

SECTION 7 RURAL RESIDENTIAL MIXED-USE DISTRICT (RR)

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701 Intent

To provide for lower density residential development, along with an opportunity for continued agricultural activities, within the rural areas of the Helena Valley. Also, on a limited basis, to provide areas for non-residential uses in balance with residential development and agricultural activities as an integral part of the community providing essential services and employment opportunities. Non-residential development within this district should be permitted in compact centers rather than in extended strips of development along roadways to provide for orderly development, minimized traffic congestion, and to provide for safe pedestrian movement.

Urban development within this district is strongly discouraged. Expansion of urban development into rural areas is a matter of public concern because of the challenges in satisfactorily addressing the impacts associated with the five key issues identified in the Growth Policy. Those key issues (fire, water, wastewater, roads, and flooding) along with the potential for conflicts between agricultural and urban activities support the lower development intensity levels of the Rural Residential Mixed-Use zone district. Development or use of land in this district is permitted only in accordance with the provisions herein.

702 Principal Uses

Only one (1) principal use is allowed on each parcel. The following principal uses are allowable in the Rural Residential Mixed-Use District:

- 702.01 Agriculture
- 702.02 Apiculture
- 702.03 Community Residential Facility – Type-I
- 702.04 Community Uses:
 - 702.04.01 Education Facility
 - 702.04.02 Library
 - 702.04.03 Open space/trails
 - 702.04.04 Park
 - 702.04.05 Public Facilities (without outdoor training)
- 702.05 Day-care Facility
 - 702.05.01 Adult Daycare
 - 702.05.02 Family Daycare
 - 702.05.03 Group Daycare
- 702.06 Forestry
- 702.07 Horticulture
- 702.08 Residence
 - 702.08.01 A single dwelling unit residence per parcel
 - 702.08.02 A two – dwelling unit residence per parcel
- 702.09 Septic Waste and Domestic Sludge Application
- 702.10 Silviculture
- 702.11 Telecommunication Facility
- 702.12 Temporary Use
- 702.13 Utility Site
- 702.14 Worship Facility

703 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent,

and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

The following uses shall be allowed only when a principal use has already been established on the parcel:

703.01 Accessory Uses and Buildings

703.02 Home Occupations, in compliance with Section 16, of these Regulations.

703.03 Temporary Uses, in compliance with Section 15 of these Regulations.

704 Conditional Uses

The following uses are permitted, upon approval of a Conditional Use Permit (CUP) by the Board of ~~Adjustment~~ County Commissioners (BOABoCC), in accordance with Section 14, of these Regulations:

704.01 Airstrip

704.02 Aircraft Hangars when in association with properties within or adjoining an airstrip

704.03 Animal Hospital, Veterinary Clinic

704.04 Batch Plant (concrete, mortar, or asphalt; not including temporary batch plants)

704.05 Bank/Financial Institution

704.06 Bar/Lounge

704.07 Bed and Breakfast Establishment

704.08 Building materials - wholesale/retail

704.09 Camp/ Retreat Center

704.10 Cemetery

704.11 Community Residential Facility, Type-II

704.12 Contractor's storage yard

704.13 Daycare Center

704.14 Equipment Rental

704.15 Extractive Industries

704.16 Funeral Home

704.17 General/Professional Services

704.18 General Repair

704.19 Greenhouse/Plant Nursery

704.20 Health Care Facility

704.21 Heliport

704.22 Hotel (including conference or convention facilities)

704.23 Industrial (must not emit unusual or excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise beyond the parcel boundary)

