

LIVINGSTON CITY COMMISSION

REGULAR MEETING 09.21.2021

ADDENDUM TO PUBLIC HEARINGS:

E. PUBLIC HEARING ON ORDINANCE NO. 3013: AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II, ARTICLE IV, and ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO TINY HOMES, MODULAR HOMES AND MANUFACTURED HOMES.

ORDINANCE NO. 3013

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF LIVINGSTON, MONTANA, AMENDING ARTICLE II, ARTICLE IV, and ARTICLE V, CHAPTER 30 OF THE LIVINGSTON MUNICIPAL CODE ENTITLED ZONING, AS IT PERTAINS TO TINY HOMES, MODULAR HOMES.

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Preamble.

The purpose of this Ordinance is to promote public health, safety and general welfare of the City by regulating the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence or other purposes.

WHEREAS, Section 30.71 of the City of Livingston Code of Ordinances authorizes the City Commission to amend the text of the officially adopted Zoning Ordinance;

WHEREAS, the amendments meet the criteria and guidelines for zoning regulations as required by Section 76-2-304 of Montana Code Annotated;

WHEREAS, the amendments meet the goals and objectives of the Growth Policy as adopted by the City of Livingston; and

WHEREAS, the City of Livingston Zoning Commission voted unanimously (4:0) to recommend approval of the amendments to the Zoning Ordinance to the City Commission;

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

SECTION 1

That Chapter 30- Zoning Ordinance, Article II – Definitions, Article IV- District Regulations, and Article V- Supplementary General Requirements be amended as follows with deletions struck-through and additions underlined as follows:

SECTION 2

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 or 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.

"Bars, taverns, cocktail lounges" means an establishment where alcoholic beverages are sold and consumed on the premises even if such sales are incidental to or accessory to the principal business of such establishment.

"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 his designated representative.

"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.

"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 a use whose retail character is dependent upon a driveway approach and parking space for motor vehicles so as to either serve customers while in the vehicle or permit consumption of food or beverages obtained on the premises, in a 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 one (1) independent dwelling unit which is smaller in area and subordinate in use to the principal one (1) family or two (2) family dwelling, or townhouse, on the same lot, whether attached or detached.

"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.

"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.

"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.

"Heavy manufacturing" means any manufacturing process which requires the storage of component materials within public view, is conducted partially or entirely outdoors or causes significant noise, odor, glare or vibration which is detectable beyond the parcel on which it is located.

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

"Light manufacturing" means any manufacturing process which requires no storage of component material within public view, is entirely contained indoors, and does not cause any significant noise, odor, glare or vibration detectable beyond the parcel on which it is located.

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 ~~single family dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least one thousand (1,000) square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, structure manufactured offsite, transportable in one or more sections on its own chassis,~~ and ~~is~~ in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or modular home.

"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).

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

~~Mobile Home.~~ "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 to residents needing some assistance in performing the activities of daily living. Includes assisted living facilities and nursing homes.

"Planning board" means the Livingston City Planning Board.

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

"Restaurant" means a commercial establishment whose primary function is providing prepared meals to customers for consumption within the structure.

"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 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, commercial" means a building where instruction is given to pupils and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation and not providing instruction for trades.

"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 theater, or features, allows, employs, promotes or sponsors exotic entertainment.

"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

Mobile Homes	N	N	A	N	A	N	N	N	N	N	N	N
<u>Modular Homes</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>A</u>	<u>A</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>
Churches	S	S	S	A	N	A	N	A	N	N	N	N
Schools, Public and Commercial	A	A	A	A	A	A	N	N	N	N	N	A
Schools, Trade	N	N	N	N	N	S	A	A	A	A	A	N
Hospitals	N	N	N	A	N	A	N	N	A	N	N	N
Clinics	N	N	N	A	N	A	A	A	A	A	A	N
Adult Foster Care Center ³	N	A	A	A	N	N	N	N	A	N	N	N
Personal Care Center	N	A	A	A	N	A	A	A	N	N	N	N
Child Care Center	A	A	A	A	A	A	A	A	A	N	N	N
Veterinarian Clinics	N	N	N	N	N	N	N	A	A	A	A	N
Kennels and Catterys	N	N	N	N	N	N	N	A	N	A	A	N
Self-Service Laundry	N	N	N	N	A	A	A	A	N	N	N	N
Bed and Breakfasts	A	A	N	A	N	A	A	A	N	N	N	N
Motels/Hotels	N	N	N	N	N	N	A	A	A	N	N	N
Travel Trailer Parks	N	N	N	N	N	N	N	A	N	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	S	N	N
Large-scale Retail	N	N	N	N	N	N	S	S	S	S	S	N
Barber Shop and Beauty Parlors	N	N	N	N	N	A	A	A	A	S	N	N
Restaurants	N	N	N	N	N	A	A	A	A	A	A	N

Bars	N	N	N	N	N	N	A	A	A	A	N
Drive-In Restaurants	N	N	N	N	N	N	N	A	A	A	N
Banks	N	N	N	N	N	A	A	A	A	A	N
Mortuary	N	N	N	N	N	S	A	A	A	A	N
Wholesale Businesses	N	N	N	N	N	S	A	A	A	A	N
Commercial Greenhouses	N	N	N	N	N	A	N	A	A	A	N
Gasoline Service Stations	N	N	N	N	N	N	N	A	N	A	N
Auto Repair Garage	N	N	N	N	N	N	S	A	N	A	N
Automobile Dealerships	N	N	N	N	N	N	A	A	A	A	N
Auto Salvage and Storage	N	N	N	N	N	N	N	S	N	A	N
Warehouse and Enclosed Storage	N	N	N	N	N	S	S	A	A	A	S
Machine Shop	N	N	N	N	N	N	N	A	S	A	N
Light Manufacturing	N	N	N	N	N	N	A	A	A	A	N
Heavy Manufacturing	N	N	N	N	N	N	N	N	N	A	N
Lumberyards	N	N	N	N	N	N	N	A	A	N	N
Transportation Terminals	N	N	N	N	N	N	A	A	N	N	N
Utility Substations	S	S	S	S	S	S	S	S	N	S	S
Armory	N	N	N	N	N	N	N	N	N	N	A
Cemetery	N	N	N	N	N	N	N	N	N	N	A
Government Offices	N	N	N	N	N	A	A	A	N	N	A
Public Recreation Facility	A	A	A	A	N	N	N	N	N	N	A
Health and Exercise Establishment	N	N	N	N	N	A	A	A	A	S	S

Marijuana Production Facility	N	N	N	N	N	N	N	N	A	A	N
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1. C.B.D.—Any number of apartment units may be established in an existing commercial building. No new residential structures may be built unless they meet the definition of "High Density Residential."
2. NC-A single residential unit may be established within a commercial building to allow living space for a business owner.
3. Adult Foster Care Center.
 - a. No more than four (4) residents;
 - b. Staff member must be on board twenty-four (24) hours a day.

* This includes manufactured homes as defined by Ordinance 1813.

(Ord. 1506, 11/16/82; Ord. 1516, 8/2/83; Ord. 1517, 10/18/83; Ord. 1529, 7/16/84; Ord. 1538, 11/20/85; Ord. 1544, 2/4/86; Ord. 1556, 9/16/86; Ord. 1799, 12/19/94; Ord. 1810, 7/3/95; Ord. 1813, 8/21/95; Ord. 1891, 9/7/99; Ord. 1949, 10/18/04; Ord. 1977, 9/18/06; Ord. 2000, 4/7/08; Ord. No. 2022, § 2(Exh. A), 9/7/10; Ord. No. 2029, § 1(Exh. A), 4/19/11; Ord. No. [2046](#), § 1(Exh. A), 9/17/13)

Sec. 30.41. - Residential density requirements.

Residential density requirements are set out in Table 30.41.

