



City of Sidney

ZONING ORDINANCE

Sidney City Code Title 11

Revised by the Sidney City Council with Ordinance 593

Passed by the Sidney City Council with Ordinance 567

Regulations effective 04-19-2017

Revised Ordinance #323 (1982)

ACKNOWLEDGEMENTS

Mayor and City Council

Rick Norby, Mayor
Joe Stevenson, Ward 1
Ken Koffler, Ward 1
Kali Godfrey, Ward 2
Kysa Rasmussen, Ward 2
Tami Christensen, Ward 3
Frank DiFonzo, Ward 3

Zoning Board

David Seitz (Chair)
Jeff Hintz
Justin Jones
Terry Meldahl
Adam Smith

Planning Board Sidney Jurisdictional Committee

Becky Bradley (Sidney Chair)
Lee Pouroy (Planning Board Chair)
Jordan Mayer
Lori Utter
Joseph Kauffman

City Staff

Jeff Hintz
Jessica Redfield
Kale Rasmussen

TABLE OF CONTENTS

	Article 11.1.0 General Provisions.....	8
11.1.10	ORDINANCE DESCRIPTION.....	8
11.1.20	Authority.....	8
11.1.30	Purposes and Intent.....	8
11.1.40	Enactment, Amendments, Effective Date and Repeals.....	8
11.1.50	Applicability and Jurisdiction.....	8
11.1.60	Permits Required, No Conflicting Licenses or Permits Shall be Issued.....	8
11.1.70	Minimum Standards.....	9
11.1.80	Conflicting Provisions.....	9
11.1.90	Rules of Construction and Interpretation.....	9
11.1.100	Transitional Provisions.....	10
11.1.110	Severability.....	11
	Article 11.2.0 Zoning Districts and Overlay Districts Established.....	12
11.2.10	Purpose and Intent.....	12
11.2.20	Zoning Districts Established.....	12
11.2.30	Official Zoning Map.....	13
11.2.40	Interpretation of District Boundaries.....	14
11.2.50	Annexation, Change of Jurisdiction, Abandoned Rights-of-Way.....	15
	Article 11.3.0 Zoning Districts and Standards.....	16
11.3.10	Purpose and Intent.....	16
11.3.20	Uses Defined.....	16
11.3.30	Standards.....	17
	Article 11.4.0 Single Household Residential ZONING District (R-1).....	18
11.4.10	Purpose and Intent.....	18
11.4.20	Land UseS.....	18
11.4.30	Specific District Standards.....	18
11.4.40	Allowed Uses.....	19
11.4.50	Dimensional Standards.....	20
	Article 11.5.0 One and Two Household Residential District (R-2).....	22
11.5.10	Purpose and Intent.....	22
11.5.20	Land Uses.....	22
11.5.30	Specific District Standards.....	22
11.5.40	Allowed Uses.....	23

11.5.50	Dimensional Standards	24
	Article 11.6.0 Multiple-Household Residential Zoning District (R-3)	26
11.6.10	Purpose and Intent	26
11.6.20	Land Uses	26
11.6.30	Specific District Standards	26
11.6.40	Allowed Uses	27
11.6.50	Dimensional Standards	29
	Article 11.7.0 Manufactured Home Single Residence ZONING DISTRICT (C-1)	30
11.7.10	Purpose and Intent	30
11.7.20	Land Uses	30
11.7.30	Specific District Standards	30
11.7.40	Minimum District Size	31
11.7.50	Allowed Uses	31
11.7.60	Dimensional Standards	32
	Article 11.8.0 Manufactured Home Park ZONING District (C-2).....	34
11.8.10	Purpose and Intent	34
11.8.20	Land Uses	34
11.8.30	Specific District Standards	34
11.8.40	Minimum District Size	35
11.8.50	Allowed Uses	35
11.8.60	Dimensional Standards	36
	Article 11.9.0 Recreational Vehicle Park ZONING District (C-3).....	38
11.9.10	Purpose and Intent	38
11.9.20	Land Uses	38
11.9.30	Specific District Standards	38
11.9.40	Design Elements	39
11.9.50	Minimum District Size	39
11.9.60	Allowed Uses	39
11.9.70	Dimensional Standards	40
	Article 11.10.0 Community - Highway Business District (B-1)	42
11.10.10	Purpose and Intent	42
11.10.20	Land Uses	42
11.10.30	Specific District Standards	42
11.10.40	Allowed Uses	43
11.10.50	Dimensional Standards	44
	Article 11.11.0 Neighborhood Business Zoning District (B-2).....	46

11.11.10	Purpose and Intent	46
11.11.20	Land Uses	46
11.11.30	Specific District Standards	46
11.11.40	Allowed Uses	47
11.11.50	Dimensional Standards	48
	Article 11.12.0 Central Business District (B-3)	50
11.12.10	Purpose and Intent	50
11.12.20	Land Uses	50
11.12.30	Specific District Standards	50
11.12.40	Allowed Uses	51
11.12.50	Dimensional Standards	52
	Article 11.13.0 Commercial - Light Manufacturing District (CLM).....	54
11.13.10	Purpose and Intent	54
11.13.20	Land Uses	54
11.13.30	Specific District Standards	54
11.13.40	Allowed Uses	55
11.13.50	Dimensional Standards	56
	Article 11.14.0 Manufacturing and Industrial District (M-I)	58
11.14.10	Purpose and Intent	58
11.14.20	Allowed Uses	58
11.14.30	Specific District Standards	58
11.14.40	Allowed Uses	59
11.14.50	Dimensional Standards	60
	Article 11.15.0 Planned Unit Development (PUD)	62
11.15.10	Purpose and Intent	62
11.15.20	Applicability and Location.....	62
11.15.30	Land Uses	62
11.15.40	Dimensional Standards	63
11.15.50	Site Design Standards	63
11.15.60	Statements of Standards	64
11.15.70	Required Findings.....	64
11.15.80	Expiration.....	65
	Article 11.16.0 Airport Influence District (A-I).....	66
11.16.10	Purpose and Intent	66
11.16.20	Applicability	66
11.16.30	Approach Zone, Height Limitation	66

11.16.40	Use Limitations	66
11.16.50	Nonconforming Conditions	66
11.16.60	Notice to FAA	67
	Article 11.17.0 Standards for Specific Uses	68
11.17.10	Conditional Uses	68
11.17.20	Use Specific Standards	70
	Article 11.18.0 Standards of General Applicability	87
11.18.10	Purpose and Intent	87
11.18.20	Hillside Developments	87
11.18.30	Environmental Regulations	89
11.18.40	Parking and Loading Standards	90
11.18.50	Intersection Visibility	99
11.18.60	Landscaping	100
11.18.70	Infrastructure	104
11.18.80	Storm Water Management and Erosion Control	110
11.18.90	Operational Performance Standards	111
11.18.100	Building Design	114
	Article 11.19.0 Outdoor Advertising	115
11.19.10	Purpose and Intent	115
11.19.20	Applicability	115
11.19.30	Exemptions	115
11.19.40	Definitions	116
11.19.50	Permit Required	116
11.19.60	General Standards	117
11.19.70	Prohibited Signs	117
11.19.80	Internally Illuminated Signs	118
11.19.90	Nonconforming Signs	118
11.19.100	Abandoned Signs	118
11.19.110	Temporary Signs	118
	Article 11.20.0 Nonconformities	119
11.20.10	Purpose and Intent	119
11.20.20	Nonconforming Uses	119
11.20.30	Nonconforming Structures	120
11.20.40	Nonconforming Lot of Record	121
	Article 11.21.0 Administration	122
11.21.10	Organization of Article	122

11.21.20	Overview of Duties and Responsibilities.....	123
11.21.30	Duties and Responsibilities of Decision Making and Administrative Bodies	124
11.21.40	Common Procedures	128
11.21.50	Procedures for Decisions by Mayor and City Council	135
11.21.60	Public Hearing Procedure	136
11.21.70	Public Notice	137
11.21.80	Supplementary Review Procedures	138
	Article 11.22.0 Enforcement	141
11.22.10	Purpose and Intent	141
11.22.20	General.....	141
11.22.30	Violations	141
11.22.40	Continuing Violations	142
11.22.50	Responsibility of Enforcement, Compliance	142
11.22.60	Enforcement Procedures	142
	Article 11.23.0 Definitions.....	144
11.23.10	Purpose and Intent	144
11.23.20	Hierarchy of References for Definitions.....	144
11.23.30	Use of Singular and Plural	144
11.23.40	Definitions	144

Article 11.1.0 GENERAL PROVISIONS

11.1.10 *ORDINANCE DESCRIPTION*

This Ordinance shall be known as the Sidney Zoning Ordinance and shall consist of the text contained herein and a certain map identified as the Official Zoning Map of the City of Sidney, which is on file in the office of the City of Sidney.

11.1.20 *AUTHORITY*

This Ordinance is adopted pursuant to the statutory authority granted by the laws of the State of Montana, including Section 76-1-601, 603, 605 and Section 76-2-301, M.C.A., et seq. In addition, this Ordinance is authorized by Section 7-1-101, M.C.A.

11.1.30 *PURPOSES AND INTENT*

The purposes and intent of this Zoning Ordinance are to:

11.1.31 PURPOSE

Promote the health, safety and general welfare of the citizens of Sidney; and

11.1.32 INTENT

Implement the policies, goals and strategies of the Sidney Growth Policy.

11.1.40 *ENACTMENT, AMENDMENTS, EFFECTIVE DATE AND REPEALS*

This Zoning Ordinance is adopted by the City of Sidney Ordinance Number 567; the Official Zoning Map of the City of Sidney is adopted by City of Sidney Ordinance Number 567 and is on file in the office of the City of Sidney. This Ordinance shall take effect and be in force from and after April 19, 2017, after which all parts or portions of other ordinances in conflict herewith are hereby repealed.

11.1.50 *APPLICABILITY AND JURISDICTION*

Except as otherwise expressly stated herein, this Ordinance applies to all developments, public and private, within the corporate limits of the City of Sidney to the extent allowed by law.

11.1.60 *PERMITS REQUIRED, NO CONFLICTING LICENSES OR PERMITS SHALL BE ISSUED*

11.1.61 CONSTRUCTION AND USE

Except as hereinafter provided, no land or building shall be used, no prior use of a building or land shall be changed, and no building, structure or improvement shall be made, erected, constructed, moved, altered, enlarged, or rebuilt except in accordance with this Zoning Ordinance.

11.1.62 LICENSES AND PERMITS

No license or permit shall be issued for a use, building or purpose that would be in conflict with this Ordinance. All departments, officials and public employees vested with the duty and authority to issue licenses or permits shall issue such licenses or permits in conformance with the provisions of this Ordinance. Any license or permit issued in conflict with this Ordinance shall be null and void.

11.1.63 UTILITY CONNECTIONS

The Zoning Administrator or Utilities Manager shall not authorize the connection of utilities, such as water or sewer, until all of the standards and procedures of this Ordinance have been met as well as all other applicable City standards and policies relating to such utilities.

11.1.64 BUILDING PERMIT AND CERTIFICATION OF OCCUPANCY

No building permit shall be issued except in compliance with the terms, procedures and standards of this Zoning Ordinance. A certificate-of-occupancy shall not be issued for any structure or use of land except in compliance with the terms, procedures and standards of this Zoning Ordinance.

11.1.70 ***MINIMUM STANDARDS***

The provisions of this Ordinance shall be held to the minimum requirements for executing the stated purposes and intent of this Ordinance.

11.1.80 ***CONFLICTING PROVISIONS***

11.1.81 CONFLICT WITH STATE OR FEDERAL REGULATIONS

If provisions of this Ordinance are inconsistent with provisions of state or federal law or regulations, the provisions that impose the greater restriction or more stringent controls shall apply, to the extent permitted by law.

11.1.82 CONFLICT WITH OTHER CITY REGULATIONS

If provisions of this Ordinance are inconsistent with one another; or if they conflict with provisions of other Ordinances or regulations of the City, the provisions that impose greater restrictions or more stringent controls shall apply.

11.1.83 CONFLICT WITH OTHER AGREEMENTS

It is not the intent of this Ordinance to interfere with or nullify any easements, covenants or agreements which are not in conflict with the provisions of this Ordinance.

11.1.90 ***RULES OF CONSTRUCTION AND INTERPRETATION***

11.1.91 MEANINGS AND INTENT

The wording of this Ordinance is intended to be read literally. Standards are no more or less strict than stated. Words defined in Section 11.23.40 Definitions have the specific meaning provided. Section 11.23.40 Definitions, contains a procedure to address words not defined in said article.

11.1.92 HEADINGS AND ILLUSTRATIONS

Headings and illustrations are provided for convenience and reference only and do not change or limit the provisions of this Ordinance. In case of any difference of meaning or implication between the text of this Ordinance and any heading, figure or illustration, the text shall apply.

11.1.93 CURRENT VERSIONS AND CITATIONS

All references to documents or to other municipal, county, state or federal regulations must be interpreted as references to the most recent version of the documents or regulations.

11.1.94 DELEGATION OF RESPONSIBILITY

Whenever a provision requires an officer, board or commission to perform an act of duty, that provision will be construed as authorizing the referenced officer, board or commission to delegate that responsibility to others over whom they have authority, unless such delegation is prohibited by statute.

11.1.100 *TRANSITIONAL PROVISIONS*

11.1.101 VIOLATIONS CONTINUE

Any violation of the previous development code or zoning ordinance will continue to be a violation under this Ordinance and be subject to penalties and remedies under Article 11.22.0 Enforcement, unless the use, development, construction or other action complies with the provisions of this Ordinance.

11.1.102 VESTED RIGHTS

A. APPROVED PROJECTS

Projects with valid approval(s) or permits may be completed or continued in accordance with the development standards in effect at the time of approval(s), provided the permit or approval is valid and has not passed.

B. LEGAL NONCONFORMITIES UNDER PRIOR ORDINANCE

Any legal nonconformity under the previous development code or ordinance will continue to be a legal nonconformity under this Ordinance if the basis for the nonconformity under the previous code continues to exist. If a nonconformity under the previous code is made conforming by the adoption of this Ordinance, then the situation will no longer be a nonconformity.

C. USES, LOTS, STRUCTURES AND SITES RENDERED NONCONFORMING

1. Uses

If a lot, building or site is used for a purpose that complied with the previous development code before the effective date of this Ordinance and this Ordinance no longer classifies such use as either a permitted or conditional use in the zoning district in which it is located, such use shall be a nonconforming use and shall be controlled by the provisions of Article 11.20.0 Nonconformities.

2. Structures, Sites

Where a building, structure, lot or site legally existed on the effective date of this Ordinance does not meet all of the development standards established by this Ordinance, such building, structure, lot or site shall be nonconforming and shall be controlled by Article 11.20.0 Nonconformities.

11.1.103 TRANSITION TO NEW ZONING DISTRICTS

Upon the effective date of this Ordinance, land that is zoned with a zoning district classification from the previous zoning regulations shall be re-classified to one of the zoning district classifications established in the Ordinance. The new Official Zoning Map shall establish the boundaries of the new zoning districts and shall be adopted by separate action of the City Council.

11.1.110 *SEVERABILITY*

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole, or any part thereof, other than the part so declared to be unconstitutional or invalid. The Zoning Commission and the City Council hereby declare that it would have enacted the remainder of this Ordinance even without such part or provision found invalid.

Article 11.2.0 ZONING DISTRICTS AND OVERLAY DISTRICTS ESTABLISHED

11.2.10 **PURPOSE AND INTENT**

The purpose and intent of this Article are to:

11.2.11 ESTABLISH ZONING DISTRICTS

Establish zoning districts and zoning overlay districts that provide appropriately located areas for residential, nonresidential and public uses consistent with the *Sidney Growth Policy*.

11.2.12 ZONING MAP

Establish the Official Zoning Map of the City of Sidney.

11.2.13 PUBLIC HEALTH, SAFETY

Protect and enhance the public health, safety, morals and general welfare of the citizens of Sidney.

11.2.14 COMPATIBILITY

Promote compatibility among the various land uses and incorporate the Future Land Use Map as identified in the Sidney Growth Policy.

11.2.20 **ZONING DISTRICTS ESTABLISHED**

The following Zoning Districts and Zoning Overlay Districts:

11.2.21 RESIDENTIAL ZONING DISTRICTS

- A. SINGLE HOUSEHOLD RESIDENTIAL ZONING DISTRICT (R-1)
- B. ONE AND TWO HOUSEHOLD RESIDENTIAL DISTRICT (R-2)
- C. MULTIPLE HOUSEHOLD RESIDENTIAL ZONING DISTRICT (R-3)
- D. MANUFACTURED HOME SINGLE RESIDENCE ZONING DISTRICT (C-1)
- E. MANUFACTURED HOME PARK ZONING DISTRICT (C-2)
- F. RECREATIONAL VEHICLE PARK ZONING DISTRICT (C-3)

11.2.22 COMMERCIAL/MANUFACTURING/INDUSTRIAL ZONING DISTRICTS

- A. COMMUNITY HIGHWAY BUSINESS DISTRICT (B-1)
- B. NEIGHBORHOOD BUSINESS ZONING DISTRICT 2 (B-2)
- C. CENTRAL BUSINESS DISTRICT (B-3)
- D. COMMERCIAL LIGHT MANUFACTURING DISTRICT (CLM)
- E. MANUFACTURING AND INDUSTRIAL (M-I)

11.2.23 PUBLIC ZONING DISTRICTS

- A. UNINCORPORATED (UN) (MAP ONLY)
- B. CITY PARKS (P)

11.2.24 ZONING OVERLAY DISTRICTS

- A. AGRICULTURE OPEN SPACE DISTRICT (A-O)
- B. AIRPORT INFLUENCE DISTRICT (A-I)

11.2.25 FLOATING ZONING DISTRICT

- A. PLANNED UNIT DEVELOPMENT (PUD)

11.2.30 **OFFICIAL ZONING MAP**

“The official Zoning Map of the City of Sidney” that is adopted and made a part of Title 11 as if it were set out here in full detail, shows the location and boundaries of the zoning districts established by this Ordinance. The map is on file in the office of the City of Sidney. The Zoning Administrator shall maintain the Zoning Map and must revise the map to reflect amendments approved by the City Council as soon as possible after the effective date of the amendments. No unauthorized person may alter or modify the Zoning Map. The Zoning Administrator may authorize printed copies of the map to be produced for distribution and shall maintain printed or digital copies of all versions of the map for historical reference.

11.2.31 CERTIFICATION

The Official Zoning Map shall bear a certificate with the signature of the Mayor, attested by the City Clerk, and the dates of adoption of this Ordinance and the Official Zoning Map. This Ordinance and the certified Official Zoning Map shall be filed with and kept in the Office of the Clerk of the City of Sidney.

This certification on the Official Zoning Map shall read as follows: “This is the Official Zoning Map of the City of Sidney, Montana as approved by the City Council on this 19th day of April, 2017. All prior versions of the Official Zoning Map of the City of Sidney are hereby repealed and replaced.”

Regardless of the existence of purported copies of the Official Zoning Map of the City of Sidney, the Official Zoning Map of the City of Sidney bearing the original signatures of the Mayor and City Clerk filed and kept in the Office of the Clerk of the City of Sidney shall be the final authority as to the current zoning status of land, buildings or other structures in the City.

11.2.40 ***INTERPRETATION OF DISTRICT BOUNDARIES***

When the ordinance establishing a zoning district boundary describes the boundary as following a certain feature, or reflects a clear intent that the boundary follows a certain feature, the boundary shall be construed as following that feature as it actually exists at the time the zoning district boundary is established. When an ordinance does not describe the zoning district boundary, the following rules shall be used by the Zoning Administrator to determine the boundary.

11.2.41 **RIGHT OF WAY BOUNDARIES**

Zoning district boundaries depicted on the Zoning Map shall follow the parcel boundaries as defined and should not extend to the centerline of the right of way unless absolutely necessary.

11.2.42 **PARALLEL FEATURES**

Boundaries shown on the map as approximately parallel to features or lines shall be construed as parallel to the feature or line.

11.2.43 **CITY LIMITS**

Boundaries shown on the map as approximately following lines of the City limits shall be construed as following the lines of the City limits.

11.2.44 **WATER FEATURES**

Boundaries shown as approximately following the center line of rivers, creeks, streams, canals, lakes, ditches or other bodies of water shall be construed as following the center line of the body of water. Boundaries shown as approximately following the shoreline of a body of water shall be construed to follow the shoreline. In the event of a natural change in a shoreline or center line, the district boundary shall be construed as moving with the actual shoreline or center line to its new location. In the event of a change directly or indirectly resulting from human actions, the district boundary shall not be construed as following the new shoreline or center line unless a zoning map amendment is approved by the City Council to change the district boundary.

11.2.45 **SECTION LINES**

Boundaries shown to follow section lines or quarter section lines shall be construed as following such lines.

11.2.46 **UNDEFINED BOUNDARIES**

The location of a boundary that cannot be determined from the application of the above rules shall be determined by measuring the distance between the mapped boundary and other features shown on the map.

11.2.47 CONFLICTS WITH BOUNDARIES

Where uncertainty exists as to the boundary of a zoning district, or when the street, property lines or other features existing on the ground are in conflict with those on the Zoning Map, the Zoning Administrator shall interpret and determine the location of said boundary. The Zoning Administrator's determination may be appealed to the Board of Adjustment pursuant to Section 11.21.82 Appeals.

11.2.50 *ANNEXATION, CHANGE OF JURISDICTION, ABANDONED RIGHTS-OF-WAY*

Any land added to the City of Sidney is automatically zoned the lowest residential density until such time as the City Council approves a different zoning classification.

11.2.51 ANNEXATIONS

All new additions and annexations of land to the City of Sidney shall be zoned Single Household Residential Zoning District (R-1), unless otherwise classified by the City Council as part of the annexation decision and is rezoned to a different zoning district following such rezoning procedures. The City Council can amend the Zoning Map to reclassify the land to a different zoning classification at a later time following the rezoning procedures.

11.2.52 ABANDONED RIGHTS-OF-WAY, FEDERAL AND STATE LAND

All rights-of-way abandoned, sold or vacated by any County, City, State or Federal agency shall be assigned the same zoning classification of the adjoining land (or the acquired property when an acquisition is in conjunction with a right-of-way vacation) unless the City Council amends the Zoning Map to reclassify the land to a different zoning classification.

11.2.53 LOT OR PARCEL IN MORE THAN ONE ZONING DISTRICT

A lot or parcel located in more than one (1) zoning district may be developed as a single development. The entire lot or parcel shall be used to meet the minimum site area requirements of the more restrictive zone. The uses allowed must follow the most restrictive zone requirements until such parcel is subdivided or rezoned to one zone.

Article 11.3.0 ZONING DISTRICTS AND STANDARDS

11.3.10 *PURPOSE AND INTENT*

The purposes and intent of this Article are to describe the various zoning districts and establish the allowed uses, dimensional standards and other standards that govern development in each district. This Article also establishes the standards for certain zoning overlay districts and a Planned Unit Development (PUD) floating zoning district.

11.3.20 *USES DEFINED*

11.3.21 ALLOWED USES

The description of each zoning district contains a table entitled Allowed Uses that establishes the uses allowed in the zoning district.

11.3.22 PERMITTED USES

Uses that are listed as “Permitted” uses are allowed as “outright uses” or as a matter of right upon the issuance of a Zoning Conformance Permit. A Zoning Conformance Permit shall be issued pursuant to the procedures of this Ordinance, provided the development or use complies with all applicable standards of this Ordinance, including the standards of general applicability and any specific standards referenced in the Allowed Uses table.

11.3.23 USE SPECIFIC STANDARDS

Specific standards that apply to certain uses are referenced in the Allowed Uses tables for each zoning district. The specific standards in the referenced sections apply in addition to the standards and procedures of general applicability that are established in this Ordinance to apply to all development and land uses.

11.3.24 CONDITIONAL USES

Uses that are listed as “Conditional” uses are allowed with a Conditional Use Permit (CUP) pursuant to Section 11.17.10 Conditional Uses. A CUP may be issued at the discretion of the Zoning Commission, pursuant to the procedures of this Ordinance, provided that the development complies with the standards of general applicability and the applicable CUP standards, and the Zoning Commission makes certain CUP findings of fact.

11.3.25 CONDITIONAL USE FINDINGS

Approval of a CUP requires the Zoning Commission to make certain Findings of Fact as established in Section 11.17.10 Conditional Uses.

11.3.26 ACCESSORY USES

Accessory uses and accessory buildings as defined in Section 11.23.40 Definitions, shall be allowed in all zoning districts.

11.3.27 PROHIBITED USES

If a use is listed as “Prohibited” it is expressly forbidden in that district.

11.3.28 USES NOT LISTED (UNIDENTIFIED USES)

If a use is not listed as either a Permitted or Conditional Use, it is not allowed in the district unless the use receives a Zoning Conformance Permit and is subject to provisions in Section 11.3.29 Similar Use Determination.

11.3.29 SIMILAR USE DETERMINATION

The goal of this Zoning Ordinance is to allow flexible uses in zones, especially as uses and technology continue to evolve. If a proposed use is not listed in the Allowed Uses Table, it may be considered an allowed use if the Zoning Administrator determines the proposed use is sufficiently similar to one of the uses listed in the Allowed Uses Table. If a Similar Use Determination is made in the affirmative, the proposed use shall be an authorized use with the same permissions and restrictions as the use to which it is determined to be similar. The Zoning Administrator shall submit a public notice for publishing in the next issue of the official paper of the City of Sidney following all decisions to approve or deny a Similar Use Determination. The notice shall be in accordance with Section 11.21.70 Public Notice. Any aggrieved party may appeal the Zoning Administrator's decision within thirty (30) calendar days of the date the notice appeared in the official paper of the City of Sidney, pursuant to Section 11.21.82 Appeals.

A use that meets the standards and notification procedures of this Section shall receive a letter authorizing such use to proceed in the zone in which it is currently located. The permitted use shall only be authorized for that zone in which it located and may not be switched to a different zone. The zoning conformance letter shall be maintained in the City Clerk's office and kept on file for the perpetuity of the use. If no instance shall a non-conforming use be granted a zoning conformance permit.

11.3.30 **STANDARDS**

11.3.31 DIMENSIONAL STANDARDS

The description of each district contains a table entitled "Dimensional Standards" that establishes the dimensional limitations on all development within the district.

11.3.32 SPECIFIC DISTRICT STANDARDS

Each district contains a subsection that establishes development standards that are specific to the particular zoning district.

Article 11.4.0 SINGLE HOUSEHOLD RESIDENTIAL ZONING DISTRICT (R-1)

11.4.10 *PURPOSE AND INTENT*

The purpose and intent of the R-1 Zoning District is to provide for newly constructed, low density, single-household residential development including guest houses to conform to the system of service available, the slope of the land or other limiting factors, to provide for such community facilities and services as will serve the area’s population while protecting the residential quality of the area.

11.4.20 *LAND USES*

Permitted and Conditional Uses allowed in the R-1 District are in Section 11.4.40 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.4.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the R-1 Zoning District:

11.4.31 ONE DWELLING

Residential lots shall contain no more than one (1) principal dwelling unit and one (1) guest house.

11.4.32 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.4.33 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height.

11.4.34 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of fifty (50) percent of vegetative landscaping. Drought tolerant species are encouraged. No yard shall be completely paved or constructed of impervious surfaces.

11.4.35 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten

feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

The accessory building must have outside material covering similar to that of the main unit and match the architectural style. No structure of a temporary character, tent, shack, garage or other building shall be used on any lot at any time as a residence either temporarily or permanently. All accessory structures are prohibited until the primary structure is constructed; concurrent construction for accessory and primary structures is allowed.

11.4.40 ALLOWED USES

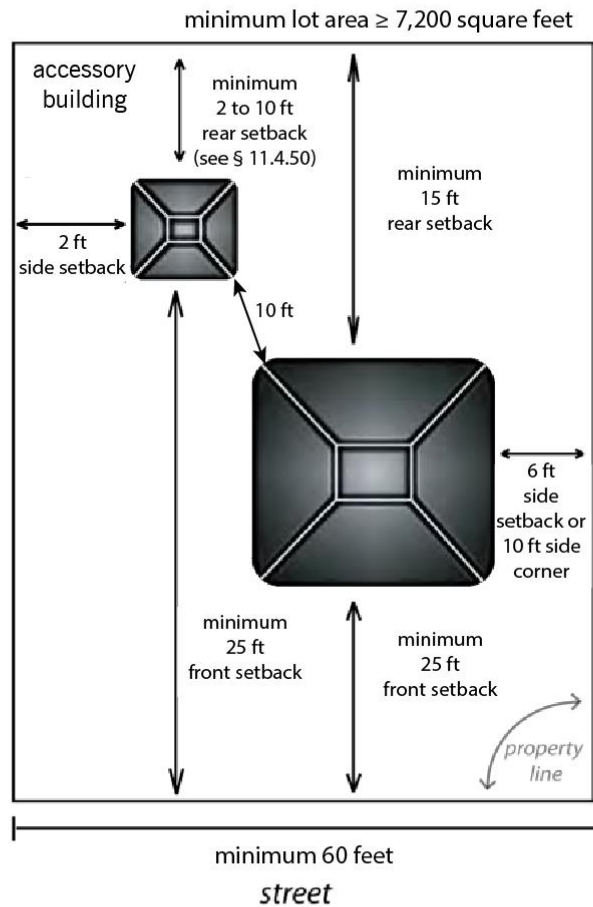
Allowed Uses R-1 District		
Permitted		
Single Household	Day Care, Family; See Section 11.17.22B.	Home Occupations; See Section 11.17.22C.
Accessory Building	Public Parks & Recreation	Guest House; See Section 11.17.22G.
Assisted Living, 8 or Fewer Persons Served	Nursing Homes and Hospitals	Temporary Buildings; See Section 11.17.22H.
Conditional		
Day Care Group; See Section 11.17.22B	Bed & Breakfast; See Section 11.17.22A	Fire, Police or Public Utility Buildings.
Worship Facility	Electrical Substation	Assisted Living, >8 Persons Served.
Cemeteries	Wireless Communication Facility	Library
School	Relocation of an Existing Off- Site Structure.	