704.24 Indoor Entertainment, Sports, and Recreation

704.25 Jail/Correctional Facility

704.26 Kennel

704.27 Medical Marijuana Dispensary

704.28 Medical Marijuana Grow Operation

704.29 Medical Marijuana Provider

704.30 Motor Vehicle Graveyard

704.31 Motor Vehicle Wrecking Facility

704.32 Motorized vehicle/equipment - service/repair and incidental sales

704.33 Outdoor Sports and Recreation

- 704.34 Outdoor Entertainment
- 704.35 Parking Lot - public or private
- 704.36 Propane Distribution/storage facility
- 704.37 Public Facilities (with outdoor training)
- 704.38 Recycling Facility/solid waste transfer facility
- 704.39 Renewable Energy Facilities
- 704.40 Research and Development Facility
- 704.41 Residence
 - 704.41.01 Multiple – Dwelling Unit Residence per parcel
- 704.42 Restaurant
- 704.43 Retail
- 704.44 Satellite Earth Station
- 704.45 Storage Facility, Self Service
- 704.46 Vehicle Fuel Sales
- 704.47 Vehicle Repair
- 704.48 Vehicle Sales and Rental
- 704.49 Warehouse
- 704.50 Water/Wastewater Treatment Facility

705 Special Exception Uses

The following uses are allowed in addition to an established principal use, an accessory use, or conditional uses:

- 705.01 Agricultural
- 705.02 Apiculture
- 705.03 Community Residential Facility – Type-1
- 705.04 Day Care Facility
 - 705.04.01 Adult Daycare
 - 705.04.02 Family Daycare
 - 705.04.03 Group Daycare
- 705.05 Forestry
- 705.06 Horticulture
- 705.07 Silviculture
- 705.08 Telecommunication Facility

706 Minimum Lot Area

~~The following requirements of this Section 706 shall become effective and in full force and effect June 1, 2022.~~

The minimum parcel size shall be ten (10) Acres, **with two exceptions: Cluster Design or Planned Development (PD).** However, i

In order to permit creative and environmentally sensitive site design, smaller parcel sizes may be permitted through the use of a Cluster Design as detailed below.

706.01 Cluster Lot Design

The purpose of this section is to encourage alternative design techniques that efficiently make use of land and water resources; protect environmentally sensitive areas, natural features and soils of agricultural importance; and promote cost savings in infrastructure development and maintenance. Clustering development allows for the creation of lots

smaller than the minimum lot sizes established in these Regulations, with the balance of the property maintained in open space.

706.01.01 Lot Design (NOTE: 706.01 through 706.02 have been renumbered)

- 706.01.01.1 The minimum size of parcels to be developed is the effective minimum size allowable under the Administrative Rules of Montana adopted by the Montana Department of Environmental Quality under Title 76, Chapter 4, MCA.
- 706.01.01.2 Apart from any parcel that will remain as undeveloped open space, the maximum size of each parcel to be developed in a cluster development is two (2) acres.
- 706.01.01.3 To reduce the potential for groundwater depletion due to the concentration of wells, the maximum number of parcels to be developed in a cluster development is ten (10). Additional non-clustered lots can be included in a subdivision plan for a cluster development to achieve the maximum density allowed under the Rural Residential Mixed-Use District as shown in Figure 1.
- 706.01.01.4 The minimum amount of land preserved in a cluster development is equal to the base density of ten (10) acres per parcel, minus the area in new lots planned for development. For example, an 80-acre parcel can be divided into eight (8) lots (80 acres ÷ a base density of 10 acres per lot).

In the eighty (80) acre example below in Figure 1, each of the eight (8) cluster lots is one (1) acre in size as allowed under DEQ rules for water and wastewater. The 9th parcel, seventy-two (72) acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately ninety (90) percent of the parcel is maintained in open space, and the need for road construction is minimized

The one hundred sixty (160) acre example below in Figure 1, shows a second example of development of a one hundred sixty (160) acre parcel. A one hundred sixty (160) acre parcel of land can be divided into sixteen (16) lots planned for development (160 acres ÷ a base density of 10 acres per lot). Each of the ten (10) cluster lots (the maximum number of cluster lots allowed) planned for development is two (2) acres in size. An added six (6) non-clustered lots of ten (10) acres each are allowed on the parcel being subdivided to achieve the full development potential of the quarter section of land. The 17th parcel, eighty (80) acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately half of the parcel is maintained in open space, and the need for road construction is minimized.

