Section 50

GENERAL BUILDING AND DEVELOPMENT STANDARDS

Sections:

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50.010 Purpose.

A. The purpose of this section is to establish general development standards. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the peace, health, safety and general welfare of the residents living within the zoning jurisdiction.

B. These standards are also intended to be used as guidelines for evaluating and assessing the quality and design of proposed planned unit developments. The particulars of any planned unit development will be evaluated against their respective standards contained in this section. It is expected that the quality and design of the planned unit development, while not necessarily complying with the exact standards of this section, will meet or exceed the intent behind these standards.

50.020 Standards for specific uses.

A. Purpose. The purpose of this section is to further describe the, standards and conditions under which certain uses may be permitted as principal or conditional uses in specific districts.

B. Applicability. All uses listed in this section shall be subject to the specific standards described for each use, in addition to all other applicable standards which may apply.

C. Specific Uses And Standards.

1. **Automobile Service Station.** In addition to the requirements to be followed for all convenience uses as defined in this title and provided in subsection 50.020.C.6 of this title, the following requirements shall apply to all service station and automobile uses as listed below. Compliance with all criteria listed below does not necessarily guarantee approval.
   a. At least one frontage is to be on a major arterial street as designated in the *Gallatin County Plan*.
   b. Gas pump and pump island canopies are to be located not closer than ten feet (10') to any side or rear property line. Design of the canopy shall architecturally match the design of the main building. All canopies shall be connected to the roof of the main structure unless otherwise approved. All canopy lighting must project downward, not upward or outward from the structure and must be low pressure sodium. The maximum height of the canopy shall not exceed eighteen feet (18'). All signs must conform to the Sign Code of the *Gallatin County / Bozeman Area Zoning Regulations*, Section 65.
   c. All on-site activities except those normally performed at the fuel pumps are to be performed within a completely enclosed building. Paint-spraying or body and fender work is not permitted.
   d. Where towing service is to be provided, a parking bay for the towing vehicle is to be provided and screened. The vehicle shall be screened on three sides with a minimum six-foot (6') opaque wall which architecturally matches the main building. Vehicles that are either under repair or vehicles that have been repaired may be stored on a temporary basis, not to exceed seven days and designated parking bays must be provided for each vehicle awaiting repairs.
   e. All outdoor lighting shall be so arranged as to be directed on the premises and reflect away from any residential property. In addition, all lighting shall be attached to the main structure unless otherwise specifically approved.
   f. All structures approved under this conditional use permit shall be of a design character that is appropriate to the area in which they are to be constructed. Renderings of buildings shall accompany each application and construction shall be in conformity thereto. Architectural detailing shall be consistent on all four sides of the building.
   g. All rest room entrances shall be screened from view of adjacent properties or street rights-of-way by a decorative wall or landscaping, or shall be accessed from the inside of the main entrance to the building.
   h. No outside storage of, and no sale, lease or rental of trailers, trucks or similar equipment shall be permitted except as may be specifically allowed in that zone.
   i. Parking space for two (2) vehicles per each service stall in the station, but no less than four spaces, shall be provided. Pump islands shall not be considered as service bays. Standing areas at pump islands and interior circulation areas shall not be used as parking areas in calculating required parking spaces.
2. **Automobile Washing Establishment, Automatic.** In addition to the requirements to be followed for all convenience uses, the following requirements

shall apply to all automatic auto washing establishments as listed below. Compliance with all the criteria listed below does not necessarily guarantee approval.

a. All detergents must be biodegradable.
b. Any lights used to illuminate the area shall be directed away from adjacent residential properties.
c. Building surfaces shall be faced with masonry, brick, stucco, wood or some other permanent looking material. Corrugated metal is prohibited.

3. **Automobile Washing Establishment, Self-Serve.** In addition to the requirements to be followed for all conveniences uses, the following requirements shall apply to all self-serve automobile washing establishments, as listed below. Compliance with all the criteria listed below does not necessarily guarantee approval.
   a. All detergents must be biodegradable.
   b. Trash and litter containers shall be emptied daily. In addition, the site shall be patrolled at least once daily in order to remove litter.
   c. Sale of automobile accessories such as batteries, tires, gasoline, etc. is prohibited.
   d. Building surfaces shall be faced with masonry, brick. stucco, wood or some other permanent looking material. Corrugated metal is prohibited.
   e. Any lights used to illuminate the area shall be directed away from adjacent residential properties.
   f. Canopies are to be located not closer than ten feet to any side or rear property line. Design of the canopy shall architecturally match the design of the main building. All canopy lighting shall project downward, not upward or outward from the structure. The maximum height of the canopy shall not exceed eighteen feet (18'). All signs must conform to the Sign Code of the *Gallatin County / Bozeman Area Zoning Regulations*, Section 65.
4. **Automotive Repair Facilities.**
   a. All repairs shall be performed within a building.
   b. No site plan shall be approved which exposes unassembled vehicles, auto repair activities or auto parts to any street or residential district.
   c. All vehicles awaiting repair shall he screened from view by a masonry or wood wall or approved landscape screen.
5. **Cemeteries.**
   a. Total site area, including business office and storage building, shall be a minimum of forty (40) acres, of which at least ten acres shall be subdivided and developed in the initial plot.
   b. The cemetery may include accessory uses such as a chapel, a mortuary, an office, a mausoleum, and those industrial uses which are incidental to the operation of a cemetery. Industrial uses may include such things as the manufacture of burial vaults and headstone foundations, provided all of the products are used on the site and are not offered for sale and use elsewhere. The cemetery shall not include uses of an industrial nature other than those stated in this section.
6. **Convenience Uses and Drive-Through/Drive In Restaurants.**

a. Location and Size.
   i. Convenience uses may be located only at intersections of arterial streets as designated in the *Gallatin County Plan*.
   ii. The site area for any convenience use shall be a minimum of two acres, unless such convenience use is planned, designated and approved by the county to be developed in conjunction with an approved site plan for one or more additional uses and buildings.
b. Architectural Guidelines.
   i. All convenience uses shall be designed in an architectural and design character that is appropriate for and compatible with the area.
   ii. Use of standardized corporate identification themes integrated into the architectural design shall be regulated by the planning board. Excessive use of such themes may be used as grounds for denial of the project.
   ii. When located in shopping centers, the architectural character of the building shall be integrated with the design theme of the center through the use of the same building materials, shapes and details. The effect of color in creating a design character that is appropriate for and compatible with the area will be considered. All parking. circulation, driveways, setbacks and signage shall be integrated with the entire design theme of the project.
   iv. The elevation design of the building shall provide design character and detailing on all four sides.
c. Noise.
   i. Noise from drive-through speakers shall not be audible from adjacent, residential districts.

