



**CITY OF HAMILTON
ZONING UPDATE WORKING GROUP**

**JOINT MEETING OF THE ZONING COMMISSION,
PLANNING BOARD, & ZONING BOARD OF ADJUSTMENT
MONDAY, JANUARY 30, 2023, 6:00 PM
AGENDA**

This meeting will be conducted in a hybrid format including in-person and remote participation through Zoom. Any member of the public who wishes to observe or participate is able to attend and make comments in person, on the Internet or by phone. Detailed instructions on joining and participating via Zoom are available at www.cityofhamilton.net or by contacting mrud@cityofhamilton.net. Meeting will be held at City Hall, 223 South 2nd Street, Hamilton, MT.

- I. Call Meeting to Order**
- II. Public Comment on Non-Agenda Items**
- III. Old Business:**
- IV. New Business:**
 - A. Review and Discuss Draft Phase 1A Zoning Amendments***
 - B. Discuss Next Steps on Phase 1B Zoning Amendments**
- V. Approval of Minutes**
 - A. October 6, 2022**
 - B. November 30, 2022**
- VI. Meeting Adjournment**

***Materials Attached**

A quorum of the Hamilton City Council may be present

City of Hamilton Planning Department

To: Hamilton Zoning Update Working Group
From: Matthew Rohrbach, City Planner
Date: January 30, 2023
Subject: Hamilton Zoning Update Amendments – Phase 1A

Purpose

The purpose of this memo is to outline proposed zoning text amendments for consideration by the zoning update working group, consisting of the Hamilton zoning commission, planning board, and zoning board of adjustment.

Background

Hamilton's zoning update working group met on October 6 and November 30, 2022 to review the City's zoning assessment and discuss next steps for zoning amendments. At these meetings planning staff were directed to draft amendments that reorganize the code and clarify processes. This first phase of amendments (phase 1A) is intended to make Hamilton's zoning easier to understand and administer while not changing specific development regulations. This will help build a foundation from which subsequent, more complex amendments, are easier to discuss and incorporate into Hamilton's zoning code.

The zoning update working group also directed staff to move allowed uses and form and intensity standards (e.g. setbacks, building heights, etc.) into tables to make the zoning code easier to use. Drafts of use and standards tables (phase 1B) will be presented for discussion at subsequent zoning update working group meetings.

Proposed Phase 1A Zoning Amendments

Attached to this memo are two tables outlining the existing zoning structure and a proposed new structure. Also attached is a red-line version of proposed phase 1A zoning amendments for discussion. Below is a condensed overview of the proposed amendments.

1. Reorganizing all application procedures into one new chapter – 17.12. This new chapter outlines processes for zoning amendments, conditional use permits, variances, and special use permits. Existing processes have been largely unchanged with minor edits and additions to add clarity and reduce redundancy, while preserving the intent of development review processes.

2. Amending conditional use permit review criteria to focus on public health and safety, impacts to public facilities, and compliance with the comprehensive plan.
3. Amending variance criteria to reduce redundancy and focus on hardship, public interest, and neighborhood impacts.
4. Amending special use permit process to reduce redundancy and add clarity for applicants, staff, and boards. Amended process includes minor edits to special use permit review criteria.
5. Renaming chapter 17.04 from “Title, Purpose, and Definitions” to “General Provisions” and moving the following, already codified sections, to this new chapter: jurisdictional area, official zoning map, and severability.
6. Moving “Definitions” to a new chapter 17.32 at the end of the zoning code.

Next Steps

If the zoning update working group supports the proposed phase 1A zoning amendments, staff will set these amendments aside and move onto finalizing drafts of phase 1B amendments. Phase 1B amendments will focus on reorganizing existing permitted uses and form & intensity standards into tables. Staff will also take this time to ensure all cross references are correct throughout the code. Phase 1B amendments will then be brought back to the zoning update working group for review and discussion. Once both phases 1A and 1B have support from the zoning update working group they will be forwarded to the zoning commission and city council for consideration through the City’s public hearing processes.

Existing Hamilton Zoning Structure, January 2023		
Chapter	Title	Notes
17.04	Title, Purpose, and Definitions	Include in new chapter 17.04, General Provisions Move definitions to new chapter 17.32
17.08	Administration	Remove and move sections to new chapter 17.04, General Provisions and new chapter 17.12, Application Procedures
17.12	Zoning Districts Designated	Move to new chapter 17.08, Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.16	General Regulations and Development Standards for All Districts	Remove and move sections to new chapter 17.16, Use Specific Regulations and new chapter 17.20 Development Standards
17.24	Single-Family Residential District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.30	Multiple-Family Residential District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.32	Residential High Density District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.44	Mobile Home Park Residential District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.48	Recreational Vehicle Park District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.60	Professional Service Business District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.64	Transitional Neighborhood Business District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.68	Local Business District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.74	Commercial or Manufacturing District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.76	Central Business District Zone	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.80	Commercial or	Move to new chapter 17.08 , Zoning Districts, Permitted

Existing Hamilton Zoning Structure, January 2023		
Chapter	Title	Notes
	Manufacturing District	Uses, and Form & Intensity Standards
17.84	Manufacturing or Industrial District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.88	Public and Institutional District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.92	Planned Unit Development Overlay District	Move to new chapter 17.08 , Zoning Districts, Permitted Uses, and Form & Intensity Standards
17.100	Off-street Parking and Loading	Move to new chapter 17.20, Development Standards
17.104	Sign Regulations	Keep as stand alone chapter 17.24
17.108	Home Occupations	Move to new chapter 17.16, Use Specific Regulations
17.112	Nonconforming Sites, Structures and Uses	Keep as stand alone chapter 17.28
17.120	Temporary and Portable Structures	Move to new chapter 17.16, Use Specific Regulations
17.122	Special Use Permits	Move to new chapter 17.12, Application Procedures
17.124	Variances and Conditional Use Permits	Move to new chapter 17.12, Application Procedures
17.128	Community development processing fess	Move to new chapter 17.12, Application Procedures
17.136	Wireless Communication Facilities	Move to new chapter 17.16, Use Specific Regulations

