

## **CURRENT ZONING APRIL 2023**

### **Title 17 ZONING<sup>1</sup>**

**Chapters:**

#### **Chapter 17.04 TITLE, PURPOSE AND DEFINITIONS**

**Sections:**

**17.04.010 Title.**

The ordinance codified in this chapter shall be known as the "Zoning Ordinance of the City of Hamilton" and shall be referred to in this title as "this Title 17."

(Ord. 225 (part), 2003)

**17.04.020 Authority.**

This Title 17 is adopted under the authority of the Municipal Zoning Enabling Act (MCA 76-2-301 through 76-2-328).

(Ord. 225 (part), 2003)

**17.04.030 Purpose and intent.**

A. The purpose of this Title 17 is to adopt and enforce such regulations that:

1. Are designed in accordance with the growth policy;
2. Are designed to lessen congestion in the streets;
3. Will secure safety from fire, panic and other dangers;
4. Will promote health and the general welfare;
5. Will provide adequate light and air;
6. Will prevent the overcrowding of land;

---

<sup>1</sup>Note(s)—Prior history: Prior code §§ 11.02.010—11.02.051, 11.02.061—11.02.070, 11.02.072, 11.02.074, 11.02.076, 11.02.078—11.02.079, 11.02.082—11.02.084, 11.02.090, 11.02.095, 11.02.098, 11.02.100, 11.02.109, 11.02.211—11.02.212, 11.02.220—11.02.232, 11.02.235—11.02.271, 11.02.285—11.02.300, 11.02.400, 11.02.450—11.02.455, 11.02.500, 11.02.600, 11.03.010—11.03.140, 11.03.160—11.03.260, 11.03.310—11.03.360, 11.04.010—11.04.040 as amended by Ords. 131, 139, 153, 159 and 179.

- 
7. Will avoid undue concentration of population;
  8. Will facilitate the adequate provision of transportation, water, sewerage, schools, parks and other such public requirements;
  9. Give reasonable consideration to the character of the district;
  10. Give reasonable consideration to the district's particular suitability for specific uses;
  11. Give reasonable consideration to conserving the value of buildings; and
  12. Will encourage the most appropriate use of land throughout the jurisdictional area.
- B. Further, the intent of this Title 17 is to:
1. Insure that the land uses of the community are properly situated in relation to one another, providing adequate space for each type of development and preventing problems associated with incompatible uses;
  2. Control the density of development in each area of the community so that property can be adequately served by public facilities such as streets, schools, recreation and utility systems;
  3. Direct new growth into appropriate areas;
  4. Protect existing property by requiring that development afford adequate light, air and privacy for persons living and working within the municipality;
  5. Improve the quality of the physical environment of the community;
  6. Protect and maintain property values;
  7. Preserve and develop the economic base of the community; and
  8. Encourage the provision of affordable housing for households of all income levels.
- C. It is also the intent of this title that it shall apply to all pending variances and conditional use permit applications, building permits and other requests and actions under this Title 17 and as it relates to other provisions of the Hamilton Municipal Code.

(Ord. 225 (part), 2003)

### **17.04.040 Definitions.**

- A. Intent. This section defines certain words and terms as they are used in this title.
- B. General.
1. Words used in the present tense include the future;
  2. The singular number includes the plural and the plural includes the singular;
  3. The words "shall" and "will" are mandatory;
  4. The word "may" is permissive;
  5. The word "should" is a preferred alternative;
  6. The word "lot" shall include the words "plot," "piece," "tract" and "parcel."

"Accessory dwelling unit" or ADU means a separate dwelling unit within or attached to a single-family dwelling, a separate dwelling unit that occupies an accessory building located on the same lot as a single-family

---

dwelling, or a detached dwelling unit located on the same lot as a single-family dwelling. Accessory dwelling units shall be located in a structure that is permanently located on the ground.

"Affordable Housing" means housing for individuals or families earning less than 120% of the Area Median Income (AMI) for ownership housing and 80% AMI for rental housing.

"Agriculture" means the production of food, feed and fiber commodities, livestock and poultry, bees, fruits and vegetables and sod, ornamental, nursery and horticultural crops that are raised, grown or produced for commercial purposes or the raising of wildlife in domestication or a captive environment. For the purpose of this Hamilton Municipal Code, Title 17, Chapter 4, agriculture does not include feed lot operations.

"Airport" or "airstrip" means a place, on either land or water, where aircraft may land and take off, discharge or receive cargo and passengers, make repairs and take on fuel.

Alcoholic beverage establishment on-site. "On-site alcoholic beverage establishments" means those establishments under Montana Statutes, which permit the on-site sale and consumption of alcoholic beverages, including but not limited to cabarets, taverns and cocktail establishments.

"Alley" means a dedicated right-of-way set aside for vehicular traffic, entering or going through a city block. Minimum width is twenty (20) feet.

"Apartment" means a room or suite of rooms which include bath and kitchen accommodations, intended or designed to be used as an independent residence by an individual or family.

"Block" means a parcel of land bounded on all sides by streets, railroads and or physical barriers such as bodies of water.

"Boarding house" means a building other than a hotel where, for compensation and by prearrangement, meals and lodging are provided for two to ten persons.

"Building" means a structure having walls and a roof, permanently located on the ground, either directly or by being attached to a structure located on the ground. Separate parts of a building divided by an unpierced wall shall be deemed separate buildings.

Buildings, accessory. "Accessory building" means a subordinate building on the same lot, occupied by or devoted to a use incidental to the main use. Any building, garage, storage shed, greenhouse or any other structure other than the main dwelling unit that is not attached or connected to the main dwelling unit.

"Building area" means that portion of the lot that may be occupied by buildings after setback and open space requirements are met.

"Building height" means the vertical distance from the average elevation of the proposed final grade at the front of a building to the highest point of a flat roof, or the deck of a mansard roof or the mean height between the eaves and the ridge.

Building, main. "Main building" means a building in which is conducted the principal use of the lot where it is located.

"Building site" means a parcel of land occupied or intended to be occupied by uses and structures and which abuts a public street, road or highway or a private road which conforms to approved standards.

"Casino" means a business whose purpose is gambling and has fifteen (15) or more gambling machines.

"Common area" means those areas within the property of an association of unit owners of town homes pursuant to MCA 70-23, Part 1 but which are not under the individual private ownership of one unit owner. Common areas include landscaped areas other than patios of individual units.

"Community center" means a building designed and used for recreational or social assemblies or for educational, health or welfare purposes (public or private).

---

"Community residential facility" means a community group home for developmentally disabled persons which does not provide skilled or intermediate nursing care, a youth foster home or youth group home as defined in Section 41-3-1102, MCA, a halfway house operated in accordance with regulations of the Department of Health and Environmental Sciences for the rehabilitation of alcoholics or drug dependent persons or a licensed adult foster family care home.

"Conditional use structure" means a structure not allowed in a district as a matter of right, but which is allowed upon findings of the zoning board of adjustment that such use is in harmony with the principal uses of the district.

"Conditional use" means a use not allowed in a district as a matter of right, but which is allowed upon findings of the zoning board of adjustment that such use is in harmony with the principal uses of the district.

"Condominium" means a form of dwelling in which an independently owned unit is located in a building and on land, both of which are commonly owned, usually by a homeowners' association. Includes similar units used for business purposes. Condominiums shall only be established as a part of a planned unit development.

"Corner frontage" means property that fronts two intersecting streets.

Day care or pre-school. See Montana Code Annotated Section 52-2-703.

"Director of public works" or "community development" means the appointed administrative manager of the Department of Public Works and Community Development Department.

"Double frontage" means property that fronts two parallel streets.

Downtown core business area. That area of downtown Hamilton which is bounded on the east beginning at Highway 93 (First Street) at the intersection of State Street, then north to Cherry Street, then westerly to the alley between Highway 93 and Second Street, then northerly to Pine Street, then westerly to Fourth Street, then southerly to Pinckney Street, then westerly to Fifth Street, then southerly to State Street, then easterly to the alley between Third Street and Fourth Street, then southerly to Bedford Street, then easterly to Second Street, then northerly to State Street, then easterly to the point of beginning at Highway 93 (First Street).

"Dwelling" means a building, or portion thereof, used for residential purposes providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation, that meets the requirements of the city's adopted International Building Code. Dwellings do not include hotels or motels.

Dwelling, single-family. "Single-family dwelling" means a building with one individual residential unit.

Dwelling, multiple-family. "Multiple-family dwelling" means a building or portion of a building with two or more individual residential units, or residential condominiums, or townhouses.

"Easement" means the right to use property owned by another for specific purposes.

"Educational services" includes but are not limited to occupations that are concerned with imparting knowledge of the arts, sciences or other fields of learning or of physical activities; or with teaching, advising or instructing others in any of these fields or in vocations. It includes but is not limited to educational institutions, medical and vocational schools, tutorial services, public or private, non-profit or for profit schools, religious schools, athletic training, dance schools, Braille institutes, clinic consultants, child development centers, preschools, driving schools, music instruction, correspondence schools and art schools.

"Factory built building" means State of Montana approved factory built buildings or other type of prefabricated housing unit built under the National Mobile Home Construction and Safety Standards Act of 1974 and bearing the appropriate certification of inspection from the Department of Housing and Urban Development. Factory built buildings require certification from the manufacturer that the building was built in accordance with the approved plans.

---

"Family" means one or more persons occupying a dwelling unit as a single, nonprofit, housekeeping organization.

"Feed lot operation" means an enterprise in which fifty (50) or more cattle, swine, sheep, horses or similar livestock are fed and fattened for market and where sixty (60) percent or more of the feed is imported or purchased.

"Fence" means a structure constructed of wood, metal, block, brick, stone or any other material other than natural vegetation to create a barrier.

"Fence, sight obstructing" means any fence structure where the fence material obstructs twenty-five (25) percent or more of the clear visibility through the fence.

"Fence, non-obstructing" means any fence structure where the fence material obstructs twenty-five (25) percent or less of the clear visibility through the fence.

"Financial services" includes but is not limited to occupations in financial organizations, including banks and trust companies, mortgage associations, savings and loan associations, credit unions, personal finance companies, foreign exchange establishments, security and commodity-contract dealerships, investment brokerage firms, exchanges, tax consultants and accounting firms.

"Frontage" means that lot with a linear distance along a dedicated road, street, highway or right-of-way which is used to provide the primary means of access to a lot.

Garage, public. "Public garage" means a building or portion of a building, other than a repair garage, used for paid storage or hire of motor vehicles; the sale of gasoline, oil and accessories is incidental to the principal use.

"Governing body" means the Hamilton city council or its designee.

"Grandfather," "grandfathered," or "grandfathering" are terms to describe a pre-existing condition that fails to conform to current, federal, state or city regulations. A pre-existing or nonconforming condition may remain until such time as a change or alteration is made to the nonconforming condition. If the item cannot be brought into compliance with current regulations, a new variance or conditional use permit would be required.

Group home. See Montana Code Annotated Sections 53-20-302 and 41-3-1102.

"Health related services" includes but is not limited to holistic medicine and natural food stores, acupuncturists, acupressure and massage therapy, chiropractor offices and naturopathic doctor's offices.

"Home occupation" means a for-profit activity carried on in a dwelling as a use subordinated to the primary use.

"Hospital" means a licensed institution where sick or injured persons receive medical care.

"Hotel" means a building with ten or more sleeping rooms which are provided to transient guests for compensation.

"Junk yard" means land or buildings where waste or discarded or salvaged materials are brought, sold, stored, exchanged, cleaned, packed, disassembled or handled.

"Kennel" means a place where six or more domestic animals are kept, whether as pets or commercially.

"Landscaping" means natural vegetation or any combination of natural and man-made materials intended to enhance the appearance or mitigate the adverse effects of the use of a property.

"Livestock" means cattle, sheep, swine, goats, horses, mules, asses, llamas, alpacas, bison, ostriches, rheas, emus and domestic ungulates.

"Lodging house" means a building where lodging is provided for three to nine persons by prearrangement and for compensation.

---

"Lot" means a parcel of land in a subdivision or a parcel of deeded land for which the subdivision map or the deed is recorded in the office of the county clerk and recorder.

Lot, corner. "Corner lot" means a lot located at the intersection of two streets or a lot bounded on two sides by a curving street, two cords of which form an interior angle of one hundred thirty-five (135) degrees or less.

"Lot coverage" means the area of a lot occupied by the main building or buildings and accessory buildings.

Lot, double frontage. "Double frontage lot" means an interior lot having frontage on two parallel or approximately parallel streets.

"Lot depth" means the mean horizontal distance between the front and rear lot lines.

Lot, frontage. Required "lot frontage" is measured at the front setback as required for the zoning district. Cul-de-sac lots and knuckle lots shall permit a reduction of lot width at the front property line not to exceed fifteen (15) feet.

Lot, interior. "Interior lot" means a lot other than a corner lot.

"Lot width" means the distance between the side lot lines measured at right angles to the lot depth at the established front building line.

"Manufactured home" means a residential dwelling built in a factory in accordance with the United States Department of Housing and Urban Development Code and the Federal Manufactured Home Construction and Safety Standards. A manufactured home does not include a mobile home, as defined in Section 61-1-501, a house trailer as defined in Section 61-1-501 or a mobile home or house trailer constructed before the Federal Manufactured Home Construction and Safety Standards went into effect on June 15, 1976.

"Marijuana" means all plant material from the genus Cannabis containing tetrahydrocannabinol (THC) or seeds of the genus capable of germination. The term does not include hemp and its derivatives as specified in Section 16-12-102, MCA.

"Marijuana Business" means a marijuana cultivator, manufacturer, dispensary, combined-use licensee, testing laboratory, transporter, or any other business or function that is licensed by the state.

"Marijuana Cultivator" means a use operated by a person licensed by the State of Montana to plant, cultivate, grow, harvest, and dry marijuana; OR package and relabel marijuana produced at the location in a natural or naturally dried form that has not been converted, concentrated, or compounded for sale through a licensed dispensary.

"Marijuana Dispensary" means a registered premises from which a person or entity licensed by the State of Montana may obtain marijuana or marijuana products from a licensed cultivator, manufacturer, dispensary, or other licensee approved by the State; and sell marijuana or marijuana products to registered cardholders, adults that are 21 years of age, or both.

"Marijuana Manufacturer" means a use operated by a person licensed by the State of Montana to convert or compound marijuana into marijuana products, marijuana concentrates, or marijuana extract and package, repack, label, or relabel marijuana products.

"Marijuana product" means a product that contains marijuana and is intended for use by a consumer by a means other than smoking. The term includes but is not limited to edible products, ointments, tinctures, marijuana derivatives, and marijuana concentrates.

"Marijuana Testing Laboratory" means the qualified person licensed by the state that provides testing of representative samples of marijuana and marijuana products; and provides information regarding the chemical composition and potency of a sample, as well as the presence of molds, pesticides, or other contaminants in a sample.

---

"Marijuana Transporter" means a person that is licensed to transport marijuana and marijuana products from one marijuana business to another marijuana business, or to and from a testing laboratory, and to temporarily store the transported retail marijuana and retail marijuana products at its licensed premises, but is not authorized to sell marijuana or marijuana products to consumers under any circumstances.

"Medical services" includes but is not limited to professional occupations concerned with treating and caring for sick and injured persons and animals. It includes but is not limited to medical facilities, hospitals, sanitariums, clinics, doctor's offices, dentist offices, pharmacies, medical supplies and equipment, medical research, medical and dental related experimental and testing laboratories, emergency medical services, ambulance services, occupational therapy, physical therapy, rehabilitation facilities, immunology and serology laboratories, blood banks, nursing services, medical house keeping services, midwifery offices, prosthetic supplies, imagery centers, dietetics, optical and ophthalmological services, and veterinarian services including laboratories, veterinary bacteriology, parasitology and pharmacology.

"Mini-storage units" means a multiple storage buildings, usually attached with common walls, available for leasing.

"Mobile home" means forms of housing known as "trailers," "house trailers" or "trailer coaches" eight feet or more in width or forty-five (45) feet or more in length, designed to be moved from one place to another by an independent power connected to them.

"Mobile home park" means five acres of land or more upon which two or more mobile homes, occupied for dwelling or sleeping purposes, are located, regardless of whether a charge is made for such accommodation.

"Motel" means a group of attached or detached buildings containing individual sleeping units for transient guests where a majority of such units open individually and directly to the outside or to an interior corridor and where parking is located on the premises.

"Nonconforming use" means a use of a building or land which was lawful when this Title 17 or amendments to it were passed, but which no longer conforms to the uses allowed in the district in which it is located.

"Nursing home" or "convalescent home" means a facility used for the care of the aged or infirm. Services provided do not include surgical care for treatment of disease or injury.

"Personal service facility" means a retail establishment where cleaning, maintenance or repair of clothing is done, or where services to improve personal physical appearance are performed.

"Planned unit development" means a land development project in which flexible and efficient use of land and services is encouraged while preserving and enhancing open space and natural or historical features. Such development may include public, commercial and/or residential uses.

"Recreational vehicle (RV)" means a vehicular unit eight feet or less in width, designed as temporary living quarters for recreational camping or travel use, and operated under its own motive power or mounted on or drawn by another vehicle. Includes travel trailer, camping trailer, truck camper and motor home.

"Restaurant" means an establishment serving food and beverages, including but not limited to coffee shop, cafeteria, short order cafe, luncheonette, grille, tearoom, sandwich shop, soda fountain, tavern, bar, cocktail lounge or similar place where food and drink is prepared, served or provided to the public with or without charge.

"Right-of-way, (dedicated public)" means a strip of land publicly owned by the city that various types of city infrastructure may be constructed within (i.e., sidewalks, curbs, gutters, streets, boulevards, water mains, sewer mains, storm drains, street lights. This list of examples is not all inclusive).

"RV park" means a site used for temporary parking of motor homes, travel trailers or tents.

"Service station" means a building or premises where automobile fuels, lubrication oil or grease, tires, batteries or minor automobile accessories are sold and/or installed, except when such sales and services are incidental to the conduct of a public garage.

---

"Setback" means the required distance between lot lines and any structures as established by the regulations for each zoning district.

"Short-term rental" means a building or part of a building that is rented by or on behalf of the owner to the general public for compensation for transient guests.

"Sign" means any advertising device designed to inform or to draw attention to goods and/or services available.

"Special use" means a use which because of its unique or varying characteristics, cannot properly be classified as an allowed use in a particular zone district. Special Uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed special use, its relationship to the surrounding land uses and its impacts on traffic capacities, potential environmental effects, compatibility with the neighborhood, and conformance to adopted policies, guidelines, plans and regulations of the City of Hamilton. Prior to establishment of a special use, a special use permit must be approved or approved with conditions deemed necessary and appropriate solely by the City of Hamilton City Council. Special Use applications shall be reviewed by the planning board at a public meeting. The planning board shall make a recommendation to the city council regarding whether the special use should be approved, approved with conditions or denied. The city council shall conduct a public hearing to consider the special use and determine if the special use shall be approved, approved with conditions or denied.

"Story" means that portion of a building included between the surface of any floor and the surface of the next floor above, or if there is no floor above, the space between the surface of any floor and the ceiling above. A basement is considered a story if the distance measured between the established floor and the ceiling is six feet or more.

"Street" means any public or private surfaced or unsurfaced thoroughfare that provides vehicular movement.

Street, dedicated. "Dedicated street" means a public-owned thoroughfare that provides vehicle movement.

"Street, primary. "Primary street" means the dedicated public street and/or private street of which the main building's main entrance faces.

Street, private. "Private street" means a privately owned thoroughfare that provides vehicle movement.

"Structure" means anything constructed or erected, and permanently located on the ground either directly or by being attached to a structure located on the ground. A structure is not necessarily a building, but a building is a structure.

"Townhouse" means a form of multiple-family dwelling in which the owner of each dwelling unit owns the land underneath the unit in addition to sharing in joint ownership of the common areas of the development.

"Transient guest" means an occupant who is temporary in nature, staying at one location for twenty-eight (28) days or less.

"Two-family dwelling" means a form of multiple-family dwelling in which two individual living units are within one structure under common ownership.

"Use" means the principal purpose for which land or premises or a structure is designed, arranged, intended, occupied or maintained.

Use, accessory. "Accessory use" means a use incidental to the principal allowed use of a lot or building located on the same lot.

"Variance" means the deviation of height, area, size and open space limitations of this Title 17, where specific physical conditions unique to the site would create an unreasonable hardship in the development of the site for allowed uses.



---

"Vehicle broker" means an individual or company who:

- a. Engages in the business of offering to procure or procuring a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle on behalf of another; or
- b. Represents to the public through solicitation, advertisement, or otherwise that the person is one who offers to procure or procures a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle by negotiating purchases, contracts, sales, or exchanges on behalf of another and who does not store, display, or take ownership of a motor vehicle, a trailer, a semitrailer, a pole trailer, a travel trailer, a motorboat, a personal watercraft, a snowmobile, or an off-highway vehicle.

"Yard" means the open space unoccupied and unobstructed from the ground upward by any portion of a structure which is located on the same lot with a building.

Yard, front. "Front yard" means the open space between the side lot lines and lying between the front property line and the nearest building on the lot.

Yard, rear. "Rear yard" means the open space between the side lot lines and lying between the rear property line and the nearest building on the lot.

Yard, side. "Side yard" means the open space between the front and rear property lines and lying between the side property line and the nearest building on the lot.

"Zoned lot" means a legally described parcel that is located within a defined zoning district within the city boundaries.

(Ord. 225 (part), 2003)

(Ord. No. 286, Exh. A, 4-17-07; Ord. No. 294, 1-8-08; Ord. No. 370, 6-19-12 ; Ord. No. 375, 2-18-13 ; Ord. No. 404 , § 1, 11-19-19; Ord. No. 409 , § 1, 7-21-20; Ord. No. 417 , § 1, 2-16-21)

## **Chapter 17.08 ADMINISTRATION**

### **Sections:**

#### **17.08.010 Jurisdictional area.**

The zoning jurisdiction of the City of Hamilton shall include the land within the corporate limits of the city.

(Ord. 225 (part), 2003)

#### **17.08.020 Amendment to zoning district boundaries.**

- A. Changes to district boundaries may be initiated by:
  1. An application signed by one or more land owners of property affected by the proposed zoning district boundary change, accompanied by a nonrefundable processing fee; or
  2. By the city council.
- B. Procedure.

- 
1. The zoning commission shall hold a public hearing on a proposed zoning district boundary changes within thirty (30) calendar days after a completed application and all exhibits have been submitted. The zoning commission shall forward its recommendation to the city council within thirty (30) calendar days of the zoning commission's public hearing.
  2. The city council shall hold a public hearing on a proposed zoning district boundary changes within sixty (60) calendar days after receiving a recommendation from the zoning commission.
  3. Fifteen (15) days before the public hearing the city shall:
    - a. Mail notice of the hearing to all property owners within the affected area and within three hundred (300) feet of the exterior boundaries of the area; and
    - b. Publish notice of the hearing in a newspaper of general circulation in the city, printing twice with no less than six days separating the publications.
  4. The city council shall approve or deny the zoning district boundary change.

(Ord. 225 (part), 2003)

### **17.08.030 Official zoning map.**

- A. The official zoning map of Hamilton, Montana, and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this title. The official zoning map shall illustrate the current boundaries of all established zoning districts.
- B. Maintenance of the official zoning map.
  1. The official zoning map shall be kept in the city clerk's office and in the office of the zoning administrator. It shall be the final authority as to the current status of zoning districts in the City of Hamilton.
  2. The official zoning map shall bear the signature of the mayor, attested to by the city clerk, and the date of adoption of the ordinance codified in this title.
  3. The official zoning map shall bear the seal of the city under the following words, "This is to certify that this is the official zoning map of Hamilton, Montana, referred to in Chapter 17.08 of the Hamilton Municipal Code."
  4. Whenever any change is made to a zoning district boundary in accordance with the procedures set forth in this title, such change shall be promptly entered on the official zoning map, and a copy of the enabling ordinance shall be attached to the map.
  5. In January of each year, the official zoning map shall be updated to reflect the zoning district boundary changes that were approved to and attached to the official zoning map during the previous calendar year. The official zoning map shall be changed by resolution of the city council.
- C. Loss, damage or destruction of the official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the city council may by resolution adopt a new official zoning map which shall supercede the prior official zoning map. The resolution may correct drafting or other errors or omissions in the prior map.

(Ord. 225 (part), 2003)

---

**17.08.040 Zoning commission—Establishment and membership—Responsibilities.**

- A. Establishment and membership. The city council shall establish a zoning commission and shall appoint members to the commission. The membership of the zoning commission shall be composed of one member of the Hamilton planning board, one member of the Hamilton zoning board of adjustment, one member of the Hamilton city council and four residents of the City of Hamilton at large. The four at large members shall have a term of two years and all other designated members shall be appointed or reappointed at the first council meeting in January each year by the city council. All members of the zoning commission must reside within the city limits of Hamilton.
- B. Responsibilities. After the required public notice, the zoning commission shall conduct a public hearing on any application to zone unzoned land or to change district boundaries.

(Ord. 230 (part), 2004; Ord. 225 (part), 2003)

( Ord. No. 419 , § 1, 2-16-21)

**17.08.050 Zoning board of adjustment—Establishment and membership—Responsibilities  
zoning board of adjustment membership.**

- A. The board shall:
  - 1. Consist of seven members, all of whom reside within the Hamilton city limits;
  - 2. Be appointed by the mayor with the consent of the city council;
  - 3. Be appointed for a term of three years; and
  - 4. Make decisions by a concurring vote of four members.
- B. Functions.
  - 1. To determine whether proposed conditional uses are appropriate and in the best interests of the public;
  - 2. To hear and decide the merits of appeals from the terms of the zoning regulations;
  - 3. To hear and resolve appeals of administrative actions in enforcing this Title 17. Such appeals shall be initiated within thirty (30) days of the administrative action.
- C. Zoning board of adjustment action.
  - 1. A quorum shall consist of four members;
  - 2. Concurring votes of at least four members of the zoning board of adjustment are required to conduct zoning board of adjustment functions, as listed in Section 17.124.030;
  - 3. Abstentions shall not be recorded as affirmative or negative votes; and
  - 4. If the zoning board of adjustment cannot act because of absences, abstentions, conflicts of interest or vacancies, the zoning board of adjustment shall refer the request to the city council for resolution. Concurring votes of at least four members of the city council are required.