7. **Mini-Warehouses.**
   a. Minimum site size shall be one acre.
   b. On-Site Circulation, Drives and Parking.
      i. Each mini-warehouse site shall provide a minimum of two exits.
      ii. All one-way driveways shall provide for one ten-foot (10') parking lane and one twelve-foot (12') travel lane. Traffic direction and parking shall be designated by signing or painting.
      iii. All two-way driveways shall provide for one ten-foot (10') parking lane and two ten-foot (10') travel lanes.
      iv. The parking lanes may be eliminated when the driveway does not serve storage cubicles.
8. **Outdoor Sales and Display.**
   a. Merchandise which is offered for direct sale, rental or lease to the ultimate consumer or user may be displayed beyond the confines of a building in any commercial district, but the area occupied by such outdoor display shall not constitute a greater number of square feet than ten percent (10%) of the ground floor area of the building housing the principal use, unless such merchandise is a type customarily displayed outdoors such as automobiles and garden supplies. In such cases, the maximum area for outdoor sales and display shall not exceed fifty percent (50%) of the total lot area.
   b. Outdoor sales and display areas shall not be located in any required yard.

9. **Recreational Vehicle Park and Overnight Campground.**
   a. Recreational vehicle parks shall be screened from view of any residential development.
   b. Internal circulation roads shall be paved with a concrete or asphaltic concrete surface.
   c. Individual recreational vehicle parking pads shall be plainly marked and maintained with a dust free surface.
   d. Individual recreational vehicle parking pads shall be set back at least thirty feet (30') from the perimeter of the park and thirty feet (30') from any public street right-of-way.
   e. Approved trash disposal and bathroom and laundry facilities, including facilities for the handicapped, shall be provided for use of overnight campers.
10. **Stable, Commercial.**
   a. The minimum property size shall be ten (10) acres.
   b. The proposed site shall not be adjacent to subdivided single-family residential property unless that residential property contains an equestrian easement along the contiguous boundary.
   c. Structures or facilities used for stabling, storing, showing or training of animals shall be set back a minimum of one hundred feet (100') from any adjacent privately owned property. Dwelling units, accessory structures incidental to dwelling units, and irrigated pasturage may occur within the one hundred foot (100') setback area subject to the setback requirements of the applicable zoning district.
   d. There shall be a forty-foot (40') yard adjacent to any street.
   e. There shall be no shows or other activities which would generate more traffic than is normal to a residential area, unless the proposed site has direct access from an arterial street as set forth in the *Gallatin County Plan*. Permission for such shows and activities shall be obtained from the county. Notification shall be provided in a letter that explains the nature and duration of the activity, and accommodations for spectators, traffic control and additional parking for cars and trailers. This letter shall be submitted to the planning director at least one month prior to the date of the show or activity.
   f. All pasture and animal storage areas shall be enclosed with fences or walls of a minimum of four feet six inches (4'-6") in height. The design of these enclosures shall be shown on drawings submitted with the conditional use application.
   g. All laws applicable to the public health and appropriate care of animals must be complied with for the entire period of operation of the stable.
   h. All activity, and pasture areas that are not grassed shall be treated for dust control as approved by the planning director.
   i. Adequate parking for daily activities shall be shown on the site plan and improved to parking standards. Additional parking, improved as determined by the planning director, shall be provided for shows or other special events.
11. **Tennis and Racquet Club.**
   a. The use will be compatible with any adjacent neighborhood and will not be detrimental to the same due to:

i. Increased automobile traffic;
ii. Noise generated from within the site.

b. The minimum property size shall be three (3) acres.
c. If outdoor courts are lighted, lighting shall be placed and shielded so as not to be detrimental to adjoining properties, shall shine down on the courts and not up or out.
d. Fencing of outdoor courts shall not exceed sixteen feet (16') in height and may be required to be opaque by the design review board.
e. There shall be no shows, tournaments or other activity which would generate more traffic than is normal to a residential area, unless access is provided from an arterial street as set forth in the *Gallatin County Plan*. If access is not provided from an arterial street, permission for such shows and activities shall be obtained from the commission. Permission shall be requested in a letter with a site sketch that explains the nature and duration of the activity and accommodations for spectators, additional parking and traffic control. This letter shall be submitted to the planning director for commission consideration.
f. There shall be a landscaped fifty foot (50') buffer strip adjacent to any residential zoning district, or as otherwise determined.
g. Hours of operation may be controlled by the commission.
h. Perimeter fencing of the site may be required.

50.030 Use of lands, buildings and structures.

A. Only Uses Specifically Identified by This Title to be Built. No building, or structure or part thereof shall be erected. altered, or enlarged for a use, nor shall any existing building, structure. 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 zone in which such buildings, structure, or land is situated. In addition, any land, building or structure to he erected or used for a purpose listed as a conditional use in such zone shall first receive approval from the planning board or commission.

B. Building Location on Lot. No building, or part thereof, or structure shall be erected, nor shall any existing building be altered, enlarged, or rebuilt or moved into any zone, 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 zone in which such building or open space is located, except as otherwise specified in this title.

C. Recreational Vehicle Parking on Residential Lot. No person shall park or occupy any recreational vehicle or mobile home on the premises of any occupied dwelling or on any lot which is not a part of the premises of any occupied dwelling, either of which is situated outside of any approved mobile home park or mobile home subdivision except that:

1. The parking of only one unoccupied recreational vehicle in any accessory private garage, or in a rear yard in any district is permitted, providing no living quarters

shall be maintained or any business practiced in the recreational vehicle while such recreational vehicle is so parked or stored; and

2. In the event of hardship, temporary use permits may be granted for occupying such recreational vehicle or mobile home.

