

## **CHAPTER 18.40 STANDARDS FOR SPECIFIC USES**

### **18.40.010 PURPOSE**

The purpose of this section is to further describe the standards and conditions under which certain uses may be permitted as principal or conditional uses in specific districts.

### **18.40.020 APPLICABILITY**

All uses listed in this section shall be subject to the specific standards described for each use, in addition to all other applicable standards.

### **18.40.030 ACCESSORY DWELLING UNITS**

A. An owner or the owners of real property may establish and maintain an accessory dwelling unit, either within a detached single-household dwelling or above a detached garage which is accessory to the detached single-household dwelling, in the R-S or R-1 districts if all of the following conditions are met and continue to be met during the life of the accessory dwelling unit:

1. The detached dwelling unit within which the accessory dwelling unit is located, or the accessory dwelling unit itself, is actually and physically occupied as a principal residence by at least one owner of record who possesses at least an estate for life or a 50 percent fee simple ownership interest. No more than one of the dwellings, either the principal dwelling or the accessory dwelling, may be rented by non-owners at the same time. The City may require a guarantee of compliance with the requirements of this section, including but not limited to a binding deed restriction or covenant enforcing the single rental restriction as allowed in §18.74.080.B, BMC, as a condition of approval;
2. In addition to the parking required for the principal residence, one paved off-street parking space is provided for the exclusive use of the accessory dwelling unit. The parking provided shall be located on the lot and may not utilize the on-street parking provisions of Chapter 18.46, BMC;
3. The occupancy of the accessory dwelling unit does not exceed two persons;
4. Garages shall not be converted for use as accessory dwelling units. However, accessory dwelling units shall be permitted to be placed above garages only in subdivisions receiving preliminary plat approval after January 1, 1997;
5. No permit for an accessory dwelling unit shall be granted unless the lot has been configured to accept an accessory dwelling unit with adequate lot area, utility services, and compliance with setbacks and height standards;
6. In no case shall an accessory dwelling unit be larger than 800 square feet or have more than a single bedroom. The method of calculating the maximum ADU square footage will be “living area” defined as “all floor area exclusive of areas with a sloped ceiling less than five (5) feet in height, stairwells, and exterior decks.” Bedrooms, living rooms, kitchens, casework, interior walls, hallways, closets, bathrooms, and any other living space shall be included in the maximum square footage calculation.;
7. Second story additions on detached garages shall be approved only if found compatible and consistent with the character and fabric of the neighborhood;
8. Only one accessory dwelling unit may be created per lot; and

9. If the accessory dwelling unit is a part of the principal dwelling unit, the accessory dwelling unit shall be clearly incidental to the principal dwelling unit and shall meet the following criteria:
    - a. The accessory dwelling unit is created only in a single-household detached dwelling unit on a lot of 6,000 square feet or more;
    - b. The accessory dwelling unit does not exceed one-third of the total area of the principal structure;
    - c. The accessory dwelling unit is created only through internal conversion of the principal structure or constructed above a garage. Minor exterior changes may be made on the building, if the square footage added constitutes no more than 10 percent of the principal structure's existing living area (exclusive of the garage); and
    - d. If the entrance for the accessory dwelling unit is separate from the entrance of the principal structure, the entrance shall only be located in the rear or side yards.
  10. All accessory dwelling units are subject to CUP provisions established in Chapter 18.34, BMC.
  11. No deviations shall be granted to lot area requirements or parking requirements to allow the establishment of an accessory dwelling unit. In no case shall more than a total of two deviations be granted to allow the establishment of an accessory dwelling unit.
- B. An owner or the owners of real property may establish per §18.34.050 and maintain an accessory dwelling unit, in the R-2, R-3, R-4 or R-O districts if all of the following conditions are met and continue to be met during the life of the accessory dwelling unit. If the following conditions are not met the dwelling shall be reviewed under the provisions of §18.34.090, BMC.
1. In addition to the parking required for the principal residence, the minimum number of required paved off-street parking shall be provided for the exclusive use of the accessory dwelling unit;
  2. The occupancy of the accessory dwelling unit does not exceed two persons;
  3. Garages shall not be converted for use as accessory dwelling units. However, accessory dwelling units shall be permitted to be placed above garages;
  4. In no case shall an accessory dwelling unit be larger than 600 square feet or contain more than a single bedroom. The method of calculating the maximum ADU square footage will be "living area" defined as "all floor area exclusive of areas with a sloped ceiling less than five (5) feet in height, stairwells, and exterior decks." Bedrooms, living rooms, kitchens, casework, interior walls, hallways, closets, bathrooms, and any other living space shall be included in the maximum square footage calculation;
  5. Second story additions on detached garages shall be approved only if found compatible and consistent with the existing character and fabric of the neighborhood; and
  6. Only one accessory dwelling unit may be created per lot.
  7. No deviations shall be granted to lot area requirements or parking requirements to allow the establishment of an accessory dwelling unit. In no case shall more than a total of two deviations be granted to allow the establishment of an accessory dwelling unit.
  8. The accessory dwelling unit is located above a garage.
  9. An accessory dwelling unit may not be approved on a reduced size lot created to meet the minimum workforce housing requirements of Chapter 17.02, BMC.