11.4.50 **DIMENSIONAL STANDARDS**

Development in the R-1 District shall comply with the Dimensional Standards as described:

Dimensional Standards R-1 District	
Lot Standards	
Lot Area, Minimum Square Feet	7,200
Lot Frontage, Minimum Feet	60
Minimum Setbacks (Feet)	
Front	25
Side	6
Rear	15
Side Corner	10
Building Standards (Feet)	
Building Height	35
Lot Coverage (percent)	
Lot Maximum	40
Rear Yard Maximum	25
Landscaping, Minimum Required	50
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear, Provided that: <ul style="list-style-type: none"> a. 200 square feet or less in size; b. at least 10 feet from an occupied structure; c. is not used for motor vehicle storage; and d. that no single penetration exceeds 36 square feet in size. 	10 to as little as 2
Height	≤ Primary Structure

R-1 Dimensional Standards Illustration



Article 11.5.0 ONE AND TWO HOUSEHOLD RESIDENTIAL DISTRICT (R-2)

11.5.10 *PURPOSE AND INTENT*

The purpose and intent of the R-2 Zoning District is to provide for one- and two-household residential areas served by adequate public service, and for neighborhood facilities to serve such development while preserving the residential quality and nature of the area.

11.5.20 *LAND USES*

Permitted and Conditional Uses allowed in the R-2 District are in Section 11.5.40 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.5.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the R-2 Zoning District:

11.5.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.5.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height.

11.5.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of fifty (50) percent of vegetative landscaping. Drought tolerant species are encouraged. No yard shall be completely paved or constructed of impervious surfaces.

11.5.34 TOWNHOME STANDARDS

Townhomes are permitted by right if they meet the minimum dimensional standards in Section 11.5.50 Dimensional Standards, comply with all other requirements in the R-2 zone and include the appropriate subdivision requirements as required by the City of Sidney.

11.5.35 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same

or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

The accessory building must have outside material covering similar to that of the main unit and match the architectural style. No structure of a temporary character, tent, shack, garage or other building shall be used on any lot at any time as a residence either temporarily or permanently. All accessory structures are prohibited until the primary structure is constructed; concurrent construction for accessory and primary structures is allowed.

11.5.40 ALLOWED USES

Allowed Uses R-2		
Permitted		
Single Household	Accessory buildings	Day Care, Family; See Section 11.17.22B
Temporary Buildings; See Section 11.17.22G	Two-Household Dwellings / Duplex / Townhomes	Home Occupations; See Section 11.17.22C
Assisted Living, 8 or Fewer Persons Served	Public Parks & Recreation	Guest House; See Section 11.17.22G
Nursing Homes and Hospitals		
Conditional		
Day Care Group; See Section 11.17.22B		Cemeteries
Worship Facility	Bed & Breakfast; See Section 11.17.22A	Fire, Police or Public Utility Buildings.
Wireless Communication Facility	Electrical Substation	Assisted Living, >8 Persons Served.
Professional Offices i.e. Real Estate, Insurance and Bank Offices	School	Library

11.5.50 **DIMENSIONAL STANDARDS**

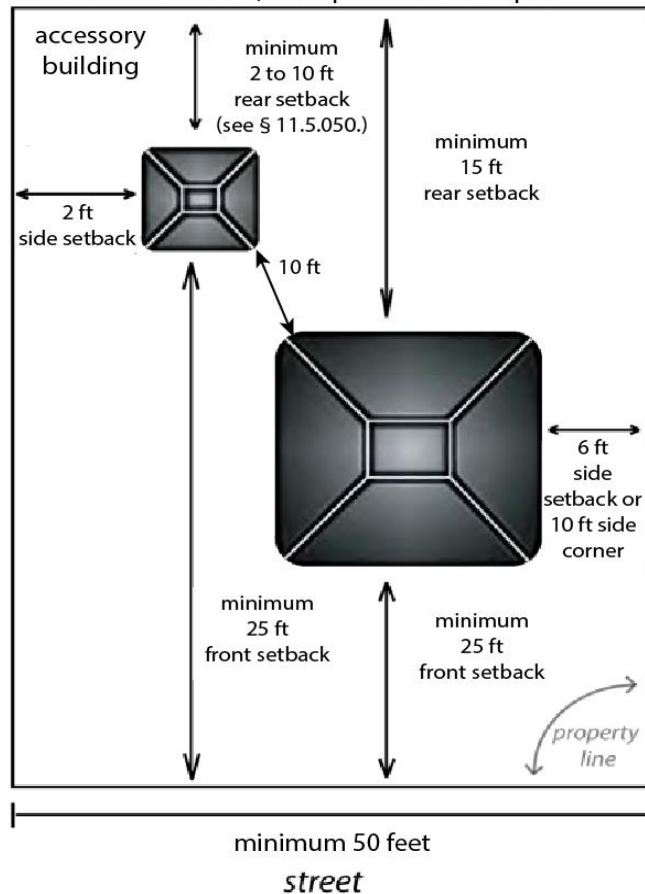
Dimensional Standards R-2	
Lot Standards	
Lot Area, Minimum Square Feet 1 st Dwelling Unit	5,000
Lot Area, Minimum Square Feet 2 nd Dwelling Unit	500
Lot Frontage, Minimum Feet	50
Minimum Setbacks (Feet)	
Front	25
Side	6
Rear	15
Side Corner	10
Townhome Standards	
Lot Size, Minimum Square Feet	2,750
Internal Side Yard Setback (Feet)	0
Lot Frontage, Minimum Feet	25
Building Standards (Feet)	
Building Height	35
Lot Coverage (Percent)	
Lot Maximum	40
Rear Yard Maximum	25
Landscaping, Minimum Required	50
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear, provided that <ul style="list-style-type: none"> a. 200 square feet or less in size; b. at least 10 feet from an occupied structure; c. is not used for motor vehicle storage; and d. that no single penetration exceeds 36 square feet in size. 	10 to as little as 2

Height	≤ Primary Structure
--------	---------------------

R-2 Dimensional Standards Illustration



minimum lot area ≥ 5,000 square feet for single household
 minimum lot area ≥ 5,500 square feet for duplex



Article 11.6.0 MULTIPLE-HOUSEHOLD RESIDENTIAL ZONING DISTRICT (R-3)

11.6.10 *PURPOSE AND INTENT*

The purpose and intent of the R-3 Zoning District is to provide for multi-household developments. It shall provide for changing patterns of residential areas where facilities can be provided to serve them and for a variety of housing facilities to serve the varied needs of families of different sizes, including the young and the elderly, while reducing the adverse effects of nonresidential uses. Certain commercial uses are conditionally permitted suffice that they do not detract from the neighborhood or severely impact property values.

11.6.20 *LAND USES*

Permitted and Conditional Uses allowed in the R-3 District are in Section 11.6.40 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.6.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the R-3 Zoning District.

11.6.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.6.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height.

11.6.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of fifty (50) percent of vegetative landscaping. Drought tolerant species are encouraged. No yard shall be completely paved or constructed of impervious surfaces.

11.6.34 TOWNHOME STANDARDS

Townhomes are permitted by right if the meet the minimum dimensional standards and comply with all other requirements in the R-3 zone and include the appropriate subdivision requirements as required by the City of Sidney.

11.6.35 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

The accessory building must have outside material covering similar to that of the main unit and match the architectural style. No structure of a temporary character, tent, shack, garage or other building shall be used on any lot at any time as a residence either temporarily or permanently. All accessory structures are prohibited until the primary structure is constructed; concurrent construction for accessory and primary structures is allowed.

11.6.40 ALLOWED USES

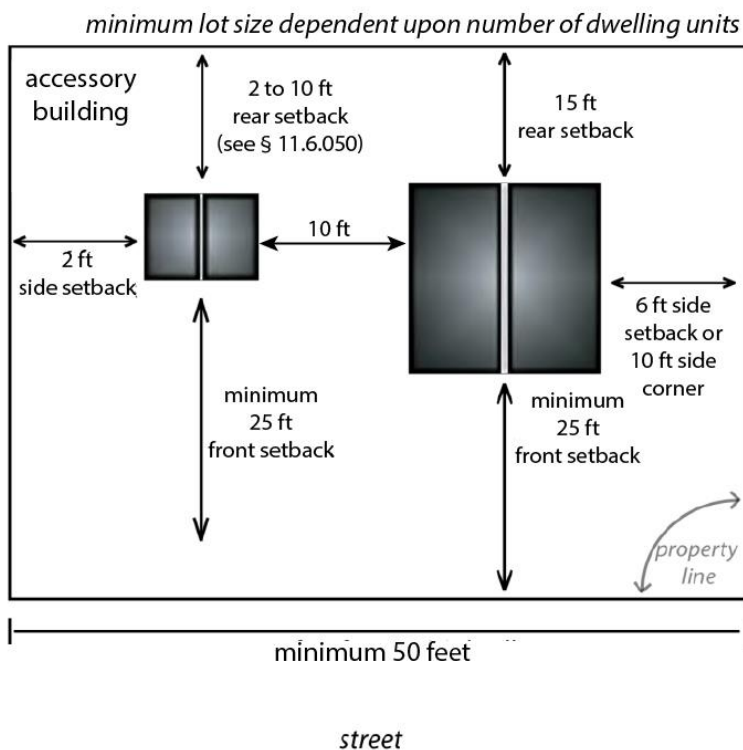
Allowed Uses R-3		
Permitted		
Single Household	Two-Household Dwellings / Duplex / Townhomes	Multi-Household Dwellings
Professional Offices i.e. Real Estate, Insurance and Bank Offices	Day Care, Family; See Section 11.17.22B	Home Occupations See Section 11.17.22C
Accessory Buildings	Public Parks & Recreation	Guest House; See Section 11.17.22G
Assisted Living, 8 or Fewer Persons Served	Nursing Homes and Hospitals	Temporary Buildings, See Section 11.17.22H
Private Clubs and Lodges	Grocery Store	Library
Patio Apartments and/or Condominiums	Medical Offices	Neighborhood Commercial Uses
Conditional		
Worship facility	Day Care, Group See Section 11.17.22B	Cemeteries
Assisted living, >8 Persons Served	Bed & Breakfast; See Sectio 11.17.22A	Fire, Police or Public Utility Buildings
Wireless Communication Facility	Electrical Substation	School

Dimensional Standards	
R-3	
Lot Standards	
Lot Area, Minimum Square Feet 1 st Dwelling Unit	5,000
Lot Area, Minimum Square Feet for Each Additional Dwelling Unit	500
Lot Frontage, Minimum Feet	50
Minimum Setbacks (Feet)	
Front	25
Side	6
Rear	15
Side Corner	10
Townhome Standards	
Lot size, Minimum Square Feet	2,750
Internal Side Yard Setback (Feet)	0
Lot frontage, Minimum Feet	25
Building Standards (Feet)	
Building Height	35
Lot Coverage (Percent)	
Lot Maximum	40
Rear Yard Maximum	25
Landscaping, Minimum Required	50
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear, provided that <ul style="list-style-type: none"> a. 200 square feet or less in size; b. at least 10 feet from an occupied structure; c. is not used for motor vehicle storage; and 	10 to as little as 2

d. that no single penetration exceeds 36 square feet in size.	
Height	≤ Primary Structure

11.6.50 ***DIMENSIONAL STANDARDS***

R-3 Dimensional Standards Illustration



Article 11.7.0 MANUFACTURED HOME SINGLE RESIDENCE ZONING DISTRICT (C-1)

11.7.10 PURPOSE AND INTENT

The purpose and intent of the C-1 Zoning District is to provide for the development of residential areas specifically meeting the needs of manufactured home single-household residences. It shall provide area regulations that allow the sale of lots for manufactured home residences.

11.7.20 LAND USES

Permitted and Conditional Uses allowed in the C-1 District are in Section 11.7.50 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

Manufactured homes meeting the requirements of the US Department of Housing and Urban Development are permitted in the district. FEMA trailers or emergency shelters, RV units, travel trailers, campers and pop-up campers, and similar moveable shelters are prohibited in the C-1 District.

11.7.30 SPECIFIC DISTRICT STANDARDS

The following standards shall apply to development in the C-1 Zoning District.

11.7.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.7.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height.

11.7.33 YARD

Every part of a required yard for each lot/space shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of twenty-five (25) percent of vegetative landscaping. Drought tolerant species are encouraged. No yard shall be completely paved or constructed of impervious surfaces.

11.7.34 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same

or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

11.7.35 DESIGN ELEMENTS

Specific design elements including site design and individual space requirements are listed in 11.17.22D Manufactured Home Communities and must conform to all the code requirements.

11.7.40 MINIMUM DISTRICT SIZE

Where proposed as a new zone, the minimum area to be considered shall be at least five (5) acres. Manufactured home sales may occur within the park provided that the area used for sales is five (5) percent or less of the gross number of units within the park.

11.7.50 ALLOWED USES

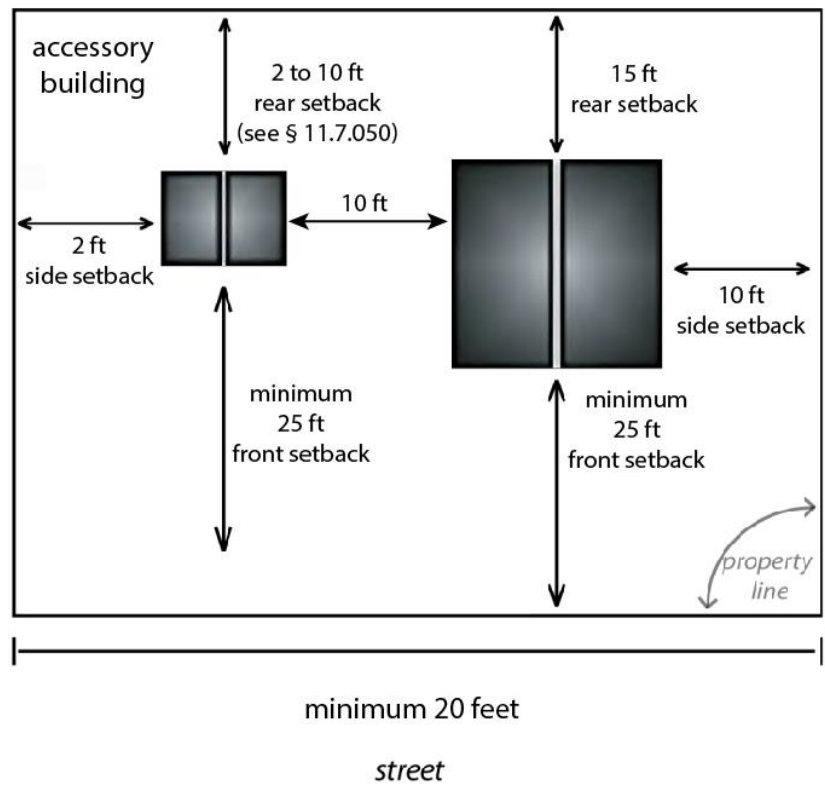
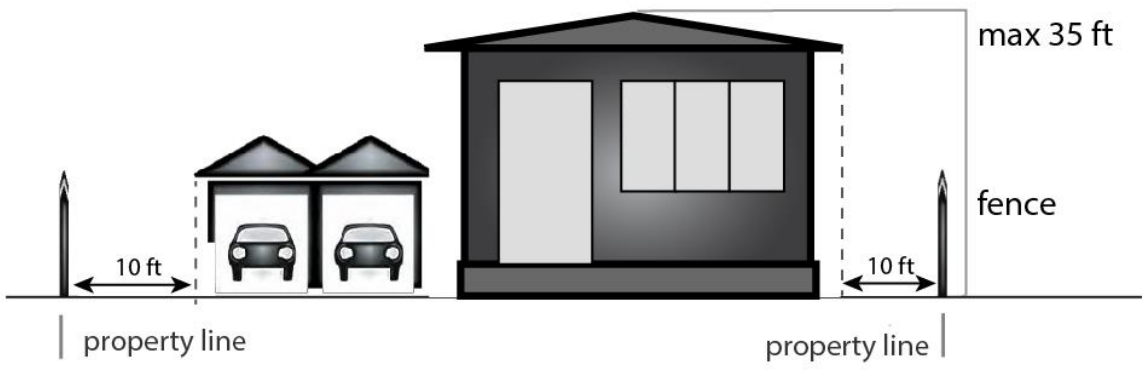
Allowed Uses C-1		
Permitted		
Government Buildings, Facilities Including Fire, Police or Public Utility Buildings	Worship Facility	Library
Public Parks & Recreation	Grocery Store	Single Household Dwelling
Day Care, Family See Section 11.17.22B	Home Occupations See Section 11.17.22C	Manufactured Houses Meeting HUD Standards
Conditional		
Professional Offices i.e. Real Estate, Insurance & Bank Offices	Medical Offices	Wireless Communication Facilities

11.7.60 **DIMENSIONAL STANDARDS**

Dimensional Standards C-1	
District Standards	
Minimum Districts Size Acres	5
Lot Frontage, Minimum Feet	100
Individual Lot Standards	
Lot Area, Minimum Square Feet	2,500
Lot Frontage, Minimum Feet	20
District and Lot Minimum Setbacks (Feet)	
Front	25
Side	10
Rear	15
Side Corner	10
Building Standards	
Building Height	35
Lot Coverage (Percent)	
Lot Maximum	50
Rear Yard Maximum	25
Landscaping, Minimum Required	25
Accessory Structures	
Setback, min. feet habitable structure	10
Setback, min. feet Side	2
Setback, min. feet Rear, provided that <ul style="list-style-type: none"> a. 200 square feet or less in size; b. at least 10 feet from an occupied structure; c. is not used for motor vehicle storage; and d. that no single penetration exceeds 36 square feet in size. 	10 to as little as 2

Height	≤ Primary Structure
--------	---------------------

C-1 Dimensional Standards Illustration



Article 11.8.0 MANUFACTURED HOME PARK ZONING DISTRICT (C-2)

11.8.10 *PURPOSE AND INTENT*

The purpose and intent of the C-2 Zoning District is to provide for the development of residential areas specifically meeting the needs of a manufactured home park with a single landlord and leasable spaces. It shall provide area regulations that allow the leasing of spaces for tenants with manufactured homes.

11.8.20 *LAND USES*

Permitted and Conditional Uses allowed in the C-2 District are in 11.8.50 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

Only manufactured homes meeting the requirements of the US Department of Housing and Urban Development may be permitted in the park. FEMA trailers or emergency shelters, RV units, travel trailers, campers and pop-up campers, and similar moveable shelters may be conditionally approved in the C-2 District and such spaces must be specifically designated on a site plan.

11.8.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the C-2 Zoning District.

11.8.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.8.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height.

11.8.33 YARD

Every part of a required yard for each lot/space shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of fifty (50) percent of vegetative landscaping. Drought tolerant species are encouraged. No yard shall be completely paved or constructed of impervious surfaces.

11.8.34 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same

or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

11.8.35 DESIGN ELEMENTS

Specific design elements including site design and individual space requirements are listed in 11.17.22D Manufactured Home Communities and must conform to all the code requirements.

11.8.40 MINIMUM DISTRICT SIZE

Where proposed as a new zone, the minimum area to be considered shall be at least five (5) acres. Manufactured home sales may occur within the park provided that the area used for leasing is five (5) percent or less of the gross number of units within the park.

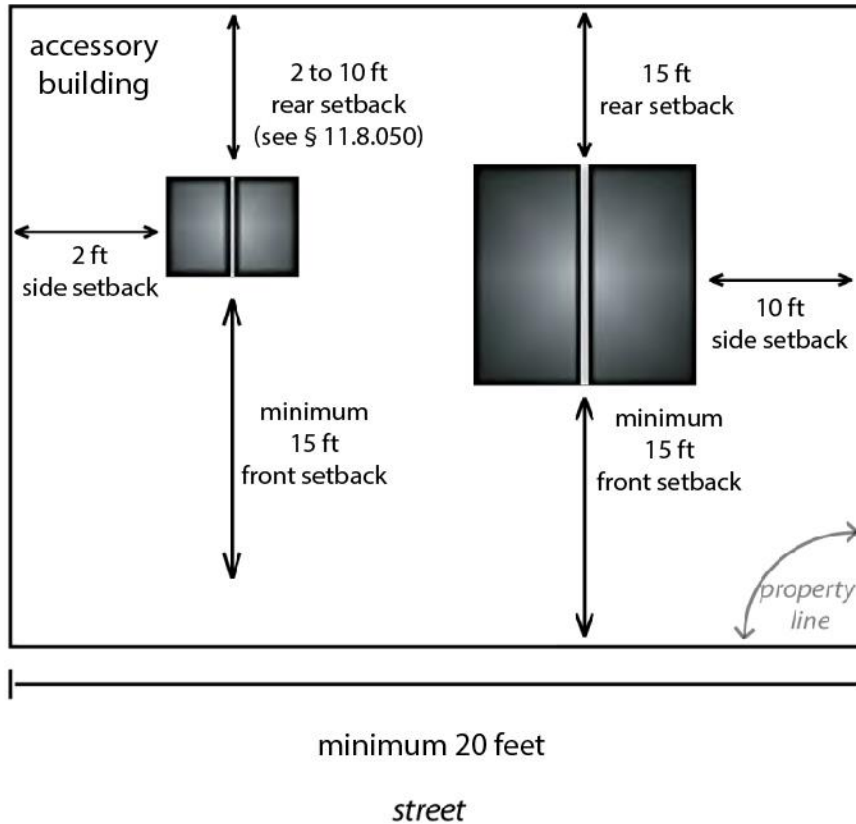
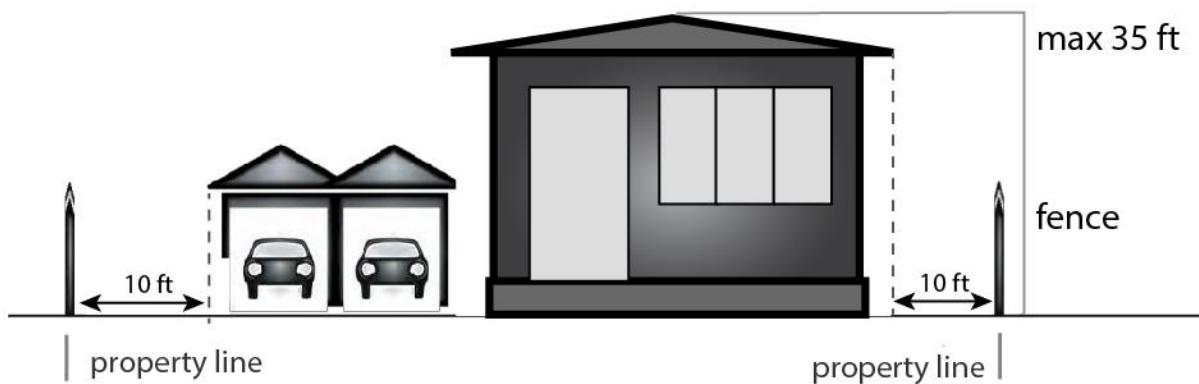
11.8.50 ALLOWED USES

Allowed Uses C-2		
Permitted		
Government Buildings, Facilities Including Fire, Police or Public Utility Buildings	Worship Facility	Library
Public Parks & Recreation	Grocery Store	Day Care, Family See Section 11.17.22B
Home Occupations See Section 11.17.22C	Manufactured Houses Meeting HUD Standards	
Conditional		
Professional Offices i.e. Real Estate, Insurance & Bank Offices	RV and Similar-Type Units	Wireless Communication Facilities

11.8.60 **DIMENSIONAL STANDARDS**

Dimensional Standards C-2	
District Standards	
Minimum Districts Size Acres	5
Lot Frontage, Minimum Feet	100
Individual Lot Standards	
Lot Area, Minimum Square Feet	2,500
Lot Frontage, Minimum Feet	20
District and Lot Minimum Setbacks (Feet)	
Front	15
Side	10
Rear	15
Side Corner	10
Building Standards	
Building Height	35
Lot Coverage (Percent)	
Lot Maximum	50
Rear Yard Maximum	25
Landscaping, Minimum Required	50
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear, provided that a. 200 square feet or less in size; b. at least 10 feet from an occupied structure; c. is not used for motor vehicle storage; and d. that no single penetration exceeds 36 square feet in size.	10 to as little as 2
Height	≤ Primary Structure

C-2 Dimensional Standards Illustration



Article 11.9.0 RECREATIONAL VEHICLE PARK ZONING DISTRICT (C-3)

11.9.10 *PURPOSE AND INTENT*

The purpose and intent of the C-3 Zoning District is to provide an area for the location, design and improvements of recreational vehicle parks and travel trailers in the incorporated city, in order to promote, protect and secure public health, safety and general welfare. This district should meet the needs for the short-term rental space for temporary dwelling units as such facilities are not intended for long-term, permanent residential use.

11.9.20 *LAND USES*

Permitted and Conditional Uses allowed in the C-3 District are in Section 11.9.60 Allowed Uses. All Conditional Uses must comply with 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

FEMA trailers or emergency shelters, RV units, travel trailers, campers and pop-up campers, and similar moveable shelters are permitted in the C-3 District. New manufactured homes are prohibited in the C-3 District; however, existing manufactured homes that have a valid building permit may remain in existing C-3 Districts.

FEMA trailers or emergency shelters, RV units, travel trailers, campers and pop-up campers, and similar moveable shelters may be permitted for more than 180 consecutive days within the park.

11.9.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the C-3 Zoning District:

11.9.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.9.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height.

11.9.33 YARD

Every part of a required yard for each lot/space shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of fifty (50) percent of vegetative landscaping. Drought tolerant species are encouraged. No yard shall be completely paved or constructed of impervious surfaces.

11.9.34 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

11.9.40 DESIGN ELEMENTS

Specific design elements including site design and individual space requirements are listed in 11.17.22E Recreational Vehicle Park and must conform to all the code requirements.

11.9.50 MINIMUM DISTRICT SIZE

The minimum lot size for new recreational vehicle parks is five (5) acres. All accessory components of the development of the park, including but not limited to parks and recreation areas, the park office and laundry facilities may be incorporated into the development. Parkland at the rate of 0.03 acres per recreational vehicle space shall be provided as part of the project.

Manager or site superintendent facilities may occur within the park provided that the area used for such space is five (5) percent or less of the gross number of units within the park.

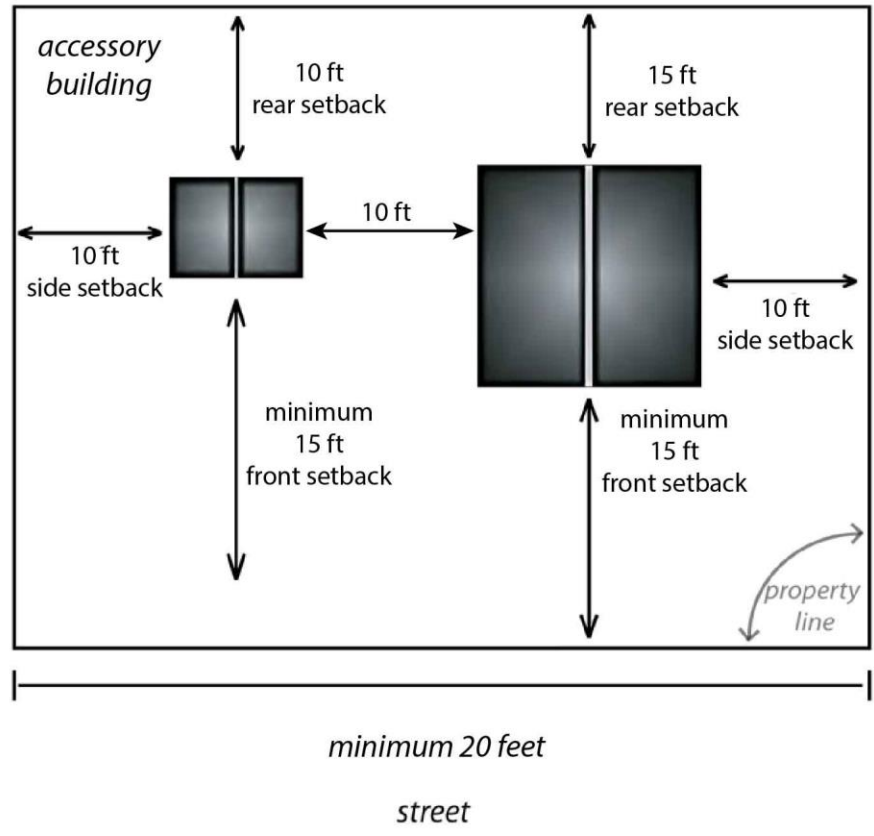
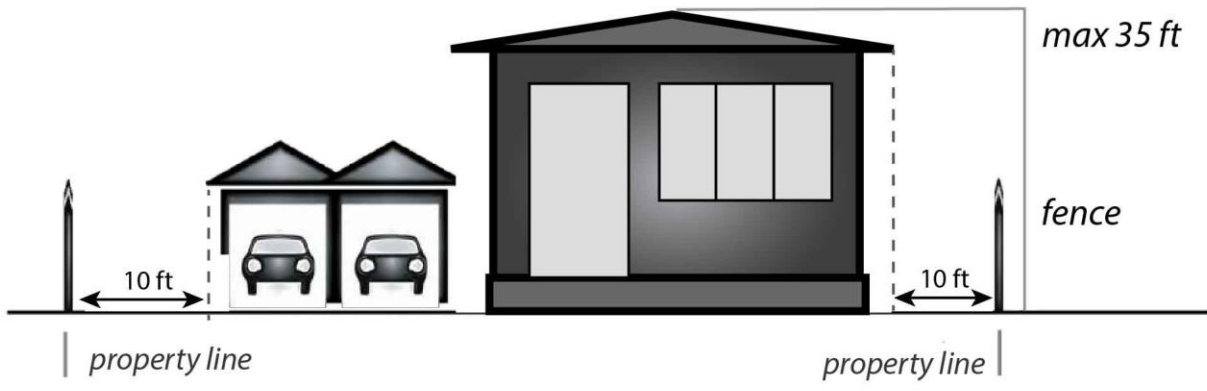
11.9.60 ALLOWED USES

Allowed Uses C-3		
Permitted		
Government Buildings, Facilities Including Fire, Police or Public Utility Buildings	Public Parks & Recreation R.V.'s <180 days	Temporary Dwelling Units
Conditional		
Wireless Communication Facility	R.V.'s >180 Days	

11.9.70 ***DIMENSIONAL STANDARDS***

Dimensional Standards C-3	
District Standards	
Minimum Districts Size Acres	5
Lot Frontage, Minimum Feet	100
Individual Lot Standards	
Lot Area, Minimum Square Feet	0
Lot Frontage, Minimum Feet	0
District Minimum Setbacks (Feet)	
Front	15
Side	10
Rear	15
Side Corner	10
Building Standards	
Building Height	35
District Coverage (Percent)	
Lot Maximum	60
Rear Yard Maximum	0
Landscaping, Minimum Required	50
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	10
Setback, Minimum Feet Rear	10
Height	35'

C-3 Dimensional Standards Illustration



Article 11.10.0 COMMUNITY - HIGHWAY BUSINESS DISTRICT (B-1)

11.10.10 *PURPOSE AND INTENT*

The purpose and intent of the B-1 Zoning District is to provide for retail and service functions for broad community areas of the city and for travelers coming through the city. Hotels, motels, shopping centers, and similar activities requiring automobile access are provided for in this district. This district shall accommodate large-scale commercial services typically found along major corridors into the city.

