

# **TOWN OF ENNIS**

## **TITLE**

### **11**

# **ZONING ORDINANCE**

**DRAFT UPDATE**

**2 April 2019**

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## **CHAPTER 1: TITLE, PURPOSE, AUTHORITY, AND GENERAL ADMINISTRATIVE PROVISIONS**

The regulations, standards, and procedures contained herein shall be known as the ZONING ORDINANCE OF THE TOWN OF ENNIS, MONTANA, and may be commonly referred to as zoning regulations or zoning code. This ordinance constitutes one component of the Town-wide land development regulations that includes the official zoning map, subdivision regulations, ~~floodplain regulations,~~ building codes and transportation design standards.

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

The primary purpose of these regulations is to promote the public health, safety, and general welfare through the implementation of the Ennis growth policy. Other purposes of the zoning code are:

- A. To promote orderly and efficient growth and development throughout the Town.
- B. Provide for a strong and diversified economy.
- C. Protect public and private investment and to provide a high degree of predictability and assurance to those wishing to invest in the community.
- D. To preserve and enhance community and neighborhood development and character as recommended in the Ennis Growth Policy.
- E. Provide for efficient and cost-effective community services and facilities.
- F. Establish fair, effective, and efficient development review and decision-making processes and procedures that provide procedural due process for applicants and the general public.

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

This zoning ordinance is adopted under the authority of Montana Code Annotated, Title 76, Chapter 2, Part 3, Municipal Zoning

### **11-1-3: CONFLICTING AND PRIOR REGULATIONS REPEALED:**

All prior ordinances and resolutions related to the Zoning Ordinance of the Town of Ennis, Montana, adopted 1996 and 2002, as amended, are hereby repealed.

### **11-1-4: PROVISIONS OF ORDINANCE DECLARED TO BE MINIMUM REQUIREMENTS; THE MOST RESTRICTIVE STANDARDS APPLY:**

- A. In their interpretation and application, the provisions of this Ordinance shall be held to be THE minimum requirements to promote the health, safety, and general welfare.
- B. These regulations are designed to be consistent with the Growth Policy, and shall be liberally construed to achieve its purpose, intent, policies, and recommendations.
- C. When future Town regulations, or state or federal law, impose additional standards on land use or development governed by these regulations, the most restrictive standards shall apply.
- D. Actual interpretation of these regulations is the responsibility of the zoning administrator as set forth in Section 0 11-2-2 of this Ordinance.

- E. These regulations do not nullify easements, covenants, deed restrictions, or other similar private agreements, but where any such private agreement imposes standards that are less restrictive than those adopted herein, these regulations shall apply.

#### **11-1-5: 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, Town of Ennis, Montana". The ordinance provisions and procedures shall be in accordance with this Ordinance.

#### **11-1-6: 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 Ordinance.
- B. Responsibility of Owner(s): The owner(s) of land or structures shall be responsible for their tenants' compliance with this Ordinance.
- 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 with the Madison County Clerk and Recorder and are enforceable under state statute. 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

#### **11-1-7: 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 Ordinance. It shall be the final authority as to the current status of zoning districts in the Town of Ennis jurisdictional area.
- B. Maintaining and Revising Map: The official zoning map shall be prepared using GIS mapping software that allows for revisions and additions. The GIS project used in preparing the official map shall be the official GIS project. The official map shall be printed on a stable, reproducible material and 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 0 11-1-7 of Town Zoning Ordinance 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 Ordinance. 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.

5. GIS Version: The official GIS project used in producing the zoning map shall be stored in the office Town clerk-treasurer and in an off-site location. If the GIS project is officially updated the off-site version shall be immediately updated. Proposed changes to the official GIS project shall be maintained as a separate project from the official version.

- 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.

#### **11-1-8: BURDEN OF PROOF:**

In all proceedings, hearings, and in all application and submittal materials, the burden of proof shall rest with the applicant or appellant, as applicable.

#### **11-1-9: SEVERABILITY:**

Should any section or provision of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of this Ordinance as a whole, or any part thereof other than the part declared to be unconstitutional or invalid.

#### **11-1-10: DEFINITIONS**

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

##### **11-1-10-1: Interpretation of Generic Terms:**

For the purpose of this Ordinance 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 of record".
- E. Shall - May: The word "shall" is mandatory; the word "may" is permissive.

##### **11-1-10-2: Specific Definitions**

**ACCESSORY RESIDENTIAL UNIT (ARU):** An independent and separate dwelling unit that is subordinate to a primary residential use of a property. Includes the terms "accessory apartment", "garage apartment", "granny flat", and "mother-in-law apartment".

**ACCESSORY STRUCTURE OR USE:** A subordinate building, located on the same lot as the principal building, or a subordinate use of land, either of which is customarily incidental to the principal building or to the principal use of land. Examples include: on-premises advertising signs, electrical generating solar panels or wind turbines, swimming pools, storage sheds, green houses.

**ADULT ENTERTAINMENT:** Adult entertainment establishment means a business in which, as the major activity, customers congregate primarily for the purpose of viewing or associating with employees who display anatomical areas designed to provide sexual stimulation or sexual gratification: human genitals, the immediate public region, or pubic hair; buttocks to the extent of exposing the immediate anal area; female breasts to points below the nipples; male genitals in a state of erection, even if covered with opaque clothing; all of the above anatomical areas when covered only by transparent or diaphanous clothing.

**ALTERATION:** 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.

**AREA:** A specific geographic division of the Town of Ennis.

**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.

**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.

**BREEZEWAY:** A breezeway is an architectural feature similar to a hallway that allows the passage of a breeze between structures to accommodate high winds, allow aeration, or provide aesthetic design variation.

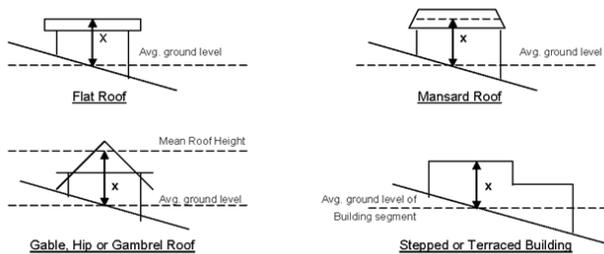
**BUILDING:** Any structure erected for support, shelter or enclosure of persons, animals or property.

**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 (2/3) the height of the highest gable of a pitch or hip roof.

## Building Height Measurements



**BUSINESS:** As applied to Section 0 Community Signage, 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 DAY:** A business day is considered every official work day of the week for employees of the Town of Ennis.

**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.

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

**COMMUNITY RESIDENTIAL FACILITY:** A residential facility meeting the following criteria:

- A. a community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care;
- B. a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or youth group home as defined in 52-2-602, Montana Code Annotated;
- C. a halfway house operated in accordance with regulations of the department of public health and human services for the rehabilitation of alcoholics or drug dependent persons;
- D. a licensed adult foster family care home; or
- E. an assisted living facility licensed under 50-5-227, Montana Code Annotated.

**CONDITIONAL USE:** A use that is allowed in a zoning district if the use meets certain requirements described in Section 011-2-13 of this Ordinance.

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

**DISPLAY SURFACE:** As applied to Section 0 Community Signage, 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 Ordinance.

**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.

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.

FACADE: Any face of a building.

- A. 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.
- B. 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.

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

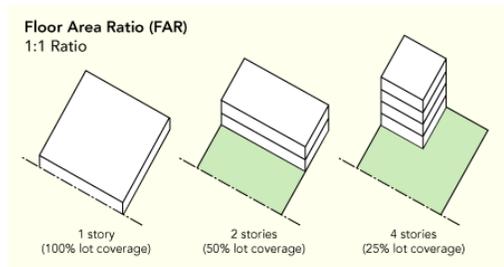
- A. Overflow: The overflow of waters; and/or
- B. Accumulation: Unusual or rapid accumulation of surface waters from any source.

FLOODPLAIN: Area subject to a flood or flooding [as defined by the FEMA Floodplain Map](#).

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 (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.

#### Floor Area Ratio



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 Section 0 11-1-9B of this Ordinance. Financial or economic difficulties, or consequences of actions of the property owner, are not "hardships" for zoning purposes.

**HEAVY EQUIPMENT:** heavy-duty vehicles, specially designed for executing construction tasks, most frequently, ones involving earthwork operations.

**HISTORICAL CHARACTER:** Per the guidance of the current Town Growth Policy, the Town of Ennis, especially Main Street, has a unique, small town, western character that charms residents and tourists. This is considered a cultural resource. The following are some photos that define the small town, western character of Ennis: i.e false fronts, board and baton siding, mix of historically appropriate materials. (Wood or manufactured wood products, natural or manufactured stone products, brick).



**HOME BASED BUSINESS:** Is a nonresidential accessory and incidental use of residential property. Typically, it is a business operated from a home with part of the floor area of the residential unit and/or an accessory structure devoted to the business.

**HOME OCCUPATION:** The use of a dwelling or an accessory building on the same zoning lot, for commercial activities; these activities must be clearly secondary to the use of the structure as a residential dwelling. In addition, the property must be located in a residential zoning district.

**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.

**HOUSEHOLD:** A social unit composed of those living together in the same dwelling

**ILLUMINATED SIGN-**A sign characterized by the use of artificial light, either projecting through its surface(s) [Internally or trans-illuminated]; or reflecting off its surface(s) [Externally illuminated].

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

**LANDSCAPING:** A coverage of an area with natural grass, vegetative ground cover or other natural living plant materials, the remainder of which is covered with non-vegetative decorative landscape elements. Landscaping shall be considered to have the same meaning as the terms landscape, landscaped, landscaped area, and xeriscape

**LIGHT CONSTRUCTION:** As applied in the design review section of this Ordinance, 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).

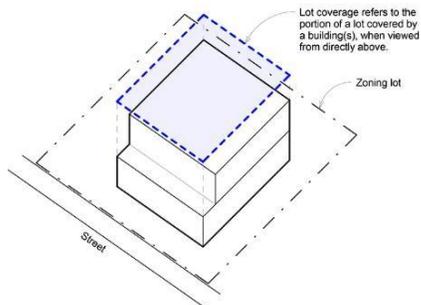
**LIGHT INDUSTRY/MANUFACTURING:** Industrial uses that include fabrication, manufacturing, assembly or processing of materials that are in refined form and that do not in their transformation create smoke, gas, odor, dust, noise, vibration of earth, soot or lighting to a degree that is offensive when measured at the property line of subject property.

**LOADING SPACE:** An off street space conveniently located at a building to allow service pickups 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, COVERAGE:** That portion of a lot that is covered by any part of any building or structure on or above the surface of the lot.



**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.

**MAJOR RECREATIONAL EQUIPMENT:** ~~This term includes, but is not necessarily limited to, snowmobiles and snowmobile trailers, livestock trailers, boats and boat trailers, travel trailers (including pop ups), pickup camper tops when not mounted on a vehicle, motor homes, tent trailers, as well as the cases, boxes, or containers used for transporting or shipping recreational equipment, whether or not occupied by such equipment. Any recreational vehicle 23 feet or over.~~

**MAJOR RECREATIONAL VEHICLE:** Any recreational vehicle 23 feet or over.

**MANUFACTURED HOME, CLASS A:** A single-family home, built off site or in a factory, that meets uniform building codes of United States Department of Housing and Urban Development at the time of production and meets the following standards

- A. A single-family dwelling constructed not more than eight years prior to placement on a permanent foundation, is at least one thousand (1,000) square feet of living space.
- B. Is at least twenty feet (20') in width at its narrowest point.
- C. Has a roof pitch not less than four to twelve (4:12) and eaves not less than twelve inches (12"), not counting any gutter.
- D. Utilizes roofing materials which are generally acceptable for site built housing. Roofing materials must have the appearance of a shake, shingle, or tile roof.
- E. Siding material which has the appearance of wood, masonry, or non-reflective metal siding.
- F. Is placed on a permanent foundation for which a building permit has been issued, or has perimeter skirting that resembles a conventional foundation of a site built home, and is constructed of brick, concrete, concrete block, or treated lumber.
- G. The hitch or tongue has been removed from the unit.

This definition does not include the terms "mobile home" or house trailer as set forth in Section 15-1-101, Montana Code Annotated.

**MANUFACTURED HOME, CLASS B:** A manufactured home meeting the mobile home construction and safety standards of the U.S. department of housing and urban development, but not meeting all criteria in Subsections (1) through (7) of the definition of Manufactured Home, Class A.

**MANUFACTURED HOME, CLASS C:** A manufactured home which does not meet the mobile home construction and safety standards of the U.S. department of housing and urban development, but which is at least ten feet (10') in width and forty feet (40') in length excluding the hitch or tongue.

**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.

**MONUMENT SIGN:** a two-sided sign attached to a permanent foundation or decorative base and not attached or dependent on support from any building, pole, posts or similar uprights. Monument signs include ground signs.

**NONCONFORMING STRUCTURE:** An existing structure or building that was lawful prior to adoption or amendment of this Ordinance, but does not meet the provisions of the current Ordinance due to dimensional restrictions on lot coverage, setbacks, height, location on the lot, or other zoning requirements.

**NONCONFORMING USE:** An existing use that was lawful prior to the adoption or amendment of this Ordinance, which does not conform with the adopted provisions set forth in this Ordinance.

**NURSING 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.

**OFF HIGHWAY VEHICLE:** Off-highway vehicle or "OHV" means a motor driven off-road vehicle capable of cross-country travel without benefit of a road or trail, on or immediately over land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-wheel drive or low pressure tire vehicle, a motorcycle or related 2-wheel vehicle, an amphibious machine, a ground effect air-cushion vehicle or other means of transportation deriving motive power from a source other than muscle or wind. "OHV" does not include a farm vehicle being used for farming, a vehicle used for fire, emergency or law-enforcement purposes, or an electric personal assistive mobility device.

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

PARKING AREA: The area of a lot, building, or structure devoted to parking spaces, attendant driveways, aisles, queuing lanes, and landscaping. All such areas on a lot shall be considered to constitute a single parking area, even if the areas are not contiguous.

PARKING LOT: A tract of land used for the parking of motor vehicles when the use is not accessory to any other use. This may include a parking structure.

PARKING SPACE: An area of not less than one hundred eighty (200) 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.

~~PRIMARY STRUCTURE~~: PRINCIPAL BUILDING or PRINCIPAL STRUCTURE means a building or structure containing the principal use of the lot on which it is located.

PRINCIPAL USE means a primary use of a premises which is not accessory to any other use on the premises. Unless the use customarily occurs outdoors, or the definition of the use explicitly mentions that it occurs outdoors, a principal use occurs indoors.

RECREATIONAL EQUIPMENT: This term includes, but is not necessarily limited to, snowmobiles and snowmobile trailers, livestock trailers, boats and boat trailers, travel trailers (including pop ups), pickup camper tops when not mounted on a vehicle, motor homes, tent trailers, as well as the cases, boxes, or containers used for transporting or shipping recreational equipment, whether or not occupied by such equipment. Also see MAJOR RECREATIONAL EQUIPMENT.

RECREATIONAL VEHICLE (RV): See MAJOR RECREATIONAL VEHICLE. A recreational vehicle, often abbreviated as RV, is a motor vehicle or trailer which includes living quarters designed for accommodation.<sup>[1][2]</sup> Types of RVs include motorhomes, campervans, caravans (also known as travel trailers and camper trailers), fifth-wheel trailers, popup campers and truck campers. Also see MAJOR RECREATIONAL VEHICLE.

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

RELOCATION: The movement of a structure on the same site or to another site.

REPAIR: 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.

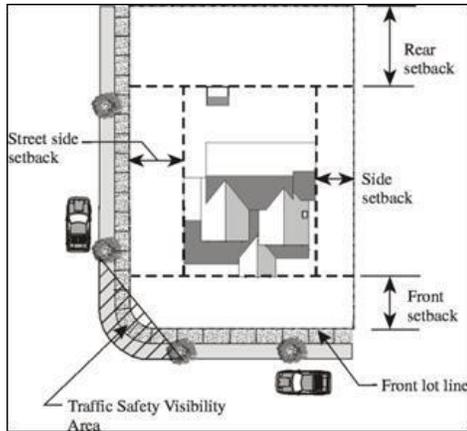
SALVAGE YARD: Land or buildings where waste, discarded, recycled or salvaged materials are bought, sold, stored, exchanged, cleaned, packed, disassembled, or handled, including, but not limited to, scrap metal, rags, paper, hides, appliances, rubber products, glass products, lumber products and products 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.

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## Setback Measurements



**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.

### SIGN AREA:

- A. Sign Area means the area of the surface of a sign designed to contain a message, logo, symbol, or other communication, and excludes the structural support members and any decorative finials.
- B. Sign area for free-standing signs, or signs projecting from a building (i.e. not signs mounted to the surface of the building in a more or less parallel manner) may display a message on multiple sides. The sum total of the area of each side shall not exceed the allowed sign area.
- C. The entire awning using a trademark color shall be counted as advertising.

**SIGN, INTERNALLY ILLUMINATED:** Illumination in which neon, fluorescent, incandescent or other light sources are placed within a semi-transparent "can" and shine through sign panels, typically made of plastic.