- C. The applicant shall comply with Building Department standards.

#### **18.40.040 ADULT BUSINESSES**

In addition to the requirements to be followed for all development established in this title, the following requirements shall apply to all adult businesses.

- A. An adult business must be separated by at least a 500-foot radius from any other adult use, residence, residential district, school, place of worship, public park or any youth-oriented establishment. Subsequent establishment of one of the above listed uses within the required separation radius does not compel the relocation of an adult business.

#### **18.40.050 ALCOHOL SALES FOR ON PREMISE CONSUMPTION**

Alcohol sales for on premise consumption, on either a temporary or permanent basis, may not be conducted on the same lot or premises where an adult business or auto retail fuel sale is permitted.

#### **18.40.060 AUTOMOBILE REPAIR AND/OR FUEL SALES**

In addition to the requirements to be followed for all convenience uses as defined in this title, and provided in §18.40.100 of this chapter, the following requirements shall apply to all service station and automobile uses as listed below. Compliance with all criteria listed below does not necessarily guarantee approval by the City.

- A. Gas pump and pump island canopies are to be located not closer than 10 feet to any side or rear property line. Design of the canopy shall architecturally match the design of the main building. All canopies shall be connected to the roof of the main structure unless otherwise approved. All lighting shall meet the lighting standards of this title. The maximum height of the canopy shall not exceed 18 feet. All signs must conform to the sign regulations of Chapter 18.52, BMC;
- B. All on-site activities, except those normally performed at the fuel pumps, are to be performed within a completely enclosed building;
- C. Where towing service is to be provided, a parking bay for the towing vehicle is to be provided. Vehicles that are either under repair or vehicles that have been repaired may be stored on a temporary basis, not to exceed seven days, and designated parking bays must be provided for each vehicle awaiting repairs. Vehicle storage areas are subject to the same screening requirements as parking lots;
- D. All lighting shall conform to Section 18.42.150;
- E. All structures approved under these standards shall be of a design character that is appropriate to the area in which they are to be constructed. Color renderings of buildings shall accompany each application and construction shall be in conformity thereto. Architectural detailing shall be consistent on all four sides of the building;
- F. All restroom entrances shall be screened from view of adjacent properties or street rights of-way by a decorative wall or landscaping, or shall be accessed from the inside of the main entrance to the building;
- G. No outside storage of, and no sale, lease or rental of trailers, trucks or similar equipment shall be permitted except as may be specifically allowed in that zone;
- H. Parking space for each service stall in the station shall be provided. Pump islands shall not be considered as service bays. Standing areas at pump islands and interior circulation areas shall not be used as parking areas in calculating required parking spaces; and
- I. Automotive Repair Facilities.
  - 1. All repairs or painting shall be performed within a building;

2. No site plan shall be approved which exposes unassembled vehicles, auto repair activities or auto parts to any street or residential district;
3. Any facility shall be designed to contain and minimize noise and odors; and
4. All facilities shall have a water quality facility (oil / water separator) as part of the water quality design for storm water runoff, and shall conform to Section 18.42.080.

#### **18.40.070 AUTOMOBILE WASHING ESTABLISHMENT**

In addition to the requirements to be followed for all convenience uses, the following requirements shall apply to all auto washing establishments as listed below.

- A. All detergents must be biodegradable;
- B. Building surfaces shall be faced with masonry, brick, stucco, wood or some other permanent looking material;
- C. Trash and litter containers shall be emptied daily. In addition, the site shall be patrolled at least once daily in order to remove litter;
- D. Sale of automobile accessories such as batteries, tires, gasoline, etc. is prohibited during any period when establishment employees are not present; and
- E. Canopies are to be located not closer than 10 feet to any side or rear property line. Design of the canopy shall architecturally match the design of the main building. All lighting shall meet the lighting standards of this title. The maximum height of the canopy shall not exceed 18 feet. All signs must conform to the sign regulations of Chapter 18.52, BMC.

#### **18.40.080 CEMETERIES**

- A. Total site area, including business office and storage building, shall be a minimum of 40 acres, of which at least 10 acres shall be subdivided and developed in the initial plot.
- B. The cemetery may include accessory uses such as a chapel, mortuary, office, mausoleum and those industrial uses which are incidental to the operation of a cemetery. Industrial uses may include such things as the manufacture of burial vaults and headstone foundations, provided all of the products are used on the site and are not offered for sale and use elsewhere. The cemetery shall not include uses of an industrial nature other than those stated in this section.

