

## Chapter 30 ZONING

### Articles:

### Article I. Introductory Provisions

#### Sec. 30.10. Title.

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

#### Sec. 30.11. Purpose.

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

( Ord. No. 2097 , § 1, 1/5/21)

#### Sec. 30.12. Territorial jurisdiction.

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

#### Sec. 30.13. Incorporation of Official Zoning Map.

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

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

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

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

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

### **Sec. 30.14. Rules for interpretation of zoning boundaries.**

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

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

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

## Article II. Definitions

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

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

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

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

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

Alley: See Street.

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

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

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

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

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

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

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

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

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

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

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

Dwelling (types of):

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Manufacturing:"

1. "Artisan" means on-site production of goods by hand manufacturing, involving the use of hand tools and small-scale, light mechanical equipment in a completely enclosed building with no outdoor operations or storage, and occupying no more than 3,500 square feet of gross floor area. Typical uses include woodworking and cabinet shops, ceramic studios, jewelry manufacturing, food manufacturing, and similar types of arts and crafts or very small-scale manufacturing uses that have no negative external impacts on surrounding properties.
2. "Limited" means manufacturing of finished parts or products, primarily from previously prepared materials. Typical uses include: catering establishments, printing and related support activities; machinery manufacturing; food manufacturing; computer and electronic product manufacturing/assembly; electrical equipment, appliance, component manufacturing/assembly; furniture and related product manufacturing/assembly; and other manufacturing and production establishments that typically have very few, if any, negative external impacts on surrounding properties. Also includes "artisan manufacturing/production" type uses that do not comply with the enclosed building, floor area and/or outside operations/storage criteria that apply to artisan manufacturing/production uses.
3. "General" means:
  - a. Manufacturing of finished or unfinished products, primarily from extracted or raw materials, or recycled or secondary materials, or bulk storage and handling of such products and materials. Typical uses include: textile mills; textile product mills; apparel manufacturing; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; transportation equipment manufacturing; primary metal manufacturing; and

fabricated metal product manufacturing. Also includes medical, scientific or technology-related research establishments that produce odors, dust, noise, vibration or other external impacts that are detectable beyond the property lines of the subject property.

- b. Industrial service firms engaged in the repair or servicing of industrial or commercial machinery, equipment, products or by-products. Typical uses include: welding shops; machine shops; industrial tool repair; fuel oil distributors; solid fuel yards; laundry, dry-cleaning and carpet cleaning plants; and photofinishing laboratories. Excludes uses classified as "repair or laundry services."
4. "Intensive" means manufacturing of acetylene, cement, lime, gypsum or Plaster-of-Paris, chlorine, corrosive acid or fertilizer, insecticides, disinfectants, poisons, explosives, paint, lacquer, varnish, petroleum products, coal products, plastic and synthetic resins and radioactive materials. Also includes smelting, animal slaughtering and oil refining.

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

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

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

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

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

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

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

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

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

"Planning board" means the Livingston City Planning Board.

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



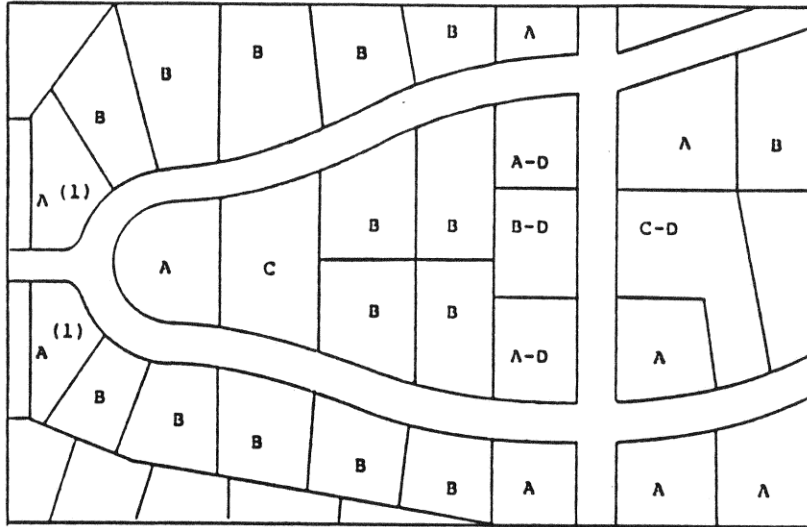


Figure 1  
Lot Types

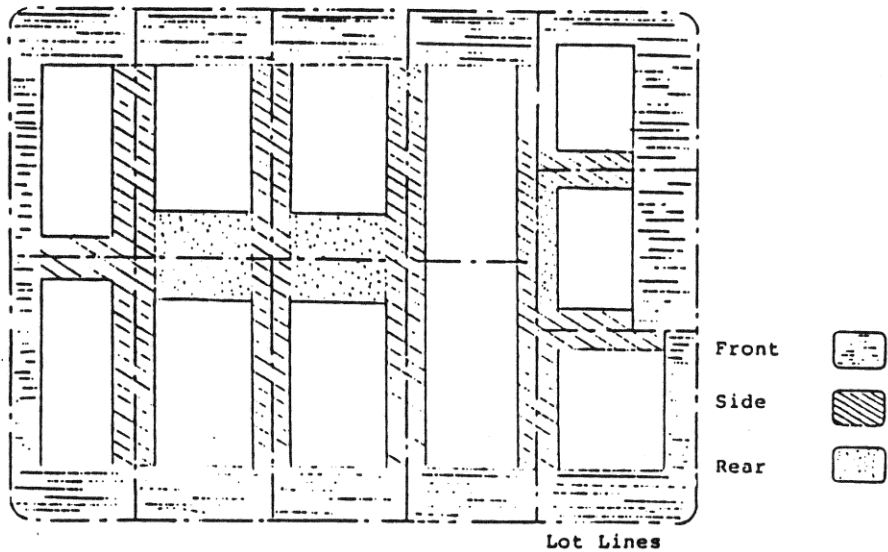


Figure 2  
Location of yards on lots

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

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

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

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

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

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

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

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

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

Street:

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

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

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

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

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

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

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

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

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

"Tree, ornamental" means any variety of tree which is not expected, at maturity, to reach a height of fifteen (15) or more feet nor be a substantial provider of shade.

"Tree, shade" means any variety of tree which is expected, at maturity, to be in excess of twenty-five (25) feet in height and sufficiently full in form to provide substantial shading effects.

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

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

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

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

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

## **Article III. Zoning Districts**

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### Sec. 30.30. Zoning districts.

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

DISTRICT	DESIGNATION
Low Density Residential	R-I
Medium Density Residential	R-II
Medium Density Residential: Mobile Home	R-II (MH)
High Density Residential	R-III
Mobile Home Residential	RMO
Public	P
Industrial	I
Light Industrial	LI
Highway Commercial	HC
Mixed Use	MU
Neighborhood Commercial	NC
Central Business District	CBD
Preservation Zoning District	PZD

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Article IV. District Regulations

### Sec. 30.40. List of uses.

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

**Table 30.40**

**List of Uses**

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

Modular Homes	A	A	A	A	A	N	A	A	A	N	N	N
Churches	S	S	S	A	N	A	S	N	A	N	N	N
Schools, Public, Private and Parochial	A	A	A	A	A	A	S	N	S	N	N	A
Schools, Trade	N	N	N	N	N	S	S	A	A	A	A	N
Hospitals/Institutions	N	N	N	A	N	S	S	N	S	A	N	S
Medical/Dental Clinics	N	N	N	A	N	A	A	A	A	A	S	N
Adult Foster Care Center <sup>3</sup>	N	A	A	A	N	N	A	A	A	A	N	N
Personal Care Center	N	A	A	A	N	A	A	A	A	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	A	N	N
Veterinarian Clinics	N	N	N	N	N	N	A	N	A	A	A	N
Kennels and Catterys	N	N	N	N	N	N	N	N	A	A	A	N
Laundromat	N	N	N	N	A	A	A	A	A	A	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	A	N	N	N
Motels/Hotels	N	N	N	N	N	N	N	A	A	A	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	N	A	N	N	N
Business and Professional Offices	N	N	N	S	N	A	A	A	A	A	A	S
Retail	N	N	N	N	N	A	A	A	A	A	S	N
Large-scale Retail	N	N	N	N	N	N	N	S	S	S	S	N
Personal Service Stores	N	N	N	N	N	A	A	A	A	A	S	N
Eating and Drinking Establishments (Sit-Down)	N	N	N	N	N	A	A	A	A	A	A	N
Drive-Thru Restaurants	N	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	N	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	S	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	N	N	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	N	N	N	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	N	A	S	A	N
Artisan Manufacturing	N	N	A	A	N	A	A	A	A	A	A	N
Limited Manufacturing	N	N	N	N	N	S	A	A	A	A	N	N
General Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Intensive Manufacturing	N	N	N	N	N	N	N	N	A	A	N	N
Cidery	N	N	N	N	N	A	A	A	A	A	N	N
Microbrewery/Microdistillery	N	N	N	N	N	A	A	A	A	A	N	N
Winery	N	N	N	N	N	A	A	A	A	A	N	N
Bowling Alley	N	N	N	N	N	S	S	S	A	S	N	S

