

**REGULAR MEETING OF THE CARBON COUNTY PLANNING
BOARD**

JULY 18, 2023 TUESDAY 7:00 PM

**CARBON COUNTY PERSONAL SERVICE BUILDING
10 OAKES AVENUE SOUTH
RED LODGE, MT**

- A. CALL TO ORDER**
- B. ROLL CALL**
- C. APPROVAL OF MINUTES OF PREVIOUS MEETING**
June 20, 2023
- D. PUBLIC HEARINGS**
None
- E. REGULAR BUSINESS**
Subdivision Regulations Update
Development Regulations Update
- F. PETITIONS & COMMUNICATION FROM AUDIENCE**
- G. WRITTEN COMMUNICATIONS**

**H. REPORTS FROM PLANNING BOARD MEMBERS AND
COMMITTEES**

I. STAFF REPORTS

J. ADJOURN

Carbon County Planning Board
June Meeting
6-20-23

- A. Call Meeting to Order, 7:00 pm, Gordy Hill – Chairperson

- B. Roll Call
 - Present: Gordy Hill, Clinton Giesick, Skip Bratton, Dean Webb, Betsy Scanlin, Ryan Brajcich, Forrest Mandeville
 - Audience: see attached sign-in sheet

- C. Approval of 5-16-23 Minutes
 - Betsy moved. Dean second.
 - Motion passed unanimously

- D. Public Hearings
 - *None*

- E. Regular Business
 - *Martin Meadows Subdivision*
 - Five lot subdivision
 - Commercial building development
 - 13.85 acres north of Best Box Storage
 - Individual wells and multi-user drainfield proposed
 - 30,000 gallon dry hydrant proposed for fire protection
 - Property owners association will maintain dry hydrant
 - Property owners association will maintain paved roads
 - Betsy Scanlin
 - Questions regarding DEQ enforcement
 - Skip moved to recommend Commissioner’s approval. Betsy second.
 - Motion passed unanimously
 - *Subdivision Regulations Update*
 - Family transfers may now take place within subdivisions
 - Cannot convey or transfer land within two years of family transfer
 - Variances regarding transfer maybe be sought to address hardship
 - Hardship defined as death or medical emergency of recipient
 - More in-depth definition of hardship will be discussed at later meeting
 - *Development Regulations Update*
 - Group 2 Development Permit discussion
 - Discussion of opening up public comment at Planning Boad meetings

- Discussion of marijuana business setbacks, signage, and sanitary facilities (restrooms)
- Marijuana business regulations need finalized by March, 2024

F. Audience Communication

- *None*

G. Written Communication

- *None*

H. Committee Reports

- *Carbon Conservation District*
 - Fines have been issued for unauthorized stream bank work pertaining to June, 2022 flooding

I. Staff Reports

- *None*

J. Adjourn Meeting

- 8:45 pm

IX. DIVISIONS OF LAND EXEMPT FROM SUBDIVISION REVIEW

IX-A. Purpose

The State of Montana provides that certain divisions of land, which would otherwise constitute subdivisions, are exempt from local subdivision review and approval, unless the transactions are an attempt to evade the Act, Section 76-3-101 et. seq. MCA.

IX-B. Divisions of Land Entirely exempt from the Requirements of These Regulations and the Montana Subdivision and Platting Act

Unless the method of disposition is adopted for the purpose of evading these Regulations or the MSPA, the requirements of these Regulations and the MSPA may not apply when:

- a. A division of land is created by order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in the state pursuant to the law of eminent domain, Title 70, Chapter 30;
 - i. Before a court of record orders a division of land, the court shall notify the Commission of the pending division and allow the Commission to present written comments on the subdivision.
- b. A division of land is created to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes;
- c. A division of land creates an interest in oil, gas, minerals, or water that is severed from the surface ownership of real property;
- d. A division of land creates cemetery lots;
- e. A division of land is created by the reservation of a life estate;
- f. A division of land is in a location over which the state does not have jurisdiction;
- g. A division of land is created for public rights-of-way or public utility sites;
- h. Condominiums, townhomes, or townhouses, constructed on land divided in compliance with these Regulations and the MSPA provided that:
 - i. The approval of the original division of land expressly contemplated the construction of the condominiums and 76-3-621 MCA, is complied with; or

- ii. The condominium, townhome, or townhouse proposal is in conformance with applicable zoning regulations.
- i. The sale, rent, lease, or other conveyance of one or more parts of a building, structure, or other improvement, whether existing or proposed, is not a division of land;
- j. A division of land created by lease or rental of contiguous airport related land owned by a city, county, the state, or a municipal or regional airport authority provided that the lease or rental is for onsite weather or air navigation facilities, the manufacture, maintenance, and storage of aircraft, or air carrier related activities;
- k. A division of state-owned land unless the division creates a second or subsequent parcel from a single tract for sale, rent, or lease for residential purposes after July 1, 1973;
- l. Deeds, contracts, leases, or other conveyances which were executed prior to July 1, 1973.

IX-C. Specific Exemptions from Review but Subject to Survey Requirements and Zoning Regulations

Unless the method of disposition is adopted for the purpose of evading these Regulations or the MSPA, the following divisions of land are not subdivisions under these regulations and the MSPA, but are subject to the surveying requirements of 76-3-401. MCA and zoning regulations adopted under Title 76 chapter 2. A division of land may not be made under this section unless the County Treasurer has certified that no real property taxes and special assessments assessed and levied on the land to be divided are delinquent. The Clerk shall notify the Planning Office of any land division described in this section or 76-3-207(1) MCA.

- a. Divisions made outside of platted subdivisions for the purpose of a single gift or sale in each county to each member of the landowner's immediate family;
- b. Divisions made outside of platted subdivisions by gift, sale, or a agreement to buy and sell in which the parties to the transaction enter a covenant running with the land and revocable only by mutual consent of the County and the property owner that the divided land will be used exclusively for agricultural purposes;
- c. Divisions made outside of platted subdivision for the purpose of relocating common boundary lines between adjoining properties;
- d. Divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted

subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply in those areas.

e. For five (5) or fewer lots within a platted subdivision, relocation of common boundaries.

f. Aggregation of parcels or lots when a certificate of survey or subdivision plat shows that the boundaries of the original parcels have been eliminated and the boundaries of a larger aggregate parcel re established. A restriction on the original platted lot or original unplatted parcel continues to apply to those areas.

g. Divisions within platted subdivisions are exempt from additional subdivision reviews if the division:

i. is within a subdivision that has been approved by a local governing body;

ii. creates parcels of a size allowed within the subdivision; and

iii. is gifted or sold to a member of the landowner's immediate family;

h. Divisions of land transferred to an immediate family member pursuant to IX-C.a and g. may be transferred regardless of age and may be owned jointly with that immediate family member's spouse.

Formatted: List Paragraph, No bullets or numbering

Formatted: Indent: Left: 1", No bullets or numbering

IX-D. Exemption from Survey and filing Requirements but Subject to Review

Subdivisions created by rent or lease are exempt from the surveying and filing requirements of these Regulations but must be submitted for review and approved by the Commission before portions thereof may be rented or leased, except when:

a. The approval of the original division of land expressly contemplated the construction of the condominiums and applicable park dedication requirements of 76-3-621 MCA, are complied with; or

b. The condominium proposal is in conformance with applicable zoning regulations.

IX-E. Exemption from Survey and Platting Requirements for Lands Acquired for State Highways

Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209 MCA, and are exempted from the surveying and platting requirements of these regulations and the MSPA. If such parcels are not shown on highway plans of record, instruments of transfer of such parcels shall be accompanied by and refer to appropriate certificates of survey and plats when presented for recording.

IX-F. Procedures and General Requirements for Review of Exemptions

The following procedures, criteria and requirements shall be used to review an exemption claim from subdivision review and to determine whether the division of land is for the purpose of evading the MSPA.

- a. The Commission designates the Planning Office as its agent for purposes of this these Regulations. All certificates of survey claiming an exemption shall be submitted to the Planning Office along with the application form in Appendix E. The procedures and requirements of this subsection are limited to the exemptions specified in these Regulations.
- b. Claimants are encouraged to meet with the Planning Staff to discuss whether a proposed land division or use of an exemption is in compliance with these criteria. The Planning Staff may issue an advisory opinion only, and the opinion creates no commitment on the local officials when the documents creating the proposed land division are submitted to the Planning Office.
- c. Claim for Exemption Submittal. A claimant seeking an exemption under the Act and these Regulations shall submit a claim on the appropriate application forms if needed, including a plat or deed with a signed certificate of exemption, together with sufficient evidence to support the claim and any other information required by these Regulations to the Planning Office.
- d. Determination. The Planning Office, Clerk, and County Attorney shall review the claimed exemption. The Planning Office shall make a report on the findings of the review and issue a determination to allow or disallow the claim.
 - i. In assessing the claimant's purpose the Planning Office will evaluate all relevant circumstances including the nature of the claimant's business and use of the parcel, the prior history of the particular tract in question, the proposed configuration of the tract(s), if the proposed exempt transactions are completed, and patterns of development. Any pattern of development which is the equivalent of a subdivision which has not been reviewed may be presumed to be adopted for the purposes of evading the act. A "pattern of development" occurs whenever three (3) or more parcels of less than one hundred sixty (160) acres with common covenants or facilities, such as roads and utilities, have been divided from the original tract of record.
 - ii. If the Planning Office finds that the proposed use of the exemption complies with the statutes and these criteria, the Planning Office shall advise the Clerk and Recorder to file the certificate of survey or record the instrument of conveyance and any accompanying documents. If the Planning Office finds that the proposed use of the exemption does not comply with the statutes and these Regulations, the Planning Office shall provide notification of its

determination to disallow to the person claiming the exemption and advise the Clerk and Recorder to not file or record the documents.