**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.

**STREAM SETBACK:** The horizontal distance from the ~~ordinary high water mark~~floodplain within which certain structures and uses are not allowed. Setback and buffer distances are measured on a horizontal plane.

**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.

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

- C. 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.
- D. 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.

TEMPORARY USES: A use established for a fixed period of time with the intent to discontinue the use upon the expiration of that time period. The following are examples of temporary uses that would be regulated by this Ordinance:

- A. Carnival, Fair or Concert
- B. Contractor's Office and Construction Buildings
- C. Events of Public Interest
- D. Christmas Tree Sales Lots
- E. Seasonal Sales of Farm Produce

TRADITIONAL COMMERCIAL DEVELOPMENT (TCD): 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.

UNNECESSARY HARDSHIP: Unnecessary hardship is a justification for the granting of a variance from these regulations. An applicant must demonstrate that under these regulations, that they would be deprived of all economic use or benefit from the property in question.

The following must be proven to show an unnecessary hardship:

- A. The applicant cannot realize a reasonable economic return;
- B. The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- C. The requested variance, if granted, will not alter the essential character of the neighborhood; and
- D. That the alleged hardship has not been self-created.

VARIANCE: The approved relaxation of certain provisions of this ordinance, where owing to circumstances unique to a specific property, literal enforcement of the provisions will result in an undue hardship as described in Section 0 11-2-12 of this Ordinance.

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.

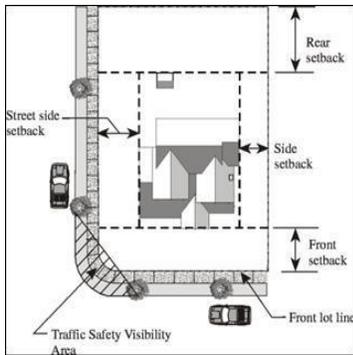
XERISCAPE: Landscape design developed especially for arid and semi-arid climates that utilizes water conserving techniques (such as the use of drought-tolerant plants, mulch, and efficient irrigation).

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, 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 MEASUREMENTS:**



**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).

**ZERO LOT LINE:** A zero lot line is property where a home or building has at least one wall placed on the boundary of the property. ... This form of building construction is popular when individual plots are small because it maximizes living space at the expense of the yard.

**ZONE:** A zoning district established pursuant to this Ordinance.

## CHAPTER 2: ADMINISTRATION AND ENFORCEMENT

### 11-2-1: ORDINANCE DUTIES AND RESPONSIBILITIES

Table 11-2-1A shows the duties and responsibilities of the various Town entities engaged in the administration and implementation of this Ordinance.

TABLE 11-2-1A OVERVIEW OF ORDINANCE DUTIES AND RESPONSIBILITIES					
ACTION/FUNCTION	Zoning Administrator	Zoning Committee	Design Review Committee	Board of Adjustment	Town Commission
Receive Applications	A				
Determine Completeness	A				
Minor Site Plan Application	A				
Major Site Plan Application	A		PR		A
Sign Review	A		PR		
Design Review	R		PR		
Planned Unit Development	R		PR		A
Conditional Use Permit	R		PR		A
Variance	R			A	
Building Permit	A				
Certificate of Compliance or Occupancy	A				
Zoning Map Amendment	R	R			A
Zoning Ordinance Amendment	R	R	PR		A
Enforcement Action	A				
Annexation		R			A
Appoint Zoning Administrator		R			A
Appoint Members of Boards & Commissions					A
R = Review and Recommend; PR = Possible Review and/or Recommend; A = Approval Authority;					

### **11-2-2: ZONING ADMINISTRATOR:**

- A. Employment Responsibility: The Town shall employ the zoning administrator. The zoning administrator may delegate certain functions, but shall retain final responsibility for administering and enforcing the ordinance under the direction of the Town Commission.
- B. Duties: The zoning administrator shall administer the zoning permit provisions set forth in this Ordinance and shall:
  - 1. Receive: Receive applications for conditional use permits, rezoning requests and variance requests.
    - a. Review: Review applications and plans; review certificates of survey, issue zoning permits; and inspect premises and properties.
    - b. Notice: Notify, in writing, any person violating this Ordinance and order appropriate corrective action.
    - c. 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.
    - d. Order Compliance: Order any illegal work being undertaken to immediately cease; or take any other action authorized by this Ordinance to ensure compliance with its provisions.
    - e. 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 this ordinance;
    - f. Advise: Serve as an advisor to the zoning commission, board of adjustment and Town Commission on matters relating to administration and enforcement of this Ordinance.
    - g. Prepare Reports: Prepare staff reports as required under this Ordinance.
    - h. Record: Prepare and maintain records of all proceedings required or authorized under this Ordinance.
- C. Right of Entry: The zoning administrator may enter property or building under permit 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 create an unsafe, dangerous or hazardous situation, the zoning administrator, following the steps found in this Section, may enter the property or building at such times to perform the duties imposed by this Ordinance. If the property or building is occupied, the zoning administrator shall first present proper credentials and request entry. If the property or building is unoccupied, the zoning administrator shall first make a reasonable effort to locate the owner or other person having charge or control of the property or building and request entry. If entry is refused, the zoning administrator or the authorized representative shall have recourse to the remedies provided by Montana statute to secure entry.

### **11-2-3: ZONING COMMISSION:**

Established: There is hereby established the "Town of Ennis Zoning Commission".

- A. Membership: The Town Commission shall appoint the members of the zoning commission. The commission shall have a minimum membership of three people, including: The Town of Ennis representative on the Madison County Planning Board and at least 1 person who resides within the corporate boundaries of the Town of Ennis, and one (1) member of the jurisdictional area. Additional members may be appointed as deemed necessary by the Town Commission.
- B. Duties: Pursuant to 76-2-307, MCA, the zoning commission shall recommend to the Town Commission, the establishment and amendment of various zoning districts and regulations. In reviewing proposed

zoning districts and regulations, the zoning commission shall hold a public hearing(s) and make a recommendation regarding its findings on the proposals to the Town Commission.

#### **11-2-4: BOARD OF ADJUSTMENT (BOA):**

- A. Established; Membership; Terms; Removal: The board of adjustment (BOA) is hereby established to, decide variance requests, and to decide appeals regarding ordinance interpretations of the zoning administrator. The BOA shall have a minimum of three members appointed by the Ennis Town Commission. Members of the Town Commission may serve as the BOA with terms concurrent with their respective Commission terms.
- B. Powers: The 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 Ordinance where the board determines that they meet specific criteria outlined in this Ordinance.
    - a. this ordinance
    - b. Variances Requests for Only Certain Provisions: The BOA may approve, deny or conditionally approve variance requests to modify only the following requirements of this Ordinance:
      - c. Setback requirements;
      - d. Yard requirements;
      - e. Area requirements;
      - f. Height and bulk requirements;
      - g. Parking requirements; and
      - h. Loading requirements.
    - i. Hear and Decide Appeals: Hear and decide appeals alleging the zoning administrator incorrectly interpreted and applied the provisions of this Ordinance. Appeals shall be filed a form provided by the zoning administrator.
    - j. Express Prohibitions: The board of adjustment (BOA) shall be expressly prohibited from granting:
      - k. Use Variances: Under no circumstances may the BOA grant a variance that would allow the use of land or buildings not permissible under the terms of this Ordinance.
      - l. 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.
- C. Organization and Proceedings: The board of adjustment (BOA) shall organize itself and proceed as follows:
  - 1. Organization: The BOA shall select one of its members as chair and shall adopt rules necessary to conducts its affairs. Meetings shall be held at the call of the chair and at such other times as the board of adjustment may determine but shall be duly noticed and open to the public. The chair, or in his/her absence, the acting chair, may administer oaths and may compel the attendance of witnesses.
  - m. Proceedings: The BOA 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 board of adjustment official actions and filed zoning administrator where they shall be available for public inspection.

#### **11-2-5: DESIGN REVIEW COMMITTEE:**

- A. Purpose and Intent: The purpose of the Design Review Committee (DRC) is to advise the Zoning Administrator and Town Commission by providing recommendations on design criteria for certain applications as identified in this Ordinance. The goal of design review is to help maintain and enhance the small-town atmosphere and historical character of the Town of Ennis, preserve the value of land and buildings; and protect and preserve the culture and heritage of the Ennis. The intent of this committee is to encourage Town of Ennis resident participation in community development projects.
- B. Membership: The Ennis Town Commission shall appoint the members of the Design Review Committee which shall consist of a minimum of 3 members. The committee shall have a minimum of 2 members that reside within the corporate boundaries of the Town of Ennis, and may have member who resides in the extraterritorial zoning jurisdiction boundary. Preferably, the members of the Committee should have some understanding of the following professional fields, although it is not a prerequisite:
  - 1. Architecture
  - 2. Engineering
  - 3. Building construction
  - 4. Land use planning
  - 5. Design
- C. Term of Office and Officers: Members of the committee shall be appointed by the Town
- D. Commission and shall serve as requested. Officers shall consist of a chair and vice-chair, both of whom shall be selected by the members of the Committee.
- E. Duties: The duties of the committee shall include: review and recommendation on
- F. architectural and landscaping design for development projects within the Town.
- G. Meetings: The zoning administrator shall schedule meetings of the committee as necessary to consider applications requiring review of the committee.
- H. Design Review Required: Review is required for the following types of applications:
  - 1. Any project requiring Major Site Plan Review.
  - 2. Zoning permit applications for neon-illuminated signs in any commercial district; and internally illuminated signs located in all Commercial Districts as specified in Section 0 11-3-6-3 Community Signage.
- I. Discretionary Design Review: Design review may be required for the following types of applications per the written direction of the Town Commission:
  - 1. Planned unit development
  - 2. Conditional use permit
  - 3. Zoning ordinance amendment
- J. Discretionary design review of these applications shall not delay their review and approval of by the Town Commission.
- K. Review Procedure: The Committee shall review each project based on the standards of the zoning ordinance using the following review checklist:
  - 1. Design Fundamentals: including basic requirements within the zoning ordinance, such the location of the project in the Town and neighborhood context.
  - 2. Broad Design Issues: mass, scale, size, height, etc.
  - 3. Design Details
  - 4. Materials
  - 5. Colors
  - 6. Lighting

7. Site Plan
- L. Within 20 business days of the submission of a complete application for a zoning permit, the Committee will hold a meeting and provide one of the following recommendations at the time of the meeting:
  1. Approval,
  2. Approval with conditions, or
  3. Denial
- M. The Committee's written recommendation will be provided to the zoning administrator or the Town Commission as applicable within five business days of the recommendation. Failure of the Committee to provide a recommendation shall not delay the review and approval of the zoning permits and site plans by the zoning administrator or the Town Commission.

### **11-2-6: ZONING PERMIT**

A zoning permit shall be obtained from the zoning administrator 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 purpose of the zoning permit is to assure that all building construction and development activity complies with these regulations as well as regulations promulgated by other agencies, including the Town of Ennis, as applicable.

- 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 Ordinance.
- C. 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 Ordinance and addressed as applicable under "violations and penalties".
    - a. 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.

### **11-2-7: ZONING PERMIT FEE REQUIRED**

Each application for a zoning permit shall include the applicable fee. Fees are established by resolution of the Ennis Town Commission. No application for a zoning permit is complete without the required fee.

## 11-2-8: APPLICATION FOR ZONING PERMIT, PLAN REVIEW AND APPROVAL

All developments within the zoning jurisdiction 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. An application for a zoning permit may be filed either concurrently with a building permit application or prior to applying for a building permit. A zoning permit application may also be filed concurrently or prior to any application for a Town of Ennis business license.

- A. A property owner or their authorized agent may submit an application form, including a site plan, project description, and any other required supporting materials, with the administrator. Once all required materials are submitted, and zoning permit fee paid the administrator shall deem the application complete.
- B. The zoning administrator or his/her designee shall review the application to determine compliance with these regulations. If the zoning administrator finds that the application complies with these regulations, the application shall be approved. However, the administrator may impose reasonable conditions on the zoning permit to ensure compliance with these regulations as well as the regulations promulgated by other agencies as they may apply, including but not limited to staking out of property pins.
- C. Special Development Proposals: Special development proposals (i.e., planned unit 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 each type of proposal as detailed in this Ordinance.
- D. 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.
    - b. 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.
    - c. 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.
    - d. Separate construction plans are necessary for building permits when the proposal requires such permits.
  - 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 Ordinance, exclusive of any legal nonconforming conditions. Once compliance has been achieved, the sketch plan and zoning permit will be approved and construction may begin.
- E. 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) Four (4) 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 conditional use permit, will be considered a minor site plan.
  - c. Conditional use permits shall be reviewed according to their specific requirements and procedures as identified in Section 0 11-2-15.
2. Review Authority: The zoning administrator and the Town Commission 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 a form provided by the administrator. The site plan application shall be accompanied by the appropriate fee and development plans showing sufficient information for the zoning administrator or Town Commission 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 reviewed and approved by the zoning administrator. The application shall be approved or denied by the zoning administrator within twenty (20) business days of submission of a complete application. The applicant shall be notified in writing within five (5) business days of the zoning administrator's decision.
    - b. Neon-illuminated and Internally Illuminated Signs Neon illuminated and Internally illuminated signs shall be reviewed by both the zoning administrator and the design review committee who shall each provide a recommendation to the Town Commission. The applicant shall be notified in writing within five (5) business days of the decision.
    - c. Major Site Plan: Major site plans shall be reviewed by both the zoning administrator and the Design Review Committee who shall each provide a recommendation to the Town Commission.

The Town Commission shall approve or deny the application within thirty-five (35) business days of the submission of a complete application at a regularly scheduled meeting of the Commission. The applicant shall be notified in writing within five (5) business days of the decision.

- A. Site Plan Review Criteria: In considering applications for zoning permit approval, the zoning administrator and Town Commission shall consider the information required by the site plan review checklist provided to applicants and the review and recommendations provided by the Design Review Committee as applicable. If the zoning administrator or Town Commission determines that the proposed site plan is in compliance with this Ordinance, approval shall be granted.

#### **11-2-9: SITE INSPECTIONS:**

The filing of an application for a zoning permit constitutes consent by the property owner and applicant for the zoning administrator to conduct inspections of the subject property during the review process. Refusal of the owner or applicant to allow authorized personnel on site for necessary inspections may delay review of the permit application, and/or result in denial of the application.

#### **11-2-10: LIMITATIONS OF ZONING PERMIT**

- A. Zoning permits issued pursuant to this Ordinance are limited in their authorization to the work and/or development expressly described therein. Issuance of a zoning permit does not convey any broad powers

or authority to the applicant beyond the purpose described in the zoning permit application and for which the permit was issued. Zoning permits shall run with the land, are site specific, and are not transferable to another property or site.

- B. If the work described in the zoning permit has not begun within one year from the date of issuance, the permit expires and is void. The zoning administrator shall provide written notice to the permittee once a permit expires. Should the applicant request in writing an extension of the zoning permit, the zoning administrator may grant such extension for not more than one year. Any such request for an extension must be made prior to the actual expiration of the zoning permit. The zoning administrator is not empowered to reinstate an expired zoning permit.

#### **11-2-11: REVOCATION OF ZONING PERMITS:**

- A. Zoning permits may be revoked for good cause shown. Procedures to revoke zoning permits may only be initiated by the Town of Ennis, and only the Town Commission is authorized to revoke a zoning permit.
- B. Prior to initiating any permit revocation procedure, the zoning administrator shall have:
  - 1. Conducted an inspection of the subject property.
    - a. Thoroughly investigated any complaints.
    - b. Contacted the permittee in writing notifying him/her of the nature of complaints, issues, and/or potential violations.
    - c. Provided the permittee every reasonable opportunity to address and correct conditions, violations, or deficiencies.
- C. A zoning permit may be revoked based on one or more of the following findings:
  - 1. That the initial application and/or representations made by the applicant in connection with the application were fraudulent or otherwise inaccurate or misleading to the extent that the decision to grant the zoning permit was based upon or influenced by said application or representations.
    - a. That operation of the authorized use or development has become a public nuisance and/or an imminent threat to the public health, safety, and general welfare.
    - b. The Town Commission may revoke a zoning permit upon approval of a motion by simple majority where findings and cause for the revocation are set forth in the motion to revoke.
    - c. The applicant shall be notified of the revocation action through a cease and desist order issued by the zoning administrator within 5 business days of the Town Commission's decision.

#### **11-2-12: CERTIFICATE OF OCCUPANCY REQUIRED:**

- A. Once building construction or a development activity has been completed under a zoning permit, a certificate of occupancy must be requested from the Town of Ennis on a form provided by the zoning administrator. The purpose of the certificate is to ensure that all work described on the approved zoning permit has been completed, or as applicable, a surety for performance has been provided.
- B. Should a certificate of occupancy be applied for in the months of October through March, a surety may be provided in lieu of improvements that do not affect the immediate and safe use of the site, and that cannot be installed during cold weather periods. Sureties may include letters of credit, bonds, or certified checks left on file with the Town until such time as the improvements are satisfactorily completed. Personal or company checks cannot be accepted as sureties.
- C. Failure to obtain a certificate of occupancy prior to occupying the project or improvement for which the zoning permit was issued is deemed a violation of this code.

