

CHAPTER 17.88

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CHAPTER 17.88

DEVELOPMENT AND SITE PLAN REVIEW

17.88.010 INTRODUCTION

- A. Pursuant to sections 7-21-1001 through 7-21-1003, Mont. Code Ann., all property development proposals within the City described in the following section, require an application process, including site plan review and approval by the City Council after review by the Planning Board. All applicable provisions of this title apply to the development proposal. An omission or oversight of nonconformity with the standards of this title regarding the property development proposal shall not constitute approval of nonconformance with this title. Any nonconformance with this title which is not resolved with an approved variance or Conditional Use permit may be required to be cured at such time the City becomes aware of the existence of the nonconforming condition.

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17.88.020 PROPERTY DEVELOPMENTS REQUIRING REVIEW UNDER THIS CHAPTER

- A. The following property developments require review under this chapter:
1. Twenty (20) or more dwelling units in a multiple household structure or structures;
 2. Thirty thousand (30) or more square feet of office space, retail commercial space, service commercial space, institutional or industrial space;
 3. More than two (2) buildings on one site for permitted office uses, permitted retail commercial uses, permitted service commercial use, permitted institutional or permitted industrial uses or permitted combination of uses;
 4. Twenty thousand (20) or more square feet of exterior storage of materials or goods; or
 5. Parking for more than sixty (60) vehicles.

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17.88.030 APPLICATION FOR DEVELOPMENT AND SITE PLAN REVIEW

- A. An application for development and site plan review shall be provided by the City and completed and signed by the property owner or its authorized representative, notarized and submitted to the City.

- B. No occupancy permits shall be issued for any development plan until development is completed and certification has been provided demonstrating that all terms and conditions of development and site plan approval have been complied with.

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17.88.040 DEVELOPMENT AND SITE PLAN REVIEW PROCEDURES

A. Completeness Review Process.

1. The Administrative Official shall review the application for completeness within five (5) business days to determine if the application does not omit any of the submittal elements required by this title. If the application is incomplete, the application, review fee and a written explanation of why the application is incomplete shall be returned to the applicant or its representative.
2. After the application is complete, it shall be reviewed for adequacy. A determination of adequacy means the application contains all of the required elements in sufficient detail and accuracy to enable the applicable review boards to make a determination that the application either does or does not conform to the requirements of this title and any other applicable regulations.
3. The adequacy review period shall begin on the next business day after the date the Administrative Official determines the application is complete and shall be completed within fifteen (15) business days. If the application is inadequate, a written explanation of why the application is inadequate will be returned to the applicant.
 - a. In the event the missing information is not received by the City within fifteen (15) business days of notification to the applicant or his representative of inadequacy, all application materials and one-half of the review fee shall be returned to the applicant or its representative. Subsequent re-submittal shall require payment of a review fee as if it were a new application.
 - b. A determination that an application is adequate does not restrict the City from requesting additional information during the plan review process.
4. In the event that the applicant elects not to provide the required information after an application has been found unacceptable, nor to accept return of the application and accompanying fee, the application may be processed by the City with the recognition by the applicant or its representative that unacceptability is an adequate basis for denial of the application regardless of other merits of the application.

B. Plan Review.

The Development Plan (“plan”) shall be reviewed according to the procedures established by this title. After review of the applicable submittal materials required by this title, and upon recommendations by the Planning Board, and the Administrative Official, the City Council shall act to approve, approve with conditions or deny the application and preliminary plan. The basis for the Administrative Official, Planning Board, Zoning Commission or City Council action shall be whether the application, including any required conditions, complies with all the applicable standards and requirements of this title.

1. Coordinated Reviews

In the case of a proposed development or use within the city or proposed property is to be annexed to the City, the City shall coordinate the development and site review procedures to minimize duplication of hearings, reports, and other requirements whenever possible.

2. Preliminary Plan and Public Hearing. The Administrative Official and Planning Board shall provide an opportunity for the public to comment upon the preliminary plan review proposal. The duration of the comment period shall be included in any notice required by Chapter 17.100, Noticing and Hearing Procedure.

The public hearing shall be scheduled after review by the Planning Board and Zoning Commission. At a minimum one member of all review boards will attend the public hearings. Within fifteen (15) business days of the close of the public comment period, the review board(s) and the Administrative Official will provide their written recommendations of approval, approval with conditions or denial to the City Council.

3. The Administrative Official and at least one member of the review board(s) shall attend the City Council meeting where the preliminary plan review proposal is addressed. The written decision of the City Council shall be sent to the applicant within fifteen (15) business days and will include the basis of the decision.

