



# **Stillwater County Development and Zoning Regulations**

Adopted August 10, 2021 (Resolution 2021-20)

Amended August 12, 2024 (Resolution 2024-27)



## **I. General Provisions and Purpose**

### **A. Authority**

The Stillwater County Development and Zoning Regulations (Regulations) are adopted under authority of Sec. 76-2-201, MCA, et. seq.

### **B. Purpose**

The purpose of these Regulations are:

1. To provide for the orderly development of for lands within Stillwater County by mitigating potential conflicts between incompatible land uses.
2. To ensure and protect the public health, safety, and general welfare.
3. To encourage economic development.
4. To preserve agricultural resources.
5. To provide simple, easily understood guidance for future development.
6. To minimize, where possible, impacts of new developments upon government services and infrastructure such as roads, wildfire protection, health and safety, and emergency services.
7. To ensure the public's right to know and participate in the land use decision-making processes.

### **C. Jurisdiction**

The area included within the jurisdiction of these Regulations and governed by them shall be the unincorporated areas of Stillwater County, Montana, excepting the City of Columbus extra-territorial zoning jurisdiction, and State and Federal lands.

### **D. Most Restrictive Standards Apply**

When future county regulations, or state or federal law, impose additional standards on land use or development governed by these Regulations, the most restrictive standard shall apply. These Regulations do not nullify easements, covenants, deed restrictions, or other similar private agreements, but where any such private agreement imposes standards that are less restrictive than those adopted herein, these Regulations shall apply.

### **E. Burden of Proof**

In all proceedings and hearings, and in all application and submittal materials, the burden of proof shall rest with the applicant, permittee or appellant, as applicable.



F. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these Regulations invalid, that judgment will only affect the part held invalid.

G. Liability

No individual, including members of the Zoning Commission, Board of Adjustments, Board of County Commissioners, Planning Staff, or any other County employee, who acts in good faith and without malice in the performance of duties assigned by these Regulations, shall be held liable for errors or omissions in their administration.

H. Relationship to Private Covenants, Conditions, and Restrictions

These Regulations do not supersede, overwrite, or replace private covenants, conditions, restrictions, home or property owners' associations, or any other private land use agreements. Likewise, the presence of private land use agreements does not invalidate or replace these Regulations.

## II. Definitions

**ACCESSORY USE:** A subordinate building, structure, or a portion of a main building, such use being secondary to, or incidental to, the principal use or structure located on the same lot. This definition includes but is not limited to a shed, garage, or non-commercial shop.

**AGRICULTURE:** Any use of land for the production of crops or livestock, including ranching, farming, dairying, grazing, pasturage, husbandry of poultry, forestry, horticulture, and floriculture. This definition includes buildings, structures, machinery, equipment, and practices associated with such production; including accessory facilities and activities necessary to load, transport, store, or dispose of agricultural products produced solely by the owner or operator on the premises. This definition does not include commercial agriculture or commercial feed operations.

**BASELINE WATER SAMPLING:** Analysis by a qualified professional of water sources, which shall account for and measure water quality under current conditions, sampling for the minimum contaminants related to public safety : arsenic, barium, benzene, calcium carbonate, diesel range organics, ethane, ethene, ethyl benzene, fluoride, gasoline range organics, iron, magnesium, manganese, methane, nitrogen, selenium, sodium, specific conductance, strontium, sulfate, toluene, total dissolved solids, total petroleum hydrocarbons, and xylene.

**BOARD OF ADJUSTMENT:** A Board of Adjustment is required in Montana Code Annotated 76-2-221 to hear administrative appeals and variance requests. The County Planning Board shall act as the Board of Adjustment pursuant to 76-1-114, MCA.

**CAMPGROUND:** A parcel of land available to and principally used by the public for camping, where persons can camp, secure tents or cabins, or park trailers for camping and sleeping purposes. The term applies whether or not sanitary facilities are provided. Campgrounds may consist of tent sites, wall



tents, cabins, yurts, recreational camping vehicles, or other similar developments. Recreational vehicle sites may also be subject to review as a subdivision per Montana Code Annotated 76-3-103(16).

