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MEMO

To: Members, Helena Zoning Commission

CC:

Date: March 28, 2024

RE: Proposed Text Amendments to Title 11, Chapter 2, Table 1

In 2022, various text amendments to Title 11 were brought forward by Planning Staff, reviewed and recommended by the Zoning Commission, and approved and adopted by the City Commission (Ordinance #3304). Many of those amendments dealt with the Land Use Table for Zoning Districts (§ 11-2-3) and Land Use Definitions (§11-2-4). Several goals with these changes were to redraft as many “combined” land use types in to separate definitions, separate them in the land use table, and to make as many as possible, relative to use impacts and zoning districts, as permitted uses rather than require Conditional Use Permits.

One of the amended and modified land uses was “General Services/Professional Offices”. A new definition was established for each, and the intent was to also separate them in the land use table. The latter was omitted from the amendment drafting, review, and approval process of 2022. By remaining combined in the table but separated as individual defined uses, administrative and interpretation issues have arisen.

The attached amendment will help clear up ongoing confusion.

Daycare, home	P	P	P	P	P	P	P	P	P	P	P	CUP	NP	NP	NP	See chapter 38 of this title
Financial services	NP	CUP	NP	NP	P	P	P	P	P	P	P	NP	NP	NP	NP	
Funeral home	NP	NP	NP	NP	NP	P	P	P	P	P	P	P	NP	NP		
General services/ professional-offices	NP	P	NP	CUP	P	P	P	P	P	P	P	P	NP	NP	P	
Professional offices	NP	P	NP	CUP	P	P	P	P	P	P	P	P	NP	P	P	
Veterinary clinic, large animals	NP	NP	NP	NP	NP	NP	CUP	NP	NP	NP	P	P	NP	NP		
Veterinary clinic, small animals	NP	NP	NP	NP	NP	P	P	P	P	P	P	P	NP	NP		

<b>SERVICES:</b>	institutions, lending institutions, and check cashing facilities, but not including automated teller machines that are an accessory use to other commercial enterprises.
<b>FUNERAL HOME:</b>	A place for the care and preparation of human dead for burial, including mortuaries.
<b>GENERAL SERVICES:</b>	Professional and personal care services where customers come to the property for the service, including but not limited to photography, fitness, weight loss, postal, hairstyling, pet grooming, copying and printing, laundry and dry cleaning services, and tattooing establishments.
<b>PROFESSIONAL OFFICES:</b>	Facilities where customers may come to the property for the service, which may include but is not limited to engineering, accounting, legal, architectural, real estate, and insurance. Services provided to businesses such as data processing centers, public relations,

No other amendments or changes are being made to the land use table or land use definitions at this time.

**11-2-3: LAND USE TABLE FOR ZONING DISTRICTS:**

Permitted, conditionally permitted, and not permitted uses for the zoning districts are shown in table 1 of this section. The key for this table is as follows:

P	=	The use is permitted in the district by right, consistent with applicable development standards.
CUP	=	The use is allowed in the district through the conditional use process.
NP	=	The use is not permitted in the district.

TABLE 1  
PRINCIPAL LAND USES BY DISTRICT

Use	OSR	R-U	R-1/ R-2	R-3	R-4/ R-O	B-1	B-2	B-3	DT	TR	CLM	M-I	PLI	Airport	Supplemental Requirements			
<i>Use</i>				<i>OSR</i>	<i>R-U</i>	<i>R-1/ R-2</i>	<i>R-3</i>	<i>R-4/ R-O</i>	<i>B-1</i>	<i>B-2</i>	<i>B-3</i>	<i>DT</i>	<i>TR</i>	<i>CLM</i>	<i>M-I</i>	<i>PLI</i>	<i>Airport</i>	<i>Supplemental Requirements</i>
Residential uses:																		
Community residential facility, type I, 1 - 12 residents	P	P	P	P	P	P	P	P	P	P	P	P	CUP	NP	NP	NP	B-2, B-3, CLM, and M-I districts, see subsection <a href="#">11-2-5A</a> of this chapter  DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter	
Community residential facility, type II, 13 or more residents	NP	NP	CUP	P	P	P	P	P	P	P	P	P	CUP	NP	P	NP	B-2, B-3, CLM, and M-I districts, see subsection <a href="#">11-2-5A</a> of this chapter  DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter	

		NP	CUP	CUP	CUP	P	CUP	CUP	NP	NP	NP	NP	NP	NP	NP	NP	See chapter 7 of this title
	Residence, single-dwelling unit	P	P	P	P	P	P	P	P	P	P	P	NP	NP	NP	NP	B-2, B-3, and CLM, districts, see subsection <a href="#">11-2-5A</a> of this chapter  DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter
	Residence, two-dwelling units	CUP	P	P	P	P	P	P	P	P	P	P	NP	NP	NP	NP	B-2, B-3, CLM, and M-I districts, see subsection <a href="#">11-2-5A</a> of this chapter  DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter
	Residence, multiple- dwelling units (3 or more units)	NP	NP	CUP	P	P	P	P	P	P	P	CUP	NP	NP	NP	NP	For the DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter
Nonresidential uses:																	
Agricultural uses:																	
	Community Gardens	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Commercial Nursery	NP	NP	NP	NP	NP	P	P	P	NP	NP	P	P	NP	NP	NP	
	Horticulture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Medical marijuana grow operation	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	CUP	NP	NP	NP	See subsection <a href="#">11-2-5I</a> of this chapter
Community services/uses:																	
	Administrative government agency	NP	P	NP	NP	P	P	P	P	P	P	P	NP	P	P	P	