Theater	N	N	N	S	N	S	S	S	A	A	N	S
Open-Air Stadiums, Sports Arenas and Amphitheaters	N	N	N	S	N	S	S	S	A	A	N	S
Lumberyards	N	N	N	N	N	N	N	N	A	A	A	N
Transportation Terminals	N	N	N	N	N	N	N	A	A	A	N	N
Radio Stations <sup>4</sup>	N	N	N	N	N	A	A	A	A	A	A	A
Utility Substations	S	S	S	S	S	S	S	S	S	S	S	S
Armory	N	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	S	S	A	A	A	S	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	A	S	S
Marijuana Production Facility	N	N	N	N	N	N	N	N	N	A	A	N
Sexually Oriented Business	N	N	N	N	N	S	N	S	S	A	A	N
<p>1. CBD—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."</p> <p>2. NC-A single residential unit may be established within a commercial building to allow living space for a business owner.</p> <p>3. Adult Foster Care Center.</p> <p>a. No more than four (4) residents;</p> <p>b. Staff member must be on board twenty-four (24) hours a day.</p> <p>4. Radio Stations do not include radio towers or wireless communication facilities as defined by the Federal Communications Commission.</p> <p>* This includes manufactured homes as defined by Ordinance 1813.</p>												

(Ord. 1506, 11/16/82; Ord. 1516, 8/2/83; Ord. 1517, 10/18/83; Ord. 1529, 7/16/84; Ord. 1538, 11/20/85; Ord. 1544, 2/4/86; Ord. 1556, 9/16/86; Ord. 1799, 12/19/94; Ord. 1810, 7/3/95; Ord. 1813, 8/21/95; Ord. 1891, 9/7/99; Ord. 1949, 10/18/04; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 2022, § 2(Exh. A), 9/7/10; Ord. No. 2029, § 1(Exh. A), 4/19/11; Ord. No. 2046, § 1(Exh. A), 9/17/13; Ord. No. 2090, § 1, 10/6/20; Ord. No. 2097, § 1, 1/5/21; Ord. No. 3003, § 1, 4/6/21; Ord. No. 3013, § 2, 8/17/21; Ord. No. 3017, § 1, 10/5/21; Ord. No. 3025, § 1, 10/21/21; Ord. No. 3023, § 1, 1/4/22; Ord. No. 3041, 5/16/23)

**Sec. 30.41. Residential density requirements.**

Residential density requirements are set out in Table 30.41.

Table 30.41							
Residential Density Requirements							
Zoning Classification District							
	Low Density (R-I)	Med. Density (R-II)	Med. Density (R-II)(MH)	High Density (R-III)	Mobile Homes (RMO)	Mixed Use (MU)	Public (P)

Min. Lot Area per Dwelling Unit in Square Feet	7,000	3,500	3,500	1,150	6,000>	875	N/A
Min. Setback Requirements							
Front Street	25'	25'	25'	5'	20'	0	20'
Side	15'	5' or B) or C)	5' or B) or C)	0 or C)	10' or C)	0 or C)	5' or C)
Rear	5'	5'	5'	0	5'	0	15'
Side Street	15'	10'	10'	0	10'	0	10'
Max. Height for all Bldgs.	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	27' or 34' if Roof Pitch >= 3:12	50'	15'	60'	27'
Off-Street Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51

1. In all residential zoning districts in which accessory dwellings are permitted the number of accessory dwellings allowed is equivalent to the number of dwelling units allowed on the lot as show in Table 30.41 above. The total number of dwelling units allowed on any lot is the allowed density of the lot in Table 30.41 above plus the equivalent number of accessory dwellings. E.g.: a 7,000 square foot lot in the R-II zoning district allows two (2) dwelling units and two (2) accessory dwellings.  
A) Applicable to Mobile Home Subdivisions only.  
B) Side setback not required for approved townhouse development.  
C) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

(Ord. 1728, 12/7/92; Ord. 1798, 12/19/94; Ord. 1861, 6/16/97; Ord. No. 2090 , § 1, 11/5/20; Ord. No. 2097 , § 1, 1/5/21; Ord. No. 3018 , § 1, 10/5/21; Ord. No. 3023 , § 1, 1/4/22; Ord. No. 3041 , 5/16/23)

**Sec. 30.42. Commercial density requirements.**

Commercial density requirements are set out in Table 30.42.

Table 30.42					
Commercial Density Requirements					
Zoning Classification District					
	Neighborhood Commercial	Highway Commercial	Industrial	Light Industrial	Central Business District
Min. Lot Requirements in Square Feet	N/A	3,500	6,000	6,000	N/A



Minimum Setback Requirements					
Front Street	20'	0'	20'	0' with boulevard 10' without boulevard	N/A
Side	0' or A)	0' or A)	0' or A)	10' or A)	N/A
Side Street	10'	0'	10'	10'	N/A
Rear	0'	0'	0'	20'	N/A
Maximum Height for all Buildings	27'	60'	N/A	33'	N/A
Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51
Loading Space Required	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51
A) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.					

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

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

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

( Ord. No. 2097 , § 1, 1/5/21)

**Sec. 30.43 Accessory dwellings.**

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

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- B. Detached accessory dwellings shall be located to the rear of the primary dwelling on the property.
  - C. Accessory dwellings shall not exceed eight hundred (800) square feet of gross floor area. Accessory dwellings must be smaller in gross floor area than the primary dwelling on the property. If an accessory dwelling is attached to another building only the gross floor area of the accessory dwelling shall be calculated towards the maximum gross floor area. Accessory dwellings attached to existing, primary dwelling units are not subject to the gross floor area limitations, but must be wholly contained within the existing building. Any attached accessory dwelling that increases or modifies the footprint or profile of the primary dwelling unit in any way, whether above or below ground, shall not exceed the above listed maximum gross floor area for an accessory dwelling.
  - D. All detached accessory dwellings shall maintain a (6) six-foot separation, measured from the external walls of the dwelling unit to all other buildings on site.
  - E. Accessory dwellings shall be on the same lot as the primary dwelling.
  - F. Accessory dwellings shall not be subdivided or sold separately from the primary dwelling on the lot. If an accessory dwelling is subdivided from the primary dwelling unit, the accessory dwelling is no longer an accessory dwelling and must meet all density requirements listed in Table 30.41. Prior to use of the accessory dwelling, the property owner must record a deed restriction provided by the City Attorney's Office stating that the accessory dwelling shall not be sold separately from the primary dwelling, and provide a copy of the recorded deed restriction to the Department of Building and Planning prior to the issuance of a Certificate of Occupancy.
  - G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.
- ( Ord. No. 2090 , § 1, 11/5/20)

### **Sec. 30.44. Bed and breakfasts.**

- A. "Bed and breakfast" means a commercial business operated in a house which is used partially or primarily for providing overnight accommodations to the public.
- B. The goal of this section is to establish the allowable locations and operations of bed and breakfast facilities.
- C. A bed and breakfast shall be allowed in the following zoning districts: Low Density (R-I), Medium Density Residential (R-II), High Density Residential (R-III), Neighborhood Commercial (N.C.), Highway Commercial (H.C.), and the Central Business District (C.B.D.).
- D. Reserved.
- E. The accommodations for a bed and breakfast shall have no more than five (5) guest rooms. Breakfast shall be the only meal served on the premises, and is included in the charge for the room. No other food or beverage served upon the premises.
- F. Off-street parking shall be provided by all bed and breakfast facilities. There shall be two (2) off-street parking spaces, plus one (1) for each guest room. Off-street parking shall be required to be used by guests.
- G. No bed and breakfast shall be located on a lot closer than two hundred (200) feet in a straight line distance from any other lot containing a bed and breakfast. The owner shall live on the premises.
- H. Signage shall be limited to that allowed for home occupations (twelve (12) inches by twenty-four (24) inches non-illuminated, flush mounted).
- I. Rates shall be charged for single-night occupancy only, weekly or monthly rates will not be allowed.

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- J. A bed and breakfast already in existence at the time of this section's effective date shall have ninety (90) days to conform with the provisions of this section except existing establishments shall be grandfathered as to the requirements of subsection (G) of this section.
  - K. Any property receiving a special exception for a bed and breakfast shall have ninety (90) days from the date of the final City Commission action to meet any specified conditions and obtain a City business license. If a City business license is not obtained in that time period, the special exception shall be automatically rescinded as of that date. If a license for a bed and breakfast is not renewed within ninety (90) days after January 1 of any calendar year, the special exception for that bed and breakfast shall be automatically rescinded.
  - L. Any application for a bed and breakfast shall be accompanied by a detailed plan, drawn to scale, showing all aspects of the physical layout for the property, including the off-street parking provisions.
  - M. The table of uses (Table 30.40) is amended to comply with subsection (C) of this section.
  - N. No sexually oriented business shall be operated or maintained within the corporate limits of the City of Livingston except within the Industrial Zone with the further limitation that no sexually oriented business shall be front on Park Street and shall be set back from Bennett Street a minimum distance of two hundred fifty (250) feet. No sexually oriented business shall be operated or maintained within six hundred (600) feet of either a City or County residential zone, a church, an elementary or high school, a State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business. The distance limitation in this section shall be measured in a straight line from the main public entrance of said sexually oriented business to the property line of properties in residentially zoned districts, churches, elementary or high schools, State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business.

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

Ordinance No. 2090 , § 1, adopted September 5, 2020, renumbered section 30.43.1 as 30.44.