D. Water and Sanitary Sewer System Requirements.

1. Whenever any building lots and/or building sites are created inside the city limits, except for those lying within A-S or R-S zoning districts, and prior to the issuance of any building permits on such lots or sites, central water distribution and central sanitary sewer collection systems, public or private, shall be provided to the site. Each building site must utilize and be connected to both the central water distribution and central sanitary sewer collection systems, public and private.
2. These improvements shall be designed, constructed and installed according to the standards and criteria as adopted by the city and approved by both the city engineer and water superintendent prior to the issuance of any building permits.

50.035 Miscellaneous requirements.

A. Glare and Lighting.

1. Deflection. Any lighting used to illuminate an off-street parking area, sign or other structure, shall be arranged so as to deflect light down and/or away from any adjoining residential district and shall not detract from driver visibility on adjacent streets. In addition, all lighting (except for security purposes) shall be turned off between eleven p.m. and six a.m (11pm-6am). Exceptions will be granted to those businesses which are operating during these hours.
2. Light Standards. Lighting standards used to illuminate off-street parking areas shall not exceed twenty feet (20') or the height of the tallest building on the lot, whichever is lower.

B. Surface-Water Ponding. Natural ponding areas shall be retained as much as possible or, if necessary, enlarged or modified as directed to restrict the off-site runoff, subject to county subdivision requirements for storm water runoff control.

C. Outdoor Storage.

1. All materials, supplies, merchandise or other similar matter not on display for direct sale, rental or lease to the ultimate consumer or user shall be stored within the confines of a one hundred percent opaque wall or fence not less than six feet (6') tall.
2. No storage of any type shall be permitted within any required yard.
3. All areas designated for vehicle and equipment storage shall be screened from view from the street and adjacent properties as per paragraph C.1 above. Vehicle and equipment storage areas shall not be subject to parking lot paving or landscape requirements, but shall be subject to drainage detention requirements and appropriate dust control requirements.

D. Trash and Garbage Incineration/Enclosures.

1. Incineration. No exterior incineration of trash or garbage is permissible.
2. Trash Enclosures. A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than single-family dwellings, duplexes, or individually owned townhouse or condominium units, in every zoning district, except where a property is entirely surrounded by screen walls or buildings. Trash enclosures shall be constructed so that contents are not visible from a height of five feet above grade from any abutting street or property. 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 site 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 into it. The location of all trash enclosures shall be subject to review and approval.
   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 architecturally compatible with the principle structure. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall be less than four feet (4') in height above grade.

E. Smoke, Dust and Other Particulate Matter. The emission of smoke, from any point source shall not exceed a density greater than that described in Number 2 ring of the Ringelmann Chart as published by the U.S. Bureau of Mines. 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.

F. Bulk Storage (Liquid). All uses associated with bulk storage of all gasoline, liquid fertilizer, chemicals, flammable and similar liquids shall comply with Uniform Building and Fire Code requirements and county regulations.

G. Water Quality, Hazardous Wastes and Wastewater. Discharge of hazardous waste, chemicals and wastewater will be subject to Montana Department of Health and Environmental Science standards. But in no case shall any hazardous waste chemicals or wastewater be discharged into any perennial stream within the zoning jurisdiction.

H. Odors and Toxic Gases.

1. The emission of odors shall be controlled such that objectionable or offensive odors are not perceptible beyond a distance of fifty feet past the property lines of the use creating the odors.
2. No toxic, noxious, or corrosive fumes or gases shall be emitted beyond the property lines of the use creating such fumes or gases.

I. Noise.

1. Measured Noise Levels. The maximum noise level radiated in each standard octave band by any use or facility (other than transportation facilities or

temporary construction work), measured at the site property line, shall not exceed the values shown in the following tables:

Octave Band Range in Cycles per Second	Sound Pressure Level in Decibels rep. 002 dyne/cm^2
Below 75	72
75-150	67
151-300	59
301--600	52
601-1200	46
1201-2400	40
2401--4800	34
Above 4800	32

2. Discontinuous Noises. If the noise is not smooth and continuous, and is not radiated between the hours of ten p.m. and seven a.m., one or more connections shall be applied to the above octave band levels as follows:

Type of Location of Operation or Character of Noise	Correction in Decibels
Daytime operation only	+5
Noise source operating less than:	
20% of any one hour period	+5
5% of any one hour period (only one of these corrections may be applied)	+10
Noise of impulsive character, i.e. hammering	-5
Noise of periodic character. i.e., humming or screeching	-5

3. Method of Measurement. Sound pressure level shall be measured with a sound level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association as established in Pamphlets Nos. 224.3 and 224.10 published in 1944 and 1953, respectively, which standards are herein adopted by reference as a part of this section.

J. Vibrations. No ground vibrations, except for those only perceptible with the use of instruments, shall be permitted beyond the property lines of the use generating the ground vibrations.

K. 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 section does not apply to uses which are regulated by and are in compliance with federal agencies or law.

L. 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 line of 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.

M. 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 Uniform

Fire Code as adopted by the county. Burning of waste materials in open fires is prohibited.

N. 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 arc offensive or hazardous to the public health, safety, welfare or comfort shall be discharged at any point into any public sewer, private sewage disposal system or strewn or into the ground, except in accordance with the code of the county and the standards approved by the Montana State Department of Health and Environmental Science or such governmental agency as may have jurisdiction over such activities.

0. 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 electro-magnetic energy at any frequency in the radio spectrum between ten kilo-cycles and three million mega-cycles.

P. Swimming Pools -Location and Enclosures. No public or private swimming pool in any district shall be located in any required front yard; however, if not more than six feet (6') in height, such use may be located in any required side or rear yard. In addition, all swimming pools shall be enclosed in an area with a fence or wall not less than forty-two inches (42") in height, and no opening therein, other than doors or gates, larger than four inches (4") in any direction. A structure of any type may be used as part of such enclosure. All gates and doors shall be securely closed at all times when not in actual use, except that the door of any dwelling which forms a part of the enclosure for private residential pools need not be so equipped. The building official may make modifications in individual cases, upon a showing of good cause, with respect to the height, nature or location of the fence, wall, gates or latches, or the necessity thereof, provided the protection as sought hereunder is not reduce thereby.

