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**LEWIS AND CLARK COUNTY
BUILDINGS FOR LEASE OR RENT REGULATIONS**



Adopted **DATE**
Resolution **NUMBER**
Effective **DATE**

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SECTION 1 ADMINISTRATION**101 Purpose**

The following regulations are intended to provide an administrative process for the acceptance and review of applications for the creation of a building for ~~rent or lease~~lease or rent in Lewis and Clark County. The ~~rent or lease~~lease or rent of a building 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 a building proposed for ~~rent or lease~~lease or rent on a single tract of record, ensuring protection of the public's health, safety, and general welfare.

102 Authority & Administration

102.01 These regulations are adopted under the authority of Sections 76-8-101, *et seq.*, MCA.

102.02 The Director of Community Development and Planning (or his or her designee) is designated by the Board of ~~County~~ Commissioners of Lewis and Clark County to administer these regulations.

103 Applicability

103.01 These regulations apply to all lands within the jurisdictional area of the Board of County Commissioners of Lewis and Clark County.

103.02 In their interpretation and application, the provisions of these regulations may be regarded as the minimum requirements for the protection of the public health, safety, and general welfare.

103.03 These regulations are not intended to abrogate or annul zoning or floodplain regulations applicable to a tract of land.

SECTION 2 DEFINITIONS

Administrator- The individual designated by the Lewis and Clark Board of County Commissioners to carry out the terms of these regulations.

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

Building- As defined in Section 76-8-101(1), 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 a business. ~~Except as provided in Section 76-3-103(15), MCA, the term includes a recreational camping vehicle, mobile home, or cell tower or multiple spaces for lease or rent under single ownership on which recreational vehicles as defined in 61-1-101, MCA, or mobile homes as defined in 15-24-201, MCA, will be placed.~~ The term does not include a condominium or townhome(s).

Department- As defined in Section 76-8-101(2), MCA, the Montana Department of Environmental Quality provided for in Section 2-15-3501, MCA.

Full cut-off (Lighting)- A luminaire light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir and at all greater angles from nadir.

Landowner- As defined in Section 76-8-101(4), MCA, an owner of a legal or equitable interest in real property. The term includes an heir, successor, or assignee of the ownership interest.

Local ~~R~~eviewing ~~A~~uthority- As defined in Section 76-8-101(5), MCA, a local department or board of health that is approved to conduct reviews under Title 76, chapter 4, MCA.

Mini-storage/Self-storage Facility- A building, or portion thereof, which is divided into multiple units rented for storage of personal property.

Mobile Home Park- Also known as a trailer court, a parcel of land under single ownership upon which two or more mobile homes or spaces are available to the public for occupancy by trailers or mobile homes, as defined in 15-24-201, MCA, for use as a residence.

Residential Dwelling(s); Single-family, Duplex, and Multi-family- A structure or structures secured to a permanent foundation that contain one or more dwelling units designed for occupancy by one family per unit.

Recreational Vehicle (RV) Park- A parcel of land upon which two or more spaces are rented to park individual camping trailers, pick-up campers, motorhomes, travel trailers, or automobiles for transient dwelling purposes. The term can also include rental of two or more camping trailers, pick-up campers, motorhomes, travel trailers or automobiles owned under single ownership.

Setback- The required minimum horizontal distance between the location of structures and the front, side, or rear lot line measured perpendicular to such lot line, except when adjacent to the right-of-way, the measurement shall be from the closest right-of-way line. No portion of any building, including decks, with the exception of roof eaves (two-foot maximum overhang), fences, stair steps, and landscaping ornaments, may be located in any setback.

Supermajority- As defined in Section 76-8-101(6), MCA, a unanimous affirmative vote of the present and voting county commissioners.

Tract- As defined in Section 76-8-101(7), MCA, an 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 Lewis and Clark County Clerk and Recorder's Office.