- iii. When applicable, deeds transferring property proposed to be created or amended utilizing an exemption must be submitted and executed at time of filing the survey. Applicants are encouraged to submit draft deeds for the property at time of application.
- e. Appeal. The claimant may appeal a determination to evade the Act to the Commission.
 - i. If the Commission concludes that the evidence overcomes the determination and that from all the circumstances the exemption is justified, the Commission will allow the exemption. If the Commission concludes that the determination to evade the Act is not overcome and that from all the circumstances the exemption is not justified, the Commission shall make findings and disallow the exemption.
- f. If the claimant proposing to use an exemption does not seek to appeal the determination to disallow, or if the Commission determines that the proposed use of the exemption was for the purpose of evading the Act, the landowner may proceed according to the procedures for a subdivision application for the proposed land division.
- g. If the exemption is allowed, the Commission shall direct the Clerk and Recorder to record the certificate of survey.
- h. A certificate of survey of a division of land which is exempted from review may not be filed by the Clerk and Recorder unless it bears the certificate of the person having recorded interest claiming exemption stating that the division of land is exempted from review as a subdivision and citing the applicable exemption.
- i. To assist in the implementation of this review process and to monitor those parcels divided by exemption the Clerk and Recorder shall cause the following identification codes to be added to the numbering of recorded certificates of survey.

CO ... Court order [76-3-201(1)(a), MCA]
MTG ... Mortgage Exemption [76-3-201(1)(b), MCA]
RB ... Relocation of Common Boundary [76-3-207(1)(a), MCA]
FT ... Family Transfer and conveyance [76-3-207(1)(b), MCA]
AG ... Agricultural Exemption [76-3-207(1)(c), MCA]
AL ... Aggregation of Lots [76-3-207(e), MCA]
RE ... Retracement of an Existing parcel

- j. Each newly created parcel less than one hundred sixty (160) acres shall have a certificate of exemption.
- k. These Regulations shall not be applicable to deeds, contracts, leases or other conveyances executed prior to July 1, 1973.
- l. An exemption may not be requested or made under this section unless the Treasurer has certified that all real property taxes and special assessments assessed and levied on the land to be divided have been paid except for Security for Construction financing and Court Orders.

IX-G. Exemptions as a Gift or Sale to a Member of the Immediate Family

- a. Purpose. The proper use of this exemption is to allow a landowner to convey one parcel to each member of his or her immediate family without local subdivision review. A single parcel may be conveyed to each member of the immediate family under this exemption in each county where the landowner owns property.
- b. The term “immediate family” means the spouse, children (by blood or adoption), or parents of the grantor [76-3-103(8), MCA]. This exemption may be used only by grantors who are natural persons and not by non-corporal legal entities such as corporations, partnerships, and trusts.
- c. Filing of any certificate of survey (or recording of an instrument of conveyance) that would use this exemption to create a parcel for conveyance to a family member must show the name of the grantee, relationship to the landowner, and the parcel to be conveyed under this exemption, and the landowner’s certification of compliance. Also, the certificate of survey or instrument of conveyance must be accompanied by a deed or other conveying document.
- d. One conveyance of a parcel to each member of the landowner’s immediate family is eligible for exemption from subdivision review under these Regulations.

e. An immediate family member or the spouse of an immediate family member who receives a division of land may not transfer or otherwise convey the division of land for a period of up to 2 years after the date of the division.

i. A variance from this process may be sought to address a hardship situation. Requests for a variance must be made in writing to the Planning Director of Designee. The County Commissioners will make a determination to grant or deny the requested variance.

d-ii. For the purposes of this section, a hardship is defined as the death of the recipient or medical emergency. Applications submitted and in process prior to May 1, 2023, may also qualify for a hardship.

Formatted: List Paragraph, No bullets or numbering

Commented [FM1]: Can make smaller

Formatted: No bullets or numbering

Formatted

Commented [FM2]: Grandfather clause.

Documentation of the hardship must be presented with the request for a variance.

Commented [FM3]: Need discussion on definition of a hardship.

f. The use of the family conveyance exemption to divide tracts that were created as part of an overall development plan with such characteristics as common roads, utility easements, restrictive covenants, open space or common marketing or promotional plan raises a rebuttable presumption that the use of the exemption is adopted for purposes of evading the Act.

Formatted: List Paragraph, No bullets or numbering

g. The use of the family conveyance exemption within a platted subdivision that would create a parcel or parcels not in compliance with adopted design and improvement standards under Chapter V. raises a rebuttable presumption that the use of the exemption is adopted for purposes of evading the Act.

Formatted: List Paragraph, No bullets or numbering

e-h. The use of the family conveyance exemption to create lots that would violate a condition placed on the approval of the final plat approved by the governing body raises a rebuttable presumption that the use of the exemption is adopted for the purposes of evading the Act.

IX-H. Security for Mortgages, Liens, or Trust Indentures for the Purpose of Construction, Improvements to the Land Being Divided, or Refinancing Purposes

- a. Purpose. The proper use of the exemption is to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes, when a survey of the parcel has been required. Any parcel created for security shall not be conveyed, except to the lending institution during foreclosure.
- b. A rebuttable presumption exists when a division of land that is created to provide security is adopted for the purpose of evading the Act under the following conditions:
 - i. If the division of land is created for the purpose of conveyance;
 - ii. The financing is for construction on land other than on the exempted parcel;
 - iii. The person named in the statement explaining who would have possession of the remainder parcel if title to the exempted parcel is conveyed is anyone other than the borrower of funds for construction;
 - iv. Title to the exempted parcel will not be initially obtained by the lending institution if foreclosure occurs; or

- v. It appears that the principle reason the parcel is being created is to create a building site and using the parcel to secure a construction loan is a secondary purpose.
- c. When the security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or refinancing purposes exemption is to be used, the landowner shall submit, in addition to such other documents as may be required, a written statement explaining:
 - i. How many parcels within the original tract will be created by use of the exemption?
 - ii. Who will have title to and possession of the remainder of the original parcel?
 - iii. A signed statement from a lending institution that the creation of the exempted parcel is necessary to secure a construction loan for buildings or other improvements on the parcel, or refinancing purposes.
- d. The exempted parcel may be of any size, providing that the parcel size is in compliance with any officially adopted zoning regulation.
- e. The exempted parcel shall be delineated by a dotted line within the survey.
- f. The written statement of lending institution and the instruments creating the security shall be filed at the same time with the Clerk and Recorder.
- g. A transfer of the exempted parcel, by the owner of the property at the time that the land was divided, to any party other than the financial or lending institution to which the mortgage, lien, or trust indenture was given or to a purchaser upon foreclosure of the mortgage, lien, or trust indenture, subjects the division of land to the requirements of these Regulations.

IX-I. Relocation of Common Boundaries within a Platted Subdivision

- a. Purpose. The proper use of the exemption for relocation of common boundaries is to rearrange five (5) or fewer lots within a platted subdivision and does not increase the total number of lots. The plat shall contain the title “Amended Plat” and must be filed with Clerk and Recorder.
- b. The Amended Plat showing the relocation of common boundary within a platted subdivision must be accompanied by:
 - i. A deed(s) exchanging recorded interest from every person having a recorded interest in adjoining properties for the entire newly-described parcel(s) that are acquiring additional land; and

- ii. Documentation showing the need or reason for the relocation (for example: structure encroachment, surveyor error or enhancement of the configuration of the property).
- c. A rebuttable presumption exists when a proposed relocation of common boundaries within a platted subdivision is adopted for the purpose of evading the Act if it determines that six (6) or more lots are affected by the proposal.
- d. Any division of lots which results in an increase in the number of lots or which redesigns or rearranges six (6) or more lots must be reviewed and approved by the Commission prior to the filing of the final plat.

IX-J. Relocation of Common Boundary Lines

- a. General. Divisions made outside of platted subdivisions for the purpose of relocating common boundary lines between adjoining properties, and divisions made for the purpose of relocating a common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision.
- b. Purpose. The proper use of the exemption for relocating common boundary lines is to:
 - i. Establish a new boundary between adjoining parcels of land, without creating an additional parcel; or
 - ii. Establish a new common boundary line between a single lot within a platted subdivision and adjoining land outside a platted subdivision. A restriction or requirement on the original platted lot or original unplatted parcel continues to apply to those areas.
- c. Certificates of Survey showing the relocation of common boundary lines must be accompanied by:
 - i. A deed(s) exchanging recorded interest from every person having a recorded interest in adjoining properties for the entire newly-described parcel(s) that are acquiring additional land; and
- d. A presumption of evasion exists when a proposed relocation of common boundary lines is adopted for the purpose of evading the Act, if:
 - i. The Commission determines that the documentation submitted according to this section does not support the stated reason for relocation or created an additional parcel, and/or

- ii. The Certificate of Survey for the relocation of common boundary lines significantly rearranges multiple parcels with little or no resemblance to the original configuration of the parcels.

IX-K. Agricultural Exemption

- a. Purpose. An agricultural exemption is a division of land made outside of a platted subdivision by gift, sale or agreement to buy and sell in which the parties to the transaction enter a covenant running with the land, revocable only by mutual consent of the Commission and the transferee/property owner, that the divided land will be used exclusively for agricultural purposes. No building or structure requiring water or sewer facilities shall be utilized on such a parcel. The parcel involved in the division must be outside of a platted subdivision.
- b. A change in use of the land for anything other than agricultural purposes subjects the division to these Regulations.

