



# **CHOUTEAU COUNTY DEVELOPMENT REGULATIONS**

**June 2019: DRAFT**

**CHOUTEAU COUNTY COMMISSION**

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**I. SHORT TITLE.**

This chapter shall be known and cited as "The Development Regulations of Chouteau County".

**II. AUTHORITY.**

These Development Regulations are adopted pursuant to Sections 76-2-201 through 76-2-240, Montana Code Annotated, The County Zoning Enabling Act.

**III. AGRICULTURE, MINING, FORESTRY PRODUCTION NOT AFFECTED.**

These regulations shall not be construed to prevent the use, development or recovery of any agricultural, mineral or forest resource or product. Agricultural lands and operations that are not identified as commercial agricultural operations, are specifically exempt from these regulations. All applicable Federal codes, State statutes and administrative rules apply to the development of land in the County.

**IV. PURPOSE.**

The purpose of these regulations is to implement the goals of the 2017 Chouteau County Growth Policy. These include:

- A. Promoting revitalization of the County's communities.
- B. Encourage residential, commercial and industrial growth that protects and enhances the agricultural, recreational and natural resource foundation of the County's economy.
- C. Promote development that is compatible with existing land uses and that minimizes negative impacts on neighboring properties.
- D. Promote new development that preserves the history of the County.
- E. Protection of the County's natural assets such as wildlife, clean air, scenic vistas and cultural resources.
- F. Roads and other infrastructure serving new developments should be designed and constructed at the expense of the developer or property owner.
- G. Provision of adequate and timely law enforcement and emergency service to County residents.

Further, these regulations are designed to lessen traffic congestion; ensure safety from fire and other dangers; promote the health and general welfare of residents; and to facilitate the adequate provision of transportation, drinking water, wastewater treatment, schools, parks and recreation and other public services.

**V. JURISDICTION.**

The area governed by these regulations includes the unincorporated area of Chouteau County, Montana.

**VI. PERMIT REQUIRED.**

A. A Development Permit must be issued under these regulations before any person may:

1. Construct any commercial, commercial agricultural or industrial building;
2. Change an existing use to a commercial, commercial agricultural or industrial use; or
3. Construct a residential dwelling unit;

B. Exceptions: A Development Permit need not be obtained to:

1. File a certificate of survey or deed for an exemption found under Title 76, Chapter 3 of the Montana Code Annotated.
2. Transfer interest in property under the State laws that is related to inheritance, estate or probate procedures.
3. Operate a home occupation meeting the standards found in the definition of a home occupation in Section XVI.

**VII. APPOINTMENT OF A PERMIT OFFICER; BOARD OF ADJUSTMENT.**

A. The County Planner shall serve as the Permit Officer. The Permit Officer shall be authorized to review and approve Development Permits as specified in Section VIII. B. Summary Permit Review and Approval. The Permit Officer shall provide a review and recommendation to the Board of County Commissioners for all other types of permit applications.

B. The County Planning Board shall serve as the Board of Adjustment pursuant to Section 76-2-22, Montana Code Annotated, to hear and decide variances from the standards of these regulations and to hear appeals regarding decisions made by the Permit Officer and/or the County Commission.

## VIII. PROCEDURES FOR PERMIT REVIEW AND APPROVAL.

- A. Permit Application, Review, and Approval. Except where a proposed development is eligible for Summary Approval under Subsection B below, the following review procedures shall apply to all applications:
1. An applicant must submit at least two 2 signed copies of a completed application form to the Permit Officer prior to a regularly scheduled meeting of the County Commission. The Application form shall specify the information required by the County Commission.
  2. The Permit Officer shall:
    - a. hold a pre-application meeting with the applicant to discuss the proposed project, requirements of these regulations and the application review process,
      - i. If the project is for an industrial operation, the Permit Officer shall recommend to the property owner that they consider obtaining adequate financial resources to undertake reclamation of the property when the operation ceases. Examples of projects include meat-packing plants, commercial solar or wind power generation operations.
    - b. determine if the Development Permit Application is complete,
    - c. develop a staff report and recommendations for the County Commission,
    - d. provide the applicant with a copy of the staff report and recommendations, and
    - e. publish public notice in the Fort Benton River Press 15 working-days in advance of the County Commission meeting on the application.
  3. 20-working days after the application is deemed complete, the County Commission shall:
    - a. hold a public meeting to discuss the application,
    - b. receive a report and recommendations from the Permit Officer,
    - c. receive information from the applicant or his/her representative regarding the proposal,
    - d. hear comments from the public, and
    - e. review the permit officer's recommendations and amend the recommendations as necessary.
  4. Ten (10) days after its public meeting on the application, the County Commission shall either approve, conditionally approve or deny the application. The rationale for approval, conditional approval or denial must be specified in writing and a copy of such findings shall be provided to the applicant within 10 days from the date of the Commission action.
  5. When the County Commission has conditionally approved an application, the Permit Officer will issue the final approved Development Permit only when the applicant has completed the conditions of approval or submitted an approved agreement and security guaranteeing completion of the required improvements.
  6. Follow-up site inspections may be conducted by the Permit Officer to assure that the terms of permit approval are met.