#### **18.40.090 CONDOMINIUMS**

- A. Unit Ownership Act. Condominium developments shall comply with all provisions of the Unit Ownership Act, §70-23-102 et seq., MCA, and all regulations adopted pursuant thereto.
- B. Condominium Association. A condominium association shall be established for each condominium development. The developer shall prepare bylaws for the condominium association, as well as covenants, conditions and restrictions for the condominium development, in compliance with Chapter 18.72 of this title. The bylaws, covenants, conditions and restrictions shall be submitted to the City for review and approval prior to the granting of final site plan approval.
- C. Internal circulation in a condominium development shall be designed in accordance with Chapter 18.46, and shall not have to comply with Section 18.44.020.
- D. Condominiums may be subject to Chapter 17.02, BMC.

#### **18.40.100 CONVENIENCE USES AND DRIVE THROUGH/DRIVE IN RESTAURANTS**

- A. Architectural Guidelines.
  1. All convenience uses shall be designed with an architectural and design character that is appropriate for and compatible with the area, and shall also comply with all applicable

design standards and guidelines including the Design Objectives Plan for entry way corridors;

2. Use of standardized corporate identification themes integrated into the architectural design is generally not acceptable. Excessive use of such themes may be used as grounds for denial of the project;
3. When located in shopping centers, the architectural character of the building shall be integrated with the design theme of the center through the use of the same building materials, shapes and details. The effect of color in creating a design character that is appropriate for and compatible with the area will be considered. All parking, circulation, driveways, setbacks and signage shall be integrated with the entire design theme of the project; and
4. The elevation design of the building shall provide design character and detailing on all four sides.

B. Noise from drive through speakers shall not be audible from adjacent residential districts.

#### **18.40.110 HOME BASED BUSINESSES**

A. Generally. A home based business is a use that is considered accessory to a dwelling unit. Buildings combining live/work arrangements located in districts where both the residential and nonresidential uses to be combined are permitted are not subject to the requirements of this section.

B. Home Based Business as Accessory Use

1. The use shall be clearly incidental and secondary to the use of the dwelling for residential purposes and shall not change the character of the dwelling or adversely affect the uses permitted in the residential district of which it is a part. The home based business may not be conducted in an accessory structure, and shall comply with the standards of subsection C below.
2. Purpose. It is in the intent of this section to eliminate as accessory home based businesses for all uses except those that conform to the standards set forth in this section. In general, an accessory home based business is a use so located and conducted that the average neighbor, under normal circumstances, would not be aware of its existence with the exception of permitted signage as allowed by Chapter 18.52, BMC. The standards for home based businesses included in this section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. A clearly accessory or incidental status in relation to the residential use of the main building is the criteria for determining whether a proposed accessory use qualifies as an of right home based business.
3. Necessary Conditions for Accessory Use. Accessory home based businesses are permitted accessory uses in residential districts only so long as all the following conditions are observed:
  - a. Such home based business shall be conducted by resident occupants in their residence with not more than one on-premise halftime nonresident employee;
  - b. No more than 25 percent of the gross area of all structures shall be used for such purpose;
  - c. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure;

- d. No home based business shall cause an increase in the use of any one or more utilities (water, sewer, garbage, etc.) so that the combined total use for dwelling and home based business purposes exceeds the average for residences in the neighborhood;
  - e. There shall be no outside storage of any kind related to the home based business;
  - f. The use may increase vehicular traffic flow and parking by no more than one additional vehicle at a time. Depending on the individual circumstances of each application, an additional off-street parking space may be required; and
  - g. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the district in question under normal circumstances wherein no home based business exists.
4. Notice of Intent to Operate an Accessory Home Based Business. Any individual applying for a business license, with the intent of operating the business from his/her home, shall acknowledge by signature his/her understanding of the requirements and conditions of this title.

C. Home Based Business as Conditional Use.

1. Purpose. The use shall be secondary to the use of the lot for residential purposes and shall not be incompatible with the character of the zoning district thereof or adversely affect the principal uses permitted in the residential district of which it is a part. When a home based business has been established through the CUP process, it means that the owner, lessee or other persons who have a legal right to the use of the dwelling also have the right to conduct the home based business whether in the principal or an accessory structure. The home based business shall comply with the standards of subsection C.3 below.
2. Conditional Use. It is the intent of this section to provide, through the conditional use process established in Chapter 18.34, BMC, opportunities for home based businesses which are more intensive in nature than those which would be allowed as an accessory use. In general, a home based business approved through the conditional use process is an accessory use which complies with the requirements of this title and is subordinate to the primary use of the particular lot for residential purposes. The standards for home based businesses included in this section are intended to insure compatibility with other permitted uses and with the residential character of the neighborhood. A secondary, but not incidental, status in relation to the residential use of the main building is the criteria for determining whether a proposed use may, under certain circumstances, qualify as a home based business which may be approved by the conditional use process. As stated in §18.34.010, BMC, conditional uses start from the presumption that they are incompatible with the zoning district but may under specific and limited conditions become compatible. Unless such conditions are found, there is no right to the practice of a home based business which does not comply with the terms of an accessory home based businesses as listed in this section.
3. Necessary Conditions for Conditional Use. Home based businesses permitted through the conditional use permit process are allowed in residential districts only so long as all the following conditions are observed:
  - a. Such home based business shall be conducted by resident occupants with not more than one on-premise halftime nonresident employee;