Q. Bicycle Lanes Required. Whenever new streets or roads are to be developed as a result of a development proposal, or wherever existing streets or roads are required to be improved, and upon a recommendation from the Bozeman area bicycle advisory board (BABAB), the developer may be required to incorporate striped bicycle lanes along the shoulder meeting current AASHTO standards into the design and construction or improvement of the streets or roads.

R. Bicycle Racks Required. All development subject to minor or major site plan review as per Section 52 shall provide adequate bicycle parking facilities to accommodate bicycle-riding residents and/or employees and customers of the proposed development. Bicycle parking facilities will be in conformance with standards recommended by the Bozeman area bicycle advisory board.

50.040 Dwelling unit restrictions

A. No Use of Unfinished Structures. No cellar, garage, tent, tepee, basement with unfinished structure above, or accessory building vehicle, or any mobile home or recreational vehicle outside of an approved mobile home or recreational vehicle development shall at any time be used as a dwelling unit, unless approved for use as a temporary dwelling unit due to a demonstrated hardship.

B. Use of Basements. The basement portion of a finished home shall be properly damp proofed and have natural lighting, heating, ventilation, suitable fire protection and exits if used for living purposes.

50.050 Accessory buildings, uses and equipment

A. Accessory Buildings as Principal Building. An accessory building shall be considered an integral part of the principal building if it is connected to the principal building by a covered passageway.

B. Accessory Buildings Not Permitted in Front Yards. Accessory buildings, uses, or equipment shall not be stored or constructed between the front lot line and required front building line.

C. Height of Accessory Buildings. Accessory buildings and garages in residential districts shall not exceed the height of the principal structure and shall not be located within a utility easement.

D. Accessory Buildings in Rear. Accessory buildings in any business or industrial district may be located only to the rear of the front line of the principal building.

E. Accessory Building Height. No accessory building in any residential, business or industrial district shall exceed the height of the principal building unless such accessory building has been otherwise approved as per this title.

F. Detached Structures Setback Requirements.

1. A detached structure such as a garage shall meet the setback requirements of the main building except that garages may be located ten feet (10') from rear property lines in districts where rear yard setback requirements exceed ten feet for principal structures.
2. Detached accessory structures such as storage sheds not larger than one hundred twenty (120) square feet in area, playhouses, garbage enclosures, etc. shall not be located in any required front or side yard, but may be located one foot from property lines in required rear yards. These limitations shall not apply to such features as lawn ornaments, bird feeders, utility service boxes or mailboxes.
3. A detached structure wall shall maintain a minimum of six feet (6') separation from the main structure wall.

G. Percentage of Yard Coverage. Accessory structures may occupy not more than twenty-five percent (25%) of any required rear yard.

50.060 Yard and height encroachments, limitations and exceptions.

A. Permitted Encroachments Into Yards. The following shall be permitted encroachments into required yards, subject to any and all applicable Uniform Building Code requirements:

1. Architectural features such as chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, cornices, eaves, gutters, awnings, and steps, provided such architectural features do not extend more than five feet (5') into any required 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 feet (5') into any required yard;
3. Porches, covered terraces, and covered decks, provided such features shall not occupy more than one-third of the length of the building wall and shall not extend more than five feet (5') into any required 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 feet (3') from any property line; and
6. Flag poles, ornamental features, trees, shrubs, walkways, nameplate signs, and floodlights or other sources of illumination provided the direct source of light is not visible from the public right-of-way or adjacent residential property.

B. Zero Lot Line Conditions. Where an individual owns two adjoining lots or where the owners of two adjoining lots make legal written agreement a zero lot line concept may be used for single-family dwelling unit developments. This may result in the creation of a two-family residential structure, only in districts permitting such structure, or the creation of townhouse clusters in districts permitting such structure. In all cases a minimum ten-foot (10') side yard shall be maintained adjacent to the exterior side, or nonzero lot line side, of the structure.

C. Special Yard Setbacks.

1. The corner side yard for any corner lot not located on an arterial street shall be equal to the adjacent yard of the adjacent lot, but in no case shall the corner side yard be less than fifteen feet (15').
2. A twenty-five foot (25') corner side or front yard shall be provided on all arterial streets designated on the *Gallatin County Plan*.

D. Watercourse Setbacks. No newly constructed structure, addition to an existing structure, parking lot or other similar improvements shall be located closer than thirty-five feet (35') to the mean high water mark of a watercourse as defined in this title. For the purpose of this section, the mean high water mark shall be defined as the line which the water impresses on the soil by covering it for sufficient periods to deprive it of

vegetation. A minimum of five feet (5') of the required thirty-five foot (35') setback immediately adjacent to the watercourse shall be left in a natural vegetative state.

E. Height Limitation Exceptions.

1. Non-Specific Exemptions. 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, or as specifically authorized by the planning board as an approved condition of a planned unit development. Such approved conditions must include the recommendations of the County Fire Marshal.
2. Specific Exemptions.
   a. Height limitations shall not apply to church spires, belfries, cupolas and domes; monuments; chimneys and smokestacks; flag poles; public and private utility facilities~~;~~, transmission towers of commercial and private radio-broadcasting stations~~;~~, and television antennae, excluding, however any such facility regulated by Section 57; parapet walls extending no more than four feet above the limiting height of the building except as hereinafter provided; and solar energy collectors and equipment used for the mounting or operation of such collectors.
   b. Places of public assembly in churches, schools and other permitted public and semi-public buildings may exceed height limitations otherwise established by this title; provided that these are located on the ground floor of such buildings and provided that for each one 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 foot over the side and rear yards required in the district.
   c. 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 percent of the corresponding street frontage line.
   d. 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; provided that any structure above the height otherwise permitted in the district shall occupy no more than twenty-five percent (25%) of the area of the lot and shall be at least twenty-five feet (25') from every lot line.

50.070 Fences, walls and hedges.

A. Location. Except as provided in Section 50.080, fences, walls and hedges, in any district may be located on lot lines provided such fences, walls and hedges do not exceed eight feet (8') in height. Fences exceeding eight feet in height shall be subject to the minimum yard requirements of the district in which such fences are located. However, no fences, walls or hedges shall exceed four feet (4') in any corner side yard or front yard, as defined in this title. Fences used in an agricultural pursuit to retain stock animals shall be excepted.

B. Relation to Linear Parks. Fences located in the rear yard setback of properties adjoining any linear park shall have a maximum height of four feet (4').