(Ord. 225 (part), 2003)

---

### **17.08.060 Zoning administrator—Duties.**

- A. The city council shall designate a zoning administrator to administer and enforce this title. The mayor may direct city personnel or departments to provide assistance as appropriate.
- B. Duties of zoning administrator. Where the zoning administrator finds that any of the provisions of the ordinance codified in this title are being violated, the zoning administrator shall notify in writing the person responsible for such violations, indicating the nature of the violation and ordering the action necessary to correct it. The zoning administrator shall order the discontinuance of illegal buildings or structures or if illegal, additions, alterations or structural changes; or shall take any other action authorized by this title to ensure compliance with or to prevent violation of its provisions.

(Ord. 230 (part), 2004; Ord. 225 (part), 2003)

### **17.08.070 Procedures for hearing and action on appeals from actions of the zoning administrator.**

- A. The zoning board of adjustment shall hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made by any administrative official or body in the enforcement of this title.
- B. Any person or any officer of the municipal government may file a notice of appeal of any decision made by an administrative person or body within sixty (60) days of the date the subject decision was made. The notice of appeal, submitted to the zoning administrator, must comply with the rules adopted by the zoning board of adjustment.
- C. The zoning administrator shall promptly transmit to the zoning board of adjustment the notice of appeal and all papers constituting the record of the subject decision.
- D. The zoning board of adjustment shall fix a reasonable time for a hearing of the appeal, give public notice and notify the affected parties. At the hearing, any party may appear in person or be represented by agent or attorney.
- E. The zoning board of adjustment, in conformity with the provisions of the ordinance codified in this title, may reverse, affirm, wholly or in part, or modify the order, decision or action appealed and may make such order, decision or action as deemed necessary, and to that end shall have the powers of the administrative official whose decision is appealed.
- F. Stay of proceedings. An appeal stays all proceedings in furtherance of the action appealed, unless the administrative official from whom the appeal is taken certifies to the zoning board of adjustment after the notice of appeal is filed, cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order which may be ordered by the zoning board of adjustment or by a court of record on application, on notice to the officer from whom the appeal is taken and for due cause.

(Ord. 225 (part), 2003)

### **17.08.080 Appeals from decisions of the zoning board of adjustment.**

Appeals from decisions of the zoning board of adjustment may be made in accordance with Sections 76-2-327 and 76-2-328, MCA.

- A. Any person or persons, jointly or severally, aggrieved by any decision of the zoning board of adjustment, any taxpayer, or any officer or department of the municipality, may present to a court of

---

record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the zoning board of adjustment.

- B. Upon presentation of such petition the court may allow a writ of certiorari directed to the zoning board of adjustment to review such decision of the zoning board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which may not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the zoning board of adjustment and on due cause shown, grant a restraining order.
- C. The zoning board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other fact as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- D. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law. Such evidence shall constitute a part of the proceedings upon which the determination of the court will be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
- E. Cost shall not be allowed against the zoning board of adjustment unless it appears to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

(Ord. 225 (part), 2003)

### **17.08.090 Filing a complaint.**

- A. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis of the violation, shall be filed with the zoning administrator. He shall properly record the complaint and immediately investigate and take action as provided by this chapter.
- B. Penalties.
  - 1. Violations of the provisions of the ordinance codified in this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the grant of variances or conditional uses or any of the requirements for conditions imposed by the city council, shall constitute a misdemeanor. Any person who violates the ordinance codified in this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) for each offense or imprisoned not more than six months or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense and be punishable as such (Section 76-2-15, MCA).
  - 2. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties specified in this section.
  - 3. Nothing set forth in this section shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.

(Ord. 225 (part), 2003)

---

### **17.08.100 Severability clause.**

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

(Ord. 225 (part), 2003)

## **Chapter 17.12 ZONING DISTRICTS DESIGNATED**

### **Sections:**

#### **17.12.010 Districts.**

The City of Hamilton shall be divided into the following zoning districts and overlay options:

- A. Single-family residential district (RS);
- B. Multiple-family residential district (RM);
- C. High density multiple-family residential district (RH);
- D. Historical district Reserved (HD);
- E. Mobile home park residential district (MHP);
- F. Recreational vehicle park district (RVP);
- G. Professional services business district (PS);
- H. Transitional neighborhood business district (B);
- I. Local business district (B-1);
- J. Highway related business district (B-2);
- K. Central business district (CBD);
- L. Commercial/manufacturing district (C/M);
- M. Manufacturing/industrial district (M/I);
- N. Public institutional district (PI);
- O. Planned unit development (PUD) overlay Reserved (PUD).

(Ord. 225 (part), 2003)

## **Chapter 17.16 GENERAL REGULATIONS AND DEVELOPMENT STANDARDS FOR ALL DISTRICTS**

### **Sections:**

---

(Supp. No. 2)

Created: 2021-07-01 19:13:38 [EST]

---

### **17.16.010 General regulations for all districts.**

- A. Buildings erected, altered or moved after the effective date of the ordinance codified in this title shall meet the requirements specified in the chapter governing the district in which each are located.
- B. A yard required by this chapter for one building shall not be included as part of the yard required for another building.
- C. Control and disposal of surface run-off is the responsibility of each property owner and shall not be directed onto adjoining lots or public rights-of-way.
- D. Reserved.
- E. Title 13 shall also apply to each and every district established by this Title 17.
- F. No "livestock" as defined in Section 17.04.040, of the Hamilton Municipal Code (HMC), shall be kept within the city limits at any time for any purpose.
- G. The construction, reconstruction, modification or placement of a building in the City of Hamilton is subject to the provisions of the building code(s) adopted by the city as well as the provisions of the applicable zone district and all other requirements of the Hamilton Municipal Code.
  - 1. At a minimum, any application for the establishment of a new land use or the construction, reconstruction, modification or placement of a building in the City of Hamilton shall contain the following information.
    - a. The appropriate application form.
    - b. The name and address of the landowner and a legal description of the subject property.
    - c. A site plan, drawn to scale, indicating the following:
      - i. The location of any property line, streets, roads and easements located on and adjacent to the subject property.
      - ii. Geographic features.
      - iii. Any existing wells, septic systems or any other subsurface facilities.
      - iv. Existing utility lines on and adjacent to the property.
      - v. Existing and proposed buildings on the property.
      - vi. A statement assessing the significant impacts on the surrounding physical environment and human population in the area to be affected including conditions, if any, that may be imposed to avoid or minimize potential significant impacts that are identified.
    - d. Application forms and application submittal information for any required city permits including, but not limited to, public works permits, building permits and floodplain permits needed to establish a land use or to construct, reconstruct, modify or place a building on the property.
  - 2. Prior to approving a land use or the construction, reconstruction, modification or placement of a building the City of Hamilton shall:
    - a. Verify and require that the property is served by adequate emergency, medical, fire protection services and law enforcement services for the proposed use of the property.
    - b. Verify and require that the property has adequate legal and physical access for the proposed use.
    - c. Verify and require that the proposed land use or building is in compliance with the city public works standards, city floodplain regulations, zoning regulations and other city regulations.

- 
- d. Impose conditions on the issuance of any city permit that mitigate significant adverse impacts of the proposed land use or building on the surrounding physical environment and human population in the area of the subject property.

(Ord. 225 (part), 2003)

(Ord. No. 290, 5-15-07; Ord. No. 294, 1-8-08; Ord. No. 375, 2-18-13 ; Ord. No. 378, Exh. A, 2-4-14 )

#### **17.16.020 General development standards for all districts.**

- A. The director of public works shall determine the need for infrastructure, and the property owner shall be responsible for the construction and/or maintenance of such improvements (including curb, gutter, sidewalk and paving) to the centerline of all contiguous streets or alleys in circumstances involving:
  - 1. Any development of vacant land;
  - 2. Any main building the square footage of which is increased by one hundred twenty (120) square feet or more; or
  - 3. The construction of or addition to an accessory building which involves one hundred twenty (120) square feet or more.
- B. The director of public works shall determine whether a consent to agree to the formation of a special improvement district shall be accepted in lieu of the construction of the improvements identified in subsection A of this section. Such consent shall be recorded with the Ravalli county clerk and recorder's office and shall bind transferees, successors and assigns.

(Ord. 225 (part), 2003)

#### **17.16.030 General regulations in residential districts (RS, RM, RH, HD, MHP).**

- A. An accessory building may be built in an established yard, but it may only occupy a maximum of thirty (30) percent of the established yard. All accessory buildings shall have the following setbacks:
  - 1. Front: Twenty (20) feet measured from the front property line.
  - 2. Interior lot side: Five feet measured from property lines on each side.
  - 3. Rear: Five feet measured from rear property line; ten feet measured from the rear property line where detached garages open to alley.
  - 4. Corner lot side yard: Fifteen (15) feet measured from the side property line adjacent to the non-primary street.
- B. In the residential zone in which each is situated, freestanding television satellite dishes and radio antennas shall be located in rear yards and shall meet the setback requirements for rear yards.
- C. Every part of a required setback shall be open to the sky, except for architectural projections of fireplaces and roof eaves which may project into any required setback a maximum of thirty (30) inches.
- D. Uncovered terraces, patios or decks, if less than thirty (30) inches above the average finish grade of any affected yard, may be constructed within the required setback.
- E. A lot having frontage on two parallel or approximate parallel streets (double frontage lot) shall have the minimum front yard setback from each of the parallel streets.
- F. Reserved.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:38 [EST]



- 
- G. Single-family dwellings are intended to be a building with one individual dwelling unit.
  - H. Multiple-family dwellings are intended to be a building with two or more individual dwelling units. Multiple-family zoning is not intended to allow a single-family dwelling and a multiple-family dwelling to occupy the same building lot.

(Ord. 225 (part), 2003)

( Ord. No. 409 , § 2, 7-21-20)

**17.16.040 General regulations in commercial and manufacturing districts (RVP, PS, B, B1, B2, CBD, CM, MI).**

- A. Where a lot in a commercial or manufacturing district abuts a residential district, the side and rear yards in that lot within the commercial district shall conform to those required in the residential district.
- B. Where the frontage on one side of a block is zoned partially commercial or manufacturing and partly residential, the front yard in the commercial district shall conform to that required in the residential district.
- C. Commercial/manufacturing or manufacturing developments which are adjacent to any public street or alley shall be responsible for improvements to the center line of the adjacent public street or alley including the construction and/or reconstruction of curb, gutter, sidewalk and paving.
- D. In a commercial/manufacturing or manufacturing/industrial district, any outdoor area used for the storage of materials or vehicles shall be completely enclosed by a decorative fence, a minimum of six feet in height, to screen the outside storage area. The area designated for outside storage shall be indicated on the site plan submitted for city review and approval.
- E. In a commercial/manufacturing or manufacturing/industrial district, a minimum of five percent of the total site shall be devoted to landscaping. The landscaping shall be designed to provide for a screening of the development from the public rights-of-way and adjacent residential properties.
- F. All accessory buildings in all commercial and manufacturing zoning districts shall have the following setbacks:
  - 1. Front: Twenty (20) feet measured from the front property line.
  - 2. Interior lot side: Five feet measured from the property lines on each side.
  - 3. Rear: Five feet measured from the rear property line; ten feet measured from the rear property line where detached garages open to alley.
  - 4. Corner lots side yard: Ten feet measured from the side property line adjacent to the non-primary street.
- G. Commercial building construction including commercial accessory buildings shall comply, to the extent possible, with all applicable provisions of the *City of Hamilton Building and Site Design Guidelines*. The city director of public works and the city building inspector in consultation with other city officials shall determine compliance with the *Building and Site Design Guidelines*. A property owner may apply for approval of a special use which, if approved, may include conditions of approval that may vary from the guidelines in the *City of Hamilton Building and Site Design Guidelines*. The conditions of approval of a special use may include specific building design requirements not contained in the *City of Hamilton Building and Site Design Guidelines* but which are necessary to integrate the proposed building into the building site, neighborhood and into the city as a whole. Property owners desiring to construct (or remodel the exterior of) buildings which do not conform to the *City of Hamilton Building and Site Design Guidelines* may apply for a special use permit to allow construction of such nonconforming buildings. Any exterior building renovation

---

visible from a public street or pedestrian way shall comply with the *City of Hamilton Building and Site Design Guidelines*.

(Ord. 225 (part), 2003)

(Ord. No. 286, Exh. A, 4-17-07)

### **17.16.050 Fences.**

Fences erected after the effective date of this title shall meet the requirements specified within this chapter and shall require a fence permit.

- A. Front property line.
  - 1. Sight-obstructing fences shall not exceed four feet in height.
  - 2. Non-sight-obstructing fences shall not exceed six feet in height.
  - 3. Fences constructed on a front property line shall be set back a minimum six inches from that property line.
- B. Side property line.
  - 1. Sight-obstructing fences shall not exceed four feet in height to a distance of ten feet set back from the front yard property line.
  - 2. Non-sight-obstructing fences shall not exceed six feet in height on the side property line.
- C. Rear property line.
  - 1. Sight-obstructing or non-sight obstructing fences located on the rear property line shall not exceed six feet in height.
  - 2. Fences constructed on the rear property line shall be set back six inches from the rear property line.
- D. Definitions.
  - 1. Fence means a structure constructed of wood, metal, block, brick, stone or any other material other than natural vegetation to create a barrier.
  - 2. Sight-obstructing shall mean any fence structure where the fence material obstructs twenty-five (25) percent or more of the clear visibility through the fence.
  - 3. Non-sight-obstructing shall mean any fence structure where the fence material obstructs twenty-five (25) percent or less of the clear visibility through the fence blocked.
- E. Fences constructed more than six feet high shall require a variance approved by the zoning board of adjustment.
- F. Fence permit approved by the zoning administrator and/or designee is required for all fence construction within the City of Hamilton boundaries.
- G. Property owner is responsible for providing proof of property boundaries prior to construction of fence.
- H. Fences constructed on public rights-of-way, streets or alleys are prohibited and shall be required to be removed.

- 
- I. In all cases for the placement, construction and/or the removal of a fence, the owner must call line locators at 1-800-424-5555 prior to the start of the project.
  - J. Fees for fence permits shall be established by resolution of the city council and shall be paid to the public works office at the time the application for a permit is filed.

(Ord. 225 (part), 2003)

( Ord. No. 420 , Exh. A, 3-16-21)

### **17.16.060 Accessory dwelling units.**

#### A. Standards for all accessory dwelling units.

1. Intent. The intent of this section is to allow efficient use of the existing housing stock and city infrastructure; provide housing options that respond to changing household sizes and needs: provide a means for residents to remain in their homes and neighborhoods, obtain extra income, security, companionship and assistance: and to provide a broader range of housing options. Accessory dwelling units are intended to be clearly subordinate to the principal dwelling on the lot.
2. Definition.

"Accessory dwelling unit" or ADU means a separate dwelling unit within or attached to a single-family dwelling, a separate dwelling unit that occupies an accessory building located on the same lot as a single-family dwelling, or a detached dwelling unit located on the same lot as a single-family dwelling. ADUs shall be located in a structure that is permanently located on the ground.
3. Where allowed.
  - a. ADUs are allowed in the following zoning districts: Single-family residential district (RS), multiple-family residential district (RM), residential high-density district (RH), and transitional neighborhood business district (B).
  - b. ADUs are only permitted on lots occupied by a single-family dwelling.
  - c. Only one ADU is permitted per zoned lot.
  - d. ADUs are not permitted in front yards.
4. Minimum lot area.
  - a. Lots shall meet the minimum lot area and minimum lot frontage requirements of the underlying zoning district.
5. Parking.
  - a. At least one off-street parking space shall be provided for an ADU, in addition to the required off-street parking for the principal dwelling unit.
  - b. If the lot abuts an alley and a new parking space will be added, access to the new parking space shall come from the alley.
6. Size.
  - a. The maximum size of an ADU shall be no more than fifty (50) percent of the living area of the principal dwelling on the lot or seven hundred (700) square feet, whichever is less: except that all qualifying lots may have an ADU up to three hundred (300) square feet. Living area is calculated by excluding the following areas from the overall gross building area:

- 
- (1) The thickness of the exterior walls;
  - (2) Garage areas;
  - (3) Any other building areas where the floor to ceiling height is either less than six feet or areas not accessible by a stairway.
7. Addressing.
    - a. ADUs shall obtain a new address from the Ravalli County GIS Department that is unique from the principal dwelling unit.
    - b. Address identification characters for ADUs shall contrast with their background, be alphanumeric, be a minimum four inches high, and be visible from the public street or alley fronting the structure. If required by the city fire chief, address identification shall be provided in additional approved locations to facilitate emergency response.
  8. Permits required.
    - a. A residential building permit is required for all ADUs.
- B. Additional standards for detached accessory dwelling units.
1. Entrances.
    - a. Building entrances to detached ADUs shall not face the nearest side or rear property line unless there is an alley abutting that property line.
  2. Height.
    - a. Detached ADUs shall meet the minimum height requirements of the underlying zoning district for accessory buildings.
  3. Setbacks.
    - a. A detached ADU shall be located at least ten feet behind the principal dwelling unit on the lot, except in instances of conversions of existing accessory buildings or garages where the existing accessory building or garage is already located closer than ten feet from the principal dwelling unit.
    - b. Front yard: Same as underlying zoning district (ADUs are not permitted in front yards).
    - c. Side yard: Same as the underlying zoning district.
    - d. Rear yard: Same as the underlying zoning district for accessory buildings.
  4. Garage conversions.
    - a. Garages may not be converted for use as ADUs unless all required parking for all proposed uses on the lot is otherwise provided prior to conversion. However, ADUs may be placed above garages provided that all other standards in the Hamilton Municipal Code are met.
- C. Existing non-conforming accessory dwelling units.
1. Existing ADUs established prior to adoption of these standards remain non-conforming structures in accordance with Chapter 17.112 of the Hamilton Municipal Code.

( Ord. No. 409 , § 3, 7-21-20)

---

## **17.16.070 Short-term rentals.**

### **A. Intent.**

1. The intent of this section is to provide for the regulation of short-term rentals in the city, to preserve neighborhood character, to encourage economic activity, investment, and diversity, and to promote public health, safety, and welfare.

### **B. Applicability.**

1. This section does not apply to any rental of a dwelling unit which is governed and defined by The Montana Residential Landlord and Tenant Act of 1977 (Landlord Tenant Act). This section applies only to transient occupancy of a short-term rental as defined herein.
2. The short-term rental regulations are not intended to interfere with, abrogate, or annul any legal or lawful private covenants.

### **C. Where allowed.**

1. An owner may operate a short-term rental in established dwelling units in all zoning districts where such use is authorized in this title.

### **D. Compliance with laws.**

1. In addition to the provisions of this section, the short-term rental owner must comply with all other applicable local, state and federal laws and regulations. Loss of any required permit or license will result in revocation of the short-term rental registration.

### **E. Registration process.**

1. Registration is required for all short-term rentals and shall be renewed annually. A separate registration shall be required for each short-term rental unit.
2. The applicant must complete and submit a short-term rental application using a form provided by the city. As part of the application process the applicant shall:
  - a. Provide the name, telephone number, address, and email address of all property owners and of the persons or business responsible for all maintenance and safety concerns. If the property owner is a business, the name(s) and contact information of all business owners must be provided.
  - b. Notify all adjacent property owners and residents (excluding right-of-way) prior to submitting a short-term rental application. The notice must include a description of the proposed use and the name, address, telephone number and email address of the business or person responsible for all maintenance and safety concerns. The applicant must provide a written statement to the zoning administrator regarding the manner in which notification occurred and when.
  - c. Provide certification the applicant has submitted a public sleeping accommodation plan review application to the Ravalli County Environmental Health Department.
  - d. Pay the short-term rental registration fee.
3. Once the applicant has submitted a complete short-term rental application, the zoning administrator will review the application and all submittal materials in conjunction with city building and fire departments and the Ravalli County Health Department. The zoning administrator will issue the short-term rental registration when it has been determined that:
  - a. All city requirements have been met;

- 
- b. The Ravalli County Environmental Health Department has approved the short-term rental as a public accommodation;
  - c. The short-term rental will not cause or contribute to an imminent threat to public health and safety.
- 4. Prior to registration, the city, or any authorized representative thereof, shall have the right to enter the short-term rental to inspect for conformance with city requirements after reasonable notice to the property owner or designee indicated on the application.
  - 5. The owner must include the short-term rental registration number in all listings of the short-term rental on any online hosting platform and print advertising.
- F. Revocation.
- 1. The zoning administrator may revoke a registration to operate a short-term rental for good cause related to public health and safety, including violation of applicable laws or ordinance. If the zoning administrator determines that three violations of any city ordinance or law occurs at a short-term rental within a twelve-month period, the registration to operate the short-term rental must be revoked at that location for a period of one year. Appeals of revocations shall be made to the zoning board of adjustment.
- G. Number.
- 1. No more than one short-term rental unit is permitted per parcel in the RS and RM zoning districts.
  - 2. No more than two units per building may be used as a short-term rental in the RH, B, and B-1 zoning districts.
  - 3. No individual or business shall register more than two short-term rentals in the RS, RM, and RH zoning districts.
- H. Fees.
- 1. Short-term rental registration, review, and inspection fees shall be established by resolution of the Hamilton City Council.

( Ord. No. 417 , § 2, 2-16-21)

### **17.16.080 Marijuana.**

- A. The provisions of this section shall apply to all marijuana businesses within the city, including both medical and adult use marijuana manufacturing, transporting, testing, cultivation, and dispensaries, unless otherwise stated herein.
- B. Outdoor storage of marijuana merchandise, raw materials, or other marijuana materials associated with the production of marijuana is prohibited.
- C. Signage for marijuana businesses must meet state requirements as well as the City of Hamilton Sign Regulations found in Chapter 17.104 of this Title.
- D. Unless required by state law, marijuana dispensary storefronts shall not have security bars, metal screens, grates, opaque windows or other visible security devices other than door locks or discrete security cameras.
- E. Marijuana dispensaries and manufacturing facilities shall not be located within 500 feet of and on the same street as a building used exclusively as a church, synagogue, or other place of worship or as a school or postsecondary school unless the marijuana business was licensed and established prior to the church, synagogue, or other place of worship or school or postsecondary school existing on the same street. This

---

distance must be measured in a straight line from the center of the nearest entrance of the place of worship or school to the nearest entrance of the marijuana dispensary or manufacturing facility.

- F. No marijuana dispensary may be located within 200-feet of and addressed on the same street as another marijuana dispensary. This distance must be measured in a straight line from the center of the nearest public entrances.
- G. Marijuana dispensaries shall not have any public entrances facing an alley.
- H. Marijuana manufacturing, testing, and storage facilities must be sited and operated in a manner that prevents marijuana odors from being detected offsite. A sufficient odor absorbing ventilation and exhaust system utilizing negative pressure inside the building must be used so odor generated distinctive to its operation cannot be detected outside the facility or anywhere on adjacent property or public rights-way, nor in interior common area walkways, hallways, foyers, lobby areas or other areas available for use by common tenants or the visiting public. An odor control plan must be submitted as part of any business license application.
- I. Marijuana cultivation is prohibited within the City of Hamilton.

## **Chapter 17.24 SINGLE-FAMILY RESIDENTIAL DISTRICT (RS)**

### **Sections:**

#### **17.24.010 Intent.**

The single-family residential district (RS) establishes zoning for single-family dwellings on urban lots.

(Ord. 225 (part), 2003)

#### **17.24.020 Uses allowed.**

- A. Single-family dwellings.
- B. Accessory buildings and uses incidental to the uses allowed in this district.
- C. Home occupations. See Chapter 17.108.
- D. Accessory dwelling units.
- E. Short-term rentals.

(Ord. 225 (part), 2003)

( Ord. No. 409 , § 4, 7-21-20; Ord. No. 417 , § 3, 2-16-21)

#### **17.24.030 Uses not allowed.**

- A. Commercial buildings.
- B. Manufacturing facilities.
- C. Mobile homes.
- D. Recreational vehicles or camper trailers used on a permanent or continuous occupancy basis.
- E. All other uses not described specifically set forth in Section 17.24.020 or 17.24.040 of this chapter.

---

(Ord. 225 (part), 2003)

**17.24.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the maximum height regulations of Section 17.24.060 and the regulations set forth in Chapter 17.124. Approval of these conditional uses and conditional use permits must be obtained from the zoning board of adjustment prior to the building permit being issued.