- b. No more than 30 percent of the gross area of all structures shall be used for such purpose;
  - c. No use shall require internal or external alterations or involve construction features or the use of electrical or mechanical equipment that would change the fire rating of the structure beyond that allowed in a residential use;
  - d. No home based business shall cause an increase in the use of any one or more utilities operated by the City of Bozeman so that the combined total use for dwelling and home based business purposes exceeds the average for residences in the neighborhood;
  - e. There shall be no outside storage of any kind related to the home based business;
  - f. No use shall create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard or any other hazard or nuisance to any greater or more frequent extent than that allowed by this title;
  - g. Home based business by conditional use permit may only be allowed on lots occupied by single-household detached dwellings;
  - h. Such conditional use shall be subject to all conditions set forth in this title, except the provisions of §18.48.060, BMC, Landscape Performance Standards; and
  - i. All permits required by the City, including, but not limited to, building permits and business licenses, shall be received prior to establishing the home based business.
4. Home Based Business Allowed Through a Conditional Use Permit. Any individual seeking to operate a home based business, which is greater in scope than that allowed by an accessory home based business, shall make application for a conditional use permit under the terms of Chapter 18.34, BMC. The Planning Director shall determine if a home based business requires a conditional use permit.
- D. Complaints. Complaints by citizens of Bozeman may be cause for termination of the home based business. However, should such complaint be filed, the operator is entitled to an appeal to the City Commission for a public hearing. The City Commission shall determine whether or not the filed complaint identifies sufficient violation of this title to warrant termination or modification of the home based business.
- E. Uses That Are Prohibited. The following uses, by the nature of their character or the investment of operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home based businesses and thereby impair the use and value of a residentially zoned area for residential purposes. Therefore, the following uses shall not be permitted as home based businesses: adult businesses; auto repair, minor or major; carpentry work; dance instruction; dental offices; medical offices; mobile oil and lube services; painting of vehicles, trailers or boats; private schools with organized classes; radio or television repair; and upholstering.
- F. Appeal to City Commission. Any person may appeal the Planning Director's action relating to a home based business to the City Commission as provided for by Chapter 18.66, BMC.

#### **18.40.120 MANUFACTURED HOME COMMUNITIES**

Manufactured home communities are included in the state classification of land subdivisions by rent or lease. Therefore, applicants for such developments shall apply for and be reviewed under both site plan and subdivision procedures. These will be reviewed concurrently when appropriate. All standards of this title are applicable unless explicitly waived.

- A. State of Montana Requirements. All manufactured home communities developed under this section shall comply with Montana State Department of Public Health and Human Services, Department of Environmental Quality and any other applicable state regulations. Prior to final approval for a manufactured home community, copies of approval letters from relevant state agencies shall be submitted or compliance with all applicable regulations shall be certified by a professional civil engineer licensed by the State of Montana.
- B. Lot Improvements. The location of boundaries of each manufactured home lot for rent or lease shall be clearly and permanently marked on the ground with flush stakes, markers or other suitable means. The location marked must be closely approximate to those depicted on the approved plans.
1. Utility Hookup. Every manufactured home shall be permanently connected to electric power, water supply, sewage disposal, gas and telephone service lines in compliance with applicable City codes, and all utility distribution and service lines shall be installed underground.
  2. Permanent Foundations and Anchoring. All manufactured homes shall be required to be tied or otherwise physically anchored to an approved permanent concrete foundation. Building permits for foundations and anchoring, issued through the City Building Department in accordance with the adopted International Building Code, are required. The method of anchoring and foundations shall be specified as part of the required preliminary development review.
  3. Maintenance.
    - a. There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment, or building materials or supplies.
    - b. No manufactured home may be parked on a public or private street for more than twenty-four hours.
    - c. An abandoned, burned or wrecked manufactured home must be secured against entry as directed by the Fire Marshall and may not be kept on a lot for more than forty-five days.
    - d. Each manufactured home must bear an insignia which attests that the construction of the manufactured home meets regulation A 119.1 of the American National Standards Institute (adopted by the U.S. Department of Housing and Urban Development), or be certified as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development.
    - e. Within twenty-one days of placement, standard manufactured home skirting of fire-resistive material similar in character to that of the manufactured home must be provided around the entire perimeter of the manufactured home between the bottom of the body of the manufactured home and the ground, except where the running gear has been removed and the manufactured home itself is attached directly to the permanent foundation.
    - f. All required front yards of lots for rent or lease for manufactured homes shall be fully landscaped.
    - g. All private, commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sand boxes, etc. shall be landscaped and irrigated.

4. Manufactured home lots for rent or lease shall be arranged to permit the practical placement and removal of manufactured homes. Every lot for rent or lease must front on a public or private street.

