

# **CHOUTEAU COUNTY DEVELOPMENT REGULATION**

Adopted August 1985  
Revised May 2011

by the

**CHOUTEAU COUNTY PLANNING BOARD**

DEVELOPMENT REGULATIONS  
CHOUTEAU COUNTY, MONTANA

Effective August, 1 985

Revised April 2005

Table of Contents

Section	Page
I. SHORT TITLE	1
II. AUTHORITY	1
III. AGRICULTURE, MINING, FORESTRY NOT AFFECTED	1
IV. PURPOSE	1
V. JURISDICTION	2
VI. PERMIT REQUIRED	2
VII. APPOINTMENT OF PERMIT AGENCY; PERMIT OFFICER; BOARD OF ADJUSTMENT	3
VIII. PROCEDURES FOR PERMIT REVIEW AND APPROVAL	3
IX. APPEALS PROCESS; BOARD OF ADJUSTMENT	5
X. REVIEW FEES	6
XI. NON-CONFORMING USES	6
XII. ADOPTION AND AMENDMENT PROCEDURES	6
XIII. REQUIREMENTS FOR PERMIT APPROVAL	6
XIV. PENALTIES	9
XV. DEFINITIONS	10

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I. SHORT TITLE.

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

II. AUTHORITY.

These Development Regulations are adopted pursuant to Sections 76-1-101 through 76-1-606, MCA, Local Planning Enabling Act; and Sections 76-2-201 through 76-2-228, MCA, 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 are specifically exempt from these regulations. All applicable State statutes and Federal Program regulations still apply as well as other agency requirements including and not limited to; DEQ, DNRC, Dept. of Agriculture, etc.

IV. PURPOSE.

The purpose of these regulations is to implement the following basic land use goals and objectives set forth and adopted by Chouteau County in the Chouteau County Policy Plan.

- A. Protect existing agricultural operations from nuisance suits, disruption of irrigation systems and livestock operations, and nuisances from dogs and noxious weeds.
8. Assure that new development is designed to minimize the public costs of providing services.
- C. Assure that any development in Chouteau County is of high quality which minimizes or eliminates public health or safety hazards in the county.
- D. Encourage new growth to be compatible with Chouteau County's agricultural and rural character.
- E. Protect the rivers and streams in the county.
- F. Encourage new growth to locate near existing communities.
- G. Discourage development on the productive agricultural lands in Chouteau County.

- H. Discourage development of residential and vacation subdivisions in certain designated areas of the county.

Further, these regulations are designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

#### V. JURISDICTION.

The area included within the jurisdiction of these regulations shall be all of the unincorporated area of Chouteau County, Montana, except that area located within the jurisdiction of the Fort Benton, Big Sandy and Geraldine city councils.

#### VI. PERMIT REQUIRED.

- A. A Development Permit must be issued under these regulations before any person may:
- t. file a certificate of survey, or execute a deed, contract for deed or other instrument which divides land, including remaining parcels, into parcels less than t 60 acres in size;
  2. construct or place any commercial, commercial agricultural or industrial building;
  3. construct or locate any residential building or other structure on a parcel which has not been approved under the Chouteau County Land Use Policy; or
  4. install improvements or take any action which would change the existing use of land or buildings from agricultural to non-agricultural use.
- B. Exceptions: A Development Permit need not be obtained to:
1. Create parcels larger than t 60 acres in size;
  2. Subdivide land into parcels in accordance with the Chouteau County Land Use Policy, except along a designated Wild and Scenic River as specified in subsection XIII., F. of these regulations.

3. Transfer interest in property under the laws relating to inheritance, estate or probate procedures.

VII. APPOINTMENT OF PERMIT AGENCY; PERMIT OFFICER; BOARD OF ADJUSTMENT.

- A. The County Commissioners shall appoint the members of the Permit Agency and the Permit Officer. The Permit Officer shall be authorized to issue Development Permits specified in Section VIII. B. Summary Permit Review and Approval
- B. The County Commissioners shall appoint five members as a Board of Adjustment pursuant to Section 76-2-222, MCA, to hear and decide appeals regarding decisions of the Permit Officer and Permit Agency.

