

CHAPTER 17.12

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CHAPTER 17.12

GENERAL LAND USE STANDARDS AND REQUIREMENTS

17.12.010 GENERAL STANDARDS

- A. Conformance. The design and development of land uses shall conform to this title, the Growth Policy, any relevant adopted plan, and other resolutions and regulations, including any and all amendments thereto.
- B. Land Unsuitable for Development. Land which the Planning Board, Zoning Commission and City Council have found to be unsuitable for development because of potential hazards such as flooding, landslides, excessive slope, rock falls, subsidence, high water table, presence of wetlands, or because of unreasonable burdens on the general public such as requirements for the excessive expenditure of public funds, environmental degradation, or congestion in the streets or roads, shall not be used for building or residential purposes unless the hazards of excessive public burdens are eliminated or will be overcome by appropriate design and construction plans. Slopes of 25 percent or greater shall be presumed unbuildable unless proven otherwise by the developer. Land located on an established earthquake line may be presumed unbuildable unless proven otherwise by the developer.

Enc Ord 433 December 5, 2012

17.12.020 LOT

- A. Dimensions and Orientation. Lot size and orientation shall be appropriate for the location and contemplated use of the lot. In residential districts, a variety of lot sizes shall be provided to facilitate housing diversity and choice, and meet the requirements of people with different housing needs. Each lot shall contain a satisfactory building site adequate for the use permitted in its zoning district. Each lot shall conform to this title, the Growth Policy, any other relevant plans officially adopted, and to any other applicable regulations.
- B. Corner Lots. Corner lots shall have sufficient width to permit appropriate building setbacks from both streets and provide acceptable visibility for safety of traffic.
- C. Width. Lots shall have a width sufficient to allow normal construction without the construction encroaching on property lines, and shall comply with the building setback requirements of this title.
- D. Depth. Lots shall not have a depth greater than three times its width.
- E. Side Lot Lines. Side lot lines shall be substantially right angles to street or road lines and radial to curved street or road lines.
- F. Frontage. Every principal building hereafter erected or moved shall have access to a public street or an approved private street. Alleys may not be used to provide primary access to a lot.
- G. Civic Uses. Lots may be reserved or identified for civic uses by resolution of the City Council.

H. Exemption. Lots used for accessory uses (i.e., storm-water management, open space, utilities) are exempt from the provisions of this section 17.12.020.

Enc Ord 433 December 5, 2012

17.12.030 ACCESSORY BUILDING, USES AND EQUIPMENT

- A. An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a common wall for not less than five(5) feet.
- B. Accessory buildings, garages, and swimming pools shall not be stored or constructed between the front lot line and required front building line or within the side lot line or side building line.
- C. Accessory buildings and garages shall not be located within a utility easement without written approval of the easement holder.
- D. Accessory buildings in any commercial or industrial district may be located only to the rear of the front line of the principal building.
- E. No accessory building shall exceed the footprint of the principal building unless such accessory building has been otherwise approved under this title. The height of an accessory building between finished floor to finished floor shall not exceed 12 feet in residential districts. A greater height between finished floors may be approved in non-residential districts if the other requirements of this title are met; and an accessory building shall not:
 - 1. Exceed the height of the principal building unless such accessory building has been otherwise approved under this title; or
 - 2. Within a residential district, exceed a height of one and a half stories, where a half story is established by a side wall, under a sloped roof, of three feet in height or less above the floor level within space allowed to be occupied by persons by applicable law.

Enc Ord 433 December 5, 2012

17.12.040 ANIMALS, DOMESTIC AND HOUSEHOLD PETS

Domestic and Household Pets are permitted in all districts.

Enc Ord 433 December 5, 2012

17.12.050 ANIMALS, AGRICULTURAL

All animals are permitted in all areas designated as agricultural activities.

Enc Ord 433 December 5, 2012

17.12.060 AREA REQUIREMENTS FOR INDIVIDUAL BUILDINGS

No part of any yard, or other open space, or off-street parking or loading space required about or in connection with any building for the purpose of complying with this title, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building except provided in 17.48, Parking.