11.10.20 *LAND USES*

Permitted and Conditional Uses allowed in the B-1 District are in Section 11.10.40 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.10.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the B-1 Zoning District especially when commercial uses are adjacent to residential uses:

11.10.31 SCREENING

Service areas associated with non-residential uses, such as dumpsters, and parking lots larger than ten (10) parking spaces shall be screened from adjoining residential uses with a solid fence or vegetation at least six (6) feet in height.

11.10.32 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.10.33 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height. Solid fencing must be used when commercial uses are adjacent to residential uses. It shall always be the responsibility of the commercial use to provide screening adjacent to residential uses.

11.10.34 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of ten (10) percent of landscaped vegetation.

11.10.35 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

Except as provided in Section 11.17.24 Storage Units and Containers, the accessory building must have outside material covering similar to that of the main unit and match the architectural style. No structure of a temporary character, tent, shack, garage or other building shall be used on any lot at any time as a residence either temporarily or permanently. All accessory structures are prohibited until the primary structure is constructed; concurrent construction for accessory and primary structures is allowed.

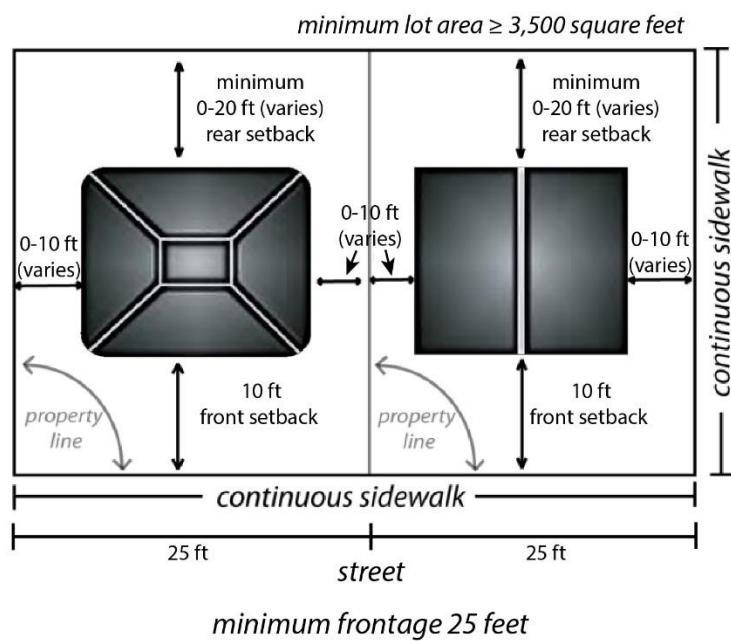
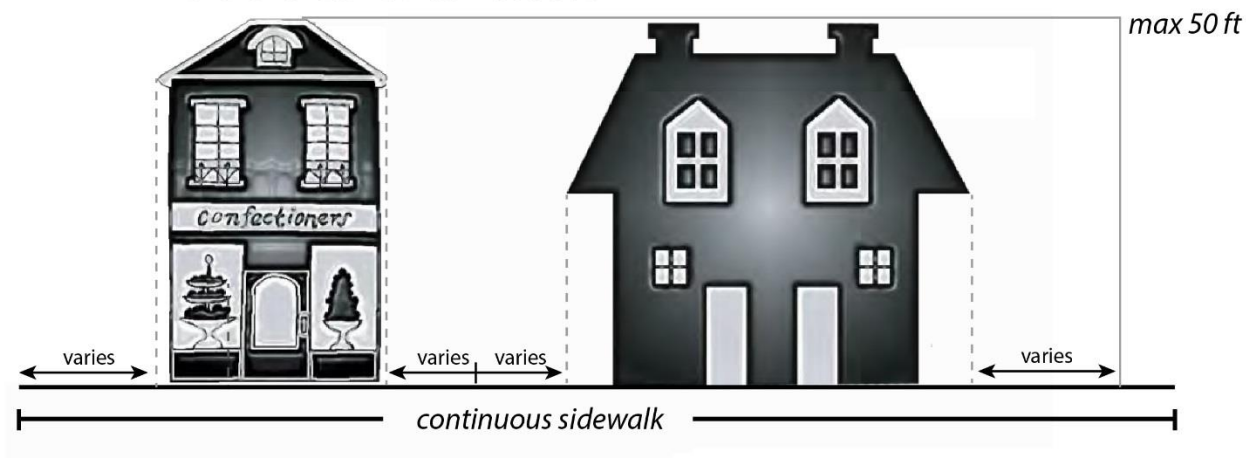
11.10.40 ALLOWED USES

Allowed Uses		
B-1		
Permitted		
Retail Sales & Services	Auto, R.V. & Marine Sales and Service	Bowling Alley
Building Materials Sales, wholesale	Restaurant	Financial Institutions
Liquor Stores/Sales Off Premise Consumption of Alcohol	Convenience Stores Including Motor Fuel Sales	Hotels & Motels
Public Buildings	Automobile Washing	Health & Exercise Clubs
Tavern, Bar, Night Club On Premise Consumption of Alcohol	Theaters	Veterinarian Clinic
Medical Offices		Laundry Facilities; Dry-Cleaning
Conditional		
Electrical substation	Multi-household Dwellings; Townhomes, Duplexes, & Single Household	Worship Facility
Library	School	Bed & Breakfast; See Section 11.17.22.11.17.22A
Day Care, Group; See Section 11.17.22B	Mini-warehouse storage	Cemeteries
Wireless Communication Facility	Assisted Living, >8 Persons Served	Fire, Police or Public Utility Buildings

11.10.50 **DIMENSIONAL STANDARDS**

Dimensional Standards B-1	
Lot Standards	
Lot Area, Minimum Square Feet	3,500
Lot Frontage, Minimum Feet	25
Minimum Setbacks (Feet)	
Front	10
Side	
Commercial/Commercial	0
Commercial/Residential	10
Rear	
Commercial/Commercial	0
Commercial/Residential	20
Building Standards	
Building Height	50
Accessory Structures Commercial/Residential	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear	10
Height	≤ Primary Structure

B-1 Dimensional Standards Illustration



Article 11.11.0 NEIGHBORHOOD BUSINESS ZONING DISTRICT (B-2)

11.11.10 *PURPOSE AND INTENT*

The purpose and intent of the B-2 Zoning District is to provide for such retail and service activities that are frequented by nearby residents on a day to day basis, while reducing the hazards of local traffic by limiting the kinds of retail activities to those which deal directly with consumers and produce-only goods that are sold on the premises including restaurants.

11.11.20 *LAND USES*

Permitted and Conditional Uses allowed in the B-2 District are in 11.11.40 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.11.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the B-2 Zoning District:

11.11.31 SCREENING

Service areas associated with non-residential uses, such as dumpsters, and parking lots larger than ten (10) parking spaces shall be screened from adjoining residential uses with a solid fence or vegetation at least six (6) feet in height.

11.11.32 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.11.33 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height. Solid fencing must be used when commercial uses are adjacent to residential uses. It shall always be the responsibility of the commercial use to provide screening adjacent to residential use.

11.11.34 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of twenty (20) percent of landscaped and/or green area.

11.11.35 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

Except as provided in Section 11.17.24 Storage Units and Containers, the accessory building must have outside material covering similar to that of the main unit and match the architectural style. No structure of a temporary character, tent, shack, garage or other building shall be used on any lot at any time as a residence either temporarily or permanently. All accessory structures are prohibited until the primary structure is constructed; concurrent construction for accessory and primary structures is allowed.

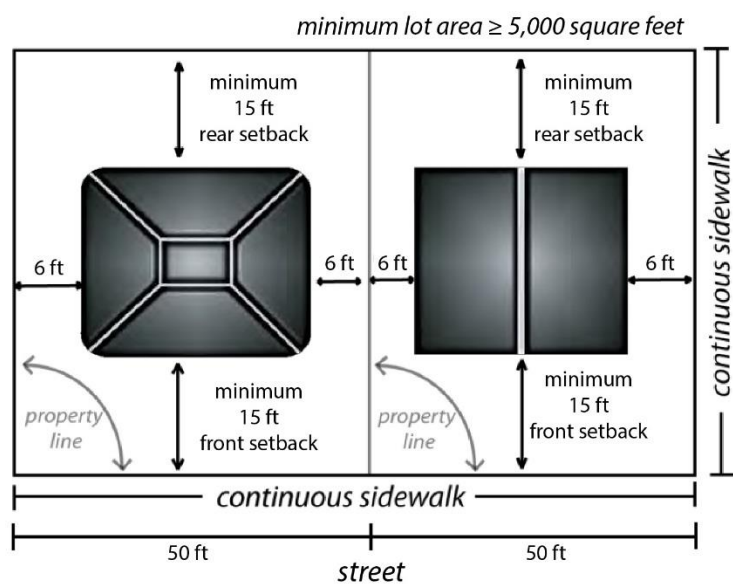
11.11.40 ALLOWED USES

Allowed Uses B-2		
Permitted		
Bakery	Home Occupation See Section 11.17.22C	Day Care, Group See Section 11.17.22B
Day Care, Family See Section 11.17.22B	Public Parks & Recreation	Barber & Beauty Shops
Professional Office	Florist	Pharmacy
Grocery Store	Funeral Home	Self Service/ Automatic Laundry
Restaurant	Government Buildings, Facilities	Worship Facility
Medical Office	Theatre; No Drive-In	
Conditional		
School	Wireless Communication Facility	Tavern

11.11.50 **DIMENSIONAL STANDARDS**

Dimensional Standards B-2	
Lot Standards	
Lot Area, Minimum Square Feet	5,000
Lot Frontage, Minimum Feet	50
Minimum Setbacks (Feet)	
Front	15
Side	6
Rear	15
Building Standards	
Building Height	35
Lot Coverage (Percent)	
Residential Uses	40
Commercial Uses (Except Required Setbacks)	100
Rear Yard Maximum	25
Landscaping, Minimum Required	20
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear	10
Height	≤ Primary Structure

B-2 Dimensional Standards Illustration



Article 11.12.0

CENTRAL BUSINESS DISTRICT (B-3)

11.12.10 *PURPOSE AND INTENT*

The purpose and intent of the B-3 Zoning District is to be the central focus of the city's business, government, service and cultural activities. Room should be provided in appropriate areas for the logical and planned expansion of the present district. The land uses in this district should preserve the historic integrity of the district while still allowing redevelopment to bolster the city's core. The area should be developed as an attractive and pleasant environment, cognizant of its importance to the community and its historical heritage.

11.12.20 *LAND USES*

Permitted and Conditional Uses allowed in the B-3 District are in Section 11.12.40 Allowed Uses. All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability

.

11.12.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the B-3 Zoning District:

11.12.31 HISTORIC CHARACTER

The design of all new buildings and the design of existing buildings that are expanded in gross floor area by twenty (20) percent or more shall be compatible with the historic architecture of Sidney. Compatible design includes, but is not limited to, the use of false fronts, and the type of ground floor windows typically used on historic buildings in Sidney. Acceptable exterior building materials traditionally used on historic buildings in Sidney, shall be encouraged. The historic character will be established in the "Main Street" program and is herein incorporated as part of this district.

11.12.32 SCREENING

Service areas associated with non-residential uses, such as dumpsters, and parking lots larger than ten (10) parking spaces shall be screened from adjoining residential uses with a solid fence or vegetation at least six (6) feet in height.

11.12.33 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.12.34 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height. Fencing located in the required setback area shall not exceed thirty-six (36) inches in height. Solid fencing must be used when

commercial uses are adjacent to residential uses. It shall always be the responsibility of the commercial use to provide screening adjacent to residential uses.

11.12.35 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of ten (10) percent of landscaped area.

11.12.36 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

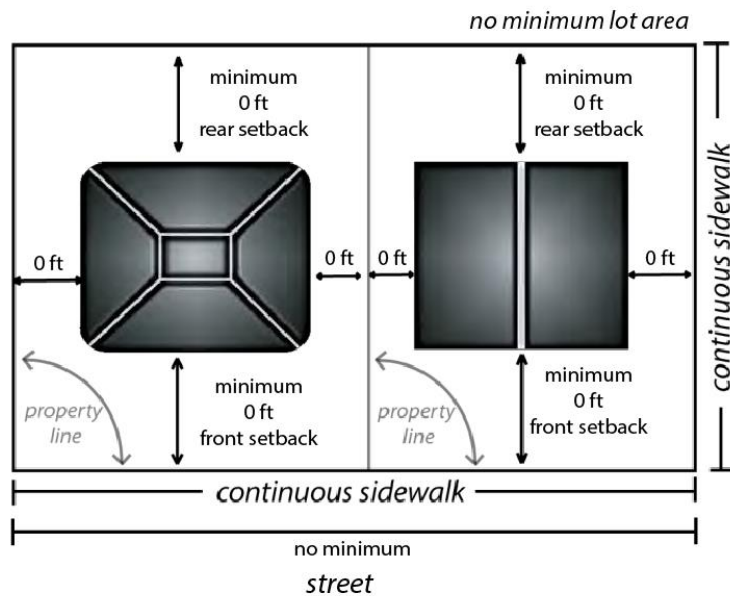
11.12.40 ALLOWED USES

Allowed Uses B-3		
Permitted		
Retail Sales & Services	Nursing or Group Home	Business & Professional Offices
Restaurant	Theaters Excluding Drive-In	Repair Services Small Appliances
Fraternal & Veteran Organizations	Dance Studios	Technical or Training Schools
Public Buildings & Offices	Hotels & Motels	Worship Facility
On-Site Alcohol Sales & Consumption	Parking Garage	Wholesale Sales
Banks & Financial Institutions	Day Care Family - Group - or Center	
Conditional		
Veterinary Clinic	Hospital or Medical Clinic	Automotive & Boat Sales & Service
Apartments		

11.12.50 **DIMENSIONAL STANDARDS**

Dimensional Standards B-3	
Lot Standards	
Lot Area, Minimum Square Feet	0
Lot Frontage, Minimum Feet	0
Minimum Setbacks (Feet)	
Front	0
Side	0
Rear	0
Building Standards	
Building Height	70
Lot Coverage (Percent)	
Lot Maximum	100%
Rear Yard	100%
Accessory Structures	
Setback, Minimum Feet	0
Height	≤ Primary Structure

B-3 Dimensional Standards Illustration



Article 11.13.0 COMMERCIAL - LIGHT MANUFACTURING DISTRICT (CLM)

11.13.10 *PURPOSE AND INTENT*

The purpose and intent of the CLM Zoning District is to provide for the community's needs for wholesale trade, storage and warehousing, trucking and transportation terminals, light manufacturing, outdoor advertising businesses and similar activities. Such use should be related to the City's major transportation facilities and be so organized that they can be efficiently operated and yet create a minimum of traffic or other adverse effects to the residential neighborhoods of the city. Residential uses are expressly prohibited in this district.

11.13.20 *LAND USES*

Permitted and Conditional Uses allowed in the CLM District are in 11.13.40 Allowed Uses . All Conditional Uses must comply with Section 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.13.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the CLM Zoning District.

11.13.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.13.32 FENCES, FRONT SETBACK

Fences shall not exceed ninety-six (96) inches in height except for street vision triangles whereby fences must comply with required street vision standards.

11.13.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang and shall have a minimum of fifteen (15) percent of landscaped area.

11.13.34 ACCESSORY STRUCTURES

Accessory structures that are incidental to the primary use are permitted and may include garages, shacks, sheds or similar storage areas. Accessory structures shall be a minimum of ten feet (10') from any rear property line and/or building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. Accessory structures shall not exceed the primary building height.

Except as provided in Section 11.17.24 Storage Units and Containers, the accessory building must have outside material covering similar to that of the main unit and match the architectural style. No structure of a temporary character, tent, shack, garage or other building shall be used

on any lot at any time as a residence either temporarily or permanently. All accessory structures are prohibited until the primary structure is constructed; concurrent construction for accessory and primary structures is allowed.

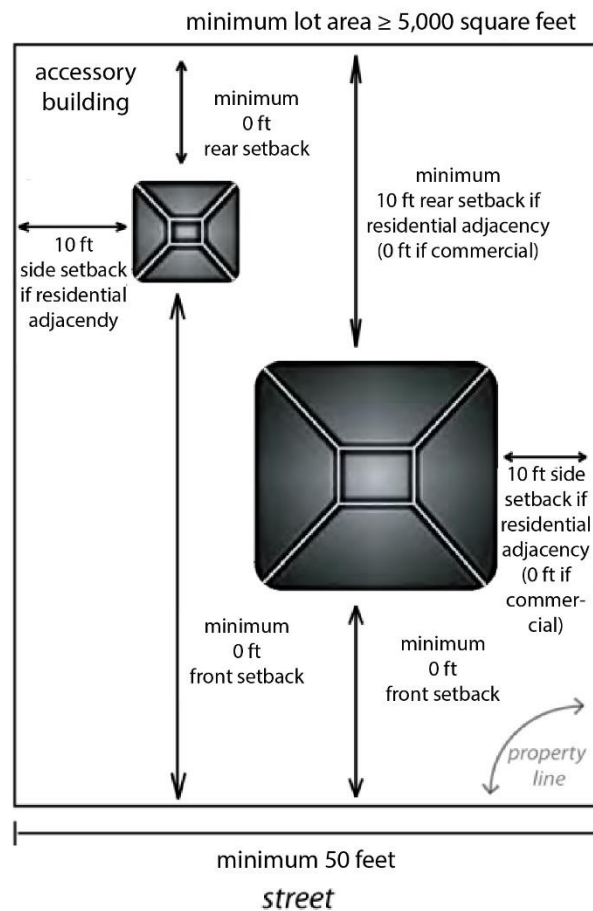
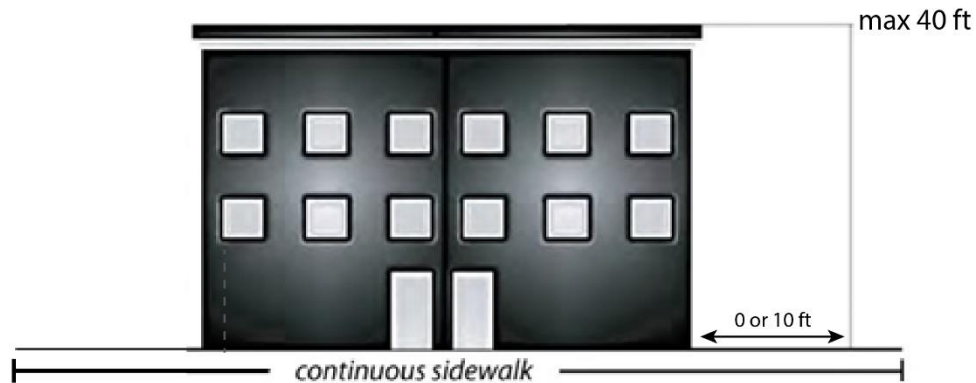
11.13.40 **ALLOWED USES**

Allowed Uses CLM		
Permitted		
Animal Hospital & Veterinarian Clinics	Automotive, Boat & recreational Vehicle Sales & Service	Automotive Tires Sales, Service & Repair
Automotive, Boat & Recreational Vehicle Repair	Beverage Manufacturing	Building & Plumbing Contractor Establishments
Building Materials, Retail & Wholesale	Cabinet Shop	Dairies & Dairy Products & Processing Plants
Data Processing Service	Dry Cleaning Plant & Laundry	Gasoline Service Stations
Industrial Vocational Training Schools	Machine or Blacksmith Shops	Warehousing
Government Buildings, Facilities	Worship Facility	Vehicle Sales & Service
Screened Outdoor Storage	Outdoor Advertising Business	Paint Shops
Sign Shops	Truck & Rail Terminal Facilities	Vehicle Repair Garages
Conditional		
Wireless Communication Facilities		

11.13.50 **DIMENSIONAL STANDARDS**

Dimensional Standards CLM	
Lot Standards	
Lot Area, Minimum Square Feet	5,000
Lot Frontage, Minimum Feet	50
Minimum Setbacks (Feet)	
Front	0
Side	
Commercial Adjacency	0
Residential Adjacency	10
Rear	
Commercial Adjacency	0
Residential Adjacency	10
Building Standards	
Building Height	40
Lot Coverage (Percent)	
Lot Maximum	100
Rear Yard	0
Landscaping, Minimum Area	0
Accessory Structure	
Setback, Minimum Feet, Side Residential Adjacency	10
Rear Residential Adjacency	10
Height	≤ Primary Structure

CLM Dimensional Standards Illustration



Article 11.14.0 MANUFACTURING AND INDUSTRIAL DISTRICT (M-I)

11.14.10 *PURPOSE AND INTENT*

The purpose and intent of the M-I Zoning District is to provide for the heavy commercial, manufacturing and other industrial needs of the city in appropriate locations. However, activities which produce noise, smoke, dust, vibration, glare or similarly objectionable nuisances or use fissionable materials or their wastes, shall be regulated in this as well as other districts. Residential uses are expressly prohibited in this zone.

11.14.20 *ALLOWED USES*

Permitted and Conditional Uses allowed in the M-I District are in Section 11.14.40 Allowed Uses. All Conditional Uses must comply with 11.17.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.18.0 Standards of General Applicability.

11.14.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the M-I Zoning District:

11.14.31 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.18.75 Pedestrian Access shall provide sidewalks including ADA standards.

11.14.32 FENCES, FRONT SETBACK

Fences shall not exceed ninety-six (96) inches in height except for street vision triangles whereby fences must comply with required street vision standards.

11.14.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang. Landscaping is not required but encouraged.

11.14.34 ACCESSORY STRUCTURES

Except as provided in Section 11.17.24 Storage Units and Containers, accessory structures shall be a minimum of ten feet (10') from any building used for residential purposes on the same or adjoining property and shall not be located in required setbacks. When attached to the main building, the accessory building must have outside material covering similar to that of the main unit. No structure of a temporary character, tent, shack, garage or other building shall be used on any lot at any time as a residence either temporarily or permanently.

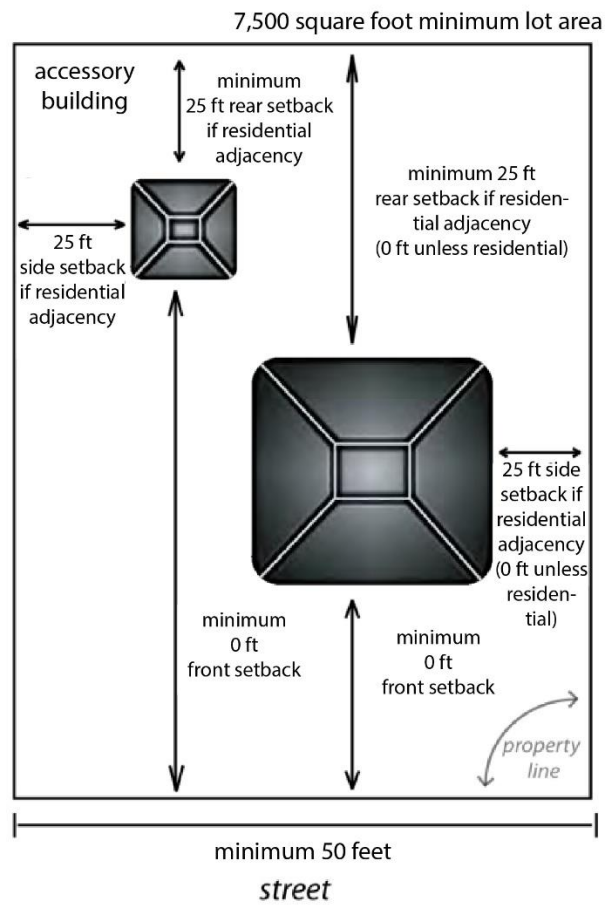
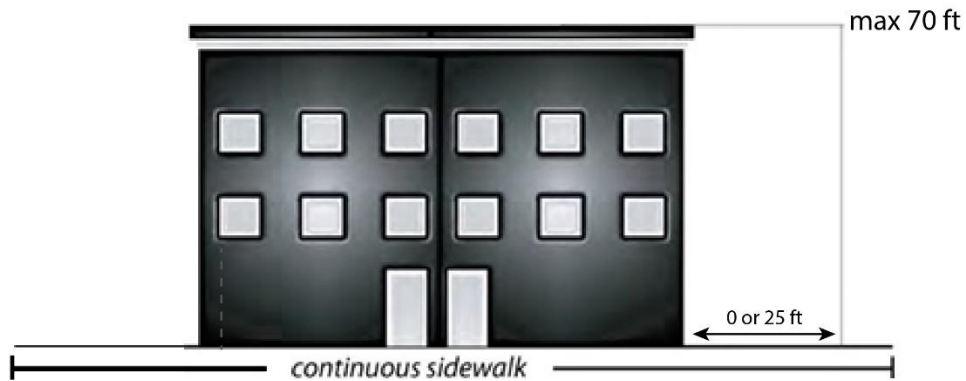
11.14.40 **ALLOWED USES**

Allowed Uses		
M-I		
Permitted		
All Manufacturing and Industrial Uses Not Prohibited by Law	Wholesale Sales	Recycling Center
Rodeo & Fairgrounds	Governmental Buildings, Facilities	Auto, R.V. & Marine Sales and Service
Building Materials Sales, Wholesale	Public Buildings	Automobile Washing
Veterinarian Clinic	Laundry Facilities; Dry Cleaning	Electrical Substation
Mini-warehouse storage	Wireless Communication Facility	Self Service/Automatic Laundry
Repair Services Small Appliances	Automotive & Marine Sales and Service	Agricultural/Industrial Equipment Sales and Service
Tire Sales and Service		
Conditional		
Acid Manufacturing	Wholesale Storage or Warehousing of Acids	Asphalt or Concrete Batch Plants
Cement, Lime, Gypsum or Plaster of Paris Manufacturing	Fat Rendering, Fertilizer, Gas or Glue Manufacturing	Manufacture of Explosives or Storage of Explosives, Including Gases
Petroleum or Petroleum Products Refining	Slaughter-House Stockyards & Feedlots	Smelting or Reduction of Ore or Metallurgical Products
Junk and Salvage Yards	Retail Sales & Services	Single Household
Technical or Training Schools		

11.14.50 **DIMENSIONAL STANDARDS**

Dimensional Standards	
M-I	
Lot Standards	
Lot Area, Minimum Square Feet	7,500
Lot Frontage, Minimum Feet	50
Minimum Setbacks (Feet)	
Front	0
Side	0
Residential Adjacency	25
Rear	
Commercial Adjacency	0
Residential Adjacency	25
Side Corner	0
Building Standards (Feet)	
Building Height	70
Lot Coverage (Percent)	
Lot Maximum	100
Accessory Structures	
Setback, Minimum Feet Side Residential Adjacency	25
Rear Residential Adjacency	25
Height	≤ Primary Structure

M-I Dimensional Standards Illustration



Article 11.15.0 PLANNED UNIT DEVELOPMENT (PUD)

11.15.10 *PURPOSE AND INTENT*

The purpose and intent of the Planned Unit Development (PUD) is to create a procedure that allows flexibility to design and develop a site in a creative and unified approach rather than a traditional lot-by-lot approach. The flexibility and unified approach is intended to promote high quality open spaces that are created by clustering development, create a diversity of housing types, permit a compatible mix of land uses, and achieve context sensitive design that conforms to topography and minimizes impacts on natural resources. The flexibility of the PUD also is intended to accomplish goals of the *Sidney Growth Policy*.

11.15.20 *APPLICABILITY AND LOCATION*

A PUD is a development approved pursuant to the standard and procedures of this Section and can be located on any site within the City that contains the following characteristics:

11.15.21 INFRASTRUCTURE

Water, waste water roadway and storm water facilities with sufficient capacity to accommodate the PUD, or these facilities can be reasonably extended to create the required capacity and that conform to City of Sidney Public Works standards.