### **11-2-13: ZONING APPEALS**

- A. Any interpretation of this ordinance or any decision made by the zoning administrator pursuant to this ordinance may be appealed to the board of adjustment (BOA) following the procedures set forth in this Section. Such appeal shall be considered within a reasonable time as provided by the rules of the board below.
- B. The appellant shall file a written appeal on a form provided by the zoning administrator, and the appellant shall provide all relevant supporting information. An application fee shall be paid by the appellant to the Town. The amount of the fee is available from the zoning administrator.
- C. Upon receipt of the appeal, the zoning administrator shall publish a notice in the official Town of Ennis newspaper at least fifteen (15) days prior to the next scheduled meeting of the board of adjustment, and shall place the appeal on the board's agenda for that meeting. The board must meet within twenty-five (25) calendar days of an appeal filed with the administrator.
- D. The BOA shall conduct a hearing on the appeal following procedures set forth in the board's adopted rules of procedure. No appeal shall be heard if the appellant or his/her representative is not present. If the appeal involves an action taken or a permit granted to a third party, such as a property owner or development, no hearing shall be conducted unless the third party is present.
- E. The zoning administrator shall provide the BOA with a written report regarding the administrator's interpretation of the ordinance. A copy of the report shall also be provided to the appellant.
- F. Based upon relevant findings and conclusions, the BOA may uphold, overturn, or modify the action or interpretation made by the administrator. The BOA shall take final action within twenty (20) business days of the initial public hearing.
- G. The zoning administrator shall notify the appellant and other interested parties in writing of the BOA's decision within five (5) business days of the board's decision.
- H. Any decision of the BOA may be appealed to district court as provided in Section 76-2-327, Montana Code Annotated. Notice of intent to file an appeal shall halt all proceedings by the zoning administrator to carry out the BOA decision, unless in the judgment of the administrator, such action is imperative due to imminent public health or life safety concerns.

### **11-2-14: VARIANCES**

- A. The board of adjustment (BOA) may in specific cases grant relief from the standards and requirements of this ordinance as set forth in Section 76-2-323, Montana Code Annotated. Variances shall only be considered for the following requirements:
  - 1. Setback requirements;
  - 2. Yard requirements;
  - 3. Area requirements;
  - 4. Height and bulk requirements;
  - 5. Landscaping requirements;
  - 6. Parking requirements; and
  - 7. Loading requirements.

Variances shall not be granted to allow uses prohibited by this ordinance.

- A. An applicant shall apply for a variance on a form supplied by the zoning administrator. The applicable filing fee shall be paid, and all relevant supporting materials shall be submitted.
- B. Upon receipt of the application, the zoning administrator shall publish a notice in the official Town of Ennis newspaper at least fifteen (15) calendar days prior to the next regular meeting of the board of adjustment, and shall place the variance on the board's agenda for that meeting.

- C. The zoning administrator shall notify all property owners within one hundred fifty feet (150') of the subject property by regular first class mail at least fifteen (15) calendar days prior to the date of the hearing by the BOA.
- D. The BOA shall conduct a hearing on the proposed variance following procedures set forth in the board's adopted rules of procedure. No hearing shall be conducted if the applicant or his/her representative is not present.
- E. Based upon the provisions of 76-2-323 (1)(c), Montana Code Annotated, the BOA may only grant a variance if the following criteria are met as they apply to the application:
  - 1. Granting a variance will not be contrary to the public interest;
  - 2. Where owing to circumstances unique to a property, a literal enforcement of the provisions of this ordinance will result in an unnecessary hardship;
  - 3. The spirit of the ordinance will be observed and substantial justice will be done; and
  - 4. The result of such variance will be consistent with goals, objectives and policies of the Ennis Growth Policy.
- A. Conditions may be imposed upon an approved variance by the BOA that will cause the above criteria to be met.
- B. Final action is required on a variance request within twenty (20) working days of the initial public hearing.
- C. The administrator shall notify the applicant and interested parties of the BOA decision in writing within five (5) working days of the board's decision.
- D. Decisions of the BOA may be appealed to district court as set forth in Section 76-2-327, Montana Code Annotated.
- E. The granting of a variance allows the applicant specific relief from the provisions of this ordinance. Granting of a variance does not convey broad powers to deviate from other standards and requirements set forth herein. A variance runs with the land and is not transferable to another site or property.

#### **11-2-15: CONDITIONAL USE PERMITS**

- A. General: Certain uses generally appropriate within a zoning district may require additional review and shall be subject to conditions that will mitigate potential issues. 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. No conditional use permit shall be granted for a use that is not specifically designated as such or is clearly of like character and intensity as a conditional use listed in this Ordinance.
- B. Application for Conditional Use Permit:

Prior to the submission of conditional use permit to the Town Commission for review, the applicant shall meet with the zoning administrator and if applicable, other Town staff to discuss the proposed project in order to understand the procedural steps and application materials required. This includes the procedural steps for a conditional use permit. The applicant shall provide a simple sketch plan at this stage for the informal review and discussion with the zoning administrator and other Town staff.

- 1. Application: A property owner or their authorized agent may submit an application form a conditional use permit along with the required review fee to the zoning administrator.
- 2. The zoning administrator shall determine whether the application is complete and sufficient for review.
- 3. Planned Unit Development: Requests for a conditional use permit for a planned unit development shall include the application procedures found in Section 0 11-3-6-2.
- 4. Zoning Amendment: If an amendment of the zoning regulations or zoning map 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 the zoning amendment has been approved by Town Commission.

C. Town Commission Review and Decision:

1. Zoning Administrator Review and Recommendation: The zoning administrator shall review the application for a conditional use permit and provide the Town Commission with a written recommendation with regards to the conditions necessary to mitigate any identified impacts. The zoning administrator's recommendation shall be provided to the Town Commission and the applicant 5 working days in advance of the hearing.
  - a. Design Review Committee Review and Recommendation: If directed by the Town Commission, the Design Review Committee shall review the proposed conditional use permit and provide a recommendation to the Commission per the direction of Section 0 11-2-5.
  - b. Hearing: A public hearing is required for all conditional use permit applications and the hearing shall be conducted by the Town Commission.
  - c. Notice of Hearing: Upon receipt of the application, the zoning administrator shall publish a notice in the official Town of Ennis newspaper at least fifteen (15) calendar days prior to the Town Commission's hearing on the application.
  - d. Commission Review and Findings: The Town Commission shall review the application and approved the conditional use permit, only if it finds the proposal complies with the following provisions:
    - e. The intended use for the building or property is needed at the proposed location.
    - f. The public interest would be served.
    - g. The proposal is consistent with the goals, objectives and policies of the Ennis Growth Policy.

D. Conditions to Mitigate Impacts: The Town Commission shall have the ability to require the applicant to complete reasonable conditions in order to mitigate any identified impacts that would be create by the proposed use. In addition, the Town Commission shall impose the following general conditions upon every conditional use permit granted:

1. That the right to a use shall be contingent upon the fulfillment of all general or special conditions imposed by the conditional use permit procedure;
2. 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 or certificate of compliance.

E. Final Action: Applications for conditional use permits may be approved, conditionally approved or denied by motion of the Town Commission within 35 business days of submission of a complete application. The applicant shall be notified of the decision in writing within 5 working days of the decision. If an applicant's request for a conditional use permit is denied, the denial shall constitute a finding that the applicant has not shown that the conditions required for approval exist.

**11-2-16: TEMPORARY USE PERMITS:**

- A. Generally: A use subject to a temporary use permit is a use which is required for the proper function of the Town or is temporarily required in the process of establishing a permitted use, or constructing a private or public facility. Such uses shall be conducted so that they will not be detrimental in any way to the surrounding properties or to the Town. Uses subject to a temporary use permit may include:
1. Festival, Fair, or Concert

2. Contractor's Office and Construction Buildings
  3. Events of Public Interest
  4. Christmas Tree Sales Lots
  5. Seasonal Sales of Farm Produce
  6. 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 their authorized agent may submit a temporary use permit application to the zoning administrator for review. The application shall include the appropriate review fee. The zoning administrator may also require any additional information deemed necessary to support the approval of a temporary use permit, including a site plan showing the location and design of the proposed use.
- C. Zoning Administrator Review: 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 Ordinance and the Ennis Growth Policy.
- D. Permit Conditions: In approving such a permit, the approval shall be made subject to a time limit and other conditions deemed necessary to assure that there will be no adverse effect upon adjacent properties. Such conditions may include the following:
1. Regulation of parking;
    - a. Regulation of hours;
    - b. Regulation of noise;
    - c. Regulation of lights;
    - d. Requirement of bonds or other guarantees for cleanup or removal of structure or equipment;
    - e. Such other conditions deemed necessary to carry out the intent and purpose of this Section.

#### **11-2-17: VIOLATIONS AND PENALTIES:**

- A. Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may contact the zoning administrator to discuss the violation.
- B. The zoning administrator shall conduct an inspection of the property following the steps found in Section 0(C) 11-2-1(C) of this Ordinance. If the zoning administrator determines that a violation exists, the administrator shall contact the owner of the property to discuss the violation and to identify the steps necessary to bring the property into compliance with this Ordinance. Initial contact by the zoning administrator must include a written notification to the property owner.
- C. The zoning administrator shall provide the property owner with written notice of the steps that are necessary for compliance via certified mail. The property owner shall have 28 calendar days from receipt of the notice to bring the property into compliance with this Ordinance. This time period shall begin upon the property owner's receipt of the notice.
- D. Additional time may be provided to the property owner to resolve the violation upon the mutual consent of the zoning administrator and property owner. Official documentation of additional time granted shall be provided to the property owner by the zoning administrator.
- E. If the property owner refuses to correct the violation, the zoning administrator shall again officially notify the property owner in writing via certified mail that the Town shall take corrective action within twenty-one (21) days of the notification.

- F. If in the judgment of the zoning administrator, a violation of these regulations constitutes an imminent threat to life or property, or, could result in a hazard to public health, the zoning administrator has the authority under Section 00(B) 11-2-1 of this Ordinance to issue an immediate cease and desist order. Once the threat to life, property, or public health is removed, the property owner shall complete the required abatement protocol.
- G. The owner or tenant of any building, structure, premises, and an architect, builder, contractor, agent, or other person, who purposely or knowingly commits, participates in, assists in, or maintains any such violation, shall be held accountable for violations under this Ordinance and may be subject to the penalties herein provided.
- H. If a violation of this Ordinance occurs and the property owner refuses to correct the violation, the Town, in addition to other remedies, may take one or more of the following actions:
  - 1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use
  - 2. Restrain, correct, or abate such violation;
  - 3. Prevent any illegal act, conduct, business, or use in or about such premises; and
  - 4. Prevent the occupancy of any such building, structure, or land.
- I. Violating any of the provisions of this Ordinance, or failing to comply with any of its requirements constitutes a misdemeanor. Any person who violates this Ordinance or fails to comply with any of its requirements may, upon conviction thereof, be fined not more than five hundred dollars (\$500.00) per violation, and in addition may be ordered to pay all costs and expenses involved in the case. Each day such violation continues is considered a separate offense and punishable as such.

**11-2-18: AMENDMENTS TO THE REGULATIONS AND MAP:**

- A. Amendments to the zoning regulations and zoning map of the Town of Ennis may be initiated by the Town Commission, zoning commission, board of adjustment, or any individual, group of individuals, business, corporation, or other organization.
- B. Applications for the amendment of the regulations or map shall be submitted on an application form provided by the zoning administrator, and the applicable filing fee shall be paid. No application can be considered complete without the applicable fee.
- C. The application, shall include the rationale for the amendment and the following criteria must be addressed to the extent they are applicable:
  - 1. How does the proposed amendment achieve the goals and objectives of the Ennis Growth Policy more effectively than existing language in the regulations?
  - 2. How does the proposed amendment promote the public health, safety, and general welfare?
  - 3. How does the proposed amendment facilitate the adequate provision of transportation, water, wastewater, schools, parks, and other public services?
  - 4. How does the proposed amendment provide enhance options for pedestrian and bicycle travel within Ennis?
  - 5. How does the proposed amendment promote compatible residential and commercial growth and enhances the character and quality of life of Ennis?
  - 6. How does the proposed amendment contribute to protecting the value of property in Ennis and encourage the most appropriate use of land throughout the Town?
  - 7. Additional community benefits, if any, that will be provided or promoted by the proposed amendment.
- D. recommendation on the proposed amendment. The report shall be provided to the zoning commission and applicant 5-days prior to the public hearing.

- E. The zoning commission shall hold a public hearing no later than sixty (60) calendar days after the application has been deemed complete by the zoning administrator. The zoning administrator shall provide notice of the public hearing in a newspaper of general circulation at least fifteen (15) calendar days prior to the date of the hearing, and all other procedures set forth in Section 76-2-303 of the Montana Code Annotated, shall be followed. At the conclusion of the hearing, the zoning commission shall make a written recommendation to the Town Commission regarding the proposed amendment.
- F. The zoning commission shall forward its recommendation to the Town Commission within seven (7) business days of the hearing at which the recommendation is adopted.
- G. The Town Commission shall take action on the proposed amendment and zoning commission recommendation within thirty (30) business days following the receipt of the recommendation.
- H. An amendment of the regulations or map may not become effective, except upon a favorable vote of two-thirds (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:
  - 1. The area of the lots included in the proposed change; or
  - 2. Those lots within one hundred fifty feet (150') from a lot included in the proposed amendment.
- I. Final action to adopt a zoning regulation or zoning map amendment shall be by ordinance. Approval for the amendment of the zoning map shall require immediate changes to the Town's official zoning map and GIS mapping layers.

#### **11-2-19: PRE-ZONING**

- A. All territory to be annexed into the Town must first be pre-zoned, and the zoning must be consistent with the designated land uses for such territory as set forth in the Ennis Growth Policy.
- B. Pre-zoning applications shall be submitted the zoning administrator and any required fees must be paid upon submission of an application. Applications are available from the zoning administrator. The zoning administrator shall make a determination as to whether the application is complete and sufficient for review.
- C. The Zoning Commission shall hold a public hearing on any request for pre-zoning and shall make a recommendation to the Town Commission regarding the advisability of the proposed zoning.
- D. With due consideration of the Zoning Commission recommendation, the Town Commission shall determine whether the proposed zoning is appropriate and pass an ordinance amending the zoning. The new zoning becomes effective upon the date the property is annexed into the Town.

## CHAPTER 3 ZONING DISTRICTS, ~~OVERLAY DISTRICTS~~ AND REGULATIONS

### 11-3-1: ZONING DISTRICTS ESTABLISHED:

The following zoning districts ~~and overlay districts~~ are hereby established and are applicable to lands within the Town of Ennis as depicted on the official zoning map. For purposes of applying the zoning districts and interpreting their regulations according to the provisions of this Ordinance, these zoning districts have been formulated to implement the Ennis Growth Policy and to realize the general purposes of the zoning regulations set forth herein. The zoning districts ~~and overlay~~ shall be named and designated as follows:

*Table 1 Zoning District Designations*

District Name	Map Designation
Residential Low Density	R-LD
Residential Medium Density	R-MD
Residential Town Density	R-TD
Residential High Density	R-HD
Local Commercial Residential	LCR
Core Commercial	C-C
Highway Entrance Commercial	HEC
<del>Commercial/Industrial</del>	<del>C-I</del>
<del>Traditional Commercial Development Overlay</del>	<del>TCD</del>
<del>Floodplain Management Overlay</del>	<del>FP</del>
<u>Agricultural</u>	<u>AG</u>

#### 11-3-1-1: Agricultural Districts

Districts meaning 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.

#### 11-3-1-2: Residential Districts:

- A. R-LD- Residential Low Density – Districts meant to create single-family home sites of one dwelling units
- B. R-MD-Residential-Medium Density – Districts mean to create a mix of single family detached houses and multi-family housing.

- C. R-TD-Residential Town Density –Districts meant to create a housing density that approximates the density that currently exists throughout the Town's older areas. Eight (8) dwelling units per acre is the maximum development density for this district.
- D. R-HD-Residential High Density- Districts meant to create a housing density that allows for a maximum twelve (12) dwelling units per acre.

**11-3-1-3: Mixed Residential and Commercial Districts:**

- A. L-CR-Local Commercial and Residential - Mixed commercial/residential areas that is subject to maximum building and parking limits to ensure services will be focused on serving the surrounding neighborhoods.
- B. C-CR-Core Commercial: This district is meant to allow the downtown "core" area to retain its position as the primary business and shopping center for the Town of Ennis. In addition, the district is meant to help achieve the goals of the Town Growth Policy by protecting Ennis' western small-town character by managing the size, nature and arrangement of buildings, streets, walkways, parking, open spaces and other development features, both public and private.

