

# Title 11

## ZONING REGULATIONS

### Chapter 1

## LEGAL AND ADMINISTRATIVE PROVISIONS

#### 11-1-1: TITLE:

This title shall be known and cited as the *ZONING ORDINANCE OF THE TOWN OF ENNIS, MONTANA*. (Ord. 131, 3-14-2002)

#### 11-1-2: AUTHORITY:

This zoning ordinance is adopted under the authority of the municipal zoning enabling act<sup>1</sup>. (Ord. 131, 3-14-2002)

#### 11-1-3: INTENT AND PURPOSE:

The intent and purpose of this title is to implement applicable goals, objectives and policies of the 1996 comprehensive plan. The comprehensive plan's stated policies set forth below are concrete commitments to act. They are few in number but of overriding importance to the future of the Ennis community. The operative word in each statement is "shall":

- A. Stop Suburban Sprawl: All governmental actions, including infrastructure development, regulatory procedures or administrative practices, shall be designed and executed to stop "suburban sprawl". For example, enact regulations and incentives to control the development of lands abutting existing highways and to concentrate development in existing neighborhoods that can be more efficiently serviced by community infrastructure and facilities.
  
- B. Protect Natural Environment: Measures shall be enacted and enforced to protect the area's natural environment. Such measures include, for example: storm water management, wetland and flood susceptibility areas protection and agricultural land/open space preservation.

- C. Retain Small Town Character: Measures appropriate and essential to maintaining the "small town" character and the unique Ennis quality of life shall be implemented. Such measures include: facilitating affordable housing, keeping Main Street traffic lanes and parking as they are presently configured and enacting new zoning and other regulatory provisions providing in town development incentives balanced by qualitative design requirements.
- D. Protect Agricultural Lands: Agricultural lands shall be protected from infringement by urban development. Protective actions include: adopting and enforcing regulatory codes designed to preserve economically sustainable agricultural units while affording farmers and ranchers opportunity to market a limited number of development rights consistent with the other goals, objectives and policies of this plan; and, by rejecting development proposals that will result in farm and ranch operational conflicts and higher real estate and special interest district taxes.
- E. Promote Basic Sector Jobs: Private and public entities providing basic sector employment opportunities shall be afforded assistance and reasonable incentives to locate and expand in the Ennis area provided they do not adversely impact the "plan's goals, objectives and foregoing policies". (Ord. 131, 3-14-2002)

#### **11-1-4: JURISDICTIONAL AREA:**

The zoning jurisdiction of the town shall include the land within the town's corporate limits and within the extraterritorial zoning jurisdiction boundaries established and shown on the "Official Zoning Map, City of Ennis, Montana". The ordinance provisions and procedures shall be in accordance with this title. (Ord. 131, 3-14-2002)

#### **11-1-5: APPLICATION OF REGULATIONS:**

- A. Compliance Required: Land and structures within the jurisdictional area may only be used or occupied, and structures or parts thereof may only be erected, moved, or altered, in accordance with the provisions of this title.
- B. Responsibility Of Owner: The owner of land or structures shall be responsible for tenants' compliance with this title.
- C. Zoning Relationship To Other Codes: The requirements of this zoning ordinance operate in addition to those requirements established under other town codes, except that where conflicts with other town codes may occur these zoning requirements shall govern.

- D. Zoning Relationship To Covenants: Recorded covenants and restrictions, more restrictive than these zoning provisions, shall govern provided they are properly drafted and recorded and are enforceable at law. Zoning requirements that are more restrictive than covenants and restrictions shall govern. The town of Ennis shall not be held responsible for the enforcement of private covenants and restrictions.
- E. Existing Property Uses Exempt: All regulations adopted by the town shall pertain to future use of property and not affect the existing use of property. Any change of land use or structures are subject to the provisions set forth in this title. (Ord. 131, 3-14-2002)

### **11-1-6: OFFICIAL ZONING MAP:**

- A. Incorporated By Reference: The "Official Zoning Map of Ennis, Montana" and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this title. It shall be the final authority as to the current status of zoning districts in the town of Ennis zoning jurisdictional area.
- B. Maintaining And Revising Map: The official zoning map, prepared on a stable, reproducible material suitable for revisions and additions, shall be kept in a secure location. The map shall:
1. Signature: Bear the mayor's signature, attested by the town clerk-treasurer, together with the date the ordinance was adopted.
  2. Seal: Bear the town of Ennis seal under the following words: "This shall certify that this is the Ennis, Montana Official Zoning Map referred to in Section 01.06 of Ordinance # 131 of the Town of Ennis, Montana".
  3. Revisions: The official zoning map may be amended or revised only in conformity with the procedures specified in this title. Whenever the town commission makes any revisions to the zoning districts, the revisions shall be promptly entered upon the map and a signed and dated certification attached to the map. No amendment to district boundaries shall become effective until those revisions have been made and are presented to the town commission by the zoning administrator.
  4. Control And Filing: The official zoning map shall be maintained under the control of the zoning administrator or responsible delegate at all times. A copy of the official zoning map, duly certified by the zoning administrator, shall be filed in the office of the town clerk-treasurer. Each revision to the official zoning map adopted by the town commission, duly certified by the zoning administrator, shall likewise be filed in the town clerk-treasurer's office.

C. Loss, Damage, Destruction And Replacement: In the event that the official zoning map is damaged, destroyed, lost or becomes difficult to interpret, the town commission may, by resolution, adopt a new official zoning map which shall supersede the prior official zoning map. The new official zoning map may correct drafting errors or omissions in the prior map, but no such corrections shall have the effect of amending the original official zoning map or subsequent amendment thereof. The new map shall be certified in the same manner as the original zoning map, noting that it supersedes the prior map. (Ord. 131, 3-14-2002)

## **11-1-7: ZONING ADMINISTRATOR:**

- A. Employment Responsibility: The town commission shall employ the zoning administrator. The zoning administrator may delegate certain functions but shall retain final responsibility for administering and enforcing the regulations under the direction of the town commission.
- B. Duties: The zoning administrator shall administer the zoning permit provisions set forth in this title and shall:
1. Receive: Receive applications for zoning permit, conditional use permit, rezoning requests and variance requests.
  2. Review: Review applications and plans; issue zoning permits; and inspect premises and properties.
  3. Notice: Notify, in writing, any person violating this title and order appropriate corrective action.
  4. Order Removal: Order illegal use of land, structures, or buildings to be terminated and illegal buildings or structures; or additions, alterations or structural changes thereto, to be removed.
  5. Order Compliance: Order any illegal work being undertaken to immediately cease; or take any other action authorized by this title to ensure compliance with its provisions.
  6. Stop Orders: Assure that stop work orders remain in effect until advised by the town commission or its authorized representative, in writing, that the application and/or project has been brought into compliance with these regulations;
  7. Advise: Serve as an advisor to the zoning commission, board of adjustment and town commission on matters relating to administration and enforcement of this title.
  8. Prepare Reports: Prepare staff reports as required under this title.
  9. Record: Prepare and maintain records of all proceedings required or authorized under this title.
- C. Right Of Entry: The zoning administrator may enter premises at reasonable times to conduct necessary inspections to enforce the provisions of the zoning ordinance. If the zoning administrator has reasonable cause to believe that there is a condition or ordinance violation which makes a sign

or premises unsafe, dangerous or hazardous, the zoning administrator may enter the premises at such times to perform the duties imposed by this title. If the building or premises are occupied, the zoning administrator shall first present proper credentials and request entry. If the building or premises is unoccupied, the zoning administrator shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the zoning administrator or the authorized representative shall have recourse to the remedies provided by law to secure entry. (Ord. 131, 3-14-2002)

### **11-1-8: ZONING COMMISSION:**

- A. Established: There is hereby established the "Town of Ennis Zoning Commission".
- B. Membership; Terms; Procedures: The town commission shall appoint the members of the zoning commission. Town planning board members may serve as members of the zoning commission and, if so appointed, shall serve terms concurrent with their respective planning board terms. The zoning commission shall establish orderly procedures for the conduct of business.
- C. Duties: Pursuant to authority of Montana Statutes, the zoning commission shall recommend to the town commission, the establishment of various zoning districts, requirements and enforcement procedures. The commission shall make a preliminary report setting forth its recommendations and after public hearing(s), make a final report upon its findings to the town commission. The town commission shall hold public hearing(s) upon the ordinance and zoning commission's final report and take such action upon the commission's recommendations as deemed appropriate. (Ord. 131, 3-14-2002)

### **11-1-9: ZONING BOARD OF ADJUSTMENT (ZBA):**

- A. Established; Membership; Terms; Removal: The zoning board of adjustment (ZBA) is hereby established to decide hardship variance applications and to decide ordinance interpretation appeals. The town commission shall appoint five (5) members to the zoning board of adjustment, each for three (3) year terms except that in the initial appointment, one member shall be appointed for a one-year term, two (2) for two (2) year terms, and two (2) for three (3) year terms. Members of the zoning board of adjustment may be removed from office by the town commission for cause upon written charges and after public hearing. Vacancies on the zoning board of adjustment shall be filled by resolution of the town commission for the unexpired term of the member affected.
- B. Powers: The zoning board of adjustment shall have the following powers unless otherwise reserved by the town commission:

1. **Grant Variances:** Grant variances from the various standards of this title where the board determines that:
  - a. Granting a variance will not be contrary to the public interest;
  - b. Where owing to circumstances unique to a specific property a literal enforcement of the provisions of these regulations will result in undue hardship of the land;
  - c. Where the spirit of the ordinance will be observed and substantial justice done; and
  - d. The result of such variance will be consistent with goals, objectives and policies of the comprehensive plan.
2. **Modify Certain Provisions:** Approve, deny or conditionally approve any variance request to modify the following requirements of this title:
  - a. Setback requirements;
  - b. Yard requirements;
  - c. Area requirements;
  - d. Height and bulk requirements;
  - e. Parking requirements; and
  - f. Loading requirements.
3. **Rule On Interpretation And Application Appeals:** Hear and decide appeals alleging an administrative official incorrectly interpreted and applied the provisions of this title. Appeals shall be filed a form provided by the zoning administrator. A copy of the form is included in [chapter 5](#) of this title.

**C. Express Prohibitions:** The zoning board of adjustment shall be expressly prohibited from granting:

1. **Use Variances:** Under no circumstances may the zoning board of adjustment grant a variance that would allow the use of land or buildings not permissible under the terms of this title.
2. **Variances Based Upon Neighboring Uses:** Neither the nonconforming use of neighboring lands, structures or buildings in the same zoning district, nor the permitted or nonconforming use of lands, structures or buildings in other zoning districts shall be considered grounds for the issuance of a variance.

**D. Organization And Proceedings:** The zoning board of adjustment shall organize itself and proceed as follows:

1. **Organization:** The zoning board of adjustment shall select one of its members as chairman and shall adopt rules necessary to conducts its affairs. Meetings shall be held at the call of the chairman and at such other times as the zoning board of adjustment may determine but shall be

duly noticed and open to the public. The chairman, or in his/her absence, the acting chairman, may administer oaths and may compel the attendance of witnesses.

2. Proceedings: The zoning board of adjustment shall keep minutes of its proceedings, recording the vote of each member upon each question, or if absent or failing to vote, indicating such fact. Records shall be kept of the zoning board of adjustment's examinations or other official actions and immediately filed in the zoning board of adjustment office in the town hall where they shall be available for public inspection. (Ord. 131, 3-14-2002)

## **11-1-10: PLAN APPEALS PROCEDURE:**

A. Application: Appeals from decisions of the zoning administrator, and boards and town commission to agencies of town government and the courts are set forth in various sections of this title. These appeals are permitted under the provisions of this section in the manner set forth below:

1. These appeals procedures shall apply to the decisions brought forth by the following:
  - a. Zoning administrator.
  - b. Planning board.
  - c. Zoning board of appeals.
  - d. Town commission.
2. Appeals from any agency shall follow the following order:
  - a. Zoning administrator to the zoning board of appeals.
  - b. Planning board to the town commission.
  - c. Town commission and zoning board of appeals to the courts.

B. Appeal Of Final Decision: Any aggrieved person may appeal the final decision of any agency to which this appeals procedure applies in the manner prescribed in this section.

C. Filing Notice Of Appeal:

1. An appeal must be filed with the zoning administrator within seven (7) calendar days of the final decision of the agency to which this appeal applies. Such appeal shall include the following:
  - a. The action of the agency which is the subject of appeal;
  - b. The date of such action;

- c. The name, address, telephone number and relationship of the appellant to the subject of the action of the agency;
  - d. The grounds for the appeal, including specific allegations to be considered on appeal.
- D. Notice Of Appeal: Notification of appeal procedures shall be included in the initial posting and notice of the proposal. Once a documented appeal has been filed, the property in question will be posted and a notice of the appeal hearing provided to the local newspaper of general circulation.
- E. Scheduling Of Hearing: The dates, times and locations for hearing appeal(s) before the appropriate body(s) shall be included in the reposting of the property in question, and in the notice of the appeal hearing provided to the local newspaper of general circulation. All such hearings must be held within thirty (30) days of receiving the appeal.
- F. Procedure Of Hearing:
1. At the hearing on the appeal, the steps enumerated below will be followed. Only arguments and evidence relevant to the grounds for the appeal shall be presented. The presentation of arguments on the merits of the appeal shall be made in the following order, subject to such limitations in time and scope as may be imposed at the direction of the presiding officer:
    - a. Explanation of the nature of the appeal and presentation by the zoning administrator;
    - b. Presentation of argument by the appellant and any person in support of the appellant;
    - c. Presentation of argument by any person who is an opponent of the appeal; and
    - d. Motion, discussion and vote by the appellate body.
  2. No person making a presentation shall be subject to cross- examination, except that members of the appellate body and the town's legal counsel may inquire of such person for the purpose of eliciting information presented.
- G. Actions Available To Appellate Body: The appellate body shall consider an appeal based upon the record on appeal and relevant provisions of this title. Only evidence relevant to the grounds for the appeal shall be heard. At the conclusion of such hearing, the appellate body shall uphold, overturn or modify the decision of the agency. Appeals will be granted upon finding that such order, requirement, decision or determination is erroneous or contrary to this title or of any amendment of this title. (Ord. 131, 3-14-2002)

## **11-1-11: FEES, CHARGES AND EXPENSES<sup>2</sup>:**



Fees and charges that may, within reason, be legitimately assessed to the applicants will offset the cost of administering this title.

A. Fee Schedule: The town commission shall, by resolution, establish a schedule of fees, charges and expenses for permits and actions including, but not limited to, the items listed below that are required to implement these regulations. The schedule of fees, charges and expenses may be amended from time to time. The initial schedule, and any subsequent revisions, shall be posted in the Ennis town hall.

1. Zoning permits.
2. Conditional use permits.
3. Site plan reviews.
4. Mobile home park reviews.
5. Recreational vehicle park reviews.
6. Traditional neighborhood development reviews.
7. Sign permits.
8. Floodplain permits.
9. Variance requests.
10. Zoning map revisions.
11. Zoning ordinance amendments.

B. Payment Required Prior To Action: No permit shall be issued nor shall any action be undertaken by any agency, board or commission charged with administering or enforcing this title unless and until such fees, charges and expenses, or specified advanced deposits against same, have been paid in full. (Ord. 131, 3-14-2002)

## **11-1-12: VIOLATIONS AND PENALTIES:**

A. Complaints: Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint, stating fully the causes and basis thereof, shall be filed with the zoning administrator. The zoning administrator shall promptly record such complaint, immediately investigate and take action thereon as provided by these regulations.

## B. Penalties For Violations:

1. Penalties: Violations of any of the provisions of this title or failure to comply with any of its requirements, or any of the requirements or conditions imposed by an agency, board, commission or the town commission, shall constitute a misdemeanor. Any person who violates these regulations or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more five hundred dollars (\$500.00) or be imprisoned for not more than six (6) months, or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense and punishable as such.
2. Jointly Liable: The owner or tenant of any building, structure, premises, or part thereof, and an architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

- C. Other Proceedings To Correct Violations: If any structure is constructed, or altered, or any structure or land is used in violation of this title the proper authorities of the town may institute any appropriate action or proceedings to prevent such unlawful action or use. Action may also be taken to prevent the occupancy of such structure or land and to cause the correction of such violation. (Ord. 131, 3-14-2002)

## 11-1-13: TEXT AMENDMENT AND REZONING CHANGES:

### A. Initiation:

1. Initiation By Town: The town commission may, from time to time, amend, supplement or change this title and zoning map. An amendment, supplement or change may be initiated by the town commission, or the planning board.
2. Owner Petition: A property owner that desires a reclassification of his property or change of regulations applicable to the property may file a petition with the zoning administrator on forms provided for this purpose. The petition shall be signed by the property owner requesting an amendment or change of regulations prescribed for the property.

- B. Investigation: Upon initiation of an amendment, the zoning administrator shall investigate the facts to assure that the result of each such petition will be consistent with the intent and purpose of this title, including but not limited to, finding that the application complies with the Ennis comprehensive plan.

### C. Public Hearing Procedures And Requirements:

1. Planning Board Hearing: The planning board shall hold a public hearing on the matters referred to in such initiation or petition at which parties in interest and citizens shall have an opportunity

to be heard. At least fifteen (15) days' notice of the time and place of the hearing shall be published in an official paper or a paper of general circulation in the town<sup>3</sup>.

2. Additional Area Notice: Notice may also be provided to property owners in any additional area that may be substantially impacted by the proposed change or use as determined by the zoning administrator.
3. Planning Board: After such hearing or hearings, the planning board will make reports and recommendations on the petition or initiation to the town commission.
4. Town Commission Action: When the planning board has recommended to approve or deny an amendment to this title, including a change in the district boundaries, a public hearing shall be held by the town commission for the purpose of acting upon the proposed amendment.
5. An amendment may not become effective, except upon a favorable vote of two-thirds ( $\frac{2}{3}$ ) of the present and voting members of the town commission if a protest against the amendment is signed by the owners of twenty five percent (25%) or more of:
  - a. The area of the lots included in the proposed change; or
  - b. Those lots within one hundred fifty feet (150') from a lot included in the proposed amendment. (Ord. 131, 3-14-2002)

## **11-1-14: SEVERABILITY:**

Should any section or provision of this title be declared unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of this title as a whole, or any part thereof other than the part declared to be unconstitutional or invalid. (Ord. 131, 3-14-2002)

# **Chapter 2 DEFINITIONS**

## **11-2-1: INTERPRETATION OF GENERIC TERMS:**

For the purpose of this title the following conditions and interpretations shall apply.

A. Present - Future Tense: Words used in the present tense include the future tense.

B. Singular - Plural Tense: Words used in the singular tense include the plural; and words used in the plural include the singular, unless natural construction of the words indicates the otherwise.

C. Person Includes: The word "person" includes a firm, association, corporation, trust, organization, partnership or company, as well as an individual.

D. Lot: The word "lot" includes the words "parcel" or "tract".

E. Shall - May: The word "shall" is mandatory; the word "may" is permissive. (Ord. 131, 3-14-2002)

## **11-2-2: DEFINITIONS:**

Words having a more specific meaning than in common usage are defined in this section. Certain other sections of this title include additional definitions specifically applying to the content of those sections. Unless indicated otherwise, the following definitions shall also apply to those sections.

**ACCESSORY STRUCTURE OR USE:** A use or structure on the same lot with, and customarily subordinate to, the principal use or structure.

**AGGRIEVED PERSON:** As applied in the plan appeals procedure section of this title, a person who has a specific, personal and legal interest in the final decision of an agency of town government. Such interest shall be distinguished from a general interest such as the concern of all members of the community and which interest would be specifically and personally prejudiced by the decision or benefited by its reversal.

**ALTERATION:** As applied in the design review section of this title, any act or process, except "repair" and "light construction" as defined below, that changes one or more of the architectural features of a structure or site. Such changes may include, but not be limited to, the erection, construction, reconstruction, relocation of or addition to a structure.

**APPELLANT:** As applied in the design review section of this title, an aggrieved person who has taken an appeal from an agency of town government to another body designated in the plan appeals procedure section by the filing of a notice of appeal.

**ARCHITECTURAL APPEARANCE:** As applied in the design review section of this title, the architectural character and general composition of a structure. This may include, but not be limited to, the kind and texture of the building materials and the type, design and character of the windows, doors, light fixtures, signs and appurtenant exterior elements. Additionally, interior architectural detail including, but not limited to, floors, fixtures, hardware, ornamentation and other elements that contribute to the building's architectural or historical significance.

**AREA:** As applied in the design review section of this title, a specific geographic division of the town of Ennis.

**ARTIFICIAL LOT:** An area within the building site that is delineated by the zoning administrator for the sole purpose of satisfying the requirements of landscaping section.

**BASEMENT:** The portion of a structure not extending more than four feet (4') above average grade on any side.

**BASIC SECTOR:** A business or business type whose major function is to manufacture, assemble or refine products primarily for distribution to markets outside of the local area.

**BED AND BREAKFAST:** A building or buildings, containing seven (7) or fewer sleeping rooms; to house fourteen (14) or fewer short term guests for compensation, and where only a general kitchen and dining room may be provided.

**BERM:** A mound of earth two (2) to six feet (6') high, planted with vegetative ground cover, with a slope not exceeding one foot (1') of rise for each two feet (2') of run.

**BILLBOARD:** A sign structure erected for the purpose of leasing advertising space to promote an interest other than that of an individual, business, product or service available on the premises on which the billboard is located.

**BLOCK:** That property abutting on one side of a street and lying between the two (2) nearest intersecting streets or other barrier or a separation in the continuity of development along such street.

**BOARDING/LODGING HOUSE:** A building equipped for providing boarding and lodging, or lodging only, for compensation, with a maximum of seven (7) sleeping rooms to house no more than fourteen (14) occupants.

**BUILDING:** Any structure erected for support, shelter or enclosure of persons, animals or property.

**BUILDING, AREA:** That portion of the lot that can be occupied by structures.

**BUILDING, HEIGHT:** The vertical distance measured from the average elevation of the finished grade around the building to:

- A. Highest Point: The highest point of the coping of a flat roof;
- B. Top Of Mansard: The top of a mansard roof; or
- C. Two-Thirds Of Gable: Two-thirds ( $\frac{2}{3}$ ) the height of the highest gable of a pitch or hip roof.

**BUSINESS:** As applied to the community signage overlay district, all of the activities carried on by the same legal entity on the same premises and shall include, but not be limited to, service, commercial and industrial uses and fraternal, benevolent, educational, governmental and social obligations.

**BUSINESS COMPLEX:** As applied to the community signage overlay district, a property ownership with two (2) or more business tenants one of which may be the property owner.

**CALIPER:** The diameter of a tree trunk measured six inches (6") above ground level up to and including four inch (4") caliper size. If a tree is a multitrunk variety, the caliper of the tree is the

average caliper of all of its trunks.

**CAMP GROUND:** See definition of Recreational Vehicle Park.

**CANOPY:** A permanent, unenclosed roofed structure which may be freestanding or partially attached to a building that is used to provide shelter to patrons on foot or in automobiles.

**CANOPY TREE:** A species of tree that normally bears crown foliage no lower than six feet (6') above ground level upon maturity.

**CARETAKER'S RESIDENCE:** A dwelling unit located in conjunction with a residential, commercial or industrial land use.

**CENTRAL WATER AND SEWER:** Utility systems serving a group of buildings, lots, or an area.

**CHURCH:** A building designed and used for public worship by a religious body.

**CONDITIONAL USE:** A use that is allowed in a zoning district if the use meets certain requirements described in [chapter 4](#) of this title.

**CONSTRUCTION:** As applied in the design review section of this title, the act of adding to an existing structure or erecting a new principal or accessory structure.

**CONSTRUCTION, NEW:** As applied in the floodplain management overlay district, structures for which the "start of construction" commenced on or after the effective date hereof.

**DEMOLITION:** Any act or process that destroys, in part or whole, a structure or archaeological site.

**DENSITY, GROSS:** The total number of residential units on a tract divided by the total acreage of the tract (including  $\frac{1}{2}$  of the area of abutting vehicular rights of way). (GD = DU's/Ac's)

**DEVELOPMENT:** As applied in the floodplain management overlay district, any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

**DISPLAY SURFACE:** As applied to the community signage overlay district, the portion of a sign structure that may be used to display a message.

**DISTRICT, ZONING:** An area delineated on the zoning map within which the use and arrangement of land and structures is prescribed in this title.

**DRIVE IN:** An establishment providing goods or services to persons in their vehicles or at curbside.

**DWELLING:** A building designed for human habitation other than transient facilities such as a bed and breakfast or a hotel/motel/inn.

**DWELLING, MULTIPLE-FAMILY:** A building designed for use by two (2) or more families.

**DWELLING, SINGLE-FAMILY:** A building designed for residential occupancy by one family.

**DWELLING UNIT:** All or part of a building providing separate cooking, eating and sleeping facilities for one family.

**EAVES:** Lowest horizontal line of any roof.

**ENHANCED PAVEMENT:** Any decorative pavement intended for pedestrian or vehicular use, including brick or stone pavers, grass paver, exposed aggregate concrete, and stamped and stained covered pavement.

**ERECT:** Construct, place, affix or otherwise bring into being.

**ESSENTIAL SERVICES:** Government, public utility corporation and privately owned infrastructure and service facilities that serve common neighborhood, community or regional interests, including, for example, utility lines, fire stations, storm drainage systems, sewage treatment plants and electric transmission system towers.

**EVERGREEN TREE OR SHRUB:** A tree or shrub of a species that normally retains its leaves/needles throughout the year.

**FACADE:** Any face of a building.

Primary: The principal facade of the building where its principal entrance is located and which may or may not face the street of its legal address.

Secondary: Facades other than the primary facade.

**FAMILY:** A single housekeeping unit made up of no more than three (3) persons not related by blood or marriage.

**FINAL DECISION:** As applied in the design review section of this title, the final action of an agency of town government when no other action is available before that agency.

**FLOOD, BASE:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year.

**FLOOD HAZARD AREA:** The land in the floodplain within a community subject to a one percent (1%) or greater chance of flooding in any given year.

**FLOOD HAZARD BOUNDARY MAP OR FLOOD INSURANCE RATE MAP:** The official map issued by the federal emergency management agency indicating where areas of special flood hazard are designated.

**FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from:

A. Overflow: The overflow of waters; and/or

**B. Accumulation:** The unusual and rapid accumulation of runoff of surface waters from any source.

**FLOODPLAIN:** Area subject to a flood or flooding.

**FLOOR AREA:** As applied to parking and loading requirements, the term "floor area" shall mean eighty percent (80%) of the gross floor area measured on the basis of exterior dimensions of the building or buildings on the site to be served by the parking and or loading area.

**FLOOR AREA RATIO (FAR):** The gross floor area, including usable attic, basement and accessory building space, divided by the total horizontal area of the lot (the portion of the property allocated to the use and no other use). One-half ( $\frac{1}{2}$ ) of the area of surrounding public rights of way may be included as part of the lot for the purpose of making this calculation.

**FRONTAGE BUILDING:** As applied to the community signage overlay district, that facade of building which faces and is parallel to, or most nearly parallel to, the public street which provides the primary direct vehicular access to the building.

**FRONTAGE STREET:** As applied to the community signage overlay district, a lot line fronting a public street.

**GARAGE, PRIVATE:** An accessory building or portion of a main building on the same lot and used for the storage of private passenger motor vehicles.

**GARAGE, PUBLIC:** All or part of a building, except a private garage or a repair garage, used for the storage of motor vehicles, or where any such vehicles are kept for remuneration or hire.

**GARAGE, REPAIR:** A building or space for the repair or maintenance of motor vehicles, but not including auto wrecking establishments, or junk yards.

**GRADE:** The point of elevation of the finished ground surface at the exterior wall of the building.

**GROUND COVER:** Natural mulch or plants of species which normally reach a height of less than two feet (2') upon maturity, installed in such a manner so as to form a continuous cover over the ground.