11.15.22 CONNECTIVITY

The opportunity for a PUD with extensive connectivity to the existing roadway, sidewalk and trail systems.

11.15.23 NATURAL RESOURCES

Natural resources that can be better protected by the flexible design of a PUD than by a traditional lot-by-lot development and avoid construction in hazardous areas such as floodplains, steep slopes or poor soils.

11.15.30 *LAND USES*

11.15.31 RESIDENTIAL UNDERLYING ZONING

When the underlying zoning is residential, the PUD may contain all types of residential structures and commercial uses, provided the mix of uses complies with the findings of Section 11.15.70, Required Findings. Industrial uses are not allowed in PUD when underlying zoning is residential.

11.15.32 NON-RESIDENTIAL UNDERLYING ZONING

When the underlying zoning is commercial, industrial or another non-residential classification, the PUD may contain all types of residential structures, commercial and industrial uses, provided the mix of uses complies with the standards of Section 11.15.70 Required Findings.

11.15.40 ***DIMENSIONAL STANDARDS***

11.15.41 **LOT SIZES, FRONTAGE, SETBACKS**

Lot sizes, lot frontage and setbacks established for the underlying zoning district may be varied for the purpose of clustering buildings in a small footprint of development and setting aside open spaces or protecting natural resources.

11.15.42 **DENSITY, IMPERVIOUS COVERAGE**

The number of residential units and the amount of impervious coverage may exceed the limits established for the underlying zoning in portions of the PUD provided the total property covered by the PUD complies with these two standards in an overall calculation.

11.15.43 **BUILDING HEIGHT**

Building heights within the PUD may exceed the maximum height of the underlying zoning district for the purpose of clustering development in a small footprint of development and setting aside open spaces or protecting natural resources.

11.15.50 ***SITE DESIGN STANDARDS***

PUD shall comply with the following site design standards:

11.15.51 **BUILDING SITES**

The configuration and arrangement of development shall provide each lot and building with a suitable site that minimizes disturbance of sloping hillsides, protects natural resources and is serviceable by adequate infrastructure.

11.15.52 **ACCESS**

Safe and adequate vehicular access shall be provided to all lots and building sites to accommodate routine and emergency accessibility.

11.15.53 **NATURAL RESOURCES**

Natural resources shall receive greater protection than is routinely provided by standards of the Ordinance or other state and federal regulations. Examples of compliance with this standard include but are not limited to:

A. **SETBACKS**

Providing greater setbacks from water bodies and wetlands than required by other sections of this Ordinance or by the state and federal regulations, or

B. **HILLSIDES**

Avoiding the disturbance of hillsides that is otherwise permitted by other sections of this Ordinance, or

C. **WILDLIFE**

Protecting wildlife habitats and migration corridors.

11.15.54 CONNECTIVITY, CIRCULATION

The roadway system shall maximize connectivity to the adjoining streets and promote efficient circulation within the PUD.

11.15.55 PEDESTRIAN SYSTEM

A safe and logical system of sidewalks, trails and pathways shall provide for convenient pedestrian connections throughout the PUD and to adjoining neighborhoods.

11.15.56 INTEGRATION, COMPATIBILITY

Site design and the arrangement of land uses shall integrate the PUD with surrounding developments and maximize compatibility with neighboring properties. The PUD design shall blend with the existing development pattern and street network of the City.

11.15.57 HUMAN INTERACTION

Site design, arrangement of buildings and open spaces and the circulation system shall provide places for, and promote, interaction among the residents and workers occupying the PUD.

11.15.58 GROWTH POLICY

A PUD application shall demonstrate in a convincing and persuasive way that the proposed development will implement goals and strategies of the *Sidney Growth Policy*.

11.15.60 STATEMENTS OF STANDARDS

Upon approval of a PUD, the owner shall prepare a Statement of Standards for review by the Zoning Administrator that describes the specific uses, development standards, deviations from the underlying zoning standards and conditions of approval. This Statement of Standards shall be approved as to form by the City Attorney and upon approval by the City Council, recorded in the land records of Richland County.

11.15.70 REQUIRED FINDINGS

Approval of a PUD shall require the Planning Board/Planning Commission making the following findings of fact:

11.15.71 GROWTH POLICY

The PUD implements the goals and strategies of the *Sidney Growth Policy*.

11.15.72 CONSISTENT WITH PURPOSE, INTENT

The PUD is fully consistent with the stated purpose and intent of this Section and in no way contradicts the purpose and intent of this Section.

11.15.73 COMPLIES WITH STANDARDS

The PUD fully complies with all applicable standards of this Section and this Ordinance.

11.15.74 NO ADVERSE IMPACT

The PUD creates no significant adverse impact to neighboring property and does not negatively impact natural resources.

11.15.80 EXPIRATION

Approval of a PUD shall expire and become null and void one (1) year after the date of final approval if development has not commenced. Development of the PUD shall proceed with reasonable diligence to completion or proceed consistent with an approved phasing schedule. If development does not proceed with reasonable diligence to completion or in accordance with an approved phasing schedule, the Planning Board/Planning Commission may initiate a review of the partially completed PUD and determine if a specific schedule of development should be established for completion or if the PUD approval should be deemed expired. To render the decision about a completion schedule or expiration of approval, the Planning Board/Zoning Commission shall consider the following criteria:

11.15.81 FUNCTIONALITY

Does the partially complete PUD contain functional infrastructure, including but not limited to water, waste water, streets, storm water management and pedestrian facilities?

11.15.82 VISUAL BLIGHT

Does the partially complete PUD create visual blight that deteriorates the aesthetic quality of the neighborhood or the City?

11.15.83 COMMUNITY CHANGES

Has the City of Sidney enacted changes to the policies, goals, strategies or ordinances that would cause the PUD to be denied approval if it were newly submitted for applicable Zoning Conformance Permits?

Article 11.16.0 AIRPORT INFLUENCE DISTRICT (A-I)

11.16.10 *PURPOSE AND INTENT*

The purpose and intent of this section is to conform to FAA regulations that are designed to protect the lives of pilots and passengers of aircraft, nearby residents and the general population. It also is the purpose of this section to conform to FAA regulations to protect the investment in the Sidney Airport and prevent damage to neighboring property.

11.16.20 *APPLICABILITY*

The Airport Safety Overlay District applies to all property within the Approach Zone for utility Visual approach runways as defined in FAA regulations.

11.16.30 *APPROACH ZONE, HEIGHT LIMITATION*

Notwithstanding other dimensional limitations and allowances established by this Ordinance, no manmade building, tower, antenna or other structure and no tree or other vegetation shall penetrate the vertical plane described as the Approach Zone in FAA regulations for utility visual approach runways. The vertical plane in the Approach Zone is defined by the combination of Subsections 1 and 2, below.

1. The interior edges of the Approach Zone coincide with edges of the primary surface and is 250 feet wide, and expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the ends of the primary surface and its center line is a continuation of the center line of the runway.
2. Furthermore, the surface of the Approach Zone slopes upward one (1) foot for each twenty (20) feet outward beginning at the ends, and at the same elevation as, the primary surface and extending a horizontal distance of 5,000 feet along the extended runway centerline.
3. By way of example, the Approach Zone establishes a maximum height of ten (10) feet at a distance of 200 feet from the ends of the runway (200 divided by 20, times 1).

11.16.40 *USE LIMITATIONS*

No use is permitted that will interfere with navigational signals or radio communications between the airport and aircraft, or create difficulty for pilots to distinguish between airport lights, or create glare or impair the visibility of pilots, or create an attraction for birds that may increase the likelihood of bird strikes.

11.16.50 *NONCONFORMING CONDITIONS*

In addition to the standards of Article 11.20.0 Nonconformities, the owner of any nonconforming structure or vegetation within the Airport Safety Overlay District shall permit the Airport Board to install, operate and maintain markers or lights the Board deems necessary to indicate the presence of the structure or vegetation to aircraft pilots. Furthermore, no such nonconformity shall be made more nonconforming or in any way become a greater hazard for aircraft.

11.16.60 NOTICE TO FAA

In addition to other standards and procedures established by this Ordinance, the Zoning Administrator or City board granting approval of a permit or variance within the Airport Safety Overlay District may solicit review comments from the FAA or require the applicant to notify the FAA of the pending application.

Article 11.17.0

STANDARDS FOR SPECIFIC USES

11.17.10 *CONDITIONAL USES*

11.17.11 PURPOSE AND INTENT

This section establishes standards and required Findings of Fact for Conditional Uses. The purpose of Conditional Uses is to allow uses that may be suitable in some but not all locations in the zoning district in which they are allowed, or require special consideration because of unusual operational or physical characteristics, or must be designed and developed with conditions to assure compatibility with adjoining uses.

A Conditional Use Permit (CUP) may be granted to allow a Conditional Use only for a use listed as a “Conditional” use in an Allowed Uses table and only after the Planning Board/Zoning Commission has made Findings of Fact that the Conditional Use complies with the following standards. The following standards apply in addition to standards of general applicability.

11.17.12 FINDINGS OF FACT

The Planning Board/Zoning Commission shall make Findings of Fact that a Conditional Use complies with the following standards as a prerequisite to the City Council granting a CUP.

A. CONSISTENT WITH GROWTH POLICY

The Conditional Use is consistent with the policies, goals, objectives and strategies of the *Sidney Growth Policy*.

B. COMPATIBILITY

The Conditional Use is compatible with the character of the immediate vicinity including the bulk, scale, and general appearance of neighboring buildings and uses.

C. MINIMIZES ADVERSE IMPACT

The design, development, and operation of the Conditional Use minimize and mitigate adverse effects, including visual impact of the proposed use on adjacent lands.

D. MINIMIZES ADVERSE ENVIRONMENTAL IMPACT

The development and operation of the proposed Conditional Use minimizes adverse environmental impacts. Environmental resources to be assessed include, but are not limited to wetlands, riparian areas, steep slopes, mature vegetation and the floodplain.

E. IMPACT ON PUBLIC FACILITIES AND SERVICES

The Conditional Use does not have a significant adverse impact on public facilities and services, including, but not limited to, transportation systems, potable water and wastewater facilities, storm drainage, solid waste and recycling, parks, trails, sidewalks, schools, police, fire, and EMT facilities.

F. HAZARD, NUISANCE

The proposed Conditional Use will not create a hazard to persons or property and will not create a nuisance arising from, but not limited to: traffic, noise, smoke, odors, dust, vibration or illumination.

G. OTHER CODES

The Conditional use complies with all applicable City codes and ordinances.

11.17.13 APPLICABILITY

An approved CUP shall run with the land and may be transferred to another owner but only for the approved timeframe. The City Council may place the following conditions to mitigate any adverse impact from the project: Special yards;

- A. OPEN SPACES;
- B. BUFFERS;
- C. FENCES;
- D. WALLS;
- E. REQUIRING INSTALLATION AND MAINTENANCE OF LANDSCAPING;
- F. REQUIRING STREET DEDICATIONS AND IMPROVEMENTS;
- G. REGULATING POINTS OF VEHICULAR INGRESS AND EGRESS;
- H. REGULATING TRAFFIC CIRCULATION;
- I. REGULATING SIGNS;
- J. REGULATING HOURS OF OPERATION AND METHODS OF OPERATIONS;
- K. CONTROLLING POTENTIAL NUISANCES;
- L. PRESCRIBING STANDARDS FOR MAINTENANCE OF BUILDINGS AND GROUNDS;
- M. PRESCRIBING DEVELOPMENT SCHEDULES AND DEVELOPMENT STANDARDS; AND
- N. SUCH OTHER CONDITIONS AS THE COUNCIL MAY DEEM NECESSARY TO ENSURE COMPATIBILITY OF THE USE WITH SURROUNDING DEVELOPMENTS AND USES AND TO PRESERVE THE PUBLIC HEALTH, SAFETY, AND WELFARE.

11.17.14 EXPIRATION, DISCONTINUANCE OR ABANDONMENT

An approved CUP shall expire on the one (1) year anniversary date of approval if the permit is not put to use, unless an alternate timeline is established in the development approval. If a Conditional Use is operationally discontinued or abandoned for a period of more than twelve

(12) consecutive months, regardless of the removal or non-removal of furniture/equipment or any intention to resume such activity in the future, the Conditional Use may not be reestablished or resumed. Any subsequent use of the site shall conform to this Ordinance. A timeframe shall be established at approval for use of the conditional use permit.

11.17.20 *USE SPECIFIC STANDARDS*

11.17.21 PURPOSE AND INTENT

The purpose and intent of this Section are to establish certain standards that apply to specific uses. Some uses listed in the Allowed Uses tables are required to comply with use-specific standards. The Allowed Uses tables contain references to sub-sections below that establish the use-specific standards.

11.17.22 SPECIFIC USES

A. BED AND BREAKFASTS

1. Definition

A Bed and Breakfast is a private residence occupied by the owner or manager that provides overnight lodging to paying guests.

2. Maximum Number of Rooms

A Bed and Breakfast shall not exceed five (5) rooms that are rented to guests in addition to the rooms dedicated to the owner/manager. More than five (5) rooms in a structure is considered a motel.

3. Meals

A Bed and Breakfast includes breakfast in the lodging rate. No other meals are served to guests and no meals are served to the general public.

4. Duration of Stays

Bed and Breakfasts provide short-term lodging and guests shall not stay more than fourteen (14) days in a thirty (30) day period.

5. Residential, Historic Character

Bed and Breakfast facilities shall be compatible to the bulk, scale and appearance of the neighborhood in which it is located. When a Bed and Breakfast is located in an historic structure, the historically significant architectural elements of the structure shall be maintained.

6. Parking

One (1) parking spaces for the owner/manager and one (1) space for each room rented to guests shall be provided on-site. The Zoning Administrator may approve tandem parking for two (2) spaces if it does not create an unsafe condition.

7. Signage

Notwithstanding the standards of Article 11.19.0 Outdoor Advertising, a Bed and Breakfast shall be allowed one (1) sign, not to exceed twelve (12) square feet in sign area. This sign may be free-standing provided it

is setback a minimum of ten (10) feet from the property line. A Bed and Breakfast located within a Commercial Zone falls entirely under Outdoor Advertising for sign requirements.

B. DAY CARE OR GROUP CARE CENTERS

1. Definitions

a. Day Care Facility

A commercial facility that provides care for more than two (2) children or adults on less than a 24-hour basis for someone other than a family member or a person who lives with the children or adult. Adult Day Care is the provision of services and assistance to help adults with daily living.

b. Day Care Group, Day Care Center

An out-of-home place in which care is provided to thirteen (13) or more children or adults, or provides adult day care in conjunction with a Long Term Care Facility or Health Care Facility.

c. Day Care Family, Day Care Home

A private residence or other structure in which day care services are provided to seven (7) to twelve (12) children or adults.

2. License, Registration Certificates

Day Care Centers shall be licensed, and day care home facilities shall be issued a registration certificate, by the Montana Department of Family Services.

3. Compatible Appearance

Day Care Centers in residential zoning districts shall maintain a residential appearance as viewed from the street.

4. Centers for Children

a. Outdoor Play Area

Day Care Centers for children shall provide at least seventy-five (75) square feet of outdoor play area per child.

b. Fence

Notwithstanding other standards of this Ordinance that regulate fences, Day Care Centers for children may be required to provide a six (6) foot high solid fence, or a minimum twenty (20) foot wide landscape buffer to separate outdoor play areas from adjoining residential dwellings.

5. Signs

Notwithstanding Article 11.19.0 Outdoor Advertising, a Day Care Center shall be permitted one (1) sign not to exceed twelve (12) square feet in sign area when in a residentially zoned district.

C. HOME OCCUPATIONS

1. Purpose and Intent

The purpose and intent of these standards are to provide for limited commercial uses on the site of a residential dwelling unit. Home occupations provide for businesses that are carried out by residents of the dwelling and are incidental and subordinate to the residential use. Home occupations provide a place for businesses to start but do not permit their continued existence once the business has grown beyond the size that can maintain the residential character and scale of the residential property. It also is the purpose of these standards to provide peace, quiet and tranquility in residential neighborhoods and to guarantee all residents freedom from excessive noise, traffic, nuisance, fire hazard and other deleterious effects of commercial uses. ***A Marijuana Dispensary, by definition, is not an allowable Home Occupation.***

2. Standards

Home Occupations on single-household sites shall comply with the following standards:

a. One per Residence

Not more than one (1) Home Occupation can be located on a single-household lot or property as an Accessory Use.

b. Residents

A Home Occupation shall employ at least one (1) resident of the home with which the Home Occupation is associated and may include one (1) non-resident employee.

c. Character

Home Occupations shall not diminish the residential character of the property.

d. Inside Structure

Except for agricultural activities, Home Occupations shall be carried out within the dwelling unit or accessory structure.

e. Maximum Area

Home Occupations shall not occupy more than thirty-three (33) percent of the total floor area of all dwelling units, including accessory buildings.

f. Equipment

Mechanical equipment used in connection with the Home Occupations shall be limited to equipment normally found in a dwelling unit, including accessory buildings.

g. Outside Storage

Outside storage of equipment, materials, merchandise, inventory or heavy equipment that is associated with the Home Occupation shall be prohibited.

- h. **Parking**
Off-street parking shall be provided pursuant to Section 11.18.40, Parking and Loading Standards.
 - i. **Signs**
Notwithstanding Article 11.19.0 Outdoor Advertising, each Home Occupation shall be limited to one (1) wall sign containing the name, title and occupation of the Home Occupation not exceeding twelve (12) square feet in sign area. Window areas shall not be used to display or advertise merchandise to the exterior of the dwelling unit or accessory building and no free-standing business sign is permitted. Home occupations in commercial districts are permitted twelve (12) square feet of sign area.
 - j. **Trucks Prohibited**
No trucks, vehicles with a manufacturer rated capacity of two (2) tons or equipment shall be parked overnight on the street or on the premise unless totally enclosed in a building.
 - k. **Deliveries**
Delivery trucks shall not operate from the residential property. This standard does not prohibit infrequent deliveries in a truck or vehicle to/from the occupants of the dwelling unit.
 - l. **Nuisance Prohibited**
Home Occupations shall not create a fire hazard, adversely affect neighboring property values or constitute a nuisance or detrimental condition for neighboring property from excessive traffic, noise, odor, vibrations, electrical disturbance or other impact.
 - m. **Hazardous Material Prohibited**
The storage of flammable liquids in excess of ten (10) gallons or hazardous materials related to the Home Occupation is prohibited in the dwelling unit, accessory building or parked vehicles.
3. **Single Household Standards**
The residence containing the Home Occupation shall comply with all applicable standards for single-household dwellings in the zoning district in which it is located.

D. MANUFACTURED HOME COMMUNITIES

Manufactured home communities are included in the state classification of land subdivisions by rent or lease. Lots can also be sold as individual units. Therefore, applicants for such developments shall apply for and be reviewed under both site plan and subdivision. When both review processes are required they will be reviewed concurrently when appropriate. All standards of this chapter are applicable unless explicitly waived.

1. State requirements

All manufactured home communities developed under this section shall comply with State Department of Public Health and Human Services, Department of Environmental Quality and any other applicable state regulations. Prior to final approval for a manufactured home community, copies of approval letters from relevant state agencies shall be submitted or compliance with all applicable regulations shall be certified by a professional civil engineer licensed by the State.

2. Lot improvements

The location of boundaries of each manufactured home lot for rent or lease shall be clearly and permanently marked on the ground with flush stakes, markers or other suitable means. The location marked must be closely approximate to those depicted on the approved plans.

3. Utility Hookup

Every manufactured home shall be permanently connected to electric power, water supply, sewage disposal, and gas lines in compliance with applicable City codes, and all utility distribution and service lines shall be installed underground.

4. Permanent Foundations and Anchoring

All manufactured homes shall be required to be tied or otherwise physically anchored in accordance with HUD or the manufactured home builder's requirements. Building permits for foundations and anchoring, issued through the city building department in accordance with the adopted International Building Code, are required. The method of anchoring and foundations shall be specified as part of the required preliminary development review.

5. Skirting

Each manufactured home shall be skirted within sixty (60) days and be of a type designed specifically for manufactured homes. Hay bales, foam insulation such as blue board, lattice and other similar building materials are prohibited. Stamped foam insulation specifically made for manufactured homes is allowed through the building permit process.

6. Curb, Gutter and Sidewalks

Concrete curb, gutters and sidewalks shall be placed along the front lot line of any lot which is occupied. All shall be installed according to plans and specifications of the city and approved by the director of public works or the utilities manager.

7. Setbacks

Each manufactured home shall be set back from all adjacent structures a minimum of ten feet (10') to protect against fires and combustible items.

8. Offensive Activity

No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood.

9. Pre-1976 Units

Any manufactured home constructed prior to 1976 shall be prohibited in the District. Existing manufactured homes within manufactured home parks can remain but such structures cannot be moved into another park for use. Once removed, a pre-1976 unit cannot be placed within the park.

10. Sales

11. Manufactured home sales may occur within the park provided that the area used for sales is five (5) percent or less of the gross number of units within the park.

12. Maintenance

- a. There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment, or building materials or supplies.
- b. No manufactured home may be parked on a public or private street for more than 24 hours.
- c. An abandoned, burned or wrecked manufactured home must be secured against entry as directed by the fire marshal and may not be kept on a lot for more than forty-five (45) days.
- d. Each manufactured home must bear an insignia which attests that the construction of the manufactured home meets or be certified as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development.
- e. Within sixty (60) days of placement, standard manufactured home skirting of fire-resistive material that meets fire resistance ratings in the City's building code and is of similar character to that of the manufactured home must be provided around the entire perimeter of the manufactured home between the bottom of the body of the manufactured home and the ground, except where the running gear has been removed and the manufactured home itself is attached directly to the permanent foundation.

- f. All private, commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sand boxes, etc., shall be landscaped.
13. **Manufactured Home Lots for Rent or Lease**
- All units shall be arranged to permit the practical placement and removal of manufactured homes. Every lot for rent or lease must front on a public or private street.
14. **Permits and Inspections**
- a. **Owner's and Agent's Responsibility**
- It shall be the responsibility of the individual property owners or, in the case of a rental community, the managers of the rental community, to see that all sections of this article are complied with, including requirements relative to placement of manufactured homes, and all required permits.
- b. **Building Permit Required**
- All manufactured homes moved into the city must be issued a building permit, pursuant to this section, and be inspected by the City Building Official, prior to gas and electric service being turned on by the servicing utility.
- c. **City Inspection Required**
- The required inspections for manufactured homes shall include: on-site utilities requirements including gas, electric, sewer and water; setback requirements; and off-street parking requirements. It is unlawful for any person, firm, corporation or agency to turn on, or allow to be turned on, any gas or electric service without an inspection and clearance from the appropriate official.
- d. **Non-manufactured Home Improvements Subject to the adopted International Building Code**
- Permits must be obtained for additions, alterations, canopies, carports, sheds, fences and similar structures.
15. **The Preliminary and Final Plans Shall Accurately Depict:**
- a. **All Proposed and Required Landscaping**
 - b. **Storage Areas**
 - c. **A Layout of Typical Lots**
- All lots for rent or lease, showing the location and dimensions of the lot, manufactured home stand, driveway and parking spaces, and maximum size of home allowed on each lot;

- d. Mail Delivery Area
- e. Foundation and Anchoring Details.
- f. Permanent Enclosure for Temporary Storage of Garbage

A permanent enclosure for temporary storage of garbage, refuse and other waste material shall be provided for every manufactured home space. If trash dumpsters are to be used, they shall be centrally and conveniently located, shall not be located in any front yard, and shall otherwise comply with the requirements of this chapter.

- g. Landscaping Buffer

Landscaping may be required by the review authority to provide a buffer between manufactured home communities and adjacent uses, and to enhance the appearance of the development. The landscaping may be interspersed with a fence or wall. Specific perimeter landscape/buffering treatments shall be determined on a case-by-case basis, with the city considering appropriate factors such as the nature of adjacent uses, noise and proximity to busy streets.

E. RECREATIONAL VEHICLE PARK

Recreational vehicle parks are included in the state classification of land subdivisions by rent or lease. Therefore, applicants for such developments shall apply for and be reviewed under both site plan and subdivision. When both review processes are required they will be reviewed concurrently when appropriate. All standards of this chapter are applicable unless explicitly waived.

- 1. State requirements

All recreational vehicle parks developed under this section shall comply with State Department of Public Health and Human Services, Department of Environmental Quality and any other applicable state regulations. Prior to final approval for a recreational vehicle park, copies of approval letters from relevant state agencies shall be submitted or compliance with all applicable regulations shall be certified by a professional civil engineer licensed by the State.

- 2. Lot improvements

The location of boundaries of each space for rent or lease shall be clearly and permanently marked on the ground with flush stakes, markers or other suitable means. The location marked must be closely approximate to those depicted on the approved plans.

- 3. Utility Hookup

Every space shall have connections to electric power, water supply, sewage disposal, and gas service lines in compliance with applicable City codes, and all utility distribution and service lines shall be installed underground. Once installed the utility lines must remain in place for the approved number of spaces.

4. Skirting
Skirting is not required for RV units, travel trailers, campers or similar structures. If the owner of an RV unit, travel trailer, camper or similar structure does skirt their respective unit, then skirting shall be of a type designed specifically for recreational vehicles. Hay bales, foam insulation such as blue board, lattice and other similar building materials are prohibited.
5. Curb, Gutter and Sidewalks
Concrete curb, gutters and sidewalks shall be placed along the front lot line of the entire park. Concrete curb and gutter shall be placed along the entire perimeter to control for storm water discharge. Individual spaces are not required to have sidewalks or curb and gutter. All improvements shall be installed according to plans and specifications of the city and approved by the director of public works or the utilities manager.
6. Setbacks
Each space shall ensure that units are set back from all adjacent structures in accordance with State Regulations.
7. Propane Tanks
Unless otherwise provided as a central propane system for the entire park, each space shall be limited to factory equipment propane tanks.
8. Offensive Activity
No noxious or offensive activity shall be carried on upon any space, nor shall anything be done thereon which may be, or may become an annoyance or nuisance to the neighborhood.
9. Pre-1976 Units
Existing manufactured homes within recreational vehicle parks can remain but such structures cannot be moved into another park for use. Once removed, a pre-1976 unit cannot be placed within the park. New manufactured homes are prohibited from the Recreational Vehicle Park.

10. Maintenance

- a. There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment, or building materials or supplies.
- b. No recreational vehicle may be parked on a public or private street for more than 24 hours.
- c. An abandoned, burned or wrecked recreational vehicle must be secured against entry as directed by the fire marshal and may not be kept on a lot for more than forty-five (45) days.
- d. All required yards of the entire park including those spaces that front a public street shall be fully landscaped.
- e. All private, commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sand boxes, etc., shall be landscaped.

11. Permits and Inspections

a. Owner's and Agent's Responsibility

It shall be the responsibility of the individual property owners or, in the case of a rental community, the managers of the rental community, to see that all sections of this article are complied with, including requirements relative to placement of recreational vehicles, and all required permits.

b. City Inspection Required

The required inspections for recreational vehicle parks shall include: on-site utilities requirements including gas, electric, sewer and water; setback requirements; and off-street parking requirements. It is unlawful for any person, firm, corporation or agency to turn on, or allow to be turned on, any gas or electric service without an inspection and clearance from the City Building Official prior to final plan approval.

12. The Preliminary and Final Plans Shall Accurately Depict:

- a. All Proposed and Required Landscaping
- b. Storage Areas
- c. Recreational vehicles storage and other chattels of the residents;
- d. A Layout of Typical Lots
All lots for rent or lease, showing the location and dimensions of the lot, driveway and parking spaces;
- e. Mail Delivery Area
- f. Permanent Enclosure for Temporary Storage of Garbage

A permanent enclosure for temporary storage of garbage, refuse and other waste material shall be provided. If trash dumpsters are to be used, they shall be centrally and conveniently located, shall not be located in any front yard, and shall otherwise comply with the requirements of this chapter.

g. Landscaping Buffer

Landscaping may be required by the review authority to provide a buffer between recreational vehicle parks and adjacent uses, and to enhance the appearance of the development. The landscaping may be interspersed with a fence or wall. Specific perimeter landscape/buffering treatments shall be determined on a case-by-case basis, with the city considering appropriate factors such as the nature of adjacent uses, noise and proximity to busy streets.

F. ACCESSORY DWELLING UNIT (GUEST HOUSE)

1. Relationship to Principal Dwelling

a. Attached, Separate

The Accessory Dwelling Unit (Guest House) may be attached to the principal dwelling with an independent access or in a separate building on the same lot as the principal building.

b. Dimensional Standards

The Guest House shall comply with all dimensional standards that are applicable to the principal building.

c. Not Sold Separately

A Guest House cannot be sold separately from the principal dwelling or property containing the principal dwelling.

d. Permanent Structure

A Guest House shall be on a permanent foundation. A manufactured home, travel trailer, RV or similar temporary or transportable vehicle or structure shall not be approved as a Guest House.

2. Size

A Guest House shall not exceed 1,200 square feet in gross floor area.

3. One per Lot

Not more than one (1) Guest House can be located on a single lot, tract or parcel.

4. No Home Occupation

A Guest House shall not contain a Home Occupation.

5. Parking

A minimum of one (1) off-street parking space shall be provided for the Guest House.

G. TEMPORARY USES, BUILDING

1. Definition

Temporary Uses are allowed for a certain length of time that is determined by the Zoning Administrator and prescribed in the permit

authorizing such use. The allowed duration of the use and any related structure shall reflect the purpose of the Temporary Use. Temporary Uses include Christmas tree sales, on-site construction office or construction equipment shed, community event, food and merchandise vendors, temporary real estate office, farm stand or a similar short-term activity.