Enc Ord 433 December 5, 2012

17.12.070 YARDS AND LOTS REDUCTION PROHIBITED

No yard or lot existing at the time of the effective date of the ordinance shall be reduced in dimension or area below the minimum requirements except as set forth herein. Yards or lots created after the effective date of the Ordinance shall meet at least the minimum requirements established by this title.

Enc Ord 433 December 5, 2012

17.12.080 USE OF LANDS – BUILDING AND STRUCTURES

- A. Only Uses Specifically Identified by This Title to be Built. No building or part thereof shall be erected, altered or enlarged for a use, nor shall any existing building or part thereof, or land, be used for a purpose or in a manner, that is not in conformity with the uses listed as permitted uses for the district in which such buildings, structure or land is situated. In addition, any land, building or structure to be erected or used for a purpose listed as a conditional use in such district shall first be reviewed by the Administrative Official and Zoning Commission who shall submit a report to the City Council. Existing nonconforming uses and structures shall be governed by Chapter 17.20, Nonconforming Situations.
- B. No building, or part thereof, shall be erected, nor shall any existing building be altered, enlarged or rebuilt, or moved into any district , nor shall any open space be encroached upon or reduced in any manner, except in conformity to the yard and setback regulations designed for the district in which such building or open space is located, except as otherwise provided in this title.
- C. Quonset hut type of structures of any type of material are not permitted in any district except upon approval of a Conditional Use Permit in M-1 or M-2 districts with specific conditions.
- D. Recreational Vehicle Parking on Residential Lot. Except as provided in D.1 and D.4 of this section, no person may occupy any recreational vehicle or mobile home on a lot located outside an approved manufactured home community or recreational vehicle park. The parking of one unoccupied recreational vehicle in any accessory private garage, access driveway, side-yard, or in a rear yard in any district is permitted, provided no living quarters shall be maintained or any business practiced in recreational vehicle so parked or stored. An unoccupied recreational vehicle may be parked or stored on a side yard provided that there is a space of 10 feet from the property line to the outside of the recreational vehicle so as to not interfere with pedestrians or vehicle traffic for public safety. Recreational vehicles may not be parked on intersection side-yards at any time.
 - 1. Temporary Use on Residential Premises. Recreational vehicles may be used for house guests for no longer than a continuous fourteen (14) day period of time while parked on a lot located outside a manufactured home community.
 - 2. Parking on Public Streets. For the public safety and general welfare of the community, recreational vehicles, mobile homes, snowmobiles and trailers, boats and boat trailers, travel trailers, camp trailers, pickup camper tops, tent trailers or any motorized or non-motorized trailer of any description, operable or non-operable shall be parked on the occupied lot and not on public streets to clear

streets from congestion that impacts vehicle circulation and emergency vehicle ingress and egress.

Provided, however, a unit described herein may be parked on a street for a period not to exceed five (5) consecutive days but the unit should be parked in front of the owner's occupied building so as to avoid additional congestion in the neighborhood. At no time shall such a unit be parked or placed in the sight vision triangle at intersections.

3. No vehicle over 26,000 lbs. can be parked in a residential district except for the time required to make deliveries or provide services to a location.
4. In the event of hardship, temporary use permits may be granted for occupying such recreational vehicles motor homes or house trailers.

