

Title 18

BUILDINGS FOR LEASE OR RENT REVIEW PROCESS*

Chapters:

18.02

**Review and Acceptance of
Applications**

*Editor's note—Ord. No. O13-01, adopted Aug. 20, 2013, renumbered former Title 18 as Title 20 and added new Title 18 as herein set out. Section numbering has been provided by the editor in order to conform with the format used in this code.

Chapter 18.02

REVIEW AND ACCEPTANCE OF APPLICATIONS

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18.02.010 Purpose.

The following regulations are intended to provide a process for the acceptance and review of applications for creation of buildings for lease or rent in the Laurel/Yellowstone County joint zoning jurisdiction. The lease or rent of buildings on a tract of record may directly impact the property and its surroundings with regard to vehicular access, public health, safety, and general welfare, the provision of public services and utilities, and the physical environment. These regulations are adopted for the purpose of considering and mitigating potential impacts resulting from buildings proposed for rent or lease on a single tract of record, ensuring protection of the public's health, safety and general welfare.
(Ord. No. O13-01, 8-20-2013)

18.02.020 Authority and administration.

A. These regulations are adopted under the authority of Section 76-3-501, MCA.

B. The city planner shall administer these regulations, including the review of

any applications submitted, preparation of a recommendation of approval, conditional approval, or denial of the application to the appropriate board for its consideration.

C. The appropriate board shall approve, conditionally approve, or deny the application for the creation of buildings for lease or rent pursuant to these regulations.
(Ord. No. O13-01, 8-20-2013)

18.02.030 Applicability.

A. These regulations apply to all lands within, the Laurel/Yellowstone County joint zoning jurisdiction.

B. In their interpretation and application, the provisions of this chapter may be regarded as the minimum requirements for the protection of the public health, safety, and welfare.

C. This chapter is not intended to abrogate or annul any building permit, certificate of occupancy, variance, or other lawful permit issued before the effective date of the ordinance from which this chapter derives.
(Ord. No. O13-01, 8-20-2013)

18.02.040 Definitions.

A. "Administrator." The individual designated by the governing body to carry out the terms of these regulations.

B. "Applicant." The owner, or designated representative, of land for which an application for the creation of a building for lease or rent has been submitted.

C. "Building." As defined in Title 76, MCA, a structure or a unit of a structure with a roof supported by columns or walls for the permanent or temporary housing or enclosure of persons or property or for the operation of business. Except as provided in 76-3-103 (15) the term includes a recreational camping vehicle, mobile home, or cell tower. The term does not include a condominium or townhome.

D. "Department." As defined in Title 76, MCA, the department of environmental quality provided for in 2-15-3501.

E. "Governing body." As defined in Title 76, MCA, the legislative authority for a city, town, county, or consolidated city-county government.

F. "Landowner." As defined in Title 76, MCA, an owner of legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

G. "Local reviewing authority." As defined in Title 76, MCA, a local department or board of health that is approved to conduct reviews under Title 76, Chapter 4.

H. "Supermajority." As defined in Title 76, MCA, a unanimous affirmative vote of the present and voting county commissioners in counties with three county commissioners.

I. "Tract." As defined in Title 76, MCA, and individual parcel of land 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.
(Ord. No. O13-01, 8-20-2013)

18.02.050 Review requirements for buildings for lease or rent.

A. The following buildings created for lease or rent that are not or will not be served by water or wastewater are exempt of these regulations when:

a. The building is in conformance with applicable zoning regulations;

b. The building is one of three or fewer buildings for lease or rent that were in existence or under construction on the tract of record before September 1, 2013;

c. The building is a facility as defined in 15-65-101 that is subject to the lodging

facility use tax under Title 15, Chapter 65, except for recreational camping vehicles or mobile home parks; or

d. The building is for farming or agricultural purposes.

B. The following buildings created for lease or rent, that are or will be served by water and wastewater facilities, must comply with the provisions of subsection (C) but are exempt from all other provisions of these regulations when:

i. The building is in conformance with applicable zoning regulations;

ii. The building is one of three or fewer buildings for lease or rent that were in existence or under construction on the tract of record before September 1, 2013;

iii. The building is a facility as defined in 15-65-101 that is subject to the lodging facility use tax under Title 15, Chapter 65, except for recreational camping vehicles or mobile home parks;

iv. The building is for farming or agricultural purposes; or

v. The landowner records a notarized declaration with the Yellowstone County Clerk and Recorder stating that the proposed building will not be leased or rented. The declaration runs with the land and is binding on the landowner and all subsequent landowners and successors in interest to the property, and can only be revoked by review and approval by the governing body under these Regulations. The declaration must include:

a. The name and address of the landowner;

b. A legal description of the tract upon which the proposed building will be located; and

c. A specific description of the building on the tract of record.

C. The first three (3) or fewer buildings for lease or rent proposed on a single tract of record and not otherwise exempt under

subsections (A) or (B), require review and approval by the department or local reviewing authority for sanitation review is required by Title 76, Chapter 4, MCA, or to the local board or department of health if review is required by Title 50, MCA. If the department, local reviewing authority, or local board or department of health approves the conditions associated with the approval of the application with the Yellowstone County Clerk and Recorder.

