

ORDINANCE: City Zoning Amendments, Complying with 2023 State Legislation

ORDINANCE NUMBER 3723

A CITY OF MISSOULA INITIATED INTERIM URGENCY ORDINANCE GENERALLY AMENDING TITLE 20, MISSOULA MUNICIPAL CODE, THE CITY ZONING ORDINANCE, TO INCORPORATE REVISIONS IN CHAPTER 20.01 INTRODUCTORY PROVISIONS, CHAPTER 20.05 RESIDENTIAL DISTRICTS, CHAPTER 20.10 BUSINESS AND COMMERCIAL DISTRICTS, CHAPTER 20.15 INDUSTRIAL AND MANUFACTURING DISTRICTS, CHAPTER 20.20 OPEN SPACE, PUBLIC, AND AVIATION DISTRICTS, CHAPTER 20.25 OVERLAY DISTRICTS, CHAPTER 20.40 USE- AND BUILDING-SPECIFIC STANDARDS, CHAPTER 20.45 ACCESSORY USES AND STRUCTURES, CHAPTER 20.60 PARKING AND ACCESS, CHAPTER 20.65 LANDSCAPING, CHAPTER 20.75 SIGNS, CHAPTER 20.85 REVIEW AND APPROVAL PROCEDURES, CHAPTER 20.90 ADMINISTRATION, CHAPTER 20.100 TERMINOLOGY, AND CHAPTER 20.105 USE CLASSIFICATIONS, TO INCORPORATE REGULATIONS CONCERNING LEGISLATIVE CHANGES TO STATE LAND USE REGULATIONS. AS THESE ARE ZONING AMENDMENTS THAT ARE MANDATED BY THE STATE OF MONTANA WITH EFFECTIVE DATES THAT OCCUR BEFORE OR ON OCTOBER 1, 2023, TIMING NECESSITATES ADDRESSING THESE AMENDMENTS THROUGH AN INTERIM URGENCY ORDINANCE.

PURSUANT TO MONTANA MUNICIPAL INTERIM ZONING STATUTE SECTION 76-2-306 MCA, THIS INTERIM ZONING ORDINANCE SHALL BE EFFECTIVE FOR SIX MONTHS FROM THE DATE OF ADOPTION, DURING WHICH TIME THE CITY WILL CONTEMPLATE PERMANENT ZONING ORDINANCE AMENDMENTS.

SECTION 1. INTENT.

Montana Code Annotated (MCA) 76-2-301 states that a municipality may regulate and restrict the use of land for trade, industry, residence, or other purposes for the purpose of promoting health, safety, morals, or the general welfare of the community.

The 2023 Montana State Legislative Session passed a variety of land-use related municipal zoning bills. This effort is in large part due to the affordable housing crisis, compounded by materials costs and lengthy development schedules. To invoke change at an even more rapid pace, the legislature assigned immediate or late-2023 effective dates to several of the bills passed. Implementing the State bills through an interim urgency ordinance accomplishes many changes including the prohibition of certain design standards and processes, and the reduction of parking requirements for certain uses.

The City of Missoula is responding quickly with immediate changes. In conjunction with other Montana communities and the Montana League of Cities and Towns, City of Missoula staff have reviewed the applicable bills to align the new requirements with existing city regulations.

The Montana Code Annotated, Section 76-2-306 allows a City to amend land use allowances to protect the public welfare without following the procedures otherwise required prior to the adoption of a zoning ordinance. The City of Missoula Community Planning, Development and Innovation is proposing an urgency interim ordinance to amend Title 20 Zoning Code. The amendments in the ordinance will comply with mandated changes outlined in the seven bills affecting zoning code recently passed by the Montana State Legislature and are effective on or before October 1, 2023. The interim urgency ordinance is an interim solution while the City contemplates comprehensive code reform as part of the ongoing Our Missoula: Growth Policy Update and Code Reform Project.

MCA 76-2-306 authorizes the City Council to adopt interim zoning ordinances to be in effect for a maximum of six months from the date of adoption and provides for two one-year extensions subject to a super-majority (two-

thirds) vote.

BE IT ORDAINED that Section 20.01.110H;; Section 20.05.020, Table 20.05-1; Section 20.05.040.D.4; Section 20.10.020, Table 20.10-1; Section 20.15.020, Table 20.15-1; Section 20.20.020, Table 20.20-1; Section 20.25.060.H.4; Section 20.25.070.E; Section 20.25.080.A.3.b(6)(b)(iii); Section 20.25.080.A.3.b(7); Section 20.25.080.B.2.b; Section 20.25.080.B.4.a.(2)(a); Section 20.25.080.B.4.c.(3)(b); Section 20.25.080.B.4.f; Section 20.25.080.B.4.g; Section 20.25.080.C.2.a.(1); Section 20.25.080.C.3; Section 20.25.080.C.4.b.; Section 20.25.080.C.5.d.(2); Section 20.25.080.C.6; Section 20.25.080.C.7.b; Section 20.25.081.B.4; Section 20.25.081.C.4; Section 20.25.081.D.4; Section 20.25.081.E.4; Section 20.25.081.F.4; Section 20.25.082.B.4; Section 20.25.082.C.4; Section 20.25.082.D.4; Section 20.25.082.E.4; Section 20.40.050.E; Section 20.40.050.J; Section 20.40.090.E.1; Section 20.40.090.H.2; Section 20.40.130.D; Section 20.40.130.G; Section 20.40.140.F; Section 20.40.140.G.1.b.; Section 20.40.140.G.3b.(6); Section 20.40.140.H.2; Section 20.40.160.F.3; Section 20.40.160.F.5; Section 20.40.160.K.1; Section 20.40.170; Section 20.40.180.F.3; Section 20.40.180.G; Section 20.40.180.I.6.a.(1); Section 20.40.180.J.3.; Section 20.45.060.A.1; Section 20.45.060.A.2; Section 20.45.060.B; Section 20.45.060.C.1; Section 20.45.060.C.5; Section 20.60.020, Table 20.60-1; Section 20.65.020.C.1.b.(3); Section 20.65.070; Section 20.65.070B; Section 20.75.030; Section 20.75.070.B.1.b; Section 20.75.070.G.2.b; Section 20.75.100.A; Section 20.75.100.B; Section 20.75.110.B.1; Section 20.75.170.H; Section 20.85.020.D.3, Table 20.85-2; Section 20.85.080; Section 20.85.085.F.2; Section 20.85.085.F.5; Section 20.85.085.F.6; Section 20.85.085.G.1; Section 20.90.020; Section 20.100.010; Section 20.105.030.B.; Section 20.105.030.J; and Section 20.105.050, be amended as follows, and creation of Section 20.01.110.H; Section 20.105.050.B; and Section 20.105.050.C:

SECTION 2. REGULATION.

Chapter 20.01 - Introductory Provisions

1. Section 20.01.110, Add provisions for agreements established prior to this ordinance that reference the Design Review Board to transition full authority and power to the Zoning Officer.

SECTION 20.01.110 - Transitional Provisions

- A. **Applications Submitted Before November 4, 2009**
- B. **Site-Specific Development Plans Approved Before November 4, 2009**
- C. **Permits Issued Before November 4, 2009**
- D. **Violations Continue**
- E. **Nonconformities**
- F. **Existing Uses**
- G. **Zoning District Name Conversions**
- H. **Design Review**
 1. PUDs, SDs, Board Approvals, and Staff Agreements (established prior to this ordinance) that reference the Design Review Board shall now hereafter transition authority and power in full to the Zoning Officer.

EXPLANATION

1. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications.

Chapter 20.05 - Residential Districts

2. Section 20.05.020, Table 20.05-1, Amend Residential Day Care use to allow up to 15 children or adults in Residential Districts Allowed Uses.
3. Section 20.05.020, Table 20.05-1, Amend Day Care Center use to allow 16 or more children or adults in Residential Districts Allowed Uses.

SECTION 20.05.020 - Allowed Uses

Table 20.05-1 Uses Allowed in Residential Districts

Use Category ¹ specific use type	R215	R80	R40	R20	RT10	R8	R5.4	RT5.4	R3	RT2.7	RM2.7	RM2	RM1.5	RM1	RM0.5	RMH	Standards
Table Continues....																	
PUBLIC/CIVIC																	
Table Continues....																	
Day Care																	
¹ Residential Day Care (1—15)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
¹ Day Care Center (16+)	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
Table Continues....																	

EXPLANATION

2 & 3. HB 918 increases the maximum capacity of Residential Day Care uses from 12 to 15 children. This consequently increases the minimum allowed capacity for Day Care Centers. These adjustments are reflected above.

4. Section 20.05.040.D.4, Repeal Notice to Neighboring Property Owners and Request for Agency Comment for Townhome Exemption Developments.

SECTION 20.05.040 - Development Options

- A. Conventional Development
- B. Cluster and Conservation Development
- C. Permanently Affordable Development (three or more dwelling unit project)
- D. Townhome Exemption Development (TED)
 1. Intent
 2. General Description
 3. Condominium Conversion to Townhome

EXPLANATION

4. SB 331 requires staff to provide a determination on Townhome Exemption Development applications within 20 working days. This time limitation restricts staff from being able to adequately providing public noticing within the same 20-day period.

Chapter 20.10 - Business and Commercial Districts

5. Section 20.10.020, Table 20.10-1, Amend Day Care Center use to allow 16 or more children in Business and Commercial Districts Allowed Uses.

SECTION 20.10.020 - Allowed Uses

Table 20.10-1 Uses Allowed in Business and Commercial Districts

Use Category ^L specific use type	B1	B2	B3	C1	C2	CBD	Standards
Table Continues....							
PUBLIC/CIVIC							
Table Continues....							
Day Care (except as noted below)	P	P	P	P	P	P	
^L Day Care Center (16+)	P	P	P	P	P	P	
Table Continues....							