Table 30.41						
Residential Density Requirements						
Zoning Classification District						
	Low Density R-I	Med. Density R-II	High Density R-III	Mobile Homes (A) RMO	Public (P)	Med. Density R-II(MH)
Min. Lot Area per Dwelling Unit in Square Feet ¹						
One Unit	9,600	3,500	3,500	6,000		3,500
Two Units	N/A	7,000	6,000	12,000		7,000
Three Units	N/A	N/A	7,500	18,000		N/A
Four Units	N/A	N/A	9,000	24,000	N/A	N/A

Five Units	N/A	N/A	10,500	6,000 ft. ²		N/A
Six Units	N/A	N/A	12,000 1,500 ft. ² for each add. unit	for ea. add. unit		N/A
Min. Setback Requirements						
Front Street	25'	25'	20'	20'	20'	25'
Side	15'	5' or B) or C)	5' or B) or C)	10' or C)	5' or C)	5' or C)
Rear	5'	5'	5'	5'	15'	15'
Side Street	15'	10'	10'	10'	10'	10'
Max. Height for all Bldgs.	27'	27'	45'	15'	27'	27'
Off-Street Parking Requirements	2 per one (1) family dwelling 1 per accessory dwelling	2 per dwelling unit in one (1) family and two (2) family dwellings 1 per accessory dwelling	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily dwellings and then 1.5 for each additional unit 1 per accessory dwelling	2 per dwelling unit for first 6 units in one (1) family, two (2) family, and multifamily dwellings and then 1.5 for each additional unit 1 per accessory dwelling	Refer to Art. V Sec. 30.51	2 per dwelling unit in one (1) family and two (2) family dwellings 1 per accessory dwelling

1. In all residential zoning districts in which accessory dwellings are permitted the number of accessory dwellings allowed is equivalent to the number of dwelling units allowed on the lot as show in Table 30.41 above. The total number of dwelling units allowed on any lot is the allowed density of the lot in Table

30.41 above plus the equivalent number of accessory dwellings. E.g.: a 7,000 square foot lot in the R-II zoning district allows two (2) dwelling units *and* two (2) accessory dwellings.

A) Applicable to Mobile Home Subdivisions only.

B) Side setback required for approved townhouse development.

C) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

(Ord. 1728, 12/7/92; Ord. 1798, 12/19/94; Ord. 1861, 6/16/97)

Sec. 30.42. - Commercial density requirements.

Commercial density requirements are set out in Table 30.42.

Table 30.42					
Commercial Density Requirements					
Zoning Classification District					
	Neighborhood Commercial	Highway Commercial	Industrial	Light Industrial	Central Business District
Min. Lot Requirements in Square Feet	N/A	6,000	6,000	6,000	N/A
Minimum Setback Requirements					
Front Street	20'	20'	20'	0' with boulevard	N/A
				10' without boulevard	
Side	0' or A)	0' or A)	0' or A)	10' or A)	N/A
Side Street	10'	10'	10'	10'	N/A
Rear	0'	0'	0'	20'	N/A
Maximum Height for all Buildings	27'	45'	N/A	33'	N/A

Parking Requirements	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51
Loading Space Required	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51	Refer to Article V Sec. 30.51

A) Any side setback that is directly adjacent to, and generally in line with, an adjoining rear setback within the same Zoning Classification District shall have the same setback as the adjoining rear setback.

(Ord. 1949, 10/18/04)

30.42. – Allowable Encroachments into Setbacks.

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

Sec. 30.43 – Accessory dwellings.

- A. Accessory dwellings are subject to all applicable regulations listed in this ordinance, including but not limited to: setbacks, maximum building heights, parking, and building design standards.
- B. Detached accessory dwellings shall not be located in the front yard, but may be located in the side or rear yard so long as the required setbacks listed in Table 30.41 are met.
- C. Accessory dwellings shall not exceed 800 square feet of gross floor area and must be smaller in gross floor area than the primary dwelling on the property. If an accessory dwelling is attached to another building only the gross floor area of the accessory dwelling shall be calculated towards the maximum gross floor area. Accessory dwellings attached to existing, primary dwelling units are not subject to the gross floor area limitations, but must be wholly contained within the existing building. Any attached accessory dwelling that increases or modifies the footprint or profile of the primary dwelling unit in any way, whether above or below ground, shall not exceed 800 square feet of gross floor area.
- D. All detached accessory dwellings shall maintain a 6-foot separation, measured from the external walls of the dwelling unit, to all other buildings on site.
- E. Accessory dwellings shall be on the same lot as the primary dwelling.
- F. 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. Accessory dwellings may be rented.

- G. Accessory Dwellings are encouraged to be combined with other buildings to preserve open space on the lot.

Sec. 30.44.. - Bed and breakfasts.

- A. "Bed and breakfast" means a commercial business operated in a house which is used partially or primarily for providing overnight accommodations to the public.
- B. The goal of this section is to establish the allowable locations and operations of bed and breakfast facilities.
- C. A bed and breakfast shall be allowed in the following zoning districts: Low Density (R-I), Medium Density Residential (R-II), High Density Residential (R-III), Neighborhood Commercial (N.C.), Highway Commercial (H.C.), and the Central Business District (C.B.D.).
- D. Reserved.
- E. The accommodations for a bed and breakfast shall have no more than five (5) guest rooms. Breakfast shall be the only meal served on the premises, and is included in the charge for the room. No other food or beverage served upon the premises.
- F. Off-street parking shall be provided by all bed and breakfast facilities. There shall be two (2) off-street parking spaces, plus one (1) for each guest room. Off-street parking shall be required to be used by guests.
- G. No bed and breakfast shall be located on a lot closer than two hundred (200) feet in a straight line distance from any other lot containing a bed and breakfast. The owner shall live on the premises.
- H. Signage shall be limited to that allowed for home occupations (twelve (12) inches by twenty-four (24) inches non-illuminated, flush mounted).
- I. Rates shall be charged for single-night occupancy only, weekly or monthly rates will not be allowed.
- J. A bed and breakfast already in existence at the time of this section's effective date shall have ninety (90) days to conform with the provisions of this section except existing establishments shall be grandfathered as to the requirements of subsection (G) of this section.
- K. Any property receiving a special exception for a bed and breakfast shall have ninety (90) days from the date of the final City Commission action to meet any specified conditions and obtain a City business license. If a City business license is not obtained in that time period, the special exception shall be automatically rescinded as of that date. If a license for a bed and breakfast is not renewed within ninety (90) days after January 1 of any calendar year, the special exception for that bed and breakfast shall be automatically rescinded.
- L. Any application for a bed and breakfast shall be accompanied by a detailed plan, drawn to scale, showing all aspects of the physical layout for the property, including the off-street parking provisions.
- M. The table of uses (Table 30.40) is amended to comply with subsection (C) of this section.

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

Sec. 30.45. - Uses in the Preservation Zoning District.

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

(Ord. 1954, 5/16/05)

Sec. 30.45.1. - Preservation Zoning District Plan.

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

- A. Delineation of the boundaries of each special use zoning district;
- B. Identification of the structure(s) and/or natural features which contributed to the creation of the Preservation Zoning District;
- C. Identification of the uses and development standards or guidelines intended to preserve the structure(s) and/or natural features which may vary from Preservation Zoning District to Preservation Zoning District, but shall take into consideration:
 1. Setbacks,
 2. Landscaping standards,
 3. Signage standards,
 4. Parking standards,
 5. A list of uses to be allowed,
 6. Any other standard that would serve the purpose of preserving historic or architectural structure(s) or natural features in each Preservation Zoning District.

(Ord. 1954, 5/16/05)

Sec. 30.46. - Building design standards.

