

ORDINANCE NO. 07-5423

AN ORDINANCE OF THE CITY OF BILLINGS, PROVIDING THAT THE BILLINGS, MONTANA CITY CODE BE AMENDED BY REVISING SECTIONS 27-306; COMMERCIAL AND INDUSTRIAL USES; 27-601; PARKING AND STORAGE RESTRICTIONS; 27-612; SUPPLEMENTAL COMMERCIAL DEVELOPMENT STANDARDS AND 27-613; SUPPLEMENTAL SPECIAL REVIEW STANDARDS, ADOPT THE REVISIONS AS AN AMENDMENT TO THE ZONING REGULATIONS AND SET A TIME PERIOD FOR THE REGULATION TO BE EFFECTIVE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BILLINGS, MONTANA:

Section 1. RECITALS. *Title 76, Chapter 2, Part 3, MCA*, and Section 27-1502, *BMCC*, provide for amendment to the City Zoning Regulations from time to time. The City Council initiated the amendment to the City Zoning Regulations and the City Zoning Commission and staff have reviewed the proposed zoning regulations hereinafter described. The recommendations of the Zoning Commission and staff have been submitted to the City Council, and the City Council, in due deliberation, has considered the proposed amendments to the City Zoning Regulations.

Section 2. DESCRIPTION. The zoning regulation shall apply to all land within the City of Billings.

Section 3. That the Billings, Montana City Code be amended by revising Section 27-306 to add new language to read as follows:

Sec. 27-306. District Regulations: Commercial and Industrial Uses.

TITLES AND DESCRIPTION OF INDUSTRIES		SR - SPECIAL REVIEW A - ALLOWED								
		Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION C - CONSTRUCTION										
15 BUILDING CONSTRUCTION - GENERAL CONTRACTORS AND OPERATIVE BUILDERS: - Offices only 152, 153, 154 Residential, operative, and nonresidential builders with <u>open</u> storage of equipment and supplies <u>Restricted to open storage as allowed by Sec 27-601</u>	A	A	A	A	A	A	A	A		A
16 HEAVY CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION - CONTRACTORS: - Offices only - <u>Open</u> storage of equipment and supplies <u>Restricted to open storage as allowed by Sec 27-601</u>	A	A	A	A	A	A	A	A		A
17 CONSTRUCTION - SPECIAL TRADE CONTRACTORS: - Offices only - Shop with <u>no outside enclosed</u> storage of equipment or supplies - <u>Open</u> storage of equipment and supplies; <u>wholesale sales</u> - <u>Retail sales of supplies, 1711, 1721, 1731 (3,000 SF GFA MAX)</u> - <u>Over 3,000 SF GFA MAX</u> - <u>Retail sales of supplies not above classified</u> <u>See Division F and G for Wholesale and retail sales of equipment and supplies</u> <u>Restricted to open storage as allowed by Sec 27-601</u>	A	A	A	A	A	A	A	A		A
			A	A	A	A	A	A		A
		A	A	A	A	A	A	A		SR
		SR	A		A	A	A	A		SR

TITLES AND DESCRIPTION OF INDUSTRIES	SR - SPECIAL REVIEW A - ALLOWED	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
34 FABRICATED METAL PRODUCTS, EXCEPT MACHINERY AND TRANSPORTATION EQUIPMENT (EXCEPT BELOW): - Offices only - 348 Ordnance and accessories, except vehicles and guided missiles	A	A	A	A	A	SR A	A A	SR		A
35 INDUSTRIAL AND COMMERCIAL MACHINERY AND COMPUTER EQUIPMENT: - Offices only	A	A	A	A	A	SR A	A A			A
36 ELECTRONIC AND OTHER ELECTRICAL EQUIPMENT AND COMPONENTS, EXCEPT COMPUTER EQUIPMENT: - Offices only	A	A	A	A	A	SR A	A A			A
37 TRANSPORTATION EQUIPMENT: - Offices only	A	A	A	A	A	A	A A			A
38 MEASURING, ANALYZING, AND CONTROLLING INSTRUMENTS; PHOTOGRAPHIC, MEDICAL, AND OPTICAL GOODS; WATCHES AND CLOCKS (3,000 SF GFA MAX): <u>Over 3,000 SF GFA MAX</u> - Offices only - 3861 Photographic equipment and supplies	A	A	A	A	A	A A	A A	SR A		A