C. Permits and Inspections.

1. Owner's and Agent's Responsibility. It shall be the responsibility of the individual property owners or, in the case of a rental community, the managers of the rental community to see that all sections of this article are complied with, including requirements relative to placement of manufactured homes, and all required permits.
2. Move In Permit Required. All manufactured homes moved into the City must be issued a move-in permit, pursuant to this section, and be inspected by the City Building Official, prior to gas and electric service being turned on by the servicing utility. A copy of the original sales contract shall be available for permit informational purposes.
3. City Inspection Required.
  - a. The required inspections for manufactured homes shall include: onsite utilities requirements including gas, electric, sewer and water; setback requirements; and off-street parking requirements. Fees for these have been established by the City Commission by resolution.
  - b. It is unlawful for any person, firm, corporation or agency to turn on, or allow to be turned on, any gas or electric service without an inspection and clearance from the City Building Official.
4. Non-Manufactured Home Improvements Subject to the International Building Code. Permits must be obtained for additions, alterations, canopies, carports, storage areas and detached refrigeration units that were not included in the original sale of the manufactured home unit, fees for which are set by the International Building Code and Uniform Mechanical Code.

D. Plans. The preliminary and final plans shall accurately depict:

1. All proposed and required landscaping;
2. Locations of storage areas for recreational vehicles and other chattels of the residents;
3. A layout of typical lots for rent or lease showing the location and dimensions of the lot, manufactured home stand, driveway and parking spaces;
4. Mail delivery area; and
5. Foundation and anchoring details.

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

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

G. Recreation Areas. At a minimum, the amount of land required to be dedicated under §18.50.020, BMC, shall be reserved as park or recreation area. Recreation areas may include space for community recreation buildings and facilities.

1. Public access through the recreation area may be required, through the provision of a written public access easement, if it is determined by the City commission that public access is necessary to ensure public access through the private recreational area from adjoining properties to nearby or adjacent public parks.
- H. Accessory Buildings. Accessory buildings for individual dwellings are subject to §18.38.050, BMC.

#### **18.40.130 MANUFACTURED HOMES ON INDIVIDUAL LOTS**

- A. Intent. It is the intent of this section to allow manufactured homes, as defined in Chapter 18.80, BMC, in specified zoning districts in which similar single-household dwellings constructed on the site are permitted subject to requirements and procedures set forth herein to assure acceptable similarity in exterior appearances between such manufactured homes and dwellings that have been or might be constructed under these and other regulations on adjacent lots in the same district or area. It is the intent of this section to permit only those manufactured homes certified as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development.
- B. Application, Material to be Supplied. One copy of the application for the proposed manufactured home on the individual building lot shall be submitted to the Building Department in conjunction with the application for a building permit for the building foundation. The application shall include all information as deemed necessary by the Planning Director to make determinations as to conformity with subsection C of this section, and it shall include a minimum of color photographs of all sides of the manufactured home, of the nearest existing residences or other grounds or buildings on each side of the proposed site, and of existing residences or grounds fronting upon the same street as the proposed site and opposite thereto, and also including those within 150 feet of each corner of the proposed site. As a minimum requirement, it shall also include a description of siding and roofing material in sufficient detail as to make possible determination as to its appearance and durability.
- C. Standards for Determination of Acceptable Similarity in Exterior Appearance and Construction. The following standards shall be used in determinations of acceptable similarity in appearance and construction between manufactured homes with permanent foundations and residences constructed near the site to assure that such manufactured homes will be compatible in appearance with site built housing that has been or may be constructed in adjacent or nearby locations.
  1. No manufactured homes shall have fenestration or other features that will be incompatible in the residential neighborhood.
  2. The roof shall have sloping lines with eaves, such as gable, mansard and shed style roofs or shall be compatible with conventionally built homes in the surrounding areas. The pitch of the main roof shall not be less than 1 foot of rise for each 4 feet of horizontal run. Minimum distance from eaves to ridge shall be 10 feet.
  3. The roofing material shall be shake, tile, composition shingle, or other materials commonly found on conventionally built homes in the surrounding areas.
  4. The exterior covering material shall be similar or closely compatible to that found on conventionally built residential structures in the surrounding area. Reflection from such exterior shall not be greater than from siding coated with clean, white, gloss, exterior enamel.
  5. The exterior covering material shall extend below the top of the foundation.
  6. A solid concrete or masonry perimeter foundation shall be used.

