



Town of Plevna

ZONING ORDINANCE

Passed by the Plevna Town Council with Ordinance #54
Regulations effective October 12, 2017

ACKNOWLEDGEMENTS

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Article 11.1.0 GENERAL PROVISIONS

11.1.10

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

11.1.20 *AUTHORITY*

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

11.1.30 *PURPOSES AND INTENT*

The purposes and intent of this Zoning Ordinance are to:

11.1.31 PURPOSE

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

11.1.32 INTENT

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

11.1.40 *ENACTMENT, EFFECTIVE DATE AND REPEALS*

This Zoning Ordinance is adopted by the Town of Plevna Ordinance Number 54; the Official Zoning Map of the Town of Plevna is adopted by Town of Plevna Ordinance Number 54 and is on file in the office of the Town of Plevna. This Ordinance shall take effect and be in force from and after October 12, 2017, after which all parts or portions of other ordinances in conflict herewith are hereby repealed.

11.1.50 *APPLICABILITY AND JURISDICTION*

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

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

11.1.61 CONSTRUCTION AND USE

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

11.1.62 **LICENSES AND PERMITS**

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

11.1.63 **UTILITY CONNECTIONS**

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

11.1.70 **MINIMUM STANDARDS**

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

11.1.80 **CONFLICTING PROVISIONS**

11.1.81 **CONFLICT WITH STATE OR FEDERAL REGULATIONS**

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

11.1.82 **CONFLICT WITH OTHER TOWN REGULATIONS**

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

11.1.83 **CONFLICT WITH OTHER AGREEMENTS**

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

11.1.90 **RULES OF CONSTRUCTION AND INTERPRETATION**

11.1.91 **MEANINGS AND INTENT**

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

11.1.92 **HEADINGS AND ILLUSTRATIONS**

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

11.1.93 **CURRENT VERSIONS AND CITATIONS**

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

11.1.94 **DELEGATION OF RESPONSIBILITY**

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

11.1.100 **TRANSITIONAL PROVISIONS**

11.1.101 **VIOLATIONS CONTINUE**

Any violation of the previous development code or zoning ordinance will continue to be a violation under this Ordinance and be subject to penalties and remedies under Article 11.14.0 Enforcement, unless the use, development, construction, or other action complies with the provisions of this Ordinance.

11.1.102 **VESTED RIGHTS**

A. **APPROVED PROJECTS**

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

B. **LEGAL NONCONFORMITIES UNDER PRIOR ORDINANCE**

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

C. **USES, LOTS, STRUCTURES AND SITES RENDERED NONCONFORMING**

1. **Uses**

If a lot, building or site is used for a purpose that complied with the previous development code before the effective date of this Ordinance and this Ordinance no longer classifies such use as either a permitted or conditional use in the zoning district in which it is located, such use shall be a nonconforming use and shall be controlled by the provisions of Article 11.12.0 Nonconformities.

2. **Structures, Sites**

Where a building, structure, lot or site legally existed on the effective date of this Ordinance does not meet all of the development standards established by this Ordinance, such building, structure, lot or site shall

be nonconforming and shall be controlled by Article 11.12.0 Nonconformities.

11.1.103 **TRANSITION TO NEW ZONING DISTRICTS**

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

11.1.110 ***SEVERABILITY***

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

Article 11.2.0 ZONING DISTRICTS AND OVERLAY DISTRICTS ESTABLISHED

11.2.10 *PURPOSE AND INTENT*

The purpose and intent of this Article are to:

11.2.11 ESTABLISH ZONING DISTRICTS

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

11.2.12 ZONING MAP

Establish the Official Zoning Map of the Town of Plevna.

11.2.13 PUBLIC HEALTH, SAFETY

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

11.2.14 COMPATIBILITY

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

11.2.20 *ZONING DISTRICTS ESTABLISHED*

The following Zoning Districts and Zoning Overlay Districts:

11.2.21 RESIDENTIAL ZONING DISTRICTS

- A. AGRICULTURAL RESIDENTIAL ZONING DISTRICT (AG)
- B. RESIDENTIAL ZONING DISTRICT (R-1)
- C. MULTIPLE FAMILY RESIDENTIAL DISTRICT (R-2)

11.2.22 **COMMERCIAL/MANUFACTURING/INDUSTRIAL ZONING DISTRICTS**

- A. CENTRAL BUSINESS DISTRICT (C-1)
- B. COMMERCIAL - RV PARK ZONING DISTRICT 2 (C-2)

11.2.23 **PUBLIC ZONING DISTRICTS**

- A. UNINCORPORATED (UN) (MAP ONLY)

11.2.24 **FLOATING ZONING DISTRICT**

- A. PLANNED UNIT DEVELOPMENT (PUD)

11.2.30 *OFFICIAL ZONING MAP*

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

11.2.31 **CERTIFICATION**

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

This certification on the Official Zoning Map shall read as follows: “This is the Official Zoning Map of the Town of Plevna, Montana as approved by the Town Council on this 11th day of September 2017. All prior versions of the Official Zoning Map of the Town of Plevna are hereby repealed and replaced.

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

11.2.40 *INTERPRETATION OF DISTRICT BOUNDARIES*

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

11.2.41 RIGHT OF WAY BOUNDARIES

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

11.2.42 PARALLEL FEATURES

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

11.2.43 TOWN LIMITS

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

11.2.44 WATER FEATURES

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

11.2.45 SECTION LINES

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

11.2.46 UNDEFINED BOUNDARIES

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

11.2.47 CONFLICTS WITH BOUNDARIES

Where uncertainty exists as to the boundary of a zoning district, or when the street, property lines or other features existing on the ground are in conflict with those on the Zoning Map, the Zoning Administrator shall interpret and determine the location of said boundary. The Zoning Administrator's determination may be appealed to the Board of Adjustment pursuant to Section 11.13.82 Appeals.

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

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

11.2.51 ANNEXATIONS

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

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

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

11.2.53 LOT OR PARCEL IN MORE THAN ONE ZONING DISTRICT

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

Article 11.3.0 ZONING DISTRICTS AND STANDARDS

11.3.10 *PURPOSE AND INTENT*

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

11.3.20 *USES DEFINED*

11.3.21 ALLOWED USES

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

11.3.22 PERMITTED USES

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

11.3.23 USE SPECIFIC STANDARDS

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

11.3.24 CONDITIONAL USES

Uses that are listed as “Conditional” uses are allowed with a Conditional Use Permit (CUP) pursuant to Section 11.10.10 Conditional Uses. A CUP may be issued at the discretion of the Board of Adjustment, pursuant to the procedures of this Ordinance, provided that the development complies with the standards of general applicability and the applicable CUP standards, and the Board of Adjustment makes certain CUP findings of fact.

11.3.25 CONDITIONAL USE FINDINGS

Approval of a CUP requires the Board of Adjustment to make certain Findings of Fact as established in Section 11.10.10 Conditional Uses.

11.3.26 ACCESSORY USES

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

11.3.27 PROHIBITED USES

If a use is not listed as Permitted or Conditional Use it shall be deemed “Prohibited” and it is expressly forbidden in that district.

11.3.28 USES NOT LISTED (UNIDENTIFIED USES)

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

11.3.29 SIMILAR USE DETERMINATION

The goal of this Zoning Ordinance is to allow flexible uses in zones, especially as uses and technology continue to evolve. If a proposed use is not listed in the Allowed Uses Table, it may be considered an allowed use if the Zoning Administrator determines the proposed use is sufficiently similar to one of the uses listed in the Allowed Uses Table. If a Similar Use Determination is made in the affirmative, the proposed use shall be an authorized use with the same permissions and restrictions as the use to which it is determined to be similar. The Zoning Administrator shall submit a public notice for publishing in the next issue of the official paper of the Town of Plevna following all decisions to approve or deny a Similar Use Determination. The notice shall be in accordance with Section 11.13.70 Public Notice. Any aggrieved party may appeal the Zoning Administrator’s decision within thirty (30) calendar days of the date the notice appeared in the official paper of the Town of Plevna, pursuant to Section 11.13.82 Appeals.

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

11.3.30 *STANDARDS*

11.3.31 DIMENSIONAL STANDARDS

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

11.3.32 SPECIFIC DISTRICT STANDARDS

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

Article 11.4.0 AGRICULTURAL DISTRICT (AG)

11.4.10 *PURPOSE AND INTENT*

The purpose and intent of the AG Zoning District is to provide for low density, single-household rural development including other moderate intensity uses that conform to the system of service available, the slope of the land or other limiting factors, to provide for such community facilities and services as will serve the area's population while protecting the suburban residential nature of the area.

11.4.20 *LAND USES*

Permitted and Conditional Uses allowed in the AG District are in Section 0 Allowed Uses. All Conditional Uses must comply with Section 11.10.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.11.0 Standards of General Applicability.

11.4.30 *SPECIFIC DISTRICT STANDARDS*

The following standards shall apply to development in the AG Zoning District:

11.4.31 ONE DWELLING

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

11.4.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height except within the required front and side corner setbacks where fencing and hedges shall not exceed thirty-six (36) inches in height.

11.4.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang. No yard shall be completely paved or constructed of impervious surfaces.

