



Buildings for Lease or Rent Regulations

September 10, 2013

Resolution No. 2013 - 109

1. 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 lease or rent in Gallatin County and shall be known as the Building for Lease or Rent (BLR) Regulations. The 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 lease or rent on a single Tract of record, ensuring protection of the public's health, safety and general welfare.

2. Authority & Administration

- A. These Regulations are adopted under the authority of Sections 76-8-101, *et seq.*, Mont. Code Ann.
- B. The Planning Director or his or her designee is appointed by the Gallatin County Commission to administer these Regulations.
- C. The Governing Body may establish a reasonable fee to be paid by the Applicant commensurate with the cost of reviewing applications submitted pursuant to these Regulations.

3. Applicability

- A. These Regulations apply to all lands within the jurisdictional area of the Board of County Commissioners of Gallatin County, Montana.
- B. 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.
- C. These Regulations are not intended to abrogate or annul any building permit, subdivision approval, certificate of occupancy, variance, or other lawful permit issued before the effective date of these Regulations.
- D. These Regulations are not intended to abrogate or annul any other regulations applicable to a Tract of land, including but not limited to zoning, building codes, private covenants, or floodplain regulations.

4. Definitions

- A. *Administrator* – The individual authorized under Section 2.B to administer 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 Section 76-8-101(1), Mont. Code Ann., 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), Mont. Code Ann., 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 Section 76-8-101(2), Mont. Code Ann., the Department of Environmental Quality provided for in 2-15-3501.
- E. *Governing Body* – The Gallatin County Commission.
- F. *Landowner* – As defined in Section 76-8-101(4), Mont. Code Ann., an owner of a 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 Section 76-8-101(5), Mont. Code Ann., a local department or board of health that is approved to conduct reviews under Title 76, chapter 4.
- H. *Residential Storage Warehouse (mini storage)* – A building or group of buildings in a controlled access and fenced or screened compound that contains independent, fully enclosed bays that are leased to individuals exclusively for storage of their household goods, personal property, vehicles, recreational vehicles, or boats.
- I. *Tract* – As defined in Section 76-8-101(7), Mont. Code Ann., 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 county clerk and recorder's office.

5. Requirements for Buildings for Lease or Rent

- A. A Building created for lease or rent on a single tract and meeting one or more of the below requirements is exempt from review under sections 6-9 of these Regulations, but must comply with Section 5.B below:
 - i. The Building is located in a zoning district determined by the Governing Body to contain the elements of Section 76-8-104, Mont. Code Ann. and the building is in compliance with the 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 Section 15-65-101, Mont. Code Ann. 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 created for lease or rent for farming or agricultural purposes;
 - v. The Building is not served by water or wastewater and will not be rented or leased;
 - vi. The Building is used as a Residential Storage Warehouse (mini storage) with 5 or more storage units and less than 200 storage units; or
 - vii. The Building is served by water and wastewater and the landowner records a notarized declaration with the Clerk and Recorder that at a minimum includes, but is not limited to the following information:
 - a. Name and address of the landowner;
 - b. The legal description upon which the Building is located;
 - c. A specific description of the Building;
 - d. A statement that the building will not be rented or leased; and
 - e. A statement that the declaration is binding on the landowner and all subsequent landowners and successors in interest to the property
- B. A Building served by water or wastewater may require review and approval by the Department or Local Reviewing Authority for sanitation review if required by Title 76, Chapter 4, Mont. Code Ann., or by the local board or department of health if review is required by Title 50, Mont. Code Ann. 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 Gallatin County Clerk and Recorder.

- C. The first three (3) or fewer Buildings for lease or rent proposed on a single Tract of record and not otherwise exempt under Section 5.A, require review and approval by the Department or Local Reviewing Authority for sanitation review if required by Title 76, Chapter 4, Mont. Code Ann., or to the local board or department of health if review is required by Title 50, Mont. Code Ann. 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 Gallatin 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 sections 6-9 of these Regulations.