IX-L. Aggregation of Parcels or Lots

- a. Purpose. This exemption is to allow for aggregating parcels or lots by eliminating the boundaries of the original parcels and establishing the boundary of a single larger aggregate parcel.
- b. Required Information. Certificates of survey or amended plats claiming this exemption must clearly distinguish between the existing boundary locations and the new aggregate boundary. This must be accomplished by representing the boundaries of existing lots or parcels with dashed lines and the new boundary with a solid line. Each parcel and lot included in the aggregation must be identified on the Certificate of survey or amended plat. Restrictions or requirements (such as covenants or zoning) on existing parcels must be identified. Ownership of each parcel/lot must be identified and the certificate of survey or amended plat must include signatures of all owners. Where the aggregation involves multiple landowners, the certificate of survey or amended plat must be accompanied by quit claim(s), warranty deed(s), or other recordable transfer document(s) transferring ownership to a single landowner or undivided interest ownership. Any aggregation that includes six or more lots in a platted subdivision must be reviewed and approved by the governing body before an amended plat may be filed with the clerk and recorder (76-3-207(2)(a), MCA).
- a. Rebuttable presumptions.
 - i. If the boundary of the aggregate tract is different from the perimeter boundary of all combined individual parcels.
 - ii. If the resulting parcel includes areas that previously were subject to with existing zoning, covenants, and/or deed restrictions, and those requirements appear to have been eliminated, the use of the exemption

will be presumed to have been adopted for the purpose of evading the MSPA.

IX-L. Court Order and Lands acquired for state highways, 76-3-209. MCA

The proper use of this exemption is when the division of land is created by order of any court of record in this state or by operation of law or which, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain, when a survey of the parcel has been required.

76-3-209. MCA. Exemption from surveying and platting requirements for lands acquired for state highways. Instruments of transfer of land which is acquired for state highways may refer by parcel and project number to state highway plans which have been recorded in compliance with 60-2-209, MCA and are exempted from the surveying and platting requirements of the chapter.

IX-M. Correction of Errors

Corrections of errors that in the opinion of the Clerk and Recorder will not materially alter the survey may be made by the submission of a corrected certificate of survey to be filed in the Office of the Clerk and Recorders.

IX-N. Uniform Standards for Certificate of Survey

A certificate of survey may not be filed by the Clerk and Recorder unless it complies with the requirements of_ARM 8.94.3002 Uniform Standards for Certificates of Survey.

IX-0. Remainders

a. The Subdivision Act defines a "Division of land" as

the segregation of one or more parcels of land from a larger tract held in single or undivided ownership by transferring or contracting to transfer title to or possession of a portion of the tract or properly filing a certificate of survey or subdivision plat establishing the identity of the segregated parcels pursuant to this chapter. The conveyance of a tract of record or an entire parcel of land that was created by a previous division of land is not a division of land.

The portion of the larger tract left after segregation of the transferred and/or identified parcels is denominated a "remainder." Only one remainder can be established in the parcel segregation process.

b. To qualify as a remainder, a parcel must not have been created for the purpose of transfer. Rather, the remainder must be retained by the owner. Remainders claimed created in conjunction with requests for exemption from subdivision review of a tract

or tracts under §§ 76-3-201 and 76-3-207, M.C.A., shall be examined to determine if the remainder is created for evasion of the subdivision process. The Planning Director or designee shall determine during the plat examination process whether the remainder was created to evade the subdivision process. If the proposed remainder is found to be created for the purpose of evasion of the Act, the subdivider may submit an appeal of the determination by the Planning Director or designee with the preliminary plat application. If an appeal is submitted, the Commissioners shall make the final determination as to whether or not a proposed remainder is being created for the purpose of transfer.

THIS PAGE LEFT INTENTIONALLY BLANK.

DEVELOPMENT REGULATIONS

Carbon County, Montana

ADOPTED

July 18, 2016 (Resolution 2016-14)

REVISED

May 20, 2021 (Resolution 2021-11)

CARBON COUNTY DEVELOPMENT REGULATIONS

TABLE OF CONTENTS

I-A. Authority.....1
I-B. Jurisdiction.....1
I-C. Conflicting and Prior Regulations Repealed1
I-D. Most Restrictive Standards Apply1
I-E. Burden of Proof.....1
I-F. Severability.....1
I-G. Liability1
II-A. General Purposes2
III-A. Definitions2
IV-A. Permit Required5
IV-B. Nonconforming Use(s)6
IV-C. Violation6
IV-D. Penalties for Violation.....6
IV-E. Abandonment of Group 2 or Conditional Use.....6
V-A. Administration and procedures for Group 1 and 2 Permitted Uses7
V-B. Administration and Procedures for Conditional Uses.....9
V-C. Administration and Procedures for Variances12
VI-A. Permitted Uses.....14
VII-A. Group 2 Uses14
 Telecommunication Towers.....14
 Signage (212 Corridor)16
 Commercial Kennels17
VIII-A Conditional Uses.....17
 Industrial Uses.....18
 Wind Energy.....18
 Animal Feedlots20
 Commercial Salvage or Wrecking Yard20

CARBON COUNTY DEVELOPMENT REGULATIONS

Rifle and Other Shooting Facilities21

Planned Unit Developments (PUDs)22

Solar Farms.....23

Power Plants24

Oil and Gas Development24

I-A. Authority

These Regulations are adopted under authority of Sec. 76-2-201, MCA, et. seq.

I-B. Jurisdiction

The area included within the jurisdiction of these Regulations and governed by them shall be all the unincorporated areas of Carbon County, Montana.

I-C. Conflicting and Prior Regulations Repealed

All prior ordinances and resolutions related to these regulations, as originally adopted June 8th, 1989 are hereby amended.

I-D. Most Restrictive Standards Apply

When future County regulations, or state or federal law, impose additional standards on land use or development governed by these Regulations, the most restrictive standard shall apply. These Regulations do not nullify easements, covenants, deed restrictions, or other similar private agreements, but where any such private agreement imposes standards that are less restrictive than those adopted herein, these Regulations shall apply.

I-E. Burden of Proof

In all proceedings and hearings, and in all application and submittal materials, the burden of proof shall rest with the applicant, permittee or appellant, as applicable.

I-F. Severability

If a court of competent jurisdiction holds any word, phrase, clause, sentence, paragraph, section, or other part of these Regulations invalid, that judgment will only affect the part held invalid.

I-G. Liability

No individual, including members of the Planning Board, Zoning Commission, Board of Adjustment, Board of County Commissioners, the Administrator, or any other County employee, who acts in good faith and without malice in the performance of duties assigned by these Regulations, shall be held liable for errors or omissions in their administration.

II-A. General Purposes

The goal of these Regulations is to provide for the planning of any proposed land use changes in Carbon County to address public health and safety, water and air quality, impacts to existing infrastructure, and the economic welfare of Carbon County and its residents. Carbon County will encourage economic development, preserve agricultural resources, support tourism, recreation and use of its natural resources for multiple uses.

Furthermore, these Regulations are to:

1. Implement the land use goals, objectives and policies set forth in the Carbon County Growth Policy, purposes further specified in these Regulations, and to give strong consideration for the rights of those who own the property in question. Balancing the interest of the public and private property owners is recognized.
2. Preserve open space and manage development by encouraging and channeling the more intensive developments to within, or close to, existing cities and communities of Carbon County; ensuring the continuance of natural open space, and fish and wildlife habitat; and not diminishing quality or quantity of groundwater in the greater area of the development.
3. Minimize, where possible, impacts of new developments upon existing and new government services and infrastructure such as roads, wildfire protection, health and safety, and emergency services.
4. Limit development to those areas best suited for them physically, economically, socially and environmentally.

III-A. Definitions

ABANDONMENT OF USE: An activity occurring by a Group 2 permit or Conditional Use Permit is deemed abandoned when the activity is inactive for two (2) years.

ACCESSORY USE: The use of land, or a subordinate building, or a portion of a main building, such use being secondary to or incidental to the principal use or structure. This definition includes but is not limited to a shed, garage, or non-commercial shop.

AGRICULTURE: Any use of land for the production of crops or livestock, or other animals including ranching, farming, dairying, grazing, pasturage, husbandry of poultry, forestry, horticulture and floriculture; "agriculture" includes:

1. Any buildings, structures, machinery, equipment and practices associated with such production.
2. Those accessory facilities and activities necessary to load, transport, store or dispose of agriculture products produced solely by the owner or operator on the premises.
3. Any land classified as agricultural by the Carbon County Department of Revenue at the time of application.

Carbon County Development Regulations

BEHAVIORAL HEALTH FACILITY: A facility whose function is the treatment, rehabilitation, and prevention of the use of any chemical substance, including alcohol, that creates behavioral or health problems and endangers the health, interpersonal relationships, or economic function of an individual or the public health, welfare, or safety in accordance with the requirements of the Montana Department of Public Health and Human Services.

BOARD OF ADJUSTMENT: The County Planning Board is the Board of Adjustment, required in Montana Code Annotated 76-2-221. The Board of Adjustment shall consist of the members of the County Planning Board operating under the bylaws of the County Planning Board.

BUSINESS CONTAINING OBSCENE PERFORMANCES: a business who knowingly permits any person to engage in a performance covered by the 1988 Exotic Dancing Ordinance recorded under Miscellaneous Document number 6239.

COMMERCIAL AGRICULTURE: Any premise, facility, or use of the land for the processing, storage disposal, loading or transportation of:

1. Agricultural products produced off the premises or by other than the owner of the facility; or
2. Commercial products for use by agricultural operators. Commercial agriculture includes facilities such as grain elevators, railroad loading facilities, crop and meat processing plants, rendering plants, slaughterhouses, fertilizer plants, and commercial feedlots as defined in these Regulations.