**CODE ENFORCEMENT OFFICER:** The person or persons designated by the Stillwater County Commission to enforce the provisions of these Regulations, investigate complaints, and administer a process to ensure compliance with these Regulations, or other County regulations as directed by the Board of County Commissioners.

**CONDOMINIUM:** The ownership of single units with common elements and subject to the provisions of the Montana Unit Ownership Act (Montana Code Annotated 70-23-101 et seq.).

**COMMERCIAL:** Use of the land for engaging in the selling, purchasing or handling of, or disposition of any article, commodity, substance or service. This definition includes the occupancy or management of office buildings, the use of structures or premises by professions and trades or people rendering services. Examples may include but are not limited to: commercial agriculture, commercial feed operations, business offices, retail stores, restaurants, banks, medical centers, hotels, self-storage facilities, outside storage for one or more businesses, campgrounds, work camps, and other similar used.

**COMMERCIAL AGRICULTURE:** Any premises, facility, or use of the land for the processing, storage disposal, loading or transportation of agricultural products produced off the premises or by other than the owner of the facility or commercial products for use by agricultural operators. Commercial agriculture may include but is not limited to facilities such as grain elevators, railroad loading facilities, crop and meat processing plants, rendering plants, slaughterhouses, fertilizer plants, and commercial feed operations as defined in these Regulations.

**COMMERCIAL FEED OPERATIONS:** Any premises on which animals are held and maintained for more than 45 consecutive days for the purpose of feeding for market. An operation shall be considered a commercial feed operation where 1,000 head or more sheep, cattle, hogs, poultry, rabbits or any other animal exist. Livestock which have access to natural forage on a regular seasonal basis shall not be considered as a Commercial Feed Operation. Commercial Feed Operation does not include the normal seasonal feeding or wintering of livestock produced by the owner as part of an agricultural operation.

**DEVELOPED SPRING:** A spring developed and suitable for domestic use.

**HOME OCCUPATIONS:** The use of a portion of a dwelling or accessory structure as an office, studio or work room, for occupations at home that are conducted entirely within the structure by one or more persons residing in the dwelling unit. The activity must be clearly incidental to the use of the dwelling for dwelling purposes and should not substantially change the character or appearance thereof, and not be evidenced beyond the limits of the property by advertising, noise, light, smoke, odor, vibration, electrical interference, storage of material or equipment, or by excessive vehicular traffic, or other exterior evidence. Examples include but are not limited to accountant, architect, attorney, crafts, surveyor, electrician, plumber, telemarketer, small equipment repair, home childcare (not more than 15 children).



**INDUSTRIAL:** 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; power plants, including commercial wind energy conversion systems, solar farms, and other energy development; mineral extraction; wireless communication facilities; truck storage yards, construction shops, auto repair, asphalt plants, processing or assembly of materials to finished products or by-products, and other similar uses.

**MINERAL EXTRACTION:** Development for the purpose of removing a mineral or minerals from the ground or crushing and separating ore into valuable substances. This includes gravel and sand pits, gravel crushing, mining, and oil and gas development, to the extent allowed by law.

**MOBILE HOME:** Forms of housing known as 'trailers', 'house-trailers', or 'trailer coaches', exceeding 8 feet in width or 45 feet in length, designed to be moved from one place to another by an independent power connected to them and used as a principal residence. (MCA 15-24-201)

**OFF-PREMISE SIGN:** Any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

**PLANNED UNIT DEVELOPMENT (PUD):** A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks or any combination thereof that comprises a planned mixture of land uses built in a prearranged relationship to each other, and having open space and community facilities in a common ownership or use. A PUD may be subject to subdivision review.

**PLANNING STAFF:** The person or persons designated by the Stillwater County Commission to process, review, report, or make recommendations on applications required for development. In certain instances, staff may be able to process administrative reviews and approve permits under these Regulations as allowed by law.

**PROJECT AREA:** The tract or tracts on which a development is taking place. If multiple tracts are involved in a single development, the property lines and affected tract(s), relating to the development shall be interpreted to refer to the external boundaries of the project, including rights of way, easements, and access roads upon which the development and its related infrastructure will be located.

**RESIDENTIAL:** The use of land for the location of a structure to be used as the primary dwelling place for one or more people.