- A. Two-family dwellings;
- B. Churches;
- C. Community centers;
- D. Day care centers, preschool and nursery schools;
- E. Foster care and licensed family day care homes with six or less full time children;
- F. Community residential facilities and licensed group day care homes with twelve (12) or less full time children;
- G. Libraries, schools (public and private); and
- H. Parks, playgrounds and recreational facilities not for profit but ancillary to residential uses.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 1, 2-16-21)

**17.24.050 Minimum area regulations.**

- A. Minimum lot area: Four thousand two hundred (4,200) square feet.
- B. Minimum lot frontage: Thirty (30) feet as measured at the front property line.
- C. Minimum yard setbacks:
  - 1. Front yard: Fifteen (15) feet measured from the front property line.
  - 2. Rear yard:
    - a. Main building: Twenty (20) feet measured from the rear property line.
    - b. Accessory building: Five feet measured from the rear property line.
    - c. Garages opening to alley: Ten feet.
  - 3. Side yards:
    - a. Five feet measured from the property line on each side.
    - b. Corner lots side yard: Ten feet measured from the property line adjacent to the non-primary street.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 1, 2-16-21)



---

### **17.24.060 Maximum height regulations.**

- A. Main building: Two and one-half stories or thirty-five (35) feet, whichever is less, excluding chimneys, which may extend five feet above the roofline.
- B. Accessory buildings: Two stories or twenty-five (25) feet whichever is less.
- C. Churches, when allowed by a conditional use permit: Forty-five (45) feet.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 1, 2-16-21)

## **Chapter 17.30 MULTIPLE-FAMILY RESIDENTIAL DISTRICT (RM)**

### **Sections:**

### **17.30.010 Intent.**

The multiple-family residential district (RM) establishes zoning for one- to four-family dwelling units.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 2, 2-16-21)

### **17.30.020 Uses allowed.**

- A. All uses allowed in the RS district.
- B. Two- to four-family dwelling units.
- C. Townhouses.
- D. Accessory buildings and uses incidental to the uses allowed in this district.
- E. Home occupations. See Chapter 17.108 of this title.
- F. Accessory dwelling units.
- G. Short-term rentals.

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 2, 11-19-19; Ord. No. 409 , § 5, 7-21-20; Ord. No. 417 , § 4, 2-16-21; Ord. No. 418 , § 2, 2-16-21)

### **17.30.030 Uses not allowed.**

- A. Commercial buildings.
- B. Manufacturing facilities.
- C. Mobile homes.
- D. Recreational vehicles or camper trailers used on a permanent or continuous occupancy basis.

---

E. All other uses not specifically set forth in Section 17.30.020 or 17.30.040 of this chapter.

(Ord. 225 (part), 2003)

### **17.30.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.30.060 and the regulations set forth in Chapter 17.124. Approval of these conditional uses and conditional use structures must be obtained from the zoning board of adjustment prior to the building permit being issued:

- A. Personal service facilities and food services, if located in the main building (club house) for approved multiple-family dwellings;
- B. Church steeples, ornamental towers, spires or monuments, if higher than forty-five (45) feet;
- C. Five- to eight-family dwellings, when access is provided onto a collector or local street;
- D. Boarding and lodging houses;
- E. Churches;
- F. Community centers; and
- G. Libraries, museums, schools (public or private), parks, playgrounds or recreational facilities (not for profit).

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 2, 2-16-21)

### **17.30.050 Minimum area regulations.**

- A. Minimum lot area:
  - 1. Single-family dwellings: Four thousand two hundred (4,200) square feet.
  - 2. Dwellings in excess of one-unit: Two thousand five hundred (2,500) square feet per dwelling unit.
  - 3. Townhouses: Four thousand two hundred (4,200) square feet.
  - 4. All other uses: Eight thousand (8,000) square feet.
- B. Minimum lot frontage:
  - 1. Single-family dwellings: Thirty (30) feet.
  - 2. Two-family dwellings: Fifty (50) feet.
  - 3. Dwellings in excess of two units: Sixty (60) feet.
  - 4. Townhouses: Thirty (30) feet.
  - 5. All other uses: Sixty (60) feet.
- C. Minimum yard setbacks:
  - 1. Front yard: Fifteen (15) feet measured from the front property line.
  - 2. Rear yard:

---

(Supp. No. 2)

Created: 2021-07-01 19:13:38 [EST]

- 
- a. Main building: Twenty (20) feet measured from the rear property line.
  - b. Accessory building: Five (5) feet measured from the rear property line.
  - c. Garages opening to alley: Ten feet.
3. Side yard:
- a. Five feet from property lines on each side.
  - b. Zero feet for interior walls of townhouses.
  - c. Corner lots: Ten feet measured from the property line adjacent to the non-primary street.

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 2, 11-19-19; Ord. No. 418 , § 2, 2-16-21)

### **17.30.060 Maximum height regulations.**

- A. Main building: Three stories or forty-five (45) feet, whichever is less.
- B. Accessory buildings: Two stories or twenty-five (25) feet, whichever is less.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 2, 2-16-21)

## **Chapter 17.32 RESIDENTIAL HIGH DENSITY DISTRICT (RH)**

### **Sections:**

#### **17.32.010 Intent.**

The residential high density district (RH) establishes zoning for multiple-family dwellings units.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 3, 2-16-21)

#### **17.32.020 Uses allowed.**

- A. All uses allowed in the RS district.
- B. All uses allowed in the RM district.
- C. Multiple-family dwellings, town homes, condominiums and apartments.
- D. Accessory buildings and uses incidental to allowed uses.
- E. Accessory dwelling units.
- F. Short-term rentals.

(Ord. 225 (part), 2003)

---

( Ord. No. 409 , § 6, 7-21-20; Ord. No. 417 , § 5, 2-16-21; Ord. No. 418 , § 3, 2-16-21)

**17.32.030 Uses not allowed.**

- A. Commercial buildings.
- B. Mobile homes.
- C. Recreational vehicles or camper trailers used on a permanent or continuous occupancy basis.
- D. All other uses not specifically set forth in Sections 17.32.020 and 17.32.040 of this chapter.

(Ord. 225 (part), 2003)

**17.32.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.32.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Personal service facilities and food services, if located in the main building (club house) for approved multiple-family dwellings;
- B. Boarding and lodging houses.

(Ord. 225 (part), 2003)

**17.32.050 Minimum area regulations.**

- A. Minimum lot area:
  - 1. One- to two-family dwellings: Four thousand two hundred (4,200) square feet.
  - 2. Three- to four-family dwellings: Two thousand (2,000) square feet per dwelling unit.
  - 3. Five- to eight-family dwelling units: One thousand two hundred (1,200) square feet per dwelling unit.
  - 4. Multi-family dwellings in excess of eight units: Ten thousand (10,000) square feet plus one thousand four hundred (1,400) square feet for each additional unit over eight.
  - 5. Townhouses: One thousand six hundred (1,600) square feet.
- B. Minimum frontage:
  - 1. One- to two-family dwellings: Thirty (30) feet.
  - 2. Townhouses: Twenty (20) feet.
  - 3. All other uses: Fifty (50) feet.
- C. Minimum yards:
  - 1. Front yards: Fifteen (15) feet measured from the front property line.
  - 2. Rear yards:
    - a. Main building: Twenty (20) feet measured from the rear property line.
    - b. Accessory building: Five feet measured from the rear property line.

- 
- c. Garages opening to alley: Ten feet.
3. Side yard:
- a. Five feet measured from property line on each side.
  - b. Zero feet for interior walls of townhouses.
  - c. Corner lots: Ten feet for the side yard facing the secondary street.

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 3, 11-19-19; Ord. No. 418 , § 3, 2-16-21)

### **17.32.060 Maximum height regulations.**

- A. Main building: Three stories or forty-five (45) feet, whichever is less.
- B. Accessory buildings: Two stories or twenty-five (25) feet whichever is less.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 3, 2-16-21)

## **Chapter 17.44 MOBILE HOME PARK RESIDENTIAL DISTRICT (MHP)**

### **Sections:**

#### **17.44.010 Intent.**

The MHP mobile home park residential district establishes zoning for semi-permanent placement of mobile housing in subdivisions created for rent or lease.

(Ord. 225 (part), 2003)

#### **17.44.020 Uses allowed.**

- A. Single-family mobile homes.
- B. Parks, playgrounds and recreational facilities designed for use by park tenants.
- C. Accessory buildings limited to patio canopies, carports, porches and detached storage buildings.
- D. Home occupations. See Chapter 17.108.
- E. Manager's residence and/or office.

(Ord. 225 (part), 2003)

#### **17.44.030 Uses not allowed.**

- A. Commercial buildings.
- B. Manufactured homes.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:38 [EST]

- 
- C. Recreational vehicles.
  - D. Camper trailers.
  - E. All other uses not specifically set forth in Section 17.44.020 of this chapter.

(Ord. 225 (part), 2003)

#### **17.44.040 Minimum area regulations.**

- A. Minimum park area: Five acres.
- B. Minimum lot frontage: Fifty (50) feet.
- C. Minimum lot rental or lease space area: Four thousand (4,000) square feet.
- D. Minimum yards:
  - 1. Front yards from public or private street: Twenty (20) feet measured from the front property line of the public or private street to the mobile home or an accessory building.
  - 2. All other yards: Five feet measured from the property line on each side and from the rear property line to the mobile home or an accessory building.

(Ord. 225 (part), 2003)

#### **17.44.050 Maximum height regulations.**

The maximum height for any permanent structure shall be three stories or forty-five (45) feet, whichever is less. The maximum height for semi-permanent structures shall be twenty (20) feet.

(Ord. 225 (part), 2003)

#### **17.44.060 General regulations.**

The following regulations apply to the MHP district:

- A. Each mobile home park shall be connected to the City of Hamilton water and sewer system. The park shall be provided with a master water meter to meter the entire parks water use. All utility service lines shall be installed below ground;
- B. Minimum private interior street or drive width shall be thirty (30) feet wide and shall meet city public works street standards and specifications;
- C. All street or drives shall be paved to city public works street standards and drainage shall be installed on-site to retain all storm water run-off on-site;
- D. Area equal to five percent of the total area of the mobile home park shall be dedicated to common recreation and parks development for the park;
- E. Boundaries of each mobile home lot as indicated on the accepted plans shall be clearly and permanently marked on the ground;
- F. A mobile home and accessory buildings may occupy a maximum of fifty (50) percent of a lot;
- G. Distance of mobile homes from park boundaries shall be a minimum of twenty-five (25) feet from any property boundary line provided with suitable landscaped cover;

- 
- H. Mobile homes shall be skirted within sixty (60) days of installation with weather resistant materials similar to that used in the mobile home's construction;
  - I. Mobile homes shall be anchored to the ground by conventional construction method or by over the top frame ties. Anchoring devices shall be capable of resisting a force equivalent to an eighty (80) mile-per-hour (mph) wind;
  - J. Mobile home lots shall be designed with easy access for placement and removal of homes, shall be have longitudinal grade of less than four percent and provide adequate surface drainage. The mobile home site on each lot shall be compacted and surfaced with material that prevents vegetative growth;
  - K. Access to a mobile home park shall be from a public street;
  - L. Each mobile home park shall be entirely enclosed, exclusive of driveways, at its external boundaries by a wall, fence or evergreen hedge which creates a visual buffer;
  - M. No space in a mobile home park shall be occupied until at least ten spaces are completed and ready for occupancy;
  - N. Roadways located within a mobile home park shall be named, labeled, or otherwise adequately described so as to be easily found by persons entering the park. Mobile home spaces shall be numbered or otherwise adequately described and the number or other description shall be posted at the proper space so that it can be clearly read from each street on which the space fronts or abuts;
  - O. Off-street parking shall consist of two paved off-street parking spaces shall be provided for each mobile home lot.

(Ord. 225 (part), 2003)

#### **17.44.070 Proposals for new mobile home parks and expansion of existing mobile home parks.**

Expansion of existing parks or proposals for new parks shall be reviewed for development approval under this chapter and Hamilton Municipal Code, Title 16, Chapter 36: Subdivisions Created by Rent or Lease; Chapter 40: Mobile Home Standards; and Chapter 44: Recreational Vehicle Park Standards.

(Ord. 225 (part), 2003)

### **Chapter 17.48 RECREATIONAL VEHICLE PARK DISTRICT (RVP)**

#### **Sections:**

#### **17.48.010 Intent.**

The recreational vehicle park (RVP) establishes zoning for a vehicular unit eight feet or less in width, designed as temporary living quarters for recreational camping or travel use and operated under its own motive power or mounted on or drawn by another vehicle, including a travel trailer, camping trailer, truck camper and motor home for temporary parking and set up in a ninety (90) days or less in any twelve (12) month period.

(Ord. 225 (part), 2003)

---

### **17.48.020 Uses allowed.**

- A. Recreational vehicle units.
- B. Parks, playgrounds and recreational facilities designed for use by park tenants.
- C. Folding, collapsible or detachable canopies, awnings and other similar devices designed to be an integral and transportable part of the recreational vehicle unit.
- D. Manager's residence and/or office.
- E. Uses designed to serve the temporary nature of the district occupancy to include showers, toilets and laundry facilities.

(Ord. 225 (part), 2003)

### **17.48.030 Uses not allowed.**

- A. Commercial buildings other than those listed in Section 17.48.040 of this chapter.
- B. Manufactured homes.
  - 1. Residential homes;
  - 2. All other uses not specifically set forth in Sections 17.48.020 and 17.48.040 of this chapter.

(Ord. 225 (part), 2003)

### **17.48.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.48.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Convenience stores housed in permanent structures and used in conjunction with the operation of the recreational vehicle park, including the sale of propane fuels for occupants.

(Ord. 225 (part), 2003)

### **17.48.050 Minimum area regulations.**

- A. Minimum park area: Three acres.
- B. Minimum lot frontage: Twenty-five (25) feet.
- C. Minimum lot area: One thousand two hundred fifty (1,250) square feet.
- D. Distance of RV from park boundary:
  - 1. From public street or highway: Minimum of twenty-five (25) feet.
  - 2. From any park perimeter boundary: Minimum of fifteen (15) feet.

(Ord. 225 (part), 2003)



---

### **17.48.060 Maximum height regulations.**

The maximum height for permanent structures shall be three stories or forty-five (45) feet, whichever is less.  
(Ord. 225 (part), 2003)

### **17.48.070 General regulations.**

- A. Access to a recreational vehicle park shall be from a public street.
- B. A minimum of one off-street parking space shall be provided on or adjacent to each lot.
- C. The RV park shall be separated and screened from adjacent residential districts by a permanent wall, fence or hedge of a minimum height of six feet.

(Ord. 225 (part), 2003)

## **Chapter 17.60 PROFESSIONAL SERVICES BUSINESS DISTRICT (PS)**

### **Sections:**

### **17.60.010 Intent.**

The professional services district (PS) establishes zoning regulations for office or professional uses that generate low vehicle traffic volume, which includes medical and health related services adjacent to major medical facilities such as the hospital.

(Ord. 225 (part), 2003)

### **17.60.020 Uses allowed.**

- A. Administrative and/or other professional offices.
- B. Child day care and adult day care facilities.
- C. Office support services.
- D. Medical facilities including, for example, medical facilities, doctors offices, dentist offices, pharmacies, medical supplies and equipment, medical research, experimental and testing laboratories, emergency medical services, ambulance services, occupational therapy, physical therapy and rehabilitation facilities.
- E. Educational services including, for example, educational institutions, medical and vocational schools, tutorial services, public or private non-profit or for profit schools.
- F. Health related service including, for example, holistic medicine and natural food stores, acupuncturists, acupressure and massage therapy.
- G. Optical services and eyewear.
- H. Parks.
- I. Art gallery and art studio.
- J. Financial and accounting services and banks.

- 
- K. Real estate services.
  - L. Libraries and reading rooms.
  - M. Marijuana Testing Laboratories.

(Ord. 225 (part), 2003)

#### **17.60.030 Uses not allowed.**

- A. Commercial uses and buildings other than those listed within Sections 17.60.020 and 17.60.040 of this chapter.
- B. Manufacturing uses.
- C. Industrial uses.
- D. Mobile homes.
- E. Use, overnight parking or storage of recreational vehicles or camper trailers.
- F. All other uses not specifically set forth in Sections 17.60.020 and 17.60.040 of this chapter.

(Ord. 225 (part), 2003)

#### **17.60.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.60.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Hospitals, general and specialty;
- B. Mortuary and crematory;
- C. Personal care facilities if totally enclosed within other permitted facilities;
- D. Recreational facilities if totally enclosed within other permitted facilities;
- E. Food service facilities if totally enclosed within other permitted facilities;
- F. Retail sales if totally enclosed within other permitted facilities;
- G. Nursing homes, rest homes, convalescent homes and homes for the aged;
- H. Group care or total care facilities; and
- I. Other uses that are deemed compatible with the uses allowed in this district after a public hearing.

(Ord. 225 (part), 2003)

#### **17.60.050 Minimum area regulations.**

- A. Minimum lot area: ten thousand (10,000) square feet.
- B. Minimum yard:
  - 1. Front yard: Twenty (20) feet measured from the front property line.

- 
2. Rear yard: Twenty (20) feet measured from the rear property line and for buildings over two stories, ten feet more per additional story.
  3. Side yard: Ten feet measured from the property line on each side, subject to the clear view triangle regulations and for buildings over two stories, ten feet more per additional story.
  4. Corner lots: Fifteen (15) feet for side yard facing the secondary street.

(Ord. 225 (part), 2003)

#### **17.60.060 Maximum height regulations.**

Maximum height shall be three stories or forty-five (45) feet, whichever is less.

(Ord. 225 (part), 2003)

#### **17.60.070 Other regulations.**

Where a PS use abuts a residential district, it shall be screened to a height of four feet unless it is separated by a street or an alleyway or a yard of fifty (50) feet.

(Ord. 225 (part), 2003)

### **Chapter 17.64 TRANSITIONAL NEIGHBORHOOD BUSINESS DISTRICT (B)**

#### **Sections:**

#### **17.64.010 Intent.**

The transitional neighborhood business district (B) establishes zoning for neighborhood and service businesses designed to service the immediate neighborhood.

(Ord. 225 (part), 2003)

#### **17.64.020 Uses allowed.**

- A. Retail stores and shops which meet the intent of the district.
- B. Convenience stores, not to include sale of propane or motor vehicle fuels.
- C. Personal service facilities.
- D. Hardware stores.
- E. Repair services, except automotive and small engine repair.
- F. Eating establishments, except drive-thru's.
- G. Professional and business offices.
- H. Arts and crafts studios.
- I. Any uses in RS, RM and RH districts provided that the off-street parking requirements for residential uses can be met.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

---

J. Accessory dwelling units.

K. Short-term rentals.

(Ord. 225 (part), 2003)

( Ord. No. 409 , § 7, 7-21-20; Ord. No. 417 , § 6, 2-16-21)

#### **17.64.030 Uses not allowed.**

A. Manufactured or mobile homes for any use.

B. Industrial and manufacturing.

C. Use, overnight parking or storage of recreational vehicles or camper trailers.

D. Vehicle brokers.

E. All other uses not specifically set forth in Sections 17.64.020 and 17.64.040 of this chapter.

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 4, 11-19-19)

#### **17.64.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.64.060 and in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 4, 11-19-19)

#### **17.64.045 Special uses.**

The following uses must comply with the height regulations of Section 17.64 and with the regulations set forth in Chapter 17.122 (Special Use Permits) prior to issuance of a building permit.

A. Buildings in excess of twelve thousand (12,000) square feet of total enclosed floor area.

B. New buildings with less than twelve thousand (12,000) square feet of total enclosed floor area but which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area* or exterior renovations of existing buildings visible from a public street or pedestrian way which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area*.

(Ord. No. 286, Exh. A, 4-17-07)

#### **17.64.050 Minimum area regulations.**

A. Minimum lot area:

1. Commercial uses: Three thousand five hundred (3,500) square feet.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

- 
- 2. Residential uses: Same as residential high density district.
  - B. Minimum frontage:
    - 1. Commercial uses: Twenty-five (25) feet.
    - 2. Residential uses: Same as residential high density district.
  - C. Minimum yards:
    - 1. Commercial uses:
      - a. Front yard: Fifteen (15) feet measured from the front property line.
      - b. Rear yard: None established.
      - c. Side yards: None established.
      - d. Corner lots: Ten feet for the side yard facing the secondary street.
    - 2. Residential uses: Same as residential high density district.
  - D. Maximum lot coverage:
    - 1. Commercial uses: Fifty (50) percent.
    - 2. Residential uses: None.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 4, 2-16-21)

#### **17.64.060 Maximum height regulations.**

- A. Main building: Three stories or forty-five (45) feet, whichever is less.
- B. Accessory buildings: Two stories or twenty-five (25) feet, whichever is less.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 4, 2-16-21)

#### **17.64.062 Building size.**

The maximum size of a building in the transitional neighborhood (B) district shall be six thousand (12,000) square feet of total enclosed floor area except for those buildings that may be constructed after approval and issuance of a special use permit. Buildings in excess of six thousand (12,000) square feet of total enclosed floor area may be allowed upon approval by the city council of a special use.

(Ord. No. 286, Exh. A, 4-17-07)

#### **17.64.070 Other regulations.**

- A. All commercial operations and storage of materials in the B district shall be contained within an enclosed building.
- B. Utility service lines shall be installed below ground.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

---

(Ord. 225 (part), 2003)

## **Chapter 17.68 LOCAL BUSINESS DISTRICT (B-1)**

### **Sections:**

#### **17.68.010 Intent.**

The local business district (B-1) establishes zoning for local business and retail trade activities not directly dependent upon passing motor traffic.

(Ord. 225 (part), 2003)

#### **17.68.020 Uses allowed.**

- A. Non-residential uses allowed in the B district.
- B. Retail stores and shops.
- C. Banks, credit unions and other financial institutions.
- D. Eating establishments, bakeries and catering establishments, except drive-thru's.
- E. Arcades.
- F. Media offices and production facilities.
- G. Printing shops and photography shops.
- H. Taverns and cocktail lounges.
- I. Theaters, museums and libraries.
- J. Social, service and fraternal clubs.
- K. Medical and dental clinics.
- L. Indoor recreational and fitness facilities.
- M. Parks and open space.
- N. Professional and personal services.
- O. Short-term rentals.
- P. Dwellings in excess of five units.

(Ord. 225 (part), 2003)

( Ord. No. 417 , § 7, 2-16-21; Ord. No. 418 , § 5, 2-16-21)

#### **17.68.030 Uses not allowed.**

- A. One- to five-family dwellings except as provided in Section 17.68.040.
- B. Manufactured or mobile homes for any use.
- C. Use, overnight parking or storage of recreational vehicles or camper trailers.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

- 
- D. Industrial or manufacturing.
  - E. Warehouse.
  - F. Vehicle sales and related services.
  - G. Vehicle brokers.
  - H. All other uses not specifically set forth in Sections 17.68.020 and 17.68.040 of this chapter.

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 5, 11-19-19; Ord. No. 418 , § 5, 2-16-21)

### **17.68.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.68.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Dwellings, provided they are located above the ground floor of the same building of the use allowed;
- B. Schools, nursery schools and day care centers;
- C. Mortuaries and crematoriums;
- D. Independent parking lot(s);
- E. Storage, provided that it is totally enclosed in the building;
- F. Casinos;
- G. Businesses wherein patronage and/or employment is limited to persons eighteen (18) years of age or older;
- H. Community centers;
- I. Libraries;
- J. Museums;
- K. Schools (public and private);
- L. Playgrounds and recreational facilities;
- M. Wholesale;
- N. Manufacturing and production (less than five thousand (5,000) square feet or with light industrial); and
- O. Accessory buildings and uses incidental to the uses allowed.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 5, 2-16-21)

### **17.68.045 Special uses.**

The following uses must comply with the height regulations of Section 17.68 and with the regulations set forth in Chapter 17.122 (Special Use Permits) prior to issuance of a building permit.

- A. Buildings in excess of twenty-four thousand (24,000) square feet of total enclosed floor area.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

- 
- B. New buildings with less than twenty-four thousand (24,000) square feet of total enclosed floor area but which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area* or exterior renovations of existing buildings visible from a public street or pedestrian way which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area*.

(Ord. No. 286, Exh. A, 4-17-07)

#### **17.68.050 Minimum area regulations.**

- A. Minimum lot area: Three thousand five hundred (3,500) square feet.
- B. Minimum frontage: Twenty-five (25) feet.
- C. Minimum yards: None.
- D. Maximum lot coverage: Fifty (50) percent.

(Ord. 225 (part), 2003)

#### **17.68.060 Maximum height regulations.**

Maximum height of structures shall be three stories or forty-five (45) feet, whichever is less.

(Ord. 225 (part), 2003)

#### **17.68.062 Building size.**

The maximum size of a building in the local business district (B-1) shall be twelve thousand (12,000) square feet of total enclosed floor area except for those buildings that may be constructed after approval and issuance of a special use permit. Buildings in excess of twelve thousand (12,000) square feet of total enclosed floor area may be allowed upon approval by the city council of a special use.

(Ord. No. 286, Exh. A, 4-17-07)

#### **17.68.070 Projections into public property.**

- A. Are limited to parts or appendages of buildings which extend over walks or other rights-of-way adjacent to public streets.
- B. May include awnings, marquees, sun control devices and miscellaneous architectural ornamentation as authorized by current building codes.
- C. Includes projecting signs, see Chapter 17.104.

(Ord. 225 (part), 2003)

#### **17.68.080 Parking requirements.**

Due to the uniqueness of this zone and the uses in this chapter, reciprocal parking and off-site parking use shall be permitted in the B-1 district. Parking shall be governed by Chapter 17.100 of this title.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]



---

(Ord. 225 (part), 2003)

## **Chapter 17.74 HIGHWAY RELATED BUSINESS DISTRICT (B-2)**

### **Sections:**

#### **17.74.010 Intent.**

The highway related business district (B-2) establishes zoning for businesses located along highways and arterials.

(Ord. 225 (part), 2003)

#### **17.74.020 Uses allowed.**

- A. Uses allowed in the B-1 district, with the exception of ground floor dwellings.
- B. Tourist information centers.
- C. Hotels and motels.
- D. Eating establishments, including drive-thru's.
- E. Casinos.
- F. Motor vehicle sales and related services.
- G. Service stations.
- H. Parking lots and public garages.
- I. Equipment and motor vehicle rental outlets.
- J. Recreational and fitness facilities.
- K. Mortuaries and crematoriums.
- L. Convenience stores, that include sale of motor vehicle fuels.
- M. Marijuana Dispensaries.