	Animal shelter	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	P	P	P	NP	
	Community center	NP	NP	NP	P	P	P	P	P	P	P	P	NP	P	NP	
	Community cultural facility	NP	CUP	CUP	CUP	CUP	P	P	P	P	P	NP	NP	P	P	
	Correctional facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	CUP	CUP	NP	
	Prerelease center	NP	NP	NP	NP	NP	CUP	CUP	CUP	CUP	NP	P	NP	CUP	NP	
	Public safety facility	CUP	CUP	CUP	CUP	P	P	P	P	P	P	P	P	P	P	
	Worship facility	NP	P	CUP	P	P	P	P	P	P	P	P	NP	P	NP	
	Education:															
	Kindergarten, Pre-schools, Elementary Schools	NP	P	P	P	P	CUP	CUP	P	P	P	NP	NP	P	NP	
	Middle Schools	NP	P	P	P	P	CUP	CUP	P	P	P	NP	NP	P	NP	
	High Schools	NP	NP	NP	NP	P	CUP	CUP	P	P	P	NP	NP	P	NP	
	Instructional facility	NP	P	NP	NP	P	P	P	P	P	P	P	P	P	P	
	Food and beverage sales:															
	Casino	NP	NP	NP	NP	NP	NP	CUP	CUP	NP	NP	CUP	NP	NP	NP	See chapter 40 of this title
	Food Trucks	NP	NP	NP	NP	P	P	P	P	P	P	P	P	P	P	
	Kiosks	NP	NP	NP	NP	NP	P	P	P	NP	NP	P	P	NP	NP	
	Restaurant	NP	P	NP	NP	P	P	P	P	P	P	P	NP	NP	P/CUP	Airport District, see subsection <a href="#">11-2-5F2</a> of this chapter
	Restaurant, drive- in	NP	NP	NP	NP	NP	NP	P	P	NP	NP	P	NP	NP	NP	

	Specialized food production	NP	NP	NP	NP	P	P	P	P	P	P	P	P	NP	NP	
	Tavern	NP	NP	NP	NP	NP	P	P	P	P	P	P	NP	P	P/CUP	Airport District, see subsection <a href="#">11-2-5F2</a> of this chapter;  PLI District, see subsection <a href="#">11-2-5E</a> of this chapter
	Healthcare:															
	Healthcare facility	NP	CUP	NP	NP	CUP	CUP	P	P	P	P	NP	NP	P	NP	
	Healthcare office	NP	P	NP	CUP	P	P	P	P	P	P	P	NP	NP	NP	
	Industrial/manufacturing:															
	Contractor yard	NP	NP	NP	NP	NP	NP	CUP	NP	NP	NP	P	P	NP	NP	
	Industrial, heavy	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	P	NP	NP	
	Industrial, light	NP	NP	NP	NP	NP	CUP	CUP	CUP	NP	NP	P	P	NP	P	
	Junkyard	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	P	NP	NP	
	Motor vehicle wrecking facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	P	NP	NP	
	Overnight accommodations:															
	Bed and breakfast no more than eight (8) guest rooms	CUP	CUP	CUP	P	P	P	P	P	P	P	NP	NP	NP	NP	
	Bed and breakfast no more than fifteen (15) guest rooms	NP	NP	NP	NP	P	P	P	P	P	P	NP	NP	NP	NP	
	Boarding house 1-3 residents	P	P	P	P	P	P	P	P	P	P	P	P	NP	NP	
	Boarding house 4-20 residents	NP	NP	NP	NP	P	P	P	P	P	P	P	P	NP	NP	

	Campground/RV park	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	P	NP	NP	NP	
	Emergency shelter	NP	CUP	NP	NP	CUP	CUP	P	CUP	CUP	NP	CUP	NP	P	NP	
	Hotel/motel	NP	NP	NP	NP	NP	P	P	P	P	P	NP	NP	NP	P	
Recreation, Entertainment:																
	Indoor entertainment, sports and recreation	NP	CUP	NP	NP	CUP	P	P	P	P	P	P	P	P	P	CUP
	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Outdoor entertainment, sports and recreation	NP	NP	NP	NP	NP	NP	P	CUP	P	P	CUP	CUP	P	P	
	Parks/playgrounds	P	P	P	P	P	P	P	P	P	P	P	NP	P	CUP	
Rental and repair:																
	General repair	NP	CUP	NP	CUP	CUP	P	P	P	P	P	P	P	NP	NP	R-3, R-O and B-1 Districts, see subsection <a href="#">11-2-5E</a> of this chapter
	Large equipment rental	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	P	P	NP	NP	
	Small equipment rental	NP	NP	NP	NP	NP	P	P	NP	P	P	P	P	NP	NP	
Sales:																
	Agriculture supply sales	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	P	P	NP	NP	
	Auction sales	NP	NP	NP	NP	NP	P	P	P	P	P	P	NP	P	NP	
	Construction material sales	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	P	P	NP	NP	
	General retail sales	NP	NP	NP	NP	CUP	P	P	P	P	P	P	NP	NP	NP	