Proposed New Zoning Structure		
Chapter	Title	Notes
17.04	General Provisions	<ol style="list-style-type: none"> 1. Title, 2. Authority 3. Purpose and intent 4. Official zoning map 5. Severability
17.08	Zoning Districts, Permitted Uses, and Form & Intensity Standards	<ol style="list-style-type: none"> 1. Zoning districts designated 2. Zoning districts intent and purpose statements, 3. Permitted uses 4. Form and intensity standards 5. Planned Unit Developments
17.12	Application Procedures	<ol style="list-style-type: none"> 1. Plan review 2. Common application procedures 3. Public notice requirements, 4. Review and decision making bodies 5. Zoning amendments 6. Conditional uses 7. Variances 8. Special use permits 9. Record of decision 10. Appeals 11. Complaints 12. Conditions of approval 13. Revocation and expiration 14. Duration of approval 15. Fee schedule
17.16	Use Specific Regulations	<ol style="list-style-type: none"> 1. ADUs 2. Short-term rentals 3. Home occupations 4. Wireless communication facilities 5. Additional items to be identified
17.20	Development Standards	<ol style="list-style-type: none"> 1. General regulations for all districts 2. General regulations for residential districts 3. General regulations for commercial and industrial districts 4. Parking 5. Fences 6. Addition items to be identified

Proposed New Zoning Structure		
Chapter	Title	Notes
17.24	Sign Regulations	Keep as is for the time being
17.28	Nonconforming sites and Structures	Keep as is for the time being
17.32	Definitions	Targeted edits as needed

City of Hamilton 2023-24 Zoning Code Update

Phase 1A Proposed Amendments

Title 17 ZONING¹

Chapters:

Chapter 17.04 ~~TITLE, PURPOSE AND DEFINITIONS~~ GENERAL PROVISIONS

Sections:

17.04.010 Title.

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

(Ord. 225 (part), 2003)

17.04.020 Authority.

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

(Ord. 225 (part), 2003)

17.04.030 Jurisdictional area.

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

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

17.04.0430 Purpose and intent.

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

(Ord. 225 (part), 2003)

17.04.050 Official zoning map.

- A. The official zoning map of Hamilton, Montana, and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this title. The official zoning map shall illustrate the current boundaries of all established zoning districts.

B. Maintenance of the official zoning map.

1. The official zoning map shall be kept in the city clerk's office and in the office of the zoning administrator. It shall be the final authority as to the current status of zoning districts in the City of Hamilton.
2. The official zoning map shall bear the signature of the mayor, attested to by the city clerk, and the date of adoption of the ordinance codified in this title.
3. The official zoning map shall bear the seal of the city under the following words, "This is to certify that this is the official zoning map of Hamilton, Montana, referred to in Chapter 17.04 of the Hamilton Municipal Code."
4. Whenever any change is made to a zoning district boundary in accordance with the procedures set forth in this title, such change shall be promptly entered on the official zoning map, and a copy of the enabling ordinance shall be attached to the map.
5. In January of each year, the official zoning map shall be updated to reflect the zoning district boundary changes that were approved to and attached to the official zoning map during the previous calendar year. The official zoning map shall be changed by resolution of the city council.

C. Loss, damage or destruction of the official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the city council may by resolution adopt a new official zoning map which shall supercede the prior official zoning map. The resolution may correct drafting or other errors or omissions in the prior map.

17.04.60 Severability.

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

17.04.70 Fee schedule.

A. Fees for the processing of applications processed by the City of Hamilton Planning department shall be set by the city council by resolution.

17.04.040 Definitions. [MOVE DEFINITIONS TO NEW CHAPTER 17.32]

(Ord. 225 (part), 2003)

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

Chapter 17.08 ZONING DISTRICTS, PERMITTED USES, AND FORM & INTENSITY STANDARDS [RESERVED TO BE DISCUSSED AT LATER DATE]

Chapter 17.08-12 ADMINISTRATION APPLICATION PROCEDURES

Sections:

~~17.08.010 Jurisdictional area.~~

~~The zoning jurisdiction of the City of Hamilton shall include the land within the corporate limits of the city.
(Ord. 225 (part), 2003)~~

17.12.010 Plan review

- A. The construction, reconstruction, modification or placement of a building in the City of Hamilton is subject to the provisions of this Title 17, building code(s) adopted by the city, Hamilton Public Works Standards, and all other requirements of the Hamilton Municipal Code.
- B. An application for the establishment of a new land use or the construction, reconstruction, modification or placement of a building in the City of Hamilton shall contain the following information.
 - 1. The appropriate application form needed to establish a land use or to construct, reconstruct, modify or place a building on the property.
 - 2. The name and address of the landowner and a legal description of the subject property.
 - 3. A site plan, drawn to scale, indicating the following:
 - a. Property boundaries/lot lines with dimensions and a north arrow indicator.
 - b. On-site and adjacent off-site streets, roads, alleys and easements, including existing and proposed improvements such as curb, gutter, sidewalks, and bike paths.
 - c. Geographic features such as slopes, water bodies, floodplains, wetlands, trees and other vegetation.
 - d. Existing and proposed utility lines on and adjacent to the property.
 - e. Existing and proposed parking facilities, landscaping, lighting, drainage, and ingress and egress points.
 - f. Any existing wells, septic systems or any other subsurface facilities.
 - g. Existing and proposed buildings on the property.
 - h. Exterior refuse collection and snow storage areas.
 - 4. A statement assessing the significant impacts on the surrounding physical environment and human population in the area to be affected including conditions, if any, that may be imposed to avoid or minimize potential significant impacts that are identified.
 - 5. Any additional information required by the Hamilton Municipal Code, Building Codes, and Hamilton Public Works Standards.
- C. Prior to approving a land use or the construction, reconstruction, modification or placement of a building the City of Hamilton shall.

1. Verify and require that the property is served by adequate emergency, medical, fire protection services and law enforcement services for the proposed use of the property.
2. Verify and require that the property has adequate legal and physical access for the proposed use.
3. Verify and require that the proposed land use or building is in compliance with the city public works standards, city floodplain regulations, zoning regulations and other city regulations.
4. Impose conditions on the issuance of any city permit that mitigate adverse impacts of the proposed land use or building on the surrounding physical environment and human population in the area of the subject property.

D. Individual application requirements may be waived at the discretion of the zoning administrator.

17.1208.0220 Amendment to zoning district boundaries Common application procedures

A. The following requirements are common to application procedures for zone map amendments, conditional use permits, variances, and special use permits. Additional details may be included in each specific application procedure.

