# Livingston City Commission Agenda

December 02, 2025
5:30 PM
City – County Complex, Community Room

Join Zoom Meeting
https://us02web.zoom.us/j/84921918831?pwd=j3RasDK2IRdZYakG1cb87uUkX6Gya4.1

Meeting ID: 849 2191 8831
Passcode: 707470

---

1. Call to Order

2. Roll Call

3. Pledge of Allegiance
   *"I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."*

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

5.. Consent Items

- **A. APPROVAL OF MINUTES FROM NOVEMBER 4, 2025, REGULAR MEETING**
- **B. APPROVAL OF MINUTES FROM NOVEMBER 18, 2025, REGULAR MEETING**
- **C. APPROVAL OF MINUTES FROM DECEMBER 3, 2024, CLOSED SESSION**
- **D. APPROVAL OF MINUTES FROM DECEMBER 17, 2024, CLOSED SESSION**
- **E. APPROVAL OF MINUTES FROM JANUARY 21, 2025, CLOSED SESSION**
- **F. APPROVAL OF MINUTES FROM FEBRUARY 4, 2025, CLOSED SESSION**
- **G. APPROVAL OF CLAIMS PAID 11/13/25 - 11/25/25**
- **H. AGREEMENT 20239 WITH BRIDGER BOWL INC.**

6.. Proclamations

- **A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECOGNIZING DECEMBER 5, 2025 AS VOLUNTEER DAY IN LIVINGSTON, MONTANA**
- **B. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECOGNIZING DECEMBER 7, 2025 AS PEARL HARBOR DAY IN LIVINGSTON, MONTANA**

7. Scheduled Public Comment

8. Action Items

**A. FY 2024-25 ANNUAL COMPREHENSIVE FINANCIAL REPORT (FY 25 AUDIT)**

**B. APPROVAL OF PARKS MASTER PLAN**

**C. ORDINANCE 3064: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE TEXT OF THE CITY'S OFFICIAL ZONING ORDINANCE BY REPEALING THE ENTIRETY OF THE TEXT OF CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE AND REPLACING IT WITH NEW ZONING CODE TEXT.**

**D. ORDINANCE 3065: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 29 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "FLOODPLAIN REGULATIONS" BY REPEALING THE ENTIRETY OF CHAPTER 29 AND REPLACING IT WITH REVISED REGULATIONS.**

**E. ORDINANCE NO. 3066: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 28 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "SUBDIVISION REGULATIONS" TO COMPLY WITH STATE LAW, ALIGN WITH THE GROWTH POLICY, AND REFLECT COMMUNITY BEST PRACTICE AND EXPERIENCE.**

**F. CLOSED SESSION PURSUANT TO MCA 2-3-203(3) TO DISCUSS MATTERS OF PERSONAL PRIVACY**

9. City Manager Comment

10. City Commission Comments

11. Adjournment

Notice

- Public Comment: The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chair. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).

  The Chair shall have the discretion to solicit comments from the public in the following order: (1) residents of the City, (2) business owners or operators in the City, (3) other organizations conducting operations in the City, and (4) residents, businesses or organizations from outside the City. The Chair may limit each person's comment period to not less than three (3) minutes.

- Meeting Recording: An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Clerk. The City does not warrant the audio and/or video recording as to content, quality, or clarity.

- Special Accommodation: If you need special accommodations to attend or participate in City meetings, please contact the City Clerk at least 24 hours in advance of the specific meeting you are planning on attending.

**File Attachments for Item:**

**A. APPROVAL OF MINUTES FROM NOVEMBER 4, 2025, REGULAR MEETING**

# Livingston City Commission minutes

**November 4, 2025 — 5:30 PM**

City – County Complex, Community Room

https://us02web.zoom.us/j/85446895515?pwd=ZArzRBR47h2gpwyz6KJoEfBX6wehnT.1

**Meeting ID: 854 4689 5515**

**Passcode: 097335**

---

1. Call to Order

5:32 PM Chair Schwarz called the meeting to order

2. Roll Call

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

City Staff Present

- City Manager Grant Gager
- Chief of Police Wayne Hard
- Planning Director Jennifer Severson

3. Public Comment

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

Public comment was offered by:

- Jackie Feigel expressed concern about sidewalks on Yellowstone St. and around town. She also expressed concern about how some community members acted during the candidate forum.

- Jay Keifer asked about an item on the claims paid report. He also asked about street closure fees, frequency of City audits and fees associated, additional liability insurance, and forensic audits.
- Adlita Shan expressed appreciation to the City Commission and City Manager for their hard work.
- Becky Bird expressed agreement with Adlita's comments, and wanted to take a stand against violence in the community. She stated she would like the town to really understand that we have Kelly Miller working as the MCRT Program Manager as it's a benefit to the community and our first responders.

The City Manager addressed some comments and stated that sidewalks are the responsibility of the homeowner inside City limits.

Chair Schwarz stated if there is a really bad sidewalk you could make a formal complaint to the City and they would address that with the homeowner.

The City Manager stated in this year's budget there is a recommendation to provide some matching funds for homeowners, and this project would be launched in the spring. He stated the item on the claims report is not just for one planter but for multiple planters. Audit fees for the contractor are about $34,000 per year, and the City is audited every fiscal year. Auditors were just here a few weeks ago, and the audit results will come before the Commission in December. He stated forensic audits are typically done in response to a wrongdoing or investigation that comes from financial statements.

Vice Chair Nootz stated that they have requested that auditors take a double look at certain large projects and gave the example of the Wellness Center. She stated that the Commission needed to know, and the public wanted to know, a lot about this project, so it was flagged for extra review for the auditors.

The City Manager discussed the fee schedule regarding Special Events and street closures.

Vice Chair Nootz reminded that the City Manager doesn't set the fee schedule. She stated if there are questions about claims paid, they can always email the City Manager for more detail.

4. Consent Items

**A. APPROVAL OF MINUTES FROM OCTOBER 21, 2025, REGULAR MEETING** PG.4

**B. APPROVAL OF CLAIMS PAID 10/16/25 - 10/29/25** PG.37

Commissioner Willich motioned to approved consent items A & B, seconded by Vice Chair Nootz. Unanimously approved.

5. Proclamations

**A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECOGNIZING NOVEMBER 11, 2025 AS VETERANS DAY IN LIVINGSTON, MONTANA** PG.57

Chair Schwarz read the proclamation.

The City Manager stated there are quite a few veterans that make up our City staff and thanked them for their service.

Commissioner Willich stated he has lots of friends that are veterans and he thanked them for their service.

6. Scheduled Public Comment

7. Action Items

**A. ORDINANCE 3064: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE TEXT OF THE CITY'S OFFICIAL ZONING ORDINANCE BY REPEALING THE ENTIRETY OF THE TEXT OF CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE AND REPLACING IT WITH NEW ZONING CODE TEXT** PG.59

Chair Schwarz introduced the item and asked for any disclosures.

Commissioner Kahle disclosed that she is a staff member for Park County Environmental Council (PCEC) and they made comments to the Land Use Board (LUB). Commissioner Kahle stated that she does not participate in any work PCEC does within the City. Commissioner Kahle stated that she has had a discussion with the City Manager and City Attorney and has been advised that she is free to participate in this item and vote tonight so long as PCEC does not comment before the Commission.

The City Manager noted that the comments made by PCEC were, for the most part, not included in the document before the Commission tonight.

City Attorney Hesse stated if PCEC appeared tonight and made comments then Commissioner Kahle would no longer be able to participate or vote on this item.

Commissioner Lyons stated his wife has made some comments to the LUB and he sees some in the packet.

City Attorney Hesse stated that Commissioner Lyons is not employed by that agency and there is not an economic issue, such as review of contracts, so there does not appear to be a conflict of interest.

Commissioner Willich stated his spouse is a manager of some short-term rentals and commercial properties.

City Attorney Hesse stated that this is not conflict of interest.

The City Manager stated this is the first reading of Ordinance 3064, which is a text amendment to the LMC Zoning Provisions. He stated this item is before them as a result of the growth policy. The Manager stated there have been over 1500 comments made from the community and he thanked them for their feedback.

Planning Director Severson gave a brief presentation.

Vice Chair Nootz motioned for a 10-minute break, seconded by Commissioner Willich. Unanimously approved.

Commissioner Willich asked about the riparian setback removal request and wondered if it includes the Yellowstone River.

The City Manager stated at this time all riparian setbacks have been removed from the proposed text amendment to Chapter 30. Livingston has several different types and sizes of rivers that move through the City, and a one-size fits all approach would not be effective. They want to take the time and do an analysis on each of those waterways and come up with specific recommendations for each of them.

Commissioner Willich asked if there are any properties that bisect the Yellowstone River.

The City Manager stated no.

Commissioner Willich asked if the creeks are navigable.

The City Manager stated no.

Commissioner Kahle asked for clarification on the federal floodplain.

The City Manager stated the Yellowstone River is the only one of our waterways that has been mapped, and the floodways and floodplains that have been mapped still do have federal regulations.

Commissioner Kahle asked how quickly we could do that kind of analysis and whether we have the funds.

The City Manager stated it really comes down to identifying the funding for that. They have found some grant opportunities, and some fund balance in the general fund that could be used. He stated this could be done in under a year if the Commission wishes to do that.

Commissioner Kahle asked if there was an update on the FEMA maps.

The City Manager stated that the state personnel have funding through the end of March. There is some level of work continuing, but our federal partners have mostly been called off of the project due to the federal shut-down.

Commissioner Kahle asked if there are other communities in Montana that have riparian setbacks.

The City Manager stated there are several communities in the state that have riparian setbacks.

Commissioner Lyons asked for clarification on the high-density residential classification and what other classifications are absorbing it.

Planning Director Severson stated the most direct correlation for R3 to be reflected in the new code and map would be the high-density mixed use. It's the same height allowance, but the main difference

is that the R3 doesn't allow any commercial uses, and they are proposing that the high-density mixed use allows higher density residential and also mixed uses.

Commissioner Lyons asked if residential uses are allowed in all districts except for industrial and public community.

Planning Director Severson stated that is correct.

Commissioner Lyons asked if short-term rentals would be allowed in every classification that allows residential development except for light industrial. He wondered why LI was chosen to exclude short-term rentals.

Planning Director Severson stated that 2 years ago the state passed a law that said that for commercial districts they have to allow 5 or more units of residential development. When this change came before the Commission, she reminded that they requested that we not make it just 5 or more, we make it 1, 2, 3, 4, 5, so any number of residential uses whether they were mixed uses, or not could be allowed where the state said you have to allow them. LI with the new code is the only one where that applies.

The City Manager stated there are a few reasons, and one being a user standpoint, and it may not always be clear to a short-term renter that they are renting a unit that is located in a LI part of the City. LI has greater uses that may not be compatible with residential use, so putting short-term renters there could cause conflict with other users in the LI area. The City Manager also discussed land valuations for residential uses versus commercial and a concern for residential uses overwhelming the light industrial uses.

Public comment was offered by:

- Randy Carpenter who is representing Friends of Park County and supports the new code.
- Tara Eddy expressed concern for private property rights and opposes private property being taken for public use. She stated she has a petition that that has been submitted to the City Planner with 63 signatures (see enclosure).
- Becky Bird expressed it was smart to move riparian setbacks from the code.
- Linda Mahr asked what to do about parking after the state made the change to require less parking.
- Jeanette Blank asked about the map amendment process. She appreciates the inclusion of the Ag zone.
- Katherine Daly spoke about the comments she sent in to the City in writing and expressed concern about downzoning.
- Jack Luther expressed concern about incorporating a J Street.

The City Manager stated the zoning map ordinances require 15 days between readings, so if the ordinance is approved tonight, the 2nd reading of this ordinance would occur at the 1st meeting in December.

Vice Chair Nootz asked about conversations that happen with the development community and staff and wondered what that looks like. She stated that state code requires certain things, but many developers want to do right by the community and make the developments appealing to the community they are building in.

The City Manager stated that state law and local zoning code provide the bare minimum standard for development. City staff and applicants meet beforehand to make sure the project meets the intent of the growth policy and any other guiding documents. People that build building do understand that they will need to sell or rent those buildings or spaces, so creating a building with lower parking capacity will lower the economic return.

Vice Chair Nootz reflected on past developers taking community feedback into consideration for their projects.

Vice Chair Nootz expressed concern about the ag zone and is concerned about a zone that is of single use. She wants to discuss the LMU zone, but she does see the balance for LMU with community character and the high-density development. She thinks some of these zones are real improvements to what the community needs by tweaking certain things that can be happening on certain lands. When it comes to riparian areas, she thought it might be best to get more data that is specific to Livingston to help understand what makes sense for our community and how it impacts land owners that have currently built vs. undeveloped land.

Commissioner Lyons stated there is a lot to like in these changes. He expressed that mixed use is a good, and moving R3 to mixed use is a good thing. He clarified that they are not voting on an ag section tonight.

The City Manager stated they did not fully incorporate ag into this.

Commissioner Lyons thanked the LUB for bringing up the Ag Zone. He expressed concern about regulation of short-term rentals and stated they are allowed in any zone except one, so he doesn't think they are very regulated then. He thinks this is not the best plan and they should either not have it in the code at all, or do something about it. He expressed concern about R2 and incorporating neighborhood serving retail. He views this code as flattening density throughout Livingston and pointed out there is not a lot of difference you can do between R2 and CBD. He feels the quality of zones for density makes a bad zoning code.

Commissioner Kahle expressed concern about the shrinking of the CBD. She does not want to stifle the economic ability of the downtown area. She realizes the importance of height restrictions, and she is hoping for a balance. She expressed concern about removing the environmental protection sensitive areas section. She feels they need to be looking at that

especially around the corridors around the river. She also expressed that an R1 zone is not the same as an Ag zone and maybe would like to see that revised for the next reading. She asked about manufactured homes being on a foundation. She pointed out some key points in in the comment from Explore Livingston that she liked. She expressed agreement with Commissioner Lyons about short-term rentals.

The City Manager stated what is put in the zoning code is a framework to regulate short-term rentals. The framework used as a starting point the current status quo with short-term rentals. He pointed out that section 30.57 does introduce some regulation of short-term rentals such as type 1 and type 2 short-term rentals. He stated this is the first step in regulating short-term rentals and that the regulations largely mirror current practice.

Vice Chair Nootz clarified they can still have a conversation about short-term rental locations, and the fees could be addressed in the fee schedule. She wondered what the state says about short-term rentals.

The City Manager stated that the state classifies short-term rentals as a residential use, but that is for tax purposes and has nothing to do with zoning and land use.

Commissioner Kahle asked if that was something we need to codify into the zoning code.

The City Manager stated that codifying short term rentals in the zoning code is a first step in acknowledging their existence for future regulation.

Chair Schwarz understands keeping CBD the way it is, but does like the stepping down of heights. He expressed his big concerns are for the character, look of town and viewshed. For the Ag zone he thinks the 5-acre zone is too small.

Commissioner Willich stated he agrees that decreasing the size of the may be problematic. He agrees with the height restrictions. He expressed that doing nothing at all for riparian zones feels irresponsible for the City of Livingston. He recognized this was a large undertaking and thanked the City Manager and Planning Director for their hard work.

Commissioner Willich motioned for a 10-minute break, seconded by Vice Chair Nootz. Unanimously approved.

Commissioner Lyons gave input on categories for discussion and they are height, uses, and lot size.

Vice Chair Nootz expressed concern about the ag zone and changing the name so it is not just a single use zone.

Commissioner Lyons pointed out a regional example of the Bridger Canyon zoning district. He wondered in what ways equity could be considered in the ag zone they are discussing.

Commissioner Kahle expressed that Planning Director Severson is on the right path with the things she has in the ag district. She agrees that it maybe doesn't have to be an ag district, but does have larger lot sizes.

Vice Chair Nootz stated for this zone the goals are low intensity, open pastoral, not restricted to just Ag, and they want to see options with lot sizes.

Vice Chair Nootz pointed out they have a framework for regulating short-term rentals.

Commissioner Lyons asked what the negative impacts are for short-term rentals. He started by asking if they are worried that short-term rentals are taking away housing units.

Vice Chair Nootz stated some negatives are community character because people want to know their neighbors.

Commissioner Kahle stated short-term rentals can take away housing.

Commissioner Willich pointed out that some short-term rentals are because some folks are snowbirds.

Commissioner Kahle stated that some community members make their livelihood through short-term rentals.

Commissioner Lyons expressed that he was hoping they were going to make a more definitive plan for short-term rentals, but he recognizes this is a small step forward to being able to do that.

Commissioner Kahle understands that the data that could be reviewed after short-term rentals are required to register it with the City.

Commissioner Lyons asked how regulation would work.

The City Manager stated there are services that the City could contract with to look for short-term rental sites and then provide a report of listing in the area. He stated there are many ways to manage this.

Vice Chair Nootz and Commissioner Kahle are in agreement that wildlife corridors do not equal riparian zones and are two overlapping conversations.

Commissioner Kahle expressed that they are missing an opportunity by removing what was in the old policy.

The City Manager stated that language was not part of LMC, it was being contemplated as part of this process. In conversation with FWP, many of the maps and corridors have not been identified within the City.

Vice Chair Nootz would like to see fireworks stands removed from the use table since we don't allow use of fireworks inside City limits.

Commissioners agreed to this suggestion.

Commissioner Lyons brought up mobile homes.

The City Manager stated that topic is something appropriately handled through the building code.

Vice Chair Nootz brought up little to no traffic impacts.

The City Manager stated that section 30.54 deals with the home occupation. He stated there were some comments about trip generation and there are a number of points in criteria B which do target and limit trip generation.

Vice Chair Nootz brought up the CBD and asked what if they put LMU all around it.

Commissioner Lyons pointed out that could be addressed with the map when it comes before them. The issue tonight is height. He questioned if the right cap is 60 ft.

Vice Chair Nootz asked how tall the tallest building is.

The City Manager stated approximately 72 ft.

Commissioner Kahle wondered how high our fire trucks go.

The City Manager stated we have a 100ft ladder but that modern firefighting includes interior appurtenances to support the exterior work.

Vice Chair Nootz recognized that there are not that many tall buildings downtown and recalled the Murray is below 60 ft. She stated she is comfortable with 60 ft in the CBD.

Commissioner Willich and Chair Schwarz agreed they are okay with 60 ft in CBD.

Vice Chair Nootz recapped that the things coming back are open pastoral ag zone, no fireworks allowed, R2 definition fix, removing the line supporting transitional housing in the use table.

Vice Chair Nootz motioned to approve this item with edits: removing the supportive transitional housing from the residential uses in the list of use table, removing firework stands as not allowed in all zones, amending the definition of R2 to remove the clause starting with the word provided, and also to have staff bring back a proposal around ag zone addressing open pastoral lands, second by Commissioner Kahle. Unanimously approved.

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

**B. CLOSED SESSION TO DISCUSS LEGAL STRATEGY PURSUANT TO MCA 2-3-203(4)(b)**

**C. CLOSED SESSION TO DISCUSS MATTERS OF PERSONAL PRIVACY PURSUANT TO MCA 2-3-203(3)**

8. City Manager Comment

The City Manager thanked the community for their support.

9. City Commission Comments

Commissioner Willich thanked everyone for a productive night.

Commissioner Lyons thanked the City Manager and staff for their work on the zoning code.

Commissioner Kahle expressed that she enjoyed the conversation tonight and thanked the City Manager and staff for their work on the zoning code.

Vice Chair Nootz expressed the importance of doing the hard work on this document and thanked the City Manager and staff. She addressed a letter that was submitted and the seriousness of it. She thanked LPD and City staff for their support for the City Manager and his family during this time.

Vice Chair Nootz motioned to formalize a threat response policy that can be used in the future, seconded by Commissioner Willich.

Chair Schwarz agreed with everyone about the zoning code update. He gave congratulations to Jessica Wilcox, Cindy Daniels, and Kemp O'Neill on the City Commission election.

10. Adjournment

11:20pm Commissioner Lyons motioned to adjourn; Commissioner Kahle seconded by. Unanimously approved.

Calendar of Events

Supplemental Material

Notice

- Public Comment: The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chairman. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).

- Meeting Recording: An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Administration. The City does not warrant the audio and/or video recording as to content, quality, or clarity.

- Special Accommodation: If you need special accommodations to attend or participate in our meeting, please contact the Fire Department at least 24 hours in advance of the specific meeting you are planning on attending.

November 4, 2025

Livingston City Commissioners-Quentin Schwarz, Melissa Nootz, Karrie Kahle, Torrey Lyons, James Willich

Tara Eddy, Box 1454, Livingston, MT
Comments on Riparian Zoning Setbacks

Members of the Livingston City Commission,

I understand that Staff has recommended riparian buffer and setback requirements be withdrawn from the current text amendments and, instead, be considered during the forthcoming FEMA update to the City's Regulations. Dressing up a taking in FEMA clothes is still a taking.

Livingston does have very unique stream reaches, already developed with houses, streets, fences, etc. Property owners take good care of those reaches because we love them.

Sixty-three concerned citizens signed the Petition Against Riparian Setbacks, previously submitted to the City Planner. This shows strong opposition to the taking of private property for public purposes.

I continue to support the protection of private property rights as outlined in the United States Constitution and the Montana Constitution. I oppose private property taken for public use.

I have copies for each of you of my statement, the Petition Against Riparian Setbacks with sixty-three signatures, and a letter from Hertha L. Lund, Lund Law, PLLC.

Thank you.

HERTHA L. LUND
PETER B. TAYLOR
ATTORNEYS AT LAW
662 S. Ferguson Ave., Unit 2
Bozeman, MT 59718
Telephone: (406) 586-6254
www.Lund-Law.com

November 4, 2025

VIA HAND DELIVERY

Planning Department
City of Livingston
220 E. Park Street
Livingston, MT 59047

**RE: Comments on Riparian Zoning Setbacks**

Dear Members of the Livingston City Commission:

Lund Law, PLLC represents landowners within the City of Livingston ("City") who would be negatively impacted by part of your proposed Zoning Code Update, particularly with regard to Section 30.58, titled "Environmental Protection and Sensitive Areas." Even though the language has been removed from the proposed ordinance and the Consolidated Land Use Board now recommends against it, riparian setbacks, if the City ever implements them, will be a taking of private property under the Montana and United States Constitutions and require just compensation. Riparian setbacks would confiscate and devalue property that has been developed and utilized for residential lots and homes for decades. Effectively, setbacks would amount to the condemnation of a conservation easement across every riparian property within City limits. The City cannot 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 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 damaged" 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).

The City's proposed zoning regulation would be a taking under the Montana Constitution in addition to being a violation of the United States Constitution. The proposed ordinance's requirements will take 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.

Sincerely,

Hertha L. Lund
**LUND LAW, PLLC**
Lund@Lund-Law.com

10/30/2025 8:30 am 8 signatures submitted
10/14/2025 14
10/8/2025 41
63

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10/16/2025 | Peggy O'Neill | Peggy DA O'Neill | 210 Ash Lane Livingston | 406-222-0514 |
| 2 | 10/17/25 | STACE KNOTZ | [illegible] | 1007 EAGLE CT | 220-8181 |
| 3 | 10/29/25 | Krista Jeffery | Krista Jeffery | 601 B Geyser Livingston | (406)800-8140 |
| 4 | 10/29/25 | Veronica Beeler | Veronica Beeler | 401 S 8th St | 222-5424 |
| 5 | " | David Warnick | David Warnick | " | " |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/29-25 | Laura Bithnen | Laura Bithnen | 401 E 8st | 22.2 54124 |
| 7 | 10/29/25 | L. Krystle Borgmann | KWD | 1121 E. Lewis | (712) 485-9608 |
| 8 | 10/29/25 | Patricia Counts | Patricia Counts | 103 50 "M" St. | 224-406-2056 |
| 9 | | | | | |
| 10 | | | | | |
| 11 | | | | | |
| 12 | | | | | |
| 13 | | | | | |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |

10/14/2025 3:15
(14) Signatures submitted
+41 10/8/2025 (55)

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10/3 | Randy Hertz | Randy Hertz | 518 S 9th St | 223-2250 |
| 2 | 10/10/25 | Cindy Daniels | Cindy Daniels | 1023 Prairie Dr. | 302-858-9120 |
| 3 | 10/10/25 | Dotty L Watts | Dotty L Watts | 906 W. Crawford | 406-222-3603 |
| 4 | 10/10/25 | Amanda Haglund | Amanda Haglund | 507 S. 10th | A0a2234805 |
| 5 | 10/10/25 | Rob Lahren | RL | 507 S. 10th | 4062202282 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/13/25 | Leona R. Parriott | Leona R. Parriott | 614 W. Lewis | 406-222-1026 |
| 7 | 10-13-25 | Jenny L Parriott | Jenny L Parriott | 614 W Lewis | 406-222-1026 |
| 8 | 10-13-25 | Joseph L Parriott | Joseph L Parriott | 614 W. Lewis St. | 406 222-1026 |
| 9 | 10-13-25 | Herman Wilson | Herman E. Wilson | 1506 E. Lewis St | 406 220-3345 |
| 10 | 10/13/25 | Caitlyn McHaffie | Caitlyn McHaffie | 917 8th 10th St | 406-228-4785 |
| 11 | 10/13/25 | Gerald Ridings | Gerald Ridings | 104 S. N. St | 406-224-1256 |
| 12 | 10/13/25 | Barbara Ridings | BARBARA RIDINGS | 104 S. N ST | 406-224-8667 |
| 13 | 10/13/25 | Nancy Milligan | NANCY MILLIGAN | 508 W. Front Str. | 406-223-1719 |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 38 | | Duane Hank | | 919 west Geyser | |
| 39 | | | | | |
| 40 | | | | | |
| 41 | | | | | |
| 42 | | | | | |
| 43 | | | | | |
| 44 | | | | | |
| 45 | | | | | |
| 46 | | | | | |
| 47 | | | | | |
| 48 | | | | | |
| 49 | | | | | |
| 50 | | | | | |

## PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10-1-25 | Thomas Burns | Thomas Burns | 501 S. 7th St. | 406 220-3905 |
| 2 | 10-1-25 | William Evans | William Evans | 501 S. 7th St | 406-451-6728 |
| 3 | 10-1-25 | Brendan Burns | Brendan Burns | 501 S 7th St | 406-220-1912 |
| 4 | 10/1/25 | Charlene Burns | Charlene Burns | 501 S 7th St | 406-220-1188 |
| 5 | 10-1-25 | Jeff Martin | | 606 W Gallatin | 406 220 1924 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/1/25 | Maria Martin | Maria Martin | 606 W. Gallatin St. | (406)220-2412 |
| 7 | 10/1/25 | Cody Martin | | 606 W. GALLATIN ST. | (406)861-6204 |
| 8 | 10/2/25 | Gary Colsrooe | | 4116 S 10TH St. | 387-69-350 |
| 9 | 10/2/25 | Sandra Ptell | Sandy Ptell | 413 S. 11th St | 406 223 6161 |
| 10 | 10/2/25 | Nancy Clark | | 919 W. Geyser St | 406 220 3485 |
| 11 | 10/2/25 | Jim Floyd | | 406 S. 9th | 406-223-6006 |
| 12 | 10/2/25 | Tawni Floyd | Tawni M. Floyd | 406 S. 9th St. | 406-223-1735 |
| 13 | 10/03/25 | W. Cody Redmon | | 330 S. 11th St. | 406-228-6079 |
| 14 | 10/3/25 | Jackson Redmon | JR | 330 S. 11th St | 406-220-1476 |
| 15 | 10-3-25 | Jewel Redmon | JR | 330 S. 11th St | 406-220-1495 |
| 16 | 10/6/25 | Mark Carter | MKC | 426 S 10th | 406-284-27[illegible] |
| 17 | 10/6/25 | Terry Carter | Terry Carter | 426 So. 10th St. | 406 223-4287 |
| 18 | 10/6/25 | Caitlin Schauer | | 432 S. 10th St. | 406-223-1172 |
| 19 | 10/6/25 | Larry Eddy | | 1208 Male Harem Dr Lis MT | 406-599-3748 |
| 20 | 10/6/25 | Cory Bartlett | | PO Box 347 Livingston MT | 406-539-0002 |
| 21 | 10-3-25 | DAN ELDER | | 6004 So 9TH | 406-223-6605 |
| | | | | | |

## PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10-1 | John D Adams | John D Adams | 802 E Butte | HOG 224-2960 |
| 2 | 10-2 | Robert Price | Robert Price | 920 E. Butte | |
| 3 | 10-2 | Annette Burns | Annette Burns | 423 South K Street | 406 223-6106 |
| 4 | 10-2 | STAN ADAMS | Stan Adams | 321 So-K St | 222-0541 |
| 5 | 10-2 | Roberta Adams | Roberta Adams | 321 So K Street | 224-0281 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10-2 | Margaret Mege | Margaret Mege | 301 5th L Livingston MT | |
| 7 | 10-2 | Geo H Harvey | | 423 South K.st. | 406-224-1780 |
| 8 | 10-3 | Rose Brown | Rose Brown | 411 S F St. | (406)224-8069 |
| 9 | 10-3 | Barbara Burns | Barbara J Burns | 1018 E. Geyser ST | 406-223-2478 |
| 10 | 10/8/2025 | TARA EDDY | Tara Eddy | 604 S. 9th St | 406-223-6606 |
| 11 | | | | | |
| 12 | | | | | |
| 13 | | | | | |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |

## PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10/8 | CHRISTINE WISTEY | Chris Wistey | 12 BIG HORN DRIVE | 223-1200 |
| 2 | 10/8/25 | Kyra Pinango | | 9 Big Horn Drive | 581-8866 |
| 3 | 10/8/25 | Erin Willmann | | 10 Big Horn Drive | 512 775 1805 |
| 4 | 10/8/25 | Henry Pinango | | 9 Big Horn Dr. | 581-8866 |
| 5 | | D. Wistey | D. Wistey | 12 BIG HORN DR | 223-5155 |

# PETITION AGAINST RIPARIAN SETBACKS

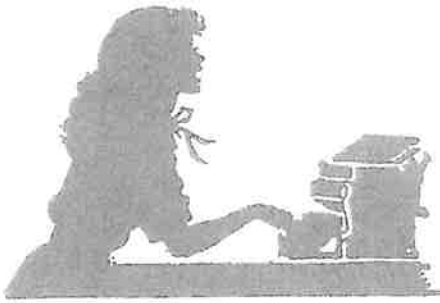
The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10-1-25 | Barbara Britt | Barbara Britt | 919 W. Crawford St | 406 224-5642 |
| 2 | 10-1-25 | Leslie Feigel | | 166 Miller dr | 406-223-6603 |
| 3 | 10/1/25 | Kemp O'Neill | | 620 N 9th street | 406-539-6148 |
| 4 | 10-1-25 | Judy Bonnell | Judy Bonnell | 618 No 12th | 406-224-1437 |
| 5 | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/8/25 | George Anderson | George Anderson | 14 Bighorn Drive | 406-223-7130 |
| 7 | | | | | |
| 8 | | | | | |
| 9 | | | | | |
| 10 | | | | | |
| 11 | | | | | |
| 12 | | | | | |
| 13 | | | | | |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |



from the desk of . . . Thurs. Oct 22nd

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

dear Grant Gager
Quenten Schwartz
Melissa Nooty
Karrie Kahle
Torrey Lyons
and James Willich
(as well as all city employees)

As each of you and all of you know, I did a horrible and almost unforgiveable thing.

I was in a "dark place" for a couple of hours - with my thoughts focusing on the pub-only downtown along with the survey on proposed changes to our 11 city parks.



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

Being a life-long citizen of our community, I have witnessed and lived through a number of changes here, and some (not all) have not been for the best.

Historically, the City Commission was always retired "city fathers" who had also been small business owners.

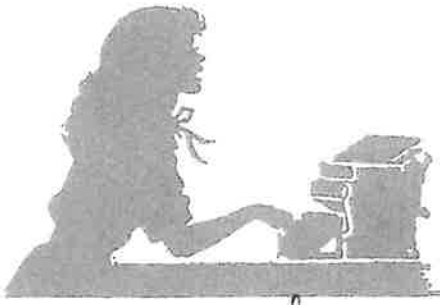
During my mother's term (Jody Fink - a retired Justice of the Peace ~~~ Livingston native herself) it was determined that the current council & Mayor/commission needed to change, and so they agreed



from the desk of . . .

Linda Gibson
325 South B
Livingston, Montana 59047

To change to a Manager/commission
format, fully understanding
that as Livingston was growing like
never before in it's history- we needed
someone with administrative and other
understanding & qualification to
help them make educated decisions
for short-term and long-term decisions.
During her time as Judge, our original
courthouse was torn down & the new
City County Complex was built, thereby
simplifying our local government
offices into one building - including
the Montana Motor Vehicle Division



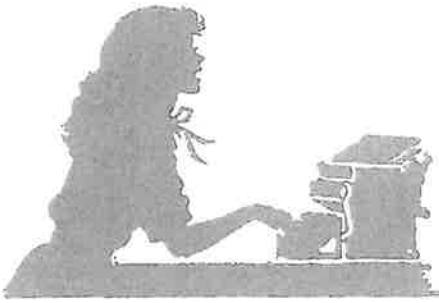
from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

office (which we all know, is a State office - + we merely charged them rent for their office..)

The Fire hall was where the Fire-hall Fitness Center is, the Police Dept was on B behind it, in the white stucco building where our county attorney is at present, and our city offices were all in the Firehall building. The Courthouse was County only - prisoners were now in the basement of the Courthouse, when there was a population overflow.

A volunteer committee of several

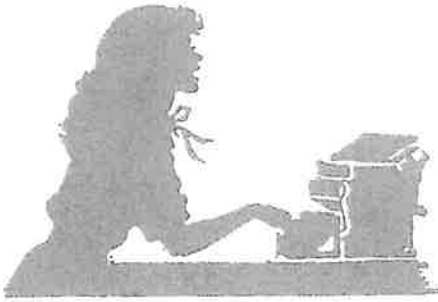


from the desk of . . .

Lindie Gibson
323 South B
Livingston, Montana 59047

local govt. employees, along with several ordinary citizens and business owners, worked tirelessly for a little over 4 years to plan & create the 11th County Complex as you all know it. They met for over 4 yrs once a month on their own time & on their "own dime" (their own time) to simplify and make it convenient for the public to have all their governmental needs met.

Yay! Forward to 2020 & Covid & Mike Yardley, with a W/O anyone's true



from the desk of . . .

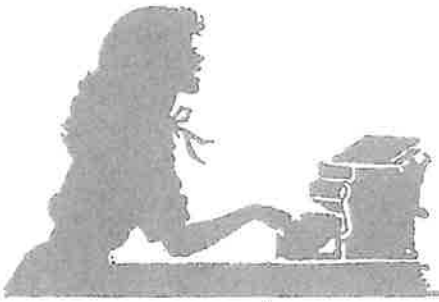
Lindie Gibson
~~525 South B~~
Livingston, Montana 59047

understanding of our local apartments history, took millions & moved some of the offices to Park street.

I think I can safely speak for the hearts of the native locals - we were heartsick. Without exaggeration every wk for 4+ years, the City Council complex ~~corrupt~~ was destroyed.

Without knowing his heart and mind, Grant hired a company to evaluate our City Parks & make recommendations for changes or improvements on them.

To date, I don't know what will



from the desk of . . .

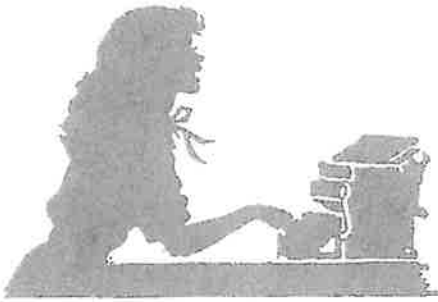
Lindie Gibson
~~325 South B~~
Livingston, Montana 59047

be the final results, because I know there has been transparency on let the public be made aware of this - plus give our input, Thank you for this, Grant.

As for the bulb-outs, I hope there were an experiment that failed.

From all the feed-back I have been exposed to - no one liked them.

For as much as I confess I know Grant's heart & thinking on these 2 crucial "proposed" changes to our downtown, I hope he, along with



from the desk of . . .

Lindie Gibson
~~323~~ South B
Livingston, Montana 59047

Each of you - are listening to the public.

The last time I spoke at a commission mtg. I mentioned these 2 issues, along with the bike path through town.

Why am I telling you all this?



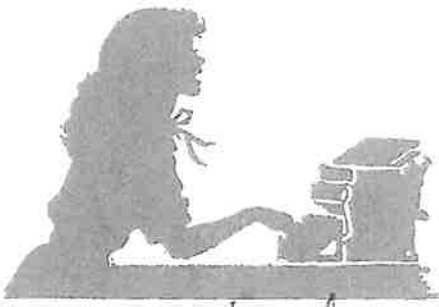
from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

"" because the "natives" are restless, and they're not happy.

I have a daily column that goes out ~~to~~ to over 3,000 Livingston natives, called "the Classmates Chronicles" as well as 11 Facebook pages, one is mine, the other 10 - Feature Livingston again (paradise Bureaucracy) local natives don't want our downtown or city parks to change.

Linda Tang even presented each of you with a petition one



from the desk of . . .

Lindie Gibson
323 South B
Livingston, Montana 59047

circulated- asking us to dem the decision making on our parks & downtown.

Real or imagined, the life-long population in our community feels they are not being heard.

Now- back to my wrong and horrible actions 2 weeks ago.

Feeling the stress & anxiety so many are also feeling -

- in a last ditch effort "to be heard", I wrote a very hateful a



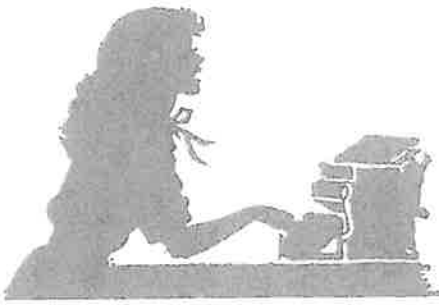
from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

threatening letter to Grant, a to Quentin (as chairman) - I disguised my penmanship because I consider both men my friends & I didn't want them to know it was from me.

If you can call me a liar, but I am not; I consider him my friend.

What I did to each of them was in a hateful and again - came from a moment when I was in a dark place - desperate to not see

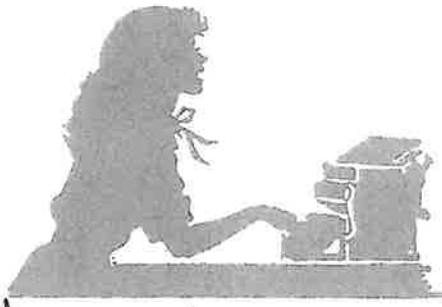


from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

downtown change. I have coffee downtown every day - it has felt hard to see the ugliness almost 3 months - on a daily basis.

After I wrote the letters & put them in the mailbox to be picked up, I felt relieved.... and then I started to feel a sense of "wrong-ness" on my part, as well as remorse for my actions, & I went to get the letters out of the mailbox (to throw away) & found that my mail carrier had



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

already picked them up.

I was sick + started to panic. I was sorry for what I'd done.

Now what do I do?! What do I do....?!

I got in my car + went down to the City offices + asked Grant for 2 minutes of his time, and told him I'd done a terrible + hateful thing + had written him a letter ——— and would he



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

please not open it. I showed him another legal-sized envelope like the one I'd mailed him & showed him the stamp I used (2 white roses) & showed him the black felt tip pen I used - so he'd know the letter was mine. I had disguised my penmanship so the men wouldn't have a clue who it came from.

I told him the letter was



from the desk of . . .

Lindie Gibson
~~1323 South B~~
Livingston, Montana 59047

horrible & hurtful and that I would never want to hurt him.

"Please tear up my letter & don't read it". "I would rather chop off my thumb than hurt you..."

and with that, he said "OK"

Little did I know his wife would open my letter and drink the poison.



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

Then I drove to Quenton & Vickie's house & told Quenton the same thing & said I was so so sorry - that I had acted out of frustration & anger. And Quenton said he forgave me and gave me a hug.

We visited for a few minutes more & I told him how so many people were upset over the bulb-ont & city parks issues & he told me that actually, no decisions had been

from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

made yet.

The next day when I came home from the store, I had this card in my door. I called Taylor & said I had company & could I come down to the station.

I went down & Taylor took me into a room & said he had an arrest warrent for me, & he was sorry, but he had to hand cuff me & place me under arrest.

He interrogated me for over half an hour - reading the charge



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

against me, and I told him minute by minute what I'd done.

I kind of went into shock - thinking that because I'd repented & had a change of heart and gone to Grant and then to Quentin that the issue had been resolved & that I'd been forgiven.

That's when Taylor said that a family member opened Grant's letter & called the police.

I'm glad & relieved that I

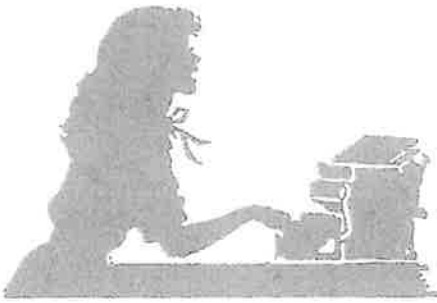


from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

went to each friend, so then wouldn't be living in fear of their lives, that someone was going to shoot them. But now, a complete stranger entered the picture. I said to Taylor "Oh no!!!" & felt terrible & immediately was filled with deep remorse & regret. I'd made a horrible mistake and now someone was paying for it....

Then say "you can't unring a bell", and I had thought I'd stopped the bell from unringing



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

So . . . .

after being handcuffed & taken downstairs to the jail, I was processed in; picture taken - front & side, finger printed.

Then, I was taken to a room where I had to strip down naked - with a security camera in the room & put on a black & white top & pants. knocked on the door when I had

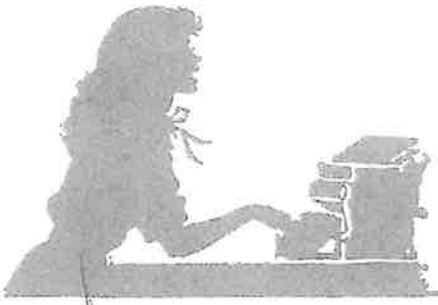


from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

changed clothes, & an officer took me to a jail cell.

I said "hello" to a woman that was already in there, & went & laid on a bunk bed - the whole time with my heart pounding & feeling like I was living in a horror movie. This couldn't really be happening. This couldn't be happening to me.... I'm not a bad person... I'm not a criminal....

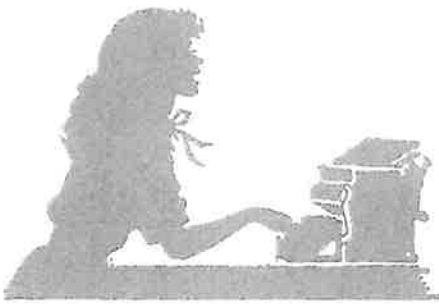


from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

This all happened, began at 1 o'clock & at 3 a jailer knocked on the door opened the little windas & said, "Lindie Gibson - get ready.... You're going to appear before the judge" & I got up & went to the door - still in shock, with my heart pounding, & said OK"

Then he unlocked the door & led me to another room & I sat down with a TV screen in front



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

Jane Clay Herbst was in the podium - Deputy Attorney Steve Potenberg was to the left and Clay read the charges against me. I said, "well - I'm not going to lie to you." Clay interrupted me, and said, "Lindie, you're not here to enter a plea. You're here because the charges against you have been dismissed." "You are free to go"

Again, I went into shock - wondered what in the heck was happening"



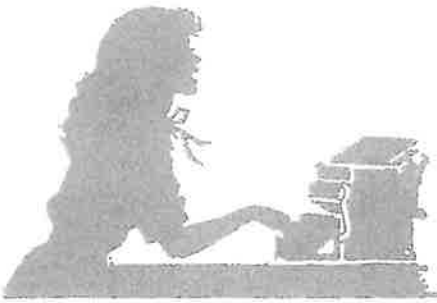
from the desk of . . .

Lindie Gibson
323 South B
Livingston, Montana 59047

One of the jailers brought me my clothes in a tray & I went to a room where I got dressed & knocked on the door one of the jailers (there were 3 the whole time I was there) I was given some paperwork & taken upstairs & left.

From start to finish, I was in shock - felt I was living a nightmare come true.

but wait - that's not all...



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

I hadn't been home an hour + 2 police officers were at my door + Taylor was one of them and he said, "I'm sorry, but I have to serve you these two trespass warnings." One was Grant's address + one was Quinton's.

The shock and pain continued . . .

but wait — there's more . . .



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

Across the street from my apartment is a lovely tree that was being cut down. I asked the young man 'who wanted the tree cut down?' .... I couldn't imagine — and he said the City ordered it. Here was a tree, perfectly shaped, with only 2 dead branches. And I said "but it's a beautiful tree. Can't you just cut out those 2 branches?" and he said "No ma'am" "We have an order to take out the whole tree". Needless to say, I



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

was upset.

So, I got in my car + thought it'd be a good time to take my re-cycling in + then stop in at the shops + ask who ever's in charge - 'why the city ordered the total removal of a whole, healthy tree from our block'.

I dumped my recycling + then went around the road to Mike Stordalen's office (knowing he had retired) + asked 3 men sitting there eating + drinking - who was their new boss, + told them why I wanted

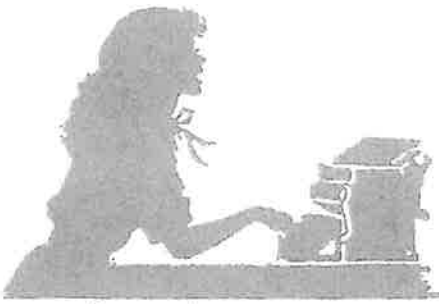


from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

to talk to him & they said that was Mike Skapps' decision. So I went down to the Civic Center to ask Mike what was going on, & no one was there.

A couple of things on my agenda yesterday - was to talk to Steve Potenberg & ask him why - and to thank him that the felony charges had been dismissed & ask him why and who's idea was it to dismiss the charges. I call the city - left a messag that I wanted to see Steve, - then I headed out - to run several errands.



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

After Mike wasn't in his office I headed over to the ~~City~~ County offices on B street where Steve is & after ringing the camera bell & waiting a girl came & said Steve wasn't available & that I was supposed to call first & told her I did that. It's now 3:20 thurs & no one has called me back.

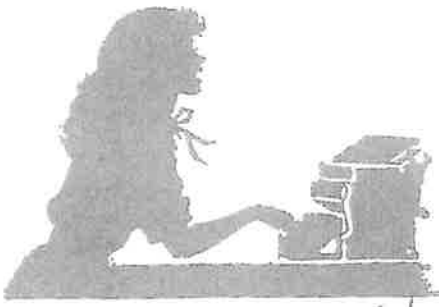
So anyway, I came home, & a couple of hours later, two police officers showed up at my door again.



from the desk of . . .

Lindie Gibson
323 South B
Livingston, Montana 59047

It was sweet, apologetic Officer Bauer again, & I said, "hi! come on in!" I thought it might be some after my arrest, serving time in jail for 4 hours & then being released paperwork, but no - it was another no trespass warrant, this time, it was for all City property. All the parks.... the civic center.... or any City property. "Even Shannon Holmes doesn't want you on any City property" he said. That really hurt. Enough said.... no, wait....



from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

After attending the ATNW Candidates forum the other night, I was met out front of the City County Complex by two police officers & handed my 3rd out of 4 no trespass orders & told I couldn't come back on to the premises.

I'll say it again -

I was having a moment.
I am not a threat to anyones safety.
I am not a criminal.



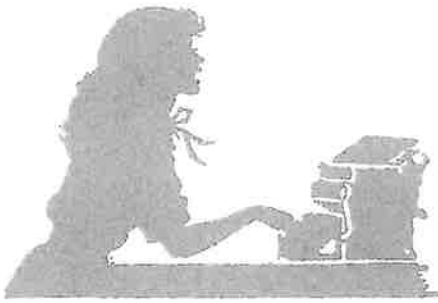
from the desk of . . .

Lindie Gibson
~~323 South B~~
Livingston, Montana 59047

I am a human being with a love for her hometown and its people, and its places.

Livingston Montana is "small town USA" & people think we are worth visiting & worth moving to. Let them come. I personally welcome the growth, just please don't change our downtown or our city parks. These two - are the heart & soul of who we are.

Thank you, Lindie Gibson



from the desk of . . .

Lindie Gibson
323 South B
Livingston, Montana 59047

P4

- I called the police department
to talk to them about
[illegible]

**File Attachments for Item:**

**B. APPROVAL OF MINUTES FROM NOVEMBER 18, 2025, REGULAR MEETING**

# Livingston City Commission Minutes

**November 18, 2025 — 5:30 PM**

City – County Complex, Community Room

https://us02web.zoom.us/j/83508274304?pwd=WLDnt0PcUl6JzuMoKT1z2scEVk4rAR.1

**Meeting ID: 835 0827 4304**

**Passcode: 501530**

---

1. Call to Order

5:33 PM Chair Schwarz called the meeting to order

2. Roll Call

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

City Staff Present

- City Manager Grant Gager
- Chief of Police Wayne Hard
- Planning Director Jennifer Severson

3. Public Comment

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

Public comment was offered by:

- Linda Mahr referenced a petition given at the last meeting on 11/4 that is missing from the agenda packet. She expressed concern about the staff recommendation for the riparian setback and the missing petition from the community that shows concern. She expressed concern about the potential lack of compassion around the letter that was included in the minutes from a community member. She also asked about a microphone for the room.

- Peggy O'Neill expressed that the letter published in the minutes was in poor taste, but was glad she was able to read it. She expressed that there are other community members that are frustrated about the changes happening. She is concerned about trees being removed in the Parks Plan. She touched on minutes about bulb-out being discussed and struggled to find where that was. Also, she mentioned the length of the packets can be very long.
- David Lewis, County resident, talked about the pool in the Wellness Center using a purification system using ozone rather than chlorine and some pros to using the purification system.
- Brooke Laird, the owner of Key Montana Property Management, gave input on short-term rentals that were discussed at the last meeting. She stated she will come back next meeting as well.
- Leslie Feigel from the Livingston Chamber of Commerce asked about proclamations for the Christmas Stroll and parade every year. She talked about short-term rentals and how vacation rentals are not our housing issue.
- Patricia Grabow congratulated the newly elected Commissioners, outgoing members, and voters. She discussed World Heritage Site considerations. She also commented that short-term rentals are essential for bringing visitors who shop, dine, and stay in the area.

Vice Chair Nootz asked about microphones.

The City Manager stated the microphone system had been disabled, and they tried to get it working, but were unable to get it working. He reminded the meeting that this is not a room that the City controls as it is run by the County with the County's technology. He stated the City is trying to get the system figured out.

Vice Chair Nootz addressed the minutes and stated the missing part of a comment was likely accidental omission by staff and that is something they can be added. She stated she is the one that asked for the letter to be added into the minutes. She explained that as a public official she takes transparency very seriously. She recalled a time when something came to her house unsigned and was concerned about that at that time and introduced that into the record when it happened. She clarified that this current letter was sent to all Commissioners and staff, and she reminded it is the public's right to see what all Commissioners are sent and that is why it was asked to be put in the minutes.

Chair Schwarz stated it was not about compassion, it is part of policy to put it into the record.

Vice Chair Nootz asked about when bulb outs were discussed.

The City Manager stated we talked about the temporary installations the week before or two weeks before they had gone out.

Vice Chair Nootz also pointed out that they were discussed at a previous URA meeting as well.

Chair Schwarz talked about the length of the agenda and reminded they do have to include all of these items in the packets and their contents, as it's the public right to know.

Vice Chair Nootz asked about pool maintenance.

The City Manager stated he did receive the correspondence and reminded the design committee is made up of the City Manager, Recreation Director, and the Chair of the 4 Ranges Foundation. They did discuss the request with the pool contractor and the contractor is reviewing if it would be something that is possible given that the space is already engineered.

Vice Chair Nootz asked about proclamations.

Chair Schwarz reminded that they go through the City Manager and asked for a refresher.

The City Manager stated that the Commission had a conversation in September of this year about the proclamation process. The direction that he received was to come back with a policy, but it was made clear it was not a top priority, and they are still working on this policy. He stated that folks wishing to have a proclamation on the agenda just need to reach out to him directly, and asked that proclamation requests are given one week before the meeting.

Vice Chair Nootz asked that in the meantime will he just use the general intent of the Commission as his guiding light when it comes to proclamations.

The City Manager stated that in the discussion that took place in September, they took notes, and they are trying to adhere to that. He stated proclamations are meant to highlight either community events, staff contributions, or other noteworthy City events or happenings.

4. Consent Items

A. **APPROVAL OF MINUTES FROM NOVEMBER 04, 2025, REGULAR MEETING** PG.4

B. **APPROVAL OF MINUTES FROM APRIL 16, 2024, CLOSED SESSION**

C. **APPROVAL OF MINUTES FROM SEPTMBER 3, 2024, CLOSED SESSION**

D. **APPROVAL OF MINUTES FROM NOVEMBER 6, 2024, CLOSED SESSION**

E. **APPROVAL OF MINUTES FROM NOVEMBER 19, 2024, CLOSED SESSION**

F. **APPROVAL OF CLAIMS PAID 10/30/25 - 11/12/25** PG.47

G. **APPROVAL OF OCTOBER 2025 CITY COURT FINANCIAL REPORT** PG.60

H. **APPROVAL OF CONTRACT 20237 WITH CLEARY BUILDING CORPORATION** PG.62

I. **REAPPOINTMENT OF NICOLE MADDEN TO THE LIVINGSTON POLICE COMMISSION** PG.78

J. **REAPPOINTMENT OF JANELLA JOHNSON TO THE LIVINGSTON POLICE COMMISSION** PG.81

Vice Chair Nootz pulled Consent Item A and I.

Chair Schwarz pulled Consent Item J.

Vice Chair Nootz motioned to approve Consent Items B-H, seconded by Commissioner Willich. Unanimously approved.

Vice Chair Nootz asked for the minutes to come back after a double check of missing comments.

The City Manager stated he will review the minutes with the City Clerk and bring them to the next meeting.

Vice Chair Nootz pointed out page 76 for item H that the fiscal impact section stated the division within the department is going to manage the fund internally so that they don't have to amend the overall City budget, and she felt like this was great! She thanked the Street Maintenance Division in Public Works for their work on this.

Chair Schwarz recognized Nicole Madden and Janella Johnson for their re-appointment to the Livingston Police Commission.

Commissioner Willich motioned to approve items I and J and was seconded by Nootz. The motion passed 4-0.

5. Proclamations

A. **A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECOGNIZING NOVEMBER 29, 2025 AS SMALL BUSINESS SATURDAY IN LIVINGSTON, MONTANA** PG.84

Chair Schwarz read the proclamation.

The City Manager stated he will see everyone out there on Small Business Saturday supporting the community.

Chair Schwarz asked if this still sponsored by American Express.

Leslie stated yes.

Chair Schwarz expressed having issue with that, but will not discuss that here, He reminded everyone to shop local and stated that he tries to as much as he can.

6. Scheduled Public Comment

7. Action Items

A. **ORDINANCE 3065: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 29 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "FLOODPLAIN REGULATIONS" BY REPEALING THE ENTIRETY OF CHAPTER 29 AND REPLACING IT WITH REVISED "FLOODPLAIN HAZARD MANAGEMENT REGULATIONS".** PG.86

The City Manager stated this item seeks to amend Chapter 29 of the LMC to create floodplain regulations that are in compliance with the National Flood Insurance Program. He stated this item is a bit of a continuation of the conversation that they had at the last meeting. He stated there was a discussion related to the floodplain and incorporating the floodplain regulations into Chapter 30 in the zoning code update. Based on public comment that was received from the community member, including the petitioner that was referenced earlier, those items were pulled out of the zoning code update. They had a conversation with the person who submitted the petition and their legal counsel through the City Attorney. So they did pull that out. He stated they were reminded by the State that we still have non-compliant floodplain regulations. Ours have not been updated since 2011.

Vice Chair Nootz asked what it means that we are non-compliant.

The City Manager introduced Tracy Sears with the Department of Natural Resources who has been working with FEMA and stated she can answer this question later in the presentation.

Planning Director Severson and Tracy Sears gave a brief presentation.

Vice Chair Nootz asked what does it mean for the people of Livingston if we stay out of compliance. She also asked about what higher standards Tracy was referring to and why they are encouraged.

Tracy stated if we're not seeing movement on an update to the regulations, FEMA could put the community on probation. That's a FEMA action. If there's still no movement, the community can be sanctioned and may no longer participate in the NFIP. That would impact disaster assistance and insurance availability. As far as higher standards, NFIP's goal is reducing flood losses. Higher standards help communities be more resilient and include elevating structures, protecting riparian areas, safe access, etc. These are encouraged because they reduce damage, protect public safety, and can sometimes lower insurance premiums.

Vice Chair Nootz asked for information about how it was decided what to recommend vs. alternatives that could have been recommended.

The City Manager stated throughout the zoning process, this has been a point of discussion. It was the topic of conversation at least once at a Consolidated Land Use Board meeting. There were a range of proposals for riparian buffers from 25 feet up to as much as 300 feet recommended by some community members. Hearing that public feedback, it seemed like we weren't at a place to go that far; we needed a starting point. The 10-foot buffer is used in a number of communities and appears in some U.S. EPA literature as a kind of minimum riparian buffer. That's how we came up with 10 feet.

Planning Director Severson stated this is a starting point. We haven't undertaken a holistic citywide look at riparian protection yet. Different buffer widths serve different purposes, reducing pollutants, protecting banks, providing habitat. The table she showed indicated different recommended widths for different goals. Ten feet is at the minimal end for some functions. FEMA does not require any riparian buffer at all, so this is already above the minimum. She stated that if they wanted, they could

remove the higher standards and just do the bare minimum tonight and discuss higher standards later, but the bare minimum really does need to be adopted.

Commissioner Willich asked about 10 feet and asked if they classify them separately between the river and the creeks and what the setbacks are for that.

Planning Director Severson stated it's by the high-water mark. In our code, it says mean high-water mark or the ordinary high-water mark. It says 10 feet and that's 10 feet horizontally from that mark. It does not include Fleshman because it is not in the regulatory floodplain. Billman is mapped in certain limited sections. This rule applies where floodplain exists per FEMA mapping. The Yellowstone is very different from Billman. If we want to protect riparian areas along Fleshman, that has to come outside of these floodplain regulations until such time, if ever, that Fleshman is mapped into the FEMA floodplain. This is just "no large-scale clearing of vegetation" within 10 feet.

Commissioner Willich asked theoretically, large scale movement of dirt over by the hospital and the levy system and water moving system as it's outside of 10 feet.

Planning Director Severson stated development there would go through site plan review and they would require certain erosion control, and DEQ requires certain erosion control measures to prevent sediment migration and also disturbance along there. She stated if they are along the Yellowstone within a certain amount of space, that should require a 310 permit for water quality.

The City Manager stated Fleshman creek is not currently mapped, but Billman Creek within City limits is a very limited stretch of coverage.

Public comment was offered by:

- Leslie Feigel asked when you get to that point with the local creeks and local streams within the City limits, is there a possibility to do mapping of them? She doesn't mean FEMA, but our streams and creeks that would include Billman and Fleshman and other waterways.

The City Manager stated this applies to the Yellowstone and Billman Creek, but Fleshman was not part of that. He stated we do have a floodplain map that shows all mapped flood areas within City limits. He stated the ditches are not part of the regulated FEMA floodplain.

Commissioner Willich stated when it comes to setbacks or riparian protection along the Yellowstone, 10-feet seems like a very thin strip of protected land in wildly contentious area of natural processes. If it keeps us compliant with FEMA and DNRC, it kind of seems like 10 feet is the smallest bite we could take to just maintain compliance. He expressed it was good and reasonable balance.

Chair Schwarz stated we need something in place, and I think this is a good first start. Secondly, it's gone through Montana DNRC. He also said he thinks 10 feet is woefully inadequate personally, but we need to start somewhere, and this is a good start to have at least something updated and on the books.

Vice Chair Nootz thanked Tracy for being here today and appreciates Planning Director Severson's suggestions. She stated the weight will be on the Commission in the coming years to really get serious about what we're doing around the river and particularly for those of us who lived here or were with the City at the time of the flood. She stated that this seems like a good starting point. She likes that, although it's tough to choose a number, you chose the median point of what's conservative and reasonable from the chart that was shared, not knowing where to start. She looks forward to having data so they can make decisions based on the science, but feels this is a good starting point. She agrees that some of these above-minimum standards just seem like common sense, like what cannot go near the river. She expressed that it was good that they were thinking about safety.

Commissioner Lyons understands they are all feeling kind of cautious about the figure they are considering. He recognizes they are discussing impacts along Billman and the Yellowstone, which is the longest undammed river in the lower 48. He pointed out the importance of studies about this topic. He feels this is reasonable starting point.

Commissioner Willich stated this may not feel like enough of a setback for some folks in the community, but these are minimum numbers, so property owners along the river can setback further if they choose.

Commissioner Lyons motioned to approve the ordinance, seconded by Commissioner Willich. Unanimously approved.

Vice Chair Nootz motioned for a 10-minute break, seconded by Commissioner Lyons. Unanimously approved.

**B. APPROVAL OF UPDATE TO LIVINGSTON CITY COMMISSION HANDBOOK** PG.171

The City Manager stated this item before the Commission is the review and update of the Livingston City Commission Handbook. He also worked to incorporate the Conflict-of-Interest Policy that was codified by the Commission in April of this year, and has made some other small changes, one related to the public comment process, in response to recent comments and observations from the community. These changes are reflective of some best management practices employed in other communities to help manage the public comment period and ensure that City residents really do have an opportunity to have their voices heard. There are times, as we all know, when the public comment period can stretch on for an hour or more. This was an attempt to provide City residents the opportunity to interact with their government in a timely and direct way.

Vice Chair Nootz stated there are a few parts of the handbook that are codified, and she asked for clarification on which parts are code.

The City Manager stated the two main items that are codified and would require subsequent action are the Conflict-of-Interest Policy and Commissioners' Code of Conduct.

Public comment was offered by:

- Leslie Feigel stated she spoke with a representative at MACo and talked to Montana League of Cities and Towns and was told no one else in Montana does this. She expressed that this felt very divisive for the community. She wondered about logistics of this and when certain members of the community are supposed to speak.
- Patricia Grabow feels it is very bad to attempt to manage public comment, and would like the Commission to reconsider this.
- Peggy O'Neill expressed that it doesn't seem right to divide everyone up into groups and asked whether she would get to speak twice if she is a business owner and community member
- Linda Mahr agreed that it feels divisive to do this and reminded that it takes courage for folks to come up and speak.

Chair Schwarz stated that he feels the taxpayers of the City should be able to speak first. He stated that this is was not excluding anybody, but does give priority to taxpayers.

Commissioner Willich stated the responsibility that the Commissioners have, first and foremost, is to the residents of the City of Livingston and the business owners of the City of Livingston. Visitors to the City of Livingston are not secondary, but we're not limiting them either. We're just saying that people who are here, live here, pay taxes here, and vote here should speak first. The edit he would like to see, if we go forward with this, is: it currently says "the Chair solicit comments," and I think it should say "the Chair *shall* solicit comments" or "*may* solicit comments." He would also like to see the Pledge of Allegiance added in ahead of C.

Commissioner Lyons pointed out a clerical edit. He doesn't think the structure, as written, will accomplish what it's set out to. It just says comments are going to come in this order; there's no time limit or mechanism to expedite the meeting. He wondered if it is time they are thinking about and wondered if this is the best option.

Chair Schwarz asked who determines the time limits.

The City Manager stated that state code leaves it up to the presiding officer, outside of the requirement that each person has at least 3 minutes. He doesn't believe we've ever codified a specific time in the Handbook. Historically, it has been at the Chair's discretion. Here we've typically used 4 minutes.

Vice Chair Nootz stated at the legislative level she has seen them cut public comment down to 60 seconds when there are a lot of people. People come prepared for 3 minutes, and then it's cut. She is not sure what state code says for municipalities, but she knows at the state level they change it when there are many speakers.

Vice Chair Nootz pointed out language edits to the handbook on pg. 181, 182, 183 and 198. She also asked about having closed meetings be added to this.

The City Manager stated there are penalty provisions related to that and stated it's a misdemeanor.

Vice Chair Nootz expressed agreement with fellow Commissioners. She was thinking of the Wellness Center meetings where we had 50 to 100 comments. We had people from across the region, but ultimately the County declined to participate; City residents taxed themselves, and for those kinds of issues, it can be helpful to know whether the people asking for services or tax increases are City residents or not. Many people in Livingston have said they don't want to pay for County services. They want everyone to pay their fair share. She feels that for very large meetings, this ordering could be helpful. She doesn't see a problem with it. It will take some practice, but this Handbook is for us, to make our jobs easier as Commissioners. It's not excluding anyone; it just helps us understand who we're hearing from first.

Chair Schwarz spoke about the addition of the pledge to the meeting and stated the addition of "Under God" was put in during the Eisenhower administration. Whenever he says the pledge, he intentionally leaves that out because he's not pushing religious beliefs on anybody else. He expressed that he loves the Pledge of Allegiance, but just doesn't like the addition that was done by the Eisenhower administration.

Commissioner Lyons stated that his experience saying it as a child was that he didn't really think about it very much, and the more he said it, the less he thought about it. He stated he doesn't know how much it will add to the meetings, and doesn't feel strongly about it.

Vice Chair Nootz stated she grew up in a military family, so she was taught lots of things about the flag and how to respect the country, and that pledging allegiance is a lot more than to a piece of fabric. She expressed that she doesn't have a problem with the pledge and is fine including it or not including it.

Chair Schwarz expressed his strong feelings about pushing religion on other people.

The City Manager stated the agenda is set by him, but the order of the agenda items is partially codified in the Handbook, which is being updated tonight. He clarified that under state code he decides what items are placed on the agenda, but the conversation tonight is more about the shell of the agenda. He stated he heard everyone's input and will take those into consideration for the agenda.

Commissioner Lyons stated that it sounds like there's relative agreement that, in cases of limited available time, prioritizing City residents makes sense. He just doesn't think the structure, as written, accomplishes that. He expressed that given public comments, he thinks we should clarify that this is for meetings with unusually large numbers of commenters. He would also like to add that the Chair can limit public comments in high-volume situations to facilitate enough time for Commission deliberation.

Vice Chair Nootz expressed that she didn't think they could put time limits on public comments and would have to continue to a following meeting, and asked for clarification on this.

The City Manager stated that the Supreme Court had decided on the 3 to 5 minutes per person would be acceptable, but their ability to just end public comment does not exist.

City Attorney Hesse stated it would be a good idea for the City Commission to consider how long these meeting go because during legal proceeding Judge Gilbert was critical of the Commission in that particular case and commented on the length of the meetings right in her order.

Vice Chair Nootz stated they will be careful with legal constraints. She stated they can't cut off public comment entirely, but might have to continue the hearing to a later date if we hit time limits.

The City Manager stated in other jurisdictions he has worked in, when we reached a time like 10 p.m., and public comment was still going on, they would continue the item to a date certain, such as the next day at 5pm.

Commissioner Lyons asked if the only mechanism for putting boundaries of the length of a conversation is putting boundaries on the length of a Commission meeting.

The City Manager stated yes and also the 3–5-minute timeline per public commenter.

Chair Schwarz expressed liking the idea of the Chair being able to tell people how many minutes they would get.

Commissioner Lyons expressed again that he feels this mechanism doesn't seem like it will work to help expedite meetings.

The City Manager stated expedited meetings were not the only motivation for this change. He stated he was recently at a conference where this was discussed and a number of other cities do this, and it's intended to prioritize comment on items such as taxation and City specific issues. He stated it is just a way to prioritize comments to the Commission.

Commissioner Lyons stated that adding a little Chair discretion into this might be helpful and be able to limit comment to 3 minutes when unusually large number of public commenters are present.

Chair Schwarz agreed with this.

Commissioner Willich pointed out the hard points being that there is 3 minutes minimum, meetings that could go on infinitely, and a district court judge that has said our meetings go too long.

Commissioner Lyons pointed out that there will be a day when Bozeman is really interested in a policy happening in Livingston, and with Bozeman being a lot bigger than Livingston they could really fill up the waiting room.

Commissioner Willich stated when the room is filled up like that his priority would be to hear from folks inside City limits first.

Vice Chair Nootz expressed that the order feels fine and she trusts whoever the 5 Commissioners are to handle a large room of people appropriately.

Commissioner Willich stated what he thought should change is "The Chair shall solicit comments from the public, in the order stated, limiting to 3 minutes.

Commissioner Lyons stated that he supports the language and it is flexible and doesn't micromanage.

The City Manager stated there are 9 edits:

1. On public comment, add "shall have the discretion to" between "Chair" and "solicit" in the ordering section, making it clear this ordering is discretionary, not mandatory.
2. Add a note that the Chair has the ability to limit public comment to not less than 3 minutes per speaker, consistent with state law.
3. Page 174 – Fix table of contents reference so that one reference properly goes to the Conflict-of-Interest section (not Code of Conduct twice).
4. Page 181 – Update Historic Preservation Board to Historic Preservation Commission and remove the Commissioner asterisk.
5. Page 182 – Under City Commission procedures, update the process so the Chair calls on the City Manager, who then calls on appropriate presenters.
6. Page 183 – Under item 3, clarify that members direct clarifying questions through the Chair to the City Manager, who then calls on staff or others.
7. Page 198 – Update "requests" to "requires" regarding Commissioners completing the Conflict-of-Interest disclosure form, consistent with the adopted ordinance.
8. Add reference to penalty provisions regarding violation of closed-meeting rules (right to privacy), including that violation may constitute a misdemeanor.
9. Other minor corrections aligning wording in the Handbook with existing codified ordinances and resolutions (Code of Conduct and Conflict of Interest).

Commissioner Lyons motioned to approve the City Commission Handbook as presented and modified in recent comments by the City Manager, seconded by Vice Chair Nootz. Unanimously approved.

8. City Manager Comment

The City Manager thanked the Commission for their work on the Handbook and will see everyone on December 2.

9. City Commission Comments

Commissioner Willich stated he hopes to see everyone at small business Saturday. He shared happy birthday to some family members.

Commissioner Lyons – no comment

Vice Chair Nootz thanked the Commission for their comments tonight. She expressed being happy to see the new elects are in the room tonight and thanked them for being here.

Chair Schwarz – no comment

10. Adjournment

Commissioner Lyons motioned to adjourn, seconded by Commissioner Willich. Unanimously approved.

## Calendar of Events

## Supplemental Material

Notice

- Public Comment: The public can speak about an item on the agenda during discussion of that item by coming up to the table or podium, signing-in, and then waiting to be recognized by the Chair. Individuals are reminded that public comments should be limited to items over which the City Commission has supervision, control, jurisdiction, or advisory power (MCA 2-3-202).

- Meeting Recording: An audio and/or video recording of the meeting, or any portion thereof, may be purchased by contacting the City Clerk. The City does not warrant the audio and/or video recording as to content, quality, or clarity.

- Special Accommodation: If you need special accommodations to attend or participate in our meeting, please contact the City Clerk at least 24 hours in advance of the specific meeting you are planning on attending.

# City Commissioners & Community — Short-Term Rentals in Livingston & Park County

Good evening Commissioners and neighbors — thank you for the opportunity to share my thoughts as someone who knows the short term rental and local business landscape well.

My name is Brooke Laird, 23 year resident of Park County, owner of Key Montana Property Management and the owner of short term rentals.  I'm here because short-term rentals (STRs) are an important, measurable part of Livingston's and Park County's tourism economy — and the choices we make now about STR policy will have direct consequences for local incomes, jobs, and small businesses.

## 1) Economic value of tourism — the big picture

Tourism is a major economic engine for Montana. Nonresident visitor spending in Montana is measured in billions of dollars annually, supporting tens of thousands of jobs and generating hundreds of millions in state and local taxes.

Yellowstone National Park alone creates enormous local impact: a National Park Service analysis found visitors to Yellowstone supported thousands of jobs and hundreds of millions of dollars in spending for gateway communities. Park County and surrounding towns are direct beneficiaries of that visitation.

## 2) What this looks like locally (Park County & Livingston)

• Park County statistics show the food, accommodations, and recreation sector accounts for roughly 28% of local jobs — roughly double the state average — underlining how strongly our workforce and small businesses depend on visitor stays.  We are a tourist destination and thrive on a tourist economy and this has been the history of Park County since its inception.

• The County's own STR review (Feb 2025) reports about 1,346 currently advertised short-term rental listings in the county area and 231 active short-term rental licenses — demonstrating both the scale of visitor lodging supplied by private homes and the presence of an already established formal licensing program (which we comply and already pay into). These STRs generate lodging tax receipts (8% to the state which flows back to Park County) and provide important capacity for travelers who otherwise might not visit or would spend less locally. If STR supply is limited or non-existent, they will travel elsewhere to other mountain towns to spend their time and dollars.

- For Key's Business, our average length of stay at our 44 short term listings (in city limits and Paradise Valley) is 3.35 days. This is over 3 days of tourists eating, recreating and supporting local businesses.

# 3) Jobs and local businesses supported by STRs

STRs don't exist in a vacuum — they create and sustain a cascade of supporting jobs and local spending:

- Housekeeping and laundry services (local cleaners, laundromats).
- Maintenance, landscaping, septic and plumbing work.
- Local realtors and property managers.
- Retail, restaurants, breweries, guides, and recreation outfitters who rely on visitor customers.
- Tax revenue flowing back to local government that supports public services and infrastructure.

  There isn't a guest that stays in one of our homes / ie small businesses that doesn't visit and spend money at at least 1 of the locally recommended businesses we direct them to. Every visitor comments at the benefit of the "local touch" of staying in their STR because they were told to try a float trip with X or eat at X restaurant or shop at X retailer. This is why people want to travel and stay in a locally managed STR - because it isn't the hotel on the highway where they get a room and get back on the interstate.

  **Key Montana's local expenditure alone to LOCAL businesses and contractors for 2025 to date:**

- $17,000 to date for this year alone - LOCAL gifts to guests from Local Business (Moshi, Blue Bean, Riverbend Embroidery, and various other retailers)
- Paid over $327,000 housekeeping to date in 2025
- $118,000 maintenance to date in 2025 (plumbers, handymen, electricians)
- $30,000 pest control to date in 2025
- $21,400 snow removal to date in 2025
- $100,000 yard maintenance to date in 2025
- $282,000 in Wages to full time and part time employees - 4 full time, 1 half time and 6 student seasonal employees
- Key's guest stays generated in State Lodging Tax revenues over $106,000 year to date with over 2124 taxable night stays in Park County.
- This does not include the tens of thousands of dollars that my business and my family personally have been able to give back to the local community non-profits through

in-kind and cash charity donations - all to local non profits that serve and expand this wonderful community.

Because visitor spending tends to flow into lodging, food service, retail and recreation, a single night's stay often translates into multiple transactions across town — supporting business owners and hourly workers alike. (See statewide & regional visitor-spending research for how spending breaks down by sector.)

# 4) The risk from overly onerous regulation

I respect and share the community's desire to preserve neighborhood character and public safety — but I want to be clear about an economic risk: making STR compliance prohibitively expensive, slow, or uncertain will push many operators off the market.

Based on what we already see in Park County and similar gateway communities:

- Many owners operate STRs precisely because the short-term market makes their property economically viable (seasonal higher per-night revenue, higher ROI than long-term rents in many cases). As I have said to the commission before, many of the homeowners (including myself) live locally or are here for much of the year. Their homes are small business investments that enable them to maintain their investments and homes, and without the profit neutral STR option otherwise would not be able to own their homes or stay in the area. These are generous and involved locals and part time residents that contribute back to local non-profits, are involved in the community and much more.

- If regulatory costs, licensing delays, or rigid caps remove the option to rent short term, owners do not automatically convert properties to long-term rentals. In fact- I have had 3 owners this year with the anticipation of the increased statewide taxes alone, decide to sell their homes (with many more having the discussion). These homes are not going to be offered for sale for less than the median home price of $595,000 and able to convert to "affordable housing." None of these well maintained, beautiful homes will sell at that median price.
- As Laurel Desnick said at the last meeting, 90% of Livingston's new incoming population is of retirement age - 60 and older - The people moving here and able to afford $600k + homes are not going to be offering them as long term rentals.
- Conversion is often uneconomic: long-term rents are usually lower than the combined carrying costs (mortgage, utilities, insurance, taxes, maintenance) and many STRs are located or designed (seasonal water/septic, furnishing) for short-term use.

- The likely alternative is that properties sit empty, or owners sell to a more wealthy person (potentially a pure investor and not a locally minded buyer) — resulting in lost income, fewer local jobs, fewer visitors, and lower lodging tax receipts, while the housing stock does not necessarily increase available long-term rental supply. (This is a logical

inference based on our local market dynamics and the County's own STR dataset regarding affordable housing numbers.)

- The number and capacity of our local hotels cannot accommodate the number of travelers during our busy seasons. Where will these people go? What about the larger families that travel in mid to large groups or families? They do not want to stay in the Comfort Inn or hotel rooms on the highways. Again, I assure you they will stay in other Yellowstone Gateway towns that will accommodate them.
- Our properties are already licensed and inspected at a local and state level. Why another layer of licensing for the same outcomes? What level of enforcement is already not being done? It was stated already that there are 1,346 houses with only 231 licensed? Where is the enforcement of the already established rules and fees?
- Long term rentals are housing for profit. Why are they not being inspected at the same level?
- Where will this money go? Does the Fire Department have the capacity to annually inspect these homes? Is the inspection going to be any different than what is already being done? What will the cost be to the City? Will this require another position at the City or Fire Department?
- Key Montana already does much of the leg work to comply and make sure our homes are following all licensing rules. Most of the time, we are having to follow up with a very bogged down, slow and inefficient local licensing office and we follow up to ensure our compliance (except for Trish, she needs a raise).

I want to be explicit here: the conclusion is an economic reality grounded in real local data (licenses/listings, sector job shares) - not anecdotal fear mongering- and real observed behavior in similar gateway communities — it's not a promise but a very likely outcome that our leaders (you) should weigh when crafting rules.

# 5) Some practical recommendations based on balanced policy

1. Targeted regulation — not blunt prohibitions. Use rules that address specific problems (noise, parking, occupancy limits, safety inspections) rather than wholesale caps that remove legitimate income for owners and capacity for visitors.

2. Reasonable, transparent licensing. Keep fees and timelines predictable so hosts can comply; avoid sudden large increases that force rapid exits. (Park County already has a licensing program; streamlining it reduces noncompliance and protects neighbors.)

3. Enforce the rules that matter. Enforce noise, parking, and safety standards consistently — this protects neighborhoods and preserves goodwill without destroying economic value.

4. Use data to adapt. Monitor lodging tax receipts, license counts, and housing outcomes. Make adjustments if a genuine negative trend appears, rather than preemptively removing STR capacity. The County's STR assessment is a good start; continue collecting metrics.

# 6) Closing — the tradeoffs are real

We all value livable neighborhoods and responsible stewardship of Park County's character. But we also have to recognize the real, measurable economic value of tourism and the local livelihoods it supports — from servers and housekeepers to plumbers and retail owners. Restrictive policy that simply eliminates STR demand will not automatically solve housing shortages — it will shrink incomes, reduce jobs, and may leave attractive homes sitting vacant or sold out of the community.

I urge the Commission to adopt balanced, transparent, and targeted STR rules: protect neighborhoods, require responsible operation, but preserve the visitor economy that many families and businesses rely on.

Thank you for your time. I'm happy to answer questions or provide the County reports and data sources I used.

---

## Sources & further reading


- Park County Short-Term Rental Impact Assessment (Feb 2025) — counts: ~1,346 advertised listings; 231 active licenses.
- Park County short-term rental licensing and application info.
- Park County economic profile (LMI): tourism sector job share ~28% of local jobs.
- Institute for Tourism & Recreation Research (University of Montana) — county & regional visitor-spending and economic contribution reports.
- National Park Service: Yellowstone gateway communities economic impact (visitor spending and jobs).
- Key Montana financial for 2025 to date

# City of Livingston
# Floodplain Regulations Update

City Commission – November 18, 2025

# BACKGROUND



- The Montana Department of Natural Resources (MT DNRC) recently updated its Community Floodplain Hazard Management Model Regulations to align with the National Flood Insurance Program (NFIP) requirements.
- The City's Floodplain Regulations have not been updated since 2011.
- MT DNRC requires the City to revise its Floodplain Regulations to comply with the new Community Floodplain Hazard Management Model Regulations.
- MT DNRC has reviewed and given preliminary approval to the revised Floodplain Regulations as presented.
- This update is to the text regulations in Chapter 29 only; the official Floodplain Map will be updated by FEMA based on the mapping study currently underway

LIVINGSTON
MONTANA

# PROPOSED HIGHGER STANDARDS



In the Flood Hazard Area (Floodway + Floodplain)

- The construction or storage of an artificial obstruction subject to flotation or movement during flood level periods; Cemeteries, mausoleums, or any other burial grounds

In the Floodway

- The safety of access to property in times of flooding for ordinary and emergency services
- There is no large-scale clearing of riparian vegetation within 10 feet of the mean annual high-water mark or edge of stream channel

In the Floodplain

- Structures must have safe access during times of flooding up to the Base Flood for ordinary and emergency services provided there are no reasonable alternate locations or structures; for manufactured homes, access for a manufactured home hauler is also provided.

LIVINGSTON
MONTANA

# STRATEGIC ALIGNMENT WITH GROWTH POLICY



Strategy 4.2.1.1: Improve the quality of waterbodies, including but not limited to the Yellowstone River, Fleshman Creek, watersheds, wetlands, floodplains, groundwater aquifers, and all other waterways and riparian areas.

Objective 4.3.2: Protect the riparian corridors to preserve unique wildlife, promote water quality, and provide for public trails and open space.

Strategy 4.3.2.1: Continue to limit development in the floodplain through the application of the Livingston Floodplain Regulations.

Strategy 4.3.2.2: Protect the Yellowstone River's natural flow and flood cycles to promote the health of the riparian area and associated wildlife.

Strategy 4.3.2.3: Explore regulatory options for protecting the riparian area and waterway corridors.

LIVINGSTON
MONTANA

# WHY THE URGENCY TO UPDATE THE REGS?



1. There have been more than six community visits since 2019. Each visit identified the need for the Livingston regulations to be updated.

2. In 2022 FEMA required the state to make updates to the Model Ordinance and required local communities to do the same.

3. In 2023 FEMA required updates to the Model Ordinance for AG-Structure language and required local communities to do the same.

4. Changes were made in 2009 to the state regulations allowing residential structures to be elevated by other means than just structural fill. The Livingston regulations still do not reflect this change.

5. Unless a local Montana community has recently updated their floodplain regulations then the regulations are out of compliance with state and federal requirements.

**Traci Sears, CFM** | MT National Flood Insurance Program (NFIP) Coordinator
Water Operations | Floodplain Community Assistance Program (CAP)
Montana Department of Natural Resources and Conservation

# RECOMMENDATION



Staff recommends the City Commission adopt these amendments to Chapter 29 and replace the current regulations in their entirety with the "Floodplain Hazard Management Regulations" as proposed by Staff

"I move to approve the first reading of Ordinance 3065 amending the Floodplain Regulations of the City of Livingston Municipal Code by repealing the entirety of Chapter 29 and replacing it with the proposed "Floodplain Hazard Management Regulations", and authorize the Chair to sign Ordinance 3065."

LIVINGSTON
MONTANA

# QUESTIONS?

LIVINGSTON
MONTANA

**File Attachments for Item:**

**G. APPROVAL OF CLAIMS PAID 11/13/25 - 11/25/25**

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| **A-1 MUFFLER, INC.** | | | | | | | |
| 2 | A-1 MUFFLER, INC. | 76236 | ACO TAHOE REPAIRS | 11/13/2025 | 283.00 | 283.00 | 11/20/2025 |
| 2 | A-1 MUFFLER, INC. | 76243 | 49-7834 REPAIR | 11/14/2025 | 397.00 | 397.00 | 11/24/2025 |
| | Total A-1 MUFFLER, INC.: | | | | 680.00 | 680.00 | |
| **AAA CLEANING, LLC** | | | | | | | |
| 3727 | AAA CLEANING, LLC | 287 | 220 E PARK CLEANING | 11/24/2025 | 3,250.00 | 3,250.00 | 11/24/2025 |
| 3727 | AAA CLEANING, LLC | 288 | cIVIC CENTER | 11/24/2025 | 2,600.00 | 2,600.00 | 11/24/2025 |
| 3727 | AAA CLEANING, LLC | 289 | Bennett St cleaning | 11/24/2025 | 156.25 | 156.25 | 11/24/2025 |
| 3727 | AAA CLEANING, LLC | 289 | Bennett St cleaning | 11/24/2025 | 156.25 | 156.25 | 11/24/2025 |
| 3727 | AAA CLEANING, LLC | 289 | Bennett St cleaning | 11/24/2025 | 156.25 | 156.25 | 11/24/2025 |
| 3727 | AAA CLEANING, LLC | 289 | Bennett St cleaning | 11/24/2025 | 156.25 | 156.25 | 11/24/2025 |
| | Total AAA CLEANING, LLC: | | | | 6,475.00 | 6,475.00 | |
| **ADVANCED ENGINEERING &** | | | | | | | |
| 3605 | ADVANCED ENGINEERING & | 106767 | I&C SYSTEM SERVICES | 11/11/2025 | 2,056.25 | 2,056.25 | 11/20/2025 |
| | Total ADVANCED ENGINEERING &: | | | | 2,056.25 | 2,056.25 | |
| **ALL SERVICE TIRE & ALIGNMENT** | | | | | | | |
| 22 | ALL SERVICE TIRE & ALIGNME | 71157 | CHECK BREAKS | 11/06/2025 | 60.00 | 60.00 | 11/13/2025 |
| | Total ALL SERVICE TIRE & ALIGNMENT: | | | | 60.00 | 60.00 | |
| **AMERICAN AUTOMOTIVE** | | | | | | | |
| 3378 | AMERICAN AUTOMOTIVE | 8963 | BATTERY | 11/17/2025 | 334.11 | 334.11 | 11/24/2025 |
| | Total AMERICAN AUTOMOTIVE: | | | | 334.11 | 334.11 | |
| **AMERICAN SOLUTIONS FOR BUSINESS** | | | | | | | |
| 10005 | AMERICAN SOLUTIONS FOR B | INV08507258 | HOLIDAY CARDS | 11/19/2025 | 265.25 | 265.25 | 11/24/2025 |
| | Total AMERICAN SOLUTIONS FOR BUSINESS: | | | | 265.25 | 265.25 | |
| **APPLES & ANGLERS LLC** | | | | | | | |
| 10007 | APPLES & ANGLERS LLC | 2025.11.12 | CATERING - LPD AWARD NIGHT | 10/29/2025 | 2,360.00 | 2,360.00 | 11/13/2025 |
| 10007 | APPLES & ANGLERS LLC | 2025.12.12 | CATERING - 25% DEPOSIT | 11/13/2025 | 2,475.00 | 2,475.00 | 11/13/2025 |
| | Total APPLES & ANGLERS LLC: | | | | 4,835.00 | 4,835.00 | |
| **BIG SKY FIRE EQUIPMENT** | | | | | | | |
| 3 | BIG SKY FIRE EQUIPMENT | 0505916 | GAS MONITOR REPAIR | 11/06/2025 | 1,623.00 | 1,623.00 | 11/24/2025 |
| | Total BIG SKY FIRE EQUIPMENT: | | | | 1,623.00 | 1,623.00 | |
| **BNSF RAILWAY COMPANY** | | | | | | | |
| 10006 | BNSF RAILWAY COMPANY | 25011865 | CONTRACT BF82451 | 11/05/2025 | 25.00 | 25.00 | 11/20/2025 |
| | Total BNSF RAILWAY COMPANY: | | | | 25.00 | 25.00 | |
| **BOUND TREE MEDICAL, LLC** | | | | | | | |
| 2662 | BOUND TREE MEDICAL, LLC | 85989090 | Patient Supplies | 11/10/2025 | 181.74 | 181.74 | 11/24/2025 |
| 2662 | BOUND TREE MEDICAL, LLC | 85989091 | Patient Supplies | 11/10/2025 | 45.58 | 45.58 | 11/24/2025 |
| 2662 | BOUND TREE MEDICAL, LLC | 85989092 | Patient Supplies | 11/10/2025 | 828.74 | 828.74 | 11/24/2025 |
| 2662 | BOUND TREE MEDICAL, LLC | 85989093 | Patient Supplies | 11/10/2025 | 33.07 | 33.07 | 11/24/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| 2662 | BOUND TREE MEDICAL, LLC | 85990670 | Patient Supplies | 11/11/2025 | 601.94 | 601.94 | 11/24/2025 |
| 2662 | BOUND TREE MEDICAL, LLC | 85998754 | Patient Supplies | 11/18/2025 | 405.22 | 405.22 | 11/24/2025 |
| | Total BOUND TREE MEDICAL, LLC: | | | | 2,096.29 | 2,096.29 | |
| **CANON FINANCIAL SERVICES, INC** | | | | | | | |
| 1747 | CANON FINANCIAL SERVICES, I | 42132369 | Printer Contract | 11/11/2025 | 29.31 | 29.31 | 11/24/2025 |
| 1747 | CANON FINANCIAL SERVICES, I | 42132370 | Printer Contract | 11/11/2025 | 29.75 | 29.75 | 11/24/2025 |
| | Total CANON FINANCIAL SERVICES, INC: | | | | 59.06 | 59.06 | |
| **CARS 4 U** | | | | | | | |
| 10008 | CARS 4 U | ESCAPE | FORD ESCAPE | 11/20/2025 | 8,000.00 | 8,000.00 | 11/20/2025 |
| | Total CARS 4 U: | | | | 8,000.00 | 8,000.00 | |
| **CASELLE** | | | | | | | |
| 3763 | CASELLE | INV-11823 | APPLICATION SOFTWARE | 10/01/2025 | 209.00 | 209.00 | 11/17/2025 |
| 3763 | CASELLE | INV-11823 | APPLICATION SOFTWARE | 10/01/2025 | 108.29 | 108.29 | 11/17/2025 |
| 3763 | CASELLE | INV-11823 | APPLICATION SOFTWARE | 10/01/2025 | 3,456.13 | 3,456.13 | 11/17/2025 |
| 3763 | CASELLE | INV-11823 | APPLICATION SOFTWARE | 10/01/2025 | 317.29 | 317.29 | 11/17/2025 |
| 3763 | CASELLE | INV-11823 | APPLICATION SOFTWARE | 10/01/2025 | 209.00 | 209.00 | 11/17/2025 |
| 3763 | CASELLE | INV-11823 | APPLICATION SOFTWARE | 10/01/2025 | 108.29 | 108.29 | 11/17/2025 |
| | Total CASELLE: | | | | 4,408.00 | 4,408.00 | |
| **CENTRAL VALLEY FIRE** | | | | | | | |
| 3164 | CENTRAL VALLEY FIRE | CVFD-25-031 | E1 T/C WIRING | 11/20/2025 | 200.00 | 200.00 | 11/24/2025 |
| | Total CENTRAL VALLEY FIRE: | | | | 200.00 | 200.00 | |
| **CLEARY BUILDING CORP** | | | | | | | |
| 10007 | CLEARY BUILDING CORP | 2025_11_19 | STREET MATERIALS STORAGE | 11/19/2025 | 17,026.00 | 17,026.00 | 11/19/2025 |
| | Total CLEARY BUILDING CORP: | | | | 17,026.00 | 17,026.00 | |
| **CULLIGAN OF BOZEMAN** | | | | | | | |
| 10000 | CULLIGAN OF BOZEMAN | 575X03589106 | SERVICE CALL | 10/31/2025 | 225.00 | 225.00 | 11/13/2025 |
| | Total CULLIGAN OF BOZEMAN: | | | | 225.00 | 225.00 | |
| **DEMCO INC** | | | | | | | |
| 199 | DEMCO INC | 7726638 | Book Prep Supplies | 11/13/2025 | 295.57 | 295.57 | 11/24/2025 |
| | Total DEMCO INC: | | | | 295.57 | 295.57 | |
| **DEPARTMENT OF REVENUE** | | | | | | | |
| 122 | DEPARTMENT OF REVENUE | 2025_10ASKIN | DOWNTOWN CIP - 2ND & 3RD A | 10/31/2025 | 2,428.41 | 2,428.41 | 11/13/2025 |
| 122 | DEPARTMENT OF REVENUE | 2025_10ASKIN | DOWNTOWN CIP - 2ND & 3RD A | 10/31/2025 | 1,428.17 | 1,428.17 | 11/13/2025 |
| 122 | DEPARTMENT OF REVENUE | 2025_10ASKIN | DOWNTOWN CIP - 2ND & 3RD A | 10/31/2025 | 406.72 | 406.72 | 11/13/2025 |
| 122 | DEPARTMENT OF REVENUE | 2025_10ASKIN | DOWNTOWN CIP - 2ND & 3RD A | 10/31/2025 | 1,413.00 | 1,413.00 | 11/13/2025 |
| 122 | DEPARTMENT OF REVENUE | 2025_10ASKIN | DOWNTOWN CIP - 2ND & 3RD A | 10/31/2025 | 736.24 | 736.24 | 11/13/2025 |
| | Total DEPARTMENT OF REVENUE: | | | | 6,412.54 | 6,412.54 | |
| **FISHER SAND AND GRAVEL** | | | | | | | |
| 2904 | FISHER SAND AND GRAVEL | 58537 | FLOWFILL CONCRETE | 10/25/2025 | 394.50 | 394.50 | 11/13/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| | Total FISHER SAND AND GRAVEL: | | | | 394.50 | 394.50 | |
| **FORT HARRISON BILLETING** | | | | | | | |
| 3644 | FORT HARRISON BILLETING | 56123 | DANIELS 10/12-10/17 | 10/31/2025 | 265.00 | 265.00 | 11/13/2025 |
| | Total FORT HARRISON BILLETING: | | | | 265.00 | 265.00 | |
| **GALLATIN COUNTY** | | | | | | | |
| 10007 | GALLATIN COUNTY | 121052 | DUMP FEE | 10/01/2025 | 1,253.00 | 1,253.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121097 | DUMP FEES | 10/02/2025 | 1,234.00 | 1,234.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121131 | DUMP FEES | 10/03/2025 | 1,333.00 | 1,333.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121179 | DUMP FEES | 10/06/2025 | 1,210.00 | 1,210.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121209 | DUMP FEES | 10/07/2025 | 2,006.00 | 2,006.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121242 | DUMP FEES | 10/08/2025 | 1,289.00 | 1,289.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121275 | DUMP FEES | 10/09/2025 | 2,008.00 | 2,008.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121312 | DUMP FEES | 10/10/2025 | 1,314.00 | 1,314.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121338 | DUMP FEES | 10/11/2025 | 1,276.00 | 1,276.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121362 | DUMP FEES | 10/13/2025 | 625.00 | 625.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121402 | DUMP FEES | 10/14/2025 | 1,419.00 | 1,419.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121435 | DUMP FEES | 10/15/2025 | 1,851.00 | 1,851.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121475 | DUMP FEES | 10/16/2025 | 1,269.00 | 1,269.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121501 | DUMP FEES | 10/17/2025 | 1,276.00 | 1,276.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121543 | DUMP FEES | 10/20/2025 | 1,233.00 | 1,233.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121576 | DUMP FEES | 10/21/2025 | 1,318.00 | 1,318.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121614 | DUMP FEES | 10/22/2025 | 1,639.00 | 1,639.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121651 | DUMP FEES | 10/23/2025 | 1,980.00 | 1,980.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121693 | DUMP FEES | 10/24/2025 | 1,270.00 | 1,270.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121747 | DUMP FEES | 10/27/2025 | 1,326.00 | 1,326.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121777 | DUMP FEES | 10/28/2025 | 1,993.00 | 1,993.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121811 | DUMP FEES | 10/29/2025 | 2,026.00 | 2,026.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121853 | DUMP FEES | 10/30/2025 | 1,253.00 | 1,253.00 | 11/13/2025 |
| 10007 | GALLATIN COUNTY | 121889 | DUMP FEES | 10/31/2025 | 2,025.00 | 2,025.00 | 11/13/2025 |
| | Total GALLATIN COUNTY: | | | | 35,426.00 | 35,426.00 | |
| **GMP CONSULTANTS LLC** | | | | | | | |
| 10004 | GMP CONSULTANTS LLC | 25-394 | CITY MANAGER EVALUATION | 11/05/2025 | 2,250.00 | 2,250.00 | 11/13/2025 |
| | Total GMP CONSULTANTS LLC: | | | | 2,250.00 | 2,250.00 | |
| **GRANITE TECHNOLOGY SOLUTIONS, INC** | | | | | | | |
| 2426 | GRANITE TECHNOLOGY SOLU | 44075 | CITY HALL NETWORK CABLE T | 10/27/2025 | 130.00 | 130.00 | 11/13/2025 |
| | Total GRANITE TECHNOLOGY SOLUTIONS, INC: | | | | 130.00 | 130.00 | |
| **GRAYBEAL'S ALL SERVICE** | | | | | | | |
| 98 | GRAYBEAL'S ALL SERVICE | 19862 | SERVICE CALL | 10/31/2025 | 225.00 | 225.00 | 11/13/2025 |
| 98 | GRAYBEAL'S ALL SERVICE | 20052 | PROGRAM TITAN UNIT CONTR | 11/06/2025 | 70.00 | 70.00 | 11/13/2025 |
| | Total GRAYBEAL'S ALL SERVICE: | | | | 295.00 | 295.00 | |
| **HANSER'S AUTOMOTIVE & WRECKER** | | | | | | | |
| 1687 | HANSER'S AUTOMOTIVE & WR | LIV6569 | Towing | 11/18/2025 | 100.00 | 100.00 | 11/24/2025 |
| 1687 | HANSER'S AUTOMOTIVE & WR | LIV6632 | Towing | 11/14/2025 | 2,025.00 | 2,025.00 | 11/24/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| | Total HANSER'S AUTOMOTIVE & WRECKER: | | | | 2,125.00 | 2,125.00 | |
| **HAWKINS, INC** | | | | | | | |
| 470 | HAWKINS, INC | 7257030 | Chlorine cylinder | 11/15/2025 | 50.00 | 50.00 | 11/24/2025 |
| | Total HAWKINS, INC: | | | | 50.00 | 50.00 | |
| **HILLYARD OF MONTANA** | | | | | | | |
| 63 | HILLYARD OF MONTANA | 605965074 | Cleaning supplies | 10/06/2025 | 803.97 | 803.97 | 11/24/2025 |
| | Total HILLYARD OF MONTANA: | | | | 803.97 | 803.97 | |
| **HORIZON AUTO PARTS** | | | | | | | |
| 1920 | HORIZON AUTO PARTS | 045257 | PARTS | 10/30/2025 | 149.39 | 149.39 | 11/13/2025 |
| 1920 | HORIZON AUTO PARTS | 046197 | FUSE KIT | 11/12/2025 | 41.31 | 41.31 | 11/24/2025 |
| | Total HORIZON AUTO PARTS: | | | | 190.70 | 190.70 | |
| **HRDC** | | | | | | | |
| 705 | HRDC | 2025.11 | REFUND OVERPAYMENT | 11/12/2025 | 475.00 | 475.00 | 11/13/2025 |
| | Total HRDC: | | | | 475.00 | 475.00 | |
| **IBS INC** | | | | | | | |
| 10004 | IBS INC | 890034-1 | SUPPLIES | 10/29/2025 | 267.91 | 267.91 | 11/13/2025 |
| | Total IBS INC: | | | | 267.91 | 267.91 | |
| **IMCO TRAILERS** | | | | | | | |
| 10008 | IMCO TRAILERS | 21560 | 2026 MAC MOVING FLOOR TRA | 11/12/2025 | 138,636.00 | 138,636.00 | 11/13/2025 |
| | Total IMCO TRAILERS: | | | | 138,636.00 | 138,636.00 | |
| **INDUSTRIAL COMM & ELEC OF BOZEMAN** | | | | | | | |
| 3455 | INDUSTRIAL COMM & ELEC OF | 35414 | CAMBIUM INSTALLATION | 11/06/2025 | 3,008.00 | 3,008.00 | 11/20/2025 |
| | Total INDUSTRIAL COMM & ELEC OF BOZEMAN: | | | | 3,008.00 | 3,008.00 | |
| **IRRIGATION INNOVATIONS** | | | | | | | |
| 10002 | IRRIGATION INNOVATIONS | 9027 | WINTERIZE SPRINKLER SYSTE | 11/02/2025 | 95.00 | 95.00 | 11/24/2025 |
| | Total IRRIGATION INNOVATIONS: | | | | 95.00 | 95.00 | |
| **J.P COOKE CO.** | | | | | | | |
| 261 | J.P COOKE CO. | 906726 | Animal TAGS | 11/18/2025 | 388.75 | 388.75 | 11/24/2025 |
| | Total J.P COOKE CO.: | | | | 388.75 | 388.75 | |
| **KELLEY CREATE** | | | | | | | |
| 10006 | KELLEY CREATE | 40472569 | 112-1689019-000 | 10/31/2025 | 359.84 | 359.84 | 11/13/2025 |
| 10006 | KELLEY CREATE | CM91833 | CREDIT | 11/21/2024 | 39.84- | 39.84- | 11/13/2025 |
| 10006 | KELLEY CREATE | IN2133360 | JH133360 | 11/04/2025 | 27.56 | 27.56 | 11/13/2025 |
| 10006 | KELLEY CREATE | IN2133360 | JH13332 | 11/04/2025 | 27.56 | 27.56 | 11/13/2025 |
| 10006 | KELLEY CREATE | IN2133360 | JH13332 | 11/04/2025 | 27.56 | 27.56 | 11/13/2025 |
| 10006 | KELLEY CREATE | IN2133360 | JH13332 | 11/04/2025 | 27.56 | 27.56 | 11/13/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| | Total KELLEY CREATE: | | | | 430.24 | 430.24 | |
| **KEN'S EQUIPMENT REPAIR, INC** | | | | | | | |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 64117 | TRANSFER TRUCK | 10/22/2025 | 130.00 | 130.00 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65357 | 0343/ROLLOFF | 10/15/2025 | 399.25 | 399.25 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65406 | TRANSFER TRUCK | 10/06/2025 | 343.75 | 343.75 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65469 | G3 | 10/01/2025 | 478.25 | 478.25 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65514 | G3 | 10/07/2025 | 798.60 | 798.60 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65528 | TRANSFER TRUCK | 10/06/2025 | 390.00 | 390.00 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65529 | CAMERA TRUCK | 10/06/2025 | 240.00 | 240.00 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65545 | TRANSFER TRUCK | 10/08/2025 | 191.20 | 191.20 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65554 | TRANSFER TRUCK | 10/09/2025 | 1,020.15 | 1,020.15 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65565 | G3 | 10/09/2025 | 130.50 | 130.50 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65652 | WILDCAT SNOWBLOWER | 10/24/2025 | 2,601.45 | 2,601.45 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65667 | 544 JD | 10/28/2025 | 87.10 | 87.10 | 11/13/2025 |
| 1390 | KEN'S EQUIPMENT REPAIR, IN | 65680 | SWEEPER PELICAN | 10/30/2025 | 345.00 | 345.00 | 11/13/2025 |
| | Total KEN'S EQUIPMENT REPAIR, INC: | | | | 7,155.25 | 7,155.25 | |
| **LED LIGHTING SOLUTIONS** | | | | | | | |
| 10008 | LED LIGHTING SOLUTIONS | INV43006 | FLASHING SIGNS | 10/29/2025 | 6,631.15 | 6,631.15 | 11/13/2025 |
| | Total LED LIGHTING SOLUTIONS: | | | | 6,631.15 | 6,631.15 | |
| **LEXIPOL LLC** | | | | | | | |
| 10003 | LEXIPOL LLC | INVCOR11257 | CORDICO WELLNESS APP | 09/01/2025 | 2,159.10 | 2,159.10 | 11/24/2025 |
| 10003 | LEXIPOL LLC | INVPRA112557 | POLICEONE ACADEMY | 07/01/2025 | 876.96 | 876.96 | 11/24/2025 |
| 10003 | LEXIPOL LLC | INVPRA112557 | POLICEONE ACADEMY | 07/01/2025 | 1,559.04 | 1,559.04 | 11/24/2025 |
| | Total LEXIPOL LLC: | | | | 4,595.10 | 4,595.10 | |
| **LIVINGSTON DEPOT FOUNDATION INC** | | | | | | | |
| 10004 | LIVINGSTON DEPOT FOUNDATI | 9414 | DEPOSIT 12/12/2025 | 11/07/2025 | 575.00 | 575.00 | 11/20/2025 |
| | Total LIVINGSTON DEPOT FOUNDATION INC: | | | | 575.00 | 575.00 | |
| **LIVINGSTON LOCKS & CLOCKS** | | | | | | | |
| 3210 | LIVINGSTON LOCKS & CLOCKS | 127642 | RESTRICTED KEYS | 11/13/2025 | 108.00 | 108.00 | 11/20/2025 |
| | Total LIVINGSTON LOCKS & CLOCKS: | | | | 108.00 | 108.00 | |
| **MAIN LINE MECHANICS INC** | | | | | | | |
| 10007 | MAIN LINE MECHANICS INC | 420 | HEATER BLOWER MOTOR | 11/04/2025 | 875.36 | 875.36 | 11/13/2025 |
| | Total MAIN LINE MECHANICS INC: | | | | 875.36 | 875.36 | |
| **MEYER ELECTRIC AND GROUNDS REPAIR, LLC** | | | | | | | |
| 3812 | MEYER ELECTRIC AND GROUN | 1487 | CIVIC CENTER BATHROOM TE | 10/24/2025 | 320.00 | 320.00 | 11/24/2025 |
| 3812 | MEYER ELECTRIC AND GROUN | 1499 | CIVIC CENTER BATH LIGHTS | 11/18/2025 | 1,614.84 | 1,614.84 | 11/24/2025 |
| | Total MEYER ELECTRIC AND GROUNDS REPAIR, LLC: | | | | 1,934.84 | 1,934.84 | |
| **MISC** | | | | | | | |
| 99999 | MISC | 1018404 | UTILITY OVERPAYMENT | 11/18/2025 | 67.81 | 67.81 | 11/24/2025 |
| 99999 | MISC | 1639203 | UTILITY OVERPAYMENT | 11/18/2025 | 187.78 | 187.78 | 11/24/2025 |
| 99999 | MISC | 412 | Refund overpayment | 11/12/2025 | 25.00 | 25.00 | 11/13/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| 99999 | MISC | 50050098703 | REFUND UTILITES 1219 SWEET | 11/14/2025 | 141.34 | 141.34 | 11/14/2025 |
| 99999 | MISC | 554 | REFUND 2ND ST PARKING | 11/01/2025 | 85.00 | 85.00 | 11/13/2025 |
| 99999 | MISC | 623 | Refund overpayment | 11/12/2025 | 250.00 | 250.00 | 11/13/2025 |
| | Total MISC: | | | | 756.93 | 756.93 | |
| **MONTANA DOORWAYS PLUS INC.** | | | | | | | |
| 10008 | MONTANA DOORWAYS PLUS IN | 30056CD | DOOR HARDWARE | 10/24/2025 | 40.00 | 40.00 | 11/13/2025 |
| | Total MONTANA DOORWAYS PLUS INC.: | | | | 40.00 | 40.00 | |
| **MONTANA LIBRARY ASSOC** | | | | | | | |
| 3657 | MONTANA LIBRARY ASSOC | 04237 | MLA INSTITUTIONAL MEMBERS | 11/07/2025 | 1,500.00 | 1,500.00 | 11/17/2025 |
| | Total MONTANA LIBRARY ASSOC: | | | | 1,500.00 | 1,500.00 | |
| **MONTANA LINEN SUPPLY LLC** | | | | | | | |
| 10007 | MONTANA LINEN SUPPLY LLC | 541151 | MATS BENNETT | 10/31/2025 | 17.81 | 17.81 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 541151 | MATS BENNETT | 10/31/2025 | 17.81 | 17.81 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 541151 | MATS BENNETT | 10/31/2025 | 17.82 | 17.82 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 541151 | MATS BENNETT | 10/31/2025 | 17.81 | 17.81 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 542448 | MATS BENNETT STREET | 11/07/2025 | 33.09 | 33.09 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 542448 | MATS BENNETT STREET | 11/07/2025 | 33.09 | 33.09 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 542448 | MATS BENNETT STREET | 11/07/2025 | 33.09 | 33.09 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 542448 | MATS BENNETT STREET | 11/07/2025 | 33.08 | 33.08 | 11/13/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 542450 | MATS LIBRARY | 11/07/2025 | 55.27 | 55.27 | 11/24/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 543738 | MATS CITY HALL | 11/14/2025 | 126.95 | 126.95 | 11/20/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 543741 | MATS BENNETT | 11/14/2025 | 26.31 | 26.31 | 11/20/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 543741 | MATS BENNETT | 11/14/2025 | 26.31 | 26.31 | 11/20/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 543741 | MATS BENNETT | 11/14/2025 | 26.32 | 26.32 | 11/20/2025 |
| 10007 | MONTANA LINEN SUPPLY LLC | 543741 | MATS BENNETT | 11/14/2025 | 26.31 | 26.31 | 11/20/2025 |
| | Total MONTANA LINEN SUPPLY LLC: | | | | 491.07 | 491.07 | |
| **MOUNTAIN FRESH CLEANING** | | | | | | | |
| 10005 | MOUNTAIN FRESH CLEANING | 138 | JANITORIAL SERVICES - OCTO | 11/11/2025 | 2,800.00 | 2,800.00 | 11/17/2025 |
| | Total MOUNTAIN FRESH CLEANING: | | | | 2,800.00 | 2,800.00 | |
| **MSU EXTENSION SERVICE** | | | | | | | |
| 3275 | MSU EXTENSION SERVICE | 64 | OCT. ECONOMIC DEVELOPME | 11/12/2025 | 4,180.73 | 4,180.73 | 11/13/2025 |
| | Total MSU EXTENSION SERVICE: | | | | 4,180.73 | 4,180.73 | |
| **NEWMAN SIGNS INC.** | | | | | | | |
| 64 | NEWMAN SIGNS INC. | TRFINV064339 | Traffic Signs | 11/14/2025 | 581.76 | 581.76 | 11/24/2025 |
| | Total NEWMAN SIGNS INC.: | | | | 581.76 | 581.76 | |
| **NORTHWESTERN ENERGY** | | | | | | | |
| 151 | NORTHWESTERN ENERGY | 0107897-1 11.2 | 228 W CALLENDER ST | 11/07/2025 | 878.82 | 878.82 | 11/24/2025 |
| 151 | NORTHWESTERN ENERGY | 3837245-4 11.2 | 220 E PARK ST | 11/10/2025 | 432.80 | 432.80 | 11/24/2025 |
| | Total NORTHWESTERN ENERGY: | | | | 1,311.62 | 1,311.62 | |
| **PARK COUNTY** | | | | | | | |
| 272 | PARK COUNTY | 2025_10 | ANALOG LINE - DISPATCH | 10/31/2025 | 389.46 | 389.46 | 11/25/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| 272 | PARK COUNTY | 2025_10 | LONG DISTANCE - 60.70% | 10/31/2025 | 17.20 | 17.20 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | 911 PHONES & DATA | 10/31/2025 | 2,910.78 | 2,910.78 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | ANALOG LINE - LOBBY ELEVAT | 10/31/2025 | 10.59 | 10.59 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | REPAIR CITY/COUNTY PLUMBI | 10/31/2025 | 40.70 | 40.70 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY RECYCLING | 10/31/2025 | 49.22 | 49.22 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | JANITORIAL SUPPLIES | 10/31/2025 | 130.46 | 130.46 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | VAN'S OFFICE | 10/31/2025 | 787.20 | 787.20 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY HALL | 10/31/2025 | 787.20 | 787.20 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | POOL | 10/31/2025 | 787.20 | 787.20 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL ROAD SHOP | 10/31/2025 | 262.40 | 262.40 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY RECYCLING | 10/31/2025 | 49.22 | 49.22 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | PC / COL - 50/50 WAN | 10/31/2025 | 1,384.65 | 1,384.65 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL ROAD SHOP | 10/31/2025 | 262.40 | 262.40 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL WATER | 10/31/2025 | 245.55 | 245.55 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL WATER | 10/31/2025 | 245.55 | 245.55 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CIVIC CENTER | 10/31/2025 | 1,638.60 | 1,638.60 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | BACKUP DISPATCH | 10/31/2025 | 542.10 | 542.10 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | WINTERIZE IRRIGATION | 10/31/2025 | 74.00 | 74.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL ROAD SHOP | 10/31/2025 | 262.40 | 262.40 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL TRANSFER STATION | 10/31/2025 | 765.60 | 765.60 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL WATER | 10/31/2025 | 245.55 | 245.55 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL WATER | 10/31/2025 | 245.55 | 245.55 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | JANITORIAL SUPPLIES | 10/31/2025 | 163.69 | 163.69 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | NORTH REPEATER TOWER 002 | 10/31/2025 | 33.87 | 33.87 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | MEYERS FLAT RADIO TOWER | 10/31/2025 | 109.17 | 109.17 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | REPAIR CITY/COUNTY HVAC | 10/31/2025 | 417.19 | 417.19 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | SEP -POWER BILL | 10/31/2025 | 189.98 | 189.98 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | SEP -POWER BILL | 10/31/2025 | 2,309.97 | 2,309.97 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | VIDEO CONF | 10/31/2025 | 95.81 | 95.81 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | STANDARD PHONE | 10/31/2025 | 81.46 | 81.46 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | IT CITY PORTION | 10/31/2025 | 514.49 | 514.49 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | IT CONSULTING | 10/31/2025 | 625.00 | 625.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COURT HOUSE MOWING | 10/31/2025 | 103.50 | 103.50 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - CIVIC CENTER | 10/31/2025 | 570.00 | 570.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - POOL | 10/31/2025 | 150.00 | 150.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - STREET SHOP | 10/31/2025 | 140.00 | 140.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - STREET SHOP | 10/31/2025 | 140.00 | 140.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - PUBLIC WORKS | 10/31/2025 | 105.00 | 105.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - PUBLIC WORKS | 10/31/2025 | 105.00 | 105.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL PH/INT 50%-JULY-25 | 10/31/2025 | 345.36 | 345.36 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - CITY HALL | 10/31/2025 | 570.00 | 570.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - PUBLIC WORKS | 10/31/2025 | 105.00 | 105.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - PUBLIC WORKS | 10/31/2025 | 105.00 | 105.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - TRANSFER STATIO | 10/31/2025 | 300.00 | 300.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | INTERNET - STREET SHOP | 10/31/2025 | 140.00 | 140.00 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | 911 Phone-2%-OCT-25 | 10/31/2025 | 2.30 | 2.30 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL PH/INT 50%-JULY-25 | 10/31/2025 | 2,735.73 | 2,735.73 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | COL PH/INT COMPLEX 50% | 10/31/2025 | 480.39 | 480.39 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | 911 PHONE/INT-1% | 10/31/2025 | 9.60 | 9.60 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | OCT-CELL PHONE | 10/31/2025 | 533.54 | 533.54 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 32.98 | 32.98 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 34.97 | 34.97 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 2.26 | 2.26 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 34.82 | 34.82 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 2.14 | 2.14 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 36.86 | 36.86 | 11/25/2025 |
| 272 | PARK COUNTY | 2025_10 | CITY SHARE MATS | 10/31/2025 | 2.27 | 2.27 | 11/25/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| | Total PARK COUNTY: | | | | 23,460.93 | 23,460.93 | |
| **PARK COUNTY HEALTH DEPT** | | | | | | | |
| 255 | PARK COUNTY HEALTH DEPT | 99 | #2 HEP B ANZICK | 09/09/2025 | 68.00 | 68.00 | 11/13/2025 |
| | Total PARK COUNTY HEALTH DEPT: | | | | 68.00 | 68.00 | |
| **PARK COUNTY TREASURER** | | | | | | | |
| 10000 | PARK COUNTY TREASURER | 2025_11 | 0000026770 | 11/01/2025 | 3,266.44 | 3,266.44 | 11/13/2025 |
| 10000 | PARK COUNTY TREASURER | 2025_11_24 | REGISTRATION - SILVERADO 3 | 11/24/2025 | 25.75 | 25.75 | 11/24/2025 |
| | Total PARK COUNTY TREASURER: | | | | 3,292.19 | 3,292.19 | |
| **PARK COUNTY TREASURER - TECH** | | | | | | | |
| 1702 | PARK COUNTY TREASURER - T | 2025.10 | OCTOBER COLLECTIONS | 10/31/2025 | 320.00 | 320.00 | 11/13/2025 |
| | Total PARK COUNTY TREASURER - TECH: | | | | 320.00 | 320.00 | |
| **PARK COUNTY TREASURER/M.L.E.A.** | | | | | | | |
| 2156 | PARK COUNTY TREASURER/M. | 2025.10 | OCTOBER COLLECTIONS | 10/31/2025 | 340.00 | 340.00 | 11/13/2025 |
| | Total PARK COUNTY TREASURER/M.L.E.A.: | | | | 340.00 | 340.00 | |
| **PARK ELECTRIC COOPERTIVE, INC.** | | | | | | | |
| 2915 | PARK ELECTRIC COOPERTIVE, | 2025.10 23034 | 303240407 NORTH RADIO REPE | 10/31/2025 | 33.53 | 33.53 | 11/13/2025 |
| | Total PARK ELECTRIC COOPERTIVE, INC.: | | | | 33.53 | 33.53 | |
| **QUALITY CONTROL SERVICES, INC.** | | | | | | | |
| 258 | QUALITY CONTROL SERVICES, | QCS4839 | CALIBRATION | 10/19/2025 | 2,445.00 | 2,445.00 | 11/13/2025 |
| | Total QUALITY CONTROL SERVICES, INC.: | | | | 2,445.00 | 2,445.00 | |
| **REDTAIL COMMUNICATIONS, INC.** | | | | | | | |
| 10008 | REDTAIL COMMUNICATIONS, IN | 3079 | BUILD CODE PLUG FOR APX65 | 11/04/2025 | 742.00 | 742.00 | 11/13/2025 |
| | Total REDTAIL COMMUNICATIONS, INC.: | | | | 742.00 | 742.00 | |
| **RIVER BEND THREADS** | | | | | | | |
| 2299 | RIVER BEND THREADS | 6957 | SWEATSHIRT | 11/03/2025 | 55.00 | 55.00 | 11/17/2025 |
| 2299 | RIVER BEND THREADS | 6957 | CLOTHING | 11/03/2025 | 439.00 | 439.00 | 11/17/2025 |
| | Total RIVER BEND THREADS: | | | | 494.00 | 494.00 | |
| **ROCKY MOUNTAIN SUPPLY INC** | | | | | | | |
| 10006 | ROCKY MOUNTAIN SUPPLY INC | 12033 | DIESEL 800G | 11/10/2025 | 2,531.56 | 2,531.56 | 11/13/2025 |
| 10006 | ROCKY MOUNTAIN SUPPLY INC | 1244 | DIESEL 850G | 10/15/2025 | 2,664.75 | 2,664.75 | 11/13/2025 |
| 10006 | ROCKY MOUNTAIN SUPPLY INC | 1278 | DIESEL 1,100G | 10/24/2025 | 3,635.50 | 3,635.50 | 11/13/2025 |
| 10006 | ROCKY MOUNTAIN SUPPLY INC | 1300059 | INDOL ISO 32 BULK | 11/10/2025 | 456.11 | 456.11 | 11/20/2025 |
| | Total ROCKY MOUNTAIN SUPPLY INC: | | | | 9,287.92 | 9,287.92 | |
| **ROTO-ROOTER - BOZEMAN** | | | | | | | |
| 2657 | ROTO-ROOTER - BOZEMAN | 80915 | REPAIR URINAL | 11/11/2025 | 540.00 | 540.00 | 11/24/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| | Total ROTO-ROOTER - BOZEMAN: | | | | 540.00 | 540.00 | |
| **SEA WESTERN FIRE FIGHTING EQUIPMENT** | | | | | | | |
| 10005 | SEA WESTERN FIRE FIGHTING | INV48436 | THERMAL IMAGING CAMERA | 11/06/2025 | 4,752.21 | 4,752.21 | 11/24/2025 |
| | Total SEA WESTERN FIRE FIGHTING EQUIPMENT: | | | | 4,752.21 | 4,752.21 | |
| **SHAMROCK FOODS COMPANY** | | | | | | | |
| 10006 | SHAMROCK FOODS COMPANY | 35164875 | STATION SUPPLIES | 10/31/2025 | 534.51 | 534.51 | 11/13/2025 |
| 10006 | SHAMROCK FOODS COMPANY | 35164876 | STATION SUPPLIES | 10/31/2025 | 110.24 | 110.24 | 11/13/2025 |
| | Total SHAMROCK FOODS COMPANY: | | | | 644.75 | 644.75 | |
| **SPECIAL LUBE** | | | | | | | |
| 1814 | SPECIAL LUBE | 224-280-31876 | Oil Change | 11/03/2025 | 110.31 | 110.31 | 11/13/2025 |
| | Total SPECIAL LUBE: | | | | 110.31 | 110.31 | |
| **TD&H ENGINEERING, INC** | | | | | | | |
| 3390 | TD&H ENGINEERING, INC | 45125 | 2025 ALLEY CIP | 11/10/2025 | 10,848.34 | 10,848.34 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45125 | 2025 ALLEY CIP | 11/10/2025 | 10,848.33 | 10,848.33 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45125 | 2025 ALLEY CIP | 11/10/2025 | 10,848.33 | 10,848.33 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45126 | I&I PROJECT | 11/10/2025 | 30,380.71 | 30,380.71 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45127 | VIEW VISTA | 11/10/2025 | 658.50 | 658.50 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45127 | VIEW VISTA | 11/10/2025 | 658.50 | 658.50 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45128 | 2027 DT CIP (DESIGN) | 11/10/2025 | 3,363.99 | 3,363.99 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45128 | 2027 DT CIP (DESIGN) | 11/10/2025 | 3,363.98 | 3,363.98 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45128 | 2027 DT CIP (DESIGN) | 11/10/2025 | 3,363.98 | 3,363.98 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45129 | DISCOVERY VISTA PHASE 2 | 11/10/2025 | 136.13 | 136.13 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45129 | DISCOVERY VISTA PHASE 2 | 11/10/2025 | 136.12 | 136.12 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45130 | PARK STREET RRFB | 11/10/2025 | 2,714.50 | 2,714.50 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45131 | ON-CALL SERVICES | 11/10/2025 | 561.75 | 561.75 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45131 | ON-CALL SERVICES | 11/10/2025 | 561.75 | 561.75 | 11/20/2025 |
| 3390 | TD&H ENGINEERING, INC | 45131 | ON-CALL SERVICES | 11/10/2025 | 561.75 | 561.75 | 11/20/2025 |
| | Total TD&H ENGINEERING, INC: | | | | 79,006.66 | 79,006.66 | |
| **THE MAIN PRINT SHOP** | | | | | | | |
| 10006 | THE MAIN PRINT SHOP | 22894 | MCRT - TRIFOLD | 10/15/2025 | 209.72 | 209.72 | 11/13/2025 |
| | Total THE MAIN PRINT SHOP: | | | | 209.72 | 209.72 | |
| **TK ELEVATOR CORPORATION** | | | | | | | |
| 10003 | TK ELEVATOR CORPORATION | 3008989605 | ELEVATOR MAINT. | 11/01/2025 | 4,582.00 | 4,582.00 | 11/17/2025 |
| | Total TK ELEVATOR CORPORATION: | | | | 4,582.00 | 4,582.00 | |
| **TOWN & COUNTRY FOODS - LIVINGSTON** | | | | | | | |
| 2595 | TOWN & COUNTRY FOODS - LI | 2222061 11.10. | Station Supplies | 11/10/2025 | 104.61 | 104.61 | 11/24/2025 |
| | Total TOWN & COUNTRY FOODS - LIVINGSTON: | | | | 104.61 | 104.61 | |
| **TRACTOR & EQUIPMENT CO** | | | | | | | |
| 10005 | TRACTOR & EQUIPMENT CO | BZCS2962319 | ELEMENT FOR CAT GRADER | 08/20/2025 | 268.80 | 268.80 | 11/13/2025 |
| 10005 | TRACTOR & EQUIPMENT CO | BZCS3015463 | BLADE FOR BOBCAT | 10/06/2025 | 1,308.31 | 1,308.31 | 11/13/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| | Total TRACTOR & EQUIPMENT CO: | | | | 1,577.11 | 1,577.11 | |
| **TRANSUNION RISK & ALTERNATIVE** | | | | | | | |
| 3376 | TRANSUNION RISK & ALTERNA | 380349-20251 | 380349 Investigative Research | 11/01/2025 | 100.00 | 100.00 | 11/13/2025 |
| | Total TRANSUNION RISK & ALTERNATIVE: | | | | 100.00 | 100.00 | |
| **TULSA CHAIN** | | | | | | | |
| 10008 | TULSA CHAIN | 290342 | PORTABLE DAVIT CRANE | 03/21/2025 | 6,410.00 | 6,410.00 | 11/24/2025 |
| | Total TULSA CHAIN: | | | | 6,410.00 | 6,410.00 | |
| **TW ENTERPRISES, INC.** | | | | | | | |
| 1568 | TW ENTERPRISES, INC. | CD99016224 | REPAIR - 911 MEYERS FLAT | 11/04/2025 | 2,811.83 | 2,811.83 | 11/13/2025 |
| | Total TW ENTERPRISES, INC.: | | | | 2,811.83 | 2,811.83 | |
| **UPS STORE #2420, THE** | | | | | | | |
| 292 | UPS STORE #2420, THE | 2025.11.12 | Shipment | 11/12/2025 | 7.85 | 7.85 | 11/24/2025 |
| 292 | UPS STORE #2420, THE | 2025.11.17 | Shipment | 11/17/2025 | 13.90 | 13.90 | 11/24/2025 |
| | Total UPS STORE #2420, THE: | | | | 21.75 | 21.75 | |
| **US BANK** | | | | | | | |
| 10005 | US BANK | 3055545 | 0068485NS | 11/05/2025 | 25,437.50 | 25,437.50 | 11/25/2025 |
| 10005 | US BANK | 3060010 | LIVINGGO2016 | 11/10/2025 | 8,378.13 | 8,378.13 | 11/25/2025 |
| 10005 | US BANK | 3072246 | SRF19445 | 11/21/2025 | 94,000.00 | 94,000.00 | 11/25/2025 |
| 10005 | US BANK | 3072246 | SRF19445 | 11/21/2025 | 42,350.00 | 42,350.00 | 11/25/2025 |
| 10005 | US BANK | 3072247 | SRF18430 | 11/21/2025 | 88,000.00 | 88,000.00 | 11/25/2025 |
| 10005 | US BANK | 3072247 | SRF18430 | 11/21/2025 | 66,250.00 | 66,250.00 | 11/25/2025 |
| 10005 | US BANK | 3072248 | SRF10223 | 11/21/2025 | 10,000.00 | 10,000.00 | 11/25/2025 |
| 10005 | US BANK | 3072248 | SRF 10223 | 11/21/2025 | 787.50 | 787.50 | 11/25/2025 |
| | Total US BANK: | | | | 335,203.13 | 335,203.13 | |
| **US BANK EQUIPMENT FINANCE** | | | | | | | |
| 10001 | US BANK EQUIPMENT FINANCE | 568326219 | PRINTER | 11/05/2025 | 96.42 | 96.42 | 11/17/2025 |
| | Total US BANK EQUIPMENT FINANCE: | | | | 96.42 | 96.42 | |
| **USA BLUEBOOK** | | | | | | | |
| 1430 | USA BLUEBOOK | INV00862763 | MAGMETER | 10/21/2025 | 857.25 | 857.25 | 11/13/2025 |
| 1430 | USA BLUEBOOK | INV00866484 | SUPPLIES | 10/24/2025 | 290.30 | 290.30 | 11/13/2025 |
| 1430 | USA BLUEBOOK | INV008707366 | MOP AND BROOM HOLDER | 10/29/2025 | 8.98 | 8.98 | 11/13/2025 |
| 1430 | USA BLUEBOOK | INV00872608 | GRUNDFOR PUMP | 10/31/2025 | 3,070.13 | 3,070.13 | 11/13/2025 |
| | Total USA BLUEBOOK: | | | | 4,226.66 | 4,226.66 | |
| **VERIZON WIRELESS** | | | | | | | |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.10 | 19.10 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 44.65 | 44.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 23.12 | 23.12 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 16.55 | 16.55 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 21.21 | 21.21 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.09 | 19.09 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 42.40 | 42.40 | 11/17/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 16.55 | 16.55 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 21.21 | 21.21 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 46.24 | 46.24 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.10 | 19.10 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 44.65 | 44.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 46.24 | 46.24 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.10 | 19.10 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 23.12 | 23.12 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.10 | 19.10 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 76.87 | 76.87 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.09 | 19.09 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.10 | 19.10 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 42.40 | 42.40 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 44.65 | 44.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.10 | 19.10 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 46.24 | 46.24 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 13.81 | 13.81 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 46.24 | 46.24 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 11.75 | 11.75 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.09 | 19.09 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 19.09 | 19.09 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 44.65 | 44.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | 150.04 | 150.04 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6123035194 | SEPT CELLPHONES | 09/08/2025 | .00 | .00 | |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 63.44 | 63.44 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 63.44 | 63.44 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 12.31 | 12.31 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 12.31 | 12.31 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 12.31 | 12.31 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 63.44 | 63.44 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 23.64 | 23.64 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 46.78 | 46.78 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 20.01 | 20.01 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 48.42 | 48.42 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 48.33 | 48.33 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 46.78 | 46.78 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011748 | OCTOBER CELLPHONES | 11/08/2025 | 44.42 | 44.42 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 50.64 | 50.64 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 20.02 | 20.02 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| 879 | VERIZON WIRELESS | 6128011749 | OCTOBER CELLPHONES | 11/08/2025 | 38.65 | 38.65 | 11/17/2025 |
| Total VERIZON WIRELESS: | | | | | 2,449.73 | 2,449.73 | |
| **WHISTLER TOWING, LLC** | | | | | | | |
| 3237 | WHISTLER TOWING, LLC | 9435 | MEDIC 1 REPAIR | 09/26/2025 | 436.45 | 436.45 | 11/13/2025 |
| Total WHISTLER TOWING, LLC: | | | | | 436.45 | 436.45 | |
| **WISPWEST.NET** | | | | | | | |
| 2087 | WISPWEST.NET | 521528 | Internet SOCCER | 11/21/2025 | 85.19 | 85.19 | 11/24/2025 |
| 2087 | WISPWEST.NET | 521528 | Internet-CIVIC CENTER | 11/21/2025 | 63.51 | 63.51 | 11/24/2025 |
| Total WISPWEST.NET: | | | | | 148.70 | 148.70 | |
| **XYLEM WATER SOLUTIONS U.S.A, INC.** | | | | | | | |
| 2432 | XYLEM WATER SOLUTIONS U.S | 3556D96868 | YEARLY PMA 2025 | 10/24/2025 | 5,700.00 | 5,700.00 | 11/24/2025 |
| Total XYLEM WATER SOLUTIONS U.S.A, INC.: | | | | | 5,700.00 | 5,700.00 | |
| **YELLOWSTONE NEWS GROUP** | | | | | | | |
| 10005 | YELLOWSTONE NEWS GROUP | 686594 | BID - CONTRUCTION MATERIAL | 11/07/2025 | 307.34 | 307.34 | 11/20/2025 |
| 10005 | YELLOWSTONE NEWS GROUP | 688913 | PUBLIC NOTICE | 11/07/2025 | 115.67 | 115.67 | 11/13/2025 |
| 10005 | YELLOWSTONE NEWS GROUP | 688920 | PUBLIC NOTICE | 11/07/2025 | 115.67 | 115.67 | 11/13/2025 |
| Total YELLOWSTONE NEWS GROUP: | | | | | 538.68 | 538.68 | |
| Grand Totals: | | | | | 763,998.24 | 763,998.24 | |

| Vendor | Vendor Name | Invoice Number | Description | Invoice Date | Net Invoice Amount | Amount Paid | Date Paid |
|---|---|---|---|---|---|---|---|

Dated: _____

Mayor: _____

City Council: _____

_____

_____

_____

_____

_____

City Recorder: _____

**File Attachments for Item:**

**H. AGREEMENT 20239 WITH BRIDGER BOWL INC.**

LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

**DATE:** December 2, 2025

**TO:** Chair Schwarz and City Commissioners

**FROM:** Grant Gager, City Manager

**RE:** Staff Report for Agreement 20239 with Bridger Bowl Inc.

---

**Recommendation and Summary**
Staff is recommending the Commission approve Agreement 20239 with Bridger Bowl Inc. to allow non-exclusive use of certain city facilities as a park-and-ride lot by adopting the following motion:

"I move to approve Agreement Number 20239 with Bridger Bowl Inc. and authorize the City Manager to sign the Agreement."