EXPLANATION

5. HB 918 increases the maximum capacity of Residential Day Care uses from 12 to 15 children. This consequently increases the minimum allowed capacity for Day Care Centers. This adjustment is reflected above.

Chapter 20.15 - Industrial and Manufacturing Districts

6. Section 20.15.020, Table 20.15-1, Add 'Data Center' to Industrial and Manufacturing Districts Allowed Uses, conditionally allowing them in M1 districts and permitting them outright in M2 districts.
7. Section 20.15.020, Table 20.15-1, Add 'Digital Asset Mining' to Industrial and Manufacturing Districts Allowed Uses, conditionally allowing them in M1 districts and permitting them outright in M2 districts.

SECTION 20.15.020 - Allowed Uses

Table 20.15-1 Uses Allowed in Industrial Districts

Use Category ^L specific use type	M1R	M1	M2	Standards
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Table Continues....				
COMMERCIAL				
Table Continues....				
Construction Sales and Service	C	P	P	
Data Center	-	C	P	
Day Labor Employment Agency	P	P	P	20.40.170
Digital Asset Mining	-	C	P	
Eating and Drinking Establishments				
Table Continues....				

EXPLANATION

6 & 7. SB 178 introduces new definitions of ‘Data Center’ and ‘Digital Asset Mining.’ The list of Uses Allowed in Industrial Districts expanded to include these new uses and to regulate them by prescribing zones where they are Conditional and Permitted. These uses have been shown to produce significant levels of noise which would be a consistent nuisance adjacent to residential uses. The uses are proposed to be permitted in the M2 zone (where these impacts are to be expected) and Conditional in M1 districts (where these impacts require site-specific evaluation). The conditional use process in M1 districts will allow for added considerations to protect adjacent residential uses as zoning maps show several residential districts adjacent to M1 zoning districts.

Chapter 20.20 - Open Space, Public, and Aviation Districts

8. Section 20.20.020, Table 20.20-1, Amend Residential Day Care use to allow up to 15 children or adults in Open Space, Public, and Aviation Districts Allowed Uses.
9. Section 20.20.020, Table 20.20-1, Amend Day Care Center use to allow 16 or more children or adults in Open Space, Public, and Aviation Districts Allowed Uses.

SECTION 20.20.020 - Allowed Uses

Table 20.20-1 Uses Allowed in Open Space, Public, and Aviation Districts

Use Category L specific use type	OP1	OP2	OP3	A	Standards
Table Continues....					

PUBLIC/CIVIC

Table Continues....

Day Care					
^L Residential Day Care (1—15)	-	P	-	-	
^L Day Care Center (16+)	-	P	-	C	

Table Continues....

EXPLANATION

8 & 9. HB 918 increases the maximum capacity of Residential Day Care uses from 12 to 15 children. This consequently increases the minimum allowed capacity for Day Care Centers. This adjustment is reflected above.

Chapter 20.25 - Overlay Districts

10. Section 20.25.060.H.4, Amend design review option for exceptions from design standards in the /NC-SR, Southside Riverfront Neighborhood Character Overlay to transfer approval authority from the Design Review Board to the Zoning Officer.

SECTION 20.25.060 - /NC-SR, Southside Riverfront Neighborhood Character Overlay

- A. **Purpose**
- B. **Applicability**
- C. **Location**
- D. **Parcel and Building Standards**
- E. **Allowed Uses**
- F. **Prohibited Uses**
- G. **Parking**
- H. **Building Design**
 - 1. **Entryways**
 - 2. **Glazed Area**
 - 3. **Exterior Walls**
 - 4. **Exceptions**

The Zoning Officer is authorized to approve exceptions to the building design standards of 20.25.060.H in accordance with the design review procedures of 20.85.080.

- I. **Signs**
- J. **Hours of Operation**

EXPLANATION

10. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public

hearing requirements are repealed.

11. Section 20.25.070.E, Amend Historic Preservation Commission authorized duties for the Historic Fort Missoula Neighborhood Character Overlay district to transfer approval authority from the Design Review Board to the Historic Preservation Commission.

SECTION 20.25.070 - /NC-HFM, Historic Fort Missoula Neighborhood Character Overlay

A. **Purpose**

B. **Location**

C. **Applicability**

D. **Permitted and Prohibited Uses**

E. **Historic Preservation Commission**

A Historic Preservation Commission is established to implement the purposes of the Historic Fort Missoula Neighborhood Character Overlay district. The Historic Preservation Commission is authorized to perform those duties that are described in 20.90.030.

F. **Historic Preservation Permits**

G. **Review Criteria**

H. **Designated Cultural Resources**

I. **Related Plans and Guidelines**

EXPLANATION

11. SB 407 prohibits external boards from being the determining body for Design Review applications, except for boards reviewing for Historic Preservation. As a result, the authority for review is retained by the Historic Preservation Commission.

12. Section 20.25.080.A.3, Amend Design Excellence landscaping standards to update section reference.

SECTION 20.25.080 - /DE, Design Excellence Overlay – Generally

A. **General**

1. **Design Excellence Overlay Intent**

2. **Overlay District Conceptual Maps**

3. **Overlay Applicability**

a. **Project Applicability**

b. **Application of Other Title 20 Standards**

(1) **General**

(2) **Enterprise Commercial**

(3) **/NC-SR Overlay**

(4) **Multi-Dwelling Building Design**

(5) **Commercial Design Standards**

(6) **Landscaping Standards**

(a) The following Landscaping (20.65) standards apply in the Design Excellence Overlay:

(b) The following Landscaping standards do not apply in the Design Excellence Overlay:

(i) The Street Frontage Landscaping provisions of 20.65.030,

except as otherwise noted.

- (ii) The Perimeter Parking Lot Landscaping provisions of 20.65.050.
- (iii) The Alternative Compliance provisions of 20.65.100 (although a Design Variation may be requested - see 20.25.080.B.5).

(7) Landscape Alternative Compliance

Landscape alternative compliance, as described in 20.65.100.B, is not allowed in the Design Excellence Overlay; however, a Design Variation (20.25.080.B.5 Design Variation) may be requested.

EXPLANATION

12. The section has incorrect references to the Design Variation section and have been updated and corrected.

13. Section 20.25.080.B.2.b, Repeal reference to the Design Review Board within thresholds for Design Excellence Review.

14. Section 20.25.080.B.4, Amend Design Excellence Review to repeal all reference to the Design Review Board, repeal referral to Design Review, and transfer Design Excellence Review appeal authority to the Board of Adjustment.

SECTION 20.25.080 - /DE, Design Excellence Overlay – Generally

A. General

B. Review Process

1. General

2. Review Thresholds

a. Zoning Compliance Review

b. Design Excellence Review

- (1) Design Excellence Review is required for all Downtown subdistricts, Corridor Typology 1 and all Corridor Nodes.
- (2) Design Excellence Review thresholds in Corridor Typologies 2, 3 and 4 are based on the gross square footage of all structures added or modified.
- (3) Design Excellence Review is required for conditional uses, height above the base zoning, and design variations.

THRESHOLDS FOR DESIGN EXCELLENCE REVIEW

DOWNTOWN	Inner Core	Outer Core	Hip Strip	Gateway	North
	Required	Required	Required	Required	Required
CORRIDOR	Typology 1	Typology 2	Typology 3	Typology 4	
				30,000 SF or more north of river	
	Required	8,000 SF or more	15,000 SF or more	15,000 SF or more from river to South Ave.	

				30,000 SF or more south of South Ave.
OTHER	Corridor Nodes	Conditional Use*	Design Variation	Height Above Base Zoning
	Required	Required	Required	Required

* Enterprise commercial is not a conditional use in the Design Excellence Overlay.

3. Zoning Compliance Review

4. Design Excellence Review

a. General

(1) Purpose

(2) Authority

(a) Design Excellence Review is conducted administratively by the Zoning Officer.

(b) Design Excellence Review is conducted by the Historic Preservation Commission or the Historic Preservation Officer where the project involves a Historic Resource

(3) Common Review Procedures

(4) Review and Decision-Making Criteria; Burden of Proof or Persuasion

b. Timing of Design Excellence Review

c. Applications

(1) Pre-Application Meeting

(2) Authority to File

(3) Notices

(a) No notice is required for Design Excellence Review by the Zoning Officer.

(4) Forms

d. Review and Decision – Zoning Officer

e. Use of Design Excellence Manual

f. Appeals

Zoning Officer decisions of noncompliance with the Design Excellence Overlay may be appealed to the Board of Adjustment. Such applications will be considered by the Board of Adjustment based on the record, including the application materials submitted previously and the decision of the Zoning Officer. An appeal may be sustained only if the Board of Adjustment finds that the Zoning Officer erred in determining the project was not compliant.

5. Design Variation

EXPLANATION

13 & 14. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed. Now that both Design Excellence Review and Design Review are administrative processes, there is no longer an option for the Zoning Officer to refer to an external board for an elevated review process. Consequently, the referral process for Design Excellence Review applications to be elevated to Design Review has been repealed. The Board of Adjustment is now given appeal authority for

administrative decisions of Design Excellence Review applications, which is also typical for appeal of administrative decisions, in general.

15. Section 20.25.080.C, Repeal, generally, Design Excellence standards and intent statements unrelated to public health and safety including material coverage and façade articulation.
16. Section 20.25.080.C.4.b(3), Amend standards for Street Wall Height in Design Excellence to transfer authority from the Design Review Board to the Zoning Officer.