1. Applicants shall submit a properly completed application form, the required supporting materials, and the required application fee.
2. The zoning administrator shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.
3. After the application is determined to be complete and sufficient, the zoning administrator shall schedule a public hearing on the application on the agenda of the appropriate review body for which notice requirements can be met per section 17.12.030, and at which time allows for its proper consideration.
4. The zoning administrator shall give notice of the public hearing in accordance with section 17.12.030.
5. The zoning administrator shall prepare, or contract for the preparation of, a report that describes the applicants proposal and how it complies, or fails to comply, with the applicable review criteria. The report shall include a recommendation for approval, approval with modifications or denial.
6. The zoning administrator shall forward their report and the application to the appropriate review body.

17.12.030 Public notice requirements.

A. All actions of the City of Hamilton requiring public hearings under the provisions of this Chapter 17.12 shall comply with the Montana Code Annotated and the provisions of this section with regard to public notification.

B. Public Notices shall provide the following information

1. Name of the applicant and landowner (if different)
2. A legal description of the subject property and a commonly known address or local description.
3. A brief description of the proposed action
4. The time, date and place of the public hearing; and
5. The city office, email, and telephone number where further information may be obtained; and

C. Notice of public hearings required under this Chapter 17.12 shall be provided as follows

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1. Notice shall be sent by mail to all property owners within three hundred (300) feet of the subject property at least fifteen (15) days in advance of the hearing.
 2. Notice of the hearing shall be published twice in a newspaper of general circulation within the City of Hamilton. The two publications shall be separated by not less than six days. The first public notice shall be published at least fifteen (15) days in advance of the hearing.
 3. Notice shall be posted on the subject property at least fifteen (15) days in advance of the hearing.
 - a. The applicant is responsible for posting notice on-site. The city will provide the notice to the applicant for posting on-site not less than four days prior to the notice period
 - b. At least one notice must be placed on the property's frontage so that it may be seen from the abutting street. If the property has two (2) street frontages, a notice shall be posted on both frontages.

17.12.040 Review and Decision Making Bodies.

A. Zoning Administrator.

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

B. Zoning Commission.

1. The city council shall establish a zoning commission and shall appoint members to the commission. The membership of the zoning commission shall be composed of one member of the Hamilton planning board, one member of the Hamilton zoning board of adjustment, one member of the Hamilton city council and four residents of the City of Hamilton at large. The four at large members shall have a term of two years and all other designated members shall be appointed or reappointed at the first council meeting in January each year by the city council. All members of the zoning commission must reside within the city limits of Hamilton.
2. After the required public notice, the zoning commission shall conduct a public hearing on any application to zone unzoned land, to amend the official zoning map, or to amend Title 17 (Zoning) of the Hamilton Municipal Code.

C. Zoning Board of Adjustment.

1. The zoning board of adjustment shall.
 - a. Consist of seven members, all of whom reside within the Hamilton city limits;
 - b. Be appointed by the mayor with the consent of the city council;
 - c. Be appointed for a term of three years; and
 - d. Make decisions by a concurring vote of four members.
2. Function.
 - a. To determine whether proposed conditional uses are appropriate and in the best interests of the public;

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- b. To hear and decide the merits of appeals from the terms of the zoning regulations;
 - c. To hear and resolve appeals of administrative actions in enforcing this Title 17. Such appeals shall be initiated within thirty (30) days of the administrative action.
 - 3. Zoning board of adjustment action.
 - a. A quorum shall consist of four members;
 - b. Concurring votes of at least four members of the zoning board of adjustment are required to conduct zoning board of adjustment functions;
 - c. Abstentions shall not be recorded as affirmative or negative votes; and
 - d. If the zoning board of adjustment cannot act because of absences, abstentions, conflicts of interest or vacancies, the zoning board of adjustment shall refer the request to the city council for resolution. Concurring votes of at least four members of the city council are required.

17.12.050 Zoning Amendments.

A. Initiation

- 1. Zoning Map Amendments: ~~Changes Amendments to zoning map~~ district boundaries may be initiated by city council, zoning commission, or upon application from an owner of property within the city:
- 2. Zoning Text Amendments: Amendments to this title may be initiated by city council, zoning commission, or the zoning administrator.
- ~~1. An application signed by one or more land owners of property affected by the proposed zoning district boundary change, accompanied by a nonrefundable processing fee; or~~
- ~~2. By the city council.~~

B. Procedures.

- 1. Applicants for zoning amendments shall complete steps (1) through (6) outlined under section 17.12.020(A) of this chapter.
 - a. Steps (1) and (2) outlined under section 17.12.020(A) of this chapter are not required for zoning amendments initiated by city council, the zoning commission, or zoning administrator.
- ~~24.~~ The zoning commission shall hold a public hearing on ~~a the~~ proposed zoning ~~amendment district boundary changes~~ within ~~thirty-fourty-five(3045)~~ calendar days after a completed application and all exhibits have been submitted. At the public hearing the zoning commission shall make a recommendation to the city council to approve or deny the application. The zoning commission shall forward its recommendation to the city council within thirty (30) calendar days of completion of the zoning commission's public hearing.
- ~~32.~~ The city council shall hold a public hearing on a proposed zoning district boundary changes within sixty (60) calendar days after receiving a recommendation from the zoning commission. The city council shall approve or deny the proposed zoning amendment.
- ~~3.~~ Fifteen (15) days before the public hearing the city shall:
 - a. ~~Mail notice of the hearing to all property owners within the affected area and within three hundred (300) feet of the exterior boundaries of the area; and~~
 - b. ~~Publish notice of the hearing in a newspaper of general circulation in the city, printing twice with no less than six days separating the publications.~~
- ~~4.~~ The city council shall approve or deny the zoning district boundary change.

C. Review Criteria: The zoning commission and city council shall consider the following statutory criteria in making a recommendation or decision regarding a proposed zoning amendment. In considering the criteria, the findings must show that the proposed zoning amendment meets criteria 1-4, while criteria 5-10 must be considered.

1. Is the zoning in accordance with the growth policy;
2. Is the zoning designed to secure safety from fire and other dangers;
3. Will the zoning promote public health, public safety and general welfare;
4. Will the zoning facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;
5. Will the zoning provide adequate light and air;
6. How will the zoning affect motorized and nonmotorized transportation;
7. Will the zoning promote compatible urban growth;
8. Does the zoning consider the character of the district and its peculiar suitability for particular uses;
9. Does the zoning conserve the value of buildings; and
10. Does the zoning encourage the most appropriate use of land throughout the city.

D. Protest: Per MCA 76-2-305(2) in the event of a protest against a zoning amendment signed by the owners of 25% or more of either the area of the lots included in the proposed amendment OR those lots or condominium units 150 feet from a lot included in a proposed amendment, such amendment may not become effective except upon a favorable vote of two-thirds of the present and voting members of the city council. When considering protests from condominium owners the provisions of MCA 76-2-305(3) apply.