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17.88.050 DEVELOPMENT AND SITE PLAN REVIEW CRITERIA

A. In considering an application and plan for preliminary approval under this title, the Administrative Official, Planning Board, Zoning Commission, if applicable, and City Council shall consider the following:

1. Conformance to and consistency with the Growth Policy;
2. Conformance to this title, including cessation of any current violations;

3. Conformance with all other applicable laws, ordinances and regulations;
4. Relationship of plan elements to conditions both on and off the property, including:
 - a. Compatibility with and sensitivity to, the immediate environment of the development and the adjacent neighborhoods and other approved developments relative to architectural design, building mass and height, neighborhood identity, landscaping, historical character, orientation of buildings on the site and visual integration;
 - b. Design and arrangement of the elements of the plan (e.g., buildings, circulation, open space, etc.) so that activities are integrated with the community and other approved developments.
 - c. Design and arrangement of elements of the plan in harmony with the existing natural topography, natural water bodies, water courses, existing vegetation, and to contribute to the overall aesthetic quality of the site configuration; and
 - d. If the proposed project is located within the historical overlay district or includes a locally designated landmark structure, the project is in conformance with the provisions of the 17.80, Requirements for Creation of a Historic Mixed Use District;
5. The impact of the proposal on the existing and anticipated traffic and parking conditions;
6. Pedestrian and vehicular ingress, egress and circulation, including:
 - a. Design of the pedestrian and vehicular circulation systems to assure that pedestrians and vehicles can move safely within the site and between properties; and
 - b. Dedication of right-of-way or easements necessary for streets and similar transportation facilities;
7. Landscaping, including the enhancement of buildings, and the preservation or replacement of natural vegetation; a combination of natural and manmade elements can be used up to 75% of the unpaved areas.
8. Open space, including:

- a. If the site is adjacent to an existing or approved public park or public open space area, have provisions been made in the plan to avoid interfering with public access to and use of that area;
 - b. If the site is located adjacent to a residential area is adequate screening provided to ensure privacy and quiet for neighboring residential uses;
- 9. Building location and height;
- 10. Setbacks, generalized building gross area (square feet), building locations, building envelopes, and building heights;
- 11. Lighting;
- 12. Provisions for underground utilities, including efficient public services and facilities;
- 13. Site surface drainage and storm-water control;
- 14. Load and unloading areas;
- 15. Grading;
- 16. Signage;
- 17. Screening;
- 18. Overlay district provisions;
- 19. If the plan includes multiple lots that are independent for circulation or other means of addressing requirements of this title, whether the lots are configured so that the sale of individual lots will not alter the approved configuration or use of the property or cause the development to become nonconforming.
- 20. Description of many elements in application may be described in written form and/or graphic formats whichever provides the better form of communication.
- 21. Non-automotive transportation and circulation systems design features to enhance convenience and safety across parking lots and street;
- 22. Dedication and/or abandonment of rights-of-way or easements necessary for efficient land use and accompanying streets and related transportation facilities;
- 23. Statement regarding trash, outdoor storage and utility areas;
- 24. Other related matters, including relevant comments from affected parties.

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17.88.060 SITE PLAN APPROVAL OR DENIAL

- A. The City Council after reviewing all elements and considering recommendations from all applicable boards and committees, shall approve, approve with conditions or deny the application for the preliminary development and site plan. The decision of the City Council shall be in writing and, if the application is denied, the reasons for the denial shall be stated in the written decision, which shall be sent to the applicant within fifteen (15) business days after the meeting of the City Council which considered the proposed development and site plan.

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17.88.070 FINAL DEVELOPMENT AND SITE PLAN APPROVAL

- A. No later than six months after the date of approval of an application, preliminary development and site plan, the applicant shall submit to the Administrative Official a final site plan with accompanying application form and review fee. Ten copies of the final site plan shall be submitted to the Administrative Official. The final site plan shall comply with any conditions of approval. The applicant may obtain an extension of time, not to exceed an additional six months to submit the final site plan.
- B. The owner shall also execute the certification of completion and compliance form and the statement of intent to construct according to the final site plan form provided by the Administrative Official.
- C. The final site plan shall be effective for one year from the date of its approval. Not less than ninety (90) days prior to the expiration of the one year period, the owner may seek an extension of time to extend the expiration of the effective date of the final site plan by not more than one (1) additional year by submitting the request for extension of time to the Administrative Official. In such instance, the Administrative Official shall approve the extension provided that the relevant terms of this title and circumstances relating to the final site plan have not materially changed since the initial approval of the final site plan.

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17.88.080 BUILDING PERMIT BASED UPON APPROVED SITE PLAN

Upon approval of the final site plan, the owner may obtain a building permit under Chapter 17.104, Administration, Fees and Penalties. No building permit may be granted on the basis of an approved final site plan where the approval has expired.