**ACCESSORY DWELLING UNIT (ADU):** A residential unit that is located on the same lot as a primary residential dwelling unit, either internal to or attached to the primary residential dwelling unit or in a detached structure.

**MULTI-FAMILY (TWO OR THREE):** The use of land for development intended to provide housing for two to three families, or two to three separate residences. This definition includes, but is not necessarily limited to, apartments, condominiums, planned unit developments, and mobile home parks.



**MULTI-FAMILY (FOUR OR MORE):** The use of land for development intended to provide housing for four or more families, or four or more or more separate residences. This definition includes, but is not necessarily limited to, apartments, condominiums, planned unit developments, and mobile home parks.

**SINGLE-FAMILY RESIDENCE:** A building constructed and designed for one dwelling unit for one family that is detached from any other dwelling unit.

**SUBDIVISION:** Land or parcels of land reviewed and approved under the provisions of 76-3-101, MCA, et seq.

**TOWNHOUSE AND TOWNHOME:** Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities, and subject to the provisions of the Montana Unit Ownership Act (Montana Code Annotated 70-23-101 et seq.)

**VARIANCE:** The approved relaxation of the strict application of the terms of these regulations, where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in an unnecessary hardship, where it will not be contrary to these regulations, and where the spirit of the regulations will be observed. "Hardship" does not refer to financial or economic difficulty but is instead a situation in which the property cannot be developed and there are no other alternative, reasonable solutions because of the regulation.

**WIND ENERGY CONVERSION SYSTEM (COMMERCIAL):** Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy for the primary purpose of resale or off-site use. WECS includes such devices as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment.

**WIND ENERGY CONVERSION SYSTEM (NON-COMMERCIAL):** A wind driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale.

**WIRELESS COMMUNICATION FACILITY:** An unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communication purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.

**WORK CAMP:** A parcel of land on which either temporary or permanent housing is provided for the exclusive use of employees of a person or company that owns or operates the facilities and/or business, whether or not that business is located on site. This term includes but is not necessarily limited to camping spaces, trailer parking, mobile, modular, or permanent barracks or structures. This term does not include housing or shelter provided by an employer for persons who are employed to perform agricultural duties on a ranch or farm.

**ZONING COMMISSION:** The Zoning Commission is created pursuant to 76-2-220, MCA, and shall review permits as outlined in the Development Regulations. The Zoning Commission is also empowered to



recommend amendments to the Development Regulations to the Board of County Commissioners. The County Planning Board shall act as the Zoning Commission pursuant to 76-1-114, MCA.

### **III. Allowed, Permitted and Conditional Uses**

#### **A. Allowed Uses**

1. Agricultural Uses – Agricultural uses are allowed without the requirement of obtaining a development permit.
2. Accessory Dwelling Units – No more than one ADUs may be developed on a lot without a permit.
3. Accessory Uses – Accessory uses, not commercial in nature, are allowed without a permit as long as setback requirements are met.
4. Condominium and Townhome uses contemplated as part of the review of a subdivision, as long as the use is reflected in any subdivision approval documents, and the scope of the use is equivalent to the use anticipated during subdivision review
5. Home Occupations – Home occupational uses are allowed without a development permit as long as the footprint of the existing development is not changed.
6. Multi-Family Residential Uses – two or three units.
7. Single-Family Residential Uses
8. Minor uses which, in the opinion of Planning Staff will not create any impacts or issues of non-compliance with the approval criteria. Examples may include unmanned utility sheds, temporary structures, and similar minor uses.

#### **B. Conditional Uses**

1. Multi-Family Uses – Four or more units
2. Work Camps
3. Commercial Uses
4. Industrial Uses
5. Planned Unit Developments – For uses not specifically considered as part of Subdivision Review.

#### **C. Nonconforming Uses**

1. Any lawful use of the land, structures, or signage existing as of August 10, 2021, and located on a property in which a permit would be required as a new use under these Regulations, is declared to be an existing nonconforming use, and not in violation of the ordinance. Nothing in these Regulations are intended to stop an existing nonconforming use from continuing in its current state.



2. The nonconforming use of land shall not be extended to any additional land or change in use of land after the date of adoption of this ordinance without the issuance of a permit under these Regulations.

3. Any nonconforming use abandoned for a period of one (1) year will be considered a new use and will require an issuance of a permit under these Regulations.