11.4.34 ACCESSORY STRUCTURES

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

11.4.40 ALLOWED USES

Allowed Uses AG District		
Permitted		
Accessory Building.	Fairgrounds	Publicly Owned or Government Buildings and Uses.
Agricultural Uses.	Golf Courses	Private clubs, lodges, and country clubs.
Amateur Radio Tower 50 feet in height or less.	Greenhouses (noncommercial)	Public Parking.
Assisted Living Facility 8 or Fewer Residents.	Guest House; See Section 11.10.22D	Manufactured Home.
Commercial mines, quarries, sand, and gravel pits.	Hospital	Single Family Dwelling.
Contractor Business.	Home Occupations; See Section 11.10.22C	Worship Facility.
Contractor Business.	Public Parks & Recreation including Campgrounds	
Conditional		
Assisted Living, >8 Persons Served.	Day Care Center; See Section 11.10.22B	Nursing/Retirement Homes.
Amateur Radio Tower greater than 50 feet in height.	Gun Clubs, Skeet, and Target Ranges.	Schools Public, Private, Elementary, Secondary, Post-Secondary, and Trade/Vocational.
Bed & Breakfast; See Section 11.10.22A	Industrial/Manufacturing	Wireless Communication Facility.
Cemeteries and Mausoleums	Kennels (commercial)	

11.4.50 **DIMENSIONAL STANDARDS**

Development in the AG District shall comply with the Dimensional Standards as described:

Dimensional Standards AG District	
Lot Standards	
Lot Area, Minimum Acres	5
Lot Frontage, Minimum Feet	165
Minimum Setbacks (Feet)	
Front	30
Side	10
Rear	30
Side Corner	10
Building Standards (Feet)	
Building Height	50
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	10
Setback, Minimum Feet Rear	30
Height	≤ Primary Structure

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Article 11.5.0 RESIDENTIAL DISTRICT (R-1)

11.5.10 *PURPOSE AND INTENT*

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

11.5.20 *LAND USES*

Permitted and Conditional Uses allowed in the R-1 District are in Section 11.5.40 Allowed Uses. All Conditional Uses must comply with Section 11.10.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.11.0 Standards of General Applicability.

11.5.30 *SPECIFIC DISTRICT STANDARDS*

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

11.5.31 ONE DWELLING

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

11.5.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height except within the required front and side corner setbacks where fencing and hedges shall not exceed thirty-six (36) inches in height.

11.5.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang. No yard shall be completely paved or constructed of impervious surfaces.

11.5.34 ACCESSORY STRUCTURES

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

11.5.40 **ALLOWED USES**

Allowed Uses R-1 District		
Permitted		
Accessory Building	Guest House; See Section 11.10.22D	Nursing Homes and Hospitals
Assisted Living, 8 or Fewer Persons Served	Home Occupations; See Section 11.10.22C	Public Parks & Recreation
Day Care Home	Manufactured Home	Single Household Building
Conditional		
Assisted Living, >8 Persons Served	Electrical Substation	School
Bed & Breakfast; See Section 11.10.22A	Fire, Police or Public Utility Buildings	Library
Cemeteries	Relocation of an Existing Off-Site Structure	Worship Facility
Day Care Center; See Section 11.10.22B		

11.5.50 DIMENSIONAL STANDARDS

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

Dimensional Standards R-1 District	
Lot Standards	
Lot Area, Minimum Square Feet	7,200
Lot Frontage, Minimum Feet	60
Minimum Setbacks (Feet)	
Front	10
Side	6
Rear	15
Side Corner	10
Building Standards (Feet)	
Building Height	35
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear	10
Height	≤ Primary Structure

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Article 11.6.0 MULTI-FAMILY RESIDENTIAL DISTRICT (R-2)

11.6.10 *PURPOSE AND INTENT*

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

11.6.20 *LAND USES*

Permitted and Conditional Uses allowed in the R-2 District are in Section 11.5.40 Allowed Uses. All Conditional Uses must comply with Section 11.10.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.11.0 Standards of General Applicability.

11.6.30 *SPECIFIC DISTRICT STANDARDS*

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

11.6.31 *FENCES, FRONT SETBACK*

Fences shall not exceed seventy-two (72) inches in height except within the required front and side corner setbacks where fencing and hedges shall not exceed thirty-six (36) inches in height.

11.6.32 *YARD*

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang. No yard shall be completely paved or constructed of impervious surfaces.

11.6.33 *TOWNHOME STANDARDS*

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

11.6.34 *ACCESSORY STRUCTURES*

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

11.6.40 ALLOWED USES

Allowed Uses		
R-2		
Permitted		
Accessory buildings	Guest House; See Section 11.10.22D	Nursing Homes and Hospitals
Assisted Living, 8 or Fewer Persons Served	Home Occupations; See Section 11.10.22C	Public Parks & Recreation
Day Care Home	Library	Single Household
	Manufactured Home	Two-Household Dwellings / Duplex / Townhomes
Conditional		
Accessory Structure	Day Care Center; See Section 11.10.22B	Multi-Family Residential and Condominiums
Assisted Living, >8 Persons Served.	Electrical Substation	Professional Offices i.e. Real Estate, Insurance, Attorney and CPA
Bed & Breakfast; See Section 11.10.22A	Fire, Police or Public Utility Buildings.	School
Cemeteries	Library	Worship Facility

11.6.50 **DIMENSIONAL STANDARDS**

Dimensional Standards	
R-2	
Lot Standards	
Lot Area, Minimum Square Feet 1 st Dwelling Unit	5,000
Lot Area, Minimum Square Feet 2 nd Dwelling Unit	500
Lot Frontage, Minimum Feet	50
Minimum Setbacks (Feet)	
Front	15
Side	6
Rear	15
Side Corner	10
Townhome Standards	
Lot Size, Minimum Square Feet	2,750
Internal Side Yard Setback (Feet)	0
Lot Frontage, Minimum Feet	25
Building Standards (Feet)	
Building Height	35
Accessory Structures	
Setback, Minimum Feet Habitable Structure	10
Setback, Minimum Feet Side	2
Setback, Minimum Feet Rear	10
Height	≤ Primary Structure

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Article 11.7.0

CENTRAL BUSINESS DISTRICT (C-1)

11.7.10 *PURPOSE AND INTENT*

The purpose and intent of the C-1 Zoning District is to be the central focus of the Town's business, government, service, and cultural activities. Room should be provided in appropriate areas for the logical and planned expansion of the present district. The land uses in this district should preserve the historic integrity of the district while still allowing redevelopment to bolster the Town's core. The area should be developed as an attractive and pleasant environment, cognizant of its importance to the community and its historical heritage.

11.7.20 *LAND USES*

Permitted and Conditional Uses in the C-1 District are found in Section 11.10.10 Conditional Uses. All Conditional Uses must comply with Section 11.10.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.11.0 Standards of General Applicability.

11.7.30 *SPECIFIC DISTRICT STANDARDS*

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

11.7.31 SCREENING

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

11.7.32 SIDEWALK

Continuous sidewalks shall be provided across the street fronts of property and shall connect to the existing or proposed sidewalk system. Corner and reverse frontage lots shall provide sidewalks on all sides of the property fronting a street. All new and existing structures meeting the requirements in Section 11.11.45 Pedestrian Access shall provide sidewalks including ADA standards.

11.7.33 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height except within the required front and side corner setbacks where fencing and hedges shall not exceed thirty-six (36) inches in height. Opaque fencing must be used when commercial uses are adjacent to residential uses. It shall always be the responsibility of the commercial use to provide screening adjacent to residential uses.

11.7.34 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang.

11.7.35 ACCESSORY STRUCTURES

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

11.7.40 ALLOWED USES

Allowed Uses		
C-1		
Permitted		
Apartments 2 nd Floor	Nursing or Group Home	Restaurant
Banks & Financial Institutions	On-Site Alcohol Sales & Consumption	Retail Sales & Services
Business & Professional Offices	Parking Garage	Technical or Training Schools
Dance Studios	Pharmacy	Theaters Excluding Drive-In
Day Care - All Classes	Public Buildings & Offices	Wholesale Sales
Fraternal & Veteran Organizations	Repair Services Small Appliances	Worship Facility
Hotels & Motels		
Conditional		
Automotive & Boat Sales & Service	Marijuana Dispensary	Veterinary Clinic
Hospital or Medical Clinic	Sexually Oriented Business	

11.7.50 *DIMENSIONAL STANDARDS*

Dimensional Standards	
C-1	
Lot Standards	
Lot Area, Minimum Square Feet	0
Lot Frontage, Minimum Feet	0
Minimum Setbacks (Feet)	
Front	0
Side	0
Rear	0
Building Standards	
Building Height	70
Accessory Structures	
Setback, Minimum Feet	0
Height	≤ Primary Structure

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Article 11.8.0 COMMERCIAL - RV PARK DISTRICT (C-2)

11.8.10 *PURPOSE AND INTENT*

The purpose and intent of the C-2 Zoning District is to provide such retail and service activities to be in support of the Town's central business and residential zoning districts. The land uses in this district should promote development and redevelopment of the district while still allowing encouraging activities that bolster the Town's core. The area should be developed as an attractive and pleasant environment, cognizant of its importance to the community and its historical heritage.

11.8.20 *LAND USES*

Permitted and Conditional Uses allowed in the C-2 District are in Section 11.10.10 Conditional Uses must comply with Section 11.10.10 Conditional Uses. Some Permitted Uses shall comply with specific standards as referenced in this article. All Uses shall comply with Article 11.11.0 Standards of General Applicability.

11.8.30 *SPECIFIC DISTRICT STANDARDS*

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

11.8.31 SCREENING

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

11.8.32 FENCES, FRONT SETBACK

Fences shall not exceed seventy-two (72) inches in height except within the required front and side corner setbacks where fencing and hedges shall not exceed thirty-six (36) inches in height. Opaque fencing must be used when commercial uses are adjacent to residential uses. It shall always be the responsibility of the commercial use to provide screening adjacent to residential uses.

11.8.33 YARD

Every part of a required yard shall be open to the sky, unobstructed by any structure, including the roof overhang.

