



**Lewis and Clark County
Community Development and Planning**

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MEMO

March 20, 2026

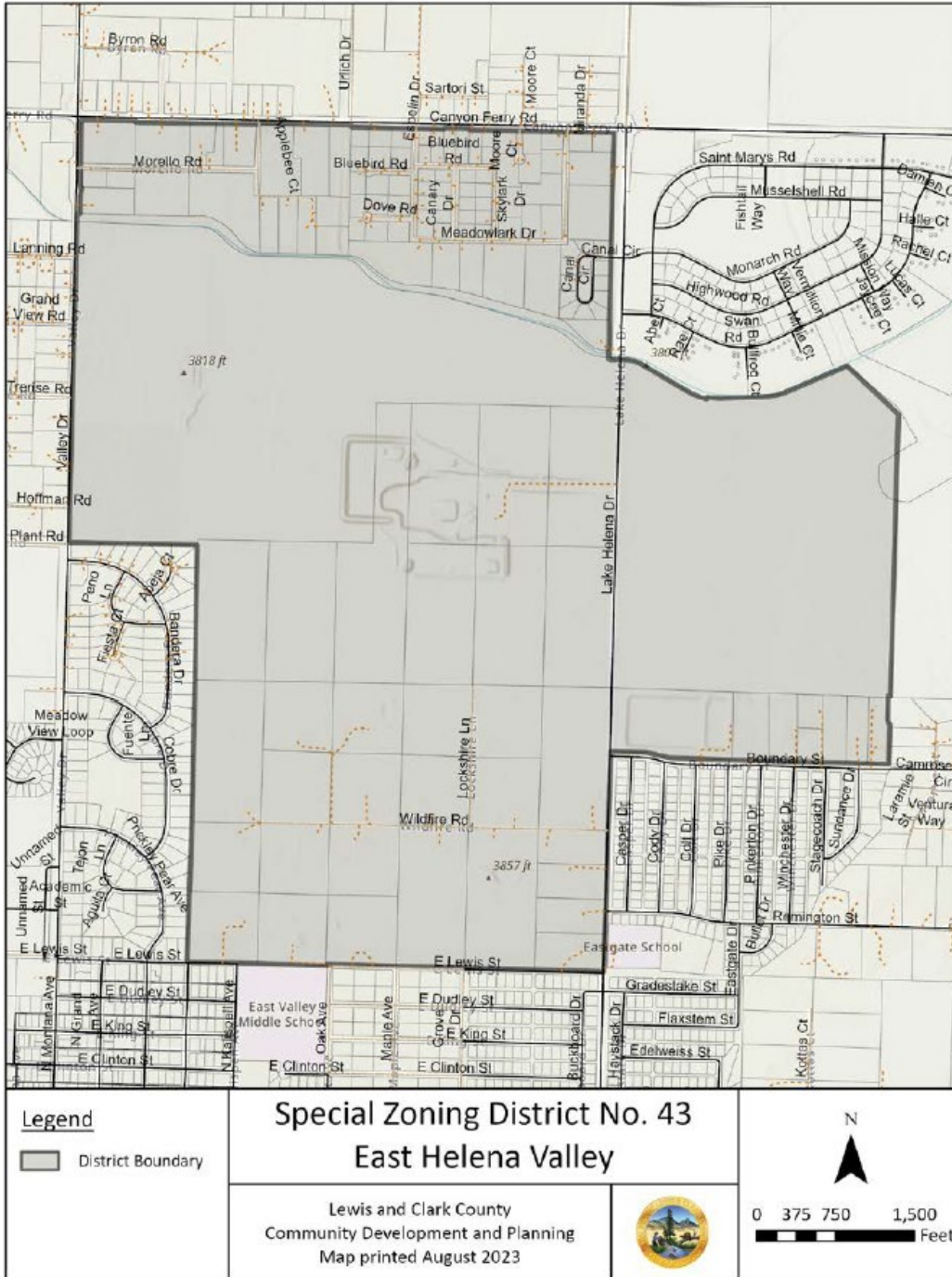
Re: Proposed Text Amendment of the Special Zone District #43 East Helena Valley