The reasons for the recommendation are as follows:

- Bridger Bowl Inc. has inquired with the City about utilizing a portion of the Civic Center parking lot as an employee shuttle for employees of Bridger Bowl.
- City staff did not experience or observe any operational or public use conflicts last winter with a similar arrangement.

**Introduction and History**
For the third year in a row, Bridger Bowl Inc. has inquired with the City about utilizing a portion of the Civic Center parking lot as a park-and-ride location to support the operations of a shuttle for employees of Bridger Bowl. No overnight parking of the shuttle or user vehicles is contemplated as part of this agreement nor is public use of the shuttle.

**Analysis**
City staff has reviewed the request and also last year's performance which did not create any operational or public use conflicts. A small monthly rental charge is included to offset City costs associated with plowing the parking area. Additionally, liability insurance will provide coverage for any claims that may arise out of the agreement.

**Fiscal Impact**
The rental charge is intended to offset any minimal costs associated with the use.



**Strategic Alignment**

Growth Policy strategy 4.1.3.3 encourages the City to "Reduce climate disruption through compact growth and increased transportation choices that reduce the need for driving." Enabling an employee shuttle provides increased transportation choice which should reduce the need for certain community members to drive.

**Attachments**

- Attachment A: Agreement 20239

City of Livingston
Agreement 20239

# LEASE AGREEMENT

AGREEMENT made and entered into as of the 2nd day of December, 2025, by and between the City of Livingston, a municipal corporation and political subdivision of the State of Montana, with its principal office located at 220 E. Park Street, Livingston, Montana 59047, hereinafter referred to as the "City," and Bridger Bowl Inc, of 15795 Bridger Canyon Road, Bozeman Montana 59715, hereinafter referred as "Lessee."

## Recitals.

**WHEREAS,** The City owns certain land located in the City of Livingston commonly known as the Civic Center parking lot in Miles Park; and

**WHEREAS**, The City recognizes the community health and safety benefits of shared commuting arrangements and is desirous of leasing to LESSEE to facilitate such a service; and

**WHEREAS**, LESSEE is desirous of leasing from the City said property under the terms and conditions contained in this agreement for use as a parking area for area employees utilizing a shuttle service to a common employment destination;

**NOW THEREFORE**; the non-exclusive lease of such property on such days by the Lessee is agreed as follows:

## SECTION ONE
## Description of Property

The City owns certain land located in commonly known as the Civic Center parking lot in Miles Park, Livingston, Montana.

## SECTION TWO
## Inspection, Representations and Warranties

LESSEE hereby acknowledges and agrees that it leases the property based upon its own inspection, knowledge and judgment and has not relied upon any representations or warranties, either

expressed or implied, from the City, its officers, employees, or agents. LESSEE hereby holds the City, its officers, employees or agents harmless and agrees to indemnify the City from any and all damage or destruction or property to and/or injury or death to persons growing out of the lease of said property.

**SECTION THREE**
**Term and Rental Fees**

The term of this lease shall be for the duration of the Bridger Bowl ski season which ends in 2026. LESSEE agrees to pay, without demand, to the City as rent for the property the sum of $300.00 per month, on or before the 10th day of each month.

**SECTION FOUR**
**Insurance/Hold harmless**

To the fullest extent allowed by law, LESSEE agrees to save, defend, indemnify and hold harmless the City, its officers, employees and agents from any and all claims, losses, expenses and damages, including, but not limited to, court costs and reasonable attorney fees, which may be asserted against the City arising of the negligence or negligent or intentional acts of LESSEE in connection with this agreement.

LESSEE agrees, at its sole expense, to obtain and keep in full force and effect adequate insurance against general liability, automobile liability and physical damage, naming the City as a named additional insured, with policy limits in the amount of not less than $750,000.00 per person and $1,500,000.00 per occurrence as currently provided by Mont. Code Ann. § 2-9-108, or such other amount as the State legislature may provide by amendment to said statute to cover loss, damage or injury to persons or property which might arise out of the performance of their duties under this agreement and shall provide a Certificate of Insurance to the City.

**SECTION FIVE**
**Not Used**

This section Not Used.

**SECTION SIX**
**Use of Premises**

The LESSEE will have non-exclusive use of a designated portion of the premises during the length of the contract. The property will generally remain available for the City and community's beneficial use throughout the agreement. No overnight storage of vehicles is contemplated under this agreement.

LESSEE acknowledges hereby that the City hereby reserves the right to enter into additional leases with third parties, however, the City agrees that such leases shall not interfere with LESSEE's use of the leased property.

**SECTION SEVEN**
**Assignment**

Without the prior written consent of City, LESSEE shall not assign this Lease.

**SECTION EIGHT**
**Alterations and Improvements**

LESSEE may mow the grass and otherwise clean the site but no significant alterations or improvements are allowed without prior consent in writing from the City. All agreed upon alterations, changes, and improvements built, constructed, or placed on the demised premises by LESSEE, with the exception of fixtures removable without damage to the premises and moveable personal property, shall, unless otherwise provided by written agreement between City and LESSEE, be the property of City and remain on the demised premises at the expiration or sooner termination of this Lease.

**SECTION NINE**
**Maintenance and Repair**

LESSEE will advise City of any observed maintenance and repair issues that may arise during the course of the lease.

**SECTION TEN**
**Dangerous Materials**

LESSEE shall not keep or have on the leased premises any article or thing of a dangerous, inflammable, or explosive character that might unreasonably increase the damager of fire on the leased premises or that might be considered hazardous or extra hazardous by any responsible insurance company.

**SECTION ELEVEN**
**Right of Inspection**

City and its agents shall have the right at all reasonable times during the term of this Lease and any renewal thereof to enter the demised premises for the purpose of inspecting the premises and any improvements thereon.

**SECTION TWELVE**
**Surrender of Premises**

At the expiration of the Lease term, LESSEE shall quit and surrender the premises hereby demised in as good state and condition as they were at the commencement of this Lease, reasonable use and wear thereof and damages by the elements excepted.

**SECTION THIRTEEN**
**Termination and Default**

In the event that use of the facility by LESSEE interferes with the City or other governmental agencies, private entities, residents or organizations located adjacent thereto which are in existence as of December 2025, this lease shall become null and void, if said interference cannot be corrected by LESSEE.

This lease may be terminated by either party by giving six (6) days written notice to the other party.

**SECTION FOURTEEN**
**Binding Effect**

The covenants and conditions herein contained shall apply to and bind the heirs, legal representatives, and assigns of the parties hereto, and all covenants are to be construed as conditions of this Lease.

**SECTION FIFTEEN**
**Notice**

Notices shall be mailed at the addresses set forth herein, or at such other address as the respective parties shall give to the other party by written notice of any such change. Notice shall be deemed complete when the notice is deposited into the United States Postal Service and addressed to the address provided by the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

CITY OF LIVINGSTON

_____
GRANT GAGER
City Manager

Bridger Bowl Inc.

_____
Hiram Towle
General Manager

APPROVED AS TO FORM:

_____
JON HESSE
Livingston City Attorney

**File Attachments for Item:**

**A. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECOGNIZING DECEMBER 5, 2025 AS VOLUNTEER DAY IN LIVINGSTON, MONTANA**

# PROCLAMATION

## OF THE LIVINGSTON CITY COMMISSION

Recognizing December 5, 2025, as Volunteer Day

in Livingston, Montana

---

**WHEREAS,** International Volunteer Day was established by the United Nations General Assembly in 1985 to recognize the work of volunteers and to promote the value of volunteerism worldwide; and

**WHEREAS,** this annual observance on December 5 encourages communities across the globe to acknowledge the individuals who dedicate their time and skills to advancing peace, development, and collective well-being; and

**WHEREAS,** millions of volunteers contribute to stronger communities every year by supporting essential services, responding in times of crisis, and helping advance long term community goals; and

**WHEREAS,** the City of Livingston proudly benefits from the contributions of volunteers who give their time to City boards and commissions, community programs, recreational activities, public safety support, and many other efforts that enrich the lives of residents and visitors; and

**WHEREAS,** the City also acknowledges and appreciates the many staff members who volunteer outside of their work hours, giving their personal time to assist community organizations, youth programs, local events, and neighbors in need; and

**WHEREAS,** the dedication of volunteers and staff reflects the spirit of service that strengthens Livingston and demonstrates the power of individuals working together to create a supportive, resilient, and caring community;

**NOW, THEREFORE, BE IT RESOLVED,** on behalf of the Livingston City Commission, I, Quentin Schwarz, Chair, do hereby proclaim December 5, 2025, to be Volunteer Day in Livingston, Montana.

Further, I encourage all community members to take a moment to thank the volunteers who make a difference in their lives and I also encourage all community members to find a local opportunity to volunteer and support our wonderful community.

Signed this___ day of December, 2025

_____

**Quentin Schwarz, Chair**
**Livingston City Commission**

_____

**Emily Hutchinson**
**City Clerk**

**File Attachments for Item:**

**B. A PROCLAMATION OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, RECOGNIZING DECEMBER 7, 2025 AS PEARL HARBOR DAY IN LIVINGSTON, MONTANA**

# PROCLAMATION

## OF THE LIVINGSTON CITY COMMISSION

Recognizing December 7, 2025, as Pearl Harbor Day

in Livingston, Montana

---

**WHEREAS,** on December 7, 1941, the attack on Pearl Harbor claimed the lives of more than 2,400 service members and civilians and marked a defining moment in United States history; and

**WHEREAS,** this day serves as a solemn reminder of the sacrifices made by the men and women who were killed, injured, or forever changed by the events of that morning; and

**WHEREAS,** the bravery demonstrated by the service members stationed at Pearl Harbor continues to inspire generations and stands as a testament to the strength and resilience of the American people; and

**WHEREAS,** Pearl Harbor Remembrance Day provides an opportunity for communities across the nation to honor those who served, pay tribute to those who lost their lives, and reflect on the importance of peace and preparedness; and

**WHEREAS,** the City of Livingston recognizes that the freedoms we enjoy today are protected by the dedication and sacrifice of our military members, past and present; and

**WHEREAS,** we join countless Americans in remembering the significance of December 7 and honoring the legacy of courage, unity, and service that emerged from this tragic event;

**NOW, THEREFORE, BE IT RESOLVED,** on behalf of the Livingston City Commission, I, Quentin Schwarz, Chair, do hereby proclaim December 7, 2025, to be Pearly Harbor Day in Livingston, Montana.

Further, I encourage all community members to pause in reflection on December 7 and take a moment to honor the service members, veterans, and families whose sacrifices continue to protect our nation.

Signed this___ day of December, 2025

_____

**Quentin Schwarz, Chair**
**Livingston City Commission**

_____

**Emily Hutchinson**
**City Clerk**

**File Attachments for Item:**

**A. FY 2024-25 ANNUAL COMPREHENSIVE FINANCIAL REPORT (FY 25 AUDIT)**

LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

**DATE:** December 2, 2025
**TO:** Chair Schwarz and City Commissioners
**FROM:** Paige Fetterhoff
**RE:** Staff report for the City of Livingston ACFR for the fiscal year ended June 30, 2025

**Recommendation and Summary**
Staff is recommending the Commission accept the FY 25 Annual Comprehensive Financial Report.

"I move to accept the FY 25 Annual Comprehensive Financial Report"

The reasons for the recommendation are as follows:

- Montana Code 2-7-503 requires local governments to have an audit every two years. Providing an audit annually assures a higher level of financial management and fiscal responsibility.

**Introduction and History**
Montana Code 2-7-503 states:

The governing body or managing or executive officer of each local government entity receiving revenue or financial assistance in the period covered by the financial report that is in excess of the threshold dollar amount established by the director of the office of management and budget pursuant to 31 U.S.C. 7502(a)(3), regardless of the source of revenue or financial assistance, shall cause an audit to be made. The audit may cover the entity's preceding 2 fiscal years and must commence within 9 months from the close of the last fiscal year of the audit period. The audit must be completed and submitted to the department for review within 1 year from the close of the last fiscal year covered by the audit.

**Analysis**
Amaticas CPA group has completed the audit for FY 25 and has provided a summary. No audit findings were identified as a result of these procedures.

**Fiscal Impact**
The cost of the annual audit has been included in the budget.

**Attachments**

- Attachment A: 2025 Annual Comprehensive Financial Report

AMATICS
CPA GROUP

45 Discovery Dr.
Bozeman, MT 59718

P 406.404.1925
F 406.404.1926

December 2, 2025

City Commissioners and City Manager
City of Livingston, Montana

We have audited the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Livingston, Montana for the year ended June 30, 2025. Professional standards require that we provide you with the following information related to our audit.

Our Responsibilities under U.S. Generally Accepted Auditing Standards and *Government Auditing Standards*
As stated in our engagement letter dated April 29, 2025, our responsibility, as described by professional standards, is to express opinions about whether the financial statements prepared by management with your oversight are fairly presented, in all material respects, in conformity with U.S. generally accepted accounting principles. Our audit of the financial statements does not relieve you or management of your responsibilities.

As part of our audit, we considered the City's internal control. Such considerations were solely for the purpose of determining our audit procedures and not to provide any assurance concerning such internal control.

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we performed tests of the City's compliance with certain provisions of laws, regulations, contracts, and grants. However, providing an opinion on compliance with such provisions was not an objective of our audit.

Planned Scope and Timing of the Audit
We performed the audit according to the planned scope and timing previously communicated to you in our meeting about planning matters on October 21, 2025.

Significant Audit Matters
*Qualitative Aspects of Accounting Practices*
Management is responsible for the selection and use of appropriate accounting policies. The significant accounting policies used by the City of Livingston are described in Note 1 to the financial statements. As described in Note 1 to the financial statements the City adopted accounting GASB Statement No. 101, *Compensated Absences*, and GASB Statement No. 102, *Certain Risk Disclosures*, in fiscal year 2025. The implementation of this standard did not have a material effect on the City's financial statements. The application of existing policies was not changed during the year ended June 30, 2025. We noted no transactions entered into by the City during the years for which there is a lack of authoritative guidance or consensus. All significant transactions have been recognized in the financial statements in the proper period.

Accounting estimates are an integral part of the financial statements prepared by management and are based on management's knowledge and experience about past and current events and assumptions about future events. Certain accounting estimates are particularly sensitive because of their significance to the financial statements and because of the possibility that future events affecting them may differ significantly from those expected.

The most sensitive estimates affecting the financial statements were: Capital assets' useful lives, potential impairments, and depreciation. Other post-employment healthcare benefits are based on management's estimates used in the actuarial calculation of this liability. The City's proportionate share of the net pension liability is based on estimates used in the actuarial calculation for the entire pension plan and the allocation of the City's proportionate share of that liability. We evaluated the key factors and assumptions used to develop these estimates in determining that the balances are reasonable in relation to the financial statements taken as a whole.

Certain financial statement disclosures are particularly sensitive because of their significance to financial statement users. The most sensitive disclosures affecting the financial statements were the summary of significant accounting policies in Note 1, debt service requirements for long-term debt in Note 7, post-employment benefits other than pensions in Note 10, and net pension liability in Notes 11 to 14.

The financial statement disclosures are neutral, consistent, and clear.

Difficulties Encountered in Performing the Audit

We encountered no significant difficulties in dealing with management in performing and completing our audit.

Disagreements with Management

For purposes of this letter, a disagreement with management is a financial accounting, reporting, or auditing matter, whether or not resolved to our satisfaction, that could be significant to the financial statements or the auditors' report. We are pleased to report that no such disagreements arose during the course of our audit.

Management Representations

We have requested certain representations from management that are included in the management representation letter dated December 2, 2025.

Management Consultations with Other Independent Accountants

In some cases, management may decide to consult with other accountants about auditing and accounting matters, similar to obtaining a "second opinion" on certain situations. If a consultation involves application of an accounting principle to the City's financial statements or, a determination of the type of auditors' opinion that may be expressed on those statements, our professional standards require the consulting accountant to check with us to determine that the consultant has all the relevant facts. To our knowledge, there were no such consultations with other accountants.

Other Audit Findings or Issues

We generally discuss a variety of matters, including the application of accounting principles and auditing standards, with management each year prior to retention as the City's auditors. However, these discussions occurred in the normal course of our professional relationship and our responses were not a condition to our retention.

Other Matters

We applied certain limited procedures to management's discussion and analysis, schedules of changes in total other post-employment benefits liability and related ratios, schedules of proportionate share of the net pension liability for PERS, MPORS, and FURS, schedule of contributions for PERS, MPORS, and FURS, and budgetary comparison schedules – general fund and major special revenue funds, which are required supplementary information (RSI) that supplements the basic financial statements.

Our procedures consisted of inquiries of management regarding the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We did not audit the RSI and do not express an opinion or provide any assurance on the RSI.

We were engaged to report on the combining and individual nonmajor fund financial statements and budget and actual schedules – nonmajor funds, which accompany the basic financial statements but are not RSI. With respect to this supplementary information, we made certain inquiries of management and evaluated the form, content, and methods of preparing the information to determine that the information complies with accounting principles generally accepted in the United States of America, the method of preparing it has not changed from the prior period, and the information is appropriate and complete in relation to our audit of the financial statements. We compared and reconciled the supplementary information to the underlying accounting records used to prepare the financial statements or to the financial statements themselves.

We were not engaged to report on the introductory section and the statistical section, which accompany the financial statements but are not RSI. We did not audit or perform other procedures on this other information and we do not express an opinion or provide any assurance on it.

Restriction of Use

This information is intended solely for the use of management and City Commission of the City of Livingston and the Montana Department of Administration and is not intended to be, and should not be, used by anyone other than these specified parties.

Respectfully submitted,

Anderson CPA Group

Bozeman, Montana

**File Attachments for Item:**

**B. APPROVAL OF PARKS MASTER PLAN**

LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

**DATE:** December 2, 2025

**TO:** Chair Schwarz and City Commissioners

**FROM:** Grant Gager, City Manager

**RE:** Approval of Parks Master Plan

---

**Recommendation and Summary**

The City Manager is recommending the City Commission approve the Parks Master Plan as presented. The Commission may do so by using the following motion:

"I move to approve the Parks Master Plan."

The reasons for the recommendation are as follows:

- The 2021 Growth Policy included the development of a Parks Master Plan as a recommended strategy and the project was endorsed by the City Commission in October 2023.
- The City has engaged in a public process since fall of 2024 to solicit feedback.

**Introduction and History**

The City of Livingston last updated its Parks Master Plan in 2011. During the creation of the Growth Policy in 2021, updating that Parks Master Plan was identified as a strategy (9.2.1.5.). In October 2023, the City Commission endorsed a Growth Policy Implementation Plan that included an update to the Parks Master Plan. In November 2023, the City released a Request for Proposals (RFP) for parks master planning services and received no responses. In May 2024, the City released a second RFP and received one response, from Stockwell Engineers.

In September 2024, the team from Stockwell Engineers engaged the community in a series of meetings in Livingston with the public, park user groups, staff and other stakeholders. The project team also conducted a survey to gather public input on the park system. Over the ensuing months, City staff worked with the Stockwell team to develop concept plans for each park in response to the feedback gathered through the initial in-person meetings.

In the summer of 2025, the draft concepts were shared with park user groups and the public to gather feedback. A survey was conducted by the City from August 13 through September 22 that

received 840 responses. Based on that feedback, certain improvements that were initially recommended have been revised or removed from the plan.

A petition signed by approximately 420 people was submitted to the City which requested to "hold the vote by the commission for the Parks and Trails Master Plan draft of August 2025 until all community demographic groups can participate with the survey put forth." In review, approximately 137 of those signatories were from outside the City of Livingston. Given the high levels of response to the August survey, including nine (9) hardcopies that were delivered to City Hall, the plan is being presented to the City Commission.

**Analysis**

The draft Parks Master Plan includes a review of the current park facilities in the City of Livingston. Based on the community feedback received in 2024 and 2025, the plan then presents an action plan for the City which includes recommended improvements to park facilities and amenities. Included in the action plan are rough-order-of-magnitude cost estimates for the projects. These cost estimates are in 2025 dollars and the final project costs are subject to the final scope of work for each project as it is implemented.

The recommended improvements arise from the feedback received and focus on increasing accessibility and usability of the park system while also considering maintenance costs and operational impacts. As such, there is a focus on improving signage, parking areas and pathways within parks to accommodate users with mobility limitations.

**Fiscal Impact**

There is no fiscal impact arising from the adoption of this plan.

**Strategic Alignment**

An updated Parks Master Plan helps fulfill the following strategies of the 2021 Growth Policy:

1. 9.2.1.5. "Investigate updating the Livingston Parks and Trails Master Plan."
2. 9.2.1.3. "Review and update the current community profile and future demographic trends to ensure the level of service provided by the current network of neighborhood parks, trails and programming is adequate and equitable."
3. 9.2.1.2. "Seek public input and feedback on current use of the park and trails system and future capital and programing priorities."
4. 8.1.2.3. "Conduct walk and bike audits to assess ADA accessibility throughout the City, including within the City parks and trails system."
5. 8.1.1.4. "Create a process to explore connectivity between City trails and parks to the larger outlying trails network."

6. 7.2.3.1. “Ensure fulfillment of the Livingston 2019 ADA Transition Plan.”
7. 6.2.1.1. “Explore improved access to the Yellowstone River recreation opportunities, such as riverfront parks, boat ramps, and islands while respecting and protecting the natural environment.”

**Attachments**

- Attachment A: Draft Parks Master Plan
- Attachment B: RFP Scope of Work
- Attachment C: Signed Petition

# Parks System Master Plan

for the City of



November 2025
SEI #24186

Prepared by:

Landscape Architect/
Civil Engineer/ Surveyor

Stockwell Engineers, Inc.
801 N. Phillips Ave., Suite 100
Sioux Falls, SD 57104
www.stockwellengineers.com
605.338.6668

# Acknowledgments

We would like to thank the many citizens, staff and community groups who provided community input for the development of this Park System Master Plan. The efforts of this community will continue to ensure the success of the Livingston Parks System.

## Project Staff
Grant Gager, City Manager
Greg Anthony, Policy Analyst
Shannon Holmes, Public Works Director
Mike Skaggs, Parks Department Superintendent

## Planning Team
Stockwell Engineers, Inc

# Table of Contents

**Chapter 1 - Executive Summary**
1.1 Introduction 1
1.2 Master Plan Goals 1
1.3 Project Process 1
1.4 Parks Map & Planning Area 2

**Chapter 2 - Community Engagement**
2.1 Community Charrette 3
2.2 Charrette Responses 4
2.3 Community Survey 6

**Chapter 3 - Inventory & Analysis**
3.1 Parks Classifications 12
3.2 Level of Service Classifications 14
3.3 Gaps in Service Analysis 15
3.4 Parks within Floodway & Floodplain 18
3.5 Parks & Facilities Assessment 19

**Chapter 4 - Action Plan**
4.1 Recommended Park Locations 20
4.2 Recommended Trail Locations 21
4.3 Recommended Existing Park Improvements 22
4.4 Recommendations, Timeline, Prioritization & Cost Estimates 36

**Appendices:** 41
Appendix 1 - Parks & Facilities Map
Appendix 2 - Charrette Meeting Minutes
Appendix 3 - Community Survey Findings Report
Appendix 4 - Individual Park Inventory Sheets
Appendix 5 - Action Plan Recommendations
Appendix 6 - Level of Service Analysis Maps

# Chapter 1 - Executive Summary

## 1.1 Introduction

Livingston, Montana, is a community defined by its extraordinary natural setting, vibrant character, and strong connection to the outdoors. The City's parks, trails, open spaces, and recreation facilities are essential assets that enhance quality of life, promote health and wellness, support economic vitality, and protect environmental resources. As the community grows and evolves, ensuring that these public spaces continue to meet the needs of residents and visitors is both a challenge and an opportunity.

The Parks System Master Plan (PSMP) provides a comprehensive framework to guide the future of Livingston's park system. Developed through a combination of existing conditions analysis and meaningful community engagement, the plan identifies current strengths and deficiencies, anticipates future needs, and establishes clear goals and strategies to address them. Rooted in community values and best practices, the plan balances vision with practicality—outlining priorities for investment, facility improvements, and program development that are both achievable and forward-looking.

This plan serves multiple functions: it establishes a clear vision for the park system, outlines measurable goals and objectives, and provides an implementation strategy that prioritizes investments, policy updates, and partnerships. It is intended to be both aspirational and practical—offering a roadmap for the next 10–15 years that aligns recreation planning with the City's broader land use, infrastructure, and community development goals.

## 1.2 Master Plan Goals

During the initial Kick-Off Meeting, a project team comprised of City staff members and the consultant team identified several goals for the project. These goals were intended to guide the development of a successful PSMP for the City of Livingston to move forward with.

Goals identified by the project team include:

1. Prioritized capital improvement list that can be implemented.
2. Improve connectivity within Park System.
3. Equal opportunities and amenities throughout parks with good distribution throughout community.
4. Improve communication between City staff and recreation partners.
5. Determine if any City Owned property should be utilized for Parks.
6. Determine best use for existing swimming pool space once it is no longer in use.
7. Envision the space between Sacajawea and Miles Parks and what that could be.

## 1.3 Project Process

The Master Plan followed a process of data collection, public input, on-the-ground study, assessment of existing conditions, market research, and open dialogue with local leadership and key stakeholders. The process follows a three-step plan as outlined below:

1. Assessment of Current Park System
    a. Site and facility assessments
    b. Park classification and level of service standards
2. Understand future desires of Park System
    a. Online survey
    b. Stakeholder interviews, focus groups and public meetings
3. Determine a path to reach goals of the Park System
    a. Needs prioritization
    b. Capitol improvement planning
    c. Key recommendations as an action plan

## 1.4 Parks Map & Planning Area

The planning area for the Parks System Master Plan includes all areas within the boundaries of the City of Livingston. While this plan recognizes that some state and county owned properties service the city of Livingston, this plan focuses on amenities in the defined city boundary. This plan also recognizes that the actual service areas of some Livingston parks and facilities may extend beyond the defined boundaries of the planning area. The primary focus of this plan is to first and foremost identify and address the park and facility needs of the Livingston residents. The following maps depicts the planning area and the location of the parks and facilities included in this Parks System Master Plan. Reservoir Park and Katie Bonnel Park were not included for the existing facility analysis and concept plans as Reservoir Park was going through its own seperate Master Plan process and Katie Bonnel Park is where the new indoor recreation center will be built and designs have been completed.

**Figure 1.1: Planning Area - Livingston City Limits**

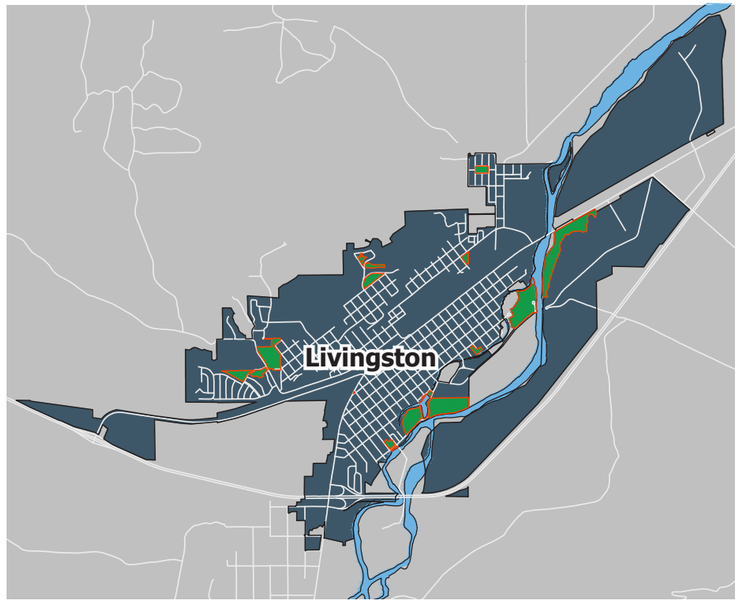
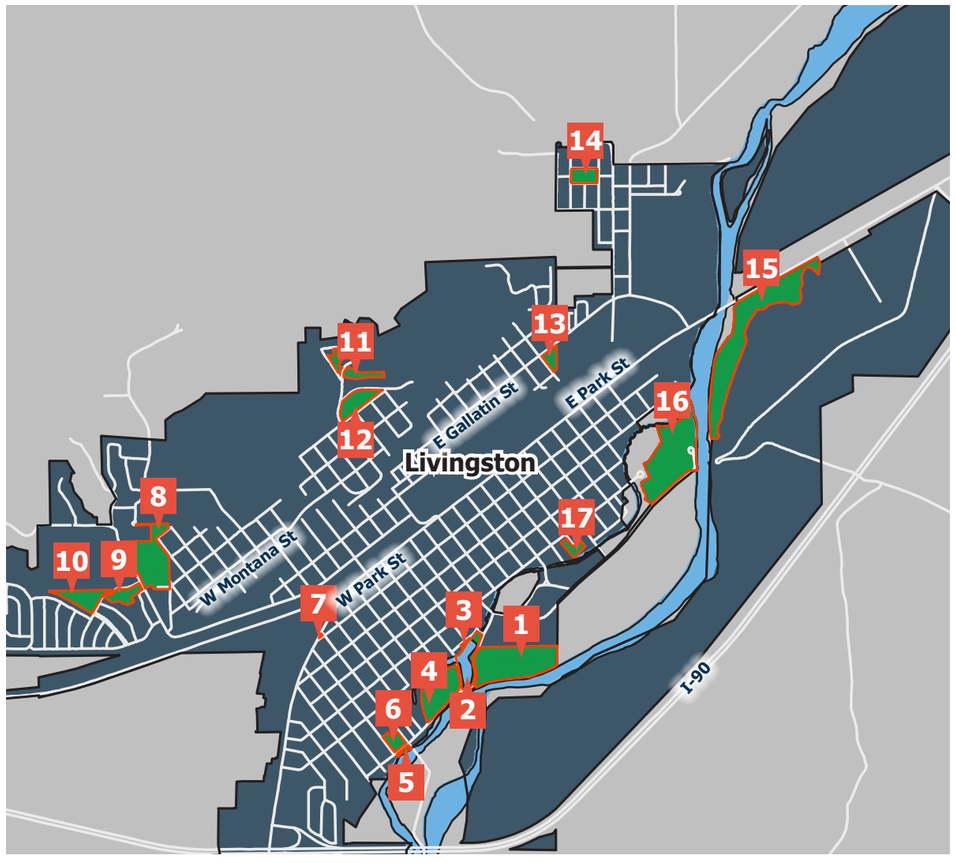



**Figure 1.2: Master Plan Parks & Facilities Locations**




1. Miles Park
2. Miles Park Lagoon
3. Firefighter Park
4. Sacajawea Park
5. Riverside Park
6. Water Plant Park
7. Bozeman Park
8. North Side Soccer Park
9. Mars Park
10. Jack Weimer Memorial Park
11. Highground Public Use
12. Reservoir Park - Not included in Existing Facility Analysis or Concept Plans
13. Katie Bonnel Park - Not included in Existing Facility Analysis or Concept Plans
14. Green Acres Park
15. Myer's View Park
16. Mayor's Landing Moja Dog Park
17. Mike Webb Park

# Chapter 2 - Community Engagement

The Design Consultants sought community input to identify and confirm the Department's vision and expectations for the future of the parks system. Community input was received via focus group meetings, a public meeting, and a statistically-valid need analysis survey. The information gathered from the community engagement process was combined with technical research to produce the final Parks System Master Plan. Specific outreach methods included:

- Community Charrette
    - 4 Community Focus Group meetings
- Public Meeting
- Online Community Survey
    - Goal was 200, received 301 responses

The following sections in this chapter summarize and highlight the key findings from each portion of the community engagement process.

## 2.1 Community Charrette: Focus Group Meetings & Public Meeting

As part of the Master Plan, key focus group meetings and a public meeting were conducted as part of a two-day charrette in September 2024. The meetings were designed to provide a foundation for identifying community issues and key themes, as well as to provide valuable insight and assist in the development of question topics that will be beneficial for the statistically-valid community survey.

### Focus Group Meetings

An interactive presentation was developed that included a series of questions about the Department, parks and facilities. Questions were answered by attendees digitally and reviewed immediately as part of the presentation. This style of presentation allowed for great conversation and collaboration. The real-time responses spurred conversation and follow up questions were asked when appropriate. Invited stakeholders were identified by the City of Livingston staff and included approximately 28 members of the community that were divided between the four meetings.

Group representatives from the focus group meetings belong to the following entities:

- City of Livingston
- Farm to School of Park County
- WSE's Livingston Farmers Market
- Park County Environmental Council
- Montana Freshwater Partners
- Livingston Ice Skating Association
- Pickleball
- Livingston Baseball & Softball Association
- Livingston High School Baseball
- American Legion Baseball
- 4 Ranges Wellness Center
- Livingston Area Chamber
- Livingston Enterprise
- American Legion

### Public Meeting

After the Focus Group meetings concluded, a version of the interactive presentation was presented at an open public meeting at the civic center where attendees were again asked to answer questions about the Department, parks and facilities in real-time. 43 community members attended this meeting. Together with the responses from the Focus Group meetings, the set of Charrette responses guided the design consultants to create an appropriate set of questions for the community survey. The Charrette responses would also help guide the design consultants when proposing key recommendations later in the master plan process.

## 2.2 Charrette Responses

After speaking with the many stakeholders and interest groups, it is apparent the community deeply values and supports their parks and open spaces and would like to see those spaces further improved upon. Connected and improved trails was a key theme for all polled groups, along with improved maintenance of current facilities and increased variety in play and recreation opportunities.

The following lists the questions asked to the groups and their general response to each question. Meeting minutes detailing individual responses from each of the focus group meetings and public meeting can be found in this report appendix.

### Question 1: What do you value most about the City of Livingston related Parks, Trails, Facilities, Open Space and Recreational Opportunities?

Respondents appreciate the sports and programming for all ages along with the community events and the ability to hold them in the parks. They value the open, non-developed space/parks and the natural amenities and beautiful views.

### Question 2: Conversely, what needs more attention in the City of Livingston related to Parks, Trails, Facilities, Open Space and Recreational Opportunities?

Many respondents commented on the need for improved maintenance in the parks and that park equipment needs updating and that the current playgrounds do not offer enough variety. While many commented on the need for improvement in parks maintenance they also acknowledged and realized that the Parks department is understaffed and does they best they can. Other items mentioned include improving signage/wayfinding, ADA accessibility and trail connectivity.

### Question 3: Are there any improvements needed at existing Parks, Trails, Facilities and Open Spaces owned or operated by the City?

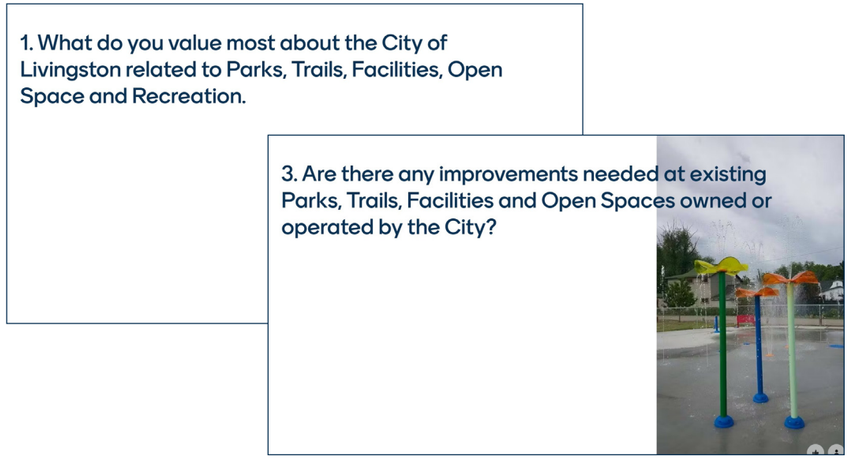
Again respondents note that the existing parks need upgrades, specifically the Civic Center and all of the amenities at Miles Park. They would like to see Mayor's landing cleaned up and recapped along with upgrades to Mars Park and the Veteran's Memorial at Sacajawea Park. Other items mentioned include more restrooms in parks and cleaning the existing ones more frequently, dredging the Miles Park Lagoon, habitat enhancement, weed management and better signage at all parks.

### Question 4: What additional Parks, Recreation, Athletic Facilities, Trails and Open Space would you like to see added? What is Livingston missing?

Respondents showed interest in a variety of additional opportunities for their community. Opportunities most discussed were full sized indoor ice rink, outdoor pickleball courts, improved connectivity, bike pump track, interpretive signage, outdoor adult fitness park, outdoor volleyball and fenced dog park. Others included bike facilities, lighted outdoor courts/fields, nature based playground, pavilion for outdoor events, facilities/programming for teens, and more .

**Figure 2.1: Focus Group Presentation Slides**



**Question 5: Are there any Parks, Trails, Facilities and/or Open Space currently available that should be repurposed or eliminated?**
Most respondents didn't believe anything should be repurposed or eliminated. Others wanted to see the pool site repurposed and believed Water Plant Park is underutilized.

**Question 6: What future trail connections should be made for the recreation trail?**
Most respondents want to see better connectivity from north to south. The rail yard is a large barrier north to south. Other connections mentioned was the pedestrian bridge over the Yellowstone River connecting Myer's Park and Mayor's Landing. Many groups stressed the importance of connecting the entire city to the new indoor recreation center at Katie Bonnel Park.

**Question 7: Due to the new indoor aquatics facility, what do you envision for the space where the existing outdoor swimming pool is located?**
Most respondents would like to see that space used for a pavilion, restored to naturalized area/creek or an ice rink. Other ideas mentioned were a farmers market, food truck venue, outdoor pickleball courts and pump track.

**Question 8: How do you think the space behind the Civic Center should be utilized?**
Most respondents would like to see the space behind the Civic Center developed into an organized parking lot. Other ideas were a pavilion / festival area, riparian habitat restoration, more trees, ice rink and pump track.

**Question 9: Identify key issues and values in the Livingston community that need to be considered while developing the Parks Master Plan.**
This question was skipped in all stakeholder meetings due to time.

**Question 10: What do you think should be the parks and recreation top priorities for the City of Livingston over the next 5 years?**
Most of the respondents believed Livingston should focus on connectivity of park and trails and maintaining the existing parks at a higher level.

**Question 11: If you had $100 to invest in the Livingston park system, how would you spend it?**
This question was a multiple choice question where respondents were given 4 answers to choose from. Those options were:

- Maintain Existing
- Improve Existing
- Add New Amenities
- Expand Trail System

Most of the respondents were fairly evenly divided between maintain existing, improve existing, and expanding the trail system.

## 2.3 Community Survey

Stockwell administered a parks and recreation needs assessment survey for the City of Livingston during the last months of 2024. This study was administered as part of the City's efforts in updating its Parks System Master Plan. In this process, it is important for the City to identify future priorities of parks amenities and facilities. Information gathered from the assessment will provide data that will help determine priorities which leaders can then use to make decisions that will meet community and resident needs.

### Methodology

Stockwell Engineers set up an online community survey via Survey Monkey and provided the City of Livingston with posters, QR Codes, and press release information for the City to distribute throughout the community. Paper copies were also available at City Hall and the Civic Center. The survey aimed to collect a minimum of 200 completed responses from residents, and this target was surpassed with an impressive 301 completed surveys collected, 1 paper copy and 300 completed online.

The full report can be found in the Appendix, and it contains the following:

- Executive Summary with Major Findings
- Charts showing the overall results of the survey and benchmarking
- Priority Investment Rating (PIR) that identifies priorities for recreation facilities
- Tabular data showing the overall results for all questions on the survey
- Answers to open-ended questions
- A copy of the survey instrument

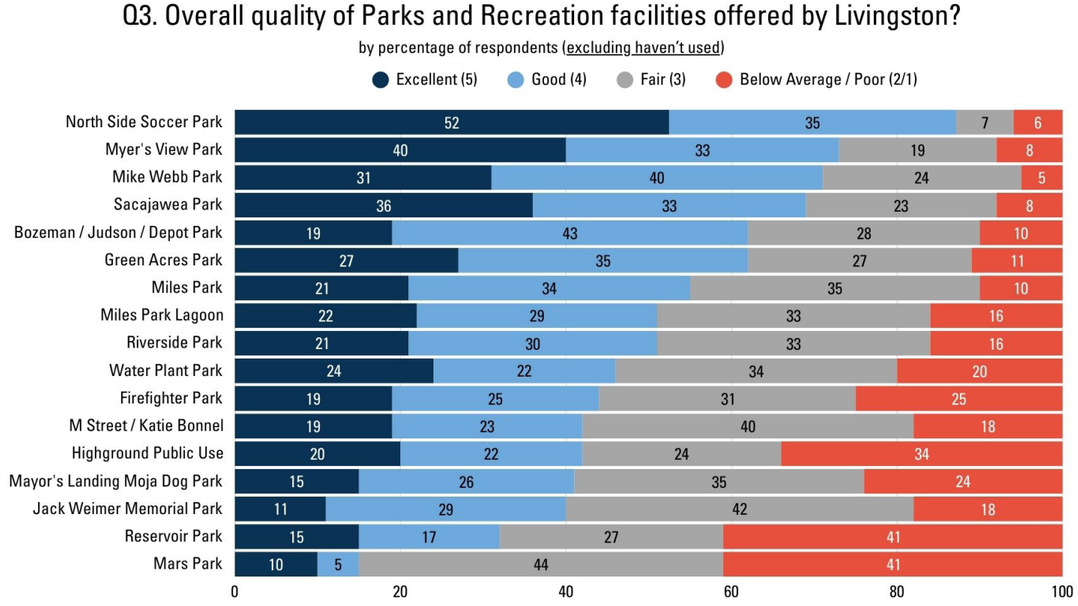
The major findings of the survey are summarized below and on the following pages.

### City Park & Facility Ratings

When residents were asked to rate the quality of 17 parks or recreation facilities in Livingston, residents indicated that the top-rate parks or recreations facilities (a combination of "excellent" and "good" ratings) were North Side Soccer Park (87%), Myer's River View Park (73%), and Mike Webb Park (71%). The lowest rated parks or recreation facilities were Jack Weimer Memorial Park (10%), Reservoir Park (32%), and Mars Park (15%).

The chart below shows the ratings respondents' gave for the overall quality of parks/facilities.

**Figure 2.2: Community Survey Chart**

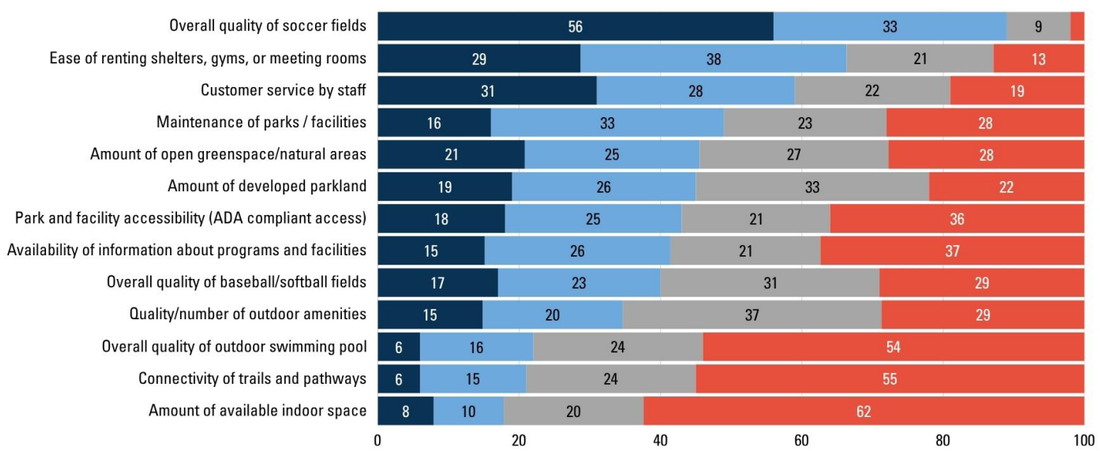


## Satisfaction with Parks and Recreation Services

The services that residents are most satisfied with, based on the sum of very satisfied and satisfied responses, are:

- Overall quality of soccer fields (89%),
- Ease of renting shelters, gyms, or meeting rooms (67%), and
- Customer service by staff (59%)

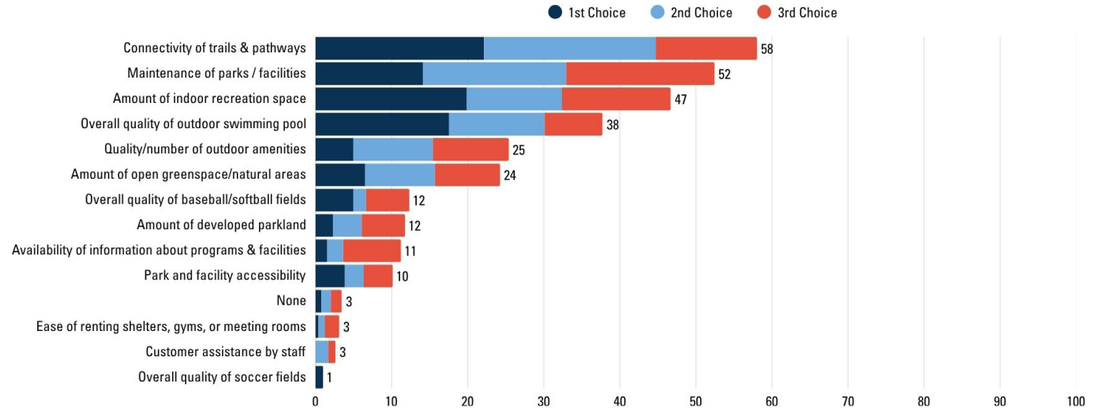
**Figure 2.3: Statistically Valid Survey Chart**




The Parks and Recreation services that residents think should receive the most attention from Livingston over the next five years, based on the sum of respondents' top three choices, are:

- Connectivity of trails & pathways (58%),
- Maintenance of parks / facilities (52%), and
- Amount of indoor recreation space (47%).

**Figure 2.4: Statistically Valid Survey Chart**



## Facility/Park Needs

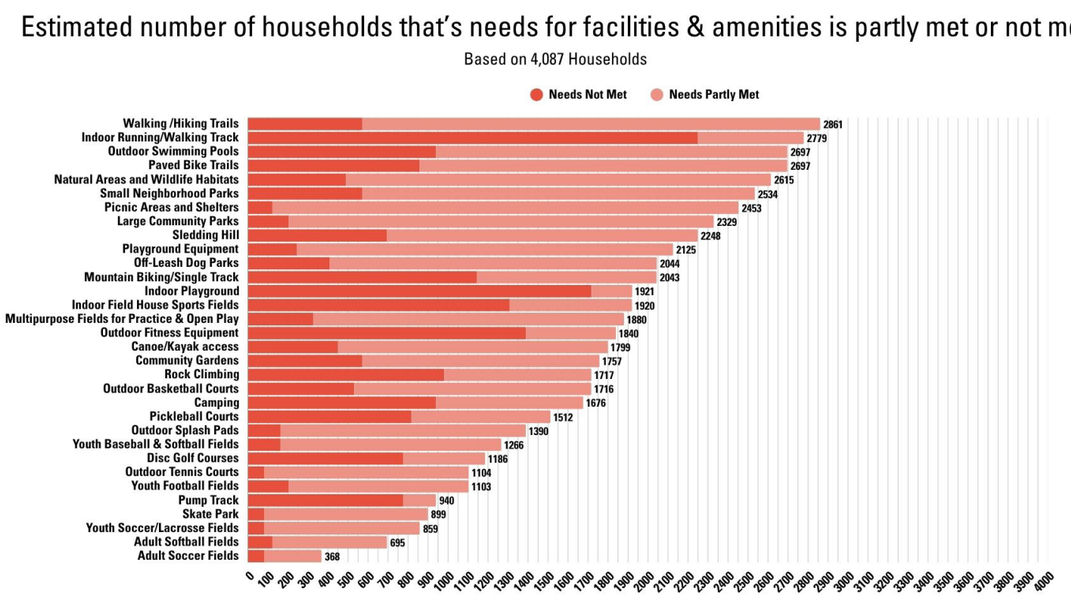
Respondents were asked to identify if their household had a need for 32 parks and recreation facilities/amenities and to rate how well their needs for each were currently being met. Based on the analysis, Stockwell was able to estimate the number of households in the community that had the greatest "unmet" need for various facilities/amenities.

The three parks and recreation facilities with the highest percentage of households that have an unmet need:

1. Walking / Hiking Trails - 2,861 households
2. Indoor Running / Walking Track - 2,779 households
3. Outdoor Swimming Pools - 2,697 households
4. Paved Bike Trails - 2,697 households

The estimated number of households that have unmet needs for each of the 32 parks and recreation facilities assessed is shown in the chart below.

**Figure 2.5: Statistically Valid Survey Chart**



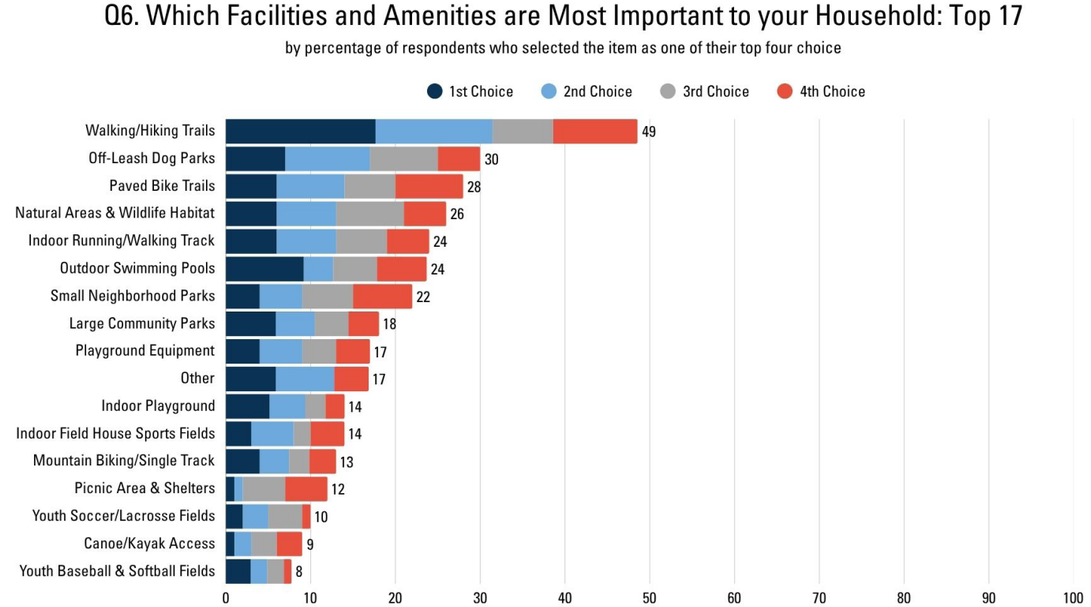

## Facility Importance

In addition to assessing the needs for each parks and recreation facility and amenity, Stockwell also assessed the importance that residents placed on each one. Based on the sum of respondents' top four choices, the most important facilities to residents were:

1. Walking/hiking trails (49%),
2. Off-Leash Dog Parks (30%),
3. Paved Bike Trails (28%), and
4. Natural Areas & Wildlife Habitat (26%)

The percentage of residents who selected each facility as one of their top four choices is depicted in below.

**Figure 2.6: Statistically Valid Survey Chart**



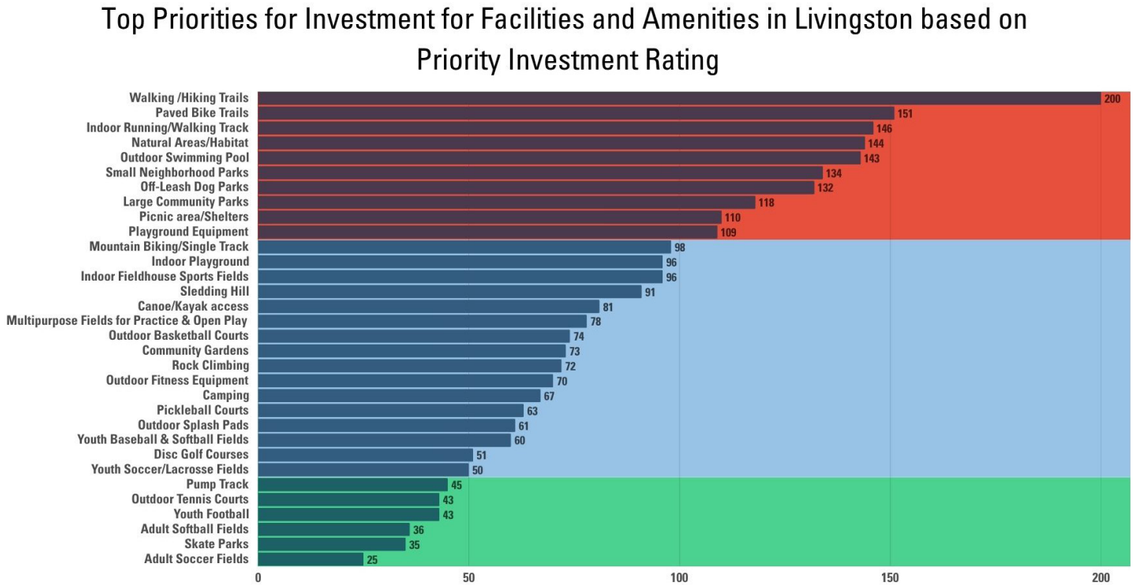
## Priorities for Facility/Amenity Investments

The Priority Investment Rating (PIR) was developed by the ETC Institute to provide organizations with an objective tool for evaluating the priority that should be placed on Parks and Recreation investments. The Priority Investment Rating (PIR) equally weighs (1) the importance that residents place on each facility/amenity/program and (2) how many residents have unmet needs for the facility/amenity/program. Details regarding the methodology for this analysis are provided in Section 3 of the report. Based on the Priority Investment Rating (PIR), the three facilities that were rated as high priorities for investment are listed below:

1. Walking / Hiking Trails (PIR=200)
2. Paved Bike Trails (PIR=151)
3. Indoor Running / Walking Track (PIR=146)

The chart below shows the PIR for each facility that was rated.

**Figure 2.7: Statistically Valid Survey Chart**

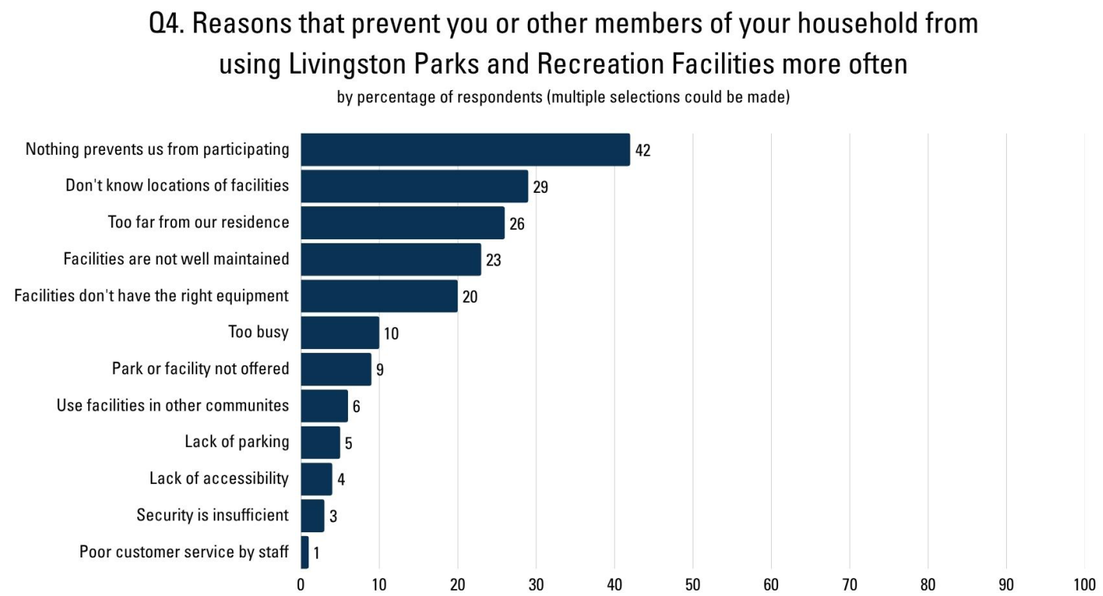



## Barriers to Facility Use

From a list of twelve (12) potential reasons, respondent households were asked to indicate the reasons that deter them from using parks, recreation facilities, or programs that are offered by the City of Livingston more often. The top four reasons/barriers given, by residents, were:

1. Nothing prevents us from participating (52%)
2. Don't know locations of facilities (29%)
3. Too far from our residence (26%)
4. Facilities are not well maintained (23%)

**Figure 2.8: Statistically Valid Survey Chart**

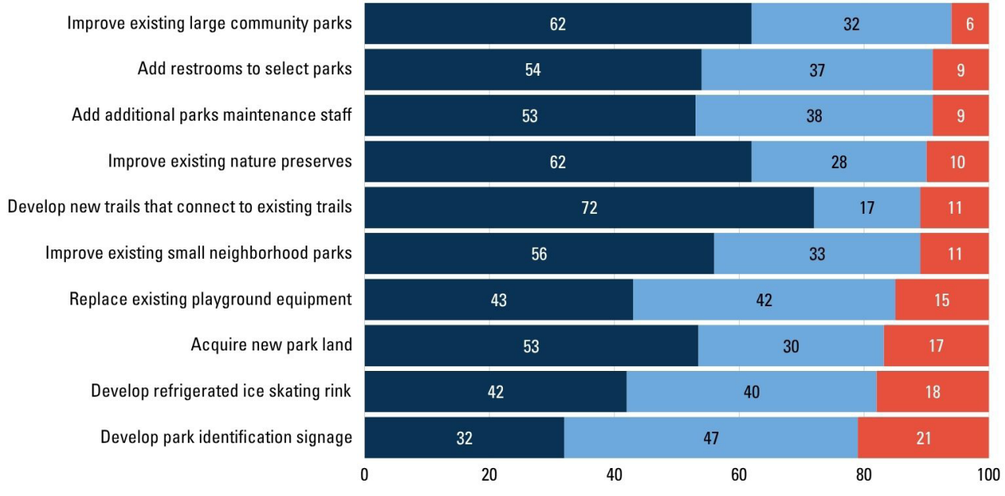


## Potential Improvements

Residents were asked to give their opinion on how much they would support actions that Livingston could take to improve the Parks and Recreation system. The actions with the highest levels of support, based on the sum of very supportive and somewhat supportive responses by residents who had an opinion, are listed below.

1. Improve existing large community parks (94%)
2. Add restrooms to select parks (91%)
3. Add additional parks maintenance staff (91%)

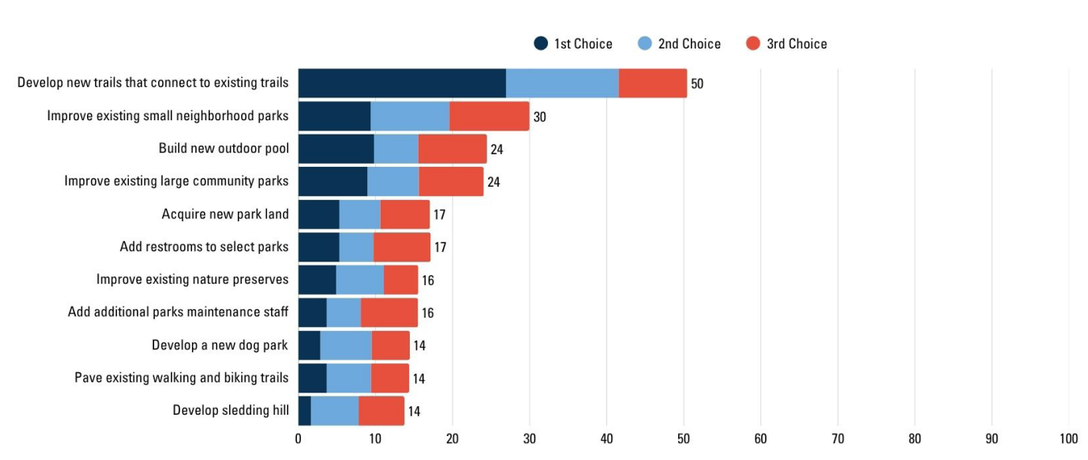
**Figure 2.11: Statistically Valid Survey Chart**




The potential actions that are most important to residents, based on the sum of respondents' top three choices, are:

1. Develop new trails that connect to existing trails (50%)
2. Improve existing small neighborhood parks (30%)
3. Build new outdoor pool (24%).
4. Improve existing large community parks (24%).

**Figure 2.12: Statistically Valid Survey Chart**



## Funding Priorities

Residents were asked to give their opinion on how to budget and allocate funds among categories of funding that were listed. If residents were given $100 (hypothetically), based on survey results, how they would prioritize funding is listed below.

- $32.00 to Improve existing neighborhood and community parks
- $29.00 to Construct new trails following recommendations and priorities outlined in the Trails & Active Transportation Plan
- $25.00 to add parks staff to improve overall maintenance of Livingston Parks facilities
- $24.00 to Acquire new parkland and open space for improved park distribution throughout Livingston
- $18.00 to Make upgrades & improvements to the ballfields at Miles Park.

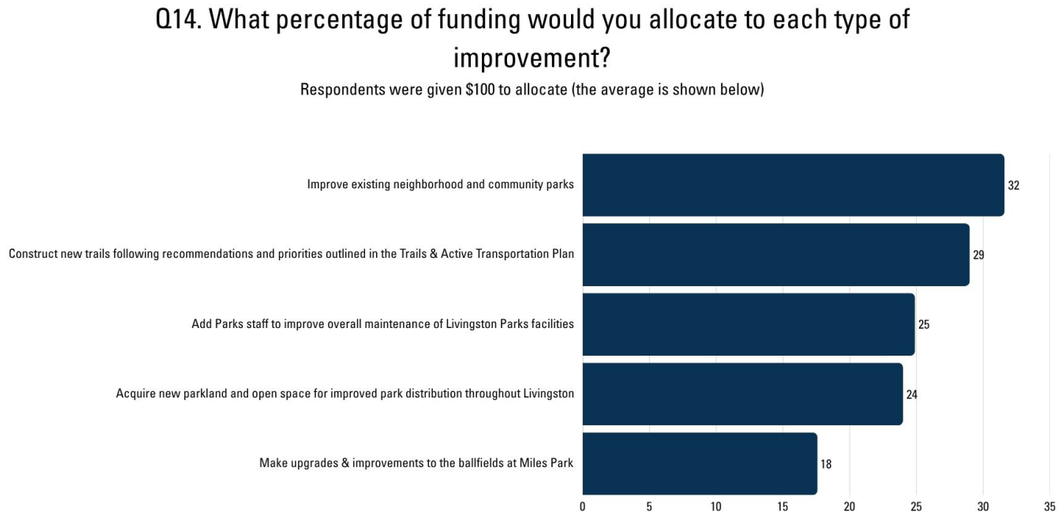
## Recommendations

To ensure that the City of Livingston continues to meet the needs and expectations of the community, Stockwell recommends that Livingston sustain and/or improve the performance in the areas that were rated as high priorities, as indicated by the Priority Investment Rating (PIR).
The facilities/amenities with the highest PIR ratings are listed below.

FACILITY/AMENITY PRIORITY INVESTMENTS

1. Walking / Hiking Trails (PIR=200)
2. Paved Bike Trails (PIR=151)
3. Indoor Running / Walking Track (PIR=146)

**Figure 2.13: Statistically Valid Survey Chart**



# Chapter 3 - Inventory & Analysis

## 3.1 Parks Classifications

The National Recreation and Park Association (NRPA) states "A park system, at a minimum, should be composed of a 'core' system of park lands, with a total of 12.6 to 20.9 acres of developed open space per 1,000 population." In addition, as a means of organizing the open space facilities found in Livingston, the park sites are classified according to a NRPA hierarchy that provides for a comprehensive system of interrelated parks. These NRPA guidelines and definitions serve as a good baseline for determining a minimum standard for park services; however, they are refined to address the needs of the users of the City of Livingston. The classifications used in the Livingston are as follows:

- Neighborhood Park
- Community Park
- Sports Complex
- Special Use Park
- Nature Preserve/Open Space

### Neighborhood Park

Neighborhood parks form the foundation of the park system and serve as the recreational and social focus of the neighborhood. They generally range in size from 5 to 10 acres; however, due to the available land within the park system as well as the amenities provided, sites as small as two acres in size may be appropriate for a neighborhood park. Neighborhood parks are designed for a ¼ to ½ mile radius of service. Concentrated intense recreation activities are common in these parks and they are usually designed within a limited amount of space. These parks serve residents in a variety of age groups. The park should be easily accessible, and access should be uninterrupted by major roads or other significant barriers.

Neighborhood park features include aesthetically designed play areas, picnic areas, splash pads, ball fields, skating, open space for field games, shelters, and walking paths. Typically, neighborhood parks do not provide off street parking; however, parking may be necessary due to the scope of activities and size.

The City of Livingston contains eight neighborhood park, and includes:

- Green Acres – 2.94 acres
- Katie Bonnel – 2.15 acres
- Mars – 3.75 acres
- Mike Webb – 1.86 acres
- Reservoir Park – 5.61 acres
- Water Plant Park – 2.33 acres
- Firefighter Park – 0.27 acres
- Riverside Park – 0.50 acres

### Community Park

Community parks are diverse in nature, serving a broader purpose than the neighborhood or mini parks. They are larger than neighborhood parks and are intended to serve large populations of the community. Community parks usually have both day and evening activities which can result in lighted fields and amenities. Community parks include a mix of active and passive activities and attract users of all ages. Large play structures, baseball fields, football fields, soccer fields, hiking trails, sled hills, and swimming pools can all be part of a community park.

Community parks generally range in size from 15 to 50 acres. However, due to available land area, sites over ten acres in size can be appropriate to accommodate such activities. These parks are designed for a one- to three-mile radius of service and usually serve two or more neighborhoods. They are also easily accessible by multiple modes of transportation with on-site parking available.

The City of Livingston contains two community parks, and includes:

- Sacajawea Park – 12.95 acres
- Miles Park – 24.10 acres

**Figure 3.1: Sacajawea Park, Community Park**



## Sports Complex

These parks are larger than community parks and provide more opportunities for active recreation, including team sports, tournament play, and other forms of recreation that require more land.
The City of Livingston has two sports complexes, and includes:

- North Side Soccer Park – 18.07 acres
- Jack Weimer Memorial Park - 6.24 acres

## Special Use Park

Special use parks are areas that include specialized recreational activities. These activities can have a broad range from field houses, marinas, gardens, outdoor theaters, nature centers, and golf courses. NRPA does not have specific standards for special use parks; however, these parks usually provide amenities that serve the entire agency boundary as well as visitors from outside the community.

The City of Livingston has three facilities that fall into this category:

- Mayor's Landing Moja Dog Park – 28.32 acres
- Myer's View Park - 36.19 acres
- Bozeman Park - .05 acres

**Figure 3.2: Myers View Park, Special Use Park**





**Figure 3.3: North Side Soccer Park, Sports Complex**






## Nature Preserve/Open Space

The intent of nature preserves/open space is to enhance the livability and character of a community by preserving as many of its natural amenities as possible. Integration of the human element with that of the natural environment that surrounds them enhances the overall experience.

Nature preserves/open space are undeveloped but may include natural or paved trails. Grasslands under power line corridors are one example and creek areas are another. Nature preserves/open space contain natural resources that can be managed for recreation and natural resource conservation values such as a desire to protect wildlife habitat, water quality, and endangered species. Nature reserves/open space also can provide opportunities for nature-based, self-directed, low-impact recreational opportunities such as walking and nature viewing. These lands consist of:

- Individual sites exhibiting natural resources.
- Lands that are unsuitable for development but offer natural resource potential.
- Parcels with steep slopes and natural vegetation, drainage ways and ravines, surface water management areas (man-made ponding areas), and utility easements.
- Protected lands, such as wetlands/lowlands and shorelines along waterways, lakes, and ponds.

The City of Livingston contains one facility that falls into the nature preserve/open space category:
- Highground Public Use – 4.31 acres

## 3.2 Level of Service Classifications

Based upon the Park, Recreation, Open Space and Greenway Guidelines, the NRPA Level of Service (LOS) is a standard evaluation of park type and acreage across all park agencies based on what they offer their residents (James D Mertes, 1996). The LOS is typically defined in parks and recreation master plans as a ratio representing the minimum amount of open space and park land needed to meet the recreations demands of the community.

The NRPA recognizes the importance of the level of service as:

- An expression of minimum acceptable facilities for citizens of every community.
- A guideline to determine land requirements for various kinds of park and recreation areas and facilities.
- A basis for relating recreational needs to spatial analysis within a community-wide system of parks, recreation areas, and open areas. (James D. Mertes, 1996)

NRPA also states that each community should be considered on an individual basis in order to tailor the most appropriate range, quantity and quality of recreational facilities within the Department's fiscal limits. Acreage of park land per 1,000 residents remain the most common technique of expressing equal opportunity, even though conditions and needs vary greatly between areas. This technique was utilized to help in determining the Level of Service for the City of Livingston Parks and Recreation Department.

### NRPA Park metrics

Below are Livingston park system metrics compared to recommended service levels that have previously been established by the NRPA.

The NRPA Park Metrics is a searchable, online database for use by park and recreation departments all over the country. The power of NRPA Park Metrics is its ability to run comparative reports to help agencies effectively manage and plan their resources and facilities. The park agency enters the information regarding their agency and the data can then be used to generate benchmarking reports. Users also have access to GIS mapping tools.

The City of Livingston should create a profile through NRPA Park Metrics and compare the Department's results against other agencies that have completed a profile of similar size and demographics. The database will let you compare the number of facility types such as ballfields, basketball courts, and tennis courts and the data will be applicable to the communities surrounding Livingston that are also utilizing NRPA Park Metrics and not based on a median of the national average.

**Figure 3.6: Park System Metrics**

| Amenities | Livingston Inventory | Current Service Level (based upon population) | | | 2024 NRPA Median Service Levels (of similar size) | | | Meets Median Level/ Need Exists | Additional Facilities/ Amenities Needed | |
|---|---|---|---|---|---|---|---|---|---|---|
| Park Type | | | | | | | | | | |
| Total Park Areas | 156.77 | 18.16 | acres per | 1000 | 12.6 | acres per | 1000 | Meets Median Level | - | acres |
| Total Park Trail Miles | 8.50 | 0.98 | miles per | 1000 | 4.5 | miles total | | Exceeds Median Level** | - | miles |
| Outdoor Amenities | | | | | | | | | | |
| Playgrounds | 5 | 1 | site per | 1,727 | 1 | site per | 2,000 | Meets Median Level*** | 1 | site |
| Diamond Fields: Total | 9 | 1 | field per | 959 | 1 | field per | 1,800 | Meets Median Level | - | field |
| Basketball Courts | 2 | 1 | court per | 4,318 | 1 | court per | 4,300 | Meets Median Level*** | 1 | court |
| Rectangular Fields: Total | 4 | 1 | field per | 2,159 | 1 | field per | 2,500 | Meets Median Level | - | field |
| Dog Parks | 1 | 1 | site per | 8,635 | 1 | site per | 10,300 | Meets Median Level | - | site |
| Community Gardens | 0 | 0 | site per | - | 1 | site per | 8,800 | Need Exists | 1 | site |
| Pickleball (outdoor) | 0 | 0 | court per | - | 1 | court per | 3,400 | Need Exists | 3 | courts |
| Tennis Courts (outdoor) | 6 | 1 | court per | 1,439 | 1 | court per | 3,000 | Exceeds Median Level** | - | court |
| Fitness zones/exercise stations | 0 | 0 | site per | - | 1 | site per | 8,200 | Need Exists | 1 | site |
| Skate Park | 1 | 1 | site per | 8,635 | 1 | site per | 11,200 | Meets Median Level | - | site |
| Ice Rinks (outdoors) | 0 | 0 | site per | - | 1 | site per | 8,000 | Need Exists | 1 | site |
| Sand Volleyball Court | 0 | 0 | court per | - | 1 | court per | 5,000 | Need Exists | 2 | court |
| Recreation Centers (including gyms) | 1 | 1 | site per | 8,635 | 1 | site per | 9,600 | Meets Median Level | - | site |
| Community Centers | 0 | 0 | site per | - | 1 | site per | 8,900 | Need Exists | 1 | site |
| Performance Amphitheaters | 1 | 1 | site per | 8,635 | 1 | site per | 12,800 | Meets Median Level | - | site |
| Outdoor Pool | 1 | 1 | site per | 8,635 | 1 | site per | 9,500 | Meets Median Level | - | site |
| Splash Pad | 1 | 1 | site per | 8,635 | 1 | site per | 12,800 | Meets Median Level | - | site |
| Inclusive Playgrounds | 0 | 0 | site per | - | 1 | site per | 9,600 | Need Exists* | 1 | site |
| Disc Golf Courses | 0 | 0 | course per | - | 1 | course per | 11,000 | Need Exists* | 1 | course |

Livingston 2023 Population: 8,635 (U.S. Census Burea 2023 American Community Survey 5-Year Estimates)

* Need exists as community grows.

** Exceeds standard when 150%+ standards are met.

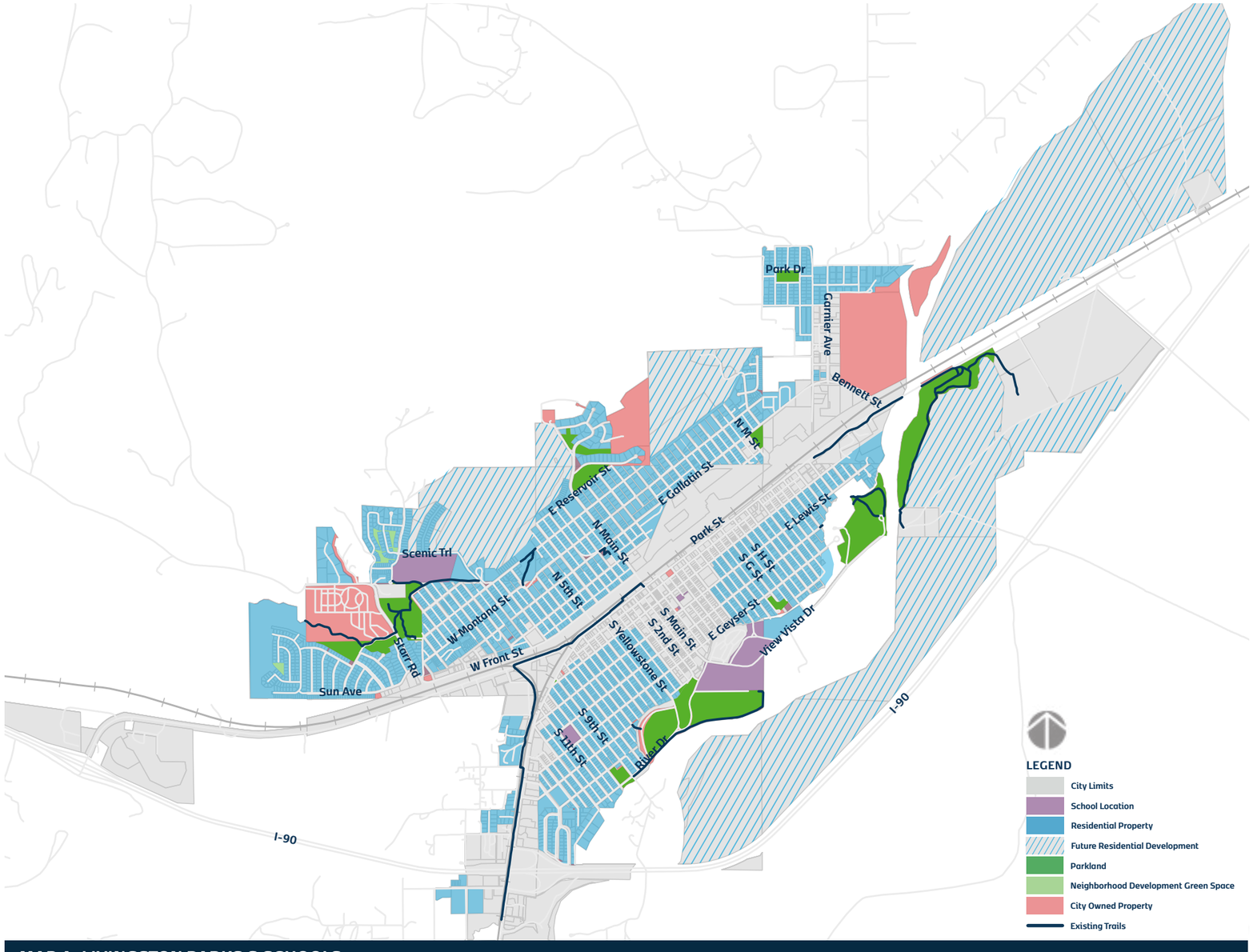
*** Once new Indoor Recration Center is built at Katie Bonnel, needs will exist for outdoor recreation

## 3.3 Gaps in Service Analysis

The Gaps in Service Analysis process involved assembly of a detailed inventory of public physical assets available for use by the Livingston community. This asset inventory was created to serve the city in several ways. It can be used for a wide variety of planning and operations tasks, such as asset management as well as future strategic master plans. The assets inventory currently includes public parks, recreation, and trails assets managed by the Parks and Recreation Department. There is a total of nine developed parks throughout the city.

The Figure to the right shows the study area and key locations of park facilities and schools. Larger scale maps can be found in the Appendix.

**Figure 3.7: Livingston Parks & Trails Distribution**




MAP A: LIVINGSTON PARKS & SCHOOLS

## Catchment Areas

Catchment areas, also called buffers or radii, are used to display Level of Service areas in the community. A radius of a specific distance is drawn around each park or trail. People use a variety of transit modes to reach a recreation destination: on foot, on a bike, in a car, via public transportation, or utilizing any combination of these or other alternatives. The mode is often determined, at least in part, by the distance to be traveled.

The Level of Service analysis for the City of Livingston utilized a primary pedestrian catchment radius of 1/2 miles. This distance corresponds to an estimated travel time of approximately 10 minutes, assuming an average walking speed of 3 miles per hour. The 1/2-mile catchment area accounts for deviations from direct travel paths due to the local street network configuration—particularly within grid and semi-grid patterns—and provides a conservative estimate to ensure that the majority of pedestrians can access destinations within a 10-minute walking threshold.

## Findings

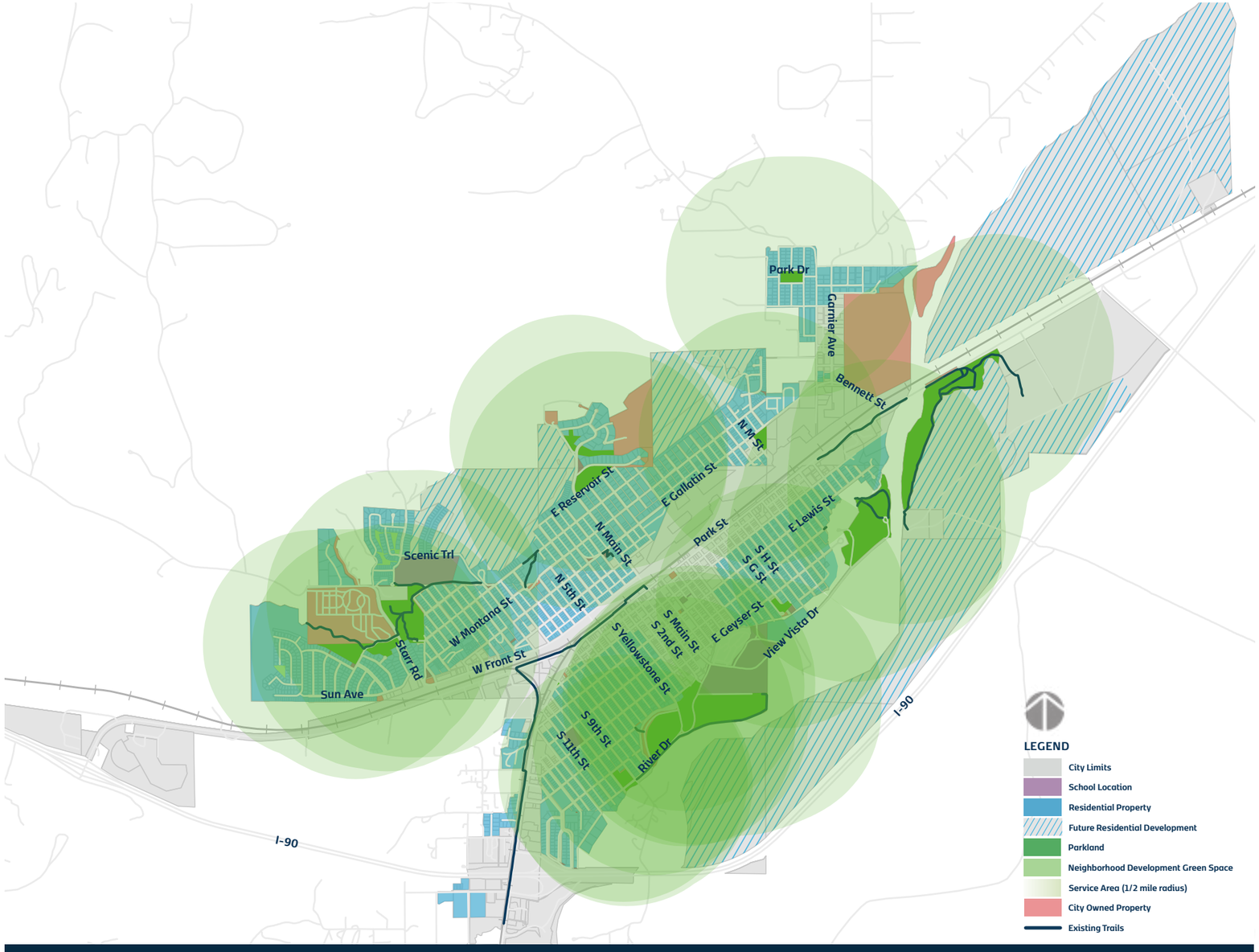
Perspective maps were generated to evaluate the outdoor park facilities available to residents. For purposes of this study, the city limit boundary of Livingston was used as the extent of the study area. The City of Livingston boundary may be found in the previous Figure for reference. Relevant findings include:

- Variety of recreational opportunities.
- Most of the parks and trails are located along the Yellowstone River or located in the northwest portion of Livingston.
- Central neighborhoods are currently under served.

## Overall Level of Service

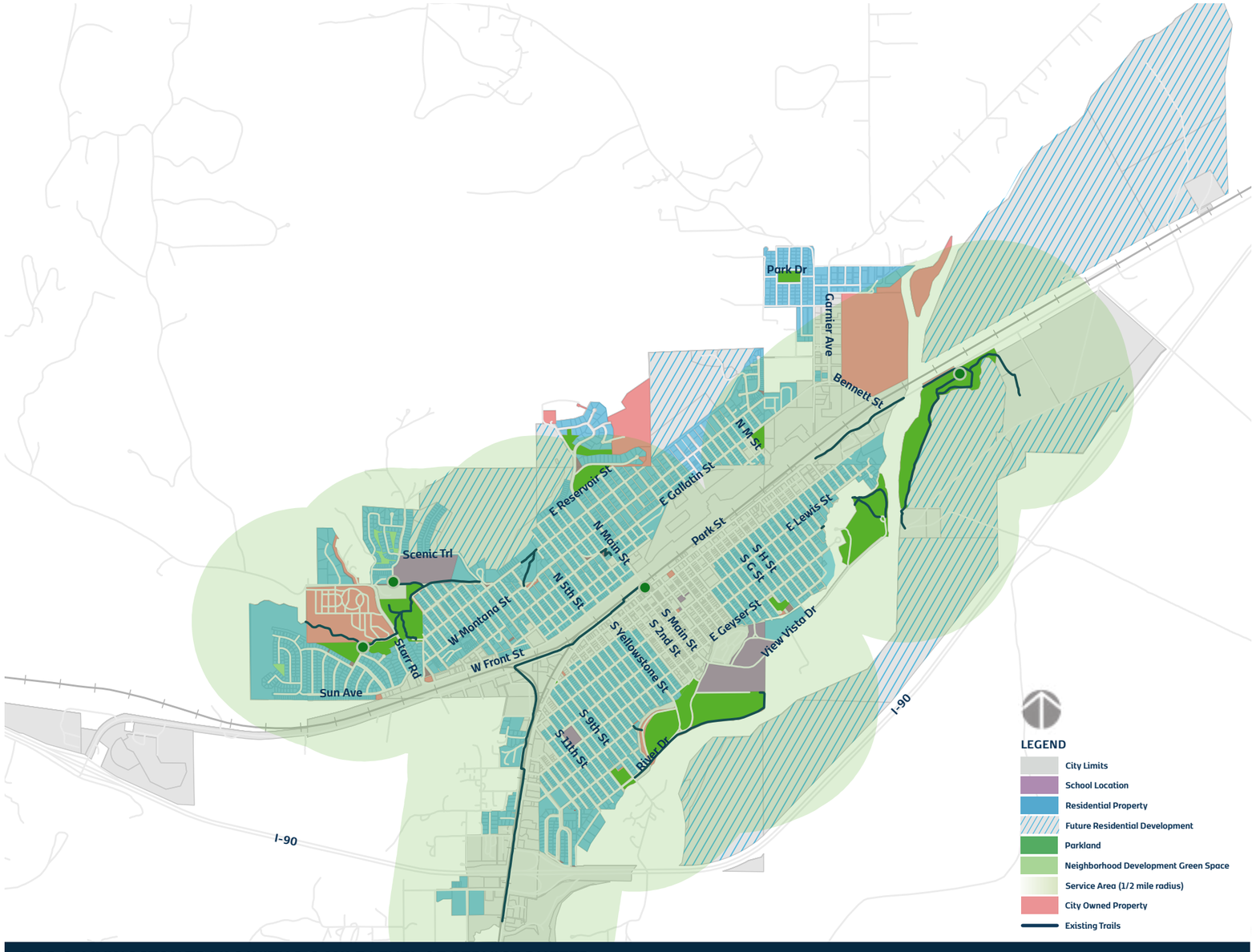
Multiple perspectives were created to examine Overall Level of Service for the City of Livingston. Results of this analysis are displayed in the following Figures. The Figures model access to parks and trails by all transportation modes. Half mile catchment radii have been placed around each boundary. Areas of darker color represent areas with a higher level of service.

**Figure 3.8: Livingston Parks with 1/2 Mile Level of Service Buffer**




**MAP B: LIVINGSTON PARKS WITH 1/2 MILE LEVEL OF SERVICE BUFFER**

**Figure 3.9: Livingston Trails with 1/2 Mile Level of Service Buffer**

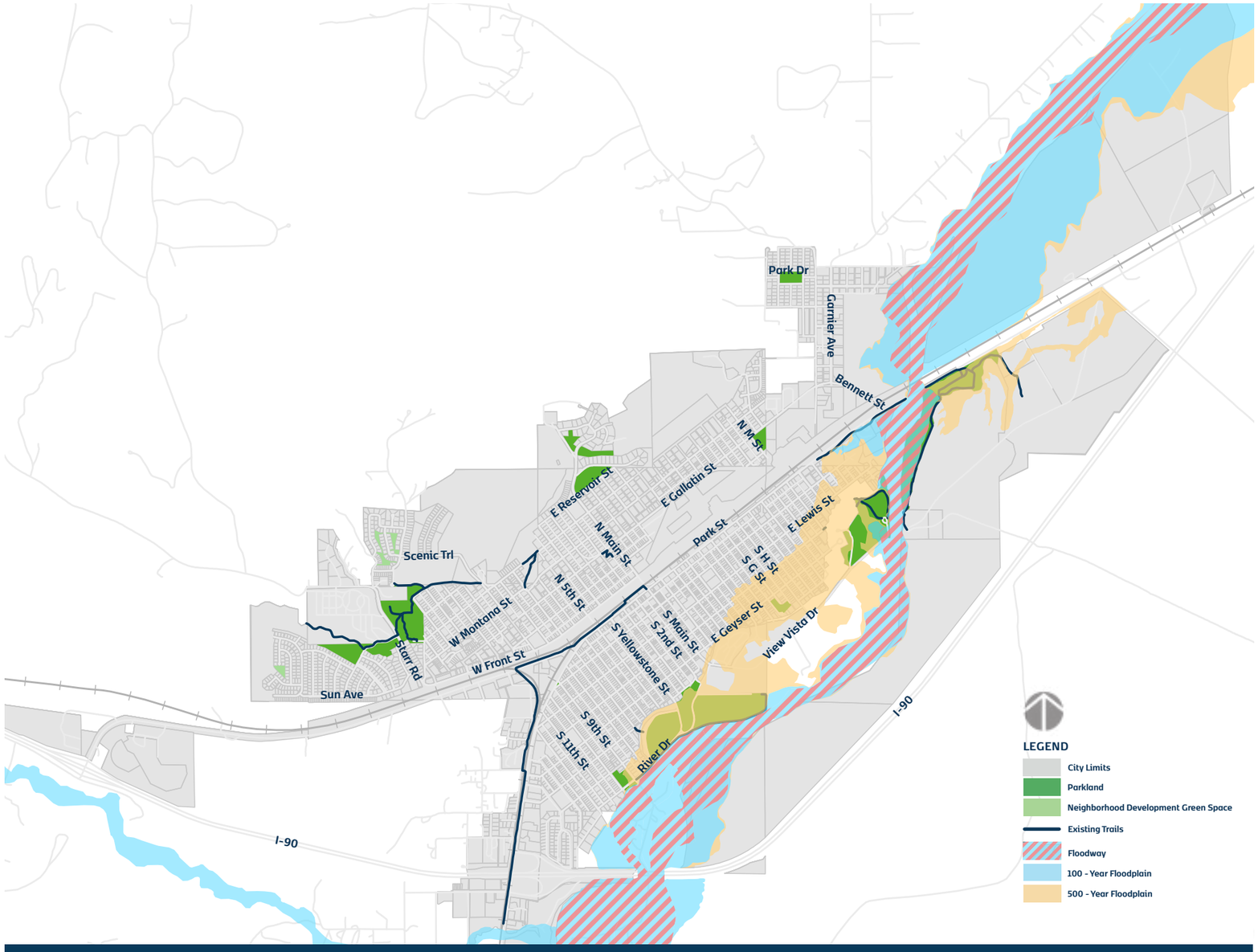



**MAP C: LIVINGSTON TRAILS WITH 1/2 MILE LEVEL OF SERVICE BUFFER**

## 3.4 Parks within Floodway & Floodplain

A significant portion of Livingston's parkland is located within designated floodway and floodplain areas, as shown in the figure to the right. This geographic condition requires careful consideration and planning for any park improvements or developments in these areas. Understanding the potential impacts of flooding on park infrastructure, recreational activities, and public safety is essential to ensuring the long-term sustainability and enjoyment of these green spaces.

**Figure 3.10: Livingston Parks and Trails within the Floodway & Floodplain**




**MAP D: LIVINGSTON PARKS & TRAILS WITHIN THE FLOODWAY & FLOODPLAIN**

## 3.5 Parks & Facilities Assessment

A complete set of Individual Park Inventory Sheets are provided as staff level documents. The inventory sheets give a detailed profile of each park and their current conditions. This inventory and analysis of the existing amenities was done by visiting every park in September 2024. The detailed inventory sheets are included in the Appendix.

### Inventory Summary

- Variety of neighborhood/community parks throughout the area.
- Many parks need amenity upgrades and improvements.
- Some facilities within the floodway could be repurposed to naturalized areas to reduce maintenance.

### Conclusion

The City of Livingston existing park facilities are generally in need of upgrades, but do provide adequate amenities to serve the neighborhood or larger community as intended. The park system exceeds NRPA guidelines on acres per 1,000 residents at 18.1 acres. The overall distribution pattern of the parks and facilities indicates Livingston is well covered along the river, but needs additional facilities for the central neighborhood north of the railroad tracks, which does not lie within any park service area. Livingston should consider adding neighborhood parks and trails in these areas of the city. If you combine the service area summary with the residents' input on the overall quality and maintenance of the park sites, it is evident that the City of Livingston offers facilities and services that generally meet the residents' expectations; however, amenity upgrades are needed for many facilities.

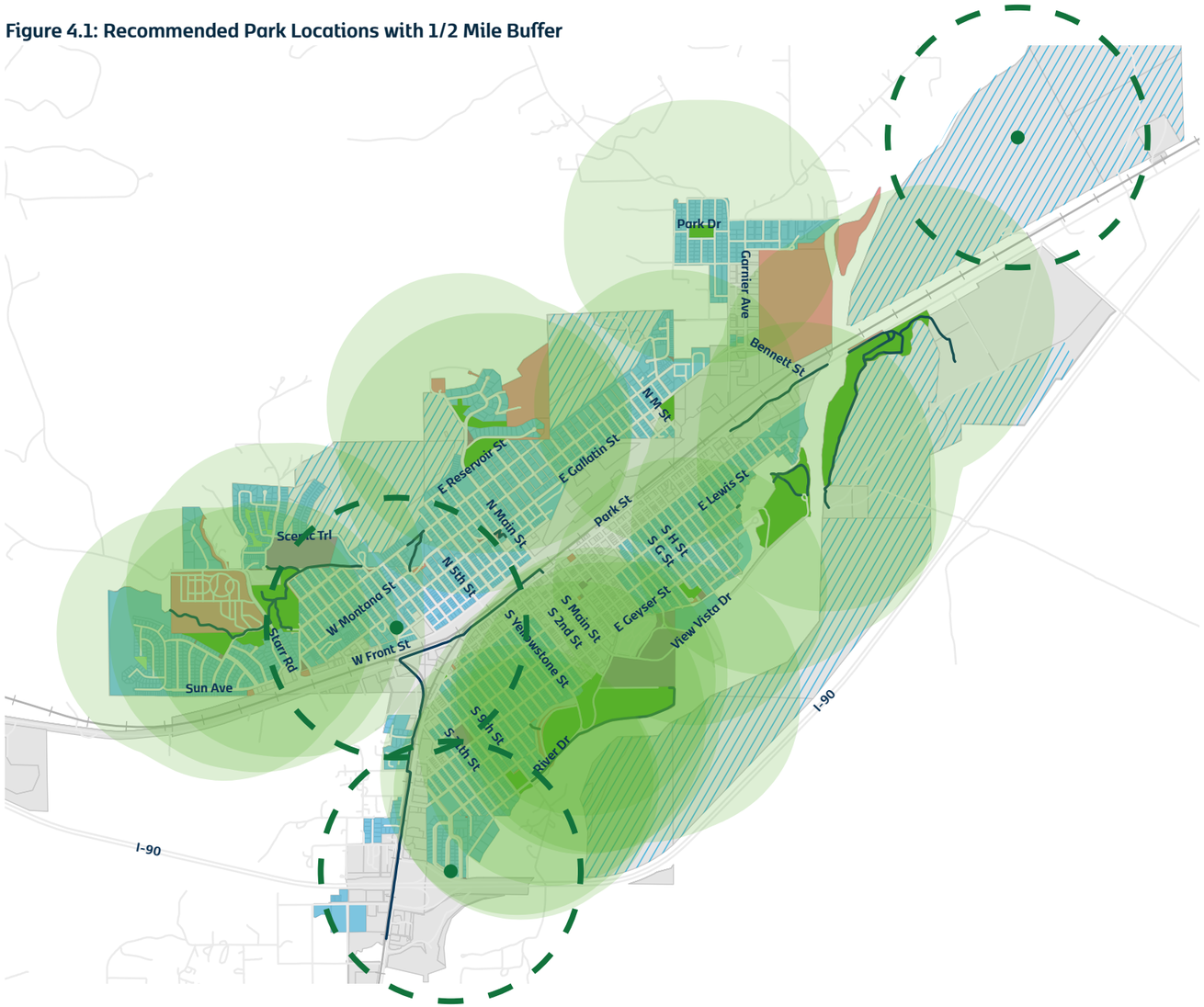
# Chapter 4 - Action Plan

The following recommendations are drawn from the public input, inventory, level of service analysis, findings feedback, and all the information gathered during the master planning process with a primary focus on maintaining, sustaining, and improving the City of Livingston parks, recreation, open space, and trails.

## 4.1 Recommended Park Locations

City should add park locations and amenities in the general vicinity of the recommended locations shown in Figure 4.1. These additional facilities will allow for most of the current residentially zoned areas of the City to be covered within the service area of a neighborhood park.

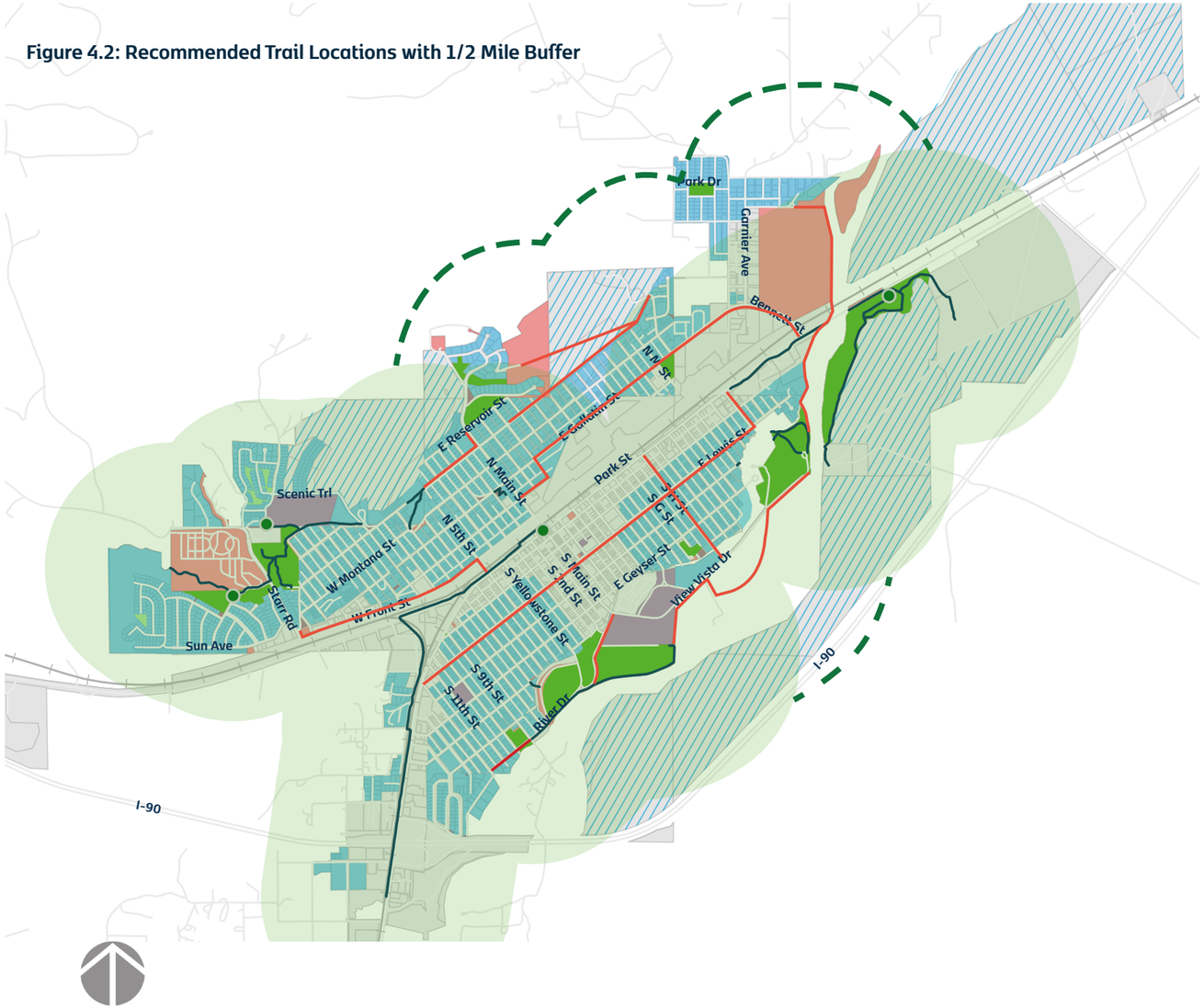
**Figure 4.1: Recommended Park Locations with 1/2 Mile Buffer**



## 4.2 Recommended Trail Locations

The City should pursue the development of additional trail routes in the general vicinity of the recommended locations identified in Figure 4.2. Establishing these routes would complete a continuous trail loop encircling the community, thereby enhancing overall connectivity within the park and trail system. This expanded network would improve access between residential neighborhoods, parks, schools, and other key community destinations. Furthermore, extending the trail system in this manner would ensure that the majority of areas currently zoned for residential use are encompassed within the service area of the community's trail network, promoting equitable access to recreational amenities and supporting active transportation objectives.

**Figure 4.2: Recommended Trail Locations with 1/2 Mile Buffer**



## 4.3 Recommended Existing Park Improvements

As part of this master planning process, all parks in Livingston were reviewed and evaluated, with public feedback playing a central role in shaping the concepts and recommendations for each site. The resulting concepts reflect community priorities and provide a roadmap for future improvements tailored to the unique character of each park. Three parks—Katie Bonnel Park, Reservoir Park, and Highground Public Use Park—did not include new concepts or recommendations in this plan, as they are either guided by separate master planning efforts or function as open space without developed amenities.

### Miles Park

Miles Park is envisioned as a revitalized community hub, with improvements focused on enhancing recreation, expanding event space, and creating safer, more accessible connections throughout the park. A major recommendation is to reorient and rebuild the four existing softball/little league fields with a 40' x 40' central shelter or restroom shelter, and to add two new tee-ball fields and a multi-purpose space. A restroom/concessions building with adjacent plaza seating and play areas is proposed to serve ballfield users, and a new connection from the levee trail to the ballfield complex will further improve accessibility.

Additional circulation and accessibility improvements include formalizing parking (229 spaces) with raised crosswalks for safe pedestrian access, removing and closing Miles Park Road and converting it to a trail that creates a continuous loop around the park, installing accessible seating and routes to the band shell, and adding a raised crosswalk and sidewalk connection to the Sacajawea sculpture area.

Natural and recreation enhancements include dredging the lagoon and adding a new accessible fishing location along its edge, as well as reserving space for potential future skate park expansion.

Community gathering amenities include expansion of the Farmers Market area with a covered pavilion, as well as construction of a new plaza in front of the civic center mural to create a more inviting civic space. The outdoor swimming pool area should be reevaluated after the new indoor recreation center has been in operation for several years, to determine its future role within the park system.

**Figure 4.3: Miles Park Concept Plan**



## Sacajawea Park

The recommended improvements for Sacajawea Park are designed to enhance safety, expand recreation opportunities, and strengthen the park's role as a community destination. A key recommendation is to close McGee Drive and convert it into a paved and striped parking lot with approximately 61 spaces. A new 20' x 30' picnic shelter is proposed near Pompey's Playground and the tennis/pickleball courts, while two new pickleball courts with shade structures are recommended between the existing tennis courts to accommodate the growing demand for the sport.

Additional circulation and accessibility improvements include adding on-street angled parking along Yellowstone Street (22 spaces), removing the existing veteran's memorial from the roadway and constructing a formal memorial within the park, reconstructing the Yellowstone Street and River Drive intersection into a raised crosswalk intersection, and constructing raised crosswalks across River Drive to connect the levee trail to the park. A new parking lot with 51 spaces is also proposed off River Drive to improve access.

Recreation and activity improvements include consolidating play equipment into one central play area with unique experiences for different age groups, such as a ninja warrior course. A new walking and exercise circuit is proposed around the three existing mini-pitch fields, creating a ¼-mile loop. Relocation of the horseshoe pits, or creation of a dedicated yard games area, is also recommended.

Community amenities and park operations improvements include construction of a consolidated building at the park's center to serve as a main hub with restrooms and a picnic shelter. Additional enhancements include a new trailhead with a park map and signage, conversion of maintained turf to native grasses along the park's perimeter for sustainability, and construction of a dedicated parks maintenance and storage building to support long-term care of the park.

**Figure 4.4: Sacajawea Park Concept Plan**



## Firefighter Park

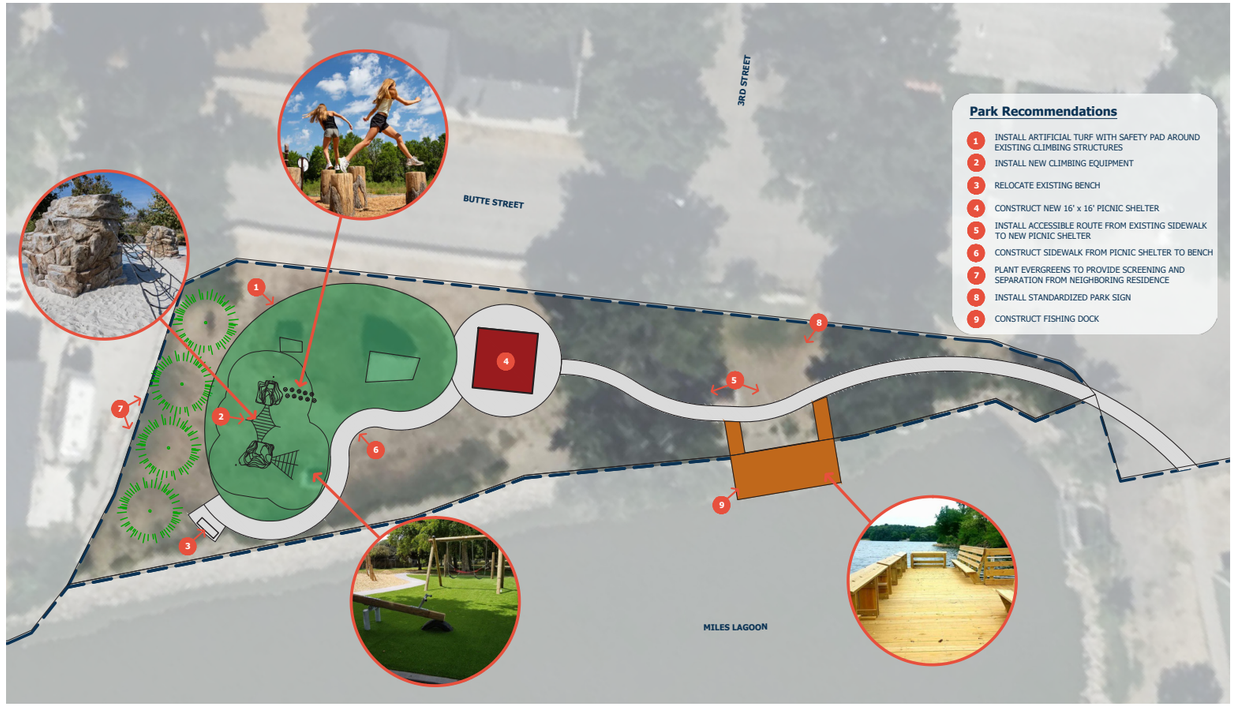
The recommended improvements for Firefighter Park build on its role as a neighborhood park by expanding active play opportunities, improving accessibility, and adding amenities for families and visitors. Enhancements include installation of artificial turf with a safety pad around the existing climbing structures, along with the addition of new climbing play equipment to broaden recreation options for children.

Accessibility and circulation upgrades include construction of a new accessible path through the park, with an existing bench relocated along this route to provide rest and gathering opportunities. A new 16' x 16' picnic shelter is also recommended to create shaded seating and gathering space for park users.

Landscape and natural improvements include planting evergreens along the park edge to provide screening and separation from neighboring residences, enhancing both privacy and aesthetics.

Water-based recreation will be expanded through the construction of a new fishing dock, offering a safe and accessible place for fishing and water interaction within the park.

**Figure 4.5: Firefighter Park Concept Plan**



## Riverside Park

The recommended improvements for Riverside Park focus on enhancing river access, upgrading amenities, and strengthening connections for neighborhood and community use. A primary recommendation is to extend the trail through the park, improving pedestrian and bicycle connectivity along the Yellowstone River corridor. The existing gravel parking lot is proposed to be removed to create a more natural, park-like setting.

River access will be improved by installing stepped stone access to the Yellowstone River, creating a safe and durable point of entry for recreation and water enjoyment. A new 20' x 20' picnic shelter is also recommended to provide shaded gathering space for families and visitors.

Additional improvements include relocating the existing information signs and installing them on a concrete pad along an accessible route, improving visibility, durability, and universal access to park information.

**Figure 4.6: Riverside Park Concept Plan**



## Water Plant Park

The recommended improvements for Water Plant Park are centered on expanding its role as a neighborhood park by introducing new amenities for both residents and their pets. A primary recommendation is the installation of fencing to create separate small dog and large dog areas, providing safe and designated spaces for off-leash activity. Litter receptacles for dog waste are also proposed to support cleanliness and responsible use of the park.

Community amenities will be enhanced with the addition of a new 20' x 20' picnic shelter, offering shaded gathering and seating space for park visitors. An accessible route to the new dog park is also recommended to ensure the space is inclusive and welcoming for all users.

**Figure 4.7: Water Plant Park Concept Plan**



## Bozeman Park

No improvements or upgrades are recommended for Bozeman Park. Due to its very small size, limited accessibility, and location at the intersection of three streets—including Park Street, the community's main highway—the site presents safety and functional challenges. The recommendation is to remove the existing park sign and formally remove Bozeman Park from the Livingston Parks System.

**Figure 4.8: Bozeman Park Concept Plan**



## North Side Soccer Park

Recommendations for the North Side Soccer Complex focus on improving accessibility and enhancing amenities for both players and spectators. Upgrades include striping the accessible parking stalls and access aisle, along with installing concrete surfacing to improve accessibility. Additional striping of the parking stalls and access aisle will help organize and formalize parking. A new training area is proposed to provide additional practice space, and a playground adjacent to the concessions and seating area is recommended to create a family-friendly environment and support a wider range of park users.

**Figure 4.9: North Side Soccer Park Concept Plan**



## Mars Park

The recommended improvements for Mars Park are designed to strengthen its role as a neighborhood park by improving accessibility, adding new amenities, and creating a more inviting play environment. Parking upgrades include paving for 11 standard stalls and one ADA stall with an access aisle to ensure compliance and ease of access for all users. An accessible route is also proposed through the park to connect key features.

Community amenities will be expanded with the addition of a new 20' x 20' picnic shelter paired with a vault restroom, creating a hub for gatherings and family use.

Play opportunities will be enhanced through the installation of a new nature-inspired playground set on poured-in-place rubber surfacing, providing a safe, durable, and engaging environment for children.

**Figure 4.10: Mars Park Concept Plan**



## Jack Weimer Memorial Park

The recommended improvements for Jack Weimer Memorial Park focus on enhancing accessibility, addressing circulation and parking challenges, and making targeted upgrades to the baseball facilities. Concrete surfacing is proposed in key areas to improve accessibility for all users while also reducing weed maintenance and long-term upkeep needs.

Facility upgrades include adjusting the fencing in right field to match the existing fencing in left field, creating a more consistent and functional ballfield layout.

Circulation and parking will be improved with the addition of a new roadway and parking lot to address current parking limitations. The existing trail will be rerouted to accommodate the new roadway and parking configuration, maintaining trail continuity while improving park access. On-street parking along Northern Lights Road will also be paved and striped to expand safe and organized parking capacity.

**Figure 4.11: Jack Weimer Memorial Park Concept Plan**



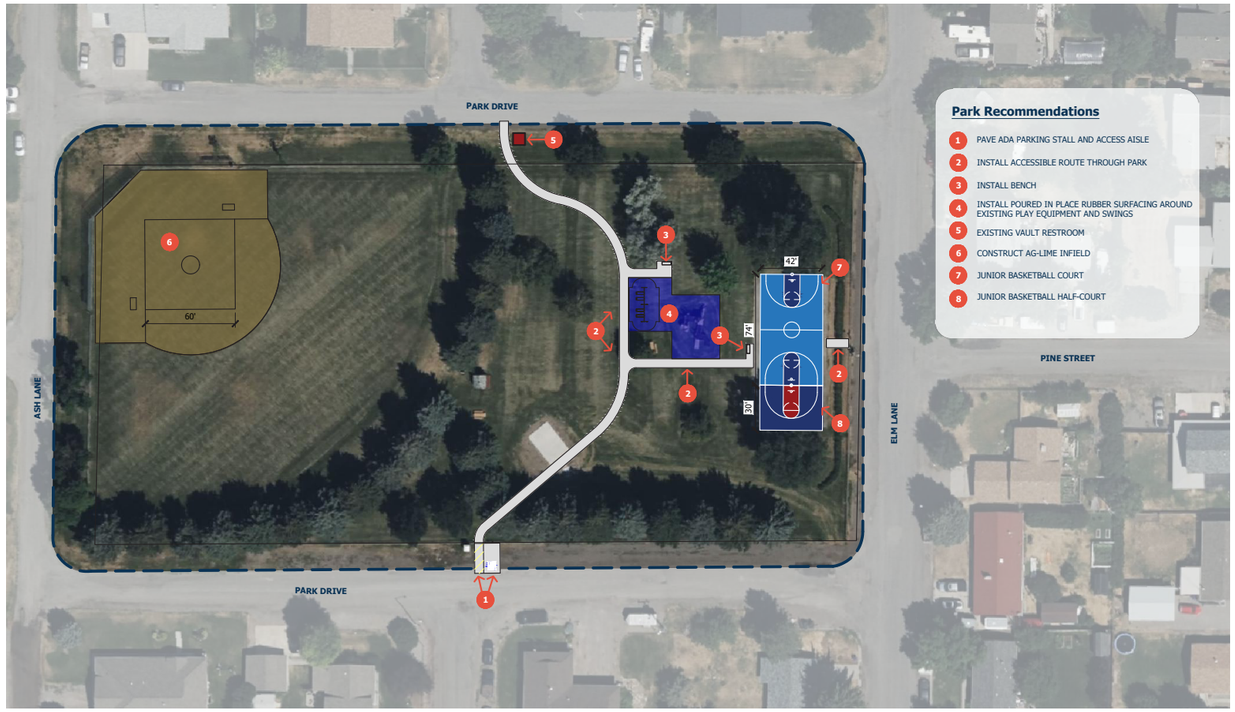
## Green Acres Park

The recommended improvements for Green Acres Park are focused on increasing accessibility, enhancing play features, and upgrading sports facilities to better serve the surrounding neighborhood. Parking will be improved with the addition of a paved ADA stall and access aisle, and a new accessible route through the park will connect key amenities. A bench is proposed along this route to provide seating near the playground and basketball courts.

Play and recreation opportunities will be enhanced with the installation of poured-in-place rubber surfacing around the existing play equipment and swings, improving safety and accessibility. The existing tee-ball field will be upgraded with a new ag lime infield, providing a more durable and playable surface.

Sports amenities will be expanded with the construction of one full junior basketball court and one half junior basketball court, offering opportunities for both formal and informal play

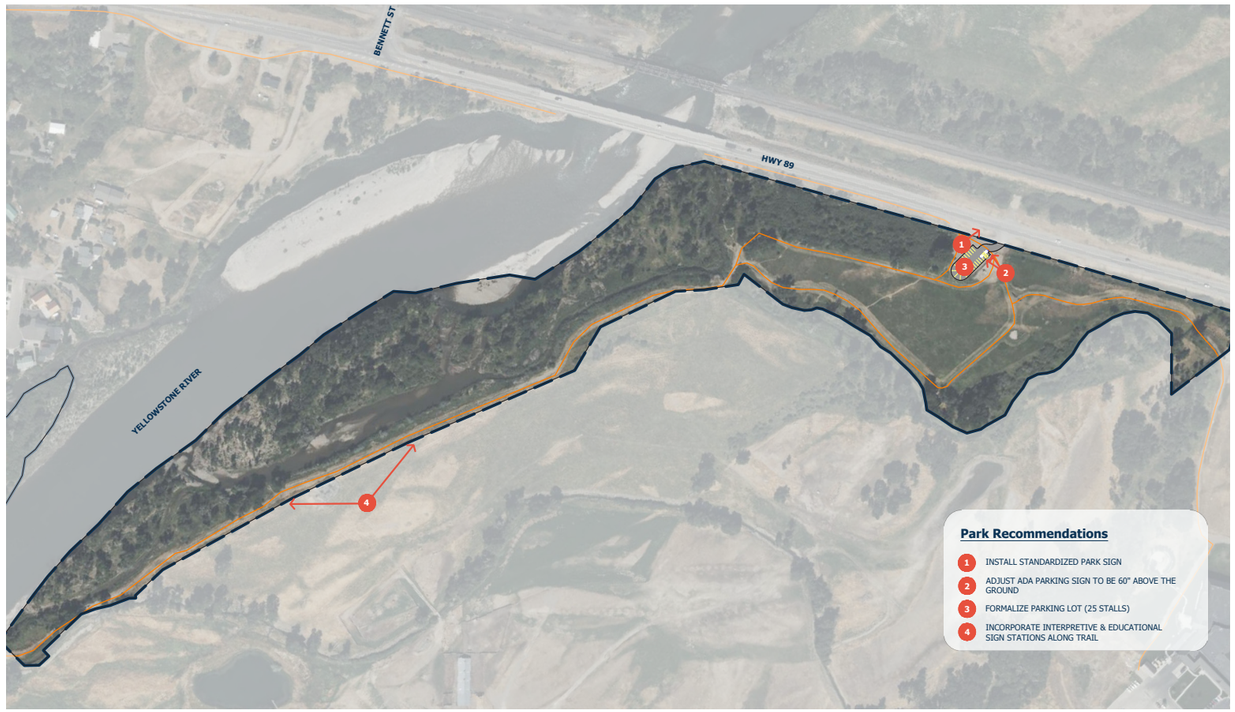
**Figure 4.12: Green Acres Park Concept Plan**



## Meyers River View Park

Recommendations for Meyers River View Park focus on accessibility and enhancing the visitor experience along the trail system. Improvements include adjusting the ADA parking sign to the required 60 inches above ground and paving and organizing the existing gravel parking lot to provide a more defined and accessible layout. In addition, interpretive and educational sign stations are proposed along the trail to highlight natural, cultural, and historical features, enriching the park experience for users of all ages.

**Figure 4.13: Meyers River View Park Concept Plan**



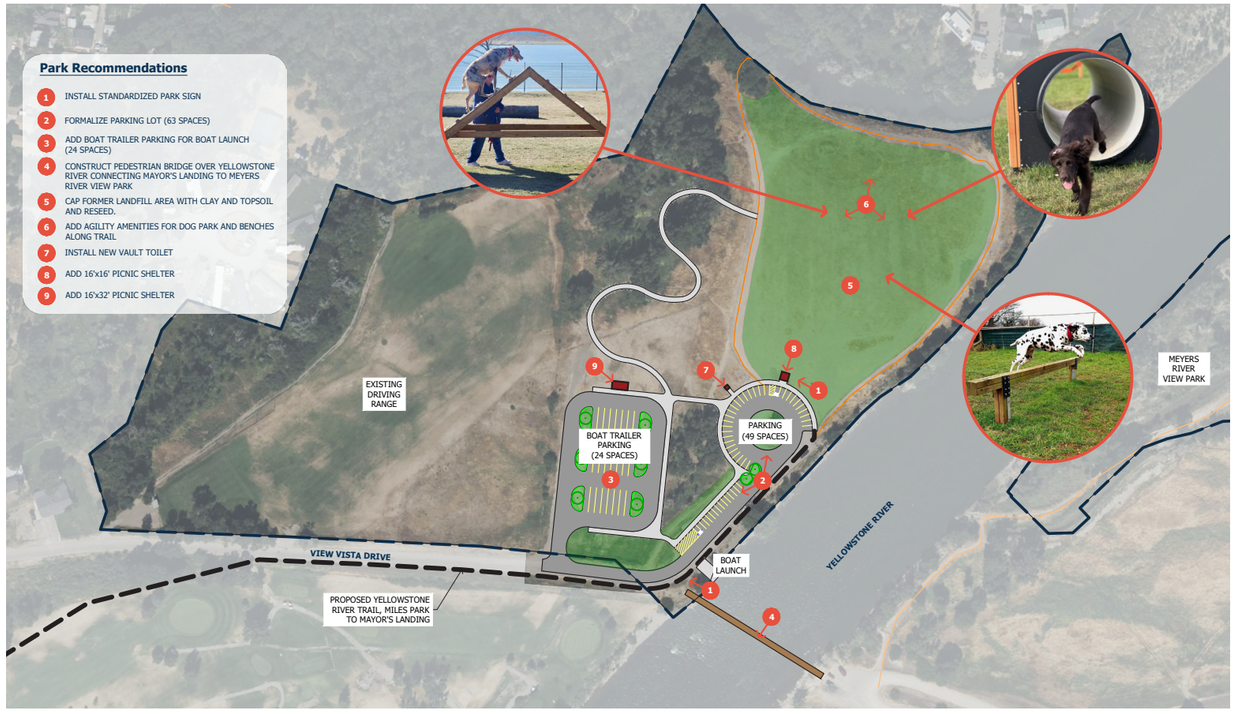
## Mayor's Landing Moja Dog Park

The recommended improvements for Mayor's Landing Park focus on strengthening its role as a riverfront access point, enhancing recreation amenities, and addressing environmental considerations. Parking will be formalized to improve circulation and organization, with additional boat trailer spaces added to support the boat launch. A new pedestrian bridge over the Yellowstone River is proposed to connect Mayor's Landing Parking to Meyers River View Park, creating a significant new linkage between the two riverfront parks.

Site improvements include capping the former landfill area with clay and topsoil and reseeding it to improve environmental conditions within the offleash dog park. Within the existing dog park, new agility amenities are recommended along with benches placed along the trail to improve user experience.

Additional amenities include the installation of a new vault toilet and the construction of picnic shelters to expand comfort and gathering opportunities for park visitors.

**Figure 4.14: Mayor's Landing Moja Dog Park Concept Plan**



## Mike Webb Park

The recommended improvements for Mike Webb Park focus on strengthening accessibility, expanding inclusive play opportunities, and enhancing recreation features for neighborhood use. Accessibility upgrades include adjusting the ADA parking sign to the required 60-inch height, installing a curb ramp for the ADA stall, and constructing an accessible route to both the bench and swing area.

Play features will be upgraded with the replacement of the existing ADA swing with a "Sway Fun" or similar inclusive play element, as well as the addition of a molded bucket or tot seat to the swing set. Rubber surfacing is also recommended under play equipment to provide an accessible fall protection surface.

Water play amenities will be improved with the installation of two new shade structures for the existing splash pad, as well as above-ground spray features connected to the existing bases to expand play value.

Additional recreation opportunities will be provided through the construction of a new tee-ball field, adding a youth sports option to the neighborhood park

**Figure 4.15: Mike Webb Park Concept Plan**



## 4.4 Recommendations, Timeline, Prioritization & Cost Estimates

The following recommendations are drawn from the public input, inventory, level of service analysis, findings feedback, and all the information gathered during the master planning process with a primary focus on maintaining, sustaining, and improving the City of Livingston parks, recreation, open space, and trails.

The Recommendations can be categorized into seven key objectives:

1. Trail System Improvements / Expansion
2. Balance Park Maintenance Resources to Park Assets
3. Add Park Space in Underserved Neighborhoods
4. Increase Accessibility Throughout the Parks System
5. Improve User Experience Throughout Park System
6. Increase Awareness of Parks System Facilities and Programs
7. Enhance Natural Areas along Water Ways

Timeframe to complete is designated as:

- Short-term (up to 3 years)
- Mid-term (4-6 years)
- Long-term (7-10 years)

All cost estimates are in 2025 figures where applicable. Most costs are dependent on the extent of the enhancements and improvements determined or known at this time.