#### **IV. Conditional Use Permit**

##### **A. Permit Required**

A conditional use permit must be issued under these Regulations for all new multi-family, work camps, commercial, industrial development, or planned unit developments as defined herein. Construction shall not begin prior to issuance of the conditional use permit. For after-the-fact permit applications and review, the review fee is doubled.

##### **B. Application and Administrative Procedures**

###### **1. Conditional Use Permit Application Submittal**

A development permit application may be applied for by a property owner, contract purchaser, or their authorized agent. The application shall be filed with the County Planning Department. The application must have an approved address from Stillwater County and must not be in violation of any current land use regulations GIS Department in order to be deemed complete.

###### **2. Application Contents**

The County Planning Office shall make a standard application document available. This application shall include the following:

- a) Legal and general description of the tract(s) affected.
- b) A detailed narrative of the project. The narrative should provide information sufficient to understand the project and demonstrate compliance with and applicability of the criteria in Section 5 below.
- c) Map and general site plan showing approximate dimensions, acreage, and location of the tract(s), existing and proposed buildings and other land features, access, agricultural water user facilities, floodplain, sewer and water provisions, drainage, and other features that may be important for review.
- d) Traffic Assessment
  - i. For development that will generate 100 or more daily trips, a traffic impact analysis prepared by a licensed engineer to include, at a minimum, existing traffic circulation, conditions, and patterns; anticipated traffic circulation conditions and patterns generated by the proposed development; the impact on the existing road network; and recommendations to alleviate adverse impacts.
  - ii. For development that will generate less than 100 daily trips, a memo generally discussing how traffic circulation will be accomplished, the impacts on existing traffic patterns, and recommendations to alleviate adverse impacts.





iii. Development that is otherwise required to enter into a traffic impact agreement with the County is not required to provide additional traffic assessment information.

e) Time schedule for development.

f) Names and addresses of all owners of property within 500 feet of the affected property.

g) Additional information relevant to the application to support the request.

### 3. Staff Review

Upon receiving a complete application Planning Staff shall evaluate the proposed development according to the following process:

a) Consult with other County departments, as applicable, to fully evaluate the impact of the development upon public facilities, access, drainage, traffic, health and safety, and other potential impacts

b) Evaluate each application for its completeness. Incomplete applications will not be reviewed.

c) Evaluate each application with reference to its compliance with the approval criteria in relation to the Growth Policy

d) Notify, by certified mail, all owners of property within 500 feet of the affected property of the time, date, and place of the public hearing

e) Publish a public hearing notice for the Zoning Commission meeting in accordance with Montana Code Annotated 7-1-2121

f) Staff may, at their discretion, engage in additional public outreach beyond what is required herein, in order to ensure the public's right to know and participate

### 4. Zoning Commission Review

The Zoning Commission shall hold a public hearing and consider the application, staff report prepared by Planning Staff, all public testimony, and the approval criteria. The Zoning Commission shall make a recommendation to the governing body to approve, approve with conditions, or deny the conditional use permit. Any conditions must be reasonable and to ensure compliance with the approval criteria.

### 5. Approval criteria:

a) Water and sewer provisions: when required for the development, water and sewer must be provided, or have the ability to be provided with confirmation from either the Montana Department of Environmental Quality or Stillwater County Environmental Health. Developments that will not require water and sewer must demonstrate why these facilities are not needed and may be required to ensure waste disposal does not take place on the property.



Mineral extraction development must perform baseline water sampling of domestic wells and developed springs within 500 feet of the development.

b) Floodplain: development shall conform to the Stillwater County Floodplain Regulations and be in good standing with no active floodplain violations

c) Rural addressing: development shall obtain an approved address from Stillwater County GIS

d) Site design: development shall be appropriately graded or designed so as not to adversely impact adjacent streams, lakes, rivers, reservoirs, roadways, and adjacent properties. Appropriately sized culverts, ditches, retention/detention ponds, or other features shall be utilized to minimize additional runoff

e) Setbacks: all development shall be set back a minimum of one half the height of the proposed structure, and at least 20 feet from all property lines. Smaller setbacks may be allowed if adjacent uses are similar to the proposed use. No building or structure shall be built within rights-of-way or easements.