11.8.34 ACCESSORY STRUCTURES

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

11.8.40 *ALLOWED USES*

Allowed Uses C-2		
Permitted		
Apartments 2 nd Floor	Nursing or Group Home	Restaurant
Banks & Financial Institutions	On-Site Alcohol Sales & Consumption	Retail Sales & Services
Business & Professional Offices	Parking Garage	Technical or Training Schools
Dance Studios	Pharmacy	Theaters Excluding Drive-In
Day Care - All Classes	Public Buildings & Offices	Wholesale Sales
Fraternal & Veteran Organizations	Repair Services Small Appliances	Worship Facility
Hotels & Motels		
Conditional		
Automotive & Boat Sales & Service	Marijuana Dispensary	Sexually Oriented Business
Hospital or Medical Clinic	Mobile Home Courts	Veterinary Clinic
	RV Parks	

11.8.50 *DIMENSIONAL STANDARDS*

Dimensional Standards	
C-2	
Lot Standards	
Lot Area, Minimum Square Feet	0
Lot Frontage, Minimum Feet	0
Minimum Setbacks (Feet)	
Front	0
Side	0
Rear	0
Building Standards	
Building Height	70
Accessory Structures	
Setback, Minimum Feet	0
Height	≤ Primary Structure

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Article 11.9.0 PLANNED UNIT DEVELOPMENT (PUD)

11.9.10 *PURPOSE AND INTENT*

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

11.9.20 *APPLICABILITY AND LOCATION*

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

11.9.21 INFRASTRUCTURE

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

11.9.22 CONNECTIVITY

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

11.9.23 NATURAL RESOURCES

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

11.9.30 *LAND USES*

11.9.31 RESIDENTIAL UNDERLYING ZONING

When the underlying zoning is residential, the PUD may contain all types of residential structures and commercial uses, provided the mix of uses complies with the findings of Section 11.9.70, Required Findings. Industrial uses are not allowed in PUD when underlying zoning is residential.

11.9.32 NON-RESIDENTIAL UNDERLYING ZONING

When the underlying zoning is agricultural, commercial, or another non-residential classification, the PUD may contain all types of residential structures, commercial and

industrial uses, provided the mix of uses complies with the standards of Section 11.9.70 Required Findings.

11.9.40 *DIMENSIONAL STANDARDS*

11.9.41 LOT SIZES, FRONTAGE, SETBACKS

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

11.9.42 DENSITY, IMPERVIOUS COVERAGE

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

11.9.43 BUILDING HEIGHT

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

11.9.50 *SITE DESIGN STANDARDS*

PUD shall comply with the following site design standards:

11.9.51 BUILDING SITES

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

11.9.52 ACCESS

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

11.9.53 NATURAL RESOURCES

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

A. SETBACKS

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

B. HILLSIDES

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

C. WILDLIFE

Protecting wildlife habitats and migration corridors.

11.9.54 CONNECTIVITY, CIRCULATION

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

11.9.55 PEDESTRIAN SYSTEM

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

11.9.56 INTEGRATION, COMPATIBILITY

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

11.9.57 HUMAN INTERACTION

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

11.9.58 GROWTH POLICY

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

11.9.60 STATEMENTS OF STANDARDS

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

11.9.70 REQUIRED FINDINGS

Approval of a PUD shall require the Zoning Commission making the following findings of fact:

11.9.71 GROWTH POLICY

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

11.9.72 CONSISTENT WITH PURPOSE, INTENT

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

11.9.73 **COMPLIES WITH STANDARDS**

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

11.9.74 **NO ADVERSE IMPACT**

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

11.9.80 *EXPIRATION*

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

11.9.81 **FUNCTIONALITY**

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

11.9.82 **VISUAL BLIGHT**

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

11.9.83 **COMMUNITY CHANGES**

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

Article 11.10.0

STANDARDS FOR SPECIFIC USES

11.10.10 *CONDITIONAL USES*

11.10.11 PURPOSE AND INTENT

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

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

11.10.12 FINDINGS OF FACT

The Board of Adjustment shall make Findings of Fact that a Conditional Use complies with the following standards as a prerequisite to granting a CUP.

A. CONSISTENT WITH GROWTH POLICY

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

B. COMPATIBILITY

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

C. MINIMIZES ADVERSE IMPACT

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

D. MINIMIZES ADVERSE ENVIRONMENTAL IMPACT

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

E. IMPACT ON PUBLIC FACILITIES AND SERVICES

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

F. HAZARD, NUISANCE

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

G. OTHER CODES

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

11.10.13 APPLICABILITY

An approved CUP shall run with the land and may be transferred to another. The Town Council may place the following conditions to mitigate any adverse impact from the project:

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

11.10.14 EXPIRATION, DISCONTINUANCE OR ABANDONMENT

An approved CUP shall expire on the one (1) year anniversary date of approval if the permit is not put to use, unless an alternate timeline is established in the development approval. If a Conditional Use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months, regardless of the removal or non-removal of furniture/equipment or any intention to resume such activity in the future, the Conditional Use may not be

reestablished or resumed. Any subsequent use of the site shall conform to this Ordinance. A timeframe shall be established at approval for use of the conditional use permit.

11.10.20 *USE SPECIFIC STANDARDS*

11.10.21 PURPOSE AND INTENT

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

11.10.22 SPECIFIC USES

A. BED AND BREAKFASTS

1. Definition

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

2. Maximum Number of Rooms

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

3. Meals

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

4. Duration of Stays

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

5. Residential, Historic Character

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

6. Parking

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

B. DAY CARE CENTERS

1. Definitions

a. Day Care Center

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

b. Day Care Home

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

2. License, Registration Certificates

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

3. Compatible Appearance

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

4. Centers for Children

a. Outdoor Play Area

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

b. Fence

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

C. HOME OCCUPATIONS

1. Purpose and Intent

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

2. Standards

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

- a. One per Residence
Not more than one (1) Home Occupation can be located on a single-Household lot or property as an Accessory Use.
- b. Residents
A Home Occupation shall employ at least one (1) resident of the home with which the Home Occupation is associated and may include one (1) non-resident employee.
- c. Character
Home Occupations shall not diminish the residential character of the property.
- d. Inside Structure
Except for agricultural activities, Home Occupations shall be carried out within the dwelling unit or accessory structure.
- e. Maximum Area
Home Occupations shall not occupy more than thirty-three (33) percent of the total floor area of all dwelling units, including accessory buildings.
- f. Equipment
Mechanical equipment used in connection with the Home Occupations shall be limited to equipment normally found in a dwelling unit, including accessory buildings.
- g. Outside Storage
Outside storage of equipment, materials, merchandise, inventory or heavy equipment that is associated with the Home Occupation shall be prohibited.
- h. Parking
Off-street parking shall be provided pursuant to Section **Error! Reference source not found.**, Parking and Loading Standards.
- i. Trucks Prohibited
No trucks, vehicles with a manufacturer rated capacity of two (2) tons or equipment shall be parked overnight on the street or on the premise unless totally enclosed in a building.
- j. Deliveries
Delivery trucks shall not operate from the residential property. This standard does not prohibit infrequent deliveries in a truck or vehicle to/from the occupants of the dwelling unit.

k. Nuisance Prohibited

Home Occupations shall not create a fire hazard, adversely affect neighboring property values or constitute a nuisance or detrimental condition for neighboring property from excessive traffic, noise, odor, vibrations, electrical disturbance or other impact.

l. Hazardous Material Prohibited

The storage of flammable liquids in excess of ten (10) gallons or hazardous materials related to the Home Occupation is prohibited in the dwelling unit, accessory buildings or parked vehicles.

3. Single Household Standards

The residence containing the Home Occupation shall comply with all applicable standards for single-Household dwellings in the zoning district in which it is located.

D. MANUFACTURED HOME COMMUNITIES

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

1. State requirements

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

2. Lot improvements

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

3. Utility Hookup

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

4. Permanent Foundations and Anchoring

All manufactured homes shall be required to be tied or otherwise physically anchored in accordance with HUD or the manufactured home

builder's requirements. The method of anchoring and foundations shall be specified as part of the required preliminary development review.

5. Skirting

Each manufactured home shall be skirted within fifteen (15) days and be of a type designed specifically for manufactured homes as provided in Section 11.10.22(D)(11)(e). Hay bales, foam insulation such as blue board, lattice and other similar building materials are prohibited.

6. Curb, Gutter and Sidewalks

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

7. Setbacks

Each manufactured home shall be set back from all adjacent structures a minimum of fifteen feet (15') to protect against fires and combustible items.

8. Offensive Activity

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

9. Pre-1976 Units

A manufactured home constructed prior to 1976 may be placed in the manufactured home park.

10. Sales

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

11. Maintenance

a. There shall be no exposed outdoor storage of furniture (except lawn furniture), household goods, tools, equipment, or building materials or supplies.

b. No manufactured home may be parked on a public or private street for more than 24 hours.

c. An abandoned, burned, or wrecked manufactured home must be secured against entry and may not be kept on a lot for more than forty-five (45) days.