7. The exterior covering and roofing materials of the garage(s), carport(s) and accessory buildings shall be compatible with the materials on the manufactured home.
  8. The finished floor shall be a maximum of 24 inches above the exterior finished grade of the lot, or similar to the conventionally built homes in the surrounding area.
  9. The manufactured home shall be located on the lot so that the home presents a primary entrance to the principal street frontage. Such primary entrance may be established by the presence of porches, overhanging gables, and similar architectural features consistent with the character of site built homes in the near vicinity.
  10. Manufactured homes on permanent foundations shall meet all the property development standards for the zone in which they shall be located. These standards include, but are not limited to: lot area and dimension; area per dwelling unit; front, rear and side yard setbacks; building height, lot coverage, location of accessory buildings; and offstreet parking.
  11. Manufactured homes located within the Neighborhood Conservation Overlay District shall be subject to review for a certificate of appropriateness under the same standards for architectural compatibility as other homes.
  12. Manufactured homes shall be approved for location on individual building lots only if they have been certified as meeting the Mobile Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development.
- D. Actions by Planning Director. Upon receipt of an application as required by subsection B of this section, the Planning Director shall make a decision to approve or disapprove of the application within fifteen working days, or he may make referral to the City Commission. Referrals to the City Commission shall be placed on the agenda for its regular meeting. Within five working days after receipt of recommendations from the City Commission, the Planning Director shall make a determination as to conformity with subsection C of this section, notifying the applicants of approval or disapproval. In the case of disapproval, the reasons therefore shall be stated in writing.

#### **18.40.140 MINI WAREHOUSES**

- A. Minimum site size shall be one acre.
- B. On-Site Circulation, Drives and Parking.
  1. Each mini warehouse site shall provide a minimum of 2 exits;
  2. All one-way driveways shall provide for one 10-foot parking lane and one 12-foot travel lane. Traffic direction and parking shall be designated by signing or painting;
  3. All two-way driveways shall provide for one 10-foot parking lane and two 10-foot travel lanes; and
  4. The parking lanes may be eliminated when the driveway does not serve storage cubicles.

#### **18.40.150 OUTDOOR SALES AND DISPLAY**

- A. Merchandise which is offered for direct sale, rental or lease to the ultimate consumer or user may be displayed beyond the confines of a building in any commercial district, but the area occupied by such outdoor display shall not constitute a greater number of square feet than 10 percent of the ground floor area of the building housing the principal use, unless such merchandise is a type customarily displayed outdoors such as automobiles and garden supplies. In such cases, the maximum area for outdoor sales and display shall not exceed 50 percent of the total lot area.

- B. Outdoor sales and display areas shall not be located in any required yard and is also subject to §18.42.160, BMC.

#### **18.40.160 PORTABLE CARRY - OUT FOOD AND BEVERAGE BUILDINGS**

- A. A \$10,000 site bond must be secured on the property. In addition, evidence of liability insurance, with coverage of \$1,000,000 per occurrence, shall be furnished by the owner.
- B. Electrical service must be installed underground, in compliance with all electrical service codes, subject to approval by the Building Department.
- C. Structures shall not exceed 80 square feet in size. All structures must be on an improved asphalt or concrete surface, be anchored to resist accidental movement, be placed upon approved footings and have a fully electrically bonded frame. No structure shall have an axle. Enclosed trailers must remove the axle, be secured to resist accidental movement, with all related supports cosmetically covered with an approved material.
- D. Not more than one portable structure may be placed on a zone lot (individual property or contiguous properties held in common ownership). Portable structures shall be placed in a manner so as not to interfere with normal vehicle and pedestrian circulation patterns or required emergency access. Nor shall such structures be placed in a manner that eliminates or interferes with the use of required parking spaces.
- E. Requests for special temporary use permits shall be subject to review and must be approved by the appropriate City department representatives, including but not limited to City Engineer, Fire Marshal, City Building Official and Planning Director. Permit coordination and final issuance shall be by the Planning Director. A Special Temporary Use Permit for Portable Carry-Out Food and Beverage buildings shall be valid for a period of one year, and may be renewed annually thereafter only if all regulations and requirements are strictly complied with on a continuing basis.
- F. Operations shall be subject to all licensing requirements of the Gallatin City-County Health Board. Documentation of such licensing, including a copy of plans for water supply and disposal, shall be provided to the planning director prior to permitting.
- G. The City of Bozeman reserves the right to revoke or terminate this permit at any time by giving 30 days written notice of such revocation or termination, except that the City may, at its election, revoke or terminate the permit at any time without giving any notice if the owner fails to comply with or abide by each and all of the terms and conditions of the permit.
- H. Portable food and beverage buildings as described herein shall not be subject to certificate of appropriateness requirements for the neighborhood conservation and entryway corridors overlay districts.

#### **18.40.170 RECREATIONAL VEHICLE PARK AND OVERNIGHT CAMPGROUND**

Recreational vehicle parks and overnight campgrounds are included in the state classification of land subdivisions by rent or lease. Therefore, applicants for such developments shall apply for and be reviewed under both site plan and subdivision procedures.

- A. Recreational vehicle parks shall be screened from view of any adjacent residential development.
- B. Internal circulation roads shall be paved with a concrete or asphaltic concrete surface.
- C. Individual recreational vehicle parking pads shall be plainly marked and maintained with a dust free surface.
- D. Individual recreational vehicle parking pads shall be set back at least 30 feet from the perimeter of the park and 30 feet from any public street right-of-way.