f) Access: legal and physical access shall be provided to the tract of land where the development is proposed. Measures may be taken to ensure County roads are kept to an acceptable level of service, including, but not limited to, road maintenance agreements and bonding requirements.

g) Interference with agriculture: development shall not interfere with agricultural operations through the hindrance of the flow of agricultural water supply, or obstructing, impairing or impeding irrigation canals, head gates, ditches, culverts or other irrigation facilities.

h) Parking: off-street parking and loading areas shall be provided for commercial and industrial uses. The following minimum criteria shall be met:

i. Multi-Family Development: Two spaces per dwelling unit

ii. Commercial Development: One space per full-time employee is required, plus one space per 400 square feet of floor space

iii. Industrial Development: One space per full-time employee, plus one space per 1000 square feet of floor space

i) Lighting: all lighting shall be designed to minimize, to the extent possible, light pollution onto surrounding properties and maintain the character of surrounding land uses. Lighting should be downward facing where possible and should be primarily for security of site, building entrances, and access to outside storage areas.

j) Screening: in order to minimize adverse visual impact, development should be screened from adjacent properties, as practical, by utilizing sight-obscuring fencing, landscape buffering, or a combination of the two. A combination of trees, shrubs, and fencing designed to



complement said development and provide buffering between adjacent land is required around the site perimeter. This requirement may be waived if development is adjacent to similar uses.

k) Public safety: all development shall have adequate emergency medical, fire protection, and law enforcement services. As determined by the relevant agency (fire district, sheriff, ambulance district, etc.), an applicant may be required to post emergency contact information, post warning signs, provide on-site water for fire protection (hydrant and/or sprinkler system), multiple points of ingress/egress, adequate turnaround areas, etc.

l) Relationship to existing uses: development should not interfere with the enjoyment of surrounding land uses.

m) Additional requirements: development shall, in addition to the identified approval criteria, meet additional conditions as supported by findings in order to mitigate impacts

#### 6. Zoning Commission Recommendation to Governing Body

a) The Zoning Commission shall recommend the Stillwater County Commissioners approve, approve with conditions or deny the conditional use permit application.

b) The Zoning Commission shall give findings for its recommendation.

c) The Zoning Commission may recommend additional conditions of approval to ensure public health and safety measures and compliance with the approval criteria. Additional conditions must have a clear nexus to a public health or safety issue and show mitigation.

#### 7. Governing Body Approval

a) The Stillwater County Commissioners shall consider the Zoning Commission recommendation, written or spoken testimony provided at the public hearing, the application, and the staff report provided by Planning staff.

b) The Stillwater County Commissioners shall approve, approve with conditions or deny the application for Conditional Use Permit within 60 days of the receipt of a complete application by Planning staff.

#### C. Issuance of Permit

1. Verification of completed conditions must be made in writing and any and all conditions must be met within 18 months of conditional permit approval. If conditions are not met within the 18-month timeframe, the permit is no longer valid and a new application and review process will be required.

2. The Stillwater County Commissioners may require the applicant to provide evidence that all conditions have been met prior to the expiration of the approval period. This may include engineer's certification of completion of all required conditions, or delegated county staff's recommendations that all conditions have been met, or a combination thereof.



3. Once all conditions have been deemed sufficient and complete, the County will issue a final permit approval.

4. The review period for final approval of said conditions may not exceed 30 days. This time frame applies to each submittal or resubmittal of the final approval review request and supporting documents.

5. An applicant may request an extension of the initial 18-month conditional approval period; however, the extension may not exceed one additional year. The granting of such an extension is at the discretion of the County Commissioners. The County Commissioners may require evidence of substantial progress being made towards meeting any conditions. Multiple extensions may be sought and approved, not to exceed a cumulative 30-month timeframe.

#### D. Amendments

1. An applicant may amend or supplement an application at any point prior to the public hearing before the Zoning Commission, as long as the amendments do not substantially change the project.