**GROUP HOME:** A dwelling facility, licensed by the state of Montana department of health and human services or department of family services, designed to safely and adequately house disabled persons, or serve as a halfway house providing drug or alcohol rehabilitation, adult foster family daycare, or group daycare services for twelve (12) or fewer children.

**HARDSHIP:** Hardship of the land refers to circumstances unique to a particular property that may warrant the issuance of a variance pursuant to subsection [11-1-9B](#) of this title. Financial or economic difficulties, or consequences of actions of the property owner, are not "hardships" for zoning purposes.

**HOME OCCUPATION:** The use of a portion of a dwelling unit or accessory building for occupations meeting the provisions of "home occupations", section [11-4-6](#) of this title. The occupational activity must be clearly incidental and subordinate to the use of the building as a dwelling.

**HOTEL/MOTEL/INN:** A building or buildings containing eight (8) or more rooms designed for and rented to the traveling public, and where only a general kitchen and dining room may be provided within the building or in an accessory building.



**KENNEL:** A place where three (3) or more dogs or cats are kept whether as pets, for boarding, or for other commercial purposes.

**LANDMARK:** As applied in the design review section of this title, a site, structure or object designated as a "landmark" that is worthy of preservation, restoration or rehabilitation because of its historic land planning or architectural significance and officially recognized through listing in the National Register of Historic Places. A landmark shall be subject to all design review procedures and requirements.

**LANDSCAPE ARCHITECT:** A person licensed to practice landscape architecture in the state of Montana.

**LANDSCAPING:** At least seventy five percent (75%) coverage of an area with natural grass, vegetative ground cover or other natural living plant materials, the remainder of which is covered with nonvegetative decorative landscape elements. Landscaping shall be considered to have the same meaning as the terms landscape, landscaped, and landscaped area.

**LARGE SHRUB:** A shrub that normally reaches a height of five feet (5') or more upon maturity, and usually has five (5) or more canes.

**LARGE TREE:** A tree of a species that normally reaches a height of twenty five feet (25') or more upon maturity, and usually has a single trunk.

**LIGHT CONSTRUCTION:** As applied in the design review section of this title, any change not construed as an alteration or repair, including:

- A. Paving of established driving and parking areas;
- B. Construction of patios not greater than one hundred twenty (120) square feet in size;
- C. Construction of sidewalks not wider than three feet (3'); and
- D. Landscaping (but not including major changes in grading or site surface drainage).

**LIVESTOCK:** Horses, sheep, cattle, sheep, goats, swine, donkeys, mules, llamas, chickens, turkeys or other animals and birds raised and maintained for breeding, recreation or production purposes.

**LOADING SPACE:** An off street space conveniently located at a building to allow service pick ups and deliveries by commercial vehicles.

**LOT:** A parcel or tract of land shown as an individual unit of ownership on a certificate of survey, subdivision plat, deed or other instrument of record.

**LOT, CORNER:** A lot fronting on two (2) or more, intersecting streets.

**LOT DEPTH:** The mean horizontal distance between the front and rear lot lines.

**LOT, DOUBLE FRONTAGE:** An interior lot having frontage on two (2) parallel or approximately parallel streets.

**LOT, INTERIOR:** A lot fronting on only one street.

**LOT LINES:** The lines bounding a "lot" as defined herein.

**LOT WIDTH:** The horizontal distance between the side lot lines measured at right angles to the lot depth at the established front building lines.

**LOT WITH RESIDENTIAL ADJACENCY:** Any building lot in a nonresidential zoning district, if the site abuts or is directly across a public street or alley from a zoning district permitting residential uses.

**LOWEST FLOOR:** As applied in the floodplain management overlay district, the floor of the lowest enclosed area of a structure including the basement used for living purposes, storage, or recreation and including any floor that could be converted to such a use.

**MAINTAIN:** As applied in the floodplain management overlay district, to allow existing or continuing.

**MANUFACTURED HOUSING:** A single-family home, built off site or in a factory, that meets uniform building codes, that is placed on a permanent foundation, is at least one thousand (1,000) square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site built homes and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of production.

**MANUFACTURED HOME PARK:** A tract of land providing two (2) or more spaces for lease, rent or sale to the general public for siting manufactured homes.

**NATIONAL REGISTER:** The National Register of Historic Places; a list, maintained by the U.S. department of interior, of sites, properties, objects, and districts having local, state or national historical, architectural or cultural significance.

**NONCONFORMING USE:** Often referred to as a "grandfathered", any lot, use or structure lawful at the time of adoption hereof or amendment, which does not conform with the adopted provisions set forth in the "nonconforming lots, uses and structures" section.

**NONPERMEABLE COVERAGE:** Coverage with nonpermeable pavement.

**NURSING/CONVALESCENT/REST HOME:** A building used to house and care for children, aged, ambulatory patients, or infirm persons under the care and supervision of a professional staff. Such home does not contain equipment for surgical care or for treatment of disease or injury.

**OFFICE:** Buildings or parts of buildings designed to be occupied by business, administrative or public agency professionals.

**PARKING SPACE:** A area of not less than one hundred eighty (180) square feet, exclusive of driveways and aisles, of appropriate shape and dimensions to be usable for parking a motor vehicle.

**PERMEABLE PAVEMENT:** A paving material that permits water penetration to a soil depth of eighteen inches (18") or more. Permeable pavement may consist of nonporous surface materials collectively comprising less than two-thirds ( $2/3$ ) of the total surface area.

**RECREATIONAL VEHICLE (RV):** A vehicular, portable structure built on a chassis, designed to be used as a temporary dwelling for travel and recreational purposes, and licensed as such.

**RECREATIONAL VEHICLE PARK:** A premises used for public camping where persons can rent space to park individual camping trailers, pickup campers, motor homes, and travel trailers.

**RECYCLING UNITS:** Containers designed to be located in easily accessible locations and used exclusively for the collection of recyclable goods, including metals, glass, clothing and similar reusable materials.

**RELOCATION:** As applied in the design review section of this title, any movement of a structure on the same site or to another site.

**REPAIR:** As applied in the design review section of this title, any change not otherwise construed as "light construction" or an "alteration" as defined above. Such change constitutes, for example, replacing broken, worn or damaged materials with like, not necessarily identical, materials and is insignificant to the size and condition of the structure or property. Repainting shall be included under this definition of "repair".

**RESTAURANT:** A public eating facility that does not provide drive in automobile service.

**RETAIL SALES:** An establishment selling goods, wares, or merchandise directly to a customer.

**ROOFLINE:** The line which marks the highest point of the vertical front of a building in the case of a false front, or the line where the roof is joined to the vertical front wall of the building in other cases.

**SALVAGE YARD:** Land or buildings where waste, discarded, recycled or salvaged materials are brought, sold, stored, exchanged, cleaned, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, hides, appliances, rubber products, glass products, lumber products and products resulting from wrecking of automobiles or other vehicles.

**SCREENING:** A method of visually shielding or obscuring properties or structures from other properties and public roadways through the use of densely planted vegetation, fences, walls and/or berms.

**SETBACK:** See definition of Yard.

**SHOPPING CENTER:** One or more buildings containing at least three (3) separate retail businesses that are planned, developed and managed as a unit.

**SIGN:** A sign is any object or device or part thereof situated outdoors or indoors which is used to advertise or identify an object, person, institution, organization, business, product, service, event or location. Signs do not include the following:

Flags: Flags of nations or an organization of nations, states, and cities, fraternal, religious and civic organizations.

Merchandise Displays: Merchandise, pictures, models, products or services in a window display.

**Symbols:** National, state, religious, fraternal, professional and civic symbols or crests.

**Time And Temperature:** Time and temperature devices not related to a product.

**Traffic Direction:** Signs that direct traffic movement into or within a vehicle parking area and not exceeding three (3) square feet in area.

**Works Of Art:** Works of art that in no way identify a product or imply a service.

**SIGN TYPES:** As applied to the community signage overlay district, any of the following:

**Awning:** A structure made of cloth, vinyl, metal or similar material with metal frames attached to a building, projecting over a thoroughfare or entrance.

**Banner:** A flag, bunting or other flexible sign characteristically hung on a building, or otherwise suspended down or along its face or across any public street of the town. The banner may or may not include copy or other graphic symbols.

**Bench:** Any sign painted on or otherwise attached to a bench or other seat.

**Billboard:** A sign structure erected for the purpose of leasing advertising space to promote an interest other than that of an individual, business, product or service available on the premises on which the billboard is located.

**Directional:** An on premises sign designed to be read by a person already on the premises and used only to identify and locate an office, entrance, exit, motor vehicle route, telephone or similar place, service or route.

**Directory:** A sign giving the name, address, number or location of the occupants of a building or buildings.

**Flexible:** A windsock, flag, pennant, streamer or banner or similar sign.

**Freestanding:** A sign supported by one or more uprights or braces not attached or incidentally attached to any building or structure, but does not include ground mounted signs.

**Ground Mounted:** A permanently mounted sign which is not attached to any structure or building.

**Internally Illuminated:** A sign that is wholly or partially illuminated by an internal light source from which source light passes through the display surface to the exterior of the sign.

**Off Site:** Any sign off the main business premises.

**Outdoor Advertising:** A sign which advertises goods, products or services which are not sold, manufactured or distributed on or from the premises or facilities on which the sign is located.

**Portable:** Any sign or other graphic that is designed to be or is capable of being transported from one place to another.

**Projecting:** A sign that extends perpendicularly or nearly perpendicularly from the building face to which it is attached.

**Roof:** A sign located on or above the roof of any building, not including a false mansard roof or other fascia.

**Sandwich Boards:** Moveable, double faced signs not to exceed three feet (3') in width and four feet (4') in height commonly used on sidewalks in front of stores to call attention to the business within.

**Temporary:** A banner, pennant, poster or advertising display constructed of cloth, canvas, plastic sheet, cardboard, wall board, sheet metal, plywood or similar materials and intended to be displayed for a limited period of time.

**Wall:** A sign painted or otherwise affixed to the face of a building, roof overhang, facade or gable end in a plane parallel to such face.

**SMALL TREE:** A tree of a species that normally reaches a height of less than twenty five feet (25') upon maturity.

**STORY:** That portion of a building included between the surface of any floor other than a basement and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

**STRUCTURE:** Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground. As applied in the floodplain management overlay district, "structure" shall include all classes of manufactured homes, modular homes and recreational vehicles together with aboveground gas or liquid storage tanks.

**STREET:** A right of way legally or otherwise legally established for public use as access to abutting property.

**Alleys And Ways:** Streets designated to provide service vehicle and vehicular parking access to abutting uses and which shall be designed and physically constructed to limit vehicular speeds to seven (7) miles per hour, or less.

**Arterial:** Major thoroughfares (US 287 and SR 287) that collect vehicular traffic from "collector" and "local access" streets.

**Collector:** Streets primarily designated to carry vehicular traffic from "local access" streets to "arterial" streets and be designed and physically constructed to restrain vehicular speeds to thirty five (35) miles per hour, or less.

**Local Access:** Streets designated to provide vehicular access to abutting uses, discourage through traffic and be designed and physically constructed to limit vehicular speeds to twenty five (25) miles per hour, or less.

**STRUCTURAL ALTERATIONS:** Any change in the supporting members of a building such as bearing walls, columns, beams, or girders, or any change in the building's exterior dimensions, walls or

rooflines.

**TRADITIONAL NEIGHBORHOOD DEVELOPMENT (TND):** A development pattern that reflects that which preceded reliance upon private automobiles as the principal means of commuting between home, school, shopping and work.

**USE:** The purpose for which land or a building structure thereon is designed, arranged, intended, or maintained, or for which it is or may be used or occupied.

**VARIANCE:** The approved relaxation of certain provisions of these regulations, where owing to circumstances unique to a specific property, literal enforcement of the provisions will result in an undue hardship as described in section [11-1-9](#) of this title.

**WATERCOURSE:** Any natural watercourse including a stream, river, creek, ravine, gully or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks. Any adjacent area that is subject to occasional overflow shall be considered part of the watercourse. Watercourse shall not include a facility constructed exclusively for the conveyance of irrigation water.

**WHOLESALE:** The sale of goods and merchandise for resale rather than for use by the end user.

**YARD, CORNER SIDE:** The "front, side and/or rear yard" space, lying at the intersection of streets other than alleys.

**YARD, FRONT:** A space not permitted for occupancy by building(s), extending across the front of the lot and lying between the front property line and the nearest line of the building(s). All yards fronting on streets, other than alleys, shall be interpreted as front yards.

**YARD OR SETBACK:** Space on a lot, unoccupied and unobstructed by any portion of the "building area". The minimum horizontal distance between the "lot line(s)" and "building(s)" measured at right angles to the lot lines, which dimension shall be used in determining required yard widths and depths. No part of yards required around building(s) on one lot shall be used to comply with required yards around building(s) on another lot.

**YARD, REAR:** A space not permitted for occupancy by building(s), extending across the rear of the lot and lying between the rear line and nearest line of the building(s).

**YARD, SIDE:** A space not permitted for occupancy by building(s) extending across the sides of the lot and lying between the sidelines and nearest lines of the building(s).

**ZONE:** A zoning district established pursuant to this title. (Ord. 131, 3-14-2002)

## **Chapter 3**

# **ZONING DISTRICTS AND OVERLAY DISTRICTS**

### **11-3-1: CONSISTENCY WITH COMPREHENSIVE PLAN:**

Montana statutes require zoning to be "in accordance" with an adopted master (comprehensive) plan. The following italicized paragraphs are extracted from the 1996 Ennis comprehensive plan. They present land use related goals and objectives, several of which are interchangeable irrespective of type of land use. These goals and objectives, together with statements discussing the several land use map classifications, are especially pertinent to the zoning districts and zoning district overlays. They shall serve as the basis of every land use and construction project design, review and execution.

## **II: GOALS AND OBJECTIVES**

*The "Goals and Objectives", together with stated policies, form the backbone of a community comprehensive plan. They outline what Ennis citizens want for the future of their community - how they want it to look, feel and function - irrespective of growth rates, economic conditions or other circumstances largely beyond local government's control...*

*The Goals and Objectives were drawn from the 'Likes' and 'Dislikes' expressed by the citizens at two planning workshops and from planning board and consultant observations....*

### **Primary Goals**

*Preserve and enhance community attractiveness.  
Conserve the area's natural environmental quality.  
Ensure that future development does not burden current taxpayers.*

### **Residential**

#### **Goal:**

*Improve the community's total living environment by employing active, neighborhood based planning and implementation.*

#### **Objectives:**

*Halt "suburban sprawl" and facilitate neighborhood reinvestment.  
Determine development suitability and site design acceptability with full regard for topographic, soil, food and other natural conditions.  
Implement flexible regulatory codes to achieve well planned neighborhoods with varied lot sizes, mixed land uses and safe, efficient site design.  
Protect neighborhoods from poorly designed incompatible uses....  
Facilitate new and rehabilitated housing that will serve all citizens needs.  
Implement incentive based minimum construction standards.*

### **Commercial**

#### **Goal:**

*Optimize business opportunities consistent with the Primary Goals.  
Facilitate small businesses consistent with Ennis' "small town" character.  
Preserve downtown as the focal point of business and shopping activity.  
Provide incentives to attract and keep business within the core area.  
Encourage development of vacant and underutilized spaces in the core area.*

*Continue to enhance all elements of downtown's appearance, particularly signs and lights.  
Continue downtown's contemporary western theme.  
Link commercial, residential and recreational spaces with pedestrian walkways.  
Require adequate, properly located well-designed parking.*

## **Industrial**

### **Goal:**

*Build a more diversified, year-round economy.*

### **Objectives:**

*Facilitate the expansion of existing and development of new light industries.  
Protect lands suitable for light industry from residential or other low value uses.  
Require proper site design construction and maintenance.*

## **Community Facilities and Utilities**

### **Goal:**

*Provide effective, efficient public services.*

### **Objectives:**

*Require basic utility systems be installed prior to development and construction.  
Install power and communication systems underground.  
Require adequate storm water facilities be designed, installed and maintained.*

## **Parks and Recreation**

### **Goal:**

*Develop park and recreation facilities that meet the needs of all citizens.*

### **Objectives:**

*Provide land and recreational facilities commensurate with current and future needs that do not exceed the community's maintenance capabilities.  
Develop year-round facilities that will strengthen the Madison Valley recreational economy but do not degrade the natural environment.  
Develop a park and recreation system along the Madison River linked with other community recreation spaces.  
Preserve and improve parks and open spaces within the core area.  
Improve parks acquired in collection with subdivision approvals.*

## **Transportation**

### **Goal:**

*Increase the quality, availability and efficiency of transportation facilities.*



**Objectives:**

*Restrict access to arterial streets.*

**Agriculture****Goal:**

*Promote the agricultural economy's continued growth and prosperity.*

**Objectives:**

*Recognize agriculture's contribution to the community's economic base, the protection of wildlife resources and maintenance of open space.*

*Protect agriculture from the adverse effect of subdivision development.*

*Fully implement land protection measures including floodplain management, weed infestation controls and soil and water conservation.*

**Natural Resources****Goal:**

*Make effective use of natural resources while protecting environmental quality.*

**Objectives:**

*Protect and appropriately manage natural resources.*

*Implement measures that will minimize air and water pollution.*

*Protect and preserve Madison Valley's natural character.*

**Aesthetic and Environment****Goal:**

*Protect and enhance the area's built and natural environment.*

**Objectives:**

*Protect the area's natural environment.*

*Design and implement a flexible, design based regulatory system.*

*Improve community entryway signage and landscaping.*

*Prevent new incompatible land uses, and mitigate the effect of those that currently exist, with landscaping or other means of buffering.*

*Reduce the consumption of water for landscape irrigation.*

**Land Use Map:** *The Land Use Map... is intended to be interpreted and applied in context with but subservient to the document text. Although the number of dwelling units per acre stipulated for each of the land use classification areas are intended to be maximum densities, they shall be flexibly interpreted to accommodate density "bonuses" that may be permitted by zoning provisions adopted to implement the spirit and intent of the comprehensive plan.*

*The land uses and development requirements to be implemented by zoning and other regulatory codes and policies are:*

***Agricultural Areas:*** *Three (3) classifications of land primarily suited for grazing or raising crops are designated. Low intensity residential uses may be permitted depending upon natural development constraints and distance from town.*

*a. Agriculture - 1 DU Per 640 Acres: Areas subject to flooding or topographic constraints that make them unsuitable or virtually unsuitable for any urban type use but which are suitable for agricultural crops or grazing.*

*b. Agriculture - 1 DU Per 160 Acres: Areas subject to severe water table and other developmental problems causing them to be difficult to develop for urban purposes but which are suitable for agricultural crops or grazing.*

*c. Agriculture - 1 DU Per 80 Acres: Lands with moderate developmental constraints that lie between the very low developmental density agricultural lands and the low density residential use areas. These areas are suitable for grazing and certain other agricultural purposes.*

***Residential Neighborhoods:*** *Residential neighborhoods will be systematically improved by paving streets where appropriate, installing sidewalks, providing adequate storm drainage facilities and planting street trees. Specific areas adjacent to the downtown area will be enhanced by gradually introducing limited mixed use development. This gradual "infilling" and reinvestment process will be undertaken under guidelines and controls designed to protect the livability and economic viability of the existing residential properties. All new residential subdivisions will be designed and developed to be efficiently served by public infrastructure and services.*

*Residential areas are classified for differing development densities (dwelling units per acre) based upon their relative suitability for development as delineated by the soil conservation service (now NRCS) "Soils Survey" and by their relative distance from the center of town.*

*a. Residential - 1 DU Per 10 Acres: Tracts suitable for low density, suburban type development.*

*b. Residential - 2 DU's Per Acre: Lands within<sup>1</sup> and close to town suitable for single-family home sites served by "on-lot" water and sewage disposal systems.*

*c. Residential - 4 DU's Per Acre: The area currently developed with a mix of mobile homes, apartments and single-family houses. Four (4) DU's per gross acre will permit development at an intensity that should not adversely affect individual home development if proper regulatory requirements are applied.*

*d. Residential - 8 DU's Per Acre: This development density approximates that which currently exists throughout the town's older areas. Specific development regulations must be enacted (and possibly differing zoning classifications) to assure high quality site design, building rehabilitation and new home construction.*

**Local Commercial and Residential:** *Mixed commercial/residential areas that will be subject to maximum building and parking limits to ensure services will be restricted primarily to immediate surrounding neighborhoods.*

**Core Commercial/Residential Neighborhoods:** *The downtown "core" area will retain its position as the primary business and shopping center of the Ennis vicinity. Expansion into the blocks immediately to the north and south of Main Street will be facilitated through a carefully controlled mixed-use regulatory procedure. Downtown's western small town character will be protected by managing the size, nature and arrangement of buildings, streets, walkways, parking, open spaces and other development features, both public and private.*

**Highway Commercial:** *Concentrated areas of highway oriented business developments are indicated for three (3) specific areas abutting arterial routes. Existing commercial enterprise owners will systematically improve the safety and appearance of their properties as buildings are expanded or uses are changed. New commercial operations will be required to design, improve and maintain properties in the manner proscribed for the areas designated "Highway Commercial".*

**Commercial/Industrial:** *This classification will allow a somewhat broader range of uses and afford greater opportunity for basic sector job opportunities close to the heart of the community. Existing and new development will be improved in the manner proscribed for the areas designated "Commercial/Industrial".*

**Planned Industrial:** *The area to be reserved for basic sector employment type uses that will be attracted to Ennis if a suitable environment is assured.*

(Ord. 131, 3-14-2002)

## **11-3-2: ZONING DISTRICTS ESTABLISHED:**

The Ennis planning and zoning jurisdictional area is divided into the following zoning districts:

### Agricultural Districts

AG-640Agricultural - 640

AG-160Agricultural - 160

AG-80Agricultural - 80

### Residential Districts

R-RDResidential - rural density

R-LDResidential - low density

R-MDResidential - medium density

R-TDResidential - town density

### Mixed Commercial/Residential Districts

L-CRLocal commercial - residential

C-CRCore commercial - residential

## Nonresidential Districts

HCHighway commercial  
C-ICommercial/industrial  
P-IPlanned industrial

## Zoning Overlay Districts

TNDTraditional neighborhood development  
FPMFloodplain management  
CSCommunity signage

(Ord. 131, 3-14-2002)

### **11-3-3: DISTRICT BOUNDARIES:**

A. Interpretation: Mapped zoning district boundaries shall be interpreted pursuant to the following rules:

1. Centerlines: Where boundaries as generally follow the centers of street or highway rights of way, the centerlines of the streets or rights of way shall be construed to be such boundaries.
2. Lot Lines: Where boundaries generally follow lot lines, such lot lines shall be construed to be such boundaries.
3. Parallel Lines: Where boundaries generally parallel the centerlines of streets or rights of way lines of highways, such boundaries shall be construed as being parallel to and at a dimension scaled from the zoning map.
4. Shorelines: Where district boundaries generally follow shorelines, such shorelines shall be construed to be such boundaries. If natural change occurs, such change in the shoreline boundaries shall be construed as moving with the actual shoreline. (Ord. 131, 3-14-2002)

### **11-3-4: AREA, YARD AND HEIGHT SPECIFICATIONS:**

A. Purpose And Matrix: Minimum area per dwelling unit, lot area, front yard, side yard, rear yard and street frontage requirements as well as maximum height and intensity requirements are established to further the goals, objectives, policies and land use provisions of the comprehensive plan. These requirements shall be observed in all circumstances unless modified pursuant to the provisions set forth within the overlay district or those regarding "hardship" variances.

#### DISTRICT MINIMUMS MAXIMUMS

		<u>Area/DU</u>	Lot Area	Front Yard	Sd. Yard	Rr. Yard	St. Frt'ge	Height	Intensity
		-							
	AG-640	640 acres	640 acres	50 ft.	1) 10 ft.	1)10 ft.	1,200 ft.	2) none	2) none
	AG-160	160 acres	160 acres	50 ft.	1) 10 ft.	1)10 ft.	1,200 ft.	2) none	2) none
	AG-80	80 acres	80 acres	50 ft.	1) 10 ft.	1) 10 ft.	1,200 ft.	2) none	2) none
	R-RD	10 acres	3 acres	50 ft.	10 ft.	1) 10 ft.	250 ft.	35 ft.	none
	R-LD	1/2 acre	7,500 sq. ft.	25 ft.	10 ft.	20 ft.	75 ft.	25 ft.	none
	R-MD	1/4 acre	5,000 sq. ft.	25 ft.	10 ft.	10 ft.	50 ft.	25 ft.	none
	R-TD	1/8 acre	4,000 sq. ft.	25 ft.	5 ft.	5 ft.	50 ft.	25 ft.	none
	L-CR	3)	3)	3)	3)	3)	3)	40 ft.	4) 0.8
	C-CR	3)	3)	3)	3)	3)	3)	40 ft.	4) 3.0
	HC	-	1 acre	50 ft.	25 ft.	25 ft.	100 ft.	40 ft.	4) 0.4
	C-1	-	1 acre	50 ft.	25 ft.	25 ft.	100 ft.	40 ft.	4) 0.4
	P-1	3)	3)	3)	3)	3)	3)	40 ft.	4) 0.6

- 1) This distance shall be equal to the height of buildings within 200 feet but no less than 10 feet
- 2) No maximum height limit is established except as may be required within airport land zones
- 3) All L-CR, C-CR and P-I districts shall be designed in accord with the TND district requirements (see [article 3A of this chapter](#)).
- 4) The maximum allowable "floor area ratio (FAR)" as defined in section [11-2-2](#) of this title.

B. Parcels Nonconforming By Size: Parcels nonconforming by size that were subdivided prior to this title may be used provided the proposed uses are treated as conditional uses and subject to the conditions set forth for such uses. (Ord. 131, 3-14-2002)

### 11-3-5: YARD AND HEIGHT EXCEPTIONS AND EXEMPTIONS:

A. Purpose: Yard and height exceptions and exemptions to the requirements specified in the preceding section shall apply pursuant to the following provisions:

B. Yard Exceptions And Exemptions:

1. Porches: An open unenclosed porch or paved terrace may project into a front yard for a distance not exceeding ten feet (10').
2. Terraces And Decks: Terraces, uncovered porches, platforms and ornamental features which do not extend more than four feet (4') above the floor level of the ground story may project into a required yard provided these projections be at least five feet (5') from the adjacent side lot lines.
3. Accessory Structure Yard Encroachments: Accessory structures may be built in required rear yard areas but such accessory buildings shall not occupy more than thirty percent (30%) of a required rear yard and shall not be nearer than three feet (3') to any side lot line or six feet (6') to any rear lot line.
4. Corner/Side Yards: The required side yard of a corner lot shall be one-half ( $\frac{1}{2}$ ) the required front yard on such street provided that no adjacent structures front on the same street, in which case the entire required front yard depth must be provided. No accessory building may project beyond the required front yard on either street.

C. Height Exceptions And Exemptions:

1. Public Or Quasi-Public Service Facility Structures: Where permitted, these structures may be erected to a height not exceeding sixty feet (60') or, in the case of churches, not exceeding seventy five feet (75'). However, in such cases the front yard and corner side yard depths shall be thirty percent (30%) in excess of those required, and interior lot side yards shall be twenty feet (20').
2. Towers And Lofts: Except in airport landing zones, chimneys, church steeples, cooling towers, elevator bulkheads, fire towers, monuments, stacks, stage towers, or scenery lofts, links, water towers, ornamental towers, spires, communication towers, grain elevators, or appropriate decorative or necessary mechanical appurtenances are exempt from the height limits.
3. Cornice, Ornament And Eaves Exceptions: Every part of a required yard shall be open to the sky, unobstructed by any structure, except for the projection of sills, cornices, eaves and ornamental features which shall not to exceed twenty four feet (24'). (Ord. 131, 3-14-2002)

## **ARTICLE A. AG-640, AG-160 AND AG-80 AGRICULTURAL DISTRICTS**

### **11-3A-1: PURPOSE:**

To protect agricultural lands suited for the production of ranch and farm communities and prevent suburban development sprawl in areas relatively remote from convenient public infrastructure and services. (Ord. 131, 3-14-2002)

### **11-3A-2: PERMITTED USES:**

In AG agricultural districts, no building or premises shall be used and no building shall be erected or structurally altered, except for one of the following purposes:

Accessory structures and uses.

