

Chapter 24 - Zoning

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ARTICLE I. – IN GENERAL

Sec. 24-1. - Title of Chapter.

The provisions of this Chapter shall be designated as the Miles City Zoning Ordinance, and may be cited as such.

Sec. 24-2. - Statutory authority.

The zoning regulations set forth in this Chapter are adopted under the authority of 76-2-301, Montana Code Annotated (MCA).

Sec. 24-3. - Territorial jurisdiction.

The jurisdiction of this Chapter shall include all land within the corporate limits of the City of Miles City, Montana.

Sec. 24-4. - Purposes of Chapter.

The purposes of these regulations are to:

- a) Promote the public health, safety, morals and general welfare of the community (76-2-304 and 76-2-304(1)(b)(ii), MCA);
- b) Accord with the Miles City Growth Policy (76-2-304(1)(a), MCA);
- c) Secure safety from fire and other dangers (76-2-304(1)(b)(i), MCA);
- d) Facilitate adequate provisions for transportation, water, sewerage, schools, parks and other public requirements (76-2-304(1)(b)(iii), MCA);
- e) Provide adequate light and air (76-2-304(2)(a), MCA);
- f) Minimize negative effects on motorized and nonmotorized transportation systems (76-2-304(2)(b), MCA);
- g) Promote compatible urban growth (76-2-304(2)(c), MCA);
- h) Enhance the character of the districts and their peculiar suitability for particular uses (76-2-304(2)(d), MCA);
- i) Conserve the value of buildings and encourage the most appropriate use of land throughout the jurisdictional area (76-2-304(2)(e), MCA);
- j) Provide appropriate regulations to be enforced within the jurisdictional area's various districts (76-2-307, MCA); and
- k) Comply with the requirements of 76-8-107, MCA to adopt regulations for the administration and enforcement of the creation of buildings for lease or rent on a single tract, thus exempting

all buildings for lease or rent from special review provided they are in conformance with this Chapter.

Sec. 24-5. – Effective Date.

This revised Chapter shall become effective 30 days after its final passage by the City Council, giving an effective date of the 14th day of April 2017.

Sec. 24-6. – Severability Clause.

Where any word, phrase, clause, sentence, paragraph, or section or other part of these regulations is held invalid by a court of competent jurisdiction by express inclusion in the decision to be invalid, such judgment shall affect only that part held invalid and such decision shall not affect, impair or nullify these regulations as a whole or any other part thereof.

Sec. 24-7. – Conflict with Other Laws and Ordinances.

Wherever conflicts exist between the standards imposed by these regulations and any such standard imposed by other local ordinances or regulations or state statutes, the higher or more restrictive standards shall govern. See 76-2-309, MCA.

Sec. 24-8. – Relationship to Growth Policy.

The Miles City Growth Policy provides the policy basis for these regulations and standards. The regulations and standards herein have been made in consideration of and in conformance with the Miles City Growth Policy.

Sec. 24-9. – Relationship to Private Agreements.

Adoption of these regulations does not nullify easements, covenants, and similar private agreements, but where any such agreement imposes requirements less restrictive than those adopted here, the requirements of these regulations apply. Where the provisions of any private agreements are more restrictive or impose higher standards than these regulations, the city has no duty to enforce such restrictions or advise of their existence. The city may enforce private restrictions if the city is a party to such restrictions, or if such restrictions were required by the city during the land permitting and development process in order to meet the requirements of these or other city regulations.

Sec. 24-10. – Terms and Definitions.

Article V gives definitions of certain terms used in these regulations. Terms and phrases used in these regulations that are not defined shall have the term's or phrase's common meaning when appropriate for its context and to promulgate the purposes and intent of these regulations. When a question arises concerning application of any term or phrase, it shall be the duty of the Administrator to ascertain all pertinent facts and make an official interpretation in writing upon

written request. Thereafter such interpretations shall govern. All interpretations shall be on file at City Hall. Any appeal of the Administrator's official written interpretation shall be reviewed by the Board of Adjustment according to Section 24-93.

ARTICLE II. - ZONING DISTRICTS

Sec. 24-11. - Zoning district map adopted.

The designation, location and boundaries of zoning districts established under this Chapter shall be shown and depicted on a map designated as the Official Miles City Zoning District Map, which is hereby adopted by reference and may be amended from time to time. The map and all notations, references and other information shown thereon shall be as much as part of this Chapter as if the information set forth by such map was fully set forth in this Section. The Official Miles Zoning District Map and all amendments thereto shall be kept in the offices of the Administrator.

Sec. 24-12. - Districts established.

- a) **Zoning Districts.** A zoning district is a geographic area within which development of certain uses and buildings is permitted upon approval of a Building Permit and certain other uses and buildings may be developed upon approval of a Conditional Use Permit. For the purpose of classifying, regulating, and defining uses that are appropriately located, the following zoning districts are established:
1. Residential A District (RA)
 2. Residential B District (RB)
 3. Residential C District (RC)
 4. Semi-Rural District (SR)
 5. Mobile Home Residential District (MH-A)
 6. Mobile Home – RV Park District (MH-RV)
 7. Central Business District (CBD)
 8. General Commercial District (GC)
 9. Highway Commercial District (HWC)
 10. Heavy Commercial/Light Industrial District (HCLI)
 11. Heavy Industrial District (HI)
 12. Medical Campus District (MC)
 13. Open Space District (OS)
- b) **Overlay Districts.** An overlay district modifies the regulations applicable in the zoning districts “over” which it is mapped. The following overlay districts are established:
1. Planned Unit Development Overlay District (PUDOD)

2. Sexually Oriented Business Overlay District (SOBOD)

- c) **Compliance Required.** No building shall be erected, altered or used, and no land shall be developed or used in a manner that does not conform with the regulations prescribed for the zoning district and overlay district in which it located, except as authorized in Section 24-89 – Nonconforming Uses.

Sec. 24-13. - Boundaries established.

The boundaries of districts are shown on the Official Miles City Zoning District Map. Where uncertainty exists with respect to the boundaries of the various districts, the following rules shall apply:

- a) The district boundaries are centerlines of streets, alleys or waterways unless otherwise shown.
- b) Where the district boundaries are not centerlines of streets, alleys or waterways and where the land has been divided into lots, the district boundaries shall be construed to follow lot lines.

The Administrator shall be responsible for interpreting the zoning district boundaries. Any person who disputes a decision of the Administrator may appeal the decision to the Board of Adjustment using the procedure found in Section 24-93.

Sec. 24-14. - Zoning upon annexation.

All territory which may hereafter be annexed into the City of Miles City shall be zoned at the time of annexation. Prior to such annexation and zoning, the Administrator shall have made a zoning recommendation to the Zoning Commission, and the Zoning Commission shall have made its investigation and shall make a recommendation and report to the City Council on the question of zoning. City Council public hearings on the question of zoning shall be held in conjunction with the necessary annexation procedures.

Sec. 24-15. - Residential A district (RA).

- a) **Intent.** It is the intent of the RA district to provide for residential neighborhoods of single family and multifamily dwellings up to four units.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the RA district are shown in Table II.1. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.1: RA DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Single-family dwellings	Small scale retail and restaurants less than 5,000 square feet that serve the immediate needs of the neighborhood in which they are located
Multifamily dwellings not in excess of four units	Day care centers in excess of 12 children

Schools	Bed and breakfasts
Public parks, buildings, and playgrounds	Accessory dwelling units
Religious institutions	
Home occupations with no more than one on site employee (in addition to a homeowner or renter)	
Accessory uses	
Home day cares up to 12 children	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

c) **District regulations.** Specifications for the RA district are shown in Table II.2.

TABLE II.2: RA DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
Minimum lot size	5,500 square feet
Minimum front yard setback	20 feet
Minimum side yard setback	5 feet
	Corner lots – 10 feet for side yard adjacent to street
Minimum rear yard setback	15 feet
Maximum lot coverage	45%
Maximum building height	Primary building - 35 feet
	Accessory buildings – 18 feet

Sec. 24-16. - Residential B district (RB).

- a) **Intent.** It is the intent of the RB district to provide for residential neighborhoods of single family and multifamily dwellings up to eight units.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the RB district are shown in Table II.3. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.3: RB DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Single-family dwellings	Small scale retail and restaurants less than 5,000 square feet that serve the immediate needs of the neighborhood in which they are located
Multifamily dwellings not in excess of eight units	Day care centers in excess of 12 children
Schools	Accessory dwelling units
Public parks, buildings, and playgrounds	Home occupations with up to two on site employees (in addition to the homeowner or renter)
Religious institutions	Bed and breakfast
Home occupations with no more than 1 on site employee (in addition to a homeowner or renter)	
Home day cares up to 12 children	
Accessory uses	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c)	
Minor utility installations	

c) **District regulations.** Specifications for the RB district are shown in Table II.4.

TABLE II.4: RB DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
	Multifamily dwellings in excess of four units - 75 feet
Minimum lot size	5,500 square feet
	Multifamily dwellings in excess of four units - 8,000 square feet
Minimum front yard setback	20 feet
Minimum side yard setback	5 feet
	Corner lots - 10 feet for side yard adjacent to

	street
	Multifamily dwellings in excess of four units – 10 feet
Minimum rear yard setback	15 feet
	Multifamily dwellings in excess of four units – 20 feet
Maximum lot coverage	60%
Maximum building height	Primary building - 40 feet
	Accessory buildings – 18 feet

Sec. 24-17. - Residential C district (RC).

- a) **Intent.** It is the intent of the RC district to provide for multifamily residential uses in excess of eight units.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the RC district are shown in Table II.5. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.5: RC DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Multifamily dwellings	Small scale retail and restaurants less than 5,000 square feet that serve the immediate needs of the neighborhood in which they are located
Public parks, buildings, and playgrounds	Home occupations with up to two on site employees (in addition to a homeowner or renter)
Religious Institutions	Bed and breakfast
Home occupations with no more than 1 on site employee (in addition to a homeowner or renter)	
Accessory uses	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

- c) **District regulations.** Specifications for the RC district are shown in Table II.6.

TABLE II.6: RC DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
	Multifamily dwellings four to eight units – 75 feet
	Multifamily dwellings in excess of eight units – 100 feet
Minimum lot size	5,500 square feet
	Multifamily dwellings four to eight units – 8,000 square feet
	Multifamily dwellings in excess of eight units – 10,000 square feet
Minimum front yard setback	20 feet
	Multifamily dwellings in excess of eight units – 25 feet
Minimum side yard setback	5 feet
	Multifamily dwellings in excess of eight units – 10 feet
Minimum rear yard setback	15 feet
	Multifamily dwellings in excess of eight units – 20 feet
Maximum lot coverage	70%
Maximum building height	60 feet

Sec. 24-18. - Semi-rural district (SR).

- a) **Intent.** It is the intent of the SR district to provide for low density residential uses where small scale agricultural practices may occur.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the SR district are shown in Table II.7. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.7: SR DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Single-family dwellings	Small scale retail and restaurants less than 5,000 square feet that serve the immediate needs of the neighborhood in which they are located
Mobile homes	Home occupations with up to four on site employees (in addition to a homeowner or renter)
Public parks	Bed and breakfast
Religious institutions	Wireless communication facilities
Home occupations with no more than 1 on site employee (in addition to a homeowner or renter)	
Home day cares and day care centers	
Accessory uses	
Accessory dwelling units	
Animal rescue shelters (up to 8 animals)	
Growing of crops	
Stables	
Grazing	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

c) **District regulations.** Specifications for the SR district are shown in Table II.8.

TABLE II.8: SR DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	100 feet
Minimum lot size	20,000 square feet
Minimum front yard setback	20 feet
Minimum side yard setback	10 feet
Minimum rear yard setback	20 feet
Maximum lot coverage	45%

Maximum building height	Primary building - 35 feet
	Accessory buildings – 18 feet

Sec. 24-19. - Mobile home residential district (MH-A).

- a) **Intent.** It is the intent of the MH-A district to provide for residential neighborhoods of mobile homes, single family and multifamily dwellings up to four units.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the MH-A district are shown in Table II.9. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.9: MH-A DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Mobile homes	Small scale retail and restaurants less than 5,000 square feet that serve the immediate needs of the neighborhood in which they are located
Single-family dwellings	Day care centers in excess of 12 children
Multifamily dwellings not in excess of four units	Home occupations with up to two on site employees (in addition to a homeowner or renter)
Schools	Bed and Breakfast
Public parks, buildings, and playgrounds	Accessory dwelling units
Religious institutions	
Home occupations with no more than 1 on site employee (in addition to a homeowner or renter)	
Accessory uses	
Home day cares up to 12 children	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

- c) **District regulations.** Specifications for the MH-A district are shown in Table II.10.

TABLE II.10: MH-A DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	40 feet
Minimum lot size	4,800 square feet
Minimum front yard setback	20 feet
Minimum side yard setback	5 feet
	Corner lots – 10 feet for side yard adjacent to street
Minimum rear yard setback	15 feet
Maximum lot coverage	50%
Maximum building height	Primary building - 35 feet
	Accessory buildings – 18 feet
Skirting	Within 60 days siting, a mobile home shall be skirted with material similar to its siding material or better.

Sec. 24-20. - Mobile Home – RV Park district (MH-RV).

- a) **Intent.** It is the intent of the MH-RV district to provide for a mobile home park to be developed for residential use and recreational vehicle parks for transient recreational use. Such developments shall comply with the Montana Subdivision and Platting Act and Miles City Subdivision regulations.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the MH-RV district are shown in Table II.11. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.11: MH-RV DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Mobile home parks	None
Mobile homes	
Recreational vehicle parks	
Recreational vehicles	
Accessory uses to mobile home parks and recreational vehicle parks such as park offices, laundromats, and recreational facilities	
Public parks, buildings, and playgrounds	

Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

c) **District Regulations.** Specifications for the MH-RV district are shown in Table II.12.

TABLE II.12: MH-RV DISTRICT SPECIFICATIONS

Regulations	Specifications
Mobile Home Setbacks	All mobile/manufactured homes must be located at least 25 feet from any property boundary line abutting upon a public street or highway right-of-way and at least 15 feet from other boundary lines of the park
	The mobile/manufactured home pad must be located at least 10 feet from the street that serves it.
	No detached structure, such as a storage shed, may be located within 10 feet of any mobile/manufactured home or its attached structures.
	No mobile/manufactured home or its attached structures, such as awnings and carports, may be located within 20 feet of any other mobile home or its attached structures.
RV Setbacks	Recreational vehicles must be separated from each other and from other structures by at least 15 feet. Any accessory structures such as attached awnings must, for purposes of this separation requirement, be considered part of the recreational vehicle.
	Recreational vehicle spaces must be located at least 25 feet from any public street or highway right-of-way.
MH Skirting	Each mobile/manufactured home must be skirted within 30 calendar days after it is moved to a space within the mobile/manufactured home park.

Sec. 24-21. - Central business district (CBD).

- a) **Intent.** It is the intent of the CBD to encompass the traditional downtown core of the city and maintain existing ground floor storefronts that rely on convenient access for pedestrians.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the CBD are shown in Table II.13. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.13: CBD DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Retail	Ground floor residential provided the residence is not abutting Main Street
Hotels and similar accommodations	
General commercial services	
Eating and drinking establishments	
Residential above ground floor use	
Theaters, lodges, and places of assembly	
Offices	
Banks and other financial institutions	
Public buildings, including, government, libraries, and museums	
Day care centers	
Religious institutions	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c)	
Minor utility installations	

c) **District regulations.** Specifications for the CBD district are shown in Table II.14.

TABLE II.14: CBD DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	25 feet
Minimum lot size	None
Minimum front yard setback	0 feet
Maximum front yard setback	0 Feet 25 feet for buildings where a public space is provided subject to the main building façade facing the front yard setback area
Minimum side yard setback	0 feet
Minimum rear yard setback	0 feet
Maximum lot coverage	100%
Maximum building height	65 feet

Ground floor glazed area requirements	Windows or other glazed area must cover at least 40% of the public street-facing ground floor building wall. Darkly tinted, or highly reflective glazing may not be counted toward minimum glazed area requirements. On corner parcels, this requirement applies only along the building frontage. In the event that these minimum glazed area requirements conflict with city building code requirements, the building code governs. Glazed area requirements shall apply to that area of the ground floor building wall facing a public street up to the finished ceiling height of the first floor building space.
Design Elements	<p>The developer shall provide at least three of the following design elements:</p> <ul style="list-style-type: none"> Awnings and overhangs along the street that will not impede pedestrian movement Articulated façades and recessed entryways Original façade restoration and enhancement Brick, stone, glass and other materials blending with the historic downtown character Carved ornaments, moldings and decorative structural elements Colors and materials that complement the patterns, colors and appearance of nearby historic buildings Plantings such as flower boxes
Rehabilitation of Historic Structures	<p>New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.</p> <p>New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property and its environment would be unimpaired.</p>

Sec. 24-22. - General commercial district (GC).

- a) **Intent.** It is the intent of the GC district to provide for commercial districts in close proximity to and serving the ordinary shopping needs residents and visitors, and which do not attract large volumes of traffic. Examples of general commercial uses include community oriented retail establishments, eating establishments, hardware stores, auto parts stores, grocery and convenience stores, neighborhood lodges and assembly facilities, banks and other financial

institutions, medical and dental clinics, professional and personal services, print shops, fitness centers, and other similar uses serving the commercial needs of the community.

- b) **Allowed Uses.** The permitted and conditional uses allowed in the GC district are shown in Table II.15. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.15: GC DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
General commercial uses up to 15,000 square feet	General commercial uses in excess of 15,000 square feet
Continued use of residences	Wireless communication facilities
Multifamily dwellings	
Accessory uses associated with primary use	
Bars and taverns	
Schools and other educational facilities	
Public parks, buildings, and playgrounds	
Religious Institutions	
Day care centers	
Home occupations	
Accommodations serving up to ten guest rooms	
Animal rescue shelters	
Neighborhood lodges and places of assembly	
Recreational Vehicle Parks	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

- c) **District regulations.** Specifications for the GC district are shown in Table II.16.

