

ORDINANCE No. 24-004

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MANHATTAN, MONTANA AMENDING THE MANHATTAN MUNICIPAL CODE TITLE 10 ZONING REGULATIONS

WHEREAS, the Manhattan Municipal Zoning Code requires update to provide clarity in its variance and appeal process; and

WHEREAS, the Manhattan Planning Board reviewed the amendments pertaining to their review of sign applications on March 20th, 2024; and

WHEREAS, the Manhattan Town Council held a public hearing regarding the proposed changes on May 9th, 2024.

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Manhattan that the following amendments be made to the Municipal Code of the Town of Manhattan effectively amending various provisions of Title 10 as set out below:

Amendment 1. Section 10-1-2-b, ZONING ADMINISTRATOR: Duties – Revise the first sentence and a second sentence to read “It is the intent of this title that the zoning administrator shall check all zoning permits for compliance with this Title. It is the intent of this Title that the Building Official shall check all construction and associated plans and permits.”

Amendment 2. Section 10-2-2-A-1, Building Structure: Building Structure – Revise the first sentence to read “No footprint or height of any building or structure within the town can be changed and no building or other structure can be erected without a valid zoning permit issued by the zoning administrator.”

Amendment 3. Section 10-2-2-A-4, Enclosed Area – Revise the first sentence to read “Only those structures or buildings which have an enclosed area of more than two hundred (200) square feet are required to obtain a zoning permit under the building code and ordinances of the town.”

Amendment 4. Section 10-2-2-B-1, Required – Revise the first sentence to read “No new building shall be constructed or existing building altered within the town unless the person desiring to construct or alter the building has made application to the town of Manhattan building official and zoning administrator for proper permitting per International Code Conference rules and regulations and Manhattan Town Code as adopted by the state of Montana and the town of Manhattan to construct or alter said building”

Amendment 5. Section 10-2-2-B-2, Contents – Add to the list of contents to include item d “Parking spaces if required per this title”

Amendment 6. Section 10-2-2-C-7, Filing of Plans – Revise item 7 to read “7. One copy of the plans shall be returned to the applicant by the clerk/treasurer of the town council, after the building official and zoning administrator has marked such copy either as approved or disapproved. The second copy of the plans similarly marked shall be retained by the clerk/treasurer.”

Amendment 7. Section 10-2-2-E, Term – Revise the first sentence to read “All permits expire within one year after date of issue unless construction has begun, this includes site improvements, or an extension of the permit is granted by the zoning administrator.”

Amendment 8. Section 10-2-2-F, Conformity of Construction and Use – Revise the first sentence to read “Zoning permits issued on the basis of plans and applications approved by the zoning administrator authorize only the use, arrangement and construction set forth in such approved plans and applications, and any other use, arrangement or construction at variance with that authorized shall be deemed a violation of this title, and punishable by section 10-1-3 of this title.”

Amendment 9. Section 10-2-2-G, Expiration and Cancellation – Remove Item 1

Amendment 10. Section 10-2-2-G, Expiration and Cancellation – Revise Item 2, that becomes Item 1, to read “If the work described in any zoning permit has not been substantially completed within one year of the date of issuance thereof, such permit shall expire and be canceled by the zoning administrator or building official and written notice thereof shall be given to the persons affected, together with notice that further work, as described in the canceled permit, shall not proceed unless and until a new zoning permit has been obtained.”

Amendment 11. Section 10-2-2-H, Appeals – Revise the first and second sentence to read “Any person or persons, jointly or severally aggrieved by any decision of the zoning administrator or building official may present to the Board of Adjustments an appeal petition specifying the grounds for the appeal. Such petition shall be presented to the Board of Adjustments within thirty (30) days after the filing of the zoning administrator or building official.”

Amendment 12. Section 10-2-3-B, Payment Required – Revise the first sentence to read “No permit, zone change, or variance shall be issued unless or until such costs, charges, fees or expenses have been paid in full, nor shall any action be taken by the board of adjustment until preliminary charges and fees have been paid in full.”

Amendment 13. Section 10-2-5-G, Failure to Comply – Revise the first sentence to read “If the owner does not agree to correct the violation or fails to correct the violation within the period provided by the town council, the council shall give instruction to the town attorney to file formal charges and prosecute the owner as provided in section 10-1-3 of this title.”

