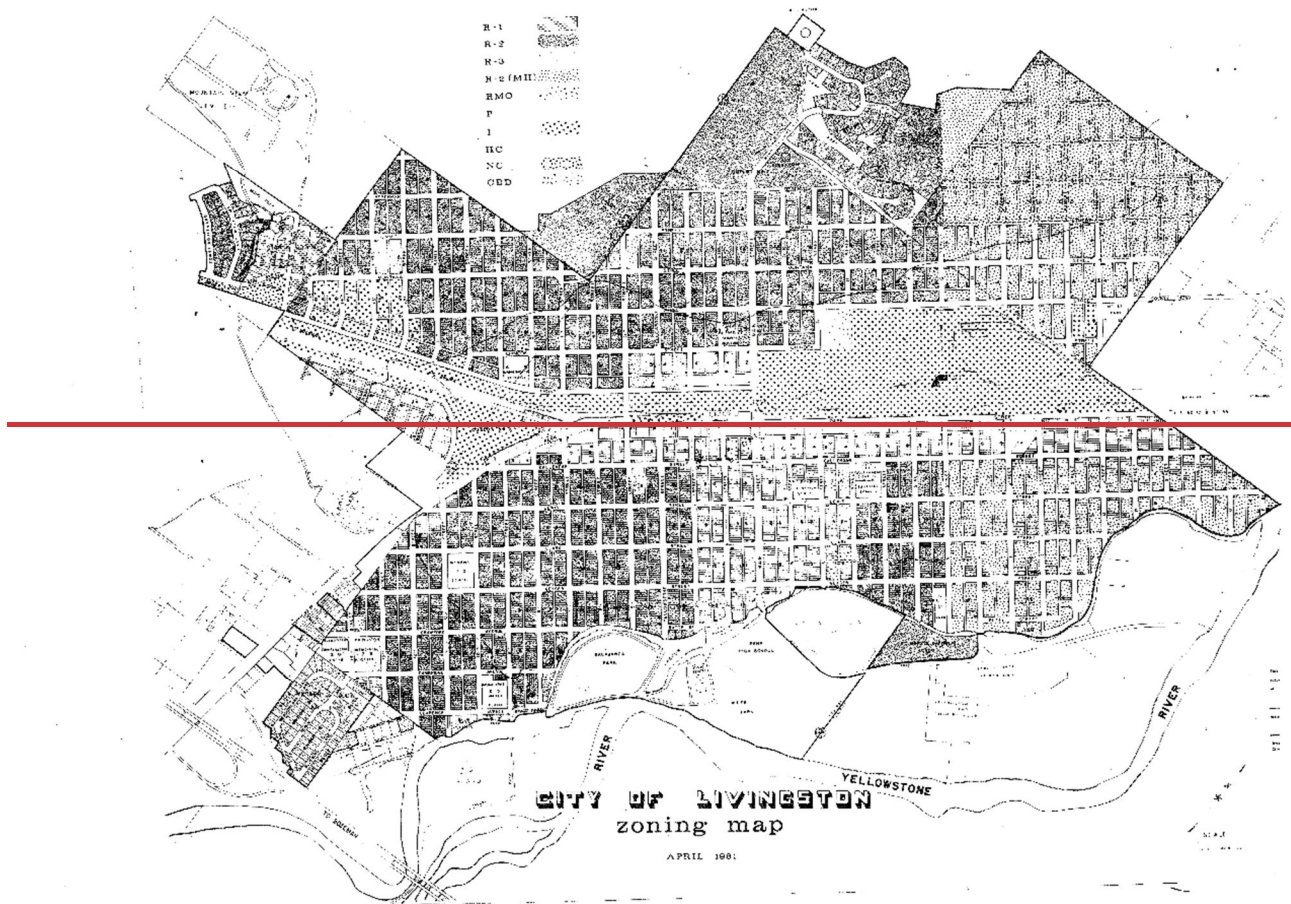
~~"Board" means the Board of Adjustment of the City of Livingston.~~

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

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

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

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



"Business and Professional Offices" are means is an office s for professional offices" means a, administrative, or clerical activities, including but not limited to legal services, accounting, architecture, real estate, insurance, and consulting.

"Campground/ Recreation Vehicle (RV) Parks" are means is a sitesite that accommodate tents, recreational vehicles, yertsurts or trailers for temporary overnight stays. May include hook-ups, common bathrooms, and recreational amenities. Campground with 2 or more camping spaces are required to undergo the subdivision process.

"Casino" means is a facility licensed for gambling and gaming activities, including slot machines, table games, and sports betting. May also include bars, restaurants, or live entertainment.

"Commercial Greenhouses" are means is a structure s primarily used for the commercial cultivation of plants, flowers, or vegetables for wholesale or retail sale, typically under controlled environmental conditions.

"Drive-Through Business (non-restaurant)es" are meansis a retail or service establishments that provide goods or services to customers while they remain in their vehicles. Includes drive-through pharmacies, dry cleaners, and banks.

"Drive-Through Restaurants/Café's" are meansis a restaurant s-that includes a drive-through window for customers to order and receive food and beverages without leaving their vehicles. May also include indoor or outdoor seating.

"Eating and Drinking Establishments (Sit-Down)" are meansis a restaurants, cafés, or other establishment s-where food and beverages are prepared and served to customers for on-site consumption, typically with table service.

"Firework Stand" meansis a temporary or permanent structure used primarily for housing the offices of a physician, dentist, architect, engineer, attorney, musician, artist or similar professional personfor the seasonal sale of consumer fireworks, subject to applicable state and local fire and safety regulations.

~~"Cidery" means a use which produces cider for sale or consumption, licensed in accordance with MCA § 16-4-107.~~

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

~~"Drive-in restaurant" means an "eating or drinking establishment" where a sale is made without the customer being required to leave their vehicle.~~

~~Dwelling (types of):~~

- ~~A. "Dwelling, one (1) family" means a building designed for occupancy by one (1) family and containing one (1) dwelling unit.~~
- ~~B. "Dwelling, two (2) family (duplex)" means a building designed for occupancy by two (2) families living independently of each other, and containing two (2) dwelling units.~~
- ~~C. "Dwelling, multiple" means a building designed primarily for occupancy by three (3) or more families living independent of each other, and containing three (3) or more dwelling units.~~
- ~~D. "Dwelling, accessory" means an independent dwelling unit which is accessory to a primary dwelling unit on the same lot, and complies with Section 30-43.~~

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

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

~~"Eating and Drinking Establishment" means a building used for the provision of food and/or beverages for on- or off-premises consumption.~~

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

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

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

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

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

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

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

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

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

~~A single lot of record.~~

~~A portion of a lot of record.~~

~~A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.~~

~~A parcel of land described by metes and bounds; provided that in no case of division or combination shall any residual lot or parcel be created which does not meet the requirements of this Chapter.~~

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

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

~~"Manufacturing:"~~

- ~~1. "Artisan" means on-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 3,500 square feet of gross floor area. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing, food manufacturing, and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.~~
- ~~2. "Limited" means manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes "artisan manufacturing/production" type uses that do not comply with the enclosed building, floor area and/or outside operations/storage criteria that apply to artisan manufacturing/production uses.~~
- ~~3. "General" means:~~
 - ~~a. Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and fabricated metal product manufacturing. Also includes medical, scientific or technology-related research establishments that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.~~
 - ~~b. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services."~~
- ~~4. "Intensive" means manufacturing of acetylene, cement, lime, gypsum or Plaster of Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint,~~

~~lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. Also includes smelting, animal slaughtering and oil refining.~~

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

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

~~"Microbrewery/Microdistillery" means a brewery that has an annual nation-wide production of not less than one hundred (100) barrels or more than ten thousand (10,000) barrels or a distillery that produces twenty five thousand (25,000) proof gallons or less of liquor annually in accordance with MCA § 16-4-310 through 16-4-312.~~

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

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

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

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

~~"Personal care center" means a facility which provides services and care which do not require nursing skills to residents needing some assistance in performing the activities of daily living.~~

~~"Personal service store" means a facility that provides personal services such as beauty parlors, barber shops, salons, massage, acupuncture and tattoo parlors.~~

~~"Planning board" means the Livingston City Planning Board.~~

~~"Public recreation facility" means a facility which is available for use by the public for recreational or civic purposes. A fee may be charged, but the facility may not be owned and/or operated for profit. Uses~~

which are covered by this definition shall include, but are not limited to, a Civic Center, swimming pool, fishing access, and park.

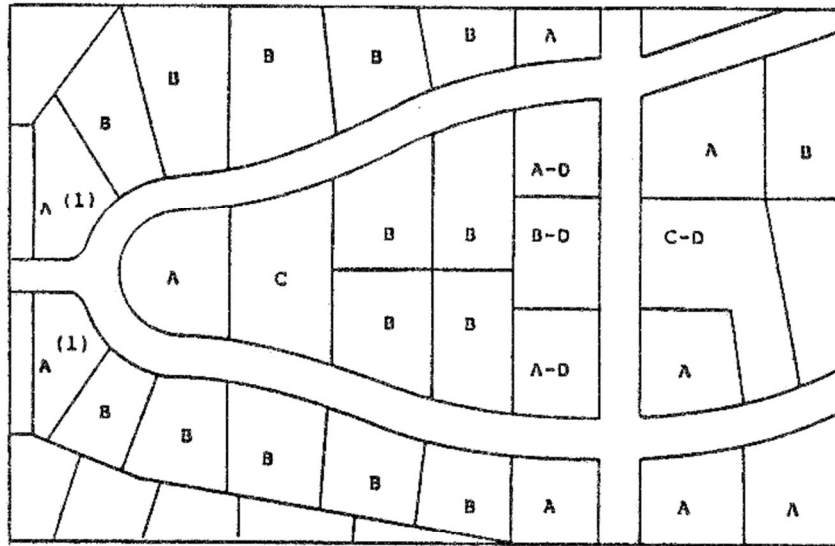


Figure 1
Lot Types

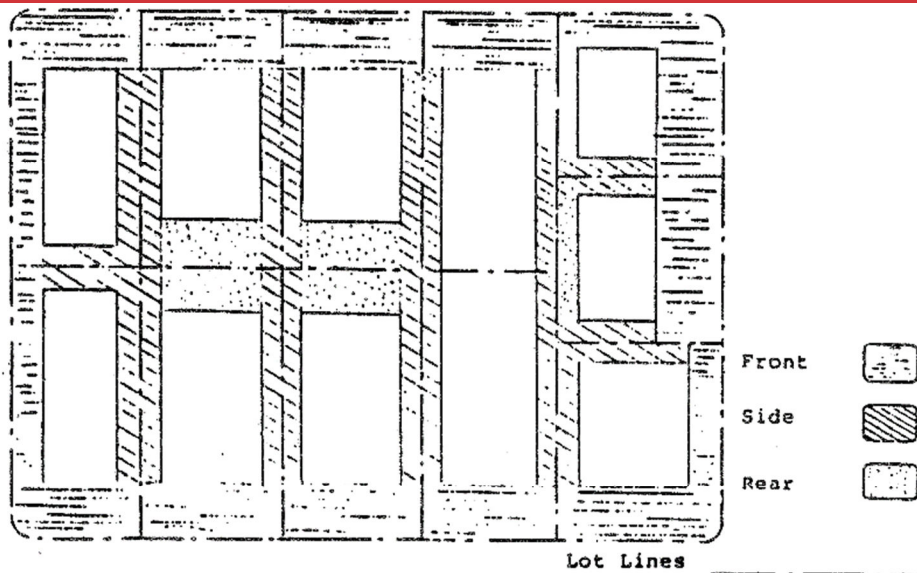


Figure 2
Location of yards on lots

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

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

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

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

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

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

~~"Gasoline/ Service Stations" are means~~is a facility~~ies~~ that sells fuel for motor vehicles. May include accessory services such as minor vehicle repairs, car washes, and convenience retail.

~~"Health and Exercise Establishment" means a faciliti~~es~~y~~ designed for physical fitness or wellness activities, such as gyms, yoga studios, martial arts schools, or indoor recreation centers.

~~"Home Occupation" is defined as any~~means a business or commercial activity that is conducted or petitioned to be conducted from a property which is zoned primarily for residential use and which meets the conditions set forth in Section 30.54.~~C and Section 30.55.E.1. However, a medical marijuana facility is hereby specifically excluded from consideration as a home occupation.~~

~~"Home occupation permit" is a permit issued for a home occupation that is authorized by Section 30.55.E without hearing.~~

~~"Home occupation conditional use permit" is a permit authorized by the City Commission only after a public hearing by the Board.~~

~~"Kennels and CatterysCatteryies" areare~~means a -commercial facility~~ies~~ for the boarding, breeding, training, or grooming of dogs, cats, or other domestic animals.

“Large-scale Retail” means ~~is~~ a retail establishment exceeding a specified gross floor area threshold (e.g., 20,000 square feet), typically including department stores, big-box retailers, or warehouse clubs.

“Laundromat” means ~~is~~ a self-service laundry facility equipped with coin- or card-operated washing machines and dryers, available for public use.

“Marijuana Retail Facility” means ~~is~~ a business licensed under state law to sell marijuana products to consumers for personal use. Does not include on-site consumption unless permitted by law. Marijuana Retail Facilities are not permitted within one thousand (1,000) feet of a public or private school, licensed child care facility, or church.

“Mobile Food Vendor/ Food Truck Park” means ~~is~~ a group of three (3) or more mobile or semi-permanent food service operations, located in vehicles or mobile trailers, where food is prepared and sold to the public. May refer to designated sites where multiple vendors operate in a shared location.

“Motels/ Hotels” ~~are~~ means ~~is~~ an establishments offering temporary lodging to travelers and tourists, with or without a dining, meeting rooms, or recreational ~~facilities~~ facility. Includes extended-stay lodging.

“Personal Service Stores” means ~~is~~ ~~area~~ a business ~~es~~ providing personal grooming or lifestyle services, such as a salons, barbers, spas, tailors, dry cleaners, or shoe repair shop.~~s~~.

“Retail” means ~~is~~ ~~a~~ a business engaged in the sale of goods directly to consumers. Includes stores selling clothing, books, electronics, household goods, or similar items, but excludes large-scale retail.

“Sexually ~~oriented business~~” ~~Oriented Business~~” means a commercial establishment which operates as an adult book store, adult movie theater, or features, allows, employs, promotes or sponsors exotic entertainment and/or sexually explicit materials.

“Short-Term Rentals” ~~are~~ means ~~is~~ ~~a~~ a dwelling units or portions thereof that are rented to guests for periods of less than 30 consecutive days. May be owner-occupied (Type 1) or non-owner-occupied (Type 2), and subject to licensing and performance standards. Section 30.57~~60~~ defines further standards for Short-Term Rentals.

“~~Tattoo~~ Tattoo/ Body Piercing Studios” means ~~is~~ ~~a~~ ~~are~~ commercial establishments where tattoos are applied or body piercing services are provided by licensed professionals.

“Theater/Entertainment Venue-” means ~~is~~ an indoor facility used for live performances, film screenings, concerts, or other forms of entertainment for an audience.

“Veterinarian Clinics” means ~~is~~ ~~an~~ ~~are~~ establishments offering medical diagnosis, treatment, and surgical services for household pets and small animals. May include limited boarding as an accessory use.

Sec 30.20.4. Light Industrial/ Industrial Uses

“Artisan Manufacturing” means ~~S~~small-scale production or assembly of goods by hand or light machinery, including items such as ceramics, textiles, food products, woodwork, or custom furniture. Typically involves low-impact operations compatible with higher density residential, mixed-use or commercial areas.

“Auto Repair Garage” means ~~is~~ a facility where motor vehicles are repaired or maintained, including mechanical and electrical repairs, oil changes, tire services, and accessory installation. May include indoor or screened outdoor vehicle storage.

“Auto Salvage and Storage” means ~~is~~ a site used for the dismantling, recycling, or storage of inoperable vehicles or vehicle parts. May include resale of usable parts and materials. Subject to screening and environmental regulations.

“General Manufacturing” means ~~are establishments engaged in~~ the production, assembly, or processing of goods using raw materials or semi-finished products. Operations may include machining, fabrication, packaging, and distribution, and may involve moderate external impacts.

“Intensive Manufacturing” ~~is~~ means large-scale, high-impact industrial operations that may include heavy machinery, large volumes of materials, high noise levels, or potentially hazardous processes. Includes industries such as chemical production, foundries, and large-scale food processing.

“Limited Manufacturing” means ~~are~~ light industrial uses involving the assembly, fabrication, or packaging of products using previously prepared materials, with minimal off-site impacts in terms of noise, odor, traffic, or vibration. Typically enclosed within a building.

“Lumberyards” ~~are~~ means ~~is~~ a ~~facilities~~ facility engaged in the sale and storage of lumber and building materials. May include outdoor storage, delivery operations, and limited on-site cutting or finishing.

“Machine Shop” means an establishment where metal parts are fabricated or modified using lathes, milling machines, grinders, or other industrial equipment. May serve as a support use for other industrial or commercial businesses

“Marijuana Production Facility” means ~~is~~ a state-licensed facility for the cultivation, processing, or packaging of marijuana and marijuana-infused products. Subject to licensing, security, and odor control requirements.

“Mortuary-” means a facility for the preparation and holding of human remains for burial or cremation. May include funeral services, visitation areas, and administrative offices.

“Open-Air Stadiums, Sports Arenas, and Amphitheaters” ~~are~~ means ~~is~~ a large outdoor or partially enclosed venues ~~s~~ used for a sporting events ~~s~~, concerts ~~s~~, or public gatherings ~~s~~. May include seating, concessions, lighting, and sound amplification.

“Transportation Terminal” means a facility for the boarding, alighting, storage, dispatch, or transfer of cargo ~~passengers~~ or freight, or for mass transit activities, including related areas such as ticketing, waiting, loading, and parking. Does not include local transit stops.

"Travel Plaza/Truck Stop" means a facility serving motorists and commercial truck drivers that provides vehicle fueling, parking, and related amenities. May include convenience retail, restaurants, restrooms, showers, and limited overnight accommodations.

"Warehouse and Enclosed Storage" means ~~a~~re facilities~~y~~ used for the storage and distribution of goods and materials. Operations may include loading docks, delivery vehicle access, and climate-controlled or general-purpose storage.

"Wholesale Business" means~~is~~ a business engaged in the sale of goods in bulk quantities to retailers, contractors, or other businesses, rather than direct-to-consumer retail. May include warehousing and limited on-site display or sale.

"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.

"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.

~~"Special exceptions" means a special exception to Tower", as used herein, includes the terms of this ordinance to permit use~~support structure and all components of the WPG "Buildable area" means the portion of a lot remaining after required setbacks, open space, and other site restrictions are deducted.

Sec 30.20.5. Other Definitions

"Actual ~~b~~Business ~~p~~Premises" means the owned or leased real property from which the business is actively transacted.

"Alley" or "Alleyway" means a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

"Buildable Area" means the portion of a lot remaining after required setbacks, open space, and other site restrictions are deducted.

~~"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.~~

~~"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.~~

~~"Backlit" means a method of sign illumination that consists of lighting placed behind translucent or semi-transparent sign elements allowing light to project through the front of the sign element.~~

~~"Banner Sign" means a sign made of lightweight fabric, plastic, vinyl, or similar material with no enclosing framework that is mounted to a building or other structure at one (1) or more edges.~~

~~"Billboard signs" means any standard outdoor advertising sign larger than two hundred (200) square feet in area which is designed to advertise a products, services or businesses not located on the premises on which the sign is located.~~

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

"Building Height" means the vertical distance from the existing (pre-disturbance) grade"grade" to the highest point of the coping of a flat roof or the deck line of a mansard roof or to the average height of the highest gable of a pitched or hip roof. See Section 30.42.F for structural embellishments exempt from height restrictions.

~~"Building Official" means the City Building Inspector of the City of Livingston or their designated representative.~~

~~than those specifically permitted~~"Clear vision area" (or "sight triangle") means a triangular area at the intersection of two streets, or a street and driveway, kept free of visual obstructions to protect traffic safety.

"Conditional Use" means a use allowed in each zoning district in appropriate cases only after review and approval, subject to appropriate specific conditions to ensure compatibility with surrounding uses.

~~"Critical Areas Report" means a site-specific analysis prepared by a qualified professional that evaluates existing natural features when required by the Planning Department and identifies any necessary mitigation.~~

~~"Direct light" means unshielded light emitted from an artificial light source, off of its reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.~~

~~"Door Sign" means a sign placed inside or upon the door and is visible from the exterior of the building. Door signs may only contain the names, logos, contact information, and hours of the businesses or tenants located within the building.~~

"Dwelling/ Dwelling Unit" means a building or portion of a building designed and intended to be used as independent living quarters by one household.

"Easement" means a right granted to use a portion of land for a specific purpose, such as utilities, drainage, or access.

"Existing street lighting" means those streetlight fixtures in operation as of January 1, 2006.
"Historic streetlight" means streetlight fixtures manufactured before January 1, 1950, and streetlight fixtures manufactured after 1950 that are designed to replicate streetlight fixtures manufactured before January 1, 1950, and which are in use in the City as of January 1, 2006.

"Fixture" means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast housing, and the attachment parts.

"Floor area ratio" or "FAR" means the ratio of total gross floor area of all buildings on a lot to the area of the lot.

"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.

"Frontage" means the length of a lot line abutting a public or private street.

"Fully shielded" means an outdoor light fixture either by design or by an externally applied device that blocks the transmission of light, except downward below the horizontal plane running through the lowest point on the fixture, i.e., light is directed only downward beneath the fixture's light source. "Directionally shielded" means an outdoor light fixture either by design or by an externally applied device that directs light downward and away from property subject to light trespass thereby limiting the direct line of sight of the fixture's light source to the property upon which the fixture is installed.

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

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

"Halo-Lit" means a method of sign illumination that consists of lighting attached to the back of opaque sign elements with light projected behind and parallel to the sign elements. Halo lighting shall not allow any light to be projected beyond the horizontal plane of the rear of the sign element.

"Impervious Surface" means any surface that prevents or significantly impedes the infiltration of water into the soil.

"Light source" means artificial light emitted from a fixture lamp, lens, or mirror. Light which is reflected after leaving the fixture does not constitute a light source.

"Light trespass" means the shining of direct light from the property upon which the light source is situated onto other property, either public or private, i.e., a person standing upon their own property or upon public property who can see an unshielded artificial light source upon the property on which the light source exists, experiences light trespass.

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

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

a. A single lot of record.

b. A portion of a lot of record.

c. A combination of complete lots of record, of complete lots of record and portions of lots of record, or of portions of lots of record.

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

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

"Lot depth" means the distance between the front lot line and the rear lot line measured in the mean direction of the side lot lines.

"Lot line" means a line of record bounding a lot that divides one lot from another or from a public or private street or other public space.

"Lot line, front" means the lot line separating the lot from the street that provides the primary frontage.

"Lot line, rear" means the lot line opposite and most distant from the front lot line.

"Lot line, side" means any lot line that is not a front or rear lot line.

"Lot width" means the horizontal distance between side lot lines measured at the required front setback line.

~~"Luminaire" means a complete lighting system, including lamp(s) and the fixture.~~

~~"Luminaire footcandle" means the total footcandle for exterior lights shall be measured from three (3) feet above the ground level directly underneath the light with the measuring instrument held in the horizontal plane.~~

~~"Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.~~

~~"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.~~

"Mitigation" means actions taken to offset negative impacts to sensitive environmental areas through restoration, enhancement, or preservation.

~~"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~~

~~"Neon Sign" means electric signs lighted by luminous gas-discharge tubes that contain rarefied neon or other gases. Signs utilizing light-emitting diodes (LEDs) to mimic the appearance of neon signs shall be considered neon signs.~~

"Non-conforming structure" means a structure that was lawfully constructed but no longer conforms to current zoning regulations.

"Non-conforming use" means a use of land or structure that was lawfully established but no longer conforms to current zoning regulations.

~~"Off-premises sign" means a sign located on property other than the actual business premises.~~

"Open space" means land area that is not occupied by buildings, structures, driveways, parking areas, or other impermeable surfaces.

"Ordinary high-water mark" means the line on a bank where the presence and action of water is continuous and leaves a distinct mark on the soil, destroying terrestrial vegetation, and creating a line of physical evidence of repeated inundation

~~"Permit, building~~Building Permit" means official authorization to construct, alter, or demolish a structure in compliance with applicable codes.

~~"Permit, zoning" means official authorization to use or develop land in compliance with zoning regulations.~~

"Planning board" means the City of Livingston City Planning Consolidated Land Use Board, or Land Use Board.

~~"Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise~~

"Principal use" means the primary or predominant use of a lot or structure.

~~"Projecting sign" means a sign installed on the facade of a building or underside of an awning which is attached to such building in a perpendicular manner or at an angle to the building wall.~~

"Qualified Professional" means person with demonstrated expertise in biology, hydrology, geology, or a related field appropriate to the sensitive area being evaluated.

~~"Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.~~

~~"Revolving sign" means a sign which revolves three hundred sixty (360) degrees.~~

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

~~"Riparian Areas" means vegetated ecosystems along water bodies that support a high level of biodiversity and play a role in flood mitigation and water quality.~~

~~"Sensitive Environmental Areas" are-is a land and water areas that provides an important ecological functions or pose a physical constraints to development due to a natural hazards.~~

~~"Setback" means the distance from the corresponding lot line, as defined herein, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the lot line.~~

~~"Sidewalk sign" means a movable sign designed to be placed on the sidewalk area in front of an establishment.~~

~~"Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located. See Section 30.50., including, but not limited to, signs described in subsections (B)(1) through (B)(25) 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.~~

~~"Sign area" means the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.~~

~~"Setback" means the distance from the corresponding lot line, as defined herein, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the lot line.~~

~~"Sign" means any device, structure, or surface intended for advertising or attracting public attention.~~

"Story" means that any level or floor of a building that contains a useable floor, designed for living, work, or recreation, and is defined by the space between one floor surface and the next, and as defined in the City's adopted Building Code. portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement cellar or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement cellar or unused under floor space is more than six (6) feet above grade as defined herein for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade as defined herein at any point, such basement, cellar ~~or unused under floor space shall be considered as a story.~~

~~, or unused under floor space shall be considered as a story.~~

———"Street" means a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or otherwise designated which has been dedicated to or acquired for public use and extends the full width between right-of-way lines, or any dedicated public way as recorded by the County Clerk and Recorder whenever any portion is open to vehicular traffic.

1. ——

- 2. ~~b. "Alley" is means a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.~~
- 3. ~~c. "Arterial street" is means a fast or heavy traffic street used primarily as a traffic artery for intercommunication among large areas.~~

- 4. ~~d. "Local street" is means a street used primarily for access to the abutting properties.~~

- 5. ~~e. "Collector street" is means a street which carries traffic from local streets to arterial streets, including the principal entrance streets of a residential development and streets for circulation within such a development.~~

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

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

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

~~"Tiny home~~Temporary use" means a ~~dwelling unit under four hundred (400) square feet~~use established for a fixed period of ~~gross floor area and manufactured primarily offsite.~~

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

~~"Trailer" or "mobile homes" means a factory assembled structure, equipped~~time with the ~~necessary service connections and constructed~~intent to be readily moveable as a unit or units on its own ~~chassis and designed to be used as a dwelling unit~~discontinue upon expiration of that period.

"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. The term includes real estate and political signs.

"Tree, deciduous" means any variety of tree which loses its leaves at the end of the growing season.

"Tree, evergreen" means any variety of tree which does not lose its leaves at the end of the growing season.

"Tree, ornamental" 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.

"Tree, shade" 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.

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

"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.

~~"Winery" means a use which produces wine, licensed in accordance with MCA § 16-4-107.~~

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

"Wall Sign" means a sign attached to or erected against the wall of a building with the face in a parallel plane to the place of the building wall, including a sign attached to a parapet wall that may be constructed specifically for the purpose of attaching a sign.

"Window Sign" means a sign that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

"Yard" means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Code.

"Yard, front" means the portion of a yard extending across the full width of the lot and lying between the front lot line and the nearest part of the principal building.

"Yard, rear" means the portion of a yard extending across the full width of the lot and lying between the rear lot line and the nearest part of the principal building.

"Yard, side" means the portion of a yard between the side lot line and the nearest part of the principal building, extending from the front yard to the rear yard.

"Zoning ~~Coordinator~~~~coordinator~~Administrator" means the ~~planner for the~~ Livingston Planning Director, or their designee, or other ~~Livingston City County Planning Board, or such other~~ such official as the City Commission, ~~by motion,~~ may designate.

"Zoning Commission" means the City of Livingston Consolidated Land Use Board, or Land Use Board.

~~i9~~(Ord. 1798, 12/19/94; Ord. 1810, 7/3/95; Ord. 1868, 2/2/98; Ord. 1894 § 1, 3/6/2000; Ord. 1949, 10/18/04; Ord. No. 2011, § 1, 4/6/09; Ord. No. 2022, § 1, 9/7/10; Ord. No. 2090, § 1, 11/5/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21; Ord. No. 3010, § 1, 7/20/21; Ord. No. 3013, § 2, 8/17/21; Ord. No. 3025, § 1, 10/21/21; Ord. No. 3041, 5/16/23)

Article III. - Zoning Districts & Regulations

Sec. 30.30. - Zoning districts.

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

ZONING DISTRICT	DESIGNATION
Low Density Residential	R-I <u>R1</u>
Medium Density Residential	R-II <u>R2</u>
Medium <u>Low</u> Density Residential: Mobile Home <u>Mixed Use</u>	R-II (MH) <u>LMU</u>
High Density Residential- <u>Mixed Use</u>	R-III <u>HMU</u>
Mobile Home Residential <u>General Commercial</u> GC	<u>GC</u>
Public- <u>Community</u>	P <u>PC</u>
Industrial	I
Light Industrial	LI
Highway Commercial	<u>HC</u>
Mixed Use	<u>MU</u>
Neighborhood Commercial	<u>NC</u>
Central Business District	CBD

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

~~R-II Medium Density. A district primarily intended for single and two (2) family dwellings. Multi-family dwellings may also be accommodated on lots of adequate plat sizes.~~

~~R-II Medium Density: Mobile Home. A district primarily intended for single and two (2) family dwellings which also allows for the placement of mobile homes. Multi-family dwellings may also be accommodated on lots of adequate plat sizes.~~

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

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

~~P~~

Zoning District Descriptions

R1 / Low Density Residential: The R1 district is a primarily single-family residential zone that supports traditional neighborhood development with larger lots and generous setbacks. It allows for accessory dwelling units, home businesses with minimal impact, and other compatible low-density housing types. This district is intended to maintain neighborhood character, limit traffic impacts, and provide a quiet residential environment. Duplexes are allowed in the R1 district.

R2 / Medium Density Residential: The R2 district is a residential zone intended to accommodate a wider range of ~~r~~diversity of ~~esidents,~~ and housing types, ~~and incomes.~~ It supports a mix of detached and attached housing, including duplexes, triplexes, and small multifamily buildings. Neighborhood-serving retail or office uses are permitted, provided they have little to no impact on traffic or the surrounding ~~environment~~neighborhood.

LMU / Light Mixed Use: The LMU district is intended to ~~promote~~ encourage low-to-medium density residential development, such as townhomes, duplexes/triplexes, and ~~small-scale~~ condominiums, in a form that is walkable, compact, and compatible with adjacent neighborhoods. This district also supports neighborhood-scale commercial and mixed-use development that contributes to a vibrant, pedestrian-oriented environment. Auto-oriented uses, such as drive-throughs or those requiring large surface parking lots, are generally discouraged to maintain the district's focus on walkability, active streetscapes, and neighborhood livability.

HMU / High Density Residential-Mixed Use: The HMU district expands upon the intent of the LMU district by allowing a broader range of residential and commercial uses at greater height and intensity, while still prioritizing a compact, walkable, mixed-use development pattern. ~~It permits the full-rsimilar types of ange-of LMU-scale development (e.g., townhomes, small apartments, corner retail), but also~~ supports mid-rise buildings, higher-density housing, and more intensive commercial activity than ~~traditional residential~~ districts. Development in HMU may include apartments, condominiums, office space, retail, restaurants, and mixed-use buildings with ground-floor commercial and upper-story residential.

GC / General Commercial: The GC district is intended for general commercial development at a medium to large scale, allowing for auto-oriented uses. Typical uses include retail centers, restaurants, offices, complexes, service stations, and other regional or community-serving businesses. Multi-family residential (3 or more units) are ~~may be permitted as part of a mixed-use format~~ in this district. This district is typically located along major streets or commercial corridors and near community gateways.

PC / Public-Community: ~~The public zone is intended to reserve~~ The PC district reserves land ~~exclusively~~ for public ~~and~~ semi-public ~~uses in order to preserve~~, and ~~provide adequate land for a variety of~~ community ~~facilities which~~ oriented uses that serve the public health, safety, and general welfare ~~of the~~ community. This includes schools, parks, libraries, fire stations and emergency services, utilities, and community centers. These uses are typically integrated into neighborhoods or located on accessible sites across the city.

I / Industrial-A: The I district ~~is~~ intended ~~to accommodate for~~ a ~~variety~~ broad range of ~~businesses~~, industrial activities, including heavy manufacturing, large-scale warehousing, logistics, transportation ~~terminals~~, and ~~light~~ utilities. It accommodates high-intensity uses that may involve noise, truck traffic, or outdoor storage and ~~heavy industries~~ requires appropriate buffering from non-industrial uses.

LI / Light Industrial-A: The LI district ~~intended~~ is designed to accommodate ~~all types of light industry, including those defined as~~ light manufacturing ~~as well as business~~, research and development, small-scale warehousing, and professional ~~offices or~~ business offices. Uses should have minimal environmental impacts and can include flex space and artisan industries.

CBD / Central Business District: The CBD is the historic downtown and commercial core of the City, and is intended to support a dense, walkable mix of commercial, civic, cultural, and residential uses. Medium-rise buildings ~~-without minimal or no~~ setbacks are encouraged to promote an urban form.

Residential uses include upper-story apartments and high-density housing integrated with ground-floor retail or office uses. Vehicular parking requirements are reduced to encourage pedestrian activity and redevelopment.

(Ord. 1949, 10/18/04; Ord. 1954, 5/16/05; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)

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. ~~HC Highway Commercial. A district intended to provide areas for residential structures, commercial and service enterprises which serve the needs of the tourist, traveler, recreationalist or the general traveling public. Areas designated as Highway Commercial should be located in the vicinity of freeway interchanges, intersections on limited access highways, or adjacent to primary and secondary highways.~~

~~MU Mixed Use. A district intended to accommodate a mix of residential, neighborhood scale commercial services and offices, and small scale manufacturing.~~

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

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

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

In the case of a use not specifically mentioned in the list of uses in Article IV of this Chapter, the decision regarding whether the proposed use of a structure is allowable in a specific zone shall be made by the

~~Zoning Coordinator~~[Zoning Administrator](#), such decisions shall be based upon the most compatible uses contained in Article IV of this Chapter.

~~(Ord. 1949, 10/18/04; Ord. 1954, 5/16/05; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 3023, § 1, 1/4/22; Ord. No. 3041, 5/16/23)~~

~~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. A – Allowed S – Special Exception Permit Required N – Not Allowed~~

	R-I	R-II	RII-MH	R-III	RMO	NC¹	MU	CBD²	HC	LI	I	P
One (1) Family Dwellings [±]	A	A	A	A	A	A	A	A	A	N	N	N
Two (2) Family Dwellings	N	A	A	A	N	A	A	A	A	N	N	N
Multifamily Dwellings	N	A	A	A	N	A	A	A	A	N	N	N
Accessory Dwellings	A	A	A	A	A	N	A	N	A	N	N	N
Townhouses	N	A	A	A	N	N	A	A	A	N	N	N
Tiny Homes	A	A	A	A	A	N	A	N	A	N	N	N
Accessory Buildings	A	A	A	A	A	A	A	A	A	A	A	A
Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
Modular Homes	A	A	A	A	A	N	A	A	A	N	N	N
Churches	S	S	S	A	N	A	S	N	A	N	N	N
Schools, Public, Private and Parochial	A	A	A	A	A	A	S	N	S	N	N	A

Schools, Trade	N	N	N	N	N	S	S	A	A	A	A	N
Hospitals/Institutions	N	N	N	A	N	S	S	N	S	A	N	S
Medical/Dental Clinics	N	N	N	A	N	A	A	A	A	A	S	N
Adult Foster Care Center ³	N	A	A	A	N	N	A	A	A	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	A	N	A	A	A	N
Kennels and Catterys	N	N	N	N	N	N	N	N	A	A	A	N
Laundromat	N	N	N	N	A	A	A	A	A	A	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	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	A	S
Retail	N	N	N	N	N	A	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	N	S	S	S	S	N
Personal Service Stores	N	N	N	N	N	A	A	A	A	A	S	N
Eating and Drinking Establishments (Sit-Down)	N	N	N	N	N	A	A	A	A	A	A	N
Drive-Thru Restaurants	N	N	N	N	N	N	N	N	A	A	A	N

Banks	N	N	N	N	N	A	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	N	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	S	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	N	N	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	N	N	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Artisan Manufacturing	N	N	A	A	N	A	A	A	A	A	A	N
Limited Manufacturing	N	N	N	N	N	S	A	A	A	A	N	N
General Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Intensive Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Cidery	N	N	N	N	N	A	A	A	A	A	N	N
Microbrewery/Micro distillery	N	N	N	N	N	A	A	A	A	A	N	N
Winery	N	N	N	N	N	A	A	A	A	A	N	N

Bowling Alley	N	N	N	N	N	S	S	S	A	S	N	S
Theater	N	N	N	S	N	S	S	S	A	A	N	S
Open-Air Stadiums, Sports Arenas and Amphitheaters	N	N	N	S	N	S	S	S	A	A	N	S
Lumberyards	N	N	N	N	N	N	N	N	A	A	A	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	A	N	N
Radio Stations ⁴	N	N	N	N	N	A	A	A	A	A	A	A
Utility Substations	S	S	S	S	S	S	S	S	S	S	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	A	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	S	S	A	A	A	S	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	N	A	A	N
Sexually-Oriented Business	N	N	N	N	N	S	N	S	S	A	A	N

- ~~1.—NC—Any number of residential units may be established within a building that also contains a commercial use.~~
- ~~2.—CBD—Any number of apartment 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."~~
- ~~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; Ord. No. 2090, § 1, 10/6/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21; Ord. No. 3013, § 2, 8/17/21; Ord. No. 3017, § 1, 10/5/21; Ord. No. 3025, § 1, 10/21/21; Ord. No. 3023, § 1, 1/4/22; Ord. No. 3041, 5/16/23)

A = Allowed by Right

C = Conditional Use Permit Required

N = Not Allowed

Table 30.40. List of Uses

	<u>R1</u>	<u>R2</u>	<u>LMU</u>	<u>HMU</u>	<u>CBD</u>	<u>GC</u>	<u>LI</u>	<u>I</u>	<u>PC</u>
<u>Residential Uses</u>									
<u>One (1) Family Dwelling</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u> ¹	<u>N</u> ¹	<u>N</u>	<u>N</u>	<u>N</u>
<u>Two (2) Family Dwelling</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u> ¹	<u>N</u> ¹	<u>N</u>	<u>N</u>	<u>N</u>
<u>Multifamily Dwelling (3+ units)</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Co-Living Housing</u>	<u>CN</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>CA</u>	<u>A</u>	<u>CA</u>	<u>N</u>	<u>CN</u>
<u>Supportive/ Transitional Housing</u>	<u>CN</u>	<u>C</u>	<u>CA</u>	<u>A</u>	<u>CA</u>	<u>A</u>	<u>NA</u>	<u>N</u>	<u>CN</u>
<u>Accessory Dwelling Unit (ADU)</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u> ²	<u>N</u> ²	<u>N</u> ²	<u>N</u> ²	<u>N</u> ²
<u>Community Uses</u>									
<u>Church</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>School- Public, Private, and Parochial</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>C</u>	<u>N</u>	<u>A</u>
<u>School, Trade</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Hospital/ Institution</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>N</u>	<u>C</u>
<u>Medical/ Dental Clinic</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>N</u>
<u>Adult Foster Care Center</u>	<u>NC</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Assisted Living</u>	<u>N</u>	<u>AC</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>

¹ Any number of residential units may be established within, or attached to, an existing building in these districts. No new residential structures may be built unless they meet the definition of Multifamily (3 or more units).

² New ADUs are allowed only if a single-family residential use already exists on the parcel.

	<u>R1</u>	<u>R2</u>	<u>LMU</u>	<u>HMU</u>	<u>CBD</u>	<u>GC</u>	<u>LI</u>	<u>I</u>	<u>PC</u>
<u>Child Care Center</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Armory</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>
<u>Cemetery</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>
<u>Government Office</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>A</u>
<u>Public Recreation Facility</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Community Garden</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>A</u>
<u>Emergency Shelter</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>A</u>	<u>C</u>	<u>C</u>	<u>A</u>
<u>Utility Substation</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Wireless Communication Facility</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>
<u>Public Safety Facility</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Commercial Uses</u>									
<u>Radio Station</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>
<u>Veterinarian Clinic</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Kennel/ Cattery</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>N</u>
<u>Laundromat</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Short-Term Rental – Type I</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>Short-Term Rental – Type II</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>
<u>Motel/ Hotel</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Bed and Breakfast</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Campground/ Recreation Vehicle (RV) Park</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Business and Professional Office</u>	<u>N</u>	<u>C³</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>
<u>Retail</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>N</u>
<u>Large-scale Retail</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>
<u>Personal Service Store</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>N</u>
<u>Tattoo/ Body Piercing Studio</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>N</u>
<u>Alcohol Producing Business</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Eating and Drinking Establishment (Sit-Down)</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Mobile Food Vendor Park /Food Truck Park</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>C</u>	<u>N</u>
<u>Drive-Through Restaurant</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Drive-Through Business (Other)</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Bank (No Drive-Through)</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Gasoline/ Service Station</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>A</u>	<u>N</u>
<u>Auto Repair Garage</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Theater/ Entertainment Venue</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>C</u>
<u>Health and Exercise Establishment</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>C</u>	<u>C</u>

³ See Section 30.54 for home occupation requirements

	<u>R1</u>	<u>R2</u>	<u>LMU</u>	<u>HMU</u>	<u>CBD</u>	<u>GC</u>	<u>LI</u>	<u>I</u>	<u>PC</u>
<u>Sexually Oriented Business</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Casino</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>
<u>Firework Stand⁴</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Marijuana Retail Facility</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Light Industrial / Industrial Uses</u>									
<u>Mortuary</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Wholesale Business</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Commercial Greenhouse</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Auto Salvage and Storage</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>N</u>
<u>Warehouse and Enclosed Storage</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>N</u>
<u>Machine Shop</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>N</u>
<u>Artisan Manufacturing</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Limited Manufacturing</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>General Manufacturing</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Intensive Manufacturing</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>N</u>
<u>Transportation Terminal</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>N</u>
<u>Travel Plaza/ Truck Stop</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>C</u>	<u>N</u>	<u>N</u>
<u>Open-Air Stadium, Sports Arena, and Amphitheater</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>N</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>C</u>
<u>Lumberyard</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>A</u>	<u>A</u>	<u>N</u>
<u>Marijuana Production Facility</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>N</u>
<u>Wind-Power Generator</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>C</u>	<u>C</u>	<u>N</u>

Sec. 30.41. – Development Standards.

Sec. 30.41.1. - Residential ~~density requirements~~ development standards.

Table 30.41.1. Residential ~~density requirements~~ are set out in Table 30.41. Development Standards

~~Table 30.41~~

~~Residential Density Requirements~~

⁴ See Section 11.72-73 regarding discharge of fireworks

Zoning Classification District							
	Low Density (R-I)	Med. Density (R-II)	Med. Density (R-II)(MH)	High Density (R-III)	Mobile Homes (RMO)	Mixed Use (MU)	Public (P)
Min. Lot Area per Dwelling Unit in Square Feet	7,000	3,500	3,500	1,150	6,000>	875	N/A
Min. Setback Requirements							
Front Street	25'	25'	25'	5'	20'	0	20'
Side	15'	5' or B) or C)	5' or B) or C)	0 or C)	10' or C)	0 or C)	5' or C)
Rear	5'	5'	5'	0	5'	0	15'
Side Street	15'	10'	10'	0	10'	0	10'
Max. Height for all Bldgs.	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	50'	15'	60'	27'
Off-Street 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	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51
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 not required for approved townhouse development. C) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback							

within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

<u>Zoning District</u>	<u>Low Density (R1)</u>	<u>Med. Density (R2)</u>	<u>High Density Residential - Mixed Use (HMU)</u>	<u>Light Mixed Use (LMU)</u>
<u>Minimum Lot Area per Dwelling Unit in square feet</u> ^{Size}	<u>7,000 square feet</u>	<u>3,500 square feet</u>	<u>1,150 square feet</u>	<u>N/A</u>
<u>Minimum Front Street Setback</u>	<u>25 feet</u>	<u>20 feet</u>	<u>5 feet</u>	<u>10 feet</u>
<u>Minimum Side Setback</u> ^{A, B, DE}	<u>15 feet</u>	<u>5 feet</u>	<u>5 feet</u>	<u>5 feet</u>
<u>Minimum Rear Setback</u> ^{EE}	<u>5 feet</u>	<u>5 feet</u>	<u>0 feet</u>	<u>0 feet</u>
<u>Minimum Side Street Setback</u>	<u>15 feet</u>	<u>10 feet</u>	<u>5 feet</u>	<u>10 feet</u>
<u>Maximum Building Height for all buildings</u> ^{EEC}	<u>30 feet (or 36 feet if roof pitch >= 3:12)</u>	<u>30 feet (or 36 feet if roof pitch >= 3:12)</u>	<u>50 feet</u>	<u>36 feet</u>
<u>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.</u> <u>B) Side setbacks are not required for approved townhouse development.</u> <u>C) Maximum height shall be measured from the pre-disturbance grade.</u>				

(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; Ord. No. 3018 , § 1, 10/5/21; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)

Sec. 30.42.41.2. - Commercial ~~density requirements~~ development standards.

Table 30.41.2. Commercial density requirements are set out in Table 30.42. Development Standards

Table 30.42						
Commercial Density Requirements						
Zoning Classification District						
Zoning District	Neighborhood Commercial Central Business District (CBD)	Highway General Commercial (GC)	Light Industrial (LI)	Light Industrial (I)	Central Business District Public-Community (PC)	
Min. Minimum Lot Requirements Are a-per Dwelling Unit in Square Feet square feet Size	N/A	3,500 square feet	6,000 square feet	6,000 square feet	N/A	
Minimum Front Street Setback Requirements	0 feet	0 feet	10 feet	10 feet	20 feet	
Front Street	20'	0'	20'	0' with boulevard 10' without boulevard	N/A	
Minimum Side Setback^{A, B,}	0' or A) 0 feet	0' or A) 0 feet	0' or A) 10 feet	10' or A) 10 feet	N/A 5 feet	
Minimum Rear Setback	0 feet	0 feet	20 feet	0 feet	5 feet	
Minimum Side Street Setback	10' 0 feet	0' 0 feet	10' 10 feet	10' 10 feet	N/A 10 feet	
Rear	0'	0'	0'	20'	N/A	
Maximum Building Height^C	27' 60 feet	60' 60 feet	N/A 60 feet	33' 60 feet	N/A 50 feet	

for all Buildingsbuildings					
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 at least the same setback as the adjoining rear setback.

B) Side setbacks are not required for approved townhouse development.

C) Maximum height shall be measured from the pre-disturbance grade.

(Ord. 1949, 10/18/04; Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3023 , § 1, 1/4/22)

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-ground 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.
- E. Sustainability Features. Solar energy systems, green roofs, and other energy-efficient features may encroach into required setbacks or exceed height limits, provided the encroachment is the minimum necessary for the effective operation or installation of the system, and does not pose a public safety hazard. Such features must comply with all applicable building and fire codes and be reviewed through the site plan or building permit process.
- F. Other Embellishments. Building height limits shall not apply to the following: elevator penthouses, chimneys, vents, antennas, satellite dishes or other building embellishments such as spires, steeples, or mechanical equipment screens. Parapets no greater than 4 feet in height, railings and guards required by the building code are also exempt from building height limits.

Building embellishments not listed here are subject to approval by the ~~Zoning Coordinator~~Zoning Administrator.

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.43. ~~—~~Accessory dwellings.

- A. The purpose of this ~~s~~Section is to provide accessory dwelling units (ADUs) as a form of housing that contributes to housing choice and affordability while ensuring compliance with state law.
- B. In all zoning districts in which accessory dwellings are permitted the number of accessory dwellings allowed is equivalent to the number of one (1) family dwelling units present on the lot. Accessory dwelling units shall not apply to two (2) family and multi-family dwellings.
- ~~A. ~~Size.~~ Accessory Dwelling Units are only allowed in the CBD, LI, I, and PC districts -if a home single-family dwelling already exists on site.~~
- C. ~~Size: ADUs shall not exceed 75% of the gross floor area of the primary dwelling or 1,000 square feet, whichever is less. ADUs ~~—Detached ADUs shall not exceed 1,000 square feet of gross floor area.~~ ~~—Attached ADUs may be up to 50% of the gross floor area of the existing primary dwelling or 1,000 square feet, whichever is greater.~~~~
- D. ~~ADUs~~ that are entirely contained within the primary dwelling, such as a basement ADU, are not limited in size.
- E. ADUs must comply with zoning ~~setback~~ requirements and applicable building and fire code requirements.
- F. No additional off-street parking shall be required for an ADU.
- G. ADUs shall be located on the same lot as the primary dwelling.
- ~~H. ADUs shall not be sold or subdivided separately from the primary dwelling.~~ If an ADU is subdivided from the primary dwelling unit, the ADU is no longer an accessory dwelling and must meet all density requirements of the zoning district.
- ~~Prior to the occupancy of the ADU, the property owner shall record a deed restriction provided by the City Attorney's Office stating that the ADU may not be sold separately. A copy of the recorded deed restriction shall be provided to the Department of Building and Planning before a Certificate of Occupancy is issued.~~
- ~~The footprint of ADUs shall contribute to the maximum lot coverage calculations of the lot on which they are located.~~
- ~~ADUs shall otherwise comply with the zoning and development standards of the zone in which they are located.~~
- ~~B. 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.~~

~~Detached accessory dwellings~~ (Ord. No. 2090 , § 1, 11/5/20)

Sec. 30.44. Overlay Zoning Districts

Sec. 30.44.1. Downtown Historic Overlay Zoning District

~~Sec. 30.44.1. Downtown Historic Overlay Zoning District~~

Sec. 30.44.1. Downtown Historic Overlay Zoning District

A. Purpose and Intent

1. To promote the tourist industry in the City of Livingston through the preservation of historically significant buildings structures in the City's central Downtown Historic District business district that reflect the cultural and architectural past of the City;
~~—To provide a means of informing owners of property and structures within the historic district of potential tax incentives and federal grants that might be obtained through the preservation of those historic structures;~~
2. To enhance the property values and to increase economic and financial benefits to the City of Livingston and its inhabitants through the preservation of historic buildings.

(Ord. 1878, 9/21/98)

B. Territorial jurisdiction.

1. Official Historic District Zoning Map. The properties to be included in the Historic District Overlay Zone are identified on the Historic District Overlay Zoning Map on file at the City Clerk's office, and entitled "The Historic District Overlay Zoning Map of the City of Livingston." The properties included in this zoning district are those properties accepted by the United States Department of the Interior for inclusion into the National Register of Historic Places.
2. Amendments to the Zoning Map. The Historic District Zoning Map may be amended from time to time to reflect any changes to the properties on the National Register of Historic Places. Amendment shall be by ordinance of the City Commission.
3. Criteria for Inclusion into Historic District Zone. Only those sites and structures that have been accepted as Historic Places by the National Register of Historic Places may be included in the Historic District Zone.
4. Exclusion of Properties from the Historic District Zone. The Livingston City Commission may eliminate certain properties from the Historic Zoning District, only after following the procedures outlined in Section 30.71 of the Livingston Code of City Ordinances. In such cases, the property shall maintain the zoning classification specified in the underlying a zoning district change is described in the zoning map amendment application.
5. ~~Fees.~~ No fees shall be charged for any petition requesting either inclusion to or exclusion from the Historic District Zone.

(Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

C. Permitted uses.

1. Any building or structure within the designated historic district may be used for any purpose allowed in the underlying zoning district. Any request for a change in use not permitted as an allowed or conditional use in the underlying zoning district must be submitted to the ~~Livingston Zoning Commission~~~~Land Use Board~~City Commission as a request for a Conditional Use Permit or a Zoning Map Amendment in accordance with the procedures outlined in this Chapter. If such a Variance or Zone Change is granted by the Livingston City Commission such change shall not have any effect on the designation of the property as a historic district zone.
2. The Historic District designation shall be an overlay zone, and as such shall be in addition to existing zoning designations and the regulations appropriate thereto.

(Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

D. Historic Preservation Commission (HPC)

1. Establishment of the HPC. In order to carry out the purpose and intent of this ~~Chapter~~Section, the HPC is created. The HPC shall consist of five (5) residents of the City or owners of property within the Historic Overlay District and, inasmuch as possible, shall consist of the following mix:
 - i. Two (2) members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, historic archaeology, or other historic preservation-related disciplines such as cultural geography or cultural anthropology.
 - ii. One (1) locally licensed contractor.
 - iii. One (1) resident knowledgeable about the historical aspects of Livingston.
 - iv. One (1) owner or lessee of property within the historical district.
2. Appointment, Term, Vacancy.
 - i. All appointments to the HPC shall be made by the Chair of the City Commission and approved by the City Commission.
 - ii. The terms of the HPC members shall be for three (3) years.
 - iii. Terms shall be staggered, ensuring at least two (2) of the members have different term-end dates than the other three (3) members.
 - iv. The City Commission may approve changes to term end dates by a simple quorum when necessary to provide for sufficient staggering of term end dates.
 - v. The City Commission may appoint a new member to a vacant position to fulfill the remaining time of the previous member's term. The Commission must re-appoint the position upon its regularly scheduled term end date.
3. Officers, Quorum, Staff.
 - i. The Chairperson shall be elected by the members of the HPC at the first meeting held in each calendar year.
 - ii. A quorum shall consist of three (3) members of the HPC.

- iii. The Zoning Administrator shall serve as the executive secretary to the HPC and shall perform all staff duties required by this ~~Chapter~~Section.
- 4. Conflict of Interest. No member of the HPC may vote on any project in which they or any partner has worked or in which they or any partner has any financial interest, including professional fees.
- 5. Meetings, Notice of Meetings.
 - i. The HPC shall meet as needed to carry out the provisions of this Section. Meetings shall be scheduled by the Zoning Administrator.~~schedule a minimum of one (1) regularly scheduled meeting each month, except that the Chairperson may cancel the meeting if no item is on the agenda. Additional special meetings may be called by the Chairperson when such meetings are necessary to carry out the provisions of this Chapter Section.~~
 - ii. Requirements for notice of meetings of the HPC shall be determined by the Chairperson in consultation with the City Attorney. Notice of meetings should be calculated to reach all interested and affected members of the community in sufficient time to enable them to participate meaningfully in HPC proceedings. Notice may be achieved by posting, through advertisements in newspapers of general circulation, radio public service announcements, news releases to local news media or any other method deemed necessary and appropriate.
- 6. Powers and Duties. The HPC shall have the power to:
 - i. Establish criteria for designation of properties as a historic site or district, pursuant to and consistent with the National Register of Historic Preservation criteria;
 - ii. Review and comment upon the conduct of land use, housing and redevelopment, municipal improvement, and other types of planning programs undertaken by city, county, state or federal agencies, as they relate to cultural and historical resources;
 - iii. Establish guidelines to be used by the HPC in reviewing applications for permits to construct, alter, change, modify, remove, or significantly affect any cultural resource;
 - iv. Provide to all interested parties information available on surveys, technologies and funding sources needed to promote cultural resource preservation;
 - v. Provide non-binding recommendations on applications involving alterations to historic resources to the Zoning Administrator . These recommendations shall be advisory and shall not be considered an action on the issuance or denial of ~~zoning permits, variances,~~ or building permits.
 - vi. Render advice and guidance upon request of a property owner as to the restoration, alteration, decoration, landscaping or maintenance of any cultural resource designation.

(Amended by Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98; Ord. No. 2038, § 1, 3/20/12; Ord. No. 2054, § 1, 4/23/15; Ord. No. 3005, § 2, 4/20/21)

E. Advisory review procedure for exterior alterations and construction

1. Within the Downtown Historic District, all projects affecting the exterior appearance of a building or structure, including work not requiring a building permit, may be submitted for advisory review by the HPC. The HPC may issue non-binding recommendations based on the Secretary of the Interior's Standards for Rehabilitation to advise the Zoning Administrator in their decision-making. ~~These HPC recommendations shall be provided to the Zoning Administrator for informational purposes only and shall not delay or prohibit permitting decisions.~~
2. Application Procedure.
 - i. Applications for permits for construction, renovation and/or demolition of any structure within an historic district shall be made to the ~~Building and Planning Department~~ Zoning Administrator ~~on forms supplied by that office.~~
 - ii. If an applicant requests design review by the HPC, ~~Upon receipt of an application,~~ the Zoning Administrator ~~shall~~ place the application upon the agenda for the next ~~regularly~~ scheduled HPC meeting.
 - iii. The Zoning Administrator ~~shall~~ provide public notice of HPC meetings in accordance with existing City policy and subject to consultation with the City Attorney.
3. ~~Permit~~ Review Criteria. In considering applications for construction, renovation or demolition permits, the HPC shall base its recommendation on whether the proposal therein is architecturally compatible with the buildings, structures and landmarks within the district. Recommendations by the HPC shall be non-binding. No permit or zoning decision shall be denied based solely on HPC input. In applying such standard, the HPC shall consider, among other factors, the following:
 - i. Exterior architectural features, including all signs;
 - ii. General design, scale and arrangement;
 - iii. Texture, material and color scheme;
 - iv. The relationship of exterior architectural features, signage, general design, scale, arrangement, texture, material, and color scheme to other structures and features of the district;
 - v. The purposes for which the district was created;
 - vi. The extent to which the denial of the permit would constitute a deprivation to the owner of a reasonable use of his property;
 - vii. The relationship of the site and siting of any new or reconstructed structure to the landscape of the district.

All recommendations by the HPC shall include a statement of the reasons for such recommendation; ~~whereby the applicant could make their application acceptable to the HPC.~~

4. Fees. No special fees, other than the appropriate building permit fees, shall be charged to any applicant for construction, renovation, or demolition of any historic structure or any structure located within a designated historic district.

(Amended by Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98; Ord. ~~No.~~ 2038, § 1, 3/20/12)

F. Ordinary maintenance and repair.

1. Nothing in this ~~chapters~~Section shall be construed to prevent the ordinary maintenance and/or repair of any structure when such maintenance or repair does not alter the exterior appearance of the building or structure.

(Ord. 1878, 9/21/98)

G. Hazardous buildings or structures.

1. Nothing in this ~~chapters~~Section shall prevent the razing or demolition of any building or structure within the historic district which is in such an unsafe condition that it would endanger life or property as determined by the ~~Building Director~~Building Director and/or the ~~Livingston~~Fire Chief in accordance with the provisions of the International Building Code or any applicable Fire Code duly adopted by the City of Livingston. Prior to any such razing or demolition, notice will be provided to the HPC, by the authorizing official, so as to accommodate the documentation of any historic resource that may be lost.

(Amended by Ord. 1692, 7/1/91; Ord. 1878, 9/21/98; Ord. ~~No.~~ 2038, § 1, 3/20/12)

H. Interior arrangement.

1. The Historic Preservation Commission shall not ~~have authority to~~ consider or recommend interior building arrangements, renovations, maintenance, or updates if such changes do not impact the exterior of the building.

(Amended by Ord. 1692, 7/1/91; Ord. 1878, 9/21/98)

I. Severability.

1. If any provision of this ~~chapters~~Section or its application to any person or circumstances is held invalid, the remainder of the ~~is Section~~chapter or the application of this provision to other persons or circumstances is not affected.

(Ord. 1498, 7/19/82; Ord. 1515, 7/6/83; Ord. 1557, 10/21/86; Ord. 1878, 9/21/98; Ord. ~~No.~~ 2038, § 1, 3/20/12)

J. Historic Preservation Officer (~~HPO~~)

1. Establishment of a Historic Preservation Officer (HPO)

In order to carry out the purpose and intent of this ~~chapters~~Section, the Zoning Administrator shall serve as the ~~Preservation Officer~~HPO.

~~—Appointment and Term~~

~~The Zoning Administrator, appointed by the City Manager for an indefinite term, shall also fulfill the duties of the Preservation Officer.~~

2. Qualifications

The Zoning Administrator, in their capacity as ~~Preservation Officer~~the HPO, shall have ~~professional expertise in~~knowledge of or experience in one or more of the following areas: history, planning, archaeology, architecture, architectural history, historic archaeology, or other historic preservation-related disciplines such as cultural geography or cultural anthropology.

3. Duties and Responsibilities

~~The Zoning Administrator, serving as Preservation Officer~~The HPO, shall coordinate local historic preservation programs; assist in the development of local surveys, projects, and historic preservation planning documents; advise and assist the ~~Historic Preservation Commission~~HPC, government agencies, and the public; and ensure, to the extent practicable, that the duties and responsibilities delegated to the Certified Local Government (CLG) by the State Historic Preservation Office (SHPO) are satisfactorily carried out.

4. Advisory and Administrative Capacity

~~When acting as Preservation Officer, the Zoning Administrator~~The HPO shall exercise full administrative authority to review and decide historic preservation matters in accordance with this Code. Historic preservation review decisions are a normal duty of ~~the Zoning Administrator/Preservation Officer~~HPO and shall be issued administratively. Appeals of such decisions may be made as provided in the appeal procedures of this Code.

- ~~A.—(Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98; Ord. No.)shall be located to the rear of the primary dwelling on the property.~~
- ~~B.—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.~~
- ~~C.—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.~~
- ~~D.—Accessory dwellings shall be on the same lot as the primary dwelling.~~

- ~~E.—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.~~
- ~~F.—Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.~~

~~(2038, § 1, 3/20/12)~~

Sec. 30.44.2. Livingston Heritage Overlay Zoning District

~~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— Ordinance No. 2090, § 1, adopted September 5, 2020, renumbered section 30.43.1 as

30.44.2 Livingston Heritage Overlay Zoning District

~~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:~~

- ~~a. Setbacks,~~
- ~~b. Landscaping standards,~~
- ~~c. Signage standards,~~
- ~~d. Parking standards,~~
- ~~e. A list of uses to be allowed,~~
- ~~f. 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. Purpose and Intent.

1. The Livingston Heritage Overlay (LHO) Zone is meant to protect and enhance Livingston's architectural character, celebrate its cultural and natural heritage, and ensure context-sensitive growth at community gateways and in other historically or culturally important areas outside of the Historic Overlay Zoning District.

~~A.B.~~ This ~~Section~~ Section provides policies and standards for the design of buildings in the ~~Design Review Overlay~~ LHO 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.

~~B.C.~~ 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~~ LHO Zone.

~~C.D.~~ 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~~fit with the ~~Natural Setting~~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~~designs that relate to the adjoining public streets, sidewalks, and spaces.

~~D~~E. 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~~z~~except by discretion of the Zoning Administrator.

~~E~~F. Building Character.

1. Policy. Buildings shall reflect the regional urban character.
2. Guideline.
 - i. Designs that draw upon regional design traditions are preferred. Standardized "franchise" style architecture will be strongly discouraged by following these standards.
 - ii. Higher density buildings are encouraged with mixed~~u~~se multi-story buildings and shared parking.
 - iii. Incorporating smaller retail shops facing the street is encouraged.
 - iv. Secondary buildings on a site should be placed around the perimeter of the site to visually shield the public from the parking areas.
 - v. Where possible main entrances should face away from the prevailing winds.
 - vi. Buildings should have multiple entrances to minimize the distance from parking ~~spots~~spots to the building.
 - vii. If present on site, wildlife corridors shall be included in the site plan.
 - viii. On site generation of electricity using renewable energy is highly encouraged.
 - ix. The primary entrance to a building shall have a human scale. A one (1) story element at the building entrance to help establish a sense of scale shall be provided.
 - x. Where no windows or other obvious indication exists, the position of each floor in the external skin design of a building shall be expressed to establish a human scale.
 - a. Use belt courses or other horizontal trim bands of contrasting color and materials to define floor lines.
 - b. Articulate structural elements, or change materials as a method of defining floors.
 - xi. Building materials that help establish a human scale shall be utilized.
 - a. For example, use brick in a standard module to express a human scale.
 - b. Avoid using large surfaces of panelized products or featureless materials.

- c. A large surface of stucco or similar material that lacks articulation or detailing shall not be allowed.
- d. The mix of exterior materials should form a cohesive design package. One (1) material and color should be chosen for eighty (80) percent of the building, with accent materials and colors used to articulate openings, building foundations and roof terminations.
- xii. 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.

F.G. 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.
 - i. The main entrance shall be designed to be clearly identifiable.
 - a. A sheltering element such as a canopy, awning, arcade or portico shall be provided to signify the primary entrance to a building.
 - b. Where more than one (1) user shares a structure, each individual entrance shall be identified.
 - c. Customer amenities such as seating areas, coffee shops, customer service stations are encouraged to be located near the main entrance.
 - d. Shopping cart storage at the entrance, either outside or in the vestibule of the building is encouraged to be avoided.
 - ii. The primary entrance of a building to face a street, plaza or pedestrian way.
 - a. Focusing an entrance toward a parking lot without also addressing the street is inappropriate.
 - b. If the building is adjacent to a street "double-fronted" design 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.
 - c. 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 streetscape furnishings.

G.H. 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.

- i. 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. A large expanse of blank wall is not permitted on any street-oriented facade.
- ii. All building walls located within ten (10) feet of a public sidewalk shall have a minimum of sixty (60) percent coverage of wall square footage with ground floor windows.
- iii. 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.

H.I. 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 **ChapterSection**, e.g., "small details/visible to pedestrians."
- 2. Standards. In order to reduce the visual impacts of building scale, each major building project shall provide all of the following:
 - i. Divide a building into visual modules that express dimensions of structures seen traditionally.
 - ii. 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.

- iii. 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.

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

J. 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.

- i. Free standing and monument signs will be constructed of materials and contain details which match those of the building being advertised.
 - a. Use brick, wood or stone facades on signage structures to help them blend into and match the site;
 - b. Simulate architectural details of the building, such as colors, textures, and geometric forms, in designing sign structures.
- ii. 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.

iii. Landscaping shall only be required for monument signs in overlay districts

~~K.L.~~ 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~~ LHO Zoning District, which has been mapped ~~and amended to~~ on the City's Official Zoning Map. ~~If meeting the above criteria, all~~ All new construction, exterior remodels and additions to existing buildings within the LHO Zone will be subject to the following application and review process:

1. Application Submittal Requirements.

~~i. A completed application form.~~

i. Site Plan Review (SPR) is required for all new buildings and any additions to existing buildings that increase the square footage more than 50% in the LHO.

ii. 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.

~~iii. 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.~~

~~iv. A traffic impact study, certified by a professional engineer if the project is anticipated to generate over 250 ADT.~~

~~v. 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.~~

(Ord. 1974, 9/5/07; Ord. No. 3003 , § 1, 4/6/21; Ord. No. 3021 , § 1, 11/16/21)

Sec 30.46. Infill Development Incentives.

—Purpose.

- The purpose of this sSection is to support the development of underutilized parcels within established areas of the city by providing design-related incentives for qualifying infill projects. These incentives are intended to promote high-quality, context-sensitive development that enhances neighborhood character, encourages walkability, and makes efficient use of existing infrastructure.**

—Applicability

- Infill incentives are available to projects that meet at least two of the following criteria:**

- The lot is currently vacant or contains an underutilized structure⁵ and is surrounded on at least two sides by developed parcels, both of which are within city limits.**
- The site contains a non-conforming use.**
- The proposed development includes two-family residential, multi-family residential, or mixed-use development in a commercial or mixed-use zoning district.**
- The project includes affordable housing units, live/work units, or upper-story residential uses, as permitted by Section 30.40.**

- Available Incentives. Projects meeting the requirements of sSubsection B may utilize one or more of the following incentives:**

—Setback Reductions:

- Minimum setback requirements may be reduced by up to 25%, provided the reduction results in a design compatible with adjacent development.**

—Increased Lot Coverage:

- Maximum Lot coverage may be increased by up to 10%.**

—Design Review Fee Reduction:

- Design review fees may be reduced or waived by resolution of the City Commission for qualifying infill projects.**

—Design Compatibility Standards.

- To qualify for incentives, infill development must demonstrate consistency with the following design compatibility standards:**

- Building massing and scale shall relate to adjacent structures through transitions in height or articulation.**
- Primary entrances shall face the street or public space and contribute to pedestrian activity.**
- Street-facing facades shall include windows, doors, and architectural features that provide visual interest and reinforce human scale.**

⁵**An underutilized structure is defined as a structure that has been abandoned or continuously vacant for more than two years, or a residential lot that has a current density of less than 25% of the maximum density permitted for that zoning district.**

~~Materials and roof forms shall complement traditional forms found in the neighborhood context.~~

~~Service areas, and blank walls shall be screened or minimized along street frontages.~~

~~Review and Approval~~

~~All requests for incentives under this sSection shall be reviewed by the Planning Department Applicants shall submit a written narrative and supporting drawings demonstrating how the proposed project meets the eligibility criteria and design compatibility standards. The Zoning Administrator may approve, conditionally approve, or deny incentive requests based on conformance with this sSection.~~

~~Zoning Administrator Zoning Administrator Zoning Administrator Zoning Administrator Zoning Administrator Zoning Administrator Zoning Administrator~~

Sec. 30.45. Planned Unit Development (PUD).