**Figure 4.1: Action Plan Recommendations, continued next pages**

| | Preliminary Recommendations | Description | Timeline to Complete (Short, Mid, or Long Range) | Priority (High, Moderate, or Low) | Capital Cost Estimate |
|---|---|---|---|---|---|
| **1** | **Trails System Improvements/Expansion** | | | | |
| 1.1 | Gallatin/Bennett, N St to Park | Sidewalks and bikeway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. This section of trail should be prioritized with the completion of the indoor recreation center at Katie Bonnel Park. | Short | High | $225,000 |
| 1.2 | Yellowstone River Trail (north side), Baseball/Softball Complex to Mayor's Landing | Shared use pathway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $100,000 - $169,000 |
| 1.3 | Lewis/O St Crosstown Bikeway, Park to O St | Sidewalks and bikeway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $11,250 - $169,000 |
| 1.4 | Gallatin/C/Chinook, Main to N Street | Sidewalks and bikeway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. This section of trail should be prioritized with the completion of the indoor recreation center at Katie Bonnel Park. | Short | High | $135,000 |
| 1.5 | 5th, Front to Park | Widen sidewalk to pathway width - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | TBD |
| 1.6 | Summit, 7th to Main | Sidewalks and bikeway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $85,000 - $101,250 |
| 1.7 | Yellowstone River Trail, Mayor's Landing to O Street Connector | Shared use pathway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $157,500+ |
| 1.8 | Yellowstone River Trail, north side, US 89 to Whiskey Creek Road | Shared use pathway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $280,000 |
| 1.9 | H St, Park to Lewis | Bikeway with speed management treatments - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $45,000 - $225,000 |
| 1.10 | River Dr, 12th to Main/View Vista | Sidewalks and bikeway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $280,000 |
| 1.11 | Front, 5th to Star Road | Sidewalks and bikeway - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $169,000 - $225,000 |
| 1.12 | North Hills Trails, East, Green Acres to Summit/Water Tower | Hiking/biking trail - costs taken from the 2022 Trails & Active Transportation Plan with escalation. | Short | High | $56,000 |
| **2** | **Balance Park Maintenance Resources to Park Assets** | | | | |
| 2.1 | Add staff to balance maintenance of facilities | | Short | High | NA |
| 2.2 | Identify contracted services opportunities | Cemetery | Mid | Moderate | NA |
| 2.3 | Develop Livingston Parks and Recreation Foundation | Foundation can fundraise and connect donors with specific projects within the Park System. | Short | High | NA |
| 2.3 | Implement an efficient replacement schedule for park maintenance equipment | | Short | High | NA |
| 2.4 | Provide training opportunities for park staff | Playground safety certification, turfgrass management | Mid | Moderate | NA |
| 2.5 | Catalog deferred maintenance items | | Mid | High | NA |
| 2.6 | Develop volunteer program for various park areas | | Mid | Moderate | NA |
| *2.6.1* | Develop user group agreements | E.g. School District, youth soccer, youth baseball/softball etc. | Short | High | NA |
| 2.7 | Implement cyclical replacement schedule for park amenities. | replacement of playgrounds, sport courts, shelters, scoreboards, lighting, docks, etc. | Long | Moderate | TBD |

## Figure 4.2: Action Plan Recommendations, continued

| | Preliminary Recommendations | Description | Timeline to Complete (Short, Mid, or Long Range) | Priority (High, Moderate, or Low) | Capital Cost Estimate |
|---|---|---|---|---|---|
| **3** | **Add Park Space in Underserved Neighborhoods** | | | | |
| 3.1 | Develop (1) park in north central neighborhood due to railroad barrier to south parks. | Develop master plan with phasing | Mid | High | $1,000,000 - $3,000,000 (Factors: size, amenities, features, parking) |
| 3.2 | Develop park in south west neighborhood | Develop master plan with phasing | Long | Moderate | $1,000,000 - $3,000,000 (Factors: size, amenities, features, parking) |
| 3.3 | Develop park in north east neighborhood as community grows | Develop master plan with phasing | Long | Moderate | $1,000,000 - $3,000,000 (Factors: size, amenities, features, parking) |
| 3.4 | Develop Reservoir Park as outlined in the new Master Plan. | This should serve as a neighborhood park (i.e. playground, picnic shelter, etc.) | Mid | Moderate | TBD |
| 3.5 | Carefully consider acceptance of future parkland assets from development agreements. | Unless gaps exist in service areas that require a future park the cash in lieu option may be preferred. | Long | High | NA |
| **4** | **Increase Accessibility Throughout the Parks System** | | | | |
| 4.1 | Create destination inclusive playground at Katie Bonnel Park in conjunction with new Indoor Recreation Center | | Short | High | TBD |
| 4.2 | Convert all playground surfacing to synthetic turf or rubber surfacing | Gravel is considered an acceptable fall surface but not considered accessible | Mid | High | Average $28 per square foot installed |
| 4.3 | Add an ADA accessible component to park playgrounds (include accessible fall surfacing - i.e. poured in place rubber or synthetic turf) | | Mid | Moderate | Allow $50,000 per park |
| 4.4 | Follow playground cyclical replacement program and convert play surfacing to rubber or synthetic turf surfacing. | Evaluate/consolidate playground equipment layout and location within each park as equipment needs to be replaced. | Mid | High | $85,000 - $150,000 per play area (average $28 per square foot) |
| 4.5 | Provide accessible parking space for each park. | Refer to individual park improvement recommendations. As parks are updated, provide accessible parking. | Mid | Moderate | TBD |
| 4.6 | Implement accessible route within each park. | Refer to individual park improvement recommendations. As parks are updated, provide accessible routes. | Mid | Moderate | TBD |
| **5** | **Improve User Experience Throughout the Park System** | | | | |
| 5.1 | **Miles Park** | | | | |
| *5.1.1* | Reorient and rebuild 4 softball/little league fields with concessions / restroom building and 20' x 20' shelter at the center | | Mid | Moderate | $3,000,000 - $5,000,000 (Factors: size, amenities, features, parking) |
| *5.1.2* | Build (2) tee ball fields and multi-purpose recreation space with 20' x 20' shelter | | Mid | Moderate | |
| *5.1.3* | Replace field lighting | | Mid | Moderate | $250,000 per field |
| *5.1.4* | Install connection from levee trail to softball/baseball complex | | Mid | Low | $90,000 |
| *5.1.5* | Add play area with seating and 20' x 20' shelter | | Long | Moderate | $500,000 (Factors: size, design, utilities) |
| *5.1.6* | Formalize parking lot (229 spaces) with drop off lanes | | Mid | High | $1,000,000 (Factors: size, design, utilities) |
| *5.1.7* | Remove / close Miles Park Road and make trail to create a loop around Miles Park | | Mid | Moderate | $375,000 |
| *5.1.8* | Install accessible seating and accessible route to band shell | | Short | Low | $150,000 |
| *5.1.9* | Expand Farmers market space with covered pavilion and add plaza in front of mural | | Mid | High | $1,500,000 |
| *5.1.10* | Reevaluate outdoor swimming pool area once indoor pool at the new recreation center has been operational a few years | | Long | High | TBD |
| *5.1.11* | Add raised crosswalk and sidewalk connection to sculpture area | | Long | Low | $20,000 |
| *5.1.12* | Allow space for skate park expansion | | Long | Low | TBD |
| 5.2 | **Sacajawea Park** | | | | |
| *5.2.1* | Close McGee Drive and dead end into a parking lot (61 Spaces) | | Short | Low | $325,000 |
| *5.2.2* | Add (2) 20' x 30' picnic shelters for play areas | | Mid | Moderate | $100,000 per shelter (Factors: materials) |
| *5.2.3* | Construct (2) pickleball courts with shade structures (4) for tennis and pickleball courts | | Mid | Moderate | $375,000 |
| *5.2.4* | Add on-street angled parking to Yellowstone Street (22 spaces) | | Mid | Moderate | $100,000 |
| *5.2.5* | Construct formal Veteran's Memorial within park | | Short | High | $350,000 (Factors: design, materials) |
| *5.2.6* | Reconstruct intersection of Yellowstone Street and River Drive into a raised crosswalk intersection | | Mid | Moderate | $200,000 |
| *5.2.7* | Relocate horse shoes and/or have dedicated area for other yard games | | Mid | Low | $10,000 |
| *5.2.8* | Consolidate building and construct a new restroom and Parks maintenance/storage building | | | Moderate | $800,000 (Factors: size, design, utilities) |
| *5.2.9* | Consolidate play equipment into one centralized area. Play equipment should be unique play experience (e.g. ninja warrior course) | | Mid | High | $2,000,000 |
| *5.2.10* | Construct walking/exercise circuit around 3 mini pitch soccer fields. | Walking loop is approximately a quarter mile | Mid | Moderate | $300,000 |
| *5.2.11* | Add parking lot off of River Drive (51 spaces) | | Long | Low | $250,000 |
| *5.2.12* | Construct raised crosswalks from park to trail across River Drive | | Mid | Moderate | $20,000 |
| *5.2.13* | Add trail head with map and park sign | | Long | Low | $15,000 |
| *5.2.14* | Convert maintained turf grass to native grass along exterior areas of the park | | Short | High | $5,000 |
| *5.2.15* | Provide connection to existing bridge and neighborhood to the west | | Short | High | $15,000 |
| *5.2.16* | Construct Parks maintenance/storage building | | Mid | Moderate | $350,000 |
| *5.2.17* | Remove existing picnic shelter | | Short | Moderate | $1,500 |
| 5.3 | **Firefighter Park** | | | | |
| *5.3.1* | Install artificial turf with safety pad around existing climbing structure | | Short | Moderate | Average $28 per square foot installed |
| *5.3.2* | Install new climbing equipment | | Mid | Moderate | $30,000 |
| *5.3.3* | Relocate existing bench | Relocate bench to be along accessible route surrounding fall surfacing | Mid | Moderate | $1,500 |
| *5.3.4* | Construct new 16' x 16' picnic shelter | | Short | Moderate | $50,000 |
| *5.3.5* | Install accessible route from existing sidewalk to new picnic shelter | | Mid | Moderate | $25,000 |
| *5.3.6* | Construct sidewalk from picnic shelter to bench | | Mid | Moderate | $17,500 |
| *5.3.7* | Plant evergreens to provide screening and separation from neighboring residence | | Short | Low | $3,000 |
| *5.3.8* | Construct fishing dock | | Long | Moderate | $85,000 |
| 5.4 | **Mayor's Landing / Moja Dog Park** | | | | |
| *5.4.1* | Formalize parking lot (63 spaces) | | Long | Moderate | $250,000 |
| *5.4.2* | Add boat trailer parking for boat launch (24 spaces) | | Long | Low | $100,000 |
| *5.4.3* | Construct pedestrian bridge over Yellowstone River connecting Mayor's Landing to Meyers River View Park. | | Long | High | $1,200,000 |
| *5.4.4* | Cap former landfill area with clay and topsoil and reseed. | | Short | High | $800,000 |
| *5.4.5* | Add agility amenities for dog park and benches along trail. | | Mid | Moderate | $10,000 |
| *5.4.6* | Install new vault toilet | | Long | Moderate | $50,000 |
| *5.4.7* | Add 16' x 16' picnic shelter | | Mid | Moderate | $50,000 |
| *5.4.8* | Add 16' x 32' picnic shelter | | Mid | Moderate | $100,000 |

## Figure 4.3: Action Plan Recommendations, continued

| | Preliminary Recommendations | Description | Timeline to Complete (Short, Mid, or Long Range) | Priority (High, Moderate, or Low) | Capital Cost Estimate |
|---|---|---|---|---|---|
| 5.5 | **Meyers River View Park** | | | | |
| *5.5.1* | Adjust ADA parking sign to be 60" above ground | | Short | Moderate | $500 |
| *5.5.2* | Formalize parking lot (25 spaces) | | Long | Moderate | $100,000 |
| *5.5.3* | Incorporate interpretive and educational sign stations along trail | | Long | Low | $5,000 per sign |
| 5.6 | **Water Plant Park** | | | | |
| *5.6.1* | Install fencing to create small and large dog fenced dog park | | Long | Moderate | $80,000 |
| *5.6.2* | Install litter receptacles for dog waste | | Short | Moderate | $2,500 per receptacle |
| *5.6.3* | Add 20' x 20' picnic shelter | | Long | Low | $60,000 |
| *5.6.4* | Install accessible route to dog park | | Long | Moderate | $50,000 |
| 5.7 | **Riverside Park** | | | | |
| *5.7.1* | Continue trail through Riverside Park | | Mid | Low | $60,000 |
| *5.7.2* | Remove gravel parking lot | | Long | Low | $10,000 |
| *5.7.3* | Install stepped stone access to Yellowstone River | | Mid | Moderate | $80,000 |
| *5.7.4* | Install new 20'x20' picnic shelter | | Long | Low | $60,000 |
| *5.7.5* | Relocate informational signs and install on concrete pad | | Long | Low | $2,500 |
| 5.8 | **Mike Webb Park** | | | | |
| *5.8.1* | Adjust ADA parking sign to be 60" above ground | | Short | Moderate | $500 |
| *5.8.2* | Install accessible curb ramp for ADA parking space | | Short | Moderate | $2,500 |
| *5.8.3* | Install accessible route to bench and accessible swing. | | Mid | Moderate | $25,000 |
| *5.8.4* | Replace ADA swing with "Sway Fun" equipment or similar inclusive play element | | Mid | Moderate | $20,000 - $50,000 |
| *5.8.5* | Add molded bucket seat or tot seat to swings | | Short | Moderate | $3,000 per seat |
| *5.8.6* | Install rubber surfacing under play equipment for accessible fall protection surface | | Mid | Moderate | Average $28 per square foot installed |
| *5.8.7* | Install two shade structures for the existing splash pad | | Short | High | $20,000 per shade structure |
| *5.8.8* | Add above ground spray features to existing bases in splash pad | | Short | High | Follow costs from full master plan for features. |
| *5.8.9* | Build tee ball field | | Mid | Moderate | $65,000 |
| 5.9 | **Bozeman Park** | | | | |
| *5.9.1* | Remove existing sign | | Long | Low | $250 |
| *5.9.2* | Remove Bozeman Park from Parks System | | Long | Low | N/A |
| 5.10 | **Norh Side Soccer Park** | | | | |
| *5.10.1* | Stripe accessible parking stalls and access aisle. | | Short | Moderate | $1,500 |
| *5.10.2* | Install concrete surfacing for accessible parking spaces & stripe parking stalls and access aisle. | | Short | Moderate | $10,000 |
| *5.10.3* | Construct training area | | Long | Low | $250,000 |
| *5.10.4* | Construct playground area adjacent to concessions seating | | Short | High | $250,000 |
| 5.11 | **Jack Weimer Memorial Park** | | | | |
| *5.11.1* | Add concrete surfacing to increase accessibility and decrease weed maintenance | | Short | High | $50,000 |
| *5.11.2* | Adjust fencing to match left field | | Short | Moderate | $25,000 |
| *5.11.3* | Install roadway and parking lot (64 spaces) | | Long | Moderate | $450,000 |
| *5.11.4* | Reroute trail to accommodate new roadway | | Long | Moderate | Price included in 5.11.3 |
| *5.11.5* | Construct on-street parking (21 stalls) | | Short | High | $75,000 |
| 5.12 | **Mars Park** | | | | |
| *5.12.1* | Pave parking for 11 parking spaces and 1 ADA space and access aisle | | Mid | Moderate | $50,000 |
| *5.12.2* | Install accessible route through park | | Mid | Moderate | $70,000 |
| *5.12.3* | Install new 20'x20' picnic shelter | | Short | High | $60,000 |
| *5.12.4* | Install new nature inspired playground equipment on poured in place rubber surfacing | | Short | High | $500,000 |
| 5.13 | **Green Acres Park** | | | | |
| *5.13.1* | Pave ADA parking space and access aisle | | Short | Moderate | $4,000 |
| *5.13.2* | Install accessible route through park | | Mid | Moderate | $70,000 |
| *5.13.3* | Install benches for basketball court and playground equipment | | Mid | Low | $4,000 per bench |
| *5.13.4* | Install poured in place rubber surfacing around existing play equipment and swings | | Long | Moderate | Average $28 per square foot installed |
| *5.13.5* | Construct ag-lime infield | | Short | Moderate | $55,000 |
| *5.13.6* | Junior basketball court & half junior basketball court | | Mid | Moderate | $750,000 |
| 5.14 | As community grows identify location for disc golf course. | Meyers River View Park and Bozeman trail have been identified as possible locations. | Long | Low | TBD |
| **6** | **Increase Awareness of Parks System Facilities and Programs** | | | | |
| 6.1 | Create and implement a signage and wayfinding plan | Hire a consultant for assistance | Mid | Moderate | TBD |
| *6.1.1* | Replace all existing park identification signs and install standardized park sign at each park. | | Mid | Moderate | TBD |
| *6.1.2* | Update GIS and Parks brochures for consistent park names. | | Short | High | N/A |
| **7** | **Enhance Natural Areas along Water Ways** | | | | |
| 7.1 | Dredge Miles Park Lagoon | | Short | High | $1,000,000 (Factors: depth of dredging desired) |
| 7.2 | Implement naturalized riparian buffers along the river | Incorporate native plantings (grasses, shrubs, & trees) into City owned areas within 50' of the top of the river bank to create a more natural stream corridor receptive to flooding and cleansing runoff from the community | Mid | Moderate | TBD |

# Appendices

Appendix 1:
**Parks & Facilities Map**

Appendix 2:
**Charrette Meeting Minutes**

Appendix 3:
**Community Survey Findings Report**

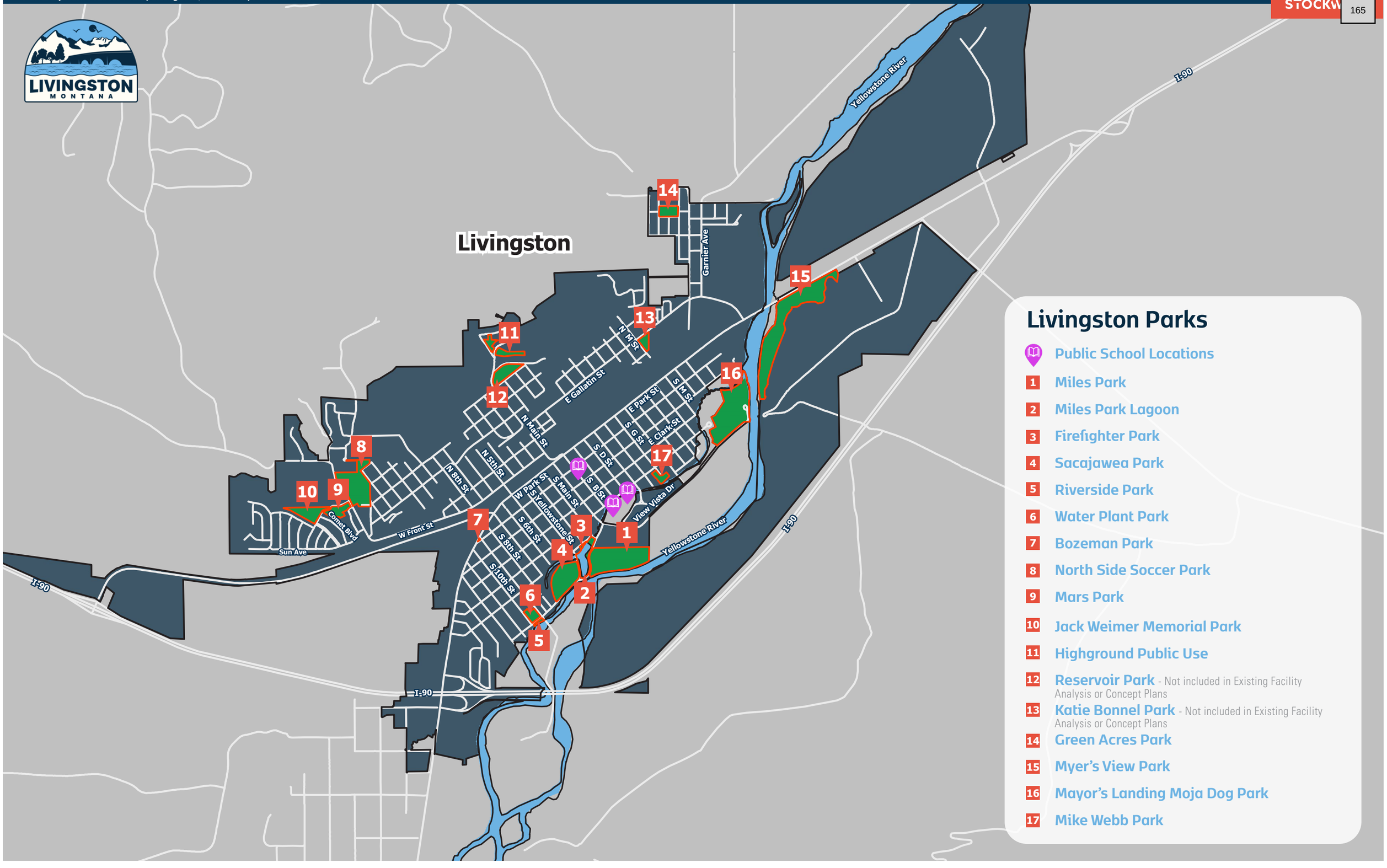
Appendix 4:
**Individual Park Inventory Sheets**

Appendix 5:
**Action Plan Recommendations**

Appendix 6:
**Level of Service Analysis Maps**

# Appendix 1

## Parks & Facilities Map


LIVINGSTON
MONTANA
Livingston
Yellowstone River
I-90
Garnier Ave
N M St
E Gallatin St
E Park St
S M St
N Main St
S G St
E Clark St
S D St
N 5th St
N 8th St
W Park St
S Main St
S B St
View Vista Dr
S Yellowstone St
S 6th St
S 8th St
S 10th St
W Front St
Comet Blvd
Sun Ave
Livingston Parks
Public School Locations
1 Miles Park
2 Miles Park Lagoon
3 Firefighter Park
4 Sacajawea Park
5 Riverside Park
6 Water Plant Park
7 Bozeman Park
8 North Side Soccer Park
9 Mars Park
10 Jack Weimer Memorial Park
11 Highground Public Use
12 Reservoir Park - Not included in Existing Facility Analysis or Concept Plans
13 Katie Bonnel Park - Not included in Existing Facility Analysis or Concept Plans
14 Green Acres Park
15 Myer's View Park
16 Mayor's Landing Moja Dog Park
17 Mike Webb Park

# Appendix 2

## Charrette Meeting Minutes

Date: September 17 & 18, 2024 Project # 24186
Venue: Livingston City Hall / Civic Center 1 of 7

**Attendance:** 39 attendees. See attached attendance sheets.
**Exhibits:** none
**Purpose:** The purpose of these meetings is to gather feedback on the current status of the parks and trail system in Livingston.

Notes are as interpreted by the individual recording the meeting. Comments, additions, or corrections to this memo shall be communicated in writing to Stockwell within seven days of issuance. After which time, the memo shall be assumed accurate and filed as part of the permanent record for the project. Notes compiled by Kristin Tinklenberg of Stockwell Engineers.

## Project Approach

1. Project Initiation (completed)
2. Existing Facilities Analysis (ongoing)
3. Information & Needs Collection (today)
4. Findings and Visioning Strategies
5. Master Plan
6. Implementation

## Livingston Facilities

1. Sacajawea Park
2. Miles Park
3. Miles Park Lagoon
4. Mayor's Landing / Moja Dog Park
5. Meyers' River View Park
6. Water Plant Park
7. Riverside Park
8. Firefighter Park
9. Mike Webb Park
10. Bozeman Park (Depot Park & Judson Park)
11. M Street Park / Katie Bonnell Memorial Park **(Not included in Master Plan)**
12. North Side Soccer Park
13. Mars Park
14. Jack Weimer Memorial Park
15. Reservoir Park **(Not included in Master Plan)**
16. Highground Public Use
17. Green Acres Park

## Questions & Answer

What Parks do you use the most? (Select top 3)

- Sacajawea Park **(31)**
- Miles Park **(18)**
- Mayor's Landing / Moja Dog Park **(15)**
- Meyers' River View Park **(12)**
- North Side Soccer Park **(10)**
- Depot Park **(6)**
- Mike Webb Park **(4)**
- Water Plant Park **(2)**
- Riverside Park **(2)**
- Jack Weimer Memorial Park **(2)**
- Firefighter Park **(1)**

What is your favorite memory or pastime in a Livingston Park?

- Youth sports programs (baseball and soccer) **(12)**
- Playing/walking with dog(s) **(8)**
- Playing with kids/family **(6)**
- Bird and wildlife watching **(6)**
- Community events **(6)**

- Picnics with family **(5)**
- Hosting/attending private celebrations/parties **(4)**
- Running/walking trails **(4)**
- American Legion/VFW ceremonies **(3)**
- Playing sports (unorganized) **(2)**
- Playing in the Yellowstone River **(2)**
- Fishing **(2)**
- Biking on the trails **(2)**
- Spray park with family
- Sledding at Water Plant Park
- Canoeing/kayaking
- Horseshoes
- Gatherings at the gazebo
- Playing pickleball
- Flying kites
- Swimming at the pool
- Hosted 50 2nd graders in a Pull A Weed Plant A Seed event
- Clearing sandbags off the levee following the flood – a community and city collaboration event

---

1. What do you value most about the City of Livingston related to Parks, Trails, Facilities, Open Space and Recreation?
   - Sports/programming for all ages **(10)**
   - Natural amenities/beautiful views/natural habitats **(9)**
   - Community events & the ability to hold them in parks **(5)**
   - Dog friendly (dog amenities such as waste bags) **(5)**
   - Open, non-developed space/parks **(5)**
   - Variety of parks & facilities **(5)**
   - Trees **(3)**
   - Maintenance of facilities **(3)**
   - Frequent use by community **(3)**
   - Trails **(3)**
   - Park distribution/accessibility to neighborhoods **(3)**
   - Civic Center **(2)**
   - Playgrounds **(2)**
   - Wide variety of activities **(2)**
   - Free for all people
   - Great staff/volunteers
   - Engaged community
   - Places to enjoy natural habitats & wildlife
   - Miles & Sacajawea Parks keep history alive
   - Extension of Yellowstone National Park
   - Amount of parks space
   - Socializing
   - The Levee
   - Tennis
   - Music at the Bandshell
   - Sacagawea Park

---

2. Conversely, what needs more attention in the City of Livingston related to Parks, Trails, Facilities, Open Space and Recreational Opportunities?
   - Park maintenance **(7)**
   - Upgrade playgrounds/facility equipment **(6)**
   - Signage/wayfinding **(6)**
   - ADA accessibility **(4)**
   - Trail connectivity **(4)**
     - Parks to neighborhoods
     - Parks and schools
     - Between parks
   - Habitat management **(3)**
   - Improve City codes/Park rules and policies **(2)**
   - Upgrades to the Civic Center **(2)**
   - More City Recreation staff needed **(2)**
   - Tree care and watering **(2)**
   - Staff to maintain parks

- More recreation options (shuffleboard, sand volleyball, etc.)
- More regular programming for kids
- Reinstate Parks and Trails Committee with a dedicated budget
- Trail Maintenance
- Event spaces/covered pavilions
- Improve Miles Park Lagoon & Fleshman Creek
- Add parks so equally dispersed throughout neighborhoods
- Need to acknowledge importance of Yellowstone River
- Access to riverfront
- North side has low quality park space
- Plan for where benches go (not everywhere)
- Winter maintenance – plow pathways within parks
- More money allocated to Parks from City budget
- Lower costs to rent spaces
- Reduce maintained areas/make parks more naturalized
- Storm water
- More trails
- More off leash dog parks
- Outdoor pickleball courts
- Basketball
- More and better restrooms
- Safer pathways to parks
- Repair/add drinking fountains to Sacagawea and Miles Parks

Additional conversation:
- People realize parks department is understaffed
  - Parks staff maintains all City parks, the cemetery (as well as digging graves), forestry, snow, helps with Public Works projects (e.g., chip seal projects). There is also not a dedicated facilities (non park) team – Parks helps maintain all City owned facilities.

---

3. Are there any improvements needed at existing Parks, Trails, Facilities and Open Spaces owned or operated by the City?
   - Upgrades and maintenance to the Civic Center **(8)**
   - Upgrade all amenities at Miles Park (fields, fencing, restrooms, parking) **(5)**
   - Clean up/recap Mayor's Landing **(5)**
   - Install flagpole at Veteran's Memorial and make upgrades **(4)**
   - Upgrade play equipment at Mars Park **(3)**
   - Update/repair Bandshell **(3)**
   - Clean restrooms more often **(3)**
   - Better and more bathrooms **(3)**
   - Dredge Miles Park Lagoon **(3)**
   - Trail/pedestrian road crossing to O Street connector **(2)**
   - Habitat enhancement **(2)**
   - Weed management **(2)**
   - Better signage at all parks **(2)**
   - Fix skate park approach/landscaping **(2)**
   - Create safe trail connections/safety corridor **(2)**
   - Better playground surfacing for safety and to prevent weeds **(2)**
   - Maintenance at Myers' Park
   - Rip rap on riverfront makes Yellowstone River inaccessible
   - Consolidate signs at Mike Webb Park
   - Pool area has a lot of pavement
   - Traffic calming around Sacagawea Park
   - Storm water protection into water ways
   - Fleschman Creek needs attention – overgrown
   - Education needed around uses in our parks
   - Celebration spaces
   - No spray zones (herbicides/pesticides)
   - Increase amount of trash receptacles
   - Accessibility
   - Fencing around parks adjacent to roadways
   - Everywhere
   - More shade & trees parks with playgrounds
   - Multigenerational appeal

- Modern playground net climbing equipment
- Irrigate grass
- Greater City commitment to tennis courts
- Retaining wall on street side of levee trail
- Long term plan for potential flood events in Sacagawea Park
- More trash receptacles on Bozeman Trail
- Update play equipment
- Improve trails surfacing – use compacted ¼ minus crushed fines for "gravel trails" not pea gravel
- Protect existing trails with easements
- Native plantings
- Bike lanes connecting parks
- Informational/educational signage
- More trails
- River Drive parking
- Parking
- Optimize traffic flows
- Security cameras
- Dog park need fencing and obstacles like hills, tunnels, water features, etc.
- Parking at the high school

Additional conversation:
- Miles Park Ball Fields
  - Very little maintenance to ball fields, lights don't work, hard to get families engaged when facilities are so poor, believe there are enough facilities for baseball/softball, but could use a better layout.

---

4. What additional Parks, Recreation, Athletic Facilities, Trails and Open Space would you like to see added? What is Livingston missing?
   - Full size indoor ice rink **(9)**
   - Outdoor pickleball courts **(5)**
   - Connectivity **(5)**
   - Bike pump track **(4)**
   - Interpretive/educational/historic signage **(3)**
   - Outdoor adult fitness park **(3)**
   - Outdoor volleyball **(3)**
   - Fenced dog park **(2)**
   - Bike facilities (lanes, racks, etc.) **(2)**
     - Bike lanes to the new Rec Center
   - Bocce
   - Lighted outdoor courts
   - Basketball courts
   - Dedicated fishing areas
   - Nature based playground
   - Improved splash park
   - More Trails
   - Single track trails
   - Earthen seating at bandshell
   - Lights for the baseball fields
   - More off leash dog parks
   - Pavilion for outdoor events
   - More scenic walking trails (properly labeled & maintained)
   - Community garden
   - Outdoor art spaces
   - Large net climbing equipment
   - Anything for teens
   - Green space on other side of I-90
   - Skills park for bikes
   - More trees and natural landscaping
   - Irrigation
   - Bird watching area
   - A plan for park and trail amenities
   - Implement trails master plan
   - Trail from Mayors to the City by M Street
   - Nothing
   - Connectivity from Mayor's to SE side of town – pedestrian bridges

5. Are there any Parks, Trails, Facilities and/or Open Space currently available that should be repurposed or eliminated?
   - No **(9)**
   - Pool site **(4)**
   - Water Plant Park is underused **(4)**
     - Repurpose to fenced dog park was suggested
   - Make cemetery its own entity **(3)**
   - Mayor's Landing glass issue is a forever issue – repurposing might be more logical **(2)**
   - Rename Bozeman Park
   - Every park should have more natural areas that require less maintenance
   - Gathering with native habitat
   - Update Mars with better playground equipment
   - Northside Fields need better ADA access and additional trail connectivity
   - Turn old skate park blacktop into 4 pickleball courts
   - Fishing access point at Miles Park, Mayor's Landing, 9th Street Bridge area
   - Preserving more green space on the north side before development goes crazy

6. What future trail connections should be made for the recreation trail?
   - South to North **(5)**
   - Myers' Park to Mayor's Landing (pedestrian bridge) **(3)**
   - Katie Bonnell to Schools **(2)**
   - Green Acres to Sacajawea
   - Sacajawea to Mayor's
   - Katie Bonnell to Sacajawea/Miles
   - Bennet Street Crossing
   - Green Acres to Myers' Riverview/O Street
   - Sacajawea to M Street
   - Wellness Center to Ridgeview trails
   - Sacajawea to Myers'
   - Bozeman trail from public works to PFL along Front Street
   - Pedestrian access to Northside hill
   - Mayor's to downtown
   - Bike trail to Gardner
   - Schools
   - Downtown to Sacajawea
   - Levee to everywhere
   - Better railroad crossings
   - Dedicated route going through town from east to west

   Additional discussion:
   - Many groups stressed the importance of connecting entire city to the new rec center at Katie Bonnell through increased trails/ better connectivity

7. Due to the new indoor aquatics facility, what do you envision for the space where the existing outdoor swimming pool is located?
   - Pavilion **(7)**
   - Restore to naturalized area / creek **(7)**
   - Ice Rink **(6)**
   - Farmers Market **(4)**
   - Food Truck venue **(3)**
   - Outdoor pickleball **(3)**
   - Pump track **(2)**
   - Gateway to the parks
   - Roller skating
   - Sand volleyball courts
   - New shop for Parks Department
   - Picnic area
   - Keep an outdoor pool
   - Shuffleboard
   - Bocce

- Adult fitness equipment / exercise park
- Archery air gun range
- Community gardens
- Orchard
- Multigenerational park
- Amenities for older children
- Remove pavement
- After school program building
- Education – partner with school
- Connection to wood lot (school district property)

8. How do you think the space behind the Civic center should be utilized?
   - Organized parking lot **(11)**
   - Pavilion / Festival area **(5)**
   - Riparian habitat restoration **(5)**
   - Plant trees **(4)**
   - Ice rink **(4)**
   - Green space **(3)**
   - Green infrastructure **(3)**
   - Pump track **(3)**
   - Reduce parking/pavement **(2)**
   - Fix mural **(2)**
   - BMX track
   - Fenced dog park
   - Traveler rest/day use
   - Enhance sports fields
   - Farm to school
   - Adult fitness equipment / exercise park
   - Sculpture garden
   - Reserve for future expansion of park facilities
   - Bike racks
   - Add a veteran's memorial at the bottom for a new flagpole
   - Expand parks and recreation department
   - Expand bandshell space and host concert events

   Additional discussion:
   - Don't want any development that would block views of Livingston Peak – keep it naturalized

9. Identify key issues and values in the Livingston Community that need to be considered while developing the Parks Master Plan.
   - **Question was skipped in all sessions due to time**

10. What do you think should be the top parks and recreation priorities for the City of Livingston over the next 5 years?
    - Connectivity of parks and trails **(13)**
    - Maintaining existing parks at a higher level **(7)**
    - More sustainable landscapes **(4)**
    - Full size indoor ice ink **(4)**
    - Equal park distribution throughout Livingston **(3)**
    - More trees and plan to water and maintain them **(3)**
    - Maintain and improve Civic Center **(3)**
    - Signage **(2)**
    - Better pickleball accommodations **(2)**
    - Diversify amenities and activities **(2)**
    - Wellness center
    - Upgrade transit system
    - Organizational system to improve maintenance and programming services
    - Update Miles Park ball fields
    - Safety
    - Playground at Sacagawea
    - Outdoor multi recreational facility
    - Improve dog park
    - Put playground equipment on a schedule for upgrades/replacement
    - Allow for all open space to be pet friendly

- Add staff to maintain and operate
- Plan for new residential developments and how green space is brought to community and who maintains it
- Create more facilities for young adults
- Strategic plan that has long term goals and funding for ongoing improvements & additions
- Protect existing unofficial trails and open spaces
- ADA accessibility
- Flagpole
- Beautify Miles Park with trees
- Promotional for use of existing park and facilities
- Restore lagoon and clean canal
- Compact gravel at Myers Park
- Pavilion located near bandshell
- More green space
- Funded Master Plan
- Wildlife habitats
- More
- Plan for parking between High School and Miles Park
- Bike facilities
- Landscaping and shade
- Engage neighborhoods on what they want in their neighborhood park
- Ongoing evaluations of parks and the community – needs and wants change over time

Additional discussion:

- Parking is the biggest problem Livingston has
  - At Jack Weimar Memorial Park (Legion ball field) people park up and down the roads within the neighborhood
- Have a grant program for planting trees, but once they're planted they don't get watered and are forgotten about

---

11. If you had $100 to invest in the Livingston park system, how would you spend it?
    - Maintain Existing **(10)**
    - Improve Existing **(14)**
    - Add New Amenities
    - Expand Trail System **(12)**

## Moving Forward

| | |
|---|---|
| ~~Kick Off Meeting~~ | ~~August 29,2024~~ |
| Focus Group Meetings (4) | September 17 & 18 |
| Public Meeting | September 18 |
| Inventory & Analysis | September |
| Community Survey | October |
| Present Findings Report to City | December |
| Public Meeting | February 2025 |
| Draft Master Plan Submittal | March |
| Draft Master Plan Review Meeting | March |
| Final Master Plan Submittal | April |
| Present to City Commission | May |

STOCKWELL

# Attendance Sheet

Focus Group A

**Project: Livingston Parks System Master Plan**
Project No: 24186
Date: September 17, 2024
Time: 6:00pm - 7:30pm
Venue: City Hall; Livingston, MT

| Name | Representing | Phone | Email |
|---|---|---|---|
| David Locke | Stockwell Engineers | 605-338-6668 | dlocke@stockwellengineers.com |
| Kristin Tinklenberg | Stockwell Engineers | 605-338-6668 | ktinklenberg@stockwellengineers.com |
| Lauren Wittler | Stockwell Engineers | 605-338-6668 | lwittler@stockwellengineers.com |
| Anna Elam | Farm to School Park Co. | 406 220 0797 | anna@f2spc.org |
| Shannan Mascari | Western Sustainability Exchange | 406-223-2362 | smascari@wsestaff.org |
| Alecia Jongeward | Citizen / Youth / PUEU / Montana Freshwater Partners | 406-490-2336 | ajongeward@gmail.com<br>ajongeward@freshwaterpartners.org |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

STOCKWELL

# Attendance Sheet

Focus Group B

**Project: Livingston Parks System Master Plan**
Project No: 24186
Date: September 18, 2024
Time: 7:00am - 8:30am
Venue: City Hall; Livingston, MT

LIVINGSTON MONTANA

| Name | Representing | Phone | Email |
|---|---|---|---|
| David Locke | Stockwell Engineers | 605-338-6668 | dlocke@stockwellengineers.com |
| Kristin Tinklenberg | Stockwell Engineers | 605-338-6668 | ktinklenberg@stockwellengineers.com |
| Lauren Wittler | Stockwell Engineers | 605-338-6668 | lwittler@stockwellengineers.com |
| Heather Jurvakainen | Livingston Ice Skating Assoc. | 406-223-4506 | jurvakh@msn.com |
| James Bynum | PICKLEBALL | 406-224-8038 | jimcbynum@gmail.com |
| Alex Russell | Liv Ice Skating Assoc | 406-580-5047 | russella17@gmail.com |
| KnsFitzgerald | Liv Ice Skating | 802-734-8934 | knstinefitz@gmail.com |
| LaRue SeitzDettori | Softball baseball | 406 223 0330 | laruescitz@gmail.com |
| Emily Jones | High School Baseball Legion | 406-451-8814 | jonesvirtualassistant@gmail.com |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

STOCKWELL

# Attendance Sheet

Focus Group C

**Project: Livingston Parks System Master Plan**
Project No: 24186
Date: September 18, 2024
Time: 11:30am - 1:00pm
Venue: City Hall; Livingston, MT

| Name | Representing | Phone | Email |
|---|---|---|---|
| David Locke | Stockwell Engineers | 605-338-6668 | dlocke@stockwellengineers.com |
| Kristin Tinklenberg | Stockwell Engineers | 605-338-6668 | ktinklenberg@stockwellengineers.com |
| Lauren Wittler | Stockwell Engineers | 605-338-6668 | lwittler@stockwellengineers.com |
| Connor Cavigli | Citizen | 406-909-0609 | ccavigli@gmail.com |
| Caroline Rehder | 4 Ranges Wellness Center | 406-223-4432 | mtcorazon@earthlink.net |
| Sarah Stands | Park County Environmental Council | 406-220-1408 | Sarah@pcecmt.org |
| Bethany Allen | Bee City Committee / PCEC | 406-333-1398 | bethany@pcecmt.org |
| Jeanne Marie Souvigney | citizen | 406 581-8942 | jsouvigney@gmail.com |
| Leslie Feigel | Livingston Area Chamber | 222-0850 | info@Livingston-Chamber.com |
| Bob Ballard | Citizen | 303-812-8424 | bob@rtb-inc.com |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

STOCKWELL

# Attendance Sheet

Focus Group D

**Project: Livingston Parks System Master Plan**
Project No: 24186
Date: September 18, 2024
Time: 6:00pm - 7:30pm
Venue: Civic Center; Livingston, MT

| Name | Representing | Phone | Email |
|---|---|---|---|
| David Locke | Stockwell Engineers | 605-338-6668 | dlocke@stockwellengineers.com |
| Kristin Tinklenberg | Stockwell Engineers | 605-338-6668 | ktinklenberg@stockwellengineers.com |
| Lauren Wittler | Stockwell Engineers | 605-338-6668 | lwittler@stockwellengineers.com |
| Patricia Grabow | Livingston Downtown Building Owner & Business Mason & Livingston Historical Society | (406) 220-1087 | thegrabow@gmail.com |
| Rebeccatteenstra | | 406-599-0020 | rebec9190@yahoo.com |
| DAVE GOTTEN | — | 406 220-1645 | exdir@countrypointINC.org |
| Nathan Bolton | — | 406-209-7298 | boltonnathan1@gmail.com |
| Amanda Herrera | — | 406-595-5421 | aherrera0525@gmail.com |
| Dan Gravage | — | 406-223-1561 | dangravage@gmail.com |
| Sean Batura | Livingston Enterprise | | sbatura@livent.net |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

STOCKWELL

# Attendance Sheet

Focus Group D

**Project: Livingston Parks System Master Plan**
Project No: 24186
Date: September 18, 2024
Time: 6:00pm - 7:30pm
Venue: Civic Center; Livingston, MT

| Name | Representing | Phone | Email |
|---|---|---|---|
| David Locke | Stockwell Engineers | 605-338-6668 | dlocke@stockwellengineers.com |
| Kristin Tinklenberg | Stockwell Engineers | 605-338-6668 | ktinklenberg@stockwellengineers.com |
| Lauren Wittler | Stockwell Engineers | 605-338-6668 | lwittler@stockwellengineers.com |
| Bob Mercedam | American Legion | 408-691-2902 | Ake Post 23@gmail.com |
| Kimball Leighton | Self/ Yellowstone R. | | |
| Jeff Mount | Self | 406-223-3388 | mjmount@wispwest.net. |
| Melody Mount | Self / American Legion | 406 223 4461 | mountmelody20@gmail.com |
| Eric Wink | Self | 406-224-3358 | ericwinkmt@gmail.com |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |
| | | | |

STOCKWELL

# Attendance Sheet

Focus Group # E – CITY STAFF

**Project: Livingston Parks System Master Plan**
Project No: 24186
Date: September 17, 2024
Time: 6:00pm - 7:30pm
Venue: City Hall; Livingston, MT

| Name | Representing | Phone | Email |
|---|---|---|---|
| David Locke | Stockwell Engineers | 605-338-6668 | dlocke@stockwellengineers.com |
| Kristin Tinklenberg | Stockwell Engineers | 605-338-6668 | ktinklenberg@stockwellengineers.com |
| Lauren Wittler | Stockwell Engineers | 605-338-6668 | lwittler@stockwellengineers.com |
| JOSH CHABALOWSK | FIRE RESCUE | 813·751-6911 | FIRECHIEF@LIVINGSTON MONTANA.ORG |
| DENNis BerGlin | PARK Employee | 406-224-3486 | dberglin@livingstonmontana.org |
| Jenn Zang | Legal | (406) 223-2141 | jzang406@gmail.com |
| Suzie Butterfield | Recreation | 406-223-2233 | Sbutterfield@Livingstonmontana.org |
| Jessie Schwarker | Parks | 406 224 0836 | jschwarker@livingstonmontana.org |
| JVLEE RAMLJAK | REC. | 406-223-3311 | jramljak@livingstonmontana.org |
| Greg Anthony | City Hall | 704-913-5720 | gtonthony1@gmail.com |
| Maggie Tarr | Recreation | 406·222-8155 | mtarr@livingstonmontana.org |
| Mike Skaggs | Parks | 406-223-2195 | mskaggs@livingstonmontana.org |
| Dan Busch | Parks | 406-579-7702 | dbusch@livingstonmontana.org |
| Phil | Parks | 802-223-1166 | |
| | | | |
| | | | |

# Appendix 3

## Community Survey Findings Report



# Livingston, MT

## 2025 City of Livingston Park Needs Assessment Survey

Findings Report

Submitted to Livingston, MT by:
Stockwell Engineers
801 N Phillips Ave Ste 100
Sioux Falls, SD 57104

STOCKWELL

# 2025 Livingston, Montana

## Parks and Recreation Needs Assessment Survey
## Executive Summary

## Overview

Stockwell Engineers administered a parks and recreation needs assessment survey for the City of Livingston from October 30 through December 2, 2025. The survey is a part of the City's Park and Recreation Master Plan and will help determine priorities for the community.

## Methodology

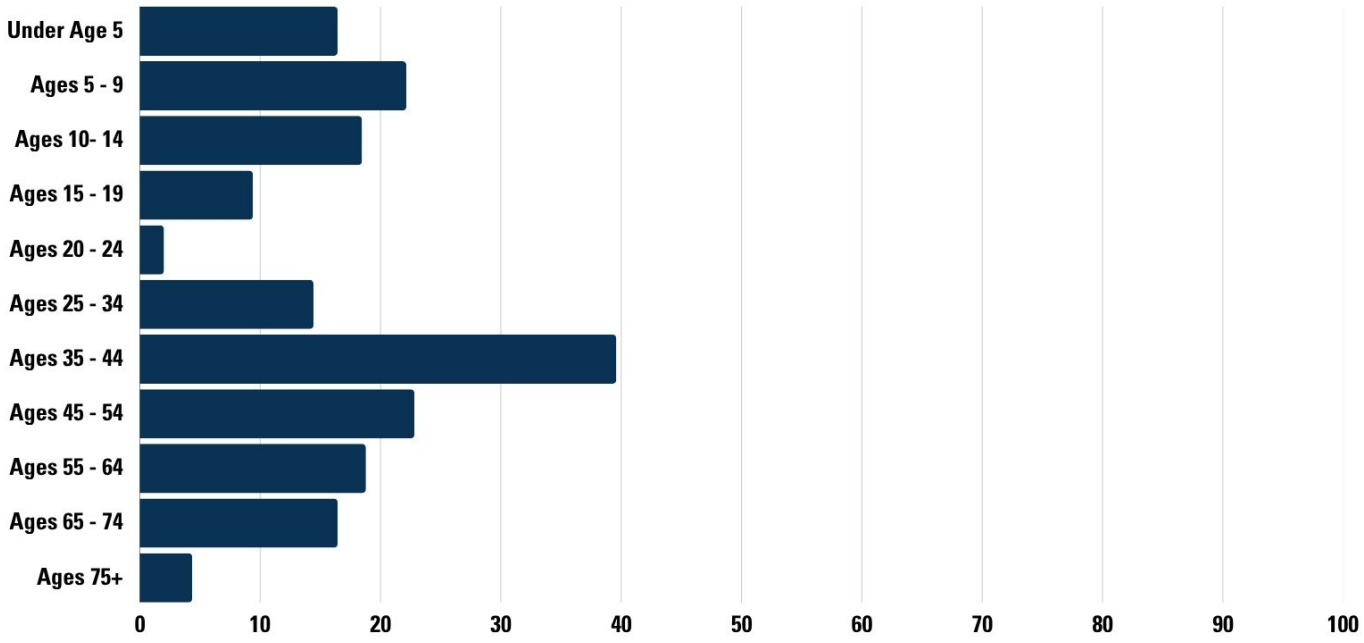
Stockwell Engineers set up an online survey via Survey Monkey and provided the City of Livingston with posters, QR Codes, and press release information for the City to distribute throughout the community. Paper copies were also available at City Hall and the Civic Center. The survey aimed to collect a minimum of 200 completed responses from residents, and this target was surpasses with an impressive 301 completed surveys collected, 1 paper copy and 300 completed online.

This report contains the following:

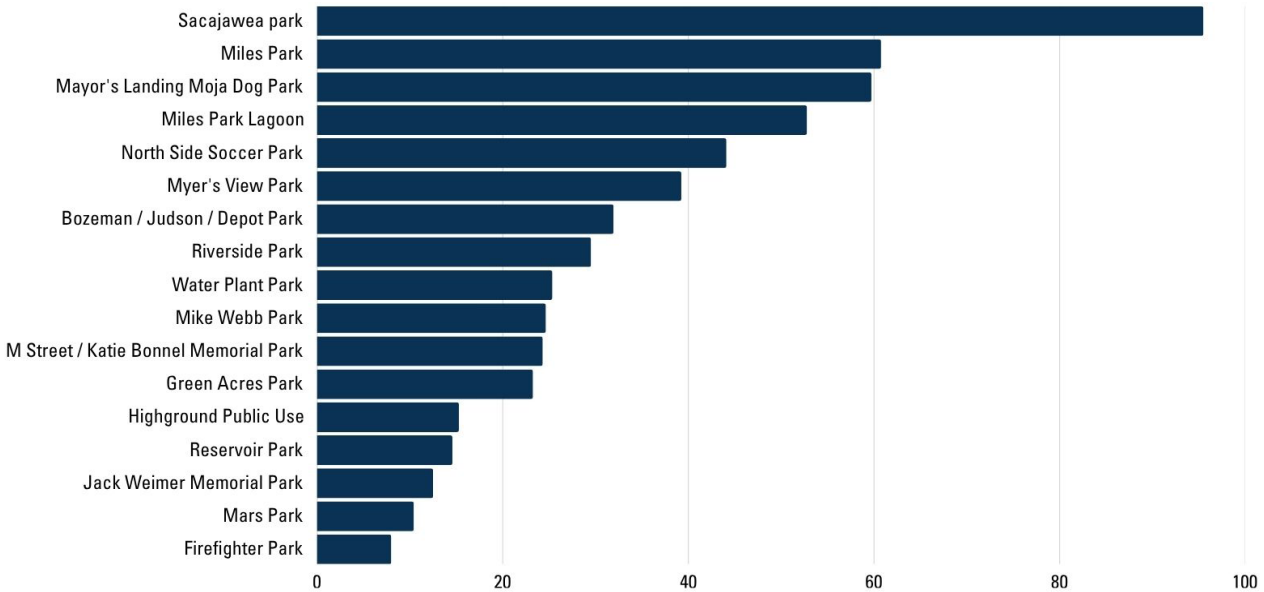
- Charts showing the overall results of the survey and benchmarking (Section 1).
- Priority Investment Rating (PIR) (Section 2).
- A copy of the survey instrument (Section 3).

# 1 Charts and Graphs

## Q1. Which age range(s) are represented in your household? (Check all that apply.)

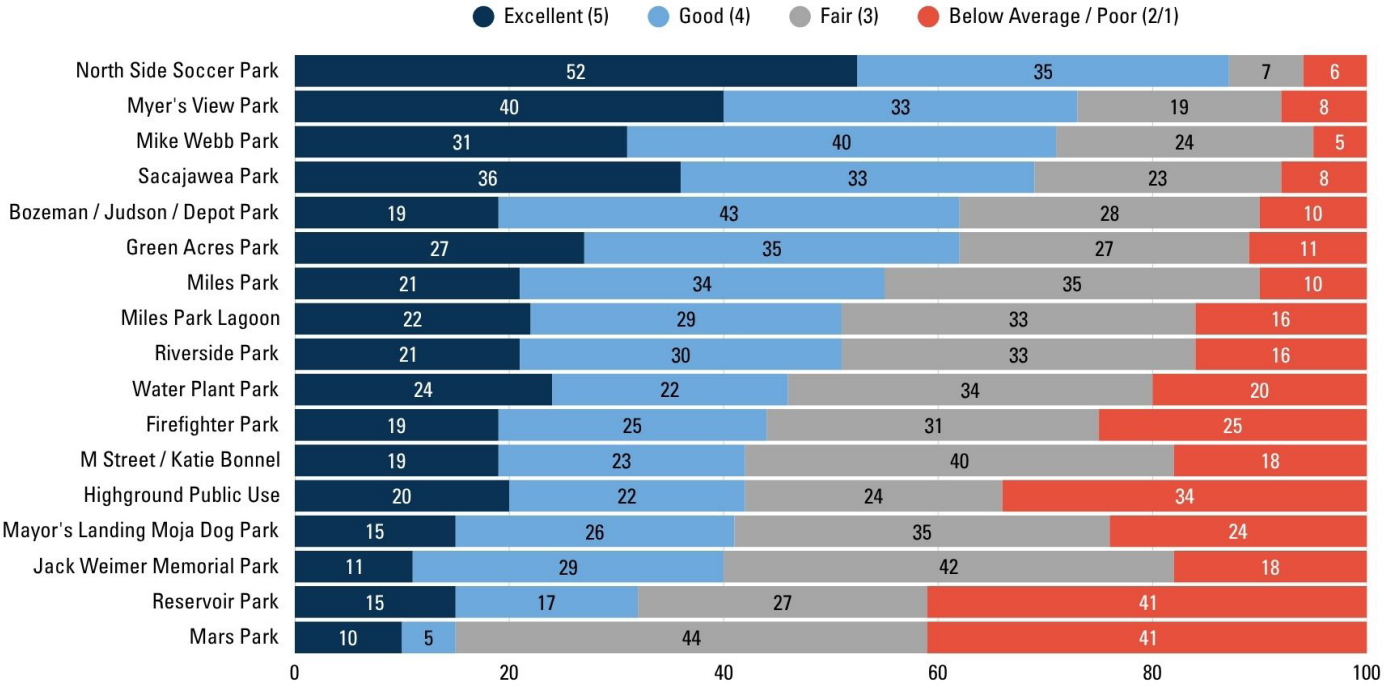



## Q2. In the past 12 months, have you or other members of your household used any of the following parks and recreation facilities offered by the City of Livingston? (Check all that apply.)



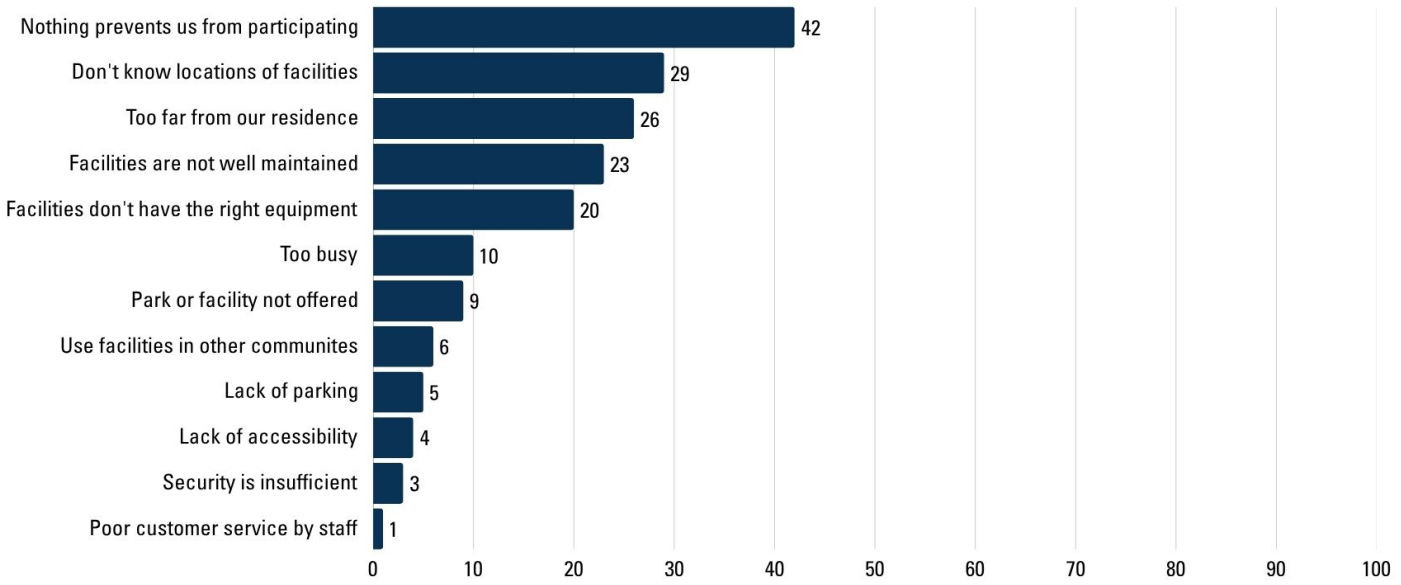
## Q3. Overall quality of Parks and Recreation facilities offered by Livingston?

by percentage of respondents (excluding haven't used)

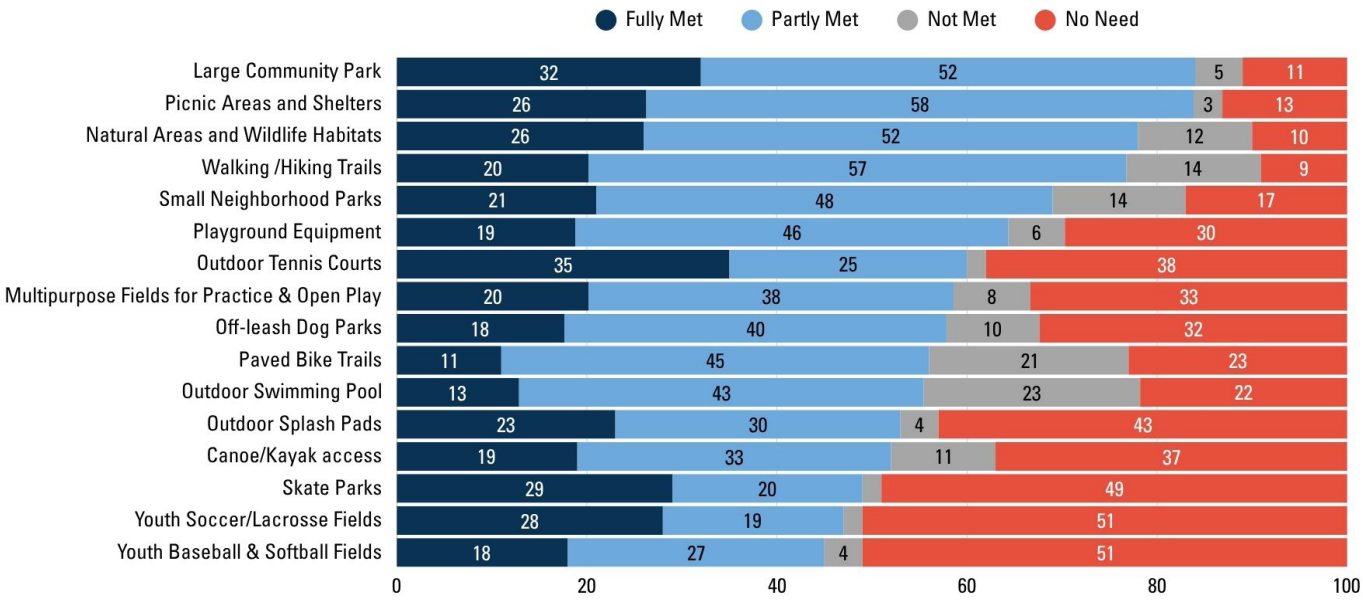



## Q4. Reasons that prevent you or other members of your household from using Livingston Parks and Recreation Facilities more often

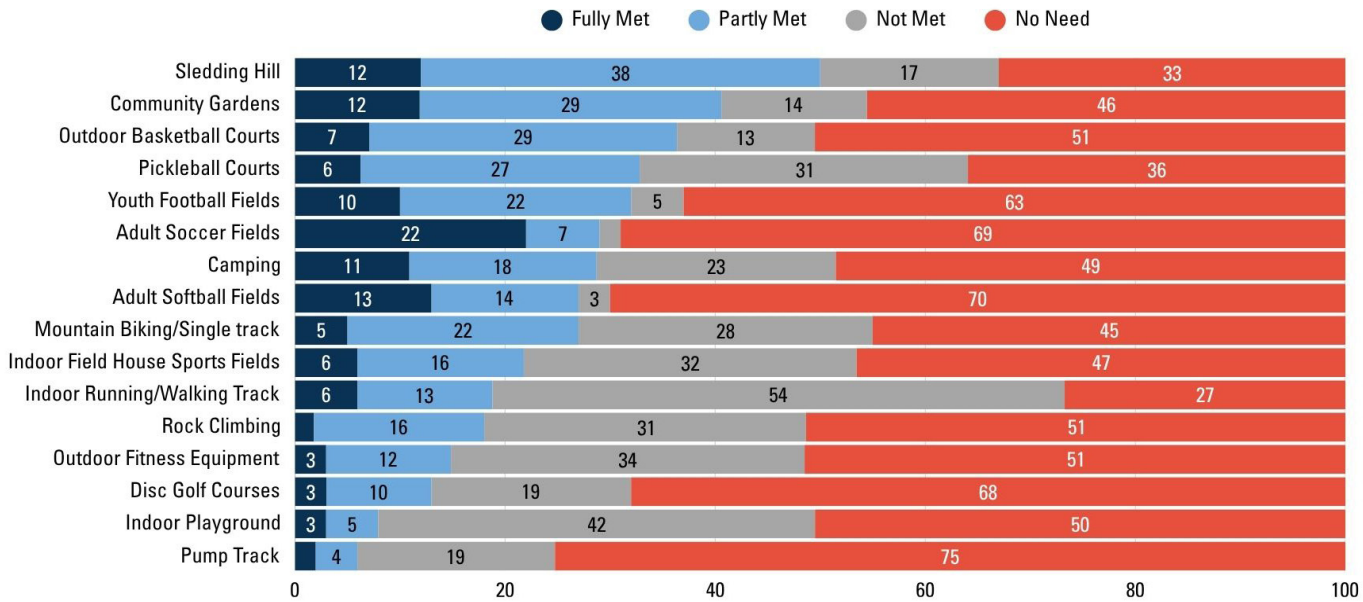
by percentage of respondents (multiple selections could be made)



## Q5. How well your needs are being met for each facility and amenity: Top 16

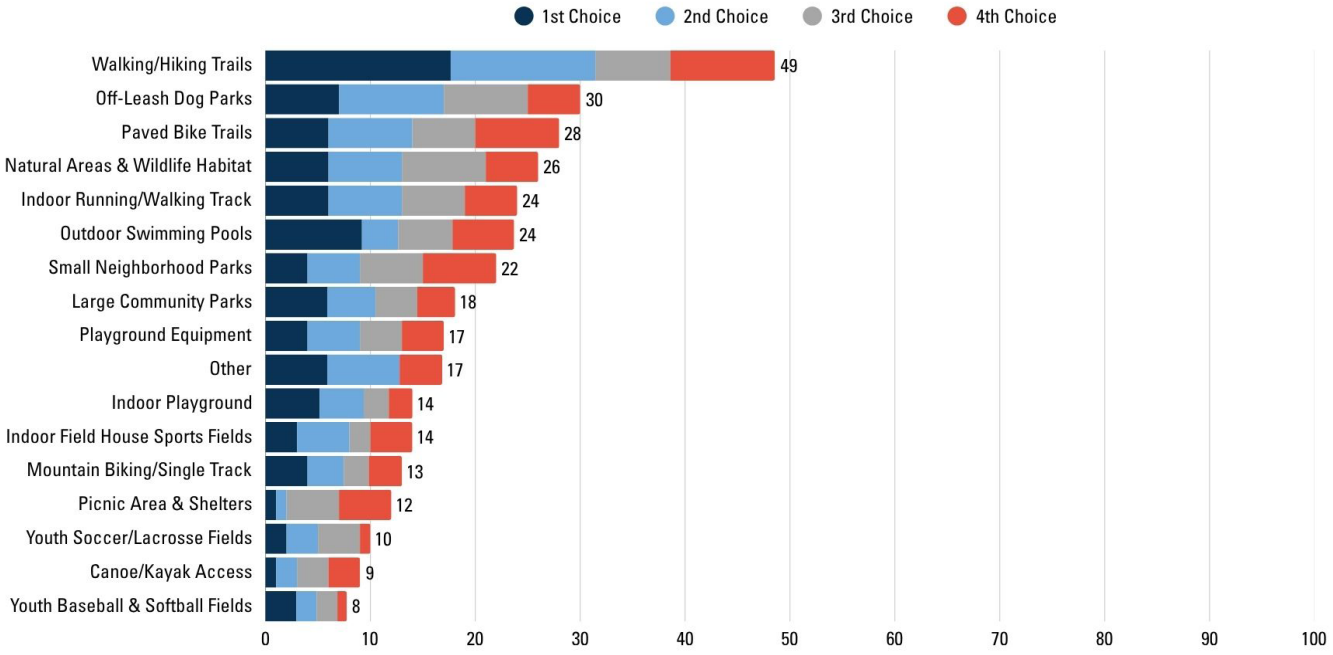



## Q5. How well your needs are being met for each facility and amenity: Bottom 16



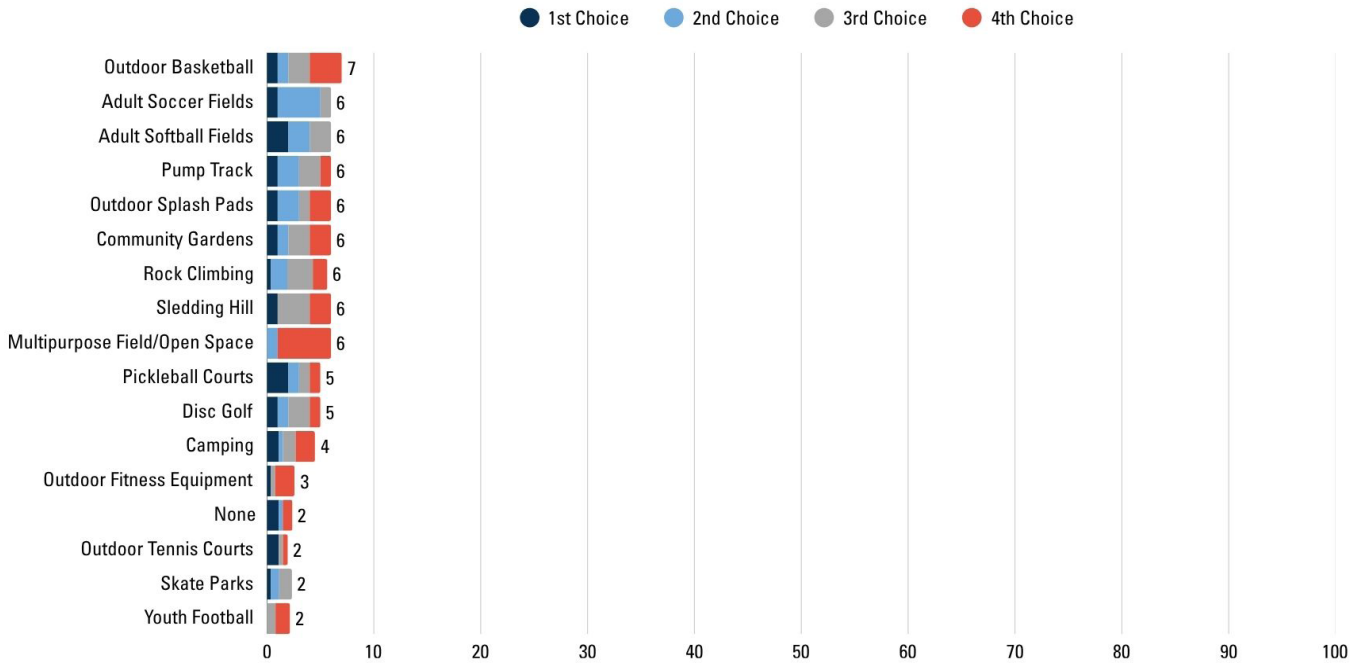
## Q6. Which Facilities and Amenities are Most Important to your Household: Top 17

by percentage of respondents who selected the item as one of their top four choice



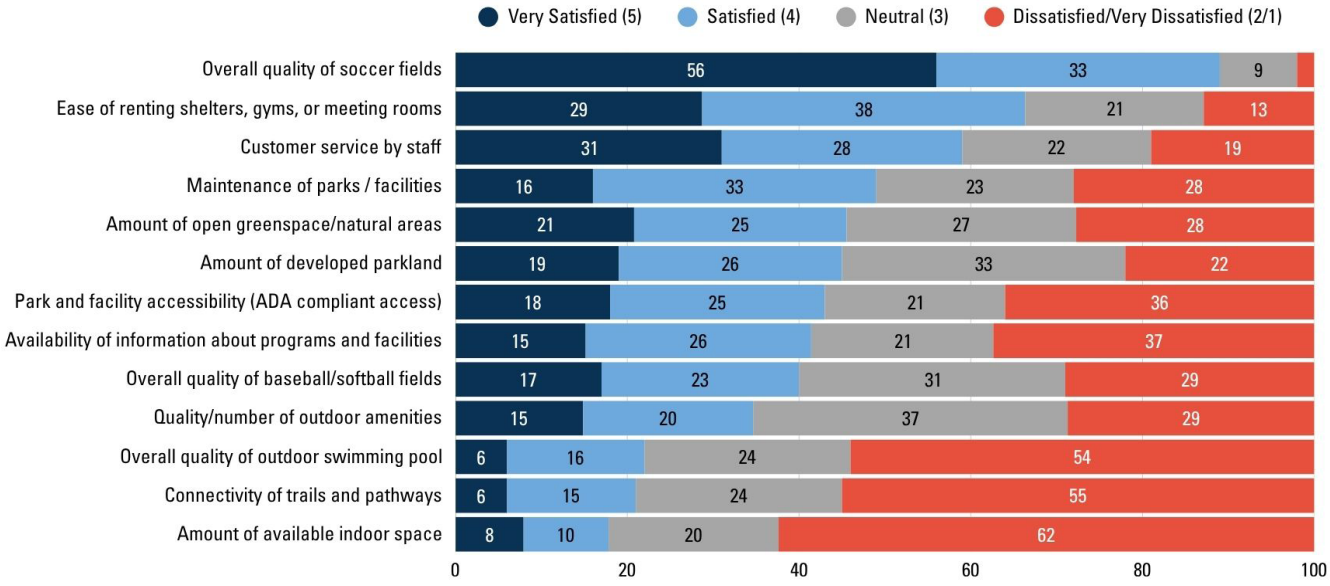

## Q6. Which Facilities and Amenities are Most Important to your Household: Bottom 17

by percentage of respondents who selected the item as one of their top four choice



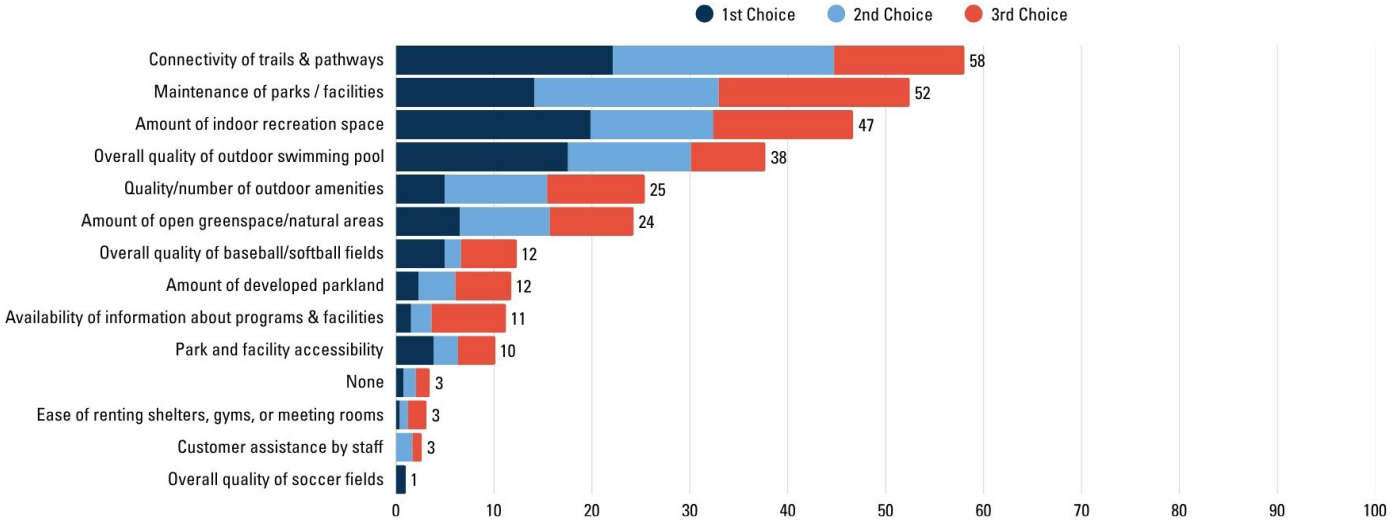
## Q7. Satisfaction with Parks and Recreation Services

by percentage of respondents (excluding don't know)



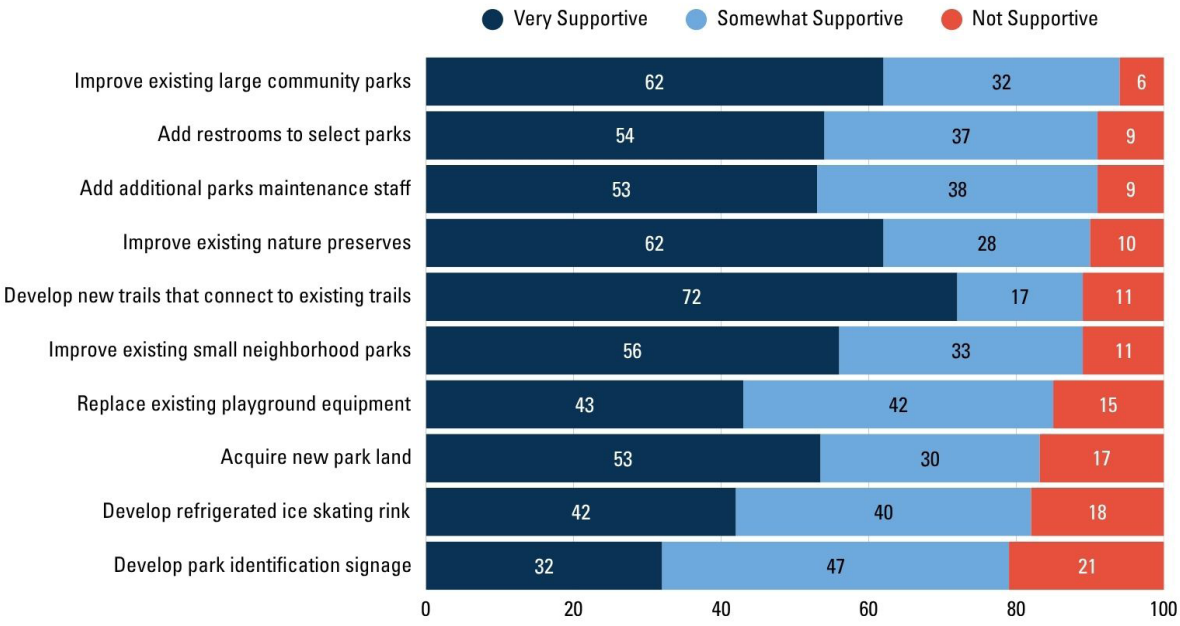

## Q8. Parks and Recreation Services that should receive the most attention from the City over the next 5 years

by percentage of respondents who selected the item as one of their top three choices



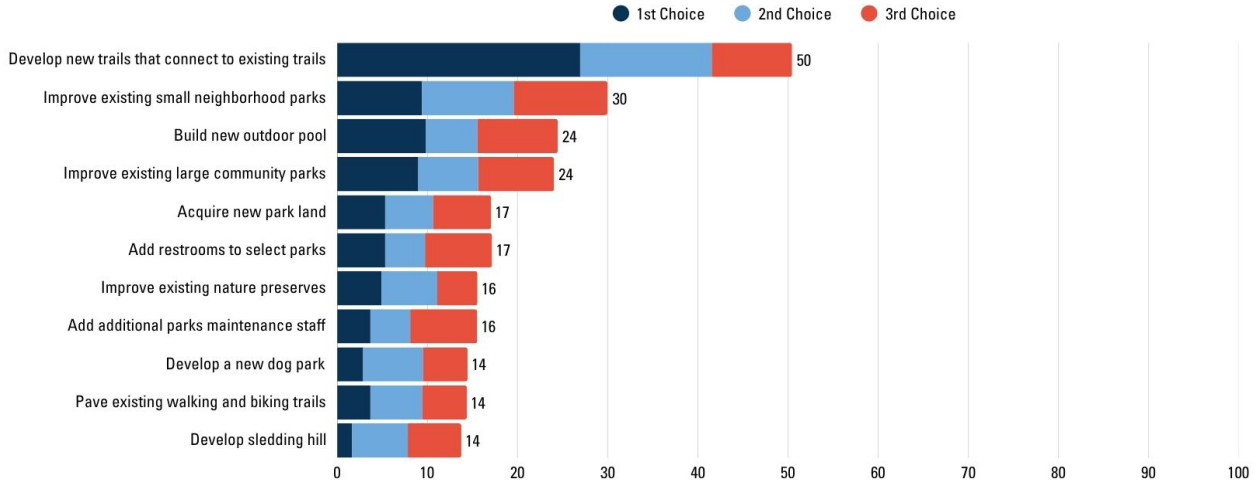
## Q9. Support for actions to improve the parks and recreation system: Top 10

by percentage of respondents (excluding not sure)



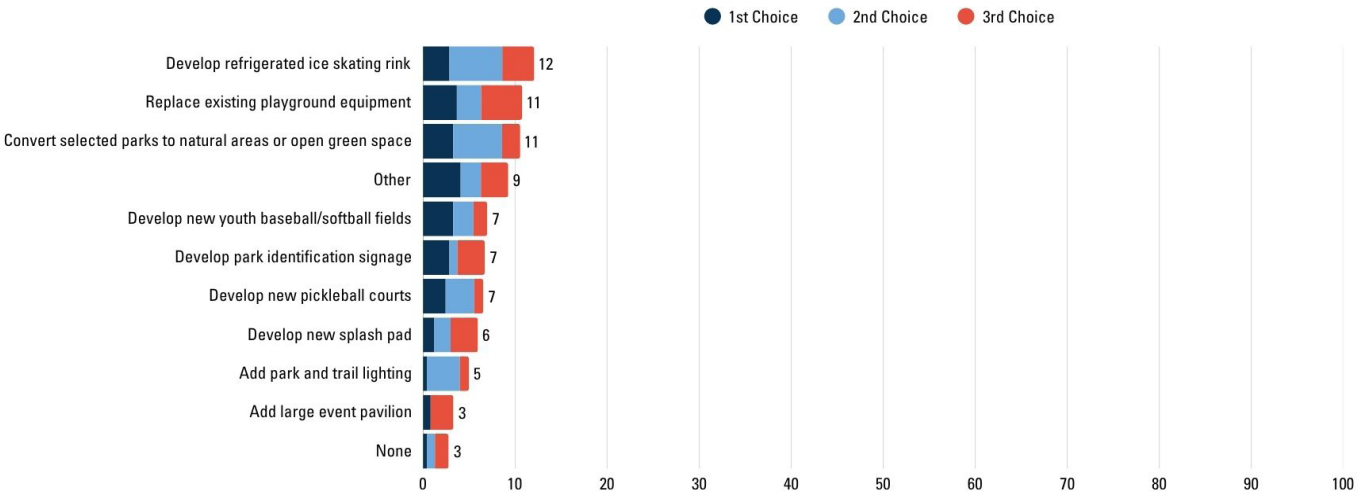
## Q10. Potential actions that are most important to you and your household: Top 10

by percentage of respondents who selected the item as one of their top three choices



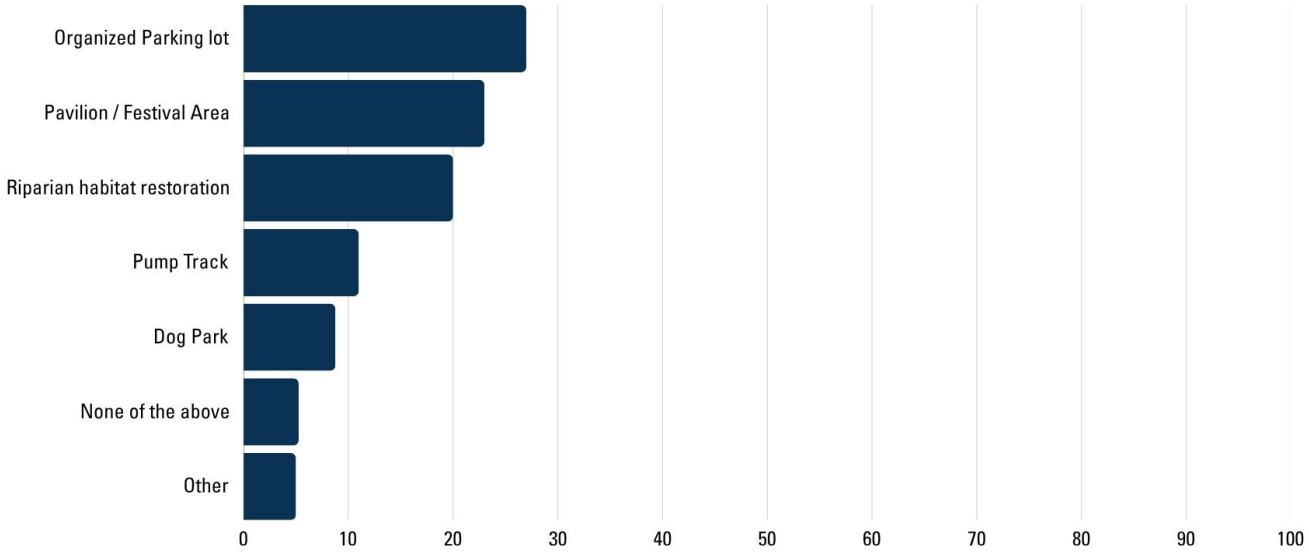

## Q10. Potential actions that are most important to you and your household: Bottom 10

by percentage of respondents who selected the item as one of their top three choices



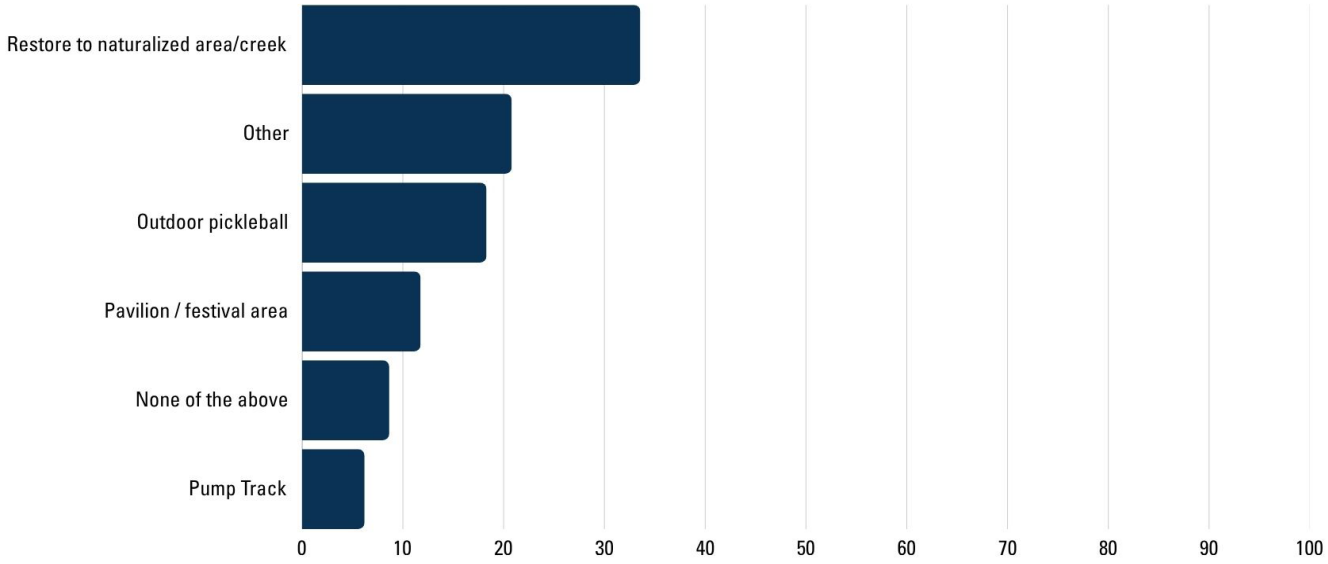
## Q11. How do you think the gravel surfacing space behind the Civic Center should be utilized?

by percentage of respondents



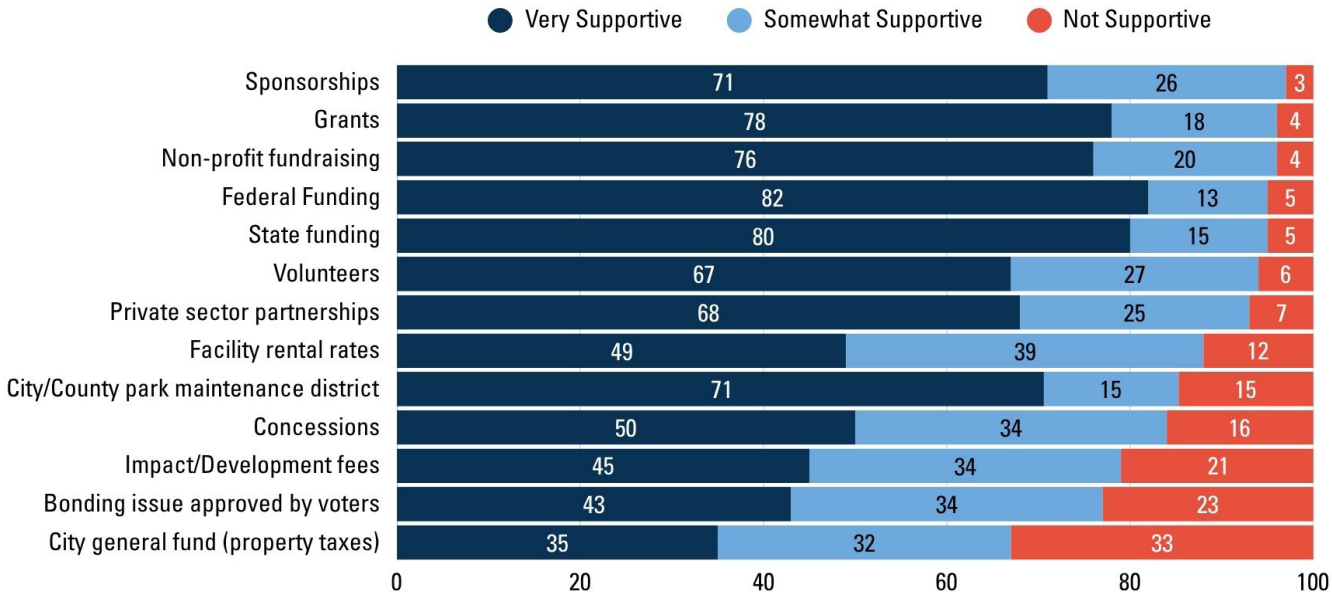

## Q12. How do you think the existing outdoor pool site should be utilized?

by percentage of respondents



## Q13. Support for potential funding mechanisms

by percentage of respondents (excluding not sure)




## Q14. What percentage of funding would you allocate to each type of improvement?

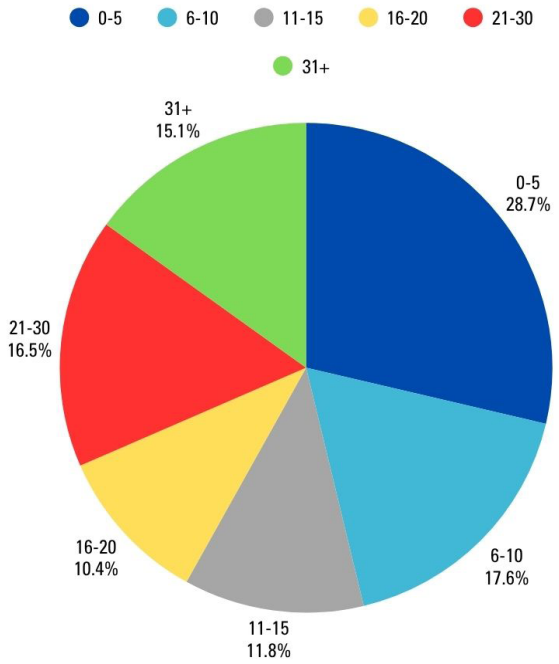
Respondents were given $100 to allocate (the average is shown below)



# Demographics

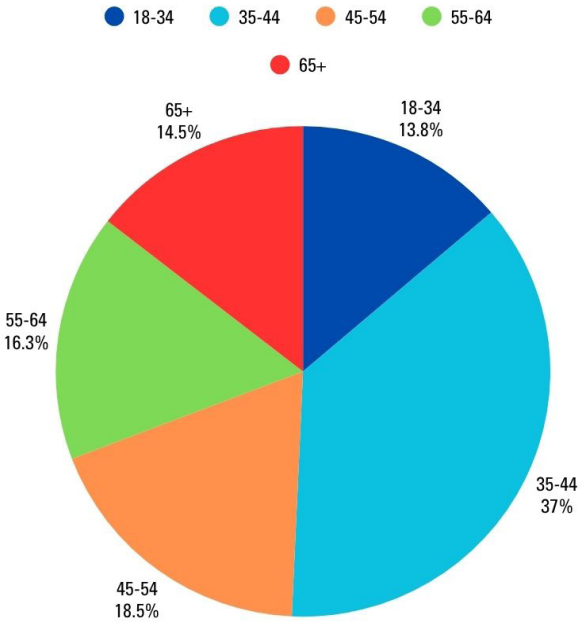
## Q16. How many years have you lived in the City of Livingston?

by percentage of respondents (excluding not provided)



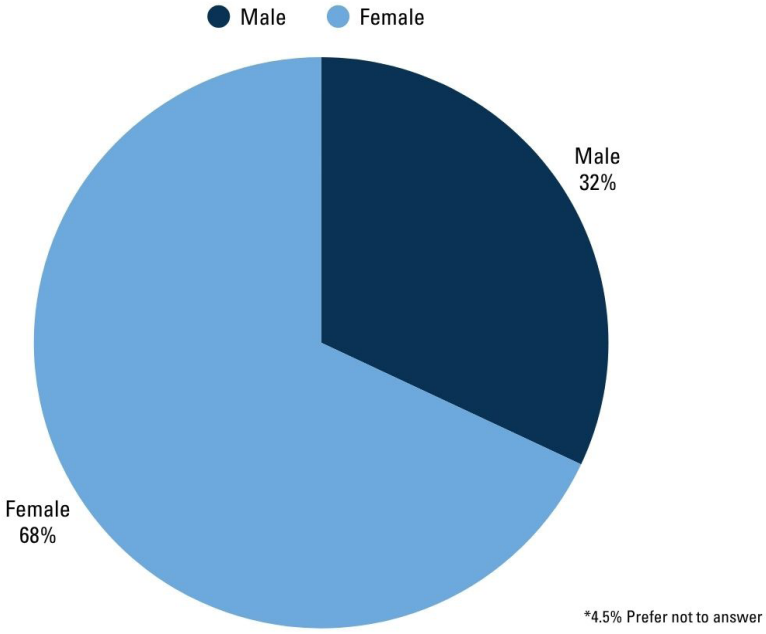

## Q17. What is your age?

by percentage of respondents (excluding not provided)



## Q18. What is your gender?

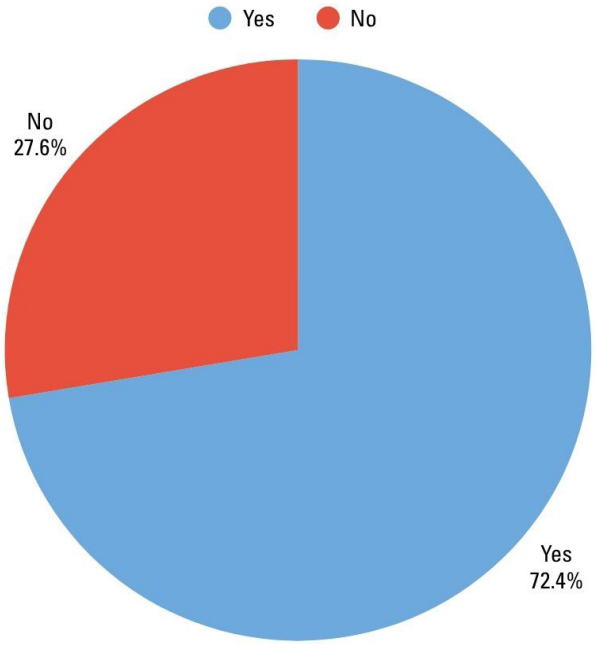
by percentage of respondents (excluding not provided)




*4.5% Prefer not to answer

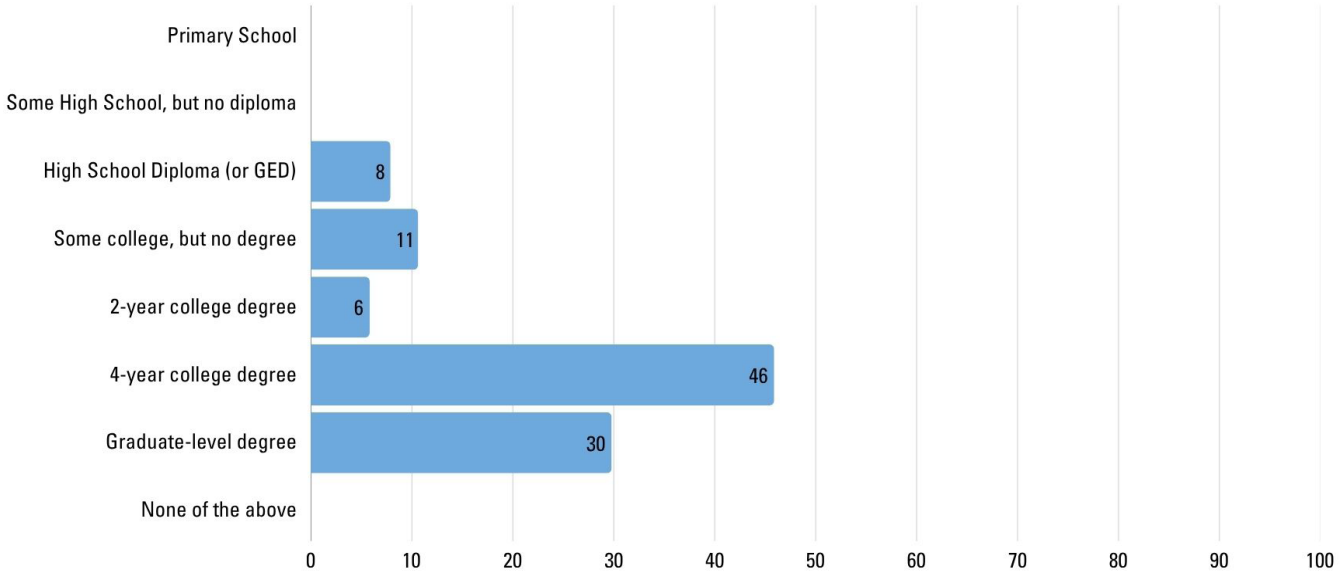
## Q21. Do you own or live with a dog?

by percentage of respondents



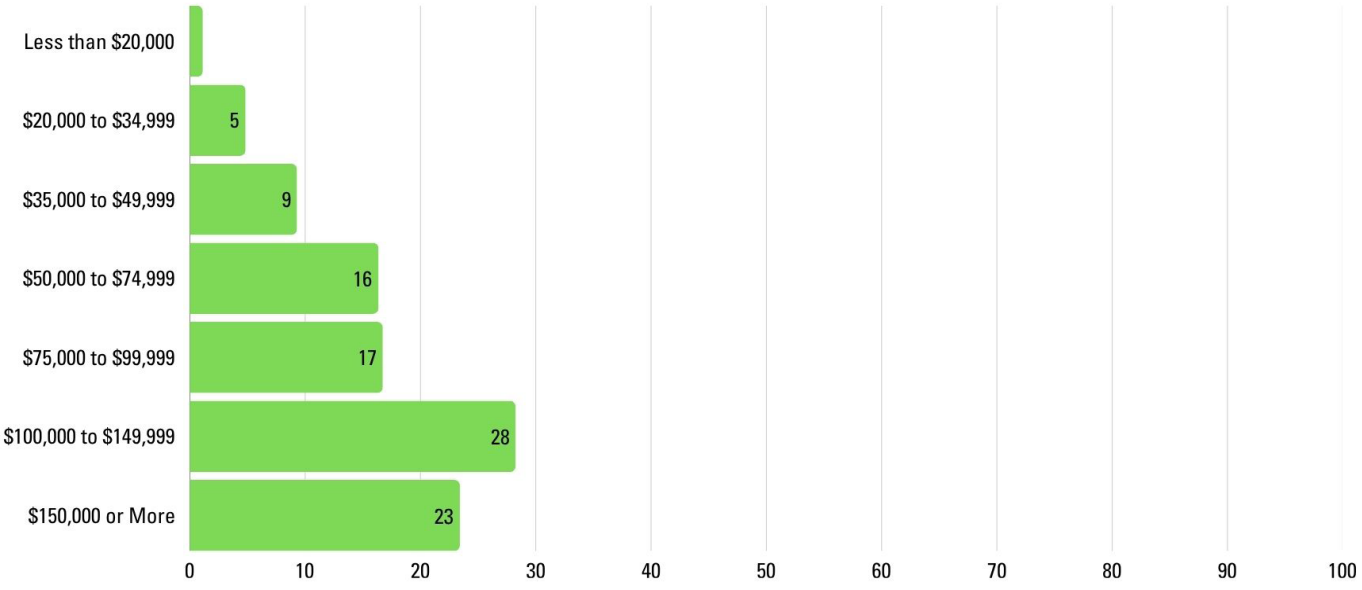
## Q19. What is the highest level of school that you have completed?

by percentage of respondents (excluding not provided)




## Q20. What is your total household income?

by percentage of respondents (excluding not provided)



# 2 Priority Investment Rating

# Priority Investment Rating

## Livingston Parks and Recreation Facilities and Amenities

The **Priority Investment Rating (PIR)** was developed by the ETC Institute to provide governments with an objective tool for evaluating the priority that should be placed on parks and recreation investments. The Priority Investment Rating was developed by ETC Institute to identify the facilities and programs residents think should receive the highest priority for investment. The priority investment rating reflects the importance residents place on items (sum of top 4 choices) and the unmet needs (needs that are only being partly or not met) for each facility/program relative to the facility/program that rated the highest overall. Since decisions related to future investments should consider both the level of unmet needs and the importance of facilities and programs, the PIR weights each of these components equally.

The PIR reflects the sum of the Unmet Needs Rating and the Importance Rating as shown in the equation below:

PIR = UNR + IR

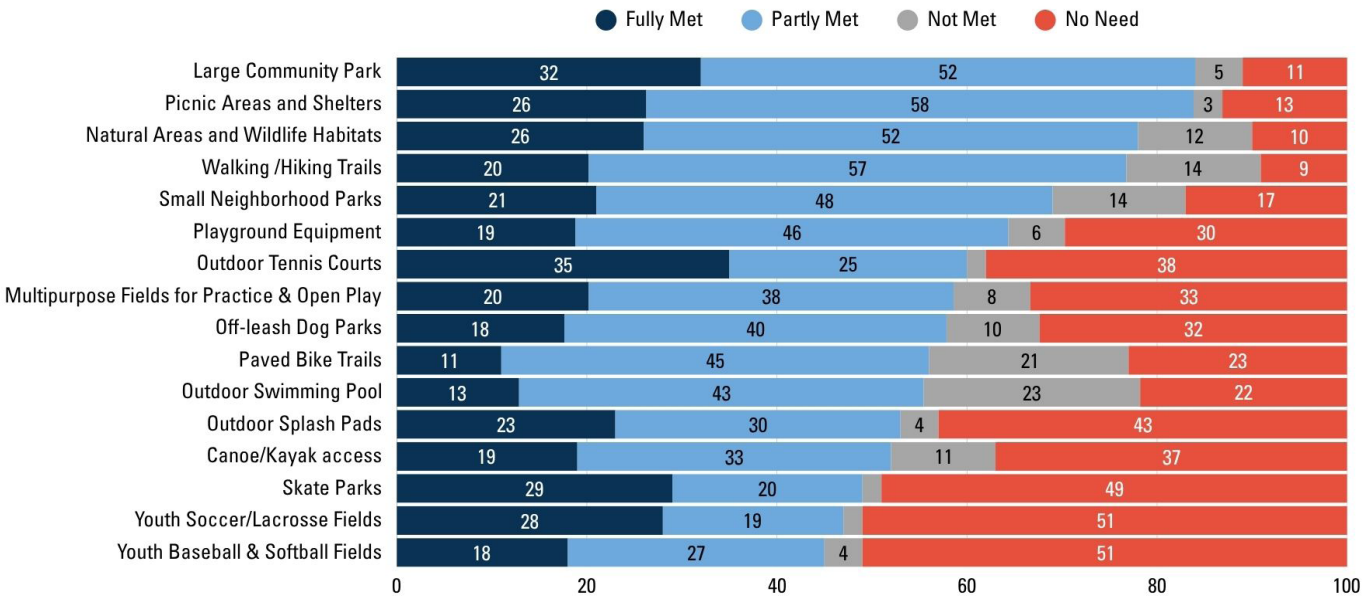
For example, supposed the Unmet Needs Rating for playground is 26.5 (out of 100) and the Importance Rating for Playground is 52 (out of 100), the Priority Investment Rating for playgrounds would be 78.5 (out of 200).

**How to Analyze the Charts:**

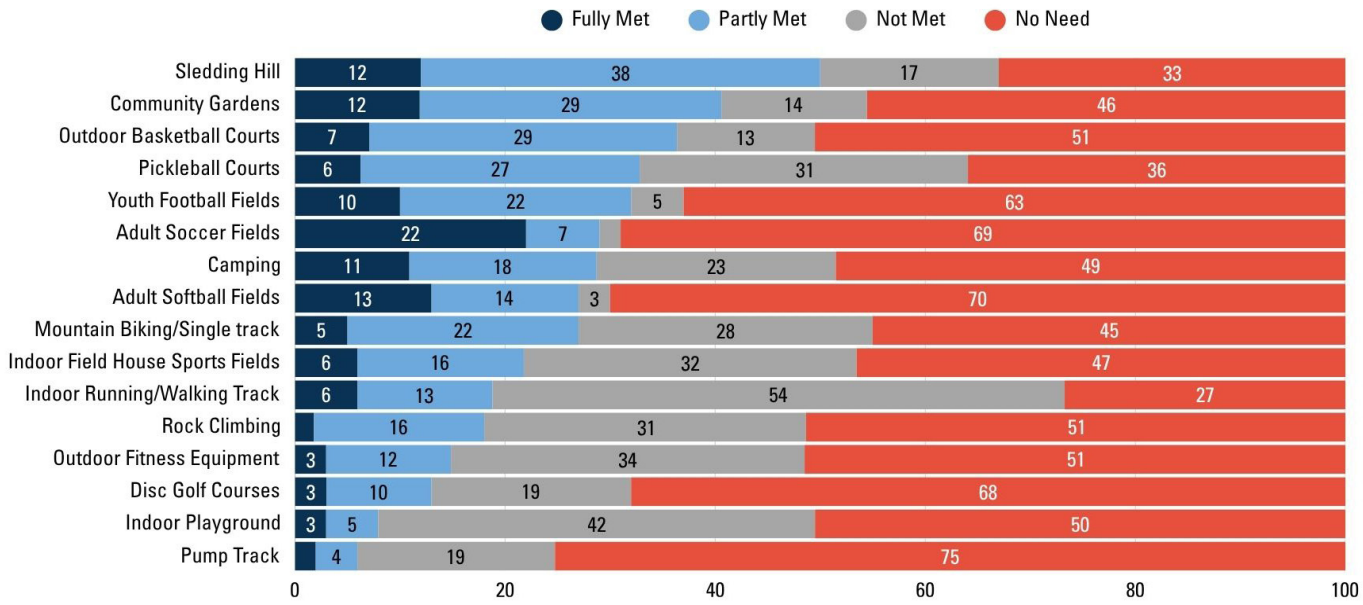
- **High Priority Areas** are those with a PIR of at least 100. A rating of 100 or above generally indicates there is a relatively high level of unmet need and residents generally think it is important to fund improvements in these areas. Improvements in this area are likely to have a positive impact on the greatest number of households.
- **Medium Priority Areas** are those with a PIR of 50-99. A rating in this range generally indicates there is a medium to high level of unmet need or a significant percentage of residents generally think it is important to fund improvements in these areas.
- **Low Priority Areas** are those with a PIR below 50. A rating in this range generally indicates there is a relatively low level of unmet need and residents do not think its is important to fund improvements in theses areas. Improvements may be warranted if the needs of very specialized populations are being targeted.

The following pages show the Unmet Needs Rating, Importance Rating, and Priority Investment Rating for programs.

## Q5. How well your needs are being met for each facility and amenity: Top 16

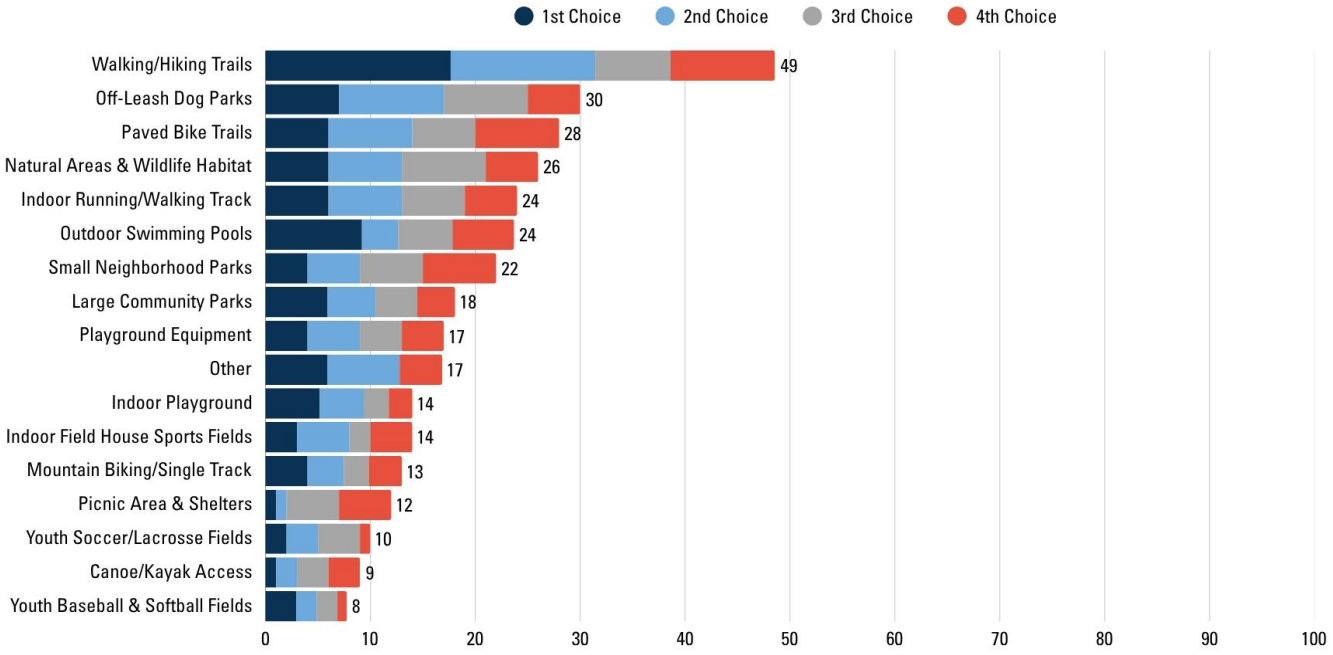



## Q5. How well your needs are being met for each facility and amenity: Bottom 16



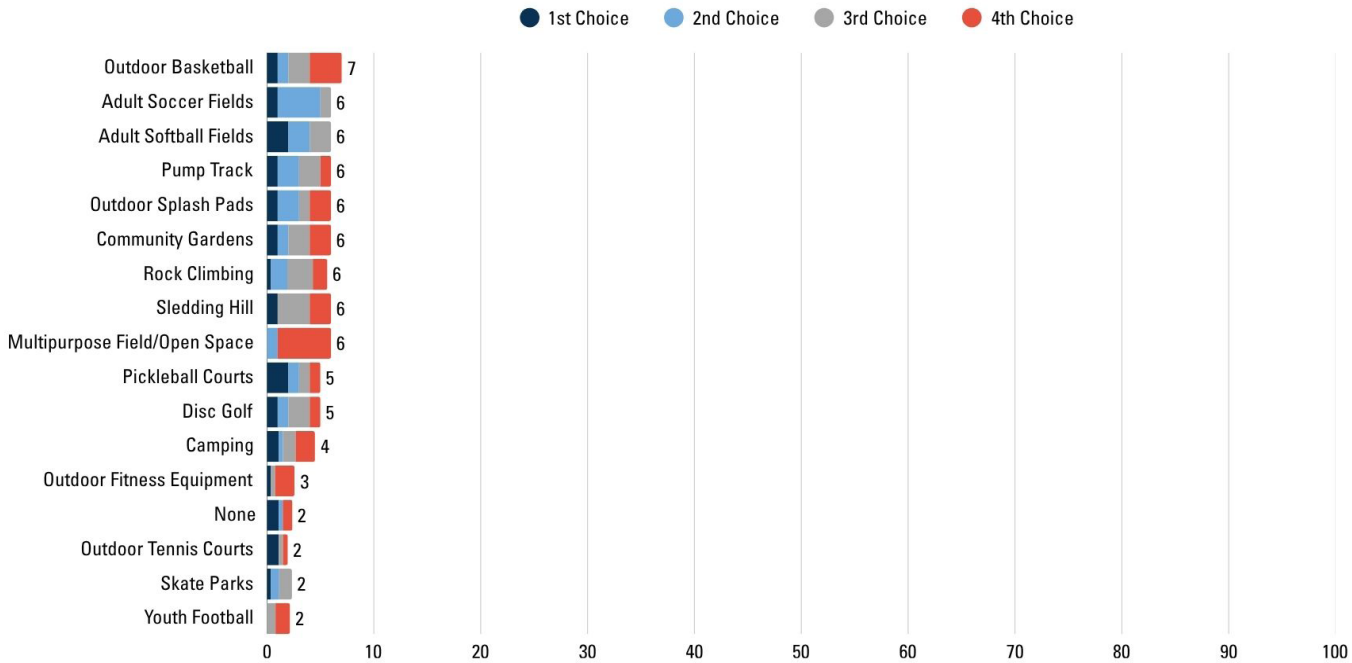
## Q6. Which Facilities and Amenities are Most Important to your Household: Top 17

by percentage of respondents who selected the item as one of their top four choice



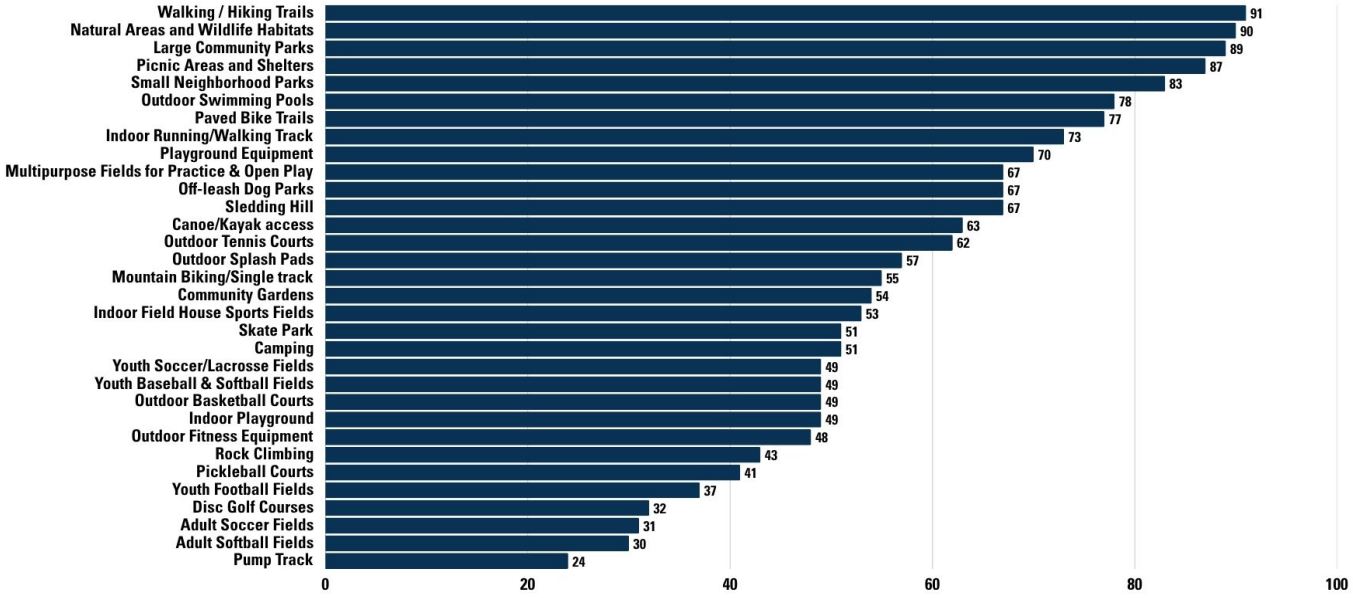

## Q6. Which Facilities and Amenities are Most Important to your Household: Bottom 17

by percentage of respondents who selected the item as one of their top four choice



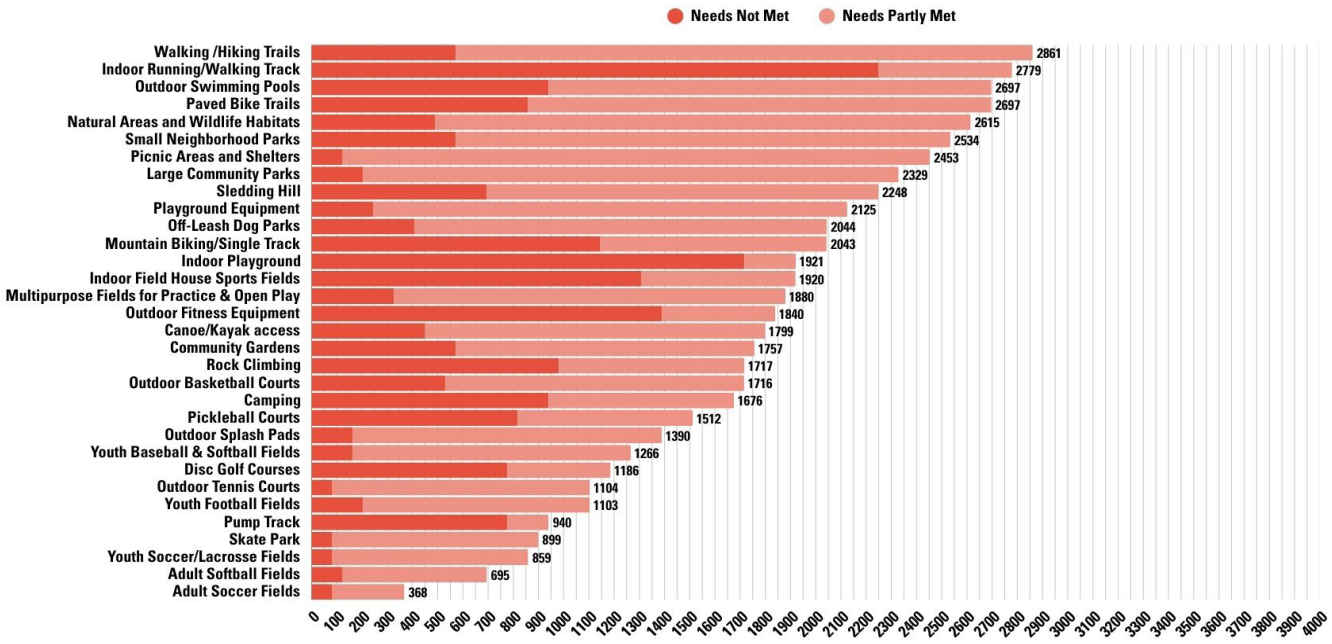
## Need For facilities and amenities in Livingston

by percentage of respondents who indicated a need




## Estimated number of households that's needs for facilities & amenities is partly met or not met

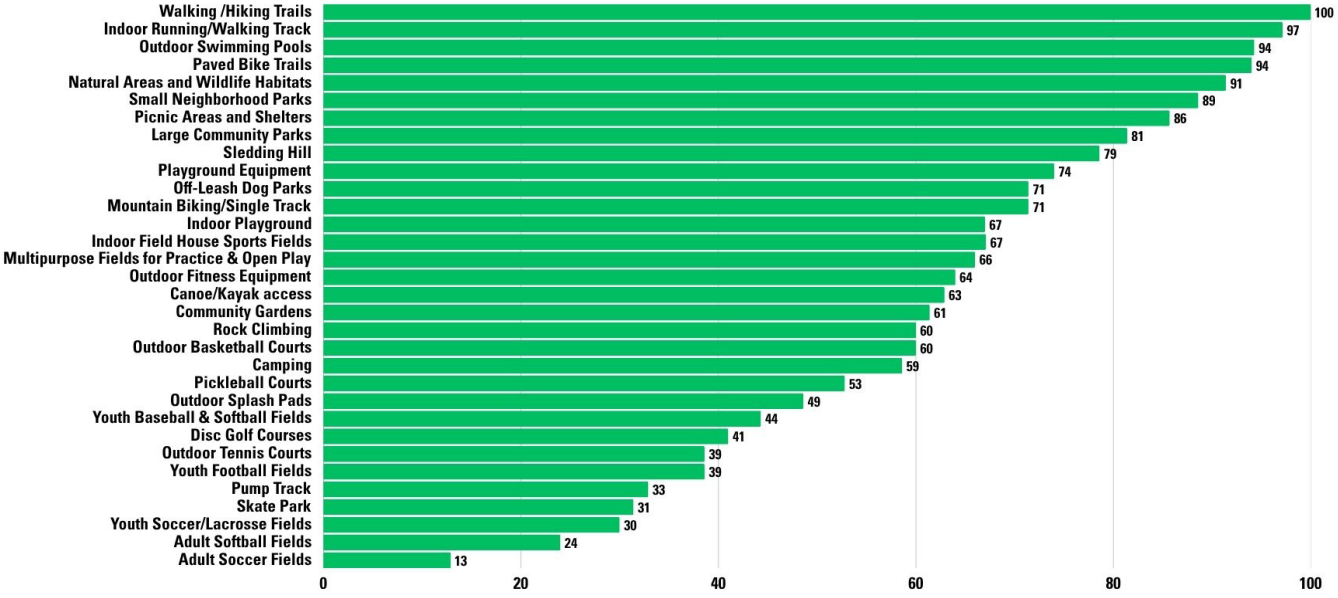
Based on 4,087 Households



## Unmet needs rating for facilities and amenities in Livingston

The rating for the item with the most unmet need = 100

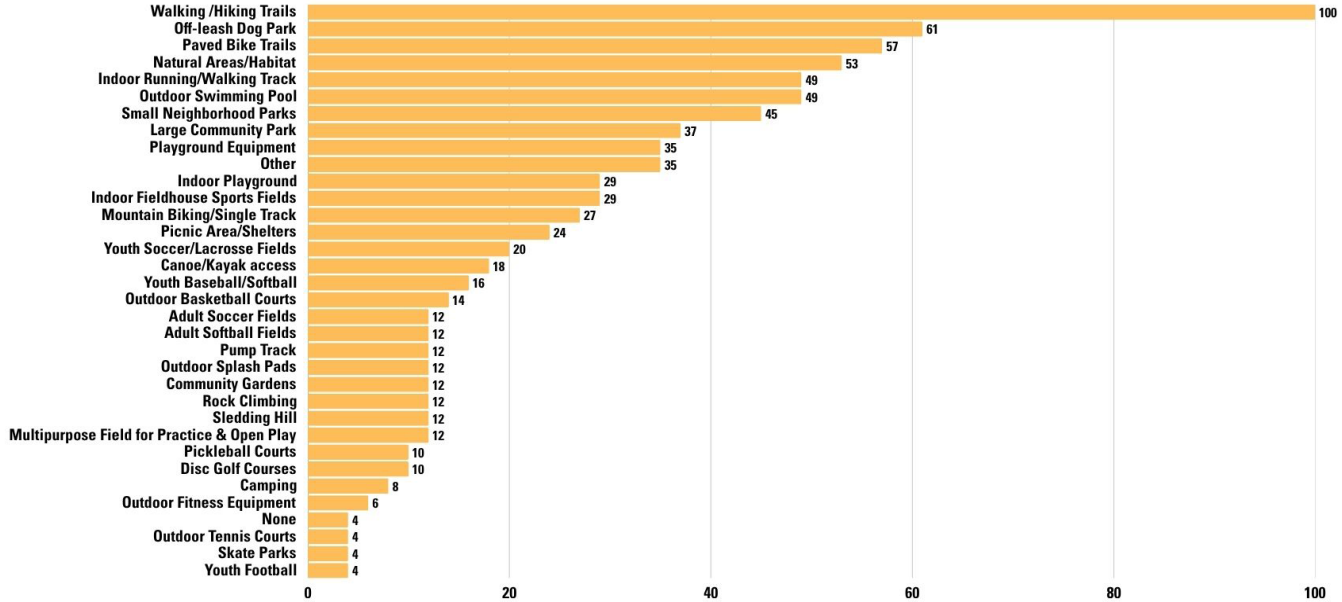
The rating of all other items reflects the relative amount of unmet need for each item compared to the item with the most unmet need



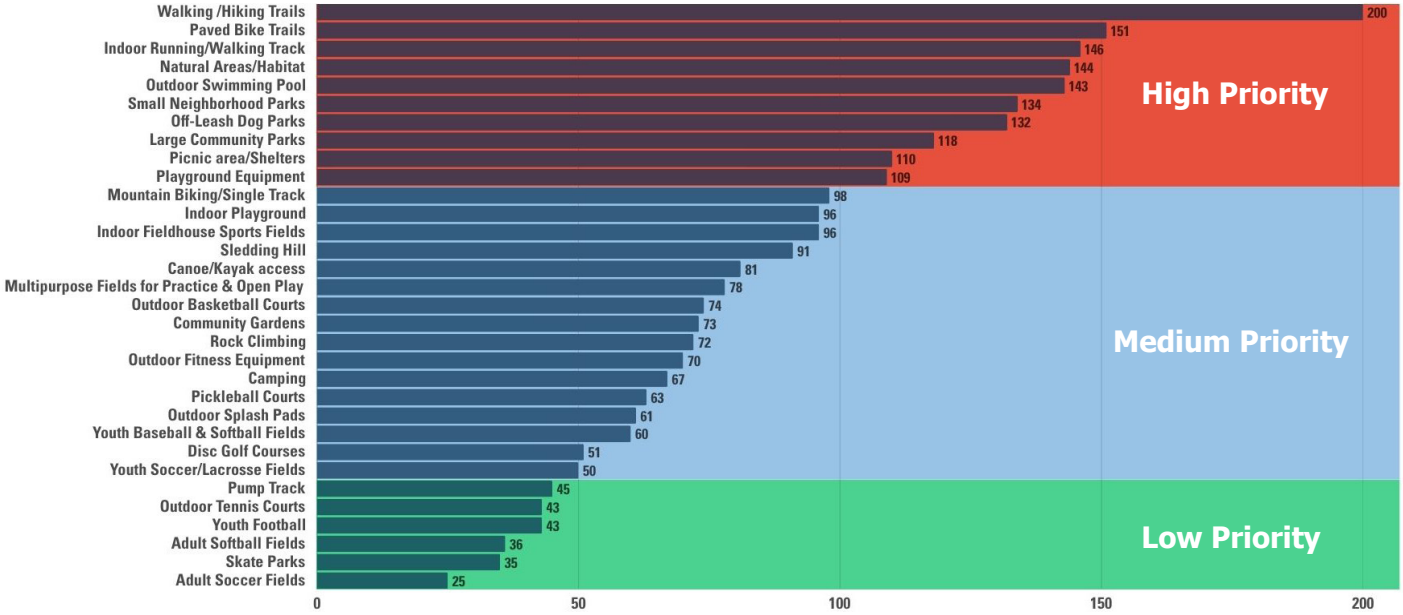

## Importance Rating for Facilities and Amenities in Livingston

The rating for the item rated as most important = 100

The rating of all other items reflects the relative amount of unmet need for each item compared to the item with the most unmet need



## Top Priorities for Investment for Facilities and Amenities in Livingston based on Priority Investment Rating



# 3 Survey Instrument

# Livingston Parks Master Plan Survey

The City of Livingston would like your input to help determine park and recreation priorities for our community. This survey will take 15-20 minutes to complete.

## 1. Which age range(s) are represented in your household? (Check all that apply.)

- ☐ Under age 5
- ☐ Ages 5-9
- ☐ Ages 10-14
- ☐ Ages 15-19
- ☐ Ages 20-24
- ☐ Ages 25-34
- ☐ Ages 35-44
- ☐ Ages 45-54
- ☐ Ages 55-64
- ☐ Ages 65-74
- ☐ 75+

## 2. In the past 12 months, have you or other members of your household used any of the following parks and recreation facilities offered by the City of Livingston? (Check all that apply.)

- ☐ Bozeman / Judson / Depot Park
- ☐ Firefighter Park
- ☐ Green Acres Park
- ☐ Highground Public Use
- ☐ Jack Weimer Memorial Park
- ☐ Mars Park
- ☐ Mayor's Landing Moja Dog Park
- ☐ Mike Webb Park
- ☐ Miles Park
- ☐ Miles Park Lagoon
- ☐ M Street / Katie Bonnel Memorial Park
- ☐ Myer's View Park
- ☐ North Side Soccer Park
- ☐ Reservoir Park
- ☐ Riverside Park
- ☐ Sacajawea Park
- ☐ Water Plant Park

3. Please rate the overall quality of the following parks or recreation facilities offered by the City of Livingston using a scale of 5 to 1, where 5 means "Excellent" and 1 means "Poor." If you haven't used the park /facility in the past 12 months, please select 9 for "Haven't Used."

| | 5 | 4 | 3 | 2 | 1 | 9 |
|---|---|---|---|---|---|---|
| Bozeman / Judson / Depot Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Firefighter Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Green Acres Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Highground Public Use | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Jack Weimer Memorial Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Mars Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Mayor's Landing Moja Dog Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Mike Webb Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Miles Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Miles Park Lagoon | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| M Street Park / Katie Bonnel Memorial Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Myer's View Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| North Side Soccer Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Reservoir Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Riverside Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Sacajawea Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Water Plant Park | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |

4. Please **CHECK ALL** the reasons that prevent you or other members of your household from using City of Livingston parks and recreation facilities more often.

- ☐ Facilities are not well maintained
- ☐ Park or facility not offered
- ☐ Too busy
- ☐ Security is insufficient
- ☐ Too far from our residence
- ☐ Use facilities in other communities
- ☐ Poor customer service by staff
- ☐ Don't know locations of facilities
- ☐ Facilities don't have the right equipment
- ☐ Lack of parking
- ☐ Lack of accessibility
- ☐ Nothing prevents us from participating

5. Please indicate how well your needs are being met for each of the facilities/amenities listed below on a scale of 4 to 1, where 4 means your needs are "Fully Met," and 1 means your needs are "Not Met" at all. If you do not have a need for an item listed, please select "9" for "No Need."

| | 4 | 3 | 2 | 1 | 9 |
|---|---|---|---|---|---|
| Adult soccer fields | ○ | ○ | ○ | ○ | ○ |
| Adult softball fields | ○ | ○ | ○ | ○ | ○ |
| Camping | ○ | ○ | ○ | ○ | ○ |
| Canoe/kayak access | ○ | ○ | ○ | ○ | ○ |
| Community gardens | ○ | ○ | ○ | ○ | ○ |
| Disc golf courses | ○ | ○ | ○ | ○ | ○ |
| Indoor field house sports fields (football, soccer, etc.) | ○ | ○ | ○ | ○ | ○ |
| Indoor playground | ○ | ○ | ○ | ○ | ○ |
| Indoor running/walking track | ○ | ○ | ○ | ○ | ○ |
| Large community parks | ○ | ○ | ○ | ○ | ○ |
| Mountain biking/single track | ○ | ○ | ○ | ○ | ○ |

| | | | | | |
|---|---|---|---|---|---|
| Multipurpose fields for practice and open play | ◯ | ◯ | ◯ | ◯ | ◯ |
| Natural areas and wildlife habitats | ◯ | ◯ | ◯ | ◯ | ◯ |
| Off-leash dog parks | ◯ | ◯ | ◯ | ◯ | ◯ |
| Outdoor basketball courts | ◯ | ◯ | ◯ | ◯ | ◯ |
| Outdoor fitness equipment | ◯ | ◯ | ◯ | ◯ | ◯ |
| Outdoor splash pads | ◯ | ◯ | ◯ | ◯ | ◯ |
| Outdoor swimming pools | ◯ | ◯ | ◯ | ◯ | ◯ |
| Outdoor tennis courts | ◯ | ◯ | ◯ | ◯ | ◯ |
| Paved bike trails | ◯ | ◯ | ◯ | ◯ | ◯ |
| Pickleball courts | ◯ | ◯ | ◯ | ◯ | ◯ |
| Picnic areas and shelters | ◯ | ◯ | ◯ | ◯ | ◯ |
| Playground equipment | ◯ | ◯ | ◯ | ◯ | ◯ |
| Pump track | ◯ | ◯ | ◯ | ◯ | ◯ |
| Rock climbing | ◯ | ◯ | ◯ | ◯ | ◯ |
| Skate parks | ◯ | ◯ | ◯ | ◯ | ◯ |
| Sledding hill | ◯ | ◯ | ◯ | ◯ | ◯ |
| Small neighborhood parks | ◯ | ◯ | ◯ | ◯ | ◯ |
| Walking/hike trails | ◯ | ◯ | ◯ | ◯ | ◯ |
| Youth baseball and softball fields | ◯ | ◯ | ◯ | ◯ | ◯ |
| Youth football fields | ◯ | ◯ | ◯ | ◯ | ◯ |
| Youth soccer/lacrosse fields | ◯ | ◯ | ◯ | ◯ | ◯ |

Other (please specify)

6. Which **FOUR** of the facilities/amenities from the list in Question 5 are **MOST IMPORTANT** to your household?

| | |
|---|---|
| 1st | |
| 2nd | |
| 3rd | |
| 4th | |

7. Please rate your satisfaction with the following parks and recreation services provided by the City of Livingston using a scale of 5 to 1, where 5 means "Very Satisfied" and 1 means "Very Dissatisfied." If you are unsure, please select "9" for "Don't Know."

| | 5 | 4 | 3 | 2 | 1 | 9 |
|---|---|---|---|---|---|---|
| Amount of available indoor recreation space | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Amount of developed parkland | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Amount of open greenspace/natural areas | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Availability of information about programs and facilities | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Connectivity of trails and pathways | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Customer assistance by staff | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Ease of renting shelters, gyms, or meeting rooms | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Maintenance of parks, facilities | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Overall quality of baseball/softball fields | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Overall quality of soccer fields | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |

| | | | | | | |
|---|---|---|---|---|---|---|
| Overall quality of outdoor swimming pool | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Park and facility accessibility (ADA compliant access) | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |
| Quality/number of outdoor amenities | ◯ | ◯ | ◯ | ◯ | ◯ | ◯ |

8. Which **THREE** services listed in Question 7 do you think should receive the **MOST ATTENTION** from the City of Livingston over the next **FIVE** years?