2. Administrative Approval

The Zoning Administrator may approve a Temporary Use of a site or building provided the use complies with all applicable standards of this Ordinance.

3. Duration

An approval for a Temporary Use shall expire in six (6) months unless granted a one-time six (6) month extension by the Zoning Administrator for good cause. A Temporary Use must leave the City Jurisdiction for at least six (6) months in order to activate a new Temporary cycle.

H. SEXUALLY ORIENTED BUSINESS

Sexually Oriented Business shall comply with the following standards.

1. Definition

A Sexually Oriented Business is a commercial facility that includes but is not limited to adult bookstores, adult video centers, nude modeling studios, nude shows, adult motion picture theaters, sexual encounter businesses, or similar activities.

2. Separation from Other Uses

A building containing a Sexually Oriented Business shall be setback a minimum of 1,000 feet from the boundary of a lot or a parcel that contains a church, public or private school, Public Park or a Marijuana Dispensary.

3. Separation from another Sexually Oriented Business

A Sexually Oriented Business shall not be located, or an existing business expanded, within 1,000 feet from another Sexually Oriented Business.

4. One per Building

No more than one (1) Sexually Oriented Business can be located in the same structure or building.

5. Measurement

For the purpose of determining compliance with Subsection 11.17.22.H.2, Separation from Other Uses, above, measurement shall be made in a straight line measured from the lot line of the Sexually Oriented Business to the lot line containing a church, school, public park, Marijuana Dispensary or another Sexually Oriented Business.

6. Signs

In addition to the standards of Article 11.19.0 Outdoor Advertising, signs visible from the exterior of the structure may state there is adult material

inside but no pictures or other advertising may be displayed that indicates a nude person is available for viewing.

7. No Alcohol

Alcohol sales, consumption and gambling are prohibited within a building containing or in conjunction with a Sexually Oriented Businesses.

I. MARIJUANA DISPENSARY

1. Definition

A Marijuana Dispensary is any building, premises, facility, or part thereof where marijuana is made available to consumers in accordance with Montana Law and **all applicable Federal Rules and Regulations.**

2. Separation from Other Uses

A building containing a Marijuana Dispensary shall be setback a minimum of 1,000 feet from the boundary of a lot or parcel that contains a church, public or private school, Public Park, another Marijuana Dispensary or a Sexually Oriented Business.

3. Separation from another Dispensary

A Marijuana Dispensary allowing on-site consumption shall not be located within 1,000 feet from another Marijuana Dispensary that allows on-site consumption.

4. Measurement

For the purpose of determining compliance with Subsection 11.17.22.1.2, Separation from Other Uses, above, measurement shall be made in a straight line measured from the lot line of the Marijuana Dispensary to the lot line containing a church, school, public park, Sexually Oriented Business or another Marijuana Dispensary.

5. Signs

In addition to the standards of Article 11.19.0 Outdoor Advertising, signs visible from the exterior of the structure may state there is marijuana inside.

6. Compliance with State and Federal Codes

The operation of a Marijuana Dispensary shall comply with all applicable provisions of the Marijuana Act of the Montana Code **and all applicable Federal Laws and Regulations.**

J. PROPANE BULK STORAGE

Compliance with the applicable Fire Code as adopted by the City of Sidney and all subsequent referenced codes shall be required, such as the National Fire Protection Association standards titled *58 Liquefied Petroleum Gas Code*. All proposed installations shall be reviewed by the Fire Department prior to and post Conditional Use public hearings.

11.17.23 OUTSIDE STORAGE

Commercial and industrial uses permitted to have outside storage of merchandise, material or equipment shall provide screening from neighboring properties and streets. Notwithstanding other standards of this Ordinance regulating fences and walls, stored material shall be screened by a sight obstructing fence or wall a minimum of eight (8) feet high that prevents visibility of the stored material from adjacent streets or properties. This requirement shall not apply to the storage of plant material associated with nurseries, the display for sale or rent of new and used automobiles in operational condition, recreational vehicles, boats, manufactured homes, or the use and sale of farm and construction equipment.

11.17.24 STORAGE UNITS AND CONTAINERS

A. NON-RESIDENTIAL DISTRICTS, SITES

Secure Storage Units, Cargo, Freight, or Overseas Containers, Pole Barns and Quonset Huts are permitted as accessory structures on non-residential sites in non-residential zoning districts in accordance with the following standards.

1. These units shall be located to the rear of the building they serve and screened from view from the street or match the architecture of the primary building.
2. Meet setbacks of the prevailing zoning district.
3. Units must comply with the most recent international building code adopted by the city

B. RESIDENTIAL DISTRICTS, SITES

Secure storage units or containers are prohibited in all residential zoning districts and on residential sites in non-residential zoning districts except as temporary storage units during active construction jobs.

11.17.25 WIRELESS COMMUNICATION FACILITIES

A. PURPOSE AND INTENT

The purpose and intent of this Section is to provide for commercial Wireless Communication Facilities in a safe, efficient and orderly manner, to encourage the co-location of facilities to reduce the number of new communication towers and to minimize the adverse visual effects of such towers.

B. DEFINITIONS

For the purpose of this Section, certain words and terms are defined below:

1. **Antenna** means the arrangement of wires, poles, rods or similar devices used in the commercial transmitting and/or receiving of electromagnetic waves, digital signals and other communication signals.
2. **Communication Tower** means an antenna support structure designed and constructed for the primary purpose of supporting one (1) or more antennas, including a mast, pole, monopole, guyed or lattice tower, freestanding tower or any similar structure.
3. **Camouflage** means the integration of an antenna or communication tower with an existing building, structure or natural surroundings to disguise it from the true purpose of the facility.
4. **Conceal** means to place an antenna or tower out of sight by enclosing it in a structure.
5. **Co-locate** means placing more than one (1) antenna or wireless communication provider on a single communication tower or antenna support structure.
6. **Wireless Communication Facility** means a tower/antenna support structure and antenna(s) that transmits and/or receives electromagnetic signals for commercial wireless communications.

C. EXEMPTIONS

Amateur radio antennas or similar non-commercial wireless facilities shall be exempt from this Section.

D. APPROVALS

1. Antennas

Antennas that are co-located on existing buildings or communication towers, or are concealed or camouflaged, shall be approved by the Zoning Administrator pursuant to the terms of this Ordinance.

2. Communication Towers

Wireless Communication Towers may be approved with a Conditional Use Permit pursuant to Section 11.17.10, Conditional Uses and further provided they comply with standards of this Section.

E. STANDARDS FOR COMMUNICATION TOWERS

1. No Attempt to Exclude

No Wireless Communication Facility owner or lessee shall act to exclude or attempt to exclude any other wireless telecommunication provider from using the same building, structure or location. Wireless Communication Facility owners and lessees shall cooperate in good faith with other wireless providers to achieve co-location of antennas and Wireless Communication Facilities.

2. Excess Capacity

All new Communication Towers are encouraged to be constructed with excess capacity for co-location of future antennae or wireless facilities. Owners of Communication Towers shall work in good faith to reach mutually agreeable terms to allow co-location of Antennae and Wireless Communication Facilities.

3. Setbacks

Ground mounted facilities and buildings related to a Communications Tower shall comply with the setbacks of the zoning district in which they are located. A Communication Tower be setback from all property lines at least one (1) foot for every foot of height of the tower but in no case less than the setback of the zoning district in which it is located.

4. Equipment Location, Visual Mitigation

a. Roof Mounted

Roof mounted wireless communications equipment shall be located as far from the edge of the roof as possible or screened by parapet walls.

b. Wall Mounted

Wall mounted wireless communication equipment shall be mounted as flush to the wall as possible and shall not project above the wall on which it is mounted.

5. Signals, Lights Prohibited

Signals, lights, illumination and signs are prohibited on a Communication Tower or facility unless required by the FAA or other applicable regulatory authority.

6. No Hazard, No Interference

Communications Towers shall be operated to avoid any health hazard to the general public and any interference with the operation of public safety/communication facilities and home appliances.

7. FAA Certification, FCC Standards

Certification shall be obtained from the Federal Aviation Administration that the Communications Tower poses no hazard to the operation of aircraft. Wireless Communication Facilities shall comply with the technical emissions standards of the Federal Communications Commission.

F. REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES

If due to changes in technology or other reasons, a Wireless Communication Facility, Communication Tower, antenna support structure or related equipment is not operated for a period of twelve (12) continuous months it shall be considered abandoned. The owner of such facility shall remove the facility, including antennae, attachments, related appurtenances and equipment building, within ninety (90) days of receipt of notice from the Zoning Administrator notifying the owner of such abandonment. If the abandoned

Wireless Communication Facility is not removed within the ninety (90) day period, the City of Sidney shall have the authority to remove the facility and bill the owner for all costs associated with the removal.

11.17.26 SHORT-TERM RENTAL

A. PURPOSE AND INTENT

The purpose and intent of this Section is to provide for the short-term rental of residential dwellings and avoid impact on neighboring residences.

B. DEFINITIONS

Short-term rental is the rental of a dwelling and/or a guest house for less than thirty (30) days. The short-term rental pursuant to this Section does not include a Bed and Breakfast.

C. STANDARDS

1. Comply with Single Household

Except as distinguished in this Subsection, the dwelling shall comply with all standards and requirements for single-Household dwelling units in the zoning district in which it is located.

2. Residential Character

The property shall retain the character and appearance of a single-Household dwelling. The design or operation of the short-term rented dwelling shall not create the appearance or operating characteristics of a commercial property.

3. Signage

Signage associated with a short-term rental unit shall comply with the terms of Article 11.19.0 Outdoor Advertising that apply to residential zoning districts.

D. FIRE AND HEALTH DEPARTMENTS

Owners of a short-term rental property shall comply with applicable rules and regulations of the Sidney Fire Department and Richland County Health Department.

Article 11.18.0

STANDARDS OF GENERAL APPLICABILITY

11.18.10 *PURPOSE AND INTENT*

The following general development standards are established to assure that property in all zoning districts of the City will be developed in a uniform and orderly manner which will promote the public health safety and general welfare, and implement the *Sidney Growth Policy*. These general development standards shall apply to all development in addition to specific standards for certain uses and zoning districts set forth in other Articles of this Ordinance.

11.18.20 *HILLSIDE DEVELOPMENTS*

11.18.21 PURPOSE AND INTENT

This Section is intended to provide for the orderly and reasonable use of hillside areas while protecting the public health, safety and welfare by accomplishing the following.

A. SOIL CONDITIONS

Steer development to locations that have stable soil and utilize appropriate engineering techniques that accommodate the natural site conditions.

B. MAINTAIN NATURAL CONDITIONS

Minimize alterations to natural hillsides to maintain significant landforms and natural drainage patterns.

C. INTENSITY

Permit an intensity of development compatible with the natural characteristics of hillside terrain.

D. PUBLIC SERVICES

Promote cost effective public services by encouraging development in less steeply sloped areas and ensuring adequate access for emergency vehicles.

E. SAFETY

Protect the public from unsafe development and property damage by ensuring that hillside development is reasonably located and properly constructed. Minor and isolated slope variations occurring over a run of ten (10) feet or less are exempt.

11.18.22 APPLICABILITY

This Section shall apply to all development on slopes steeper eight (8) percent except development occurring on minor and isolated slope variations in which the slope may be steeper than eight (8) percent for a run of ten (10) feet or less.

11.18.23 GRADING AND FILLING

A. AMOUNT OF GRADING PERMITTED

The percentage of the site that can be graded and/or filled shall be determined by the slope of the site, with more grading allowed on less steep slopes. The amount of coverage and grading permitted is established below.

Percent Lot Coverage, Grading and Fill Allowed on Slopes			
Coverage		Fill/Grade	
Slope	Percent Coverage Allowed	Slope	Percent Grading Allowed
0-15%	NA	0-15%	70
15.1-20%	15	15.1-20%	50
20.1-25%	10	20.1-25%	30
>25%	0	>25%	0

Minor and isolated slope variations occurring over a run of ten (10) feet or less are exempt

B. UNGRADED AREA

The undeveloped portion of the site that is not graded or filled shall be maintained in an undisturbed state with natural grade and vegetation.

11.18.24 LOT COVERAGE

A. AMOUNT OF COVERAGE PERMITTED

The percentage of the site that can be covered with impermeable surfaces is determined by the slope of the site, with more lot coverage allowed on less steep slopes. The amount of lot coverage permitted is established in this code.

B. UNCOVERED AREA

The portion of the site that is not covered with impervious surfaces shall be revegetated with native landscaping materials to minimize erosion and stabilize slopes. At a minimum, the density of vegetation shall approximate the density of vegetation that existed in the pre-construction state.

11.18.25 CUTS AND FILLS

A. MAXIMUM GRADE

The slope of a cut or fill grade shall not exceed two to one (2:1) or fifty (50) percent to allow revegetation.

B. SETBACK

The toe of a fill slope, or top of a cut or fill slope shall be setback from the property line at least one-half (1/2) the height of the cut or fill slope.

C. TOE OF NATURAL SLOPE

Cutting the toe of a natural slope is prohibited.

11.18.26 DRAINAGE

Natural drainage channels shall be preserved.

11.18.27 SOILS

Development shall not be located on unstable soils. The Zoning Administrator may require a geotechnical study to determine the stability of soils.

11.18.28 RETAINING WALLS/FENCING

Retaining walls shall not exceed the height of eight (8) feet. Fences in Residential Zones shall not exceed six (6) feet in height above natural grade. More than one (1) retaining wall in a terraced arrangement shall be permitted. Retaining walls lower than three (3) feet designed and constructed to retain earth are exempt from other standards of this Ordinance that regulate walls. Walls taller than three (3) feet are required to be permitted and must include a stamp from a licensed Montana engineer.

Fences in Residential Zones (R - Zones) shall not exceed six (6) feet in height above natural grade. The use of barbed wire or electric fences in residential zones is prohibited.

Fences in Business Zones (numbered B and C Zones) shall not exceed six (6) feet in height above natural grade. The use of barbed wire or electric fences in Business Zones is prohibited.

Fences in Manufacturing Zones (CLM and MI) shall not exceed eight (8) feet in height above natural grade. The use of barbed wire is allowed in Manufacturing Zones. The use of electric fences is prohibited in Manufacturing Zones.

11.18.30 ***ENVIRONMENTAL REGULATIONS***

11.18.31 WETLANDS

Development shall comply with all applicable state and federal wetland regulations and standards. When a proposed development requires a state or federal wetland permit, the applicant shall include in the application for a City permit copies of the applicable permits to demonstrate compliance with the state or federal regulation. The Zoning Administrator may require verification that no such state or federal permit is required.

11.18.32 WATER QUALITY

Development shall comply with all applicable state and federal water quality regulations and standards. When a proposed development requires a state or federal water quality or discharge permit, the applicant shall include in the application for a City permit copies of the applicable permits to demonstrate compliance with the state or federal regulation.

11.18.33 AIR QUALITY

Development shall comply with all applicable state and federal air quality regulations and standards. When a proposed development requires a state or federal air quality permit, the applicant shall include in the application for a City Permit copies of the applicable permits to demonstrate compliance with the state or federal regulation.

11.18.34 SUBSIDENCE

When a development is proposed on areas mapped by the Montana Department of State Lands as having a potential for subsidence, the applicant shall include in the application for a City permit a written report by a professional engineer licensed in the State of Montana that details how the development will avoid further damage and loss of property.

11.18.35 FLOODPLAIN

All development in the 100-year floodplain shall comply with the Flood Control Ordinance (Chapter 2, Title 11 of City codes) on file in the Office of the Sidney Floodplain Administrator.

11.18.40 ***PARKING AND LOADING STANDARDS***

11.18.41 PURPOSE AND INTENT

The purpose and intent of this Section is to establish off-street parking standards designed to lessen congestion on streets and provide a reasonable amount of parking with developments.

11.18.42 APPLICABILITY

Any building or structure erected or located and any use of land established after the effective date of this Ordinance, including changes of use and additions to existing uses, shall provide off-street parking in accordance with the standards of this Section. Notwithstanding, development and uses located in the Central Business District (B-3) may be exempt from the parking requirement as determined by the parking commission.

A. REQUIRED PARKING

All development shall provide the minimum number of off-street parking spaces as established in Section 11.18.43 Off Street Parking Required Spaces. If two (2) or more uses occupy the same building, lot or parcel of land, the total requirement for off-street parking spaces shall be the sum of the requirement of the individual uses.

B. USES NOT IDENTIFIED

The required off-street parking for any building, structure or use of land not listed in Section 11.18.43 Off Street Parking Required Spaces, shall be

determined by the Zoning Administrator based on the required parking for similar uses listed in the Table and other reliable sources of data.

C. PARKING FOR PHYSICAL DISABILITIES

Parking lots shall provide parking for persons with physical disabilities pursuant to the currently adopted International Construction Code.

D. CHANGE OF USE

When an existing use of a structure or land is changed to another use, the number of off-street parking spaces shall be provided for the new use as established in Section 11.18.43 Off Street Parking Required Spaces.

E. EXPANSION

When an existing use is expanded, off-street parking shall be provided for the expanded area in compliance with Section 11.18.43 Off Street Parking Required Spaces.

11.18.43 OFF STREET PARKING REQUIRED SPACES

Off-Street Parking Requirements (Minimums)			
Residential		Public & Quasi Public	
1 or 2 Dwelling	2/du	Day Care, Family	2
3-6 Dwellings	2/du	Day Care, Group	1/Staff Plus 5
> 6 Dwellings	2/du	Government Buildings	3.3/1000 sf
Guest House	1/du	Health Care Facility; Long Term Care Facility	1/3 Employee & 1/3 Beds
Efficiency units	1/du	Library	1/300 sf
Senior Housing	.5/du	School, Elementary or Jr. High	1/Staff & Faculty
Commercial		School, Senior High	1/Staff & Faculty & 1/5 students
Auto, Vehicle Sales	2/salesmen	Worship Facility	1/5 Seats
Auto, Vehicle Service	4/service bay	Business or Trade School	1/Staff & Student
Bank/Credit Union	1/400 sf	University/College	1/1.5 Students
Bed & Breakfast	1/room + 1 for Owner/Manager	Recreation & Entertainment	
Restaurants	1/3 seats	Bowling Alley	5/Alley
Fast Food Restaurants	1/4 seats	Golf Course	6/Hole
Alcohol Establishments	1/3 seats	Indoor Entertainment	5.5/ 1,000 sf
Hotel & Motel	1/room	Miniature Golf Course	2/Hole
Conference w/ lodging	.5/seat	Private Health Club	4/Court & 1/ 200 Other sf
Restaurant w/ lodging	1/4 seats	Public Assembly	1/3 Seats
Retail	5/1,000 sf	Theater	1/3 Seats
Office		Industrial	
General Professional	3.3/1000 sf	Freight, Distribution	2/3 Employees
Medical & Dental	5/1000 sf	Manufacturing, Assembly	2/3 Employees
Miscellaneous		Mini-Storage	1/10 Units
For any other use not specifically mentioned or provided for, the zoning administrator shall determine the standards to be applied for parking, using this as a guide for uses which most closely resembles the use provided.		Warehousing	2/3 Employees or 1/1000 sf whichever is less.
Notes: du = dwelling unit sf = square feet			

11.18.44 COMPUTATION OF REQUIRED SPACES

For the purpose of computing off-street parking spaces required by this Section, the following rules shall apply.

A. GROSS FLOOR AREA

Floor area shall mean gross floor area unless otherwise specified for a particular use.

B. BENCH SEATING

Churches and other places of assembly in which benches or pews are used in place of seats, each twenty-four (24) inches in length of such benches or pews shall be counted as one (1) seat.

C. FRACTIONS

When calculation of the number of off-street parking spaces results in a requirement of a fractional space, any fraction of less than one-half (1/2) may be disregarded, while a fraction of one-half (1/2) or more shall be counted as one (1) required parking space.

D. ON-STREET PARKING

On-street parking may be used to satisfy off street parking requirements at a conversion rate of 2:1. No more than fifty (50) percent of required parking can be used for calculating off street requirements. A maximum of twenty (20) feet extending beyond either side of the property boundary may be used to calculate on-street parking numbers.

11.18.45 PARKING DESIGN

All required parking spaces shall comply with the standards of this sub-section.

A. SIZE

Parking spaces shall be at least nine (9) feet by twenty (20) feet in size and have a minimum head clearance of seven (7) feet.

B. SETBACKS

Parking shall not be located in the required minimum front setback except for driveways to garages. Parking may encroach into the side setback but shall be setback a minimum of two (2) feet from a property line.

C. SURFACING, GRADING

All off-street parking and access drives shall be paved with asphalt, concrete or an equivalent surface, and shall be graded and drained to shed all surface water.

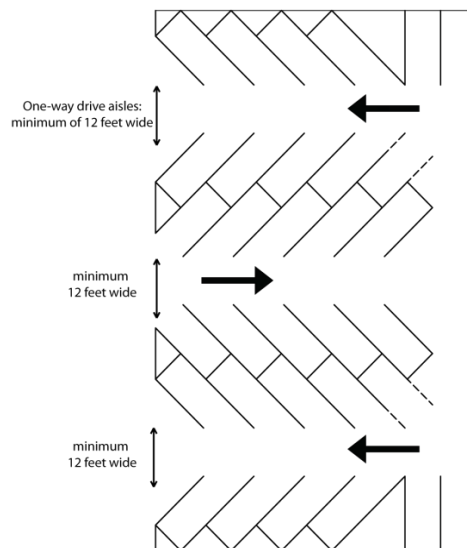
D. DRIVE ISLES

Two-way drives isles in parking lots shall be a minimum of twenty-four (24) feet wide except the Zoning Administrator may approve narrower drive isles for parking lots with angled parking spaces. One-way drive aisles with angled spaces shall be a minimum of twelve (12) feet wide except the Zoning Administrator may require wider drive aisles to ensure functional vehicle maneuverability. Parking Lots shall comply with Section 11.18.80 Storm Water Management and Erosion Control.

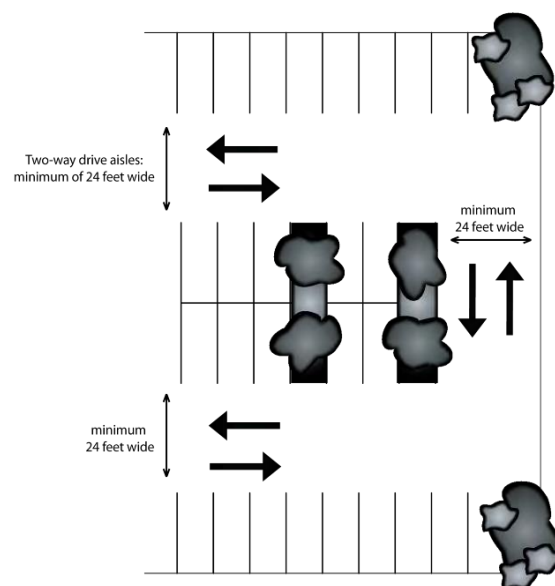
E. DRIVEWAYS

Driveways shall not be used in satisfying off-street parking requirements when a garage or carport is counted.

Angled Parking Aisle Width Figure



Straight Parking Aisle Width Figure



F. SNOW STORAGE

A snow storage area at least two (2) percent of the size of the parking lot, drive aisles, and circulation shall be provided to avoid the loss of required parking spaces to snow storage.

G. TREE COVER

Parking lots containing more than twenty (20) parking spaces shall contain vegetative cover that provides shade for at least thirty-five (35) percent of the area of the parking lot as measured on August 15th at noon, after the vegetation has reached full maturity. 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.

H. RESIDENTIAL GARAGES

Parking spaces in residential garages shall count toward residential parking requirements.

11.18.46 ACCESS, CURB CUTS

All parking lots shall have adequate and safe ingress and egress to and from a local alley or street. The access shall comply with Section 11.18.50 Intersection Visibility, unless a wider approach width is approved by the City Public Works Director. Curb cuts to a City street shall be approved by the Public Works Director. Backing from a parking space into a street or alley is prohibited except for residential districts.

11.18.47 LOADING AREA STANDARDS

Each commercial or industrial building larger than 10,000 gross square feet shall provide at least one (1) off-street loading area. Businesses in the Central Business District (B-3) are exempt from providing off-street loading areas.

A. CLEARANCE

Contain a vertical clearance of at least fourteen (14) feet; and,

B. DIMENSION

Be at least twelve (12) feet wide and thirty-five (35) deep.

C. LOCATION, DESIGN

Loading areas shall be on the same lot as the building requiring the loading area and the loading area shall be designed to prevent vehicles parked in the loading area from extending into the public right-of-way.

11.18.48 SHARED PARKING

A. GENERAL

1. Shared parking is allowed among different categories of uses or among uses with different hours of operation, but not both.
2. Up to ten (10) percent of required parking spaces for any use may be used jointly by a temporary commercial use.
3. Applicants must provide a shared parking agreement executed by the parties establishing the shared parking spaces. The agreement must be filed with the Richland County Clerk and Recorder. Shared parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If the agreement is no longer in force, then parking must be provided as otherwise required by this chapter.

4. Shared parking may be located off site, subject to the regulations of Subsection 11.18.48.E Off-Site Parking.
5. Required accessible parking spaces (for persons with disabilities) may not be shared and must be located on site.

B. SHARED PARKING FOR DIFFERENT CATEGORIES OF USES

A use may share parking with a different category of use according to only one of the following subsections:

1. If an office use and a retail sales-related use share parking, the parking requirement for the retail sales-related use may be reduced by up to twenty (20) percent, provided that the reduction does not exceed the minimum parking requirement for the office use.
2. If a residential use shares parking with a retail sales-related use (expressly excluding lodging uses, restaurants and entertainment-related uses, the parking requirement for the residential use may be reduced by up to thirty (30) percent, provided that the reduction does not exceed the minimum parking requirement for the retail sales-related use.
3. If an office and a residential use share off-street parking, the parking requirement for the residential use may be reduced by up to fifty (50) percent, provided that the reduction does not exceed the minimum parking requirement for the office use.
4. If office, retail sales and residential uses share off-street parking, the applicant may elect to use any one of the shared parking reductions listed in this section. The applicant may also elect to prepare a shared parking analysis using the Urban Land Institute's (ULI) shared parking analysis methodology. Parking reductions based on the ULI methodology require review and approval by the Zoning Administrator after consultation with the City Public Works Department.

C. SHARED PARKING FOR USES WITH DIFFERENT HOURS OF OPERATION

1. For the purposes of this section, the following uses are considered daytime uses:
 - a. Customer service and administrative offices;
 - b. Retail sales uses, except restaurants, lodging uses, and entertainment-related uses;
 - c. Warehousing, wholesaling, and freight movement uses;
 - d. Manufacturing, production and industrial service uses; and
 - e. Other similar primarily daytime uses, as determined by the Zoning Administrator.
2. For the purposes of this section, the following uses are considered nighttime or Sunday uses:
 - a. Auditoriums accessory to public or private schools;
 - b. Religious assembly uses;
 - c. Entertainment-related uses, such as theaters, bowling alleys, and dance halls; and
 - d. Other similar primarily nighttime or Sunday uses, as determined by the Zoning Administrator.
3. Up to ninety (90) percent of the parking required by this chapter for a daytime use may be supplied by the off-street parking provided for a nighttime or Sunday use and vice-versa, when authorized by the Zoning Administrator.
4. The applicant must show that there is no substantial conflict in the principal operating hours of the uses for which shared parking is proposed.

D. GENERAL, LOCATION OF OFF-STREET PARKING

Except as otherwise expressly stated, required off-street parking spaces must be located on the same parcel as the building or use they are required to serve.

E. OFF-SITE PARKING

1. General

All or a portion of required off-street parking may be provided off-site, in accordance with the provisions of this section. Off-site parking areas must comply with all applicable parking area design and accessibility standards. Required accessible parking spaces may not be located off site.

2. Location

Off-site parking areas must be located within a 500-foot radius of the use served by such parking, measured between the entrance of the use to be served and the outer perimeter of the furthest parking space within the off-site parking lot.

3. Control of Off-site Parking Area

The property to be occupied by the off-site parking facilities must be under the same ownership as the parcel containing the use to be served by the parking. The off-site parking area may be under separate ownership only if an agreement is provided guaranteeing the long-term availability of the parking, commensurate with the use served by the parking. Off-site parking privileges will continue in effect only as long as the agreement, binding on all parties, remains in force. If an off-site parking agreement lapses or is no longer valid, then parking must be provided as otherwise required by this chapter.

F. USE OF OFF-STREET PARKING AREAS

1. Required off-street parking areas may be used solely for the temporary parking of licensed motor vehicles in operating condition.
2. Required off-street parking spaces may not be used for the display of goods for sale or lease or for storage of building materials.
3. Required off-street parking spaces are intended to serve residents, tenants, patrons, employees, or guests of the principal use. Off-street parking spaces that are required by this Zoning Ordinance must be maintained for the life of the principal use.
4. No commercial motor vehicle repair work of any kind is permitted in a required parking space.

G. DRIVEWAY PARKING AREA DESIGN

Parking areas must be laid out and designed in accordance with Municipal Code requirements and City standards and specifications.

1. Driveways must be reviewed and approved by the City Public Works Department before issuance of a zoning compliance permit. Driveways exceeding 150 feet in length require an additional approval from the Fire Department.
2. Driveways may not exceed a grade of eight (8) percent, provided that a maximum grade of up to 10% may be allowed for short distances, not exceeding 50 feet, if approved by the Fire Department and the City Public Works Department.

