

ZONING REGULATIONS

HELENA VALLEY

An Implementation Element of the
Lewis and Clark County Growth Policy



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SECTION 1 ADMINISTRATIVE PROVISIONS AND PROCEDURES

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101 Intent

This document shall be known as the Helena Valley Zoning Regulations (Regulations) and is adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 2, Montana Code Annotated (MCA) to promote the public health, safety, morals, and general welfare of the community. These Regulations have been established for the area known as the “Helena Valley Planning Area” as defined in the Lewis and Clark County Growth Policy Update – 2015, Volume 1 - Key Issues, and Volume 2 - Helena Valley Area Plan (Growth Policy); and as depicted on the map referenced in Appendix – A.

To achieve the above stated goals, these Regulations shall govern, but are not necessarily limited to, such issues as the height and size of buildings and structures, the size of yards and open space, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes in a manner consistent with the goals and objectives of the Growth Policy.

102 Conflicting Provisions

Whenever a provision of these Regulations, and any other law, ordinance, resolution, rule, Part-2 zoning, or regulation of any kind (other than Part-1 zoning), contain any restriction covering any of the same, or substantially the same, subject matter, whichever restriction is more restrictive or imposes a higher standard or requirement shall govern. However, wherever a Part-1 zone district is overlaid by Part-2 zoning, that Part-2 zoning shall have no effect whatsoever on the area of the Part-1 zoning; until and unless such Part-1 zoning may be repealed.

Unless otherwise specified, references within these Regulations to Lewis and Clark County agreements, plans, codes, ordinances, manuals, and other regulations shall refer to the version most recently approved or amended by the County.

103 Existing Permits, Easements, Development Guides, or Other Approvals

These Regulations are not intended to abrogate, annul, govern, or prevail over any permits, easements or agreements approved prior to the effective date of these Regulations, except as otherwise noted in Section 102.

104 Jurisdiction

These Regulations shall apply to all land (existing or future parcels) within the unincorporated area of Lewis and Clark County, Montana known as the Helena Valley Planning Area and as depicted on the zoning map referenced in these Regulations.

105 Fees

The Board of County Commissioners (BoCC) shall establish and adopt a schedule of fees to be paid by the applicant/developer to defray the expenses of the County in the review and hearing of all proposed actions relative to these Regulations.

106 Calculation of Time Period for Public Notice

When calculating the time period for publishing or posting a public notice or providing mailed notice to abutting (and other) landowners of a public hearing, the day of publishing, posting, or mailing will not be counted in the total number of days required. The day of the hearing shall be counted toward the total number of days required for the notification period. References to “days” in public notice requirements are to calendar days unless otherwise expressly stated.

107 Amendment of the Zoning Regulations - Procedure

107.01 Initiating Amendments. An amendment to the text of the Regulations or to the designation of zoning districts (the zoning map) may be initiated by the BoCC, the Zoning Administrator, the Consolidated City and County Planning Board (Planning Board), or one (1) or more residents or landowners within the jurisdictional area of the Regulations. The amendment procedure will be as provided in Section 76-2-205, MCA, and as otherwise set forth herein.

107.02 Application Requirements. When an amendment is proposed by anyone other than the BoCC, Planning Board or Zoning Administrator, the applicant must notify the Zoning Administrator and request a pre-application meeting. At the pre-application meeting, the Zoning Administrator will discuss the necessary information regarding the proposal, the application form and its submittal requirements, fees, timeline, and address any questions regarding the overall petition process to amend the Regulations. The submittal requirements shall include, but not be limited to:

107.02.1 A letter signed by at least one (1) landowner within the jurisdictional area of the proposed amendment;

107.02.2 A scaled vicinity map of the affected area(s) and surrounding one (1) mile area, clearly identifying the location of the property (when applicable);

107.02.3 A legal description of the boundaries of the proposed amended map area (when applicable);

107.02.4 A description of the existing land-use of the affected and all adjacent areas (when applicable);

107.02.5 A description of the anticipated impact upon all adjacent properties (when applicable);

107.02.6 A description of any previous request for a zone change or variance involving the parcel, as well as any action taken on previous requests.

107.02.7 A statement from the applicant which addresses the following considerations:

(a) Explains how the proposed amendment is in accordance with the Growth Policy;

(b) Explains how the proposed amendment is designed to: (i) Secure safety from fire, and other dangers; (ii) Promote public health, public safety, and general welfare; (iii) Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

(c) Explains how the proposed amendment addresses (i) the reasonable provision of adequate light and air; (ii) the effect on motorized and non-motorized transportation systems; (iii) compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas

around municipalities, as applicable; (iv) the character of the district and its peculiar suitability for particular uses; (iv) conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and (v) as nearly as possible, is made compatible with the zoning ordinances of nearby municipalities.

- 107.02.8 Application fee (available from the Lewis and Clark County Community Development and Planning Department (CDP)).
- 107.03 Determination of Complete Application. The Zoning Administrator shall determine whether the application and supporting materials are complete and sufficient. When an application is determined to be incomplete or insufficient, the Zoning Administrator shall provide written notice to the applicant indicating what information must be submitted for the review to proceed.
- 107.04 Planning Board Meeting. When the application is determined to be complete and sufficient, the Zoning Administrator shall schedule a public meeting before the Planning Board and provide public notice in accordance with the notice requirements set forth in Section 76-2-204, MCA.
- 107.05 Staff Report. The Zoning Administrator shall prepare a staff report that describes the proposed amendment and gives consideration to the amendment criteria set forth in Section 107.
- 107.06 Planning Board Meeting and Consideration. The Planning Board shall conduct a public meeting on the proposed amendment and, after considering the application, the staff report, public comments, the amendment criteria, these Regulations and all other relevant information, shall make a recommendation to the BoCC. The Planning Board shall provide a written report of its recommendation to the BoCC.
- 107.07 Board of County Commissioners' Hearing. Following receipt of the Planning Board's recommendation, the Zoning Administrator shall convey the Planning Board's recommendation and public comment to the BoCC and the BoCC shall schedule a public hearing and provide public notice in accordance with Section 108. At the hearing, the BoCC shall provide an opportunity for the public to be heard.
- 107.08 Resolution. After the public hearing, the BoCC shall give consideration to the application, the staff report, the recommendation from the Planning Board, public comments, the amendment criteria, these Regulations and all other relevant information and may make such revisions or amendments to the proposed amendment as it deems proper. The BoCC may pass a Resolution of Intention to amend these Regulations. If the BoCC passes a Resolution of Intention, the BoCC shall publish notice of passage of the Resolution of Intention in accordance with the requirements of Section 76-2-205(5), MCA.
- 107.09 Final Action. Following the 30-day period prescribed in Section 76-2-205(5), MCA and in accordance with the relevant portions therein, the BoCC may, within thirty (30) days thereafter, adopt a resolution amending these Regulations and promptly notify the applicant of its determination.

107.10 Amendment Criteria. For all requests to amend these Regulations, the following criteria and guidelines shall apply:

107.10.1 Zoning amendments shall be made as follows:

- (a) In accordance with the Growth Policy;
- (b) To secure safety from fire and other danger;
- (c) To promote public health, safety and general welfare; and
- (d) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

107.10.2 In reviewing and making recommendations or decisions on zoning amendments, the Zoning Administrator, Planning Board and BoCC shall also consider:

- (a) The reasonable provision of adequate light and air;
- (b) The effect on motorized and non-motorized transportation systems;
- (c) Compatible urban growth in the vicinity of cities and towns that at a minimum must include the areas around municipalities;
- (d) The character of the zoning district and its peculiar suitability for particular uses;
- (e) Conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdictional area; and
- (f) Compatibility with zoning regulations of nearby municipalities.

107.11 Effective Date of Zoning Regulation Amendments

Amendments approved by the BoCC shall become effective immediately upon approval of a Resolution of Adoption by the BoCC.

108 Public Notice Requirements for Amendments

108.01 Notice Procedure.

108.01.1 For actions to amend the Regulations and/or the Zoning Map pursuant to Section 107, post a notice in at least five (5) public places at least forty-five (45) days prior to a public hearing, in compliance with Section 76-2-205(1), MCA.

108.01.2 Publish a notice once a week for two (2) weeks in a newspaper of general county circulation, with at least six (6) days separating each publication.

108.02 Notice Content.

108.02.1 Public notice shall contain:

- (a) A brief statement of the type of application being sought or action being proposed, and for proposed or amendments to zoning regulations the general character of those proposed regulations;

- (b) The location of the subject property, or the boundaries of a proposed or amended zoning district;
- (c) The date, time, and place of the public hearing or other action; and
- (d) A statement that the application or proposed action is on file for public inspection at the Community Development and Planning Office and, for proposals to create or amend a zoning district under Section 107, the application or proposed action shall also be available for review at the Lewis and Clark County Clerk and Recorder office.

109 Violations

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of these Regulations, the County, as set forth in Section 76-2-211, MCA, in addition to other remedies, may institute any appropriate action or proceedings to:

- 109.01 Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- 109.02 Restrain, correct, or abate a violation;
- 109.03 Prevent the occupancy of the building, structure, or land; or
- 109.04 Prevent any illegal act, conduct, business, or use in or near the premises.
- 109.05 For the purposes of enforcing the above noted subsections 109.01 – 109.04, the County shall attempt to obtain voluntary compliance at least thirty (30) days before filing a complaint for a violation of this part that is subject to the penalties as noted in Section 110, and in Title 76, Chapter 2, Part 2, MCA.
- 109.06 The BoCC may appoint enforcing officers to supervise and enforce the provisions of these Regulations.

110 Penalties

A violation of these Regulations is a misdemeanor and shall be punishable by a fine not exceeding five hundred (500) dollars or imprisonment in the county jail not exceeding six (6) months or both pursuant to Section 76-2-211, MCA. Each day constitutes a separate violation.

111 Zoning Administrator

The BoCC shall appoint a Zoning Administrator to administer and enforce the provisions of these Regulations. It shall be the duty of the Zoning Administrator and the Zoning Administrator's designees to:

- 111.01 Enforce the provisions of these Regulations;
- 111.02 Keep records of all zoning proceedings;

- 111.03 Accept and process applications and fees in accordance with these Regulations;
- 111.04 Update the Regulations as approved by the BoCC;
- 111.05 Interpret the Regulations and zoning district boundaries consistent with the intent of the Regulations and statutory authority;
- 111.06 Issue such permits as may be approved by the BoCC, the Board of Adjustment, or otherwise, and ensure compliance with such permits;
- 111.07 Investigate allegations of non-compliance or violations of these Regulations;
- 111.08 Make such recommendations to the Planning Board or BoCC for amendments to these Regulations; and
- 111.09 Take such other actions as are needed or appropriate to carry out the terms of these Regulations.
- 112 Severability
If any portion of these Regulations is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the Regulations and in no way affects the validity of the remainder of the Regulations.

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SECTION 2 GENERAL REQUIREMENTS AND EXCEPTIONS

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201 Zone Districts

The following zoning districts are hereby established to implement these Regulations:

- Urban Residential Mixed-Use Zone District (UR)
- Suburban Residential Mixed-Use Zone District (SR)
- Rural Residential Mixed-Use Zone District (RR)
- Fort Harrison Urban Growth Area Zone District (FHUGA)
- Fort Harrison Rural Growth Area Zone District (FHRGA)

202 Overlay Districts

In order to recognize special areas, and to afford flexibility in development design within the Helena Valley Planning Area, the following overlay district is hereby established:

- (a) Planned Development Overlay District (PD)

203 Incorporation of Maps

The location and boundaries of the zone districts hereby established by these Regulations are shown on the "Helena Valley Zone District Map of Lewis and Clark County", hereafter referred to as the Zoning Map, incorporated herein and made a part hereof.

204 Zone District Boundaries

District boundaries are shown on the Zoning Map. However, where uncertainty exists as to the boundaries of a district, the following rules shall apply:

- 204.01 A boundary indicated as approximately following the center line of a street, highway, streambed, railroad right-of-way (R-O-W), or alley shall be construed to follow such center line.
- 204.02 A boundary indicated as approximately following the right-of-way or easement line of a street, highway, or alley shall be construed to follow such right-of-way line or easement, and in the event of a change in such R-O-W or easement line the zoning boundary shall be construed as moving with the R-O-W or easement line.
- 204.03 A boundary indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- 204.04 A boundary indicated as parallel to or an extension of features indicated in subsections 204.01 - 204.03 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- 204.05 Disputes concerning the exact location of any district boundary line shall be decided by the Zoning Administrator.
- 204.06 All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone / classification area as the property immediately abutting upon such streets, alleys, public ways, waterways and railroad rights-of-way.
- 204.07 Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning/classification of such areas, unless otherwise

specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

205 Exclusion of Uses

Uses not specifically listed, or reasonably similar to those uses listed, in any particular zone district shall be deemed to be excluded from the particular zone district.

Uses listed in any particular zone district shall be deemed to be excluded from any other zone district, unless such use is specifically listed in the other zone district.

206 Inclusion of a Use Not Listed

Uses not listed may be interpreted for inclusion in a specific zone district by the Zoning Administrator when such use is reasonably similar to those uses listed.

Uses not specifically listed, or not reasonably similar to those uses listed, or not interpreted for inclusion by the Zoning Administrator, in a specific zone district, may be added to the appropriate zone district upon the approval by the BoCC in accordance with the procedure set forth in Section 107.

207 Community Decay and Litter

All land must be in compliance with the Lewis and Clark County *Ordinance to Control Community Decay* (Document No. 3152137), as amended, and *Ordinance No. 2013-01: An Ordinance to Control Litter in Lewis and Clark County and Establishing Procedures for its Enforcement* (Document No. 3247987), as amended, on file with the Lewis and Clark County Clerk and Recorder.

208 Minimum Area

208.01 The area of a lot required for the purpose of complying with the provisions of these Regulations shall not be included as part of the area required for another lot.

208.02 A minimum lot area shall not be required for public facilities, public services, utility service facilities, telecommunication facilities, or major facilities of a public utility and telecommunication facilities.

208.03 Lots conforming to the minimum lot area requirements of a zone district that are reduced in land area due to land acquisition by a governmental entity shall be considered conforming to the minimum lot area requirements of the specific district for principal uses, accessory uses, conditional uses, and special exception uses, as if its size had not been reduced.

208.04 Lots approved to be created through the exemption process as listed in Section 76-3-207, MCA shall comply with all aspects of these Regulations, including but not limited, to lot size.

208.05 Lots approved to be created through the exemption process as listed in Section 76-3-201, MCA shall comply with all aspects of these Regulations, however, are exempt from the zone district minimum lot size.

209 Lot Requirements

Buildings must conform to the dimensional standards for a lot as follows:

209.01 Lot coverage may not exceed the limitations of the zone/district within which the lot is located.

209.02 The standards for setbacks of buildings from property lot lines are:

209.02.01 No portion of any building, including decks, with the exception of roof eaves (2-foot maximum overhang), fences, stair steps, and landscaping ornaments, may be located in any lot line setback.

209.02.02 A lot that has more than one front lot line must provide a front lot line setback for each front lot line. When a lot has more than one front lot line, the remaining lot lines are rear lot lines and no side lot line setback is required. The remaining rear lot lines must meet the minimum rear lot line setback for the zone/district in which it is located.

209.02.03 The vehicular entrance of a garage must be set back at least twenty (20) feet, measured in a straight line from the vehicular entrance of the garage to the lot line of the property that abuts the public street/road right-of-way or the public street/road right-of-way itself, whichever is closest to the garage, and has a driveway approach.

209.03 The standards for height of buildings are:

209.03.01 A building or structure may not exceed the height limitations of the zone/district within which it is located.

209.03.02 Height limitations for any zone/district do not apply to the following: roof mounted church spires, penthouses or domes not used for human occupancy, belfries, cupolas, chimneys, water tanks, elevator housings, roof mounted solar energy systems, skylights, ventilators, silos, parapet walls, cornices, antennas, streetlights, utility poles, and necessary mechanical appurtenances usually carried above the roof level.

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SECTION 3 DEFINITIONS

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301 Rules of Construction

- 301.01 The particular controls the general.
- 301.02 In case of any difference of meaning or implication between the text of these Regulations and the captions for each section, the text shall control.
- 301.03 The words "shall", "must", and "will" are always mandatory, and not merely directory. The word "may" is permissive.
- 301.04 Words used in the present tense include the future, unless the context clearly indicates the contrary.
- 301.05 Words used in the singular number include the plural, and words used in the plural number include the singular, unless the context clearly indicates the contrary.
- 301.06 A "building" or "structure" includes any part thereof. A "building or other structure" includes all other structures of every kind, regardless of similarity to buildings.
- 301.07 The phrase "used for," includes "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- 301.08 The word "lot" includes the words "tract of record" or "parcel".

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302 Definitions

Unless specifically defined in this section, or otherwise determined by the BOCC, words or phrases used in these Regulations shall be interpreted so as to give them the meaning they have in common usage in the English language, and to give these Regulations their most reasonable application.

Abandoned: The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abutting: Having a common border with or separated from such a common border by a (public and/or private) right-of-way, alley, or easement (for such features including but not necessarily limited to, streets, railroads, or irrigation canals.) When a common border is simply via a corner-to-corner connection, the subject lot and/or parcel shall be deemed to be abutting, adjacent, or adjoining. (*also see "adjacent" and "adjoining"*)

Accessory Structure: A subordinate structure detached from but located on the same lot as the principal structure, the use of which is incidental and accessory to that of the principal structure.

Accessory Use: A use naturally and normally incidental to, subordinate to and devoted exclusively to the principal use.

Adjacent: Having a common border with or separated from such a common border by a (public and/or private) right-of-way, alley, or easement (for such features including but not necessarily limited to, streets, railroads, or irrigation canals.) When a common border is simply via a corner-to-corner connection, the subject lot and/or parcel shall be deemed to be abutting, adjacent, or adjoining. (*also see "adjoining" and "abutting"*)

Adjoining: Having a common border with or separated from such a common border by a (public and/or private) right-of-way, alley, or easement (for such features including but not necessarily limited to, streets, railroads, or irrigation canals.) When a common border is simply via a corner-to-corner connection, the subject lot and/or parcel shall be deemed to be abutting, adjacent, or adjoining. (*also see "adjacent" and "abutting"*)

Administrative Government Agency: Any department, commission, independent agency, or instrumentality of the United States or of a state, county, city, or other governmental unit primarily engaged in overall management and supervisory functions, such as executive, personnel, finance, and legal activities, performed in a single location or building for other branches or divisions of the same agency.

Administrative Services: Services provided to businesses such as data processing centers, public relations, advertising, and customer service centers via telecommunications.

Agriculture: For the purposes of these Zoning Regulations, Sections 41-2-103 and 81-8-701, MCA, as amended, shall rule.

Agriculture Supply Sales: The retail sale of goods and products unique to and directly related to farming and ranching operations, including agricultural supplies and equipment and machinery sales and repair.

Aircraft Hangar: A building or structure designed to hold aircraft.

Airport: Any area of land (including buildings and water bodies) designed for the landing, take-off, loading, unloading, or parking, of aircraft (fixed-wing or rotary) for business or commercial purposes and generally intended for both public and private use, including all necessary facilities for passenger and cargo loading, fixed based operations (FBOs), maintenance and fueling facilities and housing of aircraft.

Airstrip: An area designed for the landing or take-off of aircraft (fixed-wing or rotary) for the benefit of the landowner/lessee and not to be used for commercial purposes. Generally, as a paved, graveled, or dirt surface for a non-FAA sanctioned airport operation.

Alteration: A change or rearrangement of the structural parts of existing facilities or an enlargement by extending the sides or increasing the height or depth or moving a building or structure from one location or position to another.

Animal Boarding: See Kennel.

Animal Shelter: A place that temporarily houses stray animals and may include a crematorium.

Animal Therapeutic Facility: Therapy that involves individuals interacting with animals, most frequently, but not limited to, horses using specially trained therapists that work with the individual and the animal.

Animated Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Changeable Copy, Digital, Electronic Sign)

Annexation: The process by which land in an unincorporated area becomes part of a nearby municipality.

Apiculture: The keeping and management of honey bees.

Applicant: Any person, firm or corporation, or other entity that proposes an application under these Regulations; often also referred to as an Authorized Representative.

Approach: The point where a driveway meets a road or where a road intersects another road.

Artisan Shop: A place used or intended for creating works of art or small scale production of handmade craft items, including paintings, sculptures, pottery, jewelry, handblown glass, small wooden items, candles, soaps, and lotions.

Auction Sales: Sales by auctioning consumer products, but excluding vehicle and livestock auctions.

Batch Plant, Concrete, Mortar, or Asphalt: A site, together with its accessory facilities, where sand, gravel, cement and various petroleum derivatives are compounded to manufacture concrete, mortar or asphalt. (not a Temporary Batch Plant)

Bed and Breakfast: A private, owner- or manager-occupied residence that is used as a private residence but in which: 1. breakfast is served and is included in the charge for a guest room; and 2. the number of daily guests served does not exceed eighteen (18).

Board of Adjustment (BOA): An appointed board authorized under Title 76, Chapter 2, Part 2, MCA, with the authority to hear and decide administrative appeals and variances from the requirements of these Regulations.

Board of County Commissioners (BoCC): The Board of County Commissioners of Lewis and Clark County; sometimes referred to as the “governing body”.

Boarding/Rooming House: A building in which separate sleeping rooms are rented that provide sleeping accommodations for three (3) or more persons on a weekly, semimonthly, monthly, or permanent basis, whether or not meals or central kitchens are provided but without separated cooking facilities or kitchens within each room, and whose occupants do not need professional nursing or personal-care services to be provided by the facility.

Borrow Site: A site used for the extraction of earthen materials such as sand, gravel, rock, dirt, etc., where the material is removed from the legally described site and characterized by a short-term operation and removal of a limited quantity of earthen material.

Buffer Area: An area of land established to separate and protect one type of land use from another, to screen from objectionable noise, smoke or visual impact, or to provide for future public improvements or additional open space.

Building: A structure, including its projections and extensions, constructed for support, shelter, or enclosure of persons, animals, chattels, or property of any kind.

Building Envelope: The designated area of a lot within which a structure(s) can be built and which is depicted or described on a certificate of survey, plat, covenant, deed, or other document filed or recorded with the Lewis and Clark County Clerk and Recorder.

Building Height: The vertical distance above a reference datum measured to the highest point of the coping of a flat roof, the deck line of a mansard roof, and for a pitched or hipped roof, the average height of the highest gable. The reference datum is either of the following, whichever yields a greater height of building:

1. The elevation of the highest adjoining sidewalk or ground surface within a five (5) foot horizontal distance of the exterior wall of the building when such sidewalk or ground surface is not more than ten (10) feet above lowest grade.
2. An elevation ten (10) feet higher than the lowest grade when the sidewalk or ground surface described in Subsection 1 of this definition is more than ten (10) feet above lowest grade.
3. The height of a stepped or terraced building is the maximum height of any segment of the building.

Bulk Requirements: Include, but are not limited to, the standards that regulate the minimum area of a lot, the setback from lot lines for all structures, the maximum height of all structures, and the cumulative permitted lot coverage for all structures.

Bus Terminal: A place used for the service and storage of buses, loading and unloading of bus passengers and freight, and includes facilities for ticket sales and food service that are primarily intended for bus passengers.

