

**ORDINANCES**  
MILES CITY, MONTANA

**ORDINANCE NO. 1287**

**AN ORDINANCE REVISING SECTION 24-6 THROUGH 24-10 OF THE  
CODE OF ORDINANCES OF THE CITY OF MILES CITY, MONTANA,  
WITH RESPECT TO AMENDMENT OF ZONING CHAPTER OR  
DISTRICT MAP**

**WHEREAS**, The City Council of the City of Miles City has determined that it is in the best interest of the City to revise the policy and procedure for amendment to the zoning chapter or zoning map. Therefore,

**BE IT ORDAINED**, by the City Council of the City of Miles City, Montana, as follows:

**Section 1.** Sections 24-6 through 24-10 shall be amended to read as follows:

**“Sec. 24-6. – Amendments to chapter or district map.** A landowner, contract purchaser or authorized agent of the owner may petition for the amendment of the zoning districts map and these regulations. The amendment procedure shall be as provided here and in 76-2-303 through 76-2-305, MCA. Amendments may also be initiated by the planning board, zoning commission, administrator, or city council, in which cases steps 1.a. and 1.b., below, will not be required.

1. Amendment Process

- a. The petitioner shall submit to the administrator a properly completed application form along with the required supporting materials, including a narrative evaluating the amendment request under the review criteria (see 2 below), the required application fee and a statement of interest. The statement of interest must include the applicant’s role in the project and the purpose of the request.
- b. The administrator or designee shall determine whether the application is complete and sufficient. When an application is determined incomplete or insufficient, the administrator shall provide written notice to the petitioner indicating what information must be submitted for the review to proceed.
- c. When the application is determined to be complete and sufficient, the administrator or designee shall place a hearing for the zoning amendment application on the agenda of the next regular zoning commission meeting for which the notice requirements can be met, and at which time allows for its proper consideration.
- d. The administrator or designee shall publish notice of the hearing in the official newspaper at least 15 but not more than 30 days before the hearing and post notice of the hearing on the subject property. The administrator or designee shall also mail notice to all owners of land within 150 feet of the subject property. All notices shall include the time, date and location of the hearing and also where information on the application may be viewed.

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- e. The administrator or designee shall prepare a report that describes the proposed amendment and how it complies, or fails to comply, with the amendment criteria below. The report may include a recommendation for approval, approval with modifications or denial.
- f. The zoning commission shall conduct a hearing on the proposed amendment. At the hearing, the zoning commission shall determine whether the proposed amendment meets the amendment criteria (except for procedural or administrative amendments). The zoning commission shall review the particular facts and circumstances of the proposed amendment and develop findings and conclusions that support its recommendation that the city council approve, approve with modifications, or disapprove the application accordingly. The zoning commission shall forward its recommendation in writing, including reasons for the recommendation, to the administrator within 10 days of the hearing.
- g. The zoning commission may table action on a proposed amendment, but for no more than 35 days.
- h. The administrator or designee shall convey the zoning commission's recommendation and public comments to the city council and, unless the application is withdrawn, place a hearing on the agenda of the next regular city council meeting for which public notice requirements can be met, and at which time allows for its proper consideration.
- i. Notice of the hearing shall be published in the official newspaper at least 15 but not more than 30 days before the hearing. The notice shall include the time, date and location of the hearing and also where information on the application may be viewed. For 30 days after the publication of the notice called for in this paragraph, the city council shall accept written protests and comments. Protests and comments received prior to close of business on the business day prior to the hearing shall be considered at such hearing. Subsequent protests and comments received within the 30 day period shall be considered by the city council during subsequent hearings, if subsequent hearings are held.
- j. City council shall conduct a hearing on the proposed amendment. At the hearing, the city council shall consider the recommendation of the zoning commission, the written record and testimony received, then approve, reject, or modify the amendment requested, and approve a first reading of the amendment in the form of a city ordinance, unless the proposed amendment is rejected. Action on the proposed amendment may be tabled, but for no more than 35 days. In no case shall the city council approve an amendment for a classification other than the one advertised. If the proposed amendment is rejected, the administrator or designee shall notify the applicant of the same within 10 days, in writing.
- k. Upon passage of the first reading of an ordinance to amend the zoning map or these regulations, city council shall publish notice once per week for 2 weeks in the official newspaper.
- l. As provided in 76-2-305(2), MCA an amendment to the zoning ordinance may not become effective except upon favorable vote of two-thirds of the present and voting members of the city council if a protest against a change is signed by the owners of 25% or more of:
  - i. The area of the lots included in the proposed change; or

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- ii. Those lots 150 feet from a lot included in a proposed change.
  - m. Within 30 days of the expiration of the protest period, the city council may adopt the amendment upon approval of the second reading of an ordinance adopting the amendment if the requirements of this section are complied with.
  - n. At the conclusion of the amendment process, the administrator or designee shall notify the petitioner and interested parties who have specifically requested such notice of the city council decision within 10 days, in writing.
2. Amendment Criteria. (These criteria do not apply to procedural or administrative changes)
- a. Zoning amendments shall be made:
    - i. In substantial conformance with the growth policy;
    - ii. To secure safety from fire and other dangers;
    - iii. To promote public health, safety, and general welfare; and
    - iv. To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.
  - b. In reviewing and making recommendations or decisions on zoning amendments, the administrator, board, and city council shall also consider:
    - i. The provision of adequate light and air;
    - ii. The effect on motorized and non-motorized transportation systems;
    - iii. The promotion of compatible urban growth;
    - iv. The character of the district, and its peculiar suitability for particular uses;
    - v. Conserving the value of buildings;
    - vi. Encouraging the most appropriate use of the land;
    - vii. Whether the proposal might be considered illegal spot zoning. Factors to be considered include whether the proposed land use is significantly different from the prevailing use in the area; whether the area of the proposed zone change is relatively small not only in terms of acreage, but from the perspective of the number of separate landowners who would benefit from the proposed change; and whether the change would amount to special legislation designed to benefit only one or a few landowners at the expense of the surrounding landowners or general public. In order for spot zoning to be considered illegal, all three of the factors must be present.
  - c. Other criteria include whether the amendment:
    - i. Corrects an inconsistency in the zoning; and

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- ii. Addresses changing conditions or furthers a specific public challenge such as the need for affordable housing, economic development, mixed use development or sustainable environmental features.

**Sec. 24-7.** – Reserved


**Sec. 24-8.** – Reserved

**Sec. 24-9.** – Reserved

**Sec. 24-10.** – Reserved

**Section 2.** This Ordinance shall become effective thirty (30) days after its final passage.


Said Ordinance read and put on its passage this 24<sup>th</sup> day of March 2015.

  
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C.A. Grenz, Mayor


ATTEST:

  
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Lorrie Pearce, City Clerk

**FINALLY PASSED AND ADOPTED** this 14<sup>th</sup> day of April 2015.

  
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C.A. Grenz, Mayor

ATTEST:

  
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Lorrie Pearce, City Clerk