- A. Intent. The Planned Unit Development (PUD) is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.
- B. To achieve the stated intent, a PUD shall further a majority of the following objectives:
 1. Protect natural and cultural resources
 2. Encourage open space and recreational areas beyond the minimum subdivision requirement.
 3. Promote a more effective use of land than the base zoning district would allow, resulting in clustered development and a more condensed network of utilities and streets
 4. Encourage mixed uses in new developments as a means to improve convenience and access to daily necessities by area residents.
 5. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
 6. Encourage affordable/ workforce housing development
 7. Support the adopted City of Livingston Growth Policy
- C. PUD Minimum Size and Allowed Uses
 1. The proposed PUD must be a minimum of 0.5 acres in size and all land must be under a single ownership/ entity at time of application submittal.
 2. PUDs are only allowed in the following zoning districts: R-II, ~~RH-MH~~LMU, ~~R-III~~HMU, ~~RMO, MU~~, CBD and ~~HCGC~~. All PUDs shall include residential uses.

3. Commercial Uses: Commercial uses in PUDs that are not allowed by-right in the base zoning district must be appropriately scaled and compatible with other uses in the proposed development and with respect to the ~~existing~~ surrounding neighborhood. Commercial uses should be located, designed and operated to serve primarily the needs of residents within the PUD and secondarily persons residing outside the PUD. Commercial development within the PUD may require Site Plan Review prior to issuance of a building permit for commercial use structures.
4. Industrial Uses: Light Industrial uses may be allowed in the PUD district, provided they are appropriately scaled and compatible with the proposed development and with respect to the surrounding neighborhood. Light Industrial development within the PUD may require Site Plan Review prior to issuance of a building permit for structures related to the Light Industrial Use. Heavy Industrial uses are not allowed in a PUD.

D. Developer Incentives and Public Benefits

1. Guidelines. The table below ~~outlines desirable~~ identifies the Public Benefits the City ~~wishes seeks~~ to encourage for inclusion in Planned Unit Developments (PUDs) and ~~Bonuses~~ the specific Developer Incentives that ~~may shall~~ be ~~obtained by Developers for providing~~ granted when a Developer provides one or more of the listed Public Benefits. Provision of a qualifying Public Benefit guarantees the corresponding Developer Incentive, subject only to the maximum limits identified in subsection (i) below.

DEVELOPER INCENTIVES	PUBLIC BENEFITS
1. Residential Density Bonus	A. 10% deed restricted Affordable Housing units (min. 2 units)
2. Height Increase	B. Deed restricted Affordable Housing units at or below 60% AMI
3. Waived Impact Fees	C. 10% reduction in vehicular trips to be generated by the PUD
	D. Open Space area is at least 20% of PUD
	E. Commercial Uses in at least 5% of total building floor area

i. Developer Incentives

- a. ~~increased~~ Increased Residential Density- 10% increased density over base zoning district for each public benefit provided by developer; maximum 25% overall density increase allowed
- b. Increased Height- Developers shall be permitted additional building height when providing the associated Public Benefit. Height increases are only allowed in the R-II and LMU ~~or R-II:MH are base~~ zoning districts; ~~up to 40 feet~~ up to 40 feet maximum ~~height allowed of 40 feet.~~
- c. Waived Impact Fees- ~~fees will be waived on 1:1 basis for each~~ Developers providing deed-restricted ~~Low-Income~~ Affordable ~~housing unit~~ Housing units at or below 60% ~~AMI~~ AMI shall receive a waiver of impact fees on a 1:1 basis for each such unit. This incentive applies only

to Affordable Housing units at or below 60% AMI and does not extend to other Public Benefits.

- ii. Public Benefits- each of the below benefits counts as a single benefit
 - a. Affordable Housing- must be deed restricted to qualify for developer incentives (minimum 2 affordable units per project)
 - a) Affordable Housing is based on the Area Median Income (AMI) for Park County.
 - b) The AMI is set annually for Park County by the U.S. Department of Housing and Urban Development.
 - c) Affordability for Renter-Occupied vs. Owner-Occupied housing units will be determined based on the AMI in place at the time the PUD is approved at a public hearing. Affordability thresholds will be listed on the PUD application form.
 - d) All Affordable housing units must be substantially similar in design, location and amenities as market rate units.
 - b. Reduced vehicular trips- 10% reduction of vehicular trips generated by the PUD resulting from design, uses, multi-modal transportation facilities, etc.
 - c. Increased Open Space - 20% or more of PUD area must be dedicated public open space.
 - d. Commercial Uses- A minimum of 5% of total building floor area in the PUD must be dedicated to commercial uses.
- iii. Formula for Incentives and Public Benefit Allocation:
 - a. Residential Density Bonus - a Developer may provide one of the below public benefits to obtain a 10% residential density increase over what the base zoning district allows; maximum total density increase allowed is 25% above the base zoning district
 - a) Affordable Housing
 - b) Reduced Vehicular Trips
 - c) Increased Open Space
 - d) Commercial Uses
 - b. Height Increase- one-time only bonus; may be obtained by providing any of the below benefits
 - a) Affordable Housing
 - b) Reduced Vehicular Trips
 - c) Increased Open Space
 - d) Commercial Uses
 - c. Waived Impact Fees- Awarded on a 1:1 basis

- a) Affordable Housing unit at or below 60% AMI.

NOTE: Affordable Housing units at or below 60% AMI will qualify for the Waived Impact Fees as well as count toward the total number of Affordable Housing Units needed to obtain Residential Density Bonus

2. Limitations on Developer Incentives.

- i. A height bonus is only allowed in the R-II and LMU~~or RH:MH~~ zoning districts. A height bonus may only be awarded once for a maximum height of 40 feet in the PUD.
- ii. The increased residential density bonus may be awarded more than one time; however, the total increased residential density bonus shall not exceed 25% above the residential density allowed in the base zoning district.
- iii. The incentive received for Commercial Use Floor Area public benefit is limited to a one-time award. Live/ Work units shall not comprise more than half of total commercial floor area.

3. Multi-Phased Development.

- i. For affordable/ workforce housing: The maximum allowed price of a dwelling unit will be determined by the AMI levels at the time of PUD phase commencement.
- ii. Developer bonus(es) must be implemented concurrently with the corresponding public benefit (i.e. the public benefit provided to achieve the bonus).

4. Cash-in-Lieu and Financial Guarantees of Public Benefits

- i. For Phased PUDs: At the City's discretion, a financial guarantee may be accepted for provision of a public benefit in a future phase in lieu of concurrent implementation of the benefit with the corresponding developer bonus.
- ii. For the Increased Open Space public benefit: At the City's discretion, cash-in-lieu may be accepted for the fair market value of some or all of the required open space to allow the City to fund open space or recreational amenities in an alternate location. If the open space includes multi-modal transportation infrastructure that is being used to demonstrate a Trip Reduction public benefit, cash-in-lieu is not allowed.

E. Application Procedures

1. A Pre-Application meeting is required with city staff at least 30 days prior to submittal of the PUD application.
2. Prior to submittal of the application, the applicant must notify landowners of the proposed PUD zoning within 300 feet of the PUD external boundary and provide a method by which surrounding landowners may offer comments on the proposal. All comments received must be included in the PUD application.
3. Application Submittal requirements- each application for PUD zoning shall contain the following material:

- i. Completed City of Livingston PUD Application form; see application form for detailed submittal requirements. Where a PUD also involves a subdivision of land, it shall also meet the application requirements of the Livingston Subdivision Regulations.
- ii. All applicable fees.
- iii. A listing of each deviation or class of deviation from the base zoning district and a justification for the deviation.
- iv. A listing of each deviation or class of deviation from the City's Subdivision Regulations (if a subdivision is proposed), the City's Public Works Design Standards and Specifications, and a justification for the deviation.
- v. Project Narrative or other convincing and persuasive demonstration that the proposed PUD will implement goals and strategies of the adopted Livingston Growth Policy.
- vi. The PUD plan shall identify the existing zoning of the area within the proposed PUD district and the zoning of all parcels surrounding or immediately adjacent to the proposed PUD.
- vii. Operation and Maintenance for private facilities for common use of PUD residents as well as for facilities that will be available for use by the general public (if applicable).
- viii. For multi-phase projects where components are proposed which may not be built for many years, future phases may show conceptual street designs, proposed park and open space areas, trail concepts, proposed residential density, housing types and commercial areas. Where a multi-phased PUD involves a subdivision of land, the applicant shall submit an overall phased development preliminary plat per MCA 76-3-617.
- ix. Other information, plans and details that the city staff, ~~Zoning Commission, Planning Board~~Consolidated Land Use Board and/or City Commission may request to fully evaluate the development proposal and its impacts and conclusively demonstrate how the review criteria listed below will be met.

F. Public Review Process

1. Work Session. A public work session is required to be held on a proposed PUD plan prior to any public hearing. The work session is intended for informational purposes only to inform both the public, the ~~Zoning Commission~~Land Use Board, ~~the Planning Board~~, and the City Commission about the various aspects of the project. ~~It~~ is not intended to be a public hearing and the ~~Zoning Commission~~Land Use Board, ~~Planning Board~~ and City ~~Commissioner~~Commissioners shall not ask questions, provide comments or take formal action on the PUD application. All owners of property within 300 feet of the proposed PUD shall be invited to this work session. An invitation to the work session may be included within the formal public hearing notice or it may be sent separately.
2. ~~Zoning Commission Review~~. The ~~Zoning Commission~~Land Use Board, acting as the Zoning Commission, ~~acting as the Zoning Commission~~, will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. The review procedure for PUD zoning

will follow ~~LMC Sec 30.71~~ [Article VIII of this Chapter](#) for amendments to city zoning ordinance and zone change. Review of the proposed PUD will be based on the statutory provisions of MCA 76-2-304 and the following evaluation criteria:

- i. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - ii. The proposed deviations from the underlying zoning requirements will not adversely affect the public and/ or the surrounding neighborhood.
 - iii. Uses with varying intensities are effectively buffered, both within the PUD and between the PUD and the surrounds.
 - iv. Action by the Zoning Commission.
 - a. The Zoning Commission shall hold a public hearing on the application pursuant to LMC Section 30.71.
 - b. The Commission shall submit its recommendations to the City Commission regarding the PUD rezoning request based on the review criteria under 2.a-c in this ~~section~~ [Section](#).
 - c. The Zoning Commission may recommend the City Commission approve, approve with conditions, or deny the application.
3. Planning ~~Board~~ [Review](#). The [Land Use Board, acting as the Planning Board](#), will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. Where a PUD also involves a subdivision of land, it shall follow the process called out in the Livingston Subdivision regulations (Chapter 28), [including preliminary plat approval timelines](#). Review of the proposed PUD will be based on the following evaluation criteria:
- i. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - ii. The proposed departures from the adopted the City of Livingston Public Works Design Standards and Specifications and/ or subdivision regulations (~~if~~ [if](#) applicable) will not adversely affect the public and/or surrounding neighborhood.
 - iii. The PUD will establish effective connections within the PUD and to the surrounding transportation network.
 - iv. The size and type of parkland and open space and demonstration of its adequacy for the land use, densities and dwelling types proposed in the PUD, as well as the proposal for maintenance and conservation of these areas.
 - v. The PUD will not adversely impact the natural environment, critical wildlife and habitat, agriculture, public health and safety, and local services.
 - vi. Action by the Planning Board

- a. The Planning Board shall hold a public hearing on the application and submit its recommendations to the City Commission regarding the PUD based on the review criteria under 3.a-e in this ~~section~~Section.
 - b. The Planning Board will review the PUD Plan and, after holding a public hearing, make a recommendation to the City Commission to approve, conditionally approve or deny the PUD.
 - c. Where a PUD involves a subdivision of land, ~~Subdivision~~the review will be as directed by Chapter 28 of Livingston Municipal Code. Any deviations from the Subdivision Regulations in Chapter 28, or the City of Livingston Public Works Design Standards and Specifications, will only be allowed through the ~~variance~~Variance process contained in Chapter 28 of the Livingston Municipal Code.
4. Action by the City Commission. Upon receiving recommendations from the Land Use Board (acting as the ~~Zoning Commission~~Land Use Zoning Commission and Planning Board) and Planning Board, the City Commission will review and approve, approve with conditions, or deny the PUD application and any applicable Preliminary Plat. The City Commission may conduct the first reading of the zoning ordinance amendment required for a PUD at the same meeting during which the preliminary PUD plan is approved.

G. Preparation and Filing of Final PUD.

1. Upon approval of the PUD by the City Commission, the property owner~~(s)~~ shall proceed with the preparation of the Final PUD plan.
2. The ~~owner shall prepare a~~ Final PUD Plan must include a Statement of Standards ~~for review and approval by the Zoning Administrator~~ that describes the specific uses, development standards, deviations from the underlying zoning standards ~~and~~, completion schedule, and conditions of approval. This Statement of Standards shall be approved as to form by the City Attorney, and upon review and approval by the Zoning Administrator, recorded in the land records of Park County.
 - i. The Final PUD plan shall incorporate all the conditions imposed by the City Commission at the time of approval of the preliminary plan.
 - ii. The applicant shall submit three signed copies of a Final PUD Plan and other documents as required by the conditions of approval to the Planning Department. The applicant must also submit a draft PUD ~~agreement~~Agreement between the City and the developer(s) for review by the City Attorney. The ~~agreement~~PUD Agreement must bind the developer, his or her successors, heirs and assigns to the terms and conditions of the PUD. Upon approval by the Zoning Administrator, a signed copy of the plan shall be returned to the applicant, a signed copy shall be retained on file in the County Clerk and ~~Recorder's~~Recorder's office and a signed copy shall be kept ~~On~~on file with the Planning Department.
 - iii. All PUD documents required under the conditions of approval shall be submitted to the Planning Department in a timely fashion following approval by the Commission but in no case shall a building permit be issued until the final PUD plan has been submitted and approved and the PUD agreement has been executed. For PUDs where a subdivision is required, the final plat shall be filed

once construction is completed in accordance with LMC Chapter 28 Subdivision Regulations.

H. Amending an Approved PUD.

1. Once approved, a PUD may be amended by the developer(s). Proposed amendments shall be submitted to the Zoning Administrator to make one of the following findings:
 - i. The change(s) is deemed minor in scope and may be granted or denied administratively by staff with or without conditions; ~~or~~
 - ii. The change(s) is deemed substantial, in which case the amendment(s) is forwarded to the City Commission for consideration and final action.
2. Any determination made administratively by the Zoning Administrator is appealable to the City Commission.
3. No later than 30 days after the notice of noncompliance is delivered, the landowner and/or developer may submit a written request for time extension from the City Commission. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The Commission may grant one or more extension(s) but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the Commission which may be deemed necessary to address issues that have arisen due to the lapse in time.
- ~~3.4.~~ The City shall not initiate any amendment to the PUD before the completion of the approved PUD as long as development is in substantial conformity with the approved PUD and proceeding in accordance with the time requirements imposed therein by the completion schedule.

I. Abandonment or Expiration of PUD.

1. The Zoning Administrator shall monitor the PUD for compliance with the completion schedule set forth in the approved ~~development plan~~ Final PUD Plan and to assure that all improvements have been made in accordance with the approved ~~development Plan~~ plan.
2. The following procedures apply if the PUD fails to comply with the approved completion schedule:
 - i. For PUDs that do not include a subdivision of land:
 - a. If a PUD project falls out of compliance with its approved completion schedule, or the landowner and/or developer does not submit annual progress updates to the Zoning Administrator, a notice of noncompliance with the completion schedule shall be delivered in writing by certified mail to the landowner and/or developer.
 - ~~b. No later than 30 days after the notice of noncompliance is delivered, the landowner and/or developer may submit a written request for time extension from the City Commission. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The Commission may grant one or more extension(s) but each extension is a matter of grace which, if approved,~~

~~may be subject to additional conditions imposed by the Commission which may be deemed necessary to address issues that have arisen due to the lapse in time.~~

~~c.b.~~ Abandonment shall be deemed by the City Commission to have occurred when the landowner/developer is deemed to be out of compliance with the approved completion schedule and has failed to secure an extension as provided for ~~in under H.3 of 2.a.ii in this section~~Section.

~~d.c.~~ Upon the abandonment of a development authorized under this ~~section~~Section, the City Commission shall direct the Zoning Administrator to do the following:

- a) If a portion of the PUD site was developed in accordance with the ~~PUD~~Final PUD Plan, the PUD approval conditions and any associated requirements cited in the Final PUD Plan~~PUD Plan~~ shall stay in force for that portion already developed~~;~~ and
- b) For that portion of the PUD which was not developed under the approved terms, the provisions of the PUD shall lapse and the site shall revert back to the base zoning district in place prior to approval of the PUD District.

ii. PUDs which include a subdivision of land:

~~a. The process for abandonment or expiration cited in LMC Chapter 28 for Subdivision Regulations shall be followed. A PUD involving a subdivision of land shall not obtain Final Approval until the Final Plat is filed in accordance with Chapter 28 for Subdivisions.~~

~~a.—~~

(Ord. No. 3043 , 11/7/23)

-Sec. 30.469. Site ~~p~~Plan ~~r~~Review.

A. Site Plan Review (SPR). All development proposals on a parcel or parcels under a single ownership and meeting any of the following criteria require ~~site plan review~~SPR:

1. Ten (10) or more dwelling units ~~on a single lot.~~
2. Ten-thousand (10,000) or more gross square feet of commercial or industrial floor area ~~on a single lot.~~
3. Ten-thousand (10,000) or more square feet of outdoor storage area ~~on a single lot.~~
4. Twenty (20) or more parking spaces ~~on a single lot.~~
5. Any addition to an existing use that meets any of the above criteria.

B. Building Permit. No building permit shall be issued nor will any work of any kind commence until the SPR application ~~for site plan review~~ has been approved in writing by the ~~Zoning Coordinator~~Zoning Administrator.

C. ~~Applications for Site Plan Review~~. All SPR applications ~~for site plan review~~ shall be submitted to the City of Livingston Planning Department. All Site Plan applications shall be consistent with the submittal requirements listed below.

D. Submittal requirements. All items listed below shall be submitted to the Planning Department with any ~~Site Plan~~ SPR application. The items listed are the minimum submittal requirements. The Planning Department may request additional information as deemed necessary to evaluate the application based ~~upon the Site Plan Review~~ on the SPR Criteria.

1. General Information.

- i. Completed Application form.
- ii. Vicinity map including adjacent roads and zoning on adjacent parcels.
- iii. Engineering design report.
- iv. A copy of the most recent plat.
- v. Proposed uses of all structures on the site.
- vi. Number and density of proposed dwelling units (if applicable).

2. Project-Specific Information. ~~The site plan application shall include the following, project specific, information.~~ Specific submittal requirements for each item shall be listed in the City of Livingston Site Plan Application, Public Works Design Standards and Specifications Policy, City Ordinances, or referenced document. Site plans shall be appropriately divided into separate sheets to ensure legibility of the documents.

- i. Boundary of the parcel with complete dimensions and topographic lines.
- ii. Project phasing line (if applicable).
- iii. Parcel size in square feet.
- iv. North arrow and required legends.
- v. Scale of between 1 inch to twenty feet (1":20') and one inch to one hundred feet (1":100')
- vi. Location and width of all on-site and adjacent rights-of-way.
- vii. Street Design conforming to the City's Public Works Design Standards and Specification Policy.
- viii. Grading and drainage plan conforming to the City's Public Works Design Standards and Specifications Policy.
- ix. Location of all proposed structures on site, with the distance of all structures to the property lines labeled and the square footage of the structures listed.
- x. Building plans including:
- xi. Location and design of any fences or walls.
- xii. Landscaping plans.
- xiii. Parking plans.
- xiv. Location of site ingress and egress.
- xv. Lighting plan conforming to the requirements of ~~Chapter 18~~ Article XI of ~~the Livingston Municipal Code~~ this Chapter.
- xvi. Location and size of trash enclosures and associated screening.
- xvii. Utility plan.

- xviii. Sign plan.
- xix. Copies of FEMA FIRM maps if any of the site is located within the 100-year floodplain.
- 3. Additional plans and studies.
 - i. A traffic impact study if determined to be required by the City of Livingston Public Works Department.
 - ii. A flood study if determined to be required by the City of Livingston Floodplain Administrator.
 - iii. A letter from the State Historic Preservation Office (SHPO), if determined to be required by the City Historic Preservation Officer, inventorying historic and cultural resources on the site and plans to preserve any identified historic and cultural resources.
 - iv. All required local, state, and federal permits associated with the site plan application.
- E. Applications with required supporting data and applicable filing fees shall be filed with the City Planning Office. Application review~~The site plan review~~ will not commence until all required documents and fees have been submitted.
- F. The filing fee for ~~site plan review~~SPR shall be set by separate Resolution.
- G. The ~~site plan~~SPR -application shall be reviewed by the ~~Zoning Coordinator~~Zoning Administrator. The ~~Zoning Coordinator~~Zoning Administrator shall consult with local, state, and federal agencies as deemed necessary to evaluate the impact of the site plan proposal on the ~~Site Plan Review~~SPR Criteria as listed in the ~~is s~~Section.
- H. ~~Site Plan Review~~Criteria:
 - 1. Relationship of the Site Plan elements to conditions both on and off the property.
 - 2. Conformance with the City of Livingston Zoning Ordinance, including cessation of any current violations.
 - 3. Conformance with applicable City of Livingston Ordinances and plans.
 - 4. The safety of vehicular, bicycle and pedestrian ingress and egress.
 - 5. Provision for utilities.
 - 6. Conformance with the City's Public Works Design Standards and Specification Policy.
 - 7. Historic preservation.
 - 8. The impact of the proposal on surface and ground water, including floodplains, wetlands, and source water protection zones.
 - 9. The impact of the proposal on wildlife and the natural environment, including disruption of habitat, migration corridors, and protected species.
 - 10. Adequacy of mitigation measures to protect sensitive environmental areas.
 - 11. Open space
 - 12. Landscaping and screening
 - 13. Loading and unloading areas.
- I. Conditions of Approval. The ~~Zoning Coordinator~~Zoning Administrator may require conditions of approval as deemed necessary to ensure the site plan meets the ~~Site Plan Review~~Criteria listed

in this Section ~~as listed in this section~~. A Certificate of Occupancy shall not be granted prior to the completion of all ~~site plan~~ SPR conditions of approval.

J. Amendments to Approved Site Plans. Any amendment or modification of an approved Site Plan shall be submitted to the Planning Department for review and possible approval.

K. Violations and Civil Penalty. Any work performed contrary to the approved site plan shall not be permitted, a stop order will be issued and all work will cease until the violation is either removed or made to conform with the site plan at the applicant's expense. A violation may be punished by a civil penalty not to exceed five hundred dollars (\$500.00) for each day the violation is allowed to continue and each day shall be deemed a separate violation.

(Ord. 1870, 4/20/98; Ord. No. 3004, § 1, 4/6/21; Ord. No. 3005, § 2, 4/20/21)

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. "Actual business premises" means the owned or leased real property from which the business is actively transacted.~~
- ~~2. "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.~~
- ~~3. "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.~~
- ~~4. "Backlit" means a method of sign illumination that consists of lighting placed behind translucent or semi-transparent sign elements allowing light to project through the front of the sign element.~~
- ~~5. "Banner Sign" means a sign made of lightweight fabric, plastic, vinyl, or similar material with no enclosing framework that is mounted to a building or other structure at one (1) or more edges.~~
- ~~6. "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.~~
- ~~7. "Door Sign" means a sign placed inside or upon the door and is visible from the exterior of the building. Door signs may only contain the names, logos, contact information, and hours of the businesses or tenants located within the building.~~

8. ~~"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.~~
9. ~~"Halo Lit" means a method of sign illumination that consists of lighting attached to the back of opaque sign elements with light projected behind and parallel to the sign elements. Halo lighting shall not allow any light to be projected beyond the horizontal plane of the rear of the sign element.~~
10. ~~"Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.~~
11. ~~"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.~~
12. ~~"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.~~
13. ~~"Neon Sign" means electric signs lighted by luminous gas discharge tubes that contain rarefied neon or other gases. Signs utilizing light emitting diodes (LEDs) to mimic the appearance of neon signs shall be considered neon signs.~~
14. ~~"Off premises sign" means a sign located on property other than the actual business premises.~~
15. ~~"Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise.~~
16. ~~"Projecting sign" means a sign installed on the facade of a building or underside of an awning which is attached to such building in a perpendicular manner or at an angle to the building wall.~~
17. ~~"Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.~~
18. ~~"Revolving sign" means a sign which revolves three hundred sixty (360) degrees.~~
19. ~~"Sidewalk sign" means a movable sign designed to be placed on the sidewalk area in front of an establishment.~~
20. ~~"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)(25) 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.~~

- ~~21. "Sign area" means the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.~~
- ~~22. "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. The term includes real estate and political signs.~~
- ~~23. "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.~~
- ~~24. "Wall Sign" means a sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall, including a sign attached to a parapet wall that may be constructed specifically for the purpose of attaching a sign.~~
- ~~25. "Window Sign" means a sign that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.~~

~~C.~~B. 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 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 building permit must be obtained 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 ~~Zoning Coordinator~~Zoning Administrator shall be responsible for the enforcement of this sign ordinance.
9. All buildings with more than one (1) business occupant must submit to the ~~Zoning Coordinator~~Zoning Administrator 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 ~~Chapter 31~~Section 30.50~~this Section of the City Ordinances Historic District Overlay~~Zoning.

~~D.C.~~D.C. 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. Only time and temperature shall be animated.
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 Zoning District, 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.

~~E-D~~. Signs Allowed 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, provided such sign is no greater than fifteen (15) square feet and 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.~~E. 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:
 - i. Only one (1) on-premises sign will be allowed for each business.
 - ii. The maximum allowable size for each sign shall be twelve (12) square feet.
 - iii. Illuminated signs shall be illuminated only as long as the advertised business is open.
3. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street. Temporary signs are exempted from setback requirements.

~~G.~~F. 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.
 - i. All lighting shall comply with the requirements of ~~Chapter 18~~Article XI of this Chapter. ~~"Night Sky Protection Act" of the City of Livingston Code of Ordinances.~~ 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.
 - ii. In the Central Business District, backlit and up lit signs are prohibited. Lighting, including but not limited to: halo lit, downlit, and neon signs is allowed. Neon signs in the style of historic downtown signs are highly encouraged in the Central Business District.
3. Number of Signs.
 - i. In Commercial and Industrial Zoning Districts, other than the Central Business District, each use is limited to a total of three (3) wall, roof mounted, and/or window signs, one (1) projecting sign or awning sign, and one (1) door sign. 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. Additionally, movie theaters are allowed one (1) marquee sign.

- ii. In the Central Business District Zoning District, each use is limited to two (2) wall signs, one (1) projecting sign, one (1) awning sign, and one (1) sidewalk sign. Each use is allowed window and door signs, and there shall be no maximum number of window or door signs. Additionally, movie theaters are allowed one (1) marquee sign. Free standing and monument signs are not permitted in the Central Business District.

4. Specific Sign Type Standards.

i. Wall, Window, and Door Signs.

- a. In Commercial and Industrial Zoning Districts, other than the Central Business District, the total surface area of all wall signs and window signs is limited to two (2) square feet of sign for each linear foot of frontage width of the business, provided that the maximum total surface area for all wall signs does not exceed three hundred (300) square feet. Door signs are not limited in square footage and shall not count towards the total square footage of wall and window signs, but shall only contain the logo, names, contact information, and hours of the businesses or tenants located within the building.

~~b.~~ In the Central Business District:

b.

- ~~a)~~ a) The total surface area of wall signs on the front street side and/or side street side of a building is limited to two (2) square feet of sign for each linear foot of building frontage not to exceed one hundred (100) square feet per street side.

a)

- ~~b)~~ b) Buildings with exposed side walls not fronting a street are allowed wall signs of up to two hundred fifty (250) square feet. Non-street side wall signs must be painted directly onto the facade of the building and cannot be lit.

b)

- ~~c)~~ c) Window signs are limited to thirty (30) percent of the total window area of the building regardless of the number of uses.

c)

- d) Door signs are not limited in square footage and shall not count towards the total square footage of wall and window signs, but shall only contain the logo, names, contact information, and hours of the businesses or tenants located within the building.

- ii. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area. No monument sign shall exceed five (5) feet in height.

- iii. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area. No ~~free-standing~~free-standing sign shall exceed thirty (30) feet in height.
- iv. 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.
- v. Sidewalk Signs.
 - a. Sidewalk signs shall be no greater than forty (40) inches in height measured vertically from the surface grade, and no greater than thirty (30) inches in width measured at the widest point of the sign. No element of the sidewalk sign may protrude more than four (4) inches from the main post or supports of the sign.
 - b. Sidewalk signs shall not be located at street intersections or placed in any manner to obstruct access to crosswalks, crosswalk ramps, and crossing push buttons.
 - c. Sidewalk signs must be placed on the sidewalk directly adjacent to the uses they are advertising and must be brought inside when the advertised business is closed.
 - d. Sidewalk signs must be weighted or tethered in such a manner that they are prevented from moving due to wind.
 - e. On sidewalks ten (10) feet and greater in width, sidewalk sign may be placed on the sidewalk with the furthest point of the sign no greater than thirty-six (36) inches from the curb or thirty-six (36) inches from the property line. At no point shall the sidewalk sign, combined with other sidewalk elements create an unobstructed sidewalk surface width of less than six (6) feet.
 - f. On sidewalks less than ten (10) feet in width, sidewalk signs may be placed on the sidewalk with the furthest point of the sign no greater than thirty-six (36) inches from the curb. At no point shall the sidewalk sign, combined with other sidewalk elements create an unobstructed sidewalk surface width of less than four (4) feet. If the sidewalk is not able to accommodate a sidewalk sign while maintaining a four-foot unobstructed surface, sidewalk signs are not allowed in that location.
 - g. On sidewalks with a boulevard, sidewalk signs shall be placed entirely in the boulevard.
- vi. Projecting Signs.

- a. The lowest point of any projecting sign, regardless of location, shall be at least eight (8) feet above grade.
- b. In Commercial and Industrial Zoning Districts, projecting signs shall not exceed twenty (20) square feet in total.

~~c.~~ In the Downtown Historic District, new projecting signs shall not exceed twenty (20) square feet in total, or, they must be determined to be consistent with existing historic signs within the district by the Historic Preservation Commission.

c.

- vii. Awning Signs. Awning signs may include signage printed directly on the awning or hung or attached to the awning structure. Total square footage of awning signage shall not exceed fifteen (15) square feet.
 - viii. 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.
5. 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:
- i. Temporary signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
 - ii. Directional signs for public facilities;
 - iii. Temporary banner signs not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.

~~H.G.~~ 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.

~~H.~~ 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.

~~H.I.~~ 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) for each violation. Each day that the violation continues shall be deemed a separate and punishable violation.

(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; Ord. No. 2090 , § 1, 11/5/20; Ord. No. 3040 , § 1, 4/4/23)

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

- A. Parking area design. Parking spaces and drive aisles for all commercial and industrial users shall meet the dimensions listed in Table 30.51 below.

Table 30.51. Commercial and Industrial Parking stall and drive aisle dimension requirements.			
Parking Angle	Parking Stall Length	Parking Stall Width	Drive Aisle Width One-Way/Two-Way
30°	18'6"	9'	13'/21'
45°	18'6"	9'	13'/21'
60°	18'6"	9'	16'/21'
75°	18'6"	9'	16'/21'
90°	18'6"	9'	—/24'

- Parking lots for all multi-family residential, commercial, industrial and mixed-use development shall be paved. Gravel parking areas are not permitted for any use other than single-family residential. Pervious pavers and green paving systems are encouraged.
 - Parking areas are encouraged to utilize as little land area as possible to meet the minimum parking standards. Overparking, or adding more parking spaces and area than required by the minimum standards, is highly discouraged.
 - To minimize vehicular conflicts on roadways and vehicular crossings of the sidewalk, the preferred access to parking areas for all uses are alleyways. Where alleyways are not an available or feasible option for parking access, uses are encouraged to utilize shared access points. Parking areas should be accessed from side streets rather than major roadways throughout the City.
 - All new commercial parking facilities with thirty (30) or more vehicular spaces shall provide a minimum of one (1) Electric Vehicle (EV) charging station for every thirty (30) spaces. EV charging stations shall be clearly marked and accessible.
 - Compact Parking: In parking facilities containing fifteen or more vehicular parking spaces, up to 20% of the required parking spaces may be reduced in size for the use of compact cars. Compact spaces shall be clearly identified with a sign permanently affixed immediately in front of each space designating the space as "Compact Cars Only." Spaces designed for compact cars may be reduced in size to a minimum of eight (8) feet in width and sixteen (16) feet in length.
- 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:
- 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.
 - For ~~multiple multifamily dwellings and townhouses~~ multiple multifamily dwellings: Off-street parking is required within a walking distance of one hundred (100) feet.
 - For ~~hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding~~ Hospitals, ~~sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding~~

~~houses; Institutions, and Adult Foster Care Centers, and Assisted Living Facilities.~~ Off-street parking is required within six hundred (600) feet.

4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.

5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear or side of the primary structure on the lot.

~~5.6. Compact parking spaces shall be located in one or more contiguous areas and/or adjacent to ingress-egress points within parking facilities. Location of compact car parking spaces shall not create traffic congestion or impede traffic flows.~~

C. Waiver of Parking Requirements – In accordance with 76-2-304 MCA, no minimum parking is required for the following uses:

1. Child-care facilities licensed or registered by the Department of Public Health and Human Services
2. Deed-restricted affordable housing
3. Assisted Living Facilities
4. Existing buildings, including vacant buildings, that undergo a change of use

~~D.~~ 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.~~ E. 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.~~ F. 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.~~ G. 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 ~~Zoning Coordinator~~ Zoning Administrator or their authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.

~~G.~~ H. Joint Use. The ~~Zoning Coordinator~~ Zoning Administrator or their authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

1. Up to fifty (50) 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 (100) 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.

3. In mixed-use developments, up to fifty (50) percent of the parking facilities required for the residential use may be supplied by the related day time commercial or light industrial uses. The commercial or light industrial use must be closed between 6:00 p.m. and 8:00 a.m. to be considered for joint use parking.

~~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.

I.

- ~~1.~~ 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.

1.

- ~~2.~~ The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.

2.

3. Required ADA accessible parking spaces may not utilize shared or off-site parking but must be located as near as possible to the entrance of the principle used served.

J. 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.~~

1. Residential dwelling in the Central Business District shall meet the full parking space requirements.

2. Required vehicular parking for commercial development may be reduced by 10% if replaced with bicycle parking. Two bicycle parking spaces must be provided for every one vehicular space reduced- eliminated from the required parking requirements.

~~H.~~K. 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. Required off-street parking spaces listed below are in addition to all ADA handicap parking spaces required by the Americans with Disability Act.

USE	SPACEMINIMUM OFF-STREET SPACES REQUIRED
Bowling alleys	Five <u>Two (2)</u> per alley.
Medical and dental clinic	One <u>(1)</u> per 200 <u>400</u> square feet of gross floor area.
Banks, business and professional offices with on-site customer service	One <u>(1)</u> per 400 square feet of gross floor area.
Offices not providing on-site customer services	One <u>(1)</u> per 4 employees or one per 800 sq. ft. square feet of gross floor area, whichever is greater.

Radio Stations	One (1) per 4 employees or one per 800 sq. ft. square feet of gross floor area, whichever is greater.
Mortuaries Mortuary	One (1) per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries	One (1) per 2 employees on maximum shift but not less than one per each 800 1,000 square feet of gross floor area.
Library or museumies and museums	One (1) per 500 square feet of gross floor area.
Schools, elementary and junior high	One (1) per each employee classroom.
School, high school	One Three (3) per each employee and one per 5 students classroom.
Service stations and drive-thru restaurants	One (1) per 80 sq. ft. square feet of gross floor area, with 10 spaces minimum requirement.
Residential, single family Dwelling Unit 1,200 sq. feet or larger	21 One (1) per dwelling-unit.
Residential, multi family Dwelling Unit less than 1,200 sq. feet	1 One-half (1/2) ½ per dwelling-unit.
Accessory dwelling Dwelling unit Unit	1 per dwelling-unit. None.
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 storage, wholesale business and freight transportation terminals	Ten (10) 10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Eating and drinking establishments (sit-down)	One (1) per 100 sq. ft. 400 square feet 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 (1) per 600 square feet of gross floor space area.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service	One (1) per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named	One (1) per 500 square feet of gross floor area.
Large-scale Retail	One (1) per 800 sq. ft. 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.
Short Term Rental (Types I and II)	One (1) per unit ⁶
Motels/Hotels	One (1) per sleeping room.
Hospitals/Institutions	One (1) per 3 beds plus one per 3 employees. patient room/patient space

⁶ Parking may be waived if the Zoning Administrator determines that site constraints prevent reasonable accommodation of on-site parking for the STR unit.

Theater s	One (1) per 10 seats.
Health and exercise establishment	One (1) per 200 square feet of gross floor area plus 3 per court
Church s	One (1) per each 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.
Open-air stadium s , sport arena s and amphitheater s	One (1) per 8 eight (8) fixed seats plus one (1) 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.	

~~J.~~L. For Multi-Family Developments with more than 10 units, Commercial Uses, or Industrial Uses,

U up to twenty (20) percent of the parking spaces required in the Table of Minimum Standards may be replaced by enlarged landscaped areas, stormwater swales, or social areas. Enlarged landscaped, stormwater, or social areas must be equivalent or greater in total square footage to the parking spaces being replaced.

~~K.~~M. 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.~~N. 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 (3) feet from the property line and shall be properly maintained.

~~M.~~O. 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.~~P. 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.~~Q. 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~~ their authorized representative.

~~P.~~R. Standards for Commercial and Industrial Uses.

1. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of ten thousand (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 (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (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. Loading areas shall be located to the rear of the building and shielded from view from the neighboring properties and rights-of way. Loading areas shall not extend into the public right-of-way.

2. Parking areas shall be located to the side and rear of the primary building on site.
3. Parking areas shall have engineered stormwater retention and/or detention systems consistent with the City of Livingston Design Standards and Specifications Policy to prevent runoff into adjacent properties and rights-of-way. Collected stormwater is highly encouraged to be reused to irrigate on-site landscaping.

~~Q.S.~~ Bicycle Parking.

1. Bicycle Parking Standards and Design.

- i. In all multi-family residential, commercial, industrial, and mixed-use development, the amount of provided bicycle parking shall be no less than ten (10) percent of the required automobile parking spaces. In buildings with less than twenty (20) parking spaces, two (2) bicycle parking spaces shall be required. Buildings with existing bicycle parking in the adjacent right-of-way may waive the required bicycle parking spaces if the number of bicycle parking spaces provided within the adjacent right-of-way is equal to or greater than the number of spaces required by this regulation. Where five (5) or more bicycle spaces are required, twenty (20) percent of those spaces shall be for bicycles with trailers.
- ii. A bicycle parking space shall be no less than three (3) feet wide by six (6) feet long. Bicycle with trailer spaces shall be no less than three (3) feet wide by ten (10) feet long.
- iii. ~~The preferred bike rack styles~~ Required Bicycle Parking must use ~~are inverted~~ inverted-U or post and loop racks.

2. Bicycle Parking Location.

- i. In all commercial, industrial and mixed-use development, bicycle racks designed to allow bicycles to be securely locked to them must be provided as close as possible to the main entrance of the building, and must be in a location visible from the public right-of-way.
- ii. Buildings with multiple entrances are highly encouraged to place bicycle racks at each entrance.
- iii. Multi-family residential developments are encouraged to provide secure and sheltered bicycle parking.

~~R.T.~~ Pedestrian Walkways. Multi-family residential, commercial, industrial, and mixed-use development shall provide pedestrian walkways. A system of pedestrian walkways is required to connect each primary use structure on-site to the following: adjacent public sidewalks, on-site parking, other on-site primary use structures, bicycle parking areas, and common outdoor use areas.

~~A. Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi family parking, loading 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.~~

- ~~1. General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought-resistant plantings and should be planted using a variety of species planted in an informal arrangement. The use of food-producing plantings and pollinator friendly plantings are preferred.~~
- ~~2.1. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.~~
- ~~3.1. Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.~~
- ~~4.1. Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.~~

~~B. A. Landscaping Requirements for the Interior of Parking Areas.~~

- ~~1. 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) deciduous 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.~~

~~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 lot area. 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 shall 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. (Ord. No. 2090 , § 1, 11/5/20; Ord. No. 3003 , § 1, 4/6/21; Ord. No. 3005 , § 2, 4/20/21; Ord. No. 3010 , § 1, 7/20/21; Ord. No. 3017 , § 1, 10/5/21; Ord. No. 3025 , § 1, 10/21/21; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)~~

~~C. A. **Sec. 30.52.** Fences and hedges.~~

- ~~1. 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.~~

~~2.1. 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.~~

~~a) 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. Prohibited Fences. No electric fences shall be permitted in any zoning district. No barbed wire fence shall be permitted in any residential zoning district. Prohibited Locations. No fence, wall or hedge shall be erected or maintained in a public street or right of way.~~

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

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.523. Animals.

Prohibited Animals. No livestock or fowl, as defined in Article II, ~~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, laying hens, and except for those kept pursuant to permit obtained ~~pursuant to Section 4-2~~ through the office of the Sanitarian.

Sec. 30.534. 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~~ Municipal Code.

Sec. 30.545. Home occupations.

A. General.

1. It is the intent of this ordinance to permit home occupations, as defined in Article II, that meet the following criteria in any residential district. ~~No other~~ Only home occupations ~~except those meeting this~~ that meet these criteria ~~will be~~ are 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.

~~2.~~

~~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 Commission only after a public hearing by the Board.~~

~~C.~~ B. 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 floor area devoted to the occupation shall not exceed fifteen (15) percent of the total floor area of the dwelling 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 under Sec. 30.50.
- ~~7.~~ ~~6. 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.~~ 7. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.
- ~~9.~~ 8. 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.~~ 9. Outdoor storage of materials for the home occupation is prohibited.
- ~~11.~~ No toxic, flammable, hazardous, or explosive industrial substances related to the home occupation 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.~~

~~12.10. 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:
 - ~~i. 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:~~
 - ~~ii. The business may have a sign; or~~
 - ~~iii. The business may create some additional traffic for deliveries and customers.~~
 - ~~iv. 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:~~
 - ~~v. The business shall not have a sign.~~
 - ~~vi. No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.~~
 - ~~vii. 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.
 - ~~i. The purpose of the Home Occupation Permit is to ensure compliance with this section of the Ordinance.~~
 - ~~ii. The Home Occupation Permit may be issued by the Zoning Coordinator upon application by the owner of a Home Occupation.~~
 - ~~iii. The application shall be accompanied by a floor plan for the residence with the area to be used for the business clearly marked.~~~~
- ~~3. All new Major Home Occupations shall be required to be reviewed by the City Commission for a Home Occupation Conditional Use Permit.~~

- i. ~~The Home Occupation Conditional Use Permit process shall be initiated by application to the City Zoning AdministratorCoordinatorAdministrator.~~
- ii. ~~The Zoning AdministratorCoordinatorAdministrator shall review the application for completeness and prepare it for review by the City Commission.~~
- iii. ~~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.~~
- iv. ~~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.~~
- v. ~~The City Commission shall conduct the public hearing and decide on the application.~~
- vi. ~~The City Commission shall have the power to require any mitigating measures it deems necessary to protect the public health, safety and welfare.~~

(Ord. No. 2022, § 3, 9/7/10; Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.556. Landscaping Regulations

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for development in ~~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 residential and existing incompatible uses and abutting or adjacent R-I or R-II zones~~ and to ~~lessen the impact of lighting.~~
- B. [Reserved.]
- 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. A variety of species planted in an informal arrangement. The use of xeriscaping, **native species**, edible plantings, and/or pollinator friendly plantings is preferred.
 - 2. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
 - 3. Landscaping shall give preference to **native and** drought-tolerant species and xeriscaping practices. Turf areas, **native species**, drought-tolerant or xeric plantings, and groupings of plants with similar water requirements shall be identified on the site or landscape plan.
 - 4. Landscaping shall not impede visibility as described in E.2.vii.b of this Section.

~~1.~~

E. Landscaping Requirements for Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family 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.

~~B.~~

1. 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.
 - i. 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.
 - ii. 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~~.
 - iii. Shade Trees. A minimum of one (1) tree per two hundred fifty (250) square feet of buffer zone shall be required. Preference shall be given to drought-tolerant or xeric tree species suited to the local climate. Shade trees are not specifically required, but may be used when appropriate. ~~All~~ Of required trees, deciduous trees shall be a minimum of two and one-half one and three-quarter (1 ¾) (2 ½) inches Diameter at Breast Height (DBH), and coniferous trees shall be a minimum of eight (8) feet in height, at the time of planting.
2. Buffering Required Along State Highways. Where parking areas abut Park Street (State Highway 89) or State Highway 10, a landscape buffer is required between any of the aforementioned roads and parking areas. Informal, clustered plantings are encouraged. Bicycle and walking pathways may be integrated into the buffer.
 - i. Buffer Zone. The buffer zone shall be a minimum of thirty (30) feet in width.
 - ii. Trees. A minimum of one (1) shade tree and one (1) evergreen tree per three hundred (300) square feet of buffer zone shall be required. ~~Trees required hereunder~~ Of required trees, deciduous trees shall be a minimum of ~~two and one-half (2 ½)~~ one and three-quarter (1 ¾) inches Diameter at Breast Height

(DBH), ~~in~~, and all coniferous trees shall be a minimum of eight (8) feet in height, ~~size~~ at the time of planting.

iii. 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. All lighting is required to comply with Article XI ~~in~~ of this Chapter ~~section~~.

a. 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.

~~ii~~.iv. 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.

v. Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking, loading 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.

a. General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought-resistant plantings and should be planted using a variety of species planted in an informal arrangement. The use of food producing plantings and pollinator friendly plantings are preferred.

b. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.

c. Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.

d. Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.

vi. Landscaping 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) deciduous 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 lot area. 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 shall 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.

vii. 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 setback or side street setback, 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.
- c. 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.

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

~~Sec. 30.56.1. Mobile homes.~~

~~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 (1) 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:~~

~~All mobile homes must be completely skirted.~~

~~All mobile homes must be securely anchored at all four (4) corners.~~

~~The running gear must be removed.~~

~~The tongue must be removed.~~

~~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.~~

~~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. No. 3013, § 2, 8/17/21}~~

~~Sec. 30.56.2. Manufactured homes.~~

~~Manufactured homes are permitted in all residential zoning districts. Any manufactured home or replacement of any existing manufactured home must contain a minimum of three hundred twenty (320) square feet.~~

~~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.~~

~~All manufactured homes must be certified by the U.S. Department of Housing and Urban Development (HUD) and have a certification label as required by HUD standards.~~

~~(Ord. 1813, 8/21/95; Ord. No. 2074, § 1, 11/20/18; Ord. No. 3013, § 2, 8/17/21)~~

~~Sec. 30.56.3. Modular homes.~~

~~Modular homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.~~

~~All modular homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing type, perimeter foundation built to frost depth, with or without a basement.~~

~~(Ord. No. 3013, § 2, 8/17/21)~~

~~Sec. 30.56.4. Tiny homes.~~

~~A. Tiny homes are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.~~

~~B. All tiny homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing type, perimeter foundation built to frost depth, with or without a basement.~~

~~(Ord. No. 3013, § 2, 8/17/21)~~

~~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.~~

~~Townhouses are permitted in RII, RII(MH) and RIII districts only.~~

~~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:~~

~~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.~~

~~[Reserved.]~~

~~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.~~

~~General Landscaping Requirements. Landscaping shall be required as follows:~~

~~A variety of species planted in an informal arrangement. The use of xeriscaping, edible plantings, and/or pollinator friendly plantings is preferred.~~

~~Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.~~

~~Landscaping shall give preference to drought-tolerant species and xeriscaping practices. Turf areas, drought-tolerant or xeric plantings, and groupings of plants with similar water requirements shall be identified on the site or landscape plan.~~

~~Landscaping Requirements for Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family 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.~~

~~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.~~

~~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.~~

~~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.~~

~~:~~

- ~~i. — Shade Trees. In addition, a~~A ~~minimum of one (1) shade tree per two hundred fifty (250) square feet of buffer zone shall be required. Preference shall be given to drought tolerant or xeric tree species suited to the local climate. Shade trees are not specifically required hereunder, but may be used when appropriate. All required trees shall be a minimum of two and one half (2 ½) inches, DBH, in size at the time of planting.~~

~~3. — Buffering Required Along State Highways. Where parking areas abut Park Street (State Highway 89) or State Highway 10, a landscape buffer is required between any of the aforementioned roads and parking areas. Informal, clustered plantings are encouraged. Bicycle and walking pathways may be integrated into the buffer.~~

- ~~i. — Buffer Zone. The buffer zone shall be a minimum of thirty (30) feet in width.~~

~~ii. —~~

- ~~ii. — 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. All lighting is required to comply with the adopted Night Sky Protection Act~~section.

- ~~a. — 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.~~

~~b. 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:~~

~~i. 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.~~

~~iii. 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.~~

~~Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking, loading 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.~~

~~General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought resistant plantings and should be planted using a variety of species planted in an informal arrangement. The use of food producing plantings and pollinator friendly plantings are preferred.~~

~~Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.~~

~~Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.~~

~~Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.~~

~~Landscaping Requirements for the Interior of Parking Areas.~~

~~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) deciduous 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.

- ~~a.~~ 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 lot area. 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 shall 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.

— Fences and hedges.

— 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.

— 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.

- ~~b.~~ 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.

~~i.~~ —

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

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

(Ord. 1852, 4/21/97; Ord. No. 3010 , § 1, 7/20/21)

Sec. 30.567. Wind-pPowered gGenerators.

- A. Conditional Use. Wind-powered generators (WPG), as defined in Article II, are permitted upon the issuance of a Conditional Use permit within any zone, provided the following standards, and any related conditions imposed by the City Commission, 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. A receipt showing payment of all applicable fees to the City must be included with the permit application.
 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 WPG 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.
- B. 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. 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.
1. The City Commission 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 City Commission'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 City Commission, and shall comply with the following standards:
 - i. Building mounted WPG shall not exceed fifteen (15) feet in height.
 - ii. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
 - iii. 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.

- iv. Building mounted WPG shall be installed on the top story.
 - v. 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.
- C. 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.
- D. 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 City Commission.
 - 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 WPG.
- E. 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.
- F. Control and Brakes. All WPGs 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.
- G. 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.
- H. Aesthetics. WPG colors shall be of neutral subdued tones such that blend in with the surrounding natural environment, such as tan, green, brown or gray. 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.
 - I. 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.
 - J. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the City Commission, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the City Commission 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.
 - K. 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 City Commission. 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.
 - L. Application of Nuisance Law. If, after a Special Exception permit is issued, by the City Commission for a WPG, and the same WPG fails to comply with any part of this Section, it may be deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.

(Ord. No. 2002, § 1, 8/4/08)

Sec. 30.5956.1. Wind-powered generators.

Definitions:

Conditional Use.

~~"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.~~

~~"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.~~

~~1. "Tower", as used herein, includes the support structure and all components of the WPG.~~

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

~~— A receipt showing payment of all applicable fees to the City must be included with the permit application.~~

~~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.~~

~~— 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. 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.~~

~~— "Tower", as used herein, includes the support structure and all components of the WPG~~

~~C. —~~

~~1. The Board of Adjustment City Commission 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 City Commission'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 City Commission, and shall comply with the following standards:~~

~~i. Building mounted WPG shall not exceed fifteen (15) feet in height.~~

~~ii. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.~~

- iii. ~~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.~~
 - iv. ~~Building mounted WPG shall be installed on the top story.~~
 - v. ~~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) dbdB 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 City Commission.~~
 - 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 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 that blend in with the surrounding natural environment., such as tan, green, brown or gray. 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 City Commission, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of Adjustment City Commission 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 City Commission. 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 City Commission for a WPG, and the same WPG fails to comply with any part of this Section, it may be deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.~~

~~(Ord. No. 2002, § 1, 8/4/08)~~

~~Editor's note(s)—Ord. No. 2002, § 1, adopted Aug. 4, 2008, amended Ch. 30 with the addition of a new, unnumbered section. Said section has been numbered § 30.59.1 at the discretion of the editor.~~

Sec 30.5778. Short-Term Rentals

- A. The purpose of this section is to allow the operation of short-term rentals (STRs) while protecting the health, safety, and welfare of the community, preserving neighborhood character, and ensuring accountability by operators.
- B. Short-term rentals are permitted in zones as identified in Section 30.40. Section 30.40 distinguishes between Type I STRs and Type II STRs, which are defined in Article II.
- C. Permit Required
 - 1. All STR operators must obtain a short-term rental permit from the city prior to operation.
 - 2. Permits must be renewed annually and are subject to a base annual fee as set by the city fee schedule
 - 3. Operating an STR without a valid permit is a violation of this code and subject to enforcement.
- D. Type II STR Additional Requirements
 - 1. A Type II STR must designate a primary contact who is available at all times during rental occupancy.
 - 2. The designated contact must reside or have a place of business within a 50-mile radius of the rental property.
 - 3. The contact must be authorized to respond to complaints or emergencies and take corrective action if necessary.
- E. Safety Inspection
 - 1. Prior to issuance of an initial STR permit, the property must pass a basic safety inspection conducted by the {Building Official or Fire Marshal}.
 - 1. The inspection shall verify the presence of smoke detectors, fire extinguishers, and adequate egress.
 - 2.
- ~~A. G.~~ Compliance with Other Regulations
- ~~B.~~
- ~~F.~~
 - 1. STRs must comply with all other applicable City of Livingston Ordinances, Regulations and Standards.

Article X. — Environmental Protection and Sensitive Areas

Sec 30.589. Environmental Protection and Sensitive Areas

Sec 30.100598.1. —Purpose and Intent

The purpose of this Article section is to protect the natural resources and environmental integrity of Livingston and the surrounding region, including the Yellowstone River corridor, flood-prone areas, and hillsides. These regulations promote support public safety, preserve ecological functions, reduce hazards associated with flooding and erosion, protect water quality by reducing surface runoff and mitigating sediment migration, and ensure that development aligns with Livingston's values and natural setting.

Sec 30.10598.21. –Applicability

This ~~Article~~ section applies to all new and re-development activities that encroach into, or will otherwise impact, sensit~~ive~~, subdivisions, grading, and land-disturbing activities proposed within or adjacent to identified sensitive environmental areas, including:

- ~~— FEMA-designated floodplains and floodways~~
- ~~— Federally-designated Riparian Areas and Wetlands. corridors along the Yellowstone River and its tributaries~~

A. ~~_____~~

- B. Steep ~~s~~Slopes~~-,~~ defined as ~~areas with an~~ having an average grade of 20% or greater, measured over a horizontal distance of 50 feet

Development within ~~} FEMA-designated Floodplains and Floodways~~ is regulated by Chapter 29 of this code.

- ~~— Areas of known~~G~~ geologic hazard areas, including slopes subject to erosion or landslides~~landslide-prone slopes and areas of erosion risk~~~~
- ~~— Wetlands, springs, and hydric soils~~
- ~~— Wildlife habitat or migration corridors identified by the Montana Department of Fish, Wildlife & Parks (FWP) or other adopted local or regional studies~~

Sec 30.102 – Definitions

Sensitive Environmental Areas: Land and water areas that provide important ecological functions or pose physical constraints to development due to natural hazards.

Riparian Area: Vegetated ecosystems along water bodies that support a high level of biodiversity and play a role in flood mitigation and water quality.

Mitigation: Actions taken to offset negative impacts to sensitive environmental areas through restoration, enhancement, or preservation.

Critical Areas Report: A site-specific analysis prepared by a qualified professional that evaluates existing natural features when required by the Planning Department and identifies any necessary mitigation.

Qualified Professional: A person with demonstrated expertise in biology, hydrology, geology, or a related field appropriate to the sensitive area being evaluated.

Sec 30.103598.3. –General Standards for Development

A. Avoidance ~~First~~

~~Si~~Site design should avoid impacts to sensitive environmental areas where feasible, including disturbance during construction. If no feasible alternative exists, encroachment may be allowed only if appropriate mitigation measures are implemented~~Encroachment may only occur if no practicable alternative exists, and all feasible mitigation measures are implemented.~~

B. Low-Impact Development (LID)

~~Techniques such as native landscaping, pervious pavement, bioswales, and rain gardens are encouraged to protect water quality and reduce surface runoff.~~

~~—Riparian Floodplain ...Ch 29 of code~~

C. Setback Requirements

~~Minimum setbacks~~A buffer of at least 10-feet from the ordinary ~~high-water~~high-water mark of a perennial stream shall ~~apply~~ be observed within which no construction is allowed. ~~and appropriate erosion control measures are maintained, unless modified through variance, special review, or when a qualified professional demonstrates that a reduced setback will provide equal or better protection.~~

D. Hillside and Slope Development

~~—Construction on slopes between 16–25%over 20% grade is discouraged. Applicants must include erosion control and slope stabilization measures that mitigate any runoff.~~

~~Construction on slopes~~ must include mitigation measures to prevent downslope impacts.

~~—exceeding 30% is strongly discouraged and may be subject to additional review. Applicants must must include erosion control and slope stabilization measures that mitigate runoff.~~

~~—demonstrate safe grading practices and slope stabilization.~~

~~Low Impact Development (LID)~~

~~1.~~

~~Techniques such as native landscaping, pervious pavement, bioswales, and rain gardens are encouraged to protect water quality and reduce surface runoff.~~

Sec 30.104589.4. –Mitigation Requirements

A. Riparian Areas

Appropriate erosion control measures are required for disturbance adjacent to the required 10-foot riparian setback area.

B. Steep Hillside ~~and Slopes~~

Disturbance to slopes exceeding 25% grade require appropriate erosion control and slope stabilization measures to minimize sediment migration and runoff.

C. Mitigation Plan

For mitigation required under this section, a Mitigation Plan must be submitted at the time of building permit application that includes the following information:

~~A mitigation plan is required if impacts to sensitive environmental areas cannot be avoided. The plan shall:~~

- ~~1. Describe the scope of impacts~~
- ~~2. Identify mitigation locations and strategies~~
- ~~3. Include a maintenance and monitoring schedule and removal timeline (if applicable).~~

~~— Demonstrate how no net loss of ecological function will be achieved~~

~~A mitigation plan is required if impacts to sensitive environmental areas cannot be avoided. The plan shall:~~

~~— Describe the scope of impacts~~

~~— Identify mitigation locations and strategies~~

~~— Include a maintenance and monitoring schedule~~

~~— Demonstrate how no net loss of ecological function will be achieved~~

~~— Mitigation Standards~~

~~Required mitigation ratios will depend on the resource affected and degree of impact. For example:~~

~~— Wetlands: 1:51:1 acreage replacement for permanent impacts~~

~~— Riparian buffer: 1:1 vegetation restoration for disturbed area~~

~~— Steep slopes: Erosion control and replanting with native species~~

~~— Off-Site and In-Lieu Options~~

~~Off-site mitigation within the Yellowstone River corridor or participation in a local conservation or watershed program may be approved when on-site mitigation is not feasible.~~

Sec 30.105598.5. –Review and Approval Process of Mitigation Plan

~~— Application Requirements~~

~~Applications for development in sensitive environmental areas must include:~~

~~— Site plan with existing natural features clearly mapped~~

~~— Critical Areas Report (if applicable)~~

~~— Mitigation Plan (if applicable)~~

A. Review Authority

~~The Planning Department and Zoning Coordinator~~Zoning Administrator will review submittals for compliance. External consultation with agencies such as Montana DEQ, FWP, or FEMA may be required.

~~— Conditions of Approval~~

~~Conditions may be imposed to ensure long term environmental protection, such as:~~

~~— Conservation easements~~

~~— Protective fencing during construction~~

~~— Maintenance bonding or monitoring reports~~

Sec 30.106589.6. –Relationship to State and Federal Requirements

- A. Compliance with this Article does not exempt applicants from Montana DEQ, DNRC, U.S. Army Corps of Engineers, or FEMA requirements. Where applicable, local approval is contingent upon obtaining required state and federal permits.

Article XVI. Dark Sky

Sec 30.20060. –Purpose and Intent

Montana is famous for its big sky and its nighttime sky is equally as dramatic. The City of Livingston, Montana, recognizes that its nighttime sky is unique and valuable to the community. It is the purpose and intent of this Chaptersection to promote the public health, safety and welfare, the quality of life, and the ability to view the night sky, by establishing regulations for nighttime exterior lighting while maintaining adequate lighting for safety and security of City residents and visitors. This Chapter establishes standards for exterior lighting in order to accomplish the following:

- A. To protect against direct glare and excessive nighttime lighting;
- B. To provide safe public ways for motorists, pedestrians and bicyclists;
- C. To prohibit skyward lighting and thereby reclaim the ability to view the night sky by promoting the reduction of light pollution that interferes with viewing the night sky;
- D. To prevent light trespass in the City;
- E. To promote efficient and cost-effective lighting;
- F. To ensure that adequate lighting exists where necessary to promote safety and security;
- G. To encourage lighting practices and systems which will minimize light pollution and glare; and
- H. To reduce energy waste

Sec 30.201 –Definitions

Words and phrases used in this Chapter, unless the context clearly indicates otherwise, mean as follows:

"Direct light" means unshielded light emitted from an artificial light source, off of its reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.

"Existing street lighting" means those streetlight fixtures in operation as of January 1, 2006.

"Historic streetlight" means streetlight fixtures manufactured before January 1, 1950, and streetlight fixtures manufactured after 1950 that are designed to replicate streetlight fixtures manufactured before January 1, 1950, and which are in use in the City as of January 1, 2006.

"Fixture" means the assembly that holds the lamp in a lighting system. It includes the elements designed to give light output control, such as a reflector (mirror) or refractor (lens), the ballast housing, and the attachment parts.

"Light source" means artificial light emitted from a fixture lamp, lens, or mirror. Light which is reflected after leaving the fixture does not constitute a light source.

"Light trespass" means the shining of direct light from the property upon which the light source is situated onto other property, either public or private, i.e., a person standing upon their own property or upon public property who can see an unshielded artificial light source upon the property on which the light source exists, experiences light trespass.

"Luminaire" means a complete lighting system, including lamp(s) and the fixture.

"Luminaire footcandle" means the total footcandle for exterior lights shall be measured from three (3) feet above the ground level directly underneath the light with the measuring instrument held in the horizontal plane.

Shielded, Fully or Directionally Shielded. "Fully shielded" means an outdoor light fixture either by design or by an externally applied device that blocks the transmission of light, except downward below the horizontal plane running through the lowest point on the fixture, i.e., light is directed only downward beneath the fixture's light source. "Directionally shielded" means an outdoor light fixture either by design or by an externally applied device that directs light downward and away from property subject to light trespass thereby limiting the direct line-of-sight of the fixture's light source to the property upon which the fixture is installed.

Sec 30.20261. —Prohibited Lights

- A. Skyward Light Prohibited. All outdoor lighting fixtures shall be fully shielded so that no light is emitted above a horizontal plane passing through the lowest point of the light source, i.e., light is to be directed only downward beneath the fixture's light source.
- B. Mercury Vapor Prohibited. No mercury vapor outdoor lighting fixtures shall be installed in the City after the effective date of the ordinance codified in this Chapter.
- C. Laser Lights Prohibited. The use of laser source lights or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.
- D. Moving Light Prohibited. Except as provided in the exemptions, lights that flash, chase, move, revolve, rotate, blink, flicker, or vary in intensity or color are prohibited.
- E. Searchlights Prohibited. The operation of searchlights for advertising or entertainment purposes is prohibited.

Sec 30.20362. —Lighting Standards

- A. Directional Shielding. All outdoor lighting shall be directionally shielded and maintained so as not to impair the vision of the operator of a motor vehicle, cyclist, or pedestrian using the public right-of-way.
- B. Light Trespass Prohibited. All outdoor lighting shall be directionally shielded and maintained so as not to constitute a light trespass.
- C. Permitted Hours of Use, Exceptions. Except for residential lights, streetlights and security lighting, all lighting shall be turned off between eleven (11) p.m. and sunrise. Exceptions shall be granted to those businesses which are actually open for business during the hours between eleven (11) p.m. and sunrise.

D. Exterior Lighting Standards. Exterior lights shall meet the following standards measured in luminaire footcandles:

	<u>Maximum Footcandle</u>
<u>Building Entrances</u>	
<u>Active (pedestrian and/or conveyance)</u>	<u>5</u>
<u>Inactive (normally locked, infrequently used)</u>	<u>5</u>
<u>Building Exteriors</u>	
<u>Vital locations or structures</u>	<u>5</u>
<u>Building surrounds</u>	<u>1</u>
<u>Floodlit buildings and monuments</u>	<u>10</u>
<u>Loading and unloading platforms</u>	<u>20</u>
<u>Automated teller machines</u>	<u>20</u>
<u>Service Stations</u>	
<u>Approach</u>	<u>1.5</u>
<u>Driveway</u>	<u>1.5</u>
<u>Pump island</u>	<u>20</u>
<u>Service area</u>	<u>3</u>
<u>Storage Yards</u>	
<u>Active</u>	<u>20</u>
<u>Inactive</u>	<u>10</u>
<u>Retail Outdoor Lighting</u>	<u>10</u>
<u>Parking Lots</u>	<u>5</u>

Sec 30.20463.- Compliance Deadline

Except as hereinafter provided, all outdoor light fixtures lawfully installed prior to and operable on the effective date of the ordinance codified in this Chapter shall be brought into compliance with the requirements of this Chapter on or before December 31, 2010; however, such noncomplying lights shall immediately meet the shielding requirements of this Chapter. Prior to December 31, 2010, when any noncomplying light is either repaired or replaced, such repair or replacement shall meet all the provisions of this Chapter.

Sec 30.20564.- Exemptions

- A. The following are exempt from the requirements of the Night Sky Protection Act:
1. Outdoor lighting fixtures used on land or facilities under the control of the Federal Government;
 2. Navigational lighting systems at airports and other lighting necessary for aircraft safety or any other lights required by State or Federal law;
 3. Recreational facilities during events, but under no circumstances shall any illumination occur one (1) hour after the event concludes;

4. Lights used for holiday decorations, but only during the month in which the holiday occurs;
5. Motion detector lights that operate automatically for periods of less than five (5) minutes so long as they do not create a light trespass;
6. U. S. flags displayed by top-mounted lighting on a twenty-four (24) hour basis or by illumination directed upward so that the light is directed only onto the flag from a light source that does not exceed two hundred sixty-five thousand (265,000) mean lumens;
7. Temporary variances granted by the City Commission for special events;
8. The City Manager may grant temporary exemptions from the provisions of this Chapter for lighting of construction sites, including night security during construction, upon consideration of a lighting mitigation plan submitted by the owner of the construction site or the owner's representative. Criteria for approval include duration, number, location, and height of each light source, and hours of operation.
9. Lights used during emergencies or by police, fire, public works and public utility personnel in their official duties are exempt from this Chapter;
10. Traffic signals and other traffic safety and control devices are exempt from the requirements of this Chapter;
11. Historic streetlights are exempt from the requirements of this Chapter. Historic street lighting must, to the extent possible, utilize and orient the lighting so as to accommodate the aesthetic values of the surrounding area while minimizing light trespass through directional shielding;
12. Low amperage decorative lighting used to illuminate pedestrian pathways and walking malls are exempt from the requirements of this Chapter;
13. One (1) light fixture with a sixty (60) watt incandescent lamp/bulb or less wattage contained within a frosted globe per exterior door;
14. Outdoor advertising signs in compliance with the City of Livingston's sign regulations (Section 30.50 of the Livingston Municipal Code) constructed of translucent materials with dark backgrounds and light lettering or symbols which are wholly illuminated from within do not require shielding;
15. Outdoor lighting fixtures necessary for worker safety or in situations where other compelling safety interest may exist which cannot be addressed by another method of lighting, but such exception must be approved by the City Commission;
16. Neon signs and existing lighted signs in the downtown historic 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.

Sec 30.206. -- Street Lighting

—Streetlights.

All street lighting must be configured with a directional shield with horizontal cutoff which is positioned to minimize any objectionable direct light and to redirect light onto the public way and away from residences so as not to create light trespass.

Bulb Type. Mercury vapor bulbs or lamps may not be used in streetlights.

~~— Nonconforming Streetlights:~~

All existing street lighting fixtures, not otherwise exempt, that are in violation of this Chapter are permitted as nonconforming street lighting until January 1, 2017; after which time, all street lighting fixtures must comply with the requirements of this Chapter. Any replacement or repair of a fixture on a nonconforming streetlight before January 1, 2017, must be brought into compliance with this Chapter.

The City Manager must submit a plan to the City Commission no later than January 1, 2007, for its approval to bring street lighting fixtures into compliance with the requirements of this Chapter. Thereafter, each year for the next ten (10) years, not less than ten (10) percent of nonconforming street lighting fixtures identified in the compliance plan shall be retrofitted to comply with the requirements of this Chapter.