- A. This Section provides policies and standards for the design of buildings in the Design Review Overlay Zone. In general, they focus on promoting buildings that will be compatible in scale and appear to "fit" in the community by using materials and forms that are a part of Livingston's design traditions. As such, they address only broad-scale topics and do not dictate specific architectural styles or building details.
- B. Objectives for Building Design.
 1. Achieve High Quality Design. Buildings in the overlay zone shall convey a high quality of design, in terms of their materials and details, as well as through a consistent organization of forms and elements. This quality shall establish a standard for design throughout the community.
 2. Reflect the Design Traditions of Livingston. Buildings shall reflect the design traditions of the region, in terms of building and roof forms. Distinctive roof forms are a key part of this tradition. Sloping roofs, in gable, hip and shed varieties are historical precedents to promote and they also help reduce the apparent bulk of larger buildings and help to shed snowfall. Flat roofs with varied parapet lines and cornices are also a part of the City's design traditions and shall be encouraged. Buildings that appear to be in scale with those seen traditionally also shall be encouraged. Where a new building would be larger than those existing in the area, it shall establish a transition in scale, to reduce the impact of building scale on the adjacent property, as well as on the neighborhood.
 3. Promote Buildings that Fit with the Natural Setting. Structures shall be sited to fit with the land and incorporate colors seen in the natural setting.

4. Promote Buildings that Reflect Pedestrian Scale. Human scale shall be an integral part of all buildings. Large, flat, windowless block buildings do not reflect human scale or the design traditions of Livingston. Thoughtful use of landscaping, color, building materials and architectural details bring human scale to buildings.

C. Building and Topography.

1. Policy. A building shall respect the natural topography of the site.
2. Standards. Step a building foundation to follow the slope of the site when feasible. In general, an exposed building foundation shall not exceed three (3) feet in height.

D. Building Character.

1. Policy. Buildings shall reflect the regional urban character.
2. Guideline.
 - a. Designs that draw upon regional design traditions are preferred. Standardized "franchise" style architecture will be strongly discouraged by following these standards.
 - b. The primary entrance to a building shall have a human scale. Provide a one (1) story element at the building entrance to help establish a sense of scale.
 - c. Where no windows or other obvious indication exists, express the position of each floor in the external skin design of a building to establish a human scale.
 - i. Use belt courses or other horizontal trim bands of contrasting color and materials to define floor lines.
 - ii. Articulate structural elements, or change materials as a method of defining floors.
 - d. Use building materials that help establish a human scale.
 - i. For example, use brick in a standard module to express a human scale.
 - ii. Avoid using large surfaces of panelized products or featureless materials.
 - iii. A large surface of stucco or similar material that lacks articulation or detailing shall be avoided.
 - e. New construction shall relate to adjacent residential and historic resources. Where a new project abuts a residential neighborhood or a historic structure, step the building down at the property edge to minimize abrupt changes in scale, or increase side yards to reduce the impact.

E. Primary Building Entrance.

1. Policy. The primary entrance of a structure shall orient to a street, major sidewalk, pedestrian way, plaza, courtyard or other outdoor public space.
2. Standards.
 - a. Design the main entrance to be clearly identifiable.
 - i. Provide a sheltering element such as a canopy, awning, arcade or portico to signify the primary entrance to a building.
 - ii. Where more than one (1) user shares a structure, each individual entrance shall be identified.
 - b. Orient the primary entrance of a building to face a street, plaza or pedestrian way.
 - i. Focusing an entrance toward a parking lot without also addressing the street is inappropriate.
 - ii. Consider using a "double-fronted" design where the entrance to parking and to the street is required. That is, provide a door to the street and another to the parking lot.

- iii. Consider locating a pedestrian plaza at the entrance; this may be enhanced with landscaping and streetscape furnishings.

F. Street Level Interest.

1. Policy. When a building is located close to a street or walkway, it shall be designed to provide interest to pedestrians. For example, commercial buildings with storefronts are of interest to passersby. Such features encourage pedestrian activity and shall be used whenever feasible. The overall mass of a building shall appear to be in scale with buildings seen traditionally. This will help new structures fit with the Livingston context. At the same time, newer structures may be larger than those seen before; they shall simply be articulated in their form and materials such that they convey proportions that are similar to those seen traditionally.
2. Standards.
 - a. Develop the street level of a building to provide visual interest to pedestrians. All sides of a building shall include interesting details and materials to avoid presenting a "back side" to neighboring properties. For example, the sides of restaurants and specialty stores shall incorporate windows and display cases over at least a third of the facade area. A large expanse of blank wall is inappropriate on any street-oriented facade.

G. Building Mass and Scale.

1. Policy. A building shall appear to have a "human scale." In general, this can be accomplished by using familiar forms and elements that can be interpreted in human dimensions, as noted throughout this Chapter, e.g., "small details/visible to pedestrians."
2. Standards. In order to reduce building scale, each major building project shall provide all of the following:
 - a. Divide a building into visual modules that express dimensions of structures seen traditionally.
 - i. Buildings shall employ all of the following design techniques:
 - (A) Change material or color with each building module to reduce the perceived mass;
 - (B) Change the height of a wall plane or building module;
 - (C) Change roof form to help express the different modules of the building mass; and
 - (D) Change the arrangement of windows and other facade articulation features, such as columns or strap work that divide large wall planes into smaller components.
 - ii. Express facade components in ways that will help to establish a human scale (details oriented towards pedestrians).
 - (A) Establish a pattern and rhythm on exterior walls to establish a human scale;
 - (B) Windows, columns and other architectural treatments used repetitively can create this effect;
 - (C) Using windows and doors that are similar in scale to those seen traditionally also can help establish a human scale;
 - (D) Also, recess these elements, even if slightly, and articulate them with headers, sills, columns and/or mullions.

H. Roof Form.

1. Policy. The primary roof form of a structure shall help reduce the perceived scale of the building. For that reason, sloping roofs shall be used in most contexts. These also will help the building fit into the mountain backdrop. Varied roof forms in the appropriate context are also encouraged.
2. Standards.
 - a. Using sloping roof forms to reduce the perceived scale of a building is encouraged.

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

I. Signage.

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

J. Design Standards Administration. The building design standards and review procedures contained herein shall apply to all 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. A completed application form along with a site plan and other detailed drawings, including, but not limited to, building elevations indicating exterior materials, colors and necessary architectural details required to determine compliance with this Section, shall be submitted to the Planning Department along with the required application fee. Once accepted by the Planning Department, the applicant will be notified as to whether or not the plans submitted comply with adopted City standards. This notification will occur as soon as the review is completed but in any case shall not be later than thirty (30) days from the date the application was accepted by the Planning Department. Failure of the City to complete a review and notify the applicant within the allotted thirty (30) day period will constitute approval of the application.

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

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

(Ord. 1974, 9/5/07)

Article V. - Supplementary General Requirements

Sec. 30.50. - Signs.

- A. Intent. The intent of this Section is to provide standards for erection, design and placement of all signs and sign structures. Design standards are established to achieve the proper relationship of signs to their environment, enhance the outward appearance of the community as a whole, secure pedestrian and vehicular safety, preserve the historic aspects of the City of Livingston and promote the conservation of energy by regulating lighted signs.
- B. Definitions.
1. "Animated sign" means a sign with action or motion, flashing or intermittent lights and/or color changes requiring electrical energy, electronic or manufactured sources of activation, but not including wind-activated elements such as flags and banners.
 2. "Awning signs" means a sign which is an integral part of a window awning assembly, to include the printing or painting of words onto awning material.
 3. "Billboard signs" means any standard outdoor advertising sign larger than two hundred (200) square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located.
 4. "Free standing signs" means a sign which is supported by one (1) or more columns, uprights, or braces and is permanently fixed in the ground.
 5. "Monument sign" means a sign, single- or double-sided mounted, flush with the surface of the grade upon which sets the business, industry, or other commercial enterprise which the sign advertises. A monument sign must be landscaped with grass, shrubs or other plants or other landscape material in an area not less than three (3) feet surrounding such sign in all directions.
 6. "Revolving sign" means a sign which revolves three hundred sixty (360) degrees.
 7. "Menu board" means a sign specifically designed to advise customers of the menu of food available in the establishment by which the menu board is owned.
 8. "Reader board" means a sign designed to allow the letters on the sign to be altered, removed and added.
 9. "Marquee sign" means a specific type of reader board but restricted to use by active movie theaters.
 10. "Temporary sign" means a sign made of paper, or some other limited life-span material advertising a short-term event, like a sale. Temporary signs are not subject to inclusion in a business' sign square footage measurement. Temporary signs shall be removed within twenty-four (24) hours after the completion of the advertised event.
 11. "Projecting sign" means a sign installed on the facade of a building which is attached to such building in a perpendicular manner or at an angle to the building wall.
 12. "Sandwich board sign" means a sign painted on both of the outside of two (2) boards fastened together at the top with a hinge-like device, designed to be placed on the sidewalk area in front of an establishment.
 13. "Sign" means any device designed to inform or attract the attention of persons not on the premises on which the sign is located, including, but not limited to, signs described in subsections (B)(1) through (B)(12) of this Section. For the purpose of determining number of signs, a sign will be considered to be a single display device with not more than two (2) display surfaces (back-to-back) or display device containing elements organized, related and composed to form a unit. For measurement purposes, the square footage of a sign which employs back-to-back display surfaces will only be considered as the square footage of one (1) side of that sign. Where matter is displayed in a random manner without organized relationship of elements, or where there is reasonable doubt about the relationship of elements, each element will be considered a separate sign.