7. The permit approval shall become invalid if the conditions of approval are not completed within 24 months of the date of approval. The County Commissioners may extend this approval period for an additional 24 months upon written request of the applicant.

**B. Summary Permit – Residential Dwelling Units.**

1. Summary permit review and approval only apply to applications for the construction of a single-family residential dwelling unit.
2. An applicant for Summary Permit Review shall submit one (1) signed copy of a completed Development Permit Application to the Permit Officer;
3. The Permit Officer shall:
  - a. determine if the application is complete and upon that determination accept the application.
  - b. within 20 days of accepting the application, determine whether the proposed use will comply with the requirements for permit approval specified in Section XIII, and approve, conditionally approve or disapprove the application. The conditions for conditional approval or the reasons for disapproval shall be specified in writing and a copy of the findings provided to the applicant.
4. Where the Permit Officer has approved or conditionally approved an application, he/she shall issue the Development Permit only when the applicant has met the Residential Standards requirements of Section XIII.B.
5. Follow-up site inspections may be conducted to ensure that the terms of the permit approval are met.
6. The permit approval shall become invalid if the conditions of approval are not completed within 24 months of the date of approval. The County Commission may extend this approval period for an additional 24 months upon request of the applicant.

**IX. BOARD OF ADJUSTMENT**

A. The Chouteau County Planning Board shall serve as the Board of Adjustment.

B. Powers of the Board of Adjustment – The Board shall have the following powers:

1. Hear appeals where it is alleged that there is an error in any order, requirement, decision or determination made by the Permit Officer or the Board of County Commissioners in the enforcement of these regulations.
2. Approve, approve in part, conditionally approve or deny any request for a variance from the requirements of these regulations, when the granting of the variance will not be contrary to the general intent of these regulations.

3. Before rendering a decision on a variance request or an appeal of a decision of the Permit Officer or the County Commissioners, the Board shall hold a public hearing and the hearing must be publicly noticed in the Fort Benton River Press 10 working-days prior to the hearing.

C. Appeal from the Board of Adjustment

1. Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment 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 appropriate board in accordance with 76-2-227. Montana Code Annotated.

**X. VARIANCES**

- A. An applicant can request a variance from the requirements of these regulations. The Board of Adjustment is authorized to grant variances that are not contrary to the public interest, where, owing to special conditions, literal enforcement of these regulations would result in an unnecessary hardship upon the applicant.
- B. A variance may be applied for by the property owner, contract purchaser, or their authorized agent. The variance request shall be filed with the Permit Officer and should accompany a development permit application.
- C. The variance request shall include, but not be limited to a written description of the specific request and any maps or site plans that will help explain the proposed request.
- D. The Board of Adjustment shall consider all the circumstances in making its decision to grant or deny a variance request including:
  1. Whether special conditions and circumstances exist that are peculiar to the land, structure or building involved and are not applicable to other lands, structures or buildings in the County.
  2. Whether a literal interpretation of these regulations would deprive the applicant of rights commonly enjoyed by other properties in the County under the terms of these regulations.
  3. Whether the special conditions and circumstances have resulted from the action(s) of the applicant.
  4. Whether granting the requested variance would confer on the applicant any special privilege that is denied by these regulations to other property owners in the County.
  5. Whether the granting of the variance would conflict with the County Growth Policy.
- E. The rationale for approval or denial must be specified in writing and a copy of such findings shall be provided to the applicant within 10 days from the date of the Board action.

**XI. REVIEW FEES.**

- A. A review fee, payable to Chouteau County, shall accompany the permit application for any development in which a permit must be issued under these regulations. A schedule of current fees is available from the Permit Officer.
- B. Review fees will be established by resolution of the Chouteau County Commissioners.

**XII. NON-CONFORMING USES.**

Any lawful use of land or structures existing or in operation on the date these Development Regulations become effective may be continued although such use may not conform to the provisions of these regulations.

**XIII. AMENDMENT OF REGULATIONS.**

These regulations can be amended pursuant to requirements of Sections 76-2-204 and 76-2-205, Montana Code Annotated.

