

CHAPTER 17.24: POINT MACKENZIE TOWNSITE DEVELOPMENT CODE

Section

Article I. General Provisions

- 17.24.010 Established
- 17.24.020 Enabling authority
- 17.24.030 Applicability
- 17.24.040 Purpose and intent
- 17.24.050 Severability, regulation conflict
- 17.24.060 Construction of language

Article II. Districts

- 17.24.070 Districts established
- 17.24.080 Interpretation of district boundaries
- 17.24.090 District boundaries

Article III. Development Review Permit and Construction Standards

- 17.24.100 Intent and applicability
- 17.24.110 Development review permit
- 17.24.120 Procedure
- 17.24.130 Action on applications
- 17.24.140 Appeals and modifications
- 17.24.150 Site and building minimum standards
- 17.24.160 Allowed principal uses and structures
- 17.24.170 New community development
- 17.24.180 Road, street, and alley standards
- 17.24.190 Civic space standards

Article IV. Variances

- 17.24.200 Variances
- 17.24.210 Conditions of approval
- 17.24.220 Record of variances
- 17.24.230 Appeals
- 17.24.240 Termination of variances

Article V. Unusual Circumstances And Procedures

- 17.24.250 Interpretations of this chapter
- 17.24.260 Optional plan review procedures
- 17.24.270 Administrative departure procedures
- 17.24.280 Use determination for similar uses or uses not addressed

Article VI. Conditional Use Permits

- 17.24.300 Intent
- 17.24.310 Applicability
- 17.24.320 Application procedures
- 17.24.330 General standards

- 17.24.340 Standards of approval
- 17.24.350 Transfer of a conditional use permit
- 17.24.360 Suspension and revocation of a conditional use permit
- 17.24.370 Amendment of a conditional use permit

Article VII. Nonconformance

- 17.24.400 Nonconforming lots, structures, or uses
- 17.24.410 Intent
- 17.24.420 Nonconforming lots Of record
- 17.24.430 Nonconforming structures
- 17.24.440 Nonconforming uses of structures and land
- 17.24.450 Parking
- 17.24.460 Prior construction

Article VIII. Appeals

- 17.24.500 Appeals

Article IX. Definitions

- 17.24.600 Definitions

ARTICLE I. GENERAL PROVISIONS

17.24.010 ESTABLISHED

(A) There is an established special land use district, which includes land within the area known as the Point MacKenzie Townsite and further described in Subsection (C) of this section.

17.24.020 ENABLING AUTHORITY

(A) In accordance with the provisions of AS 29.40.040 - Land Use Regulation, this title is enacted for the regulation of the use of land in the Matanuska-Susitna Borough. Land use regulations are limited by and may only be enacted to implement the borough's comprehensive plan.

17.24.030 APPLICABILITY

(A) The provisions established by this chapter for each district are minimum regulations and apply uniformly to each class or kind of structure or land.

(1) **Conformity with regulations required.** No building, structure, land, or water area shall be used or occupied, and no such building, structure, lot, or part thereof shall be created, erected, constructed, reconstructed, moved, repaired or structurally altered, except in conformity with the regulations of this title.

(2) **Uses authorized.** Land uses other than those specifically permitted or conditionally permitted in a district

may be allowed if they are similar to those listed and are found by the planning director to be similar in character and impact.

(4) **Approvals.** All necessary approvals for permitted uses, lots, buildings and structures shall be obtained prior to any construction or establishment of a use in accordance with MSB 17.24.120.

(5) **Legal nonconforming uses.** Legal nonconforming structures or uses shall be subject to the requirements of MSB 17.24.150 and MSB 17.24.160.

(6) **Boundaries.** This chapter applies to portions of the area covered by the borough's 2014 Point MacKenzie Townsite Master Plan. The boundaries of this special land use district are maintained by the borough and are generally described as follows:

Township 15 North, Range 4 West, Seward Meridian, Alaska

Section 21 S $\frac{1}{2}$

Section 22 Tract A Point Mack Subdivision
Phase 1 Plat 2008-68

Section 27 Tract A Point Mack Subdivision
Phase 1 Plat 2008-68

Section 28 Tract A Point Mack Subdivision
Phase 1 Plat 2008-68

Section 34 Tract A-2 Terrane Terrace Alaska
Subdivision Plat 66-31

Section 35 Government Lot 2, SE $\frac{1}{4}$ NW $\frac{1}{4}$,SW
 $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$

(B) **Conflicting provisions.** Where requirements in this chapter are in conflict with those in MSB 43 Subdivisions, those requirements in this chapter shall prevail.

(1) For development standards not covered by the Point MacKenzie Townsite Development Code, the other applicable sections in the Matanuska-Susitna Borough Code shall be used as the requirement.

17.24.040 PURPOSE AND INTENT

(A) It is the intent of this chapter to implement the Borough Comprehensive Plan, which includes the Point MacKenzie Comprehensive Plan and the Point MacKenzie Townsite Master Plan, in order to:

(1) Protect and enhance the public health, safety, and welfare of residents by providing consistent, compatible, effective, and efficient development within the townsite;

(2) Protect residential neighborhoods and associated property values by separating incompatible uses, while encouraging uses that support residential uses, including office, commercial and other mixed-use developments that are shown to have positive cumulative impacts to a neighborhood;

(3) Encourage commercial and industrial development that is compatible with residential development and local community desires;

(4) Recognize and protect the diversity of the borough's land use development patterns including residential, commercial, industrial and cultural resources, while encouraging pedestrian-scale development;

(5) Promote an orderly land use pattern suited to the demand for attractive settings in which to live, work, shop, play, and conduct other daily activities;

(6) Encourage density patterns that make best use of public investment and infrastructure;

(7) Establish appropriate density standards and encourage residential and commercial development to occur in areas that are centrally located, and within close proximity to public and private services;

(8) Encourage and provide various lot sizes and population density standards to accommodate a variety of property owners and residents;

(9) Foster an affordable mix of residential areas and housing types at suitable locations, in balance with market demand, and with appropriate public infrastructure;

(10) Secure the stability and viability of established residential neighborhoods;

(11) Incorporate design standards for larger scale development that will protect and enhance the existing built and natural environment;

(12) Provide for continued economic development and diversification by encouraging a mix of complimentary uses at designated economic node locations;

(13) Encourage neighborhood commercial districts at suitable locations for neighborhood-scale retail and service needs;

(14) Create an attractive environment for business investment by instituting appropriate land use guidelines and regulations that reduce land use conflicts, and protect residents and businesses;

(15) Coordinate land use with long range transportation planning;

(16) Develop an integrated surface multi-modal transportation network that facilitates the efficient movement of people, goods, and services throughout the townsite and region;

(17) Provide and encourage street and trail connectivity at a regional and local level by requiring new developments to integrate street and trail connectivity as a component of their proposal;

(18) Protect and enhance the community's natural assets including watersheds, groundwater supplies, and air quality that may be negatively impacted by human activities;

(19) Manage the natural and built environments to achieve minimal loss of the functions and values of all drainage basins, and where possible, enhance and restore the functions, values, and features. Retain lakes, ponds, wetlands, streams, rivers, and their corridors substantially in their natural condition.

17.24.050 SEVERABILITY, REGULATION CONFLICT

(A) Should any section or provision of this title be decided by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the title as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

(1) This chapter does not repeal or modify any valid plat note, condition, covenant, or restriction except as specifically authorized. When a subdivision plat note, condition, covenant, or restriction is less strict than applicable borough code, borough code shall supersede.

(2) Except as otherwise provided, the borough is not responsible to enforce plat notes, conditions, covenants, or deed restrictions.

(B) **Borough, state, and federal regulations.** There are other applicable borough, state, and federal plans, policies, and regulations governing land use within the borough. It is the responsibility of an individual land owner to obtain a

determination whether such requirements apply to the development of their land. It is not the intent of this chapter to replace or supersede such regulation.

17.24.060 CONSTRUCTION OF LANGUAGE

(A) The definitions listed in this section shall apply to the words and phrases used in MSB Title 17.24 unless otherwise described within the individual chapters.

(1) Words used in the present tense shall include the past and future.

(2) Words in the singular number shall include the plural number and the plural number shall include the singular.

(3) The word "shall" is always mandatory and not discretionary; the word "may" is permissive.

(4) The words "include," "including," and "includes" shall be interpreted as being followed by the phrase "but not limited to."

(5) The word "lot" includes the words "plot," "tract" and "parcel."

(B) In instances where a word is not included in this chapter nor in the applicable section, reference will be made first to the most recent publication of "The Illustrated Book of Development Definitions" by Carl Lindbloom and Harvey Moskowitz then to "The Zoning Dictionary" by Lehman and Associates, then to "Webster's New Universal, Unabridged Dictionary."

ARTICLE II. DISTRICTS

17.24.070 DISTRICTS ESTABLISHED

(A) A series of form-based districts are provided as a framework for the development of the Point MacKenzie Townsite in accordance with the Point MacKenzie Townsite Master Plan. These districts provide a range of mixed-use development types from rural and residential, to commercial and industrial.

(B) **Land use districts.** The Point MacKenzie Townsite includes the following land use districts: Natural (D1), Rural (D2), Residential (D3), Mixed-Use (D4), Town Core (D5), and Special (SD).

(C) **Natural district (D1).** The D1 natural district is assigned to land approximating or reverting to a natural state that is unsuitable for settlement due to topography, hydrology, wildlife, vegetation, or other environmental condition. These lands include steep hillsides, riparian corridors, major flood plains, lakes, wetlands, earthquake faults, and woodlands. Lands may be used for passive regional parks and trails.

(1) Buildings are not allowed in the D1 natural district, except for public utility structures and civic buildings.

(2) Roads are generally designed to respond to natural conditions, such as topography and water bodies, and are designed to reinforce the natural character of the district and

generally contain soft shoulders and drainage swales/bioswales. There is no on-street parking. Shoulders and swales/bioswales, instead of curbs and gutters, are used to manage stormwater runoff. Public frontage options of a swale/bioswale or a shoulder and swale/bioswale may be used on both sides of the road or be different on either side. A swale/bioswale is required within both of these options. An unpaved shoulder may be located between the swale/bioswale and the paved travel lane which may be used by pedestrians, equestrians, and bicyclists. Road sections may be widened to accommodate bike lanes with a minimum width of four (4) feet. Swales/bioswales and shoulders shall have a minimum width of four (4) feet and eight (8) feet, respectively, and may be widened as needed or desired. The additional width on shoulders shall not be used as a travel lane.

(D) **Rural district (D2).** The D2 rural district is assigned to rural land in open or cultivated states. These lands are generally occupied by low density large lot rural residential properties with minimum setbacks. Limited agricultural and commercial activities may also be present. Lands may also be used for playgrounds, passive regional parks, and trails.

(1) The D2 rural district may include buildings that are two stories above grade or less. Horses and other animals are allowed in this zone in compliance with borough code.

(2) Roads are generally designed to reinforce the rural character of the district and generally contain soft shoulders and drainage swales/bioswales. There is no on-street parking. Shoulders and swales/bioswales, instead of curbs and gutters, are used to manage stormwater runoff. Public frontage options of a swale/bioswale or a shoulder and swale may be used on both sides of the road or be different on either side. A swale/bioswale is required within both of these options. An unpaved shoulder may be located between the swale/bioswale and the paved travel lane which may be used by pedestrians, equestrians, and bicyclists. Road sections may be widened to accommodate bike lanes with a minimum width of four (4) feet. Swales/bioswale and shoulders shall have a minimum width of four (4) feet and eight (8) feet, respectively, and may be widened as needed or desired. The additional width on shoulders shall not be used as a travel lane.

(E) **Residential district (D3).** The D3 residential district is land appropriate for low to medium density development. These lands are generally occupied by detached residential houses. Limited agricultural, commercial, civic, and religious

activities may also be present. Lands may also be used for playgrounds, and neighborhood parks.

(1) The D3 residential district may include buildings that are up to two stories above grade with minimum setbacks. Roads and streets may be designed to reinforce a rural character by incorporating soft shoulders, paths, and drainage swales/bioswale, or they may be designed to reinforce a more urban character by incorporating curb and gutters, parkways with street trees, and sidewalks.

(F) **Mixed use district (D4).** The D4 mixed use district is land appropriate for medium to high-density neighborhoods with a mix of building types and uses. These lands are generally occupied by detached and attached residential houses, small apartment buildings, and small commercial or mixed-use buildings. Civic and religious buildings may also be present. Lands may also be used for playgrounds, neighborhood parks, and squares.

(1) Buildings may include up to three stories above grade with shallow front setbacks, and small or no side and rear yards. Block sizes are limited to create a walkable and well-connected network of streets. Streets should be designed to encourage pedestrian activity by generally including onstreet parking, curbs and gutters, parkways with street trees, and wide sidewalks.

(G) **Town core district (D5).** The D5 town core district is land appropriate for neighborhood centers with a mix of building types and uses. These lands are generally occupied by attached residential houses, apartment buildings, and commercial or mixed-use buildings. Civic and religious buildings may also be present. Lands may also be used for playgrounds, squares, and plazas.

(1) Buildings may be between two to four stories above grade with shallow or no front setbacks and small or no side and rear yards. Block sizes are limited to create a walkable and well-connected network of streets. Streets should be designed to encourage pedestrian activity by generally including on-street parking, curbs and gutters, parkways with street trees, and wide sidewalks.

(H) **Special district (SD).** The Special district is assigned to land suitable for development that, by its intrinsic size, function, or configuration, cannot conform to the descriptions and standards of one of the four specific districts (D2 - D5). The Special district development types include, but are not limited to, resorts, auto malls and car dealerships, industrial properties, business parks, shopping centers, shopping malls, airports/seaplane bases, college campuses, and mining and quarry operations.

17.24.080 INTERPRETATION OF DISTRICT BOUNDARIES

(A) The following rules apply to district boundaries:

(1) Boundaries following the centerline of a right-of-way are interpreted to follow such centerlines, except:

(a) Boundaries following section or platted lot lines are interpreted to follow such lot lines, except:

(i) When a platted lot line or subdivision line is changed in accordance with MSB Title 43 Subdivisions, the boundaries of the district shall remain static, until an official action, by ordinance, is adopted by the assembly;

(2) Boundaries following shorelines are interpreted to follow such shorelines, except when shorelines change, boundaries are interpreted to move with the actual shoreline. Boundaries following the centerline of a stream, river, canal, lake, or other water body are interpreted to follow such centerlines.

17.24.090 DISTRICT BOUNDARIES

(A) The official district boundaries shall be delineated on the Official Point MacKenzie Townsite District Map which shall be maintained by the borough.