- The Lewis and Clark County Planning and Zoning Commission will hold a public hearing to consider proposed text amendments to the regulations of Special Zoning District No. 43 at **5:30 p.m. on Thursday, April 16, 2026** in Room 330 on the third floor of the City-County Building, 316 North Park Avenue, Helena, Montana. At the end of this hearing, the Planning and Zoning Commission will make a recommendation to the Board of County Commissioners regarding the proposed text amendments. Following this recommendation, the Board of County Commissioners will hold a public hearing regarding the proposed text amendments at **9:00 a.m. on Tuesday, April 28, 2026**, also in Room 330 of the City-County Building, 316 North Park Avenue, Helena, Montana.
- Proposed text amendment to zoning regulations are located in three (3) locations within the regulations including: 1) Non-conforming Structures and Use, 2) removing the Special Restrictions Section & 3) remove Special Restrictions from the Definitions section of the regulations.

Edited draft regulations contains markups with additions have been **BOLDED** and underlined, and deletions are shown with a strikethrough.

Lewis and Clark County Part 1 Zoning Districts

Special Zoning District No. 43: East Helena Valley



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STATEMENT OF INTENT (PURPOSE)

The purpose of this district is to accommodate and protect the use of single-family dwelling units and associated agricultural land uses while promoting and preserving the rural-residential atmosphere of the area and enhancing the aesthetic character and property values of the area.

PERMITTED USES

- Agricultural/Horticultural/Silvicultural uses*
- Day care facilities*
- Dwellings, duplex*
- Dwellings, single-family*
- Educational Facilities, Primary and Secondary *
- Guest houses*
- Home occupations*
- Livestock
- Manufactured/Modular detached single-family dwellings on permanent foundations*
- Nurseries, landscaping materials
- Parks and publicly owned recreational facilities
- Water storage and treatment facilities
- Wastewater treatment facilities*

CONDITIONAL USES

- Bed and Breakfast establishments*
- Cafes (deli, coffee shop, bagel shop, etc.)*
- Churches and other places of worship*
- Community center buildings operated by a non-profit agency
- Dwellings, family hardship*
- Golf courses
- Golf driving ranges
- Professional and business offices*

SPECIAL RESTRICTIONS

- ~~Casinos*~~
- ~~Hazardous substance disposal/storage*~~

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- ~~Hazardous waste disposal*~~
- ~~Industrial uses*~~
- ~~Landfills*~~
- ~~Large scale commercial*~~
- ~~Large scale retail*~~
- ~~Machinery storage*~~
- ~~Mining activities*~~
- ~~Mobile home courts/parks*~~
- ~~Salvage/Junk yards*~~
- ~~Truck storage*~~

* Indicates definition

BULK REQUIREMENTS

MINIMUM LOT AREA:

One acre with individual water and individual wastewater

One-half acre with public water and/or public wastewater

MINIMUM LOT WIDTH: 100 feet

SETBACKS:

MINIMUM REQUIREMENTS FOR PRINCIPAL STRUCTURE:

FRONT: 10 feet

SIDE: 10 feet

SIDE CORNER: 10 feet

REAR: 10 feet

FROM ACCESS EASEMENT: 10 feet

MINIMUM REQUIREMENTS FOR DETACHED ACCESSORY STRUCTURES:

FRONT: 10 feet

SIDE: 10 feet

SIDE CORNER: 10 feet

REAR: 5 feet

FROM ACCESS EASEMENT: 10 feet

MAXIMUM BUILDING HEIGHT: 30 feet

PERMITTED LOT COVERAGE: 40%

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MAXIMUM FENCE HEIGHT:

FRONT:	6 feet
SIDE:	6 feet
REAR:	6 feet

NON-CONFORMING LOTS

These lots of record filed with the Clerk and Recorder's Office on the effective date of this resolution, that do not meet the lot area and width requirements of the district in which it is located are defined as non-conforming lots. Notwithstanding other limitations imposed by this resolution, structures permitted in this district may be erected on any single lot of record on the effective date of this resolution.