TABLE II.16: GC DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
Minimum lot size	None
Minimum front yard setback	15 feet

Minimum side yard setback	0 feet
	Corner lots – 10 feet for side yard adjacent to street
	Uses abutting residential districts – 5 feet
Minimum rear yard setback	0 feet
	Uses abutting residential districts – 15 feet
Maximum lot coverage	80%
Maximum building height	Primary building - 40 feet
	Accessory buildings – 18 feet

Sec. 24-23. - Highway commercial district (HWC).

- a) **Intent.** It is the intent of the HWC district to provide for commercial oriented uses around highways and arterials that rely on convenient automobile access. Examples of highway oriented businesses include overnight accommodations, casinos, gas stations, eating and drinking establishments, hardware stores, grocery stores, vehicle and equipment sales, and retail.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the HWC district are shown in Table II.17. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.17: HWC DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Highway oriented commercial uses up to 30,000 square feet	Highway oriented commercial uses in excess of 30,000 square feet
Accessory uses associated with primary use	Wholesale
Schools	Wireless communication facilities
Public parks, buildings, and playgrounds	Day care centers
Religious institutions	Medical marijuana providers
Animal rescue shelters	
Recreational vehicle parks	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

c) **District Regulations.** Specifications for the HWC district are shown in Table II.18.

TABLE II.18: HWC DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
Minimum lot size	None
Minimum front yard setback	20 feet
Minimum side yard setback	0 feet
	Corner lots – 10 feet for side yard adjacent to street
	Uses abutting residential districts – 5 feet
Minimum rear yard setback	0 feet
	Uses abutting residential districts – 15 feet
Maximum lot coverage	80%
Maximum building height	45 feet

Sec. 24-24. - Heavy commercial/light industrial district (HCLI).

- a) **Intent.** It is the intent of the HCLI district to provide for businesses and services which may require large storage space, may be open in the evenings, may generate large volumes of traffic, and which require a type of service activity which tends to generate open storage yards, building material yards, light manufacturing and assembly, and warehousing. In comparison to heavy industrial uses, commercial and industrial operations located in this district are characterized as lower in intensity, cleaner, and generally more compatible when located adjacent to other uses. Allowed uses in this district will not generate excessive noise, particulate matter, vibration, smoke, dust, gas, fumes, odors, radiation and other nuisance characteristics.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the HCLI district are shown in Table II.19. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.19: HCLI DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Commercial uses	Wireless communication facilities
Wholesale and warehousing facilities	Religious institutions
Light manufacturing, assembly, fabrication, and repair	
Food and beverage process and packaging	
Offices and accessory uses associated with primary use	

Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Utility installations	

c) **District regulations.** Specifications for the HCLI district are shown in Table II.20.

TABLE II.20: HCLI DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
Minimum lot size	None
Minimum front yard setback	20 feet
Minimum side yard setback	0 feet
	Corner lots – 10 feet for side yard adjacent to street
	Uses abutting residential districts – 50 feet
Minimum rear yard setback	0 feet
	Uses abutting residential districts – 50 feet
Maximum lot coverage	80%
Maximum building height	45 feet

Sec. 24-25. - Heavy industrial district (HI).

- a) **Intent.** It is the intent of the HI district to provide for manufacturing, assembling, fabrication and processing, bulk handling, storage, warehousing and trucking. In comparison to heavy commercial and light industrial uses, the uses associated with this district are likely to generate noise, pollution, vibration, dust, fumes, odors, higher levels of truck traffic, hazardous materials, and/or other similar conditions. Heavy industrial uses are unsuitable immediately adjacent to residential uses or districts and therefore require greater setbacks, buffering, and screening fences (see Section 24-50 for buffering/screening fencing requirements).
- b) **Allowed Uses.** The permitted and conditional uses allowed in the HI district are shown in Table II.21. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.21: HI DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
-----------------------	-------------------------

All uses allowed in the HCLI district	Wireless communication facilities
Heavy manufacturing, assembly, and processing of raw materials	
Junkyards, wrecking yards, and similar uses ¹	
Fuel Distribution	
Oil supportive industries	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Utility installations	

¹ The outdoor areas containing junkyards, wrecking yards, and similar uses shall meet the setback requirements of Table II.22 below.

c) **District regulations.** Specifications for the HI district are shown in Table II.22.

TABLE II.22: HI DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
Minimum lot size	None
Minimum front yard setback	20 feet
Minimum side yard setback	0 feet
	Corner lots – 10 feet for side yard adjacent to street
	Uses abutting residential districts – 100 feet
Minimum rear yard setback	0 feet
	Uses abutting residential districts – 100 feet
Maximum lot coverage	80%
Maximum building height	45 feet

Sec. 24-26. - Open space district (OS).

- a) **Intent.** It is the intent of the OS district to provide land without physical structures and buildings except where accessory to the provision of open space and recreational opportunities.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the OS district are shown in Table II.23. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.23: OS DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Public parks	None
Accessory buildings and signs	
Non-motorized trails	
Sports facilities	
Easements for public utilities	
Cemeteries	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c).	
Minor utility installations	

Sec. 24-27. - Medical campus district (MC).

- a) **Intent.** It is the intent of the MC district to provide for medical services with residential buffers that will allow the development of a medical campus.
- b) **Allowed Uses.** The permitted and conditional uses allowed in the MC district are shown in Table II.24. All uses not explicitly listed as permitted or conditional uses are prohibited.

TABLE II.24: MC DISTRICT PERMITTED AND CONDITIONAL USES

Permitted Uses	Conditional Uses
Hospitals	Wireless communication facilities
Nursing homes, including but not limited to assisted care and ambulatory care facilities	
Day care centers	
Medical clinics for human services, including but not limited to physicians, surgeons, psychologists, dentists, optometrists, clinics and offices.	
Pharmaceutical stores	
Durable medical goods stores, including assembly	
Health and exercise establishments	
Medical diagnostic and research laboratories	

Dental laboratories	
Medical education facilities in conjunction with other permitted uses	
Public parks	
Religious institutions	
Amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in compliance with Section 24-70(c)	
Minor utility installations	

c) **District regulations.** Specifications for the MC district are shown in Table II.25.

TABLE II.25: MC DISTRICT SPECIFICATIONS

Regulations	Specifications
Minimum lot width	50 feet
Minimum lot size	5,500 square feet
Minimum front yard setback	25 feet
Minimum side yard setback	10 feet
Minimum rear yard setback	20 feet
Maximum lot coverage	70%
Maximum building height	45 feet

Sec. 24-28 - Planned unit development overlay district (PUDOD).

a) **Intent.** The intent of the PUDOD is to:

1. Provide flexibility in regulations and performance standards in exchange for community benefits and innovative, quality design;
2. Encourage a complementary mixture of uses, developed in accordance with an approved plan, that protects adjacent properties;
3. Encourage the preservation and enhancement of natural amenities, cultural resources and open space;
4. Provide for a more efficient arrangement of land uses, buildings, circulation systems, and infrastructure; and,

5. Encourage infill development, traditional neighborhood development, affordable housing, low-impact, energy efficient and innovative projects, and a variety of housing types and sizes to accommodate households of all ages, sizes and incomes.
- b) **Applicability.** PUD designation is available in the following zoning districts: RA, RB, RC, MH-A, and GC. Approved PUDs must be identified on the zoning districts map by appending the map symbol “/PUD” to the base zoning district (e.g., “RA/PUD”).
- c) **Requirements.** No application for a PUD will be accepted or approved unless all of the property included in the application is under unified ownership or a single entity’s control. In addition, PUDs must contain the following components:
1. A size of at least 10 acres except for infill development, where the minimum size is 2.5 acres;
 2. Pedestrian and bicycle facilities throughout and connecting to adjacent facilities;
 3. A mixture of land uses and housing types;
 4. A connected road network, preferably lots and blocks with alleys;
 5. Architectural design standards to be implemented by a private party such as a property owners association;
 6. A coordinated landscape plan;
 7. Significant open spaces such as playground or park areas designed for active and passive users with the scale, type and natural features depending on the projected needs of the future users of the site; and
 8. Community facilities in common ownership and use.
 9. Larger scale projects are also encouraged to include:
 - a. A functional neighborhood center that is the focal point of the neighborhood with indoor and outdoor spaces and a mixture of uses, opportunities for civic engagement and public art; and
 - b. The majority of dwellings located within 2,000 feet of the neighborhood center.
- d) **Regulations Eligible for Modification.** Unless otherwise expressly approved by the governing body, PUDs are subject to all applicable standards of the base zoning district regulations. The governing body may approve PUDs that deviate from specific standards if it determines that the resulting development satisfies the approval criteria in subsection (f) below. The specific standards that may be modified include:
1. Land uses. Regardless of the underlying zoning, the governing body may approve a mix of use types within a PUD as a means of accommodating mixed-use developments and developments with a broader range of housing types and affordable housing options. A list of uses to be allowed in a PUD must be approved by the governing body;

2. Minimum lot size, provided that lot sizes are adequate to safely accommodate all proposed buildings and site features and are warranted to support the public benefit likely to result from the proposed development;
3. Setbacks, when determined to be warranted to support the public benefit likely to result from the proposed development;
4. Building height, when the governing body determines that such an increase is warranted to support the public benefit likely to result from the proposed development;
5. Maximum lot coverage, so long as storm water is determined likely to be contained in a manner that will not negatively impact surface water quality or downstream properties;
6. Parking and loading, when the governing body determines that such modifications are warranted to support the public benefit likely to result from the proposed development; and
7. Street and non-motorized transportation standards so long as the governing body determines such designs would better meet the purpose of the PUD overlay while still providing safe and efficient traffic movement.

e) **Review Process.** Planned Unit Development Overlay Districts are established through the approval of a zoning map amendment and a PUD master site plan, which shall be reviewed concurrently. At the option of the developer, the master site plan may also serve as a preliminary subdivision plat if such intention is declared at the pre-application meeting and if the site plan includes all information required for preliminary plats. If the master site plan contemplates distinct phased preliminary plats, the plat for the first phase shall be reviewed concurrently with the zoning map amendment and master site plan.

A zoning map amendment and a PUD master site plan become final when approved by the governing body. A subdivision reviewed along with a PUD becomes final when all conditions of approval have been complied with and the final plat is recorded. All subdivisions authorized under a PUD must become final within 10 years of PUDOD and master site plan approval or the approval for the non-final portion shall lapse.

In addition to the requirements for zoning map amendments and subdivisions, each PUD application must include the following items:

1. A master site plan showing the location and area of lots and blocks, buildings, transportation facilities, parks, open space and other amenities, utilities and other pertinent features.
2. A list of the specific standards that are requested to be modified;
3. A list of land uses that are proposed in the PUDOD;
4. A written description of the community benefits of the proposed development and how it provides greater benefits to the city than would development under conventional zoning district regulations;
5. Architectural standards; and

6. A description and draft documents indicating how common areas and facilities will be managed.
- f) **Review Criteria.** In reviewing and making decisions on proposed PUDODs and site plans, review and decision making bodies shall consider and make findings on the following criteria:
1. Whether the proposed PUD would result in a greater benefit to the city than would development under conventional zoning district regulations. Such greater benefit may include implementation of adopted planning policies, natural resource preservation, innovative urban design, low-impact or energy efficient development, affordable, workforce or senior housing, neighborhood or community amenities or an overall level of development quality;
 2. The zoning amendment criteria of Section 24-96;
 3. The proposal's consistency with the adopted plans for the area;
 4. Compliance with this Section; and
 5. Primary review criteria for subdivisions, when applicable.

Sec. 24-29 - Sexually Oriented Business Overlay District (SOBOD).

- a) **Intent.** The intent of the SOBOD is to reasonably govern the location of sexually-oriented businesses in order to avoid adverse secondary effects which may result from the operation of such businesses.
- b) **Applicability.** Sexually oriented businesses may be located only in the Sexually Oriented Business Overlay District shown on the Miles City Zoning District Map.
- c) **Conditional Use Permit.** All sexually oriented businesses require review and approval of a Conditional Use Permit by the Board of Adjustment pursuant to Sec. 24-91 of these regulations.

Secs. 24-30—24-39. - Reserved.

ARTICLE III. - APPLICATION OF ZONING REGULATIONS TO ALL DISTRICTS

Sec. 24-40. - Standards Applicable to All Districts When Required.

The following sections of these regulations outline standards applicable to the various zoning districts when required. Article V defines the terms related to several of these standards. This Article outlines how certain terms and definitions are applied with these zoning regulations.

Sec. 24-41. - Building Setbacks.

The zoning district a lot is located within includes the minimum required setbacks for buildings. The minimum setback is measured horizontally from the applicable property line to the outer wall

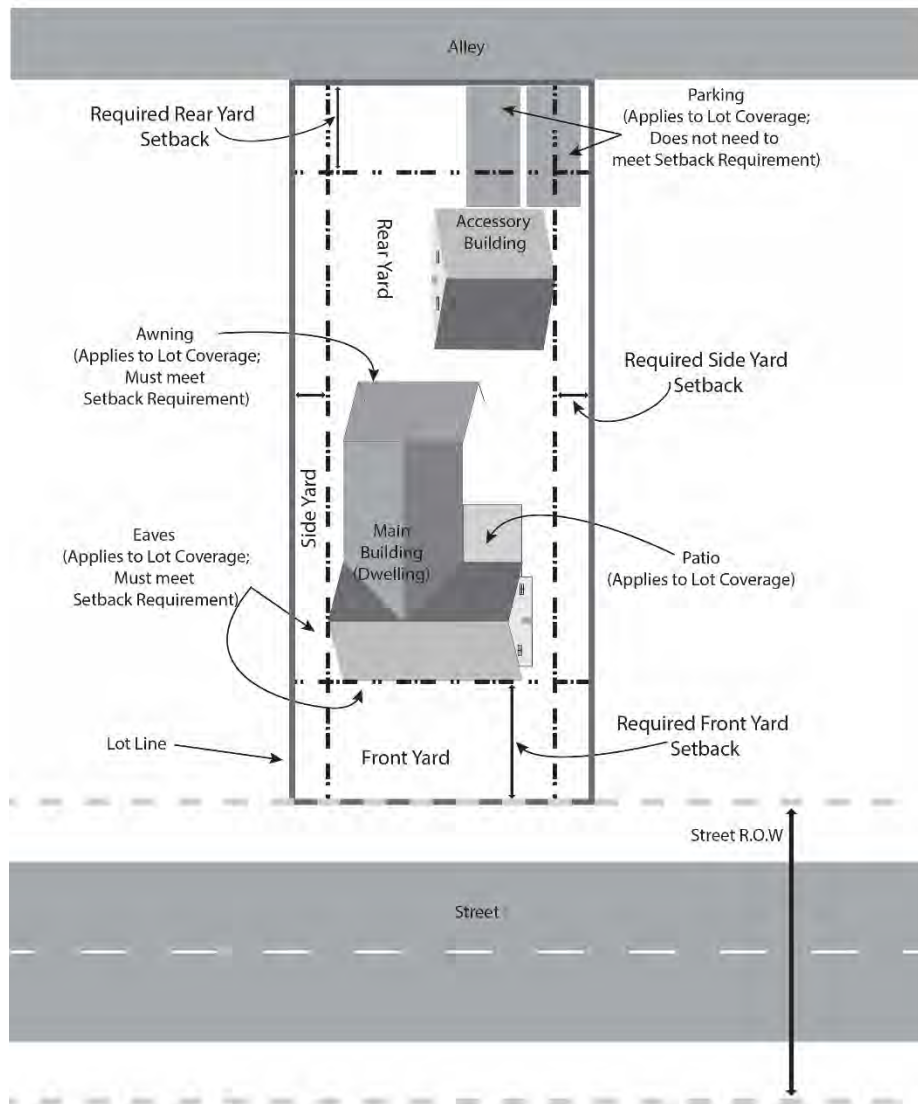
of any building, at grade, or any above-grade extension or projection of the building. See Figure III.A.

Sec. 24-42. – Yards.

A yard is an area of a lot between a property line and an actual building setback line. A *required* yard is a yard unoccupied by buildings except as may be expressly allowed by these regulations. A minimum setback distance establishes the respective *required* minimum yard size on a lot. See Figure III.A. These regulations establish three types of yards, each of which may have *required* minimum yard size as a result of the minimum setback:

- a) **Front Yard:** The yard between the front lot line and the front side of any building closest to the front lot line.
- b) **Rear Yard:** The yard between the rear lot line and the rear side of the main building on a lot.
- c) **Side Yard:** A yard between the side of any building and the side lot line extending from the front yard to the rear lot line. For purposes of determining side yards, any lot line not a rear lot line or a front lot line shall be deemed a side lot line.

FIGURE III.A: SETBACKS AND YARDS



As illustrated by Figure III.A, the eaves, awning and other above grade projections must meet the setback requirements and constitute lot coverage. The patio, if at grade, is deemed lot coverage, but would not need to meet the setback requirements because it is not above grade. The minimum front and side yard setbacks form the respective minimum yards. The rear yard as a whole is formed by the area between the rear lot line and the back of the main building, and the accessory building (garage) is allowed in the rear yard, but not the *required rear yard setback*. See Section 24-62 for a description of where accessory buildings are allowed in yards.

Sec. 24-43. – Vacant Lots in Residential Districts.

Vacant lots in residential districts may be used for gardening, tennis courts, playgrounds and other recreational facilities only, and shall be kept free of all rubbish, and/or garbage at all times. Noxious

weed and grass shall be managed in compliance with Chapter 15, Nuisances. All other uses of vacant lots in residential districts shall not be approved without a variance granted by the Board of Adjustment. In the event a variance is granted for the storage of vehicles and/or equipment, the applicant shall install screening to soften the visual impact on neighboring properties. Appropriate screening shall be determined by the Board of Adjustment and may include fencing and/or landscaping.

Sec. 24-44. – Outdoor Lighting.

Outdoor lighting shall be downward pointed and side-shielded to not illuminate any other property or cause excessive glare on public streets.

Sec. 24.45. – Floodplain Compliance.

All development may be required to demonstrate compliance with applicable floodplain requirements.

Sec. 24.46. – Storm Water Management Plan.