11.18.49 BICYCLE PARKING

Bicycle parking is encouraged and when utilized by the property owner a minimum of 50% of required bicycle parking spaces shall be located within fifty (50) feet of the front door of the business or the resident's entrance when bicycle parking is required. An inverted U or other similar device, approved through *Design Review*, shall be required. Bicycle racks shall be made of solid construction, resistant to rust, corrosion, hammers and saws, and be located in a well illuminated location.

A. COMMERCIAL USES

A minimum of two (2) bicycle parking spaces are required for every twenty (20) automobile parking spaces required.

B. INDUSTRIAL

None required.

C. MULTI-HOUSEHOLD HOUSING

A minimum of one (1) bicycle parking space is required for every five (5) multi-household residential units. A minimum of two (2) bicycle parking spaces are required for multi-Household housing units of at least five (5) units.

11.18.50 **INTERSECTION VISIBILITY**

11.18.51 **PURPOSE AND INTENT**

The purpose of this Section is to avoid traffic hazards that occur from obstructed visibility at intersections of streets, alleys and driveways.

11.18.52 **APPLICABILITY**

The standards of this Section apply to all development not exempted below. The standards of this Section shall not apply to:

A. EXISTING BUILDINGS

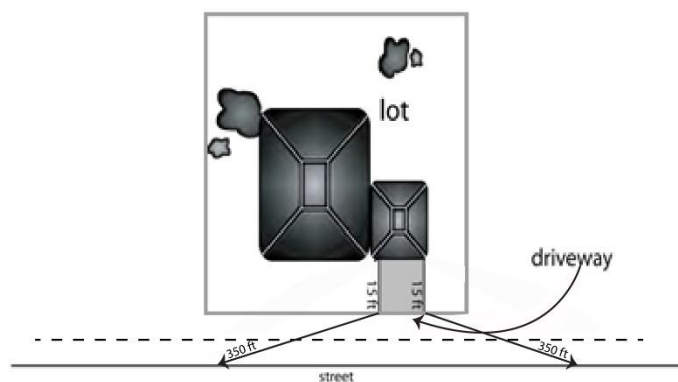
Permanent buildings existing on the effective date of this Ordinance.

B. CONTROLLED INTERSECTIONS

Stop sign controlled or traffic signal controlled intersections.

11.18.53 **ESTABLISHMENT OF SIGHT TRIANGLE**

For the purpose of this Section a sight triangle is defined and established at the intersection of all streets, streets and alleys, and streets and driveways. The sight triangle is measured from the center of the approaching traffic lane for each direction for a distance of 450 feet for 45 mph, 400 feet for 40 mph, and 350 feet for 35 mph, in no case shall the distance be reduced below 250 feet



Within the area of the sight triangle, the height of mature landscaping, walls and fences shall not exceed thirty-six inches (36”) feet in height measured from the top of the existing curb grade or crown of abutting road, whichever is lower.

B. TREES

Within the sight triangle, existing trees shall be permitted as long as only the tree trunk (no leaves, limbs, etc.) is visible within eight (8) feet of the ground. No new trees are allowed in the sight triangle.

11.18.60 LANDSCAPING

11.18.61 PURPOSE AND INTENT

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 City. 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 Sidney weather conditions.

11.18.62 APPLICABILITY

The standards of this Section shall apply to the following types of development.

A. NEW DEVELOPMENT

All new developments and expansions of existing developments that result in an increase of more than 1,000 square feet of gross floor area shall comply with this Section.

B. CHANGE OF USE

The change of use of an existing development shall comply with this Section.

C. CONDITIONS

Landscaping may be required as a condition of a Variance or the rezoning of a lot or parcel of land.

11.18.63 LANDSCAPE PLAN

A. PLAN REQUIRED

A Landscape Plan is required for all developments and changes of use except for single-household and duplex/2-household residential units.

B. PLAN CONTENTS

The Zoning Administrator shall establish a checklist of items required in a Landscape Plan.

C. PLAN REVIEW

Review of the Landscape Plan shall be performed concurrently with the Development Plan it accompanies.

11.18.64 LANDSCAPE STANDARDS

A. DESIGN ELEMENTS

Landscape Plans shall be designed and installed to meet the following standards.

1. Landscape Area

The entire lot or parcel not occupied by impervious surface or left in natural vegetation shall be planted with trees, grass, ground cover, or other live ground cover plantings that are known to be tolerant to the climate of Sidney. Xeriscape landscaping is permitted and encouraged when appropriate however, concrete is not an approved xeriscape material.

2. Use of Landscape Planting

Landscape plans shall be designed and installed to landscape required setbacks, screen parking lots, soften the mass of buildings and buffer neighboring property from new development.

3. Landscape Material

Landscape plans shall use plant material that minimizes attraction to wildlife other than songbirds, e.g. berries.

4. Ensure sight triangle is maintained.

B. STREET BOULEVARD

Street boulevards shall comply with provisions set forth in this section.

C. MAINTENANCE

Required landscaping shall be continually maintained by the owner after installation. Any landscaping or ground cover or other elements of the Landscape Plan that die or become damaged shall be replaced by the end of the growing season in which the plant material died or became damaged. Any required landscaping that dies or is damaged and is not replaced shall be considered a violation of this Ordinance.

11.18.65 PURPOSE AND INTENT

The purpose and intent of this Section is to establish outdoor lighting standards that ensure nighttime safety and productivity while conserving energy and encouraging “dark sky” initiatives.

11.18.66 APPLICABILITY

The standards of this Section shall apply to all outdoor lighting fixtures installed after the effective date of this Ordinance and the new development of multi-household, commercial and industrial buildings not exempted in Subsection 11.18.67 Exemptions. These standards shall also apply to the redevelopment, addition or remodeling of multi-Household, commercial or industrial property that increases the gross floor area of the building(s) or the area of developed land by fifty (50) percent or more, unless exempted in Subsection 11.18.67 Exemptions.

11.18.67 EXEMPTIONS

The following types of lighting fixtures are exempt from the standards of this Section:

A. EXISTING FIXTURES

Outdoor lighting fixtures installed prior to and operable on the effective date of this Ordinance provided the fixtures are not a pre-existing nuisance and further provided there is no change or replacement in use or lamp type and no structural alteration to the outdoor lighting fixture.

B. STREET LIGHTS, TRAFFIC CONTROL

Street lights and traffic control lights.

C. RECREATION FACILITY

Lighting related to a recreational facility up to 11:00 pm. Notwithstanding, said lighting may continue to allow the completion of a sporting event in the recreational facility that began earlier in the evening.

D. NAVIGATION LIGHTS

Navigation lights at the airport or located on communication towers or similar lights providing a navigational function.

E. HOLIDAY DECORATIONS

Lights installed as holiday decorations provided they are not installed more than forty-five (45) days prior to the holiday and are removed within fifteen (15) days after the holiday.

F. UNITED STATES FLAG

Up cast lights or other unshielded lights necessary to comply with United States Code, Title 4 Chapter 1 Section 6.

11.18.68 LIGHTING STANDARDS

A. SHIELDING

All outdoor lighting fixtures shall be shielded to avoid direct view of the light source or bulb from the property line.

B. 75 DEGREE CUTOFF

All outdoor lighting fixtures shall be installed at a 75-degree cutoff and aimed downward.

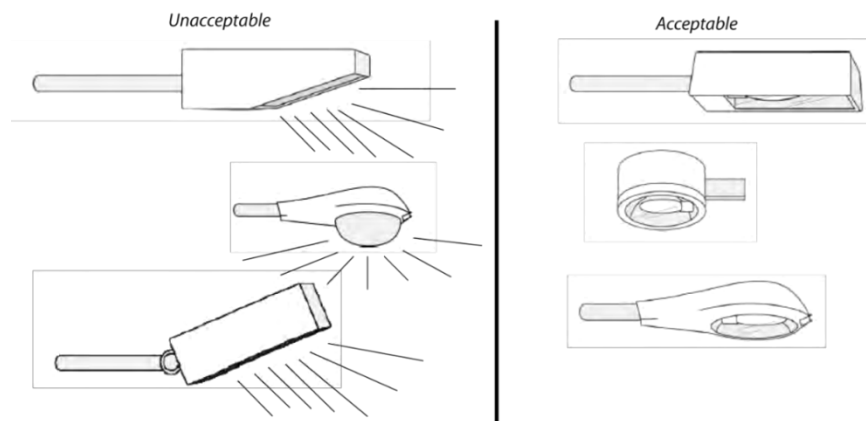
C. OFF SITE GLARE

Glare or light directed off-site or shining onto the adjacent property shall be prohibited.

D. FOOT CANDLES

Parking lot lighting shall not exceed an average illumination level of one (1) foot candle. All other exterior lighting shall not exceed an illumination level of four/tenths (0.4) of a foot candle.

Street Lighting Regulations



11.18.69 PROHIBITIONS

The following types of lighting shall be prohibited unless specifically exempted by Section 11.18.67 Exemptions:

A. SEARCHLIGHTS

The operation of searchlights for advertising purposes is prohibited.

11.18.70 **INFRASTRUCTURE**

11.18.71 **PURPOSE AND INTENT**

The purpose and intent of this Section are to ensure required infrastructure and utilities are constructed and maintained to protect the health, safety and welfare of the occupants of developments approved pursuant to this Ordinance and the general community. Required infrastructure and utilities include but are not limited to water distribution, wastewater collection, vehicular circulation, pedestrian and bicycle facilities, storm water runoff and erosion control and the private utilities of electricity, cable television, telephone, and where available natural gas.

11.18.72 **REQUIRED INFRASTRUCTURE AND UTILITY IMPROVEMENTS**

All development shall provide and maintain safe and orderly infrastructure and utilities that connect to the infrastructure systems of the City of Sidney and private utilities. All development shall provide access to water and wastewater systems, public streets or roads, pedestrian trails and/or sidewalks, and wire utilities such as electricity, cable television and telephone, and where available natural gas. All infrastructure and utility improvements shall be extended to the furthest extent of a property.

11.18.73 **PUBLIC WATER SUPPLY, PUBLIC WASTEWATER SYSTEM**

A. **CONNECTION TO MUNICIPAL SYSTEMS**

All development shall connect to municipal water and wastewater infrastructure systems which may require off-site and on-site facilities to provide the necessary mains, lift stations, and pump stations, service lines and other appurtenances necessary to connect the development to the City infrastructure.

B. **CONSTRUCTION STANDARDS**

1. **City, DEQ**

All infrastructure systems shall be constructed and maintained to the applicable codes of the City of Sidney, the Montana Department of Environmental Quality standards and other federal and state codes that may be duly applicable.

2. **Shared Use**

All infrastructure lines in new developments shall be located and constructed to allow adjoining properties to access the infrastructure mains at the common property lines.

C. **DEVELOPER'S EXPENSE**

1. **Developer's Expense**

Installation of the required infrastructure shall be the developer's expense except where shared expenses are approved by the City.

2. **City Participation**

At its sole discretion and subject to adopted ordinances controlling infrastructure, the City may participate in funding the construction of

infrastructure related to any development when an infrastructure facility is oversized to accommodate the current or future needs of adjacent properties.

11.18.74 PRIVATE UTILITIES

A. UNDERGROUND INSTALLATION

All wire and natural gas utilities shall be installed underground except as provided below.

1. Above Ground Appurtenants

Transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts and other facilities that are necessary appurtenants to underground utilities may be placed above ground within utility easements or street right-of-way or easements with approval of the land owner or City Council, whichever is applicable.

2. Connections to Above Ground Facilities

Facilities reasonably necessary to connect underground utilities to existing or permitted overhead or above ground facilities shall be allowed above ground.

3. Existing Facilities

Existing above ground utility facilities may be allowed to remain. It shall not be required to remove or replace existing above ground utility facilities that are useful in serving the development.

4. Transmission, Distribution Feeder Lines

Overhead electric transmission and distribution feeder lines and overhead long distance communication, trunk and feeder lines shall not be required to be underground.

B. CONSTRUCTION STANDARDS

All utilities shall be installed and maintained pursuant to the applicable utility company standards.

C. STRUCTURES IN UTILITY EASEMENTS

Structures shall not be located in public or private utility easements except fences.

1. Sidney Growth Policy

Legal and physical accesses to public streets shall be consistent with the *Sidney Growth Policy*.

2. Natural Topography

Accesses, streets and roads shall be designed and constructed to conform to the natural topography to the greatest extent practical and minimize ground disturbance.

3. Drainage
Accesses, streets and roads shall not block natural drainage ways and shall be designed and constructed to provide positive storm water runoff.
4. Number of Accesses
The allowed number of accesses shall be determined by the Sidney Subdivision Regulations.
5. No Commercial Access through Residential
A commercial or industrial development shall not have a principal access through a residential zoning district. This prohibition does not prevent a commercial or industrial access through a mixed use district.
6. Emergency Access
All development shall provide safe and efficient access suitable for emergency vehicles.
7. Street Standards
Street extensions or construction shall be designed and constructed pursuant to the street standards in the *Sidney Subdivision Regulations*.
8. Arterial streets
Accesses to arterial streets shall be minimized and shall comply to any applicable access management plans in effect. A residential development that adjoins an arterial street shall use reverse frontage or side access to minimize accesses to arterial streets.

D. DEVELOPER'S EXPENSE

The construction of the required accesses, streets or roads shall be the developer's expense except where shared expenses are approved by the City.

1. City Participation
At its sole discretion and subject to adopted ordinances controlling streets and roads the City may participate in funding the construction of an access, street or road related to any development when the access facility is oversized or extended to accommodate the current or future needs of adjacent properties.

11.18.75 PEDESTRIAN ACCESS

All development and construction, including single-household structures, and existing structures in all zones shall construct a sidewalk across the street frontages of the lot. The sidewalk(s) shall be within the public right-of-way at a location approved by the Sidney Public Works Director and extended to connect to existing sidewalks if present at the lot boundary. If sidewalks currently exist they must remain in perpetuity and be replaced if damaged.

A. EXEMPTIONS

Expansion to existing structures that increase the gross floor area by less than fifty (50) percent shall be exempt from installing sidewalks. Subdivisions that

have been annexed without curb and gutter shall be exempt from required sidewalks.

B. ADA

All new sidewalks shall be constructed in compliance with the Americans with Disabilities Act (ADA).

C. COMMERCIAL/INDUSTRIAL DEVELOPMENT

Commercial and industrial developments, not exempted above, shall provide a sidewalk from the entrance of the commercial development to the public right-of-way and across the frontage of the lot.

D. CONSTRUCTION STANDARDS

Sidewalks shall be designed and constructed to comply with the construction specifications and widths as adopted in the *Sidney Subdivision Regulations*.

E. LANDOWNER'S EXPENSE

Sidewalks shall be designed and constructed at the landowner's expense. Lots with three (3) or more street frontages or lots with an acute angle shall be reviewed by the city to determine appropriate locations and shall be required to provide at least two sidewalks.

11.18.76 DEVELOPMENT AGREEMENT

A. AGREEMENT REQUIRED

Developments that require the construction of public infrastructure or other public improvements shall require a Development Agreement that establishes the detailed requirements, responsibilities and timing of performance for both the developer and the City.

B. CONTENT OF AGREEMENT

A Development Agreement shall contain, but not be limited to the following items.

1. Site Plan

The Development Agreement shall incorporate or reference an approved development plan.

2. Required Improvements

Detailed description of infrastructure and other improvements required as part of the approved development including specifications.

3. Costs

Costs of the improvements required in the initial phase and projected costs of improvements of any future phases.

4. Schedule for Completion
An established schedule of completion required in the initial phase and a projected completion schedule of any future phases.
5. City Completion
A process by which the City may, if necessary, complete the required improvements using the surety or financial guarantee provided by the developer.
6. Renegotiation
A process by which either the developer or the City may request a renegotiation of the agreement.
7. Transfer
A process by which the agreement may be transferred with the prior written approval of the City Council.
8. Guarantee
The form of the financial surety or guarantee shall be specified.
9. Warranty
A statement or warranty for the materials and workmanship pursuant to Subsection G, Warranty of Improvements, below.

C. PHASING

The construction of public infrastructure or improvements may be phased in accordance with an approved phasing plan.

D. EFFECT OF AGREEMENT

An approved Development Agreement shall create a legal contract binding the parties to the contract.

E. GUARANTEE

Completion of the required improvements identified in the Development Agreement shall be guaranteed by a method in the Guarantee of Public Improvements Section of the *Sidney Subdivision Regulations*.

F. INSPECTION AND ACCEPTANCE OF IMPROVEMENTS

1. Inspection Required

All infrastructure and improvements shall be inspected by the Zoning Administrator and/or Public Works Director for compliance with the approved development plan, construction plans and specifications.

2. Developer Request

Upon completion of the infrastructure or improvements, the Developer shall submit to the Zoning Administrator a written request for a Certificate of Compliance or acceptance.

3. Improvements Accepted

Upon a written verification from the developer and a project engineer licensed in the state of Montana that the infrastructure or improvements have been completed pursuant to all approvals, plans and specifications, and upon further verification from the inspection described in Subsection F.1, Inspection Required, above, the Zoning Administrator or Public Works Director, whichever is designated by adopted City ordinances, shall issue a Certification of Compliance. Notwithstanding, some public infrastructure facilities or improvements may require City Council approval of acceptance based upon adopted City ordinances. In such instances, the Zoning Administrator shall place the developer's request on the City Council agenda following verification by the Administrator or Public Works Director that the infrastructure or improvements have been completed pursuant to all approvals, plans and specifications.

4. Fees

The City Council may establish fees to offset the administrative costs of inspecting public infrastructure or improvements. Any such fees shall be paid by the developer prior to the issuance of a Certificate of Compliance or acceptance.

G. WARRANTY OF IMPROVEMENTS

The developer shall warrant the materials and workmanship of the public infrastructure or improvement for a period of one (1) year from issuance of the Certificate of Compliance or acceptance of the infrastructure or improvement by the Mayor and City Council, whichever is applicable.

1. Warranty Enforcement

The warranty shall be enforced or secured by one of the following methods.

a. Escrow

An escrow account containing funds equal to ten (10) percent of the construction costs pursuant to the Guarantee of Public Improvements Section of the *Sidney Subdivision Regulations*.

b. Letter of Credit

Continuing a Letter of Credit or opening a new Letter of Credit in an amount equal to ten (10) percent of the construction costs pursuant to the in the Guarantee of Public Improvements Section of the *Sidney Subdivision Regulations*.

c. Use of Funds

The City may use funds or draw upon the Letter of Credit to correct any deficiency in the materials or workmanship of the infrastructure or improvement. Notwithstanding, the developer may remedy the **deficiency** in lieu of the City drawing upon the funds.

2. Release of Funds

Warranty funds held in escrow or the Letter of Credit shall be released upon expiration of the one (1) year warranty period provided the funds were not spent to remedy a deficiency in the infrastructure or improvement.

11.18.77 LIVESTOCK PROHIBITED

The keeping or raising of domestic livestock or fowl for show, breeding or other purposes is prohibited in the City limits.

11.18.80 **STORM WATER MANAGEMENT AND EROSION CONTROL**

11.18.81 PURPOSE AND INTENT

The purposes and intent of this Section are to ensure storm water runoff is sufficiently managed to avoid dangerous conditions, flooding or property damage and to further minimize erosion from wind and water.

11.18.82 APPLICABILITY

All developments, not exempted below in Section 11.18.83 Exemptions, proposing to disturb a cumulative total of more than 20,000 square feet of contiguous impervious coverage shall comply with the standards of this Section, and meet Montana Department of Environmental Quality Regulations.

11.18.83 EXEMPTIONS

Development in the Central Business Zoning District (B-3) shall be exempt from this section.

11.18.84 STORM WATER RUNOFF AND EROSION CONTROL PLAN

Any application for a development permit, including a building permit if no other development application is required, not exempted in Section 11.18.83 Exemptions, shall include a storm water runoff and erosion control plan. The plan shall contain plans, calculations and techniques that demonstrate compliance with the standards of this Section and shall be prepared by a professional engineer licensed in the State of Montana.

11.18.85 STANDARDS

A. PRE-DEVELOPMENT DISCHARGE

The post-development runoff rate from the site shall not exceed the pre-development runoff rate. Storm water retention areas may be required to comply with this standard.

B. VELOCITIES MINIMIZED

Runoff velocities shall be minimized and the receiving drainage ways shall be designed and constructed to accommodate the runoff.

C. STORMWATER DETENTION

On site storm water facilities shall be designed and constructed to detain a 2-year storm event that is one (1) hours in duration, while meeting Section 11.18.85.A Pre-development Discharge.

D. MAINTENANCE

Storm water facilities shall be continually maintained to ensure on-going compliance with this Section.

E. RETENTION OF VEGETATION

Existing natural vegetation shall be maintained as much as practical and disturbed areas that do not receive structures or impervious surfaces shall be revegetated.

F. DISTURBED AREAS MINIMIZED

The amount of ground area disturbed at any one time shall be minimized as much as practical.

G. SILT FENCING

Silt fencing, hale bales or comparable techniques shall be used to prevent sediment from leaving the site due to erosion during construction and until the site is fully vegetated.

H. WATER QUALITY

Water quality of nearby streams, wetlands or other riparian areas shall be protected by the use of vegetative buffer or other techniques as identified in the Sidney Growth Policy or master plan for a subdivision.

11.18.90 OPERATIONAL PERFORMANCE STANDARDS

11.18.91 PURPOSE AND INTENT

The purposes and intent of this Section is to establish performance standards that ensure developments and land uses do not become dangerous or objectionable to neighbors or the general community. It is the purpose and intent of this Section that all land uses and related activities are maintained and operated to avoid detracting from the health, safety and welfare of the citizens of Sidney.

11.18.92 AIR QUALITY

Dust, ash, vapors, fumes, gasses or other forms of air pollution shall not be emitted from any development to an extent that can cause damage to the health of people, animals or vegetation or can degrade neighboring property.

11.18.93 COMBUSTIBLES AND EXPLOSIVES

The storage of combustible and explosive materials shall comply with applicable standards of the applicable *Fire Code* and the applicable building codes.

11.18.94 HAZARDOUS MATERIALS STORAGE

A. STATE, FEDERAL REGULATIONS

Development that proposes to generate, handle or store hazardous materials shall comply with all applicable state and federal regulations and standards. When a proposed development requires a state or federal permit, the applicant shall include in the application for a City permit copies of the applicable permits to demonstrate compliance with the state or federal regulations.

B. OTHER CITY CODES

Development that proposes to generate, handle or store hazardous materials shall comply with all applicable regulations and standards in the currently adopted building code and *Fire Prevention and Safety Code*. When a proposed development requires approval for such activities under these additional codes, the applicant shall include in the application for a City permit copies of the applicable permits or plans that demonstrate compliance with the codes.

11.18.95 NOISE

A. NOISE LEVELS

Developments and land uses shall not create noises that exceed the levels established below.

Noise Levels		
Zoning District in which the Sound is Generated	Maximum Sound Level	Quiet Hours
R-1, R-2, R-3	65 dBA	Reduce to 55 dBA from 10:00 pm to 6:00 am
C-1, C-2, C-3	70 dBA	Reduce to 60 dBA from 10:00 pm to 6:00 am
B-1,B-2	80 dBA	Reduce to 70 dBA from 12:00 am to 7:00 am
B-3, CLM	85 dBA	Reduce to 75 dBA from 12:00 am to 7:00 am
M-I, A-O	95 dBA	Reduce to 85 dBA from 10:00 pm to 6:00 am

B. EXCEPTIONS

Notwithstanding the noise limitations established, exceptions to the Subsection 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 fifteen (15) minutes or less.
2. During non-quiet hours the following items are exempt: home appliances, chain saws, 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 City Council 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 City Owned Lands approval process. All such waivers shall be in writing and on the property where the exemption is applicable.
4. Construction activities are exempt from the maximum sound level for any given district 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.

11.18.96 JUNK VEHICLES

A. CERTIFICATION

The zoning administrator or designee may inspect and certify that a vehicle meets the requirements of a junk vehicle. Such certification shall be in writing and shall record the make of the vehicle, the vehicle identification number, or license plate number of the vehicle if available. The certifying individual shall also describe any vehicle damage, any missing equipment, or condition of the vehicle, and shall also verify that the value of the junk vehicle is equivalent only to the approximate value of the scrap in it.

B. VIOLATION

It shall be unlawful to park or store junk vehicles on private property. Such a violation shall be deemed a nuisance subject to abatement including fines, fees and/or removal of vehicle from property.

C. EXCEPTIONS

The provisions of this chapter relating to junk vehicles shall not apply to a vehicle or part thereof which: (1) is not visible from the street or other public or private property; or (2) is stored or parked in a lawful manner on fenced private property

in connection with the business of a licensed bulk hauler, tow truck operator, dismantler, repair facility, or motor vehicle dealer and is fenced.

11.18.100 **BUILDING DESIGN**

A. STREET WALL LENGTH AND SHAPE

To avoid long and monotonous building facades, the building façade facing any street shall not be more than one hundred (100) feet without an offset in the wall plane or architectural features or indents designed to break up the apparent mass of the wall and prevents the building from being a rectangle or square. CLM and MI districts are exempt from this provision.

B. USE CLARIFICATION

Unless otherwise noted in the B-3 Central Business District or within sections of this code; the primary use of a structure within all districts shall be classified as that use which occupies 50.1 percent of the gross floor area of a structure. If multiple uses are within the structure, the simple majority of gross floor area of one use shall constitute the primary use for determining what is permitted in each district.

Article 11.19.0 OUTDOOR ADVERTISING

11.19.10 *PURPOSE AND INTENT*

The purpose of this Article is to govern outdoor advertising with standards designed to balance the interests of businesses, organizations and individuals with the public interests of maintaining an attractive city where advertising contributes to community character and avoids undue visual clutter.

11.19.20 *APPLICABILITY*

The standards of this Section shall apply to the erection, construction, relocation, installation or alteration of any outdoor advertising sign, structure, markings, symbol or other advertising device unless exempted in Section 11.19.30 Exemptions.

11.19.30 *EXEMPTIONS*

The standards of this Section shall not apply to the following:

11.19.31 OFFICIAL NOTICES, WARNING SIGNS, HISTORICAL INFORMATION

Notices posted by an official of a public body or utility that provides legal notification or information or warning of a dangerous area, including signs communicating information about the history of a property or the community.

11.19.32 WINDOW DISPLAYS, INDOOR SIGNS

Indoor signs and displays that are not visible from the outside.

11.19.33 BUILDING IDENTIFICATION, MINOR RESIDENTIAL

Signs, plaques and similar features not to exceed four (4) square feet in area containing building names, dates of erection, commemorative information or similar content. Wall signs identifying occupants or owners of a residential property.

11.19.34 HOLIDAY LIGHTS

Holiday lights and displays containing no commercial message and erected no sooner than forty-five (45) days prior to the holiday and removed no later than fifteen (15) days following the holiday.

11.19.35 REAL ESTATE

Not more than one (1) real estate sign per lot, parcel or tract of land or a building “for sale” or “for rent” that does not exceed six (6) square feet in area.

11.19.36 RELIGIOUS SYMBOLS, NON-COMMERCIAL

Religious symbols, signs conveying a non-commercial message and temporary political signs.

11.19.37 WAY FINDING, TRAFFIC CONTROL

Signs that provide directional information, identify entrances/exits and control traffic that does not exceed six (6) square feet in area.

11.19.38 MURALS

Murals depicted on sides of buildings that contain no advertising message connected to a business, service or product.

11.19.40 **DEFINITIONS**

For the purpose of this Section, certain words and terms shall have the meaning as established in this subsection.

11.19.41 SIGN

For purposes of this Ordinance the term sign shall mean any structure, marking, symbol, display, illustration or other advertising device designed or intended to announce, market or attract attention to a business, product or service.

11.19.42 SIGN AREA

Sign area means the surface of a sign designed to contain a message, logo, symbol, or other communication and excludes the structural support members. Sign area for free-standing signs or signs projecting from a building may display a message on two (2) sides that are back to back and the sum total of the area of each side shall not exceed the allowed sign area.

11.19.43 NEON AND ILLUMINATED

Signs lit with neon or exposed bulbs in an historic manner.

11.19.44 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.

11.19.50 **PERMIT REQUIRED**

The erection, construction, relocation or alteration of a sign or other advertising device not exempted in Section 11.19.30 Exemptions, requires a Building Permit. Electrical permits pursuant to the currently adopted electrical codes may be required in addition to the Building Permit.

11.19.51 DIGITAL ELECTRONIC GRAPHIC DISPLAY

Signs that display moving or electronic images shall require a conditional use permit and be consistent with all other applicable district regulations.

11.19.60 **GENERAL STANDARDS**

11.19.61 **SIZE**

A. **RESIDENTIAL DISTRICTS**

The maximum amount of sign area allowed in a residential zoning district is six (6) square feet per lot, parcel or tract of land. Notwithstanding, the size of sign area announcing the name of a development is one (1) square foot of sign area per one (1) linear foot of street frontage of the lot containing the sign, not to exceed forty (40) square feet.

B. **NON-RESIDENTIAL DISTRICTS**

The total amount of sign area allowed in non-residential zoning districts shall not exceed three hundred (300) total square feet. Total signage and sign area is calculated by measuring the surface area of one face of the sign.

11.19.62 **NUMBER, TYPE**

There is no maximum number of signs permitted on a property and no restriction on the types of signs provided the total sign area of all signs does not exceed the amount permitted in Section 11.19.61 Size.

11.19.63 **HEIGHT**

The maximum height of all freestanding signs, including all embellishments, shall not exceed the maximum height for primary buildings in the given zoning district.

11.19.64 **ON SITE/OFF SITE**

Off-site signs are permitted however those signs count toward the overall sign area for that specific property and use.

11.19.65 **CONSTRUCTION, ELECTRICAL CODES**

Signs and other advertising devices shall comply with applicable construction and electrical codes.

