

# Billings | Yellowstone County

## Project Re:Code

Art. 27-1000.x: Food, Alcohol, and  
Casino Standards

Working Group Review  
Summary



## OVERVIEW

The Billings City Council has asked for recommendations regarding more targeted regulation of liquor and gambling establishments as part of the Project Re:Code zoning revisions. During two workshop meetings in September and November of 2018, City Council members and planning staff discussed various options for regulating to address the impacts of liquor and gambling uses in the community.

## CURRENT USE DEFINITIONS & MEASUREMENT FOR SEPARATION OF USES

The statutory requirements for alcohol and gaming uses are consistently applicable across Montana communities. Billings and Yellowstone County have not adopted definitions or regulations that include all terms and activities allowed by state regulations. There are gaps (voids) and our local method of measuring separation of uses is inconsistent with state law.

### **Separation Distances - (Existing Section 27-612.a.1)**

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

*Current code allows the Council or Commissioners to grant a "waiver" of this separation requirement and no separation between uses is required or measured in the Central Business District.*

### **Bar or Tavern**

Bars, taverns and cocktail lounges: An establishment where alcoholic beverages are sold and consumed on the premises.

### **Casino**

Not currently defined.

### **Cidery**

Not currently defined.

### **Gaming, Accessory**

Not currently defined.

### **Microbrewery/Microdistillery**

Not currently defined.

### **Restaurant**

Not currently defined.

### **Winery**

Not currently defined.

## PROPOSED DEFINITIONS & MEASUREMENTS

### DISTANCE MEASUREMENTS

#### **1. Separation Between Uses**

- (a) Use separation is measured from the nearest point of a structure or the space within a multiple use structure occupied by the use requiring separation to the nearest point of a property occupied by a use from which the separation is to be effected or established.

- (b) Only when a significant part of the use is operated outside of a completely enclosed structure shall a separation be measured from the nearest point of the zone lot occupied by the use requiring separation to the nearest point of a structure or part of a multiple use structure occupied by a use from which the separation is to be effected or established.

## 2. Separation Between Buildings

Building separation is measured as the horizontal distance between buildings, measured along the shortest line that can be drawn between the exterior walls.

## 3. Separation Between Properties

- (a) Property separation is measured as the horizontal distance between property lines, measured along the shortest line that can be drawn between the subject property lines.
- (b) Property separation along the street is measured as the horizontal distance between property lines, measured along the shortest route that follows the centerline of the street right-of-way between the nearest property lines of the subject properties.

*(As currently written, no waiver is allowed from the new separation distance requirements)*

## DEFINITIONS

**Assembly:** A room or place such as a ballroom, auditorium, party room, gaming room, or convention hall that is intended or used to accommodate people in a group and is further divided into the following types:....

Religious: A facility or area for people to gather together for public worship, religious training, or other religious activities including a church, temple, mosque, synagogue, convent, monastery, or other structure, together with its accessory structures, including a parsonage or rectory. This use does not include home meetings or other religious activities conducted in a privately occupied residence. Accessory uses may include meeting rooms and childcare provided for persons while they are attending assembly functions. Schools and other child care services are not accessory uses and shall require approval as separate principal uses.

**Bars, taverns and cocktail lounges:** An establishment where alcoholic beverages are served on the premises and where the total sales of alcohol exceeds the total sales of food.

**Casino:** An establishment where is legal gambling authorized pursuant to MCA Title 23, Chapter 5, Part 1 et seq., is provided, either in the form of gambling machines (video poker, keno, etc.), card games or other licensed gambling activity. A casino may have beverage and restaurant facilities as accessory uses.

**Cidery:** A place where alcoholic cider is manufactured, stored, and sold.

**Gambling device:** See MCA Section 23-5-112: A mechanical, electromechanical, or electronic device, machine, slot machine, instrument, apparatus, contrivance, scheme, or system used or intended for use in any gambling activity.

**Gambling:** See MCA Section 23-5-112: Risking any money, credit, deposit, check, property, or other thing of value for a gain that is contingent in whole or in part upon lot, chance, or the operation of a gambling device or gambling enterprise. The term does not mean conducting or participating in a promotional game of chance and does not include amusement games regulated by Title 23, chapter 6, part 1. The term does not include social card games of bridge, cribbage, hearts, pinochle, pitch, rummy, solo, and whist played solely for prizes of minimal value, as defined by department rule.