### **Sec. 30.45. Uses in the Preservation Zoning District.**

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

(Ord. 1954, 5/16/05)

#### **Sec. 30.45.1. Preservation Zoning District Plan.**

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

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

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

(Ord. 1954, 5/16/05)

### **Sec. 30.46. Building design standards.**

- A. This Section provides policies and standards for the design of buildings in the Design Review Overlay Zone. In general, they focus on promoting buildings that will be compatible in scale and appear to "fit" in the community by using materials and forms that are a part of Livingston's design traditions.
- B. Applicability of the Building Design Standards. The standards and requirements found in this Section shall apply to any commercial and/or industrial project that requires a building permit within any adopted Design Review Overlay zone, and any large-scale retail uses regardless of location within the City.
- C. Objectives for Building Design.
  1. Achieve High Quality Design. Buildings in the overlay zone shall convey a high quality of design, in terms of their materials and details, as well as through a consistent organization of forms and elements. This quality shall establish a standard for design throughout the community.
  2. Reflect the Design Traditions of Livingston. Buildings shall reflect the design traditions of the region, in terms of building and roof forms. Distinctive roof forms are a key part of this tradition. Sloping roofs, in gable, hip and shed varieties are historical precedents to promote and they also help reduce the apparent bulk of larger buildings and help to shed snowfall. Flat roofs with varied parapet lines and cornices are also a part of the City's design traditions and shall be encouraged. Buildings that appear to be in scale with those seen traditionally also shall be encouraged. Where a new building would be larger than those existing in the area, it shall establish a transition in scale, to reduce the impact of building scale on the adjacent property, as well as on the neighborhood.
  3. Promote Buildings that Fit with the Natural Setting. Structures shall be sited to fit with the land and incorporate colors seen in the natural setting.
  4. Promote Buildings that Reflect Pedestrian Scale. Structures shall demonstrate pedestrian friendly design that relate to the adjoining public streets, sidewalks, and spaces.
- D. Building and Topography.
  1. Policy. A building shall respect the natural topography of the site.
  2. Standards. Step a building foundation to follow the slope of the site when feasible. In general, an exposed building foundation shall not exceed three (3) feet in height.
- E. Building Character.
  1. Policy. Buildings shall reflect the regional urban character.
  2. Guideline.
    - a. Designs that draw upon regional design traditions are preferred. Standardized "franchise" style architecture will be strongly discouraged by following these standards.

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(Supp. No. 45, Update 1)

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- b. Higher density buildings are encouraged with mixed use multi-story buildings and shared parking.
  - c. Incorporating smaller retail shops facing the street is encouraged.
  - d. Secondary buildings on a site should be placed around the perimeter of the site to visually shield the public from the parking areas.
  - e. Where possible main entrances should face away from the prevailing winds.
  - f. Buildings should have multiple entrances to minimize the distance from parking spot to the building.
  - g. If present on site, wildlife corridors shall be included in the site plan.
  - h. On site generation of electricity using renewable energy is highly encouraged.
  - i. The primary entrance to a building shall have a human scale. A one (1) story element at the building entrance to help establish a sense of scale shall be provided.
  - j. Where no windows or other obvious indication exists, the position of each floor in the external skin design of a building shall be expressed to establish a human scale.
    - i. Use belt courses or other horizontal trim bands of contrasting color and materials to define floor lines.
    - ii. Articulate structural elements, or change materials as a method of defining floors.
  - k. Building materials that help establish a human scale shall be utilized.
    - i. For example, use brick in a standard module to express a human scale.
    - ii. Avoid using large surfaces of panelized products or featureless materials.
    - iii. A large surface of stucco or similar material that lacks articulation or detailing shall not be allowed.
    - iv. The mix of exterior materials should form a cohesive design package. One (1) material and color should be chosen for eighty (80) percent of the building, with accent materials and colors used to articulate openings, building foundations and roof terminations.
  - l. New construction shall relate to adjacent residential and historic resources. Where a new project abuts a residential neighborhood or a historic structure, step the building down at the property edge to minimize abrupt changes in scale, or increase side yards to reduce the impact.
- F. Primary Building Entrance.
- 1. Policy. The primary entrance of a structure shall orient to a street, major sidewalk, pedestrian way, plaza, courtyard or other outdoor public space.
  - 2. Standards.
    - a. The main entrance shall be designed to be clearly identifiable.
      - i. A sheltering element such as a canopy, awning, arcade or portico shall be provided to signify the primary entrance to a building.
      - ii. Where more than one (1) user shares a structure, each individual entrance shall be identified.
      - iii. Customer amenities such as seating areas, coffee shops, customer service stations are encouraged to be located near the main entrance.

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- iv. Shopping cart storage at the entrance, either outside or in the vestibule of the building is encouraged to be avoided.
      - b. The primary entrance of a building to face a street, plaza or pedestrian way.
        - i. Focusing an entrance toward a parking lot without also addressing the street is inappropriate.
        - ii. If the building is adjacent to a street "double-fronted" design providing an entrance to parking and to the street is required. That is, provide a door to the street and another to the parking lot.
        - iii. A transitional area, including landscaping, between the parking lot and entrance to the building shall be provided. Consider locating a pedestrian plaza at the entrance; this may be enhanced with streetscape furnishings.
  - G. Street Level Interest.
    - 1. Policy. When a building is located close to a street or walkway, it shall be designed to provide interest to pedestrians. For example, commercial buildings with storefronts are of interest to passersby. Such features encourage pedestrian activity and shall be used whenever feasible. The overall mass of a building shall appear to be in scale with buildings seen traditionally. This will help new structures fit with the Livingston context. At the same time, newer structures may be larger than those seen before; they shall simply be articulated in their form and materials such that they convey proportions that are similar to those seen traditionally.
    - 2. Standards.
      - a. Develop the street level of a building to provide visual interest to pedestrians. All sides of a building shall include interesting details and materials to avoid presenting a "back side" to neighboring properties. A large expanse of blank wall is not permitted on any street-oriented facade.
      - b. All building walls located within ten (10) feet of a public sidewalk shall have a minimum of sixty (60) percent coverage of wall square footage with ground floor windows.
      - c. Loading docks, trash collection areas, outdoor storage, and similar facilities must be incorporated into the overall design of the building. Loading docks, trash collection areas, outdoor storage, and similar facilities must be shielded from view from adjacent properties and public rights-of-way with screening such as fencing, landscaping or walls.
  - H. Building Mass and Scale.
    - 1. Policy. A building shall appear to have a "human scale." In general, this can be accomplished by using familiar forms and elements that can be interpreted in human dimensions, as noted throughout this Chapter, e.g., "small details/visible to pedestrians."
    - 2. Standards. In order to reduce the visual impacts building scale, each major building project shall provide all of the following:
      - a. Divide a building into visual modules that express dimensions of structures seen traditionally.
        - i. Buildings shall employ all of the following design techniques:
          - (A) Change material or color with each building module to reduce the perceived mass;
          - (B) Change the height of a wall plane or building module;

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- (C) Change roof form to help express the different modules of the building mass; and
  - (D) Change the arrangement of windows and other facade articulation features, such as columns or strap work that divide large wall planes into smaller components.
  - (E) Large expanses of plate glass shall be avoided by breaking up window arrays with mullions. Repletion and patterns of windows shall be used to create interest.
  - (F) On multi-story walls, windows shall be placed in courses that reflect potential interior floors. Upper windows shall be coordinated vertically with windows below.
  - (G) Secondary uses or departments including pharmacies, photo finishing/development, snack bars, dry cleaning, offices, storage, etc. should be oriented to the outside of the building by projecting them outward or recessing them inward. This includes providing the individual uses with separate entrances and windows facing the outside of the building.
- ii. Express facade components in ways that will help to establish a human scale (details oriented towards pedestrians).
    - (A) Establish a pattern and rhythm on exterior walls to establish a human scale;
    - (B) Windows, columns and other architectural treatments used repetitively can create this effect;
    - (C) Using windows and doors that are similar in scale to those seen traditionally also can help establish a human scale;
    - (D) Also, recess these elements, even if slightly, and articulate them with headers, sills, columns and/or mullions.
    - (E) If possible, windows such that exterior views of the mountains are framed by users of the building are highly encouraged.
- I. Roof Form.
- 1. Policy. The primary roof form of a structure shall help reduce the perceived scale of the building. For that reason, sloping roofs shall be used in most contexts. These also will help the building fit into the mountain backdrop. Varied roof forms in the appropriate context are also encouraged.
  - 2. Standards.
    - a. Using sloping roof forms to reduce the perceived scale of a building is encouraged.
      - i. Varying roof forms is encouraged.
      - ii. Providing variety in ridgeline height is encouraged.
      - iii. Rooftop mechanical equipment shall be screened from view from adjacent public rights-of-way. Rooftop solar panels are excluded from this requirement but may not reflect sunlight or create glare onto neighboring properties or rights-of-way.
    - b. All roof forms shall have no less than two (2) of the following features:
      - i. A flat roof with parapet;
      - ii. A cornice or molding to define the top of a parapet;

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- iii. Overhanging eaves;
  - iv. Sloping roofs with a minimum pitch of 6:12;
  - v. Multiple roof planes.

J. Signage.

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

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

1. Application Submittal Requirements.
  - a. A completed application form.
  - b. A site plan and other detailed drawings, including, but not limited to, building elevations indicating exterior materials, colors and necessary architectural details required to determine compliance with this Section, shall be submitted to the Planning Department along with the required application fee.
  - c. An economic analysis, including types and volumes of goods and services to be offered, impact on existing businesses, wage scales, percentage of local ownership and employees.
  - d. A traffic impact study, certified by a professional engineer if the project is anticipated to generate over 250 ADT.
  - e. A wildlife and natural resource study, including effect on existing wildlife habitat and migration routes; water run-off, how natural viewsheds are to be maintained.