11.19.70 **PROHIBITED SIGNS**

The following signs shall be prohibited:

11.19.71 **INTERNALLY ILLUMINATED**

Internally illuminated signs are prohibited in all residential districts and are subject to 11.19.80 Internally Illuminated Signs.

11.19.72 **FLASHING AND BLINKING SIGNS**

Flashing, blinking or, signs with rotating light beams, holograms, and similar devices.

11.19.80 **INTERNALLY ILLUMINATED SIGNS**

Internally illuminated signs are only allowed inside Commercially and Industrially Zoned Districts.

11.19.90 **NONCONFORMING SIGNS**

Any sign legally existing on the effective date of this Ordinance which does not comply with the provisions of this Article shall be deemed a nonconforming sign. No nonconforming sign shall be moved, altered, re-erected, relocated or replaced unless it is brought into compliance with the standards of this Article. This shall not prevent the repair or restoration to a safe condition any part of a nonconforming sign or sign structure, or a change of message or normal maintenance on a sign or sign structure.

11.19.100 **ABANDONED SIGNS**

Any sign that is not structurally sound or no longer serves to inform or attract attention of the public, including illegible signs and signs advertising or identifying abandoned uses, shall be considered abandoned and its removal required. The owner of an abandoned sign shall be responsible for the removal of the sign within sixty (60) days of the adoption of this Ordinance or within sixty (60) days termination of the use advertised by the sign.

11.19.110 **TEMPORARY SIGNS**

The Zoning Administrator may approve temporary signs to be erected for not more than thirty (30) days to advertise special events and similar short-term activities.

Article 11.20.0

NONCOMFORMITIES

11.20.10 *PURPOSE AND INTENT*

Within the City of Sidney there exist land uses, structures and lots that were lawfully established before this Ordinance was adopted or amended that now do not conform to the terms and requirements of this Ordinance. It is the intent of this Ordinance to regulate these nonconforming uses and buildings until their eventual elimination and to permit the limited development of nonconforming lots without infringing upon the constitutional rights of the owners of such nonconformities. The continuation of nonconforming uses and structures and the limited development of nonconforming lots are intended to prevent economic hardship and to allow the useful economic value of the structure to be realized. It is further declared and it is the policy of the City of Sidney that nonconforming uses and structures are generally incompatible with surrounding uses and are detrimental to the public health, safety, and general welfare. The purpose of this Article is to establish standards to regulate the continued existence of these uses, structures, and lots that do not conform to the provisions of this Ordinance.

11.20.20 *NONCONFORMING USES*

Nonconforming uses are declared generally incompatible with surrounding uses and development. A nonconforming use may be continued in accordance with the provisions in this Section.

11.20.21 *NORMAL MAINTENANCE OR REPAIR*

Normal maintenance or repair necessary to maintain a sound and safe structure may be performed on structures containing nonconforming uses provided that the maintenance or repair does not increase any nonconformity or change the use.

11.20.22 *ENLARGEMENT OR EXPANSION*

A nonconforming use may not be enlarged or expanded in area, space or volume except as provided in Subsection A below.

A. *ADA*

Notwithstanding the prohibition stated above, expansions such as covered wheelchair ramps, lifts, and handicap accessible rest rooms, which are needed to meet requirements of the Americans with Disabilities Act (ADA), shall be allowed to buildings containing nonconforming uses.

11.20.23 *CHANGE IN USE*

A nonconforming use shall not be changed to another nonconforming use. Whenever a nonconforming use has been changed to a conforming use, the use of the property shall not revert back to a nonconforming use.

11.20.24 *DISCONTINUANCE OR ABANDONMENT*

If a nonconforming use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months regardless of the removal or non-removal of

furniture/equipment or any intention to resume such activity in the future, such use may not be reestablished or resumed including using residential structures for storage of materials. Any subsequent use of the site shall conform to this Ordinance.

11.20.25 REPAIRS OF PARTIALLY DESTROYED STRUCTURES

A. MORE THAN FIFTY PERCENT

If fifty (50) percent or more of the floor area of a structure containing a nonconforming use is damaged by fire or other action not the willful act of the owner, the structure shall not be restored or reconstructed.

B. LESS THAN FIFTY PERCENT

If less than fifty (50) percent of the floor area of a structure containing a nonconforming use is damaged by fire or other action not the willful act of the owner, the structure may be restored or reconstructed provided:

1. Not Larger

The reconstructed building shall not exceed the height, area or volume of the structure prior to the damage; and,

2. One Year

Reconstruction shall commence within one (1) year of the date of the damage and proceed diligently until completion.

11.20.30 *NONCONFORMING STRUCTURES*

Nonconforming structures are declared generally incompatible with surrounding uses and development. A nonconforming structure may be continued in accordance with the provisions in this Section.

11.20.31 NORMAL MAINTENANCE AND REPAIR

Normal maintenance or repair may be performed on a nonconforming structure provided that the maintenance or repair does not increase any nonconformity.

11.20.32 ENLARGEMENT OR EXPANSION

A. ALTERATION

Any alteration, addition, expansion or enlargement to a legally nonconforming structure must meet all applicable standards in effect at the time a permit is issued for the alteration, addition, expansion or enlargement.

11.20.33 RELOCATION

A nonconforming structure shall not be moved, in whole or in part, to another location on or off the parcel of land on which it is located, unless the structure in its new location will conform to the standards of the zoning district in which it is located.

11.20.34 UNSAFE BECAUSE OF MAINTENANCE

If a nonconforming structure, or portion thereof, becomes physically unsafe or unlawful due to the lack of repairs or maintenance, and is declared by the Building Official to be an unsafe structure, it shall be removed or rebuilt or repaired in conformance with the standards of this Ordinance and the currently adopted Building and Fire Codes.

11.20.35 REPAIRS OF PARTIALLY DESTROYED STRUCTURES

A. MORE THAN FIFTY PERCENT

If fifty (50) percent or more of the floor area of a nonconforming structure containing is damaged by fire or other action not the willful act of the owner, the structure shall not be restored or reconstructed except in conformance with this Ordinance.

B. LESS THAN FIFTY PERCENT

If less than fifty (50) percent of the floor area of a structure containing a nonconforming use is damaged by fire or other action not the willful act of the owner, the structure may be restored or reconstructed provided:

1. Not Larger

The reconstructed building shall not increase any nonconformity that existed before the destruction; and,

2. One Year

Reconstruction shall commence within one (1) year of the date of the damage and proceed diligently until completion.

11.20.40 ***NONCONFORMING LOT OF RECORD***

11.20.41 CONSOLIDATION

The consolidation of adjacent nonconforming lot is required when such lots are owned by the same individual(s) or by entities controlled by the same individual(s).

11.20.42 BOUNDARY LINE ADJUSTMENT

Boundary line relocation of a nonconforming lot that is not subject to consolidation is permitted where the relocation would create a conforming lot or fully merge the nonconforming lot with an adjacent parcel. As provided by Section 76-3-207, MCA, such boundary line relocations are exempt from the standards of this Ordinance.

11.20.43 DEVELOPMENT OF LOT

A nonconforming lot of record may be developed pursuant to standards of this Ordinance.

Article 11.21.0 ADMINISTRATION

11.21.10 ORGANIZATION OF ARTICLE

11.21.11 OVERVIEW OF DUTIES AND RESPONSIBILITIES

The Summary Table of Review Procedures, presents an overview of the roles of the various decision makers in the review and approval processes of this ordinance.

11.21.12 DECISION MAKING AND ADMINISTRATIVE BODIES

Section 11.21.30, Duties and Responsibilities of Decision Making and Administrative Bodies, sets out the detailed authority, duties and responsibilities of the various decision making and administrative bodies in the review processes of this Ordinance.

11.21.13 COMMON REVIEW PROCEDURES

Section 11.21.40 Supplementary Review Procedures Common Procedures, establishes the common review procedure that applies to all permits unless certain supplementary procedures are created in subsequent sections of this Ordinance.

11.21.14 PUBLIC HEARING, PUBLIC NOTICE

Section 11.21.80 Supplementary Review Procedures, establishes supplementary review procedures for certain permits that either supplement or replace a portion of the common review procedures.

11.21.15 SUPPLEMENTARY REVIEW PROCEDURES

Sections 11.21.80 Supplementary Review Procedures, establishes supplementary review procedures for certain permits that either supplement or replace a portion of the common review procedures.

11.21.20 **OVERVIEW OF DUTIES AND RESPONSIBILITIES**

SUMMARY TABLE OF REVIEW PROCEDURES					
	Zoning Administrator	Building Official	Planning Board & Zoning Commission	Board of Adjustment	Mayor & City Council
Receive Applications	A				
Determine Completeness	A				
Residential Development of 1 to 3 Units	A				
Residential Development of 3 or More Units	R				A
PUD	R		R		A
Design Review	R		R		A
Appeal				R	A
CUP	R		R		A
	Zoning Administrator	Building Official	Planning Board & Zoning Commission	Board of Adjustment	Mayor & City Council
Variance	R			R	A
Building Permit		A			
Certificate of Occupancy		A			
Zoning Map Amendment	R		R		A
Zoning Ordinance Amendment	R		R		A
Enforcement Action	A				
Annexation	R		R		A
Appoint Zoning Administrator					A
Appoint Building Official					A
Appoint Members of Boards & Commissions					A
R= Review & Recommend; A = Authority for Final Action					

11.21.30 **DUTIES AND RESPONSIBILITIES OF DECISION MAKING AND ADMINISTRATIVE BODIES**

The following decision-making and administrative bodies shall have the duties and responsibilities in administering this Ordinance as established in this Section.

11.21.31 **MAYOR AND CITY COUNCIL**

A. **POWERS AND AUTHORITY**

In addition to all powers and authority granted to the Mayor and City Council by general or specific law, the Mayor and City Council shall have the following powers and authority under the provisions of this Ordinance.

1. **Appoint Zoning Administrator and Building Official**

The Mayor, with the consent of the City Council shall appoint a Zoning Administrator and a Building Official. The Zoning Administrator and Building Official may be employees of the City of Sidney or contract consultants.

2. **Appoint Planning Board/Zoning Commission and Board of Adjustment**

The Mayor shall appoint and the City Council shall consent to appointing members of the Planning Board/Zoning Commission and Board of Adjustment.

3. **Growth Policy**

The Mayor and City Council shall have the authority to adopt the Sidney *Growth Policy* and, from time to time, approve or disapprove amendments to the *Growth Policy*.

4. **Zoning Ordinance and Zoning Map**

The Mayor and City Council shall have the authority to adopt the Sidney Zoning Ordinance and the Official Zoning Map of the City of Sidney, and from time to time, approve or disapprove amendments to the Ordinance and Map.

5. **Planned Unit Development**

The Mayor and City Council shall have the authority to hear, consider and approve, approve with conditions or disapprove applications for Planned Unit Developments.

6. **Annexations**

The Mayor and City Council shall have the authority to approve, approve with conditions or disapprove applications for annexation of land to the City of Sidney.

7. **Other Actions**

The Mayor and City Council shall have the authority to take other action not delegated to another decision making or administrative body that the Mayor and City Council deem necessary and desirable to implement provisions of the *Growth Policy* or this Ordinance.

11.21.32 PLANNING BOARD/ZONING COMMISSION

A. ESTABLISHMENT

There is hereby reaffirmation of the creation and existence of the Sidney Planning Board and Sidney Zoning Commission to be known as the Planning Board/Zoning Commission.

B. DUTIES AND AUTHORITY

The Planning Board/Zoning Commission shall have the following powers and authority under this Ordinance:

1. Growth Policy

To prepare and recommend to the Mayor and City Council the Sidney *Growth Policy*.

2. Amend Growth Policy

To initiate, hear, consider and make recommendations to the Mayor and City Council on amendments to the *Growth Policy*.

3. Adopt Ordinances

To initiate, hear, consider and make recommendations to the Mayor and City Council on the adoption of this Ordinance and other ordinances, regulations and codes authorized by general or specific law.

4. Amend Ordinances

To initiate, hear, consider and make recommendations to the Mayor and City Council on amendments to this Ordinance and to other ordinances, regulations and codes authorized by general or specific law.

5. Adopt Zoning Map

To initiate, hear, consider and make recommendations to the Mayor and City Council on the adoption of the Official Zoning Map of the City of Sidney.

6. Amend Zoning Map

To initiate, hear, consider and make recommendations to the Mayor and City Council on amendments to the Official Zoning Map of the City of Sidney.

7. Conditional Uses

To hear, consider and make recommendations to the Mayor and City Council on whether to approve, approve with conditions or disapprove applications for Conditional Use Permits pursuant to the terms and procedures of this Ordinance.

8. Planned Unit Development

To initiate, hear, consider and make recommendations to the Mayor and City Council on applications for Planned Unit Developments.

9. Annexation

To initiate, hear, consider and make recommendations to the Mayor and City Council on approval, approval with conditions or disapproval of applications for annexation of land to the City of Sidney.

10. Other Actions

To undertake and execute other duties the Mayor and City Council deems necessary and desirable to assign to the Planning Board/Zoning Commission.

11.21.33 BOARD OF ADJUSTMENT

A. ESTABLISHMENT

There is hereby reaffirmation of the creation and existence of the Sidney Board of Adjustment.

B. POWERS AND AUTHORITY

The Board of Adjustment shall have the following powers and authority under this Ordinance:

1. Appeals

To hear and consider appeals that an error was made in order, requirement or decision by the Zoning Administrator in the enforcement of this Ordinance and to recommend that the City Council uphold, modify or overturn the decision.

2. Variances

To hear, consider and recommend approval, approval with conditions or disapproval applications for variances from the terms of this Ordinance pursuant to Section 11.21.81 Variance.

11.21.34 ZONING ADMINISTRATOR

The Zoning Administrator shall have the following powers and authority and shall perform the following duties under this Ordinance.

A. INTERPRET ORDINANCE

Interpret, make day-to-day decisions and administer this Ordinance.

B. RECEIVE APPLICATIONS, DETERMINE COMPLETENESS

Receive applications for all permits required by this Ordinance, except applications for Building Permits that are received by the Building Official, and make determinations of completeness of the submittal information.

C. APPROVE DEVELOPMENT PERMITS

Review, consider and approve, approve with conditions or disapprove applications for which the terms and procedures of this Ordinance assign Final Action to the Zoning Administrator. Applications for which the Zoning

Administrator has authority to approve or disapprove include residential development containing up to three (3) residential units.

D. RECOMMENDATIONS

Review, consider and make recommendations to the Planning Board/Zoning Commission, Board of Adjustment and the Mayor and City Council on applications for which these decision making bodies have duties to review and/or make final decisions.

E. MINOR DEVIATIONS

Review, consider and approve or disapprove minor deviations to a development plan that has received final approval by a decision making body.

F. ADMINISTRATIVE DUTIES

Assist all decision making bodies in setting agendas, providing proper legal notice and maintaining complete record of proceedings.

G. INSPECTIONS, ENFORCEMENT

Perform all necessary inspections to enforce the provisions of this Ordinance, conditions of approved permits and approved Development Agreements, and to initiate enforcement actions to remedy violations of this Ordinance, permits or agreements.

H. LEGAL ACTION

Investigate and pursue legal action pertaining to violations of this Ordinance or conditions of approved permits or the terms of approved Development Agreements.

I. OTHER DUTIES

Perform all other duties assigned by the terms of this Ordinance, deemed necessary to assist all decision making bodies, or determined necessary or desirable by the Mayor and City Council.

11.21.35 BUILDING OFFICIAL

In addition to all powers and authority granted to the Building Official by general or specific law or by other codes and ordinances, the Building Official shall have the following powers and authority and shall perform the following duties under this Ordinance.

A. BUILDING PERMITS

Receive applications for Building Permits, determine completeness of submittal information, review and approve, approve with conditions or disapprove applications for building permits pursuant to the terms and procedures of the currently adopted Building Codes and this Ordinance.

B. ZONING ORDINANCE

Consult with the Zoning Administrator to ensure proper compliance with this Ordinance on all Building Permits.

C. CERTIFICATES OF OCCUPANCY

Issue Certificates of Occupancy pursuant to the terms and procedures of the currently adopted Building Codes and this Ordinance.

11.21.40 **COMMON PROCEDURES**

11.21.41 GENERAL

Unless otherwise stated in this Article, the submission of a development plan or application, and the subsequent steps for Determination of Completeness, staff review, notice and scheduling of public hearings, and decisions of approval or disapproval shall comply with the procedures established in this Section. The terms development application and development plan are used interchangeably in these procedures and refer to any submission made to the City for review and approval under this Ordinance.

11.21.42 APPLICATION FORMS

All development applications shall be on City forms prepared and made available by the Zoning Administrator. The Zoning Administrator shall develop application forms and a checklist of submission items to accompany an application. The application forms and checklists shall be distributed to the public indicating all information that must be presented in order for City officials and Boards to evaluate applications. No application shall be accepted for consideration unless the information required on the checklist is found by the Zoning Administrator to be in sufficient detail to evaluate the application and determine whether it complies with the substantive requirements of this Ordinance.

11.21.43 FEES

All applications shall be accompanied by the applicable fee required by the regularly adopted City fee schedule. The fee schedule shall be established and may be revised from time to time by the Mayor and City Council. Its purpose shall be to defray the costs of processing applications. The fee schedule shall be available for review in the City clerk's office during normal business hours.

11.21.44 PRE-APPLICATION CONFERENCE

A. PRE-APPLICATION CONFERENCE

A pre-application conference may be held with the Zoning Administrator prior to submission of an application for approval of residential development containing three (3) or more dwelling units, all developments containing commercial, industrial, and other non-residential land uses, a Conditional Use Permit, Design Review, a Planned Unit Development, and for amendments to the Zoning Map and text of this Ordinance.

B. INITIATION OF PRE-APPLICATION CONFERENCE

An owner, developer or their authorized agent shall initiate a pre-application conference with the Zoning Administrator by submitting a written request. Along with the request for the pre-application conference, the applicant shall submit general information on the proposed land use, layout, existing features of the site including topography and other information necessary to describe the character, location and magnitude of the proposed development.

C. SCHEDULING OF PRE-APPLICATION CONFERENCE

Upon receipt of a request for a pre-application conference, the Zoning Administrator shall schedule the pre-application conference. The pre-application conference shall be held within thirty (30) calendar days of receipt of the request for such a conference.

D. PRE-APPLICATION CONFERENCE PURPOSES

The purpose of the pre-application conference is to familiarize the City officials with the general location and character of the proposed development. At the pre-application conference, the applicant and the Zoning Administrator shall discuss the proposed development, and based upon the information provided by the applicant, identify the provisions of this Ordinance that apply to the proposed development. During the subsequent review of the development plan or upon submission of more detailed information about the proposed development, additional provisions of this Ordinance may be identified as being applicable.

E. WRITTEN SUMMARY

The Zoning Administrator shall provide the applicant a written summary of the pre-application conference within fifteen (15) calendar days of the completion of the pre-application conference.

F. EXPIRATION OF PRE-APPLICATION CONFERENCE

A development plan shall be based on the written summary of a pre-application conference held no more than one (1) year previous to the plan submittal. A new pre-application conference is required before submission of a plan if more than a year has elapsed since the prior conference.

11.21.45 SUBMISSION OF APPLICATION AND DETERMINATION OF COMPLETENESS

The submission of an application and the Determination of its Completeness shall comply with the following standards:

A. INITIATION

The appropriate application and all required information for the requested permits and approvals shall be submitted to the Zoning Administrator by the owner, developer or their authorized agent.

B. REQUIRED CONTENTS OF APPLICATION

The submittal requirements established by the Zoning Administrator during the pre-application conference shall be submitted. Additional information may be required during review of the application if the Zoning Administrator finds the information necessary to determine compliance with this Ordinance.

C. DETERMINATION OF COMPLETENESS

Within fifteen (15) calendar days of the submittal of an application, the Zoning Administrator shall determine if the application is Complete. An application is complete if it contains the submittal requirements identified during the pre-application conference in sufficient completeness and detail to commence review and evaluation of the application.

1. Determined Incomplete

If the Zoning Administrator determines that the application is not complete, a written notice shall be provided to the applicant specifying the deficiencies. No further action shall be taken on the application by the Zoning Administrator until the deficiencies are remedied. If the applicant fails to correct the deficiencies within sixty (60) calendar days, the application shall be considered withdrawn. If the Zoning Administrator fails to provide written notice of any deficiencies to the applicant within fifteen (15) calendar days of submission of the application, the application shall be deemed complete.

2. Determined Complete

When the application is determined complete, the Zoning Administrator shall notify the applicant of the determination and commence review and evaluation of the application to determine compliance with this Ordinance and other applicable ordinances and regulations.

11.21.46 TECHNICAL REVIEW

A. TECHNICAL REVIEW COMMITTEE

The City may establish a Technical Review Committee (TRC) and host Committee meetings as needed to facilitate the technical review and evaluation of applications for permits. The Zoning Administrator may schedule a complete development application for a TRC meeting. Said meeting shall occur within thirty (30) calendar days of the Determination of Completeness. The applicant is provided an opportunity to meet with representatives of applicable utilities and governmental agencies in this meeting to receive comments on the technical elements of the application.

1. Committee Members, Responsibilities

The TRC consists of the representatives of the following core departments with their general responsibilities. After determining an application complete, the Zoning Administrator forwards the application materials to the TRC members for review.

- a. The Planning office will review development applications for compliance with the existing zoning of the site, compliance with this Ordinance and other applicable ordinances, codes and regulations, and to review the relationship of the proposed development to the neighboring property, characteristics of the site such as topography, floodplain and unstable soils, and the *Sidney Growth Policy*.
- b. Public Works Department to review development applications for the relationship to streets and utility systems and to determine required street improvements, rights-of-way, extensions to water and wastewater systems and other related public improvements and dedications.
- c. Building Official to review development applications for any building code provisions that may affect the general site plan. Review of construction drawings that are appropriate for building permit applications is not appropriate for a TRC meeting.
- d. Fire Department to review development applications for adequacy of the water distribution system and firefighting capabilities in the vicinity, and for compliance with applicable Fire Prevention and Safety Codes.
- e. School District to review development applications to project demand for school facilities and to identify needed land areas to reserve for development of schools and other related facilities.
- f. Police Department to review the proposed development for appropriate safety considerations.

- g. Ambulance and Emergency Response for appropriate access and other safety considerations.

2. Additional Members

The Committee may expand to include the City engineer, City attorney, Richland County Historic Preservation Officer, and representatives from utility companies and state and federal agencies when their review comments are applicable to a particular development application.

B. WRITTEN SUMMARY

Within fifteen (15) calendar days following the TRC meeting the Zoning Administrator shall provide the applicant a written summary of the TRC comments and a description of any revisions to the plans that are necessary to comply with the technical requirements of the applicable ordinances and regulations.

C. REVISED SUBMISSION

The applicant shall submit a revised application that incorporates the changes necessary to comply with the technical requirements of the applicable ordinances and regulations.

D. ADDITIONAL TRC MEETINGS

Extensive revisions resulting from TRC comments or by voluntary action of the applicant may require additional TRC meetings to review the subsequent submission, prior to the Zoning Administrator scheduling the application for a Planning Board/Zoning Commission meeting, or rendering a decision for which the Zoning Administrator has authority for Final Action.

11.21.47 PROCEDURES FOR ZONING ADMINISTRATOR DECISIONS

A. AUTHORITY FOR FINAL ACTION

The review and decisions on applications for which the Zoning Administrator has authority of Final Action shall occur pursuant to the standards of this Section.

B. RECLASSIFY APPLICATION

If the Zoning Administrator determines that a proposed development, for which the Administrator has authority for Final Action, may have a significant impact on the surrounding neighborhood or the community, the Zoning Administrator may reclassify the application to require review and approval by the Planning Board/Zoning Commission. When an application is reclassified, the authority for Final Action is transferred to the Planning Board/Zoning Commission and the administrative procedures that are applicable to the Board/Zoning Commission's actions shall apply.

C. STAFF REVIEW, STAFF REPORT AND DECISION

After determining an application is complete, the Zoning Administrator shall conduct the technical review pursuant to Section 11.21.46 Technical Review,

above, review the application for compliance with this Ordinance and other applicable ordinances and regulations, and prepare a Staff Report that describes the conclusions of the review. Based upon the conclusions in the Staff Report the Zoning Administrator approves, approves with conditions or disapproves the application. A copy of the Staff Report shall be provided to the applicant.

D. TIMING OF DECISIONS

Review and final decision by the Zoning Administrator shall be made within fifteen (15) calendar days of the TRC meeting, or within fifteen (15) calendar days of a plan resubmission that is based upon the TRC meeting. If additional TRC meetings are required, a decision shall be made within fifteen (15) calendar days of the final TRC meeting or plan resubmission that is based upon the final TRC meeting.

E. ISSUANCE OF PERMIT, CORRECTED APPLICATION

If the Zoning Administrator finds the application complies with the applicable standards of this Ordinance and all other applicable ordinances and regulations, the permit shall be issued. If it is determined that the application does not comply with the applicable standards of this Ordinance or other ordinances and regulations, the applicant shall be notified in writing of the deficiencies and be provided sixty (60) calendar days from the written notice to submit a corrected application. If a corrected application is received, the Zoning Administrator shall approve, approve with conditions or disapprove the corrected application based on the applicable standards of this Ordinance and other applicable ordinances and regulations. If the application is not resubmitted within sixty (60) calendar days from said written notice, the application shall be considered withdrawn.

F. PUBLIC NOTICE AFTER DECISION

The Zoning Administrator shall submit a Record of Decision on a City website or at City Hall following a final decision. Any aggrieved party may appeal the Zoning Administrator's decision within thirty (30) calendar days of the date the notice appeared in the official paper for the City of Sidney. Decisions on applications for single-Household houses, sign permits, and grading permits are exempt from this requirement.

G. EXPIRATION OF PERMIT

A permit shall expire on the one (1) year anniversary date of the permit issuance, unless otherwise noted in the development approval, if the next step in the normal development process is not commenced. The next step normal development process includes obtaining a building permit, grading permit, or commencement of the use if no further permit is required.

11.21.48 PROCEDURES FOR DECISIONS BY PLANNING BOARD/ZONING COMMISSION OR BOARD OF ADJUSTMENT

A. AUTHORITY FOR FINAL ACTION

The review and decisions on applications for which the Planning Board/Zoning Commission or the Board of Adjustment have authority of Final Action shall occur

pursuant to the standards of this Section, except appeals of prior decisions. See Section 11.21.82 Appeals for the applicable procedure to consider Appeals.

B. ZONING ADMINISTRATOR RECOMMENDATION

After an application has been reviewed by the TRC the Zoning Administrator shall prepare a staff report that evaluates the application for compliance with this Ordinance. The Zoning Administrator shall present in the staff report a recommendation for approval, approval with conditions or denial, based upon the standards and procedures of this Ordinance. The staff report shall be made available to the applicant, the public and the Planning Board/Zoning Commission or Board of Adjustment at least seven (7) calendar days prior to the scheduled public meeting.

C. SCHEDULING OF PUBLIC HEARING

An application for which a public hearing is required shall be scheduled for meeting of the Planning Board/Zoning Commission or Board of Adjustment within 120 calendar days of an application being determined by the Zoning Administrator to be complete.

D. PUBLIC HEARINGS, PUBLIC NOTICE

The Planning Board/Zoning Commission or Board of Adjustment, whichever is applicable, shall conduct a public hearing on the application pursuant to the procedures of Section 11.21.60 Public Hearing Procedure, and a written notice of the public hearing shall be mailed by first class mail to owners of all land that is adjacent/adjoining to the site for which the application is submitted pursuant to Section 11.21.70 Public Notice.

E. DECISION

Within thirty (30) calendar days of the close of the public hearing, the Planning Board/Zoning Commission or Board of Adjustment, whichever is applicable, shall approve, approve with conditions or deny the application based upon the standards and procedures of this Ordinance. Written notice of the decision containing the required findings of fact and conclusions reached by the Board shall be provided to the applicant within fifteen (15) calendar days of the decision. Written notice of a denial shall specify the reasons for denial.

F. ISSUANCE OF PERMIT

If the application is approved, the Zoning Administrator shall issue a permit at the first practical opportunity that describes any conditions of approval established by the Board and the expiration date if no action is pursued by the applicant.

G. EXPIRATION OF A PERMIT

A permit shall expire on the one (1) year anniversary date of the permit issuance, unless otherwise noted in the development approval, if the next step in the normal development process is not commenced. The next step in the normal development process includes obtaining a building permit, grading permit, or commencement of the use if no further permit is required.

11.21.50 PROCEDURES FOR DECISIONS BY MAYOR AND CITY COUNCIL

A. AUTHORITY FOR FINAL ACTION

The review and decisions on applications for which the Mayor and City Council have authority of Final Action shall occur pursuant to the standards of this Section.

B. ZONING ADMINISTRATOR RECOMMENDATION

After an application has been reviewed by the TRC the Zoning Administrator shall prepare a staff report that evaluates the application for compliance with this Ordinance. The Zoning Administrator shall present in the staff report a recommendation for approval, approval with conditions or denial, based upon the standards and procedures of this Ordinance. The staff report shall be made available to the applicant, the public and the Planning Board/Zoning Commission, and Mayor and City Council at least seven (7) calendar days prior to the first scheduled meeting.

C. SCHEDULING OF PUBLIC HEARING

An application for which a public hearing is required shall be scheduled for meeting of the Planning Board/Zoning Commission within 120 calendar days of an application being determined by the Zoning Administrator to be Complete.

D. PUBLIC HEARINGS, PUBLIC NOTICE

The Planning Board/Zoning Commission shall conduct a public hearing on the application pursuant to the procedures of Section 11.21.60 Public Hearing Procedure, and a written notice of the public hearing shall be mailed by first class mail to owners of all land that is adjacent/adjoining to the site for which the application is submitted pursuant to Section 11.21.70 Public Notice.