C. Construction, Maintenance and Height Measurement.

1. 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 nuisance, public or private. 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 building inspector shall commence proper proceedings for the abatement thereof.
2. Barbed Wire and Electric Fences.
   a. No barbed wire or similar sharp fencing or electric fences shall be permitted, except in A-S and R-S districts; except that barbed wire or other similar sharp fencing materials may be used on the top of security fences in M-1 and M-2 districts.
   b. When electrically charged fences are used in an A-S district or R-S district, such fences shall be posted with warning signs at intervals not to exceed one hundred fifty feet (150') where such fences are adjacent to public rights-of-way.
3. 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.

D. Fences and Walls in All Districts-"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 adjacent property.

E. 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 completed enclosed building or within an area completely enclosed, except for access points, by a wall, fence, hedge or landscape screen at least six feet (6') in height.

50.080 Street vision triangle.

A. Arterial Streets. On corner lots on arterial streets in all districts, no fence, wall or planting in excess of thirty inches above the street centerline grade shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curblines of the two intersection streets, thence fifty feet (50') along one curbline, thence diagonally to the point fifty feet (50') from the point of beginning on the other curb lines, then to the point of beginning. Where curbing is not provided the measurement shall be taken from a line 11 feet inside of the right-of way or from the edge of pavement if closer than 11 feet.

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B. Collector and Local Streets. On corner lots, on collector and local streets, all districts, no fence, wall or planting in excess of thirty inches above the street centerline grades shall be permitted within a triangular area defined as follows: beginning at the intersection of the projected curblines of two intersecting streets, thence forty feet (40') along one curb line, thence diagonally to a point forty feet (40') from the point of beginning on the other curb line, then to the point of beginning. Where curbing is not provided the measurement shall be taken from a line 11 feet inside of the right-of way or from the edge of pavement if closer than 11 feet.

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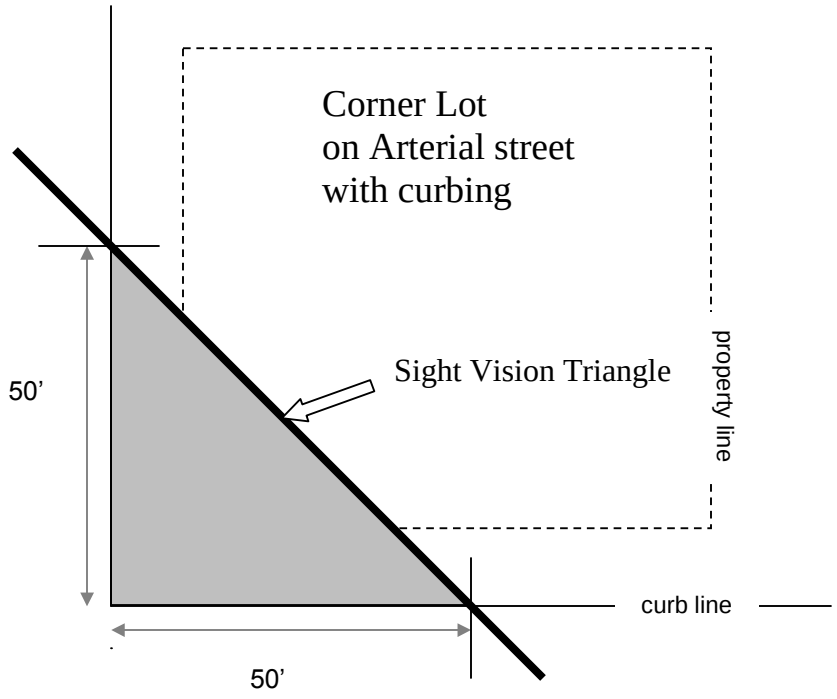
C. Driveways and Alleys. At the intersection of each driveway or alley with a street, a triangular area where comers are defined by two points on the right-of-way line, fifteen feet (15') on each side of the centerline of the driveway or alley and a point on centerline ten feet (10') outside the right-of-way.

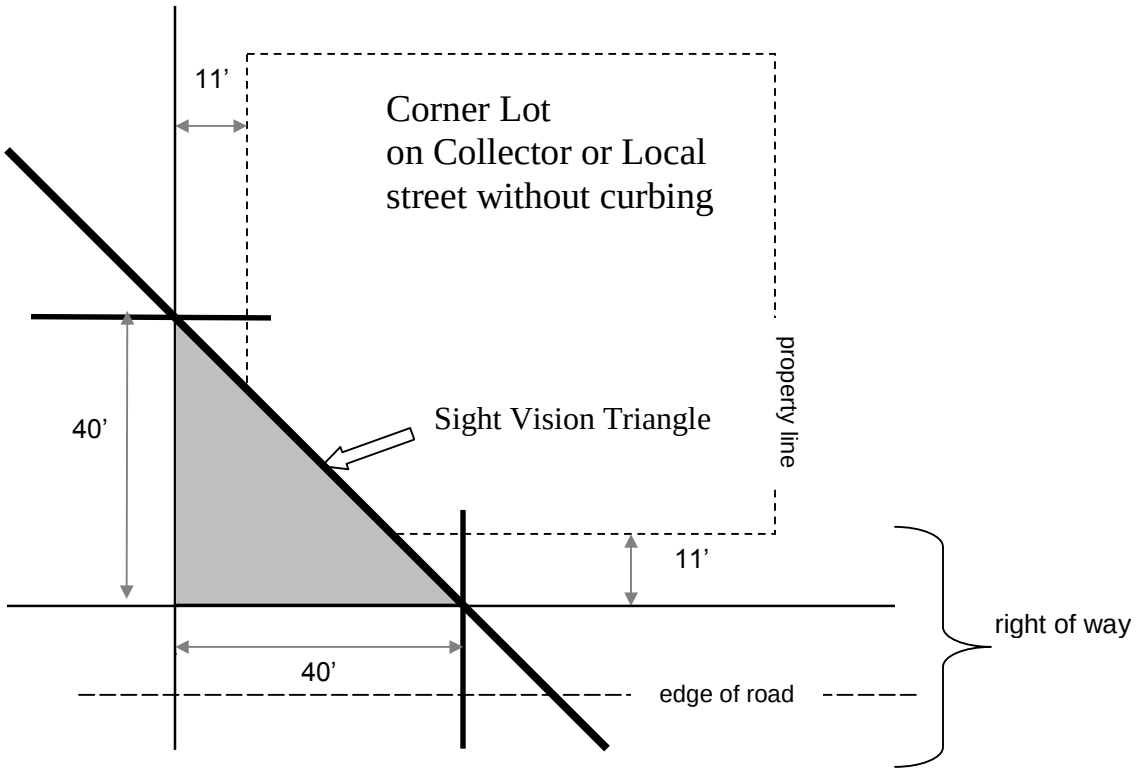
D. Provision for Trees in Street Vision Triangle.