Agriculture, including field crops, horticulture, animal husbandry, poultry farms and kennels.

Dwellings and normal ranch and farm buildings.

Golf courses and country clubs.

Medical marijuana grow houses in AG-640 and AG-160.

Riding academies, dude ranches, and farm and ranch related recreational enterprises. (Ord. 131, 3-14-2002; amd. Ord. 134, 11-5-2010)

### **11-3A-3: CONDITIONAL USES:**

The following uses are permitted in agricultural districts subject to meeting the requirements and procedures prescribed for conditional uses:

Airports, provided they meet all state and federal regulations.

Cemeteries, crematories and mausoleums.

Commercial mines, quarries and sand and gravel pits.

Commercial recreation, including golf driving ranges and automotive racetracks.

Essential services.

Home occupations.

Living quarters for persons employed more than half time on the premises but not exceeding one family unit in addition to the principal occupant/employer.

Nonhighway oriented lodges with cabins.

Temporary (not to exceed 90 days) stands for the sale of products grown primarily on the premises.  
(Ord. 131, 3-14-2002)

## **ARTICLE B. RESIDENTIAL DISTRICTS**

### **11-3B-1: R-RD RURAL DENSITY DISTRICT:**

A. Purpose: To provide areas suitable for rural density, suburban development at a density of no more than one dwelling unit per ten (10) acres of land.

B. Permitted Use: In R-RD districts, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following purposes:

Accessory structures and uses.

Churches, libraries, museums, public parks and playgrounds, community centers, colleges, public golf courses, public and private educational institutions offering programs that meet state educational standards and similar public or quasi-public buildings and recreation facilities.

Daycare centers.

Fire and police stations.

Group homes.

Nursing homes and hospitals, provided the state and local health jurisdictions approve the location.

Single-family dwellings.

C. Conditional Uses: The following uses are permitted in R-RD districts subject to meeting the requirements and procedures prescribed for conditional uses:

Cemeteries, crematories and mausoleums.

Essential services.

Home occupations.

Living quarters for persons employed more than half time on the premises but not exceeding one family unit in addition to the principal occupant/employer. (Ord. 131, 3-14-2002)



## **11-3B-2: R-LD LOW DENSITY DISTRICT:**

A. Purpose: To provide areas suitable for low density development, within or close to town at a density of no more than one dwelling unit per one-half ( $1/2$ ) acre of land (21,780 square feet)<sup>1</sup>.

B. Permitted Uses: In R-LD districts, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following purposes:

Accessory structures and uses.

Churches, libraries, museums, public parks and playgrounds, community centers, colleges, public golf courses, public and private educational institutions offering programs that meet state educational standards and similar public or quasi-public buildings and recreation facilities.

Daycare centers.

Fire and police stations.

Group homes.

Nursing homes and hospitals, provided the state and local health jurisdictions approve the location.

Single-family dwellings.

C. Conditional Uses: The following uses are permitted in R-LD districts subject to meeting the requirements and procedures prescribed for conditional uses:

Essential services.

Home occupations.

Manufactured home parks platted after adoption of this title. (Ord. 131, 3-14-2002)

## **11-3B-3: R-MD MEDIUM DENSITY DISTRICT:**

A. Purpose: To provide areas that are suitable for a mixture of single-family and multi-family dwellings within the town's infrastructure service area at a density of no more than one dwelling unit per one-fourth ( $1/4$ ) acre of land (10,890 square feet).

B. Permitted Uses: In R-MD districts, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following purposes:

Accessory structures and uses.

Churches, libraries, museums, public parks and playgrounds, community centers, colleges, public golf courses, public and private educational institutions offering programs that meet state educational standards and similar public or quasi-public buildings and recreation facilities.

Daycare centers.

Fire and police stations.

Group homes.

Nursing homes and hospitals, provided the state and local health jurisdictions approve the location.

Single- and multiple-family dwellings.

C. Conditional Uses: The following uses are permitted in R-MD districts subject to meeting the requirements and procedures prescribed for conditional uses:

Bed and breakfasts.

Boarding/lodging houses.

Essential services.

Home occupations.

Hospitals and clinics.

Manufactured home parks platted after adoption of this title. (Ord. 131, 3-14-2002)

#### **11-3B-4: R-TD RESIDENTIAL TOWN DENSITY DISTRICT:**

A. Purpose: To accommodate a mix of homes and apartments close to the town's core area at a density of no more than one dwelling unit per one-eighth ( $\frac{1}{8}$ ) acre (5,445 square feet).

B. Permitted Uses: In R-TD districts, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following purposes:

Accessory structures and uses.

Bed and breakfasts.

Boarding/lodging houses.

Churches, libraries, museums, public parks and playgrounds, community centers, colleges, public golf courses, public and private educational institutions offering programs that meet state educational standards and similar public or quasi-public buildings and recreation facilities.

Daycare centers.

Group homes.

Hospitals and clinics.

Nursing homes and hospitals, provided the state and local health jurisdictions approve the location.

Public safety: Fire and police stations.

Single- and multiple-family dwellings.

C. Conditional Uses: The following uses are permitted in R-TD districts subject to meeting the requirements and procedures prescribed for conditional uses:

Essential services.

Home occupations.

Manufactured home parks platted after adoption of this title. (Ord. 131, 3-14-2002)

## **ARTICLE C. MIXED COMMERCIAL/RESIDENTIAL DISTRICTS**

### **11-3C-1: L-CR LOCAL COMMERCIAL/RESIDENTIAL DISTRICT:**

A. Purpose: To provide for small commercial shops and services designed in a manner compatible with residential development and within walking distance of immediate surrounding residential neighborhoods.

B. Permitted Uses: In L-CR districts, no individual nonresidential space shall exceed one thousand two hundred (1,200) square feet in gross area, the total nonresidential space shall not exceed five thousand (5,000) square feet in gross area, and the total gross area devoted to parking and

vehicle circulation shall not exceed six thousand (6,000) square feet. No building or premises shall be used and no building shall be erected or structurally altered except for one of the following or demonstrably similar purposes:

Accessory structures and uses.

Bed and breakfasts.

Boarding/lodging houses.

Churches, public parks and playgrounds and community centers.

Daycare centers.

Fire and police stations.

Group homes.

Restaurants.

Shops and services that generally serve the day to day needs of nearby neighborhood residents.

C. Conditional Uses: The following uses are permitted in L-CR districts subject to meeting the requirements and procedures prescribed for conditional uses:

Automobile service stations.

Essential services.

Home occupations.

Offices, each not exceeding five hundred (500) square feet in gross area.

Single- and multiple-family dwellings. (Ord. 131, 3-14-2002)

## **11-3C-2: C-CR CORE COMMERCIAL/RESIDENTIAL DISTRICT:**

A. Purpose: To maintain and strengthen the downtown "core" area and facilitate the continuance of its western, small town character. (Ord. 131, 3-14-2002)

B. Permitted Uses: In the C-CR district, no building or premises shall be used and no building shall be hereafter erected or structurally altered, except for one of the following or demonstrably similar purposes:

Accessory structures and uses.

Assembly halls.

Bars and package liquor stores.

Bed and breakfasts.

Boarding/lodging houses.

Bowling alleys.

Churches, public parks and playgrounds and community centers.

Daycare centers.

Group homes.

Libraries, public parks and playgrounds, fire and police stations and other public buildings.

Medical marijuana storefronts.

Membership clubs.

Offices.

Printing shops.

Public and private recreation use.

Restaurants.

Retail stores.

Theaters. (Ord. 131, 3-14-2002; amd. Ord. 134, 11-5-2010)

C. Conditional Uses: The following uses are permitted in C-CR districts subject to meeting the requirements and procedures prescribed for conditional uses:

Bus stations.

Essential services.

Home occupations.

Retail painting, plumbing, upholstering and sign shops (no outdoor storage of materials).

Single- and multiple-family dwellings. (Ord. 131, 3-14-2002)

# ARTICLE D. NONRESIDENTIAL DISTRICTS

## 11-3D-1: HC HIGHWAY COMMERCIAL DISTRICT:

A. Purpose: To accommodate concentrations of highway oriented business development in areas abutting arterial thoroughfares. These areas are intended to primarily serve automobile oriented trade requiring parking, loading and storage areas generally incompatible with the downtown core area. The HC district is not intended to permit uses that are directly competitive with and destructive to the success of businesses in the core commercial/residential district. (Ord. 131, 3-14-2002)

B. Permitted Uses: In the HC district, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following or demonstrably similar purposes:

Accessory structures and uses.

Bowling alleys.

Drive-in establishments.

Fire and police stations.

Hotels, motels, restaurants, taverns and package liquor stores.

Medical marijuana grow houses and storefronts.

Printing shops.

Public and private recreation uses.

Retail stores for the sale of automobile parts and accessories, souvenirs, curios, film, magazines, and other products customarily sold to meet the needs of the motoring public, but not including junk, salvage, or automobile wrecking yards.

Service stations, automobile and truck repair garages.

Tire store sales and service, including vulcanizing, but not involving manufacturing on the premises.

Tourist information centers and museums.

Truck stops. (Ord. 131, 3-14-2002; amd. Ord. 134, 11-5-2010)

C. Conditional Uses: The following uses are permitted in HC districts subject to meeting the requirements and procedures prescribed for conditional uses:

Bus stations.

Churches.

Contractor's operations or storage yards.

Essential services.

Gasoline, propane and oil bulk stations and distributing plants. Due to the flammable nature of these products, sites may be located within the highway commercial district, remote from population concentration provided:

1. They meet all local, state and federal regulations.
2. Storage tanks shall be a minimum of fifty feet (50') from the nearest property line.
3. The site shall have direct and exclusive access to an arterial highway and such access shall be at least two hundred feet (200') from any residential dwelling or any commercial business open to the general public.
4. The site shall maintain an acceptable appearance from streets and adjoining properties by employing approved landscaping and buffering techniques.

Heavy machinery sales and service.

Lumber or building materials storage yards, builders supply yards, sale of cement and concrete products and lumber.

Mobile home and trailer sales and services.

Painting, plumbing, upholstery and sign shops.

Single- and multi-family dwellings.

Storage warehouses. (Ord. 131, 3-14-2002)

## **11-3D-2: C-I COMMERCIAL-INDUSTRIAL DISTRICT:**

A. Purpose: To accommodate basic sector industrial uses in addition to concentrations of highway oriented business development in areas abutting arterial thoroughfares. These areas are intended to provide a broader range of industrial as well as commercial development, the latter of which primarily serves automobile oriented trade requiring parking, loading and storage areas generally incompatible with the downtown core area. The C-I district is not intended to permit uses that are

directly competitive with and destructive to the success of businesses in the core commercial/residential district. (Ord. 131, 3-14-2002)

B. Permitted Uses: In the C-I district, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following or demonstrably similar purposes:

Accessory structures and uses.

Bowling alleys.

Contractor's operations or storage yards.

Drive-in establishments.

Fire and police stations.

Hotels, motels, restaurants, taverns and package liquor stores.

Lumber or building materials storage yards, builders supply yards, sale of cement and concrete products and lumber.

Medical marijuana grow houses and storefronts.

Painting, plumbing, upholstery and sign shops.

Printing shops.

Public and private recreation uses.

Retail stores for the sale of automobile parts and accessories, souvenirs, curios, film, magazines, and other products customarily sold to meet the needs of the motoring public, but not including junk, salvage, or automobile wrecking yards.

Service stations, automobile and truck repair garages.

Tire store sales and service, including vulcanizing, but not involving manufacturing on the premises.

Tourist information centers and museums.

Truck stops. (Ord. 131, 3-14-2002; amd. Ord. 134, 11-5-2010)

C. Conditional Uses: The following uses are permitted in C-I districts subject to meeting the requirements and procedures prescribed for conditional uses:

Blacksmith, welding, or other metal shops, excluding punch presses over twenty (20) tons' rated capacity, drop hammers, and the like.



Bottling works.

Bus stations.

Churches.

Dairy processing and distribution plants.

Electrical central power stations.

Essential services.

Grain elevators, or facilities for collection, storage, processing and marketing of grain and feed products.

Machine, roofing and sheet metal shops.

Manufacturing, compounding, processing, packaging of cosmetics, pharmacology, electronic components and food products, except fish and meat products, and the reducing and refining of fats and oils.

Mobile home and trailer sales and services.

Printing plants.

Processing and manufacturing of brick, ceramic and other clay products.

Single- and multi-family dwellings.

Storage warehouses. (Ord. 131, 3-14-2002)

## **ARTICLE E. P-I PLANNED INDUSTRIAL DISTRICT**

### **11-3E-1: PURPOSE:**

Areas to be reserved for basic sector industrial uses that desire a more protected, higher quality environment within which to conduct operations. (Ord. 131, 3-14-2002)

### **11-3E-2: PERMITTED USES:**

In the P-I district, no building or premises shall be used and no building shall be erected or structurally altered, except for one of the following or demonstrably similar purposes:

Accessory structures and uses.

Basic sector industries and businesses that sell most of the goods or services produced to buyers from outside Montana.

Medical marijuana grow houses and storefronts.

Organizations or agencies that serve a broad range of in state as well as out of state visitors to the Ennis area.

Tourist information centers and museums. (Ord. 131, 3-14-2002; amd. Ord. 134, 11-5-2010)

### **11-3E-3: CONDITIONAL USES:**

The following uses are permitted in P-I districts subject to meeting the requirements and procedures prescribed for conditional uses:

Bus stations.

Essential services.

Hotels, motels and restaurants.

Living quarters for persons employed more than half time on premises. (Ord. 131, 3-14-2002)

## **ARTICLE F. ZONING OVERLAY DISTRICTS**

### **11-3F-1: TND TRADITIONAL NEIGHBORHOOD DEVELOPMENT OVERLAY:**

A. Intent And Purpose: Montana statutes state zoning regulations shall be in accord with a comprehensive plan. The 1996 Ennis comprehensive plan goals and objectives revealed citizen desire to be involved in community planning and implementation decisions and to preserve and enhance community attractiveness. The plan also reflects the citizen's intent to maintain Ennis' small western town appearance and other features that distinguish it from other communities. TND provisions offer property owners, developers and builders maximum flexibility of design consistent with the goals, objectives, policies and overall intent of the Ennis comprehensive plan and applicable provisions of the Montana planning and zoning statutes. Design parameters and review procedures to be used in administering TND provisions are intended to assure full protection of the health, safety, morals and general welfare of the Ennis community.

B. TND Design Parameters:

1. **Design Quality:** The design quality of site, landscaping and structures, viewed in context with a proposed project's compatibility with its immediate surroundings and with the town's unique character, shall be a primary criteria by which the acceptability of all TND proposals shall be measured.
2. **Uses:** Permitted and conditional uses shall be those specified in the underlying zoning district; however, reviewers shall flexibly interpret the appropriateness of proposed uses when determining their consistency with the uses permitted in the underlying zoning classification.
3. **Density And Intensity:** The maximum permitted residential density, calculated as the number of dwelling units per acre, and intensity of nonresidential use, calculated as permitted floor area ratio (FAR), shall not exceed or be less than that specified for the underlying zoning district by a factor of more than fifty percent (50%).
4. **Parking And Loading:** Parking and loading areas shall be consistent with the comprehensive plan and shall be placed behind buildings and screened from public streets and surrounding properties. The parking and loading requirements set forth in this title shall serve as review guide for TND proposals but may be adjusted by a factor up to one hundred percent (100%), provided:
  - a. Acceptable alternative arrangements are made or actual needs are less for the specific proposed uses to be served, and
  - b. An equivalent area, suitably located with respect to access, is landscaped for subsequent conversion to parking or loading if uses are changed.
5. **Parks, Trails And Common Open Spaces:** Parks, trails and common spaces commensurate with the type, size and location of proposed TNDs shall be incorporated into the design plans. TND plans shall also include procedures for constructing and providing for the continued maintenance of these features.
6. **Community Facilities And Utilities:** Community utilities and facilities commensurate with the type, size and location of proposed TNDs shall be incorporated into the design plans. TND plans shall also include the means of transferring ownership and long term responsibility for such improvements or land.
7. **Landscaping, Lighting And Street Furniture:** Landscaping, lighting and street furniture shall meet the requirements of this title; however, proposals of an extraordinary quality and design may be used as mitigating offsets with respect to other ordinance requirements.
8. **Signs:** The sign requirements set forth in this title shall serve as review guide for TND proposals but may be adjusted for valid functional and aesthetic reasons by a factor up to twenty five percent (25%).
9. **Access And Linkage:** Maximum attention shall be given to a feature that will enhance convenient and safe and attractive pedestrian and bicycle access, both on and off site.
10. **Streets, Alleys, And Parking Lots:** Vehicular access shall be designed and constructed to physically constrain maximum vehicular speed on collector streets to thirty (30) miles per hour, on local access streets to twenty (20) miles per hour and on alleys and within parking lots to seven (7) miles per hour. Adequate arrangements shall be incorporated into the design to accommodate public safety vehicles as well as occasional community service needs, but these arrangements shall not cause the maximum design speed to increase.

### C. Review Procedures:

1. **Time:** Recognizing the TND procedure lessens the predictability of timing and approval. Project filings deemed by the zoning administrator to be complete and sufficient for review shall be accorded priority over all other projects at every step of the review process. All town of Ennis related personnel and agency reviews shall be expedited to the extent possible consistent with statutorily determined meeting notification requirements.
2. **Review Process:** A property owner or other person considering a TND project shall first meet with the zoning administrator to review the nature, type and location of the proposed project. The zoning administrator shall provide information and answer questions about the process together with a list of submission requirements and a tentative schedule of review stages and procedures consistent with the scale and nature of the applicant's proposed project. The applicant will provide a draft TND agreement that describes all facets of the project including the public and private improvements and schedule for the project. Formal reviews will not be initiated until all required information has been submitted to the zoning administrator.
3. **Approval Process:** The zoning administrator shall promptly schedule the proposed TND project for planning board review. The planning board may conduct a public hearing regarding the proposed project or may review and recommend approving, conditionally approving or denying the project at any special or regular board meeting. Before recommending any TND project the planning board shall make specific findings that document how the project meets this section's design criteria. The planning board's recommendation and TND agreement shall be forwarded to the town commission for review and approval. The agreement will be executed by the developer and the mayor or his designee and shall be a contract enforceable under Montana law.

### D. Other TND Provisions:

1. **Zoning Standards As Guide:** The zoning standards and procedures set forth in other provisions of this title may be used as a guide for TND reviews.
2. **Interpretation:** It is understood and intended that such determinations will be site specific and likely to vary based upon geographic location within the town and with changes in materials and technologies in time.
3. **Bonding:** The town commission may require a performance bond to ensure that the proposed development is completed as approved and within the time limits. (Ord. 131, 3-14-2002)

## **Chapter 4 GENERAL PROVISIONS**

### **11-4-1: CONSISTENCY WITH COMPREHENSIVE PLAN:**

Standards applicable in some or all zoning districts are set forth in this chapter. They are designed and intended to further implementation of the goals, objectives, policies and other relevant elements of the Ennis comprehensive plan. (Ord. 131, 3-14-2002)

## **11-4-2: STANDARDS FOR CERTAIN USES AND STRUCTURES:**

A. Purpose: The purpose of this section is to further describe the standards and conditions under which certain uses may be permitted as principal or conditional uses in specific districts. All uses listed in this section shall be subject to the specific standards described for each use, in addition to all other applicable standards that may apply. Compliance with all criteria listed below does not necessarily guarantee approval of a zoning permit.

B. Automotive Service Facilities: Automotive service shall include repair, washing, fueling and similar related activities.

1. Arterial Frontage: At least one frontage shall be on a major arterial street. (US 287 or SR 287)
2. Pumps And Canopies: Gas pump and pump island canopies shall be located no closer than twenty five feet (25') to any side or rear property line and shall not exceed eighteen feet (18') in height.
3. Screening: All on site activities except those normally performed at fuel pumps shall be performed within a completely enclosed building. Vehicles awaiting repair or that have been repaired, auto repair activities and unassembled vehicles shall be fully screened from residential zoning districts.
4. Body Work: Painting or body and fender work shall not be conducted unless permitted in the zoning district.
5. Nonautomotive Sales: Temporary sales (as distinguished from permitted mixed use retail businesses) of nonautomotive related goods and services; for example, art, food or landscaping materials shall be prohibited.
6. Vehicle Sales: No sale, lease or rental of trailers, trucks or similar vehicles or equipment shall be permitted except as may be specifically allowed in the zoning district.
7. Parking: Interior circulation areas and standing areas at pump islands shall not be used to meet minimum off street parking requirements.
8. Trash And Litter: The site shall be policed to remove trash and litter and waste containers shall be emptied daily.

C. Cemeteries:

1. Size: Cemeteries shall be a minimum of forty (40) acres, of which at least ten (10) acres shall be subdivided and fully developed with roads and facilities in the initial plat.
2. Landscaping: The entire site shall be landscaped and maintained. All disturbed portions of the site, including any grassed or otherwise planted areas shall be irrigated with an automatic watering system.
3. Accessory Uses: The cemetery may include accessory uses such as a chapel, a mortuary, office, a mausoleum, equipment storage or maintenance facilities incidental and essential to the operation of a cemetery.

#### D. Mini Warehouses:

1. Circulation And Parking Requirements:
  - a. Exits: Each mini warehouse site shall provide a minimum of two (2) exits.
  - b. Lane Widths: All one-way driveways shall provide for a twelve foot (12') travel lane and a ten foot (10') parking lane. Parking lanes may be eliminated on portions of driveways that do not serve storage units.
2. Marking: Traffic flow direction and parking areas shall be clearly marked.

#### E. Recreational Vehicle Park And Overnight Campgrounds:

1. Size: Recreational vehicle park sites shall be a minimum of ten (10) acres.
2. Landscaping: The entire site shall be landscaped and maintained. All disturbed portions of the site, including any grassed or otherwise planted areas shall be irrigated with an automatic watering system.
3. Screening: Recreational vehicle parks shall be screened with vegetation from any residential street or zoning district.
4. Recreation Area: At least ten percent (10%) of the total recreational vehicle park area shall be set aside, equipped and maintained for the recreational needs of those visiting the park.
5. Internal Circulation: Internal circulation roads shall be paved with concrete or asphalt equal to town access street standards.
6. Recreational Vehicle Parking Pads: Individual recreational vehicle parking pads shall be plainly marked and maintained with a dust free surface, and each pad shall be equipped with approved water and electrical connections.
7. Setbacks: Recreational vehicle parking pads shall be set back at least thirty feet (30') from the park perimeter and any public street right of way.
8. Utilities And Facilities: State approved drinking water, laundry facilities and sewage and solid waste disposal facilities shall be provided.

#### F. Stable, Commercial:

1. Area: Commercial stable sites shall be a minimum of ten (10) acres.
2. Landscaping: The entire site shall be landscaped and maintained. All disturbed portions of the site, including any grassed or otherwise planted areas but excluding corrals and performance areas, shall be irrigated with an automatic watering system.
3. Adjacent Residential: The proposed site shall not be adjacent to subdivided single-family residential property unless that residential property contains an equestrian easement along the contiguous boundary.
4. Performance Regulations: Performances or other crowd generating activities that may generate more traffic than normal to a residential area shall not be permitted unless the site has direct access from an arterial or collector street. Permission for such activities shall be obtained from the town commission. Written notification shall be provided to the zoning officer at least one month prior to the date of the activity. This notification shall describe the nature and duration of the activity; toilet and other accommodations for spectators; traffic control arrangements; and, adequate parking for cars and trailers.
5. Enclosures: All pasture and animal maintenance areas shall be enclosed with fences or walls a minimum of four and one-half feet ( $4\frac{1}{2}$ ') in height. The design of these enclosures shall be shown on drawings submitted with the conditional use application.
6. Public Health Requirements: All public health laws and laws governing appropriate care of animals shall be complied with at all times.
7. Dust Control: All activity areas that are not grassed shall be treated to control dust at all times.

#### G. Tennis, Racquet And Similar Clubs:

1. Size: Club sites shall be a minimum of three (3) acres.
2. Landscaping: The entire site shall be landscaped and maintained. All disturbed portions of the site, including any grassed or otherwise planted areas shall be irrigated with an automatic watering system.
3. Compatibility: The use shall be compatible with any adjacent residential neighborhood and shall not be detrimental to the same due to substantially increased automobile traffic or excessive noise generated from within the site.
4. Tournaments: Tournaments or other crowd generating activities that may generate more traffic than normal to a residential area shall not be permitted unless the site has direct access from an arterial or collector street. Permission for such activities shall be obtained from the town commission. Written notification shall be provided to the zoning officer at least one month prior to the date of the activity. This notification shall describe the nature and duration of the activity; toilet and other accommodations for spectators; traffic control arrangements; and, adequate parking.

5. Fencing: Fencing of outdoor courts shall not exceed sixteen feet (16') in height. Perimeter fencing may also be required.
6. Hours Of Operation: The town commission may control hours of operation. (Ord. 131, 3-14-2002)

### **11-4-3: STRUCTURE AND SITE DEVELOPMENT PROVISIONS:**

#### **A. Accessory Buildings, Uses And Equipment:**

1. Accessory Building As Principal Building: An accessory building shall be interpreted to be an integral part of the principal building if it is connected to the principal building by a covered passageway or is positioned so that any of its walls are within four feet (4') of the principal structure.
2. Accessory Buildings Not Permitted In Front Yards: Accessory buildings, uses, or equipment shall not be stored or constructed between the front lot line and required front building line.
3. Height Of Accessory Buildings: Accessory buildings and garages in residential districts shall not exceed the height of the principal structure and shall not be located within a utility easement.
4. Detached Structures Setback Requirements:
  - a. Detached structures shall have a minimum three foot (3') side yard setback from any side property line and a six foot (6') rear yard setback from the rear property line.
  - b. A detached structure wall shall maintain a minimum four foot (4') separation from the main structure wall.
  - c. Percentage Of Yard Coverage: Accessory structures may occupy not more than fifty percent (50%) of any required rear yard.

#### **B. Bicycle Provisions:**

1. Bicycle Lanes May Be Required: Wherever new streets or roads are developed or wherever existing streets are required to be improved, the developer may be required to incorporate striped bicycle lanes into the design and construction or improvement of the streets.
2. Bicycle Racks Required: All development proposals subject to minor or major site plan review shall provide adequate bicycle parking facilities to accommodate residents, employees and customers of the proposed development.

#### **C. Fences, Walls And Hedges:**



1. Location: Fences, walls and hedges, in any district may be located on lot lines provided such fences, walls and hedges do not exceed eight feet (8') in height. Fences or walls exceeding eight feet (8') in height shall be subject to the minimum setback requirements of the district in which such fences are located. However, no fences, walls or hedges shall exceed four feet (4') in any corner lot side setback or front setback.
2. Relation To Linear Parks: Fences located in the rear yard setback of properties adjoining any public park shall have a maximum height of four feet (4').
3. Construction, Maintenance And Height Measurement:
  - a. Construction And Maintenance: Every fence or wall shall be constructed of substantial, suitable material. No fence or wall shall be allowed to become and remain in a condition of disrepair, damage, or unsightliness, or constitute a nuisance, public or private. Any such fence or wall that is, or has become, dangerous to the public safety, health or welfare, or has become unsightly through improper maintenance or neglect is a public nuisance and the zoning administrator shall commence proper abatement proceedings.
  - b. Barbed Wire And Electric Fences:
    - (1) Barbed wire, electric or similar type fences shall be prohibited, except in AG districts; except that barbed wire or other similar type fencing materials may be used on the top of security fences in HC and C-I districts if the barbed or electrified strands are at least eight feet (8') above the adjacent ground.
    - (2) When electrically charged fences are used, such fences shall be posted with warning signs at intervals not to exceed one hundred fifty feet (150') where such fences are adjacent to public rights of way or residential zoning districts.
  - c. Fence And Wall Height Measurement: In case of a fence erected on top of a retaining wall, the height shall be measured from the grade of the high side of the wall. All other fence height shall be measured as height above the adjacent grade.
4. Screening Walls And Fences: Refer to the performance standards set forth in this chapter for specific screening provisions.