(Ord. 225 (part), 2003)

( Ord. No. 418 , § 6, 2-16-21)

#### **17.74.030 Uses not allowed.**

- A. Commercial buildings other than those specifically set forth in Sections 17.74.020 and 17.74.040 of this chapter.
- B. Residential homes.
- C. Manufactured or mobile homes for any use.
- D. Warehouses.
- E. All other uses not specifically set forth in Sections 17.74.020 and 17.74.040 of this chapter.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

---

(Ord. 225 (part), 2003)

### **17.74.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.74.060 and in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Conditional uses and conditional structures allowed in the B-1 district;
- B. Mini storage units and open-air storage;
- C. Freight terminals;
- D. Motor vehicle repair garages, not to include auto wrecking or salvage yards;
- E. Auction sales and service;
- F. Offices and businesses deemed compatible with this district;
- G. Correctional facilities;
- H. Churches;
- I. Community centers;
- J. Libraries;
- K. Museums;
- L. Schools (public and private);
- M. Playgrounds and recreational facilities;
- N. Wireless communication towers;
- O. Any business type to include the sale of propane;
- P. Wholesale; and
- Q. Manufacturing and production (less than five thousand (5,000) square feet or with light retail).

(Ord. 225 (part), 2003)

### **17.74.045 Special uses.**

The following uses must comply with the height regulations of Section 17.74 and with the regulations set forth in Chapter 17.122 (Special Use Permits) prior to issuance of a building permit.

- A. Buildings in excess of sixty thousand (60,000) Square feet of total enclosed floor area.
- B. New buildings with less than sixty thousand (60,000) square feet of total enclosed floor area but which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area* or exterior renovations of existing buildings visible from a public street or pedestrian way which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area*.

(Ord. No. 286, Exh. A, 4-17-07)

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

---

### **17.74.050 Area regulations.**

- A. Minimum lot area: Seven thousand (7,000) square feet.
- B. Minimum frontage: Fifty (50) feet.
- C. Minimum yards:
  - 1. Front yard: Thirty-five (35) feet measured from the front property line; twenty-five (25) feet measured from the front property line for motor fuel pumps.
  - 2. Rear yard: None established.
  - 3. Side yard: None established for interior lots.
  - 4. Corner lots: Fifteen (15) feet for the side yard facing a secondary street.

(Ord. 225 (part), 2003)

### **17.74.060 Height regulations.**

Maximum height of structures shall be three stories or forty-five (45) feet, whichever is less.

(Ord. 225 (part), 2003)

### **17.74.062 Building size.**

The maximum size of a building in the highway related business district (B-2) shall be sixty thousand (60,000) square feet of total enclosed floor area except for those buildings that may be constructed after approval and issuance of a special use permit. Buildings in excess of sixty thousand (60,000) square feet of total enclosed floor area may be allowed upon approval by the city council of a special use.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.74.070 Other regulations.**

The entrance to or exit from a public garage shall be located a minimum of fifty (50) feet from a boundary within a residential district.

(Ord. 225 (part), 2003)

## **Chapter 17.76 CENTRAL BUSINESS DISTRICT ZONE (CBD)**

### **Sections:**

### **17.76.010 Intent.**

The central business district (CBD) is a part of the original Hamilton town site and was developed for commercial purposes in the 1890's, much before the advent of our current car-based society. It is referred to as "Downtown Hamilton." Most of the businesses are located on small twenty-five by one hundred thirty (25x130) feet lots with a variety of retail, commercial, professional, government services and residential dwelling units above the street level. The intent of this district is to:

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

- 
- A. Promote and maintain a viable pedestrian friendly business community;
  - B. Encourage remodeling efforts to preserve the historical character of each building and new construction that blends with the old;
  - C. Retain on-street parking spaces;
  - D. Develop commercial and mixed-use areas that are safe, comfortable and attractive to pedestrians;
  - E. Provide flexibility in the site and design of new development and redevelopment to anticipate changes in the market place;
  - F. Encourage preservation of the historic character of the central business district;
  - G. Promote streets as public places that encourage pedestrian and bicycle travel. Provide roadway and pedestrian connections to residential areas;
  - H. Provide transition between high traffic streets and neighborhoods, as stated in the city's transportation plan;
  - I. Encourage efficient land use by facilitating high-density development and minimizing the amount of land that is needed for surface parking;
  - J. Facilitate land use mix, density and design that supports public transit;
  - K. Provide appropriate locations and design standards for commercial and institutional automobile and truck-dependent uses;
  - L. Maintain mobility along traffic corridors and state highways.

(Ord. 225 (part), 2003)

**17.76.020 Uses allowed.**

- A. Retail stores and shops.
- B. Banks, credit unions and other financial institutions.
- C. Eating establishments (walk-ins), bakeries and catering establishments (except drive-thru's).
- D. Arcades.
- E. Media offices and production facilities.
- F. Printing shops and photography shops.
- G. Dwellings, provided they are located above the ground floor of the same building of the use allowed.
- H. Taverns and cocktail lounges.
- I. Theaters and museums.
- J. Medical and dental offices.
- K. Indoor recreational facilities and health clubs.
- L. Parks and open spaces.
- M. Professional and personal services.
- N. Barber and beauty shops.
- O. Short-term rentals.

---

P. Marijuana Dispensaries.

(Ord. 225 (part), 2003)

( Ord. No. 417 , § 8, 2-16-21)

**17.76.030 Uses not allowed.**

- A. Eating establishments (with drive-thru's).
- B. Independent for-profit commercial storage facilities.
- C. Entertainment (not enclosed other than activities approved by a special event permit).
- D. Government (no point of service).
- E. Warehouse.
- F. Transportation, freight and distribution.
- G. Industrial service.
- H. Processing of raw materials.
- I. Manufactured or mobile dwelling units.
- J. Vehicle sales and related services.
- K. Vehicle brokers.
- L. All other uses not specifically set forth in Sections 17.76.020 and 17.76.040.

(Ord. 225 (part), 2003)

( Ord. No. 404 , § 6, 11-19-19)

**17.76.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.76.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Wholesale;
- B. Schools, nursery schools and day care centers (public and private);
- C. Social, service, fraternal clubs and religious institutions;
- D. Full service laundry and dry cleaning;
- E. Manufacturing and production (less than five thousand (5,000) square feet or with retail outlet);
- F. Businesses wherein patronage and/or employment is limited to persons eighteen (18) years of age or older;
- G. Government point services (fire hall, post office, etc.);
- H. Independent parking lot(s);
- J. Community centers;

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

- 
- K. Libraries;
  - L. Accessory buildings and uses incidental to the uses allowed; and
  - M. All other proposed uses and structures not described in Sections 17.76.020, 17.76.030 and 17.76.040 must obtain a conditional use permit.

(Ord. 225 (part), 2003)

#### **17.76.045 Special uses.**

The following uses must comply with the height regulations of Section 17.76 and with the regulations set forth in Chapter 17.122 (Special Use Permits) prior to issuance of a building permit.

- A. New buildings or exterior renovations of existing buildings visible from a public street or pedestrian way which do not conform to the *City of Hamilton Building and Site Design Guidelines* including *Appendix A - Additional Design Guidelines For the Central Business Zone District and the Historic Downtown Area*.

(Ord. No. 286, Exh. A, 4-17-07)

#### **17.76.050 Minimum area regulations.**

- A. Minimum lot area: Three thousand two hundred fifty (3,250) square feet.
- B. Minimum frontage: Twenty-five (25) feet.
- C. Minimum yards:
  - 1. Front yard: None.
  - 2. Rear yard: None.
  - 3. Side yards: None.

(Ord. 225 (part), 2003)

#### **17.76.060 Maximum height regulations.**

Maximum height of structures shall be three stories or forty-five (45) feet, whichever is less.

(Ord. 225 (part), 2003)

#### **17.76.070 Projections into public property.**

- A. Limited to parts or appendages of buildings which extend over walks or other right-of-way adjacent to public streets.
- B. May include awnings, marquees, sun control devices and miscellaneous architectural ornamentation as authorized by current building codes.
- C. Includes projecting signs.

(Ord. 225 (part), 2003)

---

(Supp. No. 2)

Created: 2021-07-01 19:13:39 [EST]

---

### **17.76.080 Parking requirements.**

Due to the uniqueness of this zone and the uses allowed in this chapter, reciprocal parking and off-site parking shall be permitted. Required off-street parking for proposed uses shall be allowed credit for on-street parking spaces to satisfy off-street parking requirements. Credit shall be given for on-street parking spaces located within the public right-of-way that are directly in front of or adjacent to the subject proposed use or parcel. When an on-street parking space is shared between two uses or parcels, a line perpendicular to the right-of-way at the point separating the uses or parcels will be projected to the curb. From this point the distance will be measured along the curb to each parking stripe. The use or parcel having the majority of this distance may count the space towards its required parking. Standards not included within this chapter shall be subject to review and approval through the conditional use permit process. The required parking for all uses within this zone shall be those as delineated within this zone and shall be exempt from the parking Chapter 17.100 et seq. of this title. All other uses other than those described within this text shall be calculated from the parking Chapter 17.100 of this title.

- A. Professional and personal offices: one space per five hundred (500) gross square feet of building.
- B. Medical and dental offices: one space per five hundred (500) gross square feet of building.
- C. Banks, credit unions and other financial institutions: one space per one thousand (1,000) gross square feet of building services.
- D. Barber or beauty shops: two spaces per work station or one space per five hundred (500) gross square feet of building whichever is less.
- E. Libraries, art galleries, museums: one space per one thousand (1,000) gross square feet of building.
- F. Eating establishments, taverns, lounges and casinos: one space per five hundred (500) gross square feet of building.
- G. Furniture or large appliance, retail: one space per two thousand (2,000) gross square feet of building.
- H. Other retail, commercial: one space per five hundred (500) gross square feet of building.
- I. Minimum off-street parking spaces per residential dwelling unit: one space.
- J. All other uses not described within Section 17.76.080 must comply with Chapter 17.100, off-street parking and loading.
- K. Mixed-use parking shall be the aggregate of all proposed uses. Joint-use parking cannot be applied to residential parking space requirements.
- L. When off-street parking is not available in the same lot or parcel for an existing residential dwelling, the landlord must obtain off-street parking.
- M. Parking lots shall not be located on main street frontage, and shall be located behind buildings in the interior of the block to the maximum extent feasible or shall be located behind or to the side of a building when possible.
- N. The zoning administrator may grant a reduction of or an exemption from landscaping requirements when it is determined the amount of land available for parking spaces is limited and the installation of landscaping would decrease the amount of parking spaces.
- O. Off-street parking spaces, parking stripes and parking lots abutting or adjacent to a residential area shall provide landscaped screening and shall comply with landscape requirements listed in Chapter 17.100, parking.
- P. Required off-street parking spaces shall be located on the same lot or premises as the building or use for which they are required unless such spaces are provided for collectively by two or more buildings or

---

uses on adjacent lots in a single parking area located within the boundaries of the adjacent lots, and the total number of parking spaces supplied collectively is equal to the number of spaces required.

- Q. Joint use parking. See Chapter 17.100, Section 100, joint use off-street parking, of this title.
- R. Credit for on-street parking. The amount of required off-street parking for each lot shall be reduced by one off-street parking space for every on-street parking space in front of or adjacent (corner lots) to that lot. The zoning administrator shall address the configuration of on-street parking and any allowable credit toward off-street parking requirements during site or design review.
- S. Reduced or waive minimum off-street parking spaces. The applicant may request a variance to reduce or waive the number of parking spaces required. Such variance shall be handled according to Chapter 17.124. As part of the variance process, an applicant may be required to perform and present a parking impact study. Such study shall contain an estimated peak use, reductions due to easy pedestrian accessibility, availability of transit service, and likelihood of car pool use, and adjacent on-street parking.
- T. Maximum parking ratio. Surface parking shall not exceed one hundred ten (110) percent of the minimum-parking requirement for the subject land use(s). Exemptions may be approved by the zoning administrator through site or design review for developments that provide parking structures, shared parking, valet parking spaces, market rate parking, or similarly managed parking facilities.

(Ord. 225 (part), 2003)

## **Chapter 17.80 COMMERCIAL OR MANUFACTURING DISTRICT (CM)**

### **Sections:**

#### **17.80.010 Intent.**

The commercial/manufacturing district (CM) establishes zoning for certain commercial and manufacturing uses which generate low volumes of vehicular traffic and create negligible noise, glare, dust or odor.

(Ord. 225 (part), 2003)

#### **17.80.020 Uses allowed.**

- A. Equipment and motor vehicle rental outlets.
- B. Business, manufacturing or scientific research centers, and product development testing laboratories.
- C. Assembly or fabrication of products from pre-manufactured components.
- D. Warehousing or storage of products, materials or equipment not to include bulk fuel or petroleum products.
- E. Wholesale businesses, including auction sales and services.
- F. Mini-storage units.
- G. Motor vehicle repair garages, provided that the repair of vehicles shall be within an enclosed building; does not include auto wrecking or salvage yards.
- H. Public parking garages.
- I. Freight terminals and distribution centers.



- 
- J. Public and quasi-public utility buildings and facilities necessary to provide services to the surrounding area, when screened from public view.
  - K. Retail sales incidental to principal manufacturing uses.
  - L. Use, overnight parking or storage of recreational vehicles or camper trailers.

(Ord. 225 (part), 2003)

#### **17.80.030 Uses not allowed.**

- A. Residential uses to include manufactured and mobile homes for any use.
- B. Auto wrecking or salvage yards.
- C. All other uses not specifically set forth in Sections 17.80.020 and 17.80.040 of this chapter.

(Ord. 225 (part), 2003)

#### **17.80.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations set forth in Section 17.80.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Central electrical power stations;
- B. Storage of bulk fuel and petroleum products; and
- C. Collection centers for recyclable materials.
- D. Marijuana Manufacturers.
- E. Marijuana Transporters.

(Ord. 225 (part), 2003)

#### **17.80.050 Area regulations.**

- A. Minimum lot area: Ten thousand (10,000) square feet.
- B. Minimum frontage: Fifty (50) feet.
- C. Minimum yards:
  - 1. Front yard: Twenty (20) feet measured from the front property line.
  - 2. Rear yard: None.
  - 3. Side yard: None for interior lots.
  - 4. Corner lots: Twenty (20) feet from the side yard facing a secondary street.
- D. Maximum lot coverage: Seventy (70) percent.

(Ord. 225 (part), 2003)

---

### **17.80.060 Maximum height regulations.**

Maximum height of structures shall be three stories or forty-five (45) feet, whichever is less.

(Ord. 225 (part), 2003)

### **17.80.070 Other regulations.**

- A. Where a commercial/manufacturing use abuts a residential district the minimum setback on the commercial/manufacturing uses abutting side shall be two hundred (200) feet, unless separated by a main arterial street or designated truck route.
- B. Access to a commercial/manufacturing use shall be a minimum of two hundred (200) feet from a residential district unless adjacent to an established main arterial street or designated truck route.

(Ord. 225 (part), 2003)

## **Chapter 17.84 MANUFACTURING OR INDUSTRIAL DISTRICT (MI)**

### **Sections:**

### **17.84.010 Intent.**

The manufacturing or industrial (MI) district establishes zoning for manufacturing and industrial uses.

(Ord. 225 (part), 2003)

### **17.84.020 Uses allowed.**

- A. Allowed uses named within Sections 17.80.020 and 17.80.040;
- B. Any production converting raw or recycled materials into components or finished products; and
- C. Parking or storage of recreational vehicles or camper trailers.

(Ord. 225 (part), 2003)

### **17.84.030 Uses not allowed.**

- A. Residential uses to include manufactured and mobile homes for any use;
- B. Auto wrecking and salvage yards; and
- C. All other uses not specifically set forth in Sections 17.84.020 and 17.84.040 of this chapter.

(Ord. 225 (part), 2003)

---

### **17.84.040 Conditional uses and conditional use structures.**

The following conditional uses and conditional use structures must comply with the height regulations of Section 17.84.060 and with the regulations set forth in Chapter 17.124 (variances and conditional use permits), prior to the building permit being issued:

- A. Industries which generate or manufacture hazardous or toxic materials; and
- B. Industries which receive, process or store hazardous or toxic materials.
- C. Marijuana Manufacturers.
- D. Marijuana Transporters.

(Ord. 225 (part), 2003)

### **17.84.050 Minimum area regulations.**

- A. Minimum lot area: Twenty thousand (20,000) square feet.
- B. Minimum frontage: One hundred fifty (150) feet.
- C. Minimum yards:
  - 1. Front yard: Twenty (20) feet measured from the front property line.
  - 2. Rear yard: None.
  - 3. Side yard: None for interior lots.
  - 4. Corner lots: Twenty (20) feet from the side yard facing a secondary street.

(Ord. 225 (part), 2003)

### **17.84.060 Maximum height regulations.**

- A. Three stories or forty-five (45) feet, whichever is less.
- B. None established for smokestacks, air pollution equipment, and water towers.

(Ord. 225 (part), 2003)

### **17.84.070 Other regulations.**

- A. Where a manufacturing/industrial use abuts a residential district, the minimum setback on the manufacturing/industrial use's abutting side shall be six hundred (600) feet.
- B. Access to a manufacturing/industrial use shall be a minimum of three hundred (300) feet from a residential district.

(Ord. 225 (part), 2003)

## **Chapter 17.88 PUBLIC AND INSTITUTIONAL DISTRICT (PI)**

### **Sections:**

---

### **17.88.010 Intent.**

The public and institutional district (PI) establishes zoning to accommodate those public and institutional uses which are related to the health, safety, educational, cultural and welfare needs of the city.

(Ord. 225 (part), 2003)

### **17.88.020 Uses allowed.**

All proposed uses for the PI district shall require a conditional use permit and must obtain approval from the zoning board of adjustment pursuant to Chapter 17.124.

(Ord. 225 (part), 2003)

### **17.88.030 Uses not allowed.**

- A. Commercial uses.
- B. Residential uses to include manufactured homes and mobile homes for any use.
- C. Storage of recreational vehicles or camper trailers.
- D. All other uses not specifically set forth in Sections 17.88.020 and 17.88.040.

(Ord. 225 (part), 2003)

### **17.88.040 Conditional uses and conditional use structures.**

The following uses may be permitted in the PI district subject to the regulations set forth in Chapter 17.124 (variances, conditional uses and conditional use structures):

- A. Colleges, universities and vocational training centers;
- B. Convention and exhibition centers;
- C. Cultural centers;
- D. Churches;
- E. Fire stations;
- F. Government owned and operated facilities;
- G. Historical landmarks, sites, memorials and monuments;
- H. Libraries;
- I. Museums;
- J. Parks and playgrounds;
- K. Police stations;
- L. Public maintenance facilities;
- M. Cemetery;
- N. Fairgrounds;

- 
- O. Schools, including preschool, elementary and high, both public and private;
  - P. Utilities, public and private including communication equipment buildings, electrical distribution substations and related administrative facilities;
  - Q. Parking lots and parking buildings; and
  - R. Charitable, philanthropic, non-profit organization facilities.

(Ord. 225 (part), 2003)

#### **17.88.050 Building site area.**

The minimum building area shall be established by the zoning board of adjustment.

(Ord. 225 (part), 2003)

#### **17.88.060 Yards—Minimum.**

The minimum yard setbacks shall be established by the zoning board of adjustment.

(Ord. 225 (part), 2003)

#### **17.88.070 Building height—Maximum.**

The maximum height of any building shall be established by the zoning board of adjustment.

(Ord. 225 (part), 2003)

### **Chapter 17.92 PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT (PUD)**

#### **Sections:**

#### **17.92.010 Intent.**

The intent of the Planned Unit Development (PUD) Overlay District is to:

- A. Ensure future development is in accordance with the City of Hamilton Growth Policy and the goals, objectives, and policies therein;
- B. Provide flexibility in regulations and standards in exchange for community benefits and innovative, quality design;
- C. Promote logical development patterns of residential, commercial, office and industrial uses that will mutually benefit the developer, the neighborhood, and the community;
- D. Promote the efficient use of land and provision of City infrastructure and services;
- E. Minimize adverse environmental impacts and encourage the preservation and enhancement of natural amenities, cultural resources and open space;
- F. Promote the use of walking and biking as viable transportation options;
- G. Encourage development of a variety of housing types to accommodate households of all ages, sizes, and incomes;

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

- 
- H. Improve the design, quality and character of new development; and
  - I. Encourage development of vacant properties in developed areas.

### **17.92.020 Overview.**

- A. The PUD Overlay District is a zoning designation that overlays an underlying zoning district.
- B. A PUD requires approval of a zone map amendment according to Section 17.08.020 to obtain a PUD designation. A PUD designation is available in the following zoning districts: RM, RH, and B. Approved PUDs shall be identified on the zoning map by appending the map symbol to the underlying zoning district (e.g., "RH/PUD").
- C. PUD zone map amendments must be processed concurrently with a PUD application and preliminary development plan and, if applicable, subdivision and annexation.

### **17.92.030 Approval Required.**

- A. Approval of PUD preliminary and final development plans must occur before any building permit is issued. Permits may be issued for a development phase if a preliminary development plan has been approved for the entire PUD and a final development plan has been approved for the subject phase.

### **17.92.040 Requirements.**

- A. No application for a PUD will be approved unless all property included in the application is under unified ownership, a single entity's control, or the application is filed jointly by the owners of all the property to be included.
- B. The approved final development plan must specify a manner of holding title to areas and facilities of joint use and how areas of joint use shall be maintained. Normally such areas and facilities must be retained in title by the developers or deeded to an organization composed of all owners in the development.
- C. PUDs must contain at least two acres.

### **17.92.050 Guidelines.**

PUDs are encouraged to contain a mixture of the following components:

- A. Building and Site Design Guidelines
  - 1. A connected internal street network that also connects with the existing transportation network in the City;
  - 2. Pedestrian and bicycle facilities throughout and connecting to adjacent non-motorized transportation facilities;
  - 3. Lots and blocks with alleys;
  - 4. A coordinated landscape plan;
  - 5. Storm water management that utilizes natural features, including the use of low impact design such as bioswales;
  - 6. Blocks no larger than 350 feet in length;
  - 7. Limited curb cuts;
  - 8. The use of slow flow or yield streets;

9. Prevalent on-street parking;
  10. Boulevard sidewalks;
  11. Building entrances oriented towards the street;
  12. Landscaping screening off-street parking;
  13. Lighting that minimizes light pollution and trespass; and
  14. Street trees.
- B. Land Use Guidelines
1. A mixture of single and multi-family housing;
  2. Affordable housing units;
  3. A mix of residential and neighborhood commercial land uses;
  4. Off-street parking located on the rear portion of the lot or behind the main building; and
  5. Public spaces such as playgrounds, plazas, parks, or trails designed for active and passive users.;

**17.92.060 Regulations and Standards Eligible for Deviation.**

- A. In order to encourage flexibility and creativity, quality designs, and community benefits, deviations from the following regulations may be granted by the City Council during PUD designation:
1. Uses allowed;
  2. Minimum lot area;
  3. Minimum lot frontage;
  4. Minimum yards (setbacks);
  5. Maximum height;
  6. Maximum lot coverage;
  7. Off-street parking and loading requirements; and
  8. Streets
    - a. Alternatives to the City of Hamilton Public Works Standards street cross-sections and designs may be approved when the City Council determines that such alternative designs would better meet the purpose of the PUD Overlay, while still providing a safe and efficient transportation system. The city public works director and fire chief must review and make recommendations on requests for alternative street standards.
- B. All requested deviations and other relaxations of regulatory requirements must be identified in writing at the time of preliminary development plan submittal. Failure to identify such items may result in the delay of application processing. Regulations and standards proposed to be modified do not require review or approval of variances, but may be approved through the PUD designation and review process. In granting deviations, the City Council shall have the right to establish and provide conditions and limitations.

### **17.92.070 Preliminary Development Plan Review.**

- A. A preapplication meeting between the applicant (or applicant's agent) and the City planning and public works departments is required before submitting a PUD application and preliminary development plan. At the time of request for a preapplication meeting, the applicant shall provide a sketch showing the layout and features of the proposed PUD. The zoning administrator shall review the preapplication request and submitted information and meet with the applicant within thirty (30) calendar days of submittal. At the preapplication meeting the zoning administrator will provide the applicant with written comments regarding the submittal, review process, and recommendations to inform and assist the applicant prior to preparing the PUD application and preliminary development plan. For a PUD project reviewed as a subdivision, the subdivision preapplication review will serve to meet this requirement.
- B. At the option of the applicant, the preliminary development plan may also serve as the preliminary subdivision plat if such intention is declared before the Planning Board and Zoning Commission public hearing and if the application(s) include all information required for preliminary plats and preliminary development plans.
- C. In addition to the requirements for zone map amendments and subdivisions (if applicable), each PUD application must include the following items:
  - 1. A preliminary site plan showing the location and area of lots and blocks, buildings, motorized and non-motorized transportation facilities, public spaces, parking, landscaping, utilities, and other pertinent features.
  - 2. A list of the specific requirements and standards that are requested to be modified;
  - 3. A list of land uses that are proposed;
  - 4. The total number of residential dwelling units by type of dwelling unit and total net and gross residential density;
  - 5. Total number of commercial buildings by type of building and total net and gross building density;
  - 6. Information about buildings including type, size, and locations
  - 7. Landscape plan including plans for irrigation;
  - 8. Description of public spaces, parks, and recreation amenities.
  - 9. A written description of the community benefits of the proposed development, how the proposed PUD provides greater benefits to the City than would development in line with existing regulations and standards, and how the proposed development incorporates the guidelines from section 17.92.050;
  - 10. A written narrative regarding how the proposed PUD conforms to the City's Growth Policy;
  - 11. A description and draft documents indicating how common areas and facilities will be managed.
- D. The zoning administrator shall review the PUD application and preliminary development plan in light of the provisions of this Chapter and the review criteria in 17.92.080. The zoning administrator shall prepare a report and recommendation for the Planning Board and Zoning Commission based on the zoning administrator's review.
- E. The Planning Board and Zoning Commission shall hold a joint public hearing on the PUD application and preliminary development plan. Following the close of the hearing the collective Planning Board and Zoning Commission must act by simple majority vote to recommend to City Council that the PUD and preliminary development plan be approved, approved with conditions, or denied.