1. Single-stem canopy trees may be permitted in street vision triangles as described in this section, provided that mature trees do not significantly affect safe driving conditions and are maintained such that no canopy foliage exists below a height of ten feet (10') above centerline of intersecting streets.
2. Trees which are located in the street vision triangle and which preexisted the adoption of this title may be allowed to remain, provided the trees are trimmed

such that no limbs or foliage exist below a height of ten feet (10') above centerline grades of intersecting streets.

Gallatin County/Bozeman Area ("Donut") Zoning Regulation
Street Vision Triangle Examples
(see Section 50.080)





50.100
Section deleted. See Section 46 Landscaping above.
Amended Resolution 2001-09

50.110 Property frontage and drive access standards.

A. Public Street Frontage Required. Except as otherwise allowed or required by this title, no lot shall be created unless such lot abuts for at least twenty-five feet (25') on a public street, and every building hereafter erected or moved shall be on a lot adjacent to an improved public street, with at least twenty-five feet (25') of frontage as described above.

B. Drive Access From Improved Public Street or Alley Required.

1. Except as otherwise allowed or required by this title, primary drive access to buildings on all lots shall be provided from the abutting improved public street or alley.
2. For purposes of this code, "improved public street or alley" means and includes:
   a. Any street or alley within the zoning jurisdiction constructed to a standard which meets or exceeds standards established;
   b. Any street outside of the city within the zoning jurisdictional area constructed to a standard which meets or exceeds standards established by the county road superintendent; or
   c. Constructed public streets which may not meet current city or county standards but which are constructed to a standard which has historically provided an adequate level of service to adjacent properties, which level of service would not be degraded as a result of a pending development proposal.

C. Drive Access Requirements.

1. Drive accesses, taking primary access from an improved public street as defined above, are required for commercial parking lots and parking lots for residential developments of four or more dwelling units. Parking lots for residential developments of three or fewer dwelling units may take primary access from an improved public street or improved public alley as defined in subsection 50.110.B.2 above with access provided according to the provisions of subsection 47.020.B above.
2. All drive accesses installed, altered, changed, replaced or extended after the effective date of the regulation codified in this section shall comply with the following requirements:
   a. Residential drive access openings shall conform to the following criteria:
      i. Single-family drive access openings shall not exceed twenty-four feet (24') in width measured at the right-of-way line and thirty feet in width measured at the curb line. All residential complexes for fewer than four families are considered single-family residences for the purpose of this section.
      ii. Residential complexes with four or more dwelling units shall be considered commercial (nonresidential) establishments for the purpose of

this section, except that separated parking facilities for individual townhouse units shall be considered the same as single-family parking facilities.

b. Nonresidential drive access openings shall conform to the following criteria:
   i. Commercial drive access widths shall be a maximum of thirty-five feet (35') measured at the inside edge of the drive access extended, at its intersection with the projected curb line of the intersecting street. Two-way drive access shall be a minimum of twenty-four feet (24') and one-way drive access shall be a minimum of sixteen feet (16');
   ii. Industrial drive access widths shall be a maximum of forty feet (40') measured at the inside edge of the drive access extended, at its intersection with the projected curb line of the intersecting street. Two-way drive accesses shall be a minimum of twenty-four feet (24') and one-way drive accesses shall be a minimum of sixteen feet (16');
c. Drive accesses for all multiple tenant commercial buildings or complexes/centers, or industrial drive accesses shall be set back a minimum of fifteen feet (15') from the adjacent property line unless such drive access is approved as a shared drive access;
d. Drive accesses to drive-in theaters, stadiums, racetracks, funeral homes, or uses generating very heavy periodic traffic conflicts shall be located not closer than two hundred feet (200') to any pedestrian or vehicular entrance or exit to a school, college, university, church, hospital, public emergency shelter or other place of public assembly;
e. All commercial and industrial drive accesses on arterial streets shall have fifteen-foot (15') return radii unless otherwise approved. All commercial and industrial drive accesses on other streets may have either return radii or depressed curbs. The minimum radius allowed is four feet (4').

D. Distance from Intersection. Driveway access distance from street intersections for all lots created after the effective date of the regulation codified in this title shall be subject to the following minimum dimensions, unless otherwise approved as part of an approved site plan.

	Driveway Access Located on Collector Streets Distances from Intersection		**Driveway Access Located on Arterial Streets Distances from Intersection**	
Nearest Intersecting Street	**In Res. Dist.**	**In Comm/Ind. Dist.**	**In Res. Dist.**	**In Comm/Ind. Dist.**
Arterial	100'	150'	150'	200'
Collector	40'	150'	150'	150'
Local	40'	100'	100'	150'

Note: All distances shall be measured from the inside edge of the drive access, extended at its intersection with the projected curb line of the intersecting street.

E. Drive Access Spacing. The distance between drive accesses on a public street, except for single-family dwellings, as defined above, shall be measured from inside of drive to inside of drive according to the following specified distances, unless otherwise approved by the road and bridge superintendent as part of an approved site plan.

	Driveway Access Located on Collector Streets		Driveway Access Located on Arterial Streets	
Average Spacing	**Res. Dist.**	**Comm/Ind. Dist.**	**Res. Dist.**	**Comm/Ind. Dist.**
Partial Access*	60’	80’	80’	150'
Full Access**	100’	150’	100’	150’
Minimum Separation	60’	80’	60’	100’

Notes: * Partial access includes right turn in and out only.
** Full access allows all turn movements, in and out

F. Number and Location of Drive Accesses.

1. Single-family uses shall be limited to one drive access per street face, except on properties abutting arterial streets in which case circular driveways, or driveways facilitating the turning of automobiles on-site, shall be required. Circular driveways with two openings on a single street frontage may be permitted in A-S and R-S zoning districts.
2. Notwithstanding any other provisions of this title, drive accesses may not be located closer than eight feet to any side property line, unless shared access with the adjoining property is approved.