1st

2nd

3rd

9. The following is a list of actions the City of Livingston could take to improve the parks and recreation system. For each potential action, please indicate if you would be "Very Supportive," "Somewhat Supportive," "Not Supportive," or "Not Sure" of the action

| | Very Supportive | Somewhat Supportive | Not Supportive | Not Sure |
|---|---|---|---|---|
| Acquire new park land | ◯ | ◯ | ◯ | ◯ |
| Add additional parks maintenance staff | ◯ | ◯ | ◯ | ◯ |
| Add large events pavilion | ◯ | ◯ | ◯ | ◯ |
| Add restrooms to select parks | ◯ | ◯ | ◯ | ◯ |
| Add park and trail lighting | ◯ | ◯ | ◯ | ◯ |
| Build a new outdoor pool | ◯ | ◯ | ◯ | ◯ |
| Convert selected park areas to natural areas or open green space | ◯ | ◯ | ◯ | ◯ |
| Develop a new dog park | ◯ | ◯ | ◯ | ◯ |

| | | | | |
|---|---|---|---|---|
| Develop refrigerated ice skating rink | ◯ | ◯ | ◯ | ◯ |
| Develop new pickleball courts | ◯ | ◯ | ◯ | ◯ |
| Develop new splash pad | ◯ | ◯ | ◯ | ◯ |
| Develop new trails that connect to existing trails | ◯ | ◯ | ◯ | ◯ |
| Develop new youth baseball / softball fields | ◯ | ◯ | ◯ | ◯ |
| Develop park identification signage | ◯ | ◯ | ◯ | ◯ |
| Develop sledding hill | ◯ | ◯ | ◯ | ◯ |
| Improve existing large community parks | ◯ | ◯ | ◯ | ◯ |
| Improve existing nature preserves | ◯ | ◯ | ◯ | ◯ |
| Pave existing walking and biking trails | ◯ | ◯ | ◯ | ◯ |
| Improve existing small neighborhood parks | ◯ | ◯ | ◯ | ◯ |
| Replace existing playground equipment | ◯ | ◯ | ◯ | ◯ |

Other (please specify)

## 10. Which **THREE** potential actions listed in Question 9 are most important to you and your household?

1st

2nd

3rd

11. How do you think the gravel surfacing space behind the Civic Center should be utilized?

- ◯ Organized parking lot
- ◯ Pavilion / festival area
- ◯ Pump track
- ◯ Riparian habitat restoration
- ◯ Dog Park
- ◯ Other (please specify)

  [ ]
- ◯ None of the above

12. Once the new indoor pool is open, how do you think the existing outdoor pool site should be utilized?

- ◯ Pavilion / festival area
- ◯ Restore to naturalized area / creek
- ◯ Outdoor pickleball
- ◯ Pump track
- ◯ Other (please specify)

  [ ]
- ◯ None of the above

13. Listed below are the potential funding mechanisms that could be used to pay for the actions you indicated you most support in Questions 9 and 10. Please rate your level of support for each of the following funding mechanisms.

| | Very Supportive | Somewhat Supportive | Not Supportive | Not Sure |
|---|---|---|---|---|
| Bonding issue approved by voters | ◯ | ◯ | ◯ | ◯ |
| City general fund (property taxes) | ◯ | ◯ | ◯ | ◯ |
| City-County park maintenance district | ◯ | ◯ | ◯ | ◯ |
| Concessions | ◯ | ◯ | ◯ | ◯ |
| Facility rental rates | ◯ | ◯ | ◯ | ◯ |
| Federal funding | ◯ | ◯ | ◯ | ◯ |
| Grants (usually have local match requirements) | ◯ | ◯ | ◯ | ◯ |
| Impact/Development fees | ◯ | ◯ | ◯ | ◯ |
| Non-profit fundraising | ◯ | ◯ | ◯ | ◯ |
| Private sector partnerships | ◯ | ◯ | ◯ | ◯ |
| Sponsorships | ◯ | ◯ | ◯ | ◯ |
| State funding | ◯ | ◯ | ◯ | ◯ |
| Volunteers | ◯ | ◯ | ◯ | ◯ |

Other (please specify)

**Demographics**

16. How many years have you lived in the City of Livingston?

17. What is your age?

18. Your gender:

- ◯ Male
- ◯ Female
- ◯ Non-binary
- ◯ Prefer not to anwer
- ◯ Prefer to self -describe

19. What is the highest level of school that you have completed?

- ◯ Primary school
- ◯ Some high school, but no diploma
- ◯ High school diploma (or GED)
- ◯ Some college, but no degree
- ◯ 2-year college degree
- ◯ 4-year college degree
- ◯ Graduate-level degree
- ◯ None of the above

## 20. What is your total household income?

- ◯ Less than $20,000
- ◯ $20,000 to $34,999
- ◯ $35,000 to $49,999
- ◯ $50,000 to $74,999
- ◯ $75,000 to $99,999
- ◯ $100,000 to $149,999
- ◯ $150,000 or More

## 21. Do you own or live with a dog?

- ◯ Yes
- ◯ No

**This concludes the survey. Thank you for your time!**

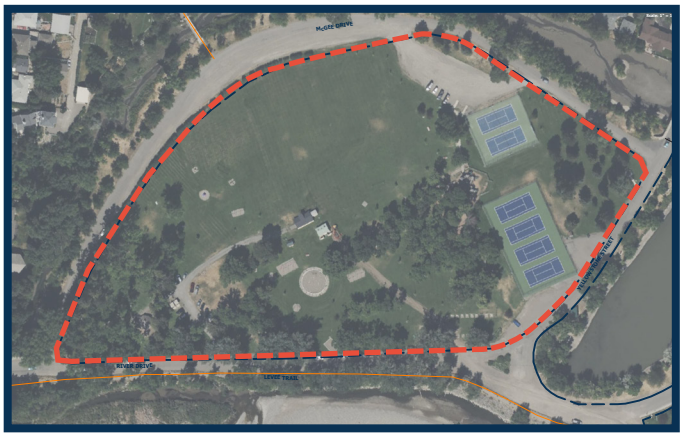
# Appendix 4

## Individual Park Inventory Sheets

Amenity Inventory for

# Sacajawea Park

Location: End of Yellowstone St, along north bank of the Yellowstone River
Classification: Community Park
Acres: 13









## Park Amenities
1 Park Sign
5 Litter Receptacle
__ Recycling Receptacle
24 Bench
2 Swing Bench
__ Dugout Bench
__ Small Bleacher
__ Large Bleacher
26 Picnic Table
__ Picnic Table (ADA)
1 Drinking Fountain
3 Grill
__ Bike Rack
__ Pet Waste Station
1 Fire Pit
15 Park Light Pole (perimeter)
1 Small Picnic Shelter
2 Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
1 Restroom Building
2 Vault Toilet

## Play Amenities
1 Play Equipment (Modular)
6 Play Equipment (Independent)
4 Swing Set
1 Open Play Area
2 Sand Box
__ Sand Volleyball Court
3 Soccer Net (Portable)
__ Backstop
__ Basketball Court
__ Basketball Hoop

## Trail Amenities
1 Trail
__ Rules Sign
__ Trail Lighting
__ Parking Lot
__ Trail Head
__ Bike Repair Station
1 Pedestrian Bridge (7th Street)

## Sports Fields
__ Soccer Field
__ Baseball Field
__ Softball Field
__ Youth Softball Field
__ Teeball Field
__ Batting Cage
1 Multipurpose Field
__ Concession Stand
2 Storage Shed
6 Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities
__ Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
__ Shelter House
__ Campground
__ Stage
__ Fishing Pier
__ Garden Plot
12 Horseshoe Pit
__ Canoe Launch

## Other Amenities
__ Above Ground Planter
3 Memorial
1 Flag Pole
__ Administration Building
__ Public Art

## Notes

No accessible parking. Parking lots are gravel, not well defined. No accessible route throughout park. Pompey's playground is in good condition, needs some general maintenance. Other play equipment is old and scattered haphazardly and should be replaced. Tennis courts are in good condition.

Restrooms are in poor condition. There are two Veteran Memorials within or adjacent to Sacajawea Park. One being in the NE corner of the park and the second being adjacent in the roadway intersection of Yellowstone Street and River Drive.

Amenity Inventory for

# Sacajawea Park

Location: End of Yellowstone St, along north bank of the Yellowstone River
Classification: Community Park
Acres: 13



Amenity Inventory for

# Miles Park

Location: End of Yellowstone Street, just east of Sacajawea Park
Classification: Community Park
Acres: 24









## Park Amenities

3 Park Sign (Baseball Complex)
12+ Litter Receptacle
__ Recycling Receptacle
25+ Bench
16 Dugout Bench
16 Small Bleacher
__ Large Bleacher
9+ Picnic Table
__ Picnic Table (ADA)
__ Drinking Fountain
__ Grill
2 Bike Rack
2 Pet Waste Station (bags only)
__ Fire Ring
__ Park Light Pole
__ Small Picnic Shelter
__ Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
1 Restroom Building
5 Vault Toilet
2 Port a Pottie

## Play Amenities

__ Play Equipment (Modular)
__ Play Equipment (Independent)
__ Swing Set
1 Open Play Area
__ Sand Volleyball Court
__ Soccer Net (Portable)
__ Backstop
__ Basketball Court
__ Basketball Hoop

## Trail Amenities

1 Trail
__ Rules Sign
__ Trail Lighting
__ Parking Lot
__ Trail Head
__ Bike Repair Station
__ Pedestrian Bridge

## Sports Fields

__ Soccer Field
1 Baseball Field
1 Softball Field
3 Youth Softball Field
1 Youth Baseball Field
2 Teeball Field
3 Batting Cage
__ Football Field
1 Concession Stand
2 Storage Shed
__ Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities

1 Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
__ Shelter House
__ Campground
1 Stage / Bandshell
__ Fishing Pier
__ Garden Plot
__ Horseshoe Pit
__ Canoe Launch

## Other Amenities

10 Vendor Pedestals
3 Educational Signs
__ Flag Pole
1 Recreation Center
1 Public Art (Civic Center Mural)

## Notes

Circulation around park is not well defined. Large gravel parking lot around lacks organization and a large hole that fills with water is a hazard on the southwest side of the Civic Center. Baseball/softball complex is in very poor condition. A complete redesign and rebuild is recommended.

Skate park is relatively new and in good condition. Civic Center and Bandshell in need of maintenance. No sidewalks/ accessible route throughout park. Farmer's Market is held here throughout the summer and is heavily utilized.

Amenity Inventory for

# Miles Park

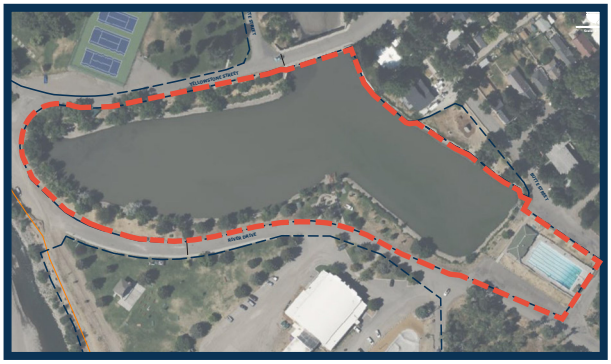
Location: End of Yellowstone Street, just east of Sacajawea Park
Classification: Community Park
Acres: 24



Amenity Inventory for

# Miles Park Lagoon

Location: End of Yellowstone Street, just east of Sacajawea Park
Classification: Community Park
Acres: 7.13









## Park Amenities
2 Park Sign
1 Litter Receptacle
___ Recycling Receptacle
21 Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
3 Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
2 Grill
2 Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building
___ Vault Toilet

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
1 Shelter House / Bathhouse
___ Campground
___ Stage
1 Fishing Pier
___ Garden Plot
___ Canoe Launch
1 Outdoor Swimming Pool

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
2 Public Art

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Notes
Miles Park Lagoon includes the City outdoor swimming pool, the lagoon and small plaza space with Sacajawea statue. There are two park signs that say Sacajawea Park instead of Miles Park. The City pool is has far exceeded its lifecycle. Staff reports the pool leaks and will be closed once the indoor recreation center is open. Fishing pier is in good condition. The shelter on the west side of the lagoon has murals, but in shelter is in poor condition and should be removed. Sacajawea statue and associated plaza space is in good condition and a nice feature. Path around lagoon is not lit or accessible.

Amenity Inventory for

# Miles Park Lagoon

Location: End of Yellowstone Street, just east of Sacajawea Park
Classification: Community Park
Acres: 7.13



Amenity Inventory for

# Mayors Landing / Moja Dog Park

Location: End of View Vista Road
Classification: Special Use Park
Acres: 28.32









## Park Amenities
3 Park Sign
4 Litter Receptacle
__ Recycling Receptacle
4 Bench
__ Dugout Bench
__ Small Bleacher
__ Large Bleacher
6 Picnic Table
__ Picnic Table (ADA)
__ Drinking Fountain
__ Grill
__ Bike Rack
2 Pet Waste Station (bags only)
__ Fire Ring
__ Park Light Pole
__ Small Picnic Shelter
__ Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
__ Restroom Building
1 Vault Toilet

## Play Amenities
__ Play Equipment (Modular)
__ Play Equipment (Independent)
__ Swing Set
1 Open Play Area
__ Sand Volleyball Court
__ Soccer Net (Portable)
__ Backstop
__ Basketball Court
__ Basketball Hoop

## Trail Amenities
1 Trail
__ Rules Sign
__ Trail Lighting
1 Parking Lot
__ Trail Head
__ Bike Repair Station
__ Pedestrian Bridge

## Sports Fields
__ Soccer Field
__ Baseball Field
__ Softball Field
__ Youth Softball Field
__ Teeball Field
__ Batting Cage
__ Football Field
__ Concession Stand
__ Storage Shed
__ Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities
__ Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
1 Off Leash Dog Park
__ Shelter House
__ Campground
__ Stage
__ Fishing Pier
__ Garden Plot
__ Horseshoe Pit
1 Boat Ramp

## Other Amenities
__ Above Ground Planter
__ Memorial
__ Flag Pole
__ Administration Building
__ Public Art

## Notes
Two signs are located at the Park County Fairgrounds entrance - signs should be relocated to park. Gravel parking lot at boat ramp and at the dog park cul-de-sac. Both lack definition and organization. Dog park is located over former landfill. It is heavily used but erosion has exposed glass and other garbage. Gravel walking trail loop around dog park.

Amenity Inventory for

# Mayors Landing / Moja Dog Park

Location: End of View Vista Road
Classification: Special Use Park
Acres: 28.32



Amenity Inventory for

# Myers' River View Park

Location: Hwy 89 and east bank of Yellowstone River
Classification: Special Use
Acres: 36.19









## Park Amenities

1 Park Sign
___ Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
___ Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
2 Pet Waste Station (Bags only)
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
1 Small Shade Structure
___ Large Shade Structure
___ Restroom Building
1 Vault Toilet

## Play Amenities

___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities

1 Trail
1 Rules Sign
___ Trail Lighting
1 Parking Lot
___ Trail Head
___ Bike Repair Station
1 Pedestrian Bridge / Boardwalk

## Sports Fields

___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities

___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities

___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Educational Signs
2 Public Art

## Notes

Gravel parking lots with asphalt accessible parking stalls. ADA sign is too short. Park is primarily nature area with walking trails. Walking trail loop near parking lot sees a lot of use for bird watching.

Amenity Inventory for

# Myers' River View Park

Location: Hwy 89 and east bank of Yellowstone River
Classification: Special Use
Acres: 36.19



Amenity Inventory for

# Water Plant Park

Location: NE intersection of S 9th Street & River Drive
Classification: Neighborhood Park
Acres: 2.33









## Park Amenities
___ Park Sign
___ Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
___ Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
1 Pet Waste Station (bags only)
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
1 Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop
1 Sledding Hill

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
1 Public Art (Sister City Friendship Garden)

## Notes
Sister Cities Friendship Garden in SW corner.
"Unofficial" sledding hill
People use as off leash dog park. Mostly open space.

Amenity Inventory for

# Water Plant Park

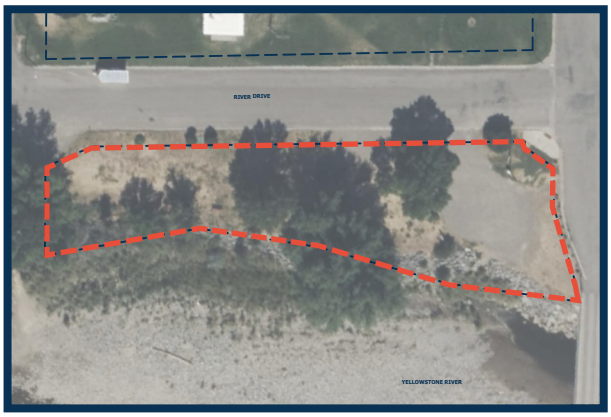
Location: NE intersection of S 9th Street & River Drive
Classification: Neighborhood Park
Acres: 2.33



Amenity Inventory for

# Riverside Park

Location: SE intersection of S 9th Street & River Drive
Classification: Neighborhood Park
Acres: 0.50










## Park Amenities
___ Park Sign
1 Litter Receptacle
___ Recycling Receptacle
5 Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
2 Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
1 Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
2 Educational Signs
___ Public Art

## Notes
Primarily used for picnicking. Used to be main fishing access. No sidewalks or accessible route in park. Gravel parking takes up a good portion of the park.

Amenity Inventory for

# Riverside Park

Location: SE intersection of S 9th Street & River Drive
Classification: Neighborhood Park
Acres: 0.50



Amenity Inventory for

# Firefighter Park

Location: S 3rd Street & W Butte Street
Classification: Neighborhood Park
Acres: 0.3

## Park Amenities
___ Park Sign
3 Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
1 Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities
___ Play Equipment (Modular)
2 Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
___ Public Art

## Notes
Not heavily utilized. Two climbing structures for different ages and abilities. Both structures needs fall protection. Wood chips had been in place but have blown away.









Amenity Inventory for

# Firefighter Park

Location: S 3rd Street & W Butte Street
Classification: Neighborhood Park
Acres: 0.3



Amenity Inventory for

# Mike Webb Park

Location:Southern end of G Street, just south of intersection of G Street & Geyser Street
Classification: Neighborhood Park
Acres: 1.86









## Park Amenities
1 Park Sign
4 Litter Receptacle
__ Recycling Receptacle
6 Bench
1 Dugout Bench
__ Small Bleacher
__ Large Bleacher
6 Picnic Table
__ Picnic Table (ADA)
1 Drinking Fountain
1 Grill
1 Bike Rack
1 Pet Waste Station (bags only)
__ Fire Ring
3 Park Light Pole
1 Small Picnic Shelter
__ Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
1 Restroom Building
1 Vault Toilet

## Play Amenities
1 Play Equipment (Modular)
2 Play Equipment (Independent)
1 Swing Set
1 ADA Swing
__ Open Play Area
__ Sand Volleyball Court
__ Soccer Net (Portable)
1 Backstop
__ Basketball Court
__ Basketball Hoop

## Trail Amenities
__ Trail
__ Rules Sign
__ Trail Lighting
__ Parking Lot
__ Trail Head
__ Bike Repair Station
__ Pedestrian Bridge

## Sports Fields
__ Soccer Field
__ Baseball Field
__ Softball Field
__ Youth Softball Field
__ Teeball Field
__ Batting Cage
__ Football Field
__ Concession Stand
__ Storage Shed
__ Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities
__ Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
__ Shelter House
__ Campground
__ Stage
__ Fishing Pier
__ Garden Plot
__ Horseshoe Pit
__ Canoe Launch
1 Splash Pad

## Other Amenities
__ Above Ground Planter
__ Memorial
__ Flag Pole
__ Administration Building
__ Public Art

## Notes
Accessible parking spot needs a curb ramp and the sign needs to be higher. Splash pad in great condition, but no shade. Play structure in good condition but pea gravel surfacing is not accessible.

ADA swing is the City's only accessible swing, however this style is not utilized anymore as they can be dangerous when in motion to other kids. Gravel surfacing and mats are not accessible for swing. Open space with backstop is used for T-ball.

Amenity Inventory for

# Mike Webb Park

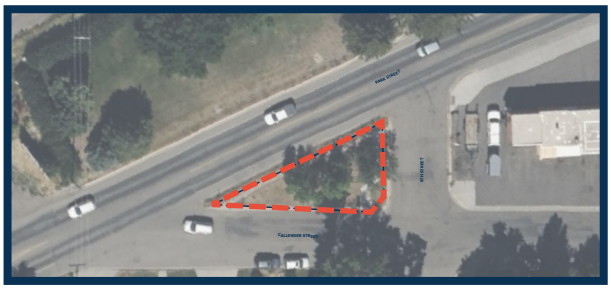
Location:Southern end of G Street, just south of intersection of G Street & Geyser Street
Classification: Neighborhood Park
Acres: 1.86



Amenity Inventory for

# Bozeman Park

Location: Along Park Street between 9th Street and W Callender Street
Classification: Special Use Park
Acres: 0.05










## Park Amenities

1 Park Sign
___ Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
___ Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities

___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Free Little Library
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities

___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields

___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities

___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities

___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
___ Public Art

## Notes

There is some confusion when it comes to this park. Many believe it to jump across Park Street and run along Park down to the Depot. However, the only City owned parcel is the small triangle shown above.

GIS should be updated to reflect this. This park is has a park sign and small walking path with some landscaping. This park can't and shouldn't be utilized for much recreation due to size and location on busy street, but would make a good location for a monument sign.

Amenity Inventory for

# Bozeman Park

Location: Along Park Street between 9th Street and W Callender Street
Classification: Special Use
Acres: 0.05



Amenity Inventory for

# Katie Bonnell Memorial Park / M Street Park

Location: Intersection of M Street & Gallatin Street
Classification: Neighborhood Park
Acres: 2.15



## Park Amenities
___ Park Sign
___ Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
___ Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
___ Public Art

## Notes
This park is where the future Indoor Recreation Center will be built and therefore was not included in the existing facilities analysis.

Amenity Inventory for

# Katie Bonnell Memorial Park / M Street Park

Location: Intersection of M Street & Gallatin Street
Classification: Neighborhood Park
Acres: 2.15



Amenity Inventory for

# North Side Soccer Park

Location: Atop the hill of Sunrise Drive on the northwest side of town
Classification: Sports Complex
Acres: 18.1









## Park Amenities

__ Park Sign
2 Litter Receptacle
__ Recycling Receptacle
9 Bench
__ Dugout Bench
__ Small Bleacher
__ Large Bleacher
8 Picnic Table
__ Picnic Table (ADA)
1 Drinking Fountain
__ Grill
__ Bike Rack
2 Pet Waste Station (bags only)
__ Fire Ring
3 Park Light Pole
__ Small Picnic Shelter
__ Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
1 Restroom Building (in "Field House")
2 Vault Toilet

## Play Amenities

__ Play Equipment (Modular)
__ Play Equipment (Independent)
__ Swing Set
__ Open Play Area
__ Sand Volleyball Court
__ Soccer Net (Portable)
__ Backstop
__ Basketball Court
__ Basketball Hoop

## Trail Amenities

3 Trail
__ Rules Sign
__ Trail Lighting
3 Parking Lot
__ Trail Head
__ Bike Repair Station
__ Pedestrian Bridge

## Sports Fields

3 Soccer Field (full size)
__ Baseball Field
__ Softball Field
__ Youth Softball Field
__ Teeball Field
__ Batting Cage
__ Football Field
1 Concession Stand (in "Field House"
__ Storage Shed
__ Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities

__ Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
__ Shelter House
__ Campground
__ Stage
__ Fishing Pier
__ Garden Plot
__ Horseshoe Pit
__ Canoe Launch

## Other Amenities

__ Above Ground Planter
__ Memorial
1 Flag Pole
__ Administration Building
__ Public Art

## Notes

Fields are in good condition and well maintained. Livingston Youth Soccer Association maintains fields. City maintains perimeter of park. Accessible parkings spaces need asphalt or concrete surfacing and striping. Three gravel parking lots that lack organization. "Field House" is in great condition and has restrooms and concessions.

Amenity Inventory for

# North Side Soccer Park

Location: Atop the hill of Sunrise Drive on the northwest side of town
Classification: Sports Complex
Acres: 18.1



Amenity Inventory for

# Mars Park

Location: Along Northern Lights Road
Classification: Neighborhood Park
Acres: 3.75









## Park Amenities
__ Park Sign
1 Litter Receptacle
__ Recycling Receptacle
__ Bench
2 Bench Swing
__ Small Bleacher
__ Large Bleacher
2 Picnic Table
__ Picnic Table (ADA)
__ Drinking Fountain
1 Grill
__ Bike Rack
__ Pet Waste Station
__ Fire Ring
__ Park Light Pole
1 Small Picnic Shelter
__ Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
__ Restroom Building

## Play Amenities
__ Play Equipment (Modular)
3 Play Equipment (Independent)
1 Swing Set
__ Free Little Library
__ Sand Volleyball Court
__ Soccer Net (Portable)
__ Backstop
__ Basketball Court
__ Basketball Hoop

## Trail Amenities
__ Trail
__ Rules Sign
__ Trail Lighting
__ Parking Lot
__ Trail Head
__ Bike Repair Station
__ Pedestrian Bridge

## Sports Fields
__ Soccer Field
__ Baseball Field
__ Softball Field
__ Youth Softball Field
__ Teeball Field
__ Batting Cage
__ Football Field
__ Concession Stand
__ Storage Shed
__ Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities
__ Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
__ Shelter House
__ Campground
__ Stage
__ Fishing Pier
__ Garden Plot
__ Horseshoe Pit
__ Canoe Launch

## Other Amenities
__ Above Ground Planter
__ Memorial
__ Flag Pole
__ Administration Building
__ Public Art

## Notes
Small neighborhood park. Many amenities are tired and old. Play equipment is all very similar and doesn't add much for play value. Pea gravel surfacing nearly gone under rockers. Asphalt path through park in poor condition. Small gravel parking lot off of Northern Lights Road lacks organization and accessible parking.

Amenity Inventory for

# Mars Park

Location: Along Northern Lights Road
Classification: Neighborhood Park
Acres: 3..75



Amenity Inventory for

# Jack Weimer Memorial Park

Location: Intersection of Comet Blvd and Northern Lights Rd
Classification: Sports Complex
Acres: Approx. 6.24










## Park Amenities
1 Park Sign
3 Litter Receptacle
___ Recycling Receptacle
___ Bench
2 Dugout Bench
2 Small Bleacher
2 Large Bleacher
5 Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
2 Large Shade Structure
1 Restroom Building

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
1 Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
1 Batting Cage
___ Football Field
1 Concession Stand
3 Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
___ Public Art

## Notes
City owned, however field is maintained by the Legion. Maintenance and weed management is poor. High School uses this field. Limited parking. Parking spills into the surrounding neighborhoods during games.

Amenity Inventory for

# Jack Weimer Memorial Park

Location: Intersection of Comet Blvd and Northern Lights Rd
Classification: Sports Complex
Acres: Approx. 6.24



Amenity Inventory for

# Reservoir Park

Location: North end of town up High Ground Ave at Reservoir Street
Classification: Neighborhood Park
Acres: 5.61



## Park Amenities
___ Park Sign
___ Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
___ Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
___ Public Art

## Notes
This park is was in the process of being Master Planned separately and was not included in the existing facilities analysis. It is currently open space.

Amenity Inventory for

# Reservoir Park

Location: North end of town up High Ground Ave at Reservoir Street
Classification: Neighborhood Park
Acres: 5.61



Amenity Inventory for

# Highground Public Use

Location: North end of town up High Ground Ave near the water tank
Classification: Nature Preserve / Open Space
Acres: 4.31







## Park Amenities
___ Park Sign
___ Litter Receptacle
___ Recycling Receptacle
___ Bench
___ Dugout Bench
___ Small Bleacher
___ Large Bleacher
___ Picnic Table
___ Picnic Table (ADA)
___ Drinking Fountain
___ Grill
___ Bike Rack
___ Pet Waste Station
___ Fire Ring
___ Park Light Pole
___ Small Picnic Shelter
___ Large Picnic Shelter
___ Small Shade Structure
___ Large Shade Structure
___ Restroom Building

## Play Amenities
___ Play Equipment (Modular)
___ Play Equipment (Independent)
___ Swing Set
___ Open Play Area
___ Sand Volleyball Court
___ Soccer Net (Portable)
___ Backstop
___ Basketball Court
___ Basketball Hoop

## Trail Amenities
___ Trail
___ Rules Sign
___ Trail Lighting
___ Parking Lot
___ Trail Head
___ Bike Repair Station
___ Pedestrian Bridge

## Sports Fields
___ Soccer Field
___ Baseball Field
___ Softball Field
___ Youth Softball Field
___ Teeball Field
___ Batting Cage
___ Football Field
___ Concession Stand
___ Storage Shed
___ Tennis
___ Pickleball Court
___ Athletic Field Light Pole

## Special-Use Amenities
___ Skate Park
___ Disc Golf
___ Small Dog Park
___ Large Dog Park
___ Shelter House
___ Campground
___ Stage
___ Fishing Pier
___ Garden Plot
___ Horseshoe Pit
___ Canoe Launch

## Other Amenities
___ Above Ground Planter
___ Memorial
___ Flag Pole
___ Administration Building
___ Public Art

## Notes
Open space, no amenities.

Amenity Inventory for

# Highground Public Use

Location: North end of town up High Ground Ave near the water tank
Classification: Nature Preserve / Open Space
Acres: 4.31



Amenity Inventory for

# Green Acres Park

Location: Northeast side of town between Ash Lane and Elm Lane on Park Drive.
Classification: Neighborhood Park
Acres: 2.94









## Park Amenities
__ Park Sign
4 Litter Receptacle
__ Recycling Receptacle
2 Bench
4 Dugout Bench
__ Small Bleacher
__ Large Bleacher
9 Picnic Table
__ Picnic Table (ADA)
__ Drinking Fountain
__ Grill
__ Bike Rack
1 Pet Waste Station (bags only)
__ Fire Ring
__ Park Light Pole
__ Small Picnic Shelter
__ Large Picnic Shelter
__ Small Shade Structure
__ Large Shade Structure
__ Restroom Building

## Play Amenities
1 Play Equipment (Modular)
__ Play Equipment (Independent)
1 Swing Set
1 Open Play Area
__ Sand Volleyball Court
__ Soccer Net (Portable)
1 Backstop
1 Basketball Court
3 Basketball Hoop

## Trail Amenities
__ Trail
__ Rules Sign
__ Trail Lighting
__ Parking Lot
__ Trail Head
__ Bike Repair Station
__ Pedestrian Bridge

## Sports Fields
__ Soccer Field
__ Baseball Field
__ Softball Field
__ Youth Softball Field
__ Teeball Field
__ Batting Cage
__ Football Field
__ Concession Stand
__ Storage Shed
__ Tennis
__ Pickleball Court
__ Athletic Field Light Pole

## Special-Use Amenities
__ Skate Park
__ Disc Golf
__ Small Dog Park
__ Large Dog Park
__ Shelter House
__ Campground
__ Stage
__ Fishing Pier
__ Garden Plot
__ Horseshoe Pit
__ Canoe Launch

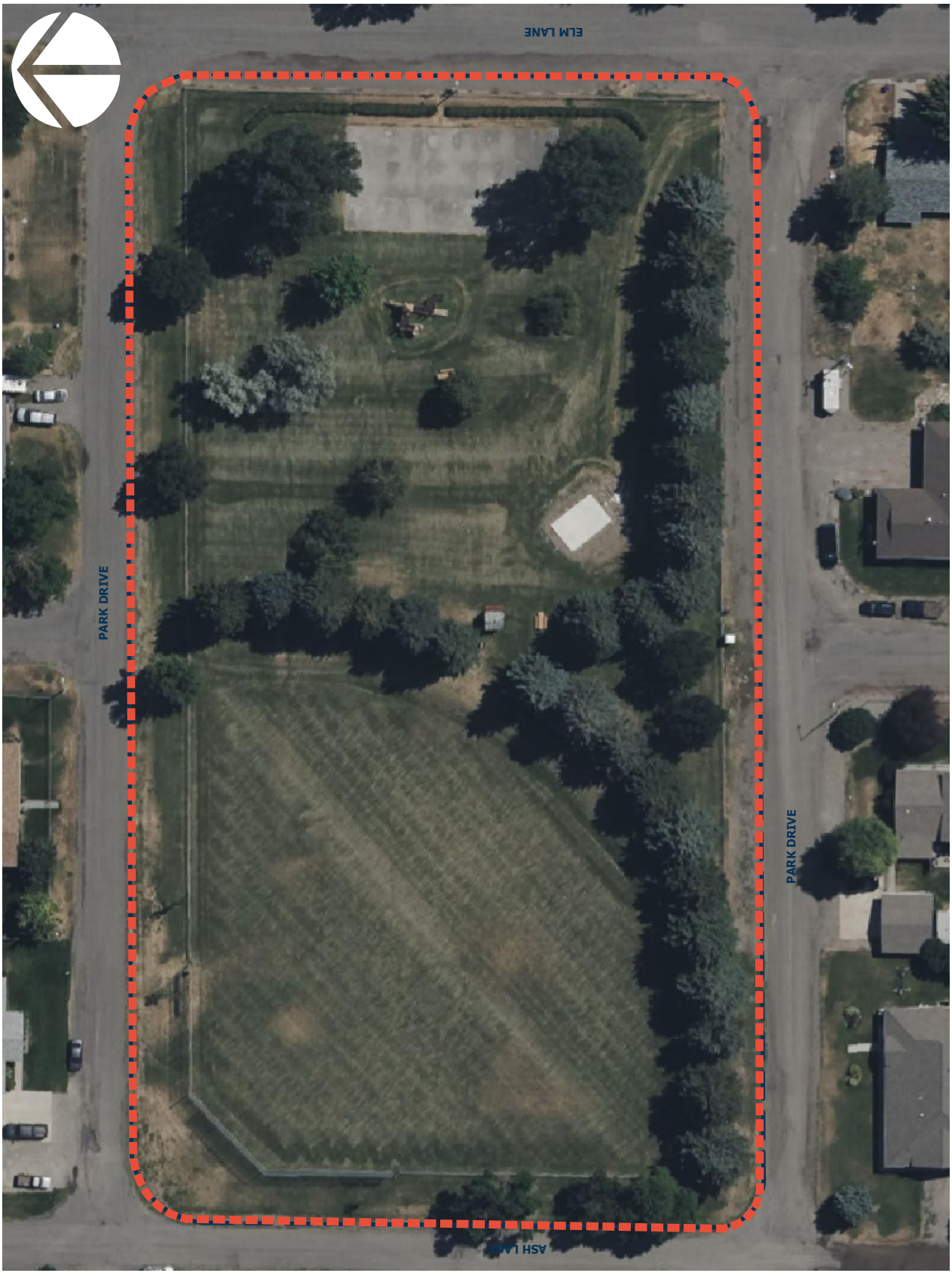
## Other Amenities
__ Above Ground Planter
__ Memorial
__ Flag Pole
__ Administration Building
__ Public Art

## Notes
Nice neighborhood park on the NE side of town. Most equipment is in decent shape. The basketball hoops could be replaced. Gravel surfacing under play equipment and swings is not accessible. No accessible route or parking. Large open green space with back stop is well maintained. No ag lime. Entire park is fenced in with 4' chain-link fence.

Amenity Inventory for

# Green Acres Park

Location: Northeast side of town between Ash Lane and Elm Lane on Park Drive.
Classification: Neighborhood Park
Acres: 2.94



# Appendix 5

## Action Plan Recommendations

Scale: 1" = 150'

2ND STREET
BUTTE STREET
FIREFIGHTER PARK
MILES PARK ROAD
SKATE PARK
CIVIC CENTER
MILES PARK LAGOON
229 PARKING SPACES
SACAJAWEA PARK
RIVER DRIVE
60.00'
220.00'
60.00'







## Park Recommendations

1. REORIENT AND REBUILD 4 SOFTBALL /LITTLE LEAGUE FIELDS WITH CONCESSIONS / RESTROOM BUILDING AND 20' x 20' SHELTER AT THE CENTER
2. BUILD (2) TEE BALL FIELDS & MULTI-PURPOSE RECREATION SPACE WITH 20' X 20' SHELTER
3. INSTALL CONNECTION FROM TRAIL TO SOFTBALL/BASEBALL COMPLEX
4. ADD PLAY AREA WITH SEATING AND 20' x 20' SHELTER
5. FORMALIZE PARKING LOT (229 SPACES ) WITH DROP OFF LANES
6. REMOVE/CLOSE MILES PARK ROAD AND TURN TO TRAIL CREATING A LOOP AROUND MILES PARK
7. INSTALL ACCESSIBLE SEATING AND ACCESSIBLE ROUTE TO BAND SHELL
8. EXPAND FARMERS MARKET SPACE WITH COVERED PAVILION & ADD PLAZA IN FRONT OF MURAL
9. REEVALUATE OUTDOOR SWIMMING POOL AREA ONCE INDOOR POOL AT THE RECREATION CENTER HAS BEEN OPERATIONAL A FEW YEARS
10. ADD RAISED CROSSWALK & SIDEWALK CONNECTION TO SCULPTURE AREA
11. INSTALL STANDARDIZED PARK SIGN
12. DREDGE LAGOON
13. SKATE PARK FUTURE EXPANSION AREA
14. ADA FISHING ACCESS LOCATION

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:20 PM

# Miles Park
## Livingston Parks Master Plan

## Park Recommendations

1. CLOSE MCGEE DRIVE AND DEAD END INTO A PARKING LOT (61 PARKING SPACES)
2. ADD 20' x 30' PICNIC SHELTER
3. CONSTRUCT 2 PICKLEBALL COURTS WITH SHADE STRUCTURES FOR TENNIS AND PICKLEBALL COURTS
4. ADD ON-STREET ANGLED PARKING TO YELLOWSTONE STREET (22 PARKING SPACES)
5. REMOVE VETERAN'S MEMORIAL FROM ROADWAY AND CONSTRUCT FORMAL VETERAN'S MEMORIAL WITHIN PARK
6. RECONSTRUCT INTERSECTION INTO RAISED CROSSWALK INTERSECTION
7. RELOCATE HORSE SHOES AND/OR HAVE DEDICATED AREA FOR OTHER YARD GAMES
8. CONSOLIDATE BUILDINGS AND CONSTRUCT A NEW RESTROOM AND PICNIC SHELTER
9. CONSOLIDATE PLAY EQUIPMENT INTO ONE CENTRALIZED AREA. PLAY EQUIPMENT SHOULD BE A UNIQUE PLAY EXPERIENCE (E.G. NINJA WARRIOR COURSE)
10. CONSTRUCT WALKING / EXERCISE CIRCUIT AROUND 3 MINI PITCH SOCCER FIELDS. WALKING LOOP IS APPROXIMATELY A QUARTER MILE
11. ADD PARKING LOT OFF OF RIVER DRIVE (51 PARKING SPACES)
12. CONSTRUCT RAISED CROSSWALKS FROM PARK TO TRAIL ACROSS RIVER DRIVE
13. ADD TRAIL HEAD WITH MAP & PARK SIGN
14. CONVERT MAINTAINED TURF GRASS TO NATIVE GRASSES
15. CONNECT TO EXISTING BRIDGE & NEIGHBORHOOD TO WEST
16. INSTALL STANDARDIZED PARK SIGN
17. CONSTRUCT PARKS MAINTENANCE/STORAGE BUILDING
18. REMOVE EXISTING PICNIC SHELTER












File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:20 PM

# Sacajawea Park
## Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA

Scale: 1" = 20'

BUTTE STREET

3RD STREET

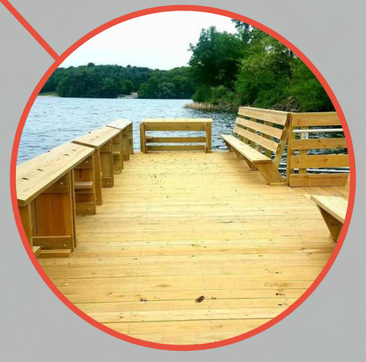




## Park Recommendations

1. INSTALL ARTIFICIAL TURF WITH SAFETY PAD AROUND EXISTING CLIMBING STRUCTURES
2. INSTALL NEW CLIMBING EQUIPMENT
3. RELOCATE EXISTING BENCH
4. CONSTRUCT NEW 16' x 16' PICNIC SHELTER
5. INSTALL ACCESSIBLE ROUTE FROM EXISTING SIDEWALK TO NEW PICNIC SHELTER
6. CONSTRUCT SIDEWALK FROM PICNIC SHELTER TO BENCH
7. PLANT EVERGREENS TO PROVIDE SCREENING AND SEPARATION FROM NEIGHBORING RESIDENCE
8. INSTALL STANDARDIZED PARK SIGN
9. CONSTRUCT FISHING DOCK





MILES LAGOON

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:20 PM

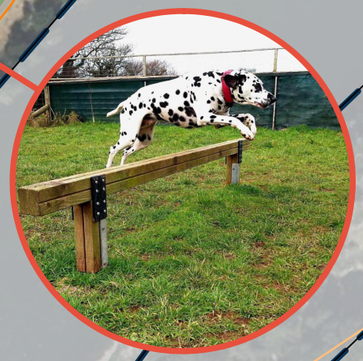
# Firefighter Park
Livingston Parks Master Plan

## Park Recommendations

1. INSTALL STANDARDIZED PARK SIGN
2. FORMALIZE PARKING LOT (63 SPACES)
3. ADD BOAT TRAILER PARKING FOR BOAT LAUNCH (24 SPACES)
4. CONSTRUCT PEDESTRIAN BRIDGE OVER YELLOWSTONE RIVER CONNECTING MAYOR'S LANDING TO MEYERS RIVER VIEW PARK
5. CAP FORMER LANDFILL AREA WITH CLAY AND TOPSOIL AND RESEED.
6. ADD AGILITY AMENITIES FOR DOG PARK AND BENCHES ALONG TRAIL
7. INSTALL NEW VAULT TOILET
8. ADD 16'x16' PICNIC SHELTER
9. ADD 16'x32' PICNIC SHELTER







EXISTING DRIVING RANGE

BOAT TRAILER PARKING (24 SPACES)

PARKING (49 SPACES)

BOAT LAUNCH

MEYERS RIVER VIEW PARK

YELLOWSTONE RIVER

VIEW VISTA DRIVE

PROPOSED YELLOWSTONE RIVER TRAIL, MILES PARK TO MAYOR'S LANDING

Scale: 1" = 150'

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:20 PM

# Mayor's Landing / Moja Dog Park
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA




## Park Recommendations

1. INSTALL STANDARDIZED PARK SIGN
2. ADJUST ADA PARKING SIGN TO BE 60" ABOVE THE GROUND
3. FORMALIZE PARKING LOT (25 STALLS)
4. INCORPORATE INTERPRETIVE & EDUCATIONAL SIGN STATIONS ALONG TRAIL

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:20 PM

# Myers River View
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA




## Park Recommendations

1. INSTALL FENCING TO CREATE SMALL AND LARGE DOG FENCED DOG PARK
2. INSTALL LITTER RECEPTACLES FOR DOG WASTE
3. ADD 20' X 20' PICNIC SHELTER
4. INSTALL STANDARDIZED PARK SIGN
5. INSTALL ACCESSIBLE ROUTE TO DOG PARK
6. EXISTING WELL HOUSE LOCATION
7. EXISTING SISTER CITIES GARDEN

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:20 PM

# Water Plant Park
## Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA

10TH STREET

9TH STREET

RIVER DRIVE

Scale: 1" = 30'



YELLOWSTONE RIVER

## Park Recommendations

1. CONTINUE TRAIL THROUGH RIVERSIDE PARK
2. REMOVE GRAVEL PARKING LOT
3. INSTALL STEPPED STONE ACCESS TO YELLOWSTONE RIVER
4. INSTALL NEW 20' x 20' PICNIC SHELTER
5. INSTALL STANDARDIZED PARK SIGN
6. RELOCATE INFORMATIONAL SIGNS AND INSTALL ON CONCRETE PAD
7. EXISTING CANOE/KAYAK BOAT RAMP

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# Riverside Park
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA





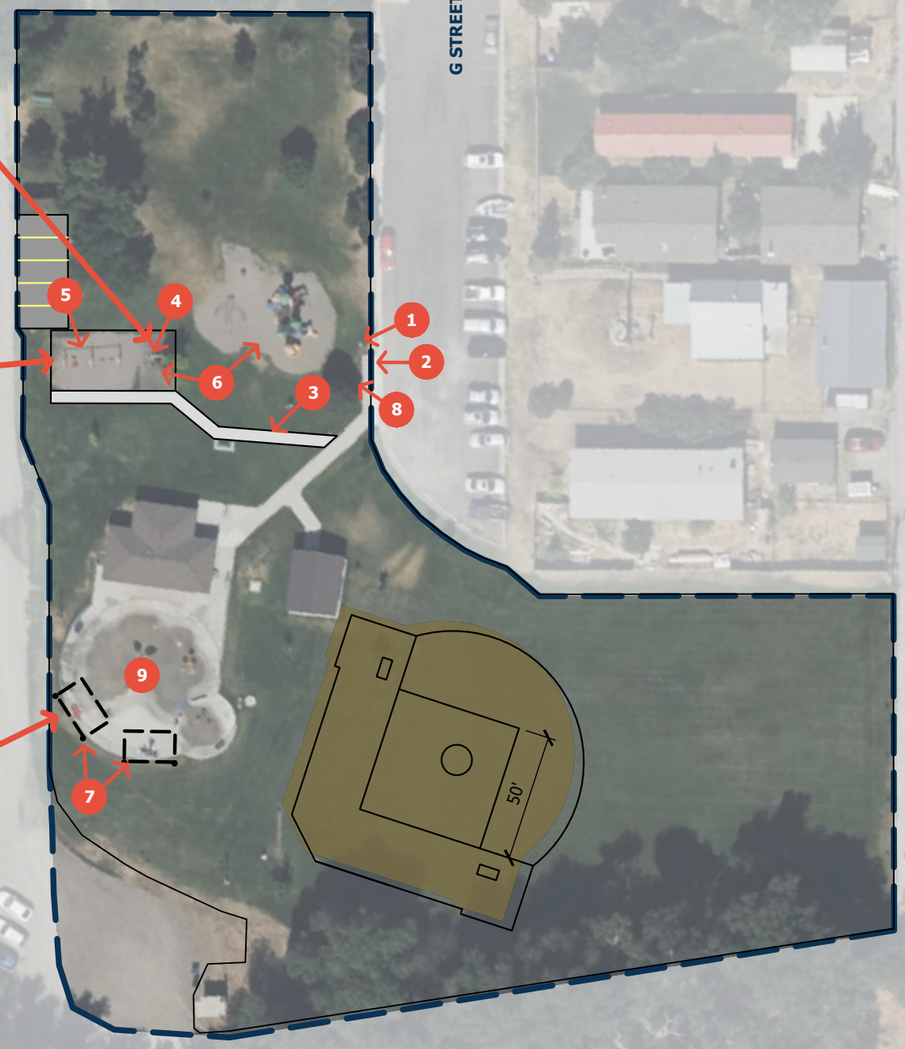



GEYSER STREET

F STREET

G STREET

H STREET




Scale: 1" = 60'

## Park Recommendations

1. ADJUST ADA PARKING SIGN TO BE 60" ABOVE THE GROUND
2. INSTALL ACCESSIBLE CURB RAMP FOR ADA PARKING SPACE
3. INSTALL ACCESSIBLE ROUTE TO BENCH AND ACCESSIBLE SWING
4. REPLACE ADA SWING WITH "SWAY FUN" OR SIMILAR INCLUSIVE PLAY ELEMENT
5. ADD MOLDED BUCKET SEAT OR TOT SEAT TO SWINGS
6. INSTALL RUBBER SURFACING UNDER PLAY EQUIPMENT FOR ACCESSIBLE FALL PROTECTION SURFACE
7. INSTALL TWO SHADE STRUCTURES FOR THE EXISTING SPLASH PAD
8. INSTALL STANDARDIZED PARK SIGN
9. ADD ABOVE GROUND SPRAY FEATURES TO EXISTING BASES IN SPLASH PAD
10. BUILD TEE BALL FIELD

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# Mike Webb Park
Livingston Parks Master Plan



LIVINGSTON MONTANA

Scale: 1" = 20'

PARK STREET

9TH STREET

CALLENDER STREET

## Park Recommendations

1. REMOVE EXISTING SIGN
2. REMOVE PARK FROM LIVINGSTON PARK SYSTEM DUE TO SIZE, ACCESSIBILITY/SAFETY AND LOCATION

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# Bozeman Park
Livingston Parks Master Plan




Scale: 1" = 100'

## Park Recommendations

1. STRIPE ACCESSIBLE PARKING STALLS AND ACCESS AISLE.
2. INSTALL CONCRETE SURFACING FOR ACCESSIBLE PARKING SPACES & STRIPE PARKING STALLS AND ACCESS AISLE.
3. INSTALL STANDARDIZED PARK SIGN
4. CONSTRUCT TRAINING AREA
5. CONSTRUCT PLAYGROUND AREA ADJACENT TO CONCESSIONS SEATING

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# North Side Soccer Park
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA

Scale: 1" = 80'

320.00'

NEBULA STREET
CONSTELLATION DRIVE
QUASAR LANE
NORTHERN LIGHTS ROAD
MILKY WAY DRIVE
COMET BOULEVARD

## Park Recommendations

1. ADD CONCRETE SURFACING TO INCREASE ACCESSIBILITY AND DECREASE WEED MAINTENANCE
2. ADJUST FENCING TO MATCH LEFT FIELD
3. INSTALL ROADWAY AND PARKING LOT (64 STALLS)
4. REROUTE TRAIL
5. CONSTRUCT ON-STREET PARKING (21 STALLS)

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# Jack Weimer Memorial Park
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA

Scale: 1" = 50'

NORTHERN LIGHTS ROAD

STARR ROAD











## Park Recommendations

1. PAVE PARKING FOR 11 PARKING STALLS AND 1 ADA STALL AND ACCESS AISLE.
2. INSTALL ACCESSIBLE ROUTE THROUGH PARK
3. INSTALL NEW 20' x 20' PICNIC SHELTER WITH VAULT RESTROOM
4. INSTALL NEW NATURE INSPIRED PLAYGROUND EQUIPMENT ON POURED IN PLACE RUBBER SURFACING

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# Mars Park
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA

Scale: 1" = 50'

PARK DRIVE

ASH LANE

ELM LANE

PINE STREET

PARK DRIVE

60'

42'

74'

30'

## Park Recommendations

1. PAVE ADA PARKING STALL AND ACCESS AISLE
2. INSTALL ACCESSIBLE ROUTE THROUGH PARK
3. INSTALL BENCH
4. INSTALL POURED IN PLACE RUBBER SURFACING AROUND EXISTING PLAY EQUIPMENT AND SWINGS
5. EXISTING VAULT RESTROOM
6. CONSTRUCT AG-LIME INFIELD
7. JUNIOR BASKETBALL COURT
8. JUNIOR BASKETBALL HALF-COURT

File Location: S:\Projects\2024\24186 - Livingston MT Parks Master Plan\Construction Documents\Working Files\Drawings\24186 - Livingston GIS Data.dwg \ Plot Date: 9/30/2025 7:21 PM

# Green Acres Park
Livingston Parks Master Plan

9/30/2025 SEI#24186

LIVINGSTON MONTANA

# Appendix 6

## Level of Service Analysis Maps

# SCOPE OF BASIC SERVICES

**Date:** May 30, 2024
**Client:** City of Livingston, MT
**Project**: Parks System Master Plan
**SEI No:** 24186

**Description:** In general, the Project consists of the creation of a comprehensive Citywide Parks and Trails Master Plan.

The following is a scope of work meant to describe services to be provided to the Client for the abovementioned project. Work listed below will be completed by Stockwell Engineers, Inc. (Stockwell) unless otherwise stated. Work not explicitly listed shall be considered an additional service. Stockwell to perform services in a phased sequence. Owner to provide such reviews, approvals, and consents from others as may be necessary for completion of each phase or milestone of the Project. Significant changes to previously approved phases shall be considered an additional service. Stockwell has included expenses for (3) trips to Livingston. The scope is organized into the following phases.

## Phase 1 | Planning Context

1.1 Coordinate and conduct project kickoff meeting (virtual) with Client's staff.

- 1.1.1 Establish timeline for project.
- 1.1.2 Establish goals.
- 1.1.3 Establish steering committee.

1.2 Review all background information made available to Stockwell by Client.

- 1.2.1 Previous Parks Master Plan
- 1.2.2 School District plans.
- 1.2.3 Planning studies.
- 1.2.4 2021 Growth Policy.

1.3 Establish list of Stakeholders.

- 1.3.1 Schools, athletic associations, city staff, park staff, other service providers, etc.

1.4 Evaluate City Ordinance and mandates related to parks and open space requirements.

*Deliverables: Meeting minutes.*

## Phase 2 | Existing Facilities Analysis

2.1 Review and confirm, modify, or add to existing park classifications and preferred standards.

2.1.1 Classifications to consider size, population served, and amenity types/services.

2.1.2 Facility standards include level of service standards and the population served per recreational facilities and park amenities.

2.2 Conduct site visit to assess level of service of the existing city-wide park components.

2.2.1 Consistency of elements among park types (i.e. parking, walks, surfacing, play equipment, amenities, etc.)

2.2.2 Missing program elements.

2.2.3 Elements in need of maintenance and/or replacement.

2.2.4 "Basic" accessibility and safety issues.

- Full accessibility code analysis and safety review is not included in the scope of work.

2.3 Review existing trail master plan and layout to identify key connections and gaps in service.

2.4 Develop maps showing existing parks, trails, residential areas, and level of service.

2.5 Review and meet with City officials about growth of City, planned residential areas, and future park area needs.

2.6 Conduct meeting (virtual) with Client to review information developed and maps.

*Deliverables: Level of service maps; existing park exhibits; and meeting minutes.*

## Phase 3 | Needs Analysis

3.1 Coordinate and conduct four (4) focus group meetings. Client to assist with determining which groups will be included in the meetings. Prepare informative exhibits and presentations as necessary.

3.1.1 Maximum one and half (1.5) hours in length.

3.1.2 Determine the community's assessment of the existing park facilities.

3.1.3 Discuss community desired park elements and ideas.

3.1.4 Prepare agenda and necessary presentations.

3.1.5 Client to provide:

- Venue.
- Advertisement.
- Invitations to stakeholders and public meetings.

3.2 Utilize maps previously prepared showing existing parks, trails, residential areas, and level of service to determine underserved areas and potential locations for new park facilities.

3.3 Develop web based public survey to ask the public similar questions discussed in focus groups.

3.3.1 Drafts of survey for review with Client.

3.4 Present a summary of findings from the inventory, needs assessment and initial analysis for validation by staff and steering committee.

3.5 Coordinate and conduct a public meeting to present findings. Prepare informative exhibits and presentations as necessary.

3.5.1 Maximum two (2) hours in length.
3.5.2 Determine the community's assessment of the existing park facilities.
3.5.3 Discuss community desired park elements and ideas.
3.5.4 Provide information regarding project progress and timeline.
3.5.5 Answer any questions or comments.
3.5.6 Client to provide:

- Venue.
- Advertisement.
- Invitations to stakeholders and public meetings.

*Deliverables: Survey; and meeting minutes.*

## Phase 4 | Vision, Goals & Objectives

4.1 Prepare vision statement for the master plan recommendations.

4.2 Goals laid out in short-, mid-, and long-term goals based on public input.

*Deliverables: Vision statement; master plan goals.*

## Phase 5 | Physical Planning & Recommendations

5.1 Determine recommendations for capital improvements.

5.1.1 Improvements to existing parks.

- Basic recommendations and loose graphics over aerial images of each park.

5.1.2 Identify future park sites.
5.1.3 Trail connections.
5.1.4 General capital costs and recommendations for the next two (2), five (5) to ten (10) years.

*Deliverables: Capital cost recommendations; existing park exhibits.*

**Phase 6 | Master Plan Draft & Final Reports**

6.1 Prepare draft master plan.
6.1.1 Summarize and synthesize all research and stakeholder input.
6.1.2 Recommendations phased into short-, mid-, and long-term time frames that address goals and action strategies.
6.2 Submit to Client one electronic pdf copy of the draft master plan and presentation.
6.3 Conduct draft plan and presentation review meeting (virtual).
6.4 Address comments to review documents and incorporate into final deliverables.
6.5 Prepare final master plan.
6.5.1 Develop executive summary.
6.6 Submit to Client one electronic pdf copy of the final master plan.
6.7 Present final master plan to Steering Committee.
6.8 Present final master plan to City Council.

*Deliverables: Draft master plan; and final master plan.*

# Additional Services

A non-comprehensive outline of additional services and exclusions from Stockwell's proposal are listed below. If authorized in writing by Client, Stockwell will furnish additional services over and above the amount set forth by this agreement. Compensation for additional services will be at Stockwell's current hourly rates or otherwise as mutually agreed upon by both parties.

- Demographic analysis.
- Evaluation of use agreements.
- Management structure.
- Funding analysis.
- Operational analysis.
- Programs analysis.

- Aquatic facility analysis.
- Mapping of specific park amenities (i.e. fields, playgrounds, picnic shelters, etc.).
- Level of service guidelines and standards.
- Benchmarking comparisons of similar park systems.
- Alternative funding options for park improvements.
- Technical reports other than the final master plan report.
- Topographic survey.
- Construction documents.
- Full pavement analysis of trails.
- Additional trips for in-person meetings – estimated at $8,900.00 per trip.

## Compensation

Client shall pay Stockwell for Basic Services in accordance with the Standard Terms and Conditions. The estimated amount specified includes compensation for Engineer's services and services of Engineer's Subcontractors and Subconsultants, if any. Appropriate amounts have been incorporated in the estimated compensation to account for labor costs, overhead, profit, and expenses (other than any expressly allowed Reimbursable Expenses). In addition to the estimated compensation, Engineer is also entitled to reimbursement from Owner for Reimbursable Expenses. The portion of the estimated compensation amount billed for Engineer's services will be based upon Engineer's estimate of the percentage of the total services actually completed during the billing period. Engineer may also bill for any Reimbursable Expenses incurred during the billing period. Compensation will not exceed the total estimated amount unless approved in writing by the Owner.

End Scope of Basic Services

City of Livingston

220 E. Park St

Livingston, MT 59047

Oct 6, 2025

Represented by a group of concerned community members.

Dear City Commission,

Tonight, we are submitting a petition by the City of Livingston and Park County Citizens who utilize, share, walk, run, bike, play and enjoy our parks throughout the City of Livingston community.

Tonight, we are turning in 420 signatures from the City and County residents and we are not done as many signature pages are still out and still collecting.

The reason for the petition is basically down to three categories.

1. To make sure ALL citizens are aware of the Parks Master Plan created by the City Staff and Stockwell Engineers, that will be up for a vote by the commission for changes.

2. The survey the City had out to the public was not adequate as the questions and survey points were repetitious, not all questions were included and basically not user friendly. This was brought to

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | ROSEMARY SKELCY-BROWN | Rosemary Skelcy Brown | 1215 WILDFLOWER TRL |
| 2 | KRISTINA LANKFORD | | 720 N. 10th St Liv MT 59047 |
| 3 | Diana Ramponi | Diana Ramponi | 319 S 8th Livingston |
| 4 | Terry Devine | | 1 Pine Grove Ln. Liv. |
| 5 | DENNIS PLUMMER | | 515 N. F. ST |
| 6 | Bob Shillman | Bob Shillman | 522 N 11th St |
| 7 | Michael Co | | 65 m outside Livg |
| 8 | Steven Howes | | 822 East Geyser |
| 9 | David Giambra | David Giambra | ~~400~~ 326 S. 7th |
| 10 | Dari Feigel | | 415 S. F. ST. |
| 11 | Chris Burke | | 407 S 6th St |
| 12 | DEAN ZIEGLER | | E. LEWIS |
| 13 | | | 1524 MT. BALDY DR. |
| 14 | Amy Otten | Amy Otten | 80 Bozeman Hill Rd |
| 15 | | | |
| | Linda Jang | Verified signature & date | 10-5-2025 |

iis petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Rick Whitman | 12 Sept '25 | 1201 Wineglass Ct Apt F Livingston MT 59047 |
| 2 | Dakota Talt | 12 Sept 25 | 1202 wineglass ct unit H Livingston mt 59047 |
| 3 | Ross Olmstead | 12 Sept 25 | 611 North W Street #6 Livingston MT 59047 |
| 4 | Jennifer Lein Fuller | 12 Sept 2025 | 1202 Wineglass Ct Unit G Livingston, MT 59047 |
| 5 | Bj Kohler | 9-12-25 | 123 So. Mo St. 59047 Livingston, MT |
| 6 | Randy J. Kohler | 9/12/25 | 123 So. Mo St Livingston MT. 59047 |
| 7 | Tiffany Dennison | 9/13/25 | 15 CRAZYHEAD RD Livingston, MT 59047 |
| 8 | Deanna Brame | 9/13/25 | 410 N. 6th Street Liv, MT 59047 |
| 9 | KEITH LAWRIE | | 109 S NINTH ST LIV. MT. 59047 |
| 10 | TAMMY PAYNE-SMITH | 9-14-25 Tammy Payne-Smith | 425 N. 6TH LIVINGSTON MT 59047 |
| 11 | Matt Smith | 9/14/25 | 425 N. 6th St. Livingston, MT 59047 |
| 12 | Scott McMillion | 9-14-25 | 530 N 6th ll Livingston, MT 59047 |
| 13 | Wayde Haag | Wayde Haag 9-14-25 | 512 N 6th Livingston MT 59047 |
| 14 | KERI RUSSELL | Keri Russell 9.14.25 | 2003 SUN AV. LIVINGSTON, MT 59047 |
| 15 | ELAINE KIMBLER | Elaine Kimbler 9-14-25 | 1313 W. Geyser Liv, MT 59047 |
| | Barbara Britt | Verified signature & date | 10-6-25 |

Barbara Britt

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | ROBIN OGATA | | 226 S. MAIN, LIVINGSTON |
| 2 | Dick Murphy | | POBox 322 |
| 3 | THOMAS MURPHY | | 424 S 11 LIVINGSTON |
| 4 | Rob Cahrel | | 507 S 10th Street Livingston |
| 5 | RICHARD A. SMITH | Richard A Smith | 145 W. GEYSER LIVINGSTON |
| 6 | Skye Murphy | | 424 S. 6th St. Livingston |
| 7 | John Murphy | | 424 S 6th Livingston, MT |
| 8 | Tina Olson | | 311 W. Geyser |
| 9 | JENNA WRIGHT | | 115 E 3RD ST LIVINGSTON, MT |
| 10 | KENTUCKY | | 110 S 3RD ST LIVINGSTON MT |
| 11 | Will Potenberg | | 1629 N Hobart, Blvd, #2 Los Angeles, CA 90027 |
| 12 | Steve Jones | | 304 S. I. Livingston, MT 59047 |
| 13 | Skyp | Skip Nielsen | 455 South 6th Street |
| 14 | MICAEL MURPHY | Micael Murphy | 228 S 11th ST LIVINGSTON, MT. |
| 15 | Anne Nichting | Anne Nichting | 81 Mission Meadow Rd Livingston, MT 59047 |
| | Linda Jay | Verified signature & date | 10-6-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Mark Nardin | | 1024 Prairie Dr Livingston 59047 |
| 2 | Beverly Dawson | Beverly Dawson | 426 S. 11th Livingston MT 59047 |
| 3 | Joe Fay | Joe Fay | 329 S. 2nd St Livingston MT 59047 |
| 4 | Donald Wood | Donald Wood | 22 E. Iron Horse Lane 59047 |
| 5 | Adam Tanner | Adam Tanner | 1003 E. Montana St |
| 6 | Cathy Brandon | Cathy Brandon | 5 Carol Lane Livingston |
| 7 | Rusty Tripp | Rusty Tripp | 989 Swingley Road 59047 |
| 8 | Lisa Phelan | | 898 Hwy 89 N/Livingston |
| 9 | Martha Downing | | ~~1106~~ 1106 W Park St Livingston MT |
| 10 | Dan Downing | | 1106 WEST PARK ST LIVINGSTON MT. |
| 11 | Wayne Triplett | Wayne Triplett | 610 Nova Drive |
| 12 | Jay Griggs | Jay Griggs | 266 Red Pine Trl Hudson WI 54016 |
| 13 | Janice Carlson | Janice Carlson | 112 Elm Ln Livingston MT 59047 |
| 14 | Cy Conner | Cy Conner | 112 Elm Livingston MT 59047 |
| 15 | | | |
| | Linda Tapp | Verified signature & date | 10-6-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Brad Palmer | Brad Palmer 9-12-25 | 8 Bighorn dr Livingston MT 59047 |
| 2 | Cindy Anderson | 9-12-25 Cindy Anderson | 76 Shamrock Lane Livingston MT 59047 |
| 3 | PAUL DONELL | 9-12-25 | 119 S. M. ST. LIVINGSTON MT |
| 4 | Mike McLaughlin | 9-12-25 | 606 Nova Drive 59047 |
| 5 | Lori Clift | 9-12-25 | 614 Meadowlark Ln 59047 |
| 6 | Donald L Clift | 9-12-25 | 614 Meadowlark Ln. |
| 7 | Diana Berlin | 9-12-25 | 220 So H Livingston MT 59047 |
| 8 | Mary Lou Miller | 9-12-25 | 1202 Wineglass Unit B Livingston, MT 59047 |
| 9 | Michael Demaline | 9-12-25 | 1202 Wineglass Unit B |
| 10 | Paula Booth | 9/12/25 | 12.02 Wineglass Ct. Unit A Livingston, MT 59047 |
| 11 | Dorothy Quesenberry | 9/12/25 | 1202 Wineglass ct unit D Livingston, MT 59047 |
| 12 | Karen Coates | 9-12-25 | 1202 Leineglass Ct. unit F Livingston, MT 59047 |
| 13 | Joe Mowrey | 9/12/25 | 234 Constellation Pl Livingston MT 59047 |
| 14 | Kirsten Holy Cross | 9-12-25 | 1203 Wineglass Court Unit C Liv. Mt 59047 |
| 15 | Bryant Bowen | 9/12/25 | 1203 Wineglass Ct. Unit D Livingston MT 59047 |
| | Linda Jay | Verified signature & date | ~~Oct.~~ Oct. 6-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Barbara Britt | Barbara Britt | 919 W Crawford-Livingston |
| 2 | Linda A. Bales | Linda A. Bales | 620 E. Milky Way Dr Livingston |
| 3 | Jessica Haerr | JHaerr | 229 South 10th Livingston |
| 4 | Beth Smith | Beth Smith | 155 Canyon View DR Livingston |
| 5 | Cyndi Alverson | Cyndi Alverson | 65 Wineglass Loop Livingston-59047 |
| 6 | Howard Alverson | Howard Alverson | 65 Wineglass Loop Dr Livingston 59047 |
| 7 | Schona Mears | Schona Mears | 612 N. 9th St. Livingston, MT 59047 |
| 8 | Mary Sellars | MSellars | ~~315~~ 315 W Callender |
| 9 | Ellen Barron | Ellen Barron | 2221 Willow Drive |
| 10 | Steve Yaeger | Steve Yaeger | 166 Pamperin Dr. |
| 11 | Dorothy Parker | DOROTHY PARKER | 117 N M St. |
| 12 | MAGGIE PRINTZ | Maggie Printz | 79 N 8th ST. |
| 13 | Debra Shandy | Debra Shandy | 190 CANYON View Dr. |
| 14 | Muffy Norquist | MNorquist | 101 Arbor Dr. |
| 15 | Janet Myers | Janet Myers | 1305 E. Lawns |
| | Barbara Britt | Verified signature & date | 10-6-25 |

Barbara Britt

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Deborah Moyse | Deborah Moyse | 3 Katahdin 59047 Livingston MT |
| 2 | Roger Moyse | Roger Moyse | 3 Natahdin Lane Livingston MT 59047 |
| 3 | Judy Melin | Judy Melin | 214 S. 9th St Livingston, MT |
| 4 | Bob Meacham | Bob Meacham | 10 Royal Wulff Livingston, MT |
| 5 | Joanne Meacham Joanne Meacham | Joanne Meacham | 10 Royal Wulff Livingston, MT |
| 6 | Lana Sheen | Lana Sheen | 16 Felix Lane Livingston, MT |
| 7 | Don Sheen | Don Sheen | 16 Felix Ln Livingston |
| 8 | Frank Wombacher | Frank Wombacher | 712 Nebula St. city |
| 9 | Jean Sandberg | Jean Sandberg | 220 S Yellowstone |
| 10 | Beverly Harris | Beverly D. Harris | 202 So. 7th St. |
| 11 | Alice Senter | Alice Senter | 910 W Sammit Livingston |
| 12 | Teresa Lehman | Teresa Lehman | 214 W 5th Clyde Park MT 59018 |
| 13 | Ed Gilbert | Ed Gilbert | 408 Park Ave Clyde Park MT 59018 |
| 14 | Bruce Lay | Bruce Lay | 57 Cutthroat Lane Liv. 59047 |
| 15 | Cathy Pappert | Cathy Pappert | 15 Felix Lane Livingston MT 59047 |
| | Linda Tang | Verified signature & date | 10-15-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Kathy Guthrie | Kathy Guthrie | 107 S F St |
| 2 | JoAnn Ferguson | JoAnn Ferguson | 615 Robin Ln. |
| 3 | LuAn Peterson | LuAn Peterson | 97 Deep Creek Rd, So Fork |
| 4 | Robert Peterson | Robert Peterson | " " " " " |
| 5 | Bruce Gilman | Bruce Gilman | 112 Sunset Drive Livingston |
| 6 | THERESA GILMAN | Theresa Gilman | " " " " " |
| 7 | Richard A. Dyer | Richard A. Dyer | 1870 E. River Rd. Livingston |
| 8 | Jeff Mount | Jeff Mount | 10 COLEDALE SPUR RD - LIVINGSTON |
| 9 | Melody Mount | Melody Mount | 10 Coledale Spur RD Livingston |
| 10 | JOAN BERG | Joan Berg | 9 FELIX LN Livingston Mt. |
| 11 | Rita Wright | Rita Wright | 209 Main St W. Clyde Park |
| 12 | E. R. Lueben | E. R. Lueben | 205 Spruce Livingston |
| 13 | JAMES MEREDITH | James R Meredith | 206 Spruce Ln, Livingston |
| 14 | Avis Hammer | Avis Hammer | 17 Bonnie Way Livingston |
| 15 | JOE PIERCE | Joe D Pierce | 27 KESTREL RIDGE PARK |
| | Linda Jang | Verified signature & date | 10 - 12 - 2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | VIRGINIA SANDAL | Virginia Sandal | Wilsall mt 59086 214 Flathead crk Rd |
| 2 | Bill Martello | Bill MARTELLO | 406 S. YELLOWSTONE |
| 3 | Brenda Rowell | Brenda Rowell | 1310 E Montana #17 |
| 4 | Sandy Platt | Sandy Platt | 185 Diddle Creek Road |
| 5 | Connie Fiedler | Connie Fiedler | |
| 6 | DALE PRESSLEY | [illegible] | 604 N L ST |
| 7 | FRANK FESSENDEN | Frank Fessenden | 530 N K ST |
| 8 | Chris Lalich | Chris Lalich | 4 Leighton Dr. |
| 9 | Dona Poeschl | Dona Poeschl | 304 Northpark Drive |
| 10 | William Hughes | William T Hughes | 109 Liquin Hills Lane Wilsall MT 59086 |
| 11 | HANK Poeschl | Hank Poeschl | 304 Northpark Drive |
| 12 | Kathryn Rang | Kathryn Rang | 1201 # E Wine Glass |
| 13 | Rose Klumpers | Rose Klum | 1207 Wild flower Trail Ct |
| 14 | Kerwin Klumpers | Kevin Klumpers | 1207 Wildflower Trl. |
| 15 | William Russell Ferguson | William Russell Ferguson | 615 Robin Lane |
| | Lynda Lang | Verified signature & date | 10-12-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Timothy P. Bowers | Timothy P. Bowers | 136 Deep Creek Road Livingston, MT 59047 |
| 2 | Virginia Hawkes Hawes | Virginia Hawes | 822 East Geyser St Livingston, MT. 59047 |
| 3 | ROSEMARY SKELLY-BROWN | Rosemary Skelly Brown | 1215 WILDFLOWER TRL. LIVINGSTON MT |
| 4 | ROBERT BROWN | | 1215 Wildflower Trail Livingston |
| 5 | Peter Walter | | 204 W Reservoir St. Livingston |
| 6 | Cindy M Bowers | Cindy M Bowers | 136 Deep Creek Rd Livingston, MT 59047 |
| 7 | Marla Wagman Marla Wagman | Marla Wagman | 35 Lower Deep Cr Bench Rd. Livingston, MT 59047 |
| 8 | Pat Wagman | | 35 Lower Deep Cr Bench Rd Livingston, MT |
| 9 | Elton Dodge | Elton Dodge | 94 Pony Rd Livingston |
| 10 | Neada Skillman | Neada Skillman | 318 Cattle Mt Rd Livingston MT |
| 11 | Vikki Green | Vikki Green | Clyde Park MT |
| 12 | Shellie Martyn | | Livingston 120 S. 5th N St. |
| 13 | David Martyn | | Livingston MT 120 S. N St. |
| 14 | M Elaine Dodge | M Elaine Dodge | 94 Pony Rd Livingston, MT 59047 |
| 15 | Laurence Stephenson | LS Stephenson | 26 Sapphire Flat Trl Livingston |
| | Lynda Long | Verified signature & date | 10-14-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Arlene Roemer da Fellhe | Arlene Roemer da Fellhe | 106 Elm Lane Livingston |
| 2 | Karen Durow | Karen Durow | 105 PINE ST. West - Liv |
| 3 | Lane Marchington | Lane Marchington | Box 45 Emigrant |
| 4 | Marlene Glass | Marlene Glass | 106 Miller St. Liv. |
| 5 | Gary L Glass | Mary L Glass | 106 miller St Liv |
| 6 | Barb Romans | Barb Romans | 417 S.S-46 St Liv. |
| 7 | Dan Parker | Dan S. Parker | 513 W Greyser |
| 8 | Belinda Madden | Belinda Madden | 205 Blue Heron Dr. |
| 9 | Lisa Sholey | Lisa Sholey | 1105 Sweetgrass lane |
| 10 | Lindie Gibson | Lindie Gibson | 304 S. 2nd |
| 11 | Patricia Grabow | Patricia Grabow | 204 E. Callender St |
| 12 | Jake Nelson | Jake Nelson | 88 Falls Creek Rd |
| 13 | Kay Denham | Kay Denham | 1603 Robin LN A-2 59047 |
| 14 | Phallej Colvin | Phallej Colvin | 319 So. D St. Livingston |
| 15 | Barbara Agle | Barbara Agle | 212 Garnier |
| | Linda Jang | Verified signature & date | 10-11-2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | LINDA L. TANG | Linda L. Tang | 1327 W. Montana |
| 2 | Carol Merideth | Carol Merideth | 720 N 10th Livingston MT 59047 |
| 3 | JUNE LITTLE | June Little | 2502 CONSIDERATION 59047 |
| 4 | Sheryl Corder | Sheryl Corder | 109 Ash Lane Gr. Acres |
| 5 | Karen McClennen | Karen McClennen | 628 N 11TH |
| 6 | Robert Seely | Robert Seely | 322 So. H |
| 7 | Brad | BRIAN DACKARD | 166 miller dr |
| 8 | Jackie Feigel | Jackie Feigel | 17 Pony Rd |
| 9 | KEN MADDEN | Ken Madden | 205 Blue Heron Dr |
| 10 | William A Miller | William A. Miller | 1112 Ridgeview Tr Livingston |
| 11 | VICKI L Miller | Vicki L. Miller | 1112 Ridgeview Tr Livingston. |
| 12 | MATT SCHAEFFER | Matt Schaeffer | 60 Miller Dr. Livingston |
| 13 | Peggy O'Neill | Peggy O'Neill | 210 Ash Lane Livingston |
| 14 | JAKE NELSON | Jake Nelson | 88 FALLS CREEK RD Livingston MT |
| 15 | ROBERT BROWN | | 1215 WILDFLOWER TRAIL LIVINGSTON |
| | Linda Tang | Verified signature & date | 10-13-2025 |

This petition is a community driven



# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Mary Haug | Mary E. Haug | 33 W. Hoo Cr E Rd Livingston, MT 59047 |
| 2 | Audrey Dodge | Audrey Dodge | 45 Bear Run Rd Livingston MT 59047 |
| 3 | Becky Moores | Rebecca Moores | 2402 Constellation Drive Livingston 59047 |
| 4 | Gabriel Ford | Gabriel | 422 N Yellowstone #8 Livingston, MT 59047 |
| 5 | Valery O'Connell | Valery O'Connell | 54 Taurus Rd Emigrant, MT. 59027 |
| 6 | Barth Schroeder | | 612 W Clark Livingston MT 59047 |
| 7 | LINDA KENOYER | Linda K Kenoyer | 141 TIPSUE RD LIVINGSTON MT 59047 |
| 8 | CASEY WILLIAMS | Casey Williams | 110 N. 3rd St LIVINGSTON MT |
| 9 | Glenn Farrell | | 1116 W. MONTANA LIVINGSTON, MT 59047 |
| 10 | Deb Franks | Deb Franks | 530 N 3rd St. Livingston, MT 59047 |
| 11 | Tom Releford | Thomas Releford | 924 W. Crawford Livingston, MT 59047 |
| 12 | EVAN SCHAUER | Evan Schauer | 432 S 6th St Livingston MT 59047 |
| 13 | Fred Fleming | Fred Fleming | 214 W FRONT ST # LIVINGSTON MT |
| 14 | Marin Queen | Marin Queen | 417 S 10th |
| 15 | Judy Bonnell | Judy Bonnell | 618 No. 12th Livingston |
| | | Verified signature & date | |

Barbara Britt Barbara Britt 10-5-25

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Alan Shields | | 5St Livingston 59047 |
| 2 | DALONDA ROCKAFELLOW | Dalonda Rockafellow | 1201 MULE HAVEN DR LIVINGSTON 59047 |
| 3 | Jim Hannon | | 614 No. 14th St. Livingston, MT 59047 |
| 4 | Beverly Sandberg | | 322 N. Yellowstone Livingston, MT 59047 |
| 5 | Antonio Creel | | 411 1/2 Sout G St. |
| 6 | Chuck Watts | | 106 North C St. |
| 7 | MARILYN EVERLY | Marilyn Everly | 225 So. Yellowstone St |
| 8 | MIYA TYMOFICHUK | Miya Tymofichuk | 405. S. 10th St. |
| 9 | ROXANNE Tymofichuk | | 405 S. 10th ST. |
| 10 | Charles Tanner | | 51 Libra Dr Emigrant, MT 59027 |
| 11 | Krista Jeffery | Krista Jeffery | 601 E. Geyser Livingston |
| 12 | Angela Kusinac | Angela Kusinac | 111 S. I Street |
| 13 | Nick Pappyrakis | | 1005 Ridgeway Dr. |
| 14 | Rae Stevenson | RS MN | 75 Willow Creek Rd |
| 15 | Bob Parker | Bob Parker | 2 shamrock Ln. Livingston |
| | Barbara Britt | Verified signature & date | 10-1-25 |

Barbara Britt

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Ronalee Johnson | Ronalee Johnson | 80 Mo1 Heron Rd. Gardiner, MT 59030 |
| 2 | Mary Kramer | Mary Kramer | 390 CINNABAR BASIN RD GARDINER MT 59030 |
| 3 | Pamela ARNOLD | P Arnold | 44 Summit Way APT 1B GARDINER MT 59030 |
| 4 | Tami Fraelich | Tami Fraelich | 425 S 12th St Livingston, MT 59047 |
| 5 | Brian Leahy | B | 1203 10th St Livingston MT |
| 6 | Tim Anderson | Tim Anderson | 321 South 6th Livingston Mt. |
| 7 | Jake McGlothlin | | 517 10th St Livingston, MT |
| 8 | Kay Bergsing | Kay Bergsing | 907 W. Crawford Livingston, MT 59047 |
| 9 | RACHEL KETO | Rachel Keto | 905 WEST CRAWFORD ST. LIVINGSTON MT. 59047 |
| 10 | Pamela Reisenauer | Pamela Reisenauer | 417 N. Main St. Livingston MT 59047 |
| 11 | Dawne Utley | Dawne Utley | 109 W. Lewis APT 2-6 - LIVINGSTON |
| 12 | Laura Good | Laura Good | 65 Billman Lane B3 Livingston, MT. 59047 |
| 13 | Douglas Good | Douglas Good | 65 Billman Lane Tr. B3 Livingston, MT 59047 |
| 14 | Jordan Hutchinson | Jordan Hutchinson | 1365 E. Callatin #3 Livingston MT 59047 |
| 15 | TARA EDDY | Tara Eddy | 604 South 9th St Livingston, MT 59047 |
| | | Verified signature & date | |

Barbara Britt / Barbara Britt 10-1-25

Please turn into The Chamber of Commerce or call Barb Britt 1-406-224-5643

287

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Troy Selland | | 315 W. Callender St, City |
| 2 | Mary Selland | | 315 W Callender St. 59047 |
| 3 | Rebecca Schirmacher | | 111 Ash Ln |
| 4 | Jenny Parrish | Jenny Parrish | Livingston MT 59047. 614 West Lewis St |
| 5 | Laurel Hutchinson | Laurel Hutchinson | 1524 Mount Baldy Dr Livingston MT 5904 |
| 6 | William Bramberg | | 111 South 11th street |
| 7 | Sarah Joyal | | 424 N. 8th. |
| 8 | Charles Barber | | 416 S. 6th |
| 9 | Ben Hoover | | 1205 Wineglass Ct unit D |
| 10 | Robin Zank | | 119 NE 59047 |
| 11 | Karen Lynch | Karen Lynch | 709 East Callender |
| 12 | Jean Knight | Jean Knight | 117 NE ST Livingston |
| 13 | Nancy Carty | Nancy Carty | 325 S. main ST Apt 209 |
| 14 | Tyson Thomson | | 1004 Prairie Dr |
| 15 | Michael Sasse | Michael Sasse | 219 Garnier Ave #19 |
| | | Verified signature & date | |

Barbara Britt 10-1-25

This petition is a community driven



# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Catherine M Stephenson | Catherine M Stephenson | 26 Sapphire Flat Trl Livingston |
| 2 | Alyssa Miller | Alyssa Miller | 36 Strong Lane |
| 3 | Joe Miller | Joe Miller | 36 Strong Lane |
| 4 | Ken Bachmeier | K Bachmeier | 620 N. 11th |
| 5 | KARLENE SOWELL | Karlene Sowell | 51 Prairie DR |
| 6 | DAVEY SOWELL | Davey Sowell | 51 Prairie DR |
| 7 | Denise Nevin | Denise Nevin | 430 N. 8th St. |
| 8 | ANN FOSSUM | Ann Fossum | 244 Fleshman Ck Rd. |
| 9 | RICHARD LUND | Richard Lund | 609 N. 8TH |
| 10 | Janet Lee | | 609 N 8th |
| 11 | Scott Stern | Scott J Stern | 12 Alder - Livingston |
| 12 | MARTHA FOSSUM | Martha Fossum | 244 Fleshman Ck. Rd. - Liv |
| 13 | Joe Copenhaver | Joe Copenhaver | PO Box 334<br>100 Paradise Drive Liv |
| 14 | Julee Riley | Julee Riley | 214 S. 2ND St. Unit B 59047 |
| 15 | PAUL SUNVISON | | 117 PRAIRIE DR. LIVINGSTON MT. 59047 |
| | | Verified signature & date | JE 9-16-25 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th.

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft c August 2025, until all community demographic groups can participate with the survey forth. This petition to be turned in prior to the agenda meeting with notes. All commur members in the City and County are invited to sign as users of the Livingston parks lan

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Jennifer Simmons | Jennifer Simmons | 07 N. 10th Livingston, MT 59047 |
| 2 | Ed Gilbert | Ed Gilbert | 408 Park Ave Clyde Park, MT |
| 3 | TERESA Lehman | Teresa Leh | 214 W Sta Box 73 CP MT |
| 4 | Paul B Bradley | | 32 Rattlesnake Livingston MT |
| 5 | Dale Booth | Dale Booth | 113 So C Livingston MT |
| 6 | Bill JUHNKE | Bill Junkin | Box 722 Livingston MT |
| 7 | Kora Payne | Kora Payne | 101 Muddy Cr. Rd. Wilsall MT 59086 |
| 8 | Karla McGaugh | | 808 E Callender St Livingston MT 59047 |
| 9 | Elaine Booth | Elaine Booth | 113 So C Livingston |
| 10 | Alice Senter | Alice Senter | 910 W Summit Livingston MT 59047 |
| 11 | Julie Marshall | Julie Marshall | 22 Alder Lane Livingston MT 59047 |
| 12 | T. PHILLIP BOWERS | T. Phillip Bowers | 701 North N St Livingston MT 59047 |
| 13 | Nevaeh Dall | | 229 Junior AV Management TRAIL CREEK ROAD LIVINGSTON, MT 59047 |
| 14 | ERIC BRADLEY | | |
| 15 | David Counts | | 110 N. 6th Livingston, MT |

Appeal 10-4-25

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th.

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft c August 2025, until all community demographic groups can participate with the survey forth. This petition to be turned in prior to the agenda meeting with notes. All commur members in the City and County are invited to sign as users of the Livingston parks lan

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Corey D. Waldron | | 220 Downey Flats Loop N Livingston MT 59047 |
| 2 | Harley Simmons | | 7 Cookout Trl. Liv mt 59047 |
| 3 | Kari Kelly | | 617 Bluebird Ln Livingston |
| 4 | Katie Waldron | | 25 Business Parkway 59047 |
| 5 | Ginger J Calhoon | | 72 Broken Wheel Rd Livingston MT 59047 |
| 6 | Chuck Kelly | | 617 Bluebird Lane |
| 7 | Tim Hagey | | PO Box 1005 Livingston, MT |
| 8 | Donna R Gstohl | Donna R. Gstohl | 603 Robin Ln Livingston MT 59047 |
| 9 | Sawyer John CALHOON | | 72 Broken Wheel Rd Livingston |
| 10 | Kenneth Handt | | 127 S. M St Livingston |
| 11 | Chelsea Bowers | | 701 N N St Unit B Livingston MT 59047 |
| 12 | Martha Fossum | | 244 Fleshman Cr. Rd |
| 13 | Ron Fossum | | 244 Fleshman Cr. Rd |
| 14 | Carlene Billingsley | | 324 E. Callender St. |
| 15 | Lori Harvey | Lori Harvey | PO Box 1246 Livingston MT |

Approved & collected. ERIC BRADLEY 04 OCT 2025

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th.

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft c August 2025, until all community demographic groups can participate with the survey forth. This petition to be turned in prior to the agenda meeting with notes. All commur members in the City and County are invited to sign as users of the Livingston parks lan

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | James M. Sullivan | James M Sullivan | 332 N. 2nd St Livingston, MT, 59047 |
| 2 | Donna R Sullivan | DONNA R SULLIVAN | 1365 E GALLATIN |
| 3 | Tonya C. Holcolt | Tonya C Holcolt | 621 N. 13 Street #59047 |
| 4 | Robert Anderson | Robert Anderson | 529 Trail Creek Rd, Livingston |
| 5 | MICHAEL LOGAN | Michael Logan | SL Lupine Ln Liv MT 59047 |
| 6 | Richard Miles | R. Miles | 2221 Willow Dr, Liv. |
| 7 | Jack & Wanda Nardella | Jack & Nardella | 5167 Hwy 89 S. |
| 8 | Berna Nardella | Berna J Nardella | 5167 Hwy 89 So. Liv, |
| 9 | Linda J. Mittelstedter | Linda J. Mittelstedter | 806 Meriwether Dr. Liv |
| 10 | LeRoy Mittelstedter | LeRoy Mittelstedter | 806 Meriwether Dr. E. Liv, |
| 11 | Jen. Gress | Jen Gress | 203 Blue Heron |
| 12 | Shannon Moreland | Shannon Moreland | 326 S. G St. |
| 13 | Leah Shannon | Leah Shannon | 1020 Prairie Drive |
| 14 | Anabelle Kehs | Anabelle Kehs | 216 W Front St. Apt. #4 Liv. |
| 15 | Angela Taylor | Angela Taylor | 414 W. Clark |

Linda Lang — Sept. 20, 2025

This petition is a community driven



# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Sydney Dow | | 15 outlaw Hill |
| 2 | Mija Hamilton | Mija Hamilton | 227 S. 2nd st |
| 3 | Hovie HAWK | | 227 S 2nd St |
| 4 | Yolanda Barrera | Yolanda Barrera | 1121 W. Geyser St |
| 5 | Nate Briggs | | 150 Outlaw Hill |
| 6 | Barney Hallin | | 501 S. Yellowstone |
| 7 | Jenny Wing | Jenny L. Wing | 202 W. Reservoir St. |
| 8 | Janice Wiseman | Janice Wiseman | 430 N. C St |
| 9 | Tina Bergdoll | | 430 N. C St |
| 10 | Kelli Lee | Kelli Lee | 7216 US Hwy 10 W Livingston |
| 11 | Darold Brey | Darold Brey | 25 N Sagebrush Rd |
| 12 | Paul Bochm | Paul Bochm | 115 Paradise Drive |
| 13 | Garrich Fulmer-Faust | | 46 Business PK Rd Livingston |
| 14 | Tabatha Streuly | | 65 Billman Ln Trailer 38 Livingston |
| 15 | Patricia Haley | Patricia Haley | 217 S. D. Street Livingston |
| | Linda Jang | Verified signature & date | Sept. 15, 2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Kevin VanFleet | Kevin J VanFleet | 1208 Prairie Dr Livingston MT 59047 |
| 2 | Howard G Wilkinson | Howard G Wilkinson | 304 Reservoir St Livingston Mt 5904 |
| 3 | Marie Stevenson | Marie | 304 South 5th Livingston, MT 59047 |
| 4 | James Casey | James Casey | 72 Cabin Corn Dr Emigrant MT |
| 5 | Tonia Torrence | Tonia Torrence | 528 N "F" Livingston |
| 6 | Sophia Vafanian | | 411 S. 6th St. |
| 7 | Tawa Jeffery | Tawa Jeffery | 601 E Geyser Livingston |
| 8 | Glenn Godward | Glenn Godward | 315 S.E. ST, Livingston |
| 9 | Trish Kirk | Trish Kirk | 1201 Richardson Trail |
| 10 | Jake Boggess | | 610 N 7th Livingston |
| 11 | E M FISCHER | | PO Box 345 City |
| 12 | Jamila Bryant | Jamila Bryant | 309 W Geyser St., 59047 |
| 13 | Ellen Wenker | Ellen Wenker | 607 Swingley 59047 |
| 14 | Janice Brozovsky | Janice Brozovsky | 39 Gemini Rd, Emigrant 59027 |
| 15 | Daryanne Jessler | Daryanne Jessler | 110 N. F. ST Livingston 59047 |
| | Linda Jang | Verified signature & date | Sept. 27, 2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Joshua Congleton | | 1106 W Park St 20 Livingston, MT 59047 |
| 2 | Valora Thiry-Duffy | | 104 W K st, Livingston, MT |
| 3 | Tanya Calhoon | | 707 N 13th Livingston |
| 4 | Deborah Haraldson | | 123 S. 10th Livingston |
| 5 | Jack Bandstra | | 46 Deep Creek Bench Rd. |
| 6 | Billie Kaye HARMS | | PO Box 1220 Livingston |
| 7 | Diana West | | 307 N. 6th Livingston |
| 8 | DENNIS HARMS | | Box 1220 Livingston |
| 9 | John A West | | 307 A 6th Street Livingston |
| 10 | July Hardesty | | 511 N M St Livingston |
| 11 | Saira Hardesty | | 511 N M St Livingston |
| 12 | Koi Woodson | | 630 S. 11th Street Livingston, MT |
| 13 | Kathy O'Connor | | Box 617, Livingston MT |
| 14 | Jon Swanson | | Box 617 Livingston |
| 15 | Debbie BRADLEY | | 324 So. 12th Livingston |
| | Linda Jang | Verified signature & date | Oct. 2, 2025 |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th.

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft c August 2025, until all community demographic groups can participate with the survey forth. This petition to be turned in prior to the agenda meeting with notes. All commur members in the City and County are invited to sign as users of the Livingston parks lan

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Martha Dombeck | Martha Dombeck | 111 N. L. St Livingston 59047 |
| 2 | Craig Dombeck | C L Dombeck | 111 N. L. St Liv. 59047 |
| 3 | Steven A Simpson | Steven A Simpson | 117 Wildflower Trail |
| 4 | Roxanne Haidle | Roxanne Haidle | 117 Wildflower Tr. |
| 5 | CARLENE NEWHALL | Carlene Newhall | 603 Robin Dr # A-5 |
| 6 | Cathy Jackson | Cathy Jackson | 18 Kinds Father Dr |
| 7 | Ferris Jackson | Ferris Jackson | 18 Kinds Father Dr. |
| 8 | Tara Lyons | Tara Lyons | 403 Garnier Ave |
| 9 | Michael Lyons | | 403-Garnier Ave |
| 10 | Sherri Via | Sherri Via | 1325 W. Montana St. |
| 11 | Mike Sichels | | 1322 W. Montana St. |
| 12 | Travis Lockhart | | 927 E Mt. St. |
| 13 | Zach Cowx | | 76 Shamrock Lane |
| 14 | Hayley L Andersen | Hayley L Andersen | 716 Shamrock Ln |
| 15 | Pamela Payovich | Pamela Payovich | 1119 W. Geyser St. |

Linda Jang - Sept. 25, 2025

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th.

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft c August 2025, until all community demographic groups can participate with the survey forth. This petition to be turned in prior to the agenda meeting with notes. All commur members in the City and County are invited to sign as users of the Livingston parks lan

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Glenna Bell Orman | Glenna Bell Orman | 68 Canyon View Dr. Livingston, MT 59047 |
| 2 | Kevin L. Fouts | | 321 S. B ST LIVINGSTON MT 59047 |
| 3 | Peggy Mikesell | Peggy Mikesell | 809 W. Crawford Livingston MT. 59047 |
| 4 | Rosalie Melin | Rosalie Melin | 2222 Willow Dr 45C Livingston, MT |
| 5 | Terry Carter | Terry Carter | 426 S. 10th St. Livingston |
| 6 | Marc Graham | | 611 Nova Dr Livingston, MT 59047 |
| 7 | Matt Tesson | Matt Tesson | 1066 Hwy 10 W. Livingston |
| 8 | ERIC VIA | E C Vi | 1325 W. MONTANA ST Livingston, MT 59047 |
| 9 | Stacey Boucher | Stacey Boucher | 66 Prairie Dog Rd Livingston, MT 59047 |
| 10 | Curtice Thompson | | 39 Prairie Dog Rd Livingston MT 59047 |
| 11 | Megan Kynett | Megan Kynett | 619 Garnier Ave Livingston, MT 59047 |
| 12 | DANETTE ROSS | Danette Ross | 711 West Callender Livingston MT 59047 |
| 13 | Ashley Smith | Ashley Smith | 503 E Gallatin St |
| 14 | Terry Helms | Terry Helms | 810 N. 12th Livingston 59047 |
| 15 | Brian Salcido | Brian Salcido | 325 S. Main Apt 405 Livingston MT 59715 |

Verified / LINDA TANG – Linda Tang – 10-2-2025

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Dennis Dodge | Dennis Dodge | P.O.Box 923 Livingston |
| 2 | Pearl Baker | Pearl Baker | 113 Highground - Liv |
| 3 | Mae Goodman | Mae Goodman | 514 West Front St |
| 4 | Rocky McPherson | Rocky McP | 121 E Callender St. Liv |
| 5 | Barbara Dodge | Barbara Dodge | #12 Sagebrush So Liv. |
| 6 | Cathy Bosley | Cathy Bosley | 90 Jarlich Lane |
| 7 | Dorraine Clayton | Dorraine Clayton | 218 Elm Lane |
| 8 | Caroline RJ Billingsley | Caroline RJ Billingsley | 324 E. Callender St. |
| 9 | David Lewis | | PO Box 1142 |
| 10 | Jane M. Tecca | | 132 Indian Hill RD |
| 11 | Tony Tecca | | 132 Indian Hill RD |
| 12 | Channie Heines | | PO Box 1316 Liv Mont |
| 13 | Barbara Roberts | | PO Box 2112 Livingston |
| 14 | Chris Billingsley | Chris Billingsley | 324 E Callender St. |
| 15 | Daniel Bergquist | | 432 N. 5th St. |
| | | Verified signature & date | |
| 16 | Evelyn Minnick | | 116 South P Street |

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | LINDA J. Smith | Linda J. Smith | 603 ROBIN LANE A1 LIVINGSTON, MT 59047 |
| 9/12 | Geraldine Roberts | Geraldine Roberts | 603 Robin Lane B-5 Livingston, MT 59047 |
| 3 | MARK (Wenn | Mark (We | 603 Robin Ln A4 Livingston MT 5904 |
| 4 | Jack McKee | | 603 Robin Ln B4 Livingston MT 59047 |
| 5 | Melissa Davis | MelissA Davis | 603 Robin MT Livingston MT 59047 |
| 6 | Greg Roberts | Greg Roberts | 204 Garnier Ave Livingston MT 59047 |
| 7 | Robert Ermingeer | Robert D Ermingeer | 1125. 3rd Street Livingston 59047 |
| 8 | Susie Bair | Susan Bair | 107 W. Chinook |
| 9 | Sharon Amsk | Sharon Amsk | 307 So. Yellowstone |
| 10 | Kerri Altavilla | Kerri Altavilla | 508 N 11th St |
| 11 | Danny Swank | Danny Swank | 508 N 11 St |
| 12 | Ashlee Allen | Ashlee Allen | 218 South Main Street Suite 2 |
| 13 | Jeanette Pace Stone | Jeanette Pace Stone | 1 View Vista Dr Tr. 20 |
| 14 | Presley Staar | | 1302 E Montana St #3 |
| 15 | CAMI MANUS | Cami Manus | P.O. BOX 702 Livingston MT |
| | Barbara Britt | Verified signature & date | 10-5-25 |

Barbara Britt

This petition is a community driven

# REQUEST TO HOLD THE PARKS MASTER PLAN FOR LIVINGSTON, MT., UNTIL 1ST QTR 2026

Started Sept 11th 2025

The undersigned community members and their signatures are requesting the City of Livingston to **hold the vote** by the commission for the Parks & Trails Master Plan draft of August 2025, until all community demographic groups can participate with the survey put forth. This petition to be turned in prior to the agenda meeting with notes. All community members in the City and County are invited to sign as users of the Livingston parks lands.

| # | Printed Name | Signature | Full Addresss |
|---|---|---|---|
| 1 | Cindy Daniels | | 1023 Prairie Dr. Livingston |
| 2 | Lois Hatfield | | 10 Sagebrush Rd S Livingston |
| 3 | Kelly Hatfield | Kelly Hatfield | 1905 Sun Ave, Livingston |
| 4 | CAMERON M PARKER | Cameron M Parker | 513 W. Geyser, Livingston |
| 5 | JASON GUSTAFSON | | 1108 RIDGEVIEW RD, LIVINGSTON |
| 6 | [illegible] | [illegible] | 228 S. 11th Livingston |
| 7 | Matthew A. McConville | Matthew A. McConville | 5178 US Hwy 89 S - Livingston |
| 8 | Nancy Adkins | Nancy Adkins | 908 Brookline St Unit D |
| 9 | Rebecca A Bud | Rebecca A. Bud | 402 S. 8th St |
| 10 | [illegible] | [illegible] | 4963 US Hwy 89 S. |
| 11 | LINDA MAHR | Linda Mahr | 113 South M Livingston |
| 12 | ERIC BRADLEY | | 276 TRAIL CREEK LIVINGSTON |
| 13 | Leslie Feigel | | 166 Miller Dr. |
| 14 | Joyce Anderson | Joyce Anderson | 321 S. 6th, Livingston |
| 15 | Michael Mercer | | 138 Canyon View, Livingston |
| 1 | Barbara Britt | Verified signature & date | 10-3-25 |

Barbara Britt

**File Attachments for Item:**

**C. ORDINANCE 3064: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE TEXT OF THE CITY'S OFFICIAL ZONING ORDINANCE BY REPEALING THE ENTIRETY OF THE TEXT OF CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE AND REPLACING IT WITH NEW ZONING CODE TEXT.**

LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

**DATE:** December 2, 2025

**TO:** Chair Schwarz and City Commissioners

**FROM:** Jennifer Severson, Planning Director

**RE:** **Staff Report for Livingston Zoning Code Update**

---

**Recommendation and Summary**

Staff requests 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 approve the second reading of Ordinance 3064 for a text amendment to the City of Livingston Zoning Ordinance by repealing and replacing the entirety of the text of Chapter 30 with the proposed text revisions, and authorize the Chair to sign Ordinance 3064."

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.
- Staff requests the Commission consider the map and text amendments concurrently but take action only on the text amendments at this time.
- As required per recently adopted state legislation (HB 713) the related map amendments to Chapter 30 must be adopted by separate Resolution.
- The zoning map amendments will be presented at a future Commission meeting as a Resolution, to be adopted at the same time as the Ordinance for the text amendments.

**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 November 24, 2025 is included with this staff report (see Attachment E).

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 mitigation requirements for development on slopes > 25% grade (Sec 30.58.3)

- 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 and R2 districts to 30' or 36' if roof pitch >= 3:12 (from 27' or 34' if roof pitch >= 3:12). Reduced height allowed in MU (60') to LMU (36'). HMU maximum height of 50' is same as RIII. (Tbls 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, or 40 feet in a PUD (vs. 60 feet allowed in 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

- Introduce an Agricultural Zoning District to align with Growth Policy Open Space preservation and define requirements for development.

- 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 of the map amendments requires a single public hearing and reading, while adoption of Ordinance 3064 for the text amendments requires two public hearings and readings before the City Commission. Staff has included the proposed map amendments in this packet for consideration by the Commission, to inform and support the proposed text amendments. However, the map amendments will be adopted by Resolution at a future public hearing before the City Commission, concurrent with the second reading and adoption of Ordinance 3064.

A link to a version of the proposed text amendments showing language removed (red strikethrough), language added (blue text), and language moved to a different location (green text) is included as Attachment B. A link to a clean copy of the updated zoning code, showing only the text proposed for adoption, is included as Attachment C.

A link to the proposed zoning map associated with the proposed text amendments presented in this Staff Report has been included as Attachment D; 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 ask questions and provide comments to City Staff who were present. Additional comments were submitted as feedback for consideration

by the Land Use Board. The Board continued the public hearing during its regularly scheduled meeting on October 8, and again during a special meeting on October 14. At the October 14 meeting, the Board recommended, by a vote of 6-0, that the City Commission adopt the text amendments to the zoning code as proposed by staff, with the following conditions for additional research by staff: determine appropriate riparian setbacks for the Yellowstone River and Billman and Fleshman Creeks; and, create an Agricultural zoning district for consideration by the City Commission during the public hearing for the map amendments to Chapter 30.

All comments received through November 24, 2025 are attached (Attachment E). Revisions to the draft code revisions made after the November 2, 2025 City Commission meeting are highlighted yellow in Attachments B and C.

In response to the Land Use Board's request to create an Agricultural zoning district, Staff has drafted a preliminary list of potential requirements and restrictions for development in an Agricultural district for consideration by the Commission. Key topics for consideration by the City Commission included district definition, setback, density and height requirements, and allowed uses.

After reviewing riparian buffer and setback requirements elsewhere in Montana, Staff believes a focused scientific analysis is required to effectively determine the most appropriate riparian development restrictions for Livingston's unique stream reaches. Therefore, Staff recommends these be withdrawn from the current text amendments and, instead, be considered during the forthcoming FEMA-required update to the City's Floodplain Regulations in Chapter 29, after an analysis of the riparian areas along the Yellowstone River, Billman Creek, and Fleshman Creek has been completed by a qualified professional.

**City Commission First Ordinance Reading**

At its November 4, 2025 meeting, the Commission directed Staff to make four key revisions to the proposed zoning text amendments, including: remove 'Firework Stand' from an allowed use in all zoning districts; remove 'Supportive/ Transitional Housing' as a distinct residential use; modify the description of the R2 District in Section 30.30 to remove ambiguity from the level of impact neighborhood-scale commercial uses have on the surrounding area; and, most significantly, to proceed with drafting the requirements of an Agricultural Zoning District (Ag district) and to provide examples of this type of zoning district from other Montana municipalities. The requested revisions are incorporated into the draft code in Attachment A, Exhibit A.

Staff compiled examples of Ag districts in other Montana cities for Commission consideration (Attachment F). The following revisions for an Ag district were integrated into the draft text amendments for Chapter 30: added the definition of 'Agriculture' (Sec 30.20.5); added Ag district description (Sec 30.30); added Ag district to the Use Table 30.40 and Table 30.41.1 for Residential Development Standards; and added language to Sec 30.52 that allows animals in the Ag district

(that are prohibited in other districts) and defines animal units for different animal types. Staff also clarified that PUDs are not allowed in the Ag district (Sec 30.45.C.2).

**Fiscal Impact**

No direct fiscal impact to the City of Livingston is anticipated as a result of adopting the proposed text amendments to the City's Zoning Ordinance.

**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 text 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 text 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 City Commission adopt the text amendments to the Livingston Zoning Ordinance as proposed by Staff.

**Attachments**

A. Draft Ordinance 3064
B. Redlined Draft Zoning Code Text Amendments
C. Clean copy of Draft Zoning Code Text Amendments
D. Link to Current and Proposed Zoning Maps
E. Public Comments received through November 24, 2025
F. Montana Cities Agricultural Zoning District Comparison Table

**ORDINANCE NO. 3064**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING THE TEXT OF THE CITY'S OFFICIAL ZONING ORDINANCE BY REPEALING THE ENTIRETY OF THE TEXT OF CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE AND REPLACING IT WITH NEW ZONING CODE TEXT.**

* * * * *

**Purpose**

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

*****

**WHEREAS,** the State of Montana has adopted legislation setting forth specific requirements in Montana Code Annotated that the City must follow in its administration of a Zoning Ordinance;

**WHEREAS**, the City's Zoning Regulations must be made in accordance with a (adopted) Growth Policy as required by Section 76-2-304 of Montana Code Annotated

**WHEREAS**, the City's Zoning Code does not currently comply with these State mandates and must be updated to comply with State law;

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

**WHEREAS,** the City of Livingston Consolidated Land Use Board, after a public hearing held on October 14, 2025, voted unanimously to recommend the City Commission conditionally approve the zoning text amendments proposed by Staff;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission that the text in Chapter 30 of the Livingston Municipal Code entitled Official Zoning Ordinance, be hereby amended as follows:

**SECTION 1**

**THE ENTIRETY OF THE TEXT ZONING ORDINANCE SHALL BE REPEALED AND REPLACED WITH THE UPDATES AS SHOWN IN THE ATTACHED 'REVISED TEXT ZONING ORDINANCE' EXHIBIT.**

**SECTION 2**

**Statutory Interpretation and Repealer:**

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

**SECTION 3**

**Severability:**

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

**SECTION 4**

**Savings provision:**

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

**SECTION 5**

**Effective date:**

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

**PASSED** by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the ____ day of November, 2025.

_____
**QUENTIN SCHWARZ, CHAIR**

**ATTEST:**

_____
**Emily Hutchinson**
**City Clerk**

**********

**PASSED, ADOPTED AND APPROVED,** by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the _____ day of December, 2025.

_____
**QUENTIN SCHWARZ, CHAIR**

**ATTEST:**

_____
**EMILY HUTCHINSON**
**City Clerk**

**APPROVED TO AS FORM:**

_____
**JON HESSE**
**City Attorney**

**REVISIONS made after November 4 City Commission mtg highlighted in yellow.**

# Table of Contents


Chapter 30 – ZONING ..... 4

Article I. - Introductory Provisions ..... 4

Sec. 30.10. - Title. ..... 4

Sec. 30.11. - Purpose. ..... 4

Sec. 30.12. - Territorial jurisdiction. ..... 4

Sec. 30.13. - Incorporation of Official Zoning Map. ..... 4

Sec. 30.14. - Rules for interpretation of zoning boundaries. ..... 5

Article II. - Definitions ..... 6

Sec. 30.20. Definitions ..... 6

Article III. - Zoning Districts & Regulations ..... 27

Sec. 30.30. - Zoning districts. ..... 27

Article IV. - District Regulations ..... 30

Sec. 30.40. - List of uses. ..... 30

Sec. 30.41. – Development Standards. ..... 38

Sec. 30.42. Allowable Encroachments into Setbacks. ..... 41

Sec. 30.43. Accessory dwellings. ..... 42

Sec. 30.44. Overlay Zoning Districts ..... 43

Sec. 30.45. Planned Unit Development (PUD). ..... 57

Sec. 30.46. Site Plan Review. ..... 65

Article V. Supplementary General Requirements ..... 68

Sec. 30.50. Signs. ..... 68

Sec. 30.51. Off street parking and loading zones. ..... 77

Sec. 30.52. Animals. ..... 84

Sec. 30.53. Motor vehicles or parts. ..... 85

Sec. 30.54. Home occupations. ..... 85

Sec. 30.55. Landscaping Regulations ..... 87

Sec. 30.56. Wind-Powered Generators. 97
Sec 30.57. Short-Term Rentals 103
Sec 30.58. Environmental Protection and Sensitive Areas 104
Article VI. Dark Sky 107
Sec 30.60. Purpose and Intent 107
Sec 30.61. Prohibited Lights 108
Sec 30.62. Lighting Standards 109
Sec 30.63. Compliance Deadline 109
Sec 30.64. Exemptions 110
Sec 30.65. Complaint and Notice of Violation Procedure 111
Sec 30.66. Violation and Civil Penalty 111
Sec 30.67. Public Nuisance 112
Article VII. Non-conforming Lots, Uses and Structures 112
Sec. 30.70. Intent. 112
Sec. 30.71. Non-conforming lots of record. 112
Sec. 30.72. Non-conforming uses of land and structure. 113
Sec. 30.73. Non-conforming structures. 113
Sec. 30.74. Exemption for non-conforming residential structures. 114
Article VIII. Zoning Actions and Procedures 114
Sec. 30.80. Land Use Board acting as the Zoning Commission. 114
Sec. 30.81. Amendments to city zoning ordinance and zone change. 115
Sec. 30.82. Appeals. 119
Sec. 30.83. Variances. 121
Sec. 30.84. Conditional Uses. 124
Article IX. Administration and Enforcement 127
Sec. 30.90. Procedure in abatement of violation. 128
Sec. 30.91. Penalties for violation. 128
Sec. 30.92. Investigation fee. 129

Article X. Conflict with Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees ..... 129

Sec. 30.100. Conflict with other laws. ..... 129

Sec. 30.101. Separability clause. ..... 129

Sec. 30.102. Repeal of conflicting ordinances. ..... 129

Sec. 30.103. Schedule of application fees. ..... 129

# 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 ~~Mayor~~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 ~~Mayor~~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 ~~Mayor~~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 sleeping quarters are combined with shared kitchen, living, and bathroom facilities. Typically intended for unrelated individuals who live cooperatively~~garage. If an accessory building is attached to the main building by a common wall or roof such accessory building shall be considered a part of the main building~~.

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

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

~~Alley: See Street.~~

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

~~"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 anywherein 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 Dwelling~~s~~" 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~~s~~" ~~M~~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~~es~~" ~~areis~~means a place ~~s~~ of worship or religious assembly, including related facilities such as a fellowship hall~~s~~, office~~s~~, classroom~~s~~, 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 Office~~s~~" means a building~~s~~ owned or leased by government agencies that are used for administrative, clerical, or regulatory functions and the provision of public services.

"Hospital~~s~~/Institution~~s~~" ~~areis~~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 service~~s~~, laboratory~~ories~~, and specialized care unit~~s~~.

"Medical/Dental Clinic~~s~~" ~~areis~~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~~" ~~areis~~ means a ~~facilities~~facility used by police, fire, emergency medical services, and similar public safety operations. May include an office~~s~~, garage~~s~~, training facility~~ies~~, and communications equipment.

"Radio Station~~s~~" ~~areis~~means a facility~~ies~~ used for the production and transmission of radio signals, including studios and related infrastructure, but not wireless communication facilities.

"School~~s~~ - Public, Private, and Parochial" ~~areis~~means a ~~facilities~~facility offering instruction to students in pre-kindergarten through grade 12, including a public school~~s~~ operated by school districts and a private or religious school~~s~~ operated independently.

"School~~s~~, Trade" ~~areis~~means an institution~~s~~ 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 Business~~es~~" ~~are~~is means an establishment~~s~~ engaged in the brewing, distilling, fermenting, or bottling of alcoholic beverages such as beer, wine, or spirits. May include a tasting room~~s~~ or on-site sales areas.

"Bank~~s~~ (Non-Drive-Through)" ~~are~~ismeans a financial institution~~s~~ offering services such as deposits, loans, and currency exchange, without the inclusion of a drive-through facility.

"Bed and ~~breakfast~~Breakfast" ~~means~~ meansis 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~~.~~

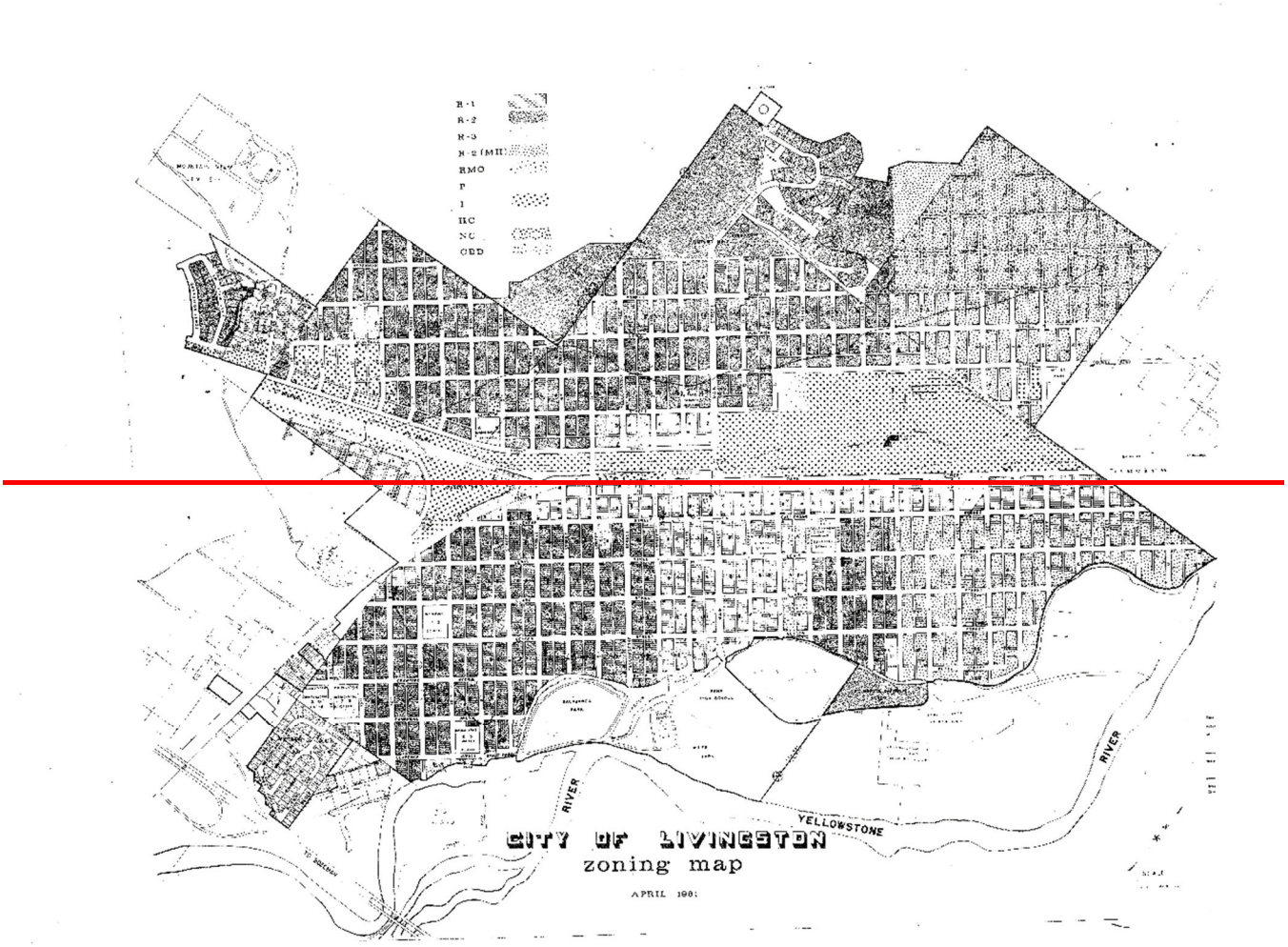
~~"Board" means the Board of Adjustment of the City of Livingston.~~

~~"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 Office~~e~~s" ~~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) Park~~s~~" ~~are~~ means~~is~~ a ~~sites~~site that accommodate tents, recreational vehicles, ~~yerts~~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~~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 Greenhouse~~s~~" ~~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~~ means~~is~~ a retail or service establishment~~s~~ 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~~ means~~is~~ 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 Establishment~~s~~ (Sit-Down)" ~~are~~ means~~is~~ a restaurant~~s~~, café~~s~~, or other establishment ~~s~~ 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 sale of consumer fireworks.~~"Firework Stand" meansis a temporary or permanent structure used for 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.~~

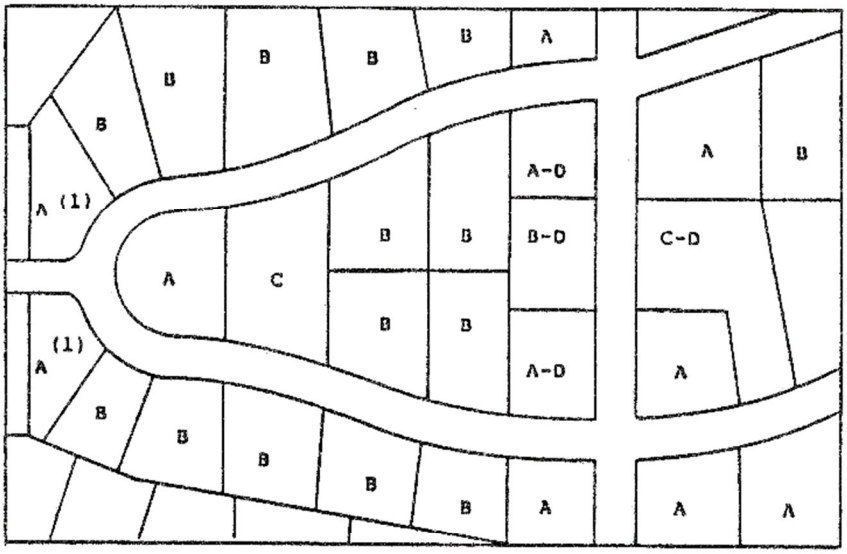



Figure 1
Lot Types

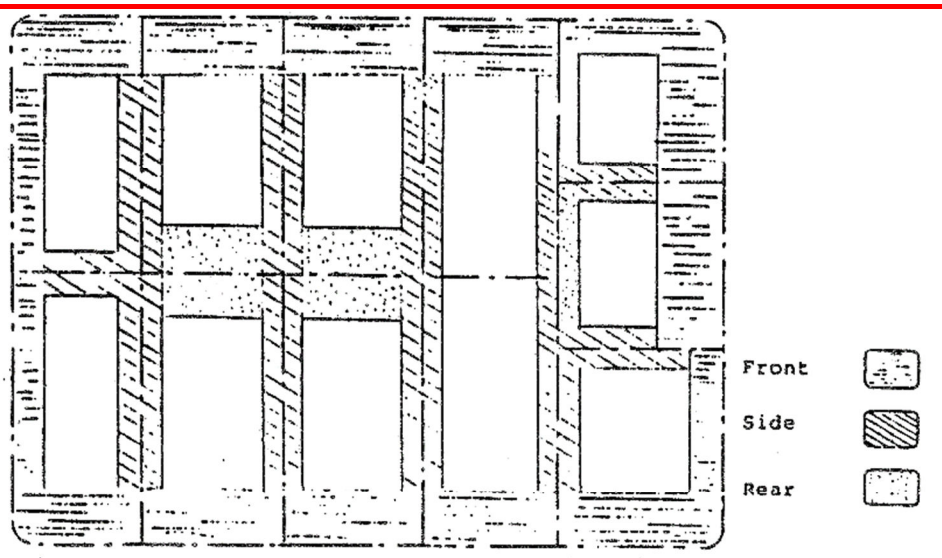



Figure 2
Location of yards on lots

"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 facilities designed for physical fitness or wellness activities, such as gyms, yoga studios, martial arts schools, or indoor recreation centers.

“Home Occupation” is defined as anymeans 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” arearemeans a commercial facilityies 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.

"Motel~~s~~/ Hotel~~s~~" ~~are~~ means~~is~~ an establishment~~s~~ offering temporary lodging to travelers and tourists, with or without a dining, meeting room~~s~~, or recreational ~~facilities~~facility. Includes extended-stay lodging.

"Personal Service Store~~s~~" means~~is~~ ~~are~~a business ~~es~~ providing personal grooming or lifestyle services, such as a salon~~s~~, barber~~s~~, spa~~s~~, tailor~~s~~, dry cleaner~~s~~, or shoe repair shop.~~s.~~

"Retail" means ~~isa~~ 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 Rental~~s~~" ~~are~~ means ~~is~~ a dwelling unit~~s~~ 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.

"~~Tatoo~~Tattoo/ Body Piercing Studio~~s~~" means~~is~~ a ~~are~~ commercial establishment~~s~~ 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 Clinic~~s~~" means~~is~~ an ~~are~~ establishment~~s~~ 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.

"Lumberyard~~s~~" ~~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 Stadium~~s~~, Sports Arena~~s~~, and Amphitheater~~s~~" ~~are~~ means~~is~~ a large outdoor or partially enclosed venue~~s~~ used for a sporting event~~s~~, concert~~s~~, or public gathering~~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~~are~~ facilit~~ies~~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 uses~~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~~s~~" means the owned or leased real property from which the business is actively transacted.

"Agriculture" means a use or activity related to the grazing, keeping and use of livestock as well as the production, harvesting, small-scale manufacturing, and sales of goods produces or raised on the site. May include storage facilities and residential dwellings that support the agricultural use.

"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 anya 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 ~~h~~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 ~~o~~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 ~~u~~Use" means a use allowed in ~~each~~a 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 ~~f~~Floor ~~a~~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 ~~s~~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~~ - "~~l~~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, buildingBuilding 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 LLivingston 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 otherwisotherwise

"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 Area~~s~~" ~~are :~~is a l~~L~~and and water area~~s~~ that provides an important ecological function~~s~~ or pose a physical constraint~~s~~ to development due to a natural hazard~~s~~.

"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. 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.~~

~~2. c. "Arterial street" is means a fast or heavy traffic street used primarily as a traffic artery for intercommunication among large areas.~~

~~3. d. "Local street" is means a street used primarily for access to the abutting properties.~~

~~4. 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~~coordinatorAdministrator" 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 |
|---|---|
| Agricultural | A |
| Low Density Residential | ~~R-I~~R1 |
| Medium Density Residential | ~~R-II~~R2 |
| ~~Medium~~Low Density ~~Residential: Mobile Home~~Mixed Use | ~~R-II (MH)~~LMU |
| High Density Residential-Mixed Use | ~~R-III~~HMU |
| ~~Mobile Home Residential~~General Commercial~~GC~~ | GC |
| Public-Community | ~~P~~PC |
| Industrial | I |
| Light Industrial | LI |
| ~~Highway Commercial~~ | ~~HC~~ |
| ~~Mixed Use~~ | ~~MU~~ |
| ~~Neighborhood Commercial~~ | ~~NC~~ |
| 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**

**A / Agricultural:** The 'A' district is intended to accommodate agriculture uses and supporting and compatible residential uses. Compatible residential uses are allowed provided they~~that~~ support the primary Agricultural use of the property, ~~include single-family and duplex dwellings~~ are inhabited by a property owner or~~,~~ their family, and/or serve as lodging for on-site employees and agricultural workers and their families. This district encourages open space preservation and discourages higher density and intensity uses. ~~residential uses and all commercial uses.~~ Artisan manufacturing and wholesale of goods produced or raised on the site, ~~and~~ some community uses, and home occupations that comply with Sec 30.54 of this chapter, are also allowed.

**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 in compliance with Section 30.54 of this Chapter, ~~provided they have little to no impact on traffic or the surrounding environmentneighborhood~~.