D. All other buildings for lease or rent on a single tract of record require review and approval by the governing body, pursuant to the provisions of Section 18.02.060. (Ord. No. O13-01, 8-20-2013)

18.02.060 Application for creation of buildings for lease or rent.

A. Application Submittal Requirements.

i. An application for the creation of buildings for rent or lease shall be submitted to the administrator designated by the governing body, and accompanied by the payment of any fees established for the review of same.

ii. The application shall include:

a. A copy of the deed or other legal description of the real property;

b. Signature of the landowner of the land for which the application is being made;

c. Evidence of legal access to the subject property;

d. A site plan showing:

I. North arrow and scale bar;

II. Property boundaries;

III. Existing and proposed onsite and adjacent offsite streets, roads, and easements that will serve the proposal;

IV. Existing and proposed access to the subject property;

V. Pertinent geographic features of the subject property, such as significant topo-

graphical features, areas with slopes greater than twenty-five percent, and designated flood plain;

VI. Location of existing and proposed private or public utilities serving the subject property;

VII. The location of existing and proposed buildings or structures on the subject property.

e. A description of existing and proposed buildings and their location on the subject property, including the uses proposed for each and the approximate floor area and ground coverage of each building;

f. A description of the proposed water, wastewater, storm water, and solid waste disposal facilities intended to serve buildings for lease or rent;

g. A description of the emergency medical, fire, and law enforcement services proposed to serve the buildings for lease or rent;

h. A description of any existing or proposed on-site land uses that may create a nuisance to human population in the area such as unpleasant odors, unusual or loud noises, dust or smoke.

B. Review Standards for Buildings for Lease or Rent.

i. Buildings for lease or rent that are not or will not be served by water or wastewater, and that are not exempt under the provisions of Sections 18.02.050.A or 18.02.050.C., above, shall provide the following:

a. Physical access to all proposed or existing buildings for lease or rent of a minimum unobstructed width of not less than twenty feet, constructed to adequately support a forty-ton vehicle with an all-weather driving surface.

b. A traffic impact study (TIS) prepared by a licensed engineer specializing in traffic applications for any buildings for lease or rent on a tract of record that will gener-

ate five hundred or more vehicular trips per day, as referenced in the most current edition of the Trip Generation Manual of the Institute of Transportation Engineers. The TIS shall contain the information specified in section 4.6.C.4.B. of the Yellowstone County Subdivision Regulations.

ii. Buildings for lease or rent that are or will be served by water or wastewater, and that are not exempt under the provisions of Section 18.02.050.B. or 18.02.050.C., above shall provide the following:

a. A physical access to all proposed or existing buildings for lease or rent of a minimum unobstructed width of not less than twenty feet, constructed to adequately support a forty-ton vehicle with an all-weather driving surface;

b. A traffic impact study (TIS) prepared by a licensed engineer specializing in traffic applications for any buildings for lease or rent on a tract of record that will generate five hundred or more vehicular trips per day, as referenced in the most current edition of the Trip Generation Manual of the Institute of Transportation Engineers. The TIS shall contain the information specified in Section 4.6.C.4.B of the Yellowstone County Subdivision Regulations;

c. A reliable water source for fire-fighting needs;

d. Evidence of availability of structure-rated fire protection services.

C. Review Process

i. Upon receipt of an application along with all applicable fees, the administrator shall within ten working days, determine whether the application is complete and notify the applicant in writing.

ii. If the application is incomplete, the administrator shall identify, in writing, any missing materials or insufficient information necessary to conduct the required review.

iii. If the application is complete, the administrator shall complete review of the application, and the governing body shall approve, conditionally approve, or deny the application within sixty working days. The timeframe may be extended upon mutual agreement, in writing, by the applicant and the governing body. Review and approval, conditional to this section must be based upon the regulations in effect at the time an application is determined to be complete.

iv. The governing body may approve or conditionally approve the proposed buildings for lease or rent upon finding:

a. The proposed buildings for lease or rent, as submitted or conditioned, comply with these regulations and avoid or minimize potential significant impacts on the physical environment and human population in the area affected by the buildings for lease or rent;

b. Adequate water, wastewater, and solid waste facilities are available to serve the buildings for rent or lease;

c. Adequate access to the site is provided to serve the buildings for lease or rent;

d. Adequate emergency medical, fire protection, and law enforcement services are available to serve the buildings for rent or lease; and

e. The buildings for lease or rent comply with any applicable flood plain regulations.

v. The governing body shall provide written notification to the landowner of the approval, conditional approval, or denial of the application within sixty working days after determining the application was complete.

D. Appeal.

i. An applicant who is aggrieved by a final decision of the department or the local reviewing authority may request a hearing as provided in Section 76-4-126 (1), MCA. For purposes of this subsection, the con-

tested case provisions of the Montana Administrative Procedure Act, Title 2, Chapter 4, Part 6, apply to the proceeding.

ii. An applicant or landowner with a property boundary contiguous to the tract on which buildings for lease or rent are proposed to be located who is aggrieved by a decision of the governing body may, within thirty days of the date of the final decision of the governing body, appeal to the district court in the county in which the property involved is located.

iii. For purposes of this section, "aggrieved" has the meaning provided in Section 76-3-625, MCA.
(Ord. No. O13-01, 8-20-2013)

18.02.070 Enforcement and penalties.

A. The administrator shall notify the landowner or any other responsible party of a violation of these regulations by certified mail and/or posting on the subject property. The notice shall describe the violation, cite the section of these regulations being violated, and request the responsible party to voluntarily comply within thirty days.

B. Any person who receives a notice of violation may, within thirty days allowed, request inspection by the administrator to show that compliance has been attained or appeal the notice of violation to the governing party.

C. If, after thirty days for voluntary compliance has lapsed, compliance has not been attained or an appeal has not been filed, the administrator shall request the county attorney begin legal action against the landowner or any other responsible party.

D. Upon request by the administrator, the county attorney request of the governing body the authority to commence any actions and proceedings available in law or equity to prevent the creation of a building for lease or rent in violation of these regulations; restrain, correct, or abate a building

for lease or rent in violation of these regulations; or prevent the occupancy of a building for lease or rent in violation of these regulations.

(Ord. No. O13-01, 8-20-2013)