

Report to City Commission

Livingston Planning Board

Approved unanimously by Planning Board on December 18, 2019

Re: Interim regulation for Large Retail Establishments.

Executive Summary

The City Commission recently requested the Planning Board investigate moratoria tools for Large Retail Establishments (LRE) until the upcoming Growth Policy provides professional guidance on development of comprehensive LRE ordinances.

The Planning Board considered the issue and concluded that 1. no current protections are in place, 2. interim regulations are warranted, and 3. regulations offering reasonable protections can be implemented relatively quickly.

Our recommendation is the following:

New retail establishments with square footage greater than 20,000 square feet, in any zone allowing retail establishments, shall require a conditional use permit approved by the City Commission.

Background Information

1. This recommendation allows for large retail stores, but ensures the development is properly reviewed to maintain consistency with Livingston's community character.
2. This recommendation is consistent with, but less restrictive than, the LRE policy recommendation approved by the Joint Planning Board / Zoning Commission in December, 2018 (attached at the end of this report).
3. Additional considerations might include building and landscaping design guidelines.
4. As a practical example in action, Great Falls has a very good conditional use permitting process.

Process → send to Zoning Commission

The recommended interim regulations are legally the jurisdiction of zoning ordinances and thus, if desired by the City Commission, should be formally considered by the Zoning Commission.

The recommended process is:

1. Planning Board sends recommendation to City Commission.
2. City Commission considers recommendation, and decides if and how they would like to proceed. Possible actions are:
 - a. Send this recommendation to Zoning Commission for consideration, as proposed here.
 - b. Reject recommendation, but send issue to Zoning Commission for further study.
 - c. Accept recommendation immediately and proceed with drafting ordinances (not recommended).
 - d. Reject recommendation and table issue indefinitely (not recommended).
3. If Zoning Commission is directed to investigate, then they will provide a recommendation to the City Commission.
4. City Commission considers recommendation, and decides if and how they would like to proceed. Possible actions are similar to 2. above.

Appendix: Report to City Commission

Livingston Planning Board

Approved unanimously by Planning Board on December 12, 2018

Re: Policy recommendations for large format retail establishments.

Executive Summary

A few recent events suggest in the near future we will face increased development pressures from large retail establishments. Livingston currently lacks land-use policies regulating these developments, and we need such policies to protect Livingston.

We recommend the city develop and adopt ordinances regulating large format retail establishments.

Recommended process:

- 1. City Commission accepts this report and approves Planning Board's effort to produce LFR regulations.*
- 2. Public meeting by Planning Board, to solicit feedback from community.*
- 3. Planning Board incorporates public feedback into policy recommendation to City Commission.*
- 4. Review and adoption by City Commission.*
- 5. If approved, the City Commission would direct the administration to develop draft LFR ordinances.*
- 6. Review and adoption by City Commission. This can include further review by the Planning Board, if desired.*

Acronym: LFR - "Large Format Retail"

General Summary

The purpose of this document is to establish general development standards for LFR developments. These standards are intended to ensure that large retail and commercial service developments are properly located and are compatible with the surrounding area and the overall community character of Livingston.