**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 r~~similar 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, office~~s~~ 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~~. The public zone is intended to reserve~~ Community:** 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. ~~P~~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~~ | ~~NC[1]~~ | ~~MU~~ | ~~CBD[2]~~ | ~~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**

| | A[1] | R1 | R2 | LMU | HMU | CBD | GC | LI | I | PC |
|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | |
| One (1) Family Dwelling | ~~A~~ | A | A | A | A | N[2] | N[1] | N | N | N |
| Two (2) Family Dwelling | ~~A~~ | A | A | A | A | N[1] | N[1] | N | N | N |
| Multifamily Dwelling (3+ units) | ~~N~~ | N | A | A | A | A | A | A | N | N |
| Co-Living Housing | ~~A~~ | N | A | A | A | A | A | A | N | N |
| ~~Supportive/ Transitional Housing~~ | | ~~N~~ | ~~C~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~A~~ | ~~N~~ | ~~N~~ |

[1] Allowed uses in the Agricultural District must exist to support the primary Agricultural use.
[2] 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).

| | A[1] | R1 | R2 | LMU | HMU | CBD | GC | LI | I | PC |
|---|---|---|---|---|---|---|---|---|---|---|
| Accessory Dwelling Unit (ADU) | A | A | A | A | A | N[3] | N[2] | N[2] | N[2] | N[2] |
| **Community Uses** | | | | | | | | | | |
| Church | N | A | A | A | A | A | A | A | A | A |
| School- Public, Private, and Parochial | N | A | A | A | A | C | A | C | N | A |
| School, Trade | N | N | N | C | N | N | A | A | A | N |
| Hospital/ Institution | N | N | N | C | C | N | C | A | N | C |
| Medical/ Dental Clinic | N | N | N | A | A | A | A | A | C | N |
| Adult Foster Care Center | N | C | A | A | A | A | A | A | N | N |
| Assisted Living | N | N | C | A | A | A | A | A | N | N |
| Child Care Center | N | A | A | A | A | A | A | A | N | N |
| Armory | N | N | N | N | N | N | N | N | N | A |
| Cemetery | A | N | N | N | N | N | N | N | N | A |
| Government Office | N | N | N | A | N | A | A | A | N | A |
| Public Recreation Facility | N | N | N | C | C | A | A | A | A | A |
| Community Garden | A | A | A | A | A | C | A | A | N | A |
| Emergency Shelter | A | N | N | N | C | C | A | C | C | A |
| Utility Substation | N | C | C | C | C | C | C | C | C | C |
| Wireless Communication Facility | A | C | C | C | C | C | C | C | C | C |
| Public Safety Facility | A | A | A | A | A | A | A | A | A | A |
| **Commercial Uses** | | | | | | | | | | |
| Radio Station | N | N | N | A | C | A | A | A | A | A |
| Veterinarian Clinic | N | N | N | A | N | N | A | A | A | N |
| Kennel/ Cattery | N | N | N | N | N | N | A | A | A | N |
| Laundromat | N | N | C | A | A | A | A | A | N | N |
| Short-Term Rental – Type I | N | A | A | A | A | A | A | N | N | N |
| Short-Term Rental – Type II | N | A | A | A | A | A | A | N | N | N |
| Motel/ Hotel | N | N | N | C | N | A | A | A | N | N |
| Bed and Breakfast | N | N | C | A | A | A | A | A | N | N |
| Campground/ Recreation Vehicle (RV) Park | N | N | N | N | N | N | A | A | N | N |
| Business and Professional Office | N | N | C[4] | A | A | A | A | A | A | C |
| Retail | N | N | C | A | C | A | A | A | C | N |
| Large-scale Retail | N | N | N | N | N | C | C | C | C | N |
| Personal Service Store | N | N | C | A | C | A | A | A | C | N |
| Tattoo/ Body Piercing Studio | N | N | N | A | C | A | A | A | C | N |
| Alcohol Producing Business | N | N | N | A | C | A | A | A | N | N |

[3] New ADUs are allowed only if a single-family residential use already exists on the parcel.
[4] See Section 30.54 for home occupation requirements

| | A[1] | R1 | R2 | LMU | HMU | CBD | GC | LI | I | PC |
|---|---|---|---|---|---|---|---|---|---|---|
| Eating and Drinking Establishment (Sit-Down) | N | N | N | A | C | A | A | A | N | N |
| Mobile Food Vendor Park /Food Truck Park | N | N | N | C | C | A | A | C | C | N |
| Drive-Through Restaurant | N | N | N | C | N | N | A | A | A | N |
| Drive-Through Business (Other) | N | N | N | A | C | N | A | A | A | N |
| Bank (No Drive-Through) | N | N | N | A | C | A | A | A | A | N |
| Gasoline/ Service Station | N | N | N | C | N | N | A | C | A | N |
| Auto Repair Garage | N | N | N | C | N | C | A | A | A | N |
| Theater/ Entertainment Venue | N | N | N | C | N | A | A | A | N | C |
| Health and Exercise Establishment | N | N | C | A | A | A | A | A | C | C |
| Sexually Oriented Business | N | N | N | N | N | N | C | A | A | N |
| Casino | N | N | N | A | N | A | A | A | N | N |
| Firework Stand[5] | N | N | N | N | N | ~~C~~N | ~~C~~N | ~~A~~N | ~~A~~N | N |
| Marijuana Retail Facility | N | N | N | C | C | C | A | A | A | N |
| **Light Industrial / Industrial Uses** | | | | | | | | | | |
| Mortuary | N | N | N | C | N | C | A | A | A | N |
| Wholesale Business | A | N | N | N | N | C | A | A | A | N |
| Commercial Greenhouse | A | N | C | C | C | N | A | A | A | N |
| Auto Salvage and Storage | N | N | N | N | N | N | N | A | A | N |
| Warehouse and Enclosed Storage | A | N | N | N | N | N | A | A | A | N |
| Machine Shop | N | N | N | N | N | N | A | A | A | N |
| Artisan Manufacturing | A | N | A | A | A | A | A | A | A | N |
| Limited Manufacturing | N | N | C | A | A | A | A | A | A | N |
| General Manufacturing | N | N | N | C | N | N | N | A | A | N |
| Intensive Manufacturing | N | N | N | N | N | N | N | C | A | N |
| Transportation Terminal | N | N | N | N | N | A | A | A | A | N |
| Travel Plaza/ Truck Stop | N | N | N | N | N | N | A | C | N | N |
| Open-Air Stadium, Sports Arena, and Amphitheater | N | N | N | C | N | N | A | A | N | C |
| Lumberyard | N | N | N | N | N | N | C | A | A | N |
| Marijuana Production Facility | N | N | N | N | N | N | N | A | A | N |
| Wind-Power Generator | A | N | N | N | N | N | N | C | C | N |

~~[5] See Section 11.72-73 regarding discharge of fireworks~~

## 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~~ | | | | | | | |
| | ~~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.~~<br>~~A) Applicable to Mobile Home Subdivisions only.~~<br>~~B) Side setback not required for approved townhouse development.~~<br>~~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.~~ | | | | | | | |

| **Zoning District** | **Agricultural (A)** | **Low Density Residential (R1)** | **Med. Density Residential (R2)** | **High Density Residential - Mixed Use (HMU)** | **Light Mixed Use (LMU)** |
|---|---|---|---|---|---|
| Minimum Lot ~~Area per Dwelling Unit in square feet~~Size | 30 acres | 7,000 square feet | 3,500 square feet | 1,150 square feet | N/A |
| Minimum Front Street Setback[A] | 50 feet | 25 feet | 20 feet | 5 feet | 10 feet |
| Minimum Side Setback[A,~~B,DC~~, C] | 50 feet | 15 feet | 5 feet | 5 feet | 5 feet |
| Minimum Rear Setback[~~CD~~A] | 50 feet | 5 feet | 5 feet | 0 feet | 0 feet |
| Minimum Side Street Setback[A] | 50 feet | 15 feet | 10 feet | 5 feet | 10 feet |
| Maximum Building Height ~~for all buildings~~[~~CDC~~D] | 36 feet | 30 feet (or 36 feet if roof pitch >= 3:12) | 30 feet (or 36 feet if roof pitch >= 3:12) | 50 feet | 36 feet |

A) Minimum 50-foot setback in 'A' District includes animal enclosures
B) 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)~~C) Side setbacks are not required for approved townhouse development.
~~C)~~D) 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.~~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~~Area ~~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] ~~for all Buildings~~buildings | ~~27'~~60 feet | ~~60'~~60 feet | ~~N/A~~60 feet | ~~33'~~60 feet | ~~N/A~~50 feet |
| ~~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 eves 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 i~~structures i~~n 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~~d~~City Commission as a request for a Conditional Use P~~a~~ermit 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 ~~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 th~~e~~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 s~~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~~.~~, 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-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 ~~spot~~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 ~~Chapter~~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.

~~I.~~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.~~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

~~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. 30.45. 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~~R2, ~~RII-MH~~LMU, ~~R-III~~HMU, ~~RMO, MU,~~ CBD and ~~HC~~GC. All PUDs shall include residential uses. PUDs are not allowed in districts A, R1, PC, LI or I.

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 district~~s~~, up to ~~40 feet~~a 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 RII: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. A list of all commercial uses to be allowed in the PUD (per Table 30.40) must be submitted with the PUD application and included in the final Development Agreement for the approved PUD. ~~Live~~For Live/Work units, only the floor area of the 'Work' portion of the use is counted as commercial use.~~/ 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~~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 (~~i~~(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 ~~Dn~~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. 30.46~~9~~. 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. Application~~s 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 th~~e~~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 C~~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 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.~~

~~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 30.50this Section ~~of the City Ordinances Historic District Overlay Zoning~~.

~~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 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:

b.

~~a)~~ T~~t~~he 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)~~ 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)~~ 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.

~~I.~~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.

~~J.~~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~~, and accessory~~ dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.

2. For ~~multiple~~ multifamily dwellings ~~and townhouses~~: Off-street parking is required within a walking distance of one hundred (100) feet.

3. For ~~hospitals~~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

~~C.~~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. ~~Apartmentunits 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~~.

~~I.~~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** | **~~SPACE~~MINIMUM OFF-STREET SPACES REQUIRED** |
|---|---|
| Bowling alley~~s~~ | ~~Five~~Two (2) per alley. |
| Medical and dental clinic | One (1) per ~~200~~400 square feet of gross floor area. |

| | |
|---|---|
| Bank~~s~~, business and professional office~~s~~ with on-site customer service | One (1) per 400 square feet of gross floor area. |
| Office~~s~~ not providing on-site customer services | One (1) per ~~4 employees or one per~~ 800 ~~sq. ft.~~square feet of gross floor area~~, whichever is greater.~~ . |
| Radio Station~~s~~ | 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 use~~s~~, 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 museum~~ies and museums~~ | One (1) per 500 square feet of gross floor area. |
| School~~s~~, 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 station~~s~~ and drive-thru restaurant~~s~~ | 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.~~ |
| Warehouse~~s~~, ~~storage and wholesale~~storage, wholesale business and ~~freight~~ transportation terminal~~s~~ | 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 store~~s~~ or service business~~es~~ 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 |
| Theaters | One (1) per 10 seats. |
| Health and exercise establishment | One (1) per 200 square feet of gross floor area ~~plus 3 per court~~ |
| Churches | 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 stadiums, sport arenas and amphitheaters | 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.

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

~~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. 30.52~~3~~. Animals.

A. Prohibited Animals. Other than in the Agricultural District, no livestock or fowl, as defined in Article II of this Chapter, ~~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. See Chapter 4 of this code for more information about animals allowed outside the Agricultural District.

B. Agricultural District. In the Agricultural District only, no more than XX animal units/ acre are allowed. The following are equivalent to a one (1) animal unit:

1. Livestock – one (1)

2. Fowl – ten (10)

3. Rabbits – five (5)

4. Goats & Sheep – two (2)

5. Horses – one (1)

6. Llamas – two (2)

## 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.

~~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. 30.5556. Landscaping Regulations

A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for development innew 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 r~~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 Actsection .

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. 30.56~~7~~. Wind-~~p~~Powered ~~g~~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. 30.595~~6.1. ~~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 ExceptionConditional Use permit within any zone, provided the following standards, and any related conditions imposed by the Board of AdjustmentCity 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 AdjustmentCity 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 AdjustmentCity 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 AdjustmentCity 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 AdjustmentCity 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 brownthat 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 AdjustmentCity Commission, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of AdjustmentCity 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 AdjustmentCity 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 30.5~~7~~78. 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~~2~~ STR Additional Requirements

1. A Type II~~2~~ 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 30.58~~9~~. Environmental Protection and Sensitive Areas

### *Sec 30.~~100~~59~~9~~8.1. –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.~~10~~59~~9~~8.2~~1~~. –Applicability*

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

- ~~FEMA-designated floodplains and floodways~~
- ~~Federally-designated Riparian Areas and Wdesignated 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 knownG geologic hazard areas, including slopes subject to erosion or landslideslandslide-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.~~103~~598.3. –General Standards for Development***

A. Avoidance ~~First~~

Si~~S~~ite 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)

~~T~~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~~

~~Setback Requirements~~

~~Minimum setbacksA buffer of at least 10 feet from the ordinary high waterhigh-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.~~

C. 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 with a grade exceeding 25% 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.~~104~~589.4. –Mitigation Requirements***

~~Riparian Areas~~

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

A. Steep Hillsides ~~and Slopes~~

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

B. 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.~~105~~598.5. – Review ~~and Approval Process of Mitigation Plan~~ Process***

~~- 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.~~106~~589.6. –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 ~~XI~~VI. Dark Sky

### Sec 30.~~200~~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 ~~Chapter~~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 30.201 – 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.~~202~~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.~~203~~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.~~204~~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.~~205~~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 30.206. – 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.~~2076~~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.~~2097~~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.~~2100~~867.~~–~~ 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 VI. 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 Chapterchapter.

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 AdjustmentCity Commission.

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

## Article VIIIVII. Zoning CommissionActions and Procedures

### Sec. 30.7080. Consolidated Zoning commissionLand Use BoardLand Use Board acting as the Zoning Commission.

There is created for the City of Livingston a Consolidated Zoning CommissionLand Use BoardZoning 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 fsevenive (57) citizen members, and one City Commissioner (non-voting), appointed by the Chairentirety 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 CommissionLand Use BoardZoning 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.~~71~~81. 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 ~~c~~Chapter 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 CoordinatorZoning 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 competed City Zoning Map Amendment application form.
    iv. The names and addresses of the owners of the adjacent landparcels;
    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 BoardCity 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 CommissionLand Use Boardpublic 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 todoes not trigger the twelve (12) month waiting period providing, however, that. However, no application be allowed tomay be withdrawn more than once within the twelve (12) months from its original submission date.

C.D. Applications for Text Amendments. month period afterUnless initiated by the City Manager, or City Commission or the application shall have first beenZoning CommissionLand 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 CoordinatorZoning 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 Commission~~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 ~~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~~82. ~~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'sCity'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 exceeddate within thirty (30) days, give public of receiving a complete appeal. Public notice thereof as well as dueof the hearing shall be provided, and notice shall also be given to the parties inof 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 staysshall stay all proceedings in furtherance of the action appealed from, unless. However, the officeradministrative official from whom the appeal is taken certifiesmay 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 histhe 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 endappealed, in whole or in part. The Commission shall have all the powers of the officeadministrative official from whom the appeal is taken. The concurring vote of four (4) members of the City Commission shall be necessaryrequired 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 anya decision of the, City Commission made under this part, or any taxpayersection, 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 suchspecifying the grounds upon which the decision is alleged to be illegal, in whole or in part, specifying the grounds of the illegality.. Such petition shallmust be presented to the courtfiled 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 reviewappeal is denied by the City Commission, another applicationno new appeal regarding the same matter shall not be filed within a period of one (1) year fromof the date of denial, except upon the initiation ofunless the City Commission

~~afterfinds that a showing of asubstantial change ofin 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.~~74~~83. 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 proofProof of payment of all applicablerequired fees.

8. AnOnce public notice of the application for a variancehas 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 uponimpacts on public facilities and services.

2. Study eachReview the application with reference to itsfor appropriateness and effectpotential effects on existing and proposed land uses.

Place Provide public notice of the time, date and placeas 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 publicbefore 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 tobefore 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 thePrepare 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 thatwould 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 beare observed, and substantial justice is done.

Under no circumstances shallmay the City Commission grantcity commissionNo Variance shall be granted for the following:

1. Approve a variance that would allowallows a A land use not permissible under the terms of the ordinanceotherwise permitted in the zoning district involved. A variance shall not be.

1.

2. A proposal that would ~~Gran~~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.~~75~~84. ~~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~~on ~~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 mustConditional Use Permit shall be filedsubmitted 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 tractparcel(s) upon whichsubject to the Special Exception is sought. request.
2. TheA site map showing the parcel's dimensions, acreage, and location of the tract(s). .
3. The name and address ofcontact information for the property owner(s) of the tract(s). ).

A site plan showing major detailsfeatures of the proposed developmentuse, 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 timeproposed schedule for development.
5. Any otheradditional information the applicant believes will support theirsupports the request.

TheAll applications must be accompanied by proof of payment of applicable city fees. Minor errors or omissions in an application must be submitted toshall 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. TheReview

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 legalCity 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 tobefore 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 applicationConditional 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 IVIIIX. 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.~~82~~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 ~~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.~~83~~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.~~84~~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 ~~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 November 4 City Commission mtg highlighted in yellow.**

# Table of Contents


**Chapter 30 – ZONING** ..... 4

**Article I. - Introductory Provisions** ..... 4

**Sec. 30.10. - Title.** ..... 4

**Sec. 30.11. - Purpose.** ..... 4

**Sec. 30.12. - Territorial jurisdiction.** ..... 4

**Sec. 30.13. - Incorporation of Official Zoning Map.** ..... 4

**Sec. 30.14. - Rules for interpretation of zoning boundaries.** ..... 5

**Article II. - Definitions** ..... 6

**Sec. 30.20. Definitions** ..... 6

**Article III. - Zoning Districts & Regulations** ..... 16

**Sec. 30.30. - Zoning districts.** ..... 16

**Article IV. - District Regulations** ..... 18

**Sec. 30.40. - List of uses.** ..... 18

**Sec. 30.41. – Development Standards.** ..... 20

**Sec. 30.42. Allowable Encroachments into Setbacks.** ..... 22

**Sec. 30.43. Accessory dwellings.** ..... 23

**Sec. 30.44. Overlay Zoning Districts** ..... 23

**Sec. 30.45. Planned Unit Development (PUD).** ..... 33

**Sec. 30.46. Site Plan Review.** ..... 41

**Article V. Supplementary General Requirements** ..... 44

**Sec. 30.50. Signs.** ..... 44

**Sec. 30.51. Off street parking and loading zones.** ..... 50

**Sec. 30.52. Animals.** ..... 56

**Sec. 30.53. Motor vehicles or parts.** ..... 56

**Sec. 30.54. Home occupations.** ..... 56

**Sec. 30.55. Landscaping Regulations** ..... 57

**Sec. 30.56. Wind-Powered Generators.** 61
**Sec 30.57. Short-Term Rentals** 63
**Sec 30.58. Environmental Protection and Sensitive Areas** 64
**Article VI. Dark Sky** 65
**Sec 30.60. Purpose and Intent** 65
**Sec 30.61. Prohibited Lights** 66
**Sec 30.62. Lighting Standards** 66
**Sec 30.63. Compliance Deadline** 67
**Sec 30.64. Exemptions** 67
**Sec 30.65. Complaint and Notice of Violation Procedure** 68
**Sec 30.66. Violation and Civil Penalty** 69
**Sec 30.67. Public Nuisance** 69
**Article VII. Non-conforming Lots, Uses and Structures** 69
**Sec. 30.70. Intent.** 69
**Sec. 30.71. Non-conforming lots of record.** 70
**Sec. 30.72. Non-conforming uses of land and structure.** 70
**Sec. 30.73. Non-conforming structures.** 71
**Sec. 30.74. Exemption for non-conforming residential structures.** 71
**Article VIII. Zoning Actions and Procedures** 71
**Sec. 30.80. Land Use Board acting as the Zoning Commission.** 71
**Sec. 30.81. Amendments to city zoning ordinance and zone change.** 72
**Sec. 30.82. Appeals.** 75
**Sec. 30.83. Variances.** 76
**Sec. 30.84. Conditional Uses.** 77
**Article IX. Administration and Enforcement** 79
**Sec. 30.90. Procedure in abatement of violation.** 79
**Sec. 30.91. Penalties for violation.** 79
**Sec. 30.92. Investigation fee.** 79

**Article X. Conflict with Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees** ..... 80

**Sec. 30.100. Conflict with other laws.** ..... 80

**Sec. 30.101. Separability clause.** ..... 80

**Sec. 30.102. Repeal of conflicting ordinances.** ..... 80

**Sec. 30.103. Schedule of application fees.** ..... 80

# 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.

"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 sale of consumer fireworks.

“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.

“Agriculture” means a use or activity related to the grazing, keeping and use of livestock as well as the production, harvesting, small-scale manufacturing, and sales of goods produces or raised on the site. May include storage facilities and residential dwellings that support the agricultural use.

"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 |
|---|---|
| Agricultural | A |
| 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**

**A / Agricultural:** The 'A' district is intended to accommodate agriculture uses and supporting and compatible residential uses. Compatible residential uses are allowed provided they support the primary Agricultural use of the property, are inhabited by a property owner or their family, and/or serve as lodging for on-site employees and agricultural workers and their families. This district encourages open space preservation and discourages higher density and intensity uses. Artisan manufacturing and wholesale of goods produced or raised on the site, some community uses, and home occupations that comply with Sec 30.54 of this chapter, are also allowed.

**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 in compliance with Section 30.54 of this Chapter,.

**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**

| | A[1] | R1 | R2 | LMU | HMU | CBD | GC | LI | I | PC |
|---|---|---|---|---|---|---|---|---|---|---|
| **Residential Uses** | | | | | | | | | | |
| One (1) Family Dwelling | A | A | A | A | A | N[2] | N[1] | N | N | N |
| Two (2) Family Dwelling | A | A | A | A | A | N[1] | N[1] | N | N | N |
| Multifamily Dwelling (3+ units) | N | N | A | A | A | A | A | A | N | N |
| Co-Living Housing | A | N | A | A | A | A | A | A | N | N |
| | | | | | | | | | | |
| Accessory Dwelling Unit (ADU) | A | A | A | A | A | N[3] | N[2] | N[2] | N[2] | N[2] |
| **Community Uses** | | | | | | | | | | |
| Church | N | A | A | A | A | A | A | A | A | A |
| School- Public, Private, and Parochial | N | A | A | A | A | C | A | C | N | A |
| School, Trade | N | N | N | C | N | N | A | A | A | N |
| Hospital/ Institution | N | N | N | C | C | N | C | A | N | C |
| Medical/ Dental Clinic | N | N | N | A | A | A | A | A | C | N |
| Adult Foster Care Center | N | C | A | A | A | A | A | A | N | N |
| Assisted Living | N | N | C | A | A | A | A | A | N | N |
| Child Care Center | N | A | A | A | A | A | A | A | N | N |
| Armory | N | N | N | N | N | N | N | N | N | A |
| Cemetery | A | N | N | N | N | N | N | N | N | A |
| Government Office | N | N | N | A | N | A | A | A | N | A |
| Public Recreation Facility | N | N | N | C | C | A | A | A | A | A |

[1] Allowed uses in the Agricultural District must exist to support the primary Agricultural use.
[2] 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).
[3] New ADUs are allowed only if a single-family residential use already exists on the parcel.

| | A[1] | R1 | R2 | LMU | HMU | CBD | GC | LI | I | PC |
|---|---|---|---|---|---|---|---|---|---|---|
| Community Garden | A | A | A | A | A | C | A | A | N | A |
| Emergency Shelter | A | N | N | N | C | C | A | C | C | A |
| Utility Substation | N | C | C | C | C | C | C | C | C | C |
| Wireless Communication Facility | A | C | C | C | C | C | C | C | C | C |
| Public Safety Facility | A | A | A | A | A | A | A | A | A | A |
| **Commercial Uses** | | | | | | | | | | |
| Radio Station | N | N | N | A | C | A | A | A | A | A |
| Veterinarian Clinic | N | N | N | A | N | N | A | A | A | N |
| Kennel/ Cattery | N | N | N | N | N | N | A | A | A | N |
| Laundromat | N | N | C | A | A | A | A | A | N | N |
| Short-Term Rental – Type I | N | A | A | A | A | A | A | N | N | N |
| Short-Term Rental – Type II | N | A | A | A | A | A | A | N | N | N |
| Motel/ Hotel | N | N | N | C | N | A | A | A | N | N |
| Bed and Breakfast | N | N | C | A | A | A | A | A | N | N |
| Campground/ Recreation Vehicle (RV) Park | N | N | N | N | N | N | A | A | N | N |
| Business and Professional Office | N | N | C[4] | A | A | A | A | A | A | C |
| Retail | N | N | C | A | C | A | A | A | C | N |
| Large-scale Retail | N | N | N | N | N | C | C | C | C | N |
| Personal Service Store | N | N | C | A | C | A | A | A | C | N |
| Tattoo/ Body Piercing Studio | N | N | N | A | C | A | A | A | C | N |
| Alcohol Producing Business | N | N | N | A | C | A | A | A | N | N |
| Eating and Drinking Establishment (Sit-Down) | N | N | N | A | C | A | A | A | N | N |
| Mobile Food Vendor Park /Food Truck Park | N | N | N | C | C | A | A | C | C | N |
| Drive-Through Restaurant | N | N | N | C | N | N | A | A | A | N |
| Drive-Through Business (Other) | N | N | N | A | C | N | A | A | A | N |
| Bank (No Drive-Through) | N | N | N | A | C | A | A | A | A | N |
| Gasoline/ Service Station | N | N | N | C | N | N | A | C | A | N |
| Auto Repair Garage | N | N | N | C | N | C | A | A | A | N |
| Theater/ Entertainment Venue | N | N | N | C | N | A | A | A | N | C |
| Health and Exercise Establishment | N | N | C | A | A | A | A | A | C | C |
| Sexually Oriented Business | N | N | N | N | N | N | C | A | A | N |
| Casino | N | N | N | A | N | A | A | A | N | N |
| Firework Stand | N | N | N | N | N | N | N | N | N | N |
| Marijuana Retail Facility | N | N | N | C | C | C | A | A | A | N |
| **Light Industrial / Industrial Uses** | | | | | | | | | | |

[4] See Section 30.54 for home occupation requirements

| | A[1] | R1 | R2 | LMU | HMU | CBD | GC | LI | I | PC |
|---|---|---|---|---|---|---|---|---|---|---|
| Mortuary | N | N | N | C | N | C | A | A | A | N |
| Wholesale Business | A | N | N | N | N | C | A | A | A | N |
| Commercial Greenhouse | A | N | C | C | C | N | A | A | A | N |
| Auto Salvage and Storage | N | N | N | N | N | N | N | A | A | N |
| Warehouse and Enclosed Storage | A | N | N | N | N | N | A | A | A | N |
| Machine Shop | N | N | N | N | N | N | A | A | A | N |
| Artisan Manufacturing | A | N | A | A | A | A | A | A | A | N |
| Limited Manufacturing | N | N | C | A | A | A | A | A | A | N |
| General Manufacturing | N | N | N | C | N | N | N | A | A | N |
| Intensive Manufacturing | N | N | N | N | N | N | N | C | A | N |
| Transportation Terminal | N | N | N | N | N | A | A | A | A | N |
| Travel Plaza/ Truck Stop | N | N | N | N | N | N | A | C | N | N |
| Open-Air Stadium, Sports Arena, and Amphitheater | N | N | N | C | N | N | A | A | N | C |
| Lumberyard | N | N | N | N | N | N | C | A | A | N |
| Marijuana Production Facility | N | N | N | N | N | N | N | A | A | N |
| Wind-Power Generator | A | 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 | Agricultural (A) | Low Density Residential (R1) | Med. Density Residential (R2) | High Density Residential - Mixed Use (HMU) | Light Mixed Use (LMU) |
|---|---|---|---|---|---|
| Minimum Lot Size | 30 acres | 7,000 square feet | 3,500 square feet | 1,150 square feet | N/A |
| Minimum Front Street Setback[A] | 50 feet | 25 feet | 20 feet | 5 feet | 10 feet |
| Minimum Side Setback[AB, C] | 50 feet | 15 feet | 5 feet | 5 feet | 5 feet |

| | | | | | |
|---|---|---|---|---|---|
| Minimum Rear Setback[A] | 50 feet | 5 feet | 5 feet | 0 feet | 0 feet |
| Minimum Side Street Setback[A] | 50 feet | 15 feet | 10 feet | 5 feet | 10 feet |
| Maximum Building Height [D] | 36 feet | 30 feet (or 36 feet if roof pitch >= 3:12) | 30 feet (or 36 feet if roof pitch >= 3:12) | 50 feet | 36 feet |
| A) Minimum 50-foot setback in 'A' District includes animal enclosures<br>B) 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.<br>C) Side setbacks are not required for approved townhouse development.<br>D) 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 eves 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 orother 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: R2, LMU, HMU, CBD and GC. All PUDs shall include residential uses. PUDs are not allowed in districts A, R1, PC, LI or I.
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. A list of all commercial uses to be allowed in the PUD (per Table 30.40) must be submitted with the PUD application and included in the final Development Agreement for the approved PUD. For Live/Work units, only the floor area of the 'Work' portion of the use is counted as commercial use.

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. |
| * 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-

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

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.

A. Prohibited Animals. Other than in the Agricultural District, no livestock or fowl, as defined in Article II of this Chapter, 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. See Chapter 4 of this code for more information about animals allowed outside the Agricultural District.

B. Agricultural District. In the Agricultural District only, no more than XX animal units/ acre are allowed. The following are equivalent to a one (1) animal unit:

1. Livestock – one (1)
2. Fowl – ten (10)
3. Rabbits – five (5)
4. Goats & Sheep – two (2)
5. Horses – one (1)
6. Llamas – two (2)

## 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. .

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.

Riparian

C. Hillside and Slope Development
Construction on slopes over 20% grade is discouraged. Construction on slopes with a grade exceeding 25% must include mitigation measures to prevent downslope impacts.

### *Sec 30.58.4. Mitigation Requirements*

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

B. 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 competed 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)

# Montana Cities Agricultural District Comparison

| City | Belgrade | Whitefish | Columbia Falls | Missoula | Livingston |
|---|---|---|---|---|---|
| **District Name** | Rural | Agricultural | Agriculture 20 | Open & Resource Lands 2 | Agricultural |
| **District Intent** | Preserve Ag uses, OS Discourage Sml Lot Devmt | Silviculture, Ag, Outdoor Rec, OS, Future Developmt., and SFRs and Duplexes in rural lifestyle | Preserve Ag land for Ag uses, control uses incompatible with Ag uses, incl. residential | Preserve OS, sensitive natural areas; allow low-density residential; encourage Ag use | Allow Ag, support compatible, supporting residential uses; encourage OS; discourage hi denisty/ intensity uses; processing of on-site produced goods |
| **Minimum Lot Size** | 40,000 sq. ft | 15 acres | 20 acres | 40 acres | 30 |
| **Minimum Setbacks Front/ Side/ Rear (Feet)** | 35/ 10/ 25 | 50/ 20/ 20 | 30/ 20/ 20 | 25/ 50/ 50 | 50 / 50/ 50 (incl. animal enclosures) |
| **Maximum Height (Feet)** | 40 | 35 | N/A | 35 | 36 |
| **Population** | ~ 12700 | ~ 8500 | ~ 5700 | ~78,000 | ~ 8500 |
| **Land Area (sq. mi/ acres)** | 4.9 / 5760 | 11.8 / 7500 | 2.1 / 1344 | 35.2 / 22528 | 6 / 3850 |
| **Animals / Acre** | Horses- 1<br>Livestock- 1<br>Fowl- 6<br>Rabbits- 8<br>Goats & Sheep- 2<br>Llamas- n/a<br>** allowed/ 2.5 acres. MAX 8 animals TOTAL* | Horses- 2<br>Livestock- 2<br>Fowl- 50<br>Rabbits- n/a<br>Goats & Sheep- 5<br>Llamas- 7 | Horse*/ Donkey- 5000<br>Livestock-5000<br>Fowl- 400<br>Rabbits- n/a<br>Goats & Sheep- 2000<br>Llamas- 2000<br>** 2/ acres devoted pastureland* | Horses- 2<br>Livestock- 2<br>Fowl- 50<br>Rabbits- n/a<br>Goats & Sheep- 5<br>Llamas- 7 | Horses- 1<br>Livestock- 1<br>Fowl- 10<br>Rabbits- 5<br>Goats & Sheep- 2<br>Llamas- 2 |

MONTANA FRESHWATER PARTNERS

October 28, 2025

Dear City Commissioners,

Montana Freshwater Partners has been engaged in both immediate and long-term flood recovery efforts since the June 13, 2022 flood. Our ongoing work focuses on providing landowners, local officials, and the public with information about flooding and erosion hazards so people can make informed decisions that reduce risk while maintaining the health of the rivers that sustain our local economy. We are providing comments and information to assist the City with decisions related to proposed zoning and setback code updates. Attached is a summary of materials previously shared with the Consolidated Land Use Board, along with additional maps, data, and historical floodplain information for your consideration.

We understand the need to balance private property rights with the health and safety of residents, businesses, and public infrastructure. We also know that building in high-risk areas creates long-term cost burdens for the people who live and work here, as well as our local governments, worsening our community's affordability crisis. Furthermore, Federal funding for flood mitigation is no longer reliable, meaning these costs now fall to local and state governments.

We are concerned by the City's decision to remove waterway setbacks from the zoning codes (Chapter 30) and to only address them under the floodplain regulation codes (Chapter 29). Chapter 29 applies only to waterways with designated 100-year floodplains—excluding streams like Fleshman Creek—leaving the City without tools to manage encroachment along these flood-prone areas. However, we would support this approach if setbacks for small waterways without designated floodplains can be incorporated into Chapter 29 updates.

We'd also like to call the Commissioners attention to the issue that the largest tracts of undeveloped land within the eastern City limits are in high-risk flood zones that are further compromised by the alignment of the railroad and Hwy 89 which severely constrain routine/emergency access and flood conveyance for these properties. On paper, these parcels are appealing for future development and would limit the need for future City annexations – but in reality, these are high-risk and high-cost areas of development. The growth potential for these areas is significantly over-estimated in the current zoning map. Could other zoning designations, such an 'agricultural' be applied to undeveloped high-risk parcels near the Yellowstone as a means to limit high-risk development in areas that currently provide critical flood holding capacity and other flood mitigation functions?

We urge the City Commission to take our flood history seriously and adopt effective setbacks and zoning that limit new development in high-risk areas. This is the most cost-effective, long-term strategy to reduce flood impacts and lower National Flood Insurance Program rates for our community.

As part of the November 4 Commission meeting, MFP and the public would appreciate clarification on how public health and safety factor into zoning codes. Can the City adopt zoning that increases flood risk to residents, businesses, and infrastructure—and does that create future liability? If not through zoning and floodplain codes, what other local strategies can reduce flood risk without degrading waterways or depending on unreliable outside funding? Please see the attached data, comments, maps, and floodplain map history for your consideration. We thank you for your time and service on the Commission.

Sincerely,

*Jeannette Blank*
*Montana Freshwater Partners*

MFP has provided the following information to the Livingston Consolidated Land Use Board and the City Commission for consideration with regards to the proposed zoning designations and setback codes.

**Flood history documentation:** MFP has provided two sources of flood related history documentation for your review.

- **"2024 History of Park County Floods Report"** prepared by Pioneer Technical Services for the Montana Department of Natural Resources and Conservation (DNRC) as part of the first steps in the flood study process for updated FEMA Flood Insurance Rate Maps (FIRM maps). The report is available in the 10.10.25 Consolidated Land Use Board meeting packet and includes pertinent summaries, data and photos of flood events on Fleshman Creek and the Yellowstone.
- **"Cities Fight to Get Off FEMA's Flood Maps. One Montana Town Shows the Risk" Wall Street Journal, 10.19.25, attached.** This is a recently published article that documents the discussions and decision making process that led to the adoption of the controversial 2011 FEMA FIRM map that currently guides floodplain regulations in Livingston. The article provides local insights on the pros/cons of that decision, and continued risks and vulnerabilities the City faces. This article is attached to this submittal.

**Recommended setback distances, example City zoning/setback codes and setback comments:**

- MFP provided the stream and river setback distances that are recommended to achieve the Growth Policy and Future Land Use Map goals related to riparian health, water quality, and flood risk mitigation. These recommendations were developed by Montana Fish Wildlife & Parks and Montana Department of Environmental Quality. See MFP comments submitted to the Consolidated Land Use Board on 9.26.25.
- In our 10.8.25 comments to the Consolidated Land Use Board, we cited several cities in Montana that have incorporated waterway setbacks in their local codes that Livingston can use as references, including: City of Butte (150ft setback), City of Whitefish (50ft-100ft setback), and City of Bozeman (35ft-100ft setback).
- We do not support removing setback codes from "Chapter 30 Zoning" and addressing them only in "Chapter 29 Floodplain Regulations", unless setbacks for waterways that do not have designated 100-yr floodplains can be included in Chapter 29. Currently, Chapter 29 only applies to waterways with designated 100-yr floodplains, which applies only to the Yellowstone River and Billman Creek. Fleshman Creek, which has the greatest flood risk for smaller waterways, does not have a designated 100-yr floodplain, because it has never been previously calculated and mapped.
- Setback distances should be effective yet practical for new construction on previously developed lots, especially smaller parcels along Fleshman Creek in the numbered and alphabet streets. In undeveloped areas, larger setbacks should apply based on waterway size. At a minimum, setbacks should extend from the outer edge of the designated floodway (per FEMA FIRM maps) or from the Ordinary High Water Mark (OHWM) where no designated floodway exists. Where feasible, setbacks for new construction should be at least 50 ft from the OHWM on smaller streams and <150 ft from the floodway on the Yellowstone River.

**Historic Yellowstone River Floodplain vs. Existing City Parcels vs. Proposed Zoning: Figure 1, Figure 2** and **Figure 3 attached.** These figures provide a bird's-eye view of the Yellowstone River valley bottom, showing current and historic floodplains in relation to existing parcels and areas proposed for future development. Numerous side channels weave through the floodplain, indicating additional flood risk because they can be reactivated during flood events when water spills beyond the main channel or when high groundwater conditions develops during multi-day floods. Side channels also play a vital role in conveying and dispersing floodwaters, reducing energy and velocity, and returning water to the main river channel as floods recede.

**Current FEMA FIRM Map (2011) vs. Preliminary Flood Model Results for Updated FEMA FIRM Maps:**

- **2022 FEMA FIRM Maps, see Figure 4 and Figure 5 attached.** These figures show the current regulatory FEMA FIRM map adopted in 2011. This map is the basis for our current floodplain regulations for development in the 100-year (or 1% annual) floodplain. See the Wall Street Journal article, attached, for the history on how this map was adopted in 2011. Note: The FLOODPLAIN is made up of the FLOODWAY and the FLOODWAY FRINGE. The FLOODWAY is where the flood current is strongest, causing swift and dangerous conditions. The FLOODWAY FRINGE is the rest of the regulated floodplain that will get inundated during a 1% annual flood event. Building in the floodway impacts the flow and depth and extent of flood waters causing risk to everyone in the floodplain because that water still needs a place to go, so it ends up spreading further out. Keeping the floodway free of obstructions and minimizing development in the rest of the regulated floodplain helps to reduce flood damage.

> Structures located in the 100-yr or 1% annual flood-risk zones are considered high-risk by FEMA. Over a 30-year mortgage, homes in these areas have a 1 in 4 chance of flooding at least once. (FEMA.GOV)

- **2025 Preliminary Flood Model Results for FEMA FIRM Updates, see Figure 6 - Figure 8 attached.** These figures show the preliminary modeling results that DNRC presented to the City Commission on 7-15-25 for the 1% annual flood on the Yellowstone River and Fleshman creek. These modeling results, while preliminary, indicate the extent of inundation from a 1% annual flood event extends beyond what is mapped in the 2011 FEMA FIRM map, and an alarming area of impact across the City from a 1% annual flood on Fleshman Creek. The extent of the 1% annual flood on the Yellowstone correlates well with the extent of the Yellowstone's 1 day 500-yr event that occurred on 6.13.22. This is because improved floodplain models used for FEMA regulatory floodplain maps model the full extent of inundation that could occur during a 1% annual event (which may occur over multiple days of flooding), not just the extent of inundation resulting from a 1% annual event that lasts for one day. It's often overlooked that smaller magnitude flood events that occur over several days (an event with longer duration) can have similar flood extents and impact as a large magnitude flood with a short duration.

- There are two critical points for the City to consider with setbacks and zoning with respect to DNRC's preliminary flood model results: **1)** Allowing more infill and development in high-risk locations (i.e. within a 1% annual flood risk zone) not only substantially increases the risk exposure and vulnerability of the City's residents, businesses and public infrastructure, but will also substantially increase the number of property owners who will potentially be mapped within the 1% annual flood-risk zone when the FEMA FIRM map updating process is completed. (Note, the updated FEMA FIRM maps will not be completed for at least another year or more - see DNRC timeline for map updates in 7.15.25 City Commission meeting packet). **2)** Communities that provide flood risk reduction approaches and protection beyond the minimal National Flood Insurance Program standards can qualify for incentives through NFIP's Community Rating System (CRS). CRS assigns communities a classification between 1 and

> Effective setbacks from designated FLOODWAYS (or Ordinary High Water Mark where the floodway designation is unavailable) AND minimizing development density with zoning is the most cost-effective and long-term solution for reducing Livingston's risk and vulnerability to future flood disasters.

10, with 10 signifying a community not participating in the program and a class 1 community signifying a community with exemplary flood mitigation measures in place. Most communities enter the program with a CRS class 9 or 8 rating. Each CRS class receives a percentage discount on flood insurance premiums for property owners within the community from 5 to 45%, with higher discounts for communities that engage in additional mitigation activities. Classes align with a point scale and communities can accumulate points through different actions. Projects that qualify for CRS points include public engagement, preventing development in floodplains, reducing risk to existing developments, or improving flood warnings and emergency response. Any community that wants to participate in CRS or use more stringent boundaries must get approval from their FEMA Regional Office. **The City has a rare opportunity to use zoning and setbacks as a tool to help bring down NFIP rates for our community while also minimizing the number of additional homes and structures that are placed in high-risk areas *before* the next significant flood event occurs and *before* the updated FIRM maps are finalized.**

> Room for the river starts at the local, community level
>
> Without consideration of the river corridor in a community's development code, chances of protecting the river's natural processes that are beneficial to riverside communities are severely compromised.

- **Aerial Imagery of June 2022 Yellowstone River Flood, see Figure 9-11, attached.** Aerial images taken on the day of the 6.13.22 flood and several days after the flood event illustrate the actual extent of inundation around the lower alphabet streets and east end of the City limits. Not only did properties get flooded from surface water inundation, some properties also experienced flooding from backed up stormwater drains, which illustrates the added complexity that development creates in high-risk zones. It's not just the surface water inundation that contributes to flooding, it's also stormwater infrastructure, high groundwater conditions, and artificial impoundments that contribute to and exacerbate problems in developed areas.

- **2024 Yellowstone Channel Migration Map, see Figure 12 – Figure 14, attached.** These figures show the historic and projected *movement* of the Yellowstone River through the City. Rivers like the Yellowstone naturally move, or migrate, back and forth across their floodplain over time. This area of channel migration is called the Channel Migration Zone (and is why we see so many historic side channels in the Lidar images in Figure 1 and Figure 2). Channel migration maps are different from floodplain maps, but add important insights that floodplain maps don't capture. Floodplain maps are regulatory and show how far floodwater will spread during a flood event. Channel migration maps are non-regulatory and show where the river channel has been located in the past and where it is likely to move to in the future. Migration maps show where erosion and channel avulsion (the cutting of a new side channel) risks are greatest. While channel migration processes are critical for river health, they can create significant risks to structures that are built too close to the channel migration zone. Creating distance between structures and the channel migration zone with setbacks and zoning is an effective way to avoid hazards associated with channel migration.

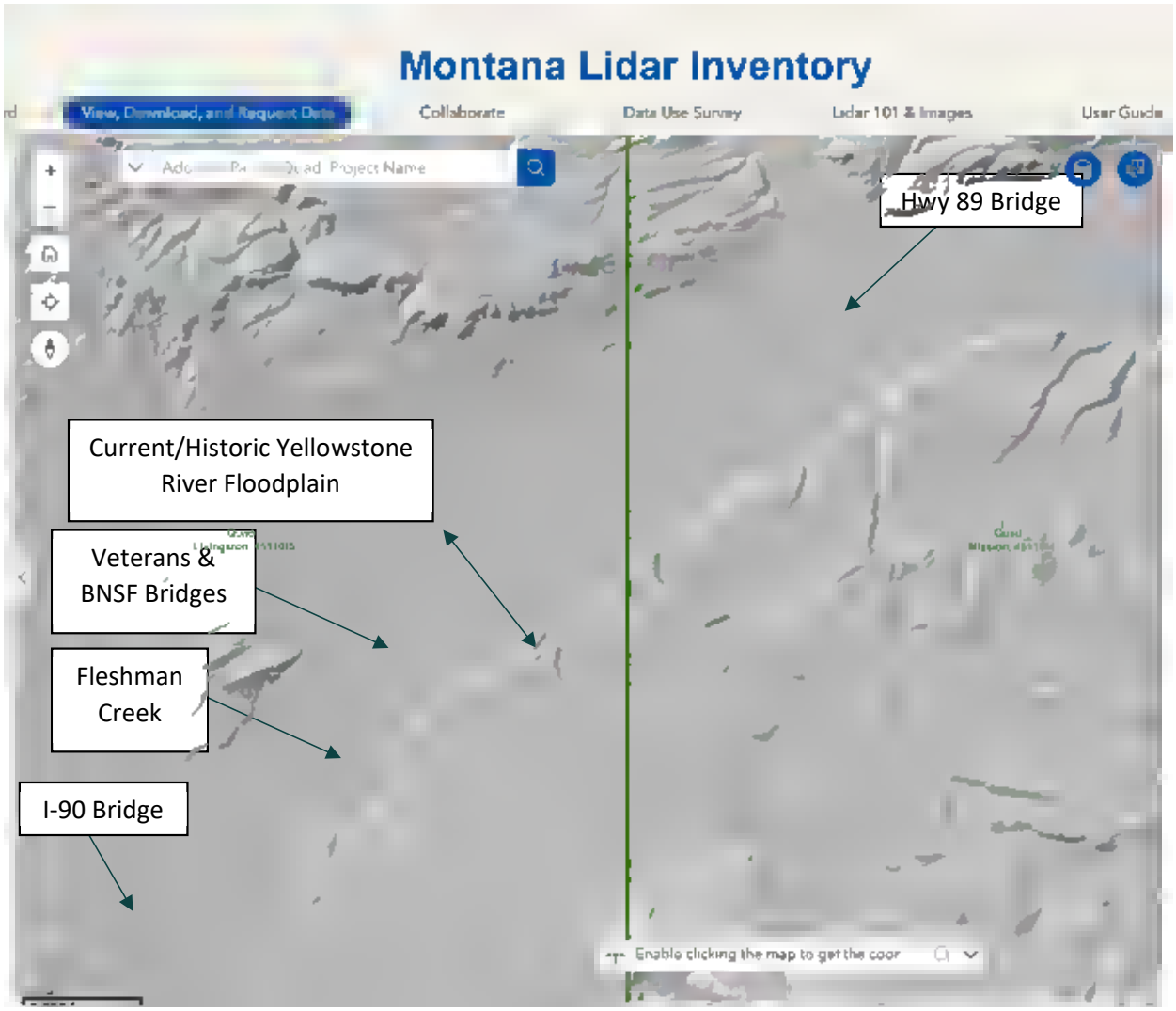



Figure 1. One-meter Lidar imagery showing the topographic surface of the City of Livingston. The current/historic Yellowstone floodplain is the broad valley bottom with numerous old swales/side channels which can be reactivated during flood events. Source: https://experience.arcgis.com/experience/59eb1cfca29445a0ae04655379c314e9/page/View%2C-Download%2C-and-Request-Data

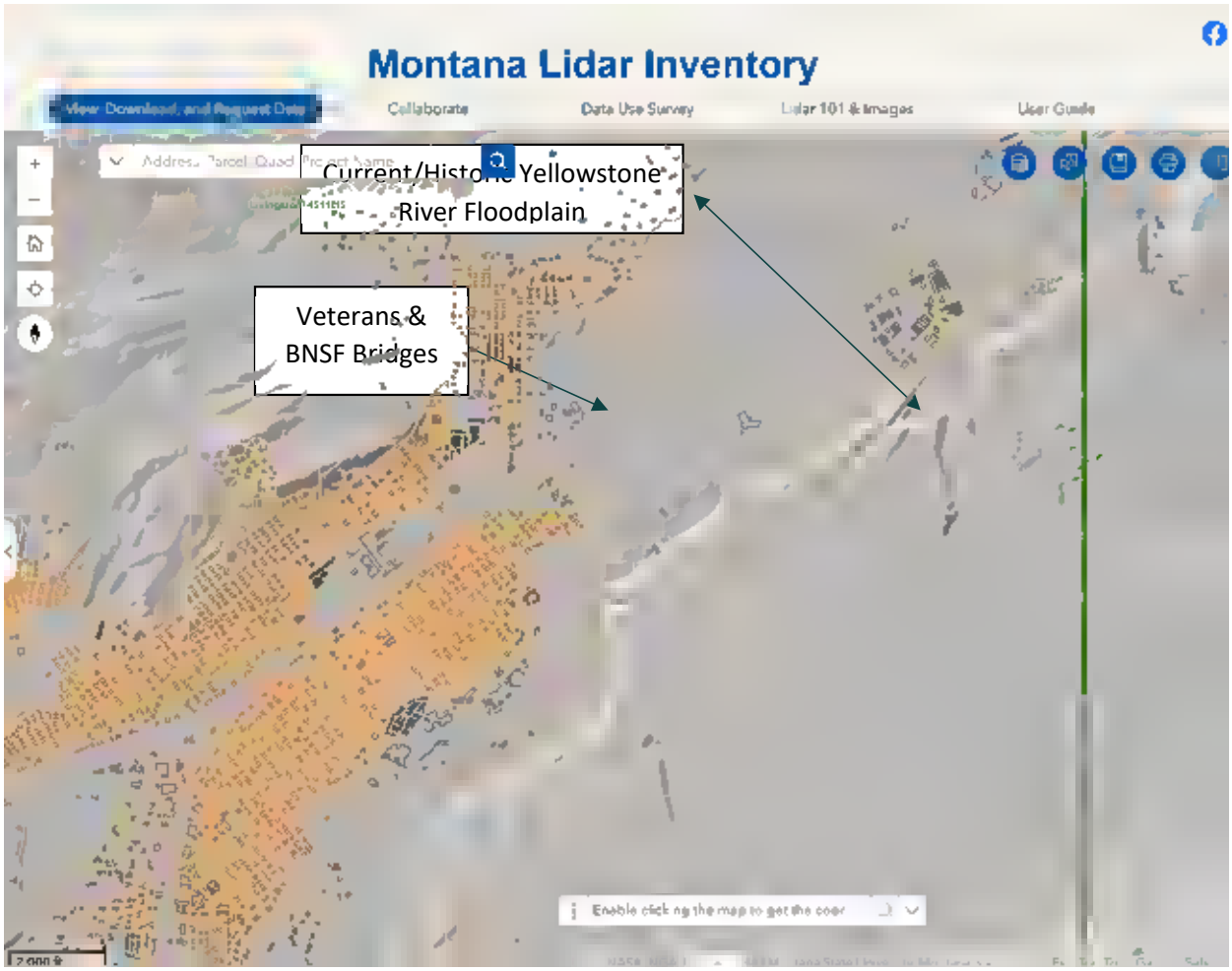



Figure 2. City parcels overlaid on the Lidar imagery shown in Figure 1 to illustrate the number of existing properties that are already exposed to flood risks because of proximity to Fleshman Creek and Yellowstone floodplain, plus the parcels that are slated for increased development in the proposed zoning map.

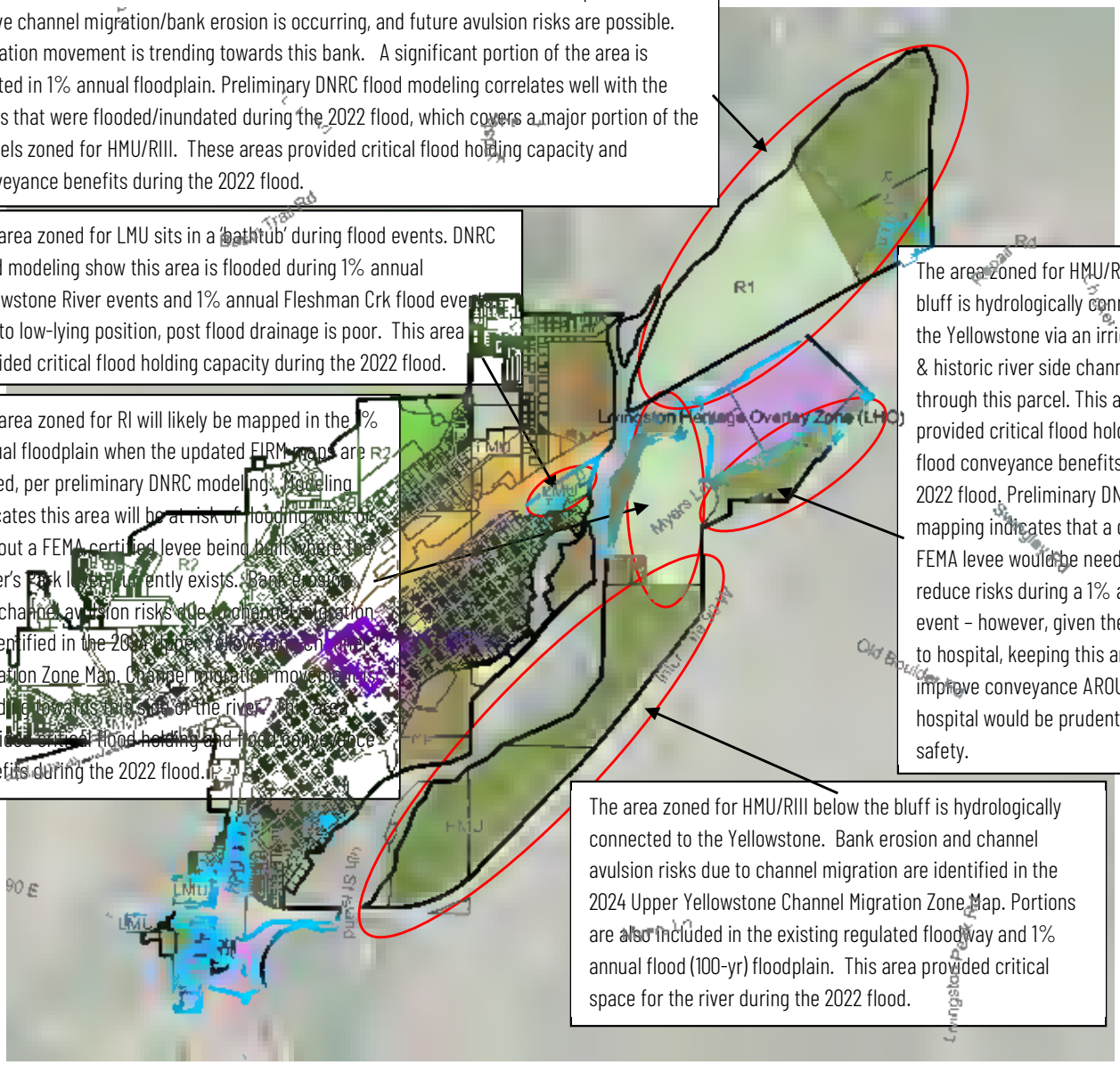
The area zoned for RI & HMU/RIII is in the Yellowstone historic and active floodplain where active channel migration/bank erosion is occurring, and future avulsion risks are possible. Migration movement is trending towards this bank. A significant portion of the area is located in 1% annual floodplain. 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 floodway/space 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, keeping 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 are identified in the 2024 Upper Yellowstone Channel Migration Zone Map. 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.


R1
R2
Livingston Heritage Overlay Zone (LHO)
Myers Ln
Old Boulder Rd
Bathtub Trail
Shiloh Rd
LMU
HMU
RMU
RMU
HMU
HMU
H

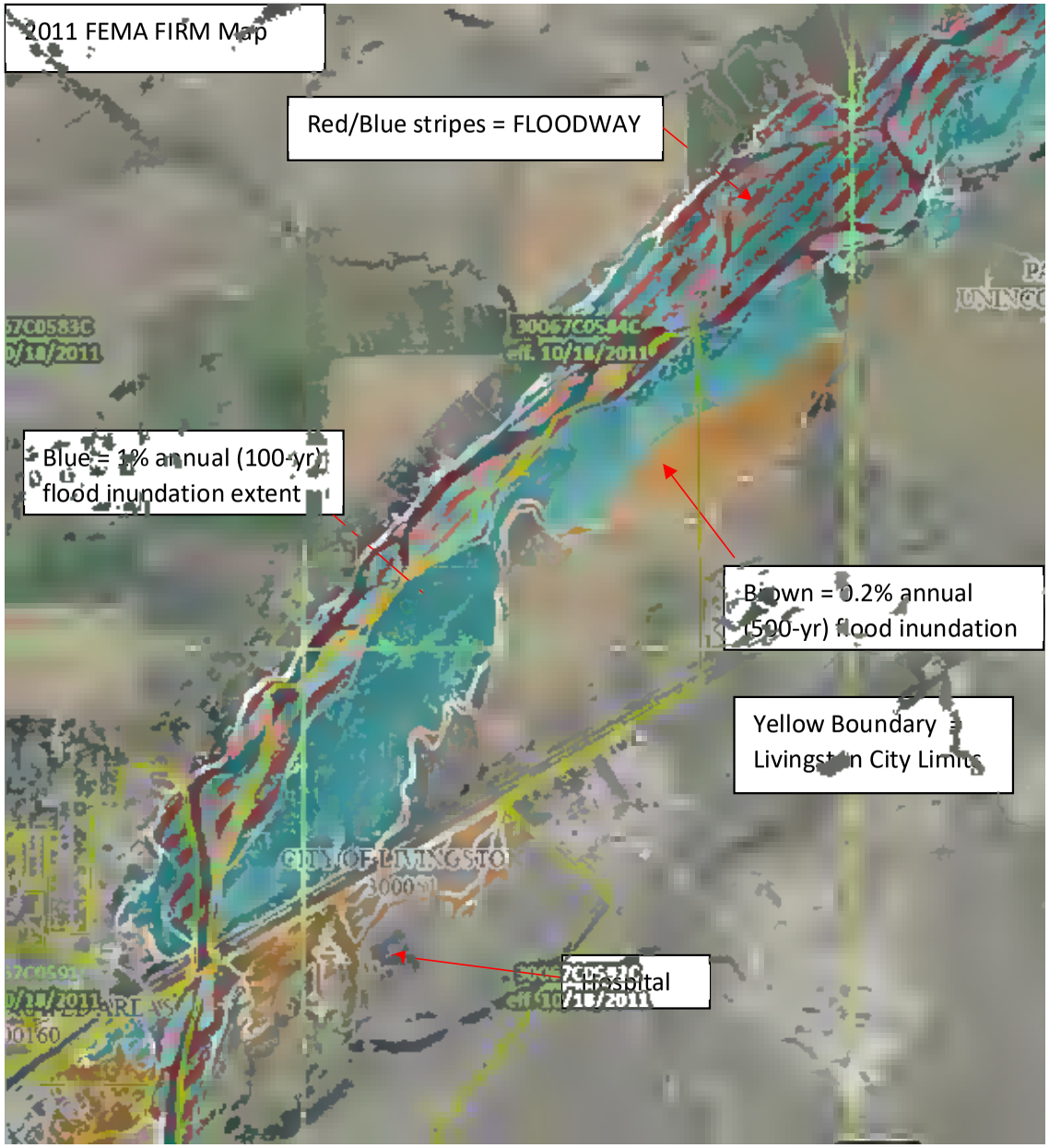



Figure 4. Existing 2011 regulatory FEMA FIRM map (aka 100-yr or 1% Annual Floodplain Map) showing the floodway, inundation extent for the 1% annual event and inundation extent for the 0.2% (500-yr) event for City parcels downstream of Veteran's Bridge/hospital. Note, the extent of the June 2022 flood was far greater than the mapped 0.2% (500-yr) event in the 2011 FEMA FIRM map.

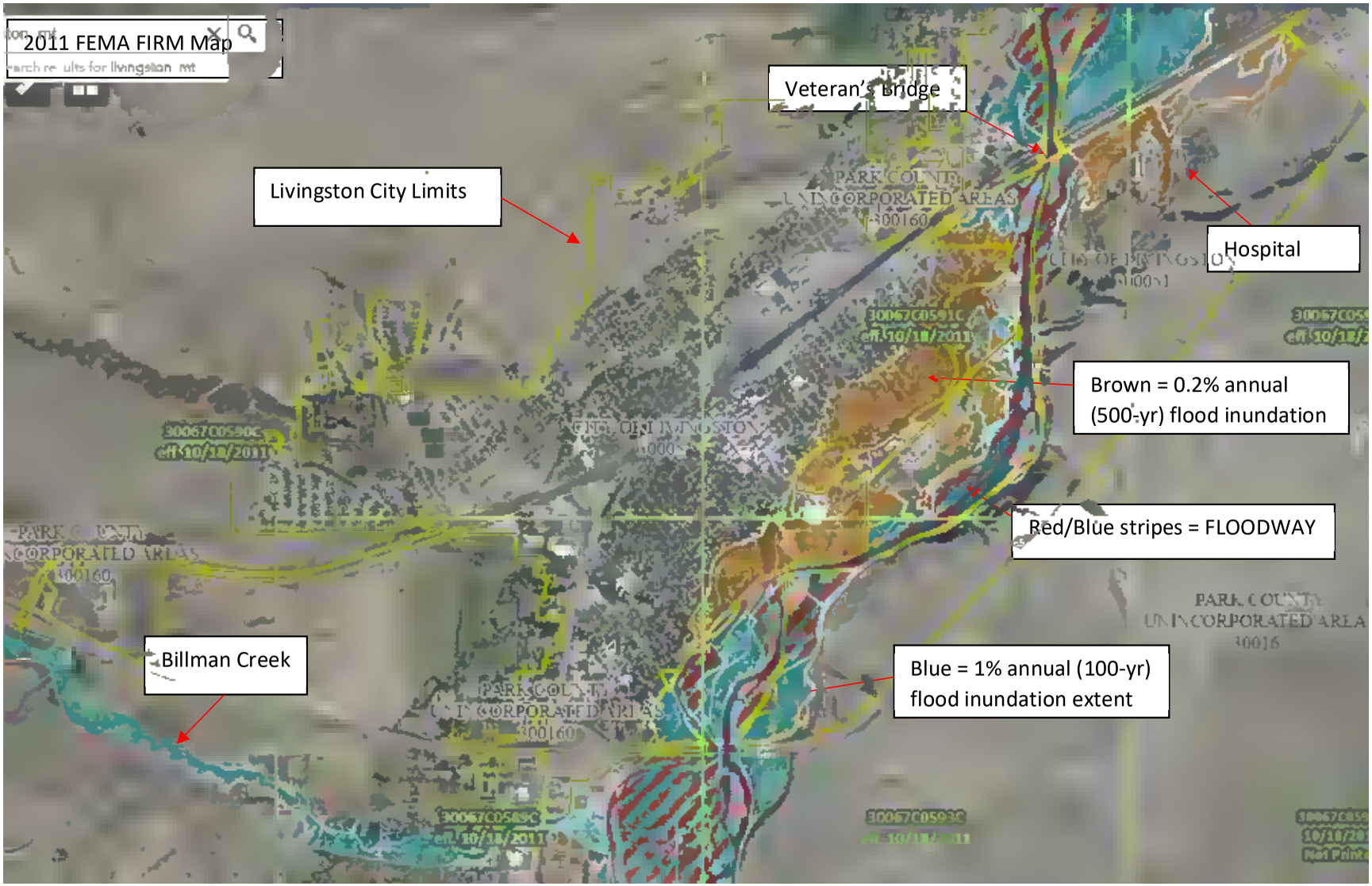



Figure 5. Existing 2011 regulatory FEMA FIRM map (aka 100-yr or 1% Annual Floodplain Map) for the City of Livingston, upstream of Veteran's Bridge.




Figure 6. DNRC preliminary flood modeling results between Veteran's Bridge and Hwy 89 Bridge, presented at 7-15-25 City Commission Meeting, showing the 1% annual flood extent based on existing conditions (blue + red inundation areas) and the 1% annual flood extent if a new FEMA certified levee structure is built along Meyer's Park (blue area only). Note that the inundation areas highlighted in blue + red correlate well with the areas that were flooded during the 2022 flood event.

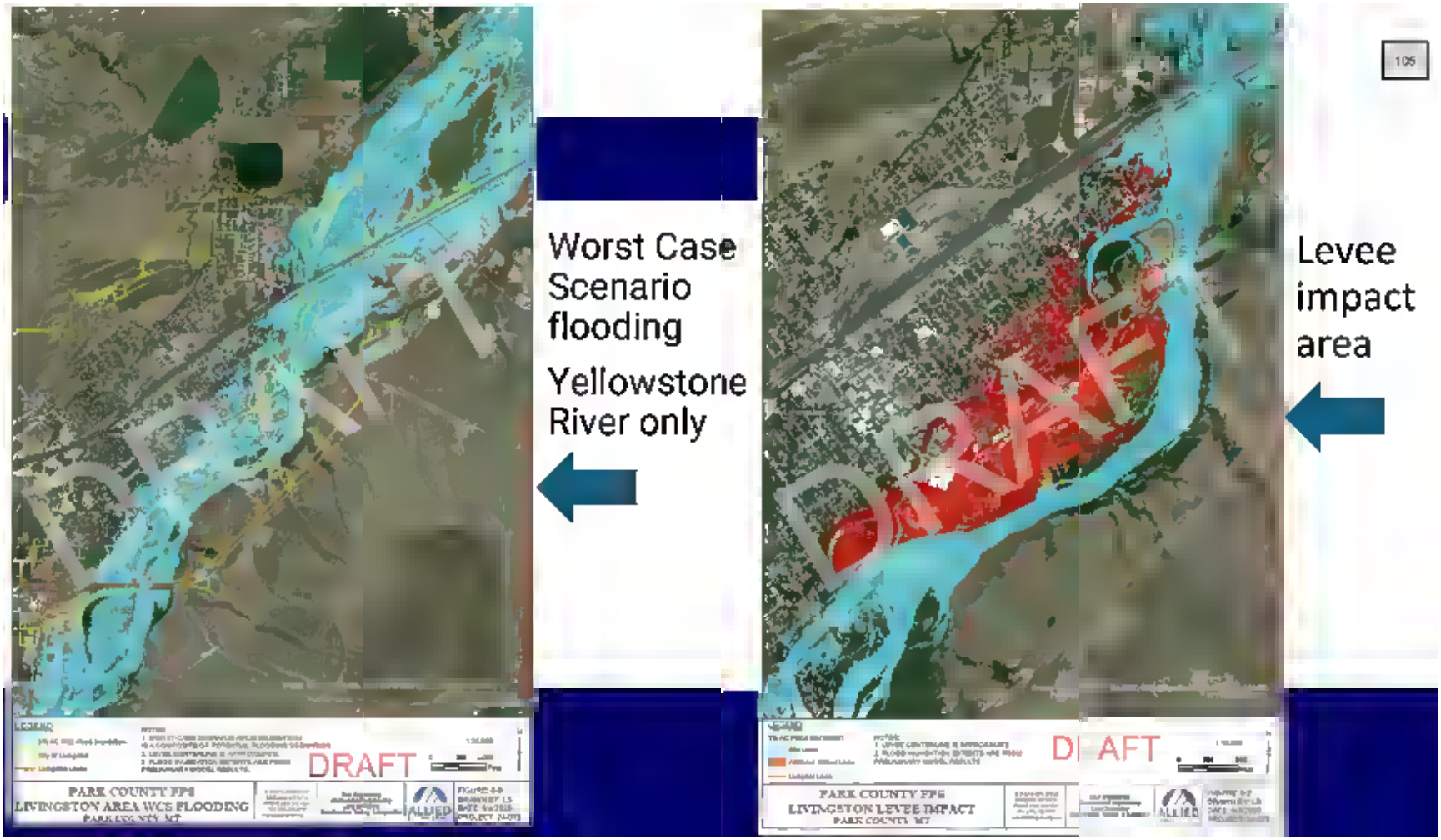



Figure 7. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the 1% annual flood based on existing levee conditions (blue +red inundation areas); and the 1% annual flood extent if the existing levee is upgraded to meet FEMA certification standards (blue area only). Note that this flood extent only accounts for flooding cause by the Yellowstone River. Also note that areas that are proposed to be zoned for higher density development near the KPRK building are inundated regardless of levee condition.



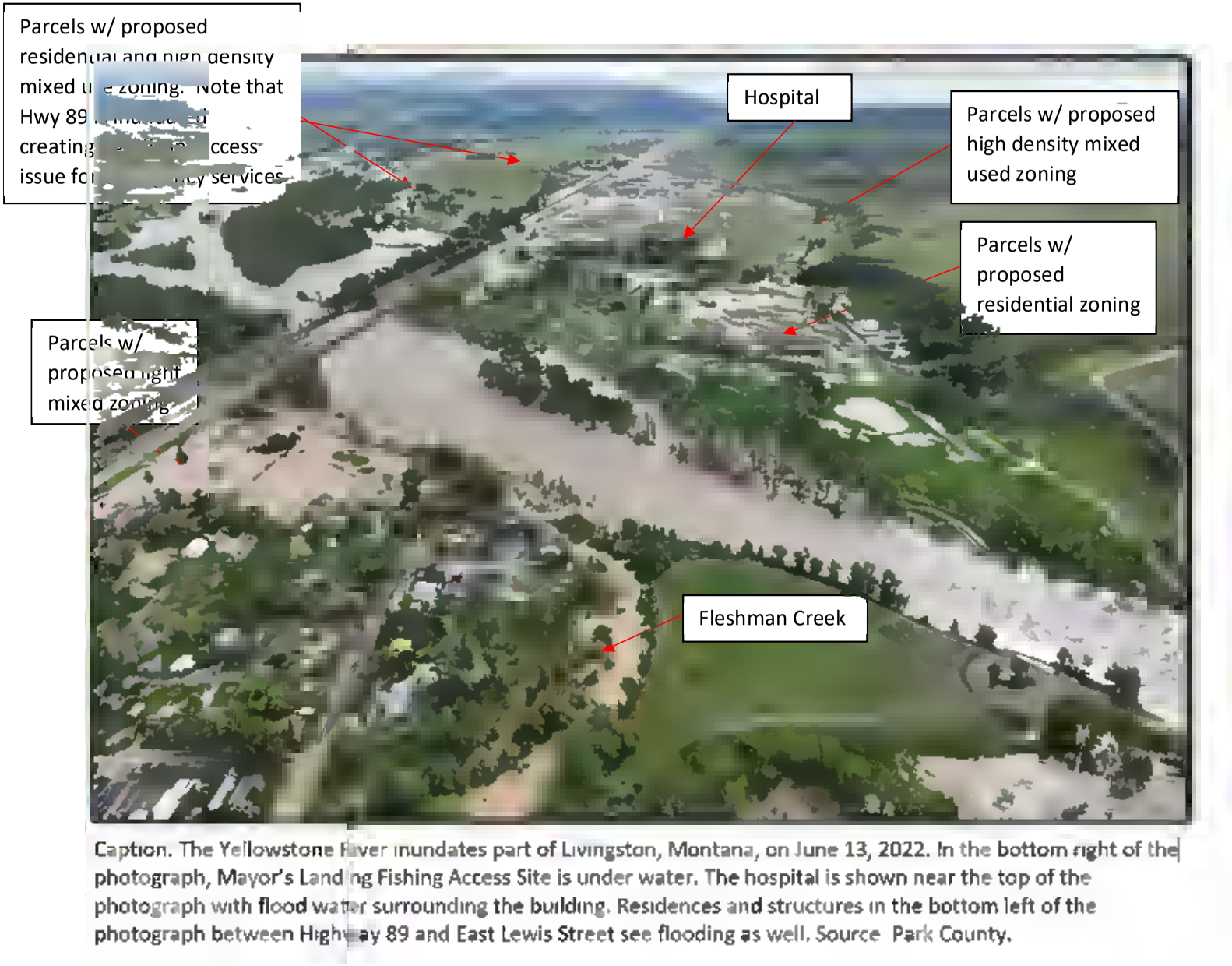

Figure 8. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the flood extent resulting from a 1% annual flood event on Fleshman Creek. Note that this is does not include compounding flooding issues that would occur if Fleshman Creek and the Yellowstone River were to flood at the same time. DNRC noted that the Livingston levee acts as a barrier in some locations, preventing flood water from draining more efficiently back to the Yellowstone River.



Figure 9. Post June 2022 Yellowstone Flood aerial imagery (dated 6.17.22). Note old side channels and swales that are still holding water, and the areas of sand deposits (light tan/gray) that cover the hospital parking area, the east business park lots, and GlassyBaby building parking lots.



Figure 10. Post June 2022 Yellowstone Flood aerial imagery (dated 6.17.22)




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.

Figure 11. Aerial image of June 13, 2022 flood event (taken from 2024 Park County Flood History Report).

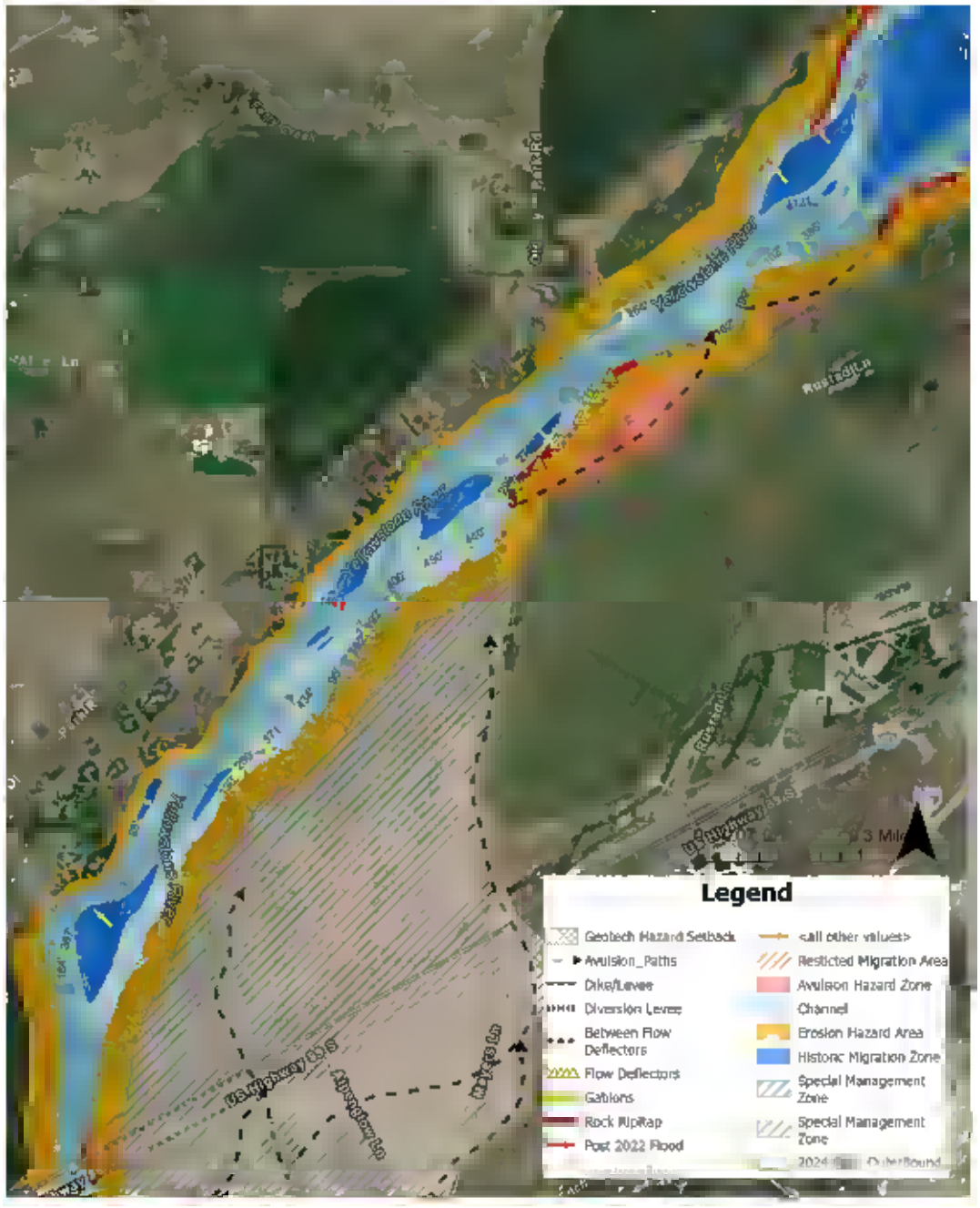



Figure 12. 2024 Channel Migration Zone Map illustrating "Special Management Area" designation for parcels on north and south side of Hwy 89/BNSF railway. A special designation was applied to these parcels to draw attention to the hydrologic complexity of this area. These parcels are low-lying relative to the Yellowstone River; they are subject to flooding; historic channels and swales convey flood water across the properties and are conduits for floodwaters to drain back to the river; Hwy 89/BNSF railroad create a barrier to floodwater conveyance from south to north and traps water around the hospital area; some areas are at risk of channel avulsion (sudden new channel alignment); channel migration is trending toward the river right bank since the 1940s; and new barriers that are built along the river right bank could trap floodwater entering upstream (or via subsurface) from being able to efficiently drain back into the river. Source: https://msl.mt.gov/geoinfo/data/montana_channel_migration_zones/projects/yellowstone_river

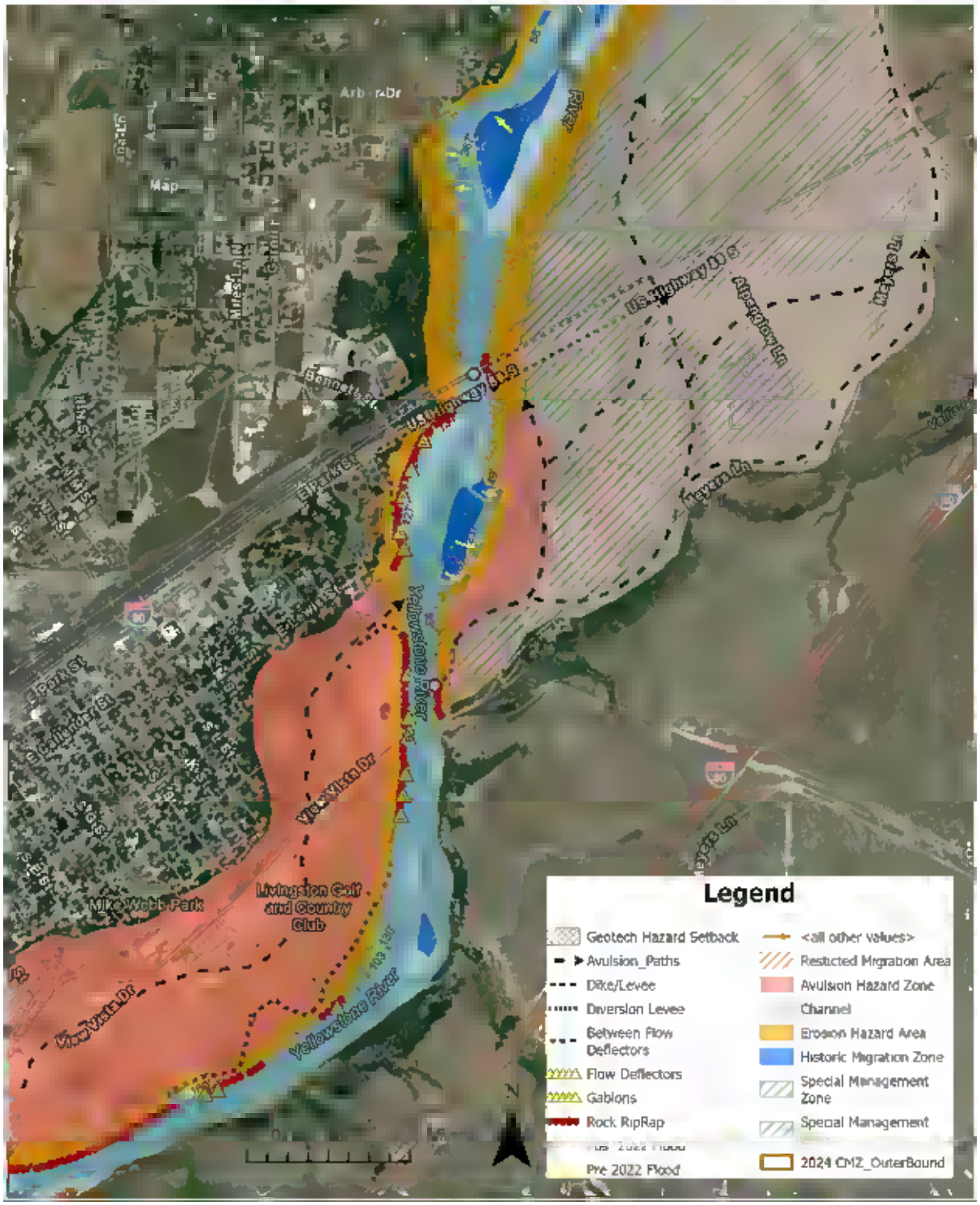



Figure 13. 2024 Channel Migration Map showing Special Management Area and existing riprap/flow deflectors/levee structures along river right and river left banklines that are intended to stabilize the river bank and prevent flooding from the Yellowstone River in areas labeled with as "Restricted Migration Areas". However, bankline armoring also create barriers that slow down effective drainage when the Yellowstone backwaters into Fleshman Creek during high flow events, or when Fleshman Creek floods, trapping floodwater behind the levee/riprap structures in existing residential areas.



MONTANA FRESHWATER PARTNERS

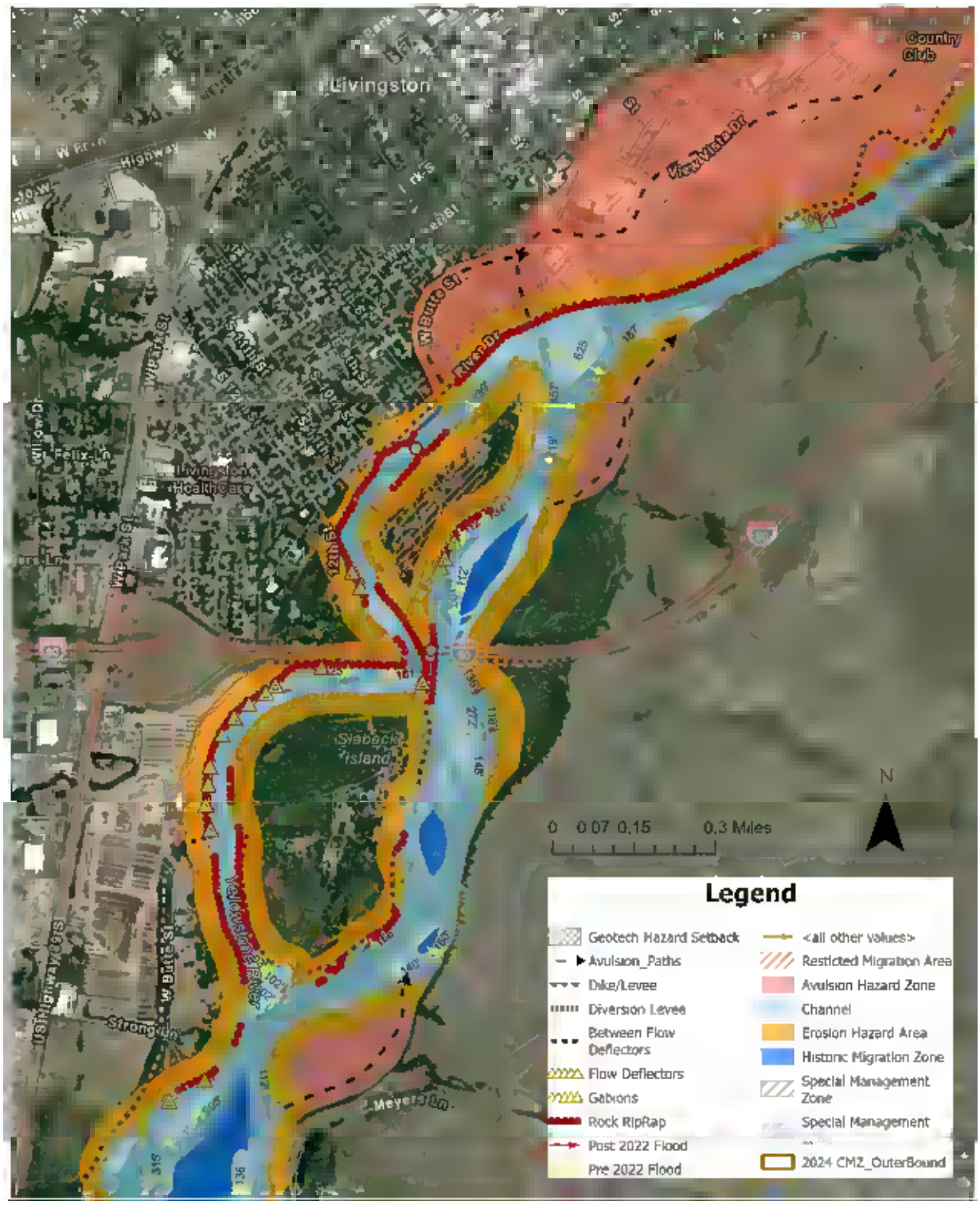



Figure 14. 2024 Channel Migration Map showing channel migration features downstream of the I-90 bridge where high mixed use development is proposed along the base on the bluff on the river right side of the Yellowstone. The yellow and red arrows indicate the distance and direction that the river channel has shifted since the 1940's. Also shown is the extent of the existing levee and bankline armoring (riprap) in this stretch of the river.

This copy is for your personal, non-commercial use only. Distribution and use of this material are governed by our Subscriber Agreement and by copyright law. For non-personal use or to order multiple copies, please contact Dow Jones Reprints at 1-800-843-0008 or visit www.djreprints.com



https://www.wsj.com/us-news/climate-environment/cities-fight-to-get-off-fema-flood-maps-one-montana-town-shows-the-risk-47c126b9

# Cities Fight to Get Off FEMA's Flood Maps. One Montana Town Shows the Risk.

Livingston successfully overturned a flood map which freed it from onerous restrictions. Years later, disaster hit

*By Arian Campo-Flores* Follow *, Jean Eaglesham* Follow *and Carl Churchill* Follow | *Photography and Video by Louise Johns for WSJ*

*Oct. 19, 2025 5:30 am ET*

LIVINGSTON, Mont.—When a torrential flood struck this town nestled on the banks of the Yellowstone River in 2022, it swamped areas that scientists had long predicted were susceptible to flooding. Those included a historic residential neighborhood and land that housed the local hospital, which had to be evacuated when floodwaters cut off access to it.

Yet some of those very areas had been removed from a high-risk flood zone a decade earlier after the city successfully challenged a proposed map from the Federal Emergency Management Agency. That map would have restricted development and forced some homeowners to buy flood insurance.

"We were relieved" over the appeal's success, said Mary Beebe, a city commissioner at the time. "But there were also people that were angry—that we were saving the real estate and putting the community at risk."

Livingston is one of hundreds of communities across the U.S. that have successfully fought FEMA's proposed maps through an appeals process that researchers say is widely gamed by local officials and property owners. The motive is usually money, since homes moved into high-risk zones typically lose value, and developments in high-risk zones are also usually more expensive, if they are allowed at all.

Despite the rising toll of flooding, exacerbated in part by climate change, thousands of properties are removed from flood zones each year.



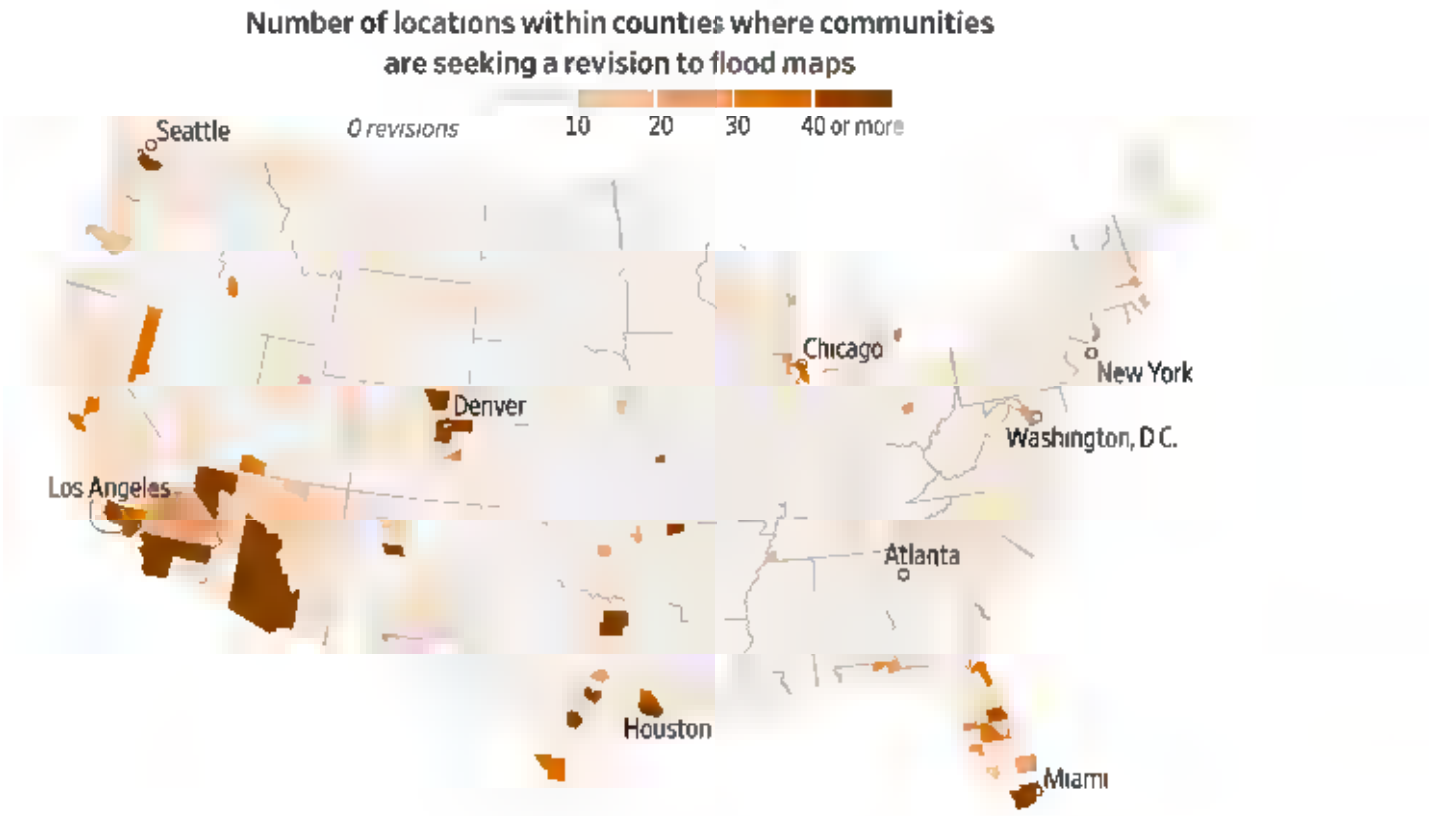

Downtown Livingston, Mont , earlier this month Mary Beebe, former Livingston city commissioner notes that some people were angry that a flood-map appeal succeeded

The risks were underscored by the devastating flooding that killed 27 people at Camp Mystic in Texas in July. FEMA granted appeals by camp owners years earlier to remove dozens of its buildings from a high-risk flood zone, records show.

"Flood risk shouldn't be negotiable," said Jeremy Porter, chief economist at First Street, a climate-modeling firm. "Flood risk should be something we can determine from scientific, empirical data, and it isn't that under the FEMA mapping process."

A FEMA representative described the mapping process as a collaborative effort involving private industry experts, states and communities, as well as the government. "Map updates include community input to ensure local knowledge and areas of concern are incorporated," the representative said, adding that maps are subject to extensive review.

FEMA flood maps highlight high-risk areas known as the 100-year flood plain, where the chance of flooding is 1% a year, or 26% over the typical 30-year life of a mortgage. Congress has mandated that FEMA review the maps every five years, although in practice updates can take far longer. Communities and homeowners can appeal proposed new flood maps, or ask for properties and zones to be taken out of existing ones.




Note: As of July 2025
Source: FEMA
[illegible]/WSJ

Expanding a 100-year flood zone can add significant costs for a community. Being in a zone forces homeowners with federally backed mortgages to buy flood insurance and requires new buildings to be at least as high as the base flood elevation, the expected flood height during a 100-year storm.

Thousands of properties are removed from high-risk flood zones every year following appeals, federal data show. More than 6,700 appeals to take properties out of a zone—86% of the total—were approved between October 2024 and late August this year, according to FEMA. Another nearly 2,900 requests—93% of the total—to remove areas elevated by fill, typically in new developments, were also greenlighted over the same period, FEMA said.

A lengthy appeal can halt a new zone from taking effect while it is pending, leaving homes and businesses vulnerable to mounting flood risks while it plays out. But it can also postpone big costs.



Heavy rain and snowmelt sent a wall of water down the Yellowstone River that hit Livingston, Mont., in June 2022. WILLIAM CAMPBELL/GETTY IMAGES

In New York City, for instance, officials have said their long-running appeal of a 2015 FEMA proposal to move around 35,500 properties into a high-risk zone is "saving coastal homeowners tens of millions of dollars per year." A new proposed map isn't expected until March 2026—21 years after the existing map took effect—a FEMA representative said.

Hurricanes Helene and Milton last year exposed serious flaws in the flood maps, devastating thousands of homes outside official high-risk zones. But hurricane-prone communities continue to fight efforts to expand the areas. Key West, Fla., is appealing a 2019 proposal that would move 2,000 properties into such a zone, resulting in additional insurance costs of more than $5 million, according to one homeowners' group.

Livingston, with a population of 9,000, has dealt with flooding from the Yellowstone River repeatedly over the years. A gateway to Yellowstone National Park surrounded by rugged scenery, the city draws a steady stream of tourists and is stocked with restaurants, bars and galleries.



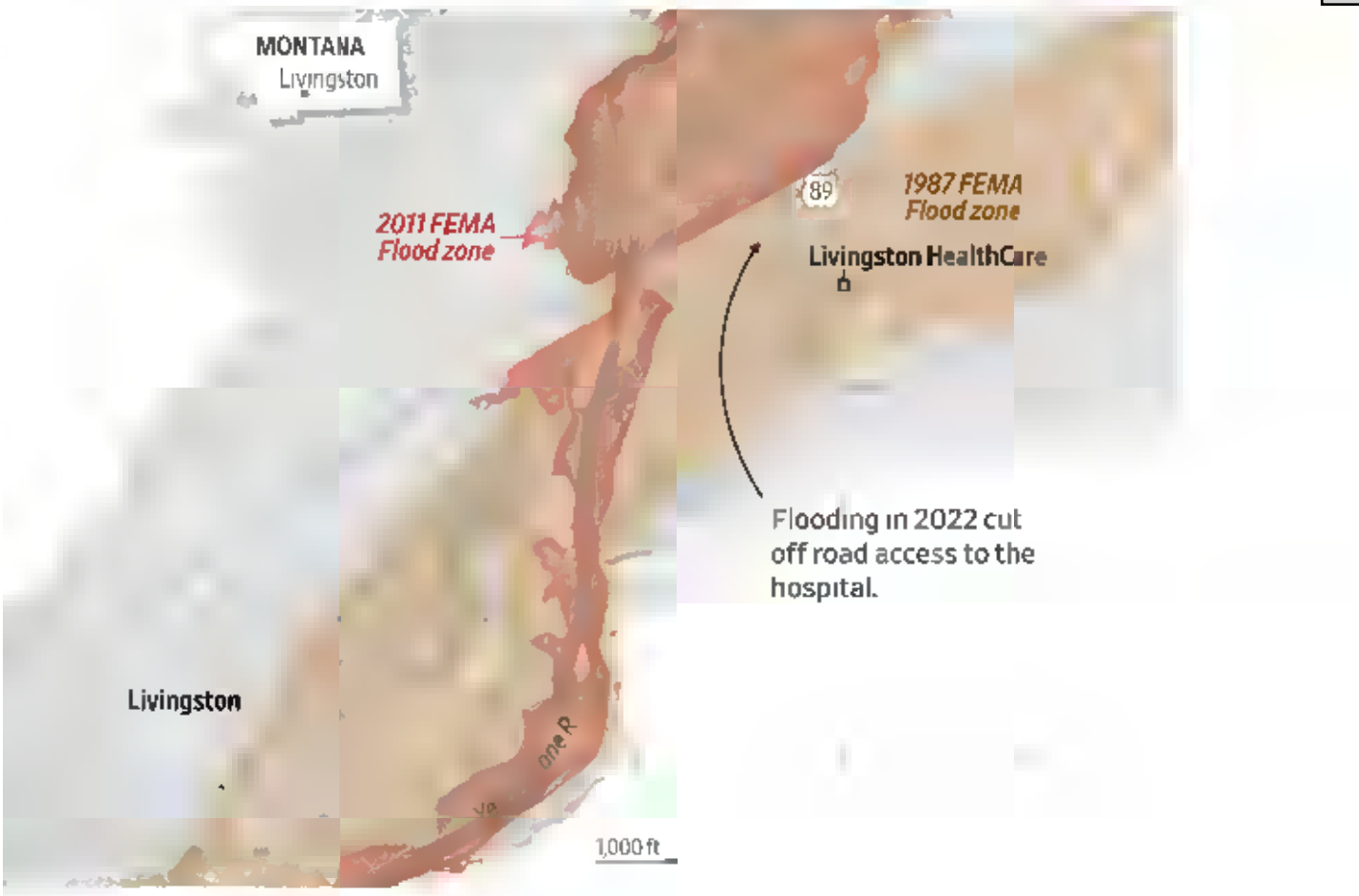


The Livingston HealthCare medical center this month. Stacy Kohler, chief nursing officer says hospital patients were evacuated during the flood.

When Ed Meece arrived in 2006 to take a job as the new city manager, he said residents were anxious about a FEMA plan to update the area's 1987 flood map. The new version was expected to put hundreds of homes on Livingston's southeast side, a historic area near the river, in what is known as the floodway, the principal path of floodwaters. That designation involves even more restrictions than the 100-year flood plain, generally prohibiting new construction and significant renovations to existing buildings.

Residents in the affected area worried that their property values would plummet, said Ernie Meador, a longtime real estate agent in Livingston. Some called the mapping exercise flawed, arguing that their families had owned homes for generations and never seen them take on water. "Floodway my ass," went their thinking, Meador said.

FEMA flood-zone revisions in Livingston




Sources: FEMA (flood zones), U.S. Agriculture Department (imagery)
Carl Churchill/WSJ

Meece proposed that the city hire its own hydrologist to conduct an independent analysis, which city commissioners agreed to do in February 2008. Two months later, the hydrologist told the city commission that a study the Army Corps of Engineers conducted for FEMA had flaws and inaccuracies, city commission records show.

While the Army Corps study concluded that water in a 100-year flood would inundate homes on the city's east side, the hydrologist said his data found that wouldn't happen, according to a report in the Livingston Enterprise, a local paper. "That whole problem would go away," he was quoted as saying.

The city sent FEMA the hydrologist's study challenging the agency's map and presenting his own findings that included no homes in the floodway, according to officials and city records. In June 2009, a FEMA contractor backed the study, which would remove more than 200 homes from the flood zone.

Meanwhile, the Livingston HealthCare medical center was pursuing a plan to build a new hospital on land across the river from the historic southeast side. At least part of it fell in the 100-year flood plain originally proposed by FEMA, a designation that would complicate building plans for the site.

Relying on the hydrologist's analysis, the city filed an additional appeal with FEMA to remove that area from the flood plain. FEMA approved that revision in November 2009.



The Yellowstone River in Livingston today. The city has had to deal with flooding from the river repeatedly over the years.

Some residents questioned the wisdom of building a hospital in an area vulnerable to flooding and produced old photographs showing portions of it underwater, said Michael Inman, director of the planning department of surrounding Park County. "People were like, 'Are you kidding me? ... You're going to put a hospital there?' " he said.

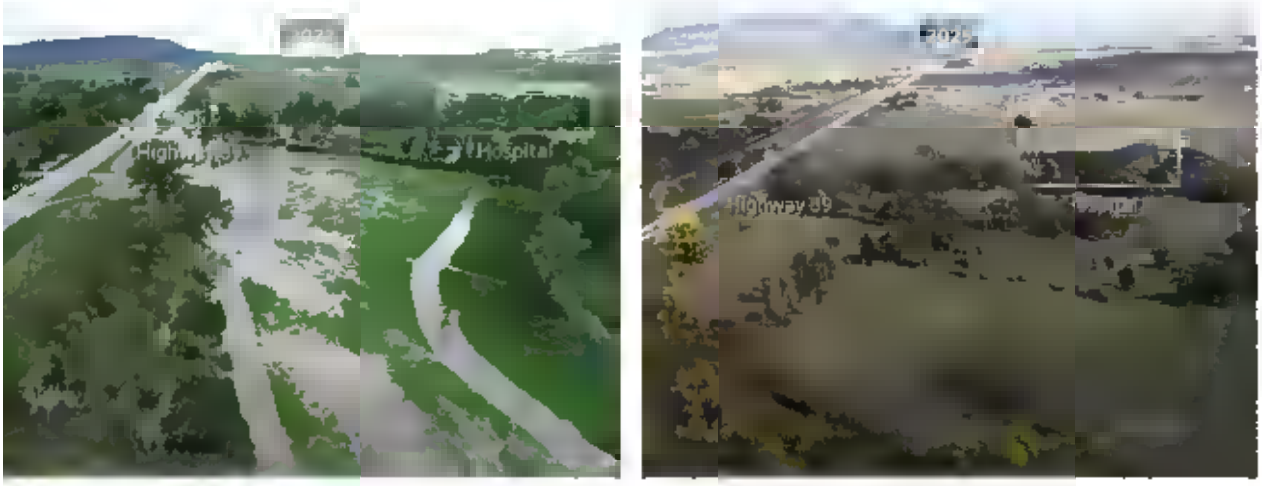
Meece said the city's various appeals were aimed at deriving accurate maps. His message to the hydrologist, he said: "I want you to give me something that reflects good science."

To speed approval of the overall map, the city enlisted the help of then-U.S. Sen. Max Baucus of Montana, according to city records. In 2011—by which time Livingston had spent about $270,000 on its appeals efforts, according to city documents—FEMA gave final approval to the new map that incorporated the hydrologist's analysis.

Then came the flood of June 2022. Heavy rain combined with enormous snowmelt sent a wall of water surging down the Yellowstone River. Some areas on the east side of the city that had been removed from the floodway were inundated.

At the hospital, floodwaters approached the facility and swamped the main entrance road, said Stacy Kohler, chief nursing officer. The hospital was elevated with fill when it was built so it remained dry, but access to it was cut off

**The June 2022 flood blocked access roads to Livingston's hospital**




VIDEO: MONTANA DEPARTMENT OF NATURAL RESOURCES & CONSERVATION (2022)

Administrators decided to evacuate eight patients and all 32 staff members, Kohler said. After she fled and reached the nearby interstate that is elevated, she said, the hospital below looked like an island.

"We had no idea of the magnitude of water we were going to encounter," Kohler said.

Among the affected property owners was Celeste Mascari, whose home and a preschool she ran in a separate building were flooded. Since she didn't have flood insurance, she relied on donations, FEMA grant money and savings to cover the roughly $25,000 in repairs for the school, where she is now living. She hasn't rebuilt the house yet.

In the aftermath, some residents expressed versions of "I told you so." City officials from the time of the appeals process counter that the flood was an extreme case, far worse than the 100-year event that FEMA maps are designed to guard against.



Celeste Mascari stands outside the rebuilt school in Livingston, Mont. A photograph on her phone shows the June 2022 Yellowstone River flood

The 2022 flood has triggered a new mapping effort for Livingston that threatens to make tensions flare once again. Draft maps released in July by a state agency working with FEMA would put much of the area removed in the 2011 map back in a high-risk flood zone, including part of the hospital property.

"It's deja vu all over again," said resident Dennis Glick.

Write to Arian Campo-Flores at arian.campo-flores@wsj.com, Jean Eaglesham at Jean.Eaglesham@wsj.com and Carl Churchill at carl.churchill@wsj.com

*Appeared in the October 20, 2025, print edition as 'Cities Roll Dice and Try To Get Off Flood Maps'*

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

MONTANA FRESHWATER PARTNERS

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,

J Blank

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/ultural 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*

FRIENDS *of* PARK COUNTY

**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/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.*"

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 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."*

      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.

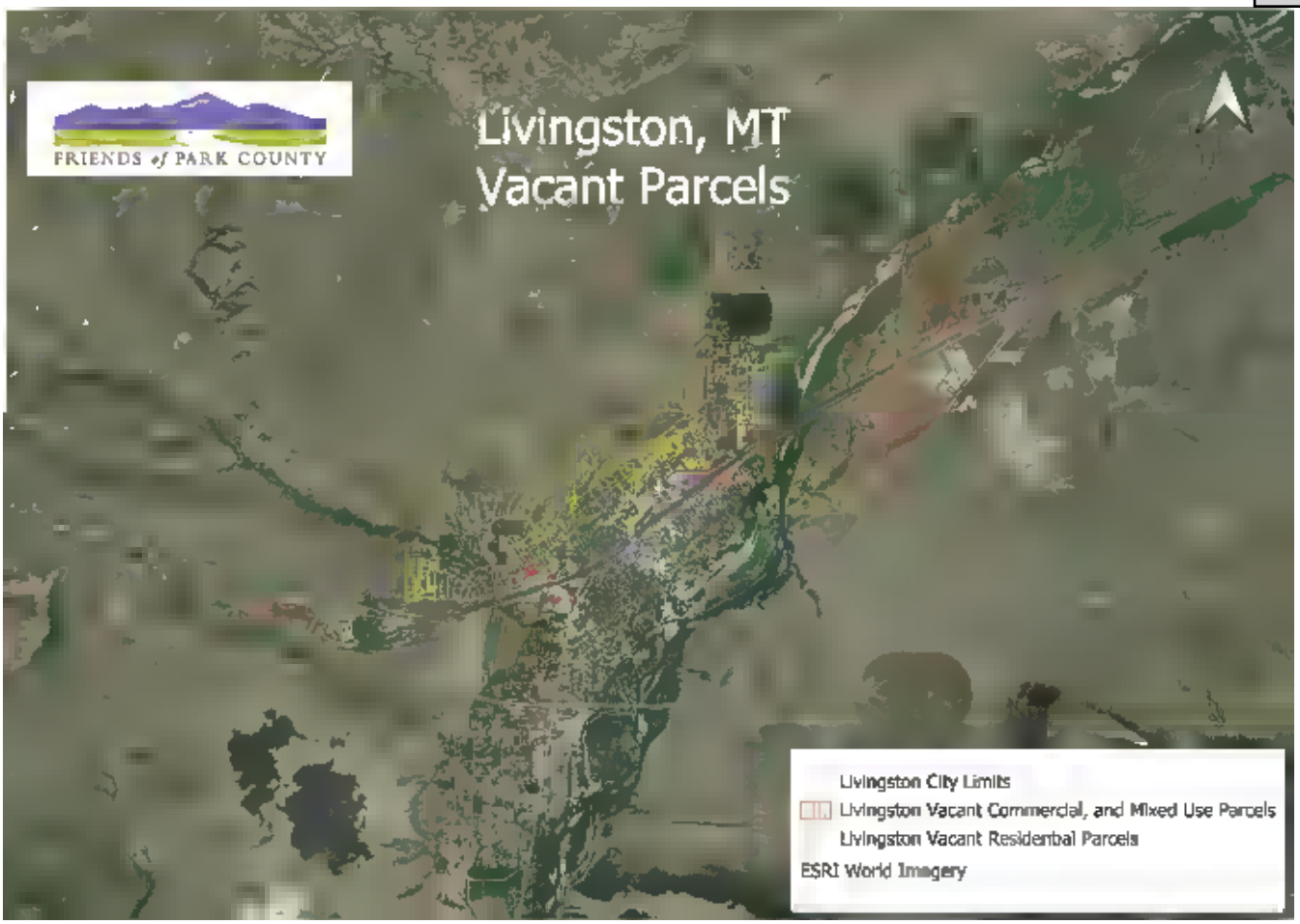
| Proposed District | Vacant Acres | Dwelling Units/Acre* | Potential Dwelling Units |
|---|---|---|---|
| R1 | 452 | 4.7 | 2,124 |
| R2 | 317 | 9.3 | 2,948 |

**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.


FRIENDS of PARK COUNTY
Livingston, MT
Vacant Parcels
Livingston City Limits
Livingston Vacant Commercial, and Mixed Use Parcels
Livingston Vacant Residential Parcels
ESRI World Imagery



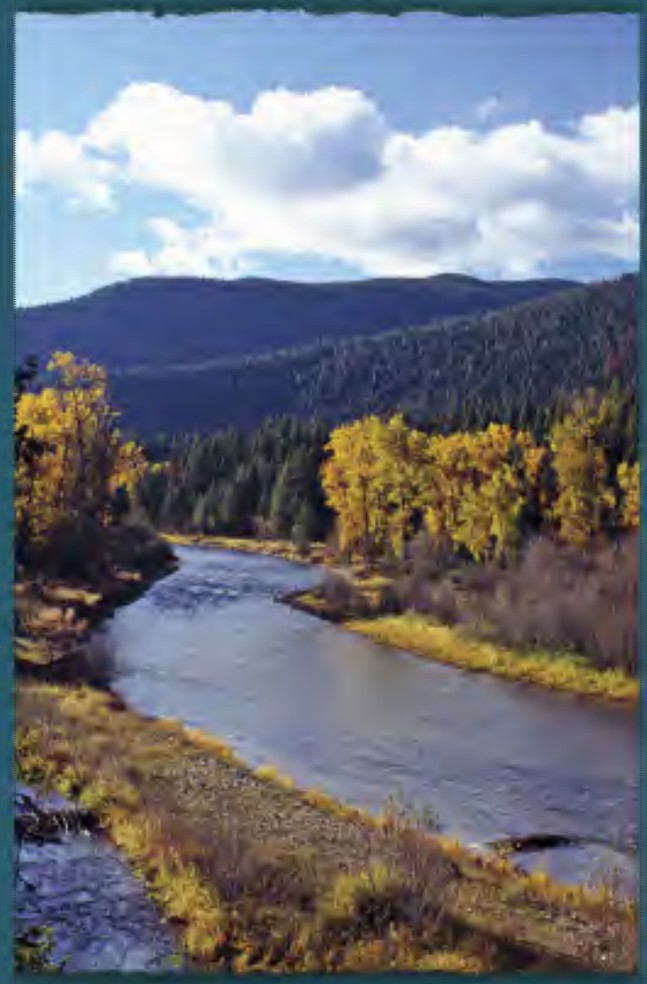
Visit
www.water.montana.edu/setback
to discover how stream setbacks
can improve your quality of life.

Produced by the Governor's Task Force
for Riparian Protection

This document was printed at state expense. Information on the cost of the publication can be obtained by writing to the Montana Department of Administration. Copyright ©2006 by the State of Montana. All rights reserved. Designed and produced by the Governor's Task Force for Riparian Protection. Luke Duran, art director.

Montana's rivers and streams need

# ROOM TO ROAM



*Protecting Your Natural Environment:*

## A New Home Builder's Guide to Responsible Development near Rivers, Streams and Wetlands





## Your future depends on clean water.

Enjoyment of your new Montana home depends on the future health of Montana's fish, wildlife, and natural areas.

Montana's fastest growth is in rural places near rivers, lakes, and forests.

Today, people like you want to live near water, and areas nearest to Montana's rivers, streams, and lakes are among the most popular rural development sites in Montana.

Rivers, streams, and wetlands makeup less than five percent of Montana's landscape, yet contain 75 percent of the state's plant and animal diversity.

Most agree that's worth protecting.

It makes sense to protect the natural values that you want to enjoy as you consider your new home site.

Stream set backs offer you an intelligent solution that protects your water, your privacy, your budget, and the natural landscapes that harbor the fish and wildlife everyone enjoys.

Long-time Montanans and newcomers alike are attracted to the state's unspoiled outdoor recreation opportunities.



Bank erosion, flooding, introduction of pollutants and loss of critical habitat are all effects caused by building too closely to water's edge.



Constructing your home with a stream setback helps maintain a natural setting, and provides room for fish, wildlife and vegetation to thrive.



Your natural neighbors depend on a buffer between your home and the water.



## Stream setbacks bring Montana's future into focus. When you build your new home, remember:

- your comfort and well-being depends on clean water.
- your enjoyment depends on maintaining a natural environment.
- your outdoor lifestyle depends on access to wild fish populations, abundant wildlife, and the recreational activities that define the Montana experience.

## A well-designed stream setback:

- provides a natural area between the stream and your home and buildings
- reduces the risk of losing your investment to flooding and erosion
- increases your property value
- filters pollutants that can harm fish, wildlife and water quality

## Setbacks reduce flooding

Stream setbacks reduce property damage and downstream flooding because streams overflow onto their natural floodplains.

## Setbacks reduce pollution

Vegetation within stream setbacks filters and traps pollutants, and helps to maintain Montana's water quality.

## Setbacks reduce stream bank erosion

Vegetated stream setbacks protect against erosion by slowing runoff and stabilizing stream banks.

## Setbacks protect fish and wildlife habitats

Stream setbacks provide habitats for Montana's fish and wildlife. Setbacks protect fish and wildlife cover and provide shade that cools the water.

## Setbacks provide economic benefits

Stream setbacks increase property values and provide economic benefits by reducing the need to combat flooding, repair eroding stream banks, and replace damaged property.

## Setbacks provide recreation benefits and privacy

Montana's stream access law offers everyone the ability to enjoy Montana's waterways. Stream setbacks provide homeowners privacy from anglers and floaters while protecting our traditional relationship with Montana's natural resources that makes Montana such an attractive place to live, work, visit, and play.

## What can you do?

Remember, stream setbacks provide you with personal assets that are economical, efficient and sustainable.

- Build on higher ground, outside of the floodplain, and back from streams and wetlands
- Leave streamside and wetland areas intact.
- Never dig, cut native vegetation, or build within 300 feet of streamside or wetland areas
- Storm water rapidly runs off hard surfaces, so keep things like driveways, concrete patios, and rooftops to a minimum and direct runoff away from riparian and wetland areas.
- Install septic systems outside riparian areas and the flood plain.
- Join your local watershed group or contact Montana's Watershed Coordination Council.
- Don't apply fertilizers, pesticides, or herbicides near a stream, lake, or wetland.
- Ask your county commissioners to adopt rules and regulations that preserve, protect and restore streamside areas.
- Provide stream setback education and outreach programs and materials to your neighbors, your builder, your real estate agent, and others.
- If you already live near a stream or river, consider improving your property with native landscaping to provide a buffer between your home and the stream.

## Montana watershed groups

**Montana Watershed Coordination Council**
http://water.montana.edu/watersheds

## Watershed protection and restoration

**Center for Watershed Protection**
http://www.cwp.org

## State laws, rules, and regulations

**Montana Department of Environmental Quality**
http://www.deq.state.mt.us/wqinfo

## Streamside and wetland information

**U.S. Environmental Protection Agency**
http://www.epa.gov/owow/nps

## Information, resources, and education

**The Montana Watercourse**
http://www.mtwatercourse.org



**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.*

BUILDING A BETTER COMMUNITY

thehrdc.org
e: hello@

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
e hello@thehrdc.org

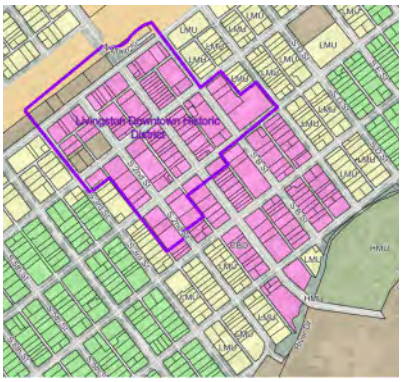
a: 32 South Tracy
Bozeman, Montana 59715

HRDC
BUILDING A BETTER COMMUNITY

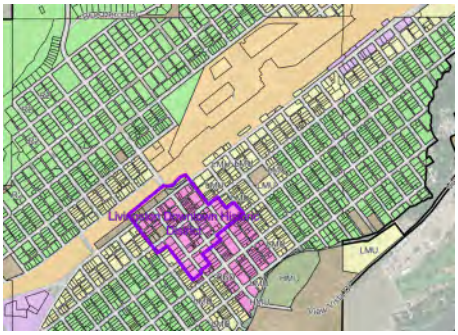
1. **Downzoning Livingston's core diminishes opportunities to increase housing supply and diversity**

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 |

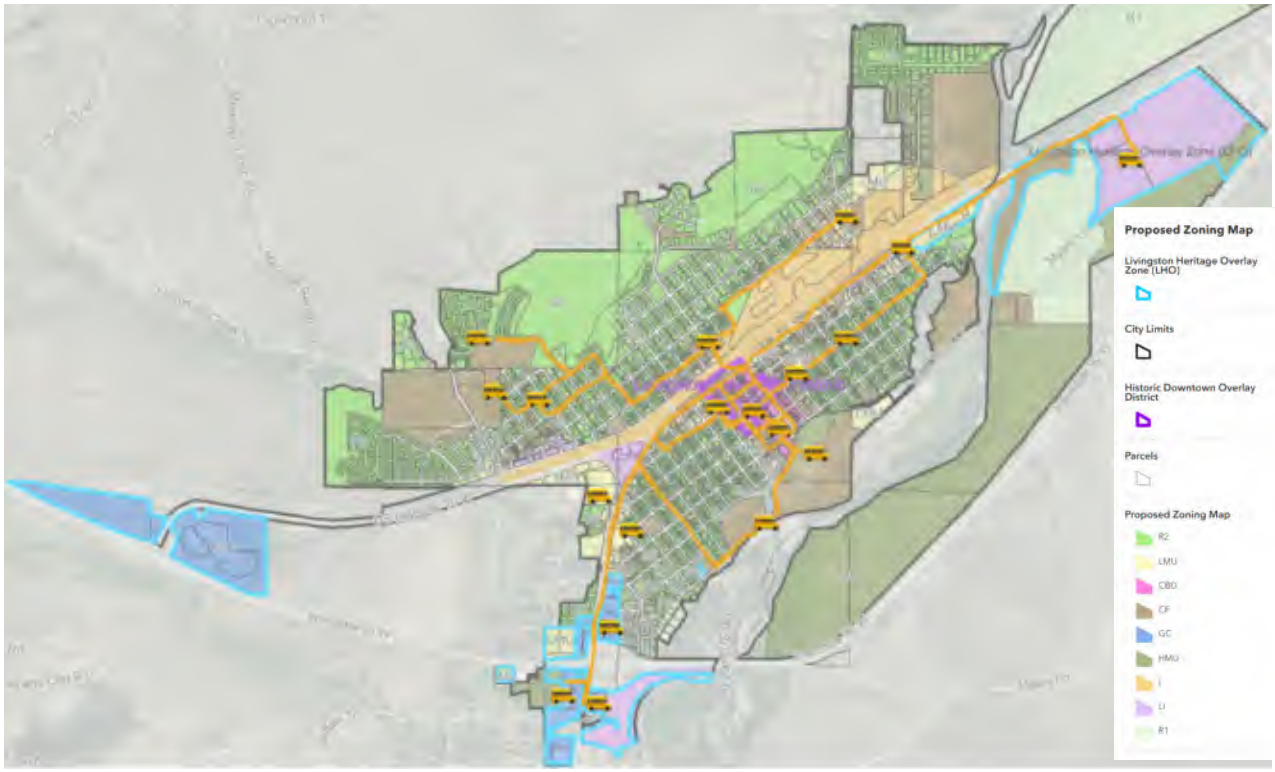
- Roughly 8 blocks within the existing CBD are proposed to be downzoned to Light Mixed Use (LMU). The FLUM does not envision a reduction in the CBD. The CBD currently is "intended to accommodate stores, hotels, government and cultural centers, professional offices, service establishments and all manner 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)<br>Orange = High Density Residential (RIII)<br>Light Pink = Industrial (I) | Dark Blue = Highway Commercial (HC)<br>Army Green = High Density Residential (RIII)<br>Orange = Industrial (I) | Light Yellow = Light Mixed Use (LMU)<br>Light Pink = Light Industrial (LI)<br>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.

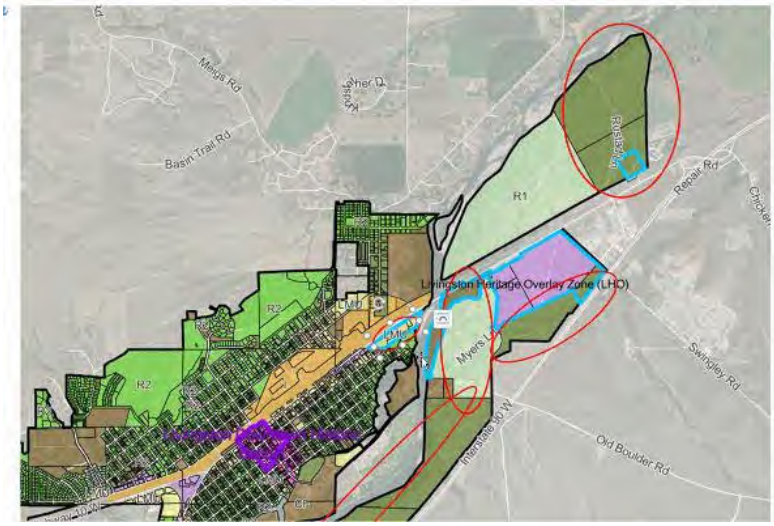
I would appreciate the City's attention to this issue and ideas for facilitating the creation of manufactured home communities in which permanent foundations are not required.

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
t 406.222.4848 | e info@downtownlivingston.org
124 S. Main St., Ste. 210 | PO Box 284 | Livingston, MT 59047
www.DowntownLivingston.org

CONVENTION & VISITORS BUREAU
t 406.224.3904 | e info@explorelivingstonmt.com
124 S. Main St., Ste. 210 | PO Box 284 | Livingston, MT 59047
www.ExploreLivingstonMT.com

TOURISM BUSINESS IMPROVEMENT DISTRICT
t 406.224.3847 | PO Box 348 | Livingston, MT 59047

PARK COUNTY
ENVIRONMENTAL
COUNCIL

**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.

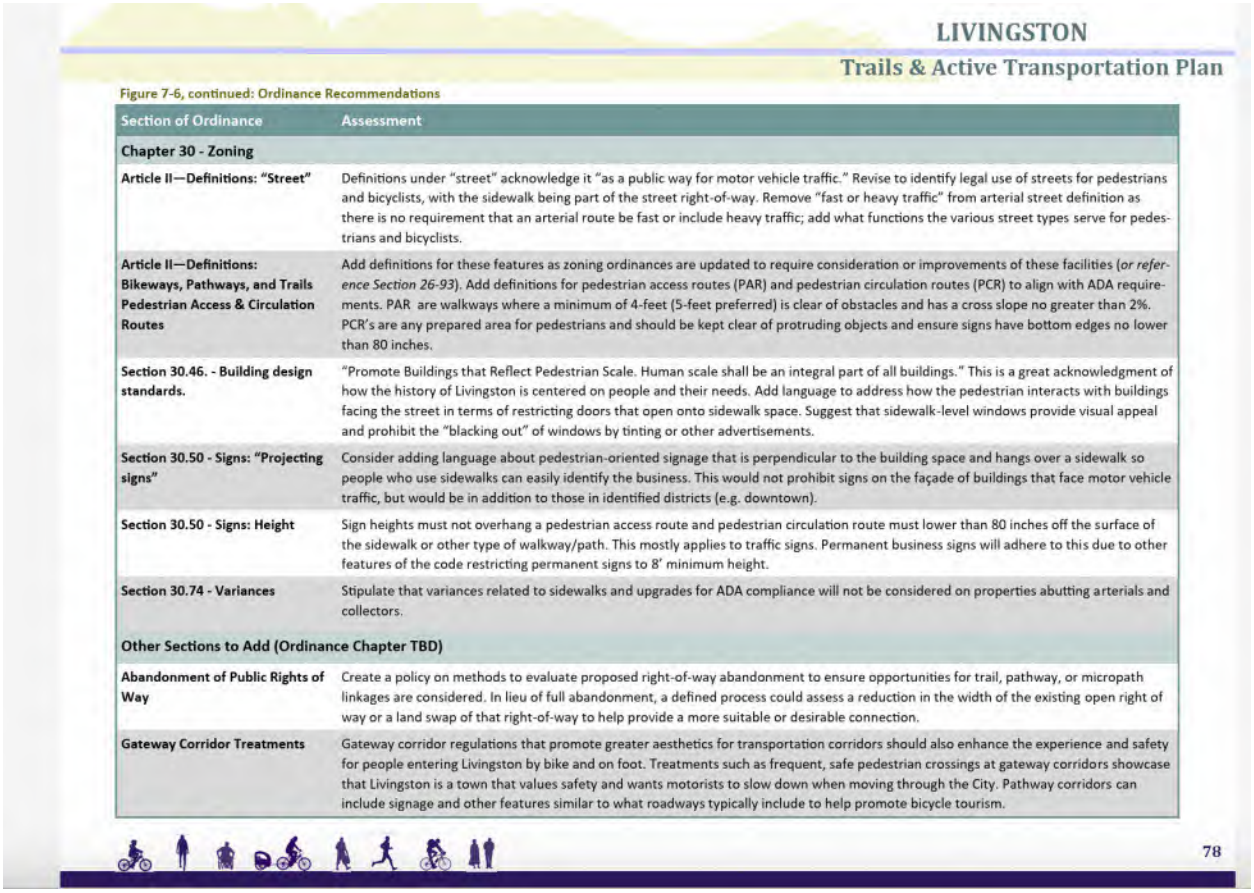
And lastly, as a public health necessity (mental, physical, spiritual) please consider seamless access from all neighborhoods to active transportation routes and the Wind Rider (or other future transit) services when considering the ordinance and zoning map.

**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. |

78

**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.”

October 1, 2025

Consolidated Land Use Board Members
Jessie Wilcox (Chair), Baily 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

MADE WITH Scanner App

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

MADE WITH Scanner App

10/14/2025 3:15
(14) Signatures submitted
+41 10/8/2025 (55)

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10/3 | Randy Hertz | | 518 S 9th St | 223-2250 |
| 2 | 10/10/25 | Cindy Daniels | | 1023 Prairie Dr. | 302-858-9120 |
| 3 | 10/10/25 | Patty L Watts | Patty L Watts | 906 W. Crawford | 406-222-3603 |
| 4 | 10/10/25 | Amanda Haglund | | 507 S. 10th | 4062234805 |
| 5 | 10/10/25 | Rob Lahren | | 507 S. 10th | 4062202282 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/13/25 | Leona R. Parriott | Leona R. Parriott | 614 W. Lewis | 406-222-1026 |
| 7 | 10-13-25 | Jenny L Parriott | Jenny L Parriott | 614 W Lewis | 406-222-1026 |
| 8 | 10-13-25 | Joseph W Parriott | Joseph W Parriott | 614 W. Lewis St. | 406 222-1026 |
| 9 | 10-13-25 | Herman Wilson | Herman E. Wilson | 1506 E. Lewis ST | 406 220-3345 |
| 10 | 10/13/25 | Kaitlyn McHolland | Kaitlyn McHolland | 917 8th 10th St | 406-223-4786 |
| 11 | 10/13/25 | Gerald Ridings | Gerald Ridings | 104 S. N. St | 406-224-1256 |
| 12 | 10/13/25 | Barbara Ridings | BARBARA RIDINGS | 104 S. N ST | 406-224-8667 |
| 13 | 10/13/25 | Nancy Milligan | NANCY MILLIGAN | 508 W. Front Str. | 406-223-1719 |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 38 | | Duane Hank | [signature] | 919 west Geyser | |
| 39 | | | | | |
| 40 | | | | | |
| 41 | | | | | |
| 42 | | | | | |
| 43 | | | | | |
| 44 | | | | | |
| 45 | | | | | |
| 46 | | | | | |
| 47 | | | | | |
| 48 | | | | | |
| 49 | | | | | |
| 50 | | | | | |

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10-1-25 | Thomas Burns | Thomas Burns | 501 S. 7th St. | 406 220-3905 |
| 2 | 10-1-25 | William Evans | William Evans | 501 S. 7th St. | 406-451-6728 |
| 3 | 10-1-25 | Brendan Burns | Brendan Burns | 501 S 7th St | 406-220-4012 |
| 4 | 10/1/25 | Charlene Burns | Charlene Burns | 501 S 7th St | 406-220-1188 |
| 5 | 10-1-25 | Jeff Martin | | 606 W Gallatin | 406 220 1924 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/1/25 | Maria Martin | Maria Martin | 606 W. Gallatin St. | (406)220-2412 |
| 7 | 10/1/25 | Cody Martin | | 606 W. GALLATIN ST. | (406)861-6204 |
| 8 | 10/2/25 | Gary Cosgrove | | 4110 S 10TH St. | 387-699-350 |
| 9 | 10/2/25 | Sandra Ffell | Sandy Ffell | 413 S. 11th St | 406 223 6161 |
| 10 | 10/2/25 | Nancy Clark | | 919 W. Geyser St | 406 220 3485 |
| 11 | 10/2/25 | Jim Floyd | | 406 S. 9th | 406-223-6006 |
| 12 | 10/2/25 | Tawni Floyd | | 406 S. 9th St. | 406-223-1735 |
| 13 | 10/03/25 | W. Cody Redmon | | 330 S. 11th St. | 406-228-6079 |
| 14 | 10/3/25 | Jackson Redmon | | 330 S. 11th St | 406-220-1476 |
| 15 | 10-3-25 | Jewel Redmon | | 330 S. 11th St | 406-220-1475 |
| 16 | 10/6/25 | Meeks Carter | MKC | 426 S 10th | 406-224-27[illegible] |
| 17 | 10/6/25 | Merry Carter | Terry Carter | 426 So. 10th St. | 406 223-4287 |
| 18 | 10/6/25 | Caitlin Schauer | | 432 S. 10th St. | 406-223-1177 |
| 19 | 10/6/25 | Larry Eddy | | 1208 Mule Haven Dr Lot 6 MT | 406-599-3748 |
| 20 | 10/6/25 | Cory Burnett | | PO Box 347 Livingston MT | 406-539-0002 |
| 21 | 10-8-25 | DAN ROOT | | 604 So 2nd | 406-223-6605 |
| | | | | | |

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10-1 | John D Adams | John D Adams | 802 E Butte | 406 224-2960 |
| 2 | 10-2 | Robert Price | Robert Price | 920 E. Butte | |
| 3 | 10-2 | Annette Burns | Annette Burns | 423 South B Street | 406 223-6106 |
| 4 | 10-2 | STAN ADAMS | Stan Adams | 321 So-K St | 222-0541 |
| 5 | 10-7 | Roberta Adams | Roberta Adams | 321 So K Street | 224-0281 |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10-2 | Margaret Mege | Margaret Mege | 301 5th L Livingston MT | |
| 7 | 10-2 | Gail Harvey | | 423 South K. St. | 406-224-1780 |
| 8 | 10-3 | Rose Brown | Rose Brown | 411 S K St. | (406)224-8069 |
| 9 | 10-3 | Barbara Burns | Barbara Burns | 1018 E. Geyser ST | 406-223-2478 |
| 10 | 10/8/2025 | TARA EDDY | Tara Eddy | 604 S. 9th St. | 406-222-6606 |
| 11 | | | | | |
| 12 | | | | | |
| 13 | | | | | |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10/8 | CHRISTINE WISTEY | Chris Wistey | 12 BIG HORN DRIVE | 223-1200 |
| 2 | 10/8/25 | Kyra Pinango | | 9 Big Horn Drive | 581-8866 |
| 3 | 10/8/25 | Erin Willmann | | 10 Big Horn Drive | 512 775 1803 |
| 4 | 10/8/25 | Henry Pinango | | 9 Big Horn Dr. | 581-8866 |
| 5 | | D. Wistey | D. Wistey | 12 BIG HORN DR | ~~223~~-9155 |

# PETITION AGAINST RIPARIAN SETBACKS

The City of Livingston has proposed a Zoning Code Update to create a buffer zone of 10 feet from the high-water mark of any perennial stream, whether a small creek or the Yellowstone River. Within this 10-foot band of private property on either side of a stream, the City of Livingston would prohibit all construction, and even regulate construction outside of the buffer zone. To create this buffer zone—or "setback"—the City would effectively convert private property into public property by banning the use of land near streams. The City, in taking private property, is required by both the United States and Montana Constitutions to provide just compensation for the land being taken. The United States Constitution provides, "nor shall private property be taken for public use, without just compensation." U.S. Const. amend. V. The Montana constitution goes further still: "Private property shall not be taken **or damaged** for public use without just compensation . . ." Mont. Const. Art. II § 29 (emphasis added). The ordinance is therefore in direct violation of both Constitutions, because the City has shown no intention of paying for the property. Even if they did, home- or lot- owners who worked for their property would be denied the right to use their property the way they want to. By prohibiting all construction within 10 feet of the high-water mark of perennial streams, the City will ban fire pits, gazebos, patios, sheds, fences, and any number of harmless structures.