Sec 30.207665.— Complaint and Notice of Violation Procedure

The City, an owner or occupant of private property, a pedestrian or driver of a motor vehicle experiencing light trespass from a light may file a complaint with the City. Within ten (10) working days from the filing of the complaint, the City shall investigate whether the light is causing light trespass on private or public property. If the light is causing light trespass, the City shall give written notice to the owner or occupier of the property upon which the light is located to remedy the light trespass within fifteen (15) calendar days. Failure to remedy the light trespass may result in the person owning or occupying the property upon which the offending light is located to be cited for a violation of this Chapter. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.

Sec 30.209766.— Violation and Civil Penalty

It is unlawful to install or operate any lighting fixture in violation of this Chapter or to allow or permit light trespass to occur. Any violation of any provision of this Chapter is a municipal infraction punishable as follows:

- A. For a first offense, the offender may be issued a warning.
- B. For a second offense that continues for thirty (30) days from the date of the warning, by a civil penalty of not more than Twenty-Five Dollars (\$25.00) minus the replacement cost for each offending fixture.
- C. A third or subsequent offense is punishable by a civil fine of not more than Fifty Dollars (\$50.00).

Sec 30.2100867.— Public Nuisance

A light trespass is deemed a public nuisance. The City Attorney may, in a court of competent jurisdiction, seek appropriate equitable relief in enforcing this Chapter, including, but not limited to, injunctive relief.

Article VII. Non-conforming Lots, Uses and Structures

Sec. 30.~~60~~70. Intent.

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

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

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

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

Sec. 30.~~61~~71. Non-conforming lots of record.

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

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

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.~~62~~72. Non-conforming uses of land and structure.

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

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

(Ord. 1763, 4/4/94)

Sec. 30.~~63~~73. Non-conforming structures.

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

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

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

(Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3005 , § 2, 4/20/21)

Sec. 30.6474. Exemption for non-conforming residential structures.

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

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

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

Article ~~VIII~~VII. Zoning ~~Commission~~Actions and Procedures

Sec. 30.7080. ~~Consolidated Zoning commission~~Land Use Board acting as the Zoning Commission.

There is created for the City of Livingston a ~~Consolidated Zoning Commission~~Land Use Board~~Zoning Commission~~, as provided by statute, the duties of which are performed by the ~~Consolidated~~ Land Use Board. ~~The Zoning Commission consists of } as provided by statute, consisting of seven~~ive (57) citizen members, ~~and one City Commissioner (non-voting),~~ appointed by the ~~Chair~~entirety of the City Commission ~~and subject to the confirmation of the City Commission. Terms of each member shall run concurrent with the term of the Chair. For purposes of this title, the Consolidated Land Use Board shall serve as the City's Zoning Commission.~~

- A. Powers and Duties. The duties and powers of the ~~Zoning Commission~~Land Use Board~~Zoning Commission~~ shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and to make recommendations to the City Commission on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The City Commission shall not hold its public hearings or take action until it has received a final report from the ~~Zoning Commission~~Zoning Commission~~Land Use Board~~.
- B. Proceedings of the ~~Zoning Commission~~Zoning Commission~~Land Use Board~~. The ~~Zoning Commission~~Zoning Commission~~Land Use Board~~ shall hold its meetings in the City-County Complex. ~~Five (5) voting members and the presence of three (3) members~~ shall constitute a quorum.

The ~~Zoning Commission~~Zoning Commission~~Land Use Board~~ shall keep minutes of their proceedings, showing the vote of each member, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the ~~Zoning~~

~~Coordinator~~Zoning Administrator. ~~The official minutes of the Zoning Commission~~Land Use Board's proceedings shall be signed by the Chair or acting chair and attested to by the secretary.

(Ord. 1868, 2/2/98; Ord. No. 3005 , § 2, 4/20/21)

Sec. 30.7181. Amendments to city zoning ordinance and zone change.

A. General. This ~~chapter~~Chapter, including the Official Zoning Map, may be amended by the City Commission by ~~a regular~~adopting an ordinance ~~amendment, but no amendment shall become effective unless it shall have been submitted to,~~ after at least one public hearing before the City ~~Zoning~~ Commission. Applications for review according to amendments to this eChapter or the Official Zoning Map shall follow the procedures outlined in this Section ~~30.71.F and recommendation.~~

~~A.~~

B. ~~Applications for~~ Map Amendments ~~Procedure~~

1. Applicability and Initiation. Unless initiated by the City Manager, ~~the Land Use Board, or the City Commission or the Zoning Commission, all,~~ applications ~~for to amend the~~ Official Zoning Map ~~amendments must shall~~ be submitted by the ~~owner of such~~ property. ~~An application for an owner.~~
2. Public Hearing Requirement. ~~No~~ amendment to the zoning map shall become effective until after a public hearing at which interested parties and citizens have an opportunity to be heard. Notice of the hearing must be published in an official newspaper or a newspaper of general circulation at least fifteen (15) days before the hearing date
3. Adoption by Resolution. If the amendment involves only a boundary change to the zoning map, the City Commission may adopt the boundary change by resolution. Such action shall become effective immediately upon adoption
4. Frequency of Applications. ~~No application~~ affecting the same property shall ~~not~~ be submitted more ~~often~~ than once every twelve (12) months. ~~unless a substantial change in circumstances is demonstrated.~~

~~1.~~

~~B.C. Applications for Text Amendments. Unless initiated by the City Manager, City Commission or the Zoning Commission, all applications for text amendments to this chapter must be submitted by the owner of property within the City of Livingston.~~ Each application to amend the Official Map shall be filed with the ~~Zoning Coordinator~~Zoning Administrator, and each application shall be submitted under the following conditions:

1. It shall include, but not be limited to, the following information:
 - i. A legal description of the tract(s) proposed to be re-zoned;
 - ii. A map showing the dimensions, acreage and location of the tract(s) and adjacent land uses;
 - iii. A completed City Zoning Map Amendment application form.
 - iv. The names and addresses of the owners of the adjacent ~~land~~parcels;
 - v. A receipt showing payment of all applicable fees to the City.

2. An application for amendment to the Official Map shall be submitted at least ~~twenty~~ (20thirty (30)) days prior to the date of the public hearing before the Consolidated Land Use Board~~City Commission~~.

~~2. Once legal notice for the final City Zoning Commission.~~

3. ~~An application for public hearing has been published,~~ a zone change application may not be withdrawn or amended ~~after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission.~~ An applicant may be ~~allowed to~~ withdraw their application at the ~~time of the Zoning Commission~~Land Use Board public hearing if approved by a majority vote of the members present ~~without requiring. Such a withdrawal does not require City Commission approval of the withdrawal and without prejudice with respect to~~does not trigger the twelve (12) month waiting period ~~providing, however, that. However,~~ no application ~~be allowed to~~may be withdrawn more than once within ~~the~~ twelve (12) months from its original submission date.

~~C.D.~~ Applications for Text Amendments. ~~month period after~~Unless initiated by the City Manager, or City Commission or the application shall have first been~~Zoning Commission~~Land Use Board, all applications for text amendments to this Chapter ~~chapter~~must be submitted by one or more owners of property within the City of Livingston. Each application to amend the text of this Chapter ~~chapter~~ shall be filed with the ~~Zoning Coordinator~~Zoning Administrator, and each application shall be submitted under the following conditions:

1. It shall include, but not be limited to, the following information:

- i. The proposed change of the text and that portion of the text proposed to be changed.
- ii. A completed City application form.
- iii. A receipt showing payment of all applicable fees to the City.
- iv. An application for amendment to the text of this Chapter ~~chapter~~ shall be submitted at least ~~twenty~~ (20thirty (30)) days prior to the date of the public hearing before the

~~iv.v.~~ City Zoning CommissionLand Use Board.

- vi. An application for a text amendment may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission. An applicant may be allowed to withdraw at the time of the ~~Zoning Commission~~Land Use Board hearing by a majority vote of the members present without requiring City Commission approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

~~v.~~

E. ~~Zoning Coordinator~~Zoning Administrator's Study and Responsibility. The ~~Zoning Coordinator~~Zoning Administrator, upon receiving an application for re-zoning of an area or a particular piece of property or for an amendment to the text shall do the following:

~~D.~~

1. Consult with other departments of the City or County to evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
2. Study each application with reference to its appropriateness and effect on existing and proposed land use;

~~3. In the case of a protest petition filed in the matter of an application for re-zoning, determine the validity of such petition;~~

~~4.~~3. Advertise in the legal newspaper fifteen (15) days in advance of the time and place of the public hearing.

~~5.~~4. In the case of an amendment to the Official Zoning Map, notify, by ~~certified, return receipt requested~~ mail, the applicant and all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the re-zoning: of the time, date, place of the public hearing and the existing and proposed land use classification. Such notification shall be mailed to the applicant and the surrounding property owners no sooner than fifteen (15) days and no later than five (5) days prior to the date of the public hearing. Post the subject property not less than five (5) days prior to the public hearing. Posted notice shall include the nature of the change being requested as well as the time, date and location of the public hearing;

5. Report the findings and conclusions, in writing, to the ~~City Zoning Commission~~Land Use Board ~~at least ten (10) days prior to the public hearing~~. Such report shall be a matter of public record, and shall be forwarded to the City Commission with the ~~Zoning Commission~~Land Use Board's recommendation after the public hearing.

~~6.~~

~~E.F. City Zoning Commission~~Land Use Board Action. The ~~City Zoning Commission~~Land Use Board shall review and take action upon each application in accordance with the provisions of this article, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the ~~Zoning Commission~~Land Use Board by the ~~Zoning Coordinator~~Zoning Administrator, together with their findings and conclusions on the matter. A written report of the ~~Zoning Commission~~Land Use Board's decision and the ~~Zoning Coordinator~~Zoning Administrator's findings and conclusions including the basis for the decision shall be submitted to the City Commission.

The ~~City Zoning Commission~~Land Use Board shall make a recommendation to the City Commission to:

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

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

No member of the ~~Zoning Commission~~Land Use Board may vote on any request which they or any partner has worked, or in which they or any partner has any financial interest or ownership.

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

~~F.G.~~ City Commission Public Hearing. Before taking action on an application for an amendment to the Official Map or text of this ~~Chapter~~chapter, and after presentation of the ~~Zoning Commission~~Land Use Board report, the City Commission shall hold a public hearing on the application.

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

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

(Ord. 1861, 6/16/97; Ord. 1868, 2/2/98; Ord. No. 2004, § 1, 8/4/08; Ord. No. 2091, § 1, 11/5/20; Ord. No. 2093, § 1, 11/5/20)

~~Sec. 30.72. Reserved.~~

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

~~Sec. 30.73~~382. Hearings, appeals, notices Appeals.

- A. Right to Appeal. An appeal may be filed by any person, group, organization, taxpayer, or City officer, department, or board that is aggrieved by a decision made in the interpretation, administration, or enforcement of the City's zoning regulations.
- B. What May Be Appealed. Appeals may be taken from any order, requirement, decision, or determination made by an administrative official in the enforcement or interpretation of the City's zoning regulations.
- C. Filing an Appeal. A party seeking to file an appeal must submit a written appeal application to the Planning Department, together with payment of all applicable fees. The appeal shall state the decision being appealed, the alleged error, and the grounds for the appeal. Appeals must be filed within thirty (30) days of the decision being appealed.

- D. Hearing and Notice.** The City Commission shall hear and decide appeals in accordance with this section. The Commission shall set a hearing date within thirty (30) days of receiving a complete appeal. Public notice of the hearing shall be provided, and notice shall also be given to the parties of interest. At the hearing, any party may appear in person or by attorney to present evidence and argument. The Commission shall render a decision within ten (10) days following the close of the hearing.
- E. Effect of Filing an Appeal.** The filing of an appeal shall stay all proceedings in furtherance of the action appealed from. However, the administrative official from whom the appeal is taken may certify to the City Commission that a stay would, in the official's opinion, cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by order of the City Commission or a court of record.
- F. Decisions of the City Commission.** In deciding an appeal, the City Commission may reverse, affirm, or modify the order, requirement, decision, or determination appealed, in whole or in part. The Commission shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of four (4) members of the City Commission shall be required to reverse any administrative decision or to decide in favor of the appellant.
- G. Judicial Review.** Any person aggrieved by a decision of the City Commission under this section, or any taxpayer, or any City officer, department, or board, may present to a court of record a petition specifying the grounds upon which the decision is alleged to be illegal, in whole or in part. Such petition must be filed within thirty (30) days of the City Commission's decision.
- A.H. Limitations on Re-Hearing.** If an appeal is denied by the City Commission, no new appeal regarding the same matter shall be filed within one (1) year of the date of denial, unless the City Commission finds that a substantial change in circumstances has occurred that would warrant a new hearing.

~~**A. Right to Appeal.** An appeal may be filed by any person, group, organization, taxpayer, or City officer, department, or board that is aggrieved by a decision made in the interpretation, administration, or enforcement of the City's zoning regulations.~~

~~**B. What May Be Appealed.** Appeals. The City commission shall hear and decide appeals where it is alleged that there is an error in may be taken from any order, requirement, decision, or determination made by an administrative official in the enforcement or interpretation of the City's zoning regulations.~~

- ~~**A. C. Filing an Appeal.** A party seeking to file an appeal must submit a written appeal application to the Planning Department, together with payment of all applicable fees. The appeal shall state the decision being appealed, the alleged error, and the grounds for the appeal. Appeals must be filed within thirty (30) days of the decision being appealed.~~

~~**D. Hearing and Notice.** The City Commission shall fix a reasonable time for the hear and decide appeals in accordance with this section. The Commission shall set a hearing of appeal not to exceed date within thirty (30) days, give public of receiving a complete appeal. Public notice thereof as well as due of the hearing shall be provided, and notice shall also be given to the parties in of interest, and render a decision within a reasonable time not to exceed ten (10) days thereafter. At~~

~~the hearing, any party may appear in person or by attorney to present evidence and argument. The Commission shall render a decision within ten (10) days following the close of the hearing.~~

~~B. Appeals: Stay~~**E. Effect of Proceedings. An Filing an Appeal.** ~~The filing of an appeal shall stay all proceedings in furtherance of the action appealed from, unless. However, the officer administrative official from whom the appeal is taken certifies may certify to the City Commission after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a a stay would, in his the official's opinion, cause imminent peril to life or property.~~

~~Decisions, Appeals Re-Hearing. In exercising the above-mentioned powers, In such a case, proceedings shall not be stayed except by order of the City Commission may, in conformity with the provisions of this act, or a court of record.~~

~~F. Decisions of the City Commission. In deciding an appeal, the City Commission may reverse or, affirm, wholly or partly, or modify the order, requirement, decision, or determination as ought to be made, and to that end appealed, in whole or in part. The Commission shall have all the powers of the officer administrative official from whom the appeal is taken. The concurring vote of four (4) members of the City Commission shall be necessary required to reverse any order, requirement, decision, or determination of any administrative official, decision or to decide in favor of the applicant on any matter upon which it is required to pass under such resolution. appellant.~~

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

~~H. Limitations on Re-Hearing. If an application for an administrative review appeal is denied by the City Commission, another application no new appeal regarding the same matter shall not be filed within a period of one (1) year from of the date of denial, except upon the initiation of unless the City Commission after finds that a showing of a substantial change of in circumstances which has occurred that would warrant a re-new hearing.~~

(Ord. No. 2004, § 1, 8/4/08; Ord. No. 2076 , 12/18/18; Ord. No. 3005 , § 2, 4/20/21; Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.7483. Variances—Application procedures.

A. Purpose. The variance process provides a means to allow exceptions to the requirements of this Chapter chapter when strict application of the standards would create an unnecessary hardship that significantly limits the reasonable use of a property. A variance is not intended to grant special privileges or to permit uses that are not otherwise allowed within the zoning district.

B. Application Requirements. A complete variance application shall be filed with the Zoning Administrator and must include:

1. A legal and general description of the property.
2. The name and mailing address of the property owner(s).
3. A location map showing the subject property and its relationship to adjoining properties.
4. A dimensioned site plan that shows:
 - i. Existing and proposed buildings, structures, and improvements (clearly labeled and distinguished using solid lines for existing and dashed/dotted lines for proposed).
 - ii. Vehicular access points, driveways, parking spaces, and traffic circulation.
5. A written statement describing the specific variance requested and the reasons for seeking it
6. Proof of payment of all required fees.
7. Once public notice of the application has been issued, the application may not be withdrawn or amended.

C. Review by Zoning Administrator. Upon receiving a complete application the Zoning Administrator shall:

1. Consult with other City departments to evaluate impacts on public facilities and services.
2. Review the application for appropriateness and potential effects on existing and proposed land uses.
3. Provide public notice as follows:
 - i. Publish notice of the public hearing in a newspaper of general circulation at least fifteen (15) days before the hearing.
 - ii. Mail notice to the applicant and all property owners within three hundred (300) feet of the subject property at least ten (10) days before the hearing.
 - iii. Post notice on the subject property at least ten (10) days before the hearing.
4. Prepare findings and forward a report to the City Commission.

D. Action by City Commission. The City Commission may grant a variance if it finds that:

1. Strict enforcement of this ordinance would result in unnecessary hardship due to special conditions unique to the property.
 2. The variance will not be contrary to the public interest
 3. The spirit and intent of this ordinance are observed, and substantial justice is done.
1. — E.

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

1. ~~The application shall include, but not be limited to the following:~~
- ~~— Purpose. The variance process provides a means to allow exceptions to the requirements of this chapter when strict application of the standards would create an unnecessary hardship that significantly limits the reasonable use of a property. A variance is not intended to grant special privileges or to permit uses that are not otherwise allowed within the zoning district.~~
- ~~— Application Requirements. A complete variance application shall be filed with the Zoning Coordinator and must include:~~
 2. ~~A legal and general description of the tract(s) upon which a variance is sought. property.~~
 3. ~~The name and mailing address of the property owner(s) of the land subject to the variance.).~~
 4. ~~The applicant shall present a A location map showing the location of the subject property for which the application is submitted, and its relationship to adjoining property properties.~~
 5. ~~The applicant shall present a dimensioned site plan of the property for which the application is submitted which shall include, but not be limited to, the following:~~
 - i. ~~The location and dimension of all vehicular points of ingress and egress, drives, off-street parking spaces, channelization and traffic circulation, and;~~
 - ~~— The location and size of all existing and A dimensioned site plan that shows:~~
 - ii. ~~Existing and proposed buildings, structures, and improvements, and; (clearly labeled and distinguished using solid lines for existing and dashed/dotted lines for proposed).~~
 - iii. ~~The existing buildings, structures, and improvements shall be labeled as such and indicated by a solid line. The proposed buildings, structures, and improvements shall be labeled as such and indicated by a dashed or dotted line.~~
 - ~~— The reason why Vehicular access points, driveways, parking spaces, and traffic circulation.~~
 6. ~~A written statement describing the specific variance is being sought requested and the reasons for seeking it.~~
 7. ~~Be accompanied by proof Proof of payment of all applicable required fees.~~
 8. ~~An Once public notice of the application for a variance has been issued, the application may not be withdrawn or amended by the applicant after the legal advertising as required by this article shall have first appeared.~~
- ~~B. Review by Zoning Coordinator Action. The . Upon receiving a complete application the Zoning Coordinator, upon receiving an application for a variance, shall do the following: shall:~~
 1. ~~Consult with other City departments of the City to fully evaluate the impact upon impacts on public facilities and services.~~
 2. ~~Study each Review the application with reference to its for appropriateness and effect potential effects on existing and proposed land uses.~~
 - ~~— Place Provide public notice of the time, date and place as follows:~~

- i. ~~Publish notice of the public hearing in a newspaper of general circulation at least fifteen (15) days in advance of the date set for the public before the hearing.~~
- ~~Notify Mail notice to the applicant and all property owners, by mail, within three hundred (300) feet of the exterior boundaries of the property subject to the variance of the time, date and place of the public subject property at least ten (10) days before the hearing and the proposed variance.~~
- ii. ~~Post notice on the subject property at least ten (10) days prior to before the date of the public hearing.~~
- 3. ~~Place a notice of the time, date, and place of the public hearing on the property at least ten (10) days prior to the hearing date.~~
- 4. ~~Report the Prepare findings and forward a report to the City Commission.~~
- ~~Action by City Commission. The City Commission may authorize upon appeal in specific cases such variances from the terms of grant a variance if it finds that:~~
 - ~~Strict enforcement of this ordinance that would result in unnecessary hardship due to special conditions unique to the property.~~
 - ~~The variance will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the~~
- 5. ~~The spirit and intent of this ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed, and substantial justice is done.~~

~~Under no circumstances shall may the City Commission grant city commission~~
No Variance shall be granted for the following:

- 1. ~~Approve a variance that would allow allows a A land use not permissible under the terms of the ordinance otherwise permitted in the zoning district involved. A variance shall not be.~~
- 1.
- 2. ~~A proposal that would Grant grant a grant of special privilege inconsistent with the limitations placed upon property on similar properties in the district.~~

The City Commission may ~~prescribe~~ impose conditions and/or establish a time limit ~~within which for beginning or completing~~ the action ~~for which authorized by the variance is required shall be begun or completed, or both.~~ Failure to ~~begin~~ comply with such conditions or ~~complete such action within the time limit set~~ deadlines shall void the variance.

(Ord. No. 2004, § 1, 8/4/08; Ord. No. 2076 , 12/18/18; Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.7584. ~~Special exceptions~~ Conditional Uses.

- A. ~~General. Special Exceptions for~~ Purpose and Intent: Conditional uses ~~other than~~ are those ~~specifically permitted in each district, are intended to provide, in~~ land uses which may be appropriate ~~cases, and subject~~ within a given zoning district, but which—due to their nature, scale, or intensity—require individual review ~~to appropriate conditions and safeguards, to be~~ Special Exceptions to the terms of the Zoning Ordinance of the City of Livingston, when granted ~~in harmony~~ ensure compatibility with ~~its general purposes~~ surrounding properties and consistency with the goals and intent of the zoning ordinance.

Conditional use permits provide a mechanism to allow flexibility while ensuring that such uses will not adversely impact the public health, safety, or welfare, and that any impacts are mitigated through conditions of approval.

B. Approval Criteria

No Conditional Use Permit shall be approved by the City Commission unless the following findings are made:

1. Compatibility: The proposed use will not place a substantial adverse effect on nearby properties or their occupants.
2. Zoning Intent: The use is consistent with the general purposes and intent of the zoning ordinance, zoning map, and the goals of the City's Growth Policy.
- C. Conditions and Mitigation: Conditions may be imposed as necessary to reduce potential adverse effects and to ensure compatibility with the general public.
- D. Application requirements:

Applications for a Conditional Use Permit shall be submitted to the Zoning Administrator by the property owner or their authorized agent. All applications must include the following:

1. A legal description and general description of the parcel(s) subject to the request.
2. A site map showing the parcel's dimensions, acreage, and location.
3. The name and contact information for the property owner(s).
4. A site plan showing major features of the proposed use, including:
 - i. Location of existing and proposed buildings and structures
 - ii. Off-street parking, loading areas, and service/refuse areas
 - iii. Access points and circulation
 - iv. Landscaping and screening
 - v. Sign locations
 - vi. Open space, if applicable
5. A proposed schedule for development.
6. Any additional information the applicant believes supports the request.

All applications must be accompanied by proof of payment of applicable city fees. Minor errors or omissions in an application shall not invalidate it unless deemed materially incomplete by the Zoning Administrator.

E. Zoning Administrator Review

1. Upon receiving a complete application, the Zoning Administrator shall:
2. Consult with other relevant city or county departments to evaluate potential impacts on public services and infrastructure.
3. Review the application for consistency with the zoning ordinance and adopted plans.
4. Schedule a public hearing before the City Commission and publish notice of the hearing in the city's official newspaper at least fifteen (15) days in advance.
5. Provide written notice by mail to all property owners within three hundred (300) feet of the subject property at least ten (10) days before the hearing, stating the time, date, location, and purpose of the hearing.

~~B.F.~~ City Commission Review and Action

The City Commission shall hold a public hearing on the application and consider the Zoning Administrator's report, public testimony, and relevant information. After deliberation, the Commission may:

1. Approve the Conditional Use Permit;
2. Deny the Conditional Use Permit;
3. Approve with Conditions necessary to ensure compatibility and mitigate impacts; or
4. Continue the Hearing for up to thirty (30) days for further consideration.

~~No Special Exceptions~~Conditional Use Permit shall be granted~~approved~~ by the City Commission unless they find: the following findings are made:

- ~~1. Compatibility: The proposed use will not place a substantial adverse effect upon~~ nearby properties or their occupants.
- ~~2. That the proposed~~ Zoning Intent: The use is in harmony~~consistent with the general purposes and intent of the zoning ordinance, zoning map, and the goals of the City's Growth Policy.~~ If desired, the City Commission may add such requirements
- ~~Conditions and Mitigation: Conditions may be imposed as it deems necessary to protect the surrounding neighborhood from the effects of the granted Special Exception,~~ reduce potential adverse effects and to ensure compatibility with the general public.

~~C.~~ Application requirements:

- ~~D. Applications. An application for a Special Exception must~~ Conditional Use Permit shall be filed~~submitted to the Zoning Coordinator by the property owner. Such application shall be filed with the Zoning Coordinator and shall be submitted under the following conditions:~~

The application shall ~~or their authorized agent. All applications must include, but not be limited to the following information:~~

1. ~~A legal description and general description of the tract~~parcel~~(s) upon which~~subject to the Special Exception is sought. request.~~~~
2. ~~The~~A~~ site map showing the ~~parcel's~~ dimensions, acreage, and location of the tract(s).~~;~~~~
3. ~~The name and address of~~contact information for the property owner~~(s) of the tract(s).~~;~~~~

A site plan showing major details~~features~~ of the proposed development~~use~~, including but not limited to: the location of proposed and~~;~~

- ~~— Location of existing and proposed buildings and structures; ~~off~~~~
- ~~— Off street parking and, loading, when required, areas, and service and ~~/~~refuse areas; means of ingress~~
- ~~— Access points and egress; landscaping, circulation~~
- ~~— Landscaping and screening signs, and open~~
- ~~— Sign locations~~
- ~~i. Open space areas, if applicable~~
- 4. ~~A time~~proposed~~ schedule for development.~~
- 5. ~~Any other~~additional~~ information the applicant believes will support their~~supports the request.~~~~

The~~All~~ applications must be accompanied by proof of payment of applicable city fees. Minor errors or omissions in an application must be submitted to~~shall not invalidate it unless deemed materially incomplete by the Zoning Coordinator. Proof of payment of all applicable fees from the City must accompany all applications. No application defect shall effect the validity of any such application.~~

- ~~— Zoning Coordinator Action. The~~Review~~~~
- ~~Upon receiving a complete application, the Zoning Coordinator, upon receiving an application for a Special Exception shall do the following: shall:~~
- ~~1. Consult with other relevant city or county departments of the City and/or County to fully to evaluate the impact of the use(s) contemplated under the application upon public facilities and potential impacts on public services.~~
- ~~1. Study each application with reference to its appropriateness and effect on existing and proposed land uses. infrastructure.~~
- ~~— Place a notice of the time, date, and place of the Review the application for consistency with the zoning ordinance and adopted plans.~~
- ~~2. Schedule a public hearing before the appropriate body in the legal~~City Commission and publish notice of the hearing in the city's official newspaper of the City at least fifteen (15) days in advance of the date of the public hearing.~~~~
- ~~3. Notify the applicant and Provide written notice by mail to all property owners by first class mail, within three hundred (300) feet of the exterior boundaries of the tract(s) of the proposed Special Exception area of the time, date, place of the public hearing and the proposed use(s) of the subject property at least ten (10) days prior to~~before~~ the hearing, stating the time, date, location, and purpose of the public hearing.~~

~~Reserved.~~

~~E. A. City Commission Review and Action~~

~~.The City Commission shall hold a public hearing on the application and consider each application in accordance with provisions of this Article, and at a public hearing at which time the application has been legally advertised. Each application shall be presented by the Zoning Coordinator, together with conclusions and recommendations, the Zoning Coordinator's report, public testimony, and relevant information. After deliberation, the Commission may:~~

The City Commission shall:

- ~~— Approve the Conditional Use Permit;~~
- ~~— Deny the application Conditional Use Permit;~~
- ~~— Approve with Conditions necessary to ensure compatibility and mitigate impacts; or~~
 - ~~1. Continue the Hearing for a Special Exception, or~~
 - ~~2. Grant the application for a Special Exception, or~~
 - ~~1. Delay action on the application for a period not to exceed up to thirty (30) days, or for further consideration;~~
 - ~~3. Grant the application with special conditions and safeguards.~~

(Ord. No. 2004, § 1, 8/4/08; Ord. No. 2076 , 12/18/18; Ord. No. 3005 , § 2, 4/20/21; Ord. No. 3014 , § 2, 8/3/21)

Article ~~VIII~~**X**. Administration and Enforcement

Sec. 30.80. Building official.

The Building Official shall enforce building codes as adopted by the City of Livingston.

The Building Official shall:

- ~~1. Issue building permits for all construction, alteration, demolition, or movement of buildings or structures.~~
- ~~2. Conduct inspections as are necessary to ensure compliance with the provisions of this article.~~

(Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.81. Zoning coordinator.

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

- ~~1. Issue Zoning Permits for all construction, expansion, or movement of buildings or structures.~~
- ~~2. Issue Sign Permits for the placement of signs.~~
- ~~3. Process amendments to the Official Zoning Map.~~
- ~~4. Process amendments to the text of the Zoning Ordinance.~~
- ~~5. Process Special Exception Applications.~~

~~6.—Process Variance Applications.~~

~~7.—Conduct inspections as are necessary to ensure compliance with the provisions of this article.~~

~~It shall be the responsibility of the Zoning Coordinator to present any applications or requests to the appropriate board. It shall further be the responsibility of the Zoning Coordinator to aid the various boards and departments in transmitting recommendations, records, and reports to the City Council and to otherwise promote procedural regularity in the administration of this article.~~

[City Commission](#) (Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.8290. Procedure in abatement of violation.

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

Appeal from the actions of the Building Official or ~~Code Compliance Officer~~[other City Official](#) shall be made in conformance with the provisions of Article VIII of this Code.

(Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.8391. Penalties for violation.

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

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

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

Sec. 30.8492. Investigation fee.

Whenever work for which a variance is required has commenced without first obtaining a variance, an investigation fee, in addition to the variance filing fee, shall be charged. The investigation fee shall be set by the City Commission by separate resolution. The fee must be paid prior to submission of a variance application. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this article, nor from any penalty prescribed by law.

(Ord. No. 3045 , § 1, 10/3/23)

Article ~~IX~~X. Conflict with Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees

~~Sec. 30.90~~100. Conflict with other laws.

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

Sec. 30.~~91~~101. Separability clause.

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

Sec. 30.~~92~~102. Repeal of conflicting ordinances.

All ordinances or parts of the ordinance in conflict herewith are hereby repealed to the extent necessary to give this [Chapter](#) ~~chapter~~ full force and effect.

Sec. 30.~~93~~103. Schedule of application fees.

Application fees shall be set by separate resolution.

(Ord. 1479, 3/16/81; Ord. 1532, 11/5/84; Ord. 1544, 2/4/86; Ord. 1548, 4/21/86; Ord. 1573, 5/4/87; Ord. 1578, 10/5/87; Ord. 1667, 7/3/90; Ord. 1861, 6/16/97; Ord. 1871, 4/20/98; Ord. No. 3014 , § 2, 8/3/21)

**REVISIONS made after October 8 Land Use
Board mtg highlighted in yellow.**

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Chapter 30 – ZONING

Article I. - Introductory Provisions

Sec. 30.10. - Title.

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

Sec. 30.11. - Purpose.

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

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.12. - Territorial jurisdiction.

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

Sec. 30.13. - Incorporation of Official Zoning Map.

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

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

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

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

In the event that the Official Zoning Map becomes damaged, destroyed, lost or difficult to interpret because of the nature or number of changes and additions, the City Commission may by ordinance

adopt a new Official Zoning Map which shall supersede the prior Official Zoning Map. The new Official Zoning Map may correct drafting or other errors or omissions in the prior Official Zoning Map, but no such correction shall have the effect of amending the original Official Zoning Map or any subsequent amendment thereof. The new Official Zoning Map shall be identified by the signature of the Chair of the City Commission attested by the City Clerk, and bearing the seal of the City under the following words: "This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted (date of adoption of map being replaced) as part of the Zoning Ordinance of the City of Livingston, Montana."

Unless the prior Official Zoning Map has been lost, or has been totally destroyed, the prior map or any significant parts thereof remaining, shall be preserved, together with all available records pertaining to its adoption or amendment.

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

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

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

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

Article II. - Definitions

Sec. 30.20. Definitions

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

Sec 30.20.1. Residential Uses

“Accessory Dwelling Unit” means an independent dwelling unit which is accessory to a primary dwelling unit on the same lot, and that complies with Section 30.43.

“Accessory Structure” means a building on a property that is subordinate to a principal, structure and supports its use. Examples include garages, sheds, greenhouses, and storage buildings. Accessory structures are allowed in all zones subject to compliance with applicable district regulations.

“Co-Living Housing” means a residential arrangement where a maximum of 10 private sleeping quarters are combined with shared kitchen, living, and bathroom facilities. Typically intended for unrelated individuals who live cooperatively.

“Multifamily Dwelling” means a building or portion thereof containing three or more dwelling units, designed for occupancy by separate households, including apartments, triplexes, and similar configurations.

“One (1) Family Dwelling” means a detached residential building designed for and occupied exclusively by one household, containing one dwelling unit. Condominiums, townhomes, mobile homes, manufactured homes, modular homes and tiny homes are permitted in all districts where a single-family dwelling is allowed, subject to compliance with district density regulations.

“Supportive/ Transitional Housing” means a residential facility providing a maximum of temporary housing units and support services to individuals transitioning from homelessness, institutional care, or rehabilitation into permanent housing.

“Two (2) Family Dwelling” means a single structure containing two separate dwelling units, each with its own kitchen, sleeping, and sanitary facilities. Also referred to as a duplex.

Sec 30.20.2. Community Facilities

“Adult Foster Care Center” means a licensed residential facility that provides a family-like living environment for adults who are unable to live independently due to physical, developmental, or mental health conditions. Care includes room, board, supervision, and personal services. Staff member must be on site 24-hours a day.

“Assisted Living” means a residential facility that provides private or semi-private housing with support services such as meals, housekeeping, transportation, personal care, and limited health services for elderly or disabled individuals.

“Armory” means a facility used for the training and housing of military personnel and storage of military equipment. May include offices, training grounds, and assembly halls.

“Cemetery” means a parcel of land used for the interment of human or animal remains. Includes burial grounds, mausoleums, columbaria, and associated structures.

“Child Care Center” means a facility licensed by the state to provide non-residential care, protection, and supervision for children, typically for periods of less than 24 hours, and serving more than a specified number of children as defined by state regulations.

“Church” means a place of worship or religious assembly, including related facilities such as a fellowship hall, office, classroom, and recreational area that are operated by a religious organization.

“Community Garden” means a shared plot of land managed and cultivated by a group of people to grow fruits, vegetables, flowers, or ornamental plants, often for personal use or donation.

“Emergency Shelter” means a facility providing temporary housing, food, and support services to individuals or families in crisis situations, such as homelessness, domestic violence, or natural disaster displacement.

“Government Office” means a building owned or leased by government agencies that are used for administrative, clerical, or regulatory functions and the provision of public services.

“Hospital/Institution” means a facility licensed to provide inpatient medical care, surgical services, and related treatment for individuals requiring physical or mental health services. May include an emergency service, laboratory, and specialized care unit.

“Medical/Dental Clinic” means a facility that provides outpatient diagnostic and therapeutic services under the supervision of licensed medical or dental professionals. Does not include overnight patient care.

“Public Recreation Facility” means a publicly owned and operated facility for active or passive recreational use, including playgrounds, sports fields, trails, swimming pools, and community centers.

“Public Safety Facility” means a facility used by police, fire, emergency medical services, and similar public safety operations. May include an office, garage, training facility, and communications equipment.

“Radio Station” means a facility used for the production and transmission of radio signals, including studios and related infrastructure, but not wireless communication facilities.

“School - Public, Private, and Parochial” means a facility offering instruction to students in pre-kindergarten through grade 12, including a public school operated by school districts and a private or religious school operated independently.

“School, Trade” means an institution offering technical, vocational, or professional education and training in trades such as automotive repair, cosmetology, welding, or computer programming.

“Utility Substation” means a facility used to transform, switch, or regulate electric current, or to control, monitor, or relay telecommunications or other public utility services. Typically, fenced and unmanned.

“Wireless Communication Facility” means a structure or equipment used to transmit, receive, or relay wireless communications, including antennas, towers, equipment cabinets, and associated support infrastructure.

Sec 30.20.3. Commercial Uses

“Alcohol Producing Business” means an establishment engaged in the brewing, distilling, fermenting, or bottling of alcoholic beverages such as beer, wine, or spirits. May include a tasting room or on-site sales areas.

“Bank (Non-Drive-Through)” means a financial institution offering services such as deposits, loans, and currency exchange, without the inclusion of a drive-through facility.

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

“Business and Professional Office” means an office for professional, administrative, or clerical activities, including but not limited to legal services, accounting, architecture, real estate, insurance, and consulting.

“Campground/ Recreation Vehicle (RV) Park” means a site that accommodate tents, recreational vehicles, yurts or trailers for temporary overnight stays. May include hook-ups, common bathrooms, and recreational amenities. Campground with 2 or more camping spaces are required to undergo the subdivision process.

“Casino” means a facility licensed for gambling and gaming activities, including slot machines, table games, and sports betting. May also include bars, restaurants, or live entertainment.

“Commercial Greenhouse” means a structure primarily used for the commercial cultivation of plants, flowers, or vegetables for wholesale or retail sale, typically under controlled environmental conditions.

“Drive-Through Business (non-restaurant)” means a retail or service establishment that provide goods or services to customers while they remain in their vehicles. Includes drive-through pharmacies, dry cleaners, and banks.

“Drive-Through Restaurants” means a restaurant that includes a drive-through window for customers to order and receive food and beverages without leaving their vehicles. May also include indoor or outdoor seating.

“Eating and Drinking Establishment (Sit-Down)” means a restaurant, café, or other establishment where food and beverages are prepared and served to customers for on-site consumption, typically with table service.

“Firework Stand” means a temporary or permanent structure used for the seasonal sale of consumer fireworks, subject to applicable state and local fire and safety regulations.

“Gasoline/ Service Station” means a facility that sells fuel for motor vehicles. May include accessory services such as minor vehicle repairs, car washes, and convenience retail.

“Health and Exercise Establishment” means a facility designed for physical fitness or wellness activities, such as gyms, yoga studios, martial arts schools, or indoor recreation centers.

“Home Occupation” means a business or commercial activity that is conducted or petitioned to be conducted from a property which is zoned primarily for residential use and which meets the conditions set forth in Section 30.54.

“Kennel and Cattery” means a commercial facility for the boarding, breeding, training, or grooming of dogs, cats, or other domestic animals.

“Large-scale Retail” means a retail establishment exceeding a specified gross floor area threshold (e.g., 20,000 square feet), typically including department stores, big-box retailers, or warehouse clubs.

“Laundromat” means a self-service laundry facility equipped with coin- or card-operated washing machines and dryers, available for public use.

“Marijuana Retail Facility” means a business licensed under state law to sell marijuana products to consumers for personal use. Does not include on-site consumption unless permitted by law. Marijuana Retail Facilities are not permitted within one thousand (1,000) feet of a public or private school, licensed child care facility, or church.

“Mobile Food Vendor/ Food Truck Park” means a group of three (3) or more mobile or semi-permanent food service operations, located in vehicles or mobile trailers, where food is prepared and sold to the public. May refer to designated sites where multiple vendors operate in a shared location.

“Motel/ Hotel” means an establishment offering temporary lodging to travelers and tourists, with or without a dining, meeting room, or recreational facility. Includes extended-stay lodging.

“Personal Service Store” means a business providing personal grooming or lifestyle services, such as a salon, barber, spa, tailor, dry cleaner, or shoe repair shop.

“Retail” means a business engaged in the sale of goods directly to consumers. Includes stores selling clothing, books, electronics, household goods, or similar items, but excludes large-scale retail.

“Sexually Oriented Business” means a commercial establishment which operates as an adult book store, adult movie theater, or features, allows, employs, promotes or sponsors exotic entertainment and/or sexually explicit materials.

“Short-Term Rental” means a dwelling unit or portions thereof that are rented to guests for periods of less than 30 consecutive days. May be owner-occupied (Type 1) or non-owner-occupied (Type 2), and subject to licensing and performance standards. Section 30.57 defines further standards for Short-Term Rentals.

“Tattoo/ Body Piercing Studio” means a commercial establishment where tattoos are applied or body piercing services are provided by licensed professionals.

“Theater/Entertainment Venue” means an indoor facility used for live performances, film screenings, concerts, or other forms of entertainment for an audience.

“Veterinarian Clinic” means an establishment offering medical diagnosis, treatment, and surgical services for household pets and small animals. May include limited boarding as an accessory use.

Sec 30.20.4. Light Industrial/ Industrial Uses

“Artisan Manufacturing” means small-scale production or assembly of goods by hand or light machinery, including items such as ceramics, textiles, food products, woodwork, or custom furniture. Typically involves low-impact operations compatible with higher density residential, mixed-use or commercial areas.

“Auto Repair Garage” means a facility where motor vehicles are repaired or maintained, including mechanical and electrical repairs, oil changes, tire services, and accessory installation. May include indoor or screened outdoor vehicle storage.

“Auto Salvage and Storage” means a site used for the dismantling, recycling, or storage of inoperable vehicles or vehicle parts. May include resale of usable parts and materials. Subject to screening and environmental regulations.

“General Manufacturing” means the production, assembly, or processing of goods using raw materials or semi-finished products. Operations may include machining, fabrication, packaging, and distribution, and may involve moderate external impacts.

“Intensive Manufacturing” means large-scale, high-impact industrial operations that may include heavy machinery, large volumes of materials, high noise levels, or potentially hazardous processes. Includes industries such as chemical production, foundries, and large-scale food processing.

“Limited Manufacturing” means light industrial uses involving the assembly, fabrication, or packaging of products using previously prepared materials, with minimal off-site impacts in terms of noise, odor, traffic, or vibration. Typically enclosed within a building.

“Lumberyard” means a facility engaged in the sale and storage of lumber and building materials. May include outdoor storage, delivery operations, and limited on-site cutting or finishing.

“Machine Shop” means an establishment where metal parts are fabricated or modified using lathes, milling machines, grinders, or other industrial equipment. May serve as a support use for other industrial or commercial businesses

“Marijuana Production Facility” means a state-licensed facility for the cultivation, processing, or packaging of marijuana and marijuana-infused products. Subject to licensing, security, and odor control requirements.

“Mortuary” means a facility for the preparation and holding of human remains for burial or cremation. May include funeral services, visitation areas, and administrative offices.

“Open-Air Stadium, Sports Arena, and Amphitheater” means a large outdoor or partially enclosed venue used for a sporting event, concert, or public gathering. May include seating, concessions, lighting, and sound amplification.

“Transportation Terminal” means a facility for the boarding, alighting, storage, dispatch, or transfer of cargo or freight, or for mass transit activities, including related areas such as ticketing, waiting, loading, and parking. Does not include local transit stops.

“Travel Plaza/Truck Stop” means a facility serving motorists and commercial truck drivers that provides vehicle fueling, parking, and related amenities. May include convenience retail, restaurants, restrooms, showers, and limited overnight accommodations.

“Warehouse and Enclosed Storage” means a facility used for the storage and distribution of goods and materials. Operations may include loading docks, delivery vehicle access, and climate-controlled or general-purpose storage.

“Wholesale Business” means a business engaged in the sale of goods in bulk quantities to retailers, contractors, or other businesses, rather than direct-to-consumer retail. May include warehousing and limited on-site display or sale.

"Wind-Powered Generator" 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.

Sec 30.20.5. Other Definitions

"Actual Business Premises" means the owned or leased real property from which the business is actively transacted.

"Alley" or "Alleyway" means a minor way which is used primarily for vehicular service access to the back or the side of properties otherwise abutting on a street.

"Buildable Area" means the portion of a lot remaining after required setbacks, open space, and other site restrictions are deducted.

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

"Building Height" means the vertical distance from the existing (pre-disturbance) grade to the highest point of the roof. See Section 30.42.F for structural embellishments exempt from height restrictions.

"Building Official" means the City Building Inspector or their designated representative.

"Conditional Use" means a use allowed in a zoning district only after review and approval, subject to specific conditions to ensure compatibility with surrounding uses.

"Dwelling/ Dwelling Unit" means a building or portion of a building designed and intended to be used as independent living quarters by one household.

"Easement" means a right granted to use a portion of land for a specific purpose, such as utilities, drainage, or access.

"Frontage" means the length of a lot line abutting a public or private street.

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

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

"Impervious Surface" means any surface that prevents or significantly impedes the infiltration of water into the soil.

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

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

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

"Lot depth" means the distance between the front lot line and the rear lot line measured in the mean direction of the side lot lines.

"Lot line" means a line of record bounding a lot that divides one lot from another or from a public or private street or other public space.

"Lot line, front" means the lot line separating the lot from the street that provides the primary frontage.

"Lot line, rear" means the lot line opposite and most distant from the front lot line.

"Lot line, side" means any lot line that is not a front or rear lot line.

"Lot width" means the horizontal distance between side lot lines measured at the required front setback line.

"Mitigation" means actions taken to offset negative impacts to sensitive environmental areas through restoration, enhancement, or preservation.

"Non-conforming structure" means a structure that was lawfully constructed but no longer conforms to current zoning regulations.

"Non-conforming use" means a use of land or structure that was lawfully established but no longer conforms to current zoning regulations.

"Open space" means land area that is not occupied by buildings, structures, driveways, parking areas, or other impermeable surfaces.

"Ordinary high-water mark" means the line on a bank where the presence and action of water is continuous and leaves a distinct mark on the soil, destroying terrestrial vegetation, and creating a line of physical evidence of repeated inundation

"Building Permit" means official authorization to construct, alter, or demolish a structure in compliance with applicable codes.

"Planning board" means the City of Livingston Consolidated Land Use Board, or Land Use Board.

"Principal use" means the primary or predominant use of a lot or structure.

"Qualified Professional" means person with demonstrated expertise in biology, hydrology, geology, or a related field appropriate to the sensitive area being evaluated.

"Right-of-way" means land dedicated or acquired for use as a public way. "Riparian Areas" means vegetated ecosystems along water bodies that support a high level of biodiversity and play a role in flood mitigation and water quality.

"Sensitive Environmental Area" is a land and water area that provides an important ecological function or pose a physical constraint to development due to a natural hazard.

"Setback" means the distance from the corresponding lot line, as defined herein, to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the lot line.

"Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located. See Section 30.50.

"Story" means any level or floor of a building that contains a useable floor, designed for living, work, or recreation, and is defined by the space between one floor surface and the next, and as defined in the City's adopted Building Code.

"Street" means a public way for vehicular traffic, whether designated as a street, highway, thoroughfare, parkway, throughway, road, avenue, boulevard, land, place, or otherwise designated which has been dedicated to or acquired for public use and extends the full width between right-of-way lines, or any dedicated public way as recorded by the County Clerk and Recorder whenever any portion is open to vehicular traffic.

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

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

"Structure" means a building or anything constructed in the ground or anything erected which requires location on the ground or water, or is attached to something having location on or in the ground, but not including fences six (6) feet or less in height, paved areas, or small accessory use structures such as storage sheds, which would not require a building permit to be erected under any building code adopted by the City of Livingston.

"Temporary use" means a use established for a fixed period of time with the intent to discontinue upon expiration of that period.

"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. The term includes real estate and political signs.

"Tree, deciduous" means any variety of tree which loses its leaves at the end of the growing season.

"Tree, evergreen" means any variety of tree which does not lose its leaves at the end of the growing season.

"Tree, ornamental" 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.

"Tree, shade" 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.

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

"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.

"Wall Sign" means a sign attached to or erected against the wall of a building with the face in a parallel plane to the place of the building wall, including a sign attached to a parapet wall that may be constructed specifically for the purpose of attaching a sign.

"Window Sign" means a sign that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

"Yard" means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise permitted in this Code.

"Yard, front" means the portion of a yard extending across the full width of the lot and lying between the front lot line and the nearest part of the principal building.

"Yard, rear" means the portion of a yard extending across the full width of the lot and lying between the rear lot line and the nearest part of the principal building.

"Yard, side" means the portion of a yard between the side lot line and the nearest part of the principal building, extending from the front yard to the rear yard.

"Zoning Administrator" means the Livingston Planning Director, or their designee, or other such official as the City Commission may designate.

"Zoning Commission" means the City of Livingston Consolidated Land Use Board, or Land Use Board.

(Ord. 1798, 12/19/94; Ord. 1810, 7/3/95; Ord. 1868, 2/2/98; Ord. 1894 § 1, 3/6/2000; Ord. 1949, 10/18/04; Ord. No. 2011, § 1, 4/6/09; Ord. No. 2022, § 1, 9/7/10; Ord. No. 2090, § 1, 11/5/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21; Ord. No. 3010, § 1, 7/20/21; Ord. No. 3013, § 2, 8/17/21; Ord. No. 3025, § 1, 10/21/21; Ord. No. 3041, 5/16/23)

Article III. - Zoning Districts & Regulations

Sec. 30.30. - Zoning districts.

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

ZONING DISTRICT	DESIGNATION
Low Density Residential	R1
Medium Density Residential	R2
Low Density Mixed Use	LMU
High Density Residential-Mixed Use	HMU
General Commercial	GC
Public-Community	PC
Industrial	I
Light Industrial	LI
Central Business District	CBD

Zoning District Descriptions

R1 / Low Density Residential: The R1 district is a primarily single-family residential zone that supports traditional neighborhood development with larger lots and generous setbacks. It allows for accessory dwelling units, home businesses with minimal impact, and other compatible low-density housing types. This district is intended to maintain neighborhood character, limit traffic impacts, and provide a quiet residential environment. Duplexes are allowed in the R1 district.

R2 / Medium Density Residential: The R2 district is a residential zone intended to accommodate a diversity of housing types. It supports a mix of detached and attached housing, including duplexes, triplexes, and small multifamily buildings. Neighborhood-serving retail or office uses are permitted, provided they have little to no impact on traffic or the surrounding neighborhood.

LMU / Light Mixed Use: The LMU district is intended to encourage low-to-medium density residential development, such as townhomes, duplexes/triplexes, and condominiums, in a form that is walkable, compact, and compatible with adjacent neighborhoods. This district also supports neighborhood-scale commercial and mixed-use development that contributes to a vibrant, pedestrian-oriented environment. Auto-oriented uses, such as drive-throughs or those requiring large surface parking lots, are generally discouraged to maintain the district's focus on walkability, active streetscapes, and neighborhood livability.

HMU / High Density Residential-Mixed Use: The HMU district expands upon the intent of the LMU district by allowing a broader range of residential and commercial uses at greater height and intensity,

while still prioritizing a compact, walkable, mixed-use development pattern. It permits similar types of LMU-scale development (e.g., townhomes, small apartments, corner retail), but also supports mid-rise buildings, higher-density housing, and more intensive commercial activity than traditional residential districts. Development in HMU may include apartments, condominiums, office space, retail, restaurants, and mixed-use buildings with ground-floor commercial and upper-story residential.

GC / General Commercial: The GC district is intended for general commercial development at a medium to large scale, allowing for auto-oriented uses. Typical uses include retail centers, restaurants, office complexes, service stations, and other regional or community-serving businesses. Multi-family residential (3 or more units) are permitted in this district. This district is typically located along major streets or commercial corridors and near community gateways.

PC / Public-Community: The PC district reserves land for public, semi-public, and community-oriented uses that serve the health, safety, and general welfare of the community. This includes schools, parks, libraries, fire stations and emergency services, utilities, and community centers. These uses are typically integrated into neighborhoods or located on accessible sites across the city.

I / Industrial: The I district is intended for a broad range of industrial activities, including heavy manufacturing, large-scale warehousing, logistics, transportation, and utilities. It accommodates high-intensity uses that may involve noise, truck traffic, or outdoor storage and requires appropriate buffering from non-industrial uses.

LI / Light Industrial: The LI district is designed to accommodate light manufacturing, research and development, small-scale warehousing, and professional or business offices. Uses should have minimal environmental impacts and can include flex space and artisan industries.

CBD / Central Business District: The CBD is the historic downtown and commercial core of the City, and is intended to support a dense, walkable mix of commercial, civic, cultural, and residential uses. Medium-rise buildings without setbacks are encouraged to promote an urban form. Residential uses include upper-story apartments and high-density housing integrated with ground-floor retail or office uses. Vehicular parking requirements are reduced to encourage pedestrian activity and redevelopment.

(Ord. 1949, 10/18/04; Ord. 1954, 5/16/05; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)

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

A = Allowed by Right
C = Conditional Use Permit Required
N = Not Allowed

Table 30.40. List of Uses

	R1	R2	LMU	HMU	CBD	GC	LI	I	PC
Residential Uses									
One (1) Family Dwelling	A	A	A	A	N ¹	N ¹	N	N	N
Two (2) Family Dwelling	A	A	A	A	N ¹	N ¹	N	N	N
Multifamily Dwelling (3+ units)	N	A	A	A	A	A	A	N	N
Co-Living Housing	N	A	A	A	A	A	A	N	N
Supportive/ Transitional Housing	N	C	A	A	A	A	A	N	N
Accessory Dwelling Unit (ADU)	A	A	A	A	N ²	N ²	N ²	N ²	N ²
Community Uses									
Church	A	A	A	A	A	A	A	A	A
School- Public, Private, and Parochial	A	A	A	A	C	A	C	N	A
School, Trade	N	N	C	N	N	A	A	A	N
Hospital/ Institution	N	N	C	C	N	C	A	N	C
Medical/ Dental Clinic	N	N	A	A	A	A	A	C	N
Adult Foster Care Center	C	A	A	A	A	A	A	N	N
Assisted Living	N	C	A	A	A	A	A	N	N
Child Care Center	A	A	A	A	A	A	A	N	N
Armory	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	A
Government Office	N	N	A	N	A	A	A	N	A
Public Recreation Facility	N	N	C	C	A	A	A	A	A
Community Garden	A	A	A	A	C	A	A	N	A
Emergency Shelter	N	N	N	C	C	A	C	C	A
Utility Substation	C	C	C	C	C	C	C	C	C
Wireless Communication Facility	C	C	C	C	C	C	C	C	C
Public Safety Facility	A	A	A	A	A	A	A	A	A
Commercial Uses									
Radio Station	N	N	A	C	A	A	A	A	A
Veterinarian Clinic	N	N	A	N	N	A	A	A	N
Kennel/ Cattery	N	N	N	N	N	A	A	A	N
Laundromat	N	C	A	A	A	A	A	N	N
Short-Term Rental – Type I	A	A	A	A	A	A	N	N	N

¹ Any number of residential units may be established within, or attached to, an existing building in these districts. No new residential structures may be built unless they meet the definition of Multifamily (3 or more units).

² New ADUs are allowed only if a single-family residential use already exists on the parcel.

	R1	R2	LMU	HMU	CBD	GC	LI	I	PC
Short-Term Rental – Type II	A	A	A	A	A	A	N	N	N
Motel/ Hotel	N	N	C	N	A	A	A	N	N
Bed and Breakfast	N	C	A	A	A	A	A	N	N
Campground/ Recreation Vehicle (RV) Park	N	N	N	N	N	A	A	N	N
Business and Professional Office	N	C ³	A	A	A	A	A	A	C
Retail	N	C	A	C	A	A	A	C	N
Large-scale Retail	N	N	N	N	C	C	C	C	N
Personal Service Store	N	C	A	C	A	A	A	C	N
Tattoo/ Body Piercing Studio	N	N	A	C	A	A	A	C	N
Alcohol Producing Business	N	N	A	C	A	A	A	N	N
Eating and Drinking Establishment (Sit-Down)	N	N	A	C	A	A	A	N	N
Mobile Food Vendor Park /Food Truck Park	N	N	C	C	A	A	C	C	N
Drive-Through Restaurant	N	N	C	N	N	A	A	A	N
Drive-Through Business (Other)	N	N	A	C	N	A	A	A	N
Bank (No Drive-Through)	N	N	A	C	A	A	A	A	N
Gasoline/ Service Station	N	N	C	N	N	A	C	A	N
Auto Repair Garage	N	N	C	N	C	A	A	A	N
Theater/ Entertainment Venue	N	N	C	N	A	A	A	N	C
Health and Exercise Establishment	N	C	A	A	A	A	A	C	C
Sexually Oriented Business	N	N	N	N	N	C	A	A	N
Casino	N	N	A	N	A	A	A	N	N
Firework Stand ⁴	N	N	N	N	C	C	A	A	N
Marijuana Retail Facility	N	N	C	C	C	A	A	A	N
Light Industrial / Industrial Uses									
Mortuary	N	N	C	N	C	A	A	A	N
Wholesale Business	N	N	N	N	C	A	A	A	N
Commercial Greenhouse	N	C	C	C	N	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	A	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	A	A	A	N
Machine Shop	N	N	N	N	N	A	A	A	N
Artisan Manufacturing	N	A	A	A	A	A	A	A	N
Limited Manufacturing	N	C	A	A	A	A	A	A	N
General Manufacturing	N	N	C	N	N	N	A	A	N
Intensive Manufacturing	N	N	N	N	N	N	C	A	N

³ See Section 30.54 for home occupation requirements

⁴ See Section 11.72-73 regarding discharge of fireworks

	R1	R2	LMU	HMU	CBD	GC	LI	I	PC
Transportation Terminal	N	N	N	N	A	A	A	A	N
Travel Plaza/ Truck Stop	N	N	N	N	N	A	C	N	N
Open-Air Stadium, Sports Arena, and Amphitheater	N	N	C	N	N	A	A	N	C
Lumberyard	N	N	N	N	N	C	A	A	N
Marijuana Production Facility	N	N	N	N	N	N	A	A	N
Wind-Power Generator	N	N	N	N	N	N	C	C	N

Sec. 30.41. – Development Standards.

Sec. 30.41.1. - Residential development standards.

Table 30.41.1. Residential Development Standards

Zoning District	Low Density (R1)	Med. Density (R2)	High Density Residential - Mixed Use (HMU)	Light Mixed Use (LMU)
Minimum Lot Size	7,000 square feet	3,500 square feet	1,150 square feet	N/A
Minimum Front Street Setback	25 feet	20 feet	5 feet	10 feet
Minimum Side Setback ^{A,B}	15 feet	5 feet	5 feet	5 feet
Minimum Rear Setback	5 feet	5 feet	0 feet	0 feet
Minimum Side Street Setback	15 feet	10 feet	5 feet	10 feet
Maximum Building Height ^C	30 feet (or 36 feet if roof pitch $\geq$ 3:12)	30 feet (or 36 feet if roof pitch $\geq$ 3:12)	50 feet	36 feet

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.

B) Side setbacks are not required for approved townhouse development.

C) Maximum height shall be measured from the pre-disturbance grade.

(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; Ord. No. 3018 , § 1, 10/5/21; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)

Sec. 30.41.2. - Commercial development standards.

Table 30.41.2. Commercial Development Standards

Zoning District	Central Business District (CBD)	General Commercial (GC)	Light Industrial (LI)	Industrial (I)	Public-Community (PC)
Minimum Lot Size	N/A	3,500 square feet	6,000 square feet	6,000 square feet	N/A
Minimum Front Street Setback	0 feet	0 feet	10 feet	10 feet	20 feet
Minimum Side Setback ^{A,B}	0 feet	0 feet	10 feet	10 feet	5 feet
Minimum Rear Setback	0 feet	0 feet	20 feet	0 feet	5 feet
Minimum Side Street Setback	0 feet	0 feet	10 feet	10 feet	10 feet
Maximum Building Height ^C	60 feet	60 feet	60 feet	60 feet	50 feet

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 at least the same setback as the adjoining rear setback.

B) Side setbacks are not required for approved townhouse development.

C) Maximum height shall be measured from the pre-disturbance grade.

(Ord. 1949, 10/18/04; Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3023 , § 1, 1/4/22)

Sec. 30.42. 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 ground 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.
- E. Sustainability Features. Solar energy systems, green roofs, and other energy-efficient features may encroach into required setbacks or exceed height limits, provided the encroachment is the minimum necessary for the effective operation or installation of the system, and does not pose a public safety hazard. Such features must comply with all applicable building and fire codes and be reviewed through the site plan or building permit process.
- F. Other Embellishments. Building height limits shall not apply to the following: elevator penthouses, chimneys, vents, antennas, satellite dishes or other building embellishments such as spires, steeples, or mechanical equipment screens. Parapets no greater than 4 feet in height, railings and guards required by the building code are also exempt from building height limits. Building embellishments not listed here are subject to approval by the Zoning Administrator.

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.43. Accessory dwellings.

- A. The purpose of this Section is to provide accessory dwelling units (ADUs) as a form of housing that contributes to housing choice and affordability while ensuring compliance with state law.
- B. In all zoning districts in which accessory dwellings are permitted the number of accessory dwellings allowed is equivalent to the number of one (1) family dwelling units present on the lot. Accessory dwelling units shall not apply to two (2) family and multi-family dwellings.
- C. Accessory Dwelling Units are only allowed in the CBD, LI, I, and PC districts if a single-family dwelling already exists on site.
- D. Size: ADUs shall not exceed 75% of the gross floor area of the primary dwelling or 1,000 square feet, whichever is less. ADUs that are entirely contained within the primary dwelling, such as a basement ADU, are not limited in size.

- E. ADUs must comply with zoning requirements and applicable building and fire code requirements.
- F. No additional off-street parking shall be required for an ADU.
- G. ADUs shall be located on the same lot as the primary dwelling.
- H. If an ADU is subdivided from the primary dwelling unit, the ADU is no longer an accessory dwelling and must meet all density requirements of the zoning district.

(Ord. 2090 , § 1, 11/5/20)

Sec. 30.44. Overlay Zoning Districts

Sec. 30.44.1. Downtown Historic Overlay Zoning District

A. Purpose and Intent

1. To promote the preservation of historically significant buildings in the City's Downtown Historic District that reflect the cultural and architectural past of the City;
2. To enhance the property values and to increase economic and financial benefits to the City of Livingston and its inhabitants through the preservation of historic buildings.

(Ord. 1878, 9/21/98)

B. Territorial jurisdiction.

1. Official Historic District Zoning Map. The properties to be included in the Historic District Overlay Zone are identified on the Historic District Overlay Zoning Map on file at the City Clerk's office, and entitled "The Historic District Overlay Zoning Map of the City of Livingston." The properties included in this zoning district are those properties accepted by the United States Department of the Interior for inclusion into the National Register of Historic Places.
2. Amendments to the Zoning Map. The Historic District Zoning Map may be amended from time to time to reflect any changes to the properties on the National Register of Historic Places. Amendment shall be by ordinance of the City Commission.
3. Criteria for Inclusion into Historic District Zone. Only those sites and structures that have been accepted as Historic Places by the National Register of Historic Places may be included in the Historic District Zone.
4. Exclusion of Properties from the Historic District Zone. The Livingston City Commission may eliminate certain properties from the Historic Zoning District, only after following the procedures outlined in Section 30.71 of the Livingston Code of City Ordinances. In such cases, the property shall maintain the zoning classification specified in the underlying a zoning district change is described in the zoning map amendment application.
5. Fees. No fees shall be charged for any petition requesting either inclusion to or exclusion from the Historic District Zone.

(Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

C. Permitted uses.

1. Any building or structure within the designated historic district may be used for any purpose allowed in the underlying zoning district. Any request for a change in use not permitted as an allowed or conditional use in the underlying zoning district must be submitted to the City Commission as a request for a Conditional Use Permit or a Zoning Map Amendment in accordance with the procedures outlined in this Chapter. If such a Variance or Zone Change is granted by the Livingston City Commission such change shall not have any effect on the designation of the property as a historic district zone.
2. The Historic District designation shall be an overlay zone, and as such shall be in addition to existing zoning designations and the regulations appropriate thereto.

(Ord. 1868, 2/2/98; Ord. 1878, 9/21/98)

D. Historic Preservation Commission (HPC)

1. Establishment of the HPC. In order to carry out the purpose and intent of this Section, the HPC is created. The HPC shall consist of five (5) residents of the City or owners of property within the Historic Overlay District and, inasmuch as possible, shall consist of the following mix:
 - i. Two (2) members with professional expertise in the disciplines of history, planning, archaeology, architecture, architectural history, historic archaeology, or other historic preservation-related disciplines such as cultural geography or cultural anthropology.
 - ii. One (1) locally licensed contractor.
 - iii. One (1) resident knowledgeable about the historical aspects of Livingston.
 - iv. One (1) owner or lessee of property within the historical district.
2. Appointment, Term, Vacancy.
 - i. All appointments to the HPC shall be made by the Chair of the City Commission and approved by the City Commission.
 - ii. The terms of the HPC members shall be for three (3) years.
 - iii. Terms shall be staggered, ensuring at least two (2) of the members have different term-end dates than the other three (3) members.
 - iv. The City Commission may approve changes to term end dates by a simple quorum when necessary to provide for sufficient staggering of term end dates.
 - v. The City Commission may appoint a new member to a vacant position to fulfill the remaining time of the previous member's term. The Commission must re-appoint the position upon its regularly scheduled term end date.
3. Officers, Quorum, Staff.
 - i. The Chairperson shall be elected by the members of the HPC at the first meeting held in each calendar year.
 - ii. A quorum shall consist of three (3) members of the HPC.
 - iii. The Zoning Administrator shall serve as the executive secretary to the HPC and shall perform all staff duties required by this Section.

4. Conflict of Interest. No member of the HPC may vote on any project in which they or any partner has worked or in which they or any partner has any financial interest, including professional fees.
5. Meetings, Notice of Meetings.
 - i. The HPC shall meet as needed to carry out the provisions of this Section. Meetings shall be scheduled by the Zoning Administrator..
 - ii. Requirements for notice of meetings of the HPC shall be determined by the Chairperson in consultation with the City Attorney. Notice of meetings should be calculated to reach all interested and affected members of the community in sufficient time to enable them to participate meaningfully in HPC proceedings. Notice may be achieved by posting, through advertisements in newspapers of general circulation, radio public service announcements, news releases to local news media or any other method deemed necessary and appropriate.
6. Powers and Duties. The HPC shall have the power to:
 - i. Establish criteria for designation of properties as a historic site or district, pursuant to and consistent with the National Register of Historic Preservation criteria;
 - ii. Review and comment upon the conduct of land use, housing and redevelopment, municipal improvement, and other types of planning programs undertaken by city, county, state or federal agencies, as they relate to cultural and historical resources;
 - iii. Establish guidelines to be used by the HPC in reviewing applications for permits to construct, alter, change, modify, remove, or significantly affect any cultural resource;
 - iv. Provide to all interested parties information available on surveys, technologies and funding sources needed to promote cultural resource preservation;
 - v. Provide non-binding recommendations on applications involving alterations to historic resources to the Zoning Administrator . These recommendations shall be advisory and shall not be considered an action on the issuance or denial of variances or building permits.
 - vi. Render advice and guidance upon request of a property owner as to the restoration, alteration, decoration, landscaping or maintenance of any cultural resource designation.

(Amended by Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98; Ord. No. 2038, § 1, 3/20/12; Ord. No. 2054, § 1, 4/23/15; Ord. No. 3005, § 2, 4/20/21)

E. Advisory review procedure for exterior alterations and construction

1. Within the Downtown Historic District, all projects affecting the exterior appearance of a building or structure, including work not requiring a building permit, may be submitted for advisory review by the HPC. The HPC may issue non-binding recommendations based on the Secretary of the Interior's Standards for Rehabilitation to advise the Zoning

Administrator in their decision-making. HPC recommendations shall not delay or prohibit permitting decisions.

2. Application Procedure.
 - i. Applications for permits for construction, renovation and/or demolition of any structure within an historic district shall be made to the Zoning Administrator.
 - ii. If an applicant requests design review by the HPC, the Zoning Administrator shall place the application upon the agenda for the next scheduled HPC meeting.
 - iii. The Zoning Administrator shall provide public notice of HPC meetings in accordance with existing City policy and subject to consultation with the City Attorney.
3. Review Criteria. In considering applications for construction, renovation or demolition permits, the HPC shall base its recommendation on whether the proposal therein is architecturally compatible with the buildings, structures and landmarks within the district. Recommendations by the HPC shall be non-binding. No permit or zoning decision shall be denied based solely on HPC input. In applying such standard, the HPC shall consider, among other factors, the following:
 - i. Exterior architectural features, including all signs;
 - ii. General design, scale and arrangement;
 - iii. Texture, material and color scheme;
 - iv. The relationship of exterior architectural features, signage, general design, scale, arrangement, texture, material, and color scheme to other structures and features of the district;
 - v. The purposes for which the district was created;
 - vi. The extent to which the denial of the permit would constitute a deprivation to the owner of a reasonable use of his property;
 - vii. The relationship of the site and siting of any new or reconstructed structure to the landscape of the district.

All recommendations by the HPC shall include a statement of the reasons for such recommendation.

4. Fees. No special fees, other than the appropriate building permit fees, shall be charged to any applicant for construction, renovation, or demolition of any historic structure or any structure located within a designated historic district.

(Amended by Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98; Ord. No. 2038, § 1, 3/20/12)

F. Ordinary maintenance and repair.

1. Nothing in this Section shall be construed to prevent the ordinary maintenance and/or repair of any structure when such maintenance or repair does not alter the exterior appearance of the building or structure.