17.12.060 Conditional Use and Conditional Use Structure Permits.

A. A conditional use permit or conditional use structure permit is issued for and attached to the use of the property.

B. Procedures.

1. Applicants for conditional use permits shall complete steps (1) through (6) outlined under section 17.12.020(A) of this chapter.
 - a. Steps (1) and (2) outlined under section 17.12.020(A) of this chapter are not required for conditional use permits initiated by city council or zoning administrator.
2. The zoning board of adjustment shall hold a public hearing on the proposed conditional use within forty-five (45) calendar days after a completed application and all exhibits have been submitted. At the public hearing the zoning board of adjustment shall approve, approve with conditions, or deny the application.
3. Within thirty (30) days after a decision on the conditional use permit application is made, the zoning administrator, working on behalf of the zoning board of adjustment, shall provide the applicant a record of decision in accordance with Section 17.12.090, documenting the decision and any conditions attached to the approval.

C. Review Criteria: A conditional use or conditional use structure permit may be granted when allowed in the district, provided that the zoning board of adjustment finds that the proposal demonstrates conformance with the following criteria:

1. Is the proposal consistent with the goals and policies in the adopted comprehensive plan;

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2. Will the proposal negatively impact public health, safety, or general welfare; and
 3. How will the proposal impact public facilities and services, including, but not limited to transportation, water, sewer, police, fire, and parks.

17.12.070 Variances.

- A. Variances provide relief from this Title 17, where specific physical conditions unique to a site would create an unreasonable hardship in the development of the site, if these regulations are strictly enforced. Variances may be granted, but only as provided here.:
- B. Procedures.
 1. Applicants for a variance shall complete steps (1) through (6) outlined under section 17.12.020(A) of this chapter.
 - a. Steps (1) and (2) outlined under section 17.12.020(A) of this chapter are not required for variance requests initiated by city council or zoning administrator.
 2. The zoning board of adjustment shall hold a public hearing on the proposed variance within forty-five (45) calendar days after a completed application and all exhibits have been submitted. At the public hearing the zoning board of adjustment shall approve, approve with conditions, or deny the application.
 3. Within thirty (30) days after a decision on the variance application is made, the zoning administrator, working on behalf of the zoning board of adjustment, shall provide the applicant a record of decision in accordance with Section 17.12.090, documenting the decision and any conditions attached to the approval.
- C. Review Criteria: A variance from the terms of this Title 17 may be granted only if the zoning board of adjustment finds that the following criteria have been substantially met or are not relevant to the proposal.
 1. The appellant is able to demonstrate that a literal enforcement of the provisions of this Title 17 will result in unnecessary hardship to the property because the property is deprived of privileges enjoyed by other property in the immediate vicinity due to the size of property, shape of the property, topography of the property, location of existing nonconforming structure(s) on the property, or location of existing service lines.
 2. The alleged hardship was not created by action of the applicant, owner or occupants;
 3. Approval of the variance will not be contrary to the public interest;
 4. Approval of the variance will not have a substantial adverse impact on neighboring properties;

17.12.080 Special Use Permits.

- A. Special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed special use, its relationship to the surrounding land uses, impact on public facilities, potential environmental effects, compatibility with the neighborhood, and conformance to adopted policies, guidelines, plans and regulations of the City of Hamilton. Prior to establishment of a special use, a special use permit must be approved or approved with conditions by city council.
- B. Procedures.
 1. Applicants for special use permits shall complete steps (1) through (6) outlined under section 17.12.020(A) of this chapter.

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- a. Steps (1) and (2) outlined under section 17.12.020(A) of this chapter are not required for zoning amendments initiated by city council, the zoning commission, or zoning administrator.
 - 2. The planning board shall hold a public hearing on the proposed special use permit within forty-five(45) calendar days after a completed application and all exhibits have been submitted. At the public hearing the planning board shall make a recommendation to the city council to approve, approve with conditions, or deny the application. The planning board shall forward its recommendation to the city council within thirty (30) calendar days of completion of the planning board's public hearing.
 - 3. The city council shall hold a public hearing on the proposed special use permit within sixty (60) calendar days after receiving a recommendation from the planning board. The city council shall approve or deny the proposed zoning amendment.
 - 4. Within thirty (30) days after a decision on the special use permit application is made, the city clerk, working on behalf of the city council, shall provide the applicant a record of decision in accordance with Section 17.12.090, documenting the decision and any conditions attached to the approval.
 - C. Review Criteria: The planning board and city council shall consider the following criteria in making a recommendation or decision regarding a proposed special use permit.
 - 1. Is the proposal consistent with the goals and policies in the adopted comprehensive plan;
 - 2. Does the proposal conform to the requirements of this Title 17;
 - 3. Is the proposal compatible with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;
 - 4. Will the proposal negatively impact public health, safety, or general welfare;
 - 5. How will the proposal impact public facilities and services, including, but not limited to transportation, water, sewer, police, fire, and parks;
 - 6. Does the proposal conform to the City of Hamilton Building and Site Design Guidelines; and
 - 7. Is the proposal contrary to the public interest.

17.12.090 Record of Decision.

- A. The zoning board of adjustment or city council, as appropriate, shall maintain a record of its decision on conditional use permit, variance, or special use permit requests in the form of a record of decision. The record of decision shall include the following information.
 - 1. Name of the applicant and landowner (if different)
 - 2. A legal description of the subject property and a commonly known address or local description.
 - 3. A brief description of the proposed action
 - 4. The date of the public hearing;
 - 5. Any conditions, if applicable, attached to the approval
 - 6. Documentation of the vote of each member of the zoning board of adjustment or city council, as applicable.

17.12.100 Appeals.

- A. Appeals from actions of the zoning administrator.

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

B. Appeals from decisions of the zoning board of adjustment.

1. Any person or persons, jointly or severally, aggrieved by any decision of the zoning board of adjustment or any taxpayer or any officer, department, board, or bureau of the municipality may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 days after the filing of the decision in the office of the board.
2. Upon the presentation of the petition, the court may allow a writ of certiorari directed to the zoning board of adjustment to review the decision of the board of adjustment and shall prescribe in the writ the time within which a return must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ does not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board, and on due cause shown, grant a restraining order.
3. The zoning board of adjustment may not be required to return the original papers acted upon by it, but it is sufficient to return certified or sworn copies of the original papers or of portions of the original papers that may be called for by the writ. The return must concisely set forth other facts that may be pertinent and material to show the grounds of the decision appealed from and must be verified.
4. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take evidence that it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which constitute a part of the proceedings upon which the determination of the court must be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.
5. Costs shall not be allowed against the zoning board of adjustment unless it shall appear to the court that it acted with gross negligence, in bad faith, or with malice in making the decision appealed from.