- F. After action by the Planning Board and Zoning Commission, the City Council must convene its own public hearing on the PUD application and preliminary development plan. Following the close of the public hearing, the City Council may act to approve, approve with conditions, or deny the PUD application and preliminary development plan. The City Council may also return the application to the Planning Board and Zoning Commission for further consideration, together with a written explanation of the reasons for doing so.
- G. All public hearings of the Planning Board, Zoning Commission, and City Council on PUD applications and preliminary development plans shall be noticed according to Section 17.08.020. Such notices may be consolidated with other notices related to the project as long as the various aspects of the project (e.g., PUD review, zone map amendment, annexation, subdivision, etc.) are properly noticed in compliance with City and state requirements.

#### **17.92.080 Review Criteria.**

- A. In reviewing and making decisions on a PUD application and preliminary development plan, advisory and decision-making bodies must consider the following criteria:
  - 1. The zone map amendment criteria in Montana Code Annotated 76-2-304
  - 2. The PUD application's and preliminary development plan's consistency with section 17.92.010 (Intent);
  - 3. The PUD application's and preliminary development plan's consistency with section 17.92.050 (Guidelines);
  - 4. The extent to which the PUD application and preliminary development plan would result in a greater benefit to the City than would development under conventional zoning regulations;
  - 5. Subdivision review criteria as established by Hamilton Municipal Code (if applicable); and
  - 6. Annexation review criteria as established by City policy (if applicable).

#### **17.92.090 Final Development Review.**

- A. A. Final development plan applications must be filed with City planning department after approval of and before the lapse of a preliminary development plan.
- B. A final development plan will not be considered complete and ready for processing if all approved conditions of approval have not been met or if the final development plan constitutes a major change from the approved preliminary development plan, per section 17.92.130 (Changes to Approved Plans) of this chapter.
- C. If a final development plan is submitted that constitutes a major change to an approved PUD application and preliminary development plan, no further processing of the final development plan may occur. The zoning administrator shall notify the applicant that major changes may be made only in accordance with section 17.92.130 (Changes to Approved Plans) of this chapter.
- D. If the final development plan complies with the approved preliminary development plan, all conditions of the preliminary development plan approval, and all applicable standards of this zoning ordinance, the City Council must approve the final development plan.
- E. If the submitted final development plan does not comply with the approved preliminary development plan, any conditions imposed on that plan, or any applicable standards of this zoning ordinance, the City Council must deny the final development plan and advise the applicant in writing of the specific reason for denial. In the event that the City Council does not approve the final development plan, the applicant may resubmit the final development plan to correct the plan's inconsistencies and deficiencies.

**17.92.100 Effect of Approval.**

- A. An approved final development plan shall be filed with the County Clerk and Recorder's office immediately upon compliance with all conditions of approval. If the applicant chooses to abandon a final development plan or portion thereof after it has been given final approval, they must notify the zoning administrator.
- B. The filing of a final development plan with the County Clerk and Recorder's office does not constitute the effective dedication of easements, rights-of-way, or access control, nor will the filed plan be the equivalent of or an acceptable alternative for the final platting of land.
- C. A PUD project must be developed in accordance with the approved final development plan.

**17.92.110 Duration of Approval.**

- A. If the applicant fails to file an application for final development plan approval within two years of the date of preliminary development plan approval, the approval will be deemed to have lapsed and the preliminary development plan will lapse and be of no further effect.
- B. For projects to be developed in phases, phase limits must be shown on the preliminary development plan. The City Council may impose conditions upon the phasing plan as deemed necessary to ensure orderly development, including requirements for financial guarantees ensuring construction of all required improvements.
- C. In the event the applicant fails to commence development shown on the final development plan within two years after final approval, then such final approval will lapse and be of no further effect unless the time period is extended by the City Council upon written application by the applicant.
- D. Requests for extensions must be submitted to the zoning administrator before the final development plan approval expires and must be processed in accordance with the procedures for approval of a PUD application and preliminary development plan.
- E. In the event of lapse of final approval, approved PUD plans have no further effect.

**17.92.120 Phasing.**

- A. The City Council may approve phased PUDs that extend beyond the maximum two-year preliminary approval period set forth 17.92.110, in accordance with a phasing schedule proposed by the applicant.
- B. Phased PUDs and corresponding phasing plans shall follow the application and review procedures outlined in 17.92.070 (Preliminary Development Plan Review) and 17.92.080 (Review Criteria).
- C. Phasing Plans:
  - 1. Applicants applying for a phased PUD must submit a phasing plan that includes phased development boundaries, schedules, conceptual development plan map, and other details pertaining to the phasing of the project.
  - 2. Phasing plans must be submitted along with materials required in 17.92.070 (Preliminary Development Plan Review) for the phase(s) to be developed within the initial two-year time frame established in 17.92.110.
  - 3. Conceptual development plan maps shall include the following elements:
    - a. Motorized and non-motorized transportation infrastructure;
    - b. Locations of public spaces and open space corridors;

- c. Proposed land uses and housing types for each phase; and
  - d. Estimated residential densities for each phase.
- 4. All phases of a PUD must conform to the phasing plan.
- D. Within 10 years of the date the phased plan is approved by City Council, all individual phases must be submitted for review and approved, conditionally approved, or denied in accordance with the preliminary development plan review and approval procedures outlined in this chapter. Any phase not approved, conditionally approved, or denied within this 10-year timeframe shall be null and void.
- E. The applicant may change the phasing schedule upon approval of City Council following a public hearing. The City Council may approve a proposed change to the phasing schedule only if the change does not negate a condition of approval or otherwise adversely affect public health, safety, or welfare.
- F. Completion assurance.
  - 1. The applicant shall provide agreements, contracts, covenants, deed restrictions, and sureties acceptable to the Hamilton City Attorney for the completion of the development according to the approved conceptual development plan and any other documents of record, and for the maintenance of such areas, functions, and facilities as are not to be provided, operated, or maintained by the City, and shall place covenants on the property to bind any successors in title to any commitments made under this section.

#### **17.92.130 Changes to Approved Plans.**

- A. Changes to an approved development or phasing plan shall be processed using the procedures outlined in this section for minor and major changes.
- B. Minor Changes
  - 1. Minor changes may be approved administratively by the zoning administrator in writing without additional public notice.
  - 2. Minor changes are defined as follows:
    - a. Changes that do not alter the character of development;
    - b. A less than 5% change in the number of residential dwelling units;
    - c. A less than 5% increase in gross non-residential floor space;
    - d. A less than 5% reduction in the amount of land set aside for public space;
    - e. Changes that do not create substantial adverse impact on surrounding property owners.
- C. Major Changes
  - 1. Major changes may be made only after rehearing the PUD application and preliminary development plan in accordance with review procedures outlined in 17.92.070 (Preliminary Development Plan Review), including payment of fees, all notices, and hearings.
  - 2. Major changes are defined as follows:
    - a. Changes that alter the character of development
    - b. A 5% or greater change in the number of residential dwelling units;
    - c. A 5% or greater increase in gross non-residential floor space;

- d. A 5% or greater reduction in land set aside for public space;
- e. A reduction in the number of affordable dwelling units;
- f. A change in the location or placement of buildings;
- g. An increase in the number of lots;
- h. Changes that create substantial adverse impact on surrounding property owners..

## **Chapter 17.100 OFF-STREET PARKING AND LOADING**

### **Sections:**

#### **17.100.010 Intent.**

The intent of the off-street parking and loading chapter is to provide the public with an adequate number of parking spaces, vehicular ingress and egress from a building or parking area to a public street, and access for emergency vehicles. The purpose of off-street parking requirements is also to provide convenient and safe access to property, avoid the negative impacts associated with spillover parking into adjacent neighborhoods (while at the same time avoiding the negative environmental and urban design impacts that can result from excessive parking), and, alleviate hazards with access to traffic generating business and industrial uses.

The intent is to control parking, internal circulation and access onto a public street and to provide adequate and safe parking for residents and business customers, to avoid and mitigate traffic congestion, and to provide aesthetically pleasing parking facilities, all in the interest of public safety and general welfare. The parking requirements specific to the CBD zoning district can be found in Chapter 17.76 of this title.

(Ord. 225 (part), 2003)

( Ord. No. 409 , § 8, 7-21-20)

#### **17.100.020 Definitions.**

As used in this chapter:

"Floor area" means the total gross floor area of all floors of any building which includes all space intended for occupation use and storage.

"Loading space" means an area used for loading or unloading located entirely on private property with a minimum vertical clearance of fourteen (14) feet and provided with permanent independent access.

"Off-street parking space" means an area used for parking a motor vehicle located entirely on private property with permanent independent access for use by occupants, patrons or residents of the property.

"Public works standards" means those standards adopted by the City of Hamilton city council on June 18, 2002, Resolution #826, that include the adoption by reference the Montana public works standards and specifications most recent edition (hereinafter "Public Works Standards").

(Ord. 225 (part), 2003)

---

### **17.100.030 Designs.**

- A. Off-street parking spaces must conform to the public works standards and specifications.
- B. Off-street parking areas must be accessible from a public street.
- C. The access to an off-street parking area must be constructed according to the public works standards and specifications.
- D. Off-street parking spaces that service residential uses must be located on the same lot as the dwelling and may not be located in any front yard except in a single designated driveway.
- E. Off-street parking areas serving commercial, industrial, public or institutional uses must be located within one city block (approximately three hundred (300) feet) of the use.
- F. Off-street parking areas serving multi-family residential developments of more than ten units, or commercial, industrial and institutional uses must comply with the following provisions:
  - 1. Grading and drainage. Off-street parking areas shall be graded and any needed swales, culverts or other drainage facilities shall be installed to remove storm water run-off in a manner that does not adversely affect adjacent properties, public streets or surface waters.
  - 2. All off-street parking areas shall be surfaced according to the public works standards.
  - 3. Screening. Where an off-street parking area abuts a residential zoning district, the parking area shall be effectively screened at the property line(s) by sight-obstructing wall, fence or hedge acceptable to the director of public works with a minimum height of five feet.
  - 4. Lighting. Lighting used to illuminate a parking lot shall be directed downward and illuminating the parking area only. No illumination shall spill over to any adjoining residential zoning district. No source of lighting shall face upward to the sky.

(Ord. 225 (part), 2003)

### **17.100.040 Enforcement of requirements.**

Any change to a building, or any change in use of a building or site to such an extent that a building permit or certificate of occupancy is necessary, shall require compliance with the provisions contained in this chapter. No building permit shall be issued until plans showing provisions for the required off-street parking have been submitted and approved. Every lot or parcel of land or portion thereof used as a public or private parking area shall be developed and maintained in accordance with this chapter.

(Ord. 225 (part), 2003)

### **17.100.050 General regulations.**

- A. The property owner or the authorized representative is responsible for the continuous provision and maintenance of off-street parking for employees, customers, business vehicles and loading spaces. Compliance with these regulations shall be a part of the building permit review process whenever a facility's use is established, enlarged or changed.
- B. A site plan of the proposed parking area, including location, curb cuts, pedestrian walks, screening, lighting, drainage retention, landscaping, traffic control devices, drainage facilities and any other features shall be submitted for approval as part of the building permit approval process.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

- 
- C. In the event a discrepancy should arise between this Code and the adopted public works standards, the public works standards shall supersede this title.

(Ord. 225 (part), 2003)

### **17.100.060 General requirements (all parking areas).**

Paving and hard surfacing of all parking areas shall provide for proper on-premise storm drainage and allow for parking stalls and installation of other traffic control devices as deemed appropriate by the director of public works. Paint or markers shall be used to delineate parking stalls and directional arrows on paved or hard surfaced areas. Pedestrian walks on the exterior of the parking lot shall be curbed or raised six inches above the lot surface, excluding those areas used for driveways, curb cuts necessary for meeting handicap requirements and curb cuts necessary to meet public works standards. The parking lot surfacing and drainage facilities shall be inspected and approved by the director of public works or his or her designee prior to the issuance of a certificate of occupancy. Off-street parking stalls shall comply with public works standards for off-street parking.

(Ord. 225 (part), 2003)

### **17.100.070 Off-street parking space requirements.**

- A. The following minimum number of off-street parking spaces shall be provided for the respective uses, subject to the adjustments allowed in subsection 1. When calculation of the required parking results in a fraction of a parking space being required, the fractional space is not required to be provided.
1. Residential uses:
    - a. One parking space may be deducted from the total off-street parking spaces required for a residential development for every twenty-four (24) uninterrupted linear feet of available street frontage usable for parallel on-street parking directly adjacent to a lot.
    - b. One parking space may be deducted from the total off-street parking spaces required for a residential development for every two diagonal or perpendicular parking spaces directly adjacent to a lot, which are usable for on-street parking and have been striped by the City of Hamilton.
    - c. The width of drive accesses, designated non-parking areas, and clear sight triangles may not be considered to be available for the purpose of an on-street parking space.
    - d. The number of on-street spaces calculated may not exceed the number of dwellings on the lot.

Use Classification	Number of Parking Spaces Required
A. Single-family and mobile homes	2 spaces per dwelling unit (may be a stacked driveway)
B. Multi-family dwellings	1½ spaces per dwelling unit
C. Accessory dwellings	1 space per dwelling unit
D. Retirement or elderly apartments (low income subsidized)	1 space per 3 dwelling units
E. Retirement or elderly apartments	1 space per dwelling unit; or 1 space per 3 dwelling units when a deed restriction is filed against the property limiting use of the site to retirement or elderly housing; or 1 space per 3 dwelling units when additional land is perpetually reserved to provide adequate parking at 1 space per dwelling unit to

---

	facilitate eventual conversion; or 1 space per 3 dwelling units when a form of financial assurance, acceptable to the zoning administrator
F.	Hotels, motels, rooming or boarding houses, clubs and lodges with overnight accommodations 1 space per unit or room, plus parking as required for restaurants, conference and convention facilities and retail shops
G.	Dormitories 1 space per planned resident
H.	Group homes (community residential facility, community treatment facility and transitional community facility) 1 space per staff person, plus 1 space per 5 residents, plus 1 space per vehicle operated by the home or facility
I.	Family day care homes and mini-day care centers None required other than for single-family dwellings
J.	Day care centers 1 space per staff person, plus 1 pick up and drop off space, plus 1 space per 10 children
K.	Nursing homes and convalescent centers 1 space per 4 beds
L.	Hospitals 1 space per 2 beds
M.	Junior high schools and elementary schools 2 spaces per teaching station
N.	High schools 5 spaces per teaching station
O.	Specialized schools or studios (dance, gymnastics, martial arts, etc.) 1 space per 100 gross square feet
P.	Professional offices 1 space per 500 square feet of floor area, minimum of 5 spaces
Q.	Medical and dental offices and animal clinic or veterinary 1 space per 250 square feet of floor area
R.	Banks and other services 1 space per 500 square feet of floor area, minimum of 5 spaces
S.	Barber or beauty shops or schools 1 space per 100 square feet of floor area
T.	Launderettes or self service laundries 1 space per 4 machines
U.	Libraries, art galleries, museums 1 space per 500 square feet of floor area
V.	Auditoriums, theaters, stadiums, churches, funeral homes, bingo parlors (fixed seating) 1 space for every 4 seats or 1 space for every 8 feet of bench or pew
W.	Clubs, lodges, dance halls, bingo parlors, meeting rooms and other assemblies (without fixed seating) 1 space per 100 square feet of floor area
X.	Tennis, racquetball, handball and similar courts and clubs (indoor) 2 spaces per court, plus 1 space per 50 square feet of all other floor area
Y.	Bowling alleys 4 spaces per lane
Z.	Skating rinks 1 space per 150 square feet of floor area
AA.	Drive thru and take out restaurants (no seating) 1 space per 50 square feet of floor area, minimum of 6 spaces
BB.	Full service restaurants, taverns and lounges 1 space per 100 square feet of floor area, minimum of 6 spaces
CC.	Casinos 1 space for every 2 gambling machines for non-mixed use and/or 1 space for every 4 gambling machines for mixed use
DD.	Car washes and other short turn around auto services (lube, etc.) 1 space for each employee, plus 2 spaces for each service bay. If flow-thru service bays are used, spaces may be stacked at the entrance. Space inside the service bay shall be considered a parking place.
EE.	Auto repair garages 1 space per employee plus 2 spaces for each service bay

---

FF.	Motor vehicle or large machinery, retail	1 space per 1,000 square feet of floor area, plus 1 space per 1,500 square feet of outside display and sales lot
GG.	Manufactured and mobile homes and recreation vehicle, retail	1 space per 3,000 gross square feet of lot area
HH.	Furniture and/or large appliance, retail	1 space per 500 square feet of floor area
II.	Other retail, commercial	1 space per 250 square feet of floor area, minimum of 3 spaces
JJ.	Self-service storage facilities	1 space for the manager, 1 space for each employee if full service office is located on the lot and 1 space for every 100 storage units. Driveway aisles shall be a minimum of 20 feet where access to storage units is only on one side of the aisle, and 24 feet where access to storage units is on both sides of the aisle.
KK.	Wholesale commercial	1 space per 2,000 square feet of floor area
LL.	Wholesale warehouse	1 space per 5,000 square feet of floor area
MM.	Industrial	1 space per 4,000 square feet of floor area. Storage areas in excess of 1,000 square feet in industrial buildings can be calculated separately as warehouse.
NN.	Motor freight companies	1 space per 1,000 square feet of floor area
OO.	Auto wrecking yards	15 spaces for sites up to ten acres, 25 spaces for sites over 10 acres
PP.	Outdoor facilities (pools, athletic fields, etc.)	1 space per 4 of total occupancy load and 1 per 8 feet of grandstand or bleacher seating space
QQ.	CBD zoning district	Refer to Chapter 17.76, CBD

(Ord. 225 (part), 2003)

( Ord. No. 409 , § 8, 7-21-20)

### **17.100.080 Landscaping requirements.**

- A. "Landscaping" means any combination of living plants such as trees, shrubs, vines, ground covers, flowers or lawns; and may include such decorative rock, stone and bark or structural features such as fountains, pools, art work, screens, walls, fences and benches.
- B. Landscaping shall be required on a minimum five percent of any parking area.
- C. A minimum of seventy-five (75) percent of the required area of landscaping shall consist of live plants and the remaining twenty-five (25) percent may consist of rock, stone, bark, structural features or walkways. Trees shall be the major design element in landscaping of parking areas.
- D. Landscaping plans must be submitted for approval with an application to include a plan for irrigation.
- E. Special landscaping requirements for the CBD zoning district are to be found within Chapter 17.76 of this title.

(Ord. 225 (part), 2003)



---

### **17.100.090 Illumination.**

Illumination of a parking area shall be constructed, shielded and used so as not to create glare visible from adjacent properties or public rights-of-way. Lighting conflicting with traffic signals or emergency vehicle lights or otherwise creating safety hazards for pedestrian or vehicular traffic is prohibited.

(Ord. 225 (part), 2003)

### **17.100.100 Parking requirements for mixed-use occupancies.**

In the case of mixed-use occupancies in a building or on a lot, the total requirement for off-street parking shall be the sum of the requirements for the various uses computed separately. Off-street parking facilities for a particular use shall not be considered as providing required facilities for any other use except as hereinafter specified for joint use, Section 17.100.110. Special parking requirements for the CBD zoning district are to be found within Chapter 17.76 of this title.

(Ord. 225 (part), 2003)

### **17.100.110 Joint use of off-street parking facilities.**

- A. The owner(s) of a group of uses or buildings may jointly provide for the collective use of off-street parking and loading spaces, subject to the zoning administrator's approval of the plans therefore. Such plans shall include the identification of the limits of the property involved; the outline of all structures; the identification of all other areas not involved in the off-street parking, loading or access thereto (pedestrian areas, landscaping, refuse storage areas); the actual layout of all off-street parking and loading spaces, as well as access thereto; identification of those spaces to be used collectively if other than all spaces on the property; and an agreement signed by all owners of the subject property binding them to continued collective use of off-street parking and loading spaces.
- B. For shopping centers, the zoning administrator may establish a total parking requirement based upon the mixture of uses contained within the center. If the zoning administrator finds that the uses within the center have substantially dissimilar peak demands for off-street parking, the zoning administrator may establish the center's parking requirements at a level reduced up to twenty-five (25) percent of the normal parking requirement.
- C. Up to fifty (50) percent of the parking areas required by this section for a use considered to be primarily a daytime use may be provided by the parking facilities of a use considered to be primarily a nighttime use or vice versa, provided that the reciprocal parking area is located within one city block (approximately three hundred (300) feet).
- D. Up to one hundred (100) percent of the Sunday and/or nighttime parking facilities required by this section for a church or auditorium incidental to a public or parochial school may be supplied by parking area required for the school use, provided that the reciprocal parking area shall be subject to the conditions set forth in this chapter.
- E. It shall be the applicant's responsibility to establish that there is no substantial conflict in the principal operating hours of the buildings or uses for which the joint use of the parking facility is proposed.
- F. Special joint-use parking requirements for the CBD zoning district are to be found within Chapter 17.76 of this title.
- G. Parties jointly using off-street parking areas, as provided for herein, shall execute a legal easement regarding their joint use agreement. The agreement shall be subject to review by the zoning administrator and

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

---

recorded in the Ravalli county clerk and recorder's office. The agreement shall run with the land and not be terminable without authorization being given by the zoning administrator.

(Ord. 225 (part), 2003)

**17.100.120 Parking for unspecified uses.**

When the parking requirements for a use are not specifically defined herein, the parking requirements for such use shall be determined by the zoning administrator and such determination shall be based upon the requirements for the most comparable use specified in this chapter or other requirements based on the best available information concerning the proposed use.

(Ord. 225 (part), 2003)

**17.100.130 Off-street loading regulations.**

- A. It is the intent of this section to require all future commercial, business, institutional or industrial development to provide off-street loading facilities in order to guarantee full utilization of existing rights-of-way to accommodate present and future traffic demands. Off-street loading facilities are intended to provide adequate space to accommodate outside deliveries from large vehicles which cannot be functionally served by normal parking stalls. Off-street loading facilities must be located in such a manner that service vehicles do not block or intrude into public rights-of-way or block driveways or parking area circulation.
- B. Loading and design:
  - 1. All off-street loading spaces shall be designed to minimize impacts on adjacent properties.
  - 2. In all cases, loading facilities shall be located on the same lot as the structure they are designed to serve. Required front or side yards cannot be used for loading. Off-street loading space shall not be included in an area used to satisfy off-street parking requirements.
  - 3. Loading spaces shall be designed and located so vehicles using these spaces do not project into any public right-of-way or otherwise extend beyond property lines.
  - 4. Loading spaces shall be designed and built so that no vehicles must back into or from an adjacent public street, except for minor access for heavy trucking in industrial zones on local access streets.
- C. When a proposed structure is intended to be used concurrently for different purposes, final determination of required loading spaces shall be made by the zoning administrator provided the loading requirement for the combined uses shall not be less than the total of the requirement for each separate use.
- D. Off-street loading spaces shall measure fifteen by sixty by fifteen feet high (15×60×15). In the event that only one off-street loading space is required, it may measure twelve by thirty by fourteen feet and six inches high (12×30×14.5).
- E. The minimum number of off-street loading spaces shall be required according to the following table:

1. Industrial, manufacturing wholesale, warehouse, similar uses	5,000—40,000 square feet	1 space
	40,000—60,000 square feet	2 spaces
	60,000—100,000 square feet	3 spaces
	over 100,000 square feet	1 space for each 50,000 square feet or part thereof

---

Created: 2021-07-01 19:13:40 [EST]

(Supp. No. 2)

2. Offices, hotel/motel, restaurants	20,000—60,000 square feet	1 space
	60,000—100,000 square feet	2 spaces
	over 100,000 square feet	1 space for each 50,000 square feet or part thereof
3. Hospitals, convalescent centers, nursing homes, similar institutions	10,000—40,000 square feet	1 space
	40,000—100,000 square feet	2 spaces
	over 100,000 square feet	2 spaces for each 50,000 square feet or part thereof
4. Department stores, retail and other commercial uses	10,000—20,000 square feet	1 space
	20,000—50,000 square feet	2 spaces
	50,000—100,000 square feet	3 spaces
	over 100,000 square feet	1 space for each 50,000 square feet or part thereof
5. Residential	No requirement	

F. Refer to Chapter 17.76 for specific requirements for the CBD zoning district.  
(Ord. 225 (part), 2003)

## Chapter 17.104 SIGN REGULATIONS<sup>2</sup>

**Sections:**

**17.104.010 Purpose.**

These sign regulations are established to safeguard the health, safety, convenience, order and welfare of all residents of the City of Hamilton, Montana. It is the intent of these regulations to provide for the proper control of signs within the City of Hamilton. It is recognized that signs are a necessary means of visual communication for the convenience of the public and also for the benefit of businesses. These regulations are intended to provide a reasonable balance between the right of the individual to identify his business, the right of the individual to utilize signs for other legitimate purposes, and the right of the public to be protected against visual discord, distraction and clutter resulting from the unrestricted proliferation of signs. These regulations are intended to aid in protecting the natural aesthetic character and scenic beauty of the area. It is further intended that the public be protected from signs that are structurally unsafe or obscure the vision of motorists or conflict with necessary traffic signs. Further, these regulations are intended to prevent unnecessary or excessive competition between signs in the City of Hamilton. No sign shall be permitted as a principal or accessory use under the zoning

---

<sup>2</sup>Editor's note(s)—Ord. No. 340, adopted May 4, 2010, repealed the former Ch. 17.104, §§ 17.104.010—17.104.160, and enacted a new Ch. 17.104 as set out herein. The former ch. 17.104 pertained to signs and derived from Ord. 225(part), 2003; Ord. 233 (part), 2004.