NON-CONFORMING STRUCTURES AND USES

These are the structures and uses of structures or land lawfully used or occupied prior to the effective date of this resolution ~~that which~~ do not conform to the use regulations for this district:

- The lawful use of land or a structure existing at time of the adoption of this resolution may be continued even though such use does not conform to the district provisions thereof.
- ~~• The non-conforming use of land or structures shall not be expanded either on the same or adjoining property.~~
- If the non-conforming use of land or structures, existing at the time of this resolution became effective, is discontinued for a period of six (6) months, then that use shall conform to the uses allowed in the district in which it is located.
- Changes Permitted to Non-Conforming Structures and Uses:
 1. Routine maintenance and repair or those modifications required by applicable permit requirements for health and safety and/or health and safety codes shall be permitted.
 2. **A non-conforming use may be expanded, subject to a Conditional Use Permit, within the confines of the lot or parcel of land upon which it is located or on lands adjacent to this use under the same ownership at the time of the original resolution before the district became effective.**
 - ~~3. A non-conforming building or structure may be enlarged, extended, reconstructed, or structurally altered if said building or structure is changed to completely conform with these regulations. A building or structure conforming with respect to use, but non-conforming with respect to height, setback, or lot coverage may be altered or extended if the alteration or extension does not further deviate from these regulations.~~
 - ~~4. Where an existing building or use is located entirely within the setback area, that building or use may be expanded to the rear of the property away from the setback line.~~

VALIDITY/SEVERABILITY CLAUSE

Should any section, subsection, sentence, or clause of this resolution be held invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the remaining portions of this resolution. The Board of County Commissioner hereby declares that it would have adopted such section,

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subsection, sentence or clause irrespective of the fact that one or more of such portions may be declared invalid.

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ENFORCEMENT

PENALTY FOR VIOLATION:

Any person or corporation, whether owner, lessee, principal agent, employee, or otherwise, who violates any provisions of these regulations or permits any such violation or fails to comply with any of the requirements thereof, or who erects, constructs, reconstructs, alters, enlarges, converts, moves, or uses any building or uses any land in violation of any detailed statement or plans submitted by him and approved under the provisions of these regulations, is subject to a fine of \$25.00 for each violation. Each day of continued violation after notification shall constitute a separate, additional violation.

USE OF AVAILABLE REMEDIES AUTHORIZED:

In the event that any building or structure is erected, reconstructed, altered, converted, or maintained, or any building, structure, or land is used in violation of these regulations, the proper legal authorities of the Board of County Commissioners, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of such building, structure or land, or to prevent an illegal act, conduct, business, or use in or about such building, structure or land. At a minimum, violators will be required to restore property to original condition.

OTHER

LIGHTING:

Any exterior lighting shall be arranged and shielded so that the light source can not be seen from adjacent roads or property and so that no direct beam illuminates other private property or public roads, and shall not be visible from beyond the property lines.

PARKING REQUIREMENTS

Bed and Breakfast establishments	2 spaces for the resident family or manager plus 1 space per room rented plus 1 space for every 2 outside employees of maximum shift
Cafes	1 space per 4 seats plus 1 space per food and beverage employee on maximum shift. Drive through windows must be provided with 5 stacking spaces per window
Churches and other places of worship	1 space per 5 seats or 40 square feet of churches or other places gross floor area used for assembly of assembly purposes, whichever is greater
Community center buildings (non-profit)	1 space per 5 seats or 40 square feet of gross floor area used for assembly purposes, whichever is greater
Day Care Facilities	1 space per 10 supervised children or adults plus 1 for every employee per maximum shift

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Educational Facilities

Kindergarten through junior high schools	1 space per employee and faculty member, but not less than assembly facility area requirements of 1 space per 4 seats
High schools	1 space for every 4 students plus 1 space per staff member
Colleges and technical schools	1 space for every 2 students plus 1 space for each Staff member
Golf courses	3 spaces per hole of main course
Professional and business offices	1 space per 400 square feet of gross floor area (Note: Offices not providing customer services: 1 space per 4 employees, but not less than 1 per 400 square feet of gross floor area)

VARIANCE PROCESS

Where, owing to special conditions, a literal enforcement of the zoning regulations would result in unnecessary hardship to a landowner, the landowner may request a variance from the regulations. Such request will be considered at a noticed public hearing by the Planning and Zoning Commission, which will make a recommendation to the Board of County Commissioners. The Board of County Commissioners shall have the power to authorize variances which are not contrary to the public interest and which are not detrimental to neighboring properties.