(B) The ordinances establishing district boundaries shall be located in the borough clerk's office and shall be the final authority as to the boundaries of the districts in the Point MacKenzie Townsite.

ARTICLE VII DEVELOPMENT REVIEW PERMIT AND CONSTRUCTION STANDARDS

17.24.100 INTENT AND APPLICABILITY

(A) It is the intent of this chapter to improve the level of compliance with the Point MacKenzie Townsite Development Code and borough code by establishing a mandatory review process and directly providing regulatory information to persons proposing development within the Point MacKenzie Townsite.

(B) There are federal, state, and local requirements governing land use. It is the responsibility of individual land owners to obtain a determination whether such requirements apply to the development of their land.

17.24.110 DEVELOPMENT REVIEW PERMIT

(A) The land owner or authorized agent shall obtain a development review permit from the Matanuska-Susitna Planning and Land Use Department prior to the commencement of:

(1) The construction or placement of any permanent building or addition whose gross floor area is 100 square feet or greater.

17.24.120 PROCEDURE

(A) A complete development review permit application shall be submitted to the director on a form provided by the department.

(B) A complete application will contain the following attachments:

(1) A certified site plan no more than two years old by date of application.

(2) An application fee as established by the assembly. If more than one permit fee is required under this chapter, the applicant shall pay only one fee, whichever is the highest.

(C) All site plans shall conform to the site plan requirements that are attached to the development review permit application.

17.24.130 ACTION ON APPLICATIONS

(A) The director shall determine whether an application for a development review permit is complete. An incomplete application shall be returned to the applicant with a written explanation of application deficiencies within seven (7) working days of the date the application is received in the department.

(B) In reviewing a development review permit application, the director shall review the application for compliance with MSB 17.24.150 through 17.24.190 within fifteen (15) working days from the date the application is determined complete. The director shall make specific findings explaining how the proposal does or does not conform to the requirements of this chapter. The director may provide options as to how the proposal can conform to these requirements.

(C) The director may also make a determination as to whether other borough permits are required, including but not limited to a flood hazard development permit and a driveway permit.

(D) For applications that require exceptional review and analysis due to the complexity of the proposal, the borough and the applicant may enter into an agreement to extend the application review time.

(E) A copy of the approved permit shall be posted on the subject property in a location and manner clearly visible to the public for the duration of the permitted construction activities.

(F) Permitted construction activities shall commence within two (2) years from the date of issuance of the permit. The applicant may request that the director approve up to two (2) twelve (12) month time extensions.

(G) The director may revoke any permit if the development does not conform to the approved application.

17.20.140 APPEALS AND MODIFICATIONS

(A) Appeals from a decision granting or denying a development review permit under this chapter shall be filed and conducted in accordance with MSB 15.39.

(B) The director may administratively grant minor modifications to an approved permit as long as the proposed

modification complies with all code standards. Minor modifications shall consist of no more than a five percent change in gross floor area or a change of less than 10 linear feet in the placement of a building. The applicant shall submit an updated site plan and a narrative description of the proposed modification for the director's review. No fee is required for the submission of a request for a minor modification to an approved permit.

17.24.150 SITE AND BUILDING MINIMUM STANDARDS

(A) **Requirements.** All lots and buildings shall meet the dimensional requirements in Table 17.24.150, except as otherwise required in a specific district, and are exempt from MSB 17.55.10 setbacks.

(1) Flag lots are prohibited.

(B) **Riparian setbacks.** No structure or footing shall be located closer than 100 feet from the high water mark of a watercourse or body of water. There shall be a vegetative riparian buffer consisting of undisturbed native vegetation measuring 25 feet from the high water mark of a watercourse. Eaves may project three feet into the required riparian setback area.

(1) Docks, piers, marinas, aircraft hangars, and boathouses may be located closer than 100 feet and over the water, provided they are not used for habitation and do not

contain sanitary or petroleum fuel storage facilities. Structures permitted over water under this subsection shall conform to all applicable state and federal statutes and regulations.

(C) **Special districts.** A special district is an area that should not be treated with the same standards used for the D1 natural, D2 rural, D3 residential, D4 mixed use, and D5 town core districts. Standards for a special district are not included in this regulating code.

(D) **Lighting.** All development shall minimize light pollution, in order to reduce impacts to nocturnal environment and wildlife, and increase night sky visibility. Lighting should be minimal, preferably controlled with motion sensors or cutoff devices and shall be directed downward with fully shielded covers to minimize trespass. For nonresidential uses, a lighting curfew of 10 p.m. within all districts, except the town core and special districts which is extended to 12 a.m., or close of business, whichever is later, is recommended. Exterior light fixtures with very low light levels such as solar powered lights, and temporary seasonal lighting, such as Christmas lights, are exempt.

(1) On-site lighting measured at the property lines shall not exceed 0.5 foot-candles (fc) in the D1 district; 1.0 fc in the D2, D3, and D4 districts; and 2.0 fc in the D5 district.

(2) Pedestrian-scaled lighting should be provided at building entrances, within parking areas, throughout civic spaces, and within other areas that are routinely used by pedestrians.

(a) Light fixtures within parking and vehicular display areas may be no higher than thirty (30) feet.

(b) Light fixtures within pedestrian areas may be no higher than fifteen (15) feet.

(E) **Applicable codes.** All construction shall be built in accordance with the following:

(1) International Mechanical Code, as adopted by 13 AAC 50.023 on November 16, 2012, and as amended from time to time;

(2) International Building Code, as adopted by 13 AAC 50.020 on November 16, 2012, and as amended from time to time;

(3) Plumbing Code, as adopted by 8 AAC 63.010 on November 16, 2012 and as amended from time to time;

(4) National Electrical Code, as adopted by 8 AAC 70.025 on October 16, 2012 and as amended from time to time);

(5) International Fuel and Gas Code as adopted by 13 AAC 50.024 on November 16, 2012 and as amended from time to time"; and

(6) International Fire Code as adopted by 13 AAC 50.025 on November 16, 2012 and as amended from time to time.

(F) An inspector making inspections shall meet the requirements of state law.

Table 17.24.150 - SITE AND BUILDING MINIMUM STANDARDS				
BLOCK AND LOT STANDARDS	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Maximum Block Size	N/A	Maximum perimeter of 2,400 linear feet	Maximum perimeter of 2,000 linear feet	Maximum perimeter of 2,000 linear feet
Lot Width	200' minimum	70' minimum to 120' maximum	25' minimum to 100' maximum	15' minimum to 150' maximum
Residential Density	1 unit per 5 acres	3 units minimum to 8 units maximum per acre	8 units minimum to 36 units maximum per acre	16 units minimum to 54 units maximum per acre
Residential Unit Flooring Square Footage	1,500'/sq minimum	1,500'/sq minimum	1,000'/sq minimum	1,000'/sq minimum
Impervious Surfaces	No more than 10%	No more than 50%	No more than 80%	No more than 90%

PLACEMENT OF PRIMARY BUILDING	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Front Setback	40' minimum	20' minimum	10' minimum	None
External Side Setback	40' minimum	10' minimum	10' minimum	None
Internal Side Setback	40' minimum	10' minimum	5' minimum for lots with two side yards, 0' and 10' minimum for lots with one side yard, and 0' for buildings with no side yards. All lots that have a width greater than 50' shall have two side yards.	None
Rear Setback	100' minimum	20' minimum	10' minimum	A setback is not required
Build-to-Zone (BTZ)	A BTZ is not required	20' to 30' of the front property line, excluding side setbacks	10' to 15' of the front property line, excluding side setbacks	The front BTZ is the area that is within 10' of the front property line. The external side BTZ is the area that is within 10' of the external side property line.

BTZ Buildout	N/A	At least 50% shall be occupied by front facade, excluding side setbacks	At least 60% shall be occupied by front facade, excluding side setbacks	At least 80% of the front BTZ's width and 60% of the external side BTZ's width shall be occupied by facades
PLACEMENT OF SURFACE PARKING, GARAGES, AND OUTBUILDINGS	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Front Setback	40' minimum	40' minimum or at least 50% of the lot depth, whichever is less	40' minimum or at least 50% of the lot depth, whichever is less	40' minimum or at least 50% of the lot depth, whichever is less
External Side Setback	40' minimum	10' minimum	10' minimum	10' minimum
Internal Side Setback	40' minimum	5' minimum	None	None
Rear Setback	40' minimum	5' minimum if adjacent to a property and 0' if adjacent to an alley	None	None
Exceptions	N/A	N/A	Setbacks for podium parking may have the same setback as the building	Setbacks for podium parking may have the same setback as the building

PRIMARY BUILDING DESIGN	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Number of Floors	1 to 2 floors plus an optional basement	1 to 2 floors plus an optional basement	1 to 3 floors plus an optional basement	2 to 4 floors plus an optional basement
Ground Floor Elevation	Less than 5' above average site grade	Less than 5' above average site grade	Less than 5' above average site grade. If ground floor is designed for nonresidential use then elevation should be at the sidewalk to minimize the need for stairs and ADA ramps.	Less than 5' above average site grade. If ground floor is designed for nonresidential use then elevation should be at the sidewalk to minimize the need for stairs and ADA ramps.
Ground Floor Height	N/A	N/A	If designed for nonresidential space the height of the ceiling shall be at least 15'.	If designed for nonresidential space the height of the ceiling shall be at least 15'.
Maximum Height	Less than 35' above average site grade	Less than 35' above average site grade	Less than 45' above average site grade	Less than 75' above average site grade

DETACHED GARAGE OR OUTBUILDING DESIGN	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Number of Floors	1 to 2 floors	1 to 2 floors	1 to 2 floors	1 to 2 floors
Maximum Height	Less than 24' above average site grade	Less than 24' above average site grade	Less than 24' above average site grade	Less than 24' above average site grade
PRIMARY BUILDING FRONTAGE ELEMENTS	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Entrance and Frontage	The primary entrance shall be located on the front facade. The entrance shall be located within a portico or porch frontage.	The primary entrance shall be located on the front facade. The entrance shall be located within a portico or porch frontage.	The primary entrance shall be located on the front facade. The entrance shall be located within a portico, porch, stoop, storefront, terrace/ light well, or forefront frontage.	The primary entrance shall be located on the front facade. The entrance shall be located within a stoop, storefront, terrace/ light well, or forefront frontage.

Windows	At least 15% of the surface area of front and external side facades shall be occupied by windows.	At least 15% of the surface area of front and external side facades shall be occupied by windows.	At least 50% of the surface area of ground floor and external facades with storefronts. At least 20% of the surface area of all other front and external side facades.	At least 50% of the surface area of ground floor and external facades with storefronts. At least 20% of the surface area of all other front and external side facades.
ALLOWED ENCROACHMENTS INTO SETBACKS	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Porch	May encroach into all setbacks by up to 6'.	May encroach into all setbacks by up to 6'.	May encroach into all setbacks by up to 6'.	May encroach into all setbacks by up to 6'.
Portico	May encroach into all setbacks by up to 6'.	May encroach into all setbacks by up to 6'.	May encroach into all setbacks by up to 6'.	May encroach into all setbacks by up to 6'.
Balconies	May project into all setbacks by up to 6'.	May project into all setbacks by up to 6'.	May project into all setbacks by up to 6'.	May project into front and side setbacks by up to 6'. Balconies may project over public sidewalk if at least 12' of vertical clearance is provided below balcony.

Bay Windows	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.	May project into front and side setbacks by up to 6'. Bay Windows may project over public sidewalk if at least 12' of vertical clearance is provided below window.
Window Shades	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.	Window shades (horizontal and vertical) may project into all setbacks by 3'. Window shades may project over public sidewalks if at least 8' of vertical clearance is provided below shades.
Roofs and Eaves	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.	May project into all setbacks by up to 3'.
Chimneys	May project into rear, internal side, and external sides setbacks by up to 2'. Prohibited on front façade.	May project into rear, internal side, and external sides setbacks by up to 2'. Prohibited on front facade.	May project into rear, internal side, and external sides setbacks by up to 2'. Prohibited on front facade.	May project into rear, internal side, and external sides setbacks by up to 2'. Prohibited on front facade.

Storefront Awnings	N/A	N/A	May project into front and external side setbacks.	May project into front and external side setbacks by up to 6'. Awnings may project over public sidewalks if at least 8' of vertical clearance is provided.
Galleries	N/A	N/A	N/A	May project into front and external side setbacks. Galleries may project over public sidewalks with the approval of the director if at least 12' of vertical clearance is provided between the gallery and the sidewalk and the outside edges of the posts or columns of the gallery are at least 2' from the curb face.

FENCES, WALLS, AND HEDGES	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Front Yard Fence Height	Less than 5'	Less than 40"	Less than 40"	Less than 40"
External Side Yard	Less than 5'	Within 5' of external side property line fences must be less than 40". If set back at least 5' of external side property fence may be up to 6'.	Within 5' of external side property line fences must be less than 40". If set back at least 5' of external side property fence may be up to 6'.	Within 5' of external side property line fences must be less than 40". If set back at least 5' of external side property fence may be up to 6'.
Internal Side and Rear Yards	Less than 6'	Less than 6'	Less than 6'	Less than 6'

OFF-STREET PARKING SPACES	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Residential	Primary Unit: 2 spaces per unit. Accessory Unit: 1 space per unit. Bed & Breakfast: 1 space per rental.	Primary Unit: 2 spaces per unit. Accessory Unit: 1 space per unit. Bed & Breakfast: 1 space per rental.	Primary Unit: 2 spaces per unit. Accessory Unit: 1 space per unit. Bed & Breakfast: 1 space per rental. Dormitory: 1 space per two bedrooms. Senior Citizen Assisted Housing: 1 space per two residents. Community Residential Facility: 1 space per two residents.	Residential Units: 1.5 spaces per unit. Accessory Unit: 1 space per unit. Bed and Breakfast/Hotel/Motel/: 1 space per rented or owner occupied bedroom. Dormitory: 1 space per 2 bedrooms. Senior Citizen Assisted Housing or Community Residential Facility: 1 space per two residents.