Enc Ord 433 December 5, 2012

17.12.090 DWELLING UNIT RESTRICTIONS

- A. No Use of Unfinished Structures. No cellar, garage, tent, tepee, yurt, basement with unfinished structure above, accessory building, or vehicle or any manufactured home or recreational vehicle outside of an approved manufactured home community, recreational vehicle park, or approved individual lot, shall at any time be used as a dwelling unit, unless approved for the use as a temporary dwelling unit under 17.16, Standards for Specific Uses of this title.
- B. Manufactured Homes. Manufactured homes that are manufactured after June 15, 1976, and comply with the National Manufacturing Housing Construction and Safety Standards Act of 1974 and bear the insignia which attests that the construction meets regulation A 119.1 of the American National Standards Institute are permitted under this title.
- C. Nothing in this title shall be deemed to prevent the strengthening or restoring to a safe condition of a mobile home or part thereof declared to be unsafe for occupancy by the Administrative Official and/or Fire Marshall/Fire Chief.
- D. An abandoned, burned or wrecked manufactured home or mobile home must be secured immediately against entry as directed by the Fire Marshall/Fire Chief and/or Administrative Official and may not be kept on a lot for more than forty-five (45) days.
- E. In a district where mobile homes are not allowed, following the effective date of this title, the following provisions shall apply:
 1. A mobile home built prior to 1976 shall not be enlarged or altered in a way which increases its nonconformity.
 2. Should a mobile home built prior to 1976 be damaged to an extent rendering it uninhabitable, it shall be removed within forty-five (45) days and any new structure must be conforming.
 3. Any mobile home declared to be unsafe by the Administrative Official and/or Fire Marshall/Fire Chief shall not be moved to any site within the City.
- F. Mechanical Equipment Screening.

1. Rooftop mechanical equipment which does not include solar or wind energy collection devices must be screened with the screening incorporated into the roof form.
2. Ground mounted mechanical equipment shall be screened from public right-of-way with walls, fencing or evergreen plant materials. Mechanical equipment shall not encroach into required setbacks.

G. Detached Structures Setback Requirements.

1. Accessory structures less than or equal to 120 square feet in footprint shall not be located in any front, side, or corner-side yard and shall maintain a minimum setback of five (5) feet in the rear yard.
2. Accessory structures greater than 120 square feet but less than or equal to 600 square feet in footprint shall not be located in any corner-side yard. The accessory structure shall maintain a minimum setback of either six (6) feet, or when parking is provided between the structure and the rear property line, twenty-five (25) feet except when required parking spaces need a greater setback for back-up maneuverability.
3. Accessory structures greater than 600 square feet in footprint shall not be located in any required front, or side yard and shall provide adequate back maneuverability for required parking spaces.

H. Accessory structures may occupy not more than twenty (20) percent of the area of the lot located to the rear of the principal building(s).

I. All structures located within the historic overlay district require a Certificate of Appropriateness.

J. More than two zoning variances shall not be granted for any accessory structure.

Enc Ord 433 December 5, 2012, Revised Ord 446 March 23, 2016, Revised Ord 448 October 11, 2016

17.12.100 YARD AND HEIGHT ENCROACHMENTS, LIMITATIONS AND EXCEPTIONS

A. Permitted Encroachments Into Yards. The following shall be permitted encroachments into required yards, subject to the International Building Code requirements:

1. Architectural features, which do not add usable area to a structure, such as chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, eaves, gutters, cornices, awnings, window wells and steps, provided such architectural features do not extend more than five (5) feet into any required front or rear yard or two (2) feet into any required side yard;
2. Terraces and patios, uncovered decks and stoops or similar features, provided that such features shall not extend above the height of the ground floor level of the principal structure nor more than five (5) feet into any required front or rear yard or two (2) feet into any required side yard;