---

regulations of the city except in accordance with the provision of this Chapter 17.104 of the Hamilton Municipal Code.

(Ord. No. 340, 5-4-10)

### **17.104.020 Scope.**

The provisions of these regulations shall apply to the display, construction, installation, alteration, use, maintenance, and location of all signs within the City of Hamilton. All signs displayed, constructed, installed or altered after the date of the adoption of these regulations shall be in conformance with the provisions of these regulations. All signs that are existing at the time of the adoption of these regulations shall not be altered nor enlarged without being brought into conformance with these regulations. The administrator of these regulations, as provided in Section 17.104.210 is hereby authorized and directed to enforce the provisions of these regulations. These regulations shall not regulate official traffic or government signs, the copy and message of signs, signs not intended to be viewed from a public right-of-way, window displays, product dispensers and point of purchase displays, scoreboards on athletic fields, flags of any nation, government, or noncommercial organization, gravestones, barber poles, religious symbols, commemorative plaques, the display of street numbers, temporary decorations or displays clearly incidental and customary and commonly associated with national, local or religious holiday celebrations, or any display or construction not defined herein as a sign.

(Ord. No. 340, 5-4-10)

### **17.104.030 Definitions.**

Certain terms are defined for the purposes of these regulations as follows:

- A. Abandoned sign: A sign which no longer identifies or advertises a bona fide business, lessee, service, owner, product or activity, and/or for which no legal owner can be found.
- B. Administrator: The zoning administrator pursuant to Section 17.08.060. See also Section 17.104.210.
- C. Animated sign: Any sign which uses movement or change of lighting to depict action or to create a special effect or scene.
- D. Awning: A shelter projecting from and supported by an exterior wall of a building constructed of non-rigid materials on a supporting framework.
- E. Awning sign: A sign painted on, printed on, or attached flat against the surface of an awning.
- F. Balloon: Any tethered inflatable object.
- G. Banner sign: A sign made of fabric or any non-rigid material with no enclosing framework. Also, a flag or pennant.
- H. Billboard: A sign larger than two hundred fifty (250) square feet in area which is designed to advertise products, services or businesses not necessarily located on the premises on which the sign is located. A sign shall not be considered a billboard unless the sign is designed with a surface on which temporary poster panels or bulletins are mounted for the purpose of conveying a visual advertising message.
- I. Canopy sign: A sign which is mounted on a roofed shelter covering a sidewalk, driveway or other similar area which shelter may be wholly supported by a building or may be wholly or partially supported by columns, poles or braces extended from the ground. See also, definition (bh), under-canopy sign.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

- 
- J. Changeable copy sign (automatic): A sign on which the copy changes automatically on a lampbank or through mechanical means, e.g., electrical or electronic time and temperature units.
  - K. Changeable copy sign (manual): A sign on which copy is changed manually in the readerboards with changeable letters.
  - L. Clearance (of a sign): The smallest vertical distance between the grade of the adjacent street or street curb and the lowest point of any sign, including framework and embellishments, extending over that grade.
  - M. Construction sign: A temporary sign identifying an architect, contractor, subcontractor, and/or material supplier participating in construction on the property on which the sign is located.
  - N. Copy: The wording on a sign of either permanent or removable letter form.
  - O. Directional/information sign: An on-premises sign giving directions, instructions, or facility information and which may contain the name or logo of an establishment but no advertising copy, e.g., parking or exit and entrance signs.
  - P. Double-faced sign: A sign with two faces.
  - Q. Electrical sign: A sign or sign structure in which electrical wiring, connections, or fixtures are used.
  - R. Facade or fascia: The flat horizontal surface immediately below the surface of a roof.
  - S. Face of sign: The area of a sign on which the copy is placed.
  - T. Festoons: A string of ribbons, tinsel, small flags, or pinwheels.
  - U. Flashing sign: A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing is less than a two second hold time and a one second transition time.
  - V. Freestanding sign: A sign supported upon the ground by poles, braces or a framework and not attached to any building. The supporting structure of a freestanding sign shall be installed on or permanently attached to a concrete foundation.
  - W. Frontage: The linear feet of fascia parallel, or nearly parallel to any public parking or public entrances of any given building.
  - X. Government sign: Any temporary or permanent sign installed and maintained by the city, state or federal government for traffic direction or for designation of or direction to any school, hospital, historical site or public service, property or facility.
  - Y. Ground sign: A type of freestanding sign which is installed on the ground and which contains no free air space between the ground and the top of the sign; sometimes referred to as a monument sign or sandwich board.
  - Z. Height (of a sign): The vertical distance measured from the highest point of the sign, excluding decorative embellishment, to the grade of the adjacent street (at the flow line of the gutter or edge of the nearest travel lane if no gutter exists) or the surface grade beneath the sign, whichever is less.
  - AA. Identification sign: A sign whose copy is limited to the name and address of a building, institution, or person and/or to the activity or occupation being identified.
  - AB. Illegal sign: A sign which does not meet the requirements of these regulations and which has not received legal nonconforming status. (See Section 17.104.200 and definition (ak)).
  - AC. Illuminated sign: A sign with an artificial light source incorporated internally or externally for the purpose of illuminating the sign.

- 
- AD. Incidental sign: A small sign, emblem or decal of no more than three square feet informing the public of goods, facilities or services available on the premises, (e.g., a credit card sign, a sign indicating hours of business, directional signage or traffic flow).
- AE. Lot: A parcel of land legally defined on a subdivision map recorded with the clerk and recorder or a parcel of land defined by a legal record or survey map.
- AF. Lot frontage: Linear feet of lot measured at the addressable public right-of-way.
- AG. Maintenance: For the purposes of these regulations, the cleaning, painting, repair or replacement of defective parts of a sign in a manner that does not alter the basic copy, design or structure of the sign.
- AH. Multi-faced sign: A sign with more than one face which faces are not part of the same geometric plane.
- AI. Mechanically driven fan signs or advertisements: A sign or advertising tool that requires the use of a mechanical fan to function.
- AJ. Nameplate: A non-electric on-premises identification sign giving only the name, address, and/or occupation of an occupant or group of occupants.
- AK. Nonconforming sign: (See also Section 17.104.200.)
1. An existing sign which was installed legally but which does not comply with subsequently enacted sign restrictions and regulations.
  2. A sign which does not conform to the sign regulation requirements but for which a special permit has been issued.
- AL. Occupancy: The portions of a building or premises owned, leased, rented or otherwise occupied for a given use.
- AM. Off-premises sign: A sign advertising an establishment, merchandise, service, entertainment or property which is not sold, produced, manufactured or furnished at the property on which said sign is located.
- AN. On-premises sign: A sign which relates to the use of the premises upon which it is located.
- AO. Owner: A person recorded as such on official records. For the purposes of these regulations, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the administrator, e. g., a sign leased from a sign company.
- AP. Parapet: The extension of a false front or wall above a roofline.
- AQ. Pennant: A sign made of lightweight pliable material designed to move in the wind and suspended from a wire, string or rope; may or may not carry a commercial message.
- AR. Person: For the purpose of these regulations any individual, corporation, association, firm, partnership, limited liability company or similarly defined interest.
- AS. Pole cover: Covers enclosing or decorating poles or other structural supports of a sign.
- AT. Political sign: For the purposes of these regulations, a temporary sign used in connection with a local, state or national election or referendum.
- AU. Portable sign: Any sign designed to be moved easily and not permanently affixed to the ground or to a structure or building. Portable signs must be adequately braced or secured to prevent motion.
- AV. Premises: A parcel of land with its appurtenances and buildings which because of its unity of use may be regarded as the smallest conveyable unit of real estate.

- 
- AW. Projecting sign: A sign, other than a flat wall sign, which is attached to and projects from a building wall or other structure not specifically designed to support the sign.
  - AX. Public right-of-way: The entire width between the dedicated boundaries of all public streets, roads, boulevards and alleys including sidewalks and public parking strips located within any such boundaries. The City of Hamilton or the State of Montana own and control all of the property within all public rights-of-way in Hamilton.
  - AY. Real estate sign: A temporary sign advertising the real estate upon which the sign is located as being for rent, lease or sale.
  - AZ. Roof sign: Any sign installed over or on the roof of a building.
  - BA. Rotating sign: A sign in which the sign itself, or any portion of the sign moves in a revolving or similar manner. Such motion does not refer to methods of changing copy.
  - BB. Sandwich board sign: A portable sign consisting of two sign faces which connect at the top and extend outward at the bottom of the sign either placed on the ground as a ground sign.
  - BC. Sign: Any identification, description, illustration or device, illuminated or non-illuminated, which is visible from any public place or is located on private property and exposed to the public and which directs attention to a product, service, place, activity, person, institution, business or solicitation; or any emblem, painting, banner, pennant, placard or temporary sign designed to advertise, identify or convey information, with the exception of window displays and national flags. Signs shall also include all sign structures.
  - BD. Sign structure: any structure which supports, has supported or is capable of supporting a sign, including a decorative cover.
  - BE. Snipe sign: A temporary sign affixed to a tree, fence, telephone pole, etc. on public property or in any public right-of-way.
  - BF. Subdivision identification sign: A freestanding or wall sign identifying a recognized subdivision, condominium complex, or residential development.
  - BG. Temporary sign: A sign not constructed or intended for long-term use.
  - BH. Under-canopy sign: A sign suspended beneath a canopy, ceiling, roof or marquee.
  - BI. Use: The purpose for which a building, lot, sign or structure is intended, designed, occupied or maintained.
  - BJ. Wall sign: A single-sided sign attached parallel to and extending not more than twelve (12) inches from the wall of a building. This definition includes painted, individual letter and cabinet signs and signs on a mansard. It also includes signs painted on the face of a wall and signs placed permanently in windows.
  - BK. Window sign: A sign installed inside a window and intended to be viewed from the outside. This does not include merchandise located in a window.
  - BL. Wall graphic: Any mosaic, painting, mural, or graphic art applied, implanted or placed directly onto a wall and containing no copy, advertizing/hallmark symbols, lettering or references to any product, service, or goods sold on or off the premises.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

### **17.104.040 General sign regulations.**

The following general regulations shall apply to all signs in all zone districts:

- 
- (a) All signs shall be designed and installed so as to withstand a wind of eighty (80) miles per hour.
  - (b) Area determination for projecting, freestanding, ground and wall signs:
    - (1) Projecting and freestanding: The area of a freestanding sign, ground sign, or projection sign shall have only one face of any double-faced sign counted in calculating its area. The area of the sign shall be measured as follows if the sign is composed of one or two individual cabinets:
      - (a) The area around and enclosing the perimeter of each cabinet or module shall be summed and then totaled to determine total area. The perimeter of measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided that there is not written advertising copy on such embellishments.
      - (b) If the sign is composed of more than two sign cabinets or modules, the area enclosing the entire perimeter of all cabinets and/or modules within a single, continuous geometric figure shall be the area of the sign. Pole covers and other embellishments shall not be included in the area of measurement if they do not bear advertising copy.
    - (2) Wall signs: The area shall be within a single, continuous perimeter composed of any straight line geometric figure which encloses the extreme limits of the advertising message. If the sign is composed of individual letters or symbols using the wall as the background with no added decoration, the total sign area shall be calculated by measuring the area within the perimeter of each symbol or letter. The combined areas of the individual figures shall be considered the total sign area.
  - (c) "For sale" or "for rent" signs and political signs which shall not exceed six (6) square feet and eight (8) square feet, respectively, in a residential zone district and which shall not exceed sixteen (16) square feet in all other zone districts; provided that no political sign shall be allowed on a lot in any zone district for longer than ninety (90) days in any twelve-month period; and, provided further that any person desiring a political sign to remain on a lot in any zone district longer than ninety (90) days may apply to the zoning board of adjustment for a variance to extend the ninety-day time period. The board of adjustment shall determine, based upon factors other than agreement or disagreement with the contents of the particular political sign, whether there is sufficient reason for an extension of time and the exact amount of time to be extended, taking into consideration the purpose for which the sign was installed, whether or not that purpose would still be served by allowing the sign to remain on the lot for an additional period of time, and the appropriate amount of time necessary to effectuate that purpose.
  - (d) Every electric sign shall comply with the International Building Code and the National Electrical Code as adopted by the State of Montana.
  - (e) Signs which identify a business which no longer exists on the premises shall be removed within thirty (30) days after such business ceases.
  - (f) Special use banners, pennants and searchlights shall not be used in any zone district, provided that any person who desires to make use of special use banners, pennants and searchlights in connection with a special event may apply to the administrator for a specific permit to allow the use of such signs for a limited period of time not to exceed thirty (30) days. The administrator shall grant such permit for the use of special use banners, pennants and searchlights in locations in which the administrator determines will not cause unreasonable annoyance or inconvenience to adjoining property owners or other persons in the area, and upon such conditions as the administrator determines necessary to protect adjoining premises and the public. In the event any such permit is granted, the person applying for the permit shall remove the banners and pennants installed pursuant thereto on or before the time the permit expires.



- 
- (g) No signs shall be installed, constructed or maintained so as to obstruct any fire escape, required exit, window or door opening used as a means of egress.
  - (h) No sign shall be attached in any form, shape, or manner which will interfere with any opening required for ventilation, except that signs may be installed in front of and may cover transom windows when not in violation of the provisions of the building code adopted by the City of Hamilton.
  - (i) Signs shall be located in such a way as to maintain horizontal and vertical clearance of all overhead electrical conductors. In no case shall a sign be installed closer than forty-eight (48) inches horizontally or vertically from any conductor or public utility guy wire, or as recommended by the local public utility company.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

#### **17.104.050 Signs permitted.**

Signs shall be permitted in the various zone districts as accessory uses in accordance with these regulations. It shall hereafter be unlawful for any person to install, place or maintain a sign in the City of Hamilton except in accordance with the provisions of these regulations.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

#### **17.104.060 Permits required.**

Unless otherwise provided by these regulations all signs shall require sign permits and payment of fees as described in these regulations (Sections 17.104.220 and 17.104.230). No sign permit is required for the maintenance of a sign or for a change of copy on painted, printed or changeable copy signs. In addition to the required sign permit, a building permit may be required by the administrator for signs incorporating structural elements or attached to buildings.

(Ord. No. 340, 5-4-10)

#### **17.104.070 Signs not requiring permits.**

The following types of signs are exempted from permit requirements but must be in conformance with all other requirements of these regulations:

- A. Construction signs of twenty-five (25) square feet or less.
- b. On-site traffic, directional/information signs of four square feet or less and less than ten feet in height and shall comply with Section 17.104.140 A.
- C. Holiday or special events decorations.
- D. Nameplates of two square feet or less per public entrance per business.
- E. Political signs.
- F. Public signs or notices or any sign relating to an emergency.
- G. Real estate signs under four square feet in residential districts and under twelve (12) square feet in all other zone districts.
- H. Gas pump signs, provided that such signs shall be limited to two per pump island and shall be no larger than four square feet per face.

- 
- I. Incidental signs.
  - J. Banner signs advertising goods or services for hunters during a designated big game hunting season. Such signs shall be allowed only on the premises of the business establishment being advertised.

(Ord. No. 340, 5-4-10)

### **17.104.080 Signs prohibited.**

The following types of signs are prohibited in all zone districts:

- A. Abandoned signs.
- B. Rotating, animated or flashing signs.
- C. Special use banners, pennants, festoons and searchlights except as authorized in Section 17.104.040(g).
- D. Roof signs that extend upward beyond the highest point of the roof section upon which the sign is placed.
- E. Signs imitating or resembling traffic or government signs or signals.
- F. Snipe signs on any public property or public right-of-way with exception to Title 5, Chapter 5.12.
- G. Signs placed on vehicles or trailers which are parked or located for the primary purpose of displaying said sign. (This does not apply to signs or lettering on buses, taxis or vehicles operating during the normal course of business).
- H. Any sign in the boulevard or public right-of-way without an encroachment permit.
- I. Signs which contain statements, words or pictures of an obscene, indecent or immoral character.
- J. Incidental signs larger than two square feet.
- K. Mechanically driven fan signs or advertising.

(Ord. No. 340, 5-4-10)

### **17.104.090 Maintenance.**

All signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective parts shall be replaced. The administrator shall have the right under Section 17.104.290 to order the repair or removal of any sign which is defective, damaged or substantially deteriorated.

(Ord. No. 340, 5-4-10)

### **17.104.100 Lighting.**

Unless otherwise specified by these regulations, all signs in the non-residential zone districts may be illuminated. No illuminated signs are allowed in the residential zone districts. However, no sign regulated by these regulations may utilize:

- A. An exposed incandescent lamp with an external reflector and without a sunscreen or comparable diffusion.
- B. Any revolving beacon light.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

- 
- C. Any light source which produces flashing, intermittent, rotating or moving lights. An illuminated sign or lighting device may not be placed or directed so that the illumination there from causes glare, the affect of which constitutes a traffic hazard or a nuisance or is otherwise detrimental to the public health, safety or welfare.

All lit automatic changeable copy signs may not exceed a maximum illumination of five thousand (5,000) nits (candelas per square meter) during daylight hours or more than five hundred (500) nits during nighttime hours (between dusk and dawn), as measured from the sign's face at maximum brightness. All lit automatic changeable copy signs must be equipped with automatic dimming technology that automatically adjusts the display's brightness based on ambient light conditions.

(Ord. No. 340, 5-4-10)

#### **17.104.110 Changeable copy.**

Unless otherwise specified by these regulations, any sign herein allowed may use manual changeable copy or automatic changeable copy.

(Ord. No. 340, 5-4-10)

#### **17.104.112 Signs in the PI (public/institutional) district.**

Refer to Chapter 17.88 of this title. Signs in this district are limited to the identification of the use allowed in Section 17.88.030 of this title. Signs for this district shall be for the purpose of identification and direction only. No signs depicting commercial advertizing are allowed. These signs will be erected with the approval of the Zoning Administrator or his or her designee. The only exception to this section would be advertizing signs placed on any playing field fence. In this case, all wording and graphics of the advertizing signs shall be turned towards the inside of any playing field and shall not be visible to the public from any public right-of-way.

(Ord. No. 359, Exh. A, 1-3-12)

#### **17.104.120 Signs permitted in single-family residential (RS), multiple family residential (RM), high density residential (RH) and mobile home park residential (MHP) zone districts.**

Signs are allowed as follows in the single-family residential (RS), multiple family residential (RM), high density residential (RH) and mobile home park residential (MHP) zone districts:

- A. One identification sign per one-family or two-family dwelling, provided such sign does not exceed two square feet in area per face.
- B. One identification sign per multiple-family dwelling, provided such sign does not exceed thirty-two (32) square feet in area per face.
- C. One "for sale" or "for rent" sign per lot, provided such sign does not exceed four square feet in area per face.
- D. Identification signs during the construction of a development, providing that the placement and use of all such signs shall be governed by and shall be within the following limitations:
  - 1. The maximum size for identification signs shall be thirty-two (32) square feet in area per face.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

- 
2. All such signs shall be located within the development and must be located along arterial roads adjacent to the development, provided that no more than one such sign shall be permitted on any single adjacent arterial roadway.
  3. When a development has no frontage on an arterial road, identification signs may be located along collector streets adjacent to the development, except that no more than one such sign shall be permitted on any single collector boundary of the development.
- E. One identification sign per public or semipublic use, provided such sign does not exceed thirty-two (32) feet in area per face.
  - F. One identification sign per entrance to the property identifying a subdivision or housing project, provided such sign does not exceed thirty-two (32) square feet in area per face.
  - G. One identification sign per child care center, provided such sign does not exceed ten square feet in area per face.
  - H. One identification sign per subdivision sales office, provided such sign does not exceed ten square feet in area per face.
  - I. All signs not requiring a permit as provided in Section 17.104.070.

(Ord. No. 340, 5-4-10)

#### **17.104.130 Signs permitted in business (PS, B, B-1, B-2, CBD), commercial/manufacturing (CM) and manufacturing/industrial (MI) zone districts.**

Signs are allowed as follows in all non-residential zone districts identified above:

- A. Such signs as are permitted in the residential zone districts.
- B. Freestanding and ground signs total allowable square footage shall be determined by Section 17.104.140
- C. Wall signs and projecting wall signs square footage shall be determined by the following provided that the placement and use of all such signs shall be governed by and shall be within the following limitations:
  1. The maximum sign area permitted shall be equal to one square foot of sign area for each lineal foot of building fascia on all frontage sides.
  2. Banner signs are allowed at twenty-five (25) percent of the total building signage and are not counted as building signage. Banner signs may not be placed on freestanding signs.
  3. CBD zone building signs may have one per floor of any given two-story building.

(Ord. No. 340, 5-4-10)

#### **17.104.140 Freestanding and ground sign requirements.**

In zone districts where freestanding signs are permitted, the following rules shall apply to such signs:

- A. Signs within fifteen (15) feet (measured along the street right-of-way) of the intersection of any given street with another street or a driveway, which exceed thirty-six (36) inches in height, shall be set back at least fifteen (15) feet from the street right-of-way line or shall maintain free air space between a height of thirty-six (36) inches above the adjacent street elevation and a height of ninety-six (96) inches above the adjacent street elevation.

---

(Supp. No. 2)

Created: 2021-07-01 19:13:40 [EST]

- 
- B. When electrical service is provided to freestanding signs or ground signs, all such electrical service shall be inspected and be located underground.
  - C. Size, height and location of freestanding and ground signs:
    - 1. The following requirements with respect to size, height and location apply to freestanding signs only:

Distance from Street Right-of-Way Line (feet)	Maximum Height Above Grade (feet)	Maximum Size Allowed per Side (square feet)
5	16	50
10	16	50
15	16	70
20	18	90
25	20	100
30	22	120
35 and greater	30	120

2. The maximum size for ground and freestanding signs shall be one hundred and twenty (120) square feet per side.
  3. The maximum height for ground and freestanding signs shall be thirty (30) feet above grade.
  4. No freestanding or ground sign shall be built within ten feet of any interior side lot line.
  5. Single-faced freestanding and ground signs shall be set back from the street right-of-way line according to the provisions of this section. Any such setback shall be measured from the street right-of-way line at the street to which the sign face is most nearly parallel.
  6. Double-faced freestanding and ground signs shall be set back from the street right-of-way line according to the provisions of this section. Any such setback shall be measured from the street right-of-way line at the street to which the support structure is most nearly perpendicular.
  7. When any freestanding or ground sign is placed at a forty-five degree (45°) angle on property located at the intersection of two dedicated public streets, the required setback may be measured from either of the street right-of-way lines involved.
- D. No more than one freestanding or ground sign per street frontage shall be permitted for every one hundred and fifty (150) linear feet of lot frontage.

(Ord. No. 340, 5-4-10)

**17.104.150 Projecting signs CBD zone.**

- A. Sign projecting over private property in any zone district shall not project more than six (6) feet from the face of the building nor beyond the minimum required building setback for the zone district in which the property is located. Such signs shall not exceed sixteen (16) square feet per face.
- B. Signs projecting over public right-of-way in the Central Business District zone shall not project more than six (6) feet from the face of the building. Projecting signs must be located a minimum of seven and a half (7.5) feet above the sidewalk or travel-way below the sign. No projecting sign above the public right-of-way shall exceed sixteen (16) square feet per face.
- C. The allowance of projecting signs is one per floor per fifty (50) linear feet of lot frontage.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

**17.104.160 Canopy signs.**

- A. No canopy sign shall project from the face of a canopy.

(Supp. No. 2)

- 
- B. Under-canopy signs which are perpendicular to the face of the building shall be deemed to be projecting signs, and shall be subject to Section 17.104.150.
  - C. Under-canopy signs which are parallel or perpendicular to the face of the building shall be a minimum of seven and a half (7.5) feet above grade.
  - D. Under-canopy signs shall be a maximum square footage of four (4) square feet for every twenty-five (25) feet of building frontage. Under-canopy signs must be located a minimum of seven and a half (7.5) feet above the sidewalk or travel-way below the sign.
  - E. No canopy sign shall project above the canopy upon which it is mounted.
  - F. Canopy signs shall not exceed sixteen (16) square feet and only one (1) sign is allowed per twenty-five (25) feet of building frontage with multiple tenants or per canopy.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

### **17.104.170 Awning signs.**

- A. No awning sign shall project above the top of the awning upon which it is mounted.
- B. No awning sign shall project from the face of an awning.
- C. Awnings on which awning signs are mounted may extend over a public right-of-way no more than seven and one-half feet from the face of a supporting building.
- D. Awnings on which awning signs are mounted shall be at least eight feet above any public right-of-way, except that any valance attached to an awning may be only seven and one-half feet in height above a public right-of-way.
- E. Awning signs shall not exceed sixteen (16) square feet and only one (1) sign is allowed per twenty-five (25) feet of building frontage with multiple tenants or per awning.
- F. Under-awning signs shall be a maximum square footage of four (4) square feet for every twenty-five (25) feet of building frontage. Under-awning signs must be located a minimum of seven and a half (7.5) feet above the sidewalk or travel-way below the sign.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

### **17.104.180 Off-premises signs in any zone district.**

Off-premise signs shall be allowed in any zone district upon the approval of a conditional use permit issued by the zoning board of adjustment.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

### **17.104.200 Nonconforming signs.**

All nonconforming signs shall be removed or brought into conformance with these regulations at the earliest to occur of the following events:

- A. The sign is relocated or replaced with a new sign.
- B. The structure or size of the sign is altered in any way except towards compliance with these regulations. This does not refer to changing copy on a changeable copy sign or to normal maintenance.