Services/ Retail	Day Care: 2 spaces. Kennel: 3 spaces. Stables: 0.5 spaces per stable. Retail & Services: 1 space per 300 square feet indoor space, plus 0.9 space per 1,000 square feet indoor storage.	Day Care: 2 spaces. Retail & Services: 1 space per 300 square feet indoor space, plus 0.9 space per 1,000 square feet indoor storage.	Retail & Services: 1 space per 300 square feet indoor space, plus 0.9 space per 1,000 square feet indoor storage.	Retail & Services: 1 space per 300 square feet indoor space, plus 0.9 space per 1,000 square feet indoor storage.
Manufacturing/ Wholesale	0.9 spaces per 1,000 square feet of indoor space.	0.9 spaces per 1,000 square feet of indoor space.	Manufacturin g: N/A Wholesale: 1 space per 300 square feet indoor space.	Manufacturing: N/A Wholesale: 1 space per 300 square feet indoor space.
Recreational/ Cultural/ Resource/ Regional	As required by director	As required by director	As required by director	As required by director

<p>Parking Options</p>	<p>Parking may be provided within an attached garage, detached garage, or dedicated surface parking area.</p>	<p>Parking may be provided within an attached garage, detached garage, or dedicated surface parking area.</p>	<p>Parking may be provided within an attached garage, detached garage, parking structure, or surface parking lot.</p> <p>Parking for non-residential uses may also be provided off-site in a public parking lot or structure.</p> <p>Dedicated surface parking areas shall be partially screened from view from streets by a wall, fence, or hedge that is at least 40" tall.</p>	<p>Parking may be provided within an attached garage, detached garage, parking structure, or surface parking lot.</p> <p>Parking for non-residential uses may also be provided off-site in a public parking lot or structure.</p> <p>Dedicated surface parking areas shall be partially screened from view from streets by a wall, fence, or hedge that is at least 40" tall.</p>
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Driveways	Shall not exceed a width of 20'.	<p>Driveways within the front setback shall not exceed a width of 15'.</p> <p>Driveways within the external side setback shall not exceed a width of 20'.</p>	Driveways shall not exceed a width of 20' within the front setback or external side setback.	Driveways shall not exceed a width of 20' within the front setback or external side setback.
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17.24.160 ALLOWED PRINCIPAL USES AND STRUCTURES

(A) A structure or lot shall not be used except as indicated in Table 17.24.160, unless otherwise provided for in this section.

(B) Uses by district are based on the following abbreviations:

- (1) A: **Allowed use:** use allowed;
- (2) C: **Conditional use:** use allowed only after conditional use approval as specified in MSB 17.24.300; and
- (3) X: **Prohibited use:** use not allowed.

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES

A = Allowed Use C = Conditional Use X = Prohibited Use

Residential	D1	D2	D3	D4	D5	SD
Single-family dwelling unit	X	A	A	A	A	X
Multi-family dwellings unit	X	C	A	A	A	X
Accessory dwelling units, up to two (2) units, for rentals, guests, family members, or for persons providing domestic or health services to the residents of the principal structure on the same lot.	X	A	A	A	A	X
Group home dwelling unit	X	A	A	A	A	X
Transit-Oriented Development	X	X	C	A	A	X
Temporary living quarters on the same premises with a dwelling under construction	X	A	A	A	A	X
Home occupations/home-based, cottage industry activities	X	A	A	A	A	X
Residential use solely for employee housing or security	X	C	C	A	A	A
Agriculture	D1	D2	D3	D4	D5	SD
Agriculture, such as gardens, greenhouses and animal husbandry for large-scale raising of produce or animals explicitly for commercial sale	X	A	C	X	X	X
Vegetable gardens, greenhouses, and poultry husbandry explicitly for small-scale residential domestic use and consumption that is not for commercial sale	X	A	A	A	X	X

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES						
A = Allowed Use C = Conditional Use X = Prohibited Use						
Keeping of horses and livestock	X	A	C	X	X	X
Kennels	X	A	C	A	X	A
Keeping a dog sledding team	X	A	C	X	X	X
Plant nurseries and greenhouses	X	A	A	C	C	X
Timber harvesting or processing over ten acres	C	C	X	X	X	X
Veterinary hospital	X	A	X	A	A	A
Retail Establishments	D1	D2	D3	D4	D5	SD
Retail or other commercial uses - 6,000 square feet or less	X	A	X	A	A	A
Retail or other commercial uses - between 6,000 and 40,000 square feet	X	C	X	C	A	A
Retail or other commercial uses - 40,000 square feet or more	X	X	X	X	C	X
Retail with drive-through service	X	X	X	C	C	X
Home improvement, building material sales, and lumber yard with open storage	X	X	X	X	C	A
Motor Vehicle Service	D1	D2	D3	D4	D5	SD
Automobile rental	X	X	X	C	C	A
Gasoline service stations	X	C	X	C	C	C
Truck and moving van rental	X	X	X	X	X	C
Vehicle maintenance	X	C	X	C	C	A
Lodging Accommodation	D1	D2	D3	D4	D5	SD

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES						
A = Allowed Use C = Conditional Use X = Prohibited Use						
Bed and breakfast inns	X	C	C	A	A	X
Hotels, motels or other overnight accommodations - 15 or fewer units	X	A	X	A	A	X
Hotels, motels or other overnight accommodations - more than 15 units	X	X	X	X	A	X
Restaurants	D1	D2	D3	D4	D5	SD
Bars and restaurants with license to serve alcoholic beverages	X	C	X	C	C	X
Restaurants	X	C	C	A	A	A
Restaurants with drive-through/drive-in service	X	C	X	C	C	X
Other Services	D1	D2	D3	D4	D5	SD
Service uses - 6,000 square feet or less	X	X	X	A	A	A
Service uses more than 6,000 square feet	X	X	X	C	A	A
Tool and equipment rental	X	X	X	X	C	A
Finance and Professional Offices	D1	D2	D3	D4	D5	SD
Office uses - 6,000 square feet or less	X	C	X	A	A	A
Office uses - more than 6,000 square feet	X	X	X	C	A	A
Banks and financial institutions, including drive-through	X	X	X	A	A	X
Health Care and Social Assistance	D1	D2	D3	D4	D5	SD

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES						
A = Allowed Use C = Conditional Use X = Prohibited Use						
Alcohol and drug rehab treatment centers	X	X	X	C	C	X
Convalescent and nursing homes, and adult foster homes	X	X	A	A	A	X
Day care	X	A	A	A	A	X
Funeral homes	X	C	X	A	A	X
Hospitals	X	X	X	X	A	A
Medical clinics and offices	X	X	X	A	A	A
Recreation and Entertainment	D1	D2	D3	D4	D5	SD
Regional park	A	A	A	X	X	X
Neighborhood park	X	A	A	A	A	X
Square	X	A	A	A	A	A
Plaza	X	X	A	A	A	A
Playground	A	A	A	A	A	A
Bowling alleys	X	X	X	C	A	X
Health and athletic clubs	X	X	X	A	A	X
Golf courses and country clubs	X	A	X	A	A	X
Indoor commercial recreational facilities such as ice skating/hockey arenas/skating/swimming/soccer	X	C	X	C	A	A
Race tracks used by motorized vehicles	X	A	X	X	X	A
Recreational vehicle parks and campgrounds	C	A	X	X	X	X

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES						
A = Allowed Use C = Conditional Use X = Prohibited Use						
Shooting ranges, indoor	X	A	X	C	C	A
Theaters	X	X	X	A	A	X
Religious, Civic and Social Organizations	D1	D2	D3	D4	D5	SD
Buildings for community civic uses	C	A	A	A	A	A
Cemeteries	X	A	C	X	X	X
Churches and similar places of worship	X	A	C	A	A	X
Clubs and lodge halls	X	A	C	A	A	X
Educational Services	D1	D2	D3	D4	D5	SD
Colleges and universities	X	C	C	C	C	A
Elementary, middle and high schools, including accessory recreational facilities, such as pools	X	A	A	A	A	A
Libraries	X	A	A	A	A	A
Vocational and trade schools	X	X	X	A	A	A
Public Administration	D1	D2	D3	D4	D5	SD
Correctional facilities	X	X	X	X	X	C
Government service and public safety buildings	X	A	X	A	A	A
Transportation and Warehousing	D1	D2	D3	D4	D5	SD
Aircraft landing strips	X	X	X	X	X	A
Airports and related facilities	X	X	X	X	X	A

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES						
A = Allowed Use C = Conditional Use X = Prohibited Use						
Bulk material storage and bulk fuel storage	X	X	X	X	X	C
Highway maintenance yards	X	A	X	X	X	C
Offices supporting transportation and warehousing uses	X	X	X	X	X	A
Self-storage/mini-warehousing	X	X	X	X	X	A
Short-term cargo storage and marshaling areas for transshipment	X	X	X	X	X	A
Transportation corridors for railroad, conveyor and pipeline transport systems	C	A	X	A	A	A
Transportation facilities, railways, mobile cranes, conveyors, and pipelines needed to load, unload and service ships and barges, cargo storage and fueling (land-based)	X	X	X	X	X	A
Truck and intermodal terminals	X	X	X	X	X	A
Warehouses	X	X	X	X	X	A
Manufacturing	D1	D2	D3	D4	D5	SD
Light industrial uses	X	X	X	X	X	A
Chemical, petroleum, and explosives processing and storage facilities	X	X	X	X	X	C

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES

A = Allowed Use C = Conditional Use X = Prohibited Use

Utilities and Waste Disposal	D1	D2	D3	D4	D5	SD
Community well sites, septic drainage fields serving several lots dedicated on the subdivision plat or reserved in recorded conditions, covenants, and restrictions	X	A	A	A	A	A
Hazardous material storage or waste disposal	X	X	X	X	X	A
Junkyards, salvage yards, and automobile wrecking yards	X	X	X	X	X	A
Landfills and refuse areas	X	X	X	X	X	A
Medical and industrial waste incinerators	X	X	X	X	X	A
Tall structures as regulated under MSB 17.60	X	C	X	X	X	C
Utility substations and electrical transmission lines	C	A	X	A	A	A
Waste disposal sites or transfer stations	X	X	X	X	X	A
Wind energy conversion systems for accessory on-site power generation	C	C	C	C	C	C
Wind energy conversion systems for commercial utility power generation	X	X	X	X	X	C
Construction	D1	D2	D3	D4	D5	SD
Asphalt and concrete batch plants	X	X	X	X	X	C

TABLE 17.24.160 - ALLOWED PRINCIPAL USES AND STRUCTURES						
A = Allowed Use C = Conditional Use X = Prohibited Use						
Contractors' offices and storage yards	X	X	X	X	X	A
Mining/Mineral/Resource Extraction	D1	D2	D3	D4	D5	SD
Coal-bed methane exploration and development	X	X	X	X	X	X
Commercial gravel and quarry pits over 1 acre in size	X	X	X	X	X	A
Natural resource extraction or processing	X	X	X	X	X	A
Offices or buildings associated with sales and management of interim use	X	X	X	X	C	A
Processing of natural resources such as sand, gravel, rock, soil, peat moss, sphagnum, stone, pumice, cinders and clay or other minerals by screening, washing, crushing, grinding, milling, classification, storage, rail or truck loading, truck scaling, and sales	X	X	X	X	X	A

17.24.170 NEW COMMUNITY DEVELOPMENT

(A) This article provides standards for the location, size, and design of new communities. This code allows the following types of new communities; clustered land development, traditional neighborhood development, and transit-oriented development.

(1) All regulating plans prepared for the above types of communities shall be designed in accordance with the applicable standards within this article.

(B) **Cluster land development.** Clustered land developments shall be allowed within the D2 rural, D3 residential , and D4 mixed use districts. They are allowed within the D5 town core district on properties that have substantial natural resources (as determined by the director) that would prevent the standard development practices.

(1) Clustered land developments shall be at least 10 contiguous acres and no more than 80 contiguous acres.

(2) The overall density of the clustered land development shall not exceed the allowed density of the base district.

(3) At least 50 percent of the land within a clustered land development shall be assigned to the D1 natural and/or D2 rural districts. The remaining land may be assigned to the D2 rural and/or D3 residential districts. These districts zones may be located in one area or dispersed into several separate locations to help preserve natural resources on the site.

(4) All streets within the clustered land development shall be designed to comply with applicable street types allowed

under MSB 17.24.180 within the D1 natural, D2 rural , and D3 residential districts.

(5) Civic buildings and civic spaces are allowed within clustered land developments, but are not required.

(6) To maximize energy efficiency of buildings, at least 70 percent of new lots should be oriented within 30 degrees of true east/west.

(C) **Traditional neighborhood development.** Traditional neighborhood developments shall be located within the D3 residential, D4 mixed use, and D5 town core districts.

(1) Traditional neighborhood developments shall be at least 40 contiguous acres and no more than 160 contiguous acres. Sites larger than 160 acres shall be designed and developed as multiple traditional neighborhood developments, each subject to requirements of this section.

(2) All natural areas to be protected and preserved, including shoreland buffers and mitigation areas, shall be assigned to the D1 district.

(3) Traditional neighborhood development shall be assigned to the following districts as follows:

(a) 10 percent to 30 percent of the land within the traditional neighborhood development (excluding land allocated to the D1 district) shall be allocated to the D5 town core zone.

(b) 40 percent to 60 percent of the land within the traditional neighborhood development (excluding land allocated to the D1 district) shall be allocated to the D4 mixed use district.

(c) 10 percent to 30 percent of the land within the traditional neighborhood development (excluding land allocated to the D1 district) shall be allocated to the D3 residential district.

(4) The land assigned to the D4 mixed use district shall include a variety of lot types as described below:

(a) At least 20 percent of the D4 mixed use lots shall be designed with two side yards to accommodate detached houses.

(b) At least 20 percent of the D4 mixed use lots shall be designed with one side yard to accommodate detached zero lot line houses.

(c) At least 20 percent of the D4 mixed use lots shall be designed with no side yards to accommodate townhouses.

(5) Traditional neighborhood developments shall be designed with an interconnected street network. A formal grid pattern is not required. Streets may be curved and/or angled to respond to topographic conditions and to create blocks with irregular shapes and sizes. Street connections shall be required

to maximize connectivity. Dead-end and cul-de-sac streets should only be used where natural resources and topographic constraints make a street connections infeasible. Stub streets shall be provided to adjacent properties to allow for future connections between the neighborhoods.

(6) Block sizes shall be limited to help create an interconnected street network that promotes walking and bicycling. The maximum perimeter of blocks within the D3 residential district shall be 3,000 linear feet. The maximum perimeter of blocks within the D4 mixed use and D5 town core districts shall be 2,000 linear feet. Larger blocks are only allowed to create larger civic spaces and sites for schools.

(7) All streets within the traditional neighborhood development shall be designed to comply with applicable street types allowed under MSB 17.24.180 within the D3 residential , D4 mixed use, and D5 town core districts.

(8) To maximize energy efficiency of buildings, at least 70 percent of new lots should be oriented within 30 degrees of true east/west.

(9) All subdivided properties within the traditional neighborhood development shall front a street or civic space. Flag lots that provide access to a property that is within the center of a block street are prohibited.