COMMERCIAL USE: Any use of land for the sale, offering for sale, purchase or any other transaction involving the handling or disposition of any article, commodity, substance or service; also the occupancy or management of office buildings, and the use of structures or premises by professions and trades or people rendering services.

COMMUNITY OR CULTURAL FACILITY: A facility typically engaged in nonprofit or quasi-public use for a public purpose, such as a community center, cultural center, museums senior center and the like.

CHANGE IN USE: Any development of, alteration or intensification of the use of a parcel of land from any of the defined uses in these regulations (i.e. agricultural use, residential use, recreational use, commercial use, and industrial use) to another of the defined uses.

CHILD CARE FACILITY: An out-of-home place in which day care is provided to 13 or more children on a regular or irregular basis and which is licensed by the Montana Department of Public Health and Human Services.

CONDITIONAL USE PERMIT: A document issued by Carbon County, authorizing a specific change or intensification in land use that are identified in these Regulations. Conditional uses are approved by the governing body, require a public hearing, and may be subject to conditions of approval.

Carbon County Development Regulations

CONDOMINIUM: The ownership of single units with common elements located on the property. Condominium developments are also subject to subdivision review, unless the property was previously subject to subdivision review that expressly contemplated such development.

CURRENT USE: Current use will be determined by the designated County Planning Director. The Planning Director will rely on current assessed use of each tract of land based on its status in the Carbon County Department of Revenue. The administrator may also confirm current use by a site investigation.

DEVELOPMENT: Any construction of a structure, use of, or occupancy of a parcel of land which intensifies or changes a land use.

DEVELOPMENT PERMIT: A document issued by Carbon County authorizing a specific change of use or intensification in land use (after the criteria and requirements of these Regulations has been met).

1. Group 1 Development Permit means an application for residential development. These permits are administratively reviewed by the designated County Planning Director and are not subject to conditions of approval.
2. Group 2 Development Permit means an application for commercial use that is not specifically identified as a Conditional Use. These permits are administratively reviewed by the Planning Director and may be subject to conditions of approval.

DWELLING: A building or portion thereof arranged or designed to provide living facilities for one or more families. The term dwelling shall not be deemed to include a motel or hotel, but includes a mobile home, modular home, travel trailer or RV if affixed to the ground.

IMPACT: The effect of a proposed use on current uses. Impacts are those effects than can be reasonably expected as a direct result of a proposed development.

INDUSTRIAL USE: Any use of land for the manufacture, fabrication, processing, reduction or destruction of any article, substance, commodity or any other treatment in such a manner as to change the form, character or appearance thereof, including warehouses, wholesale storage, storage elevators, and truck storage yards.

LIBRARY: An institution for the custody, circulation and administration of a collection of books, manuscripts, etc., but not for the sale of such

MARIJUANA BUSINESS: Any business that requires licensing by the State of Montana Cannabis Control Division including but not limited to cultivator, manufacturer, dispensary, transporter, testing lab, or combined-use

NONCONFORMING USE: A use, structure or parcel of land that does not conform to these Regulations but was lawful prior to the original adoption of these Regulations.

ON-PREMISE SIGN: A sign which carries advertisements incidental to a lawful use of the

premises on which it is located, including signs indicating the business transacted at, services rendered, goods sold or produced on the premises, name of the business and/or name of the person, firm or corporation occupying the premises.

OFF-PREMISE SIGN: An off-premise sign is any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located.

POWER PLANT: An industrial facility for the generation of electric power. May also be referred to as a power station, generating station, or generating plant.

PROJECT AREA: The tract or tracts on which a development is taking place. If multiple tracts are involved in a single development, the property lines, affected tract(s), etc., relating to the development shall be interpreted to refer to the external boundaries of the project.

TOWNHOME or TOWNHOUSE: Property that is owned subject to an arrangement under which persons own their own units and hold separate title to the land beneath their units, but under which they may jointly own the common areas and facilities. Townhome and townhouse developments are also subject to subdivision review, unless the property was previously subject to subdivision review that expressly contemplated such development.

TRACT OF LAND: area, parcel, site, piece of land, or property which is the subject of a development permit.

PLANNED UNIT DEVELOPMENT (PUD): A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks or any combination thereof that comprises a planned mixture of land uses built in a prearranged relationship to each other, and having open space and community facilities in a common ownership or use. PUDs must also meet the requirements of the Carbon County Subdivision Regulations.

PUBLIC IMPROVEMENT: Any structure or facility constructed to serve the general public such as streets and roads, utilities and systems for water supply, sewage treatment, and drainage.

RECREATIONAL USE: Any use of the land primarily for facilities and equipment used for recreational purposes. Any recreational use that is commercial in nature will be classified as a commercial use.

RELIGIOUS BUILDING : building which is used primarily for religious worship and related religious activities, including but not limited to churches, convents, monasteries, shrines, and temples.

RESIDENTIAL MULTI-FAMILY: The use of land for four or more separate housing units for residential inhabitants. This includes, but is not limited to, apartments, condominiums, townhomes or townhouses, mobile home parks, and multiple homes on a single tract of land.

RESIDENTIAL USE: The use of land for the location of a structure to be used as the private dwelling place or sleeping place of one or more people.

SOLAR FARM: A solar farm is an extensive photovoltaic system, built to generate electrical energy for the primary purpose of off-site use or resale.

STRUCTURE: Any appurtenance constructed or erected on a fixed location on the ground which intensifies land use.

SIMILAR USE: A use which is not expressly stated in these Regulations. The designated County Planning Director may determine if a similar use will be subject to Group 1, Group 2, or Conditional Use permitting

VARIANCE: A special process by which an applicant can request deviation from these Regulations. Variances are approved by the governing body.

ZONING COMMISSION : The County Planning Board is the zoning commission of Carbon County, as required in Montana Code Annotated 76-2-220. The zoning commission shall consist of the members of the County Planning Board operating under the bylaws of the County Planning Board.

IV-A. Permit Required

1. A Development Permit or Conditional Use Permit must be issued under these Regulations before any person may change current residential or agricultural uses to other uses as defined in subsequent sections of this ordinance.
2. A Development Permit or Conditional Use Permit must be issued under these Regulations when a change in use occurs; this can mean both intensification and de-intensification.
3. No development permit is required for any agricultural use or structure.
4. No development permit is required for an accessory use or structure, as long as the necessary setbacks and other requirements for the primary use are met.
5. A Group 1 Development Permit is required for any new residential use.
6. A Group 2 Development Permit is required for any expansion or new commercial or residential multi-family use that is not specifically identified as a Conditional Use or use with specific criteria as outlined in Section VII-A.
7. A Conditional Use Permit is required for all activities described in the Conditional Uses section of these Regulations.

IV-B. Nonconforming Use(s)

1. Any lawful use of the land or structures existing at the date of passage of this ordinance and located on a property in which a permit would be required as a new use under these Regulations, is declared to be a nonconforming use, and not in violation of the ordinance. Nothing in these Regulations are intended to stop an existing nonconforming use from continuing in its current state.
2. No nonconforming use may be extended to occupy any land outside the structure nor

any additional structures may be constructed for such nonconforming use at the date of adoption of this ordinance without issuance of a permit under these Regulations. The nonconforming use of land shall not be extended to any additional land not used at the date of adoption of this ordinance without issuance of a permit under these Regulations.

3. If any nonconforming use becomes abandoned for a period of two (2) years, it shall not continue.

IV-C. Violation

1. Failure to comply with the conditions associated with a Development Permit or a Conditional Use Permit can result in suspension, revocation and other enforcement actions as provided by these Regulations.

IV-D. Penalties for Violation

1. Violation of the provisions of these Regulations or failure to comply with any of its requirements shall constitute a misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment in the County Jail not exceeding 6 months per § 76-2-211, Mont. Code Ann. These Regulations may also be enforced by Carbon County through any additional remedy at law or in equity.

IV-E. Abandonment of Group 2 or Conditional Use

1. Any activity occurring by a Group 2 permit or Conditional Use Permit is deemed abandoned when the activity is inactive for two (2) years or unless otherwise stated in these Regulations. Before any abandoned activity may resume, a new permit must be applied for. Permitting processes will be based on whether the activity is a Group 1, Group 2 or Conditional Use.

V-A. Administration and Procedures for Group 1 and 2 Permitted Uses

1. Development Permit Application Submittal
 - a. A Development Permit may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the designated County Planning Director.
 - b. The application shall include, but not be limited to, the following information:
 - i. A legal and general description of the tract(s) affected.
 - ii. A map and general site plan showing the dimensions, acreage and location of tract(s), and existing and proposed buildings and structures, access, agricultural water facilities, sewerage and water provisions, drainage and other features that may be important for review.
 - iii. A time schedule for development.
 - iv. Any other information the applicant believes will support their request.
 - v. For Group 2 applications, the applicant shall provide the names and

mailing address of record for surrounding property owners for noticing purposes.

2. Staff Review

- a. Upon receiving a complete application, the Planning Director shall evaluate the proposed development according to the following:
 - i. Consult with other departments of the County as applicable to fully evaluate the impact of the development upon public facilities including, access, drainage, traffic and other related facilities.
 - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the Growth Policy.
 - iii. Approval Criteria
 1. Water Supply: The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste.
 2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway.
 3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface run-off in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads.
 4. Setbacks: Proposed buildings or structures may not be erected on property lines or within right-of-ways or easements. All buildings and structures shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 30 feet from the front lot line or street right of way or easement.
 5. Access: legal and physical access shall be provided to the tract of land where the development is proposed. Any new proposed access on a County Road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation
 6. Agricultural Interference: Development shall not interfere with agricultural operations through the contamination of livestock or irrigation water supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities.
 7. Lighting: Lighting shall be downward facing to the extent possible and primarily used to illuminate building entrances and for security. In no case shall lighting be directed onto

surrounding properties.