SECTION 3 REQUIREMENTS & DEVELOPMENT STANDARDS**301 Requirements for Buildings for Lease or Rent**

- 301.01 In areas where zoning regulations are in effect that the Lewis and Clark County Commissioners have determined contain the elements of Section 76-8-10~~7~~⁴, MCA, the construction of all buildings must meet the requirements of the applicable zoning regulations.
- 301.02 When applicable zoning regulations are not in effect, a building that is not created for ~~rent- or lease~~lease or rent and is not or will not be served by water or wastewater treatment facilities is exempt from these regulations.
- 301.03 A building that is created for lease or rent and is not or will not be served by water or wastewater treatment facilities is exempt from these regulations when:
- 301.03.1 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;
- 301.03.2 The building is a facility as defined in Section 15-65-101, MCA that is subject to the lodging facility use tax under Title 15, Chapter 65, MCA except for spaces created for recreational camping vehicles or mobile home parks; or
- 301.03.3 The building is for farming or agricultural purposes.
- 301.04 A building that is created for lease or rent and is or will be served by water and wastewater treatment facilities must comply with the provisions of ~~subsection (E)~~ Section 301.06 but is exempt from all other provisions of these regulations when:
- 301.04.01 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;
- 301.04.02 The building is a facility as defined in Section 15-65-101, MCA that is subject to the lodging facility use tax under Title 15, Chapter 65, except for spaces created for recreational camping vehicles or mobile home parks;
- 301.04.03 The building is for farming or agricultural purposes; or
- 301.04.04 The landowner records a notarized declaration with the Lewis and Clark County Clerk and Recorder's Office stating that the proposed building will not be leased or rented.
- 301.05 A landowner's notarized declaration runs with the land and is binding on the landowner and all subsequent landowners and successors in interest to the property, and may only be revoked by written approval of both the landowner and the Lewis and Clark County Board of Commissioners in accordance with these regulations. The declaration must be executed by the landowner and the administrator, and must include:
- 301.05.1 The name and address of the landowner;
- 301.05.2 A legal description of the tract upon which the proposed building will be located; and

- 301.05.3 A specific description of the building on the tract of record.
- 301.06 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)-(E)~~Sections 301.01 through 301.06, require review and approval by the department or local reviewing authority for sanitation review if 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 application for sanitation review, the landowner shall record the certificate of approval and any conditions associated with the approval of the application with the Lewis and Clark County Clerk and Recorder's Office.
- 301.07 All other buildings for lease or rent on a single tract of record require review and approval by the Lewis and Clark County Board of Commissioners, pursuant to the provisions of Section 6.

302 Development Standards

302.01 General Standards (applicable to all development)

- 302.01.1 Any exterior building lights shall be arranged and directed downward with a full cut-off design to minimize illumination beyond property lines.
- 302.01.2 Landscaping and/or screening may be required by the governing body to serve as a buffer between the development and adjacent properties and roads where incompatible land uses exist.
- 302.01.3 New utilities shall be placed underground where practical.
- 302.01.4 Appropriate access and circulation by vehicles and emergency equipment shall be ensured through the design of internal turning radius of roadways. Internal access roadways shall meet the dead-end road requirements in the Lewis and Clark County Public Works Manual.
- 302.01.5 Building sites shall be prohibited on slopes greater than thirty (30) percent and at the apex of fire chimneys (topographic features, usually drainage ways or swales, which tend to funnel or otherwise concentrate fire towards the tops of steep slopes) or head of draws in designed high or extreme fire hazard areas as identified on the Tri-County Regional Community Wildfire Protection Plan Regional Local Hazard Map.

302.02 Mobile Home Parks

- 302.02.1 All mobile homes shall be located at least twenty-five (25) feet from a public street or highway right-of-way, and at least fifteen (15) feet from other property lines of the park.
- 302.02.2 No mobile home or its attached structures, such as awnings or carports, may be located within twenty (20) feet of any other mobile home or its attached structures.
- 302.02.3 Interior roadways shall be provided to each mobile home space. Roadways shall be designed to provide safe traffic circulation for emergency access, egress for

residents, and emergency equipment.

302.02.4 Interior roadways shall be a minimum of twenty-four (24) feet wide for two-way traffic and twelve (12) feet wide for one-way traffic.

~~301.01.1~~302.02.5 A minimum of two (2) off-street parking spaces shall be provided for each mobile home space. Parking spaces must be at least nine (9) feet wide by twenty (20) feet long and may be located in tandem.

302.02.6 When a development is located next to an irrigation ditch or canal, a fence may be required to be installed between the affected property and ditch depending on the hazard posed by the ditch.

302.03 RV Parks

302.03.1 All recreational vehicle spaces shall be located at least twenty-five (25) feet from any property boundary line abutting upon a public street or highway right of way and at least fifteen (15) feet from other boundary lines of the park.