(10) Whenever feasible, districts should change at rear property lines or alleys to create streets that have similar development patterns on both sides of the streets (i.e, D5 properties should be located on both sides of the street).

(11) All subdivided properties within the traditional neighborhood development shall be within a quarter mile (1,320 feet) of a neighborhood park, square, or plaza. Depending on the size and shape of the traditional neighborhood, more than one civic space may be required to meet this standard. Standards for the size and design of these civic spaces are provided in MSB 17.24.190.

(12) The total amount of all civic spaces within the traditional neighborhood shall equal 5 percent of the land area within the D3 residential, D4 mixed use, and D5 town core districts.

(13) Civic and religious buildings are allowed within traditional neighborhood developments, but are not necessarily required. Prior to approval of the traditional neighborhood development, the applicable school district shall be contacted to determine if a school site is required within the neighborhood. If required, the school site should be centrally located within the neighborhood to encourage children to walk to and from school.

(D) **Transit-oriented development.** Transit-oriented developments shall be located within the D4 mixed use and D5 town core districts.

(1) To qualify as a transit-oriented development, an existing or planned rail or bus rapid transit stop or a transit stop that provides (or will provide) frequent and direct service to a regional employment center (such as a downtown or corporate business park) or a regional transportation center (such as an airport, train station, or ferry building) shall be located within the transit-oriented development. For the purpose of this code, frequent service means that a bus, train, light rail, or ferry leaves the transit facility every 10 to 30 minutes during commute hours, and direct service means that the average travel time from the transit facility to the regional employment center or regional transportation center is one hour or less.

(2) Transit-oriented developments shall be at least 40 contiguous acres and no more than 160 contiguous acres. Sites larger than 160 acres shall be designed and developed as multiple transit-oriented developments, each subject to requirements of this section.

(3) The transit-oriented development shall comply with all of the above the design standards for a traditional neighborhood with the following exceptions:

(a) 20 percent to 40 percent of the land within transit-oriented development (excluding land allocated to the D1 district) shall be allocated to the D5 town core district.

(b) 50 percent to 70 percent of the land within transit-oriented development (excluding land allocated to the D1 district) shall be allocated to the D4 mixed use district.

(c) 0 percent to 10 percent of the land within transit-oriented development (excluding land allocated to the D1 district) shall be allocated to the D3 residential district.

17.24.180 ROAD, STREET, AND ALLEY STANDARDS

(A) **Requirements.** All roads and streets shall meet or exceed the minimum dimensional requirements in Table 17.24.180, except as otherwise required in a specific district, and be in compliance with MSB 11.00.

(1) Notwithstanding the requirements of MSB 43 Subdivisions, MSB 11 Roads Streets and Sidewalks, and the Subdivision Construction Manual, the road and street construction standards applicable to the Point MacKenzie Townsite Development Code are listed in this section.

(2) All streets shall be designed for use by vehicular, pedestrian, and bicycle traffic. Streets may also be designed for equestrian traffic.

(3) Streets shall generally consist of travel lanes, which may also include turn lanes, onstreet parking, and median,

and public frontages (edges of the street that are designed to accommodate pedestrians).

(4) Streets shall be designed with the urban or rural form, vehicular speed, and level of multi-modal travel desired. Public frontages and the configuration of travel lanes, onstreet parking, and turn lanes/medians may be adjusted as streets move from one district to another and as needed to reflect the surrounding development.

(5) In the D1 natural and D2 rural districts, pedestrian comfort may be a secondary consideration of street type and configuration. Design conflict between vehicular and pedestrian movement generally should be decided in favor of vehicular movement. In the D3 residential, D4 mixed use, and D5 town core districts, pedestrian comfort should be a primary consideration of street type and configuration. Design conflict between vehicular and pedestrian movement generally should be decided in favor of pedestrian movement. Some areas also may favor bicycle movement over vehicular movement.

(6) All streets shall terminate at other streets, forming a network. Internal streets and alleys shall connect wherever possible to those on adjacent sites. Cul-de-sacs and dead end streets shall only be granted by a warrant which should only be granted by the platting authority if a street connection

is not feasible due to specific site, topographic, and/or environmental conditions.

(7) Streets may include travel lanes in a variety of widths to provide a range of vehicular speeds and bicycle facilities, such as bike lanes and bike routes.

(a) Bike lanes, if so provided, shall be a minimum of four (4) feet wide and a maximum of six (6) feet wide and in the direction of the lane of the travel.

(b) Bike lanes may connect to bike routes and off-street bike paths to form a network.

(8) Street stubs are allowed if a property is developed and a street expansion is planned on an adjacent property and if at least one connection is maintained to the existing street network. Such street stubs shall be constructed up to the property line so that the expansion may be complete when the adjacent property redevelops.

(9) The public frontage contributes to the character of the district, and includes the type of walkway, edge and planter, and landscaping.

(10) Each district has one or more public frontages that may be used along the edges of the allowed streets.

(11) Bulbouts may be provided at intersections and mid-block crossings within the D4 mixed use and D5 town core

districts. If provided, bulbouts shall be constructed of the same paving material as the adjacent sidewalk.

(12) The effective turning radius range allowed by right within all districts is 10 to 20 feet. This range allows for vehicular speeds of 20 to 35 miles per hour (MPH). This radius range may be lowered by right to five (5) feet in the D3 residential, D4 mixed use, and D5 town core districts on streets with a desired vehicular speed of less than 20 MPH. This radius range may also be increased to 30 feet by right in the D1 natural and D2 rural districts and by warrant in the D5 town core district for streets with a desired vehicular speed of more than 35 MPH.

(B) **Construction.** The design of roads and streets in the district shall promote the safety and convenience of multimodal transportation, minimize the cost of street construction, and minimize the long-term cost for maintenance and repair of streets thereby encouraging appropriate development within the district.

(1) Each proposed road and street within the district shall be designed for its entire length to meet or exceed the minimum standard. These standards shall be applicable to the design and construction of all new roads and streets within this special land use district.

(a) Engineering criteria are:

(i) The road surface of all roads and streets shall be no less than minimum allowed for each district;

(ii) The road cross section shall provide two feet of structural gravel with additional design necessary based on the sub-grade materials;

(iii) The top six inches of the road prism shall be gravel no larger than two inches and contain 5 percent to 15 percent fines;

(iv) Roads and streets shall meet or exceed the design criteria for its intended use and design speed.

(C) **Alleys.** Alleys shall provide access to the rear and side of properties as required in Table 17.24.120. Alleys are primarily used to provide access to parking facilities located to the rear and sides of buildings and are allowed in the D3 residential, D4 mixed use, and D5 town core districts. Alleys shall be a minimum of 28 feet in width and shall provide at least two access points to streets. Alleys are designed for very slow (less than 20 MPH) movement. The paved surface shall be sloped so that a flow line is created to carry the stormwater off site.

(D) **Lighting.** Street illumination (provided by streetlights) is required for all roadways with more than two lanes of travel. Street illumination may be provided on other streets if desired or as needed or as required by the director.

Steel poles shall be used for streetlights unless otherwise approved by the director. Streetlights shall be designed to minimize light pollution, in order to reduce development impact on nocturnal environments and wildlife, and to increase night sky visibility for people. Minimize light trespass from the site by using only lighting fixtures that are fully shielded with cutoff devices, such that all light is directed downward.

(1) Lighting poles and fixtures should have a decorative and/or ornamental design that complements the structures on site.

(2) Lighting should be provided at regular intervals to prevent the creation of light and dark pockets. Dark pockets can create uncomfortable areas for pedestrians and provide opportunities for criminals to hide in dark shadows. Light pockets can create a "fish bowl" affect. Within the light pocket (or the "fish bowl"), pedestrians may be observed, but their ability to see outside of the light pocket is limited, which creates discomfort and insecurity.

(3) Appropriate styles of streetlights used for illuminating street/roads shall be as follows;

(a) D1 natural and D2 rural districts include cobra head, pipe, and post style streetlights.

(b) D3 residential district include pipe, post, and column style streetlights.

(c) D4 mixed use district include post and column style streetlights.

(d) D5 town core district include post, column, and double column style streetlights.

Table 17.24.180 - ROAD, STREET, AND ALLEY MINIMUM STANDARDS				
TWO LANE ROADS & STREETS	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Right-of-Way Width	38' with swale on both sides. 42' with swale and swale shoulder differing option. 46' with swale and shoulder on both sides.	44' minimum.	84' minimum.	84' minimum.
Pavement Width	22' minimum and 28' maximum.	20' minimum and 24' maximum.	60' minimum and 62' maximum.	60'.
Design Speed	25-35mph	20-30mph	25-35mph	25-35mph
Number of Lanes	1 travel lane in each direction.	1 travel lane in each direction.	1 travel lane in each direction.	1 travel lane in each direction.
Travel Lane Width	11' minimum and 14' maximum.	10' minimum and 12' maximum.	12' minimum and 13' maximum.	12' minimum and 13' maximum.

Paved Shoulder	1.5' minimum of the travel lane width shall be used as paved shoulder.	None.	None.	None.
Center Turn Lane	None	None.	None.	None.
On-Street Parking	None.	None.	Angled parking: 18'	Angled parking: 18'
Public Frontage Options & Width	8' (swale) and 4'/8' (swale and shoulder) minimum.	4'/8' (swale and shoulder) and 7'/5' (parkway/sidewalk) minimum.	6'/6' (parkway/sidewalk) minimum.	6'/6' (parkway/sidewalk) and/or 12' (sidewalk) minimum.
Walkway Type	Shoulder (if opted).	Shoulder (swale/shoulder) and/or sidewalk.	Sidewalk.	Sidewalk.
Bikeway Type	If provided: Bike route, bike lane, and/or shoulder.	If provided: Bike route, bike lane, and/or shoulder.	If provided: Bike route and bike lane.	If provided: Bike route and bike lane.
Edge	Continuous swale and/or shoulder.	Continuous swale and/or sidewalk/parkway.	Sidewalk/parkway.	Sidewalk/parkway and/or sidewalk/tree wells.

Additional Modifications	None.	None.	One side of the roadway may include 8' minimum parallel parking instead of angled parking.	One side of the roadway may include 8' minimum parallel parking instead of angled parking.
TWO LANE ROADS & STREETS WITH CENTER TURN LANE	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Right-of-Way Width (Based upon parking option)	50' with swale on both sides. 54' with swale and shoulder differing option. 58' with swale and shoulder on both sides.	71' minimum.	Parallel parking: 71' minimum. Angled parking: 94' minimum.	Parallel parking: 71' minimum. Angled parking: 94' minimum.

Pavement Width	34' minimum and 38' maximum.	47' minimum and 52' maximum.	Parallel parking: 47' minimum and 52' maximum. Angled parking: 70' minimum and 72" maximum.	Parallel parking: 47' minimum and 52' maximum. Angled parking: 70' minimum and 72" maximum.
Design Speed	25-35mph	20-30mph	25-35mph	25-35mph
Number of Lanes	1 travel lane in each direction and 1 center turn lane.	1 travel lane in each direction and 1 center turn lane.	1 travel lane in each direction and 1 center turn lane.	1 travel lane in each direction and 1 center turn lane.
Travel Lane Width	12' minimum and 14' maximum.	10' minimum and 12' maximum.	Parallel parking: 10' minimum and 12' maximum. Angled parking: 12'.	Parallel parking: 10' minimum and 12' maximum. Angled parking: 12' minimum and 14' maximum.
Paved Shoulder	1.5' minimum of the travel lane width shall be used as paved shoulder.	None.	None.	None.

Center Turn Lane	10' minimum and 14' maximum.	10' minimum and 12' maximum.	10' minimum and 12' maximum.	Parallel parking: 11' minimum and 12' maximum. Angled parking: 10' minimum and 14' maximum.
On-Street Parking	None	Parallel parking: 8' on both sides.	Parallel parking: 8'. Angled parking: 18'.	Parallel parking: 8'. Angled parking: 18'.
Public Frontage Options & Width	8' (swale) and 4'/8' (swale and shoulder) minimum.	4'/8' (swale and shoulder) and 7'/5' (parkway/sidewalk) minimum.	6'/6' (parkway/sidewalk) minimum.	6'/6' (parkway/sidewalk) and/or 12' (sidewalk) minimum.
Walkway Type	Shoulder (if opted).	Shoulder (swale/shoulder) and/or sidewalk.	Sidewalk.	Sidewalk.
Bikeway Type	If provided: Bike route, bike lane, and/or shoulder.	If provided: Bike route, bike lane, and/or shoulder.	If provided: Bike route and bike lane.	If provided: Bike route and bike lane.
Edge	Continuous swale and/or shoulder.	Continuous swale and/or sidewalk/parkway.	Sidewalk/parkway	Sidewalk/parkway and/or sidewalk/tree wells.

Additional Modifications	Center turn lane used as dedicated left turn lane (one direction) at intersections.	Center turn lane used as dedicated left turn lane (one direction) at intersections.	Center turn lane used as dedicated left turn lane (one direction) at intersections; one side of the roadway may include parallel parking instead of angled parking or vice versa.	Center turn lane used as dedicated left turn lane (one direction) at intersections; one side of the roadway may include parallel parking instead of angled parking or vice versa.
TWO LANE STREETS WITH PARALLEL PARKING	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Right-of-Way Width (Based upon parking option)	N/A	52' minimum w/parking on one side. 60' minimum w/parking on both sides.	52' minimum w/parking on one side. 60' minimum w/parking on both sides.	52' minimum w/parking on one side. 60' minimum w/parking on both sides.

Pavement Width	N/A	Single sided parking: 28' minimum and 32' maximum. Both sides parking: 36' minimum and 40' maximum.	Single sided parking: 28' minimum and 32' maximum. Both sides parking: 36' minimum and 40' maximum.	Single sided parking: 28' minimum and 32' maximum. Both sides parking: 36' minimum and 40' maximum.
Design Speed	N/A	20-30mph	25-35mph	25-35mph
Number of Lanes	N/A	1 travel lane in each direction.	1 travel lane in each direction.	1 travel lane in each direction.
Travel Lane Width	N/A	10' minimum and 12' maximum.	10' minimum and 12' maximum.	10' minimum and 12' maximum.
Paved Shoulder	N/A	None.	None.	None.
Center Turn Lane	N/A	None.	None.	None.
On-Street Parking	N/A	Parallel parking: 8' single or both sides.	Parallel parking: 8' single or both sides.	Parallel parking: 8' single or both sides.
Public Frontage Options & Width	N/A	4'/8' (swale and shoulder) and 7'/5' (parkway/sidewalk) minimum.	6'/6' (parkway/sidewalk) minimum.	6'/6' (parkway/sidewalk) and/or 12' (sidewalk) minimum.
Walkway Type	N/A	Shoulder (swale/shoulder) and/or sidewalk.	Sidewalk.	Sidewalk.