- a) A storm water management plan shall be implemented by all commercial developments and multi-family residential developments in excess of four units. Such plans shall be prepared by a qualified professional and are reviewed by the Administrator. Storm water management plans shall comply with applicable requirements of the Montana Department of Environmental Quality (DEQ).
- b) Storm water management plans shall demonstrate the following:
 1. How runoff and erosion control on the site will be addressed;
 2. How and to what extent existing vegetation will be maintained;
 3. How the area disturbed by construction at any one time will be minimized and how disturbed areas will be stabilized during the construction period;
 4. How disturbed areas will be promptly, permanently stabilized by revegetation or structural techniques;
 5. How runoff velocities will be minimized and drainage ways will be prepared to handle any acceleration or increase in runoff;
 6. How the additional volume of runoff generated will be retained on-site and absorbed, evaporated, or released at the pre-development rate of release;
 7. How sediment resulting from accelerated soil erosion will be retained on site;
 8. How water quality in adjoining or nearby streams or wetlands will be protected by retention of existing vegetation, installation of vegetative filter strips, and similar means;
 9. How groundwater quality will be protected; and

10. How the future maintenance of runoff management measures (including earthwork, plantings and structures) will be provided.

- c) Any storm water management plan that proposes to utilize Miles City storm sewer infrastructure shall require approval by the Miles City Public Works Department prior to issuance of a permit for development.

Sec. 24-47. – Clear Vision Triangles.

Clear vision triangles are triangular areas at intersections of streets and intersections of streets and driveways in which certain visual obstructions are prohibited. These regulations establish two kinds of clear vision triangles:

- a) **Street Intersection Clear Vision Triangle.** Clear vision triangles at street intersections are triangular areas formed on corner lots where visual obstructions are prohibited. The two legs of the triangle along the streets are 30 feet long, as measured from the point of intersection of the curb lines of the two intersecting streets (See Figure III.B). If curb does not exist, the predominant edge of the street shall be used. The clear vision triangle is an area in which no parking, and no fence, hedge or other visual obstruction exceeding 36 inches in height, or transparent chain link fence (no slats) exceeding 42 inches in height above an established top of curb grade are prohibited except as provided by these regulations. Trees may be permitted in street intersection clear vision triangles, but only where all branches are pruned to a height of at least eight feet above grade and do not create a visual obstruction.
- b) **Driveway Clear Vision Triangles.** Driveway clear vision triangles shall be provided on both sides of driveways. A driveway clear vision triangle is formed by the connection of three points: Point 1 shall be at the intersection of the curb line and the edge of the driveway; point 2 shall be 15 feet from point 1 extending along the edge of the driveway; and point 3 shall be 15 feet from point 1 extending along the edge of the curb line (or street edge where no curb exists - see Figure III.C). For driveways accessing arterials, the distances shall be increased to 30 feet. The driveway clear vision triangle is an area in which no parking, and no fence, hedge or other visual obstruction exceeding 36 inches in height, or transparent chain link fence (no slats) exceeding 42 inches in height above the curb grade are prohibited except as provided by these regulations. Trees may be permitted, but only where all branches are pruned to a height of at least eight feet above grade and do not create a visual obstruction. See Figure III.C.

FIGURE III.B: STREET INTERSECTION CLEAR VISION TRIANGLE

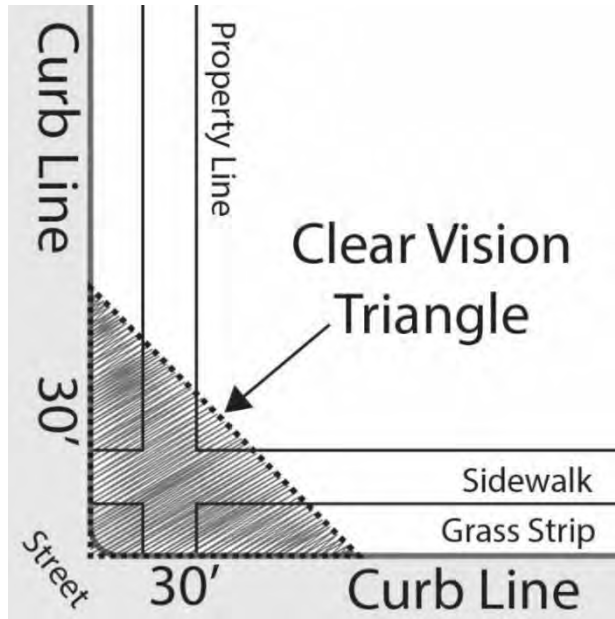
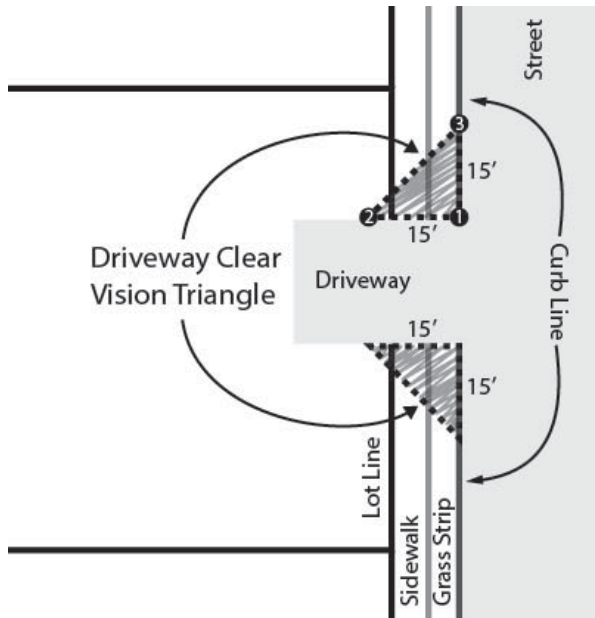


FIGURE III.C: DRIVEWAY CLEAR VISION TRIANGLE



Sec. 24-48. – Maximum height of fences and hedges; projecting tree branches or shrubbery.

- a) No fence, hedge or other visual obstruction exceeding 36 inches in height, or transparent chain link fence (no slats) exceeding 42 inches in height, as measured from the street grade, shall be constructed in the required front yard or along any yard along a public street in any residential district. The foregoing height requirements shall also apply to any perimeter fence, hedge or other visual obstruction located within the front 20 feet of any lot in a residential district, as measured from the back of the curb, or edge of the street if no curb, of the front yard.
- b) In all other areas, the fence, hedge or other visual obstruction may not exceed six feet in height, as measured from the street grade.
- c) It shall be unlawful for the owner or occupant of any premises within the city to permit any branches of any trees, bushes, shrubs or shrubbery to project over any sidewalk or street at a height less than eight feet or otherwise create a visual obstruction.
- d) These restrictions are intended to work in conjunction with the standards for clear vision triangles in the preceding Section 42-47.

Sec. 24-49. – Landscaping requirements.

Installation of landscaping features and perimeter vegetative buffers is among the most effective techniques for improving land use compatibility and enhancing the community’s image. Landscaping shall be planned and implemented as required by this Section.

- a) **Purpose.** The purposes of these landscape standards are as follows:
 - 1. To mitigate potential land use conflicts;
 - 2. To enhance the visual appeal of the city, including the appearance of major commercial corridors of the city by providing minimum standards for landscaping and flexibility for landowners; and
 - 3. To encourage a pleasant and safe environment for pedestrians by thoughtful placement of trees and other vegetative features.
- b) **Scope.**
 - 1. **Applicability:** All new, redeveloped, and expanded land uses listed in Table III.1 require installation and maintenance of landscaped areas on the lot in compliance with this Section, with the exception of such uses in the Central Business District, where landscaping is not required.
 - 2. **Exception:** This Section shall not apply to lots or sites within a subdivision or planned unit development which have been previously approved with its own landscape plan. However,

these provisions shall be used as the basis for determining the landscaping plans for future subdivisions and planned unit developments, and such developments' landscaping plans shall meet or exceed these landscape standards.

TABLE III.1: LANDSCAPING REQUIREMENTS FOR LAND USES

Land use (below)	Percentage of lot to be landscaped (minimum) in %	Perimeter buffers: Category required (see categories below)	
		Buffer along public street frontage	Buffer along adjacent residential use or district
All commercial uses not listed below	10	A	B
Religious Institutions	10	A	A
Day care centers in excess of 12 children	20	A	A
Animal rescue shelters	10	A	B
Multifamily dwellings in excess of eight units	20	A	A
Hotels and similar accommodations	15	A	B
General services	10	A	A
Eating and drinking establishments	10	A	B
Theaters, lodges, and places of assembly	15	A	B
Offices	10	A	A
Banks and other financial institutions	10	A	A
Hospitals	10	A	B
Nursing homes, including but not limited to assisted care and ambulatory care facilities	15	A	A
Medical clinics for human services, including but not limited to physicians, surgeons, psychologists, dentists, optometrists, clinics and offices.	10	A	B
Pharmaceutical stores	10	A	B
Durable medical goods stores, including assembly	10	A	B
Health and exercise establishments	10	A	B
Medical diagnostic and research laboratories	10	A	B
Dental laboratories	10	A	B
Public or commercial parking lots	15	B	B
All industrial uses not listed below	15	D	D
Wholesale and warehousing facilities	10	C	D
Light manufacturing, fabrication, and repair	15	C	D
Food and beverage process and packaging	15	C	D
Heavy manufacturing, assembly, and processing of raw materials	10	E	E

Junkyards, wrecking yards, and similar uses	10	E	E
Fuel Distribution	10	E	E
Oil supportive industries	10	E	E

c) **Perimeter buffer categories.** This Section applies five (5) categories of perimeter buffers along public streets and along adjacent residential uses or districts. The categories are as follows:

1. Category A: 5' wide with 1 tree and 3 shrubs per 40 linear feet.
2. Category B: 5' wide with 1 tree and 3 shrubs per 25 linear feet.
3. Category C: 10' wide with 2 trees and 5 shrubs per 25 linear feet.
4. Category D: 15' wide with 2 trees and 5 shrubs per 25 linear feet.
5. Category E: 15' wide with 2 trees and 5 shrubs per 25 linear feet plus 6' high sight obscuring fence or wall located between the perimeter landscape buffer and all buildings and parking/loading areas.

d) **Other landscaped area requirements.** Table III.1 outlines minimum percentages of lots that must be landscaped. The perimeter buffers count toward the total landscaped areas. The remaining landscaped areas after incorporating the perimeter buffers may be placed in locations at the discretion of the landowner. For all required landscaped areas outside perimeter buffers, each required landscaped area shall incorporate a minimum of 1 tree and 3 shrubs per 200 square feet of landscaped area. Areas must contain at least 1 tree and 3 shrubs (or 2 trees) to count as landscaped areas.

e) **Groundcover.** In all required landscaped areas, groundcover shall be areas substantially pervious to rain and storm water consisting of the following:

1. Well-maintained grass; or
2. Mulch groundcover or decorative landscape rock broken with vegetation such as flowers, shrubs, creeping vegetative groundcover, and/or grasses.

f) **Calculations of areas, trees, and shrubs.** When calculating perimeter buffer and other landscape area requirements, the following methods shall be used:

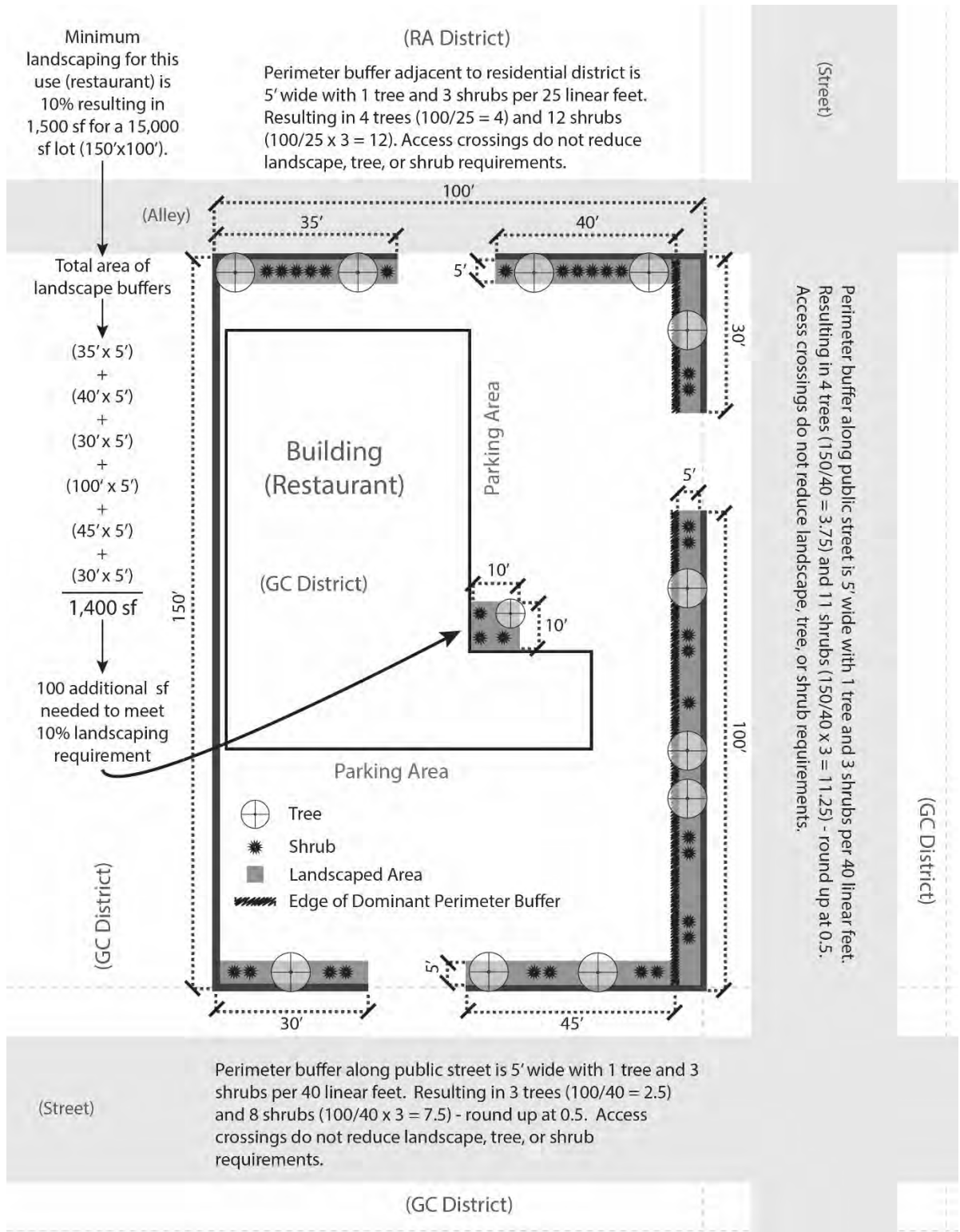
1. Measure the length of each perimeter segment (i.e., each street frontage and each property line adjacent to a residential use or district). Where described perimeter buffers overlap, choose one to dominate.
2. For each segment, calculate the number of trees and shrubs based on buffer type. Where the resulting number is not a whole number, numbers ending in .5 and above shall be rounded

up and numbers $<.5$ shall be rounded down. The resulting numbers of trees and shrubs is the required number of each for that segment.

3. The above trees and shrubs shall be placed within their respective perimeter buffers.
4. Perimeter buffers may be broken by access crossings. Access crossings do not reduce the total area to be landscaped (see 8 below) or the minimum number of trees and shrubs along each lot line.
5. Trees and shrubs in perimeter buffers are not required to be evenly distributed along the perimeter and may be planted in clusters; however, the trees and shrubs shall be distributed effectively to meet the intent of this Section to provide visual buffers from the public street and/or residential land use.
6. Buffer widths are minimums and shall be placed between the property line and the developed areas of the subject property, including parking areas.
7. Calculate the total area of the lot.
8. Calculate the percentage of the lot to be landscaped.
9. Calculate the area of landscaping required by the perimeter buffers and subtract perimeter buffers from the total area of the lot to be landscaped. The remaining required landscaped area may be placed anywhere on the lot.
10. For all required landscaped areas outside perimeter buffers, each required landscaped area shall incorporate a minimum of 1 tree and 3 shrubs per 200 square feet of landscaped area. Where the resulting number is not a whole number, numbers ending in $.5$ and above shall be rounded up and numbers $<.5$ shall be rounded down. The resulting numbers of trees and shrubs is the required number of each for those areas.

Figure III.2 shows how several of the provisions of this Section would apply to landscaping buffers and areas in a scenario where a commercial use (restaurant) is proposed on a 150' by 100' lot in the GC district adjacent to the RA district and at the intersection of two public streets.

FIGURE III.2: LANDSCAPING SCENARIO



g) Public street frontage buffers.

1. Public street frontage buffers apply to any street owned by, dedicated to, or open to the public (except alleys).
2. Public street frontage buffers do not apply to alleys; however, where a residential use or district is located across the alley, the residential buffer applies.
3. Where a public street right-of-way contains mature boulevard trees, the boulevard trees may be used to count toward the required number of trees in that segment of street frontage buffer. However, credit for boulevard trees does not reduce the required landscaped area or number of shrubs required on the lot.

h) Residential buffers.

1. Residential buffers apply to the land uses listed in Table III.1 when they are adjacent to or across a public street, highway, right-of-way or railroad from a residential district or property used primarily for residential purposes. In these cases, the residential buffer applies instead of the public street frontage buffer.
2. In such instances described by subsection (h)(1) above, where a public street right-of-way contains mature boulevard trees, the boulevard trees may be used to count toward the required number of trees in that segment of residential buffer. However, credit for boulevard trees do not reduce the required landscaped area or number of shrubs required on the lot.

i) General. The following are general requirements and guidelines. Where the word “shall” is used, the provision is a mandatory requirement.

1. The preservation and use of existing healthy trees that meet the material specifications is allowed and encouraged.
2. The use of coniferous trees is encouraged in the perimeter buffers in order to enhance the effectiveness of buffers year-round.
3. Where trees are preferred by the landowner over shrubs for any reason any three (3) shrubs may be replaced by one (1) tree.
4. All required landscaped areas shall be maintained and kept free of weeds, debris and litter.
5. Drought tolerant vegetation is encouraged.
6. Native species of vegetation is encouraged.
7. Irrigation systems shall be part of any landscaping plans unless a qualified professional provides a statement that the landscaping plan has been designed such that an irrigation system is not appropriate due to the species of vegetation in the plan, ample ground water or storm water sources, or other on-site conditions. When an irrigation system is not proposed, the landscaping plan shall include said statement from the qualified professional along with certification from the landowner that they will provide ample water and maintain the landscaping in a healthy condition and in compliance with this Section.