3. Where porches, covered terraces and covered decks occupy not more than one-third of the length of the building wall, excluding the width of the garage if applicable they may encroach:
 - a. where the required front yard is greater than fifteen (15) feet, not more than five (5) feet into any required front yard,
 - b. not more than five (5) feet into a required rear yard, and
 - c. not more than two (2) feet into any required side yard.
 4. Fire escapes may be permitted in required side or rear yards only;
 5. Wheelchair ramps may encroach into any required yard, but shall not be located closer than three (3) feet from any property line; and
 6. Flag poles, ornamental features, trees, shrubs, walkways, and nameplate signs may be located within a required yard provided that they comply with street vision triangle requirements.
- B. Zero Lot Line Conditions. In districts where zero side yard setbacks are not otherwise allowed, where an individual owns two or more adjoining lots, or where the owners of two or more adjoining lots enter into an enforceable written agreement, recorded at the Beaverhead County Clerk and Recorder, a zero lot line concept may be used for commercial or single-household dwelling unit developments. In residential districts this may result in the creation of a two-household residential structure, only in those districts permitting such a structure, or the creation of townhouse clusters in districts permitting such structures. In all such cases in residential districts, a minimum ten (10) foot side yard shall be maintained adjacent to the exterior side, or nonzero line side, of the structure.
- C. Special Yard Setbacks. Where the required setback is greater than fifteen (15) feet, the corner side yard for any corner lot not located on an arterial street may be fifteen (15) feet. However, where the vehicular access to a garage is located on the frontage of the corner side yard, the portion accessible to vehicles shall maintain at least a twenty (20) foot setback.
- D. Street Vision Triangle.
1. For public safety, on corner lots in all districts, nothing shall be erected, placed, planted or allowed to grow in excess of thirty-six (36) inches above the street centerline grade within a triangular area defined as follows: beginning at the intersection of the projected curb lines of two intersecting streets, thence a prescribed distance along one curb line, thence diagonally to the point located the same distance from the point of beginning on the other curb-line, then to the point of beginning. Prescribed distances are:
 1. Collector and local intersections thirty (30) feet
 2. Arterial intersections fifty (50) feet
 3. Intersections to State Highways and County Roads, fifty (50) feet

See Figure 17.12.100.D.1 in Appendix One for an illustration of this requirement.

2. Driveways and Alleys. At the intersection of each driveway or alley with a street, nothing shall be erected, placed, planted, or allowed to grow in excess of thirty-six (36) inches above the street centerline grade within a triangular area with corners defined by two points on the street right-of-way. Fifteen (15) feet of each side of the centerline of the driveway or alley and a point on centerline ten (10) feet inside the right-of-way. Any driveway or alley wider than thirty (30) feet curb to curb at the right-of-way line shall use the vision triangle standard for local streets when intersecting local, collector, or arterial streets.

See Figure 17.12.100.D.2 in Appendix One for an illustration of this requirement.

E. Building Height Definition

The vertical distance is measured from grade as defined in this section to the highest point on the roof or parapet wall. Where a building utilizes multiple roof styles or pitches, the highest point of each roof or parapet wall shall be in conformance with the applicable height regulations as established for the respective roof pitches in each district. Where the vertical difference between grade as defined in this section is greater than two (2) feet between opposite elevations of the building, the height of the building may be increased by one (1) foot for every one (1) foot of grade difference up to maximum of six (6) additional feet.

F. Height Limitation Exceptions.

1. Non-Specific Exceptions. No building, or part thereof, or structure shall be erected, reconstructed or structurally altered to exceed in height the limit herein designated for the district in which such building is located, except as is specified in Chapter 17.12. Any approved exception must include the approval of the City Fire Marshall or Fire Chief.
2. Specific Exceptions.
 - a. Height limitations shall not apply to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles, public and private utility facilities; parapet walls extending no more than four (4) feet above the limiting height of the building except as hereinafter provided; amateur radio antennae; solar energy collectors; and building mounted horizontal and vertical axis wind energy collectors under fifteen (15) feet in height from the building mounting surface and equipment used for the mounting or operation of such collectors.
 - b. Places of public assembly in churches, schools and other permitted public buildings may exceed height limitations otherwise established by this title, provided that:
 1. That for each one (1) foot by which the height of such building exceeds the maximum height otherwise permitted in the district, its side and rear yards shall be increased in width or depth by an additional one (1) foot over the side and rear yards required in the district.

- a. Elevator and stair penthouses, water tanks, monitors and scenery lofts are exempt from height limitations otherwise established in this title, provided that no linear dimension of any such structure exceed fifty (50) percent of the corresponding street frontage line.
- b. Towers and monuments, cooling towers, gas holders or other structures, where the manufacturing process requires a greater height, and grain elevators and silos are exempt from this title, providing that any structure above the height otherwise permitted in the district shall occupy no more than twenty-five (25) feet from every lot line.
- c. All plans will be reviewed by the Fire Marshall/Fire Chief and inspections will be done before construction completed.