Numerous other combinations and configurations are possible so long as they comply with the provisions for cluster development and the density restrictions.

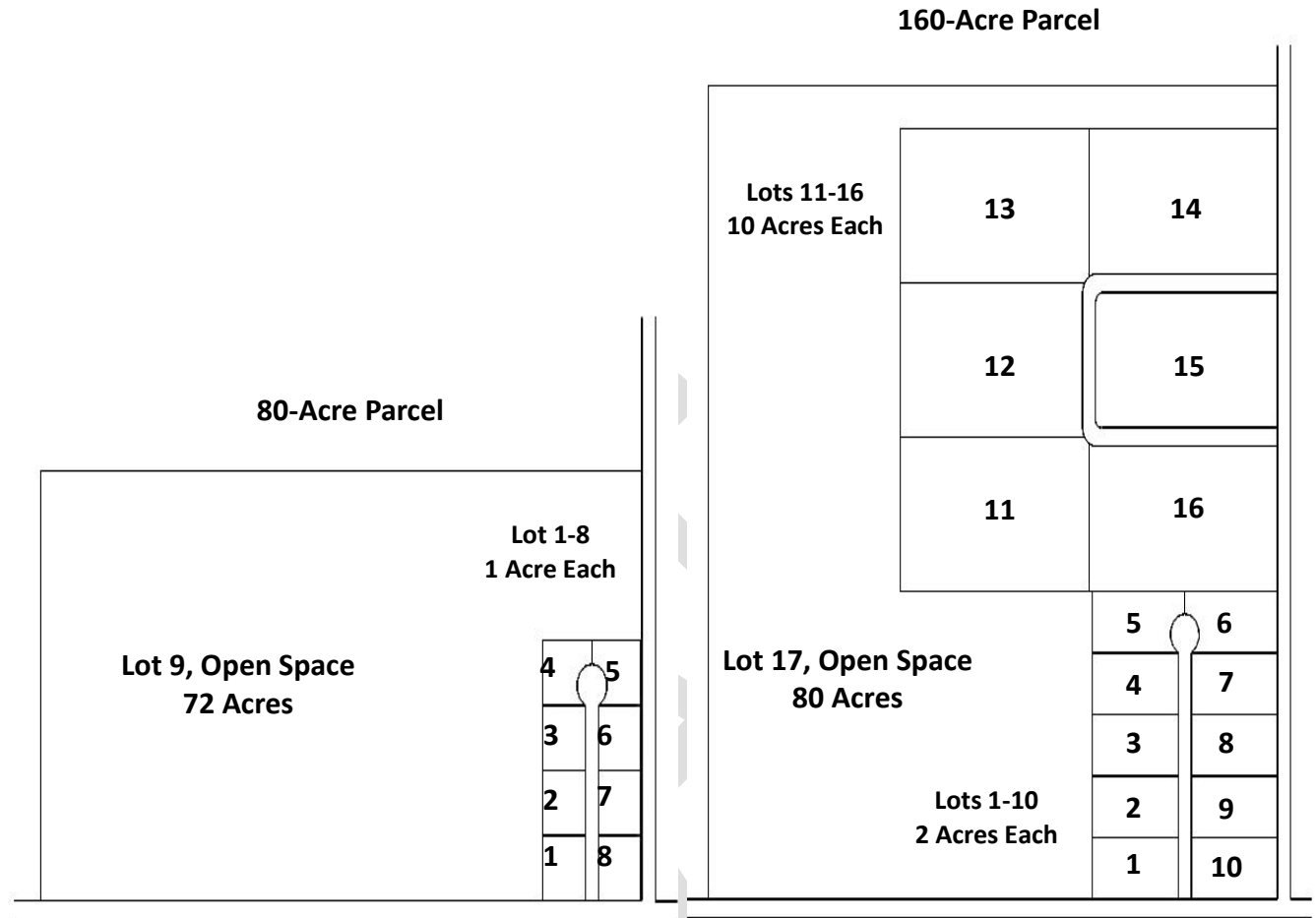


Figure 1 – Alternative layouts for clustered development (for illustrative purposes only, as many other scenarios are possible.)