**XIV. DESIGN AND IMPROVEMENT STANDARDS FOR PERMIT APPROVAL.**

Development permits will only be issued when applicants demonstrate that proposed projects will comply with the following standards:

A. Impacts Upon Agricultural Operations and the Natural Environment

- 1. New development may not negatively impact agricultural operations, which would include the harassment of livestock or the obstruction of irrigation water supplies such as irrigation canals, head gates, ditches or culverts.
- 2. New developments shall be designed and constructed to avoid blocking or altering natural drainages;
- 3. New developments shall be designed and constructed to minimize cutting and filling of slopes;
- 4. New developments shall be designed and constructed to minimize the disturbance of trees and other natural vegetation, soils, stream banks and lakeshores; disturbed soils shall be re-vegetated as soon as possible;
- 5. New utilities shall be sited to minimize their visual impact and disturbance upon soil and vegetation.

B. Residential Standards

- 1. All new single-family homes are required to meet the following standards prior to the approval of a development permit:
  - a. Assignment of an address by the County Address Coordinator,



- b. Sewage disposal systems shall be installed in accordance with current Montana Department of Environmental Quality rules and regulations as applicable, and
- c. New driveways or road approaches onto a County maintained road shall be reviewed and approved by the County Road Department.

C. Non-Residential Standards

- 1. The developer is responsible for the installation and construction of all improvements required under these regulations.
- 2. An address shall be assigned to the property by the County Address Coordinator,
- 3. Sewage disposal systems shall be installed in accordance with current Montana Department of Environmental Quality rules and regulations as applicable.
- 4. Access roads within the subject property shall be constructed to the requirements for legal and physical access found in Table - 1 Roadway Design Standards of these regulations. The property owners shall be responsible for maintenance of all new roads.
- 5. New driveways or road approaches onto a County maintained road shall be reviewed and approved by the County Road Department.
- 6. New driveways or road approaches onto a highway maintained by the State of Montana shall be reviewed and approved by the Montana Department of Transportation.
- 7. Grading and drainage facilities shall be designed to meet the standards required by the Montana Department of Environmental Quality as applicable;
- 8. All buildings and structures shall be set back at least 30 feet from the edge of the rights-of-way for State highways and County roads;
- 9. Easements and rights-of-way shall be provided for utilities such as electric power, telephone and natural gas where appropriate;
- 10. All public improvements associated with the development must be designed and constructed by qualified personnel, such as a professional engineer licensed in the State of Montana or as determined by the Permit Officer;
- 11. To facilitate emergency ingress and egress in and out of the property, the developer shall provide a second access route from the property to a County road or State highway. The second access route shall be constructed to the standards in Roadway Design Standards in Table – 1 of these regulations.
- 12. Roadway Design Standards;

Table - 1 Roadway Design Standards

<b>Roadway Type</b>	<b>Collector</b>	<b>Minor</b>	<b>Local</b>
Minimum Right-Of-Way Width	80 Feet	70 Feet	60 feet
Minimum Road Surface Top	26 Feet	26 Feet	16 Feet
Centerline Radius on Curves	300 Feet	150 Feet	100 feet
Tangent length between Reverse Curves	100 feet	50 Feet	50 feet
Stopping Site Distance	300 feet	300 Feet	150 Feet
Minimum Angle of Intersecting Centerlines	75 Degrees	75 Degrees	75 Degrees
Curb Radius at Intersections	25 Feet	15 Feet	15 Feet
Maximum Length of Cul-De-Sac	-----	-----	-----
Maximum Roadway Grade	5 Percent	6 Percent	6 Percent
Maximum Grade within 100 feet of Intersecting Centerlines	2 Percent	3 Percent	3 Percent
Minimum Slope	3:1	3:1	3:1
Minimum Back Slope	3:1	3:1	3:1
Minimum Culvert Size	15 Inch	15 Inch	15 Inch

13. New approaches onto County roads shall be located at least 125 feet apart, have grades of less than 6 percent, and be constructed to the following widths for the associated use: residential use-24 feet, commercial use-40 feet, and industrial use-40 feet;
14. Vegetative plantings, buildings and other structures may not be sited in a manner which would obstruct line of sight within 125 feet of a County road intersection.
15. Commercial and industrial buildings, structures, wells, septic tanks and drainfields must be set back at least 100 feet from streams and lakes and sited outside of any known floodplains. The location of floodplains would be determined upon the best available information such as aerial photographs etc.
16. Where a non-residential development would be located adjacent to a residential use, a vegetative screen or privacy fence at least 8 feet in height shall be planted or constructed to screen the residential use from the non-residential. The County Commission shall approve any proposed screening.