14. Square Footage. The square footage of a sign shall be measured as the product of the total linear foot measurement multiplied by the total height measurement. The linear measurement shall be attained by measuring from the leftmost edge of the sign, continually measured to the rightmost edge of the sign. Any mounting material shall be part of the measurement.
15. "Actual business premises" means the owned or leased real property from which the primary business is actively transacted.
16. "Off-premises sign" means a sign located on property other than the actual business premises.
17. "Banner signs" means a strip of cloth, plastic or other material displaying advertising or other information.
18. "Portable sign" means any sign designed to be easily moved or transported whether by carrying, by mounted wheels, by trailer or otherwise.
19. "Voluntary modification" means any modification to an existing sign which reflects a conscious business or personal decision. This may include a change in corporate color scheme, change of logo, or any other change which would require the replacement of existing sign faces. It does not include the replacement or repair of sign faces with new, identical faces as part of normal maintenance or due to damage by wind, fire or other hazard.

C. General.

1. Nothing in this Section shall be interpreted as prohibiting or excluding such signs as are required by law. This includes legal notices and advertisements prescribed by law or posted by any lawful officer or agent.
2. Any sign which is readily visible from the public right-of-way in an exterior window of a building, whether on the external or internal side of the window, shall be regulated by the provisions of this Section. Temporary sale signs are excluded, however, no single temporary sign shall exceed six (6) square feet in size, and the total of all such temporary signs shall not exceed fifty (50) percent of the transparency of the window in which they are visible.
3. All signs as permitted by this Section shall be maintained by the owner and kept in good repair and shall be painted and repaired at reasonable intervals. The surface of the ground under and about any sign shall be kept clear of weeds, rubbish and flammable waste material.
4. All signs shall be designed and constructed in accordance with the Uniform Sign Code.
5. A permit must be obtained from the Building Official by the person who is erecting the sign prior to the construction of any sign, except for those signs listed in subsection E of this Section.
6. Signs not in use by reason of change of occupancy or use by vacation of the building shall be removed within thirty (30) days of such change by the owner of the sign, or the owner of the property. The City has the option of removing such sign at the end of the thirty (30) day period after giving fifteen (15) days' written notice by certified mail to the owner, and upon such removal, the full charges of removal shall constitute a mechanic's lien against the real property enforceable pursuant to State law.
7. All existing signs that have been constructed pursuant to City sign permits and variances through the official date of the ordinance codified in this Section (Ord. 1749 effective date, October 20, 1993) shall be grandfathered and do not have to conform as to the height, size or prohibited signs subsections of this Section. Other provisions of this Section shall apply to existing signs. Grandfathered signs which are voluntarily modified must meet all requirements of this Section. Signs which have previously been granted variances may continue to exist within the parameters of those variances.
8. The Building Official shall be responsible for the enforcement of this sign ordinance.
9. All buildings with more than one (1) business occupant must submit to the Board of Adjustment a master signage plan which identifies the number and location of all potential signs on the property before any sign permits may be issued. For properties located in the Downtown Historic District,

this master plan will be submitted to the Historic Preservation Commission. Any deviation from an approved master plan must be approved by the appropriate body prior to permit issuance.

10. Pre-existing multi-occupant buildings will not be issued any new sign permits until a master plan is approved by the appropriate body.
11. Any sign variance issued to multi-occupant property shall constitute an amendment to that property's signage master plan.
12. All signs located in the Historic Preservation District must comply with the requirements of the Historic District Overlay Zoning.

D. Prohibited Signs.

1. No animated signs shall be erected in any zoning district, except time and temperature signs which may be erected in the Central Business District only and existing lighted signs in the Downtown Historic Preservation District which flash, chase, move, revolve, rotate, blink, flicker or vary in intensity or color; however, such lights must be turned off when the business is closed.
2. No revolving sign may be permitted in any district.
3. No billboard sign shall be erected in any zoning district.
4. In the Central Business District Zone, no backlit signs are allowed.
5. Visibility at Corners, Alleys and Driveway Approaches. On the street side of all lots where an alley or driveway enters the street right-of-way, and on all corner lots, a triangular clear vision zone shall be maintained. The zone shall measure ten (10) feet into the lot, as measured from the edge of the sidewalk nearest the property line, and twenty (20) feet parallel to the street measured from the edge of any alley, driveway or street corner along the edge of the sidewalk nearest the property line. No structure of any kind over three (3) feet in height shall be erected or maintained within the above defined clear vision zone. If no sidewalk exists, the point of reference for all measurements shall be determined by the Building Official.
6. Notwithstanding any other provisions contained in this Section, no free standing sign shall be erected or maintained upon any spire, chimney, cupola, water tank, water tower, radio aerial or television antenna.
7. No sign shall be erected on any property without the express permission of the occupant, owner, lessee or any authorized agent thereof.
8. No sign shall be erected in such a manner that a portion of the sign or their supports are attached to or will interfere with the free use of any fire escape, exit, or standpipe, or obstruct any required stairway, door, ventilator or window.
9. No sign shall be attached to any tree.
10. Menu boards are not permitted on any property other than that occupied by a restaurant-type business.
11. No portable and/or trailer-mounted signs shall be allowed.
12. No sign not in conformance with this Code shall be allowed.

E. Signs Permitted in All Districts Without a Permit. The following signs are permitted in all zoning districts and will not require a permit:

1. Signs advertising the sale, lease or rental of the premises upon which the sign is located, which do not exceed twelve (12) square feet in area, except in all residential districts where the area of the sign shall not be more than six (6) square feet. Only two (2) such signs shall be allowed on any one (1) property;
2. Signs bearing only property numbers, post box numbers, names of occupants of premises or other identification of premises not having commercial promotion;

3. Flags and insignia of the government except when displayed in connection with commercial promotion;
 4. Legal notices: identification, information or directional signs erected or required by governmental bodies;
 5. Integral decorative or architectural features of buildings, except letters, trademarks, moving parts or moving lights;
 6. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter;
 7. Detached bulletin boards for churches, schools, or other public, religious or educational institutions provided such sign is located not less than ten (10) feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections;
 8. Construction information signs, providing the signs are removed immediately following final completion of construction;
 9. Non-illuminated home occupation signs on any residence which is the site of a home occupation in accordance with Section 30.55. Such signs shall not exceed two (2) square feet;
 10. Signs advertising a candidate for political office. Such signs shall not exceed sixteen (16) square feet and shall be removed within seven (7) days after any election;
 11. Signs advertising yard/garage sales, and the like. Such signs shall not exceed two (2) square feet and must be removed by the owner within forty-eight (48) hours of the completion of the sale.
- F. Signs in a Residential District. Within a residential district only, the following signs shall be permitted:
1. Signs listed in subsection E of this Section which do not require a permit; and
 2. Signs advertising a permitted or existing commercial use within a residential district. Such signs require a permit from the Building Official, and shall be permitted only under the following conditions:
 - a. Only one (1) on-premises sign will be allowed for each business.
 - b. The maximum allowable size for each sign shall be twelve (12) square feet.
 - c. Illuminated signs shall be illuminated only as long as the advertised business is open.
 - d. No sign shall be erected or placed closer than five (5) feet to the lot line adjacent to the street.
- G. Signs in Commercial and Industrial Districts Requiring a Permit.
1. Setback. Free standing and monument signs shall be located a minimum of five (5) feet inside all private property lines.
 2. Lighting. All lighting shall comply with the requirements of Ordinance No. 1967 commonly referred to as the Night Sky Protection Ordinance. In no event may an illuminated sign or lighting device be placed or directed so the beams constitute a traffic hazard or nuisance. All wiring, fitting and material used in construction, connection and operation of electrically illuminated signs shall be in accordance with the provisions of the Uniform Electric Code.
 3. Number of Signs. In Commercial and Industrial Zoning Districts, each use is limited to two (2) wall signs. In addition, one (1) monument sign or one (1) free standing sign is permitted for each building, regardless of the number of businesses or industrial uses conducted in any one (1) building.
 4. Height.
 - a. No monument sign shall exceed five (5) feet in height.
 - b. No free standing sign shall exceed thirty (30) feet in height.

