

CITY OF THREE FORKS, MONTANA

ORDINANCE #411-2025

**AN ORDINANCE ADOPTING THE REWRITTEN TITLE 11 ZONING REGULATIONS,
CHAPTER 7: APPEAL & VARIANCE PROCEDURES**

WHEREAS, §76-2-301, MCA authorizes the City to establish zoning regulations, which include promoting health, safety, morals and general welfare as well as regulating height, number of stories, size of buildings and other structures, percentage of lot occupied, size of yards/courts or other open spaces, density, and uses.

WHEREAS, the City of Three Forks completed an update to its Growth Policy in September 2022. The Three Forks Zoning & Planning Board repeatedly expresses the need to update the zoning based on the policies in the revised Growth Policy.

WHEREAS, the City of Three Forks put a Request for Proposals out in 2024 to revise the City's Zoning Code. Lee Nellis was retained to work in conjunction with the City's already-appointed City Planner Randy Carpenter to propose revisions to the existing zoning. Together they began working with the Zoning & Planning Board to draft new regulations.

WHEREAS, the Zoning & Planning Board held meetings open to the public to discuss Title 11 Zoning Regulations, Chapter 7, on 7/22/2025 to refine the draft, and on 8/27/2025 to forward a final draft to the City Council to be heard as an ordinance.

WHEREAS, all these meetings were advertised on the City's website, the City's Facebook page, emails sent directly from those who have signed to receive news on the City's website and MailChimp subscriptions, posted around town at various locations as is City policy.

WHEREAS, pursuant to §7-1-4127 and -4131, MCA the City Clerk published notice for the first reading of this ordinance in the Bozeman Daily Chronicle on 9/30/2025, in the Belgrade News on 9/25/2025, and in the Three Forks Voice on 10/1/2025, as well as posted on the City's Facebook page, website, and around town at various physical locations as is City policy.

WHEREAS, the existing City Code as codified, is not being rescinded until the "Zoning Code Rewrite Project" is complete to ensure the newly discussed and accepted chapters are enacted as a whole reducing the potential for conflict or leave gaps between the existing and new regulations during the enactment process. As each new chapter is adopted, they will be held until the entire Title 11, Chapters 1 - 21 are complete. Pursuant to §7-5-105, MCA an ordinance becomes effective 30 days after its second reading. It is the intention of the City of Three Forks to conduct the second reading for Title 11, Chapters 1-21 at the same meeting. In order to maintain clarity in the Three Forks Title 11 Zoning Code, these ordinances will take effect and become law 30 days after the final chapter is adopted by the City Council.

NOW THEREFORE BE IT ORDAINED by the Three Forks City Council that Title 11, Chapter 7 is adopted as follows:

CHAPTER 7 – APPEAL & VARIANCE PROCEDURES

11-7-1: PURPOSE:

This chapter enacts §76-2-321, et seq., MCA by adopting procedures for appeals from Staff decisions. This chapter specifically does not, however, enact §76-2-323(b), MCA, which allows for special exceptions.

11-7-2: APPLICABILITY:

The Staff decisions that may be appealed are:

- A. Staff's determination that an application or appeal form is incomplete, as required by Sections 11-5-4.A, 11-6-4.A, or 11-7-4.A.
- B. Staff's approval or denial of an application for a zoning permit, as authorized by Section 11-5-5.D or E.
- C. Staff's issuance of a warning of violation, as authorized by Section 11-9-12.
- D. Staff's interpretation of zoning district boundaries as provided by Section 11-11-3.

11-7-3: FILING AN APPEAL:

- A. Appeals must be filed using the application form provided by the City.
- B. An appeal or notice of appeal must be filed within ten (10) business days following the decision being appealed. A notice of appeal may request additional time to prepare a complete appeal, but no more than 30 business days.
- C. The appeal or notice of appeal must be accompanied by the appeal fee established by the Council as provided by Section 11-3-6.D.

11-7-4: REVIEWING AN APPEAL OR VARIANCE:

- A. Staff will determine whether the appeal/variance application is complete. Incomplete applications will be returned to the applicant with a written list of what is missing.
- B. If the application is complete, Staff will consult with the Chair of the BOARD OF ADJUSTMENTS to schedule a public hearing on the appeal. BOA hearings are held at the call of the Chair, but must be scheduled within thirty (30) business days of the receipt of a complete application.
- C. Notice of the BOA hearing shall be published at least once, not more than thirty (30) business days before, and at least ten (10) business days before the hearing required by B, above, in a newspaper of general circulation in the City. That notice shall also be made available to all other media platforms and posted on the City's website.
- D. Notice of the BOA hearing shall be sent by first-class mail to the applicant and to the owners of record of all properties within one hundred fifty feet (150') of the perimeter of the lot on which an appeal/variance is proposed. The width of PUBLIC WAYS (streets, alleys, trails, and other rights-of-way dedicated to the public) shall be excluded in measuring that one hundred fifty feet (150'). Staff may expand the radius required for mailed notice.
- E. The BOA will review the Staff report, hear public statements, then review the appeal/variance. The applicant must be present to answer questions (they may or may not choose to make a statement) or the hearing will be continued.
- F. For appeals of Staff decisions: The BOA will decide appeals where there is an alleged error in a decision, determination, interpretation, or notice made by Staff, as provided by Section 11-7-2. The BOA will decide the appeal based on compliance with these regulations and affirm or reverse, in whole or in part, or modify the Staff decision.

- G. If the BOA upholds an appeal or approves a variance, a letter that details the findings supporting the decision as well as all conditions imposed, if any, shall be sent to the applicant and made available to the public within ten (10) business days after that decision.
- H. If the BOA denies an appeal or a variance, a letter detailing the reasons for denial shall be sent to the applicant and made available to the public within ten (10) business days after that decision.

11-7-5: ADDITIONAL PROCEDURES FOR VARIANCES:

- A. A request for a variance from a requirement of these regulations is a type of appeal that is specifically authorized by §76-2-323.1(c), MCA, as amended and for which the findings listed in C, below must be made.
- B. §76-2-323, MCA, as amended, requires that an application for a zoning permit must have been submitted and rejected before a request for a variance may be filed following the appeal procedures established in this chapter.
- C. Staff will prepare a report that includes a variance checklist when necessary and which may include recommended conditions of approval that will be sent to the BOA and the applicant, and made available to the public, at least four business days before the hearing.
- D. To approve a variance, the BOA must, at the hearing required by Section 11-7-4, find that it will not be contrary to the public interest; that where, owing to special conditions, literal enforcement of the provisions of these regulations will result in unnecessary hardship which shall not be self-imposed; and that the spirit of the ordinance will be observed and substantial justice done. The BOA must also find that the variance is the minimum necessary to allow the appellant a reasonable use of their property.
- E. If the BOA cannot make the required findings, it will deny the appeal of the variance stating its reasons in writing.

11-7-6: APPEAL OF BOA DECISIONS:

§76-2-327, MCA provides that appeals from decisions of the BOA be taken to district court.

1st Reading and Approval: DATED this 14th day of October 2025.

Mayor Randy Johnston

Attest: Crystal Turner, City Clerk

2nd Reading and Approval: DATED this _____ day of _____.

Mayor Randy Johnston

Attest: Crystal Turner, City Clerk