**11-3-1-4: Commercial Districts:**

- A. HEC Highway Entrance-Commercial: This is a district of highway-oriented business developments abutting the Town's arterial routes. The district is meant to improve the safety and appearance of their properties as buildings are expanded or uses are changed.
- ~~B. C-I Commercial/Industrial: This district is meant to allow greater opportunity for basic sector job opportunities close to the center of the Town.~~

**11-3-1-5: Zoning Overlay Districts:**

~~Overlay zones are special zoning districts, placed over an existing base zone(s), which identify special provision that apply in addition to those required by the underlying base zoning regulations. The Town of Ennis has three overlay zoning districts:~~

- ~~A. TCD: Traditional Commercial Development (Section 0 11-3-6-1)~~
- ~~B. PUD-Planned Unit Development (Section 0 11-3-6-2)~~

**11-3-2: PERMITTED, CONDITIONAL, AND PROHIBITED USES:**

- A. Permitted Uses: All uses listed as "permitted uses" in each zoning district are permitted outright, and require only a zoning permit, building permit, and/or Town business license as applicable. Only those uses specifically listed as permitted uses are allowed in the applicable district.
- B. Accessory structures that are customary and incidental to the primary residential uses of a property including, but not necessarily limited to, detached garages, storage/tool sheds, greenhouses, workshops, are subject to the requirement for a zoning permit.
- C. Conditional Uses: 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.
- D. Prohibited Uses: For some zoning districts, a list of uses that are expressly prohibited is provided in the description of each district. These lists are provided for clarification and ease of interpretation only, and it is not in any way intended to be an exhaustive list of all uses that are prohibited in the applicable district. In

general application of this zoning code, any use or uses not listed as "permitted" or "conditional" uses are prohibited.

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

- A. Streets and alleys that are dedicated to the public and exist as travel-ways are not considered zoned.
- B. If ambiguity arises concerning the location of the boundary of any zoning district shown on the official zoning map, any person may request an interpretation from the zoning administrator.
- C. The zoning administrator shall follow the rules of interpretation listed in this section in determining the location of a boundary of a zoning district. A written copy of each such interpretation shall be kept on file with the Town Clerk.
- D. The location of the boundary of any zoning district shall be interpreted as following the nearest logical lines to that shown. This includes platted lot lines, Town limit lines, edge of dedicated public rights of way, or stream or water centerlines.
- E. Appeals of the zoning administrator's determination shall be heard by the board of adjustment.

### **11-3-4: AGRICULTURAL DISTRICTS**

#### **11-3-4-1: AG-160 Acres:**

AG-160 Acres: Areas with a minimum size of 160 acres in the AG-160 district. These districts may be subject to severe water table and other developmental problems thus limiting the capability for residential uses, but which are suitable for agricultural crops or grazing.

#### **11-3-4-2: AG-80 Acres:**

Areas with a minimum size of 80 acres in the AG-80 district. These districts have Districts with moderate developmental constraints that lie between low developmental density agricultural lands and the low density residential use areas. These areas are suitable for low density residential uses and grazing and certain other agricultural purposes.

#### **11-3-4-3: AG-40 Acres:**

Areas with a minimum size of 40 acres in the AG-40 district. These districts have Districts with moderate developmental constraints that lie between low developmental density agricultural lands and the low density residential use areas. These areas are suitable for low density residential uses and grazing and certain other agricultural purposes.

#### **11-3-4-4: Agricultural District Requirements:**

The following are use requirements for agricultural districts.

- A. Permitted Uses: No building or premises shall be used and no building shall be erected or structurally altered in any of these districts, except for one of the following purposes:
  - 1. Accessory structures and uses.
    - a. Agriculture, including field crops, horticulture, animal husbandry, and kennels.
    - b. Single-family dwellings and buildings for agricultural use.
    - c. Golf courses and country clubs.
    - d. Medical marijuana grow houses
    - e. Riding academies, dude ranches, and farm and ranch related recreational enterprises.

- f. Home Occupations in accordance with Section 0 11-4-9-E of this Ordinance.
  - g. Temporary (not to exceed 90 days) structures (not to exceed 500 square feet) for the sale of products grown primarily on the premises.
- B. Conditional Uses: The following uses are permitted in all the agricultural districts subject to meeting the requirements and procedures prescribed for conditional uses:
- 1. Airports, provided they meet all state and federal regulations.
  - 2. Cemeteries, crematories and mausoleums.
  - 3. Commercial mines, quarries and sand and gravel pits.
  - 4. Commercial recreation, including golf driving ranges and automotive racetracks.
  - 5. Essential Services
  - 6. Living quarters for persons employed more than half time on the premises in addition to the principal occupant/employer. The density of housing cannot exceed one single-family dwelling unit per 80-acres.
  - 7. Non-highway oriented lodges with cabins.
  - 7-8. Planned Unit Developments (PUD)
- C. Dimensional Requirements:
- 1. Setbacks
    - a. Front: ~~Twenty five~~<sup>Fifty</sup> feet 25'
    - b. Sides: Ten feet (10')
    - c. Rear: Ten feet (10')
    - d. Maximum Structural Height: 60'
    - e. Minimum Lot Size per Residential Unit
      - ~~f.~~ i. 160 acres in the AG-160 district
      - ~~g-f.~~ ii. 80 acres in the AG-80 district
      - ~~h-g.~~ ii. 40 acres in the AG-40 district

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## 11-3-5: RESIDENTIAL DISTRICTS

### 11-3-5-1: R-LD LOW DENSITY DISTRICT:

- A. Purpose: To encourage single-family neighborhoods. This includes setting forth standards for the bulk and scale of residential structures so that properties do not become "overbuilt", and ensuring the open yard areas, street connectivity, and streetscapes that are critical to attractive and desirable neighborhoods. A density of no more than one dwelling unit per 21,000 square feet) shall be permitted.
- 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:
  - 1. Accessory structures and uses.
    - a. Single-family dwellings
    - b. Home occupations in accordance with Section 0-11-4-9-E of this Ordinance.
    - c. Multi-family dwellings of all types up to a four (4) unit structure, including condominiums and townhomes. Structures containing 4 or more residential units are subject to design review by the **Town Design Review Committee**. These projects shall also meet off street parking requirements in accordance with Section 0-11-4-7.
    - d. Public parks, playgrounds, and recreational facilities.

C. Conditional Uses: The following uses are permitted in R-LD districts subject to meeting the requirements and procedures prescribed for conditional uses and the requirements of Section 0-11-4-9, Standards for Certain Uses and Structures, if applicable:

1. Accessory residential unit
2. Essential services.
  - a. Churches and other religious institutions
  - b. Home Based Daycare Business providing care for up to twelve (12) or fewer children
  - c. Community residential facilities
  - d. Planned Unit Developments

D. Prohibited Uses:

1. Class B and C manufactured homes. If a Class B or C manufactured home is removed for any reason, it may only be replaced by a Class A manufactured home or a conventionally site built dwelling unit on a permanent foundation.
  - a. All commercial and industrial uses.

E. Design Standards: All structures must comply with residential design standards of Section 0-11-4-8 of this Ordinance.

F. Dimensional Standards (Section 0 11-5-2 Definitions for Setbacks)

1. Setbacks
  - a. Front: Twenty feet (20')
  - b. Sides: Ten feet (10')
  - c. Rear: Ten feet (10')
  - d. Maximum Structural Height: Thirty feet (30')
  - e. Minimum lot size per residential dwelling unit: 21,000 square feet
  - f. Minimum lot width based upon street frontage: Seventy-five feet (75)
  - g. Maximum lot coverage: Forty percent (40%)
  - g-h. Minimum front setback landscaping requirement (60%)

G. Supplementary Regulations: All structures and uses shall comply with other applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

**11-3-5-2: 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:

1. Accessory structures and uses.
  - a. Single family detached dwelling.
  - b. Home occupation in accordance with Section 0 E11-4-9-E of this Ordinance.
  - c. Multi-family dwellings of all types up to a four (4) unit structure, including condominiums and townhomes. Structures containing 4 or more residential units are subject to design review by the Town Design Review Committee. These projects shall also meet off street parking requirements in accordance with Section 0 11-4-7.

- d. Public parks, playgrounds, and recreational facilities
- C. Conditional Uses: The following uses are permitted in R-MD districts subject to meeting the requirements and procedures prescribed for conditional uses and the requirements of Section ~~9~~-11-4-9, Standards for Certain Uses and Structures, if applicable:
  - 1. Accessory residential units
  - 2. Bed and breakfasts.
  - 3. Essential services.
  - 4. Churches and other religious institutions subject to the following conditions:
  - 5. Home Based Daycare Business providing care for up to twelve (12) or fewer children.
  - 6. Community residential facilities
  - 7. Planned Unit Developments
- D. Prohibited Uses
  - 1. All commercial and industrial uses;
  - 2. Class B and C manufactured homes. If a Class B or C manufactured home is removed for any reason, it may only be replaced by a Class A manufactured home or a conventionally site built dwelling unit on a permanent foundation.
- E. Design Standards: All uses must comply with residential design standards of Section 0 11-4-8 of this Ordinance, as applicable.
- F. Dimensional Standards (Section 0 11-5-2 Definitions for Setbacks)
  - 1. Setbacks
    - a. Front: Twenty feet (20')
    - b. Sides: Ten feet (10')
    - c. Rear: Ten feet (10')
    - d. Maximum Structural Height: Thirty feet (30')
    - e. Minimum lot size per residential dwelling unit: 10,000 square feet
    - f. Minimum lot width based upon street frontage: Fifty feet (50')
    - g. ~~Maximum floor to area ratio (FAR): 0.50~~
    - g. Maximum lot coverage: Fifty percent (50%)
    - h. Minimum front setback landscaping requirement (60%)
- G. Supplementary Regulations: All structures and uses shall also comply with the applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

**11-3-5-3: R-TD RESIDENTIAL TOWN DENSITY DISTRICT**

- A. Purpose: Residential Town Density zoning district R-TD is intended to preserve and enhance the established residential areas of Ennis, while allowing for a variety of residential product types including single family detached houses, duplexes, condominiums, townhomes, and multi-family structures.
- 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:
  - 1. Single family dwellings
  - 2. Multi-family dwellings of all types up to a four (4) unit structure, including condominiums and townhomes. Structures containing 4 or more residential units are subject to design review by the Town Design Review Committee. These projects shall also meet off street parking requirements in accordance with Section 0 11-4-7.

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3. Home occupations in accordance with Section E of 0 11-4-10-E of this Ordinance.
  4. Public parks, playgrounds, and recreational facilities
- C. Conditional Uses: The following uses are permitted in R-TD districts subject to meeting the requirements and procedures prescribed for conditional uses and the requirements of Section 0 11-4-9, Standards for Certain Uses and Structures, if applicable:
1. Accessory residential units
  2. Bed and breakfasts.
  3. Essential services.
  4. Churches and other religious institutions
  5. Community residential facilities
  6. Home based Daycare Business providing care for twelve (12) or fewer children
  - ~~6-7.~~ Planned Unit Developments (PUD)
- D. Prohibited Uses
1. All commercial and industrial uses.
  2. Class B and C manufactured homes. If a Class B or C manufactured home is removed for any reason, it may only be replaced by a Class A manufactured home or a conventionally site built dwelling unit on a permanent foundation.
- E. Design Standards: All uses must comply with residential designs standards in Section 0 11-4-9 of this Ordinance, as applicable.
- F. Dimensional Standards (Section 0 11-5-2 Definitions for Setbacks)
1. Setbacks
    - a. Front: Ten feet (10')
    - b. Sides: Five feet (5')
    - c. Rear: Five feet (5')
    - d. Maximum Structural Height: Twenty-five feet (25')
    - e. Minimum lot size per residential dwelling unit: 5,400 square feet
    - f. Minimum lot width based upon street frontage: Fifty feet (50')
    - g. Maximum floor to area ratio (FAR): .50
    - h. Maximum lot coverage: Sixty percent (60 )
- G. Supplementary Regulations: All structures and uses shall also comply with the applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

#### **11-3-5-5 R-HD RESIDENTIAL HIGH DENSITY**

- A. Purpose: Residential High Density zoning district R-HD is intended to encourage the development of higher density residential areas in Ennis, while promoting a variety of residential product types including single family detached houses, duplexes, condominiums, townhomes, and multi-family structures.
- B. Permitted Uses: In R-HD districts, no building or premises shall be used and no building shall be erected or structurally altered except for one of the following purposes:
  1. Single family dwellings
    - a. Multi-family dwellings of all types up to a four (4) unit structure, including condominiums and townhomes. Structures containing 4 or more residential units are subject to design

review by the **Town Design Review Committee**. These projects shall also meet off street parking requirements in accordance with Section 0 11-4-7.

- b. Home Occupations in accordance with Section E of 0 11-4-9-E of this Ordinance.
  - c. Public parks, playgrounds, and recreational facilities
- C. Conditional Uses: The following uses are permitted in R-HD districts subject to meeting the requirements and procedures prescribed for conditional uses and the requirements of Section E of 0 11-4-9, Standards for Certain Uses and Structures, if applicable:
1. Accessory Residential Units in accordance with Section
  2. Essential services.
  3. Churches and other religious institutions
  4. Community residential facilities
  5. Home Based Daycare Business providing care for twelve (12) or fewer children
  - ~~5-6.~~ Planned Unit Developments (PUD)
- D. Prohibited Uses
1. All commercial and industrial uses.
  2. Class B and C manufactured homes. If a Class B or C manufactured home is removed for any reason, it may only be replaced by a Class A manufactured home or a conventionally site built dwelling unit on a permanent foundation.
- E. Design Standards: All uses must comply with residential designs standards in Section 0 11-4-8 of this Ordinance, as applicable.
- F. Dimensional Standards (Section 0 11-5-2 Definitions for Setbacks)
1. Setbacks
    - a. Front: Ten feet (10')
    - b. Sides: Five feet (5')
    - c. Rear: Five feet (5')
    - d. Maximum Structural Height: Thirty feet (30')
    - e. Minimum lot size per residential dwelling unit: 3,600 square feet
    - f. Minimum lot width based upon street frontage: Forty feet (40')
    - ~~g.~~ Maximum floor to area ratio (FAR): .55
    - ~~g.~~ Maximum lot coverage: Seventy five (75 %)
    - h. Minimum front setback landscaping requirement (40%)
- G. Supplementary Regulations: All structures and uses shall also comply with the applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

## **11-3-6: MIXED COMMERCIAL/RESIDENTIAL DISTRICTS**

### **11-3-6-1: L-CR LOCAL COMMERCIAL/RESIDENTIAL DISTRICT:**

- A. Purpose: The district is intended to provide a smooth transition between commercial and residential areas, while at the same time providing opportunities for low impact commercial and office uses away from the

higher intensity uses and higher traffic volumes of the commercial districts. A pleasing, walkable streetscape will also be an objective of the L-CR district. The adaptive reuse of residential structures for nonresidential or mixed use is encouraged as long as the comply with the standards for commercial uses.

B. Permitted Uses: In L-CR districts, no individual non-residential space shall exceed one thousand two hundred (1,200) square feet in gross area, the total non-residential 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:

1. Bed and breakfasts.
2. Accessory buildings and uses.
3. Churches and other religious institutions, public parks, playgrounds, and community centers
4. Daycare centers.
- a- ~~5.~~ 5. Community residential facilities
- b- ~~6.~~ 6. Eating and dining establishments.
- e- ~~7.~~ 7. Offices
- d- ~~8.~~ 8. Shops and services that generally serve the day to day needs of nearby neighborhood residents.
- e- ~~9.~~ 9. Single family detached dwelling, single family attached, multi-family attached residential units up to eight (8) units, including condominiums and townhomes.
- f- ~~10.~~ 10. Residential lofts above or to the rear of a commercial permitted use
- g- ~~11.~~ 11. Home occupations in accordance with Section 10-4-7.

C. Conditional Uses: The following uses are permitted in L-CR districts subject to meeting the requirements and procedures prescribed for conditional uses and the requirements of Section 0 11-4-9, Standards for Certain Uses and Structures, if applicable:

1. Essential services; (fire, police, ambulance etc)
- ~~2.~~ 2. Planned Unit Developments (PUD)

D. Prohibited Uses:

1. Drive-through facilities for any commercial use
2. Adult entertainment
3. Hotels and motels
4. Taverns, bars, and casinos
5. Vehicle fuel dispensing, with or without retail.