302.03.2 The density shall not exceed twenty five (25) recreational vehicle spaces per acre.

302.03.3 Recreational vehicles shall be separated from each other and from other structures by at least fifteen (15) feet.

~~301.01.2~~302.03.4 Interior roadways shall be a minimum of twenty-four (24) feet wide for two-way traffic and twelve (12) feet wide for one-way traffic.

302.03.5 When a development is located next to an irrigation ditch or canal, a fence may be required to be installed between the affected property and ditch depending on the hazard posed by the ditch.

~~301.02~~302.04 Mini-Storage/Self-storage facility

302.04.1 Interior roadways shall be a minimum of twenty-four (24) feet wide for two-way traffic and twelve (12) feet wide for one-way traffic.

~~301.02.1~~302.04.2 When adjacent to residential uses, Adequate screening shall be provided when adjacent to residential uses.

————Gated facilities must Will provide an accessible Lock Box for eEmergency sServices.

302.04.3

302.05 Residential Dwelling(s); Single-family, Duplex, and Multi-family

302.05.1 All residential dwelling units shall be located at least twenty-five (25) feet from any property boundary line abutting a public street or highway right-of-way, and at least fifteen (15) feet from other property lines.

302.05.2 A minimum of two (2) off-street parking spaces shall be provided for each residential dwelling unit. Parking spaces must be at least nine (9) feet by twenty (20) feet and may be located in tandem.

302.05.3 Interior roadways shall be a minimum of twenty-four (24) feet wide for two-way traffic and twelve (12) feet wide for one-way traffic.

302.05.4 When a development is located next to an irrigation ditch or canal, a fence may be required to be installed between the affected property and ditch depending on

| the hazard posed by the ditch.

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SECTION 4 APPLICATION & REVIEW PROCESS**401 Application Submittal**

- 401.01 An application for the creation of a building for ~~rent or lease~~ lease or rent shall be submitted to the administrator on the form provided by the administrator, and accompanied by the payment of any fees established for the review of the application ~~same~~.
- 401.02 The application shall include:
- 401.02.01 A copy of the deed or other legal description of the real property;
- 401.02.02 Evidence of the landowner's title and interest in the land for which the application is being made;
- 401.02.03 A site plan showing:
- a) North arrow and scale bar (minimum scale of 1:20);
 - b) Property boundaries;
 - c) Existing and proposed onsite and adjacent offsite streets, roads ~~and~~ easements and parking areas that will serve the proposal;
 - d) Existing and proposed access to the subject property;
 - e) Pertinent geographic features of the subject property, including any significant topographical features and designated floodplain;
 - f) Location of existing and proposed water, wastewater, and solid waste facilities serving the subject property;
 - g) The location of existing and proposed buildings or structures on the subject property; ~~;~~
 - h) Location, dimensions, and layout of RV sites and mobile home sites, if applicable; ~~;~~
 - i) Location of refuse containers and waste disposal sites for RV Parks and Mobile Home Parks, if applicable; and
 - j) Illustration of proposed grading and drainage.
- 401.02.04 A detailed narrative 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;
- 401.02.05 A detailed narrative of the proposed water, wastewater, and solid waste disposal facilities intended to serve the buildings for lease or rent;
- 401.02.06 A detailed narrative of the emergency medical, fire, and law enforcement services proposed to serve the buildings for lease or rent.
- 401.02.07 A detailed narrative describing the existing and proposed access to

and from the site, as well as the onsite circulation providing access to the existing and proposed buildings for lease or rent.

401.02.08 A detailed narrative assessing the potential significant impacts on the surrounding physical environment or human population as a result of the proposed buildings for lease or rent, including a description of any proposed mitigation measures to avoid or minimize impacts anticipated.

401.02.09 A detailed narrative addressing compliance with applicable Development Standards in Section 302; and

401.02.10 A detailed narrative addressing compliance with the Lewis and Clark County Growth Policy.

402 Review Process

402.01 Upon receipt of an application, along with all applicable fees, the administrator shall, within ten (10) working days, determine whether the application is complete and notify the applicant in writing.

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

402.03 If the application is complete, the administrator shall complete review of the application and the Lewis and Clark County Board of Commissioners shall approve, conditionally approve, or deny the application within sixty (60) working days. The timeframe may be extended upon mutual agreement, in writing, by the applicant and the Lewis and Clark County Board of Commissioners. Review and approval, conditional approval, or denial of an application for the creation of buildings for lease or rent, pursuant to this Section, must be based upon the regulations in effect at the time an application is determined to be complete.