5. Permitted Surface Area.
 - a. Wall Signs. The total surface area of all wall signs is limited to one hundred (100) square feet in the Central Business District and otherwise to two (2) square feet of sign for each lineal foot of frontage width of the business, provided that the maximum total surface area for all wall signs does not exceed three hundred (300) square feet.
 - b. Monument Signs. Monument signs shall not exceed one hundred (100) square feet in total surface area.
 - c. Free Standing Signs. Free standing signs shall not exceed one hundred fifty (150) square feet in total surface area.
6. Roof-Mounted Signs. Any sign located on the roof of a building shall not exceed twenty-four (24) inches in height and shall not exceed the top of the roof line. The square footage of roof-mounted signs shall be counted as a portion of the limitation on wall-mounted signs, i.e., the total surface area of wall-mounted signs added to any roof-mounted signs may not exceed three hundred (300) square feet maximum, or less if the linear front footage of the building is less than one hundred fifty (150) feet.
7. Off-Premises Signs. A business may have up to four (4) off-premises signs; however, the total square footage of these off-premises signs may not exceed one hundred fifty (150) square feet. No other off-premises signs shall be allowed. Excepted from this provision are:
 - a. Garage sale or hobby show signs no greater than two (2) square feet in area on the date only of the activity;
 - b. Auction and special event signs no greater than nine (9) square feet in area for no longer than three (3) days (seventy-two (72) hours);
 - c. Directional signs for public facilities and museums;
 - d. Banner signs for public performances not exceeding one hundred twenty (120) square feet to be posted for no more than twenty (20) days.
 - i. No signs in the public right-of-way or in any required right-of-way shall be allowed except for governmental traffic control signs (unless a business premises is on the railroad right-of-way). Properly permitted sandwich board signs not to exceed six (6) square feet per side are excepted from this provision provided that they shall be limited to one (1) per twenty-five (25) feet of building frontage and may only be located in front of the business being advertised. The City Commission, upon request from a property owner in front of whose property a sign is to be located, may, where deemed in the public interest, allow a sandwich board sign to be placed other than in front of the business being advertised.
8. Banner Signs. Temporary banner-type signs shall be allowed for a period of no more than sixty (60) days, limited to no more than seventy-five (75) square feet, and used by any business or entity no more than once per year.
- H. Variance Parameters for Signs. Variances may be granted only if there is undue hardship from the application of these sign regulations due to the particular location and site characteristics of the applicant that are different from those cited generally.
- I. Damaged Signs. Any existing sign not in conformity with this Section that is damaged in either surface area of the sign or in the structure by more than fifty (50) percent shall be removed and any new sign shall meet all requirements of this Section.
- J. Complaint and Notice of Violation Procedure. The City Code Enforcement Officer shall issue a notice of violation in person to the offending property owner, business owner or agent, as the case may be, specifying the violation and steps necessary for correction. If the violation is not brought into compliance within fifteen (15) working days from the personal delivery of the notice of violation, the City shall file a civil complaint against the offending person. Failure to provide the written notice identified herein shall not preclude the filing of a complaint in City Court.

- K. Violation and Civil Penalty. It shall be a civil infraction for any person to violate any provision of this Section. Any violation of any provision of this Section is a civil infraction punishable by a civil fine not to exceed Three Hundred Dollars (\$300.00).

(Ord. 1738, 3/2/93; Ord. 1749, 9/20/93; Ord. 1819, 10/16/95; Ord. 1820, 10/16/95; Ord. 1860, 6/16/97; Ord. 1873, 5/18/98; Ord. 1883, 2/1/99; Ord. 1975, 9/5/06)

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

- A. General. Each off-street parking space shall have a net area of not less than one hundred eighty (180) square feet exclusive of driveways or aisles and shall be of usable shape and condition.
- B. Location. Off-street parking facilities shall be located as hereafter specified: any distance specified shall be in walking distance measured from the nearest point of the parking facility to the nearest point of the lot that such facility is required to serve:
1. For one (1) family, two (2) family, and accessory dwellings: Off-street parking is required on the same lot or an adjoining lot with the building they are required to serve.
 2. For multiple dwellings and townhouses: Off-street parking is required within a walking distance of one hundred (100) feet.
 3. For hospitals, sanitariums, convalescent homes, nursing homes, rest homes, homes for the aged, asylums, retirement homes, rooming and boarding houses: Off-street parking is required within six hundred (600) feet.
 4. For uses other than those specified above: Off-street parking within five hundred (500) feet is required.
 5. For large-scale retail uses: Off-street parking is required to be on the same lot and to the rear 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 City Superintendent or his authorized representative. Such determination shall be based upon the requirements for the most comparable use listed.
- G. Joint Use. The Building Official or his authorized representative may authorize the joint use of parking facilities for the following uses or activities under conditions specified:
1. Up to fifty percent of the parking facilities required for primarily "night time" uses such as theaters, bowling alleys, bars, restaurants and related uses may be supplied by certain other types of buildings or uses herein referred to as "day time" uses such as banks, offices, retail, personal-service shops, clothing, food, furniture, manufacturing or wholesale and related uses.
 2. Up to one hundred percent of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off-street parking facilities provided by uses primarily of a day time nature. H. Conditions Required for Joint Use. The building for which

application is being made to jointly utilize the off-street parking facilities provided by another building shall be located within 500 feet of such parking facilities.

The applicant must show that there is no substantial conflict in the principal operating hours at the two buildings or uses for which joint use of off-street parking facilities as is proposed.

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

- I. Central Business District. In the Central Business District Zone any commercial enterprise that is required to meet the minimum standards for off-street parking, shall be required to have only fifty (50) percent of the parking space requirements in the Table of Minimum Standards. Apartment units in the Central Business District shall meet the full parking space requirements.
- J. Table of Minimum Standards — Off-Street Parking. Parking spaces shall be required as set forth in the following table, and where alternatives or conflicting standards are indicated, the greater requirements shall apply: Where the total quota results in a fraction, the next highest full unit shall be provided; and in case of a use not specifically mentioned, the requirements of the most similar mentioned use shall apply.

USE	SPACE REQUIRED
Bowling alleys.	Five per alley.
Medical and dental clinic.	One per 200 square feet of gross floor area.
Banks, business and professional offices with on-site customer service.	One per 400 square feet of gross floor area.
Offices not providing on-site customer services.	One per 4 employees or one per 800 sq. ft. of gross floor area, whichever is greater.
Mortuaries.	One per 5 seats in the principal auditorium.
Manufacturing uses, research testing, and processing, assembling, all industries.	One per 2 employees on maximum shift but not less than one per each 800 square feet of gross floor area.
Libraries and museums.	One per 500 square feet of gross floor area.
Schools, elementary and junior high, public, private or parochial.	One per each employee.
School, high school, public or private.	One per each employee and one per 5 students.
Service stations and drive-in restaurants.	One per 80 sq. ft. gross floor area, with 10 spaces minimum requirement.
Residential, single-family.	2 per dwelling unit.