E. Dimensional Standards (Section 0 11-5-2 Definitions for Setbacks)

- ~~1.~~ 1. ~~Traditional Commercial Development standards found in Section 0 11-3-6-1 of this Ordinance apply~~
- a- 1. Maximum Structural Height: Forty feet (40')
- a- 2. Minimum Lot Size: 5,000 square feet
- b- 3. Floor to area ratio (FAR): 3.0
- e- 4. Minimum lot width based on street frontage: Fifty feet (50')
- d- 5. Minimum Landscape Ratio (LSR): Fifteen percent (15%) ~~-ask Jerry how to make it~~
- e- 6. Maximum Lot Coverage: Eight-five percent (85%)

F. Off street parking and loading shall be in accordance with Section 0 11-4-7 of this Ordinance.

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- G. On site signage shall be in accordance with Section 0-11-3-6-3 of this Ordinance.
- H. Outdoor lighting shall be in accordance with Section 0-11-4-6 of this Ordinance.
- I. Fencing shall be in accordance with Section 0-11-4-11 of this Ordinance.
- J. Sidewalks shall be provided along the entire lot frontage in accordance with the Town's Transportation Design Standards. (In draft form under review.) Public right of way can be used
- K. Supplementary Regulations: All structures and uses shall also comply with the applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

**11-3-6-2: C-C CORE COMMERCIAL DISTRICT: C-CR-1-4**

- A. Purpose: The core commercial district (C-CR) is intended to keep downtown Ennis as the governmental, retail, entertainment, and financial center of the community. In addition, this district supports the expansion and continued investment in the historical business core of Ennis, and promotes a walkable, diverse and attractive area for shopping and entertainment, while maintaining the small town atmosphere and historical character and small-town atmosphere of Ennis.
- B. Permitted Uses:
  - 1. Dining and drinking establishments including restaurants, bars, and taverns, including fraternal clubs and lodges.
  - 2. Indoor entertainment such as bowling alleys, theatres, museums, galleries.
  - 3. Churches and other religious institutions
  - 4. Governmental buildings and services including administration, employment, utility, judicial, libraries, parks, and police and fire stations.
  - 5. Professional and agency offices including medical and dental, real estate, managerial, business, legal, and insurance.
  - 6. Retail shops and stores including but not limited to general and specialty items, clothing, art, home furnishings, school/office supplies, copy centers, antiques, sporting goods, and grocery stores.
  - 7. Hotels and motels
  - 8. Breweries and distilleries.
  - 9. Medical Marijuana

**10. Child Care Facility**

- A. Conditional Uses: The following uses are permitted in C-C district subject to meeting the requirements and procedures prescribed for conditional uses:
  - 1. Essential services.
  - 2. Planned Unit Developments
  - 3. Casinos: Casinos are allowed in the C-C district only as accessory and clearly incidental uses to dining and drinking establishments.
  - 4. Residential uses. Residential is allowed as a conditional use in the district subject to the following conditions:
    - a. All residential units shall be located at the rear or upper floors above any permitted use listed in this Section.
    - b. Off street parking shall be provided in accordance with Section 0 11-4-7 of this Ordinance.
- B. Prohibited Uses:
  - 1. Adult entertainment
  - 2. Auto, truck, and trailer sales of any kind

3. Mobile home or manufactured home sales of any kind.
  4. Tire and auto service of any kind, including quick lube.
  5. Vehicle fuel dispensing, with or without retail.
  6. Industrial uses.
  7. Drive-through facilities.
- C. Dimensional Standards (Section 0 11-5-2 Definitions for Setbacks)
1. Traditional Commercial Development standards found in Section 0 11-3-6-1 apply
    - a. Maximum Structural Height: Forty feet (40')
    - b. Minimum Lot Size: Two thousand five hundred (2,500) square feet
    - c. Floor to area ratio (FAR): 3.0
    - d. Minimum Landscape Ratio (LSR): Ten percent (10%)
    - e. Maximum Lot Coverage: Ninety-five percent (95%)
- D. Off street parking and loading shall be in accordance with Section 0 11-4-7 of this Ordinance.
- E. On site signage shall be in accordance with Section 0 11-3-6-3 of this Ordinance.
- F. Outdoor lighting shall be in accordance with Section 0 11-4-6 of this Ordinance.
- G. Fencing shall be in accordance with Section 0 11-4-11 of this Ordinance.
- H. Sidewalks shall be provided along the entire lot frontage in accordance with the Town's Transportation Design Standards.
- I. Supplementary Regulations: All structures and uses shall also comply with the applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

## **11-3-7: HIGHWAY COMMERCIAL/INDUSTRIAL DISTRICTS**

### **11-3-7-1: HE-C HIGHWAY ENTRANCE COMMERCIAL DISTRICT:**

- A. Purpose: The purpose of the highway commercial district (HE-C) is to provide a mix of uses and promote aesthetically compatible, multi-modal approaches into downtown Ennis from Federal and State highways that are consistent with the historical character of Ennis. It is recognized that these commercial areas should also be attractive components of the built environment, and that many areas of HE-C zoning are located in important community entryways and need to provide for multi-modal transportation. The standards set forth for this district recognize that much of the area zoned HE-C is already developed, and nonconformities exist, but should be kept to a minimum in order to encourage future investment.
- B. Permitted Uses:
1. Indoor entertainment such bowling alleys, museums, and galleries.
    - a. Drive-in and drive through establishments.
    - b. Hotels, motels, restaurants, taverns and package liquor stores.
    - c. Medical marijuana grow houses and storefronts.
    - d. Public and private recreation uses.
    - e. Retail shops and stores including but not limited to general and specialty items, clothing, art, home furnishings, school/office supplies, copy centers, antiques, sporting goods, and grocery stores.
    - f. Service stations, automobile and truck repair garages.

- g. Single family dwellings
  - h. Multiple family dwellings up to an eight (8) unit structure.
  - i. Tourist information centers.
  - j. Churches and religious buildings.
- C. Conditional Uses: The following uses are permitted in HEC districts subject to meeting the requirements and procedures prescribed for conditional uses
- 1. Casinos are allowed in the HE-C district only as accessory and clearly incidental uses to dining and drinking establishments and to hotels and motels, and are subject to the following conditions:
  - 2. Gaming machines and live gaming tables shall be confined to a separate room within the establishment and accessible only through the inside of the host establishment. No direct access to the gaming room from the outside is allowed.
  - 3. The gaming room shall not be larger than six hundred (600) square feet.
  - 4. No additional signage is allowed because of a casino.
  - 5. Essential services.
  - 6. Light industrial.
  - 7. Single family dwellings
  - 8. Multiple family dwellings up to an eight (8) unit structure.
  - ~~8-9. Planned Unit Developments (PUD)~~
- D. Prohibited Uses:
- 1. Adult entertainment
  - 2. Heavy equipment sales and service, and storage..... Need a definition
  - 3. Industrial
  - 4. Bulk gas, propane and, and oil distributing plants
- E. Commercial Design Standards: All uses must comply with the commercial design standards.
- F. Dimensional Standards: (Section 0 11-5-2 Definitions for Setbacks)
- 1. Setbacks
  - 2. Front: Ten feet (10') no more than twenty-five feet (25')
  - 3. Sides: Fifteen feet (15')
  - 4. Rear: Fifteen feet (15')
  - 5. Maximum Structural Height: Forty feet (40')
  - 6. Minimum lot size: ~~Not applicable~~ Five thousand (5000) square feet
- G. Off street parking and loading shall be in accordance with Section 0 11-4-7 of this Ordinance.
- H. On site signage shall be in accordance with Section ~~0~~11-3-6-4 of this Ordinance.
- I. Outdoor lighting shall be in accordance with Section ~~0~~11-4-6 of this Ordinance.
- J. Fencing shall be in accordance with Section ~~0~~11-4-11 of this Ordinance.
- K. Supplementary Regulations: All structures and uses shall also comply with the applicable standards found in Chapter 4, Supplementary Regulations of this Ordinance.

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### ~~11-3-8: ZONING OVERLAY DISTRICTS (numbering correction)~~

~~Overlay zoning is a regulatory tool that used in Ennis that creates a special zoning district, that is placed over an existing base zone(s), which identifies special provisions in addition to those required by the underlying base zone.~~

~~Overlay districts may share common boundaries with the base zone districts in Ennis or cut across base zoning district boundaries.~~

~~**11-3-8-1: TCD TRADITIONAL COMMERCIAL DEVELOPMENT OVERLAY:**~~

- ~~A. Intent: The current Growth Policy reflects the citizen's intent to maintain Ennis' small western Town appearance and other features that distinguish it from other communities. TCD provisions offer property owners, developers and builders maximum flexibility of design consistent with the goals, objectives, policies and overall intent of the Ennis Growth Policy and applicable provisions of the Montana planning and zoning statutes. Design parameters and review procedures to be used in administering TCD provisions are intended to assure full protection of the health, safety, morals and general welfare of Ennis. See section B for applicable areas.~~
- ~~B. TCD Purpose: The purpose of this subsection is to set forth basic design standards for certain specific elements of downtown Ennis's built environment. These standards are intended to protect the downtown's unique character and qualities while stimulating and protecting investment, and allowing the architect or designer the latitude to develop a creative response to any design issue. Where standards use terms such as "must", "required", or "shall be", they are mandatory. Where terms such as "encouraged", "preferred", "may" or "optional" are used, the standard is considered a guideline and is voluntary. These standards and guidelines apply to the commercial uses in the Local Commercial/Residential (L-CR) and Core Commercial (C-C) districts only.~~
- ~~C. Review of TCD Proposals as CUP: All proposals for a new commercial development in the TCD shall be reviewed as conditional uses per the requirements of Section 0 11-2-15 of this Ordinance.~~
- ~~D. Community Design Review: At the discretion of the Town Commission, the Design Review Committee may review and provide a recommendation to the Commission on proposed conditional use permits per the direction of Section 0 11-2-5 of this Ordinance.~~
- ~~E. Front Setbacks and Exceptions: All primary structures are required to have a front setback from zero to five feet (5'). The administrator is empowered to grant an exception for a front setback of no more than fifteen feet (15') when the space between the primary structure and the front property line is designated on the zoning permit site plan as being used for outdoor dining, for public art, or for use as a plaza or other public gathering place. An increased front setback to allow parking in front of a structure is expressly prohibited.~~
- ~~F. Exterior Building Materials: Acceptable exterior building materials for the fronts (street facing) of primary structures include wood and manufactured wood grain hardboard, brick, split faced block and stone, including manufactured stone. Decorative (painted or coated) metal siding shall only be used on building fronts in combination with the previously mentioned acceptable building materials and can only comprise fifty percent (50%) of the front of a structure. Acceptable materials for the sides and rear of primary structures and for accessory structures include smooth painted concrete or cinder block, finished metal siding of all types, synthetic stucco, exterior insulated finish system, and vinyl exterior finishes of all types.~~
- ~~G. Exterior Colors: Bright and heavily saturated primary colors are encouraged for trim and architectural embellishments only. Fluorescent or Day Glo colors of any shade are prohibited.~~
- ~~H. Entryways: A building's primary door and entrance shall be located in the principal facade of the structure, and shall be oriented toward the street. The primary entrance must be readily apparent as a prominent architectural component. Entryways shall be recessed from the front property line so that patrons have a queuing area out of the pedestrian flow. The recessed area must be at a minimum one and one half (1½) times the width of the door to avoid a corridor like effect. Doors shall permit clear two way visibility, and wood and glass are preferable materials.~~

- ~~I. Windows: Street level windows are required of all structures, including the sides of structures occupying corner lots. Windows shall begin at least three feet (2') above the sidewalk and may extend vertically to the top of the first level. Street level windows shall be designed to engage the pedestrian and invite visual inspection of the interior of the establishment as well as to view displays of merchandise. Stenciled signage or other signage types that allow visual penetration through the lettering is encouraged. Reflective glazing is expressly prohibited. Windows may be recessed to allow patrons to view displays out of the pedestrian flow. Bay windows shall not extend into the right of way (sidewalk area). Unframed windows are not permitted unless set into a brick or stone like facade.~~
- ~~J. Fencing: Shall be constructed of suitable substantial material and designed to maintain Ennis's small town western character.~~
- ~~K. 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%).~~
- ~~L. Off street Parking and Loading: Parking and loading areas shall be consistent with the Ennis Growth Policy and shall be placed behind buildings and screened from public streets and surrounding properties. The parking and loading requirements set forth in this Ordinance shall serve as review guide for TCD proposals but may be adjusted by a factor up to one hundred percent (100%), provided:
 
  - ~~1. Acceptable alternative arrangements are made or actual needs are less for the specific proposed uses to be served, and
 
    - ~~a. An equivalent area, suitably located with respect to access, is landscaped for subsequent conversion to parking or loading if uses are changed.~~~~~~
- ~~M. Parks, Trails and Common Open Spaces: Parks, trails and common spaces commensurate with the type, size and location of proposed TCDs shall be incorporated into the design plans. TCD plans shall also include procedures for constructing and providing for the continued maintenance of these features.~~
- ~~N. Community Facilities and Utilities: Community utilities and facilities commensurate with the type, size and location of proposed TCDs shall be incorporated into the design plans. TCD plans shall also include the means of transferring ownership and long term responsibility for such improvements or land.~~
- ~~O. Landscaping, Lighting and Street Furniture: Landscaping, lighting and street furniture shall meet the applicable requirements of Chapter 4, Supplementary Regulations of this Ordinance. However, proposals of an extraordinary quality and design may be used as mitigating offsets with respect to other ordinance requirements.~~
- ~~P. Signs: The sign requirements set forth in Section 0 11 3 6 3 of this Ordinance shall serve as review guide for TCD proposals but may be adjusted for valid functional and aesthetic reasons by a factor up to twenty five percent (25%).~~
- ~~Q. Pedestrian Access: Sidewalks shall be constructed in accordance with the standards found in the Town Transportation Design Standards as well as in accordance with Federal, State, and Local Government requirements for sidewalks and paths. Replacement or repair of all existing sidewalks disturbed or damaged as a result of a Permittees actions will be required.~~
- ~~R. Bikeways shall be built to the minimum standards as shown in the Guide for the Provision of Bicycle Facilities, published by American Association of State Highway and Transportation Officials (AASHTO). Street builders and Applicants must conform with these Town Transportation Design Standards as well as Federal, State requirements for bikeways.~~

### **11-3-8-2: PLANNED UNIT DEVELOPMENTS**

#### **Planned Unit Developments (PUD):**

- ~~A. Scope—This Section applies to planned unit development (PUD), which can only be permitted as conditional use permits.~~
- ~~A. Applicability—The PUD regulations in this Section are applicable in all zoning districts where PUDs are listed as a conditional use. The PUD regulations shall be used for developments meeting the following criteria:~~
- ~~1. Minimum Size—A tract of land of no less than 5 acres in size, except as provided elsewhere in this ordinance, that is developed as a unit under single or unified ownership or control~~
    - ~~a. Consistency with Zoning District—Uses not otherwise allowed in the zoning district are prohibited within a PUD except as provided in this Section.~~
    - ~~b. Purpose—The purposes of this Section include the following:~~
    - ~~c. Ennis Growth Policy—The Growth Policy reflects the intent of residents to maintain Ennis' small western town appearance and the features that distinguish it from other communities in Montana. The PUD regulations are meant to implement the following goals of the Ennis Growth Policy:~~
      - ~~d. Maintain Adequate Infrastructure~~
      - ~~e. Protect Natural and Cultural Resources~~
      - ~~f. Attract New Businesses~~
      - ~~g. Increase Affordable Housing~~
      - ~~h. Improve Quality of Life~~
      - ~~i. Promote sustainable building design and management practices in residential, commercial, and industrial buildings.~~
      - ~~j. Shall provide a walkable, sustainable development pattern that supports alternative forms of transportation, while still accommodating the automobile.~~
      - ~~k. Mix of Uses—To allow for a complementary mixture of uses in an integrated and well planned area within a single zoning district.~~
      - ~~l. Integrate Natural Resources—To ensure contiguous and well-planned open space and preservation of Ennis' natural and historic heritage.~~
      - ~~m. Public Utilities—To facilitate cost effective and sustainable investment in streets and public utilities and infrastructure.~~
      - ~~n. Community Assets—To facilitate sustainable building design and site layout, and to provide affordable housing, recreational uses and public uses.~~
- ~~B. Flexibility in Zoning and Subdivision Standards—PUDs may allow zoning and subdivision design elements not otherwise permitted in some zoning districts if specific conditions are met, provided the design meets the general standards for development in this Section.~~
- ~~C. Elements for Flexibility—The zoning and subdivision design standards that are granted flexibility include:~~
- ~~1. non standard lot sizes,~~
  - ~~2. higher density of housing units or floor to area ratios for commercial uses~~
  - ~~3. reduced rights of way and street widths,~~
  - ~~4. broader range of housing types,~~
  - ~~5. land use mix, excluding uses that are not permitted in the zoning district,~~
  - ~~6. zero lot lines and other modifications to minimum or maximum building setbacks.~~

~~D. Conditions for Flexibility for Standards—The conditions required for flexibility on zoning and subdivision regulations standards must advance Ennis’ Growth Policy goals and may include, but are not limited to, the following:~~

- ~~1. Natural Systems—Conditions to permanently protect and manage natural systems and resources.~~
- ~~2. Housing Types and Affordability—Conditions to ensure an appropriate mix of housing types and affordability.~~
- ~~3. Pedestrian and Bicycle Travel—Conditions to enhance the options for pedestrian and bicycle travel within Ennis.~~
- ~~4. Appropriate Mix of Uses—Conditions to ensure a sustainable and efficient mix of land uses.~~
- ~~5. Utility Services and Infrastructure—Conditions to protect or enhance the quality of service from water, sewer, stormwater, electric, gas, and telecommunications systems.~~
- ~~6. Open Space—Conditions to enhance park and trail access, landscaping and appearance, and optimal stormwater management.~~
- ~~7. Building Design—Conditions on building design to protect community, natural, and economic resources.~~

~~E. Effect on Existing Zoning—The granting of a PUD permit does not alter in any manner the existing zoning district classification except that zoning permits shall not be issued unless in conformity pursuant to an approved PUD conditional use permit. Whenever a question arises concerning the interpretation of this Section, it shall be the duty of the zoning administrator to ascertain all facts concerning the question and forward all data and a recommendation to the Town Commission for a determination.~~