#### D. Outdoor Sales, Storage And Display:

1. Merchandise: Merchandise offered for sale, rental or lease to the ultimate consumer or user:
  - a. Temporary Display: If not of a type customarily sold outside a building, may be temporarily displayed and sold outside in a commercial district, but the area occupied by such display shall not exceed ten percent (10%) of the ground floor area of the building housing the principal sales area.
  - b. Permanent Display: If of a type customarily displayed for sale outdoors, such as automobiles and garden supplies, shall not use in excess of seventy five percent (75%) of the total lot area and shall be subject to the screening requirements set forth in the performance standards of this chapter<sup>2</sup>.

- c. No Use Of Yard: Permanent display activities shall not be conducted within any required setback space or parking area.

## 2. Vehicles And Equipment:

- a. Screening: All areas designated for vehicle, equipment and materials storage shall be screened per the performance standards set forth in this chapter.
- b. Surface: Such areas need not be paved but shall be treated to control dust and shall meet all storm water management requirements.
- c. No Use Of Yard: Vehicle, equipment and materials storage shall not be conducted within any required setback space or parking area.

## E. Recreational Vehicle On Residential Lot: A recreational vehicle shall not be located on a residential lot outside of any approved mobile home park, except that:

1. Recreational Vehicle Storage: Only one recreational vehicle may be stored on a single-family homesite. One recreational vehicle per dwelling unit may be stored on a multi-family homesite but only as approved pursuant to zoning review. In no event shall living quarters be maintained or any business practiced in the recreational vehicle while stored.
2. Temporary Use Permit: Temporary use permits, not to exceed one year in duration, may be granted by the town commission for occupying such recreational vehicle or manufactured home during construction or reconstruction of a single- or two-family dwelling.

## F. Setback And Height Encroachments:

1. Permitted Setback Encroachments: The following encroachments into required yards shall be permitted:
  - a. Architectural features such as porches, covered terraces, and covered decks, chimneys, balconies, stairways, wing walls, bay windows, sills, pilasters, lintels, cornices, eaves, gutters, awnings, and steps, provided such architectural features do not extend more than five feet (5') into any required yard;
  - b. Terraces and patios, uncovered decks and stoops, or similar features, provided that such features shall not extend above the height of the ground floor level of the principal structure nor more than five feet (5') into any required setback;
  - c. Fire escapes may be permitted in required side or rear yards only;
  - d. Wheelchair ramps may encroach into any required yard, but shall not be located closer than three feet (3') from any property line; and
  - e. Flagpoles, ornamental features, trees, shrubs, walkways, nameplate signs, and lights.
2. Zero Lot Line Conditions: Where an individual owns two (2) adjoining lots or where the owners of two (2) adjoining lots make legal written agreement, a zero lot line concept may be used for single-family dwelling unit development. This may result in the creation of a two-family

residential structure, only in districts permitting such structure, or the creation of townhouse clusters in districts permitting such structure. In all cases a minimum ten foot (10') side yard shall be maintained adjacent to the exterior side, or nonzero lot line side, of the structure.

### 3. Special Setback Requirements:

a. The corner lot side setback for any corner lot not located on an arterial street shall be equal to the adjacent side yard of the adjacent lot.

b. A twenty five foot (25') corner lot side or front setback shall be provided on all arterial streets.

### 4. Watercourse Setbacks: No newly constructed structure, addition to an existing structure, parking lot or similar improvements shall be located closer than fifteen feet (15') to the mean high water mark of a watercourse. For the purpose of this subsection, the "mean high water mark" shall be defined as the line that the water marks on the soil by covering it for sufficient periods to deprive it of vegetation. A minimum of five feet (5') of the required fifteen foot (15') setback immediately adjacent to the watercourse shall be left in a natural vegetative state. The foregoing provisions shall in no way invalidate the provisions set forth in the floodplain overlay district of this title and/or the minimum setback of five hundred feet (500') from the Madison River established for all new land subdivisions reviewed under the provisions of the town subdivision regulations.

### 5. Height Limitation Exceptions:

a. Nonspecific Exemptions: No building, or part thereof, or structure shall be erected, reconstructed, or structurally altered to exceed in height the limit herein designated for the district in which such building is located, except as may be specifically authorized as an approved condition of a traditional neighborhood development. Such approved condition must include the recommendation of the town fire chief. (Ord. 131, 3-14-2002)

#### b. Specific Exemptions:

(1) Height limitations shall not apply to church spires, belfries; monuments, chimneys; public utility facilities; transmission towers of commercial and private radio broadcasting stations; television antennas; parapet walls. Wind turbines/windmills and solar collector panels must be submitted for conditional use permit. (Ord. 131, 3-14-2002; amd. per motion dated 3-12-2009)

(2) Public and semipublic buildings containing auditoriums or large assembly spaces may exceed height limitations, provided that for each foot of height such building exceeds the maximum height permitted in the district, its side and rear setbacks shall be increased by an additional foot over the setbacks required in the district.

### G. Street Vision Triangle: The area of unobstructed vision across property lines outside the rights of way of streets and/or alleys shall be as follows:

1. Streets: On corner lots in all districts, no fence, wall or planting in excess of thirty inches (30") above the street centerline grade shall be permitted within a triangular area defined as follows: Beginning at the intersection of the property lines, twenty five feet (25') along one property line, then diagonally to a point on the intersecting property line a distance of twenty five feet (25') from the property line intersection, then to the point of beginning.

2. Driveways And Alleys: On corner lots in all districts, no fence, wall or planting in excess of thirty inches (30") above the street centerline grades shall be permitted within a triangular area defined as follows: Beginning at the intersection of the projected curb lines of an alley or driveway with a street, thence fifteen feet (15') along one drive path, thence diagonally to a point fifteen feet (15') from the point of beginning on the other drive path, then to the point of beginning.

3. Provision For Trees In Street Vision Triangle:

a. Single stem canopy trees may be permitted in street vision triangles as described in this section, provided that mature trees do not significantly affect safe driving conditions and are maintained such that no canopy foliage exists below a height of ten feet (10') above centerline of intersecting streets.

b. Trees which are located in the street vision triangle and which preexisted the adoption of this title may be allowed to remain, provided the trees are trimmed such that no limbs or foliage exist below a height of ten feet (10') above centerline grades of intersecting streets.

H. Swimming Pools, Public And Private:

1. Location: A swimming pool shall not be located in any required front yard area in any zoning district; however, if not more than two feet (2') in height above the adjacent grade, a swimming pool may be located within a required side or rear yard area.

2. Security: All swimming pools shall be:

a. Entirely enclosed by a childproof fence or wall not less than forty two inches (42") in height. Gates or doors shall have automatic, childproof closure and locking mechanisms, or

b. Have a secure, locking hard cover.

I. Unfinished Structures Use: No cellar, basement, garage, tent, tepee, recreational vehicle, accessory structure, vehicle or any other type of structure not meeting acceptable health and sanitation requirements shall at any time be used as a dwelling unit.

J. Water And Sanitary Sewer System Requirements:

1. Central Facilities Required: Central water distribution and central sanitary sewer collection systems shall be provided to all building lots or building sites created inside the town limits, except for those lying within AG or R-RD zoning districts. Such systems shall be in place prior to the issuance of any building permits on such lots or sites. Each building site must utilize and be connected to both the Ennis central water distribution and central sanitary sewer collection systems.

2. Design Standards: These improvements shall be designed, constructed and installed according to the standards and criteria adopted by the state of Montana, Madison County or the town.

K. Storm Drainage Design, Criteria: All land development and construction activities shall comply with the town of Ennis storm drainage design policy. (Ord. 131, 3-14-2002)

#### **11-4-4: MANUFACTURED HOME PARKS:**

A. Intent: To cause the design, development, construction and maintenance of this specialized type of housing to be executed in a manner that will be in accord with the relevant goals, objectives and policies of the comprehensive plan.

B. Permitted Uses:

Daycare homes, family.

Daycare homes, group.

Manufactured home parks on sites of not less than five (5) acres, with a minimum of forty (40) spaces.

Public parks.

C. Conditional Uses:

Churches.

Daycare centers.

Essential services.

Golf courses.

Public buildings.

Temporary sales and office buildings.

D. Accessory Uses:

Accessory buildings and uses customarily incidental thereto.

Fences.

Home occupations.

Other Structures: Other buildings and structures customarily accessory to manufactured home development.

Pools, tennis courts, spas and recreational equipment storage areas for park residents and guests only.

Private garages.

Recreation facilities, including private or jointly owned community center facilities.

Recreational vehicle and boat storage areas for park residents only.

Temporary buildings and yards incidental to construction work.

Tool sheds, for storage of domestic supplies.

E. Additional Buildings And Operation Standards: Development of any parcel of land as a manufactured home park shall be subject to all applicable requirements of this title. In addition, manufactured home parks will be subject to the following general requirements:

1. Plumbing And Electrical Requirements: All manufactured home parks shall comply with Montana state department of health regulations or any amendments thereto concerning plumbing and electrical requirements.
2. Lot Improvements: Every manufactured home space and common area shall be:
  - a. Connected to central utilities: Permanently connected to electric power, water supply, sewage disposal, gas and telephone service lines in compliance with applicable town codes.
  - b. Provided foundations and anchoring to an approved foundation.
  - c. Maintained as follows:
    - (1) There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment, or building materials or supplies.
    - (2) No manufactured home may be parked on a public or private street for more than twenty four (24) hours.
    - (3) An abandoned, burned or wrecked manufactured home must be secured against entry as directed by the zoning administrator and may not be kept on a space for more than forty five (45) days.
    - (4) Each manufactured home must bear an insignia which attests that the construction of the home meets regulation A119.1 of the American national standards institute (adopted by the U.S. department of housing and urban development). Alternatively, each manufactured home must be certified as meeting the mobile home construction and safety standards of the U.S. department of housing and urban development.
    - (5) Standard manufactured home skirting must be provided around the entire perimeter of the mobile home between the bottom of the body of the mobile home and the ground, except

where the running gear has been removed and the home itself is attached directly to a permanent perimeter foundation.

(6) All exterior yard spaces shall be fully landscaped, irrigated and appropriately maintained.

(7) All private, commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sandboxes, etc. shall be landscaped and irrigated.

### 3. Subject To Permitting And Inspection As Follows:

a. Move In Permit Required: All manufactured homes moved into the zoning jurisdiction must receive a move in permit, pursuant to this section, and be inspected by the zoning administrator, prior to gas and electric service being turned on by the servicing utility. Copies of the original sales contract shall be available for permit informational purposes.

b. Inspection Required:

(1) The required inspections for manufactured home parks shall include on site utilities including gas, electric, sewer and water together with setback, landscaping and off street parking requirements.

(2) It is unlawful for any person, firm, corporation or agency to turn on, or allow to be turned on, any gas or electric service without an inspection and clearance from the zoning administrator.

c. Nonmanufactured Home Improvements Subject To State Of Montana Commercial Construction: Zoning permits must be obtained for additions, alterations, canopies, carports, storage areas and detached refrigeration units that were not included in the original sale of the manufactured home unit.

d. Owner's Responsibility: It shall be the responsibility of the individual property owners or, in the case of a rental manufactured home park, the managers of rental parks to see that all property complies with applicable sections of this chapter. This responsibility shall include meeting all requirements relative to placement of manufactured homes and providing proof that all required permits have been secured and are current. (Ord. 131, 3-14-2002)

## 11-4-5: PERFORMANCE STANDARDS:

A. Purpose: Performance standards are designed to assure acceptability and compatibility of business and industrial uses with surrounding properties. These standards shall apply in the L-CR, C-CR, HC, C-I and P-I zoning districts. To further the goals and policies established in the Ennis comprehensive plan, property owners will promote the restoration and rehabilitation of existing structures, construct new buildings and preserve or construct other elements that contribute to the small, western town character of the town's downtown core area and older residential neighborhoods.

### B. Glare And Lighting:

1. Deflection: Any lighting used to illuminate an off street parking areas, sign, or other structure, shall be arranged so as to deflect light down and/or away from any adjoining properties and shall not detract from drive visibility on adjacent streets. In addition, all lighting (except for security purposes) shall be turned off between eleven o'clock (11:00) P.M. and six o'clock (6:00) A.M. Exceptions may be granted to those businesses that are operating during these hours.
2. Light Standards: Lighting standards used to illuminate off street parking areas shall not exceed twenty feet (20') or the height of the tallest building on the lot, whichever is lower. All light standards and light heads shall be equipped with cut off light deflectors or other equipment that directs the light downward and inhibits lateral glare.

C. Surface Water Ponding: Natural ponding areas shall be retained as much as possible or, if necessary, enlarged or modified as directed by the zoning administrator to restrict the off site runoff, subject to city or county subdivision requirements for storm water runoff control and the town's storm water drainage requirements.

D. Screening:

1. Material, Height And Visibility: Screening, when required by this title, shall be accomplished by a one hundred percent (100%) opaque wall or fence or by a dense conifer hedge not less than six feet (6') tall. All portions of areas subject to the screening requirements of this chapter shall be effectively screened from view from neighboring properties and/or public rights of way within one thousand feet (1,000') of the screened area.
2. Wall Or Fence: If a wall or fence is to be used it must be constructed of durable material and maintained in good condition at all times. Trees, shrubs or other forms of intermittent landscaping, served by automatic irrigation systems, shall be placed in front of the fence or wall and maintained in good condition at all times.
3. Vegetative Screening: Vegetative screening, served by automatic irrigation systems, shall be composed of conifer plant materials that shall effectively form, within two (2) seasons after planting, an opaque screen not less than six feet (6') tall. Vegetative screening shall be maintained in good condition at all times.

E. Trash, Garbage Or Yard Waste Incineration And Enclosures:

1. Incineration: No exterior incineration of trash, yard waste or garbage is permissible<sup>3</sup>.
2. Trash Enclosures: A permanent enclosure for temporary storage of garbage, refuse and other waste materials shall be provided for every use, other than single-family dwellings or duplexes, in every zoning district. Trash enclosures shall be constructed so that contents are not visible from a height of five feet (5') above grade from any abutting street or property. Trash enclosures shall comply with the following regulations:
  - a. Location: Trash enclosures, surrounding standard steel bins (dumpsters), shall be located on the site for convenient pick up service, and the location shall be shown on required site plans. Trash enclosures shall not be located in required front yards, and shall be conveniently



situated in order that the containers can readily lifted by sanitation vehicle equipment. The location of all trash enclosures shall be subject to review and approval by the zoning administrator.

b. Construction: Trash enclosures shall be constructed of solid or ornamental pierced masonry walls or other appropriate materials, with a solid concrete floor sloped for drainage and maintenance of sanitary conditions. Enclosures shall be architecturally compatible with the principle structure. Enclosures shall be of sufficient height to conceal contents, including containers, but in no case shall be less than four feet (4') in height above grade.

F. Smoke, Dust And Other Particulate Matter: The emission of smoke, from any point source shall not exceed a density greater than that described in number 2 ring of the Ringelmann chart as published by the U.S. bureau of mines. Dirt, dust, fly ash and other forms of particulate matter shall not be emitted beyond the property lines of the use creating the particulate matter.

G. Bulk Storage (Liquid): All uses associated with bulk storage of all gasoline, liquid fertilizer, chemicals, flammable and similar liquids shall comply with uniform building and fire code requirements and any county or state regulations.

H. Water Quality, Hazardous Wastes And Wastewater: Discharge of hazardous waste, chemicals and wastewater will be subject to Montana department of health and environmental science standards. But in no case shall any hazardous waste chemicals or wastewater be discharged into any perennial stream within the town or its zoning jurisdiction.

I. Odors And Toxic Gases:

- 1. Distance Perceptible: The emission of odors shall be controlled such that objectionable or offensive odors are not perceptible beyond the property lines of the use creating the odors.
- 2. No Noxious Fumes: No toxic, noxious, or corrosive fumes or gases shall be emitted beyond the property lines of the use creating such fumes or gases.

J. Noise:

- 1. Measured Noise Levels: The maximum noise level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work), measured at the site property line, shall not exceed the values shown in the following tables:

Octave Band Range In <u>Cycles Per Second</u>	Sound Pressure Level In <u>Decibels Rep. 002 dyne/cm<sup>2</sup></u>

Below 75	72
75 - 150	67
151 - 300	59
301 - 600	52
601 - 1200	46
1201 - 2400	40
2401 - 4800	34
Above 4800	32

2. Discontinuous Noises: If the noise is not smooth and continuous, and is not radiated between the hours of ten o'clock (10:00) P.M. and seven o'clock (7:00) A.M., one or more corrections shall be applied to the above octave band levels as follows:

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

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

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

- L. Electrical Disturbance: No activity shall be permitted which causes electrical disturbances affecting the operation of any equipment located beyond the property line of the activity.
- M. Glare And Heat: Any use producing intense glare or heat shall be conducted so that the glare is effectively screened from view at any point on the lot line of the lot in which the use is located. Any heat will be dissipated so that it is not perceptible without instruments at any point on the lot line of the lot on which the use is located.
- N. Fire And Explosive Hazards: Any use or activity involving the use or storage of combustible, flammable or explosive materials shall be in compliance with the uniform fire code adopted by the town. Burning of waste materials in open fires is prohibited.
- O. Liquid Or Solid Waste: No materials, compounds or chemicals which can contaminate any water supply, interfere with bacterial processes in sewage treatment or otherwise cause emissions of elements which are offensive or hazardous to the public health, safety, welfare or comfort shall be discharged at any point into any public sewer, private sewage disposal system or stream. Nor may any such substance be discharged onto or into the ground, except in accordance with town requirements and standards approved by the Montana state department of environmental quality or such governmental agency as may have jurisdiction over such activities.
- P. Fissionable, Radioactivity Or Electromagnetic Disturbance: No activities shall be permitted which utilize fissionable or radioactive materials, if, at any time, their use results in the release or emission of any fissionable or radioactive material into the atmosphere, ground or sewage system. No activities or devices shall be permitted which at any time emit radio frequency energy affecting any activity or the operation of any equipment beyond the site property line. Radio frequency energy shall be considered as being electromagnetic energy at any frequency in the radio spectrum between ten (10) kilocycles and three million (3,000,000) megacycles.
- Q. Trash, Debris And Weed Control: All properties shall be maintained free of trash and debris and grasses or weeds shall not be permitted to exceed eighteen inches (18") in height. All properties shall be kept free of noxious weeds and shall be subject to the requirements of the Madison County weed control board. (Ord. 131, 3-14-2002)

#### **11-4-6: HOME OCCUPATIONS:**

- A. General: A home occupation is a use that is considered accessory to a dwelling unit. One or more persons, all but one of who shall reside within the dwelling unit, may conduct a home occupation. The use shall be clearly incidental and secondary to the use of the dwelling for residence purposes

and shall not change the character thereof or adversely affect the uses permitted in the residential district of which it is a part. When a use is a home occupation, it means that the owner, lessee, or other persons who have a legal right to the use of the dwelling unit also have the vested right to conduct the home occupation without securing special permission to do so. However, such person shall be subject to all conditions set forth in this title and to all other permits and business licenses and shall obtain a zoning permit before establishing such home occupation.

- B. Purpose Of Provisions: It is the intent of this section to eliminate as home occupations all uses except those that conform to the standards set forth in this section. In general, a home occupation is an accessory use so located and conducted that the average neighbor, under normal circumstance, would not be aware of its existence. The standards for home occupations included in this section are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood. A clearly secondary or incidental status in relation to the residential use of the main building is the criteria for determining whether a proposed accessory use qualifies as a home occupation.
- C. Necessary Conditions: Home occupations are permitted accessory uses in residential districts only so long as all the following conditions are observed:
1. One Full Time Employee: No more than one full time employee may be employed in the residence other than resident and domestic help;
  2. Percent Of Use: No more than thirty percent (30%) of the gross area of all structures shall be used for such purpose;
  3. Limited Alterations: No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure;
  4. Outside Storage: There shall be no outside storage of any kind related to the home occupation;
  5. Traffic And Parking: The use may increase vehicular traffic flow and parking by no more than two (2) additional vehicles at a time and no commercial trucks larger than a three-fourth ( $\frac{3}{4}$ ) ton pickup shall be parked overnight;
  6. Performance Standards: No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances.
- D. Complaints: Complaints by abutting residents living within the zoning jurisdiction may be cause for termination of the home occupation. However, should such complaint be filed, the operator is entitled to an appeal to the town commission for a hearing. The town commission shall determine whether or not the filed complaint identifies sufficient violation of this title to warrant termination or modification of the home occupation. (Ord. 131, 3-14-2002)

## 11-4-7: NONCONFORMING USES AND STRUCTURES:

- A. Existing Structures And Uses: Any structure or use lawfully existing upon the effective date hereof, may be continued at the size and in the manner of operation existing upon such date.
- B. Termination: The right to operate and maintain a nonconforming use shall terminate when the structure or structures housing such use are removed, razed or damaged to an extent of fifty percent (50%) of the structure's fair market value, as determined by the last equalized assessment roll of the county. However, restoration of the damaged structure must meet the following criteria: electric, plumbing, etc., (state codes). Replacement structures must not be higher or larger than the original structure. A zoning permit must be obtained to restore nonconforming structures pursuant to section [11-1-8](#) of this title.
- C. Change To A Conforming Use: When any lawful nonconforming use of any structure or land in any district has been changed to a conforming use, it shall not thereafter be changed to any nonconforming use.
- D. Discontinuance For Ninety Days: Whenever a lawful nonconforming use of a building or structure or land is discontinued for a period of ninety (90) days, any future use of the building or structure or land shall be in conformity with the provisions of this title.
- E. Normal Maintenance Permitted: Normal maintenance of a building or other structure containing or related to a lawful nonconforming use is permitted, including necessary structural repairs, provided such structural repairs do not enlarge or intensify the nonconforming use.
- F. Change Of Use:
1. Change To Another Use: A lawful nonconforming use shall not be changed except in conformance with the use requirements of the zone in which it is located. Except, however, a lawful nonconforming use may be changed to another nonconforming use, provided that a conditional use permit is obtained from the town commission.
  2. Change By Conditional Use Permit: To approve the conditional use permit, the town commission shall determine that the proposed nonconforming use is more appropriate to the district than the existing nonconforming use, and that no unsafe or unhealthy conditions are perpetuated. In making such determination, the commission shall weigh the following criteria:
    - a. The degree of compliance with the adopted comprehensive plan and this title;
    - b. Traffic impacts, both on site and off site;
    - c. Off street parking and loading requirements;

- d. The visual impact on the surrounding area;
  - e. The level of conflict with other uses in the surrounding area;
  - f. The presence of other nonconformities in the surrounding area;
  - g. The degree to which any existing unsafe or hazardous conditions would be mitigated;
  - h. The suitability of the subject structure(s); and
  - i. On site and off site impacts from noise, dust, smoke, surface or ground water contamination, or other environmental impacts.
- G. Nonconforming Dwelling Units: The maintenance and reconstruction of existing nonconforming residential dwelling units is allowed, in compliance with applicable fire and building codes, including expansion of up to twenty percent (20%) of the existing dwelling unit, as long as the number of dwelling units on the lot is not increased.
- H. Use Of Existing Nonconforming Lots: At the time of the enactment of this title, if any owner of a plot of land consisting of one or more adjacent lots in a subdivision of record does not own sufficient land within the lot of record to:
- 1. Enable him/her to conform to the minimum lot size requirements, or
  - 2. Does not have sufficient lot width to conform to the minimum lot width requirements.
  - 3. Such plot of land may nevertheless be used as a building site.
- I. Expansion Of Nonconforming Use: Only by obtaining a conditional use permit from the town commission may an owner expand a lawful nonconforming use. In considering the appropriateness of the conditional use permit application, the commission shall weigh the criteria set forth in the change of use provision of this section. In addition, the commission shall consider the expansion to be reasonable, natural and incidental to the growth and use of an existing business. In general, proposals to expand nonconforming uses shall not be approved if the expansion would encompass new land or property that was not in use at the time of the enactment hereof of zoning or a change in zoning. (Ord. 131, 3-14-2002)

#### **11-4-8: TEMPORARY USE PERMITS:**

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

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

1. Carnivals, circuses, special events of not over seventy two (72) consecutive hours;
2. Swap meets;
3. Tent revival meetings;
4. Such other uses as the zoning administrator may deem to be within the intent and purpose of this section.

B. Application And Filing Fee: A property owner or his authorized agent may make application to the zoning administrator for a special temporary use permit. The zoning administrator shall collect a filing fee sufficient to cover each vendor covered by such application, as provided in [chapter 1](#) of this title. The zoning administrator may also require any information deemed necessary to support the approval of a special temporary use permit, including site plans required.

1. Decision: Special temporary use permit applications shall be reviewed, approved, conditionally approved or denied by the zoning administrator. Approval or conditional approval shall be given only when in the judgment of the zoning administrator such approval is within the intent and purposes of this title.
2. Conditions: In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties. Such conditions may include the following:
  - a. Regulation of parking;
  - b. Regulation of hours;
  - c. Regulation of noise;
  - d. Regulation of lights;
  - e. Requirement of bonds or other guarantees for cleanup or removal of structure or equipment;
  - f. Such other conditions deemed necessary to carry out the intent and purpose of this section.  
(Ord. 131, 3-14-2002)

## **11-4-9: LANDSCAPING:**

A. Purpose And Intent: Land development and construction alters the natural topography and vegetation. It usually creates impervious cover that accelerates storm water runoff, erosion and sedimentation. These conditions negatively effect the ecological balance of both the parcel being developed and the surrounding area. The economic base and quality of life of the Ennis region is to a large extent dependent upon the condition and appearance of the area's natural and built

environment. It must be protected through preservation and enhancement. These landscaping provisions are intended to help accomplish this objective and to serve the following specific purposes:

1. Comprehensive Plan: To positively implement the letter and intent of the goals, objectives, policies and specific relevant provisions of the town's adopted comprehensive plan.
2. Stabilize Ecological Balance: To aid in stabilizing the environment's ecological balance by contributing to the process of air purification, oxygen regeneration, ground water recharge and storm water runoff retardation, while at the same time aiding in noise, glare and heat abatement.
3. Provide Visual Buffering: To provide visual buffering between land uses of differing character.
4. Enhance Area Attractiveness: To enhance the attractiveness of the zoning jurisdiction of the town.
5. Protect Character And Stability: To protect the character and stability of residential, business, institutional and industrial areas.
6. Preserve Property Values: To preserve the value of land and buildings.
7. Conserve Energy: To conserve energy.

#### B. Interpretation And Scope:

1. Applicability: The provisions of this Section shall apply to a lot or site within the L-CR, C-CR, HC, C-I and P-I zoning districts when an application is submitted for site plan approval or a zoning permit:
2. Exceptions: Notwithstanding subsection B1 of this section, these provisions shall not apply to the following:
  - a. Lots or sites within a traditional neighborhood development (TND) that has been approved with its own landscape plan.
  - b. Lots included in a conditional use permit (CUP) or zoning variance proceeding approved with its own landscape plan.

#### C. General Landscaping Provisions:

1. Landscape Plan Review:
  - a. The applicant shall submit a landscape plan meeting the requirements set forth in the form in section [11-5-7](#) of this title to the zoning administrator. The zoning administrator will review the landscaping plan for completeness and conformance with the landscaping standards of this section, when the landscaping plan, other required plans and a zoning permit application have been submitted and conform to the requirements of this title, a permit for construction shall be issued. Variances from this landscaping section shall be considered as a code variance and shall follow variance procedures outlined in [chapter 1](#) of this title.