~~6-8.~~ Current Uses: Development shall not create significant unmitigated adverse impacts on surrounding properties or current uses.

Commented [FM1]: Current use is an existing defined term. New definition for "Impact".

3. Issuance of Permit for Group 1 Development Permit (Residential Use Only)
 - a. The Planning Director shall issue a Development Permit within 30 days of receiving a complete application.
 - b. The Planning Director shall issue a Development Permit if the approval criteria has been met.

4. Issuance of Permit for Group 2 Development Permit

Commented [FM2]: Amend process for Group 2 Permits

- a. The ~~Planning Director~~Zoning Commission shall ~~issue approve, deny, or conditionally approve~~ a Group 2 Development Permit within ~~45-60~~ days of receiving a complete application.
- b. The Planning Director shall notice all property owners within 100 feet of the subject property ~~and solicit public comment on the proposed development during a 30 calendar day comment period of the Zoning Commission meeting at which the application will be discussed.~~
- c. The ~~Planning Director~~Zoning Commission shall ~~issue approve or conditionally approve~~ a Development Permit if the approval criteria has been met.
- d. The ~~Planning Director~~Zoning Commission may, within reason, impose conditions of approval to mitigate adverse ~~effects-impacts~~ on surrounding properties ~~and current uses~~. Conditions may include, but not be limited to the following:
 - i. Ingress and egress to adjoining streets and roads
 - ii. Off-street parking
 - iii. Fencing, screening and landscaping
 - iv. Building bulk and location (setbacks)
 - v. Signs and lighting
 - vi. Weed control
 - vii. Conditions to address other reviewing agency concerns

~~vii-e.~~ The Zoning Commission may deny a Development Permit if the approval criteria cannot be met, or it is determined that the development will create a significant adverse impact on surrounding properties or current uses.

Formatted: Left

5. Appeals

- a. A person aggrieved by a decision of the ~~Planning Director~~Zoning Commission may appeal, in writing, within 10 calendar days, that decision to the Board of County Commissioners.
- b. The Board of County Commissioners may consider:
 - i. Whether the decision is consistent with the meaning and intent of the these Regulations and the Carbon County Growth Policy;

- ii. Whether strict compliance with these Regulations or conditions of approval would create an unnecessary hardship or unreasonable situation on the particular property;
- iii. Evidence of any adverse effects on other property or the general health, safety and welfare of the County.

V-B. Administration and Procedures for Conditional Uses

1. Conditional Use Application Submittal

- a. A Conditional Use Permit may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the designated County Planning Director.
- b. The application shall include, but not be limited to, the following information:
 - i. A legal and general description of the tract(s) affected.
 - ii. A map showing the dimensions, acreage and location of the tract(s) affected.
 - iii. The name and addresses of the owner(s) of the tract(s) and their agents, if any and the names and addresses of property owners of record who own lands adjoining the affected property.
 - iv. A site plan showing major details of the proposed development including but not limited to, existing and proposed structures, dimensions of structure setbacks, parking and loading, service and refuse areas, means of ingress and egress, landscaping, sewerage and water provisions, drainage, screening and signs.
 - v. A time schedule for development
 - vi. Any other information required by these Regulations or information the applicant believes will support their request or that has been described elsewhere in these Regulations.

2. Staff Review

- a. Upon receiving an application for a Conditional Use Permit, the Planning Director shall complete the following:
 - i. Consult with other departments of the County or State to fully evaluate the impact of the development upon public facilities including, County Road and Bridge, DES, County Sanitarian, and Emergency Services.
 - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the Growth Policy.
 - iii. Notify, by mail, all property owners within 100 feet of the property subject to the development permit of the time, date, and place of the public hearing.
 - iv. Publish public hearing notice for the Zoning Commission meeting in accordance with Montana Code Annotated 7-1-2121.

3. Zoning Commission Review and Recommendation
 - a. The Zoning Commission shall hold a public hearing and take into consideration all public testimony.
 - b. The Zoning Commission shall evaluate the staff report prepared by the Planning Director.
 - c. The Zoning Commission shall consider the following approval criteria:
 1. Water supply: The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste. Where reliance on individual water supplies is proposed, evidence shall be provided that adequate quantities and quality of water is available for the proposed development.
 2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway. All development within the floodplain or Special Flood Hazard Area requires a floodplain permit.
 3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface run-off in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads.
 4. Setbacks: Proposed structures may not be erected on property lines or within right-of-ways or easements. All structures for conditional uses shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 40 feet from the front lot line or street right-of-way. Setback requirements for wind energy, telecommunication towers, and oil and gas are required to exceed this standard to eliminate potential impacts to surrounding properties or roadways.
 5. Easements: Easements or other legal rights-of-way shall be provided for utilities, this includes, but is not limited to, electric, telephone and natural gas.
 6. Utilities: Development shall demonstrate it will be adequately served by public and/or private utilities. Written certification that capacity is available and that adequate rights-of-way or easements have been provided may be required.
 7. Access: legal and physical access shall be provided to the tract where the development is proposed. Any new proposed access on a County road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation.

8. Parking: Off street parking and loading areas shall be provided for commercial and industrial uses. One space per full-time employee is required, plus one space per 400 square feet of floor space.
 9. Impact to Residential Areas: Conditionally approved uses shall not be located within existing residential tracts. Where a proposed conditional use would abut a residential use, a sight obscuring screen or fence at least eight feet in height is required to screen the residential use. The installation of landscape buffers between potential incompatible land uses shall be considered as an alternative.
 10. Agricultural Interference: Development shall not interfere with agricultural operations through the contaminations of livestock or irrigation water supply supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities.
 11. Additional Requirements: All proposed conditional uses shall, in addition to the identified approval criteria, meet the regulations identified within the conditional uses section of these Regulations and any other conditions as supported by findings in order to mitigate impacts.
- d. The Zoning Commission shall consider and may recommend to the governing body modifications or conditions concerning, but not limited to the following:
 - i. Street and road capacity
 - ii. Ingress and egress to adjoining streets and roads
 - iii. Off-street parking
 - iv. Fencing, screening and landscaping
 - v. Building bulk and location
 - vi. Usable open space
 - vii. Signs and lighting
 - viii. Noise, vibration, air pollution and similar environmental influences
 - ix. Weed control
 - e. The Zoning Commission shall recommend approval, approval with conditions or denial of the conditional use permit application. The Zoning Commission shall give findings for the recommendation.
4. Governing Body Approval/Issuance of Permit
 - a. The Carbon County Commissioners shall approve, approve with conditions or deny the application for Conditional Use Permit within 60 days of receiving a complete application.
 - b. The Carbon County Commissioners shall consider the Zoning Commission recommendation, written or spoken testimony provided at the public hearing, the application and the staff report provided by the Planning Director.

5. Appeals

- a. Any aggrieved party wishing to appeal the decision of the Board of County Commissioners shall appeal to District Court.

V-C. Administration and Procedures for Variances

There is a special process that allows an applicant to request a deviation from the literal requirements of these Regulations. The Board of County Commissioners is authorized to grant variances that are not contrary to the public interest, where, owing to special conditions, literal enforcement based on these Regulations results in an unnecessary hardship, excluding financial hardships.

1. Variance Application Submittal

- a. A variance may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the designated County Planning Director. The variance application shall accompany the associated Development Permit or Conditional Use application.
- b. The application shall include, but not be limited to the following information:
 - i. A written description of the variance request and justification for how the request pertains to:
 - 1. Special conditions: There are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County; and
 - 2. Not a result of the applicant: The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations; and
 - 3. Strict application unreasonable: Due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner; and
 - 4. Necessary to provide reasonable use: Granting the variance is necessary to provide a reasonable use of the land or the building;
 - 5. Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building; and
 - 6. Not injurious; Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare; and
 - 7. Consistent with regulations: Granting the variance is consistent with the purposes and intent of these Regulations.
 - ii. A list of property owners within 100 feet of the subject property and their mailing addresses.

2. Staff Review

-
- a. Upon receiving an application for a variance, the Planning Director shall complete the following:
 - i. Consult with other departments of the County or State to fully evaluate the impact of the development upon public facilities including, Road and Bridge, Sanitation, DEQ and Emergency Services.
 - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the Growth Policy.
 - iii. Notify, by mail, all property owners within 100 feet of the property subject to the variance and associated permit request of the time, date, and place of the public hearing.
 - iv. Publish public hearing notice for the Board of Adjustment meeting.
 3. Board of Adjustment Review and Recommendation
 - a. The Board of Adjustment shall hold a public hearing.
 - b. The Board of Adjustment shall evaluate the staff report prepared by the Planning Director.
 - c. The Board of Adjustment shall not recommend that a variance be granted unless:
 1. Special conditions: There are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County; and
 2. Not a result of the applicant: The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations; and
 3. Strict application unreasonable: Due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner; and
 4. Necessary to provide reasonable use: Granting the variance is necessary to provide a reasonable use of the land or the building; and
 5. Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building; and
 6. Not injurious; Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare; and
 7. Consistent with regulations: Granting the variance is consistent with the purposes and intent of these Regulations.
 - d. The Board of Adjustment shall consider and may recommend conditions related to the variance request.
 - e. The Board of Adjustment shall recommend approval, approval with conditions or denial of the variance. The Board of Adjustment shall give findings for the recommendation.
 4. Governing Body Approval

- a. The Carbon County Commissioners shall approve, approve with conditions or deny the application for Variance within 60 days of receiving a complete application.
 - b. The Carbon County Commissioners shall consider the Board of Adjustment recommendation, written or spoken testimony provided at the public hearing, the application and the staff report provided by the Planning Director.
5. Appeals
- a. Any aggrieved party wishing to appeal the decision of the Board of County Commissioners shall do so through District Court.