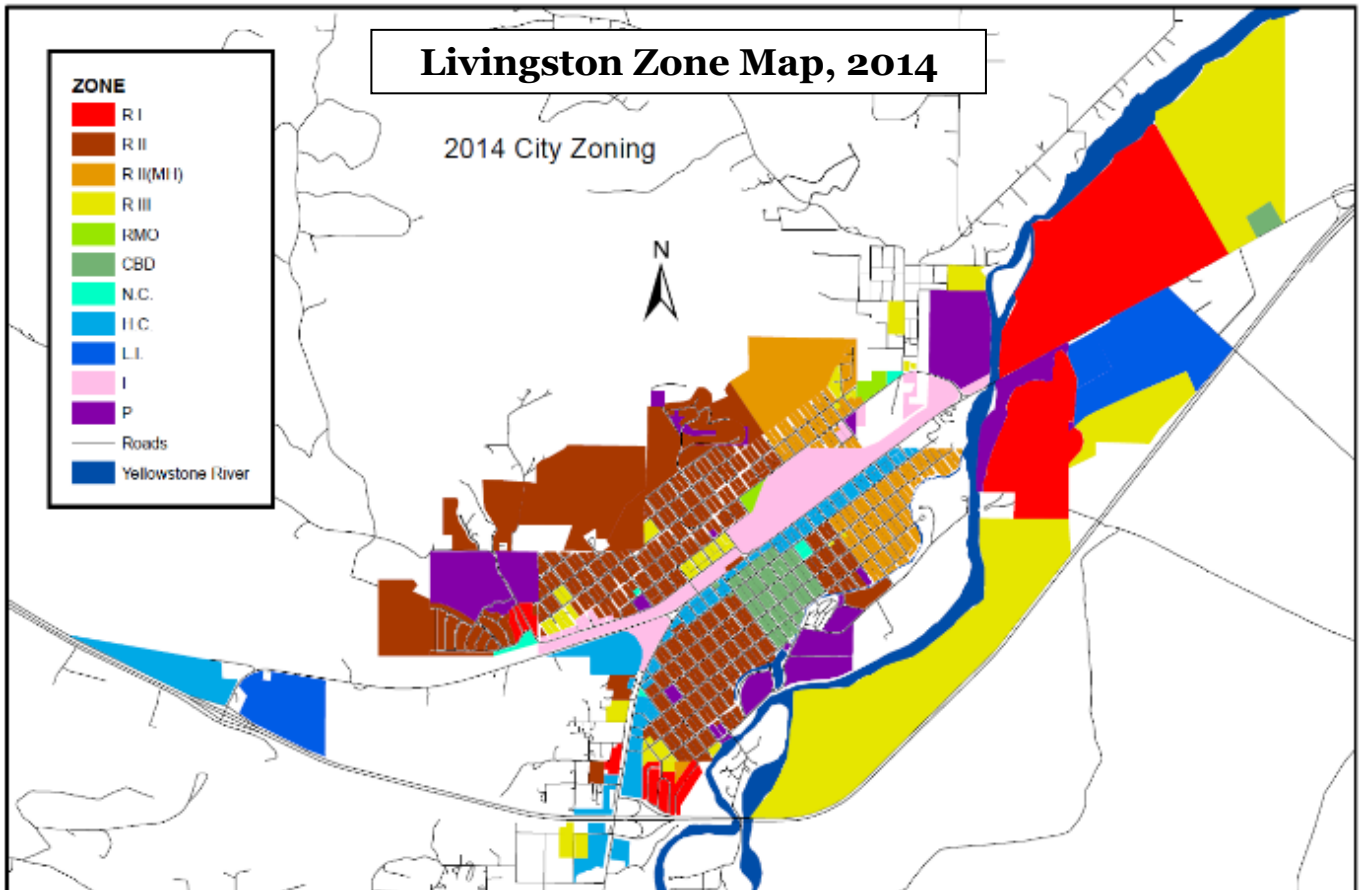
These standards are also intended to be used as guidelines for evaluating and assessing the quality and design of proposed LFR developments. It is expected that the quality and design of the large scale retail developments, while not necessarily complying with the exact standards of this article, will meet or exceed the intent behind these standards.

Recently, two LFR establishments (Murdoch's and Tractor Supply) have expressed interest in developing stores in Livingston, and one has successfully built a facility (Murdoch's). The episode with Love's Truck Stop in 2015 is another piece of evidence suggesting that in the future, large corporations will have a pecuniary and not necessarily compassionate interest in Livingston.

Below are specific policy recommendations for regulating LFR developments. These recommendations come from studying ordinances in municipalities across Montana and the US, as well as articles analyzing the effects of LFR on neighborhoods and local businesses. Additionally, the Planning Board held a public listening session on April 11, 2018, which was attended by 13 people. Most of the attendee's comments reflected a desire to maintain Livingston's unique small-town feel and protect our local economy. For more information see the list of references at the end of this document.

Specific policy recommendations

1. Zoning



Land-use definition:

Large format retail

An area of land comprising one or more contiguous parcels or building sites engaged primarily in retail sales and/or commercial services, the area of which is subject to a coordinated plan of building placement where the cumulative area that will be engaged in retail sales and/or commercial services exceeds 20,000 square feet of gross floor area, including indoor, outdoor, display, and enclosed storage areas.

LFR development shall require a conditional use permit and become subject to the requirements of this policy.

LFR should be allowed in the following zones:

- Central Business District (CBD)
- Light Industrial (LI)
- Industrial (I)

Special zones can be created, or the current zoning table altered to allow LFR in existing zones, but this can be accomplished in the future if necessary. For now, it is best to limit LFR to the downtown where they can play a beneficial role in our local economy.

2. Size restrictions

- Nothing larger than 40,000 square feet footprint allowed within city limits.
- LFR Review Process initiated at 20,000 square feet.
- Outdoor sales areas are considered part of the gross floor area of the retail store.