	General retail sales, small scale 1,000 square feet or less	NP	CUP	NP	CUP	P	P	P	P	P	P	P	P	NP	P	
	Manufactured housing sales	NP	NP	NP	NP	NP	NP	P	NP	NP	NP	P	P	NP	NP	
	Medical marijuana dispensary	NP	NP	NP	NP	NP	P	P	P	P	NP	P	P	NP	NP	See subsection <a href="#">11-2-5G</a>
	Sexually oriented business	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	NP	NP	NP	
	Services:															
	Artisan shop	NP	NP	NP	CUP	CUP	P	P	P	P	P	P	P	NP	NP	
	Commercial kennel	NP	NP	NP	NP	NP	CUP	P	CUP	NP	NP	P	P	NP	NP	
	Crematorium	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
	Daycare center	NP	P	CUP	P	P	P	P	P	P	P	CUP	NP	P	CUP	See chapter 38 of this title
	Daycare, home	P	P	P	P	P	P	P	P	P	P	CUP	NP	NP	NP	See chapter 38 of this title
	Financial services	NP	CUP	NP	NP	P	P	P	P	P	P	NP	NP	NP	NP	
	Funeral home	NP	NP	NP	NP	NP	P	P	P	P	P	P	P	NP	NP	
	General services/ <del>professional offices</del>	NP	P	NP	CUP	P	P	P	P	P	P	P	NP	NP	P	
	<u>Professional offices</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>CUP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	
	Veterinary clinic, large animals	NP	NP	NP	NP	NP	NP	CUP	NP	NP	NP	P	P	NP	NP	
	Veterinary clinic, small animals	NP	NP	NP	NP	NP	P	P	P	P	P	P	P	NP	NP	
	Storage:															
	Fuel tank farm	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	CUP	NP	P	



	Ministorage facility	NP	NP	NP	NP	NP	NP	CUP	CUP	NP	NP	P	P	NP	NP	
	Storage facility, outdoor	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	CUP	NP	NP	
	Warehouse	NP	NP	NP	NP	NP	NP	CUP	NP	NP	NP	P	P	NP	NP	
	Temporary uses by district:															
	On site construction office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
	Outdoor concerts and theatrical performances	P	NP	NP	NP	NP	P	P	P	P	P	P	P	P	P	
	Transportation:															
	Airport	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P
	Bus terminal	NP	NP	NP	NP	NP	CUP	P	P	P	NP	P	NP	P	NP	
	Freight terminal	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	P	
	Parking lot	NP	NP	NP	NP	CUP	P	P	P	NP	NP	P	P	P	P	See chapter 22 of this title
	Parking structure	NP	NP	NP	NP	CUP	P	P	P	P	P	P	P	P	P	
	Railroad yard	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	NP	
	Utilities:															
	Communication tower	CUP	CUP	CUP	CUP	CUP	P	P	P	P	P	P	P	P	P	
	Composting facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P	NP	
	Recycling center	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	P	P	NP	
	Recycling facility, mobile	NP	NP	NP	NP	P	P	P	P	P	P	P	P	P	P	
	Utility, major	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	CUP	CUP	NP	

	Utility, minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Utility, small scale energy production	NP	P	NP	NP	P	P	P	P	P	P	P	P	P	NP	
	Vehicle trade and service:															
	Vehicle fuel sales	NP	NP	NP	NP	NP	NP	P	NP	P	NP	P	P	NP	NP	Airport District, see subsection <a href="#">11-2-5D</a> of this chapter
	Vehicle repair	NP	NP	NP	NP	NP	NP	P	NP	P	NP	P	P	NP	NP	
	Vehicle sales and rental	NP	NP	NP	NP	NP	NP	P	NP	P	NP	P	P	NP	P	Airport District, see subsection <a href="#">11-2-5D</a> of this chapter
	Vehicle services	NP	NP	NP	NP	NP	NP	P	NP	P	NP	P	P	NP	NP	

(Ord. 3222, 9-26-2016; amd. Ord. 3254, 5-20-2019; Ord. 3256, 6-24-2019; Ord. 3304, 11-21-2022)

# ORDINANCES OF THE CITY OF HELENA, MONTANA

**Ord.**

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AMENDING TITLE 11, CHAPTER 2 OF  
THE CITY OF HELENA ZONING REGULATIONS**

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF  
HELENA, MONTANA:**

Title 11, Zoning, Chapter 2, Section 11-2-3 (Table 1) is hereby amended as follows:

**TITLE 11: ZONING**

**CHAPTER 2**

**11-2-3: LAND USE TABLE FOR ZONING DISTRICTS:**

Permitted, conditionally permitted, and not permitted uses for the zoning districts are shown in table 1 of this section. The key for this table is as follows:

P	=	The use is permitted in the district by right, consistent with applicable development standards.
CUP	=	The use is allowed in the district through the conditional use process.
NP	=	The use is not permitted in the district.