VIII. PROCEDURES FOR PERMIT REVIEW AND APPROVAL.

- A. Permit Submittal, Review, and Approval. Except where a proposed development is eligible for summary approval under Subsection B below, the following procedures apply:
  - 1. The applicant must submit at least 2 copies of a completed application form and all required accompanying information to the Permit Officer prior to a scheduled meeting of the Permit Agency. The Application form shall specify the information required by the Permit Agency.
  - 2. The Permit Officer shall:
    - a. determine if the application is complete and upon that determination accept the application.
  - 3. The Permit Agency shall:
    - a. be presented the application at their quarterly meeting and discuss any issues prior to their approval.
    - b. hear all comments from interested citizens;
    - c. review the permit officer's recommendations and add or delete recommendations.
    - d. let the applicant know if there is further permit issues or let the applicant know that the permit has been approved.

4. The County Commissioners shall: within 30 days, approve, conditionally approve or disapprove the application. The conditions for conditional approval or the reasons for disapproval must be specified in writing and a copy of the findings provided to the applicant within 10 days from the date of the action.

5. Where the County Commissioners have approved or conditionally approved an application, the Permit Officer will issue the Development Permit only when the applicant has constructed the required roads, drainage facilities, and approaches to county roads, or submitted an approved security guaranteeing completion of the required improvements by a specified date.

6. Follow-up site inspections may be conducted to assure that the terms of permit approval are met.

7. The permit approval shall become invalid if the approved change in use is not initiated within 12 months of the date of approval. The County Commissioners may extend this approval period for an additional 12 months upon request of the applicant.

B. Summary Permit Review and Approval.

t. These summary permit review and approval procedures apply only for new single family residences constructed or located on parcels that were not reviewed under the Chouteau County Subdivision Regulations.

2. The applicant shall submit two ( 1 original signed) copies of a completed application and all required accompanying information 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 10 days of accepting the application, determine whether the proposed use will comply with the requirements of 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, the Permit Officer will issue the Development Permit only when the applicant has constructed the required roads, drainage facilities, and approaches to county roads, or submitted an approved security guaranteeing completion of the required improvements by a specified date.

5. Follow-up site inspections may be conducted to assure that the terms of the permit approval are met.

6. The permit approval shall become invalid if the approved change in use is not initiated within 12 months of the date of approval. The Permit Agency may extend this approval period for an additional 12 months upon request of the applicant.

#### IX. APPEALS PROCESS: BOARD OF ADJUSTMENT

- A. Any person aggrieved by a decision of the Permit Officer or the County Commissioners may appeal that decision to the Board of Adjustment.
- 8. The Board of Adjustment may reverse, affirm or modify the decision in question and shall make such order as the Board determines is proper.
- C. In exercising these powers, the Board of Adjustment may consider:
  - 1. whether the decision appealed is consistent with the meaning and intent of the provisions of these Development Permit Regulations and the Growth Policy of the Chouteau County Policy Plan, in accordance with Section XIII;
  - 2. whether strict compliance with provisions of these regulations would create unnecessary hardship or unreasonable situations on a particular property because of unusual or extreme topography, shape or other physical configuration of the property;
  - 3. any adverse effects on other properties.
- D. The Board of Adjustment shall:
  - 1. adopt rules governing its operation, to include application procedures and meeting dates.
  - 2. perform its duties in accordance with Sections 76-2-221 through 75-2-228, MCA.
  - 3. before rendering a decision, issue public notice and hold a public hearing regarding the decision in question.

#### X. 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.
- B. Review fees will be established by resolution of the Chouteau County Commissioners.

#### XI. NON-CONFORMING USES.

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

#### XII. ADOPTION AND AMENDMENT PROCEDURES.

These regulations may be adopted and amended pursuant to Section 76-2-205, MCA.

#### XIII. REQUIREMENTS FOR PERMIT APPROVAL.

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

##### A. DEVELOPMENTS MAY NOT INTERFERE WITH AGRICULTURAL OPERATIONS.

- 1. For developments adjacent to agricultural lands, developments may not diminish or contaminate livestock or irrigation water supplies, nor obstruct or impair irrigation canals, head gates, ditches, culverts or other irrigation facilities;
- 2. For developments adjacent to agricultural lands, the developer shall impose deed restrictions, running with the land and enforceable by Chouteau County, which shall commit present and future land owners to:
  - a. construct and maintain fences capable of keeping out livestock;
  - b. waive right to file nuisance suits against persons conducting agricultural operations within the vicinity of the development;
  - c. confine all dogs to the owner's premises, on a leash or in vehicles.
  - d. prevent the spread or dispersion of noxious weeds, litter or hazardous materials onto adjacent properties.