- d. Each manufactured home must bear an insignia which attests that the construction of the manufactured home meets regulation A 119.1 of the American National Standards Institute (adopted by the U.S. Department of Housing and Urban Development), or be certified as meeting the Manufactured Home Construction and Safety Standards of the U.S. Department of Housing and Urban Development.
 - e. Within fifteen (15) days of placement, standard manufactured home skirting of fire-resistive material that meets fire resistance ratings and is of similar in character to that of the manufactured home must be provided around the entire perimeter of the manufactured home between the bottom of the body of the manufactured home and the ground, except where the running gear has been removed and the manufactured home itself is attached directly to a permanent foundation.
 - f. All private, commonly owned recreation areas not devoted to buildings, structures, surfaced courts, sand boxes, etc., shall be landscaped and irrigated.
12. Manufactured Home Lots for Rent or Lease
- All units shall be arranged to permit the practical placement and removal of manufactured homes. Every lot for rent or lease must front on a public or private street.
13. Permits and Inspections
- a. Owner's and Agent's Responsibility
- It shall be the responsibility of the individual property owners or, in the case of a rental community, the managers of the rental community, to see that all sections of this article are complied with, including requirements relative to placement of manufactured homes, and all required permits.
- b. Permits must be obtained for additions, alterations, canopies, carports, storage areas and detached refrigeration units that were not included in the original sale of the manufactured home unit.
14. The Preliminary and Final Plans Shall Accurately Depict:
- a. All Proposed and Required Landscaping
 - b. Storage Areas
 - c. A Layout of Typical Lots
- All lots for rent or lease, showing the location and dimensions of the lot, manufactured home stand, driveway and parking spaces, and maximum size of home allowed on each lot;

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

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

- g. Landscaping Buffer

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

E. MODULAR HOMES ON A SINGLE LOT

A modular home means a single-household dwelling, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States department of housing and urban development at the time of its production. A modular home does not include a travel or house trailer, a recreational vehicle or a manufactured home.

F. RECREATIONAL VEHICLE PARK

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

- 1. State requirements

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

- 2. Lot improvements

The location of boundaries of each space for rent or lease shall be clearly and permanently marked on the ground with flush stakes, markers or

other suitable means. The location marked must be closely approximate to those depicted on the approved plans.

3. Utility Hookup

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

4. Skirting

Skirting is not required for RV units, travel trailers, campers, or similar structures. FEMA emergency trailers shall be skirted. If the owner of an RV unit, travel trailer, camper, or similar structure does skirt their respective unit, then skirting shall be of a type designed specifically for recreational vehicles. Hay bales, foam insulation such as blue board, lattice and other similar building materials are prohibited. Stamped foam insulation specifically made for manufactured homes is allowed through the building permit process

5. Setbacks

Each space shall ensure that units are set back from all adjacent structures, including other recreational vehicles, a minimum of fifteen feet (15') to protect against fires and combustible items including propane tanks.

6. Propane Tanks

Unless otherwise provided as a central propane system for the entire park, each space shall be limited to factory equipment propane tanks. Each tank must be set back a minimum of fifteen feet (15') from adjacent structures and other propane tanks; however, the propane tank may be located closer than fifteen feet (15') on the same lot as the unit to which it serves.

7. Offensive Activity

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

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

9. Permits and Inspections
 - a. Owner's and Agent's Responsibility

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

The required inspections for recreational vehicle parks shall include: on-site utilities requirements including gas, electric, sewer and water; setback requirements; and off-street parking requirements.

10. The Preliminary and Final Plans Shall Accurately Depict:
 - a. All Proposed and Required Landscaping
 - b. Storage Areas
 - c. Recreational vehicles storage and other chattels of the residents;
 - d. A Layout of Typical Lots

All lots for rent or lease, showing the location and dimensions of the lot, driveway, and parking spaces;
 - e. Mail Delivery Area
 - f. Permanent Enclosure for Temporary Storage of Garbage

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

g. Landscaping Buffer

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

G. ACCESSORY DWELLING UNIT (GUEST HOUSE)

1. Relationship to Principal Dwelling

a. Attached, Separate

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

b. Dimensional Standards

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

c. Not Sold Separately

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

d. Permanent Structure

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

2. Size

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

3. One per Lot

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

4. No Home Occupation

A Guest House shall not contain a Home Occupation.

5. Parking

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

H. SEXUALLY ORIENTED BUSINESS

Sexually Oriented Business shall comply with the following standards.

1. Definition

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

2. Separation from Other Uses

A building containing a Sexually Oriented Business shall be setback a minimum of one hundred (100) feet from the boundary of a lot or a parcel that contains a church, public or private school, Public Park, or a Medical Marijuana Dispensary.

3. Separation from another Sexually Oriented Business

A Sexually Oriented Business shall not be located, or an existing business expanded, within two hundred (200) feet from another Sexually Oriented Business.

4. One per Building

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

5. Measurement

For the purpose of determining compliance with Subsection 11.10.22.H.2, Separation from Other Uses, above, measurement shall be made in a straight line measured from the lot line of the Sexually Oriented Business to the lot line containing a church, school, public park, Medical Marijuana Dispensary or another Sexually Oriented Business.

6. No Alcohol

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

I. MARIJUANA DISPENSARY

1. Definition

A Marijuana Dispensary is a facility where marijuana is made available for purposes in accordance with Montana code and all applicable Federal Rules and Regulations.

2. Separation from Other Uses

A building containing a Marijuana Dispensary shall be setback a minimum of 100 feet from the boundary of a lot or parcel that contains a church, public or private school, Public Park or a Sexually Oriented Business.

3. Separation from another Dispensary

A Marijuana Dispensary allowing on-site consumption shall not be located within 200 feet from another Marijuana Dispensary or a Sexually Oriented Business.

4. Measurement

For the purpose of determining compliance with Subsection 11.10.22.1.2 and 1.3, Separation from Other Uses and Separation from another Dispensary, above, measurement shall be made in a straight line without regard to intervening structures or objects from the nearest portion of the building or structure containing the Marijuana Dispensary to the nearest property line of the lot or parcel that is a church, school, public park or a Sexually Oriented Business.

5. Compliance with State and Federal Codes

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

J. PROPANE BULK STORAGE

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

11.10.23 OUTSIDE STORAGE

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

11.10.24 WIRELESS COMMUNICATION FACILITIES

A. PURPOSE AND INTENT

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

B. DEFINITIONS

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

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

C. EXEMPTIONS

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

D. APPROVALS

1. Antennas

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

2. Communication Towers

Wireless Communication Towers may be approved with a Conditional Use Permit pursuant to Section 11.10.10, Conditional Uses and further provided they comply with standards of this Section.

E. STANDARDS FOR COMMUNICATION TOWERS

1. Location

Wireless Communication Facilities may only be located in the AG Agricultural Zoning District.

2. No Attempt to Exclude

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

3. Excess Capacity

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

4. Tower Height

A roof or wall mounted antennae shall not extend more than twenty (20) feet above the height of the roof or wall on which the antennae are located. Free standing towers or antennae shall not exceed one hundred and twenty-five (125) feet in height.

5. Setbacks

Ground mounted facilities and buildings related to a Communications Tower shall comply with the setbacks of the zoning district in which they are located. A Communication Tower be setback from all property lines at least one quarter ($\frac{1}{4}$) foot for every foot of height of the tower but in no case less than the setback of the zoning district in which it is located.

6. Equipment Location, Visual Mitigation

a. Roof Mounted

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

b. Wall Mounted

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

c. Screening

Ground mounted wireless communication equipment shall be screened by walls in a manner compatible with the building design, color, and material, or by landscaping or a solid fence.

d. Color

Wireless communication equipment shall match as closely as practical the color, materials, and texture of the wall, building or surrounding built environment.

7. Signals, Lights Prohibited

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

8. No Hazard, No Interference

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

9. FAA Certification, FCC Standards

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

F. REMOVAL OF ABANDONED WIRELESS COMMUNICATION FACILITIES

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

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Article 11.11.0

STANDARDS OF GENERAL APPLICABILITY

11.11.10 *PURPOSE AND INTENT*

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

11.11.11 CUTS AND FILLS

A. MAXIMUM GRADE

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

B. SETBACK

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

C. TOE OF NATURAL SLOPE

Cutting the toe of a natural slope is prohibited.

11.11.12 DRAINAGE

Natural drainage channels shall be preserved.

11.11.13 SOILS

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

11.11.14 RETAINING WALLS/FENCING

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

11.11.20 *ENVIRONMENTAL REGULATIONS*

11.11.21 WETLANDS

Development shall comply with all applicable state and federal wetland regulations and standards. When a proposed development requires a state or federal wetland permit, the applicant shall include in the application for a Town permit copies of the applicable permits to

demonstrate compliance with the state or federal regulation. The Zoning Administrator may require verification that no such state or federal permit is required.

11.11.22 **WATER QUALITY**

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

11.11.23 **AIR QUALITY**

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

11.11.24 **FLOODPLAIN**

All development shall be setback at least fifty (50) feet from the ordinary high water mark of any floodplain.

11.11.30 ***INTERSECTION VISIBILITY***

11.11.31 **PURPOSE AND INTENT**

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

11.11.32 **APPLICABILITY**

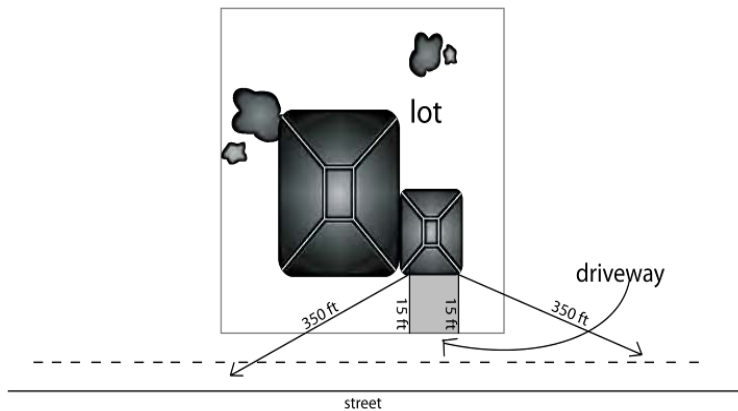
The standards of this Section apply to all development not exempted below. The standards of this Section shall not apply to:

- A. **EXISTING BUILDINGS**
 Permanent buildings existing on the effective date of this Ordinance.

- B. **CONTROLLED INTERSECTIONS**
 Stop sign controlled or traffic signal controlled intersections in the Central Business District (CLM).