Bikeway Type	N/A	If provided: Bike route, bike lane, and/or shoulder.	If provided: Bike route and bike lane.	If provided: Bike route and bike lane.
Edge	N/A	Continuous swale and/or sidewalk/parkway.	Sidewalk/parkway.	Sidewalk/parkway and/or sidewalk/tree wells.
Additional Modifications	N/A	Parking may be provided on either side of the street.	Parking may be provided on either side of the street.	Parking may be provided on either side of the street. One side of the street may include angled parking instead of parallel parking.

FOUR LANE ROAD	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Right-of-Way Width (Based upon parking option)	66' with swale on both sides. 70' with swale and shoulder differing option. 74' with swale and shoulder on both sides.	N/A	Parallel parking: 88' minimum. Angled parking: 104' minimum. Parallel parking and center turn lane/median : 90' minimum.	Parallel parking: 88' minimum. Angled parking: 104' minimum. Parallel parking and center turn lane/median: 104' minimum.
Pavement Width	50' minimum and 56' maximum.	N/A	Parallel parking: 64' minimum and 66' maximum. Angled parking: 80' minimum and 84' maximum. Parallel parking and center turn lane/median : 74' minimum and 78' maximum.	Parallel parking: 64' minimum and 74' maximum. Angled parking: 80' minimum and 92' maximum. Parallel parking and center turn lane/median: 80' minimum and 94' maximum.

Design Speed	35+mph	N/A	Parallel parking: 30-35+mph. Angled parking: 25-35mph. Parallel parking and center turn lane/median: 35+mph.	Parallel parking: 30-35+mph. Angled parking: 25-35mph. Parallel parking and center turn lane/median: 35+mph.
Number of Lanes	2 travel lanes in each direction.	N/A	2 travel lanes in each direction.	2 travel lanes in each direction.
Travel Lane Width	12' (inner lane) / 13' (outer lane) and 14' maximum (all lanes).	N/A	Parallel parking: 12'. Angled parking: 10' inner lane with a 12' outer lane minimum. 14' maximum for all lanes. Parallel parking and center turn lane/median : 12'.	All three options: 12' minimum and 14' maximum.

Paved Shoulder	1.5' minimum of the travel lane width shall be used as paved shoulder.	N/A	N/A	N/A
Center Turn Lane	None.	N/A	Parallel parking: None. Angled parking: None. Parallel parking and center turn lane/median : 10' minimum and 12' maximum (8' minimum and no maximum if median).	Parallel parking: None. Angled parking: None. Parallel parking and center turn lane/median : 10' minimum and 12' maximum (8' minimum and no maximum if median).

On-Street Parking	None.	N/A	Parallel parking: 8' minimum (if ≤35mph) and 9' maximum (if ≥35mph). Angled parking: 18'. Parallel parking and center turn lane/median :8' minimum (if ≤35mph) and 9' maximum (if ≥35mph).	Parallel parking: 8' minimum (if ≤35mph) and 9' maximum (if ≥35mph). Angled parking: 18'. Parallel parking and center turn lane/median :8' minimum (if ≤35mph) and 9' maximum (if ≥35mph).
Public Frontage Option & Width	4' (swale) and 4'/8' (swale and shoulder) minimum.	N/A	6'/6' (parkway/sidewalk) minimum.	Sidewalk.
Walkway Type	Shoulder (if opted).	N/A	Sidewalk.	Sidewalk.
Bikeway Type	If provided: Bike route, bike lane, and/or shoulder.	N/A	If provided: Bike route and bike lane.	If provided: Bike route and bike lane.
Edge	Continuous swale and/or shoulder.	N/A	Sidewalk/parkway and median (if provided).	Sidewalk/parkway, and/or sidewalk/tree wells, and median (if provided).

Additional Modifications	Center left turn lanes provided at major intersections	N/A	<p>One side of the street may include parallel parking instead of angled parking or vice versa.</p> <p>Center turn lane used as dedicated left turn lane (one direction) at intersections or as median (which may also include dedicated left turn lanes at intersections)</p>	<p>One side of the street may include parallel parking instead of angled parking or vice versa.</p> <p>Center turn lane used as dedicated left turn lane (one direction) at intersections or as median (which may also include dedicated left turn lanes at intersections)</p>
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ALLEYS	D2 Rural	D3 Residential	D4 Mixed Use	D5 Town Core
Requirement	N/A	<p>Alleys are encouraged (but not required) to provide access to parking areas and to minimize driveway curb cuts along streets.</p> <p>If an alley is provided, driveway access from the street is prohibited.</p>	<p>Alleys are required for projects that create new blocks to provide access to parking areas and to minimize driveway curb cuts along streets.</p> <p>Alleys are encouraged (but not required) for projects on existing blocks to provide access to parking areas.</p> <p>Driveway access from the street is only allowed on lots where an alley cannot be provided.</p>	<p>Alleys are required for projects that create new blocks to provide access to parking areas and to minimize driveway curb cuts along streets.</p> <p>Alleys are encouraged (but not required) for projects on existing blocks to provide access to parking areas.</p> <p>Driveway access from the street is only allowed on lots where an alley cannot be provided.</p>

17.24.190 CIVIC SPACE STANDARDS

(A) **Intent.** This article provides standards to regulate the design and function of civic buildings and spaces. Each civic building and space has a different purpose and serves different users. The design of civic buildings and spaces provided should reflect the adjacent buildings, natural environment, and the needs of intended users.

(B) **Civic buildings.** Civic buildings are buildings operated by not-for-profit organizations (including governmental organizations) that are dedicated to arts, culture, education, recreation, government, transit, and or for use approved by the legislative body. The above uses with a religious foundation are not considered civic buildings.

(1) The following standards apply to civic buildings:

(a) Civic buildings should be architecturally distinctive, designed appropriately for their function, and designed with an outdoor gathering spaces

(b) Civic buildings may be located within civic spaces.

(c) Civic buildings shall not be subject to the building standards of this article under MSB 17.24.150. The particulars of their design shall be determined by use and as required by the director or assembly.

(d) Within new communities, civic buildings shall be provided as necessary to serve the added population and as required by the director or assembly.

(e) Civic buildings shall be designed to earn the ENERGY STAR rating by achieving a rating of 75 or higher using the EPA Energy Target Finder tool.

(C) **Civic spaces.** Civic spaces are outdoor areas dedicated for public use. Civic spaces are defined by the combination of certain physical constants, including the relationships among their intended use, size, landscaping, amenities, and associated buildings. There are five classifications of civic spaces; regional parks, neighborhood parks, squares, plazas, and playgrounds.

(1) The following general civic space standards apply in all districts:

(a) Civic spaces should be accessible to a variety of users by providing streets, bikeways, walkways, and transit stops within close proximity. Bikeways and walkways within civic spaces should connect to the adjacent bikeway and walkway networks.

(b) The edges of public spaces, excluding edges of regional parks that abut D1 districts, shall be open in nature and be defined by streets and building frontages, not backs of buildings and fences/walls.

(c) Civic spaces, except for regional parks that are closed before sunset and have controlled access points, shall be illuminated to increase safety for evening and nighttime users.

(D) **Regional parks.** Regional parks are large natural preserves that are available for generally unstructured recreation. These parks may be designed independent of adjacent building frontages. These parks are generally located in natural and rural areas and near the edges of communities. They are sized to serve a range of users throughout the community. These parks generally emphasize natural uses (i.e. hiking trails and ponds for boating and fishing) and gathering areas (i.e. family picnic areas).

(1) Regional parks are allowed in the D1 natural, D2 rural, and D3 residential districts. Regional parks are generally defined by natural boundaries (i.e. streams and hills) and/or constructed boundaries (i.e. property lines and streets). These parks may be linear in design and follow natural corridors (i.e. streams) and constructed corridors (i.e. trails).

(2) Regional parks shall be a minimum of 20 acres. Smaller parks may be provided along linear corridors.

(3) The following facilities and uses should be provided in regional parks:

(a) Restrooms and drinking fountains.

- (b) Food concessions.
 - (c) Ticket sales and equipment rental (bikes, kayaks, paddle boats, etc.).
 - (d) Picnic areas.
 - (e) Paths and trails, including paths for pedestrians, bicyclists, and equestrians.
 - (f) Marinas for lakes and ponds.
 - (g) Playgrounds.
 - (h) Grass fields for unstructured recreation.
 - (i) Benches.
 - (j) Trash and recycle bins.
 - (k) Exercise stations (located along paths and trails).
 - (l) Dog parks.
 - (m) Pedestrian-scaled lighting with fully shielded cutoff devices (located along paths and trails).
 - (n) Signage and kiosks.
 - (o) Public art and interpretive features.
- (4) The following facilities and uses may be allowed with a conditional use permit:
- (a) Community centers and clubhouses.
 - (b) Amphitheaters and performance stages.
 - (c) Stadiums (which may include taller and brighter lighting).

(d) Campgrounds.

(e) Sports fields and courts for structured recreation.

(5) Landscaping shall be provided in an organic (naturalistic) pattern and may include meadows, woodlands, bodies of water, and natural open areas.

(6) Surface parking lots are required for all regional parks. Parking spaced shall be provided at a rate determined by the director.

(E) **Neighborhood parks.** Neighborhood parks are medium-to-large open spaces that are available for both unstructured recreation and structured recreation. These parks may be designed independent of adjacent building frontages and may be defined by landscaping and streets where buildings do not define the edges. These parks are generally located within a neighborhood and are sized to serve the specific needs of neighborhood residents and visitors. These parks generally emphasize active uses (i.e. playing fields and sports courts) in more rural and transition areas and passive uses (i.e. community gardens and strolling paths with benches) in more urban areas.

(1) Neighborhood parks are allowed in the D2 rural, D3 residential, D4 mixed use, and D5 town core districts. At least one edge of the neighborhood park shall be defined by a

street. Private properties that bound a neighborhood park should provide front facades along the edge of the park.

(2) Neighborhood parks shall be a minimum of 1.5 acres and a maximum of 8 acres.

(3) The following facilities and uses should be provided in neighborhood parks:

- (a) Restrooms and drinking fountains.
- (b) Picnic areas.
- (c) Gazebos.
- (d) Paths and trails for pedestrians and bicyclists.
- (e) Grass fields for unstructured recreation.
- (f) Playgrounds.
- (g) Playing fields and sports courts.
- (h) Dog parks.
- (i) Exercise stations (located along paths and trails).
- (j) Benches.
- (k) Trash and recycle bins.
- (l) Pedestrian-scaled lighting with fully shielded cutoff devices (located along paths and trails).
- (m) Signage and kiosks.
- (n) Public art and interpretive features.
- (o) Community garden plots.

(4) The following facilities and uses may be allowed with a conditional use permit:

- (a) Community centers and clubhouses.
- (b) Amphitheaters and performance stages.
- (c) Food concessions and mobile vendors.

(5) Landscaping should be provided in a generally organic (naturalistic) pattern with more formal landscaping patterns lining streets and paths. Landscaping should include a variety of tree species and lawn areas. Additionally, shrubs and groundcovers should be provided. Special features—such as rose gardens, community garden plots, labyrinths, bonsai gardens, and small-scale orchards—also may be provided throughout neighborhood parks.

(6) Surface parking is not required for neighborhood parks unless it has facilities for sports tournaments, aquatic centers, and other uses that would draw people from outside the neighborhood. Parking for these types of uses shall be determined by the director.

(F) **Squares.** Squares are small-to-medium open spaces that are available for generally unstructured recreation and civic uses. These civic spaces shall be defined by streets and building frontages. These spaces are sized to serve the specific needs of the adjacent neighborhood and may have a regional draw, especially within commercial areas. These civic spaces generally

emphasize passive and civic uses, such as open areas to relax, benches, and performance spaces.

(1) Squares are allowed in the D3 residential, D4 mixed use, and D5 town core districts. All edges of squares shall be defined by streets. Up to two of these streets (parallel to each other) may be converted into pedestrian-only promenades that generally maintain the width and character of the adjacent streets. These spaces are generally located in the middle of a neighborhood and are adjacent to at least one locally significant street.

(2) Squares shall be a minimum of one acre and a maximum of five acres.

(3) The following facilities and uses should be provided in squares:

(a) Restrooms and drinking fountains.

(b) Seating areas.

(c) Gazebos.

(d) Paths for pedestrians.

(e) Playgrounds.

(f) Fountains and water features.

(g) Benches.

(h) Trash and recycle bins.

(i) Pedestrian-scaled lighting with fully shielded cutoff devices (located along paths).

(j) Signage and kiosks.

(k) Public art and interpretive features.

(l) Community garden plots.

(m) Rose gardens, bonsai gardens, small-scale orchards, and similar features.

(4) The following facilities and uses shall be allowed by a conditional use permit:

(a) Food concessions, mobile vendors, and micro retail.

(b) Amphitheaters and performance stages.

(c) Small sports courts.

(d) Community centers and clubhouses.

(e) Dog parks.

(5) Landscaping should be provided in formal patterns and line paths, street edges, and open areas. Landscaping should include a variety of tree species and open lawn areas.

(6) There are no parking requirements for squares.

(H) **Plazas.** Plazas are small-to-medium open spaces that are available for civic uses and commercial activities. These civic spaces shall be defined by streets and building frontages. These spaces are sized to serve the specific needs of the adjacent commercial and civic uses and generally have a regional draw. These civic spaces generally emphasize passive and civic uses, such as open areas to relax, benches, and performance spaces.

Plazas are similar to squares but are generally designed with more paved surfaces.

(1) Plazas are allowed by right in the D4 mixed use and D5 town core zones. Plazas shall be defined by a minimum of 150 linear feet of street frontage on at least one street. At least two edges of plazas should be defined by streets. These spaces are generally located in the middle of a commercial and/or civic district and are adjacent to at least one locally significant street.

(2) Plazas shall be a minimum of 0.5 acres and a maximum of two acres.

(3) The following facilities and uses should be provided in plazas:

- (a) Drinking fountains.
- (b) Food concessions, mobile vendors, and micro retail.
- (c) Gazebos and performance stages.
- (d) Playgrounds.
- (e) Fountains and water features.
- (f) Benches and planters (that also serve as seat walls).
- (g) Trash and recycle bins.
- (h) Pedestrian-scaled Lighting with fully shielded cutoff devices.

(i) Signage and kiosks.

(j) Public art and interpretive features.

(4) The following facilities and uses shall be allowed by a conditional use permit:

(a) Amphitheaters.