PROCEDURE FOR CONDITIONAL USE PERMIT

- A.) No structure, building or land shall be used, constructed, altered, or expanded where a Conditional Use Permit is specifically required by the terms of these regulations until a Conditional Use Permit for such use has been authorized and issued by the Board of County Commissioners.
- B.) Structures or buildings devoted to any use, which is permitted under the terms of these regulations, subject to the securing of a Conditional Use Permit, may be altered, added to, enlarged, expanded, or moved from one location to another on the lot only after securing a new Conditional Use Permit.
- C.) Application
 - 1) Application for a Conditional Use Permit may be made by the owner of the affected property or by his designated agent on a form that may be obtained from the County Planning and Development Office.
 - 2) The completed application and fee as set by the Lewis and Clark County Board of Commissioners shall be submitted to the County Planning and Development Office. Said fee is not refundable.
- D.) Procedures for Consideration

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- 1) After acceptance by the Zoning Administrator or his designee, the completed application shall be transmitted to the staff of the Planning and Development Office for their review and evaluation.
- 2) The Zoning Administrator shall set a date for a public hearing and publish a public notice which advertises said hearing before the Planning and Zoning Commission at least once in a newspaper of general circulation in the community at least 15 days prior to the meeting of the Planning and Zoning Commission at which the application is to be considered.
- 3) The Zoning Administrator shall also mail written notice to all adjacent property owners within the zoning district not less than 15 days prior to the date of formal review by the Planning and Zoning Commission.
- 4) Written comments from adjacent property owners shall specifically state how the granting of the Conditional Use Permit would adversely or injuriously affect their personal or legal interests.
- 5) The Planning and Zoning Commission shall consider the application at its next regular meeting following the public notice process.
- 6) The Planning and Zoning Commission shall then forward a recommendation to the Board of County Commissioners.
- 7) The Board of County Commissioners shall consider the application at a meeting scheduled.

E.) Approval of Application and Granting of Conditional Use Permits

Upon rendering a decision to grant a Conditional Use Permit, the Board of County Commissioners shall notify the applicant of their decision, and the Board shall issue a Conditional Use Permit with stipulations, itemized in brief on the face of the permit. The application and all subsequent information, correspondence, evaluations, recommendations, and decisions shall be placed on permanent file in the Planning and Development Office.

F.) Termination and Transferability

Once granted, the Conditional Use Permit, with its terms and conditions, shall:

- 1) Run with the lot, building, structure, or use and shall not be affected by change of ownership.
- 2) Terminate twelve (12) months from the date of authorization if commencement of authorized activity has not begun:
 - (a) Unless otherwise specified in the conditions of approval, or
 - (b) Unless the applicant can demonstrate and maintain a continuous effort in good faith (preparing financing, securing state or federal permits, undertaking engineering and design, etc.) in commencing the activity.

G.) Denial of Application

In the event an application is denied by the Board of County Commissioners, no re-submittal of an application for a Conditional Use Permit may be made for one (1) year from the date of said denial, unless sufficient new evidence or conditions are offered to the Zoning Administrator to demonstrate to him/her that circumstances have altered and that further consideration of the application is warranted. In such an event, the resubmitted application shall follow the same procedures as the

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original, and shall be treated as a new application.

H.) Criteria Required for Consideration of a Conditional Use Permit.

1) A Conditional Use Permit may be granted only if the proposal, as submitted, conforms to all of the following general Conditional Use Permit criteria, as well as to all other applicable criteria that may be requested.

(a) Site Suitability.

That the site is suitable for the use. This includes:

- (i) Adequate usable space,
- (ii) Adequate access, and
- (iii) Absence of environmental constraints.

(b) Appropriateness of Design.

The site plan for the proposed use will provide the most convenient and functional use of the lot with regard to the intent of the regulations. Consideration of design should include:

- (i) Parking scheme,
- (ii) Traffic circulation,
- (iii) Open space,
- (iv) Fencing, screening,
- (v) Landscaping,
- (vi) Signage, and
- (vii) Lighting.

(c) Availability of Services and Facilities.

The following services and facilities are to be available and adequate to serve the needs of the use as designed and proposed:

- (i) Sewer,
- (ii) Water,
- (iii) Storm water drainage,
- (iv) Fire protection,
- (v) Police protection, and
- (vi) Streets.

(d) Immediate Neighborhood Impact.

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That the proposed use will not be detrimental to surrounding neighborhoods in general. Typical negative impacts that extend beyond the proposed site include:

- (i) Excessive traffic generation,
- (ii) Noise or vibration,
- (iii) Dust, glare, or heat,
- (iv) Smoke, fumes, gas, or odors, and
- (v) Inappropriate hours of operations.

I.) Burden of Proof.