11.11.33 ESTABLISHMENT OF SIGHT TRIANGLE

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



35 MPH Example.

11.11.34 STANDARD

A. HEIGHT

Within the area of the sight triangle, the height of mature landscaping, walls and fences shall not exceed two and one-half (2½) feet in height measured from the top of the existing curb grade or crown of abutting road, whichever is lower.

B. TREES

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

11.11.40 *INFRASTRUCTURE*

11.11.41 PURPOSE AND INTENT

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

11.11.42 REQUIRED INFRASTRUCTURE AND UTILITY IMPROVEMENTS

All developments shall provide and maintain safe and orderly infrastructure and utilities that connect to the infrastructure systems of the Town of Plevna and private utilities. All development shall provide access to water and wastewater systems, public streets or roads, pedestrian trails and/or sidewalks, and wire utilities such as electrical, cable television and telephone, and where available natural gas. Street lighting shall be provided by means of lighting fixtures. All infrastructure and utility improvements shall be extended to the furthest extent of a property.

11.11.43 PUBLIC WATER SUPPLY, PUBLIC WASTEWATER SYSTEM

A. CONNECTION TO MUNICIPAL SYSTEMS

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

B. CONSTRUCTION STANDARDS

1. Town, DEQ

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

2. Shared Use

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

C. DEVELOPER'S EXPENSE

1. Developer's Expense

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

2. Town Participation

At its sole discretion and subject to adopted ordinances controlling infrastructure, the Town may participate in funding the construction of infrastructure related to any development when an infrastructure facility is oversized to accommodate the current or future needs of adjacent properties.

11.11.44 PRIVATE UTILITIES

A. UNDERGROUND INSTALLATION

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

1. Above Ground Appurtenants

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

2. Connections to Above Ground Facilities

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

3. Existing Facilities

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

4. Transmission, Distribution Feeder Lines

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

B. CONSTRUCTION STANDARDS

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

C. STRUCTURES IN UTILITY EASEMENTS

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

D. DEVELOPER'S EXPENSE

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

1. Town Participation

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

2. Agreement

The Town and developer may enter into a "late comer's" agreement or a reimbursement agreement to allow access costs to be shared by owners of neighboring properties when the access will benefit the neighboring properties.

11.11.45 PEDESTRIAN ACCESS

All development, reconstruction, and new construction in the C-1 zone shall construct a sidewalk across the street frontages of the lot. The sidewalk(s) shall be within the public right-of-way at a location approved by the Plevna Public Works Director and extended to connect to existing sidewalks if present at the lot boundary. If sidewalks currently exist, they must remain in perpetuity and be replaced if damaged during construction.

A. EXEMPTIONS

Expansion to existing structures that increase the gross floor area by less than fifty (50) percent shall be exempt from installing sidewalks. Subdivisions that have been annexed without curb and gutter shall be exempt from required sidewalks.

B. ADA

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

C. COMMERCIAL/INDUSTRIAL DEVELOPMENT

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

D. CONSTRUCTION STANDARDS

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

E. LANDOWNER'S EXPENSE

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

11.11.46 DEVELOPMENT AGREEMENT

A. AGREEMENT REQUIRED

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

B. CONTENT OF AGREEMENT

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

1. Site Plan
The Development Agreement shall incorporate or reference an approved development plan.
2. Required Improvements
Detailed description of infrastructure and other improvements required as part of the approved development including specifications.
3. Costs
Costs of the improvements required in the initial phase and projected costs of improvements of any future phases.
4. Schedule for Completion
An established schedule of completion required in the initial phase and a projected completion schedule of any future phases.
5. Town Completion
A process by which the Town may, if necessary, complete the required improvements using the surety or financial guarantee provided by the developer.
6. Renegotiation
A process by which either the developer or the Town may request a renegotiation of the agreement.
7. Transfer
A process by which the agreement may be transferred with the prior written approval of the Town Council.
8. Guarantee
The form of the financial surety or guarantee shall be specified.
9. Warranty
A statement or warranty for the materials and workmanship pursuant to Subsection G, Warranty of Improvements, below.

C. PHASING

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

D. EFFECT OF AGREEMENT

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

E. GUARANTEE

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

F. INSPECTION AND ACCEPTANCE OF IMPROVEMENTS

1. Inspection Required

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

2. Developer Request

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

3. Improvements Accepted

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

4. Fees

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

G. WARRANTY OF IMPROVEMENTS

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

1. Warranty Enforcement

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

a. Escrow

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

b. Letter of Credit

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

c. Use of Funds

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

2. Release of Funds

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

11.11.50 STORM WATER MANAGEMENT AND EROSION CONTROL

11.11.51 PURPOSE AND INTENT

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

11.11.52 APPLICABILITY

All developments, not exempted below in Section 11.11.53 Exemptions, proposing to disturb a cumulative total of more than 20,000 square feet of contiguous impervious coverage shall comply with the standards of this Section, and meet Montana Department of Environmental Quality Regulations.

11.11.53 EXEMPTIONS

Development in the Central Business Zoning District (C-1) shall be exempt from this section.

11.11.54 STORM WATER RUNOFF AND EROSION CONTROL PLAN

Any application for a development permit, including a building permit if no other development application is required, not exempted in Section 11.11.53 Exemptions, shall include a storm water runoff and erosion control plan. The plan shall contain plans, calculations and techniques that demonstrate compliance with the standards of this Section and shall be prepared by a professional engineer licensed in the State of Montana.

11.11.55 STANDARDS

A. PRE-DEVELOPMENT DISCHARGE

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

B. VELOCITIES MINIMIZED

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

C. STORM WATER DETENTION

On site storm water facilities shall be designed and constructed to detain a 2-year storm event that is one (1) hours in duration, while meeting Section 11.11.55.A Pre-development Discharge.

D. MAINTENANCE

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

E. RETENTION OF VEGETATION

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

F. DISTURBED AREAS MINIMIZED

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

G. SILT FENCING

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

H. WATER QUALITY

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

11.11.60 OPERATIONAL PERFORMANCE STANDARDS

11.11.61 PURPOSE AND INTENT

The purposes and intent of this Section is to establish performance standards that ensure developments and land uses do not become dangerous or objectionable to neighbors or the

general community. It is the purpose and intent of this Section that all land uses and related activities are maintained and operated to avoid detracting from the health, safety and welfare of the citizens of Plevna.

11.11.62 AIR QUALITY

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

11.11.63 COMBUSTIBLES AND EXPLOSIVES

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

11.11.64 HAZARDOUS MATERIALS STORAGE

A. STATE, FEDERAL REGULATIONS

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

B. OTHER TOWN CODES

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

11.11.65 NOISE

A. NOISE LEVELS

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

Noise Levels		
Zoning District in which the Sound is Generated	Maximum Sound Level	Quiet Hours
R-1, R-2	70 dBA	Reduce to 60 dBA from 10:00 pm to 6:00 am
C-1, B-C	80 dBA	Reduce to 70 dBA from 12:00 am to 7:00 am
AG	85 dBA	Reduce to 75 dBA from 12:00 am to 7:00 am

B. EXCEPTIONS

Notwithstanding the noise limitations established, exceptions to the Subsection are:

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

C. MEASUREMENT

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

11.11.66 JUNK VEHICLES

A. CERTIFICATION

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

B. VIOLATION

It shall be unlawful to park or store three (3) or more junk vehicles on private property. Such a violation shall be deemed a nuisance subject to abatement including fines, fees and/or removal of vehicle from property.

C. EXCEPTIONS

The provisions of this chapter relating to junk vehicles shall not apply to a vehicle or part thereof which: (1) is not visible from the public street or other public or private property; or (2) is stored or parked in a lawful manner on fenced private property in connection with the business of a licensed hulk hauler, tow truck operator, dismantler, repair facility, or motor vehicle dealer and is fenced.

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Article 11.12.0 NONCONFORMITIES

11.12.10 *PURPOSE AND INTENT*

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

11.12.20 *NONCONFORMING USES*

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

11.12.21 *NORMAL MAINTENANCE OR REPAIR*

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

11.12.22 *ENLARGEMENT OR EXPANSION*

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

A. *ADA*

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

11.12.23 *CHANGE IN USE*

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

11.12.24 DISCONTINUANCE OR ABANDONMENT

If a nonconforming use is operationally discontinued or abandoned for a period of more than twelve (12) consecutive months regardless of the removal or non-removal of furniture/equipment or any intention to resume such activity in the future, such use may not be reestablished or resumed including using residential structures for storage of materials. Any subsequent use of the site shall conform to this Ordinance.

11.12.25 REPAIRS OF PARTIALLY DESTROYED STRUCTURES

A. MORE THAN FIFTY PERCENT

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

B. LESS THAN FIFTY PERCENT

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

1. Not Larger

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

2. One Year

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

11.12.30 *NONCONFORMING STRUCTURES*

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

11.12.31 NORMAL MAINTENANCE AND REPAIR

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

11.12.32 ENLARGEMENT OR EXPANSION

A. ALTERATION

Any alteration, addition, expansion or enlargement to a legally nonconforming structure must meet all applicable standards in effect at the time a permit is issued for the alteration, addition, expansion or enlargement. The alteration, addition, expansion or enlargement shall not increase the nonconformity.

11.12.33 **RELOCATION**

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

11.12.34 **UNSAFE BECAUSE OF MAINTENANCE**

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

11.12.35 **REPAIRS OF PARTIALLY DESTROYED STRUCTURES**

A. MORE THAN FIFTY PERCENT

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

B. LESS THAN FIFTY PERCENT

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

1. Not Larger

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

2. One Year

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

11.12.40 ***NONCONFORMING LOT OF RECORD***

11.12.41 **CONSOLIDATION**

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

11.12.42 **BOUNDARY LINE ADJUSTMENT**

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

11.12.43 DEVELOPMENT OF LOT

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

Article 11.13.0 ADMINISTRATION

11.13.10 ORGANIZATION OF ARTICLE

11.13.11 OVERVIEW OF DUTIES AND RESPONSIBILITIES

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

11.13.12 DECISION MAKING AND ADMINISTRATIVE BODIES

Section 11.13.30, Duties and Responsibilities of Decision Making and Administrative Bodies, sets out the detailed authority, duties and responsibilities of the various decision making and administrative bodies in the review processes of this Ordinance.