(5) Landscaping should be provided in formal patterns and line street edges and open areas. Landscaping should include a variety of tree species planted in tree wells, planters, and/or pots.

(6) There are no parking requirements for plazas.

(H) **Playgrounds.** Playgrounds are small open spaces that are designed and equipped for the recreation of children. These civic spaces shall be defined by streets, building frontages, and other civic spaces. These spaces are sized to serve the specific needs of the users and adjacent civic space, if provided. These civic spaces generally emphasize active recreation for children (i.e. play equipment) and passive recreation for adults supervising the children (i.e. benches). Playgrounds may be fenced off to provide added security and to further define their boundaries.

(1) Playgrounds are allowed by right in all districts. Playgrounds may be located within regional parks, neighborhood parks, squares, plazas, and as standalone facilities located in neighborhoods. At least one edge of

standalone playgrounds shall be defined by a street, excluding those located entirely on private property.

(2) There are no minimum or maximum size requirements for playgrounds.

(3) The following facilities and uses should be provided in playgrounds:

(a) Play equipment.

(b) Drinking fountains.

(c) Fountains and water features.

(d) Benches.

(e) Trash and recycle bins.

(f) Pedestrian-scaled lighting with fully shielded cutoff devices.

(g) Bollards.

(h) Signage and kiosks.

(i) Public art and interpretive features.

(4) Landscaping may be provided in formal or informal patterns that line the boundaries and/or are interspersed throughout. Landscaping should include trees and may include shrubs and groundcovers.

(5) Parking spaces are not required for playgrounds.

ARTICLE IV. VARIANCES

17.24.200 VARIANCES

(A) **Initiation of request.** A request to the commission for a variance to the requirements of this title may be initiated by the property owner or an authorized agent.

(B) **Filing application.** A variance application shall be filed with the director on a form provided by the department.

(C) **Application requirement.** An application for a variance shall include:

(1) A legal description of the property involved;

(2) A description of the variance requested, including a reference to the code section;

(3) A specific statement describing why the variance is required;

(4) A certified site plan no more than two years old by date of application.

(5) An appropriate filing fee as established by the assembly, payable to the borough.

(D) **Staff report.** An investigation of the variance request shall be made and a written report provided to the commission by the department.

(E) **Public hearing.** The commission shall conduct a public hearing on the application before a variance application is

acted upon. Notice of public hearing shall be in accordance with MSB 17.03.

(F) **Planning commission action.** The commission shall conduct an inquiry designed to find whether all the standards for issuance of the variance have been met. The commission must make general findings of fact sufficient to support its decision as specified in MSB 17.24.200(G). A concurring vote of a majority of the fully constituted membership of the commission shall be required to grant a variance.

(G) **General standards for granting a variance.** The commission shall establish a finding that all of the conditions have been found to exist as a prerequisite to issuance of a variance permit.

(1) There are unusual physical or topographical conditions or circumstances that apply to the lot for which the variance is sought;

(2) The strict application of the provisions of this title would deprive the applicant of rights commonly enjoyed by other lots under the terms of this title;

(3) The granting of the variance will not alter the essential character of the neighborhood or district in which the lot is located, nor harmful to the public welfare;

(4) The granting of the variance will be in harmony with the objectives of this title and any applicable comprehensive plans; and

(5) The deviation from the requirement of this title that is permitted by the variance will be no more than is necessary to permit a reasonable use of the property.

(H) **Cases where variance is illegal.** A variance shall not be granted if:

(1) Special conditions that require the variance are caused by the person seeking the variance;

(2) The variance will permit a land use in a district in which that use is prohibited; or

(3) The variance is sought solely to relieve pecuniary hardship or inconvenience.

17.24.210 CONDITIONS OF APPROVAL

(A) The commission, in granting a variance, may prescribe any conditions and safeguards that it deems to be necessary or desirable to:

(1) Assure conformity with this title and any applicable comprehensive plans;

(2) Protect adjacent properties; and

(3) Protect the public health, safety and welfare.

(B) Violation of any such condition or safeguard, when made a part of the terms of the variance, shall be deemed an unlawful act and shall void the variance.

17.24.220 RECORD OF VARIANCES

(A) The borough shall record all approved variances with the State of Alaska Records Office, after the appeal period has passed.

(B) Applicants shall pay the cost of recording.

17.24.230 APPEALS

(A) Decisions by the commission on a variance application may be appealed to the Board of Adjustment and Appeals. Appeals shall be filed and conducted in accordance with MSB 15.39.

17.24.240 TERMINATION OF VARIANCES

(A) The variance shall expire if:

(1) Commencement of construction has not begun within one year after being granted; or

(2) Any characteristic of use permitted by a variance is moved or removed.

ARTICLE V. UNUSUAL CIRCUMSTANCES AND PROCEDURES

17.24.250 INTERPETATIONS OF THIS CHAPTER

(A) **Purpose.** The purpose for seeking interpretations of this chapter is to ensure a review process that is fair and equitable to all affected persons. The director shall first review and recommend code interpretations to the commission.

(B) **Text interpretation.** The commission may hear requests for the interpretation of the text of this chapter. Text interpretations shall be narrow and address only the situation being interpreted, shall be based on a thorough reading of this chapter and shall not have the effect of amending this chapter. Interpretations shall give weight to practical interpretations by the director and code enforcement when applied consistently over a period of time.

(C) **District map.** The commission may hear requests for the interpretation of the Zoning Map in this chapter to determine the precise location of boundary lines between districts. In making its determination of the boundary lines, the commission shall be governed by the rules of this article and MSB 17.24.070.

(D) **Benefit to property owner.** Where the intent of this chapter is unclear and the text or maps can be read to support equally more than one (1) interpretation, the benefit shall go to the property owner.

(E) **Records.** Records shall be kept of all interpretations.

17.24.260 OPTIONAL PLAN REVIEW PROCEDURES

(A) **Purpose.** This section establishes an alternative process by which the commission may evaluate and approve a development project that cannot otherwise be accommodated using the minimum standards of certain districts. It is the intent of

this chapter to permit flexibility in the regulation of development projects, while encouraging innovation in land use and variety in design, layout, and type of structures in a manner that shall achieve the successful integration of the proposed development project with the characteristics of the surrounding neighborhood.

(B) **Applicability.** Any person owning or having a legal interest in property located in the Point MacKenzie townsite may file an application for approval of a project using the Optional Plan Review (OPR) process. The OPR process may also be used in any district where an applicant requests a variance. The OPR process establishes a mechanism to review and address new development concepts, innovative design, special problems, public/private ventures, and other unique proposals or circumstances. The district standards form the basic framework that shall be used to evaluate an OPR proposal, but any of the requirements in MSB 17.24.150 through MSB 17.24.190 may be modified in the approval of an application.

(C) **Application procedures.**

(1) An application shall be filed with the department pursuant to MSB 17.24.120.

(2) The application together with all required information shall be transmitted to the commission for review.

(3) The applicable fee established by resolution of the assembly shall be submitted.

(4) Applications for optional plan review and preliminary or final site plan review shall be submitted jointly. The procedures, standards, and specifications for each shall be followed as specified in this chapter. In all cases, a final site plan review shall be required prior to the issuance of a development review permit.

(D) **Review procedures.**

(1) **Application completeness.** Upon acceptance of the application for form and completeness, the director shall assign the application a public hearing date and time.

(2) **Public hearing.** The commission shall provide public notice and hold a public hearing in accordance with the requirements of this chapter and MSB 17.03 for consideration of an OPR application.

(E) **Review standards.** The commission shall consider the following standards.

(1) **Master plan.** The project will be consistent with the purpose and intent of the Point MacKenzie Master Plan and Development Code, including the district.

(2) **Neighborhood.** The project will be compatible, harmonious and appropriate with the existing or planned

character and uses of the neighborhood, adjacent lots, and the natural environment.

(a) Potentially adverse effects arising from the project on the neighborhood and adjacent properties will be minimized through the provision of adequate parking, the placement of buildings, structures and entrances, as well as the location of screening, fencing, landscaping, buffers or setbacks.

(b) The proposed project will not be detrimental, hazardous, or disturbing to existing or future adjacent uses or to the public welfare by reason of excessive traffic, noise, smoke, odors, glare, visual clutter, and electrical or electromagnetic interference.

(c) The proposed project will not adversely affect the walkability of the neighborhood, impair pedestrian circulation patterns, disrupt the continuity of the urban street wall or otherwise hinder the creation of a pedestrian-oriented environment.

(d) The project will not significantly modify the basic standards of the district nor will it negatively alter the established or future character of the neighborhood.

(3) **Environment.** The proposed project will retain as many natural features of the landscape as practicable,

particularly where the natural features assist in preserving the general character of the neighborhood or wildlife habitat.

(4) **Public facilities.** Adequate public or private infrastructure and services already exist or will be provided at no additional cost, and will safeguard the health, safety, morals, and general welfare of the public.

(a) The proposed project will not be detrimental to the financial stability and economic welfare of the borough.

(b) The proposed project will comply with all other applicable borough ordinances and policies and all applicable state laws.

(c) The project will provide urban open space or other amenities that serve a public purpose.

(5) **Other.** The request is necessitated by a condition related to the site or structure, and is not a means to reduce cost or inconvenience.

(F) **Conditions of approval.** Any condition of approval shall be based on the review standards of this section which are intended to ensure that public services and facilities affected by a proposed request are capable of accommodating modifications and that the public interest is upheld.

(1) Conditions imposed shall relate to one or more of the following requirements:

(a) Be designed to protect natural resources, the health, safety, and welfare, as well as the social and economic well-being, of those who shall use the land use or activity under consideration, residents and landowners immediately adjacent to the proposed land use or activity, and the community as a whole;

(b) Be related to the valid exercise of the police power and purposes, which are affected by the proposed use or activity;

(c) Be necessary to meet the intent and purpose of the zoning requirements, be related to the standards established in this chapter for the land use, building or other activity under consideration, and be necessary to ensure compliance with those standards.

(2) The commission may require a performance bond or surety acceptable to the borough in an amount equivalent to the project improvements or other infrastructure and service improvements as needed for project approval.

(3) The breach of any condition, safeguard, or requirement shall be considered a violation of the project approval and a violation of this chapter. Following notice to the property owner and a public hearing held in compliance with MSB 17.03, the commission shall have the authority to revoke any

OPR approval where the applicant has failed to comply with applicable requirements in this article or this chapter.

(G) Commission decision.

(1) The commission shall use the site plan review standards identified in MSB 17.24.120. in making its decision.

(2) The commission shall approve, approve with conditions, table or deny the application, stating the reasons for its decision and the review standards used in making its recommendation.

(3) The appeal of a decision shall be conducted in accordance with the process outlined in MSB 15.39.

(H) Effective date. Approved OPR requests shall commence and be in full force sixteen (16) calendar days after the date of commission approval, except as otherwise noted in the approval resolution.

(I) Duration of Approval. An Optional Plan Review approval shall be valid for a period of one (1) year, provided the project has substantially commenced in that period. Upon written request prior to the expiration of the approval, one (1) extension of up to six (6) months may be granted if the commission finds that the extension is warranted due to circumstances beyond the control of the applicant. If no action is taken to use the property as approved or work is not substantially commenced after the one (1) year approval period,

or as extended per this Subsection, the OPR approval shall expire when the applicable development review permit expires.

(J) **Resubmission.** No application that is the same or substantially similar to a previous application that was denied wholly or in part by the commission shall be resubmitted for consideration for a period of one (1) year from the date of the last denial, unless permitted by the commission after a demonstration by the applicant of a change of circumstances from the previous application.

17.24.270 ADMINISTRATIVE DEPARTURE PROCEDURES

(A) **Purpose.** Administrative departures are provided to permit development of individual lots or properties that generally fall within the requirements of the respective district and a practical difficulty does not exist. However, due to site characteristics or other related conditions, a limited degree of flexibility to meet the spirit and purpose of this chapter is appropriate. It is not a general waiver or weakening of regulations. Rather, the procedure permits a site-specific plan that is equal to or better than the strict application of a design standard. It is not intended as a substitute for a variance or as a means for relief from standards in this chapter.

(B) **Applicability.** Only those administrative departures that are specifically noted in this chapter may be requested and approved.

(C) **Application procedure.** Requests for administrative departures shall be submitted with the applicable application and shall include the following:

(1) Information and materials, as listed in the application form, in sufficient detail to indicate the nature and necessity of the request, and may include a scaled drawing. requested administrative departures shall be separately listed and clearly noted on the proposed plan.

(2) The applicable fee established by resolution of the assembly.

(3) If it is necessary to transfer the application to the commission for a variance, the fee shall be applied to the variance application.

(D) **Review standards.** The director shall consider whether the proposed alternative meets the following standards.

(1) **Districts.** The proposed alternative is consistent with the purpose and intent of the district, and the specific requirements and conditions of the administrative departure approval criteria.

(2) **Neighborhood.** The proposed alternative will be compatible with adjacent lots and the neighborhood.

(3) **Environment.** The proposed alternative will retain as many natural features of the landscape as possible.

(4) **Public facilities.** The proposed alternative will not place a burden on existing infrastructure and services, and

(5) **Other.** The request is necessitated by a condition of the site or structure, and not as a means to reduce costs or inconvenience.

(E) **Decision.** The director may approve, approve with conditions, deny or refer an application to the Board of Adjustment and Appeals.

(F) **Prior to other approval.** Administrative departures shall be reviewed, and approved or denied in writing by the director along with the reasons for the decision prior to approval of a director review, site plan review, variance, or other approval required by this chapter.

(G) **Appeal.** The appeal of a decision shall be conducted in accordance with the process outlined in MSB 15.39.

17.24.280 USE DETERMINATION FOR SIMILAR USES OR USES NOT

ADDRESSED

(A) **Purpose.** Since every type of potential use cannot be anticipated in this chapter, this Section provides a process for addressing uses not specifically listed or those that cannot be reasonably interpreted as substantially the same as those listed. Similarly, there are various uses that include the

phrase "and similar uses." These procedures are also intended to interpret the phrase "and similar uses" found in this chapter.

(B) **Review standards.** The director or commission shall base the decision on a finding that the proposed use satisfies all of the following:

(1) Is not specifically listed in any other district;

(2) Is generally consistent with the purpose of the district and this chapter;

(3) Shall not impair the present or potential use of other lots within the same district or the neighboring district;

(4) Has no greater potential impact on surrounding lots than those listed in the district in terms of aesthetics, traffic generated, noise, potential nuisances, and other impacts related to health, safety and general welfare; and

(5) Shall not adversely affect the Point MacKenzie Master Plan.