(Ord. 1878, 9/21/98)

G. Hazardous buildings or structures.

1. Nothing in this Section shall prevent the razing or demolition of any building or structure within the historic district which is in such an unsafe condition that it would endanger life or property as determined by the Building Director and/or the Fire Chief in accordance with the provisions of the International Building Code or any applicable Fire Code duly adopted by the City of Livingston. Prior to any such razing or demolition, notice will be provided to the HPC, by the authorizing official, so as to accommodate the documentation of any historic resource that may be lost.

(Amended by Ord. 1692, 7/1/91; Ord. 1878, 9/21/98; Ord. No. 2038, § 1, 3/20/12)

H. Interior arrangement.

1. The Historic Preservation Commission shall not consider or recommend interior building arrangements, renovations, maintenance, or updates if such changes do not impact the exterior of the building.

(Amended by Ord. 1692, 7/1/91; Ord. 1878, 9/21/98)

I. Severability.

1. If any provision of this Section or its application to any person or circumstances is held invalid, the remainder of this Section or the application of this provision to other persons or circumstances is not affected.

(Ord. 1498, 7/19/82; Ord. 1515, 7/6/83; Ord. 1557, 10/21/86; Ord. 1878, 9/21/98; Ord. No. 2038, § 1, 3/20/12)

J. Historic Preservation Officer

1. Establishment of a Historic Preservation Officer (HPO)

In order to carry out the purpose and intent of this Section, the Zoning Administrator shall serve as the HPO.

2. Qualifications

The Zoning Administrator, in their capacity as the HPO, shall have knowledge of or experience in one or more of the following areas: history, planning, archaeology, architecture, architectural history, historic archaeology, or other historic preservation-related disciplines such as cultural geography or cultural anthropology.

3. Duties and Responsibilities

The HPO shall coordinate local historic preservation programs; assist in the development of local surveys, projects, and historic preservation planning documents; advise and assist the HPC, government agencies, and the public; and ensure, to the extent practicable, that the duties and responsibilities delegated to the Certified Local

Government (CLG) by the State Historic Preservation Office (SHPO) are satisfactorily carried out.

4. Advisory and Administrative Capacity

The HPO shall exercise full administrative authority to review and decide historic preservation matters in accordance with this Code. Historic preservation review decisions are a normal duty of the HPO and shall be issued administratively. Appeals of such decisions may be made as provided in the appeal procedures of this Code.

(Ord. 1692, 7/1/91; Ord. 1868, 2/2/98; Ord. 1878, 9/21/98; Ord. No. 2038, § 1, 3/20/12)

Sec. 30.44.2. Livingston Heritage Overlay Zoning District

A. Purpose and Intent.

1. The Livingston Heritage Overlay (LHO) Zone is meant to protect and enhance Livingston's architectural character, celebrate its cultural and natural heritage, and ensure context-sensitive growth at community gateways and in other historically or culturally important areas outside of the Historic Overlay Zoning District.

B. This Section provides policies and standards for the design of buildings in the LHO 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.

C. 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 LHO Zone.

D. 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 designs that relate to the adjoining public streets, sidewalks, and spaces.
- E. 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, except by discretion of the Zoning Administrator.
- F. Building Character.
1. Policy. Buildings shall reflect the regional urban character.
 2. Guideline.
 - i. Designs that draw upon regional design traditions are preferred. Standardized "franchise" style architecture will be strongly discouraged by following these standards.
 - ii. Higher density buildings are encouraged with mixed-use multi-story buildings and shared parking.
 - iii. Incorporating smaller retail shops facing the street is encouraged.
 - iv. Secondary buildings on a site should be placed around the perimeter of the site to visually shield the public from the parking areas.
 - v. Where possible main entrances should face away from the prevailing winds.
 - vi. Buildings should have multiple entrances to minimize the distance from parking spots to the building.
 - vii. If present on site, wildlife corridors shall be included in the site plan.
 - viii. On site generation of electricity using renewable energy is highly encouraged.
 - ix. The primary entrance to a building shall have a human scale. A one (1) story element at the building entrance to help establish a sense of scale shall be provided.
 - x. Where no windows or other obvious indication exists, the position of each floor in the external skin design of a building shall be expressed to establish a human scale.
 - a. Use belt courses or other horizontal trim bands of contrasting color and materials to define floor lines.
 - b. Articulate structural elements, or change materials as a method of defining floors.
 - xi. Building materials that help establish a human scale shall be utilized.
 - a. For example, use brick in a standard module to express a human scale.
 - b. Avoid using large surfaces of panelized products or featureless materials.
 - c. A large surface of stucco or similar material that lacks articulation or detailing shall not be allowed.

- d. The mix of exterior materials should form a cohesive design package. One (1) material and color should be chosen for eighty (80) percent of the building, with accent materials and colors used to articulate openings, building foundations and roof terminations.
- xii. 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.

G. 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.
 - i. The main entrance shall be designed to be clearly identifiable.
 - a. A sheltering element such as a canopy, awning, arcade or portico shall be provided to signify the primary entrance to a building.
 - b. Where more than one (1) user shares a structure, each individual entrance shall be identified.
 - c. Customer amenities such as seating areas, coffee shops, customer service stations are encouraged to be located near the main entrance.
 - d. Shopping cart storage at the entrance, either outside or in the vestibule of the building is encouraged to be avoided.
 - ii. The primary entrance of a building to face a street, plaza or pedestrian way.
 - a. Focusing an entrance toward a parking lot without also addressing the street is inappropriate.
 - b. If the building is adjacent to a street "double-fronted" design 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.
 - c. 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 streetscape furnishings.

H. 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.

- i. 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. A large expanse of blank wall is not permitted on any street-oriented facade.
- ii. All building walls located within ten (10) feet of a public sidewalk shall have a minimum of sixty (60) percent coverage of wall square footage with ground floor windows.
- iii. 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.

I. 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 Section, e.g., "small details/visible to pedestrians."
- 2. Standards. In order to reduce the visual impacts of building scale, each major building project shall provide all of the following:
 - i. Divide a building into visual modules that express dimensions of structures seen traditionally.
 - ii. 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.

- iii. 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.

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

K. 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.
 - i. Free standing and monument signs will be constructed of materials and contain details which match those of the building being advertised.

- a. Use brick, wood or stone facades on signage structures to help them blend into and match the site;
 - b. Simulate architectural details of the building, such as colors, textures, and geometric forms, in designing sign structures.
 - ii. 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.
 - iii. Landscaping shall only be required for monument signs in overlay districts
- L. Design Standards Administration. The building design standards and review procedures contained herein shall apply to all property within the LHO Zoning District, which has been mapped on the City's Official Zoning Map. All new construction, exterior remodels and additions to existing buildings within the LHO Zone will be subject to the following application and review process:
 - 1. Application Submittal Requirements.
 - i. Site Plan Review (SPR) is required for all new buildings and any additions to existing buildings that increase the square footage more than 50%.
 - ii. 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.

(Ord. 1974, 9/5/07; Ord. No. 3003 , § 1, 4/6/21; Ord. No. 3021 , § 1, 11/16/21)

Sec. 30.45. Planned Unit Development (PUD).

- A. Intent. The Planned Unit Development (PUD) is a zoning district intended to encourage more efficient use of land and public services than is generally attainable under standard zoning application. Conventional area and density requirements are replaced by application of the PUD district to lands upon which an approved plan becomes the basis for control of land development. By allowing for context sensitive design that conforms to topography and minimizes site impacts, PUD zoning encourages clustered development, diverse housing types, mixed land uses, and natural resource preservation.
- B. To achieve the stated intent, a PUD shall further a majority of the following objectives:
 - 1. Protect natural and cultural resources
 - 2. Encourage open space and recreational areas beyond the minimum subdivision requirement.
 - 3. Promote a more effective use of land than the base zoning district would allow, resulting in clustered development and a more condensed network of utilities and streets

4. Encourage mixed uses in new developments as a means to improve convenience and access to daily necessities by area residents.
5. Reduce vehicular trip generation through mixed use development and enhanced multi-modal connectivity
6. Encourage affordable/ workforce housing development
7. Support the adopted City of Livingston Growth Policy

C. PUD Minimum Size and Allowed Uses

1. The proposed PUD must be a minimum of 0.5 acres in size and all land must be under a single ownership/ entity at time of application submittal.
2. PUDs are only allowed in the following zoning districts: R-II, LMU, HMU, CBD and GC. All PUDs shall include residential uses.
3. Commercial Uses: Commercial uses in PUDs that are not allowed by-right in the base zoning district must be appropriately scaled and compatible with other uses in the proposed development and with respect to the surrounding neighborhood. Commercial uses should be located, designed and operated to serve primarily the needs of residents within the PUD and secondarily persons residing outside the PUD. Commercial development within the PUD may require Site Plan Review prior to issuance of a building permit for commercial use structures.
4. Industrial Uses: Light Industrial uses may be allowed in the PUD district, provided they are appropriately scaled and compatible with the proposed development and with respect to the surrounding neighborhood. Light Industrial development within the PUD may require Site Plan Review prior to issuance of a building permit for structures related to the Light Industrial Use. Heavy Industrial uses are not allowed in a PUD.

D. Developer Incentives and Public Benefits

1. Guidelines. The table below identifies the Public Benefits the City seeks to encourage for inclusion in PUDs and the specific Developer Incentives that shall be granted when a Developer provides one or more of the listed Public Benefits. Provision of a qualifying Public Benefit guarantees the corresponding Developer Incentive, subject only to the maximum limits identified in subsection (i) below.

DEVELOPER INCENTIVES	PUBLIC BENEFITS
1. Residential Density Bonus	A. 10% deed restricted Affordable Housing units (min. 2 units)
2. Height Increase	B. Deed restricted Affordable Housing units at or below 60% AMI
3. Waived Impact Fees	C. 10% reduction in vehicular trips to be generated by the PUD
	D. Open Space area is at least 20% of PUD
	E. Commercial Uses in at least 5% of total building floor area

i. Developer Incentives

- a. Increased Residential Density- 10% increased density over base zoning district for each public benefit provided by developer; maximum 25% overall density increase allowed
- b. Increased Height- Developers shall be permitted additional building height when providing the associated Public Benefit. Height increases are only allowed in the R-II and LMU zoning district, up to a maximum of 40 feet.
- c. Waived Impact Fees- Developers providing deed-restricted Affordable Housing units at or below 60% AMI shall receive a waiver of impact fees on a 1:1 basis for each such unit. This incentive applies only to Affordable Housing units at or below 60% AMI and does not extend to other Public Benefits.

ii. Public Benefits- each of the below benefits counts as a single benefit

- a. Affordable Housing- must be deed restricted to qualify for developer incentives (minimum 2 affordable units per project)
 - a) Affordable Housing is based on the Area Median Income (AMI) for Park County.
 - b) The AMI is set annually for Park County by the U.S. Department of Housing and Urban Development.
 - c) Affordability for Renter-Occupied vs. Owner-Occupied housing units will be determined based on the AMI in place at the time the PUD is approved at a public hearing. Affordability thresholds will be listed on the PUD application form.
 - d) All Affordable housing units must be substantially similar in design, location and amenities as market rate units.
- b. Reduced vehicular trips- 10% reduction of vehicular trips generated by the PUD resulting from design, uses, multi-modal transportation facilities, etc.
- c. Increased Open Space - 20% or more of PUD area must be dedicated public open space.
- d. Commercial Uses- A minimum of 5% of total building floor area in the PUD must be dedicated to commercial uses.

iii. Formula for Incentives and Public Benefit Allocation:

- a. Residential Density Bonus - a Developer may provide one of the below public benefits to obtain a 10% residential density increase over what the base zoning district allows; maximum total density increase allowed is 25% above the base zoning district
 - a) Affordable Housing
 - b) Reduced Vehicular Trips

- c) Increased Open Space
 - d) Commercial Uses
 - b. Height Increase- one-time only bonus; may be obtained by providing any of the below benefits
 - a) Affordable Housing
 - b) Reduced Vehicular Trips
 - c) Increased Open Space
 - d) Commercial Uses
 - c. Waived Impact Fees- Awarded on a 1:1 basis
 - a) Affordable Housing unit at or below 60% AMI.
NOTE: Affordable Housing units at or below 60% AMI will qualify for the Waived Impact Fees as well as count toward the total number of Affordable Housing Units needed to obtain Residential Density Bonus
- 2. Limitations on Developer Incentives.
 - i. A height bonus is only allowed in the R-II and LMUzoning districts. A height bonus may only be awarded once for a maximum height of 40 feet in the PUD.
 - ii. The increased residential density bonus may be awarded more than one time; however, the total increased residential density bonus shall not exceed 25% above the residential density allowed in the base zoning district.
 - iii. The incentive received for Commercial Use Floor Area public benefit is limited to a one-time award. Live/ Work units shall not comprise more than half of total commercial floor area.
- 3. Multi-Phased Development.
 - i. For affordable/ workforce housing: The maximum allowed price of a dwelling unit will be determined by the AMI levels at the time of PUD phase commencement.
 - ii. Developer bonus(es) must be implemented concurrently with the corresponding public benefit (i.e. the public benefit provided to achieve the bonus).
- 4. Cash-in-Lieu and Financial Guarantees of Public Benefits
 - i. For Phased PUDs: At the City's discretion, a financial guarantee may be accepted for provision of a public benefit in a future phase in lieu of concurrent implementation of the benefit with the corresponding developer bonus.
 - ii. For the Increased Open Space public benefit: At the City's discretion, cash-in-lieu may be accepted for the fair market value of some or all of the required open space to allow the City to fund open space or recreational amenities in an alternate location. If the open space includes multi-modal transportation infrastructure that is being used to demonstrate a Trip Reduction public benefit, cash-in-lieu is not allowed.

E. Application Procedures

1. A Pre-Application meeting is required with city staff at least 30 days prior to submittal of the PUD application.
2. Prior to submittal of the application, the applicant must notify landowners of the proposed PUD zoning within 300 feet of the PUD external boundary and provide a method by which surrounding landowners may offer comments on the proposal. All comments received must be included in the PUD application.
3. Application Submittal requirements- each application for PUD zoning shall contain the following material:
 - i. Completed City of Livingston PUD Application form; see application form for detailed submittal requirements. Where a PUD also involves a subdivision of land, it shall also meet the application requirements of the Livingston Subdivision Regulations.
 - ii. All applicable fees.
 - iii. A listing of each deviation or class of deviation from the base zoning district and a justification for the deviation.
 - iv. A listing of each deviation or class of deviation from the City's Subdivision Regulations (if a subdivision is proposed), the City's Public Works Design Standards and Specifications, and a justification for the deviation.
 - v. Project Narrative or other convincing and persuasive demonstration that the proposed PUD will implement goals and strategies of the adopted Livingston Growth Policy.
 - vi. The PUD plan shall identify the existing zoning of the area within the proposed PUD district and the zoning of all parcels surrounding or immediately adjacent to the proposed PUD.
 - vii. Operation and Maintenance for private facilities for common use of PUD residents as well as for facilities that will be available for use by the general public (if applicable).
 - viii. For multi-phase projects where components are proposed which may not be built for many years, future phases may show conceptual street designs, proposed park and open space areas, trail concepts, proposed residential density, housing types and commercial areas. Where a multi-phased PUD involves a subdivision of land, the applicant shall submit an overall phased development preliminary plat per MCA 76-3-617.
 - ix. Other information, plans and details that the city staff, , Consolidated Land Use Board and/or City Commission may request to fully evaluate the development proposal and its impacts and conclusively demonstrate how the review criteria listed below will be met.

F. Public Review Process

1. Work Session. A public work session is required to be held on a proposed PUD plan prior to any public hearing. The work session is intended for informational purposes only to inform both the public, the Land Use Board, and the City Commission about the various

aspects of the project. It is not intended to be a public hearing and the Land Use Board, and City Commissioners shall not ask questions, provide comments or take formal action on the PUD application. All owners of property within 300 feet of the proposed PUD shall be invited to this work session. An invitation to the work session may be included within the formal public hearing notice or it may be sent separately.

2. **Zoning Review.** The Land Use Board, acting as the Zoning Commission, will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. The review procedure for PUD zoning will follow Article VIII of this Chapter for amendments to city zoning ordinance and zone change. Review of the proposed PUD will be based on the statutory provisions of MCA 76-2-304 and the following evaluation criteria:
 - i. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - ii. The proposed deviations from the underlying zoning requirements will not adversely affect the public and/ or the surrounding neighborhood.
 - iii. Uses with varying intensities are effectively buffered, both within the PUD and between the PUD and the surrounds.
 - iv. Action by the Zoning Commission.
 - a. The Zoning Commission shall hold a public hearing on the application pursuant to LMC Section 30.71.
 - b. The Commission shall submit its recommendations to the City Commission regarding the PUD rezoning request based on the review criteria under 2.a-c in this Section.
 - c. The Zoning Commission may recommend the City Commission approve, approve with conditions, or deny the application.
3. **Planning Review.** The Land Use Board, acting as the Planning Board, will review the application, hold a public hearing and make a recommendation to the City Commission to approve, approve with conditions, or deny the application. Where a PUD also involves a subdivision of land, it shall follow the process called out in the Livingston Subdivision regulations (Chapter 28), including preliminary plat approval timelines. Review of the proposed PUD will be based on the following evaluation criteria:
 - i. The proposed PUD supports the adopted Growth Policy with respect to applicable density and use goals, objectives and/or strategies identified in the Growth Policy.
 - ii. The proposed departures from the adopted the City of Livingston Public Works Design Standards and Specifications and/ or subdivision regulations (if applicable) will not adversely affect the public and/or surrounding neighborhood.
 - iii. The PUD will establish effective connections within the PUD and to the surrounding transportation network.

- iv. The size and type of parkland and open space and demonstration of its adequacy for the land use, densities and dwelling types proposed in the PUD, as well as the proposal for maintenance and conservation of these areas.
- v. The PUD will not adversely impact the natural environment, critical wildlife and habitat, agriculture, public health and safety, and local services.
- vi. Action by the Planning Board
 - a. The Planning Board shall hold a public hearing on the application and submit its recommendations to the City Commission regarding the PUD based on the review criteria under 3.a-e in this Section.
 - b. The Planning Board will review the PUD Plan and, after holding a public hearing, make a recommendation to the City Commission to approve, conditionally approve or deny the PUD.
 - c. Where a PUD involves a subdivision of land, the review will be as directed by Chapter 28 of Livingston Municipal Code. Any deviations from the Subdivision Regulations in Chapter 28, or the City of Livingston Public Works Design Standards and Specifications, will only be allowed through the Variance process contained in Chapter 28 of the Livingston Municipal Code.

- 4. Action by the City Commission. Upon receiving recommendations from the Land Use Board (acting as the Zoning Commission and Planning Board), the City Commission will review and approve, approve with conditions, or deny the PUD application and any applicable Preliminary Plat. The City Commission may conduct the first reading of the zoning ordinance amendment required for a PUD at the same meeting during which the preliminary PUD plan is approved.

G. Preparation and Filing of Final PUD.

- 1. Upon approval of the PUD by the City Commission, the property owner shall proceed with the preparation of the Final PUD plan.
- 2. The Final PUD Plan must include a Statement of Standards that describes the specific uses, development standards, deviations from the underlying zoning standards, completion schedule, and conditions of approval. This Statement of Standards shall be approved as to form by the City Attorney, and upon review and approval by the Zoning Administrator, recorded in the land records of Park County.
 - i. The Final PUD plan shall incorporate all the conditions imposed by the City Commission at the time of approval of the preliminary plan.
 - ii. The applicant shall submit three signed copies of a Final PUD Plan and other documents as required by the conditions of approval to the Planning Department. The applicant must also submit a draft PUD Agreement between the City and the developer(s) for review by the City Attorney. The PUD Agreement must bind the developer, his or her successors, heirs and assigns to the terms and conditions of the PUD. Upon approval by the Zoning Administrator, a signed copy of the plan shall be returned to the applicant, a signed copy shall be retained on file in the County Clerk and Recorder's office and a signed copy shall be kept on file with the Planning Department.

- iii. All PUD documents required under the conditions of approval shall be submitted to the Planning Department in a timely fashion following approval by the Commission but in no case shall a building permit be issued until the final PUD plan has been submitted and approved and the PUD agreement has been executed. For PUDs where a subdivision is required, the final plat shall be filed once construction is completed in accordance with LMC Chapter 28 Subdivision Regulations.

H. Amending an Approved PUD.

1. Once approved, a PUD may be amended by the developer(s). Proposed amendments shall be submitted to the Zoning Administrator to make one of the following findings:
 - i. The change(s) is deemed minor in scope and may be granted or denied administratively by staff with or without conditions; or
 - ii. The change(s) is deemed substantial, in which case the amendment(s) is forwarded to the City Commission for consideration and final action.
2. Any determination made administratively by the Zoning Administrator is appealable to the City Commission.
3. No later than 30 days after the notice of noncompliance is delivered, the landowner and/or developer may submit a written request for time extension from the City Commission. Said request shall set forth a proposed completion schedule and/or new timetable for installation of the improvements. The Commission may grant one or more extension(s) but each extension is a matter of grace which, if approved, may be subject to additional conditions imposed by the Commission which may be deemed necessary to address issues that have arisen due to the lapse in time.
4. The City shall not initiate any amendment to the PUD before the completion of the approved PUD as long as development is in substantial conformity with the approved PUD and proceeding in accordance with the time requirements imposed therein by the completion schedule.

I. Abandonment or Expiration of PUD.

1. The Zoning Administrator shall monitor the PUD for compliance with the completion schedule set forth in the approved Final PUD Plan and to assure that all improvements have been made in accordance with the approved Plan.
2. The following procedures apply if the PUD fails to comply with the approved completion schedule:
 - i. For PUDs that do not include a subdivision of land:
 - a. If a PUD project falls out of compliance with its approved completion schedule, or the landowner and/or developer does not submit annual progress updates to the Zoning Administrator, a notice of noncompliance with the completion schedule shall be delivered in writing by certified mail to the landowner and/or developer.
 - b. Abandonment shall be deemed by the City Commission to have occurred when the landowner/developer is deemed to be out of

compliance with the approved completion schedule and has failed to secure an extension as provided for under H.3 of this Section.

- c. Upon the abandonment of a development authorized under this Section, the City Commission shall direct the Zoning Administrator to do the following:
 - a) If a portion of the PUD site was developed in accordance with the Final PUD Plan, the PUD approval conditions and any associated requirements cited in the Final PUD Plan shall stay in force for that portion already developed; and
 - b) For that portion of the PUD which was not developed under the approved terms, the provisions of the PUD shall lapse and the site shall revert back to the base zoning district in place prior to approval of the PUD District.
- ii. PUDs which include a subdivision of land:
 - a. A PUD involving a subdivision of land shall not obtain Final Approval until the Final Plat is filed in accordance with Chapter 28 for Subdivisions.

(Ord. No. 3043 , 11/7/23)

Sec. 30.46. Site Plan Review.

- A. Site Plan Review (SPR). All development proposals on a parcel or parcels under a single ownership and meeting any of the following criteria require SPR:
 - 1. Ten (10) or more dwelling units.
 - 2. Ten-thousand (10,000) or more gross square feet of commercial or industrial floor area.
 - 3. Ten-thousand (10,000) or more square feet of outdoor storage area.
 - 4. Twenty (20) or more parking spaces.
 - 5. Any addition to an existing use that meets any of the above criteria.
- B. Building Permit. No building permit shall be issued nor will any work of any kind commence until the SPR application has been approved in writing by the Zoning Administrator.
- C. Application. All SPR applications shall be submitted to the City of Livingston Planning Department. All Site Plan applications shall be consistent with the submittal requirements listed below.
- D. Submittal requirements. All items listed below shall be submitted to the Planning Department with any SPR application. The items listed are the minimum submittal requirements. The Planning Department may request additional information as deemed necessary to evaluate the application based on the SPR Criteria.
 - 1. General Information.
 - i. Completed Application form.
 - ii. Vicinity map including adjacent roads and zoning on adjacent parcels.
 - iii. Engineering design report.
 - iv. A copy of the most recent plat.

- v. Proposed uses of all structures on the site.
 - vi. Number and density of proposed dwelling units (if applicable).
2. Project-Specific Information. Specific submittal requirements for each item shall be listed in the City of Livingston Site Plan Application, Public Works Design Standards and Specifications Policy, City Ordinances, or referenced document. Site plans shall be appropriately divided into separate sheets to ensure legibility of the documents.
- i. Boundary of the parcel with complete dimensions and topographic lines.
 - ii. Project phasing line (if applicable).
 - iii. Parcel size in square feet.
 - iv. North arrow and required legends.
 - v. Scale of between 1 inch to twenty feet (1":20') and one inch to one hundred feet (1":100')
 - vi. Location and width of all on-site and adjacent rights-of-way.
 - vii. Street Design conforming to the City's Public Works Design Standards and Specification Policy.
 - viii. Grading and drainage plan conforming to the City's Public Works Design Standards and Specifications Policy.
 - ix. Location of all proposed structures on site, with the distance of all structures to the property lines labeled and the square footage of the structures listed.
 - x. Building plans including:
 - xi. Location and design of any fences or walls.
 - xii. Landscaping plans.
 - xiii. Parking plans.
 - xiv. Location of site ingress and egress.
 - xv. Lighting plan conforming to the requirements of Article XI of this Chapter.
 - xvi. Location and size of trash enclosures and associated screening.
 - xvii. Utility plan.
 - xviii. Sign plan.
 - xix. Copies of FEMA FIRM maps if any of the site is located within the 100-year floodplain.
3. Additional plans and studies.
- i. A traffic impact study if determined to be required by the City of Livingston Public Works Department.
 - ii. A flood study if determined to be required by the City of Livingston Floodplain Administrator.
 - iii. A letter from the State Historic Preservation Office (SHPO), if determined to be required by the City Historic Preservation Officer, inventorying historic and cultural resources on the site and plans to preserve any identified historic and cultural resources.
 - iv. All required local, state, and federal permits associated with the site plan application.

- E. Applications with required supporting data and applicable filing fees shall be filed with the City Planning Office. Application review will not commence until all required documents and fees have been submitted.
- F. The filing fee for SPR shall be set by separate Resolution.
- G. The SPR application shall be reviewed by the Zoning Administrator. The Zoning Administrator shall consult with local, state, and federal agencies as deemed necessary to evaluate the impact of the site plan proposal on the SPR Criteria as listed in this Section.
- H. Criteria
 - 1. Relationship of the Site Plan elements to conditions both on and off the property.
 - 2. Conformance with the City of Livingston Zoning Ordinance, including cessation of any current violations.
 - 3. Conformance with applicable City of Livingston Ordinances and plans.
 - 4. The safety of vehicular, bicycle and pedestrian ingress and egress.
 - 5. Provision for utilities.
 - 6. Conformance with the City's Public Works Design Standards and Specification Policy.
 - 7. Historic preservation.
 - 8. The impact of the proposal on surface and ground water, including floodplains, wetlands, and source water protection zones.
 - 9. The impact of the proposal on wildlife and the natural environment, including disruption of habitat, migration corridors, and protected species.
 - 10. Adequacy of mitigation measures to protect sensitive environmental areas.
 - 11. Open space
 - 12. Landscaping and screening
 - 13. Loading and unloading areas.
- I. Conditions of Approval. The Zoning Administrator may require conditions of approval as deemed necessary to ensure the site plan meets the criteria listed in this Section. A Certificate of Occupancy shall not be granted prior to the completion of all SPR conditions of approval.
- J. Amendments to Approved Site Plans. Any amendment or modification of an approved Site Plan shall be submitted to the Planning Department for review and possible approval.
- K. Violations and Civil Penalty. Any work performed contrary to the approved site plan shall not be permitted, a stop order will be issued and all work will cease until the violation is either removed or made to conform with the site plan at the applicant's expense. A violation may be punished by a civil penalty not to exceed five hundred dollars (\$500.00) for each day the violation is allowed to continue and each day shall be deemed a separate violation.

(Ord. 1870, 4/20/98; Ord. No. 3004, § 1, 4/6/21; Ord. No. 3005, § 2, 4/20/21)

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. 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 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 building permit must be obtained 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 Zoning Administrator shall be responsible for the enforcement of this sign ordinance.

9. All buildings with more than one (1) business occupant must submit to the Zoning Administrator 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 this Section.

C. 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. Only time and temperature shall be animated.
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 Zoning District, 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.

D. Signs Allowed 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, provided such sign is no greater than fifteen (15) square feet and 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.

E. 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:
 - i. Only one (1) on-premises sign will be allowed for each business.
 - ii. The maximum allowable size for each sign shall be twelve (12) square feet.
 - iii. Illuminated signs shall be illuminated only as long as the advertised business is open.

3. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street. Temporary signs are exempted from setback requirements.
- F. 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.
 - i. All lighting shall comply with the requirements of Article XI of this Chapter.. 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.
 - ii. In the Central Business District, backlit and up lit signs are prohibited. Lighting, including but not limited to: halo lit, downlit, and neon signs is allowed. Neon signs in the style of historic downtown signs are highly encouraged in the Central Business District.
 3. Number of Signs.
 - i. In Commercial and Industrial Zoning Districts, other than the Central Business District, each use is limited to a total of three (3) wall, roof mounted, and/or window signs, one (1) projecting sign or awning sign, and one (1) door sign. 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. Additionally, movie theaters are allowed one (1) marquee sign.
 - ii. In the Central Business District Zoning District, each use is limited to two (2) wall signs, one (1) projecting sign, one (1) awning sign, and one (1) sidewalk sign. Each use is allowed window and door signs, and there shall be no maximum number of window or door signs. Additionally, movie theaters are allowed one (1) marquee sign. Free standing and monument signs are not permitted in the Central Business District.
 4. Specific Sign Type Standards.
 - i. Wall, Window, and Door Signs.
 - a. In Commercial and Industrial Zoning Districts, other than the Central Business District, the total surface area of all wall signs and window signs is limited 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. Door signs are not limited in square footage and shall not count towards to the total square footage of wall and window signs, but shall only contain the logo, names, contact information, and hours of the businesses or tenants located within the building.
 - b. In the Central Business District:

- a) The total surface area of wall signs on the front street side and/or side street side of a building is limited to two (2) square feet of sign for each linear foot of building frontage not to exceed one hundred (100) square feet per street side.
 - b) Buildings with exposed side walls not fronting a street are allowed wall signs of up to two hundred fifty (250) square feet. Non-street side wall signs must be painted directly onto the facade of the building and cannot be lit.
 - c) Window signs are limited to thirty (30) percent of the total window area of the building regardless of the number of uses.
 - d) Door signs are not limited in square footage and shall not count towards the total square footage of wall and window signs, but shall only contain the logo, names, contact information, and hours of the businesses or tenants located within the building.
- ii. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area. No monument sign shall exceed five (5) feet in height.
- iii. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area. No free-standing sign shall exceed thirty (30) feet in height.
- iv. 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.
- v. Sidewalk Signs.
 - a. Sidewalk signs shall be no greater than forty (40) inches in height measured vertically from the surface grade, and no greater than thirty (30) inches in width measured at the widest point of the sign. No element of the sidewalk sign may protrude more than four (4) inches from the main post or supports of the sign.
 - b. Sidewalk signs shall not be located at street intersections or placed in any manner to obstruct access to crosswalks, crosswalk ramps, and crossing push buttons.
 - c. Sidewalk signs must be placed on the sidewalk directly adjacent to the uses they are advertising and must be brought inside when the advertised business is closed.
 - d. Sidewalk signs must be weighted or tethered in such a manner that they are prevented from moving due to wind.

- e. On sidewalks ten (10) feet and greater in width, sidewalk sign may be placed on the sidewalk with the furthest point of the sign no greater than thirty-six (36) inches from the curb or thirty-six (36) inches from the property line. At no point shall the sidewalk sign, combined with other sidewalk elements create an unobstructed sidewalk surface width of less than six (6) feet.
 - f. On sidewalks less than ten (10) feet in width, sidewalk signs may be placed on the sidewalk with the furthest point of the sign no greater than thirty-six (36) inches from the curb. At no point shall the sidewalk sign, combined with other sidewalk elements create an unobstructed sidewalk surface width of less than four (4) feet. If the sidewalk is not able to accommodate a sidewalk sign while maintaining a four-foot unobstructed surface, sidewalk signs are not allowed in that location.
 - g. On sidewalks with a boulevard, sidewalk signs shall be placed entirely in the boulevard.
- vi. Projecting Signs.
 - a. The lowest point of any projecting sign, regardless of location, shall be at least eight (8) feet above grade.
 - b. In Commercial and Industrial Zoning Districts, projecting signs shall not exceed twenty (20) square feet in total.
 - c. In the Downtown Historic District, new projecting signs shall not exceed twenty (20) square feet in total, or, they must be determined to be consistent with existing historic signs within the district by the Historic Preservation Commission.
- vii. Awning Signs. Awning signs may include signage printed directly on the awning or hung or attached to the awning structure. Total square footage of awning signage shall not exceed fifteen (15) square feet.
- viii. 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.
- 5. 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:
 - i. Temporary signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
 - ii. Directional signs for public facilities;
 - iii. Temporary banner signs not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.

- G. 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.
- H. 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.
- I. 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) for each violation. Each day that the violation continues shall be deemed a separate and punishable violation.

(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; Ord. No. 2090, § 1, 11/5/20; Ord. No. 3040, § 1, 4/4/23)

Sec. 30.51. Off street parking and loading zones.

- A. Parking area design. Parking spaces and drive aisles for all commercial and industrial users shall meet the dimensions listed in Table 30.51 below.

Table 30.51. Commercial and Industrial Parking stall and drive aisle dimension requirements.			
Parking Angle	Parking Stall Length	Parking Stall Width	Drive Aisle Width One-Way/Two-Way
30°	18'6"	9'	13'/21'
45°	18'6"	9'	13'/21'
60°	18'6"	9'	16'/21'
75°	18'6"	9'	16'/21'
90°	18'6"	9'	—/24'

1. Parking lots for all multi-family residential, commercial, industrial and mixed-use development shall be paved. Gravel parking areas are not permitted for any use other than single-family residential. Pervious pavers and green paving systems are encouraged.
2. Parking areas are encouraged to utilize as little land area as possible to meet the minimum parking standards. Overparking, or adding more parking spaces and area than required by the minimum standards, is highly discouraged.
3. To minimize vehicular conflicts on roadways and vehicular crossings of the sidewalk, the preferred access to parking areas for all uses are alleyways. Where alleyways are not an available or feasible option for parking access, uses are encouraged to utilize shared

access points. Parking areas should be accessed from side streets rather than major roadways throughout the City.

4. All new commercial parking facilities with thirty (30) or more vehicular spaces shall provide a minimum of one (1) Electric Vehicle (EV) charging station for every thirty (30) spaces. EV charging stations shall be clearly marked and accessible.
 5. Compact Parking: In parking facilities containing fifteen or more vehicular parking spaces, up to 20% of the required parking spaces may be reduced in size for the use of compact cars. Compact spaces shall be clearly identified with a sign permanently affixed immediately in front of each space designating the space as "Compact Cars Only." Spaces designed for compact cars may be reduced in size to a minimum of eight (8) feet in width and sixteen (16) feet in length.
- 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 dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
 2. For multifamily dwellings: Off-street parking is required within a walking distance of one hundred (100) feet.
 3. For Hospitals/Institutions, and Adult Foster Care Centers Off-street parking is required within six hundred (600) feet.
 4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
 5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear or side of the primary structure on the lot.
 6. Compact parking spaces shall be located in one or more contiguous areas and/or adjacent to ingress-egress points within parking facilities. Location of compact car parking spaces shall not create traffic congestion or impede traffic flows.
- C. Waiver of Parking Requirements – In accordance with 76-2-304 MCA, no minimum parking is required for the following uses:
1. Child-care facilities licensed or registered by the Department of Public Health and Human Services
 2. Deed-restricted affordable housing
 3. Assisted Living Facilities
 4. Existing buildings, including vacant buildings, that undergo a change of use
- D. 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.
- E. 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.

- F. **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.
- G. **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 Zoning Administrator or their authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- H. **Joint Use.** The Zoning Administrator or their authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
 - 1. Up to fifty (50) 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 (100) 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.
 - 3. In mixed-use developments, up to fifty (50) percent of the parking facilities required for the residential use may be supplied by the related day time commercial or light industrial uses. The commercial or light industrial use must be closed between 6:00 p.m. and 8:00 a.m. to be considered for joint use parking.
- I. **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.
 - 1. 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.
 - 2. The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.
 - 3. Required ADA accessible parking spaces may not utilize shared or off-site parking but must be located as near as possible to the entrance of the principle used served.
- J. **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.
 - 1. Residential dwelling in the Central Business District shall meet the full parking space requirements.
 - 2. Required vehicular parking for commercial development may be reduced by 10% if replaced with bicycle parking. Two bicycle parking spaces must be provided for every one vehicular space eliminated from the required parking.
- K. **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. Required off-street parking spaces listed below are in addition to all ADA handicap parking spaces required by the Americans with Disability Act.

USE	MINIMUM OFF-STREET SPACES REQUIRED
Bowling alley	Two (2) per alley.
Medical and dental clinic	One (1) per 400 square feet of gross floor area.
Bank, business and professional office with on-site customer service	One (1) per 400 square feet of gross floor area.
Office not providing on-site customer services	One (1) per 800 square feet of gross floor area.
Radio Station	One (1) per 800 square feet of gross floor area.
Mortuary	One (1) per 5 seats in the principal auditorium.
Manufacturing use, research testing, and processing, assembling, all industries	One (1) per 1,000 square feet of gross floor area.
Library or museum	One (1) per 500 square feet of gross floor area.
School, elementary and junior high	One (1) per classroom.
School, high school	Three (3) per classroom.
Service station and drive-thru restaurant	One (1) per 80 square feet of gross floor area
Residential Dwelling Unit 1,200 sq. feet or larger	One (1) per unit.
Residential Dwelling Unit less than 1,200 sq. feet	One-half (1/2) per unit.
Accessory Dwelling Unit	None.
Warehouse, storage, wholesale business and transportation terminal	Ten (10) spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Eating and drinking establishments (sit-down)	One (1) per 400 square feet of gross floor area.
Furniture, appliance, hardware, clothing, shoe, personal-service stores	One (1) per 600 square feet of gross floor area.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service	One (1) per 1,000 sq. ft. of gross floor area.
Retail store or service business not otherwise named	One (1) per 500 square feet of gross floor area.
Large-scale Retail	One (1) per 800 sq. ft. of gross floor area.
Short Term Rental (Types I and II)	One (1) per unit ⁵
Motel/Hotel	One (1) per sleeping room.
Hospital/Institution	One (1) per patient room/patient space
Theater	One (1) per 10 seats.
Health and exercise establishment	One (1) per 200 square feet of gross floor area
Church	One (1) per each 65 sq. ft. of floor area used for assembly purposes.
Open-air stadium, sport arena and amphitheater	One (1) per eight (8) fixed seats plus one (1) per 100 sq. ft. of assembly space without fixed seats.

⁵ Parking may be waived if the Zoning Administrator determines that site constraints prevent reasonable accommodation of on-site parking for the STR unit.

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

- L. For Multi-Family Developments with more than 10 units, Commercial Uses, or Industrial Uses, up to twenty (20) percent of the parking spaces required in the Table of Minimum Standards may be replaced by enlarged landscaped areas, stormwater swales, or social areas. Enlarged landscaped, stormwater, or social areas must be equivalent or greater in total square footage to the parking spaces being replaced.
- M. 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.
- N. 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 (3) feet from the property line and shall be properly maintained.
- O. 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.
- P. 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.
- Q. 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 their authorized representative.
- R. Standards for Commercial and Industrial Uses.
 - 1. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of ten thousand (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 (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (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. Loading areas shall be located to the rear of the building and shielded from view from the neighboring properties and rights-of way. Loading areas shall not extend into the public right-of-way.
 - 2. Parking areas shall be located to the side and rear of the primary building on site.
 - 3. Parking areas shall have engineered stormwater retention and/or detention systems consistent with the City of Livingston Design Standards and Specifications Policy to prevent runoff into adjacent properties and rights-of-way. Collected stormwater is highly encouraged to be reused to irrigate on-site landscaping.
- S. Bicycle Parking.

1. Bicycle Parking Standards and Design.

- i. In all multi-family residential, commercial, industrial, and mixed-use development, the amount of provided bicycle parking shall be no less than ten (10) percent of the required automobile parking spaces. In buildings with less than twenty (20) parking spaces, two (2) bicycle parking spaces shall be required. Buildings with existing bicycle parking in the adjacent right-of-way may waive the required bicycle parking spaces if the number of bicycle parking spaces provided within the adjacent right-of-way is equal to or greater than the number of spaces required by this regulation. Where five (5) or more bicycle spaces are required, twenty (20) percent of those spaces shall be for bicycles with trailers.
- ii. A bicycle parking space shall be no less than three (3) feet wide by six (6) feet long. Bicycle with trailer spaces shall be no less than three (3) feet wide by ten (10) feet long.
- iii. Required Bicycle Parking must use inverted-U or post and loop racks.

2. Bicycle Parking Location.

- i. In all commercial, industrial and mixed-use development, bicycle racks designed to allow bicycles to be securely locked to them must be provided as close as possible to the main entrance of the building, and must be in a location visible from the public right-of-way.
- ii. Buildings with multiple entrances are highly encouraged to place bicycle racks at each entrance.
- iii. Multi-family residential developments are encouraged to provide secure and sheltered bicycle parking.

T. Pedestrian Walkways. Multifamily residential, commercial, industrial, and mixed-use development shall provide pedestrian walkways. A system of pedestrian walkways is required to connect each primary use structure on-site to the following: adjacent public sidewalks, on-site parking, other on-site primary use structures, bicycle parking areas, and common outdoor use areas.

(Ord. No. 2090 , § 1, 11/5/20; Ord. No. 3003 , § 1, 4/6/21; Ord. No. 3005 , § 2, 4/20/21; Ord. No. 3010 , § 1, 7/20/21; Ord. No. 3017 , § 1, 10/5/21; Ord. No. 3025 , § 1, 10/21/21; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.52. Animals.

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

Sec. 30.53. 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 Municipal Code.

Sec. 30.54. Home occupations.

A. General.

1. It is the intent of this ordinance to permit home occupations, as defined in Article II, that meet the following criteria in any residential district. Only home occupations that meet these criteria are allowed.
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. 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 floor area devoted to the occupation shall not exceed fifteen (15) percent of the total floor area of the dwelling 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 under Sec. 30.50
7. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.
8. 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.
9. Outdoor storage of materials for the home occupation is prohibited.
10. No toxic, flammable, hazardous, or explosive industrial substances related to the home occupation shall be used or stored on the premises

(Ord. No. 2022, § 3, 9/7/10; Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.55. Landscaping Regulations

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for development in order to minimize the visual impact upon public rights-of-way and incompatible uses as well as establishing minimum buffering requirements between commercial, industrial and residential uses.
- B. [Reserved.]
- 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. A variety of species planted in an informal arrangement. The use of xeriscaping, native species, edible plantings, and/or pollinator friendly plantings is preferred.
 - 2. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
 - 3. Landscaping shall give preference to native and drought-tolerant species and xeriscaping practices. Turf areas, native species, drought-tolerant or xeric plantings, and groupings of plants with similar water requirements shall be identified on the site or landscape plan.
 - 4. Landscaping shall not impede visibility as described in E.2.vii.b of this Section.
- E. Landscaping Requirements for Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family 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. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
 - 1. 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.
 - i. 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.
 - ii. 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.

- iii. Shade Trees. A minimum of one (1) tree per two hundred fifty (250) square feet of buffer zone shall be required. Preference shall be given to drought-tolerant or xeric tree species suited to the local climate. Shade trees are not specifically required, but may be used when appropriate. Of required trees, deciduous trees shall be a minimum of one and three-quarter (1 ¾) inches Diameter at Breast Height (DBH), and coniferous trees shall be a minimum of eight (8) feet in height, at the time of planting.

- 2. Buffering Required Along State Highways. Where parking areas abut Park Street (State Highway 89) or State Highway 10, a landscape buffer is required between any of the aforementioned roads and parking areas. Informal, clustered plantings are encouraged. Bicycle and walking pathways may be integrated into the buffer.

- i. Buffer Zone. The buffer zone shall be a minimum of thirty (30) feet in width.
- ii. Trees. A minimum of one (1) shade tree and one (1) evergreen tree per three hundred (300) square feet of buffer zone shall be required. Of required trees, deciduous trees shall be a minimum of one and three-quarter (1 ¾) inches Diameter at Breast Height (DBH), and all coniferous trees shall be a minimum of eight (8) feet in height, at the time of planting.
- iii. 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. All lighting is required to comply with Article XI of this Chapter.
 - a. 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.
- iv. 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.
- v. Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking, loading 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.

- a. General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought-resistant plantings and should be planted using a variety of species planted in an informal arrangement. The use of food producing plantings and pollinator friendly plantings are preferred.
 - b. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
 - c. Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.
 - d. Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.
- vi. Landscaping 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) deciduous 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 lot area. 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 shall 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.
- vii. 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 setback or side street setback, 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.
- c. 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.
 - a) Prohibited Fences. No electric fences shall be permitted in any zoning district. No barbed wire fence shall be permitted in any residential zoning district.
 - b) Prohibited Locations. No fence, wall or hedge shall be erected or maintained in a public street or right-of-way.
 - c) Prohibited Materials. All fences shall be constructed from approved fencing materials and shall not be constructed from railroad ties, rubble or salvage.

(Ord. 1852, 4/21/97; Ord. No. 3010 , § 1, 7/20/21)

Sec. 30.56. Wind-Powered Generators.

- A. Conditional Use. Wind-powered generators (WPG), as defined in Article II, are permitted upon the issuance of a Conditional Use permit within any zone, provided the following standards, and any related conditions imposed by the City Commission, 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. A receipt showing payment of all applicable fees to the City must be included with the permit application.
 - 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 WPG 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.

- B. **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. 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.
1. The City Commission 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 City Commission'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 City Commission, and shall comply with the following standards:
 - i. Building mounted WPG shall not exceed fifteen (15) feet in height.
 - ii. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
 - iii. 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.
 - iv. Building mounted WPG shall be installed on the top story.
 - v. 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.
- C. **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.
- D. **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 City Commission.

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 WPG.
- E. 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.
- F. Control and Brakes. All WPGs 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.
- G. 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.
- H. Aesthetics. WPG colors shall be of neutral subdued tones such that blend in with the surrounding natural environment, such as tan, green, brown or gray. 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.
- I. 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.
- J. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the City Commission, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the City Commission 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.

- K. 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 City Commission. 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.
- L. Application of Nuisance Law. If, after a Special Exception permit is issued, by the City Commission for a WPG, and the same WPG fails to comply with any part of this Section, it may be deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.

(Ord. No. 2002, § 1, 8/4/08)

Sec 30.57. Short-Term Rentals

- A. The purpose of this section is to allow the operation of short-term rentals (STRs) while protecting the health, safety, and welfare of the community, preserving neighborhood character, and ensuring accountability by operators.
- B. Short-term rentals are permitted in zones as identified in Section 30.40. Section 30.40 distinguishes between Type I STRs and Type II STRs, which are defined in Article II.
- C. Permit Required
 - 1. All STR operators must obtain a short-term rental permit from the city prior to operation.
 - 2. Permits must be renewed annually and are subject to a base annual fee as set by the city fee schedule
 - 3. Operating an STR without a valid permit is a violation of this code and subject to enforcement.
- D. Type II STR Additional Requirements
 - 1. A Type II STR must designate a primary contact who is available at all times during rental occupancy.
 - 2. The designated contact must reside or have a place of business within a 50-mile radius of the rental property.
 - 3. The contact must be authorized to respond to complaints or emergencies and take corrective action if necessary.
- E. Safety Inspection
 - 1. Prior to issuance of an initial STR permit, the property must pass a basic safety inspection conducted by the Building Official or Fire Marshal.
 - 2. The inspection shall verify the presence of smoke detectors, fire extinguishers, and adequate egress.
- F. Compliance with Other Regulations.
 - 1. STRs must comply with all other applicable City of Livingston Ordinances, Regulations and Standards.

Sec 30.58. Environmental Protection and Sensitive Areas

Sec 30.58.1. Purpose and Intent

The purpose of this section is to protect the natural resources and environmental integrity of Livingston and the surrounding region. These regulations support public safety, preserve ecological functions, reduce hazards associated with flooding and erosion, protect water quality by reducing surface runoff and mitigating sediment migration, and ensure that development aligns with Livingston's values and natural setting.

Sec 30.58.2. Applicability

This section applies to all new and re-development activities that encroach into, or will otherwise impact, sensitive environmental areas, including:

- A. Federally-designated Riparian Areas and Wetlands.
- B. Steep Slopes, defined as having an average grade of 20% or greater, measured over a horizontal distance of 50 feet

Development within FEMA-designated Floodplains and Floodways is regulated by Chapter 29 of this code.

Sec 30.58.3. General Standards for Development

- A. Avoidance
Site design should avoid impacts to sensitive environmental areas where feasible, including disturbance during construction. If no feasible alternative exists, encroachment may be allowed only if appropriate mitigation measures are implemented.
- B. Low-Impact Development (LID)
Techniques such as native landscaping, pervious pavement, bioswales and rain gardens are encouraged to protect water quality and reduce surface runoff.
- C. Riparian Setback Requirements
A buffer of at least 10-feet from the ordinary high-water mark of a perennial stream shall be observed within which no construction is allowed.
- D. Hillside and Slope Development
Construction on slopes over 20% grade is discouraged. Construction on slopes must include mitigation measures to prevent downslope impacts.

Sec 30.58.4. Mitigation Requirements

- A. Riparian Areas
Appropriate erosion control measures are required for disturbance adjacent to the required 10-foot riparian setback area.

B. Steep Hillsides

Disturbance to slopes exceeding 25% grade require appropriate erosion control and slope stabilization measures to minimize sediment migration and runoff.

C. Mitigation Plan

For mitigation required under this section, a Mitigation Plan must be submitted at the time of building permit application that includes the following information:

1. Describe the scope of impacts
2. Identify mitigation locations and strategies
3. Include a maintenance and monitoring schedule and removal timeline (if applicable).

Sec 30.58.5. Review Process

A. Review Authority

The Zoning Administrator will review submittals for compliance. External consultation with agencies such as Montana DEQ, FWP, or FEMA may be required.

Sec 30.58.6. Relationship to State and Federal Requirements

- A. Compliance with this Article does not exempt applicants from Montana DEQ, DNRC, U.S. Army Corps of Engineers, or FEMA requirements. Where applicable, local approval is contingent upon obtaining required state and federal permits.

Article VI. Dark Sky

Sec 30.60. Purpose and Intent

Montana is famous for its big sky and its nighttime sky is equally as dramatic. The City of Livingston, Montana, recognizes that its nighttime sky is unique and valuable to the community. It is the purpose and intent of this section to promote the public health, safety and welfare, the quality of life, and the ability to view the night sky, by establishing regulations for nighttime exterior lighting while maintaining adequate lighting for safety and security of City residents and visitors. This Chapter establishes standards for exterior lighting in order to accomplish the following:

- A. To protect against direct glare and excessive nighttime lighting;
- B. To provide safe public ways for motorists, pedestrians and bicyclists;
- C. To prohibit skyward lighting and thereby reclaim the ability to view the night sky by promoting the reduction of light pollution that interferes with viewing the night sky;
- D. To prevent light trespass in the City;
- E. To promote efficient and cost-effective lighting;
- F. To ensure that adequate lighting exists where necessary to promote safety and security;
- G. To encourage lighting practices and systems which will minimize light pollution and glare; and

- H. To reduce energy waste

Sec 30.61. Prohibited Lights

- A. Skyward Light Prohibited. All outdoor lighting fixtures shall be fully shielded so that no light is emitted above a horizontal plane passing through the lowest point of the light source, i.e., light is to be directed only downward beneath the fixture's light source.
- B. Mercury Vapor Prohibited. No mercury vapor outdoor lighting fixtures shall be installed in the City after the effective date of the ordinance codified in this Chapter.
- C. Laser Lights Prohibited. The use of laser source lights or any similar high intensity light for outdoor advertising or entertainment when projected above the horizontal is prohibited.
- D. Moving Light Prohibited. Except as provided in the exemptions, lights that flash, chase, move, revolve, rotate, blink, flicker, or vary in intensity or color are prohibited.
- E. Searchlights Prohibited. The operation of searchlights for advertising or entertainment purposes is prohibited.

Sec 30.62. Lighting Standards

- A. Directional Shielding. All outdoor lighting shall be directionally shielded and maintained so as not to impair the vision of the operator of a motor vehicle, cyclist, or pedestrian using the public right-of-way.
- B. Light Trespass Prohibited. All outdoor lighting shall be directionally shielded and maintained so as not to constitute a light trespass.
- C. Permitted Hours of Use, Exceptions. Except for residential lights, streetlights and security lighting, all lighting shall be turned off between eleven (11) p.m. and sunrise. Exceptions shall be granted to those businesses which are actually open for business during the hours between eleven (11) p.m. and sunrise.
- D. Exterior Lighting Standards. Exterior lights shall meet the following standards measured in luminaire footcandles:

	Maximum Footcandle
Building Entrances	
Active (pedestrian and/or conveyance)	5
Inactive (normally locked, infrequently used)	5
Building Exteriors	
Vital locations or structures	5
Building surrounds	1
Floodlit buildings and monuments	10
Loading and unloading platforms	20
Automated teller machines	20
Service Stations	
Approach	1.5
Driveway	1.5

Pump island	20
Service area	3
Storage Yards	
Active	20
Inactive	10
Retail Outdoor Lighting	10
Parking Lots	5

Sec 30.63. Compliance Deadline

Except as hereinafter provided, all outdoor light fixtures lawfully installed prior to and operable on the effective date of the ordinance codified in this Chapter shall be brought into compliance with the requirements of this Chapter on or before December 31, 2010; however, such noncomplying lights shall immediately meet the shielding requirements of this Chapter. Prior to December 31, 2010, when any noncomplying light is either repaired or replaced, such repair or replacement shall meet all the provisions of this Chapter.

Sec 30.64. Exemptions

- A. The following are exempt from the requirements of the Night Sky Protection Act:
 1. Outdoor lighting fixtures used on land or facilities under the control of the Federal Government;
 2. Navigational lighting systems at airports and other lighting necessary for aircraft safety or any other lights required by State or Federal law;
 3. Recreational facilities during events, but under no circumstances shall any illumination occur one (1) hour after the event concludes;
 4. Lights used for holiday decorations, but only during the month in which the holiday occurs;
 5. Motion detector lights that operate automatically for periods of less than five (5) minutes so long as they do not create a light trespass;
 6. U. S. flags displayed by top-mounted lighting on a twenty-four (24) hour basis or by illumination directed upward so that the light is directed only onto the flag from a light source that does not exceed two hundred sixty-five thousand (265,000) mean lumens;
 7. Temporary variances granted by the City Commission for special events;
 8. The City Manager may grant temporary exemptions from the provisions of this Chapter for lighting of construction sites, including night security during construction, upon consideration of a lighting mitigation plan submitted by the owner of the construction site or the owner's representative. Criteria for approval include duration, number, location, and height of each light source, and hours of operation.
 9. Lights used during emergencies or by police, fire, public works and public utility personnel in their official duties are exempt from this Chapter;
 10. Traffic signals and other traffic safety and control devices are exempt from the requirements of this Chapter;

11. Historic streetlights are exempt from the requirements of this Chapter. Historic street lighting must, to the extent possible, utilize and orient the lighting so as to accommodate the aesthetic values of the surrounding area while minimizing light trespass through directional shielding;
12. Low amperage decorative lighting used to illuminate pedestrian pathways and walking malls are exempt from the requirements of this Chapter;
13. One (1) light fixture with a sixty (60) watt incandescent lamp/bulb or less wattage contained within a frosted globe per exterior door;
14. Outdoor advertising signs in compliance with the City of Livingston's sign regulations (Section 30.50 of the Livingston Municipal Code) constructed of translucent materials with dark backgrounds and light lettering or symbols which are wholly illuminated from within do not require shielding;
15. Outdoor lighting fixtures necessary for worker safety or in situations where other compelling safety interest may exist which cannot be addressed by another method of lighting, but such exception must be approved by the City Commission;
16. Neon signs and existing lighted signs in the downtown historic 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.

Sec 30.65. Complaint and Notice of Violation Procedure

The City, an owner or occupant of private property, a pedestrian or driver of a motor vehicle experiencing light trespass from a light may file a complaint with the City. Within ten (10) working days from the filing of the complaint, the City shall investigate whether the light is causing light trespass on private or public property. If the light is causing light trespass, the City shall give written notice to the owner or occupier of the property upon which the light is located to remedy the light trespass within fifteen (15) calendar days. Failure to remedy the light trespass may result in the person owning or occupying the property upon which the offending light is located to be cited for a violation of this Chapter. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.

Sec 30.66. Violation and Civil Penalty

It is unlawful to install or operate any lighting fixture in violation of this Chapter or to allow or permit light trespass to occur. Any violation of any provision of this Chapter is a municipal infraction punishable as follows:

- A. For a first offense, the offender may be issued a warning.
- B. For a second offense that continues for thirty (30) days from the date of the warning, by a civil penalty of not more than Twenty-Five Dollars (\$25.00) minus the replacement cost for each offending fixture.
- C. A third or subsequent offense is punishable by a civil fine of not more than Fifty Dollars (\$50.00).

Sec 30.67. Public Nuisance

A light trespass is deemed a public nuisance. The City Attorney may, in a court of competent jurisdiction, seek appropriate equitable relief in enforcing this Chapter, including, but not limited to, injunctive relief.

Article VII. Non-conforming Lots, Uses and Structures

Sec. 30.70. Intent.

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

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

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

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

Sec. 30.71. Non-conforming lots of record.

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

If two or more lots or combination of lots with continuous frontage in single ownership are of record at the time of passage or amendment of this ordinance, and if any of the lots do not meet the requirements established for lot width and area, the lands involved shall be considered to be an undivided parcel for the purposes of this ordinance, and no portion of said parcel shall be used or sold in a manner which diminishes compliance with lot width and area requirements established by this

ordinance, nor shall any division of any parcel be made which creates a lot with width or area below the requirements stated in this ordinance.

(Ord. No. 2097 , § 1, 1/5/21)

Sec. 30.72. Non-conforming uses of land and structure.

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

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

(Ord. 1763, 4/4/94)

Sec. 30.73. Non-conforming structures.

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

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

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

(Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3005 , § 2, 4/20/21)

Sec. 30.74. Exemption for non-conforming residential structures.

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

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

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

Article VIII. Zoning Actions and Procedures

Sec. 30.80. Land Use Board acting as the Zoning Commission.

There is created for the City of Livingston a Zoning Commission, as provided by statute, the duties of which are performed by the Consolidated Land Use Board. The Zoning Commission consists of seven (7) citizen members, and one City Commissioner (non-voting), appointed by the entirety of the City Commission.

- A. Powers and Duties. The duties and powers of the Zoning Commission shall be to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein, and to hold public meetings and to make recommendations to the City Commission on all requests to amend, supplement, change, modify or repeal the regulations, restrictions and boundaries in the zoning districts. The City Commission shall not hold its public hearings or take action until it has received a final report from the Zoning Commission.
- B. Proceedings of the Zoning Commission. The Zoning Commission shall hold its meetings in the City-County Complex. Five (5) voting members shall constitute a quorum.

The Zoning Commission shall keep minutes of their proceedings, showing the vote of each member, or if absent or failure to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the Zoning Administrator.

(Ord. 1868, 2/2/98; Ord. No. 3005 , § 2, 4/20/21)

Sec. 30.81. Amendments to city zoning ordinance and zone change.

- A. General. This Chapter, including the Official Zoning Map, may be amended by the City Commission by adopting an ordinance, after at least one public hearing before the City Commission. Applications for amendments to this Chapter or the Official Zoning Map shall follow the procedures outlined in this Section.

- B. Map Amendments Procedure
 1. Applicability and Initiation. Unless initiated by the City Manager or the City Commission, applications to amend the Official Zoning Map shall be submitted by the property owner.
 2. Public Hearing Requirement. No amendment to the zoning map shall become effective until after a public hearing at which interested parties and citizens have an opportunity to be heard. Notice of the hearing must be published in an official newspaper or a newspaper of general circulation at least fifteen (15) days before the hearing date.
 3. Adoption by Resolution. If the amendment involves only a boundary change to the zoning map, the City Commission may adopt the boundary change by resolution. Such action shall become effective immediately upon adoption.
 4. Frequency of Applications. No application affecting the same property shall be submitted more than once every twelve (12) months unless a substantial change in circumstances is demonstrated.

- C. Each application to amend the Official Map shall be filed with the Zoning Administrator, and each application shall be submitted under the following conditions:
 1. It shall include, but not be limited to, the following information:
 - i. A legal description of the tract(s) proposed to be re-zoned;
 - ii. A map showing the dimensions, acreage and location of the tract(s) and adjacent land uses;
 - iii. A completed City Zoning Map Amendment application form.
 - iv. The names and addresses of the owners of the adjacent parcels;
 - v. A receipt showing payment of all applicable fees to the City.
 2. An application for amendment to the Official Map shall be submitted at least thirty (30) days prior to the date of the public hearing before the City Commission.
 3. Once legal notice for the public hearing has been published, a zone change application may not be withdrawn or amended. An applicant may withdraw their application at the public hearing if approved by a majority vote of the members present. Such a withdrawal does not trigger the twelve (12) month waiting period. However, no application may be withdrawn more than once within twelve (12) months from its original submission date.

- D. Applications for Text Amendments. Unless initiated by the City Manager or City Commission, all applications for text amendments to this Chapter must be submitted by one or more owners of

property within the City of Livingston. Each application to amend the text of this Chapter shall be filed with the Zoning Administrator, and each application shall be submitted under the following conditions:

1. It shall include, but not be limited to, the following information:
 - i. The proposed change of the text and that portion of the text proposed to be changed.
 - ii. A completed City application form.
 - iii. A receipt showing payment of all applicable fees to the City.
 - iv. An application for amendment to the text of this Chapter shall be submitted at least thirty (30) days prior to the date of the public hearing before the
 - v. Land Use Board.
 - vi. An application for a text amendment may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission. An applicant may be allowed to withdraw at the time of the Land Use Board hearing by a majority vote of the members present without requiring City Commission approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
- E. Zoning Administrator's Study and Responsibility. The Zoning Administrator, upon receiving an application for re-zoning of an area or a particular piece of property or for an amendment to the text shall do the following:
1. Consult with other departments of the City or County to evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
 2. Study each application with reference to its appropriateness and effect on existing and proposed land use;
 3. Advertise in the legal newspaper fifteen (15) days in advance of the time and place of the public hearing.
 4. In the case of an amendment to the Official Zoning Map, notify, by mail, the applicant and all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the re-zoning: of the time, date, place of the public hearing and the existing and proposed land use classification. Such notification shall be mailed to the applicant and the surrounding property owners no sooner than fifteen (15) days and no later than five (5) days prior to the date of the public hearing. Post the subject property not less than five (5) days prior to the public hearing. Posted notice shall include the nature of the change being requested as well as the time, date and location of the public hearing;

5. Report the findings and conclusions, in writing, to the Land Use Board at least ten (10) days prior to the public hearing. Such report shall be a matter of public record, and shall be forwarded to the City Commission with the Land Use Board's recommendation after the public hearing.
- F. Land Use Board Action. The Land Use Board shall review and take action upon each application in accordance with the provisions of this article, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the Land Use Board by the Zoning Administrator, together with their findings and conclusions on the matter. A written report of the Land Use Board's decision and the Zoning Administrator's findings and conclusions including the basis for the decision shall be submitted to the City Commission.

The Land Use Board shall make a recommendation to the City Commission to:

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

The Land Use Board shall use Roberts Rules of Order for the conduct of public hearings and meetings.

No member of the Land Use Board may vote on any request which they or any partner has worked, or in which they or any partner has any financial interest or ownership.

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

- G. City Commission Public Hearing. Before taking action on an application for an amendment to the Official Map or text of this Chapter, and after presentation of the Land Use Board report, the City Commission shall hold a public hearing on the application.

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

(Ord. 1861, 6/16/97; Ord. 1868, 2/2/98; Ord. No. 2004, § 1, 8/4/08; Ord. No. 2091, § 1, 11/5/20; Ord. No. 2093, § 1, 11/5/20)

Sec. 30.82. Appeals.

- A. **Right to Appeal.** An appeal may be filed by any person, group, organization, taxpayer, or City officer, department, or board that is aggrieved by a decision made in the interpretation, administration, or enforcement of the City's zoning regulations.

- B. **What May Be Appealed.** Appeals may be taken from any order, requirement, decision, or determination made by an administrative official in the enforcement or interpretation of the City's zoning regulations.
- C. **Filing an Appeal.** A party seeking to file an appeal must submit a written appeal application to the Planning Department, together with payment of all applicable fees. The appeal shall state the decision being appealed, the alleged error, and the grounds for the appeal. Appeals must be filed within thirty (30) days of the decision being appealed.
- D. **Hearing and Notice.** The City Commission shall hear and decide appeals in accordance with this section. The Commission shall set a hearing date within thirty (30) days of receiving a complete appeal. Public notice of the hearing shall be provided, and notice shall also be given to the parties of interest. At the hearing, any party may appear in person or by attorney to present evidence and argument. The Commission shall render a decision within ten (10) days following the close of the hearing.
- E. **Effect of Filing an Appeal.** The filing of an appeal shall stay all proceedings in furtherance of the action appealed from. However, the administrative official from whom the appeal is taken may certify to the City Commission that a stay would, in the official's opinion, cause imminent peril to life or property. In such a case, proceedings shall not be stayed except by order of the City Commission or a court of record.
- F. **Decisions of the City Commission.** In deciding an appeal, the City Commission may reverse, affirm, or modify the order, requirement, decision, or determination appealed, in whole or in part. The Commission shall have all the powers of the administrative official from whom the appeal is taken. The concurring vote of four (4) members of the City Commission shall be required to reverse any administrative decision or to decide in favor of the appellant.
- G. **Judicial Review.** Any person aggrieved by a decision of the City Commission under this section, or any taxpayer, or any City officer, department, or board, may present to a court of record a petition specifying the grounds upon which the decision is alleged to be illegal, in whole or in part. Such petition must be filed within thirty (30) days of the City Commission's decision.
- H. **Limitations on Re-Hearing.** If an appeal is denied by the City Commission, no new appeal regarding the same matter shall be filed within one (1) year of the date of denial, unless the City Commission finds that a substantial change in circumstances has occurred that would warrant a new hearing.

(Ord. No. 2004, § 1, 8/4/08; Ord. No. 2076, 12/18/18; Ord. No. 3005, § 2, 4/20/21; Ord. No. 3014, § 2, 8/3/21)

Sec. 30.83. Variances.

- A. **Purpose.** The variance process provides a means to allow exceptions to the requirements of this Chapter when strict application of the standards would create an unnecessary hardship that significantly limits the reasonable use of a property. A variance is not intended to grant special privileges or to permit uses that are not otherwise allowed within the zoning district.

- B. Application Requirements. A complete variance application shall be filed with the Zoning Administrator and must include:
1. A legal and general description of the property.
 2. The name and mailing address of the property owner(s).
 3. A location map showing the subject property and its relationship to adjoining properties.
 4. A dimensioned site plan that shows:
 - i. Existing and proposed buildings, structures, and improvements (clearly labeled and distinguished using solid lines for existing and dashed/dotted lines for proposed).
 - ii. Vehicular access points, driveways, parking spaces, and traffic circulation.
 5. A written statement describing the specific variance requested and the reasons for seeking it
 6. Proof of payment of all required fees.
 7. Once public notice of the application has been issued, the application may not be withdrawn or amended.
- C. Review by Zoning Administrator. Upon receiving a complete application the Zoning Administrator shall:
1. Consult with other City departments to evaluate impacts on public facilities and services.
 2. Review the application for appropriateness and potential effects on existing and proposed land uses.
 3. Provide public notice as follows:
 - i. Publish notice of the public hearing in a newspaper of general circulation at least fifteen (15) days before the hearing.
 - ii. Mail notice to the applicant and all property owners within three hundred (300) feet of the subject property at least ten (10) days before the hearing.
 - iii. Post notice on the subject property at least ten (10) days before the hearing.
 4. Prepare findings and forward a report to the City Commission.
- D. Action by City Commission. The City Commission may grant a variance if it finds that:
1. Strict enforcement of this ordinance would result in unnecessary hardship due to special conditions unique to the property.
 2. The variance will not be contrary to the public interest
 3. The spirit and intent of this ordinance are observed, and substantial justice is done.
- E. No Variance shall be granted for the following:
1. A land use not otherwise permitted in the zoning district.
 2. A proposal that would grant a special privilege inconsistent with limitations placed on similar properties in the district.

The City Commission may impose conditions and/or establish a time limit for beginning or completing the action authorized by the variance. Failure to comply with such conditions or deadlines shall void the variance.

(Ord. No. 2004, § 1, 8/4/08; Ord. No. 2076, 12/18/18; Ord. No. 3014, § 2, 8/3/21)

Sec. 30.84. Conditional Uses.

- A. Purpose and Intent: Conditional uses are those land uses which may be appropriate within a given zoning district, but which—due to their nature, scale, or intensity—require individual review to ensure compatibility with surrounding properties and consistency with the goals and intent of the zoning ordinance.