Camp/Retreat Center: A centrally managed facility that provides full service lodging, dining, or cooking facilities, and on-site recreational activities for overnight guests or members. A camp/retreat center may include an organized program of activities such as hunting, fishing, nature study, arts, Nordic skiing, snowmobiling, boating, rafting, horseback riding, hiking, and/or pack trips. A camp/retreat center may also include corporate or religious retreats or conference facilities. Activities shall be provided on-site to the extent possible. Adjacent lands and waterways may be used to supplement on-site activities if required licenses, permits, and/or agreements are obtained.

Campground/RV Park: A place for camping using tents, cabins, or recreational vehicles. This includes accessory uses such as a laundromat and retail sales for the convenience of campground guests.

Carnivals and Circuses: A traveling amusement show that is open to the public and usually includes rides, games, sideshows, and animals.

Casino: An establishment licensed for on premises consumption of alcoholic beverages which:

1. Is licensed for and has six (6) or more video gaming machines or gambling devices; or
2. Is licensed for and used to conduct any of the following types of gambling: calcutta pools, live card games, live card game tournaments, and live keno.

Cemetery: A place and/or building, or portion thereof, that is used, or is intended, for the interring / burial of the deceased. A cemetery may include associated uses such as columbarium's, crematories, and mausoleums.

Centralized Wastewater Treatment System: See Wastewater Treatment System, Centralized.

Centralized Water System: See Water System, Centralized.

Certificate of Survey (COS): A drawing of a field survey prepared by a registered land surveyor for the purpose of disclosing facts pertaining to boundary locations and parcel features.

Changeable Copy Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Animated, Digital, and Electronic Sign)

Church: See Worship Facility.

Clinic, Dental or Medical: A facility licensed and used for the provision of medical, dental, surgical or mental health care of the sick or injured but excluding therefrom inpatient and overnight accommodations.

Cluster Development: A grouping of lots designed to concentrate building sites onto a smaller area in order to reduce capital and maintenance costs for infrastructure through the use of concentrated public services and utilities, while allowing adjacent lands to remain undeveloped.

Community Center: A building, or portion thereof, used for short term and intermittent meetings or gatherings of individuals that are generally open to the public for purposes of recreation, sharing information, entertainment, socializing, or similar activities, and includes fraternal, social or civic clubs, lodges, and union halls.

Community Cultural Facility: A place used for studying, reading, personal education, or for viewing the visual arts such as libraries, museums, art galleries, and observatories, but not the performing arts.

Community Residential Facility:

Community Residential Facility (Type I): A community residential facility serving twelve (12) or fewer individuals.

Community Residential Facility (Type II): A community residential facility serving thirteen (13) or more individuals.

Includes the following:

1. A facility licensed by a governmental agency and providing care on a twenty-four (24) hour a day basis and as defined by State law:
 - (a) A community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care.
 - (b) A youth care facility in which substitute care is provided to youth, including youth foster homes, kinship foster homes, youth group homes, youth shelter care facilities, childcare agencies, and transitional living programs, but excluding youth assessment centers.
 - (c) An adult foster family care home.
 - (d) A halfway house operated in accordance with regulations of the Montana Department of Public Health and Human Services for the rehabilitation of persons dependent on drugs and/or alcohol.
 - (e) An assisted living facility.
2. A maternity home, including administrative offices, services for childcare, counseling, classroom training, independent living training, and support groups.

Composting Facility: A place used for collecting, processing, and mixing leaves, straw, grasses, and other like vegetable matter with other materials to produce fertilizer and soil conditioner, including storage and manipulation of materials prior to, during, and following composting.

Conditional Use: A use that may be allowed in a specified zone district(s) if the use meets certain requirements. However, without the additional requirements of the conditional use process, it would likely not be appropriate throughout the zoning district.

Conditional Use Permit: The documented evidence of authority granted by the Board of County Commissioners to locate a conditional use at a particular location.

Condominium: A legal form of individual ownership with unrestricted right of disposal of one or more units in a multiple unit project with the land and all other parts of the project held in common ownership or use with owners of the other units. The term does not include a townhome, a townhouse, a community land trust, or a housing unit located on land belonging to a community land trust.

Consolidated City and County Planning Board: (CCCPB), also see "Planning Board".

Conservation Easement: An easement or restriction, running with the land and assignable, whereby an owner of land voluntarily relinquishes to the holder of such easement or restriction any or all rights to construct improvements upon the land or to substantially alter the natural character of the land or to permit the construction of improvements upon the land or the substantial alteration of the natural character of the land, except as this right is expressly reserved in the instruments evidencing the easement

or restriction as defined by Sections 76-6-101 through 76-6-110 and Sections 201 through 212, MCA. A conservation easement may also prohibit the further subdivision, division, or development of the open space lots or parcels, as provided for in Sections 70-17- 201 through 70-17-206 and 76-3-509, MCA.

Construction Material Sales: The wholesale or retail sale of bulk construction materials such as roofing, lumber, bricks, and component building parts. This term does not include on site manufacturing of construction material.

Contractor Yard: A place used for the storage of construction material, machinery, or repair, including trucks and heavy equipment, shops, and office space.

Correctional Facility: Includes County prisons and jails for the detention of persons awaiting trial or sentenced as punishment for criminal offenses, including youth detention facilities.

Country Inn/Guest Ranch: A private residence other than a hotel, motel, or multiple-unit dwelling, having nine (9) to fifteen (15) guestrooms, that may serve meals to its guests, and may provide space for group functions and events.

County: Lewis and Clark County, Montana

Crematorium: A place used for the cremation of human dead.

Daycare Facility:

A facility which provides daily care and supervision of children, or persons with a disability, or elderly adults, not related by blood or marriage, and not the legal ward of the attendant adult. A day-care facility shall be in compliance with State regulations and, if required by the State, must be registered or licensed.

Adult Daycare: A place that provides supplemental care for up to twelve (12) adults on a regular basis, operated by a public or private entity.

Daycare Center: A place that provides supplemental care for thirteen (13) or more individuals on a regular basis.

Family Daycare: A private residence or other structure in which supplemental care is provided on a regular basis for six (6) or fewer children.

Group Daycare: A private residence or other structure in which supplemental care is provided on a regular basis for seven (7) to twelve (12) children.

Density: The number of units per area of measure, for example, the number of dwelling units per acre.

Department: The Lewis and Clark County Community Development and Planning Department (CDP)

Developer: An owner, or any person authorized by the owner, who intends to improve or to construct improvements upon the owner's property.

Digital Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Animated, Changeable Copy, and Electronic Sign)

Driveway: An access point onto a road that services a residential or non-residential parcel of land; it is not a street or roadway.

Dwelling Unit: Any building, or portion thereof, designed to provide complete, independent, and permanent living facilities for one family.

Easement: A right to use land, other than as a tenant, for a specific purpose; such right being held by someone other than the owner who holds title to the land. An easement may be for either public or private benefit. An easement is not the same as a setback.

Educational Facility (Higher Education): A place and/or building, or portion thereof, for colleges, universities, community colleges, and vocational schools.

Educational Facility (K-12): A place and/or building, or portion thereof, for pre-schools, elementary, middle/junior high, or high schools.

Electronic Sign: A class of signs, utilizing electronic, mechanical, or computer technology (and/or any combination thereof), and with the capability of a changeable display of graphic images or message content. (see Animated, Changeable Copy, and Digital Sign)

Emergency Shelter: Temporary housing and ancillary services for primarily indigent, needy, homeless, or transient individuals, including crisis intervention centers.

Equipment Rental: Rental equipment and supplies, such as hand tools, party equipment, lawn care, yard equipment, trucks, vertical lifts, forklifts, backhoes, heavy equipment, and modular buildings.

Equipment Rental, Large: Rental of large equipment and supplies, including trucks, vertical lifts, forklifts, backhoes, heavy equipment, and modular buildings.

Equipment Rental, Small: Rental of small equipment and supplies, including hand tools, party equipment, lawn care, and yard equipment.

Existing Licensed Premises: Premises that were licensed, or which had a pending application before the Montana Department of Revenue, for the retail sale of alcoholic beverages for on-premises consumption prior to the enactment of these zoning Regulations and which have continuously operated under said license(s).

Extractive Industries: Mining operations involving the removal and processing of natural accumulations of sand, rock, soil, gravel, and/or any mineral. The site may also include areas for commercial operations (retail or wholesale) of the sand, rock, soil, gravel, or any mineral.

Family: One (1) or more persons related by blood, marriage, or adoption, and/or a group of persons, not related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

Financial Services: Banking and financial services such as banks, savings and loan institutions, lending institutions, and check cashing facilities, but not including automated teller machines that are an accessory use to other commercial enterprises.

Forestry: The act of planting and managing trees and forests.

Freight Terminal: A place and/or building, or portion thereof, that is used or is intended for unloading, loading or storage of freight for routing or reshipment.

Fuel Tank Farm: The commercial bulk storage of petroleum products or any other fuel.

Funeral Home: A place and/or building, or portion thereof, used or intended for the care and preparation of human dead for burial; the term includes mortuaries.

Garage:

Private - A building, or portion thereof, including carports, in which motor vehicles used by the landowners, resident tenants, or their guests, are stored or kept.

Public - A building, or portion thereof, other than a private garage, used for the parking of automobiles. A public garage may include above and below ground structured parking.

General Repair: A place and/or building, or portion thereof, that is used or is intended for the repair of consumer goods such as shoes, bicycles, appliances, business equipment, small engine repair such as lawn mowers and snowblowers, and the like. The term does not include repair of vehicles or industrial equipment.

General Retail Sales: The retail sale of a diverse product line of consumer goods and products.

General/Professional Services: A place and/or building, or portion thereof, that is used or is intended for providing professional and personal care services where customers come to the property for the service, including services such as engineering, accounting, legal, architectural, surveying, medical, dental, real estate, insurance, photography, fitness, weight loss, postal, hairstyling, pet grooming, copying and printing, and laundry and dry-cleaning services.

Greenhouse/Plant Nursery: A place and/or building, or portion thereof, used for the propagation, cultivation or growing of nursery stock such as flowers, bulbs, plants, trees, shrubs or vines, may include wholesale and retail sales of product propagated, cultivated, or grown.

Gravel Pit: See Extractive Industries.

Grade: The elevation of the finished surface of the ground.

Growth Policy: The Lewis and Clark County Growth Policy, as may be amended from time to time by the Board of County Commissioners.

Healthcare Center: A place providing medical services for prevention, diagnosis, treatment, or rehabilitation, including dental clinics, doctors' offices, and outpatient medical facilities.

Healthcare Facility: A place used or intended to provide health services, medical treatment, nursing care, or rehabilitative or preventive care to any person or individual. This term includes ambulatory surgical facilities, hospitals, kidney treatment centers, long term care facilities such as hospitals and nursing

homes, medical assistance facilities, mental health centers, public health centers, residential treatment facilities, and rehabilitation facilities.

Heliport: Any area used by helicopters for commercial or business purposes, including landing and take-off, passenger and cargo loading, maintenance and fueling facilities.

Home Occupation: See Section 16.

Horticulture: The production, keeping, maintenance, or cultivation of a garden or orchard to grow fruits, vegetables, flowers, or ornamental plants, excluding medical marijuana grow operations.

Hospital: See Healthcare Facility.

Hotel: A building or group of attached or detached buildings containing individual sleeping or living units, designed or used for temporary accommodation of guests for compensation.

Indoor Entertainment, Sports, and Recreation: A place and/or building, or portion thereof, that is used for indoor activities such as movie theaters, dance halls, theaters for performing arts, bowling alleys, skating rinks, billiard and pool halls, arcades, rifle and pistol ranges, athletic clubs, courts and training centers, and gyms.

Industrial Park: A planned and coordinated development designed to accommodate a variety of and more than two (2) industrial uses with common systems of access and service and combined parking areas, where the uses meet the overall land area requirements, but make use of different combinations of building uses, or where standards are established for appearance of buildings and grounds by common consent.

Industrial Uses: The activities predominantly connected with manufacturing, assembling, processing, or storing of products.

Industrial, Heavy: The processing or manufacturing of materials or products predominantly from extracted or raw materials; storage of or manufacturing processes using flammable or explosive materials; or storage of or manufacturing processes that potentially involve hazardous or offensive conditions. Typical uses include motor vehicle assembly, oil refineries, textile production, sawmills, post and pole plants, log yards, asphalt and concrete operations, and primary metal processing.

Industrial, Light: The manufacturing of finished products or parts, predominantly from previously prepared materials, including assembly, processing, fabrication, treatment, packaging, incidental storage, sales, and distribution of such products, but excluding basic industrial processing. Typical uses include assembly of computers and electronics, testing and production laboratories, packaging of premade goods, furniture production, metal fabrication, apparel manufacturing, printing, and publishing.

Infrastructure: Public facilities and services that typically include, streets, sewers, water, schools, police and fire buildings, libraries, hospitals, parks, trails to serve public demand and safety.

Instructional Facility: A place that prepares students for jobs in trades or professions, including vocational schools, or offers training, instruction, or tutelage in areas such as performing arts and sciences.

Jail: See Correctional Facility.

Junkyard: A place for selling, exchanging, storing, cleaning, packing, processing, or otherwise handling salvage materials.

Kennel: A place housing any combination of five (5) or more dogs, cats, or other domesticated animals over six (6) months of age for the purpose of boarding, breeding, training, or sale, including dog training centers, but excluding animal hospitals, animal grooming parlors, and pet shops.

Landfill: An area of land or an excavation where wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well, or waste pile.

Landscape: Improvement to an area of land by the planting of a combination of trees, shrubs and ground covers.

Land Use: As the context would indicate, (1) the development that has occurred on the land; (2) development that is proposed on the land; or (3) the use that is permitted on the land under an adopted and legally enforceable regulatory framework.

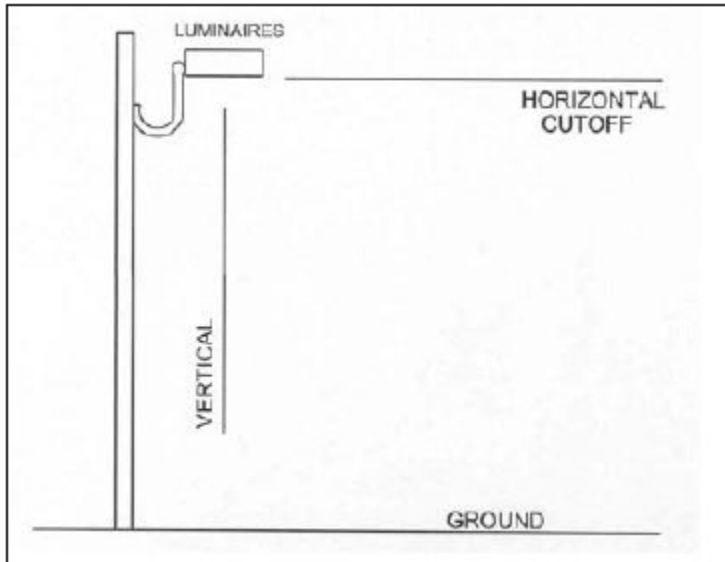
Land Use, Accessory: Any land use that is clearly incidental and subordinate to and customarily found with a principal land use.

Land Use, Principal: The dominant land use of a parcel of land.

Library: A public or non-profit facility in which books, periodicals, audio or video recordings, film, and comparable materials are kept for use or loaning to patrons of the facility. Such use may also offer the use of computers and the incidental or periodic sale of surplus books.

Light Fixture: A complete lighting unit (luminaire) consisting of a lamp or lamps and ballasting (when applicable) together with the parts designed to distribute the light, to position and protect the lamps, and to connect the lamps to the power supply.

Light Fixture - Full Cutoff: A luminaire light distribution where zero candela intensity occurs at an angle of 90 degrees above nadir, and at all greater angles from nadir.



Light Glare: The sensation produced by a light source that is sufficiently brighter than the ambient lighting level to which the eyes are adapted causing annoyance, discomfort, or loss in visual performance and visibility. The magnitude depends on such factors as the size, position, brightness of the source; and the brightness of the ambient lighting level.

Light Pollution: Any adverse effect of manmade light, including but not limited to, light trespass, up-lighting, the distraction to the eye, or any manmade light that diminishes the ability to view the night sky.

Light Source: Artificial light emitted directly from a fixture lamp, lens, or mirror. Light which is reflected after leaving the fixture does not constitute a light source.

Light Trespass: Any form of artificial illumination emanating from a light fixture that penetrates other property and creates a direct glare source that exceeds one-half ($\frac{1}{2}$) foot-candles in a vertical plane at the subject property line.

Loading Area, Off-street: An off-street space generally located at or near a building entrance to allow service pickups and deliveries by commercial vehicles.

Lot: See Tract of Record.

Lot, Corner: A lot at the junction of and fronting on two (2) or more intersecting streets.

Lot Coverage: The portion of a lot, stated in terms of percentage, that is covered by all buildings and structures located on the lot, but does not include the first two (2') feet of roof eave extensions measured from the outside wall of the building, uncovered decks, fences, walls, or pools.

Lot, Double-Fronted or Through: A lot having frontage on two (2) more or less parallel streets.

Lot, Flag: A lot with access provided by a narrower corridor from a street to the larger bulk area of the lot.

Lot, Interior: A lot that abuts only one (1) street.

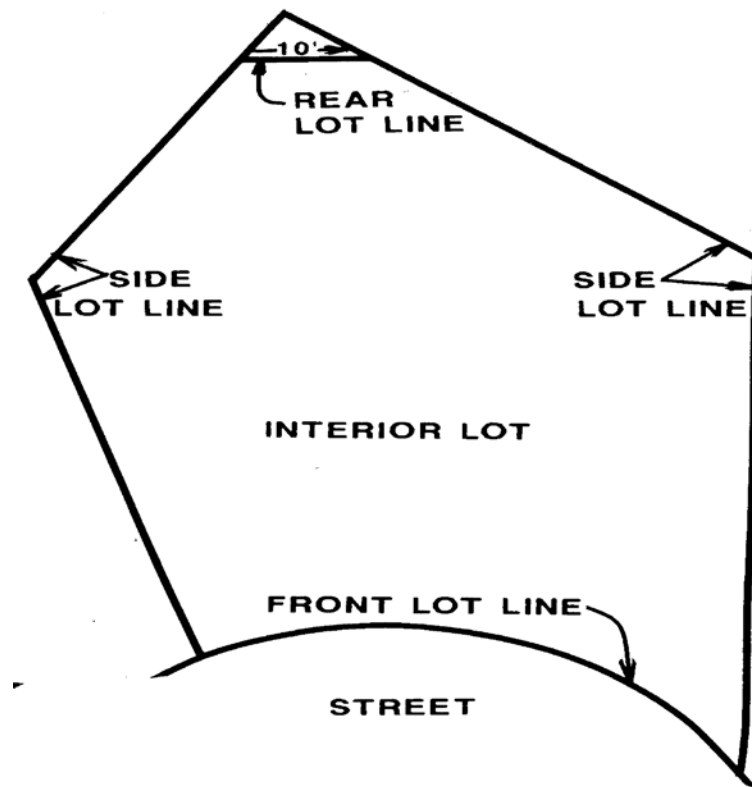
Lot Line: Any boundary of a lot. The classification of lot lines are:

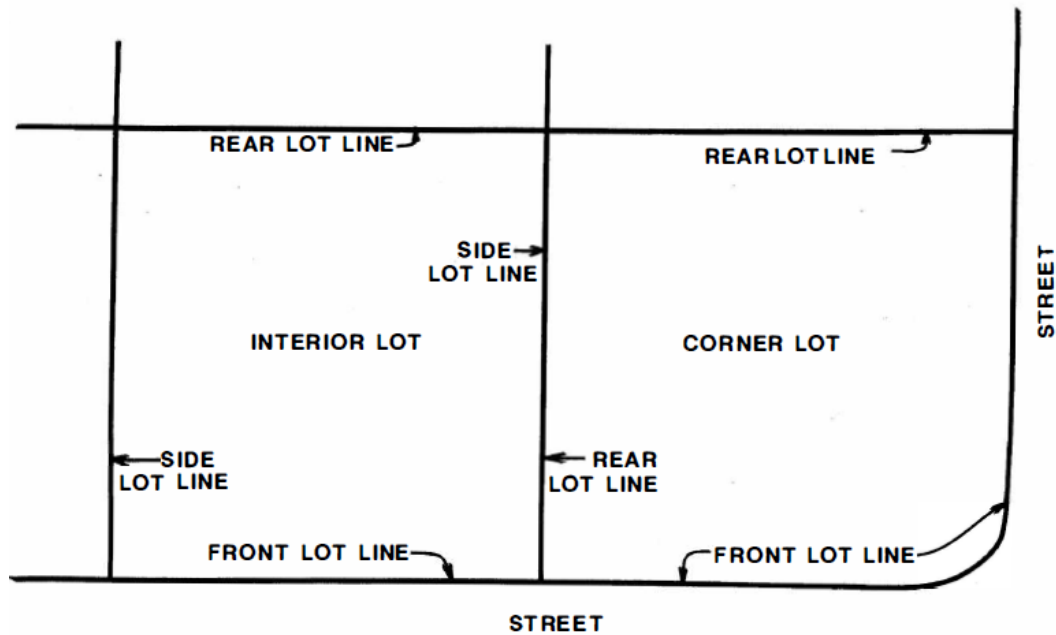
Front: The lot line bounding a lot that is adjacent to any street. On a corner lot or double-fronted lot, each lot line separating the lot from a street is considered a front lot line. (See Lot Line Diagrams)

Rear: The lot line opposite and most distant from the front lot line; however, for corner lots the rear lot line may be any lot line not abutting a street. For triangular, pie-shaped, or irregularly shaped lots the rear lot line shall be deemed to be a line within the lot having a length of ten (10) feet, parallel to and most distant from the front lot line for the purpose of determining required setbacks. (See Lot Line Diagrams)

Side: Any property boundary line which is neither a front lot line nor rear lot line. (See Lot Line Diagrams)

Lot Line Diagrams





M.C.A.: Montana Code Annotated or MCA (State of Montana statutes.)

Manufactured Home: A dwelling for a single household, built offsite in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least one thousand (1,000) square feet in size, has a pitched roof and siding and roofing materials that are customarily, as defined by local regulations, used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in Section 15-1-101, MCA.

Manufactured/Mobile/Modular Housing Sales: The on-site display and sale of mobile homes, modular homes, and manufactured housing.

Marijuana Dispensary: Premises, approved by the State of Montana as an “Adult-use Dispensary” or “Medical Marijuana Dispensary”, from which a provider of marijuana infused products dispenses marijuana related products to a registered medical marijuana cardholder and/or adults.

Marijuana Grow Operation: An enterprise or facility engaged in growing marijuana for commercial purposes.

Marijuana Provider: A person licensed by the State of Montana to assist a registered cardholder as allowed under Montana Code Annotated. The term does not include the cardholder's treating physician or referral physician.

Metes and Bounds: A method of describing or locating real property; metes are measures of length and bounds are boundaries; this description starts with a well-marked point of beginning and follows the boundaries of the land until it returns once more to the point of beginning

Mini-Storage Facility/Storage Facility, Self-Service: A place and/or building, or portion thereof, which is divided into multiple storage units or a parcel of land rented, leased, or owned for storage of personal property. The term includes a tract of land used to store vehicles that are not for sale or trade. Also known as mini-storage or mini- warehousing. An on-site manager/caretaker may reside at the facility.