8. Where landscaping is required by this Section, no required parking space shall be located further than 100 linear feet from a landscaped area containing a tree. The purpose of this requirement is to ensure parking areas are broken up by landscaping and are not excessively large.
9. No trees or shrubs used to meet these requirements may be planted within utility easements.

j) **Timing.**

All landscaping shall be installed prior to expiration of the building permit. If the landscaping is not to be completed prior to expiration of the permit and issuance of a Certificate of Occupancy, or as may be extended by this Chapter, a performance bond or letter of credit for one-hundred fifty (150) percent of the landscaping materials and labor costs shall be posted with the Administrator to ensure the placement of the required landscaping. The property shall be inspected by the Administrator to make sure that the required landscaping has been planted before the Certificate of Occupancy is issued. The planting of the required landscaping may be delayed until the next suitable planting season with written approval from the Administrator.

k) **Landscaping Plans.**

Any permit application that prompts the landscaping requirements of this Section shall include a landscaping plan that demonstrates compliance with this Section. The plan shall include a description of the various elements of the plan, the timing of installation of the landscaping features, and address long-term maintenance of the landscaping features. The landscaping plan may be included on the overall project site plan, but to demonstrate compliance with this Section, a site plan shall be submitted in conjunction with the landscaping plan required by this Section that includes:

1. Date, scale, north arrow, and the names, addresses, and telephone numbers of both the property owner and the person preparing the plan;
2. Project name, street address, and legal description;
3. Location of existing boundary lines and dimensions of the lot;
4. Location of building footprints;
5. Required zoning setbacks, floodplains, and easements as applicable;
6. The approximate location of significant drainage features; and the location and size of existing and proposed streets and alleys, utility easements, utility lines, driveways and sidewalks on the lot and/or adjacent to the lot;
7. Location, maturity, height, and material of proposed screening and fencing (with berms to be delineated by one foot contours);
8. Locations and dimensions of all proposed landscaped areas;

9. Complete landscape legend providing a description of plant materials shown on the plan, including typical symbols, names (common and botanical names), locations, quantities, container or caliper sizes at installation, heights, spread and spacing. The location and type of all existing trees on the lot must be specifically indicated;
10. Complete illustration of landscaping and screening to be provided in or near off-street parking and loading areas, including information as to the amount (in square feet) of landscape area to be provided internal to parking areas and the number and location of required off-street parking and loading spaces;
11. An indication of how existing healthy trees and shrubs (if any) are to be retained and protected from damage during construction;
12. Size, height, location and material of proposed seating, lighting, planters, sculptures, and water features;
13. A description of proposed watering methods;
14. Location of clear vision triangles on the lot (if applicable);
15. Designated snow removal and storage areas;
16. Location of pavement, curbs, sidewalks and gutters;
17. Location of existing and/or proposed drainage facilities;
18. Existing and proposed grades;
19. Size of plantings at the time of installation and at maturity;
20. Areas to be irrigated and location of irrigation infrastructure; and
21. Front, rear and side elevation views of buildings, fences and walls with height dimensions if not otherwise provided by the application.

l) Material specifications.

1. Plants shall conform to the measurements specified in the plant schedule submitted with the landscaping plan.
2. Landscaping materials shall comply with the following minimum size standards at the time of planting.
3. Minimum height for deciduous trees shall be eight (8) feet. Expected height at maturity shall be at least twenty-five (25) feet.
4. Minimum height for evergreen trees shall be five (5) feet. Expected height at maturity shall be at least twenty-five (25) feet.
5. Minimum caliper size for trees six (6) inches above grade shall be a one and one-half (1½) inch.

6. Minimum size for shrubs shall be five (5) gallon containers and two (2) feet height above grade.
7. It is recommended that a professional horticulturist, nurseryman or design professional be consulted to determine the proper time to move and install all plant materials, so that stress to the plants will be minimized.

m.) Administrative relief.

1. Administrative relief is provided to add flexibility in the application of the landscaping requirements, when a requirement is inapplicable, inappropriate, or infeasible to a specific use or development proposal. It is recognized that the landscaping requirements cannot anticipate all possible scenarios and that there may be landscaping plans which conform to the purpose, intent and objectives of the landscaping regulations, but were not anticipated in these specific requirements. Therefore, the Administrator may grant administrative relief in the event of these situations and proposals.
2. The Administrator shall attempt to balance the reasonable use of a lot with the provision of required landscaping. This balance will be affected by the site's characteristics as well as the proposed site plan.
3. The reasonable development of a site may require the granting of administrative relief to some of the landscaping requirements. Although all of the landscaping requirements are considered important, when reviewing for administrative relief, the Administrator will generally assign the following priorities for compliance with the landscaping requirements:
 - i. First priority: adjacent residential uses should be buffered;
 - ii. Second priority: the visual appeal along public street frontages should be enhanced;
 - iii. Third priority: parking areas and buildings within public view should be visually softened and enhanced by trees and other landscaping.
4. A written request for administrative relief shall be submitted to the Administrator either before or in conjunction with the Building Permit review process. The written request shall include a justification in terms of the findings necessary to grant administrative relief. The written request shall close with a section for the Administrator's use which will include a block for the decision of approval/denial, the Administrator's signature, and decision date. The written request with decision shall be attached to the plan or retained in the applicable file, as appropriate. The Administrator must make all of the following findings in order to grant Administrative Relief:
 - i. The strict application of the regulation in question is unreasonable given the development proposal or that the property has extraordinary or exceptional physical conditions that will not allow a reasonable use of the property in its current zone in absence of relief;
 - ii. The granting of administrative relief will not result in an adverse impact upon surrounding properties.

5. The Administrator shall render a decision on the request within five working days of receipt of the request and all required information. An appeal of the Administrator's decision may be made to the Board of Adjustment, within 10 working days after the decision. At this time, the appeal will be put on the agenda for the next Board of Adjustment meeting for which the notice requirements of these regulations can be met (Section 24-97), and at which time will allow for its proper consideration.

Sec. 24-50. – Off-Street Parking and Loading.

Unless otherwise indicated in these regulations, all new developments shall provide off-street parking and loading areas in compliance with the following standards for off-street parking and loading areas. Driveways must adhere to Americans with Disabilities Act standards as applicable. The required number of disabled parking spaces with the required dimensions shall be provided pursuant to federal law.

- a) **Purpose.** These standards are intended to prevent traffic congestion by requiring provision of adequate off-street parking and loading areas.
- b) **Off-Street Parking Required.** Except as indicated in (f), (g), (h), and (i) below, all uses and buildings shall provide at least the minimum number of off-street parking spaces required by Table III.2. Off street parking for different uses in the same building shall be calculated separately. Parking areas shall have properly graded and drained surfaces. Each standard off-street parking space shall be located outside any public right-of-way, be designed at least nine feet by twenty feet (9' x 20') in size with vertical clearance of seven feet (7'), for parking of typical passenger vehicles with room to get out on either side of the vehicle, with adequate maneuvering space and accessible to public streets or alleys.
- c) **Off-Street Parking Requirements for Uses Not Listed.** The classification of uses and the off-street parking requirements for uses not listed in Table III.2 shall be determined by the Administrator based on:
 1. The most similar land use listed in Table III.2; and
 2. Published sources of parking information such as those produced by the Institute of Transportation Engineers, the American Planning Association or the International Building Code.
- d) **Location of Off-Street Parking.** Required off-street parking spaces shall be within 600 feet of a main entrance of the use or building served, except for spaces serving a dwelling, which shall be within 200 feet of the main entrance of the dwelling unit served.
- e) **Control of Parking.** Off-street parking shall generally be provided on the same lot or parcel, and under the same ownership as the use it serves, but two or more uses may share parking where:
 1. The total number of spaces provided meets the minimum standards for the number of spaces required for all buildings or uses served, and

2. A contract providing for shared parking for a period of at least 20 years is executed before approval of a permit and recorded before issuance of a Certificate of Occupancy.

In such cases, the required off-street parking may be located on the lot or parcel serving one of the uses.

- f) **Exception: Commercial Parking Requirements in the Central Business District.** In the CBD commercial enterprises are granted a 100% reduction in off-street parking spaces required in Table III.2. This exceptions does not apply to residential uses in the CBD, which shall meet the full parking space requirements in Table III.2.
- g) **Exception: Commercial Parking Requirements in the General Commercial District.** In the GC district commercial enterprises are granted a 40% reduction in off-street parking spaces required in Table III.2. Additionally, the Administrator may grant commercial enterprises up to a 60% reduction in off-street parking spaces required in Table III.2, provided the applicant demonstrates sufficient on-street and/or shared parking is available to meet the demand of the particular use. These exceptions do not apply to residential uses in the GC district, which shall meet the full parking space requirements in Table III.2.
- h) **Exception: Commercial Parking Requirements in Residential Districts.** In all residential districts, commercial enterprises, permitted through the issuance of a conditional use permit, are granted a 20% reduction in off-street parking spaces required in Table III.2. Additionally, the Administrator may grant commercial enterprises up to a 40% reduction in off-street parking spaces required in Table III.2, provided the applicant demonstrates sufficient on-street and/or shared parking is available to meet the demand of the particular use. These exceptions do not apply to residential uses, day care centers, or bed and breakfasts in residential districts, which shall meet the full parking space requirements in Table III.2.
- i) **Exception: Reduction in Shared Off-Street Parking Spaces.** The Administrator may authorize the joint use of parking facilities under the following circumstances:
 1. When at least 50% of the parking spaces required by this Section are for primarily “night-time” uses such as theatres, bowling alleys, bars and related uses, and the parking spaces to serve those uses are provided by “day-time” uses such as banks, offices, furniture stores, manufacturing, large-scale retail, wholesale and related uses;
 2. When at least 50% of the parking spaces required by this Section for primarily “day-time” uses may be supplied primarily by “night-time” uses;
 3. When at least 60% of the parking spaces required by this Section for a religious institution, an auditorium incidental to a school, or a similar use, may be supplied by the off-street parking facilities provided by uses primarily of a “day-time” or complimentary nature;
 4. The joint parking facility shall be located within 600 of a main entrance of the use or building served, except for spaces serving a dwelling, which shall be within 200 feet of the main entrance of the dwelling unit served;

5. The applicant for the joint use parking facility shall show there is no substantial conflict in the principal operating hours of the buildings or uses for which joint use of the off-street parking facilities is proposed;
 6. A contract providing for shared parking for a period of at least 20 years is executed before approval of a permit and recorded before issuance of a Certificate of Occupancy.
- j) **Passenger Loading Areas.** Schools, community residential facilities, places for public assembly and similar uses located on arterial roads shall provide at least one safe, properly signed off-street passenger loading area.
- k) **Freight Loading Areas.** Commercial and industrial buildings and uses shall provide one safe, properly signed off-street freight loading area for each 10,000 square feet of gross floor and/or outdoor storage area, except in the CBD, where reliance on on-street or alley loading areas may be permitted. Off-street freight loading areas shall be on the same lot or parcel and under the same ownership as the building or use they serve, be designed to accommodate the largest vehicle that may reasonably be anticipated, and have the following minimum dimensions:
1. Vertical clearance: 14 feet;
 2. Width: 12 feet; and
 3. Depth or length: 35 feet. No vehicle parked in an off-street freight loading area shall extend into a public right-of-way.
- j) **Driveways.** Properly graded and drained driveways shall be provided for safe access to off-street parking and loading areas, including the off-street parking for single family dwellings.
1. No parking or loading area shall create a situation in which vehicles are required to back onto a public street. Parking areas for single family dwellings with access to minor and collector streets are exempt from this requirement.
 2. Continuous curb cuts shall be prohibited. All access to public streets shall be via driveways that comply with these standards.
 3. Driveways accessing an arterial shall be at least 200 feet from any other point of access (other driveways or intersections).
 4. Driveways to roads intersecting an arterial shall be located at least 150 feet from the arterial or, where that distance cannot be attained, at the property line most distant from the arterial.
 5. Driveway clear vision triangles shall be provided on both sides of driveways pursuant to Section 24-48. See Section 24-48 and Figure III.C .
- j) **Circulation in Off-Street Parking Areas.** The pattern of circulation within parking areas shall be designed to provide safe and efficient access to individual parking spaces, protect pedestrians moving through the parking area, and facilitate safe access to public streets.
1. Minimum aisle widths shall be:
 - a. 90° parking: 24 feet for two-way circulation;

- b. 60° angle parking: 18 feet for one-way circulation; 22 feet for two-way circulation; and
- c. 45° angle parking: 15 feet for one-way circulation; 20 feet for two-way circulation.

TABLE III.2: OFF-STREET PARKING REQUIREMENTS BASED ON USES

Use	Required Parking
Single family dwellings	2 per DU*
Multi-family dwellings	1.5 per DU
Dwelling units exclusively for seniors age 65+ and individuals with a disability	1 per 3 DU
Bed and breakfasts	2 for the residents and 1 per guest room
Community residential facilities	1 per employee on maximum shift and 1 per 5 residents and 1 per vehicle operated by the facility
Retirement homes	1 per employee on maximum shift and 1 per 3 DU
Convalescent homes, nursing homes, rest homes	1 per employee on maximum shift and 1 per 6 beds
Day care centers	1 per employee on maximum shift and 1 pick up/drop off space and 1 per 10 children
Home day care	Same as residential requirements
Full service restaurants, taverns, and bars	1 per 100 Sf** of floor area for the first 3,000 Sf with 6 spaces minimum and 1 for each additional 300 Sf of floor area
Drive through restaurants	1 per 150 Sf of floor area, minimum of 6 spaces
Libraries/Museums/Art galleries	1 per 500 Sf of floor area
Schools - elementary and junior high school	1 per employee
Schools - high school	1 per employee and 1 per 5 students
Schools - trade school and community college	1 per employee and 1 per 3 students
Fraternal/Civic Organizations/Clubs/Lodges	1 per 250 Sf of floor area and 1 per 4 employees

Religious institutions/theaters/auditoriums/places of assembly	1 per 4 seats
Hospitals	1 per employee and 1 per 4 beds
Medical and dental clinics	1 per employee and 1 per 250 Sf of floor area
Professional offices not providing on-site customer service	1 per employee
Banks, financial institutions and professional offices providing on-site customer service	1 per 500 Sf of floor area, minimum of 5 spaces
Bowling alley	2 per lane
Fitness, recreational sports, gym	3 per 1,000 Sf of floor area
Go cart, driving range, shooting range, and similar use requiring large, uninhabited areas	1 per each unit of activity (each go cart, tee box, firing position, etc.)
Utilities	One per employee on maximum shift and 2 additional spaces
Manufacturing, production, and fabrication, processing, assembly	One per employee on maximum shift and 3 additional spaces
Auto wrecking yard	11 for sites up to ten acres and 1 for each additional acre up to 25 acres
Recycling center	1 per employee on maximum shift
Grocery and general merchandise stores	4 per 1,000 Sf of floor area
Animal shelter and boarding	1 per 1,000 Sf of floor area
Laundromat	1 per 4 machines
Storage facilities	1 space per employee on maximum shift and 1 space for every 50 storage units.
Vehicle sales	1 per employee on maximum shift and 1 per 1,000 Sf of floor area
Furniture, appliance and other large item retail	1 per 1,000 Sf of floor area
Automotive services	1 per employee on maximum shift and 2 for each service bay
Convenience store	3 per 1,000 Sf of floor area
Gasoline sales	1 per 400 Sf of floor area
Salons, barber shops, and spas	6 per 1,000 Sf of floor area

Beverage retail stores	3 per 1,000 Sf of floor area
Equipment sales and rental	1 per employee on maximum shift and 1 per 1,000 Sf of floor area
Hardware stores	4 per 1,000 Sf of floor area
Warehousing, wholesale, and freight terminals	1 per 2,000 Sf of floor area
Car wash	1 per cleaning bay
Retail stores or services businesses not otherwise named.	One per 500 Sf of floor area.

*DU = Dwelling Unit

**Sf = Square feet

Secs. 24-51—24-59. - Reserved.

Sec. 24-60. - Standards for Specific Land Uses.

The following sections of these regulations outline standards applicable to specific land uses as allowed in the various zoning districts.

Sec. 24-61. - Mobile Homes.

The following standards apply to all mobile home installations:

- a) Footings shall meet the following requirements:
 1. All grass and organic material shall be removed from beneath the footings.
 2. All footings shall be of a material impervious to rot which has a minimum weight bearing ability equal to or greater than a solid piece of wood having minimum nominal dimensions of two inches by 12 inches by 20 inches.
 3. Each footing may be constructed from more than one piece of material provided that each piece of material has minimum nominal dimensions of not less than two inches by 12 inches by 20 inches, unless smaller dimensions are approved by the Building Inspector prior to use.
 4. A footing shall be at least four inches longer and four inches wider than the pier resting upon it, unless smaller dimensions are approved by the Building Inspector prior to use.
 5. Tiedowns are to be either one-half-inch (I) bolt or one-half-inch (J) bolt poured within the footing. A one-quarter-inch cable is to be used from the bolt to the frame of the mobile home, and a 3/16-inch turnbuckle to be used for adjustments.
- b) Piers shall meet the following requirements:
 1. Wooden or concrete piers.

- a. A pier shall be constructed of a material or materials which have a minimum weight bearing ability equal to or greater than a standard eight-inch by eight-inch by 16-inch minimum celled concrete block. If a celled concrete block or an expanded shell is used to construct piers, the material shall be installed so the open end of each cell is perpendicular to the frame rail and to the ground.
 - b. A pier shall be not less than eight nominal inches wide, and in any event shall be the same width as the cap resting upon it.
 - c. A pier eight inches in height or less may be constructed of more than one piece of material, provided each piece has minimum nominal dimensions of two inches by four inches by 16 inches.
 - d. A pier more than eight inches in height or less may be constructed of more than one piece of material having minimum nominal dimensions of eight inches wide, eight inches high and 16 inches long, provided that the pieces fit flush one to another.
2. Metal piers. Fabricated metal piers of equal load capacity and stability may be used.
- c) Caps shall meet the following requirements:
1. All piers, except metal piers with their own caps, shall be topped with a cap not more than six inches in height and not less than eight nominal inches wide and 16 inches long.
 2. Each cap shall be constructed of the same material throughout, and may be constructed of more than one piece of material, each having minimum nominal dimensions of one inch by eight inches by 16 inches.
- d) Shims shall meet the following requirements:
1. All shims shall be two inches or less in thickness and wide enough to provide bearing over the width of the cap; the maximum included angle shall be one degree.
 2. The shims shall be driven tight between the cap and the frame rail to provide uniform bearing.
- e) Footings, piers, caps and shims shall be installed directly under the main frame or chassis of the mobile home according to the manufacturer's recommendations, so long as those recommendations meet the minimum standards in this Section.
- f) All footings, piers, caps and shims shall be located under the unit's support structure and shall be installed so the longest dimension of each piece of material used for the construction of a pier and of each footing, cap and shim is parallel with the ground and perpendicular to the frame rail. Those nearest each end of the mobile home shall be within five feet from the end of the home, and the maximum spacing shall be ten feet on centers, or according to the manufacturer's instructions.