11.13.13 COMMON REVIEW PROCEDURES

Section 11.13.80 Supplementary Review Procedures Common Procedures, establishes the common review procedure that applies to all permits unless certain supplementary procedures are created in subsequent sections of this Ordinance.

11.13.14 PUBLIC HEARING, PUBLIC NOTICE

Section 11.13.80 Supplementary Review Procedures, establishes supplementary review procedures for certain permits that either supplement or replace a portion of the common review procedures.

11.13.15 SUPPLEMENTARY REVIEW PROCEDURES

Section 11.13.80 Supplementary Review Procedures, establishes supplementary review procedures for certain permits that either supplement or replace a portion of the common review procedures.

11.13.20 OVERVIEW OF DUTIES AND RESPONSIBILITIES

	Zoning Administrator	Zoning Commission	Board of Adjustment	Mayor & Town Council
Receive Applications	A			
Determine Completeness	A			
Residential Development of 1 or 2 Units	A			
Residential Development of 3 or More Units	R			A
PUD	R	R		A
Appeal	R		A	
CUP	R		A	
	Zoning Administrator	Zoning Commission	Board of Adjustment	Mayor & Town Council
Variance	R		A	
Zoning Map Amendment	R	R		A
Zoning Ordinance Amendment	R	R		A
Enforcement Action	A			
Annexation	R	R		A
Appoint Zoning Administrator				A
Appoint Members of Boards & Commissions				A

11.13.30 DUTIES AND RESPONSIBILITIES OF DECISION MAKING AND ADMINISTRATIVE BODIES

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

11.13.31 MAYOR AND TOWN COUNCIL

A. POWERS AND AUTHORITY

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

1. **Appoint Zoning Administrator**
The Mayor, with the consent of the Town Council shall appoint a Zoning Administrator and a Building Official. The Zoning Administrator and Building Official may be employees of the Town of Plevna or contract consultants.
2. **Appoint Planning Board, Zoning Commission, and Board of Adjustment**
The Mayor shall appoint and the Town Council shall consent to appointing members of the Planning Board, Zoning Commission, and Board of Adjustment.
3. **Growth Policy**
The Mayor and Town Council shall have the authority to adopt the Plevna *Growth Policy* and, from time to time, approve or disapprove amendments to the *Growth Policy*.
4. **Zoning Ordinance and Zoning Map**
The Mayor and Town Council shall have the authority to adopt the Plevna Zoning Ordinance and the Official Zoning Map of the Town of Plevna, and from time to time, approve or disapprove amendments to the Ordinance and Map.
5. **Planned Unit Development**
To hear, consider and approve, approve with conditions or disapprove applications for Planned Unit Developments.
6. **Annexations**
The Mayor and Town Council shall have the authority to approve, approve with conditions or disapprove applications for annexation of land to the Town of Plevna.
7. **Other Actions**
The Mayor and Town Council shall have the authority to take other action not delegated to another decision making or administrative body that the Mayor and Town Council deem necessary and desirable to implement provisions of the *Growth Policy* or this Ordinance.

11.13.32 ZONING COMMISSION

A. ESTABLISHMENT

There is hereby reaffirmation of the creation and existence of the Plevna Zoning Commission.

B. DUTIES AND AUTHORITY

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

1. **Adopt Ordinances**
To initiate, hear, consider, and make recommendations to the Mayor and Town Council on the adoption of this Ordinance and other ordinances, regulations and codes authorized by general or specific law.
2. **Amend Ordinances**
To initiate, hear, consider, and make recommendations to the Mayor and Town Council on amendments to this Ordinance and to other ordinances, regulations and codes authorized by general or specific law.
3. **Adopt Zoning Map**
To initiate, hear, consider, and make recommendations to the Mayor and Town Council on the adoption of the Official Zoning Map of the Town of Plevna.
4. **Amend Zoning Map**
To initiate, hear, consider, and make recommendations to the Mayor and Town Council on amendments to the Official Zoning Map of the Town of Plevna.
5. **Planned Unit Development**
To initiate, hear, consider, and make recommendations to the Mayor and Town Council on applications for Planned Unit Developments.
6. **Annexation**
To initiate, hear, consider, and make recommendations to the Mayor and Town Council on approval, approval with conditions or disapproval of applications for annexation of land to the Town of Plevna.
7. **Other Actions**
To undertake and execute other duties the Mayor and Town Council deems necessary and desirable to assign to the Zoning Commission.

11.13.33 **BOARD OF ADJUSTMENT**

A. ESTABLISHMENT

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

B. POWERS AND AUTHORITY

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

1. **Appeals**

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

or overturn the decision. In so doing, the Board shall have the powers to the officer or Board/Commission from whom the appeal is taken.

2. Variances

To hear, consider and approve, approve with conditions, or disapprove applications for variances from the terms of this Ordinance pursuant to Section 11.13.81 Variance.

3. Conditional Uses

To hear, consider and approve, approve with conditions, or disapprove applications for Conditional Use Permits pursuant to the terms and procedures of this Ordinance.

11.13.34 ZONING ADMINISTRATOR

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

A. INTERPRET ORDINANCE

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

B. RECEIVE APPLICATIONS, DETERMINE COMPLETENESS

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

C. APPROVE DEVELOPMENT PERMITS

Review, consider and approve, approve with conditions, or disapprove applications for which the terms and procedures of this Ordinance assign Final Action to the Zoning Administrator. Applications for which the Zoning Administrator has authority to approve or disapprove include residential development containing up to three (3) residential units, new construction, or a change of use of non-residential developments of 2,000 square feet or less of gross floor area, signs, fences, walls, grading and other applications for which authority for Final Action has not been assigned to another decision-making body.

D. RECOMMENDATIONS

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

E. MINOR DEVIATIONS

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

F. ADMINISTRATIVE DUTIES

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

G. INSPECTIONS, ENFORCEMENT

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

H. LEGAL ACTION

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

I. OTHER DUTIES

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

11.13.40 *COMMON PROCEDURES*

11.13.41 GENERAL

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

11.13.42 APPLICATION FORMS

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

11.13.43 FEES

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

11.13.44 PRE-APPLICATION CONFERENCE

A. PRE-APPLICATION CONFERENCE REQUIRED

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

B. INITIATION OF PRE-APPLICATION CONFERENCE

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

C. SCHEDULING OF PRE-APPLICATION CONFERENCE

Upon receipt of a request for a pre-application conference, the Zoning Administrator shall schedule the pre-application conference. The pre-application conference shall be held within fifteen (15) calendar days of receipt of the request for such a conference.

D. PRE-APPLICATION CONFERENCE PURPOSES

The purpose of the pre-application conference is to familiarize the Town officials with the general location and character of the proposed development, identify the applicable provisions of requirements shall be derived from the checklist of submittal items with certain items waived or this Ordinance, and provide the applicant the submittal requirements for the application. The submittal modified to reflect the size, scale and type of the proposed development. At the pre-application conference, the applicant and the Zoning Administrator shall discuss the proposed development, and based upon the information provided by the applicant, identify the provisions of this Ordinance that apply to the proposed development. During the subsequent review of the development plan or upon submission of more detailed information about the proposed development, additional provisions of this Ordinance may be identified at a later time to be applicable.

E. WRITTEN SUMMARY

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

F. EXPIRATION OF PRE-APPLICATION CONFERENCE

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

11.13.45 SUBMISSION OF APPLICATION AND DETERMINATION OF COMPLETENESS

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

A. INITIATION

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

B. REQUIRED CONTENTS OF APPLICATION

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

C. DETERMINATION OF COMPLETENESS

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

1. Determined Incomplete

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

2. Determined Complete

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

11.13.46 PROCEDURES FOR ZONING ADMINISTRATOR DECISIONS

A. AUTHORITY FOR FINAL ACTION

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

B. RECLASSIFY APPLICATION

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

C. STAFF REVIEW, STAFF REPORT AND DECISION

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

D. ISSUANCE OF PERMIT, CORRECTED APPLICATION

If the Zoning Administrator finds the application complies with the applicable standards of this Ordinance and all other applicable ordinances and regulations, the permit shall be issued within fifteen (15) working days. If it is determined that the application does not comply with the applicable standards of this Ordinance or other ordinances and regulations, the applicant shall be notified in writing of the deficiencies and be provided sixty (60) calendar days from the written notice to submit a corrected application. If a corrected application is received, the Zoning Administrator shall approve, approve with conditions or disapprove the corrected application based on the applicable standards of this Ordinance and other applicable ordinances and regulations within fifteen (15) working days of receipt of the revised application. If the application is not resubmitted within sixty (60) calendar days from said written notice, the application shall be considered withdrawn.

E. PUBLIC NOTICE AFTER DECISION

The Zoning Administrator shall post a Record of Decision (ROD) at Town Hall following a final decision. Any aggrieved party may appeal the Zoning

Administrator's decision within thirty (30) calendar days of the date the ROD is posted at Town Hall.

F. EXPIRATION OF PERMIT

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

11.13.47 PROCEDURES FOR DECISIONS BY ZONING COMMISSION OR BOARD OF ADJUSTMENT

A. AUTHORITY FOR FINAL ACTION

The review and decisions on applications for which the Zoning Commission or the Board of Adjustment have authority of Final Action shall occur pursuant to the standards of this Section, except appeals of prior decisions. See Section 11.13.82 Appeals for the applicable procedure to consider Appeals.