- 
- C. The sign suffers structural damage or deterioration as to create a life, health, or safety issue as determined by the administrator.
  - D. That all existing animated signs not in conformance with the provisions of these regulations shall be adjusted such that such animation effects shall cease within four years of the effective date of the ordinance adopting these regulations.
  - E. All portable ground signs and sandwich boards shall come into compliance with these regulations upon adoption of this chapter.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

#### **17.104.210 Administrator.**

The Administrator of the City of Hamilton's sign regulations shall be the zoning administrator, and he/she is authorized to process applications for permits and variances, hold public hearings as required, and enforce and carry out all provisions of these regulations, both in letter and in spirit. The administrator is authorized to promulgate regulations and procedures consistent with this function. The administrator is empowered, upon presentation of proper credentials, to enter or inspect any building, structure, or premises in the city for the purpose of inspection of a sign and its structural and electrical connections to ensure compliance with all applicable regulations. Such inspections shall be carried out during business hours unless an emergency exists. Where possible and feasible, reasonable notice, minimum twenty-four (24) hours, shall be provided to the owner or manager of the premises requiring inspection.

(Ord. No. 340, 5-4-10)

#### **17.104.220 Application for sign permit.**

An application for a permit for the installation, alteration, or relocation of a sign shall be made to the administrator upon a form provided by the administrator, and the application shall require the following information:

- A. Name and address of the owner of the sign.
- B. Street address or location of the property on which the sign is to be located, along with the name and address of the property owner.
- C. The type of sign or sign structure as defined in these regulations.
- D. A site plan showing the proposed location of the sign, the locations and square footage areas of all existing signs on the same premises and all of the measurements required by these sign regulations including setbacks.
- E. Specifications and scale drawings showing the materials, design, dimensions, structural supports, and electrical components of the proposed sign.
- F. If the application is for an off-premises sign, include a map showing the location of the proposed sign in relation to the property, establishment, place of service, etc., which the proposed sign advertises and will also include legal permission from the owner of the property.

(Ord. No. 340, 5-4-10; Ord. No. 420 , Exh. A, 3-16-21)



---

### **17.104.230 Permit fees.**

All applications for permits filed with the administrator shall be accompanied by a payment of the initial permit fee for each sign. Permit fees shall be established by resolution of the city council and shall be paid to the public works office at the time the application for a permit is filed.

(Ord. No. 340, 5-4-10; Ord. No. 420 , Exh. A, 3-16-21)

### **17.104.240 Issuance and denial of permits.**

The administrator shall issue a permit and permit sticker for the installation, alteration, or relocation of a sign within fourteen (14) days of receipt of a valid application, provided that the proposed sign complies with all applicable laws and regulations of the city. In all applications where a matter of interpretation arises, the more specific definition or higher standard shall prevail.

When a permit is denied by the administrator, he shall give a written notice to the applicant along with a brief statement of the reasons for denial. The administrator may suspend or revoke an issued permit for any false statement or misrepresentation of fact in the application.

All permits are provisional permits until sign installation is completed and the administrator has inspected and approved the sign as installed. A permit becomes permanent following such approval.

A permit issued by the administrator becomes null and void if work is not commenced within one hundred eighty (180) days of issuance. If work authorized by the permit is suspended or abandoned for sixty (60) days, the permit must be renewed with an additional payment of one-half of the original fee.

If any sign is installed or placed on any property prior to receipt of a permit, the specified permit fee shall be doubled. However, payment of the doubled fee shall not relieve any person of any other requirements or penalties prescribed in these regulations.

(Ord. No. 340, 5-4-10)

### **17.104.250 Reserved.**

Editor's note(s)—Ord. No. 359, Exh. A, adopted January 3, 2012, repealed § 17.104.250, which pertained to issuance and denial of off-premises sign permit and derived from Ord. No. 340, 5-4-10.

### **17.104.260 Inspection upon completion.**

Any person installing, altering, or relocating a sign for which a permit has been issued shall notify the administrator upon completion of the work. The administrator shall require a final inspection, including inspection of footings on freestanding signs.

The administrator may require in writing upon issuance of a permit that he be notified for inspection prior to the installation of certain signs.

(Ord. No. 340, 5-4-10)

### **17.104.270 Variances.**

The applicant for a sign permit may apply to the zoning board of adjustment for a variance from the requirements of these regulations. A variance may be granted by the zoning board of adjustment when the literal

---

application of these regulations would create a particular hardship for the sign applicant and when all of the following criteria are met:

- A. The granting of the required variance would not be materially detrimental to the property owners in the vicinity or to the general public.
- B. A hardship caused by these regulations is due to conditions unique to the property on which the sign will be located.
- C. The granting of the variance would not be contrary to the general objectives of these regulations. In granting a variance, the zoning board of adjustment may attach conditions it deems necessary to conform to the purpose of these regulations.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

### **17.104.280 Violations.**

When in the opinion of the administrator a violation of these regulations exists, the administrator shall issue a written order to the alleged violator. The order shall specify those sections of these regulations of which the individual may be in violation and shall state that the individual has thirty (30) days from the date of the order in which to correct the alleged violation or to appeal to the board of adjustment.

If, upon inspection, the administrator finds that a sign is abandoned or structurally, materially or electrically defective, or in any way endangers the public, the administrator shall issue a written order to the owner of the sign and occupant of the premises stating the nature of the violation and requiring him/her to repair or remove the sign within fifteen (15) days of the date of the order. In cases of emergency, the administrator may cause the immediate removal of a dangerous or defective sign without notice. Signs removed in this manner must present a hazard to the public safety as defined in the building code or other regulations or standards adopted by the City of Hamilton.

(Ord. No. 340, 5-4-10)

### **17.104.290 Removal of signs by the administrator.**

The administrator may cause the removal of an illegal sign in cases of emergency or for failure to comply with the written orders of removal or repair. After removal or demolition of a sign, a notice shall be mailed to the sign owner stating the nature of the work and the date on which it was performed. The notice shall demand payment of the costs as certified by the Administrator together with an additional ten (10) percent for inspection and incidental costs.

If the amount specified in the notice is not paid within thirty (30) days of the notice, it may become an assessment and a lien against the property of the property owner, and it may be certified as an assessment against the property for collection in the same manner as real estate taxes.

The owner of the property upon which the sign is located shall be presumed to be the owner of all signs thereon.

For purposes of removal, the sign shall include all sign embellishments and structures designed specifically to support the sign.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

---

### **17.104.300 Penalties.**

Any person who violates any provisions of these regulations shall be subject to Chapter 1.28, General Penalty, of the Hamilton Municipal Code.

(Ord. No. 340, 5-4-10; Ord. No. 359, Exh. A, 1-3-12)

### **17.104.310 Reserved.**

Editor's note(s)—Ord. No. 359, Exh. A, adopted January 3, 2012, repealed § 17.104.310, which pertained to appeals and derived from Ord. No. 340, 5-4-10.

## **Chapter 17.108 HOME OCCUPATIONS**

### **Sections:**

### **17.108.010 Intent.**

Regulations for home occupations in residential districts are established to allow non-profit or profit activities that do not interfere with the principal use of the building.

(Ord. 225 (part), 2003)

### **17.108.020 Requirements for permitted home occupations.**

A home occupation may be conducted as a secondary use in a dwelling, provided that:

- A. Any person considering the establishment of a home occupation must submit an application for and receive a city business license.
- B. The use of the dwelling for the home occupation clearly must be incidental and subordinate to its use for residential purposes, and not more than twenty-five (25) percent of the floor area of the dwelling may be used to conduct the home occupation.
- C. There may be no change in the outside appearance of the building or premises, or other visible evidence of the home occupation other than one sign, not exceeding the square footage allowed within the coinciding zoning district, non-illuminated, and mounted flat against the wall of the principal structure.
- D. No traffic may be generated by the home occupation in greater volumes than would normally be expected in a residential neighborhood and any need for parking generated by the home occupation shall be met on the street, not to exceed the linear frontage of the lot in which the home occupation is located. No home occupation, or any required parking for the home occupation, shall use the parking space required for the residence (i.e., driveways).
- E. No equipment or process shall be used in a home occupation which creates noise, vibration, glare, fumes, odors or electrical interference detectable by normal senses off the lot.
- F. Any equipment or materials used in connection with a home occupation shall be stored within the principal structure or in an enclosed space outside of the principal structure.
- G. The home occupation shall be limited to the hours between seven a.m. and nine p.m.

---

(Ord. 225 (part), 2003)

**17.108.030 Uses allowed.**

- A. Art studio.
- B. Sewing.
- C. Instruction to one pupil at a time.
- D. Food preparation for off-premises sale, subject to all health and safety codes.
- E. Day care for up to six persons.
- F. Computer-assisted services.
- G. Bookkeeping and clerical services.
- H. Home offices.
- I. Similar occupations that meet the intent of this chapter.

(Ord. 225 (part), 2003)

**17.108.040 Uses not allowed.**

- A. Barbershops and beauty parlors.
- B. Real estate and insurance offices.
- C. Restaurants.
- D. Commercial stables and kennels.
- E. Wood working.
- F. Medical and legal offices.
- G. Massage services.
- H. Motor vehicle repair services.
- I. Electrical repair shops.
- J. Marijuana Businesses.

(Ord. 225 (part), 2003)

## **Chapter 17.112 NONCONFORMING SITES, STRUCTURES AND USES**

**Sections:**

**17.112.010 Intent.**

- A. Within the districts established by this title, lots, structures and uses of land and structures may exist which were lawful at the time the ordinance codified in this chapter was adopted or amended, but which would be prohibited or regulated under the terms of the ordinance codified in this chapter or future amendment. The intent of this chapter is to permit these nonconformities to continue until they are removed, but not to

---

(Supp. No. 2)

Created: 2021-07-01 19:13:41 [EST]

---

encourage their survival. This chapter further intends that nonconformities shall not be enlarged, expanded or extended, or be used as grounds for adding other structures or uses prohibited elsewhere in the same district.

- B. Nonconforming uses are declared by this chapter to be incompatible with permitted uses in the same district. However, to avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans or construction if a building permit has been issued or a variance approved prior to the effective date of adoption or amendment of the ordinance codified in this chapter.

(Ord. 225 (part), 2003)

### **17.112.020 Nonconforming uses of land and structures.**

Where, at the time of passage of the ordinance codified in this chapter, a lawful use of land or a structure exists which would not be permitted by the regulations imposed by this chapter, the use may be continued where it remains otherwise lawful, provided:

- A. A nonconforming use may not be enlarged, increased or extended to occupy a greater area of land or structure than was occupied on the effective date of adoption or amendment of the ordinance codified in this chapter.
- B. No nonconforming use may be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on the effective date of adoption or amendment of the ordinance codified in this chapter.
- C. Should any nonconforming use cease for any reason for a period of more than one year, any subsequent use of the land or structure shall conform to the regulations specified by this ordinance for the district in which such land is located.
- D. No additional nonconforming use or structure shall be added to an existing nonconforming use or structure.

(Ord. 225 (part), 2003)

### **17.112.030 Nonconforming structures.**

Where a lawful structure exists on the effective date of adoption or amendment of the ordinance codified in this chapter but becomes nonconforming under the terms of this chapter, such structure may be continued, provided it remains otherwise lawful, subject to the following provisions;

- A. A nonconforming structure may not be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered to decrease its nonconformity.
- B. Should a nonconforming structure or nonconforming portion of structure be damaged or destroyed by any means to an extent of more than fifty (50) percent of its square footage at the time of such damage or destruction, it shall not be reconstructed except in compliance with the provisions of the ordinance codified in this chapter.
- C. Should a nonconforming structure be moved for any reason for any distance whatsoever, it shall thereafter conform to the regulations for the district in which it is located.
- D. Nothing in this chapter shall be deemed to prevent the routine repair and maintenance of a nonconforming structure.

- 
- E. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any authorized official charged with protecting the public safety.

(Ord. 225 (part), 2003)

#### **17.112.040 Nonconforming mobile homes.**

In a district where mobile homes are not allowed, the following provisions shall apply:

- A. A mobile home may not be enlarged or altered in a way which increases its nonconformity.
- B. Should a mobile home be damaged to an extent rendering it uninhabitable, it shall be removed and replaced with a conforming structure.
- C. A mobile home shall not be moved on the lot unless it is being removed. Upon removal, it must be replaced with a conforming structure.
- D. Nothing in this chapter shall be deemed to prevent the strengthening or restoring to a safe condition of any mobile home or part thereof declared to be unsafe by any authorized official with protecting the public safety.

(Ord. 225 (part), 2003)

#### **17.112.050 Restrictions on Nonconformities.**

- A. A nonconforming structure, with the exception of mobile homes, may be relocated or moved, in whole or in part, to any other portion of a lot or parcel provided that all structure(s) on the lot or parcel shall be in compliance with the provisions of the ordinance codified in this chapter and the International Building Codes adopted by the city.
- B. A building or an area occupied by a nonconforming use may not be enlarged or altered.
- C. Ordinary repairs, fixtures, wiring, plumbing or replacement of nonbearing walls is allowed provided the work does not increase the gross square feet of the building.

(Ord. 225 (part), 2003)

## **Chapter 17.120 TEMPORARY AND PORTABLE STRUCTURES**

(Reserved)

## **Chapter 17.122 SPECIAL USE PERMITS**

### **Sections:**

#### **17.122.010 Intent.**

The intent of this chapter is to establish procedures and criteria to authorize special use permits. "Special use" means a use which because of its unique or varying characteristics, cannot properly be classified as an allowed use in a particular zone district. Special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed special use, its relationship to the surrounding land

---

(Supp. No. 2)

Created: 2021-07-01 19:13:41 [EST]

---

uses and its impacts on traffic capacities, potential environmental effects, compatibility with the neighborhood, and conformance to adopted policies, guidelines, plans and regulations of the City of Hamilton. Prior to establishment of a special use, a special use permit must be approved or approved with conditions deemed necessary and appropriate solely by the City of Hamilton City Council.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.020 General regulations.**

- A. The health, safety and general welfare of persons residing or working within the community are the primary criteria for approval or denial of a proposed special use.
- B. Special use permits may be granted, subject to conditions which are authorized by state statute and this Title 17, including but not limited to:
  - 1. Dedication and/or improvement of a public right-of-way;
  - 2. Protection of adjoining property;
  - 3. Placement and regulation of the type and extent of uses on the property;
  - 4. Regulation of height;
  - 5. Regulation of the mass or size of a structure or building; and
  - 6. Regulation of the period of time for which a special use permit shall be valid.
- C. For the purpose of this section, "utilization" means construction or remodeling of the structure on the site has begun; or the specified activity has begun.
- D. The property owner shall secured all necessary federal, state and local permits and licenses as a condition of approval of any special use permit.
- E. A special use permit may be revoked, after a public hearing in accordance with procedures required for approval of a special use permit, if the property owner has not complied with the conditions under which the special use permit was issued.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.030 Special use permits.**

- A. A special use permit is issued for and attached to the use of a specific property.
- B. A special use permit may be granted when allowed in the zone district, provided:
  - 1. The land use or structure authorized by the special use permit is consistent with the intent of this Title 17;
  - 2. The land use or structure authorized by the special use permit is not detrimental to the health, safety and general welfare of persons residing or working in the neighborhood or the general welfare of the city;
  - 3. Special use permits may be issued for a specific time period. in the event that no time limits are imposed by the city council, the special use permit shall remain in effect until the use authorized by the special use permit is terminated or the special use permit is revoked in accordance with the provisions of Section 17.122.020 F.; and

---

(Supp. No. 2)

Created: 2021-07-01 19:13:41 [EST]

- 
4. All uses of property subject to a special use permit must strictly conform to the terms and conditions of the special use permit. Any deviations from or nonconformance to the conditions of approval of the special use permit shall void the special use permit and all land uses authorized by the special use permit.

(Ord. No. 286, Exh. A, 4-17-07)

#### **17.122.040 Review procedures.**

##### **17.122.041 Compliance.**

Any land use activities as defined by this Title of the City of Hamilton Municipal Code and located within the City of Hamilton, shall be subject to the provisions of these regulations and any other applicable regulations of the City of Hamilton. Any landowner desiring to establish a land use requiring approval of the City of Hamilton must obtain such approval prior to the establishment of the land use. All property owners are required to comply with all provisions of these regulations.

(Ord. No. 286, Exh. A, 4-17-07)

##### **17.122.042 Submittal of application.**

Any property owner may apply for approval of a special use permit pursuant to the provisions of these regulations.

(Ord. No. 286, Exh. A, 4-17-07)

##### **17.122.043 General procedures.**

It is recommended that all applicants schedule a preapplication meeting to discuss the land use proposal and to learn more about the requirements of the City of Hamilton.

Special use permit applications are reviewed by both the city planning board and the city council. The planning board will review the application and make a recommendation to the city council. Applications are reviewed by the city council at a public hearing with notice provided. The planning board will review applications at a meeting open to the public.

(Ord. No. 286, Exh. A, 4-17-07)

##### **17.122.044 Administrative procedures, purpose and applicability.**

The purpose of the application review is to give the planning board and the city council an opportunity to review all relevant facts of an application in the context of the city's review standards, policies and plans. For most applications, the planning board and city council review is the only review procedure which is required. The city council may approve, approve with conditions, or deny an application. Conditions may be imposed on length of permit approval or other aspects of the activity designed to ensure compatibility with the standards of this Code and any policies or other adopted standards of the city.

(Ord. No. 286, Exh. A, 4-17-07)



---

### **17.122.045 Application.**

Complete applications must be submitted to the city office of community development at least thirty (30) calendar days prior to a regularly scheduled meeting of the city planning board. The application shall include all of the items identified in Section 17.122.060 of these regulations for the type of approval sought. Incomplete applications will not be accepted for review.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.046 Determination of completeness.**

The City of Hamilton Office of Community Development will review the application for completeness within ten working days of submittal. If the application is determined to be complete, it will be accepted for review. If the application is incomplete, the applicant will be notified of the information needed to complete the application and the application will be withdrawn from the review process until the required information is submitted. Applications must be complete at least thirty (30) calendar days prior to a regularly scheduled meeting of the City of Hamilton Planning Board.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.047 Review and referral of the application.**

Upon determination that the application is complete, the application will be reviewed by the City of Hamilton Office of Community Development and the appropriate city staff, the city planning board and the city council. The city may utilize the services of qualified professionals, not on the city staff, as necessary to review an application. The costs of such professional review shall be paid by the applicant per the provisions of Section 17.122.070 of these regulations.

- A. Referral of the application: The City of Hamilton Office of Community Development shall refer the application to appropriate review agencies for comments on the application. The city office of community development will maintain a list of review agencies and their current addresses.
- B. Review agency comments: Review agency comments and recommendations received by the city office of community development shall be provided to the planning board.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.048 Planning board review.**

The city planning board will review the application at its next regularly scheduled meeting date at least thirty (30) calendar days after the submittal of a complete application. The planning board will conduct a public meeting to review the application.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.049 Review criteria and planning board recommendation.**

- A. Review criteria: The planning board shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the city staff, and comments from the public. At a minimum, the Planning Board shall also consider the following criteria:

- 
1. Conformance of the proposal with this Title 17 of the City of Hamilton Municipal Code;
  2. The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;
  3. The desirability for the proposed use in the specific area of the city;
  4. The potential for significant adverse environmental, fiscal, cultural and economic effects that might result from the proposed use;
  5. Compatibility of the proposed use and the site plan with plans and policies of the City of Hamilton;
  6. Compatibility of the proposed use with the *City of Hamilton Building and Site Design Guidelines*; and
  7. Conformance of any plan or land use with the requirements of the *City of Hamilton Department of Public Works Design Standards*.
- B. Planning board recommendation: The planning board shall complete its review and make its recommendation to the city council at the public meeting specified in Section 17.122.048. The planning board may recommend approval, conditional approval, or denial of the application.

The planning board may, in its sole discretion, continue the review of the application to another regularly scheduled planning board meeting for the purpose of receiving additional information or public commentary prior to making a decision. In no event shall the review be continued for more than ninety (90) calendar days beyond the date of the date of the initial planning board meeting. The applicant or any other interested party may request a continuation of the public meeting for good cause, shown to the satisfaction of the board.

The planning board shall only recommend approval of those applications which the board finds to be developed in accordance with the intent, standards and criteria specified in these regulations. The planning board recommendation shall be sent to city council indicating any recommended conditions of approval or reasons for denial of an application. A copy of the planning board recommendation shall be maintained in the records of the city and a copy shall be provided to the applicant.

- C. Record of planning board proceedings: The planning board shall maintain a record of its proceedings in the form of minutes or a written resolution. The record shall include comments of the reviewing agencies and other interested parties as well as the recommendations of the planning board. A written copy of the minutes or resolution will be made available to any interested party within fifteen (15) working days of the conclusion of the public meeting.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.050 Public notice of city council review.**

The city council will review the application at a regularly scheduled meeting not less than fifteen (15) or more than forty-five (45) calendar days after the planning board has completed its review and made its recommendation to the city council. The city council will conduct a public hearing to review the application. The applicant shall be responsible for providing notice of the public hearing per the requirements of Section 17.122.070 of these regulations.

(Ord. No. 286, Exh. A, 4-17-07)

---

### **17.122.051 City council review and decision.**

- A. Not less than fifteen (15) or more than forty-five (45) calendar days after the receipt of the planning board recommendation, the city council shall conduct a public hearing to consider the application. The city council will consider all the evidence presented by the applicant and other interested parties, the recommendation of the planning board, comments of review agencies, recommendations of the city staff, and comments from the public. The city council shall by a majority vote of the members present approve, approve with conditions or disapprove the application.
- B. Review criteria: The city council shall consider all the evidence presented by the applicant and other interested parties, comments of review agencies, recommendations of the city staff, and comments from the public. At a minimum, the city council shall also consider the following criteria:
- (1) Conformance of the proposal with this Title 17 of the City of Hamilton Municipal Code;
  - (2) The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;
  - (3) The desirability for the proposed use in the specific area of the city;
  - (4) The potential for significant adverse environmental, fiscal, cultural and economic effects that might result from the proposed use;
  - (5) Compatibility of the proposed use and the site plan with plans and policies of the City of Hamilton;
  - (6) Compatibility of the proposed use with the *City of Hamilton Building and Site Design Guidelines*; and
  - (7) Conformance of any plan or land use with the requirements of the *City of Hamilton Department of Public Works Design Standards*.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.052 Record of decision.**

The city council shall maintain a record of its proceedings in the form of minutes, resolutions and ordinances as appropriate. The city clerk will issue a record of decision in the form of a special use permit indicating the action of the city council and also indicating any conditions of approval of the special use permit. A copy of the record of decision will be maintained in the city records and a copy provided to the applicant.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.053 Duration of approval.**

The approval shall be valid for one year from the date of the city council approval. If, within that one year time period, no required subsequent application has been filed or an authorized use established, approval shall expire. For good cause, the council may grant a single extension of the approval time period for a time period not to exceed one additional year.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.060 Special use permit application submittal requirements.**

Complete applications must be submitted, as required in these regulations, at the point of initiation of the land use review process. The application submittal requirements consist of elements that are common to all

---

applications as well as requirements that are necessary only for certain types of applications. Submittal requirements are indicated in the following sections. In some instances, additional submittal requirements may be specified as part of the supplemental or special development requirements of these regulations.

The number of copies of the required application information will be determined on a case by case basis. The applicant shall be required to submit all copies specified by the City of Hamilton Office of Community Development.

All special use permit applications shall include:

- A. An application form, signed by the owner(s) of the property, in the format provided by the City of Hamilton Office of Community Development;
- B. A legal description of the property included in the application;
- C. Proof of legal ownership and the names and addresses of the owners of the property and any lienholder(s);
- D. The names and addresses of any property owners within three hundred (300) feet of any portion of the property;
- E. A statement of the purpose of the application and a brief description of the proposal;
- F. A vicinity map indicating the location of the property included in the land use application; and
- G. An application fee per Section 17.122.080.
- H. A site plan prepared in accordance with Section 17.122.064.
- I. In the case of a special use permit application to construct a building in excess of the size limitations in a specific zone district, the application shall include architectural renderings and plans or other details necessary to demonstrate that the proposed building will be in compliance with the *City of Hamilton Building and Site Design Guidelines*.
- J. In the case of a special use permit application to construct a building that does not strictly conform to the *City of Hamilton Building and Site Design Guidelines*, the application shall include architectural renderings and plans or other details necessary to determine that the proposed building conforms to the objectives of the *City of Hamilton Building and Site Design Guidelines*.
- K. Any additional information that may be required by the office of community development in order to ascertain conformance with the *City of Hamilton Building and Site Design Guidelines*.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.062 Drawing and report requirements.**

- A. General map requirements: Any maps or other graphic plans shall be drawn in black or dark blue waterproof ink or may be clearly legible "blueprint" copies or photocopies. The dimensions of all maps shall be twenty-four by thirty-six (24 × 36) inches or eight and one-half by eleven (8½ × 11) inches unless another size is approved by the City of Hamilton Office of Community Development, prior to submittal of the application. However, no map shall exceed twenty-four by thirty-six (24 × 36) inches. In the case of multiple sheets, a key map showing the relationship of individual sheets shall be provided and locations of adjacent sheets shall be indicated on each sheet. Each map or other graphic plan shall include:
  - 1. The section, township and range of the property included in the application;
  - 2. The name, address, and telephone number of the owner and applicant;

- 
3. The name, address, and telephone number of the person or firm that prepared the map and the date of preparation with appropriate professional registration or certification;
  4. A north arrow and scale; and
  5. The title of the map which shall also indicate the type of application.
- B. General report requirements: All reports shall contain consecutively numbered pages and shall include, or clearly indicate by reference, any maps or other relevant elements required by these regulations which are necessary for the report. Any report required by these regulations shall include:
1. The name, address and telephone number of the person(s) or firm(s) that prepared the report and the date of preparation;
  2. The title of the report.
- C. Qualifications of preparers of maps and reports: All maps and reports must bear suitable evidence of the professional qualifications of the person responsible for the preparation of the map or report. Maps containing information pertaining to water supply, sanitation, waste water treatment, utilities, drainage, soils, grading, roads, structures, or any other engineering information must be certified by a Professional Engineer licensed in the State of Montana. All required documents containing land survey descriptions and topographic maps must be certified by a Professional Land Surveyor licensed in the State of Montana. All data submitted regarding environmental studies and other disciplines, not currently requiring registration by the State of Montana, must be accompanied by a resume of such qualifications sufficient to demonstrate the author's degree of expertise and experience. Geology maps and reports must be prepared and certified by a qualified geologist. Additional professional qualifications may be specified in other sections of these regulations.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.064 Site plan requirements.**

Any site plan required in these regulations shall include:

- A. The location of all existing and proposed natural and manmade features, buildings, public open spaces, site drainage, utilities and other improvements on the property. A building envelope (a portion of the property within which a building may be located) may be shown for proposed buildings to allow minor adjustments. All details shown on the site plan shall reference distances to the property lines. All property lines shall be shown on the site plan along with boundary line bearings and distances;
- B. The location and number of parking spaces for off-street parking and loading areas in accordance with the *City of Hamilton Municipal Code*;
- C. A vehicular and pedestrian traffic circulation plan showing the direction of traffic flows on the site and to and from adjacent properties and indicating the locations of entries and exits of parking lots and the relationships of parking lots to entrances and exits of any buildings;
- D. The location of service and utility and refuse collection areas;
- E. The location of all signs indicating the size, shape and height of each sign;
- F. The area and location of open space and recreation areas;
- G. The location and type of outdoor lighting;
- H. The location of existing and proposed fences, landscaping features and other methods of visual screening. The proposed landscaping plan shall indicate the method of maintenance of the landscaping

---

as well as a list of type, size, and quantity of plant materials and the general location of the landscaping; and

- I. The estimated date of completion of the proposed improvements.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.070 Public notice requirements.**

For all actions of the City of Hamilton requiring public hearings under the provisions of this Chapter 17.122, the applicant shall provide public notice and shall demonstrate that such public notice conforms to the following requirements:

- A. Notice shall be sent by certified mail return receipt requested to all property owners within three hundred (300) feet of the subject property at least fifteen (15) days in advance of the hearing.
- B. Notice of the hearing shall be published twice in a newspaper of general circulation (designated by the City of Hamilton) within the City of Hamilton. The two publications shall be separated by not less than six days. The first public notice shall be published at least fifteen (15) days in advance of the hearing.
- C. Notice shall be posted on the subject property at least fifteen (15) days in advance of the hearing.
- D. All notices shall include:
  1. A statement of the action being taken;
  2. The time, date and place of the public hearing;
  3. The city office and telephone number where further information may be obtained; and
  4. A legal description of the subject property and a commonly known address or local description.
- E. The applicant shall submit evidence at the public hearing that proper public notice of the hearing was provided as required in this Section 17.122.070.