SECTION 20.25.080 - /DE, Design Excellence Overlay – Generally

- A. **General**
- B. **Review Process**
- C. **Standards, Interpretation**
 1. **Introduction**
 2. **General Standards**
 - a. **Primary Streets**
 - (1) **Definition**

High priority streets in Downtown and Corridors where maintaining an urban environment is particularly important.
 3. **Site Standards**
 4. **Vertical Scale**
 - a. **Building Height**
 - b. **Street Wall Height**
 - (1) **Definition**
 - (2) **Intent**

To open up access to air and light by reducing the perceived scale of a building at the street level.
 - (3) **Standards**
 - (a) Any building height greater than the maximum street wall height listed in a Design Excellence Overlay subdistrict must be set back by the minimum stepback depth dimension indicated in the applicable subdistrict. Street wall height is measured in both feet and stories, and is not allowed to exceed either standard.
 - (b) Where the maximum street wall height is greater than the maximum building height in the underlying zoning, the underlying zoning standard prevails. Greater height up to the maximum street wall height may be allowed as a Design Variation through Design Excellence Review by the Zoning Officer.
 - c. **Stepback Depth**
 - d. **Stepback Exception**
 - e. **Floor-to-Ceiling Height (Ground Floor)**
 5. **Facade Design**
 - a. **Glazed Area**
 - b. **Ground Floor Glazed Area**
 - c. **Upper Floor Glazed Area**
 - d. **Upper Floor Blank Wall Width**
 - (1) **Definition**

(2) **Intent**

To prevent large monotonous wall planes along the public realm, distribute windows and their associated benefits across the width of a building.

e. **Street-Facing Entrance**

f. **Distance Between Entries**

6. **Articulation**

a. **Mass Variation**

EXPLANATION

15. *SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. Intent statements are amended to reflect this. The requirements for Material Coverage and Façade Articulation are aesthetically intended, do not protect public health and safety, and are being entirely repealed.*

16. *SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed.*

17. Section 20.25.081, Repeal Design Excellence regulations for material coverage for the Downtown Inner Core, Downtown Outer Core, Downtown Hip Strip, Downtown Gateway, and Downtown North Overlays.

SECTION 20.25.081 - /DE-D, Design Excellence - Downtown Overlay

A. **General**

B. **Downtown Inner Core**

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**

C. **Downtown Outer Core**

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**

D. **Downtown Hip Strip**

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**

E. **Downtown Gateway**

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**

F. **Downtown North**

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**

EXPLANATION

17. *SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The requirements for Material Coverage are aesthetically intended, do not protect*

public health and safety, and are being removed.

- 18.** Section 20.25.082, Repeal Design Excellence regulations for material coverage and façade articulation for the Corridor Typology 1, Typology 2, Typology 3, and Typology 4 Overlays.

SECTION 20.25.082 - /DE-C, Design Excellence - Corridor Overlay

A. General

B. Corridor Typology 1

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**
4. **Articulation**



		Street-facing	Non-street-facing
Table Continues....			

C. Corridor Typology 2

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**
4. **Articulation**



		Street-facing	Non-street-facing
Table Continues....			

D. Corridor Typology 3

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**
4. **Articulation**



		Street-facing	Non-street-facing
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Table Continues....

E. Corridor Typology 4

1. **Site Design**
2. **Vertical Scale**
3. **Façade Design**
4. **Articulation**



		Street-facing	Non-street-facing
Table Continues....			

EXPLANATION

18. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The requirements for Material Coverage and Façade Articulation are aesthetically intended, do not protect public health and safety, and are being entirely repealed.

Chapter 20.40 - Use- and Building-Specific Standards

19. Section 20.40.050.E, Amend intent for parking lot landscaping requirements for Enterprise Commercial uses.
20. Section 20.40.050.J, Amend design alternatives for Enterprise Commercial Uses unrelated to public health and safety.

SECTION 20.40.050 - Enterprise Commercial Uses

- A. The standards of this section.... *section continues*
- B. Enterprise commercial uses must be.... *section continues*
- C. All business, servicing, manufacturing or.... *section continues*
- D. Outdoor display areas and outdoor.... *section continues*
- E. At least one of the following alternatives must be incorporated into the site to define and protect pedestrian and vehicle use of the parking lot:
 1. Locate at least 50% of the parking to the side or rear of the building;
 2. Provide a three-foot tall hedge, decorative wall or fence within parking lot perimeter buffer;
 3. Provide a 2.5- to three-foot tall berm within parking lot perimeter buffer, with side slopes not exceeding 25% for turf areas or 50% for vegetative groundcover areas;
 4. Locate the parking lot at least 2.5 feet lower in elevation than the adjacent right-of-way with the embankment planted with vegetative groundcover, low shrubs, and shade or ornamental trees; or
 5. Provide a centrally located, useable outdoor space that is hard-surfaced (concrete or pavers, not asphalt) and incorporates landscaping. Such outdoor areas must be of a size equal to at least five percent of the site's total gross floor area, include seating, and incorporate visual points of interest, such as public art, fountains, landscape plazas, public gathering space, etc. Outdoor

plazas may be counted toward the site's overall general landscaping requirement.

- F. An internal pedestrian circulation.... *section continues*
- G. Sidewalks, no less than eight.... *section continues*
- H. All crosswalks must be striped.... *section continues*
- I. The developer must petition.... *section continues*
- J. This requirement applies to all new construction and when the floor area of an existing building is expanded by 50% or more in order to reduce its apparent bulk. Building walls that contain public building entrances and building walls that face public rights-of-way must incorporate at least three of the following features:
 - 1. Color variation in the building façade, including building trim and accent areas;
 - 2. Exterior building materials that are varied in texture and color (dominant exterior building materials may not include smooth faced concrete block, tilt up concrete panels, or prefabricated steel panels);
 - 3. Building façade modulation, such as projections, recesses, offset planes, overhangs, arcades, and/or clearly defined, highly visible pedestrian entrances encompassing at least 75% of the ground-floor building façade (no uninterrupted [un-modulated] length of façade may exceed 100 feet in length);
 - 4. Building foundation landscaping, including trees, adjacent to the building along a minimum of 75% of the building's street-facing facade;
 - 5. Windows, doors and other transparent features that encompass at least 20% of the building's ground floor facade; and/or.
 - 6. Varied roof lines and multiple roof planes, with at least three or more roof slope planes.
- K. The City Council is expressly authorized to.... *section continues*

EXPLANATION

19 & 20. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. Intent statements are amended to reflect this. The requirements visual impact mitigation is aesthetically intended, does not protect public health and safety, and is being entirely repealed. The design options required to be selected by applicants have been limited to the minimum number applicable explicitly to public health and safety.

- 21. Section 20.40.090.E, Repeal, generally, design standards for Multi-Dwelling Buildings unrelated to public health and safety.
- 22. Section 20.40.090.H.2, Amend alternative compliance provisions for multi-dwelling buildings to transfer authority from the Design Review Board to the Zoning Officer.

SECTION 20.40.090 - Multi-dwelling Building

- A. Applicability**
- B. Building Height**
- C. Pedestrian Access**
- D. Parking and Access**
- E. Building Design**

These building design standards apply to new construction and/or areas of building expansion.

1. Entry Treatment

- a. Each multi-dwelling building must have a ground-floor building entrance that is located on the building façade that faces a public street or a right-of-way other than an alley.

- b. The entrance must be in the form of a covered entry that is at least six feet in depth.
- c. Required ground-floor building entrances may face an alley if topographic constraints prevent reasonable access to an adjacent public street or right-of-way.

- 2. **Glazing**
- 3. **Storage**
- 4. **Other Design Features**

F. Landscaping

G. Location in Missoula Urban Transportation District

H. Exceptions; Alternative Compliance

- 1. The zoning officer, in consultation with the historic preservation officer, is authorized to approve exceptions to the multi-dwelling building standards of this section when strict application of the multi-dwelling building standards would result in buildings that are incompatible with adjacent structures that are recognized as contributing structures in an historic overlay or national register historic district.
- 2. The Zoning Officer is authorized to approve exceptions to the building design standards of 20.40.090.E in accordance with the design review procedures of 20.85.080.

EXPLANATION

21. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The requirements for certain Entry Treatment characteristics and Other Design Features are aesthetically intended, do not protect public health and safety, and are being entirely repealed.

22. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed.

23. Section 20.40.130.D, Add 'Temporary overnight visitors within a Religious Assembly' to the authorized Temporary Uses and subject the use to time limits.

24. Section 20.40.130.G, Add a time limit for religious assemblies accommodating temporary overnight visitors to a maximum of 75 days per calendar year in any zoning district and exempt this use from the limitations in R districts.

SECTION 20.40.130 - Temporary Uses

A. Description and Purpose

B. Authority to Approve

C. Exemptions

D. Authorized Uses

The following may be approved as temporary uses when the zoning officer determines that the operation of such use will be generally compatible with surrounding uses and will not be detrimental to public safety:

- 1. Christmas tree and similar holiday sales lots;
- 2. Outdoor carnivals;
- 3. Outdoor concerts, festivals and similar events;
- 4. Temporary sales offices;
- 5. Temporary portable storage containers, subject to 20.40.130.F;

6. Auctions;
7. Temporary overnight visitors within a Religious Assembly, subject to 20.40.130.G.4;
8. Other temporary uses allowed by State Law, and
9. Similar uses and activities.

E. Conditions of Approval

F. Special Regulations for Temporary Portable Storage Containers

G. Time Limit

1. In residential (R) zoning districts temporary uses may be permitted up to four times per calendar year per parcel for a maximum of ten days per occurrence. Upon expiration of a temporary use permit, another permit for the same premises may not be obtained for at least 30 days. This limitation does not apply to Religious Assemblies accommodating temporary overnight visitors.
2. In nonresidential zoning districts temporary uses may be permitted for up to 90 days per calendar year per parcel. There is no limit on the number of occurrences or events as long as the 90-day cumulative limit is not exceeded.
3. The applicant must submit a written explanation of the length of time needed for a proposed temporary use.
4. Religious Assemblies may not accommodate temporary overnight visitors for more than 75 days per calendar year in any zoning district.