Conditional use permits provide a mechanism to allow flexibility while ensuring that such uses will not adversely impact the public health, safety, or welfare, and that any impacts are mitigated through conditions of approval.

B. Approval Criteria

No Conditional Use Permit shall be approved by the City Commission unless the following findings are made:

1. Compatibility: The proposed use will not place a substantial adverse effect on nearby properties or their occupants.
2. Zoning Intent: The use is consistent with the general purposes and intent of the zoning ordinance, zoning map, and the goals of the City's Growth Policy.
- C. Conditions and Mitigation: Conditions may be imposed as necessary to reduce potential adverse effects and to ensure compatibility with the general public.
- D. Application requirements:

Applications for a Conditional Use Permit shall be submitted to the Zoning Administrator by the property owner or their authorized agent. All applications must include the following:

1. A legal description and general description of the parcel(s) subject to the request.
2. A site map showing the parcel's dimensions, acreage, and location.
3. The name and contact information for the property owner(s).
4. A site plan showing major features of the proposed use, including:
 - i. Location of existing and proposed buildings and structures
 - ii. Off-street parking, loading areas, and service/refuse areas
 - iii. Access points and circulation
 - iv. Landscaping and screening
 - v. Sign locations
 - vi. Open space, if applicable
5. A proposed schedule for development.
6. Any additional information the applicant believes supports the request.

All applications must be accompanied by proof of payment of applicable city fees. Minor errors or omissions in an application shall not invalidate it unless deemed materially incomplete by the Zoning Administrator.

E. Zoning Administrator Review

1. Upon receiving a complete application, the Zoning Administrator shall:
2. Consult with other relevant city or county departments to evaluate potential impacts on public services and infrastructure.
3. Review the application for consistency with the zoning ordinance and adopted plans.
4. Schedule a public hearing before the City Commission and publish notice of the hearing in the city's official newspaper at least fifteen (15) days in advance.
5. Provide written notice by mail to all property owners within three hundred (300) feet of the subject property at least ten (10) days before the hearing, stating the time, date, location, and purpose of the hearing.

F. City Commission Review and Action

The City Commission shall hold a public hearing on the application and consider the Zoning Administrator's report, public testimony, and relevant information. After deliberation, the Commission may:

1. Approve the Conditional Use Permit;
2. Deny the Conditional Use Permit;
3. Approve with Conditions necessary to ensure compatibility and mitigate impacts; or
4. Continue the Hearing for up to thirty (30) days for further consideration.

Article IX. Administration and Enforcement

(Ord. No. 3014 , § 2, 8/3/21)

City Commission (Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.90. Procedure in abatement of violation.

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

Appeal from the actions of the Building Official or other City Official shall be made in conformance with the provisions of Article VIII of this Code.

(Ord. No. 3014 , § 2, 8/3/21)

Sec. 30.91. Penalties for violation.

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

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

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

Sec. 30.92. Investigation fee.

Whenever work for which a variance is required has commenced without first obtaining a variance, an investigation fee, in addition to the variance filing fee, shall be charged. The investigation fee shall be set by the City Commission by separate resolution. The fee must be paid prior to submission of a variance application. The payment of such investigation fee shall not exempt any person from compliance with all other provisions of this article, nor from any penalty prescribed by law.

(Ord. No. 3045 , § 1, 10/3/23)

Article X. Conflict with Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees

Sec. 30.100. Conflict with other laws.

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

Sec. 30.101. Separability clause.

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

Sec. 30.102. Repeal of conflicting ordinances.

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

Sec. 30.103. Schedule of application fees.

Application fees shall be set by separate resolution.

(Ord. 1479, 3/16/81; Ord. 1532, 11/5/84; Ord. 1544, 2/4/86; Ord. 1548, 4/21/86; Ord. 1573, 5/4/87; Ord. 1578, 10/5/87; Ord. 1667, 7/3/90; Ord. 1861, 6/16/97; Ord. 1871, 4/20/98; Ord. No. 3014 , § 2, 8/3/21)

From: [Lucas Schad](#)
To: [Jennifer Severson](#)
Cc: [Amy Schad](#)
Subject: WATER WORKS ZONING
Date: Wednesday, September 10, 2025 6:06:20 PM
Attachments: [City Commission Packet 12_3_13.PDF](#)

Good afternoon Jennifer,

I was reviewing the proposed zoning changes related to the Water Works building at 615 South 10th. Would it be possible to adjust the proposed zoning to be LMU instead of R2?

The building was never and has never been used as a residence. It is obviously an industrial building. We really like the idea that the building might become a residence in the future, but now we are using the building for professional purposes and plan to do so for the foreseeable future. I attached the ordinance, page 16 of the attached pdf, that describes zoning language and the change that we made to it to allow the Barber Shop/Beauty Parlor.

I get the idea that you are trying to clean up the zoning. The LMU zoning would be fine with us if that is possible. LMU lines up nicely with the old Preservation Zoning District, which we always thought was spot zoned and thus probably not super legal - since we are the only ones in the PZD.

Is there a chance we can meet on this or maybe have a call?

On a related note, I am super pleased that the Historic Preservation Board is coming back! Thank you! I was on the Montana Preservation Alliance, which is now Preserve Montana, board for about 6 years. I was on the Luccock Church camp board for 4 years and now am getting back on that board - purely for historic preservation purposes.

Our love of old buildings is why we saved the Water Works building in the first place. Before we grabbed it, the city was going to tear it down. Thank you for your time with the Historic Preservation Board in the past. I know Kristin will love to have that board back!

Thank you,
Lucas Schad
Licensed Architect
LTS Architecture
O: (406) 333-0533

From: [Katherine Daly](#)
To: [Jennifer Severson](#); [Planning](#)
Subject: A few simple recommendations for LUB zoning draft
Date: Wednesday, September 10, 2025 11:47:00 AM

Good morning, Jennifer!

I hope you are feeling good about having gotten the draft zoning regulation out for community feedback. That is a huge effort!

I am slowly working my way through the document, writing up some more substantive general comments and some more specific feedback. That probably won't be ready before the LUB meeting. I want to make sure I understand how the document works before making a bunch of assertions/requests. :)

In the meantime, here are a couple quick edits to the document that might be beneficial to include in the draft presented to the LUB:

1. Consider making the typeface and color of the page numbers and footnotes match the overall text of the document.
2. Consider capitalizing all defined terms throughout the regulation. This signals to the reader that they can go back to the definitions section for more information about what qualifies/doesn't. I know it's **very** helpful for me as a reader to see definitions flagged that way throughout the document.
3. Consider numbering the definitions for ease of reference.
4. Consider moving the definition of dwelling unit to section 30.20.1, and potentially nesting all the other types of residences under it.
5. Where terms have been swapped, there are frequently extra spaces. So, double-check those.
6. One general question you might consider addressing in your presentation is about the public feedback you recieved and any internal conversations re: orienting new development around nodes, potentially that are connected to transit. That came up in a couple of my focus groups but I am not totally sure how that's translated in the code. I've only made it through 30.40, however, so it's possible I just haven't gotten to those connections yet. My understanding is that the PUD option provides that possibility in a highly flexible way without overprescribing how/where the City grows. If that's the case, it might be worth repeating. :)

Thank you for your work!

Sending all my best.

Katherine

Katherine Daly
Park County Housing Coalition Program Manager
She/They

From: [Planning](#)
To: [Jennifer Severson](#)
Subject: FW: Zoning Code Update
Date: Monday, September 15, 2025 8:35:19 AM

From: K W
Sent: Monday, September 15, 2025 8:35:03 AM (UTC-07:00) Mountain Time (US & Canada)
To: Planning
Subject: Zoning Code Update

Good morning,

I learned of the zoning code update in the City Manager's newsletter this morning and have a couple of questions.

1. Is R3 going away? It looks to be replaced with LMU?
2. Where can I find/what are the specific changes that will occur if this change is implemented? Will any current use be lost with this change? What use will be gained?
3. What is the best way to engage in this process to stay informed?

Thank you,

Katie
414 W Front Street



September 17, 2025

City of Livingston
Consolidated Land Use Board

RE: Consideration of Proposed Zoning Code Update

Dear Board members:

Apologies for not meeting the deadline with comments to the zoning code update. We're hoping to share some insights we feel are important and fully understand if these suggestions don't make it into your formal recommendation issued this evening. We will be prepared for the city commission meeting.

In short, we are pleased with many of the proposed updates and changes to the zoning map. These changes address many of the important concepts of the Livingston Growth Policy and do an excellent job at simplifying the code for more individuals. We wish to share a few suggestions for improvement.

Firework Stands- Sec. 30.40 - Based on preliminary research, it sounds like Ordinance 2007 (2021) permitted the sale of fireworks within city limits but continued the ban of igniting fireworks in town. The proposed code limits the sale of fireworks to the Light Industrial (LI) and Industrial (I) districts and as a conditional use in Central Business District (CBD) and General Commercial (GC) zoning districts. While allowing sales in the LI and I may make sense, we question the ability to sell fireworks in our CBD and GC districts (and honestly question allowing firework sales at all given the fact using fireworks is banned within city limits).

RECOMMENDATION: Either limit the sale of fireworks to the LI and I districts, or prohibit sales citywide and allow historical stand operations to continue through a grandfather/nonconforming status.

Chickens- Sec. 30.52 – The proposed code prohibits the keeping of “fowl” within city limits (defined as chickens, geese, ducks, turkeys, peacocks, and other poultry). Most Montana municipalities allow backyard chickens, with some communities limiting the number of chickens, prohibiting roosters, or requiring a permit. Given the current prevalence of chickens in our town, and general support for urban agriculture, we think allowing chickens by right makes sense.

RECOMMENDATION: Change 30.52. Prohibited Animals. “No livestock or fowl, as defined in Article II, may be kept or maintained in any zoning district in the city, except for licensed

veterinarian services, laying hens, and except for those kept pursuant to permit obtained through the office of the Sanitarian.”

Landscape Standards- Sec. 30.55 – Planting of native plants is recognized as an important way to bolster and protect our fragile ecosystem while protecting finite water resources and results in cost saving measures. We suggest the following edits:

RECOMMENDATION: D.1. “A variety of species planted in an informal arrangement. The use of xeriscaping, native species, edible plantings, and/or pollinator friendly plantings is preferred.” And D.3. “Landscaping shall give preference to native and drought-tolerant species and xeriscaping practices. Turf areas, drought-tolerant, native species, or xeric plantings, and groupings of plants with similar water requirements shall be identified on the site or landscape plan.”

We also recommend integrating Low Impact Development (Sec 30.58.3. General Standards for Development) into Landscape Standards Sec.55.

Short-Term Rentals- Sec. 30.57 – We very much support the regulation of short-term rentals (STRs) in our community given the impact these uses can have on existing neighborhoods and residential land values. We worry about allowing an unlimited number of Type 2 STRs (non-owner occupied) in the R1, R2, Light Mixed Use (LMU) and High Mixed Use (HMU) districts.

RECOMMENDATION: Allow Type 2 STRs as a conditional use in the R1, R2, LMU and HMU districts (or at the very least in the R1 and R2 districts). *Or* cap the number of Type 2 STRs in the R1 and R2 to those that currently exist (as a grandfather/nonconforming status). *Or* only allow Type 2 STRs in residential districts on a *seasonal basis* (limit the number of months a property owner could rent their home as a STR to three to six months. This could be called a Type 3 STR.)

Environmental Protection and Sensitive Areas- Sec. 30.58 – The proposed 10-foot buffer is inadequate to meet the stated purpose and intent. We recommend increasing the buffer to help protect public health and safety and preserve our natural environment. Buffers should follow scientific rationale. For instance, Fish Wildlife and Parks has suggested some standards that we would like the Board and city to consider. A buffer requirement would impact development near Fleshman, and Billman creeks. Additionally, we recommend adding a buffer for development near the Yellowstone River. (We will provide additional recommendations on appropriate buffers and potential departures before the city commission meeting.)

RECOMMENDATION: Edit as follows - Sec.30.58.1. “Purpose and Intent. The purpose of this section is to protect and enhance the natural resources and environmental integrity of Livingston and the surrounding region. These regulations support public safety, preserve ecological functions, reduce hazards associated with flowing and erosion, protect water quality by reducing surface runoff and mitigating sediment migration, and ensure that development aligns with Livingston’s values and natural setting.”

Sec. 30.58.3.C. Riparian Setback Requirements. "A buffer of at least ~~10-foot~~ TBD from the ordinary high-water mark of a perennial stream shall be observed within which no construction is allowed."

Sec.30.58.4. A. Riparian Areas. "Appropriate erosion control measures are required for disturbance adjacent to the required ~~10-foot~~ TBD riparian setback area."

Thank you for your consideration and commitment to our community.

Regards,

Sarah Stands 
Park County Environmental Council



September 26, 2025

RE: Public Comment on Draft City of Livingston Zoning

Dear Consolidated Land Use Board and City Commissioners,

On behalf of Montana Freshwater Partners, I am submitting the following comments on the proposed zoning map and zoning code as it relates to proposed development densities in areas that provide key flood dissipation benefits that if developed, would increase risk exposure and vulnerability to critical infrastructure as well as City residents and businesses. We are also providing recommended stream and river setbacks to ensure safe building envelopes for future structures and the maintain the functional and ecological integrity of our local water resources.

We will be unable to attend the upcoming Open House work session, but will be available after October 1st to discuss our concerns/recommendations further if that would be of assistance.

Thank you for your consideration and the opportunity to comment on the proposed changes.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Blank", is written over a light blue circular stamp.

Jeannette Blank

Program Director

Montana Freshwater Partners

PROPOSED ZONING MAP

The following figures and comments are related to the zoning categories proposed for the parcels circled in red (**Figure 1**). Parcel-specific concerns related for flood risk and development vulnerability are included in Figure 1. The proposed LMU, RI, and RIII zoning categories highlighted below are in opposition to the 2021 City of Livingston Growth Policy future land use map, and associated public survey results (**Figure 2**). Additionally, the proposed zoning categories would allow for a significant number of light to heavy density residential and mixed use development to be built in what is arguably the City's most high-risk areas for flooding (which is the #1 hazard risk in the City/Park County). This would significantly increase the number of businesses and homes that are risk of future flood and channel migration impacts, and would significantly increase the vulnerability of the general public's safety as a whole. Of particular concern is how future development in these areas would reduce flood-holding capacity and/or require additional levee/armoring protection that could exacerbate flooding issues around the hospital area and lower alphabet neighborhoods, and increase erosive forces on existing structures by constraining the power of the river even further.

For additional context, please refer to **Figure 4**, **Figure 5**, and **Figure 6** and compare the flood risks illustrated in these figures with the footprint of the proposed zoning for the highlighted areas in **Figure 1** to better understand the multiple risk factors at play.

The 2021 Land Use Map allows for these parcels, that are currently relatively undeveloped, to remain as important open areas for floodwater retention and conveyance during large runoff and flood events. These are critical "pressure relief valves" during flood events because they let flood water spread out, slow down, and dissipate energy, thereby reducing the intensity of the erosive force that is exerted on critical structures like the levee, Mayor's Park levee, and Hwy 89/Railroad bridges. Maintaining these areas as open spaces also allows for more flexibility in incorporating a future flood mitigation project to enhance flood conveyance and reduce flooding risks around the hospital and east Livingston commercial area (similar to the flood mitigation project that the City of Three Forks completed in their community, see 7-15-25 City Commission meeting pack). Maintaining open space in high risk flood areas and maintaining existing flood holding capacity are two of the few options urban and constrained areas have to reduce their flood hazard risk.

The area zoned for RI & HMU/RIII is in the Yellowstone historic and active floodplain where active channel migration/bank erosion is occurring, and future avulsion risks are possible. Migration movement is trending towards this bank. A significant portion of the area is located in 1% annual floodmap. Preliminary DNRC flood modeling correlates well with the areas that were flooded/inundated during the 2022 flood, which covers a major portion of the parcels zoned for HMU/RIII. These areas provided critical flood holding capacity and conveyance benefits during the 2022 flood.

The area zoned for LMU sits in a 'bathtub' during flood events. DNRC flood modeling show this area is flooded during 1% annual Yellowstone River events and 1% annual Fleshman Crk flood events. Due to low-lying position, post flood drainage is poor. This area provided critical flood holding capacity during the 2022 flood.

The area zoned for RI will likely be mapped in the 1% annual floodplain when the updated FIRM maps are issued, per preliminary DNRC modeling. Modeling indicates this area will be at risk of flooding with or without a FEMA certified levee being built where the Meyer's Park levee currently exists. Bank erosion and channel avulsion risks due to channel migration is identified in the 2024 Upper Yellowstone Channel Migration Zone Map. Channel migration movement is trending towards this side of the river. This area provided critical flood holding and flood conveyance benefits during the 2022 flood.

The area zoned for HMU/RIII below the bluff is hydrologically connected to the Yellowstone via an irrigation ditch & historic river side channel that runs through this parcel. This area provided critical flood holding and flood conveyance benefits during the 2022 flood. Preliminary DNRC mapping indicates that a certified FEMA levee would be needed to reduce risks during a 1% annual event – however given the proximity to hospital, keep this area open to improve conveyance AROUND the hospital would be prudent for public safety.

The area zoned for HMU/RIII below the bluff is hydrologically connected to the Yellowstone. Bank erosion and channel avulsion risks due to channel migration is identified in the 2024 Upper Yellowstone Channel Migration Zone Map. The levee is forcing channel migration to move towards this side of the river. Portions are also included in the existing regulated floodway and 1% annual flood (100-yr) floodplain. This area provided critical space for the river during the 2022 flood.

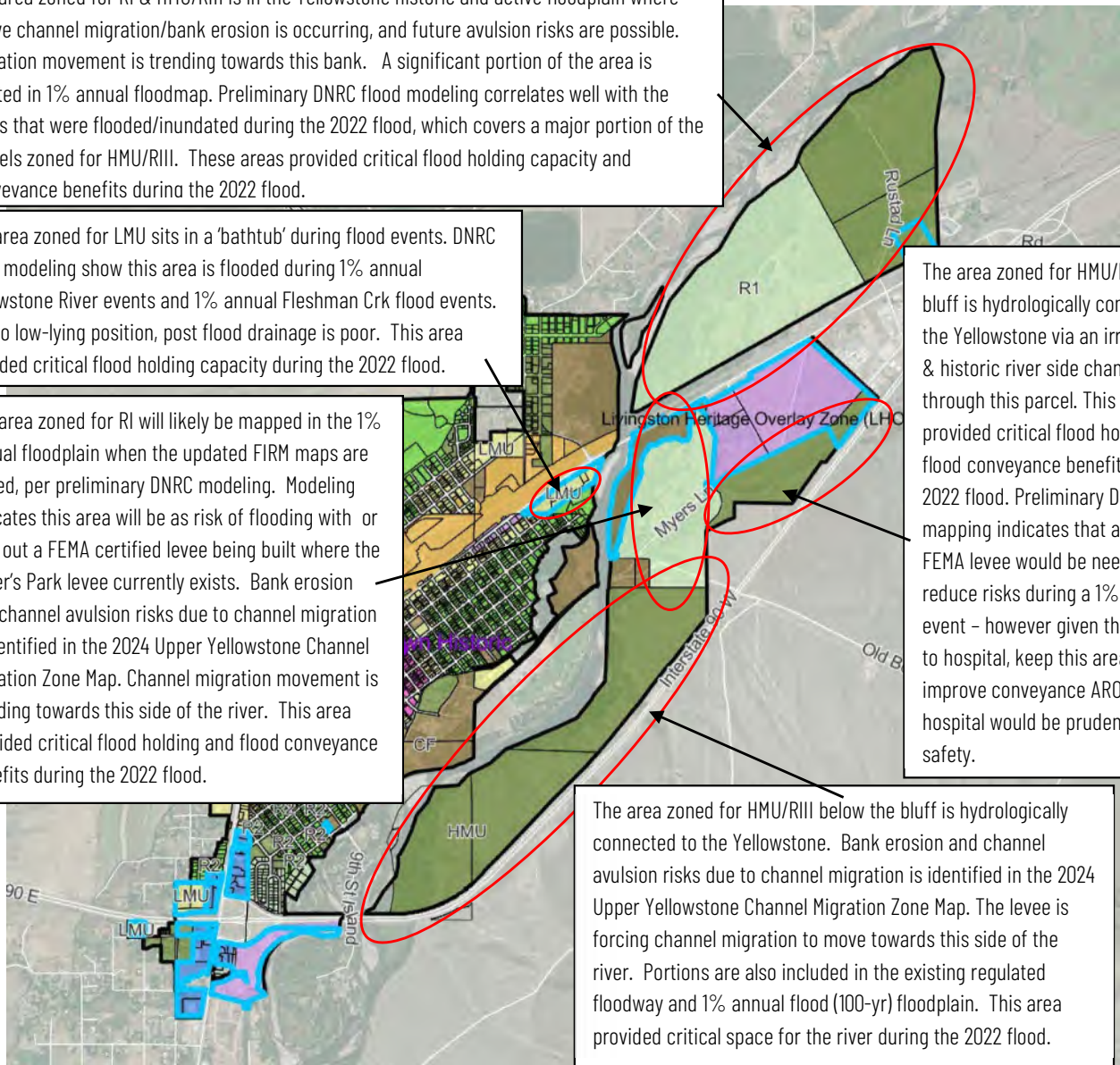


Figure 1. Proposed Zoning Map, parcels of concern circled in red with corresponding comments.

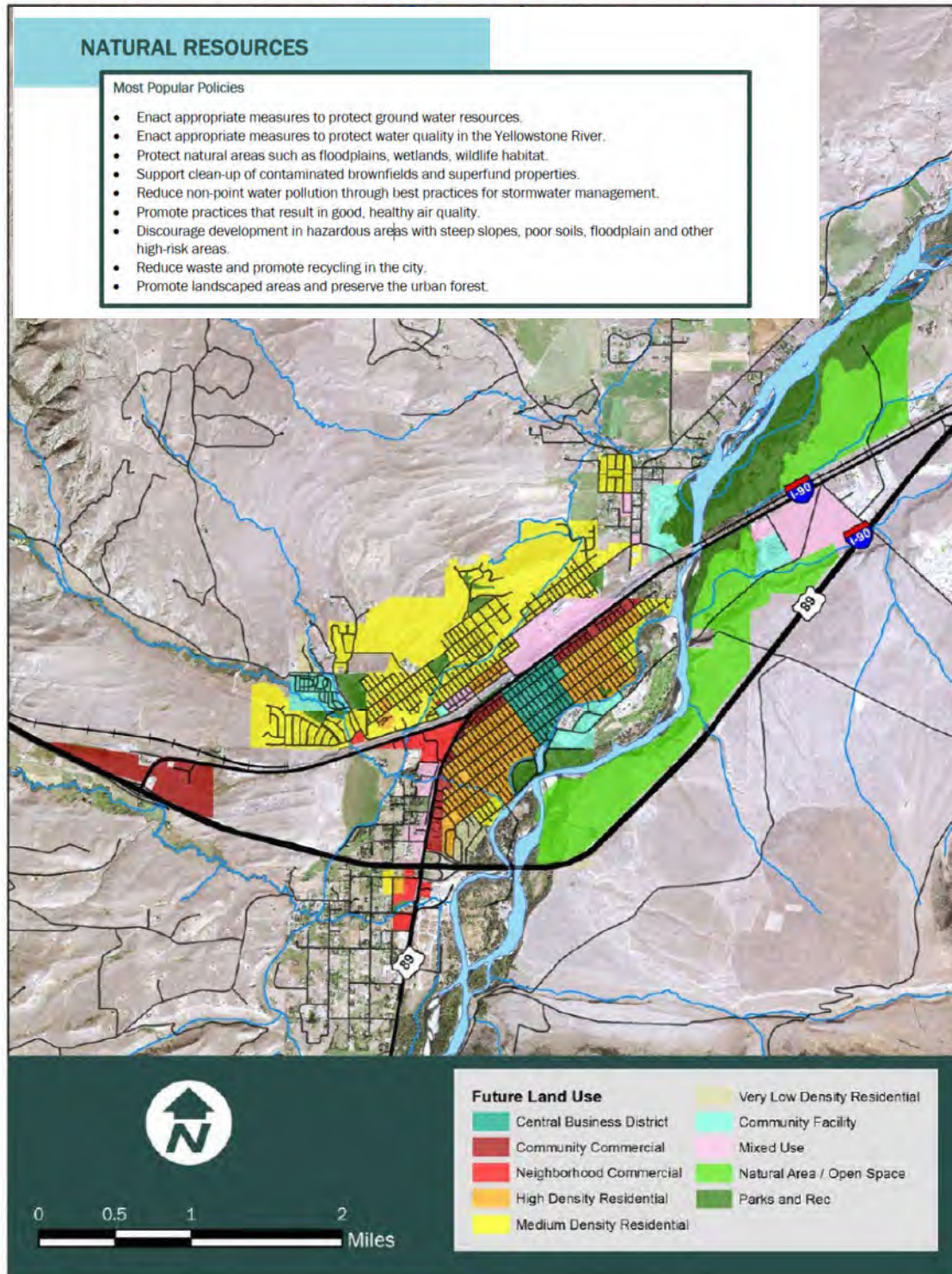


Figure 2. Future Land Use Map & Public Survey Results (Exhibit 11.1: City of Livingston Growth Policy, 2021)

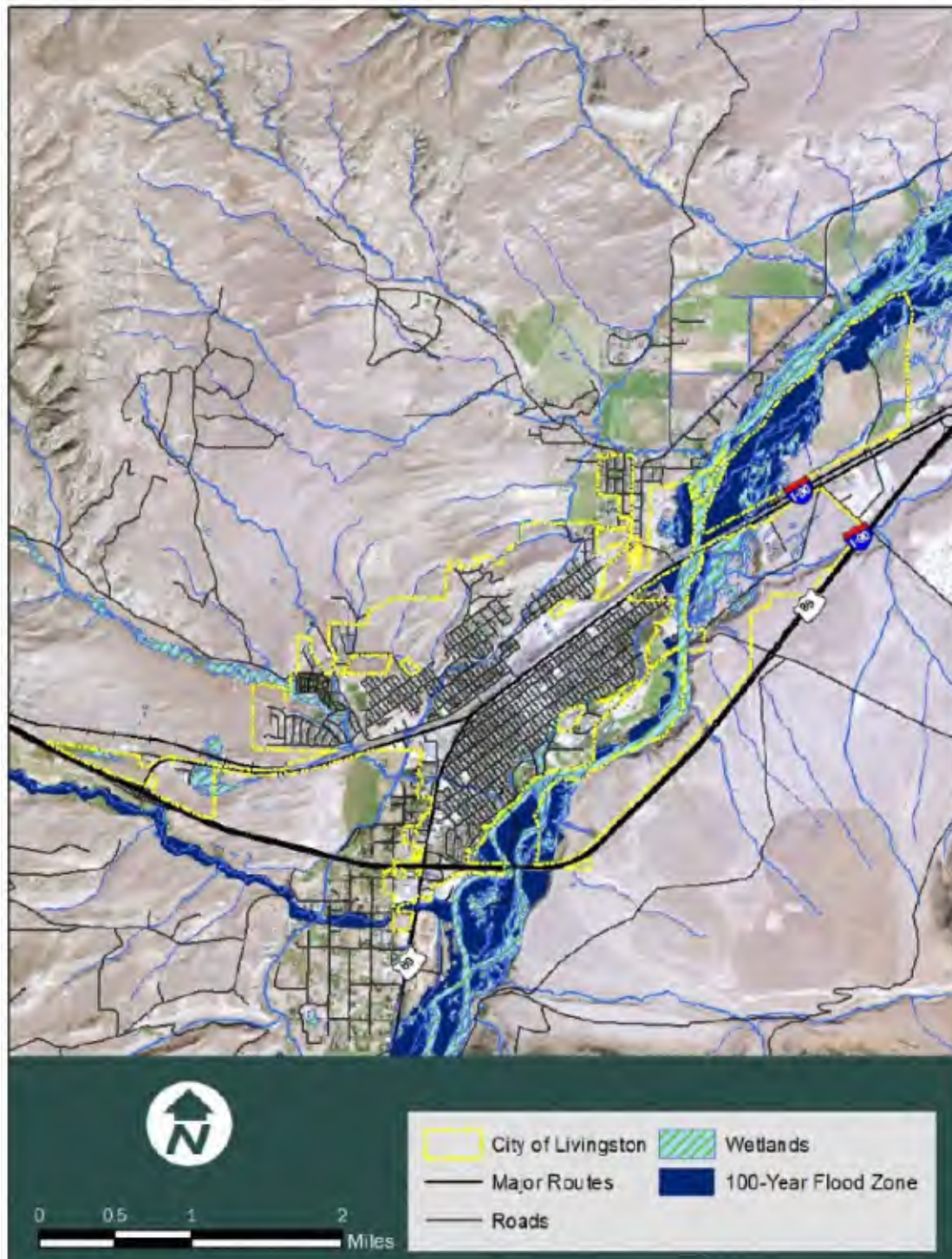


Figure 3. Water Resources Map (Exhibit 4.1 City of Livingston Growth Policy, 2021)

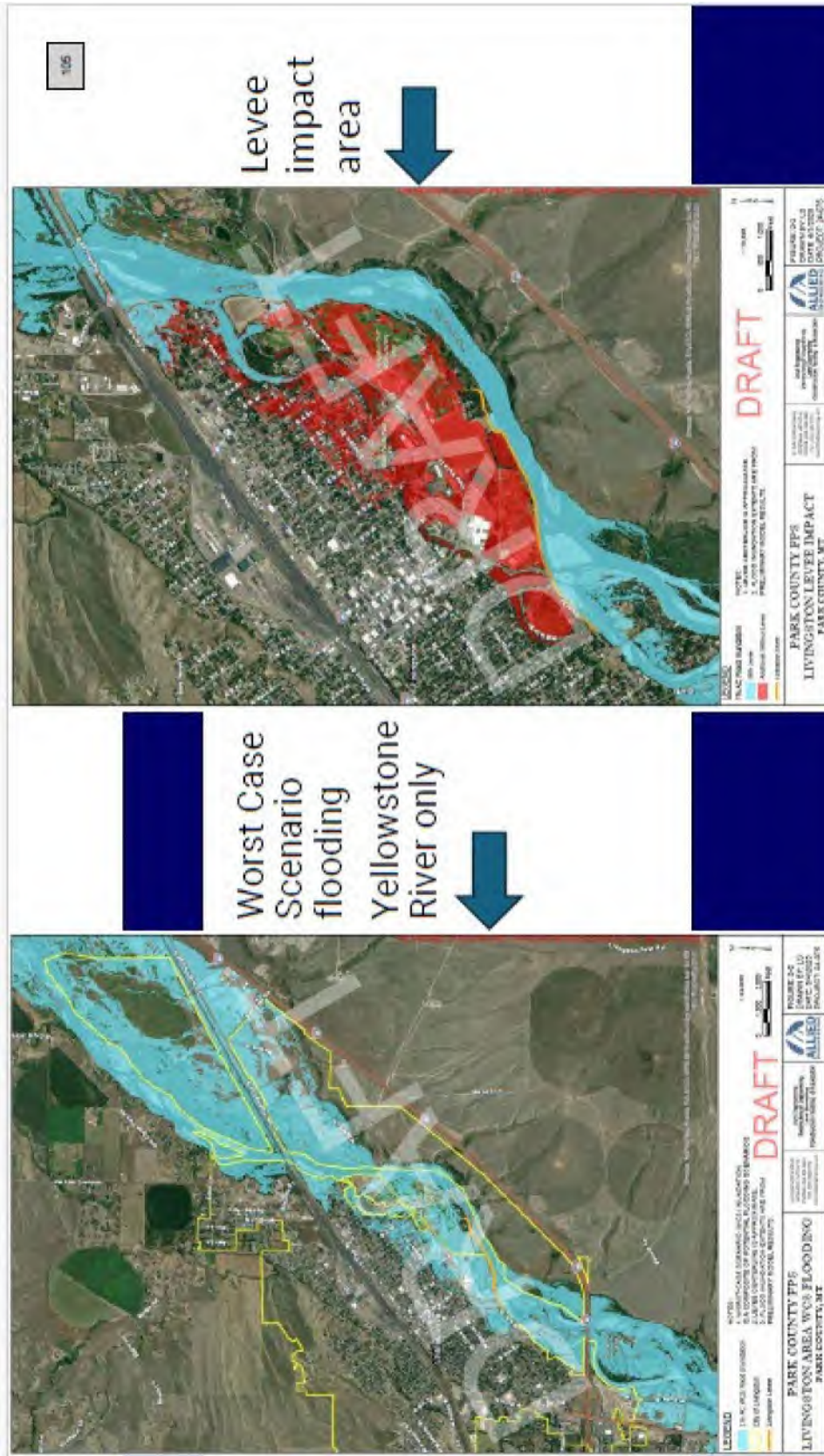


Figure 4. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the 1% annual flood extent without (left) and with (right) a certified FEMA levee structure.

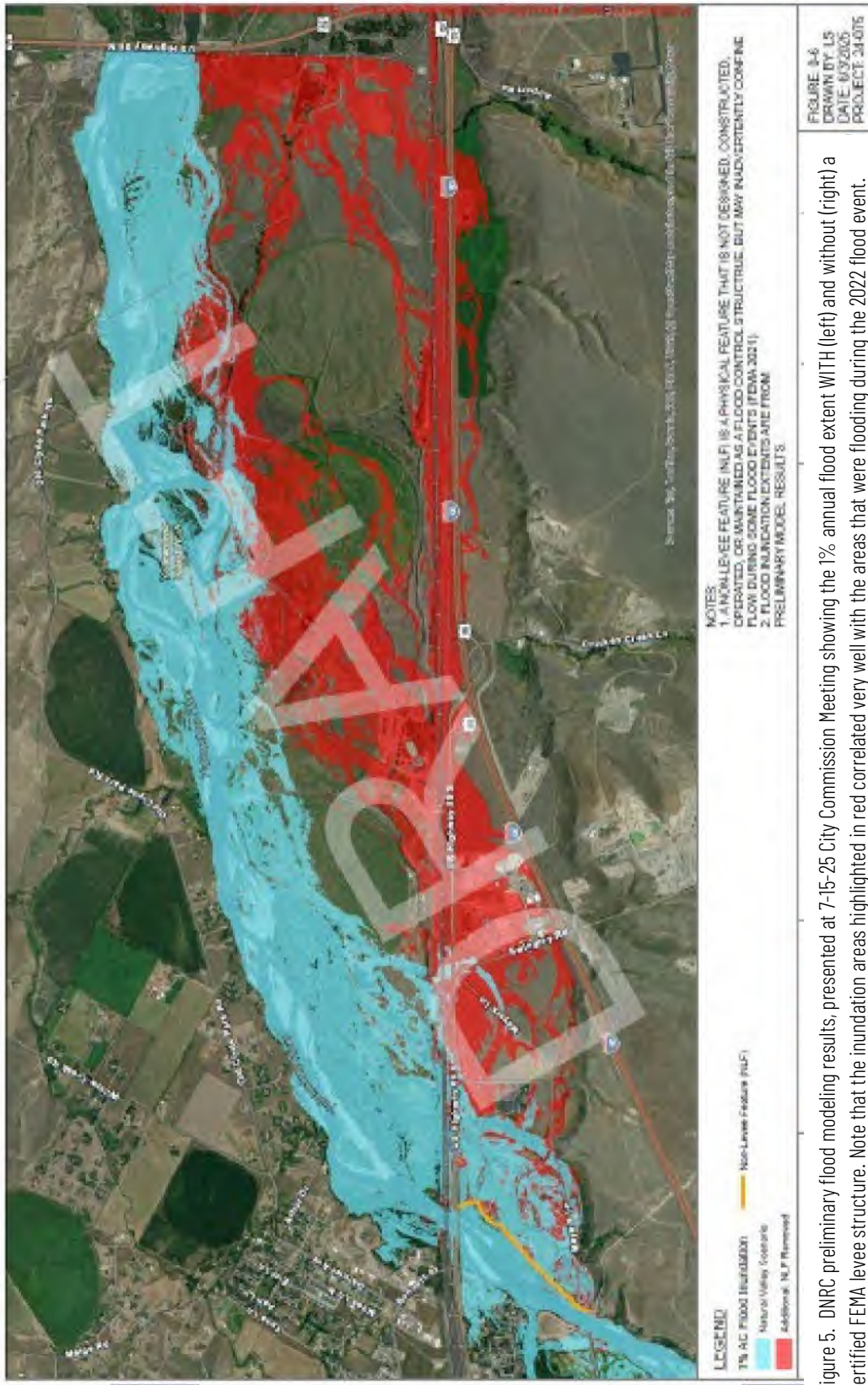


Figure 5. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the 1% annual flood extent WITH (left) and without (right) a certified FEMA levee structure. Note that the inundation areas highlighted in red correlated very well with the areas that were flooding during the 2022 flood event.



Figure 6. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the 1% annual flood extent of Fleshman Creek.

PROPOSED ZONING CODE

The following recommendations for watercourse setbacks would replace the 10ft setback described Sec 30.58.3.C and 30.58.4.A of the draft zoning codes. These are science-based recommendations for the space streams and rivers need to effectively provide the following benefits to our community:

1. flood with minimal risk to infrastructure and property,
2. naturally recharge groundwater,
3. provide fish and wildlife habitat, and
4. treat and filter pollution to maintain clean water

REVISED SETBACK RECOMMENDATIONS pertaining to Sec 30.58.3.C:

The recommended setbacks are summarized in Table 1 and include a vegetated buffer on either side of the watercourse, based on stream size and/or ecological significance, and *measured from the ordinary highwater mark* (i.e. as measured from the OHWM on the right bank and as measured from the OHWM on the left bank). Where the floodplain, channel migration zone, or established riparian areas extend past the buffer, the setback would be inclusive of the greatest extent.

These setbacks would include any stream, river, creek, drainage, waterway, gully, ravine or wash in which water flows either continuously or intermittently and has a defined channel, bed and banks, and includes any area adjacent thereto subject to inundation by reason of overflow. These setbacks would not apply to any facility created exclusively for the conveyance of irrigation water.

Table 1. Recommended watercourse setback, measured from the ordinary high water mark

LARGE Yellowstone River	Medium and Ecologically Significant Fleshman & Billman Creek	Small All other waterways
300'	150'	100'

REVISED MITIGATION REQUIREMENTS pertaining to Sec 30.58.4:

The Mitigation Plan should also include: a written description of the existing characteristics of the waterway (existing vegetation, average channel width, drainage, and depth during peak and base flow, flooding history, erosion problems, etc.); a written explanation of the anticipated impacts to the existing conditions described above; a detailed plan describing how proposed protective measures will provide equivalent or better protection of the stream-associated functions than the watercourse setbacks; and a written explanation of the impact, if any, that the proposed protective measures are expected to have on flood and erosion risks experienced by the subject property and upstream and downstream users.

The recommended setback distances are based on the following reports, each of which represents a wide body of research:

[Montana Fish Wildlife and Parks Recommendation for Subdivision Development in Montana:](#)

- **Rivers:** A minimum of 250 feet of vegetated buffer plus 50 additional feet of building setback. Total building setback equals at least 300 feet from each side of a river.
- **Perennial Streams:** A minimum of 150 feet of vegetated buffer plus 50 additional feet of building setback. Total building setback equals at least 200 feet from each side of a perennial stream.
- **Other waterbodies:** intermittent, wetlands, lakes, reservoirs. Minimum 100 + 30 additional feet of building setback.

Montana Department of Environmental Quality Scientific Recommendations on the Size of Stream Vegetated Buffers [Part 1](#), [Part 2](#), and [Part 3](#):

- **Water Quality:** 100 ft setback. For significant removal of nitrates, sediments, and pathogenic bacteria, at least 100 feet is recommended.
- **Fish and Aquatic Life:** 100 ft setback. In order to maintain fish and aquatic habitat, scientific studies recommend that a minimum of a 100 ft riparian vegetated buffer should be maintained.
- **Wildlife and Wildlife Habitat:** 300 ft setback. In order to protect wildlife and wildlife habitat, 300-foot stream vegetated buffers should be maintained. Certain wildlife species need a larger vegetated buffer.



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October 1, 2025

VIA E-MAIL ONLY

planning@livingstonmontana.org

jseverson@livingstonmontana.org

Planning Department
City of Livingston
220 E. Park Street
Livingston, MT 59047

RE: Comments on Riparian Zoning Setbacks

Dear Members of the Livingston Consolidated Land Use Board:

Lund Law, PLLC represents landowners within the City of Livingston (“City”) who will be negatively impacted by your proposed Zoning Code Update, particularly with regard to Section 30.58, titled “Environmental Protection and Sensitive Areas” (the “Taking”). The Taking would devalue property that has been developed and utilized for residential lots and homes for decades. Effectively, the City is proposing the condemnation of a conservation easement across every riparian property within City limits. The City cannot simply convert this private property into public property without paying just compensation as required by the United States and Montana Constitutions.

The United States Constitution provides, “nor shall private property be taken for public use, without just compensation.” U.S. Const. amend V. In 2005, the United States Supreme Court discussed the principles of fairness that underpin takings jurisprudence. *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 537 (2005). In her opinion for the Lingle majority, Justice O’Connor explained that the most important takings inquiry was the impact of the government’s action on the property owner. *Id.* The Taking’s stated purpose is to “protect the natural resources and environmental integrity of Livingston and the surrounding region.” The Taking rather questionably purports to “support public safety” and “reduce hazards associated with flooding and erosion.” Even if it does, the Taking nonetheless constitutes a violation of the Montana and federal Constitutions that will deprive landowners of most beneficial uses of ten feet of their exclusive property above a stream’s high-water mark without just compensation. The fact that a regulation is in the public interest does not negate the City’s duty to pay if it takes homeowners’ property. As the United States Supreme Court has stated, “[w]e are in

danger of forgetting that a strong public desire to improve the public condition is not enough to warrant achieving the desire by a shorter cut than the constitutional way of paying for the change.” *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 416 (1922).

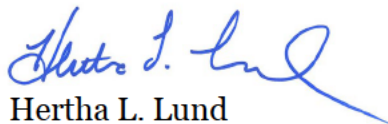
In addition to property rights protections in the United States Constitution, the Montana Constitution protects property rights even more vigorously: “Private property shall not be taken or damaged for public use without just compensation to the full extent of the loss having been first made to or paid into court for the owner.” Mont. Const. Art. II § 29 (emphasis added). Montana’s addition of the “or damage” language entitles the owner to compensation when the government action has reduced the property’s market value. *Knight v. Billings*, 642 P.2d 141, 145-46 (1982). Further, regulations enacted under the state’s or a locality’s police power may not take property unless they are reasonable. *McElwain v. County of Flathead*, 248 Mont. 231, 235, 811 P.2d 1267, 1270 (1991). When zoning regulations affect landowners’ use of their property, Montana has adopted the U.S. Supreme Court’s rule that only regulations “substantially related to the legitimate State interest of protecting the health, safety, morals, or general welfare of the public, and utilizes the least restrictive means necessary to achieve this end without denying the owner economically viable use of his or her land” may escape classification as takings of private property. *Id.* Regulations falling short of that standard are takings.

The City’s proposed zoning regulation will be a taking under the Montana Constitution in addition to being a violation of the United States Constitution. First, it will certainly decrease affected homeowners’ property values substantially. Further, the Update’s own terms announce its primary purposes are to protect natural resources and “environmental integrity.” These purposes do not have a substantial relation to public health, safety, morals, or general welfare. Also, they do not use the least restrictive means necessary to achieve their ends. Thus, the Taking, if adopted, would violate Montana and federal law.

The Taking’s requirements will confiscate property from every single streamside homeowner in Livingston. The City has no legal right to mandate buffer zones or setbacks for the protection of “environmental integrity” without paying homeowners just compensation. If the City wants to obtain private property for wilderness-like buffer zones within the City limits, the City must abide by the Constitutional requirement to provide fair market value for the easements it condemns. It is unfair and unconstitutional for the City to take private property for public use.

I will try to contact your office to schedule a meeting to discuss these issues further on behalf of my clients.

Sincerely,



Hertha L. Lund

LUND LAW, PLLC

Lund@Lund-Law.com

From: [Chris Benden](#)
To: [Jennifer Severson](#)
Subject: zoning
Date: Wednesday, October 1, 2025 6:27:15 AM

Thank you for the time and energy into this project. I am overwhelmed by this and so I can't imagine your end. I would like to know the tax implications for the changes. Two of my concerns are the value of our property in the future, The less zoning regulations then the more possibilities thus more potential buyers, and future plans from us. Although none currently. I envision light commercial or retail and/or multi unit housing. We thoroughly enjoy the open space we currently have and want to maintain that but with taxes and fees consistently increasing we find it difficult to keep up with the bills and not expand the use of the property. I would like to visit for more direct Q and A towards the limits and possibilities of the various designations. Thanks,
Chris Benden

October 1, 2025

Consolidated Land Use Board Members

Jessie Wilcox (Chair), Bailly Goodwine, Caitlin Chiller, John Kalmon, Becky Moores, Forrest Huisman
414 East Callender Street
Livingston, MT 59047

Re: Comments on Riparian Setback Requirements. Proposed Zoning Code Update Sec 30.58.2, .3, .4
Riparian Setback Requirements.

A buffer of at least 10-feet from the ordinary high-water mark of a perennial stream that shall be observed within which no construction is allowed.

We OPPOSE any riparian setbacks from what is commonly known as Fleshman Creek.

We maintain that Fleshman Creek within the City is nothing more than a drainage ditch, not a "perennial stream."

As 1988-present day (37 years) resident property owners of lots that have Fleshman "Creek" bisecting our lots, we have seen the following:

Fleshman "Creek" in the City has been bone dry numerous times. Irrigation rights upstream can dry it to -0- flow. Just because the current owners of irrigation rights aren't exercising their water take out allotments to the max, doesn't mean that they won't in the future, they could. They might even sell their land and water rights to a golf course that would take all the water, all the time.

There are no fish in Fleshman "Creek." We've never seen any in 37 years.

City lots are 25'x140'. If Fleshman "Creek" runs through a lot and there is a 10' riparian setback on each side, (20') the owners will not be able to build anything. This is a taking.

Fleshman is a street drainage ditch. The City uses Fleshman "Creek" as a drainage ditch for raw untreated street stormwater runoff. The runoff contains gas, oil, chemicals, and garbage. A few of the points of runoff into the "creek" are Geyser and G Streets, 10th and Cambridge, and Town and Country Parking lot. There are more. This is polluting. Property owners that have built or will build do not pollute. Maybe this street drainage is a large contributor to the silting in of the Lagoon. Because gallons and gallons of runoff from large areas of town are forced into small Fleshman "creek" drainage, the City is causing water pollution, erosion, and siltation that would never occur under normal natural circumstances.

We view this proposed riparian setback area as a private property rights issue, a taking of our land. We OPPOSE our private property being taken from us and converted into public property. Our property is not for sale. If a riparian setback is legislated, we (and all the other 250+/- private property owners) would be required to give up our property and property value for the benefit of the public without compensation. This is a forceful intrusion into our life and the lives of all the property owners along the riparian set back.

Consolidated Land Use Board Members, please recommend DISAPPROVAL of the Proposed Riparian Setback Requirements. Thank you for considering our comments and concerns

Dan and Tara Eddy

Dan Eddy Tara Eddy
PO Box 1454
Livingston, MT 59047

October 1, 2025

Dear Consolidated Land Use Board Members,

Jessie Wilcox (chair), Baily Goodwine, Caitlin Chiller, John Kalmon, Becky Moores and Forrest Huisman,

Thank you for welcoming public comment on the proposed zoning code update. My comments are in response to sec 30.58.2, .3, .4 Riparian Setback Requirements.

I **OPPOSE** any riparian setbacks from what is commonly known as Fleshman Creek. Setbacks would take away land use that has been rightfully purchased and deeded to your neighbors in Livingston.

Growing up next to Fleshman allowed me countless hours of exploration and fun sailing boats, wading, building forts and bridges in, around and over the water. I knew I wanted to stay close and sought out property along Fleshman to buy our own home. Families living along Fleshman care deeply for the health of the water and preventing erosion. We are good stewards of its banks and water. Limiting use of the land we purchased while allowing the City of Livingston to use Fleshman as a drainage ditch for street runoff doesn't make sense.

Please recommend **AGAINST** the Proposed Riparian Setback Requirements.

I appreciate your time and service,



Kyra Pinango, MD



PARK COUNTY
ENVIRONMENTAL
— COUNCIL —

Item A.

October 1, 2025

City of Livingston

Consolidated Land Use Board

RE: Consideration of Proposed Zoning Code Update

Dear Land Use Board members:

Thank you for continuing the discussion and allowing more opportunities for the public to weigh in to the draft zoning code update. Park County Environmental Council (PCEC) submitted comments on September 17th, 2025 and are submitting a second letter October 1st for your consideration. All comments submitted to date are within this draft.

In short, we are pleased with many of the proposed updates and changes to the zoning map. These changes address many of the important concepts of the Livingston Growth Policy and do an excellent job at simplifying the code for more individuals. We wish to share a few suggestions for improvement and considerations that we believe will more fully align the zoning code with the vision set out in the Growth Policy and the Trails and Active Transportation (AT) Plan. Granted, we are not zoning code experts or planners by trade, so recommendations may fall short of state legislation and what is applicable to the code versus in another plan or parallel process.

Three sections include:

1. Ensuring alignment with adopted plan: Growth Policy and Trails and AT Plan
 - a. Workforce housing and sprawl
 - b. Building heights
 - c. Public health
2. Flood risk, setbacks and wildlife
3. Comments submitted September 17th, 2025

Thank you for considering our comments and to the Planning Department for doing the work to make sense of and consolidate the comments in preparation of the Land Use Board.

Sarah Stands 
Park County Environmental Council

1. Ensuring Alignment with Adopted Plans: Growth Policy and Trails & AT Plan

As we are aware, zoning regulations are how our City implements the Growth Policy and shapes how our community grows. We frame our comments around the following following objectives and strategies from the Growth Policy, and encourage the Board and City ensure these are achieved:

- *Objective 2.2.3* - Support traditional neighborhood design and active transportation.
- *Strategy 3.1.1.8* - Reduce urban sprawl through compact development consistent with the Future Land Use Map (FLUM) of this Growth Policy.
- *Objective 3.3.1*: Identify areas that provide or connect habitat for significant plant or wildlife species or make a significant contribution to environmental quality, as well as areas, sites, structures, or objects with historical, architectural, or cultural significance.
- *Strategy 3.4.1.1* - Amend Zoning Ordinance and Subdivision Regulations to include Smart Growth strategies as requirements for all development prior to approval. This includes encouraging development near transit routes and active transportation infrastructure.
- *Objective 4.2.1*: Identify, conserve, and protect the quality and health of water resources and ecosystems to meet local standards for public use and recreation.
- *Objective 4.3.2*: Protect the riparian corridors to preserve unique wildlife and promote water quality. (Strategies include continuing to limit development in the floodplain and protecting the Yellowstone River's natural flow and flood cycles)
- *Objective 5.1.4*: Promote a mix of housing types that serve a variety of income levels, age groups, and household sizes.

While we appreciate the intent to simplify the code, we believe the proposed map represents an overall downzoning, which does not seem to align with the Growth Policy (GP) and the Future Land Use Map (FLUM) vision for promoting compact, high-density development near the City core and transit routes. This downzoning is a missed opportunity to implement strategies for workforce housing and walkable neighborhoods and to take advantage of the only incentives we have available through the URA.

Key Conflicts and Recommendations for Zoning Districts

- **Conflict with High-Density Objectives:** The Central Business District (CBD) footprint has been reduced, and the Light Mixed-Use (LMU) designation covers a large swath of the area around the core. If the LMU is proposed to have lower density opportunities than the High Density of the FLUM, this feels like an opportunity to encourage the flexibility and higher density of HMU. Secondly, RII in the proposed map and LMU seem to be quite similar. This is ultimately a homogenization and downzoning and seems to conflict with Objective 5.1.4.

RECOMMENDATION: maximize the potential for residential density in and immediately around the CBD by making more parcels LMU/HMU or by providing flexibility within the LMU zone to accommodate higher density development. Ensure that incremental growth is an upzone in key areas, and this is not solely a downzone proposal.

- **Misalignment with FLUM:** Some areas earmarked for Mixed-Use (MU) in the FLUM are now designated residential, such as parcels on the Northside of Front Street. This decision disincentivizes the commercial activities and walkable neighborhoods called for in the Growth Policy and is another example of downzoning.
- **Industrial Zoning (LI):** We question the restrictive nature of the Light Industrial (LI) zone.

RECOMMENDATION: With our critical need for housing, we recommend a re-evaluation of this district to allow for a mixed-use component that includes residential development, or to eliminate the zone entirely and reclassify these areas to a more flexible mixed-use designation.

Maximizing Workforce Housing Tools and Avoiding Sprawl

State legislation has limited the use of inclusive zoning, leaving the City with few tools—primarily the Urban Renewal Area (URA) incentives and the Planned Unit Development (PUD)—to encourage the provision of below-market-rate housing. I encourage the board to think about how we maximize the effectiveness of these remaining tools for the benefit of our residents and general affordability.

- **PUD Size Limitation:** The current PUD regulations, which require a minimum of a ½ acre in size, effectively limit high-density development and the creation of affordable options to the outskirts of Livingston. This is contrary to the vision of the GP, the Trails and AT Plan, and public health objectives, as transit routes and public infrastructure are more accessible closer to the CBD. This may unintentionally incentivize sprawl and increase traffic/congestion (especially on the Northside) until more infrastructure is built out and additional routes can be resourced with Windrider.
- **Missed Opportunity in Livingston's core:** It is a missed opportunity to downsize density in the CBD and the surrounds. We should be utilizing the core to create workforce housing and, therefore, highly walkable and bikeable neighborhoods, reducing overall vehicle miles traveled and infrastructure costs.

RECOMMENDATION: Identify more parcels within the proposed LMU that can accommodate the flexibility and higher density (eg HMU) development, providing a greater variety of housing types as per Growth Policy Objective 5.1.4.

Building Heights

The zoning code could benefit from additional clarity to both the public and developers regarding which elements are governed by Zoning Code (e.g., use, bulk, height, density) versus Building Code and design standards (e.g., fire suppression, structural integrity, safety, and design elements that achieve preserving community character), which may address some of the fears around height and loss of community character.

- **Height Mitigation:** To our understanding, fears regarding building height and building size impacting views and community character can be mitigated by the combination of the

Building Code, design standards and the Historical Overlays. The viewshed is a single important element, but it should not supersede all the other benefits of incremental, compact growth, and smart growth goals such as increased housing supply, walkable neighborhoods and economic vitality.

- **Building Height Perspective:** The story maps have been extremely helpful to understand limits. I encourage us to maintain perspective and help communicate to concerned residents, buildings in Bozeman currently exceed 100 feet. Buildings of 40, 50 and 60 feet will not "turn Livingston into Bozeman" as some fear, but they will allow for the density needed to support a vibrant core.

RECOMMENDATION: Consider increasing height limits of LMU so that it is differentiated from R2 and maximize northside incentives for commercial activities and walkable infrastructure in this area.

Public Health

As stated on Page 4 of the draft ordinance. "The purpose of this ordinance is to **promote the health, safety, and general welfare of the community** by regulating the height and size of buildings and structures, the percentage of lots that may be occupied, the size of setbacks and open space, the density of population and the location and use of buildings, structures and land for trade, industry, residence, or other purposes within the city limits."

However, despite the defined purpose, the infrastructure of Livingston and Park County has not incentivized physical activity and wellbeing for all residents. This is clearly defined in the Trails and AT Plan.

Section 9 Health, Equity & Inclusion: page 93 to 98 of the Trails and AT Plan discusses the intersection and the importance of public health being centered in public policy including zoning code, as this intention is codified and embedded as the very purpose of the zoning code ordinance; which in turn also protects our Montana State Constitution right to a clean and healthful environment.

RECOMMENDATION: Consider applying a staunch public health and community resilience lens to the zoning code review and suggestions. Potentially consider weighing it more heavily than non essential amenities, such as view sheds and property values, or other less critical factors in the Growth Policy.

This may include considering incentivising high density development where tree canopy and shade exists in the hot summers both, to mitigate the effects of extreme heat in terms of utility cost and walkability considerations. At the moment, it appears that most development (PUDs and HMUs) are occurring and being incentivized in locations in tree deserts.

Secondly, we urge the board to consider air quality, particularly related to coal trains and coal dust, but also high winds and weather, and how building forms (additional height) can

offer protection. Cost dust has a known impact on the health of residents, and especially children.

And lastly, as a public health necessity (mental, physical, spiritual) please consider seamless access from all neighborhoods to active transportation routes and the Wind Rider (or other future transit) services when considering the ordinance and zoning map.

Trails and Active Transportation (AT) Integration

We urge the Board to ensure the zoning ordinance considers multi-use trail and/or sidewalk connections to existing and future development. Historically, zoning and subdivision ordinances focus on the movement and needs of motor vehicle traffic and do little to put people who walk and bike on equal footing.

If it hasn't been done already, we suggest reviewing the Trails and AT Plan for specific ordinance language changes, such as on page 78 that refers to Chapter 30 - Zoning. In addition, we have provided some of the excerpts related to zoning below, albeit this is not a conclusive list due to lack of time to compare the new draft. If changes have been made already, thank you!

As a final request, it may be helpful to the public to provide a brief report on how the proposed zoning code strategically aligns with the goals and objectives of both the Trails and AT Plan as well as the Growth Policy and Smart Growth Goals, specifically addressing the conflicts of density and location of workforce housing outlined above.

LIVINGSTON

Trails & Active Transportation Plan

Figure 7-6, continued: Ordinance Recommendations

Section of Ordinance	Assessment
Chapter 30 - Zoning	
Article II—Definitions: “Street”	Definitions under “street” acknowledge it “as a public way for motor vehicle traffic.” Revise to identify legal use of streets for pedestrians and bicyclists, with the sidewalk being part of the street right-of-way. Remove “fast or heavy traffic” from arterial street definition as there is no requirement that an arterial route be fast or include heavy traffic; add what functions the various street types serve for pedestrians and bicyclists.
Article II—Definitions: Bikeways, Pathways, and Trails Pedestrian Access & Circulation Routes	Add definitions for these features as zoning ordinances are updated to require consideration or improvements of these facilities (or reference Section 26-93). Add definitions for pedestrian access routes (PAR) and pedestrian circulation routes (PCR) to align with ADA requirements. PAR are walkways where a minimum of 4-feet (5-feet preferred) is clear of obstacles and has a cross slope no greater than 2%. PCR’s are any prepared area for pedestrians and should be kept clear of protruding objects and ensure signs have bottom edges no lower than 80 inches.
Section 30.46 - Building design standards.	“Promote Buildings that Reflect Pedestrian Scale. Human scale shall be an integral part of all buildings.” This is a great acknowledgment of how the history of Livingston is centered on people and their needs. Add language to address how the pedestrian interacts with buildings facing the street in terms of restricting doors that open onto sidewalk space. Suggest that sidewalk-level windows provide visual appeal and prohibit the “blacking out” of windows by tinting or other advertisements.
Section 30.50 - Signs: “Projecting signs”	Consider adding language about pedestrian-oriented signage that is perpendicular to the building space and hangs over a sidewalk so people who use sidewalks can easily identify the business. This would not prohibit signs on the façade of buildings that face motor vehicle traffic, but would be in addition to those in identified districts (e.g. downtown).
Section 30.50 - Signs: Height	Sign heights must not overhang a pedestrian access route and pedestrian circulation route must lower than 80 inches off the surface of the sidewalk or other type of walkway/path. This mostly applies to traffic signs. Permanent business signs will adhere to this due to other features of the code restricting permanent signs to 8’ minimum height.
Section 30.74 - Variances	Stipulate that variances related to sidewalks and upgrades for ADA compliance will not be considered on properties abutting arterials and collectors.
Other Sections to Add (Ordinance Chapter TBD)	
Abandonment of Public Rights of Way	Create a policy on methods to evaluate proposed right-of-way abandonment to ensure opportunities for trail, pathway, or micropath linkages are considered. In lieu of full abandonment, a defined process could assess a reduction in the width of the existing open right of way or a land swap of that right-of-way to help provide a more suitable or desirable connection.
Gateway Corridor Treatments	Gateway corridor regulations that promote greater aesthetics for transportation corridors should also enhance the experience and safety for people entering Livingston by bike and on foot. Treatments such as frequent, safe pedestrian crossings at gateway corridors showcase that Livingston is a town that values safety and wants motorists to slow down when moving through the City. Pathway corridors can include signage and other features similar to what roadways typically include to help promote bicycle tourism.



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Trails and AT Plan excerpts that help inform our comments:

- A. “Other policies, such as zoning, help steer desirable land uses to areas that are walkable and bikeable. Mixed-use and dense development create more market demand for walkable and bikeable destinations and can shorten trip lengths.”
- B. “Land Uses North of the Railroad. The current land uses north of the railroad tracks in Livingston are dominated by residential neighborhoods. With few exceptions for light industrial, municipal, or religious institutions, commercial and retail outlets do not exist. This reality, coupled with the school issue, mean most walking and bicycling trips generated from the north are due to lack of vehicle access or recreation. To generate a greater interest in walking or bicycling, a combination of infrastructure improvements and land uses that attract users is necessary. The number of residents on the north side may not meet requirements of grocers but could meet demand for owners of a smaller footprint market. Other land uses such as small restaurants, social club like a brewery or coffee shop, or other neighborhood-scale businesses may be feasible. This type of development would most likely succeed in a single planned development rather than piecemeal one-off structures and parcels. As noted earlier in this chapter, there are some decisions that are directly controlled by the City, County, and school district. **Private land use decisions will be either market-driven or require incentives.** New development could spur utilitarian walking and bicycling trips and give residents on the north side of

the city reasons beyond recreation to participate in active transportation. **Zoning for and promoting this type of a development could lead to reduced demand for crossing the railroad tracks.** The current zoning map (Figure 7-1) shows limited pockets for such development north of the railroad tracks. “

- C. **“Future Growth Areas.** Most of the land uses needed by everyday residents of Livingston are concentrated in a few key locations. These are on the south side of the railroad tracks and Park Street. Furthermore, as was expressed in many discussions, the City is currently facing a void of needed business types such as apparel stores, general department stores and the like, after the shuttering of Shopko. The transition of downtown over many years has led to few businesses offering everyday wares for residents. Accessing current businesses is a challenge for those living north of Park Street and the railroad as well as on the far east side of town. Not only is travel by foot or wheel difficult from existing north side residents, future growth is largely taking place in the north or slated to occur east of the river, which presents another obstacle. With new neighborhoods comes greater demand to cross at key intersections until the non-residential land uses are developed in closer proximity. The two largest pockets of areas facing development pressure and recent annexations are south of the railroad tracks (Figure 7-3). To mitigate this reality, improving the crossings of the rail corridor and Park Street will be imperative and north-south infrastructure connecting neighborhoods to city centers is vital. **Zoning for mixture of land uses within currently zoned residential areas is another method worth considering as reducing the crossing demand and shortening travel distances from homes to needed services, ideal.”**

2. Flood Risk, Wildlife and Incorporating Scientific Setbacks

We strongly emphasize the inherent flood risk to the City, which is the #1 hazard risk in the City/Park County, as detailed in the Hazard Mitigation Plan. This risk is compounded by the potential for the new FEMA flood maps to be defunded (See DEQ presentation at the City Commission meeting July 15th, 2025). This uncertainty, coupled with the lived experience of the June 2022 Yellowstone River flood, provides a clear mandate for a conservative, science-based approach to protect our residents, wildlife, and natural resources.

Since the FEMA flood maps and the Silver Jackets Levee Study may not be finalized, our full risk remains uncertain. However, the events of 2022 reinforce the necessity of limiting high-density development and building in the historic and active floodplain areas.

Growth Policy Mandate: Protecting Wildlife and Riparian Corridors

Setbacks are a critical, multi-pronged tool that reduces flood risk while simultaneously protecting our natural resources and wildlife corridors. The Growth Policy (GP) underscores the importance of this protection, mentioning "wildlife" 158 times in the document. The following objectives and strategies demonstrate the clear intent to protect these areas:

Objective 3.3.1: Identify areas that provide or connect habitat for significant plant or wildlife species or make a significant contribution to environmental quality... (Strategies include mapping environmentally significant areas).

Objective 4.2.1: Identify, conserve, and protect the quality and health of water resources and ecosystems... (Strategy 4.2.1.5: Identify water-dependent wildlife habitat and develop strategies to protect them).

Objective 4.3.2: Protect the riparian corridors to preserve unique wildlife and promote water quality. (Strategies include continuing to limit development in the floodplain and protecting the Yellowstone River's natural flow and flood cycles).

Our riparian areas are unequivocally primary corridors for wildlife habitat and essential to the environmental quality of our streams and the Yellowstone River.

Dual Benefit: Public Safety and Wildlife Conflict Reduction

Implementing science-based setbacks provides two layers of crucial safety:

1. Flood Risk Reduction: Buffers act as "pressure relief valves" during floods, allowing water to slow down and dissipate energy.
2. Reduced Human-Wildlife Conflict: Setbacks increase the safety and well-being of residents by establishing clear boundaries and reducing conflicts with animals like bears, beavers, and moose. These riparian areas are among the most important and biologically diverse habitats in Montana; protecting them from development is crucial for both people and animals.

RECOMMENDATION: The zoning code should limit high density and building in the historic and active floodplain areas. Flood risk is the #1 hazard risk in the City/Park County, and this code must reflect that reality. Therefore, we also urge the Board to implement more aggressive setbacks in the ordinance from water bodies as recommended by the Montana Fish, Wildlife & Parks (FWP) and the Montana Department of Environmental Quality (DEQ).

We also urge the Board to implement more aggressive setbacks for wildlife migration corridors, also a recommendation by the Montana Fish, Wildlife & Parks (FWP) and the Montana Department of Environmental Quality (DEQ). These recommendations are based on scientific studies that conclude 300-foot vegetated buffers are necessary to protect meaningful wildlife and wildlife habitat.

We recommend updating the code to reflect standards based on Montana Fish, Wildlife & Parks (FWP) and Montana Department of Environmental Quality (DEQ) recommendations:

Water Body	Recommended Total Building Setback (from Ordinary High Water Mark)
Rivers (Yellowstone River)	At least 300 feet (250 ft vegetated buffer + 50 ft building setback - FWP)
Perennial Streams (Fleshman, Billman creeks)	At least 200 feet (150 ft vegetated buffer + 50 ft building setback - FWP)
For Water Quality Protection	A minimum of 100 feet is recommended for significant removal of nitrates, sediments, and pathogenic bacteria (DEQ)

Specific Zoning Code Recommendations:

RECOMMENDATION: Edit Sec. 30.58.3.C. Riparian Setback Requirements to reflect scientific recommendations.

- *Sec. 30.58.3.C. Riparian Setback Requirements.* “A buffer of **at least 200 feet** from the ordinary high-water mark of a perennial stream, and **at least 300 feet** from a river (such as the Yellowstone River), shall be observed within which no construction is allowed.”

To this end, we fully support the comments submitted by Montana Freshwater Partners (MFP) on September 26, 2025, which highlight critical public safety concerns regarding the proposed zoning map. To reiterate their points:

- **Flood Dissipation Areas:** We are deeply concerned that the proposed LMU, RI, and RIII zoning categories would allow for light to heavy density residential and mixed-use development in what are arguably the City's most high-risk areas for flooding.
- **Critical "Pressure Relief Valves":** Undeveloped parcels in the Yellowstone historic and active floodplain are critical "pressure relief valves" that allow flood water to spread out, slow down, and dissipate energy. Developing these areas would increase risk exposure and vulnerability for City residents, businesses, and critical infrastructure. We recommend the Board refer to the figures provided in the MFP comments for visual context,

particularly Figure 1 showing the parcels in question and Figure 4, 5, and 6 illustrating flood risks.

- **Science-Based Riparian Setbacks:** The zoning code would benefit from implementing scientifically-defensible setbacks to ensure public safety and maintain the functional and ecological integrity of our local water resources. The current draft proposes a 10-foot buffer, which is wholly inadequate.

Specific Zoning Code Recommendations:

RECOMMENDATION: Edit Sec. 30.58.1. “Purpose and Intent” to clearly include reducing hazard risk.

- *Sec. 30.58.1. “Purpose and Intent.* The purpose of this section is to protect and enhance the natural resources and environmental integrity of Livingston and the surrounding region. These regulations **support public safety**, preserve ecological functions, **reduce hazards associated with flowing and erosion**, protect water quality by reducing surface runoff and mitigating sediment migration, and ensure that development aligns with Livingston’s values and natural setting.”

Comments submitted Sept 17th, 2025 are below

3. Comments Submitted Sept 17th, 2025

Firework Stands- Sec. 30.40 - Based on preliminary research, it sounds like Ordinance 2007 (2021) permitted the sale of fireworks within city limits but continued the ban of igniting fireworks in town. The proposed code limits the sale of fireworks to the Light Industrial (LI) and Industrial (I) districts and as a conditional use in Central Business District (CBD) and General Commercial (GC) zoning districts. While allowing sales in the LI and I may make sense, we question the ability to sell fireworks in our CBD and GC districts (and honestly question allowing firework sales at all given the fact using fireworks is banned within city limits).

RECOMMENDATION: Either limit the sale of fireworks to the LI and I districts, or prohibit sales citywide and allow historical stand operations to continue through a grandfather/nonconforming status.