(Ord. No. 286, Exh. A, 4-17-07)

### **17.122.080 Special use permit fees.**

- A. The applicant for a special use shall pay all application fees and review costs. Each application for a special use shall be submitted with the fees set forth in this section. The fees set forth in this section shall be considered the minimum fee required. To the extent the initial application fee does not provide sufficient funds to pay for outside professional services for the review of the application, the applicant will be charged the actual review costs. An estimate of the additional review fees will be provided to the applicant upon request by the applicant prior to the city engaging the outside professional services. The review of the application will be suspended in the event that the applicant does not agree to pay the costs for the outside professional services.

All initial application fees shall be due and payable upon submission of the application to the city. All additional review costs will be due and payable at such time as a statement is presented to the applicant by the city.

- B. As provided in Section 17.122.070, all costs of providing public notice, including publication, mailing and posting shall be borne by the applicant.
- C. Any recording or filing fees imposed by the Ravalli County Clerk and Recorder required as a result of the application, shall be advanced by the applicant prior to the documents being tendered for recording.

---

Created: 2021-07-01 19:13:41 [EST]

(Supp. No. 2)

- 
- D. The initial application fee for a special use shall be three hundred dollars (\$300.00). To the extent the initial application fee does not provide sufficient funds to pay for outside professional services for the review of the application, the applicant will be charged the actual review costs. All initial application fees shall be due and payable upon submission of the application to the city.

(Ord. No. 286, Exh. A, 4-17-07)

## **Chapter 17.124 VARIANCES AND CONDITIONAL USE PERMITS**

### **Sections:**

#### **17.124.010 Intent.**

The intent of this chapter is to establish procedures and criteria to authorize conditional use permits and/or to allow variances from the restrictions of this Title 17.

(Ord. 225 (part), 2003)

#### **17.124.020 Zoning board of adjustment membership.**

A. The board shall:

1. Consist of seven members, all of whom reside within the Hamilton city limits;
2. Be appointed by the mayor with the consent of the city council;
3. Be appointed for a term of three years; and
4. Make decisions by a concurring vote of four members of the zoning board of adjustment.

B. Functions.

1. To determine whether proposed conditional uses are appropriate and in the best interests of the public;
2. To hear and decide the merits of appeals from the terms of the zoning regulations;
3. To hear and resolve appeals of administrative actions in enforcing this Title 17. Such appeals shall be initiated within thirty (30) days of the administrative action.

C. Zoning board of adjustment action.

1. A quorum shall consist of four members;
2. Concurring votes of at least four members of the zoning board of adjustment are required to conduct zoning board of adjustment functions, as listed in Section 17.124.030;
3. Abstentions shall not be recorded as affirmative or negative votes; and
4. If the zoning board of adjustment cannot act because of absences, abstentions, conflicts of interest or vacancies, the zoning board of adjustment shall refer the request to the city council for resolution. Concurring votes of at least four members of the city council are required.

(Ord. 225 (part), 2003)

---

### **17.124.030 General regulations.**

- A. The health, safety, comfort and general welfare of persons residing or working within the community are the primary criteria for approval or denial of a proposed variance or conditional use.
- B. Variances and conditional use permits may be granted, subject to conditions which are authorized by state statute and this Title 17, including but not limited to:
  - 1. Dedication and/or improvement of a public right-of-way;
  - 2. Protection of adjoining property;
  - 3. Placement and regulation of nature and extent of uses on the property;
  - 4. Regulation of height; and
  - 5. Regulation of term of permit or variance.
- C. Revocation. A variance or conditional use permit may be revoked after a public hearing in accordance with procedures required for granting it if:
  - 1. Conditions have changed substantially since it was issued;
  - 2. Preservation of the integrity of existing use patterns in the area requires such action;
  - 3. The holder has not complied with the conditions under which it was issued; or
  - 4. The permittee may appeal revocation by the same procedures as required for appealing a decision to grant or deny a permit or a variance.
- D. Automatic expiration.
  - 1. A variance shall expire if it has not been utilized within one year of the date of issue;
  - 2. A variance or conditional use permit, when issued for a definite term, shall expire on the date of expiration;
  - 3. A variance or conditional use permit shall expire if utilization has not commenced on the effective date of an ordinance which rezones the property to uses that exclude the use authorized; or
  - 4. A variance or conditional use permit that has been suspended, terminated or abandoned shall expire one hundred eighty (180) days after the last day it was used.
- E. For the purpose of this section, "utilization" means construction or remodeling of the structure on the site has begun; or the specified activity has begun.
- F. In either case, the applicant shall have secured all necessary federal, state and local permits and licenses.

(Ord. 225 (part), 2003)

### **17.124.040 Conditional use permits and conditional use structure permits.**

- A. A conditional use permit or conditional use structure permit is issued for and attached to the use of the property;
- B. A conditional use permit or conditional use structure permit may be granted when allowed in the district, provided:
  - 1. It is consistent with the intent of this Title 17;



- 
2. The use or structure is not detrimental to the health, safety, comfort and general welfare of persons residing or working in the neighborhood or the general welfare of the city; and
  3. Conditional use permits and conditional use structure permits are not issued for a specific term. A conditional use permit or conditional use structure permit is in effect for the duration applied for. Any change shall void the conditional use permit or conditional use structure permit and a new conditional use permit or conditional use structure permit must be applied for.

(Ord. 225 (part), 2003)

### **17.124.050 Variances.**

A variance, by its nature, is issued to and transfers with the property. A variance from the terms of this Title 17 may be granted only if all the following conditions have been complied with:

- A. It conforms to the intent of this Title 17;
- B. It will be in the public interest; or
- C. The appellant is able to demonstrate hardship to the property because the property is deprived of privileges enjoyed by other property in the immediate vicinity due to:
  1. Size of property;
  2. Shape of property;
  3. Topography of property;
  4. Location of existing nonconforming structure(s) on lot; or
  5. Location of existing service lines.
- D. No variance shall be granted unless the applicant can effectively demonstrate a hardship that is created by the strict application of this chapter. A financial hardship does not constitute grounds for a variance. The zoning board of adjustment, in considering an application for a variance, shall determine:
  1. That special conditions and/or circumstances exist which are peculiar to the land, the lot or something inherent in the land, which causes the hardship and which are not applicable to other lands;
  2. That a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other lands;
  3. That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands;
  4. That the granting of the variance will be in harmony with the general purpose and intent of this chapter;
  5. In granting any variance, the zoning board of adjustment may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and/or safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this chapter.
  6. Grandfather clause is defined as a pre-existing condition that causes nonconformance to federal, state or city regulations. A pre-existing, nonconforming condition may remain until such time as a change is made to the nonconforming condition. If the item cannot be brought into compliance with current regulations, a new variance or conditional use permit would be required. A conditional use permit may not utilize the grandfather clause in any case.

---

(Ord. 225 (part), 2003)

**17.124.060 Procedures for variances, conditional use permits and conditional use structure permits.**

- A. Application shall be filed with the community development department.
- B. The zoning administrator or designee shall determine whether the request complies with the criteria set forth in Sections 17.124.030, 17.124.040 and 17.124.050.
- C. The zoning administrator or designee shall collect a fee per request for conditional use permits, conditional structure permits or variance applications.
- D. The zoning administrator shall solicit from city staff on the consequences of each proposal for consideration prior to zoning board of adjustment action.
- E. The zoning board of adjustment shall hold a public hearing at a regularly scheduled monthly meeting within sixty (60) days after the date the application is forwarded by the zoning administrator. Fifteen (15) days before the public hearing the zoning board of adjustment shall:
  - 1. Mail notice of the hearing to all property owners within three hundred (300) feet of the exterior boundaries of the area to be occupied by the proposed use; and
  - 2. Publish notice of the hearing in the newspaper of general circulation in the city.
- F. Within thirty (30) days after the public hearing, the zoning board of adjustment shall submit to the applicant and to the zoning administrator a written report detailing:
  - 1. How the established criteria have been met;
  - 2. Its finding of fact;
  - 3. Its decision; and
  - 4. All conditions attached to the permit.
- G. Appeal Procedure. The applicant may appeal the decision of the zoning board of adjustment to a court of record, according to Section 76-2-327 MCA.

(Ord. 225 (part), 2003)

**Chapter 17.128 COMMUNITY DEVELOPMENT PROCESSING FEES**

**Sections:**

**17.128.010 Community development processing fees.**

Fees for the processing of applications processed by the community development department including applications for the zoning board of adjustment, zoning commission and the planning board shall be set by the city council by resolution from a city council committee.

(Ord. 225 (part), 2003)

## Chapter 17.136 WIRELESS COMMUNICATION FACILITIES

**Sections:**

**17.136.010 Purpose.**

To accommodate the increasing communication needs of the City of Hamilton "city" residents, businesses, and visitors, while protecting the public health, safety and general welfare and visual environment of the city, this chapter is established to:

- A. Enhance the ability to provide communication services to city residents, businesses and visitors;
- B. Simplify the process for obtaining permits for communication facilities, while at the same time protecting the legitimate interests of city residents;
- C. Protect the city's natural resources and visual environment from the potential adverse effects of communication facilities, through careful design and siting standards;
- D. Limit the number of towers needed to serve the city, by requiring facilities to be placed on existing buildings and structures where possible, and requiring co-location of wireless communication providers on existing and new towers.

These towers shall be construed to be consistent with any federal or state standards regulating communication facilities which pre-empt or take precedence over the standards in this chapter. In the event that either federal or state government adopts mandatory standards more stringent than those described in this chapter, these standards shall be revised accordingly.

(Ord. 225 (part), 2003)

**17.136.020 Definitions.**

"Antenna" means an exterior transmitting or receiving device used in telecommunications that radiates or captures radio frequency signals or electromagnetic waves, including but not limited to directional antenna, such as panels, microwave dishes and satellite dishes and omni-directional antenna, such as whip antenna, but not including satellite earth stations.

"Antenna, attached" means an antenna mounted on an existing building, silo, smokestack, water tower, utility or power pole, or other support structure other than an antenna tower.

"Antenna, concealed" (stealth) means an antenna with a support structure that screens or camouflages the presence of antennas and/or towers from public view, in a manner appropriate to the site context and surrounding environment. Examples of concealed antennas include manmade trees, clock towers, flag poles, lighting structures, and similar structures that camouflage or conceal the presence of antennas or towers.

"Antenna tower" means a freestanding structure, including monopole, guyed and lattice towers, designed and constructed primarily to support antennas and transmitting and receiving equipment. The term includes microwave towers, common-carrier towers, cellular telephone towers and the like. The term includes the structure and any support thereto.

"Antenna tower height" means the distance from the average grade at the antenna tower base to the highest point of the tower. Overall antenna tower height includes the base pad, mounting structures and panel antennas, but excludes lightning rods and whip antennas.

---

"Co-location" means locating wireless communications equipment for more than one communications provider on a single structure or within an established electronic communications site.

"Communication facilities" means communication lines and towers, antennas and microwave receivers.

"Electronic communications site" means an area established because of its unique elevation and location engineered with multiple antenna towers, buildings or facilities to provide or enhance communication over a specific area.

"Facility" (communication) means the equipment, physical plan and portion of the property and/or building used to provide power and communication services, including but not limited to cables and wires, conduits, pedestals, antennas, towers, concealed structures, electronic devices, equipment buildings and cabinets, landscaping, fencing and screening and parking areas.

"Microcell" means a low power facility used to provide increased capacity to telecommunications demand areas or provide infill coverage in areas of weak reception, including a separate transmitting and receiving station serving the facility. Unreasonable adverse impact: the proposed project would produce an end result which is:

1. Out of character with the designated scenic, natural, historic and cultural resources affected, including existing buildings, structures and features within the designated resource area; and
2. Would diminish the scenic, natural, historic and cultural value of the designated resource.

(Ord. 225 (part), 2003)

### **17.136.030 Applicability.**

All communication facilities, towers or antennas located within the incorporated areas of the City of Hamilton, whether upon private or public lands, shall be subject to this chapter. Only the following facilities shall be exempt from the application of this section:

- A. Pre-existing towers or antennas. Towers and antennas existing prior to the date of the ordinance codified in this chapter shall not be required to meet the requirements of this section, so long as the pre-existing towers or antennas were in compliance with all applicable permitting requirements in effect at the time of installation and are currently in compliance with all other required approvals, permits and exceptions.
- B. Nothing in this chapter shall be construed to regulate, nor shall it regulate antennas, antenna support structure devices or facilities installed, maintained and used exclusively for amateur radio communications by amateur radio operators licensed by the Federal Communications Commission.
- C. Maintenance or repair. Maintenance or repair of a communication facility and related equipment, provided that there is no change in the height or any other dimension of the facility.
- D. Emergency communication facilities. Temporary communication facilities for emergency communications by public officials.

(Ord. 225 (part), 2003)

### **17.136.040 Standards.**

All communication facilities must demonstrate compliance with the following standards prior to city approval.

- A. Preferred communication facilities. The order of preference for new or reconstructed permanent communication facilities is as follows from most preferred to least preferred:

- 
1. Co-location on existing communication facilities. If not technically feasible;
  2. Antennas attached to existing commercial or industrial buildings or structures. If not technically feasible, then:
    - a. Concealed antennas. If not technically feasible,
    - b. Microcell antenna towers. If not technically feasible, then
    - c. New communication facilities tower.

In addition to the above-listed preferences, it is preferred that any new facilities be located on public lands or structures.
- B. Facilities in relation to scenic view shed and historic or cultural resources. Facilities shall not create an unreasonable adverse impact toward the view from any public park, natural resource area or historic or cultural site. In determining the potential adverse impact of the proposed facility upon such area; the land services department shall consider the following factors:
1. The extent to which the proposed communication facility is visible from the viewpoint(s) of the impacted resource;
  2. The type, number, height and proximity of existing structures and features and background features within the same line of sight as the proposed facility;
  3. The amount of vegetative screening;
  4. The distance of the proposed facility from the impacted resource; and
  5. The presence of reasonable alternatives that allow the facility to function consistently with its purpose.
- C. Communication facilities spacing requirements. Antenna towers over sixty (60) feet in height shall be located at least five thousand two hundred eighty (5,280) feet from any other communication facility over sixty (60) feet in height. Antenna towers proposed to be located closer than five thousand two hundred eighty (5,280) feet from any other communication facility over sixty (60) feet in height shall be co-located. Exception to spacing requirements may only be allowed if co-location is scientifically proven to be unfeasible and/or where it can be demonstrated that a unique hardship exists to prevent compliance with this section.
- D. Minimum setback requirement.
1. From property lines or road rights-of-way, facilities shall be set back minimum distance that is equal to or greater than the height of the facility, plus the height of any building upon which the facility is located, as well as any extensions to the facility (such as lightning rods or lightning devices), plus twenty (20) feet.
  2. Alternative setbacks may only be approved by the zoning board of adjustment where it can be clearly demonstrated that the location of the proposed facility will take advantage of an existing natural or artificial feature to fully address safety concerns, conceal the facility and minimize its visual impacts.
  3. Guide wires and equipment buildings and cabinets shall be set back from all property lines a minimum of twenty (20) feet.
  4. The maximum height of any facility shall not exceed three hundred (300) feet, which shall include the height of any building on which the facility is located.
- E. Equipment design. The following equipment design standards shall apply to all new communication facilities:

- 
1. Attached antennas on a roof may extend up to fifteen (15) feet over the height of the building or structure.
  2. Attached antennas on a roof shall be located as close to the center of the roof as possible.
  3. Attached antennas mounted on a building or structure wall shall be as flush to the wall as technically possible, and shall not project above the top of the wall.
  4. Attached antennas and equipment shall be located, painted and/or screened to be architecturally and visually compatible with the building or structure it is attached on.
  5. Microcell towers shall be painted or coated in a uniform non-reflective color that blends with the surrounding building and/or the natural environment. The use of wood poles is further encouraged.
  6. Communication facility antenna towers shall not be artificially lighted except as required by the FAA or other state or federal agency. If safety lighting is required by the FAA, the use of red beacons is preferred to flashing strobe lights. Security lighting on the site may be mounted up to twenty (20) feet in height, and shall utilize cut-off lighting directed towards the ground to reduce light pollution, prevent offsite light spillage and avoid illuminating the tower.
  7. Equipment buildings shall be compatible with the architectural style of the surrounding built environment considering exterior materials, roof form, scale, mass, color, texture and character. Equipment cabinets shall be located, painted and/or screened to be architecturally and visually compatible with the surrounding built and/or natural environment.
  8. Equipment shall not generate noise in excess of federal, state and local noise regulations. This does not apply to generators used in emergency situations where the regular power supply for a facility is temporarily interrupted.
- F. Site design. All communication facilities shall be designed to blend into the surrounding environment to the greatest extent possible. The following measures shall be implemented:
1. Screening and landscaping appropriate to the context and in harmony with the character of the surrounding environment is required when any part of the facility is visible from a public right-of-way or adjacent residential use. Natural materials shall be used for screening and fencing. Wire fencing, if utilized, shall be screened from public view. If a facility fronts on a public road or abuts a residential use, a combination of hedges and/or evergreen trees (at least four feet in height when planted) shall be planted along the roadway or around the facility to provide a continuous visual screen. Towers and antenna support structures shall be finish coated in a uniform non-reflective color that blends with the surrounding environment.
  2. Existing vegetation and grades on the site shall be preserved to the extent possible.
  3. Signage at the site is limited to non-illuminated warning and equipment identification signs. This does not apply to concealed antennas that are incorporated into freestanding signs.
  4. Communication facilities shall not include staffed offices, long-term vehicle storage or other outdoor storage, or other uses needed to send, receive or relay transmissions.
- G. Radio frequency emission standards. All existing and proposed communication facilities are prohibited from exceeding or causing other facilities to exceed the radio frequency emission standards specified by Part 1, practice and procedure, Title 47 of the Code of Federal Regulations, Section 1.1310, Radio Frequency Radiation Exposure Limits. A statement by a licensed professional engineer shall be provided demonstrating that the proposed facility complies with all FCC standards for radio emissions.
- H. Co-location requirements for communication facilities.

- 
1. Communication facility providers shall cooperate to achieve co-location of facilities and equipment. Communication facility providers shall not act to exclude other providers from co-locating on the same tower or electronic communications site when co-location is structurally and technically feasible. Competitive conflicts shall not be considered adequate reason to preclude co-location.
  2. In addition to equipment proposed for the applicant's use, proposed communication facilities shall be designed in all respects to accommodate both the applicant's antenna and comparable antenna for at least two additional users if the antenna tower is over one hundred (100) feet in height, or for at least one additional user if the antenna is between sixty (60) feet and one hundred (100) feet in height.
  3. No new tower shall be permitted unless the applicant clearly demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna by co-locating. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of the following. The term "existing" includes pending applications, as well as approved applications for proposed, but not yet constructed, towers, antennas and facilities:
    - a. No existing towers or structures are located within the geographic area to meet the applicant's engineering requirements;
    - b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements;
    - c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment, and cannot be reinforced to provide sufficient strength;
    - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing tower or structure, or the antenna on the existing tower and structures would cause interference with the applicant's proposed antenna;
    - e. The fees or costs required to share an existing tower or structure, or to adopt an existing tower or structure for co-location are unreasonable. Costs below new tower development are presumed reasonable;
    - f. Property owners, or owners of existing towers or structure are unwilling to accommodate the applicant's needs;
    - g. The applicant clearly demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
  - I. Abandonment. Communication facilities will be considered to be abandoned if they are unused by all providers at the facility for a period of one hundred eighty (180) consecutive days. Determination of abandonment shall be made by the Director of Land Services, who shall have the right to require documentation from the facility owner regarding the tower or antenna usage. Upon determination of abandonment, the facility owner shall have ninety (90) days to:
    1. Re-use the facility or transfer the facility to another owner who will re-use it; or
    2. Remove the facility. If the facility is not re-used or removed within ninety (90) days of determination of abandonment, the city may remove the facility at the facility's and/or property owner's expense.
  - J. Modification to existing facilities.

- 
1. Addition of equipment for co-location of additional communication facility providers on existing antenna towers and sites are not subject to additional review if the tower height remains unchanged. However, a permit is required.
  - K. Building codes and safety standards. To insure the structural integrity of communication facilities, the owner of a facility shall insure that it is constructed, operated and maintained in compliance with the standards contained in applicable local, state and federal building codes and the applicable standards for telecommunication facilities, as may be amended from time to time. This must be shown through a completed inspection process or certification by an appropriate regulator agency and a copy of that certification sent to Ravalli County Land Services.

(Ord. 225 (part), 2003)

### **17.136.050 Application submittal requirements.**

- A. Application contents. Applications for review and approval of proposed communication facilities, and additions or modifications to existing facilities, shall include the following:
  1. A site plan showing the location and legal description of the site, including the parcel number and geo-code number(s) and a copy of the recorded plat or certificate of survey, on-site land uses; adjacent roadways, parking and access; areas of vegetation and landscaping to be added, retained, replaced or removed; setbacks from property lines; and the location of the facility including all related improvements and equipment.
  2. A vicinity map showing adjacent properties and land uses within one thousand (1,000) feet of the proposed antenna site.
  3. Elevation drawings of the proposed facility showing all antennas, towers, structures, equipment buildings and cabinets, fencing, screening, landscaping, lighting and other improvements related to the facility. Specific colors and materials shall be noted.
  4. Photo-realistic renderings (photo simulations) of the site after the antenna construction, demonstrating the true impact of the antenna on the surrounding visual environment. The director of land services may request photo-realistic renderings of the site from a specific vantage point.
  5. A report describing the facility and the technical, economic and other reasons for its design and location, the need for the facility and its role in the overall network; and describing the capacity of the structure, including the number and type of antennas it can accommodate.
  6. The FAA response to the notice of proposed construction of alteration (FAA form 7460-1), if the facility is located within the distance from the airport runways as specified under paragraph 77.13, of FAA form 7406-1 construction or alteration requiring notice.
  7. A statement from the applicant verifying that the request has been submitted to the Montana Aeronautics Division for a formal response.
  8. A copy of the provider FCC license verifying that the applicant is authorized by the licensing guidelines of the FCC.
  9. A letter of intent to allow co-location on the antenna tower as proposed, if the communication facility is taller than sixty (60) feet in height.
  10. A letter of intent to remove the facility at the expense of the facility and/or property owner if it is abandoned. The letter shall include a signed statement by the property owner consenting to the city's entry on to the property to remove an abandoned facility.



- 
11. Proof of ownership of the land upon which a communication facility is proposed to be constructed, or a copy of an appropriate easement, lease or rental agreement.
  12. A statement by a licensed professional engineer shall be provided demonstrating that the proposed facility complies with all FCC standards for radio emissions, and for all applicable local, state and federal building codes.
- B. Facility inventory. The first application for a proposed communication facility by a provider shall include a detailed inventory of all the provider's existing and approved facilities within Ravalli County and all incorporated areas within the city.
- (Ord. 225 (part), 2003)

### **17.136.060 Severability.**

If any part or portions of this chapter shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder shall nonetheless continue in effect.

(Ord. 225 (part), 2003)

### **17.136.070 Retroactivity.**

The ordinance codified in this chapter shall apply to all towers, antennas and facilities and including all pending applications to locate towers, antennas and facilities within the limits of the City of Hamilton.

(Ord. 225 (part), 2003)