Mobile Home: Forms of housing known as "trailers", "housetrailers", or "trailer coaches" exceeding eight (8) feet in width or forty-five (45) feet in length, designed to be moved from one place to another by an independent power connected to them, or any trailer, housetrailer, or trailer coach up to eight (8) feet in width or forty-five (45) feet in length used as a principal residence.

Mobile Home Park: A parcel of land that has been planned and improved for the placement of mobile and/or manufactured homes for residential use.

Mobile Home Space: The designated portion of a mobile home park designed for the accommodation of one mobile or manufactured home, and its accessory structure(s) for the exclusive use of the occupants.

Modular Home: A sectional, prefabricated dwelling unit residence set on a permanent foundation on the subject parcel, that consists of multiple modules or sections which are manufactured in a remote facility. A modular home does not include a manufactured or mobile home.

Motel: See Hotel.

Motor Vehicle Graveyard: A collection point, established by a county, for junk motor vehicles prior to their disposal.

Motor Vehicle Wrecking Facility: A facility buying, selling, or dealing in four or more vehicles a year, of a type required to be licensed, for the purpose of wrecking, dismantling, disassembling, or substantially changing the form of the motor vehicle, or a facility that buys or sells component parts, in whole or in part, and deals in secondhand motor vehicle parts. A facility that buys or sells component parts of a motor vehicle, in whole or in part, is a motor vehicle wrecking facility whether or not the buying or selling price is based upon weight or any other type of classification.

Noise Level (Ambient): The average equivalent sound level (LEQ) occurring during a six (6) minute period as measured with a sound level measuring instrument. The ambient noise level shall be determined with the noise source at issue silent, and in the same location and approximate time as the measurement of the noise level of the source at issue.

Non-Residential Use: Any use not requiring or providing facilities for individuals to live on the premises including uses of property or land containing or suitable for agricultural, commercial, recreational, or industrial purposes rather than private dwellings.

Noxious Weed: Any exotic plant species established or that may be introduced in the state which may render land unfit for agriculture, forestry, livestock, wildlife or other beneficial uses or that may harm

native plant communities and that is designated by the Montana Department of Agriculture or by a weed management district.

On-Site Construction Office: A temporary building used by a contractor as a field office for and during construction, with no overnight occupancy, that is removed when construction is complete.

Open Space: A place used for recreation or long-term preservation and conservation of wildlife habitat, cultural, historic, or natural resources, agricultural interests, or aesthetic values of its natural state.

Ordinary High-Water Mark: The line that water impresses on land by covering it for sufficient periods to cause physical characteristics that distinguish the area below the line from the area above it. Characteristics of the area below the line may include, but not be limited to, the deprivation of the soil of substantially all terrestrial vegetation and destruction of its agricultural value. A flood plain adjacent to surface waters is not considered to lie within the surface water's high-water marks.

Outbuilding: An accessory building or accessory portion of a principal or conditionally permitted building(s) to be used only for the shelter or storage of vehicles or other personal property owned or operated by the landowner.

Outdoor Entertainment Sports and Recreation: Leisure activities, usually organized and enjoyed with a gathering of others that may use equipment and take place at prescribed places, sites, or fields for permanent outdoor, spectator type uses or events, including racetracks, motocross courses, sports arenas, concerts, and zoos.

Owner of Record: The person or persons who are listed in the official County records as the legal owners of a tract of record.

Parcel: See Tract of Record.

Parent Parcel: The original tract or tracts of record from which new parcels are created.

Park: A place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public. The term includes developed and undeveloped areas and neighborhood recreation centers.

Parking Lot: An open area, other than a public right-of-way, used for public or private off-street parking of motor vehicles.

Parking Space, Off-Street: A space located off of any travel right-of-way / easement that is available for parking a motor vehicle.

Parking Structure: A multilevel structure used for off-street parking of motor vehicles.

Part 1 Zoning: Zoning adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 1, Montana Code Annotated.

Part 2 Zoning: Zoning adopted pursuant to the enabling authority of Title 76, Chapter 2, Part 2, Montana Code Annotated.

Permitted Use: Any use authorized alone or in conjunction with another use under a specified zoning classification and subject to the limitations of the Regulations of such classification. (see Principal Use)

Person: Any individual, corporation, governmental agency, business trust, estate, trust, partnership, association, two or more persons having a joint or common interest, or any other legal entity.

Planned Development: A tract of land developed as an integrated unit. The Planned Development Overlay Zone District (PD) is unique and based upon a plan which allows for flexibility of design, setting, and density not otherwise possible under the prevailing zone district Regulations.

Planning Board: The Consolidated City and County Planning Board, created pursuant to Title 76, Chapter 1, Part 1, MCA.

Plat: A graphical representation of a subdivision, which includes, but is not limited to the terms, Preliminary, Amended, and Final, as all such terms are more particularly defined within MCA and the most current adopted Subdivision Regulations of Lewis and Clark County, Montana.

Porch: A covered structure that has no solid walls and at least one open side that is attached to the front exterior of a building.

Prerelease Center: A community corrections facility or program as defined by state law.

Principal Building: A building in which the primary use of the lot/parcel on which the building is located is conducted.

Principal Use: The dominant, main, or primary use of a parcel of land. (see Permitted Use.)

Prison: See Correctional Facility.

Propane Distribution/Storage Facility: Any facility where the primary function is to store liquid petroleum gas prior to further distribution, where liquid petroleum gas is received by cargo tank motor vehicle, railroad tank car, or pipeline, and distributed by portable container delivery, by cargo tank motor vehicle, or through gas piping.

Public Safety Facility: A place used or intended to be used to house public safety services, including ambulance services, fire stations, police stations, emergency management, and courts.

Public Services: Services and facilities provided to the general community by government or quasi-public entities. Examples include roads and bridges, emergency services, schools and libraries, water and wastewater treatment systems, and solid waste disposal.

Railroad Yard: A place used for switching, loading, unloading, service, maintenance, and storage of railroad cars and engines.

Recreational Vehicle (RV): A vehicular type unit primarily designed as temporary living quarters for recreation, camping, or travel use that either has its own motor power or is mounted on or towed by another vehicle; and which can be operated independently of utility connections and designed to be used principally as a temporary dwelling for travel, recreation and vacation. The term includes, but is not limited to, travel trailers, camping trailers, truck campers, and motor homes.

Recreational Vehicle Park: See Campground.

Recreational Vehicle Space: A designated portion of a recreational vehicle park designed for the placement of a single recreational vehicle.

Recycling Facility: A place and/or building, or portion thereof, that is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. The term shall not include a junk yard.

Registered Architect: An individual licensed to practice architecture in Montana.

Registered Professional Land Surveyor: An individual licensed to practice surveying in Montana.

Registered Professional Engineer: An individual licensed to practice engineering in Montana.

Regulation: That which is required, unless an explicit exception is made.

Regulations: The Lewis and Clark County Helena Valley Zoning Regulations.

Renewable Energy Facility: A site, together with its accessory facilities, where energy is generated using renewable resources. Such sites may include but are not limited to solar farms, wind turbines, or geothermal facilities.

Research and Development Facility: A place and/or building, or portion thereof, that is intended to be used in the research and testing activities associated with discovering new or improved products, methods, processes, or services.

Residence:

Single-Dwelling Unit Residence: A single building situated on one (1) lot that contains one (1) dwelling unit for residential occupancy by one (1) family.

Two-Dwelling Unit Residence: A single building situated on one (1) lot that contains two (2) dwelling units for occupancy by two (2) families living separately from each other, also known as a Duplex-Dwelling Unit Residence, or two (2) buildings situated on one (1) lot that each contain one (1) dwelling unit for occupancy by one (1) family.

Multiple-Dwelling Unit Residence: In the RR District, Multiple-Dwelling Unit Residence is considered a single building on one (1) lot containing three (3) or more dwelling units for occupancy by three (3) or more families living separately from each other, including condominiums. In the UR and SR Districts, Multiple-Dwelling Unit Residence is considered a single building on one (1) lot that contains three (3) or more dwelling units for occupancy by three (3) or more families living separately from each other, or multiple buildings situated on one (1) lot that each contain one (1) or more dwelling units for occupancy by one (1) or more families, including condominiums. This definition excludes the first Two-Dwelling Unit Residence in which there are two separate buildings situated on the same lot that each contain one (1) dwelling unit

for occupancy by one (1) family when there are no other dwelling units located, or to be located on that same lot.

Residential Use: Any use of a residence by its occupants as a regular and consistent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only.

Restaurant: A place and/or building, or portion thereof, that is used or is intended for the preparation and sale of food and beverages primarily for immediate consumption on the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery store with a food service section.

Restaurant, Drive-in: Any retail establishment preparing and serving food or drink that is not consumed solely within the confines of the building in which the food is prepared.

Rezoning: A revision of the Helena Valley Zone District Map.

Right-of-Way: That land which the Montana Department of Transportation, County or City has title to, or right of use, for public roads and appurtenances, including utilities. A strip of land dedicated or acquired for public use as public way.

Riparian Area: Defined by the University of Montana's Riparian and Wetland Research Program as the "green zone", which lies between channels of flowing water and uplands, and which serves several functions, including the following: water storage and aquifer recharge; filtering of chemical and organic wastes; sediment trapping; bank building and maintenance; flow energy dissipation; and primary biotic production. Riparian areas provide important habitat for many species of wildlife.

Satellite Earth Station: A telecommunication facility consisting of multiple satellite dishes for transmitting and receiving signals from orbiting satellites.

School: See Education Facility (Higher Education/K-12)

School Property: Property owned, leased, or exclusively possessed by a public school district that is used for educational purposes or school sanctioned activities for primary and secondary education students. This includes school buildings and adjacent land, playgrounds, athletic fields, stadiums, and other places used by primary and secondary education students for educational purposes or school sponsored events. It does not include property owned by commercially operated or postsecondary schools or school district property that is not regularly occupied or used by students for school activities.

Septic Waste and Domestic Sludge Application: Otherwise known as "Applied to the land surface" in ARM 17.50.802(3) means the uniform application of liquid or semi-liquid waste material at a rate closely approximating that which will result in maximum benefit to the crop or vegetative cover in the field, without ponding, runoff, or leaching.

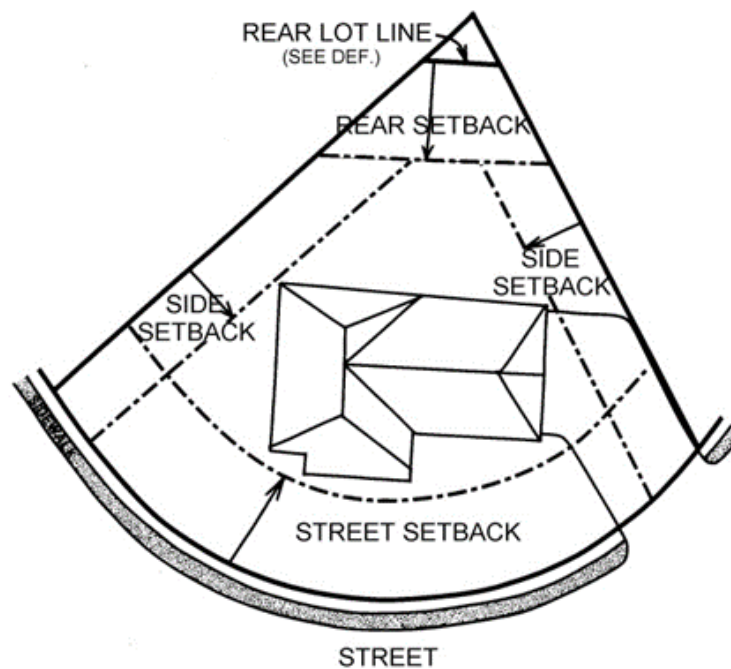
Setback: The required minimum horizontal distance between the location of structures or uses and the related front, side, or rear lot line measured perpendicular to such lot line, except when adjacent to the right-of-way, the measurement shall be from the closest right-of-way line.

Front: A setback (sometimes called a Street Setback) extending across the full width of the lot and parallel to the right-of-way line, measured perpendicular to the right-of-way line. (See Setback Diagram)

Rear: A setback extending across the full width of the lot and parallel to the rear lot line, measured perpendicular to the rear lot line, except that on pie shaped lots, a chord is to be drawn at a length of ten (10) feet in order to establish the rear lot line for the purpose of setback measurement. (See Setback Diagram)

Side: A setback extending from the front lot line to the rear setback and parallel to the side lot line, measured perpendicular to the side lot line. (See Setback Diagram)

SETBACK DIAGRAM



Sexually-oriented Business: A business that primarily offers sexually-oriented goods, services, and entertainment for compensation, including escort agencies, nude modeling studios, sexual encounter centers, and related services.

Shopping Center: Two (2) or more retail or wholesale uses or services conducted on a single parcel of at least five (5) acres that is planned, developed, owned, and managed as a coordinated business enterprise, and utilizes common parking and pedestrian access between the establishments, has common areas, common signs, common facilities, and common access and delivery routes.

Silviculture: The growing and cultivation of trees.

Specialized Food Production: The production of food products for direct sale to consumers for on-site and off-site consumption including, but not limited to, roasting of coffee beans and the manufacture of

coffee beverages, microbreweries manufacturing malt or liquor not exceeding the production of ten thousand (10,000) barrels annually, and bakeries.

Staff: Lewis and Clark County employees with a role in reviewing or administering the provisions contained in these Regulations.

State: The State of Montana.

Structure: Any permanent or temporary object that is constructed, installed or placed by man, the use of which requires a location on a parcel of land; it includes buildings of all types, bridges, in-stream structures, wholesale business tanks, fences, decks, swimming pools, towers, poles, pipelines, transmission lines, smokestacks, signs and other similar objects.

Subdivision: A division of land or land so divided that it creates one or more parcels containing less than 160 acres that cannot be described as a one-quarter aliquot part of a United States government section, exclusive of public roadways, in order that the title to the parcels may be sold or otherwise transferred and includes any re-subdivision and a condominium. The term also means an area, regardless of its size, that provides or will provide multiple spaces for rent or lease on which recreational camping vehicles or mobile homes will be placed.

Subject Land: Real property which is the subject of these Regulations.

Surveyor: See Registered Professional Land Surveyor.

Tavern: Any establishment licensed by the state of Montana with a quota restricted license for the retail sale of any alcoholic beverage for on premises consumption. A restaurant that has a quota restricted license and gambling license is a tavern. This does not include premises upon which any alcoholic beverage is catered and sold for on premises consumption to persons attending a special event; premises upon which alcoholic beverages are served pursuant to a special alcohol beverage license; or premises upon which the alcohol beverage license is restricted to premises with a special use or ownership. Sale of alcoholic beverages on property for which only special licenses have been issued is considered an accessory use to the property's primary use.

Telecommunication Facility: A facility and all elements thereof, including but not limited to support towers, antennas, and accessory equipment buildings, that together facilitate communication by the electronic transmission of telephone, radio, television, internet, wireless, or microwave impulses of an FCC licensed carrier, but excluding those used exclusively for private radio and television reception, private citizen's band, amateur radio communications.

Temporary Uses: Those uses temporary in nature with a defined commencement and termination dates which comply with Section 15 of these regulations.

Townhome: 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. Also referred to as townhouse.

Tract of Record: An individual parcel of land, irrespective of ownership, that can be identified by legal description, independent of any other parcel of land, using documents on file in the records of the County Clerk and Recorder's office. (See Lot and Parcel)

Trail: Public pedestrian trails that are predominately used for recreational and leisure purposes.

Utility Distributed Power: Facilities for the production of energy such as electricity or heat for use by properties other than the property wherein the energy is produced that uses distribution lines and not transmission lines to serve other properties and includes neighborhood or district heating facility and electricity generated by microturbines or photovoltaics.

Utility Major: Facilities for water and wastewater treatment and solid waste transfer stations.

Utility Minor: Facilities other than a major or distributed power utility, including water system wells, wastewater lift stations, water pumping stations, water tanks and towers, stormwater control facilities, and water, wastewater, and stormwater drainage lines.

Utility Sites: Parcels of land and necessary improvements specifically designed and used to provide a public or quasi-public service, subject to special governmental regulations. Such services would typically include, but are not limited to, water tanks, electrical substations, gas pipelines, and communications facilities.

Vehicle Fuel Sales: Retail sale of gasoline, kerosene, diesel, or other motor fuels, including accessory sale of convenience foods and goods, light maintenance activities, and minor repairs.

Vehicle Repair: A place for maintenance, service, and repair of vehicles, including tires, transmissions and brakes, bodywork and painting, upholstery, engine repair, and overhauls.

Vehicle Sales and Rental: Buying, selling, exchanging, selling on consignment, renting, or leasing of new or used vehicles, including snowmobiles, motorcycles, all-terrain vehicles, recreational vehicles, trailers, and watercraft.

Vehicle Services: Servicing of vehicles such as oil changes and lubrication, tire repair and replacement, detailing, washing, polishing, or similar activities for vehicles.

Veterinary clinic: Provides medical care of animals, including office space, medical labs, appurtenant facilities, and enclosures or kennels for animals under the immediate medical care of a veterinarian, including pet clinics, dog and cat hospitals, and animal hospitals.

Veterinary Clinic, Large Animal: A large animal veterinary clinic specializes in the care and treatment of livestock such as cattle, hogs, sheep, goats, horses, llamas, ostriches and emus.

Veterinary Clinic, Small Animal: A small animal veterinary clinic specializes in the care and treatment of small creatures such as poultry, fish, furbearing animals, rabbits, dogs, cats, snakes, lizards, birds, and other household pets.

Warehouse: A building or portion thereof used to store goods and materials for wholesale, temporary storage, and distribution, including moving and storage facilities, or a truck terminal that stores freight for reshipment or routing.

Wastewater Treatment System, Centralized: A shared, multi-user, public, or municipal wastewater treatment system.

Wastewater Treatment System, Individual: Any form of wastewater treatment system that serves or is intended to serve one service connection.

Water System, Centralized: A shared, multi-user, public, or municipal water system.

Water System, Individual: Any form of water system that serves that serves or is intended to serve one service connection.

Wind Energy Conversion System: Any mechanism including blades, rotors or other moving surfaces designed for the purpose of converting wind energy into mechanical or electrical power. Towers, tower bases, guy wires and any other structures necessary for the installation of small wind energy conversion systems are also included.

Worship Facility: A building designed and used for public worship by a religious body, group, sect, or organization, but not including church residences and private schools.

Zoning Administrator: The Director of the Lewis and Clark County Community Development and Planning Department (CDP) unless another person is appointed by the Board of County Commissioners.

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SECTION 6 RESERVED.

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SECTION 7 RURAL RESIDENTIAL MIXED-USE DISTRICT (RR)

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701 Intent

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

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

702 Principal Uses

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

- 702.01 Agriculture
- 702.02 Apiculture
- 702.03 Community Residential Facility – Type-I
- 702.04 Daycare Facility
 - 702.04.01 Adult Daycare
 - 702.04.02 Family Daycare
 - 702.04.03 Group Daycare
- 702.05 Education Facility
- 702.06 Forestry
- 702.07 Horticulture
- 702.08 Library
- 702.09 Open Space/Trails
- 702.10 Park
- 702.11 Public Safety Facilities (without outdoor training)
- 702.12 Residence
 - 702.12.01 A single dwelling unit residence per parcel
 - 702.12.02 A two – dwelling unit residence per parcel
- 702.13 Septic Waste and Domestic Sludge Application
- 702.14 Silviculture
- 702.15 Telecommunication Facility
- 702.16 Temporary Use
- 702.17 Utility Site
- 702.18 Worship Facility

703 Accessory Uses

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

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

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

703.01 Accessory Uses and Buildings

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

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

704 Conditional Uses

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

704.01 Airstrip

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

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

704.04 Bed and Breakfast Establishment

704.05 Camp/ Retreat Center

704.06 Campground/RV Park

704.07 Casino

704.08 Cemetery

704.09 Community Residential Facility, Type-II

704.10 Construction Material Sales

704.11 Contractor's storage yard

704.12 Correctional Facility

704.13 Daycare Center

704.14 Equipment Rental

704.15 Extractive Industries

704.16 Financial Services

704.17 Funeral Home/Crematorium

704.18 General/Professional Services

704.19 General Repair

704.20 General Retail Sales

704.21 Greenhouse/Plant Nursery

704.22 Healthcare Facility

704.23 Heliport

704.24 Hotel (including conference or convention facilities)

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

704.26 Indoor Entertainment, Sports, and Recreation

704.27 Kennel

704.28 Landfill

704.29 Marijuana Dispensary

704.30 Marijuana Grow Operation

704.31 Marijuana Provider

704.32 Mini-Storage/Storage Facility, Self Service

704.33 Motor Vehicle Graveyard

704.34 Motor Vehicle Wrecking Facility

- 704.35 Outdoor Entertainment Sports and Recreation
- 704.36 Parking Lot
- 704.37 Propane Distribution/Storage Facility
- 704.38 Public Safety Facilities (with outdoor training)
- 704.39 Recycling Facility
- 704.40 Renewable Energy Facilities
- 704.41 Research and Development Facility
- 704.42 Residence
 - 704.42.01 Multiple – Dwelling Unit Residence per parcel
- 704.43 Restaurant
- 704.44 Satellite Earth Station
- 704.45 Tavern
- 704.46 Vehicle Fuel Sales
- 704.47 Vehicle Repair
- 704.48 Vehicle Sales and Rental
- 704.49 Vehicle Services
 - 704.49.01 Veterinary Clinic, Large Animals
 - 704.49.02 Veterinary Clinic, Small Animals
- 704.50 Warehouse
- 704.51 Water/Wastewater Treatment Facility

A conditional use may also be the principal use of a parcel of land, and only one principal use per parcel is allowed.

705 Special Exception Uses

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

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

706 Minimum Lot Area

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

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

706.01 Cluster Design

The purpose of this section is to encourage alternative design techniques that efficiently make use of land and water resources, protect environmentally sensitive areas, natural features and soils of agricultural importance, and promote cost savings in infrastructure development and maintenance. Clustering development allows for the creation of lots smaller than the minimum lot sizes established in these Regulations, with the balance of the property maintained in open space.

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

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

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

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

approximately half of the parcel is maintained in open space, and the need for road construction is minimized.