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

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

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



## Article V. Supplementary General Requirements

### Sec. 30.50. Signs.

- A. Intent. The intent of this Section is to provide standards for erection, design and placement of all signs and sign structures. Design standards are established to achieve the proper relationship of signs to their environment, enhance the outward appearance of the community as a whole, secure pedestrian and vehicular safety, preserve the historic aspects of the City of Livingston and promote the conservation of energy by regulating lighted signs.
- B. Definitions.
1. "Actual business premises" means the owned or leased real property from which the business is actively transacted.
  2. "Animated sign" means a sign with action or motion, flashing or intermittent lights and/or color changes requiring electrical energy, electronic or manufactured sources of activation, but not including wind-activated elements such as flags and banners.
  3. "Awning signs" means a sign which is an integral part of a window awning assembly, to include the printing or painting of words onto awning material.
  4. "Backlit" means a method of sign illumination that consists of lighting placed behind translucent or semi-transparent sign elements allowing light to project through the front of the sign element.
  5. "Banner Sign" means a sign made of lightweight fabric, plastic, vinyl, or similar material with no enclosing framework that is mounted to a building or other structure at one (1) or more edges.
  6. "Billboard signs" means any standard outdoor advertising sign larger than two hundred (200) square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located.
  7. "Door Sign" means a sign placed inside or upon the door and is visible from the exterior of the building. Door signs may only contain the names, logos, contact information, and hours of the businesses or tenants located within the building.
  8. "Free standing signs" means a sign which is supported by one (1) or more columns, uprights, or braces and is permanently fixed in the ground.
  9. "Halo Lit" means a method of sign illumination that consists of lighting attached to the back of opaque sign elements with light projected behind and parallel to the sign elements. Halo lighting shall not allow any light to be projected beyond the horizontal plane of the rear of the sign element.
  10. "Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.
  11. "Menu board" means a sign specifically designed to advise customers of the menu of food available in the establishment by which the menu board is owned.
  12. "Monument sign" means a sign, single- or double-sided mounted, flush with the surface of the grade upon which sets the business, industry, or other commercial enterprise which the sign advertises. A monument sign must be landscaped with grass, shrubs or other plants or other landscape material in an area not less than three (3) feet surrounding such sign in all directions.

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13. "Neon Sign" means electric signs lighted by luminous gas-discharge tubes that contain rarefied neon or other gases. Signs utilizing light-emitting diodes (LEDs) to mimic the appearance of neon signs shall be considered neon signs.
  14. "Off-premises sign" means a sign located on property other than the actual business premises.
  15. "Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise.
  16. "Projecting sign" means a sign installed on the facade of a building or underside of an awning which is attached to such building in a perpendicular manner or at an angle to the building wall.
  17. "Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.
  18. "Revolving sign" means a sign which revolves three hundred sixty (360) degrees.
  19. "Sidewalk sign" means a movable sign designed to be placed on the sidewalk area in front of an establishment.
  20. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located, including, but not limited to, signs described in subsections (B)(1) through (B)(25) of this Section. For the purpose of determining number of signs, a sign will be considered to be a single display device with not more than two (2) display surfaces (back-to-back) or display device containing elements organized, related and composed to form a unit. For measurement purposes, the square footage of a sign which employs back-to-back display surfaces will only be considered as the square footage of one (1) side of that sign. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element will be considered a separate sign.
  21. "Sign area" means the entire area within any type of perimeter or border which may enclose the outer limits of any writing, representation, emblem, figure or character. The area of the sign having no such perimeter or border shall be computed by enclosing the entire area with parallelograms, triangles or circles of the smallest size sufficient to cover the entire area of the sign and computing the area of these parallelograms, triangles or circles. The area computed shall be the maximum portion or portions which may be viewed from any one direction.
  22. "Temporary sign" means a sign made of paper, or some other limited life-span material advertising a short-term event, like a sale. Temporary signs are not subject to inclusion in a business' sign square footage measurement. Temporary signs shall be removed within twenty-four (24) hours after the completion of the advertised event. The term includes real estate and political signs.
  23. "Voluntary modification" means any modification to an existing sign which reflects a conscious business or personal decision. This may include a change in corporate color scheme, change of logo, or any other change which would require the replacement of existing sign faces. It does not include the replacement or repair of sign faces with new, identical faces as part of normal maintenance or due to damage by wind, fire or other hazard.
  24. "Wall Sign" means a sign attached to or erected against the wall of a building with the face in a parallel plane to the place of the building wall, including a sign attached to a parapet wall that may be constructed specifically for the purpose of attaching a sign.
  25. "Window Sign" means a sign that is placed inside a window or upon the window panes or glass and is visible from the exterior of the window.

C. General.

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1. Nothing in this Section shall be interpreted as prohibiting or excluding such signs as are required by law. This includes legal notices and advertisements prescribed by law or posted by any lawful officer or agent.
  2. Any sign which is readily visible from the public right-of-way in an exterior window of a building, whether on the external or internal side of the window, shall be regulated by the provisions of this Section. Temporary signs are excluded, however, no single temporary sign shall exceed six (6) square feet in size, and the total of all such temporary signs shall not exceed fifty (50) percent of the transparency of the window in which they are visible.
  3. All signs as permitted by this Section shall be maintained by the owner and kept in good repair and shall be painted and repaired at reasonable intervals. The surface of the ground under and about any sign shall be kept clear of weeds, rubbish and flammable waste material.
  4. All signs shall be designed and constructed in accordance with the Uniform Sign Code.
  5. A building permit must be obtained by the person who is erecting the sign prior to the construction of any sign, except for those signs listed in subsection E of this Section.
  6. Signs not in use by reason of change of occupancy or use by vacation of the building shall be removed within thirty (30) days of such change by the owner of the sign, or the owner of the property. The City has the option of removing such sign at the end of the thirty (30) day period after giving fifteen (15) days' written notice by certified mail to the owner, and upon such removal, the full charges of removal shall constitute a mechanic's lien against the real property enforceable pursuant to State law.
  7. All existing signs that have been constructed pursuant to City sign permits and variances through the official date of the ordinance codified in this Section (Ord. 1749 effective date, October 20, 1993) shall be grandfathered and do not have to conform as to the height, size or prohibited signs subsections of this Section. Other provisions of this Section shall apply to existing signs. Grandfathered signs which are voluntarily modified must meet all requirements of this Section. Signs which have previously been granted variances may continue to exist within the parameters of those variances.
  8. The Zoning Coordinator shall be responsible for the enforcement of this sign ordinance.
  9. All buildings with more than one (1) business occupant must submit to the Zoning Coordinator a master signage plan which identifies the number and location of all potential signs on the property before any sign permits may be issued. For properties located in the Downtown Historic District, this master plan will be submitted to the Historic Preservation Commission. Any deviation from an approved master plan must be approved by the appropriate body prior to permit issuance.
  10. Pre-existing multi-occupant buildings will not be issued any new sign permits until a master plan is approved by the appropriate body.
  11. Any sign variance issued to multi-occupant property shall constitute an amendment to that property's signage master plan.
  12. All signs located in the Historic Preservation District must comply with the requirements of Chapter 31 of the City Ordinances Historic District Overlay Zoning.
- D. Prohibited Signs.
1. No animated signs shall be erected in any zoning district, except time and temperature signs which may be erected in the Central Business District only and existing lighted signs in the Downtown Historic Preservation District which flash, chase, move, revolve, rotate, blink, flicker or vary in intensity or color; however, such lights must be turned off when the business is closed. Only time and temperature shall be animated.
  2. No revolving sign may be permitted in any district.

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3. No billboard sign shall be erected in any zoning district.
  4. In the Central Business District Zoning District, no backlit signs are allowed.
  5. Visibility at Corners, Alleys and Driveway Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, and on all corner lots, a triangular clear vision zone shall be maintained. The zone shall measure ten (10) feet into the lot, as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley, driveway or street corner along the edge of the sidewalk nearest the property line. No structure of any kind over three (3) feet in height shall be erected or maintained within the above defined clear vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.
  6. Notwithstanding any other provisions contained in this Section, no free standing sign shall be erected or maintained upon any spire, chimney, cupola, water tank, water tower, radio aerial or television antenna.
  7. No sign shall be erected on any property without the express permission of the occupant, owner, lessee or any authorized agent thereof.
  8. No sign shall be erected in such a manner that a portion of the sign or their supports are attached to or will interfere with the free use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator or window.
  9. No sign shall be attached to any tree.
  10. Menu boards are not permitted on any property other than that occupied by a restaurant-type business.
  11. No portable and/or trailer-mounted signs shall be allowed.
- E. Signs Allowed in All Districts Without a Permit. The following signs are permitted in all zoning districts and will not require a permit:
1. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which do not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet. Only two (2) such signs shall be allowed on any one (1) property;
  2. Signs bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial promotion;
  3. Flags and insignia of the government except when displayed in connection with commercial promotion;
  4. Legal notices: identification, information or directional signs erected or required by governmental bodies;
  5. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
  6. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
  7. Detached bulletin boards, provided such sign is no greater than fifteen (15) square feet and located not less than ten (10) feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections;
  8. Construction information signs, providing the signs are removed immediately following final completion of construction;
  9. Non-illuminated home occupation signs on any residence which is the site of a home occupation in accordance with Section 30.55. Such signs shall not exceed two (2) square feet;