VI-A. Permitted Uses

Permitted Uses still require a Development Permit, however, the permit is approved by the designated County Planning Director, or designee. There ~~are is two one~~ groups of permitted uses.

1. Group 1, Administratively reviewed with no conditions
 - a. Residential uses
 - i. Single family residential structures
- ~~2. Group 2, Administratively reviewed with conditions
 - a. Commercial uses that are not specifically identified as a Conditional Use. This includes recreational uses that are commercial in nature.~~

VII-A. Group 2 Uses

Group 2 Development Permits are subject to specific requirements. The ~~designated County Planning Director~~ Zoning Commission may impose conditions to ensure the requirements of these Regulations are met. In addition to the uses expressly stated in this Section, commercial or residential multi-family uses that are not identified as Conditional Uses are subject to the review procedures and requirements as other Group 2 uses.

1. Telecommunication Towers

- a. The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:
 - i. Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the County;
 - ii. Strongly encourage the joint use of new and existing antenna support structures;
 - iii. Require wireless communication facilities to be located, to the greatest extent possible, in areas where the adverse impact on the County is minimal; and
 - iv. Require wireless communication facilities to be configured in a way that

minimizes the adverse visual impact of the towers and antennae.

b. Definitions

- i. Antenna support structure: any structure specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures and the like. The term includes the structure and any support thereto.
- ii. Wireless Communication Facility: An unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communication purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.

c. Requirements

- i. Setbacks: Wireless communication facilities or structures shall be located at least 150' from any property line.
- ii. Height: Shall not exceed two hundred fifty feet.
- iii. Fencing: A fence at least 6 feet in height is required at the base of a wireless support structure for the purpose of safety and security.
- iv. Lighting: Antenna support structures shall not be artificially lit unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons shall be used.
- v. Signage: The structure shall not provide advertising of any kind. One sign, limited to four square feet shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency. Other acceptable signage is limited to non-illuminated warning and equipment identification signs.
- vi. Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure or surroundings so as to reduce visual obtrusiveness.
- vii. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
- viii. Wireless communication facilities shall be located as to minimize their visibility and not be placed along scenic corridors

2. Signage (212 Corridor)

- a. The purpose of this section is to promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within Carbon County along the US 212 Corridor. These Regulations shall apply to all viewable lands from US 212 where a sign would be legible from the right of way. Furthermore, the intent of these Regulations is to:
 - i. Preserve and enhance the natural scenic beauty and aesthetic features of the highway and adjacent areas, this Regulation is intended to control the location, size and proximity to other of off-premise signs thereby promoting and protecting the public safety and welfare by reducing roadside distractions, sign clutter, and obstructions that may contribute to traffic accidents and driving hazards.
 - ii. Protect property values, create an attractive economic and business climate, enhance and protect the physical appearance of Carbon County.
 - iii. Curb the deterioration of the traditional natural environment, and preserve view sheds, open space, and the scenic and natural beauty of Carbon County.
 - iv. Not interfere with constitutional rights related to free speech.
- b. Definitions:
 - i. Off-premise sign: An off-premise sign is any sign structure advertising an establishment, merchandise, service, or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located.
- c. Requirements:
 - i. Height: The maximum total height of an off-premise sign shall not exceed fifteen (15) feet above the mean centerline elevation of the roadway.
 - ii. Size: No off-premise sign shall exceed the maximum of eighty (80) square feet in sign area.
 - iii. Setbacks: Any off premise sign shall be separated by at least 1,500 feet from any other existing off-premise sign.
 - iv. Lighting: Lighting shall only be allowed so as to illuminate the message on the face of the sign. No lighting will face upwards nor be reflected onto the adjacent roadway or adjoining properties. No off-premise sign shall have flashing or blinking lights, moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one (1) footcandle or ten (10) lumens per sign face.
 - v. Animation: No off-premise sign shall contain flashing or colored lights or electronically-changeable face on the sign.
 - vi. Off-premise signs advertising marijuana businesses are prohibited.

3. Commercial Kennels:

~~d.a.~~ The purpose of ~~these Regulations~~this section is to establish regulations for the siting of commercial kennels on private property. The goals of this section are to:

~~i.a.~~ Encourage the location of these facilities in non-residential areas.

~~ii.b.~~ Require these facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal.

~~e.b.~~ Definitions:

~~i.a.~~ Commercial Kennels: Any Day use Kennel, Limited Kennel, or Overnight Boarding Kennel operated as a business. A kennel type structure does not by itself constitute a Kennel. A commercial kennel can be one of the following kennel types

~~1-i.~~ Day use Kennel: any premises at which one or more dogs cats or both are kept during daytime hours for a commercial purpose including but not limited to grooming, training and or boarding.

~~2-ii.~~ Limited Kennel: any premises at which one or more dogs cats or both are kept overnight for a commercial purpose including but not limited to breeding or selling a single incidental litter in a 12 month period is not a commercial purpose.

~~3-iii.~~ Overnight Boarding Kennel: any premises at which three or more dogs cats or both are kept overnight for the commercial purpose of boarding.

~~f.c.~~ Requirements:

~~i.a.~~ The structure(s) housing the animals shall be adequately soundproofed to reduce noise levels during a period of normal operation;

~~ii.b.~~ The structure(s) and outside runs or areas housing the animals shall be not less than 200 feet from any dwelling (other than the dwelling of the owner), and shall be no less than 50 feet to any property line of the subject site;

~~iii.c.~~ Any permitted outside runs or areas shall be completely screened from view by sight-obscuring fencing or landscaping, or both, to serve as a visual and noise abatement buffer; and

~~iv.d.~~ All animals are to be housed within a structure and no outside boarding of animals is permitted between the hours of 10:00 p.m. and 6:00 a.m.

4. Marijuana Businesses

a. The purpose of this section is to establish regulations for the operation of marijuana related businesses in Carbon County. The Goals of this section are to protect the public health, safety, and welfare by:

i. Limiting the location of marijuana in proximity to residences, schools, child care facilities, churches, synagogue, other religious buildings, playgrounds, and behavioral health facilities;

Formatted: Indent: Left: 0.75", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Indent at: 1.15"

Formatted: Indent: Left: 1.35", Hanging: 0.24", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Indent at: 1.15"

Formatted: Indent: Hanging: 0.25", Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Indent: Left: 1.35", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Indent at: 1.15"

Formatted: Numbered + Level: 3 + Numbering Style: i, ii, iii, ... + Start at: 1 + Alignment: Right + Aligned at: 1.53" + Indent at: 1.65"

Formatted: Numbered + Level: 1 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.5" + Indent at: 0.75"

Formatted: Indent: Left: 1.35", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Indent at: 1.15"

Formatted: Indent: Left: 1.35", Hanging: 0.24", Numbered + Level: 2 + Numbering Style: a, b, c, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Indent at: 1.15"

Commented [FM3]: Incorporate Interim Zoning

Formatted: Font color: Accent 3, Not Highlight

- ii. Limiting marijuana business density; and
- iii. Placing limitations on marijuana business on-premise and off-premise signage that is visible from public roads.

b. Definitions:

SETBACKS: the distance between any marijuana business to any enumerated building or public property set forth below. In the case of buildings, the setback shall be determined between the closest point of any marijuana business building to the closest point of any enumerated building. In the case of public parks, the setback shall be determined as between the closest point of any marijuana business building to the closest property line for such public park property. In all cases, distance shall be measured from the closest points of the buildings regardless of building frontage or address.

c. Requirements

i. Setbacks: Marijuana business buildings shall be setback not less than 1,000 feet from a school, child care facility, church, synagogue, or other religious building, public parks that contain children’s playgrounds or playfields, behavioral health facilities, libraries, community or cultural facility, businesses containing obscene performances, and from any other marijuana business.

ii. Residential Setbacks: Any proposed marijuana business shall be setback from all residential dwellings a minimum of 1,000’. The 1,000’ setback requirements shall be waived if the dwelling owner submits a notarized statement declaring their acceptance of a lesser setback. The notarized statement shall be submitted with the marijuana business’s application materials.

iii. Signage:

1. On-premise marijuana business signs: the maximum number of on-premise signs is two (2).
2. Off-premise marijuana business signs: are prohibited
3. Height: The maximum total height of any sign regulated pursuant to this part shall not exceed fifteen (15) feet above the mean centerline elevation of the roadway;
4. Size: No sign regulated pursuant to this part shall exceed the maximum of eighty (80) square feet in sign area;
- ~~5. Setbacks: Any sign regulated pursuant to this part shall be separated by at least 1,500 feet from any other existing sign;~~
6. Lighting: Lighting shall only be allowed so as to illuminate the message on the face of any sign regulated pursuant to this part. No lighting will face upwards nor be reflected onto the adjacent roadway or adjoining properties. No sign regulated pursuant to this part shall have flashing or blinking lights, moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one (1) foot-candle

Commented [FM4]: Not sure if needed.

Commented [FM5]: The maximum number of signs has generated some concerns.