706.01.02 Open Space Standards

The land preserved in open space and/or a resource use(s) must:

- 706.01.02.1 Be maintained on a long-term basis through a revocable covenant prohibiting further subdivision, division, or development of the open space and/or resource use parcel. Revocation of said covenant requires approval by the BoCC. Revocations may be considered if zoning and/or development constraint conditions no longer require density to be limited on the subject property;
- 706.01.02.2 Be accessible via a road and/or trail easement filed with the Lewis and Clark County Clerk and Recorder’s office;
- 706.01.02.3 Be identified on a final subdivision plat or certificate of survey (COS) (for exemptions from subdivision). The final subdivision

plat or COS shall include a notation as to the official recordation location of the revocable covenant;

706.01.02.4 Include a plan for ongoing use and maintenance as open space and/or a resource use(s) that includes provisions to manage vegetation and noxious weeds, and that may be amended by the BoCC in consultation with parties owning title to the land;

706.01.02.5 When present, include environmentally sensitive areas such as wetlands, streams, floodplains or riparian areas; agricultural soils (prime farmland); wildlife habitat; rare, threatened or sensitive plants; and scenic resources such as hillsides or forested areas; and,

706.01.02.6 Be located adjacent to the one (1) or more lots to be developed.

Comments received from ZAP: Rural Residential Mixed Use District draft on page 7-8. Specifically, under section 706.01.02.1 (Open Space Standards) item 706.01.02.5 states: "When present, include environmentally sensitive areas such as wetlands, streams, floodplains or riparian areas; agricultural soils (farmland);...or forested areas;" From my role as stream permit liaison for the Forest, a common problem that arose was over the definition of "streams". This is important because of an inconsistency in two state laws governing stream permitting: 1) MT Natural Streambed & Land Preservation Act (310 permit) and 2) Montana Stream Protection Act (124 permit). The 310 law governs private entities proposing disturbance to the bed or banks of perennially flowing streams. The 124 law governs any governmental agency proposing disturbance to the shape or form of any stream--- that means perennial, intermittent, and ephemeral. You can readily see an inherent double standard here that holds private entities to a stream permit on only streams that run perennially, while any governmental agency or contractor working for government must be held to a broader standard to include all streams. Hence this has led to unnecessary confusion amongst would be stream permit applicants depending on the proponent (private or government) and what kind of stream is under consideration for disturbance. To avoid this confusion, I recommend that the term "streams" be further clarified to include: perennial, intermittent, and ephemeral. Those of us whose base is in the stream sciences know how proposing construction located in ANY channel ultimately becomes impacted by stormwater or floodwaters in high runoff events. Public safety and excessive stream damage also become issues. Additionally, wildfires that strip the landscape of groundcover, pose a high hazard risk of debris and sediment flows through downstream channels that are otherwise dry (intermittent or ephemeral). A classic example of this occurred west of Helena at the confluence of Blue Cloud Creek, an intermittent channel above the Blue Cloud Subdivision, where several homes built next to the intermittent stream suffered damages from floods and debris flows after a large wildfire event occurred in the upper portions of the sub-watershed.

For projects that address the development constraints of water availability, road conditions, and rural fire protection, smaller parcel sizes and/or greater densities may be permitted through a PD as detailed in Section 21. Comments received from ZAP: I have no comment or thoughts here because I've had no experience/exposure to the rural district living, and no one I

know living in these areas has complained or remarked to me about current uses, restrictions, and setbacks.

707 Maximum Gross Density

The following requirements of this Section 707 shall become effective and in full force and effect June 1, 2022.

The gross density shall not exceed one (1) Parcel per ten (10) Acres, unless the parcel is located in an approved PD that allows for greater densities.

708 Minimum Setbacks (see 708.04 for non-conforming parcels)

The following requirements of this Section 708 shall become effective and in full force and effect June 1, 2022.