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10. Signs advertising a candidate for political office. Such signs shall not exceed sixteen (16) square feet and shall be removed within seven (7) days after any election;
  11. Signs advertising yard/garage sales, and the like. Such signs shall not exceed two (2) square feet and must be removed by the owner within forty-eight (48) hours of the completion of the sale.
- F. Signs in a Residential District. Within a residential district only, the following signs shall be permitted:
1. Signs listed in subsection E of this Section which do not require a permit; and
  2. Signs advertising a permitted or existing commercial use within a residential district. Such signs require a permit from the Building Official, and shall be permitted only under the following conditions:
    - a. Only one (1) on-premises sign will be allowed for each business.
    - b. The maximum allowable size for each sign shall be twelve (12) square feet.
    - c. Illuminated signs shall be illuminated only as long as the advertised business is open.
    - d. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street. Temporary signs are exempted from setback requirements.
- G. Signs in Commercial and Industrial Districts Requiring a Permit.
1. Setback. Free standing and monument signs shall be located a minimum of five (5) feet inside all private property lines.
  2. Lighting.
    - a. All lighting shall comply with the requirements of Chapter 18 "Night Sky Protection Act" of the City of Livingston Code of Ordinances. In no event may an illuminated sign or lighting device be placed or directed so the beams constitute a traffic hazard or nuisance. All wiring, fitting and material used in construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the Uniform Electric Code.
    - b. In the Central Business District, backlit and up lit signs are prohibited. Lighting, including but not limited to: halo lit, downlit, and neon signs is allowed. Neon signs in the style of historic downtown signs are highly encouraged in the Central Business District.
  3. Number of Signs.
    - a. In Commercial and Industrial Zoning Districts, other than the Central Business District, each use is limited to a total of three (3) wall, roof mounted, and/or window signs, one (1) projecting sign or awning sign, and one (1) door sign. In addition, one (1) monument sign or one (1) free standing sign is permitted for each building, regardless of the number of businesses or industrial uses conducted in any one (1) building. Additionally, movie theaters are allowed one (1) marquee sign.
    - b. In the Central Business District Zoning District, each use is limited to two (2) wall signs, one (1) projecting sign, one (1) awning sign, and one (1) sidewalk sign. Each use is allowed window and door signs, and there shall be no maximum number of window or door signs. Additionally, movie theaters are allowed one (1) marquee sign. Free standing and monument signs are not permitted in the Central Business District.
  4. Specific Sign Type Standards.
    - a. Wall, Window, and Door Signs.
      - i. In Commercial and Industrial Zoning Districts, other than the Central Business District, the total surface area of all wall signs and window signs is limited to two (2) square feet of sign for each lineal foot of frontage width of the business, provided that the maximum total

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surface area for all wall signs does not exceed three hundred (300) square feet. Door signs are not limited in square footage and shall not count towards to the total square footage of wall and window signs, but shall only contain the logo, names, contact information, and hours of the businesses or tenants located within the building.

ii. In the Central Business District:

- the total surface area of wall signs on the front street side and/or side street side of a building is limited to two (2) square feet of sign for each linear foot of building frontage not to exceed one hundred (100) square feet per street side.
- Buildings with exposed side walls not fronting a street are allowed wall signs of up to two hundred fifty (250) square feet. Non-street side wall signs must be painted directly onto the facade of the building and cannot be lit.
- Window signs are limited to thirty (30) percent of the total window area of the building regardless of the number of uses.
- Door signs are not limited in square footage and shall not count towards the total square footage of wall and window signs, but shall only contain the logo, names, contact information, and hours of the businesses or tenants located within the building.

- b. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area. No monument sign shall exceed five (5) feet in height.
- c. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area. No free standing sign shall exceed thirty (30) feet in height.
- d. Roof-Mounted Signs. Any sign located on the roof of a building shall not exceed twenty-four (24) inches in height and shall not exceed the top of the roof line. The square footage of roof-mounted signs shall be counted as a portion of the limitation on wall-mounted signs, i.e., the total surface area of wall-mounted signs added to any roof-mounted signs may not exceed three hundred (300) square feet maximum, or less if the linear front footage of the building is less than one hundred fifty (150) feet.
- e. Sidewalk Signs.
  - i. Sidewalk signs shall be no greater than forty (40) inches in height measured vertically from the surface grade, and no greater than thirty (30) inches in width measured at the widest point of the sign. No element of the sidewalk sign may protrude more than four (4) inches from the main post or supports of the sign.
  - ii. Sidewalk signs shall not be located at street intersections or placed in any manner to obstruct access to crosswalks, crosswalk ramps, and crossing push buttons.
  - iii. Sidewalk signs must be placed on the sidewalk directly adjacent to the uses they are advertising and must be brought inside when the advertised business is closed.
  - iv. Sidewalk signs must be weighted or tethered in such a manner that they are prevented from moving due to wind.
  - v. On sidewalks ten (10) feet and greater in width, sidewalk sign may be placed on the sidewalk with the furthest point of the sign no greater than thirty-six (36) inches from the curb or thirty-six (36) inches from the property line. At no point shall the sidewalk sign, combined with other sidewalk elements create an unobstructed sidewalk surface width of less than six (6) feet.

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- vi. On sidewalks less than ten (10) feet in width, sidewalk signs may be placed on the sidewalk with the furthest point of the sign no greater than thirty-six (36) inches from the curb. At no point shall the sidewalk sign, combined with other sidewalk elements create an unobstructed sidewalk surface width of less than four (4) feet. If the sidewalk is not able to accommodate a sidewalk sign while maintaining a four-foot unobstructed surface, sidewalk signs are not allowed in that location.
  - vii. On sidewalks with a boulevard, sidewalk signs shall be placed entirely in the boulevard.
  - f. Projecting Signs.
    - i. The lowest point of any projecting sign, regardless of location, shall be at least eight (8) feet above grade.
    - ii. In Commercial and Industrial Zoning Districts, projecting signs shall not exceed twenty (20) square feet in total.
    - iii. In the Downtown Historic District, new projecting signs shall not exceed twenty (20) square feet in total, or, they must be determined to be consistent with existing historic signs within the district by the Historic Preservation Commission.
  - g. Awning Signs. Awning signs may include signage printed directly on the awning or hung or attached to the awning structure. Total square footage of awning signage shall not exceed fifteen (15) square feet.
  - h. Banner Signs. Temporary banner-type signs shall be allowed for a period of no more than sixty (60) days, limited to no more than seventy-five (75) square feet, and used by any business or entity no more than once per year.
  - 5. Off-Premises Signs. A business may have up to four (4) off-premises signs; however, the total square footage of these off-premises signs may not exceed one hundred fifty (150) square feet. No other off-premises signs shall be allowed. Excepted from this provision are:
    - a. Temporary signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
    - b. Directional signs for public facilities;
    - c. Temporary banner signs not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.
  - H. Damaged Signs. Any existing sign not in conformity with this Section that is damaged in either surface area of the sign or in the structure by more than fifty (50) percent shall be removed and any new sign shall meet all requirements of this Section.
  - I. Complaint and Notice of Violation Procedure. The City Code Enforcement Officer shall issue a notice of violation in person to the offending property owner, business owner or agent, as the case may be, specifying the violation and steps necessary for correction. If the violation is not brought into compliance within fifteen (15) working days from the personal delivery of the notice of violation, the City shall file a civil complaint against the offending person. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.
  - J. Violation and Civil Penalty. It shall be a civil infraction for any person to violate any provision of this Section. Any violation of any provision of this Section is a civil infraction punishable by a civil fine not to exceed Three Hundred Dollars (\$300.00) for each violation. Each day that the violation continues shall be deemed a separate and punishable violation.

(Ord. 1738, 3/2/93; Ord. 1749, 9/20/93; Ord. 1819, 10/16/95; Ord. 1820, 10/16/95; Ord. 1860, 6/16/97; Ord. 1873, 5/18/98; Ord. 1883, 2/1/99; Ord. 1975, 9/5/06; Ord. No. 2090, § 1, 11/5/20; Ord. No. 3040, § 1, 4/4/23)

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

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

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

1. Parking lots for all multi-family residential, commercial, industrial and mixed-use development shall be paved. Gravel parking areas are not permitted for any use other than single-family residential. Pervious pavers and green paving systems are encouraged.
  2. Parking areas are encouraged to utilize as little land area as possible to meet the minimum parking standards. Overparking, or adding more parking spaces and area than required by the minimum standards, is highly discouraged.
  3. To minimize vehicular conflicts on roadways and vehicular crossings of the sidewalk, the preferred access to parking areas for all uses are alleyways. Where alleyways are not an available or feasible option for parking access, uses are encouraged to utilize shared access points. Parking areas should be accessed from side streets rather than major roadways throughout the City.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:
1. For one (1) family, two (2) family, and accessory dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
  2. For multiple dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.
  3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
  4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
  5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear or side of the primary structure on the lot.
- C. Expansion or Enlargement. Whenever any building is enlarged in gross floor area by more than ten (10) percent, off-street parking shall be provided for the expansion or enlargement portion only in accordance with the requirements of this article. Nothing in this provision shall be construed to require off-street parking spaces for the portion of such building previously existing before enlargements or for existing buildings that undergo a change in use.



- D. Non-Conforming Use. Voluntary establishment of off-street parking or loading facilities to serve any existing use of land or buildings, even though non-conforming, is allowed and encouraged.
- E. Mixed Occupancies. In the case of mixed uses, the total requirements for the various uses shall be computed separately. Off-street parking facilities for one use shall not be considered as a substitute or for joint use.
- F. Use Not Specified. In the case of a use not specifically mentioned in a zone, the requirements for off-street parking facilities shall be determined by the Zoning Coordinator or their authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Zoning Coordinator or their authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
1. Up to fifty (50) percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
  2. Up to one hundred (100) percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature.
  3. In mixed-use developments, up to fifty (50) percent of the parking facilities required for the residential use may be supplied by the related day time commercial or light industrial uses. The commercial or light industrial use must be closed between 6:00 p.m. and 8:00 a.m. to be considered for joint use parking.
- H. Conditions Required for Joint Use. The building for which application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.
- The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.
- The applicant must also present a legal agreement executed by the parties concerned for joint use of off-street parking facilities.
- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
Bowling alleys	Five per alley.
Medical and dental clinic	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service	One per 400 square feet of gross floor area.
Offices not providing on-site customer services	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Radio Stations	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.