TABLE 1  
PRINCIPAL LAND USES BY DISTRICT

<i>Use</i>	<i>OS</i>	<i>R- U</i>	<i>R- 1/ R- 2</i>	<i>R- 3</i>	<i>R- 4/ R- O</i>	<i>B- 1</i>	<i>B- 2</i>	<i>B- 3</i>	<i>D T</i>	<i>T R</i>	<i>CL M</i>	<i>M- I</i>	<i>PL I</i>	<i>Airp ort</i>	<i>Supple mental Require ments</i>
<b>Residential uses:</b>															

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Community residential facility, type I, 1 - 12 residents	P	P	P	P	P	P	P	P	P	P	CU P	NP	NP	NP	B-2, B-3, CLM, and M-I districts, see subsection <a href="#">11-2-5A</a> of this chapter  DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter
Community residential facility, type II, 13 or more residents	NP	NP	C UP	P	P	P	P	P	P	P	CU P	NP	P	NP	B-2, B-3, CLM, and M-I districts, see subsection <a href="#">11-2-5A</a> of this chapter  DT and TR districts, see subsections <a href="#">11-2-5A</a> and <a href="#">11-2-5B</a> of this chapter
Residence, single-dwelling unit	P	P	P	P	P	P	P	P	P	P	P	NP	NP	NP	B-2, B-3, and CLM, districts, see subsection <a href="#">11-2-5A</a> of this chapter



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	Commercial Nursery	NP	NP	NP	NP	NP	P	P	P	NP	N P	P	P	NP	NP	
	Horticulture	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Medical marijuana grow operation	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	CU P	C UP	NP	NP	See subsection <a href="#">11-2-5I</a> of this chapter
<b>Community services/uses:</b>																
	Administrative government agency	NP	P	NP	NP	P	P	P	P	P	P	P	NP	P	P	
	Animal shelter	NP	NP	NP	NP	NP	NP	P	NP	NP	N P	P	P	P	NP	
	Community center	NP	NP	NP	P	P	P	P	P	P	P	P	NP	P	NP	
	Community cultural facility	NP	C UP	C UP	C UP	C UP	P	P	P	P	P	NP	NP	P	P	
	Correctional facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	CU P	C UP	C UP	NP	
	Prerelease center	NP	NP	NP	NP	NP	C UP	C UP	C UP	C UP	N P	P	NP	C UP	NP	
	Public safety facility	C UP	C UP	C UP	C UP	P	P	P	P	P	P	P	P	P	P	
	Worship facility	NP	P	C UP	P	P	P	P	P	P	P	P	NP	P	NP	
<b>Education:</b>																
	Kindergarten, Pre-schools, Elementary Schools	NP	P	P	P	P	C UP	C UP	P	P	P	NP	NP	P	NP	
	Middle Schools	NP	P	P	P	P	C UP	C UP	P	P	P	NP	NP	P	NP	

# ORDINANCES OF THE CITY OF HELENA, MONTANA

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	High Schools	NP	NP	NP	NP	P	C UP	C UP	P	P	P	NP	NP	P	NP	
	Instructional facility	NP	P	NP	NP	P	P	P	P	P	P	P	P	P	P	
	<b>Food and beverage sales:</b>															
	Casino	NP	NP	NP	NP	NP	NP	C UP	C UP	NP	N P	CU P	NP	NP	NP	See chapter 40 of this title
	Food Trucks	NP	NP	NP	NP	P	P	P	P	P	P	P	P	P	P	
	Kiosks	NP	NP	NP	NP	NP	P	P	P	NP	N P	P	P	NP	NP	
	Restaurant	NP	P	NP	NP	P	P	P	P	P	P	P	NP	NP	P/C UP	Airport District, see subsection <a href="#">11-2-5F2</a> of this chapter
	Restaurant, drive-in	NP	NP	NP	NP	NP	NP	P	P	NP	N P	P	NP	NP	NP	
	Specialized food production	NP	NP	NP	NP	P	P	P	P	P	P	P	P	NP	NP	
	Tavern	NP	NP	NP	NP	NP	P	P	P	P	P	P	NP	P	P/C UP	Airport District, see subsection <a href="#">11-2-5F2</a> of this chapter;  PLI District, see subsection <a href="#">11-2-5E</a> of this chapter