G. Shared Drive Access. The county desires and encourages sharing access drives between separate parcels.

H. Access Approval Required. All drive accesses shall be approved for width and location.

1. Deviations from Property Access Standards.
   a. Some of the standards listed in subsections C through F of this section, may be relaxed if it is shown during the site plan review process that more efficient design can be accomplished without jeopardizing the public's health, safety and welfare.
   b. Deviations from access standards shall be approved at the discretion of the road and bridge superintendent.
   c. Commercial developments (including residential complexes for four or more families) which may not be able to meet the requirements of subsections C through F of section 50.110 above, and are requesting deviations from the standards, shall submit to the road and bridge superintendent a report certified by a professional engineer addressing the following site conditions, both present and future:
      i. Traffic volumes;
      ii. Turning movements;
      iii. Traffic controls;
      iv. Site design;
      v. Sight distances;
      vi. Location and alignment of other access points.
   d. Based upon the above data, the road and bridge superintendent shall determine whether a deviation from the required standards is justified and, if so, what alternative requirements will be necessary.

50.120
Section deleted. See Section 47 Parking above.
Amended Resolution 2001-09

50.130 Off-street loading berth requirements.

A. Affected Uses. Every hotel, restaurant, 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, which has an aggregate gross floor area of fifteen thousand (15,000) square feet or more shall provide off-street truck loading or unloading berths in accordance with the following table:

Square Feet of Aggregate Gross Floor Area Devoted to Such Use	Required Number of Berths
15,000 sq. ft. up to and inc. 40,000 sq. ft.	1
40.001 sq. ft. up to and inc. 100,000 sq. ft.	2
100,001 sq. ft. up to and inc. 160.000 sq. ft.	3
160.001 sq. ft. up to and inc. 240,000 sq. ft.	4
240.001 sq. ft. up to and inc. 320,000 sq. ft.	5
320,001 sq. ft. up to and inc. 400,000 sq. ft.	6
400,001 sq. ft up to and inc. 490,000 sq. ft.	7
For each additional 100,000 sq. ft.	1 additional

1. Any office building one hundred thousand (100,000) square feet or larger shall have at least one off-street loading berth.

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

1. The first loading berth shall be at least seventy feet (70') in length. Additional berths required shall be at least forty-five feet (45') in length unless certified by the property owner in writing that additional loading activity will take place exclusively with small delivery vans in which case the berth(s) shall be at least twenty-five feet (25') in length. All loading berths shall be at least twelve feet (12') in width and fourteen feet (14') in height, exclusive of aisle and maneuvering space.
2. 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 feet (50') to any lot in any residential zone unless separated from such zone, except at the accesses, by screening not less than eight feet (8') in height.
3. Sufficient room for turning and maneuvering vehicles shall be provided on the site so that vehicles shall cross a property line only by driving forward.
4. 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.
5. 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.

6. Bumper rails shall be provided at locations where needed for safety or to protect property.
7. If the loading area is illuminated, lighting shall be deflected down and/or away from abutting residential sites so as to cause no annoying glare.
8. No regular repair work or servicing of vehicles shall be conducted in a loading area.
9. Off-street loading facilities shall be located on the same site with the use for which the berths are required.
10. 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 of each use is less than the minimum for which loading berths are required but the aggregate gross floor area is greater than the minimum for 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.
11. Off-street loading facilities for a single use shall not be considered as providing required off-street loading facilities for any other use.
12. At the time of initial occupancy, major alterations or enlargement of a site, or of 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 subject to the provisions of Section 62. 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 the alteration or enlargement.
13. Space allocated to any off-street loading berth shall not be used to satisfy the space requirements for any off-street parking facility.

50.140 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, or constructing a public facility. 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;
4. Such other uses as the planning director 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. Such application shall be filed with the planning director who shall charge and collect a filing fee for each such application, as provided in Section 62. The planning director may also require any information deemed necessary to support the approval of a special temporary use permit, including site plans as per Section 52.

C. Decision. Application for a special temporary use permit shall be reviewed by the planning director who shall approve, conditionally approve, or disapprove such application. Approval or conditional approval shall be given only when in the judgment of the planning director such approval is within the intent and purposes of this section. Any person aggrieved by the decision of the planning director may file an appeal within fifteen days of such decision with the board of adjustment pursuant to Section 56.

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 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,
6. Such other condition deemed necessary to carry out the intent and purpose of this section.

50.150 Home occupations.

A. Generally. A home occupation is a use that is considered accessory to a dwelling unit. A home occupation shall be carried on by one or more persons, all of whom reside within the dwelling unit, and where no more than one person is employed on more than a half-time basis other than resident and domestic help. The use shall be clearly incidental and secondary to the use of the dwelling for residence purposes and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part. There shall be no outside storage of any kind; any indoor storage, constriction, alterations, or electrical or mechanical equipment used, shall not change the fire rating of the structure. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time. It shall not cause an increase in the use of one or more utilities (water, sewer or garbage) so that the combined total use for dwelling and home occupation purposes of one or more utilities exceeds the average for residences in the neighborhood. When a use is a home occupation, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation without securing special permission to do so. However, such person shall be subject to all conditions set forth in this title, such as off-street parking, and to all other permits required by the county and city, such as building permits and business licenses, and shall consult with officials before establishing such home occupation.

B. Purpose of provisions. It is in the intent of this section to eliminate as home occupations all uses except those that conform to the standards set forth in this section. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence. The

standards for home occupations included in this section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. A clearly secondary or incidental status in relation to the residential use of the main building is the criteria for determining whether a proposed accessory use qualifies as a home occupation.

C. Necessary Conditions. Home occupations are permitted accessory uses in residential districts only so long as all the following conditions are observed:

1. Such occupation shall be conducted solely by resident occupants in their residence with not more than one half-time nonresident employee;
2. No more than twenty-five percent (25%) of the gross area of all structures shall he used for such purpose;
3. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure;
4. No home occupation shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for dwelling and home occupation purposes exceeds the average for residences in the neighborhood;
5. There shall be no outside storage of any kind related to the home occupation;
6. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time;
7. No use shall create noise, dust, vibration, smell, smoke, glare. electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home occupation exists.