Residential, duplex or multi-family.	2 per dwelling unit for first 4 dwelling units, then 1.5 for each dwelling unit thereafter.
Boarding houses and similar uses.	One per dwelling unit or lodging unit.
Convalescent homes, nursing homes, rest homes	One per 6 beds plus one per each staff member on duty on a maximum shift.
Warehouses, storage and wholesale business and freight terminals.	10 spaces for the first 20,000 square feet of gross floor area* and one space for each additional 10,000 square feet.
Food or beverage places with sale and consumption on premises.	One per 100 sq. ft. of gross floor area for the first 4,000 sq. ft. with 10 spaces minimum requirement and one space for each additional 300 square feet.
Furniture, appliance, hardware, clothing, shoe, personal-service stores.	One per 600 square feet of gross floor space.
Motor vehicle, machinery, plumbing, heating, ventilating, building material supplies, sales and service.	One per 1,000 sq. ft. of gross floor area plus one per three employees.
Retail stores or service businesses not otherwise named.	One per 500 square feet of gross floor area.
Retirement homes, housing projects for senior citizens.	1-6 dwelling units 0.5 per dwelling unit; 7-18 dwelling units 0.33 per dwelling unit; over 18 dwelling units 0.25 per dwelling unit; minimum of 5 spaces.
Motels, hotels and motor courts.	One per sleeping room.
Hospitals and institutions.	One per 3 beds plus one per 3 employees.
Theaters.	One per 10 seats.
Health and exercise establishment	One per 200 square feet of gross floor area plus 3 per court
Churches, auditoriums and similar open assemblies.	One per 5 seats or one per 100 linear inches of pew or one per 65 sq. ft. of gross floor area used for assembly purposes, whichever is greater.

Stadiums, sport arenas and similar open assemblies.	One per 8 fixed seats plus one per 100 sq. ft. of assembly space without fixed seats.
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*In calculating minimum required parking, gross floor area shall not include car ports and garage areas.

- K. Traffic Control Devices. All traffic control devices such as parking stripes designating stalls, directional arrows, rails, curbs and other developments shall be installed and completed as shown on the approved plans. Hard-surfaced parking areas shall use paint to delineate stalls and directional arrows.
- L. Screening Required. Screening in the form of walls, architectural fences or dense coniferous hedges shall be required where the parking lot has a common boundary with any residentially zoned property. Such screening shall be located no closer than three feet from the property line and shall be properly maintained.
- M. Lighting Restrictions. Lighting of areas to be provided for off-street parking shall be so arranged to not constitute a nuisance or hazard to passing traffic, and where the lot joins any residentially zoned property, the illuminating devices shall be so shaded and directed to play away from residentially classified property.
- N. Maintenance. Maintenance of all areas provided for off-street parking shall include removal and replacement of dead and dying trees, grass and shrubs, removal of trash and weeds, repair and maintenance of drains and repair of traffic control devices, signs, light standards, fences, walls, surfacing materials, curbs and railings.
- O. Off-Street Loading Warehouse and Wholesale. Off-street loading space for warehouse, wholesale shipping and similar facilities shall be determined by the Building Official or his authorized representative.
- P. Off-Street Loading, Retail and Commercial. In any building or part thereof having a gross floor area of 10,000 square feet or more, which is to be occupied by a use requiring the receipt or distribution by vehicles of material or merchandise, there shall be provided and maintained on the same lot with such building at least one off-street loading space, plus one additional loading space for each 20,000 square feet or major fraction thereof of twenty (20) feet in width, thirty-five (35) feet in length and fourteen (14) feet in height.

Sec. 30.52. - Fences and hedges.

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

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

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

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

C. Prohibited Fences. No electric fences shall be permitted in any zoning district. No barbed wire fence shall be permitted in any residential zoning district.

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

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

Sec. 30.53. - Animals.

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

Sec. 30.54. - Motor vehicles or parts.

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

Sec. 30.55. - Home occupations.

A. General.

1. It is the intent of this ordinance to permit home occupations that meet the following criteria in any residential district. No other home occupations except those meeting this criteria will be allowed. Nonconforming home occupations shall meet the criteria within one year from the effective date of this ordinance.
2. The purpose of this ordinance is to protect the residential characteristic of the neighborhoods in Livingston. It is to ensure that the home occupations which are allowed to operate will not impose any burdens on the neighboring landowners.

B. Definitions.

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

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

1. No person shall be employed other than the residents of said dwelling.
2. The occupation shall be conducted wholly within the dwelling or within an accessory building located on the property.
3. The gross floor area devoted to the occupation shall not exceed fifteen (15) percent of the total gross floor area of the dwelling unit plus accessory buildings on the property.
4. The occupation shall not impose upon adjacent residences unreasonable burdens due to noise, vibration, glare, fumes, odors, hours of operation, traffic, or electrical interference. The above shall not be detectable by normal sensory perception beyond the dwelling or accessory building in which the business is located.
5. Direct sales of products off display shelves or racks is not allowed, but a person may pick up an order which was placed earlier by telephone or at a sales party.

6. There shall be no signs erected other than those allowed by this ordinance in residential districts.
7. A minimum of one off-street parking space for each business related vehicle shall be provided on the property. Each parking space shall meet minimum standards for off-street parking established elsewhere in this code.
8. Commercial deliveries shall not restrict regular traffic. Deliveries made by tractor trailer vehicles to home occupations are prohibited in a residential area.
9. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling, except for the permitted sign.
10. Outdoor storage of materials for the home occupation is prohibited.
11. No toxic, flammable, hazardous, or explosive industrial substances shall be used or stored on the premises unless registered with the Local Emergency Planning Committee. Said premises shall be subject to regular fire inspections.
12. No home occupation shall be permitted without the prior issuance of a home occupation permit or home occupation conditional use permit.

D. Enforcement.

1. The permit shall be valid only for the proposed business as operated by the applicant. The permit shall be non-transferable either to another property or to another owner or operator. It may be revoked upon sufficient showing that a permit holder is violating the terms of the permit.
2. The business shall be subject to regular inspections by the City Fire Marshal and/or the City Building Inspector. The inspections shall be done during regular business hours.
3. The Building Official shall be responsible for enforcing this section of this ordinance, and shall report any violations to the Livingston City Attorney.

E. Compliance. It is the intent of this subsection to provide the Building Official with the means to enforce the Home Occupation section of this ordinance.

1. Businesses shall be divided into two categories based on the expected impact they will have on the residential neighborhood they are proposed for.
 - a. A Major Home Occupation is one which can be expected to have some impact on the neighborhood it is proposed for. It is one which has some visible evidence of the occupation and shall accommodate both the residential and business related parking needs on the property. Additional characteristics include:
 - (1) The business may have a sign; or
 - (2) The business may create some additional traffic for deliveries and customers.
 - b. A Minor Home Occupation is one which has no visible exterior evidence of the conduct of the occupation, which does not generate additional traffic, and in which no equipment other than that normally used in household, domestic, or general office use. Additional characteristics may include:
 - (1) The business shall not have a sign.
 - (2) No use of material or equipment not recognized as being part of the normal practices of owning and maintaining a residence shall be allowed.
 - (3) No hazardous, flammable, explosive or toxic industrial substances may be used in a minor home occupation.
2. All Home Occupations in existence at the time of the adoption of this Ordinance and all new home occupations which fit the criteria of a minor home occupation shall be required to get a Home Occupation Permit.