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<b>Healthcare:</b>																
	Healthcare facility	NP	C UP	NP	NP	C UP	C UP	P	P	P	P	NP	NP	P	NP	
	Healthcare office	NP	P	NP	C UP	P	P	P	P	P	P	P	NP	NP	NP	
<b>Industrial/manufacturing:</b>																
	Contractor yard	NP	NP	NP	NP	NP	NP	C UP	NP	NP	N P	P	P	NP	NP	
	Industrial, heavy	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	C UP	P	NP	NP	
	Industrial, light	NP	NP	NP	NP	NP	C UP	C UP	C UP	NP	N P	P	P	NP	P	
	Junkyard	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	C UP	P	NP	NP	
	Motor vehicle wrecking facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	C UP	P	NP	NP	
<b>Overnight accommodations:</b>																
	Bed and breakfast no more than eight (8) guest rooms	C UP	C UP	C UP	P	P	P	P	P	P	P	NP	NP	NP	NP	
	Bed and breakfast no more than fifteen (15) guest rooms	NP	NP	NP	NP	P	P	P	P	P	P	NP	NP	NP	NP	
	Boarding house 1-3 residents	P	P	P	P	P	P	P	P	P	P	P	P	NP	NP	
	Boarding house 4-20 residents	NP	NP	NP	NP	P	P	P	P	P	P	P	P	NP	NP	
	Campground/RV park	NP	NP	NP	NP	NP	NP	P	NP	NP	N P	P	NP	NP	NP	



# ORDINANCES OF THE CITY OF HELENA, MONTANA

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	Emergency shelter	NP	C UP	NP	NP	C UP	C UP	P	C UP	C UP	N P	CU P	NP	P	NP	
	Hotel/motel	NP	NP	NP	NP	NP	P	P	P	P	P	NP	NP	NP	P	
<b>Recreation, Entertainment:</b>																
	Indoor entertainment, sports and recreation	NP	C UP	NP	NP	C UP	P	P	P	P	P	P	P	P	CUP	
	Open space	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Outdoor entertainment, sports and recreation	NP	NP	NP	NP	NP	NP	P	C UP	P	P	CU P	C UP	P	P	
	Parks/playgrounds	P	P	P	P	P	P	P	P	P	P	P	NP	P	CUP	
<b>Rental and repair:</b>																
	General repair	NP	C UP	NP	C UP	C UP	P	P	P	P	P	P	P	NP	NP	R-3, R-O and B-1 Districts, see subsection <a href="#">11-2-5E</a> of this chapter
	Large equipment rental	NP	NP	NP	NP	NP	NP	P	NP	NP	N P	P	P	NP	NP	
	Small equipment rental	NP	NP	NP	NP	NP	P	P	NP	P	P	P	P	NP	NP	
<b>Sales:</b>																
	Agriculture supply sales	NP	NP	NP	NP	NP	NP	P	NP	NP	N P	P	P	NP	NP	
	Auction sales	NP	NP	NP	NP	NP	P	P	P	P	P	P	NP	P	NP	
	Construction material sales	NP	NP	NP	NP	NP	NP	P	NP	NP	N P	P	P	NP	NP	

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	General retail sales	NP	NP	NP	NP	C UP	P	P	P	P	P	P	NP	NP	NP	
	General retail sales, small scale 1,000 square feet or less	NP	C UP	NP	C UP	P	P	P	P	P	P	P	P	NP	P	
	Manufactured housing sales	NP	NP	NP	NP	NP	NP	P	NP	NP	N P	P	P	NP	NP	
	Medical marijuana dispensary	NP	NP	NP	NP	NP	P	P	P	P	N P	P	P	NP	NP	See subsection <a href="#">11-2-5G</a>
	Sexually oriented business	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	CU P	NP	NP	NP	
<b>Services:</b>																
	Artisan shop	NP	NP	NP	C UP	C UP	P	P	P	P	P	P	P	NP	NP	
	Commercial kennel	NP	NP	NP	NP	NP	C UP	P	C UP	NP	N P	P	P	NP	NP	
	Crematorium	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	P	P	NP	NP	
	Daycare center	NP	P	C UP	P	P	P	P	P	P	P	CU P	NP	P	CUP	See chapter 38 of this title
	Daycare, home	P	P	P	P	P	P	P	P	P	P	CU P	NP	NP	NP	See chapter 38 of this title
	Financial services	NP	C UP	NP	NP	P	P	P	P	P	P	NP	NP	NP	NP	
	Funeral home	NP	NP	NP	NP	NP	P	P	P	P	P	P	P	NP	NP	
	General services	NP	P	NP	C UP	P	P	P	P	P	P	P	NP	NP	P	

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	<u>professional offices</u>															
	<u>Professional offices</u>	<u>NP</u>	<u>P</u>	<u>NP</u>	<u>C</u> <u>UP</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>P</u>	<u>NP</u>	<u>P</u>	<u>P</u>	
	Veterinary clinic, large animals	NP	NP	NP	NP	NP	NP	C UP	NP	NP	N P	P	P	NP	NP	
	Veterinary clinic, small animals	NP	NP	NP	NP	NP	P	P	P	P	P	P	P	NP	NP	
<b>Storage:</b>																
	Fuel tank farm	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	CU P	C UP	NP	P	
	Ministorage facility	NP	NP	NP	NP	NP	NP	C UP	C UP	NP	N P	P	P	NP	NP	
	Storage facility, outdoor	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	CU P	C UP	NP	NP	
	Warehouse	NP	NP	NP	NP	NP	NP	C UP	NP	NP	N P	P	P	NP	NP	
<b>Temporary uses by district:</b>																
	On site construction office	P	P	P	P	P	P	P	P	P	P	P	P	P	P	
	Outdoor concerts and theatrical performances	P	NP	NP	NP	NP	P	P	P	P	P	P	P	P	P	
<b>Transportation:</b>																
	Airport	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	NP	NP	NP	P	
	Bus terminal	NP	NP	NP	NP	NP	C UP	P	P	P	N P	P	NP	P	NP	