~~F. Permitted Uses—Planned unit developments include the following permitted uses:~~

- ~~1. Dwelling units in detached, clustered, semi-detached, or attached multi-storied structures or combinations thereof. This shall include condominiums and townhomes.~~
- ~~2. Commercial uses.~~
- ~~3. Public facilities.~~
- ~~4. Open space, parks, trails, and natural systems.~~
- ~~5. Community-supported agricultural and community gardens.~~

~~G. Conditions for Approval—Planned unit developments are a conditional use or cannot be permitted, as noted in the regulations for each zoning district. The Town of Ennis may approve the planned unit development only if it finds that the development satisfies all of the following standards:~~

- ~~1. Consistency with the Ennis Growth Policy—The planned unit development advances the Growth Policy goals.~~
- ~~1. Integrated with Surrounding Uses—The planned unit development is planned and developed in harmony with existing or proposed development in the areas surrounding the project site.~~
- ~~2. Single Ownership—The tract under consideration is under single ownership or control.~~
- ~~3. Minimum Size and Exceptions—The tract is at least five (5) acres in size. Smaller tracts may be allowed if the applicant can show that the proposed PUD meets the standards and purposes of this Section and of the Growth Policy, as well as protecting the health, safety and welfare of the residents of Ennis.~~

~~H. Coordination with Subdivision Regulations~~

- ~~1. Simultaneous Subdivision Review—Subdivision review must be carried out simultaneously with the review of a planned unit development. Thus, the Zoning Administrator shall coordinate the review of the conditional use permit with the review of the subdivision application by the Town’s planner.~~
- ~~1. Preliminary Plat Applications—The preliminary plat application materials required under this Section must be submitted in a form that will comply with the Ennis’ Subdivision Regulations for the preliminary and final plats.~~

2. ~~Flexibility of Subdivision Standards – Flexibility in the design standards found in the Ennis Subdivision Regulations may be allowed as part of a planned unit development if the proposed PUD complies with the requirements of this Section.~~
1. ~~Application Requirements for Planned Unit Development – The following information and documents shall be filed as part of the conditional use permit application.~~
  1. ~~Application – An application for a planned unit development permit shall following the procedural steps as set forth in the conditional use regulations including a completed conditional use permit application and review as provided by the zoning administrator.~~
  1. ~~Additional Application Requirements for PUD – In addition to the criteria and standards set forth under the requirements for conditional uses in Section 0-11-2-15, the applicant shall submit information describing the following:~~
    - a. ~~Growth Policy – Conformance of the PUD with the Ennis Growth Policy.~~
    - a. ~~Neighboring Impacts – The PUD will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.~~
    - b. ~~Phasing – Is each phase of the proposed development of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.~~
    - c. ~~Schedule – A general indication of the expected schedule of development including a phasing plan per the requirements of Town of Ennis Subdivision Regulations.~~
    - d. ~~Can all phasing be completed within 20 years of the anticipated preliminary plat approval as required by State statute?~~
    - e. ~~Government Services – Full description as to how all necessary the project will be provided with transportation, water, wastewater, schools, parks, and other public services.~~
    - f. ~~Character – A description of the character of the planned development and the manner in which it will advantage of the planned development regulations.~~
    - g. ~~Ownership – A list of the present ownership of all the land included within the planned development and a list of property owners within 500 feet of the outer boundaries of the property as obtained through State of Montana cadastral records of the Madison County Clerk and Recorder.~~
    - h. ~~Existing Conditions Map – A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street rights of way, utilities, and buildings for the property and for the area 500 feet beyond.~~
    - i. ~~Natural Features – Maps of the property and area 500 feet beyond showing contour lines at no more than two foot intervals, drainage patterns, wetlands, vegetation, soil, and subsoil conditions.~~
    - j. ~~Site Plan – A site plan showing the proposed land uses including housing and commercial units and types, vehicular and pedestrian circulation, and open space uses.~~
    - k. ~~Additional Information – Any additional information requested by the Town zoning administrator or planner, the zoning commission and Town Commission that may be required for clarification of the proposed project.~~

~~I. Copies 10 copies of the application shall be submitted to the Town zoning administrator and planner.~~

~~J. Subdivision Process The applicant shall submit a preliminary plat application to the Town planner for all portions of the project subject to review as a subdivision. The application shall include all the documentation and review fees required under the Ennis' Subdivision Regulations.~~

~~K. Annual Review The zoning administrator shall review planned unit developments within the Town on an annual basis and may make a report to the Town Commission on the status of non-compliance for a particular PUD. If the zoning administrator finds that the development has not commenced within one year after the original approval of the conditional use for the PUD, the zoning administrator may recommend that the Commission extend the time or revoke the conditional use permit.~~

~~L. Prior to extension or revocation of this permit, the Commission shall hold a noticed public hearing at which time all interested parties, including the owner(s) of the PUD will be given an opportunity to be heard. The owner(s) of the PUD shall be notified of Commission's hearing of 15 working days in advance of the hearing. Notice of the hearing must be published in the official Town of Ennis newspaper at least fifteen (15) calendar days prior to the hearing before the Town Commission.~~

~~M. Amendment and Change of PUD~~

~~1. Minor Changes Minor changes to the location, placement, and heights of the buildings or structures within a PUD may be authorized by the zoning administrator if they are deemed required by engineering circumstances not foreseen at the time the final development plan was approved.~~

~~1. Major Changes Require New Development Agreement Major changes, such as rearrangement of lots, blocks and building tracts shall require a review of the final development plan and the approved preliminary plat or any filed final plats. All changes shall be consistent with the purpose and intent of the approved planned unit development and the Town Growth Policy. All amendments to the planned unit development and the associated preliminary or final plats shall require the same review procedures as required for a conditional use permit and for a subdivision application as set forth in this Section and the Town's Subdivision Regulations.~~

## CHAPTER 4: ~~GENERAL SUPPLEMENTARY~~ PROVISIONS AND STANDARDS:

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### 11-4-1: LANDSCAPING STANDARDS:

- A. The purpose and intent of this Section is to establish landscaping requirements that promote attractive and high-quality development and preserve and enhance the natural beauty of the Town. It is further the purpose of this Section to require landscaping that ensures compatibility among adjacent land uses; controls dust, glare and erosion; screens objectionable objects; visually softens the mass of buildings; promotes air quality and enhances property values. Safe and attractive landscaping is encouraged adjacent to public streets and throughout parking areas. It is not the intent of this Section to prescribe a certain style of landscaping except to include plants that are indigenous to the area and tolerant of Ennis winter conditions.
- B. Trees in particular are recognized for their importance in shading and cooling, noise and wind reduction, open space, visual relief, architectural enhancement, prevention of soil erosion, production of oxygen, dust filtration, carbon dioxide uptake, providing habitat for urban wildlife, and contributing to the aesthetic and economic value of real property. Landscape areas that are specially designed to act as drainage retention and snow storage areas are encouraged by the Town of Ennis.
- C. Interpretation and Scope:
  1. Applicability: The provisions of this Section shall apply to a lot or site within the L-CR, C-C, HEC, zoning districts, and multi-family housing with 4 or more dwelling units in all districts when an application is submitted for site plan approval or a zoning permit. All other Residential Districts are encouraged to comply with these standards.
  2. Exceptions: These provisions shall not apply to the following:
  3. Lots included in a conditional use permit (CUP) or zoning variance proceeding approved with its own landscape plan.
  4. Planned Unit Developments that have been approved with their own landscape plan.
- D. General Landscaping Provisions:
  1. All landscaping must comply with the mandatory landscape provisions in Subsection 2 below as well as other relevant provisions of this Section.
    - a. Landscaping may utilize "xeriscape" type landscaping methods which includes the use of vegetation that is drought tolerant.
    - b. The use of berms, swales, ornamental trees or shrubs to provide contour and relief within the landscaped area is encouraged.
    - c. Mandatory Landscaping Provisions:
    - d. 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
    - e. All development subject to this Section shall provide a minimum of ten percent (10%) of the lot area for landscaping. At least half of the landscaping (fifty percent) of the required landscaping must be placed adjacent to public right of ways, excluding alleys, if applicable.
    - f. All required landscaping or landscaped areas shall contain a majority (+50%) of organic, living landscaping materials.

- g. Screening: Screening may be required between existing and/or future residential and nonresidential uses, nonresidential uses of differing character and public roads.
  - h. Parking area Landscaping: See Off Street Parking and Loading standards in Section 0 11-4-7 of this Ordinance.
  - i. Invasive Plants: Plants and trees identified by the **United States Department of Agriculture**, shall not be introduced and should be removed from new developments.
- E. Landscaping of Boulevards and 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.
- F. 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.

**11-4-2: PROPERTY MAINTENANCE:**

- A. Intent and Purpose: Property maintenance standards are intended to protect the quality, character, and property values within the Town by eliminating public health, safety, and nuisance issues associated with the accumulation of junk, debris, and the substandard maintenance of buildings and structures.
- B. Inoperable Vehicles and Parts: Inoperable vehicles or parts of vehicles, including, but not limited to, auto and truck bodies, boats, trailers, motorcycles, snowmobiles, RVs, engines, tires, rims, transmissions, etc., may not be stored openly, except that when a vehicle is actively being restored or repaired, the vehicle itself may be stored outdoors for no more than thirty (30) days.
- C. Trash and Debris: No trash or debris shall be allowed to accumulate on properties, including, but not necessarily limited to, garbage, rubbish, ashes, packaging, broken concrete or asphalt, furniture, appliances, scrap wood, demolition waste, building materials, etc.
- D. Organic Waste: Accumulation of organic waste is expressly prohibited, and such wastes must be disposed of immediately. Organic waste includes, but is not necessarily limited to, septic tank pumpage, sludge, sewage of any kind, waste food items, dead animals and animal parts of any kind.
- E. Composting: the intent of this Section is to encourage the composting of Organic materials. Only a composting system for a single household unit shall be allowed. Materials to be composted include, but are not limited to household vegetable scraps, yard and garden waste, manure, etc. Non-vegetative materials are expressly prohibited. Compost systems can include but not limited to enclosed or open bins, or organized compost piles. Compost sites shall be located in side and rear yard areas, odors are undetectable from adjacent properties, and should not attract wildlife. Organic materials that are used in landscape maintenance should be stored in an appropriate manner.
- F. Building Condition and Maintenance: All buildings and structures shall be kept in a sound and livable condition and properly maintained, including siding, roofing, paint or stain, decks, porches, balconies, and windows, including screens and sashes. Structures are not permitted to remain in an obvious state of partial construction without continuous progress being made to complete the structure.

- G. Building Construction: During construction, all building materials and construction waste must be contained on site. Outdoor burning of waste building materials is not permitted within the Town of Ennis limits.

**11-4-5: YARD SETBACK EXCEPTIONS:**

- A. Setback Encroachments:
  - 1. Permitted Setback Encroachments: The following encroachments into required setbacks 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 setback;
    - b. 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 primary structure nor more than five feet (5') into any required setback;
    - c. Fire escapes may be permitted in required side or rear setbacks only; in accordance with current fire regulations
    - d. Flagpoles, ornamental features, trees, shrubs, walkways, nameplate signs, and lights.
  - 2. Zero Lot Line: Where an individual owns two (2) adjoining lots or where the owners of two (2) adjoining lots enter into a legally binding agreement, a zero lot line concept may be used for the development of a single-family dwelling unit. This may be used to create condominiums or townhomes, only in districts permitting such structures. In all cases a minimum ten foot (10') side setback shall be maintained adjacent to the exterior side, or non-zero lot line side, of the structure.

**11-4-6: OUTDOOR LIGHTING STANDARDS: ~~LOOKING INTO DARK SKY STANDARDS.~~**

This section is intended to promote dark sky standards for the town of Ennis. Recommended lighting types and standards are enumerated at "darksky.org" As a minimum:

- A. All outdoor lights shall be shielded or directed so as to not illuminate adjacent properties or cause glare to motorists.
- B. Parking Area Lighting: In all zones other than single-family residential zones, parking areas shall be designed and maintained with a lighting system providing an illumination level of one foot-candle throughout the parking area, while preventing glare or direct illumination from intruding into any areas outside the parking area.

**11-4-7: OFF-STREET PARKING AND LOADING STANDARDS:**

- A. Purpose: The purpose of these standards is to provide functional parking areas with safe and efficient circulation patterns that are adequate to meet the needs of users while avoiding the negative environmental and urban design impacts that can result from parking areas and other vehicular use areas. The provisions of this Section aim to protect the public health, safety, and general welfare by avoiding spillover parking into adjacent neighborhoods, lessening and/or mitigating traffic congestion, enhancing pedestrian safety, reducing stormwater runoff; improving air quality through dust abatement encouraging infill development, and providing flexible methods to respond to the transportation and access demands of various land uses in different areas of the community.

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- B. **Applicability:** Generally, the standards set forth herein apply only to new construction, new expansions of existing building or land uses, and changes of land use that result in greater parking requirements.
1. Unless otherwise expressly stated, the parking standards of this Section apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off street parking requirements.
  2. In the case of enlargements, expansions, or land use changes that require additional parking, additional spaces are required only to serve the enlarged or expanded area, or in the case of a land use change, only the difference in spaces required between the old and new use. There is no requirement to address lawfully existing parking deficits unless the site is completely redeveloped.
- C. **Calculation of Space Requirements:**
1. **Floor Area:** When parking space requirements are based on floor area, the entire gross floor area in square feet must be calculated.
  2. **Fractions:** When calculations of the required number of spaces results in a fraction of a space, any fraction (represented as a decimal) of less than 0.5 is rounded down to the nearest whole space. Any fraction of 0.5 or greater is rounded up to the next whole space.
    - a. **Mixed Uses:** If more than one type of land use occupies a single structure or parcel of land where shared parking and access have been provided for, the total requirement for off street parking shall be the sum of the requirements for all uses minus ten percent (10%) of the total. If the peak parking demands of the various mixed uses occur on different days or at different times of the day, the landowner or developer may, upon producing relevant data and other evidence, request a reduction in the total parking requirement from the administrator.
- D. **General Requirements:**
1. All required parking spaces shall be on the same lot or an adjoining lot under the same ownership or lease with the principal building(s) that the parking serves.
  2. In nonresidential districts, parking is only permitted in side and rear setbacks provided it complies with standards for screening and landscaping. In no case shall a parking space be located such that it allows a vehicle to park across an external property line or in the minimum front setback.
  3. Except for one- and two-family dwellings, no parking area shall be designed and constructed such that vehicles are permitted to back into a street.
- E. **Surface Material:** All parking areas within the Town shall be surfaced with asphalt, concrete, or similar material, with an adequate subsurface base to produce a long lasting, durable, weatherproof surface, as approved by the zoning administrator. Permeable/green parking area materials as referenced by Green Parking Lot Resource Guide by U.S. Environmental Protection Agency should also be considered. Exceptions to this standard are:
1. One- and two-family residential development, provided that all surfaces are kept dust free.
  2. At the discretion of the administrator, spillover parking or other parking that is not used on a regular and/or frequent basis may be treated with "turf block", "grass-crete", or similar products that allow grass or ground cover to grow in spaces between the structure of the product while still supporting the weight of vehicles.
- F. **Lighting:** For parking areas of eight (8) or more spaces, lighting of the parking area and walkways shall be provided to a 1.5 foot-candle level of illumination. Light sources shall be directed downward and shall be shielded to prevent spillover lighting onto adjacent properties.