- a. The purpose of the Home Occupation Permit is to ensure compliance with this section of the Ordinance.
 - b. The Home Occupation Permit may be issued by the Building Inspector upon application by the owner of a Home Occupation.
 - c. The application shall be accompanied by a floor plan for the residence with the area to be used for the business clearly marked.
 - d. The application shall be accompanied with a fee of twenty dollars (\$20.00) to cover processing.
3. All new Major Home Occupations shall be required to be reviewed by the City Board of Adjustment for a Home Occupation Conditional Use Permit.
- a. The Home Occupation Conditional Use Permit process shall be initiated by application to the City Zoning Administrator.
 - b. The Zoning Administrator shall review the application for completeness and prepare it for review by the City Board of Adjustment.
 - c. The Zoning Administrator shall schedule a public hearing, advertise it two (2) times beginning at least fifteen (15) and not more than thirty (30) days prior to the public hearing date.
 - d. The Zoning Administrator shall notify the adjoining landowners within three hundred (300) feet of the proposed Home Occupation location, on the proposed business, and the date of the public hearing by mail at least fifteen (15) days prior to the date of the public hearing. The request shall be posted on the property at least ten (10) days prior to the public hearing.
 - e. The City Board of Adjustment shall conduct the public hearing and decide on the application.
 - f. The City Board of Adjustment shall have the power to require any mitigating measures it deems necessary to protect the public health, safety and welfare.
 - g. The Special Review shall have a fee of fifty dollars (\$50.00).

(Ord. No. 2022, § 3, 9/7/10)

Sec. 30.56.1 - 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 of the approved zoning districts must contain a minimum of eight hundred (800) square feet, and must meet all of the following requirements before a Certificate of Occupancy can be issued by the Building Official:

- A) All mobile homes must be completely skirted.
 - B) All mobile homes must be securely anchored at all four corners.
 - C) The running gear must be removed.
 - D) The tongue must be removed.
 - E) All mobile homes must be placed on a permanent foundation. For the purpose of this part, a permanent foundation means a foundation system which has been designed and certified by a professional engineer or architect, or which has been specified by the mobile home manufacturer.
- B. Commercial Use. Mobile homes shall not be utilized for any commercial use, other than an on-premises office in connection with a mobile home sales business or as a temporary job shack located

on a construction site. Such job shack must be removed within ten (10) days after completion of construction.

(Ord. 1813, 8/21/95)

Sec. 30.56.~~21~~. - Manufactured homes.

- A. ~~Manufactured homes are permitted in all residential zoning districts.~~ Any manufactured home or replacement of any existing manufactured home must contain a minimum of ~~one thousand~~320 (1,000) square feet.
- B. All manufactured homes must be placed on a permanent foundation. For the purpose of this part a permanent foundation means a standard footing-type, perimeter foundation built to frost depth, with or without a basement.
- C. 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.~~A manufactured home of less than 1000 square feet may be placed if it meets all of the following conditions:~~
 - ~~a. The structure is on a permanent foundation.~~
 - ~~b. The tract or parcel of land for the proposed use must be owned by a unit of local government or a community housing development organization.~~
 - ~~c. The home must be used to provide affordable housing to households earning less than 80% of the area median income.~~
 - ~~d. A management plan from the local government or community housing development organization addressing the following factors is submitted to the City Administration and City Commission:~~
 - ~~i. Affordability plan (including proposed rents).~~
 - ~~ii. Management plan (including client eligibility and intake).~~
 - ~~iii. Proposed deed restrictions to be placed on the property requiring adherence to approved affordability plan.~~

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.

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. 1813, 8/21/95)

Sec. 30.57. - Commercial buildings in residential districts.

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

Sec. 30.58. - Townhouses.

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

(Ord. 1798, 12/19/94)

Sec. 30.59. - Landscaping regulations.

- A. Purpose. The purpose of the ordinance codified in this section is to set forth minimum landscaping requirements for new or altered commercial, industrial, R-III and RMO Zones in order to minimize the visual impact upon public rights-of-way and incompatible uses in said zones and adjacent or abutting R-I or R-II Zones as well as establishing minimum buffering requirements between new or altered commercial, industrial, R-III and RMO Zones and existing incompatible uses and abutting or adjacent R-I or R-II zones and to lessen the impact of lighting.
- B. Definitions. For the purposes of this section, the following definitions shall apply:
 - 1. "Ornamental tree" means any variety of tree which is not expected, at maturity, to reach a height of fifteen (15) or more feet nor be a substantial provider of shade.
 - 2. "Shade tree" means any variety of tree which is expected, at maturity, to be in excess of twenty-five (25) feet in height and sufficiently full in form to provide substantial shading effects.
 - 3. "DBH" means diameter at breast height.
- C. Prohibition. No land shall be used or occupied and no structure shall be designed, erected, used, occupied or altered where a building permit is required, nor shall any variance or special exception be granted, except in conformity with the regulations established in this section.
- D. General Landscaping Requirements. Landscaping shall be required as follows:
 - 1. Parking or Storage Areas. Screening, in the form of trees, hedges or other vegetation shall be required between commercial, industrial and multi-family parking and/or storage areas and any public right-of-way. Such screening shall be entirely on private property, shall be a minimum of four (4) feet in height, and shall not constitute a safety hazard for vehicular or pedestrian movement as defined in Section 30.52 of the Livingston Municipal Code. Decorative walls or fencing or earthen berms may also be used in combination with vegetative screening subject to review and approval of the City.
 - 2. Requirements for the Interior of Parking Areas.
 - a. Option #1. Parking areas will be designed so that parking rows will consist of not more than ten (10) automobiles. Any parking area which has a capacity of twenty (20) or more automobiles will be required to provide landscaped islands between parking rows. The island(s) will be at least five (5) feet wide and shall consist of vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof. The island(s) will be separated from the parking surface by a curb of at least six (6) inches in height.
 - b. Option #2. In the alternative, where parking rows are to consist of more than ten (10) parking spaces, landscaped islands will be provided in accordance with an approved landscape plan.

The plan will provide for landscaped area equal to a minimum of five (5) percent of the gross parking space area. (i.e., 1 parking space = 180 square feet. Landscape requirement = 5% x 180 x number of spaces.) When using this option at least two (2) islands will be required and each island must be a minimum size of fifty (50) square feet. Each island will contain vegetation or other landscape treatment as well as a minimum of one (1) shade tree per every ten (10) parking spaces or portion thereof.

3. Buffering Required Between Different Land Uses. Where commercial, industrial, multi-family or mobile home park land uses abut or are adjacent to lower density residential land uses or zones, either directly or when separated by an alley or street right-of-way or other natural or manmade structure, the commercial, industrial, multi-family or mobile home park use will provide a landscaped buffer zone screening itself from the lower density residential use.
 - a. Buffer Zone. The buffer zone shall be a minimum of five (5) feet in width with an additional five (5) feet required for each story of the commercial, industrial or multi-family use above one (1) story, not to exceed twenty-five (25) feet in width.
 - b. Screening. Screening shall be installed within the buffer zone which shall consist of vegetation or vegetation and a combination of berm, fencing or masonry walls to a minimum height of six (6) feet in a manner which does not create a safety hazard for vehicular or pedestrian movement or interfere with the requirements of Section 30-52(B) of the Livingston Municipal Code.
- c. Shade Trees. In addition, a minimum of one (1) shade tree within each two hundred fifty (250) square feet of buffer zone shall be required. Shade trees required hereunder shall be a minimum of two and one-half (2 ½) inches, DBH, in size at the time of planting.
- E. Purpose of Lighting Restrictions. The goal in regulating exterior illumination is to direct, to the maximum extent possible, all artificial light onto the property from which it originates. This section does not apply to street lighting provided by a governmental agency.
 1. Parking or Storage Area. In any area required to buffer itself from adjacent land uses, all exterior lighting shall be limited in height to no more than sixteen (16) feet and will be required to be of a design which directs light downward through the use of a directional shade.
 2. Signs and Decorative Lighting. In commercial and industrial areas adjacent to any land use from which it must be buffered, the following lighting regulations shall apply:
 - a. Internally Illuminated Signs. Internally illuminated signs shall not exceed sixteen (16) feet in height. Internally illuminated canopies or structural panels are prohibited. Alternately, spot-lit signs, canopies or panels may be approved at standard heights if they will not adversely effect neighboring property which determination rests with the discretion of the city planning office, subject to appeal to the Board of Adjustment.
- F. Penalty. A violation of this section is a misdemeanor punishable by fine not to exceed five hundred dollars (\$500.00). Each day that a violation is allowed to continue shall be deemed a separate and punishable offense.

