

CHAPTER 4 – PERMITS

11-4-1: PURPOSE:

This chapter requires a permit for all DEVELOPMENT that it is not specifically exempt from the requirement for a permit, defines development, and establishes the types of permits used to ensure compliance with THESE REGULATIONS. Application, review, and appeal procedures for each type of permit are found in Chapters 11-5 through 11- 7.

11-4-2: PERMIT REQUIRED:

- A. A permit to proceed in compliance with these regulations is required for all development that is not specifically exempted by Section 11-4-4.
- B. No permit may be issued for a USE that is not explicitly listed as a permitted or conditional use in its zoning district. Said another way: Any use that is not explicitly allowed by these regulations is prohibited.
- C. The required permit(s) must be obtained before new lots are created; before a site is cleared or any earth moved; or before any building materials and/or equipment are moved onto the site; **before any work of any type begins.**
- D. Commercial buildings, buildings open to the public, and buildings on Main Street may also require a state building permit or a permit from the Montana Department of Transportation (MDT).

11-4-3: DEVELOPMENT DEFINED:

- A. Development includes land divisions that create new lots or rights-of-way (subdivisions); grading, including clearing, excavation, and fill; the construction, reconstruction, installation, enlargement or relocation of any building or structure; the placement of a sign; and/or any change in the use of a lot, building, or structure. Items 1-3, below, expand on this definition.
 - 1. A CHANGE OF USE for which a permit is required occurs when an additional dwelling unit is added to an existing building, when an existing residential building is converted to commercial use or an existing commercial building is converted to residential, or when an existing building, structure, or use is changed to a more intense commercial use. For this definition, intensity will be measured by a change in water meter size, if a larger water meter is required, it is a change in use, or by traffic generation.

This change is necessitated by recent legislation.

- 2. Some temporary uses and structures are exempt from the requirement for a permit. Please see Section 11-4-4.F.
- 3. Outdoor sales and storage require a permit if they are not exempted by Section 11-4-4.G.

11-4-4: EXEMPTIONS:

- A. Land divisions defined as exempt by MCA 76-3-201, et seq, as amended, do not require a permit, but must file an application for an exemption.

- B. Continuing agricultural activities, including irrigation, the planting and harvest of crops, and grazing do not require a permit.
- C. Maintenance or repair of existing uses, buildings, or structures does not require a permit.
- D. Interior changes in existing buildings or structures do not require a permit unless there is a change of use. There is a possible exception to this exemption in the floodplain. Please see Title 12 of this code.
- E. Most changes to the exterior of existing buildings or structures do not require a permit. Possible exception to this exemption in the SED. Please see Chapter 11-18.
- F. A permit established by this chapter is not required for temporary uses and associated structures used for events that last no more than four days, including set-up and tear-down, like a farmer's market, a sidewalk sale, or a garage or yard sale. Please note that a Temporary Use Permit may be required by Chapter 11-28.
- G. A permit is not required for the onsite storage and staging of building materials or equipment while construction proceeds in compliance with an approved zoning permit.
- H. A permit is not required for the posting or placement of advisory or directional signs of less than four square feet.
- I. A permit is not required for flatwork on residential premises or for accessory flatwork like a new or replacement sidewalk on commercial or industrial premises. A permit is required for the creation of a new parking area.

11-4-5 TYPES OF PERMITS:

These regulations establish two types of permits: discretionary and zoning. Discretionary permits are reviewed and acted upon by the PBZC and City Council. Zoning permits are approved or rejected by Staff.

- A. Discretionary permits are required for any land division that is not exempted by state law and for the conditional uses that are allowed in some zoning districts or by Section 11-2-7.B for changes in nonconforming buildings, structures, and uses. Please see Chapters 11-6 and 11-7 for the application, review, and appeal procedures for discretionary permits.
- B. A zoning permit is required for all development that is not exempted by Section 11-4-4. Application, review, and appeal procedures for zoning permits may be found in Chapters 11-5 and 11-7.

11-4-6: PERMIT FEES:

Non-refundable permit application fees are established by the City Council as provided in Section 11-3-6.D. The required fee must accompany the application for a permit. Note also that impact fees required by Title 3 of THIS CODE must be paid before a zoning permit is issued.

11-4-7: PERMIT EXPIRATION:

Please see the chapter establishing each type of permit.