Formatted: Font color: Accent 3

Commented [FM6]: On premise signed required to be 1,500 feet away from each other? Off-premise signs already prohibited by iii.3.

or ten (10) lumens per sign face.

7. Animation: No sign regulated hereunder shall contain flashing or colored lights or electronically-changeable face on the sign.

8. Content: the content of the sign regulated hereunder shall be limited to the business name, business logo (that complies with ARM 42.39.123(5)), operating days and hours, and a phone number.

9. Flags: No sign shall be adorned with banners, streamers, flags, or other movable or reflective items.

~~iv. Foundation: Marijuana businesses that are open to the public shall be physically anchored to a permanent concrete foundation. The tongue, axles, transporting lights and towing apparatus of any building placed on a permanent concrete foundation shall be removed after placement and before occupancy.~~

~~v. Sanitary Facilities: Marijuana businesses that are open to the public shall have a permanent on-site wastewater system permitted by the Carbon County Sanitarian or be tied into an existing sewer system.~~

Commented [FM7]: The permanent foundation and sanitary facilities seem to be the most onerous requirements.

5. Commercial Campgrounds

a. The purpose of this section is to establish regulations and guidelines for the establishment and operation of commercial campgrounds. The goals of this section are to:

i. Minimize impacts and conflicts with surrounding current uses, especially with residential and agricultural development;

ii. Ensure all other regulations and licensing requirements are adhered to, including but not limited to subdivision, public accommodation, and sanitation;

b. Definitions:

i. Campground: Any area, regardless of size, that will provide multiple spaces for rent or lease where the guests occupy detached units. The term includes RV parks, primitive campgrounds, glampgrounds, and other similar terms.

c. Requirements:

i. Campgrounds must obtain licensing as a public accommodation through the Montana Department of Public Health and Human Services (DPHHS) and the County Sanitarian, as appropriate;

ii. Campgrounds must have permanent water and wastewater facilities approved by the Montana Department of Environmental Quality (DEQ) and the County Sanitarian, as appropriate;

iii. If the campground meets the definition of an RV park or mobile home park, subdivision review and approval must be obtained.

Formatted: Left

Formatted: Left

Formatted: Left, Indent: Left: 1.39"

Formatted: Font: (Default) +Body (Calibri), 12 pt

Formatted: List Paragraph, Indent: Left: 1.1"

VIII-A. Conditional Uses

Conditional uses will be evaluated by the Zoning Commission with a recommendation to be approved, conditionally approved or denied by the Carbon County Commissioners. Each conditional use provides minimum requirements. The Zoning Commission and Carbon County Commissioners may recommend and require conditions of approval beyond the requirements listed in the sections below.

Applicability: All structures located within Carbon County whether upon private or public land shall be subject to this section. The section shall apply to facilities located on federal lands to the extent of the County’s jurisdiction by way of law, pursuant to any memoranda of understanding or otherwise.

1. Industrial Uses

- a. The purpose of this section is to establish regulations for the siting of industrial facilities. The goals of this section are to:
 - i. Encourage the location of industrial facilities and activities in non-residential areas;
 - ii. Require industrial facilities and structures to be located, to the extent possible, in areas where adverse impacts on the County is minimal;
- b. Definitions
 - i. Industrial Use: Any use of land for the manufacture, fabrication, processing, reduction or destruction of any article, substance, commodity or any other treatment in such a manner as to change the form, character or appearance thereof, including warehouses, wholesale storage, storage elevators, and truck storage yards.
- c. General Requirements
 - i. Setbacks: Proposed structures may not be erected on property lines or within right-of-ways or easements. All structures for conditional uses shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 40 feet from the front lot line or right-of-way.
 - ii. Fencing: Where an industrial use abuts a residential use a fence with visual screens or a landscaping buffer shall be provided.
 - iii. Signage: The tract or structure may not promote or contain off-premise sign advertising. Only services or products sold, manufactured, or stored on-site may be advertised by means of signage.

2. Wind Energy

- a. The purpose of this section is to promote the effective, efficient and safe use of the County’s wind energy resources through Wind Energy Conversion Systems (WECS), and to regulate the construction, placement, operation of such systems so that public health, safety and welfare will not be jeopardized. The goals of this

section are to:

- i. Encourage the location of WECS to support structures in non-residential areas throughout the County;
- ii. Require WECS facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal; and
- iii. Require WECS facilities to be configured in a way that minimizes the adverse visual impact of the facilities and structures.

b. Definitions

- i. Wind Energy Conversion System (Commercial): Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy for the primary purpose of resale or off-site use. WECS includes such devices as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment.
- ii. Wind Energy Conversion System (Non-Commercial): A wind driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale.
- iii. Wind Turbine: An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.

c. Requirements

- i. Regulations: Must meet all state, federal and local regulations regarding the uses.
- ii. Setbacks: 1,000 feet from the project area boundary or road right of way.
- iii. Height: In no case shall the height of the tower combined with the longest point of the blade exceed the setback.
- iv. Noise: Measured from property lines
 1. Residential Use: 50 db(A)
 2. Commercial Use: 60 db(A)
 3. Industrial Use: 75 db(A)
 4. Hours of operation may be limited due to excess noise.
- v. Fencing: Must be fenced or protected to prohibit unauthorized access.
- vi. Climbing Apparatus: All climbing apparatuses shall be located at least 12 feet above the ground and the system tower must be designed to prevent climbing within the first 12 feet above the ground.
- vii. Lighting: No lights shall be installed on the system, unless required to meet Federal Aviation Administration regulations.
- viii. Signage: The system tower or blades shall not be used for signs and advertising of any kind. One sign, limited to four square feet shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency.

- ix. Visual Impacts/Aesthetics: Tower colors should be a matted or non-reflective finish and be of neutral subdued tones such as earth tones of green or brown. Flat white and gray, including naturally darkening galvanized gray, are also acceptable. Towers shall not be finished in bright or vivid colors intended to draw attention to the structure or property.

3. Animal Feed Lots

- a. The purpose of this section is to establish regulations for the siting of animal feedlots. Furthermore, these Regulations intend to be consistent with the Right to Farm Act as contained in MCA 76-2-901 through 76-2-903. The goals of this section are to:
 - i. Not prohibit or terminate any existing agricultural activities, including commercial agriculture;
 - ii. Not to prohibit or terminate any other approved existing uses.
 - iii. Not to prevent the use, development, or recovery of any agricultural resource.
 - iv. Not to prohibit or condition seasonal ranch operations lasting less than 90 calendar days per year. These regulations are intended exclusively for feeding operations only and do not apply to calving, birthing, or other containment scenarios.
- b. Definitions
 - i. Commercial Feed Operations: Any lot or building or premises on which animals are held, maintained, or confined for the purpose of feeding for market, breeding, or raising. An operation shall be considered a commercial feed operation where there are 300 head or more cattle, 300 head or more hogs, 1,000 head or more sheep, 1,000 or more poultry or rabbits and 300 or more of any other animal. Livestock which have access to natural forage on a regular seasonal basis shall not be considered as a Commercial Feed Operation. Furthermore, Commercial Feed Operation does not include the normal seasonal feeding or wintering of livestock produced by the owner as part of an agricultural operation.
- c. Requirements:
 - i. Setbacks: Feed lot enclosures or structures related to animal feed lots or commercial feed operations shall be located not less than 50' from any property line.

4. Commercial Salvage or Wrecking Yard

- a. The purpose of this section is to establish regulations for the siting of commercial salvage or wrecking yards on private property. The goals of this section are to:
 - i. Encourage the location of these facilities in non-residential areas.

- ii. Require these facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal; and
- iii. Require salvage and wrecking yard facilities to be configured in a way that minimizes the adverse visual impact of the facilities.
- iv. Require these facilities to be in compliance with MCA 75-10-5, Motor Vehicle Recycling and Disposal.

b. Definitions

- i. Salvage and Wrecking Yards: Means any use involving the storage or processing of four or more inoperable, dismantled or wrecked vehicles, equipment or machinery.

c. Requirements

- i. Setbacks: shall be set back 40' from all property lines or street right-of-way and shall not encroach upon a swale, gully, ravine or other similar land mass and not be located within 300' of any natural or manmade water course.
- ii. Signage: The tract or structure may not contain off-premise sign advertising. Only services or products sold or stored on-site may be advertised by means of signage.
- iii. Fencing and Landscaping: Shall be screened from view of any public street or highway, and any adjacent property by a fence at least eight feet in height.
- iv. Environmental: Shall retain surface run off on-site.