TITLES AND DESCRIPTION OF INDUSTRIES	SR - SPECIAL REVIEW A - ALLOWED								Public	South 27th Street Corridor
	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial			
39 MISCELLANEOUS MANUFACTURING INDUSTRIES: - Offices only - 391, 393, 394 Jewelry, silverware, plated ware; musical instruments; dolls, toys, games, sporting, and athletic goods (3,000 SF GFA MAX) - Over 3,000 SF GFA MAX - 395, 396, 399 Pens, pencils, and artists materials; costume jewelry and novelties; miscellaneous manufacturing industries (3,000 SF GFA MAX) - Over 3,000 SF GFA MAX	A	A	A	A	A	A A	A A		A	
				A A		A A	A A		A	
				SR A		A	A		A	
				SR		A	A		SR	
DIVISION E - TRANSPORTATION, COMMUNICATIONS, ELECTRIC, GAS, AND SANITARY SEWER										
40 RAILROAD TRANSPORTATION: - Offices only - Switching yards - Passenger and freight terminals	A	A	A	A	A	A	A A		A	
					A	A	A			
41 LOCAL AND SUBURBAN TRANSIT AND INTERURBAN HIGHWAY PASSENGER TRANSPORTATION: - Offices only - 4173 Bus terminal operation only, without maintenance facilities	A	A	A	A A	A A	A A	A A	A A	A A	

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
DIVISION F - WHOLESALE TRADE									
50 WHOLESALE TRADE - DURABLE GOODS:									
<ul style="list-style-type: none"> - Offices only - Warehouses with no outside enclosed storage (3,000 SF GFA MAX) - Over 3,000 SF GFA MAX - Open Outside storage - 5093 Scrap and waste materials (auto wrecking) <p><u>Restricted to open storage as allowed by Sec 27-601</u></p>	A	A	A	A	A	A	A	A	A
			SR	A SR-A		A A	A A	SR	SR

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED <p>51 WHOLESALE TRADE - NONDURABLE GOODS:</p> <ul style="list-style-type: none"> - Offices only - 511, 512, 513 Paper, drugs and apparel - 514, 518 Groceries; beer, wine and distilled beverages - 515 Farm product raw materials (except below): - 5154 Livestock auctions - 516 Chemicals and allied products - 517 Petroleum and petroleum products - 518 Beer, wine, and distilled alcoholic beverages - 5191, 5198 Farm supplies; paints, varnishes, and supplies - 5192, 5193, 5194, 5199 Books, periodicals, and newspapers; flowers, nursery stock and florists' supplies; tobacco and tobacco products; non-durables not elsewhere classified 	A	A	A	A A SR SR SR A	A A A SR A A	A A A A A A		A	

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
DIVISION G - RETAIL TRADE									
* Under 3,000 <u>10,000</u> square feet gross floor area (GFA). A special review is required if over 3,000 <u>10,000</u> square feet GFA. No outside storage and No warehousing of storage in excess of twenty-five (25) percent of total GFA. <u>Restricted to open storage as allowed by Sec 27-601</u>									
52 BUILDING MATERIALS, HARDWARE, GARDEN SUPPLY, AND MOBILE HOME DEALERS: – 521 Lumber and other building materials stores – 523, 525 Paint, glass and wallpaper; hardware stores – 526 Nurseries, lawn and garden supply stores – 527 Mobile home dealers (manufactured homes)		SR A*	A A A	A A A	A A A	A A A	A A A	SR A A A	
53 GENERAL MERCHANDISE STORES		A*	A	A	A	A	A		A
54 FOOD STORES – Convenience store with gas pump islands		A*	A	A	A	A	A		A
55 AUTOMOTIVE DEALERS AND GASOLINE SERVICE STATIONS (EXCEPT BELOW): – 553 Auto supply – 554 Gasoline service stations – Convenience store – Service station – Accessory car wash with above two uses – Truck stop – 556 Recreational vehicle dealers		A* SR SR	A A A	A A A	A A A	A A A	A A A		A A A
56 APPAREL AND ACCESSORY STORES		A*	A	A	A	A	A		A