H. Procedure

EXPLANATION

23. SB 195 amends the definition and use allowances for Religious Assemblies. The list of Authorized Temporary Uses above has been expanded to include the new use allowance from the State.

24. SB 195 limits the temporary use of religious assemblies to no more than 75 days per calendar year. This limitation is reflected in the Temporary Uses time limits above to ensure compliance with the state mandate.

25. Section 20.40.140.F, Repeal, generally, parking and access design standards for Townhouses unrelated to public health and safety.
26. Section 20.40.140.G, Repeal, generally, building standards for Townhouses unrelated to public health and safety.
27. Section 20.40.140.H.2, Amend alternative compliance provisions for Townhouses to transfer authority from the Design Review Board to the Zoning Officer.

SECTION 20.40.140 - Townhouse

A. Applicability

B. Minimum Parcel Size

C. Side Setbacks

D. Building Separation

E. Number of Units

F. Parking and Access

1. Access to parking spaces and garages must be from the alley for all parcels or TED ownership units abutting an alley.
2. For parcels or TED ownership units without alley access, driveways, parking and other vehicular use areas may not be located between a covered building entrance and the street.

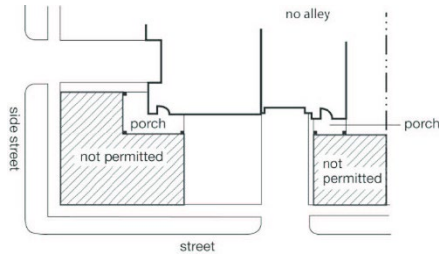


Figure 20.40-6 Townhouse, Parking and Access, Parcels Without Alley Access

3. When parking is provided in a garage or carport that faces a street, the following standards must be met:
 - a. A townhouse structure may have no more than two individual garage doors or carport entrances in succession on a street-facing façade.
 - b. Garages and carports that abut a street must be set back at least 20 feet from all parcel lines on public road frontages or from the back of curb or sidewalk on private roads within a public access easement.
 - c. When garages or carports are paired (abutting), driveways must be combined and centered on the parcel line or TED ownership unit boundary between dwelling units providing access to the garages or carports. There must be a minimum of 33 feet distance between single or paired driveways, unless otherwise approved by the city engineer (see diagram).

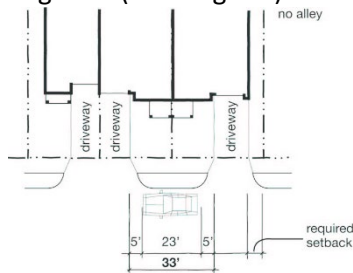


Figure 20.40-8 Townhouse, Parking and Access, Location of Garages or Carports

- d. The width of all driveway approaches must meet city engineering department standards (Municipal Code 12.12.180), as reviewed and determined by the city engineer.

G. Building Standards

1. Entry Treatment

- a. Each dwelling unit must have a separate ground-floor entrance that is clearly defined and highly visible on the building façade that faces a street or a right-of-way other than an alley. The front door must be within eight feet of the building's front façade. The door may be at any angle to the street as long as the other entrance standards are met.

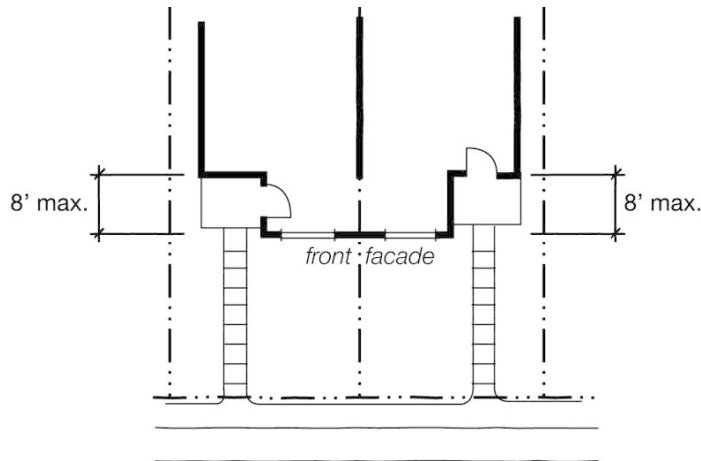


Figure 20.40-9 Townhouse, Building Design, Entry Treatment

b. Each front entrance must include a covered entry. A pedestrian walkway must connect each front entrance to the street.

2. Glazing

3. Building Modulation

a. Building façade modulation must be provided on the front façade of all townhouse buildings containing three or more dwelling units when such buildings directly face a street, as follows:

- (1) Exterior walls may not exceed 32 feet in (horizontal) length without modulation; and
- (2) The modulation depth must be at least two feet.

b. Modulation may be achieved through such techniques and features as:

- (1) Recessed or projecting wall offsets;
- (2) Entryways;
- (3) Porch or canopy structures including columns or piers;
- (4) Balconies;
- (5) Dormers; or
- (6) Other prominent features that serve to provide dimension and break up large expanses of wall area.

H. Exceptions; Alternative Compliance

1. The zoning officer, in consultation with the historic preservation officer, is authorized to approve exceptions to the townhouse standards of this section when strict application of the townhouse standards would result in buildings that are incompatible with adjacent structures that are recognized as contributing structures in a national register historic district.
2. The Zoning Officer is authorized to approve exceptions to the garage /carport width standards of 20.40.140.F.3 and the building design standards of 20.40.140.G in accordance with the design review procedures of 20.85.080.

EXPLANATION

25. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The requirements limiting garage or carport width and mandating garage or carport recession are aesthetically intended, do not protect public health and safety, and are being entirely repealed.

26. SB 407 requires design standards to be limited only to what is necessary for the protection of public

health and safety. The requirements for porch entry treatments and limiting garage entryways are aesthetically intended, do not protect public health and safety, and are being entirely repealed.

27. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed.

28. Section 20.40.160.F, Repeal Visual Impact Mitigation from the Development Standards applicable to Wireless Communication Facilities.

29. Section 20.40.160.K.1, Amend code reference within conditional use approval of Wireless Communication Facilities to reference the conditional use process.

SECTION 20.40.160 - Wireless Communication Facilities

- A. **Purpose**
- B. **Applicability**
- C. **Prohibited Locations and Support Structure Types**
- D. **Permitted Locations**
- E. **Historic District Overlay Zones (/NC-H)**
- F. **Development Standards**
 - 1. **Minor Modifications**
 - 2. **Major Modifications**
 - 3. **Schedule**

The following standards apply to wireless communication facility supports:

Support Type	Permitted Location	Support Structure Height	Antenna Height	Setback	Buffering & Screening	Refer to section
Existing Facilities - Minor Modifications	Existing location	20.40.160.G.2	20.40.160.G.2	20.40.160.G.2	Cannot exceed/defeat existing	20.40.160.G.2
Existing Facilities - Major Modifications	Existing location	Depending on support type. Refer to support systems below.				20.40.160.G.3
Roof-mounted support Structure - New or Major Modification	All zoning districts	Not to exceed the height of the tallest element of the building to which it is attached	Not to exceed the building's tallest element; or 10 ft. above the building's tallest element if total surface area of each antenna does not exceed 10 sq. ft.	N/A	Not required	
Structure-mounted support structure - New or Major Modification	All zoning districts	Support structure + antenna may not exceed 8 ft., not including host structure height	Included in height of support structure	N/A	Not required	

Ground-mounted support structure - New or Major Modification	B1, B2, C1, C2, CBD, M1R, OP3, A*	Support structure + antenna together may not exceed 50 ft. or height of existing utility and telephone poles within 300 ft. of the proposed site	Included in height of support structure	From property line: 100% of structure height for support; 20 ft. for equipment enclosure	Required	
	M1, M2	Support structure + antenna may not exceed the zoning district height limit	Included in height of support structure	From property line: 50% of structure height for support; 10 ft. for equipment enclosure	Required	
Distributed Antenna System (DAS) and Small Cell Networks	All Zoning Districts	Support structure + antenna may not exceed 8 ft., not including host structure height	Included in height of support structure	N/A	Not required	20.40.160 .I

4. Buffering and Screening

G. Existing Facilities Maintenance, Modification, and Removal

H. Submittal Requirements for New Facilities and Major Modifications

I. Submittal requirements for minor modifications

J. Third Party Review

K. Exceptions

1. Applicability

In the event that standards of this section cannot be met by an applicant, and there exists no feasible alternative to providing adequate service by any provider for a particular geographic area, the applicant may apply for conditional use approval in accordance with 20.85.070.H.

2. Review and Submittal Requirements

EXPLANATION

28. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The requirements for Visual Impact Mitigation is aesthetically intended, does not protect public health and safety, and is being entirely repealed.

29. The text above expressly mentions the Conditional Use process while the code section refers to the section containing Design Review. The code section is corrected to refer to the Conditional Use process.

30. Section 20.40.170, Repeal, generally, design standards for Commercial Uses Not Exceeding 30,000 Square Feet unrelated to public health and safety and update subsequent section references.

SECTION 20.40.170 - Commercial Uses Not Exceeding 30,000 Square Feet

The purpose and intent of these site and building design standards is to ensure that commercial buildings are oriented to face public and private streets, and impacts of surface parking areas are minimized. The intent is not

to dictate design or limit architectural expression but to establish some minimum standards for certain commercial development to enhance economic vitality of our commercial corridors, support crime prevention through environmental design, support community health, and enhance quality of life for citizens and encourage large chain stores and restaurants to design buildings that respect and reflect the unique character of Missoula.