- b. All landscape plans must comply with the mandatory landscape provisions as well as other relevant provisions of this section.

## 2. Mandatory Landscaping Provisions:

- a. Yard Landscaping Required: For all uses, unless otherwise provided by specific approval through design review procedures, all front, side, and rear yards, exclusive of permitted access drives, parking lots, and accessory structures, shall be landscaped as specified in this section. All landscaped areas shall be perpetually maintained in a healthy condition.
  - (1) All development subject to this section shall provide a minimum of ten percent (10%) of the lot area for landscaping, less the square footage of the building footprint. At least fifty percent (50%) of this landscaping must be placed adjacent to the public right of way, excluding alleys. These provisions are separate, exclusive and in addition to the other standards of this section.
  - (2) All required landscaping or landscaped areas shall contain at least seventy five percent (75%) organic, living landscaping material. A maximum of twenty five percent (25%) of the landscaped area may contain nonliving, decorative landscaping materials.
  - (3) Applicants for landscaping plan approval shall consider using berms, swales, ornamental trees or shrubs to provide contour and relief within the landscaped area.
- b. Screening: Screening may be required between existing and/or future residential and nonresidential uses, nonresidential uses of differing character and public roads. Screening requirements are set forth in the performance standards in subsection 11-5-D of this title.
- c. Parking Lot Landscaping:
  - (1) For purposes of defining parking lot landscaping requirements, the term "parking lot" means the area within the perimeter of the paved portion of the parking lot, including driving aisles but not including access drives.
  - (2) All surface parking lots on the building site or artificial lot, whichever is applicable, shall be landscaped in accordance with the following paragraphs which describe landscaping requirements in addition to the yard landscaping requirements for the site:
    - (A) Parking Lot Screening Required:
      - (i) All parking lots located on a lot with a residential adjacency must be screened from that residential adjacency.
      - (ii) All parking lots located between a principal structure and a public street, except in HC and C-I districts must be screened from the public street.
      - (iii) The screening required under paragraphs (i) and (ii) above shall be not less than eight feet (8') in width and shall be maintained at a height of four feet (4') to six feet (6'), except as otherwise restricted by fence and hedge limits within required front yards and sight triangles.

(B) Additionally, any parking lot providing fifteen (15) or more parking spaces shall have a minimum of twenty (20) square feet of landscape area within the parking lot for each off street parking space in the lot provided as follows:

- (i) Wherever possible, the interior parking lot landscaping shall be designed to facilitate, control and denote proper vehicular circulation patterns.
- (ii) Internal parking lot landscaping that shall be proportionately dispersed so as to define aisles and limit unbroken rows of parking to a maximum of one hundred feet (100'), with landscaped areas provided in an appropriate scale to the size of the parking lot.
- (iii) The minimum width and/or length of any parking lot landscaped areas shall be eight feet (8').

d. Screening Of Off Street Loading Spaces:

- (1) All off street loading spaces on a lot with residential adjacency shall be screened from that adjacency.
- (2) In all districts except C-CR district, all off street loading spaces on a lot must be screened from all public streets adjacent to that lot.

e. Street Median Island Landscaping: All street median islands approved through a plan review process shall be landscaped according to requirements determined through the plan review process.

f. Protection Of Landscape Areas:

- (1) Parking lot curbs or wheel stops shall be installed to protect landscape areas adjacent to parking lots.
- (2) Landscape areas within parking lots (i.e., landscape islands or peninsulas) must be protected from vehicular traffic through the use of permanent barriers approved by the zoning administrator.

D. Landscaping Of Public Lands: Maintenance of landscaping installed within the boulevard portion of the public right of way, with the exception of tree trimming and tree removal, shall be the responsibility of adjacent property owners. The town will maintain other required landscaping within the public rights of way or on other public lands installed in accordance with approved site plans.

E. General Maintenance:

- 1. Landscape Maintenance: Landscaping must be maintained in a healthy, growing condition at all times.
- 2. Utility Line Damage: Any damage to utility lines resulting from the negligence of the property owner or his agents or employees in the installation and maintenance of required landscaping in

a utility easement is the responsibility of the property owner. If a public utility disturbs a landscaped area in a utility easement, it shall make every reasonable effort to preserve the landscaping materials and return them to their prior locations after work is completed. (Ord. 131, 3-14-2002)

**11-4-10: PARKING AND LOADING REQUIREMENTS:**

A. Intent And Purpose: The intent of this section is to supplement on street parking, with safe, convenient, properly designed and well landscaped off street parking that will help fulfill the goals, objectives and policies of the adopted comprehensive plan. The purpose of these requirements is to set forth certain minimum requirements that may, pursuant to certain review procedures set forth in this title, serve as flexible guidelines for application to specific circumstances.

B. Minimum Design And Improvement Standards; Angle Parking:

1. Stall, Aisle And Driveway:

a. Parking stall dimensions - for sixty (60) or ninety degree (90°) angle parking:

Width:	Standard - 9 ft.	Compact - 8 ft.	Handicapped - 13 ft.
Length:	Standard - 20 ft.	Compact - 16 ft.	Handicapped - 20 ft.

b. Parking aisle and driveway dimensions:

One-way traffic - 16 ft.	Two-way traffic - 22 ft.
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2. Backing Into Public Rights Of Way: Backing into the public street from a private parking lot, other than an alley, is prohibited except in the case of one-, two- and three-family dwellings and individual townhouse units fronting on streets not designated as arterial streets in the comprehensive plan (US 287 and SR 287).

3. Surfacing: Except for single-family development on individual lots, all areas intended to be utilized for permanent parking space and driveways shall be paved with concrete, asphalt or approved pavers to control dust and erosion. However, paving shall not be required for permitted and conditional uses in the AG and R-RD zoning districts when all the following circumstances exist:

a. The use is required to provide fewer than fifteen (15) parking spaces and no loading spaces under the provisions of this section;

- b. The lot or tract on which the use is located is not adjacent to a paved street or road; and
  - c. The applicant shall enter into an improvement agreement with the town agreeing that the lot shall be paved within nine (9) months of the time an adjacent roadway is paved.
4. **Parking Lot Curbing:** Except for one-, two- and three-family dwellings and individual townhouse units, all off street parking areas and driving accessways shall be enclosed by a six inch by six inch (6" x 6") poured concrete perimeter curb built according to standards provided by the zoning administrator. Concrete pindown wheel stops may be permitted as an alternative to continuous concrete curbing in front of parking spaces that front on the perimeter of the parking lot. However, continuous concrete curbing as described above shall be provided in all situations where deemed necessary by the zoning administrator to assure pedestrian safety, control drainage and prevent vehicular movement damaging to landscaping. Alternative perimeter treatment may be permitted adjacent to snow storage areas if approved by the zoning administrator.
  5. **Striping:** Except for one- to three-family dwellings and individual townhouse units, all parking stalls shall be marked with painted lines not less than four inches (4") wide.
  6. **Protruding Vehicles:** All on site parking stalls which abut property lines shall be designed and constructed such that parked vehicles shall not protrude over property lines and/or sidewalks.
  7. **Storm Water Management:** All proposed parking area and driveway improvements require grading, drainage and storm water management plans. Storm water shall be directed into landscaped detention/retention and water quality improvement facilities as required by the storm water management ordinance.
  8. **Snow Removal Storage Areas:** Snow removal storage areas shall be provided on site sufficient to store snow accumulation. Such areas shall be designed and constructed to assure:
    - a. Safe ingress and egress to the parking area;
    - b. Prevent snow from being deposited on public rights of way and public or private walks, trails and access driveways;
    - c. Protection of all landscaping;
    - d. The resultant storm water runoff will be directed into landscaped and approved water management facilities.
  9. **Lighting:** Any lighting used to illuminate an off street parking area shall not exceed twenty feet (20') in height and be so arranged and hooded as to reflect light down and/or away from adjoining property, abutting residential uses and public rights of way.
  10. **Parking And Stacking For Drive In/Drive Through Facilities:** Required parking and stacking spaces for waiting automobiles shall be determined by the zoning administrator as a part of site plan review procedures. Such facilities shall be designed to assure pedestrian and vehicular safety and to facilitate on site and off site vehicular circulation.
  11. **Stacking Of Off Street Parking Spaces:** Required parking spaces shall be located so as to preclude stacking of off street parking spaces, with the exception of single-family dwellings and individual townhouse units, and duplexes with physically separated individual driveways.

12. **No Parking Permitted In Required Front Or Side Yards:** Parking spaces shall not be located in any required front or side yard, except that detached single-family dwellings and duplexes may have one space located within a driveway area in the required side yard behind the front yard building line.
13. **Ownership/Leasehold:** Required parking lots shall be owned or leased by the owner or lessee of the building or use being served by such parking. Such parking lots shall be maintained as a parking lot so long as the building and/or use served is in operation or until another approved parking area is established for such building or use.
14. **Maintenance:** It shall be the joint and separate responsibility of the lessee and owner of the principal use, uses or building to maintain in a neat and adequate manner, the parking space, accessways, striping, landscaping and required fences or screening.
15. **Use Of Required Parking Areas for Parking Only:** Required off street parking spaces in any district shall not be utilized for open storage, sale or rental of goods, storage of inoperable vehicles, except where permitted as a temporary use or if designed as part of an approved traditional neighborhood development.
16. **Number Of Spaces:** The following number of off street, paved parking spaces shall be provided and maintained by ownership, easement and/or lease for and during the life of the respective uses. Mixed uses, for example motel/restaurant/meeting room facilities, shall provide space to accommodate each use, less effective multiple use, of allocated parking stalls. All site plans submitted for permit purposes shall identify parking space allocations.

a. Residential Uses (Including Driveway And Garage Spaces):

Bed and breakfast	(+1.00/guest room)	2.00/res. mgr.
Efficiency units		1.25/unit
Group homes	(+1.00/emp.+0.25/resident) and	2.00/res. mgr.
Lodging house		1.25/unit
Manufactured and modular homes		2.00/unit
Multi-family residence		1.50/unit
One- and two-family and individual townhouse units		2.00/unit

b. Nonresidential Uses:

Auto sales	(+1.00/10 vehicle display spaces)	1.00/200 sq. ft. gross floor area
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Auto service	(minimum of 4.00 spaces)	2.00/service bay
Auto wash	(+ stacking space)	2.00/stall
Bank or financial institution	1.00/300 sq. ft. gross floor area	
Bowling alley	(+1.00/5 gallery seats)	4.00/alley
Church	(+1.00/200 sq. ft. of meeting rooms)areas	1.00/4 seats in auditorium
Community or recreation		1.00/200 sq. ft. gross floor area
Court clubs	(+3.00/court)	1.00/200 sq. ft. gross floor area
Daycare center		1.00/200 sq. ft. gross floor area
Furniture stores over 20,000 sq. ft.	1.00/1,000 sq. ft. gross floor area	
Golf courses	(4.00/green)	1.00/200 sq. ft. gross floor area
Hospitals		1.00/bed
Industrial uses		1.00/1,000 sq. ft. gross floor area
Medical offices	(+1.00/FTE)	4.00/FT doctor or dentist
Motels and hotels	(+1.00/FTE on maximum shift)	1.10/guest room
Nursing homes	(+1.00/FTE on maximum shift)	1.00/patient bed
Offices		1.00/250 sq. ft. gross floor area
Outdoor sales and rental		1.00/500 sq. ft. gross floor area
Restaurants and bars	(+1.00/100 sq. ft. outdoor sales)	1.00/50 sq. ft. gross floor area area
Retail sales and services		1.00/300 sq. ft. gross floor area
Schools		Calculate by facility use
Theater or auditorium		1.00/4 seats
Warehousing and storage		1.00/1,000 sq. ft.

c. Disabled Accessible Spaces:

- (1) Disabled parking spaces shall be provided subject to federal standards enumerated in the Americans with disabilities act (ADA) dated January 26, 1992, and federal standard 795,

(uniform federal accessibility standards) dated April 1, 1988, [chapter 4](#) (accessible elements and spaces: scope and technical requirements).

- (2) All parking facilities shall be subject to current uniform building code guidelines for accessibility and shall contain a minimum number of disabled accessible parking spaces as set forth in the table below:

<u>Total Spaces In Lot</u>	Minimum Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6

- (3) One in every eight (8) accessible spaces shall have an aisle eight feet (8') wide (rather than 5 feet) and shall be signed "van accessible". Accessible spaces shall be located as near as practical to a primary entrance(s) and shall be designated as those spaces closest to the primary entrance(s) to a facility. Parking spaces and access aisles shall be level, with slopes not exceeding 1:50 in all directions, and shall be maintained in an ice and snow free condition.
- (4) All accessible parking spaces shall be designated as reserved for disabled persons by a sign showing the symbol of accessibility at each space. A vehicle parking in the space shall not obscure such signs. Signs and symbols painted on the pavement, as the only means of identification, do not meet this requirement. Raised signs shall be located at a distance no greater than five feet (5') from the front of each accessible space and shall be subject to review and approval by the zoning administrator.
- (5) Provision of an accessible path of travel from each disabled accessible parking space to the entrance of the facility shall include ramped access where necessary and an unencumbered minimum three foot (3') wide walk, sidewalk or ramps. The accessible path of travel shall be paved, smooth surface, free of defects or design features that would restrict, inhibit or unreasonably impede the movement of a physically disabled individual. The least possible slope shall be used for any ramp. The maximum slope of a ramp in new construction shall be 1:12, cross slope shall not exceed one-fourth inch ( $\frac{1}{4}$ " ) per foot. The maximum rise for any run shall be thirty inches (30") (760 millimeters).
- (6) Exceptions: Residences containing three (3) or less dwelling units or congregate residences accommodating ten (10) persons or less.

17. C-CR District Parking: In accordance with the goals, objectives and policies of the comprehensive plan, off street parking requirements for uses located in the core commercial/residential (C-CR) district shall be one-half ( $1/2$ ) those required of the same uses in the other zoning districts. In addition, a property owner applicant may satisfy parking needs for a proposed facility by acquiring and developing the required number of spaces elsewhere in the C-CR district.
18. Joint Use Of Parking Facilities:
- a. Up to thirty percent (30%) of the parking facilities required for a church or for an auditorium incidental to a public or parochial school may be supplied by the off street parking facilities of commercial and industrial daytime uses.
  - b. Other joint use of parking by adjacent commercial uses to reduce total parking spaces may be allowed with an approved parking study prepared by a registered professional.
  - c. Conditions Required For Joint Use: Any off site parking that is used to meet the requirements of this section shall be reviewed by the zoning administrator for compliance with this title and shall be subject to the conditions listed below:
    - (1) The building or use for which application is being made to utilize the off street parking facilities provided by another building or use shall be located adjacent to such parking facilities. In the core commercial/residential district the two (2) uses need not be adjacent but shall be within seven hundred feet (700').
    - (2) The applicant shall show that there is a comparatively minor conflict in the operating hours of the two (2) buildings or uses for which joint use of off street parking facilities is proposed.
    - (3) Off site parking shall be developed and maintained in compliance with all requirements and standards of this title.
    - (4) Convenient, safe pedestrian access from off street parking facilities to the use being served shall be available.
    - (5) A properly drawn legal instrument, executed by the parties concerned, for joint use of off street parking facilities, duly approved as to form and manner of execution by the town legal counsel, shall be filed with the zoning administrator and recorded with the Madison County clerk and recorder.
19. Improvement Schedule: All parking area improvements, to include surfacing, drainage, walkways, lighting, landscaping, screening, traffic control, etc., shall be installed according to the provisions of [chapter 1](#) of this title.

C. Off Street Loading Requirements; Exception:

1. Spaces Required: Every establishment or use that has an aggregate gross floor area of fifteen thousand (15,000) square feet or more and ships or takes delivery by large commercial carrier van shall provide off street loading or unloading berths in accordance with the following table. The core commercial/residential district shall be exempt from this requirement.



Square Feet Of Aggregate Gross Floor Area	Number Of Berths
15,000 sq. ft. up to and including 40,000 sq. ft.	1
40,001 sq. ft. up to and including 100,000 sq. ft.	2
100,001 sq. ft. up to and including 160,000 sq. ft.	3

2. Standards For Off Street Loading Facilities: All off street loading facilities shall conform to the following standards:
- a. The first loading berth shall be at least seventy feet (70') in length. Additional berths required shall be at least forty five feet (45') in length unless certified by the applicant in writing that additional loading activity will take place exclusively with small delivery vans, in which case the berth(s) shall be at least twenty five feet (25') in length.
  - b. All loading berths shall be at least twelve feet (12') in width and fourteen feet (14') in height, exclusive of aisle and maneuvering space.
  - c. Such space may occupy all or any part of any required yard space, except front yard space. However, in no event shall a loading berth be located closer than fifty feet (50') to any lot in any residential zone unless separated from such zone by screening meeting the provisions set forth in the performance standards section of this title.
  - d. Sufficient room for turning and maneuvering vehicles shall be provided on site.
  - e. Each loading berth shall be accessible from a street or alley or from an aisle or drive connecting with a street or alley, without traversing a residential district.
  - f. The loading area, aisles and access drives shall be paved so as to provide a durable, dust free surface and shall be so graded and drained so as to dispose of surface water into an approved stormwater management system and without damage to private or public properties, streets or alleys.
  - g. Bumper rails shall be provided at locations where needed for safety or to protect property.
  - h. If the loading area is illuminated, lighting standard shall be a maximum of twenty feet (20') in height and shall be deflected down and/or away from abutting properties and residential districts so as to cause no annoying glare.
  - i. No regular repair work or servicing of vehicles shall be conducted in a loading area.
  - j. Off street loading facilities shall be located on the same site with the use for which the berths are required.
  - k. If more than one use is located on a site, the number of loading berths provided shall be equal to the sum of the requirements prescribed in subsection C1 of this section for each use. If more than one use is located on a site the gross floor area of the combined uses shall be used basis for calculating the number of berths that shall be provided.
  - l. Off street loading facilities for a single use shall not be considered as providing required off street loading facilities for any other use.

- m. At the time of initial occupancy, major alterations or enlargements of a site, or of completion of construction of a structure or of a major alteration or enlargement of a structure, off street loading berths shall be provided meeting these requirements. (Ord. 131, 3-14-2002)

## **11-4-11: FLOODPLAIN MANAGEMENT<sup>4</sup>:**

(Rep. by Ord. 136, 5-19-2011)

## **11-4-12: COMMUNITY SIGNAGE:**

- A. Title: These regulations shall be known as the *TOWN OF ENNIS SIGN CODE* and shall be referred to as the "sign code".
- B. Scope And Purpose: The purpose of this sign code is to provide guidelines for sign design, location, material type, size and all other relative factors pertaining to signs within the town and its zoning jurisdiction. The intent is to allow such signs that will not by their size, location, design, construction or manner of display endanger the public health and safety of individuals, confuse or obstruct the view of or interfere with official traffic devices, signs and signals, or otherwise endanger public health, safety, etc. Ennis' mountain location and western style theme have been recognized as a viable method of promoting economic stability. These assets, theme and location enhance a high level of tourism and related economic activity. Therefore, it is imperative that signs in the town complement the town's western theme and be in accord with the Ennis comprehensive plan.
- C. Application: All new moved, expanded or structurally altered signs within residential and commercial zones shall be permitted, provided that they meet all standards and provisions of this title.
- D. Basis For Design: The basis for design shall be the small town, western theme discussed and pictorially illustrated in the comprehensive plan.
- E. Nonconforming, Illegal And Abandoned Signs:
1. Nonconforming Signs: Nonconforming signs are signs which do not meet the physical criteria, that in other ways violate this title and which legally existed on or before this title's date of adoption. The following provisions shall govern procedures for bringing nonconforming signs into compliance:

- a. Nonconforming signs shall be brought into compliance when the building or premises housing the entity being advertised is moved, expanded or structurally altered.
  - b. Nonconforming signs which are structurally altered, relocated or replaced shall immediately conform to the requirements of this section except that:
    - (1) Signs may be removed from their supporting structures for the purpose of repair or maintenance.
    - (2) Signs may be structurally altered where such alteration is necessary for public safety.
    - (3) Signs may be reinstalled if they are moved for construction or repairs of public works or public facilities and such reinstallation is completed within one year.
    - (4) Signs may be repaired and reinstalled if they are damaged by an act of God or by an accident, provided:
      - (A) Such damage does not exceed fifty percent (50%) of the cost of reconstruction; and
      - (B) Provided that such sign is reconstructed within one hundred eighty (180) days of the date the sign is damaged.
2. **Illegal And Abandoned Signs:** "Illegal signs" are signs constructed or altered after the date of sign code adoption or were constructed or maintained illegally before the date of sign code adoption and which do not comply with its provisions, including proper maintenance. "Abandoned signs" are those that advertise entities that have been abandoned for any length of time or vacated for a period in excess of one year. The following provisions shall govern procedures for bringing illegal and abandoned signs into compliance:
- a. Illegal signs, including signs that are in disrepair, are deteriorated or are unsafe, shall be removed within thirty (30) days after notification by the zoning administrator by the owner or lessee of the premises upon which the sign is located.
  - b. Abandoned signs shall be removed within thirty (30) days after notification by the zoning administrator by the owner or lessee of the premises upon which the sign is located when the advertised business is no longer conducted on the premises.

#### F. Enforcement:

1. **Authority:** The zoning administrator is authorized and directed to enforce the provisions of the sign code. For these purposes the zoning administrator shall have the power of a law enforcement officer.
2. **Removal By Town:** The town of Ennis, following thirty (30) days notice to the property owner, may remove illegal and abandoned signs. The property owner will be assessed the cost of the sign removal if the owner fails to remove the offending sign.

#### G. Permits, Fees And Inspections:

1. **Permits Required:** A sign shall not hereafter be erected, reerected, constructed, altered or maintained, except as provided by this section, and after a permit has been issued by the zoning administrator. A separate permit shall be required for a sign or signs for each business entity.
2. **Application For Permit:** Applications for a sign permit shall be made in writing on the form shown in section [11-5-6](#) of this title and submitted to the zoning administrator for appropriate action. The zoning administrator may require other pertinent information if such information is necessary to determine compliance with the provisions of this section.
3. **Approval:** The zoning administrator shall issue a permit for a sign covered by application duly made unless the sign violates provisions of the sign code. The sign permit identification number shall be permanently attached to the sign in a position clearly visible for inspection. Approved signs shall be installed within six (6) months of permit issuance.
4. **Revoking Of Permit:** The zoning administrator may revoke a sign permit if it is found that there was a material and misleading false statement or fact in the application for the permit or if the approved sign is not installed within six (6) months.
5. **Fees:** Sign permit fees shall be paid in accordance with the schedule established by the Ennis town commission.
6. **Inspections:** Signs for which a permit is required shall be subject to inspection by the zoning administrator.

#### H. Design, Construction And Safety Standards:

##### 1. Design:

- a. **Force Transmission:** All bracing systems shall be designed and constructed to transfer lateral forces to the foundations. For signs on buildings, the dead and lateral loads shall be transmitted through the structural frame of the building to the ground in such a manner as not to over stress any of the elements thereof.
- b. **Turning Movement:** The overturning movement produced from lateral forces shall in no case exceed two-thirds ( $\frac{2}{3}$ ) of the dead load resisting movement. Uplift due to overturning shall be adequately resisted by proper anchorage to the ground or to the structural frame of the building. The weight of the earth superimposed over footings may be used in determining the dead load resisting movement. Such earth shall be carefully placed and thoroughly compacted.
- c. **Wind And Seismic Loads:** Wind loads and seismic loads on signs shall be designed and constructed to withstand wind load and seismic forces as specified in chapter 23 of the uniform building codes. Wind and seismic loads need not be combined in the design of signs, and only that load producing the larger stress need be used. Vertical design loads, except roofline loads, shall be assumed to be acting simultaneously with the wind and seismic loads.
- d. **Uniform Building Codes Requirements:** The design of wood, wrought iron and concrete members shall conform to the requirements of chapters 25, 26, 27, and 28 of the uniform building codes. Loads, both vertical and horizontal, exerted on the soil shall not produce stresses exceeding those specified in chapter 29 of the uniform building codes.

- e. **Wire Rope And Fastenings:** The working stresses of wire rope and its fastenings shall not exceed twenty five percent (25%) of the ultimate strength of the rope or fasteners.
- f. **Bracing:** Members supporting unbraced signs shall be so proportioned that the bearing loads imposed on the soil in any direction, horizontal or vertical, shall not exceed safe values. Braced ground signs shall be anchored to resist the specified wind or seismic load acting in any direction. Anchors and supports shall be designed for safe bearing loads on the soil, and for an effective resistance to pull out, amounting to a force of twenty five percent (25%) greater than the required resistance to overturning. Anchors and supports shall penetrate to a depth belowground greater than the frost line.

## 2. Construction:

- a. **Supports:** Supports for signs or sign structures shall be placed in or upon private property and shall be securely built, constructed and erected in conformance with the requirements of this section. Signs attached to masonry, concrete or steel shall be safely and securely fastened thereto by means of metal anchors, bolts or approved expansion c/screws of sufficient size and anchorage to support safely the loads applied.
- b. **Parapet Wall Supports:** Unless a wall is designed in accordance with the requirements specified in the uniform building code, no anchor or support of any sign or wall facade for signs shall be connected to or supported by an unbraced parapet wall.

## 3. Safety:

- a. **Proximity To Electrical Conductors:** Signs shall be located not less than eight feet (8') horizontally and twelve feet (12') vertically from overhead electrical conductors which are energized in excess of standard service loads as determined by the utility company providing the service. The term "overhead conductors" as used in this subsection means any electrical conductor, either bare or insulated, installed above the ground, except such conductors as are enclosed in iron pipe or other material covering of equal strength.
- b. **Wiring:** All electrical equipment used in connection with such signs shall be installed in accordance with the national electrical code.
- c. **Access:** No sign or sign structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or stairs.
- d. **Maintenance:** All signs, together with all their supports, braces, guys and anchors, shall be kept in good repair and be maintained in a safe condition. All signs and the site on which they are located shall be maintained in a neat, clean and attractive condition. Signs shall be kept free from deterioration. The display surfaces, trims, frames and supports of all signs shall be kept neatly painted or otherwise neatly maintained as applicable. Substances used for painting or affixing a message to the display surface of a sign and any waste materials generated in erecting a sign shall be removed from public or private property.

- I. **Projection And Clearance:** The outermost portion of the overhanging sign, device or structure shall be no more than eight feet (8') beyond the face of the building or beyond the curb line, whichever distance is less. The lowest portion of the overhanging sign device or structure shall be at least eight feet (8') above the top of the curb or sidewalk elevation.

## J. Sign Measurement:

1. Area: The area of a sign is the space within any perimeter that encloses the limits of any writing, representation, emblem, figure or character. The area of a sign with no such perimeter or the area of a sign with irregular shape, shall be computed by enclosing the surface area within a known geometric size or shape. The area of all signs in existence at the time of the enactment of this title, whether conforming or nonconforming, shall be counted in establishing the permitted sign and of all new signs to be allowed for an individual business or premises. Where a sign is of three-dimensional or round or irregular size shape, the largest cross section shall be as though it were a flat surface to determine area.
2. Facade Area: When the area of the front building facade is used to determine sign area, said area shall be computed by multiplying the width of the building frontage or portion thereof by the height of the building or portion thereof which is devoted to the particular business. False front and mansard roof may be included when calculating the area of the building facade.

K. Permitted Materials; Exceptions: Materials for construction of signs and sign structures shall be the quality and grade as specified for building in the uniform building code. In all sign and sign structures, the material and detail of construction shall, in absence of specified requirements, be constructed of wood or iron only. The design review board, providing such materials are consistent with the western theme, may approve other materials.