Chickens- Sec. 30.52 – The proposed code prohibits the keeping of “fowl” within city limits (defined as chickens, geese, ducks, turkeys, peacocks, and other poultry). Most Montana municipalities allow backyard chickens, with some communities limiting the number of chickens, prohibiting roosters, or requiring a permit. Given the current prevalence of chickens in our town, and general support for urban agriculture, we think allowing chickens by right makes sense.

RECOMMENDATION: Change 30.52. Prohibited Animals. “No livestock or fowl, as defined in Article II, may be kept or maintained in any zoning district in the city, except for licensed veterinarian services, laying hens, and except for those kept pursuant to permit obtained through the office of the Sanitarian.”

Landscape Standards- Sec. 30.55 – Planting of native plants is recognized as an important way to bolster and protect our fragile ecosystem while protecting finite water resources and results in cost saving measures. We suggest the following edits:

RECOMMENDATION: D.1. “A variety of species planted in an informal arrangement. The use of xeriscaping, native species, edible plantings, and/or pollinator friendly plantings is preferred.” And D.3. “Landscaping shall give preference to native and drought-tolerant species and xeriscaping practices. Turf areas, drought-tolerant, native species, or xeric plantings, and groupings of plants with similar water requirements shall be identified on the site or landscape plan.”

We also recommend integrating Low Impact Development (Sec 30.58.3. General Standards for Development) into Landscape Standards Sec.55.

Short-Term Rentals- Sec. 30.57 – We very much support the regulation of short-term rentals (STRs) in our community given the impact these uses can have on existing neighborhoods and residential land values. We worry about allowing an unlimited number of Type 2 STRs (non-owner occupied) in the R1, R2, Light Mixed Use (LMU) and High Mixed Use (HMU) districts.

RECOMMENDATION: Allow Type 2 STRs as a conditional use in the R1, R2, LMU and HMU districts (or at the very least in the R1 and R2 districts). *Or* cap the number of Type 2 STRs in the R1 and R2 to those that currently exist (as a grandfather/nonconforming status). *Or* only allow Type 2 STRs in residential districts on a *seasonal basis* (limit the number of months a property owner could rent their home as a STR to three to six months. This could be called a Type 3 STR.)

Environmental Protection and Sensitive Areas- Sec. 30.58 – The proposed 10-foot buffer is inadequate to meet the stated purpose and intent. We recommend increasing the buffer to help protect public health and safety and preserve our natural environment. Buffers should follow

scientific rationale. For instance, Fish Wildlife and Parks has suggested some standards that we would like the Board and city to consider. A buffer requirement would impact development near Fleshman, and Billman creeks. Additionally, we recommend adding a buffer for development near the Yellowstone River. (We will provide additional recommendations on appropriate buffers and potential departures before the city commission meeting.)

RECOMMENDATION: Edit as follows - Sec.30.58.1. "Purpose and Intent. The purpose of this section is to protect and enhance the natural resources and environmental integrity of Livingston and the surrounding region. These regulations support public safety, preserve ecological functions, reduce hazards associated with flowing and erosion, protect water quality by reducing surface runoff and mitigating sediment migration, and ensure that development aligns with Livingston's values and natural setting."

Sec. 30.58.3.C. Riparian Setback Requirements. "A buffer of at least ~~10-foot~~ TBD from the ordinary high-water mark of a perennial stream shall be observed within which no construction is allowed."

Sec.30.58.4. A. Riparian Areas. "Appropriate erosion control measures are required for disturbance adjacent to the required ~~10-foot~~ TBD riparian setback area."

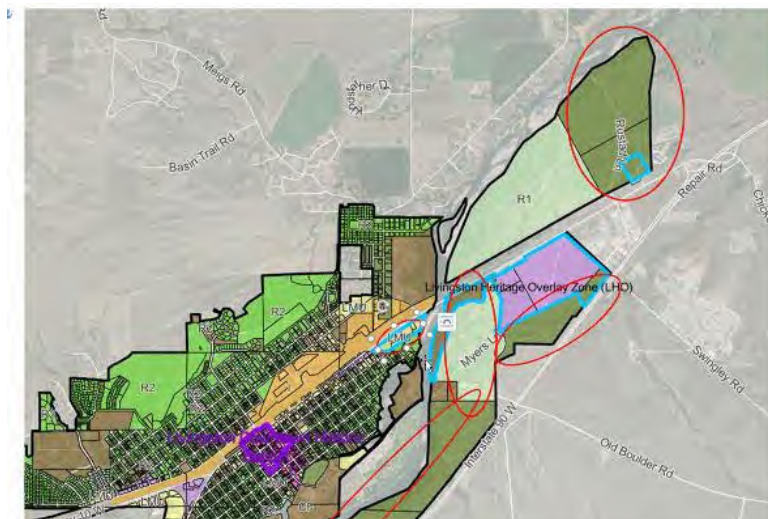
10/1/2025

RE: Public Comment on Draft City of Livingston
Zoning



Dear Consolidated Land Use Board and City Commissioners, On behalf of the Explore Livingston Coalition, I am submitting the following comments on the proposed zoning map and zoning code:

- CBD - Downzoning the CBD could push higher density growth to the donut areas around the outskirts of town and retaining current CBD boundaries would allow for greater infill nearer to services, public transportation and other resources used by lower income and senior residents.
- Downzoning the North 5th/Main and commercial development area near Chinook means that developers could not take maximum infill development advantage of URA. We recommend including this area in higher density use.
- CBD and historic district storefront zoning – with the exception of new groundfloor development in the historic district excluding storefront residential units, we no longer recommend type of business zoning in the CBD storefronts.
- We hope the building code will include revocation of building permits if they are not concluded in a reasonable time (1 year?)
- Flood zones, while it would be ideal for the recommended flood maps to be completed there is little evidence of near future funding so more cautious zoning in areas with proven flood risk would be judicious to prevent expensive flood mitigation, loss of property and possible loss of life. The proposed LMU, RI, and RIII zoning categories highlighted below are in opposition to the 2021 City of Livingston Growth Policy future land use map and we recommend lower density development zoning for public safety.



In Collaboration,



Kris King, Executive Director, Explore Livingston Coalition: Tourism Improvement District, Destination Management Organization/Convention & Visitors Bureau, Downtown Livingston Business Improvement District



LIVINGSTON BUSINESS IMPROVEMENT DISTRICT

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October 1, 2025

Jennifer Severson
Planning Director
City of Livingston
220 E. Park St.
Livingston, MT 59047

Re: First comment on City of Livingston proposed zone text and map amendments

Dear Planning Director Severson and Consolidated Land Use Board,

Thank you for the opportunity to learn about and comment on the proposed amendments to the Livingston zoning ordinance and zoning map. I have prepared the following comments on behalf of HRDC's Community Development Department. These comments articulate:

Concerns about and alternatives to downzoning the heart of Livingston, which undermines the Growth Policy's:

- Future Land Use Map
- Strategy 3.1.1.1 ("Encourage additional residential density within the downtown area of the City),
- Strategy 3.4.3.2 ("Encourage development near transit routes and active transportation infrastructure to promote development that produces minimal strain on the environment and existing transportation infrastructure"), and
- Objective 5.1.4: ("Promote a mix of housing within neighborhoods that supports a variety of household income levels, household age groups, and housing types")

A recommendation that the zoning ordinance and map should maximize existing incentives—URA funding and PUD provisions—to support below-market-rate housing development.

A handful of recommendations for tidying up definitions.

Recommendations to facilitate the creation and function of supportive and transitional housing and manufactured home communities.

Thank you for your consideration of these comments.

Sincerely,

Katherine Daly
Park County Housing Coalition Program Manager
HRDC District IX

p: 406.587.4486

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a: 32 South Tracy
Bozeman, Montana 59715

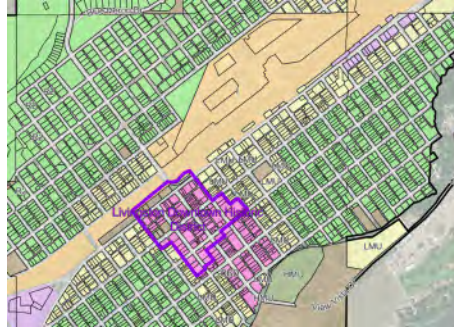
1. Downzoning Livingston's core diminishes opportunities to increase housing supply and diversity

In the proposed zoning regulations and zoning map, I see a concerning pattern of downzoning in the heart of Livingston, where either the existing zoning, the 2021 Growth Policy's Future Land Use Map (FLUM), or both allow for and/or envision higher-density development. Parcels in the city's core that are currently zoned for high-density residential and mixed-use development (e.g., Central Business District or CBD, High Density Residential or RIII, and Highway Commercial or HC) are downzoned to either Medium-Density Residential (R2) or Light Mixed-Use (LMU). Both of these districts have maximum heights of 36 feet, which would limit new buildings to roughly three stories. Although there have been positive changes to R2 and LMU includes some good ideas, downzoning these areas directly contradicts Growth Policy Strategy 3.1.1.1: "Encourage additional residential density within the downtown area of the City."

The majority of Livingston is already zoned R2. Decreasing opportunities for high-density residential and mixed-use development through downzoning will, over time, lead to greater homogeneity of Livingston's housing stock, not greater diversity. This outcome is at odds with Growth Policy Objective 5.1.4: Promote a mix of housing within neighborhoods that supports a variety of household income levels, household age groups, and housing types.

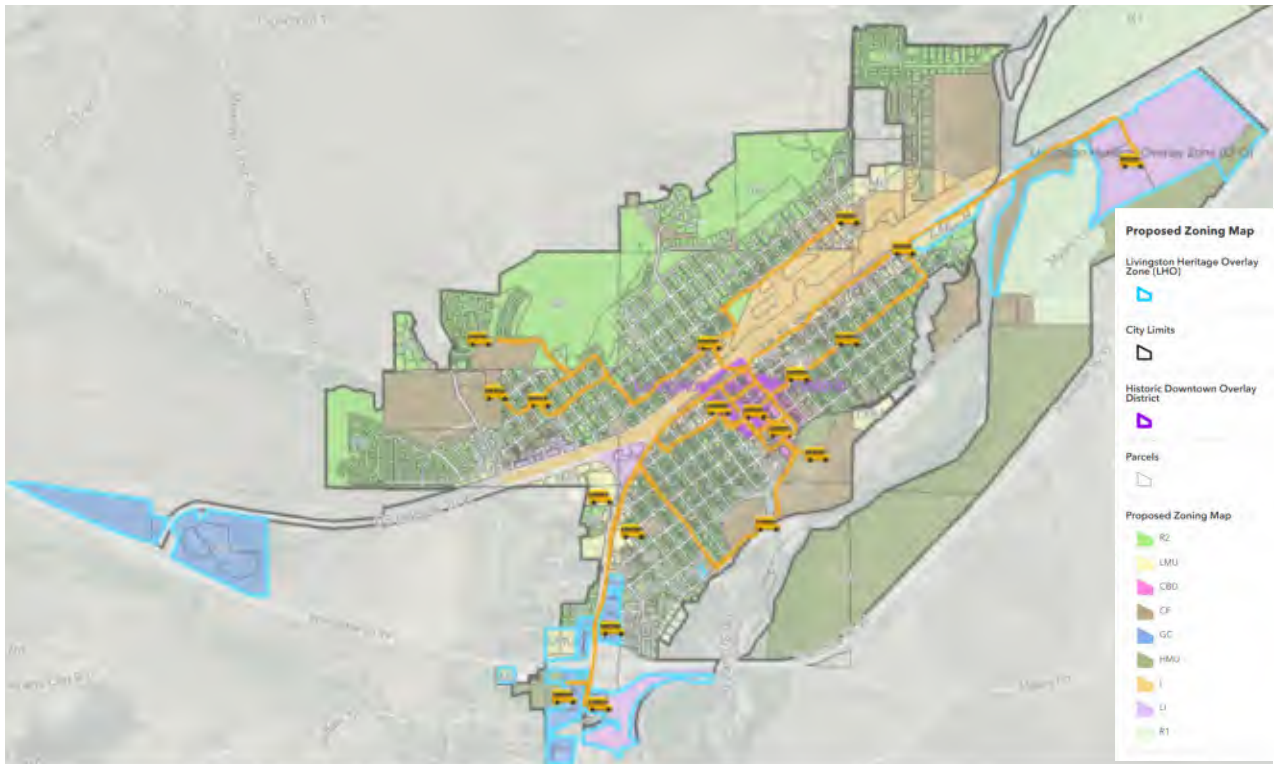
Downzoned Area 1: Central Business District		
Future Land Use Map	Existing Zoning Map	Proposed Zoning Map
		
Teal = Central Business District (CBD)	Fuschia = Central Business District (CBD)	Pink = Central Business District (CBD)

- Roughly 8 blocks within the existing CBD are proposed to be downzoned to Light Mixed Use (LMU). The FLUM does not envision a reduction in the CBD. The CBD currently is "intended to accommodate stores, hotels, government and cultural centers, professional offices, service establishments and all manner of housing with an emphasis on high density [sic] apartment housing." The area within the CBD slated for downzoning includes several high-density apartment complexes, such as the Ebert and the Absarokee.
- The proposed LMU district is "intended to encourage low-to-medium density residential." It limits building heights to 36 feet–24 feet lower than the proposed CBD and the same as the proposed R1 and R2 districts.
 - Developers would not be able to leverage the PUD ordinance to build taller structures in areas designated LMU. The existing and proposed PUD provisions only make the benefit of height increases (up to 40 feet) available to developers building in areas zoned R2.
- If it is necessary to rezone parts of the CBD, they should be rezoned High Density Mixed Use, a district that:
 - allows for a wide array of residential development suitable for a transitional zone (e.g., single-family homes to multi-family dwellings)
 - is intended to be walkable and is therefore congruent with our downtown development pattern,
 - has a max height of 50 feet, which is 10 feet lower than the proposed CBD but 14 feet higher than LMU and the surrounding R2.

Downzoned Areas 2 & 3: North Side West of Main Street & South Side Along Park Street		
Future Land Use Map	Existing Zoning Map	Proposed Zoning Map
		
Dark Red = Community Commercial (CC) Orange = High Density Residential (RIII) Light Pink = Industrial (I)	Dark Blue = Highway Commercial (HC) Army Green = High Density Residential (RIII) Orange = Industrial (I)	Light Yellow = Light Mixed Use (LMU) Light Pink = Light Industrial (LI) Orange = Industrial

- On the north side of the railroad tracks, four blocks southwest of N. Main Street are proposed to be downzoned, from RIII to LMU.
 - The FLUM envisions these blocks as RIII. These blocks are currently zoned R2.
 - RIII currently allows for buildings up to 50 feet tall with minimal setbacks. Downzoning these parcels to LMU would reduce their height to 36 feet and require greater setbacks.
 - These parcels should either remain RIII or be rezoned HMU, to allow for mixed-use development within the URA District boundaries while preserving the allowed building heights and residential densities (see next section for more on the URA boundaries).
 - Higher-density development in this area would be easily accommodated because of its proximity to the underpass and Front Street, an arterial with a nearby transit stop.
- On the south side of the railroad tracks, roughly 16 blocks south of Park Street are proposed to be downzoned from HC to LMU.
 - HC currently allows for “residential structures, commercial and service enterprises which serve the needs of the tourist, traveler, recreationalist or the general traveling public.” All types of residences, ranging from single-family to multi-family homes, are currently allowed. The height limit is 60 feet.
 - The FLUM envisions these parcels to be zoned “community commercial,” which “accommodates medium to large scale wholesale, retail, lodging, offices, and service establishments typically located along major corridors...”
 - Designating these parcels HMU would most closely align with the FLUM, lower the allowed height from 60 to 50 feet, encourage new development around our downtown to be walkable, and would be compatible with existing and surrounding uses.
 - Higher-density development in this area would be easily accommodated because of its proximity to Park Street, an arterial with great access to transit.

2. Downzoning Livingston's core lowers density at Windrider stops and along its route



The map above shows existing Windrider bus route and stops drawn on top of the proposed zoning map.

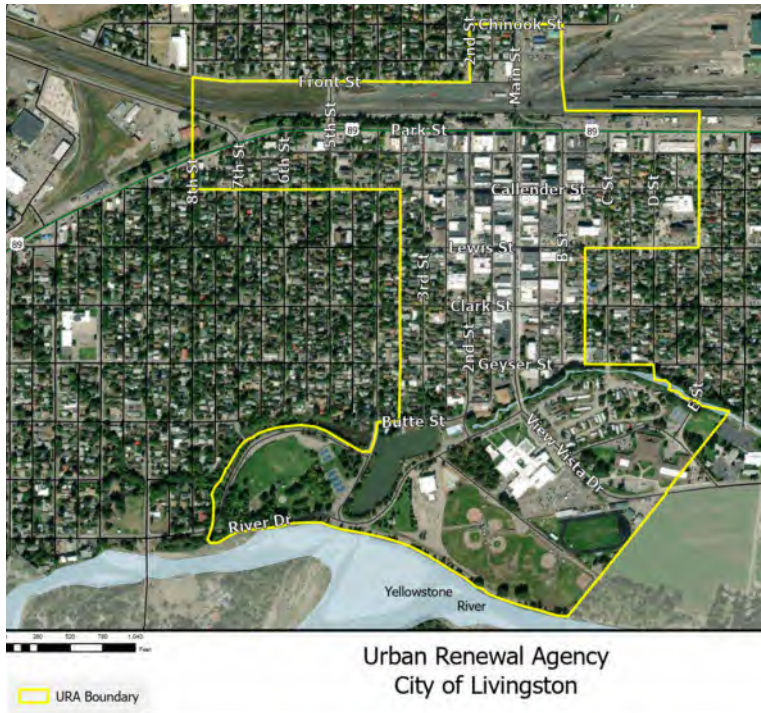
Strategy 3.4.3.2 of the Growth Policy is to “encourage development near transit routes and active transportation infrastructure to promote development that produces minimal strain on the environment and existing transportation infrastructure.” Downzoning parcels in and around Livingston's core and along Park Street contradicts this strategy. Allowing for the development of denser housing along Windrider routes and near stops could contribute to:

- Greater independence and access for any community member who cannot or does not drive a car, including the growing share of older adults in the community, youth, folks with disabilities, and adults without access to personal vehicles.
- A decrease in the costs associated with owning and operating a personal vehicle.
- Increased ridership of Windrider and a decrease in vehicle trips.
- A decrease in traffic and parking congestion.

3. The zoning ordinance and map should maximize existing incentives—URA funding and PUD provisions—to support below-market-rate housing development.

The development of below-market-rate homes affordable to Livingston's workforce is made possible through subsidies and incentives. The City of Livingston thoughtfully provides these through the Urban Renewal Agency's (URA) generous grant programs and through incentives available through the Planned Unit Development process articulated in the current zoning code. To facilitate the development of housing that our community needs and where the community wants to see it, the proposed updates to the zoning ordinance and zoning map should maximize these incentives.

3.a Aligning zoning to leverage Urban Renewal Agency District funding



Grant funding is a powerful and necessary tool for the development of below-market-rate housing. This year's estimated gap between what Park County's median renter household can afford and the community's median rent is nearly \$400 per month. The Livingston Urban Renewal Agency provides grants that can help close the gap between what it costs to build or renovate rental homes within the district boundaries and what locals can afford, while also achieving the URA's aims of remediating blight and increasing the taxable value of the district.

According to the [2003 Livingston URA Plan](#), the district boundaries were "determined by the City Commission" based on factors that included some of what I have discussed in this comment, such as "transportation corridors" and "existing and desired land use patterns."

Nearly all of the parcels in Livingston's core slated for downzoning also fall within the URA District

boundaries. (Parcels on the west side of S. 3rd Street are currently and proposed to remain R2; I recommend these parcels be zoned the same as those on the east side of S. 3rd St.) Downzoning these parcels would not only significantly limit how they can be redeveloped, but would also limit the URA District's long-term revenue potential and its ability to fund rehabilitation and redevelopment in the District.

Given the availability of these funds and the requirements the URA can set for developers to access them, it would be efficient to zone areas within the URA District boundaries that are north of Geyser Street (and likely have fewer unanswered flood questions) to allow the increased density recommended in the FLUM as-of-right. I would recommend HMU.

3.b Expanding Planned Unit Development Incentives to LMU

Incentives are most effective in facilitating the development of below-market-rate housing when the developer can stack them. Ideally, a property owner looking to build affordable housing in the URA district would have opportunities to access both the URA grants and the Planned Unit Development (PUD) incentives. If the PUD incentives are unavailable for one reason or another within the district, then it might be prudent to either amend the PUD provisions to expand those incentives and/or allow what the community would like to see as-of-right.

Under the current and proposed zoning code, a developer has to be working with a parcel of at least 0.5 acres to be eligible for PUD incentives. Two incentives helpful to affordable housing development are:

- An impact fee waiver for every new home brought to market that is affordable to households earning 60% or less of Park County's area median income. This incentive is available anywhere PUDs are allowed (R2, LMU, HMU, CBD, and GC).
- A modest increase to allowed heights for parcels zoned R2. The maximum height would increase to 40 feet, 6 feet more than what would be allowed in the proposed R2 district.

Almost all of the parcels within the URA that are proposed for downzoning would be rezoned LMU. Therefore, they would not be eligible for the PUD's height incentive. This means there would be no pathway for buildings in the URA to exceed

36 feet other than through a variance request, which, according to section 30.83.A of the proposed zoning regulation is only appropriate “when strict application of the standards would create an unnecessary hardship that significantly limits the reasonable use of a property.”

To help assess the potential for leveraging incentives from both the URA and via the PUD process—and ways to increase those opportunities—it would be helpful for City staff to clarify:

- The number of parcels 0.5-acres or greater within the URA district.
- How these 0.5+ acre parcels are zoned on the proposed zoning map.

4. Definitions can be better organized and some residential definitions can be clarified

- All definitions should be capitalized within the definitions section and throughout the document, so readers know when they are encountering a defined term. This is standard for zoning regulations.
- All residential definitions should be grouped under 30.20.1
 - “Dwelling Unit” should be moved from the “Other” section in 30.20.5
 - Recommend that the definition of Dwelling Unit be adjusted to something like “A Building or portion thereof designed for occupancy by a household, with its own kitchen, sleeping area, and sanitary facilities.”
 - Adjust all types of Dwelling Units accordingly, so they use this definition as the base.
 - “Affordable Housing” should be moved here from the PUD section in 12.30.45.D.1.ii.a
 - Remove “Accessory Structure,” as it is not specific to residential uses
- Revise the following definitions:
 - “One (1) Family Dwelling”
 - The first sentence of the definition in the proposed code is fine, albeit a bit redundant: “One (1) Family Dwelling means a detached residential building designed for and occupied exclusively by one household, containing one Dwelling Unit.”
 - However, the second sentence isn’t appropriate for a definition and confuses/contradicts the first sentence: “Condominiums, townhomes, mobile homes, manufactured homes, modular homes, and tiny homes are permitted in all districts where a single-family dwelling is allowed, subject to compliance with district density regulations.”
 - “Supportive/Transitional Housing”
 - The definition in the proposed code has some strange language: “Supportive/ Transitional Housing means a residential facility providing a maximum of temporary housing units and support services to individuals transitioning from homelessness, institutional care, or rehabilitation into permanent housing.”
 - Recommend simplifying to: “Supportive and Transitional Housing are types of Dwelling Units designed to support individuals transitioning from homelessness, institutional care, or rehabilitation into permanent housing.”
- How does the City of Livingston’s definition of “Affordable Housing” jive with the Montana Code Annotated (MCA) definition of “Affordable Housing”? If these definitions differ substantially, it might create confusion when discussing things like parking waivers provided under MCA for affordable housing.

5. Code changes to facilitate the creation and function of supportive and transitional housing and manufactured home communities

5.a Supportive and Transitional Housing should be allowed anywhere Assisted Living is allowed

Under the proposed zoning regulation, dwellings defined as “Supportive/Transitional Housing” are only allowed by right in two zones: HMU and GC. There is very little HMU in the proposed zoning map (this could be addressed via my previous suggestions), and the areas zoned GC are both at highway interchanges. Supportive and transitional housing are simply residential uses (e.g., apartments, tiny homes) that provide pathways for folks to exit homelessness. I would liken this type of housing to a less intensive form of assisted living, a use that is also addressed in the proposed regulation.

Under the proposed regulation, the use of Supportive/Transitional Housing requires a conditional use permit to be located in R1, R2, LMU, CBD, and PC. Under the proposed zoning map, these districts make up the bulk of parcels within the City. They also have the best access to free transit stops and routes and to destinations folks would want to visit as part of their daily activities.

The use of Assisted Living is allowed by right in HMU and GC, like Supportive/Transitional Housing. However, it is also allowed by right in three districts where Supportive/Transitional Housing requires a conditional use permit: R2, LMU, and CBD. I am unclear on the justification for this difference.

I contend that Supportive/Transitional Housing is a residential use and recommend it should be allowed by right anywhere Assisted Living is allowed by right.

5.b Manufactured home communities function best when homes are not required to be set on permanent foundations

I understand and appreciate the City's desire to focus on allowing *uses* in the zoning code, not types of structures. However, my understanding is that, absent input on this housing type from the zoning regulation, the building code will determine permitting requirements for these kinds of homes. My understanding of Livingston's current building code is that it requires manufactured homes (I am using the term here to include both "mobile" homes built prior to the adoption of HUD Code in 1976 and those built after) to be placed on permanent foundations. This is not a problem when someone wants to put a manufactured home on its own lot.

However, immobilizing a manufactured home in a manufactured home community can create challenges for the management of that community. This is something I have heard from NeighborWorks Montana Resident Owned Communities (ROC) Program Specialist Rebecca Heemstra, who works extensively with our two ROCs in Livingston: Sleeping Giant and View Vista. Planning Director Severson has pointed out that—to the best of her knowledge—the City Commission cannot grant variances from the building code.

I would appreciate the City's attention to this issue and ideas for facilitating the creation of manufactured home communities in which permanent foundations are not required.

Livingston Draft Zoning Code & Map Feedback Responses (9/1- 9/30)

Comment	Height	Zoning Map	Use Chart	Development Standards	Other
To impose no height limits is concerning. This is a beautiful small town that has pleasing aesthetics. We do not want to become Bozeman. Stop trying to make this town into every other US city.	X				
Hello, I strongly agree with and prefer the proposed height limits for the new zoning code. These height limits will allow us to maintain Livingston's historic and small town feel no matter the future growth. Emma Nguyen	X				
Skyscrapers are horrible, I lived in Bozeman over 30 years ago and the house I lived in is now replaced by a huge, glass and metal industrial building right next to the small houses next door. I feel so bad for that neighborhood. Please no industrial tall buildings in neighborhoods. And sorry but I don't understand the maps at all and I am a fairly intelligent person.	X	X			
Raising the height of the buildings is ridiculous for a town the size of Livingston.	X				
I support all PROPOSED MAXIMUM HEIGHT LIMITS.	X				
I agree that lower heights are better to maintain our natural views that are the essence of our enjoyment of living here. The heritage boundaries are a puzzlement. What exactly do you think Livingston architectural character is? I would be hard pressed to guess. It looks like you are just trying to extra restrict where new growth will have to go.	X	X		X	
I would not like to see any future buildings in Livingston over 3 stories. Please maintain a sky line that allows for sunlight to reach the ground.	X				
No buildings over 3 stories.	X				
No buildings over 3 stories.	X				
Please maintain the historical heritage of Livingston. It is a special place an "modernization" will only harm our unique character. I believe the Historical Commission should have more power to determine the future of our buildings in Livingston. Once it is gone, it is gone.				X	X (Historic)

First of all, thank you for providing the Story Map online. I am a new resident and the map is an excellent tool to help understand the impact of the complicated series of provisions in the proposed Zoning Ordinance for the City of Livingston. With regard to the proposed maximum height limits for buildings in the city, I strongly encourage the Commission to adopt the restrictions as depicted in the Story Map. The images of what could develop under the current zoning regulations are horrifying. Limiting the maximum height of buildings throughout the city, but especially in the Central Business District and along Park and Callender Streets, is essential to maintain the community character that makes Livingston such a special place. In general, I encourage the Commission to adopt changes to the Zoning Ordinance to address current challenges such as affordable housing and sustainable development. These changes, however, must be crafted in a way that preserves and enhances the qualities that make Livingston unique, including a respect for historic buildings and an emphasis on accessible and pedestrian-oriented infrastructure. Thank you for considering my views.	X	X		X	X (Historic District)
Height limits are a critical component of any zoning code, particularly in a community of this size. We are also significantly threatened by development pressure by monied interests with no consideration whatsoever for what is the limited scale built environment wealth of this community and its citizens. All zoning districts should have such limits. Those relating to business districts should be set at current tallest building heights, and those in other areas should be proportionately related to existing buildings.	X			X	
I am very supportive of the new proposed zoning code. Limiting the height of buildings in Livingston will enable our community to maintain the charm and character that residents are accustomed to including the beauty of our landscape. These characteristics are the same reasons people come to visit Livingston. We don't need large buildings that block views and degrade the character of our city.	X				
Stop building apartments, condos, and duplexes on the North side until the City has an additional under/over pass or even just another crossing.				X	X (North Side)

Item A.

I appreciate the thoughtful updates that bring a more cohesive and comprehensive tone to the zoning code. I'm particularly interested in learning more about the City's approach to short-term rentals, especially regarding monitoring and compliance. The introduction of permitting and inspections is an excellent step forward, but I am curious how the City plans to fund and staff this effort. Will permit fees cover the position responsible for oversight? Will that role fall under Grant's department, and how will it coordinate with the county sanitarian, who currently manages similar responsibilities at the county level? Thank you for the significant effort that went into this update it is clear a great deal of work and consideration was involved.					X (STR)
1. The definition of Zoning District R1 is "This district is intended to maintain neighborhood character, limit traffic impacts, and provide a quiet residential environment.." Section 30.57- Short Term Vacation Rentals- I do not understand how allowing Type II Short-Term vacation rentals in Zone R1 satisfies this definition. S/T VR's are basically hotels, housing out of town guests who want to have a good time (loud), and non stop housekeepers (increases traffic.) Hotels and B&B's are not allowed in R1, but VR's are? This zoning law also decreases home affordability for normal families. This makes no sense unless someone powerful or working for the city has vacation rentals. 2. Section 30.45 - PUD's Giving incentives for developers for developing affordable housing, but where they only have to have 2 units per project deeded as "affordable?" That seems to favor the developers, not the citizens. Also, these projects are supposedly for workers, and low income, but there is nothing that I can see that would stop people from buying several units and renting them out as short-term vacation rentals (again lessening the availability of affordable homes and increasing traffic.)				X	X (STR) (PUD)
Zoning is needed to control growth				X	
I don't think you should limit building heights. That will prohibit density and make housing more expensive.	X				
I absolutely support the new proposed height limit. It's very important to be as a Livingston home owner and resident to not have high tall new buildings obstructing the beautiful views we cherish and are such icons of our small town.	X				
CBD: is there something in here that limits the number or percentage of appointment-only businesses or residential use of storefronts within the district? If not, please address this. CBD: can there be further reduction of parking mandates to encourage upperfloor residential development? CBD: If a permitted construction or remodel of a property is not completed within one year, what legal recourse is there to motivate developers to act or sell? Short				X	X (STR)

Term Rentals: are there any legal ways to limit or cap the number of short term rentals in City Limits? Appreciate the management required to live within 50 miles, but could that be lower?					
The draft zoning code looks good! Are there procedures in place for handling existing land use in areas where it doesn't match the proposed use? Many new zones encourage land use, but do not mention enforcement or penalizing improper land use. Is that in a different plan, or should that be addressed here?			X	X	
I have concerns for the viewshed and current open space that is located on the South side of the Yellowstone River, proposed to be in a HMU zone. This area is currently vacant and if the backdrop for the views of the Absarokas/Livingston Peak. I would rather see this zoned as LMU for the height restriction and density,	X	X			
For LI, I recommend allowing Assisted Living and Childcare Facility-not just Childcare. is there a reason why you do not allow Assisted Living Facility in LI?			X		
1. Why no community gardens in LI/I? change to C instead of N. 2. Radio station A in LMU but C in HMU? Rational? 3. Why no Bed and Breakfasts in R1 and R2, LMU and HMU? this seems very restrictive and most existing B&Bs are out of compliance because they are in these residential areas. 4. Retail is listed as C in HMU, I thought retail was encouraged in HMU? Is it C because of the type of retail?			X		
I complete city / online surveys often. This one seems designed to confuse as far as viewing, getting information, and giving directed feedback. I would like to comment on the rampant ADUs and amount of neighborhood animosity they have created with existing residents.					X (ADU)
Whatever it takes to impose height limits is good work.	X				
Historic Overlay District - 60' height is too tall for our beloved western town. 40' maximum height seems more in line if we want to preserve our cultural heritage.	X				X (Historic)
Please do not build new structures higher than 4 levels. You will lose the feel of justice downtown Livingston. Parking will become a nightmare. Ghost apts will become common	X				X (Parking)
"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.." obviously does not affect inoperable vehicles parked on one's property.				X	X (Parking)

Comment	Height	Zoning Map	Use Chart	Development Standards	Other
Please keep the building heights to the proposed maximum height limits! Having tall buildings will interview with people's viewsheds, reduce sunlight reaching the street (we need sun in winter!), and will totally change the character if this little town.	X				
Zones behind Pryor Lane are supposed to be R1, where did it get approved for otherwise? We need to limit multi family housing and make affordable single family units. That is what the original plan for discovery vista phase 2 should be. The heights on new buildings should not be taller than the buildings already exisiting.	X			X	
I appreciate the proposal for height restrictions in various areas. I also appreciate the new R2 district allowing for "pocket" neighborhoods around town that can include retail or other neighborhood services within walking distance. When a new crossing to the Northside is complete adjustment to the adjacent streets may be in order. I support this new zoning code.	X			X	
I am the owner of the fireworks stand at 1500 E Park. I'm very concerned about the proposed changes. Currently we are allowed to be where we are. But if the changes are made we won't be allowed. This is our main income. We've been here for a very long time. We have a lot of customers who would be very unhappy. Either we need to be allowed in the zone proposed, which is LMU, or the zone needs to be changed. We'd be happy with either. This is pretty serious, because this is literally how we get our income. I'm retired with extremely low social security and my husband is semi retired due to medical reasons. This is our business. We cannot afford to be without it.S Who do we need to speak to to make sure it stays. Thank you, Julie		X	X	X	
Please put a max height limit on the historic downtown district at HC 60'. Not doing so would irrevocably change the character of the town.	X				X (Historic)

Response ID:42 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Please put a max height limit on the historic downtown district at HC 60'.

Not doing so would irrevocably change the character of the town.

2. Please upload any files you'd like to share here.

Response ID:44 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

One of my biggest concerns is parking downtown. I think it is a significant mistake not to require parking for all new residential and rental units. It is a rare person in MT that does not have a car partly due to the lack of reasonable public transportation, weather factors, and distance to goods only available in other towns. It works in cities but not in Livingston. Some senior housing may be the exception. There is already a significant lack of parking downtown and downtown residents regularly park on downtown streets all day or for many hours. This didn't used to happen when there was someone who ticketed every day. Parking for those residents just gets pushed into the neighborhoods which is where many downtown employees also park. Again, I urge parking space requirements for downtown housing. It is a fantasy to think almost all of those people aren't going to have cars in Livingston, and of course many apartments will have more than one car associated with them. Livingston businesses are already losing business due to the lack of parking and the city is doing nothing to help that situation and the proposed parking change will make it worse.

2. Please upload any files you'd like to share here.

Response ID:45 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

I believe that that keeping the height of buildings on calendar street no higher than what they are is key to our community. I really appreciate that the city is attempting to ban skyscrapers.

2. Please upload any files you'd like to share here.

Response ID:47 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Historic downtown Livingston should remain just that. Historic buildings. That doesn't mean there can't be modern businesses in those historic buildings, but we should not be allowing skyscrapers that block the exact reason we all live here, for the big sky. Don't let us become Bozangeles.

2. Please upload any files you'd like to share here.

Response ID:48 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

I am writing as a lifelong rancher outside of Livingston who has deep roots in this community. My family and neighbors have worked this land long before Covid brought the wave of change that is reshaping our town. The proposed zoning changes may look good on paper, but to those of us who built our lives here, they are unfair and come at a real cost.

Livingston has always been more than just a place to live — it has been a small-town community where people know each other, work hard, and look out for one another. These new zoning rules don't reflect the values or needs of the people who made Livingston what it is. Instead, they seem designed to serve new development interests while chipping away at the traditions, character, and way of life that have kept this place unique.

By creating a new version of our town through zoning, we risk losing the one that has stood for generations. We are not just talking about buildings and land use — we are talking about the very heart of Livingston. If we continue down this path, the small-town Montana we grew up in will vanish, and with it the spirit that draws people here in the first place.

Montana is special because it is still Montana. Wide open spaces, close-knit communities, and the simple way of life we protect through hard work on the land. If we change that through zoning that favors growth over heritage, we lose the very thing that makes this state worth living in.

I urge you to reconsider these zoning changes and to listen to the voices of the locals who have kept this community alive through generations of ranching, farming, and small-town living. Let's keep Montana, Montana.

2. Please upload any files you'd like to share here.

Response ID:49 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

We are opposed to changing the area around Cottonwood Lane from Residential zoning to Mixed Use. We live in this residential area, and oppose the change to Mixed Use.

2. Please upload any files you'd like to share here.

Response ID:50 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Way too drastic of a change, is the historic society approving?

2. Please upload any files you'd like to share here.

Response ID:51 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Way too drastic, is the historic society approving of this?

2. Please upload any files you'd like to share here.

Response ID:52 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

We bought our property on Cottonwood lane 12 years ago and it has always been residential we do not want it changed to mixed use. We are retired and concerned about noise , views and property values. I don't think its fair that we have followed the zoning rules all this time but the city and developers want to change that.

2. Please upload any files you'd like to share here.

Response ID:54 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

I strongly support the zoning changes as proposed in these plans. We are lucky to live in a community with smart, forward thinking people who are working to keep Livingston small town historic character in tact! thank you!!

2. Please upload any files you'd like to share here.

Response ID:55 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

We need to keep the current height of our town. Build out, not up! We need to keep out gorgeous mountain views! We are not Boz-Angeles.

When are we getting another crossing to the north side? That seems like a bigger priority for safety concerns for all residents and our emergency services access.

2. Please upload any files you'd like to share here.

Response ID:56 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

I'm writing in support of implementing building height restrictions through local zoning regulations. These restrictions play a crucial role in ensuring sustainable development, preserving neighborhood character, protecting property values, and managing infrastructure demands.

Height limits help maintain the character of existing neighborhoods, especially in historic areas. Sudden vertical intensification can disrupt the aesthetic cohesion and undermine the identity of a community.

High-rise developments would bring a greater density of residents or commercial activity, placing strain on roads, emergency services and most importantly parking. As a resident of the downtown area (CBD), there are evenings when I arrive home from work that I am unable to find parking near my own home. Often, I'm forced to park over a block away from my home. In addition to being an inconvenience, this is a personal safety risk. Increased density would only further an already significant problem.

Maintaining appropriate building height restrictions is not only a matter of urban design—it is a critical economic strategy for protecting property values, maintaining community appeal, and ensuring continued investment. Tall buildings directly impact the desirability of nearby properties. These externalities often lead to a decline in perceived value and can trigger downward pressure on neighborhood home prices.

Building height restrictions are a vital tool for maintaining balanced, livable, and sustainable community. I strongly recommend that the City of Livingston implements building height restrictions in order to reinforce the beauty, safety, stability and integrity of our neighborhoods.

Respectfully,
Amy Schilling – 310 South 2nd Street

2. Please upload any files you'd like to share here.

Response ID:57 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

I am in general support of this update. I believe it is a step in the right direction and the may be the most useful tool we have as a community and residents to address the growth that is already happening and will likely only increase.

Questions:

1. Please explain the parking requirements, particularly for zoning in residential areas where the majority of parking is street parking. Are properties grandfathered in? What about adding ADUs or building additional units where there is little to no room for onsite parking. For example, a property zoned LMU wants to add two units near the alley and a house is on the front of the property. What will be required?
2. If a residential home converts to commercial use, does that change parking requirements?

2. Please upload any files you'd like to share here.

Response ID:58 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

In general, thanks to the folks involved with this deliverable. Its thankless work and you have worked hard. I am mostly agreeable with the merger of several districts and recognize the #1 comment as the rezoning process initiated was to impose more height restrictions to preserve that iconic downtown mountain photo op down main st and conserve the small town feel. However, I am worried that limiting building heights almost entirely throughout town is shortsighted and completely opposed to the town's greatest pitfall, available affordable housing or any sort of housing in general. 70 ft downtown may seem like a lot in a town that has few buildings that height yet, until you have no where else to build to provide housing because you can only build 30 ft everywhere else, even places designated multifamily zones. Perhaps it is imperative for the foreseeable future to preserve the money shot of Livingston Peak from downtown for tourism, so I'd be OK to move forward with CBD 70 ft heights, BUT you must offset that by allowing at least 40 ft in the HMU or creating another Business District for the hospital and/or Albertsons areas with almost unlimited heights so we can build denser apartments somewhere in city limits. Otherwise we will only encourage more and more development unchecked just beyond our borders without any cohesiveness to our town or require dozens of PUDs which is too expensive to developers and our current bureaucracy is ill equipped to process, particularly efficiently, while still sufficiently reviewing each project to properly enforce the community needs which should be required in each project. The purpose of zoning is to improve/enhance and provide guidance for future development. These height restrictions will only drive more unplanned development beyond our reach that we may still have to annex one day to increase tax revenues, development we won't want to annex but have to. Please increase HMU to at least 40 ft to allow for up to 4 story apartments and consider other higher development areas away from our iconic downtown viewshed that have the infrastructure to facilitate dense growth.

2. Please upload any files you'd like to share here.



10.8.25

Dear City Land Use Board and City Commissioners,

Montana Freshwater Partners is providing additional comments regarding setbacks for waterways within the City Limits, and the proposed zoning categories that would allow for increased development and density within high risk areas along the Yellowstone River.

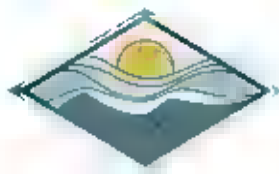
- **We know the risks:** We all saw how vulnerable our City is to flooding impacts during the 2022 Yellowstone flood, and the economic fall-out that comes with long-term recovery from major events like that. We also know that Fleshman Creek floods from spring runoff and after storm events - which is exacerbated by undersized culverts and debris blockages at those culverts.
- **We've been given the data about our risks:** Preliminary floodplain modeling results presented by DNRC (7-15-25 City Commission meeting) shows the modeled extent of the 1% annual flood event on the Yellowstone and the 1% annual flood event on Fleshman Creek. Historic and future channel migration and related hazards are illustrated in the 2024 Upper Yellowstone Channel Migration map.
- **There are many hundreds of properties at risk of flooding:** Within the City limits along Fleshman Creek alone, there are over 250+ residential and business properties that are directly at risk of property damage from a 1% annual flood event on Fleshman Creek and hundreds more from sheet flow across streets and allies, according to DNRC's preliminary flood modeling results. Additionally, there are hundreds more properties, including critical infrastructure are at risk from a 1% annual flood on the Yellowstone - especially if the levee is not FEMA-certified.
- **Setback recommendations are science-backed:** The setback recommendations provided by Montana Freshwater Partners on 9-26-25, provides the setback recommendations that were developed by the Montana Department of Environmental Quality and Montana Fish Wildlife and Parks, both of which are based on extensive published data and scientific literature.
- **Other Montana cities have legally incorporated waterway setback in their zoning code:** For example, City of Butte (150ft setback), City of Whitefish (50ft-100ft setback), City of Bozeman (35ft-100ft setback). Like Livingston, there are variance codes that allows for modification of the setback if the standard setback significantly limits responsible use of the property. Other strategies that these cities have used include establishing a standard setback that applies to all newly platted parcels and a slightly smaller setback for previously platted parcels.
- **The cost is ours to bear if we don't take steps to reduce our vulnerability:** The reality is that Federal disaster relief and mitigation funding are declining, shifting financial responsibility to states and local governments. Montana lacks the resources to replace the disaster recovery funding that was previously paid for by the federal government -meaning future costs will fall directly on Livingston's residents, businesses, and the City budget (taxpayer dollars).

These comments are provided to encourage the LUC and City Commissioners to rely on the science, the data, and follow the example that other Montana cities to incorporate more effective waterway setback distances and to avoid development within high-risk areas that provide critical flood holding capacity during flood events.

Thank you,

Jeannette Blank

Montana Freshwater Partners



10.10.25

Dear City Land Use Board and City Commissioners,

Montana Freshwater Partners is providing additional comments to add some clarifying context to our previous statements. The setback recommendations we provided in our 9.26.25 comments were intended to show what type of setbacks are recommended to meet the Growth Policy and Future Land Use Map goals related to riparian health, water quality, and flood risk mitigation. Clearly, applying a 150ft setback on Fleshman Creek and Billman Creek is not realistic because of the small lots sizes that exist along these creeks. This is why, in our followup comment dated 10.8.25, we provided setback examples from other City zoning codes that are much smaller. What works for the Livingston may be different, but the intent was to provide examples and references to assist the City with this decision.

There was a lot of good discussion around property rights during the 10.8.25 LUB meeting, and rightly so, we agree that this is a very important and valid factor to consider. However, there was no discussion about how to address the known flood hazards that have and will impact hundreds of structures within the City limits. Our concern is that public health and safety and our City's risk exposure, as it relates to flood hazards, isn't at the forefront of these discussions.

Montana Freshwater Partners would like to know:

- How does public health and safety factor into zoning code? Can the City adopt zoning code knowing that development encroachment and densities along flood-prone waterways would increase the level of flood risk exposure of our residents, businesses, and local government? Does this create a legal liability down the road for the City?
- If not with zoning, what other opportunities or strategies does the City have to reduce flooding risks at the local level that doesn't further degrade our waterways and doesn't depend on Federal funding sources which are now unreliable?

We ask the LUB and City Commission to give our City's history of flooding the attention it deserves, as we foresee that the proposed zoning code and zoning maps will only increase our City's exposure to flood-related impacts in the future. To help with this discussion, please refer to the maps we provided in our 9.26.25 comments and the Park County Flood History Report (attached). This report was prepared for the DNRC, by Pioneer Technical Services, Inc. in April 2024 and has relevant information about the frequency, extent and impacts associated with significant flood events that have occurred in Livingston and Park County. For relevant text and photos related to the mainstem of the Yellowstone that goes through the City see Section 3.1.1.3 (pg 15-27) and photos 3-6, 3-10, 3-12, 3-14, 3-15. For a flooding history of Fleshman Creek see Section 3.1.2.5.1 (pg 42-43).

Thank you for your consideration,

Jeannette Blank

Montana Freshwater Partners

From: [Becky Moores](#)
To: jewilliams2010@gmail.com; [Jennifer Severson](#)
Subject: Zoning Code Comments
Date: Monday, October 6, 2025 11:35:29 AM

Hi Jessie and Jennifer,

I'm on vacation but wanted to pass along a few comments for consideration at Wednesday's meeting since I will not be able to attend. Wasn't sure who best to send them to so you both get them :)

1. Is "Adult Foster Care Center" a standard industry term? It seems odd and perhaps just like "Adult Care Center" would be more appropriate?
2. Can we remove the word Consolidated and leave the term as "Land Use Board". As time passes, I think the "consolidated" will lose its meaning and now is our chance to keep it out of the zoning code, and the LUB's role in both planning and zoning decisions can be described in the definitions section of needed.
3. In the PUD section D. I think the word should remain as "may" not "shall". We should not automatically guarantee ALL those benefits and it should be a case by case determination.
4. Heritage Overlay Zoning District - what is the reason behind changing this name that was just recently adopted? I think the Gateway name is more appropriate.
5. Historic Preservation Officer qualifications in J2 - since we do not have a separate position for this role and the zoning administration is currently serving in this capacity, I do not think it is appropriate to require professional experience in historic/cultural resources. Perhaps we can put in an exception so our zoning admin isn't immediately disqualified for the role.

Thanks,

Becky Moores
303.919.6735



Comments on the Proposed Livingston Zoning Code Update

Friends of Park County wishes to make the following comments on the proposed Livingston Zoning Code and Map update. We commend the work of the staff, consultants, and the zoning committee in developing a zoning code update that will, in many respects, meet the community's future needs.

In particular, we enthusiastically support the proposed new zoning code's replacement of the City's auto-oriented Highway Commercial zoning with a new Low Density Mixed-Use zoning district. The switch to mixed-use zoning will almost certainly: 1) result in more housing options and vitality in the city's core; 2) improve housing affordability; 3) meet the stated desire in the Growth Policy for less auto-dependent and more pedestrian-oriented growth patterns; 4) effectively respond to shifting development trends that are moving away from a strict segregation of land uses toward a more traditional mixing of land uses. This is an important and major change for Livingston.

We also support the new code's limit on building heights in the downtown to 60 feet (unfortunately, as you all know, a new State law prohibits cities from exercising local control on "heavy commercial" height limits, so the City can't restrict heights below that, but it is a big improvement from the current code, which of course has no downtown building height limit).

The proposed code's building height in the proposed Low Density Mixed Use (LMU) zoning district to 36 feet (as noted above, the proposed LMU zoning will replace the existing Highway Commercial zoning district, which has a 60-foot limit) is also laudable. We believe that these height limits will help keep the character of downtown Livingston and along Park Street at a human scale. So, for the core of the community, we believe that the City is proposing very positive changes.

Our primary concerns are with the outlying areas of the city shown in the maps below.

Many of our recommendations were shaped by a build-out analysis of vacant parcels under the proposed zoning code. Using GIS, we identified all vacant Livingston parcels by their proposed residential and commercial zoning districts, utilizing the State of Montana's cadastral data. The build-out analysis is explained further at the end of these comments.

Based upon this analysis, we estimate that at build-out, the proposed code the R1 and R2 zoning districts only would yield over 5,000 dwelling units. We did not include potential residential development that will occur in the proposed mixed-use zones, given that the eventual blend of residential to commercial is not knowable, and given that the proposed LMU district has no minimum lot size.

Assuming that Livingston's 2010 – 2024 annual growth rate of 1.65% stays constant, the proposed R1 and R2 parcels would contain over 50 years' worth of residential growth. Adding in the potential residential development in the proposed mixed-use zones would yield many more years of residential land supply.

Ensuring an adequate supply of land for housing is a crucial factor in the community's efforts to promote affordable housing, and this proposed zoning code does that. At the same time, given the proposed code's decades-long land supply of residential land in the core of the community, Friends of Park County believes that some environmentally sensitive and outlying areas should be developed at a lower density. We therefore recommend that the City create and apply an Agricultural zoning district to these areas. When landowners in this district desire to develop at a higher intensity sometime in the future, they could apply for a PUD under that chapter of the code.

The following are our comments on specific areas on the zoning map:

- Proposed High-density Residential Mixed-Use zoning in the southeast portion of Livingston between the Yellowstone River and Interstate 90, otherwise known as the Watson properties:
 - We understand that there is an existing 19-year-old annexation agreement on these properties that would allow high-density condominium and single-family development or 37 low-density single-family homes.

We are unclear if the stipulations of the annexation agreement have been met, including those requiring that the landowner donate a "riverfront park" and "walking trail easement" and that the City extend water and wastewater to the property within 5 years with an executed payback agreement – and whether the annexation agreement is still legally binding.

This annexation agreement is unfortunate, given the area's intrinsic natural resource and viewshed attributes and functions, as reflected in the Growth Policy Future Land Use Map's designation as Natural Area/Open Space. And, as stated in the submitted comments from Montana Freshwater Partners, "*The area zoned for HMU/R111 below the bluff is hydrologically connected to the Yellowstone. Bank erosion and channel avulsion risks due to channel migration is identified in the 2024 Upper Yellowstone Channel Migration Zone Map. The levee is forcing channel migration to move towards this side of the river. Portions are also included in the existing regulated floodway and 1% annual flood (100-yr) floodplain. This area provided critical space for the river during the 2022 flood.*"

Assuming the annexation agreement remains legally binding, it does not appear that the draft code includes a before-the-fact (i.e., prior to a PUD subdivision application) PUD zoning district. And, as stated in Section 30.45(C) of the proposed code, “*PUDs are only allowed in the following zoning districts: R-II, LMU, HMU, CBD and GC*”.

As an alternative, we recommend that the City consider, as part of this zoning code update, the creation of an Agricultural zoning district which would allow, as a permitted use, agriculture and its customary accessory uses, buildings, and structures, including on-site wholesale sales of products raised on the site, along with dwellings customarily accessory to farming and ranching. More intensive development in an Agricultural zoning district would be permitted as part of a zone map amendment, with PUD zoning preferred, which would help protect the area’s attributes and functions.

- Proposed High Density Residential Mixed-Use and R1 zoning between the Yellowstone River and Highway 89 at the extreme northeastern boundary of the City:
 - The Growth Policy map shows this as Natural Area/Open Space. While we agree that this area cannot be zoned for open space only, zoning must be made in accordance with the Growth Policy per MCA 76-2-304. Clearly, High Density Residential Mixed-Use (which would permit mid-rise buildings, higher-density housing, and more intensive commercial activity, including office space, retail, restaurants, and mixed-use buildings with ground-floor commercial and upper-story residential) does not align with the Growth Policy designation of Natural Area/Open Space.

The proposed HMU in this area is 261 acres. Assuming that half of the mixed-use parcel is developed as residential, HMU zoning would allow roughly (assuming that 75% of the property is developable after easements, park space, etc, is accounted for) 14 net units per acre, or roughly 3,650 homes. Again, we did not include this number in our residential build-out analysis.

The proposed R1 portion of this area is 307 acres. R1 zoning would allow roughly (again, assuming that 75% of the property is developable after easements, park space, etc, is accounted for) 4.7 net units per acre, or about 1,440 homes.

Combined, HMU and R1 zoning in this area could allow over 5,000 homes. Clearly, these zoning designations are not in accordance with the growth policy.

In addition, any commercial and high-density uses developed in the proposed HMU zoning in the area would be 3-4 miles from the city center, which would be grossly inconsistent with the Growth Policy’s repeated goals of reducing urban sprawl. We are also concerned that excessive HMU zoning will result in the allocation of more land than necessary to meet the need for commercial uses

(see build-out analysis below).

We recommend that the City designate this entire area as an Agricultural zoning district. More intensive development would require a zone map amendment, with a preference for PUD development, as noted above, to protect the intrinsic natural resource features and functions of this area.

- Proposed R1 zoning on the northernmost 143-acre Watson parcel split by Myers Lane:
 - The Growth Policy map shows this as Natural Area/Open Space. While we agree that this area cannot be zoned for open space only, zoning must be made in accordance with the Growth Policy per MCA 76-2-304. We do not believe that the proposed designation as R1, which would permit roughly (assuming that 75% of the property is developable after easements, park space, etc is accounted for) 675 homes, is clearly not in accordance with the growth policy.

As stated in the submitted comments from Montana Freshwater Partners regarding this area, *“the area zoned for R1 will likely be mapped in the 1% annual floodplain when the updated FIRM maps are issued, per preliminary DNRC modeling. Modeling indicates this area will be at risk of flooding with or without a FEMA-certified levee being built where the Meyer’s Park levee currently exists. Bank erosion and channel avulsion risks due to channel migration is identified in the 2024 Upper Yellowstone Channel Migration Zone Map. Channel migration movement is trending towards this side of the river. This area provided critical flood holding and flood conveyance benefits during the 2022 flood.”*

We recommend that the City designate this entire area as an Agricultural zoning district. More intensive development would require a zone map amendment, with a preference for PUD development, as noted above, to protect the intrinsic natural resource features and functions of this area.

- Mixed-use Districts:
 - As noted above, we fully support the mixed-use zoning concept that the City is proposing. However, based on our experience, we are concerned that development in these areas will tend to be dominated by one use type or another, whichever the developer perceives as more profitable (which varies by market area).

To ensure that the LMU district actually develops in mixed uses, we recommend that the City put some numerical designation on the mix of uses in development in these districts. Bozeman, for instance, states that *“No use group must exceed 70 percent of the total gross building floor area in the entire site development.”*

- Short-term Rentals:

- The proposed code would allow non-owner-occupied short-term rentals, which take long-term rental units off the market and worsen affordability. While new state legislation requires that cities allow non-owner-occupied STRs that are adjacent to an owner's primary residence, this regulation would allow them throughout the city, while at the same time, the community is seeking to facilitate affordability.

We recommend that the City regulate short-term rentals under the two categories listed in the proposed code (Type 1, owner-occupied and Type 2, non-owner-occupied), but allow only Type 1 rentals. Category 2 short-term rentals would not be allowed, except in instances where a Type 2 rental is located on a lot adjoining the principal residence, as required by new State legislation.

- Section 30.58 of the proposed code contains steep slopes and riparian area regulations, which, while a welcome addition to the code, are too lenient.
 - The riparian area regulation would only require a ten-foot setback from perennial streams (the Yellowstone River, Fleshman Creek, and Billman Creek). Riparian areas serve multiple crucial functions for the community and the environment. We echo the recommendations of Montana Freshwater Partners. For the Yellowstone River, we recommend that the watercourse setback be 300'. For Fleshman and Billman Creeks, we recommend that the setback be 150'.

We recognize that these setbacks could render some parcels more or less undevelopable. In these cases, the landowner could apply for a variance when, as per Section 30.83 of the proposed zoning code, *"strict application of the standards would create an unnecessary hardship that significantly limits the reasonable use of a property."*

Variances for riparian area setbacks should be accompanied by greater mitigation measures than the proposed code contains (*"appropriate erosion control measures are required for disturbance adjacent to the required 10-foot riparian setback area"*). When a variance is desired, we again concur with the recommendation of Montana Freshwater Partners: *the Mitigation Plan should also include: a written description of the existing characteristics of the waterway (existing vegetation, average channel width, drainage, and depth during peak and base flow, flooding history, erosion problems, etc.); a written explanation of the anticipated impacts to the existing conditions described above; a detailed plan describing how proposed protective measures will provide equivalent or better protection of the stream-associated functions than the watercourse setbacks; and a written explanation of the impact, if any, that the proposed protective measures are expected to have on flood and erosion risks experienced by the subject property and upstream and downstream users."*

- We recommend that, rather than the proposed language of “*construction on slopes over 20% grade is discouraged*”, the text state that “land that is subject to hazards such as swelling soils, subsidence, landslides, drainage issues or concerns, high groundwater, and steep slopes, shall not cause any unmitigated adverse impacts on adjacent or nearby lands. Land with these hazards shall not receive zoning compliance approval until an engineering design sufficient to alleviate the foregoing hazard has been submitted”.

Build-out Analysis

Friends of Park County performed a build-out analysis of the vacant parcels under the proposed zoning code. Using GIS, we identified all vacant parcels within the city using cadastral data from the Montana State Library. Those parcels totaled 1,299 acres.

Vacant parcels proposed as R1 residential contain 452 acres. Vacant parcels proposed as R2 contain 317 acres. Vacant parcels proposed as High Density Mixed-Use contain 261 acres, and vacant parcels proposed as Low Density Mixed-Use equal 86 acres. Low Density Mixed-Use does not include a density limit, so we did not calculate a potential residential yield for this proposed district.

Assuming that 75% of the property is developable after accounting for easements, park space, and other factors, the total potential number of dwelling units in R1 and R2, excluding those in mixed-use districts, would be over 5,000 dwelling units. Assuming that Livingston’s annual growth rate of 1.65% and 2.1 persons per household remain constant, this would represent a potential supply of over 50 years of homes.

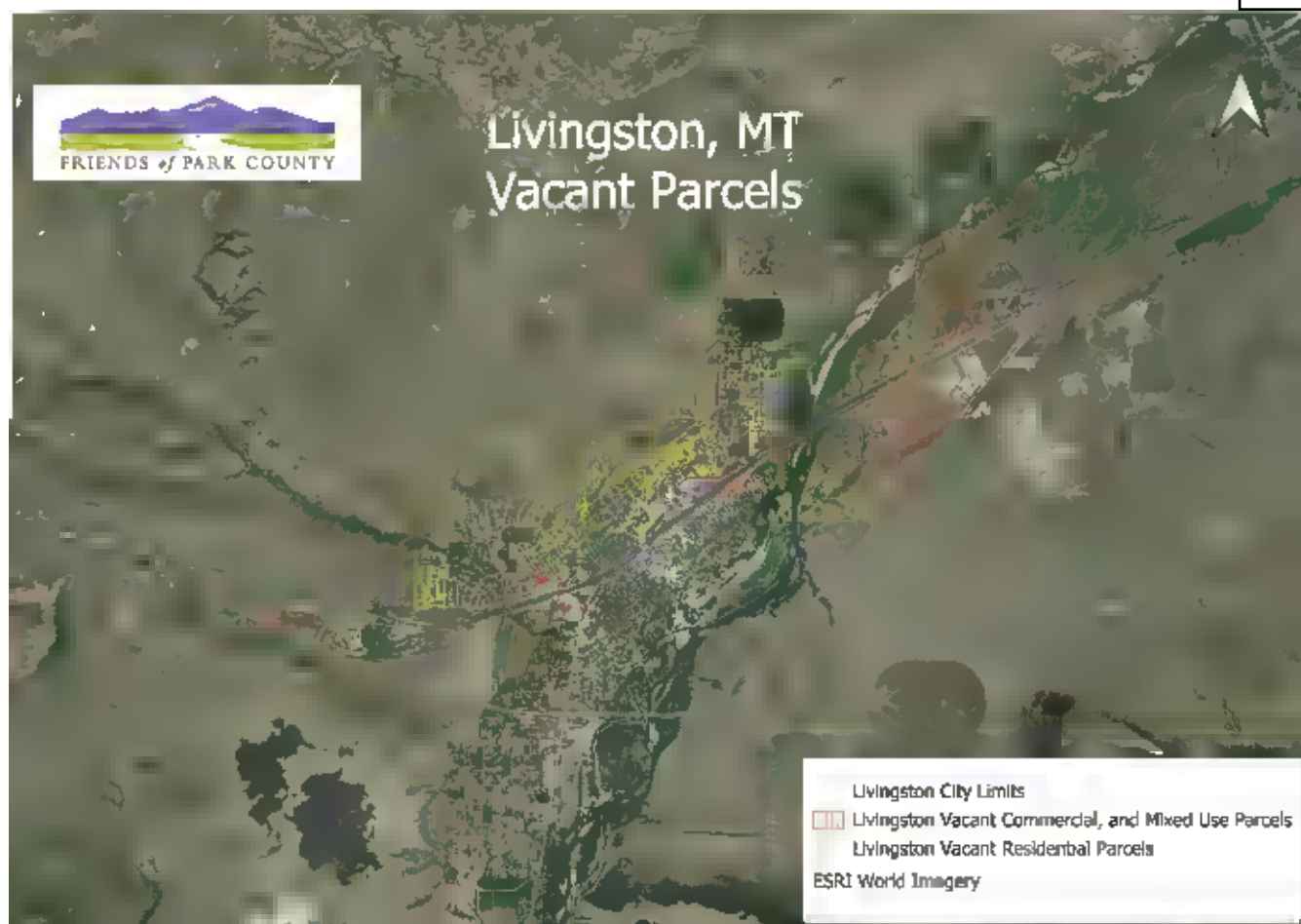
Proposed District	Vacant Acres	Dwelling Units/Acre*	Potential Dwelling Units
R1	452	4.7	2,124
R2	317	9.3	2,948

**calculated by assuming 75% net density and dividing by minimum lot size*

We also performed a build-out analysis of vacant commercial properties under the proposed zoning update. We found 623 acres of vacant proposed commercial parcels, including those proposed as General Commercial, High Density Mixed-Use, and Low Density Mixed-Use. Existing commercial properties in Livingston encompass roughly 335 acres of land. Assuming that the demand for commercial acres continues at Livingston’s annual rate of population growth of 1.65%, this would yield an expected inventory of an additional 29 years of commercially-zoned land.

Of course, we recognize that because we cannot predict the mix of land uses in future mixed-use development, the ultimate build-out of each type of land use in mixed-use zones will depend upon that blend.

Below is a map showing vacant proposed residential, commercial, and mixed-use parcels.



From: [Jovick](#)
To: [Jennifer Severson](#)
Subject: Re: Your question at the Open House
Date: Friday, October 3, 2025 9:11:32 AM
Attachments: [image001.png](#)

Thank you for listening to the Land Use Board and their recommendation to hold a community open house! I think it was well received.

My question was about how a lot could be divided so that a developer would have more flexibility in how and where they placed multiple structures. It went beyond putting a duplex up on a single lot. This came out of either our first discussion or second one. From what I have seen so far, I don't think it went anywhere!

Would you please pass on to Grant that Mr. Watson passed away this summer and that I don't think the map should reflect his land as being zoned a PUD? My understanding is that it hasn't been zoned yet and falls into a different category entirely due to the conditions he and his wife put on the property. It might be better to have an * and a more neutral color to signify this instead of bright red for PUD!

Also, my vote is to remove the bump-outs permanently, and put that money somewhere else. I think that they will detract from the overall character of the town when they are on every street corner downtown. However, you could put the planters inside the yellow areas as a softer way of slowing down traffic! (Which is what the bike racks do.)

Thanks for all the work you do to help make Livingston a great place to live.

Stacy

On Thu, Oct 2, 2025 at 4:49 PM Jennifer Severson <jseverson@livingstonmontana.org> wrote:

Good Afternoon Stacy, I apologize for not following up immediately after the Open House. You mentioned some concerns that Wyeth at Basecamp voiced during the Focus Group meeting(s)- if you have a free minute, can you please remind me what your question was/ what those concerns were? I would like to look back at SCJs summary of the Development Community Focus Group discussion to see if I can find that particular topic.

Thanks again for taking time to attend the Open House

Jennifer

Jennifer Severson, AICP – Planning Director

City of Livingston

220 E. Park St.

From: [Planning](#)
To: [Jennifer Severson](#)
Subject: FW: Zoning Code updates
Date: Thursday, October 2, 2025 7:10:14 AM
Attachments: [Outlook-A blue bac.png](#)

From: Rebecca Heemstra
Sent: Thursday, October 2, 2025 7:10:06 AM (UTC-07:00) Mountain Time (US & Canada)
To: Planning
Subject: Zoning Code updates

Good morning, Jennifer,

Thank you for your presentation on Tuesday evening. I was encouraged to learn that the proposed amendments to the Zoning Code would allow mobile and manufactured homes in all Residential Zones. I would appreciate clarification, however, on whether the revised definitions and building requirements eliminate the current mandate that mobile, manufactured, and modular homes be placed on a permanent foundation.

This requirement has long posed barriers to growth and reinvestment within existing manufactured home communities. I am hopeful that, through this update, we can take the opportunity to establish requirements that more effectively support and strengthen this important form of housing.

Thank you,
Rebecca



Rebecca Heemstra | ROC Program Specialist

NeighborWorks Montana
rheemstra@nwmt.org | nwmt.org
406-604-4545
406-931-0987 Cell

Please Note: My typical office hours are 8am-4pm M-F; however, our team works flexibly. I aim to respond to all emails within 24-48 hours of receipt.

Response ID:59 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

The proposed increases in building heights would ruin the character of Livingston. Lee Freeman

2. Please upload any files you'd like to share here.

Response ID:60 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

definitely go with your proposed plan

2. Please upload any files you'd like to share here.

Response ID:61 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Go with proposed plan

2. Please upload any files you'd like to share here.

Response ID:62 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Thank you for doing this. It's hard for people to imagine what could become without seeing it in a drawing but it may come with money and other ideas of what others what your town to be. Thanks

2. Please upload any files you'd like to share here.

Response ID:63 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Discovery Vista, the neighborhood on the far west of town, just north of HW 10 should be R1 zoning. (1) There are not enough escape routes for denser housing. R1 zoning supports this area to be the buffer zone against wildfires driven into town by the prevailing winds. (2) The current build of the neighborhood is in R1 style and should not be degraded.

2. Please upload any files you'd like to share here.

Response ID:64 Data

1. (untitled)

1. Please type your comments below. If your questions address specific code sections or map locations, please describe in detail so the reviewers know how to apply your comments. If you'd like, you may also upload images, screenshots, or other documents to help illustrate your feedback.

Thank you for addressing density, walkability and especially height limits. I see the parks as "CF" with no description for that. Should it be "PC"? One of the things that makes Livingston so beautiful and maintains its rural character is the natural, open and undeveloped feel of our parks--they seem an extension of the river and public lands that are so much a part of our lives. I hope any development between the river and the interstate in the city (PUD) is very minimal. The openness up to the peaks is one of the things that makes Livingston Livingston and allows residents to find a boost for mental and emotional health without leaving town.

2. Please upload any files you'd like to share here.



RESTORING OUR ENVIRONMENT ► DESIGNING OUR FUTURE



Photo Credit: Park County

Park County Flood History

Upper Yellowstone Hydrology

Park County, Montana

April 29, 2024

Prepared For:

Montana Department of Natural Resources and Conservation (DNRC)

1424 9th Avenue, Helena, Montana 59620-1601

Prepared By:

Pioneer Technical Services, Inc.