B. ZONING ADMINISTRATOR RECOMMENDATION

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

C. SCHEDULING OF PUBLIC HEARING

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

D. PUBLIC HEARINGS, PUBLIC NOTICE

The Zoning Commission or Board of Adjustment, whichever is applicable, shall conduct a public hearing on the application pursuant to the procedures of Section 11.13.60 Public Hearing Procedure, and a written notice of the public hearing shall be mailed by first class mail to owners of all land that is adjacent/adjoining to the site for which the application is submitted pursuant to Section 11.13.70 Public Notice.

E. DECISION

Within thirty (30) calendar days of the close of the public hearing, the Zoning Commission or Board of Adjustment, whichever is applicable, shall approve,

approve with conditions or deny the application based upon the standards and procedures of this Ordinance. Written notice of the decision containing the required findings of fact and conclusions reached by the Board shall be provided to the applicant within fifteen (15) calendar days of the decision. Written notice of a denial shall specify the reasons for denial.

F. ISSUANCE OF PERMIT

If the application is approved, the Zoning Administrator shall issue a permit at the first practical opportunity that describes any conditions of approval established by the Board and the expiration date.

G. EXPIRATION OF A PERMIT

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

11.13.50 ***PROCEDURES FOR DECISIONS BY MAYOR AND TOWN COUNCIL***

A. AUTHORITY FOR FINAL ACTION

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

B. ZONING ADMINISTRATOR RECOMMENDATION

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

C. SCHEDULING OF PUBLIC HEARING

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

D. PUBLIC HEARINGS, PUBLIC NOTICE

The Zoning Commission, if necessary, shall conduct a public hearing on the application pursuant to the procedures of Section 11.13.60 Public Hearing Procedure, and a written notice of the public hearing shall be mailed by first class mail to owners of all land that is adjacent/adjointing to the site for which the application is submitted pursuant to Section 11.13.70 Public Notice.

E. ZONING COMMISSION RECOMMENDATION

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

F. SCHEDULING OF PUBLIC MEETING

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

G. DECISION

Within thirty (30) calendar days of the close of their meeting, the Mayor and Town Council shall approve, approve with conditions or deny the application based upon the standards and procedures of this Ordinance. Written notice of the decision containing the required findings of fact and conclusions reached by the Mayor and Council shall be provided to the applicant within fifteen (15) calendar days of the decision. Written notice of a denial shall specify the reasons for denial.

H. ISSUANCE OF PERMIT

If the application is approved the Zoning Administrator shall issue a permit at the first practical opportunity that describes any conditions of approval established by the Mayor and Council and the expiration date.

I. EXPIRATION OF A PERMIT

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

11.13.60 *PUBLIC HEARING PROCEDURE*

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

11.13.61 NOTICE

Written notice of the public hearing, pursuant to Section 11.13.70 Public Notice, shall be sent by first class mail to the owner of the property that is subject to the public hearing and to owners of land that is adjacent/adjoining to the property that is subject to the public hearing. In addition to the mailed notice, a Public Notice of the hearing shall be published in a newspaper

of general local circulation that describes the application and provides the time, date, and place of the public hearing. The Public Notices shall be mailed and the published notice shall appear in a newspaper of general local circulation no later than fifteen (15) calendar days prior to the public hearing.

11.13.62 ANNOUNCEMENT

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

11.13.63 RIGHT TO SPEAK

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

11.13.64 STAFF REPORT PRESENTATION

The Zoning Administrator shall present the Staff Report.

11.13.65 APPLICANT PRESENTATION

The applicant shall present any information the applicant deems appropriate.

11.13.66 PUBLIC STATEMENTS

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

11.13.67 APPLICANT RESPONSE

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

11.13.68 STAFF RESPONSE

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

11.13.69 DELIBERATION, DECISION

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

11.13.610 RECORD OF PROCEEDINGS

The public hearing and meeting shall be audio taped and the tape shall be retained by the Town for a minimum of one (1) year. A recording secretary shall record written minutes of the public

hearing. All exhibits, reports, evidence, and written materials submitted during the public hearing shall be retained by the Town as part of the record of the proceeding.

11.13.611 CONTINUANCE

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

11.13.70 *PUBLIC NOTICE*

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

11.13.71 TYPE OF APPLICATION

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

11.13.72 DESCRIPTION OF DECISION

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

11.13.73 NAME OF OWNER, APPLICANT

The name of the land owner, applicant and/or agent.

11.13.74 LOCATION OF LAND

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

11.13.75 LOCATION, DATE, TIME

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

11.13.76 WHERE INFORMATION AVAILABLE

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

11.13.77 PROPOSED USE

A description of the type of use being proposed.

11.13.80 *SUPPLEMENTARY REVIEW PROCEDURES*

11.13.81 VARIANCE

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

A. PROCEDURE

The Board of Adjustment is assigned authority for Final Action on Variance applications. These applications are reviewed and decided pursuant to procedures in Section 11.13.47 Procedures for Decisions by Zoning Commission or Board of Adjustment.

B. STANDARDS

Approval of a Variance shall require the Board of Adjustment making each of the following Findings of Fact:

1. Special Conditions

There are special circumstances or conditions that are peculiar to the land or building for which the Variance is sought that do not apply generally to land or buildings in the neighborhood; and

2. Not Result of Applicant

The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent this Ordinance; and

3. Strict Application Unreasonable

Due to the special circumstances or conditions, the strict application of this Ordinance would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner; and

4. Necessary to Provide Reasonable Use

Granting the Variance is necessary to provide a reasonable use of the land or building; and

5. Minimum Variance

The Variance is the minimum variance necessary to allow a reasonable use of the land or building; and

6. Not Injurious

Granting the Variance will not be injurious to the neighborhood or detrimental to the public welfare; and

7. Consistent with Ordinance

Granting the Variance is consistent with the purposes and intent of this Ordinance. A variance to the Allowed Uses of a zoning district is prohibited.

C. CONDITIONS

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

D. EXPIRATION

A Variance shall expire one (1) year from the date of approval if the next logical step in the development process is not commenced. The next step in the

development process includes but is not limited to applying for a building permit, commencing the use or applying for a Development Permit.

11.13.82 APPEALS

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

A. INITIATION

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

B. CONTENTS OF APPEAL

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

C. SCHEDULING OF HEARING

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

D. PRODUCE RECORD

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

E. HEARING

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

F. DECISION

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

Article 11.14.0 ENFORCEMENT

11.14.10 *PURPOSE AND INTENT*

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

11.14.20 *GENERAL*

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

11.14.30 *VIOLATIONS*

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

A. ESTABLISH USE OR STRUCTURE WITHOUT PERMIT OR APPROVAL

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

B. DEVELOPMENT WITHOUT PERMIT OR APPROVAL

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

C. ESTABLISH USE OR DEVELOPMENT INCONSISTENT WITH PERMIT

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

D. ESTABLISH USE OR DEVELOPMENT INCONSISTENT WITH ORDINANCE

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

E. CREATE A NONCONFORMING CONDITION

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

11.14.40 *CONTINUING VIOLATIONS*

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

11.14.50 *RESPONSIBILITY OF ENFORCEMENT, COMPLIANCE*

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

11.14.60 *ENFORCEMENT PROCEDURES*

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

A. INSPECTION

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

B. WITHHOLD PERMIT

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

C. CONDITION A PERMIT

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

D. REVOCATION OR SUSPENSION OF PERMIT

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

1. Departure from Plans

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

2. False Representation

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

3. Violation

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

E. STOP WORK ORDER

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

F. INJUNCTIVE RELIEF

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

G. ABATEMENT

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

H. CIVIL REMEDIES

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

I. CUMULATIVE REMEDY

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

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Article 11.15.0 DEFINITIONS

11.15.10 *PURPOSE AND INTENT*

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

11.15.20 *HIERARCHY OF REFERENCES FOR DEFINITIONS*

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

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

11.15.30 *USE OF SINGULAR AND PLURAL*

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

11.15.40 DEFINITIONS

1. **Accessory Dwelling Unit.** A subordinate building located on the same lot as the principal dwelling unit and is specifically used for residential purposes. Where part of an accessory dwelling unit is connected to part of the principal dwelling unit by a common wall, the accessory dwelling unit shall still be considered a subordinate building.
2. **Accessory Use, Building.** Accessory uses and buildings are separate uses or buildings that are customarily associated with and clearly subordinate to the principal use or principal building, ordinarily located on the same lot.
3. **Adjacent/Adjoining.** Includes all lots or parcels that directly border a subject lot or parcel on which a development is proposed, and all lots or parcels separated from that subject lot or parcel by only a public or private easement or right-of-way, including streets, railroads, and irrigation canals, or by a creek. Lots or parcels that adjoin only corner-to-corner, including those lots or parcels where corners are separated by a public or private easement or right-of-way, or creek are adjacent and adjoining.
4. **Administrator.** The Town employee(s) or contractor(s) appointed by the Mayor and confirmed by the Council, who is (are) responsible for the administration of this Ordinance or any part of it. Also, includes the Zoning Administrator.
5. **Applicant.** The property owner, developer, or designated agent who submits an application for development under this Ordinance.
6. **Arterial Street.** A street designed to move a high volume of traffic and generally connects major parts of the Town and major traffic generators.
7. **Assisted Living.** A congregate residential setting that provides or coordinates for the residents of the property personal care and assistance that is to occur on less than a 24-hour basis. The care and assistance may be both scheduled and unscheduled, and include activities and health-related services. Assisted Living does not include a nursing home or long term care facilities.
8. **Bed and Breakfast.** A single-household dwelling which remains owner-occupied at all times providing one or more guest rooms for compensation, and where food service is limited to breakfast which may be served to overnight guests only.
9. **BOA.** The Board of Adjustment, as required by Section 76-2-222. MCA.
10. **Building.** A structure enclosed by a roof and walls on all sides that is used or intended to be used to shelter any use or occupancy, including the parking or storage of vehicles.
11. **Building Height.** The vertical distance from mean natural grade to the highest point on a building. Building height excludes chimneys, vents, and antennae.