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

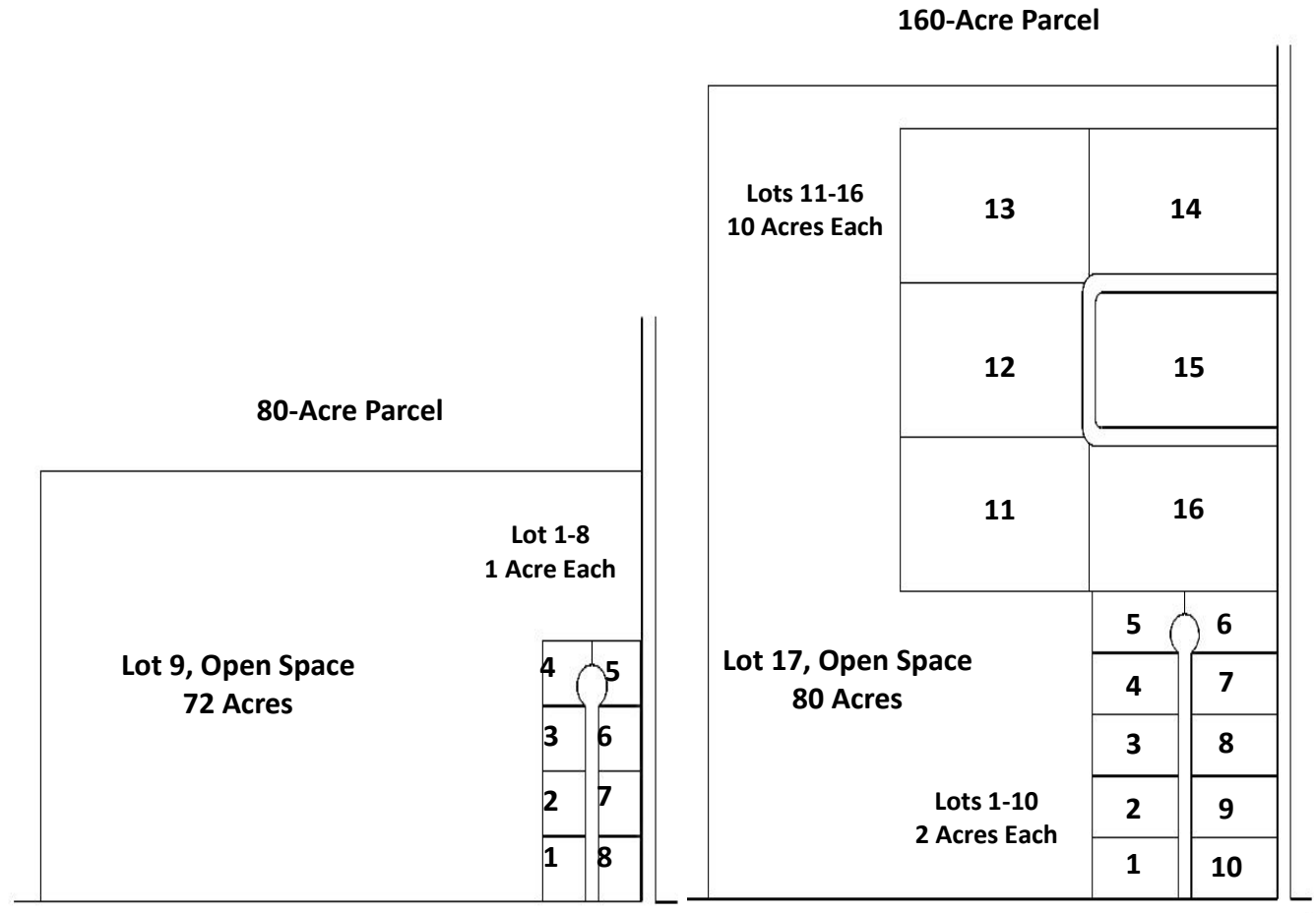


Figure 1 – Alternative layouts for clustered development (for illustrative purposes only, as many other scenarios are possible.)

706.01.02 Open Space Standards

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

- 706.01.02.1 Be maintained on a long-term basis through a revocable covenant prohibiting further subdivision, division, or development of the open space and/or resource use parcel. Revocation of said covenant requires approval by the BoCC. Revocations may be considered if zoning and/or development constraint conditions no longer require density to be limited on the subject property;

- 706.01.02.2 Be accessible via a road and/or trail easement filed with the Lewis and Clark County Clerk and Recorder's office;
- 706.01.02.3 Be identified on a final subdivision plat or certificate of survey (COS) (for exemptions from subdivision). The final subdivision plat or COS shall include a notation as to the official recordation location of the revocable covenant;
- 706.01.02.4 Include a plan for ongoing use and maintenance as open space and/or a resource use(s) that includes provisions to manage vegetation and noxious weeds, and that may be amended by the BOCC in consultation with parties owning title to the land;
- 706.01.02.5 When present, include environmentally sensitive areas such as wetlands, streams, floodplains or riparian areas, agricultural soils (prime farmland), wildlife habitat, rare, threatened or sensitive plants, and scenic resources such as hillsides or forested areas; and,
- 706.01.02.6 Be located adjacent to the one (1) or more lots to be developed.

707 Maximum Gross Density

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

708 Minimum Setbacks

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

Front: Twenty-five (25) feet.

Side: Twenty-five (25) feet.

Rear: Twenty-five (25) feet.

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

Front: Ten (10) feet.

Side: Ten (10) feet.

Rear: Ten (10) feet.

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

Front: Twenty-five (25) feet.

Side: Fifteen (15) feet.

Rear: Fifteen (15) feet.

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

Front: Ten (10) feet.

Side: Ten (10) feet.

Rear: Ten (10) feet.

708.03 Conditional Use:

Same as Principal Use unless otherwise defined with the CUP.

709 Encroachments (Setbacks)

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

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

710 Building Height

Maximum building height: thirty-five (35) feet

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

711 Parking Standards

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

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

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

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

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

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

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

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

711.08 Financial Services: 3 spaces per one thousand (1,000) square feet of gross floor area; stacking lanes for each drive up and ATM do not count toward the on-site parking requirement.

711.09 Healthcare Center; Healthcare Facility; Veterinary Clinic: 4.11 spaces per one thousand (1,000) square feet of gross floor area.

711.10 Administrative Government Agency; Bus Terminal (if operated by a Government Agency); Public Safety Facility: 3.84 spaces per one thousand (1,000) square feet of gross floor area.

711.11 Crematorium; General Repair; Light Industrial; Vehicle Repair: 1.59 spaces per one thousand (1,000) square feet of gross floor area.

- 711.12 Vehicle Sales and Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 711.13 Equipment Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 711.14 Hotel: 0.89 spaces per room
- 711.15 Indoor/Outdoor Entertainment, Sports, and Recreation; Outdoor Concerts and Theatrical Performances: 0.26 spaces per seat.
- 711.16 Specialized Food Production; Artisan Shop (with Production and Manufacturing): 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 711.17 Community Residential Facility (Type II): one (1) space for each three (3) dwelling units.
- 711.18 Residence: two (2) spaces for each residential dwelling unit.
- 711.19 Kennel or Other Animal-Related Services; General/Professional Services; General Retail Sales: 4.1 spaces per one thousand (1,000) square feet of gross floor area.
- 711.20 Bed and Breakfast; Camping and Retreat Center: one (1) space for each room for rent, plus two (2) additional spaces if a portion of the building is used as a single dwelling unit residence.
- 711.21 Other Uses: For any other use not specifically mentioned or provided for in this Section, the Zoning Administrator shall determine the standards to be applied for parking, using as a guide the listed use which most closely resembles the use proposed.

712 Lighting Standards

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

712.01 Residential Outdoor Lighting

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

712.02 Commercial Outdoor Lighting

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

712.03 Feature Lighting

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

712.04 Signs

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

712.05 Communication Towers

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

712.06 Exemptions

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

712.06.2 American Flag illumination

712.06.3 Temporary Construction Sites

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

712.06.4 Seasonal Lighting

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

712.06.5 Emergency Lighting

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

712.07 Prohibited Lighting

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

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

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

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

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

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SECTION 8 SUBURBAN RESIDENTIAL MIXED-USE DISTRICT (SR)

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801 Intent

The Suburban Residential Mixed-use (SR) Zone District is intended to include a mix of suburban development where road and floodplain constraints are absent, and rural development in areas that are constrained by road conditions and floodplains.

802 Principal Uses

Only one (1) principal use is allowed on each parcel. The following principal uses are allowable:

- 802.01 Agriculture
- 802.02 Apiculture
- 802.03 Community Residential Facility – Type-I
- 802.04 Daycare Facility:
 - 802.04.01 Adult Daycare
 - 802.04.02 Family Daycare
 - 802.04.03 Group Daycare
- 802.05 Education Facility
- 802.06 Forestry
- 802.07 Horticulture
- 802.08 Library
- 802.09 Open Space/Trails
- 802.10 Park
- 802.11 Public Safety Facility (without outdoor training)
- 802.12 Residence:
 - 802.12.01 A Single-dwelling Unit Residence per parcel
 - 802.12.02 A Two-dwelling Unit Residence per parcel
- 802.13 Septic Waste and Domestic Sludge Application
- 802.14 Silviculture
- 802.15 Telecommunication Facility (excluding Satellite Earth Station)
- 802.16 Temporary Use
- 802.17 Utility, Major
- 802.18 Utility, Minor
- 802.19 Worship Facility

803 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel, be subordinate to and serve such principal use, be subordinate in area, extent, and purpose to such principal use, and contribute to the comfort, convenience, or necessity of users of such principal use.

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

- 803.01 Accessory Uses and Buildings
- 803.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 803.03 Temporary Uses, in compliance with Section 15 of these Regulations.

804 Conditional Uses

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

- 804.01 Airstrip
- 804.02 Aircraft Hangars when in association with properties within or adjoining an airstrip
- 804.03 Batch Plant (concrete, mortar, or asphalt; not including temporary batch plants)
- 804.04 Bed and Breakfast Establishment
- 804.05 Building materials - wholesale/retail
- 804.06 Camp/ Retreat Center
- 804.07 Campground/RV Park
- 804.08 Casino
- 804.09 Cemetery
- 804.10 Community Residential Facility, Type-II
- 804.11 Composting Facility/Landfill
- 804.12 Construction Material Sales
- 804.13 Contractor's storage yard
- 804.14 Correctional Facility
- 804.15 Daycare Center
- 804.16 Equipment Rental
- 804.17 Extractive Industries
- 804.18 Financial Services
- 804.19 Funeral Home
- 804.20 General/Professional Services
- 804.21 General Repair
- 804.22 General Retail Sales
- 804.23 Healthcare Facility
- 804.24 Heliport
- 804.25 Hotel (including conference or convention facilities)
- 804.26 Industrial, Heavy
- 804.27 Industrial, Light
- 804.28 Industrial Park
- 804.29 Indoor Entertainment, Sports, and Recreation
- 804.30 Kennel
- 804.31 Marijuana Dispensary
- 804.32 Marijuana Grow Operation
- 804.33 Marijuana Provider
- 804.34 Mini-storage/Storage Facility, Self Service
- 804.35 Motor Vehicle Graveyard
- 804.36 Motor Vehicle Wrecking Facility
- 804.37 Outdoor Entertainment, Sports, and Recreation
- 804.38 Parking Lot
- 804.39 Propane Distribution/Storage Facility
- 804.40 Public Safety Facility (with outdoor training)
- 804.41 Recycling Facility
- 804.42 Renewable Energy Facilities
- 804.43 Research and Development Facility
- 804.44 Residence
 - 804.44.01 Multiple – Dwelling Unit Residence per parcel
- 804.45 Restaurant
- 804.46 Retail
- 804.47 Satellite Earth Station

- 804.48 Tavern
- 804.49 Utility Distributed Power
- 804.50 Vehicle Fuel Sales
- 804.51 Vehicle Repair
- 804.52 Vehicle Sales and Rental
- 804.53 Vehicle Services
- 804.54 Veterinary Clinic, Large Animals
- 804.55 Veterinary Clinic, Small Animals
- 804.56 Warehouse
- 804.57 Water/Wastewater Treatment Facility

A conditional use may also be the principal use of a parcel of land, and only one principal use per parcel is allowed.

805 Special Exception Uses

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

- 805.01 Agricultural
- 805.02 Apiculture
- 805.03 Community Residential Facility – Type-1
- 805.04 Daycare Facility
 - 805.04.01 Adult Daycare
 - 805.04.02 Family Daycare
 - 805.04.03 Group Daycare
- 802.05 Forestry
- 802.06 Horticulture
- 802.07 Silviculture
- 802.08 Telecommunication Facility (excluding Satellite Earth Station)

806 Minimum Setbacks

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

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

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

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

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

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

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

Front: Ten (10) feet.

Side: Ten (10) feet.

Rear: Ten (10) feet.

806.03 Conditional Use:

Same as Principal unless otherwise defined with the CUP.

807 Encroachments (Setbacks)

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

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

808 Building Height

Maximum building height: thirty-five (35) feet

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

809 Parking Standards

All non-residential parking requirements shall be as established in the Institute of Transportation Engineers (ITE) parking standards established in that document entitled "Parking Generation Manual, 5th Edition, 2019" or as otherwise set forth herein. All calculations are rounded up to the nearest whole number. The following minimum number of off-street parking spaces shall be provided under the SR-10 and SR-1 zones:

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

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

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

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

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

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

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

809.08 Financial services: three (3) spaces/1,000 square feet of gross floor area; stacking lanes for each drive up and ATM do not count toward the on-site parking requirement.

- 809.09 Healthcare Center; Healthcare Facility; Veterinary Clinic: 4.11 spaces per one thousand (1,000) square feet of gross floor area.
- 809.10 Administrative Government Agency; Bus Terminal (if operated by a Government Agency); Public Safety Facility: 3.84 spaces per one thousand (1,000) square feet of gross floor area.
- 809.11 Crematorium; General Repair; Light Industrial; Vehicle Repair: 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 809.12 Vehicle Sales and Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 809.13 Equipment Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 809.14 Hotel: 0.89 spaces per room
- 809.15 Indoor/Outdoor Entertainment, Sports, and Recreation; Outdoor Concerts and Theatrical Performances: 0.26 spaces per seat.
- 809.16 Specialized Food Production; Artisan Shop (with Production and Manufacturing): 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 809.17 Community Residential Facility (Type II): one (1) space for each three (3) dwelling units.
- 809.18 Residence: two (2) spaces for each residential dwelling unit.
- 809.19 Kennel or Other Animal-Related Services; General/Professional Services; General Retail Sales: 4.1 spaces per one thousand (1,000) square feet of gross floor area.
- 809.20 Bed and Breakfast; Camping and Retreat Center: one (1) space for each room for rent, plus two (2) additional spaces if a portion of the building is used as a single dwelling unit residence.
- 809.21 Other Uses: For any other use not specifically mentioned or provided for in this Section, the Zoning Administrator shall determine the standards to be applied for parking, using as a guide the listed use which most closely resembles the use proposed.

810 Lighting Standards

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

810.01 Residential Outdoor Lighting

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

810.02 Commercial Outdoor Lighting

All light fixtures shall be of a full-cutoff design. Light fixtures attached to a pole may

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

810.03 Feature Lighting

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

810.04 Signs

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

810.05 Communication Towers

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

810.06 Exemptions

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

810.06.02 American Flag illumination

810.06.03 Temporary Construction Sites

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

810.06.04 Seasonal Lighting

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

810.06.05 Emergency Lighting

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

810.07 Prohibited Lighting

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

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

- 810.07.02 Lighting designed for the creation of sky glow to attract attention (whether stationary or moving), in excess of the lighting used to provide safety, security, and utility.
- 810.07.03 When projected above a horizontal plane, beacons, laser source lights, strobe lights, or any similar high intensity light used for promotional or entertainment purposes.
- 810.07.04 Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting with total per source level not exceeding an average of two thousand eight hundred fifty (2,850) lumens.

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SECTION 9 URBAN RESIDENTIAL MIXED-USE DISTRICT (UR)

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901 Intent

The Urban Residential Mixed-use (UR) Zone District is intended to accommodate urban levels of development on public infrastructure, including sewer, water, stormwater, and transportation. The constraints to development are addressed through the infrastructure improvements, and in the case of flood hazards, through infrastructure and density controls.

902 R-1/R-2902.01 Intent

The R-1/R-2 (residential) Zone provides for residential dwellings and limited nonresidential development that protects and enhances the residential nature of the area.

902.02 Principal Uses

The following principal uses are allowable in the R-1/R-2 Zone:

- 902.02.01 Agriculture
- 902.02.02 Apiculture
- 902.02.03 Boarding/Rooming House (1-3 residents)
- 902.02.04 Community Residential Facility, Type I (1 to 12 residents)
- 902.02.05 Daycare, Adult (up to 12 adults)
- 902.02.06 Daycare, Family (up to 6 children)
- 902.02.07 Daycare, Group (7 to 12 children)
- 902.02.08 Forestry
- 902.02.09 Horticulture
- 902.02.10 On-site Construction Office
- 902.02.11 Open Space
- 902.02.12 Parks/Playgrounds
- 902.02.13 Residence, Single-dwelling Unit
- 902.02.14 Residence, Two-dwelling Units
- 902.02.15 Silviculture
- 902.02.16 Trails
- 902.02.17 Utility, Distributed Power
- 902.02.18 Utility, Minor

902.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel, be subordinate to and serve such principal use, be subordinate in area, extent, and purpose to such principal use, and contribute to the comfort, convenience, or necessity of users of such principal use.

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

- 902.03.01 Accessory Uses and Buildings
- 902.03.02 Home Occupations, in compliance with Section 16, of these Regulations.

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

902.04 Conditional Uses

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

- 902.04.01 Bed and Breakfast
- 902.04.02 Community Cultural Facility
- 902.04.03 Community Residential Facility, Type II (13 or more residents)
- 902.04.04 Daycare Center (13 or more individuals)
- 902.04.05 Educational Facility (Higher Education)
- 902.04.06 Educational Facility (K-12)
- 902.04.07 Mobile Home Park
- 902.04.08 Parking Lot
- 902.04.09 Public Safety Facility
- 902.04.10 Residence, Multiple-dwelling Units (3 or more units)
- 902.04.11 Worship Facility

902.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

902.06 Maximum Lot Coverage

Forty (40%) percent.

902.07 Minimum Setbacks

Front: Ten (10) feet.
Rear: Ten (10) feet.
Side: Eight (8) feet.

902.08 Encroachments (Setbacks)

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

902.09 Building Height

Maximum building height: thirty (30) feet.

902.10 Parking Standards

The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01.

902.11 Landscaping Standards

See landscaping standards in Section 912.

902.12 Lighting Standards

All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.

903 R-3903.01 Intent

The R-3 (residential) Zone provides for the development of a mixture of residential structures to serve varied housing needs and allows limited compatible nonresidential uses.

903.02 Principal Uses

The following principal uses are allowable in the R-3 Zone:

- 903.02.01 Agriculture
- 903.02.02 Apiculture
- 903.02.03 Boarding/Rooming House (1-3 residents)
- 903.02.04 Community Residential Facility, Type I (1 to 12 residents)
- 903.02.05 Daycare, Adult (up to 12 adults)
- 903.02.06 Daycare, Family (up to 6 children)
- 903.02.07 Daycare, Group (7 to 12 children)
- 903.02.08 Forestry
- 903.02.09 Horticulture
- 903.02.10 On-site Construction Office
- 903.02.11 Open Space
- 903.02.12 Parks/Playgrounds
- 903.02.13 Residence, Single-dwelling Unit
- 903.02.14 Residence, Two-dwelling Units
- 903.02.15 Residence, Multiple-dwelling Units (3 or more units)
- 903.02.16 Silviculture
- 903.02.17 Trails
- 903.02.18 Utility, Distributed Power
- 903.02.19 Utility, Minor

903.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

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

- 903.03.01 Accessory Uses and Buildings
- 903.03.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 903.03.03 Temporary Uses, in compliance with Section 15 of these Regulations.

903.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

- 903.04.01 Artisan Shop
- 903.04.02 Bed and Breakfast
- 903.04.03 Community Cultural Facility
- 903.04.04 Community Residential Facility, Type II (13 or more residents)
- 903.04.05 Country Inn, Guest Ranch
- 903.04.06 Daycare Center (13 or more individuals)
- 903.04.07 Educational Facility (Higher Education)
- 903.04.08 Educational Facility (K-12)
- 903.04.09 General/Professional Services
- 903.04.10 General Repair (*outdoor storage not allowed)
- 903.04.11 Mobile Home Park
- 903.04.12 Parking Lot
- 903.04.13 Public Safety Facility
- 903.04.14 Worship Facility

903.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

903.06 Maximum Lot Coverage

Forty (40%) percent.

903.07 Minimum Setbacks

Front: Ten (10) feet.

Rear: Ten (10) feet.

Side: Six (6) feet.

903.08 Encroachments (Setbacks)

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

903.09 Building Height

Maximum building height: thirty-six (36) feet.

903.10 Parking Standards

The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01

903.11 Landscaping Standards

See landscaping standards in Section 912.

903.12 Lighting Standards

All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.

904 R-4/R-O904.01 Intent

The R-4/R-O (residential-office) Zone provides for a compatible mix of higher density residential development with professional and business offices and associated service uses.

904.02 Principal Uses

The following principal uses are allowable in the R-4/R-O Zone:

- 904.02.01 Administrative Government Agency
- 904.02.02 Administrative Services
- 904.02.03 Agriculture
- 904.02.04 Apiculture
- 904.02.05 Boarding/Rooming House (1-3 residents)
- 904.02.06 Boarding/Rooming House (4-20 residents)
- 904.02.07 Community Residential Facility, Type I (1 to 12 residents)
- 904.02.08 Community Residential Facility, Type II (13 or more residents)
- 904.02.09 Daycare, Adult (up to 12 adults)
- 904.02.10 Daycare, Family (up to 6 children)
- 904.02.11 Daycare, Group (7 to 12 children)
- 904.02.12 Forestry
- 904.02.13 General/Professional Services
- 904.02.14 Healthcare Center
- 904.02.15 Horticulture
- 904.02.16 Instructional Facility
- 904.02.17 Mobile Home Park
- 904.02.18 On-site Construction Office
- 904.02.19 Open Space
- 904.02.20 Parks/Playgrounds
- 904.02.21 Residence, Single-dwelling Unit
- 904.02.22 Residence, Two-dwelling Units
- 904.02.23 Residence, Multiple-dwelling Units (3 or more units)
- 904.02.24 Restaurant
- 904.02.25 Silviculture
- 904.02.26 Trails
- 904.02.27 Utility, Distributed Power
- 904.02.28 Utility, Minor
- 904.02.29 Worship Facility

904.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

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

904.03.01 Accessory Uses and Buildings

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

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

904.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

904.04.01 Artisan Shop

904.04.02 Bed and Breakfast

904.04.03 Community Cultural Facility

904.04.04 Country Inn, Guest Ranch

904.04.05 Daycare Center (13 or more individuals)

904.04.06 Educational Facility (Higher Education)

904.04.07 Educational Facility (K-12)

904.04.08 Emergency Shelter

904.04.09 Financial Services

904.04.10 General Repair (*outdoor storage not allowed)

904.04.11 Healthcare Facility

904.04.12 Indoor Entertainment, Sports and Recreation

904.04.13 Parking Lot

904.04.14 Public Safety Facility

904.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

904.06 Maximum Lot Coverage

Sixty (60%) percent.

904.07 Minimum Setbacks

Front: Ten (10) feet.

Rear: Ten (10) feet.

Side: Six (6) feet.