TITLES AND DESCRIPTION OF INDUSTRIES	SR - SPECIAL REVIEW A - ALLOWED								South 27th Street Corridor
	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	
57 HOME FURNITURE, FURNISHINGS, AND EQUIPMENT STORES		A*	A	A	A	A	A		A
58 EATING AND DRINKING PLACES (SEE BMCC SECTION 27-612) <ul style="list-style-type: none"> - Without the sale of alcoholic beverages - With the sale of beer and wine only for on-premise consumption, without gaming - With the sale of beer and wine only for on-premise consumption, with gaming - With the sale of all alcoholic beverages for on-premise consumption, with gaming 		A	A	A	A	A	A		A
		SR A	SR A	SR A	SR A	SR A	SR A		SR A
		SR	SR	SR	SR	SR	SR		SR
		SR	SR	SR	SR	SR	SR		SR
* Establishments with drive-in service shall comply with BMCC Section 27-612.									
59 MISCELLANEOUS RETAIL (STRICTLY CARRYOUT), (EXCEPT BELOW): <ul style="list-style-type: none"> - 598 Fuel dealers * Fireworks stands shall comply with BMCC Section 27-614. ** Sexually oriented business, as classified and defined in BMCC Section 27-611.		A*	A A	A A	A A	A A	A A		A A

TITLES AND DESCRIPTION OF INDUSTRIES		Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED										
DIVISION H - FINANCE, INSURANCE, AND REAL ESTATE (See BMCC Section 27-612).										
60 DEPOSITORY INSTITUTIONS	A	A	A	A	A	A	A	A		A
61 NONDEPOSITORY CREDIT INSTITUTIONS	A	A	A	A	A	A	A	A		A
62 SECURITY AND COMMODITY BROKERS, DEALERS, EXCHANGES, AND SERVICES	A	A	A	A	A	A	A	A		A
63 INSURANCE CARRIERS	A	A	A	A	A	A	A	A		A
64 INSURANCE AGENTS, BROKERS, AND SERVICE	A	A	A	A	A	A	A	A		A
65 REAL ESTATE (EXCEPT BELOW): – 6515 Operators of residential mobile home sites – 6553 Cemetery subdividers and developers	A	A	A	A	A	A	A	A		A
66 COMBINATIONS OF REAL ESTATE, INSURANCE, LOANS, OR LAW OFFICES	A	A	A	A	A	A	A	A		A
67 HOLDING AND OTHER INVESTMENT OFFICES	A	A	A	A	A	A	A	A		A
DIVISION I - SERVICES										
70 HOTELS, ROOMING HOUSES, CAMPS AND OTHER LODGING PLACES: – 701 Hotels and motels – 702, 704 Rooming, boarding houses; organization hotels and lodging houses, on a membership basis – 703 Camps and recreational vehicle parks			A	A	A	A	A	A		A
		A	A	A	A	A	A	A		A
		SR-A	A			A	A	SR-A		