17.12.110 Complaints.

A. Whenever a violation of this Title 17 occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis of the violation, shall be filed with the zoning administrator. He shall properly record the complaint and immediately investigate and take action as provided by this chapter.

B. Penalties.

1. Violations of the provisions of the ordinance codified in this Title 17 or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the grant of variances or conditional uses or any of the requirements for conditions imposed by the city council, shall constitute a misdemeanor. Any person who violates the ordinance codified in this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) for each offense or imprisoned not more than six months or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense and be punishable as such (Section 76-2-15, MCA).
2. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties specified in this section.
3. Nothing set forth in this section shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.

17.12.120 Conditions of Approval.

A. Variances, conditional use permits, and special use permits may be granted subject to conditions which are authorized by state statute and this Title 17, including but not limited to:

1. Dedication and/or improvement of a public right-of-way;
2. Protection of adjoining property;
3. Placement and regulation of nature and extent of uses on the property;
4. Regulation of height; and
5. Regulation of term of permit or variance.

17.12.130 Revocation and Expiration.

A. Revocation. A variance, conditional use permit, or special use permit may be revoked after a public hearing in accordance with procedures required for granting it if:

1. Conditions have changed substantially since it was issued;
2. Preservation of the integrity of existing use patterns in the area requires such action; or
3. The holder has not complied with the conditions under which it was issued;

A. Expiration. A variance, conditional use permit, or special use permit may be revoked after a public hearing in accordance with procedures required for granting it if:

17.12.140 Duration of Approval

A. Special Use Permits

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

B. Conditional Use Permits

1. Conditional use permits and conditional use structure permits are not issued for a specific term. A conditional use permit or conditional use structure permit is in effect for the duration applied for. Any change shall void the conditional use permit or conditional use structure permit and a new conditional use permit or conditional use structure permit must be applied for.

C. Variances

1. A variance shall expire if it has not been utilized within one year of the date of issue. For the purpose of this section, "utilization" means construction or remodeling of the structure on the site has begun; or the specified activity has begun. For good cause, the zoning administrator may grant a single extension of the approval time period for a time period not to exceed one additional year.

17.12.150 Fee schedule.

- A. Fees for the processing of applications processed by the City of Hamilton Planning department shall be set by the city council by resolution.

(Ord. 225 (part), 2003)

17.08.030 Official zoning map.

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

C. ~~Loss, damage or destruction of the official zoning map. In the event that the official zoning map becomes damaged, destroyed, lost or difficult to interpret, the city council may by resolution adopt a new official zoning map which shall supercede the prior official zoning map. The resolution may correct drafting or other errors or omissions in the prior map.~~

~~(Ord. 225 (part), 2003)~~

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

A. ~~Establishment and membership. The city council shall establish a zoning commission and shall appoint members to the commission. The membership of the zoning commission shall be composed of one member of the Hamilton planning board, one member of the Hamilton zoning board of adjustment, one member of the Hamilton city council and four residents of the City of Hamilton at large. The four at large members shall have a term of two years and all other designated members shall be appointed or reappointed at the first council meeting in January each year by the city council. All members of the zoning commission must reside within the city limits of Hamilton.~~

B. ~~Responsibilities. After the required public notice, the zoning commission shall conduct a public hearing on any application to zone unzoned land or to change district boundaries.~~

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

~~(Ord. No. 419, § 1, 2-16-21)~~

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

A. ~~The board shall:~~

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

B. ~~Functions.~~

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

C. ~~Zoning board of adjustment action.~~

- ~~1. A quorum shall consist of four members;~~
- ~~2. Concurring votes of at least four members of the zoning board of adjustment are required to conduct zoning board of adjustment functions, as listed in Section 17.124.030;~~
- ~~3. Abstentions shall not be recorded as affirmative or negative votes; and~~

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4. ~~If the zoning board of adjustment cannot act because of absences, abstentions, conflicts of interest or vacancies, the zoning board of adjustment shall refer the request to the city council for resolution. Concurring votes of at least four members of the city council are required.~~

~~(Ord. 225 (part), 2003)~~

~~17.08.060 Zoning administrator—Duties.~~

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

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

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

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

~~(Ord. 225 (part), 2003)~~

~~17.08.080 Appeals from decisions of the zoning board of adjustment.~~

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

- ~~A. Any person or persons, jointly or severally, aggrieved by any decision of the zoning board of adjustment, any taxpayer, or any officer or department of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the zoning board of adjustment.~~
- ~~B. Upon presentation of such petition the court may allow a writ of certiorari directed to the zoning board of adjustment to review such decision of the zoning board of adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the realtor's attorney, which may not be less than ten days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the zoning board of adjustment and on due cause shown, grant a restraining order.~~
- ~~C. The zoning board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other fact as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.~~
- ~~D. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his/her findings of fact and conclusions of law. Such evidence shall constitute a part of the proceedings upon which the determination of the court will be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.~~
- ~~E. Cost shall not be allowed against the zoning board of adjustment unless it appears to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.~~

(Ord. 225 (part), 2003)

~~17.08.090 Filing a complaint.~~

- ~~A. Whenever a violation of this chapter occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis of the violation, shall be filed with the zoning administrator. He shall properly record the complaint and immediately investigate and take action as provided by this chapter.~~
- ~~B. Penalties.~~
 - ~~1. Violations of the provisions of the ordinance codified in this chapter or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the grant of variances or conditional uses or any of the requirements for conditions imposed by the city council, shall constitute a misdemeanor. Any person who violates the ordinance codified in this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than five hundred dollars (\$500.00) for each offense or imprisoned not more than six months or both, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense and be punishable as such (Section 76-2-15, MCA).~~

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- ~~2. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists or maintains such violation may be found guilty of a separate offense and suffer the penalties specified in this section.~~
 - ~~3. Nothing set forth in this section shall prevent the city from taking other lawful action as is necessary to prevent or remedy any violation.~~

(Ord. 225 (part), 2003)

~~17.08.100 Severability clause.~~

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

~~(Ord. 225 (part), 2003)~~

Chapter 17.16 GENERAL REGULATIONS AND DEVELOPMENT STANDARDS FOR ALL DISTRICTS

Sections:

17.16.010 General regulations for all districts.

- A. Buildings erected, altered or moved after the effective date of the ordinance codified in this title shall meet the requirements specified in the chapter governing the district in which each are located.
- B. A yard required by this chapter for one building shall not be included as part of the yard required for another building.
- C. Control and disposal of surface run-off is the responsibility of each property owner and shall not be directed onto adjoining lots or public rights-of-way.
- D. Reserved.
- E. Title 13 shall also apply to each and every district established by this Title 17.
- F. No "livestock" as defined in Section 17.04.040, of the Hamilton Municipal Code (HMC), shall be kept within the city limits at any time for any purpose.