A. **Applicability**

B. **Zoning Compliance Permit**

C. **Building Facades**

A primary façade is a side of a building that faces a public or private street, faces residential development or contains a primary customer entrance. A secondary façade is a side of a building that is not a primary façade but is visible from a public or private street.



Figure 20.40-11 Primary and Secondary Facades

D. **Building Orientation**

E. **Customer Entrance**

F. **Trash Receptacles**

Trash receptacles shall be consolidated.

G. **Parking**

H. **Neighborhood Commercial**

These standards shall apply to certain non-residential uses in the B1 and B2 zoning districts. Primary facades shall incorporate at least four of the following options and secondary facades shall incorporate at least three of the following options. The options are:

1. Provide color variation in the building façade, including building trim or accent areas;
2. Provide building façade modulation, such as projections, recesses, offset planes, overhangs, arcades and/or clearly defined, highly visible pedestrian entrances encompassing at least 75% of the first story of the building façade. No uninterrupted (un-modulated) length of the façade shall exceed 60 feet in length. The break in the facade shall be at least six feet in length and a minimum two feet in depth;
3. Provide exterior materials that are clearly visibly texturally diverse. Predominant exterior building materials may not include smooth-faced concrete block, tilt up concrete panels or prefabricated steel panels. This is not intended to exclude the use of architectural metal wall systems;
4. Incorporate windows, doors and other transparencies to encompass at least 30% of the first story of the building façade between finished grade and 12 feet above grade. Darkly tinted, mirrored or highly reflective glazing or doors with less than 50% glass may not be counted toward minimum glazed area requirements;
5. Provide varied roof lines and multiple roof planes, with three or more roof slope planes, or a rooftop garden or rooftop deck; varied roof lines should not preclude the installation of renewable energy systems;
6. Provide a primary customer entrance which is clearly defined and highly visible facing the street

or public right-of-way. Where a customer entrance is provided to meet the requirement in 20.40.170.E. it shall be counted for that facade;

7. Provide a ground-level covered entryway a minimum of eight feet wide and six feet deep.

I. General Commercial

This standard shall apply to certain non-residential uses in the C1, C2, CBD, M1R and M1 zoning districts. Primary and secondary facades shall incorporate at least three of the following options. The options are:

1. Provide color variation in the building façade, including building trim or accent areas;
2. Provide building façade modulation, such as projections, recesses, off-set planes, overhangs, arcades and/or clearly defined, highly visible pedestrian entrances encompassing at least 75% of the first story of the building façade. No uninterrupted (un-modulated) length of the façade shall exceed 80 feet in length. The break in the façade shall be at least eight feet in length and a minimum two feet in depth;
3. Provide exterior materials that are clearly visibly texturally diverse. Predominant exterior building materials may not include smooth-faced concrete block, tilt up concrete panels or prefabricated steel panels. This is not intended to exclude the use of architectural metal wall systems;
4. Incorporate windows, doors and other transparencies to encompass at least 25% of the first story of the building façade between finished grade and 12 feet above grade. Darkly tinted, mirrored or highly reflective glazing or doors with less than 50% glass may not be counted toward minimum glazed area requirements;
5. Provide varied roof lines and multiple roof planes, with three or more roof slope planes, or a rooftop garden or rooftop deck; varied roof lines should not preclude the installation of renewable energy systems;
6. Provide a primary customer entrance which is clearly defined and highly visible facing the street or public right-of-way. Where a customer entrance is provided to meet the requirement in 20.40.170.E. it shall be counted as meeting one of the design alternatives for that façade.



Figure 20.40-13 Building Incorporating All General Commercial Design Alternatives

EXPLANATION

30. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. Intent statements are amended to reflect this. The requirements for Mechanical Equipment and Utilities, and Trash Receptacle screening are aesthetically intended, do not protect public health and safety, and are being entirely repealed. The design options required to be selected by applicants have been limited to the minimum number applicable explicitly to public health and safety.

31. Section 20.40.180.F, Repeal design reference within block standards for Townhome Ownership Units.

32. Section 20.40.180.G, Repeal, entirely, Parks and Trails requirements for Townhome Exemption Developments.

33. Section 20.40.180.I, Repeal reference to parkland within Townhome Exemption Development phasing plan requirements.

- 34. Section 20.40.180.J, Repeal regulations referencing conditions of approval for Townhome Exemption Developments and update subsequent section references.**

SECTION 20.40.180 - Townhome Exemption Development (TED) Standards

- A. Applicability**
- B. Conditions Not Suitable for TED**
- C. Setbacks and Separations**
- D. On-Site Constraints**
- E. Infrastructure and Fire Safety**
- F. Blocks**

Blocks shall be designed to assure traffic safety and ease of non-motorized and motorized circulation.

1. Block lengths shall not exceed 480 feet in length unless topographic constraints are present as confirmed by the Zoning Officer in consultation with the City Engineer. In cases where maximum block length is waived, block lengths exceeding this standard should only be allowed for the most minimal variation necessary.
2. Non-motorized access easements and installation of pedestrian facilities that create a break within a block may be required where there is a need for non-motorized connectivity
3. TOU 's shall not be through parcels

G. Transit

H. Review Process and Submittal Requirements

1. TED projects shall be.... *section continues*
2. The zoning compliance permit.... *section continues*
3. The Zoning Officer is.... *section continues*
4. TED Projects of more than.... *section continues*
5. Information submitted at the.... *section continues*
6. If phasing is proposed within a TED project, a phasing plan shall be submitted with the initial zoning compliance permit for the entirety of the TED development, and is subject to review and approval by the Zoning Officer and the City Engineer.
 - a. A phasing plan shall be subject to the following criteria:
 - (1) The first phase shall include all proposed dedicated public right-of-way (if the right-of-way is accepted by the Development Services Director in consultation with the City Engineer), and any essential infrastructure as determined by the Development Services Director and the City Engineer.
 - (2) *list continues*

I. TED Declarations

1. Townhome Exemption Development (TED) projects shall be.... *section continues*
2. When phasing is proposed for.... *section continues*
3. Before filing a TED Declaration:
 - a. Prior to when the declaration is filed by the Clerk and Recorder, the final TED declaration must be reviewed by the Zoning Officer.
 - b. All infrastructure improvements, including but not limited to roads, curbs, gutters, utilities, sidewalks, boulevard improvements, stormwater facilities, and drainage are installed, and approved by the City Engineer, or an estimate of probable cost is provided and an improvements agreement guaranteed by a security for the remaining infrastructure is approved by Development Services.
 - c. Any required public access easement must be filed.

4. Amendments to filed TED declarations:
 - a. *list continues*

EXPLANATION

31. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The regulation above is amended to reflect this.

32. SB 331 limits zoning determinations for Townhome Exemption Development applications to regulations pertaining to pertaining to land use, density, bulk and dimensional requirements, landscaping, and parking requirements. The requirements above titled 'Parks and Trails' is not expressly related to these requirements, nor the applicable park dedication requirements in 76-3-621, and all references to these requirements are being repealed entirely.

33. SB 331 limits zoning determinations for Townhome Exemption Development applications to regulations pertaining to pertaining to land use, density, bulk and dimensional requirements, landscaping, and parking requirements. The requirements above titled 'Parks and Trails' is not expressly related to these requirements, nor the applicable park dedication requirements in 76-3-621, and all references to these requirements are being repealed entirely

34. SB 331 prohibits applications for Townhome Exemption Developments (TEDs) from being subject to conditions of approval. A reference to conditions for TEDs is repealed.

Chapter 20.45 - Accessory Uses and Structures

35. Section 20.45.060.A, Repeal reference to preserving neighborhood character within design standards for Accessory Dwelling Units.
36. Section 20.45.060.B, Repeal, generally, design standards within 'Regulations for all Accessory Dwelling Units' unrelated to public health and safety.
37. Section 20.45.060.C, Repeal, generally, unclear design standards within 'Special Regulations for Detached Accessory Dwelling Units' and those unrelated to public health and safety.

SECTION 20.45.060 - Accessory Dwelling Units

A. Purpose

1. Accessory dwelling units help advance the city's growth and planning policies by:
 - a. Accommodating new housing units;
2. The accessory dwelling unit regulations of this section are intended to help promote the benefits of accessory dwelling units, while also promoting predictability and certainty for established neighborhoods.
3. The accessory dwelling unit regulations are not *section continues*

B. Regulations for all Accessory Dwelling Units

All accessory dwelling units must comply with the regulations of this subsection.

1. **General Standards**
2. **Where Allowed**
3. **Number**
4. **Methods of Creation**
5. **Density (Minimum Parcel Area per Unit)**
6. **Wastewater Service**
7. **Parking**
8. **Size**

9. **Building Approval**
10. **Address identification**
- C. **Special Regulations for Detached Accessory Dwelling Units**
 Detached accessory dwelling units must comply with the regulations of this subsection.

1. **Setbacks**
 A detached accessory dwelling unit must be located at least ten feet from the detached house. This required ten-foot separation distance must be open from the ground to the sky except that it may include walkways, patios, decks and similar structures that do not exceed 30 inches in height above finished grade.
2. **Height**
3. **Building Coverage**
4. **Conversion of Existing Detached Accessory Structures**
 - a. **Existing Detached Accessory Structure May Not Be Altered**
 An existing detached accessory structure that complies with any of the standards of 20.45.060.C.3 through 20.45.060.C.4 may not be altered in a way that will move the structure out of conformance with the standards that are met.

EXPLANATION

35-37. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. Intent statements and language are amended to reflect this focus and to provide clarity. The requirements for Location of Entrances, Design Features, Entrances for Detached ADUs are aesthetically intended, do not protect public health and safety, and are being entirely repealed. Additional text is amended to reflect changes in references and applicable code sections.