D. Complaints. Complaints by citizens of Gallatin County or residents living within the zoning jurisdiction of the Gallatin County / Bozeman Area Zoning District may be cause for termination of the home occupation. However, should such complaint be filed, the operator is entitled to an appeal to the board of adjustment for a public hearing. The board of adjustment shall determine whether or not the filed complaint identifies sufficient violation of this title to warrant termination or modification of the home occupation.

E. Examples of the Uses that Frequently Qualify as Home Occupations. The following are examples of uses which can typically be conducted within the limits of the restrictions established in this section and thereby may qualify as home occupations. Uses which may qualify as home occupations are not limited to those named in this subsection (nor does the listing of a use in this subsection automatically qualify as a home occupation): accountant; architect; artist; attorney-at-law; author, consultant; dressmaking, individual musical instrument instruction; individual tutoring; insurance; millinery; and realtor.

F. Uses That Are Prohibited. The following uses, by the nature of the investment of operation, have a pronounced tendency, once started, to rapidly increase beyond the

limits permitted for home occupations and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore, the following uses shall not be permitted as home occupations: auto repair, minor or major, barbershop; carpentry work; contractor's offices, unless no construction activity or storage of materials and/or equipment occurs at the residence; dance instruction; dental offices; medical offices; painting of vehicles, trailers, or boats; private schools with organized classes; radio repair, television repair, upholstering; beauty salons.

G. Home Occupation Procedures.

1. Notice of Intent to Operate a Home Occupation. Any individual applying for a business license with the intent of operating the business from his/her home, shall acknowledge by signature his/her understanding of the requirements and conditions of Section 50 of this title.
2. Appeal to Board of Adjustment. Any person may appeal the planning director's action to the board of adjustment within fifteen days as per Section 56.

50.160 Nonconforming uses and structures.

A. Continuation. Any structure or use lawfully existing upon the effective date of these Regulations may be continued at the size and in the manner of operation existing upon such date except as hereinafter specified, or in the case of signage as specified in Section 65.

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B. Termination of Right. The right to operate and maintain a nonconforming use shall terminate when the structure or structures housing such use are removed, razed or damaged to an extent of fifty percent of the structure's fair market value as determined by the last equalized assessment role of the county. However, in the event of damage by fire, wind, earthquake or other act of God to the extent described above, said structure or structures and the nonconforming use or uses housed therein may be reestablished through a conditional use permit procedure as set forth in Section 53.

Amended Resolution 2001-09

C. No Reversion. When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.

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D. Abandonment. Whenever a lawful nonconforming use of a building or structure or land is discontinued for a period of ninety (90) days, any future use of the building or structure or land shall be in conformity with the provisions of these Regulations.

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E. Maintenance. Normal maintenance of a nonconforming building, or a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary structural repairs provided such structural repairs do not enlarge the nonconforming building or intensify the nonconforming use.

Amended Resolution 2001-09

F. Changes in Non-Conforming Uses.
Amended Resolution 2001-09

1. A lawful nonconforming use shall not be changed except in conformance with the use requirements of the zone in which it is located. Except, however, a lawful nonconforming use may be changed to another nonconforming use, provided that a conditional use permit is obtained from the commission.
2. To approve the conditional use permit, the commission shall determine that the proposed nonconforming use is more appropriate to the district than the existing nonconforming use, and that no unsafe or unhealthy conditions are perpetuated. In making, such a determination, the commission shall weigh the following criteria:
   a. Traffic impacts, both on-site and off-site;
   b. Off-street parking and loading requirements;
   c. The visual impact on the surrounding area;
   d. The degree of compliance with the adopted master plan and Zoning Regulation;
   e. The level of conflict with other uses in the surrounding area;
   f. The presence of other nonconformities in the surrounding area;
   g. The degree to which any existing unsafe or hazardous conditions would be mitigated;
   h. The viability of the subject structure(s); and
   i. On-site and off-site impacts from noise, dust, smoke, surface or groundwater contamination, or other environmental impacts.

G. *Subsection deleted.*
Amended Resolution 2001-09

H. Use of Existing Lots.

1. At the time of the enactment of the regulation codified in this title, if any owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient land within the lot of record to enable him/her to conform to the minimum lot size requirements or does not have sufficient lot width to conform to the minimum lot width requirements, such plot of land may nevertheless be used as a building site. The lot dimension requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a structure of acceptable size to be built upon the lot, such reduction to be determined by the board of adjustment.
   a. In the A-S, R-S, R-1, R-2, R-2a and R-3a districts, the reduction shall permit only a single-family residence.
   b. In the R-3 district, the reduction shall permit only a duplex.

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   c. In the R-4 and R-O districts, the reduction shall permit only townhouse clusters or apartment buildings containing no more than four units.
2. No lot, even though it may consist of one or more adjacent lots in the same ownership at the time of passage of these Regulations, shall be reduced in size so that lot width or size of yards or lot area per family or any other requirement of

these Regulations not maintained. This section shall not apply when a portion of a lot is acquired for a public purpose.

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3. Adjacent parcels which do not conform to minimum lot requirements and which are in common ownership shall be considered individual lots of record for the purposes of this code only if they are each greater than one acre in size and were created prior to the passage of the regulation codified in this title.

I. Expansion of nonconforming use. A lawful nonconforming use may be expanded only through the granting of a conditional use permit by the commission. In considering the appropriateness of the conditional use permit application, the commission shall weigh the criteria set forth in subsection F of this section. In addition, the commission shall consider whether the expansion is reasonable, natural and incidental to the growth of an existing nonconforming use. In general, proposals to expand nonconforming uses shall not be approved if the expansion would encompass new land or property which was not in use at the time of the enactment of zoning or a change in zoning.

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J. Expansion of nonconforming structure. A lawful nonconforming structure may be expanded in accordance with these regulations if it does not increase or expand the nonconformity. Any other expansion which increases or expands the nonconformity may be approved only through the granting of a variance by the board of adjustment.

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50.180

Section deleted. See Section 48 Manufactured Homes on Individual Lots above.

Amended Resolution 2001-09