(Ord. 1852, 4/21/97)

Section 30.60.- Sexually oriented businesses.

No sexually oriented business shall be operated or maintained within the corporate limits of the City of Livingston except within the Industrial Zone with the further limitation that no sexually oriented business shall be front on Park Street and shall be set back from Bennett Street a minimum distance of two hundred fifty (250) feet. No sexually oriented business shall be operated or maintained within six hundred (600) feet of either a City or County residential zone, a church, an elementary or high school, a State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business. The distance limitation in this section shall be measured in a straight line from the main public entrance of said sexually oriented business to the property line of properties in residentially zoned districts, churches,

elementary or high schools, State-licensed day care facilities, public libraries, parks or playgrounds, or another sexually oriented business.

Sec. 30.61. - Wind powered generators.

A. Definitions.

1. "Wind Powered Generator(s)" or "WPG" means any device, such as a wind charger, wind mill, or wind turbine, and associated facilities including the support structure of the system, such as a tower, that covers wind energy to electrical energy which has been certified to conform to applicable industry standards by a nationally recognized certifying organization such as Underwriters Laboratories or similar certifying organization.
2. "Wind powered generator height" means the height of a freestanding WPG shall be measured from the ground level to the highest point on the WPG, including the vertical length of any extensions of the WPG, such as the blade.
3. "Tower", as used herein, includes the support structure and all components of the WPG.

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

1. The permit application shall be accompanied with a non-refundable fee in the amount of one hundred dollars (\$100.00).
2. The permit application shall contain a narrative describing the proposed project, the project location, the approximate generating capacity of the facility, a site plan, a photograph of the same type of wind powered generator being proposed and whether the system will be standalone or interconnected to a public utility under the provisions of 69-8-601 et seq. Montana Code Annotated.

C. Maximum Height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or less is limited to sixty (60) feet in height. The maximum height of a freestanding WPG, on any parcel, or combination of parcels thereof, having a total square footage of one (1) acre or more is limited to one hundred (100) feet in height.

1. The Board of Adjustment may increase the height of freestanding WPG, provided that in the residential and commercial, districts such increase shall not exceed the maximum height by more than fifty (50) percent. The applicant shall demonstrate, to the Board of Adjustment's satisfaction, that the surrounding topography, structures, vegetation, and other factors make a tower that complies with the height restrictions impractical.
2. Notwithstanding the height limitations of the zoning district, building mounted WPG shall be permitted in all zoning districts, subject to approval by the Board of Adjustment, and shall comply with the following standards:
 - a. Building mounted WPG shall not exceed fifteen (15) feet in height.
 - b. Building mounted WPG shall be prohibited on residential structures less than four (4) stories and forty-two (42) feet in height.
 - c. On nonresidential buildings less than four (4) stories and forty-two (42) feet in height, building mounted WPG shall be setback at least ten (10) feet from the front, side, and rear exterior walls of the structure on which it will be mounted.
 - d. Building mounted WPG shall be installed on the top story.
 - e. The structure upon which the proposed WPG is to be mounted shall have the structural integrity to carry the weight and wind loads of the WPG and have minimal vibration impacts on the structure, as determined by a structural engineer.

3. Minimum ground clearance. The blade tip of any WPG shall, at its lowest point, have ground clearance of no less than fifteen (15) feet.
- D. Minimum Setback. Minimum setback from any property line shall be one hundred (100) percent of the total tower height, as defined herein and no guy wire may extend closer than thirty (30) feet from any property line. No part of the wind generator shall extend over, or across, any part of a public right-of-way.
- E. Noise Standard, Shadow Flicker and Signal Interference:
1. Any noise produced by a WPG, permitted under this Section, shall be less than sixty (60) db as measured from the closest neighboring occupied building; and it is incumbent upon the applicant to demonstrate compliance prior to the issuance of any permits by the Board of Adjustment.
 2. The facility owner and operator shall make reasonable efforts to minimize shadow flicker to any occupied building not on the property upon which the WPG is located.
 3. The applicant shall make reasonable efforts to avoid any disruption or loss of radio, telephone, television or similar signals, and shall mitigate any harm caused by the wind powered generators.
- F. Fencing Requirement and Warnings. All WPG installations, other than single-pole towers, shall be enclosed by a fence with locking gate, or incorporate other effective measures to discourage unauthorized climbing of the tower. Towers shall not be climbable up to fifteen (15) feet above ground surface. A visible warning sign concerning voltage must be placed at the base of all towers. Reflective and brightly colored tubing shall be placed on guy wires up to a height of ten (10) feet from the ground.
- G. Control and Brakes. All wind powered generators shall be equipped with a redundant braking system. This includes both aerodynamic overspeed controls (including variable pitch, tip and other similar systems) and mechanical brakes. Mechanical brakes shall be operated in a fail-safe mode. Stall regulation shall not be considered a sufficient braking system for overspeed protection.
- H. Liability insurance: Construction Phase. There shall be maintained a current general liability policy covering bodily injury and property damage with limits of at least one million dollars (\$1,000,000.00) per occurrence and one million dollars (\$1,000,000.00) in the aggregate. Certificates of insurance shall be filed with the City of Livingston who will also be named as an additional insured.
- I. Aesthetics. WPG colors shall be of neutral subdued tones such as each tones or green or brown. Gray, including darkening galvanized gray, is also acceptable. If constructed on top of structure and visible from the ground, the WPG colors shall be a shade of sky blue. WPG shall not be finished in bright or vivid colors intended to draw attention to the structure or property. WPG shall not be illuminated by artificial means, except where required by the Federal Aviation Administration, or other federal, state, or local law.
1. All permitted WPG shall be placed in a reasonably available location that will minimize the visual impact on the surrounding area, and allow the facility to function in accordance with the standards established by this Section, and all other federal, state, and local law.
 2. Wind towers shall not display any advertising, except for reasonable identification of the manufacturer and facility owner/operator, not to exceed one (1) square foot in size.
- J. Building, Electrical, Other Permits. All WPG shall comply with all applicable building, electrical, mechanical, and other permits required and issued by the City of Livingston, the State of Montana and/or federal regulations. This is to include any approvals required from the Historic Preservation Commission, or other local entity.
- K. Technological Obsolescence. If an applicant can demonstrate, to the satisfaction of the Board of Adjustment, that improvements in WPG technology have made some parts of this Section, and requirements, obsolete or unnecessary, the Board of Adjustment may waive those requirements while still satisfying the original intent and application of this Section. Once every two (2) years, the City shall review existing WPG technology for comparison to this Section, to be sure technological improvements are addressed.

- L. Requirements for Removal. Any WPG that is abandoned, damaged, inoperable, or unused for power generation shall be removed within twelve (12) months of the cessation of operations, unless an extension is approved by the Board of Adjustment. If such an extension is not approved, such WPG shall be deemed a nuisance and require its removal at the property owner's expense. After the WPG removal, the owner of the site shall restore the site to its original, or an improved, condition.
- M. Application of Nuisance Law. If, after a Special Exception permit is issued, by the Board of Adjustment for a WPG, and the same WPG fails to comply with any part of this Section, it may 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— Ord. No. 2002, § 1, adopted Aug. 4, 2008, amended Ch. 30 with the addition of a new, unnumbered section. Said section has been numbered § 30.61 at the discretion of the editor.

Effective date:

This ordinance will become effective 30 days after the second reading and final adoption.

PASSED by the City Commission of the City of Livingston, Montana, on first reading at a regular session thereof held on the 17th day of August, 2021.

DOREL HOGLUND – Chair

ATTEST:

FAITH KINNICK
Recording Secretary

PASSED ADOPTED, AND APPROVED by the City Commission of the City of Livingston, Montana, on second reading at a regular session thereof held on the 21st day of September, 2021.

DOREL HOGLUND – Chair

ATTEST:

APPROVED AS TO FORM:

FAITH KINNICK
Recording Secretary

COURTNEY LAWELLIN
City Attorney