Chapter 20.60 - Parking and Access

38. Section 20.60.020, Table 20.60-1, Add 'Multi-dwelling unit (B and C districts, excluding CBD)' to the Off-Street Parking Schedule and set the minimum required off-street parking ratio at one parking space per dwelling unit.

SECTION 20.60.020 - Required Motor Vehicle Parking

Table 20.60-1 Off-Street Parking Schedule

Use Category ¹ specific use type	Minimum Motor Vehicle Off-Street Parking Ratio
RESIDENTIAL	
Household Living (except as noted below)	1 space per dwelling unit
Table Continues....	
¹ Multi-dwelling unit (affordable housing + under 850 sq. ft.)	0.75 spaces per dwelling unit

^L Multi-dwelling unit (B and C districts, excluding CBD)	1 space per dwelling unit
^L Two unit residential (max 2 units on parcel) - both units more than 850 sq. ft.	2 spaces per dwelling unit
Table Continues....	

EXPLANATION

38. SB 245 states that the city may not require more than one off-street parking space for each multi-dwelling unit located in a commercial zone. The table above is expanded to include this new requirement specific to multi-dwelling units in commercial zones, excluding the CBD. This is because no off-street motor vehicle parking is required in the CBD zoning district per Title 20, Section 20.60.010.C.1.

Chapter 20.65 - Landscaping

- 39.** Section 20.65.020.C.1.b.(3), Amend design standards for Activity Area Requirements unrelated to public health and safety.

SECTION 20.65.020 - General Site Landscaping

A. Applicability

B. Standards

C. Activity Area Requirements for Multi-dwelling Houses and Multi-dwelling Buildings

In addition to the general site landscaping requirements of 20.65.020, the following provisions apply to multi-dwelling houses and, multi-dwelling building developments that include ten or more dwelling units:

1. Provide at least 20% of the parcel as activity area. This activity area requirement may be satisfied by the following:
 - a. Private outdoor areas for individual.... *section continues*
 - b. Common recreation area may be counted toward satisfying the activity area requirements of this section.... *section continues*
 - (1) Be centrally located within the proposed development or adjacent to an existing park or open space;
 - (2) Have a maximum three percent slope; and
 - (3) Have a length and width of no less than 40 feet each.
 - c. *section continues*
2. **Exceptions**
3. **Agency Review**

EXPLANATION

39. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The requirement limiting activity area maximum dimensions is aesthetically intended, does not protect public health and safety, and is being entirely repealed. Adding reference to mixed use, is a clarification.

- 40.** Section 20.65.070, Amend Screening landscaping requirements to clearly tie intent statements to public health and safety and repeal standards for Roof-mounted Mechanical Equipment.

SECTION 20.65.070 - Screening

Screening is intended to minimize the environmental and community impacts of mechanical equipment, utilities, and service spaces, such as trash and outdoor storage, from the public right-of-way and abutting residential zoning districts and uses, while also providing protection and shelter for these elements. This does not apply to solar energy conversion systems which must comply with standards in 20.45.090.

A. **Applicability**

The screening requirements of this section apply to multi-dwelling houses, multi-dwelling buildings, vertical mixed-use, mixed-use or nonresidential development when any of the following occurs:

B. **Features to be Screened**

The following features must be screened:

1. **Ground-mounted Mechanical Equipment**
2. **Structure-mounted Mechanical Equipment**
3. **Trash Receptacles**

Trash receptacle areas must be contained and screened along public rights-of-way other than alleys and all abutting parcels with a solid wall or fence. Trash receptacles may not be located in the front or street side setback area. Commentary: See the City Fire Code for minimum spacing requirements for trash receptacle (from buildings and openings).

4. **Utility Cabinets**

- a. Above-ground utility cabinets that are 30 or more inches in height and located within 25 feet of a street must be screened along the street by a solid fence, solid wall, dense hedge, or combination of such features.

5. **Materials, Supplies and Equipment**

C. **Standards**

EXPLANATION

40. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The screening landscaping regulations are amended to center explicitly around public health and safety through environmental and community protection and safeguarding of heavy equipment and waste. Roof-mounted mechanical equipment does not relate to this intent and is subsequently repealed.

Chapter 20.75 - Signs

41. Section 20.75.030, Amend Prohibited Signs and Sign Characteristics to remove reference to Building as a Sign, Heritage Signs and Building Graphics.

SECTION 20.75.030 - Prohibited Signs and Sign Characteristics

The following signs are expressly prohibited in all zoning districts unless expressly allowed by other provisions of this zoning ordinance:

- A. Signs that simulate or which are likely to be confused with traffic control signs commonly used by agencies of government and construction contractors to draw attention to traffic or roadway hazards;
- B. Searchlights;
- C. Animated, flashing, blinking or scintillating signs;
- D. Roof signs;

- E. Signs that are located so as to obstruct the view of traffic-control devices or vehicles at intersections or pedestrians at marked crosswalks, as determined by the city engineer;
- F. Dynamic display billboards;
- G. Mobile billboards;
- H. Vehicle signs are not permitted in public rights-of-way, on public property or on private property where such objects are visible from the public right-of-way;
- I. Temporary (portable) changeable copy signs;
- J. Inflatable signs, any sign that moves or gives the appearance of moving, and any sign which flutters, undulates, swings, rotates, oscillates or otherwise moves by natural or artificial means, including balloons, flags, pennants, streamers, spinners or other types of wind signs, except national and governmental subdivision flags as noted in 20.75.040.G;
- K. Human signs, human directional signs, and sign walkers that display, advertise, or promote commercial activity or provide direction to commercial activity;
- L. Signs not expressly allowed by the regulations of this chapter.

EXPLANATION

41. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. Building as Sign, Heritage Signs, and Building Graphics were formerly required to be approved through the Design Review process. Following the repeal of Building as a Sign design regulations (see amendments #46 and #49 below) and the administrative transition of Design Review, the list above is amended to repeal reference to Building as a Sign, Heritage Signs, and Building Graphics for clarity.

42. Section 20.75.070.B.1.b, Repeal illumination design regulations for Hanging Signs.

43. Section 20.75.070.G.2.ii, Repeal design limitations for Service Stations that do not relate to public health and safety.

SECTION 20.75.070 - Regulations of Specific Types of Signs

A. Awning Signs

B. Canopy and Marquee Signs

Canopy and marquee signs must comply with the standards of this subsection. They are allowed in addition to other signs allowed by this chapter, and they do not count against the maximum wall sign allowance.

1. Hanging Signs

- a. One hanging sign is allowed per public entrance.
- b. Hanging signs may be constructed of rigid material.
- c. ... section continues

2. Above Canopy and Marquee Signs

C. Window Signs

D. Multi-tenant Signs

E. Manual Changeable-Copy Signs

F. Dynamic Displays

G. Changeable Copy Signs for Specific Uses

1. Theaters

2. Service Stations

- a. One changeable copy (wall or ground) sign as allowed by 20.75.070.E or 20.75.070.F;

- and
- b. One changeable copy sign per street frontage on which the station gains access, subject to the following:
 1. Signs may not be larger than 15 square feet in area; and
 2. Signs may be double-faced and illuminated; and
 3. Signs shall contain static messages only.

H. Pump Top Unit, Service Stations

I. Sidewalk Signs

J. Stacking Lane Signs

K. Bus Stops

L. Banner Signs

EXPLANATION

42 & 43. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. Intent statements are amended to reflect this. The requirements limiting Hanging Sign illumination and Service Station character colors are aesthetically intended, do not protect public health and safety, and are being entirely repealed.

- 44. Section 20.75.100, Amend, generally, the Special Signs Review by the Design Review Board to repeal all reference to the Design Review Board and public hearings, and transfer full authority to the Zoning Officer through administrative Design Review.
- 45. Section 20.75.100.B.1, Repeal Building as Sign from the Special Signs Review classes.
- 46. Section 20.75.100.B.4, Amend the review exemptions for Building Graphics to transfer authority from the Design Review Board to administrative Design Review by the Zoning Officer.

SECTION 20.75.100 - Special Signs

A. Purpose and Applicability

Signs that do not lend themselves to the measurement provisions of this chapter or signs designed for a special and unique purpose, may only be permitted in any zoning district when, following Design Review as outlined in 20.85.080, the zoning officer finds such signs in conformance with the overall purpose and intent of this chapter and appropriate to the type of development or structure to which they are related.

B. Special Sign Classes

1. Comprehensive Sign Package

Signs that are not in strict compliance with the regulations of this chapter may be approved when the zoning officer determines that the signs are part of a comprehensive design plan that meets the overall intent and purposes of this chapter. To qualify for zoning officer review as a comprehensive sign package, the applicant must address the complete system of signage for the site along with proposed lighting and architectural detailing that may be considered to support the sign.

2. Special Districts

The zoning officer must review signs in /PUD, NC-B (Boulevard), H (Historic), or Special Districts. The zoning officer will determine if the signs meet the overall intent and purposes of this chapter and the requirements of this section.

3. Heritage Signs

- a. New Heritage Signs may only be approved when the zoning officer finds that the

granting of approval would result in superior design for the overall site, is in conformance with the overall purpose and intent of this chapter, and reflects a historically-accurate sign that was on site previously.

Commentary: In addition to other required submittal information, the applicant must submit photographic documentation of the past sign, design of the new sign showing the historically-accurate relationship to the past sign, and proof of consultation with the Historic Preservation Officer.

- b. The zoning officer may declare that an existing sign makes a significant artistic or historic contribution to the community or neighborhood in which the sign is currently located. This declaration, which may be made only at the request of the owner or lessee of the sign, entitles its owner or lessee to continue using the sign subject to the maintenance requirements of 20.75.110.

Commentary: In addition to other required submittal information, the applicant must submit proof of consultation with the Historic Preservation Officer.