2. Once an application has been approved or conditionally approved, an applicant may only amend an application if it determined to be non-substantial

a) When a request for amendment is received, the Planning Office will make a determination of whether or not the amendment is substantial. The Planning Office may consult with other departments or agencies to assist in making this determination.

b) An amendment is substantial if it changes the facts upon which a condition or conditions were imposed, would result in a reasonable expectation of impacts that were not previously considered, or would change the nature of the application.

c) When an amendment is considered substantial, a new application may be required. Review of the new application may only consider the amendment, and any conditions imposed will be in addition to previously imposed conditions.

d) If an amendment is not determined to be substantial, it is considered an administrative change, and no new application is required. New conditions cannot be added.

3. A determination of whether or not an amendment is substantial is subject to the appeal process per Section VIII.

## V. Scenic Corridor Signage

There is a corridor extending 300 feet from the edge of the right of way of Highway 78, Highway 419, and Highway 420 in Stillwater County.

#### A. Criteria

Within this corridor the following criteria apply to all off-premise signs:



1. The maximum height shall not exceed 10 feet above the mean centerline elevation of the roadway adjacent to the sign. Where overpasses or topography raise the elevation of the adjacent roadway centerline in excess of ten feet from the standard roadway elevation, the maximum allowable height shall not exceed 20 feet.

2. No off-premise sign shall exceed the maximum of 80 square feet in area. The sign shall be determined by the smallest rectangle that can encompass the lettering or sign face. The sign may be two-faced with 80 square feet per side.

3. Lighting shall only be allowed so as to illuminate the message on the face of the sign. No lighting will face upwards nor be reflected onto the roadway or adjoining properties. No off-premise sign shall have flashing or blinking lights, moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one footcandle or ten lumens per sign face.

4. No off-premise signs shall contain flashing or colored lights or electronically-changeable facing on the sign.

5. No off-premise sign shall be located within 500 feet of an existing dwelling, with the exception of real-estate signs, unless the dwelling is owned by the property owner where the sign is located.

#### B. Application and Administrative Procedures

The County Planning Office shall make a standard application document available. This application shall, at a minimum, require the following:

1. A description of how the above criteria have been met
2. Scaled drawing of the proposed sign, with dimensions
3. Color, aerial photograph showing the location of the proposed sign in relation to the adjacent road
4. Copies of other applicable permit applications, such as a Montana Department of Transportation (MDT) Outdoor Advertising Permit

#### C. Review and Approval

Planning Staff will review the application and issue an approval within 30 days of receiving a complete application that meets the requirements of these Regulations.

#### D. Exclusions

The following are excluded from the scenic corridor requirements of these Regulations:

1. Any sign advertising a business and located on the site at which the business is conducted.
2. Signs located outside the corridor defined herein.

## **VI. Variances**

A. There is a special process that allows an applicant to request a deviation from the literal 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 based on these Regulations results in an unnecessary hardship, excluding financial hardships.

### **B. Variance Application Submittal Requirements**

1. A variance may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the County Planning Department. The variance application shall accompany the associated Permit application whenever possible.

2. The application shall include, but not be limited to, a written description of the variance request and justification for the request, based on the following information:

a) Special conditions: there are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County

b) Not a result of the applicant: the special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations

c) Strict application unreasonable: due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner

d) Necessary to provide reasonable use: granting the variance is necessary to provide a reasonable use of the land or the building

e) Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building

f) Not injurious: granting the variance will not be injurious to the neighborhood or detrimental to the public welfare

g) Consistent with Regulations: granting the variance is consistent with the purposes and intent of these Regulations

### **3. Staff Review**

Upon receiving a complete application Planning Staff shall evaluate the proposed development according to the following process:

a) Consult with other County departments, as applicable, to fully evaluate the impact of the variance upon public health and safety, public facilities, such as access, drainage, traffic, and other facilities



- b) Evaluate the variance request for its thoroughness and justification for the requested variance
- c) Evaluate each variance request with reference to its appropriateness and effect on existing and proposed land uses
- d) Notify, by mail, all owners of property within 500 feet of the affected property of the time, date, and place of the public hearing
- e) Publish a public hearing notice for the Board of Adjustment meeting in accordance with Montana Code Annotated 7-1-2121

#### 4. Board of Adjustment Review

The Board of Adjustment shall hold a public hearing and consider the variance request, staff report prepared by Planning Staff, all public testimony, and the variance criteria. The Board of Adjustment shall recommend to the governing body to approve, approve with conditions, or deny the variance request. Variance requests will be evaluated pursuant to the following criteria:

- a) Special conditions: there are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County
- b) Not a result of the applicant: the special circumstances or conditions have not resulted from an act of the applicant or been created to circumvent these Regulations
- c) Strict application unreasonable: due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner
- d) Necessary to provide reasonable use: granting the variance is necessary to provide a reasonable use of the land or the building
- e) Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building
- f) Not injurious: granting the variance will not be injurious to the neighborhood or detrimental to the public welfare
- g) Consistent with Regulations: granting the variance is consistent with the purposes and intent of these Regulations

#### 5. Board of Adjustment Recommendation to Governing Body

- a) The Board of Adjustment shall recommend the Stillwater County Commissioners approve, approve with conditions or deny the variance request.
- b) The Board of Adjustment shall give findings for its recommendation.



c) The Board of Adjustment may recommend additional conditions of approval to ensure public health and safety measures and compliance with the approval criteria. Additional conditions must have a clear nexus to a public health or safety issue and show mitigation.

6. Governing Body Approval/Issuance of Permit

a) The Stillwater County Commissioners shall consider the Board of Adjustment recommendation, written or spoken testimony provided at the public hearing, the application, and the staff report provided by Planning staff.

b) The Stillwater County Commissioners shall approve, approve with conditions or deny the variance request within 60 days of the receipt of a complete application by Planning staff.

7. Granting of a Variance Request

An approved variance request, and any conditions thereof, shall be noted in any approval or conditional approval documents for the conditional use permit.

## **VII. Enforcement, Violations, and Complaint Procedure**

A. Interpretation

1. Interpretation of these Regulations shall be by Planning Staff, Code Enforcement Officer, or other designated representative of the County with authority to administer these Regulations. Interpretations may be appealed following the procedure in Section VIII.

2. Landowners, developers, and members of the public are encouraged to meet with Planning Staff prior to beginning any development project to check on the applicability of these Regulations. Any opinions offered at such a meeting are advisory only and create no commitment when the development begins or the application is submitted.

B. Code Enforcement Officer duties, powers, and responsibilities:

1. The Code Enforcement Officer, or designated representative of the County, shall receive a copy of any approval or conditional approval documents and shall ensure that development occurs in a manner that is consistent with the approval. Failure to comply with the conditions associated with an approval of a development can result in suspension, revocation and other enforcement actions as provided by these Regulations.

2. The Code Enforcement Officer, or designee, may identify developments that are in violation of these Regulations and seek remedies to bring development into compliance.

3. The Code Enforcement Officer, or designee, shall institute a process to administer, investigate, and resolve complaints, and any complaints about enforcement or non-compliance shall be directed to the Code Enforcement Officer.





#### C. Violations and Penalties

Failure to comply with any requirements of these regulations shall constitute a misdemeanor. Penalties for a misdemeanor are contained in 76-2-211, MCA. The owner or tenant of any building, structure, premises or part thereof, and any architect, builder, contractor, agent or other person who commits, participates in, assists or maintains such failure to comply may be found guilty of a separate offense and suffer the penalties specified above. Nothing set forth in this section shall prevent the county from taking other lawful action as is necessary to prevent or remedy any violation.

### **VIII. Appeal Procedure**

#### A. Administrative Appeals

Any party aggrieved by an administrative decision of Planning Staff may appeal that decision to the Board of Adjustment. All appeals shall be in writing and must be made within 15 days of the decision. The appeal will be heard at the next available meeting of the Board of Adjustment. The Board of adjustment may consider:

1. Whether the decision is consistent with the meaning and intent of these Regulations and the Stillwater County Growth Policy
2. Whether strict compliance with these Regulations or conditions of approval would create an unnecessary hardship or unreasonable situation on the particular property
3. Evidence of any adverse effects on other property or the general health, safety and welfare of the County

#### B. Board of Adjustment Appeals

Any party aggrieved by a decision of the Board of Adjustment may appeal that decision to the Stillwater County Commissioners. All appeals shall be in writing and must be made within 30 days of the decision.

#### C. County Commission Appeals

Any party aggrieved by a decision of the Board of County Commissioners may appeal that decision to the District Court. All appeals shall be in writing and must be made within 30 days of the decision.