If you believe the City should comply with the United States and Montana Constitutions, and should not take private property without compensation, please sign below.

We, the undersigned, are concerned citizens who urge the City of Livingston not to act unfairly by taking private property for public purposes.

| | Date | Name | Signature | Address | Phone No. |
|---|---|---|---|---|---|
| 1 | 10-1-25 | Barbara Britt | Barbara Britt | 919 W. Crawford St | 406 224-5642 |
| 2 | 10-1-25 | Leslie Feigel | | 166 Miller dr | 406-223-6603 |
| 3 | 10/1/25 | Kemp O'Neill | Kemp O'Neill | 620 N 9th Street | 406-539-6148 |
| 4 | 10-1-25 | Judy Bonnell | Judy Bonnell | 618 No 12th | 406-224-1437 |
| 5 | | | | | |

| | | | | | |
|---|---|---|---|---|---|
| 6 | 10/8/25 | George Anderson | George Anderson | 14 Bighorn Drive | 406-223-7130 |
| 7 | | | | | |
| 8 | | | | | |
| 9 | | | | | |
| 10 | | | | | |
| 11 | | | | | |
| 12 | | | | | |
| 13 | | | | | |
| 14 | | | | | |
| 15 | | | | | |
| 16 | | | | | |
| 17 | | | | | |
| 18 | | | | | |
| 19 | | | | | |
| 20 | | | | | |
| 21 | | | | | |
| | | | | | |

HERTHA L. LUND
PETER B. TAYLOR
ATTORNEYS AT LAW
662 S. Ferguson Ave., Unit 2
Bozeman, MT 59718
Telephone: (406) 586-6254
Facsimile: (406) 586-6259
www.Lund-Law.com

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).

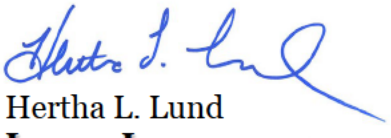
In addition to property rights protections in the United States Constitution, the Montana Constitution protects property rights even more vigorously: "Private property shall not be taken or damaged for public use without just compensation to the full extent of the loss having been first made to or paid 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

MONTANA FRESHWATER PARTNERS

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,

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 publics 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.

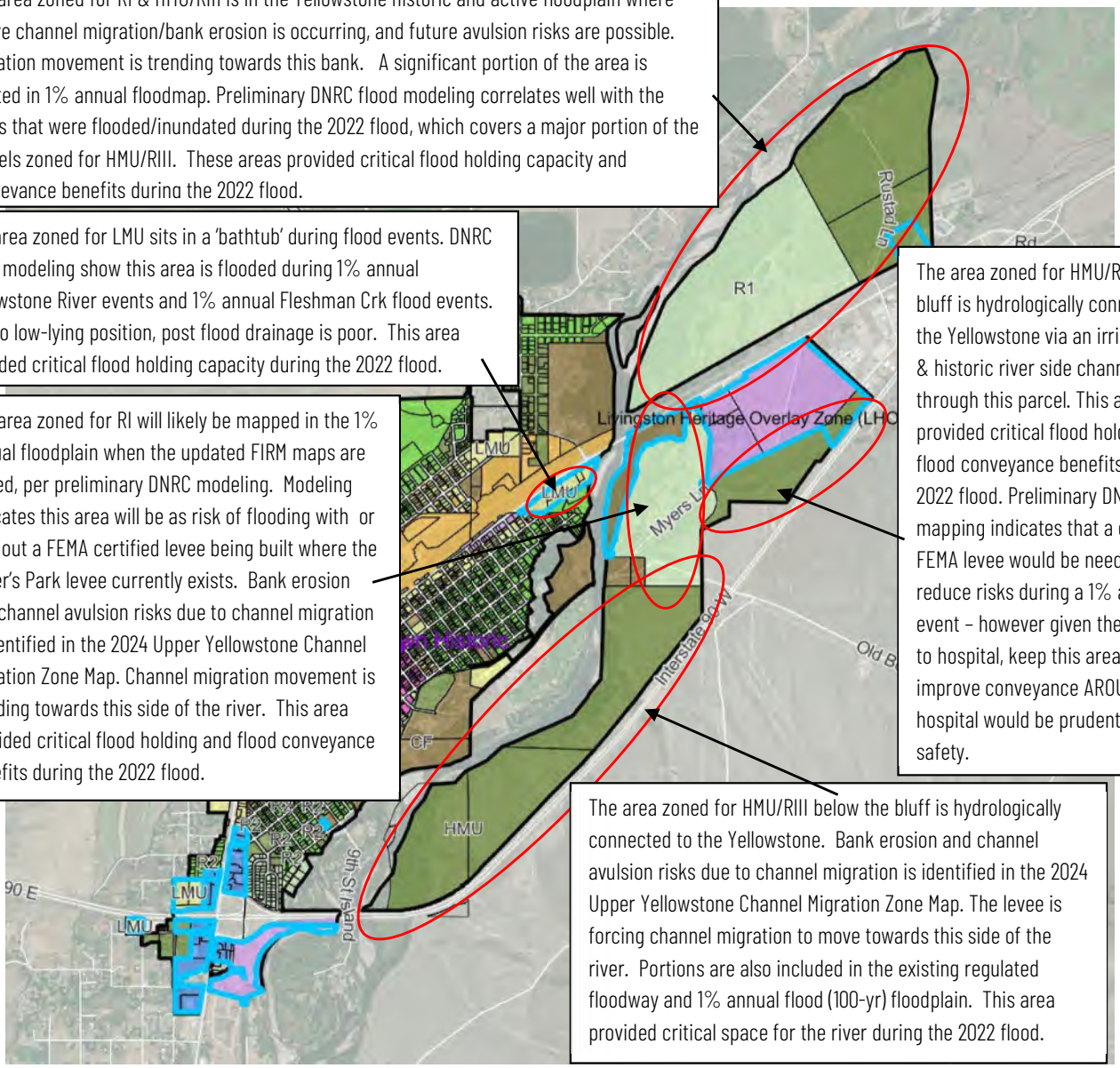
For additional context, please refer to **Figure 4**, **Figure 5**, and **Figure 6** and compare the flood risks illustrated in these figures with the footprint of the proposed zoning for the highlighted areas in **Figure 1** to better understand the multiple risk factors at play.

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 as risk of flooding with or with out 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.



MONTANA FRESHWATER PARTNERS

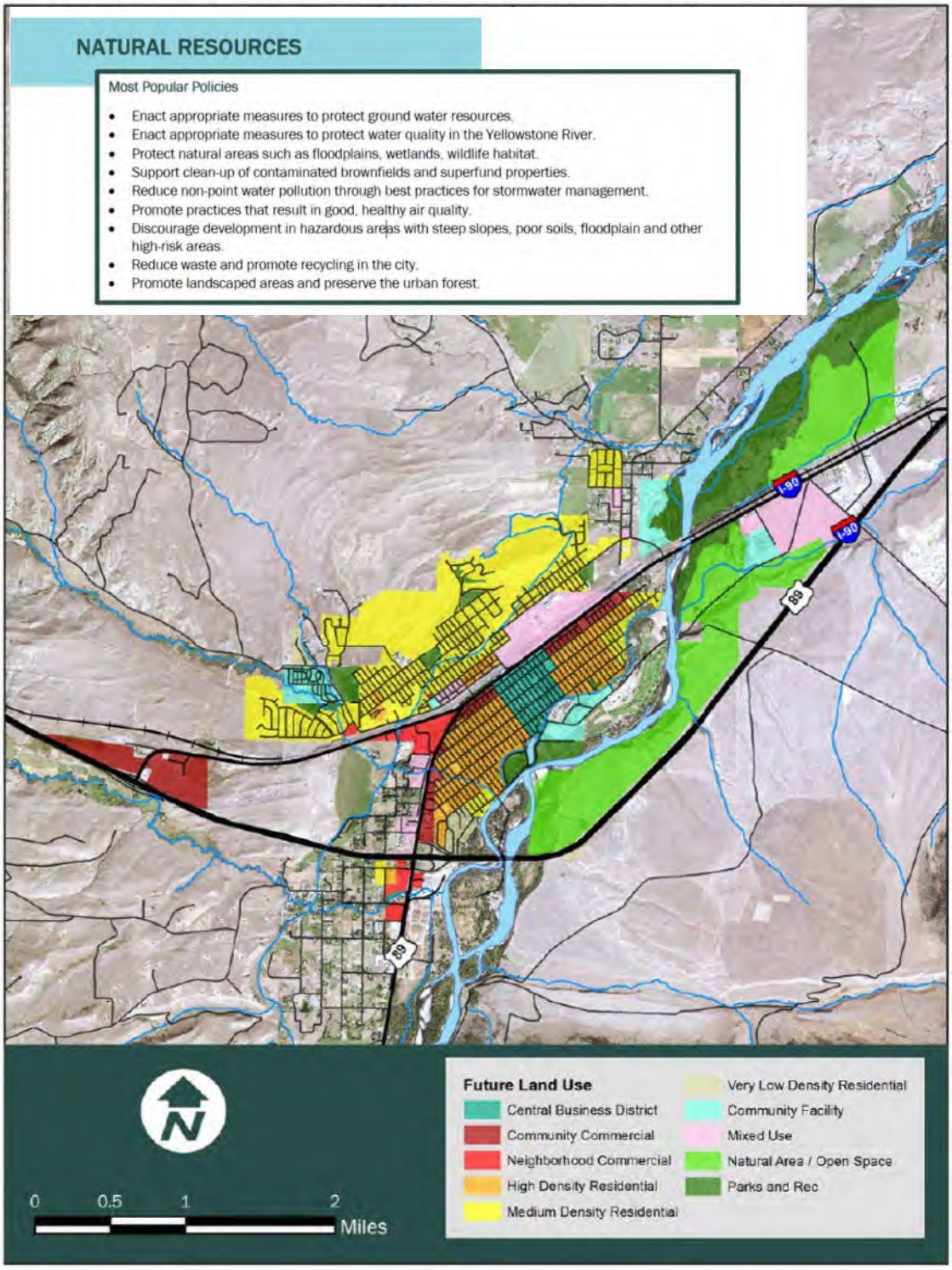



Figure 2. Future Land Use Map & Public Survey Results (Exhibit 11.1: City of Livingston Growth Policy, 2021)

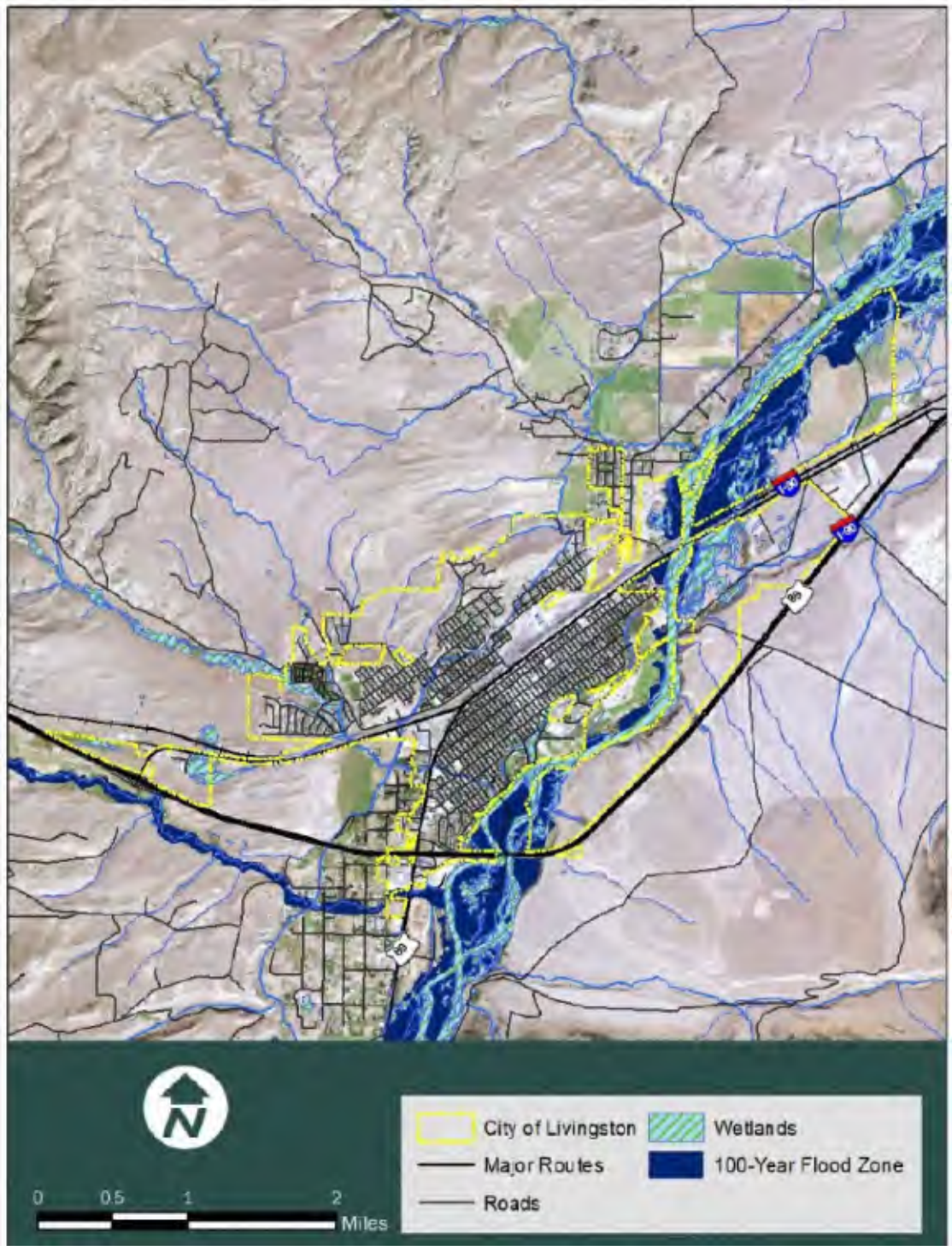



Figure 3. Water Resources Map (Exhibit 4.1 City of Livingston Growth Policy, 2021)



MONTANA FRESHWATER PARTNERS

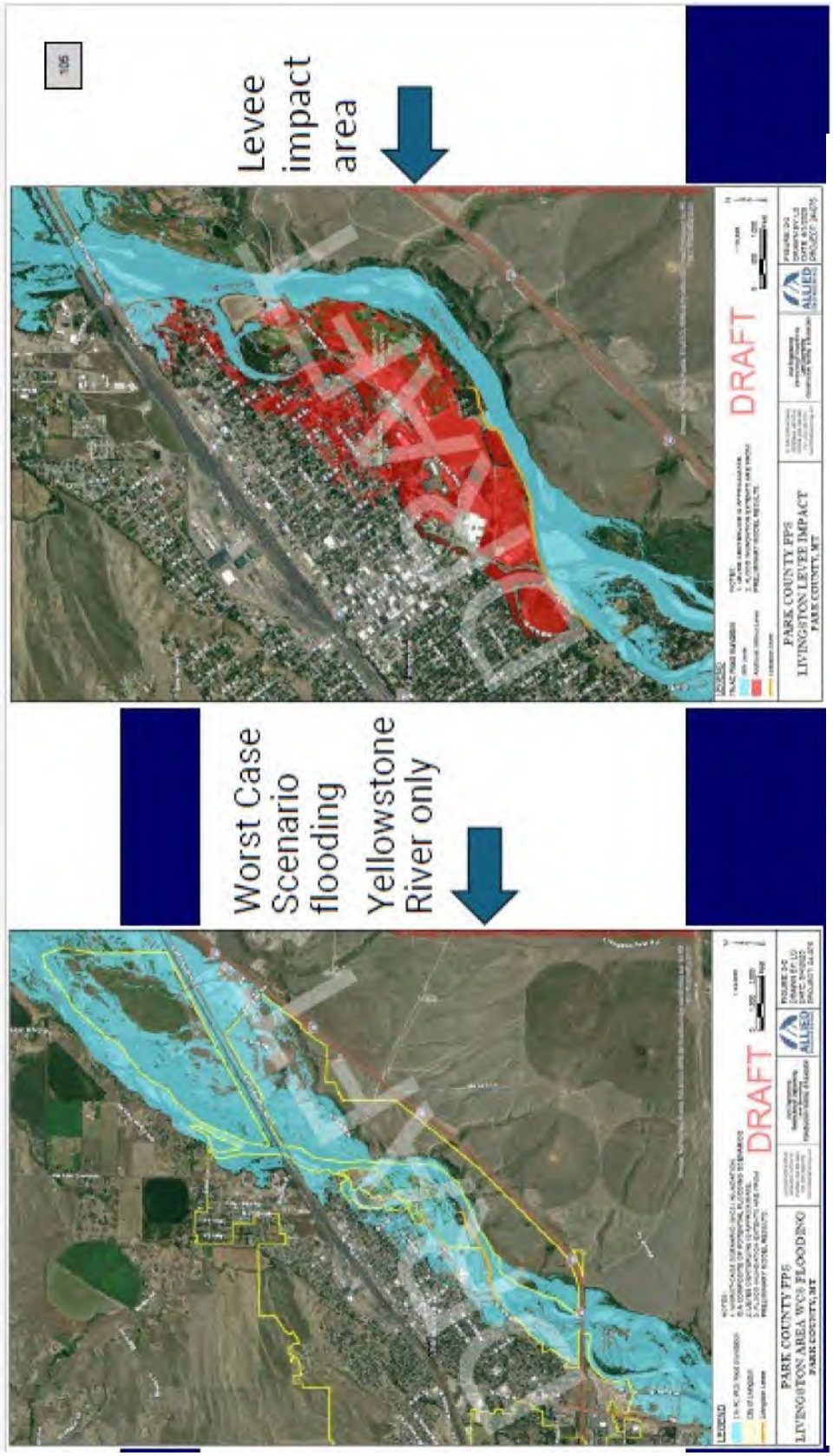



Figure 4. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the 1% annual flood extent without (left) and with (right) a certified FEMA levee structure.



MONTANA FRESHWATER PARTNERS

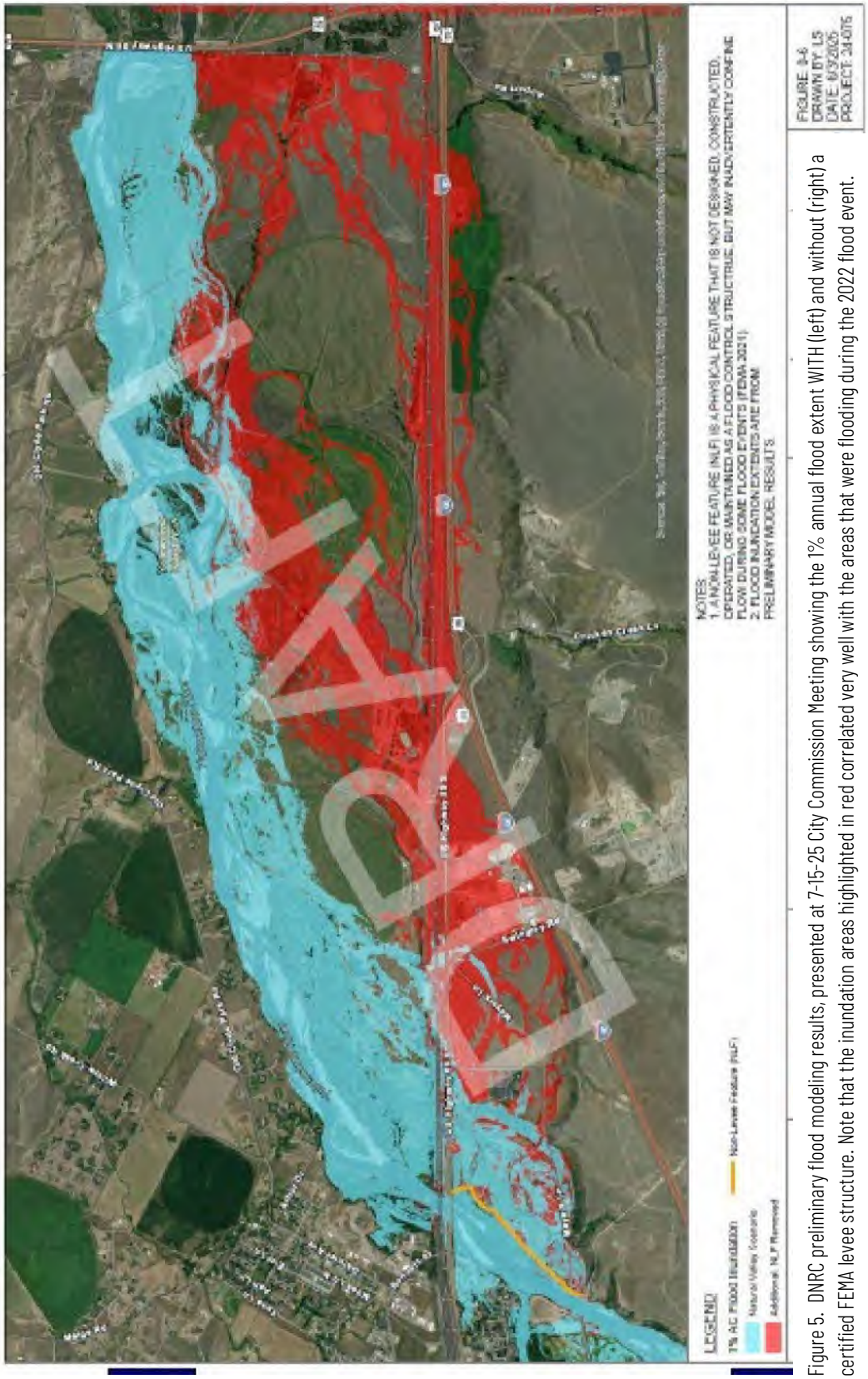



Figure 5. DNRC preliminary flood modeling results, presented at 7-15-25 City Commission Meeting showing the 1% annual flood extent WITH (left) and without (right) a certified FEMA levee structure. Note that the inundation areas highlighted in red correlated very well with the areas that were flooding 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<br>Yellowstone River | **Medium and Ecologically Significant**<br>Fleshman & Billman Creek | Small<br>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.

PARK COUNTY
ENVIRONMENTAL
COUNCIL

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

**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

**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:** 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

# COMMENTS SUBMITTED ONLINE

# 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)** |
| 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)** |

| | | | | | |
|---|---|---|---|---|---|
| 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 un 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 loose 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 loosing 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 Id 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 wont 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.**

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.**

**File Attachments for Item:**

**D. ORDINANCE 3065: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 29 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "FLOODPLAIN REGULATIONS" BY REPEALING THE ENTIRETY OF CHAPTER 29 AND REPLACING IT WITH REVISED REGULATIONS.**

LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

**DATE:** December 2, 2025

**TO:** Chair Schwarz and City Commissioners

**FROM:** Jennifer Severson, Planning Director

**RE:** **Staff Report for Livingston Floodplain Regulations Amendments**

---

**Recommendation and Summary**

Staff requests the City Commission approve the proposed amendments to the City of Livingston Floodplain Regulations in Chapter 29 of the Livingston Municipal Code by adopting the following motion:

"I move to approve the second reading of Ordinance 3065 amending the Floodplain Regulations of the City of Livingston Municipal Code by repealing the entirety of Chapter 29 and replacing it with the proposed "Floodplain Hazard Management Regulations", and authorize the Chair to sign Ordinance 3065."

The reasons for the recommendation are as follows:

- The Montana Department of Natural Resources (MT DNRC) recently updated its Community Floodplain Hazard Management Model Regulations to align with the National Flood Insurance Program (NFIP) requirements.
- The City's Floodplain Regulations have not been updated since 2011.
- MT DNRC requires the City to revise its Floodplain Regulations to comply with the new Community Floodplain Hazard Management Model Regulations.
- MT DNRC has reviewed and given preliminary approval to the revised Floodplain Regulations as presented (Attachment A, Exhibit A).

**Introduction and History**

In February 2025, Montana DNRC finalized Model Regulations for Floodplain Hazard Management in local communities to align with the current requirements of the NFIP that is managed by FEMA. To be eligible to participate in the NFIP, the City must maintain updated regulations for managing

development in the floodplain that complies with the Code of Federal Regulations 44, Section 76-5 of Montana Code Annotated, and Section 36-15 of the Administrative Rules of Montana. The City of Livingston last updated its Floodplain Regulations in 2011 at the time the City's current floodplain maps were adopted by the Federal Emergency Management Agency (FEMA). To bring the Floodplain Regulations in Chapter 29 of the LMC into conformance with NFIP requirements, MT DNRC has advised the City to adapt its model Community Floodplain Hazard Management Regulations for use by the City of Livingston and to adopt those regulations to manage development in federally designated flood hazard areas (floodway + flood fringe = 100-year regulatory floodplain).

**Analysis**

The proposed Floodplain Hazard Management Regulations are intended to replace Chapter 29 in its entirety. For reference, Staff has attached the current iteration of Chapter 29, the City's current adopted Floodplain Regulations (see Attachment B). Although the majority of the revised regulations are taken directly from the MT DNRC Community Floodplain Hazard Management Model Regulations, there are a few regulations that exceed FEMA's minimum standards for participation in the NFIP. These higher standards have been reviewed and approved by MT DNRC and are listed below:

- Section 6. Prohibited Uses, Activities and Structures Within the Regulated Flood Hazard Area

  Sec 6.1.6 - Floodway - *Cemeteries, mausoleums, or any other burial grounds*

  Sec 6.2.*3 & 4* - Flood Fringe/ Regulated Flood Hazard Area without a Floodway - *The construction or storage of an artificial obstruction subject to flotation or movement during flood level periods*; *Cemeteries, mausoleums, or any other burial grounds*

- Section 9. Development Requirements in the Floodway

  Sec 9.2.3 - An application for a Floodplain permit must also demonstrate the following factors are considered and incorporated into the design of the use or artificial obstruction in the Floodway

  > *9. The safety of access to property in times of flooding for ordinary and emergency services*

  Sec 9.10 – Public and Private Campgrounds

  > *5. There is no large-scale clearing of riparian vegetation within 10 feet of the mean annual high-water mark or edge of stream channel*

  Sec 9.11 – Structures Accessory or Appurtenant

  > *10. There is no clearing of riparian vegetation within 10 feet of the mean annual high-water mark or edge of stream channel*

- Section 10. Development Requirements in the Floodplain

Sec 10.2.*8* - Access - *Structures must have safe access during times of flooding up to the Base Flood for ordinary and emergency services provided there are no reasonable alternate locations or structures; For manufactured homes, access for a manufactured home hauler is also provided.*

As noted above, Staff are proposing to exceed the minimum standards required by the NFIP by restricting the clearance of riparian vegetation within 10 feet of the mean annual high-water mark or edge of stream channel. Recent discussions during the adoption process for the Zoning Code update (Chapter 30) emphasized the importance of including restrictions on development within riparian corridors along waterways in Livingston. During the November 4, 2025 City Commission meeting, Staff recommended removing the requirement for riparian buffers from the Zoning Code update and, instead, initiate a scientific study and analysis to support specific riparian buffer widths along Livingston's unique stream reaches. Because the City's Floodplain Ordinance must be updated to comply with current NFIP requirements, Staff recommends the Commission adopt the recommended 10-foot riparian vegetation protection zone identified in Sections 9.10 & 9.11 of the new Floodplain Regulations, with the understanding that restrictions on development in riparian areas will be revised in accordance with a future riparian corridor study.

**Fiscal Impact**

No direct fiscal impact to the City of Livingston is anticipated as a result of adopting the Floodplain Hazard Management Regulations as proposed by Staff.

**Strategic Alignment**

Although the revised Floodplain Regulations are necessary to comply with MT DNRC and FEMA NFIP requirements, the revised regulations also support the following strategies and objectives identified in the City's adopted Growth Policy:

Strategy 4.2.1.1: Improve the quality of waterbodies, including but not limited to the Yellowstone River, Fleshman Creek, watersheds, wetlands, floodplains, groundwater aquifers, and all other waterways and riparian areas.

Objective 4.3.2: Protect the riparian corridors to preserve unique wildlife, promote water quality, and provide for public trails and open space.

Strategy 4.3.2.1: Continue to limit development in the floodplain through the application of the Livingston Floodplain Regulations.

Strategy 4.3.2.2: Protect the Yellowstone River's natural flow and flood cycles to promote the health of the riparian area and associated wildlife.

Strategy 4.3.2.3: Explore regulatory options for protecting the riparian area and waterway corridors.

**Staff Recommendation**

Based on the reasons stated above, Staff finds the proposed amendments to Chapter 29 comply with the requirements federal and state statutes for floodplain management, and support the goals, objectives and strategies identified in the Growth Policy. Therefore, Staff recommends the City Commission adopt the proposed amendments to Chapter 29 and replace the current Floodplain Regulations with the "Floodplain Hazard Management Regulations" as proposed by Staff.

**Attachments**

A. Draft Ordinance 3065 (includes Exhibit A: Draft Floodplain Hazard Management Regulations)
B. Current Floodplain Regulations, Chapter 29

**ORDINANCE NO. 3065**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 29 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "FLOODPLAIN REGULATIONS" BY REPEALING THE ENTIRETY OF CHAPTER 29 AND REPLACING IT WITH REVISED REGULATIONS.**

* * * * *

**Purpose**

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

*****

**WHEREAS,** the City of Livingston has the authority to adopt, enforce and administer regulations to manage federally- designated flood hazard areas within the City in accordance with Section 76-5-102 of Montana Code Annotated;

**WHEREAS**, the City is responsible for maintaining Floodplain Regulations compliant with Code of Federal Regulations 44, Section 76-5 of Montana Code Annotated, Section 36.15 of Administrative Rules of Montana to be eligible for participating in the National Flood Insurance Program (NFIP); and

**WHEREAS**, the City's Floodplain Regulations in Chapter 29 of the Livingston Municipal Code have not been updated since 2011; and

**WHEREAS,** the Montana Department of Natural Resources and Conservation (DNRC) updated its Community Floodplain Management Model Regulations to align with NFIP requirements; and

**WHEREAS,** the DNRC requires the City to update its current Floodplain Regulations to comply with the updated Community Floodplain Management Model Regulations;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission that Chapter 29 of the Livingston Municipal Code entitled Floodplain Regulations, be hereby amended as follows:

## SECTION 1

**THE ENTIRETY OF CHAPTER 29 SHALL BE REPEALED AND REPLACED WITH THE REVISED FLOODPLAIN REGULATIONS AS SHOWN IN THE ATTACHED 'REVISED FLOODPLAIN REGULATIONS' EXHIBIT.**

## SECTION 2

**Statutory Interpretation and Repealer:**

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

## SECTION 3

**Severability:**

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

## SECTION 4

**Savings provision:**

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

## SECTION 5

**Effective date:**

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

**PASSED** by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the ____ day of November, 2025.

_____
**QUENTIN SCHWARZ, CHAIR**

**ATTEST:**

_____
**Emily Hutchinson**
**City Clerk**

**********

**PASSED, ADOPTED AND APPROVED,** by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the _____ day of December, 2025.

_____
**QUENTIN SCHWARZ, CHAIR**

**ATTEST:**

_____
**EMILY HUTCHINSON**
**City Clerk**

**APPROVED TO AS FORM:**

_____
**JON HESSE**
**City Attorney**

# CITY OF LIVINGSTON

# FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

CHAPTER 29
LIVINGSTON MUNICIPAL CODE

Effective Date: xxxx

# TABLE OF CONTENTS

**SECTION 1. TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS**

1.1 Floodplain Hazard Management Regulations
1.2 Statutory Authority
1.3 Findings of Fact
1.4 Purpose
1.5 Methods to Reduce Losses
1.6 Regulated Area
1.7 Floodplain Administrator
1.8 Compliance
1.9 Abrogation and Greater Responsibility
1.10 Regulation Interpretation
1.11 Warning and Disclaimer of Liability
1.12 Severability
1.13 Disclosure Provision
1.14 Amendment of Regulations
1.15 Public Records
1.16 Subdivision Review
1.17 Disaster Recovery

**SECTION 2. DEFINITIONS**

**SECTION 3. FORMS AND FEES**

3.1 Forms
3.2 Fees

**SECTION 4. REGULATED FLOOD HAZARD AREAS**

4.1 Regulated Flood Hazard Areas
4.2 Interpretation of Regulated Flood Hazard Area Boundaries
4.3 Alteration of Regulated Flood Hazard Area

**SECTION 5. USES ALLOWED WITHOUT A PERMIT WITHIN THE REGULATED FLOOD HAZARD AREA**

5.1 General
5.2 Open Space Uses

**SECTION 6. PROHIBITED USES, ACTIVITIES AND STRUCTURES WITHIN THE REGULATED FLOOD HAZARD AREA**

6.1 Floodway
6.2 Flood Fringe or Regulated Flood Hazard Area Without a Floodway

SECTION 7. FLOODPLAIN PERMIT APPLICATION REQUIREMENTS
7.1 General
7.2 Required Floodplain Permit Application Information

SECTION 8. APPLICATION EVALUATION

8.1 Floodplain Permit Application Review
8.2 Notice Requirements for Floodplain Permit Applications
8.3 Floodplain Permit Criteria
8.4 Decision
8.5 Floodplain Permit Conditions and Requirements

SECTION 9. DEVELOPMENT REQUIREMENTS IN THE FLOODWAY

9.1 Uses Requiring Permits
9.2 General Requirements
9.3 Mining Of Material Requiring Excavation From Pits Or Pools
9.4 Railroad, Highway And Street Stream Crossings
9.5 Limited Filling For Road And Railroad Embankments
9.6 Buried Or Suspended Utility Transmission Lines
9.7 Storage Of Materials And Equipment
9.8 Domestic Water Supply Wells
9.9 Buried And Sealed Vaults For Sewage Disposal in Campgrounds and Recreational Areas
9.10 Public and Private Campgrounds
9.11 Structures Accessory Or Appurtenant
9.12 Construction Of Or Modifications To Surface Water Diversions
9.13 Flood Control And Stream Bank Stabilization Measures
9.14 Stream and Bank Restoration
9.15 Existing Residential and Nonresidential Buildings

SECTION 10. DEVELOPMENT REQUIREMENTS IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

10.1. Uses Requiring Permits
10.2. General Requirements
10.3. Residential Building, Exceptions and Additional Requirements
10.4. Non-Residential Building, Exceptions and Additional Requirements

SECTION 11. EMERGENCIES

11.1 General
11.2 Emergency Notification and Application Requirements

**SECTION 12. VARIANCES**

12.1 General
12.2 Variance Application Requirements
12.3 Notice Requirements for Floodplain Variance Application
12.4 Evaluation of Variance Application
12.5 Decision
12.6 Judicial Review

**SECTION 13. ADMINISTRATIVE APPEALS**

13.1 General
13.2 Appeals Requirements
13.3 Notice and Hearing
13.4 Decision
13.5 Judicial Review

**SECTION 14. ENFORCEMENT**

14.1. Investigation Request
14.2. Notices To Enter And Investigate Lands Or Waters
14.3. Notice To Respond And Order To Take Corrective Action
14.4. Administrative Review
14.5. Appeal of Administrative Decision
14.6. Failure to Comply With Order to Take Corrective Action
14.7. Other Remedies

**SECTION 15. PENALTIES**

15.1 Misdemeanor
15.2 Declaration to the Federal Flood Insurance Administrator

# SECTION 1. TITLE, PURPOSE, AUTHORITY AND GENERAL PROVISIONS

## 1.1 FLOODPLAIN HAZARD MANAGEMENT REGULATIONS

These regulations are known and may be cited as the "Floodplain Hazard Management Regulations;" hereinafter referred to as "these regulations."

## 1.2 STATUTORY AND REGULATORY AUTHORITY

1. Floodplain and Floodway Management is codified at Montana Code Annotated (MCA) Title 76, Chapter 5 and describes the authority, procedures and minimum standards for local regulations. Regulation for Floodplain Management established by the Montana Department of Natural Resources and Conservation (DNRC) are located in Administrative Rules of Montana (ARM), Chapter 36.15.

2. The authority to regulate development in specifically identified flood hazard areas has been accepted pursuant to 76-5-301, MCA.

## 1.3 FINDINGS OF FACT

1. Flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas have been delineated and designated by order or determination of the DNRC pursuant to 76-5-201, MCA et.seq.
2. These regulations have been reviewed by Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency. The Montana Department of Natural Resources and Conservation has found the regulations acceptable in meeting the Department minimum standards. The Federal Emergency Management Agency finds that these regulations are adequate and consistent with the comprehensive criteria for land management and use pursuant to the standards established in 44 CFR 60.3. (76-5-302, MCA, ARM 36.15.202, 44 CFR60.1(b), 42USC 4022)

## 1.4 PURPOSE

The purpose of these regulations is to promote public health, safety and general welfare of the residents and minimize public and private losses due to flood conditions in Regulated Flood Hazard Areas. These Regulations are intended to:

1. Protect human life and health;

2. Minimize expenditure of public money for costly flood control projects;

3. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

4. Minimize prolonged business and public service interruptions;

**5.** Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges;

**6.** Help maintain a stable tax base by providing for the sound use and development of flood-prone areas in such a manner as to minimize future flood disruptions; and

**7.** Ensure compliance with the minimum standards for the continued participation in the National Flood Insurance Program for the benefit of the residents.

## 1.5 METHODS TO REDUCE LOSSES

In accordance with 76-5-102, MCA, these regulations are intended to reduce flood losses through the following methods:

**1.** Restrict or prohibit uses that are dangerous to health, safety or property in times of flooding or that may cause excessive increases in flood heights or velocities;
**2.** Require that uses of land vulnerable to floods, including public facilities, be developed or constructed to at least minimum standards or to otherwise minimize flood damage;
**3.** Regulate the alteration of natural floodplains, stream channels, and natural protective barriers which are needed to accommodate floodwaters;
**4.** Regulate filling, grading, dredging and other development which may increase flood damage;
**5.** Prevent or regulate the construction of flood barriers which will impact other land, flood water depth or velocity of floodwaters;
**6.** Distinguish between the land use regulations applied to the floodway within the Regulated Flood Hazard Area and those applied to that portion of the Regulated Flood Hazard Area not contained in the floodway;
**7.** Apply more restrictive land use regulations within the floodway of the Regulated Flood Hazard Area; and
**8.** Ensure that regulations and minimum standards balance the greatest public good with the least private injury.

## 1.6 REGULATED AREA

These regulations apply only to the flood hazard areas specifically adopted herein as Regulated Flood Hazard Areas which are more fully and specifically described in Section 4. Requirements and approvals for alterations to the Regulated Flood Hazard Area are specified in Section 4. The Regulated Flood Hazard Area includes areas specifically identified, labeled and illustrated on maps such as Floodplain, Floodway, or Flood Fringe that have differing uses allowed and minimum building standards that apply. The Regulated Flood Hazard Area is the geographic area inundated by the Flood of 100-year Frequency illustrated and depicted in the referenced studies and maps.

The Regulated Flood Hazard Area supporting study and maps illustrating the regulatory area are based on studies and maps that have been specifically adopted pursuant to 76-5-201et.seq. The maps and accompanying study become the Regulated Flood

Hazard Area only when formally adopted by DNRC and subsequently by the political subdivision by these regulations. The original source of studies and data may be from a Flood Insurance Study by FEMA, or other studies by Corps of Engineers, Soil Conservation, United States Geological Service or other federal or state agency.

## 1.7 FLOODPLAIN ADMINISTRATOR

A Floodplain Administrator is hereby the responsibility of the City of Livingston Planning Department. The Floodplain Administrator's duty is to administer and implement the provisions of these regulations. The Floodplain Administrator must serve to meet and maintain the commitments pursuant to 44 CFR 59.22(a) to FEMA to remain eligible for National Flood Insurance for individuals and businesses within the political subdivision. ((44 CFR 59.22(b)(1)) (ARM 36.15.204(2)(h))

**1.8 COMPLIANCE** Development, New Construction, Alteration or Substantial Improvement may not commence without full compliance with the provisions of these regulations.

## 1.9 ABROGATION AND GREATER RESPONSIBILITY

It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, zoning or other regulations in effect. However, where these regulations impose greater restrictions, the provision of these regulations must prevail. (44 CFR 60.1(d))

## 1.10 REGULATION INTERPRETATION

In the interpretation and application of these regulations, all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body; and (3) deemed neither to limit nor repeal any other powers granted under state statute or regulation. (44 CFR 60.1)

## 1.11 WARNING AND DISCLAIMER OF LIABILITY

These regulations do not imply that land outside the Regulated Flood Hazard Areas or uses permitted within such areas will be free from flooding or flood damages. These regulations shall not create liability on the part of the community or any official or employee thereof for any flood damages that result from reliance on these regulations or any administrative decision lawfully made hereunder.

## 1.12 SEVERABILITY

If any section, clause, sentence, or phrase of these regulations is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding will in no way affect the validity of the remaining portions of these regulations.

## 1.13 DISCLOSURE PROVISION

All property owners or their agents in the Regulated Flood Hazard Areas shall notify potential buyers or their agents that such property, including any permitted uses transferred, is located within the Regulated Flood Hazard Area and is subject to regulation and any permitted uses that are transferred. Information regarding

Regulated Flood Hazard Area and the repository for Floodplain maps is available in the Floodplain Administrator's office.
(ARM 36.15.204(2)(g))

## 1.14 AMENDMENT OF REGULATIONS

These regulations may be amended after notice and public hearing in regard to the amendments to these regulations. The amendments must be found adequate and acceptable by DNRC and FEMA to be effective and must be submitted for review at least 30 days prior to official adoption.

## 1.15 PUBLIC RECORDS

Records, including permits and applications, elevation and floodproofing certificates, certificates of compliance, fee receipts, and other matters relating to these regulations must be maintained by the Floodplain Administrator and are public records and must be made available for inspection and for copies upon reasonable request. A reasonable copying cost for copying documents for members of the public may be charged and may require payments of the costs before providing the copies. (44 CFR 60.3(b)(5)(iii) & 44 CFR 59.22 (a)(9)(iii))

## 1.16 SUBDIVISION REVIEW

The requirements of the City of Livingston Subdivision Regulations, in addition to those established in these regulations, apply to subdivisions within the Regulated Flood Hazard Area, including but not limited to new or expansion of existing Manufactured Home Parks, must be designed to meet the following criteria:

**1.** The Base Flood Elevations and boundary of the Regulated Flood Hazard area must be determined and considered during lot layout and building location design;

**2.** Locations for future structures and development must be reasonably safe from flooding; -(44CFR 60.3(a)(4))

**3.** Adequate surface water drainage must be provided to reduce exposure to flood hazards; (44 CFR 60.3 (a)(4)(iii))

**4.** Public utilities and facilities such as sewer, gas, electrical and water systems must be located and constructed to minimize or eliminate flood damage; and (44 CFR 60.3(a)(4)(ii))

**5.** Floodplain permits must be obtained according to these regulations before development occurs that is within the Regulated Flood Hazard Area. (44 CFR 60.3(b))

## 1.17 DISASTER RECOVERY

In the event of a natural or man-made disaster, the Floodplain Administrator should participate in the coordination of assistance and provide information to structure owners concerning Hazard Mitigation and Recovery measures with the Federal Emergency Management Agency, Montana Disaster Emergency Services, Montana Department of Natural Resources and Conservation, and other state, local and private emergency service organizations.

Upon completion of cursory street view structure condition survey of the Regulated Flood Hazard Area, the Floodplain Administrator shall notify property owners that a permit may be necessary for an alteration or substantial improvement before repair or reconstruction commences on damaged structures. These permitting requirements apply even when structures are damaged by natural or man-made disasters such as floods, earthquakes, fires or winds.

Owners should be advised that structures that have suffered substantial damage and will undergo substantial improvements require a floodplain application and permit and must be upgraded to meet the minimum building standards herein during repair or reconstruction. ((MCA 76-5-404(3)(b) (ARM 36.15.702) (44 CFR 60.3(c) (2 and 3))

# SECTION 2. DEFINITIONS

Unless specifically defined below, words or phrases used in these regulations shall be interpreted as to give them the meaning they have in common usage and the most reasonable application. For the purpose of these regulations, the following definitions are adopted:

**100-year Flood** – One percent (1%) annual chance flood. See Base Flood

**Act** – Montana Floodplain and Floodway Management Act, Sections 76-5-101 through 406 MCA.

**Adjacent Landowner** – An Owner of property whose property shares a common boundary with the property in which an Application under these Regulations has been submitted. For purposes of these Regulations an Adjacent Landowner also includes property that has a common boundary across a water course, road or right-of-way.

**Alteration** – Any change or addition to an artificial obstruction that either increases its external dimensions or increases its potential flood hazard. (ARM 36.15.101(2))

**Appeal** – A request for a review of the Floodplain Administrator's order, decision to grant, condition or deny a Floodplain Permit, Variance or interpretation of the Flood Hazard Area boundary which was made under the authority of these Regulations.

**Applicant** – The property owner, and/or their authorized agent, as listed on the Application form.

**Appurtenant Structure** – A structure in which the use is incidental or accessory to the use of a principal structure. (44 CFR 59.1)

**Artificial Obstruction** – Any obstruction which is not natural and includes any development, dam, diversion, wall, riprap, embankment, levee, dike, pile, abutment, projection, revetment, excavation, channel rectification, road, bridge, conduit, culvert, building, refuse, automobile body, fill or other analogous structure or matter in, along, across, or projecting into any Regulated Flood Hazard Area that may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by the water, or that is placed where the natural flow of the water would carry the same downstream to the damage or detriment of either life or property. See also Development. (ARM 36.15.101(3) & MCA 76-5-103(1))

**Base Flood (Flood of 100 Year Frequency)** – A flood having a one percent (1%) chance of being equaled or exceeded in any given year (ARM 36.15.101(4) & (44 CFR 59.1)

**Base Flood Elevation (BFE)** – The elevation above sea level of the Base Flood in relation to the National Geodic Vertical Datum of 1929 or the North American Vertical Datum of 1988 or unless otherwise specified. (ARM 36.15.101(5))

**Basement** – Any area of a building, except a crawl space, as having its Lowest floor below ground level on all sides. (44 CFR 59.1) (NFIP Insurance Manual, Rev. May 2013)

**Building** – A walled and roofed structure, including a gas or liquid storage tank that is principally above ground, as well as a manufactured or mobile home. (44 CFR 59.1)

**Channel** – The geographical area within either the natural or artificial banks of a watercourse or drainway. (MCA 76-5-103(2))

**Crawl Space** – An enclosure that has its interior floor area no more than 5 feet below the top of the next highest floor. See Enclosure and Sub grade Crawlspace. (NFIP Insurance Manual, Rev. May 2013)

**DNRC** – Montana Department of Natural Resources and Conservation

**Development** –Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. See also Artificial Obstruction. (44 CFR59.1)

**Elevated Building** – A building that has no Basement and that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings or columns. A building on a crawlspace may be considered an elevated building.

**Enclosure** – That portion below the lowest elevated floor of an elevated building that is either partially or fully shut in by rigid walls including a crawlspace, sub grade crawlspace, stairwell, elevator or a garage below or attached.

**Encroachment** – Activities or construction within the Regulated Flood Hazard Area including fill, new construction, substantial improvements, and other development.

**Encroachment Analysis** – A hydrologic and hydraulic analysis performed by a licensed, qualified engineer to assess the effects of the proposed artificial obstruction or nonconforming use on Base Flood Elevation, flood flows and flood velocities.

**Establish** – To construct, place, insert, or excavate. (MCA 76-5-103(7) (ARM 36.15.101(9))

**Existing Artificial Obstruction or Nonconforming Use** – An artificial obstruction or nonconforming use that was established before land use regulations were adopted pursuant to Section 76-5-301(1), MCA. (MCA 76-5-404(3))

**FEMA** – Federal Emergency Management Agency

**Flood or Flooding** – A general and temporary condition of partial or complete inundation of normally dry lands from the overflow of a stream, or the unusual and rapid accumulation or runoff of surface waters from any source.

**Flood Fringe** – The identified portion of the Floodplain of the Regulated Flood Hazard Area outside the limits of the Floodway. (ARM 36.15.101(10))

**Flood of 100 Year Frequency (Base Flood)** – A flood magnitude expected to recur on the average of once every 100-years or a flood magnitude that has a 1% chance of occurring in any given year. (MCA 76-5-103(9)) (44 CFR 59.1)

**Flood Insurance Rate Map (FIRM)** - Official map of a community on which FEMA has delineated the Special Flood Hazard Areas (SFHAs), the Base Flood Elevations (BFEs), and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS)** - A compilation and presentation of flood risk data for specific watercourses, lakes, and coastal flood hazard areas within a community. When a flood study is completed for the NFIP, the information and maps are assembled into an FIS. The FIS report contains detailed flood elevation data in flood profiles and data tables.

**Floodplain** – The area of the Regulated Flood Hazard Area including and adjoining the watercourse or drainway that would be covered by the floodwater of a Base Flood. The area is partitioned into a Flood Fringe and Floodway where specifically designated. See Regulated Flood Hazard Area.

**Floodway** – The identified portion of the Floodplain of the Regulated Flood Hazard Area that is the channel and the area adjoining the channel that is reasonably required to carry the discharge of the Base Flood without cumulatively increasing the water surface by more than one half foot. (MCA 76-5-103(11)) (MCA 76-5-103(5))

**Floodplain Administrator** – Community official or representative appointed to administer and implement the provisions of this ordinance.

**Floodplain Permit** – The permit issued by the Floodplain Administrator that confirms a proposed Development, New Construction, Alteration or Substantial Improvement in the Regulated Flood Hazard Area is designed to comply with the requirements of these Regulations.

**Flood Proofing** – Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, electrical, plumbing, HVAC

systems, structures and their contents. The term includes wet flood proofing, dry flood proofing and elevation of structures. ((44 CFR 59.1)

**Historic Structure**- *means any structure that is:*

(a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;

(b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;

(c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

(d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(1) By an approved state program as determined by the Secretary of the Interior or

(2) Directly by the Secretary of the Interior in states without approved programs.

**Letter of Map Change (LOMC)** – An official response from FEMA that amends or revises the FEMA Special Flood Hazard Area and FEMA Flood Insurance Study for flood insurance purposes and/or flood risk hazard. FEMA Letters of Map Change specific to an amendment or revision include:

**Letter of Map Amendment (LOMA)** – A letter of determination from FEMA issued in response to a request that a property or structure is not subject to the mandatory flood insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area. The material submitted and response from FEMA may be considered by the Floodplain Administrator for determining if a property or structure is within the Regulated Flood Hazard area and subject to these regulations.

**Letter of Map Revision Based on Fill (LOMR-F)** – A letter of approval from FEMA removing the mandatory requirement for flood insurance on property based on placement of fill or an addition. Placement of fill or an addition must be preceded by a permit pursuant to these regulations. Placement of fill does not remove the development from the Regulated Flood Hazard Area or these regulations.

**Letter of Map Amendment Floodway (LOMR-FW) –** A letter of determination from FEMA issued in response to a request that a property or Structure mapped as being within the Floodway is not subject to the mandatory flood insurance requirement because it was inadvertently located in the effective FEMA Special Flood Hazard Area.

**Letter of Map Revision (LOMR)** – An official FEMA amendment to the currently effective FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map based on a physical change to the floodplain of the Special Flood Hazard Area. It is issued by FEMA and changes flood zones, delineations, and elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may

amend the FEMA Flood Insurance Study. It must be preceded by an approved alteration of the designated floodplain from DNRC and subsequently an amendment to the Regulated Flood Hazard Area.

**Conditional Letter of Map Revision (CLOMR)** – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR. The CLOMR may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed alteration to the Regulated Flood Hazard Area.

**Conditional Letter of Map Revision – Based on Fill (CLOMR-F)** – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR. The CLOMR may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed alteration to the Regulated Flood Hazard Area.

**Conditional Letter of Map Amendment (CLOMA)** – A FEMA letter of approval for a proposed physical change that when completed would propose to change the flood zones, delineation or elevations on the FEMA Flood Insurance Rate Map or FEMA Flood Boundary Map and may amend the FEMA Flood Insurance Study through a subsequent LOMR. The CLOMA may be considered in an evaluation by DNRC and the Floodplain Administrator during consideration of a proposed alteration to the Regulated Flood Hazard Area.

**Levee** – A man-made embankment, usually earthen, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water to provide protection from temporary Flooding.

**Levee System** – A Flood protection system that consists of a Levee, or Levees, and associated Structures, such as drainage and closure devices, which are constructed and operated in accordance with sound engineering practices.

**Lowest Floor** – Any unfinished or finished floor of a building which may include a basement or crawlspace. ((ARM 36.15.101(14)) (44 CFR 59.1))

**Maintenance** - Any routine or regularly scheduled activity undertaken to repair or prevent the deterioration, impairment, or failure of any feature, component, or material referenced in these regulations, so long as the work substantially conforms to the most recent approved design or regulatory hydraulic model, whichever is newer. Maintenance does not include expansion, enlargement, replacement, reconstruction, Substantial Modification, or Substantial Improvement of a building, Artificial Obstruction, or structure, including hydraulic structures. Maintenance does not include changing the use of a property or Artificial Obstruction.

**Manufactured Home Park or Subdivision** – Includes the construction of facilities for servicing the manufactured home lots and at a minimum includes the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads. (44 CFR 59.1)

**Manufactured or Mobile Home** – A building that may be residential or non-residential, is transportable in one or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities and includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. The terms Manufactured and Mobile Homes are used interchangeably in these regulations. (ARM 36.15.101(15))

**New Construction** – Structures for which the commencement of clearing, grading, filling, or excavating to prepare a site for construction occurs on or after the effective date of these regulations and includes any replacements and subsequent improvements to such structures. (ARM 36.15.101(20)) (44 CFR 59.1)

**New Manufactured Home Park Or Subdivision** – A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed includes at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads and is completed on or after the effective date of floodplain management regulations adopted by a community. (44 CFR 59.1)

**Nonconforming Use –** Development, use, or improvements that were lawful prior to the adoption, revision, or amendment to these Regulations, but that fails by reason of such adoption, revision or amendment to conform to the present requirements of these Regulations.

**Non-Residential**– Buildings including manufactured homes that are not residential including commercial, agricultural, industrial buildings and accessory buildings. See Residential.

**Owner** – Any person who has dominion over, control of, or title to an artificial obstruction. (MCA 76-5-103(13))

**Person** – Includes any individual, or group of individuals, corporation, partnership, association or any other entity, including State and local governments and agencies. (44 CFR 59.1)

**Recreational Vehicle** – A park trailer, travel trailer, or other similar vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towable by a motorized vehicle; and (d) designed primarily for use as temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling. (44 CFR 59.1)

**Regulated Flood Hazard Area –** A Floodplain whose limits have been designated pursuant to Part 2, Chapter 5 of Title 76, MCA, and is determined to be the area adjoining the watercourse that would be covered by the floodwater of a Base Flood. The Regulated Flood Hazard Area consists of the Floodway and Flood Fringe where specifically designated. (MCA 76-5-103(4)), (MCA 76-5-103(10), (ARM 36-15-101(11))

**Residential Building** – A dwelling or building for living purposes or place of assembly or permanent use by human beings and including any mixed use of residential and non-residential use. All other buildings are **non-residential**.

**Riprap** – Stone, rocks, concrete blocks, or analogous materials that are placed along the bed or banks of a watercourse or drainway for the purpose of preventing or alleviating erosion. (ARM 36.15.101(18))

**Scour Depth** – The maximum depth of streambed scour caused by erosive forces of the Base Flood.

**Special Flood Hazard Area** – Land area which has been specifically identified by the Federal Emergency Management Agency as the floodplain within a community subject to a 1 percent or greater chance of flooding in any given year. It is useful for the purposes of identifying flood hazards by local subdivisions of government for regulatory purposes as well as use by the National Flood Insurance Program for establishing risk zones and is used in helping to establish flood insurance premium rates. The FEMA flood hazard area zone designation or flood risk potential is as illustrated on FEMA's Flood Hazard Boundary Map or Flood Insurance Rate Map.

| | |
|---|---|
| Zone A | -No Base Flood Elevations determined. |
| Zone AE | -Base Flood Elevations determined. |
| Zone AH | -Flood depths of 1 to 3 feet (example areas of ponding); BFE determined |
| Zone AO | -Flood depths of 1 to 3 feet (usually sheet flow on sloping terrain); average depths determined. For areas of alluvial fan flooding, velocities also determined. |
| Zone A99 | -Area to be protected from 1% annual chance flood by a Federal flood protection system under construction. No BEFs determined. |
| Zone C | -See Zone X |
| Shaded Zone X | - Areas of 0.2% annual chance flood; areas of 1% annual chance flood with average depts of less than 1 foot or with drainage areas less than 1 square mile; and areas protected by levees from 1% annual chance flood. |
| Zone X | -Areas determined to be outside the 0.2% annual chance floodplain. |
| Zone D | -Areas in which flood hazards are undetermined, but possible. |

**Start of Construction-** for purposes of these rules means the start of any substantial improvement, replacement of existing structure, or new construction, or the

commencement of clearing, grading, filling or excavation for the purposes of preparing a site for construction.

**Structure** – Any Artificial Obstruction.

**Sub grade Crawlspace** – A crawlspace foundation enclosure that has the lowest interior floor elevation no more than 5 feet below the top of the next higher floor and no more than 2 feet below the lowest adjacent grade, proper flood openings, and constructed with flood resistant materials. A foundation exceeding either dimension or lacking proper flood openings and not constructed with flood resistant materials could be considered a Basement.

**Substantial Damage** – Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. (44 CFR 59.1)

**Substantial Improvement** – Any repair, reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds fifty percent (50) of the market value of the structure either before the start of construction of the improvement, including substantial damage structures regardless of the actual repair work performed.

**1.** Substantial improvement is considered to occur when the first construction of any wall, ceiling, floor or other structural part of the building commences;

**2**. For the purpose of Substantial Improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimension of the building.

**3**. The term does not include:

a) Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

b) Any alteration of a structure listed on the national register of historic places or state inventory of historic places provided that the property owner(s) submits evidence to the floodplain administrator, for review and approval, that they have done as much as they can to mitigate the flood risk and bring the structure into compliance to the maximum extent possible while maintaining the historic nature and determination of the structure. (ARM 36.15.101(21)) (44 CFR 59.1))

**Suitable Fill** – Fill material which is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree

stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

**Variance** – Means a grant or relief from the development requirements of these regulations which would permit construction in a manner that would be otherwise prohibited by these regulations. (ARM 36.15.101(23))

**Violation** – A finding and order pursuant to the regulations against the owner or responsible party of the failure of a structure or other development to be fully compliant with these regulations. (44 CFR 59.1)

# SECTION 3. FORMS AND FEES

**3.1 Forms The** following forms may be required by the Floodplain Administrator:

1. **Floodplain Permit Application Form** –The "Joint Application for Proposed Work in Montana's Steams, Wetlands, Regulated Flood Hazard Areas, and Other Water Bodies", or other designated application form. A completed FEMA MT-1 form may be required to accompany the application when required by the Floodplain Administrator.

2. **Floodplain Permit Compliance Report** – A report required to be submitted by the Applicant to the Floodplain Administrator once the permitted project in the Regulated Flood Hazard Area is completed or within the designated time stipulated on the Floodplain permit. A compliance report including an elevation and or flood proofing certificate may be required where specified for the purpose of documenting compliance with the requirements of the permit.

3. **Floodplain Variance Application Form** – An application submitted by the Applicant to the Floodplain Administrator to initiate a proposed variance from the requirements of these regulations as described in Section 12.

4. **Floodplain Appeal Notice Form**– A form submitted by the Applicant or an aggrieved party to initiate the appeal process described in Section 13.

5. **Floodplain Emergency Notification Form**– A written notification form required pursuant to Section 11 of these regulations.

6. **Official Complaint Form** – A form that may be used by any person to notify the Floodplain Administrator of an activity taking place that appears to be noncompliant with the requirements of these regulations.

**3.2 Fees**

A reasonable application fee for processing of permit applications may be imposed (see City of Livingston adopted Fee Schedule). Fees may be adopted for costs of permit applications, notices, variances, inspections, certifications or other administrative actions required by these regulations. (ARM 36.15.204(3)(b))

# SECTION 4. REGULATED FLOOD HAZARD AREA

## 4.1 REGULATED FLOOD HAZARD AREAS

**1.** The Regulated Flood Hazard Areas are the floodplains of the 100-year flood, illustrated and referenced in the following specific studies and reports described as follows:

a) The Flood Insurance Study (FIS) and Flood Insurance Rate Maps (FIRMs) for Park County, Montana and incorporated Areas specific to the City of Livingston, Effective date October 18, 2011.

**2.** The Regulated Flood Hazard Areas specifically described above have been delineated, designated and established pursuant to 76-5-201 et.seq., MCA.

**3.** The Floodplain Administrator may obtain, review, and reasonably use any Base Flood Elevation or Floodway data available from a Federal, State, or other reliable source to administer and enforce these Regulations.

a) However, when special flood hazard area designations and water surface elevations have been furnished by the Federal Insurance Administrator, the more restrictive shall apply.

**4.** Sections 5, 6, 9, and 10 of these regulations establish allowable uses and requirements for projects depending on the specific location within the Regulated Flood Hazard Area. (e.g. Floodway, Flood Fringe, etc.)

## 4.2 INTERPRETATION OF REGULATED FLOOD HAZARD AREA BOUNDARIES

**1.** The mapped boundaries of the Floodplain illustrated in the referenced studies and maps in this Section are a guide for determining whether property is within the Regulated Flood Hazard Area. Base Flood Elevations and other supporting documentation in the flood study, if such documentation exists, take precedence over any map illustrations. Requirements for determining the exact boundaries of the Regulated Flood Hazard Area and Floodway are provided below.

**2.** The Regulated Flood Hazard Area boundary is delineated by the Base Flood Elevation. The physical regulatory boundary of the Regulated Flood Hazard Area is the actual intersection of the applicable study Base Flood Elevation with the existing adjacent terrain of the watercourse or drainway. (ARM 36.15.501(6))

**3.** The Floodway boundary, where identified within the Regulatory Flood Hazard Area, is as illustrated on the referenced maps and studies. The location of the Floodway boundary may be physically located by referencing the study data to a

ground feature. The Floodplain Administrator's interpretation of the boundary and decision may be appealed as set forth in Section 13.

**4.** The Floodplain Administrator may require an applicant to provide additional information described below to determine whether or not the proposed development, use, or artificial obstruction is within the Regulated Flood Hazard Area:

a) Where Base Flood Elevations exist, the property owner and/or applicant may provide additional information which may include elevation information provided by an engineer or land surveyor in order to determine if the proposed development, use, or artificial obstruction is subject to these regulations. (ARM 36.15.501(6))

b) Where Base Flood Elevations do not exist, the property owner and/or applicant may provide additional information to be considered to determine the location of the regulatory boundary or alternatively provide a computed Base Flood Elevation provided by an engineer.

c) The Floodplain Administrator's interpretation of the boundaries and decision may be appealed as set forth in Section 13.

Any owner or lessee of property who believes their property has been inadvertently included in the Regulated Flood Hazard Area including the Floodway or Flood Fringe may submit scientific and/or technical information to FEMA in the form of an application for a Letter of Map Change. Scientific or technical information submitted to FEMA for insurance purposes may be considered by the Floodplain Administrator, although a determination by the Floodplain Administrator whether a property is located within the Regulated Flood Hazard Area and subject to these regulations is independent of any determination made by FEMA.

## 4.3 ALTERATION OF REGULATED FLOOD HAZARD AREA

**1.** The Regulated Flood Hazard Area may be altered pursuant to Section 76-5-201 et. seq. MCA and the requirements of these regulations. Alterations to FEMA studies and maps can only be approved by FEMA through the Letter of Map Change (LOMC) process.

**2.** Any change to the Regulated Flood Hazard Area shall only become effective upon amendment to Section 4.1.1 of these regulations.

**3.** Substantial physical change or new technical or scientific flood data showing that the Base Flood Elevation has or may be changed or was erroneously

established shall be brought to the attention of DNRC and FEMA; (ARM 36.15.505(1)(a)) (44 CFR 65.3)

**4.** Any Floodplain permit application for a proposed development or artificial obstruction that will result in an increase of 0.5 feet or more to the Base Flood Elevation of a Regulated Flood Hazard Area without a Floodway, or an increase of more than 0.00 feet to the Base Flood Elevation of a Floodway, shall not be approved by the Floodplain Administrator until a Conditional Letter of Map Revision (CLOMR) is approved by FEMA. When applying to FEMA for a CLOMR, the following information must be included:

a. Certification that no buildings are located in the areas which would be impacted by the increased Base Flood Elevation; (44 CFR 65.12(a)(5)

b. Evidence of notice to all property and landowners of the proposed impacts to their properties explaining the proposed impact on their property; (44 CFR 65.12(a)(3))

c. Information that demonstrates that alternatives are not feasible; (44 CFR 65.12(2))

d. The Floodplain Administrator may represent the permit authority for any necessary applications, approvals or endorsements such as the FEMA Community Acknowledgement Form to FEMA where affecting the FEMA Special Flood Hazard Area;

e. Any other supporting information and data as needed for approvals. ((ARM 36.15.505) (44 CFR 60.3(c)(10)) (44 CFR 60.3(d)(3)) (44 CFR 65.7(3)) (44 CFR 65.12))

**5.** The Regulated Flood Hazard Areas is not officially altered until a Letter of Map Revision (LOMR) has been approved by FEMA. See Sec 4.a-e above for information to include in request to FEMA for a LOMR.

**6.** For Regulated Flood Hazard Areas not designated by FEMA, alterations of the Regulated Flood Hazard Area shall meet ARM 36.15.505.

**7.** A determination by the Floodplain Administrator that land areas located within the Regulated Flood Hazard Area are naturally above the Base Flood Elevation as proven by a certified elevation survey does not constitute or require an alteration of the Regulated Flood Hazard Area and may be maintained as a public record that more explicitly defines the Regulated Flood Hazard Area boundary. (ARM 36.15.505(2))

8. The material submitted and response from FEMA may be considered by the Floodplain Administrator for determining if a property or structure is within the Regulated Flood Hazard area and subject to these regulations.

9. Elevating with suitable fill as permitted does not alter the Regulated Flood Hazard Area or remove the elevated area from the Regulated Flood Hazard Area.

When property located within the Regulated Flood Hazard area is naturally above the Base Flood Elevation as proven by a certified elevation survey provided by an engineer or land surveyor, the property owner may submit a Letter of Map Amendment (LOMA) to FEMA in order to affect the flood risk designation for insurance purposes. Information on the process and requirements are available through FEMA.

# SECTION 5. USES ALLOWED WITHOUT A PERMIT WITHIN THE REGULATED FLOOD HAZARD AREA

**5.1 - GENERAL** Within the Regulated Flood Hazard Area established by these Regulations, there are Existing Artificial Obstructions and uses that were lawful prior to the adoption or amendment of these Regulations, but no longer conform to the present requirements of these Regulations. It is the intent of these Regulations to allow such Artificial Obstructions and nonconforming uses to remain in the state and location to which they existed at the time of adoption or amendment of these Regulations without need for a permit. However, Alteration or Substantial Improvement of an Existing Artificial Obstruction or Nonconforming Use requires a Floodplain Permit.

**5.2 OPEN SPACE USES** The following open space uses shall be allowed without a permit in the Regulated Flood Hazard Area, provided that such uses are not prohibited by any other regulation or statute, do not require structures, do not require a No-Rise if in the floodway, and do not require fill, grading, excavation or storage of materials or equipment: ((ARM 36.15.601) (ARM 36.15.701) (1) (MCA 76-5-401) (MCA 76-5-404(3))

**1.** Agricultural uses, not including related structures, such as tilling, farming, irrigation, ranching, harvesting, grazing, etc.; ((ARM 36.15.601(1)(a)) (MCA 76-5-401(1)))

**2.** Accessory uses, not including structures, such as loading and parking areas, or emergency landing strips associated with industrial or commercial facilities; ((ARM 36.15.601(1)(b)) (MCA 76-5-401(2),))

**3.** Forestry, including processing of forest products with portable equipment; ((ARM 36.15.601(1)(d)) (MCA 76-5-401(4)))

**4.** Recreational vehicle use provided that the vehicle is on the site for fewer than 180 consecutive days and the vehicle is fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; (44 CFR 60.3(c)(14))

**5.** Residential uses such as lawns, gardens, parking areas, and play areas; ((ARM 36.15.601(1)(e)) (MCA 76-5-401(5)))

**6.** Routine or regularly scheduled maintenance of the existing state of an existing open space uses including preventive maintenance activities such as bridge deck rehabilitation and roadway pavement preservation activities if not in the regulatory floodway. Maintenance cannot increase the external size or increase the hazard potential of the existing open space use; (MCA 76-5-404(3)(b))

**7.** Public or private recreational uses not requiring structures such as picnic grounds, swimming areas, boat ramps, parks, campgrounds, golf courses, driving ranges, archery ranges, wildlife management and natural areas, alternative livestock ranches (game farms), fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking and horseback riding trails; (ARM 36.15.601(a)(c)) (MCA 76-5-401,))

**8.** Fences that have a low impact to the flow of water such as barbed wire fences and wood rail fences, and not including permanent fences crossing channels. Fences that have the potential to stop or impede flow or debris such as a chain link or privacy fence requires a floodplain permit and meet the requirements of Section 9.11; (ARM 36.15.601(2)(b)) (MCA 76-5-401))

**9.** Addition of highway guard rail, signing and utility poles that have a low impact to the flow of water along an existing roadway if not located within a regulatory floodway.

**10.** Irrigation and livestock supply wells, provided that they are located at least 500 feet from domestic water supply wells and with the top of casing 18" above the Base Flood Elevation. ((ARM 36.15.601(2)(a)) (MCA 76-5-401) (ARM 36.21.647))

# SECTION 6. PROHIBITED USES, ACTIVITIES AND STRUCTURES WITHIN THE REGULATED FLOOD HAZARD AREA

**6.1 FLOODWAY** The following artificial obstructions and nonconforming uses are prohibited in the Floodway of the Regulated Flood Hazard Area, except for those established before land use regulations pursuant to Section 76-5-301, MCA have been adopted: (MCA 76-5-404(3))

**1.** A building for residential or non-residential purposes; (MCA 76-5-403(1), (ARM 36.15.605) (1a)), (ARM 36.15.605(2b), (ARM 36.15.605(2)(a)).

**2.** An artificial obstruction (e.g. structure, fill, recreational vehicle, etc.), or excavation that would cause water to be diverted from the Floodway, cause erosion, obstruct the natural flow of waters or reduce the carrying capacity of the Floodway. Notwithstanding these requirements, excavation or fill may be allowed subject to floodplain permit approval when it is a component to a permitted use allowed in these regulations and complies with all applicable requirements of these regulations; (MCA 76-5-403(2)).

**3.** The construction or storage of an object (artificial obstruction) subject to flotation or movement during flood level periods; (MCA 76-5-403(3) and ARM 36.15.605(1)(c))

**4.** Solid and hazardous waste disposal and individual and multiple family sewage disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these regulations and are designed to minimize or eliminate infiltration of flood waters and avoid impairment or contamination; ((ARM 36-15-605(2c)) (44 CFR 60.3(a)(3)))

**5.** Storage of toxic, flammable, hazardous or explosive materials; and (ARM 36.15.605(2d))

**6.** Cemeteries, mausoleums, or any other burial grounds.

**6.2 FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITHOUT A FLOODWAY** The following artificial obstructions and nonconforming uses are prohibited in the Flood Fringe or Regulated Flood Hazard Area without a Floodway, except for those established before land use regulations have been adopted:
(MCA 76-5-404(3))

**1.** Solid and hazardous waste disposal and individual and multiple family sewage disposal systems unless the systems meet the local health and sanitation regulations and when permitted pursuant to these regulations and are designed

to minimize or eliminate infiltration of flood waters and avoid impairment or contamination; ((ARM 36-15-703(1)) (44 CFR 60.3(a)(3)))

**2.** Storage of toxic, flammable, hazardous or explosive materials; (ARM 36-15-703(2))

**3.** The construction or storage of an artificial obstruction subject to flotation or movement during flood level periods; and

**4.** Cemeteries, mausoleums, or any other burial grounds.

# SECTION 7. FLOODPLAIN PERMIT APPLICATION REQUIREMENTS

## 7.1 GENERAL

**1.** A Floodplain permit is required for a person to establish, alter or substantially improve an artificial obstruction, nonconforming use or development within the Regulated Flood Hazard Area; ((44 CFR 60.1) (MCA 76-5-404) (ARM 36.15.204(2)(a)))

**2.** A Floodplain permit is required for artificial obstructions, developments and uses not specifically listed in Sections 9 and 10, except as allowed without a Floodplain permit in Section 5, or as prohibited as specified in Section 6, within the Regulated Flood Hazard Area;

**3.** Artificial obstructions and nonconforming uses in a Regulated Flood Hazard Area not exempt under Section 5 are public nuisances unless a Floodplain permit has been obtained; (MCA 76-5-404(1))

**4.** A Floodplain permit is required for an alteration of an existing artificial obstruction or nonconforming use that increases the external size or increases its potential flood hazard and not exempt under Section 5; ((MCA 76-5-404(3)(b)) (ARM 36.15.204(2)(a)))

**5.** A Floodplain permit is required to reconstruct or repair an existing artificial obstruction that has experienced substantial damage and will undergo substantial improvement; and

**6.** Maintenance of an existing artificial obstruction or use that is a substantial improvement or an alteration requires a Floodplain permit. (MCA 76-5-404(3)(b))

## 7.2 REQUIRED FLOODPLAIN PERMIT APPLICATION INFORMATION

**1.** A Floodplain permit application shall include, but is not limited to the following:

1. A completed and signed Floodplain Permit Application;

2. The required review fee;

3. Plans in duplicate drawn to scale showing the location, dimensions, and elevation of the proposed project including landscape alterations, existing and proposed structures, and the location of the foregoing in relation to the

Regulated Flood Hazard Areas and if applicable the Floodway boundary; ((MCA 76-5-405) (ARM 36.15.216))

4. A copy of other applicable permits or pending applications required by Federal or State law as submitted which may include but are not limited to a 310 permit, SPA 124 permit, Section 404 Permit, 318 Authorization, 401 Certification or a Navigable Rivers Land Use License or Easement for the proposed project; and the applicant must show that the Floodplain permit application is not in conflict with the relevant and applicable permits; and (44 CFR 60.3(a)(2))

5. Additional information related to the specific use or activity that demonstrates the design criteria and construction standards are met or exceeded as specified in Sections 9 and 10. ((MCA 76-5-405) (ARM 36.15.216))

# SECTION 8. FLOODPLAIN PERMIT APPLICATION EVALUATION

## 8. 1 FLOODPLAIN PERMIT APPLICATION REVIEW

**1.** The Floodplain Administrator shall review and evaluate the Floodplain permit application and shall approve, approve with conditions, or deny the application within (180 days or a time specified) of receipt of a correct and complete application. (MCA 76-5-405(2))

**2.** The Floodplain Administrator shall determine whether the Floodplain permit application contains the applicable elements required in these regulations and shall notify the applicant of the Floodplain Administrator's determination.

**3.** If the Floodplain permit application is found to be missing the required elements and if the applicant corrects the identified deficiencies and resubmits the Floodplain application, the Floodplain Administrator shall notify the applicant whether the resubmitted Floodplain application contains all the elements required by these regulations, as applicable.

**4.** This process shall be repeated until the applicant submits a completed Floodplain permit application containing all the elements required by these regulations, or the application is withdrawn.

**5.** If after a reasonable effort the Floodplain Administrator determines that the Floodplain application remains incomplete, the Floodplain Administrator shall deny the Floodplain permit application and notify the applicant of missing elements. No further action shall be taken on the Floodplain permit application by the Floodplain Administrator until the Floodplain permit application is resubmitted.

**6.** A determination that a Floodplain permit application is correct and complete for review does not ensure that the Floodplain permit application will be approved or conditionally approved and does not limit the ability of the Floodplain Administrator to request additional information during the review process.

## 8.2. NOTICE REQUIREMENTS FOR FLOODPLAIN PERMIT APPLICATIONS:

**1.** Upon receipt of a complete application for a Floodplain permit, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the Floodplain permit application and shall:

1. Publish the notice at least once in a newspaper of general circulation in the area; (ARM 36.15.204(2)(c))

2. Serve notice by first-class mail upon adjacent property owners; (ARM 36.15.204(2)(c))

3. Serve notice to the State National Flood Insurance Program Coordinator located in DNRC by the most efficient method. Notice to other permitting agencies or other impacted property owners may be provided; and

4. Prior to any alteration or relocation of a watercourse in the Regulated Flood Hazard Area, additionally provide notice to FEMA and adjacent communities. (44 CFR 60.3 (b)(6))

**2.** The notice shall provide a reasonable period of time, not less than 15 days, for interested parties to submit comments on the proposed activity. (ARM 36.15.204(2)(c))

## 8. 3 FLOODPLAIN PERMIT CRITERIA

**1.** Floodplain permit applications shall be approved provided the proposed new construction, substantial improvement, or alteration of an artificial obstruction meets the requirements of the minimum standards and criteria in Sections 9 and 10 and other requirements of these regulations. ((MCA 76-5-406) (44 CFR 60.3))

**2.** A Flood Plain permit application for a development that will cause an increase of more than 0.00 feet to the Base Flood Elevation of the Floodway or more than 0.50 feet to the Base Flood Elevation of the Regulated Flood Hazard Area without a Floodway shall not be approved until approval for an Alteration pursuant to Section 4.3 has been approved, the Regulated Flood Hazard Area is amended and a FEMA CLOMR where required is issued.

**3.** The Floodplain Administrator shall determine that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including section 404 of the Federal Water Pollution Control Act Amendment of 1972, 36 U.S.C. 1334. (44 CFR 60.3(a)(2)

## 8.4 DECISION

**1.** The Floodplain Administrator shall approve, conditionally approve, or deny the proposed Floodplain permit application. The Floodplain Administrator shall notify the applicant of their action and the reasons thereof within (180 days or time specified) of receipt of a correct and complete Floodplain permit application unless otherwise specified. A copy of the approved Floodplain permit must be provided to DNRC. ((MCA 76-5-405(2)) (ARM 36.15.204(2)(e))

**2.** The approval of a Floodplain permit application does not affect any other type of approval required by any other statute or ordinance of the state or any political subdivision or the United States, but is an added requirement. (MCA 76-5-108)

## 8.5 FLOODPLAIN PERMIT CONDITIONS AND REQUIREMENTS

**1.** Upon approval or conditional approval of the Floodplain permit application, the Floodplain Administrator shall provide the applicant with a Floodplain permit with applicable specific requirements and conditions including but not limited to the following:

1. The Floodplain permit will become valid when all other necessary permits required by Federal or State law are in place;(44 CFR 60.3(a)(2)

2. Completion of the development pursuant to the Floodplain permit shall be completed within one year from the date of Floodplain permit issuance or a time limit commensurate with the project construction timeline for completion of the project or development. The applicant may request an extension for up to an additional year. The request must be made at least 30 days prior to the permitted completion deadline;

3. The applicant shall notify subsequent property owners and their agents and potential buyers of the Floodplain development permit issued on the property and that such property is located within a Regulated Flood Hazard Area and shall record the notice with the Floodplain Administrator; (ARM 36.15.204(2)(g))

4. The applicant shall maintain the artificial obstruction or use to comply with the conditions and specifications of the permit;

5. The applicant shall allow the Floodplain Administrator to perform onsite inspections at select intervals during construction or completion;

6. The applicant shall provide periodic engineering oversight and/or interim reports during the construction period to be submitted to the Floodplain Administrator to confirm constructed elevations and other project elements;

7. The applicant shall submit a compliance report including certifications where required and applicable including flood proofing, elevation, surface drainage, proper enclosure openings and materials to the Floodplain Administrator within 30 days of completion or other time as specified;

8. The applicant shall submit an annual performance and maintenance report on bank stabilization or other projects utilizing maturing vegetative components to the Floodplain Administrator for a period of 5 years or a time specified in the permit; or

9. The applicant shall submit evidence of a submittal of a FEMA Letter of Map Revision (LOMR) to FEMA and applicable fees within 6 months of project completion and proceed with due diligence for acceptance of the document and necessary supporting materials by FEMA. (44 CFR 65.3)

# SECTION 9. DEVELOPMENT REQUIREMENTS IN THE FLOODWAY

**9.1 USES REQUIRING PERMITS** Artificial obstructions including alterations and substantial improvements specifically listed in Sections 9.3 to 9.15 may be allowed by permit within the Floodway, provided the General Requirements in Section 9.2 and the applicable requirements in Sections 9.3 to 9.15 are met.

**9.2 GENERAL REQUIREMENTS** An application for a permit shall meet the following requirements:

**1.** All projects shall be designed and constructed to ensure that they do not adversely affect the flood hazard on other properties and are reasonably safe from flooding;

**2.** All projects shall assure that the carrying capacity of the Floodway is not reduced. All projects in the Floodway shall meet the following:

1. Demonstrate that the project does not increase the Base Flood Elevation by conducting an encroachment analysis certified by an engineer. A minimal or qualitative encroachment analysis may be accepted when the project or development does not require a structure, alteration of the Floodway, involve fill, grading, excavation or storage of materials or equipment but is also certified by an engineer to not exceed the allowable encroachment to the Base Flood Elevation; and

2. The allowable encroachment to the Base Flood Elevation is 0.00 feet, and no significant increase to the velocity or flow of the stream or water course unless approval of an alteration of the Regulated Flood Hazard Area pursuant to Section 4.3 and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance; and

((ARM 36.15.604) (ARM 36.15.505) (ARM 36.15.605(b)) (44 CFR 60.3(a) (3 and 4)) (44CFR 65.12(a))

**3.** An application for a Floodplain permit must also demonstrate the following factors are considered and incorporated into the design of the use or artificial obstruction in the Floodway:

1. The danger to life and property due to backwater or diverted flow caused by the obstruction or use; ((MCA 76-5-406(1)) (ARM 36.15.216(2)(a)))

2. The danger that the obstruction or use may be swept downstream to the injury of others; ((MCA 76-5-406(2)) (ARM 36.15.216(2)(b)))

3. The availability of alternative locations; ((MCA 76-5-406(3)) (ARM 36.15.216(2)(c))

4. Construct or alter the obstruction or use in such manner as to lessen the flooding danger; ((MCA 76-5-406(4)) (ARM 36.15.216(2)(d)))

5. The permanence of the obstruction or use and is reasonably safe from flooding; ((MCA 76-5-406(5) (ARM 36.15.216(2e)))

6. The anticipated development in the foreseeable future of the area which may be affected by the obstruction or use; ((MCA 76-5-406(6)) (ARM 36.15.216(2f)))

7. Relevant and related permits for the project have been obtained; (44 CFR 60.3(a)(2))

8. Such other factors as are in harmony with the purposes of these regulations, the Montana Floodplain and Floodway Management Act, and the accompanying Administrative Rules of Montana; and ((MCA 76-5-406(7)) (ARM 36.15.216(2)(g)))

9. The safety of access to property in times of flooding for ordinary and emergency services. (44CFR 60.22 (c)(7))

**9.3 MINING OF MATERIAL REQUIRING EXCAVATION FROM PITS OR POOLS** provided, in addition to the requirements of Section 9.2, that:

**1.** A buffer strip of undisturbed land of sufficient width as determined by an engineer to prevent flood flows from channeling into the excavation is left between the edge of the channel and the edge of the excavation; (ARM 36.15.602(1)(a))

**2.** The excavation meets all applicable laws and regulations of other local and state agencies; and (ARM 36.15.602(1)(b))

**3.** Excavated material may be processed on site but is stockpiled outside the Floodway. (ARM 36.15.602(1)(c))

**9.4 RAILROAD, HIGHWAY AND STREET STREAM CROSSINGS,** including other transportation related crossings provided, in addition to the requirements of Section 9.2, that:

**1.** Crossings are designed to offer minimal obstructions to the flood flow; (ARM 36.15.602(2))

**2.** Where failure or interruption of public transportation facilities would result in danger to public health or safety and where practicable and in consideration of FHWA Federal-Aid Policy Guide 23CFR650A:

1. Bridge lower chords shall have freeboard to at least two (2) feet above the Base Flood Elevation to help pass ice flows, the base flood discharge and any debris associated with the discharge; and

2. Culverts shall be designed to pass the Base Flood discharge and maintain at least two (2) feet freeboard on the crossing surface;

**3.** Normal overflow channels, if possible are preserved to allow passage of sediments to prevent aggradations; and

**4.** Mid-stream supports for bridges, if necessary, have footings buried below the maximum scour depth.

**9.5 LIMITED FILLING FOR ROAD AND RAILROAD EMBANKMENTS,** including other transportation related embankments not associated with stream crossings and bridges provided, in addition to the requirements of Section 9.2, that:

**1.** The fill is suitable fill;

**2.** Reasonable alternate transportation routes outside the floodway are not available; and (ARM 36.15.602(3))

**3.** The encroachment is located as far from the stream channel as possible. (ARM 36.15.602(3))

**9.6 BURIED OR SUSPENDED UTILITY TRANSMISSION LINES** provided, in addition to the requirements of Section 9.2, that:

**1.** Suspended utility transmission lines are designed such that the lowest point of the suspended line is at least six (6) feet higher than the Base Flood Elevation; (ARM 36.15.602(4))

**2.** Towers and other appurtenant structures are designed and placed to withstand and offer minimal obstruction to flood flows; (ARM 36.15.602(4))

**3.** Alternatives such as alternative routes, directional drilling, and aerial crossings are considered when technically feasible; and

**4.** Utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum scour depth determined by an engineer for the Base Flood. (ARM 36.15.602(4))

**9.7 STORAGE OF MATERIALS AND EQUIPMENT** provided, in addition to the requirements of Section 9.2, that:

1. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent flotation or downstream movement; or (ARM 36.15.602(5)(a))

2. The material or equipment is readily removable within the limited time available after flood warning. Storage of flammable, toxic or explosive materials shall not be permitted. (ARM 36.15.602(5)(b))

**9.8 DOMESTIC WATER SUPPLY WELLS** provided, in addition to the requirements of Section 9.2, that:

1. They are driven or drilled wells located on ground higher than surrounding ground to assure positive drainage from the well; (ARM 36.15.602(6))

2. They require no other structures (e.g. a well house); (ARM 36.15.602(6))

3. Well casings are water tight to a distance of at least twenty-five (25) feet below the ground surface and the well casing height is a minimum of two (2) feet above the Base Flood Elevation or capped with a watertight seal and vented two (2) feet above the Base Flood Elevation; ((ARM 36.15.602(6)))

4. Water supply lines have a watertight seal where the lines enter the casing; (ARM 36.15.602(6))

5. All pumps and electrical lines and equipment are either of the submersible type or are adequately flood proofed; and (ARM 36.15.602(6))

6. Check valves are installed on main water lines at wells and at all building entry locations. ((44 CFR 60.3 (a)(5)) (ARM 36.15.602(6)))

**9.9 BURIED AND SEALED VAULTS FOR SEWAGE DISPOSAL IN CAMPGROUNDS AND RECREATIONAL AREAS** provided, in addition to the requirements of Section 9.2, demonstrate approval by Montana Department of Environmental Quality and local health and sanitation permits or approvals. ((44 CFR 60.3(a)(6)) (ARM 36.15.602(7)))

**9.10 PUBLIC AND PRIVATE CAMPGROUNDS** provided, in addition to the requirements of Section 9.2, that:

1. Access roads require only limited fill and do not obstruct or divert flood waters; (ARM 36.15.602(8))

2. The project meets the accessory structures requirements in this Section;

3. No dwellings or permanent mobile homes are allowed; (ARM 36.15.602(8))

**4.** Recreational vehicles and travel trailers are ready for highway use with wheels intact, with only quick disconnect type utilities and securing devices, and have no permanently attached additions; and (44 CFR 60.3(c)(14))

**5.** There is no large-scale clearing of riparian vegetation within 10 feet of the mean annual high-water mark or edge of stream channel.

**9.11 STRUCTURES ACCESSORY OR APPURTENANT** to permitted uses such as boat docks, loading and parking areas, marinas, sheds, airstrips, permanent fences crossing channels that may impede or stop flows or debris, picnic shelters and tables and lavatories, that are incidental to a principal structure or use, provided in addition to the requirements of Section 9.2, that:

**1.** The structures are not intended for human habitation or supportive of human habitation; (ARM 36.15.602(9))

**2.** The structures will have low flood damage potential; (ARM 36.15.602(9))

**3.** The structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible; (ARM 36.15.602(9))

**4.** The structures will be constructed and placed so as to offer a minimal obstruction to flood flows; (ARM 36.15.602(9))

**5.** Only those wastewater disposal systems that are approved under health and sanitation regulations are allowed;

**6.** Service facilities within these structures such as electrical, heating and plumbing are flood proofed according to the requirements in Section 10; (ARM 36.15.602(9))

**7.** The structures are firmly anchored to prevent flotation; (ARM 36.15.602(9))

**8.** The structures do not require fill and/or substantial excavation;

**9.** The structures or use cannot be changed or altered without permit approval; and

**10.** There is no clearing of riparian vegetation within 10 feet of the mean annual high-water mark or edge of stream channel.

**9.12 CONSTRUCTION OF OR MODIFICATIONS TO SURFACE WATER DIVERSIONS** provided, in addition to the requirements of Section 9.2, that the design is reviewed and approved by an engineer and includes:

1. Measures to minimize potential erosion from a Base Flood; and (ARM 36.15.603(3)(b))

2. Designs and plans that demonstrate any permanent structure in the stream is designed to safely withstand up to the Base Flood considering the forces associated with hydrodynamic and hydrostatic pressures including flood depths, velocities, impact, ice buoyancy, and uplift forces associated with the Base Flood. ((ARM 36.15.603(3)(c) ((CFR 60.3(a)(3) (CFR 60.3(d)(3)))

**9.13 FLOOD CONTROL AND STREAM BANK STABILIZATION MEASURES** provided, in addition to the requirements of Section 9.2, that the design is reviewed and approved by an engineer and constructed to substantially resist or withstand the forces associated with hydrodynamic and hydrostatic pressures, including flood depths, velocities, impact, ice, buoyancy, and uplift associated with the Base Flood. The design must also show compliance with the following applicable criteria: ((CFR 60.3(a)(3) (CFR 60.3(d)(3)) (ARM 36.15.606))

1. **LEVEE AND FLOODWALL** construction or alteration:
    1. Must be designed and constructed with suitable fill and be designed to safely convey a Base Flood; (ARM 36.15.606(1)(a))

    2. Must be constructed at least 3 feet higher than the elevation of the Base Flood unless the levee or floodwall protects agricultural land only; (ARM 36.15.606(2)(a))

    3. Must meet state and federal levee engineering and construction standards and be publicly owned and maintained if it protects structures of more than one landowner; and
    (ARM 36.15.505(1)(c)(ii) and (iii))

    4. For any increase in the elevation of the Base Flood, an alteration of the Regulated Flood Hazard Area requires approvals pursuant to Section 4.3.

2. **STREAM BANK STABILIZATION, PIER AND ABUTMENT PROTECTION** projects:

    1. Must be designed and constructed using methods and materials that are the least environmentally damaging yet practicable and should be designed to withstand a Base Flood once the project's vegetative components are mature within a period of up to 5 years or other time as required by the Floodplain Administrator. Once vegetation is mature and established it should not require substantial yearly maintenance after the initial period;

    2. Materials for the project may be designed to erode over time but not fail catastrophically and impact others. Erosion, sedimentation, and transport of

the materials may be designed to be at least similar in amount and rate of existing stable natural stream banks during the Base Flood;

3. Must not increase erosion upstream, downstream, across from or adjacent to the site in excess of the existing stable natural stream bank during the Base Flood; and (ARM 36.15.606(1)(b))

4. Materials for the project may include but are not limited to riprap, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials.

**3. CHANNELIZATION PROJECTS** where the excavation and/or construction of a channel is for the purpose of diverting the entire or a portion of the flow of a stream from its established course, the project must:

1. Not increase the magnitude, velocity, or elevation of the Base Flood; and

2. Meet the requirements of Section 9.13.2.
(ARM 36.15.101(7)) (ARM 36.15.606(1)(c))

**4. DAMS**:

1. The design and construction shall be in accordance with the Montana Dam Safety Act and applicable safety standards; and

2. The project shall not increase flood hazards downstream either through operational procedures or improper hydrologic/hydraulic design. (ARM 36.15.606(1)(d)

**9.14 STREAM AND BANK RESTORATION** projects intended to reestablish the terrestrial and aquatic attributes of a natural stream and not for protection of a structure or development provided, in addition to the requirements of Section 9.2, that:

**1.** The project will not increase velocity or erosion upstream, downstream, across from or adjacent to the site; (ARM 36.15.606(1)(b))

**2.** Materials may include but are not limited to boulders, rock cobble, gravel, native stream bed materials, root wads, brush mattresses, willow wattles, natural woody debris or combinations of analogous materials and that reasonably replicates the bed and bank of the natural stream;

**3.** Erosion, sedimentation, and transport of the materials are not more than the amount and rate of existing natural stream banks during the Base Flood; and

**4.** The project may be designed to allow vegetative materials to mature within a period up to 5 years or other time as required by the Floodplain Administrator.

Once vegetation is mature and established it should not require substantial yearly maintenance after the initial period.

**9.15 EXISTING RESIDENTIAL AND NON-RESIDENTIAL BUILDINGS IN THE FLOODWAY** any alteration or substantial improvement to an existing building must meet the requirements of Section 9.2 and the applicable requirements in Section 10 for residential or non-residential buildings. (MCA76-5-404(3)(b))

# SECTION 10. DEVELOPMENT REQUIREMENTS IN THE FLOOD FRINGE OR REGULATED FLOOD HAZARD AREA WITH NO FLOODWAY

**10.1 USES REQUIRING PERMITS** – All uses allowed by permit in the Floodway shall also be allowed by permit within the Flood Fringe or Regulated Flood Hazard Area with no Floodway. Such uses are subject to the requirements in Section 9, with the exception of the encroachment limit of Section 9.2.2. Instead, such uses are subject to the encroachment limits of this Section 10.2.9.

Except for prohibited artificial obstructions in Section 6.2, all other artificial obstructions including new construction, substantial improvements, alterations to residential, and nonresidential structures including manufactured homes, and related suitable fill or excavation shall be allowed by permit and are subject to the requirements in this Section and General Requirements of Section 9.2, with the exception of the encroachment limit of Section 9.2.2.
(ARM 36.15.701(2))

**10.2 GENERAL REQUIREMENTS** An application for a Floodplain permit must demonstrate or meet the following applicable requirements:

1. **Base Flood Elevation** Where necessary to meet the appropriate elevation requirement in these regulations, the Base Flood Elevation(s) must be determined by an engineer and utilized in the design and layout of the project demonstrating the design and construction criteria herein are met. For Regulated Flood Hazard Areas that do not have computed and published Base Flood Elevations in the adopted flood hazard study referenced in Section 4, a Base Flood Elevation must be determined or obtained from a reliable source, utilizing appropriate engineering methods and analyses;

2. **Flood Damage** Structures must be constructed by methods and practices that minimize flood damage and structures must be reasonably safe from flooding; ((44 CFR 60.3(a)) (44 CFR 60.3(a)(3)(iii)))

3. **Surface Drainage** Adequate surface drainage must be provided around structures;

4. **Materials** Structures must be constructed with materials resistant to flood damage; ((44 CFR 60.3(a)) (44 CFR 60.3(a)(3)(ii))

5. **Artificial Obstructions** Structures, excavation or fill must not be prohibited by any other statute, regulation, ordinance, or resolution; and must be compatible with subdivision, zoning and any other land use regulations, if any; (ARM 36.15.701(3)(a)) ((ARM 36.15.701(3)(b))

6. **Anchoring** All construction and substantial improvements must be designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;(44CFR 60.3(a)(3)

7. **Certification** Certification by an engineer, architect, land surveyor, or other qualified person must accompany the application where required including for an encroachment analysis, adequacy of structural elevations, Base Flood Elevation determinations, flood-proofing, enclosure flood openings and design and construction to withstand the hydrodynamic forces and hydrostatic pressures of flood depths, velocities, impact, buoyancy, uplift forces associated with the Base Flood and surface drainage. A certification is not intended to constitute a warranty or guarantee of performance, expressed or implied;
((ARM 36.15.606(1) (ARM 36.15.702(2)(c)) (ARM 36.15.801(3)(b)) (44 CFR 60.3(c) (3 &4)) (44 CFR 60.3 (d)(3)))

8. **Access** Structures must have safe access during times of flooding up to the Base Flood for ordinary and emergency services provided there are no reasonable alternate locations for structures; For manufactured homes, access for a manufactured home hauler is also provided.

9. **Encroachment Analysis**

   1. All applications in the Regulated Flood Hazard Area without a Floodway must be supported by an encroachment analysis of the proposed use, a thorough hydrologic and hydraulic analysis except as provided in following paragraph 4, Section 10.2.9.4, prepared by an engineer to demonstrate the effect of the structure on flood flows, velocities and the Base Flood Elevation; ((ARM 36.15.604) (44 CFR 60.3(a)(3))

   2. The maximum allowable encroachment is certified to be at or less than 0.5 feet increase to the Base Flood Elevation unless approval of an alteration of the Regulated Flood Hazard Area pursuant to Section 4 and an approved FEMA Conditional Letter of Map Revision occurs before permit issuance; ((ARM 36.15.604) (ARM 36.15.505) (44 CFR 60.3(c)(13)))

   3. An encroachment analysis is not required for any development in the Flood Fringe where an accompanying Floodway has been designated within the Regulated Flood Hazard Area; and

   4. Although all other development standards herein apply, a minimal or qualitative encroachment analysis may be accepted when the project or development does not require a structure, alteration of the Floodplain, involve fill, grading, excavation or storage of materials or equipment and also is certified by an engineer to not exceed the allowable encroachment.

10. **Electrical Systems Flood Proofing** All electrical service materials, equipment and installation for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:

    1. All incoming power service equipment including all metering equipment, control centers, transformers, distribution and lighting panels and all other stationary equipment must be located at least two feet above the Base Flood Elevation; (ARM 36.15.901(1)(a))

    2. Portable and movable electrical equipment may be placed below the Base Flood Elevation, provided that the equipment can be disconnected by a single plug and socket assembly of the submersible type; (ARM 36.15.901(1)(b))

    3. The main power service lines must have automatically operated electrical disconnect equipment or manually operated electrical disconnect equipment located at an accessible remote location outside the Regulated Flood Hazard Area or two feet above the Base Flood Elevation; and (ARM 36.15.901(1)(c))

    4. All electrical wiring systems installed below the Base Flood Elevation must be suitable for continuous submergence and may not contain fibrous components. (ARM 36.15.901(1)(d))

11. **Heating and Cooling Systems Flood Proofing** Heating and cooling systems for uses in a Regulated Flood Hazard Area must be certified to meet the following requirements:

    1. Float operated automatic control valves must be installed so that fuel supply is automatically shut off when flood waters reach the floor level where the heating and cooling systems are located; (ARM36.15.902(1)(a))

    2. Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the Base Flood Elevation; (ARM36.15.902(1)(b))

    3. Electrical Systems flood proofing must be met; and (ARM36.15.902(1)(c))

    4. Furnaces and cooling units must be installed at least two (2) feet above the Base Flood Elevation and the ductwork installed above the Base Flood Elevation.

12. **Plumbing Systems Flood Proofing** Plumbing systems for uses in the Regulated Flood Hazard Area must be certified to meet the following requirements:

1. Sewer lines, except those to a buried and sealed vault, must have check valves installed to prevent sewage backup into permitted structures; and (ARM 36.15.903(1)(a))

2. All toilets, stools, sinks, urinals, vaults, and drains must be located so the lowest point of possible flood water entry is at least two (2) feet above the Base Flood Elevation. (ARM 36.15.903(1)(b))

**13. <u>Structural Fill Flood Proofing</u>** Fill used to elevate structures, including but not limited to residential and non-residential buildings must be certified to meet the following requirements:

1. The filled area must be at or above the Base Flood Elevation and extend at least fifteen (15) feet beyond the structure in all directions;

2. Fill material must be suitable fill, that is stable, compacted, well graded, and pervious, not adversely affected by water and frost, devoid of trash or similar foreign matter, tree stumps or other organic material; and is fitting for the purpose of supporting the intended use and/or permanent structure. (ARM 36.15.101(22))

3. The fill must be compacted to minimize settlement and compacted to 95 percent of the maximum density. Compaction of earthen fill must be certified by an engineer;

4. No portion of the fill is allowed within the floodway;

5. The fill slope must not be steeper than 1 ½ horizontal to 1 vertical unless substantiating data justifying a steeper slope is provided and adequate erosion protection is provided for fill slopes exposed to floodwaters; and

**14. <u>Wet Flood Proofing</u>** Building designs with an enclosure below the lowest floor must be certified to meet the following:

1. Materials used for walls and floors are resistant to flooding to an elevation two (2) feet or more above the Base Flood Elevation; (ARM 36.15.702(2)(a))

2. The enclosure must be designed to equalize hydrostatic forces on walls by allowing for entry and exit of floodwaters. Opening designs must either be certified by an engineer or architect or meet or exceed the following:

    1. Automatically allow entry and exit of floodwaters through screens, louvers, valves, and other coverings or devices;

    2. Have two (2) or more openings with a total net area of not less than one (1) square inch for every one (1) square foot of enclosed area below the

Lowest Floor, except if the enclosure is partially subgrade, a minimum of 2 openings may be provided on a single wall; and

3. Have the bottom of all openings no higher than one (1) foot above the higher of the exterior or interior adjacent grade or floor immediately below the openings.

(44 CFR 60.3(c)(5))

**15. <u>Dry Flood Proofing</u>** Building designs that do not allow internal flooding must be certified according to these regulations to meet the following:

1. Building use must be for non-residential use only and does not include mixed residential and non-residential use;

2. Be Flood Proofed to an elevation no lower than two (2) feet above the Base Flood Elevation;

3. Be constructed of impermeable membranes or materials for floors and walls and have watertight enclosures for all windows, doors and other openings; and

4. Be designed to withstand the hydrostatic pressures and hydrodynamic forces resulting from the Base Flood and the effects of buoyancy.

((ARM 36.15.702(2)(b)) (44 CFR 60.3(c)(3))

**16. <u>Elevation of the Lowest Floor</u>** Elevating the lowest floor may be by either suitable fill, foundation wall enclosure, stem walls, pilings, posts, piers, columns or other acceptable means; ((MCA 76-5-402(2)(b)) (44 CFR 60.3(b)(8)) (44 CFR 60.3(c)(6)))

**17. <u>Crawl Spaces</u>** Crawl space foundation enclosures including sub grade crawlspace enclosures below the lowest floor must meet the wet flood proofing requirements and be designed so that the crawl space floor is at or above the Base Flood Elevation. Crawl space foundations must have an inside dimension of not more than five (5) feet from the ground to the top of the living floor level and a sub grade crawlspace must also have the interior ground surface no more than two (2) feet below the exterior lowest adjacent ground surface on all sides. A sub grade foundation exceeding either dimension is a basement;

**18. <u>Manufactured Home Anchors</u>** For new placement, substantial improvement or replacement of manufactured homes for residential or nonresidential use including additions, the chassis must be secure and must resist flotation, collapse or lateral movement by anchoring with anchoring components capable of carrying a force of 4,800 pounds and as follows:

1. For manufactured homes less than fifty (50) feet long, over-the-top ties to ground anchors are required at each of the four (4) corners of the home, with two additional ties per side at intermediate locations; or

2. For manufactured homes more than fifty (50) feet long, frame ties to ground anchors are required at each corner of the home with five (5) additional ties per side at intermediate points; and
((CFR 60.3(b)(8)) CFR 60.3(c)(6)))

**10.3 RESIDENTIAL BUILDING, EXCEPTIONS OR ADDITIONAL REQUIREMENTS** New construction, alterations, and substantial improvements of residential dwellings, manufactured homes, including replacement of manufactured homes, must be constructed such that:

1. **Elevation of the Lowest Floor** The Lowest Floor of the building including an attached garage or basement must be two (2) feet or more above the Base Flood Elevation; (ARM 36.15.701(3))

2. **Enclosure** Enclosures of elevated buildings cannot be dry flood proofed. Use for an enclosure is limited to facilitating building component access. The enclosure including a crawlspace must be wet flood proofed and the enclosure floor must be at or above the Base Flood Elevation. An attached garage floor must be two (2) or more feet above the Base Flood Elevation; and

3. **Recreation Vehicles** Recreational vehicles on site for more than 180 days or not ready for highway use must meet the requirements for manufactured homes for residential use.

**10.4 NON-RESIDENTIAL BUILDING, EXCEPTIONS OR ADDITIONAL REQUIREMENTS** New construction, alterations, and substantial improvements of non-residential including agricultural, commercial and industrial buildings and residential and non-residential accessory buildings must be constructed such that:

1. **Elevation of the Lowest Floor** The Lowest Floor of the building must be elevated two (2) feet above the Base Flood Elevation or adequately dry flood proofed according to Section 10.2.15. ((ARM 36.15.702(2) (44 CFR 60.3(c)(3)(ii) (44 CFR 60.3(c)(3) & (4)))

2. **Enclosure** Enclosures below the Lowest Floor on elevated buildings must be wet flood proofed according to Section 10.2.14 and the use must be limited to parking, access or storage or must be adequately dry flood proofed according to this Section 10.2.15;

3. **Manufactured homes** Manufactured homes proposed for use as non-residential buildings cannot be dry flood proofed; and

4. **Agricultural structures** The following additional requirements and exceptions from the requirements of Section 10.4 apply to agricultural structures not intended to be insurable, used solely for agricultural purposes, having low flood damage potential, used exclusively in connection with the production, harvesting, storage, drying, or raising of agricultural commodities including raising of livestock and animal confinement facilities, and not intended for human habitation:

    1. Such structures may be exempted by the Floodplain Administrator from the Lowest Flood Elevation requirements established in Section 10.4.1 provided the Lowest Floor of the structures is elevated to at least the Base Flood Elevation or adequately dry floodproofed in conformance with the requirements of Section 10.2.15; and
    2. Such Structures shall comply with the requirements of Section 9.11.

    ((ARM 36.15.602(9) (ARM 36.15.701(3)(e))

5. **Additional Accessory Structures including Detached Garages** Accessory structures that are on the same parcel of property as a principal structure, the use of which is incidental to the use of the principal structure. Accessory structures must be used for parking or storage, be small and represent a minimal investment by owners, and have low damage potential. Small structures referenced in FEMA Technical Bulletin P-2140 means not larger than a one-story two-car garage.
    1. Such structures may be exempted by the Floodplain Administrator from the Lowest Flood Elevation requirements established in Section 10.4.1 provided the Lowest Floor of the structure is elevated to at least the Base Flood Elevation and adequately wet floodproofed in conformance with requirements of parts 1 and 2 of Section 10.2.14 or adequately dry floodproofed in conformance with the requirements of Section 10.2.15; and
    2. Such structures shall comply with the requirements of Section 9.11.

# SECTION 11. EMERGENCIES

## 11.1 GENERAL

**1.** Emergency repair and replacement of severely damaged artificial obstructions and development in the Regulated Flood Hazard Area, including public transportation facilities, public water and sewer facilities, flood control works, and private projects are subject to the permitting requirements of these regulations. (ARM 36.15.217)

**2.** The provisions of these regulations are not intended to affect other actions that are necessary to safeguard life or structures during periods of emergency.

## 11.2 EMERGENCY NOTIFICATION AND APPLICATION REQUIREMENTS

**1.** The property owner and or the person responsible for taking emergency action must notify the Floodplain Administrator prior to initiating any emergency action in a Regulated Flood Hazard Area normally requiring a Floodplain permit. An Emergency Notification Form must be submitted to the Floodplain Administrator within five (5) days of the action taken as a result of an emergency.

**2.** Unless otherwise specified by the Floodplain Administrator, within 30 days of initiating the emergency action, a person who has undertaken an emergency action must submit a Floodplain Permit Application that describes what action has taken place during the emergency and describe any additional work that may be required to bring the project in compliance with these regulations.

**3.** A person who has undertaken an emergency action may be required to modify or remove the project in order to meet the permit requirements.

# SECTION 12. VARIANCES

**12.1 GENERAL** A variance from the minimum development standards of these regulations may be allowed. An approved variance would permit construction in a manner otherwise as required or prohibited by these regulations. ((44 CFR 59.1) (ARM 36.15.218))

**12.2 VARIANCE APPLICATION REQUIREMENTS:**

**1.** Prior to any consideration of a variance from any development standard in these regulations, a completed Floodplain Permit application and required supporting material must be submitted.

**2.** Additionally, supporting materials in a Variance application specific to the variance request including facts and information addressing the criteria in this Section must be submitted.

**3.** If the Floodplain permit application and Variance application is deemed not correct and complete, the Floodplain Administrator shall notify the applicant of deficiencies within a reasonable time not to exceed 30 days. Under no circumstances should it be assumed that the variance is automatically granted.

**12.3 NOTICE REQUIREMENTS FOR FLOODPLAIN VARIANCE APPLICATION**
Public Notice of the Floodplain permit application and Variance application shall be given pursuant to Section 8.2.

**12.4 EVALUATION OF VARIANCE APPLICATION**

**1.** A Floodplain permit and Variance shall only be issued upon a determination that the variance is the minimum allowance necessary, considering the flood hazard, to afford relief from these regulations and provided all of the following criteria are met:

1. There is a good and sufficient cause. Financial hardship is not a good and sufficient cause; (44 CFR 60.6(a)(3))

2. Failure to grant the variance would result in exceptional hardship to the applicant; (44 CFR 60.3(a)(3)) & ARM 36.15.218(b))

3. Residential and nonresidential buildings are not in the Floodway except for alterations or substantial improvement to existing buildings. Residential dwellings including basements and attached garages do not have the lowest floor elevation below the Base Flood Elevation;

4. Any enclosure including a crawl space must meet the requirements of Section 10.2.14, Wet Flood Proofing if the enclosure interior grade is at or below the Base Flood Elevation;

5. Granting of a variance will not result in increased flood heights to existing buildings, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing local laws or ordinances; (44 CFR 60.6 (a)(3) & (ARM 36.15.218(a))

6. The proposed use is adequately flood proofed; (ARM 36.15.218(c))

7. The variance is the minimum necessary, considering the flood hazard, to afford relief; (44 CFR 60.6(a)(4))

8. Reasonable alternative locations are not available; (MCA 76-5-406(3) & ARM 36.15.218(d))

9. An encroachment does not cause an increase to the Base Flood Elevation that is beyond that allowed in these regulations; and (44 CFR 60.6(a)(1))

10. All other criteria for a Floodplain permit besides the specific development standard requested by variance are met.

**2.** An exception to the variance criteria may be allowed as follows:

1. For either new construction of a structure outside of the Floodway only or for substantial improvements or an alteration of a structure, on a lot of one-half acres or less that is contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation; or (44 CFR 60.6(a).

2. For Historic Structures – variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum relief necessary to preserve the historic character and design of the structure. The historic nature of the building must be designated as a preliminary or historic structure by U.S. Secretary of Interior or an approved state or local government historic preservation program. (44 CFR 60.6(a))

## 12.5 DECISION

**1.** The Livingston City Commission shall:

1. Evaluate the Floodplain permit application and Variance application using

the criteria in Section 12.4, and the application requirements and minimum development standards in Section 9 and 10;

2. Make findings, and approve, conditionally approve or deny a Floodplain permit and variance within 180 days or a time specified of a complete application.

3. If approved, attach conditions to the approval of Floodplain permit and Variance including a project completion date and inspections during and after construction.

4. Notify the applicant that the issuance of a Floodplain permit and Variance to construct a structure not meeting the minimum building requirements in these regulations may result in increased premium rates for flood insurance and that flood insurance premiums are determined by actuarial risk and will not be modified by the granting of a variance. (44CFR 60.6(a))

5. Submit to the Floodplain Administrator a record of all actions involving a Floodplain permit and variance, including the findings and decision and send a copy of each variance granted to DNRC.(44 CFR 60.6(a)(6) & MCA 76-5-405)

## 12.6 JUDICIAL REVIEW

Any person or persons aggrieved by the Floodplain permit and variance decision may appeal such decision in a court of competent jurisdiction.

# SECTION 13. ADMINISTRATIVE APPEALS

**13.1 GENERAL** An administrative appeal may be brought before the Livingston City Commission for review of the Floodplain Administrator's order, decision to grant, condition or deny a floodplain permit or interpretation of the Regulated Flood Hazard Area boundary.

**13.2 APPEALS REQUIREMENTS** The following provisions apply to administrative appeals:

1. An appeal shall include the basis of the appeal and supporting information including specific findings and conclusions of the Floodplain Administrator's decision being appealed;

2. An appeal may be submitted by an applicant and/or anyone who may be aggrieved by the Floodplain Administrator's decision or order;

3. Appeals must be received within 30 days of the date of the decision or order of the Floodplain Administrator; and

4. Additional information specific to the appeal request may be requested by the review panel.

**13.3 NOTICE AND HEARING**

1. Notice of the pending appeal and hearing shall be provided pursuant to Section 8.2. The Floodplain Administrator may notify DNRC and FEMA of pending appeals.

2. A public hearing on the appeal must be held within 30 days of the Notice unless set otherwise.

**13.4 DECISION**

A judgment on an appeal shall be made within 30 days of the hearing unless set otherwise. The decision may affirm, modify, or overturn the Floodplain Administrator's decision. A decision on an appeal of a permit cannot grant or issue a variance. A decision may support, reverse or remand an order or determination of a boundary of the Regulated Flood Hazard Area by the Floodplain Administrator.

**13.5 JUDICIAL REVIEW**

Any person or persons aggrieved by the decision on an administrative appeal may appeal such decision in a court of competent jurisdiction.

# SECTION 14. ENFORCEMENT

**14.1 INVESTIGATION REQUEST** An investigation to determine compliance with these regulations for an artificial obstruction or nonconforming use within the Regulated Flood Hazard Area may be made either on the initiative of the Floodplain Administrator or on the written request of three titleholders of land which may be affected by the activity. The names and addresses of the persons requesting the investigation shall be released if requested. (MCA 76-5-105) (2)

**14.2 NOTICE TO ENTER AND INVESTIGATE LANDS OR WATERS** The Floodplain Administrator may make reasonable entry upon any lands and waters for the purpose of making an investigation, inspection or survey to verify compliance with these regulations. (MCA 76-5-105(1))

1. The Floodplain Administrator shall provide notice of entry by mail, electronic mail, phone call, or personal delivery to the owner, owner's agent, lessee, or lessee's agent whose lands will be entered.

2. If none of these persons can be found, the Floodplain Administrator shall affix a copy of the notice to one or more conspicuous places on the property.

**14.3 NOTICE TO RESPOND AND ORDER TO TAKE CORRECTIVE ACTION** When the Floodplain Administrator determines that a violation may have occurred, the Floodplain Administrator may issue written notice to the owner or an agent of the owner, either personally or by certified mail. Such notice shall cite the regulatory offense and include an order to take corrective action within a reasonable time or to respond by requesting an administrative review by the Floodplain Administrator.

**14.4 ADMINISTRATIVE REVIEW** The order to take corrective action is final, unless within five (5) working days or any granted extension, after the order is received, the owner submits a written request for an administrative review by the Floodplain Administrator. A request for an administrative review does not stay the order.

**14.5 APPEAL OF ADMINISTRATIVE DECISION** Within ten (10) working days or any granted extension of receipt of the Floodplain Administrator's decision concluding the administrative review, the property owner or owner's agent may appeal the decision pursuant to Section 13.

**14.6 FAILURE TO COMPLY WITH ORDER TO TAKE CORRECTIVE ACTION** If the owner fails to comply with the order for corrective action, remedies may include administrative or legal actions, or penalties through court.

**14.7 OTHER REMEDIES** This section does not prevent efforts to obtain voluntary compliance through warning, conference, or any other appropriate means. Action

under this part shall not bar enforcement of these regulations by injunction or other appropriate remedy.

# SECTION 15. PENALTIES

**15.1 MISDEMEANOR** Violation of the provisions of these regulations or failure to comply with any of the requirements, including failure to obtain permit approval prior to development in the Regulated Flood Hazard Area except for an emergency, shall constitute a misdemeanor and may be treated as a public nuisance.

Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than $100 or imprisoned for not more than 10 days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense. (MCA 76-5-110)

**15.2 DECLARATION TO THE FEDERAL FLOOD INSURANCE ADMINISTRATOR** Upon finding of a violation and failure of the owner to take corrective action as ordered, the Floodplain Administrator may submit notice and request a 1316 Violation Declaration to the Federal Insurance Administrator. The Federal Insurance Administrator has the authority to deny new and renewal flood insurance for a structure upon finding a valid violation declaration. (44 CFR 73.3)

The Floodplain Administrator shall provide the Federal Insurance Administrator the following:

1. The name(s) of the property owner(s) and address or legal description of the property sufficient to confirm its identity and location;

2. A clear and unequivocal declaration that the property is in violation of a cited State or local law, regulation or ordinance;

3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;

4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and

5. A clear statement that the declaration is being submitted pursuant to section 1316 of the National Flood Insurance Act of 1968, as amended.

# Chapter 29
# FLOODPLAIN REGULATIONS[1]

## Article I. Title and Purpose

### Sec. 29-1. Title.

These regulations shall be known and cited as Livingston Floodplain Regulations. These regulations are in accordance with exercising the authority of the laws of the State of Montana.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-2. Purpose.

To promote the public health, safety, and general welfare, to minimize flood losses in areas subject to flood hazards, and to promote wise use of the floodplain. These regulations have been established with the following purposes intended:

A. To guide development of the one-hundred-year floodplain within local jurisdiction consistent with the enumerated findings by:

1. Recognizing the right and need of water courses to periodically carry more than the normal flow of water;
2. Participating in coordinated efforts of federal, state, and local management activities for one-hundred-year floodplains; and
3. Ensuring the regulations and minimum standards adopted, insofar as possible, balance the greatest public good with the least private injury.

B. Specifically it is the purpose of these regulations to:

1. Restrict or prohibit uses that are dangerous to health, safety, and property in times of flood, or that cause increased flood heights and velocities;
2. Require that uses vulnerable to floods, including public facilities, be provided with flood protection at the time of initial construction;
3. Identify lands unsuitable for certain development purposes because of flood hazards;
4. Minimize the need for rescue and relief efforts associated with flooding undertaken at the expense of the general public;

[1]Editor's note(s)—Ord. No. 2033, adopted Aug. 16, 2011, repealed the former floodplain regulations of the city, which derived from Ord. No. 1687, adopted Feb. 19, 1991, and enacted new floodplain regulations as set out herein.

5. Ensure potential buyers are notified that property is within a one-hundred-year floodplain and subject to the provisions of these regulations; and
6. Ensure that those who occupy one-hundred-year floodplains assume responsibility for their actions.

(Ord. No. 2033, § I, 8/16/11)

# Article II. Definitions

## Sec. 29-3. Definitions.

Unless specifically defined below, words or phrases used in these regulations shall be interpreted to give them the meaning they have in common usage and to give these regulations the most reasonable application.

"Act" means the Montana Floodplain and Floodway Management Act 76-5-101 through 406, MCA.

"Alteration" means any change or addition to a structure that either increases its external dimensions or increases its potential flood hazard.

"Appeal" means a request for a review of the Floodplain Administrator's interpretation of any provisions of these regulations or a request for a variance.

"Area of special flood hazard" means the land in the floodplain within the community subject to inundation by a one (1) percent or greater chance of flooding in any given year, i.e., the one-hundred-year floodplain.

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

"Base flood" means a flood having one (1) percent chance of being equaled or exceeded in any given year. A base flood is the same as a one-hundred-year flood.

"Base flood elevation" means the elevation above sea level of the base flood in relation to North American Vertical Datum of 1988 unless otherwise specified in the flood hazard study.

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

"Development" means any human-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials. (44 CFR 59.1)

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

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

"Expansion to an existing manufactured home park or subdivision" means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including

the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads). (44 CFR 59.1)

"FEMA" means the Federal Emergency Management Agency.

"Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry lands from the overflow of a stream, or the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood insurance rate map" means the map on which FEMA has dedicated both the one-hundred year floodplains and the risk premium zones.

"Flood insurance study" means the report in which FEMA has provided flood profiles, as well as the flood boundary/floodway map and the water surface profiles.

"Floodplain" means the areas subject to these regulations, generally adjoining a stream, that would be covered by floodwater of a base flood except for designated shallow flooding areas that receive less than one (1) foot of water per occurrence. The floodplain consists of a floodway and floodway fringe.

"Floodway" means the channel of a stream and the adjacent over bank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one-half (½) foot.

"Floodway fringe" means that portion of the floodplain outside the limits of the floodway.

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

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

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

"Manufactured home" means a structure that is transportable in one (1) or more sections, built on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities. This does not include "recreational vehicles."

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

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

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

"New manufactured home park or subdivision" means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community. (44 CFR 59.1)

"Official floodplain maps" means the flood insurance rate maps and flood boundary/floodway maps provided by FEMA for Livingston, dated October 18, 2011.

"One-hundred-year flood" means a flood having a one (1) percent chance of being equaled or exceeded in any given year. A one-hundred-year flood has nearly a twenty-three (23) percent of occurring in a twenty-five-year period. A one-hundred-year is the same as a base flood.

"Permit issuing authority" means the City of Livingston.

"Recreational vehicle" means a vehicle which is:

A. Built on a single chassis;

B. Four hundred (400) square feet or less when measured at the largest horizontal projections;

C. Designed to be self-propelled or permanently towable by a light duty truck; and

D. Designed primarily for use as a temporary living quarters for recreation, camping, travel, or seasonal use, not for use as a permanent dwelling.

"Riprap" means stone, rocks, concrete blocks, or analogous material that is placed along the banks or bed of a stream to alleviate erosion.

"Start of construction" means commencement of clearing, grading, filling, or excavating to prepare a site for construction.

"Structure" means a walled and roofed building, manufactured home, a gas or liquid storage tank, bridge, culvert, dam, diversion, wall, revetment, dike, or other projection that may impede, retard, or alter the pattern of flow of water.

"Substantial damage" means damage sustained by a structure where the cost of restoring the structure to its condition before damage would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the market value of the structure either:

A. Before the improvement or repair is started; or

B. If the structure has been damaged, and is being restored, before the damage occurred. For the purpose of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor, or other structural part of the building commences. The term does not include:

    1. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, or

    2. Any alteration of a structure listed on the national register of historic places or state inventory of historic places.

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

"Variance" means a grant of relief from the requirements of these regulations that would permit construction in a manner otherwise prohibited by these regulations.

"Violation" means the failure of a structure or other development to be fully compliant with these regulations. A structure or other development without elevation certificate, certification by a licensed engineer or architect of compliance with these regulations, or other evidence of compliance is presumed to be in violation until such time as documentation is provided.

(Ord. No. 2033, § I, 8/16/11; Ord. No. 2034, § 1, 10/4/11; Ord. No. 3005, § 2, 4/20/21)

# Article III. General Provisions

## Sec. 29-4. Jurisdictional area.

These regulations shall apply to all lands within the jurisdiction of the City of Livingston, State of Montana, shown on the official floodplain maps as being located within a one-hundred-year floodplain district.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-5. Floodplain district establishment.

The floodplain districts established are defined by the base flood elevations and one-hundred-year floodplains as delineated in the flood insurance study. The basis for the Flood Insurance Study is a scientific and engineering report entitled, "The Flood Insurance Study for Livingston, Montana," dated October 18, 2011, with accompanying flood insurance rate maps and flood boundary/floodway maps. The official floodplain maps and study are on file in the office of the Floodplain Administrator.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-6. Floodplain administrator.

The Livingston Floodplain Administrator has been designated to be the Director of Building and Planning. The responsibilities of this position are outlined in Article IV of these regulations.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-7. Rules for interpretation of floodplain district boundaries.

The boundaries of the one-hundred-year floodway shall be determined by scaling distances on the official floodplain maps and using the floodway data table contained in the flood insurance study report. The maps may be used as a guide for determining the one-hundred-year floodplain boundary, but the exact location of the floodplain boundary shall be determined where the base flood elevation intersects the natural ground. For unnumbered A Zones and AO Zone floodplains, where there is a conflict between mapped floodplain boundary and actual field conditions, the Floodplain Administrator may interpret the location of the one-hundred-year floodplain boundary based on field conditions or available historical flood information.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-8. Compliance.

No structure or land use shall be located, extended, converted, or structurally altered without full compliance with the provisions of these regulations and other applicable regulations. these regulations meet the minimum floodplain development requirements as set forth by the Montana Board of Natural Resources and Conservation and the National Flood Insurance Program.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-9. Abrogation and greater responsibility.

It is not intended by these regulations to repeal, abrogate, or impair any existing easements, covenants, deed restrictions, or underlying zoning. However, where these regulations impose greater restrictions, the provisions of these regulations shall prevail.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-10. Regulation interpretation.

The interpretation and application of the provisions of these regulations shall be considered minimum requirements and liberally constructed in favor of the governing body and not deemed a limitation or repeal of any other powers granted by State statute.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-11. Warning and disclaimer of liability.

These regulations do not imply that areas outside the delineated floodplain boundaries or permitted land uses will always be totally free from flooding or flood damages. These regulations shall not create a liability or cause of action against Livingston, or any officer or employee thereof for flood damages that may result from reliance upon these regulations.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-12. Severability.

If any section, clause, provision, or portion of these regulations is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of these regulations shall not be affected thereby.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-13. Disclosure provision.

All owners of property in an identified one-hundred-year floodplain as indicated on the official floodplain maps must notify potential buyers or their agents that such property is subject to the provisions of these regulations.

(Ord. No. 2033, § I, 8/16/11)

## Article IV. Administration

### Sec. 29-14. Administration.

A. As provided in Section 29-6 of these regulations, the Floodplain Administrator has been designated by the Livingston City Commission, and has the responsibility of such position as outlined in these regulations.

B. The Floodplain Administrator is hereby appointed with the authority to review floodplain development permit applications, proposed uses, and construction to determine compliance with these regulations. The

Floodplain Administrator is required to assure all necessary permits have been received from those governmental agencies from which approval is required by federal and state law and local codes, including Section 404 of the Federal Water Pollution Control Act of 1972, 33 U.S.C. 1334, and under the provisions of the Natural Streambed and Land Preservation Act.

1. Additional Factors. Floodplain development permits shall be granted or denied by the Floodplain Administrator on the basis of whether the proposed establishment, alteration, or substantial improvement of an artificial obstruction meets the requirements of these regulations. Additional factors that shall be considered for every permit application are:

    a. The danger to life and property due to increased flood heights, increased flood water velocities, or alterations in the pattern of flood flow caused by encroachments;

    b. The danger that materials may be swept onto other lands or downstream to the injury of others;

    c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions;

    d. The susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the individual owner;

    e. The importance of the services provided by the facility to the community;

    f. The requirement of the facility for a waterfront location;

    g. The availability of alternative locations not subject to flooding for the proposed use;

    h. The compatibility of the proposed use with existing development and anticipated development in the foreseeable future;

    i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area;

    j. The safety of access to property in times of flooding for ordinary and emergency services; and

    k. Such other factors as are in harmony with the purposes of these regulations, the Montana Floodplain and Floodway Management Act, and the National Flood Insurance Program.

C. A floodplain development permit application is considered to have been automatically granted sixty (60) days after the date of receipt of the application by the Floodplain Administrator unless the applicant has been notified that the permit is denied, conditionally approved, or additional information pertinent to the permit review process is required.

D. The Floodplain Administrator shall adopt such administrative procedures as may be necessary to efficiently administer the provision of these regulations.

E. The Floodplain Administrator shall maintain such files and records as may be necessary to document nonconforming uses, base flood elevations, floodproofing and elevation certifications, fee receipts, the issuance of permits, agenda, minutes, records of public meetings, and other matters related to floodplain management in the Office of Building and Planning. Such files and records shall be open for public inspection. In matters of litigation, the City attorney may restrict access to specific records.

F. The Floodplain Administrator may require whatever additional information is necessary to determine whether the proposed activity meets the requirements of these regulations. Additional information may include hydraulic calculations assessing the impact on base flood elevations or velocities; level survey; or certification by a registered land surveyor, professional engineer, or licensed architect that the requirements of these regulations are satisfied.