- 904.08 Encroachments (Setbacks)
Utility distribution lines and related equipment may be located within a required setback.
- 904.09 Building Height
Maximum building height: forty-two (42) feet.
- 904.10 Parking Standards
The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01
- 904.11 Landscaping Standards
See landscaping standards in Section 912.
- 904.12 Lighting Standards
All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.
- 905 R-U
- 905.01 Intent
The R-U (residential-urban) Zone provides for stand-alone single or duplex structures, and a compatible mix of professional and business offices and associated service uses.
- 905.02 Principal Uses
The following principal uses are allowable in the R-U Zone:
- 905.02.01 Administrative Government Agency
 - 905.02.02 Administrative Services
 - 905.02.03 Agriculture
 - 905.02.04 Apiculture
 - 905.02.05 Boarding/Rooming House (1-3 residents)
 - 905.02.06 Community Residential Facility, Type I (1 to 12 residents)
 - 905.02.07 Daycare, Adult (up to 12 adults)
 - 905.02.08 Daycare, Family (up to 6 children)
 - 905.02.09 Daycare, Group (7 to 12 children)
 - 905.02.10 Forestry
 - 905.02.11 General/Professional Services
 - 905.02.12 Healthcare Center
 - 905.02.13 Horticulture
 - 905.02.14 Instructional Facility
 - 905.02.15 On-site Construction Office
 - 905.02.16 Open Space
 - 905.02.17 Parks/Playgrounds
 - 905.02.18 Residence, Single-dwelling Unit

- 905.02.19 Residence, Two-dwelling Units
- 905.02.20 Restaurant
- 905.02.21 Silviculture
- 905.02.22 Trails
- 905.02.23 Utility, Distributed Power
- 905.02.24 Utility, Minor
- 905.02.25 Worship Facility

905.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

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

- 905.03.01 Accessory Uses and Buildings
- 905.03.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 905.03.03 Temporary Uses, in compliance with Section 15 of these Regulations.

905.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

- 905.04.01 Artisan Shop
- 905.04.02 Bed and Breakfast
- 905.04.03 Community Cultural Facility
- 905.04.04 Community Residential Facility, Type II (13 or more residents)
- 905.04.05 Country Inn, Guest Ranch
- 905.04.06 Daycare Center (13 or more individuals)
- 905.04.07 Educational Facility (Higher Education)
- 905.04.08 Educational Facility (K-12)
- 905.04.09 Emergency Shelter
- 905.04.10 Financial Services
- 905.04.11 General Repair
- 905.04.12 Healthcare Facility
- 905.04.13 Indoor Entertainment, Sports and Recreation
- 905.04.14 Mobile Home Park
- 905.04.15 Parking Lot
- 905.04.16 Public Safety Facility

905.05 Minimum Lot Area

There is no minimum lot area, with one exception: all newly created lot(s) that contain floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

- 905.06 Maximum Lot Coverage
Sixty (60%) percent. Additional 5% for porch attached to front or side.

- 905.07 Minimum Setbacks
Front: No minimum.
Rear: No minimum.
Side: No minimum.

- 905.08 Building Height
Maximum building height: forty-two (42) feet.

- 905.09 Parking Standards
The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01

- 905.10 Lighting Standards
All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.

- 906 B-2

- 906.01 Intent
The B-2 (general commercial) Zone provides for compatible residential uses and a broad range of commercial and service uses.

- 906.02 Principal Uses
The following principal uses are allowable in the B-2 Zone:
 - 906.02.01 Administrative Government Agency
 - 906.02.02 Administrative Services
 - 906.02.03 Agriculture
 - 906.02.04 Agriculture Supply Sales
 - 906.02.05 Apiculture
 - 906.02.06 Artisan Shop
 - 906.02.07 Auction Sales
 - 906.02.08 Bed and Breakfast
 - 906.02.09 Boarding/Rooming House (1-3 residents)
 - 906.02.10 Boarding/Rooming House (4-20 residents)
 - 906.02.11 Bus Terminal
 - 906.02.12 Carnivals and Circuses
 - 906.02.13 Community Center
 - 906.02.14 Community Cultural Facility
 - 906.02.15 Community Residential Facility, Type I (1 to 12 residents)
 - 906.02.16 Community Residential Facility, Type II (13 or more residents)
 - 906.02.17 Construction Material Sales
 - 906.02.18 Country Inn, Guest Ranch

906.02.19	Daycare, Adult (up to 12 adults)
906.02.20	Daycare Center (13 or more individuals)
906.02.21	Daycare, Family (up to 6 children)
906.02.22	Daycare, Group (7 to 12 children)
906.02.23	Equipment Rental, Large
906.02.24	Equipment Rental, Small
906.02.25	Financial Services
906.02.26	Forestry
906.02.27	Funeral Home
906.02.28	General/Professional Services
906.02.29	General Repair
906.02.30	General Retail Sales
906.02.31	Healthcare Center
906.02.32	Healthcare Facility
906.02.33	Horticulture
906.02.34	Hotel/Motel, Lodge, Resort
906.02.35	Indoor Entertainment, Sports and Recreation
906.02.36	Instructional Facility
906.02.37	Itinerant Outdoor Sales
906.02.38	Manufactured/Mobile/Modular Housing Sales
906.02.39	Marijuana Dispensary
906.02.40	On-site Construction Office
906.02.41	Open Space
906.02.42	Outdoor Concerts and Theatrical Performances
906.02.43	Parking Lot
906.02.44	Parks/Playgrounds
906.02.45	Public Safety Facility
906.02.46	Residence, Single-dwelling Unit
906.02.47	Residence, Two-dwelling Units
906.02.48	Residence, Multiple-dwelling Units (3 or more units)
906.02.49	Restaurant
906.02.50	Restaurant, Drive-in
906.02.51	Silviculture
906.02.52	Specialized Food Production
906.02.53	Tavern
906.02.54	Trails
906.02.55	Utility, Distributed Power
906.02.56	Utility, Minor
906.02.57	Vehicle Fuel Sales
906.02.58	Vehicle Sales and Rental
906.02.59	Vehicle Services
906.02.60	Veterinary Clinic, Small Animals
906.02.61	Worship Facility

906.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

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

- 906.03.01 Accessory Uses and Buildings
- 906.03.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 906.03.03 Temporary Uses, in compliance with Section 15 of these Regulations.

906.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

- 906.04.01 Animal Shelter
- 906.04.02 Campground/RV Park
- 906.04.03 Casino
- 906.04.04 Commercial Kennel, Animal Boarding, Stables or other Animal-related Services
- 906.04.05 Contractor Yard
- 906.04.06 Educational Facility (Higher Education)
- 906.04.07 Educational Facility (K-12)
- 906.04.08 Emergency Shelter
- 906.04.09 Industrial, Light
- 906.04.10 Mini-storage/Storage Facility, Self Service
- 906.04.11 Mobile Home Park
- 906.04.12 Outdoor Entertainment, Sports and Recreation
- 906.04.13 Parking Structure
- 906.04.14 Pre-release Center
- 906.04.15 Shopping Center
- 906.04.16 Vehicle Repair
- 906.04.17 Veterinary Clinic, Large Animals
- 906.04.18 Warehouse

906.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

906.06 Maximum Lot Coverage

No maximum.

906.07 Minimum Setbacks

Front: No minimum.

Rear: No minimum, unless abutting a residential zone and then the minimum setback is fifteen (15) feet.

Side: No minimum, unless abutting a residential zone and then the minimum setback is ten (10) feet.

906.08 Encroachments (Setbacks)

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

906.09 Building Height

Maximum building height: seventy-five (75) feet.

906.10 Parking Standards

The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01.

906.11 Landscaping Standards

See landscaping standards in Section 912.

906.12 Lighting Standards

All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.

907 CLM

907.01 Intent

The CLM (Commercial-Light Manufacturing) Zone provides for commercial and light manufacturing needs.

907.02 Principal Uses

The following principal uses are allowable in the CLM Zone:

- 907.02.01 Administrative Government Agency
- 907.02.02 Administrative Services
- 907.02.03 Agricultural Commodity Storage Facility
- 907.02.04 Agriculture
- 907.02.05 Agriculture Supply Sales
- 907.02.06 Apiculture
- 907.02.07 Artisan Shop
- 907.02.08 Auction Sales
- 907.02.09 Boarding/Rooming House (1-3 residents)
- 907.02.10 Boarding/Rooming House (4-20 residents)
- 907.02.11 Bus Terminal
- 907.02.12 Carnivals and Circuses
- 907.02.13 Commercial Kennel, Animal Boarding, Stables or other Animal-related Services

907.02.14	Community Center
907.02.15	Composting Facility/Landfill
907.02.16	Construction Material Sales
907.02.17	Contractor Yard
907.02.18	Crematorium
907.02.19	Educational Facility (Higher Education)
907.02.20	Equipment Rental, Large
907.02.21	Equipment Rental, Small
907.02.22	Forestry
907.02.23	Freight Terminal
907.02.24	Funeral Home
907.02.25	General/Professional Services
907.02.26	General Repair
907.02.27	General Retail Sales
907.02.28	Horticulture
907.02.29	Indoor Entertainment, Sports and Recreation
907.02.30	Industrial, Light
907.02.31	Instructional Facility
907.02.32	Itinerant Outdoor Sales
907.02.33	Manufactured/Mobile/Modular Housing Sales
907.02.34	Marijuana Dispensary
907.02.35	Mini-storage/Storage Facility, Self Service
907.02.36	On-site Construction Office
907.02.37	Open Space
907.02.38	Outdoor Concerts and Theatrical Performances
907.02.39	Parking Lot
907.02.40	Parking Structure
907.02.41	Parks/Playgrounds
907.02.42	Public Safety Facility
907.02.43	Railroad Yard
907.02.44	Recycling Center
907.02.45	Residence, Single-dwelling Unit
907.02.46	Residence, Two-dwelling Units
907.02.47	Silviculture
907.02.48	Specialized Food Production
907.02.49	Trails
907.02.50	Utility, Distributed Power
907.02.51	Utility, Minor
907.02.52	Vehicle Fuel Sales
907.02.53	Vehicle Repair
907.02.54	Vehicle Sales and Rental
907.02.55	Vehicle Services
907.02.56	Veterinary Clinic, Large Animals
907.02.57	Veterinary Clinic, Small Animals
907.02.58	Warehouse
907.02.59	Worship Facility

907.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

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

- 907.03.01 Accessory Uses and Buildings
- 907.03.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 907.03.01 Temporary Uses, in compliance with Section 15 of these Regulations.

907.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

- 907.04.01 Animal Shelter
- 907.04.02 Campground/RV Park
- 907.04.03 Casino
- 907.04.04 Community Residential Facility, Type I (1 to 12 residents)
- 907.04.05 Community Residential Facility, Type II (13 or more residents)
- 907.04.06 Correctional Facility
- 907.04.07 Daycare, Adult (up to 12 adults)
- 907.04.08 Daycare Center (13 or more individuals)
- 907.04.09 Daycare, Family (up to 6 children)
- 907.04.10 Daycare, Group (7 to 12 children)
- 907.04.11 Educational Facility (K-12)
- 907.04.12 Emergency Shelter
- 907.04.13 Fuel Tank Farm
- 907.04.14 Industrial, Heavy
- 907.04.15 Industrial Park
- 907.04.16 Junkyard
- 907.04.17 Marijuana Grow Operation
- 907.04.18 Outdoor Entertainment, Sports and Recreation
- 907.04.19 Pre-release Center
- 907.04.20 Residence, Multiple-dwelling Units (3 or more units)
- 907.04.21 Restaurant
- 907.04.22 Sexually-oriented Business
- 907.04.23 Shopping Center
- 907.04.24 Tavern

907.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

- 907.06 Maximum Lot Coverage
No maximum.

- 907.07 Minimum Setbacks
Front: Fifteen (15) feet.
Rear: No minimum, unless abutting a residential zone and then the minimum setback is fifteen (15) feet.
Side: No minimum., unless abutting a residential zone and then the minimum setback is fifteen (15) feet.

- 907.08 Encroachments (Setbacks)
Utility distribution lines and related equipment may be located with a required setback.

- 907.09 Building Height
Maximum building height: sixty (60) feet.

- 907.10 Parking Standards
The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01.

- 907.11 Landscaping Standards
See landscaping standards in Section 912.

- 907.12 Lighting Standards
All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.

- 908 M-I
 - 908.01 Intent
The M-I (Manufacturing and Industrial) Zone provides for manufacturing and other industrial uses.

 - 908.02 Principal Uses
The following principal uses are allowable in the M-I Zone:
 - 908.02.01 Agricultural Commodity Storage Facility
 - 908.02.02 Agriculture
 - 908.02.03 Agriculture Supply Sales
 - 908.02.04 Apiculture
 - 908.02.05 Artisan Shop
 - 908.02.06 Boarding/Rooming House (1-3 residents)
 - 908.02.07 Boarding/Rooming House (4-20 residents)
 - 908.02.08 Carnivals and Circuses

- 908.02.09 Commercial Kennel, Animal Boarding, Stables or other Animal-related Services
- 908.02.10 Composting Facility/Landfill
- 908.02.11 Construction Material Sales
- 908.02.12 Contractor Yard
- 908.02.13 Crematorium
- 908.02.14 Equipment Rental, Large
- 908.02.15 Equipment Rental, Small
- 908.02.16 Forestry
- 908.02.17 Freight Terminal
- 908.02.18 Funeral Home
- 908.02.19 General Repair
- 908.02.20 Horticulture
- 908.02.21 Indoor Entertainment, Sports and Recreation
- 908.02.22 Industrial, Heavy
- 908.02.23 Industrial, Light
- 908.02.24 Industrial Park
- 908.02.25 Instructional Facility
- 908.02.26 Junkyard
- 908.02.27 Manufactured/Mobile/Modular Housing Sales
- 908.02.28 Marijuana Dispensary
- 908.02.29 Mini-storage/Storage Facility, Self Service
- 908.02.30 On-site Construction Office
- 908.02.31 Open Space
- 908.02.32 Outdoor Concerts and Theatrical Performances
- 908.02.33 Parking Lot
- 908.02.34 Parking Structure
- 908.02.35 Public Safety Facility
- 908.02.36 Railroad Yard
- 908.02.37 Recycling Center
- 908.02.38 Residence, Single-dwelling Unit
- 908.02.39 Silviculture
- 908.02.40 Specialized Food Production
- 908.02.41 Trails
- 908.02.42 Utility, Distributed Power
- 908.02.43 Utility, Major
- 908.02.44 Utility, Minor
- 908.02.45 Vehicle Repair
- 908.02.46 Vehicle Services
- 908.02.47 Veterinary Clinic, Large Animals
- 908.02.48 Veterinary Clinic, Small Animals
- 908.02.49 Warehouse

908.03 Accessory Uses

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

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

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

- 908.03.01 Accessory Uses and Buildings
- 908.03.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 908.03.03 Temporary Uses, in compliance with Section 15 of these Regulations.

908.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

- 908.04.01 Animal Shelter
- 908.04.02 Correctional Facility
- 908.04.03 Fuel Tank Farm
- 908.04.04 Motor Vehicle Wrecking Facility
- 908.04.05 Outdoor Entertainment, Sports and Recreation

908.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

908.06 Maximum Lot Coverage

No maximum.

908.07 Minimum Setbacks

Front: Fifteen (15) feet.

Rear: No minimum, unless abutting a residential zone and then the minimum setback is fifteen (15) feet.

Side: No minimum, unless abutting a residential zone and then the minimum setback is fifteen (15) feet.

908.08 Encroachments (Setbacks)

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

908.09 Building Height

Maximum building height: sixty (60) feet.

908.10 Parking Standards

The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01.

908.11 Landscaping Standards
See landscaping standards in Section 912.

908.12 Lighting Standards
All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.

909 PLI

909.01 Intent
The PLI (Public Lands and Institutions) Zone provides for and applies only to public and quasi-public institutional uses and lands, and recreational, educational, and public service activities for the general benefit of the citizens of the County.

909.02 Principal Uses
The following principal uses are allowable in the PLI Zone:

- 909.02.01 Administrative Government Agency
- 909.02.02 Agriculture
- 909.02.03 Animal Shelter
- 909.02.04 Apiculture
- 909.02.05 Carnivals and Circuses
- 909.02.06 Community Center
- 909.02.07 Community Cultural Facility
- 909.02.08 Community Residential Facility, Type II (13 or more residents)
- 909.02.09 Daycare, Adult (up to 12 adults)
- 909.02.10 Daycare Center (13 or more individuals)
- 909.02.11 Educational Facility (Higher Education)
- 909.02.12 Educational Facility (K-12)
- 909.02.13 Forestry
- 909.02.14 Healthcare Facility
- 909.02.15 Horticulture
- 909.02.16 Instructional Facility
- 909.02.17 On-site Construction Office
- 909.02.18 Open Space
- 909.02.19 Outdoor Concerts and Theatrical Performances
- 909.02.20 Outdoor Entertainment, Sports, and Recreation
- 909.02.21 Parking Lot
- 909.02.22 Parking Structure
- 909.02.23 Parks/Playgrounds
- 909.02.24 Public Safety Facility
- 909.02.25 Silviculture
- 909.02.26 Trails
- 909.02.27 Utility, Distributed Power
- 909.02.28 Utility, Major
- 909.02.29 Utility, Minor

909.02.30 Worship Facility

Taverns that are accessory to a principal use are allowed.

909.03 Accessory Uses

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent, and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

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

909.03.01 Accessory Uses and Buildings

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

909.04 Conditional Uses

The following uses are permitted, upon approval of a CUP by the BoA, in accordance with Section 14, of these Regulations:

909.04.01 Bus Terminal

909.04.02 Cemeteries, Mausoleums, Columbariums

909.04.03 Correctional Facility

909.04.04 Emergency Shelter

909.04.05 Pre-release Center

909.05 Minimum Lot Area

There is no minimum lot area, with one exception: a lot(s) that contains floodway and/or 100-year floodplain shall have a minimum lot area of ten (10) acres.

909.06 Maximum Lot Coverage

No maximum.

909.07 Minimum Setbacks

Front: No minimum.

Rear: No minimum, unless abutting a residential zone and then the minimum setback is fifteen (15) feet.

Side: No minimum, unless abutting a residential zone and then the minimum setback is fifteen (15) feet.

909.08 Encroachments (Setbacks)

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

909.09 Building Height

Maximum building height: sixty (60) feet.

- 909.10 Parking Standards
The minimum number of off-street parking spaces required for each land use can be found in Section 911.03.01.
- 909.11 Landscaping Standards
See landscaping standards in Section 912.
- 909.12 Lighting Standards
All outdoor electrical lighting shall be installed in conformance with the lighting standards found in Section 913.
- 910 **RESERVED.**
- 911 Parking Standards
- 911.01 Intent of Off-street Parking Requirements
The intent of these parking requirements is to ensure that a reasonable amount of off-street parking is created for development and to lessen hazardous conditions on streets. The intent of this Section is further defined by these objectives for parking:
- 911.01.01 Ensure adequate bicycle parking and increase the number of walking and biking trips used for travel between buildings and uses.
- 911.01.02 Encourage infill development and pedestrian activity.
- 911.01.03 Reduce the emission of greenhouse gases from the driving of internal combustion engine powered vehicles that have an impact on climate change.
- 911.02 Definition
For purposes of this Section, the following term and its derivations shall have the meaning given herein:
- Housing for Older Persons: Dwelling units operated under any State or federal program that are specifically designed and operated for elderly persons or any dwelling unit that is operated for occupancy by at least one person fifty-five (55) years of age or older per unit in at least eighty percent (80%) of the occupied units and adheres to a policy that demonstrates intent to house persons fifty-five (55) or older.
- 911.03 Minimum Number of Off-street Parking Spaces Required
- 911.03.01 The minimum number of off-street parking spaces required for each land use, unless parking reductions are allowed. All calculations are rounded up to the nearest whole number.

911.03.01.01	Administrative government agency: 3.0 spaces/1,000 square feet (sq. ft.) gross floor area (g.f.a.)
911.03.01.02	Administrative services: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.03	Agriculture: None required
911.03.01.04	Agricultural commodity storage facility: 0.5 space/1,000 sq. ft. g.f.a.
911.03.01.05	Agriculture supply sales: 2.1 spaces/1,000 sq. ft. g.f.a.
911.03.01.06	Airport: None required
911.03.01.07	Animal shelter: 2.79 spaces/1,000 sq. ft. g.f.a.
911.03.01.08	Apiculture: None required
911.03.01.09	Artisan shop: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.10	Auction sales: 2.1 spaces/1,000 sq. ft. g.f.a.
911.03.01.11	Bed and breakfast: 0.89 space/room plus 1 space/dwelling unit
911.03.01.12	Boarding/rooming house, 1 – 3 residents: 1 space/room for rent plus 2 additional spaces if part of building is used as a single-dwelling unit
911.03.01.13	Boarding/rooming house, 4 – 20 residents: 1 space/room for rent plus 2 additional spaces if part of building is used as a single-dwelling unit
911.03.01.14	Bus terminal (office space): 3.0 spaces/1,000 sq. ft. g.f.a.
911.03.01.15	Bus terminal (storage): 0.5 space/1,000 sq. ft. g.f.a.
911.03.01.16	Campground/RV park: 1 space/RV or tent space
911.03.01.17	Casino: 14 spaces/1,000 sq. ft. g.f.a.
911.03.01.18	Commercial kennel: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.19	Community center: 4 spaces/1,000 sq. ft. g.f.a.
911.03.01.20	Community cultural facility: 2 spaces/1,000 sq. ft. g.f.a.
911.03.01.21	Community residential facility, type I, 1 – 12 residents: 1 space for each 3 sleeping area rooms
911.03.01.22	Community residential facility, type II, 13 or more residents: 1 space for each 3 sleeping area rooms
911.03.01.23	Composting: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.24	Construction material sales: 3.29 spaces/1,000 sq. ft. g.f.a.
911.03.01.25	Contractor yard: 0.5 space/1,000 sq. ft. g.f.a.; no less than 1 on site space must be provided
911.03.01.26	Correctional facility: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.27	Country inn: 0.89 space/room plus 1 space/dwelling unit
911.03.01.28	Crematorium: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.29	Daycare, adult (up to 12): 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.30	Daycare center (13 or more children): 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.31	Daycare, family: None required

911.03.01.32	Daycare, group: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.33	Educational facility (higher education): 0.31 space/student
911.03.01.34	Educational facility (elementary/middle school): 0.12 space/student
911.03.01.35	Educational facility (high school): 0.31 space/student
911.03.01.36	Emergency shelter: 1 space/3 rooms
911.03.01.37	Equipment rental, large: 2.92 spaces/1,000 sq. ft. g.f.a.
911.03.01.38	Equipment rental, small: 2.92 spaces/1,000 sq. ft. g.f.a.
911.03.01.39	Financial services: 3 spaces/1,000 sq. ft. g.f.a.; stacking lanes for each drive up and ATM do not count toward the on-site parking requirement
911.03.01.40	Forestry: None required
911.03.01.41	Freight terminal: 0.5 space/1,000 sq. ft. g.f.a.
911.03.01.42	Fuel tank farm: 0.5 space/1,000 sq. ft. g.f.a.
911.03.01.43	Funeral home: 0.25 space/seat
911.03.01.44	General repair: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.45	General/professional services: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.46	General/specialty sales (all uses with the exception of furniture/carpet/appliance stores, grocery stores, and machinery sales): 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.47	General/specialty sales: Furniture/carpet/appliance store: 1 space/1,000 sq. ft. g.f.a.
911.03.01.48	General/specialty sales: Grocery store: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.49	General/specialty sales: Machinery sales: 1.5 spaces/1,000 sq. ft. g.f.a.
911.03.01.50	Healthcare center: 4.11 spaces/1,000 sq. ft. g.f.a.
911.03.01.51	Healthcare facility: 1.8 spaces/bed
911.03.01.52	Horticulture: None required
911.03.01.53	Hotel/motel: 0.89 space/room
911.03.01.54	Indoor entertainment, sports and recreation (all uses with the exception of theaters for movies and performing arts): 4.37 spaces/1,000 sq. ft. g.f.a.
911.03.01.55	Indoor entertainment, sports and recreation (theaters for movies and performing arts): 0.25 space/seat
911.03.01.56	Industrial, heavy: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.57	Industrial, light: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.58	Industrial, park: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.59	Instructional facility: 0.31 space/student
911.03.01.60	Junkyard: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.61	Manufactured housing sales: 2.1 spaces/1,000 sq. ft. g.f.a.