Enc Ord 433 December 5, 2012, Revised Ord 446 March 23, 2016

17.12.110 RIDGELINES AND VIEWSHEDS

For the purpose of having structures blend more naturally into landscape rather than being a prominent focal point, ridgeline protection areas are established. These areas are defined in Chapter 17.108, Definitions, and are identified and designated based on topographic characteristics. The City of Dillon Ridgeline Map identifies areas with a high likelihood of meeting the standards of ridgelines.

- A. All structures located within a ridgeline protection area shall be set back from the ridgeline a distance not less than three (3) times its height above grade. The distance of the setback shall be measured perpendicular from the ridgeline.

Enc Ord 433 December 5, 2012

17.12.120 FENCES, WALLS, HEDGES

A permit is required prior to construction of any fence. Fences, walls and hedges in all districts shall meet the requirements of this section:

- A. Location and Height. Fences, walls and hedges, in any district may be located on lot lines provided such fences, walls and hedges comply with the following requirements:
 - 1. Visibility. For public safety nothing shall be erected, placed, parked, planted or allowed to grow in such a manner as to materially impede the vision sight triangle for traffic or pedestrian circulation on any city street or pedestrian walkway.
 - 2. Shall not exceed six (6) feet in height in any required rear or required side yard requirements of the district. Decorative post caps may exceed the height limit by no more than twelve (12) inches.
 - 3. A fence, wall or hedge in excess of six (6) feet in height (excluding post caps) in a residential district requires approval and a building permit before installation can start. At no time may a fence exceed including post caps exceed eight (8) feet except in a Commercial or Industrial area.

4. A fence, wall or hedge shall not exceed three (3) feet in any required front yard or any portion of a required corner side yard that is forward of the rear edge of the building façade nearest the corner side yard.
 5. Fences in an agricultural district shall be built adequate to retain stock animals for public safety.
- B. Construction and Maintenance. Every fence or wall shall be constructed in a substantial workman-like manner and of substantial material reasonably suited for the purpose for which the fence or wall is proposed to be used. Every fence or wall shall be maintained in a condition of reasonable repair and shall not be allowed to become and remain in a condition of disrepair, damage or unsightliness or constitute a public or private nuisance. Any such fence or wall which is, or has become dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect is a public nuisance and the City shall commence proper proceedings for the abatement thereof.
- C. Barbed Wire and Electric Fences.
1. No barbed wire or similar sharp fencing or electric fences shall be permitted except that barbed wire or other similar sharp fencing material may be used on the top of security fences in M-1 and M-2 districts or in agricultural operations.
 2. When electrically charged fences are used in a district, such fences shall be posted with warning signs at intervals not to exceed one hundred fifty (150) feet where such fences are adjacent to public right-of-way.
- D. Measuring Fence and Wall Height. In case of a fence erected on top of a retaining wall, the height shall be measured from the grade of the high side of the wall.
- E. Finished Side Out. Any fence or wall constructed so as to have only one elevation “finished” which shall be defined as not having its supporting members significantly visible, shall be erected such that the finished elevation of the fence is exposed to the street.
- F. Fencing of Utilities and Outdoor Storage Areas.
1. All utility substations, wells, storage facilities or other utilities shall be screened from view by a wall, fence, hedge or landscape screen.
 2. All storage for commercial operations shall be conducted within a completely enclosed building or within an area completely enclosed, except at access points, by a wall, fence, hedge or landscape screen at least six (6) feet in height.

Enc Ord 433 December 5, 2012

17.12.130 OFF-STREET LOADING BERTH REQUIREMENTS

- A. Affected Uses. Every hotel/motel with restaurant, conference center, department store, freight terminal or railroad yard, hospital or sanitarium, industrial plant, manufacturing establishment, retail establishment, storage warehouse or wholesale establishment, and all other structures devoted to similar mercantile or industrial pursuits, shall provide off-street truck loading or unloading berths in accordance with table.