G. Upon receipt of an application for a permit or a variance, the Floodplain Administrator shall prepare a notice containing the facts pertinent to the application and shall publish the notice at least once in a newspaper of general circulation in the area. Notice shall also be served by first-class mail upon adjacent property owners and the DNRC Floodplain Management Section. The notice shall provide a reasonable period of time, not less than fifteen (15) days, for interested parties to submit comments on the proposed activity.

H. Copies of all permits granted must be sent to the Department of Natural Resources and Conservation in Helena, Montana.

I. In riverine situations, notification by the Floodplain Administrator must be made to adjacent communities, the Floodplain Management Section (DNRC), and FEMA prior to any alteration or relocation of a stream. The flood-carrying capacity within the altered or relocated portion of any stream must be maintained. Erosion control measures shall be incorporated to ensure stability of altered channels and stream banks.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-14.1. Subdivision review.

Within regulated flood hazard areas, applicants shall submit subdivision, manufactured home park and other development proposals to the City of Livingston Floodplain Administrator ensuring such proposals, including utilities, will be reasonably safe from flooding. (44 CFR 60.3(a)(4)(i))

1. All subdivision proposals, manufactured home parks and other development proposals reviewed under the Montana Sanitation in Subdivisions Act, MCA 76-4 Part 1 and the rules adopted by the Department of Environmental Quality (DEQ) under this act shall be submitted. (44 CFR 60.3(b)(3))

    a. All subdivision proposals including the placement of manufactured home parks and subdivisions must have adequate drainage provided to reduce exposure to flood hazards. (44 CFR 60.3 (a)(4)(iii))

    b. All subdivision proposals including the placement of manufactured home parks and subdivisions must have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize or eliminate flood damage. (44 CFR 60.3(a)(4)(ii))

2. Within Zone A floodplains, applicants shall generate base flood elevation data for subdivision proposals, manufactured home parks and other development proposals greater than fifty (50) lots or five (5) acres. (44 CFR 60.3(b)(3))

All development within the regulated flood hazard area must apply for and be granted a permit before development occurs on the individual lots within the subdivision.

(Ord. No. 2034, § 1, 10/4/11)

## Sec. 29-15. Permit application.

A. Activities or uses that require the issuance of a permit, including the expansion or alteration of such uses, shall not be initiated, established, or undertaken until a permit has been issued by the Floodplain Administrator.

B. Permit applications shall be required to furnish the following information as deemed necessary by the Floodplain Administrator for determining the suitability of the particular site fort he proposed use.

1. Plans in duplicate drawn to scale (including dimensions) showing the nature, location, and elevation of the lot; existing and proposed structure locations; fill, storage, or materials site; floodproofing measures; mean sea level elevation of first floor of proposed structures; and location of the channel.

2. A plan view of the proposed development indicating external dimensions of structures, street or road finished grade elevations, well locations, individual sewage treatment and disposal sites, excavation and/or fill quantity estimates, and site plan and/or construction plans.

3. Specifications for floodproofing, filling, excavating, grading, riprapping, storage of materials, and location of utilities.

4. A professional engineer's or registered architect's design calculations and certification that the proposed activity has been designed to be in compliance with these regulations.

5. Certification of floodproofing and/or elevation shall be provided on a standard form available from the floodplain administrator.

C. To determine that the permit specifications and conditions have been completed, applicants who have received permits are required to furnish the following at the time of an on-site conformance inspection.

1. Certification by a registered professional engineer or licensed land surveyor of the actual mean sea level elevation of the lowest floor (including basement) of all new, altered, or substantially improved buildings.

2. If floodproofing techniques were used for buildings, the mean sea level elevation to which the floodproofing was accomplished must be certified by a structural engineer or licensed architect in the same manner.

3. Certification shall also be required, for artificial obstructions other than buildings, that the activity was accomplished in accordance with these regulations and the design plans submitted with the application for the permit activity. This certification may be waived by the floodplain administrator if it can be clearly ascertained by a site inspection that the activity was accomplished in accordance with these regulations.

4. Certification of floodproofing and/or elevation shall be provided on a standard form available from the floodplain administrator.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-16. Emergency waiver.

A. Emergency repair and replacement of severely damaged public transportation facilities, public water and sewer facilities, and flood control works may be authorized. Floodplain development permit requirements may be waived if:

1. Upon notification and prior to the emergency repair and/or replacement, the Floodplain Administrator determining that an emergency condition exists warranting immediate action; and

2. The Floodplain Administrator agrees upon the nature and type of proposed emergency repair and/or replacement.

B. Authorization to undertake emergency repair and replacement work may be given verbally if the Floodplain Administrator feels that such a written authorization would unduly delay the emergency works. Such verbal authorization must be followed by a written authorization describing the emergency condition, and the type of emergency work agreed upon, and stating that a verbal authorization had been previously given.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-17. Review—Variances—Appeals.

A. There is hereby created a local Floodplain Management Board of Adjustment, the membership, administration, and rules of procedure of which are identical to a zoning board of adjustment.

B. The Board of Adjustment may, by variance, grant a permit that is not in compliance with the minimum standards contained in these regulations according to the following procedures:

1. Variances shall not be issued for areas within a floodway if any additional increase in flood elevations or velocities after allowable encroachments into the floodway fringe would result;

2. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that refusal of a permit due to exceptional circumstances would cause a unique or undue hardship on the applicant or community involved;

c. A determination that the granting of a variance will not result in increased flood hazards, present additional threats to public safety, be an extraordinary public expense, create nuisances, cause fraud, victimize the public, or conflict with existing state and local laws;

d. A determination that the proposed use would be adequately flood-proofed;

e. A determination that a reasonable alternate location outside the floodplain is not available;

f. A determination that the variance requested is the minimum necessary to afford relief, considering the flood hazard; and

g. Approval of the Montana Department of Natural Resources and Conservation, upon request from the permit issuing authority, prior to formally approving any permit application that is in variance to these regulations.

3. Variances shall be issued in writing from the permit issuing authority and shall notify the applicant that:

a. A specific variance is granted, and certain conditions may be attached;

b. The issuance of a variance to construct a building below the one-hundred-year floodplain elevation will result in increased premium rates; and

c. Such construction below the one-hundred-year flood elevation increases risks to life and property. The Floodplain Administrator shall maintain records of the variance notification and actions, including justification for their issuance, and forward copies of all variance actions to the Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency.

C. Appeal of any decision of the Permit Issuing Authority, its officers, or agencies may be taken by an aggrieved person or persons, jointly or separately, to a court of record.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-18. Fees.

A processing fee shall be set by the City Commission by separate resolution and shall be submitted with each permit application.

(Ord. No. 2033, § I, 8/16/11; Ord. No. 3045, § 1, 10/3/23)

### Sec. 29-19. Violation notice.

The Floodplain Administrator shall bring any violation of these regulations to the attention of the local governing body; its legal council; and the Montana Department of Natural Resources and Conservation.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-20. Compliance.

Any use, arrangement, or construction not in compliance as authorized by permit, shall be deemed a violation of these regulations and punishable as provided in Section 29-21. An applicant is required to submit certification by a registered professional engineer, architect, land surveyor, or other qualified person designated by the Floodplain Administrator that finished fill and lowest building floor elevations, floodproofing, hydraulic design, or other flood protection measures were accomplished in compliance with these regulations.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-21. Penalties.

Violation of the provisions of these regulations or failure to comply with any of the requirements, including permit approval prior to development of flood prone lands and conditions and safeguards established shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction, be fined not more than one hundred dollars ($100.00) or imprisoned in jail for not more than ten (10) days or both. Each day's continuance of a violation shall be deemed a separate and distinct offense.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-22. Emergency preparedness planning.

In formulating community development goals, the community shall consider the development of a plan for evacuating residents of all manufactured home parks or subdivisions located within flood prone areas. this plan should be developed, filed with, and approved by appropriate community emergency management authorities.

(Ord. No. 2033, § I, 8/16/11)

## Article V. Specific Standards

### Sec. 29-23. Applications.

The minimum floodplain development standards listed in this Chapter apply to the floodway and floodway fringe portions of the one-hundred-year floodplain as delineated on the flood hazard area maps.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-24. Floodway.

A. Uses Allowed Without Permits. The flowing open-space uses shall be allowed without a permit within the floodway, provided that such uses conform to the provisions of Article VII of these regulations; are not prohibited by any other ordinance, resolution, or statute; and do not require fill, excavation, permanent storage of materials, or equipment or structures other than portable structures:

1. Agricultural uses;
2. Accessory uses such as loading and parking areas, or emergency landing strips associated with industrial and commercial facilities;
3. Private and public recreational uses such as golf courses, driving ranges, archery ranges, picnic grounds, boat-launching ramps, parks, wildlife management and natural areas, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and hiking or horseback riding trails;
4. Forestry, including processing of forest products with portable equipment;
5. Residential uses such as lawns, gardens, parking areas, and play areas;
6. Irrigation and livestock supply wells, provided that they are located at least five hundred (500) feet from domestic water supply wells;
7. Fences, except permanent fences crossing channels; and
8. Recreational vehicles provided that they be on the site for fewer than one hundred eighty (180) consecutive days, or be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system with wheels intact, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

B. Uses Requiring Permits. The following artificial obstructions may be permitted in the floodway subject to the issuance of a permit by the Floodplain Administrator:

1. Excavation of material from pits and pools provided that:
    a. A buffer strip of undisturbed land is left between the edge of the channel and the edge of the excavation. This buffer strip must be of sufficient width to prevent flood flows from channeling into the excavation;
    b. The excavation meets all applicable laws and regulations of other local and state agencies; and
    c. Excavated material is disposed of or stockpiled outside the floodway.
2. Railroad, highway, and street stream crossings provided the crossings are designed to offer minimal obstruction to flood flow. Stream crossings shall not increase the elevation of the one-hundred-year flood more than one-half (½) foot nor cause a significant increase in flood velocities.
    a. Where failure or interruption of transportation facilities would result in danger to the public health or safety, the bottom of bridge spans shall have freeboard to at least two (2) feet above the BFE.
    b. Stream crossings shall not increase the elevation of the one-hundred-year flood nor cause a significant increase in flood velocities. The applicant shall provide a "No-Rise" certification signed by a registered professional engineer. However, if the applicant receives a CLOMR from FEMA and LOMR, a half foot rise may be permitted.
3. Limited filling for highway, street, and railroad embankments not associated with stream crossings, provided that:

a. A reasonable alternate transportation routes outside the designated floodway are not available; and

b. Such floodway encroachment is located as far from the stream channel as possible and shall not result in a cumulative increase in base flood elevations, after allowable encroachments into the floodway fringe, exceeding one-half (½) foot;

c. Measures are provided to mitigate the impact to property owners and the natural stream function; and

d. The encroachment shall not result in a cumulative increase in base flood elevation, after the allowable encroachment into the floodway. A "No-Rise" certification signed by a registered professional engineer shall be provided by the applicant. However, if the applicant receives a CLOMR from FEMA and LOMR, a half foot rise may be permitted.

4. Buried or suspended utility transmission lines, provided that:

a. suspended utility transmission lines are designed so the lowest point of the suspended line is at least six (6) feet higher than the base flood elevation;

b. towers and other appurtenant structures are designed and placed to withstand and minimally obstruct flood flows; and utility transmission lines carrying toxic or flammable materials are buried to a depth of at least twice the calculated maximum depth of scour for a one-hundred-year flood. The maximum depth of scour shall be determined by hydraulic engineering methods acceptable to the Floodplain Administrator.

5. Storage of materials and equipment, provided that:

a. The material or equipment is not subject to major damage by flooding and is properly anchored to prevent floatation or downstream movement; or

b. The material or equipment is readily movable within the limited time available after flood warning. Storage of flammable, toxic, hazardous, or explosive materials shall not be permitted.

6. Domestic water supply wells, provided that:

a. They are driven or drilled wells located on ground higher that the surrounding ground to assure positive drainage from the well;

b. Well casings are water tight to a distance of at least twenty-five (25) feet below the ground surface;

c. Water supply and electrical lines have a waterfront seal where the lines enter the casing;

d. All pumps, electrical lines, and equipment are either submersible or adequately flood-proofed; and

e. Check valves are installed on main water lines at wells and at all building entry locations.

7. Buried and sealed vaults for sewage disposal in recreational areas, provided they meet applicable laws and standards administered by the Montana Department of Health and Environmental Sciences.

8. Public or private campgrounds, provided that:

a. Access roads require only limited fill and do not obstruct or divert flood waters; and

b. Recreational vehicles and travel trailers are licensed and ready for highway use. They are ready for highway use if on wheels or jacking system with wheels intact, are attached to the site with only quick disconnect type utilities and securing devices, and have no permanently attached additions.

9. Structures accessory to the uses permitted in this Section such as boat docks, marinas, sheds, picnic shelters, tables, and toilets provided that:

    a. The structures are not intended for human habitation;

    b. The structures will have a low flood damage potential;

    c. The structures will, insofar as possible, be located on ground higher than the surrounding ground and as far from the channel as possible;

    d. The floodproofing standards of Article VII are met; and

    e. The structures will be constructed and placed so as to offer minimal construction to flood flows and are anchored to prevent floatation.

10. Substantial improvements to any structure provided that the provisions of Section 29-25B.3., 4. or 5. of these regulations are met. In the floodway the structure must be flood-proofed or elevated on a permanent foundation rather than on fill.

11. All other artificial obstructions, substantial improvements, or nonconforming uses not specifically listed or prohibited by these regulations.

C. Permits for Flood Control Works.

1. Flood control works shall be allowed within floodways subject to the issuance of a permit by the Floodplain Administrator with the following conditions:

    a. Levees and floodwalls are permitted if flood control measures are designed by a registered professional engineer to comply with the conditions set forth (structural flood control works often significantly obstruct and affect floodway flow capacity);

    b. The proposed levee or floodwall is designed and constructed to safely convey a one-hundred-year flood; and

    c. The cumulative effect of the levee or floodwall combined with allowable floodway fringe encroachments does not increase the unobstructed base flood elevation more than one-half (0.5) foot. The Floodplain Administrator may establish either a lower or higher permissible increase in the base flood elevation for individual levee projects only with concurrence from the Montana Department of Natural Resources and Conservation and the Federal Emergency Management Agency based upon consideration of the following criteria:

        1. The estimated cumulative effect of any anticipated future permissible uses; and

        2. The type and amount of existing flood-prone development in the affected area.

    d. The proposed levee or floodwall, except those to protect agricultural land, are constructed at least three (3) feet higher than the base flood elevation.

2. Riprap, except that which is hand-placed, if:

    a. The riprap is designed to withstand a one-hundred-year flood;

    b. The riprap does not increase the base flood elevation; and

    c. The riprap will not increase erosion upstream, downstream, or adjacent to the riprap site.

3. Channelization projects if they do not significantly increase the magnitude, velocity, or base flood elevation in the proximity of the project.

4. Dams, provided that:

a. They are designed and constructed in accordance with the Montana Dam Safety Act and applicable safety standards; and

b. They will not increase flood hazards downstream, either through operational procedures or improper hydrologic/hydraulic design.

5. New surface water diversions and changes in place of diversion for agricultural uses and other uses, designed by a registered engineer to meet the following requirements:

a. A copy of the water right permit or change authorization permit from MTDNRC Water Rights Bureau for new surface water diversions and changes in place of diversion.

b. Documentation that the proposed diversion or modification will not increase the upstream elevation of the base flood to the detriment of a neighboring property. Any increase to the BFE will require a CLOMR and LOMR.

c. The proposed diversion is designed and constructed to minimize potential erosion from a base flood.

D. Permits for Water Diversions. Permits for the establishment of a water diversion or change in place of diversion shall not be issued if, in the judgment of the Floodplain Administrator:

1. The proposed diversion will significantly increase the upstream base flood elevation to the detriment of neighboring property;

2. The proposed diversion is not designed and constructed to minimize potential erosion from a one-hundred-year flood; and

3. Any permanent diversion structure crossing the full width of the stream channel is not designed and constructed to safely withstand a one-hundred-year flood.

E. Prohibited Uses. The following artificial obstructions and nonconforming uses are prohibited within the floodway:

1. New construction of any residential, commercial, or industrial structure;

2. Encroachments including fill, new construction, alterations, substantial improvements, and other development within the adopted regulatory floodway that would result in erosion of the embankment, obstruction of the natural flow of waters, or increase in flood levels within the community during the occurrence of the one-hundred-year flood;

3. The construction or permanent storage of an object subject to floatation or movement during flooding;

4. Solid and hazardous waste disposal, sewage treatment, and sewage disposal systems;

5. Storage of toxic, flammable, hazardous, or explosive materials; and

6. Alterations of structures unless it can be shown the alteration won't raise flood heights;

7. Manufactured homes.

(Ord. No. 2033, § I, 8/16/11; Ord. No. 2034, § 1, 10/4/11)

## Sec. 29-25. Floodway fringe.

A. Uses Allowed Without Permits. All uses in the floodway, according to the provisions of Section 29-24A. of these regulations shall also be allowed without a permit in the floodway fringe. In addition, individual or multiple family subsurface sewage disposal systems are allowed only when they are reviewed and approved

under laws and regulations administered by the Department of Health and Environmental Sciences or the local health board.

B. Uses Requiring Permits. All uses allowed in the floodway subject to the issuance of a permit, according to the provisions of Section 29-24B., C. and D. of these regulations, shall also be allowed by permit within the floodway fringe. In addition, new construction, substantial improvements, and alterations to structures are allowed by permit. This includes but is not limited to residential, commercial, and industrial construction and suitable fill to be allowed by permit from the Floodplain Administrator, subject to the following conditions:

1. Such structures or fill must not be prohibited by any other statute, or regulation, ordinance, or resolution;

2. Such structures or fill must be compatible with local comprehensive plans;

3. The new construction, alterations, and substantial improvements of residential structures including manufactured homes must be constructed on suitable fill such that the lowest floor elevation (including basement) is two (2) feet or more above the base flood elevation. The suitable fill shall be at an elevation no lower than the base flood elevation and shall extend for at least fifteen (15) feet, at that elevation, beyond the structure(s) in all directions:

   a. Crawl space must be designed to allow internal flooding and must be limited to storage of equipment or materials not appreciably affected by floodwaters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than two (2) feet above the BFE. Walls shall be designed to equalize hydrostatic forces by allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, and other coverings or devices which permit the automatic entry and exit of floodwaters.

   b. For all new construction and substantial improvements, fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

      (1) A minimum of two (2) openings;

      (2) Openings shall have a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;

      (3) The bottom of all openings shall be no higher than one (1) foot above grade;

      (4) Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

4. The new construction, alteration, and substantial improvement of commercial and industrial structures can be constructed on suitable fill as specified in subsection (B)(3) of these regulations. If not constructed on fill, commercial and industrial structures must be adequately flood-proofed to an elevation no lower than two (2) feet above the base flood elevation. Floodproofing must be designed by a registered professional engineer or architect that the floodproofing methods are adequate to withstand the flood depths, hydrodynamic and hydrostatic pressures, velocities, impact, buoyancy, and uplift forces associated with the one-hundred-year flood.

   a. If the structure is designed to allow internal flooding of areas below the lowest floor, use of this space shall be limited to parking, loading areas, building access, and storage of equipment or materials not appreciably affected by flood waters. The floors and walls shall be designed and constructed of materials resistant to flooding to an elevation no lower than two (2) feet above the base flood elevation. Walls shall be designed to automatically equalize hydrostatic forces by

allowing for entry and exit of floodwaters. Openings may be equipped with screens, louvers, valves, other coverings, or devices which permit the automatic entry and exit of floodwaters.

b. Structures whose lower floors are used for a purpose other than parking, loading, or storage of materials resistant to flooding shall be floodproofed to an elevation no lower than two (2) feet above the base flood elevation. Floodproofing shall include impermeable membranes or materials for floors and walls and watertight enclosures for all windows, doors, and other openings. These structures shall also be designed to withstand the hydrostatic, hydrodynamic, and buoyancy effects of a one-hundred-year flood.

c. Floodproofing of electrical, heating, and plumbing systems shall be accomplished in accordance with Article VII of these regulations.

5. All manufactured homes placed in the floodway fringe must have the chassis securely anchored to a foundation system that will resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, over-the-top or frame ties to ground anchors. The following conditions also apply;

a. When a manufactured home is (1) altered, (2) replaced because of substantial damage as a result of a flood, or (3) replaced on an individual site, the lowest floor must be elevated two (2) feet above the base flood elevation. The home can be elevated on fill or raised on a permanent foundation of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength.

b. Replacement of substantial improvement of manufactured homes in an existing manufactured home park or subdivision must be raised on a permanent foundation. The lowest floor must be two (2) feet above the base flood elevation. The foundation must consist of reinforced concrete, reinforced mortared block, reinforced piers, or other foundation elements of at least equivalent strength.

c. Manufactured homes proposed for use as commercial or industrial structures must be elevated and anchored, rather than floodproofed.

6. Fill material placed in the floodway fringe must be stable, compacted, well graded, pervious, generally unaffected by water and frost, devoid of trash or similar foreign matter, devoid of tree stumps or other organic material, and appropriate for the purpose of supporting the intended use and/or permanent structure.

7. Roads, streets, highways, and rail lines shall be designed to minimize increase in flood heights. Where failure or interruption of transportation facilities would result in danger to the public health or safety, the facility shall be located two (2) feet above the base flood elevation;

8. Agricultural structures that have a low damage potential, such as sheds, barns, shelters, and hay or grain storage structures must be adequately anchored to prevent floatation or collapse and all electrical facilities shall be placed above the base flood elevation; and

9. Recreational vehicles, if they are on the site for more than one hundred eighty (180) consecutive days or are ready for highway use, must meet the elevating requirements of subsection (B)(3).

C. Except an encroachment is not required for development in the designated flood fringe.

a. The allowable encroachment increase for developments in the designated floodplain without a floodway and with or without a base flood elevation is one-half (0.5) feet unless a lesser amount is specified in the specific supporting hydraulic analysis supports the floodplain designation study adopted herein.

D. General Standards. In all areas of special flood hazard, the following standards are required:

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure and capable of resisting the hydrostatic and hydrodynamic loads.
2. Construction Materials and Methods:
    a. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
    b. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.
    c. All new construction and substantial improvements shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. Utilities:
    a. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the system;
    b. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters; and
    c. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

E. Prohibited Uses. The following artificial obstructions and nonconforming uses are prohibited within the floodway fringe:
1. Solid and hazardous waste disposal; and
2. Storage of highly toxic, flammable, hazardous, or explosive materials. Storage of petroleum products may be allowed by permit if stored on compacted fill at least two (2) feet above the base flood elevation and anchored to a permanent foundation to prevent downstream movement.

(Ord. No. 2033, § I, 8/16/11; Ord. No. 2034, § 1, 10/4/11)

## Sec. 29-26. Floodplain areas with flood elevations and no delineated floodway.

A. A development proposed for a one-hundred-year floodplain, where water surface elevations are available but no floodway is delineated, may not significantly increase flood velocities or depths or generally alter patterns of flood flow. The provisions of Section 29-25, Floodway fringe, shall apply to these areas. The Floodplain Administrator may require a permit applicant to furnish additional hydraulic data before acting on a permit application for such a floodplain. The data may include, but are not limited to, any of the following:
1. a hydraulic study documenting probable effect on upstream, downstream, or adjacent property owners caused by the proposed development; or
2. the calculated increase in the one-hundred-year flood water surface profile caused by the proposed development.

B. Permits for such proposed development may be modified or denied if the additional information shows that the proposed use would cause an additional flood hazard to adjacent property or significantly increase flood heights. A significant increase in flood heights is one-half (½) foot unless existing or anticipated development in the area dictates a lesser amount of allowable increase.

(Ord. No. 2033, § I, 8/16/11)

### Sec. 29-27. Shallow flooding (AO zones).

A. Shallow flooding areas are delineated as AO Zone floodplains on the flood insurance rate maps. The provisions of Section 29-25, Floodway fringe, of these regulations shall apply to any AO Zone floodplains. The depth of the one-hundred-year flood is indicated as the depth number on the Flood Insurance Rate Maps. The one-hundred-year flood depth shall be referenced to the highest adjacent grade or stream flow line in determining which fill or floodproofing heights to use in applying the provisions of Section 29-25B.3. and Section 29-25B.4. of these regulations. In the absence of depth or elevation information, a minimum two-foot flood depth shall be used.

B. Adequate drainage paths around structures on slopes, to guide floodwaters around and away from proposed structures is required within AO Zones.

C. Floodplain Boundary Interpretation. The Floodplain Administrator shall make interpretations where needed as to the exact location of an AO Zone floodplain boundary and actual field conditions.

(Ord. No. 2033, § I, 8/16/11; Ord. No. 2034, § 1, 10/4/11)

## Article VI. General Standards

### Sec. 29-28. Applications.

The minimum floodplain development standards listed in this Chapter apply to the one-hundred-year floodplains delineated by approximate methods and identified as unnumbered A Zones on the flood insurance rate maps.

A. Uses Allowed Without Permits. All uses allowed in a floodway, according to the provisions of Section 29-24A. of these regulations, shall also be allowed without a permit in unnumbered A-Zone floodplains.

B. Uses Requiring Permits. All uses allowed in the floodway and floodway fringe subject to the issuance of a permit, according to the provisions of Section 29-25B., shall require permits from the Floodplain Administrator for unnumbered A-Zone floodplains. Also, the provisions of Section 29-25B. apply to the A-Zone floodplains with no floodway delineated or water surface profile computed. Since there are no one-hundred-year flood water surface profiles computed for A-Zone floodplains, the following conditions also apply:

1. Elevation data on the one-hundred-year flood shall be provided for subdivision proposals according to the definitions and rules of the Montana Sanitation in Subdivisions Act, MCA 76-4 Part 1 and the rules adopted by DHES Act, MCA 76-4 Part 1 and the rules adopted by DHES under this Act. These data shall be used in applying Section 29-25B.3., 4. and 5. of these regulations. Subdivision proposals shall also provide for adequate drainage to minimize potential flood hazards.

2. The Floodplain Administrator may obtain, review, and reasonably use any base flood elevation and floodway data available from federal, state, or other sources, until such data have been provided by FEMA, to enforce Section 29-25B.3. and 4. of these regulations; and

3. The Floodplain Administrator may use historical flood elevations to determine suitable fill or floodproofing elevations as required by Section 29-25B.3. and 4. of these regulations;

4. If historical flood evidence is not available, then the Floodplain Administrator shall determine, from a field review at the proposed development site, an appropriate fill or floodproofing

elevation to use in applying Section 29-25B.3. of these regulations. In the absence of depth or elevation information, a minimum of two-foot flood depth shall be used; and

5. Proposed structures must be anchored to prevent floatation or collapse and must be located as far from stream channels as practical.

C. Prohibited Use. Those uses prohibited in the floodway fringe, in accordance with Section 29-25C. of these regulations, shall also be prohibited within the A-Zone floodplain boundaries.

D. Floodplain Boundary Interpretation. The Floodplain Administrator shall make interpretations where needed as to the exact location of the unnumbered A-Zone floodplain boundary when there is a conflict between a mapped boundary and actual field conditions.

(Ord. No. 2033, § I, 8/16/11)

# Article VII. Floodproofing Requirements

## Sec. 29-29. Certification.

If the following floodproofing requirements are to be applied to a proposed structure, as stipulated by the Floodplain Administrator in accordance with these regulations, the methods used must be certified as adequate by a registered professional engineer or architect.

(Ord. No. 2033, § I, 8/16/11)

## Sec. 29-30. Conformance.

Permitted flood-proof systems shall conform to the conditions listed below and the floodproofing standards listed in Section 29-25B.4. of these regulations for commercial and industrial structures.

A. Electrical Systems.

1. All incoming power service equipment, including all metering equipment, control centers, transformers, distribution and lighting panels, and all other stationary equipment must be located at least two (2) feet above the base flood elevation;

2. Portable or movable electrical equipment may be placed below the base flood elevation, if the equipment can be disconnected by a single submersible plug-and-socket assembly;

3. The main power service line shall have automatic or manually operated electrical disconnect equipment located at an accessible location outside the one-hundred-year floodplain and above the base flood elevation; and

4. All electrical wiring systems installed at or below the elevation of the one-hundred-year flood shall be suitable for continuous submergence and may not contain fibrous components.

B. Heating Systems.

1. Float operated automatic control valves must be installed in gas furnace supply lines so that the fuel supply is automatically shut off when flood waters reach the floor level where the furnace located;

2. Manually operated gate valves must be installed in gas supply lines. The gate valves must be operable from a location above the elevation of the one-hundred-year flood;

3. Electric heating systems must be installed in accordance with the provisions of subsection (A) of this Section.

C. Plumbing Systems.

1. Sewer lines, except those to be buried and sealed in vaults, must have check valves installed to prevent sewage backup into permitted structures; and

2. All toilet stools, sinks, urinals, and drains must be located so the lowest point of possible water entry is at least two (2) feet above the elevation of the one-hundred-year flood.

(Ord. No. 2033, § I, 8/16/11)

**File Attachments for Item:**

**E. ORDINANCE NO. 3066: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 28 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "SUBDIVISION REGULATIONS" TO COMPLY WITH STATE LAW, ALIGN WITH THE GROWTH POLICY, AND REFLECT COMMUNITY BEST PRACTICE AND EXPERIENCE.**

LivingstonMontana.org | PublicComment@LivingstonMontana.org | 406.823.6000

**DATE:** December 2, 2025

**TO:** Chair Schwarz and City Commissioners

**FROM:** Jennifer Severson, Planning Director

**RE:** Staff Report **City of Livingston Subdivision Regulations Update**

---

**Recommendation and Summary**
Staff requests the City Commission approve the proposed amendments to the City of Livingston Subdivision Regulations in Chapter 28 of the Livingston Municipal Code by adopting the following motion:

"I move to approve the first reading of Ordinance 3066 to amend the City of Livingston Subdivision Regulations in Chapter 28 of the Livingston Municipal Code, and authorize the Chair to sign Ordinance 3066."

The reasons for the recommendation to adopt Ordinance 3066 (Attachment A) are as follows:

- The City last comprehensively updated its subdivision regulations in 2007.
- The City should amend its Subdivision Regulations for the following reasons:
    - To enact technical and conforming amendments to comply with state laws and to facilitate consistency and organization within the regulations
    - To align with the recommendations in the City's adopted Growth Policy
    - To reflect best practices and community experience to ensure responsible administration of the regulations

**Introduction and History**
Part 5 of Chapter 3 of Title 76 of Montana Code Annotated (MCA 76-3-501 et seq.) requires cities to adopt regulations and provide for the enforcement and administration of the subdivision of land. The City of Livingston adopted its current subdivision regulations in 2007. Although the state has

mandated changes to the Subdivision Regulations and the City adopted its current Growth Policy since 2007, the City's Subdivision Regulations have not been updated in response.

In early 2025, Staff presented the City Commission with updates to the Subdivision Regulations in Chapter 28 of the LMC. The proposed updates focused on three main areas: Technical and Conforming amendments to comply with state law and improve consistency and organization within the City's code; Growth Policy recommendations; and, Community Experiences and Best Practices. The proposed updates to the Subdivision Regulations (Attachment XX) are based on feedback and direction provided by the Commission during those initial discussions.

**Analysis**

The 2023 Montana State Legislature enacted several bills (Attachment C) that require the City to update its subdivision regulations including:

- HB 211 which made changes to phased subdivision approval processes as well as other general changes.
- SB 131 which affected the process and timeline for certain subdivisions of land.
- SB 170 which affected the process and timeline for certain subdivisions of land.
- SB 331 which revised certain requirements for townhome and condominium approval processes.

Although the City adheres to state laws related to Subdivision Regulations, the City's Municipal Code has not been updated to reflect the current Subdivision Regulations in the MCA. It is necessary for the City to update Chapter 28 in the Livingston Municipal Code to reflect compliance with current state subdivision laws. City Staff has also included recommendations for technical and conforming updates not directly related to those revisions mandated by the State to improve organization and consistency within the City's code.

Additionally, the 2021 Growth Policy included several recommendations for updates to the Subdivision Regulations in Chapter 28. In the years since the Growth Policy was adopted, Livingston has experienced increasing pressure from growth and development. The proposed updates to the Subdivision Regulations reflect best practices that resulted from the community's experience adjusting to new development.

A version of the proposed updates to the City's subdivision regulations, showing language to be removed from (red strikethrough) and added to (blue underline), is attached (Attachment B). Text is highlighted to identify amendments related to Growth Policy Recommendations (Green), Community Experience (Yellow), and additional updates made after the early 2025 Commission discussions (Blue).

**Fiscal Impact**

No direct fiscal impact to the City is anticipated as a result of adopting the proposed updates to the Subdivision Regulations.

**Strategic Alignment**

The proposed updates to the Subdivision Regulations support Land Use Recommendations for Subdivisions identified in Chapter 11 in the Growth Policy, including, but not limited to, the following:

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

**Staff Recommendation**

Based on the reasons discussed above, Staff finds the proposed amendments to Chapter 28 comply with the requirements of State statute, support the goals, objectives and strategies identified in the Growth Policy, and reflect recent community experiences and best practices. Staff recommends the City Commission adopt the amendments to the Livingston Subdivision Regulations as proposed by Staff.

**Attachments**

A. Draft Ordinance 3066
B. Redlined Proposed Amendments to Subdivision Regulations in Chapter 28
C. 2023 State Legislative bills that require updates to the Subdivision Regulations
D. List of Growth Policy Recommended Changes to Subdivision Regulations

**ORDINANCE NO. 3066**

**AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING CHAPTER 28 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED "SUBDIVISION REGULATIONS" TO COMPLY WITH STATE LAW, ALIGN WITH THE GROWTH POLICY, AND REFLECT COMMUNITY BEST PRACTICE AND EXPERIENCE.**

* * * * *

**Purpose**

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

*****

**WHEREAS,** the State of Montana requires that local Subdivision regulations be consistent with the Montana Subdivision and Platting Act as set forth in Montana Code Annotated Section 76-3; and

; **WHEREAS**, the State grants local governments the authority to adopt local Subdivision regulations as set forth in Montana Code Annotated Section 76-25-4; and

**WHEREAS**, the City is required to update the Subdivision Regulations in Chapter 28 of the Livingston Municipal Code to comply with legislative changes at the State level; and

**WHEREAS,** the City also desires to update Chapter 28 of the Livingston Municipal Code to better align with the Growth Policy and to reflect best practices and experience of the local community;

**NOW, THEREFORE, BE IT ORDAINED** by the City Commission that the text in Chapter 28 of the Livingston Municipal Code entitled Official Subdivision Regulations, including Appendices, be hereby amended as follows:

**SECTION 1**

**THE CURRENT REGULATIONS IN CHAPTER 28 ARE AMENDED AS SHOWN IN THE REVISED SUBDIVISION REGULATIONS IN THE ATTACHED 'EXHIBIT A' .**

**SECTION 2**

**Statutory Interpretation and Repealer:**

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

**SECTION 3**

**Severability:**

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

**SECTION 4**

**Savings provision:**

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

**SECTION 5**

**Effective date:**

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

**PASSED** by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the ____ day of December, 2025.

_____

**QUENTIN SCHWARZ, CHAIR**

**ATTEST:**

_____
**Emily Hutchinson**
**City Clerk**

**********

**PASSED, ADOPTED AND APPROVED,** by the City Commission of the City of Livingston, Montana, on a second reading at a regular session thereof held on the _____ day of December, 2025.

_____
**QUENTIN SCHWARZ, CHAIR**

**ATTEST:**

_____
**EMILY HUTCHINSON**
**City Clerk**

**APPROVED TO AS FORM:**

_____
**JON HESSE**
**City Attorney**

# EXHIBIT A

## Chapter 28 – SUBDIVISION REGULATIONS

`

*Insert Table of Contents Here*

## 28.1. DEFINITIONS

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular, unless otherwise specifically defined in a particular section, includes the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

AGRICULTURE: The production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticulture crops that are raised, grown, or produced for commercial purposes.

AGRICULTURAL WATER USER FACILITIES: Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries.

CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

COVENANT (RESTRICTIVE COVENANT): A limitation contained in a deed that restricts or regulates the use of the real property.

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

DEQ: The Montana Department of Environmental Quality.

DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land. [76-3-103(4), MCA].

DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities for one household.

EASEMENT: Authorization by a property owner for another to use all or a portion of the owner's property for a specified purpose.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

FIRE RESISTANT LANDSCAPING: vegetation types and placement that are intended to minimize ignition potential during a fire event. Native, deciduous trees and shrubs are preferred over coniferous vegetation. Decorative rocks, stone, or other non-flammable or flame-resistant materials are encouraged

FLOOD: The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage.

FLOOD OF 100 YEAR FREQUENCY: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency.

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage.

GOVERNING BODY: The governing authority of a county, city, town, or consolidated local government organized pursuant to law.

GROWTH POLICY: A comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or a policy that was adopted pursuant to Title 76, MCA, on or after October 1, 1999.

LOCAL SERVICES: All services provided by any local government unit having jurisdiction over the subdivision as well as those commonly provided by private entities to similar properties in the vicinity.

LOT: A parcel, plot, or other land area created by subdivision for sale, rent, or lease.

LOT MEASUREMENT:

a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
b. Lot Width -- The average width of the lot.
c. Lot Frontage -- The width of the front lot line.
d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

LOT TYPES:

a. Corner Lot: A lot located at the intersection of two streets.
b. Interior Lot: A lot with frontage on only one street.

c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

MAJOR SUBDIVISION: A subdivision that creates six (6) or more lots from a tract of record.

MINOR SUBDIVISION: A subdivision that creates five (5) or fewer lots from a tract of record.

MOBILE HOME: 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 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 SPACE: A designated portion of a parcel of land designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

MOBILE HOME PARK: A tract of land that provides or will provide spaces for two (2) or more mobile homes.

MOBILE HOME PAD: That area of a mobile home space which has been prepared for the placement of a mobile home.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA. Sanitation in Subdivisions

MSPA: Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.

NATURAL ENVIRONMENT: The physical conditions that exist within a given area.

OPEN SPACE: Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

OVERALL DEVELOPMENT PLAN: The plan of a subdivision design for a single tract proposed to be subdivided in stages.

PHASED DEVELOPMENT: A subdivision application and preliminary plat that, at the time of submission, consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.

PLANNED UNIT DEVELOPMENT (P.U.D.): A land development project consisting of a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

PLANNING BOARD: The City of Livingston Consolidated Land Use Board.

PLANNING DEPARTMENT: The City Planning Director or any designee of the Planning Director who is charged with administering the subdivision review process.

PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.

b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).

c. Amended Plat: The final drawing of any change to a filed platted subdivision.

PUBLIC HEALTH AND SAFETY: A condition of well-being wherein risk of injury to the community at large is minimized.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public.

PUBLIC ROAD OR STREET: A road or street which has been dedicated for public use.

RECREATIONAL CAMPING VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

RECREATIONAL CAMPING VEHICLE PARK: A tract of land available to and principally used by the public for camping, where persons can park recreational camping vehicles for camping and sleeping purposes.

RECREATIONAL CAMPING VEHICLE SPACE: A designated portion of a recreational camping vehicle park designed for the placement of a single recreational camping vehicle and the exclusive use of its occupants.

STATE: The State of Montana.

STREET TYPES: For purposes of these regulations, street types are defined as follows:

a. Alley: A public right-of-way that can be used to provide secondary vehicular access to the rear of a property that has its primary access from a public street.An alley is not intended to be used for general through traffic.

b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two (2) to four (4) lanes of moving traffic and should provide only limited access to abutting property.

c. Collector: A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two (2) moving traffic lanes and up to two (2) parking lanes.

d. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two (2) moving lanes of traffic, up to two (2) parking lanes, and provide access to abutting properties.

e. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.

f. Loop: A local street which begins and ends on the same street, generally used for access to properties.

g. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

SUBDIVIDER: Any person, firm or corporation, or other entity which causes land to be subdivided or which proposes a subdivision of land [76-3-103(15), MCA]. When used in these regulations, the term "subdivider" also includes the subdivider's agent, if the subdivider has provided the Planning Department written notification that the subdivider's agent is authorized to act on the subdivider's behalf and to receive notices regarding local government decisions concerning the subdivision.

SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed. The term also means an- area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or manufactured homes will be placed [76-3-103(16), MCA].

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

SWALE: A drainage channel or depression designed to direct surface water flow.

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [76-3-103(17)(a), MCA].

VEGETATIVE FUELS REDUCTION: Vegetation management that reduces the availability of vegetation that can ignite during a fire event. This includes reducing the amount of brush, grass, and vegetative detritus in an area. Grasses must be maintained at or below 12 inches in height. Shrubs and trees must be spaced and pruned to minimize ignition risk.

VICINITY SKETCH: A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

WILDLAND URBAN INTERFACE (WUI): The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels, as delineated in the *Western Montana Regional Hazard Mitigation Plan.*

WILDLIFE: Those animals that are not domesticated or tamed.

WILDLIFE HABITAT: The physical surroundings required for the existence of wildlife.

**28.2. GENERAL PROVISIONS**

28.2.1. Title

These regulations will be known and may be cited as "The Subdivision Regulations of the City of Livingston, MT;" hereinafter referred to as "these regulations."

28.2.2. Authority

Authorization for these regulations is contained in the MSPA. (Title 76, Chapter 3, MCA.).

28.2.3. Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to promote preservation of open space; to promote effective and efficient provision of public services; to protect the rights of property owners; to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey; and to provide for phased development. (76-3-102, MCA).

These regulations are intended to comply with part five of the MSPA, and are intended to promote:

a. The orderly development of the jurisdictional area.
b. The coordination of roads within subdivided land with other roads, both existing and planned.
c. The dedication of land for roadways and for public utility easements.
d. The improvement of roads.
e. The provision of adequate open spaces for travel, light, air, and recreation.
f. The provision of adequate transportation, water, and drainage. Subject to the provisions of 76-3-511, the regulation of sanitary facilities.
g. The avoidance or minimization of congestion.
h. The avoidance of subdivisions that would involve unnecessary environmental degradation and danger of injury to health, safety, or welfare by reason of natural hazard, including but not limited to fire and wildland fire or the lack of water, drainage,

access, transportation, or other public services or that would necessitate an excessive expenditure of public funds for the supply of the services.

28.2.4. Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the governing body of the City of Livingston.

28.2.4.1. If a proposed subdivision lies within two (2) miles of the city limits, the county governing body must submit the preliminary plat to the City of Livingston Planning Department. If a proposed subdivision lies partly within the City of Livingston, the preliminary plat must be submitted to, and approved by, both the City of Livingston and Park County.

28.2.4.2. These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply.

28.2.5. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

**28.3. GENERAL PROCEDURES**

28.3.1. Construction Timing

The subdivider may not proceed with any construction work on a proposed subdivision, including grading and excavation relating to public improvements, until the governing body has given preliminary approval of the proposed subdivision plat.

28.3.2. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-3-303, MCA):

28.3.2.1. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;

28.3.2.2. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder.

28.3.2.3. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years

of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;

28.3.2.4. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner;"

28.3.2.5. That the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

28.3.2.6. A copy of the contracts and escrow agreement described above must be submitted to the Planning Department.

28.3.3. Permission to Enter

The governing body or its designated agent(s) or agency may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider. The submission of a subdivision application constitutes a grant of permission by the subdivider to enter the subject property.

28.3.4. Appeals

28.3.4.1. A person who has filed with the governing body an application for a subdivision under the MSPA and these regulations may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to the MSPA that is arbitrary or capricious.

28.3.4.2. A party identified in section 28.3.4.3below who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within thirty (30) days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

28.3.4.3. The following parties may appeal as provided above:

28.3.4.3.1. The subdivider;

28.3.4.3.2. A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;

28.3.4.3.3. The county commissioners of the county where the subdivision is proposed; and

28.3.4.3.4. The City of Livingston if within 2 miles of the city limits.

28.3.4.4. For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal or legal interest, as distinguished from a general interest, who has been or is likely to be specifically and injuriously affected by the decision.

28.3.5. Expedited Review

28.3.5.1. Subdivisions under the jurisdiction of these regulations are entitled to the expedited review process provided for in 76-3-623, MCA at the applicant's request. Applications for expedited review shall be subject to the review process contained in Appendix A.

**28.4. MAJOR SUBDIVISIONS**

28.4.1. Review and Approval Procedures for Major Subdivisions

Subdivisions that qualify for major subdivision review are those divisions of land containing six (6) or more lots, or subdivisions of five (5) or fewer lots that do not otherwise qualify for review as minor subdivisions under 76-3-609, MCA and these regulations.

28.4.2. Pre-application Process

28.4.2.1. Prior to submittal of the subdivision application, the subdivider shall request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) days after the subdivider submits a written request for the meeting to the Planning Department.

28.4.2.2. At the time of the pre-application meeting request, the subdivider shall provide the Planning Department with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch drawn directly on a print of the topographic map and should include the following:

28.4.2.2.1. Information on the current status of the site, including:

a. location;
b. approximate tract and lot boundaries of existing tracts of record;
c. description of general terrain;
d. natural features;
e. existing structures and improvements;
f. existing utility lines and facilities;
g. existing easements and rights of way.

28.4.2.2.2. Information on the proposed subdivision, including:

a. tract and lot boundaries;
b. proposed public improvements;
c. location of utility lines and facilities;
d. easements and rights of way;
e. parks and open space.

28.4.2.3. At the pre-application meeting, the following will occur:

28.4.2.3.1. The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

28.4.2.3.2. The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision

28.4.2.3.3. The Planning Department shall identify particular additional information the Department anticipates will be required for review of the subdivision application pursuant to Section28.4.4. This does not limit the ability of the City to request additional information at a later time.

28.4.2.3.4. Unless the subdivider submits the subdivision application as provided in Section 28.4.3 of these regulations within 180 working days of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application.

28.4.3. Subdivision Applications

The subdivider shall submit to the Planning Department a subdivision application containing the following materials:

28.4.3.1. Two (2) copies of the completed Subdivision Application form and the supplements required therein (see Appendix C), including the required Environmental Assessment.

28.4.3.2. The required review fee ;

28.4.3.3. Three (3) copies of the preliminary plat of the proposed subdivision which:

28.4.3.3.1. Contains the information required for preliminary plats;

28.4.3.3.2. Conforms to the Design and Improvement Standards set forth in Section 28.7;

28.4.3.3.3. Proof that the subdivider has submitted for review copies of the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and

28.4.3.3.4. Such additional relevant and reasonable information as identified by the Planning Department during the pre-application meeting pursuant to Section 28.4.2.3.3that is pertinent to the required elements of this Section.

28.4.3.3.5. One electronic copy of the subdivision application and all listed supporting material.

28.4.3.4 For all Major Subdivisions, a Traffic Impact Study, certified by a licensed, qualified Engineer, must be included with the application.

28.4.4. Review Process

28.4.4.1. Element Review

28.4.4.1.1. Within five (5) working days of receipt of a subdivision application and fee, the Planning Department shall determine whether the application contains all of the applicable elements and materials required by Section 28.4.3 of these regulations and shall give written notice to the subdivider of the Department's determination.

28.4.4.1.2. If the Planning Department determines that elements are missing from the application, those elements shall be identified in the notification and the Department shall take no further action on the application until the missing elements are submitted.

28.4.4.1.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have five (5) working days to notify the subdivider whether the resubmitted application contains all the materials required.

28.4.4.2. Sufficiency Review

28.4.4.2.1. Within fifteen (15) working days after the Planning Department notifies the subdivider that the application contains all of the required elements as provided in Section 28.4.4.1, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of the MSPA and these regulations and shall give written notification to the subdivider of the Department's determination.

28.4.4.2.2. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the notification shall identify the insufficient information and the Department shall take no further action on the application until the material is resubmitted.

28.4.4.2.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under provisions of the MSPA and these regulations.

28.4.4.2.4. A determination that an application contains sufficient information for review as provided in this Section does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the Planning Department, Planning Board, or the governing body to request additional information during the review process.

28.4.4.3. Applicable Regulations

Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is submitted and deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.

28.4.4.4. Time Period for Approval, Conditional Approval, or Denial

Within sixty (60) working days, the governing body shall approve, conditionally approve or deny the proposed subdivision , unless the subdivider and the Department agree to an extension or suspension of the review period. The review period of sixty (60) working days begins once the Planning Department has given notice to the subdivider that the subdivision application is sufficient for review. If the subdivision application contains 50 or more lots, the review period is increased to 80 working days. Notification constitutes the date when the Planning Department sends the notice to the subdivider.

28.4.4.5. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the governing body's action on the subdivision application beyond the sixty (60) or eighty (80) working day review period. The governing body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the Planning Department contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response.

28.4.5. Planning Board Hearing, Consideration and Recommendation

28.4.5.1. Hearing

After the subdivision application is deemed to have all the required elements and contain detailed, supporting information that is sufficient to allow for review, the Planning Board shall hold a public hearing on the subdivision application.

28.4.5.2. Notice

Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the County not less than fifteen (15) days prior to the meeting date.

At least fifteen (15) days prior to the date of the hearing, notice shall be given by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.

28.4.5.3. Consideration Standards

In recommending approval, conditional approval or denial of the subdivision application, the Planning Board shall base its recommendation on compliance of the subdivision application with the following:

28.4.5.3.1. These regulations, including but not limited to the design standards set forth in Section 28.7;

28.4.5.3.2. Applicable zoning regulations;

28.4.5.3.3 The MSPA, including but not limited to 76-3-608(3), MCA, as delineated in Section 28.4.7.2.3 of these regulations; and

28.4.5.3.3. Other applicable regulations;

28.4.5.4. Recommendation

The planning board shall evaluate the proposed subdivision under the review criteria in Section 28.4.7 taking into consideration the preliminary plat application, staff report, variance request(s) (when applicable), any additional information submitted and all public comments received. Within ten (10) working days after the public hearing, the planning board shall make a recommendation to the governing body to approve, conditionally approve, or deny the subdivision bsased on established findings of fact that

support the recommendation. The board's recommendation shall be provided in writing to the applicant and the governing body and include:

28.4.5.4.1. Recommended findings of fact that describe the factual evidence and analysis of compliance with the submittal requirements and review criteria;

28.4.5.4.2. Recommended conditions and mitigation measures;

28.4.5.4.3. Disclosure of any preferences for mitigation expressed by the applicant to the planning board;

28.4.5.4.4. A recommendation for approval or denial of any variance requests, including any conditions of approval and a summary of facts forming the basis for the recommendation;

28.4.5.4.5. An account of all agency and public comments received during the review process;

28.4.5.4.6. The staff report as submitted to the planning board.

28.4.6. Subdivider's Preference for Mitigation

No later than ten (10) days before the meeting at which the governing body is to consider the subdivision application and preliminary plat, the subdivider may submit in writing to the governing body the subdivider's comments on and responses to the Planning Board's recommendations. This document may include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the Planning Board's recommendations. The governing body will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preference.

28.4.7. Governing Body Decision and Documentation

28.4.7.1. Prerequisites to Approval

The governing body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

28.4.7.1.1. Provides easements for the location and installation of any planned utilities;

28.4.7.1.2. Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

28.4.7.1.3. Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by section 28.4.9.5 of these regulations; and

28.4.7.1.4. Complies with the requirements of 76-3-504, MCA, regarding the disclosure and disposition of water rights.

28.4.7.1.5 The governing body shall determine whether public comments or other information presented to the governing body at a hearing held pursuant to MCA 76-3-605:

Constitutes relevant, new information regarding a subdivision application or substantial change to the design of the subdivision that has never been submitted as evidence or considered by the governing body or its agent or agency and has a substantial effect on the governing body's consideration of the application.

The governing body may:

Approve, conditionally approve or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible or the change in design of the subdivision does not substantially impact the analysis of potentially significant adverse impacts; or

Schedule or direct its agent or agency to schedule a subsequent hearing for consideration of only the new information, including a substantial change to the design of the subdivision for purposes of considering its findings of fact and conclusions and any proposed conditions of approval in light of the new information that the governing body will rely on in making its decision on the proposed subdivision.

If a subsequent hearing is held, the 60 or 80-day review period is suspended and the new hearing must be noticed and held within 45 days of the governing body's determination to schedule a new hearing. After the new hearing, the 60 or 80-day time limit resumes at the governing body's next scheduled public meeting for which proper notice can be provided for the consideration of the subdivision.

28.4.7.3. Evidence

The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, staff report, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of the Montana Subdivision and Platting Act. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145 M.C.A.

A governing body may not withhold, deny, or impose conditions on any land use approval based solely on compliance with an adopted growth policy. A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by adopted law or regulations. §76-1-605 M.C.A.

28.4.7.4. Water and Sanitation
28.4.7.2. Consideration

In approving, conditionally approving, or denying a subdivision application and preliminary plat, the governing body shall consider section 28.4.7.1above, and whether the proposed subdivision complies with:

28.4.7.2.1. These regulations, including, but not limited to, the design standards set forth in Section 28.7;

28.4.7.2.2. Applicable zoning regulations;

28.4.7.2.3. Other applicable regulations; and

28.4.7.2.4 The MSPA, including but not limited to the following factors that are representative of, but not an exhaustive list of impacts on the criteria identified in 76-3-608(3)(a), MCA:

28.4.7.2.3.1. Impacts on agriculture

Agriculture is defined as the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes.

(1) Would the subdivision remove agricultural or timberlands with significant existing or potential production capacity?

(2) Would the subdivision remove from production agricultural lands that are critical to the area's agricultural operations?

(3) Would the subdivision create significant conflict with nearby agricultural operations (e.g. creating problems for moving livestock, operating farm machinery, maintaining water supplies, controlling weeds, applying pesticides or would the subdivision generate nuisance complaints due to nearby agricultural operations)?

28.4.7.2.3.2. Impact on agricultural water user facilities

Agricultural water user facilities are defined as any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.

(1) Would the subdivision create a significant conflict with agricultural water user facilities (e.g. creating problems for operating and maintaining irrigation systems, including physical access or easements for those systems,or creating nuisance complaints due to safety concerns, noise, etc.)?

(2) Would the subdivision impact availability or movement of water with respect to bridges, culverts or other crossings?

28.4.7.2.3.3. Impact on local services

Local services are defined as all services provided by any local government unit having jurisdiction over the subdivision as well as those commonly provided by private entities to similar properties in the vicinity.

(1) What additional or expanded public services and facilities would be demanded to serve this subdivision?
   a. What additional costs would result for services such as streets, law enforcement, parks and recreation, fire protection, water, sewer and solid waste, schools and busing (including additional personnel, equipment, construction and maintenance costs)?
   b. Who would bear these costs?
   c. Can the service providers meet the additional costs given legal and other constraints?
   d. Will required additional or expanded public services be completed before build out of the subdivision?

(2) Would the subdivision allow existing services, through expanded use, to operate more efficiently or make the installation or improvement of services feasible?

(3) What are the present tax revenues received from the unsubdivided land by the County, City and Schools?

(4) What would be the approximate revenues received by each above taxing authority when the subdivision is improved and built upon?

(5) Would new taxes generated from the subdivision cover additional public costs?

(6) Would any special improvement districts be created which would obligate the City fiscally or administratively?

28.4.7.2.3.4. Impact on natural environment

The natural environment is defined as the physical conditions that exist within a given area.

(1) How would the subdivision affect surface and groundwater, soils, slopes, vegetation, historical or archaeological features, scenic resources within the subdivision or on adjacent lands?
   a. Would any streambanks be altered, streams rechanneled or surface water quality be negatively impacted from run-off carrying sedimentation or other pollutants?
   b. Would riparian or wetland areas be negatively impacted?
   c. Would groundwater supplies be contaminated or depleted as a result of the subdivision?
   d. Would construction of streets or building sites result in excessive cuts and fills on steep slopes or cause erosion on unstable soils?
   e. Would significant vegetation be removed causing soil erosion or bank instability?
   f. Is there a plan in place to prevent infestation by noxious weeds?
   g. Would significant historical or archaeological features or significant natural habitats be damaged or destroyed by the subdivision?

28.4.7.2.3.5. Impacts on wildlife and habitat

Wildlife and wildlife habitat are defined as living things that are neither human nor domesticated and the physical surroundings required for their existence.

(1) Would the subdivision impact any species protected by the Endangered Species Act or that are identified as being of special interest or concern to the state of Montana?

(2) How would the subdivision affect critical wildlife areas such as big game wintering range, migration routes, nesting areas, wetlands, aquatic, or other important habitat?

(2) How would pets or human activity affect wildlife?

28.4.7.2.3.6. Impacts on public health and safety

Public health and safety is defined as a condition of well-being wherein risk of injury to the community at large is minimized.

(1) Would the subdivision be subject to, result in the creation of, or impact public health and safety concerns including, but not limited to, those listed below?
   a. Flooding
   b. Geologic Hazards
   c. Air Quality

d. Wildfires
e. High Water Table/ Groundwater
f. High Voltage Transmission Lines
g. Hazardous Waste Exposure
h. Industrial Uses
i. Surface Transportation
j. Wildlife

(2) Would the provision of city-wide emergency services, including access, be adversely impacted?

All subdivisions under the jurisdiction of these regulations will be serviced by the City's municipal water and sanitary sewer utilities. The City will also review and approve storm water plans to ensure adequate storm water drainage. Subdividers will be required to submit, to the Department of Environmental Quality, a Municipal Facilities Exclusion application after the City has approved the utility and storm water design for the subdivision and prior to final plat approval.

28.4.7.5. Documentation of Governing Body Decision

28.4.7.5.1. In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the governing body shall issue written Findings of Fact that discuss and weigh the proposed subdivision's compliance with section 28.4.7.1 and 28.4.7.2 above...

28.4.7.5.2. When the governing body approves, denies, or conditionally approves the proposed subdivision, it shall within 30 working days of its decision, prepare a written statement that must be provided to the applicant, that must be made available to the public, and that must:

28.4.7.5.2.1.-Include information regarding the appeal process for the denial or imposition of conditions;

28.4.7.5.2.2. Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;

28.4.7.5.2.3. Provide the facts and conclusions that the governing body relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision; and

28.4.7.5.2.4. Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

28.4.7.6. Subdivision Application and Preliminary Plat Approval Period

28.4.7.6.1. Approval or conditional approval of a preliminary plat shall be in effect for two (2) calendar years from the date the subdivider is notified of the

governing body action. At the end of this period, the governing body may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time-. The governing body may issue more than one extension.

28.4.7.6.2. Except when reviewing a Phased Development under 76-3-617, M.C.A., after the application and preliminary plat are approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires.

28.4.7.6.3. The governing body may withdraw approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

28.4.8. Amended Applications

28.4.8.1. If the subdivider changes the subdivision application or preliminary plat after the Planning Department makes a determination of sufficiency pursuant to Section 28.4.4.2 but before the Planning Board hearing, the subdivider shall submit the amended application to the Planning Department for review.

28.4.8.1.1. Within five (5) working days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material.

28.4.8.1.2. The sixty (60) or eighty (80) working day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.

28.4.8.1.3. If the Planning Department determines the changes are not material, the sixty (60) or eighty (80) working day review period resumes when the Planning Department mails notice of the decision to the subdivider.

28.4.8.1.4. If the Planning Department determines the changes are material, the Department may either require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application or proceed with the sixty (60) or eighty (80) working day review period.

28.4.8.2. If the subdivider changes the subdivision application or preliminary plat after the Planning Board hearing but before the governing body review, the subdivider shall submit the amended application or preliminary plat to the Planning Department.

28.4.8.2.1. Within five (5) working days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material.

28.4.8.2.2. The sixty (60) or eighty (80) working day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.

28.4.8.2.3. If the Planning Department determines the changes are not material, the sixty (60) or eighty (80) working day review period resumes when the Department mails notice of the decision to the subdivider.

28.4.8.2.4. If the Planning Department determines the changes are material, the Department shall:

28.4.8.2.4.1. Schedule a new Planning Board hearing to take comment on the amended application or preliminary plat. Notice of the new Planning Board hearing shall be provided as set forth in Section 28.4.5.2. . A supplemental staff report shall be prepared to address the changes to the original application.

28.4.8.2.4.2. The subdivider will be assessed an additional fee for reviewing the amendment according to the current Subdivision Review Fee Schedule.

28.4.8.2.5. When a new Planning Board hearing is held pursuant to 28.4.8.2.4.1above, the sixty (60) or eighty (80) working day review period is suspended until ten (10) working days after the date of the second Planning Board hearing.

28.4.8.3. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in 28.4.8.1.2 and 28.4.8.2.2.

28.4.8.4. The following changes, although not an exhaustive list, may be considered material:

28.4.8.4.1. Configuration or number of lots;

28.4.8.4.2. Road layout;

28.4.8.4.3. Water and/or sewer proposals;

28.4.8.4.4. Configuration of park land or open spaces;

28.4.8.4.5. Easement provisions; and

28.4.8.4.6. Designated access.

28.4.8.5. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the Planning Department may appeal the decision to the governing body by written notice within ten (10) working days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

28.4.8.5.1. The sixty (60) or eighty (80) working day review period is suspended until the governing body decision on the appeal is made.

28.4.8.5.2. If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the governing body shall order that the subdivision application be rescheduled for rehearing in front of the Planning Board pursuant to 28.4.8.2.4.1.

28.4.8.5.3. If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the sixty (60) or eighty (80) working day review period resumes as of the date of the decision.

28.4.8.5.4. By appealing the decision of the Planning Department, the subdivider agrees to suspension of the sixty (60) or eighty (80) working day review period provided 28.4.8.5.1 above.

28.4.9. Final Plats

28.4.9.1 Final Plat Submittal

The final plat must be submitted to the Planning Department before the expiration of the subdivision application and preliminary plat approval period described in 28.4.7.6. All required documents shall be submitted to the Planning Department at least thirty (30) working days prior to the expiration of preliminary plat approval or an extension thereto, and no less than ten (10) working days prior to the date the final plat is presented to the governing body for approval. The submittal shall include, as applicable:

28.4.9.1.1 A final plat application;
28.4.9.1.2. The final plat as described in 28.4.9.2;
28.4.9.1.3. The appropriate fee;
28.4.9.1.4. All required information;
28.4.9.1.5. A written explanation of how each of the conditions of the preliminary plat approval has been satisfied.

28.4.9.2. Final Plat Contents

The final plat submitted for approval must conform to the preliminary plat as previously reviewed and approved by the governing body and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents must comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development may be filed sequentially in accordance with the approval.

28.4.9.3. Final Plat Review

28.4.9.3.1. The Planning Department shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The Planning Department will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee have been received.

Final plat applications will not be considered complete until all conditions of preliminary approval have been satisfied.

28.4.9.3.2. The City may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped certificate on the plat. The certificate must be signed by the surveyor.

28.4.9.4. Restrictive Covenants – Approval and Content

If common property is to be deeded to a property owners' association, the covenants and by-laws which govern the association must, at a minimum, provide for the:

28.4.9.4.1. Formation of a property owners' association concurrently with the filing of the final subdivision plat;

28.4.9.4.2. Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;

28.4.9.4.3. Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;

28.4.9.4.4. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;

28.4.9.4.5. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;

28.4.9.4.6. Adjustment of assessments to meet changing needs;

28.4.9.4.7. Means of enforcing the covenants, and of receiving and processing complaints;

28.4.9.4.8. Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and

28.4.9.4.9. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

Covenants must comply with all state regulations and shall not be more restrictive than local zoning regulations.

.

28.4.9.5. Public Improvements Agreement; Guaranty

As a condition of approval of the final plat, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required

improvements (76-3-507, MCA). Bonding and Financial Guaranty requirements are included in forms in Appendix C.

28.4.9.6. Final Plat Approval/Denial

The governing body shall examine every final subdivision plat and, within thirty (30) working days of its submission to the Planning Department, shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations or deny it.

28.4.9.6.1. Approval.The governing body shall certify its approval on the face of the final plat. When applicable, a certificate of the governing body expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.

28.4.9.6.2. Denial. If the final plat is denied, the governing body shall provide written notice to be sent to the subdivider stating the reason for denial. The governing body will return the final plat to the subdivider within ten (10) working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.

28.4.9.7. Final Plat Filing

After it is approved, the final plat may not be altered in any manner except as provided in 28.4.10. The county clerk and recorder may not accept any plat for filing that does not bear the governing body's approval in proper form or that has been altered. The clerk and recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats.

28.4.10. Amending Filed Plats

28.4.10.1. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration which increases the number of lots or modifies six (6) or more lots, or abandons a public dedicated road right-of-way must be reviewed and approved by the governing body.

28.4.10.2. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The governing body may not approve an amended final plat without the written consent of the owners (or lenders) of all lots that will be modified by the proposed amendment.

28.4.10.3. The governing body may not approve an amendment that will place a lot in non-conformance with the design standards contained in 28.7 of these regulations unless the governing body issues a written variance from the standards pursuant to 28.10.2.1, Variances.

28.4.10.4. The final amended plat submitted for approval must comply with the Montana Uniform Standards for Final Subdivision Plats-.

**28.5. MINOR SUBDIVISIONS**

Subdivisions containing five (5) or fewer parcels shall be reviewed as set forth in this Section. All minor subdivisions that do not require variance(s) from the standards of these regulations shall be reviewed as Administrative Minor Subdivisions in accordance with 28.5.1., below. If an application for a first minor subdivision contains a request for variance from any of the standards contained in these regulation, the application will be reviewed under 76-3-609(2) through (5), MCA. Applications for subsequent minor subdivisions that contain a request for variance shall be reviewed using the procedures contained in Section 28.4 of these regulation.

28.5.1 Administrative Minor Subdivisions

28.5.1.1 Pre-application Process

28.5.1.1.1. Prior to submittal of the subdivision application, the subdivider may request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) days after the subdivider submits a written request for the meeting.

28.5.1.1.2. At the time of the pre-application meeting request, the subdivider shall provide the Planning Department with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch drawn directly on a print of the topographic map and should include the following:

28.5.1.1.3. Information on the current status of the site, including:

a. Location;
b. Approximate tract and lot boundaries of existing tracts of record;
c. Description of general terrain;
d. Natural features;
e. Existing structures and improvements;
f. Existing utility lines and facilities; and
g. Existing easements and rights of way.

28.5.1.1.4. Information on the proposed subdivision, including:

a. tract and lot boundaries;
b. proposed public improvements;
c. location of utility lines and facilities;
d. easements and rights of way;
e. parks and open space

28.5.1.1.5. At the pre-application meeting:

28.5.1.1.5.1. The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

28.5.1.1.5.2. The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision; and

28.5.1.1.5.3. The Planning Department shall identify additional information the Department anticipates will be required for review of the subdivision application pursuant to 28.5.1.4. This does not limit the ability of the Planning Department to request additional information at a later time.

28.5.1.1.6. The pre-application process described above may be waived by the mutual consent of the Applicant and the Planning Department.

28.5.1.2. Application and Preliminary Plat Submittal

The subdivider shall submit to the Planning Department a subdivision application containing the following materials:

28.5.1.2.1. Two (2) copies of the completed Subdivision Application form, and the supplements required by therein-;

28.5.1.2.2. The required review fee;

28.5.1.2.3. Three (3) copies of the preliminary plat of the proposed minor subdivision which:

28.5.1.2.3.1. Contains the information and supplements required;

28.5.1.2.3.2. Conforms to the Design and Improvement Standards set forth in 28.7 of these regulations.

28.5.1.2.4. Proof that the subdivider has submitted for review copies of the subdivision application to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and

28.5.1.2.5. Such additional relevant and reasonable information as identified by the Planning Department during the pre-application meeting pursuant to 28.5.1.1.5.3 that is pertinent to the required elements of this Section.

28.5.1.2.6. One electronic copy of the subdivision application and all listed supporting material.

28.5.1.3. Plat Form and Contents

The subdivider shall submit a preliminary plat that conforms to the Montana Uniform Standards for Monumentation and Subdivision Plats The minor subdivision plat must conform to the design standards set forth in 28.7 of these regulations.

28.5.1.4. Administrative Minor Subdivision Exceptions

The following do not apply to Administrative minor subdivisions:

28.5.1.4.1. Preparation of an environmental assessment;

28.5.1.4.2. Public hearing requirements;

28.5.1.4.3. Review of the subdivision application for the impact on the primary review criteria found in 76-3-608(3)(a), MCA.

28.5.1.5. Review Process

28.5.1.5.1. Element Review

Within five (5) working days of receipt of a subdivision application and fee, the Planning Department shall determine whether the application contains all of the applicable materials required by these regulations, as applicable, and shall give written notice to the subdivider of the Department's determination.

28.5.1.5.1.1. If the Planning Department determines that elements are missing from the application, the Department shall identify those elements in the notification and no further action shall be taken on the application until the missing elements are submitted.

28.5.1.5.1.2. The subdivider may correct the deficiencies and resubmit the application.

28.5.1.5.1.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have five (5) working days to notify the subdivider whether the resubmitted application contains all the materials required by these regulations, as applicable.

28.5.1.5.1.4. This process shall be repeated until the subdivider submits an application containing all the materials required by these regulations as applicable.

28.5.1.5.2. Sufficiency Review

Within fifteen (15) working days after the reviewing agent or agency notifies the subdivider that the application contains all of the required elements as provided in 28.5.1.4.1, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of the MSPA and these regulations and give written notification, to the subdivider of this determination.

28.5.1.5.2.1. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the Department shall identify the insufficient information in its notification and no further action shall be taken on the application until the material is resubmitted.

28.5.1.5.2.2. The subdivider may correct the deficiencies and resubmit the application.

28.5.1.5.2.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under provisions of the MSPA and these regulations.

28.5.1.5.2.4. This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of the MSPA and these regulations.

28.5.1.5.2.5. A determination that an application contains sufficient information for review as provided in this subsection does not ensure that the proposed subdivision will be approved or conditionally approved and does not limit the ability of the Planning Department, to request additional information during the review process.

28.5.1.5.2.6. Upon determination that the application is sufficient for review, the Planning Department shall notify, by first-class mail, each property owner of record whose property is immediately adjoining the land in the preliminary plat and each purchaser under contract for deed of property immediately adjoining the land in the preliminary plat of the pending application. This notice will inform the recipient that the decision to approve, conditionally approve or deny the subdivision will be posted to the City's official website within 30 days and that protests of the decision pursuant to section 28.5.1.11 will be accepted for 30 days thereafter.

28.5.1.5.3. Applicable Regulations

Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations [§76-3-604(9)].

28.5.1.5.4. Time Period for Approval, Conditional Approval, or Denial

Within thirty (30) working days, the Planning Department shall approve, conditionally approve or deny the proposed subdivision ~~a~~. The review period of thirty (30) working days begins once the Planning Department has given notice to the subdivider that the subdivision application is sufficient for review. Notification constitutes the date when the reviewing agent or agency sends the notice to the subdivider.

28.5.1.5.5. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the Planning Department's action on the subdivision application beyond the thirty (30) working day review period. The Planning Department will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the Planning Department contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response.

28.5.1.6. Consideration and— Decision

In rendering it decision to-approve, conditionally approve or deny-the subdivision application, the Planning Department shall base its decision on compliance of the subdivision application with the following:

28.5.1.6.1. These regulations, including but not limited to the design standards set forth in Section 28.7;

28.5.1.6.2. Applicable zoning regulations;

28.5.1.6.3. Other applicable regulations.

28.5.1.7. Water and Sanitation

All subdivisions under the jurisdiction of these regulations will be serviced by the City's municipal water and sanitary sewer utilities. The City will also review and approve storm water plans to ensure adequate storm water drainage. Subdividers will be required to submit, to the Department of Environmental Quality, a Municipal Facilities Exclusion application after the City has approved the utility and storm water design for the subdivision and prior to final plat approval.

28.5.1.8. When the Planning Department approves, denies, or conditionally approves the proposed subdivision, it shall, within 30 working days of its determination that the subdivision is sufficient for review, prepare a written

statement that must be provided to the applicant, that must be made available to the public, and that:

28.5.1.8.1. Includes information regarding the appeal process for the denial or imposition of conditions;

28.5.1.8.2. Identifies the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;

28.5.1.8.3. Provides the facts and conclusions that the Planning Department relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;

28.5.1.8.4. Provides the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

28.5.1.9. -Application and Preliminary Plat Approval Period

28.5.1.9.1. Approval or conditional approval of a preliminary plat shall be in effect for two (2) calendar years from the date of the Planning Department action.

28.5.1.9.2. At the end of this period the Planning Department may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time.

28.5.1.10.-Minor Subdivision Final Plat

The Planning Department shall approve Minor Subdivision final plats after determining that the plat meets the requirements of these regulations, any conditions placed upon preliminary approval and all requirements of the Montana Subdivision and Platting Act. All final plats will be signed by the Chair of the Governing Body.

28.5.1.11. If a party identified in 76-3-625(3), MCA objects to subdivision administrator's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body. The governing body shall sustain the subdivision administrator's decision based on the record as a whole unless the decision was arbitrary, capricious, or unlawful. The governing body has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.

Protests under this section (28.5.1.11) will be accepted for a period of 30 days after the Final Administrative Decision on the subdivision is posted to the City's official website.

## 28.6. -EXEMPTIONS FROM SUBDIVISION REVIEW

28.6.1. Exemption Submittal

Any person seeking exemption from the requirements of the Subdivision and Platting Act (76-3-101 et. seq., MCA) shall submit to the Planning Department (1) a certificate of survey or, if a survey is not required, an instrument of conveyance, and (2) evidence of, and an affidavit affirming, entitlement to the claimed exemption.

28.6.2. Review

When a claimed exemption is submitted to the Planning Department, the Department shall cause the documents to be reviewed. The Planning Department shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the MSPA, the Montana Sanitation in Subdivisions Act, and these regulations.

28.6.2.1. Landowners or their agents are encouraged to meet with the Planning Department to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.

28.6.2.2. Within five (5) working days of submittal the Planning Department shall submit a written determination whether the use of the exemption is intended to evade the purposes of the Act.

28.6.2.3. If the Planning Department finds that the proposed use of the exemption complies with the statutes and these criteria, the Department shall notify and advise the Chair of the City Commission to sign the certificate of survey or authorize the recording of the instrument of conveyance and accompanying documents. If the Planning Department finds that the proposed use of the exemption does not comply with the statutes and these criteria, the Department shall advise the Chair not to ~~file~~ sign or authorize the recording the documents, and shall return the materials to the landowner.

28.6.2.4. The Planning Department, when determining whether an exemption is claimed for the purpose of evading the Act, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction is completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

28.6.3. Appeals.

28.6.3.1. Any person whose proposed use of an exemption has been denied by the Planning Department because the proposed division of land has been deemed an attempt to evade the MSPA and/or these regulations may appeal the decision to the governing body. The person may request a hearing, and may submit additional evidence to show

that the use of the exemption in question is not intended to evade the MSPA and/or these regulations.

28.6.3.2. If the governing body concludes that the evidence and information demonstrate that the exemption is not being invoked to evade the MSPA or these regulations, it may authorize the use of the exemption in writing. A certificate of survey claiming an exemption from subdivision review, which otherwise is in proper form, and which the governing body has found not to be an attempt to evade the MSPA or these regulations, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the governing body.

28.6.3.3. If the governing body determines that the proposed use of the exemption was for the purpose of evading the Act, the landowner may submit a subdivision application for the proposed land division.

## 28.7. DESIGN AND IMPROVEMENT STANDARDS

28.7.1. General Standards

All subdivisions approved by the governing body must comply with the provisions of this Section, except where granted a variance pursuant to 28.10.2, Variances. The governing body may not grant variances from the provisions of 28.7.5, Floodplain Provisions.

28.7.2. Conformance with Zoning

The design and development of a subdivision must conform to any applicable zoning regulations.

28.7.3. Natural Environment

The design and development of subdivisions must provide satisfactory building sites, which are properly related to topography, and should, to the extent possible, preserve the natural terrain, natural drainage, and existing topsoil, trees and other vegetation; it must also, to the extent possible, avoid disturbing historical, archaeological and scenic resources

If the subdivision is located within an area identified by the State Historic Preservation Office (SHPO) as containing significant cultural or archaeological resources, efforts to mitigate impacts to these resources must be included in project plans.

28.7.4. Lands Unsuitable for Subdivision

Land that the governing body determines is unsuitable for subdivision because of natural or human caused hazards may not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques.

If the subdivision will encroach into an area identified as Crucial Habitat by the Montana Department of Fish, Wildlife and Parks (FWP) Crucial Areas Planning System, ~~as being a wildlife migration corridor,~~ efforts to mitigate impacts to this resource must be included in project plans.

This may include, but is not limited to, incorporating fencing that is considered "wildlife friendly" under FWP guidance.

If the subdivision will encroach into an area identified by the US Army Corps of Engineers as a wetland, efforts to mitigate impacts to this resource must be included in project plans.

28.7.5. Floodplain Provisions

Land within a proposed subdivsion located in the regulatory floodplain (100-year floodplain, including the floodway), as defined by Title 76, Chapter 5, MCA, is subject to requirements and restrictions stated in Chapter 29 of the Livingston Municipal Code for Floodplain Hazard Management Regulations.

28.7.6. Improvement Design

28.7.6.1. Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or a professional land surveyor as their respective licensing laws allow in accordance with the MSPA and these regulations.

28.7.6.2. All subdivision improvements must be designed to comply with the City of Livingston Public Works Design Standards and Specification Policy; the City's Modification to the Montana Public Works Standards, and Table 1 in Appendix B.

28.7.6.3. All subdivisions under the jurisdiction of these regulations will be serviced by the City's municipal water and sanitary sewer utilities. The City will also review and approve storm water plans to ensure adequate storm water drainage. Subdividers will be required to submit, to the Department of Environmental Quality, a Municipal Facilities Exclusion application after the City has approved the utility and storm water design for the subdivision and prior to final plat approval.

28.7.7. Lots

28.7.7.1 Each lot must contain a satisfactory building site and conform to applicable zoning regulations and these regulations.

28.7.7.2 No lot may be divided by a municipal or county boundary line.

28.7.7.3 No lot may be divided by a public road, alley or utility right-of-way or easement.

28.7.7.4 Each lot must abut and have access to a public street or road. Alleys may not be used to provide the primary access to a lot.

28.7.7.5 Corner lots must have driveway access to the same street or road that provides access to interior lots.

28.7.7.6 Corner lots must be designed to provide acceptable sight distances for safe vehicular movement.,

28.7.7.7 Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.

28.7.7.8 Through lots are prohibited. except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

28.7.8. Blocks

28.7.8.1. Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.

28.7.8.2., block length must not be more than 1,000 feet nor less than 400 feet.

28.7.8.3 Blocks must be at least 300 feet wide to allow for two tiers of lots separated by a twenty-foot-wide alley.

28.7.8.4. All blocks will be oriented in the same direction, creating a street grid with intersections at or very near ninety degrees.

28.7.9. Streets and Roads

28.7.9.1. Design

28.7.9.1.1. Streets must be designed to comply with the City of Livingston Public Works Design Standards and Specification Policy; the City's Modification to the Montana Public Works Standards, and Table 1 in Appendix B

28.7.9.1.2 The arrangement, type, extent, width, grade, and location of all streets must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them. .

28.7.9.1.3 The use of a cul-de-sac or "T" turnaround may only be approved by variance.

28.7.9.1.4. Unless a variance is granted, all streets must be dedicated to the public.

28.7.9.3 Improvements

28.7.9.3.1 All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage, street lighting, signage and pavement markings must be constructed to comply with the City of Livingston Public Works Design Standards and Specification Policy; the City's Modification to the Montana Public Works Standards, and Table 1 in Appendix B

28.7.9.3.6 A minimum of one (1) boulevard tree planting is required for each lot frontage. See Appendix XX for recommended species. A Tree Plan must be provided by for all boulevard plantings prior to final plat. The plan must identify tree type and planting locations and it must be approved by the City Arborist. Existing trees and other vegetation must be preserved whenever appropriate. Plantings may be required for buffering, screening, or prevention of soil erosion and are subject to approval by the governing body.

28.7.9.3.8 Alleys, designed in accordance with Table 1 in Appendix B, shall be provided in all subdivisions. .

28.7.9.3.10 When required by the United States Postal Service, the developer must provide an off-street area for mail delivery.

28.7.10. Drainage Facilities

All storm water and drainage facilities shall be designed and constructed according to the City of Livingston Public Works Design Standards, the City's Modification to the Montana Public Works Standards, and Montana DEQ Standards.

b.
g. The governing body may require the subdivider to grant easements to prevent encroachment or disruption of drainageways or facilities. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat.

28.7.11. Water Supply Systems

All water supply systems shall be designed and constructed according to the City of Livingston Public Works Design Standards and Specification Policy, the City's Modifications to the Montana Public Works Standards, and Montana DEQ Standards.

28.7.12. Wastewater Collection Systems

All wastewater collection systems shall be designed and constructed according to the City of Livingston Public Works Design Standards and Specification Policy, the City's Modifications to the Montana Public Works Standards, and Montana DEQ Standards.

28.7.13. Solid Waste

28.7.13.1. The subdivider shall assure that the provisions for collection and disposal of solid waste meet the requirements of the City of Livingston and Montana DEQ Standards.

28.7.13.2. The location and means for solid waste collection and disposal shall be subject to approval by the City Public Works Director. For areas ~~where bear activity is a concern,~~ within the designated as the Wildland Urban Interface (WUI), the City may require that all trash be stored in bear-proofed containers or else be stored ~~inside~~ within an enclosed structure until it is scheduled for pick up.

28.7.13.3. If solid waste disposal is not individual, curbside pick-up for individual lots, the subdivider shall provide an off street area for solid waste collection which will be aesthetically screened from general public view, protected from the elements to reduce blowing and scattering of waste, and conveniently accessible to collection vehicles subject to approval by the City Public Works Director. For areas within the designated WUI, the City may require that common solid waste facilities be designed to be bear-resistant or else be stored within an enclosed structure until it is scheduled for pick up.

28.7.14. Non-Municipal Utilities

28.7.14.1. The subdivider must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision.

28.7.14.2. Utilities must be placed underground,. Underground utilities, if placed in a street right-of-way, must be located between the roadway and the right-of-way line to simplify location and repair of lines. Underground facilities must be installed after the street has been brought to grade and before it is paved.

~~Overhead utility lines must be located within the rear property line of each lot and parallel to the adjacent alley.~~

28.7.14.3. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.

28.7.14.4. Utility easements located between adjoining lots must be centered on lot lines. If easements are placed in the street, they must be located between the roadway and the right-of-way line.

28.7.14.5. Utility easements must be fifteen (15) feet wide unless otherwise specified by a utility company or governing body.

28.7.14.6. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body, or local or state highway department.

28.7.14.7. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear on the final plat:

"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, internet/ broadband, electric power, gas, cable television, , the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."

28.7.15. Water Course and Irrigation Easements

28.7.15.1. Except as noted in 28.7.15.2, below, the subdivider shall establish within the subdivision ditch easements that:

28.7.15.1.1. Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

28.7.15.1.2. Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

28.7.15.1.3. Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner;

28.7.15.2. The subdivider need not establish irrigation easements as provided above if:

28.7.15.2.1. The average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or

28.7.15.2.2. The water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and

28.7.15.2.3. The fact the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

28.7.15.3. The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and file and record

with the county clerk and recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. A minimum width of ten (10) feet is required on each side of irrigation canals and ditches for maintenance purposes.

28.7.16. Disposition of Water Rights

If a subdivision will create lots averaging less than five (5) acres in size, the subdivider shall submit evidence with the final plat that the subdivider has:

28.7.16.1. Reserved all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;

28.7.16.2. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

28.7.16.3. Reserved and/or severed all surface water rights from the land proposed for subdivision.

28.7.17. Park Land Dedication – Cash in Lieu – Waivers -- Administration

28.7.17.1. Except as provided below, the final plat of a residential subdivision must show that the subdivider has dedicated to the governing body a cash or land donation equal to:

28.7.17.1.1. Eleven percent (11%) of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

28.7.17.1.2. Seven and one-half percent (7.5%) of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre;

28.7.17.1.3. Five percent (5%) of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three (3) acres; and

28.7.17.1.4. Two and one-half percent (2.5%) of the area of the land proposed to be subdivided into parcels larger than three (3) acres and not larger than five (5) acres.

28.7.17.2. Parks and open space types and standards. Parks, open space and common area dedication shall meet at least one of the following criteria:

28.7.17.2.1. Provides for the preservation of a physical amenity such as a meadow, a stand of trees, significant wildlife habitat or a wildlife corridor, a

scenic hillside with slopes of less than 25%, a stream or significant water body, an area of riparian resource or some other natural feature that the governing body determines is significant enough for parkland dedication. Open space shall be managed to remain in a near natural state when it has been dedicated for preservation or conservation purposes and managed for weeds and public safety concerns such as wild land fire and hazardous trees. Public trail connections are permitted if deemed appropriate by the governing body; or

28.7.17.2.2. Provides a site for active recreation and public gathering (neighborhood park) which shall substantially conform to the following standards:

28.7.17.2.2.1. Five acres or greater in size unless the opportunity for this size is not feasible or required;

28.7.17.2.2.2. Centrally located within the proposed subdivision or adjacent to other planned or existing park or open space;

28.7.17.2.2.3. Adjacent to public streets on at least 50% of the park's perimeter;

28.7.17.2.2.4. Accessible to bicycle and pedestrian trails where possible;

28.7.17.2.2.5. At least 50% of the park shall have 2% or less slope to accommodate playing fields; or

28.7.17.2.3. Establishes a pedestrian/bicycle greenway corridor if such corridor is determined by the city to have a primarily recreational and/or commuter function; or

28.7.17.2.4. Creates a courtyard of less than one-half (½) acre, provided the courtyard shall be part of a common area dedicated to a private homeowner's association; or

28.7.17.2.5. Provides for other parks, open space, or common area designs which meet the intent of this section, support the goals of the Growth Policy, and is consistent with the City's adopted plans for Parks and Recreation and Trails and Active Transportation..

28.7.17.3. Unless the governing body determines otherwise, the following areas within a subdivision will not count toward the parkland dedication:

28.7.17.3.1. Hillsides over 25% slope;

28.7.17.3.2. Areas of riparian resource and adjacent buffers associated with irrigation or roadside ditches;

28.7.17.3.3. Monument entry areas and central landscaped boulevards;

28.7.17.3.4. Storm water retention or detention ponds that are designed to hold storm water runoff from less than 100-year events.

28.7.17.3.5. Public utility easements.

28.7.17.4. Provide as part of the required parkland, twenty (20) foot wide pedestrian access easements to parkland or common area from public streets. Pedestrian access easements on hillsides may require additional width to accommodate switchbacks for trails, etc. Setbacks for structures other than fences adjacent to the access easement shall be a minimum of ten (10) feet. The governing body may require that the developer construct a trail leading into park or common areas.

28.7.17.5. At least twenty-five percent (25%) of the required parkland dedication shall be developed for active use as defined in 28.7.17.2.2. No more than seventy-five percent (75%) of the required parkland dedication shall be for passive use as defined in 28.7.17.2.1.

28.7.17.5. A park dedication is not required for:

28.7.17.5.1. Minor subdivisions;

28.7.17.5.2. Subdivision lots larger than five (5) acres;

28.7.17.5.3. Nonresidential subdivision lots;

28.7.17.5.4. Subdivisions in which parcels of land will not be created, except when the subdivision will provide permanent multiple spaces for recreational camping vehicles, mobile homes; or

28.7.17.5.5. Subdivisions which will create only one additional parcel.

28.7.17.6. The governing body, in consultation with the subdivider and the Planning Board ~~or~~, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision.

28.7.17.7. The governing body will waive the park dedication requirement if it determines that:

28.7.17.7.2. The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; andThe provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under 28.7.17.1 above;

28.7.17.7.3. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of 28.7.17.1 and 28.7.17.7.2 above, is reduced by an

amount equal to or exceeding the area of the dedication required under 27.7.17.1; or

28.7.17.7.4. The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and

The area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under 27.7.17.1.

28.7.17.8. The local governing body may waive the park dedication requirement if:

28.7.17.8.1. The subdivider provides land outside the subdivision that affords long-term protections of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

The area of land to be subject to long-term protection, as provided in 28.7.17.7.2, equals or exceeds the area of dedication required under 27.7.17.1.

28.7.17.8.2. The City may also waive some, or all, of the park land dedication requirement if the subdivider provides land for trails or paths which enhance the City's trail system as guided by the City's adopted plans for Parks and Recreation and Trails and Active Transportation.

28.7.17.9. The governing body will administer funds dedicated to the public under this Section in accordance with Section 76-3-621, MCA. For the purposes of this park dedication requirement:

28.7.17.9.1. "Cash donation" means the fair market value of the unsubdivided, unimproved land;

28.7.17.9.2. Fair market value must be determined by a Montana State certified general real estate appraiser (as provided under MCA 37-54-201) hired and paid for by the subdivider. For the purposes of this regulation, appraisals are valid if prepared within six (6) months of the date of submittal of an application for final subdivision approval.

28.7.18 Fire Protection

28.7.18.1 All subdivisions must be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Measures must include:

28.7.18.1.1 The placement of structures so as to minimize the potential for flame spread and to permit adequate access for firefighting equipment.

28.7.18.1.2 The presence of adequate firefighting facilities on site, including an adequate water supply and water distribution system.

28.7.18.1.3 The availability, through a fire protection district or other means, of fire protection services adequate to respond to fires that may occur within a subdivision.

28.7.18.1.4 Building sites may not be located on slopes greater than twenty-five (25) percent or at the apex of "fire chimneys" (topographic features, usually drainageways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).

28.7.18.1.5 Open space, park land, and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.

28.7.18.1.6 The address of all residential buildings shall be plainly visible and legible from the primary access road adjacent to the lot on which the building resides.

28.7.18.2 Special Requirements for Major Subdivisions Proposed within the designated Wildland Urban Interface (WUI). The following apply:

28.7.18.2.1 A Fire Prevention and Control Plan (FPC Plan) must be developed in coordination with the Fire Department and must be included with the application for preliminary plat approval. The FPC plan must include the following information:

28.7.18.2.1.1 An analysis of the wildfire hazards on the site, as influenced by existing vegetation and topography;

28.7.18.2.1.2 A map showing the areas that are to be cleared of dead, dying, or severely diseased vegetation, as well as any tree canopy that will be thinned to reduce the potential for a crown fire

28.7.18.2.1.3 The identification of roads, driveways, and bridges that are sufficient for emergency vehicle access and fire suppression activities. Slopes of all roads and driveways must be provided..

28.7.18.2.1.4 Emergency access and evacuation procedures. For phased subdivisions, these procedures must be updated prior to issuance of Certificates of Occupancy for each phase and must include all completed phases

28.7.18.2.2 At least two (2) entrances/exits must provide escape routes for residents and access to the subdivision by fire-fighting vehicles. Bridges providing access to the subdivision must be built to a design load of thirty (30) tons and constructed of non-flammable materials.

28.7.18.2.3 Fire-Resistant Landscaping materials must be used in all common areas that are maintained by the HOA, including the areas along roads, rights-

of-way and easements.. Vegetative Fuels Reduction must be practiced within a minimum 10-foot wide corridor surrounding the outer edge of the subdivision.

28.7.18.2.4 The FPC Plan must be implemented prior to issuance of Certificates of Occupancy and will be considered part of the subdivider's obligations for land development. The Fire Chief, or designee, will inspect and approve the implementation of the FPC Plan, and notify the Building Official that implementation of the plan is complete...

28.7.18.2.5 Provisions for the maintenance of the FPC Plan shall be included in the covenants, conditions, and restrictions for the development.

## 28.8. SUBDIVISIONS THAT WILL PROVIDE MULTIPLE SPACES FOR RECREATIONAL CAMPING VEHICLES OR MOBILE HOMES – LAND SUBDIVISIONS CREATED BY RENT OR LEASE

28.8.1. Subdivisions Created by Rent or Lease -- Definition

A subdivision created by rent or lease, including a mobile home or recreational camping vehicle park, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership (which can include a number of persons owning property in common).

28.8.1.1. Land subdivision created by rent or lease will be reviewed under the procedures described in Section 28.4, Major Subdivisions, Section 28.5, Minor Subdivisions, or Appendix A, Expedited Review, as may be appropriate, except that the subdivider shall submit an unsurveyed final plan drawn to scale, rather than a final plat.

28.8.1.2. Land subdivisions created by rent or lease are subject to the applicable design and improvement standards contained in Section 28.7, Design and Improvement Standards.

28.8.2. Procedures for Review

Subdivisions which will provide multiple spaces for recreational camping vehicles or mobile homes and subdivisions created for rent or lease are exempt from the surveying and filing requirements of the MSPA. These subdivisions must be submitted for review and approved by the governing body before portions of the subdivision may be rented or leased. The subdivider shall submit to the governing body the preliminary plans, profiles, tentative grades, and specifications for proposed improvements. The plan must show the lot layout and the proposed location of the mobile home, recreational camping vehicle, or other unit on the lot.

28.8.2.1. Improvements

The subdivider shall install all required improvements before renting or leasing any portion of the subdivision. The governing body will inspect all required improvements in order to assure conformance with the approved construction plans and specifications.

28.8.2.2. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a plan conforming to the requirements for preliminary plats contained in Appendix C and . The subdivider shall submit the plan to the Planning Department. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the office of the Planning Department.

28.8.2.3. DPHHS License
If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a "trailer court," "work camp," "youth camp," or "campground" as those terms are defined in section 50-52-102, MCA, the governing body will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA.

**28.9. PHASED DEVELOPMENT**
28.9.1. Application

A subdivider applying for phased development review shall submit with the phased development application an overall phased development preliminary plat on which independent platted development phases must be presented. The phased development application must contain the information required pursuant to 28.4.3 of these regulations for all phases of a development and a schedule for when the subdivider plans to submit for review each phase of the development. The subdivider may change the schedule for review of each phase of the development upon approval of the governing body if the change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.

28.9.2. Preliminary Plat Review

The phased development overall preliminary plat will be reviewed according to 28.4.4. through 28.4.7. of these regulations. If approved or conditionally approved, the entire phased development will be deemed to be granted preliminary plat approval.

28.9.3. Phase Review

Each individual phase will, according the approved schedule, be reviewed by the governing body as an application for final plat approval pursuant to 28.4.9 of these regulations. For any phase of the approved subdivision submitted for final plat approval more than 5 years after the date of preliminary approval of the subdivision, the subdivider shall provide written notice to the governing body not more than 1 year or less than 90 calendar days in advance of submitting the final plat application. The governing body shall hold a public hearing within 30 working days after receipt of the written notice from the subdivider to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval. The governing body may amend or impose additional conditions of approval only if it

determines, based on a review of the primary criteria, that the existing conditions of approval are inadequate to mitigate the potentially significant adverse impacts identified during the original review based on changed circumstances. The governing body shall issue supplemental written findings of fact within 20 working days of the hearing. Any additional conditions must be met before final plat approval for each remaining phase and the approval is in force for not more than 3 calendar years or less than 1 calendar year within the maximum timeframe provided in Section 28.9.4, below.

28.9.4. Time Limit Extension

The governing body may approve phased developments that extend beyond the time limits set forth in 28.4.7.6. of these regulations but all phases of the phased development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date the overall phased development preliminary plat is approved by the governing body.

28.9.5. Periodic Fees

The governing body may impose a reasonable periodic fee for the review of the individual phases in the phased development.

## 28.10. ADMINISTRATIVE PROVISIONS

28.10.1. Subdivision Fees

To cover costs of reviewing plans, advertising, holding public hearings, and other activities associated with the review of a subdivision proposal, the subdivider shall pay a non-refundable fee at the time of application for preliminary plat approval. The fees, payable to the City, shall be established by separate resolution of the Livingston City Commission.

28.10.2. Variances

28.10.2.1. Variances Authorized

The governing body may grant variances from Section 28.7, Design and Improvement Standards, of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations.

The governing body will not approve a variance unless it finds that:

28.10.2.1.1. It will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

28.10.2.1.2 It is necessary because of unique physical conditions on the site;

28.10.2.1.3. It will not cause a substantial increase in public costs; and

28.10.2.1.4. It will not place the subdivision in nonconformance with any adopted zoning regulations.

28.10.2.1.5 The area of the subdivision affected by the variance and the overall extent of the variance is the least accommodation that will alleviate the hardship.

28.10.2.2. Variances from Floodway Provisions Not Authorized

The governing body will not by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.

28.10.2.3. Variance Procedure

The subdivider shall include with the submission of the preliminary plat a written statement describing and justifying the requested variance. It is the burden of the applicant to prove that, because of unique topography or other exceptional conditions on the property, the strict application of these regulations would result in an undue hardship rectified only through approval of a variance. The planning board will consider the requested variance and recommend its approval or denial to the governing body.

28.10.2.4. Variance Conditions

In granting variances, the governing body may impose reasonable conditions to secure the objectives of these regulations.

28.10.2.5. Variance Statement of Facts

When a variance is granted, the motion of approval of the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

28.10.3. Amendment of Regulations

Before the governing body amends these regulations it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the City not less than fifteen (15) days or more than thirty (30) days before the date of the hearing.

28.10.4. Enforcement

Except as provided in 76-3-303, MCA, every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the MSPA and these regulations. The cost of this action shall be imposed against the party not prevailing. §76-3-301 M.C.A.

28.10.5. Violation and Penalties

Any person, firm, corporation, or other entity who violates any of the provisions of the MSPA or these regulations is guilty of a misdemeanor punishable by a fine of not less than $100 nor more than $500 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these regulations shall be deemed a separate and distinct offense. §76-3-105 M.C.A.

28.10.6. Appeals

A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided by §76-3-625 M.C.A.

# APPENDIX

# APPENDIX A

## Procedure for Expedited Review

Pre-application Process

Prior to submittal of the subdivision application, the subdivider shall request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) days after the subdivider submits a written request for the meeting to the Planning Department.

At the pre-application meeting, the subdivider shall provide the Planning Department with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch drawn directly on a print of the topographic map and should include the following:

Information on the current status of the site, including:

- location;
- approximate tract and lot boundaries of existing tracts of record;
- description of general terrain;
- natural features;
- existing structures and improvements;
- existing utility lines and facilities;
- existing easements and rights of way.

Information on the proposed subdivision, including:

- tract and lot boundaries;
- proposed public improvements;
- location of utility lines and facilities;
- easements and rights of way;
- parks and open space.

At the pre-application meeting, the following will occur:

The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision.

The Planning Department shall identify particular additional information the Department anticipates will be required for review of the subdivision application. This does not limit the ability of the City to request additional information at a later time.

Unless the subdivider submits the subdivision application within 180 working days of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application.

Applications for expedited review are exempt from:

- the preparation of an environmental assessment as required in 76-3-603, MCA.; and
- the review criteria listed in 76-3-608(3)(a), MCA.

Subdivision Application for Expedited Review

The subdivider shall submit to the Planning Department a subdivision application containing the following materials:

- Two (2) copies of the completed Subdivision Application form and the supplements required therein;
- The required review fee;
- Three (3) copies of the preliminary plat of the proposed subdivision which:
  - Contains the information required for preliminary plats and;
  - ~~e~~ Conforms to the Design and Improvement Standards set forth in Section 28.7;
- Proof that the subdivider has submitted for review copies of the subdivision application to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and
- Such additional relevant and reasonable information as identified by the Planning Department during the pre-application meeting that is pertinent to the required elements of this Section.
- One electronic copy of the subdivision application and all supporting material.

Expedited Review Process

Applications for expedited review must provide evidence that the proposed subdivision complies with the applicable zoning regulations, local subdivision regulations, including the local design standards, and must include a proposal for the extension of public infrastructure in accordance with adopted ordinances and regulations.

The application will be reviewed for required elements and sufficiency of information as provided in 76-3-601(1) through (3), MCA to verify that the application complies with local zoning and subdivision regulations, including local design standards and to verify

that a plan for the extension of public infrastructure is provided. The application may include a request for variance from the design standards contained in these regulations.

Upon determination by the Planning Department that the application contains the required elements and is sufficient for review, the City shall have thirty-five (35) working days to approve, conditionally approve or deny the subdivision application. The review period shall be forty-five (45) working days if the application contains any request(s) for variance from any of the requirements of these regulations.

Public Hearing: The City Commission shall hold a public hearing on the application and shall approve, conditionally approve or deny the subdivision application. Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the County not less than fifteen (15) days prior to the meeting date.

City Commission Decision

The City Commission shall approve the subdivision unless public comment or other information demonstrates that the application does not comply with:

- adopted zoning regulations, design standards, and other requirements of the adopted subdivision regulations, including the criteria for granting variances from the subdivision regulations; or
- adopted ordinances or regulations for the extension of public infrastructure.

The City Commission shall adopt conditions of approval only to ensure an approved subdivision application is completed in accordance with the approved application and any applicable requirements pursuant to Title 76, chapter 4, MCA.

The City Commission shall provide to the applicant and the public a written statement within 30 days of the decision to approve or deny the subdivision that includes:

- The facts and conclusions that the City Commission relied on in making its decision; and
- The conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved, as applicable.

Section 28.3.4 of these regulations applies to this Section as it pertains to the appeal process.

Preliminary Plat Approval Period and Final Plat

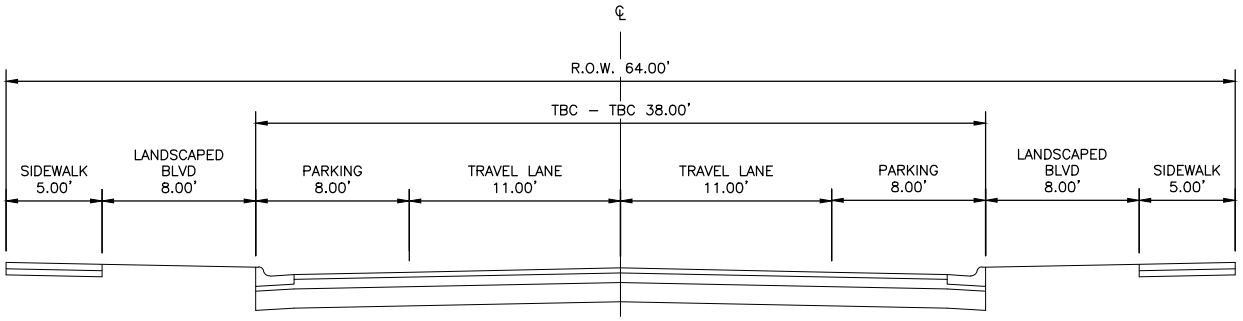
- The approved preliminary plat is subject to Section 28.4.7.6.1 through 28.4.7.6.3 of these regulations.
- Final plats are subject to Sections 28.4.9.1 through 28.4.9.7 of these regulations.

## *APPENDIX B*

### *TABLE 1: Street Design Standards for Subdivisions*

| | |
|---|---|
| 1. Right-of-way width | 64 ft. |
| 2. Minimum roadway width | |
| a. Curbs, back to back | 38 ft. |
| b. Alleys | 20 ft. |
| c. Boulevards | 8 ft. |
| d. Sidewalks | 5 ft. |
| 3. Maximum grade, distance less than 100 ft. | 10 % |
| 4. Maximum grade, distance more than 100 ft. | 8 % |
| 5. Approaches onto Public Roads | |
| a. Minimum sight distance | 200 ft. |
| b. Maximum grade for 20’ | 5% |
| 6. Turning radius | 50 ft. |
| 7 Bridges | |
| a. curb-to-curb widths | same as roadway |
| b. design load capacity | 30 tons |
| c. vertical clearance | 15 ft. |

***FIGURE 1. Subdivision Street Design Typical Section***




**CITY OF LIVINGSTON**

**STANDARD SECTION - LOCAL STREET**
**WITH ON-STREET PARKING**

LIVINGSTON MONTANA

| | |
|---|---|
| DRAWN BY: | JRG |
| DESIGNED BY: | |
| QUALITY CHECK: | MRM |
| DATE: | 11/25/2025 |
| JOB NO. | |

**FIGURE**

**#**

# APPENDIX C

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Preliminary Plat Instructions

Subdivision review is required to divide any parcel of land within the City of Livingston that does not meet the criteria for a subdivision exemption as listed in 76-3-2 MCA. Subdivisions require a three-step application process prior to final approval:

- Pre-Application
- Preliminary Plat Application
- Final Plat Application

Preliminary Plats require a public hearing before the Planning Board for a recommendation to the City Commission, and are approved or denied by the City Commission. All subdivision applications are evaluated by the Planning Board and City Commission based upon the following criteria listed in Section III.B.6 of the Subdivision Regulations for major subdivisions or Section IV.B.6 for minor subdivisions:

- Provides easements for the location and installation of any planned utilities.
- Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
- Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed.
- Complies with the requirements of 76-3-504 MCA, regarding the disclosure and disposition of water rights.
- Complies with the Subdivision Regulations.
- Complies with the applicable Zoning Regulations.
- Complies with the Montana Subdivision and Platting Act.

The Preliminary Application shall be submitted to the Planning Department. The Planning Department may forward the application to local, state, and federal agencies as necessary to ensure a comprehensive review of the project. **It is required that you submit and receive an approved Subdivision Pre-Application prior to submitting a Preliminary Plat Application.**

**Submittal Requirements (listed in Section III.B.1 of the Subdivision Regulations for major subdivisions or Section IV.B.1 for minor subdivisions):**

☐ Two (2) copies of the Completed Application Form.
☐ Three (3) copies of the Preliminary Plat, which:
- Contains the required information for preliminary plats..
- Conforms to the Design and Improvement Standards in Section VI of the Subdivision Regulations.
- Conforms to the requirements of the Zoning Regulation.

- Conforms to the requirements of the Public Works Design Standards and Specifications Policy.

☐ A summary of probable impacts of the Subdivision.

☐ Proof that the subdivider has submitted for review copies of the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision.

☐ Additional relevant and reasonable information as identified by the Development Review Committee during the pre-application meeting:

☐ The Preliminary Plat Application Review Fee.

All documents other than the preliminary plat shall be submitted on either 8 ½" x 11" or 11" x 17" paper. Additionally, digital copies of the submittal in PDF file format are required.

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Preliminary Plat Application

1. **Property Owner Name:** _____

2. **Location of Property**

   General Location: _____

   Address: _____

   Subdivision: _____ Lot: _____ Block: _____

   Zoning District: _____

3. **Contact Information**

   *Property Owner*

   Home Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Primary Contact/ Applicant*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Secondary Contact*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

**4. Project Information**

Type of Subdivision: ☐ Major ☐ Subsequent Minor ☐ Minor

Proposed Subdivision Name: _____

Brief Description of Project: _____

_____

_____

Proposed Use(s): _____

Number of Lots: _____ Number of Phases: _____

**I hereby certify that the information included in this application is true and accurate.**

_____ _____

Applicant's Signature Date

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Final Plat Instructions

Subdivision review is required to divide any parcel of land within the City of Livingston that does not meet the criteria for a subdivision exemption as listed in 76-3-2 MCA. Subdivisions require a three-step application process prior to final approval:

- Pre-Application
- Preliminary Plat Application
- Final Plat Application

Final Plat applications shall be submitted to the Planning Department and require a public hearing and are approved or denied by the City Commission. **All preliminary plat conditions of approval and required improvements must be completed or guaranteed prior to application for final plat.**

**Submittal Requirements (listed in Section III.C.3 of the Subdivision Regulations for major subdivisions or Section IV.C.3 for minor subdivisions):**

☐ The Completed Application Form.
☐ A letter explaining how each of the preliminary plat conditions of approval have been met.
☐ All required City or County attorney approvals..
☐ Additional relevant and reasonable information as identified by the Planning Department.
☐ The Final Plat Application Review Fee.

All documents other than the plat shall be submitted on either 8 ½" x 11" or 11" x 17" paper. Additionally, digital copies of the submittal in PDF file format are required.

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Final Plat Application

1. **Property Owner Name:** _____

2. **Location of Property**

   General Location: _____

   Address: _____

   Subdivision: _____ Lot: _____ Block: _____

   Zoning District: _____

3. **Contact Information**

   *Property Owner*

   Home Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Primary Contact/ Applicant*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Secondary Contact*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

**4. Project Information**

Type of Subdivision: ☐ Major ☐ Subsequent Minor ☐ Minor

Subdivision Name: _____

Brief Description of Project: _____

_____

_____

Proposed Use(s): _____

Number of Lots: _____ Number of Phases: _____

**I hereby certify that the information included in this application is true and accurate.**

_____ _____

Applicant's Signature Date

## Certificate of Surveyor – Final Plat

State of Montana )
) ss.
County of _____ )

I, (Name of Surveyor), a Professional Land Surveyor, do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this _____ day of _____, 20 ___.

(Seal)

(Signature of Surveyor)
Registration No. _____
(Address)

---

## Certificate of Dedication – Final Plat

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in (City and County if in Unincorporated Area), to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this _____ day of _____, 20 ___.

(Acknowledged and notarized signatures of all record owners of platted property)

---

## Consent to Dedication by Encumbrances, If Any

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this _____ day of _____, 20 ___.

(Acknowledged and notarized signatures of all encumbrancers of record)

**Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof**

I, (Name of City or Town Clerk), (County Clerk and Recorder) of (Name of City or County), Montana, do certify that the following order was made by the (Governing Body) of (Name of City or County) at a meeting thereof held on the _____ day of _____, 20 ___, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (Name of Governing Body) that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of (Name of City or County), Montana this _____ day of _____, 20 ___.

(Seal) (Signature of Clerk)

---

**Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption of the Montana Subdivision and Platting Act.**

(Name of Subdivider), referred to herein as the subdivider, hereby certifies that all of the parcels within (Name of Subdivision) contain five acres or more and that the Subdivider will enter into a covenant to run with the land and revocable only by mutual consent of the owners of the parcels in question and the governing body of (Name of City or County), that the parcels in the subdivision will never be subdivided into parcels of less than five acres and that only single family dwellings and associated outbuildings will be constructed on any single lot or parcel within the boundaries of the subdivision. A copy of this covenant is attached hereto:

(Date) (Notarized Signature of Subdivider)

**Certificate of Examining Land Surveyor Where Required – Final Plat**

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for (City or County), Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this _____ day of _____, 20 ___.

(Signature)
(Name of Surveyor)
Registration No. _____
(City or County)

---

**Certificate of County Treasurer**

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) have been paid:

(legal description of land)

Dated this _____ day of _____, 20 ___.

(seal) (Signature of County Treasurer) Treasurer,
_____ County, Montana

---

**Certificate of Final Plat Approval – City**

The (Commission) (Council) of the City (Town) of (Name of City or Town), Montana does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 20 ___.

by (Signature of City or Town Clerk) (Signature of Mayor)
Clerk Mayor

---

**Certificate of Filing by Clerk and Recorder**

STATE OF MONTANA )
) ss.
County of _____ )

Filed for record this _____ day of _____, 20 ___, at _____ o'clock.

(Signature of Clerk and Recorder)
County Clerk and Recorder, _____ County, Montana

## APPENDIX D

## SUBDIVISION IMPROVEMENTS AGREEMENT; GUARANTY

The parties to this Subdivision Improvements Agreement ("this agreement") are _____ ("the subdivider") and _____ ("the City").

WHEREAS, the subdivider desires to defer construction of improvements described in Attachment (__); and

WHEREAS, the purpose of this Agreement is to protect the City and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the Subdivision, or for the benefit of lot or home buyers in the Subdivision; and

WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by state law and the City subdivision regulations.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Effective Date: The effective date of this Agreement is the date that final subdivision plat approval is granted by the City.

2. Attachments: The Attachments cited herein are hereby made a part of this Agreement.

### Subdivider's Obligations

3. Improvements: The Subdivider will construct and install, at his own expense, those subdivision improvements listed in Attachment (__) of this Agreement. The Subdivider's obligation to complete the improvements arises upon approval of the final subdivision plat, is not conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and is independent of any obligations of the City contained in this Agreement.

4. Security: To secure the performance of his obligations under this Agreement, the Subdivider will deposit with the City on or before the effective date, an Irrevocable Letter of Credit (or other financial security acceptable to the local officials) in the amount of $_____. The letter of credit will be issued by __(lending institution)__, be payable at sight to the City at any time upon presentation of (1) a sight draft drawn on the issuing lending institution in the amount up to $ _____, (2) a signed statement or affidavit executed by an authorized City official stating that the Subdivider is in default under this Agreement; and (3) the original copy of the letter of credit.

5. Standards: The Subdivider will construct the required improvements according to the standards and specifications required by the City as specified in Attachment (__) of this Agreement.

6. Warranty: The Subdivider warrants that each and every improvement will be free from defects for a period of 1 year from the date that the City accepts the dedication of the last improvement completed by the Subdivider.

7. Commencement and Completion Periods: The Subdivider will complete all of the required improvements within (2) years from the effective date of this Agreement.

8. Compliance with Law: The Subdivider will comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.

City's Obligations

9. Inspection and Certification:

   a. The City will provide for inspection of the improvements as they are completed and, where found acceptable, will certify those improvements as complying with the standards and specifications set forth in Attachment (__) of this Agreement. The inspection and certification, will occur within 14 days of notice by the Subdivider that the improvements are complete and that he desires City inspection and certification. Before requesting City certification of any improvement the Subdivider will present to the City valid lien waivers from all persons providing materials or performing work on the improvement.

   b. Certification by the City does not constitute a waiver by the City of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.

10. Notice of Defect: The City will provide timely notice to the Subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment (__), or is otherwise defective. The Subdivider will have 30 days from the date the notice is issued to remedy the defect. The City may not declare a default under this Agreement during the 30 day remedy period unless the Subdivider clearly indicates he does not intend to correct the defect. The Subdivider will have no right to correct the defect in, or failure of, any improvement found after the City accepts dedication of the improvements.

11. Reduction of Security: After the acceptance of any improvement, the amount that the City is entitled to draw on the letter of credit will be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment (__). At the request of the Subdivider, the City will execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all of the improvements the balance that may be drawn under the credit will be available to the City for the one year warranty period plus an additional 90 days.

12. Use of Proceeds: The City will use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

Other Provisions

13. Events of Default: The following conditions, occurrences or actions constitute a default by the Subdivider during the completion period:

   a. failure to complete construction of the improvements within two years of final subdivision plat approval;

   b. failure to remedy the defective construction of any improvement within the remedy period;

   c. insolvency of the Subdivider or the filing of a petition for bankruptcy;

   d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.

14. Measure of Damages: The measure of damages for breach of this Agreement is the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment (__) is prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the Subdivider's liability. The City may complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.

15. Local Government Rights Upon Default:

    a. Upon the occurrence of any event of default, the City may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost [as shown in Attachment (__)] of all improvements previously certified by the City. The City may complete improvements itself or contract with a third party for completion, or the City may assign the proceeds of the letter of credit to a subsequent subdivider who has acquired the Subdivision and who has the same rights of completion as the City if and only if the subsequent subdivider agrees in writing to complete the unfinished improvements.

    b. In addition, the City may suspend final plat approval. During this suspension the Subdivider may not sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the City until the improvements are completed and certified by the City.

16. Indemnification: The Subdivider agrees to indemnify and hold the City harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Subdivider is not an employee or agent of the City.

17. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City and by the Subdivider.

18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, is entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each will bear its own costs in their entirety.

19. Third Party Rights: No person or entity who is not party to this Agreement has any right of action under this Agreement, except that if the City does not exercise its rights within 60 days following an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the City to exercise its rights.

20. Scope: The Agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this Agreement is binding on the parties.

21. Time: For the purpose of computing the commencement and completion periods, and time periods for City action, times in which war, civil disasters, acts of God or extreme weather conditions occur will not be included if the events prevent the Subdivider or the City from performing the obligations under this Agreement.

22. Assigns: The benefits of this Agreement to the Subdivider may not be assigned without the express written approval of the City. Such approval may not be withheld unreasonably, but any unapproved assignment is void. There is no prohibition on the right of the City to assign its rights under this Agreement.

    The City will release the original Subdivider's letter of credit if it accepts a new security from any subdivider or lender who obtains the property. However, no action by the City constitutes a release of the original subdivider from his liability under this Agreement.

23. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal the illegality shall not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision were never part of the Agreement.

Dated this ___ day of _____, 20___.

_____
City Official

_____
Subdivider

## ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

The subdivider shall provide one or more of the following financial security guarantees in the amount of 100 percent of the estimated total cost of installing all required improvements.

1. Letter of Credit

   Subject to governing body approval, the subdivider shall provide the governing body a letter of credit from a bank or other reputable institution or individual certifying the following:

   a. That the creditor guarantees funds in an amount equal to the cost, as approved by the governing body, of completing all required improvements.

   b. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

   c. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.

2. Escrow Account

   The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body.

   Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

   a. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period.

   b. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

3. Property Escrow

   The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used, accounting for the possibility of a decline in its value during the guarantee period, must be established by a licensed real estate appraiser or securities broker, as applicable, at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

   When property is offered as an improvement guarantee, the subdivider shall:

a. Enter an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement must be placed on file with the county clerk and recorder.

b. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.

c. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

4. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

5. Surety Performance Bond

The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the County (City) of _____. The bond must be in effect until the completed improvements are accepted by the governing body.

6. Special Improvements District

The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA.

An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

**MODEL**

**IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. ___

Name of Local Government Date
Address

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # ___ for the account of (Subdivider), available by your drafts at sight up to an aggregate amount of $ _____. Should (Subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for (name of subdivision) we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to (expiration date) and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

> "Drawn under (lending institution), Letter of Credit # ___
> dated (date of Letter of Credit)," and the amount drawn endorsed on the reverse hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts will be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Lending Institution)

(Signature and Title of Official)

## APPENDIX E

## GRANT OF ACCESS EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20 ___, by and between _____, of _____, Montana, hereinafter referred to as the "Grantor", and __(subdivider)__ of _____, Montana, hereinafter referred to as the "Grantee."

THE GRANTOR does hereby give, grant and convey unto the Grantee, its successor and assigns, the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and to travel upon and use, a road and its necessary fixtures and appurtenances through, over, and across a corridor, 60 feet wide, shown on the attached certificate of survey, extending across the following described tract(s) of land:

(legal description of Grantor's property over which easement is granted)

THIS GRANT of right and authority shall run with the said property and be binding on the Grantor, its successors, all subsequent owners and any parties having right, title, or interest in the said property.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this ___ day of _____, 20 ___.

_____
Grantor

STATE OF MONTANA )
) ss.
County of _____)

On this ____ day of _____, 20 ___, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this ___ day of _____, 20 ___.

_____
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires _____

GREEN- changes made to align with Growth Policy
YELLOW- changes made as result of Community Experience (i.e. lessons learned) since GP adoption
BLUE- new updates based on last direction from Commission in Feb 2025 and additional staff review
Changes NOT HIGHLIGHTED are housekeeping or are mandated by state

**Chapter 28 – SUBDIVISION REGULATIONS**
`

**Insert Table of Contents Here**

## 28.1. DEFINITIONS

Whenever the following words or phrases appear in these regulations, they shall have the meaning assigned to them by this section. When not inconsistent with the context, words used in the present tense include the future; the singular, unless otherwise specifically defined in a particular section, includes the plural, and the plural the singular; the word "shall" is always mandatory, and the word "may" indicates use of discretion in making decisions.

AGRICULTURE: The production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticulture crops that are raised, grown, or produced for commercial purposes.

AGRICULTURAL WATER USER FACILITIES: Any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.

BLOCK: A group of lots, tracts or parcels within well-defined and fixed boundaries.

CERTIFICATE OF SURVEY: A drawing of a field survey prepared by a registered surveyor for the purpose of disclosing facts pertaining to boundary locations.

COVENANT (RESTRICTIVE COVENANT): A limitation contained in a deed that restricts or regulates the use of the real property.

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

DEQ: The Montana Department of Environmental Quality.

DIVISION OF LAND: The segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to the MSPA. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land. [76-3-103(4), MCA].

DWELLING UNIT: Any building or portion thereof providing complete, independent and permanent living facilities for one household.

EASEMENT: Authorization by a property owner for another to use all or a portion of the owner's property for a specified purpose.

ENGINEER (REGISTERED PROFESSIONAL ENGINEER): A person licensed in conformance with the Montana Professional Engineers' Registration Act (Title 37, Chapter 67, MCA) to practice engineering in the State of Montana.

FIRE RESISTANT LANDSCAPING: vegetation types and placement that are intended to minimize ignition potential during a fire event. Native, deciduous trees and shrubs are preferred over coniferous vegetation. Decorative rocks, stone, or other non-flammable or flame-resistant materials are encouraged

FLOOD: The water of any watercourse or drainage which is above the bank or outside the channel and banks of such watercourse or drainage.

FLOOD OF 100 YEAR FREQUENCY: A flood magnitude expected to recur on the average of once every 100 years, or a flood magnitude which has a one percent chance of occurring in any given year.

FLOODPLAIN: The area adjoining the watercourse or drainage that would be covered by the floodwater of a flood of 100-year frequency.

FLOODWAY: The channel of a watercourse or drainage and those portions of the floodplain adjoining the channel that are reasonably required to carry and discharge the floodwater of any watercourse or drainage.

GOVERNING BODY: The governing authority of a county, city, town, or consolidated local government organized pursuant to law.

GROWTH POLICY: A comprehensive development plan, master plan, or comprehensive plan that was adopted pursuant to this chapter before October 1, 1999, or a policy that was adopted pursuant to Title 76, MCA, on or after October 1, 1999.

LOCAL SERVICES: All services provided by any local government unit having jurisdiction over the subdivision as well as those commonly provided by private entities to similar properties in the vicinity.

LOT: A parcel, plot, or other land area created by subdivision for sale, rent, or lease.

LOT MEASUREMENT:

a. Lot Depth -- The length of a line drawn perpendicularly to the front lot line and extending to the rear lot line.
b. Lot Width -- The average width of the lot.
c. Lot Frontage -- The width of the front lot line.
d. Lot Area -- The area of a lot determined exclusive of street, highway, alley, road, or other rights-of-way.

LOT TYPES:

a. Corner Lot: A lot located at the intersection of two streets.
b. Interior Lot: A lot with frontage on only one street.
c. Through or Double-Frontage Lot: A lot whose front and rear lines both abut on streets.

MAJOR SUBDIVISION: A subdivision that creates six (6) or more lots from a tract of record.

MINOR SUBDIVISION: A subdivision that creates five (5) or fewer lots from a tract of record.

MOBILE HOME: 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 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 SPACE: A designated portion of a parcel of land designed for the accommodation of one mobile home and its accessory buildings or structures for the exclusive use of the occupants.

MOBILE HOME PARK: A tract of land that provides or will provide spaces for two (2) or more mobile homes.

MOBILE HOME PAD: That area of a mobile home space which has been prepared for the placement of a mobile home.

MONTANA DEPARTMENT OF ENVIRONMENTAL QUALITY MINIMUM STANDARDS: Minimum standards promulgated by the Montana Department of Environmental Quality, pursuant to Title 76, Chapter 4, Part 1, MCA. Sanitation in Subdivisions

MSPA: Montana Subdivision and Platting Act, Title 76, Chapter 3, MCA.

NATURAL ENVIRONMENT: The physical conditions that exist within a given area.

OPEN SPACE: Land or water areas retained for use as active or passive recreation areas or for resource protection in an essentially undeveloped state.

OVERALL DEVELOPMENT PLAN: The plan of a subdivision design for a single tract proposed to be subdivided in stages.

PHASED DEVELOPMENT: A subdivision application and preliminary plat that, at the time of submission, consists of independently platted development phases that are scheduled for review on a schedule proposed by the subdivider.

PLANNED UNIT DEVELOPMENT (P.U.D.): A land development project consisting of a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use.

PLANNING BOARD: The City of Livingston Consolidated Land Use Board.

PLANNING DEPARTMENT: The City Planning Director or any designee of the Planning Director who is charged with administering the subdivision review process.

PLAT: A graphical representation of a subdivision showing the division of land into lots, parcels, blocks, streets, alleys, and other divisions and dedications.

a. Preliminary Plat: A neat and scaled drawing of a proposed subdivision showing the layout of streets, alleys, lots, blocks, and other elements of a subdivision that furnish a basis for review by a governing body as more specifically set forth in these regulations and the MSPA.

b. Final Plat: The final drawing of the subdivision and dedication required to be prepared for filing for record with the county clerk and recorder containing all elements and requirements set forth in these regulations and the MSPA. (Title 76, Chapter 3, MCA).

c. Amended Plat: The final drawing of any change to a filed platted subdivision.

PUBLIC HEALTH AND SAFETY: A condition of well-being wherein risk of injury to the community at large is minimized.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the residents of a subdivision or the general public.

PUBLIC ROAD OR STREET: A road or street which has been dedicated for public use.

RECREATIONAL CAMPING VEHICLE: A vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own motor power or is mounted on or drawn by another vehicle.

RECREATIONAL CAMPING VEHICLE PARK: A tract of land available to and principally used by the public for camping, where persons can park recreational camping vehicles for camping and sleeping purposes.

RECREATIONAL CAMPING VEHICLE SPACE: A designated portion of a recreational camping vehicle park designed for the placement of a single recreational camping vehicle and the exclusive use of its occupants.

STATE: The State of Montana.

STREET TYPES: For purposes of these regulations, street types are defined as follows:

a. Alley: A public right-of-way that can be used to provide secondary vehicular access to the rear of a property that has its primary access from a public street.An alley is not intended to be used for general through traffic.

b. Arterial: A street or road having the primary function of moving traffic with emphasis on a high level of mobility for through movement and the secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two (2) to four (4) lanes of moving traffic and should provide only limited access to abutting property.

c. Collector: A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two (2) moving traffic lanes and up to two (2) parking lanes.

d. Local Streets: A street or road having the primary function of serving abutting properties, and the secondary function of moving traffic. Local streets have two (2) moving lanes of traffic, up to two (2) parking lanes, and provide access to abutting properties.

e. Cul-de-sac: A street having only one outlet for vehicular traffic and terminating in a turn-around area.

f. Loop: A local street which begins and ends on the same street, generally used for access to properties.

g. Frontage Access (Service Road): A local or collector street, usually parallel and adjacent to an arterial or major collector, which provides access to abutting properties and controls traffic access to arterials or collectors.

SUBDIVIDER: Any person, firm or corporation, or other entity which causes land to be subdivided or which proposes a subdivision of land [76-3-103(15), MCA]. When used in these regulations, the term "subdivider" also includes the subdivider's agent, if the subdivider has provided the Planning Department written notification that the subdivider's agent is authorized to act on the subdivider's behalf and to receive notices regarding local government decisions concerning the subdivision.

SUBDIVISION: A division of land or land so divided which creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased, or otherwise conveyed. The term also means an- area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or manufactured homes will be placed [76-3-103(16), MCA].

SURVEYOR (REGISTERED LAND SURVEYOR): A person licensed in conformance with the Montana Professional Engineer's Registration Act (Title 37, Chapter 67, MCA) to practice surveying in the State of Montana.

SURVEYOR (EXAMINING LAND SURVEYOR): A registered land surveyor duly appointed by the governing body to review surveys and plats submitted for filing.

SWALE: A drainage channel or depression designed to direct surface water flow.

TRACT OF RECORD: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [76-3-103(17)(a), MCA].

VEGETATIVE FUELS REDUCTION: Vegetation management that reduces the availability of vegetation that can ignite during a fire event. This includes reducing the amount of brush, grass,

and vegetative detritus in an area. Grasses must be maintained at or below 12 inches in height. Shrubs and trees must be spaced and pruned to minimize ignition risk.

VICINITY SKETCH: A map at a scale suitable to locate a proposed subdivision, showing the boundary lines of all adjacent properties and streets and other information necessary to determine the general location of the proposed subdivision.

WILDLAND URBAN INTERFACE (WUI): The line, area, or zone where structures and other human development meet or intermingle with undeveloped wildland or vegetative fuels, as delineated in the *Western Montana Regional Hazard Mitigation Plan*.

WILDLIFE: Those animals that are not domesticated or tamed.

WILDLIFE HABITAT: The physical surroundings required for the existence of wildlife.

## 28.2. GENERAL PROVISIONS

28.2.1. Title

These regulations will be known and may be cited as "The Subdivision Regulations of the City of Livingston, MT;" hereinafter referred to as "these regulations."

28.2.2. Authority

Authorization for these regulations is contained in the MSPA. (Title 76, Chapter 3, MCA.).

28.2.3. Purpose

The purposes of these regulations are to promote the public health, safety, and general welfare by regulating the subdivision of land; to prevent the overcrowding of land; to lessen congestion in the streets and highways; to provide for adequate light, air, water supply, sewage disposal, parks and recreation areas, ingress and egress, and other public requirements; to require development in harmony with the natural environment; to promote preservation of open space; to promote effective and efficient provision of public services; to protect the rights of property owners; to require uniform monumentation of land subdivisions and transferring interests in real property by reference to a plat or certificate of survey; and to provide for phased development. (76-3-102, MCA).

These regulations are intended to comply with part five of the MSPA, and are intended to promote:

a. The orderly development of the jurisdictional area.
b. The coordination of roads within subdivided land with other roads, both existing and planned.
c. The dedication of land for roadways and for public utility easements.
d. The improvement of roads.
e. The provision of adequate open spaces for travel, light, air, and recreation.
f. The provision of adequate transportation, water, and drainage. Subject to the provisions of 76-3-511, the regulation of sanitary facilities.
g. The avoidance or minimization of congestion.

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

28.2.4. Jurisdiction

These regulations govern the subdivision of land within the jurisdictional area of the governing body of the City of Livingston.

28.2.4.1. If a proposed subdivision lies within two (2) miles of the city limits, the county governing body must submit the preliminary plat to the City of Livingston Planning Department. If a proposed subdivision lies partly within the City of Livingston, the preliminary plat must be submitted to, and approved by, both the City of Livingston and Park County.

28.2.4.2. These regulations supplement all other regulations, and where they are at variance with other laws, regulations, ordinances, or resolutions, the more restrictive requirements apply.