## L. Signing Techniques:

1. Western Theme: Signing techniques shall be in conformance with the western design theme, including:
  - a. Painting the sign directly on the facade of the building.
  - b. Painting of a sign on a finished material or signboard that is subsequently affixed to the building.
  - c. Affixing raised block letters directly on the facade of the building.
2. Lettering Techniques: Lettering techniques shall be in conformance with the western design theme and permitted as follows:
  - a. Ornamental lettering.
  - b. Shaded block or shaded ornamental lettering painted on contrasting colors on flat surfaces.
  - c. Raised or routed block letters.
3. Logos: Logos that are registered or filed with a state or federal agency may be used as part of a sign, but such logo shall comply with provisions regarding permitted materials and signing techniques set forth in this subsection.

4. Hazardous Conditions Prohibited: No sign shall be erected or maintained which, by use of lights or illumination, creates an unduly distracting and hazardous condition to a motorist, pedestrian, or the general public, including, but not limited to, the following:
  - a. No exposed reflective type bulb or incandescent lamp shall be exposed to direct view from a public street or highway but may be used for indirect light illumination of a sign display surface.
  - b. No neon tubing sign or decoration will be allowed except as otherwise provided in this section.
  - c. No colored lights shall be used at any location or in any manner so as to be confused with or construed as traffic control devices.
  - d. No sign may be erected or maintained if it contains, includes or is illuminated by any flashing, intermittent, revolving, rotating or moving light(s), or which moves, or which has any animated or moving parts. Strings of lights are permitted only between November 1 and January 15.
5. Floodlights: Signs may be indirectly illuminated by floodlights or other lighting, located on the ground, wall or roof area adjacent to the sign intended to be illuminated.
6. Height Restrictions: No indirect illumination devices shall be allowed to exceed the building height requirements of the zoning district.
7. Neon And Fluorescent Light Colors: Neon and fluorescent colors and lighting may be used only for highlighting a sign face or lettering and must conform to the western theme restrictions and other regulations. (Ord. 131, 3-14-2002)

#### M. Message And Images:

1. Medical Marijuana: No signage can contain the words "weed", "joint", "pot", or other slang terms for medical marijuana. Whenever used in signage, the word "marijuana" or "cannabis" must be preceded by the word "medical". Images of smoking cigarettes or images of a medical marijuana leaf are prohibited. All exterior signage must comply with the provisions of the community signage regulations of this section. (Ord. 134, 11-5-2010)

### **11-4-13: SPECIFIC SIGNS; REGULATIONS:**

#### A. Wall Signs: The following criteria shall be applicable for a wall sign:

1. Pinned Wall Signs: "Painted on" wall signs or cut out letters may be pinned away from the building.
2. Maximum Projections: Wall signs may not stand more than twelve inches (12") away from the wall.
3. Maximum Area: Total wall signage shall not exceed twenty percent (20%) of the wall area in square feet of each facade. A wall sign shall not exceed one hundred (100) square feet in area.

- B. Projecting And Hanging Signs: The following criteria shall be applicable for both projecting and hanging signs:
1. Maximum Area: The sign area of both projecting and hanging signs may not exceed six (6) square feet in area per face.
  2. Projection And Clearance: The outermost portion of the overhanging sign, device or structure shall be no more than eight feet (8') beyond the face of the building or beyond the curb line, whichever distance is less. The lowest portion of the overhanging sign device or structure shall be at least eight feet (8') above the top of the curb or sidewalk elevation.
- C. Flexible Signs And Banners: A flexible sign must clear sidewalks by at least eight feet (8') and shall not interfere with public use of the sidewalk, street or right of way, or obstruct or restrict clear vision for traffic or pedestrian safety. Banners are permitted only for commercial, institutional or civic activities and may be located only in areas approved by the zoning administrator.
1. Street Banner Approval: Banners across state highways require the written approval of the Montana state department of transportation.
  2. Minimum Wire Height: The lowest point must not be below the legal limit for wires crossing the street, eighteen feet (18').
  3. Banners Temporary: All types of banners on buildings or other support structures shall be considered temporary and will be allowed to remain up to seven (7) days or less, and shall be subject to the same height restrictions as flexible signs.
- D. Ground Mounted Signs: The following criteria shall be applicable for ground mounted signs:
1. Noninterference: A ground mounted sign shall not be located within ten feet (10') of any other sign within any street right of way (stop sign, etc.) or within any area which requires clear vision for traffic or pedestrian safety.
  2. Maximum Number: No more than one ground mounted sign shall be permitted for each street frontage in all zones with the exception of the HC and C-I zones where two (2) ground mounted signs are allowed for each street frontage providing they are three hundred feet (300') apart.
  3. Maximum Height: Sign height shall not exceed fifteen feet (15') from ground level.
  4. Maximum Area And Width: Ground mounted signs shall not exceed thirty two (32) square feet. Width shall not exceed ten feet (10').
  5. Sign Supports: Sign supports shall be compatible with the design requirements and intent of the western design theme.
- E. Awning Signs: Awning signs shall be permitted subject to the following requirements:



1. Copy: Copy shall be limited to the name or logo of the owner, business or industry conducted within the premises, address of the building or the building name and shall cover no more than fifteen percent (15%) of the horizontal projected area of the awning.
  2. Area Deducted: The area of a sign on an awning or canopy shall be deducted from the wall sign area permitted.
  3. Supports: Supports, posts or columns beyond the property line will not be permitted.
  4. Permanently Affixed: Lettering shall be painted or otherwise permanently placed.
  5. Minimum Height: The lowest point of the awning must be at least eight feet (8') above the sidewalk.
  6. Translucent Awnings: Backlighted, transparent or luminescent awnings shall be prohibited.
- F. Permanent Window Sign: The area of a permanent window sign is to be considered part of the total area permitted for wall signs.
- G. Temporary Exterior Window Sign: Temporary exterior window signs are those that are left in place for no more than four (4) weeks in any three (3) month period. They are permitted in all activities. They may not exceed thirty percent (30%) of the window area in which they are displayed.
- H. Neon Window Sign: Two (2) neon window signs per business are allowed, provided the maximum size is two hundred eighty (280) square inches per sign.
- I. Real Estate Sign: Real estate signs shall not exceed a total area of twelve (12) square feet. Such signs shall be removed no later than seven (7) days after the sale or lease of or expiration of the listing for such property.
- J. Political Campaign Signs: Political campaign signs may be placed on private property no more than forty five (45) days prior to a primary or general election, and shall be removed not later than seven (7) days after the closing of the polls. No sign may exceed thirty two (32) square feet in area.
- K. Temporary Sales Signs: Garage, yard or patio sale signs or other similar sale signs of a temporary nature. Such signs shall be removed no later than forty eight (48) hours after the related activity ceases.
- L. Service Signs: Service signs, such as those identifying bank or credit cards, shall not be attached to an approved sign. If such services are to be advertised, the sign shall be integrated into the overall

sign design and are subject to all requirements of this title.

- M. Construction Signs: Construction signs shall be limited to a maximum area of sixteen (16) square feet for each firm and may be erected or placed only during the construction period. Construction signs shall be confined to the construction site and shall be removed not later than seven (7) days after the completion of the project.
- N. Residential Signs: The total area of any sign located in a residential zone shall not exceed two (2) square feet and is limited to wall mount only.
- O. Roof Signs: Roof signs are permitted subject to the following limitations:
1. Number: One roof sign shall be permitted for a building as long as it is architecturally incorporated into the whole scheme of the building.
  2. Area: Roof signage shall not exceed twenty percent (20%) of the wall area in square feet on each facade. The total area of a roof sign and a wall sign combined shall not exceed twenty percent (20%) of the wall area in square feet, on each facade.
  3. Height: Roof signs may not exceed six feet (6') above the roof or twenty five feet (25') from the curb line.
  4. Supports: All supports, bracing, angle iron, guy wires, etc., shall appear to be an architectural and integral part of the building. (Ord. 131, 3-14-2002)

#### **11-4-14: SIGN DESIGN EXEMPTIONS:**

- A. Exemptions: The following activities and signs are not subject to the design provisions of this title, but must meet size, area and length of time requirements:
1. Maintenance: Repainting, cleaning or other normal maintenance or repair of a sign or sign structure for which a design approval has been given, so long as the sign design, color, material, content, etc., is not modified in such a way as to conflict with the intent of this chapter.
  2. Changing Copy: Changing the advertising copy or message on an awning or canopy.
  3. Temporary Signs: Construction, real estate, political campaign, garage, yard, patio or other similar sale signs of a temporary nature.
  4. Window Signs: Temporary window signs.
  5. Directional: Traffic directional signs onto or within premises.

6. Governmental: Governmental or official notices, flags, emblems or insignia.
7. Religious: Religious or holiday decorations.
8. Machines: Internally lit soda machines and telephone booths.
9. Other: Any other signs that are state or federally regulated and are not required to comply with local sign requirements.
10. Plaques: Dedication or historical plaques.
11. Special Events: Temporary, nonprofit organizations' special events. (Ord. 131, 3-14-2002)

### **11-4-15: SIGN REGULATIONS APPLYING TO JOINT OCCUPANCY OR MULTIPLE USE:**

- A. Multiple Use: The sign size restrictions set forth in this chapter apply to each building. Where a single occupant carries on more than one activity within a building, the occupant may allocate the available ground or wall sign area in any manner between the various activities. However, the total area so allocated may not exceed the maximum area available to that occupant were he carrying on only a single activity.
- B. Joint Occupancy: In like manner, where a building is occupied by more than one tenant, the owner may allocate available ground or wall sign area among the various tenants. However, the total area so allocated may not exceed the maximum area available to a single tenant occupying the entire building. (Ord. 131, 3-14-2002)

### **11-4-16: PROHIBITED SIGNS:**

The following signs are prohibited:

- A. Vehicles Used As Signs: Signs that are placed on, affixed to or painted on a motor vehicle or trailer and placed on public or private property for the primary purpose of providing a sign not otherwise permitted by this title. Signs on vehicles used in the normal course of business shall not be subject to this provision.
- B. Traffic Hazards: Signs or sign structures that create a hazard by obstructing a clear view or pedestrian and vehicular traffic.

- C. Pornographic: Pornographic signs or any language on a sign that could be considered offensive.
- D. Street Furniture: Signs painted on or attached to benches, street fixtures or other street objects.  
(Ord. 131, 3-14-2002)

## **11-4-17: GENERAL SIGN PROVISIONS:**

The following general provisions shall apply:

- A. Public Spaces: No sign or other graphic display other than a town or other public agency sign shall be allowed to be erected, installed, replaced or maintained in, over or on any public property, including parkways, except as provided in this title.
- B. Interpretation: Any sign or other graphic display which is supported by more than one means and, therefore, cannot be clearly defined as ground, wall, roof, projecting or other sign shall be administratively assigned to the sign category most logically applicable and the appropriate standards applied.
- C. Design Character: Signing shall be in proportion with and visually related to the architectural character of the building, restrained in size and be in conformance with generally accepted principles of good design and architecture.
- D. Context: Signing for a business within a commercial or industrial center shall be in harmony with the signing of the entire complex. The signing for any new or remodeled commercial or industrial center shall be approved concurrent with the architectural review of the project in the form of a signing program.
- E. Permit: The sign permit must be obtained and the permit fee paid prior to the actual erection of the approved sign.
- F. Compatibility: This title outlines maximum requirements; however, signs must be appropriate to the nature to which they pertain and compatible with their surroundings.

- G. Supersedes: This chapter supersedes any other ordinance that pertains to signage. (Ord. 131, 3-14-2002)

## **11-4-18: ZONING PERMITS:**

A zoning permit shall be obtained before any land or building may be used or occupied, or before any building or structure may be erected, placed, moved, expanded or structurally altered. The permit applicant is required to complete and submit the application form provided in section [11-5-8](#) of this title, and a sketch plan or site plan as specified in section [11-4-13](#) of this chapter. Applicants will strive to meet the intent of the Ennis comprehensive plan goals, including retaining the western theme as described in earlier sections and in the comprehensive plan. The zoning administrator may refer development proposals for large, unusual or complex buildings or land uses to the planning board for guidance in meeting these goals.

- A. Actions That May Not Require Zoning Permit: Certain actions may not require a zoning permit if deemed to be exempt by the zoning administrator. Such actions may include, for example, painting and minor repairs; landscaping work not involving structural retaining walls; or other minor improvements or replacements in kind.
- B. Permit Issuance: The zoning administrator may issue a zoning permit when the required application has been completed and the administrator has found the proposed building, structure, parcel or use will meet the requirements of this title. The zoning administrator shall first review the applicant's materials to ensure the information is accurate and complete. If the materials fail in either regard the application shall be returned. If accepted, all reviews will be completed and one copy shall be returned to the applicant, marked and signed indicating approval or disapproval. If disapproved, the reasons shall be stated in writing. The second copy of similarly marked materials shall be retained in the town hall.
- C. Permit Expiration: Zoning permits have a limited duration but may be extended for cause and as described below. The zoning administrator may grant comparatively short extensions; however, the town commission upon favorable recommendation by the zoning administrator may grant additional extensions subject to the following:
1. One Year To Initiate Work: If the work described in any zoning permit has not been initiated within one year, the approval shall expire. Written notice of the expiration shall be given to the permit holder. If the permit holder requests an extension, for cause, in writing, forty five (45) days in advance of the permit's expiration, an extension of up to sixty (60) days may be granted by the zoning administrator or up to one year by the town commission.
  2. Two Years To Complete: If the work described in any zoning permit has not been substantially completed within two (2) years of the permit's issuance (or extension), the permit shall expire and be cancelled by the zoning administrator. Written notice shall be given to the legal permit holder, forty five (45) days in advance of the permit's expiration, together with notice that further

work, as described in the cancelled permit, shall not proceed unless and until a new permit has been obtained.

**D. Conformity With Permit: Construction and/or use shall conform to the application.**

1. Changes: Zoning permits issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement and construction set forth in the approved plans and applications, and no other use, arrangements, or construction. Any change of planned use, arrangement or construction shall be submitted to the zoning administrator for review and approval. Use, arrangement, or construction at variance with that authorized shall be deemed a violation of this title and punishable as provided under "violations and penalties".
2. Inspection; Stop Work Order; Appeal: The zoning administrator shall periodically check all use of property or construction activities to determine conformance with the approved plans and application. If during this procedure the zoning administrator determines that the actions being undertaken do not conform with the approvals granted, the administrator shall inform the legal permit holder of the infraction and shall issue a stop work order. This order will not be lifted until the permit holder causes the infraction to be remedied, or the matter has been appealed to the town commission and the commission has informed the administrator, in writing, that the infraction has been resolved and the stop work order shall be lifted.

**E. Conditional Use Permit: A conditional use permit must be obtained before those uses specified as conditional uses within certain zoning districts may be established. A conditional use permit may be issued only when an application has been completed and the town commission has found the proposed use will meet both the requirements of the particular district involved and the conditions specified for the use. (Ord. 131, 3-14-2002)**

## **11-4-19: CONDITIONAL USE PROCEDURE:**

**A. General: Certain uses generally appropriate within a particular zoning district may require additional scrutiny and approval with conditions. The town commission may grant a conditional use permit (CUP) when such circumstances exist. The permit shall be granted for a particular use and not for a particular person or firm. Periodic review may be required. No conditional use permit shall be granted for a use that is not specifically designated or is clearly of like character and intensity as a conditional use listed in this title.**

**B. Application For Conditional Use Permit:**

1. Application: The person applying for a conditional use permit shall submit the appropriate form, with the required fee to the zoning administrator. The request for a conditional use permit shall follow the procedures and application requirements of "zoning permits", section [11-4-18](#) of this title.

2. Hearings: In consideration of all conditional use permit applications a public hearing shall be conducted by the planning board and, upon receipt of the board's recommendation, a public meeting shall be conducted by the town commission.
3. Notice: Notice of the public hearing shall be placed in the newspaper of general circulation.
4. Rezoning: If a rezoning is required prior to approval of a conditional use permit (CUP) the application for rezoning and the conditional use permit may be filed and acted upon simultaneously, however the conditional use permit shall not be effective until zoning has been approved by town commission.

#### C. Town Commission Consideration And Findings:

1. Findings: The town commission, in approving a conditional use permit, shall find the proposal complies with all provisions listed on the checklist in [chapter 5](#) of this title.
2. Additional General Conditions: The commission shall, in addition to all other conditions, impose the following general conditions upon every conditional use permit granted:
  - a. That the right to a use and occupancy permit shall be contingent upon the fulfillment of all general or special conditions imposed by the conditional use permit procedure;
  - b. That all of the special conditions shall constitute restrictions running with the land use, shall be binding upon the owner of the land, his successors or assigns, and shall be recorded as such with the Madison County clerk and recorder's office by the property owner prior to the issuance of any building permits, final site plan approval or commencement of the conditional use;
  - c. That all conditions specifically stated under any conditional use listed in this title shall apply and be adhered to by the owner of the land, successors or assigns;
3. Final Action: Applications for conditional use permits may be approved, conditionally approved or denied by motion of the town commission and the applicant shall be notified of the decision in writing. If an applicant is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval do exist.

D. Modification Of Structures Authorized Under Conditional Use Permit: Any proposed additions, enlargements or modifications of the structures approved in any conditional use permit or any proposed extension of the use into areas not approved in any such permit, shall be subject to the same review, application and approval procedures. (Ord. 131, 3-14-2002)

## 11-4-20: PLAN REVIEW AND APPROVAL:

#### A. Introduction:

1. All development proposals within the zoning jurisdictional area of the town will be subject to plan review and approval. Depending on the complexity of development, either sketch plans or site plans will be required as specified in this section. Plans shall be submitted to the zoning administrator as part of the zoning permit review process.
2. Special Development Proposals: Special development proposals (i.e., traditional neighborhood developments, conditional use permits, variances, etc.) require other information to be submitted in conjunction with sketch plans or site plans and are subject to requirements specific to the type of proposal. These additional submittal requirements and review procedures are outlined in this chapter.

## B. Sketch Plan Review:

### 1. Sketch Plan Submittal Requirements:

- a. Certain development proposals are required to submit only sketch plans, drawn to scale and in sufficient detail to demonstrate compliance with all zoning requirements. Sketch plans shall be oriented with north at the top of the page and shall also show site boundaries, street and alley frontages with names and location of all structures with distances to the nearest foot between buildings and from buildings to property lines.
  - b. Separate construction plans are necessary for building permits when the proposal requires such permits.
  - c. Examples of projects which qualify for sketch plan review include: individual single-family and two-family residential units, each on individual lots; fences; signs in compliance with zoning requirements; special temporary uses; home occupations; and accessory structures associated with these uses. Other similar projects may be determined by the zoning administrator to require only sketch plan review. The zoning administrator shall determine all submittal requirements.
2. Sketch Plan Review Criteria: Sketch plans shall be reviewed for compliance with all applicable zoning requirements including overlay district requirements and the cessation of any current violations of this title, exclusive of any legal nonconforming conditions. Once compliance has been achieved, the sketch plan and zoning permit will be approved and construction may begin.

## C. Site Plan Review:

1. Classification Of Site Plans: Site plans will be classified as major or minor site plans. All developments within the town's zoning jurisdiction, except, development proposals requiring only sketch plan review, shall be subject to this subsection.
  - a. Major Site Plan Criteria: A major site plan involves one or more of the following:
    - (1) Three (3) or more dwelling units in a multiple-family structure or structures;
    - (2) Five thousand (5,000) or more square feet of nonresidential space;



- (3) More than one building on one site for permitted office uses, permitted retail commercial uses, permitted industrial uses or permitted combinations of uses;
  - (4) Ten thousand (10,000) or more square feet of exterior storage of materials or goods;
  - (5) Parking for more than ten (10) vehicles.
- b. Minor Site Plan Criteria: Any other site plan, except those that are part of a traditional neighborhood development or conditional use permit, will be considered a minor site plan. Conditional use permits and traditional neighborhood developments shall be reviewed according to their specific requirements and procedures.
2. Review Authority: The zoning administrator and the planning board have the authority to review and require revisions to any proposed site plans.
  3. Site Plan Submittal Requirements: Applications for all site plan approvals shall be submitted to the zoning administrator on forms provided in [chapter 5](#) of this title. The site plan application shall be accompanied by the appropriate fee and development plans showing sufficient information for the zoning administrator or planning board to determine whether the proposed development will meet the town's development requirements.
  4. Site Plan Review Procedures:
    - a. Minor Site Plan: Minor site plans shall be processed by the zoning administrator.
    - b. Major Site Plan: Major site plans shall be initially processed through the zoning administrator in the manner of a minor site plan; however, the zoning administrator action shall not be final but rather advisory to the planning board.
  5. Site Plan Review Criteria: In considering applications for site plan approval, the zoning administrator and planning board shall consider the issues listed in the site plan review checklist contained in section [11-5-5](#) of this title. If the reviewing agencies determine that the proposed site plan is in compliance and accord with the listed issues and provisions of this title, approval shall be granted. (Ord. 131, 3-14-2002)

## **11-4-21: MEDICAL MARIJUANA:**

Any activity involving medical marijuana must meet all requirements of state law including, but not limited to, the standards of title 50, chapter 46, Montana Code Annotated, and limits on possession, clean air, and all other provisions of title 50, chapter 46, and any applicable administrative rules established by the state. Should such rules or laws change, any medical marijuana facility shall immediately begin any required process to come into compliance with the new rules. This includes submittals for review of applications to the town of Ennis as they may relate to zoning, business licensing, or other municipal programs. Compliance with town of Ennis zoning regulations, and other provisions of this title, does not shield any person, corporation, or other legal entity from the requirements of, or enforcement by, other governing entities, or from civil liabilities.

- A. Location: Unless specifically exempted, any person or an existing or proposed entity intending to conduct activities for the purpose of growing, processing, distribution, and/or any other activity related to medical marijuana shall in addition to this section, comply with all other provisions of this code, and shall not be located within five hundred (500) linear feet of the exterior property line of:
1. All schools or facilities owned or operated by Ennis school district whether located inside or outside the town of Ennis limits; or
  2. All private schools, not including home schools, whether located inside or outside the town of Ennis limits, which provide instruction in the class range from kindergarten to twelfth grade and which are either subject to section 20-5-109, Montana Code Annotated, or listed as a kindergarten provider by the Madison County superintendent of schools.
  3. For purposes of this section, specified distances will be measured in a straight line, without regard to intervening structures from the property line of a school as stated in subsections A1 and A2 of this section, regardless of whether those schools are located within the jurisdictional limits of the town of Ennis, to the property line of the business providing medical marijuana.
- B. Zoning Districts: Any activities for the purpose of growing, processing, distribution, and/or any other activity related to medical marijuana may not be located in any zone other than those stated in [chapter 3](#) of this title.
- C. Exceptions: The requirements of subsections A and B of this section do not apply to:
1. An individual registered qualifying patient who possesses medical marijuana in accordance with the limits and requirements of title 50, chapter 46, Montana Code Annotated solely for that qualifying patient's own use; or
  2. A caregiver providing care to not more than two (2) qualifying patients who reside within the same dwelling as the caregiver. The caregiver and qualifying patients shall maintain appropriate state agency qualification at all times that medical marijuana is present.
- D. Air Discharge Control: Any medical marijuana growing or processing operation that contains one or more medical marijuana plants at any one time shall provide a forced air vent discharge point, with odor abatement, that is located no closer than thirty feet (30') from an adjacent property line or a residence.
- E. DPHHS Approval Of Caregiver: Any person making application for a zoning approval for a medical marijuana business shall provide evidence of DPHHS approval as a caregiver at the time of application and shall maintain such DPHHS approval at all times. Failure to maintain approval immediately suspends zoning approval to operate a medical marijuana business in the town of Ennis.

- F. Property Owner Standards: These regulations are for review of applications to the town of Ennis and do not restrict property owners from establishing more stringent standards for their properties.
- G. Medical Marijuana Home Based Business: A home based business for the purpose of cultivating, processing or distributing of medical marijuana shall be restricted in the following manner:
1. Cultivating and processing and distribution of medical marijuana for commercial purposes will only be permitted in the designated zoning areas in the town of Ennis.
  2. There is no restriction for home based businesses for the purposes of recordkeeping.
  3. Dispensing of medical marijuana in a residence must have no more than three (3) patients. The intent of this is to ensure there is no change in the makeup of the neighborhood, turning a residential district into a commercial district. Upon any complaint, the issue will be reviewed by the commission and that entity may have to come into compliance with the regulations of this chapter. (Ord. 134, 11-5-2010)

## **Chapter 5**

# **APPLICATIONS; FORMS**

### **11-5-1: ZONING CODE APPEAL AND VARIANCE APPLICATION:**

The town zoning code permits aggrieved persons to appeal the interpretation and application of the code. The zoning board of adjustment may grant variances from the code and hear appeals from interpretations of the zoning administrator in limited circumstances where hardships would result from the code's strict interpretation, application and enforcement. Variance applications will be accepted only from the record owner of the property for which the variance is requested. Any person aggrieved by a zoning administrator decision may appeal that decision to the board.

The zoning board of adjustment may grant variances from the zoning ordinance when:

- A. The variance won't be contrary to the public interest;
- B. Circumstances unique to the property would cause an undue hardship if the zoning ordinance is strictly and literally interpreted and applied;
- C. The spirit and intent of the zoning ordinance will be observed and substantial justice done; and

- D. The results of the variance will be consistent with the goals, objectives and policies of the adopted comprehensive plan/growth policy.

The zoning board of adjustment may not grant use variances that would allow the use of a property or building that is not allowed by the zoning ordinance in that zoning classification.

The zoning administrator will review the application for completeness after the application deadline date and will promptly notify the applicant about any missing material or information. Incomplete or unacceptable applications may delay the variance review process by one month or longer. The applicant is responsible for submitting a complete application.

All applications will be submitted at the Town Hall, 328 West Main Street by the dates established by the zoning board of adjustment. The application fee must accompany the application and must be personally delivered to the town hall. No mailed, electronic mail or tele-facsimile applications will be accepted.

All questions must be answered fully. Please type or print on the application and for all other information submitted with the application. You may attach additional pages or other information, including photographs. All material that is submitted for the application will be retained as part of the permanent record.

**APPLICATION FORM**

**ZONING ORDINANCE VARIANCE OR APPEAL**

Legal description of property:

Address or other location:

Zoning classification: Size of parcel:

Variance requested or describe decision being appealed:

Facts of hardship:

Owner(s):  
(Record owner)

(Address)

(Phone number and e-mail address)

Agent or appellant:  
(Name)

(Address)

(Phone number and e-mail address)

I understand that the filing fee accompanying this application is not refundable, that it pays for application processing and does not guarantee that the appeal or variance will be granted. I attest that the information presented herein is factual and correct.

Signature: Date:

(Record owner or appellant) **ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES**

1. Prepare a written statement addressed to the chairperson of the zoning board of adjustment. State what is intended to be done with the building or property, including any new or change in use, and why the variance is being sought or the appeal is being made.
2. Answer the following questions in the statement:
  - a. What unique property conditions prevent you from using the property in conformance with the zoning ordinance requirements, or in what way does the zoning administrator's interpretation of the zoning ordinance affect you or your property?
  - b. What hardship will you experience if you are not granted a variance or relief from the zoning administrator's decision?
  - c. If a variance or appeal is granted, what goals, objectives and policies of the comprehensive plan/growth policy will be supported by the variance or appeal?
3. Prepare a dimensioned site plan as follows:
  - a. One site plan at least 11" x 17".
  - b. Scale shall be at least 1" = 40'.
  - c. North arrow.
  - d. Location and dimension of all vehicular access points and all off street parking spaces.
  - e. Lot line locations and dimensions.
  - f. Location and dimensions of all proposed and existing buildings, including any that will be removed.
  - g. Building setbacks from all property lines.
  - h. Names and locations of adjacent streets, alleys and other properties.
  - i. If a height variance is being sought, a dimensioned elevation drawing showing the height of all structures.
  - j. Other pertinent information.

4. A filing fee must accompany all applications for variances or appeals. No application will be

accepted until the fee is paid in full. The fee is nonrefundable and does not guarantee a variance or successful appeal.