6. Application of Building for Lease or Rent

- A. An application for a Building for lease or rent shall be submitted on the form provided by the Administrator and accompanied by the payment of the established review fee.
- B. The application shall be submitted to:
 - i. The Administrator;
 - ii. The Department or Local Reviewing Authority if review is required by Title 76, chapter 4, Mont. Code Ann.; and
 - iii. The local board or department of health if review is required by Title 50, Mont. Code Ann.
- C. The application shall include the following information:
 - i. A copy of the deed or other legal description of the real property;
 - ii. Evidence of the Landowner's title and interest in the land for which the application is being made;
 - iii. A list of adjoining property owners;
 - iv. 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 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, including all existing septic tanks, drainfields, and wells;
 - g. The location of existing and proposed Buildings or structures on the subject property;
 - v. 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;

- vi. A detailed narrative of the proposed water, wastewater, and solid waste disposal facilities intended to serve the Buildings for lease or rent;
- vii. A detailed narrative of the emergency medical, fire, and law enforcement services proposed to serve the Buildings for lease or rent;
- viii. 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; and
- ix. A detailed narrative assessing the potential significant impacts on the surrounding physical environment or human population as a result of the proposed Building for lease or rent, including a description of any proposed mitigation measures to avoid or minimize anticipated impacts.

7. Review Process

- A. Upon receipt of an application along with all applicable fees, the Administrator shall, within ten (10) working days, determine whether the application contains the required materials and sufficient information for review, and shall notify the Applicant in writing as to whether the application is complete.
- B. If the application is incomplete, the Administrator shall identify, in writing, any missing materials or insufficient information necessary to conduct the required review.
- C. If the application is complete, the Administrator shall complete the review of the application and forward a written report to the Governing Body.
- D. The Governing Body shall hold a public hearing and approve, conditionally approve, or deny the application within sixty (60) working days of the application being deemed to be complete by the Administrator. The timeframe may be extended upon mutual agreement, in writing, by the Applicant and the Governing Body.
- E. Notice of the time and date of the public hearing shall be published in a newspaper of general circulation in the County at least once, not less than 15 days prior to the date of the hearing. Notice of the hearing shall also be sent adjoining Landowners via first-class mail not less than 15 days prior to the hearing.
- F. 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.
- G. The Governing Body shall provide written notification to the Applicant of the approval, conditional approval, or denial of the application within 60 working days after determining the application was complete.

8. Governing Body Decision

- A. The Governing Body may approve or conditionally approve the proposed Buildings for lease or rent upon finding:
 - i. 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;
 - ii. Adequate water, wastewater, and solid waste facilities are available to serve the Buildings for lease or rent;

- iii. Adequate access to the site is provided to serve the Buildings for lease or rent;
- iv. Adequate emergency medical, fire protection, and law enforcement services are available to serve the Buildings for lease or rent; and
- v. The Buildings for lease or rent comply with any applicable floodplain regulations.

9. Certificate of Compliance:

- A. Prior to leasing or renting a Building that was the subject of a conditional approval from the Governing Body the Landowner shall apply for and obtain a certificate of compliance from the Administrator to verify all applicable conditions of approval have been satisfied. Such requests should be made in writing to the Administrator on the form provided by the Administrator, and subject to established application fees. The burden of proof rests with the Landowner to demonstrate how the conditions of approval have been satisfied. The Landowner shall record the certificate of compliance with the Gallatin County Clerk and Recorder prior to leasing or renting the Building.
- B. A Landowner may voluntarily apply for a certificate of compliance from the Administrator to document that a Building is exempt from these Regulations. Such requests should be made in writing to the Administrator on the form provided by the Administrator, and subject to established application fees. The burden of proof rests with the Landowner to demonstrate how an existing or proposed Building meets an exemption from these Regulations. The Landowner shall record the certificate of compliance with the Gallatin County Clerk and Recorder.

10. Appeal

- A. For purposes of this section, "aggrieved" has the meaning provided in Section 76-3-625, Mont. Code Ann.
- B. Appeal of Sanitation Decision. An Applicant who is aggrieved by a decision of the Department or the Local Reviewing Authority made pursuant to Section 5(B) or 5(C) of these Regulations may request a hearing as provided in Section 76-4-126(1), Mont. Code Ann. For purposes of this subsection, the contested case provisions of the Montana Administrative Procedure Act, Title 2, chapter 4, part 6, apply to the proceeding.
- C. Appeal of Local Governing Body 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 Governing Body may, within 30 days of the date of the decision of the Governing Body, appeal to the district court in the county in which the property involved is located.

11. 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 a minimum of 30 days.
- B. Any person who receives a notice of violation may, within the 30 days allowed, request inspection by the Administrator to show that compliance has been attained or appeal the notice of violation to the Governing Body.

- C. If, after the minimum 30 days required for voluntary compliance has lapsed, compliance has not been attained or an appeal has not been filed, the Administrator may request the Gallatin County Attorney begin legal action against the Landowner or any other responsible party.
- D. Upon request by the Administrator, the Gallatin County Attorney 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.
- E. A fine not to exceed \$500 may be imposed for a violation of these Regulations.