911.03.01.62	Mini-storage facility/Storage facility, Self service: 0.5 space/1,000 sq. ft. g.f.a.
911.03.01.63	Mobile home park: 2 spaces/dwelling unit
911.03.01.64	Motor vehicle wrecking facility: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.65	Open space: None required
911.03.01.66	Outdoor entertainment, sports and recreation: 0.25 space/seat
911.03.01.67	Parking lot: Not applicable
911.03.01.68	Parking structure: Not applicable
911.03.01.69	Parks/playgrounds: None required
911.03.01.70	Prerelease center: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.71	Public safety facility: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.72	Railroad yard: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.73	Recycling: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.74	Residence, single-dwelling unit: 2 spaces/dwelling unit
911.03.01.75	Residence, two-dwelling units: 2 spaces/dwelling unit
911.03.01.76	Residence, multiple-dwelling units (3 or more units): 1 space/dwelling unit (same requirement regarding housing for older persons)
911.03.01.77	Restaurant: 14 spaces/1,000 sq. ft. g.f.a.
911.03.01.78	Restaurant, drive-in (21 or more seats): 14 spaces/1,000 sq. ft. g.f.a.
911.03.01.79	Restaurant, drive-in (less than 21 seats): 0.5 space/seat
911.03.01.80	Sexually-oriented business: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.81	Shopping center: 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.82	Silviculture: None required
911.03.01.83	Specialized food production (area used for on-site consumption): 14 spaces/1,000 sq. ft. g.f.a.
911.03.01.84	Specialized food production (manufacturing/production area): 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.85	Tavern: 14 spaces/1,000 sq. ft. g.f.a.
911.03.01.86	Utility, distributed power: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.87	Utility, major: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.88	Utility, minor: 1.19 spaces/1,000 sq. ft. g.f.a.
911.03.01.89	Vehicle fuel sales (without convenience store): 2.1 spaces/1,000 sq. ft. g.f.a.
911.03.01.90	Vehicle fuel sales (if combined with convenience store): 3 spaces/1,000 sq. ft. g.f.a.
911.03.01.91	Vehicle repair: 2.1 spaces/1,000 sq. ft. g.f.a.
911.03.01.92	Vehicle sales and rental: 1 space/1,000 sq. ft. g.f.a.

- 911.03.01.93 Vehicle services: 1 space/1,000 sq. ft. g.f.a
- 911.03.01.94 Veterinary clinic, large or small animals: 3 spaces/1,000 sq. ft. g.f.a.
- 911.03.01.95 Warehouse: 0.5 space/1,000 sq. ft. g.f.a.
- 911.03.01.96 Worship facility: 0.25 space/seat

911.03.02 For uses not specifically provided for in this Section, the Zoning Administrator may determine the minimum number of parking spaces required, using as a guide the listed use which most closely resembles the use proposed.

911.04 ADA Accessible Parking

911.04.01 Accessible parking spaces must be provided, located, designed, and signed according to the federal Americans with Disabilities Act (ADA) and the regulations and ADA accessibility guidelines promulgated by the United States Department of Justice.

911.04.02 The required number of off-street parking spaces may be reduced to accommodate changes in the number of accessible parking spaces to comply with the federal Americans with Disabilities Act, Americans with Disabilities Act Amendment Act, and the regulations and ADA accessibility guidelines promulgated by the United States Department of Justice. A variance is not required if this change reduces the number of off-street parking spaces below the minimum off-street parking requirement.

911.05 Off-street Parking Design Standards

911.05.01 Off street parking spaces must be at least nine (9) feet wide and twenty (20) feet long, exclusive of access drives, rights-of-way, or ramps for all uses, except for tracts with only a single-dwelling unit residence, two-dwelling unit residence, or three-dwelling unit residence.

911.05.02 All off-street parking spaces and access areas must be improved with a minimum of two (2) inches of asphalt concrete paving on a suitable base, or comparable section of portland cement concrete, or textured concrete with colored aggregate, pavers, or other suitable material which may include permeable alternatives, in accordance with specifications established by City of Helena engineering design standards. Required off-street parking must be completed prior to the occupancy of the building.

911.06 Non-conforming Parking

911.06.01 Any lot, parcel, or tract, or use of a lot, parcel, or tract, which on the effective date of this Section, or any amendment hereto, is

nonconforming as to compliance with the parking required under this Section, the amount and location of parking on the lot, parcel, or tract, may be continued in the same manner as if it were conforming.

- 911.06.02 Except for existing single-dwelling unit residences, the parking requirements of this Section apply to the lot, parcel, or tract when the off-street parking is reconstructed or changed, or if the gross floor area of any building on the lot, parcel, or tract is increased by more than twenty-five (25%) percent.

911.07 Off-site and Shared Parking

- 911.07.01 Required off-street parking must be located on the same lot, parcel, tract, or combination of lots, parcels, or tracts under a common ownership and used for a common purpose, except as otherwise provided in this Section.
- 911.07.02 Required off-street parking for buildings and uses located in the B-2, CLM, M-I, and PLI Zones may be located within seven hundred (700) feet of the buildings and uses, as measured along a straight line between the two (2) nearest points of the building containing the main use and the off-site parking use.
- 911.07.03 The Zoning Administrator may authorize the shared use of off-street parking areas by different buildings and uses, if the following conditions are met:
 - 911.07.03.01 The uses do not have similar operating hours or other conflicting demands;
 - 911.07.03.02 The buildings must be located within seven hundred (700) feet of the shared off-street parking area, as measured by a straight line between the two (2) nearest points of the building containing the use and the lot, parcel, or tract containing the parking area; and
 - 911.07.03.03 Adequate pedestrian access between the parking lot and the use is provided.

911.08 Pedestrian Access and Bicycle Space Requirements

- 911.08.01 Pedestrian pathways must be located through parking areas to provide the shortest feasible connection from the parking area to building entryways, public sidewalks, and transit stops. Pedestrian pathways in and through parking areas must be designed and constructed to meet the following criteria:
 - 911.08.01.01 Limit conflict between pedestrians and vehicular traffic;

- 911.08.01.02 Be clearly delineated using techniques such as contrasting textured or colored material, striping, segregation of pathway from vehicle travel lanes, and raised pathway surfaces; and
- 911.08.01.03 Must be a minimum of five (5) feet wide.

911.08.02 Vehicle stops or curbing must be installed in parking lots where necessary to prevent vehicles from encroaching over sidewalks, pedestrian pathways, entryway areas, driveways, streets, alleys, or more than two (2) feet into landscaped areas.

911.08.03 Parking lots that have ten (10) or more parking spaces must provide three (3) bicycle spaces within fifty (50) feet of a main building entryway. Parking lots that have fifty (50) or more parking spaces must provide additional secure bicycle parking equal to five (5%) percent of the total number of parking spaces in excess of ten (10). Bicycle spaces must hold a bike upright, allow for securing the bicycle to an immovable object, and not conflict with pedestrian and vehicle traffic.

911.09 Parking Space Reductions

A reduction in the minimum required number of off-street parking spaces is permitted in this Section. Parking space reductions under this Section may not exceed fifty (50%) percent of the minimum off-street requirement, except as provided in subsection 911.09.01.03 of this Section. Required off-street parking spaces may be reduced as follows:

911.09.01 Nonresidential uses:

- 911.09.01.01 On-street parking spaces may satisfy the off-street parking requirements, on a one for one basis, for each legal on-street parking space on a public street right-of-way that is immediately adjacent to the property containing the use. Each uninterrupted twenty (20) linear feet in the portion of the public street designated for public parking of vehicles located within imaginary extensions of the property boundaries onto the street is one parking space. If the boundary extensions intersect any continuous twenty (20) foot length used to determine a parking space, that intersected portion is considered one parking space, regardless of size. Recognition of this space does not create a property interest in the on-street parking and does not guarantee permanent availability of that space within public right-of-way.
- 911.09.01.02 For every two (2) bicycle spaces on the property above the number required for the minimum bicycle space requirements, one required off-street parking

space requirement is satisfied. The maximum reduction allowed under this subsection is twenty (20%) percent of the minimum off-street parking spaces required. This reduction cannot reduce the number of required accessible parking spaces. Bicycle spaces must hold a bike upright, allow for securing the bicycle to an immovable object, be clearly visible, provide shelter from weather elements, and not conflict with pedestrian and vehicle traffic.

911.09.01.03 Worship facilities may reduce on-site parking requirements by ninety (90%) percent if the applicant shows the required number of parking spaces can be met by other private or public parking spaces located within one thousand (1000) feet of the property. The applicant must demonstrate that these off-site spaces are primarily used during noncompeting operating hours and there are pedestrian facilities to connect the off-site parking to the property.

911.09.02 Single-, two- and multiple-dwelling unit residential uses:
 For residential uses containing a single-dwelling unit or a two-dwelling unit located in any zoning district; or a multiple-dwelling unit located within an R-3, R-4, R-O, or B-2 Zone, on-street parking spaces may satisfy the off-street parking requirements, on a one for one basis, for each legal on-street parking space on a public street right-of-way that is immediately adjacent to the property containing the use. Each uninterrupted twenty (20) linear feet in the portion of the public street designated for public parking of vehicles located within imaginary extensions of the property boundaries onto the street is one parking space. If the boundary extensions intersect any continuous twenty (20) foot length used to determine a parking space, that intersected portion is considered one parking space, regardless of size.

912 Landscaping

The intent of this Section is to contribute to the relief of heat, noise, wind, and glare through the proper placement of living plants and trees; providing screening and mitigation of potential conflicts between commercial and residential districts; encouraging water conservation, mitigating air pollution, and enhancing the beauty of the UR District.

912.01 General Landscaping

912.01.01 The provisions of this Section apply to tracts in all zones and to all uses except for tracts with only a single residential dwelling unit, two (2) residential dwelling units, three (3) residential dwelling units, or mobile home or recreational vehicle parks.

- 912.01.02 All areas of a tract that are not covered by buildings, parking lots, utility poles and boxes, and walking or nonmotorized paths must be landscaped as provided in Subsection 912.04.

912.02 Parking Lot Landscaping

For parking lots on tracts for which this Section requires landscaping, the minimum landscaping requirements are as follows:

- 912.02.01 All parking lots, whether gravel or other surface, must have at least thirty (30) square feet of landscaping per vehicle parking space within the boundaries of the parking lot.
- 912.02.02 Any edge of a parking space must be within thirty-five (35) feet of the trunk of a tree.
- 912.02.03 All qualified trees on a tract may be used to satisfy Subsection 912.02.02, whether installed as general landscaping pursuant to Subsection 912.01, screening pursuant to Subsection 911.03, parking lot landscaping pursuant to this Section, or any other required landscaping.

912.03 Screening

- 912.03.01 The side of a tract in a B-2, CLM, M-I, or PLI (commercial) zone that is adjacent to an R-1/R-2, R-3, or R-4/R-O (residential) zone, except driveways, walkways, and approaches, must be screened from that residential zone. A commercial tract is considered adjacent to a residential district even if it is separated by a public or private right-of-way/easement.
- 912.03.02 All parking lots on tracts adjacent to R-1/R-2, R-3, or R-4/R-O (residential) zones and for which landscaping is required under this Section must be screened from the residential districts. A parking lot tract is considered adjacent to a residential district even if it is separated by a public or private right-of-way/easement.
- 912.03.03 Screening of a B-2, CLM, M-I, or PLI tract or a parking lot from an R-1/R-2, R-3, or R-4/R-O zone may be by a fence, wall, or vegetation that is no less than three (3) feet in height when planted. The screening must be designed and established so that no less than seventy-five (75%) percent of any thirty-six (36) square foot portion of the entire screening is opaque. Only the first six (6) feet in height is used to determine the area of the screening. The opaqueness of vegetation used as screening is measured as of its growth in July and after the third full growing season.

912.04 General Landscaping and Parking Lot Landscaping Standards

- 912.04.01 Except as provided below, general landscaping and parking lot landscaping must contain no less than sixty (60%) percent live vegetative cover and include shrubs, bushes, or trees. If this live

vegetative cover consists entirely of plants that do not require supplemental water or irrigation once established, or consists entirely of plants that are native to Lewis and Clark County, then those areas may contain as little as fifty (50%) percent live vegetative cover. The projected drip line of an average shrub, bush, or tree of that species at five (5) years of age may be used in calculating minimum vegetative coverage. The remainder of the area may be covered in inorganic materials that are permeable to water.

- 912.04.02 When space permits, additional trees must be planted no more than thirty (30) feet apart in landscape islands within the boundaries of the parking lot that have planted trees to meet the requirement in Subsection 912.02.02. All trees must be expected to grow to at least twenty (20) feet in height when mature. Deciduous trees must be no less than 1.5-inch caliper at time of planting. Evergreen trees must be no less than five (5) feet tall at time of planting.
- 912.04.03 Trees expected to grow to thirty (30) feet in height or less must be planted in a tree plot of no less than twenty (20) square feet. Trees expected to grow to more than thirty (30) feet in height must be planted in a tree plot of no less than forty-eight (48) square feet.
- 912.04.04 Trees within two (2) feet of any edge of a parking space must be protected from damage by vehicles by barriers such as curb stops, tree guards, rebar poles, or other types of vehicle obstructions.

912.05 Site Plan Required

- 912.05.01 A site plan showing the general landscaping and parking lot landscaping must be submitted for review and approval prior to constructing new buildings, changing building size, installing new parking lots, or changing the size of parking lots. The site plan must include the following:
 - 912.05.01.01 Location of proposed general and parking lot landscaping drawn to scale, which scale must be appropriate to the size of the project;
 - 912.05.01.02 Location and dimensions of all existing and proposed buildings, project boundary lines, parking lots, roadways and rights-of-way/easements, delineation of sight distance triangles, walking and nonmotorized paths, and utility poles and boxes;
 - 912.05.01.03 Location, installed size, species, and quantity of proposed trees, bushes, shrubs, or other vegetation, and organic and inorganic materials proposed for use; and
 - 912.05.01.04 Estimated date of completion of the installation of the general and parking lot landscaping.

912.05.02 The approved general and parking lot landscaping plans may not be changed or altered without review and approval by the Zoning Administrator. All general and parking lot landscaping shown on an approved plan must be installed.

912.06 Maintenance

912.06.01 Landscaping must be maintained to sustain healthy trees, bushes, shrubs, and other vegetation.

912.06.02 Any tree, bush, shrub, or other vegetation that is necessary to meet the minimum requirements of this Section that is dead, diseased, or severely damaged must be removed and replaced with a comparable tree, bush, shrub, or other vegetation.

912.07 Non-conforming Landscaping

912.07.01 On the effective date of this Section, any tract or use of a tract that is nonconforming as to the amount and location of landscaping or trees required under this Section may be continued in the same manner as if it were conforming.

912.07.02 If the size of a building is changed or reconstructed, the landscaping requirements of this Section apply to the entire tract.

912.07.03 If a parking lot is reconstructed or the size of a parking lot is increased, the parking lot landscaping and tree requirements of this Section apply to the entire parking lot.

913 Lighting Standards

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

913.01 Residential Outdoor Lighting

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

913.02 Commercial Outdoor Lighting

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

913.03 Feature Lighting

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

913.04 Signs

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

913.05 Communication Towers

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

913.06 Exemptions

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

913.06.2 American Flag illumination

913.06.3 Temporary Construction Sites

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

913.06.4 Seasonal Lighting

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

913.06.5 Emergency Lighting

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

913.07 Prohibited Lighting

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

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

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

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

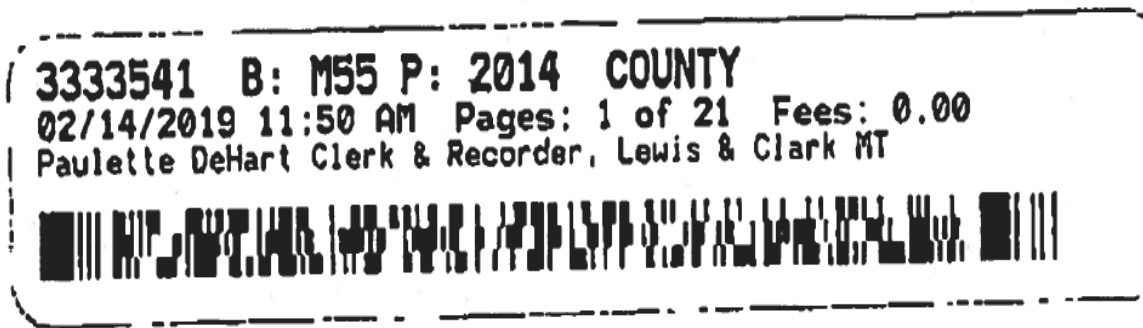
913.07.4 Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting with total per source level not exceeding an average of two thousand eight hundred fifty (2,850) lumens.

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SECTION 10 FORT HARRISON RURAL GROWTH AREA DISTRICT (FHRGA)

The Fort Harrison Rural Growth Area Zone District was previously approved, and its regulations can be found at Resolution 2019-20 recorded with the Lewis and Clark County Clerk and Recorder's office at document number 3333541 (see below.)

Nothing contained within these Helena Valley Zoning Regulations apply to the existing Fort Harrison Rural Growth Area District regulations, and vice versa.



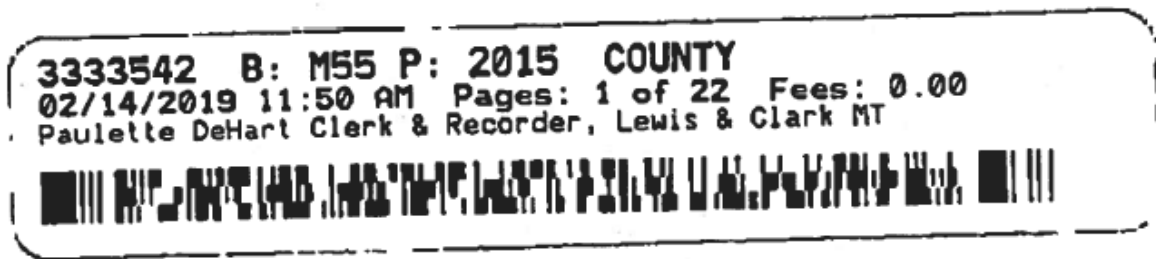
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SECTION 11 FORT HARRISON URBAN GROWTH AREA DISTRICT (FHUGA)

The Fort Harrison Urban Growth Area Zone District was previously approved and, its regulations can be found at Resolution 2019-21 recorded with the Lewis and Clark County Clerk and Recorder's office at document number 3333542 (see below.)

Nothing contained within these Helena Valley Zoning Regulations apply to the existing Fort Harrison Urban Growth Area District regulations, and vice versa.



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SECTION 12 RESERVED.

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SECTION 13 RESERVED.

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SECTION 14 CONDITIONAL USES AND PERMITS (CUP)

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1401 Intent

To provide for uses in specific zone districts when such uses may possess unique and special characteristics which otherwise may not be ordinarily compatible with all aspects of the zone districts in question. To provide a public process which affords the County and the public a way to satisfactorily address any impacts of the use. To establish procedures for the review of Conditional Use Permits (CUP) by the County Community Development and Planning Department (CDP) and the Board of Adjustment (BOA) with an opportunity for the public to participate.

1402 Criteria for Consideration of a Conditional Use Permit

A CUP may be approved only if the BOA finds and concludes that the proposed use satisfactorily addresses the criteria set forth in Section 1402.01. In reaching its conclusions, the BOA will assess the applicant's information; however, the burden of proof for satisfying the approval standards shall rest wholly with the applicant, and not the BOA. The granting of a CUP rests in the discretion of the BOA and a refusal is not the denial of a right, conditional or otherwise.

No structure, building or land shall be used, constructed, altered, or expanded where a CUP is specifically required by the terms of these Regulations until a CUP or CUP Amendment for such use has been authorized by the BOA and issued by the Zoning Administrator.

Structures or buildings devoted to any use which is permitted under the terms of these Regulations, subject to the securing of a CUP, may be altered, added to, enlarged, expanded, or moved from one location to another on the parcel only after securing a new or amended CUP.

The BOA may establish lesser setbacks than those required and heights greater than those allowed in the underlying zone district, if the BOA determines that adequate buffering is or will be provided to mitigate such concerns as noise, visual, dust, or other social or environmental impacts. The burden of proof is on the applicant to demonstrate such adequate mitigation measures.

A CUP may be permitted on nonconforming parcels when such use is permitted, as a CUP, in the zone district to which the parcel conforms in size.

1402.01 Approval Criteria

Each CUP application shall demonstrate how the proposal will satisfactorily address the following five (5) approval criteria.

1402.01.1 Site Suitability

That the site is suitable for the use. This includes:

- (a) Adequate usable space;
- (b) Adequate access; and
- (c) Absence of adverse environmental constraints.

1402.01.2 Appropriateness of Design

The site plan for the proposed use will provide the most convenient and functional use of the lot. Consideration of design should include:

- (a) Parking scheme;
- (b) Traffic circulation;
- (c) Open space;
- (d) Fencing, screening;
- (e) Landscaping;

- (f) Signage; and
- (g) Lighting.

1402.01.3 Availability of Public Services and Facilities

The following services and facilities are to be available and adequate to serve the needs of the use as designed and proposed:

- (a) Sewer;
- (b) Water;
- (c) Storm water drainage;
- (d) Fire protection;
- (e) Police protection; and
- (f) Streets.

1402.01.4 Immediate Neighborhood Impact

That the proposed use will not be detrimental to surrounding neighborhoods in general. Typical negative impacts which extend beyond the proposed site include:

- (a) Excessive traffic generation;
- (b) Noise or vibration;
- (c) Dust, glare, or heat;
- (d) Smoke, fumes, gas, or odors; and
- (e) Inappropriate hours of operations.

1402.01.5 Growth Policy

The proposed development will be consistent with the Growth Policy.

1403 Approval Conditions

The BOA may impose conditions of approval where such conditions are necessary or appropriate to ensure a CUP meets the criteria set forth in Section 1402.

1404 Decision Based on Findings

Every decision of the Board of Adjustment pertaining to the granting, denial, or amendment of a request for a CUP shall be based upon "Findings of Fact". Each Finding of Fact shall be supported in the records of the proceedings. The criteria set forth in Section 1402 as they relate to matters, which the BOA is empowered to review under these Regulations and MCA, shall be construed as a limitation on the power of the BOA to act in the matter of approval / denial of a CUP. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these Regulations.

1405 Length of Approval

A CUP shall be valid for a duration of time specified by the BOA or until the land use changes, is revoked, or is terminated, whichever occurs first. The CUP may transfer with the transfer of the land.

1406 Standards and Additional Requirements for Conditional Uses

When the proposal lies within a Planned Development (PD) overlay, the development plan for said PD overlay shall set forth the conditional uses and any additional requirements therein. In the absence of a PD, the conditional uses shall be as set forth within the specific zone district applicable to the proposed project site.