4. Building Graphics

Building Graphics may only be approved when the zoning officer determines that the building graphic will make a positive contribution to the building and surrounding area's appearance and will otherwise be in keeping with the intent of this zoning ordinance.

- a. Building Graphics are exempt from the requirement for Design Review (20.85.080) approval for the following reasons:

1. The Building Graphic is already approved by the Public Art Committee.
2. The Building Graphic is included with a project within the Design Excellence Overlay, and is being reviewed as part of a Design Excellence Review as described in 20.25.080.B.4.

EXPLANATION

44-46. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed.

- 47.** Section 20.75.110.B.1, Revise reference to Special Signs within Sign Maintenance and Removal based on prior text amendments made.

SECTION 20.75.110 - Maintenance and Removal

A. Maintenance

B. Unsafe, Inadequately Maintained and Abandoned Signs

1. The zoning officer is authorized to require the removal of any sign found to be unsafe or not as required by this chapter. Before bringing such action to require removal of an unsafe or inadequately maintained sign, the zoning officer must provide written notice to the owner of the sign or the owner of the premises on which the sign is located. The notice must specify that within 30 days the illegal sign must be removed or brought into compliance with this section. The notice must state the reasons for removal, specifying the deficiencies and violations; and such notice must specify what repairs, if any, will make the sign and its support conform to the construction and maintenance requirements of this chapter. Notice must be given in person to the sign owner or lessee, or given to the owner or lessee by certified mail. The zoning officer is

not authorized to require removal of a sign designated as a historic, artistic or landmark sign in accordance with 20.75.100.B.3.

2. If the owner or lessee of the sign fails to remove the sign within the allowed time after receiving written notice, the building inspector is authorized to remove the sign at the owner's expense.

C. **Dangerous Signs**

D. **Abandoned Signs**

EXPLANATION

47. The referenced section has been changed within other amendments and for continuity of the code, the referenced section number above has been corrected.

- 48.** Section 20.75.170.H, Repeal, entirely, Building as Sign regulations from Measurement Rules.

SECTION 20.75.170 - Measurement Rules

A. **Box Signs**

B. **Panel Signs**

C. **Channel (individual) Letter Signs**

D. **Signs Applied to the Façade**

E. **Multi-Sided Signs**

F. **Building Frontage**

G. **Window Area**

EXPLANATION

48. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The Building as a Sign is a design-centered sign type that does not protect public health and safety and all design standards related to this sign type are being entirely repealed.

Chapter 20.85 - Review and Approval Procedures

- 49.** Section 20.85.020, Table 20.85-2, Repeal Design Review Board from the table of Noticing Requirements for Specific Application Types.

SECTION 20.85.020 - Common Provisions

A. **Applicability**

B. **Preapplication Consultations**

C. **Application Submittal**

D. **Notice**

1. **Content of Notice**

2. **Types of Notice**

3. **Notice Requirements for Specific Application Types**

Table 20.85-2
Noticing Requirements for Specific Application Types

Application	Posted Notice	Mail Notice	Notification Distance ¹	Newspaper Notice	Title 20 Section
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Table Continues....

Table Continues....

EXPLANATION

49. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board including notice provisions, and all related public hearing requirements are repealed.

50. Section 20.85.080, Amend Design Review to repeal all reference to external board review, the Design Review Board, and all associated public hearing-related language.
51. Section 20.85.080, Amend Design Review to transfer authority of hearing Design Excellence Review appeals from the Design Review Board to the Board of Adjustment.
52. Section 20.85.080, Amend Design Review to transfer approval authority of Design Review applications from the Design Review Board to the Zoning Officer.
53. Section 20.85.080, Repeal reference to architectural design standards within Design Review criteria.

SECTION 20.85.080 - Design Review

A. Intent

The design review procedure of this section is intended to provide a process for consideration of alternative compliance plans when an applicant proposes deviations from otherwise applicable development standards, as well as offer a heightened level of scrutiny for some of the plans submitted within the Design Excellence Overlay.

B. Applicability

The design review procedure of this section applies only when expressly authorized or required under this zoning ordinance.

C. Authority to File

Applications for design review approval may be initiated only by the owner of the subject property or by the owner's authorized agent. Design Excellence Overlay plans may be sent to Design Review based on the criteria in 20.25.80.B.4.g. The Board of Adjustment shall hear the appeal of the Zoning Officer decisions following Design Excellence Review.

D. Application Filing

1. Complete applications for design review approval must be filed with appropriate personnel in Development Services.
2. The applicant must submit an intake form.
3. The applicant must provide the following to the zoning officer:
 - a. Legal description of the subject property;
 - b. Ownership and mailing address of all owners of the subject property; and
 - c. All submittal materials required by the zoning officer for the review, which may include elevation drawings or photographs of existing and proposed buildings, site plans including landscaping, and other materials that will help the Zoning Officer conduct a competent review and support the required decision and findings of fact.

E. Review and Report and Final Action —Zoning Officer

- F. The zoning officer must approve or deny the application based on the review criteria of 20.85.080.F.

The zoning officer's decision must be supported by written findings of fact.

Review Criteria

1. Design review applications may be approved by the Zoning Officer only when they determine that the review criteria listed below, as applicable, have been satisfied. All of the applicable review criteria, listed below, must be addressed in the Zoning Officer's findings of fact in support of their decision.
 - a. That new buildings and structures are located to create a positive relationship with their environment, both urban and natural;
 - b. That the site design properly addresses building orientation, open space, light, sun exposure, views and protection of natural features;
 - c. That buildings, structures and uses are compatible with adjacent properties and uses in terms of physical design elements such as volume and mass management, open space design, screening, and any other design elements considered important by the Zoning Officer;
 - d. That the overall project will be functional and safe in terms of pedestrian, bicycle and vehicular access, parking, loading, and servicing.

Commentary: Not all review criteria will apply in every case. Only the applicable review criteria need to be met.
2. Alternative compliance plans proposing deviations from otherwise applicable development standards may be approved by the Zoning Officer only when they determine that the proposed plan will result in a development project that:
 - a. Does as good or better job of meeting the overall intent of the subject regulations and the zoning ordinance as a whole than would strict compliance with the standard from which relief is sought; and
 - b. Will result in a project design that is as good as or better than would strict compliance with the standard from which relief is sought.
3. Within the Design Excellence Overlay, the design guidelines of the Design Excellence Manual must be applied as the applicable review criteria.

Commentary: Not all design guidelines will apply in every case. Only the applicable design guidelines need to be met.

G. Lapse of Approval

1. An approved design review plan will lapse and have no further effect two years after it is granted by the Zoning Officer, unless:
 - a. A building permit has been issued; or
 - b. A zoning compliance permit has been issued.
2. The zoning officer may extend the expiration period by up to one year if it is determined that there are unusual circumstances warranting the extension. Requests for extensions must be submitted to the zoning officer before the design review approval expires.
3. Design review approval also lapses upon revocation of a building permit for violations of conditions of approval or upon expiration of a building permit.

H. Transferability

The status of design review approval is not affected by changes of tenancy, ownership or management.

I. Amendments

A request for changes in conditions of approval of an approved plan must be processed as a new design review application, including the requirements for fees, notices and hearings.

J. Appeals

Any person aggrieved by a decision of the Zoning Officer may appeal the Zoning Officer's decision to the

Board of Adjustment, as referenced in Section 20.85.100. Appeals must be filed within 30 days of final action by the Zoning Officer.

EXPLANATION

50-52. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed. The Board of Adjustment is now given appeal authority for administrative decisions of Design Review and Design Excellence Review applications.

53. SB 407 requires design standards to be limited only to what is necessary for the protection of public health and safety. The criteria related to materials, color, and attractive design are aesthetically centered landscaping standards that do not protect public health and safety and are being entirely repealed.

54. Section 20.85.085, Amend Historic Preservation Permit (HPP) procedural references to design review.

SECTION 20.85.085 - Historic Preservation Permit (HPP)

F. Historic Preservation Officer Review

1. The historic preservation officer shall review HPP applications for completeness.
2. When an applicant seeks alternative compliance, the historic preservation officer shall determine whether the conditions in Section 20.85.085.I have been met.
3. The historic preservation officer shall prepare an HPP report for each HPP application that includes the following:
 - a. A summary of the actions subject to review;
 - b. Applicable review criteria and any applicable design guidelines triggered by the proposed action subject to review;
 - c. Description of whether and how the proposed action subject to review meets or does not meet applicable review criteria and design guidelines;
 - d. Conditions recommended to be imposed on the HPP, if any, in order to meet applicable review criteria and design guidelines; and
 - e. When an applicant seeks alternative compliance, the recommended manner for alternatively complying with the applicable review criteria and design guidelines.
4. An HPP application for new construction, relocation or demolition requires Historic Preservation Commission review at a public hearing. Additionally, any application seeking alternative compliance requires Historic Preservation Commission review at a public hearing
5. An HPP application for alterations that clearly meets the review criteria of Section 20.85.085.H, and any applicable design guidelines, may be approved by the historic preservation officer without Historic Preservation Commission review, subject to the following process:
 - a. For those applications the historic preservation officer intends to approve, the historic preservation officer shall make the applications available for review by Historic Preservation Commissioners and interested parties for a period of one week.
 - b. During the one week review period a Historic Preservation Commissioner or interested party may request that the HPP application be reviewed by the Historic Preservation Commission at a public hearing.
6. If an HPP application for alterations does not clearly meet the review criteria of Section 20.85.085.H and any applicable design guidelines, further Historic Preservation Commission review is required at a public hearing.