28.2.5. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these regulations invalid, that judgment will affect only the part held invalid.

## 28.3. GENERAL PROCEDURES

28.3.1. Construction Timing

The subdivider may not proceed with any construction work on a proposed subdivision, including grading and excavation relating to public improvements, until the governing body has given preliminary approval of the proposed subdivision plat.

28.3.2. Transfers of Title

Except as noted below, a final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. After the preliminary plat of a subdivision has been approved or conditionally approved, the subdivider may enter into contracts to sell lots in the proposed subdivision if all of the following conditions are met (76-3-303, MCA):

28.3.2.1. That under the terms of the contracts the purchasers of lots in the proposed subdivision make any payments to an escrow agent, which must be a bank or savings and loan association chartered to do business in the State of Montana;

28.3.2.2. That under the terms of the contracts and the escrow agreement the payments made by purchasers of lots in the proposed subdivision may not be distributed by the escrow agent to the subdivider until the final plat of the subdivision is filed with the county clerk and recorder.

28.3.2.3. That the contracts and the escrow agreement provide that if the final plat of the proposed subdivision is not filed with the county clerk and recorder within two years of the preliminary plat approval, the escrow agent shall immediately refund to each purchaser any payments made under the contract;

28.3.2.4. That the contracts contain the following language conspicuously set out therein: "The real property which is the subject hereof has not been finally platted, and until a final plat identifying the property has been filed with the county clerk and recorder, title to the property cannot be transferred in any manner;"

28.3.2.5. That the county treasurer has certified that no real property taxes assessed and levied on the land to be divided are delinquent; and

28.3.2.6. A copy of the contracts and escrow agreement described above must be submitted to the Planning Department.

28.3.3. Permission to Enter

The governing body or its designated agent(s) or agency may investigate, examine, and evaluate the site of the proposed subdivision to verify information provided by the subdivider. The submission of a subdivision application constitutes a grant of permission by the subdivider to enter the subject property.

28.3.4. Appeals

28.3.4.1. A person who has filed with the governing body an application for a subdivision under the MSPA and these regulations may bring an action in district court to sue the governing body to recover actual damages caused by a final action, decision, or order of the governing body or a regulation adopted pursuant to the MSPA that is arbitrary or capricious.

28.3.4.2. A party identified in section 28.3.4.3below who is aggrieved by a decision of the governing body to approve, conditionally approve, or deny an application and preliminary plat for a proposed subdivision or a final subdivision plat may, within thirty (30) days after the decision, appeal to the district court in the county in which the property involved is located. The petition must specify the grounds upon which the appeal is made.

28.3.4.3. The following parties may appeal as provided above:

28.3.4.3.1. The subdivider;

28.3.4.3.2. A landowner with a property boundary contiguous to the proposed subdivision or a private landowner with property within the county or municipality where the subdivision is proposed if that landowner can show a likelihood of material injury to the landowner's property or its value;

28.3.4.3.3. The county commissioners of the county where the subdivision is proposed; and

28.3.4.3.4. The City of Livingston if within 2 miles of the city limits.

28.3.4.4. For the purposes of this section, "aggrieved" means a person who can demonstrate a specific personal or legal interest, as distinguished from a general interest, who has been or is likely to be specifically and injuriously affected by the decision.

28.3.5. Expedited Review

28.3.5.1. Subdivisions under the jurisdiction of these regulations are entitled to the expedited review process provided for in 76-3-623, MCA at the applicant's request. Applications for expedited review shall be subject to the review process contained in Appendix A.

## 28.4. MAJOR SUBDIVISIONS

28.4.1. Review and Approval Procedures for Major Subdivisions

Subdivisions that qualify for major subdivision review are those divisions of land containing six (6) or more lots, or subdivisions of five (5) or fewer lots that do not otherwise qualify for review as minor subdivisions under 76-3-609, MCA and these regulations.

28.4.2. Pre-application Process

28.4.2.1. Prior to submittal of the subdivision application, the subdivider shall request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) days after the subdivider submits a written request for the meeting to the Planning Department.

28.4.2.2. At the time of the pre-application meeting request, the subdivider shall provide the Planning Department with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch drawn directly on a print of the topographic map and should include the following:

28.4.2.2.1. Information on the current status of the site, including:

a. location;
b. approximate tract and lot boundaries of existing tracts of record;
c. description of general terrain;
d. natural features;
e. existing structures and improvements;
f. existing utility lines and facilities;
g. existing easements and rights of way.

28.4.2.2.2. Information on the proposed subdivision, including:

a. tract and lot boundaries;
b. proposed public improvements;
c. location of utility lines and facilities;

d. easements and rights of way;
e. parks and open space.

28.4.2.3. At the pre-application meeting, the following will occur:

28.4.2.3.1. The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

28.4.2.3.2. The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision

28.4.2.3.3. The Planning Department shall identify particular additional information the Department anticipates will be required for review of the subdivision application pursuant to Section28.4.4. This does not limit the ability of the City to request additional information at a later time.

28.4.2.3.4. Unless the subdivider submits the subdivision application as provided in Section 28.4.3 of these regulations within 180 working days of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application.

28.4.3. Subdivision Applications

The subdivider shall submit to the Planning Department a subdivision application containing the following materials:

28.4.3.1. Two (2) copies of the completed Subdivision Application form and the supplements required therein (see Appendix C), including the required Environmental Assessment.

28.4.3.2. The required review fee ;

28.4.3.3. Three (3) copies of the preliminary plat of the proposed subdivision which:

28.4.3.3.1. Contains the information required for preliminary plats;

28.4.3.3.2. Conforms to the Design and Improvement Standards set forth in Section 28.7;

28.4.3.3.3. Proof that the subdivider has submitted for review copies of the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and

28.4.3.3.4. Such additional relevant and reasonable information as identified by the Planning Department during the pre-application meeting pursuant to Section 28.4.2.3.3that is pertinent to the required elements of this Section.

28.4.3.3.5. One electronic copy of the subdivision application and all listed supporting material.

28.4.3.4 For all Major Subdivisions, a Traffic Impact Study, certified by a licensed, qualified Engineer, must be included with the application.

28.4.4. Review Process

28.4.4.1. Element Review

28.4.4.1.1. Within five (5) working days of receipt of a subdivision application and fee, the Planning Department shall determine whether the application contains all of the applicable elements and materials required by Section 28.4.3 of these regulations and shall give written notice to the subdivider of the Department's determination.

28.4.4.1.2. If the Planning Department determines that elements are missing from the application, those elements shall be identified in the notification and the Department shall take no further action on the application until the missing elements are submitted.

28.4.4.1.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have five (5) working days to notify the subdivider whether the resubmitted application contains all the materials required.

28.4.4.2. Sufficiency Review

28.4.4.2.1. Within fifteen (15) working days after the Planning Department notifies the subdivider that the application contains all of the required elements as provided in Section 28.4.4.1, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the provisions of the MSPA and these regulations and shall give written notification to the subdivider of the Department's determination.

28.4.4.2.2. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the notification shall identify the insufficient information and the Department shall take no further action on the application until the material is resubmitted.

28.4.4.2.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under provisions of the MSPA and these regulations.

28.4.4.2.4. A determination that an application contains sufficient information for review as provided in this Section does not ensure that the proposed subdivision will be approved or conditionally approved by the governing body and does not limit the ability of the Planning Department, Planning Board, or the governing body to request additional information during the review process.

28.4.4.3. Applicable Regulations

Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is submitted and deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations.

28.4.4.4. Time Period for Approval, Conditional Approval, or Denial

Within sixty (60) working days, the governing body shall approve, conditionally approve or deny the proposed subdivision , unless the subdivider and the Department agree to an extension or suspension of the review period. The review period of sixty (60) working days begins once the Planning Department has given notice to the subdivider that the subdivision application is sufficient for review. If the subdivision application contains 50 or more lots, the review period is increased to 80 working days. Notification constitutes the date when the Planning Department sends the notice to the subdivider.

28.4.4.5. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the governing body's action on the subdivision application beyond the sixty (60) or eighty (80) working day review period. The governing body will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the Planning Department contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response.

28.4.5. Planning Board Hearing, Consideration and Recommendation

28.4.5.1. Hearing

After the subdivision application is deemed to have all the required elements and contain detailed, supporting information that is sufficient to allow for review, the Planning Board shall hold a public hearing on the subdivision application.

28.4.5.2. Notice

Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the County not less than fifteen (15) days prior to the meeting date.

At least fifteen (15) days prior to the date of the hearing, notice shall be given by certified mail to the subdivider, each property owner of record whose property is immediately adjoining the land included in the preliminary plat, and each purchaser under contract for deed of property immediately adjoining the land included in the preliminary plat.

28.4.5.3. Consideration Standards

In recommending approval, conditional approval or denial of the subdivision application, the Planning Board shall base its recommendation on compliance of the subdivision application with the following:

28.4.5.3.1. These regulations, including but not limited to the design standards set forth in Section 28.7;

28.4.5.3.2. Applicable zoning regulations;

28.4.5.3.3 The MSPA, including but not limited to 76-3-608(3), MCA, as delineated in Section 28.4.7.2.3 of these regulations; and

28.4.5.3.3. Other applicable regulations;

28.4.5.4. Recommendation

The planning board shall evaluate the proposed subdivision under the review criteria in Section 28.4.7 taking into consideration the preliminary plat application, staff report, variance request(s) (when applicable), any additional information submitted and all public comments received. Within ten (10) working days after the public hearing, the planning board shall make a recommendation to the governing body to approve, conditionally approve, or deny the subdivision based on established findings of fact that

support the recommendation. The board's recommendation shall be provided in writing to the applicant and the governing body and include:

28.4.5.4.1. Recommended findings of fact that describe the factual evidence and analysis of compliance with the submittal requirements and review criteria;

28.4.5.4.2. Recommended conditions and mitigation measures;

28.4.5.4.3. Disclosure of any preferences for mitigation expressed by the applicant to the planning board;

28.4.5.4.4. A recommendation for approval or denial of any variance requests, including any conditions of approval and a summary of facts forming the basis for the recommendation;

28.4.5.4.5. An account of all agency and public comments received during the review process;

28.4.5.4.6. The staff report as submitted to the planning board.

28.4.6. Subdivider's Preference for Mitigation

No later than ten (10) days before the meeting at which the governing body is to consider the subdivision application and preliminary plat, the subdivider may submit in writing to the governing body the subdivider's comments on and responses to the Planning Board's recommendations. This document may include the subdivider's alternative proposals, if any, for mitigating the impacts identified in the Planning Board's recommendations. The governing body will consult with the subdivider and will give due weight and consideration to the subdivider's expressed preference.

28.4.7. Governing Body Decision and Documentation

28.4.7.1. Prerequisites to Approval

The governing body may not approve or conditionally approve a subdivision application and preliminary plat unless the proposed subdivision:

28.4.7.1.1. Provides easements for the location and installation of any planned utilities;

28.4.7.1.2. Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel;

28.4.7.1.3. Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed as provided by section 28.4.9.5 of these regulations; and

28.4.7.1.4. Complies with the requirements of 76-3-504, MCA, regarding the disclosure and disposition of water rights.

28.4.7.1.5 The governing body shall determine whether public comments or other information presented to the governing body at a hearing held pursuant to MCA 76-3-605:

Constitutes relevant, new information regarding a subdivision application or substantial change to the design of the subdivision that has never been submitted as evidence or considered by the governing body or its agent or agency and has a substantial effect on the governing body's consideration of the application.

The governing body may:

Approve, conditionally approve or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible or the change in design of the subdivision does not substantially impact the analysis of potentially significant adverse impacts; or

Schedule or direct its agent or agency to schedule a subsequent hearing for consideration of only the new information, including a substantial change to the design of the subdivision for purposes of considering its findings of fact and conclusions and any proposed conditions of approval in light of the new information that the governing body will rely on in making its decision on the proposed subdivision.

If a subsequent hearing is held, the 60 or 80-day review period is suspended and the new hearing must be noticed and held within 45 days of the governing body's determination to schedule a new hearing. After the new hearing, the 60 or 80-day time limit resumes at the governing body's next scheduled public meeting for which proper notice can be provided for the consideration of the subdivision.

28.4.7.3. Evidence

The basis for the governing body's decision to approve, conditionally approve, or deny a proposed subdivision is whether the subdivision application, preliminary plat, applicable environmental assessment, public hearing, staff report, planning board recommendations, or additional information demonstrates that development of the proposed subdivision meets the requirements of the Montana Subdivision and Platting Act. A governing body may not deny approval of a proposed subdivision based solely on the subdivision's impacts on educational services or based solely on parcels within the subdivision having been designated as wildland-urban interface parcels under 76-13-145 M.C.A.

A governing body may not withhold, deny, or impose conditions on any land use approval based solely on compliance with an adopted growth policy. A growth policy is not a regulatory document and does not confer any authority to regulate that is not otherwise specifically authorized by adopted law or regulations. §76-1-605 M.C.A.

28.4.7.2. Consideration

In approving, conditionally approving, or denying a subdivision application and preliminary plat, the governing body shall consider section 28.4.7.1 above, and whether the proposed subdivision complies with:

28.4.7.2.1. These regulations, including, but not limited to, the design standards set forth in Section 28.7;

28.4.7.2.2. Applicable zoning regulations;

28.4.7.2.3. Other applicable regulations; and

28.4.7.2.4 The MSPA, including but not limited to the following factors that are representative of, but not an exhaustive list of impacts on the criteria identified in 76-3-608(3)(a), MCA:

28.4.7.2.3.1. Impacts on agriculture

Agriculture is defined as the production of food, feed, and fiber commodities, livestock and poultry, bees, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes.

~~(1) Does the proposed subdivision include soils defined as having prime, statewide or local importance by the USDA Natural Resources Conservation Service?~~

(2) Would the subdivision remove agricultural or timberlands with significant existing or potential production capacity?

(3) Would the subdivision remove from production agricultural lands that are critical to the area's agricultural operations?

(4) Would the subdivision create significant conflict with nearby agricultural operations (e.g. creating problems for moving livestock, operating farm machinery, maintaining water supplies, controlling weeds, applying pesticides or would the subdivision generate nuisance complaints due to nearby agricultural operations)?

28.4.7.2.3.2. Impact on agricultural water user facilities

Agricultural water user facilities are defined as any part of an irrigation system used to produce an agricultural product on property used for agricultural purposes.

(1) Would the subdivision create a significant conflict with agricultural water user facilities (e.g. creating problems for operating and maintaining irrigation systems, including physical access or easements for those systems,or creating nuisance complaints due to safety concerns, noise, etc.)?

(2) Would the subdivision impact availability or movement of water with respect to bridges, culverts or other crossings?

28.4.7.2.3.3. Impact on local services

Local services are defined as all services provided by any local government unit having jurisdiction over the subdivision as well as those commonly provided by private entities to similar properties in the vicinity.

(1) What additional or expanded public services and facilities would be demanded to serve this subdivision?
   a. What additional costs would result for services such as streets, law enforcement, parks and recreation, fire protection, water, sewer and solid waste, schools and busing (including additional personnel, equipment, construction and maintenance costs)?
   b. Who would bear these costs?
   c. Can the service providers meet the additional costs given legal and other constraints?
   d. Will required additional or expanded public services be completed before build out of the subdivision?

(2) Would the subdivision allow existing services, through expanded use, to operate more efficiently or make the installation or improvement of services feasible?

(3) What are the present tax revenues received from the unsubdivided land by the County, City and Schools?

(4) What would be the approximate revenues received by each above taxing authority when the subdivision is improved and built upon?

(5) Would new taxes generated from the subdivision cover additional public costs?

(6) Would any special improvement districts be created which would obligate the City fiscally or administratively?

28.4.7.2.3.4. Impact on natural environment

The natural environment is defined as the physical conditions that exist within a given area.

(1) How would the subdivision affect surface and groundwater, soils, slopes, vegetation, historical or archaeological features, scenic resources within the subdivision or on adjacent lands?
   a. Would any streambanks be altered, streams rechanneled or surface water quality be negatively impacted from run-off carrying sedimentation or other pollutants?
   b. Would riparian or wetland areas be negatively impacted?
   c. Would groundwater supplies be contaminated or depleted as a result of the subdivision?
   d. Would construction of streets or building sites result in excessive cuts and fills on steep slopes or cause erosion on unstable soils?
   e. Would significant vegetation be removed causing soil erosion or bank instability?
   f. Is there a plan in place to prevent infestation by noxious weeds?
   g. Would significant historical or archaeological features or significant natural habitats be damaged or destroyed by the subdivision?

28.4.7.2.3.5. Impacts on wildlife and habitat

Wildlife and wildlife habitat are defined as living things that are neither human nor domesticated and the physical surroundings required for their existence.

(1) Would the subdivision impact any species protected by the Endangered Species Act or that are identified as being of special interest or concern to the state of Montana?

(2) How would the subdivision affect critical wildlife areas such as big game wintering range, migration routes, nesting areas, wetlands, aquatic, or other important habitat?

(2) How would pets or human activity affect wildlife?

28.4.7.2.3.6. Impacts on public health and safety

Public health and safety is defined as a condition of well being wherein risk of injury to the community at large is minimized.

(1) Would the subdivision be subject to, result in the creation of, or impact public health and safety concerns including, but not limited to, those listed below?
   a. Flooding

b. Geologic Hazards
c. Air Quality
d. Wildfires
e. High Water Table/ Groundwater
f. High Voltage Transmission Lines
g. Hazardous Waste Exposure
h. Industrial Uses
i. Surface Transportation
j. Wildlife

(2) Would the provision of city-wide emergency services, including access, be adversely impacted?

All subdivisions under the jurisdiction of these regulations will be serviced by the City's municipal water and sanitary sewer utilities. The City will also review and approve storm water plans to ensure adequate storm water drainage. Subdividers will be required to submit, to the Department of Environmental Quality, a Municipal Facilities Exclusion application after the City has approved the utility and storm water design for the subdivision and prior to final plat approval.

28.4.7.5. Documentation of Governing Body Decision

28.4.7.5.1. In rendering its decision to approve, conditionally approve, or deny the proposed subdivision, the governing body shall issue written Findings of Fact that discuss and weigh the proposed subdivision's compliance with section 28.4.7.1 and 28.4.7.2 above..

28.4.7.5.2. When the governing body approves, denies, or conditionally approves the proposed subdivision, it shall within 30 working days of its decision, prepare a written statement that must be provided to the applicant, that must be made available to the public, and that must:

28.4.7.5.2.1. Include information regarding the appeal process for the denial or imposition of conditions;

28.4.7.5.2.2. Identify the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;

28.4.7.5.2.3. Provide the facts and conclusions that the governing body relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision; and

28.4.7.5.2.4. Provide the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

28.4.7.6. Subdivision Application and Preliminary Plat Approval Period

28.4.7.6.1. Approval or conditional approval of a preliminary plat shall be in effect for two (2) calendar years from the date the subdivider is notified of the governing body action. At the end of this period, the governing body may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time. The governing body may issue more than one extension.

28.4.7.6.2. Except when reviewing a Phased Development under 76-3-617, M.C.A., after the application and preliminary plat are approved, the governing body may not impose any additional conditions as a prerequisite to final plat approval unless the preliminary plat approval expires.

28.4.7.6.3. The governing body may withdraw approval of an application and preliminary plat if it determines that information provided by the subdivider, and upon which the approval or conditional approval was based, is inaccurate.

28.4.8. Amended Applications

28.4.8.1. If the subdivider changes the subdivision application or preliminary plat after the Planning Department makes a determination of sufficiency pursuant to Section 28.4.4.2 but before the Planning Board hearing, the subdivider shall submit the amended application to the Planning Department for review.

28.4.8.1.1. Within five (5) working days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material.

28.4.8.1.2. The sixty (60) or eighty (80) working day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.

28.4.8.1.3. If the Planning Department determines the changes are not material, the sixty (60) or eighty (80) working day review period resumes when the Planning Department mails notice of the decision to the subdivider.

28.4.8.1.4. If the Planning Department determines the changes are material, the Department may either require the subdivider to schedule a new pre-application meeting and resubmit the application as a new subdivision application or proceed with the sixty (60) or eighty (80) working day review period.

28.4.8.2. If the subdivider changes the subdivision application or preliminary plat after the Planning Board hearing but before the governing body review, the subdivider shall submit the amended application or preliminary plat to the Planning Department.

28.4.8.2.1. Within five (5) working days of receiving the amended application or preliminary plat, the Planning Department shall determine whether the changes to the subdivision application or preliminary plat are material.

28.4.8.2.2. The sixty (60) or eighty (80) working day review period is suspended while the Planning Department considers whether the changes to the subdivision application or preliminary plat are material.

28.4.8.2.3. If the Planning Department determines the changes are not material, the sixty (60) or eighty (80) working day review period resumes when the Department mails notice of the decision to the subdivider.

28.4.8.2.4. If the Planning Department determines the changes are material, the Department shall:

28.4.8.2.4.1. Schedule a new Planning Board hearing to take comment on the amended application or preliminary plat. Notice of the new Planning Board hearing shall be provided as set forth in Section 28.4.5.2. . A supplemental staff report shall be prepared to address the changes to the original application.

28.4.8.2.4.2. The subdivider will be assessed an additional fee for reviewing the amendment according to the current Subdivision Review Fee Schedule.

28.4.8.2.5. When a new Planning Board hearing is held pursuant to 28.4.8.2.4.1above, the sixty (60) or eighty (80) working day review period is suspended until ten (10) working days after the date of the second Planning Board hearing.

28.4.8.3. By making changes to a pending subdivision application or preliminary plat, the subdivider consents to suspension of the review period as provided in 28.4.8.1.2 and 28.4.8.2.2.

28.4.8.4. The following changes, although not an exhaustive list, may be considered material:

28.4.8.4.1. Configuration or number of lots;

28.4.8.4.2. Road layout;

28.4.8.4.3. Water and/or sewer proposals;

28.4.8.4.4. Configuration of park land or open spaces;

28.4.8.4.5. Easement provisions; and

28.4.8.4.6. Designated access.

28.4.8.5. A subdivider whose subdivision application or preliminary plat has been deemed materially changed by the Planning Department may appeal the decision to the governing body by written notice within ten (10) working days. The subdivider may request a hearing, and may submit additional evidence to show that the changes to the preliminary plat are not material.

28.4.8.5.1. The sixty (60) or eighty (80) working day review period is suspended until the governing body decision on the appeal is made.

28.4.8.5.2. If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are material, the governing body shall order that the subdivision application be rescheduled for rehearing in front of the Planning Board pursuant to 28.4.8.2.4.1.

28.4.8.5.3. If the governing body concludes that the evidence and information demonstrate that the changes to the subdivision application or preliminary plat are *not* material, the sixty (60) or eighty (80) working day review period resumes as of the date of the decision.

28.4.8.5.4. By appealing the decision of the Planning Department, the subdivider agrees to suspension of the sixty (60) or eighty (80) working day review period provided 28.4.8.5.1 above.

28.4.9. Final Plats

28.4.9.1 Final Plat Submittal

The final plat must be submitted to the Planning Department before the expiration of the subdivision application and preliminary plat approval period described in 28.4.7.6. All required documents shall be submitted to the Planning Department at least thirty (30) working days prior to the expiration of preliminary plat approval or an extension thereto, and no less than ten (10) working days prior to the date the final plat is presented to the governing body for approval. The submittal shall include, as applicable:

28.4.9.1.1 A final plat application;
28.4.9.1.2. The final plat as described in 28.4.9.2;
28.4.9.1.3. The appropriate fee;
28.4.9.1.4. All required information;
28.4.9.1.5. A written explanation of how each of the conditions of the preliminary plat approval has been satisfied.

28.4.9.2. Final Plat Contents

The final plat submitted for approval must conform to the preliminary plat as previously reviewed and approved by the governing body and must incorporate all required modifications and comply with all conditions imposed at the time of subdivision application and preliminary plat approval. The final plat and accompanying documents must comply with the Montana Uniform Standards for Final Subdivision Plats. Final plats of subdivisions approved for phased development may be filed sequentially in accordance with the approval.

28.4.9.3. Final Plat Review

28.4.9.3.1. The Planning Department shall review the final plat to ascertain that all conditions and requirements for final plat approval have been met. The Planning Department will not accept, begin processing, nor schedule any actions on a final plat submittal until a complete application and fee have been received. Final plat applications will not be considered complete until all conditions of preliminary approval have been satisfied.

28.4.9.3.2. The City may require that final subdivision plats be reviewed for errors and omissions in calculation or drafting by an examining land surveyor before recording with the Clerk and Recorder. When the survey data shown on the plat meets the conditions pursuant to these regulations, the examining surveyor shall certify the compliance in a printed or stamped certificate on the plat. The certificate must be signed by the surveyor.

28.4.9.4. Restrictive Covenants – Approval and Content

If common property is to be deeded to a property owners' association, the covenants and by-laws which govern the association must, at a minimum, provide for the:

28.4.9.4.1. Formation of a property owners' association concurrently with the filing of the final subdivision plat;

28.4.9.4.2. Mandatory membership for each property owner. Purchasers of property may also be required to sign a waiver of right to protest the formation of a maintenance district to maintain improvements;

28.4.9.4.3. Perpetual reservation of the common property when required under 76-3-621(6)(a), MCA;

28.4.9.4.4. Payment of liability insurance premiums, local taxes, and the cost of maintaining recreational or other facilities;

28.4.9.4.5. Placement of liens on the property of lot owners who are delinquent in the payment of association fees and assessments;

28.4.9.4.6. Adjustment of assessments to meet changing needs;

28.4.9.4.7. Means of enforcing the covenants, and of receiving and processing complaints;

28.4.9.4.8. Dissolution of the association and modification of the covenants and restrictions after obtaining the governing body's approval of the change; and

28.4.9.4.9. Regular maintenance of roads, parks, buildings, drainage facilities, and other facilities controlled by the association.

Covenants must comply with all state regulations and shall not be more restrictive than local zoning regulations.

.

28.4.9.5. Public Improvements Agreement; Guaranty

As a condition of approval of the final plat, the subdivider must have installed all required improvements or have entered into a subdivision improvements agreement guaranteeing the construction, installation, and maintenance of all required improvements (76-3-507, MCA). Bonding and Financial Guaranty requirements are included in forms in Appendix C.

28.4.9.6. Final Plat Approval/Denial

The governing body shall examine every final subdivision plat and, within thirty (30) working days of its submission to the Planning Department, shall approve it if it conforms to the conditions of preliminary plat approval and to the terms of the MSPA and these regulations or deny it.

28.4.9.6.1. Approval.The governing body shall certify its approval on the face of the final plat. When applicable, a certificate of the governing body expressly accepting any dedicated land, easements, or improvements will be filed with the final plat.

28.4.9.6.2. Denial. If the final plat is denied, the governing body shall provide written notice to be sent to the subdivider stating the reason for denial. The governing body will return the final plat to the subdivider within ten (10) working days of the action. The subdivider may then make any necessary corrections and resubmit the final plat for approval.

28.4.9.7. Final Plat Filing

After it is approved, the final plat may not be altered in any manner except as provided in 28.4.10. The county clerk and recorder may not accept any plat for filing that does not bear the governing body's approval in proper form or that has been altered. The clerk and recorder may file an approved plat only if it is accompanied by the documents specified in the Montana Uniform Standards for Monumentation, and Final Subdivision Plats.

28.4.10. Amending Filed Plats

28.4.10.1. Changes that materially alter any portion of a filed plat, its land divisions or improvements, or that will modify the approved use of land within the subdivision, must be made by filing an amended plat showing all alterations. Any alteration which increases the number of lots or modifies six (6) or more lots, or abandons a public dedicated road right-of-way must be reviewed and approved by the governing body.

28.4.10.2. An amended plat is subject to the procedures for reviewing major or minor subdivisions, as appropriate. The governing body may not approve an amended final plat without the written consent of the owners (or lenders) of all lots that will be modified by the proposed amendment.

28.4.10.3. The governing body may not approve an amendment that will place a lot in non-conformance with the design standards contained in 28.7 of these regulations unless

the governing body issues a written variance from the standards pursuant to 28.10.2.1, Variances.

28.4.10.4. The final amended plat submitted for approval must comply with the Montana Uniform Standards for Final Subdivision Plats.

## 28.5. MINOR SUBDIVISIONS

Subdivisions containing five (5) or fewer parcels shall be reviewed as set forth in this Section. All minor subdivisions that do not require variance(s) from the standards of these regulations shall be reviewed as Administrative Minor Subdivisions in accordance with 28.5.1., below. If an application for a first minor subdivision contains a request for variance from any of the standards contained in these regulation, the application will be reviewed under 76-3-609(2) through (5), MCA. Applications for subsequent minor subdivisions that contain a request for variance shall be reviewed using the procedures contained in Section 28.4 of these regulation.

28.5.1 Administrative Minor Subdivisions

28.5.1.1 Pre-application Process

28.5.1.1.1. Prior to submittal of the subdivision application, the subdivider may request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) days after the subdivider submits a written request for the meeting.

28.5.1.1.2. At the time of the pre-application meeting request, the subdivider shall provide the Planning Department with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch drawn directly on a print of the topographic map and should include the following:

28.5.1.1.3. Information on the current status of the site, including:

a. Location;
b. Approximate tract and lot boundaries of existing tracts of record;
c. Description of general terrain;
d. Natural features;
e. Existing structures and improvements;
f. Existing utility lines and facilities; and
g. Existing easements and rights of way.

28.5.1.1.4. Information on the proposed subdivision, including:

a. tract and lot boundaries;
b. proposed public improvements;
c. location of utility lines and facilities;
d. easements and rights of way;
e. parks and open space

28.5.1.1.5. At the pre-application meeting:

28.5.1.1.5.1. The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

28.5.1.1.5.2. The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision; and

28.5.1.1.5.3. The Planning Department shall identify additional information the Department anticipates will be required for review of the subdivision application pursuant to 28.5.1.4. This does not limit the ability of the Planning Department to request additional information at a later time.

28.5.1.1.6. The pre-application process described above may be waived by the mutual consent of the Applicant and the Planning Department.

28.5.1.2. Application and Preliminary Plat Submittal

The subdivider shall submit to the Planning Department a subdivision application containing the following materials:

28.5.1.2.1. Two (2) copies of the completed Subdivision Application form, and the supplements required by therein-;

28.5.1.2.2. The required review fee;

28.5.1.2.3. Three (3) copies of the preliminary plat of the proposed minor subdivision which:

28.5.1.2.3.1. Contains the information and supplements required;

28.5.1.2.3.2. Conforms to the Design and Improvement Standards set forth in 28.7 of these regulations.

28.5.1.2.4. Proof that the subdivider has submitted for review copies of the subdivision application to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and

28.5.1.2.5. Such additional relevant and reasonable information as identified by the Planning Department during the pre-application meeting pursuant to 28.5.1.1.5.3 that is pertinent to the required elements of this Section.

28.5.1.2.6. One electronic copy of the subdivision application and all listed supporting material.

28.5.1.3. Plat Form and Contents

The subdivider shall submit a preliminary plat that conforms to the Montana Uniform Standards for Monumentation and Subdivision Plats The minor subdivision plat must conform to the design standards set forth in 28.7 of these regulations.

28.5.1.4. Administrative Minor Subdivision Exceptions

The following do not apply to Administrative minor subdivisions:

28.5.1.4.1. Preparation of an environmental assessment;

28.5.1.4.2. Public hearing requirements;

28.5.1.4.3. Review of the subdivision application for the impact on the primary review criteria found in 76-3-608(3)(a), MCA.

28.5.1.5. Review Process

28.5.1.5.1. Element Review

Within five (5) working days of receipt of a subdivision application and fee, the Planning Department shall determine whether the application contains all of the applicable materials required by these regulations, as applicable, and shall give written notice to the subdivider of the Department's determination.

28.5.1.5.1.1. If the Planning Department determines that elements are missing from the application, the Department shall identify those elements in the notification and no further action shall be taken on the application until the missing elements are submitted.

28.5.1.5.1.2. The subdivider may correct the deficiencies and resubmit the application.

28.5.1.5.1.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have five (5) working days to notify the subdivider whether the resubmitted application contains all the materials required by these regulations, as applicable.

28.5.1.5.1.4. This process shall be repeated until the subdivider submits an application containing all the materials required by these regulations as applicable.

28.5.1.5.2. Sufficiency Review

Within fifteen (15) working days after the reviewing agent or agency notifies the subdivider that the application contains all of the required elements as provided in 28.5.1.4.1, the Planning Department shall determine whether the application and required elements contain detailed, supporting information that is sufficient to allow for the review of the proposed subdivision under the

provisions of the MSPA and these regulations and give written notification, to the subdivider of this determination.

28.5.1.5.2.1. If the Planning Department determines that the information in the application is not sufficient to allow for review of the proposed subdivision, the Department shall identify the insufficient information in its notification and no further action shall be taken on the application until the material is resubmitted.

28.5.1.5.2.2. The subdivider may correct the deficiencies and resubmit the application.

28.5.1.5.2.3. If the subdivider corrects the deficiencies and resubmits the application , the Planning Department shall have fifteen (15) working days to notify the subdivider whether the resubmitted application and required elements contain detailed, supporting information that is sufficient to allow for review of the proposed subdivision under provisions of the MSPA and these regulations.

28.5.1.5.2.4. This process shall be repeated until the subdivider submits an application that contains detailed, supporting information that is sufficient for review of the proposed subdivision under the provisions of the MSPA and these regulations.

28.5.1.5.2.5. A determination that an application contains sufficient information for review as provided in this subsection does not ensure that the proposed subdivision will be approved or conditionally approved and does not limit the ability of the Planning Department, to request additional information during the review process.

28.5.1.5.2.6. Upon determination that the application is sufficient for review, the Planning Department shall notify, by first-class mail, each property owner of record whose property is immediately adjoining the land in the preliminary plat and each purchaser under contract for deed of property immediately adjoining the land in the preliminary plat of the pending application. This notice will inform the recipient that the decision to approve, conditionally approve or deny the subdivision will be posted to the City's official website within 30 days and that protests of the decision pursuant to section 28.5.1.11 will be accepted for 30 days thereafter.

28.5.1.5.3. Applicable Regulations

Subdivision review and approval, conditional approval or denial shall be based on those regulations in effect at the time a subdivision application and preliminary plat is deemed to contain sufficient information for review. If regulations change during the element or sufficiency review, the determination of whether the application contains the required elements and sufficient information, and the subdivision review, shall be based on the new regulations [§76-3-604(9)].

28.5.1.5.4. Time Period for Approval, Conditional Approval, or Denial

Within thirty (30) working days, the Planning Department shall approve, conditionally approve or deny the proposed subdivision ~~a~~. The review period of thirty (30) working days begins once the Planning Department has given notice to the subdivider that the subdivision application is sufficient for review. Notification constitutes the date when the reviewing agent or agency sends the notice to the subdivider.

28.5.1.5.5. Public Agency and Utility Review

Review and comment by public agencies or utilities may not delay the Planning Department's action on the subdivision application beyond the thirty (30) working day review period. The Planning Department will make these comments available to the subdivider and to the general public upon request. If, during the review of the application, the Planning Department contacts a public utility, agency, or other entity that was not included on the list provided during the pre-application meeting, the Planning Department shall notify the subdivider of the contact and the timeframe for response.

28.5.1.6. Consideration and~~—~~ Decision

In rendering it decision to~~-~~approve, conditionally approve or deny~~-~~the subdivision application, the Planning Department shall base its decision on compliance of the subdivision application with the following:

28.5.1.6.1. These regulations, including but not limited to the design standards set forth in Section 28.7;

28.5.1.6.2. Applicable zoning regulations;

28.5.1.6.3. Other applicable regulations.

28.5.1.7. Water and Sanitation

All subdivisions under the jurisdiction of these regulations will be serviced by the City's municipal water and sanitary sewer utilities. The City will also review and approve storm water plans to ensure adequate storm water drainage. Subdividers will be required to submit, to the Department of Environmental Quality, a Municipal Facilities Exclusion application after the City has approved the utility and storm water design for the subdivision and prior to final plat approval.

28.5.1.8. When the Planning Department approves, denies, or conditionally approves the proposed subdivision, it shall, within 30 working days of its

determination that the subdivision is sufficient for review, prepare a written statement that must be provided to the applicant, that must be made available to the public, and that:

28.5.1.8.1. Includes information regarding the appeal process for the denial or imposition of conditions;

28.5.1.8.2. Identifies the regulations and statutes that are used in reaching the decision to approve, deny, or impose conditions and explain how they apply to the decision;

28.5.1.8.3. Provides the facts and conclusions that the Planning Department relied upon in making its decision and reference documents, testimony, or other materials that form the basis of the decision;

28.5.1.8.4. Provides the conditions that apply to the preliminary plat approval and that must be satisfied before the final plat may be approved.

28.5.1.9. -Application and Preliminary Plat Approval Period

28.5.1.9.1. Approval or conditional approval of a preliminary plat shall be in effect for two (2) calendar years from the date of the Planning Department action.

28.5.1.9.2. At the end of this period the Planning Department may, at the request of the subdivider, extend its approval for a mutually agreed-upon period of time.~~governing body and the subdivider, provided for in Section IV-A-10.~~

28.5.1.10.-Minor Subdivision Final Plat

The Planning Department shall approve Minor Subdivision final plats after determining that the plat meets the requirements of these regulations, any conditions placed upon preliminary approval and all requirements of the Montana Subdivision and Platting Act. All final plats will be signed by the Chair of the Governing Body.

28.5.1.11. If a party identified in 76-3-625(3), MCA objects to subdivision administrator's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body. The governing body shall sustain the subdivision administrator's decision based on the record as a whole unless the decision was arbitrary, capricious, or unlawful. The governing body has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.

Protests under this section (28.5.1.11) will be accepted for a period of 30 days after the Final Administrative Decision on the subdivision is posted to the City's official website.

## 28.6. -EXEMPTIONS FROM SUBDIVISION REVIEW

28.6.1. Exemption Submittal

Any person seeking exemption from the requirements of the Subdivision and Platting Act (76-3-101 et. seq., MCA) shall submit to the Planning Department (1) a certificate of survey or, if a survey is not required, an instrument of conveyance, and (2) evidence of, and an affidavit affirming, entitlement to the claimed exemption.

28.6.2. Review

When a claimed exemption is submitted to the Planning Department, the Department shall cause the documents to be reviewed. The Planning Department shall review the claimed exemption to verify that it is the proper use of the claimed exemption and complies with the requirements set forth in the MSPA, the Montana Sanitation in Subdivisions Act, and these regulations.

28.6.2.1. Landowners or their agents are encouraged to meet with the Planning Department to discuss whether a proposed land division or use of an exemption is in compliance with these criteria.

28.6.2.2. Within five (5) working days of submittal the Planning Department shall submit a written determination whether the use of the exemption is intended to evade the purposes of the Act.

28.6.2.3. If the Planning Department finds that the proposed use of the exemption complies with the statutes and these criteria, the Department shall notify and advise the Chair of the City Commission to sign the certificate of survey or authorize the recording of the instrument of conveyance and accompanying documents. If the Planning Department finds that the proposed use of the exemption does not comply with the statutes and these criteria, the Department shall advise the Chair not to ~~file~~ sign or authorize the recording the documents, and shall return the materials to the landowner.

28.6.2.4. The Planning Department, when determining whether an exemption is claimed for the purpose of evading the Act, shall consider all of the surrounding circumstances. These circumstances may include but are not limited to: the nature of the claimant's business, the prior history of the particular tract in question, the proposed configuration of the tracts if the proposed exempt transaction is completed, and any pattern of exempt transactions that will result in the equivalent of a subdivision without local government review.

28.6.3. Appeals.

28.6.3.1. Any person whose proposed use of an exemption has been denied by the Planning Department because the proposed division of land has been deemed an attempt to evade the MSPA and/or these regulations may appeal the decision to the governing

body. The person may request a hearing, and may submit additional evidence to show that the use of the exemption in question is not intended to evade the MSPA and/or these regulations.

28.6.3.2. If the governing body concludes that the evidence and information demonstrate that the exemption is not being invoked to evade the MSPA or these regulations, it may authorize the use of the exemption in writing. A certificate of survey claiming an exemption from subdivision review, which otherwise is in proper form, and which the governing body has found not to be an attempt to evade the MSPA or these regulations, may be filed (or an instrument of conveyance recorded) if it is accompanied by written authorization of the governing body.

28.6.3.3. If the governing body determines that the proposed use of the exemption was for the purpose of evading the Act, the landowner may submit a subdivision application for the proposed land division.

## 28.7. DESIGN AND IMPROVEMENT STANDARDS

28.7.1. General Standards

All subdivisions approved by the governing body must comply with the provisions of this Section, except where granted a variance pursuant to 28.10.2, Variances. The governing body may not grant variances from the provisions of 28.7.5, Floodplain Provisions.

28.7.2. Conformance with Zoning

The design and development of a subdivision must conform to any applicable zoning regulations.

28.7.3. Natural Environment

The design and development of subdivisions must provide satisfactory building sites, which are properly related to topography, and should, to the extent possible, preserve the natural terrain, natural drainage, and existing topsoil, trees and other vegetation; it must also, to the extent possible, avoid disturbing historical, archaeological and scenic resources

If the subdivision is located within an area identified by the State Historic Preservation Office (SHPO) as containing significant cultural or archaeological resources, efforts to mitigate impacts to these resources must be included in project plans.

28.7.4. Lands Unsuitable for Subdivision

Land that the governing body determines is unsuitable for subdivision because of natural or human caused hazards may not be subdivided for building or residential purposes unless the hazards are eliminated or will be overcome by approved design and construction techniques.

If the subdivision will encroach into an area identified as Crucial Habitat by the Montana Department of Fish, Wildlife and Parks (FWP) Crucial Areas Planning System, ~~as being a wildlife~~

~~migration corridor,~~ efforts to mitigate impacts to this resource must be included in project plans. This may include, but is not limited to, incorporating fencing that is considered "wildlife friendly" under FWP guidance.

If the subdivision will encroach into an area identified by the US Army Corps of Engineers as a wetland, efforts to mitigate impacts to this resource must be included in project plans.

28.7.5. Floodplain Provisions

Land within a proposed subdivsion located in the regulatory floodplain (100-year floodplain, including the floodway), as defined by Title 76, Chapter 5, MCA, is subject to requirements and restrictions stated in Chapter 29 of the Livingston Municipal Code for Floodplain Hazard Management Regulations.

28.7.6. Improvement Design

28.7.6.1. Engineering and survey plans, specifications, and reports required in connection with public improvements and other elements of the subdivision required by the governing body must be prepared by a professional engineer or a professional land surveyor as their respective licensing laws allow in accordance with the MSPA and these regulations.

28.7.6.2. All subdivision improvements must be designed to comply with the City of Livingston Public Works Design Standards and Specification Policy; the City's Modification to the Montana Public Works Standards, and Table 1 in Appendix B.

28.7.6.3. All subdivisions under the jurisdiction of these regulations will be serviced by the City's municipal water and sanitary sewer utilities. The City will also review and approve storm water plans to ensure adequate storm water drainage. Subdividers will be required to submit, to the Department of Environmental Quality, a Municipal Facilities Exclusion application after the City has approved the utility and storm water design for the subdivision and prior to final plat approval.

28.7.7. Lots

28.7.7.1 Each lot must contain a satisfactory building site and conform to applicable zoning regulations and these regulations.

28.7.7.2 No lot may be divided by a municipal or county boundary line.

28.7.7.3 No lot may be divided by a public road, alley or utility right-of-way or easement.

28.7.7.4 Each lot must abut and have access to a public street or road. Alleys may not be used to provide the primary access to a lot.

28.7.7.5 Corner lots must have driveway access to the same street or road that provides access to interior lots.

28.7.7.6 Corner lots must be designed to provide acceptable sight distances for safe vehicular movement.,

28.7.7.7 Side lot lines must be at substantially right angles to street or road lines and radial to curved street or road lines.

28.7.7.8 Through lots are prohibited. except when they are essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography or orientation.

28.7.8. Blocks

28.7.8.1. Blocks must be designed to assure traffic safety and ease of traffic control and circulation, to accommodate the special needs of the use contemplated, and to take advantage of the limitations and opportunities of the topography.

28.7.8.2., block length must not be more than 1,000 feet nor less than 400 feet.

28.7.8.3 Blocks must be at least 300 feet wide to allow for two tiers of lots separated by a twenty-foot-wide alley.

28.7.8.4. All blocks will be oriented in the same direction, creating a street grid with intersections at or very near ninety degrees.

28.7.9. Streets and Roads

28.7.9.1. Design

28.7.9.1.1. Streets must be designed to comply with the City of Livingston Public Works Design Standards and Specification Policy; the City's Modification to the Montana Public Works Standards, and Table 1 in Appendix B

28.7.9.1.2 The arrangement, type, extent, width, grade, and location of all streets must be considered in their relation to existing and planned streets, topographical conditions, public convenience and safety, and the proposed uses of the land to be served by them. .

28.7.9.1.3 The use of a cul-de-sac or "T" turnaround may only be approved by variance.

28.7.9.1.4. Unless a variance is granted, all streets must be dedicated to the public.

28.7.9.3 Improvements

28.7.9.3.1 All roadway improvements including pavement, curbs, gutters, sidewalks, and drainage, street lighting, signage and pavement markings must be constructed to comply with the City of Livingston Public Works Design Standards and Specification Policy; the City's Modification to the Montana Public Works Standards, and Table 1 in Appendix B

28.7.9.3.6 A minimum of one (1) boulevard tree planting is required for each lot frontage. See Appendix XX for recommended species. A Tree Plan must be provided by for all boulevard plantings prior to final plat. The plan must identify tree type and planting locations and it must be approved by the City Arborist. Existing trees and other vegetation must be preserved whenever appropriate. Plantings may be required for buffering, screening, or prevention of soil erosion and are subject to approval by the governing body.

28.7.9.3.8 Alleys, designed in accordance with Table 1 in Appendix B, shall be provided in all subdivisions. .

28.7.9.3.10 When required by the United States Postal Service, the developer must provide an off-street area for mail delivery.

28.7.10. Drainage Facilities

All storm water and drainage facilities shall be designed and constructed according to the City of Livingston Public Works Design Standards, the City's Modification to the Montana Public Works Standards, and Montana DEQ Standards.

b.
g. The governing body may require the subdivider to grant easements to prevent encroachment or disruption of drainageways or facilities. Drainage easements must be shown on the plat and a signed statement granting the easements must appear on the plat.

28.7.11. Water Supply Systems

All water supply systems shall be designed and constructed according to the City of Livingston Public Works Design Standards and Specification Policy, the City's Modifications to the Montana Public Works Standards, and Montana DEQ Standards.

28.7.12. Wastewater Collection Systems

All wastewater collection systems shall be designed and constructed according to the City of Livingston Public Works Design Standards and Specification Policy, the City's Modifications to the Montana Public Works Standards, and Montana DEQ Standards.

28.7.13. Solid Waste

28.7.13.1. The subdivider shall assure that the provisions for collection and disposal of solid waste meet the requirements of the City of Livingston and Montana DEQ Standards.

28.7.13.2. The location and means for solid waste collection and disposal shall be subject to approval by the City Public Works Director. For areas ~~where bear activity is a concern,~~ within the designated as the Wildland Urban Interface (WUI), the City may require that all trash be stored in bear-proofed containers or else be stored ~~inside~~ within an enclosed structure until it is scheduled for pick up.

28.7.13.3. If solid waste disposal is not individual, curbside pick-up for individual lots, the subdivider shall provide an off street area for solid waste collection which will be aesthetically screened from general public view, protected from the elements to reduce blowing and scattering of waste, and conveniently accessible to collection vehicles subject to approval by the City Public Works Director. For areas within the designated WUI, the City may require that common solid waste facilities be designed to be bear-resistant or else be stored within an enclosed structure until it is scheduled for pick up.

28.7.14. Non-Municipal Utilities

28.7.14.1. The subdivider must provide adequate and appropriate easements for the construction and maintenance of utilities within the subdivision. The subdivider must obtain any easements necessary to extend utilities to the subdivision.

28.7.14.2. Utilities must be placed underground,. Underground utilities, if placed in a street right-of-way, must be located between the roadway and the right-of-way line to simplify location and repair of lines. Underground facilities must be installed after the street has been brought to grade and before it is paved.

~~Overhead utility lines must be located within the rear property line of each lot and parallel to the adjacent alley.~~

28.7.14.3. Utility facilities must be designed by utility firms in cooperation with the subdivider. These facilities are subject to all applicable laws, rules, and regulations of the appropriate regulatory authorities.

28.7.14.4. Utility easements located between adjoining lots must be centered on lot lines. If easements are placed in the street, they must be located between the roadway and the right-of-way line.

28.7.14.5. Utility easements must be fifteen (15) feet wide unless otherwise specified by a utility company or governing body.

28.7.14.6. When a utility is to be located in an existing, dedicated right-of-way, a notice of utility occupancy must be obtained from the governing body, or local or state highway department.

28.7.14.7. In addition to showing the location of utility easements on the plat with dashed lines, the following statement must appear on the final plat:

"The undersigned hereby grants unto each and every person, firm, or corporation, whether public or private, providing or offering to provide telephone, internet/broadband, electric power, gas, cable television, , the right to the joint use of an easement for the construction, maintenance, repair and removal of their lines and other facilities, in, over, under and across each area designated on this plat as 'Utility Easement' to have and to hold forever."

28.7.15. Water Course and Irrigation Easements

28.7.15.1. Except as noted in 28.7.15.2, below, the subdivider shall establish within the subdivision ditch easements that:

28.7.15.1.1. Are in locations of appropriate topographic characteristics and sufficient width to allow the physical placement and unobstructed maintenance of open ditches or below ground pipelines for the delivery of water for irrigation to persons and land legally entitled to the water under an appropriated water right or permit of an irrigation district or other private or public entity formed to provide for the use of the water right on the subdivision lots;

28.7.15.1.2. Are a sufficient distance from the centerline of the ditch to allow for construction, repair, maintenance, and inspection of the ditch; and

28.7.15.1.3. Prohibit the placement of structures or the planting of vegetation other than grass within the ditch easement without the written permission of the ditch owner;

28.7.15.2. The subdivider need not establish irrigation easements as provided above if:

28.7.15.2.1. The average lot size in the proposed subdivision will be one acre or less and the subdivider provides for disclosure, in a manner acceptable to the governing body, notifying potential buyers that lots within the subdivision are classified as irrigated land and may continue to be assessed for irrigation water delivery even though the water may not be deliverable to the lots; or

28.7.15.2.2. The water rights have been removed from the land within the subdivision or the process has been initiated to remove the water rights from the subdivided land; and

28.7.15.2.3. The fact the water rights have been or will be removed from the land within the subdivision is denoted on the preliminary plat. If the removal of water rights has not been completed at the time the final plat is filed, the subdivider shall provide written notification to prospective buyers of the subdivider's intention to remove the water right and shall document that intent, when applicable, in agreements and legal documents for related sales transactions.

28.7.15.3. The subdivider shall, unless otherwise provided under separate written agreement or filed easement, show on the preliminary and final plat, and file and record

with the county clerk and recorder, ditch easements for the unobstructed use and maintenance of existing water delivery ditches, pipelines, and facilities in the proposed subdivision that are necessary to convey water through the subdivision to lands adjacent to or beyond the subdivision boundaries in quantities and in a manner that are consistent with historic and legal rights. A minimum width of ten (10) feet is required on each side of irrigation canals and ditches for maintenance purposes.

28.7.16. Disposition of Water Rights

If a subdivision will create lots averaging less than five (5) acres in size, the subdivider shall submit evidence with the final plat that the subdivider has:

28.7.16.1. Reserved all or a portion of the appropriation water rights owned by the owner of the land to be subdivided and transfer these water rights to a single entity for use by landowners within the subdivision who have a legal right to the water and reserved and severed any remaining surface water rights from the land;

28.7.16.2. If the land to be subdivided is subject to a contract or interest in a public or private entity formed to provide for the use of a water right on the subdivision lots, established a landowner's water use agreement administered through a single entity. This agreement must specify how the water rights will be administered and describe the rights and responsibilities of landowners within the subdivision who have a legal right and access to the water; or

28.7.16.3. Reserved and/or severed all surface water rights from the land proposed for subdivision.

28.7.17. Park Land Dedication – Cash in Lieu – Waivers -- Administration

28.7.17.1. Except as provided below, the final plat of a residential subdivision must show that the subdivider has dedicated to the governing body a cash or land donation equal to:

28.7.17.1.1. Eleven percent (11%) of the area of the land proposed to be subdivided into parcels of one-half acre or smaller;

28.7.17.1.2. Seven and one-half percent (7.5%) of the area of the land proposed to be subdivided into parcels larger than one-half acre and not larger than one acre;

28.7.17.1.3. Five percent (5%) of the area of the land proposed to be subdivided into parcels larger than one acre and not larger than three (3) acres; and

28.7.17.1.4. Two and one-half percent (2.5%) of the area of the land proposed to be subdivided into parcels larger than three (3) acres and not larger than five (5) acres.

28.7.17.2. Parks and open space types and standards. Parks, open space and common area dedication shall meet at least one of the following criteria:

28.7.17.2.1. Provides for the preservation of a physical amenity such as a meadow, a stand of trees, significant wildlife habitat or a wildlife corridor, a

scenic hillside with slopes of less than 25%, a stream or significant water body, an area of riparian resource or some other natural feature that the governing body determines is significant enough for parkland dedication. Open space shall be managed to remain in a near natural state when it has been dedicated for preservation or conservation purposes and managed for weeds and public safety concerns such as wild land fire and hazardous trees. Public trail connections are permitted if deemed appropriate by the governing body; or

28.7.17.2.2. Provides a site for active recreation and public gathering (neighborhood park) which shall substantially conform to the following standards:

28.7.17.2.2.1. Five acres or greater in size unless the opportunity for this size is not feasible or required;

28.7.17.2.2.2. Centrally located within the proposed subdivision or adjacent to other planned or existing park or open space;

28.7.17.2.2.3. Adjacent to public streets on at least 50% of the park's perimeter;

28.7.17.2.2.4. Accessible to bicycle and pedestrian trails where possible;

28.7.17.2.2.5. At least 50% of the park shall have 2% or less slope to accommodate playing fields; or

28.7.17.2.3. Establishes a pedestrian/bicycle greenway corridor if such corridor is determined by the city to have a primarily recreational and/or commuter function; or

28.7.17.2.4. Creates a courtyard of less than one-half (½) acre, provided the courtyard shall be part of a common area dedicated to a private homeowner's association; or

28.7.17.2.5. Provides for other parks, open space, or common area designs which meet the intent of this section, support the goals of the Growth Policy, and is consistent with the City's adopted plans for Parks and Recreation and Trails and Active Transportation..

28.7.17.3. Unless the governing body determines otherwise, the following areas within a subdivision will not count toward the parkland dedication:

28.7.17.3.1. Hillsides over 25% slope;

28.7.17.3.2. Areas of riparian resource and adjacent buffers associated with irrigation or roadside ditches;

28.7.17.3.3. Monument entry areas and central landscaped boulevards;

28.7.17.3.4. Storm water retention or detention ponds that are designed to hold storm water runoff from less than 100-year events.

28.7.17.3.5. Public utility easements.

28.7.17.4. Provide as part of the required parkland, twenty (20) foot wide pedestrian access easements to parkland or common area from public streets. Pedestrian access easements on hillsides may require additional width to accommodate switchbacks for trails, etc. Setbacks for structures other than fences adjacent to the access easement shall be a minimum of ten (10) feet. The governing body may require that the developer construct a trail leading into park or common areas.

28.7.17.5. At least twenty-five percent (25%) of the required parkland dedication shall be developed for active use as defined in 28.7.17.2.2. No more than seventy-five percent (75%) of the required parkland dedication shall be for passive use as defined in 28.7.17.2.1.

28.7.17.5. A park dedication is not required for:

28.7.17.5.1. Minor subdivisions;

28.7.17.5.2. Subdivision lots larger than five (5) acres;

28.7.17.5.3. Nonresidential subdivision lots;

28.7.17.5.4. Subdivisions in which parcels of land will not be created, except when the subdivision will provide permanent multiple spaces for recreational camping vehicles, mobile homes; or

28.7.17.5.5. Subdivisions which will create only one additional parcel.

28.7.17.6. The governing body, in consultation with the subdivider and the Planning Board ~~or~~, may determine suitable locations for parks and playgrounds and, giving due weight and consideration to the expressed preference of the subdivider, may determine whether the park dedication must be a land donation, cash donation, or a combination of both. When a combination of land donation and cash donation is required, the cash donation may not exceed the proportional amount not covered by the land donation. The land dedicated for park use may be inside or outside the boundaries of the proposed subdivision.

28.7.17.7. The governing body will waive the park dedication requirement if it determines that:

28.7.17.7.2. The proposed subdivision will provide for the long-term protection of critical wildlife habitat; cultural, historical, or natural resources; agricultural interests; or aesthetic values; andThe provision of this long-term protection will result in the reduction of the area of the land proposed to be subdivided by an amount equal to or exceeding the area that would have had to be dedicated under 28.7.17.1 above;

28.7.17.7.3. The area of the land proposed to be subdivided, by virtue of a combination of the provisions of 28.7.17.1 and 28.7.17.7.2 above, is reduced by an amount equal to or exceeding the area of the dedication required under 27.7.17.1; or

28.7.17.7.4. The subdivider provides for land outside of the subdivision to be set aside for park and recreational uses sufficient to meet the needs of the persons who will ultimately reside in the subdivision; and

The area of the land and any improvements set aside for park and recreational uses equals or exceeds the area of dedication required under 27.7.17.1.

28.7.17.8. The local governing body may waive the park dedication requirement if:

28.7.17.8.1. The subdivider provides land outside the subdivision that affords long-term protections of critical wildlife habitat, cultural, historical, or natural resources, agricultural interests, or aesthetic values; and

The area of land to be subject to long-term protection, as provided in 28.7.17.7.2, equals or exceeds the area of dedication required under 27.7.17.1.

28.7.17.8.2. The City may also waive some, or all, of the park land dedication requirement if the subdivider provides land for trails or paths which enhance the City's trail system as guided by the City's adopted plans for Parks and Recreation and Trails and Active Transportation.

28.7.17.9. The governing body will administer funds dedicated to the public under this Section in accordance with Section 76-3-621, MCA. For the purposes of this park dedication requirement:

28.7.17.9.1. "Cash donation" means the fair market value of the unsubdivided, unimproved land;

28.7.17.9.2. Fair market value must be determined by a Montana State certified general real estate appraiser (as provided under MCA 37-54-201) hired and paid for by the subdivider. For the purposes of this regulation, appraisals are valid if prepared within six (6) months of the date of submittal of an application for final subdivision approval.

28.7.18 Fire Protection

28.7.18.1 All subdivisions must be planned, designed, constructed, and maintained so as to minimize the risk of fire and to permit the effective and efficient suppression of fires in order to protect persons, property, and forested areas. Measures must include:

28.7.18.1.1 The placement of structures so as to minimize the potential for flame spread and to permit adequate access for firefighting equipment.

28.7.18.1.2 The presence of adequate firefighting facilities on site, including an adequate water supply and water distribution system.

28.7.18.1.3 The availability, through a fire protection district or other means, of fire protection services adequate to respond to fires that may occur within a subdivision.

28.7.18.1.4 Building sites may not be located on slopes greater than twenty-five (25) percent or at the apex of "fire chimneys" (topographic features, usually drainageways or swales, which tend to funnel or otherwise concentrate fire toward the top of steep slopes).

28.7.18.1.5 Open space, park land, and recreation areas (including green belts, riding or hiking trails) should be located, where appropriate, to separate residences and other buildings from densely forested areas.

28.7.18.1.6 The address of all residential buildings shall be plainly visible and legible from the primary access road adjacent to the lot on which the building resides.

28.7.18.2 Special Requirements for Major Subdivisions Proposed within the designated Wildland Urban Interface (WUI). The following apply:

28.7.18.2.1 A Fire Prevention and Control Plan (FPC Plan) must be developed in coordination with the Fire Department and must be included with the application for preliminary plat approval. The FPC plan must include the following information:

28.7.18.2.1.1 An analysis of the wildfire hazards on the site, as influenced by existing vegetation and topography;

28.7.18.2.1.2 A map showing the areas that are to be cleared of dead, dying, or severely diseased vegetation, as well as any tree canopy that will be thinned to reduce the potential for a crown fire

28.7.18.2.1.3 The identification of roads, driveways, and bridges that are sufficient for emergency vehicle access and fire suppression activities. Slopes of all roads and driveways must be provided..

28.7.18.2.1.4 Emergency access and evacuation procedures. For phased subdivisions, these procedures must be updated prior to issuance of Certificates of Occupancy for each phase and must include all completed phases

28.7.18.2.2 At least two (2) entrances/exits must provide escape routes for residents and access to the subdivision by fire-fighting vehicles. Bridges providing access to the subdivision must be built to a design load of thirty (30) tons and constructed of non-flammable materials.

28.7.18.2.3 Fire-Resistant Landscaping materials must be used in all common areas that are maintained by the HOA, including the areas along roads, rights-

of-way and easements.. Vegetative Fuels Reduction must be practiced within a minimum 10-foot wide corridor surrounding the outer edge of the subdivision.

28.7.18.2.4 The FPC Plan must be implemented prior to issuance of Certificates of Occupancy and will be considered part of the subdivider's obligations for land development. The Fire Chief, or designee, will inspect and approve the implementation of the FPC Plan, and notify the Building Official that implementation of the plan is complete..

28.7.18.2.5 Provisions for the maintenance of the FPC Plan shall be included in the covenants, conditions, and restrictions for the development.

## 28.8. SUBDIVISIONS THAT WILL PROVIDE MULTIPLE SPACES FOR RECREATIONAL CAMPING VEHICLES OR MOBILE HOMES – LAND SUBDIVISIONS CREATED BY RENT OR LEASE

28.8.1. Subdivisions Created by Rent or Lease -- Definition

A subdivision created by rent or lease, including a mobile home or recreational camping vehicle park, is any tract of land divided by renting or leasing portions thereof. It is owned, however, as one parcel under single ownership (which can include a number of persons owning property in common).

28.8.1.1. Land subdivision created by rent or lease will be reviewed under the procedures described in Section 28.4, Major Subdivisions, Section 28.5, Minor Subdivisions, or Appendix A, Expedited Review, as may be appropriate, except that the subdivider shall submit an unsurveyed final plan drawn to scale, rather than a final plat.

28.8.1.2. Land subdivisions created by rent or lease are subject to the applicable design and improvement standards contained in Section 28.7, Design and Improvement Standards.

28.8.2. Procedures for Review

Subdivisions which will provide multiple spaces for recreational camping vehicles or mobile homes and subdivisions created for rent or lease are exempt from the surveying and filing requirements of the MSPA. These subdivisions must be submitted for review and approved by the governing body before portions of the subdivision may be rented or leased. The subdivider shall submit to the governing body the preliminary plans, profiles, tentative grades, and specifications for proposed improvements. The plan must show the lot layout and the proposed location of the mobile home, recreational camping vehicle, or other unit on the lot.

28.8.2.1. Improvements

The subdivider shall install all required improvements before renting or leasing any portion of the subdivision. The governing body will inspect all required improvements in order to assure conformance with the approved construction plans and specifications.

28.8.2.2. Final Plan Review

In lieu of filing a final plat, the subdivider shall submit a plan conforming to the requirements for preliminary plats contained in Appendix C and . The subdivider shall submit the plan to the Planning Department. The plan will be reviewed to assure that it conforms to the approved preliminary plan. The approved plan shall be maintained in the office of the Planning Department.

28.8.2.3. DPHHS License
If a subdivision that will provide multiple spaces for recreational camping vehicles or mobile homes is also a "trailer court," "work camp," "youth camp," or "campground" as those terms are defined in section 50-52-102, MCA, the governing body will not grant final approval of the subdivision until the subdivider obtains a license for the facility from the Montana Department of Public Health and Human Services under Title 50, Chapter 52, MCA.

## 28.9. PHASED DEVELOPMENT

28.9.1. Application

A subdivider applying for phased development review shall submit with the phased development application an overall phased development preliminary plat on which independent platted development phases must be presented. The phased development application must contain the information required pursuant to 28.4.3 of these regulations for all phases of a development and a schedule for when the subdivider plans to submit for review each phase of the development. The subdivider may change the schedule for review of each phase of the development upon approval of the governing body if the change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.

28.9.2. Preliminary Plat Review

The phased development overall preliminary plat will be reviewed according to 28.4.4. through 28.4.7. of these regulations. If approved or conditionally approved, the entire phased development will be deemed to be granted preliminary plat approval.

28.9.3. Phase Review

Each individual phase will, according the approved schedule, be reviewed by the governing body as an application for final plat approval pursuant to 28.4.9 of these regulations. For any phase of the approved subdivision submitted for final plat approval more than 5 years after the date of preliminary approval of the subdivision, the subdivider shall provide written notice to the governing body not more than 1 year or less than 90 calendar days in advance of submitting the final plat application. The governing body shall hold a public hearing within 30 working days after receipt of the written notice from the subdivider to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval. The governing body may amend or impose additional conditions of approval only if it

determines, based on a review of the primary criteria, that the existing conditions of approval are inadequate to mitigate the potentially significant adverse impacts identified during the original review based on changed circumstances. The governing body shall issue supplemental written findings of fact within 20 working days of the hearing. Any additional conditions must be met before final plat approval for each remaining phase and the approval is in force for not more than 3 calendar years or less than 1 calendar year within the maximum timeframe provided in Section 28.9.4, below.

28.9.4. Time Limit Extension

The governing body may approve phased developments that extend beyond the time limits set forth in 28.4.7.6. of these regulations but all phases of the phased development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date the overall phased development preliminary plat is approved by the governing body.

28.9.5. Periodic Fees

The governing body may impose a reasonable periodic fee for the review of the individual phases in the phased development.

## 28.10. ADMINISTRATIVE PROVISIONS

28.10.1. Subdivision Fees

To cover costs of reviewing plans, advertising, holding public hearings, and other activities associated with the review of a subdivision proposal, the subdivider shall pay a non-refundable fee at the time of application for preliminary plat approval. The fees, payable to the City, shall be established by separate resolution of the Livingston City Commission.

28.10.2. Variances

28.10.2.1. Variances Authorized

The governing body may grant variances from Section 28.7, Design and Improvement Standards, of these regulations when, due to the characteristics of land proposed for subdivision, strict compliance with these standards would result in undue hardship and would not be essential to the public welfare. A variance will not be granted if it would have the effect of nullifying the intent and purpose of these regulations.

The governing body will not approve a variance unless it finds that:

28.10.2.1.1. It will not be detrimental to the public health, safety, or general welfare or injurious to other adjoining properties;

28.10.2.1.2 It is necessary because of unique physical conditions on the site;

28.10.2.1.3. It will not cause a substantial increase in public costs; and

28.10.2.1.4. It will not place the subdivision in nonconformance with any adopted zoning regulations.

28.10.2.1.5 The area of the subdivision affected by the variance and the overall extent of the variance is the least accommodation that will alleviate the hardship.

28.10.2.2. Variances from Floodway Provisions Not Authorized

The governing body will not by variance permit subdivision for building purposes in areas located within the floodway of a flood of 100-year frequency as defined by Title 76, Chapter 5, MCA.

28.10.2.3. Variance Procedure

The subdivider shall include with the submission of the preliminary plat a written statement describing and justifying the requested variance. It is the burden of the applicant to prove that, because of unique topography or other exceptional conditions on the property, the strict application of these regulations would result in an undue hardship rectified only through approval of a variance. The planning board will consider the requested variance and recommend its approval or denial to the governing body.

28.10.2.4. Variance Conditions

In granting variances, the governing body may impose reasonable conditions to secure the objectives of these regulations.

28.10.2.5. Variance Statement of Facts

When a variance is granted, the motion of approval of the proposed subdivision must contain a statement describing the variance and the facts and conditions upon which the issuance of the variance is based.

28.10.3. Amendment of Regulations

Before the governing body amends these regulations it will hold a public hearing on the proposed amendment. Notice of the time and place of the public hearing must be published in a newspaper of general circulation in the City not less than fifteen (15) days or more than thirty (30) days before the date of the hearing.

28.10.4. Enforcement

Except as provided in 76-3-303, MCA, every final subdivision plat must be filed for record with the county clerk and recorder before title to the subdivided land can be sold or transferred in any manner. If unlawful transfers are made, the county attorney shall commence action to enjoin further sales or transfers and compel compliance with all provisions of the MSPA and these regulations. The cost of this action shall be imposed against the party not prevailing. §76-3-301 M.C.A.

28.10.5. Violation and Penalties

Any person, firm, corporation, or other entity who violates any of the provisions of the MSPA or these regulations is guilty of a misdemeanor punishable by a fine of not less than $100 nor more than $500 or by imprisonment in jail for not more than three months or by both fine and imprisonment. Each sale, lease, or transfer, or offer of sale, lease, or transfer of each separate parcel of land in violation of any provision of the MSPA or these regulations shall be deemed a separate and distinct offense. §76-3-105 M.C.A.

28.10.6. Appeals

A decision of the governing body regarding a proposed subdivision may be appealed to the district court, as provided by §76-3-625 M.C.A.

# APPENDIX

# APPENDIX A

## Procedure for Expedited Review

Pre-application Process

Prior to submittal of the subdivision application, the subdivider shall request a pre-application meeting with the Planning Department. The meeting shall occur within thirty (30) days after the subdivider submits a written request for the meeting to the Planning Department.

At the pre-application meeting, the subdivider shall provide the Planning Department with a sketch plan of the proposed subdivision showing the layout of the proposed features in relation to existing site conditions. The sketch plan may be a freehand sketch drawn directly on a print of the topographic map and should include the following:

Information on the current status of the site, including:

- location;
- approximate tract and lot boundaries of existing tracts of record;
- description of general terrain;
- natural features;
- existing structures and improvements;
- existing utility lines and facilities;
- existing easements and rights of way.

Information on the proposed subdivision, including:

- tract and lot boundaries;
- proposed public improvements;
- location of utility lines and facilities;
- easements and rights of way;
- parks and open space.

At the pre-application meeting, the following will occur:

The Planning Department shall identify, for informational purposes, the state laws, local regulations and growth policy provisions that may apply to the subdivision review process;

The Planning Department shall provide the subdivider with a list of public utilities, local, state and federal agencies, and any other entities that have a substantial interest in the proposed subdivision.

The Planning Department shall identify particular additional information the Department anticipates will be required for review of the subdivision application. This does not limit the ability of the City to request additional information at a later time.

Unless the subdivider submits the subdivision application within 180 working days of the pre-application meeting, the subdivider must request a second pre-application meeting prior to submitting the application.

Applications for expedited review are exempt from:

- the preparation of an environmental assessment as required in 76-3-603, MCA.; and
- the review criteria listed in 76-3-608(3)(a), MCA.

Subdivision Application for Expedited Review

The subdivider shall submit to the Planning Department a subdivision application containing the following materials:

- Two (2) copies of the completed Subdivision Application form and the supplements required therein;
- The required review fee;
- Three (3) copies of the preliminary plat of the proposed subdivision which:
  - Contains the information required for preliminary plats and;
  - ~~o~~ Conforms to the Design and Improvement Standards set forth in Section 28.7;
- Proof that the subdivider has submitted for review copies of the subdivision application to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision; and
- Such additional relevant and reasonable information as identified by the Planning Department during the pre-application meeting that is pertinent to the required elements of this Section.
- One electronic copy of the subdivision application and all supporting material.

Expedited Review Process

Applications for expedited review must provide evidence that the proposed subdivision complies with the applicable zoning regulations, local subdivision regulations, including the local design standards, and must include a proposal for the extension of public infrastructure in accordance with adopted ordinances and regulations.

The application will be reviewed for required elements and sufficiency of information as provided in 76-3-601(1) through (3), MCA to verify that the application complies with

local zoning and subdivision regulations, including local design standards and to verify that a plan for the extension of public infrastructure is provided. The application may include a request for variance from the design standards contained in these regulations.

Upon determination by the Planning Department that the application contains the required elements and is sufficient for review, the City shall have thirty-five (35) working days to approve, conditionally approve or deny the subdivision application. The review period shall be forty-five (45) working days if the application contains any request(s) for variance from any of the requirements of these regulations.

Public Hearing: The City Commission shall hold a public hearing on the application and shall approve, conditionally approve or deny the subdivision application. Notice of the time and date of the hearing shall be given by publication in a newspaper of general circulation in the County not less than fifteen (15) days prior to the meeting date.

City Commission Decision

The City Commission shall approve the subdivision unless public comment or other information demonstrates that the application does not comply with:

- adopted zoning regulations, design standards, and other requirements of the adopted subdivision regulations, including the criteria for granting variances from the subdivision regulations; or
- adopted ordinances or regulations for the extension of public infrastructure.

The City Commission shall adopt conditions of approval only to ensure an approved subdivision application is completed in accordance with the approved application and any applicable requirements pursuant to Title 76, chapter 4, MCA.

The City Commission shall provide to the applicant and the public a written statement within 30 days of the decision to approve or deny the subdivision that includes:

- The facts and conclusions that the City Commission relied on in making its decision; and
- The conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved, as applicable.

Section 28.3.4 of these regulations applies to this Section as it pertains to the appeal process.

Preliminary Plat Approval Period and Final Plat

- The approved preliminary plat is subject to Section 28.4.7.6.1 through 28.4.7.6.3 of these regulations.

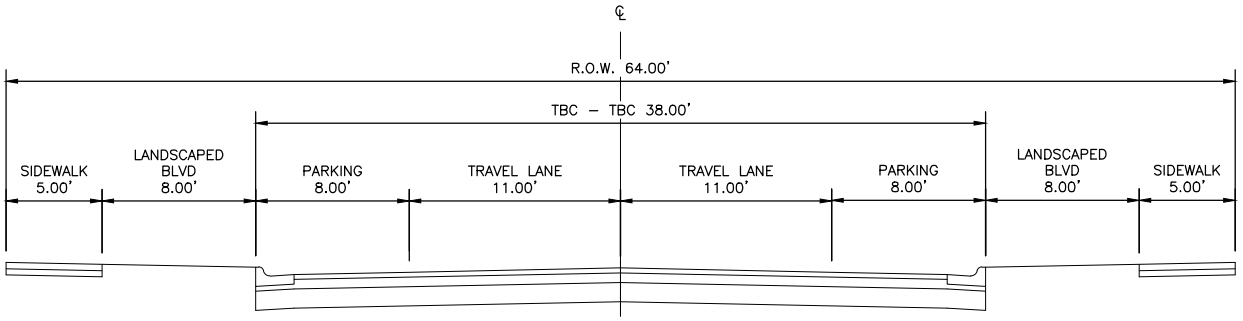
- Final plats are subject to Sections 28.4.9.1 through 28.4.9.7 of these regulations.

## *APPENDIX B*

### *TABLE 1: Street Design Standards for Subdivisions*

| | |
|---|---|
| 1. Right-of-way width | 64 ft. |
| 2. Minimum roadway width | |
| a. Curbs, back to back | 38 ft. |
| b. Alleys | 20 ft. |
| c. Boulevards | 8 ft. |
| d. Sidewalks | 5 ft. |
| 3. Maximum grade, distance less than 100 ft. | 10 % |
| 4. Maximum grade, distance more than 100 ft. | 8 % |
| 5. Approaches onto Public Roads | |
| a. Minimum sight distance | 200 ft. |
| b. Maximum grade for 20' | 5% |
| 6. Turning radius | 50 ft. |
| 7 Bridges | |
| a. curb-to-curb widths | same as roadway |
| b. design load capacity | 30 tons |
| c. vertical clearance | 15 ft. |

***FIGURE 1. Subdivision Street Design Typical Section***




**CITY OF LIVINGSTON**

**STANDARD SECTION - LOCAL STREET**
**WITH ON-STREET PARKING**

LIVINGSTON MONTANA

| | |
|---|---|
| DRAWN BY: | JRG |
| DESIGNED BY: | |
| QUALITY CHECK: | MRM |
| DATE: | 11/25/2025 |
| JOB NO. | |

**FIGURE**

**#**

# APPENDIX C

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Preliminary Plat Instructions

Subdivision review is required to divide any parcel of land within the City of Livingston that does not meet the criteria for a subdivision exemption as listed in 76-3-2 MCA. Subdivisions require a three-step application process prior to final approval:

- Pre-Application
- Preliminary Plat Application
- Final Plat Application

Preliminary Plats require a public hearing before the Planning Board for a recommendation to the City Commission, and are approved or denied by the City Commission. All subdivision applications are evaluated by the Planning Board and City Commission based upon the following criteria listed in Section III.B.6 of the Subdivision Regulations for major subdivisions or Section IV.B.6 for minor subdivisions:

- Provides easements for the location and installation of any planned utilities.
- Provides legal and physical access to each parcel within the subdivision and the notation of that access on the applicable plat and any instrument transferring the parcel.
- Assures that all required public improvements will be installed before final plat approval, or that their installation after final plat approval will be guaranteed.
- Complies with the requirements of 76-3-504 MCA, regarding the disclosure and disposition of water rights.
- Complies with the Subdivision Regulations.
- Complies with the applicable Zoning Regulations.
- Complies with the Montana Subdivision and Platting Act.

The Preliminary Application shall be submitted to the Planning Department. The Planning Department may forward the application to local, state, and federal agencies as necessary to ensure a comprehensive review of the project. **It is required that you submit and receive an approved Subdivision Pre-Application prior to submitting a Preliminary Plat Application.**

**Submittal Requirements (listed in Section III.B.1 of the Subdivision Regulations for major subdivisions or Section IV.B.1 for minor subdivisions):**

☐ Two (2) copies of the Completed Application Form.
☐ Three (3) copies of the Preliminary Plat, which:
- Contains the required information for preliminary plats..
- Conforms to the Design and Improvement Standards in Section VI of the Subdivision Regulations.
- Conforms to the requirements of the Zoning Regulation.

- Conforms to the requirements of the Public Works Design Standards and Specifications Policy.

☐ A summary of probable impacts of the Subdivision.

☐ Proof that the subdivider has submitted for review copies of the subdivision application and environmental assessment, if applicable, to the public utilities and agencies of local, state, and federal government identified during the pre-application meeting or subsequently identified as having a substantial interest in the proposed subdivision.

☐ Additional relevant and reasonable information as identified by the Development Review Committee during the pre-application meeting:

☐ The Preliminary Plat Application Review Fee.

All documents other than the preliminary plat shall be submitted on either 8 ½" x 11" or 11" x 17" paper. Additionally, digital copies of the submittal in PDF file format are required.

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Preliminary Plat Application

1. **Property Owner Name:** _____

2. **Location of Property**

   General Location: _____

   Address: _____

   Subdivision: _____ Lot: _____ Block: _____

   Zoning District: _____

3. **Contact Information**

   *Property Owner*

   Home Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Primary Contact/ Applicant*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Secondary Contact*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

**4. Project Information**

Type of Subdivision: ☐ Major ☐ Subsequent Minor ☐ Minor

Proposed Subdivision Name: _____

Brief Description of Project: _____

_____

_____

Proposed Use(s): _____

Number of Lots: _____ Number of Phases: _____

**I hereby certify that the information included in this application is true and accurate.**

_____ _____

Applicant's Signature Date

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Final Plat Instructions

Subdivision review is required to divide any parcel of land within the City of Livingston that does not meet the criteria for a subdivision exemption as listed in 76-3-2 MCA. Subdivisions require a three-step application process prior to final approval:

- Pre-Application
- Preliminary Plat Application
- Final Plat Application

Final Plat applications shall be submitted to the Planning Department and require a public hearing and are approved or denied by the City Commission. **All preliminary plat conditions of approval and required improvements must be completed or guaranteed prior to application for final plat.**

**Submittal Requirements (listed in Section III.C.3 of the Subdivision Regulations for major subdivisions or Section IV.C.3 for minor subdivisions):**

☐ The Completed Application Form.
☐ A letter explaining how each of the preliminary plat conditions of approval have been met.
☐ All required City or County attorney approvals..
☐ Additional relevant and reasonable information as identified by the Planning Department.
☐ The Final Plat Application Review Fee.

All documents other than the plat shall be submitted on either 8 ½" x 11" or 11" x 17" paper. Additionally, digital copies of the submittal in PDF file format are required.

City of Livingston
Department of Planning
220 E. Park St.
Livingston, MT 59047
(406)222-4903
planning@livingstonmontana.org

## City of Livingston Subdivision Final Plat Application

1. **Property Owner Name:** _____

2. **Location of Property**

   General Location: _____

   Address: _____

   Subdivision: _____ Lot: _____ Block: _____

   Zoning District: _____

3. **Contact Information**

   *Property Owner*

   Home Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Primary Contact/ Applicant*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

   *Secondary Contact*

   Name: _____

   Address: _____

   _____

   Phone Number: _____

   Email Address: _____

**4. Project Information**

Type of Subdivision: ☐ Major ☐ Subsequent Minor ☐ Minor

Subdivision Name: _____

Brief Description of Project: _____

_____

_____

Proposed Use(s): _____

Number of Lots: _____ Number of Phases: _____

**I hereby certify that the information included in this application is true and accurate.**

_____ _____

Applicant's Signature Date

## Certificate of Surveyor – Final Plat

State of Montana )
) ss.
County of _____ )

I, (Name of Surveyor), a Professional Land Surveyor, do hereby certify that I have performed the survey shown on the attached plat of (Name of Subdivision); that such survey was made on (Date of Survey); that said survey is true and complete as shown and that the monuments found and set are of the character and occupy the positions shown thereon.

Dated this _____ day of _____, 20 ___.

(Seal)

(Signature of Surveyor)
Registration No. _____
(Address)

---

## Certificate of Dedication – Final Plat

(I) (We), the undersigned property owner(s), do hereby certify that (I) (We) have caused to be surveyed, subdivided and platted into lots, blocks, streets and alleys, as shown by the plat hereto annexed, the following described land in (City and County if in Unincorporated Area), to-wit:

(Exterior boundary description of area contained in plat and total acreage)

The above described tract of land is to be known and designated as (Name of Subdivision), and the lands included in all streets, avenues, alleys, and parks or public squares shown on said plat are hereby granted and donated to the use of the public forever.

Dated this _____ day of _____, 20 ___.

(Acknowledged and notarized signatures of all record owners of platted property)

---

## Consent to Dedication by Encumbrances, If Any

(I) (We), the undersigned encumbrancer(s), do hereby join in and consent to the annexed plat and release (my) (our) respective liens, claims and encumbrances as to any portion of said lands shown on such plat as being dedicated to the use of the public forever.

Dated this _____ day of _____, 20 ___.

(Acknowledged and notarized signatures of all encumbrancers of record)

**Certificate of Waiver of Park Land Dedication and Acceptance of Cash in Lieu Thereof**

I, (Name of City or Town Clerk), (County Clerk and Recorder) of (Name of City or County), Montana, do certify that the following order was made by the (Governing Body) of (Name of City or County) at a meeting thereof held on the _____ day of _____, 20 ___, and entered into the proceedings of said Body to-wit: "Inasmuch as the dedication of park land within the platted area of (Name of Subdivision) is undesirable for the reasons set forth in the minutes of this meeting, it is hereby ordered by the (Name of Governing Body) that land dedication for park purposes be waived and that cash in lieu of park with the provisions of Title 76, Chapter 3, MCA."

In witness whereof, I have hereunto affixed the seal of (Name of City or County), Montana this _____ day of _____, 20 ___.

(Seal) (Signature of Clerk)

---

**Certificate Stating Facts Authorizing the Governing Body to Waive Park Dedication Under the Five Acre, Single Family Dwelling Exemption of the Montana Subdivision and Platting Act.**

(Name of Subdivider), referred to herein as the subdivider, hereby certifies that all of the parcels within (Name of Subdivision) contain five acres or more and that the Subdivider will enter into a covenant to run with the land and revocable only by mutual consent of the owners of the parcels in question and the governing body of (Name of City or County), that the parcels in the subdivision will never be subdivided into parcels of less than five acres and that only single family dwellings and associated outbuildings will be constructed on any single lot or parcel within the boundaries of the subdivision. A copy of this covenant is attached hereto:

(Date) (Notarized Signature of Subdivider)

**Certificate of Examining Land Surveyor Where Required – Final Plat**

I, (Name of Examining Land Surveyor), acting as an Examining Land Surveyor for (City or County), Montana, do hereby certify that I have examined the final plat of (Name of Subdivision) and find that the survey data shown thereon meet the conditions set forth by or pursuant to Title 76, Chapter 3, Part 4, MCA.

Dated this _____ day of _____, 20 ___.

(Signature)
(Name of Surveyor)
Registration No. _____
(City or County)

---

**Certificate of County Treasurer**

I hereby certify, pursuant to Section 76-3-611(1)(b), MCA, that all real property taxes assessed and levied on the land described below and encompassed by the proposed (Name of Subdivision) have been paid:

(legal description of land)

Dated this _____ day of _____, 20 ___.

(seal) (Signature of County Treasurer) Treasurer,
_____ County, Montana

---

**Certificate of Final Plat Approval – City**

The (Commission) (Council) of the City (Town) of (Name of City or Town), Montana does hereby certify that it has examined this subdivision plat and, having found the same to conform to law, approves it, and hereby accepts the dedication to public use of any and all lands shown on this plat as being dedicated to such use, this _____ day of _____, 20 ___.

by (Signature of City or Town Clerk) (Signature of Mayor)
Clerk Mayor

---

**Certificate of Filing by Clerk and Recorder**

STATE OF MONTANA )
) ss.
County of _____ )

Filed for record this _____ day of _____, 20 ___, at _____ o'clock.

(Signature of Clerk and Recorder)
County Clerk and Recorder, _____ County, Montana

## APPENDIX D

## SUBDIVISION IMPROVEMENTS AGREEMENT; GUARANTY

The parties to this Subdivision Improvements Agreement ("this agreement") are _____ ("the subdivider") and _____ ("the City").

WHEREAS, the subdivider desires to defer construction of improvements described in Attachment (__); and

WHEREAS, the purpose of this Agreement is to protect the City and is not intended for the benefit of contractors, suppliers, laborers or others providing work, services, or materials to the Subdivision, or for the benefit of lot or home buyers in the Subdivision; and

WHEREAS, the mutual promises, covenants and obligations contained in this Agreement are authorized by state law and the City subdivision regulations.

NOW THEREFORE THE PARTIES HEREBY AGREE AS FOLLOWS:

1. Effective Date: The effective date of this Agreement is the date that final subdivision plat approval is granted by the City.

2. Attachments: The Attachments cited herein are hereby made a part of this Agreement.

Subdivider's Obligations

3. Improvements: The Subdivider will construct and install, at his own expense, those subdivision improvements listed in Attachment (__) of this Agreement. The Subdivider's obligation to complete the improvements arises upon approval of the final subdivision plat, is not conditioned on the commencement of construction in the development or sale of any lots or improvements within the subdivision, and is independent of any obligations of the City contained in this Agreement.

4. Security: To secure the performance of his obligations under this Agreement, the Subdivider will deposit with the City on or before the effective date, an Irrevocable Letter of Credit (or other financial security acceptable to the local officials) in the amount of $_____. The letter of credit will be issued by __(lending institution)__, be payable at sight to the City at any time upon presentation of (1) a sight draft drawn on the issuing lending institution in the amount up to $ _____, (2) a signed statement or affidavit executed by an authorized City official stating that the Subdivider is in default under this Agreement; and (3) the original copy of the letter of credit.

5. Standards: The Subdivider will construct the required improvements according to the standards and specifications required by the City as specified in Attachment (__) of this Agreement.

6. Warranty: The Subdivider warrants that each and every improvement will be free from defects for a period of 1 year from the date that the City accepts the dedication of the last improvement completed by the Subdivider.

7. Commencement and Completion Periods: The Subdivider will complete all of the required improvements within (2) years from the effective date of this Agreement.

8. Compliance with Law: The Subdivider will comply with all relevant laws, ordinances, regulations and requirements in effect at the time of subdivision plat approval when meeting his obligations under this Agreement.

City's Obligations

9. Inspection and Certification:

   a. The City will provide for inspection of the improvements as they are completed and, where found acceptable, will certify those improvements as complying with the standards and specifications set forth in Attachment (__) of this Agreement. The inspection and certification, will occur within 14 days of notice by the Subdivider that the improvements are complete and that he desires City inspection and certification. Before requesting City certification of any improvement the Subdivider will present to the City valid lien waivers from all persons providing materials or performing work on the improvement.

   b. Certification by the City does not constitute a waiver by the City of the right to draw funds under the letter of credit in the event defects in or failure of any improvement are found following the certification.

10. Notice of Defect: The City will provide timely notice to the Subdivider whenever inspection reveals that an improvement does not conform to the standards and specifications set forth in Attachment (__), or is otherwise defective. The Subdivider will have 30 days from the date the notice is issued to remedy the defect. The City may not declare a default under this Agreement during the 30 day remedy period unless the Subdivider clearly indicates he does not intend to correct the defect. The Subdivider will have no right to correct the defect in, or failure of, any improvement found after the City accepts dedication of the improvements.

11. Reduction of Security: After the acceptance of any improvement, the amount that the City is entitled to draw on the letter of credit will be reduced by an amount equal to 90 percent of the estimated cost of the improvement as shown in Attachment (__). At the request of the Subdivider, the City will execute a certificate verifying the acceptance of the improvement and waiving its right to draw on the letter of credit to the extent of the amount. Upon the certification of all of the improvements the balance that may be drawn under the credit will be available to the City for the one year warranty period plus an additional 90 days.

12. Use of Proceeds: The City will use funds drawn under the letter of credit only for the purposes of completing the improvements or correcting defects in or failure of the improvements.

Other Provisions

13. Events of Default: The following conditions, occurrences or actions constitute a default by the Subdivider during the completion period:

   a. failure to complete construction of the improvements within two years of final subdivision plat approval;

   b. failure to remedy the defective construction of any improvement within the remedy period;

   c. insolvency of the Subdivider or the filing of a petition for bankruptcy;

   d. foreclosure of the property or assignment or conveyance of the property in lieu of foreclosure.

14. Measure of Damages: The measure of damages for breach of this Agreement is the reasonable cost of completing the improvements. For purposes of this Agreement the estimated cost of the improvements as specified in Attachment (__) is prima facie evidence of the minimum cost of completion. However, neither that amount nor the amount of the letter of credit establishes the maximum amount of the Subdivider's liability. The City may complete all unfinished improvements at the time of default regardless of the extent to which development has taken place in the Subdivision or whether development ever was commenced.

15. Local Government Rights Upon Default:

    a. Upon the occurrence of any event of default, the City may draw on the letter of credit to the extent of the face amount of the credit less the estimated cost [as shown in Attachment (__)] of all improvements previously certified by the City. The City may complete improvements itself or contract with a third party for completion, or the City may assign the proceeds of the letter of credit to a subsequent subdivider who has acquired the Subdivision and who has the same rights of completion as the City if and only if the subsequent subdivider agrees in writing to complete the unfinished improvements.

    b. In addition, the City may suspend final plat approval. During this suspension the Subdivider may not sell, transfer or otherwise convey lots or homes within the Subdivision without the express approval of the City until the improvements are completed and certified by the City.

16. Indemnification: The Subdivider agrees to indemnify and hold the City harmless for and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the performance of work under this Agreement. The Subdivider is not an employee or agent of the City.

17. Amendment or Modification: The Parties to this Agreement may amend or modify this Agreement only by written instrument executed on behalf of the City and by the Subdivider.

18. Attorney's Fees: Should either party be required to resort to litigation, arbitration or mediation to enforce the terms of this Agreement, the prevailing party, whether plaintiff or defendant, is entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court, arbitrator or mediator awards relief to both parties, each will bear its own costs in their entirety.

19. Third Party Rights: No person or entity who is not party to this Agreement has any right of action under this Agreement, except that if the City does not exercise its rights within 60 days following an event of default, a purchaser of a lot or home in the Subdivision may bring an action in mandamus to compel the City to exercise its rights.

20. Scope: The Agreement constitutes the entire agreement between the parties and no statement, promise or inducement that is not contained in this Agreement is binding on the parties.

21. Time: For the purpose of computing the commencement and completion periods, and time periods for City action, times in which war, civil disasters, acts of God or extreme weather conditions occur will not be included if the events prevent the Subdivider or the City from performing the obligations under this Agreement.

22. Assigns: The benefits of this Agreement to the Subdivider may not be assigned without the express written approval of the City. Such approval may not be withheld unreasonably, but any unapproved assignment is void. There is no prohibition on the right of the City to assign its rights under this Agreement.

    The City will release the original Subdivider's letter of credit if it accepts a new security from any subdivider or lender who obtains the property. However, no action by the City constitutes a release of the original subdivider from his liability under this Agreement.

23. Severability: If any part, term or provision of this Agreement is held by the courts to be illegal the illegality shall not affect the validity of any other part, term or provision, and the rights of the parties will be construed as if the part, term or provision were never part of the Agreement.

Dated this ___ day of _____, 20___.

_____
City Official

_____
Subdivider

## ACCEPTABLE FORMS OF IMPROVEMENTS GUARANTEES

The subdivider shall provide one or more of the following financial security guarantees in the amount of 100 percent of the estimated total cost of installing all required improvements.

1. Letter of Credit

   Subject to governing body approval, the subdivider shall provide the governing body a letter of credit from a bank or other reputable institution or individual certifying the following:

   a. That the creditor guarantees funds in an amount equal to the cost, as approved by the governing body, of completing all required improvements.

   b. That if the subdivider fails to complete the specified improvements within the required period, the creditor will immediately pay to the governing body upon presentation of a sight draft without further action, an amount of cash necessary to finance the completion of those improvements, up to the limit of credit stated in the letter.

   c. That this letter of credit may not be withdrawn, or reduced in amount, until released by the governing body.

2. Escrow Account

   The subdivider shall deposit cash, or collateral readily convertible to cash at face value, either with the governing body or in escrow with a bank. The use of collateral other than cash, and the selection of the bank where funds are to be deposited must be approved by the governing body.

   Where an escrow account is to be used, the subdivider shall give the governing body an agreement with the bank guaranteeing the following:

   a. That the funds in the escrow account are to be held in trust until released by the governing body and may not be used or pledged by the subdivider as security for any obligation during that period.

   b. That, should the subdivider fail to complete the required improvements, the bank shall immediately make the funds in escrow available to the governing body for completing these improvements.

3. Property Escrow

   The subdivider may offer as a guarantee land or other property, including corporate stocks or bonds. The value of any real property to be used, accounting for the possibility of a decline in its value during the guarantee period, must be established by a licensed real estate appraiser or securities broker, as applicable, at the subdivider's expense. The governing body may reject the use of property as collateral when the property value is unstable, when the property may be difficult to sell, or when other factors exist which will inhibit the exchange of the property for an amount of money sufficient to complete required improvements.

   When property is offered as an improvement guarantee, the subdivider shall:

a. Enter an agreement with the escrow agent instructing the agent to release the property to the governing body in the case of default. The agreement must be placed on file with the county clerk and recorder.

b. File with the governing body an affidavit affirming that the property to be used as a guarantee is free and clear of any encumbrances or liens at the time it is to be put in escrow.

c. Execute and file with the governing body an agreement stating that the property to be placed in escrow as an improvement guarantee will not be used for any other purpose, or pledged as a security for any other matter until it is released by the governing body.

4. Sequential Development

Where a subdivision is to be developed in phased portions, the governing body may, at its discretion, waive the use of a guarantee on the initial portion, provided that the portion contains no more than 25 lots, or 50 percent of the total number of lots in the proposed subdivision, whichever is less. The governing body may grant final plat approval to only one portion at a time. The plat approval for each succeeding portion will be contingent upon completion of all improvements in each preceding portion and acceptance of those improvements by the governing body. Completion of improvements in the final portion of the subdivision must be guaranteed through the use of one of the other methods detailed in this section.

5. Surety Performance Bond

The bond must be executed by a surety company authorized to do business in the State of Montana and acceptable as a surety to the governing body and countersigned by a Montana agent. The bond must be payable to the County (City) of _____. The bond must be in effect until the completed improvements are accepted by the governing body.

6. Special Improvements District

The governing body may enter into an agreement with the subdivider, and the owners of the property proposed for subdivision if other than the subdivider, that the installation of required improvements will be financed through a special or rural improvement district created pursuant to Title 7, Chapter 12, MCA. This agreement must provide that no lots within the subdivision will be sold, rented, or leased, and no contract for the sale of lots executed, before the improvement district has been created.

If the proposed subdivision lies in an unincorporated area, the subdivider, or other owners of the property involved must also petition the board of county commissioners to create a rural improvement district pursuant to Section 7-12-2102, MCA.

An agreement to finance improvements through the creation of a special improvement district, or a petition to create a rural improvement district, constitutes a waiver by the subdivider or the other owners of the property of the right to protest, or petition against, the creation of the district under either Section 7-12-2109 or Section 7-12-4110, MCA. This waiver must be filed with the county clerk and recorder and will be deemed to run with the land.

**MODEL**

**IRREVOCABLE LETTER OF CREDIT**

Letter of Credit No. ___

Name of Local Government Date
Address

Gentlemen:

We hereby establish in your favor our Irrevocable Letter of Credit # ___ for the account of (Subdivider), available by your drafts at sight up to an aggregate amount of $ _____. Should (Subdivider) default or fail to complete the improvements under the terms specified in the attached subdivision improvements agreement for (name of subdivision) we shall pay on demand your sight draft or drafts for such funds, to the limit of credit set forth herein, as are required to complete said improvements.

All drafts must be presented prior to (expiration date) and this Letter of Credit must accompany the final draft for payment. Drafts drawn hereunder must be by sight draft marked:

> "Drawn under (lending institution), Letter of Credit # ___
> dated (date of Letter of Credit)," and the amount drawn endorsed on the reverse hereof by the lending institution.

Unless otherwise stated, this Letter of Credit is subject to the Uniform Customs and Practices for Commercial Documentary Credits (1983 Revision) International Chamber of Commerce. We hereby agree with the drawers, endorsers and bona fide holders of the drafts drawn under and in compliance with the terms of this Credit that these drafts will be duly honored upon presentation to the drawee.

This letter of credit may not be withdrawn or reduced in any amount prior to its expiration date except by your draft or written release.

(Lending Institution)

(Signature and Title of Official)

## APPENDIX E

## GRANT OF ACCESS EASEMENT

THIS INDENTURE, made and entered into this _____ day of _____, 20 ___, by and between _____, of _____, Montana, hereinafter referred to as the "Grantor", and __(subdivider)__ of _____, Montana, hereinafter referred to as the "Grantee."

THE GRANTOR does hereby give, grant and convey unto the Grantee, its successor and assigns, the right, privilege and authority to construct, reconstruct, maintain, operate, repair, improve, and to travel upon and use, a road and its necessary fixtures and appurtenances through, over, and across a corridor, 60 feet wide, shown on the attached certificate of survey, extending across the following described tract(s) of land:

(legal description of Grantor's property over which easement is granted)

THIS GRANT of right and authority shall run with the said property and be binding on the Grantor, its successors, all subsequent owners and any parties having right, title, or interest in the said property.

IN WITNESS WHEREOF, the Grantor has hereunto set his hand this ___ day of _____, 20 ___.

_____
Grantor

STATE OF MONTANA )
) ss.
County of _____)

On this ____ day of _____, 20 ___, before me, the undersigned, a Notary Public for the State of Montana, personally appeared _____, known to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal this ___ day of _____, 20 ___.

_____
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires _____

884

AN ACT GENERALLY REVISING THE LOCAL SUBDIVISION REVIEW PROCEDURE; REVISING THE INFORMATION A GOVERNING BODY MAY CONSIDER WHEN DETERMINING IF SUBSEQUENT HEARINGS ARE REQUIRED FOR A SUBDIVISION APPLICATION; REVISING THE REQUIREMENTS FOR A PHASED SUBDIVISION; PROVIDING TIMELINES AND AMENDED CONDITIONS OF A FINAL PLAT APPROVAL; REVISING THE EXPEDITED SUBDIVISION REVIEW PROCESS; AMENDING SECTIONS 76-3-615, 76-3-617, AND 76-3-623, MCA; AND PROVIDING AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-615, MCA, is amended to read:

"**76-3-615. Subsequent hearings -- consideration of new information -- requirements for regulations.** (1) The regulations adopted pursuant to 76-3-504(1)(o) must comply with the provisions of this section.

(2) The governing body shall determine whether ~~public comments or documents~~ public comments or other information presented to the governing body at a hearing held pursuant to 76-3-605 ~~constitute:~~

~~(a) information or analysis of information that was presented at a hearing held pursuant to 76-3-605 that the public has had a reasonable opportunity to examine and on which the public has had a reasonable opportunity to comment; or~~

~~(b)~~ constitutes relevant, new information regarding a subdivision application or a substantial change to the design of the subdivision that has never been submitted as evidence or considered by either the governing body or its agent or agency ~~at a hearing during which the subdivision application was considered~~ and has a substantial effect on the governing body's consideration of the application.

(3) If the governing body determines that the ~~public comments or documents constitute~~ information presented to the governing body constitutes the information described in subsection (2)~~(b)~~, the governing body

may:

(a) approve, conditionally approve, or deny the proposed subdivision without basing its decision on the new information if the governing body determines that the new information is either irrelevant or not credible or the change to the design of the subdivision does not substantially impact the analysis of potentially significant adverse impacts; or

(b) schedule or direct its agent or agency to schedule a subsequent public hearing for consideration of only the new information ~~that may have an impact on the findings and conclusions~~, including a substantial change to the design of the subdivision for purposes of considering its findings of fact and conclusions and any proposed conditions of approval in light of the new information that the governing body will rely ~~upon~~ on in making its decision on the proposed subdivision.

(4) If a public hearing is held as provided in subsection (3)(b), the 60-working-day review period required in 76-3-604(4) is suspended and the new hearing must be noticed and held within 45 days of the governing body's determination to schedule a new hearing. After the new hearing, the 60-working-day time limit resumes at the governing body's next scheduled public meeting for which proper notice for the public hearing on the subdivision application can be provided. The governing body may not consider any information regarding the subdivision application that is presented after the hearing when making its decision to approve, conditionally approve, or deny the proposed subdivision."

**Section 2.** Section 76-3-617, MCA, is amended to read:

"**76-3-617. Phased development -- application requirements -- hearing required.** (1) A subdivider applying for phased development review shall submit with the phased development application an overall phased development preliminary plat on which independent platted development phases must be presented. The phased development application must contain the information required pursuant to parts 5 and 6 of this chapter for all phases of a development and a schedule for when the subdivider plans to submit for review each phase of the development. The subdivider may change the schedule for review of each phase of the development upon approval of the governing body after a public hearing as provided in subsection (4) if the change does not negate conditions of approval or otherwise adversely affect public health, safety, and welfare.

(2) Except as otherwise provided by this section, the phased development application must be

reviewed in conformity with parts 5 and 6 of this chapter. In addition, each phase of the phased development must be reviewed as provided in subsection (4).

(3) The governing body may approve phased developments that extend beyond the time limits set forth in 76-3-610 but all phases of the phased development must be submitted for review and approved, conditionally approved, or denied within 20 years of the date the overall phased development preliminary plat is approved by the governing body.

(4) ~~Prior to the commencement of each phase~~ For any phase of the approved subdivision submitted for final plat approval more than 5 years after the date of preliminary approval of the subdivision, the subdivider shall provide written notice to the governing body not more than 1 year or less than 90 calendar days in advance of submitting the final plat application. The governing body shall hold a public hearing pursuant to 76-3-605(3) within 30 working days after receipt of the written notice from the subdivider to determine whether changed circumstances justify amending any conditions of approval or imposing additional conditions of approval. The governing body may amend or impose additional conditions of approval only if it determines, based on a review of the primary criteria, that the existing conditions of approval are inadequate to mitigate the potentially significant adverse impacts identified during the original review based on changed circumstances. ~~After the hearing, the governing body shall determine whether any changed primary criteria impacts or new information exists that creates new potentially significant adverse impacts for the phase or phases.~~ Notwithstanding the provisions of 76-3-610(2), the governing body shall issue supplemental written findings of fact within 20 working days of the hearing ~~and may impose necessary, additional conditions to minimize potentially significant adverse impacts identified in the review of each phase of the development for changed primary criteria impacts or new information~~. Any additional conditions must be met before final plat approval for each ~~particular~~ remaining phase and the approval in accordance with 76-3-611 is in force for not more than 3 calendar years or less than 1 calendar year within the maximum timeframe provided in subsection (3).

(5) The governing body may impose a reasonable periodic fee for the review under subsection (4) of the phases in the phased development."

**Section 3.** Section 76-3-623, MCA, is amended to read:

"**76-3-623. Expedited review for certain subdivisions.** (1) Except as provided in subsection (9), a

subdivision application, regardless of the number of lots, that meets the requirements provided in subsection (3) is entitled to the expedited review process provided in this section at the applicant's request.

(2) A subdivision application that meets the requirements provided in subsection (3) is exempt from:

(a) the preparation of an environmental assessment as required in 76-3-603; and

(b) the review criteria listed in 76-3-608(3)(a).

(3) A subdivision qualifies for the expedited review process provided in this section if the proposed subdivision:

(a) is within:

(i) an incorporated city or town or consolidated city-county government and is subject to an adopted growth policy pursuant to Title 76, chapter 1, and adopted zoning regulations pursuant to Title 76, chapter 2, part 3; or

(ii) ~~a county water and/or sewer district created under 7-13-2203 that provides both water and sewer services~~ a county water and/or sewer district created under 7-13-2203 that provides both water and sewer services or an area outside the boundaries of an incorporated city, town, county, or consolidated city-county that is served by city, town, county, or consolidated city-county water and sewer services and is subject to an adopted growth policy as provided in Title 76, chapter 1, and zoning regulations pursuant to Title 76, chapter 2, part 2, that, at a minimum, address development intensity through minimum lot sizes or densities, bulk and dimensional requirements, and use standards;

(b) complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 ~~without the need for variances or other deviations to adopted standards~~; and

(c) includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations.

(4) On submission for expedited review under this section, the subdivision application must be reviewed for required elements and sufficiency of information as provided in 76-3-601(1) through (3) to determine whether the application complies with zoning regulations adopted pursuant to 76-2-203 or 76-2-304 and complies with the design standards and other subdivision regulations adopted pursuant to 76-3-504 ~~without~~

~~the need for variances or other deviations to adopted standards~~ and includes in its proposal plans for the onsite development of or extension to public infrastructure in accordance with adopted ordinances and regulations. The application may include a request for variance or deviation from subdivision regulations adopted pursuant to 76-3-504 and in accordance with the provisions of 76-3-506.

(5) The governing body shall:

(a) hold a hearing ~~on~~ and approve, conditionally approve, or deny the subdivision application within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in subsection (3). If the subdivision application includes a request for variance or deviation from subdivision regulations adopted pursuant to 76-3-504, the time for holding a hearing as required in this subsection (5) must be extended to a total of 45 working days~~;~~.

(b) provide notice for the hearing required in subsection (5)(a) by publication in a newspaper of general circulation in the county not less than 15 days prior to the date of the hearing;

(c) approve the application unless public comment or other information demonstrates the application does not comply with:

(i) adopted zoning regulations, design standards, and other requirements of subdivision regulations adopted pursuant to 76-3-504 ~~without the need for variances or other deviations to adopted standards~~, including any criteria for granting variances or deviations from subdivision regulations adopted pursuant to 76-3-504; or

(ii) adopted ordinances or regulations for the onsite development of or extension to public infrastructure; and

(d) provide to the applicant and the public a written statement within 30 days of the decision to approve or deny a proposed subdivision for expedited review as allowed in this section that provides:

(i) the facts and conclusions that the governing body relied on in making its decision to approve or deny the application; and

(ii) the conditions that apply to the preliminary plat approval that must be satisfied before the final plat may be approved.

(6) The governing body may:

(a) with the agreement of the applicant, grant one extension of the review period allowed in subsection (5)(a) not to exceed 180 calendar days;

(b) adopt conditions of approval only to ensure an approved subdivision application is completed in accordance with the approved application and any applicable requirements pursuant to Title 76, chapter 4; or

(c) delegate to its reviewing agent or agency the requirement to hold a public hearing on the subdivision application as required in this section.

(7) A local governing body may not adopt zoning regulations pursuant to 76-2-203 or 76-2-304, subdivision regulations pursuant to 76-3-504, or other ordinances or regulations that restrict the use of the expedited subdivision review process as provided in this section.

(8) (a) Except as modified in this section, subdivision applications meeting the requirements for an expedited review remain subject to the provisions of 76-3-608(3)(b) through (3)(d) and 76-3-608(6) through (10), 76-3-610 through 76-3-614, 76-3-621, and 76-3-625.

(b) The provisions of this section supersede any provision of this chapter that is in conflict with any provision of this section.

(9) A subdivision located outside of the boundaries of an incorporated city or town may not utilize the expedited review process provided in this section unless the board of county commissioners of the county where the subdivision is located has voted to allow the provisions of this section to apply to subdivisions located outside the boundaries of an incorporated city or town.

(10) An incorporated city, town, or consolidated city-county shall implement the expedited review provided for in this section for a proposed subdivision that meets the criteria in subsection (3)(a)(i) regardless of whether the city, town, or consolidated city-county has incorporated the provisions of this section into the city, town, or consolidated city-county's local subdivision regulations."

**Section 4. Applicability**. [Section 2] applies to subdivision applications that are approved on or after October 1, 2023.

- END -

I hereby certify that the within bill,

HB 211, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2023.

_____

President of the Senate

Signed this _____day

of_____, 2023.

HOUSE BILL NO. 211

INTRODUCED BY L. BREWSTER, M. MALONE, S. KERNS, J. SCHILLINGER, C. KNUDSEN, S. VINTON, K. SEEKINS-CROWE, M. YAKAWICH, J. FITZPATRICK, J. ETCHART, J. KASSMIER, B. PHALEN

AN ACT GENERALLY REVISING THE LOCAL SUBDIVISION REVIEW PROCEDURE; REVISING THE INFORMATION A GOVERNING BODY MAY CONSIDER WHEN DETERMINING IF SUBSEQUENT HEARINGS ARE REQUIRED FOR A SUBDIVISION APPLICATION; REVISING THE REQUIREMENTS FOR A PHASED SUBDIVISION; PROVIDING TIMELINES AND AMENDED CONDITIONS OF A FINAL PLAT APPROVAL; REVISING THE EXPEDITED SUBDIVISION REVIEW PROCESS; AND AMENDING SECTIONS 76-3-615, 76-3-617, AND 76-3-623, MCA; AND PROVIDING AN APPLICABILITY DATE."

AN ACT REVISING LOCAL GOVERNMENT REVIEW REQUIREMENTS OF EXEMPT DIVISIONS AND AGGREGATIONS OF LAND; REQUIRING THE GOVERNING BODY TO COMPLETE REVIEWS WITHIN 20 WORKING DAYS; PROHIBITING THE IMPOSITION OF CERTAIN NEW CRITERIA FOR APPROVAL; AND AMENDING SECTIONS 76-3-201 AND 76-3-207, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-201, MCA, is amended to read:

"**76-3-201. Exemption for certain divisions of land -- fees for examination of division.** (1) Unless the method of disposition is adopted for the purpose of evading this chapter, the requirements of this chapter may not apply to any division of land that:

(a) is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, Title 70, chapter 30;

(b) subject to subsection (4), is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes;

(c) creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;

(d) creates cemetery lots;

(e) is created by the reservation of a life estate;

(f) is created by lease or rental for farming and agricultural purposes;

(g) is in a location over which the state does not have jurisdiction; or

(h) is created for rights-of-way or utility sites. A subsequent change in the use of the land to a residential, commercial, or industrial use is subject to the requirements of this chapter.

(2) An exempt division of land as provided in subsection (1)(a) is not considered a subdivision under this chapter if not more than four new lots or parcels are created from the original lot or parcel.

(3) Before a court of record orders a division of land under subsection (1)(a), the court shall notify the governing body of the pending division and allow the governing body to present written comment on the division.

(4) An exemption under subsection (1)(b) applies:

(a) to a division of land of any size;

(b) if the land that is divided is not conveyed to any entity other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture. Except as provided in subsection (5), a transfer of the divided land, by the owner of the property at the time that the land was divided, to any party other than those identified in this subsection (4)(b) subjects the division of land to the requirements of this chapter.

(c) to a parcel that is created to provide security as provided in subsection (1)(b). The remainder of the tract of land is subject to the provisions of this chapter, if applicable.

(5) If a parcel of land was divided pursuant to subsection (1)(b) and one of the parcels created by the division was conveyed by the landowner to another party without foreclosure before October 1, 2003, the conveyance of the remaining parcel is not subject to the requirements of this chapter.

(6) The governing body:

(a) may examine a division of land to determine whether or not the requirements of this chapter apply to the division ~~and~~;

(b) may establish reasonable fees, not to exceed $200, for the examination;

(c) shall complete the examination and approve or deny the application for a division of land under this section within 20 working days of the receipt of an application containing all materials and information required by the governing body to complete the examination under regulations adopted pursuant to 76-3-504(1)(p); and

(d) may not impose conditions on the approval of a division of land under this section except for conditions necessary to ensure compliance with the survey requirements of Title 76, chapter 3, part 4."

**Section 2.** Section 76-3-207, MCA, is amended to read:

"**76-3-207. Divisions or aggregations of land exempted from review but subject to survey requirements and zoning regulations -- exceptions -- fees for examination of division.** (1) Except as provided in subsection (2), unless the method of disposition is adopted for the purpose of evading this chapter, the following divisions or aggregations of tracts of record of any size, regardless of the resulting size of any lot created by the division or aggregation, are not subdivisions under this chapter but are subject to the surveying requirements of 76-3-401 for divisions or aggregations of land other than subdivisions and are subject to applicable zoning regulations adopted under Title 76, chapter 2:

(a) divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties;

(b) divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;

(c) divisions made outside of platted subdivisions by gift, sale, or agreement to buy and sell in which the landowner enters into a covenant for the purposes of this chapter with the governing body that runs with the land and provides that the divided land will be used exclusively for agricultural purposes, subject to the provisions of 76-3-211;

(d) for five or fewer lots within a platted subdivision, the relocation of common boundaries;

(e) divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(f) aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel are established. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.

(2) Notwithstanding the provisions of subsection (1), within a platted subdivision filed with the county clerk and recorder, a division, redesign, or rearrangement of lots that results in an increase in the number of lots or that redesigns or rearranges six or more lots must be reviewed and approved by the governing body before an amended plat may be filed with the county clerk and recorder.

(3) (a) Subject to subsection (3)(b), a division of land may not be made under this section unless the county treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid.

(b) (i) If a division of land includes centrally assessed property and the property taxes applicable to the division of land are not specifically identified in the tax assessment, the department of revenue shall prorate the taxes applicable to the land being divided on a reasonable basis. The owner of the centrally assessed property shall ensure that the prorated real property taxes and special assessments are paid on the land being sold before the division of land is made.

(ii) The county treasurer may accept the amount of the tax prorated pursuant to this subsection (3)(b) as a partial payment of the total tax that is due.

(4) The governing body:

(a) may examine a division or aggregation of land to determine whether or not the requirements of this chapter apply to the division or aggregation ~~and~~;

(b) may establish reasonable fees, not to exceed $200, for the examination;

(c) shall complete the examination and approve or deny the application for a division or aggregation of land under this section within 20 working days of the receipt of an application containing all materials and information required by the governing body to conduct its review under regulations adopted pursuant to 76-3-504(1)(p); and

(d) may not impose conditions on the approval of a division or aggregation of land under this section except for conditions necessary to ensure compliance with the survey requirements of Title 76, chapter 3, part 4."

- END -

I hereby certify that the within bill,

SB 131, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____day

of_____, 2023.

_____

Speaker of the House

Signed this _____day

of_____, 2023.

SENATE BILL NO. 131

INTRODUCED BY F. MANDEVILLE, G. HERTZ, C. FRIEDEL, D. ZOLNIKOV, J. TREBAS

AN ACT REVISING LOCAL GOVERNMENT REVIEW REQUIREMENTS OF EXEMPT DIVISIONS AND AGGREGATIONS OF LAND; REQUIRING THE GOVERNING BODY TO COMPLETE REVIEWS WITHIN 20 WORKING DAYS; PROHIBITING THE IMPOSITION OF CERTAIN NEW CRITERIA FOR APPROVAL; AND AMENDING SECTIONS 76-3-201 AND 76-3-207, MCA.

898

AN ACT PROVIDING AN ALTERNATIVE ADMINISTRATIVE PROCESS FOR CERTAIN MINOR SUBDIVISIONS; PROVIDING CRITERIA AND EXEMPTIONS FOR CERTAIN MINOR SUBDIVISIONS; GRANTING A SUBDIVISION ADMINISTRATOR DECISION-MAKING AUTHORITY; PROVIDING A PROCESS FOR APPEAL; PROVIDING A DEFINITION; AND AMENDING SECTION 76-3-609, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-609, MCA, is amended to read:

"**76-3-609. Review procedure for minor subdivisions -- determination of sufficiency of application -- governing body to adopt regulations.** (1) Except as provided in subsections (6) through (8), ~~Minor~~ minor subdivisions must be reviewed as provided in this section and subject to the applicable local regulations adopted pursuant to 76-3-504.

(2) If the tract of record proposed to be subdivided has not been subdivided or created by a subdivision under this chapter or has not resulted from a tract of record that has had more than five parcels created from that tract of record under 76-3-201 or 76-3-207 since July 1, 1973, then the proposed subdivision is a first minor subdivision from a tract of record and, when legal and physical access to all lots is provided, must be reviewed as follows:

(a) Except as provided in subsection (2)(b), the governing body shall approve, conditionally approve, or deny the first minor subdivision from a tract of record within 35 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review. The determination and notification to the subdivider must be made in the same manner as is provided in 76-3-604(1) through (3).

(b) The subdivider and the reviewing agent or agency may agree to an extension or suspension of the review period, not to exceed 1 year.

(c) Except as provided in subsection (2)(d)(ii), an application must include a summary of the probable impacts of the proposed subdivision based on the criteria described in 76-3-608(3).

(d) The following requirements do not apply to the first minor subdivision from a tract of record as provided in subsection (2):

(i) the requirement to prepare an environmental assessment; and

(ii) the requirement to review the subdivision for the criteria contained in 76-3-608(3)(a) if the minor subdivision is proposed in the portion of a jurisdictional area that has adopted zoning regulations that address the criteria in 76-3-608(3)(a).

(e) The governing body or its authorized agent or agency may not hold a public hearing or a subsequent public hearing under 76-3-615 for a first minor subdivision from a tract of record as described in subsection (2).

(f) The governing body may adopt regulations that establish requirements for the expedited review of the first minor subdivision from a tract of record. The following apply to a proposed subdivision reviewed under the regulations:

(i) except as provided in subsection (2)(d), the provisions of 76-3-608(3); and

(ii) the provisions of Title 76, chapter 4, part 1, whenever approval is required by those provisions.

(3) Except as provided in 76-3-616 and subsection (4) of this section, any minor subdivision that is not a first minor subdivision from a tract of record, as provided in subsection (2), is a subsequent minor subdivision and must be reviewed as provided in 76-3-601 through 76-3-605, 76-3-608, 76-3-610 through 76-3-614, and 76-3-620.

(4) The governing body may adopt subdivision regulations that establish requirements for review of subsequent minor subdivisions that meet or exceed the requirements that apply to the first minor subdivision, as provided in subsection (2) and this chapter.

(5) (a) Review and approval, conditional approval, or denial of a subdivision under this chapter may occur only under those regulations in effect at the time that a subdivision application is determined to contain sufficient information for review as provided in subsection (2).

(b) If regulations change during the period that the application is reviewed for required elements and sufficient information, the determination of whether the application contains the required elements and

sufficient information must be based on the new regulations.

(6) First and subsequent minor subdivisions must be reviewed using the administrative process provided for in subsection (7) if the proposed subdivision:

(a) is located in an area that is subject to and complies with zoning regulations adopted pursuant to Title 76, chapter 2, part 2 or 3, that, at a minimum, address development intensity through densities, bulk and dimensional requirements, and use standards;

(b) has a will-serve letter from a municipal water and sewer service or by a county water and/or sewer district created under 7-13-2203 that supplies both water and sewer services;

(c) has existing legal and physical access to each lot; and

(d) does not require a variance to any of the contents of the subdivision regulations required in 76-3-504(1)(g).

(7) An administrative minor subdivision meeting the requirements of subsection (6) is exempt from:

(a) submitting the summary of probable impacts based on criteria described in 76-3-608(3) and the environmental assessment required in 76-3-603;

(b) the review criteria described in 76-3-608(3)(a); and

(c) the requirements of subsections (2) through (5) of this section.

(8) (a) For administrative minor subdivisions, the subdivision administrator appointed by the governing body shall:

(i) assume all decision-making authority of the governing body provided in 76-3-608;

(ii) approve, conditionally approve, or deny an administrative minor subdivision and issue a written statement pursuant to 76-3-620 within 30 working days of a determination by the reviewing agent or agency that the application contains required elements and sufficient information for review as provided in 76-3-604(1) through (3); and

(iii) immediately on a determination that the application meets the requirements of 76-3-604(1) through (3), notify by first-class mail of the pending application:

(A) each property owner of record whose property is immediately adjoining the land included in the preliminary plat; and

(B) each purchaser under contract for deed of property immediately adjoining the land included in

the preliminary plat.

(b) If a party identified in 76-3-625(3) objects to a subdivision administrator's decision to approve, conditionally approve, or deny an administrative minor subdivision, the party may request in writing that the subdivision administrator forward the application on to the governing body. The governing body shall sustain the subdivision administrator's decision based on the record as a whole unless the decision was arbitrary, capricious, or unlawful. The governing body has 15 working days from the receipt of the request to review a decision to approve, conditionally approve, or deny the administrative minor subdivision and make a final determination.

(9) As used in this section, "administrative minor subdivision" means a subdivision meeting the requirements of subsection (6). All the requirements of Title 76, chapter 3, except those exempt in subsections (7) and (8), apply to an administrative minor subdivision."

- END -

I hereby certify that the within bill,

SB 170, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____day

of_____, 2023.

_____

Speaker of the House

Signed this _____day

of_____, 2023.

# SENATE BILL NO. 170

INTRODUCED BY F. MANDEVILLE

AN ACT PROVIDING AN ALTERNATIVE ADMINISTRATIVE PROCESS FOR CERTAIN MINOR SUBDIVISIONS; PROVIDING CRITERIA AND EXEMPTIONS FOR CERTAIN MINOR SUBDIVISIONS; GRANTING A SUBDIVISION ADMINISTRATOR DECISION-MAKING AUTHORITY; PROVIDING A PROCESS FOR APPEAL; PROVIDING A DEFINITION; AND AMENDING SECTION 76-3-609, MCA.

AN ACT REVISING EXEMPTION LAW FOR CERTAIN CONDOMINIUMS AND TOWNHOUSES; AMENDING SECTION 76-3-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 76-3-203, MCA, is amended to read:

"**76-3-203. Exemption for certain condominiums and townhouses.** (1) Condominiums, townhomes, townhouses, or conversions, as those terms are defined in 70-23-102, constructed on land subdivided in compliance with parts 5 and 6 of this chapter or on lots within incorporated cities and towns are exempt from the provisions of this chapter if:

~~(1)~~(a) the approval of the original subdivision of land expressly contemplated the construction of the condominiums, townhomes, or townhouses and any applicable park dedication requirements in 76-3-621 are complied with; or

~~(2)~~(b) the condominium, townhome, or townhouse proposal is in conformance with applicable local zoning regulations pertaining to land use, density, bulk and dimensional requirements, landscaping, and parking requirements when local zoning regulations are in effect.

(2) A determination whether the condominium, townhome, townhouse, or conversion proposal is exempt from the provisions of this chapter must be made by the governing body or the agent or agency designated by the governing body within 20 working days of the receipt of an application containing all materials and information required by the governing body to complete the determination.

(3) The governing body may not enact regulations prohibiting the townhome form of ownership or impose conditions on a determination that the condominium, townhome, townhouse, or conversion proposal is exempt from the provisions of this chapter, and may not require the condominium, townhome, townhouse, or conversion proposal to undergo a conditional use permit or other quasi-judicial governmental review process

pursuant to regulations adopted pursuant to Title 76, chapter 2, as a prerequisite to determining eligibility for an exemption from the provisions of this chapter."

**Section 2. Effective date.** [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

SB 331, originated in the Senate.

_____

Secretary of the Senate

_____

President of the Senate

Signed this _____day

of_____, 2023.

_____

Speaker of the House

Signed this _____day

of_____, 2023.

SENATE BILL NO. 331

INTRODUCED BY G. HERTZ

AN ACT REVISING EXEMPTION LAW FOR CERTAIN CONDOMINIUMS AND TOWNHOUSES; AMENDING SECTION 76-3-203, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

| GROWTH POLICY- RECOMMENDED UPDATES TO SUBDIVISION REGULATIONS | | |
|---|---|---|
| **Recommendation** | **Included in Updates?** | **Notes** |
| Carefully evaluate transportation impacts of greenfield development as part of the development review process. | Y | Assessed through Traffic Impact Study; TIS requirement added for all major subdivision applications (Appendix C) |
| Require sidewalks, and trail connections where possible, with new subdivisions. | Y | Allowed under current sub regs 28.7.17.4; added to Appendix B |
| Create Public Works Infrastructure Design Standards to incorporate into the Subdivision Regulations. | N | Completed in August 2022 |
| Explore requiring boulevard tree plantings with all subdivisions. | Y | See 28.7.9.3 |
| Explore watercourse and wetland setbacks. | N | Setbacks will be addressed through future Riparian Corridor study |
| Require a flood study if proposed development is to be located within a 100-year floodplain. | N | Floodplain Development Permit restricts impacts to regulatory floodplain; development in mapped floodway is prohibited |
| Investigate updating subdivision regulations to consider lifetime cost to the taxpayer, ***tax revenue projections*** , greenhouse gas emissions, water use reduction, solid waste reduction, reuse of current resources, and ***coordination of project work to reduce disruption and waste.*** | N | Tax revenue projections already evaluated under current subdivision regs. Reduce disruption/ waste during project is under purview of DEQ. |
| Update regulations to add language from the Subdivision and Platting Act. | Y | Revisions included MCA changes |
| Include definitions within document | Y | Revisions included MCA changes |
| All definitions should be updated to meet the intent of the zoning code, subdivision regulations, recommendations of the Growth Policy and compliance with state, county, and local laws. | Y | Updated with MCA changes. Will be updated again for consistency with new zoning code. |
| Ensure references to MCA and MSPA are up to date. | Y | Revisions included MCA changes |
| Procedure should be reviewed by staff and legal counsel to ensure proper administration of regulations | Y | Revisions included in MCA changes |
| Consider removing professional land surveyor and have all plans certified by a professional engineer. | N | Certain design aspects required to be certified by engineers but state law allows survey of subdivision plats by licensed surveyor |
| Prohibit cul-de-sacs in subdivision development. | Y | Cul-de-sacs only allowed by variance- see 28.7.9.1.3 |
| Require gridded street networks that promote active transportation. | Y | See 28.7.8.4 |
| Consider requiring a tree preservation ordinance to regulate the preservation of desirable trees. | N | Current regs (28.7.9.3.6) encourage tree and vegetation preservation where appropriate; evaluated on case basis. |
| Street light electric bill should be the responsibility of the homeowner's association. | N | These are managed through the City's light maintenance districts. |

| GROWTH POLICY- RECOMMENDED UPDATES TO SUBDIVISION REGULATIONS | | |
|---|---|---|
| **Recommendation** | **Included in Updates?** | **Notes** |
| An engineer should review Table 1 to consider reducing the impact streets have on water runoff and other environmental and fiscal considerations. | N | Design must be consistent with Pub Works Design Standards; impacts to stormwater will be evaluated when MS4 requirements are established |
| Table 1 should be updated to meet more modern street sections and give sections for different types of streets (arterial, collector, local). | Y | Table 1 moved to Appendix B and a typical road section was added. Additional street section illustrations to be included in future update to Pub Works Design Standards |
| Explore working with Public Works Department to create city-wide transportation standards for all development. | N | Transportation standards and design are regulated Pub Works Design Standards. |
| The City should strengthen the drainage facilities requirements. This is often a source of water pollution both during and after construction of the development. | N | This is evaluated during subdivision review by Public Works and MT DEQ. |
| Evaluate utilizing underground stormwater drainage systems rather than allowing surface gutters along curbs and through intersections for new developments. | N | This is evaluated during subdivision review by Public Works and MT DEQ. |
| Often developers choose to pay the City for park land dedication. The City often loses green space and other scenic views. Consider requiring park land dedication first and payment in-lieu-of park land as a second option approved by City Commission. | N | This is inconsistent with PUD ordinance Sec 30.47.D.4. (created after Growth Policy adopted) |
| Consider adopting a ridgeline or viewshed ordinance. | Y | requirement to preserve natural terrain- see 28.7.3 |
| Communities often shy away from mobile homes. Review to make sure this is acceptable to the City Commission. | N | Addressed in zoning ordinance, Ch. 30 |
| Ensure all fees are included and cover staff and City resource costs to process each application. | N | Review fees updated annually by separate Resolution |
| The City should strengthen the variance section. | Y | Variance language is more robust - See Sec. 28.10.2 |
| Add language on evaluation of subdivisions. | Y | Sec 28.4.7.2 includes language to assist evaluating development impacts with respect to seven subdivision review criteria under MCA. |