~~402.04 The Lewis and Clark County Commissioners shall provide written notification to the landowner of the approval, conditional approval, or denial of the application within 60 working days after determining the application was complete.~~

403 Lewis and Clark County Board of Commissioners Decision

403.01 The Lewis and Clark County Board of Commissioners may approve or conditionally approve the proposed buildings for lease or rent upon finding:

- 403.01.01 The proposed buildings for lease or rent, as submitted or conditioned, comply with these regulations and other regulations applicable to the property, 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;
- 403.01.02 Adequate water, wastewater, and solid waste facilities are available to serve the buildings for ~~rent or lease~~ lease or rent;
- 403.01.03 Adequate access to the site is provided to serve the buildings for lease or rent;
- 403.01.04 Adequate emergency medical, fire protection, and law enforcement services are available to serve the buildings for ~~rent or lease~~ lease or rent; and

- 403.01.05 The buildings for lease or rent comply with any applicable flood-plain regulations;
and-
- 403.01.06 The proposal complies with the Lewis and Clark County Growth Policy.

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SECTION 5 APPEAL

- 501 Appeal of Sanitation Decision. An applicant who is aggrieved by a final decision of the department or the local reviewing authority made pursuant to Section ~~301.045(C)~~ of these regulations may request a hearing as provided in Section 76-4-126(1), MCA. For purposes of this ~~S~~ubsection, the contested case provisions of the Montana Administrative Procedure Act, MCA Title 2, chapter 4, part 6, apply to the proceeding.
- 502 Appeal of Local Lewis and Clark County Board of Commissioners Decision. 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 Lewis and Clark County Board of Commissioners pursuant to Section 6 of these regulations may, within 30 days of the date of the final decision of the Lewis and Clark County Board of Commissioners, appeal to the district court ~~in the county in which the property involved is located~~ of Lewis and Clark County.
- 503 For purposes of this ~~S~~section, "aggrieved" has the meaning provided in Section 76-3-625, MCA.

SECTION 6 VARIANCES

601 Intent. The governing body may grant variances to the standards listed in Section 302 of these regulations when strict compliance will result in undue hardship and when it is not essential to public welfare. A variance will not be granted if it authorizes an action which would be contrary to the purposes and intent of these regulations.

602 Approval Criteria

602.01 The governing body shall only grant a variance upon the findings of the following criteria:

- a) Granting the variance will not be detrimental to the public health, safety, or general welfare or injurious to adjoining properties.
- b) Due to the physical surroundings, shape, or topographical conditions of the property involved, strict compliance with the regulations will impose an undue hardship to the owner.
- c) The variance will not cause a substantial increase in public costs.
- d) The variance will not place the Buildings for Lease or Rent in nonconformance with any adopted regulations or plans.

603 Procedure and Review

603.01 A variance request application must be included with the Buildings for Lease or Rent application packet for each variance requested.

603.02 Variance requests will be reviewed as part of the Buildings for Lease or Rent application and approval, conditional approval, or denial of each variance will occur as a separate action prior to motion for approval, conditional approval, or denial of the Buildings for Lease or Rent proposal as a whole.

603.03 In granting a variance, the governing body may impose reasonable conditions to further the purposes of these regulations.

603.04 Approval, conditional approval, or denial of a variance request must be supported by findings of facts and conclusions that support the governing body's motion.

SECTION 7 ENFORCEMENT & PENALTIES

- 701 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 with these regulations within a minimum of thirty (30) days.
- 702 Any person who receives a notice of violation may, within the thirty (30) days allowed, request inspection by the administrator to show that compliance has been attained or appeal the notice of violation to the Lewis and Clark County Board of Commissioners.
- 703 If, after the minimum thirty (30) days required for voluntary compliance has lapsed, compliance has not been attained, or an appeal has not been filed, the administrator shall request the Lewis and Clark County Attorney's Office begin legal action against the landowner or any other responsible party governing body may, in addition to assessing a fine or penalty not to exceed a maximum of \$500, initiate an action to prevent the unlawful creation of the building, restrain, correct, or abate the violation, or prevent the occupancy of the building.
- ~~704 Upon request by the administrator, the Lewis and Clark County Attorney's Office may immediately 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.~~
- ~~705~~ 704 A fine not to exceed \$500 may be imposed for a violation of these regulations.