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	Freight terminal	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	NP	P	P	NP	P	
	Parking lot	NP	NP	NP	NP	C UP	P	P	P	NP	N P	P	P	P	P		See chapter 22 of this title
	Parking structure	NP	NP	NP	NP	C UP	P	P	P	P	P	P	P	P	P		
	Railroad yard	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	P	P	NP	NP		
<b>Utilities:</b>																	
	Communication tower	C UP	C UP	C UP	C UP	C UP	P	P	P	P	P	P	P	P	P		
	Composting facility	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	P	P	P	NP		
	Recycling center	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	P	P	P	NP		
	Recycling facility, mobile	NP	NP	NP	NP	P	P	P	P	P	P	P	P	P	P		
	Utility, major	NP	NP	NP	NP	NP	NP	NP	NP	NP	N P	NP	C UP	C UP	NP		
	Utility, minor	P	P	P	P	P	P	P	P	P	P	P	P	P	P		
	Utility, small scale energy production	NP	P	NP	NP	P	P	P	P	P	P	P	P	P	NP		
<b>Vehicle trade and service:</b>																	
	Vehicle fuel sales	NP	NP	NP	NP	NP	NP	P	NP	P	N P	P	P	NP	NP		Airport District, see subsection <a href="#">11-2-5D</a> of this chapter

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	Vehicle repair	NP	NP	NP	NP	NP	NP	P	NP	P	N P	P	P	NP	NP	
	Vehicle sales and rental	NP	NP	NP	NP	NP	NP	P	NP	P	N P	P	P	NP	P	Airport District, see subsection <a href="#">11-2-5D</a> of this chapter
	Vehicle services	NP	NP	NP	NP	NP	NP	P	NP	P	N P	P	P	NP	NP	

DRAFT

**ORDINANCES OF THE CITY OF HELENA, MONTANA**

**Ord.**

FIRST PASED BY THE COMMISISON OF THE CITY OF HELENA, MONTANA,  
THIS XX<sup>ST</sup> DAY OF XXXX, 2024.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF THE COMMISSION

FINALLY PASSED BY THE COMMISISON OF THE CITY OF HELENA.  
MONTANA, THIS XX<sup>TH</sup> DAY OF XXXX, 2024.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CLERK OF THE COMMISSION



Christopher J. Brink, AICP  
Director

**Community Development Department**  
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[helenamt.gov](http://helenamt.gov)

## MEMO

To: Members, Helena Zoning Commission

CC:

Date: March 28, 2024

RE: Proposed Text Amendments to Title 11, Chapter 40

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Recently, City Staff (Planning and City Attorney's Office) has identified a section in the City of Helena Zoning Regulations (Title 11 of Helena City Code) that needs attention as it relates to the Establishment of Areas that Allow the Sale of Alcoholic Beverages and Casinos within City Limits; in particular, locations of Licensed Premises as outlined in §11-40-3(A), Helena City Code and Exceptions as outlined in §11-40-4(A), HCC. Identified concerns are relative to licensed establishments located within the DT and TR zoning districts.

As enumerated in §11-40-3(A), HCC, licensed establishments where alcoholic beverages are sold for on premises consumption, may not be located in:

1. Any zoning district that does not allow licensed premises as either a permitted or conditional use;
2. An area restricted by §16-3-306, Montana Code Ann, as amended; and
3. An area located within six hundred (600) feet straight line distance from the closest exterior edge of a licensed premises to the closest boundary of a school property, except as permitted by this chapter.

As permitted exemption (§11-40-3(A), the location prohibition defined in §11-40-3(A)(3) does not apply to:

1. An existing licensed premises; and
2. A licensed premises that is in a location allowed by Chapter 40, but which subsequently becomes prohibited solely because of the acquisition, creation, or expansion of school property.

Over the past several years, as new development and licensed premises have been opened and established in downtown Helena, several of these new establishments have unknowingly been allowed to be issued licenses contrary to Helena City Code (zoning regulations) - §11-40-3(A)(3).

Montana Code Annotated, under §16-3-309, allows cities to identify and set, or to not set, distancing requirements for licensed premises. Helena City Code (Chapter 40 of the Zoning Regulations) references the same distancing prohibitions as MCA but alters slightly the measurements from schools (school entrance vs school property boundary) and provides an exception; also related to schools.