G. Commission Action on Historic Preservation Permit Applications

1. Except for historic preservation officer reviewed alterations under Section 20.85.085.F.5, the Historic Preservation Commission shall review and decide on an Historic Preservation Permit (HPP) application at a scheduled public meeting. The Commission's decision shall occur within 60 days from the date the completed application was received. If the Historic Preservation Commission is unable to process the request within 60 days of receipt of the completed application, the Historic Preservation Commission may request an extension of time from the applicant. If an application is not processed within 60 days of submittal and no extension of time is requested or granted by the applicant then the Historic Preservation Permit (HPP) is approved. See section 20.85.085.J for timelines and procedures associated with permits for the demolition or relocation of historic resources.
2. ... list continues

EXPLANATION

54. The section has incorrect references to the Design Review section and have been updated and corrected.

Chapter 20.90 - Administration

55. Section 20.90.020, Repeal Design Review Board entirely.

SECTION 20.90.020 - Design Review Board

20.90.020 - [Repealed]

EXPLANATION

55. SB 407 prohibits external boards from being the determining body for Design Review applications, and mandates administrative determination of these applications. With administrative review and approval of Design Review applications, the Design Review Board, all references to the Board, and all related public hearing requirements are repealed.

Chapter 20.100 - Terminology

56. Section 20.100.010, Amend 'microbrewery' definition to allow colocation with beer and wine sales under specific conditions.

SECTION 20.100.010 - General Terms

Microbrewery/Microdistillery

A brewery (for malt beverages) that has an annual nation-wide production as defined by State Law, MCA §§ 16-3-213. An existing microbrewery that obtains a retail beer and wine sales permit may be co-located at the same location as the microbrewery so long as:

1. The primary use continues to be the microbrewery, and
2. The operation shall close at the following times to mirror the general hours of operations of restaurants:
 - a. 10:00p.m. on Sunday – Thursday, and
 - b. 11:00pm on Friday – Saturday.

A distillery that has an annual production limit as defined in State Law, MCA §§ 16-4-310 through 16-4-312.

EXPLANATION

56. HB 305 removed the statutory prohibition on microbreweries being able to obtain a retail beer and wine sales permit from the Montana Department of Revenue. As determined by the City Attorney, because the principal use of the facility will likely continue to be as a microbrewery under Title 20, until a more comprehensive set of zoning changes are made to Title 20, the City should continue to treat a microbrewery that obtains a retail beer and wine sales permit to be co-located at the same location as the microbrewery as a microbrewery under Title 20 so long as: (1) the primary use continues to be the microbrewery, and (2) the operation does not have an unreasonable impact on the surrounding area. In order to avoid unreasonable impacts on the surrounding neighborhood, microbreweries with a co-located retail beer and wine license shall close at 10:00p.m. on Sunday-Thursdays, and 11:00p.m. on Friday and Saturday, to mirror the general hours of operations of restaurants that are otherwise authorized to operate in the same districts as microbreweries. The definition of microbrewery above is expanded to include this.

Chapter 20.105 - Use Classifications

- 57. Section 20.105.030.B.1, Amend Residential Day Care use to allow up to 15 children or adults in the Public and Civic Use Group.
- 58. Section 20.105.030.B.2, Amend Day Care Center use to allow 16 or more children or adults in the Public and Civic Use Group.
- 59. Section 20.105.030.J, Amend definition of 'Religious Assembly' to include the option for use of space to accommodate temporary overnight visitors for the purpose of religious retreats, ministry programs, overnight events, and emergency or catastrophic occurrences or to provide shelter or to accommodate displaced persons due to hardship or inclement weather, subject to all the standards under 50-60-203(7)(a).

SECTION 20.105.030 - Public and Civic Use Group

A. College/University

B. Day Care

1. Residential Day Care

Day care provided within a residential unit for up to 15 children or adults, in addition to members of the day care provider's household.

2. Day Care Center

Day care for 16 or more children or adults.

C. Detention and Correctional Facilities

D. Extreme Weather Shelter

E. Fraternal Organization

F. Hospital

G. Library/Cultural Exhibit

H. Park/Recreation

I. Preschool

J. Religious Assembly

Religious services involving public assembly such as customarily occur in synagogues, temples, mosques and churches. Religious Assembly includes provisions for temporary shelter use. Religious institutions providing extreme weather shelter must comply with Section 20.40.055, Extreme Weather Shelter. Religious institutions accommodating temporary overnight visitors per the allowance in MCA §§ 50-60-203(7)(a) for the purpose of religious retreats, ministry programs, overnight events, and emergency or catastrophic occurrences or to provide shelter or to accommodate displaced persons due to hardship or

inclement weather must comply with Section 20.40.130, Temporary Uses.

K. ... list continues

EXPLANATION

57 & 58. HB 918 increases the maximum capacity of Residential Day Care uses from 12 to 15 children.

This consequently increases the minimum allowed capacity for Day Care Centers. These adjustments are reflected above.

59. SB 195 amends the definition and use allowances for Religious Assemblies. The language from the bill is added to the definition of Religious Assembly above.

60. Section 20.105.050, Amend Industrial Use Group to include the new definitions of 'Data Center,' 'Digital Asset Mining,' and 'Home Digital Asset Mining.'

61. Section 20.105.050, Amend 'microbrewery' use to allow colocation with beer and wine sales under specific conditions in the Industrial Use Group.

SECTION 20.105.050 - Industrial Use Group

The industrial use group includes uses that produce goods from extracted materials or from recyclable or previously prepared materials, including the design, storage and handling of these products and the materials from which they are produced. It also includes uses that store or distribute materials or goods in large quantities. The industrial use group includes the following use categories:

A. Auto Wrecking

The collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete or wrecked motor vehicles or their parts.

B. Cidery

C. Data Center

A use involving a building or premises in which the majority of the use is occupied by computers, telecommunications, or related equipment, including supporting equipment, where information is processed, transferred, and stored, as reflected in MCA §§ 69-3-1.

D. Digital Asset Mining

The use of electricity to power a computer for the purpose of securing a blockchain network. Usually a group of computers working at a single site that consume more than 1 megawatt of energy on an average annual basis for the purpose of generating digital assets by securing a blockchain network, as reflected in MCA §§ 69-3-1.

1. Home Digital Asset Mining

Mining digital assets in areas zoned for residential use that consume less than 1 megawatt of energy on an average annual basis for the purpose of generating digital assets by securing a blockchain network, as reflected in MCA §§ 69-3-1.

E. Junk/Salvage Yard

F. Manufacturing, Production and Industrial Services

G. Microbrewery/Microdistillery

A brewery (for malt beverages) that has an annual nation-wide production of not less than 100 barrels or more than 10,000 barrels. An existing microbrewery that obtains a retail beer and wine sales permit may be co-located at the same location as the microbrewery so long as:

1. The primary use continues to be the microbrewery, and
2. The operation shall close at the following times to mirror the general hours of operations of

restaurants:

a. 10:00p.m. on Sunday – Thursday, and

b. 11:00p.m. on Friday – Saturday.

A distillery that produces 25,000 proof gallons or less of liquor annually in accordance with MCA §§ 16-4-310 through 16-4-312.

H. **Mining/Quarrying**

I. **Recycling Service**

J. **Residential Storage Warehouses**

K. **Warehousing, Wholesaling and Freight Movement**

L. **Waste-Related Use**

M. **Winery**

EXPLANATION

60. SB 178 introduces new definitions of ‘Data Center’, ‘Digital Asset Mining’, and ‘Home Digital Asset Mining’. The list of Industrial Uses is expanded to include these new definitions and to allow for their regulation in zoning code.

61. HB 305 removed the statutory prohibition on microbreweries being able to obtain a retail beer and wine sales permit from the Montana Department of Revenue. As determined by the City Attorney, because the principal use of the facility will likely continue to be as a microbrewery under Title 20, until a more comprehensive set of zoning changes are made to Title 20, the City should continue to treat a microbrewery that obtains a retail beer and wine sales permit to be co-located at the same location as the microbrewery as a microbrewery under Title 20 so long as: (1) the primary use continues to be the microbrewery, and (2) the operation does not have an unreasonable impact on the surrounding area. In order to avoid unreasonable impacts on the surrounding neighborhood, microbreweries with a co-located retail beer and wine license shall close at 10:00p.m. on Sunday-Thursday, and 11:00p.m. on Friday and Saturday, to mirror the general hours of operations of restaurants that are otherwise authorized to operate in the same districts as microbreweries. The definition of microbrewery above is expanded to include this.

SECTION 3. CODIFICATION INSTRUCTIONS.

Please remove all Explanation paragraphs prior to codification. Other reference notifications (e.g., “...section continues”, “...list continues” should also be removed. Only sections that are being amended are written in this ordinance. Section headers are included for context despite no changes to these sections. A separate document will be attached with tracked changes, explanations removed, and all sections included for the codifier.

SECTION 4. IMMEDIATE EFFECTIVE DATE.

The effective date of this interim zoning ordinance shall be _____. After it is adopted by the City Council, this interim zoning ordinance shall be in effect for six months, unless it is repealed or revised prior to the expiration date or unless an extension is approved subject to a super-majority (two-thirds) vote for passage.

SECTION 5. SEVERABILITY.

If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause, phrase and words thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or words have been declared invalid or unconstitutional, and if for any reason this ordinance should be


declared invalid or unconstitutional, then the remaining ordinance provisions will be in full force and effect.

PASSED by an 11 to 0 vote and

APPROVED by the Mayor this 16th day of October, 2023.

ATTEST:

APPROVED:


City Clerk (Nov 20, 2023 16:40 MST)

Martha Rehbein
City Clerk


Mayor Hess (Nov 20, 2023 11:51 MST)

Jordan Hess
Mayor

(SEAL)









ORD3723

Final Audit Report

2023-11-20

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By:	Claire Trimble (trimblec@ci.missoula.mt.us)
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-  Document created by Claire Trimble (trimblec@ci.missoula.mt.us)
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