Table 12-1

| Square Feet of Aggregate Gross Floor Area | Devoted to Such Use |
|---|---------------------|
| 15,000 square feet up to and including 45,000 | 1 |
| 45,000 square feet up | 2 |
| For each additional 100,000 square feet | 1 additional |

B. Standards for Off-Street Loading Facilities. All off-street loading facilities shall conform to the following standards

1. Such space may occupy all or any part of any required yard space, except front and exterior side yards, and shall not be located closer than fifty (50) feet to any lot in a residential district unless separated from such district, except at the accesses, by screening not less than eight (8) feet in height.
2. Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley, without traversing a residential district.
3. The loading area, aisles and access drives shall be paved so as to provide a durable, dustless surface and shall be so graded and drained so as to dispose of surface water without damage to private or public properties, streets or alleys.
4. No regular repair work or servicing of vehicles shall be conducted in a loading area.
5. Off-street loading facilities shall be located on the same site with the use for which the berths are required.
6. If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in this title for each use. If more than one use is located on a site, and the gross floor area is greater than the minimum for which loading berths are required, but the aggregate gross floor area is greater than the minimum or which loading berths are required, off-street loading berths shall be provided as if the aggregate gross floor area were used for the use requiring the greatest number of loading berths.
7. Establishments not requiring berths shall provide a paved area upon premises for deliveries and loading and unloading of light materials.
8. Off-street loading facilities for a single use shall not be considered as providing required off-street facilities for any other use.
9. At the time of initial occupancy, major alterations or enlargement of a lot or completion of construction of a structure or of a major alteration or enlargement of a structure, there shall be provided off-street loading berth requirements complying with this title. The number of loading berths provided for a major alteration or enlargement of a site or structure shall be in addition to the number existing prior to alteration or enlargement.

Enc Ord 433 December 5, 2012

17.12.140 TRASH AND GARBAGE ENCLOSURES

A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than single-household dwellings or duplexes. All other residential households including townhouses and condominium units shall provide a screened area for large containers in every district, except where a property is entirely surrounded by screen, wall or building. Other trash enclosures shall comply with the following regulations:

- A. Location. Trash enclosures, surrounding standard steel bins (dumpsters), shall be located on the site for convenient pickup service, and the location shall be shown on required use plans. Trash enclosures shall not be located in required front yards, and shall be situated so that containers can be pulled straight out of the enclosure or so the sanitation truck can back straight to it. The location of all trash enclosures shall be subject to review and approval by the City.
- B. Construction. Trash enclosures shall be constructed of solid or ornamental pierced masonry walls or other appropriate materials, with a solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall be less than four (4) feet in height above grade.
- C. Exception. A garbage enclosure is not required for containers or dumpsters accessed via an alley.

Enc Ord 433 December 5, 2012

17.12.150 STANDARDS FOR SPECIFIC IMPACTS AND ELEMENTS

- A. A Surface-Water Ponding. Natural pondings area shall be retained as much as possible or, if necessary enlarged or modified as directed by the City's stormwater drainage requirements.
- B. Trash and Garbage Incineration. No incineration of materials is permitted within the City.
- C. Smoke, Dust and Other Particulate Matter. The emission of smoke or other particulates from any point source shall not exceed a density greater than that permitted by applicable law, Dirt, dust, fly ash and other forms of particulate matter shall not be emitted beyond the property lines of the use creating the particulate matter.
- D. Bulk Storage (Liquid). All uses associated with bulk storage of all gasoline, liquid fertilizer, chemicals, flammable and similar liquids and biofuel production shall comply with the International Building and Fire Codes and are permitted uses only in specific districts.
- E. Water Quality, Hazardous Wastes and Wastewater. Discharge of hazardous waste, chemicals or wastewater will be subject to Montana Department of Environmental Quality standards and permitting processes. But in no case shall hazardous waste, hazardous chemicals or hazardous wastewater be discharged into any perennial stream, canal or ditch within the City.
- F. Noise. No noise shall be produced that cause a violation of this title or City regulations regarding disturbance of the peace or create a nuisance.