Sec. 24-62. – Recreational Vehicles.

The following apply to recreational vehicles (RVs) outside RV Parks:

- a) One RV per dwelling unit (excluding accessory dwelling units) may be kept or stored on each residential lot, but RVs may not be occupied as residences on a basis exceeding 15 days consecutively or for more than 30 days per calendar year.
- b) On non-residential lots, RVs may be kept or stored, but RVs may not be occupied for sleeping purposes.

Sec. 24-63. – Accessory Buildings. (Also see Accessory Dwelling Units, Sec. 24-65)

Accessory buildings are allowed in all zoning districts subject to permitting requirements except as exempted under Section 24-81 and the following standards:

- a) No accessory building shall be located within ten feet (10') of any principal residential building.
- b) On residential lots, accessory buildings may be located in rear yards, but not in the required rear yard setback – see Figure III.A: Setbacks and Yards.
- c) No accessory building shall be located in any required side or front yard in residential districts, with the following exceptions: Storm shelters, fallout shelters and similar shelters to protect human life during periods of danger may be constructed in the required front or side yard, but no part of the building may protrude above the average grade of the lot. In addition, such buildings with impervious surfaces shall be calculated against the permitted lot coverage.
- d) In non-residential districts, with the exception of the CBD, accessory structures may be located in any yard, but not required yards.
- a) For those uses listed as a conditional use, the addition of accessory buildings that expand a conditional use beyond what may have been reviewed under a Conditional Use Permit process require review as a conditional use.
- b) For nonconforming uses, the addition of accessory buildings that expand the nonconformity shall not be permitted without approval of a variance. For purposes of this requirement, nonconformity is increased if any portion of a required yard would be diminished by the proposed activity.

Sec. 24-64. – Home Occupations.

Home occupations are non-intrusive commercial or light industrial activities conducted in a dwelling or a building accessory to a dwelling, which may be allowed as a permitted or conditional use in the residential districts depending upon the number of employees (see permitted and conditional use tables in district regulations, Article II) subject to the following standards:

- a) The use of the dwelling unit and/or accessory building for the home occupation shall be clearly incidental and subordinate to the property's residential use by its occupants.
- b) There shall be no change in the outside appearance of the building or premises and other visible evidence of the conduct of such home occupation other than signage as allowed under separate ordinance.

- c) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood. For the purpose of comparing traffic volumes, traffic generated by existing land uses and also potential permitted land uses on the subject property may be used.
- d) No equipment or process shall be used in such home occupation which will cause any vibration, glare, fumes, odors or electrical interference detectable through the normal senses off the lot, if the occupation is conducted in a dwelling, or outside the dwelling unit if conducted in an accessory building. In the case of electrical interference, no equipment or process shall be used which creates visual or audible interferences in any radio or television receivers off the premises or causes fluctuations in line voltage off the premises.
- e) Businesses established for the purpose of providing, purveying, selling, growing, manufacturing, or otherwise dealing in the procurement, production and sale of medical marijuana shall not be permitted as home occupations.

Sec. 24-65. – Accessory Dwelling Units.

- a) **Purpose.** The purpose of these performance standards is to allow efficient use of the existing housing stock and infrastructure, provide housing options that respond to changing household sizes and needs, provide a means for residents—particularly seniors, single parents and empty-nesters—to remain in their homes and neighborhoods, obtain extra income, security, companionship and assistance, and to provide a broader range of affordable housing options.
- b) **Applicability.** The following are considered accessory dwelling units or uses:
 1. A single dwelling unit occupied by the owner, a manager, or a guard is a customary accessory use on commercial and industrial properties in the HCLI and HI districts.
 2. An accessory apartment (an attached, single, functionally separate dwelling unit) is a customary accessory use in all single family dwellings.
 3. A detached accessory dwelling unit (a single, fully functional dwelling unit physically separated from the primary dwelling on a lot), including an apartment above a garage, is a customary accessory residential use in the RA, RB, RC, and SR districts.
- c) **Specification Standards.**
 1. Only one accessory dwelling is permitted per lot;
 2. Except for an accessory dwelling provided for a manager or guard on a commercial or industrial property in the HCLI or HI districts, accessory dwelling units are only allowed on lots developed with single family residences.
 3. An accessory dwelling shall not contain more than two bedrooms (rooms used primarily for sleeping purposes);
 4. In the residential districts, the lot must meet the minimum size requirement of the district;

5. The ground floor area of the accessory unit shall not exceed 50% of the ground floor area of the principal dwelling or structure;
 6. An accessory dwelling shall not exceed the district's maximum height limitation for accessory buildings;
 7. The accessory dwelling shall have a roof pitch, siding, trim and window proportions similar to that of the principal dwelling or structure to the extent feasible, as determined by the Administrator;
 8. The accessory dwelling shall comply with all other standards for principal dwellings or structures such as setbacks, lot coverage and height;
 9. The accessory dwelling unit shall not require a separate access approach to the adjacent public street, with the exceptions that the alley may serve the accessory dwelling and existing driveway approaches may serve the accessory dwelling unit;
 10. At least one off-street parking space must be provided for an accessory dwelling unit; and
 11. Approval from the Montana Department of Environmental Quality may be required prior to issuance of a permit.
- d) **Renting an accessory dwelling unit.** Renting of either dwelling may occur so long as the two conditions below are met. (Renting an accessory dwelling unit to a manager or guard on a commercial or industrial property is exempt from these conditions.)
1. One of the dwellings shall be occupied by the landowner as a permanent residence.
 2. The landowner shall record a signed affidavit and deed restriction, in a form approved by the City Attorney, stating the property owner will reside on the property, either in the principal or accessory dwelling unit. Once recorded, the deed restriction may not be removed or modified without City Council approval.
- e) **Violation of terms.** In the event that any of these terms is violated, the owner shall provide for the removal of the accessory dwelling improvements and restore the site to its principal use.

Sec. 24-66. – Bed and Breakfasts.

The purpose of this Section is to provide options for overnight accommodations and meal services to tourists and visitors while minimizing impacts to the neighborhood in which the accommodations are located. For purposes of this Chapter, a bed and breakfast is defined as a single household which remains owner-occupied at all times, providing from one to no more than six guest rooms for compensation, and where food service may be served to overnight guests only. Bed and breakfasts are Conditional Uses in the RA, RB, RC, MH-A, and SR districts, subject to Conditional Use review and approval by the Board of Adjustment and the following standards:

- a) The establishment must be operated by the owner of the home, who must live in the structure.
- b) The bed and breakfast may not provide accommodations for more than 18 guests.
- c) Food service may be provided for resident guests only.

- d) Bed and breakfasts may not be leased or offered for use as reception space, party space, meeting space or similar events open to non-resident guests.
- e) Bed and breakfasts may display signs as permitted by Section 24-51.
- f) Off-street parking shall be provided in compliance with Section 24-50.
- g) The exterior appearance of the building shall not be altered from its single-family residential appearance.

Sec. 24-67. – Multiple-Family Dwellings, Two-Family Dwellings, Townhouses and Townhomes.

Multiple-family dwellings, Two-Family Dwellings (duplexes,) townhouses and townhomes are subject to all applicable regulations of the Miles City Codes except as modified or supplemented by these standards. These standards apply to multiple-family and two-family dwelling structures, including apartments, condominiums and retirement homes that contain more than two living units. They also apply to townhouse structures, and when a single parcel contains either multiple two-family dwellings or a combination of multi-family dwellings and two-family dwellings.

- a) **Pedestrian Access.** Such developments must provide a system of walkways connecting each dwelling to the following when applicable: adjacent public sidewalks, on-site parking lots or parking structures, other on-site multiple-family dwelling buildings, garages, disposal and recycling containers, mail boxes, recreation areas and storage areas.

b) Parking and Vehicle Access.

1. Off-street parking shall be provided in compliance with Section 24-50.
2. No more than 30% of the parking area may be located between the principal building and the front street.
3. Parking may not be located within any required side setback area.
4. Access and access routes meeting the requirements of the Miles City Fire Department may be required to ensure residents have adequate means of escape in the event of an emergency and that the fire department has sufficient access.

- c) **Design Features.** The developer shall provide at least three of the following (at the developer’s discretion):

1. Modulated building wall planes on the front façade through the use of projections, recesses and offset planes with a minimum depth of two feet;
2. Balconies or bay windows on the front building façade;
3. Varied rooflines;
4. Visual diversity on all building facades by varying materials, texture, or color; and
5. Windows or glazed area equal to at least 15% of the combined total of all the building facades.

- d) **Utilities.** Each unit shall be provided with separate utility connections and meters.
- e) **Townhouses and Townhomes Unit Access.** Each unit of townhouse/townhome developments shall be provided with at least two separate and private outdoor access doors.
- f) **Landscaping.** Landscaping shall be installed in accordance with Section 24-49.

Sec. 24-68. – Requirements for chickens.

The keeping of up to six chickens, but no roosters, shall be allowed in all residential districts if the following requirements are met:

- a) No coops or runs shall be located in front yards. In addition, for corner lots, required side yards shall not be used.
- b) Chicken coops and runs shall be located at least 20 feet away from any residential structure, religious institution, school, or other building inhabited by people except the residence of the chicken owner, custodian, or keeper as measured from the nearest exterior wall of both structures.
- c) Coops and runs must be set back a minimum of ten feet from all property lines as measured from the nearest wall of the coop or run.
- d) No coop shall exceed 48 square feet in size; however eaves, feed boxes, and other minor appurtenances may extend further without being calculated as the basic square footage.
- e) All coops shall be designed to be predator proof.
- f) No coop shall exceed the height of eight feet.
- g) No coops or runs shall be constructed in the floodway in compliance with the floodplain regulations and shall also comply with any floodplain regulation requirements if located in the floodway fringe.
- h) Runs shall be constructed of wood or woven wire materials, allow chickens to contact the ground, shall not exceed six feet in height, and shall not exceed 20 square feet per chicken.
- i) Run fencing shall be attached to the coop except in the case of a mobile coop.
- j) Electrified fences on runs are prohibited.
- k) No flags or banners shall be strung around the perimeter of runs.
- l) If electrical lines/cords to coops are strung aerially, they shall not be visible from neighboring properties or public spaces.
- m) Mobile coops are allowed but are required to meet the location and design requirements in subsections (a) through (l) of this Section and shall be confined within a run.

Sec. 24-69. – Animal rescue shelters.

- a) The keeping of a total of up to eight dogs, cats, or a combination of both, not exceeding eight animals, for the purpose of operating an animal rescue shelter are allowed in certain districts subject to the requirements below.
- b) Animal rescue shelters of any size are permitted uses in the GC and HWC districts.
- c) In the SR district, any personal dogs or cats kept as pets by the operator of the facility shall reduce the allowed number of sheltered animals by a count of one animal for each dog or cat that is being housed on the same premise and kept as a pet.
- d) An animal shelter in the SR district shall not be located any closer than 3,000 feet from another existing animal rescue shelter.
- e) For purposes of determining the total number of allowed animals, litters under four months of age shall count the same as one adult animal. For rescued animals that give birth after being rescued, animals under the age of four months shall not be counted in the total. For shelters being operated out of a single-family home, only one litter at a time shall be allowed.
- f) A permit is required and the permit holder shall comply with all other applicable control regulations.

Sec. 24-70. – Antennae, Antenna Support Structures and Wireless Communications Facilities.

- a) **Intent.** The intent of this Section is to:
 - 1. Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the city;
 - 2. Require the joint use of new and existing antenna support structures when possible;
 - 3. Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on city residents is minimal;
 - 4. Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennas; and
 - 5. Enhance the ability of the providers of wireless communication services to provide such services as quickly, effectively, and efficiently as possible.

- b) **Permit requirements.**

All uses within the city for the location, construction, or modification of a new wireless communication facility, antenna support structure or amateur radio antenna support structure shall require compliance with the applicable Administration and Enforcement requirements of Article IV.

- 1. In districts where amateur radio antenna support structures, antenna support structures, alternative antenna support structures, antennae, and amateur radio antennae in

compliance with Section 24-70(c) (below) are listed as a permitted use, the project shall require review of a Zoning Conformance Permit pursuant to Section 24-85.

2. In districts where wireless communications facilities are listed as a conditional use, the project shall require review of a Conditional Use pursuant to Section 24-91.

c) Permitted uses.

The following are permitted uses:

1. Amateur radio antenna support structures and alternative antenna support structures, within any district, that meet all of the following criteria:
 - a. Are located within the rear yard of a lot;
 - b. Are not located within any setback required in the zoning district in which it is located or across or upon any existing legal right of way or easement;
 - c. Obtain a Building Permit under Article IV;
 - d. Have no lighting upon the structure except such hazard lighting as mandated by the FAA, provided, however, seasonal decorations which do not conflict with government regulations, may be permitted;
 - e. Have no signage or displays of any type upon the structure except warning signs required by law or applicable regulation, provided, however, seasonal decorations which do not conflict with government regulations, may be permitted; and
 - f. The maximum total antenna and support structure height is less than or equal to 100 feet;
2. Amateur radio antenna support structures and antenna support structures, that were in existence and in place or under actual construction in place prior to July 25, 2006, unless:
 - a. Such amateur radio antenna support structure or antenna support structure is subsequently damaged or destroyed and the cost of repair or reconstruction of such support structure exceeds 50 percent of the replacement cost of such support structure; or
 - b. Such antenna support structure has been abandoned. Abandonment is presumed if the support structure has not been utilized by any licensed user of the support structure for a period in excess of 180 consecutive days and use of the support structure has not been reinstated by any licensed user within 90 days of the city giving written notice of its declaration of abandonment to all licensed users of the support structure. If the city declares a support structure abandoned pursuant to this subsection, the burden shall be upon the licensed users of the support structure to document actual use of the support structure within such 180 consecutive day period; or
 - c. Such antenna support structure is modified subsequent to July 25, 2006 and unless such modification is limited to:

- i. Addition of antenna arrays which do not result in an increase in the height of the tallest portion of the structure by more than 20 feet of the height of the structure as it existed on July 25, 2006 and do not result in the antenna support structure height exceeding 75 feet for an antenna support structure that was less than 75 feet in height on July 25, 2006;
 - ii. Addition of antenna, otherwise complying with subsection (1), above, not exceeding the number of antennas for which the antenna support structure was originally designed to accommodate.
 - d. Such amateur radio antenna support structure is modified subsequent to July 25, 2006 and such modification results in the antenna support structure height exceeding 75 feet.
- d) **Building Permits required for all antenna support structures and certain amateur radio antenna support structures.**
 - 1. Any amateur radio antenna support structure shall require a Building Permit if the amateur radio antenna support structure together with any attached antenna have an antenna support structure height in excess of six feet, if ground mounted, or in excess of six feet above the highest point of the roof, if roof mounted. The application must include documentation that the amateur radio antenna support structure is adequately anchored and engineered to prevent collapse and damage to adjacent structures or property in the event of failure.
 - 2. All antenna support structures shall require a Building Permit. The application must include documentation that the antenna support structure is adequately anchored and engineered to prevent collapse and damage to adjacent structures or property in the event of failure.
- e) **General requirements for location and construction of all wireless communication facilities.**
 - 1. All construction shall comply with all applicable local and State of Montana building codes;
 - 2. All facilities shall comply with all other applicable government laws and regulations;
 - 3. Minimum setback requirements from any residential structure or any lot line adjacent to any residential district:
 - a. For antenna support structures one-half the height of the antenna support structure; and
 - b. For accessory structures: The greater of 15 feet or the minimum yard setback requirements for the zone in which the structure is located.
 - 4. Antenna support structures and accessory structures located in commercial or industrial zones shall meet the minimum yard setbacks for the zone in which they are located.
 - 5. Antenna support structures and accessory structures shall not exceed the maximum lot coverage limits for the zone in which they are located.
 - 6. Accessory structures shall not exceed the height limits for the district in which they are located.