- G. Curb Stops: Where a vehicle overhang is adjacent to a walkway, landscaped area, or a wall, curb stops are required.
- H. Maintenance and Use: The maintenance of all parking and drive areas is the responsibility of the property owner. The following maintenance and use standards apply to required off street parking:
  - 1. Required off street parking areas must be used solely for the temporary parking of licensed motor vehicles in operating condition.
    - a. Required off street parking spaces may not be used for the display of goods for sale or lease.
    - b. Required off street parking may not be used for open storage, storage of building materials, or storage of inoperable vehicles.
    - c. Off street parking spaces must be maintained to be free of potholes, trash, debris, dirt, and dust.
    - d. No commercial motor vehicle repair work of any kind is permitted in a required parking space.
- I. Snow Storage and Drainage Retention: The design of parking facilities with area for snow storage, drainage retention, or, both functions within the same area, is encouraged by the Town. Such areas may be provided within landscape areas and setbacks.
- J. Shared Parking and Shared Access: In any development where there are two (2) or more businesses both using the same parking area and common points of access, the property shall be encumbered by a "shared parking, shared access" easement. This easement may be placed on the face of the plat, or may be filed by separate instrument. The administrator may require proof of such an easement prior to, or as a condition of, a zoning permit.
- K. Parking Requirements by Use: The numbers of spaces required in this Section are minimums and shall be maintained by ownership, easement, or lease, for as long as the land use which is served by the parking exists.
- L. Required Off Street Parking Spaces: The minimum number of off-street parking spaces by land use is shown in the following table:

RESIDENTIAL	
One and two-family residential, including townhomes and manufactured housing units.	2 spaces per unit
1 bedroom units, including efficiency apartments.	1 space per unit
All other multi-family units, including condominiums.	1.5 spaces per unit
Multi-family housing for senior citizens	1 space per unit
Accessory residential unit (ARU)	1 space per unit
COMMERCIAL	

Auto repair/quick lube facilities	Minimum of 4 spaces, with 2 added per additional service bay
Bed and breakfast	2 spaces, plus 1 space per rentable room
Hotel/motel	1 space per room or suite
Government offices	Determined by function

M. Handicap Accessible Parking:

1. Handicap Accessible Spaces Required: Handicap accessible off street parking shall be required according to the following table:

Total Parking Spaces Provided	Handicap Accessible Spaces (Minimum)
5 to 20	1
21 to 40	2
41 to 65	3
66+	3 percent of total spaces required

- a. Van Accessible Spaces: One out of each eight (8) accessible spaces provided, but at least one space in each parking area, shall be van accessible.
- b. Location: Accessible parking spaces shall be located so as to provide the shortest accessible route to a primary building entrance.
- c. Curb Ramps and Accessible Routes: Curb ramps and accessible routes shall be provided which allow unobstructed travel from an accessible parking space to an accessible entrance. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall not exceed two percent (2%) grade in all directions.
- d. Signage: Each accessible space shall be identified by a sign showing a universal symbol of accessibility (wheelchair). Van accessible spaces shall have an additional sign ("Van Accessible") mounted below the accessibility symbol. Each sign shall be no smaller than one foot by one foot (1' x 1') and shall be located at the end of the space at a height between four feet (4') and seven feet (7'). The sign(s) may be either wall mounted or freestanding. In addition, a painted accessibility symbol shall be painted directly onto the parking area surface within the accessible space(s).
- e. Dimensional Standards: All handicap accessible spaces shall be a minimum of twenty feet (20') in length. Where two (2) spaces share an accessible area, the minimum stall width shall be eight feet (8'), and the width of the common accessible area shall also be eight feet (8').

- N. Dimensional Standards: This Subsection sets forth standards for the length and width of parking spaces and drive areas.

1. Parallel Spaces: Parking spaces designed parallel to a curb or wall shall be at least ten feet (10') in width and 22.5 feet in length.
2. Ninety Degree Spaces: All ninety degrees (90°) parking spaces (perpendicular to the aisle) shall be at least ten feet (10') in width and twenty feet (20') in length. The two-way aisle shall be not less than twenty-four feet (24') in width.
3. Sixty and Forty-Five Degree Spaces: All sixty (60) and forty-five degrees (45°) parking spaces (angle from the aisle) shall be at least ten feet (10') in width and twenty feet (20') in length. A one-way aisle shall be fifteen feet (15') in width and a two-way aisle shall be not less than twenty-two feet (22') wide.
4. Access, Curb Cuts: All parking areas shall have adequate and safe ingress and egress to and from a local alley or street. The access shall not exceed twenty-four (24) feet in width measured at the property line and shall comply with Section 0 11-4-14 Corner Visibility, unless a wider approach width is approved by the Town Public Works Director. Curb cuts to a City street shall be approved by the Zoning Administrator. Backing from a parking space into a street or alley is prohibited except for single-family and two-family dwelling units.

O. Landscaping

1. For purposes of defining parking area landscaping requirements, the term "**parking area**" means the area within the perimeter of the paved portion of the parking area, including driving aisles but not including access drives.
2. All surface parking areas on the building site or artificial area, 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 Area Screening Required:
    - i. All parking areas located on an area with a residential adjacency must be screened from that residential adjacency.
    - ii. All parking areas located between a ~~primary structure~~ principle structure and a public street, must be screened from the public street.
    - iii. The screening area required under paragraphs (i) and (ii) above shall be not less than five feet (5') 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. Parking C landscaping: any parking lot providing ten(10) or more parking spaces shall have a minimum of twenty (20) square feet of landscape area within the parking area for each off street parking space in the area provided as follows:
    - i. The interior parking lot landscaping shall be designed to facilitate, control and denote proper vehicular circulation patterns.
    - ii. Internal parking area 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 area.
    - iii. The minimum width and/or length of any parking area landscaped areas shall be eight feet (8').
    - iv. **Tree Cover**: Parking areas containing more than twenty (20) parking spaces shall contain vegetative cover that provides shade for at least fifty (50) percent of the area of the parking area. measured, 15 years after installation; based upon average growth rates consistent with the International Society of Arboriculture and the American Association of Nurserymen. The owner shall be responsible for maintaining the vegetation. The applicant

proposing the parking lot shall submit for the review and approval of the Zoning Administrator the plan for vegetative cover designed to satisfy this standard.

- c. Screening of Off Street Loading Spaces:
    - i. All off street loading spaces on a parking area with residential adjacency shall be screened from that adjacency.
    - ii. In all districts except Core Commercial (C-C) district, all off street loading spaces in a parking area must be screened from all public streets adjacent to that area.
  - d. 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.
  - e. Protection of Landscape Areas:
- P. Parking area curbs shall be installed to protect landscape areas adjacent to parking areas.
- Q. Landscape areas within parking areas (i.e., landscape islands or peninsulas) must be protected from vehicular traffic through the use of permanent barriers approved by the zoning administrator.

#### 11-4-8 RESIDENTIAL DESIGN STANDARDS:

- A. Purpose: These standards are meant to maintain and enhance the character of the residential neighborhoods of the Town.
- B. Orientation: Each primary single-family detached residence shall have a main entry facing the street from which the structure is addressed and draws its legal access.
- C. Eaves: All residential structures with pitched roofs shall have eaves not less than twelve inches (12").
- D. Facade Materials: Residential structures shall not be sided with materials that are decidedly industrial in character. Materials such as uncoated metal, unpainted block masonry, split faced masonry, and synthetic stucco may be used for trim or architectural embellishment, but may not be used as primary facade materials. Wood, brick, or stone (including synthetic stone) are preferred materials.
- E. Covered Entryways: The main entryway to a residential structure shall be shielded by a canopy, eave, or similar structure that extends from the exterior wall not less than four feet (4').
- F. All new residential development in residential districts shall provide sidewalks in accordance with the Ennis Transportation Design Standards.

#### 11-4-9: PLANNED UNIT DEVELOPMENTS

##### Planned Unit Developments (PUD):

- A. Scope - This Section applies to planned unit development (PUD), which can only be permitted as conditional use permits.
- G. Applicability - The PUD regulations in this Section are applicable in all zoning districts where PUDs are listed as a conditional use. The PUD regulations shall be used for developments meeting the following criteria:
  - 1. Minimum Size - A tract of land of no less than 5 acres in size, except as provided elsewhere in this ordinance, that is developed as a unit under single or unified ownership or control
    - a. Consistency with Zoning District - Uses not otherwise allowed in the zoning district are prohibited within a PUD except as provided in this Section.
    - b. Purpose - The purposes of this Section include the following:

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- c. Ennis Growth Policy – The Growth Policy reflects the intent of residents to maintain Ennis' small western town appearance and the features that distinguish it from other communities in Montana. The PUD regulations are meant to implement the following goals of the Ennis Growth Policy:
  - d. Maintain Adequate Infrastructure
  - e. Protect Natural and Cultural Resources
  - f. Attract New Businesses
  - g. Increase Affordable Housing
  - h. Improve Quality of Life
  - i. Promote sustainable building design and management practices in residential, commercial, and industrial buildings.
  - j. Shall provide a walkable, sustainable development pattern that supports alternative forms of transportation, while still accommodating the automobile.
  - k. Mix of Uses - To allow for a complementary mixture of uses in an integrated and well planned area within a single zoning district.
  - l. Integrate Natural Resources - To ensure contiguous and well-planned open space and preservation of Ennis' natural and historic heritage.
  - m. Public Utilities - To facilitate cost effective and sustainable investment in streets and public utilities and infrastructure.
  - n. Community Assets - To facilitate sustainable building design and site layout, and to provide affordable housing, recreational uses and public uses.
- H. Flexibility in Zoning and Subdivision Standards - PUDs may allow zoning and subdivision design elements not otherwise permitted in some zoning districts if specific conditions are met, provided the design meets the general standards for development in this Section.
- I. Elements for Flexibility - The zoning and subdivision design standards that are granted flexibility include:
  - 1. non-standard lot sizes,
  - 2. higher density of housing units or floor-to-area ratios for commercial uses
  - 3. reduced rights-of-way and street widths,
  - 4. broader range of housing types,
  - 5. land use mix, excluding uses that are not permitted in the zoning district,
  - 6. zero lot lines and other modifications to minimum or maximum building setbacks.
- J. Conditions for Flexibility for Standards - The conditions required for flexibility on zoning and subdivision regulations standards must advance Ennis' Growth Policy goals and may include, but are not limited to, the following:
  - 1. Natural Systems - Conditions to permanently protect and manage natural systems and resources.
  - 2. Housing Types and Affordability - Conditions to ensure an appropriate mix of housing types and affordability.
  - 3. Pedestrian and Bicycle Travel - Conditions to enhance the options for pedestrian and bicycle travel within Ennis.
  - 4. Appropriate Mix of Uses - Conditions to ensure a sustainable and efficient mix of land uses.
  - 5. Utility Services and Infrastructure - Conditions to protect or enhance the quality of service from water, sewer, stormwater, electric, gas, and telecommunications systems.
  - 6. Open Space - Conditions to enhance park and trail access, landscaping and appearance, and optimal stormwater management.

7. Building Design - Conditions on building design to protect community, natural, and economic resources.
- K. Effect on Existing Zoning - The granting of a PUD permit does not alter in any manner the existing zoning district classification except that zoning permits shall not be issued unless in conformity pursuant to an approved PUD conditional use permit. Whenever a question arises concerning the interpretation of this Section, it shall be the duty of the zoning administrator to ascertain all facts concerning the question and forward all data and a recommendation to the Town Commission for a determination.
- L. Permitted Uses - Planned unit developments include the following permitted uses:
1. Dwelling units in detached, clustered, semi-detached, or attached multi-storied structures or combinations thereof. This shall include condominiums and townhomes.
  2. Commercial uses.
  3. Public facilities.
  4. Open space, parks, trails, and natural systems.
  5. Community-supported agricultural and community gardens.
- M. Conditions for Approval - Planned unit developments are a conditional use or cannot be permitted, as noted in the regulations for each zoning district. The Town of Ennis may approve the planned unit development only if it finds that the development satisfies all of the following standards:
6. Consistency with the Ennis Growth Policy - The planned unit development advances the Growth Policy goals.
  7. Integrated with Surrounding Uses - The planned unit development is planned and developed in harmony with existing or proposed development in the areas surrounding the project site.
  8. Single Ownership - The tract under consideration is under single ownership or control.
  9. Minimum Size and Exceptions - The tract is at least five (5) acres in size. Smaller tracts may be allowed if the applicant can show that the proposed PUD meets the standards and purposes of this Section and of the Growth Policy, as well as protecting the health, safety and welfare of the residents of Ennis
- N. Coordination with Subdivision Regulations
10. Simultaneous Subdivision Review - Subdivision review must be carried out simultaneously with the review of a planned unit development. Thus, the Zoning Administrator shall coordinate the review of the conditional use permit with the review of the subdivision application by the Town's planner.
  11. Preliminary Plat Applications - The preliminary plat application materials required under this Section must be submitted in a form that will comply with the Ennis' Subdivision Regulations for the preliminary and final plats.
  12. Flexibility of Subdivision Standards - Flexibility in the design standards found in the Ennis Subdivision Regulations may be allowed as part of a planned unit development if the proposed PUD complies with the requirements of this Section.
- O. Application Requirements for Planned Unit Development - The following information and documents shall be filed as part of the conditional use permit application.
13. Application - An application for a planned unit development permit shall following the procedural steps as set forth in the conditional use regulations including a completed conditional use permit application and review as provided by the zoning administrator.
  14. Additional Application Requirements for PUD - In addition to the criteria and standards set forth under the requirements for conditional uses in Section 0 11-2-15, the applicant shall submit information describing the following:
    - o. Growth Policy - Conformance of the PUD with the Ennis Growth Policy.

- p. Neighboring Impacts - The PUD will not have an undue and adverse impact on the reasonable enjoyment of neighboring property and will not be detrimental to potential surrounding uses.
  - q. Phasing – Is each phase of the proposed development of sufficient size, composition, and arrangement that its construction, marketing, and operation are feasible as a complete unit, and that provision and construction of dwelling units and common open space are balanced and coordinated.
  - r. Schedule - A general indication of the expected schedule of development including a phasing plan per the requirements of Town of Ennis Subdivision Regulations.
  - s. Can all phasing be completed within 20 years of the anticipated preliminary plat approval as required by State statute?
  - t. Government Services - Full description as to how all necessary the project will be provided with transportation, water, wastewater, schools, parks, and other public services.
  - u. Character – A description of the character of the planned development and the manner in which it will advantage of the planned development regulations.
  - v. Ownership - A list of the present ownership of all the land included within the planned development and a list of property owners within 500 feet of the outer boundaries of the property as obtained through State of Montana cadastral records of the Madison County Clerk and Recorder.
  - w. Existing Conditions Map - A map giving the legal description of the property including approximate total acreage and also indicating existing property lines and dimensions, ownership of all parcels, platting, easements, street rights-of-way, utilities, and buildings for the property and for the area 500 feet beyond.
  - x. Natural Features - Maps of the property and area 500 feet beyond showing contour lines at no more than two-foot intervals, drainage patterns, wetlands, vegetation, soil, and subsoil conditions.
  - y. Site Plan - A site plan showing the proposed land uses including housing and commercial units and types, vehicular and pedestrian circulation, and open space uses.
  - z. Additional Information - Any additional information requested by the Town zoning administrator or planner, the zoning commission and Town Commission that may be required for clarification of the proposed project.
  - aa. Copies - 10 copies of the application shall be submitted to the Town zoning administrator and planner.
- P. Subdivision Process - The applicant shall submit a preliminary plat application to the Town planner for all portions of the project subject to review as a subdivision. The application shall include all the documentation and review fees required under the Ennis’ Subdivision Regulations.
- Q. Annual Review - The zoning administrator shall review planned unit developments within the Town on an annual basis and may make a report to the Town Commission on the status of non-compliance for a particular PUD. If the zoning administrator finds that the development has not commenced within one year after the original approval of the conditional use for the PUD, the zoning administrator may recommend that the Commission extend the time or revoke the conditional use permit.
- R. Prior to extension or revocation of this permit, the Commission shall hold a noticed public hearing at which time all interested parties, including the owner(s) of the PUD will be given an opportunity to be heard. The

owner(s) of the PUD shall be notified of Commission's hearing of 15-working days in advance of the hearing. Notice of the hearing must be published in the official Town of Ennis newspaper at least fifteen (15) calendar days prior to the hearing before the Town Commission.

S. Amendment and Change of PUD

15. Minor Changes - Minor changes to the location, placement, and heights of the buildings or structures within a PUD may be authorized by the zoning administrator if they are deemed required by engineering circumstances not foreseen at the time the final development plan was approved.
16. Major Changes Require New Development Agreement - Major changes, such as rearrangement of lots, blocks and building tracts shall require a review of the final development plan and the approved preliminary plat or any filed final plats. All changes shall be consistent with the purpose and intent of the approved planned unit development and the Town Growth Policy. All amendments to the planned unit development and the associated preliminary or final plats shall require the same review procedures as required for a conditional use permit and for a subdivision application as set forth in this Section and the Town's Subdivision Regulations.

F.I.

**11-4-9: 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 or a conditional use permit.
- B. Automotive Service Facilities:
  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. Non-Automotive Sales: Temporary sales (as distinguished from permitted mixed use retail businesses) of non-automotive 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. Churches and other Religious Institutions:
  1. No structure shall exceed three thousand (3,000) square feet gross floor area.
  2. Off street parking shall be provided in accordance with Section 0 11-4-7 of this Ordinance.
  3. Ordinance.
  4. All dimensional standards of the residential district shall be met.