106 Pronghorn Trail, Suite A Bozeman, Montana 59718



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- Appendix B Additional Park County Flood Photographs
- Appendix C Park County Study Reaches

1 INTRODUCTION

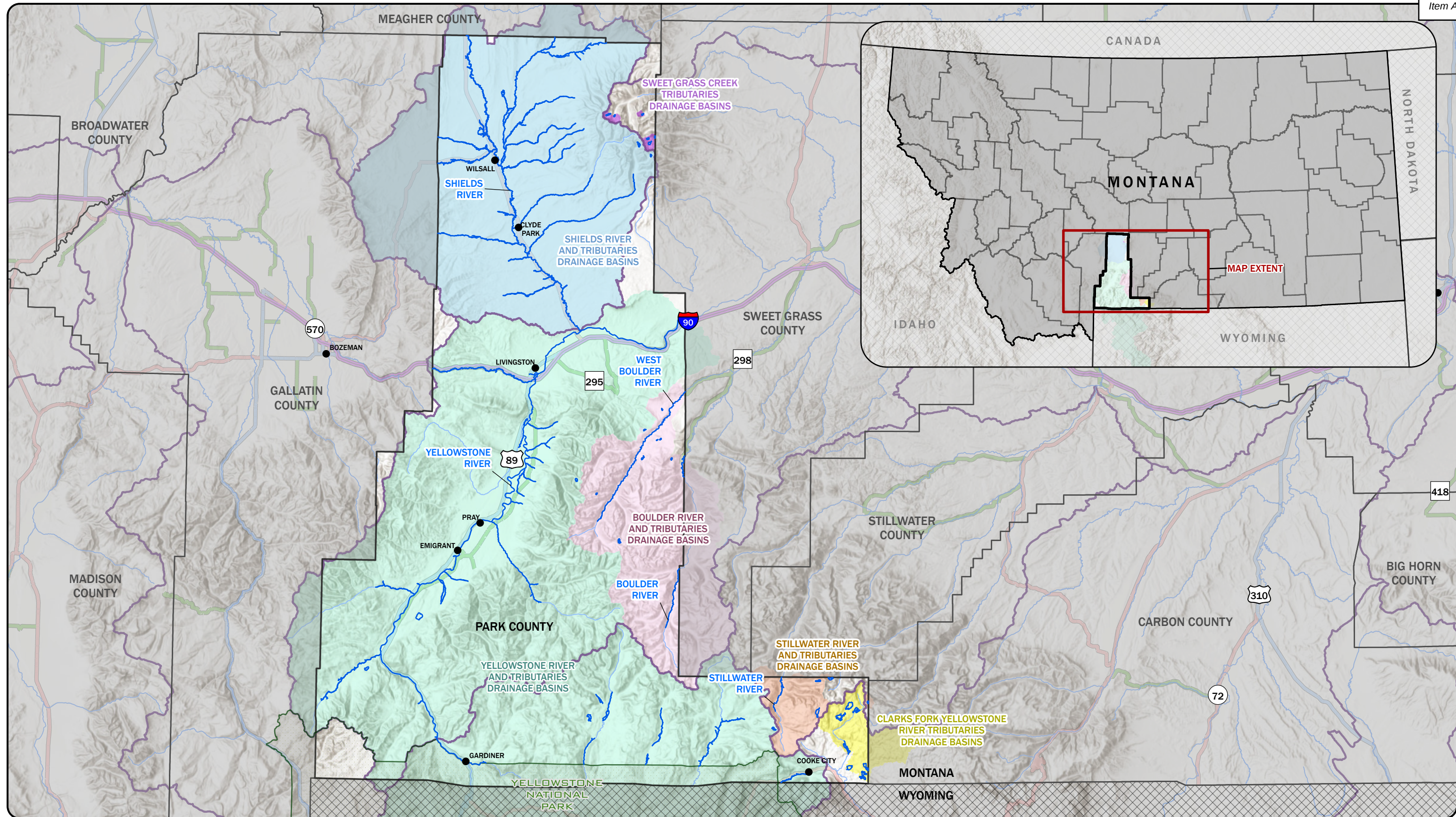
As part of the Upper Yellowstone Hydrologic Analysis project, the Montana Department of Natural Resources and Conservation (DNRC) contracted Pioneer Technical Services, Inc. (Pioneer) to complete a comprehensive peak flow hydrologic analysis for Park County and compile supplemental flood history. Major study reaches included in the hydrologic analysis and flood history investigation were the Yellowstone River and tributaries and Shields River and tributaries. Smaller study areas included reaches located in the Crazy Mountains, the Sweet Grass Creek water bodies, and the Absaroka – Beartooth Mountains including the Boulder River and tributaries, the Stillwater River and tributaries, and water bodies at the headwaters of the Clarks Fork Yellowstone River. For this flood history report, the Boulder River and Tributaries and the Stillwater River and tributaries were discussed as part of the Yellowstone River basin. Due to the remote location of the Clarks Fork Yellowstone River water bodies and the limited flood impact they have had on Park County communities, the flood history of these water bodies was not included. This flood history report encompasses a look into relevant past flooding in the Yellowstone and Shields River basins within Park County, Montana. The Park County study area is shown on Figure 1-1.

The purpose of this report is to provide the Park County community with flood history information through previous hydrologic studies, USGS gage station data, and historical and photographic flood documentation. The report is intended to be supplemental to and complement the Upper Yellowstone Hydrologic Analysis Report Park County, Montana (Pioneer, 2024).

Flood history information was compiled from the following sources:

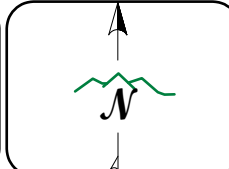
- U.S. Geological Survey (USGS) published studies and gage station information.
- Previous Flood Insurance Study (FIS) reports.
- Park County.
- Park County Conservation District.
- DNRC.
- Local newspapers, news stations, etc. reporting on flood events.

The Upper Yellowstone Hydrologic Analysis Report included Annual Exceedance Probability (AEP) peak flow estimates for the 50%, 10%, 4%, 2%, 1%, 0.2%, and 1%-plus annual chance (AC) flood events. The AEP peak flow estimates are determined using historically measured flow data, typically collected at USGS gage sites, to provide a statistical expected chance of a peak flow occurring each year. For example, there is a 1% chance every year that the 1% AEP event may occur. The 1% AEP estimate is the flood event selected and used by the National Flood Insurance Program to regulate floodplains. Statistically there is a 26% chance of the 1% AEP event occurring during a 30-year mortgage. Over time, as more measured flow data are collected, AEP peak flow estimates are updated to better represent flow probability. The Upper Yellowstone Hydrologic Analysis study used flow data through water year 2022 (Pioneer, 2024).



LEGEND

- PARK COUNTY STUDY REACH
- HUC8 BOUNDARIES
- SWEET GRASS CREEK TRIBUTARIES DRAINAGE BASIN
- SHIELDS RIVER AND TRIBUTARIES DRAINAGE BASIN
- YELLOWSTONE RIVER AND TRIBUTARIES DRAINAGE BASIN
- BOULDER RIVER AND TRIBUTARIES DRAINAGE BASIN
- STILLWATER RIVER TRIBUTARIES DRAINAGE BASIN
- CLARKS FORK YELLOWSTONE RIVER TRIBUTARIES DRAINAGE BASIN



DISPLAYED AS:
PROJECTION / ZONE: MONTANA STATE PLANE
DATUM: NAD 1983
UNITS: INT'L FEET
SOURCE: ESRI/PIONEER

0 5 10 20
Miles

FIGURE 1-1

PARK COUNTY STUDY AREA DRAINAGE BASINS

DATE: 4/29/2024

304

1.1 Basin Characteristics

The study area terrain within Park County is diverse. Park County is surrounded by four mountain ranges, the Absaroka, Gallatin, Bangtail, and Crazy mountains, and features the highest peak in Montana, Granite Peak, at an elevation of 12,807 feet. Many water bodies and stream headwaters in this study are located at high mountain elevations. Central Park County is dominated by the Paradise and Shields valleys; these valleys encompass many of Park County's study reaches. Agriculture and recreational pursuits are common land uses. Most of the heavily farmed land in Park County is found along the floodplains of the Shields and Yellowstone rivers.

The major drainage basins of Park County are the Yellowstone River and the Shields River drainage basins. Additional substantial streams that have drainage basins originating in Park County are Sweet Grass Creek, the Boulder River, Stillwater River, and Clarks Fork Yellowstone River. These streams eventually converge with the Yellowstone River outside of Park County in Sweet Grass, Stillwater, and Carbon Counties.

The largest community within the study area is the city of Livingston, Montana, located near the confluence of the Shields and Yellowstone Rivers. Other communities located in the study area are Wilsall, Clyde Park, Gardiner, and Cooke City.

2 PARK COUNTY HYDROLOGIC FLOOD STUDIES

Multiple flood studies have been conducted on Park County streams, encompassing the Yellowstone River and tributaries and the Shields River and tributaries. The following sections outline the relevant hydrologic analyses that include peak flow frequency analyses within or near Park County. Historically, studies related to mining impacts, water management, fisheries management, and sediment management have incorporated hydrologic analysis. This report focuses on the Federal Emergency Management Agency (FEMA) (including FIS reports), USGS, and DNRC contracted hydrologic analyses related to Park County.

2.1 Flood Insurance Studies

The Park County FIS Report was initially issued on May 19, 1987, and revised on October 18, 2011 (FEMA, 2011). Prior to the FIS studies, hydrologic and hydraulic analyses for the Yellowstone River in the City of Livingston were performed by the U.S. Army Corp of Engineers, Omaha District, in 1974. Dames & Moore performed the hydrologic analysis for the 1987 FIS report in 1985, which covers the incorporated areas of the City of Livingston, Park County (FEMA, 1987). The FIS reports are summarized in Table 2-1. The AEP peak discharge estimates determined by the studies are discussed in Section 3.

Table 2-1 Park County FEMA FIS Summary

Existing Study	Community	Date Issued	Study Details			
			Detailed Studied Streams ¹	Approx ² (mi)	Detailed (mi)	Total (mi)
Flood Insurance Study	City of Livingston	05/19/1987	Yellowstone River	520	2.3	522
Flood Insurance Study	Park County, Unincorporated Areas; City of Livingston; Town of Clyde Park	10/18/2011	Yellowstone River	470	52	522

Approx: Approximate. mi: miles.

1. Detailed studied streams are streams with a hydrologic analysis performed on them.

2. Approximate value includes Approximate Zone A reaches to be studied in this hydrologic analysis report.

The FIS studies do not list length for Approximate Zone A reaches.

Between FIS report releases, Letter of Map Changes (LOMC) are published when an area of the effective FIS is reevaluated or restudied. There are two types of LOMCs, Letter of Map Revisions (LOMR) and Letter of Map Amendments (LOMA). There are no active LOMRs for Park County, but there are 67 LOMAs and 18 revalidated LOMAs. A LOMA revalidation occurs after the FIS Flood Insurance Rate Maps (FIRMs) are updated, but the LOMA determination is still correct. A table of LOMAs is included in Appendix A.

2.2 USGS Flood Studies

The USGS collects peak flow data throughout the year at select gaging stations. The USGS performs hydrologic analyses and flood frequency analyses on USGS gage stations peak flow data regularly to incorporate hydrologic methodology changes and large flood events to account for increased gage period of record and to assist floodplain mapping studies. Five different studies conducted by the USGS were reviewed.

Although a hydrologic analysis published date lists the year the analysis was published, the water year through which gage data extend typically is different. This is due to the length in which hydrologic analyses are performed and the extensive review processes the analyses go through. Table 2-2 provides the study release data, the water year the data were studied through, and the methodology used in the study.

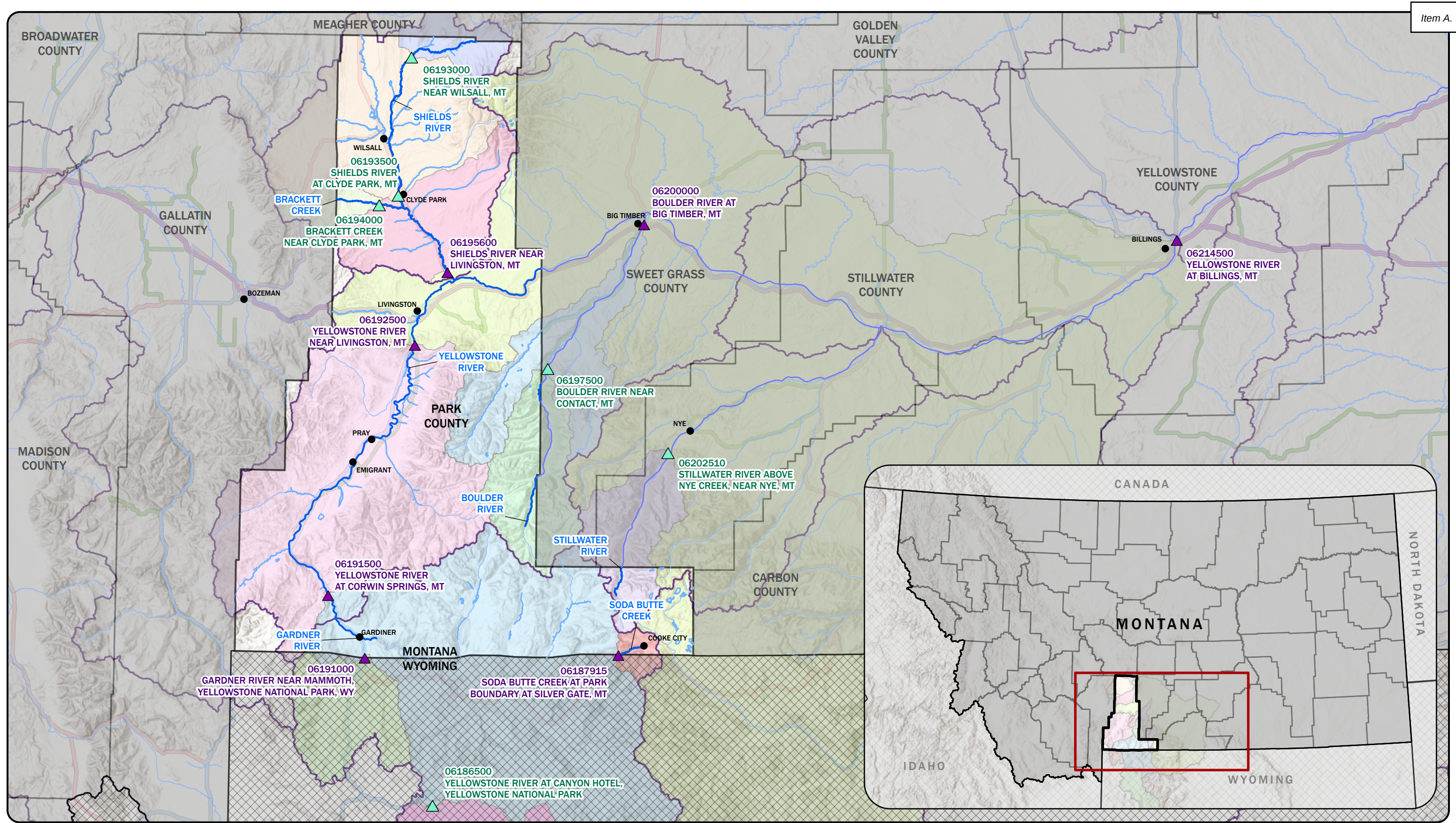
Table 2-2 USGS Gage Station Hydrologic Investigations and Studies

USGS Hydrologic Study	Study Release Year	Water Year of Data	Study Methodology
WRIR 92-4048	1992	1988	Bulletin 17B
WRIR 03-4308	2003	1998	Bulletin 17B
SIR 2015-5019-C	2015	2011	Bulletin 17B
SIR 2018-5046	2018	2015	Bulletin 17C
wymt_ffa_2022Yellowstone	2023	2022	Bulletin 17C

FFA: Flood Frequency Analysis. SIR: Scientific Investigations Report. WRIR: Water Resource Investigations Report. WYMT: Wyoming Montana.

As shown in Table 2-2, two overarching methodologies were used for the USGS studies: Bulletin 17C and Bulletin 17B. Bulletin 17C methodology was released in March of 2018 (England, et al., 2018) and replaced the Bulletin 17B methodology that was released by the Interagency Advisory Committee on Water Data (IACWD) in 1982 (IACWD, 1982).

Various gages on, upstream of, or downstream of Park County reaches were included in the USGS flood studies. The relevant USGS gages from the studies are provided on Figure 2-1.



LEGEND

- ▲ ACTIVE USGS GAGE STATIONS
- ▲ INACTIVE USGS GAGE STATIONS
- ▭ HUC8 BOUNDARY
- GAGE ASSOCIATED STUDY REACH
- - - GAGED ASSOCIATED REACH OUTSIDE OF PARK COUNTY
- NON-GAGED STUDY REACH

NOTE: THE GARDNER RIVER NEAR MAMMOTH, YELLOWSTONE NATIONAL PARK, WY GAGE STATION (06191000) WAS NOT STUDIED BY THE USGS IN 2023. HOWEVER, PIONEER CONDUCTED A PEAKFQ ANALYSIS ON THE GAGE STATION PEAK FLOW DATA TO BE USED IN THE HYDROLOGIC ANALYSIS ON THE GARDNER RIVER FLOW NODE.

DISPLAYED AS:
PROJECTION / ZONE: MONTANA STATE PLANE
DATUM: NAD 1983
UNITS: INT'L FEET
SOURCE: ESRI/PIONEER

0 6 12 24
Miles

FIGURE 2-1

PARK COUNTY
USGS GAGE STATIONS

DATE: 4/29/2024

2.2.1 USGS Hydrologic Investigations

Pioneer reviewed four previous USGS hydrologic investigations that included gage stations within and near Park County, Montana. The USGS Water Resource Investigations Report (WRIR) 92-4048 (Omang, 1992), USGS WRIR 03-4308 (Parret & Johnson, 2004), Scientific Investigations Report (SIR) 2015-5019-C, and USGS SIR 2018-5046 (Sando & McCarthy, 2018) each document prior flood frequency analyses used to determine AEP peak discharge estimates at the gage stations.

The gages studied in WRIR 92-4048, WRIR 03-4308, and SIR 2016-5019-C were analyzed using Bulletin 17B flood frequency methodology and At-Site peak flow data. The gages studied in SIR 2018-5046 were analyzed using Bulletin 17C flood frequency methodology and used both At-Site peak flow data and additional methods designed to improve At-Site peak flow estimates: Regional Regression Equation Weighted (RRE wtd), and Maintenance of Variance Extension Type III (MOVE.3). The RRE wtd weights the At-Site value with an estimate based on general equations developed for the region, and MOVE.3 incorporates measured peak flow data from other gage locations on the study reach or on nearby streams to extend the period of record.

Table 2-3 lists the USGS flood frequency analysis studies and relevant gages in and near Park County included in the studies.

Table 2-3 Summary of Park County USGS Gage Studies

USGS Station Number	USGS Station Name	WRIR 92-4048	WRIR 03-4308	SIR 2015-5019-C	SIR 2018-5046
		Years of Record	Years of Record	Years of Record	Years of Record
Shields River Basin					
06194000	Brackett Creek near Clyde Park, MT	27	27	27	--
06193000	Shields River near Wilsall, MT	22	22	22	--
06193500	Shields River at Clyde Park, MT	41	41	41	--
06195600	Shields River near Livingston, MT	--	20	33	--
Yellowstone River Basin					
06197500	Boulder River near Contact, MT	34	34	34	--
06200000	Boulder River at Big Timber, MT	41	51	64	--
06191000	Gardner River near Mammoth, Yellowstone National Park, WY	39	65	78	--
06187915	Soda Butte Creek at Park Boundary at Silver Gate, MT	--	--	13	--

USGS Station Number	USGS Station Name	WRIR 92-4048	WRIR 03-4308	SIR 2015-5019-C	SIR 2018-5046
		Years of Record	Years of Record	Years of Record	Years of Record
06202510	Stillwater River above Nye Creek, near Nye, MT	--	12	12	--
06187000	Yellowstone River near Canyon Hotel, Yellowstone National Park, WY	--	37	37	37 ¹
06191500	Yellowstone River at Corwin Springs, MT	--	92	105	109 ¹
06192500	Yellowstone River near Livingston, MT	--	74	87	91 ¹
06214500	Yellowstone River near Billings, MT	--	73	86	90 ¹

SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resource Investigations Report.

-- Indicates gage station was not studied in corresponding USGS hydrology study.

1. Gage was analyzed using At-Site and MOVE.3 methods. At-Site peak flow records were reported.

2.2.2 2023 USGS Flood Frequency Gage Analysis

After the record breaking 2022 flooding event across southwest Montana, the USGS was contracted by the DNRC, as part of the Upper Yellowstone Hydrologic Analysis project, to perform a flood frequency analysis for select stream gages in the Upper Yellowstone Basin with water data through 2022 (Siefken, et al., 2023). Using Bulletin 17C, the USGS determined peak flow using At-Site recorded flow values and two additional methods designed to improve At-Site estimates. The first additional method is RRE wtd, and the second method is MOVE.3. The peak flow estimate determined to be most appropriate for floodplain mapping was used to estimate peak discharges for the Upper Yellowstone Hydrologic Analysis for Park County, Montana report (Pioneer, 2024). Table 2-4 lists the gages from the 2023 USGS gage analysis used in the hydrologic analysis performed by Pioneer.

Table 2-4 USGS Gage Stations Used in the Park County Hydrologic Analysis

USGS Station Number	USGS Station Name	Regulation Status	Recorded Peak Flow Years at Gage	Number of Recorded Peak Flows	2022 Status
Shields River Basin					
06194000	Brackett Creek near Clyde Park, MT	U	1921-1923, 1934-1957	27 ¹	Inactive
06193000	Shields River near Wilsall, MT	U	1936-1957	22 ¹	Inactive
06193500	Shields River at Clyde Park, MT	U	1921-1923, 1929-1932, 1934-1967	41 ¹	Inactive

USGS Station Number	USGS Station Name	Regulation Status	Recorded Peak Flow Years at Gage	Number of Recorded Peak Flows	2022 Status
06195600	Shields River near Livingston, MT	U	1979-2022	44 ¹	Active
Yellowstone River Basin					
06200000	Boulder River at Big Timber, MT	U	1947-1953, 1955-2022	75 ²	Active
06197500	Boulder River near Contact, MT	U	1910-1916, 1929, 1951-1969, 1971-1975, 1982, 1983, 2022	35 ²	Inactive
06187915	Soda Butte Creek at Park Boundary at Silver Gate, MT	U	1999-2022	24	Active
06202510	Stillwater River above Nye Creek, near Nye, MT	U	1980-1991, 2022	13 ²	Inactive
06187000	Yellowstone River near Canyon Hotel, Yellowstone National Park, WY	U	1913-1918, 1921-1951	37 ²	Inactive
06191500	Yellowstone River at Corwin Springs, MT	U	1890-1893, 1911-2022	116 ²	Active
06192500	Yellowstone River near Livingston, MT	U	1897-1905, 1929-1932, 1938-2022	98 ²	Active
06214500	Yellowstone River at Billings, MT	U	1904, 1905, 1918, 1929-2022	97 ²	Active

U: unregulated. USGS: U.S. Geological Survey.

1. Gage was analyzed using At-Site and RRE wtd methods.

2. Gage was analyzed using At-Site and MOVE.3 methods. At-Site peak flow records reported.

2.3 2024 Upper Yellowstone Hydrologic Analysis Report Park County

Pioneer was contracted by the DNRC as part of the Upper Yellowstone Hydrology project to conduct a hydrologic analysis on 151 streams and 41 water bodies in Park County (Pioneer, 2024). This hydrologic analysis will be used to update the Park County FIS report.

The hydrologic analysis was performed using the most current methodologies and aligned with FEMA standards for floodplain mapping. The analysis was completed using the 2023 USGS Upper Yellowstone Flood Frequency Analysis on USGS gages through water year 2022 (Siefken, et al., 2023).

3 REACH SPECIFIC FLOOD HISTORY

Park County's major floods tend to follow high snowpack years. Spring weather conditions, such as above average temperatures and/or precipitation, exacerbate snowmelt and lead to flooding. In the past few years, Park County saw significant flooding throughout the entire county from both the Yellowstone River basin and the Shields River basin. This section outlines the past and recent flooding events throughout the county, details how estimated AEP peak flow AC events have changed since previous FIS and USGS releases, and documents some of the

major Park County flood events and how they impacted communities. Additional photographs of flooding in Park County are included in Appendix B.

3.1 Yellowstone River Basin

The Yellowstone River, a major tributary to the Missouri River, originates south of Park County in Yellowstone National Park, Wyoming, and is the longest undammed river in the lower 48 states. The river flows 700 miles before its confluence with the Missouri River in North Dakota. The entire Yellowstone River watershed basin encompasses approximately 70,000 square miles, with roughly 4,700 of those feeding the Yellowstone River within the Park County study reach.

3.1.1 Yellowstone River

In Park County, the Yellowstone River flows from south to north through the Paradise Valley between the Absaroka Range and the Gallatin Range. At Livingston, Montana, the Yellowstone River bends eastward. East of Livingston, a major Yellowstone River tributary in Park County, the Shields River, joins the Yellowstone River. The river continues east before entering Sweet Grass County near Springdale, Montana. The Yellowstone River in Park County basin elevations range from 12,143 feet to 4,201 feet at the Sweet Grass County border.

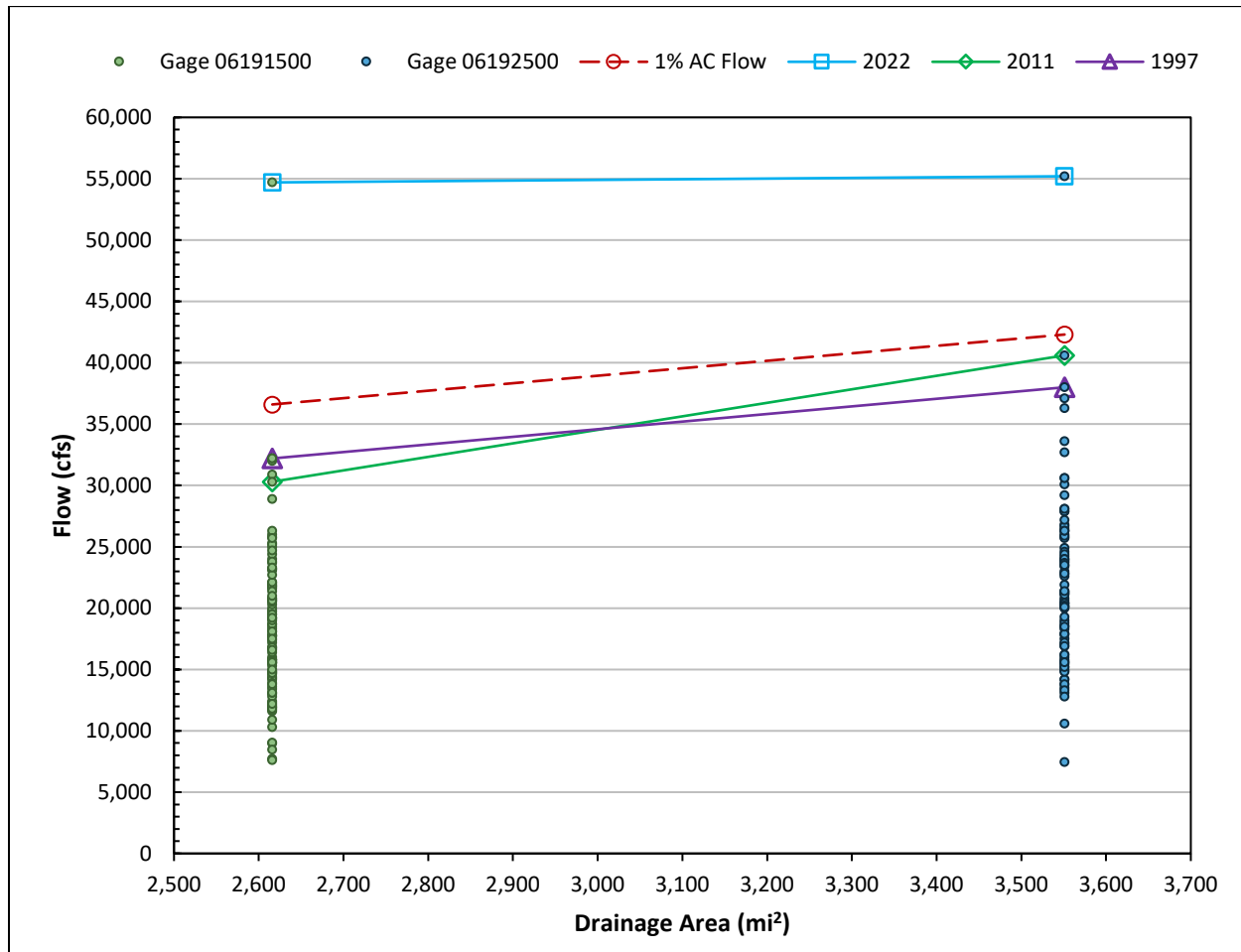
The Park County study reach is over 88 miles long and flows through the communities of Gardiner, Emigrant, Pray, and Livingston, Montana. Two Yellowstone River USGS stream gages are located within Park County, and two USGS gages are located outside of the study area in Yellowstone National Park and Yellowstone County, Montana. The two gage stations located in the Park County study area were used for flood history.

3.1.1.1 Yellowstone River USGS Gage Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The two gage stations evaluated for flood history on the Yellowstone River in Park County are 06192500 Yellowstone River near Livingston, MT and 06191500 Yellowstone River at Corwin Springs, MT. Both gage stations are active; the Yellowstone River near Livingston, MT gage has flow data dating back to 1897 with a period of record from 1897 through 1905, 1929 through 1932, and 1938 through 2022, and the Yellowstone River at Corwin Springs, MT gage has data dating back to 1890 with a period of record of 1890 through 1893 and 1911 through 2022.

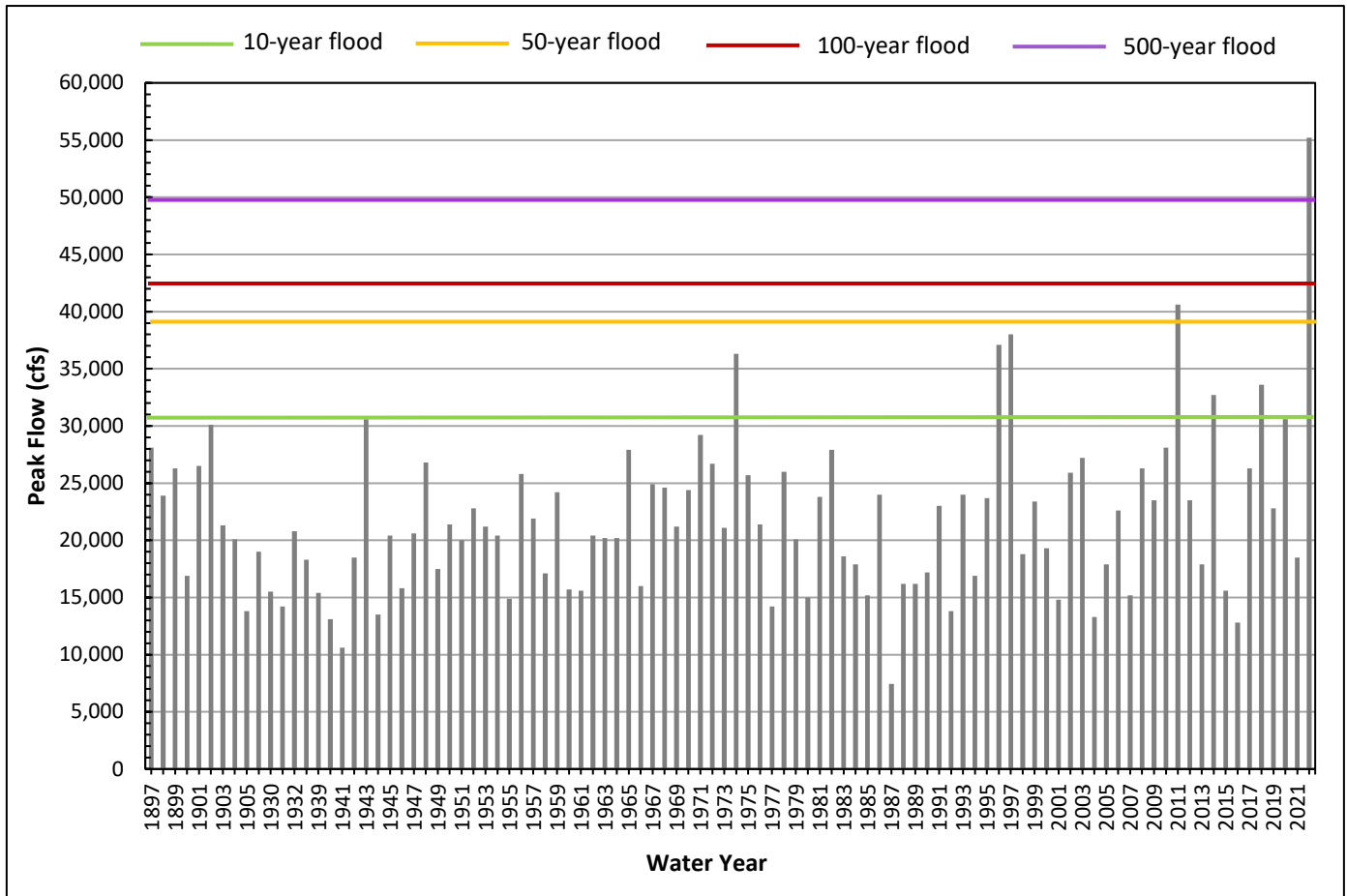
Figure 3-1 illustrates the measured peak flow history on the Yellowstone River at the two gage stations. Select extreme flooding events are highlighted, and the USGS estimated 1% AC peak discharge (Siefken, et al., 2023) for each gage location is shown in red.

Figure 3-1 Yellowstone River Gage Station Peak Flows

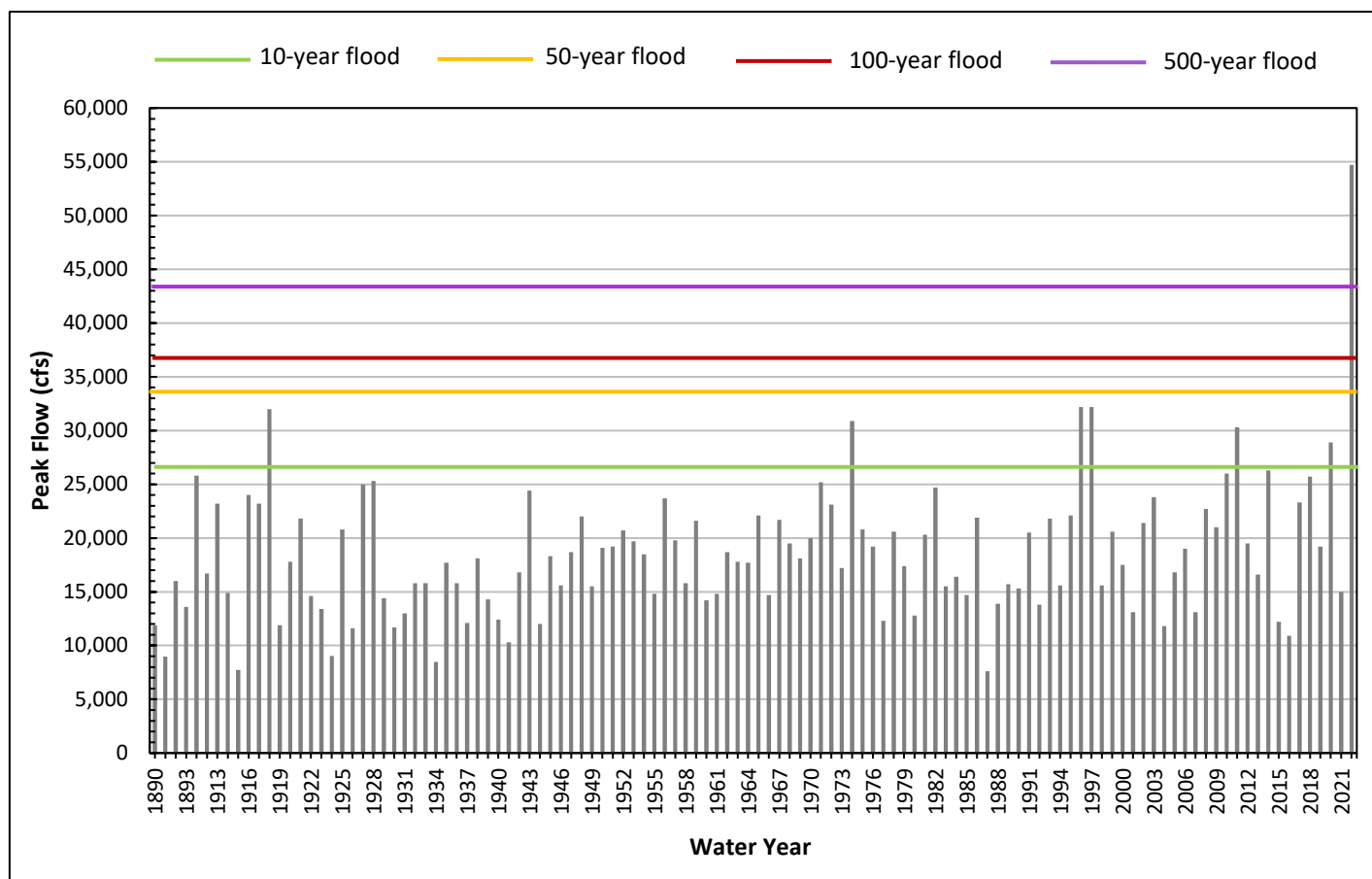


Peak flows were compared to different recurrence intervals at each stream gage. Figure 3-2 and Figure 3-3 show measured peak flow data at both gages by year in comparison to the 10-year (10% AC), 50-year (2% AC), 100-year (1% AC), and 500-year (0.2% AC) recommended USGS values (Siefken, et al., 2023).

Figure 3-2 Yellowstone River near Livingston, MT (06192500)



Note: The figure only shows years with measured Yellowstone River peak flows at the Yellowstone River near Livingston, MT gage station. The years shown include 1897 through 1905, 1929 through 1932, and 1938 through 2022. Years with no peak flow data (1906 through 1928 and 1933 through 1937) are not shown.

Figure 3-3 Yellowstone River at Corwin Springs, MT (06191500)


Note: The figure only shows years with measured Yellowstone River peak flows at the Yellowstone River at Corwin Springs, MT gage station. The years shown include 1890 through 1893 and 1911 through 2022. Years with no peak flow data (1894 through 1910) are not shown.

3.1.1.2 Yellowstone River Recommended Peak Discharge Comparison to Past Values

Comparing effective and historical peak flow estimates at specific flow locations can be used as tool to visualize how and why flood extents will change with new floodplain mapping. Table 3-1 compares the estimated 1% AEP peak discharges from the 2011 FIS report (FEMA, 2011) and the Upper Yellowstone Hydrologic Analysis Park County report (Pioneer, 2024).

Table 3-1 Yellowstone River Peak Discharge Estimates vs Existing FIS Flow Estimates

Flooding Source and Location	Peak Flood Frequency Source	Drainage Area (mi ²)	Date of Study	1% AEP (100-year) (cfs)	Percent Change ¹
Yellowstone River at confluence with Big Creek	Park County FIS Report	2,900	2011	34,000	--
	Upper Yellowstone Hydrologic Analysis	2,857	2024	38,160	12.2

Flooding Source and Location	Peak Flood Frequency Source	Drainage Area (mi ²)	Date of Study	1% AEP (100-year) (cfs)	Percent Change ¹
Yellowstone River at confluence with Mill Creek	Park County FIS Report	3,060	2011	35,100	--
	Upper Yellowstone Hydrologic Analysis	3,124	2024	39,810	13.4
Yellowstone River at confluence with Trail Creek	Park County FIS Report	3,400	2011	37,300	--
	Upper Yellowstone Hydrologic Analysis	3,412	2024	41,510	11.3
Yellowstone River at Carter Bridge ⁺	Park County FIS Report	3,551	2011	38,300	--
	Upper Yellowstone Hydrologic Analysis	3,551	2024	42,300	10.4
Yellowstone River at confluence with Shields River ²	Park County FIS Report	4,576	2011	42,000	--
	Upper Yellowstone Hydrologic Analysis	4,716	2024	49,520	17.9

AEP: Annual Exceedance Probability. cfs: cubic feet per second. mi²: square miles.

+ Indicates the location is a USGS gage station.

1. "Percent Change" is the percent change of 1% AEP discharge of the Upper Yellowstone Hydrologic Analysis Park County discharge values (Pioneer, 2024) from past effective FIS discharge.

2. Upper Yellowstone Hydrologic Analysis Park County Report lists this location as "Yellowstone River on Sweet Grass County border"; the flow change node is located downstream of the effective FIS flow node, but no significant tributaries enter the Yellowstone River between the two locations.

As shown in Table 3-1, the estimated 1% AEP increased by approximately 4,000 to 7,000 cubic feet per second (cfs) at each flow change node location on the Yellowstone River in Park County. Both the effective Park County FIS report and the Upper Yellowstone Hydrologic Analysis Park County report used USGS gages to estimate peak flow discharges at the flow change nodes. The increase can be attributed to the increased gage stations period of record, large peak flow flood events in the extended period of record, and the change in methodology for estimating peak flow events.

The two USGS gage stations on the Yellowstone River in Park County have an extensive period of record. Previously estimated peak discharges from USGS studies show changes in flow estimates as a period of record increases and/or as methodology changes. Table 3-2 provides a comparison of 1% AEP USGS peak flow estimates at the Yellowstone River gage stations within Park County.

Table 3-2 Yellowstone River USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Study	1% AEP (100-year) (cfs)
06192500	Yellowstone River near Livingston, MT	WRIR 03-4308	2003	38,300
		SIR 2015-5019-C	2015	39,500
		SIR 2018-5046	2018	39,200 ¹
		wymt_ffa_2022Yellowstone	2023	42,300 ¹
06191500	Yellowstone River at Corwin Springs, MT	WRIR 03-4308	2003	32,100
		SIR 2015-5019-C	2015	32,600
		SIR 2018-5046	2018	32,600 ¹
		wymt_ffa_2022Yellowstone	2023	36,600 ¹

AEP: Annual Exceedance Probability. cfs: cubic feet per second. ffa: Flood Frequency Analysis. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resource Investigations Report. WYMT: Wyoming Montana.

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

1. 1% AEP peak flow estimate was determined using MOVE.3 to extend the period of record and synthesize data for peak flow years where the gage station was inactive.

As shown in Table 3-2, the 1% AEP peak discharges determined in the 2023 USGS flood frequency analysis were greater than the previously determined 1% AEP peak discharges at the two Yellowstone River gage stations. When comparing the current 2023 USGS estimated 1% AEP (Siefken, et al., 2023) to the most recent past study, SIR 2018-5046 (Sando & McCarthy, 2018), the current estimates had a 7% change at the Yellowstone River near Livingston, MT gage and a 12% change at the Yellowstone River at Corwin Springs, MT gage. Methodology between the 2018 study and the 2023 study remained the same; therefore, the increase in estimated peak discharge can be attributed to the increased period of record and the large measured peak flow values from 2022, 2020, and 2018.

3.1.1.3 Yellowstone River Flood History Documentation

Yellowstone River flooding has greatly impacted Park County residents multiple times throughout history. The most recent significant flood event occurred in 2022; other large flood events, which have surpassed the estimated 25-year peak discharge at either Yellowstone River Park County gage station, occurred in 1918, 1974, 1996, 1997, and 2011. These are the largest six floods on record in Park County, and each has been the result of rapid spring snow melt. Although not as widespread, flooding on the Yellowstone River has also resulted from ice jams.

In early June 2022, a large rain on snow event in the Absaroka and Beartooth Mountains led to flooding on many of southwest Montana's streams; this is the flood of record for the Yellowstone River and many of its tributaries with headwaters in the Absaroka – Beartooth Mountains. This flood event surpassed the 0.2% AC event (500-year), and peak discharge was 136% of the previous flood of record (2011 flood) at the Yellowstone River near Livingston, MT gage station and 170% of the flood of record (1996 and 1997) at the Yellowstone River at Corwin Springs, MT gage station. The measured peak flows at the Yellowstone River near

Livingston, MT and Yellowstone River at Corwin Springs, MT gage stations were 55,200 and 54,700 cfs, respectively. The flood stage for the Yellowstone River near Livingston, MT gage station (at Carter Bridge) is 10.0 feet, and the 2022 flood peaked at 11.63 feet. The flood stage at the Yellowstone River at Corwin Springs, MT gage is 11 feet, and the 2022 flood peaked at 14.72 feet.

The Yellowstone River in Park County saw banks drastically eroded, towns isolated, and bridges and houses washed away in 2022. The Point of Rocks bridge on Highway 89 South sustained substantial damage while other stretches of Highway 89, including near the Emigrant Rest Stop and through Yankee Jim Canyon, were underwater. The Carbella Bridge near Carbella, Montana was washed out. Numerous houses and businesses throughout the Paradise Valley and Livingston, Montana, were inundated with floodwaters. Though not designed to withstand a flood of this magnitude, nor holding FEMA certification, the levees near the Livingston, Montana, 9th Street Island and Sacajawea Lagoon, reinforced with countless sandbags, prevented major flooding in that region of Livingston, Montana. Although no lives were lost during the June 2022 flood, the Park County community is still, even 1.5 years later, feeling the impact. Millions of dollars of damage occurred throughout Park County and surrounding counties; for fiscal year 2024, the Federal Highway Administration (FHWA) has allocated over \$28 million to reimburse and support repair costs throughout Montana as a result of the 2022 flooding as part of the FHWA's Emergency Relief program (USDOT FHWA, 2024). Photograph 3-1 through Photograph 3-12 document only a portion of the significant 2022 Yellowstone River flood. Prior significant flooding events are discussed beneath the 2022 flooding photographs.

Photograph 3-1 Yellowstone River Flooding 2022 – Gardiner, MT



Caption: A house was undercut and fell into the Yellowstone River as the bank eroded away during the 2022 flood. Image on left is from June 14, 2022. Image on right is from 2019. Source: Google Earth Imagery.

Photograph 3-2 Yellowstone River Flooding 2022 – 989 US Highway 89 South Gardiner, MT



Caption: The Yellowstone River undercut a structure along Highway 89 S near Gardiner, MT during the June 2022 flooding. The structure was still hanging over the edge when the photograph was taken one month after flood waters receded. Source: Pioneer.

Photograph 3-3 Yellowstone River Flooding 2022 – Yankee Jim Canyon



Caption: Highway 89 South overtopped by the Yellowstone River at the Yankee Jim Canyon River Access site. Source: Park County.

Photograph 3-4 Yellowstone River Flooding 2022 – Carbella Bridge



Caption: Carbella Bridge during the 2022 Yellowstone River flood before and during being washed away. Source: Park County.

Photograph 3-5 Yellowstone River Flooding 2022 – Emigrant, MT



Caption: Residences and structures just east of the Emigrant Bridge crossing of the Yellowstone River are inundated. Source: Pioneer.

Photograph 3-6 Yellowstone River Flooding 2022 – Mallard’s Rest, Paradise Valley



Caption: Mallard’s Rest fishing access site and campground are inundated by the Yellowstone River. Much of the bank of the Yellowstone River sloughed off, leading to the closure of the site even after flood waters receded. Mallard’s Rest was photographed during the 1997 flood and is shown on Photograph 3-17. Source: Park County.

Photograph 3-7 Yellowstone River Flooding 2022 – Evergreen Lane near Carter Bridge



Caption: A residence built along Evergreen Lane off of Highway 89 South near Carter Bridge during and after the 2022 flooding. The residence is located on the banks of the Yellowstone River and avoided inundation due to being built on stilts. Source: Park County.

Photograph 3-8 Yellowstone River Flooding 2022 – 5024 Highway 89 South Livingston, MT



Caption: A house just north of Carter Bridge off Highway 89 South is shown after floodwaters receded from the 2022 flood events on June 15, 2022. This home was also photographed during the 1996 flood and is shown on Photograph 3-16. Source: Park County.

**Photograph 3-9 Yellowstone River Flooding 2022 –
Southern Portion of 9th Street Island Livingston, MT**



Caption: 9th Street Island floods residences on June 13, 2022. Source: DNRC – Still Taken from DNRC Sacagawea to Interstate Bridge video.

Photograph 3-10 Yellowstone River Flooding 2022 – East Side of 9th Street Island Livingston, MT



Caption: A residence on 9th Street Island is inundated and in direct path of the Yellowstone River on June 13, 2022. Source: DNRC – Still Taken from DNRC Sacagawea to Interstate Bridge video.

Photograph 3-11 Yellowstone River Flooding 2022 – Veterans Bridge Livingston, MT



Caption: Flood waters rise to almost low chord at Veterans Bridge in Livingston, MT. Source: DNRC's Veterans Bridge Video.

Photograph 3-12 Yellowstone River Flooding 2022 – Livingston, MT Aerial Image

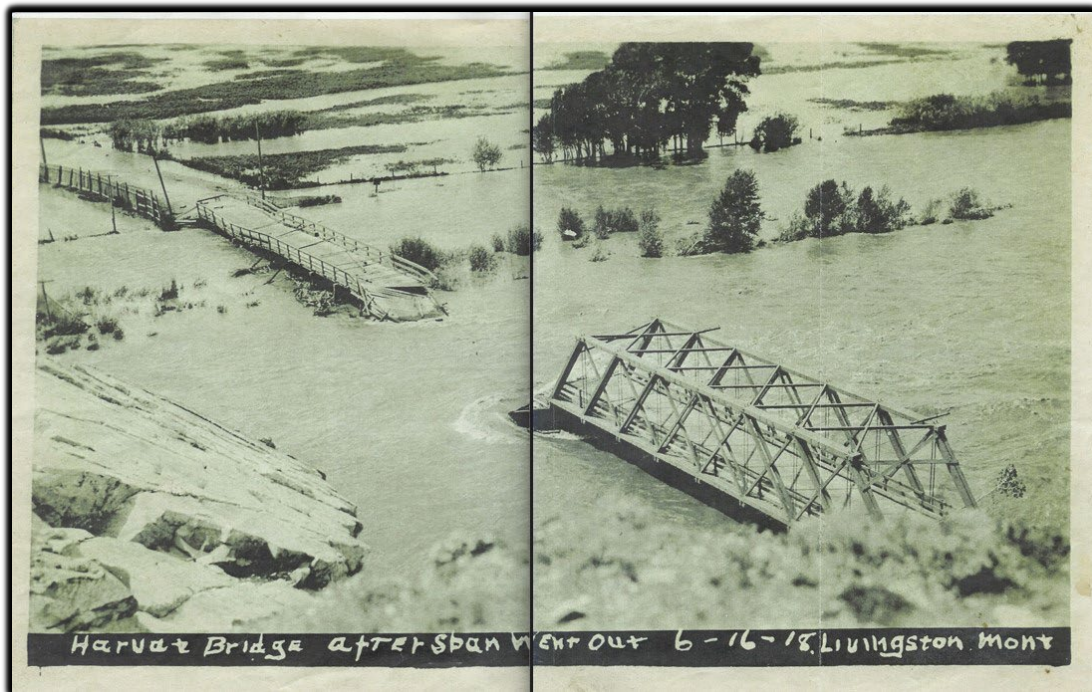


Caption: The Yellowstone River inundates part of Livingston, Montana, on June 13, 2022. In the bottom right of the photograph, Mayor's Landing Fishing Access Site is under water. The hospital is shown near the top of the photograph with flood water surrounding the building. Residences and structures in the bottom left of the photograph between Highway 89 and East Lewis Street see flooding as well. Source: Park County.

Additional significant past flooding along the Yellowstone River in Park County occurred in 1918, 1974, 1996, 1997, and 2011. These floods, including the 2022 flood, are the top six floods on record at the two Yellowstone River gage stations in Park County.

In 1918 at USGS gage stations 06192500 Yellowstone River near Livingston, MT and 06191500 Yellowstone River at Corwin Springs, MT, the peak flow was 37,600 cfs and 32,000 cfs, respectively. The 1918 peak flow value at the Yellowstone River near Livingston, MT gage was synthesized by the USGS because the gage was inactive during the 1918 flood. The 1918 flood would be considered between a 25-year and 50-year event based on current estimated AEP peak flood discharges. This flood was caused by a rapid snow melt. In Livingston, Montana, the flood led to the collapse of the 9th Street Island bridge and inundated the island with 2 to 3 feet of water (FEMA, 2011). Photographic documentation of this flood also shows the destruction of the Horvat Bridge which connected Mayor's Landing to the Horvat Ranch, as shown on Photograph 3-13 and Photograph 3-14.

Photograph 3-13 Yellowstone River Flooding 1918 – Horvat Bridge in Livingston, MT



Caption: A span of Horvat bridge connecting present day Mayor's Landing to Horvat Ranch was washed out during the 1918 flood. Source: DNRC.

**Photograph 3-14 Yellowstone River Flooding 1918 –
Horvat Bridge Going Out in Livingston, MT**



Caption: Horvat Bridge was washed away and floated down the Yellowstone River during the 1918 flood. Source: DNRC.

In 1974, the peak flows at gage stations 06192500 Yellowstone River near Livingston, MT and 06191500 Yellowstone River at Corwin Springs, MT were 36,300 and 30,900 cfs, respectively. The peak flows exceeded the current estimated 10-year event at the Livingston gage location, and the 25-year event at the Corwin Springs gage location. The flooding in Livingston inundated much of 9th Street Island and the school football field and track; the 9th Street Island bridge and Vista View Road from the Main Street bridge to the golf course were closed (RESPEC, 2018). An aerial image taken one day after the peak of the 1974 flood event is shown on Photograph 3-15.

Photograph 3-15 Yellowstone River Flooding 1974 – Livingston, MT



Caption: The Yellowstone River inundated parts of Livingston, Montana, in 1974. Shown on the photograph are the interstate bridges and inundation of both 9th Street Island and Siebeck Island. Source: Park County.

In 1996 and 1997, the peak flows at USGS gage 06191500 Yellowstone River near Livingston, MT were measured at 37,100 and 38,000 cfs, respectively. At the time, the floods were considered nearly 100-year events. However, when compared to current AEP peak flood event discharges, these floods were both between a 25-year and 50-year event. The 1996 flood event was the flood of record when it occurred; then a year later, the 1997 flood became the new flood of record. Although the 1997 flood was slightly higher than the 1996 flood, according to Bozeman Daily Chronicle, the 1997 flood led to less damage due to community members preparing for potential flood events. Some of the residents worked together to build temporary dikes to help keep water out of their homes or properties and others cleaned out ditches and filled sandbags (McMillion, 1997). Both floods, despite the flood preparation efforts, led to numerous homes being inundated with floodwater in consecutive years (FEMA, 2021). Flooding of a home during the 1996 flood is shown on Photograph 3-16 and flooding from the 1997 event is shown on Photograph 3-17 and Photograph 3-18.

Photograph 3-16 Yellowstone River Flooding 1996 – 5024 Highway 89 South, Livingston, MT



Caption: A house just north of Carter Bridge off Highway 89 South is shown during the 1996 flood. This home was also inundated during the 2022 flood and is shown on Photograph 3-8. after the floodwaters receded. Source: Park County.

**Photograph 3-17 Yellowstone River Flooding 1997 –
Mallard's Rest Fishing Access Site**



Caption: Mallard's Rest Fishing Access Site is inundated with floodwaters during the 1997 Yellowstone River Flooding. A similar photograph was taken during the June 2022 flooding and is shown on Photograph 3-6. Source: Park County.

**Photograph 3-18 Yellowstone River Flooding 1997 –
9th Street Island Drive to Siebeck Island**



Caption: The road to Siebeck Island via 9th Street Island Drive was overtopped and washed out during the 1997 flood. Source: Park County.

The peak flow from the 2011 flood was measured at 40,600 cfs at the Yellowstone River near Livingston, MT gage station. This flood was determined to be between a 50-year and a 100-year event based on current AEP peak flood discharges. At the time, the 2011 flood was the flood of record and exceeded the previous flood of record (1997) at the Yellowstone River near Livingston, MT gage by 2,600 cfs. Despite it being such a significant peak flow, minimal damage in Livingston, Montana, was reported compared to previous floods of less magnitude. Flood waters knocked down a power line, overtopped the 9th Street Island Drive, and caused damage to many roads across Park County, but in general catastrophic losses were avoided (Person, 2011).

Although not as common as flooding due to rain on snow events, flooding due to ice jams on the Yellowstone River are known to occur. The most recent significant flooding due to an ice jam occurred on January 17, 2007. According to the Cold Regions Research and Engineering Laboratory (CRREL), the flooding inundated one house and prompted warnings from south of Livingston, Montana, to Pine Creek to be prepared for flooding (CRREL, 2007).

Additional Park County Yellowstone River flooding photographs are provided in a geodatabase included in Appendix B.

3.1.2 Yellowstone River Tributaries

The tributaries of the Yellowstone River throughout Park County have seen significant flooding. Many of the tributaries pass by Park County communities and flooding has greatly impacted those communities. The studied Park County tributaries of the Yellowstone River, not including the Shields River basin, are in the southern portion of Park County and originate in the Gallatin or Absaroka Mountain ranges. The Shields River basin is discussed in Section 3.2.

As part of the Upper Yellowstone Hydrologic Analysis Park County study, 90 Yellowstone River tributaries were analyzed. The flood history for each tributary was investigated. Table 3-3 lists the Yellowstone River tributaries where flood history documentation was found and the corresponding level of analysis for the Park County hydrologic analysis study. These tributaries are discussed in the following sections. The complete list of reaches investigated is included in Appendix C.

Table 3-3 Yellowstone River Tributaries Flood History Reach Summary

Stream Name	Analysis Approach	Total Length (miles)
Boulder River	BLE Zone A	10.7
Fleshman Creek	Enhanced Zone AE with Floodway	1.1
Gardner River	Enhanced Zone AE	0.2
Mill Creek A	Enhanced Zone AE, BLE Zone A	12.0

Stream Name	Analysis Approach	Total Length (miles)
Miller Creek ¹	Enhanced Zone AE with Floodway	0.3
Mulherin Creek	Enhanced Zone AE	0.8
Sheep Creek B ¹	Enhanced Zone AE with Floodway	0.1
Soda Butte Creek	Enhanced Zone AE with Floodway	4.7
Stillwater River	BLE Zone A	4.9
Woody Creek ¹	Enhanced Zone AE with Floodway	0.1

1. Reach flood history addressed in Soda Butte Creek Flood History Documentation section.

3.1.2.1 Boulder River

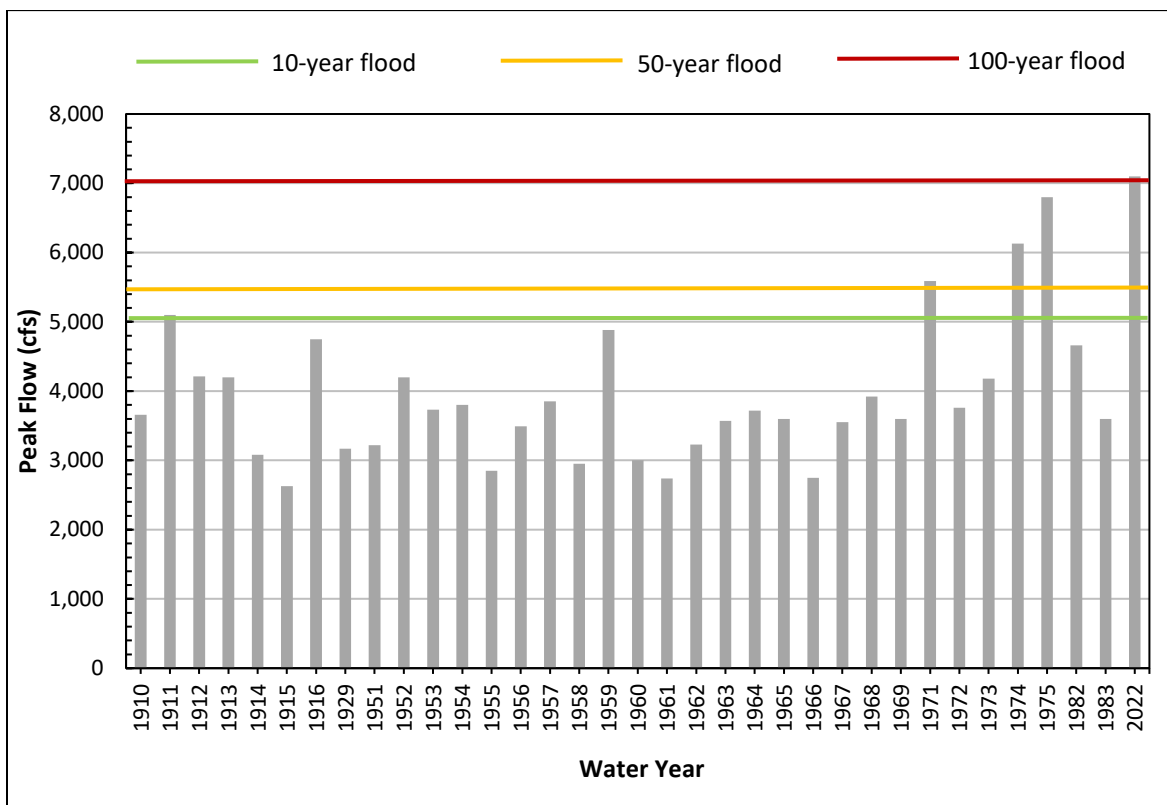
The Boulder River and its tributaries originate in the northern portion of the Absaroka Range near the Park – Sweet Grass County border. The watershed for Park County study reaches and water bodies in the Boulder River basin encompasses 333 square miles. The Boulder River converges with Yellowstone River in Sweet Grass County at Big Timber, Montana. The small community of Contact, Montana lies on the Park – Sweet Grass County border.

The AEP peak discharges for the Boulder River and tributaries were not included in the effective FIS report. Two USGS gage stations are located on the Boulder River. The gage station located nearest to the study reach, 06197500 Boulder River near Contact, MT, was used for flood history.

3.1.2.1.1 Boulder River USGS Gage Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The gage station evaluated for flood history on the Boulder River was 06197500 Boulder River near Contact, MT. The Boulder River gage has a sporadic period of record including 1910 through 1916, 1929, 1951 through 1969, 1971 through 1975, 1982, 1983, and 2022.

Peak flows were compared to different recurrence intervals at the gage. Figure 3-4 shows measured peak flow data at the gage by year in comparison to the 10-year (10% AC), 50-year (2% AC), and 100-year (1% AC) recommended USGS values (Siefken, et al., 2023).

Figure 3-4 Boulder River near Contact, MT (06197500)


Note: The figure only shows years with measured Boulder River peak flows at the Boulder River near Contact, MT gage station. The years shown include 1910 through 1916, 1929, 1951 through 1969, 1971 through 1975, 1982, 1983, and 2022. Years with no peak flow data (1917 through 1928, 1930 through 1950, 1970, 1976 through 1981, and 1984 through 2021) are not shown.

3.1.2.1.2 Boulder River Recommended Peak Discharge Comparison to Past Values

The Boulder River hydrology was not studied as part of the effective FIS. However, the Boulder River gage station, 06197500, was studied as part of three prior USGS studies. A comparison of these studies and the current 1% AEP peak discharge estimates are shown in Table 3-4.

Table 3-4 Boulder River USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Analysis	1% AEP (100-year) (cfs)
06197500	Boulder River near Contact, MT	WRIR 92-4048	1992	6,900
		WRIR 03-4308	2003	6,980
		SIR 2015-5019-C	2015	6,890
		wymt_ffa_2022Yellowstone	2023	7,040 ¹

AEP: Annual Exceedance Probability. cfs: cubic feet per second. FFA: Flood Frequency Analysis. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resource Investigations Report.

WYMT: Wyoming Montana.

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

1. 1% AEP peak flow estimate was determined using MOVE.3 to extend the period of record and synthesize data for peak flow years where the gage station was inactive.

As shown in Table 3-4, the 1% AEP peak discharge determined in the 2023 USGS flood frequency analysis was higher than the previously determined 1% AEP peak discharge at the Boulder River gage station. When comparing the current 2023 USGS estimated 1% AEP (Siefken, et al., 2023) to the most recent past study, SIR 2015-5019-C (Sando, et al., 2015), the current estimate resulted in a 2% change at the Boulder River near Contact, MT gage. Methodology between the 2015 study and the 2023 study was updated. Therefore, the increase in estimated peak discharge can be attributed to the change in methodology, the increased period of record, and the large annual peak discharges from 2020 and 2022. The 2020 peak discharge value was synthesized using MOVE.3; MOVE.3 is used to extend the gage station's period of record.

3.1.2.1.3 Boulder River Flood History Documentation

The flood of record at the Boulder River near Contact, MT gage station occurred on June 13, 2022. Prior significant flooding events during the period of record at the Boulder River near Contact, MT gage station occurred in 1971, 1974, and 1975; these events each exceeded the estimated 50-year flood event. No historical or photographic records of the prior Boulder River floods were found during the flood history investigation.

The 2022 peak discharge was measured at 7,100 cfs and the next largest measured flood occurred in 1975 and had a measured peak discharge of 6,800 cfs. Due to the remoteness of the Boulder River reach in Park County, few structures are in the floodplain and were damaged during the 2022 flooding. The structures that are in the floodplain are in the rural town of Contact, Montana. No photographic records were found of the 2022 flood event.

3.1.2.2 Gardner River

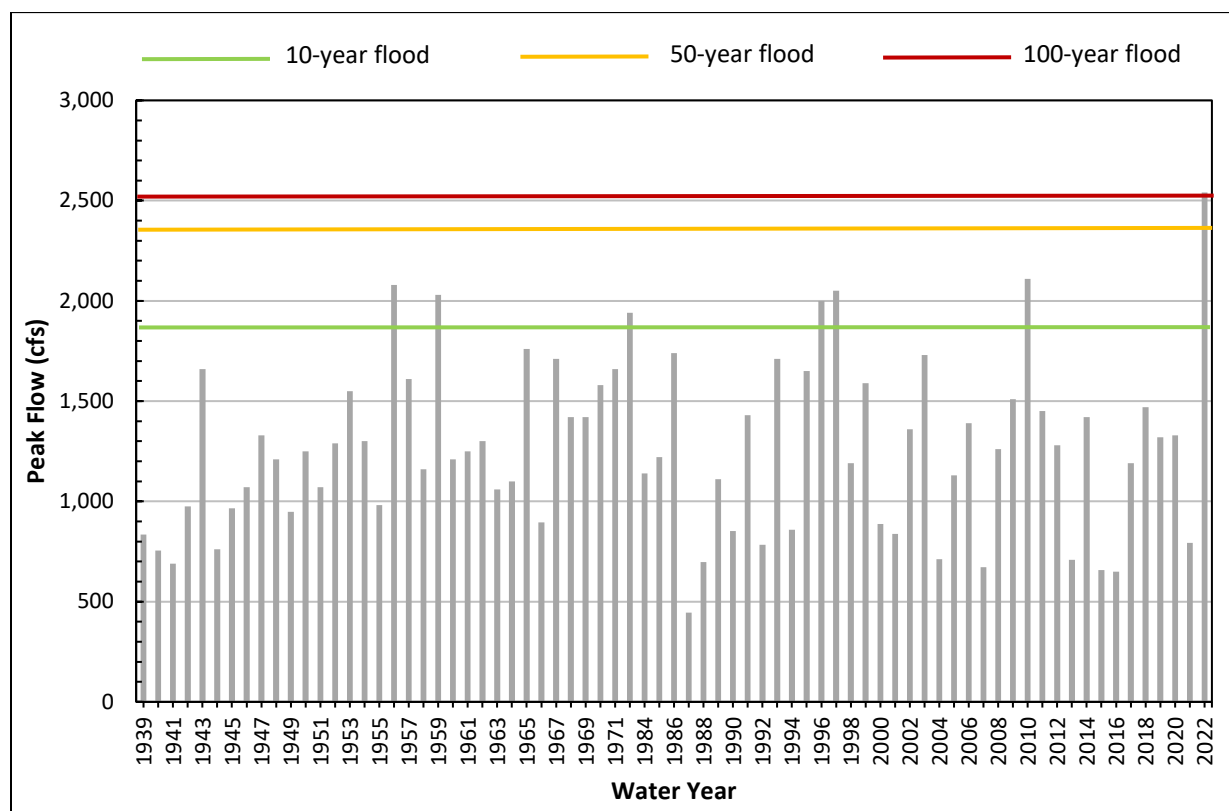
The Gardner River originates in the northern portion of Yellowstone National Park and flows along the previous Highway 89 before flooding washed away portions of the highway. Upstream of Gardiner, Montana, the confluence of the Gardner River and Yellowstone River occurs. The Gardner River watershed encompasses 207 square miles.

The AEP peak discharges for the Gardner River were not included in the effective FIS report. A USGS gage station is located upstream of the study reach.

3.1.2.2.1 Gardner River USGS Gage Station Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The gage station evaluated for flood history on the Gardner River was 06191000 Gardner River near Mammoth, Yellowstone National Park, WY. The Gardner River gage station has a period of record from 1939 through 1972 and 1984 to present.

Peak flows were compared to different recurrence intervals at the gage. Figure 3-5 shows measured peak flow data at the gage by year in comparison to the 10-year (10% AC), 50-year (2% AC), and 100-year (1% AC) recommended values (Pioneer, 2024).