##### B. NEW DEVELOPMENT MUST BE DESIGNED TO MINIMIZE THE PUBLIC COSTS OF PROVIDING SERVICES.

- 1. All roads providing access to lots or to subdivisions from improved county roads shall

provide, legal, all weather access, and be constructed in accordance with County road standards or those specified in the Chouteau County Subdivision Regulations. Right of way width and Chouteau County construction standards shall apply. The developer or property owners shall be responsible for maintenance of access roads.

2. Approaches onto improved County roads shall be reviewed and approved by the County Road Supervisor prior to construction;
3. All structures shall be set back at least 30 feet from the rights-of-way of state highways and improved county roads;
4. Grading and drainage facilities shall be designed to remove storm run-off and prevent accumulation of standing water;
5. Easements or other legal rights-of-way shall be provided for utilities: electric power, telephone and natural gas where appropriate;
6. All public improvements or facilities and utilities associated with the development must be designed and constructed by qualified personnel, as determined by the Chouteau County Permit Agency;
7. Driveways and lots shall be designed to allow ready access by emergency vehicles.
8. Second or Emergency Access; To facilitate access by emergency vehicles and to allow an escape route for residents in emergency situations, the developer shall provide a second access from their property.

9. Suggested Roadway Design Standards;

**TABLE VI-1 ROADWAY DESIGN STANDARDS**

Roadway Type	Collector	Minor	Local
Minimum Right-Of-Way Width	60 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	-----	1000 Feet	-----
Maximum Roadway Grade	5 Percent	6 Percent	6 Percent
Maximum Grade within 100 feet of Intersecting Centerlines	2 Percent	3 Percent	3 Percent
Minimum In 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

**C. DEVELOPMENTS MUST MINIMIZE OR PREVENT PUBLIC HEALTH OR SAFETY HAZARDS.**

1. Approaches onto public roads shall be at least 125 feet apart, have grades of less than 6 percent, and have the following widths: residential-24 feet, commercial-40, or industrial-40 feet;
2. Structures, wells and septic tanks must be set back at least 1 00 feet from streams, lakes, and identified 100 year floodways;
3. Siltation of surface waters shall be prevented;
4. Plantings, buildings and other structures may not be located within 125 feet of the center of road intersections, or in a manner which will obstruct line of sight within 125 feet of the intersection.

5. Where a proposed commercial, commercial agricultural or industrial development would abut a residential use, a sight-obscuring screen or fence at least 6 feet high is required to screen the residential use.

6. Commercial, commercial agricultural and industrial uses must provide loading ramps and loading areas to assure safe maneuvering of trucks;

**D. ENCOURAGE NEW GROWTH TO BE COMPATIBLE WITH CHOUTEAU COUNTY'S AGRICULTURAL AND RURAL CHARACTER.**

1 . Developments shall be designed to avoid blocking or alteration of natural drainages;

2. Developments shall be designed and constructed to minimize cutting and filling of slopes;

3. 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 within the earliest growing season;

4. Telephone and power transmission lines shall be located with respect to natural terrain and vegetation to minimize visual impact, and to minimize disturbance of soil and vegetation.

**E. NEW GROWTH IS ENCOURAGED TO LOCATE NEAR EXISTING COMMUNITIES, AND DISCOURAGED ON THE PRODUCTIVE AGRICULTURAL LANDS IN CHOUTEAU COUNTY.**

1. Only two non-agricultural residential dwelling units are permitted in anyone quarter of a quarter of a government section in Chouteau County except for:

a. areas within the designated service areas of communities;

b. subdivisions approved pursuant to Chouteau County Subdivision Regulations;

c. other limitations in subsection F. below.

2. Within the designated service areas of the incorporated towns of Big Sandy and Geraldine (that area within 1/4 mile outside the municipal town boundaries), and the designated service areas of the unincorporated communities of Carter, Highwood, Loma, Square Butte, and Virgelle (that area including the platted townsites and the area within 1/4 mile outside of the platted townsite), residential densities are restricted only by requirements of the Montana Department of Environmental Quality.