**Microbrewery (craft brewery, brew pub):** A facility for the production and packaging of up to 10,000 barrels a year of malt beverages of alcoholic content for on or off premises distribution, retail or wholesale in conformance with Montana State law. The facilities typically include a tasting room and may include accessory food preparation and sales, as well as sales of promotional merchandise such as growlers, T-shirts, and hats.

**Microdistillery:** A facility for the limited production of distilled spirits, making up to 25,000 gallons per year, for on or off premises distribution, retail, or wholesale in conformance with Montana State law. The facilities typically include a tasting room and may include accessory food preparation and sales, as well as sales of promotional merchandise such as T-shirts and hats.

**Restaurant:** an establishment where food and drinks are available to the general public, primarily for consumption within a structure on the premises.

**School, Primary or Secondary :** An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education; includes public, private and parochial schools.

CURRENT USE TABLE

**Gaming and Liquor Use Permissions in Billings and Yellowstone County**

Use	Permissions by District			
	Allowed	Cond. Use	Special Review	Not Permitted
<b>Billings</b>	Eating and Drinking Places w/o sale of alcoholic bev.	NC, CC, HC, CBD, CI, HI, 27 <sup>th</sup> St.		
	Eating and Drinking Places, w/ beer and wine for on-premise consumption, no gaming	CC, HC, CBD, CI, HI, S. 27 <sup>th</sup> St.		
	Eating and Drinking Places, w/ beer and wine for on-premise consumption with gaming			CC, HC, CBD, CI, HI, S. 27 <sup>th</sup> St. A-1, A-S, R-150, R-96, R-80, R-70R, R-70, R-60R, R-60, R-50, RMF, RMF-R, RMH, RP, NC, P, ELC, EGC, EMU, ELI, Medical Corridor
	Eating and Drinking Places, with/ all alcoholic beverages for on-premise consumption with gaming			CC, HC, CBD, CI, HI, S. 27 <sup>th</sup> St. A-1, A-S, R-150, R-96, R-80, R-70R, R-70, R-60R, R-60, R-50, RMF, RMF-R, RMH, RP, NC, P, ELC, EGC, EMU, ELI, Medical Corridor
	Bowling centers; ... and gambling operations	CC, HC, CBD, CI, HI, S. 27 <sup>th</sup> St.		

**Proposed Use Table (Primary Uses)**

<b>COMMERCIAL</b>	NO	NMU	CMU <sub>1</sub>	CMU <sub>2</sub>	DX	CBD	CX	I <sub>1</sub>	I <sub>2</sub>	P <sub>1</sub>	P <sub>2</sub>	P <sub>3</sub> Civic	P <sub>3</sub> Educational	P <sub>3</sub> Medical	Additional Standards
<b>Amusement and Recreation</b>															
Casino															27-1005
Limited (1 to 3 gambling devices)				SR PL	PL	PL	PL	PL	PL						27-1005
Small (4 to 9 gambling devices)				SR PL	PL	PL	PL	PL	PL						27-1005
Large (10 or more gambling devices)				SR PL	PL	PL	PL	PL	PL						27-1005
<b>Eating and Drinking Establishment</b>															
<b>No Alcohol</b>															
Restaurant															27-1005
with drive-thru			P	P	SR	SR	P	P				P	P	P	27-1009
without drive-thru		P	P	P	P	P	P	P				P	P	P	
<b>Beer and Wine License, On-Premises Consumption</b>															
Bar or Tavern			PL	PL	P	P	P	P							27-1005
Microbrewery, Winery			PL	PL	P	P	P	P				P	P	P	27-1005
Restaurant		P	P	P	P	P	P	P				P	P	P	27-1005
<b>All-Beverage License, On-Premises Consumption</b>															
Bar or Tavern			PL	PL	P	P	P	P							27-1005
Microdistillery, Microbrewery, Winery, Cidery			PL	PL	P	P	P	P				P	P	P	27-1005
Restaurant		P	P	P	P	P	P	P				P	P	P	27-1005

Key: P = Permitted, PL = Location Limits in Zone District, SR = Special Review

## Use Standards (New Section 27-1005)

### Bar and Tavern

Bars and taverns shall be separated from residential, religious, and child-related uses as follows. Required separations are not subject to reduction, adjustment, or variance and bars or taverns shall not be approved within the distances specified.