5. Rifle and Other Shooting Facilities

- a. The intent and purpose of this section is to establish regulations for the siting of shooting ranges and outdoor target practice facilities on private property. The goals of this section are to:
 - i. Encourage the location of these facilities in non-residential areas.
 - ii. Require these facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal.
- b. Definitions:
 - i. Shooting Range: A facility, including its component shooting ranges, safety fans or shotfall zones, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. This definition is exclusive of occasional target practice by individuals on property owned or leased by the individuals or for sighting of weapons for hunting purposes.
 - ii. Safety Fan: Applies only to rifle and pistol firing ranges. The safety fan of a firing range consists of three parts: the direct fire zone, the safety zone, and the ricochet zone. The direct fire zone is that area into which all shots are fired during the normal course of shooting. The length of the direct fire zone extends to the maximum range of the ammunition and firearm

used on the firing range, but can be shortened by physical barriers or other devices which reduce the maximum distance of a bullet's trajectory. The safety zone extends 10 degrees to the left and right of the direct fire zone and protects against errant bullets caused by cross fire or accidental discharge of a firearm. The ricochet zone is that area 45 degrees to the left and right of the firing line, and extended a certain distance dependent on the type of firearm and ammunition allowed on the range.

c. Requirements:

- i. Lot Size: These facilities shall not be located on a lot less than 5 acres in size.
- ii. Primary Use: Shooting facilities must be the primary use of the property. They shall not be accessory to a dwelling.
- iii. Setbacks: No portion of the range or associated Safety Fan shall be closer than 1,500 feet to any property line or 2,500 feet to any existing residential dwelling, or other structure.
- iv. Ingress and Egress: the site shall be secured and controlled to prevent unregulated entrance to the facility or target area.
- v. Site Design/Development Plan: Elevations for the range area, from shooter to target, shall be constructed to prevent rounds from being fired over the berm, and shall be shown on a site plan accompanying the conditional use application. Furthermore, the complete layout of each range, including, shooting stations or firing lines, target areas, shot-fall zones, backstops, and berms, shall be shown on the site development plan. The development plan shall also identify the Safety Fan for each firing range. The Safety Fan shall include the area necessary to contain all projectiles; including direct fire and ricochet. The safety Fan configuration shall be based on evidence and address the design effectiveness of berms, overhead baffles or other safety barriers to contain projectiles to the Safety Fan area.
- vi. Containment: Shots fired on site, whether on range or in air, shall be contained entirely on the site. Clay pieces associated with in-air target practice shall also be contained entirely on site.

6. Planned Unit Developments (PUDs)

- a. The purpose of this section is to provide a consistent procedure for PUD review across the County's regulatory documents. The goals of this section are to:
 - i. Allow for concurrent review with the County's subdivision review process and procedures.
 - ii. Reduce redundant review for projects that have been reviewed and approved as PUDs, with prearranged relationship of uses.

- b. Definitions:
 - i. Planned Unit Development (PUD): A land development project consisting of residential clusters, industrial parks, shopping centers, office building parks or any combination thereof that comprises a planned mixture of land uses built in a prearranged relationship to each other, and having open space and community facilities in a common ownership or use.
 - ii. Subdivision Regulations: The Subdivision Regulations for Carbon County.
- c. Requirements:
 - i. PUDs are subject to review as delineated in the Subdivision Regulations.
 - ii. PUDs must be submitted concurrently with a subdivision application.
 - iii. The approved/conditionally approved conditional use permit is for the whole PUD development. No additional development permits are required for the PUD.

7. Solar Farms

- a. The purpose of this section is to promote the effective, efficient and safe use of energy generation through solar farms and to regulate the construction, placement, operation of such systems so that public health, safety and welfare will not be jeopardized. The goals of this section are to:
 - i. Encourage the location of solar farms in non-residential areas throughout the County;
 - ii. Require solar farms facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal; and
 - iii. Require solar farms to be configured in a way that minimizes the adverse visual impact of the facilities and structures.
- b. Definitions
 - i. A solar farm is an extensive photovoltaic system, built to generate electrical energy for the primary purpose of off-site use or resale. This does not include residential systems designed to off-set normal residential utility costs.
 - ii. A solar panel is a term used colloquially for a photo-voltaic module.
 - iii. A photo-voltaic module is an assembly of photo-voltaic cells mounted in a framework for installation. Photo-voltaic cells use sunlight as a source of energy and generate direct current electricity.
- c. Requirements
 - i. Regulations: Must meet all state, federal and local regulations regarding the uses.
 - ii. Setbacks: 30 feet from the project area boundary or road right of way.
 - iii. Noise: Measured from property lines

1. Residential Use: 50 db(A)
2. Commercial Use: 60 db(A)
3. Industrial Use: 75 db(A)
4. Hours of operation may be limited due to excess noise.
- v. Fencing/screening: Must be fenced or protected to prohibit unauthorized access. Additional screening may be required to help screen the solar farm and accessory structures from major roads and neighboring residences.
- vi. Lighting: No lights shall be installed on the system, unless required to meet other local, state, or Federal regulations.
- vii. Signage: Appropriate warning signage shall be placed at the entrance and perimeter of the solar farm. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency.

8. Power Plants

- a. The purpose of this section is to promote the effective, efficient and location of power generation facilities other than those previously listed in these Regulations. The goals of this section are to:
 - i. Require the placement and siting of power plants to be at a distance which will not harm residential structures in the vicinity;
 - ii. Require power plants to be located, to the extent possible, in areas where the adverse impact on the County is minimal
- b. Definitions:
 - i. A Power Plant is an industrial facility for the generation of electric power for the primary purpose of off-site use or resale. May also be referred to as a power station, generating station, or generating plant. This may include but is not limited to hydro power generation, nuclear power plants, biofuel generators, etc. This definition does not include power generation that is regulated elsewhere in these Regulations, i.e. wind energy and solar farms.
- c. Requirements:
 - i. Regulations: Must meet all state, federal, and local regulations regarding the uses.
 - ii. Setbacks: 300 feet from the project area boundary or road right of way.
 - iii. Noise: Measured from property lines
 1. Residential Use: 50 db(A)
 2. Commercial Use: 60 db(A)
 3. Industrial Use: 75 db(A)
 4. Hours of operation may be limited due to excess noise.
 - iv. Signage: Appropriate warning signage shall be placed at the entrance and perimeter of the solar farm. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency. Must not have any advertising signage attached to the facility.
 - v. Fencing/screening: Must be fenced or protected to prohibit unauthorized

access. Additional screening may be required to help screen the facility and accessory structures from major roads and neighboring residences.

9. Oil and Gas Development

- a. The purpose of this section is to promote the effective, efficient and safe use of the County's oil and gas resources through well development to ensure public health, safety and welfare will not be jeopardized. The goals of this section are to:
- i. Require the placement and siting of such wells to be at a distance which will not harm residential structures in the vicinity;
 - ii. Require oil and gas facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal;
- b. Definitions
- i. Abandoned Oil and Gas Activity: Any oil and gas activity is abandoned if it has been abandoned for a period of at least two (2) years.
 - ii. Derrick: Any portable framework, tower mast and/or structure which is required or used in connection with drilling or re-working a well for the production of oil or gas.
 - iii. Drilling Pad: The area of surface operations surrounding the surface location of a well or wells. Such area shall not include an access road to the drilling pad.
 - iv. Deviated Well: A well that is directionally or horizontally drilled resulting in a total deviation from the wellbore, measured from a perpendicular line descending from the surface opening of the wellbore of more than one hundred (100) feet.
 - v. Environmental Impact Study: The detailed study of the potential effects of designated development on the local environment.
 - vi. Fracking: The process of injecting customized fluids, sand, steam, or gas into a gas well under pressure to improve gas recovery.
 - vii. Hydraulic Fracking: The introduction through a wellbore of fluid under pressure into a formation containing oil or gas for the purpose of creating cracks in the formation to serve as channels for fluids to move to or from the wellbore.
 - viii. Oil and Gas: Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling an oil or gas well.
 - ix. Oil and Gas Development or Development: well site preparation, construction, drilling, re-drilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment,

including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas.

- x. Oil or Gas Well: A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal.
 - xi. Oil or Gas Well Site: The location where facilities, structures, materials and equipment whether temporary or permanent, necessary for or incidental to the preparation, construction, drilling, production or operation of an oil or gas well. This definition also includes exploratory wells.
 - xii. Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an gas well or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.
 - xiii. Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.
 - xiv. Storage Well: A well, used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.
- c. Requirements
- i. Site Design/Development Plan: The applicant shall prepare and submit upon application of a conditional use permit a site design and development plan. At minimum the plan shall include all existing and proposed structures, well pad location(s), rights-of-way, pipelines, pertinent surface features, surface water and well locations within ¼ mile of the proposed drilling site, and retaining ponds. Applicant shall submit color photos of well location, and of area from well to north, south, east and west.
 - ii. Residential Setbacks: Any proposed drilling activity shall be setback from

all residential dwellings a minimum of 750'. The 750' setback requirements shall be waived if the dwelling owner submits a notarized statement declaring their acceptance of a lesser setback. The notarized statement shall be submitted with the Conditional Use Permit application materials.

- iii. Baseline Water: The applicant, at their expense, shall provide baseline water testing analysis as a part of the Conditional Use Permit application. The testing must be completed by a qualified professional licensed or certified in the state of Montana. A minimum of 4 samples will be required within ¼ mile of the proposed drilling activity. The samples shall consist of both ground and surface water when available. If there are no ground or surface water sources within a ¼ mile, the testing area shall be extended to ½ mile. In the event 4 testing sites are not located within ½ mile, the requirements shall be waived to include only the sources available. If a property owner will not allow the applicant to access the water sources for testing, this requirement shall be waived. Initial testing must occur within 12 months prior to setting a conductor pipe in a well or the first well on a multi-well site, or commencement of drilling an injection well. The baseline water testing shall account for the following:

- Arsenic
- Barium
- Benzene
- Calcium Carbonate
- Diesel Range Organics
- Ethane
- Ethene
- Ethyl benzene
- Fluoride
- Gasoline range organics
- Iron
- Magnesium
- Manganese
- Methane
- Nitrogen
- Selenium
- Sodium
- Specific Conductance
- Strontium
- Sulfate
- Toluene
- Total Dissolved Solids
- Total Petroleum hydrocarbons
- Xylene

- iv. Dust Mitigation Plan: The applicant shall provide a dust mitigation plan which identifies haul roads. These roads must be located so they are not directed through recreational, residential or rural residential areas to the extent possible. Dust free (site) access roads may be required near concentrated residential areas. The governing body shall approve the dust mitigation plan on a case-by-case basis.