5. A public hearing will be held when the zoning board of adjustment considers appeals or variances. The property for which the variance or appeal is sought will be posted with a notice that contains information about the variance or appeal and the date, time and location of the hearing. A notice of public hearing will be published in the town's official newspaper or a newspaper of general circulation in the area at least ten (10) days prior to the public hearing. The applicant will be notified by mail as to the date, time and location of the hearing.

6. Approval of a variance or appeal requires the concurrence of at least four (4) voting members of the board.

7. All hearings and deliberations by the board are open to the public. Any person may appear and testify at the hearing. Records of the case, hearing and decision will be retained by the board and are public records.

8. Appeals from the board may be made to a court of record in the state of Montana. (Ord. 131, 3-14-2002)

## **11-5-2: CONDITIONAL USE PERMIT APPLICATION:**

### CONDITIONAL USE PERMIT APPLICATION

Town of Ennis, Montana

The town zoning ordinance allows certain uses that are generally appropriate within a particular zoning district but which may require additional scrutiny and approval with conditions. The town commission may grant a conditional use permit (CUP) under such circumstances.

The conditional use permit application shall be submitted in person at the Town Hall, 328 West Main Street. No mailed, e-mailed or tele-facsimile applications will be accepted. The filing fee must accompany the application in order for it to be accepted. Applications must be signed by the property record owner.

The zoning administrator will review the application for completeness after the application deadline date and will promptly notify the applicant about any missing material or information. Incomplete or unacceptable applications may delay the permit review process by one month or longer. The applicant is responsible for submitting a complete application.

All questions must be answered fully. All applications or other printed material must be typed or hand printed. Additional information, including photographs, may be submitted. All information that is submitted will be retained as part of the permanent record. APPLICATION FORM

### CONDITIONAL USE PERMIT

Conditional use requested:

Present zoning:

Legal description of property:

Address or general location:

Size or acreage and dimensions of the parcel:

Present land use:

Proposed land and/or building use:

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Owner(s):

(Record owner)

(Address)

(Phone number and e-mail address)

Agent:

(Name)

(Address)

(Phone number and e-mail address)

I understand that the filing fee accompanying this application is not refundable, that it pays for application processing and does not guarantee that a Conditional Use Permit will be approved. I attest that the information presented herein is factual and correct.

Signature: Date:

(Record owner) **ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES**

1. Prepare a written statement addressed to the chairperson of the planning board that indicates what is intended to be done with the land or building, including any new or change in use, and why the conditional use permit is being sought.

2. Answer the following questions in the statement:

- a. What is the intended use for the building or property and why is this use needed at this location?
- b. How will the public interest be served if this application is approved?

c. In what ways is the proposal consistent with the goals, objectives and policies of the comprehensive plan/growth policy?

3. Prepare a dimensioned site plan as follows:

a. One site plan at least 11" x 11".

b. Scale shall be at least 1" = 40'.

c. North arrow.

d. Location and dimension of all vehicular access points and all off street parking spaces.

e. Lot line locations and dimensions.

f. Location and dimensions of all proposed and existing buildings, including any that will be removed.

g. Building setbacks from all property lines.

h. Names and locations of adjacent streets, alleys and other properties.

i. If a height variance is being sought, a dimensioned elevation drawing showing the height of all structures.

j. Other pertinent information.

4. A filing fee must accompany all conditional use permit applications. No application will be accepted until the fee is paid in full. The fee is nonrefundable and does not guarantee that a permit will be approved.

5. A public hearing will be held when the planning board considers the conditional use permit. The property for which the permit is sought will be posted with a notice that contains information about the proposed use and the date, time and location of the hearing. A notice of public hearing will be published in the town's official newspaper or a newspaper of general circulation in the area at least ten (10) days prior to the date of the hearing. The applicant will be notified by mail as to the date, time and location of the hearing. After the hearing is concluded, the board will make a recommendation to the town commission whether to approve, conditionally approve or deny the application.

6. All hearings and deliberations by the planning board are open to the public. Any person may appear and testify at the hearing. Records of the application, hearing, recommendation and decision will be retained by the board and are public records.

7. The town commission will consider the planning board's recommendation at the next available regular or special town commission meeting. The commission may approve, conditionally approve or deny the planning board's recommendation and the application.

8. Appeals from the town commission's decision may be made to a court of record in the state of Montana.

(Ord. 131, 3-14-2002)



### **11-5-3: ZONE CHANGE APPLICATION:**

#### ZONE CHANGE APPLICATION

#### TOWN OF ENNIS, MONTANA

The town commission may amend the zoning ordinance, after following a procedure that is outlined in the ordinance and in this application packet. Amendments can be made to the ordinance text or property zoning classification and zoning map that are initiated by the town or by a property owner.

The zone change application shall be submitted in person at the Town Hall, 328 West Main Street. No mailed, e-mailed or tele-facsimile applications will be accepted. The filing fee must accompany the application in order for it to be accepted. The property owner of record must sign any owner initiated application.

The zoning administrator will review the application for completeness after the application deadline date and will promptly notify the applicant about any missing material or information. Incomplete or unacceptable applications may delay the permit review process by one month or longer. The applicant is responsible for submitting a complete application.

All questions must be answered fully. All applications or other printed material must be typed or hand printed. Additional information, including photographs, may be submitted. All information that is submitted will be retained as part of the permanent record. APPLICATION FORM

#### ZONE or ZONING TEXT CHANGE

Present zoning:

Proposed zoning:

Legal description:

Address:

Size of property (area and dimensions):

Present land use:

Proposed land use:

Text change requested (if applicable):



Owner(s):  
(Record owner)

(Address)

(Phone number and e-mail address)

Agent(s):  
(Name)

(Address)

(Phone number and e-mail address)

I understand that the filing fee accompanying this application is not refundable, that it pays for application processing and does not guarantee that the zone change or zoning text change will be granted. I attest that the information presented herein is factual and correct.

Signature: Date:

(Record owner) ADDITIONAL APPLICATION REQUIREMENTS AND PROCEDURES

1. Prepare a written statement addressed to the chairperson of the planning board that explains the need for the intended zone change and why the property can't be used as desired under the existing zoning.

2. Answer the following questions in the statement:

- a. What is the intended use for the building or property and why is this use needed at this location?
- b. What prevents the property from being used as desired under the present zoning?
- c. How will the public interest be served if this application is approved?
- d. In what ways is the proposal consistent with the goals, objectives and policies of the comprehensive plan/growth policy?

3. A filing fee must accompany all zone change applications. No application will be accepted until the fee is paid in full. The fee is nonrefundable and does not guarantee that a zone change will be approved.

4. A public hearing will be held when the planning board considers the zone change. The property for which the permit is sought will be posted with a notice that contains information about the proposed zone change and the date, time and location of the hearing. A notice of public hearing will be published in the town's official newspaper or a newspaper of general circulation in the area at least fifteen (15) days prior to the date of the hearing. The applicant will be notified by mail as to the date, time and location of the hearing. After the hearing is concluded, the board will make a recommendation to the town commission whether to approve or deny the zone change application.

5. A public hearing will be held when the town commission considers the zone change. The

property for which the permit is sought will be posted with a notice that contains information about the proposed zone change and the date, time and location of the hearing. A notice of public hearing will be published in the town's official newspaper or a newspaper of general circulation in the area at least fifteen (15) days prior to the date of the hearing. The applicant will be notified by mail as to the date, time and location of the hearing. The town commission will consider the planning board's recommendation at the next available regular or special town commission meeting. The commission may approve or deny the planning board's recommendation or it may refer the matter back to the planning board for further deliberation if the commission determines that the planning board should consider new information or reconsider evidence that was introduced at the planning board hearing. At the conclusion of the town commission's deliberations on the zone change application, it shall make a final decision to approve or deny the application. An amendment may not become effective except upon a favorable vote of two-thirds ( $\frac{2}{3}$ ) of the present and voting members of the town commission if a protest against the amendment is signed by the owners of twenty five percent (25%) or more of:

a. The area of the lots included in the proposed change, or

b. Those lots within one hundred fifty feet (150') from a lot included in the proposed amendment.

6. Appeals from the town commission's decision may be made to a court of record in the state of Montana.

7. All hearings and deliberations by the planning board and the town commission are open to the public. Any person may appear and testify at the hearings. Records of the application, hearings, recommendation and decision will be retained by the planning board and town commission and are public records.  
(Ord. 131, 3-14-2002)

#### **11-5-4: ZONING CODE VIOLATION COMPLAINT OR REQUEST FOR ACTION:**

##### ZONING CODE VIOLATION COMPLAINT OR REQUEST FOR ACTION

Town of Ennis, Montana

Complainant

Address Telephone

Complaint

Location

Legal information: Lot(s) Block(s) Subdivision

C/S# Tax ID#

Owner

Address Telephone

---

First inspection:

Notice sent to owner/occupant

Date

---

Second inspection:

---

Follow-up:

---

Complaint disposition:

Dismissed Compliance Citation

(Ord. 131, 3-14-2002)

**11-5-5: SKETCH AND SITE PLAN REQUIREMENTS AND CHECK-LIST:**

**SKETCH AND SITE PLAN REQUIREMENTS AND CHECKLIST**

Town of Ennis, Montana

Scaled or dimensioned site plan that includes the following:

.Name of land or building and address

.Date, north arrow and scale

.Proposed land or building use

.Lot or property boundaries

- .Adjacent public right of way locations and names
- .Adjacent properties and zoning classifications
- .Location and dimensions of all buildings
- .Building setbacks from property lines
- .Building setbacks from side street, if applicable
- .Building separation (for multiple bldgs. on property)
- .Building height (from finished grade to highest point on the building)
- .Clear vision zone (for corner lots)
- .Lot size, in square feet
- .Lot coverage, in percent
- .Landscaped area
- .Off street parking location and # of spaces
- .Required screening, if applicable
- .Location of streams, lakes and land subject to flooding  
(Ord. 131, 3-14-2002)

## **11-5-6: SIGN PERMIT APPLICATION:**

## SIGN PERMIT APPLICATION TOWN OF ENNIS, MONTANA

Applicant to complete numbered spaces only			PERMIT #	
1. Street address				
2. Legal description		Lot / tract No.	Block	Subdivision or Certificate #
3. Zoning		Street frontage	Wall sq. ft. (front, side, rear)	
4. Owner/ business		Mailing address	City	Zip code
5. Sign contractor		Mailing address	City	Zip code
6. Sign reads...				
7. Type of sign ( wall, projecting, banner, awning, ground mounted, roof, etc.)				
8. Dimensions of sign		Top / bottom height	Width	Area
9. Setback from property line		Front	Rear	Side
10. Other signs on the property		Dimensions / sq. ft.	Location	Number
11. Submit a detailed site plan showing frontages, setbacks, building dimensions and location, sign location and other pertinent information.				
12. Submit a detailed sketch of sign and sign structure showing dimensions, height to top and bottom of sign, type of construction, method of attachment, electrical and other pertinent information.				
13. Other special conditions of property, building or sign				
<b>14. AGREEMENT</b> The issuance or granting of a sign permit or approval of plans or specifications shall not be construed to be a permit for, or an approval of, a violation of any of the provisions of the adopted zoning code or any other ordinance of the Town of Ennis. The undersigned agrees that the proposed work shall be done in accordance with the plans and specifications and the statements made in this application and in conformance with applicable Town codes or ordinances. This permit becomes null and void if work or construction authorized by the permit is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced. Separate permits may be required for electrical installations.				
Applicant signature			Date	
Remarks and special conditions				
Application accepted by		Plans approved by	Permit issued by	Permit fee

(Ord. 131, 3-14-2002)

### 11-5-7:LANDSCAPING PLAN REQUIREMENTS AND CHECKLIST:

## LANDSCAPING PLAN REQUIREMENTS AND CHECKLIST Town of Ennis, Montana

Scaled or dimensioned site plan that includes the following:

- .Name of land or building and address
  - .Date, north arrow and scale
  - .Proposed land or building use
  - .Lot or property boundaries
  - .Adjacent public right of way locations and names
  - .Adjacent properties and zoning classifications
  - .Location and dimensions of all buildings
  - .Building setbacks from property lines
  - .Building setbacks from side street, if applicable
  - .Building separation (for multiple bldgs. on property)
  - .Clear vision zone (for corner lots)
  - .Lot size, in square feet
  - .Lot coverage, in percent
  - .Landscaping, in square feet
  - .Type of landscaping materials and locations
  - .Off street parking location and # of spaces
- (Ord. 131, 3-14-2002)

### **11-5-8:ZONING PERMIT APPLICATION:**

## ZONING PERMIT APPLICATION TOWN OF ENNIS, MONTANA

Applicant to complete numbered spaces only						PERMIT #			
1. Job Address									
2. Legal Description		Lot/Tract No		Block		Subdivision or Certificate #			
3. Owner					Mail address				
4. Contractor					Mail address			City/Zip	
5. Architect or designer					Mail address			City/Zip	
6. Engineer					Mail address			City/Zip	
7. Bldg. Setbacks		Front	Side	Side	Rear	8. Building Dimension	Length	Width	Height
9. In City limits?			10. Basement?			11. Number Bedrooms		12. # dwelling units	
13. In flood zone?				14. Flood elevation:			15. Elevation of lowest finished floor		
16. Existing use of property/building									
17. Proposed use of property/building									
18. Permanent or temporary use?				19. Home occupation?			20. Zoning district classification		
21. Describe work to be done on the property/building									
22. Landscape plan? (See appendix for plan requirements)					23. Sketch/site plan? (See appendix for plan requirements)				
<p><b>24. AGREEMENT</b></p> <p>The issuance or granting of a permit or approval of plans or specifications shall not be construed to be a permit for, or an approval of, a violation of any of the provisions of the adopted zoning code or any other ordinance of the Town of Ennis. The undersigned agrees that the proposed work shall be done in accordance with the plans and specifications and the statements made in this application and in conformance with applicable Town codes or ordinances pertaining to land or building uses. This permit becomes null and void if work or construction authorized by the permit is not commenced within 180 days, or if construction or work is suspended or abandoned for a period of 180 days at any time after work is commenced.</p>									
Applicant signature _____					Date _____				
<b>REMARKS AND SPECIAL CONDITIONS:</b>									
Application accepted by:			Plan approved by:			Permit issued by:		Permit fee:	

(Ord. 131, 3-14-2002)

### 11-5-9:PERMIT APPLICATION FEES:



## TOWN OF ENNIS PERMIT APPLICATION FEES

Zone change	\$500.00 plus publication, posting and mailing costs
Conditional use permit	500.00 plus publication, posting and mailing costs
Variance	200.00 plus publication, posting and mailing costs
Zoning permit	100.00 for projects requiring sketch plan review
	200.00 for projects requiring site plan review
Sign permit	1.00/square foot
Fence permit	25.00
Decks	25.00
Garage	75.00
Auxiliary storage (Not attached)	50.00

(Ord. 131, 3-14-2002)

## Chapter 6 COMMUNITY SIGNAGE

### 11-6-1: INTENT:

The intent of this chapter is to provide a comprehensive system of reasonable, effective, consistent, content neutral, and nondiscriminatory sign standards. (Ord. 139, 5-24-2015)

### 11-6-2: PURPOSE:

The purpose of this chapter is to establish requirements, and to encourage good design, that meet the identification and information needs of all land uses and reflect the special character of Ennis. A basic tenet in adopting and applying these regulations is that unrestricted signs do not benefit either the private business owner or the community at large. Toward this end, the town commission finds that the town of Ennis is a unique historic agricultural community that depends on a tourist economy. Tourists are attracted to the visual quality and character of the town. Sign regulations are intended to:

- A. Recognize that signs are a necessary means of useful communication for the convenience of the public.
- B. Maximize the value of signage as a means of locating and identifying businesses and properties.
- C. Protect, preserve, and enhance the unique character beauty, and small town charm of Ennis and its surrounding areas as a place to live, vacation, and to conduct business that encourages the continued development of tourism.
- D. Promote signs that are of appropriate scale and integrated with the surrounding buildings and landscape to further the community's desire for quality development.
- E. Promote clear views of the natural surroundings by minimizing visual clutter, reducing the competition for air space, and encouraging the construction of signs of natural looking materials, which are compatible with the historic, cultural and natural surroundings.
- F. Protect the public from hazardous conditions that can result from signs that are structurally unsafe, obscure the vision of motorists, create dangers to pedestrian traffic, or which compete or conflict with necessary traffic signals and warning signs.
- G. Eliminate distracting lighting, excessive glare, and light pollution by reasonably limiting the illumination of signs and buildings to subdued, adequately shielded, or concealed light sources.
- H. Impose reasonable time, place, and manner restrictions while not interfering with the free exercise of rights granted under the first amendment of the constitution of the United States Of America.
- I. Meet the identification and information needs of all land uses.
- J. Reflect the important aspect of signs in our community, while maintaining our heritage. The lack of signage creates a hardship on merchants and visitors who rely on effective signing to identify businesses and services. (Ord. 139, 5-24-2015)

### **11-6-3: APPLICABILITY AND SCOPE:**

The provisions of this chapter shall apply to the display, construction, erection, alteration, use, maintenance, and location of all signs within the town of Ennis. All signs that are displayed, constructed, erected, or altered after the date of adoption of this chapter shall conform to the provisions of these regulations. Any sign not addressed in this chapter shall be addressed with a conditional use permit.

- A. Any sign that does not require a permit does not count against a property's allocation.
  
- B. The zoning administrator shall enforce this chapter. The duties associated with administering and enforcing this chapter may also be combined with the duties of other existing positions in the town of Ennis.
  
- C. Unless specifically exempted, it shall be unlawful to erect, place, construct, reconstruct, or relocate any sign without first obtaining a sign permit from the town of Ennis. Exemptions from the necessity of securing a permit, however, shall not be misconstrued to relieve the owner of the sign involved from responsibility for its erection and maintenance in a safe manner and in a manner in accord with all the other provisions of this chapter.
  
- D. Before any permit is granted for the erection of a sign or sign structure requiring such permit, plans and specifications shall be filed at town hall. Plans must show the dimensions, list materials, and required details of construction including anchorage, and any other pertinent data. The permit application shall be accompanied by the written consent of the owner or lessee of the premises upon which the sign is to be erected. (See section [11-6-10](#) of this chapter for complete sign permit procedures.)
  
- E. No sign shall be enlarged or relocated except in conformity to the provisions herein, and until a proper permit, if required, has been secured.
  
- F. A schedule of permit fees to erect, alter, or relocate a sign shall be established by resolution of the town commission of the town of Ennis. (Ord. 139, 5-24-2015)

### **11-6-4: DEFINITIONS:**

For purposes of this chapter, the following definitions are applicable:

**ALTERNATION OF SIGN:** The moving or modification, in any manner, of a sign or its structure including, but not limited to, height, size, area, shape, or foundation, but excluding the exchange, replacement, or repainting of the sign faces of cabinet type signs where there are no changes to the original structure. The changing of movable parts or components of a sign that is designed for such changes, or the changing of copy, display and/or graphic matter, or the content of any sign shall not be deemed an alteration.

**AWNING:** An architectural projection that provides weather protection, identity, or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton over which a covering is attached.

**BEACON:** Any light source with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate, flash or move.

**BLIGHT:** The state or result of being deteriorated or ruined.

**BUILDING FACADE:** That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves for the entire width of the building elevation or that portion comprising the exterior elevation of one business located in a multiple-tenant structure.

**BUILDING GRAPHICS:** A mosaic, mural, painting, graphic art technique or combination or grouping thereof, applied or implanted directly onto a building wall or fence.

**CANOPY:** A roofed structure that covers an area, especially one that shelters a passageway between two (2) buildings.

**COPY:** The graphic content of a sign surface in either permanent or removable letter, pictographic, symbolic, or alphabetic form.

**DILAPIDATED:** A sign on which:

- A. The lettering or background material or any part of the sign has flaked, broken off, or changed color;
- B. Structural supports or frame members are visibly corroded, stained, bent, broken, or dented; or
- C. Sign supports are twisted, leaning or at angles other than those at which the sign was originally erected.

**HEIGHT OF SIGN:** The vertical distance measured from the highest point of the sign to the adjacent street grade or surface beneath the sign.

**LEADING EDGE:** The portion of a sign that is closest, in any direction, to the adjacent property line or right of way line.

**MARQUEE:** A projecting structure over the entrance to a building or structure, especially a theater or hotel.

**PROPERTY FRONTAGE:** A side of a property that borders on a public street.

**SECONDARY FRONTAGE:** A side of a property that faces a parkway (alleyway) or an interior park.

**SIGN:** The means by which anything is made visibly known or used to identify, advertise or promote an individual, firm, association, corporation, professional business, commodity, service or product, that can be viewed from the public right of way. For the purposes of removal, "sign" shall also include all sign structures.

**SPORTS ARENA SIGN:** A sign displayed, for advertisement purposes, at outdoor sporting arenas (examples: baseball and football fields, etc.) on arena boundary fences, scoreboards or other integral structures of the arena. Sports arena signs do not require a sign permit. (Ord. 139, 5-24-2015)

## **11-6-5: SIGN TYPE DEFINITIONS, REGULATIONS, AND PROHIBITIONS:**

For purposes of this chapter, the following sign type definitions and regulations shall apply:

Abandoned/Obsolete Signs:

A. Definition: Any sign, including all structural, support and other componential elements, which advertises a business no longer in operation; a lessor, owner, product or activity conducted or product available on the premises that is no longer available where the sign is displayed.

B. Prohibition: Abandoned signs are prohibited.

C. Removal: Abandoned signs, on or off premises, are hereby declared a nuisance and the sign owner or property owner shall either remove the sign structure or replace the obsolete sign face with a blank sign face within thirty (30) days of receiving notice of violation. Extensions to this deadline may be granted for reasons, such as weather, provided a time line is submitted supporting a reasonable removal process. Any sign which is located on a property which becomes vacant and unoccupied for a period of six (6) months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. Signs associated with a business temporarily suspended because of sale or lease of the business shall not be deemed abandoned unless the property remains vacant for a period of six (6) consecutive months, at which time the sign face shall be replaced with a noncommercial facing approved by the zoning administrator. Signs of a historical nature shall not be subject to the provisions of this subsection.

Address Signs:

- A. Definition: Any sign displaying the name and/or location of the occupant/tenant of the property, building, or subdivision.
- B. Allowance: Address signs are allowed.
- C. Regulations:
1. Address signs do not require a sign permit; provided, the area of an address sign does not exceed two (2) square feet; per sign face, if sign is double sided.
  2. Not more than one address sign shall be permitted on a property held in single and separate ownership unless such property fronts on more than one street, in which case one address sign shall be permitted on each separate street frontage.
  3. Signs displaying the name of an apartment building shall not exceed thirty two (32) square feet in area; per sign face, if sign is double sided. Unless otherwise regulated by specific reference herein, freestanding address signs shall be limited to a height of fifteen feet (15').
  4. Only one sign advertising a home occupation or avocation shall be allowed per property.

#### Animated Sign:

- A. Definition: A sign or display manifesting either kinetic or illusory motion occasioned by natural, manual, mechanical, electrical, or other means. Animated signs shall include signs that incorporate fluttering, undulating, swinging (noncanopy signs), rotating, or otherwise moving signs, pennants, balloons, holograms, light beams, or other free flowing decorations into the sign structure. This shall not include signal lights and other public safety signs maintained by government.
- B. Prohibition: Animated signs are prohibited.

#### Awning Sign:

- A. Definition: A sign that is generally composed of a skeletal frame covered in a fabric type material typically open on the bottom side, which extends along and/or projects beyond the wall of the building and that is generally designed to provide protection from the weather.
- B. Allowance: Awning signs require a sign permit.

### C. Regulations:

1. Supports, posts or columns beyond the property line will not be permitted.
2. Awning signs shall maintain a minimum clearance of eight feet (8') from the top of the sidewalk to the bottom of the sign.

### Banner Sign:

A. Definition: A nonrigid advertising sign, and is generally made of vinyl, or fabric.

B. Allowance: Banner signs require a sign permit when the signs are intended to be permanent and must be framed internally or externally by, and mounted to, a rigid material. (Temporary banner signs are addressed in "temporary, portable, or special event signs", of this section.)

### Beacon Lights And Strobe Lights:

A. Definition: Any light source with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source; also, any light with one or more beams that rotate, flash, or move.

B. Prohibition: Beacon lights and strobe lights are prohibited.

C. Removal: Rotating or strobe lights attached to any sign structure, sign, or building are hereby declared a nuisance and shall be taken down by the owner within ninety (90) days of adoption of the ordinance codified herein. Extensions of this deadline may be granted for reasons, such as weather, provided a time line is submitted supporting a reasonable removal process.

### Billboard Signs:

A. Definition: An off premises sign that is two hundred fifty (250) square feet or larger.

B. Prohibition: Billboard signs are prohibited.

### Canopy Or Marquee Sign:

A. Definition: A sign attached to or constructed in or on a canopy or marquee.

B. Allowance: Canopy or marquee signs require a sign permit.

C. Regulations:

1. Canopy and marquee signs are permitted in the L-CR, C-CR, C-I, HC and P-I districts.
2. Canopy signs shall maintain a minimum clearance of eight feet (8') from the top of the sidewalk to the bottom of the sign.

Construction/Artisan Signs:

A. Definition: Temporary signs of contractors or artisans displayed during the period which such contractors or artisans are performing work on the property upon which such signs are displayed.

B. Allowance: Construction/artisan signs do not require a permit.

C. Regulations:

1. Construction/artisan signs are permitted in all zoning districts.
2. Construction/artisan signs shall not exceed six (6) square feet; per sign face, if sign is double sided.
3. Such signs shall be limited to one sign per contractor or artisan, may be put up two (2) weeks prior to commencement of work, and shall be removed immediately upon completion of the work of the contractor or artisan.

Directional Or Instructional Signs:

A. Definition: A permanently erected and incidental sign designed to guide or direct pedestrian or vehicular traffic. Such signs include those identifying restrooms, public telephones, public walkways, public entrances, freight entrances, affiliation with motor clubs, acceptance of designated credit cards, and other similar signs providing direction or instruction to persons using a facility.



B. Allowance: Directional or instructional signs do not require a sign permit.

C. Regulations:

1. Directional or instructional signs are allowed in all zoning districts.
2. Advertising materials of any kind are strictly prohibited on directional and instructional signs.
3. Directional or instructional signs shall not exceed the following zoning district size limitations:
  - a. R-LD, R-TD, R-RD, and R-MD: Two (2) square feet; per sign face, if sign is double sided.
  - b. All other zones: Four (4) square feet; per sign face, if sign is double sided.

Flags:

A. Definition: A piece of fabric attached to a staff or cord on one end and generally used as a symbol of a nation, state, political subdivision, or organization.

B. Allowance: Noncommercial flags do not require a sign permit. Commercial flags require a sign permit and the square footage of the commercial flag will count against the owner's allocated signage area.

C. Regulations:

1. Flags are allowed in all zoning districts.
2. The maximum size of any flag shall be restricted to the maximum size that is safely allowed to fly from the flagpole where it is to be displayed as determined by the manufacturer's or engineer's specifications.
3. A flagpole's maximum height will be equal to or less than the maximum building height allowed by the town zoning code and all applicable building codes.
4. A flagpole shall not be considered a "tower".
5. All flagpoles installed prior to the acceptance of this chapter are grandfathered.

Freestanding Sign:

A. Definition: A sign erected on a freestanding frame, mast or pole, not attached to a building, and located on the property where the business advertised on the sign face is located.

B. Allowance: Freestanding signs require a sign permit.

C. Regulations:

1. Freestanding signs are permitted in the L-CR, C-CR, C-I, HC and P-I districts.
2. Freestanding signs and support structures shall not exceed fifteen feet (15') in height. All freestanding signs installed prior to the acceptance of this chapter are grandfathered.
3. Limit of two (2) freestanding signs for each property's street frontage.