[BELOW SUBSECTIONS ARE INCLUDED IN NEW SUBSECTION 17.12.010 PLAN REVIEW]

- ~~G. The construction, reconstruction, modification or placement of a building in the City of Hamilton is subject to the provisions of the building code(s) adopted by the city as well as the provisions of the applicable zone district and all other requirements of the Hamilton Municipal Code.~~
- ~~1. At a minimum, any application for the establishment of a new land use or the construction, reconstruction, modification or placement of a building in the City of Hamilton shall contain the following information:~~

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- a. ~~The appropriate application form.~~
 - b. ~~The name and address of the landowner and a legal description of the subject property.~~
 - c. ~~A site plan, drawn to scale, indicating the following:~~
 - i. ~~The location of any property line, streets, roads and easements located on and adjacent to the subject property.~~
 - ii. ~~Geographic features.~~
 - iii. ~~Any existing wells, septic systems or any other subsurface facilities.~~
 - iv. ~~Existing utility lines on and adjacent to the property.~~
 - v. ~~Existing and proposed buildings on the property.~~
 - vi. ~~A statement assessing the significant impacts on the surrounding physical environment and human population in the area to be affected including conditions, if any, that may be imposed to avoid or minimize potential significant impacts that are identified.~~
 - d. ~~Application forms and application submittal information for any required city permits including, but not limited to, public works permits, building permits and floodplain permits needed to establish a land use or to construct, reconstruct, modify or place a building on the property.~~
2. ~~Prior to approving a land use or the construction, reconstruction, modification or placement of a building the City of Hamilton shall:~~
 - a. ~~Verify and require that the property is served by adequate emergency, medical, fire protection services and law enforcement services for the proposed use of the property.~~
 - b. ~~Verify and require that the property has adequate legal and physical access for the proposed use.~~
 - c. ~~Verify and require that the proposed land use or building is in compliance with the city public works standards, city floodplain regulations, zoning regulations and other city regulations.~~
 - d. ~~Impose conditions on the issuance of any city permit that mitigate significant adverse impacts of the proposed land use or building on the surrounding physical environment and human population in the area of the subject property.~~

Chapter 17.122 SPECIAL USE PERMITS [SPECIAL USE PERMIT PROCEDURES MOVED TO NEW SECTION 17.12.080]

Sections:

17.122.010 Intent.

The intent of this chapter is to establish procedures and criteria to authorize special use permits. "Special use" means a use which because of its unique or varying characteristics, cannot properly be classified as an allowed use in a particular zone district. Special uses are contingent uses which may or may not be appropriate in a particular location depending on the nature of the proposed special use, its relationship to the surrounding land uses and its impacts on traffic capacities, potential environmental effects, compatibility with the neighborhood, and conformance to adopted policies, guidelines, plans and regulations of the City of Hamilton. Prior to

establishment of a special use, a special use permit must be approved or approved with conditions deemed necessary and appropriate solely by the City of Hamilton City Council.

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

~~17.122.020 General regulations.~~

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

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

~~17.122.030 Special use permits.~~

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

~~special use permit shall void the special use permit and all land uses authorized by the special use permit.~~

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

~~17.122.040 Review procedures.~~

~~17.122.041 Compliance.~~

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

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

~~17.122.042 Submittal of application.~~

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

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

~~17.122.043 General procedures.~~

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

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

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

~~17.122.044 Administrative procedures, purpose and applicability.~~

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

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

~~17.122.045 Application.~~

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

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

~~17.122.046 Determination of completeness.~~

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

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

~~17.122.047 Review and referral of the application.~~

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

~~A. —Referral of the application: The City of Hamilton Office of Community Development shall refer the application to appropriate review agencies for comments on the application. The city office of community development will maintain a list of review agencies and their current addresses.~~

~~B. —Review agency comments: Review agency comments and recommendations received by the city office of community development shall be provided to the planning board.~~

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

~~17.122.048 Planning board review.~~

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

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

~~17.122.049 Review criteria and planning board recommendation.~~

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

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- ~~1. Conformance of the proposal with this Title 17 of the City of Hamilton Municipal Code;~~
 - ~~2. The compatibility of the proposal with the character of the surrounding area including, but not limited to the architectural character of the neighborhood;~~
 - ~~3. The desirability for the proposed use in the specific area of the city;~~
 - ~~4. The potential for significant adverse environmental, fiscal, cultural and economic effects that might result from the proposed use;~~
 - ~~5. Compatibility of the proposed use and the site plan with plans and policies of the City of Hamilton;~~
 - ~~6. Compatibility of the proposed use with the *City of Hamilton Building and Site Design Guidelines*; and~~
 - ~~7. Conformance of any plan or land use with the requirements of the *City of Hamilton Department of Public Works Design Standards*.~~

~~B. Planning board recommendation: The planning board shall complete its review and make its recommendation to the city council at the public meeting specified in Section 17.122.048. The planning board may recommend approval, conditional approval, or denial of the application.~~

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

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

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

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

~~17.122.050 Public notice of city council review.~~

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

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

~~17.122.051 City council review and decision.~~

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

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

~~17.122.052 Record of decision.~~

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

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

~~17.122.053 Duration of approval.~~

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

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

~~17.122.060 Special use permit application submittal requirements.~~

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

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

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

All special use permit applications shall include:

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

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

17.122.062 Drawing and report requirements.

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

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

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

17.122.064 Site plan requirements.

Any site plan required in these regulations shall include:

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

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

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

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

~~17.122.070 Public notice requirements.~~

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

A. ~~Notice shall be sent by certified mail return receipt requested to all property owners within three hundred (300) feet of the subject property at least fifteen (15) days in advance of the hearing.~~