Comments received from ZAP: Setbacks should be a minimum of twenty-five (25) feet to allow for front garage parking and to look somewhat natural (not crowding the road). Ten (10) foot setbacks may be ok for small lots with alley load garages. I am satisfied with the current setbacks as listed in the draft for the RR District because I have heard no complaints or alternative setback recommendations from anyone I know living in the rural district. My one question is what was the rationale behind the 25 feet and 10 foot setbacks for the 10+ acre and <10 acre parcels respectively?

708.01 Principal Use for parcels ten (10) acres or greater in size: (also applies to Special Exception Uses)

Front: Twenty-five (25) feet.
Side: Twenty-five (25) feet.
Rear: Twenty-five (25) feet.

Principal Use for parcels under ten (10) acres in size: (also applies to Special Exception Uses)

Front: Ten (10) feet.
Side: Ten (10) feet.
Rear: Ten (10) feet.

708.02 Accessory Use for parcels ten (10) acres or greater in size:

Front: Twenty-five (25) feet.
Side: Fifteen (15) feet.
Rear: Fifteen (15) feet.

Accessory Use for parcels under ten (10) acres in size:

Front: Ten (10) feet.
Side: Ten (10) feet.
Rear: Ten (10) feet.

708.03 Conditional Use:

Same as Principal unless otherwise defined with the CUP.

~~708.04 Non-Conforming Parcel Minimum Setbacks:~~

~~For any parcel which does not meet the minimum lot area requirement as defined in Section 706 and which is subject to Section 1802, the front, side, and rear setbacks (for~~

~~principal, accessory, and special exception uses) shall be ten (10) feet. A conditional use shall be subject to the same setbacks unless otherwise defined with the CUP.~~

709 Encroachments (Setbacks)

709.01 Utility distribution lines and related equipment may be located within a required setback.

709.02 Fences and walls in excess of forty-two (42) inches in height are not allowed in the front setback.

710 Building Height

Maximum building height: thirty-five (35) feet

The maximum building height shall not apply to belfries, cupolas, penthouses or domes not used for human occupancy, roof-mounted church spires, chimneys, skylights, ventilators, water tanks, silos, parapet walls, cornices, antennas, utility poles and necessary mechanical appurtenances usually carried above the roof level.

710.01 The height of an antenna shall be no greater than the distance to the nearest lot line.

711 Street Standards

Construction of streets shall be in accordance with the Lewis and Clark County, Montana Public Works Manual.

712 Parking Standards

All non-residential parking requirements shall be as established in the Institute of Transportation Engineers (ITE) parking standards established in that document entitled "Parking Generation Manual, 5th Edition, 2019" or as otherwise set forth herein. All calculations are rounded up to the nearest whole number. The following minimum number of off-street parking spaces shall be provided under this zoning district:

712.01 Community Residential Facility (Type I): two (2) spaces for each one thousand (1,000) square feet of gross floor area.

712.02 Educational Facility (K-12): one (1) space for each three (3) employees, plus five (5) spaces.

712.03 Educational Facility (Higher Education): 0.19 spaces per student.

712.04 Day Care Facility: one (1) space for every two (2) employees, plus two (2) additional parking spaces, plus one (1) loading space for every eight (8) clients.