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
72 PERSONAL SERVICES: - 7211, 7213, 7217, 7218 Power laundries, family and commercial; linen supply; carpet and upholstery cleaning; industrial launderers - 7212, 7216, 7219 Garment pressing, and agents for laundries and drycleaning; drycleaning plants, except rug cleaning; laundry and garment services, not elsewhere classified; (<u>3,000 10,000 SF GFA MAX</u>) - Over <u>3,000 10,000 SF GFA MAX</u>	SR	A	A	A	A	A	A	A	
- 7215 Coin-operated laundries and drycleaning - 722 Photographic studios - 723, 724 Beauty and barber shops - 725 Shoe repair shops and shoeshine parlors - 726 Funeral service and crematories - 729 Miscellaneous personal services, except 7291 - <u>Under 1,500 square feet GFA</u> - 7291 Tax return preparation services - <u>Under 1,500 square feet GFA</u>	A	A*	A	A	A	A	A	A	A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
73 BUSINESS SERVICES: - Offices only - With retail sales - With use of vehicles of <u>two tons or over 8,000 GVW</u> - <u>Without inside storage over 3,000 square feet GFA or outside storage</u> - With research, testing, and development laboratories (See also manufacturing industries)	A	A A*	A A A	A A A A	A A A	A A A	A A A		A A A
75 AUTOMOTIVE REPAIR, SERVICES, AND PARKING (EXCEPT BELOW): - 7513, 7519 Truck rental and leasing; utility trailer and recreational vehicle rental - 752 Automobile parking - 7542 Car washes	A	A SR	A A SR A	A A A	A A A	A A A	A A A		A SR A SR A
76 MISCELLANEOUS REPAIR SERVICES (EXCEPT BELOW): - 763 Watch, clock, and jewelry repair	A	A	A	A	A	A	A		A A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
78 MOTION PICTURES (EXCEPT BELOW): - 7833 Drive-in motion picture theaters			A	A SR	A	A SR	A		A
79 AMUSEMENT AND RECREATION SERVICES*: - 791, Dance studios, schools, and halls - 792 theatrical producers, bands, orchestras, and entertainers - 793, 799 Bowling centers; miscellaneous amusement and recreation services, and gambling operations* (except below): - Public swimming pools - Riding stables - Martial arts instruction - 7992 Public golf courses - 794 Commercial sports	A A A A SR	A A A A A	A A A A A	A A A A A	A A A SR A SR A A A	A A A SR A SR A A A	A A A A A		A A A A SR
* See BMCC Section 27-612.									
80 HEALTH SERVICES (EXCEPT BELOW): - Establishments where retail sales constitutes more than an accessory use	A A	A A	A A	A A	A A	A A	A A	A A	A A
81 LEGAL SERVICES	A	A	A	A	A	A	A		A
82 EDUCATIONAL SERVICES (EXCEPT BELOW): - 821 Elementary and secondary schools - 822 Colleges, universities, professional schools, and junior colleges	A SR	A SR	A SR	A SR	A SR	A SR	A SR	A A	A A
83 SOCIAL SERVICES (EXCEPT BELOW): - 833 Job training and vocational rehabilitation services	A SR	A SR	A	A	A	A	A	A	A

TITLES AND DESCRIPTION OF INDUSTRIES	Residential Professional	Neighborhood Commercial	Community Commercial	Highway Commercial	Central Business District	Controlled Industrial	Heavy Industrial	Public	South 27th Street Corridor
SR - SPECIAL REVIEW A - ALLOWED									
DIVISION J - PUBLIC ADMINISTRATION									
91 EXECUTIVE, LEGISLATIVE, AND GENERAL GOVERNMENT, EXCEPT FINANCE	A	A	A	A	A	A	A	A	A
92 JUSTICE, PUBLIC ORDER, AND SAFETY (EXCEPT BELOW): – 9223 Correctional institutions	A	A	A	A	A	A	A	A	A
93 PUBLIC FINANCE, TAXATION, AND MONETARY POLICY	A	A	A	A	A	A	A	A	A

94 ADMINISTRATION OF HUMAN RESOURCE PROGRAMS	A	A	A	A	A	A	A	A	A
95 ADMINISTRATION OF ENVIRONMENTAL QUALITY AND HOUSING PROGRAMS	A	A	A	A	A	A	A	A	A
96 ADMINISTRATION OF ECONOMIC PROGRAMS	A	A	A	A	A	A	A	A	A
97 NATIONAL SECURITY AND INTERNATIONAL AFFAIRS	A	A	A	A	A	A	A	A	A
DIVISION K – NONCLASSIFIABLE ESTABLISHMENTS									
99 NONCLASSIFIABLE ESTABLISHMENTS: THE ZONING DISTRICT AND REQUIREMENTS OF THESE ESTABLISHMENTS WILL BE DETERMINED BY THE PLANNING DIRECTOR									
DWELLINGS – SINGLE-FAMILY – TWO-FAMILY – MULTIPLE-FAMILY – MODULAR HOME – ROWHOUSE/TOWNHOUSE	A	A A A SR	A A A SR	A A A SR	A A A SR	SR SR			SR SR SR

Section 4. That the Billings, Montana City Code be amended by revising Section 27-601 to add new language to read as follows:

SEC. 27-601. PARKING AND STORAGE RESTRICTIONS.

(b) **Commercial and Industrial.** The following standards for parking and storage shall apply in all commercial and industrial zoning districts.