## **XV. PENALTIES.**

Failure to comply with any requirement of these regulations or conditions specified by the Permit Officer or County Commissioners shall constitute a misdemeanor, and shall be punishable in accordance with Section 76-2-211, Montana Code Annotated. Each day such failure to comply continues shall constitute a separate offense and shall be punishable as such.

## **XVI. ENFORCEMENT**

- A. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the County, in addition to other remedies, may institute any appropriate action or proceedings to:
  - 1. prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
  - 2. restrain, correct, or abate a violation;
  - 3. prevent the occupancy of the building, structure, or land; or
  - 4. prevent any illegal act, conduct, business, or use in or near the premises.
- B. For the purposes of enforcing subsections (1)(a) through (1)(c), the County shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-211 and these regulations.
- C. The Permit Officer shall administer and enforce the provisions of these regulations with the advice and guidance of the County Attorney.

## **XVII. DEFINITIONS.**

Terms used in these regulations shall have the following meanings:

- A. Agriculture: Any use of land to produce crops or livestock, including ranching, farming, dairying, grazing, pasturage, husbandry of poultry, horticulture and floriculture; "agriculture" includes:
  - 1. any building, structure, machinery, equipment and practice associated with such production;
  - 2. those accessory facilities and activities necessary to load, transport, store or dispose of agriculture products produced solely by the owner or operator on the premises;
  - 3. any agricultural residence as defined in these regulations;
  - 4. any land classified as agricultural by the Chouteau County Assessor at the time of application.
  - 5. any land recognized as agricultural, used for recreational business by the landowner as an accessory to the land use. "Agriculture" does not include commercial agricultural uses as defined in these regulations.
- B. Agricultural residence: A residence located on a tract of agricultural land provided the residence is occupied by the owner, operator or employee(s) of the agricultural operation.
- C. Building: A structure with a roof and walls, such as a house, school, store, or factory.

- D. Certificate of survey: A drawing of a field survey prepared by a registered land surveyor for disclosing facts pertaining to boundary locations.
- E. Commercial agriculture. Any premise, facility, or use of land for the processing, storage, disposal, loading or transporting of:
  - 1. agricultural products produced off the premises or by other than the owner of facility, or;
  - 2. commercial products for use by agricultural operators.
- F. Commercial use: any use of land for the sale, offering for sale, purchase, or any other transaction involving the handling or disposition of any article, commodity, substance, or service; also, the occupancy or management of office buildings, and the use of structures or premises by professions and trades or persons rendering services.
- G. Development: Any action which is required to receive approval and a Development Permit from Chouteau County under Section VI. of these Development Permit Regulations.
- H. Development permit: A document issued by Chouteau County, authorizing a specific change in land use, as required under Section VI. of these regulations.
- I. Floodplain: A floodplain is an area of land adjacent to a stream or river which stretches from the banks of its channel to the base of the enclosing drainage, and which experiences flooding during periods of high snowmelt or stormwater discharge.
- J. Growth policy: The Growth Policy is an official public document that is intended to guide future social, physical, environmental and economic growth and development of the County.
- K. High water mark: That water level within a stream channel at which the water covers the soil for enough periods of time to prevent terrestrial vegetation growth.
- L. Home occupation: Any activity involving the sale of goods or services conducted entirely within the primary residential structure which is clearly incidental and factually subordinate to the use of the primary residential structure and does not change the character thereof.
- M. Industrial use: Any use of land for the manufacture, fabrication, processing, reduction, or destruction of any article, substance, commodity, or any other treatment in such a manner as to change the form, character or appearance thereof, including warehouses, wholesale storage, storage elevators, truck storage yards, and gasohol or ethanol plants.
- N. Parcel of land: Any contiguous quantity of land, divided or undivided, in the ownership of the same person, group of persons, corporation or claimant.
- O. Public improvement or facility: Any structure or facility constructed to serve a commercial or industrial development including streets and roads, sidewalks, curbs, gutters or drainage swales, street lighting, utilities, and systems for water supply and sewage disposal.
- P. Residential use: Any use of land for a structure to be used as the private dwelling unit or residence of one or more persons.

- Q. Residential dwelling unit: A building or portion of a building providing separate cooking, eating, sleeping and living facilities for one family.
- R. Recreational use: any use of land for recreational business purposes that enhance the income for the property owner; including construction of buildings pertaining to the defined recreational business, and construction of trails and road on the property. "
- S. Structure: A combination of materials to form a building, edifice or any piece of work for use, occupancy, or ornamentation whether installed on, or below the surface of land or water.
- T. Tract of record: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the county clerk and recorder's office [76-3-103(17)(a), Montana Code Annotated].

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