Amendment 14. Section 10-3-2-B, Zoning Administration – Revise the first sentence to read “The Zoning Administrator shall be at the disposal of the Board to receive and process applications of appeal and variance and to give advice to the Board.”

Amendment 15. Section 10-3-3-B, Authorize Variance – Revise the first sentence to read “To authorize variances in specific cases such variance from the terms of this Title as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this Title will result in unnecessary hardship and so that the spirit of this Title be observed and substantial justice done. ...”

Amendment 16. Section 10-3-4-4-C, Actions of the Applicant – Add a second sentence to read “This includes a failure to complete due diligence in the purchase of any property reviewed for a variance.”

Amendment 17. Section 10-3-4-5, REQUIRED FINDING OF THE BOARD OF ADJUSTMENTS – Add this section to the code to read “10-3-4-5: REQUIRED FINDINGS OF THE BOARD OF ADJUSTMENTS

Before any appeals can be granted the Board of Adjustment shall make findings of fact setting forth and showing that the following circumstances exist:

- A. Misinterpretation of this Title: In considering an appeal of a decision of the zoning administrator or building official the Board of Adjustments shall find that the zoning administrator or building official made an interpretation of this title that is inconsistent with the plain reading of this text.
- B. Error on part of the Building Official or Zoning Administrator: The Board of Adjustments shall find that the building official or zoning administrator made an error in their decision.
- C. Incomplete Review: The Board of Adjustments shall find that the building official or zoning administrator decision occurred without properly reviewing all elements of the decision that was made.
- D. Injurious to Adjacent Landowners or Applicant: The Board of Adjustment shall find that a decision made by the building official or zoning administrator was injurious to adjacent landowners or the applicant.
- E. Public Welfare and Safety: The Board of Adjustments shall find that a decision made by the building official or zoning administrator was contradictory to the general welfare and safety of the public.
- F. Harmony with Intent of Title: The Board of Adjustments shall find that a decision made by the building official or zoning administrator was not harmonious with the intent of this title or any additional titles of the Manhattan Town Code.”

Amendment 18. Section 10-3-4-5, ADDITIONAL RECOMMENDATIONS – Renumber to 10-3-4-6 to incorporate 10-3-4-5 REQUIRED FINDINGS OF THE BOARD OF ADJUSTMENTS

Amendment 19. Section 10-3-4-6, ISSUANCE RESTRICTIONS – Renumber to 10-3-4-7 to incorporate 10-3-4-5 REQUIRED FINDINGS OF THE BOARD OF ADJUSTMENTS

Amendment 20. Section 10-3-4-7, APPEAL, TIME LIMITATIONS – Renumber to incorporate 10-3-4-5 REQUIRED FINDINGS OF THE BOARD OF ADJUSTMENTS and revise the first sentence to read “Any person or persons, jointly or severally aggrieved by any decision of the Board of Adjustment, or any officer, department, board or bureau of the Town, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the office of the Board.”

Amendment 21. Section 10-3-4-8, EFFECTIVE DATE OF DECISIONS – Renumber to 10-3-4-9 to incorporate 10-3-4-5 REQUIRED FINDINGS OF THE BOARD OF ADJUSTMENTS

Amendment 22. Section 10-11-9-3-a, CONDITIONAL USES DESIGNATED FOR INDIVIDUAL ZONING DISTRICTS, Special Requirements: Accessory Residential Units – Revise the first sentence to read “Accessory residential units are permitted but reviewed in new R-1 zoning districts and in all residential planned unit developments.”

Amendment 23. Section 10-11-9-3-b, CONDITIONAL USES DESIGNATED FOR INDIVIDUAL ZONING DISTRICTS, Special Requirements: Accessory Residential Units – Revise the first sentence to read Accessory residential units are a conditional use in existing R-1 districts and subject to all of the procedures and criteria in this chapter.”

Amendment 24. Section 10-11-12, APPEALS – Add Section 10-11-12 APPEALS to read “Any person or persons, jointly or severally aggrieved by any decision of the Town Council, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the office of the Board.”

Amendment 25. Section 10-11-12, REVOCATION – Renumber to 10-11-13 to incorporate 10-11-12 APPEALS

Amendment 26. Section 10-10-6, APPEALS – Add Section 10-10-6 APPEALS to read “Any person or persons, jointly or severally aggrieved by any decision of the Town Council, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the office of the Board.”