Garage Sale Sign:

A. Definition: A sign used to advertise a nonrecurring garage sale or yard sale.

B. Allowance: Garage sale signs do not require a sign permit.

C. Regulations: Garage or yard sale signs shall not be placed more than five (5) days prior to the sale and must be removed within two (2) days after the end of sale.

Government Sign:

A. Definition: A sign placed or erected by a governmental agency or nonprofit civic association for a public purpose in the public interest for control of traffic and for other regulatory purposes; street signs, warning signs, railroad crossing signs, signs of public service companies indicating danger; and aids to service and safety which are erected by or for the order of government.

B. Allowance: Government signs do not require a sign permit.

Historic Sign:

A. Definition: A sign which has historical or cultural significance to the town of Ennis or which is listed on the national register of historic places.

B. Allowance: Historic signs do not require a sign permit.

C. Regulations:

1. Signs placed on a historic building identifying the structure as a property listed on the inventory of the national register of historic places shall not exceed two (2) square feet in area.
2. The sign must be maintained as close to its original form as possible.

Holiday Decorations:

A. Definition: Noncommercial signs or other materials displayed on traditionally accepted civic, patriotic, and/or religious holidays.

B. Allowance: Holiday decorations do not require a sign permit.

C. Regulations: Holiday decorations shall be maintained in safe condition and will not create a fire hazard.

Illuminated Sign:

A. Definition: A sign that uses a source of light to make the message readable, including signs that are either internally or externally lighted and signs that may be reflecting, glowing, or radiating by virtue of another light source.

B. Allowance: Illuminated signs require a sign permit.

C. Regulations:

1. Illuminated signs are permitted in the L-CR, C-CR, C-I, HC and P-I districts.
2. All lighting sources shall be electrical in nature. No open flames are allowed.
3. Exterior lighting is permitted; provided, that the following criteria are satisfied:
  - a. Lights shall be designed, located, shielded, and directed in such a manner that the light source is fixed.

- b. A sign's light source shall not be directly visible, or cast direct light upon any adjacent public right of way, surrounding property, residential property, or motorist's field of vision.
4. Internal lighting is permitted; provided, that the following criteria are satisfied:
  - a. The proposed light source shall not be visible from the exterior of the sign, which shall include the back, edges, and sides of the sign.
  - b. Any proposed internally lighted sign application shall submit plans depicting the location and types of lighting to be used.
5. Backlit signs are permitted; provided, that the following criteria are satisfied:
  - a. Signs shall be lighted from a source mounted on the wall behind the proposed sign. The light source shall not be visible through the sign. Lighting shall be visible only along the edges of the sign and light shall not extend more than twelve inches (12") beyond the sign edges.
  - b. Any proposed backlit lighted sign permit application shall include plans depicting the location and types of lighting to be used.

#### Interior Sign:

- A. Definition: A sign which is fully located within the interior of any building and not intended for external viewing, or within an enclosed lobby or courtyard of any building.
- B. Allowance: Interior signs do not require a sign permit.

#### Menu Sign:

- A. Definition: A sign that displays a list of products offered by a business.
- B. Allowance: Menu signs do not require a sign permit provided they are less than two (2) square feet.

#### Message Center Sign (EMC: Electronic Message Center):

- A. Definition: A sign containing a display that can be changed by a manual, mechanical, electrical, electronic, and/or a computerized process.

B. Allowance: Message center signs are prohibited.

#### Neon Sign:

A. Definition: Any sign using bent glass tubes for the copy.

B. Allowance: Neon signs require a sign permit.

#### C. Regulations:

1. Neon signs are not permitted in residential districts.
2. Limit of two (2) neon signs per business are allowed, in addition to an open, vacancy, no vacancy, etc., sign, provided the maximum size is two (2) square feet; per sign face, if sign is double sided.
3. A single neon sign shall not exceed six (6) square feet.
4. Neon signs are to stay steadily lit.

#### Obscene Sign:

A. Definition: A sign that contains offensive language, is hate based, is discriminatory, or on which the dominant theme of material taken as a whole appeals to a prurient interest in sex, or is patently offensive because it affronts community standards relating to the description or representation of sexual matters, and is utterly without redeeming social value.

B. Prohibition: Obscene signs are prohibited.

#### Off Premises Sign:

A. Definition: Any sign normally used for promoting an interest other than that of a business, individual, product, or service available and primarily located on the premises where the sign is located.

B. Prohibition: Off premises signs are prohibited. A variance may be obtained and approved, with or without special requirements set forth by the town council, etc., to allow for an off premises

sign.

- C. Existing: Off premises signs, in existence prior to this chapter taking effect, shall, within two (2) years, obtain a variance to continue the use.

#### Political Sign:

- A. Definition: A temporary sign intended to advance a political statement, cause, or candidate for office.

- B. Allowance: Political signs do not require a sign permit.

#### C. Regulations:

1. Political signs are allowed in all zoning districts.
2. A political sign relating to the election of a person running for public office or relating to a matter to be voted upon at an election called by a public body shall not be erected for more than forty five (45) days prior to the election date for which the candidate or matter is scheduled to be held. Such signs shall be removed within ten (10) days following such election or referendum.
3. Political signs may not exceed six (6) square feet in area.
4. Political signs shall not be illuminated.

#### Projecting Sign:

- A. Definition: A sign that is attached to a structure, building face, or pole and projects over a public right of way.

- B. Allowance: Projecting signs require a sign permit.

#### C. Regulations:

1. Projecting signs are permitted in the L-CR, C-CR, C-I, HC and P-I districts.
2. Only one projecting sign per property frontage is allowed.

3. No projecting sign shall exceed forty eight (48) square feet in area; per sign face, if sign is double sided.

#### Public Notices:

- A. Definition: Official government notices, legal notices, "No Trespassing" signs, and signs which indicate the private nature of a road, driveway, or property.
- B. Allowance: Public notices do not require a sign permit.
- C. Regulations:
  1. Public notices are allowed in all zoning districts.
  2. No public notice shall exceed six (6) square feet in area.

#### Real Estate Sign:

- A. Definition: A temporary sign that is used to advertise the fact that a property is for sale, lease, or rent.
- B. Allowance: Real estate signs do not require a sign permit.
- C. Regulations:
  1. Real estate signs are allowed in all zoning districts subject to the following size limitations:
    - a. In the residential zoning districts: Six (6) square feet per sign face, if sign is double sided.
    - b. In all other zoning districts: Twelve (12) square feet per sign face, if sign is double sided.
  2. Real estate signs shall be permitted only during the time in which the property advertised is available for sale, lease, or rent, and must be removed within ten (10) days after execution of an agreement of sale, lease, or rental agreement.
  3. Not more than one real estate sign shall be placed on property held in single and separate ownership unless:
    - a. The property fronts on more than one street, in which case one real estate sign shall be permitted on each separate street frontage.

b. One real estate sign shall be allowed for every two hundred feet (200') of frontage.

#### Residential Business Sign:

A. Definition: A sign advertising a home occupation or avocation.

B. Allowance: Residential business signs require a permit.

C. Regulations:

1. One sign advertising a home occupation or avocation is allowed.
2. Sign area shall not exceed two (2) square feet; per sign face, if sign is double sided.

#### Roof Sign:

A. Definition: A sign erected, constructed, and maintained upon, or connected to, the roof of any building and that uses the roof structure as its primary means of support.

B. Allowance: Roof signs require a sign permit.

C. Regulations:

1. Roof signs are permitted in the L-CR, C-CR, C-I, HC and P-I districts.
2. Roof signs may not exceed six feet (6') above the roof.
3. Roof signs may not exceed twenty percent (20%) of the total allowed sign area.
4. Roof signs shall appear to be an architectural feature and integral part of the building upon which they are mounted. Supporting columns may be erected if the bracing that is visible to the public is minimized or covered.

#### Service Sign:

A. Definition: Acceptable sources of payment or membership.



B. Allowance: Service signs do not require a permit if less than one square foot.

C. Regulation:

1. Service signs may not be attached to a permitted sign.

Sidewalk Sign:

A. Definition: A sign placed on the pedestrian public right of way.

B. Allowance: Sidewalk signs require a sign permit.

C. Regulations:

1. Sidewalk signs are permitted in the L-CR, C-CR, C-I, HC and P-I districts.
2. Sidewalk signs may only be utilized when a business is open.
3. Sidewalk signs shall be at least three feet (3') tall but no more than four feet (4') tall and may not exceed two and one-half feet (2<sup>1</sup>/<sub>2</sub>') in width.
4. The leading edge of a sidewalk sign shall be positioned no more than thirty six inches (36") from the building property line and are not allowed on street or town right of way.
5. Sidewalk signs shall be placed outside of normal pedestrian traffic.
6. Sandwich boards located on property other than the advertising business will require written permission from the property owner where the sign is displayed.

Skylights And Searchlights:

A. Definition: Lights used to illuminate the sky for the purpose of drawing attention to a business or event.

B. Prohibition: Skylights and searchlights are prohibited.

Sports Arena Sign:

A. Definition: Sports arena signs are signs displayed, for advertising purposes, at outdoor sports arena.

B. Allowance: Sports arena signs do not require a sign permit.

C. Regulations:

1. Sports arena signs are allowed at established sporting arenas that provide essential nonprofit services to the community.
2. Signs must be kept in good physical and aesthetic condition to provide safety and functionality to athletes and spectators.
3. Abandoned/obsolete signs are not allowed and shall be removed upon request by the zoning administrator.
4. Signs are limited to be displayed on actual arena boundary fencing, scoreboards or other integral arena structures that do not interfere with the participation of competitors or spectator's field of vision or play.
5. Signs must comply with all regulations set forth in this chapter and all other restrictions set forth throughout the sign ordinance, as a whole.

Temporary, Portable, Or Special Event Signs:

A. Definition: Any sign that is designed or intended to be relocated from time to time, whether or not permanently attached to a building or structure, or located on the ground. Such signs include, but are not limited to: signs on wheels or on portable or mobile structures, trailers, skids, tent signs, airborne signs, banners, and pennants.

B. Allowance: Temporary or portable signs do not require a sign permit.

C. Regulations:

1. Temporary or portable signs do not count against a property's maximum allowable signage area.
2. Unless the length of time a temporary sign may be displayed is specifically addressed elsewhere in this chapter, no temporary sign shall be permitted to be displayed for a period in excess of ninety (90) days during a period of three hundred sixty five (365) days, unless a longer period of display time is approved by the zoning administrator or his/her designee.

3. Unless the size of a temporary sign is specifically addressed elsewhere in this chapter, the size of any temporary sign shall not exceed the size limits provided for any permanent sign of like configuration and/or type in a given district.
4. Street banners across the highway require the written approval of the Montana state department of transportation.
5. Temporary signs may not be electrically energized or contain any electrical device.
6. A temporary sign may be illuminated; provided, that such illumination is in adherence to the guidelines detailed herein.
7. Temporary banners advertising "Grand Opening", "Going Out Of Business", or "New Ownership/Management" events are permitted on a onetime basis and do not count against a property's maximum allowable signage area. Banners may be placed on the structure for no more than fifteen (15) days and shall be wholly located on private property. Only one "Grand Opening" temporary sign shall be permitted for the life of a business. A subsequent "Grand Opening" or "Going Out Of Business" banner may be permitted when business ownership has transferred to a new owner, or when the business moves to a new location.
8. Banners and other temporary signs for townwide expositions and special events are allowed, provided the following conditions are met:
  - a. The sponsor obtains a user agreement.
  - b. The zoning administrator or his/her designee shall review and approve proposed placement, size, and time of display of the banner or temporary sign.
  - c. Such banners and temporary signs shall not count against the sponsor's maximum signage area.
  - d. Approved banners shall not impede the public right of way.
  - e. Where required, clearance under the sign shall be eight feet (8').
  - f. Party type balloons shall be permitted in order to attract attention to an event; provided, that they are removed immediately following the close of the event.
  - g. No temporary or special event sign shall be displayed for more than thirty (30) days prior to an event. Such signs shall be removed within seven (7) days of the end of an event.
9. Community signboards for the notification of special events, and display standards and locations of such signs, shall be provided for review and approval by the zoning administrator or his/her designee.

#### Vacancy/Open/Office Sign:

- A. Definition: Signs that advertise "Vacancy", "No Vacancy", "Open", "Closed", and "Office".

**B. Allowance:**

1. Vacancy/open/office signs do not require a sign permit; provided, that the proposed sign does not exceed six (6) square feet in area; per sign face, if sign is double sided.
2. Vacancy/open/office signs may be of the neon sign nature but must remain constantly and unchangingly lit while business is open and operating and must be turned off while business is closed.

**Vehicle Sign:**

A. Definition: A sign that is attached to or placed in or on a truck, bus, car, trailer, boat, recreational vehicle, or any other vehicle. Vehicle signs shall exclude bumper stickers, license plates, and inspection and registration stickers.

B. Allowance: Vehicle signs do not require a permit.

**C. Regulations:**

1. A vehicle to which a sign is attached cannot be used for the sole purpose of advertising. It is the responsibility of the property owners to provide proof that the vehicle has a legitimate business purpose other than display of the sign.
2. The vehicle signs must be painted upon or applied directly to an integral part of the vehicle.

**Wall Sign:**

A. Definition: Any sign attached to, painted on, or installed upon a wall of a building, with the exposed face parallel to the building wall and/or parapet.

B. Allowance: Wall signs require a sign permit.

C. Regulations: Wall signs shall count toward maximum allowable signage area for a structure.

**Window Sign:**

A. Definition: A sign installed inside a building or upon the window surface for the purpose of viewing from outside.

B. Allowance: Window signs require a sign permit.

C. Regulations:

1. This section shall not apply to window displays, such as clothing, merchandise, or real estate photographs; provided that they are displayed inside the window.
2. Window signs shall count toward the maximum allowable signage area for a structure, and should not cover more than forty percent (40%) of total window space.
3. Temporary window posters/signs for nonprofit and citywide events shall not count against the maximum allowable signage area for a structure.

Works Of Art:

A. Definition: Works of art which in no way identify or advertise a person, product, service, or business; also religious symbols and commemorative plaques.

B. Allowance: Works of art do not require a permit. (Ord. 139, 5-24-2015)

## **11-6-6: SIGN RELATED ACTIVITIES PERMITTED IN ALL ZONES:**

The following sign related activities shall be exempt from obtaining a sign permit in the R-RD, R-LD, R-MD, R-TD, L-CR, C-CR, HC, P-I and C-I districts. Exemptions shall not be misconstrued as relieving the applicant and owner of the sign from the responsibility of complying with all applicable provisions of this chapter. The exemption shall apply to the requirement for a sign permit under this section. The regulations below shall not have forbearance in districts that have covenants wherein the covenants are more restrictive and shall have forbearance where the covenants are less restrictive. In general, the more restrictive covenant or ordinance shall apply.

A. Preventive Maintenance: The ordinary preventive maintenance of a lawfully existing sign, which does not involve a change of placement, size, lighting, color or height. A sign may be temporarily removed for off site maintenance or repair, provided that it is reinstalled in the original location.

- B. Repainting: The repainting of a lawfully existing sign exactly as it was prior to such activity shall be allowed. (Ord. 139, 5-24-2015)

### **11-6-7: PROHIBITED SIGNS:**

- A. In addition to any sign not specifically permitted in accordance with this chapter, the erection, construction, alteration, relocation, or placement of the following signs is expressly prohibited in the town of Ennis after the date of the adoption of the ordinance codified herein:
1. Signs which move and/or are animated by means of flashing, traveling or blinking lights, or other means not providing constant illumination, unless specifically allowed within this chapter.
  2. Appendages to primary signs which have flashing, blinking, or traveling lights.
  3. Any sign which emits sound, odor, or visible matter.
  4. Any sign erected without a permit, if a permit is required.
  5. Any sign erected in or over public right of way or other public property, unless the same is erected by the town, county, state or other authorized governmental agency, or with the permission of the town, for public purposes, unless allowed within this chapter.
  6. Signs which bear or contain statements that demean or otherwise degrade religions, races, or ethnic groups.
  7. Signs, including political signs, attached, maintained, painted, printed or otherwise affixed to any curb, sidewalk, post, pole, hydrant, bridge, bench, tree or other surface on public property, or over or across any street or public thoroughfare, except by a duly authorized public employee or as required or permitted by law. This section shall not apply to signs advertising garage sales, yard sales, bake sales, lost pets, missing persons, or other similar purposes.
  8. Illegal signs are signs constructed or altered after the date of sign code adoption, without first obtaining an approved sign permit, or were constructed or maintained illegally before the date of sign code adoption and which do not comply with its provisions, including proper maintenance.
  9. Abandoned signs are those that advertise entities that have been abandoned for any length of time or vacated for a period in excess of one year.
- B. The following provisions shall govern procedures for bringing illegal and abandoned signs into compliance:
1. Illegal signs, including signs that are in disrepair, are deteriorated or are unsafe, shall be removed within thirty (30) days after notification by the zoning administrator by the owner or lessee of the premises upon which the sign is located.
  2. Abandoned signs shall be removed within thirty (30) days after notification by the zoning administrator. Sign shall be removed by the owner or lessee of the premises, upon which the

sign is located when the advertised business is no longer conducted on the premises. (Ord. 139, 5-24-2015)

### **11-6-8: NONCONFORMING SIGNS:**

Nonconforming signs are signs which do not meet the physical criteria, that in other ways violate this chapter and which legally existed on or before this chapter's date of adoption. The following provisions shall govern procedures for bringing nonconforming signs into compliance:

- A. Nonconforming signs shall be brought into compliance when the building or premises housing the entity being advertised is moved, expanded or structurally altered.
  
- B. Nonconforming signs which are structurally altered, relocated or replaced shall immediately conform to the requirements of this chapter except that:
  - 1. Signs may be structurally altered where such alteration is necessary for public safety.
  - 2. Signs may be reinstalled if they are moved for construction or repairs of public works or public facilities and such reinstallation is completed within one year.
  - 3. Signs may be repaired and reinstalled if they are damaged by an act of God or by an accident, provided:
    - a. Such damage does not exceed fifty percent (50%) of the cost of reconstruction; and
    - b. Provided that such sign is reconstructed within one hundred eighty (180) days of the date the sign is damaged. (Ord. 139, 5-24-2015)

### **11-6-9: DESIGN STANDARDS AND GENERAL PROVISIONS:**

- A. Materials: The town of Ennis encourages the use of natural appearing materials for sign construction, whenever possible, to blend with the local historical flavor.
  
- B. Measurement Standards For Signs: Each property shall be allowed a maximum signage area of three and one-half ( $3\frac{1}{2}$ ) square feet per linear foot of property frontage and one square foot per linear foot of secondary frontage. All signs shall be measured from the outer edge of the sign and such measurements shall include all letters, designs, logos, and pictures incorporated into the sign. Signs consisting of individual letters, elements, or logos placed on building walls or structures

shall be defined by boxes to calculate the sign area. No more than four (4) boxes may define a sign area.

1. All permitted signs shall count toward the total maximum signage area.
2. The area of a two (2) sided sign (faces are 180 degrees from each other) shall be calculated using one sign face.
3. From any point, if multiple faces of a sign are visible, then the maximum number of faces visible will be used to calculate signage area.

C. Property With More Than One Frontage: If a property has more than one frontage, then the sign allotment for each property frontage will be computed separately. The sign allotment thus calculated may then be applied to permitted signs placed on each frontage.

D. Display Standards: The display of all signs regulated by the town of Ennis shall conform to the standards set forth in this section.

1. Signs shall not resemble, imitate, or approximate the shape, size, form or color of traffic signs, signals, or other devices for traffic control. Signs shall not obstruct or interfere with the effectiveness of traffic signs, signals, or devices. Signs that impede the clear sight distance or obstruct traffic control devices will be removed by the town of Ennis and/or the Montana department of transportation.
2. Signs shall not be erected, relocated, or maintained in such a way that prevents free ingress or egress from any door, window, or fire escape.
3. Sign foundations shall not be constructed within the public right of way; signs placed in the public right of way will be removed by the town of Ennis and/or the Montana department of transportation.
4. Canopy and projecting signs over public walkways may do so only subject to the projection and clearance limits either defined herein or at a minimum height of eight feet (8') from grade level to the bottom of the sign. Signs, architectural projections, or sign structures projecting over vehicular access areas must conform to the minimum height clearance limitations imposed by the town for such structures.
5. All signs shall be located in such a way that they maintain horizontal and vertical clearance from all overhead electrical conductors in accordance with the national electrical safety code and local utility specifications.
6. A sign shall not exceed the maximum building height of the building code for the zone where it is located.
7. No sign shall extend from a building to a point beyond the curb.

E. Maintenance:



1. All sign supports, braces, guys, and anchors shall be kept in good repair. Faces of all signs shall be well maintained at all times. The town of Ennis may notify the sign owner or its agent, in writing, of any sign that is not in a proper state of repair. If corrective action is not taken within thirty (30) days of receiving written notice, an official of the town of Ennis may order the removal of the sign.
2. All areas around a sign structure shall be kept litter and weed free. (Ord. 139, 5-24-2015)

## **11-6-10: PROCEDURE FOR SIGN PERMIT APPROVAL:**

- A. Permit Required: It shall be unlawful to erect, place, construct, reconstruct, or relocate any sign without first obtaining a sign permit from the town of Ennis, unless the sign is specifically exempted from permit requirements. The applicant shall complete the application and review process before entering into binding commitments incurring expense of the design, preparation, or construction of the proposed sign.
- B. Application: An application for a sign permit shall include the following information:
1. A signature of consent from the owner of the property.
  2. Proposed location of the sign on the building or property.
  3. A blueprint or drawing of the plans, specifications, and method of construction of the sign and its supports. The plans shall include the proposed sign's dimensions, materials, and colors. If the proposed sign is to be illuminated then the plans shall include the type, intensity, and design of the sign's illumination.
  4. The dimensions, measurements, and calculations of building frontages and property line frontages on streets and alleys; the dimensions of any other sign located on the property; and any other information needed to calculate maximum signage area, height, type, placement, or other requirements of these regulations.
- C. Determination Of Compliance: After reviewing the application and determining whether or not the proposed sign is compliant and consistent with the purposes, requirements, and standards in this chapter, the zoning administrator or his/her designee shall approve, approve with conditions, or deny the application for a sign permit within twenty eight (28) calendar days of the date of filing. The zoning administrator or his/her designee shall give written notice by mail or otherwise delivered to the applicant of any application denied together with a brief written statement of the reasons for rejection and the steps, if any, necessary to gain approval for said application. No sign permit application shall be accepted if:
1. The applicant has installed any sign in violation of the provisions of this chapter and, at the time of the submission of the application, such sign has not been brought into compliance, removed, or included in the application.

2. Any sign under the control of the applicant or property owner was installed in violation of the provisions of this chapter and, at the time of submission of the application, such sign has not been approved, removed, or included in the application.

D. Fees Paid In Full: The applicable sign permit fees shall be paid in full prior to the installation of the approved sign and are not refundable.

E. Expiration: New sign permits shall expire one year from the date of issuance. If the proposed sign has not been erected or altered pursuant to the issued permit a new application process shall be initiated.

F. Unlawful Signs: No permit for a sign issued hereunder shall be deemed to constitute permission or authorization to maintain an unlawful sign, nor shall any permit issued hereunder constitute a defense in an action to abate an unlawful sign.

G. Change In Ownership: Whenever there is a change in the sign user, sign owner, or owner of the property on which the sign is located, the new sign user, sign owner or property owner shall forthwith notify the zoning administrator of the change. (No new sign permit is required, unless the sign is altered.) (Ord. 139, 5-24-2015)

## **11-6-11: CONSTRUCTION SPECIFICATIONS AND INDEMNIFICATION:**

A. Compliance With Code: All signs shall comply with the appropriate detailed provisions of the building code relating to design, structural members, and connections. Signs shall also comply with the provisions of the national electrical code and the additional construction standards hereinafter set forth in this section.

B. Auxiliary Construction Specifications:

1. No sign shall be placed or maintained in any manner which will interfere with any opening required for ventilation.

2. A parapet wall or roof must be designed for and have sufficient strength to support any sign which is attached thereto.

C. Maintenance: Every sign shall be maintained in a safe, presentable and good structural material condition at all times. Such maintenance shall include repair, replacement of defective parts,

painting, repainting, cleaning, and other acts required for the maintenance of said sign. The zoning administrator or his/her designee shall have the authority to order the painting, repair, alteration, or removal of signs which become dilapidated or are abandoned, or which constitute physical hazard to the public safety.

- D. Nonliability: The town and its agents shall in no way be liable for negligence or failure of the owner, or the person responsible, for any damage caused by defective conditions related to a sign within the town. (Ord. 139, 5-24-2015)

## **11-6-12: LIABILITY:**

The provisions of this chapter shall not limit the liability of any person who erects or owns any sign from personal injury or property damage resulting from the placing of a sign, or resulting from the negligence or wilful acts of such person or his/her agents, employees or workers, in the construction, maintenance, repair, or removal of any sign erected in accordance with a permit issued under the provisions of this chapter. The provisions of this chapter shall not impose upon the town of Ennis, its officers, employees, or planning board, any responsibility or liability by reason of the approval of any sign. (Ord. 139, 5-24-2015)

## **11-6-13: VIOLATIONS:**

The following are violations of this chapter:

- A. The installation, operation, maintenance, or alteration of any sign requiring a permit without first obtaining a permit or after a permit has been revoked.
- B. The failure to remove a sign that is installed, operated, maintained, or altered once such notice to remove has been issued by the town of Ennis.
- C. Any sign that is deemed by the town of Ennis to have been erected, altered, extended, moved, or otherwise utilized in violation of any provisions of this chapter.
- D. Any sign not maintained or kept in good repair, as determined by the town of Ennis. (Ord. 139, 5-24-2015)

## **11-6-14: RIGHT OF APPEAL/VARIANCE:**

- A. Any person who is issued a written notice of violation, denied a sign permit, objects to the conditions attached to a sign permit, or objects to any interpretation of this chapter may file an appeal or file for a variance with the town commission.
- B. Appeals and variance requests shall be handled as set forth in section [11-5-1](#), "Zoning Code Appeal And Variance Application", of this title. (Ord. 139, 5-24-2015)

## **11-6-15: ENFORCEMENT, NOTICE AND PENALTIES:**

### A. Enforcement:

1. Duties: The zoning administrator shall monitor signage in the town of Ennis for compliance with town ordinances.
2. Noncompliance: When the zoning administrator determines a sign is not in compliance with town ordinances, the zoning administrator shall:
  - a. Give the property owner, occupant, business operator, or person in charge/care of the property notice, either verbally or in writing, the signage is not in compliance, and
  - b. Give the property owner, occupant, business operator, or person in charge/care of the property thirty (30) days to take corrective action.
  - c. If the zoning administrator determines that exigent circumstances exist, such as a safety hazard, the zoning administrator may require corrective action be taken in less than thirty (30) days.
  - d. Prohibited signs specified under section [11-6-7](#) of this chapter do not require a thirty (30) day compliance notice and enforcement action may be taken immediately by the police department.
  - e. If the property owner, occupant, business operator, or person in charge/care of the property fails to bring the sign into compliance in the required time period, the zoning administrator shall make a written complaint with the police department requesting enforcement action.
3. Failure To Comply:
  - a. The police department upon confirming the violation may issue the property owner, occupant, business operator, or person in charge/care of the property a notice to appear and complaint.
  - b. The property owner, occupant, business operator, or person in charge/care of the property is subject to a separate notice to appear and complaint each day the violation continues or is not corrected.

- c. If the property owner, occupant, business operator, or person in charge/care of the property does not bring the signage in compliance with the town ordinances, in addition to issuing any notices to appear and complaints, the town of Ennis may petition the city court for an order authorizing the removal of the sign. The property owner, occupant, business operator, or person in charge/care of the property will be assessed the cost of the sign removal.

**B. Penalty:**

1. A violation of this chapter is a municipal infraction and subject to the penalties specified in [title 1, chapter 4](#) of this code.
2. A violation of the community signage is an absolute strict liability offense. (Ord. 139, 5-24-2015)