- E. Approved trash disposal, bathroom and laundry facilities, including facilities for the handicapped, shall be provided for use of overnight campers.
- F. Recreational vehicles spaces shall be separated by no less than 15 feet and shall be no less than 1,500 square feet in area.
- G. Land proposed for use for a recreational vehicle park must have a R-S, Residential Suburban District or a RMH, Residential Manufactured Home Community District zoning designation. Recreational vehicle parks are a principal use in the RMH district and a conditional use in the R-S district.

**18.40.180 LARGE SCALE RETAIL, SIZE LIMITATIONS AND DESIGN AND SITE DEVELOPMENT GUIDELINES AND REQUIREMENTS**

A. Purpose.

- 1. The purpose of this section is to establish general development standards for large scale retail developments. These standards are intended and designed to assure compatibility of uses; to prevent urban blight, deterioration and decay; and to enhance the health, safety and general welfare of the residents living within the City of Bozeman.
- 2. These standards are also intended to be used as guidelines for evaluating and assessing the quality and design of proposed large scale retail developments. The particulars of any large scale retail developments will be evaluated against their respective standards contained in this chapter. It is expected that the quality and design of the large scale retail developments, while not necessarily complying with the exact standards of this chapter, will meet or exceed the intent behind these standards.
- 3. Applicability. All uses listed in this chapter shall be subject to the specific standards described for each use, in addition to all other applicable standards which may apply.

B. Limitations on Size of Retail Stores.

- 1. No retail building, utilized by a single tenant, shall exceed 75,000 square feet.
- 2. Retail development consisting of one or more single tenant building(s) greater than 40,000 square feet may offer for direct sale to the public merchandise, which is displayed outdoors, but the area occupied by such outdoor sales and storage, exclusive of warehouses, shall not exceed 25 percent of the total square footage of the retail building(s) and shall also comply with §18.40.150, BMC.
- 3. Notwithstanding §18.40.180.B.1 and §18.40.180.B.2, BMC, when an otherwise lawful retail building, in excess of 75,000 square feet, exists as of March 21, 2003, such building shall be considered a development nonconformity. Said building may be continued, structurally altered, repaired or reconstructed so long as it is not increased, extended or enlarged beyond the gross floor area of the building that existed on March 21, 2003. To the extent practicable, the design and site development guidelines of this section shall be applied to any alteration, reconstruction or repair that takes place after March 21, 2003.
- 4. The following principal uses are exempt, as they pertain to outdoor sales and storage:
  - a. Recreation vehicle sales and auto sales;
  - b. Agricultural implement sales; i.e., tractors, cultivators, balers, etc.; and
  - c. Plant nursery.

C. Design and Site Development Guidelines for Certain Retail Developments.

- 1. Retail development consisting of a single tenant building greater than 40,000 square feet shall be subject to the design and site development criteria and development standards

contained in subsection 5 and 6 below. These guidelines shall be applied as part of the review and approval process for use permits and detailed applications. For developments in the entryway corridor, which are also subject to the design guidelines in Chapter 18.30, BMC, if there is any conflict between the guidelines, the more restrictive guideline shall apply. The guidelines in this section shall not be applied to any development or portion of a development that is covered by an approved use permit as of March 21, 2003, unless modifications to the use permit are proposed by the applicant.

2. Intent and Purpose. All new construction of retail buildings described in subsection A above will be subject to design review. It is the intent and purpose of this section to ensure the quality of retail development will enhance the impression and enjoyment of the community both by guiding development and change that occurs after the adoption of the ordinance codified in this section, and by stimulating and assisting, in conjunction with other provisions of this title, improvements in signage, landscaping, access and other contributing elements of retail development appearance and function. It is further the intent of this section to establish design criteria, standards and review procedures that will allow the City and its advisory boards and agencies to review and direct, in a fair and equitable manner, the development and redevelopment of future and existing properties and facilities governed by this section. The recommendations of the Design Review Board or administrative design review staff shall be given careful consideration in the final action of any agency, board or commission involved in decisions involving retail developments governed by this chapter.
3. The Design Review Board and administrative design review staff shall have the powers and duties provided by this title in considering applications subject to this chapter.
4. Certificate of Appropriateness. A certificate of appropriateness, received from the City Commission, with a recommendation by the Design Review Board, shall be required as a condition of site plan approval for any development governed by this section. Application, review and public notice procedures for proposals governed by this section are set forth in Chapter 18.76, BMC, Noticing, and Chapter 18.34, BMC, Review Procedures for Site Development. A denial of a certificate shall be accompanied by a written statement of reasons for the denial.
5. Design Criteria and Development Standards. In addition to all other applicable review procedures and design criteria, all development governed by this section shall exceed design criteria and development standards contained in Chapter 18.30, BMC, Entryway Overlay District, including the general design objectives and guidelines contained in the adopted or updated Design Objectives Plan, regardless of location or zoning district. Said design criteria and development standards shall be exceeded through design practices such as additional architectural detailing, exceptional landscape design, improved public spaces, use of renewable energy and/or recycled construction materials, and provisions for alternative modes of transportation. The City Commission shall determine whether established design criteria and development standards have been exceeded based on a recommendation from the Design Review Board.
6. Adaptability for Reuse/Compartmentalization. The building design shall include specific elements for adaptation for multi-tenant reuse. Such elements may include but are not limited to compartmentalized construction, including plumbing, electrical service, heating, ventilation and air conditioning. The building design shall also allow for:
  - a. The interior subdivision of the structure into separate tenancies;
  - b. Facades that readily adapt to multiple entrances and adapt to entrances on all but one side of the building;

- c. Parking lot schemes that are shared by establishments or are linked by safe and functional pedestrian connections;
- d. Landscaping schemes that complement the multiple entrance design; and
- e. Other elements of design which facilitate the multi-tenant reuse of the building and site.