The burden of proof for satisfying the aforementioned criteria shall rest with the applicant. The granting of a Conditional Use Permit is a matter of grace, resting in the discretion of the Board of County Commissioners and a refusal is not the denial of a right, conditional or otherwise.

J.) Board of County Commissioners Decision Based on Findings.

Every decision of the Board of County Commissioners pertaining to the granting, denial, or amendment of a request for a Conditional Use Permit shall be based upon "Findings of Fact", and every Finding of Fact shall be supported in the records of its proceedings. The conditions in Section H as they relate to matters, which the Board of County Commissioners is empowered to review under these regulations, shall be construed as a limitation on the power of the Board of County Commissioners to act in the matter of issuance of Conditional Use Permits. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these regulations.

DEFINITIONS

Agriculture: The science and art of farming; work or business of cultivating the soil, producing crops, and raising livestock.

Bed and Breakfast Establishment: A single-family detached dwelling containing, in addition to living accommodations for the resident manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public for compensation, lodging, bathroom facilities, and breakfast only to overnight patrons.

Cafes (deli, coffee shop, bagel shop, etc.): A building designed to be used for public services, licensed with the State of Montana, not to exceed 5,000 square feet.

Casino: ~~A room or rooms in which legal gaming is conducted, or an establishment, whose use or activity includes gaming, either in the form of gaming machines, (video poker, keno, etc.) card games, or other licensed gaming activity.~~

Church: A building designed and used for public worship by any religious body.

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Conditional Use: A use which may be permitted in one or more districts as defined in these regulations but which, because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvements, or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same district or districts. Conditional uses do not include uses that are special exceptions or that require the issuance of a variance.

Conditional Use Permit: The documented evidence of authority granted by the Board of Adjustment to locate a conditional use at a particular location.

Day Care Facilities: A specialized program or facility that provides care for children from infants through preschool age, usually within a group framework, either as a substitute for or an extension of home care, being licensed with the State of Montana; or a specialized program or facility that provides care for handicapped or dependent children or adults as a substitute for or an extension of home care, being licensed with the State of Montana.

Dwelling, duplex: A building designed for occupancy by two families under one roof with a common wall separation.

Dwelling, family hardship (family declaration): A family declaration is a contract between the County and a property owner that temporarily permits an additional non-permanent dwelling for an immediate family member (parent, child, and grandparent) on a lot for reasons of hardship. The temporary occupancy cannot include any sale, rent, lease, other conveyance, or any compensation, consideration, or in kind service. The family declaration contract has a two-year term and must be renewed at the end of the two years if the hardship continues. When the contract or the hardship ends, the family declaration is voided and the non-permanent structure must be removed. The temporary use is not transferable to another family member or any other person. The procedure for creating a family declaration is as follows:

- Applicant makes an appointment with the Permit Coordinator to set up a pre-application conference.
- Applicant provides documents to support the family declaration request. Such documentation may include: deed of the property, certificate of survey, covenants, birth certificates, or marriage licenses.
- Pre-application conference: Applicant explains the hardship that warrants the request and discusses proposal with the County Planning and Environmental Health staff.
- If the hardship is deemed valid, Planning staff will prepare a family declaration contract for the Applicant. The Planning Department may require the contract contain conditions for approval.
- The contract must be notarized and returned to the Permit Coordinator.
- The family declaration and any other required documents (such as DEQ approvals) shall be filed with the Clerk and Recorder's Office.

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- Upon permitting the temporary use, the applicant may place one additional non-permanent dwelling on the property.
- When the hardship for which the family declaration ends, the family declaration is void and the non-permanent structure must be removed.
- The non-permanent structure may be permitted to remain, provided the additional development right is approved by the governing body through the complete subdivision process, as outlined in Chapter IV.

Dwelling, single-family: A building designed for occupancy by one family and its resident domestic employees.

Educational Facility, Primary or Secondary: A place and/or building, or portion thereof, that is used or is intended for use as a preschool, elementary, junior high, high school, college or technical school.

Guest house: A detached structure, which is accessory to a one family dwelling, which shall be used and/or designed for use primarily by guests and/or servants. One guesthouse is allowed per tract of record. The following criteria must be met:

- serves as a secondary use that is clearly subordinate to the principal dwelling on the same lot;
- has under 1,000 square feet of living space;
- is occupied no more than 90 total days in any given calendar year;
- has no permanent kitchen or cooking facilities (such as a stove, refrigerator, or sink or water line located outside of a bathroom);
- has no more than two bedrooms;
- has the same address as the principal dwelling;
- the above restrictions are placed on the deed;
- the subject lot is one acre or more in size; and
- there is sufficient area on the lot for an additional principal drain field and replacement area as required by DEQ and the Environmental Health Department.