(C) **Decision.** The director may determine that the use is similar to permitted uses in the district, and shall be either a use permitted by right, conditional use, or variance. The director may request that the commission make this determination.

(1) The proposed use shall comply with all district conditions as well as the review and approval requirements that apply to the similar use.

(2) The director or commission determination shall be in writing and shall be sent to the applicant.

(3) The appeal of a decision shall be conducted in accordance with the process outlined in MSB 15.39.

(D) **Text amendments.** Uses determined to be similar to a permitted by right or as a special land use shall be recorded by the department, and periodically presented to the commission for incorporation into the text of this chapter.

ARTICLE VI. CONDITIONAL USE PERMITS

17.24.300 INTENT

(A) As provided under this title, a conditional use permit is required to control, restrict and safeguard land uses as to their location, design and methods of operation to ensure their compatibility with permitted uses. This is done to protect the value and usefulness of adjacent properties and to protect the general public health, safety, and welfare.

(B) This chapter contains general procedures and regulations related to obtaining a conditional use permit.

(C) Such uses are permitted only upon the issuance of a conditional use permit, as provided in this chapter. Unless such uses are maintained under and in accordance with a lawfully issued permit, they are declared to be public nuisances. Maintenance of such a land use without a permit is prohibited.

(D) The conditional use will be consistent with and in accordance with the general principles and objectives of the Borough-wide Comprehensive Plan, Point MacKenzie Community Comprehensive Plan, Point MacKenzie Town Site Master Plan, and shall promote the intent of this title.

17.24.310 APPLICABILITY

(A) This chapter applies only to the Point MacKenzie townsite.

(1) Within the Point MacKenzie townsite there are specific districts with uses that are listed as requiring a conditional use permit when located in these districts.

(B) Uses that require a conditional use permit are specifically identified in MSB 17.24.160.

(1) Uses not listed in MSB 17.24.160 as a conditional use shall be resolved by the director through a use determination for similar uses or uses not addressed as found in MSB 17.24.280.

17.24.320 APPLICATION PROCEDURES

(A) **General.** An application to the commission for a conditional use permit or modification of an existing conditional use permit may be initiated by a property owner or the owners' authorized agent. An application for a conditional use shall be filed with the director on a form provided by the department.

(B) **Filing fee.** The application for a conditional use permit shall be accompanied by an appropriate filing fee as established by the assembly, payable to the borough.

(C) **Site plan.** A site plan as required in MSB 17.24.120 shall be submitted with the application.

(D) **Hazardous materials.** Copies of any current report on hazardous substances or hazardous waste prepared for submittal to state or federal agencies, and expected types and quantities of combustible fiber to be stored or combustible dust to be produced shall be submitted with the application.

(E) **Traffic Impact Analysis.** A Traffic Impact Analysis (TIA) shall be submitted with the application if the trip generation rates estimated on the TIA Worksheet exceed 100 vehicles during the morning or afternoon peak hour, or more than a total of 750 vehicles per day (measured from 12 a.m. to 12 p.m.).

(1) For the purpose of completing a TIA, level of service A through E shall apply. Trip generation shall be based on the proposed land use and density and will be calculated utilizing the most current version of the Trip Generation Manual as published by Institute of Transportation Engineers, or if necessary, utilizing the Quick-Response Urban Travel Estimation Techniques and Transferable Parameters, National Cooperative Highway Research Program Report 187, and Transportation Research

Board. If neither reference contains appropriate trip rates for the proposed land use, other sources may be used at the discretion of the director.

(F) **Complete application.** The application shall be accepted or rejected for failure to meet the requirements of subsections (B), through (E) of this section and MSB 17.03. The rejection shall be in writing and shall state the deficient items. Once the deficiencies are corrected, the application shall be accepted as complete.

(G) **Action by planning commission.**

(1) A public hearing shall be scheduled before the commission within 60 calendar days of the acceptance of a complete application unless the 60-calendar-day limit is waived by the applicant. The public hearing shall be noticed as specified in MSB 17.03.

(2) The commission shall hear any interested parties and shall render a decision on the application for a conditional use permit within 30 calendar days from the date the public hearing is opened. In granting a conditional use permit the commission shall state in writing the conditions of approval of the permit which it finds necessary, in accordance with MSB 17.24.340.

(H) In granting a permit, the commission shall require the applicant to comply with the site plans and the plan of

operation as approved by the commission, together with the requirements of this chapter. The commission may also require the applicant to comply with additional conditions necessary to ensure the compatibility of the proposed use with surrounding property. The director shall incorporate any conditions or requirements stipulated by the commission in the conditional use permit as stipulated in this chapter and MSB 17.60.

17.24.330 GENERAL STANDARDS

(A) A conditional use may be approved only if it meets the standards of this section in addition to any other standards required by this chapter. Certain uses shall have specific standards, as outlined in MSB 17.60.

(B) In granting a conditional use permit, the commission must make the following findings:

(1) The conditional use will be consistent with and in accordance with the general principles and objectives of this chapter and the Borough Comprehensive Plan and shall promote the intent of this title.

(2) The proposed use, with appropriate conditions shall be compatible with the surrounding neighborhood.

(3) The use shall comply with all applicable regulations of the area in which it is to be located and the other requirements of this title.

(4) The conditions shall sufficiently mitigate the adverse effects of the use.

(5) Consideration shall be given to the effectiveness of any measures to reduce any adverse effect upon adjacent lots.

(C) The proposed conditional use shall be located where it can be adequately served by facilities and services that are necessary for the use.

(D) The proposed conditional use shall be designed, constructed, operated and maintained to meet the stated intent of the district and shall be in harmony with the general purpose and intent of this title and will not be harmful to the public health, safety, and welfare.

17.24.340 STANDARDS FOR APPROVAL

(A) In granting approval of a conditional use permit, the commission, may impose conditions and safeguards, which may include, but are not limited to:

(1) Ensuring that structures and areas proposed are mitigated for impacts in such a manner that they are not detrimental to an existing neighborhood;

(2) Altering setbacks;

(3) Limiting height of buildings or structures;

(4) Controlling the number and location of vehicular access points;

(5) Increasing or decreasing the number of parking spaces as well as designating the location, screening, drainage, surfacing or other improvements of the proposed parking area;

(6) Mitigating surrounding road and traffic impacts;

(7) Limiting hours of operation;

(8) Providing for additional control of runoff from the facility to ensure water quality is maintained in lakes, streams, wetlands, and groundwater; and

(9) Other reasonable conditions to mitigate any adverse effects upon public health, safety, and welfare.

17.24.350 TRANSFER OF A CONDITIONAL USE PERMIT

(A) Except as otherwise specified by code, the privileges and requirements of a conditional use permit shall run with the land, subject to the following requirements:

(1) Within 90 days of recording the transfer of ownership of the subject land, the new owner must provide written notification and a signed acknowledgment that the new owner assumes responsibility for compliance with the requirements of the permit. Noncompliance shall be subject to termination in accordance with MSB 17.24.360.

(2) A proposed expansion or change to the conditional use permit shall be subject MSB 17.24.370.

17.24.360 SUSPENSION AND REVOCATION OF A CONDITIONAL USE PERMIT

(A) Except as otherwise specified by code, a conditional use permit may be suspended or revoked for any of the following reasons:

(1) Failure to comply with an order to correct violations of a conditional use permit;

(2) Any violation issued of MSB code;

(3) A material misrepresentation of fact by the responsible party of a permitted use in connection with the original application for a conditional use permit.

(4) Failure to initiate the use within two years from the date on which the conditional use permit was issued.

(5) Cessation of the use exceeding two consecutive years for which the conditional use permit was issued.

(a) The determination of cessation shall be made by the department based upon one or more of the following:

(i) Government files;

(ii) Telephone directories;

(iii) Utility records;

(iv) Aerial photos; or

(v) Other relevant information provides clear evidence that the use has ceased.

(b) For good cause, the commission may grant a one-time one-year extension of a conditional use permit. The commission must find that the request is reasonable and the

proposed use is still appropriate under the standards for consideration of the subject use. An application for extension shall be subject to the same application fee as a conditional use permit and shall require public notice and public hearing in accordance with the requirements of MSB 17.03.

(B) Upon the request of the director and with the same notice to the applicant and public as required under MSB 17.03 for consideration of new applications, the commission shall conduct a public hearing over whether a conditional use permit issued under this section shall be suspended or revoked.

(C) No permit may be suspended or revoked by the commission unless the person or entity to whom the permit was originally issued and the legal owner of the real property upon which the business is conducted has been given at least 30 days notice prior to the hearing scheduled under this section, an explanation prepared by the director of the reasons for the proposed action, and an opportunity to be heard before the commission.

17.24.370 AMENDMENT OF A CONDITIONAL USE PERMIT

(A) The procedure for amendment of a conditional use permit approved by the commission, or a request to change the conditions attached to a conditional use permit, shall be the same as for a new application.

17.24.380 APPEALS

(A) Appeals of a decision shall be conducted in accordance with MSB 15.39.

ARTICLE VII. NONCONFORMANCE

17.24.400 NONCONFORMING LOTS, STRUCTURES, OR USES

(A) **Grandfather clause.** When a lot, structure or use legally exists prior to the adoption of an ordinance codified in this title, but does not meet the requirements of this title, it shall be permitted to continue within the limits set forth in this chapter under "nonconforming" status. There are three types of nonconforming status:

(1) **Nonconforming lots.** The lot width or area is smaller than the minimum permitted in the land use district in which it is located;

(2) **Nonconforming structures.** The structure is designed to accommodate a nonconforming use or fails to meet yard, height or other development requirements established for the land use district in which it is located; and

(3) **Nonconforming uses.** The use to which land and/or structures is being put is not an allowed or conditional use in the land use district in which it is located.

17.24.410 INTENT

(A) It is the intent of this chapter to allow nonconformities to continue until they are eliminated.

Nonconforming uses are generally incompatible with allowed uses. Nonconforming nonresidential uses are especially incompatible with allowed uses in the D3 residential district.

17.24.420 NONCONFORMING LOTS OF RECORD

(A) A nonconforming lot in any district can be developed as allowed; provided, that it can be demonstrated that all other current district requirements such as setbacks and parking can be met. Nothing in this chapter shall be construed to prohibit the creation of nonconforming lots which are federally mandated.

17.24.430 NONCONFORMING STRUCTURES

(A) **Grandfather clause.** Any legal structure existing at the effective date of adoption or amendment of the ordinances codified in this title that could not be built under the existing terms of this title by reason of restrictions on area, lot coverage, height, yards, deficiency of required parking, or other characteristics of the structure or its location on the lot may be continued so long as it remains otherwise legal.

(B) **Repairs.** Ordinary repairs, including the repair or replacement of walls, doors, windows, roof, fixtures, wiring, and plumbing, may be made to nonconforming structures.

(C) **Additions.** Nonconforming residential structures may be enlarged or expanded; provided, that there are no other residential structures located on the property, no portion of the structure extends over any lot line, and all other building,

fire and requirements are met. Any encroachment into required setbacks exceeding the original building footprint shall be permitted only by the grant of a variance.

(D) **Destruction.** Should a nonconforming structure be destroyed, it shall not be reconstructed except in conformity with the regulations of this title. Destruction does not include deterioration through ordinary neglect.

17.24.440 NONCONFORMING USES OF STRUCTURES AND LAND

(A) **Grandfather clause.** A legal use of a structure, land, or of a structure and land in combination, existing at the effective date of adoption or amendment of the ordinances codified in this title, may be continued so long as it remains otherwise legal.

(B) **Residential in D4 mixed use and D5 town core districts.** Structures containing nonconforming residential uses, located in the D4 mixed-use or D5 town core districts, may be expanded as long as the entire structure meets, at a minimum, the parking and building code requirements for office or retail use.

(C) **Residential in D2 rural and D3 residential districts.** Structures containing nonconforming residential uses, located in the D2 rural and D3 residential districts, may only be expanded if the nonconforming use of the structure is eliminated.

(D) **Nonresidential additions.** Structures containing nonconforming nonresidential uses may not be expanded.

(E) **Repairs.** Ordinary repairs including the repair or replacement of walls, doors, windows, roof, fixtures, wiring, and plumbing may be made to structures containing nonconforming residential uses.

(F) **Maintenance.** Ordinary maintenance including the repair of walls, doors, windows, roof, fixtures, wiring, and plumbing may be made to structures containing nonconforming nonresidential uses.

(G) **Abandonment.** When the nonconforming use of a structure, land, or structure and land in combination, is discontinued or abandoned for one year or more, the structure, or structure and land in combination, shall not thereafter be used except in conformance with the regulations of the district in which it is located. Where nonconforming use status applies to a structure and land in combination, removal or destruction of the structure shall extinguish the nonconforming use of the land.

17.24.450 PARKING

(A) **Residential.** A nonconforming residential structure may be enlarged or expanded without requiring additional parking as long as the number of dwelling units in the structure is not increased.

(B) **Nonresidential.** A nonconforming nonresidential structure may be changed to another legal use without requiring additional parking as long as the new use of the structure requires no more parking spaces than the previous nonconforming use.

17.24.460 PRIOR CONSTRUCTION

(A) **Grandfather clause.** Nothing in this chapter requires a change in the plans, construction, or designated use of any building on which actual construction was legally begun prior to the effective date of adoption or amendment of the ordinances codified in this title and upon which actual building construction has been diligently carried on.

ARTICLE VIII. APPEALS

17.24.500 APPEALS

(A) Appeals of a decision of this chapter shall be conducted in accordance with MSB 15.39.

ARTICLE IX. DEFINITIONS

17.24.600 DEFINITIONS

- "Alcohol and drug treatment center" means a licensed facility that specializes in the evaluation and treatment of alcoholism and/or drugs and associated addictions. The facility may provide residential treatment, partial hospital treatment, or outpatient services.

- "Alley" means a street type that is located adjacent to internal side and rear property lines. Alleys generally provide access to service areas, parking, outbuildings, and utility easements.
- "Animal husbandry" means the domestic raising of livestock.
- "Average site grade" means the average of eight (8) grade elevations, six (6) of which are taken along the side lot lines of a lot and two (2) of which are taken at the centerline of the front and rear lot lines. For instance, if the eight elevation measurements of a lot are 20', 23', 24', 21', 25', 21', 22', and 26' then the average site grade is 22.75' (i.e. $(20+23+24+21+25+21+22+26)/8 = 22.75$)
- "Awning" means a covered architectural projection that extends from the exterior wall of a building for the purpose of providing shade or shelter.
- "Balcony" means a platform that projects from an upper floor of a building.
- "Basement" means a building floor that is below the ground floor.