**§16-3-309, MCA. Sales prohibited by ordinance.** (1) An incorporated city may enact an ordinance defining certain areas in its incorporated limits where alcoholic beverages may or may not be sold.

(2) A county may enact an ordinance or resolution defining certain areas in the county, not within the incorporated limits of a city, where alcoholic beverages may or may not be sold.

*(3) In enacting such an ordinance or resolution, the county or city may provide that the provisions of **16-3-306(1)** do not apply within the jurisdictional area of the ordinance or resolution. If a county or city has supplanted the provisions of **16-3-306(1)**, upon request of the department the governing body of the county or city must certify to the department whether or not the person or individual identified in the request may lawfully sell alcoholic beverages under the terms of the ordinance or resolution. The department is bound by the determination set forth in the certification.*

*(4) No county or incorporated city may by ordinance restrict the number of licenses that the department may issue*

City staff finds that growth pressures will continue in the DT and TR districts and that allowing an exemption for licensed establishments will further the goals of the 2019 Growth Policy and the meet intent of the DT and TR zoning designations. The proposed amendments to Chapter 40 will permit those establishments that have been licensed by the City and State to continue to operate as permitted uses in the DT and TR districts.

The proposed text amendment to Title 11, Chapter 40 is attached in draft text form and draft ordinance form.



## CHAPTER 40

### ESTABLISHMENT OF AREAS THAT ALLOW THE SALE OF ALCOHOLIC BEVERAGES AND CASINOS WITHIN CITY LIMITS

#### SECTION:

11-40-1: Intent

11-40-2: Definitions

11-40-3: Locations Of Licensed Premises And Casinos

11-40-4: Exemptions

11-40-5: Conditional Use

11-40-1: INTENT:

This chapter is intended to:

- A. Identify safe and appropriate locations for establishments selling alcoholic beverages for on premises consumption near public school property;
- B. Identify safe and appropriate locations for casinos; and
- C. Protect and enhance safety of public school students and property near such establishments. (Ord. 2868, 2-22-1999)

11-40-2: DEFINITIONS:

For purposes of this chapter, the following definitions apply:

**CASINO:** An establishment licensed for on premises consumption of alcoholic beverages which:

- A. Is licensed for and has six (6) or more video gaming machines or gambling devices; or
- B. Is licensed for and used to conduct any of the following types of gambling: calcutta pools, live card games, live card game tournaments, and live keno.

**EXISTING CASINO:** Licensed premises that previously had a gambling operator's license and operated as a casino or which had a pending application before the Montana department of justice prior to April 1, 1999, for a gambling operator's license for a casino use.

**EXISTING LICENSED PREMISES:** Licensed premises that were licensed, or which had a pending application before the Montana department of revenue, for the retail sale of alcoholic beverages for on premises consumption prior to the enactment of this chapter and which have continuously operated under said licenses.

**LICENSED PREMISES:** Establishments licensed by the state of Montana for the retail sale of any alcoholic beverage for on premises consumption. This does not include premises

upon which any alcoholic beverage is catered and sold for on premises consumption to persons attending a special event.

**SCHOOL PROPERTY:** Property owned, leased or exclusively possessed by a public school district that is used for educational purposes or school sanctioned activities for primary and secondary education students. This includes school buildings and adjacent land, playgrounds, athletic fields, stadiums, and other places used by primary and secondary education students for educational purposes or school sponsored events. It does not include property owned by commercially operated or postsecondary schools or school district property that is not regularly occupied or used by students for school activities. (Ord. 2799, 7-14-1997; amd. Ord. 2868, 2-22-1999)

#### 11-40-3: LOCATIONS OF LICENSED PREMISES AND CASINOS:

A. Pursuant to the authority granted under section 16-3-309, Montana Code Annotated, the following are areas where alcoholic beverages may not be sold at retail for on premises consumption:

1. In any zoning district that does not allow licensed premises as either a permitted or conditional use under this title;

2. An area restricted by section 16-3-306, Montana Code Annotated, as amended; ~~and~~

3. An area located within six hundred feet (600') straight line distance from the closest exterior edge of a licensed premises to the closest boundary of school property, except as permitted by this chapter; ~~and~~ (Ord. 2868, 2-22-1999)

4. An area located within six hundred (600) feet straight line distance from the closest edge exterior edge of a licensed premises to the nearest entrance of a church, synagogue, or other place of worship located on the same street as the licensed premises.

B. Pursuant to the authority granted under sections 16-3-309 and 23-5-171, Montana Code Annotated, casinos are only allowed by conditional use permit in those districts shown in section 11-2-3, table 1 of this title and are subject to subsection A of this section. A casino may not be located within three hundred feet (300') of any R-1, R-2, R-3, R-4 or R-O zoning district measured in a straight line distance from the closest exterior edge of the licensed premises to the closest boundary of the applicable residential zoning district. (Ord. 3104, 11-3-2008)

#### 11-40-4: EXEMPTIONS:

A. The location prohibition defined in subsection 11-40-3A3 and 11-40-3A4 of this chapter does not apply to:

1. An existing licensed premises. Exempted existing licensed premises are not subject to the provisions of chapter 6 of this title as nonconforming uses.