3. Site Plan

- Require a site plan be submitted with the application for development permit at time of submission.

4. Design standards

- Building conditions (use existing guidelines as starting point)
- Signage conditions
- Night-sky friendly
- Placement of bicycle, pedestrian, and transit facilities
- Green space requirements in large parking lots

5. Impact assessments

- Require impact assessments, conducted by consultant of city's choosing, paid for by developer.
 - ♦ Include the language "Applicant bears all cost of impact studies" in legislation.

- Include region-wide analysis.
- Consider a 10- to 20-year horizon.
- Require the impact assessments be submitted with the application for development permit at time of submission.
- If officials determine the store's cost outweigh its benefits, then the permit can be denied.

Impact assessment topics

- Traffic (Transportation Demand Management Report)
 - ♦ Require new development to have a level-of-service of B or C.
- Environment
- Economic
 - ♦ Downtown business district
 - ♦ County
 - ♦ Regional
- Municipal services
- Tax revenue
- Employment
- Scenic and historic resources
- Town character
- Development of surrounding neighborhoods

6. Vacancy conditions

- Require funds set aside to cover demolition costs in case of vacancy.
 - ♦ \$0.20 per square foot, or cost of complete demolition
 - ♦ Hold landowner responsible, if different from retailer
 - ♦ Use funds if retailer does not provide plan for removal or reuse
 - ♦ Funds can also be used to help find tenants for vacated store

7. Intergovernmental agreements

- Work with county government to enact similar laws in regions adjacent to city

References

Large Scale Retail Development, OKI's Community Choices (2007).

J. Evans-Cowley, Meeting the Big-Box Challenge, American Planning Association (2006).

B. Denzin and E.E. Hupp, *Big-Box Ordinance Tool-Kit*, Midwest Environmental Advocates (2006).

C. Beaumont and L. Tucker, *Big-Box Sprawl*, International Municipal Lawyers Association (2002).

S. Mitchell, *Protecting Locally Owned Retail*, Main Street News **204** (2004).

Example Policies

Bozeman, MT

Section 38.360.150, Large Scale Retail

https://library.municode.com/mt/bozeman/codes/code_of_ordinances?nodeId=PTIICOOR_CH38UNDECO_ART3ZODILAUS_DIV38.360INSUUSCR_S38.360.150LAALRESILIDESIDEGURE

Stoughton, WI

Section 78.205.11, Large Scale Retail

https://library.municode.com/wi/stoughton/codes/code_of_ordinances?nodeId=MUCO_CH78ZO_ARTIILAUSRE_S78-205REAPALLAUS

Fort Collins, CO

Design Standards and Guidelines for Large Retail Establishments

<https://www.fcgov.com/planning/pdf/large-retail-doc.pdf>

3.5.4 Large Retail Establishments

https://library.municode.com/co/fort_collins/codes/land_use?nodeId=ART3GEDEST_DIV3.5BUST_3.5.4LAREES

Madison, WI

Chapter 33.24.4(f), Large Retail Developments

https://library.municode.com/wi/madison/codes/code_of_ordinances?nodeId=COORMAWIVOIVCH32--45_CH33BOCOCO_33.24URDECO

Peachtree, Georgia

Code of Ordinances, Sec. 1006

Discusses impact of large format retail, and requirements for conditional use permits.

https://library.municode.com/ga/peachtree_city/codes/code_of_ordinances?nodeId=PTIICOOR_APXAZO_ARTXREDI_S1006GCGECODI

Queen Creek, AZ

Section DS.6 (page 15), *Non-residential Standards*. Provides design standards for community spaces, pedestrian access, public art, and more. Not entirely applicable to Livingston, but good examples of the potential scope for design guidelines.

<https://www.queencreek.org/home/showdocument?id=25002>

Santa Fe, New Mexico

Section 14-8.8 Regulations for retail establishments larger than 30,000 square feet.

https://library.municode.com/nm/santa_fe/codes/code_of_ordinances?nodeId=CH14LADE_ART14-8DEDEST_14-8.8SURERESTHTHGRSQFELA

Toledo, OH

Section 1109.03, Design standards for large scale retail projects.

[http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/toledomunicipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=a_mlegal:toledo_oh](http://library.amlegal.com/nxt/gateway.dll/Ohio/toledo/toledomunicipalcode?f=templates$fn=default.htm$3.0$vid=a_mlegal:toledo_oh)