~~Hazardous Substance Disposal/Storage: Defined in M.C.A. 50-30-201~~

~~Hazardous Waste Disposal: Defined in M.C.A. 75-10-403~~

Home Occupation: Any occupation or activity carried on as an accessory use by a member of the immediate family who resides within a dwelling unit. The occupation or activities shall not be detrimental to the use, peaceful enjoyment, economic value of the surrounding properties or general area. Nor shall such activities

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cause objectionable noise, vibration, fumes, odors, dust, glare or physical activity. The following criteria must be met:

- is conducted entirely within the dwelling or an accessory building;
- is clearly incidental and secondary to the use of the dwelling for residential purposes;
- does not use more than one-third of the total square footage of the dwelling (the total allowable square footage of the dwelling will also apply to an accessory building);
- does not employ more than one non-resident of the dwelling; and
- vehicle trips directly associated with the use shall not exceed an average of ten per day on a weekly basis, including deliveries.

Horticulture: The cultivation of a garden, orchard, or nursery; the cultivation of flowers, fruits, vegetables, or ornamental plants.

Industrial uses: ~~Any particular branch of production, esp. manufacturing, any large scale business activity manufacturing productive enterprises collectively, esp. as distinguished from agriculture, silviculture, or horticulture.~~

Landfill: ~~The disposal of garbage, rubbish, etc. by burying it under soil or earth or on earth.~~

Large scale commercial: ~~Any building designed for commercial use with a total area larger than 5,000 square feet.~~

Large scale retail: ~~Any building designed for retail with a total area larger than 5,000 square feet.~~

Machinery storage: ~~Any machinery not in use and stored for a period longer than one week.~~

Mining activity: ~~The extraction and or processing of material extracted from the ground.~~

Mobile Home Court/Park: ~~A tract of land which is specifically designed, intended and maintained for locating mobile homes and/or travel trailers, and which is owned by one party who rents or leases lots to individual tenants. Two (2) or more mobile homes, or mobile homes and travel trailers, upon one (1) tract constitutes a mobile home court/park.~~

Manufactured/Modular Dwelling: Housing built on a chassis designed and constructed for transportation to a site for installation and use when connected to required utilities. Also referred to as “mobile home” or “modular home”. The term as herein used is defined as a dwelling with all of the following characteristics:

- Designed for long term occupancy and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

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- Designed to be transportable on temporary wheels, a flat bed, or some other type of trailer, but not on its own chassis.
- Designed without a permanent frame or undercarriage so that it can be placed on a permanent foundation prior to occupancy.
- Eligible for long term amortized mortgage financing.
- That the factory construction is able to meet or exceed the uniform building codes.
- That the dwelling unit, when completed, shall not be less than twenty (20) feet in width and contain a minimum of 800 sq. ft. (ground floor) exclusive of porches, patios and garages.

Permitted Use: A use permitted, provided it conforms to all requirements and regulations in the said zoning district.

Professional and business offices: A building designed and used for private and public services not exceeding 5000 square feet in size.

~~Salvage/Junk Yard: Place and/or building, or portion thereof, that is used or is intended for selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials.~~

Setback: The horizontal distance required between the right-of-way or property line, whichever is closest, and the building line.

Front: A yard extending between side lot lines across the front of a lot.

Rear: A yard extending between side lot lines across the rear of a lot.

Side: A yard extending from the front yard to the rear yard across the side of a lot.

Side Corner: Side yard setback used when side yard lies adjacent to public access easement or right-of-way for a road

Silviculture: The care and cultivation of forest trees; forestry.

Special Restrictions: A use expressly prohibited in said zoning regulations.

~~Truck storage: Any semi truck, dump truck, water truck, chemical truck, etc. not in use and stored for a period longer than one week.~~

Wastewater Treatment Facility: The process of removing contaminants from waste water, both runoff (effluents) and domestic. It includes physical, chemical and biological processes to remove physical, chemical and biological contaminants. Its objective is to produce a waste stream (or treated effluent) and a solid waste or sludge suitable for discharge or reuse back into the environment.