- "Bay window" means a projection from a building facade that include multiple window panes on multiple planes. Bay windows generally consist of three sides.
- "Bike lane" means a dedicated lane within a street that is used for cycling and is demarcated by lane striping and/or a special coloring (such as a blue lane) to increase visibility. Bike lanes are generally used on streets with slow-to-moderate or moderate vehicular speeds.
- "Bike route" means a street suitable for the shared use of bicycles and automobiles moving at low speeds. Bike routes are demarcated with shared lane pavement markings on the travel lane and signage. Bike routes are generally used on streets with slow and slow-to-moderate vehicular speeds.
- "Bioswale" means an extended rain garden that sometimes runs the length of the block.
- "Block" means the aggregate of private lots, civic spaces, and alleys that are circumscribed by streets.
- "Block face" means the aggregate length of all front and external side property lines on a side of a block.
- "Block size" means the aggregate length of all block faces within a block.

- "BTZ" see Build-to-zone.
- "Build-to-zone" means the area with a variable range of allowable distances from a lot line a facade shall be constructed. Most lots have a single Build-to-zone in the front; with the exception of corner lots, which also have an external side Build-to-zone.
- "Bulbout" means an extension of the sidewalk into the parking lane at intersection and mid-block crosswalks. Bulbouts reduce the length of pedestrian crossings and help to slow vehicle traffic.
- "Civic building" means a building operated by governmental or non-profit organizations dedicated to arts, culture, education, or recreation, government, transit, and municipal parking, or for use approved by the assembly.
- "Civic space" means an outdoor area dedicated for public use. Civic spaces are defined by the combination of certain physical constants, including the relationships among their intended use, size, landscaping, amenities, and associated buildings.
- "Country club" means a private recreational club containing a golf course and a club house that is

available only to the country club membership and their guests.

- "Curb" means the edge of the vehicular pavement (travel lane, bike lane, or on-street parking) that may be raised or flush to a gutter or swale. Curbs usually incorporate the drainage system and are flush with the sidewalk (if provided).
- "Day Care" means an establishment for group care of six or more non-resident adults or children, including adult day health centers or social day care, nursery schools for children, private kindergartens or prekindergartens (not a part of a school), and programs covering after school care for children.
- "Density" means the number of dwelling units within a standard measure of land area. Density is usually represented in dwelling units per acre.
 - (A) Density, high. "High density" means neighborhood development of 15 units or more per acre.
 - (B) Density, low. "Low density" means neighborhood development of 4 units or less per acre.
 - (C) Density, medium. "Medium density" means neighborhood development of 5 to 15 units per acre.
- "Design speed" means the velocity at which a street tends to be driven without the constraints of signage

or enforcement. Lane width is determined by desired design speed.

- "Dog sledding team" means a group of dogs bred for the purpose of pulling a sled for dog mushing.
- "Driveway" means a vehicular lane within a lot, often leading to a garage.
- "Dwelling unit" see unit.
- "Encroach" means to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a setback, into the public frontage, or above a height limit.
- "Encroachment" means any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a setback, into the public frontage, or above a height limit.
- "Facade" means the exterior wall of a building.
- "Floor" means a habitable level within a building, excluding an attic or basement.
- "Frontage" means the area between a building facade and the outer edges of vehicular pavement (travel lanes, bike lanes, and on-street parking). Frontage is divided into private and public frontage.

- "Gallery" means a private frontage conventional for commercial uses (especially retail use) wherein the facade is aligned close to the property line with an attached cantilevered shed or lightweight colonnade overlapping the sidewalk.
- "Golf course" means a recreational facility, under public or private ownership, designed and developed for golf activities with accessory uses including, but not limited to: (A) driving range; (B) miniature golf; (C) pro shops; (D) caddyshack buildings; (E) swimming pools, tennis courts and other related recreational facilities; (F) restaurants; (G) office and meeting rooms; and (H) related storage facilities.
- "Greenhouse" means a temporary or permanent accessory structure typically made of, but not limited to, glass, plastic, or fiberglass in which plants are cultivated.
- "Gutter" means the edge of the vehicular pavement (travel lane, bike lane, or on-street parking) that is flush with this surface and usually depressed from the top of the adjacent curb.
- "Health and athletic clubs" means an establishment that operates small to moderate sized fitness and

recreational sports facilities, such as weight training facilities, aerobic exercise rooms, handball and squash courts, and similar indoor facilities.

- "Impervious surface" means surfaces that do not allow water to percolate through.
- "Indoor commercial recreational facilities" means a large indoor facility, with or without seating for spectators, and providing accommodations for a variety of individual, organized, or franchised sports, including but not limited to basketball, ice hockey, wrestling, soccer, tennis, volleyball, racquetball, or handball. Such facility may also provide other regular organized or franchised events, health and fitness club facilities, swimming pool, snack bar, restaurant, retail sales of related sports, health or fitness items, and other support facilities.
- "Kennel" means a place where five or more adult dogs are temporarily boarded for compensation or not, whether or not for training. An adult dog is one of either sex, altered or unaltered, that has reached the age of 6 months.
- "Lot" means a parcel of land defined by property boundaries within which a building or buildings of

unified design are accommodated; the size of a lot is controlled by its minimum and maximum allowed widths.

- Lot, corner. "Corner lot" means a lot situated at the junction of, and bordering on, two intersecting streets. Corner lots have an facade on a street requiring an external side setback.
- "Lot line" means the boundary that legally and geometrically demarcates a lot. There are 4 types of lot lines: front; external side; internal side; and rear.

(A) Lot line, external side. "External side" means the side boundary of a corner lot abutting a street.

(B) Lot line, front. "Front lot line" means the boundary that is adjacent to a public frontage or civic space. On corner lots, the front lot line is determined by the primary building entrance and the address of the primary building.

(C) Lot line, internal side. "Internal side" means the side boundary of a lot which abuts another lot.

(D) Lot line, rear. "Rear lot line" means the rear boundary of a lot abutting an alley or another lot.

- "Lot size" means the area (usually represented in square feet or acres) of a lot.
- "Lot width" means the length of the front lot line.
- "Livestock" means grazing animals kept either in open fields or structures for training, boarding, home use, sales, or breeding and production, including but not limited to: (A) cattle; (B) riding and draft horses; (C) hogs, excluding pigs weighing under 120 pounds and standing 20 inches or less at the shoulder which are kept as pets or small animals; (D) sheep; and (E) goats.
- "Mixed-use" means development of buildings designed, planned and constructed as a unit, used partially for residential use and partially for office, personal service, retail, entertainment or public uses. This term includes live-work units, which are jointly used for commercial and residential purposes but where the residential use of the space is secondary or accessory to the primary use as a place of work. This term is distinguished from a dwelling containing a home occupation or home industry.
- "Mixed-use development" means a single building containing more than one type of land use; or a single

development of more than one building and use, where the different types of land uses are in close proximity, planned as a unified complementary, cohesive whole.

- "Multi-modal transportation" means streets designed with sidewalks, bike lanes or routes, public transportation stops, frequent and safe crossing opportunities, median islands, pedestrian signals, curb extensions, narrower travel lanes, and roundabouts which enable safe access for all users, including motorists, transit riders, pedestrians, and bicyclists of all ages and abilities.
- "Outbuilding" means an accessory building that is usually located toward the rear of the same lot as a primary building. Outbuildings may include an accessory unit and function as a detached garage.
- "Parking structure" means a building containing one or more floors of parking above grade.
- "Parkway" means the portion of the public frontage that is adjacent to the sidewalks and is landscaped with turf, street trees, sidewalk amenities (such as benches), and other landscaping.

- "Pedestrian-scale development" means development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. There are generally windows or display cases along building facades which face the street.
- "Plant nursery" means an establishment primarily engaged in retailing to the general public:
 - (A) Trees, shrubs, other plants, seeds, bulbs, mulches, soil conditioners, fertilizers, pesticides, garden tools, landscaping materials and other garden supplies; and
 - (B) Animal feeds, fertilizers, agricultural chemicals, pesticides, seeds and other farm supplies.
- "Planter" the portion of the public frontage that accommodates street trees, whether continuous or individual. These planters may be provided as a series of tree wells, as parkways, or as swales.
- "Podium parking" means parking that is fully enclosed with a common entrance that has dwellings overhead. Podium parking can be at grade or partially

depressed by no more than two (2) feet below existing grade.

- "Porch" means an area connected to the ground floor of a building that is covered by a roof, but does not contain glass windows, walls, or fences (except railings and support posts).
- "Portico" means a landing adjacent to an entrance covered by a roof structure but not enclosed by a wall.
- "Poultry husbandry" means the domestic raising of birds such as chickens, quails, turkeys, ducks, guinea fowl, and geese, for the purpose of providing meat or eggs for food.
- "Primary building" means the main building on a lot. If provided, outbuildings are generally located to the rear of the primary building.
- "Primary entrance" means the main point of access for pedestrians into a building.
- "Primary unit" means a residential dwelling unit within the primary building, but not an accessory unit.

- "Private frontage" means the area between the primary building's facade and the front and external side property lines.
- "Public frontage" means the area between the front and external side property lines and the edge (usually the curb face) of the vehicular pavement (travel lane, bike lane, and on-street parking).
- "Rain garden" means a sunken garden using native plants and sometimes trees.
- "Religious use" means any use that is managed or funded by an organized religious institution or group.
- "Residential" means a use that accommodates living space, including apartment units, condominium units, and attached or detached house units.
- "Road" means a street type that is not characterized by a curb and gutter. Roads include swales/bioswales and may also include shoulders. Roads are permitted in the D1 natural and D2 rural districts.
- "Setback" means the area of a lot measured from the property line to the primary building's facade. Setbacks generally do not include permanent structures, with the exception of permitted encroachments, such as some private frontages and

projecting elements. There are four (4) types of setbacks: front; external side; internal side; and rear.

A. Setback, external side. "Exterior side setback" means the setback from the side of a corner lot abutting a street.

B. Setback, front. "Front setback" means the setback from the boundary that is adjacent to a public frontage or civic space.

C. Setback, internal side. "Internal side setback" means the setback from a side lot line which abuts another lot.

D. Setback, rear. "Rear setback" means the setback from the rear boundary of a lot abutting an alley or another lot.

- "Shared parking" means parking spaces that are available to more than one use or lot.
- "Shoulder" means an unpaved surface between a swale and the vehicular pavement (travel lane, bike lane, and on-street parking) of a street.
- "Sidewalk" means the paved section of the public frontage dedicated exclusively to pedestrian activity.
- "Special district" means an area that, by its intrinsic use, function, or configuration, cannot or

should not conform to one or more of the districts or types of new communities regulated by this code.

- "Stepback" means a portion of an upper floor building facade that is recessed or set back from the plane of the ground floor building facade.
- "Stoop" means a private frontage wherein the facade is aligned close to the built-to-zone with the first floor elevated from the sidewalk for privacy with an exterior stair and landing at the entrance.
- "Storefront" means a private frontage conventional for retail use (and some other commercial uses) that is located adjacent to a sidewalk or paved setback and includes substantial glazing on the ground floor building facade. Storefronts contain the primary entrance for a business. Storefronts often include awnings and other projecting shade structures.
- "Street" means a general term for roadway, including vehicular travel lanes, bike lanes, on-street parking, and the adjacent public frontages. Street may also be used to describe a roadway that has a curb and gutter, unlike a road which has a swale and may have a shoulder. Such streets are permitted in the D3 residential, D4 mixed use, D5 town core, and Special districts.

- "Street stub" means a planned street connection that has not been completed. Street stubs are built with the planned width of the street, but are only constructed to the edge of the development project or lot. Once the adjacent lot or phase of development commences, the street stub will be continued to complete the street connection.
- "Swale" means a low or slightly depressed natural area for drainage. Swales are generally used within the public frontage along roads and may also include a shoulder. A "bioswale" may be substituted for a swale.
- "Terrace" means a private frontage type that is an above-grade entrance or recess designed to allow light into basements and provide an elevated landing for the ground floor.
- "Timber harvesting" means the cutting, removal, or both, of timber or other forest products together with all the work incidental thereto, including road and firebreak construction; except preparatory work such as tree marking, surveying, and road flagging.
- "Timber processing" means the production of timber into logs, poles, pilings, split products, chips, fuel wood and other solid wood products.

- "Turning radius" means the curved edge of a street at an intersection, measured at the inside edge of the vehicular tracking. The smaller the turning radius, the smaller the pedestrian crossing distance and the more slowly the vehicle is forced to make the turn.
- "Unit" means one or more rooms including kitchen designed as a dwelling unit for residential occupancy by a family or individuals for the purpose of cooking, living and sleeping.

(A) Unit, accessory dwelling. "Accessory dwelling unit" means a smaller, secondary dwelling unit on the same lot within an outbuilding, a house, attached house, or manufactured home. The unit includes its own independent living facilities with provisions for sleeping, cooking, and sanitation, designed for residential occupancy independent of the primary dwelling unit. The unit may have a separate exterior entrance or an entrance to an internal common area accessible to the outside.

(B) Unit, group home. "Group home unit" means a residential unit or grouping of residential units which may have shared facilities, such as bathrooms and kitchens.

(C) Unit, multifamily dwelling. "Multifamily dwelling unit" means a residential unit provided in the same building as an adjacent unit, or as attached ownership units using common wall development, or on the same lot with a leased accessory dwelling unit.

(D) Unit, single family dwelling. "Single family dwelling unit" means an independent, attached or detached residential building designed to house and provide living space, including kitchen and bathroom facilities, for an individual family.

- "Variance" means grant to allow a use not permitted by the zoning ordinance. Use variances are prohibited by state statute.
- "Vegetable garden" means a garden used to grow and harvest vegetables and fruits.
- "Veterinary hospital and/or clinic" means a medical office or facility for the treatment of animals.
- "Walkable" and "walkability" mean the extent to which the built environment is walking friendly and safe.
- "Window shade" means a projection from the facade that is located above or to the side of a window such that it will provide shade to the interior building space.

- "Yard" means the private frontage wherein the facade is set back from the lot line. Yards are visually continuous with adjacent yards. The yard is defined by its adjacent facade and lot line.

(A) Yard, external side. "External side yard" means the area between the external side facade and the external side lot line on a corner lot abutting a street.

(B) Yard, front. "Front yard" means the area between the front facade and the front lot line that is adjacent to a public frontage or civic space.

(C) Yard, internal. "Internal side yard" means the area between the internal side facade and the internal side lot line which abuts another lot.

(D) Yard, rear. "Rear yard" means area between the rear facade and the rear lot line abutting an alley or another lot.