7. A secure chain link fence with plastic lath inserts, painted solid wood fence, or masonry wall, with a minimum height of six feet, shall be constructed and maintained around the perimeter of the antenna support structure with any setbacks required for fences within the district in which the structure is located.
8. The only lighting permitted upon an antenna support structure shall be:
 - a. Lighting mandated by FAA or other government regulation. Unless otherwise mandated by such regulations, all such mandated lighting shall be only red beacons; and
 - b. Security lighting mounted no higher than 20 feet above ground level. All such security lighting shall be directed towards the ground to minimize light pollution, prevent off-site light spillage, and avoid illumination of the tower. Cut-off security lighting must be utilized adjacent to existing residences or lots zoned in a residential district. When incorporated into the approved design of the facility, light fixtures used to illuminate adjacent sport fields, parking lots or similar areas may be included in the facility upon approval of the Administrator.
9. Signage shall be limited to non-illuminated warning and equipment identification signs, unless otherwise mandated by applicable government regulation.
10. To facilitate co-location, antenna support structures shall be designed and constructed to accommodate the applicant's antennas and the following additional comparable antennas:
 - a. For structures with an antenna support structure height greater than 100 feet, two additional antennas;
 - b. For structures with an antenna support structure height less than 100 feet but greater than 75 feet, one additional antenna.
11. All new antennas must be co-located on existing antenna support structures or alternative antenna support structures unless the application for special review demonstrates that it is not feasible to co-locate such antennas.
12. Equipment at a wireless communication facility shall be automated whenever feasible in order to minimize traffic and congestion upon the facility site.
13. All wireless communication facilities and the site upon which they are located shall be maintained at all times in compliance with all applicable government laws and regulations.
14. Wireless communications facilities shall comply with the following visual impact/aesthetics standards unless otherwise mandated by government law or regulation:
 - a. Exterior finish shall be galvanized steel or a neutral color which blends with the color of structures adjacent to the site;
 - b. Antennas installed on a structure other than a tower, together with associated electrical and mechanical equipment, shall be of a neutral color identical to or blending with the color of the support structure so as to render the antennas, electrical and mechanical equipment as visually unobtrusive as possible;

- c. Antennas and antenna support structures may be mounted on the roofs of buildings (other than buildings which are utilized primarily as equipment enclosures for a wireless communication facility) that are greater than 30 feet in height above street grade so long as the antennas and antenna support structure do not add more than 30 feet to the total height of the building upon which they are mounted. Only monopole antenna support structures with omni-directional (whip) or low profile single-directional (panel) antennas shall be mounted upon building roofs. Crows nest antenna arrays are prohibited upon building roofs.
 - d. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and placed so as to be incorporated with the vertical design elements of the structure.
 - e. Wireless communication facilities shall not be located within any officially designated historic district unless:
 - i. The location is required to be permitted by preemptive government law or regulation; or
 - ii. The proposed facility, upon conditional use review and approval, is determined by the Board of Adjustment to be designed to be hidden, screened or otherwise blend with the historical district structures and surroundings so as to be virtually unnoticeable.
15. Antenna support structures with a height in excess of 75 feet shall be located at least one linear mile from any other antenna support structure with a height in excess of 75 feet, unless the proposed antenna support structure is to be located in a tower farm.
16. A tower farm shall be located at least one linear mile from any other tower farm.
17. Exceptions to requirements of subsections (15) and (16) above, may be granted by the Board of Adjustment during the conditional use review process, if the applicant satisfactorily documents:
- a. No existing antenna support structure within the required separation distance of the proposed location can accommodate the applicant's proposed antenna; or
 - b. A critical need exists for the proposed location and it is not technically feasible to locate or co-locate structures at or beyond the required separation distance.
- f) **Conditional Use Permit applications.**
- 1. Prior to commencing construction or modification of any wireless communication facility in the districts in which the use is listed as a conditional use, the person or entity proposing construction of such structure or facility, shall submit a Conditional Use Permit application pursuant to Section 24-91, which shall, in addition to the standard requirements for a Conditional Use Permit application, contain all of the following information:
 - a. The full name, current address and telephone number of the applicant and the address of the applicant's principal place of business;

- b. If the applicant is an entity, the form of entity, state of organization and, if a corporation or limited liability company, a certificate of good standing or certificate of existence issued by the Montana Secretary of State;
 - c. A description of the proposed location of the facility or structure, including physical address, legal description of all land upon which the facility or structure will be sited, the height, latitude and longitude (or GPS coordinates) of the proposed location of the facility or structure, a map to scale showing the service area of the proposed facility or structure, and an explanation of the need for the facility or structure;
 - d. A site plan showing the following:
 - i. North arrow.
 - ii. The location and dimensions of all vehicular points of ingress and egress, drives, alleys, streets, and easements.
 - iii. Center line and names of streets relevant to the application.
 - iv. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those that will be removed. All information must be labeled.
 - v. Setbacks from all property boundaries for existing and proposed structures and buildings.
 - vi. Property boundaries and lot line dimensions.
 - vii. Elevation drawing of proposed wireless communication facility including the antenna support structure, antenna platforms and associated equipment enclosures. Also indicate the maximum number of antenna platforms that can be supported.
 - viii. Location of artificial light sources and the areas of illumination.
 - e. Area map showing the property boundaries of all lots or tracts adjacent to the proposed site and the location of any existing buildings on the adjacent properties;
 - f. Documentation of any mandated lighting requirements of the FAA or any other Government;
 - g. If applicable, documentation of any FAA airspace review and a copy of any FAA comments;
- a.
- 1.
 - 2.
 - 3.
 - 4.

- 5.
- 6.
- 7.
- 8.
- i. If the application is for an amateur radio antenna support structure, a copy of the applicant's amateur radio FCC license. Otherwise, a copy of the applicant's FCC license authorizing it to provide the wireless communications services for which the facility or structure is proposed;
- j. Other than an application for an amateur radio antenna support structure, documentation of the applicant's inability to utilize an existing antenna support structure or wireless communication facility to accommodate the applicant's proposed antenna or antenna array. Such documentation shall include:
 - i. A description of any existing antenna support structure or wireless communication facility which would meet the applicant's engineering requirements and documentation of the applicant's attempt to obtain permission to utilize such existing structure or facility and the owner's refusal to accommodate such request. If the inability to obtain permission is based upon applicant's position that the cost of use of such existing structure or facility is unreasonable, a comparison of the cost of such use with the cost of constructing and maintaining the proposed new structure or facility.
 - ii. Documentation that no existing antenna support structure or wireless communication facility meets the applicant's engineering requirements. This documentation shall consist, at the minimum, of documentation that:
 - A. No existing or approved antenna support structures are located within the geographic area required to meet the applicant's engineering requirements.
 - B. Existing or approved antenna support structures are not of sufficient height to meet the applicant's engineering requirements.
 - C. Existing or approved antenna support structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment and cannot be reinforced to provide sufficient structural strength.
 - D. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing or approved antenna support structures, or the antenna on the existing or approved antenna support structures would cause interference with the applicant's proposed antenna.
 - E. The applicant demonstrates that there are other limiting factors that render existing or approved antenna support structures unsuitable.
- k. Other than an application for an amateur radio antenna support structure, a statement from the applicant that the applicant, upon commercially reasonable terms, will permit co-location by any FCC licensed wireless communication provider utilizing compatible

Secs. 24-72—24-79. – Reserved.

ARTICLE IV. – ADMINISTRATION AND ENFORCEMENT

This Article describes administrative processes and procedures of the zoning regulations, how exceptions are applied, and other aspects of administration.

Sec. 24-80. – Permits Required.

A permit shall be required for any clearing, grading, excavation, construction, reconstruction, non-minor change of occupancy or use, land development, re-development or building activity, except as specifically exempted by these regulations or per Section 24-81 below. These regulations include the following four kinds of permits, the procedures for administration of which are found in Section 24-85 below:

- a) A Building Permit, where compliance with zoning is assessed, shall be required for any new building activity listed as “permitted” in the various districts adopted by these regulations (see Sections 24-15 through 24-39).
- b) A Conditional Use Permit shall be required for any land use or building activity listed as a “conditional use” in the various zoning districts (see Sections 24-15 through 24-39).
- c) A Change of Occupancy Permit is required when a non-minor change in use or occupancy occurs in a building or on a premises.
- d) A Certificate of Occupancy is required when a new building is completed.

Building permit applications are submitted with applications for the above permits when building codes apply to the development. Building permits are then processed by the Miles City Building Inspector in conjunction with zoning review by the Administrator and, when applicable, the Board of Adjustment. Sign permits are authorized under separate ordinance.

Sec. 24-81. – Exemptions for Development Activity.

The activities listed here are not exempt from any applicable requirement of these regulations, except the requirement for a permit. No permit shall be required for:

- a) Clearing, grading, or excavation for the installation or maintenance of landscaping and gardens;
- b) Repair or remodeling that does not alter the exterior dimensions of the building by more than six inches (note that fire or building codes may require a permit for such activities);
- c) Construction or installation of accessory buildings that are less than 10 feet in height with a projected roof area of less than 120 square feet that are not used for habitation and are exempt from building permit requirements, provided the buildings meet all standards of these regulations;
- d) Minor changes of occupancy as defined by Article V;

- e) Construction of public streets and other municipal infrastructure, and subdivision improvements as allowed and/or required by a subdivision approval issued by the City Council; and
- f) Minor utility installations.

Sec. 24-82. – Application Forms and Fees.

- a) Applications for permits shall be submitted on forms provided by the city. All applications shall include a site plan, and all other maps, plans, drawings, tabulations, calculations, and text needed to demonstrate compliance with these regulations. The Administrator may require submission of multiple copies of application forms and supporting materials, as well as a copy of all documents to be submitted electronically in PDF or similar format.
- b) Application fees for each type of permit and the other procedures established by these regulations shall be set by the City Council.
- c) No incomplete or insufficient application will be accepted for review and acted upon by the appropriate decision-making body (e.g., Administrator, Board of Adjustment).

Sec. 24-83. – Contents of Applications.

Applications and site plans shall include information necessary to demonstrate compliance with these regulations. Each permit application lists specific information that is pertinent to that request. All pertinent information shall be submitted by the applicant. Site plans shall be to scale and depict the information below. Individual required elements of site plans may be waived at the discretion of the Administrator.

- a) Property boundaries/lot lines with dimensions and a north arrow indicator;
- b) Geographic features such as slopes, water bodies, floodplains, wetlands, trees and other vegetation;
- c) Topographic contours at a minimum interval of two feet or as determined by the Administrator;
- d) Onsite and adjacent offsite streets, roads, alleys and easements to a distance of 150 feet from the subject property, including existing and proposed improvements such as curb, gutter, sidewalks, and bike paths;
- e) Parking facilities, including bicycle racks, landscaping, drainage, lighting, handicap-accessible parking, typical dimensions (including labeling angles for angled parking), traffic flow on-site, ingress and egress points, driveways, and paving details;
- f) Existing and proposed wells, septic tanks and drainfields (if applicable);
- g) Existing and proposed utilities and municipal facilities, such as water lines and sewer lines;
- h) Existing and proposed buildings with dimensions, including all above grade projections and lot coverage;
- i) Location of fire hydrants, fire lanes and turnarounds;

- j) Exterior refuse collection areas;
- k) Elevation plans or side profiles for structures with dimensions for building heights, demonstrating the building height as defined by Article V;
- l) For any application that involves buildings for lease or rent, the applicant shall submit an assessment of potential significant impacts on the surrounding physical environment and human population in the area to be affected, including any proposed measures, if any, to avoid or minimize potential significant impacts identified; and
- m) Any additional application information required by any Section of these regulations.

Sec. 24-84. – Site Inspection.

The filing of an application for a permit constitutes permission for the Administrator and appropriate personnel to conduct inspections of the site during their consideration of the application, and to subsequently monitor compliance with any conditions of approval during the life of the permit.

Sec. 24-85. – Procedures for Building Permits, Change of Occupancy Permits and Certificates of Occupancy.

- a) **Purpose:** The purpose of this permit procedure is to ensure that routine building and land use activities comply with these regulations.
- b) **Procedures:** The following is the typical procedure for an applicant to apply for and receive a Building, Change of Occupancy and Certificate of Occupancy Permit:
 1. The applicant shall submit a properly completed application form, a site plan, any supporting materials necessary to demonstrate compliance with these regulations, and the required application fee at City Hall.
 2. The Administrator shall determine whether the application is complete and sufficient for review. If an application is determined incomplete or insufficient, the Administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.
 3. The Administrator shall determine whether the proposed activity is in compliance with these regulations. If it complies, the application shall be approved and a permit shall be issued at that time. If the proposed development fails to comply, the application for a permit shall be denied. Conditions may be attached to the permit to direct the applicant and agents to requirements of these and other regulations.
 4. **Approval Period:** Building and Change of Occupancy Permits are valid for one year. During the approval period all construction must be completed and compliance with the permit demonstrated. However, at the end of the approval period the Administrator may, at the request of the applicant, extend approval for up to one additional year. The purpose of these timeframes is to ensure construction activities are not in an active state for an

unreasonable amount of time posing threats to public health, safety, and welfare, and to ensure effective administration of these regulations.

5. After a permit is issued and prior to permit expiration, the applicant shall notify the Administrator and demonstrate that development conforms to these regulations and any conditions of approval. The Administrator shall visit the site to check for conformance and, if verified, issue a Certificate of Occupancy. If the development is determined not to be in conformance, the Administrator shall notify the applicant of the deficiencies. The applicant must demonstrate conformance within the original or extended approval period, reapply for a permit, or appeal the Administrator's decision under Section 24-93. If voluntary compliance is not achieved a notice of violation may be issued under Section 24-98.
- c) **Appeal:** Any action or decision by the Administrator may be appealed to the Board of Adjustment using the appeals procedure of Section 24-93.

Sec. 24-86. – Interpretation of use.

It is the intent of this Section to group similar or compatible land uses into specific zoning districts, either as permitted or conditional uses. Evaluation of uses shall be as follows:

- a) The Administrator shall determine if a use not listed is materially similar to a permitted or conditional use listed in the applicable district. Interpretations may be appealed to the Board of Adjustment per Section 24-93.
- b) Materially similar means the use provides a similar function, occurs within a similar structure or setting, and has a similar scale and impact to a permitted or conditional use listed.
- c) Land uses deemed not to be materially similar to a permitted or conditional use shall be prohibited unless a variance is received (see Section 24-92) or amendment to these regulations is made (see Section 24-96).

Sec. 24-87. – Uses preempted by state statute.

Uses that are required to be allowed in a zoning district by state statute shall be allowed in accordance with state law whether or not the use is included in this Chapter. Such uses shall be subject to review and permitting as permitted or conditional uses as designated by the various districts. Where such uses are indicated as prohibited, the uses are treated as conditional uses subject to review by the Board of Adjustment pursuant to Section 24-91.

Sec. 24-88. – Application of Zoning Regulations to State and Local Government Agencies (76-2-402, MCA).

For purposes of this section, an "agency" means a board, bureau, commission, department, district, an authority, or other entity of state or local government.

- a) If an agency proposes to develop or use public land contrary to these zoning regulations, the agency shall first notify the Board of Adjustment of its intent to develop land contrary to these zoning regulations.
- b) Whenever an agency proposes to use land contrary to these zoning regulations, a public hearing shall be held by the Board of Adjustment.
- c) The Administrator shall give notice of the public hearing in accordance with Section 24-97.
- d) The Board of Adjustment shall hold a public hearing within 30 days of the date the agency gives notice to the Board of Adjustment of its intent to develop or use land contrary to these zoning regulations.
- e) The Board of Adjustment shall have no power to deny the proposed use but shall act only to allow a public forum for comment on the proposed use.

Sec. 24-89. – Nonconforming Uses.

Except as may be allowed by variance, the following apply to lawful nonconforming uses and structures existing at the time of the adoption of this Chapter and/or effectiveness of a provision of these regulations:

- a) The nonconforming use of a building or premises may be continued, but the degree of nonconformity shall not be expanded.
- b) There shall be no limit on the maintenance and repairs of nonconforming uses or buildings, provided all such activities comply with applicable fire and building codes.
- c) No building which has been damaged by fire or other catastrophic event to the extent of more than fifty percent (50%) of its assessed value exclusive of foundations shall be repaired or rebuilt except in conformity with these regulations.
- d) Any nonconforming use abandoned for more than 12 months shall be terminated. Abandonment shall not be measured by the owner's intent, but solely by the fact that use ceases for a period of 12 or more months.
- e) Temporary nonconforming uses or structures shall not be made permanent without full compliance with these regulations. For example, a building of a temporary character or low-grade construction in a location that does not comply with a setback requirement may not be enhanced with permanent construction features that would make it a permanent structure.

Sec. 24-90. – Board of Adjustment.

- a) The Board of Adjustment is established to act on conditional uses (special exceptions), variances, and appeals of the Administrator decisions and actions.
- b) The Board of Adjustment consists of five members appointed by the mayor for staggered three year terms, and subject to the confirmation by the City Council. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Board members serve without

compensation. A Board member is removable for cause by the City Council upon written charges and after public hearing.

- c) The Board of Adjustment shall appoint one of its members as chairman and will set its operating rules in accordance with 76-2-321 through 76-2-328, Montana Code Annotated.
- d) All official files of the Board of Adjustment shall be held in the offices at City Hall.
- e) Meetings of the Board of Adjustment must be held at the call of the chairman and at other times that the board may determine.
- f) The chairman or in the chairman's absence the acting chairman may administer oaths and compel the attendance of witnesses.
- g) The concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Administrator; to decide in favor of the applicant on any matter upon which the Board of Adjustment is required to pass under these regulations; or to effect any variation in these regulations.
- h) All meetings of the Board of Adjustment shall be open to the public.
- i) The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the offices at City Hall and shall be a public record.

Sec. 24-91. – Conditional Use Permit Review.

- a) **Purpose:** Conditional uses require public review for activities that may have a significant impact on the landscape setting, public facilities, or neighboring land uses. Conditional uses are special exceptions that may be compatible with the permitted uses in a zoning district, but require individual review of their location, scale, design, and configuration, and may include the imposition of special conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district.
- b) **Applicability:** The conditional uses for each district are listed in the permitted and conditional use tables in the various districts sections in Article II. When a proposed use is listed as a conditional use in the site's zoning district, the following require review under this Section:
 - 1. Any new conditional uses;
 - 2. Any non-minor changes of occupancy resulting in a different conditional use, as determined by the Administrator;
 - 3. Any expansion to an existing use listed as a conditional use involving addition to buildings or outdoor areas directly associated with the conditional use that is greater than 25 percent of the existing square footage or 5,000 square feet, whichever is less; and
 - 4. Changes in use where the parking requirements will exceed 25 percent of the existing use.

c) **Procedure:** The following is the typical procedure for an applicant to apply for and receive a Conditional Use Permit:

1. The applicant shall submit a properly completed Conditional Use Permit application form, a site plan, any supporting materials necessary to demonstrate compliance with these regulations, and the required application fee at City Hall.
2. The Administrator shall determine whether the application is complete and sufficient for review. When an application is determined incomplete or insufficient, the Administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.
3. After determining a Conditional Use Permit application is complete and sufficient, the Administrator shall place a public hearing on the proposed conditional use on the agenda of the next Board of Adjustment meeting for which the notice requirements of these regulations can be met (Section 24-97), and at which time will allow for its proper consideration.
4. The Administrator shall give notice of the public hearing in accordance with Section 24-97.
5. The Administrator shall prepare, or contract for preparation of, a report that describes the proposed conditional use, its site, its context, and its compliance, or failure to comply, with the applicable requirements of these regulations. In preparation of the report, the Administrator may seek input from the police, fire, parks, sewer and water, streets, solid waste and other departments as well as other agency and service providers including the Montana Department of Transportation, local school district, utility service providers, Montana Department of Environmental Quality and others. In the report the Administrator shall propose findings of fact and a recommendation of approval, approval with conditions or denial of the proposal for the Board of Adjustment's consideration.
6. The Board of Adjustment shall conduct a hearing on the proposed conditional use. At that hearing, the Board of Adjustment shall review the particular facts and circumstances of the proposed conditional use and adopt findings of fact in support of its decision. If the Board finds the application complies with the evaluation criteria in (d), below it shall approve the application. If the Board finds the application fails to comply, it shall deny the application. The concurring vote of four members of the Board of Adjustment shall be necessary to take official action to approve a request.
7. Conditions may be attached to approval of any Conditional Use Permit as provided in (e) below, provided the Board of Adjustment specifically identifies the basis for each condition.
8. Consideration of a Conditional Use Permit application may be tabled for no more than 35 calendar days.
9. Within 10 days after a decision on the Conditional Use Permit application is made, the Administrator, working on behalf of the Board of Adjustment, shall notify the applicant of the decision and any conditions attached to the approval.