B. ~~Notice of the hearing shall be published twice in a newspaper of general circulation (designated by the City of Hamilton) within the City of Hamilton. The two publications shall be separated by not less than six days. The first public notice shall be published at least fifteen (15) days in advance of the hearing.~~

C. ~~Notice shall be posted on the subject property at least fifteen (15) days in advance of the hearing.~~

D. ~~All notices shall include:~~

1. ~~A statement of the action being taken;~~

2. ~~The time, date and place of the public hearing;~~

3. ~~The city office and telephone number where further information may be obtained; and~~

4. ~~A legal description of the subject property and a commonly known address or local description.~~

E. ~~The applicant shall submit evidence at the public hearing that proper public notice of the hearing was provided as required in this Section 17.122.070.~~

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

~~17.122.080 Special use permit fees.~~

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

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

B. ~~As provided in Section 17.122.070, all costs of providing public notice, including publication, mailing and posting shall be borne by the applicant.~~

C. ~~Any recording or filing fees imposed by the Ravalli County Clerk and Recorder required as a result of the application, shall be advanced by the applicant prior to the documents being tendered for recording.~~

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

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

~~Chapter 17.124 VARIANCES AND CONDITIONAL USE PERMITS~~ [CONDITIONAL USE PERMIT PROCEDURES MOVED TO NEW SECTION 17.12.060; VARIANCE PROCEDURES MOVED TO NEW SECTION 17.12.070]

~~Sections:~~

~~17.124.010 Intent.~~

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

~~(Ord. 225 (part), 2003)~~

~~17.124.020 Zoning board of adjustment membership.~~

~~A. The board shall:~~

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

~~B. Functions.~~

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

~~C. Zoning board of adjustment action.~~

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

~~(Ord. 225 (part), 2003)~~

~~17.124.030 General regulations.~~

- ~~A. The health, safety, comfort and general welfare of persons residing or working within the community are the primary criteria for approval or denial of a proposed variance or conditional use.~~
- ~~B. Variances and conditional use permits may be granted, subject to conditions which are authorized by state statute and this Title 17, including but not limited to:~~
- ~~1. Dedication and/or improvement of a public right of way;~~
 - ~~2. Protection of adjoining property;~~
 - ~~3. Placement and regulation of nature and extent of uses on the property;~~
 - ~~4. Regulation of height; and~~
 - ~~5. Regulation of term of permit or variance.~~
- ~~C. Revocation. A variance or conditional use permit may be revoked after a public hearing in accordance with procedures required for granting it if:~~
- ~~1. Conditions have changed substantially since it was issued;~~
 - ~~2. Preservation of the integrity of existing use patterns in the area requires such action;~~
 - ~~3. The holder has not complied with the conditions under which it was issued; or~~
 - ~~4. The permittee may appeal revocation by the same procedures as required for appealing a decision to grant or deny a permit or a variance.~~
- ~~D. Automatic expiration.~~
- ~~1. A variance shall expire if it has not been utilized within one year of the date of issue;~~
 - ~~2. A variance or conditional use permit, when issued for a definite term, shall expire on the date of expiration;~~
 - ~~3. A variance or conditional use permit shall expire if utilization has not commenced on the effective date of an ordinance which rezones the property to uses that exclude the use authorized; or~~
 - ~~4. A variance or conditional use permit that has been suspended, terminated or abandoned shall expire one hundred eighty (180) days after the last day it was used.~~
- ~~E. For the purpose of this section, "utilization" means construction or remodeling of the structure on the site has begun; or the specified activity has begun.~~
- ~~F. In either case, the applicant shall have secured all necessary federal, state and local permits and licenses.~~
- ~~(Ord. 225 (part), 2003)~~

~~17.124.040 Conditional use permits and conditional use structure permits.~~

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

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

(Ord. 225 (part), 2003)

~~17.124.050 Variances.~~

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

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

(Ord. 225 (part), 2003)

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

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

**~~Chapter 17.128 COMMUNITY DEVELOPMENT PROCESSING FEES~~ [MOVED TO
NEW SECTION 17.12.150]**

~~Sections:~~

~~17.128.010 Community development processing fees.~~

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



City of Hamilton Planning Dept

223 South 2nd Street, Hamilton, MT 59840

(406) 363-2101

MINUTES OF THE CITY OF HAMILTON JOINT MEETING OF ZONING COMMISSION, PLANNING BOARD, AND ZONING BOARD OF ADJUSTMENT OCTOBER 6, 2022

1 Zoning Commission members present: Hannah Gimpel, Karen Hughes, Roch Turner, Vivian
2 Yang, Brett Mollenhauer

3
4 Zoning Commissioners absent: Jessica Randazzo, Jenny West

5
6 Planning Board members present: Kristi Bielski, Marissa Neyenhuis, Karen Hughes

7
8 Planning Board members absent: Jeff Burrows, Chip Pigman, Dan Harmon

9
10 Zoning Board of Adjustment members present: Vivian Yang, Sue Smith, Drew Blankenbaker,
11 Richard Franklin,

12
13 Absent: Lea Guthrie, Darwin Ernst, Roger Gantz

14
15 Also present: Matthew Rohrbach, City Planner; Mark Rud, Assistant Planner

16
17 I. Zoning Commission Chair Roch Turner called the joint meeting to order at 5:30pm.

18
19 Mr. Rohrbach reviewed the purpose of the joint meeting sessions.

20
21 II. Public Comments on Non-Agenda Items:

22
23 a. Nancy Joy Valk 810 N 5th Street, Hamilton, MT. Ms. Volk asked for information on
24 the process for making zoning amendements.

25
26 III. OLD BUSINESS: None

27
28 IV. NEW BUSINESS:

29 30 A. Review and Discussion on Hamilton Zoning Assessment

31
32 Mr. Rohrbach gave a presentation on the Hamilton zoning assessment which looked at
33 recommendations for zoning updates to bring the zoning code into conformance with the
34 comprehensive plan.
35

Mr. Rohrbach discussed amendment recommendations related to organization of the code, process, uses, attainable housing, development standards, parking, historic preservation, and signs.

Ms. Bielski asked about incorporating public art regulations and whether that would be outside the scope of zoning. Mr. Rohrbach said it would be outside the scope of zoning but that it is addressed in the comprehensive plan.

Mr. Blankenbaker asked how recommendations from the Governors housing task force will interface with the zoning update. Mr. Rohrbach said that it is too early to tell but that there will likely be bills coming through the legislature that will impact local zoning.