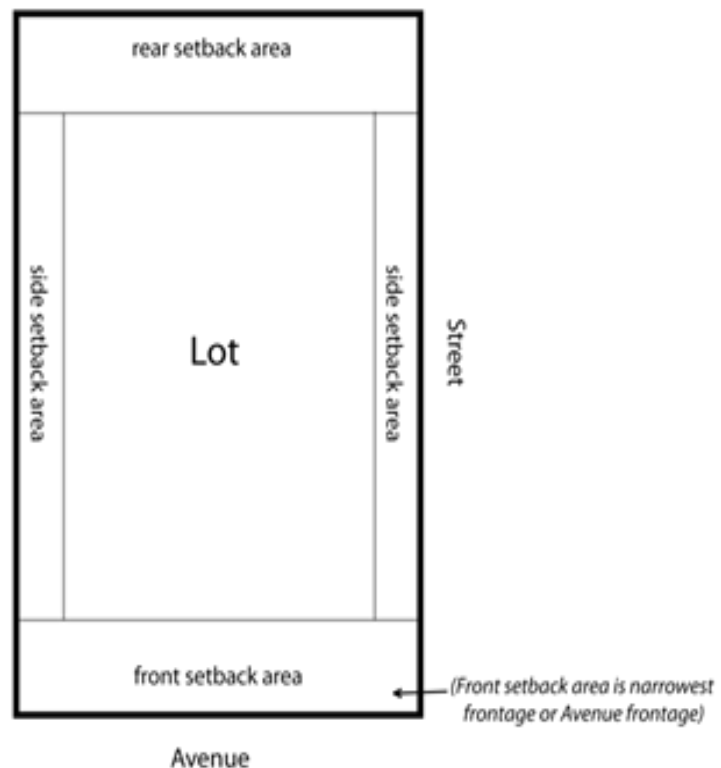
12. **Commercial.** Land uses that provide. Or intend to provide, for the sale of commodities or the performance of services in return for payment or trade.
13. **Commercial Retail.** A commercial establishment or business that conducts retail sales of general merchandise, convenience goods, or services.
14. **Conditional Use.** A land use which is not permitted by right but may be allowed in specified zoning districts upon issuance of a Conditional Use Permit.
15. **Conflict of Interest.** A circumstance in which an Official's or Employee's personal or financial interest conflicts or appears to conflict with official responsibility or when any private economic benefit may result from his or her official service. Specifically, applicable state law is Section 2-2-105, MCA.
16. **Conformance.** The compliance with all standards and regulations established by applicable code(s), laws, regulations, ordinances, and other requirements. If all standards are not met, the building or property or use or other activity is nonconforming and may be illegal.
17. **Construction, Start of.** The commencement of any and all activity necessary and incidental to the erection, demolition, assembling, altering, remodeling of buildings or the preparation of a site for construction to include clearing, grading, filling, or excavating to prepare a site for construction.
18. **Development.** A generic term covering any and all activities for which a permit is required by this Ordinance including construction.
19. **Dwelling Unit.** One or more rooms designed, occupied, or intended for occupancy as separate living quarters for a single household and containing a single kitchen and facilities for sleeping and bathroom.
20. **Existing Manufactured Home Park or Subdivision.** A development or subdivision for manufactured homes where the facilities were completed before the effective date of floodplain management regulations. Facilities include utilities, streets, and either final site grading or concrete pads.
21. **Family.** An individual or two or more persons living together as a single household unit, where unit includes pooled finances used to pay household expenses.
22. **Frontage.** The side of the lot that is considered the front and has the shortest dimension to an abutting street or the side of the lot that directly abuts an avenue. Notwithstanding a lot may have multiple street fronts.

23. **Hazardous Materials.** All substances that are physical and health hazards and subject to regulation as hazardous by the Fire and Safety Code. They include items such as explosives and blasting caps, compressed gasses, flammable and combustible liquids, flammable solids, organic peroxides, oxidizers, pyrophoric materials, unstable (reactive) materials, toxic materials, and other health hazards.
24. **Home Occupation.** A commercial or light industrial activity conducted by the resident(s) of a dwelling as an accessory use to their dwelling.
25. **Includes/Including.** Any list or example following either of these words is not to be considered complete or comprehensive.
26. **Industrial.** Land uses that process, manufacture, assemble, package, treat or fabricate materials and products from previously manufactured materials or from raw materials, usually for the mass sale to wholesalers or other industrial uses.
27. **Junk Vehicle.** A vehicle that meets all of the following requirements:
 - a. Is extensively damaged, such damage including but not limited to any of the following: missing or damaged fender(s), missing or damaged bumper(s), broken windows, or missing wheels, tires, motor, or transmission;
 - b. Is apparently inoperable;
 - c. Without a valid current registration or license;
28. **Long Term Care Facility.** A congregate residential setting that provides or coordinates for the residents of the property personal care, 24-hour supervision and assistance, both scheduled and unscheduled, and activities and health-related services. Long term Care Facility includes nursing home facilities but does not include assisted living facilities.
29. **Lot.** Used as both a generic term for any development site, and to refer to any parcel of land created and described by a record of survey or plat or otherwise permitted by law.
30. **Manufacturing and Assembly.** Establishments or businesses that engage in the on-site production, processing or assembling of goods, generally requiring truck delivery of products and materials, and the use of tools and equipment.
31. **Manufactured Home (Mobile Home).** A residential structure assembled off-site in a factory after January 1, 1976, and not intended to be attached to a permanent foundation and is designed for permanent habitation and to be pulled by a motor vehicle. Manufactured home does not include travel trailers, commercial coaches, or recreational vehicles. All Manufactured Homes (Mobile Homes) must be skirted as provided in Section 11.10.22(D)(5).
32. **Manufactured Home Park (Mobile Home Park).** Any lot or parcel used for occupancy by manufactured homes.

33. **Marijuana Dispensary.** A registered location from which a provider or marijuana-infused products provider is approved by the Department of Public Health and Human Services to dispense marijuana or marijuana-infused products to a registered cardholder.
34. **Modular Home.** Dwellings that are built in sections in a factory and then transported to a building site on truck beds, then joined together and erected on-site such that the home conforms to all state, local or regional building codes.
35. **Montana Subdivision and Platting Act.** Section 76-3-10, et seq., MCA.
36. **New Construction.** Structures for which construction, substantial improvement, or alteration commences on or after the effective date of this Ordinance.
37. **Nonconforming.** A structure or use that fails to comply with all applicable standards of this Ordinance. The degree of nonconformity is the measured extent to which an existing building or use fails to comply; for example, the degree of nonconformity of a parking lot that has four spaces, but serves a use requiring nine, is five parking spaces.
38. **Planning Board.** The Fallon County Consolidated Planning Board, appointed as authorized by Section 76-1-101, et seq., MCA.
39. **Occupancy.** The use or habitation of a building, structure, or lot. A change in occupancy is the change from the existing use to another use identified in the Allowed Uses tables of this Ordinance.
40. **Outdoor Storage.** The keeping, stockpiling, or storing of materials for any reason in the out of doors.
41. **Permit.** An action by the Town that allows a proposed development to proceed.
42. **Pharmacy.** A retail establishment where prescription drugs and medicine are sold. A pharmacy can be a standalone facility or combined with an establishment that sells other retail items. A pharmacy does not include a Marijuana Dispensary.
43. **Recreational Vehicle.** A motor home, travel trailer, truck camper or camping trailer that is:
 - a. Built on a single chassis;
 - b. Four hundred (400) square feet or less when measured at the largest horizontal projections;
 - c. Designed to be self-propelled or permanently tow-able by a light duty truck; and
 - d. Designed primarily for use as temporary living quarters for recreation, camping, travel, seasonal, or emergency use, and not for use as a permanent dwelling.

- 44. **Recreational Vehicle Park.** Any lot or parcel used for temporary occupancy by recreational vehicles. Recreational vehicle parks are subdivisions.
- 45. **Retail.** See Commercial Retail.
- 46. **Setback.** The shortest distance between the property line and the outer foundation wall, at ground level, or between the property line and any structural extension that projects more than three (3) feet beyond the outer foundation wall of a building on the same lot.
 - a. Front Setback is the distance between the nearest point on a structure and the avenue right-of-way at the front of the lot.
 - b. Rear Setback is the distance between the nearest point on a structure and the rear property line opposite the front setback.
 - c. Side Setback is the distance between the nearest point on a structure and the side property lines that are perpendicular, or more or less perpendicular, to the front setback.

Setback Diagram



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

55. **Use.** A purpose or activity on a lot or in a structure.
56. **Variance.** A modification of the specification or performance standards of any code, law, regulation, or requirement, where the modification sought or permitted for a specific property, lot or parcel is not normally allowed.
57. **Warehousing.** A building or property where goods, merchandise or equipment are stored for eventual distribution to retail or other establishments. Warehousing includes the storage of commodities, refrigerated items, and general merchandise. Warehousing does not include the inventory for retail purpose and is not a liquor store.
58. **Written (or Writing).** Includes any form in which words are provided in a visual form that can be copied, filed, stored, forwarded (as opposed to spoken or oral words) and, unless specifically excluded, includes electronic composition, delivery, and storage (e.g., e-mail).
59. **Zoning Administrator.** The Town employee(s) or contractor(s) appointed by the Mayor and confirmed by the Town Council, who is (are) responsible for the administration of this Code or any part of it.