The following uses are listed as Conditional Uses below and are subject to additional requirements as noted:

1406.01 Airstrip

- (a) Minimum setback for landing area: two hundred (200) feet from the sides of the landing strip, and four hundred (400) feet from the ends.
- (b) The landing field shall be for the exclusive use of the landowner and guests.
- (c) Any commercial use, flight training, ground school, or sales, are prohibited.
- (d) Aircraft noise at the parcel boundaries may not exceed seventy-eight (78) db(A) for more than five (5) minutes in a one (1) hour period.
- (e) The FAA shall be notified regarding approval of airspace.
- (f) The landing strip shall be oriented such that aircraft landing and takeoff do not pass directly over dwellings not owned by the landowner, schools, churches, or other places of public assembly.
- (g) Minimum setback from existing residences (except landowner's): one-half (½) mile from either end of the runway.
- (h) A management plan shall be submitted with the application that addresses the following:
 - (1) Type and use of aircraft for which the facility is intended;
 - (2) Number of planes to be stationed on the site;
 - (3) Frequency of flights and diagram of flight patterns; and
 - (4) Hours of operation.

1406.02 Animal Hospital / Veterinary Clinic

- (a) Such uses must be located at least one hundred (100) feet from all parcel lines.

1406.03 Extractive Industries

Requirements contained in this section shall not exempt the owner or operator of an extractive industry from compliance with the Montana Open Cut Mining Act, Section 82-4-401, et seq., MCA, as administered by the Montana Department of Environmental Quality, but shall be in addition to the requirements of said Act.

1406.03.1 Operational Requirements

- (a) The site of an extractive industry shall be of sufficient size and dimensions to accommodate the proposed operations. Consideration shall be given to noise, light, dust, smoke and vibration and how they affect adjoining properties. Blasting operations shall be restricted to Monday through Friday between the hours of 8:00 A.M. and 5:00 P.M. Pockets and stagnant pools of water resulting from surface drainage shall either be:
 - (1) Sprayed to eliminate breeding places for mosquitoes and other insects. Method and chemical uses shall be approved by the Montana State Department of Agriculture; or
 - (2) Drained to prevent the creation of such breeding places.

1406.03.2 Off-street parking areas adequate for all employees' vehicles and trucks shall be provided.

1406.03.3 Plan for Development of the Site.

The plan to be submitted with the application for a CUP shall include a plan for the development of the subject property which shall consist of two (2) phases: the exploitation phase and the re-use phase. When such a plan is also required by the Open Cut Mining Act, the submitted plan must include all information required by the Department of Environmental Quality for such an application.

(a) Exploitation Phase

(1) The plan for the exploitation phase shall show the proposed development as planned in relation to surrounding property within three hundred (300) feet and shall include topographic surveys and other materials indicating existing conditions, including soil and drainage and the conditions, including drainage, topography and soil which shall exist at the end of the exploitation phase. Contour intervals for topography shall be five (5) feet in areas where slope is less than ten (10) percent.

(2) The plan for the exploitation phase shall demonstrate the feasibility of the operation proposed without creating hazards or causing damage to other properties. This plan shall also show the different stages of exploitation, where and how traffic will be handled, where equipment will be operating, the location and dimension of structures, the manner in which safeguards will be provided, including those for preventing access by children and other unauthorized persons to dangerous areas. The final stage of this plan shall indicate how the project is to be finished in accordance with the plan for re-use.

(b) Re-Use Phase

The plan for the re-use phase shall indicate how the property is to be left in a form suitable for re-use for purposes permissible in the district, relating such re-uses to uses existing or proposed for surrounding properties. Among items to be included in the plan are feasible circulation patterns in and around the site, the treatment of exposed soil or subsoil, including measures to be taken to replace topsoil or establish vegetation in excavated areas in order to make the property suitable for the proposed re-use and treatment of slopes to prevent erosion. In such a re-use plan, intermittent lakes shall be allowed, provided that such lakes are deep enough to sustain a species of game fish approved by the Montana Department of Fish, Wildlife and Parks. Such fish should have the capacity of feeding on insects and mosquito larvae, thereby eliminating an insect and mosquito breeding area.

1406.04 Greenhouse Nursery

The following items may be restricted based upon compatibility with the surrounding land uses:

- (a) Location, size, height and use of structures;
- (b) Number of vehicle trips;

- (c) Lighting and hours of operation;
- (d) Location and type of materials stored outside; and
- (e) Wholesale/Retail sale of items.

1406.05 Heliport

- (a) The FAA shall be notified regarding approval of airspace.
- (b) A management plan shall be submitted with the application that addresses the following:
 - (1) Type and use of aircraft for which the facility is intended;
 - (2) Number of helicopters to be stationed on the site;
 - (3) Frequency of flights and diagram of flight patterns; and
 - (4) Hours of operation.

1406.06 Industrial Uses

Must not emit unusual or excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise beyond the parcel boundary.

1406.07 Jail/Correctional

Security for the facility may include barb, electric, or concertina wire when located a minimum of six (6) feet six (6) inches in height measured from the ground level outside the fence.

1406.08 Kennel

Provided that all uses are located at least one hundred (100) feet from all parcel lines.

1406.09 Satellite Earth Station

A report describing the satellite earth station shall be included with the application. The report shall include the following:

- (a) Discussion of proposed number, height, and types of satellite dishes to be accommodated;
- (b) Description of output frequency, number of channels and power output per channel for each proposed antenna;
- (c) A letter from the applicant stating that an intermodulation study, if required, has been conducted and concludes that no interference problems are predicted;
- (d) A plan for the use and estimated life of the proposed telecommunication facility; and
- (e) Statement that the proposed facility will be in compliance with all FCC and FAA regulations, and applicable federal requirements including, but not limited to, those associated with the National Environmental Protection Act (NEPA) as amended.

1406.10 Storage Facility, Self Service

The BOA may require the applicant present a plan that indicates how Outdoor Storage Areas will be screened/concealed/blended from the adjoining lands when such adjoining lands are in a residential use.

1407 Submittal Prerequisite

The applicant shall attend a pre-application meeting with the Zoning Administrator to discuss their CUP proposal, the submittal process, and requirements for a new CUP or an amendment to an existing CUP. Within fifteen (15) days of the pre-application meeting, the Zoning Administrator shall provide a written summary of the meeting.

A proposed amendment to an existing CUP may be considered in accordance with the procedures identified in the Amendment Section 1416. An amendment to a CUP shall be considered through an administrative process when the Zoning Administrator determines that the change does not represent a substantial increase in the intensity of the use or impacts to the neighborhood. This type of amendment shall be referred to as a CUP Administrative Amendment.

If the Zoning Administrator determines that the proposed amendment to an existing CUP does represent a substantial increase in the intensity of the use or impacts to the neighborhood, the proposed amendment shall be subject to the same submittal and process requirements as required for a new CUP application. This type of amendment shall be referred to as a CUP Amendment. When making the determination, the Zoning Administrator shall consider the proposed degree of change to the site improvements and management plan as reflected on the approved Plan Exhibit, with specific consideration for potential increased impacts to the surrounding community.

The applicant may appeal the Zoning Administrator's determination on the amendment process for an existing CUP to the BOA in accordance with Section 20 (Appeals).

1408 Submittal Process

The following shall apply to a new CUP or a CUP Amendment. The application shall be submitted only after the pre-application meeting(s) has been completed and the applicant has received the written Staff comment summary from the pre-application meeting. For a request for a CUP, or a CUP amendment, the submittal is processed as follows:

1408.01 The applicant shall submit the required submittal information to the CDP. The submittal shall be reviewed by the Staff assigned the project and a determination of completeness and sufficiency shall be made within twenty-one (21) days. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient submittal will not be processed.

1408.02 Once the submittal is determined complete and sufficient, Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

1408.03 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by the Staff to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying in writing the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written

response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

- 1408.04 The Staff will review the referral agency comments and discuss the concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the BOA. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time, and prepare a staff report for the BOA. The Staff will provide the public notice for the hearing as set forth in Section 1412.
- 1408.05 The BOA shall evaluate the CUP request, staff report, referral agency comments, applicant responses, and public comment and testimony, and shall approve, approve with conditions, or deny the CUP request. The BOA's action shall be based on the evidence presented, public comment, compliance with the adopted County standards, regulations, policies, and other guidelines. The BOA shall have up to sixty (60) days from the date of public hearing to render their decision unless an extension is mutually agreed-upon between the applicant and the BOA.
- 1408.06 If denied by the BOA, a resubmittal of a CUP request for the same or substantially same request, as determined by the Zoning Administrator, shall not be accepted within one (1) year of such denial. The applicant may appeal the decision, in writing, to the BOA pursuant to the Section 20 (Appeals) of these Regulations. The submittal of a new application and processing fee shall be required to pursue another proposed CUP.
- 1408.07 Following approval by the BOA, the applicant shall submit a signed Plan Exhibit to the CDP. The Staff shall verify that all conditions of approval have been met and all technical corrections have been satisfactorily made, prior to the Zoning Administrator's execution of the approval certificate on behalf of the BOA. The applicant shall submit the final signed Plan Exhibit no later than ninety (90) days from the date of BOA approval, unless the BOA allows for a longer period of time as part of its approval. The Zoning Administrator may grant a one-time extension of no more than an additional ninety (90) days. Further extensions may be submitted for the BOA's consideration.
- 1409 Withdrawal of a Conditional Use Permit Application
A request to withdraw an application shall be submitted, in writing, to the Staff. Once withdrawn, the submittal of a new application and processing fee shall be required in order to re-initiate the application; and such re-initiation shall be considered and processed as a new application.
- 1410 Submittal Requirements
The following submittal requirements shall apply to all applications for a new CUP:
- 1410.01 Completed application (available from the CDP).
- 1410.02 Application fee (available from the CDP).
- 1410.03 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.

- 1410.04 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
- 1410.05 Narrative to describe the following:
- (a) General project concepts;
 - (b) Zoning of the land and compliance with the zone district requirements and any additional requirements for the CUP review as defined in this Section 14;
 - (c) Define overall impacts of the proposed use on the adjoining lands;
 - (d) Compliance with the Growth Policy;
 - (e) Compliance with appropriate agency regulations and any other necessary
 - (f) permits; and
 - (g) How the proposal satisfactorily address the approval criteria set forth in Section 1402.
- 1410.06 Plan Exhibit (*per Section 1411*)
Plan Exhibit (eleven (11) inch X seventeen (17) inch reduction) shall be required for the BOA public hearing packets; however, larger format plans (i.e. twenty-four (24) inches x thirty-six (36) inches etc.) may be required if needed for clarity purposes.
- 1410.07 Development Reports, unless waived by the Zoning Administrator in consultation with the County Engineer:
- (a) Drainage Report and Plan;
 - (b) Utility drawings(s);
 - (c) Off-site improvement plans, as required;
 - (d) Engineering construction drawings; and
 - (e) Traffic Impact Study.
- An improvements agreement may be required to identify and financially secure the improvements and other commitments required as part of the CUP approval.
- 1410.08 Other detailed technical studies, including but not limited to environmental, noise, and wildlife, based upon the scale and impact of the application, as may be necessary to demonstrate compliance with the approval standards.
- 1410.09 Documentation of capacity from the fire protection authority having jurisdiction.

1411 Plan Exhibit

For a CUP or a CUP amendment (Section 1416), a Plan Exhibit shall consist of both a Site Plan and Management Plan as required herein.

- 1411.01 All or portions of the required Site Plan elements may be waived by the Zoning Administrator if it is determined that the CUP review will occupy an existing structure with no exterior modifications, no site modifications, or will not otherwise require significant public or private improvements:
- (a) Scaled Site Plan;
 - (b) Landscape Plan;
 - (c) Grading and Drainage Plan; and
 - (d) Lighting Plan.

1411.02 A Management Plan shall be provided that addresses all aspects of the day-to-day operation of the CUP. The degree of detail will depend upon the specific use. The following items shall be included, at a minimum, in the plan. The Management Plan shall be appended to the Site Plan Exhibit prior to final approval.

1411.02.1 Number of clients/customers expected daily or weekly.

1411.02.2 Hours of operation - whether the use is seasonal and the number of days of the week.

1411.02.3 Number of employees.

1411.02.4 Required outside storage/parking/loading areas.

1411.02.5 Permit requirements from other state, federal or local agencies.

1411.02.6 Method of providing fire protection.

1411.02.7 Other operational elements necessary to address the potential impacts for the specific special use.

1411.03 Plan Exhibit Title

The Plan Exhibit title shall include the name and legal description of the proposed development along with the address, site acreage (both for the CUP area and total site when different), and project file number. The business name shall not appear in the official title.

1411.04 Plan Exhibit Approval Certificate

Provide either a corporate/limited liability corporation (LLC) or individual approval certificate on the first sheet of the plan set, as follows.

<p>APPROVAL CERTIFICATE</p> <p>THE CONDITIONAL USE PERMIT (CUP) AS DEPICTED HEREON WAS APPROVED BY THE BOARD OF ADJUSTMENT</p> <p>ON _____, 20_____.</p> <p>_____</p> <p>Zoning Administrator for the Board of Adjustment</p> <ul style="list-style-type: none"> • The CUP is subject to review as defined by the Board of Adjustment as part of its approval, to ensure compliance with the approval standards and conditions of approval. • Construction shall commence pursuant to the CUP review within three (3) years from the date of approval, or within the extended effective approval period, otherwise the CUP shall terminate. • The CUP shall terminate when the use of the land changes or when the time period established by the Board of Adjustment through the approval process expires. The owner shall notify the Planning Division of a termination of the use. When the Planning

Division is notified of a termination of use or observes that the use has been terminated during the annual review, a written notice of termination shall be sent to the landowner.

The undersigned as the owner or owner’s representative of the lands described herein, hereby agree on behalf of itself, its successors and assigns to develop and maintain the property described hereon in accordance and compliance with this approved CUP Plan Exhibit and the Helena Valley Zoning Regulations.

By: _____ (Signature) _____

Title: _____

Date: _____

An initialed secondary approval block is required on all subsequent Plan Exhibit sheets:

Approval Certificate	
Planning	_____
	Initials/Date
Owner/Rep.	_____
	Initials/Date

1412 Public Notice Requirements

The following requirements shall apply to a CUP and CUP amendment.

1412.01 Written Notice

At least fifteen (15) days prior to the BOA hearing, Staff shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice also required by this section.

The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING
I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this _____ day of _____, 20____, and addressed as follows: <i>(attach list of addresses as needed)</i>
_____ <i>(signature of person completing the mailing)</i>

1412.02 Published Notice

At least fifteen (15) days prior to the BOA hearing, Staff shall:

- (a) Publish a notice in at least one (1) publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and
- (b) Obtain a publisher's affidavit of said published notice prior to the hearing.

1412.03 Posted Notice

At least fifteen (15) days prior to the BOA hearing, Staff shall post a notice on the land for which the CUP is requested.

NOTICE OF PUBLIC HEARING BEFORE THE BOARD OF ADJUSTMENT
This land shall be considered for a Conditional Use Permit for a <i>(insert specific use)</i> in the _____ zone district. The public hearing is <i>(date)</i> , in the Commissioners' Hearing Room, 316 N. Park Ave., Helena, MT at <i>(time)</i> . For more information call County Planning, 406-447-8374
File No./Name: _____

1412.03.1 An affidavit of sign posting shall be submitted by the person who posted the sign for the file in the Planning Division prior to the hearings. The sign(s) shall be photographed by the person who posted them and attached to the affidavit as follows:

<i>(attach photo here)</i> <i>(sign lettering must be legible in photo)</i>
I, <i>(person posting sign)</i> , attest that the above sign was posted on <i>(date)</i> abutting <i>(name of street)</i> .
_____ <i>(signature)</i> File No./Name: _____

1413 Post Approval

1413.01 Anniversary Date Reviews

Approved CUPs shall be field inspected by Staff for compliance with the terms and approval conditions of the CUP on every third anniversary; however the BOA may set a different rate for the frequency of reviews based upon the scope and magnitude of the use.

1413.02 Termination of Use

1413.02.1 Construction pursuant to approval of a CUP shall be commenced within three (3) years from the date of the BOA's approval, unless otherwise

specified, or the approval shall terminate. The Zoning Administrator may grant an extension of time, for good cause shown, upon a written request by the applicant.

- 1413.02.2 The Zoning Administrator may grant time extensions to the effective period of a CUP, not to exceed a total of three (3) years beyond the date of original approval, upon written request by the applicant. As necessary, the Zoning Administrator may include additional conditions with the time extension in order to ensure that the CUP remains in compliance with BOA's approval.

Time extensions in excess of the three (3) years noted above, may be requested by the applicant for consideration by the BOA at a public meeting.

- 1413.02.3 Where a CUP brings an existing use into compliance with applicable regulations, or is designed to correct a Notice of Violation, all improvements depicted on the CUP exhibit shall be completed within six (6) months of approval, unless otherwise approved by the BOA.

- 1413.02.4 A CUP shall terminate when the use of the land changes or when the time period established by the BOA through the approval process expires, whichever occurs first. The owner shall notify the Zoning Administrator of a termination of the use. When the Zoning Administrator is notified of a termination of use or observes that the use has been terminated, a written notice of termination shall be sent to the landowner.

- 1413.02.5 The termination notice is appealable, in writing, to the BOA pursuant to Section 20 (Appeals) of these Regulations.

1413.03 Revocation

If noncompliance with the approved Plan Exhibit or conditions of approval is demonstrated, the Zoning Administrator shall contact the landowner and provide thirty (30) days to cure the non-compliance. Failure to cure the noncompliance within the thirty (30) day period may give rise to revocation of the permit by the BOA. The BOA may consider revocation of the CUP at a public meeting. Written notice shall be provided to the landowner and/or lessee at least fifteen (15) days prior to the scheduled BOA meeting.

1414 Inactive Files

Files that become inactive, because the applicant has not responded to Staff's request for information or otherwise action in the process, for a period of more than six (6) months, shall become void and the resubmittal of a new application and fees shall be required to pursue the CUP request. After five (5) months of inactivity, Staff shall notify the applicant in writing that the application will become void within thirty (30) days. If the applicant fails to submit the required additional information or request a hearing date within thirty (30) days, Staff shall notify the applicant in writing that the application is void. This provision shall apply to all CUP applications on file with the CDP upon the effective date of adoption and any application thereafter. The Zoning Administrator may grant an extension of time, of no more than six (6) months, upon a written request by the applicant.

1415 Post Denial Application

If denied by the BOA, a resubmittal of the same or substantially same CUP application shall not be accepted within one hundred eighty (180) days from the date of denial by the BOA, or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the Zoning Administrator showing that there has been a substantial change in physical conditions or circumstances, the Zoning Administrator may reconsider the CUP sooner than the above noted one hundred eighty (180) days. A new application and processing fee shall be required.

1416 Conditional Use Permit Amendments**1416.01 Amendment of an Approved CUP - BOA**

An amendment to an approved CUP may be considered in accordance with the procedures identified in the Section 14 for a new CUP.

1416.02 Amendment of an Approved CUP - Administrative

When an existing CUP is proposed for a minor modification, it may be considered for an Administrative CUP Amendment by the Zoning Administrator as follows:

1416.02.1 Upon receipt of a complete application as set forth in Section 1410, the Zoning Administrator shall prepare a notice containing the pertinent facts to the application and shall have said notice served by first class mail upon adjoining property owners. The notice shall provide a reasonable period of time, not less than twenty-one (21) days, for interested parties to submit comments on the proposed activity. Within fifteen (15) days of the end of the comment period a written determination shall be mailed to the applicant approving or denying the Administrative Amendment to the CUP.

1416.02.2 The application and format used for the submittal of the Administrative Amendment to the CUP shall be the same as found in Section 1410 for CUP applications. All information required for the application shall be supplied by the applicant. The evaluation criteria for this Administrative Permit shall be supplied by the applicant. The criteria for this Administrative Permit shall be the same criteria as outlined in Section 1402. If there is no written public opposition and the project meets the criteria, the project will be approved. The Zoning Administrator shall issue a CUP Administrative Amendment, with or without conditions of approval, which will be indicated on the face of the permit.

1416.02.3 When written opposition from the property owners adjoining the property subject to the request are received prior to the end of the comment period and the expressed concerns of the opposition cannot be resolved by the applicant, the Administrative Amendment to the CUP will be scheduled for the next available BOA meeting for a decision. The applicant shall be responsible for all additional information and filing fees required.

1416.02.4 If the Administrative Amendment to the CUP is denied by the Zoning Administrator, the denial may be appealed. This appeal shall be made in accordance with Section 20 (Appeals). The appellant is responsible for all information and additional filing fees required.

1416.03 Title and Approval Certificate

The project title for all CUP amendments shall be consistent with the original title; except that it shall also identify it as an amendment (i.e. 1st Amendment.)

The following approval certificate shall accompany the required Plan Exhibit for a CUP amendment.

CUP Amendment Approval Certificate

1st (Administrative—if applicable) Amendment to File # _____ is hereby amended this ____ day of ____, 20___. The CUP continues to meet all approval criteria and is subject to all original conditions of approval, unless specifically noted hereon.

Zoning Administrator for the Board of Adjustment

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SECTION 15 TEMPORARY USES

-Section Contents-

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1502 General Requirements..... 15-2

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1501 Intent

To provide for the regulation of temporary and seasonal uses such as, but not limited to, temporary construction offices, temporary sales offices, produce stands, Christmas tree lots, firework stands, uses central to seasons, holidays, special events, or development/construction projects. Temporary uses have defined commencement and termination dates.

1502 General Requirements

- 1502.01 Temporary uses shall comply with all accessory use setback requirements of the district.
- 1502.02 Temporary uses must be connected to approved water and sewer utilities, where appropriate.
- 1502.03 Parcels with a temporary use(s) must have an approach permit or permits (when such approach permit is required or when an acceptable existing approach permit exists) issued by the appropriate agency (Montana Department of Transportation, City of East Helena, City of Helena, or Lewis and Clark County) before the temporary use can commence.
- 1502.04 All parking associated with temporary uses must be off-street.
- 1502.05 Temporary structures associated with the temporary use(s) must be removed from the parcel within sixty (60) days of inactive use. Temporary structures shall be deemed inactive when not in use for a period of fourteen (14) consecutive days.
- 1502.06 Vegetation on the parcel disturbed due to the temporary use(s) must be restored to same condition as pre-disturbed state within sixty (60) days of inactive use of the temporary use(s) and the removal of temporary structure(s). Temporary use(s) shall be deemed inactive when not in use for a period of fourteen (14) consecutive days. The Zoning Administrator may extend the sixty (60) days if seasonal conditions prevent vegetation restoration.

SECTION 16 HOME OCCUPATIONS

-Section Contents-

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1601 Intent

To provide for the operation of limited commercial activities within residential uses. The standards for home occupations herein are intended to ensure compatibility with other permitted uses and with the residential character of the neighborhood, plus a clearly secondary or incidental status in relation to the residential use of the main building as the criteria for determining whether a proposed accessory use qualifies as a home occupation.

1602 Home Occupation

Any business or activity conducted on the property that is clearly accessory and incidental to the use of the residence for residential purposes.

1603 Home Occupation - Criteria

A home occupation must not:

1603.01 Involve more than the equivalent of six (6) persons, who work on the site but do not live in the residence.

1603.02 Create noticeable glare, noise, odor, vibration, smoke, dust, or heat at or beyond the property line(s.)

1603.03 Generate more than an average of thirty (30) additional vehicle trips per day on a weekly basis, including deliveries.