Figure 3-5 Gardner River near Mammoth, Yellowstone National Park, WY (06191000)


Note: The figure only shows years with measured Gardner River peak flows at the Gardner River near Mammoth, Yellowstone National Park, WY gage station. The years shown include 1939 through 1972, and 1984 through 2022. Years with no peak flow data (1973 through 1983) are not shown.

3.1.2.2.2 Gardner River Recommended Peak Discharge Comparison to Past Values

The Gardner River hydrology was not studied as part of the effective FIS. However, the Gardner River gage station, 06191000, was studied as part of three prior USGS studies. A comparison of these studies and the current 1% AEP peak discharge estimates are shown in Table 3-5.

Table 3-5 Gardner River USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Analysis	1% AEP (100-year) (cfs)
06191000	Gardner River near Mammoth, Yellowstone National Park, WY	WRIR 92-4048	1992	2,320
		WRIR 03-4308	2003	2,450
		SIR 2015-5019-C	2015	2,450
		Pioneer 2024 ¹	2024	2,520

AEP: Annual Exceedance Probability. cfs: cubic feet per second. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resource Investigations Report.

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

1. A PeakFQ flood frequency analysis was performed by Pioneer because the Gardner River gage station was not included in the most recent USGS hydrologic analysis.

As shown in Table 3-5, the 1% AEP peak discharge determined in the 2024 Upper Yellowstone Hydrologic Analysis (Pioneer, 2024) was greater than the previously determined 1% AEP peak discharge at the Gardner River gage station. When comparing the current 2024 estimated 1% AEP to the most recent past study, SIR 2015-5019-C (Sando, et al., 2015), the current estimate resulted in a 3% increase at the Gardner River near Mammoth, Yellowstone National Park, WY gage. Methodology between the 2015 study and the 2023 study was updated. Therefore, the increase in estimated peak discharge can be attributed to the change in methodology, the increased period of record, and the large annual peak flow from 2022.

3.1.2.2.3 Gardner River Flood History Documentation

The flood of record occurred on June 13, 2022; this flood event was nearly equivalent to the current 100-year flood event. Other significant peak discharge events recorded at the Gardner gage station occurred in 1956 and 2010; these two events were near the estimated 25-year peak discharge, but no historical or photographic records of the flooding were found.

During the 2022 flood the measured peak flow value of 2,540 was 20 cfs over the estimated 1% AEP peak discharge of 2,520 cfs. The 2022 peak discharge was 120% of the 2010 peak discharge, which was the previous flood of record. In early June 2022, a large rain on snow event in the Absaroka and Beartooth mountains led to flooding on many of southwest Montana's streams. The Gardner River between Mammoth, Yellowstone National Park, Wyoming, and Gardiner, Montana, severely damaged Highway 89/North Entrance Road, as shown on Photograph 3-19 and Photograph 3-20. An estimate determined by the U.S. Army Corps of Engineers in 2022 put the cost and time of repairing the 2-mile stretch of Highway 89 near \$1 billion and nearly 5 years (Vigliotti, 2022). It is still undecided if the road will be reconstructed along the same route or along a new route. Currently, a temporary road has been constructed on Old Gardiner Road that serves at the entrance into Yellowstone National Park. Photographs of some of the Northeast Entrance Road repair progress can be found on the Yellowstone National Park Service's (NPS) Flickr here: [Improvement Project: Old Gardiner Road | Flickr](#). The Yellowstone NPS Flickr page has an album of the 2022 flood and recovery efforts and can be found here: [Event: 2022 Flood & Recovery Efforts | Flickr](#).

The closure of the North Entrance to Yellowstone National Park as a result of the destruction of the North Entrance Road drastically impacted the town of Gardiner, Montana, economically. As a gateway community to Yellowstone National Park, the town and the businesses rely on the tourism industry. The park entrance closure resulted in a 65% decrease in tax revenue for the community of Gardiner (Sindelar, 2023).

Photograph 3-19 Gardner River Flooding 2022 – Highway 89



Caption: Highway 89 South between Gardiner, Montana, and Mammoth, Yellowstone National Park, Wyoming, at the 45th parallel is washed away by the 2022 Gardner River flood. The image on the left is from 2019 and the image on the right is from 2022. Source: Google Earth Imagery.

Photograph 3-20 Gardner River Flooding 2022 – Highway 89 near Gardiner, MT



Caption: Highway 89 S between Gardiner, Montana, and Mammoth, Yellowstone National Park, Wyoming, south of Rescue Creek trailhead is washed away by the Gardner River 2022 flood. The image on the left is from 2019 while the image on the right is from 2022.

3.1.2.3 Soda Butte Creek

Soda Butte Creek and its tributaries originate in the Absaroka Mountains near the northeast entrance of Yellowstone National Park. It is a tributary to the Lamar River, which flows into the Yellowstone River near Tower Junction, Yellowstone National Park. The Soda Butte Creek watershed, within the Park County study area, encompasses 27.4 square miles. The Park County communities of Cooke City and Silver Gate are located along Soda Butte Creek.

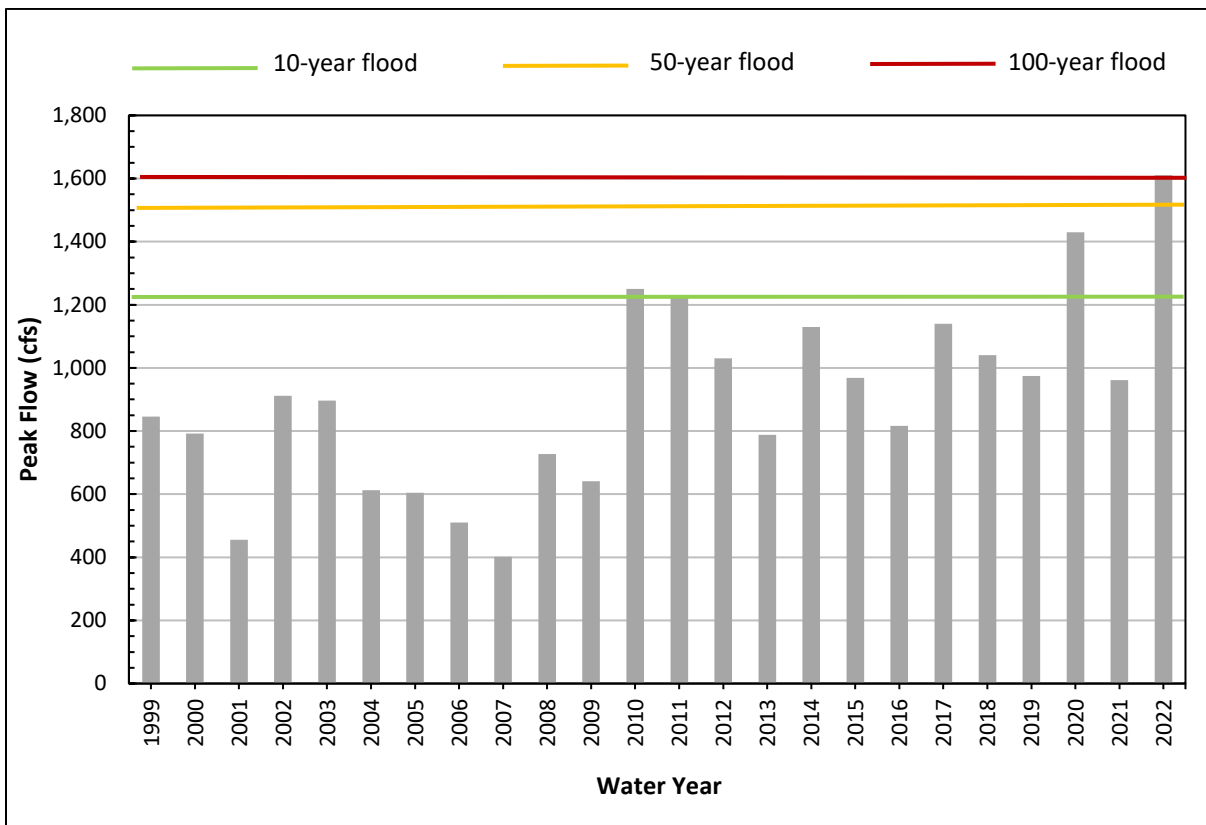
The AEP peak discharges for Soda Butte Creek were not included in the effective FIS report. One USGS gage station is located downstream of the study reach.

3.1.2.3.1 Soda Butte Creek USGS Gage Station Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The gage station evaluated for flood history on Soda Butte Creek was 06187915 Soda Butte Creek at Park Boundary, at Silver Gate, MT. This gage became active in 1999.

Peak flows were compared to different recurrence intervals at the gage. Figure 3-6 shows measured peak flow data at the gage by year in comparison to the 10-year (10% AC), 50-year (2% AC), and 100-year (1% AC) recommended USGS values (Siefken, et al., 2023).

Figure 3-6 Soda Butte Creek at Park Boundary at Silver Gate, MT (06187915)



3.1.2.3.2 Soda Butte Creek Recommended Peak Discharge Comparison to Past Values

Soda Butte Creek hydrology was not studied as part of the effective FIS. However, the Soda Butte gage station, 06187915, was studied as part of two prior USGS studies. A comparison of these studies and the current 1% AEP peak discharge estimates are shown in Table 3-6.

Table 3-6 Soda Butte Creek USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Analysis	1% AEP (100-year) (cfs)
06187915	Soda Butte Creek at Park Boundary at Silver Gate, MT	SIR 2015-5019-C	2015	1,650
		wymt_ffa_2022Yellowstone	2023	1,600

AEP: Annual Exceedance Probability. cfs: cubic feet per second. FFA: Flood Frequency Analysis. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WYMT: Wyoming Montana

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

As shown in Table 3-6, the 1% AEP peak discharge determined in the 2023 USGS flood frequency analysis was slightly lower than the previously determined 1% AEP peak discharges at the Soda Butte Creek gage station. When comparing the current 2023 USGS estimated 1% AEP (Siefken, et al., 2023) to the most recent past study, SIR 2015-5019-C (Sando, et al., 2015a), the current estimate resulted in a 3% decrease at the Soda Butte Creek at Park Boundary at Silver Gate, MT gage. Methodology between the 2015 study and the 2023 study was updated. Therefore, the decrease in estimated peak discharge can be attributed to changing methodology and increased period of record. Despite most gage stations in the Absaroka Mountain Range seeing an increase in 1% AEP peak discharge estimates, the Soda Butte Creek gage became active in 1999 and has a relatively low period of record. At the time of the 2015 study, the Soda Butte Creek gage was studied using only 11 years of record; the current study used 24 years of record. As the period of record increases, the estimated AEP peak discharges become more accurate.

3.1.2.3.3 Soda Butte Creek Flood History Documentation

The Soda Butte Creek flood of record was recorded on June 12, 2022; this flood event was nearly equivalent to the current 100-year flood event. Prior USGS recorded peak flood events occurred in 2010, 2011, and 2020. The 2010 and 2011 events met or exceeded the estimated 10-year peak discharge, and the 2020 event exceeded the estimated 25-year peak discharge. Prior USGS gage station historical reports indicate flooding in 1996 (Boughton, 1999), and historical photographs indicate flooding on Soda Butte Creek in 1997.

In early June 2022, a large rain on snow event in the Absaroka and Beartooth mountains led to flooding on many of southwest Montana's streams. The measured peak flow value of 1,610 was 10 cfs over the estimated 1% AEP peak discharge of 1,600 cfs at the Soda Butte Creek at Park Boundary, at Silver Gate, MT gage station. The 2022 peak discharge was 113% of the 2020 peak discharge, which was the previous flood of record. Soda Butte Creek peaked at a gage height of 4.94 feet in 2022, and the 2020 gage height was 3.67 feet.

In June of 2022, near Cooke City, Montana, and Silver Gate, Montana, the Soda Butte tributaries of Miller Creek, Sheep Creek (B), and Woody Creek also experienced large flood events. Soda Butte Creek and Sheep Creek, located between Silver Gate and Cooke City, saw dangerously high water levels and severely eroded banks and damaged bridges and roadways, such as Bannock Trail Road, though Cooke City, Montana, and Silver Gate, Montana (Shelly, 2022). Troy Wilson, the fire chief of Cooke City/Silver Gate stated both Miller Creek and Woody Creek, located on either end of Cooke City, were dangerously high and the Woody Creek bridge had been wiped out (Weber, 2022).

Further downstream, Soda Butte Creek severely damaged the Northeast Entrance Road/ Highway 212. Due to the significant and widespread flooding in southwest Montana and northern Wyoming, Cooke City and Silver Gate, Montana, were isolated for over a day until the Chief Joseph Highway (Highway 296) toward Cody, Wyoming, was opened when flood water receded. The other two routes out of town were closed for an extended period of time. The Beartooth Highway toward Red Lodge, Montana, damaged by Rock Creek flooding in Carbon County, opened toward the end of July (Rossi, 2022) while Highway 212/Northeast Entrance Road, damaged by Soda Butte Creek and the Lamar River, did not open until the middle of October, 4 months after the flood (National Park Service, 2023). Photographs of some of the Northeast Entrance Road damage and repair progress can be found the Yellowstone NPS's Flickr here: [Improvement Project: Northeast Entrance Road Flood Repairs | Flickr](#). The Yellowstone NPS Flickr page has an album of the 2022 flood and recovery efforts, which can be found here: [Event: 2022 Flood & Recovery Efforts | Flickr](#).

The closure of the Northeast Entrance to Yellowstone National Park as a result of the destruction of the Northeast Entrance Road drastically impacted Cooke City and Silver Gate, Montana, economically. Both communities are gateway communities to Yellowstone National Park, and the towns and the businesses rely on the tourism industry. The park entrance closure resulted in a 60% decrease in revenue for the summer of 2022, as reported by a hotel manager in Cooke City, Montana, and the hotel manager also stated that for the businesses in these communities, the only time the businesses make money is in the summer time (Sindelar, 2023).

No historical or photographic documentation of the recorded 2010, 2011, or 2020 Soda Butte Creek flooding was found during the flood history investigation. Limited documentation of flooding occurring along Soda Butte Creek in Cooke City and Silver Gate, Montana, in both 1996 and 1997 was found; however, the Soda Butte Creek USGS gage station was not active during the floods. Therefore, a peak flow value is not associated with the flooding. Photographs from the 1997 flood event are shown on Photograph 3-21 through Photograph 3-24.

Photograph 3-21 Soda Butte Creek Flooding 1997 – Grizzly Lodge Silver Gate, MT



Caption: Grizzly Lodge surrounded by June 1997 floodwaters in Silver Gate, Montana. Source: Park County.

Photograph 3-22 Soda Butte Creek Flooding 1997 – Silver Gate, MT



Caption: Silver Gate, Montana, welcome sign surrounded by ponding from the 1997 floodwaters. Source: Park County.

**Photograph 3-23 Soda Butte Creek Flooding 1997 –
Convenience Store Silver Gate, MT**



Caption: Convenience store in Silver Gate, Montana, is surrounded by 1997 floodwaters.
Source: Park County.

Photograph 3-24 Soda Butte Creek Flooding 1997 – Cooke City, MT



Caption: Flooding near Colter Pass outside of Cooke City in 1997. Source: Park County.

3.1.2.4 Stillwater River

The Stillwater River originates in the high mountain peaks of the Absaroka Mountains. Within Park County, the Stillwater River basin encompasses 48.6 square miles, but by the time it joins the Yellowstone River in Stillwater County at Columbus, Montana, the watershed basin is over 1,000 square miles. There are no communities along the Stillwater River in Park County.

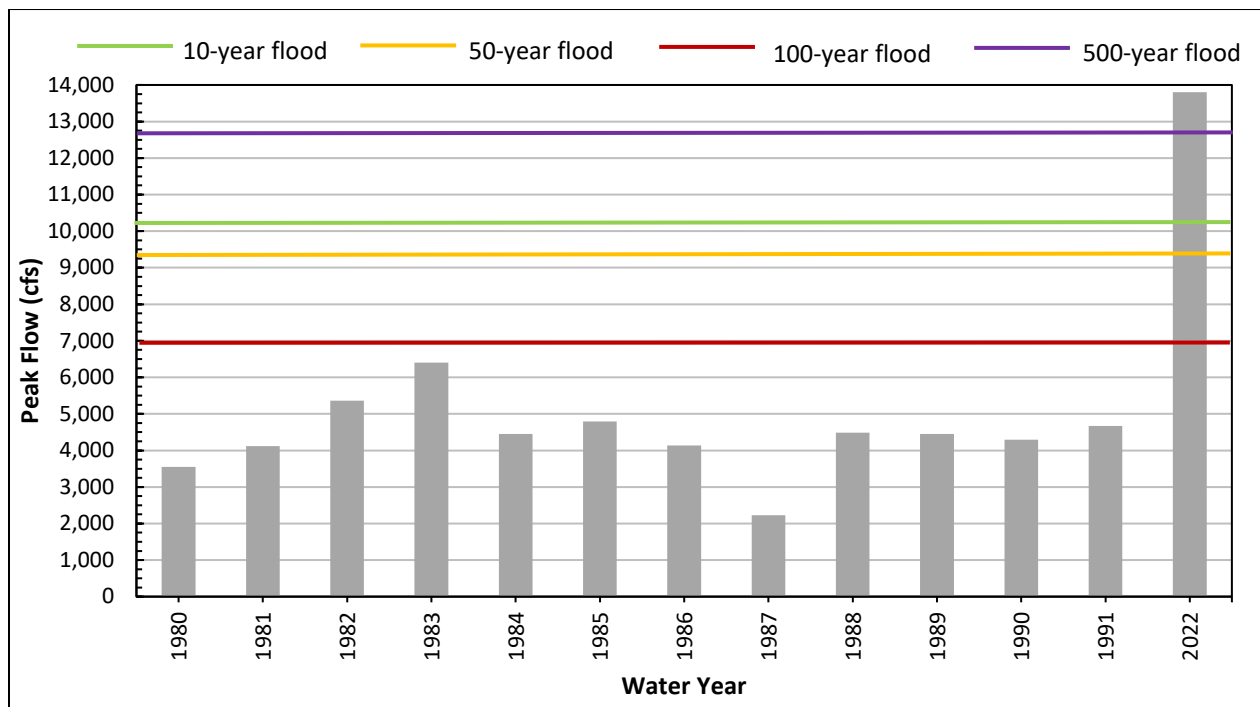
The AEP peak discharges for the Stillwater River and tributaries were not included in the effective FIS report. There are two USGS gage stations on the Stillwater River, but only one gage station is located near the study reach. The gage station located nearest to the study reach was evaluated for flood history.

3.1.2.4.1 Stillwater River USGS Gage Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The gage station evaluated for flood history on the Stillwater River was 06202510 Stillwater River above Nye Creek, near Nye, MT and has a period of record of 1980 through 1991 and 2022.

Peak flows were compared to different recurrence intervals at the gage. Figure 3-7 shows measured peak flow data at the gage by year in comparison to the 10-year (10% AC), 50-year (2% AC), 100-year (1% AC), and 500-year (0.2% AC) recommended USGS values (Siefken, et al., 2023).

Figure 3-7 Stillwater River above Nye Creek, near Nye, MT (06202510)



Note: The figure only shows years with measured Stillwater River peak flows at the Stillwater River above Nye Creek near Nye, Montana, gage station. The years shown include 1980 through 1991, and 2022. Years with no peak flow data (1992 through 2021) are not shown.

3.1.2.4.2 Stillwater River Recommended Peak Discharge Comparison to Past Values

The Stillwater River hydrology was not studied as part of the effective FIS. However, the Stillwater River gage station, 06202510, was studied as part of two prior USGS studies. A comparison of these studies and the current 1% AEP peak discharge estimates are shown in Table 3-7.

Table 3-7 Stillwater River USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Analysis	1% AEP (100-year) (cfs)
06202510	Stillwater River above Nye Creek, near Nye, MT	WRIR 03-4308	2003	6,820
		SIR 2015-5019-C	2015	6,820
		wymt_ffa_2022Yellowstone	2023	10,200 ¹

AEP: Annual Exceedance Probability. cfs: cubic feet per second. FFA: Flood Frequency Analysis. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resource Investigations Report.

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

1. 1% AEP peak flow estimate was determined using MOVE.3 to extend the period of record and synthesize data for peak flow years where the gage station was inactive.

As shown in Table 3-7, the 1% AEP peak discharge determined in the 2023 USGS flood frequency analysis was higher than the previously determined 1% AEP peak discharges at the Stillwater River gage station. When comparing the current 2023 USGS estimated 1% AEP (Siefken, et al., 2023) to the most recent past study, SIR 2015-5019-C (Sando, et al., 2015a), the current estimate resulted in a 50% increase at the Stillwater River above Nye Creek, near Nye, MT gage. Methodology between the 2015 study and the 2023 study was updated. Therefore, the increase in estimated peak discharge can be attributed to changing methodology, increased period of record, and the large annual peak flows from 2022 and 2020. The 2020 peak discharge value was synthesized using MOVE.3, which is used to extend the gage station's period of record.

3.1.2.4.3 Stillwater River Flood History Documentation

The flood of record occurred on June 13, 2022. In early June 2022, a large rain on snow event in the Absaroka and Beartooth Mountains led to flooding on many of southwest Montana's streams. This flood event exceeded the current 500-year flood event on the Stillwater River. The measured peak flow value of 13,800 cfs was 1,100 cfs over the estimated 0.2% AEP peak discharge of 12,700 cfs at the Stillwater River above Nye Creek, near Nye, MT gage station. The 2022 peak discharge was 216% of the 1983 peak discharge, the previous flood of record. The 2022 peak discharge was 150% of the synthesized flood of record corresponding to the 1967 flood. The synthesized peak flow value was estimated using gage information from the downstream Stillwater near Absarokee, MT gage station.

There was limited to no damage from the Stillwater River flooding in Park County. However, downstream on the Stillwater River in Stillwater County, severe damage was reported and is

shown on Photograph 3-25. No flood photographs of the Stillwater River in Park County were found corresponding to flood events.

Photograph 3-25 Stillwater River Flooding 2022 – Nye Road



Caption: Nye Road at the Sibanye – Stillwater Mine was washed away by the Stillwater River in June 2022.

Sources: Left: Esri Imagery post 2022 flooding. Right: 2015 Google Earth.

3.1.2.5 Ungaged Park County Yellowstone River Tributaries

Many smaller tributaries throughout Park County pose a flood risk to communities and rural or remote areas but are ungaged and do not have measured peak flow values associated with them. The following sections discuss flooding associated with Fleshman and Mill creeks but do not provide a comprehensive flood history of all flooding of streams in Park County; many floods in remote or rural areas are not well documented.

3.1.2.5.1 Fleshman Creek Flood History Documentation

Fleshman Creek, a smaller ungaged tributary to the Yellowstone River, flows through Livingston, Montana. Due to the route of the stream, it has the potential to greatly impact Livingston when flooding. The watershed area of Fleshman Creek encompasses 23.9 square miles.

Significant flooding of Fleshman Creek, in conjunction with an irrigation ditch flooding, occurred in March 2014. The combined flooding was due to rapid snowmelt due to warm weather in the hills north of Livingston, Montana. The flooding led to an evacuation of 70 people from their homes. Crews were required to work through the night pumping water from the irrigation ditch into a nearby field and water from Fleshman Creek into the Yellowstone River. Fleshman Creek overtopped Park Street/Highway 89 through town, and roadways were turned into “small rivers” (Maschmedt, 2014). According to NBC Montana, the flooding prompted a state of

emergency and the most impacted areas from the flooding were South 9th Street to South 12th Street and Park Street down to the Yellowstone River (Staff, 2014).

Previous substantial flooding of Fleshman Creek occurred in June 1937 and June 1950 due to heavy rain in the Bangtails, and in May 1951 due to rapid snow melt. The costs of the floods during their respective years were \$80,000, \$60,000, and \$60,000, (Storey, 2014). Those costs, using the American Institute for Economic Research's cost calculator, would equate to \$1.6 million, \$730,000, and \$675,000 in today's dollars. The 1937 flood was reported in 2018 as the most damaging Fleshman Creek flood on record. The floodwaters, backed up to the railroad tracks, flowed along the railroad corridor, and overtopped the tracks in the business district of Livingston, inundating homes and businesses (RESPEC, 2018). The 1950 and 1951 Fleshman Creek floods inundated similar areas in consecutive years, flooding approximately nine city blocks. Resulting damage to foundations, lawns, streets, and sewage facilities was reported (RESPEC, 2018).

3.1.2.5.2 Mill Creek Flood History Documentation

Mill Creek originates in the Absaroka Mountain Range. Although Mill Creek had an operable USGS gage station from 1951 through 1956, the stream is considered ungaged due to the short period of record. The Mill Creek watershed is a popular area for hunting, fishing, and recreation. The creek flows from the high mountain peaks, down through the Absaroka Mountains foothills, and into the Yellowstone River in the Paradise Valley. The Mill Creek watershed encompasses approximately 171 square miles.

Mill Creek, like many of the streams and rivers in southwest Montana, flooded during June 2022. Near the Mill Creek - Yellowstone River confluence, the Park County Sheriff's Office reported flooding of Burnside [Lane] along Mill Creek the day of the flooding (Park County Sheriff's Office, 2022). In the foothills, Mill Creek overflowed its banks upstream of East River Road, but it was not reported to have overtopped East River Road. Mill Creek at East River Road is shown on Photograph 3-26. Higher in the mountains, the bridge connecting Snowbank Campground in the Absaroka Mountains to Mill Creek Road was washed out, and damage to Mill Creek Road West Fork was reported due to West Fork Mill Creek flooding (Miller & Rosenbaum, 2023). West Fork Mill Creek is a major tributary to Mill Creek.

Photograph 3-26 Mill Creek Flooding 2022 – East River Road



Caption: Mill Creek spills over its banks on June 13, 2022, but does not overtop East River Road. Source: Park County.

3.1.2.5.3 Mulherin Creek Flood History Documentation

Mulherin Creek, a tributary to the Yellowstone River near Corwin Springs, Montana, originates in the Gallatin Mountains on the west side of the Yellowstone River. There are small communities, such as the Church Universal and Triumphant, located along Mulherin Creek. The entire watershed encompasses 52.1 square miles.

Although there was little to no documentation of flooding history along Mulherin Creek found during the flood history investigation. The National Weather Service reported that during the disastrous flooding of southwest Montana in June 2022, Mol Heron Creek Road bridge was closed due to water overtopping the road and a downed tree. The closure made the upper half of the Cinnabar Basin inaccessible (NWS NOAA, 2022).

3.2 Shields River Basin

The Shields River basin, settled between the Crazy Mountains and the Bridger/Bangtail ranges, is a major Yellowstone River tributary. The river generally flows from north to south before its confluence with the Yellowstone River east of Livingston, Montana. The Shields River tributaries typically originate in the Crazy Mountain Range to the east and in the Bridger/Bangtail ranges to the west before entering the Shields River. In total, the Shields River basin encompasses over 850 square miles.

3.2.1 Shields River

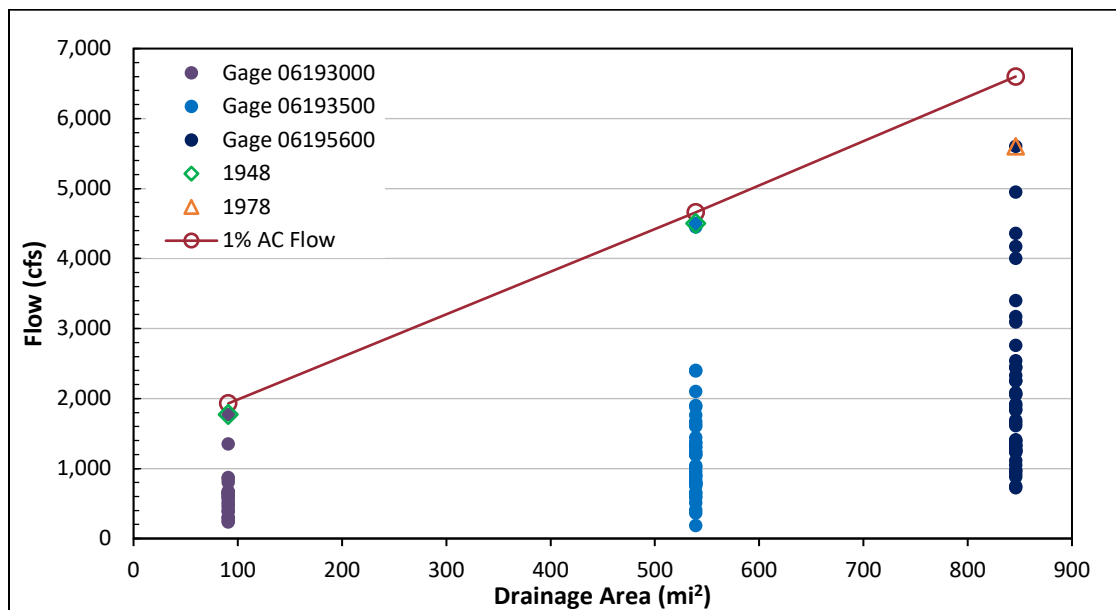
The Shields River originates in the Crazy Mountains in the northeastern portion of Park County. The Shields River study reach extends from the confluence of the Shields River, near Livingston, Montana, north 62.5 miles through the Shields Valley. Drainage basin elevations range from 10,915 feet to 4,383 feet at the Shields River - Yellowstone River confluence.

Four USGS gage stations are located on the Shields River, although only three of the gage stations have a period of record over 10 years. The newest USGS Shields River gage has a period of record of 4 years (through water year 2022) and became active in 2019. The three gages with a period of record of over 10 years were used for flood history; the new gage was not analyzed.

3.2.1.1.1 Shields River USGS Gage Station Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The gage stations evaluated for flood history on the Shields River were 06193000 Shields River near Wilsall, MT, 06193500 Shields River at Clyde Park, MT, and 06195600 Shields River near Livingston, MT. The Shields River near Wilsall, MT gage station was active from 1936 through 1957. The Shields River at Clyde Park, MT was active from 1921 through 1923, 1929 through 1932, and 1934 through 1967. The Shields River near Livingston, MT gage has been active since 1979 and does not have an overlapping period of record with the two upstream gages. Figure 3-8 illustrates the measured peak flow history on the Shields River at the gage stations. Select extreme flooding events are highlighted, and the USGS estimated 1% AC peak discharges (Siefken, et al., 2023) are shown in red.

Figure 3-8 Shields River Gage Station Peak Flows



Peak flows were compared to different recurrence intervals at the gage. Figure 3-9 through Figure 3-11 show measured peak flow data at the gage by year in comparison to the 10-year (10% AC), 50-year (2% AC), and 100-year (1% AC) recommended USGS values (Siefken, et al., 2023).

Figure 3-9 Shields River near Wilsall, MT (06193000)

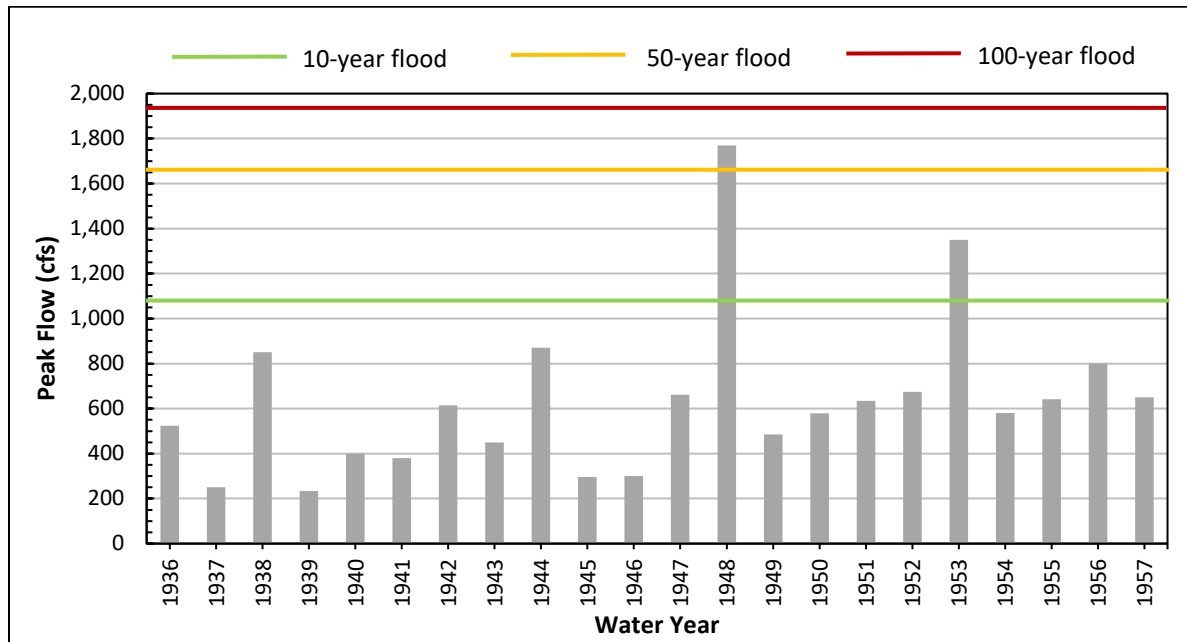
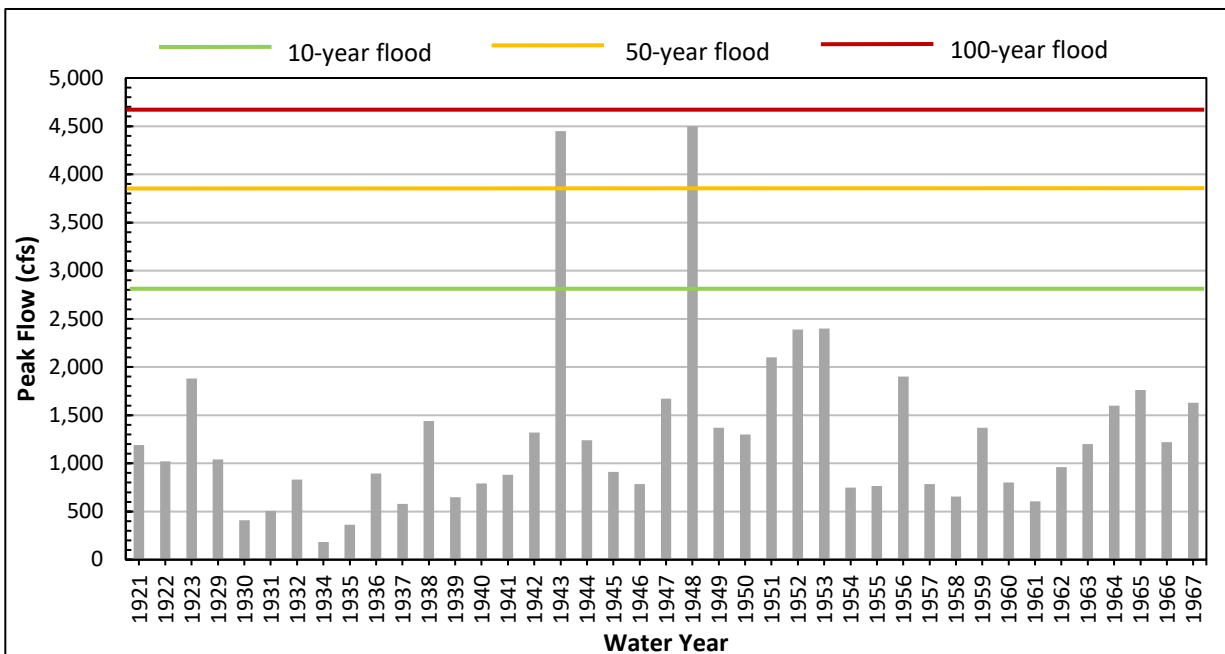
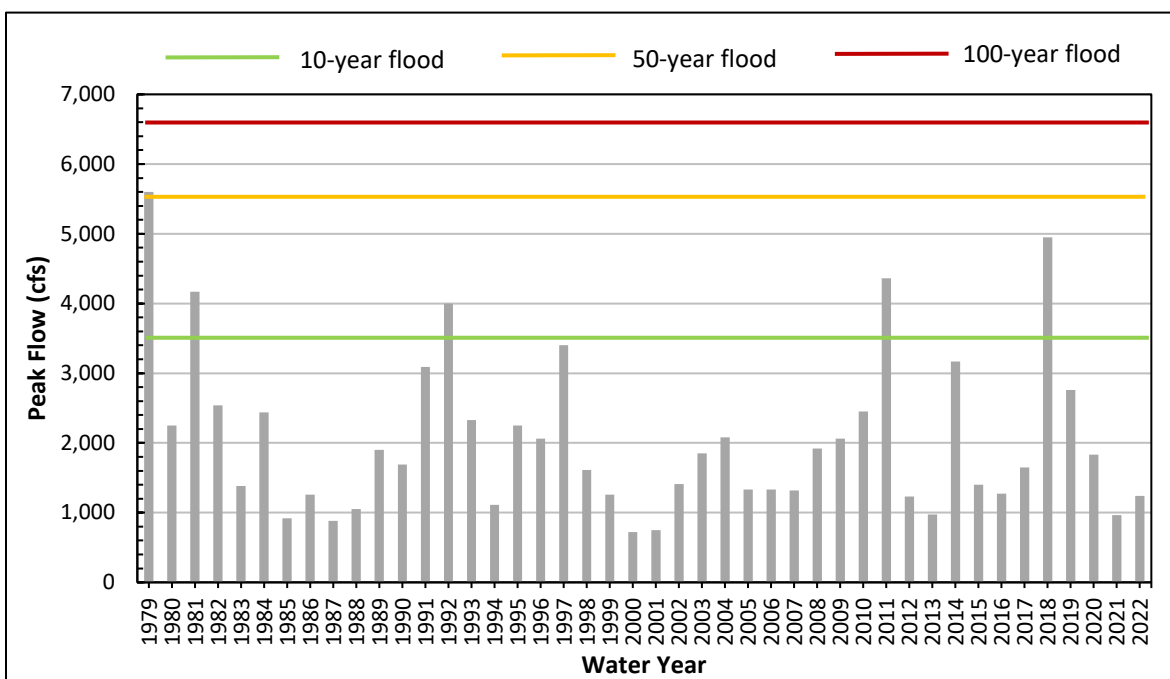


Figure 3-10 Shields River at Clyde Park, MT (06193500)



Note: The figure only shows years with measured Shields River peak flows at the Shields River at Clyde Park, MT gage station. The years shown included 1921 through 1923, 1929 through 1932, and 1934 through 1967. Years with no peak flow data (1924 through 1928 and 1933) are not shown.

Figure 3-11 Shields River near Livingston, MT (06195600)


3.2.1.1.2 Shields River Recommended Peak Discharge Comparison to Past Values

The Shields River hydrology was not studied as part of the effective FIS. However, the Shields River gage stations were studied as part of prior USGS studies. A comparison of these studies and the current 1% AEP peak discharge estimates are shown in Table 3-8.

Table 3-8 Shields River USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Analysis	1% AEP (100-year) (cfs)
06193000	Shields River near Wilsall, MT	WRIR 92-4048	1992	2,060
		WRIR 03-4308	2003	1,960
		SIR 2015-5019-C	2015	1,960
		wymt_ffa_2022Yellowstone	2023	1,930
06193500	Shields River at Clyde Park, MT	WRIR 92-4048	1992	4,810
		WRIR 03-4308	2003	4,730
		SIR 2015-5019-C	2015	4,750
		wymt_ffa_2022Yellowstone	2023	4,660
06195600	Shields River near Livingston, MT	WRIR 03-4308	2003	7,140
		SIR 2015-5019-C	2015	6,470
		wymt_ffa_2022Yellowstone	2023	6,600

AEP: Annual Exceedance Probability. cfs: cubic feet per second. FFA: Flood Frequency Analysis. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resources Investigation Report. WYMT: Wyoming Montana.

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

As shown in Table 3-8, the 1% AEP peak discharges determined for each gage station in the 2023 USGS flood frequency analysis were similar to previously determined 1% AEP peak discharges. When comparing the current 2023 USGS estimated 1% AEP (Siefken, et al., 2023) to the most recent past study, SIR 2015-5019-C (Sando, et al., 2015a), the current estimates resulted in a 2% decrease at the Shields River near Wilsall, MT and the Shields River at Clyde Park, MT gages, and a 2% increase at the Shields River near Livingston, MT gage. Between the 2015 and 2023 USGS studies, methodology was updated. The changes in estimated peak discharges for the Shields River near Wilsall and at Clyde Park gages can be attributed to changing methodology; the period of record at these gages did not change as both gages were inactive prior to the USGS studies. The slight increase seen at the Shields River near Livingston, MT gage can be attributed to the updated methodology, increased period of record, and the large annual peak flow value from 2018. Although the Shields River near Livingston, MT gage is active, the 2023 flood event was not measured due to gage malfunction; additionally, the 2023 USGS study (Siefken, et al., 2023) only included flow values through water year 2022.

3.2.1.1.3 Shields River Creek Flood History Documentation

The Shields River has impacted Park County residents multiple times, most recently in April 2023. Other peak floods, according to the USGS gage stations, occurred in 1943, 1948, 1979, 1992, 2011, and 2018. The Shields River did not see above average flows for 2022, a year much of southwestern Montana experienced record flooding. This was perhaps due to near drought conditions for the Shields River watershed and flows at 60% of normal in May of 2022 (Wright, 2022). Additional localized flooding has occurred on the Shields River due to ice jams.

The 2023 flooding of the Shields River and its tributaries overtopped roads, inundated and damaged homes, bridges, and agricultural lands as a result of low elevation rapid snow melt. The Park County Public Works Director, Matt Whitman, estimated the cost of damages near \$240,000 (Batura, 2023). Although extreme flooding occurred in the Shields River Valley in 2023, the only active USGS gage, the Shields River near Livingston, MT gage station on the Shields River was damaged or malfunctioned, and discharge at the time of the flooding was not able to be measured. However, according to the Park County, Montana, Facebook page, the Shields River peaked at 6.02 feet on April 12, 2023 (Park County, 2023a) and the USGS has a provisional estimated daily mean average of 3,830 cfs at the Shields River near Livingston gage station listed for April 12, 2023. When comparing the peak height of 6.02 feet and the estimated daily average mean of 3,830 cfs, the 2023 flood peak discharge was likely around 4,000 cfs. An estimated peak discharge of 4,000 cfs would put the 2023 Shields River flooding event between a 10-year and a 25-year event, below the flood of record, which was recorded in 1979 and had a peak gage height of 6.8 feet and peak discharge of 5,600 cfs. Three aerial photographs from the 2023 Shields River flood are shown on Photograph 3-27 through Photograph 3-29.

Photograph 3-27 Shields River Flood 2023 – Fiddle Creek Road



Caption: Shields River overtops Fiddle Creek Road in 2023 and inundated structures. Source: Lawson Moorman, Park County.

Photograph 3-28 Shields River Flood 2023 – 618 US Highway 89 North Livingston, MT



Caption: Shields River 2023 flooding inundates structures and agricultural land. Source: Lawson Moorman, Park County.

Photograph 3-29 Shields River Flood 2023 – 548 US Highway 89 North Livingston, MT



Caption: Shields River 2023 flooding inundates land and structures. Source: Lawson Moorman, Park County.

The 1943 flood occurred on March 30, 1943, and was the result of rapid snowmelt of a larger than average snowpack. The peak discharge was between a 50-year and 100-year event at the Shields River at Clyde Park gage station when compared to current AEP peak discharge estimates. The flood was not recorded as a significant flood event in the upper portion of the Shields Valley (above Wilsall, Montana); the recorded peak flow at the Shields River near Wilsall,

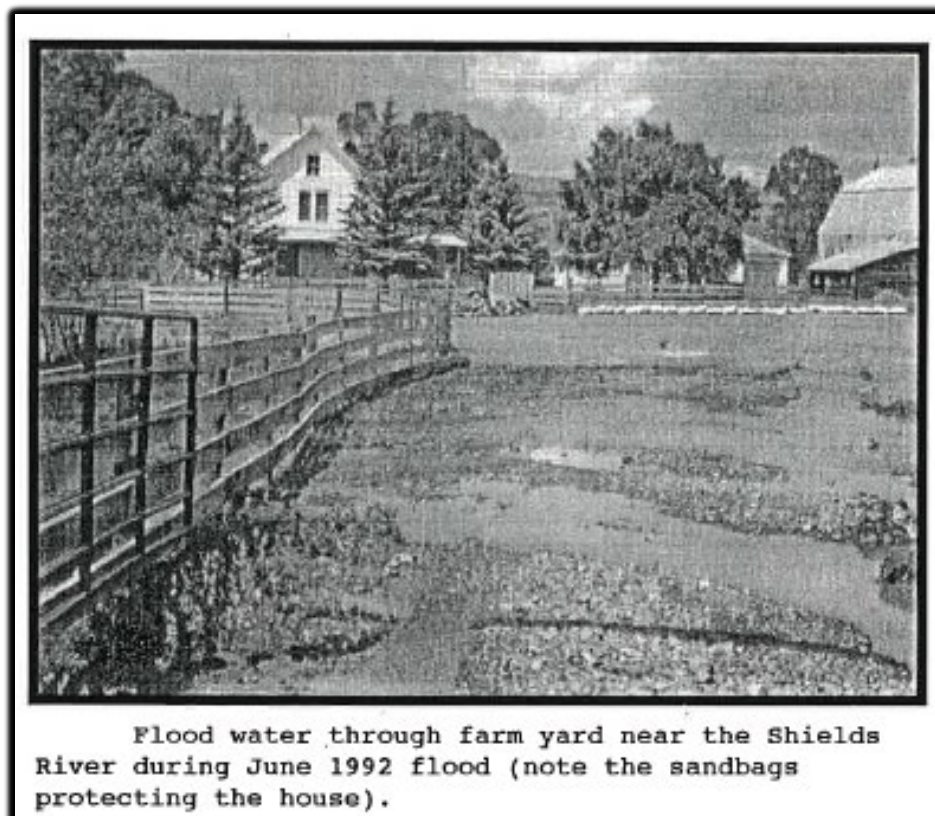
MT gage station was considered less than a 10-year event. The 1994 Shields River Floodplain Management Study (USDA SCS, 1994) reported livestock was lost and several families were evacuated.

The 1948 flood occurred on June 5, 1948, and was the result of heavy rains. The rains led to flooding on other streams in the region as well. Damages included farm equipment and vehicles that were swept into the stream (USDA SCS, 1994). The peak discharge was between a 50-year and 100-year event at the Shields River near Wilsall, MT and Shields River at Clyde Park, MT gage stations when compared to current AEP peak discharge estimates.

The 1979 flood is the largest recorded flood at the Shields River near Livingston, MT gage station and surpassed the current estimated 50-year peak discharge. The flood was the result of over 4 inches of rain falling in a short period of time. The flood reportedly closed seven bridges and flooded fields along the Shields River (USDA SCS, 1994).

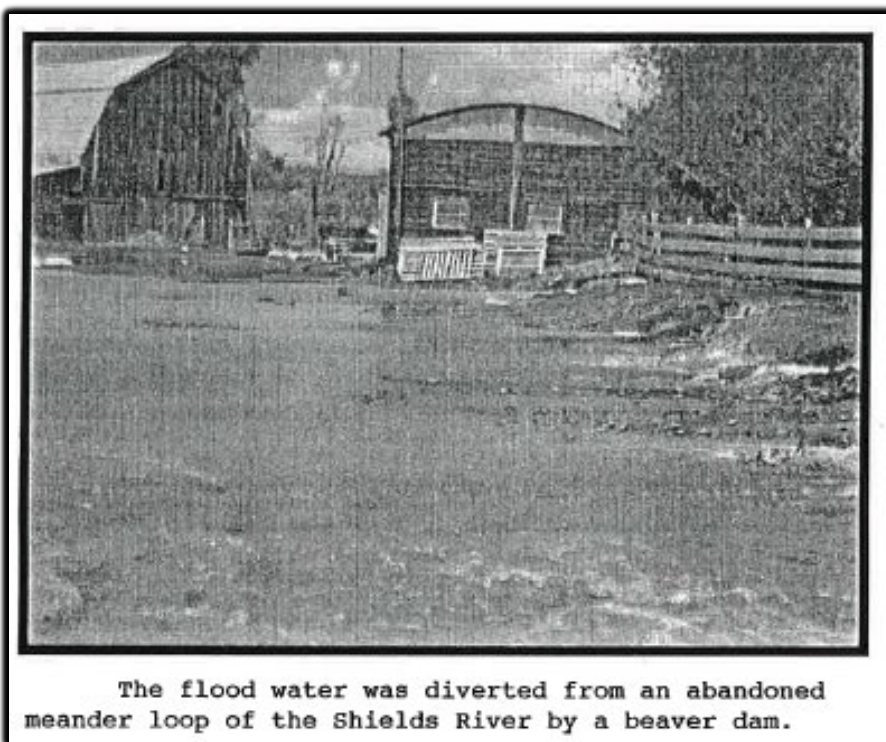
The 1992 flood surpassed the current 10-year peak discharge. It was only recorded at the active Shields River near Livingston, MT gage station. Photographic documentation of the 1992 flood is shown on Photograph 3-30 through Photograph 3-33.

Photograph 3-30 Shields River Flooding 1992 – Ponding near Residence



Source: (USDA SCS, 1994)

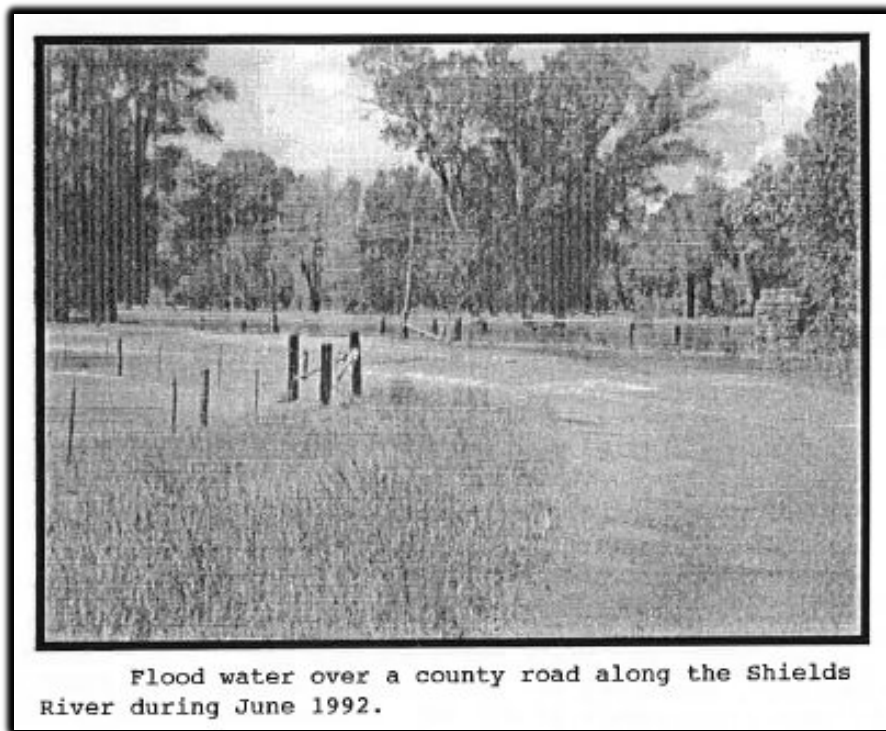
Photograph 3-31 Shields River Flooding 1992 – Ponding near Structures



The flood water was diverted from an abandoned meander loop of the Shields River by a beaver dam.

Source: (USDA SCS, 1994)

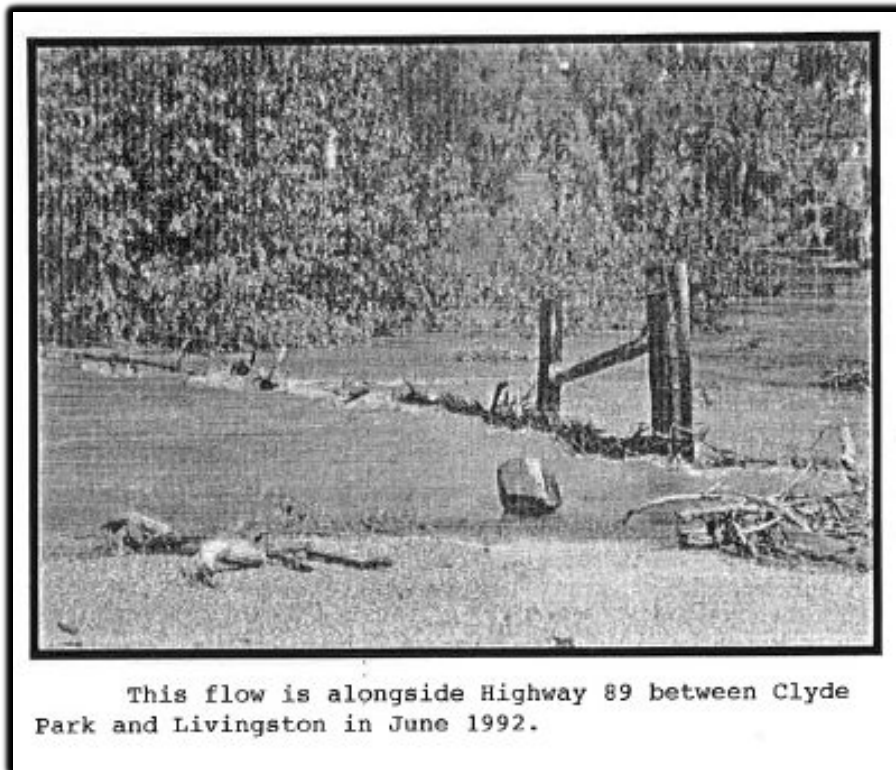
Photograph 3-32 Shields River Flooding 1992 – Road Inundation



Flood water over a county road along the Shields River during June 1992.

Source: (USDA SCS, 1994)

Photograph 3-33 Shields River Flooding 1992 – Field Inundation



Source: (USDA SCS, 1994)

The peak discharge in 2018 was 4,950 cfs and the peak discharge in 2011 was 4,360 cfs at the Shields River near Livingston, MT gage station. Comparing both of those to current AEP peak discharge values, the 2018 event was between a 25-year and 50-year event, and the 2011 event was approximately a 25-year event. Across the three Shields River gage stations, both active and inactive gages, the 100-year (1% AEP) discharges have not been exceeded. A video showing the extent of the 2018 flooding along Highway 89 through the Shields Valley can be found here: [Flooding Along Highway 89 \(youtube.com\)](#).

Additional Park County Shields River flooding photographs are provided in a geodatabase included in Appendix B.

Although the peak discharge was not significant compared to other years, the 2019 peak flow event on the Shields River washed out a temporary bridge installed over the Shields River on Convict Grade Road. The destruction of this bridge led to a 26-mile detour for residents east of Livingston, Montana (Just, 2019). The USGS recorded peak flow at the Shields River near Livingston, MT gage station was 2,760 cfs.

Additional flooding in the Shields Valley has occurred during the winter months due to ice jams. One reported ice jam flooded the Grannis School in 1996 (CRREL, 2007).

3.2.2 Shields River Tributaries

The tributaries of the Shields River throughout Shields Valley have seen significant flooding. Many of the tributaries are in rural areas of Park County but also near the communities of Clyde Park and Wilsall, Montana. Tributary flooding typically occurs while the Shields River is flooding and has significantly impacted residents of the Shields Valley. The Shields River tributaries typically originate in the Crazy Mountain Range to the east and in the Bridger/Bangtail ranges to the west before entering the Shields River. One Shields River tributary, Brackett Creek, is a gaged stream. Tributaries with significant flood history are discussed in the following sections.

As part of the Upper Yellowstone Hydrologic Analysis Park County study, 61 Shields River tributaries were analyzed. The flood history for each tributary was investigated. Table 3-9 lists the Shields River tributaries where flood history documentation was found and the corresponding level of analysis for the Park County hydrologic analysis study. These tributaries are discussed in the following sections. The complete list of reaches investigated is included in Appendix C.

Table 3-9 Shields River Tributaries Flood History Reach Summary

Stream Name	Analysis Approach	Total Length (miles)
Brackett Creek	Enhanced Zone AE	14.3
Cottonwood Creek B	Enhanced Zone AE	3.3
Flathead Creek	Enhanced Zone AE, Enhanced Zone AE with Floodway	16.2
Horse Creek B	Enhanced Zone AE	16.1
Looking Glass Creek	Enhanced Zone AE	2.8
Potter Creek	Enhanced Zone AE, BLE Zone A	27.1

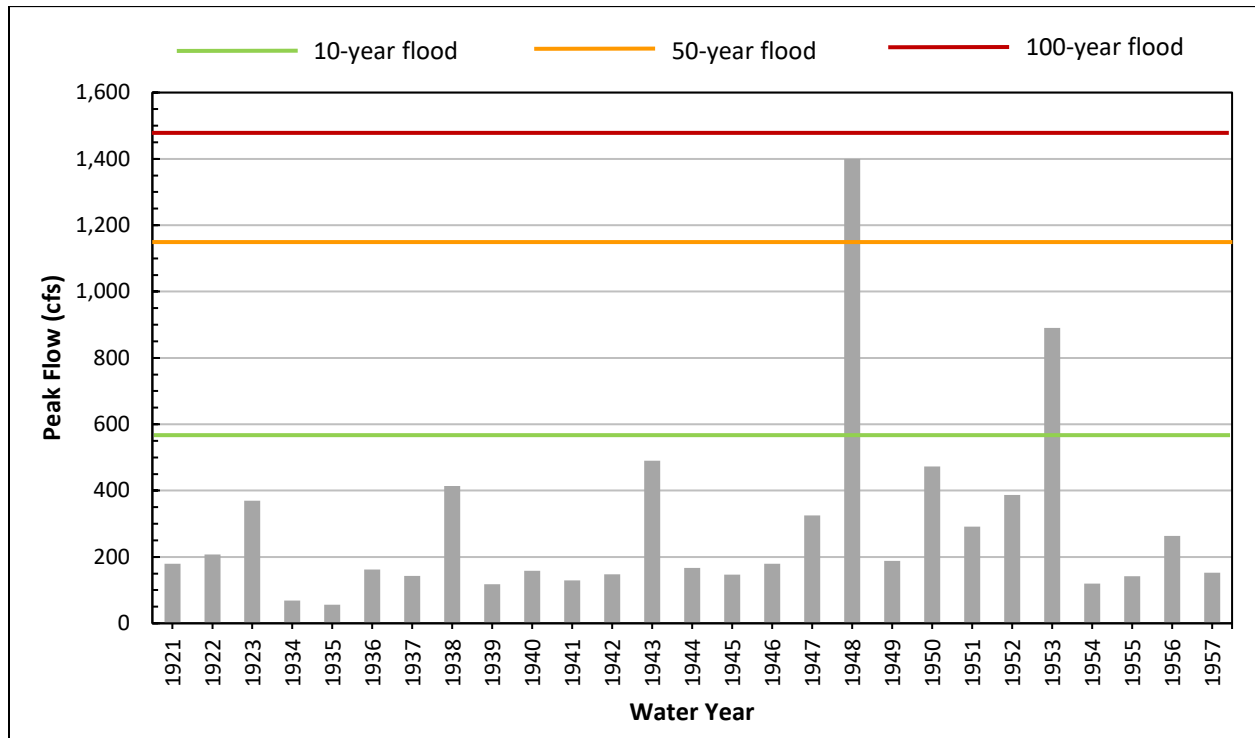
3.2.2.1 Brackett Creek

Brackett Creek originates in the Bridger Mountains near the Park – Gallatin County border. The confluence of Brackett Creek and the Shields River occurs downstream of Clyde Park, Montana. The watershed encompasses 65.5 square miles. Upstream of the Brackett Creek - Shields River confluence, one inactive USGS gage station is located on Brackett Creek.

3.2.2.1.1 Brackett Creek USGS Gage Station Peak Discharge Comparison

The USGS publishes a peak flow for each water year a gage station is in operation. The gage station evaluated for flood history on Brackett Creek was 06194000 Brackett Creek near Clyde Park, MT. The Brackett Creek gage station was active from 1921 through 1923 and 1934 through 1957. Peak flows were compared to different recurrence intervals at the gage. Figure 3-12 shows measured peak flow data at the gage by year in comparison to the 10-year (10% AC), 50-year (2% AC), and 100-year (1% AC) recommended USGS values (Siefken, et al., 2023).

Figure 3-12 Brackett Creek near Clyde Park, MT (06194000)



Note: The figure only shows years with measured Shields River peak flows at the Shields River at Clyde Park, MT gage station. The years shown include 1921 through 1923 and 1934 through 1957. Years with no peak flow data (1924 through 1933) are not shown.

3.2.2.1.2 Brackett Creek Recommended Peak Discharge Comparison to Past Values

Brackett Creek hydrology was not studied as part of the effective FIS. However, the Brackett Creek gage station, 06194000, was studied as part of three prior USGS studies. A comparison of these studies and the current 1% AEP peak discharge estimates are shown in Table 3-10.

Table 3-10 Brackett Creek USGS Gage Peak Flow Comparison

USGS Station Number	USGS Station Name	Peak Flood Frequency Source	Year of Analysis	1% AEP (100-year) (cfs)
06194000	Brackett Creek near Clyde Park, MT	WRIR 92-4048	1992	1,440
		WRIR 03-4308	2003	1,480
		SIR 2015-5019-C	2015	1,480
		wymt_ffa_2022Yellowstone	2023	1,470

AEP: Annual Exceedance Probability. cfs: cubic feet per second. FFA: Flood Frequency Analysis. SIR: Scientific Investigations Report. USGS: U.S. Geological Survey. WRIR: Water Resource Investigations Report. WYMT: Wyoming Montana.

Shaded row represents the current USGS flood frequency analysis and corresponding 1% AEP peak flow value.

As shown in Table 3-10, the 1% AEP peak discharge determined in the 2023 USGS flood frequency analysis was similar to the previously determined 1% AEP peak discharge at the Brackett Creek gage station. When comparing the current 2023 USGS estimated 1% AEP (Siefken, et al., 2023) to the most recent past study, SIR 2015-5019-C (Sando, et al., 2015), the current estimate resulted in a 1% decrease at the Brackett Creek near Clyde Park, MT gage. Between the 2015 and the 2023 studies, methodology was updated. Therefore, the slight decrease in estimated peak discharge can be attributed to the change in methodology. The period of record at the gage did not change between the studies as the gage has been inactive since 1957.

3.2.2.1.3 Brackett Creek Flood History Documentation

The flood of record occurred in 1948 on Brackett Creek, however the Brackett Creek gage station only has a 27-year period of record spanning years from 1921 through 1957. The flood, using current AEP peak discharges, fell between a 50-year and a 100-year event. An additional significant flood event occurred in 1953; the peak discharge exceeded a 25-year event.

Agricultural land as well as multiple residences and structures are in and near the Brackett Creek floodplain, however there is limited documentation of previous flooding on Brackett Creek.

3.2.2.2 Ungaged Park County Shields River Tributaries

Many smaller tributaries throughout Park County in the Shields Valley pose a flood risk to communities and rural or remote areas but are ungaged and do not have peak flow values associated with them. The following sections discuss flooding associated with Cottonwood Creek (B), Flathead Creek, and Looking Glass Creek but do not provide a comprehensive flood history of all flooding of streams in the Shields Valley; many floods in remote or rural areas are not well documented.

3.2.2.2.1 Cottonwood Creek B Flood History Documentation

Two Shields River tributaries are named Cottonwood Creek. Cottonwood Creek A originates in the Crazy Mountains and flows through Clyde Park, Montana. Cottonwood Creek B is a tributary to Potter Creek, which in turn, flows into Flathead Creek. It originates in the Bridger Mountains on the west side of the Shields River. Cottonwood Reservoir is situated along Cottonwood Creek B upstream of its confluence with Potter Creek. Although flooding can occur on both streams, documentation of flooding was only found for Cottonwood Creek B.

In April 2023, when much of the Shields River Valley was inundated with floodwaters, there were unconfirmed reports that Cottonwood Dam on Cottonwood Creek B was overtopped with floodwaters. There is a spillway on Cottonwood Dam that has been used in the past when the reservoir is at or above capacity; the most recent confirmed usage occurred in 2018 (IntoTheLittleBelts, 2018). Flood footage from the 2018 flooding on Cottonwood Creek B and other streams in the Shields Valley along Highway 89 is linked here: [Flooding Along Highway 89](#)

[- YouTube](#). Photograph 3-34 shows the inundation of Cottonwood Creek B near the Wilsall Airport upstream of Cottonwood Dam.

**Photograph 3-34 Cottonwood Creek B Flooding 2023 –
West of Wilsall Airport along US Highway 89**



Caption: Cottonwood Creek B floods in April 2023 along US Highway 89 near the Wilsall Airport. The upper portion of Cottonwood Reservoir is shown in the bottom left of photograph. Source: Lawson Moorman, Park County/ DNRC.

3.2.2.2 Flathead Creek Flood History Documentation

Flathead Creek and most of its tributaries originate in the Bridger Mountains near the Park - Gallatin County border. The Flathead Creek - Shields River confluence occurs upstream of Wilsall, Montana, near the intersection of Highway 89 North and Flathead Creek Road. Flathead Creek at the Shields River confluence has an ungaged basin of nearly 220 square miles.

In April of 2023, Flathead Creek flooded along with other Shields River tributaries. Flathead Creek floodwaters scoured behind the Shields River Road bridge crossing over Flathead Creek and forced the closure of the road. Vehicles were asked to detour using Potter Creek Road to access part of the upper Shields River Valley (Park County, 2023b). A photo showing the damage and repairs to the Shields River Road bridge over Flathead Creek can be found here: [Shields River Road bridge repaired, opened after flooding | News | livingstonenterprise.com](#).

Additional photographs that exemplify the severity of the Flathead Creek flooding are shown on Photograph 3-34 and Photograph 3-35.

Photograph 3-35 Flathead Creek Flooding 2023 – North of Horse Creek Road



Caption: Flood waters from Flathead Creek in April 2023 inundate farmland and structures north of Horse Creek Road. Source: Lawson Moorman, Park County/ DNRC.

Photograph 3-36 Flathead Creek Flooding 2023 – Unnamed Road



Caption: An unnamed road off Flathead Creek Road is overtopped and the culvert is at capacity during the April 2023 flooding. Source: Lawson Moorman, Park County/ DNRC.

3.2.2.2.3 Horse Creek B Flood History Documentation

Horse Creek B originates in the Crazy Mountain range east of the Shields River. Downstream of Wilsall, Montana, Horse Creek B flows into the Shields River. The creek mainly flows through agriculture land in a predominantly rural area and does not have many residences and structures along its banks.

Although there is limited documented flooding history on Horse Creek B, there is photographic documentation of Horse Creek B flooding in April 2023 when the Shields River Valley saw rapid snowmelt in the valley. Two photographs, Photograph 3-37 and Photograph 3-38, are shown below.

Photograph 3-37 Horse Creek B Flooding 2023 – Indian Creek Road



Caption: Rapid snowmelt in the Horse Creek B drainage resulted in high water in April 2023.
Source: Lawson Moorman, Park County/ DNRC.

Photograph 3-38 Horse Creek B Flooding 2023 – Horse Creek Road



Caption: Rapid snowmelt in the Horse Creek B drainage resulted in high water in April 2023 and in some locations the water overflowed the Horse Creek B banks. Source: Lawson Moorman, Park County/ DNRC.

3.2.2.2.4 Looking Glass Creek Flood History Documentation

Looking Glass Creek originates in the Bridger Mountain Range on the west side of the Shields River. Two back-to-back reservoirs are situated along Looking Glass Creek and are dammed by the O'Halloran Dams; O'Halloran Dam is downstream, and O'Halloran Dam #1 is upstream.

There is limited flood history documentation of flooding on Looking Glass Creek and O'Halloran dams. However, the DNRC provided photographs from the early 1990s where Looking Glass Creek near the O'Halloran dams was out of banks. These photographs, where the exact location is unknown, are provided on Photograph 3-39 through Photograph 3-41.

**Photograph 3-39 Looking Glass Creek Flooding in Early 1990s –
Near O'Halloran Road**



Caption: Water ponds on Looking Glass Creek near O'Halloran Road. Source: Park County.

**Photograph 3-40 Looking Glass Creek Flooding Early 1990s –
Ponding**



Caption: Looking Glass Creek overflows its banks. Source: Park County.

**Photograph 3-41 Looking Glass Creek Flooding Early 1990s –
Creek Swelling**



Caption: Looking Glass Creek overflows its banks. Source: Park County.

3.2.2.2.5 Potter Creek Flood History Documentation

Potter Creek originates in Meagher County on the west side of the Shields River. The creek mainly flows through agricultural land in Park County before its confluence with Flathead Creek near Wilsall, Montana.

There is limited flood history documentation of flooding on Potter Creek however, in April 2023, when much of the Shields River Valley was inundated with floodwaters, Potter Creek also flooded. The flooding was due to rapid snowmelt in the Shields Valley. Photograph 3-42 shows Potter Creek overflowing its banks near the Wilsall, Montana Airport.

Photograph 3-42 Potter Creek Flooding 2023



Caption: In April 2023, flooding of Potter Creek overtopped and unnamed road near the Wilsall Airport. On the left side of the photograph flooding of Cottonwood Creek B is also shown. Source: Lawson Moorman, Park County/DNRC.

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Appendix A

Letter of Map Amendment Table

Appendix B

Additional Park County Flood Photographs

Appendix C

Park County Study Reaches