10. Upon the applicant demonstrating compliance with any conditions required by the Board of Adjustment to the Administrator, the Conditional Use Permit will be issued by the Administrator within 10 days.
 11. Approval of a conditional use by the Board of Adjustment does not require the Administrator to permit any activity that is found to not comply with other applicable requirements.
- d) **Evaluation Criteria.** The Board of Adjustment, after weighing and evaluating the proposed use in light of the criteria set forth below, shall grant a Conditional Use Permit if the application, supplemental information, public hearing and other evidence demonstrate that:
1. The proposed use complies with the applicable standards and the requirements of the zoning district in which the project is proposed;
 2. The proposed use, including mitigation measures, shall have no more adverse effects on the health, safety, or welfare of persons living or working in the neighborhood, or shall be no more injurious to property or improvements in the neighborhood than would any other permitted or conditional uses in the same district. In making such determination, consideration shall be given to the location, type, height, scale, layout, and the type and extent of landscaping and screening on the site, as well as measures proposed by the applicant to minimize impacts to neighborhood;
 3. Adequate facilities and services are, or will be, through the application of these regulations and the adoption of conditions, made available to serve the proposed use including police, fire, parks, sewer, water, streets, motorized and non-motorized transportation, drainage, solid waste, schools and other facilities and services as appropriate;
 4. Adequate measures shall be taken as necessary to provide ingress and egress so designed as to minimize traffic hazards and to minimize traffic congestion on the public roads; and
 5. No use shall be constructed or operated so as to cause excessive noise, vibrations, smoke, dust or other particulate matter, toxic or noxious matter, humidity, heat or glare into a residential district. "Excessive" is defined for these purposes as a degree that could be observed by the Administrator and Board of Adjustment to be injurious to the public health, safety or welfare.
- e) **Conditions.** Conditions may be imposed upon the approval of any Conditional Use Permit, if:
1. They are clearly designed to ensure compliance with one or more specific requirement of these or other adopted regulations the city has the ability to enforce;
 2. They are clearly designed to ensure the applicant complies with other laws or regulations;
 3. They are directly related to the anticipated impacts of the proposed use;
 4. They are roughly proportional to the anticipated impacts of the proposed use;
 5. The applicant offers to take specific actions in relation to the proposal that can be ensured through the implementation of a condition; or

6. That conditions are deemed necessary to protect the public health, safety and general welfare.
- f) **Approval Period.** Conditional Use Permits are typically valid for two years from the date of approval by the Board of Adjustment, during which time all construction must be completed and compliance with the permit demonstrated. After this time, the use must remain in compliance with the Board of Adjustment approval and these regulations. However:
1. A Conditional Use Permit may be granted with a shorter approval period as deemed appropriate by the Board of Adjustment with a justifiable reason related to protecting public health and safety or to ensure compliance with these regulations or other applicable regulations or laws.
 2. At the end of the approval period the Board of Adjustment may, at the request of the applicant, extend its approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated and signed by at least 4 members of the Board of Adjustment and the applicant. The Board of Adjustment may issue more than one extension. For a permit to be extended, the applicant may be required to submit substantiating evidence justifying the request and showing good cause for extending the permit period.

Sec. 24-92. – Variances.

- a) **Purpose:** Variances provide relief for landowners who, due to some unique characteristic of their property, would suffer unnecessary hardship if these regulations are strictly enforced. Variances may be granted, but only as provided here.
- b) **Procedure:** The following is the typical procedure for an applicant to apply for and receive a variance:
 1. The applicant shall submit a properly completed variance application form, the required supporting materials including a narrative evaluating the variance request under the evaluation criteria in (c) below, and the required application fee to City Hall.
 2. The Administrator shall determine whether the application is complete and sufficient for review. When an application is determined incomplete or insufficient, the Administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.
 3. After determining a variance application is complete and sufficient, the Administrator shall place a public hearing on the requested variance on the agenda of the next Board of Adjustment meeting for which the notice requirements of these regulations can be met (Section 24-97), and at which time will allow for its proper consideration.
 4. The Administrator shall give notice of the public hearing in accordance with Section 24-97.
 5. The Administrator shall prepare, or contract for preparation of, a report that describes the variance and the overall project, its site, its context, and its compliance, or failure to comply, with the applicable requirements of these regulations. In preparation of the report, the

Administrator may seek input from the police, fire, parks, sewer and water, streets, solid waste and other departments as well as other agency and service providers including the Montana Department of Transportation, local school district, utility service providers, Montana Department of Environmental Quality and others. In the report the Administrator shall propose findings of fact and a recommendation of approval, approval with conditions, or denial of the proposal for the Board of Adjustment's consideration.

6. The Board of Adjustment shall conduct a hearing on the variance request. At that hearing, the Board of Adjustment shall review the particular facts and circumstances of the variance request and adopt findings of fact in support of its decision. If the Board finds the application complies with the evaluation criteria in (c) below, it shall approve the variance. If the Board finds the application fails to comply, it shall deny the variance. The concurring vote of four members of the Board of Adjustment shall be necessary to take official action approving a request.
 7. Conditions may be attached to approval of any variance request, as provided in (d) below, provided the Board of Adjustment specifically identifies the basis for each condition.
 8. Consideration of a variance request may be tabled for no more than 35 calendar days.
 9. Within 10 days after a decision on the variance is made, the Administrator, working on behalf of the Board of Adjustment, shall notify the applicant of the decision and any conditions attached to the approval.
 10. Upon the applicant demonstrating compliance with any conditions required by the Board of Adjustment to the Administrator, the permit associated with the variance request will be issued by the Administrator within 10 days. This does not require the Administrator to permit any activity that is found to not comply with other applicable requirements.
- c) **Evaluation Criteria.** The Board of Adjustment shall approve a variance only upon finding that the following criteria are substantially met or not relevant to the proposal:
1. The need for a variance results from special conditions, such as physical limitations, dimensions or unique circumstances related to the lot or parcel, on which the variance is requested;
 2. Due to those special conditions, a literal enforcement of the provisions of these regulations will result in unnecessary hardship;
 3. Without a variance, strict compliance with the terms of these regulations will limit the reasonable use of the property and deprive the applicant of the rights enjoyed by other properties similarly situated in the district;
 4. The alleged hardship has not been created by action of the applicant, owner or occupants;
 5. Approval of the variance will not have a substantial adverse impact on neighboring properties;
 6. Approval of the variance will not be contrary to the public interest; and

7. Approval of the variance will observe the spirit of these regulations and provide substantial justice.

d) **Conditions.** Conditions may be imposed upon the approval of any variance, if:

1. They are clearly designed to ensure compliance with one or more specific requirement of these or other adopted regulations the city has the ability to enforce;
2. They are clearly designed to ensure the applicant complies with other laws or regulations;
3. They are directly related to the Evaluation Criteria;
4. They are roughly proportional to the anticipated impacts that may result from the reduced standard;
5. The applicant offers to take specific actions in relation to the proposal that can be ensured through the implementation of a condition; or
6. That conditions are deemed necessary to protect the public health, safety and general welfare.

e) **Approval Period.** Variance approvals are typically valid for two years from the date of approval by the Board of Adjustment, during which time all construction must be completed and compliance with the permit demonstrated. After this time, the use must remain in compliance with the Board of Adjustment approval and these regulations. However:

1. A variance approval may be granted with a shorter approval period as deemed appropriate by the Board of Adjustment with a justifiable reason related to protecting public health and safety or to ensure compliance with these regulations or other applicable regulations or laws.
2. At the end of the approval period the Board of Adjustment may, at the request of the applicant, extend its approval for a mutually agreed-upon period of time. Any mutually agreed-upon extension must be in writing, dated and signed by at least four members of the Board of Adjustment and the applicant. The Board of Adjustment may issue more than one extension. For an approval to be extended, the applicant may be required to submit substantiating evidence justifying the request and showing good cause for extending the permit period.

Sec. 24-93. – Zoning Appeals.

a) **Applicability.** Any decision of the Administrator may be appealed to the Board of Adjustment as per 76-2-326, MCA. Appeals of decisions by the Board of Adjustment are petitioned to a court of record as per 76-2-327, MCA.

b) **Procedure for Administrative Appeals:** The following is the procedure to appeal a decision by the Administrator:

1. The appellant shall submit a letter providing a notice of appeal and supporting materials to the Administrator. Any appeal fees adopted by the City Council shall be paid at City Hall.

2. The Administrator shall place a public hearing on the appeal on the agenda of the next Board of Adjustment meeting for which the notice requirements of these regulations can be met (Section 24-97), and at which time will allow for its proper consideration.
3. The Administrator shall give notice of the public hearing in accordance with Section 24-97. Notice shall also be given to the parties in interest.
4. The Administrator shall, in a timely manner, transmit to the Board of Adjustment all papers constituting the record upon which the action appealed was taken.
5. The Administrator shall publish a summary report that includes the decision and the surrounding circumstances, and forward it, along with a copy of pertinent information, to the Board of Adjustment.
6. An appeal stays all proceedings in furtherance of the action appealed from unless the Administrator certifies to the Board of Adjustment after the notice of appeal has been filed that by reason of facts stated in the certificate a stay would, in the Administrator's opinion, cause imminent peril to life or property. In that case, proceedings may not be stayed except by a restraining order, which may be granted by the Board of Adjustment or by a court of record, on notice to the Administrator, and on due cause shown.
7. The Board of Adjustment shall conduct a public hearing on the appeal. At the hearing, the Board of Adjustment shall determine whether the Administrator made an error in any order, requirement, decision, or determination, and reverse or affirm, wholly or partly, or modify the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made and to that end shall have all the powers of the Administrator. The concurring vote of four members of the Board of Adjustment shall be necessary to take official action to reverse, wholly or partly, or modify the order, requirement, decision, or determination appealed from.
8. At the hearing, any party may appear in person or by the party's attorney.
9. Consideration of the appeal may be tabled for no more than 35 days.
10. The Board of Adjustment shall notify the appellant of its decision within 10 days after it is made. The decision shall be in writing and contain a summary of the facts relied on as the basis for its decision.
11. 76-2-327, MCA outlines state laws regarding appeals of decisions by the Board of Adjustment to a court of record. The petition must be presented to the court within 30 days after the filing of the decision in the office of the Board of Adjustment.

Sec. 24-94. - Zoning Commission.

- a) In order to avail itself of the powers conferred by this Chapter, the City Council has appointed a Zoning Commission to recommend the boundaries of the various zoning districts and appropriate regulations to be enforced therein.

- b) The Zoning Commission shall consist of five members, who shall be appointed for staggered three-year terms and shall be removable for cause by the City Council upon written charges and public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

Sec. 24-95. - Duties of Zoning Commission.

The duties of the Zoning Commission are as follows:

- a) Conduct public hearings on zoning changes/amendments.
- b) Make and submit reports on proposed zoning changes/amendments to City Council.

Sec. 24-96. - Zone Changes and Zoning Amendments.

- a) **Purpose:** Any person may petition for the amendment of the zoning district map and/or these regulations. The amendment procedure shall be as provided here and in 76-2-303, MCA. Amendments may also be initiated by the Zoning Commission or Administrator, in which cases steps (b)(1) through (b)(3) below, will not be required.

- b) **Amendment Process:**

1. The applicant shall submit a properly completed application form, the required supporting materials, including a narrative evaluating the amendment request under the amendment criteria in (c) below, and the required application fee at City Hall.
2. The Administrator shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the Administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.
3. After the application is determined to be complete and sufficient, the Administrator shall schedule a public hearing on the application for a zoning amendment on the agenda of the next Zoning Commission meeting for which the notice requirements can be met (Section 24-97), and at which time allows for its proper consideration.
4. The Administrator shall give notice of the public hearing in accordance with Section 24-97.
5. The Administrator shall prepare, or contract for the preparation of, a report that describes the proposed amendment and how it complies, or fails to comply, with the amendment criteria. The report shall include a recommendation for approval, approval with modifications or denial.
6. The Zoning Commission shall conduct at least one public hearing on the proposed amendment. At the hearing, the Zoning Commission shall make a report regarding the proposed zone change and consider whether the proposed amendment meets the amendment criteria. The Zoning Commission shall review the particular facts and circumstances of the proposed amendment and develop findings and conclusions that support its recommendation that the City Council approve, approve with modifications, or disapprove it accordingly.

7. The Zoning Commission's action on a proposed amendment may be tabled, but for no more than 35 days.
8. The Administrator shall convey the Zoning Commission's recommendation and all public comments to the City Council and, unless the application is withdrawn, place a hearing on the agenda of the next City Council meeting for which the notice requirements can be met (Section 24-97), and at which time allows for its proper consideration. The City Council shall not hold its public hearing or take action until it has received the report of the Zoning Commission.
9. The Administrator shall give notice of the City Council's public hearing in accordance with Section 24-97.
10. The City Council shall conduct a public hearing on the proposed amendment. At the hearing, the City Council shall consider the recommendation of the Zoning Commission and all testimony received, then approve, reject, or modify and approve the amendment. Action on the proposed amendment may be tabled, but for no more than 35 days.
11. If approved or approved with modifications, the City Council shall pass an ordinance effectuating the amendment to the zoning map or regulations, as applicable.
12. An amendment to the zoning may not become effective except upon favorable vote of two-thirds of the present and voting members of the City Council if a protest against a change is signed by the owners of 25% or more of:
 - a. The area of the lots included in the proposed change; or
 - b. Those lots or units, as defined in 70-23-102, MCA, 150 feet from a lot included in a proposed change. For purposes of this protest provision, each unit owner is entitled to have the percentage of the unit owner's undivided interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in 70-23-102, MCA spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located. The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest or by the presiding officer of the association of unit owners.
13. At the conclusion of the amendment process, the Administrator shall notify the applicant of the City Council decision within 10 days.

c) Amendment Criteria:

1. Zoning amendments shall be made:
 - a. In accordance with the growth policy;
 - b. To secure safety from fire and other dangers;
 - c. To promote public health, safety, and general welfare; and
 - d. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

2. In reviewing and making recommendations or decisions on zoning amendments, the Administrator, Zoning Commission, and City Council shall also consider:
 - a. Reasonable provision of adequate light and air;
 - b. The effect on motorized and non-motorized transportation systems;
 - c. The promotion of compatible urban growth;
 - d. The character of the district, and its peculiar suitability for particular uses; and
 - e. Conserving the value of buildings and encouraging the most appropriate use of the land throughout the jurisdictional area.
 - f. Whether the proposal might be considered illegal spot zoning. Factors to be considered include whether the proposed land use is significantly different from the prevailing use in the area; whether the area of the proposed zone change is relatively small not only in terms of acreage, but from the perspective of the number of separate landowners who would benefit from the proposed change; and whether the change would amount to special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or general public. In order for spot zoning to be considered illegal, all three of the factors must be present.
3. Other criteria include whether the amendment:
 - a. Corrects an inconsistency in the zoning; and
 - b. Addresses changing conditions or furthers a specific public challenge such as the need for affordable housing, economic development, mixed use development or sustainable environmental features.

Sec. 24-97. – Public Hearing Notices.

- a) All required public hearing notices shall provide the following information:
 1. Name of the applicant and the landowner (if different);
 2. Legal description of the site and its address or another general description by which the public can locate it. For proposed zoning amendments, the geographic area of the district must be included;
 3. Present land use at the site;
 4. The proposed use;
 5. That a public hearing is to be held to accept public comment and what board or body will conduct a public hearing;
 6. The date, time and place of the hearing; and
 7. Where applications are available for review.
- b) Notice of the hearing shall be provided as follows:

1. By certified mail, at least 15 calendar days before the hearing, to the applicant, landowner, and all adjoining property owners (including purchasers of record under contract for deed) and owners of land within 150 feet of the subject property;
2. By newspaper publication, at least calendar 15 days before the hearing, one legal notice in the official newspaper;
3. When a zoning amendment is not specific to a subject property and is an amendment to the text or a zoning amendment or update to the map and/or regulations initiated by the City of Miles City staff, Zoning Commission, or other city official, the mailing notice requirement of (1) above does not apply;
4. All notices shall comply with (a) above.

Sec. 24-98. - Violations/Enforcement.

- a) **Violations.** Any person, partnership, association, company, corporation or individual who violates, disobeys, omits, neglects or refuses to comply with the provisions of these regulations shall be deemed guilty of a misdemeanor offense, and upon conviction thereof, shall be punished as prescribed below. Each day a violation of these regulations remains after notice to the offending party, as described below, shall constitute a separate misdemeanor offense. A person violates these regulations whenever he or she:
1. Proceeds with an activity for which a permit is required by these regulations without having obtained a permit;
 2. Makes any misrepresentation in any application for a permit required by these regulations;
 3. Fails to fulfill any condition imposed on the approval of a permit;
 4. Fails to maintain any improvement required for compliance with these regulations or any permit granted under these regulations;
 5. Engages in the development of land in any way not consistent with the requirements of these regulations;
 6. Obscures, obstructs, removes or destroys any notice required to be posted or otherwise given under the terms of these regulations;
 7. Fails to comply with any lawful order issued under the authority of these regulations; or
 8. Disobeys, omits, neglects, or refuses to comply with or resists the enforcement of any of the provisions of these regulations.
- b) **Responsibility for Violations.** The following persons may be jointly or severally responsible for violations of these regulations and subject to its enforcement provisions (also referred to as responsible party):
1. Any owner of property on which a violation occurs;

2. Any architect, engineer, planner, surveyor, builder, contractor, agent or any other person who knowingly participates and assists, directs, creates or maintains a situation that constitutes a violation of these regulations; and
3. Any tenant or occupant who has control over or responsibility for, use or development of the subject property.

c) **Enforcement Process.** The process for enforcement of these regulations shall be as described here.