E. PLANNING BOARD/ZONING COMMISSION RECOMMENDATION

Within thirty (30) calendar days of the close of the public hearing, the Planning Board/Zoning Commission shall determine a recommendation to approve, approve with conditions or deny the application based upon the standards and procedures of this Ordinance. Written notice of the recommendation of the Board shall be provided to the applicant within fifteen (15) calendar days of the decision. Written notice of a recommendation for denial shall specify the reasons for denial.

F. SCHEDULING OF PUBLIC MEETING

Following the decision by the Planning Board/Zoning Commission, the application shall be scheduled for review and a final decision at a regularly scheduled meeting of the Mayor and City Council. This meeting shall occur within thirty (30) calendar days of the Planning Board/Zoning Commission decision.

G. DECISION

Within thirty (30) calendar days of the close of their meeting, the Mayor and City Council shall approve, approve with conditions or deny the application based

upon the standards and procedures of this Ordinance. Written notice of the decision containing the required findings of fact and conclusions reached by the Mayor and Council shall be provided to the applicant within fifteen (15) calendar days of the decision. Written notice of a denial shall specify the reasons for denial.

H. ISSUANCE OF PERMIT

If the application is approved the Zoning Administrator shall issue a permit at the first practical opportunity that describes any conditions of approval established by the Mayor and Council and the expiration date if no action is pursued by the applicant.

I. EXPIRATION OF A PERMIT

A permit shall expire on the one (1) year anniversary date of the permit issuance, unless otherwise noted in the development approval, if the next step in the normal development process is not commenced. The next step in the normal development process includes obtaining a building permit, grading permit, or commencement of the use if no further permit is required.

11.21.60 ***PUBLIC HEARING PROCEDURE***

Public Hearings required by this Ordinance shall be conducted pursuant to the standards and procedures of this Section.

11.21.61 NOTICE

Written notice of the public hearing, pursuant to Section 11.21.70 Public Notice, shall be sent by first class mail to the owner of the property that is subject to the public hearing and to owners of land that is adjacent/adjoining to the property that is subject to the public hearing. In addition to the mailed notice, a Public Notice of the hearing shall be published in a newspaper of general local circulation that describes the application and provides the time, date and place of the public hearing. The Public Notices shall be mailed and the published notice shall appear in a newspaper of general local circulation no later than fifteen (15) calendar days prior to the public hearing.

11.21.62 ANNOUNCEMENT

The presiding officer shall announce the purpose and subject of the public hearing, verify that proper public notice was given and provide the opportunity for any member of the Board to declare a conflict of interest. The presiding officer may excuse any member of the Board who has a conflict of interest.

11.21.63 RIGHT TO SPEAK

Any interested person may appear at the public hearing and submit evidence or make comments either as an individual or on behalf of an organization. Each person appearing at the public hearing shall be identified by name and address of residence and name of organization if applicable.

11.21.64 STAFF REPORT PRESENTATION

The Zoning Administrator shall present the Staff Report.

11.21.65 APPLICANT PRESENTATION

The applicant shall present any information the applicant deems appropriate.

11.21.66 PUBLIC STATEMENTS

Members of the public shall be provided the opportunity to speak about the merits or shortcomings of the application. At the discretion of the presiding officer, reasonable time limits may be placed on all speakers in the interest of accommodating all people desiring to speak and to provide for an efficient meeting. Comments shall be directed only to the presiding officer.

11.21.67 APPLICANT RESPONSE

After the public comment the applicant shall be provided the opportunity to respond to any public comments made during the public hearing.

11.21.68 STAFF RESPONSE

After the public comment, the Zoning Administrator or any other City official shall be provided the opportunity to respond to public comments made during the public hearing.

11.21.69 DELIBERATION, DECISION

The presiding officer shall declare the public comment period of the meeting to be closed and invite discussion, deliberation and a decision by the Board.

11.21.610 RECORD OF PROCEEDINGS

The public hearing and meeting shall be audio taped and the tape shall be retained by the City for a minimum of one (1) year. A recording secretary shall record written minutes of the public hearing. All exhibits, reports, evidence and written materials submitted during the public hearing shall be retained by the City as part of the record of the proceeding.

11.21.611 CONTINUANCE

The Board conducting the public hearing, on its own initiative, may continue the hearing to a future date. The applicant has the right to one (1) continuance to a future date. Notice of continuance shall be posted in a conspicuous and visible location at City Hall and other regular locations determined by the Zoning Administrator.

11.21.70 ***PUBLIC NOTICE***

Public Notice required to be mailed or published in a newspaper of general local circulation shall contain the following information and comply with public notice requirements of state law.

11.21.71 TYPE OF APPLICATION

The type of application, such as Development Permit, Conditional Use Permit, Variance, Appeal, Amendment to the Zoning Map or Ordinance, Planned Unit Development, Zoning Conformance Permit.

11.21.72 DESCRIPTION OF DECISION

A brief description of the decision or action sought by the applicant.

11.21.73 NAME OF OWNER, APPLICANT

The name of the land owner and applicant.

11.21.74 LOCATION OF LAND

A legal description and a general description of the location of the subject land.

11.21.75 LOCATION, DATE, TIME

The location, date and time of the public hearing or public meeting.

11.21.76 WHERE INFORMATION AVAILABLE

The location where information about the application may be viewed and the general hours available.

11.21.77 PROPOSED USE

A description of the type of use being proposed.

11.21.80 *SUPPLEMENTARY REVIEW PROCEDURES*

11.21.81 VARIANCE

Applications for Variances shall be reviewed and decided pursuant to the standards and procedures of this Section.

A. PROCEDURE

The Board of Adjustment is assigned authority to hear, consider and make recommendations to the Mayor and City Council on whether to approve, approve with conditions or disapprove applications on Variance applications. These applications are reviewed and decided pursuant to procedures in Section 11.21.48 Procedures for Decisions by Planning Board/Zoning Commission or Board of Adjustment.

B. STANDARDS

A recommendation for Approval or Conditional Approval of a Variance shall require the Board of Adjustment making each of the following Findings of Fact:

1. Special Conditions
There are special circumstances or conditions that are peculiar to the land or building for which the Variance is sought that do not apply generally to land or buildings in the neighborhood; and
2. Not Result of Applicant
The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent this Ordinance; and
3. Strict Application Unreasonable
Due to the special circumstances or conditions, the strict application of this Ordinance would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner; and
4. Necessary to Provide Reasonable Use
Granting the Variance is necessary to provide a reasonable use of the land or building; and
5. Minimum Variance
The Variance is the minimum variance necessary to allow a reasonable use of the land or building; and
6. Not Injurious
Granting the Variance will not be injurious to the neighborhood or detrimental to the public welfare; and
7. Consistent with Ordinance
Granting the Variance is consistent with the purposes and intent of this Ordinance. A variance to the Allowed Uses of a zoning district is prohibited.

C. CONDITIONS

Conditions or restrictions may be placed on the approval of a Variance.

D. EXPIRATION

A Variance shall expire one (1) year from the date of approval if the next logical step in the development process is not commenced. The next step in the development process includes but is not limited to applying for a building permit, commencing the use or applying for a Development Permit.

11.21.82 APPEALS

Any person aggrieved by a decision of the Zoning Administrator or the Planning Board/Zoning Commission may appeal the decision to the Board of Adjustment. For the purposes of this Section an aggrieved person shall be either a person who has submitted an application, received an interpretation or a person who is adversely affected by an action on an application or by an interpretation. Appeals shall be submitted, reviewed and decided pursuant to the standards and procedures of this Section.

A. INITIATION

An appeal is initiated by the aggrieved person filing a written appeal with the Zoning Administrator within thirty (30) calendar days of the decision being appealed or within thirty (30) calendar days of the date the notice appeared in the official paper of the City of Sidney, whichever is applicable.

B. CONTENTS OF APPEAL

The appeal shall include a statement describing the decision prompting the appeal, the date of that decision, the basis for the appeal, and all supporting materials related to the appeal.

C. SCHEDULING OF HEARING

The Board of Adjustment shall schedule a hearing on the appeal within thirty (30) calendar days of receipt of the written notice of appeal. This deadline may be extended by the Board of Adjustment if additional time is required to compile information that is needed to evaluate the appeal.

D. PRODUCE RECORD

The Zoning Administrator shall organize and provide to the Board of Adjustment the record pertaining to the decision being appealed.

E. HEARING

The appeal hearing shall be conducted in accordance with the Montana Administrative Procedure Act.

F. DECISION

Within thirty (30) calendar days of the close of the hearing on the appeal, the Board of Adjustment shall recommend to the Mayor and City Council to uphold, uphold with conditions or overturn the decision being appealed. In rendering the decision on the appeal, the Mayor and City Council shall have the authority of the decision-maker whose decision is being appealed.

Article 11.22.0 ENFORCEMENT

11.22.10 *PURPOSE AND INTENT*

The purpose and intent of this Article is to establish procedures for the City of Sidney to ensure compliance with this Ordinance and obtain corrections of violations that may occur. It also establishes remedies and penalties that apply to violations of this Ordinance.

11.22.20 *GENERAL*

The standards, guidelines and procedures of this Ordinance shall be enforced by the Mayor and City Council of the City of Sidney through its authority to abate any violations and enjoin and restrain any person violating this Ordinance pursuant to Montana law.

11.22.30 *VIOLATIONS*

Any of the following shall be a violation of this Ordinance and shall be subject to the remedies and penalties provided by this Ordinance.

A. ESTABLISH USE, STRUCTURE OR SIGN WITHOUT PERMIT OR APPROVAL

To establish or place any use, structure or sign upon land that is subject to this Ordinance without all required approvals, permits and certificates.

B. DEVELOPMENT WITHOUT PERMIT OR APPROVAL

To develop, construct, remodel, expand or any other activity of any nature that is subject to this Ordinance without all required approvals, permits and certificates.

C. ESTABLISH USE OR DEVELOPMENT INCONSISTENT WITH PERMIT

To engage in a use or develop, construct, remodel or expand a structure or sign, or any other activity of any nature that is inconsistent with the terms and conditions of any permit, approval, certificate or any other form of authorization required for such activity.

D. ESTABLISH USE OR DEVELOPMENT INCONSISTENT WITH ORDINANCE

To use, construct, erect, remodel, expand, maintain or move any building, structure or sign in violation of any provision of this Ordinance.

E. CREATE A NONCONFORMING CONDITION

To reduce or diminish any lot area or structure setback, or to increase the intensity or density of any use of land or structure, except in accordance with the standards and procedures of this ordinance.

11.22.40 **CONTINUING VIOLATIONS**

After the Zoning Administrator issues a written notice of violation to the owner of the land, building, structure or sign that is the subject of a violation, each calendar day the violation remains uncorrected shall constitute a separate and additional violation of this Ordinance.

11.22.50 **RESPONSIBILITY OF ENFORCEMENT, COMPLIANCE**

The Zoning Administrator shall have the responsibility to enforce this Ordinance. The owner of the land, building, structure or sign that is subject to a violation has the responsibility to eliminate the violation and achieve compliance with this Ordinance.

11.22.60 **ENFORCEMENT PROCEDURES**

In addition to any additional authorities and procedures provided to the City of Sidney by general or specific law, the following procedures shall apply to the enforcement of this Ordinance.

A. INSPECTION

The Zoning Administrator or his designee shall have the authority to enter onto land within the boundaries of the City of Sidney to inspect for violations of this Ordinance.

B. WITHHOLD PERMIT

The City may deny or withhold any permit, approval, certificate or any other form of authorization required by the provisions of this Ordinance upon determining that an uncorrected violation of this Ordinance exists on the land, building, structure or sign for which a permit or authorization is sought.

C. CONDITION A PERMIT

Instead of withholding or denying a permit or other authorization, the City may grant such authorization subject to the condition that a violation be corrected.

D. REVOCATION OR SUSPENSION OF PERMIT

The Zoning Administrator may revoke or suspend a permit, approval, certificate or other authorization upon determining any of the following actions has occurred:

1. Departure from Plans

The actions of the landowner, contractor, developer or authorized agent of the owner have departed from the approved plans or specifications, or the conditions or terms of an approved permit or other authorization.

2. False Representation

The permit, approval, certificate or other authorization was obtained by false representation or was issued in error.

3. Violation

A violation exists on the land, building, structure or sign that is subject to the permit or other authorization.

E. STOP WORK ORDER

The Zoning Administrator may require that work stop on any land, building, structure or sign that is subject to an uncorrected violation of this Ordinance or the terms or conditions of a permit or other authorization. This Stop Work Order may be issued in conjunction with or separate from a revocation or suspension of a permit.

F. INJUNCTIVE RELIEF

The City may seek an injunction or other equitable relief in court to stop any violation of this Ordinance or the terms or conditions of a permit or other authorization.

G. ABATEMENT

The City may seek a court order in the nature of mandamus, injunction, or other action to abate or remove a violation and to restore the premises to the condition that existed prior to the violation.

H. CIVIL REMEDIES

The City may seek civil penalties and other punishment provided by the law.

I. CUMULATIVE REMEDY

The City shall have any and all other remedies provided by law to enforce this Ordinance and the terms and conditions or permits, approvals, certificates and other forms of authorization issued pursuant to this Ordinance.

Article 11.23.0 DEFINITIONS

11.23.10 *PURPOSE AND INTENT*

The purpose and intent of this Article is to define words, terms and phrases that are important in the application of this Ordinance, and require specification beyond the definitions in a common dictionary to describe their applicability in this Ordinance.

11.23.20 *HIERARCHY OF REFERENCES FOR DEFINITIONS*

When a term is not defined in this chapter, the following references shall be used, in the order listed below, to determine the applicable definition. The term shall be defined for the purposes of this Ordinance as it is defined in the first of the references below to contain a definition for the term. Where a reference provides more than one definition for a term, the Zoning Administrator shall determine which definition shall be used in this Ordinance.

- A. A DEFINITION LOCATED ELSEWHERE IN CITY CODES.
- B. TITLE 76, MCA
- C. TITLE 7, MCA
- D. TITLES 70 AND 75, MCA
- E. FIND LAW ONLINE LEGAL DICTIONARY ([HTTP://DICTIONARY.LP.FINDLAW.COM](http://dictionary.lp.findlaw.com)).
- F. MERRIAM WEBSTER ONLINE ([HTTP://WWW.MERRIAM-WEBSTER.COM](http://www.merriam-webster.com)).

11.23.30 *USE OF SINGULAR AND PLURAL*

Unless otherwise specified, the terms listed apply the plural as well as singular. A term in the singular shall include the plural and a term shall include singular.

11.23.40 *DEFINITIONS*

1. **Accessory Dwelling Unit.** A subordinate building located on the same lot as the principal dwelling unit and is specifically used for residential purposes. Where part of an accessory dwelling unit is connected to part of the principal dwelling unit by a common wall, the accessory dwelling unit shall still be considered a subordinate building.
2. **Accessory Use, Building.** Accessory uses and buildings are separate uses or buildings that are customarily associated with and clearly subordinate to the principal use or principal building, ordinarily located on the same lot.

3. **Accessory Use, Building.** Accessory uses and buildings are separate uses or buildings that are customarily associated with and clearly subordinate to the principal use or principal building, ordinarily located on the same lot.
4. **Adjacent/Adjoining.** Includes all lots or parcels that directly border a subject lot or parcel on which a development is proposed, and all lots or parcels separated from that subject lot or parcel by only a public or private easement or right-of-way, including streets, railroads, and irrigation canals, or by a creek. Lots or parcels that adjoin only corner-to-corner, including those lots or parcels where corners are separated by a public or private easement or right-of-way, or creek are adjacent and adjoining.
5. **Administrator.** The City employee(s) or contractor(s) appointed by the Mayor and confirmed by the Council, who is (are) responsible for the administration of this Ordinance or any part of it. Also includes the Zoning Administrator.
6. **Alley.** A public way approximately twenty feet(20') in width which is not designed for general travel; which is used as a means of access to the rear of residences and business establishments and affords only a secondary means of access to the property abutting its length.
7. **Applicant.** The property owner, developer, or designated agent who submits an application for development under this Ordinance.
8. **Arterial Street.** A street designed to move a high volume of traffic and generally connects major parts of the City and major traffic generators.
9. **Assisted Living.** A congregate residential setting that provides or coordinates for the residents of the property personal care and assistance that is to occur on less than a 24 hour basis. The care and assistance may be both scheduled and unscheduled, and include activities and health-related services. Assisted Living does not include a nursing home or long term care facilities.
10. **Banners or Pennants.** Any announcement device affixed to poles, wires, or ropes for the purpose of announcing or promoting community events or activities or decorations for holidays.
11. **Bed and Breakfast.** A single-household dwelling which remains owner-occupied at all times providing one or more guest rooms for compensation, and where food service is limited to breakfast which may be served to overnight guests only.
12. **BOA.** The Board of Adjustment, as required by Section 76-2-222. MCA.
13. **Buffer.** A landscaped area designed to effectively separate or screen land uses.
14. **Building.** A structure enclosed by a roof and walls on all sides that is used or intended to be used to shelter any use or occupancy, including the parking or storage of vehicles.

15. **Building Identification.** A wall sign, free-standing sign, or sign letters painted on the building, which states the name of the building and does not advertise any business or product.
16. **Building Height.** The vertical distance from mean natural grade to the highest point on a building. Building height excludes chimneys, vents and antennae.
17. **Commercial.** Land uses that provide, or intend to provide, for the sale of commodities or the performance of services in return for payment or trade.
18. **Commercial Entertainment.** A commercial business that provides entertainment to the general public and includes movie theater, musical and performance theater, bowling alley, indoor skating rink, amusement game arcade and similar activities.
19. **Commercial Retail.** A commercial establishment or business that conducts retail sales of general merchandise, convenience goods or services.
20. **Conditional Use.** A land use which is not permitted by right but may be allowed in specified zoning districts upon issuance of a Conditional Use Permit.
21. **Conflict of Interest.** A circumstance in which an Official's or Employee's personal or financial interest conflicts or appears to conflict with official responsibility or when any private economic benefit may result from his or her official service. Specifically, applicable state law is Section 2-2-105, MCA.
22. **Conformance.** The compliance with all standards and regulations established by applicable code(s), laws, regulations, ordinances and other requirements. If all standards are not met, the building or property or use or other activity is nonconforming and may be illegal.
23. **Construction, Start of.** The commencement of any and all activity necessary and incidental to the erection, demolition, assembling, altering, remodeling of buildings.
24. **Development.** A generic term covering any and all activities for which a permit is required by this Ordinance including construction.
25. **Dwelling Unit.** One or more rooms designed, occupied or intended for occupancy as separate living quarters for a single household and containing a single kitchen and facilities for sleeping and bathroom.
26. **Existing Manufactured Home Park or Subdivision.** A development or subdivision for manufactured homes where the facilities were completed before the effective date of these regulations.
27. **Façade.** The exterior portion of a building at the front of a lot and any side of a building on a corner lot that faces a street without obstruction of a structure on a different lot.
28. **Family.** An individual or two or more persons living together as a single household unit.

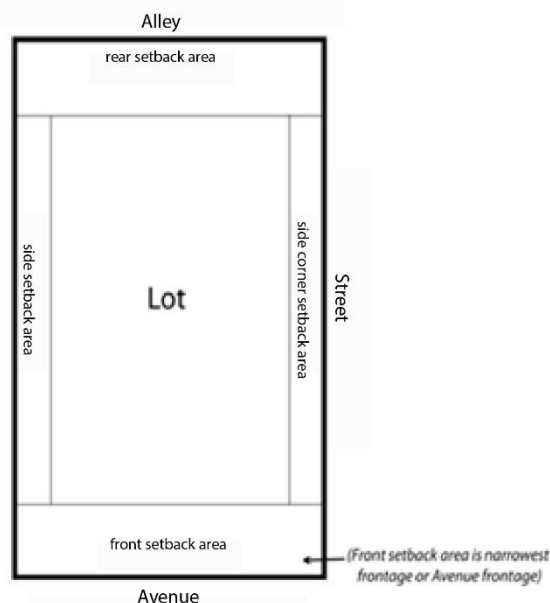
29. **Frontage.** The side of the lot that is considered the front and has the shortest dimension to an abutting street. Notwithstanding a lot may have multiple street fronts.
30. **Gambling as a Primary Use.** The primary or predominant use to which the property is or may be devoted, and to which all other uses on the property are accessory. The scale, gross floor area for each specific use, hours of operation and advertising package will be used to determine whether the gambling establishment is a primary, secondary or tertiary use.
31. **Gambling as Secondary Use.** A subordinate use of a building, other structure, or use of land;
 - a. Which is clearly incidental to the primary use of the building, other structure, or use of land; and
 - b. Which is located on the same zoned lot with the principal building, other structure, or use of land.
 - c. The scale, gross floor area for each specific use, hours of operation and advertising package will be used to determine whether the gambling establishment is a primary, secondary or tertiary use.
32. **Gambling as Tertiary Use.** A subordinate use of a building, other structure, or use of land;
 - a. Which is clearly incidental to the primary and secondary use of the building, structure, or use of land; and
 - b. Which is located on the same zoned lot with the principal building, other structure, or use of land.
 - c. The scale, gross floor area for each specific use, hours of operation and advertising package will be used to determine whether the gambling establishment is a primary, secondary or tertiary use.
33. **Hazardous Materials.** All substances that are physical and health hazards and subject to regulation as hazardous by the Fire and Safety Code. They include items such as explosives and blasting caps, compressed gasses, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, toxic materials, and other health hazards.
34. **Historic Building.** A structure originally erected before 1930 and designated as historic by a state or national agency or organization that has as its mission the preservation of historic structures, such as the National Trust for Historic Preservation.

35. **Home Occupation.** A commercial or light industrial activity conducted by the resident(s) of a dwelling as an accessory use to their dwelling. *Due to the potential deleterious effects on surrounding properties, as discussed in the Purpose and Intent associated with Home Occupations coupled with the inability to mitigate anticipated impacts, the term Home Occupation does not include a Marijuana Dispensary.*
36. **Includes/Including.** Any list or example following either of these words is not to be considered complete or comprehensive.
37. **Industrial.** Land uses that process, manufacture, assemble, package, treat or fabricate materials and products from previously manufactured materials or from raw materials, usually for the mass sale to wholesalers or other industrial uses.
38. **Intensity.** The extent to which a use or uses occurs. Intensity may be said to increase in a variety of ways, such as by expansion of physical area for a use, added hours of operation, and any change that increases traffic or noise or other nuisances.
39. **Junk Vehicle.** A vehicle that meets the definition found in 75-10-501(4) MCA.
40. **Light Industrial.** The manufacturing, fabricating or casting of individual components of a larger unit or a complete unit. All such processing must occur indoors and would not typically generate noise, vibration, smoke, dust or odor detectable at the property boundary line. Furthermore, all new materials and final components should be limited in size, bulk and weight so that they could be handled by one worker without the aid of machines.
41. **Long Term Care Facility.** A congregate residential setting that provides or coordinates for the residents of the property personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services. Long term Care Facility includes nursing home facilities but does not include assisted living facilities.
42. **Lot.** Used as both a generic term for any development site, and to refer to any parcel of land created and described by a record of survey or plat or otherwise permitted by law.
43. **Lot Coverage.** That portion of a lot or parcel in which any improvement is situated in a manner that prevents direct infiltration of water, including rooftops, paved areas, and other totally or largely impervious surfaces.
44. **Main Street Program.** The Montana Main Street Program is a program helping communities strengthen and preserve their historic downtown commercial districts by focusing on economic development, urban revitalization, and historic preservation through long-range planning, organization, design, and promotion.

45. **Manufacturing and Assembly.** Establishments or businesses that engage in the on-site production, processing or assembling of goods, generally requiring truck delivery of products and materials, and the use of tools and equipment.
46. **Marijuana Dispensary.** A Marijuana Dispensary is any building, premises, facility, or part thereof where marijuana is made available to consumers in accordance with Montana Law and all applicable Federal Rules and Regulations. A Marijuana dispensary is NOT an allowable Home Occupation.
47. **Montana Subdivision and Platting Act.** Section 76-3-101, et seq., MCA.
48. **Neighborhood Commercial Uses.** Commercial uses typically found in residential neighborhoods providing services at a small scale directly to residents in the area and designed to fit into the surrounding landscape. Examples include but are not limited to pharmacies, floral shops, coffee shops, bakery, grocery stores or convenience stores without automobile services or gas pumps.
49. **New Construction.** Structures for which construction, substantial improvement, or alteration commences on or after the effective date of this Ordinance.
50. **Nonconforming.** A structure or use that fails to comply with all applicable standards of this Ordinance. The degree of nonconformity is the measured extent to which an existing building or use fails to comply; for example, the degree of nonconformity of a parking lot that has four spaces, but serves a use requiring nine, is five parking spaces.
51. **Patio Apartment.** A residential dwelling unit specifically designed to be a ground-floor only unit with no upper levels. The use may be a rental or condo-type unit, but is limited to single-story units with limited or no stairwells.
52. **Pergola.** A structure usually consisting of parallel colonnades supporting an open roof of girders and cross rafters
53. **Planning Board.** The Sidney Planning Board, appointed as authorized by Section 76-1-101, et seq., MCA.
54. **Occupancy.** The use or habitation of a building, structure or lot. A change in occupancy is the change from the existing use to another use identified in the Allowed Uses tables of this Ordinance.
55. **Outdoor Storage.** The keeping, stockpiling, or storing of materials for any reason in the out of doors.
56. **Permit.** An action by the City that allows a proposed development to proceed.
57. **Pharmacy.** A retail establishment where prescription drugs and medicine are sold. A pharmacy can be a standalone facility or combined with an establishment that sells other retail items. The term pharmacy does not include a Marijuana Dispensary.

58. **Recreational Vehicle.** A motor home, travel trailer, truck camper or camping trailer that is:
 - a. Built on a single chassis;
 - b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
 - c. Designed to be self-propelled or permanently tow-able by a light duty truck; and
 - d. Designed primarily for use as temporary living quarters for recreation, camping, travel, seasonal, or emergency use, and not for use as a permanent dwelling.
59. **Recreational Vehicle Park.** Any lot or parcel used for temporary occupancy by recreational vehicles. Recreational vehicle parks are subdivisions.
60. **Retail.** See Commercial Retail.
61. **Setback.** The shortest distance between the property line and extremity of the building.
 - a. Front Setback is the distance between the nearest point on a structure and the right-of-way at the front of the lot.
 - b. Rear Setback is the distance between the nearest point on a structure and the rear property line opposite the front setback.
 - c. Side Setback is the distance between the nearest point on a structure and the side property lines that are perpendicular, or more or less perpendicular, to the front setback.

Setback Diagram



62. **Sewerage.** Refers to the entire system (mains, treatment plant, etc.) used to collect, and treat and discharge sewage wastes.
63. **Sexually Oriented Business.** Sexually oriented business means an adult arcade, adult bookstore or adult video store, adult cabaret, adult motel, adult motion picture theater, escort agency, nude model studio, or similar facilities.
64. **Side Street.** A street not parallel to an alley.
65. **Sign.** Any object or structure used to identify, advertise, or in any way attract or direct attention to any use, building, person, or product by any means, including, but not limited to, the use of lettering, words, pictures, and other graphic depictions or symbols.
66. **Single-Household Dwelling.** A building or part of a building designed for occupancy by one family. By state law, this includes foster and youth homes, community residential facilities, and manufactured homes that:
 - a. Comply with the National Manufactured Home Construction and Safety Standards Act (42 USC 5401, as amended) or the IRC or IBC; and
 - b. Are at least 1,000 square feet in size; and
 - c. Are attached to a permanent foundation and, where available, permanently connected to municipal utilities; and
 - d. Have a pitched roof and siding materials typically found on site-built homes in Sidney. Mobile homes, recreational vehicles, and travel trailers are not single-household dwellings.
67. **Site Plan.** A map which details property lines, structure placement, parking lots and other features on the property.
68. **Sketch Plan.** A general or conceptual site plan of a development.
69. **Structure.** Any object constructed, installed, or placed by man, including, but not limited to, buildings, towers, smokestacks, earth formations, liquid storage tanks, fences, and overhead transmission lines.
70. **Substantial Damage.** Damage sustained by a structure where the cost of restoring the structure to its condition before damage would equal or exceeds fifty (50) percent of the floor area of the structure before the damage occurred.
71. **Substantial Improvement.** Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty (50) percent of the floor area of the structure either before the improvement or repair is started or, if the structure is damaged and is being restored, before the damage occurred. Substantial improvement occurs when the first construction to any wall, ceiling, floor, or other structural part of the building commences. The term does not include:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

- b. Any alteration of a structure listed on the National register of Historic Places or state inventory of historic places.
72. **Such As.** Any list or example following this phrase is not to be considered complete or comprehensive.
73. **Use.** A purpose or activity on a lot or in a structure.
74. **Variance.** A modification of the specification or performance standards of any code, law, regulation, or requirement, where the modification sought or permitted for a specific property, lot or parcel is not normally allowed.
75. **Warehousing.** A building or property where goods, merchandise or equipment are stored for eventual distribution to retail or other establishments. Warehousing includes the storage of commodities, refrigerated items, and general merchandise.
76. **Written (or Writing).** Includes any form in which words are provided in a visual form that can be copied, filed, stored, forwarded (as opposed to spoken or oral words) and, unless specifically excluded, includes electronic composition, delivery, and storage (e.g., e-mail).
77. **Xeriscape landscaping.** Landscaping and gardening that reduces or eliminates the need for supplemental water from irrigation and uses drought tolerant vegetative species, gravel, rocks, and other materials.
78. **Zoning Administrator.** The City employee(s) or contractor(s) appointed by the Mayor and confirmed by the City Council, who is (are) responsible for the administration of this Code or any part of it.