Mortuaries	One per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums	One per 500 square feet of gross floor area.
Schools, elementary and junior high	One per each employee.
School, high school	One per each employee and one per 5 students.
Service stations and drive-thru restaurants	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.
Residential, single-family	2 per dwelling unit.
Residential, multi-family	1 per dwelling unit.
Accessory dwelling unit	1 per dwelling unit
Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Eating and drinking establishments (sit-down)	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named	One per 500 square feet of gross floor area.
Large-scale Retail	One per 800 sq. ft. of gross floor area.
Retirement homes, housing projects for senior citizens	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels/Hotels	One per sleeping room.
Hospitals/Institutions	One per 3 beds plus one per 3 employees.
Theaters	One per 10 seats.
Health and exercise establishment	One per 200 square feet of gross floor area plus 3 per court
Churches	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.
Open-air stadiums, sport arenas and amphitheaters	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.
* In calculating minimum required parking, gross floor area shall not include car ports and garage areas.	

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

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- L. Traffic Control Devices. All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
  - M. Screening Required. Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property. Such screening shall be located no closer than three (3) feet from the property line and shall be properly maintained.
  - N. Lighting Restrictions. Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
  - O. Maintenance. Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.
  - P. Off-Street Loading Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.
  - Q. Standards for Commercial and Industrial Uses.
    - 1. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of ten thousand (10,000) square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one (1) off-street loading space, plus one (1) additional loading space for each twenty thousand (20,000) square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height. Loading areas shall be located to the rear of the building and shielded from view from the neighboring properties and rights-of way. Loading areas shall not extend into the public right-of-way.
    - 2. Parking areas shall be located to the side and rear of the primary building on site.
    - 3. Parking areas shall have engineered stormwater retention and/or detention systems consistent with the City of Livingston Design Standards and Specifications Policy to prevent runoff into adjacent properties and rights-of-way. Collected stormwater is highly encouraged to be reused to irrigate on-site landscaping.
  - R. Bicycle Parking.
    - 1. Bicycle Parking Standards and Design.
      - a. In all multi-family residential, commercial, industrial and mixed-use development, the amount of provided bicycle parking shall be no less than ten (10) percent of the required automobile parking spaces. In buildings with less than twenty (20) parking spaces, two (2) bicycle parking spaces shall be required. Buildings with existing bicycle parking in the adjacent right-of-way may waive the required bicycle parking spaces if the number of bicycle parking spaces provided within the adjacent right-of-way is equal to or greater than the number of spaces required by this regulation. Where there are five (5) or more bicycle spaces required, twenty (20) percent of those spaces shall be for bicycles with trailers.
      - b. A bicycle parking space shall be no less than three (3) feet wide by six (6) feet long. Bicycle with trailer spaces shall be no less than three (3) feet wide by ten (10) feet long.
      - c. The preferred bike rack styles are inverted U or post and loop racks.
    - 2. Bicycle Parking Location.

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- a. In all commercial, industrial and mixed-use development, bicycle racks designed to allow bicycles to be securely locked to them must be provided as close as possible to the main entrance of the building, and must be in a location visible from the public right-of-way.
  - b. Buildings with multiple entrances are highly encouraged to place bicycle racks at each entrance.
  - c. Multi-family residential developments are encouraged to provide secure and sheltered bicycle parking.
- S. Pedestrian Walkways. Multi-family residential, commercial, industrial and mixed-use development shall provide pedestrian walkways. A system of pedestrian walkways is required to connect each primary use structure on-site to the following: adjacent public sidewalks, on-site parking, other on-site primary use structures, bicycle parking areas, and common outdoor use areas.
- T. Landscaping Requirements for Parking and Loading Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking, loading and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
1. General Requirements for Landscaping Plantings. All landscaping shall consist of native, drought-resistant plantings and should be planted using a variety of species planted in an informal arrangement. The use of food producing plantings and pollinator friendly plantings are preferred.
  2. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
  3. Perimeter plantings, when mature, shall provide at least fifty (50) percent screening of the parking areas using dense deciduous clusters or evergreen trees. A mix of dense hedge clusters and small open spaces is allowed.
  4. Parking lots are encouraged to be broken into smaller areas surrounded by landscaping to minimize large unbroken paved areas. Large deciduous trees are encouraged in the interior of parking lots. Denser hedges are encouraged around the perimeter of parking lots.
- U. Landscaping Requirements for the Interior of Parking Areas.
1. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) deciduous shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.
  2. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan. The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking lot area. When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island shall contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.

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

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### **Sec. 30.52. Fences and hedges.**

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

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

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

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

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

( Ord. No. 2097 , § 1, 1/5/21)

### **Sec. 30.53. Animals.**

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

### **Sec. 30.54. Motor vehicles or parts.**

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

### **Sec. 30.55. Home occupations.**

- A. General.
1. It is the intent of this ordinance to permit home occupations that meet the following criteria in any residential district. No other home occupations except those meeting this criteria will be allowed.

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Nonconforming home occupations shall meet the criteria within one year from the effective date of this ordinance.

2. The purpose of this ordinance is to protect the residential characteristic of the neighborhoods in Livingston. It is to ensure that the home occupations which are allowed to operate will not impose any burdens on the neighboring landowners.

B. Definitions.

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

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

1. No person shall be employed other than the residents of said dwelling.
2. The occupation shall be conducted wholly within the dwelling or within an accessory building located on the property.
3. The floor area devoted to the occupation shall not exceed fifteen (15) percent of the total floor area of the dwelling plus accessory buildings on the property.
4. The occupation shall not impose upon adjacent residences unreasonable burdens due to noise, vibration, glare, fumes, odors, hours of operation, traffic, or electrical interference. The above shall not be detectable by normal sensory perception beyond the dwelling or accessory building in which the business is located.
5. Direct sales of products off display shelves or racks is not allowed, but a person may pick up an order which was placed earlier by telephone or at a sales party.
6. There shall be no signs erected other than those allowed by this ordinance in residential districts.
7. A minimum of one off-street parking space for each business related vehicle shall be provided on the property. Each parking space shall meet minimum standards for off-street parking established elsewhere in this code.
8. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.
9. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, except for the permitted sign.
10. Outdoor storage of materials for the home occupation is prohibited.
11. No toxic, flammable, hazardous, or explosive industrial substances shall be used or stored on the premises unless registered with the Local Emergency Planning Committee. Said premises shall be subject to regular fire inspections.
12. No home occupation shall be permitted without the prior issuance of a home occupation permit or home occupation conditional use permit.

D. Enforcement.

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1. The permit shall be valid only for the proposed business as operated by the applicant. The permit shall be non-transferable either to another property or to another owner or operator. It may be revoked upon sufficient showing that a permit holder is violating the terms of the permit.
  2. The business shall be subject to regular inspections by the City Fire Marshal and/or the City Building Inspector. The inspections shall be done during regular business hours.
  3. The Building Official shall be responsible for enforcing this section of this ordinance, and shall report any violations to the Livingston City Attorney.
- E. Compliance. It is the intent of this subsection to provide the Building Official with the means to enforce the Home Occupation section of this ordinance.
1. Businesses shall be divided into two categories based on the expected impact they will have on the residential neighborhood they are proposed for.
    - a. A Major Home Occupation is one which can be expected to have some impact on the neighborhood it is proposed for. It is one which has some visible evidence of the occupation and shall accommodate both the residential and business related parking needs on the property. Additional characteristics include:
      - (1) The business may have a sign; or
      - (2) The business may create some additional traffic for deliveries and customers.
    - b. A Minor Home Occupation is one which has no visible exterior evidence of the conduct of the occupation, which does not generate additional traffic, and in which no equipment other than that normally used in household, domestic, or general office use. Additional characteristics may include:
      - (1) The business shall not have a sign.
      - (2) No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.
      - (3) No hazardous, flammable, explosive or toxic industrial substances may be used in a minor home occupation.
  2. All Home Occupations in existence at the time of the adoption of this Ordinance and all new home occupations which fit the criteria of a minor home occupation shall be required to get a Home Occupation Permit.
    - a. The purpose of the Home Occupation Permit is to ensure compliance with this section of the Ordinance.
    - b. The Home Occupation Permit may be issued by the Zoning Coordinator upon application by the owner of a Home Occupation.
    - c. The application shall be accompanied by a floor plan for the residence with the area to be used for the business clearly marked.
  3. All new Major Home Occupations shall be required to be reviewed by the City Commission for a Home Occupation Conditional Use Permit.
    - a. The Home Occupation Conditional Use Permit process shall be initiated by application to the City Zoning Administrator.
    - b. The Zoning Administrator shall review the application for completeness and prepare it for review by the City Commission.

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- c. The Zoning Administrator shall schedule a public hearing, advertise it two (2) times beginning at least fifteen (15) and not more than thirty (30) days prior to the public hearing date.
  - d. The Zoning Administrator shall notify the adjoining landowners within three hundred (300) feet of the proposed Home Occupation location, on the proposed business, and the date of the public hearing by mail at least fifteen (15) days prior to the date of the public hearing. The request shall be posted on the property at least ten (10) days prior to the public hearing.
  - e. The City Commission shall conduct the public hearing and decide on the application.
  - f. The City Commission shall have the power to require any mitigating measures it deems necessary to protect the public health, safety and welfare.

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

### **Sec. 30.56.1. Mobile homes.**

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

Any mobile home or replacement of any existing mobile home moved onto a site in one (1) of the approved zoning districts must contain a minimum of eight hundred (800) square feet, and must meet all of the following requirements before a Certificate of Occupancy can be issued by the Building Official:

1. All mobile homes must be completely skirted.
  2. All mobile homes must be securely anchored at all four (4) corners.
  3. The running gear must be removed.
  4. The tongue must be removed.
  5. All mobile homes must be placed on a permanent foundation. For the purpose of this part, a permanent foundation means a foundation system which has been designed and certified by a professional engineer or architect, or which has been specified by the mobile home manufacturer.
- B. Commercial Use. Mobile homes shall not be utilized for any commercial use, other than an on-premises office in connection with a mobile home sales business or as a temporary job shack located on a construction site. Such job shack must be removed within ten (10) days after completion of construction.