7. Appeals. Appeals may be taken as provided for in Chapter 18.66, BMC.

D. Additional Criteria and Site Development Guidelines for Certain Retail Developments.

1. Applications for large scale retail development shall include a renewal plan that will afford maximum opportunity, consistent with the sound needs of the municipality as a whole, for the rehabilitation or redevelopment of the structure in the event of closure or relocation by the original occupant. Such plan will be approved if the City Commission finds that:

- a. The plan conforms to the City's growth policy and the requirements of this title or parts thereof for the municipality as a whole;
- b. A sound and adequate plan exists for said redevelopment;
- c. The plan affords maximum opportunity for rehabilitation or redevelopment of the structure by both private enterprise and the City; and
- d. The renewal plan provides a maintenance plan for normal repairs and upkeep of property, including but not limited to building, parking lot and surfacing, landscaping, signage and elimination of legible impressions, images, or remnants of signs remaining on a building or sign surface after the use for which the sign was permitted ceases to operate.

2. The City may enter into a development agreement with the owner of the real property and undertake activities, including the acquisition, removal or demolition of structures, improvements or personal property located on the real property, to prepare the property for redevelopment. A development agreement entered into in accordance with this section must contain provisions obligating the owner to redevelop the real property for a specified use consistent with the provisions of this title and offering recourse to the City if the redevelopment is not completed as determined by the City.

E. Review. The provisions of this section shall be reviewed by the Commission in five years and updated as needed.

**18.40.190 STABLE, COMMERCIAL**

- A. The minimum property size shall be ten acres.
- B. Structures or facilities used for stabling, storing, showing or training of animals shall be set back a minimum of 100 feet from any adjacent privately owned property. Dwelling units, accessory structures incidental to dwelling units and irrigated pasturage may occur within the 100-foot setback area subject to the setback requirements of the applicable zoning district.
- C. There shall be at least a 20-foot yard adjacent to any street.
- D. There shall be no shows or other activities which would generate more traffic than is normal to a residential area, unless the proposed site has direct access from an arterial street as set forth in the Bozeman growth policy. Permission for such shows and activities shall be obtained from the City. Notification shall be provided in a letter that explains the nature and duration of the activity, and accommodations for spectators, traffic control and additional parking for cars and trailers. This letter shall be submitted to the Planning Director at least one month prior to the date of the show or activity.

- E. All pasture and animal storage areas shall be enclosed with fences or walls of a minimum of 4 feet, 6 inches in height. The design of these enclosures shall be shown on drawings submitted with the conditional use permit application.
- F. All laws applicable to the public health and appropriate care of animals must be complied with for the entire period of operation of the stable.
- G. All activity and pasture areas that are not grassed shall be treated for dust control as approved by the Planning Director.
- H. Adequate parking for daily activities shall be shown on the site plan and improved to City parking standards. Additional parking, improved as determined by the Planning Director, shall be provided for shows or other special events.

#### **18.40.200 TENNIS AND RACQUET CLUB**

- A. The use will be compatible with any adjacent neighborhood and will not be detrimental to the same due to:
  - 1. Increased automobile traffic;
  - 2. Noise generated from within the site.
- B. Perimeter fencing of the site may be required, fencing of outdoor courts shall not exceed 16 feet in height, and fencing may be required to be opaque by the Planning Director or City Commission.
- C. When the club is located within a residential zoning district, there shall be no shows, tournaments or other activity which would generate more traffic than is normal to a residential area, unless access is provided from an arterial street as set forth in the Bozeman growth policy. If access is not provided from an arterial street, permission for such shows and activities shall be obtained from the City Commission. Permission shall be requested in a letter with a site sketch that explains the nature and duration of the activity and accommodations for spectators, additional parking and traffic control. This letter shall be submitted to the Clerk of the Commission for City Commission consideration.
- D. There shall be a landscaped 50-foot buffer strip adjacent to any residential zoning district, or as otherwise determined by the ADR or DRB.
- E. Hours of operation may be controlled by the City Commission.

#### **18.40.210 COMMUNITY CENTER**

- A. There shall be public street access on to an arterial or collector standard street within one block of the community center site.
- B. There shall be a 20 foot landscaped yard adjacent to any residential property.
- C. Each community center site shall provide a minimum of 2 ingress/egress points which comply with Section 18.44.090.