2. A licensed premises that is in a location allowed by this chapter, but which subsequently becomes prohibited solely because of the acquisition, creation or expansion of school property or of a church, synagogue, or other place of worship.

3. A licensed premises located within the DT (Downtown) and the TR (Transitional Residential) zoning districts.

B. The location prohibition defined in subsection 11-40-3B of this chapter does not apply to an existing casino. Exempted existing casinos are not subject to the provisions of chapter 6 of this title as nonconforming uses. If the structure housing an existing casino becomes damaged or destroyed by any cause, the structure may be replaced or reconstructed. An existing gambling operation may change the type and quantity of gambling activity without the requirement of a conditional use permit for that change. (Ord. 3097, 4-7-2008)

11-40-5: CONDITIONAL USE:

Licensed premises that are not permitted in a location because of subsection 11-40-3A3 of this chapter may be permitted as a conditional use in accordance with the provisions of chapter 3 of this title, provided the use is otherwise permitted by this zoning ordinance. (Ord. 3149, 12-19-2011)

# ORDINANCES OF THE CITY OF HELENA, MONTANA

**Ord.**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING TITLE 11, CHAPTER 40 OF  
THE CITY OF HELENA ZONING REGULATION  
(ESTABLISHMENT OF AREAS THAT ALLOW THE SALE OF ALCOHOLIC  
BEVERAGES AND CASINOS WITHIN CITY LIMITS)

NOW, THEREFORE, BE IT ORDAINED BY THE COMMISSION OF THE CITY OF  
HELENA, MONTANA:

Title 11, Zoning, Chapter 40, Establishments of Areas That Allow  
the Sale of Alcoholic Beverages and Casinos within City Limits is  
hereby amended as follows:

## CHAPTER 40

ESTABLISHMENTS OF AREAS THAT ALLOW THE SALE OF ALCOHOLIC  
BEVERAGES AND CASINOS WITHIN CITY LIMITS

11-40-1: Intent

NO CHANGE

11-40-2: Definitions

NO CHANGE

11-40-3: Locations Of Licensed Premises And Casinos

A. Pursuant to the authority granted under section 16-3-309, Montana Code Annotated, the following are areas where alcoholic beverages may not be sold at retail for on premises consumption:

1. In any zoning district that does not allow licensed premises as either a permitted or conditional use under this title;

2. An area restricted by section 16-3-306, Montana Code Annotated, as amended; ~~and~~

# ORDINANCES OF THE CITY OF HELENA, MONTANA

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3. An area located within six hundred feet (600') straight line distance from the closest exterior edge of a licensed premises to the closest boundary of school property, except as permitted by this chapter. ~~—; and~~ (Ord. 2868, 2-22-1999)

4. An area located within six hundred (600) feet straight line distance from the closest edge exterior edge of a licensed premises to the nearest entrance of a church, synagogue, or other place of worship located on the same street as the licensed premises.

B. Pursuant to the authority granted under sections 16-3-309 and 23-5-171, Montana Code Annotated, casinos are only allowed by conditional use permit in those districts shown in section 11-2-3, table 1 of this title and are subject to subsection A of this section. A casino may not be located within three hundred feet (300') of any R-1, R-2, R-3, R-4 or R-0 zoning district measured in a straight line distance from the closest exterior edge of the licensed premises to the closest boundary of the applicable residential zoning district. (Ord. 3104, 11-3-2008)

11-40-4: Exemptions

A. The location prohibition defined in subsection 11-40-3A3 and 11-40-3A4 of this chapter does not apply to:

1. An existing licensed premises. Exempted existing licensed premises are not subject to the provisions of chapter 6 of this title as nonconforming uses.

2. A licensed premises that is in a location allowed by this chapter, but which subsequently becomes prohibited solely because of the acquisition, creation or expansion of school property or of a church, synagogue, or other place of worship.

3. A licensed premises located within the DT (Downtown) and the TR (Transitional Residential) zoning districts.

B. The location prohibition defined in subsection 11-40-3B of this chapter does not apply to an existing casino. Exempted existing casinos are not subject to the provisions of chapter 6 of this title as nonconforming uses. If the structure housing an existing casino becomes damaged or destroyed by any cause, the

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structure may be replaced or reconstructed. An existing gambling operation may change the type and quantity of gambling activity without the requirement of a conditional use permit for that change. (Ord. 3097, 4-7-2008)

11-40-5: Conditional Use

NO CHANGE

**FIRST PASSED BY THE COMMISSION OF THE CITY OF HELENA, MONTANA,  
THIS XX<sup>nd</sup> DAY OF XXXX, 2024.**

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**MAYOR**

**ATTEST:**

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**CLERK OF THE COMMISSION**

**FINALLY PASSED BY THE COMMISSION OF THE CITY OF HELENA.  
MONTANA, THIS XX<sup>TH</sup> DAY OF XXXX, 2024.**

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**MAYOR**

**ATTEST:**

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**CLERK OF THE COMMISSION**