1. The Administrator shall notify the occupant (and owner, if they are not the same) of the violation by certified mail and/or posting on the site. The notice shall describe the violation, cite the section(s) of these regulations being violated, and order the responsible party to attain compliance within 30 days.
2. The notice of violation may order an activity or work to cease, state the specific activity to be stopped, the specific reasons for the ordered stoppage, and the conditions under which the activity may resume. If the activity does not cease, the Administrator shall ask the City Attorney to take prompt action as authorized by 76-2-308, MCA, to end the violation, obtain applicable penalties, and to require restoration of the site to its original condition. Restoration may include re-establishment of vegetative cover where sites have been graded in violation of these regulations.
3. Any person who receives a notice of violation may:
 - a. Request inspection by the Administrator to show that compliance has been attained within the 30 days allowed, or
 - b. File a notice of appeal of the Administrator's notice, following the procedure in Section 24-93.
4. If voluntary compliance is not attained or a notice of appeal is not filed within 30 days, the Administrator shall ask the City Attorney to begin legal action, as authorized by 76-2-308 and 76-2-315, MCA, against any responsible party who fails to attain compliance within the specified time, or show, on appeal, that a violation has not occurred.
5. This enforcement procedure may be accelerated where the Administrator finds that public health and safety are endangered by a violation. In such cases, the Administrator shall ask the City Attorney to take immediate action to end the danger to public health and safety.

d) **Penalties.**

1. Penalties for zoning violations shall be as provided in 76-2-315, MCA.
2. Zoning violations are misdemeanor offenses, and upon conviction, a guilty party is subject to a fine of up to five hundred dollars (\$500.00), or imprisonment in the county jail not exceeding six months, or both.
3. Any person who violates these regulations may be required by court order or other action or proceedings to abate or remediate a violation or otherwise restore the premises to the condition in which it existed before the violation.

4. In addition to fines and imprisonment, the city is empowered to provide for civil penalties for violations. Such civil penalties are as follows:
 - a. For a first violation, a civil penalty of not more than five hundred dollars (\$500.00) shall be imposed.
 - b. For each repeat violation, a civil penalty not to exceed one thousand dollars (\$1,000.00) shall be imposed.

e) **Withhold Permit, Utilities Service or Other Development Authorization.**

1. The Administrator, Board of Adjustment, City Council or other authorized party may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements on property upon which there is an uncorrected violation of a provision of these regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted. This enforcement provision may be applied regardless of whether the current property owner or applicant is responsible for the violation in question.
2. The Administrator, Board of Adjustment, City Council or other authorized party may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, develops or otherwise causes an uncorrected violation of a provision of these regulations or a condition or qualification of a permit, certificate, approval or other authorization previously granted. This enforcement provision may be applied regardless of whether the property for which the permit or other approval is sought is the property in violation. For purposes of this Section, a "person" is defined as any individual or business entity with more than a 20% interest in the subject property.
3. No municipal utility service shall be provided to any development that is not in compliance with these regulations.

Secs. 24-99—24-999. - Reserved.

ARTICLE V. - DEFINITIONS

The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this Article, except where the context clearly indicates a different meaning. The word "building" includes the word "structure," and the word "lot" includes the words "plot," "parcel" and "tract;" the word "signature" includes the word "mark" when the person cannot write. The word "shall" is mandatory; the word "may" is permissive.

Accessory building: A subordinate building or portion of the main building which is located on the lot occupied by the main building, and the use of which is clearly incidental to the use of the main building.

Accessory use: A use occurring on the same lot either in the same building or in a separate accessory structure which is clearly incidental to the primary allowed use.

Administrator: The person appointed by the City Council to administer these zoning regulations.

Alley: A public way with a right-of-way not over thirty feet (30') in width which is not designed for general travel; which is used as a means of access to the rear of residences and business establishments and affords only a secondary means of access to the property abutting along its length.

Alternative antenna support structure: An antenna support structure designed to shield, conceal or disguise the presence of antennas or towers and blend with the surrounding setting. Alternative structures may include, but are not limited to, unobtrusive architectural features on new or existing structures, utility poles, clock towers, flagpoles and church steeples.

Amateur radio antenna: A ground, building or tower-mounted antenna operated by a federally licensed amateur radio operator as part of the Amateur Radio Service, 49 CFR §97 and as designed by the Federal Communications Commission (FCC).

Amateur radio antenna support structure: Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing amateur radio antennas. The term includes the structure and any support thereto.

Animal rescue shelter: A facility in which dogs, cats, or both, that have been abandoned, strayed, removed by judicial proceedings, or have been voluntarily surrendered are housed and cared for pending return to the lawful owner, placement for adoption, or euthanasia by humane means.

Antenna: Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas but not including satellite earth stations.

Antenna support structure: Any structure or device specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennas. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers. The term also includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures and the like. The term includes the structure and any support thereto.

Antenna support structure height: The vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure including any attached antennas. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height. The height of roof-mounted antenna support structure height does not include the height of building on which they are mounted.

Assembly: The fitting together of manufactured parts into a complete product.

Bed and breakfast: A single household which remains owner-occupied at all times, providing from one to no more than six guest rooms for compensation, where food service may be served to overnight guests only, and which meets the requirements of Section 24-66.

Block: The property fronting on one side of any street, avenue or boulevard between the two nearest of any of the following, intersecting such street, avenue or boulevard: street, avenue, boulevard, park, waterway or railroad right-of-way.

Board of Adjustment: The body authorized by the City Council to hear appeals on the interpretations of the provisions of this Chapter, to grant variances from any provision of this Chapter, and to grant special exceptions to the terms of this Chapter.

Building: A structure having a roof supported by columns or walls for the shelter, support or enclosure of persons, animals or objects.

Building for lease or rent: A building intended to be leased or rented independent of another building on a single tract of land, including circumstances where a unit within a larger structure is to be leased or rented independently.

Building height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of a flat roof; and to the average height between the finished lot grade at the front of a building and ridge of a gable, hip or gambrel roof. For purposes of measuring building height, the following elements of a building are excluded: chimneys, cooling towers, elevators, bulkheads, fire towers, spires, smoke stacks, wireless communication towers, antennae, and necessary mechanical appurtenances.

Certificate of Occupancy: A permit/certificate issued by the Administrator upon a determination that a project or use complies with these regulations and any required conditions when a new building, fence is completed and is intended to be used per its zoning permit approval.

Change of occupancy or use: A change in the type of use, such as from one business to another. Changes of ownership or occupancy by a different family or occupancy by one commercial or industrial land use to the same land use listed in these regulations do not qualify as a change of occupancy or use. A change of occupancy or use can be minor or non-minor, as follows:

- 1) *Minor:* A change that has identical or less parking requirements, similar traffic generation potential, creates no additional signage, and has, as determined by the Administrator, similar or lesser impacts on neighboring land uses.
- 2) *Non-minor:* A change that has additional parking requirements, added traffic generation potential, creates additional signage, OR has, as determined by the Administrator, greater impacts on neighboring land uses.

Change of Occupancy Permit: A permit issued when a non-minor change in occupancy or use occurs in a building or on a premise.

Clear vision triangles: Triangular areas at intersections of streets or streets and driveways in which certain visual obstructions above particular heights are prohibited except as provided by these regulations. See Section 24-47.

Co-location: The use of a wireless communications facility by more than one wireless communications provider.

Commercial wireless communications services: Licensed commercial wireless telecommunication services including cellular, personal communications services (PCS), specialized mobilized radio

(SMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

Conditional use: A use that may be allowed as a special exception in a zoning district with additional controls and safeguards to prevent undesired impacts to neighboring landowners, residents or the city as a whole.

Conditional Use Permit: A permit issued for any land use or building activity listed as a “conditional use” in the various zoning districts following review of a conditional use by the Board of Adjustment and the applicant meeting any conditions imposed by the Board of Adjustment.

Condominium: A form of ownership of single units with common elements located on property submitted to the provisions of the Montana Unit Ownership Act (Title 70, Chapter 23, MCA). The term does not include a townhome or townhouse.

Corner lot: A lot situated at the junction of and fronting on two or more streets, and having a width and depth as shown on the plot. Its width dimension is its front and its depth dimension its side, for the purpose of this Chapter. Where there is doubt or dispute on this point, the decision of the Administrator shall control.

Curb level: The level established for the curb in front of a building, measured at the center of such front.

Depth of lot: The mean horizontal distance between the front and the rear lot lines.

District: A section or sections of the city and the designated area for which the regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

Dwelling, multifamily: A residential building designed for and occupied exclusively by more than two families.

Dwelling, single-family: A detached residential living unit, other than a mobile home, designed for and occupied by one family, which may include manufactured housing.

Dwelling, two-family: A residential building designed for and occupied exclusively by two families, also known as a duplex. This term is distinct from a single-family dwelling with an apartment that is used as an accessory dwelling unit.

Easement: A vested or acquired right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner who holds the title to the land.

Equipment enclosure: A structure, shelter, cabinet, or vault used to house and protect the electronic equipment necessary for processing wireless communication signals. Associated equipment may include air conditioning, backup power supplies, and emergency generators.

Existing structure or use: Any structure or use in place prior to *[insert effective date]*.

FAA: Federal Aviation Administration.

Façade: That portion of a building fronting on and visible from a public street.

Family: One or more persons occupying the premises and living as a single housekeeping unit.

FCC: Federal Communications Commission.

Floodway: The channel of a stream and the adjacent overbank areas that must be reserved in order to discharge a base flood without cumulatively increasing the water surface elevation more than one-half foot.

Frontage: The distance, measured in lineal feet, along any property line abutting a public street.

Government: The United States of America and all of its agencies, the State of Montana and all of its agencies and political subdivisions, including but not limited to Custer County and the City of Miles City.

Home occupation: A commercial or light industrial activity conducted in a dwelling or a building accessory to a dwelling. See Section 24-64.

Hotel: A building or premises where lodging is provided, with or without food, and open to transient guests.

Improvements: Street grading and surfacing with or without curbs and gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets and trees.

Infill development: Development or redevelopment designed to occupy scattered, vacant or underutilized parcels of land that remain after the majority of development has occurred in an area.

Interior or inside lot: A lot other than a corner lot.

Junkyard: A tract of land, or part thereof, used primarily for the collecting, storage and sale of scrap or discarded material, or for the collecting, dismantling or storing and salvage of machinery or vehicles not in running order or for the sale of parts thereof.

Landowner: An owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

Lease or rent: The transfer of possessory interest in property for any period of time where payment, services, or other values are exchanged for the tenant's use of the property without a transfer of title to the real estate. For purposes of these regulations, the terms "lease" and "rent" do not include such arrangements between relatives, specifically, those between individuals and their parents, children, spouses, siblings, and ancestors, natural or by adoption.

Licensed user: Any individual or entity licensed by the FCC to place an antenna upon an antenna support structure.

Light industrial: The production or manufacturing of consumer oriented products.

Living unit: A residential unit providing complete, independent living facilities for one family, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Lot: Land occupied or to be occupied by one building and accessory buildings and uses and including open spaces required under this Chapter. A lot may be land recorded as such on the records of the county clerk and recorder.

Lot coverage: The area of a lot or parcel that is covered by rooftops, paving, and other surfaces that prevent direct infiltration of precipitation or runoff into the soil. Lot coverage is typically expressed as a percentage of the total area of the lot. Surfaces such as gravel driveways and permeable pavers may be assessed for lot coverage based on relative imperviousness factor guidance provided by MDEQ or other credible sources. Slatted decks are not considered lot coverage where the ground under the deck is pervious.

Lot lines: The lines bounding a lot, parcel or tract of record. These regulations establish three types of lot lines:

1. *Front lot line:* The lot line closest to and paralleling the street on which the main building is addressed.
2. *Side lot line:* A lot line extending from the front lot line to the rear lot line along a lot boundary. For purposes of determining side yards, any lot line not a rear lot line or a front lot line shall be deemed a side lot line.
3. *Rear lot line:* The lot line on the opposite end of a lot from the front lot line, which is parallel, or more or less parallel, to the front lot line.

Lot width: The distance between straight lines connecting front and rear lot lines at each side of the lot, measured at the rear of the required front yard.

Manufactured housing: A building that serves as a single-family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in 15-1-101, MCA. [76-2-302(4), MCA]

Manufacturing: To make or process materials or substances into a finished product.

Medical marijuana provider: A person licensed by the Montana Department of Health and Human Services to assist a registered medical marijuana card holder.

Minor utility installation: Includes cable television, electric power and telephone cables and transmission lines, water and sewer facilities, and natural gas pipelines that serve the area through which they are routed. Also includes transformer boxes and other minor appurtenances to those transmission lines or pipelines. Wireless communication facilities are not minor utility installations.

Mobile home: A form of housing known as "trailers", "housetrailer", or "trailer coaches" exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to 8 feet in width or 45 feet in length used as a principal residence (15-1-101(m), MCA).

Mobile home park: A tract of land designed and developed to accommodate two or more mobile homes, each occupying a portion of the site on a purchase, lease or rental basis, and each provided with the necessary utilities and other amenities so that the total development serves as a suitable

environment for long-term residential occupancy. Such parks are regulated by the Montana Subdivision and Platting Act.

Nonconforming use: A use of a building or premises that does not conform with the regulations of the use district in which it is situated.

Parking space, off street: A space located outside any public right-of-way which is at least nine feet by twenty feet (9' x 20') in size with vertical clearance of seven feet (7'), for parking of typical passenger vehicles with room to get out on either side of the vehicle, with adequate maneuvering space and accessible to public streets or alleys.

Permitted use: Any use listed as permitted within a zoning district.

Permit: Written authorization by the Administrator or Board of Adjustment to develop or use property as outlined by Article IV of these regulations.

Plat: Any map, plan or chart of a tract of land or subdivision indicating the location and boundaries of individual properties.

Principal use: The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.

Public utility: Any business which furnishes the general public with telephone service, electricity, natural gas or water; and any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the state.

Recreational Vehicle (RV): A vehicle used and so constructed as to permit its being used as a conveyance upon public streets or highways and duly licensable as such, constructed in such a manner as will permit occupancy thereof as a temporary or seasonal dwelling.

Residential district: A zoning district designated on an official city zoning map primarily for development of residential dwelling units. The residential districts in Miles City are RA, RB, RC, SR, MH-A, and MH-RV.

Retail business: A business engaged in the selling of merchandise.

Right-of-way: The area, either public or private, over which the right of passage exists. The right-of-way shall not be considered as land area when computing lot size.

Sexually Oriented Business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture or adult video theatre, escort agency, nude model studio, or similar facilities.

Setback: The line within a property defining the required minimum distance between any structure (or use if specified) and the adjacent right-of-way or property line of any lot.

Sign Permit: A permit issued for installation or placement of a sign (under separate ordinance).

Street: A way for vehicular traffic designated as a street, highway, boulevard, thoroughfare, parkway, throughway, avenue, road or court on the official records and maps.

- 1) *Arterial streets and highways:* Those which are primarily for fast or heavy traffic.

- 2) *Collector streets*: Those which carry traffic from minor streets to the major system of arterial streets and highways.
- 3) *Minor streets*: Those which are used primarily for access to abutting property.

Structural alterations: Any change in the supporting members of a building such as bearing walls, partitions, columns, beams or girders, excepting such alterations as may be required for the safety of the building.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground, or attached to something having a permanent location on the ground.

Subdivision: A division of land so divided, which creates one or more parcels containing less than 20 acres, exclusive of public roadways, in order that the title to or possession of the parcels may be sold, rented, leased or otherwise conveyed, and shall include any resubdivision, and shall further include any condominium or area, regardless of its size, which provides or will provide multiple space for recreational camping vehicles or mobile homes. A subdivision shall comprise only those parcels less than 20 acres which have been segregated from the original tract, and the plat thereof shall show all such parcels, whether contiguous or not; provided, however, condominiums constructed on land divided in compliance with the Montana Subdivision and Platting Act are exempt from the provisions of the act.

Tower farm: Any tract or tracts of land upon which there exists more than one antenna support structure that is located within 100 linear feet of another antenna support structure.

Townhouse development: A multiple-unit (two or more) residential structure with each unit under independent ownership, and where the owner of each unit also owns the parcel of land upon which the unit is situated and may own the front and/or rear yard adjoining the unit, and the owner of an end unit may own the side yard adjoining such unit.

Tract: A plot, piece or parcel of land, other than a lot, which is recorded in the office of the clerk and recorder of the county.

Use: The specific purpose for which land or a building is used.

Variance: A relaxation of the terms of this Chapter granted by the Board of Adjustment where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, the literal enforcement of this Chapter would result in unnecessary and undue hardship.

Wireless communication facility: An unstaffed facility for the transmission and/or reception of radio frequency (RF), microwave or other signals for commercial communications purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennas. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.

Yard: A space on the same lot with the principal building or structure, open, unoccupied and unobstructed by buildings or structures from the ground upward except as expressly allowed by this Chapter. These regulations refer to the following yards:

- 1) *Yard, front:* A yard extending across the full width of the lot from the side lot lines, the depth of which is the least distance between the front lot line and the front building line.
- 2) *Yard, rear:* A yard extending across the full width of the lot from the side lot lines, the depth of which is the least distance between the rear lot line and the rear of the principal building.
- 3) *Yard, side:* A yard extending from the rear line of the required front yard to the rear lot line, the depth of which is the least distance from the side lot line.
- 4) *Yard, required:* A front, rear, or side yard of a minimum distance within which structures may not be located except as expressly allowed by this Chapter.

Zoning Commission: The body appointed by the City Council pursuant to state law, recommending zoning boundaries, appropriate regulations and changes thereto.

Zoning district map: The map showing the zoning districts of the city officially adopted by the City Council.