5. Landscaping shall be provided pursuant to Section 0 11-4-1 of this Ordinance
  6. All parking shall be to the rear of the ~~primary structure~~ principle structure
- D. Community Residential Facilities:
1. The facility must be licensed by the Montana Department of Public Health and Human Services.
  2. Off street parking shall be provided to all staff assigned to the facility.
  3. The minimum lot area shall be ten thousand (10,000) square feet.
- E. Home Occupations:
1. A home occupation is a use that is considered accessory to a dwelling unit.
  2. The use shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the residential district of which it is a part.
  3. One Full Time Employee: No more than one full time employee may be employed in the dwelling unit other than a resident and domestic help.
  4. 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.
    - a. Outside Storage: Outside storage shall be permitted for home occupations if it is screened or located within an accessory building.
    - b. 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 (3/4) ton pickup shall be parked overnight.
    - c. 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 under normal circumstances in an average residential occupancy in the district in question.
- F. Self-Storage Facilities:
1. Circulation and Parking Requirements:
    - a. Exits: Each self-storage facility 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.
- G. Marking: Traffic flow direction and parking areas shall be clearly marked.
- H. Recreational Vehicle Park and Overnight Campgrounds:
1. Size: Recreational vehicle park sites shall be a minimum of five (5) acres in size.
  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 Transportation Design 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.
- I. 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 such as a breezeway.
  2. Accessory Buildings shall meet all setback requirements, and shall be located to the side or rear of the ~~primary structure~~ principle structure.
  3. Height of Accessory Buildings: Accessory buildings and garages in residential districts shall not exceed the height of the ~~primary structure~~ principle structure and shall not be located within a utility easement.
  4. Accessory structure walls shall maintain a minimum four-foot (4') separation from the ~~primary structure~~ principle structure wall.
  5. Accessory residential unit (ARU) subject to the following conditions:
    - c. An ARU is only allowed in conjunction with a single-family detached residence.
    - d. Maximum floor area for an ARU shall be six hundred (600) square feet.
    - e. The ARU may be located within an accessory structure or within the principal residential structure. If the ARU is within an accessory structure, parking for the ARU shall be at the rear of the subject property.
    - f. Only one ARU per tract of record is permitted.
    - g. An ARU shall not be rented unless the owner of the property resides in the principal residence on the property in question.
- J. Bicycle Facilities:
1. Bicycle Lanes May Be Required: Wherever new streets 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: The development of new commercial projects that are subject to major site plan review shall provide adequate bicycle parking facilities to accommodate residents, employees and customers of the proposed development.
- K. 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, merchandise 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, it shall not use in excess of seventy-five percent (75%) of the total lot area and shall be subject to the screening requirements identified in subsection 2.a below.

- c. No Use of Yard: Permanent display activities shall not be conducted within any required setback space or parking area.
- e. Vehicles and Equipment:
  - d. Screening: All areas designated for vehicle, equipment and materials storage shall be screened per section ~~(E)~~ 11-4-10-E of this Ordinance.
  - e. Surface: Storage areas need not be paved, but shall be treated to control dust and shall meet all stormwater management requirements.
  - f. No Use of Yard: Vehicle, equipment and materials storage shall not be conducted within any required setback.
- L. Unfinished Structures-Use: Cellars, basements, garages or any other type of structure not meeting acceptable health and sanitation requirements shall not be used as a dwelling unit.

**11-4-10: COMMERCIAL AND INDUSTRIAL USE 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-C, HEC, and C-I zoning districts. To further the goals and policies established in the Ennis Growth Policy, property owners will provide buildings and structures that promote the small, western character of the Town.
- B. Building Design
  - 1. Street Wall Length and Shape: To avoid long and monotonous building facades, the façade facing any street shall not be more than fifty (50) feet in length without an offset in the wall plane or architectural features or indents designed to break up the apparent mass of the wall and prevent the building from being a rectangle or square. Commercial or industrial buildings exceeding 5,000 square feet shall undergo design review by the Town Design Review Committee.
  - 2. Roof Standards: Roofs shall be of a color and design that are compatible with the rest of the building. Roofs shall have varying pitches, parapets, angles and other acceptable styles that prevent the monotony of rectangular or square roofs.
  - 3. Materials: mix of materials; Brick, stone, wood with steel as an accessory
- C. 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 the visibility of drivers 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.
- D. 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 retain stormwater runoff, subject to the requirements of the Ennis Transportation Standards.
- E. Screening:

1. Material, Height and Visibility: Screening, when required by this Ordinance, 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.
    - a. 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.
- F. Trash, Garbage or Yard Waste Incineration and Enclosures:
1. Incineration: No exterior incineration of trash, yard waste or garbage is permissible.
  2. Trash Enclosures: A permanent enclosure for the 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. 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 of Town Commission as applicable.
    - 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 ~~primary structure~~ 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.
- G. 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 Smoke 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.
- H. Bulk Storage (Liquid): All uses associated with bulk storage of all gasoline, liquid fertilizer, chemicals, flammable and similar liquids shall comply with the building codes adopted by the State of Montana and found in Administrative Rule Title 24, Chapter 301.
- I. Water Quality, Hazardous Wastes and Wastewater: Discharge of hazardous waste, chemicals and wastewater will be subject to Montana Department of Environmental Quality regulations and standards.
- J. 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.
- 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 building codes adopted by the State of Montana and found in Administrative Rule Title 24, Chapter 301. 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. Radiofrequency 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. Pedestrian Access/Sidewalk Facilities: All redevelopment and new development in L-CR, C-C, HEC and CI districts requiring major site plan review shall construct sidewalks in accordance with the Ennis Transportation Design Standards.
- R. 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 Board.

**11-4-11: FENCING STANDARDS:**

~~11-4-11: A. Construction, Maintenance and Height Measurement of Fences and Walls:~~

~~A. Fences and Walls:~~

- 1. Location: Fences and walls in any district may be located on lot lines provided such fences and walls 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 or walls 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').

~~11-4-11: B. Construction, Maintenance and Height Measurement:~~

4-3. 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 or when the electric fence is not part of a property boundary fence in residentially zoned areas and is used to protect a yard/garden from animals such as deer.
  - a. Barbed wire or other similar type fencing materials may be used on the top of security fences in HEC and C-I districts if the barbed or electrified strands are at least eight feet (8') above the adjacent ground.
  - b. 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. Chain link, barbed wire, and electric fence shall only be permitted to enclose a secure storage area and shall be located at the rear of the property.

**S. Fence and Wall Height Measurement:**

1. 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.

**11-4-12: NONCONFORMING LOTS OF RECORD, LAND USES, AND STRUCTURES**

- A. Purpose and Intent: Land uses, structures and lots exist in the Town that were lawfully established before this Ordinance was adopted that now do not conform to the terms and requirements of this Ordinance. It is the intent of this Ordinance to preserve the western character of the Town of Ennis. The continuation of nonconforming uses and structures and the limited development of nonconforming lots are intended to prevent economic hardship and to ensure their useful economic value. The purpose of this Section is to establish standards to regulate the continued existence of these uses, structures, and lots which do not otherwise conform to the provisions of this Ordinance.
- B. Description
- C. An existing non-conforming lot is lawfully created tract of record, shown on a plat or certificate of survey recorded in the office of the Madison County Clerk and Recorder which does not comply with the applicable minimum lot size standards of the zoning district in which the lot is located.
- D. Nonconforming structures, and uses: Any structure, or use lawfully existing prior to the effective date of this Ordinance may be continued at the size and in the manner of operation existing upon such date.
- E. Use of Non-Conforming Lots: A non-conforming lot may be used; provided that the structure or building erected after the date of this Ordinance shall meet all dimensional standards and density requirements of the zoning district in which the lot is located.
- F. Use of Nonconforming Structures: A nonconforming structure may be continued at the size and in the manner of operation existing upon date of this Ordinance.

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- G. Restoration/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 equal to or greater than fifty percent (50%) of the structure's fair market value, as determined by the last equalized assessment roll of Madison County. However, restoration of a structure damaged less than 50 percent must meet the building codes adopted by the State of Montana and found in Administrative Rule Title 24, Chapter 301. Replacement structures must not be higher or larger than the original structure. A zoning permit shall be obtained prior to restoring a nonconforming structure pursuant to Section 0 11-2-6 of this Ordinance.
- H. 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 another nonconforming use.
- I. 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 Ordinance.
- J. 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.
- K. Nonconforming Dwelling Units: The maintenance and reconstruction of existing nonconforming residential dwelling units is allowed, in compliance with the applicable building codes adopted by the State of Montana and found in Administrative Rule Title 24, Chapter 301, 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.

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**11-4-13: CORNER VISIBILITY:**

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:

- A. 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.
- B. 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.
- C. Provision for Trees in Street Vision Triangle:
  - 1. Single stem canopy trees may be permitted in street vision triangles as described in this section, provided that mature trees do not significantly affect safe driving conditions and are maintained such that no canopy foliage exists below a height of ten feet (10') above centerline of intersecting streets.
  - 2. Trees which are located in the street vision triangle and which preexisted the adoption of this Ordinance 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.

**11-4-14 NOISE:**

A. Noise Levels

Developments and land uses shall not create noises that exceed the levels established in Table 11-14-15 below.

B. Exceptions: Notwithstanding the noise limitations established in this Section, exceptions to the requirements of this Section are:

1. During all hours the following items are exempt: Emergency vehicle safety and warning signals, other safety and warning signals and devices, aircraft operations at the airport and hospital, vehicles with legal and properly functioning exhaust systems, those noise generators that in the opinion of the Zoning Administrator or law enforcement personnel meet the intent of this Section, and limited temporary noises that occur for five (5) minutes or less.
2. During non-quiet hours the following items are exempt: home appliances, chainsaws, lawn mowers and snow blowers in private use, those noise generators that in the opinion of the Zoning Administrator or law enforcement personnel meet the intent of this Section, and limited temporary noises that occur for fifteen (15) minutes or less.
3. The Town Commission may grant waivers for special events (parades, street dances, grand openings, 4th of July Celebrations, etc.) or via the Conditional Use Permit or Use of Town-Owned Lands approval process. All such waivers shall be in writing and on the property where the exemption is applicable.
4. Construction activities done under Town issued building permit are exempt from the maximum sound level from 7:00 AM to 10:00 PM level for any given district.

C. Measurement: Noise levels shall be measured at the property line of the development or land use generating the noise and shall be measured with a sound meter.

Table 11-14-15: Noise Levels			
Zoning District Where Sound is Generated	Maximum Sound Level	Sound	Quiet Hours
All Residential R-LD/R-MD/R-TD/R-HD	65 dBA		Reduce to 55 dBA from 10:00 PM to 6:00 AM
Local Commercial-Residential L-CR	70 dBA		Reduce to 60 dBA from 10:00 PM to 6:00 AM
Core Commercial C-C	80 dBA		Reduce to 70 dBA from 10:00 PM to 7:00 AM
Highway Entrance and Commercial/Industrial HEC/CI	85 dBA		Reduce to 75 dBA from 10:00 PM to 7:00 AM

**11-4-15 SPECIAL SETBACK REQUIREMENTS- CORNER LOTS AND WATERCOURSES**

- A. Corner Lot Setbacks:
  1. 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.
  2. A twenty foot (20) corner lot side or front setback shall be provided on all arterial streets.
- B. Watercourse Setbacks:
  1. No newly constructed structure, addition to an existing structure, parking lot or similar improvements located on an existing lot or tract of record shall be located closer than twenty-five feet (25') 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 watermarks on the soil by covering it for sufficient periods to deprive it of vegetation.
  2. A minimum of five feet (5') of the required 25 foot (25') setback immediately adjacent to the watercourse shall be left in a natural vegetative state.
  3. The setback provisions of this Section shall in no way invalidate the provisions set forth in the [FEMA Floodplain overlay district of this Ordinance Map](#) or the minimum building setback of five hundred feet (500') from the Madison River established for all new subdivision lots reviewed and approved by the Town Commission under the provisions of the Town Subdivision Regulations.

**11-4-16: MAJOR RECREATIONAL EQUIPMENT AND VEHICLES:**

- A. Parking and Storage: ~~Major r~~
  1. ~~Recreational equipment shall not be parked or stored in any required front yard setback other than a driveway.~~
  2. ~~However, Major recreational equipment shall not be parked or stored in any required front yard setback.~~
  3. ~~major r~~Recreational equipment may be parked anywhere on residential property for the purpose of loading or unloading for a period not to exceed forty-eight (48) hours.
  4. ~~Major recreational equipment may be parked or stored in bona fide commercial storage facilities that meet the standards of these regulations.~~
  5. ~~Only one recreational vehicle may be stored on a single-family homesite/lot.~~
  6. ~~Only one recreational vehicle per dwelling unit may be stored on a multi-family homesite.~~
- B. Use as Living or Sleeping Quarters:
  1. ~~Major r~~Recreational equipment ~~shall not be used~~ for ~~use as~~ sleeping, living, housekeeping, or any commercial purpose (including home based business) ~~is expressly prohibited~~ when parked or stored on property within all ~~residential-zoning districts.~~
  2. ~~Use of major r~~Recreational equipment ~~may be used as a residential unit is expressly prohibited, use as guest quarters may not exceed 1410 days out of every 6045 days with a visitor RV permit. This permit is available at from the Town Hall.~~
  3. ~~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.~~

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~~C. 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:~~

~~Recreational Vehicle Storage: Only one recreational vehicle may be stored on a single family homesite/lot. 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.~~

~~1. No Major Recreational Vehicle(s) shall be parked or stored within the public right of way for a period exceeding five (5) days per 61-8-356, Montana Code Annotated.~~

~~1. 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.~~

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### 11-4-17: 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 this Ordinance, and other provisions of this Ordinance, 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 A-1 and A-2 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 this Ordinance.
- 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. Montana Department of Public Health and Human Services (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: This ordinance is for review of applications to the Town of Ennis and does 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 districts 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 this Ordinance.

**11-4-18: DETERMINATION OF USE CLASSIFICATION:**

- A. If ambiguity arises concerning the appropriate classification of a particular use within the meaning and intent of this Ordinance, or if a specific use is not listed, any person proposing to conduct such use may request an interpretation from the zoning administrator.
- B. The zoning administrator shall follow the rules of interpretation listed in Subsection C below in determining the classification of a particular use. This preliminary interpretation is advisory in nature and does not constitute an order, requirement, decision, or determination under Section 76-2-323 Montana Code Annotated. A written copy of each such interpretation shall be kept on file with the Town Clerk.
- C. The determination of which zoning districts a previously unclassified use will be classified as permitted must be based upon whether the unclassified use is similar to and compatible with other uses permitted in the zoning district.

## 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 0 [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:

**11.1.1.1 11-6-5-1: 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.

**11.1.1.2 11-6-5-2: 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:

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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.

**11.1.1.311.1.1.1 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 (non-canopy 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.

**11.1.1.411.1.1.2 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.

**11.1.1.511.1.1.3 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.)

**11.1.1.611.1.1.4 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.

**11.1.1.711.1.1.5** **Billboard Signs:**

- A. Definition: An off premises sign that is two hundred fifty (250) square feet or larger.
- B. Prohibition: Billboard signs are prohibited.

**11.1.1.811.1.1.6** **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.

**11.1.1.911.1.1.7** **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.

**11.1.1.1011.1.1.8** **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.

**11.1.1.1111.1.1.9** **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.

**11.1.1.12 11.1.1.10 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.

**11.1.1.13 11.1.1.11 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.

**11.1.1.14 11.1.1.12 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.

**11.1.1.15 11.1.1.13 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.

**11.1.1.16 11.1.1.14 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.

**11.1.1.1711.1.1.15 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.
    - f. Internal lighting is permitted; provided, that the following criteria are satisfied:
      - c. 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.
      - d. Any proposed internally lighted sign application shall submit plans depicting the location and types of lighting to be used.
      - g. Backlit signs are permitted; provided, that the following criteria are satisfied:
        - e. 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.
        - f. Any proposed backlit lighted sign permit application shall include plans depicting the location and types of lighting to be used.

**11.1.1.1811.1.1.16 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.

**11.1.1.1911.1.1.17 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.

**11.1.1.2011.1.1.18 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.

**11.1.1.211.1.1.19 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 shall be of historical character and subject to design review.
  - 4. Neon signs are to stay steadily lit.

**11.1.1.221.1.1.20 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.

**11.1.1.231.1.1.21 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.

**11.1.1.241.1.1.22 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.

**11.1.1.251.1.1.23 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.

**11.1.1.26 11.1.1.24 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.

**11.1.1.27 11.1.1.25 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.
    - c. 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.
    - d. Not more than one real estate sign shall be placed on property held in single and separate ownership unless:
    - e. The property fronts on more than one street, in which case one real estate sign shall be permitted on each separate street frontage.
    - f. One real estate sign shall be allowed for every two hundred feet (200') of frontage.

**11.1.1.28 11.1.1.26 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.

**11.1.1.29 11.1.1.27 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.

**11.1.1.30** **11.1.1.28** **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.

**11.1.1.31** **11.1.1.29** **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 (2½') 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.

**11.1.1.32** **11.1.1.30** **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.

**11.1.1.33** **11.1.1.31** **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.

**11.1.1.3411.1.1.32 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:
- D. Temporary or portable signs do not count against a property's maximum allowable signage area.
  1. 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 ~~thirty~~ ~~ninety~~ (390) 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 ~~Board of Adjustment~~ ~~his/her designee~~.
  2. 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.
  3. Street banners across the highway require the written approval of the Montana state department of transportation.
  4. Temporary signs may not be electrically energized or contain any electrical device.
  5. A temporary sign may be illuminated; provided, that such illumination is in adherence to the guidelines detailed herein.
  6. 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.
  7. Banners and other temporary signs for town wide 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.
- h. 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.

**11.1.1.35 11.1.1.33 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.

**11.1.1.36 11.1.1.34 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.

**11.1.1.37 11.1.1.35 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.

**11.1.1.38 11.1.1.36 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.

**11.1.1.3911.1.1.37 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<sup>1/2</sup>) 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.
- 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 0 [11-5-1](#), "Zoning Appeals ", 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 0 [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.
    - i. Failure To Comply:
      - f. 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.
      - g. 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.
      - h. 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)