F. PROTECT THE RIVERS AND STREAMS IN THE COUNTY, AND DISCOURAGE DEVELOPMENT OF RESIDENTIAL AND VACATION SUBDIVISIONS IN CERTAIN DESIGNATED AREAS OF THE COUNTY.

1. From Coal Banks Landing Recreation Area to the eastern Chouteau County line, new residential development, including subdivisions approved under the Chouteau County Subdivision Regulations, must be set back 3 horizontal miles on either side of the channel of the Missouri River when the development would be visible along a line of sight from any point between the high water marks. (The "high water marks" define that water level at which water covers the soil for sufficient periods of time to prevent vegetation growth).

2. From the boundary of the Fort Benton City/County Planning Board to Coal Banks Landing Recreation Site, new residential development, including subdivisions approved under Chouteau County Subdivision Regulations, on either side of the Missouri River must meet the following requirements:

- a. all structures must be set back 400 horizontal feet from the high water marks;
- b. all lots fronting along the river must have at least 400 linear feet of river frontage;
- c. within the area extending 1/2 mile beyond the high water marks;
  - (1) residential development may not exceed density of 1 dwelling unit per 8 acres;
  - (2) an individual development or subdivision may include no more than 20 dwelling units;
  - (3) mobile homes must not be more than 5 years old at the time of placement on a lot, and must be skirted within 60 days of placement.

XIV. PENALTIES.

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

XV. DEFINITIONS. Terms used in these regulations shall have the following meanings:

A. Agriculture: Any use of land for the production of crops or livestock, including ranching, farming, dairying, grazing, pasturage, husbandry of poultry, horticulture and floriculture;

"agriculture" includes:

- 1) any buildings, structures, machinery, equipment and practices 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 which contains more than 40 acres or a quarter of a quarter section, provided the residence is occupied by the owner, operator or employee(s) of the agricultural operation.

C. Certificate of Survey: A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations.

D. 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.

"Commercial agriculture" includes facilities such as grain elevators, railroad loading facilities, crop and meat processing plants, rendering plants, slaughterhouses, fertilizer plants, alfalfa dehydration plants and commercial feedlots as defined in these regulations.

E. Commercial Feedlot: Any premise on which at least 100 head of cattle or the equivalent number of animal units of other livestock animals are confined for the purpose of feeding or fattening for market, and where 25 percent or more of the animals are not produced by the owner or the facility.

"Commercial feedlot" does not include the normal seasonal feeding or wintering of livestock produced by the owner as part of an agricultural operation.

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. Covenants: an agreement, in writing, of two or more parties by which any of the parties pledges himself to the others that something is done or will be done.

H. Development: Any action which is required to receive approval and a Development Permit from Chouteau County under Section VI. of these Development Permit Regulations.

I. Development Permit: A document issued by Chouteau County, authorizing a specific change in land use, as required under Section VI. of these regulations.

J. Dwelling unit: A building or portion of a building providing separate cooking, eating, sleeping and living facilities for one family.

K. High water mark: That water level within a stream channel at which the water covers the soil for sufficient periods of time to prevent terrestrial vegetation growth.

L. 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.

M. Mobile home: A factory assembled structure or structures equipped with the necessary service connections and made for ready moving as a unit or units on its (their) own running gear and designed to be used as a residence without a permanent foundation.

N. Mobile home park: A tract of land providing two or more mobile home lots for lease or rent. O.

Parcel of land: Any contiguous quantity of land, divided or undivided, in the ownership of the same person, group of persons, corporation or claimant.

P. Public improvement or facility: Any structure or facility construction serve the residents of a subdivision or the general public, such as parks, streets and roads, sidewalks, curbs, gutters or drainage swales, street lighting, utilities, and systems for water supply and sewage disposal.

Q. Quarter/quarter section: One quarter of one quarter of a government section; also described as 1/16th aliquot part of a government section; a theoretical quarter/quarter section is 40 acres in size.

R. Residential use: Any use of land for a structure to be used as the private dwelling place or sleeping place of one or more persons.

S. 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.

T. Structure: Any object constructed or placed at a fixed location on the ground.