( Ord. No. 3013 , § 2, 8/17/21)

### **Sec. 30.56.2. Manufactured homes.**

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

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



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**Sec. 30.56.3. Modular homes.**

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

( Ord. No. 3013 , § 2, 8/17/21)

**Sec. 30.56.4. Tiny homes.**

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

( Ord. No. 3013 , § 2, 8/17/21)

**Sec. 30.57. Commercial buildings in residential districts.**

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

**Sec. 30.58. Townhouses.**

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

(Ord. 1798, 12/19/94)

**Sec. 30.59. Landscaping regulations.**

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for new or altered commercial, industrial, R-III and RMO Zones in order to minimize the visual impact upon public rights-of-way and incompatible uses in said zones and adjacent or abutting R-I or R-II Zones as well as establishing minimum buffering requirements between new or altered commercial, industrial, R-III and RMO Zones and existing incompatible uses and abutting or adjacent R-I or R-II zones and to lessen the impact of lighting.
- B. [Reserved.]
- C. Prohibition. No land shall be used or occupied and no structure shall be designed, erected, used, occupied or altered where a building permit is required, nor shall any variance or special exception be granted, except in conformity with the regulations established in this section.

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- D. General Landscaping Requirements. Landscaping shall be required as follows:
1. A variety of species planted in an informal arrangement. The use of xeriscaping, edible plantings, and/or pollinator friendly plantings is preferred.
  2. Planting, watering, and upkeep of all plantings shall be the perpetual responsibility of the owner. In particular, sufficient watering shall be provided to assure the survival of all plantings.
- E. Landscaping Requirements for Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
- [1]. Buffering Required Between Different Land Uses. Where commercial, industrial, multi-family or mobile home park land uses abut or are adjacent to lower density residential land uses or zones, either directly or when separated by an alley or street right-of-way or other natural or manmade structure, the commercial, industrial, multi-family or mobile home park use will provide a landscaped buffer zone screening itself from the lower density residential use.
- a. Buffer Zone. The buffer zone shall be a minimum of five (5) feet in width with an additional five (5) feet required for each story of the commercial, industrial or multi-family use above one (1) story, not to exceed twenty-five (25) feet in width.
  - b. Screening. Screening shall be installed within the buffer zone which shall consist of vegetation or a combination of berm, fencing or masonry walls to a minimum height of six (6) feet in a manner which does not create a safety hazard for vehicular or pedestrian movement or interfere with the requirements of Section 30-52(B) of the Livingston Municipal Code.
  - c. Shade Trees. In addition, a minimum of one (1) shade tree per two hundred fifty (250) square feet of buffer zone shall be required. Shade trees required hereunder shall be a minimum of two and one-half (2 ½) inches, DBH, in size at the time of planting.
- [2]. Buffering Required Along State Highways. Where parking areas abut Park Street (State Highway 89) or State Highway 10, a landscape buffer is required between any of the aforementioned roads and parking areas. Informal, clustered plantings are encouraged. Bicycle and walking pathways may be integrated into the buffer.
- a. Buffer Zone. The buffer zone shall be a minimum of thirty (30) feet in width.
  - b. Trees. A minimum of one (1) shade tree and one (1) evergreen tree per three hundred (300) square feet of buffer zone shall be required. Trees required hereunder shall be a minimum of two and one-half (2 ½) inches, Diameter at Breast Height (DBH), in size at the time of planting.
- E. Purpose of Lighting Restrictions. The goal in regulating exterior illumination is to direct, to the maximum extent possible, all artificial light onto the property from which it originates. This section does not apply to street lighting provided by a governmental agency. All lighting is required to comply with the adopted Night Sky Protection Act.
1. Parking or Storage Area. In any area required to buffer itself from adjacent land uses, all exterior lighting shall be limited in height to no more than sixteen (16) feet and will be required to be of a design which directs light downward through the use of a directional shade.
  2. Signs and Decorative Lighting. In commercial and industrial areas adjacent to any land use from which it must be buffered, the following lighting regulations shall apply:

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- a. Internally Illuminated Signs. Internally illuminated signs shall not exceed sixteen (16) feet in height. Internally illuminated canopies or structural panels are prohibited. Alternately, spot-lit signs, canopies or panels may be approved at standard heights if they will not adversely effect neighboring property which determination rests with the discretion of the city planning office, subject to appeal to the Board of Adjustment.
  - F. Penalty. A violation of this section is a misdemeanor punishable by fine not to exceed five hundred dollars (\$500.00). Each day that a violation is allowed to continue shall be deemed a separate and punishable offense.

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

### **Sec. 30.59.1. Wind powered generators.**

- A. Definitions.
  - 1. "Wind Powered Generator(s)" or "WPG" means any device, such as a wind charger, wind mill, or wind turbine, and associated facilities including the support structure of the system, such as a tower, that covers wind energy to electrical energy which has been certified to conform to applicable industry standards by a nationally recognized certifying organization such as Underwriters Laboratories or similar certifying organization.
  - 2. "Wind powered generator height" means the height of a freestanding WPG shall be measured from the ground level to the highest point on the WPG, including the vertical length of any extensions of the WPG, such as the blade.
  - 3. "Tower", as used herein, includes the support structure and all components of the WPG.
- B. Special Exception. Wind-powered generators (WPG), as defined herein, are permitted upon the issuance of a Special Exception permit within any zone, provided the following standards, and any related conditions imposed by the Board of Adjustment, are satisfied. No WPG, or modification thereto, shall be constructed within the City of Livingston, unless a permit has been issued by the City.
  - 1. The permit application shall be accompanied with a non-refundable fee in the amount of one hundred dollars (\$100.00).
  - 2. The permit application shall contain a narrative describing the proposed project, the project location, the approximate generating capacity of the facility, a site plan, a photograph of the same type of wind powered generator being proposed and whether the system will be standalone or interconnected to a public utility under the provisions of 69-8-601 et seq. Montana Code Annotated.
- C. Maximum Height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or less is limited to sixty (60) feet in height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or more is limited to one hundred (100) feet in height.
  - 1. The Board of Adjustment may increase the height of freestanding WPG, provided that in the residential and commercial, districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall demonstrate, to the Board of Adjustment's satisfaction, that the surrounding topography, structures, vegetation, and other factors make a tower that complies with the height restrictions impractical.
  - 2. Notwithstanding the height limitations of the zoning district, building mounted WPG shall be permitted in all zoning districts, subject to approval by the Board of Adjustment, and shall comply with the following standards:

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- a. Building mounted WPG shall not exceed fifteen (15) feet in height.
  - b. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
  - c. On nonresidential buildings less than four (4) stories and forty-two (42) feet in height, building mounted WPG shall be setback at least ten (10) feet from the front, side, and rear exterior walls of the structure on which it will be mounted.
  - d. Building mounted WPG shall be installed on the top story.
  - e. The structure upon which the proposed WPG is to be mounted shall have the structural integrity to carry the weight and wind loads of the WPG and have minimal vibration impacts on the structure, as determined by a structural engineer.
3. Minimum ground clearance. The blade tip of any WPG shall, at its lowest point, have ground clearance of no less than fifteen (15) feet.
- D. Minimum Setback. Minimum setback from any property line shall be one hundred (100) percent of the total tower height, as defined herein and no guy wire may extend close than thirty (30) feet from any property line. No part of the wind generator shall extend over, or across, any part of a public right-of-way.
- E. Noise Standard, Shadow Flicker and Signal Interference:
1. Any noise produced by a WPG, permitted under this Section, shall be less than sixty (60) db as measured from the closest neighboring occupied building; and it is incumbent upon the applicant to demonstrate compliance prior to the issuance of any permits by the Board of Adjustment.
  2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building not on the property upon which the WPG is located.
  3. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind powered generators.
- F. Fencing Requirement and Warnings. All WPG installations, other than single-pole towers, shall be enclosed by a fence with locking gate, or incorporate other effective measures to discourage unauthorized climbing of the tower. Towers shall not be climbable up to fifteen (15) feet above ground surface. A visible warning sign concerning voltage must be placed at the base of all towers. Reflective and brightly colored tubing shall be placed on guy wires up to a height of ten (10) feet from the ground.
- G. Control and Brakes. All wind powered generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- H. Liability insurance: Construction Phase. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate. Certificates of insurance shall be filed with the City of Livingston who will also be named as an additional insured.
- I. Aesthetics. WPG colors shall be of neutral subdued tones such as each tones or green or brown. Gray, including darkening galvanized gray, is also acceptable. If constructed on top of structure and visible from the ground, the WPG colors shall be a shade of sky blue. WPG shall not be finished in bright or vivid colors intended to draw attention to the structure or property. WPG shall not be illuminated by artificial means, except where required by the Federal Aviation Administration, or other federal, state, or local law.

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1. All permitted WPG shall be placed in a reasonably available location that will minimize the visual impact on the surrounding area, and allow the facility to function in accordance with the standards established by this Section, and all other federal, state, and local law.
  2. Wind towers shall not display any advertising, except for reasonable identification of the manufacturer and facility owner/operator, not to exceed one (1) square foot in size.
- J. Building, Electrical, Other Permits. All WPG shall comply with all applicable building, electrical, mechanical, and other permits required and issued by the City of Livingston, the State of Montana and/or federal regulations. This is to include any approvals required from the Historic Preservation Commission, or other local entity.
- K. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the Board of Adjustment, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of Adjustment may waive those requirements while still satisfying the original intent and application of this Section. Once every two (2) years, the City shall review existing WPG technology for comparison to this Section, to be sure technological improvements are addressed.
- L. Requirements for Removal. Any WPG that is abandoned, damaged, inoperable, or unused for power generation shall be removed within twelve (12) months of the cessation of operations, unless an extension is approved by the Board of Adjustment. If such an extension is not approved, such WPG shall be deemed a nuisance and require its removal at the property owner's expense. After the WPG removal, the owner of the site shall restore the site to its original, or an improved, condition.
- M. Application of Nuisance Law. If, after a Special Exception permit is issued, by the Board of Adjustment for a WPG, and the same WPG fails to comply with any part of this Section, it may be deemed a nuisance and all applicable nuisance laws and regulations may be utilized for mitigation.