Amendment 27. Section 10-10-6, RESPONSIBILITY FOR IMPACT MITIGATION – Renumber to 10-10-7 to incorporate 10-10-6 APPEALS

Amendment 28. Section 10-15-2, DEFINITIONS – Add a definition for “Temporary Signs to read “A sign that is placed for a period not to exceed 48 hours and is not greater than 4 square feet.”

Amendment 29. Section 10-15-3-D, SIGNS PERMITTED WITHOUT A PERMIT, Governmental Insignia – Revise the first sentence to read “Flags, banners, symbols or other insignia of any governmental body or political subdivision.”

Amendment 30. Section 10-15-3-F, SIGNS PERMITTED WITHOUT A PERMIT, Identification Signs – Revise the first sentence to read “Signs bearing only property numbers, postbox numbers, names of occupants of premises, or other identification of premises. The area of such signs shall not exceed one square foot.”

Amendment 31. Section 10-15-3-K, SIGNS PERMITTED WITHOUT A PERMIT, Temporary Signs – Remove the first sentence

Amendment 32. Section 10-15-6-C, Submittal to Council – Revise the title of the part to read “Submittal to Zoning Administrator” and revise the first sentence to read “Applications for sign permits shall be submitted to the town hall, which shall review applications as follows:”

Amendment 33. Section 10-15-6-C-1, Applications not Requesting Deviations – Revise the first sentence to read “The zoning administrator shall review the application materials and,

upon finding that the application materials are complete and that the proposed sign or master signage plan conforms to the intent and regulations of this chapter, may approve, approve with conditions, or deny an application for a sign permit without deviations.”

Amendment 34. Section 10-15-7, APPEALS OF TOWN COUNCIL DECISION REGARDING SIGN PERMITS WITH DEVIATIONS – Add Section 10-15-7 APPEALS OF TOWN COUNCIL DECISION REGARDING SIGN PERMITS WITH DEVIATIONS to read “Any person or persons, jointly or severally aggrieved by any decision of the Town Council, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the office of the Board.”

Amendment 35. Section 10-15-8, APPEALS OF ZONING ADMINISTRATOR DECISION REGARDING SIGN PERMITS WITHOUT DEVIATIONS – Add Section 10-15-8 APPEALS OF ZONING ADMINISTRATOR DECISION REGARDING SIGN PERMITS WITHOUT DEVIATIONS to read “Any person or persons, jointly or severally aggrieved by any decision of the zoning administrator, may present to the Board of Adjustments a petition, duly verified, setting forth that such decision is unfounded, in whole or in part, specifying the grounds of the complaint. Such petition shall be presented to the Board of Adjustments within thirty (30) days after the filing of the decision of the zoning administrator.”

Amendment 36. Section 10-15-7, PENALTY – Renumber to 10-11-9 to incorporate 10-15-7 APPEALS OF TOWN COUNCIL DECISION REGARDING SIGN PERMITS WITH DEVIATIONS and 10-15-8: APPEALS OF ZONING ADMINISTRATOR DECISION REGARDING SIGN PERMITS WITHOUT DEVIATIONS

Amendment 37. Section 10-12-3, SEWER AND WATER CONNECTIONS – Revise the sentence to read “Connection to the town's sewer and water system is required for new buildings where the property on which the building is to be located within the town unless the property is in a subdivision that is exempted in Section 9-3-11”

Amendment 38. Section 10-12-8-A, GENERAL SETBACK PROVISIONS – Revise the second sentence to read “Where the erection of any proposed new building or addition thereto will have the effect of reducing any front, side or rear yard of an existing building below what is required by this title for a new building, permit for such new building shall be denied, unless a variance is granted by the Board of Adjustment.”

Amendment 39. Section 10-12-11, APPEALS – Add 10-12-11 APPEALS to read “Any person or persons, jointly or severally aggrieved by any decision of the Town Council, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision of the office of the Board.”

PASSED BY the Town Council and approved by the Mayor of the Town of Manhattan,
Montana, this 9th day of May 2024.

Traig Howells, Mayor

ATTEST:

Town Clerk/Treasurer