(8) Open storage of equipment and supplies is an allowed accessory use of property as limited in Section 27-306. Any property where open storage of equipment and supplies is an allowed accessory use, the open storage area shall be located in the rear or side yard. A sight obscuring fence of at least six (6) feet in height from finished grade shall be required to enclose the storage area. Chain link fence may be allowed as a sight obscuring fence if opaque slat inserts are used.

Section 5. That the Billings, Montana City Code be amended by revising Section 27-612 to add new language to read as follows:

SEC. 27-612. SUPPLEMENTAL COMMERCIAL DEVELOPMENT STANDARDS.

Certain commercial uses shall be specifically restricted as follows:

(a) ~~Bars, Taverns and Lounges.~~ (a) Eating And Drinking Places. Any person desiring to ~~The use of~~ any premises or to erect, construct or ~~the construction or alteration of~~ any new or existing building or structure for use as a bar, tavern, lounge or any commercial establishment which serves ~~where~~ alcoholic beverages ~~are served for on-premise consumption~~ as a primary or accessory use shall ~~only be allowed in commercial or industrial zoning districts as regulated by Section 27-306.~~ first make application for Special Review as regulated in BMCC Sections 27-1503 and 27-1509. No building, structure or premises shall be used for ~~the on-premise consumption of alcoholic beverages unless: retail alcoholic beverage sales unless:~~

(1) A distance of six hundred (600) feet between property lines, measured in a straight line, is maintained from any building that is predominantly used as a church or school or from a public park that contains a children's playground or playfield.

(a) Properties or establishments which are located in the Central Business District zoning district are exempt from subsection 1.

(b) Properties may be granted a waiver from the 600 foot separation required in subsection 1. if the governing body finds that a physical barrier exists between the proposed use and the use requiring the 600 foot separation. These barriers include, but are not limited to, the following:

1. An arterial street with no existing or proposed signalized pedestrian crossing;
2. A building or buildings that entirely obstruct the view between the separated uses; and/or
3. No direct physical access exists between the separated uses. The person applying for the Special Review must provide the governing body with proof that the proposed property or establishment meets one of the above described physical barriers or that other types of physical barriers exist that warrant the waiving of the 600-foot separation.

Exemptions to above subsection A. for establishments previously granted a Special Review are located in BMCC Section 27-613.

Section 6. That the Billings, Montana City Code be amended by revising Section 27-613 to add new language to read as follows:

SEC. 27-613. SUPPLEMENTAL SPECIAL REVIEW STANDARDS.

~~(a) Bars, Taverns and Lounges.~~ (a) Eating And Drinking Places. The following exemptions from the Special Review requirements, as regulated by Section 27-306, shall apply to those establishments serving where alcoholic beverages are served for on-premise consumption, which have previously been approved pursuant to a Special Review by the City Council or Board of County Commissioners:

1. Such an establishment shall be allowed to remodel, expand or relocate within the same structure without an additional Special Review, as regulated by Section 27-306 provided that:
 - a. The gross floor area of the remodeled, expanded or relocated establishment is not over ten (10) percent greater than the gross floor area originally occupied by the establishment;
 - b. The number of potential occupants is not increased by more than ten (10) percent, than the number that is currently allowed;
 - c. The number of new parking stalls is not more than ten (10) percent greater than the original number of spaces; and
 - d. All other requirements of this resolution/ordinance and/or the Billings, Montana City Code are met.
2. Such an establishment in which additions and/or remodels include an outdoor patio lounge shall be required to obtain Special Review approval, as regulated by Section 27-306 and as outlined in BMCC Sections 27-1503 and 27-1509.

Section 7. REPEALER. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. SEVERABILITY. If any provision of this ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions of this ordinance which may be given effect without the invalid provisions or application, and, to this end, the provisions of this ordinance are declared to be severable.

Section 9. EFFECTIVE DATE. This ordinance shall be effective from and after final passage and as provided by law.

PASSED by the City Council on first reading June 25, 2007.

PASSED, ADOPTED AND APPROVED on second reading July 9, 2007.

CITY OF BILLINGS:

BY: _____
Ron Tussing, Mayor

ATTEST:

BY: _____
Cari Martin, City Clerk

ZC#812 – Amending Section 27-306, 27-601, 27-612 and 27-613, Commercial and Industrial Uses, Parking and Storage Restrictions, Supplemental Commercial Development Standards and Supplemental Special Review Standard