- G. Vibrations. No ground vibrations as related to the general use of the property, except for those only perceptible with the use of instruments, shall be permitted beyond the property lines of the use generating the ground vibrations.
- H. Electrical Disturbance. No activity shall be permitted which causes electrical disturbances affecting the operation of any equipment located beyond the property line of the activity. This paragraph does not apply to use which are regulated by and are in compliance with federal agencies or law.
- I. Glare and Heat. Any use producing intense glare or heat shall be conducted so that the glare is effectively screened from view at any point on the lot in which the use is located. Any heat will be dissipated so that it is not perceptible without instruments at any point on the lot line of the lot on which the use is located.
- J. Fire and Explosive Hazards. Any use or activity involving the use or storage of combustible, flammable or explosive materials shall be in compliance with the most current adopted International Fire Code by the City and permitted only in specific districts.
- K. Liquid or Solid Waste. No materials, compounds or chemicals, which can contaminate any water supply, interfere with bacterial processes in sewage treatment or otherwise cause emissions of elements which are offensive or hazardous to the public health, safety and general welfare shall be discharged at any point into any public sewer, private sewage disposal system or stream which violate the administrative rules or regulations of the Montana State Department of Environmental Quality or any other governmental agency with jurisdiction over such activities.
- L. Fissionable, Radioactivity or Electromagnetic Disturbance. No activities shall be permitted which utilize fissionable or radioactive materials if, at any time, their use results in the release or emission of any fissionable or radioactive material into the atmosphere, ground or sewerage system. No activities or devices shall be permitted which at any time emit radio-frequency energy affecting any activity or the operation of any equipment beyond the site property line. Radio-frequency energy shall be considered as being electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three (3) million megacycles. This limitation on radio-frequency interference does not apply to those uses and circumstances falling under the jurisdiction of the FCC.
- M. Medical Marijuana Business. The cultivation, growing and/or harvesting of medical marijuana for retail and/or wholesale business purposes is not permitted within the City. Packaging and/or sale of medical marijuana for retail and/or wholesale business purposes is prohibited in any residential (R1, R2, R3, RMH), C1 or C3 zoning district.

Enc Ord 433 December 5, 2012, Revised Ord 453 June 7, 2017

17.12.160 SPECIAL TEMPORARY USE PERMIT

- A. Generally. Uses permitted subject to a special temporary use permit are those temporary uses which are required for the proper function of the community or are temporarily required in the process of establishing a permitted use, constructing a public facility or providing for response to an emergency. Such uses shall be so conducted that they will

not be detrimental in any way to the surrounding properties or to the community. Uses permitted subject to a special temporary use permit may include:

1. Carnivals, circuses, special events of not over seventy-two consecutive hours;
 2. Tent revival meetings;
 3. Swap meets; or
 4. Such other uses as the Administrative Official may deem to be within the intent and purpose of this section.
- B. Application and Filing Fee. Application for a special temporary use permit may be made by a property owner or his authorized agent. A copy of the fees are available at City Hall. Such application shall be filed with the Administrative -Official who shall charge and collect a filing fee for each such application. The Administrative Official may also require any information deemed necessary to support the approval of a special temporary use permit.
- C. Decision. Application for a special temporary use permit shall be reviewed by the Administrative Official with assistance from the Police Chief and Fire Marshall/Fire Chief. The Administrative Official shall approve, conditionally approve or disapprove such application. Approval or conditional approval shall be given only when in the judgment of the Administrative Official such approval is within the intent to protect public safety.
- D. Conditions. In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties. Such conditions may include, but are not limited, to the following:
1. Regulation of parking;
 2. Regulation of hours;
 3. Regulation of noise;
 4. Regulation of lights;
 5. Requirement of bonds or other guarantees for cleanup or removal of structure or equipment; and/or
 6. Such other conditions deemed necessary to carry out the intent and purpose of this section.
- E. A Special Temporary Use Permit for Portable Carry-Out Food and Beverage trailers or buses shall be valid for a period of seven (7) continuous days.
- F. Operations shall be subject to all licensing requirements of the State and Beaverhead County. Documentation of such licensing, including copy of plans for water supply and disposal, shall be provided to the City prior to permitting.
- G. Portable food and beverage buildings as described herein shall be subject to Certificate of Appropriateness requirements in historic overlay district.

Enc Ord 433 December 5, 2012

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