(Ord. No. 2002, § 1, 8/4/08)

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

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

### **Sec. 30.60. Intent.**

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

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

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

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

**Sec. 30.61. Non-conforming lots of record.**

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

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

( Ord. No. 2097 , § 1, 1/5/21)

**Sec. 30.62. Non-conforming uses of land and structure.**

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

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

(Ord. 1763, 4/4/94)

**Sec. 30.63. Non-conforming structures.**

Where a lawful structure exists at the effective date of adoption or amendment of the ordinance codified in this chapter that could not be built under the terms of this chapter by reason of restrictions on area, lot coverage,

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height, setbacks, its location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:

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

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

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

### **Sec. 30.64. Exemption for non-conforming residential structures.**

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

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

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

## **Article VII. Zoning Commission<sup>1</sup>**

### **Sec. 30.70. Zoning commission.**

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

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

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<sup>1</sup>Ord. No. 3014 , § 2, adopted August 3, 2021, amended the title of Article VII to read as herein set out. The former Article VII title pertained to Zoning Commission and Board of Adjustment.

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

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

### **Sec. 30.71. Amendments to city zoning ordinance and zone change.**

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

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

- 1. It shall include, but not be limited to, the following information:
  - a. A legal description of the tract(s) proposed to be re-zoned;
  - b. A map showing the dimensions, acreage and location of the tract(s) and adjacent land uses;
  - c. A completed City application form.
  - d. The names and addresses of the owners of the adjacent land;
  - e. A receipt showing payment of all applicable fees to the City.
- 2. An application for amendment to the Official Map shall be submitted at least twenty (20) days prior to the date of the public hearing before the City Zoning Commission.
- 3. An application for a zone change may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission. An applicant may be allowed to withdraw at the time of the Zoning Commission hearing by a majority vote of the members present without requiring City Commission approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

Each application to amend the text of this chapter shall be filed with the Zoning Coordinator, and each application shall be submitted under the following conditions:

- 1. It shall include, but not be limited to, the following information:
  - a. The proposed change of the text and that portion of the text proposed to be changed.
  - b. A completed City application form.
  - c. A receipt showing payment of all applicable fees to the City.



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2. An application for amendment to the text of this chapter shall be submitted at least twenty (20) days prior to the date of the public hearing before the City Zoning Commission.
  3. An application for a text amendment may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final public hearing before the City Commission. An applicant may be allowed to withdraw at the time of the Zoning Commission hearing by a majority vote of the members present without requiring City Commission approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.
- D. Zoning Coordinator's Study and Responsibility. The Zoning Coordinator, upon receiving an application for re-zoning of an area or a particular piece of property or for an amendment to the text shall do the following:
1. Consult with other departments of the City or County to evaluate the impact of any zoning change upon public facilities and services including but not limited to schools, drainage, traffic and related facilities;
  2. Study each application with reference to its appropriateness and effect on existing and proposed land use;
  3. In the case of a protest petition filed in the matter of an application for re-zoning, determine the validity of such petition;
  4. Advertise in the legal newspaper fifteen (15) days in advance of the time and place of the public hearing.
  5. In the case of an amendment to the Official Zoning Map, notify, by certified, return receipt requested mail, the applicant and all property owners within three hundred (300) feet of the exterior boundaries of the property subject to the re-zoning: of the time, date, place of the public hearing and the existing and proposed land use classification. Such notification shall be mailed to the applicant and the surrounding property owners no sooner than fifteen (15) days and no later than five (5) days prior to the date of the public hearing. Post the subject property not less than five (5) days prior to the public hearing. Posted notice shall include the nature of the change being requested as well as the time, date and location of the public hearing;
  6. Report the findings and conclusions, in writing, to the City Zoning Commission. Such report shall be a matter of public record, and shall be forwarded to the City Commission with the Zoning Commission's recommendation.
- E. City Zoning Commission Action. The City Zoning Commission shall review and take action upon each application in accordance with the provisions of this article, and after a public hearing at which the application has been legally advertised. Each application shall be presented to the Zoning Commission by the Zoning Coordinator, together with their findings and conclusions on the matter. A written report of the Zoning Commission's decision and the Zoning Coordinator's findings and conclusions including the basis for the decision shall be submitted to the City Commission.

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

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

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

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

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

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

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

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

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

### **Sec. 30.72. Reserved.**

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

### **Sec. 30.73 Hearings, appeals, notices.**

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

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

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

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

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

Any person or persons, jointly or severally, aggrieved by any decision of the, City Commission made under this part, or any taxpayer, or any officer, department, or board of the City may present to a court of record a

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petition setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the decision in the office of the City Commission.

If an application for an administrative review is denied by the City Commission, another application shall not be filed within a period of one (1) year from the date of denial, except upon the initiation of the City Commission after a showing of a change of circumstances which would warrant a re-hearing.

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

### **Sec. 30.74. Variances—Application procedures.**

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

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5. Place a notice of the time, date, and place of the public hearing on the property at least ten (10) days prior to the hearing date.
  6. Report the findings to the City Commission.
- C. The City Commission may authorize upon appeal in specific cases such variances from the terms of this ordinance that will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.

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

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

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

### **Sec. 30.75. Special exceptions.**

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

No Special Exceptions shall be granted by the City Commission unless they find:

1. The use will not place a substantial adverse effect upon nearby properties or their occupants.
  2. That the proposed use is in harmony with the general purposes and intent of the zoning ordinance.
  3. If desired, the City Commission may add such requirements as it deems necessary to protect the surrounding neighborhood from the effects of the granted Special Exception.
- B. Applications. An application for a Special Exception must be filed by the property owner. Such application shall be filed with the Zoning Coordinator and shall be submitted under the following conditions:
1. The application shall include, but not be limited to the following information:
    - a. A legal and general description of the tract(s) upon which the Special Exception is sought.
    - b. The map showing the dimensions, acreage and location of the tract(s).
    - c. The name and address of the owner(s) of the tract(s).
    - d. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading, when required, service and refuse areas; means of ingress and egress; landscaping, screening signs, and open space areas.
    - e. A time schedule for development.
    - f. Any other information the applicant believes will support their request.

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

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- C. Zoning Coordinator Action. The Zoning Coordinator, upon receiving an application for a Special Exception shall do the following:
1. Consult with other departments of the City and/or County to fully evaluate the impact of the use(s) contemplated under the application upon public facilities and services.
  2. Study each application with reference to its appropriateness and effect on existing and proposed land uses.
  3. Place a notice of the time, date, and place of the public hearing before the appropriate body in the legal newspaper of the City at least fifteen (15) days in advance of the date of the public hearing.
  4. Notify the applicant and property owners by first class mail, within three hundred (300) feet of the exterior boundaries of the tract(s) of the proposed Special Exception area of the time, date, place of the public hearing and the proposed use(s) of the subject property at least ten (10) days prior to the date of the public hearing.
- C. Reserved.
- D. City Commission Action. The City Commission shall consider each application in accordance with provisions of this Article, and at a public hearing at which time the application has been legally advertised. Each application shall be presented by the Zoning Coordinator, together with conclusions and recommendations. The City Commission shall:
1. Deny the application for a Special Exception, or
  2. Grant the application for a Special Exception, or
  3. Delay action on the application for a period not to exceed thirty (30) days, or
  4. Grant the application with special conditions and safeguards.
- (Ord. No. 2004, § 1, 8/4/08; Ord. No. 2076, 12/18/18; Ord. No. 3005, § 2, 4/20/21; Ord. No. 3014, § 2, 8/3/21)

## Article VIII. Administration and Enforcement

### Sec. 30.80. Building official.

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

The Building Official shall:

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

(Ord. No. 3014, § 2, 8/3/21)

### Sec. 30.81. Zoning coordinator.

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

1. Issue Zoning Permits for all construction, expansion, or movement of buildings or structures.

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2. Issue Sign Permits for the placement of signs.
  3. Process amendments to the Official Zoning Map.
  4. Process amendments to the text of the Zoning Ordinance.
  5. Process Special Exception Applications.
  6. Process Variance Applications.
  7. Conduct inspections as are necessary to ensure compliance with the provisions of this article.

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

( Ord. No. 3014 , § 2, 8/3/21)

### **Sec. 30.82. Procedure in abatement of violation.**

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

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

( Ord. No. 3014 , § 2, 8/3/21)

### **Sec. 30.83. Penalties for violation.**

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

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

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

### **Sec. 30.84. Investigation fee.**

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

( Ord. No. 3045 , § 1, 10/3/23)

## **Article IX. Conflict with Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees<sup>2</sup>**

### **Sec. 30.90. Conflict with other laws.**

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

### **Sec. 30.91. Separability clause.**

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

### **Sec. 30.92. Repeal of conflicting ordinances.**

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

### **Sec. 30.93. Schedule of application fees.**

Application fees shall be set by separate resolution.

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

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<sup>2</sup>Ord. No. 3014 , § 2, adopted July 6, 2021, amended the title of Article IX to read as herein set out. The former Article IX title pertained to Conflict With Other Laws, Separability Clause, Repeal of Conflicting Ordinances, Schedule of Fees, Effective Date.