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17.88.090 AMENDMENTS TO DEVELOPMENT AND SITE PLANS

- A. It is the intent of this section to assure that issues of community concern are addressed during the redevelopment, reuse or change in the use of existing facilities in the community. Specific areas of community concern include public safety, mitigation of off-site environmental impacts and site character in relation to surroundings. The following procedures for amendments to approved plans, reuse of existing facilities and further development of sites assure that these concerns are adequately and expeditiously addressed.

- B. Any amendment to or modification of a plan approved under this title shall be submitted to the Administrative Official for review. Proposals for further development, reuse or change in use of sites developed pursuant to this title shall also be reviewed as an amendment to an approved plan. All amendments shall be shown on a revised plan drawing. Amendments to approved plans shall be reviewed by the Administrative Official who will determine if all information needed for review is included and determine if the amended plan is in substantial compliance with the originally approved plan. Then, the Administrative Official and Planning Board will review the amendment and provide its recommendation to the City Council. If it is determined that the amended plan is not in substantial compliance with the original plan, the application shall be resubmitted as a new application and shall be subject to all standards and site plan review and approval provisions of this title.

- C. Modification or amendments to plans at the time an extension of approval is sought may be proposed by either the applicant or the City Council, and shall be based on substantive current information that relevant circumstances have changed and that such circumstances support the proposed modifications. Such circumstances may include market analyses, economic conditions, changes in surrounding land uses, and changes in ownership.

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**17.88.100 REUSE, CHANGE IN USE OR FURTHER DEVELOPMENT OF SITES
DEVELOPED PRIOR TO THE ADOPTION OF THIS TITLE**

- A. Sites legally developed prior to the adoption of this title shall be considered to have been developed under an approved plan. Proposals for reuse, change in use or the further development of sites legally developed prior to the adoption of this title may be submitted to the Administrative Official and upon determining that no significant alteration of the previous use and site is proposed, and reviewed by all agencies, boards, or committees, a recommendation for approval may be presented to the City Council. All such proposals shall be shown on a plan drawing as required by this title. Review and public hearings if required shall be completed within ninety (90) business days.

- B. The criteria for determining that no significant alteration of the previous use and site will result from the proposed reuse, change in use or further development of a site shall include but not be limited to the following:

1. The proposed use is allowed under the same zoning district use classification as the previous use, however replacement of nonconforming uses must comply with the provisions of this title.
 2. Changes proposed for the site, singly or cumulatively, do not increase lot coverage by buildings, storage areas, parking areas or impervious surfaces and/or do not result in an increase in intensity of use as measured by parking requirements, traffic generation or other measurable off-site impacts;
 - a. By more than 20 percent for developments not meeting one or more of the criteria of this Chapter or;
 - b. By more than 10 percent for developments meeting or exceeding one or more of the criteria of this chapter;
 3. The proposed use does not continue any unsafe or hazardous conditions previously existing on the site or associated with the proposed use of the property.
- C. If it is determined that the proposed reuse, change in use or further development of a site contains significant alterations to the previous use and/or site, the application shall be resubmitted as a new application and shall be subject to all plan review and approval provisions of this chapter.
- D. When proposals for reuse, change in use or further development of a site are located in the historic overlay or adult entertainment overlay districts, review by appropriate boards or committees will be required to determine whether re-submittal as a new application is necessary.

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17.88.110 IMPROVEMENTS TO EXISTING DEVELOPED SITES INDEPENDENT OF SITE PLAN REVIEW

- A. The continued improvement of existing developed sites is desired to increase the level of compliance with the provisions of this title. An applicant may propose improvements, not in association with a site plan review, to increase conformity with the standards of this title for landscaping, lighting, parking or similar components of a site to occur over a defined period of time, not to exceed three years. Such improvements shall be depicted on a site plan drawn to scale and which shall be sufficiently detailed to clearly depict the current conditions, the intended end result of the proposed improvements and any phasing of work. The Administrative Official shall review and approve such improvements provided they comply with this title. The Administrative Official may require a surety bond in accordance with terms of 17.92, Improvements and Guarantees.
- B. SUBSTANTIAL IMPROVEMENTS**

Any repair, reconstruction or improvement of a structure is a substantial if the cost of repair, reconstruction or improvement equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged, and is being restored, before the damage occurred for the purpose of this definition, substantial improvement is considered to occur when the first construction to any wall, ceiling, floor or other structural part of the building commences. The term does not include:
 - a. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or
 - b. Any alteration of a structure listed on the National Register of Historic Places or State Inventory of Historic Places.

C. IMPROVEMENT GUARANTEES

Improvement guarantees on an approved development and site plans shall be installed subject to the requirements of Chapter 17.92, Improvements and Guarantees.

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