712.05 Public Facility: four (4) spaces per one thousand (1,000) square feet of gross floor space.

712.06 Funeral Home; Worship Facility: one (1) space for every four (4) seats.

712.07 Vehicle Fuel Sales: one (1) space for each two (2) employees, excluding spaces to serve the gas pumps.

712.08 Bank Financial Institution (Walk-in Only): 0.63 spaces per one thousand (1,000) square feet of gross floor area.

- 712.09 Bank Financial Institution (Walk-in with Drive-up): 4.23 spaces per one thousand (1,000) square feet of gross floor area.
- 712.10 Health Care Center; Animal Hospital; Veterinary Clinic: 4.11 spaces per one thousand (1,000) square feet of gross floor area.
- 712.11 Administrative Government Agency; Bus Terminal (if operated by a Government Agency); Public Safety Facility: 3.84 spaces per one thousand (1,000) square feet of gross floor area.
- 712.12 Crematorium; General Repair; Light Industrial; Vehicle Repair: 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 712.13 Vehicle Sales and Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 712.14 Equipment Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 712.15 Hotel: 0.89 spaces per room
- 712.16 Indoor/Outdoor Entertainment, Sports, and Recreation; Outdoor Concerts and Theatrical Performances: 0.26 spaces per seat.
- 712.17 Specialized Food Production; Artisan Shop (with Production and Manufacturing): 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 712.18 Community Residential Facility (Type II): one (1) space for each three (3) dwelling units.
- 712.19 Residence: two (2) spaces for each residential dwelling unit.
- 712.20 Kennel or Other Animal-Related Services; General/Professional Services; General Retail Sales: 4.1 spaces per one thousand (1,000) square feet of gross floor area.
- 712.21 Bed and Breakfast; Camping and Retreat Center: one (1) space for each room for rent, plus two (2) additional spaces if a portion of the building is used as a single dwelling unit residence.
- 712.22 Other Uses: For any other use not specifically mentioned or provided for in this Section, the Zoning Administrator shall determine the standards to be applied for parking, using as a guide the listed use which most closely resembles the use proposed.

713 Lighting Standards

It is the purpose and intent of these Regulations to encourage lighting practices and systems that will minimize light pollution, glare, and light trespass, while maintaining nighttime safety, utility, and security.

713.01 Residential Outdoor Lighting

All exterior light fixtures shall be of a full-cutoff design except as otherwise permitted

below.

713.02 Commercial Outdoor Lighting

All light fixtures shall be of a full-cutoff design. Light fixtures attached to a pole may not exceed a height of thirty-four (34) feet from the ground to the bottom of the fixture. Any existing fixtures out of compliance with this regulation shall be brought into conformance at the time of the replacement of the pole or fixture.

713.03 Feature Lighting

Monuments, natural terrestrial features, and buildings may be illuminated by upward directed light, providing that the light beam is narrowly focused so as not to exceed the width and height upon the object being illuminated; and the light is directed on the feature being lit and not directly upwards.

713.04 Signs

Illuminated signs shall be illuminated in such a manner that the light therefrom shall shine only on the sign or on the property on which it is located and shall not shine onto any other property, in any direction, except by indirect reflection.

713.05 Communication Towers

Lighting for towers and structures shall comply with the minimum mandates contained in the appropriate Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) regulations or other State requirements. The more restrictive requirements shall apply in the event of a conflict between the regulations.

713.06 Exemptions

713.06.1 Fixtures producing two thousand eight hundred fifty (2,850) average lumens (equivalent of a one hundred fifty (150) watt incandescent bulb) or less.

713.06.2 American Flag illumination

713.06.3 Temporary Construction Sites

Lighting for nighttime security, provided the owner submits a lighting mitigation plan for approval that includes the duration, number, location, and height of each light source, and hours of operation.

713.06.4 Seasonal Lighting

Seasonal lighting used for the celebration of commonly acknowledged holidays and special events.

713.06.5 Emergency Lighting

Lights used during emergencies or by police, fire, public works and/or public utility personnel in their official duties are exempt from these Regulations.

713.07 Prohibited Lighting

The following types of lights are prohibited within the Rural Residential Mixed-Use Zone District.

713.07.1 The installation of any mercury vapor light fixture, lamp or replacement bulb for use as an outdoor light. Lighting that could be confused for a traffic control

device.

713.07.2 Lighting designed for the creation of sky glow to attract attention (whether stationary or moving), in excess of the lighting used to provide safety, security, and utility.

713.07.3 When projected above a horizontal plane, beacons, laser source lights, strobe lights, or any similar high intensity light used for promotional or entertainment purposes.

713.07.4 Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting with total per source level not exceeding an average of two thousand eight hundred fifty (2,850) lumens.

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