1. Bars or taverns in any district except CBD, DX, EBURD, I1 and I2 shall be located at least 600 feet, measured from the nearest point of the occupied structure or the space within a multiple use structure to the nearest point of a property boundary (or park boundary, as applicable), from religious institutions, primary and secondary educational facilities, and public parks that contain a children's playground or playfield.
2. Bars or taverns shall also be separated from any residential neighborhood zone (N1, N2, N3, N4, NX1, NX2, NX3, and RMH) by at least 350 feet, measured from the occupied structure or the space within a multiple use structure to the property line.
3. Outdoor seating may be permitted as an accessory use regulated by Section 27-1009.O.

### Casino

#### Determination of Casino Use

An establishment will be considered a casino for the purpose of these regulations if any of the following characteristics apply:

- The establishment is referenced as a casino by signage, advertisement, or by name;
- A live card table is on the premises; and/or
- A gambling machine is on the premises.

#### Primary or Accessory Use

A casino is a primary use where it occupies a total of more than 12% of the gross floor area of the structure or site. This is measured as follows:

- If all of the machines are in a single area, the measurement of that area; or,
- If there are gambling machines in different locations in the same structure or site, the cumulative total of the areas where the machines are located.

#### Casino Classifications

Casinos shall be classified as follows:

Limited: 1 to 3 gambling machines located in the structure or on the site.

Small: 4 to 9 gambling machines located in the structure or on the site.

Large: 10 or more gambling machines located in the structure or on the site.

#### Separation Distances

Casinos shall be separated from residential, religious, and child-related uses as follows.

Required separations are not subject to reduction, adjustment, or variance and casinos shall not be approved within the distances specified.

- Casinos in any district except CBD, DX, EBURD, I1 and I2 shall be located at least 600 feet, measured from the nearest point of the occupied structure or the space within a multiple use structure to the nearest point of a property boundary (or park boundary, as applicable), from religious institutions, primary and secondary educational facilities, and public parks that contain a children's playground or playfield.

- Large casinos shall also be separated from any residential neighborhood zone (N1, N2, N3, N4, NX1, NX2, NX3, and RMH) by at least 350 feet, measured from the nearest point of the occupied structure or the space within a multiple use structure to the nearest point of a property boundary.

Landscaping

A B3 bufferyard, identified in Section 27-800, shall be provided along all internal property lines where a casino is the primary use on the site.

Microbrewery, Microdistillery, Winery, Cidery

These uses shall be separated from residential, religious, and child-related uses as follows.

Required separations are not subject to reduction, adjustment, or variance and microbreweries, microdistilleries, cideries, and wineries shall not be approved within the distances specified.

- In any district except CBD, DX, EBURD, I1 and I2, the use shall be located at least 600 feet, measured from the nearest point of the occupied structure or the space within a multiple use structure to the nearest point of a property boundary, from religious institutions, primary and secondary educational facilities, and public parks that contain a children’s playground or playfield.
- Microbreweries, microdistilleries, cideries, and wineries shall also be separated from any residential neighborhood zone (N1, N2, N3, N4, NX1, NX2, NX3, and RMH) by at least 350 feet, measured from the nearest point of the occupied structure or the space within a multiple use structure to the nearest point of the property line.
- Outdoor seating may be permitted as an accessory use regulated by Section 27-1009.O.

Restaurant (New Section 27-1009)

Drive-Thru Service. Any persons desiring to use any premises or to erect, construct, or alter any new or existing building or structure for a drive-thru service shall satisfy the following criteria, based upon the adjoining zoning district(s).

- A drive-thru establishment that adjoins, including any location across an alley, residentially zoned property, is subject to special review
- A drive-thru establishment in the CBD or DX zone district is subject to special review approval.
- All other drive-thru establishments, including those which are located across a public street from residentially-zoned property, shall meet the following criteria:
  - A traffic accessibility study shall be completed and approved by the City engineer; and
  - The use shall comply with all other sections of this Code.

Outdoor Seating

- Accessory outdoor seating is regulated in Section 27-1009.O.

An eating or drinking establishment that was approved by special review that seeks to remodel or expand to add outdoor seating shall be required to meet the standards of Section 27-1009.O and obtain a separate special review approval.