Ms. Hughes asked staff if there were priorities. Mr. Rohrbach stated priorities for staff are amendments that reorganize the zoning code, clarify processes, and convert uses into tables. Mr. Rohrbach stated staff would like to focus on building a good foundation for the zoning code that will make subsequent amendments easier to incorporate.

Mr. Blankenbaker stated that he would like to see prioritization placed on housing. Mr. Rohrbach stated that the organization and process amendments are not expected to take too long and amendments related to housing will likely take more discussion with the board and public. As a result staff recommend starting with needed amendments that are easier to get adopted before moving onto amendments that will require more process and discussions.

Ms. Hughes asked if there have been any discussions related to zone map amendments. Mr. Rohrbach stated the zone map will need to be updated when the zoning text amendments are complete and the comprehensive plan future land use map will also need to be updated.

Mr. Rud said other text amendments that could begin in the short term are revising zoning definitions.

Mr. Rohrbach stated that there will likely need to be zoning update works session each month for the foreseeable future.

Mr. Turner adjourned the meeting at 6:34pm.

Mark Rud
Assistant Planner

Roch Turner
Zoning Commission Chair

Marisa Neyenhuis
Planning Board Action President

Vivian Yang
Zoning Board of Adjustment Acting Chair



City of Hamilton Planning Dept

223 South 2nd Street, Hamilton, MT 59840

(406) 363-2101

MINUTES OF THE CITY OF HAMILTON JOINT MEETING OF ZONING COMMISSION, PLANNING BOARD, AND ZONING BOARD OF ADJUSTMENT NOVEMBER 30, 2022

1 Zoning Commission members present: Hannah Gimpel, Karen Hughes, Jessica Randazzo, Jenny
2 West

3
4 Zoning Commissioners absent: Brett Mollenhauer, Roch Turner, Vivian Yang

5
6 Planning Board members present: Kristi Bielski, Jeff Burrows, Dan Harmon, Karen Hughes, Chip
7 Pigman

8
9 Planning Board members absent: Marissa Neyenhuis

10
11 Zoning Board of Adjustment members present: Drew Blankenbaker, Darwin Ernst, Richard
12 Franklin, Roger Gantz

13
14 Absent: Lea Guthrie, Sue Smith, Vivian Yang

15
16 Also present: Matthew Rohrbach, City Planner; Mark Rud, Assistant Planner

17
18 I. Zoning Commission Acting Chair Jessica Randazzo called the joint meeting to order at
19 5:33pm.

20
21 Mr. Rohrbach reviewed the purpose of the joint meeting sessions.

22
23 II. Public Comments on Non-Agenda Items: None

24
25 III. OLD BUSINESS: None

26
27 IV. NEW BUSINESS:

28 29 A. Zoning Update Kickoff

30
31 Mr. Rohrbach reviewed the City's zoning code assessment, which provides recommendations
32 to update zoning to conform with the adopted comprehensive plan. Joint meetings will serve
33 as work sessions to draft updates to Title 17 Zoning of the Hamilton Municipal Code. Staff
34 recommend taking an incremental approach to the code updates, beginning with some
35 straightforward amendments, focus on a limited number of issues at a time and clearly
36 communicate those to the public, engage the public early and often including going out to a
37 variety of venues and groups, and linking work back to community values and the policies of
38 the comprehensive plan.

Staff's suggested path forward is to start by considering general organization of the code, processes laid out within the code, and finally on specific land uses. Mr. Rohrbach noted residential above commercial in the Highway-Related Business District is a conditional use, and all requests have been approved, and focus on such request limits staff's time and attention on other planning matters. Such amendments would align with the comprehensive plan and appear to be viewed as positive for the community.

Mr. Rohrbach reviewed other proposed changes reflected in the assessment. For organization, recommendations suggest adopting a use table for all zoning districts rather than named uses within each zoning district section, renaming residential zoning districts, incorporating graphics such as included as examples in the assessment, clarify language, eliminate duplications, and review and update use definitions.

For process, recommendations suggest clarifying and combining all development application processes into a single chapter, amending the conditional use permit process, simplifying the variance process, amending or eliminate special use permits, developing an administrative review process, and codifying zoning map and zoning text amendment procedures.

For uses, recommendations suggest creating standards for specific uses, simplifying uses in each district, reducing reliance on conditional uses, increasing options for residential as located adjacent to commercial uses, and considering new uses not identified in the current code such as food trucks and light manufacturing.

Mr. Rohrbach indicated Staff's preference is to bring recommended zoning text changes to Council on an incremental basis. Staff recommend creating a scope of work outlining the process and priorities, develop a high level overview for the first phase of code amendments, draft a public outreach strategy, and next meet in late January.

Ms. Randazzo asked for a clarification of responsibilities and process. Mr. Rohrbach responded clarifying potential options to move forward, and that staff would likely provide recommended process-based code amendment after the January meeting. Mr. Pigman stated it may be preferable to tackle issues in the code that take significant staff time before other matters. Mr. Rohrbach indicated conditional use permits and variance requests end up taking a lot of staff time based on the criteria of review. He added that a use table would assist development inquiries. Mr. Pigman, Mr. Ernst and Mr. Blankenbaker agreed. Mr. Franklin offered recommendations for prioritizing use table amendments and chapter organization. Mr. Blankenbaker and Ms. Hughes agreed that the use table could be prioritized. Ms. Hughes suggested drafting template districts. Ms. Randazzo suggested staff could bring back an organizational outline of an updated zoning code for a January meeting.

Members had general discussion about the joint boards' process for drafting updates. Mr. Rohrbach suggested that it could be an iterative process between staff and the boards.

Ms. Randazzo asked for clarification on the code assessment process. Mr. Rohrbach responded it was facilitated by a consultant team primarily through stakeholder interviews, and noted that code updates would be publicly engaged process.

Mr. Pigman stated code amendments should implement the comprehensive plan with clear direction of the City’s values. Mr. Rohrbach noted a goal of the amendments would be to provide a level of predictability for the community. Both agreed housing related code amendments would likely be challenging. Members discussed complexities of mixed density housing. Ms. Hughes suggested beginning with organizational amendments would potentially make later complex changes somewhat easier. Members agreed reduced friction for development processes would be a positive outcome. Ms. Hughes recommended the boards focus on the community to reduce anxiety about the process.

Ms. Randazzo adjourned the meeting at 6:34pm.

Mark Rud
Assistant Planner

Jessica Randazzo
Acting Chair