1603.04 Have no exterior advertising of the home occupation.

1603.05 Such home occupation use shall comply with all other applicable County codes, health regulations, or any other local, state or federal regulation. The permission granted or implied by this Section shall not be construed as an exemption from any such regulation.

SECTION 17 RESERVED.

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SECTION 18 NONCONFORMING USES, STRUCTURES AND LAND

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1803 Changes Permitted to Nonconforming Structures and Uses 18-2
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1805 Nonconforming Lot 18-3
1806 Boundary Lines..... 18-3

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1801 Intent

To recognize the lawful use of land and/or structures existing at the time of the adoption of these Regulations that do not conform to these Regulations as set forth herein. The continuation of and limited development of nonconforming uses and/or structures is intended to prevent hardship and to allow the useful economic value of the land and/or structures to be realized.

1802 Nonconforming Uses, Structures, and Land

1802.01 If, at the time of adoption of these Regulations or of any amendments thereto, or at the time a zoning district to which these Regulations are applied is created, any lot, structure, or building being used in an otherwise lawful manner that does not conform to the use provisions of these Regulations, or if any structure or building was located or erected in an otherwise lawful manner that does not conform to the setbacks, height limit, or parking and loading provisions of these Regulations, such use of such location or erection shall be deemed to be a non-conforming use and may continue in the manner and to the extent that it existed or was being used at the time of adoption of these Regulations. Such non-conforming status will run with the parcel, building, or use and shall not be affected by changes in ownership.

1802.02 Whenever the on-site construction has begun for any building, for which a building permit has been issued by the authorized issuing agency or if a building permit is not required, prior to the adoption or amendment of these Regulations, or creation of a zoning district to which these Regulations apply, and the construction/erection of which is in conformity with the plans submitted and approved for such building permit, but does not conform to the provisions of these Regulations, such building shall be considered non-conforming.

1803 Changes Permitted to Nonconforming Structures and Uses

1803.01 Routine maintenance and repair, or those modifications required by applicable health and safety codes shall be permitted. Likewise, expansions such as covered wheelchair ramps, lifts, and handicap accessible rest rooms, which are needed to meet requirements of the Americans with Disabilities Act (ADA), shall be allowed.

1803.02 A nonconforming structure (whether due to dimensional or use issues) located either partially or entirely within the setback area, may be expanded in a direction away from the affected setback.

1803.03 A nonconforming use located either partially or entirely within the setback area, may be expanded subject to an appropriate Conditional Use Permit.

1803.04 Whenever a nonconforming structure is moved, it shall conform to the provisions of the district in which it is located after the move.

1803.05 No conforming structure or use will be allowed to revert to a nonconforming use.

1803.06 If any nonconforming use and/or structure is abandoned, deserted, or caused to be discontinued, voluntarily or by legal action, (for any reason other than as noted in Section 1803.07) for a period of more than one hundred eighty (180) days, any subsequent use of such land or structure(s) shall conform to the provisions of these Regulations and as thereafter amended.

- 1803.07 A nonconforming structure or use that is destroyed or substantially damaged by fire, flood, or other natural disaster may not be restored as a nonconforming structure or use unless initiation of the restoration process occurs within twenty-four (24) months of the damage having occurred.
- 1803.07.1 Said restored structure or use shall occupy the same physical footprint and must be used for the same purpose(s) as the original nonconforming structure or use; unless the restoration brings the structure or use either more, or fully, into compliance with these Regulations.
- 1803.07.2 A nonconforming structure or use shall be considered to be substantially damaged when the cost of restoring the structure or use to its before-damage condition would exceed fifty (50%) percent of the market value of the structure or use before the damage occurred.
- 1804 Establishment of Dates
The Zoning Administrator shall determine, to the maximum extent practicable, the applicable date(s) relative to nonconforming status based on substantiating evidence from the applicant and any other historical records or documents.
- 1805 Nonconforming Lot
In each zoning district all structures and/or uses whether as principal, accessory, conditional uses, or special exception uses may be erected/placed/developed on any nonconforming lot which was lawfully of record before these Regulations were adopted or amended. However, all development occurring on a nonconforming lot after the adoption of these Regulations shall conform with all other provisions of these Regulations.
- 1806 Boundary Lines
Boundary line relocation of a nonconforming lot, that is not subject to aggregation, is permitted where the relocation would either create a conforming lot, or not result in the addition of a nonconforming lot unless all bulk requirements can be met, or fully merge the nonconforming lot with an adjacent parcel.

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SECTION 19 VARIANCE STANDARDS AND PROCEDURES

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1901 Intent

A variance may be requested for relief from certain provisions of these Regulations, when such request will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of the resolution will result in unnecessary hardship and so that the spirit of the resolution shall be observed and substantial justice done.

1902 Variance Limitations

1902.01 Variances shall be limited to hardships resulting from lot size, shape, topography, height of structures, minimum setbacks, or other circumstances over which the applicant has no control.

1902.02 A variance for the following shall be strictly prohibited:

- (a) Use - A variance for a use not listed within these Regulations applicable to the property in question; or
- (b) Incongruent Purposes - A variance authorizing any action which would be contrary to the purpose and intent of these Regulations.

1903 Variance - Approval Criteria

A variance shall be granted by the Lewis and Clark County Board of Adjustment (BOA) only upon the finding of the following:

1903.01 The applicant has provided reasonable and adequate evidence that the variance request is not a self-imposed hardship which can be rectified by means other than relief through a variance;

1903.02 The need for a variance results from physical limitations or unique circumstances related to the lot or parcel on which the variance is requested;

1903.03 Approval of the variance will not have a substantial adverse impact on neighboring properties or the public; and

1903.04 Granting of the variance will observe the spirit of these Regulations and provide substantial justice.

1904 Procedure for Variance

1904.01 The applicant shall discuss the variance informally with Staff to go over the procedures and submittal requirements.

1904.02 The applicant shall submit the following to the CDP:

1904.02.1 A completed application form (*available from the CDP*).

1904.02.2 Documentation of ownership (such as a general or warranty deed, option to buy or buy-sell agreement) of the land which is the subject of the variance.

1904.02.3 Application fee (*available from the CDP*).

- 1904.02.4 A site plan, when applicable, indicating how the variance relates to the affected land. The site plan shall be drawn to scale including the height and setbacks of all existing and proposed structures and any other information requested by the CDP.
- 1904.02.5 A scaled vicinity map with a north arrow that, clearly shows the property in question, with its zoning, along with the zoning of the adjacent one (1) mile radius area.
- 1904.02.6 An explanation in narrative form explaining the requested variance and how it meets the criteria in Sections 1902 and 1903.
- 1904.03 When an application is submitted, the submittal shall be reviewed by the Staff assigned the project and a determination of completeness and sufficiency shall be made within twenty-one (21) days. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.
- 1904.04 Once the submittal is determined to be complete and sufficient, Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.
- 1904.05 If the referral agencies elect to comment, they may comment within thirty (30) days from the date of the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.
- All referral agency comments shall be provided by the Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.
- 1904.06 The Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the BOA. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the BOA. The Staff will provide the public notice for the hearing as set for in Section 1905.
- 1904.07 Conditions may be attached to the approval of any variance in accordance with the following:
- 1904.07.1 Conditions shall be designed to ensure compliance with one or more specific requirements of these or other applicable adopted regulations;
- 1904.07.2 Conditions shall be directly related to any anticipated impacts of the applicant's proposal; and/or
- 1904.07.3 Conditions shall be roughly proportional to any anticipated impacts of the applicant's proposal.

1904.08 The BOA shall evaluate the application, the staff report, and public testimony; and then shall approve, conditionally approve, or deny the variance based on the evidence presented and compliance with the applicable criteria. The BOA shall have up to sixty (60) days from the date of the public hearing to render their decision unless an extension is mutually agreed-upon between the applicant and the BOA.

1904.09 As part of the BOA’s deliberative process in making their decision, it will adopt findings and conclusions in support of its decision.

1905 Public Notice Requirements

In calculating the time period for public notification, see Section 106 of these Regulations.

1905.01 Mailed Notice

At least fifteen (15) days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included in the variance request.

The notice shall indicate:

- (a) The date, time and location of the hearing;
- (b) An explanation of the variance;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

Staff completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING
<p>I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____ day of _____, 20____, and addressed as follows: <small>(attach list of addresses if necessary)</small></p> <p>_____ <small>(signature of person completing the mailing)</small></p>

1905.02 Published Notice

At least fifteen (15) days prior to the BOA hearing, notice shall be given by publication in a newspaper of general circulation in the County.

The notice shall indicate:

- (a) The date, time and location of the hearing;
- (b) An explanation of the variance;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and

(e) That questions should be directed to the CDP.

1905.03 Additional public notice may be required by the Zoning Administrator.

1906 Decision

Construction pursuant to approval of a variance must be initiated within one (1) year from the date the variance was approved and must be completed within three (3) years; otherwise the variance approval shall terminate. The Zoning Administrator may grant an extension of time, for good cause shown, upon a written request by the applicant. Such time extension (for either or both initiation or completion of the field work) shall not exceed one (1) year.

If denied by the BOA, a resubmittal of the same or substantially same variance application shall not be accepted within one (1) year from the date of denial by the BOA or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the BOA showing that there has been a substantial change in physical conditions or circumstances, the BOA will reconsider the variance. A new application and processing fee shall be required.

1906.01 The Zoning Administrator shall notify the applicant of the BOA decision within thirty (30) days.

1906.02 The notification shall include the following:

- (a) The decision of the BOA;
- (b) The findings that support the BOA decision;
- (c) Any adopted conditions of approval;
- (d) A reminder of the approval time validity; and
- (e) A statement that the BOA decision may be appealed to the Court of Record.

1907 Administrative Variance

As an option available to the landowner, the Zoning Administrator shall have the authority to grant Administrative Variances of up to a twenty-five (25) percent adjustment in the zoning requirements for those items specific to front, side, and rear setbacks and building height without going to the BOA. The applicant shall submit the fee and the information required in Section 1904.02 to the Zoning Administrator. Staff shall notify abutting landowners of the request. Such notification shall be either a notice of the variance request sent by certified mail, return receipt requested, at least fifteen (15) days prior to the Zoning Administrator's consideration of such request; or the applicant may obtain a signed statement from the abutting landowners clearly stating that they were notified of the variance request and submit these signatures with the application.

The procedure for an Administrative Variance shall substantially follow that of Section 1904; however, without the need for the hearing before the BOA.

A decision by the Zoning Administrator to deny such variance may be appealed to the BOA in accordance with the procedure in Section 20 (Appeals). A written appeal shall be submitted by the applicant to the Zoning Administrator within thirty (30) days of such denial.

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SECTION 20 APPEAL STANDARDS AND PROCEDURES

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2001 Intent

An appeal to the Board of Adjustment (BOA) may be taken by any person aggrieved by the decision of the Zoning Administrator based upon or made in the course of the administration or enforcement of the provisions of these Regulations in accordance with Title 76, Chapter 2, Part 2, MCA.

2002 Appeals Limitations

An appeal must be made in writing and submitted to the Community Development and Planning Department (CDP) within thirty (30) days of an administrative decision.

2003 Appeals - Approval Criteria

2003.01 An appeal shall be granted only upon the finding that the Zoning Administrator has erred in the interpretation or application of the Zoning Regulations.

2003.02 An appeal may be granted provided that no substantial detriment to the public good is created and that the intent and purpose of these Regulations are not impaired.

2003.03 The concurring vote of three (3) members of the BOA shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator.

2004 Procedure for an Appeal

2004.01 The applicant shall discuss the appeal informally with Staff to discuss the procedures and submittal requirements.

2004.02 The applicant shall submit the following to the CDP:

2004.02.1 A completed application form (*available from CDP*);

2004.02.2 Application fee (*available from CDP*); and

2004.02.3 An explanation in narrative form explaining the appeal request and how the Zoning Administrator has erred in the interpretation.

2004.03 The submittal shall be reviewed for completeness and the applicant notified of any inadequacies within twenty-one (21) days. An incomplete submittal shall not be processed.

2004.04 Once the submittal is determined to be complete, Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2004.05 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packet were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by the Staff to the applicant. The applicant shall be given an opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a

written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2004.06 The Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the BOA. Once such public hearing has been determined, Staff shall notify the applicant, in writing, of the hearing date and time and prepare a staff report for the BOA. The Staff will provide the public notice for the hearing as set forth in Section 2005.

2004.07 The BOA shall evaluate the application, staff report and public testimony, and shall approve, conditionally approve, or deny the appeal based on the evidence presented and compliance with the applicable criteria. The BOA shall have up to sixty (60) days from the date of the public hearing to render their decision unless an extension is mutually agreed-upon between the applicant and the BOA.

2005 Public Notice Requirements

In calculating the time period for public notification, see Section 106 of these Regulations.

2005.01 Mailed Notice

At least fifteen (15) days prior to the BOA hearing, written notice by first-class must be mailed to each property owner of record immediately adjoining the land included under the appeal.

The notice shall indicate:

- (a) The date, time and location of the hearing;
- (b) An explanation of the appeal;
- (c) The general location of the land (as applicable) that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

Staff completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING
<p>I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____ day of _____, 20 __, and addressed as follows:</p> <p>(list of addresses)</p> <p>_____</p> <p>(signature of person completing the mailing)</p>

2005.02 Published Notice

At least fifteen (15) days prior to the BOA hearing, notice shall be given by publication in a newspaper of general circulation in the County.

The notice shall indicate:

- (a) The date, time and location of the hearing;
- (b) An explanation of the appeal;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

2005.03 Additional public notice may be provided as appropriate.

2006 Decision

2006.01 The Zoning Administrator shall notify the applicant of the BOA decision within thirty (30) days.

2006.02 The notification shall include the following:

- (a) The decision of the BOA;
- (b) The findings that support the BOA decision;
- (c) Any adopted conditions of approval;
- (d) A reminder of the approval time validity; and
- (e) A statement that the BOA decision may be appealed to the Court of Record.

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SECTION 21 PLANNED DEVELOPMENT OVERLAY DISTRICT (PD)

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2101 Intent

To provide for an overlay district that allows densities beyond what are normally allowed and permits more flexibility in the use of such properties in the RR District and SR-10 Zones based on mitigation of development constraints. To provide a public process which affords the County and the public a way to satisfactorily address any impacts of a Planned Development (PD) and to ensure that the development constraints have been adequately addressed. To establish procedures for the review of a PD by the County Community Development and Planning Department (CDP), the Consolidated City and County Planning Board (Planning Board), and the BoCC with opportunities for the public to participate.

2102 Criteria for Consideration of a PD

The application may be approved only if the BoCC finds and concludes that the proposed PD satisfactorily addresses the criteria set forth in Section 2102.01.

2102.01 Approval Criteria

Each PD application shall demonstrate how the proposal will satisfactorily address the following approval criteria:

- 2102.01.01 Adequate water available to meet the long-term needs of the PD (RR District only).
- 2102.01.02 That roads leading to the PD are in good and safe condition and will continue to be following full build-out of the PD.
- 2102.01.03 That the PD will not place long-term burdens on rural fire protection systems.
- 2102.01.04 That the proposed uses for the PD will be compatible with adjoining properties and the general neighborhood.
- 2102.01.05 That the proposed density for the PD is compatible with adjoining properties and the general neighborhood.
- 2102.01.06 That public services and facilities, including wastewater/sewer, stormwater drainage, police protection, and schools, are available and adequate to serve the PD.
- 2102.01.07 That the PD is absent of environmental constraints or that these constraints have been mitigated and/or addressed.
- 2102.01.08 That the proposed PD will be consistent with the Growth Policy.

2103 Approval Conditions

The BoCC may impose conditions of approval where such conditions are necessary or appropriate to ensure a PD meets the criteria set forth in Section 2102.

2104 Decision Based on Findings

Every decision of the BOCC pertaining to the approval, conditional approval, denial, or amendment of a request for a PD shall be based upon "Findings of Fact". Each Finding of Fact

shall be supported in the records of the proceedings. The criteria set forth in Section 2102 as they relate to matters, which the BOCC is empowered to review under these Regulations and MCA, shall be construed as a limitation on the power of the BOCC to act in the matter of approval, conditional approval, denial, or amendment of a PD. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these Regulations.

2105 Length of Approval

A PD shall be valid for a duration of one (1) year or for a time specified by the BOCC. An extension of this approval period may be granted by the BoCC, upon written request by the applicant. As necessary, the BoCC may include additional conditions with the time extension in order to ensure that the PD remains in compliance with the original approval.

The PD may transfer with the transfer of the land.

2106 Standards and Requirements for PDs

2106.01 Approval of a PD allow the normally applicable standards of the zone district to be replaced with alternative standards unique to the PD. For example, a mix of residential and commercial uses, different property line setbacks, alternative minimum lot sizes, parking, lighting standards, or increased building height may be approved as a PD. The PD must meet the requirements of these regulations not expressly varied through the PD approval process.

2106.02 If a conditional use(s) is being proposed in conjunction with a PD, the application for the PD must also contain the information required under Section 14 Conditional Uses and Permits (CUP).

2106.03 If land is being subdivided in conjunction with a PD, the subdivision must also meet the requirements of the Lewis and Clark County Subdivision Regulations. A subdivision application associated with a PD must be submitted and will be processed concurrently with the underlying PD application. Both the subdivision and PD applications must comply with their respective application requirements.³

2107 Submittal Pre-requisites

The applicant shall attend a pre-application meeting with the Zoning Administrator to discuss their proposal, the submittal process, and requirements for a PD.

2108 Submittal Requirements and Process for PD Preliminary Plan with a Major Subdivision

2108.01 The applicant shall submit the following to the CDP:

2108.01.01 A completed application form (*available from the CDP*).

2108.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.

- 2108.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
- 2108.01.04 Application fee (*available from the CDP*).
- 2108.01.05 An application for a major subdivision, in accordance with the Lewis and Clark County Subdivision Regulations, along with the application fee.
- 2108.01.06 A PD preliminary plan that contains the following:
- 2108.01.06.1 Detailed information ensuring that there is adequate water available to meet the long-term needs of the proposed PD (RR District only) that includes one of the following:
- (a) Acquire provisional water rights and extend water lines from the Helena Valley Alluvial Aquifer for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water lines prior to final approval).
 - (b) Extend water service lines from either the City of Helena or City of East Helena for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water service lines prior to final approval).
 - (c) A professional hydrogeologist shall conduct an extensive analysis of the Tertiary and/or bedrock aquifers that will serve the proposed PD. Supporting information presented shall include:
 - (1) A thorough preliminary investigation that includes an analysis of prior data (e.g., precipitation, groundwater levels, aquifer tests, surface water impacts) within or near (must be within the same aquifer) the proposed PD. A comprehensive report shall be prepared that demonstrates water availability that will provide for the long-term needs of the proposed PD. If the preliminary investigation does not provide sufficient evidence of water availability, then (2) below is required.
 - (2) A hydrogeologic and hydraulic analysis for the proposed PD must be conducted. The analysis shall assess aquifer properties and seasonal variability with the emphasis on extraction, storage, and recovery to measure long-term sustainability. Methods

may include, but are not limited to, the installation of test wells, an aquifer/pumping test that may require the installation of at least one observation well, and/or modeling efforts. Lewis and Clark County shall be consulted regarding the method approach guidance to ensure water availability. The selected approach shall exceed the MDEQ ARM 17.36.330, ARM 17.36.331, and ARM 17.36.332 rules. From the selected analysis, a comprehensive groundwater report shall be prepared providing sufficient evidence of water availability that will provide for the long-term needs of the proposed PD.

2108.01.06.2 Detailed information ensuring that roads leading to the proposed PD are in good and safe condition that includes:

- (a) Submittal of a Traffic Impact Study (TIS) prepared by a Professional Engineer registered in the State of Montana that meets the requirements of the Lewis and Clark County Public Works Manual and includes all roads within the PD's Traffic Impact Corridor.

AND

- (b) An engineering analysis, including a surfacing design analysis, must be completed that accounts for all traffic, including infrastructure and housing construction traffic, to and from the PD. This engineering analysis must also include a Geotech analysis with a 20-year design timeframe and Equivalent Single Axle Load (ESAL) analysis for construction vehicles based on the number of homes. This analysis must be approved by the County Engineer and/or Public Works staff.

AND

- (c) Certification from a Professional Engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will meet County Standards at full build-out of the PD (projected traffic volumes, including construction traffic, must be accounted for).

OR

Certification from an engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will be considered excellent or good (6-10 for asphalt surface or 4-5 for a gravel road) under the PASER Analysis at full build-out of the proposed PD (projected traffic volumes, including construction traffic, must be accounted for). This certification must also conclude that the drainage for all roads within the Traffic Impact Corridor will meet or exceed DEQ-Circular 8.

For the purposes of the Section, a Traffic Impact Corridor is defined as:

- (a) adjacent roads (including intersections) that are impacted by the proposed PD;
- (b) two ingress-egress routes (including intersections) for proposed PDs to the nearest state or federal highway/road, Helena city limits, East Helena city limits, or to the boundary of Lewis and Clark County;
- (c) off-site roads, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 10 percent of the annual average daily traffic on those roads; and
- (d) intersections, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 5 percent of the traffic volume on any approach leg of the intersection.

2108.01.06.3 Detailed information ensuring that fire protection will be provided that will not place long-term burdens on rural fire protection systems that includes:

- (a) A letter from the Board of Trustees or its designee (i.e. fire chief) for the Fire District and/or Fire Services Area with jurisdiction over the PD commenting on the following five items:
 - (1) A sufficient number of volunteers to fight an on-site fire.
 - (2) Volunteers have the required training to fight an on-site fire.
 - (3) Appropriate apparatus are available to fight an on-site fire.
 - (4) Appropriate infrastructure is available to fight an on-site fire.

- (5) Adequate water is available and accessible year-round to fight an on-site fire.
 - (b) A vegetation management plan that has been prepared by a qualified fire management specialist.
- 2108.01.06.4 A scaled vicinity map with a north arrow that clearly shows the property in question, its relationship to surrounding areas, including the existing land uses and zoning of both the site and the surrounding area within a one (1) mile radius.
- 2108.01.06.5 A site plan indicating how the PD relates to the affected land. It shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size):
- (a) Names and dimensions of roads adjacent to the site, including rights-of-way/easement and paved and/or gravel surfaces.
 - (b) Pedestrian and vehicular traffic circulation patterns within and around the site, including sidewalks and trails.
 - (c) Proposed location and height of building(s) including identification of types, density, and number of dwelling units or uses in each structure.
 - (d) General distances between buildings.
 - (e) Off-street parking facilities.
 - (f) Locations, dimensions, and area of open space.
 - (g) Proposed drainage patterns and any related drainage developments.
 - (h) Special Flood Hazard Areas.
 - (i) Existing and proposed topography at not less than five (5) foot contour intervals when the slope exceeds five (5%) percent and not less than two (2) foot contour intervals when the slope is less than five (5%) percent.
 - (j) Existing and proposed water system, wastewater treatment/sewer system, and stormwater drainage improvements, gas, electric, telephone, and other utilities.
 - (k) Such other physical features as existing streams, wetlands, canals, rock outcroppings, ridges, wooded areas, railroads, rights-of-way, or easements which affect or are affected by the proposed PD.

(l) Building envelopes, if required by the Zoning Administrator.

2108.01.06.6 If a conditional use is being proposed, all information required under Section 14 Conditional Uses and Permits (CUP) must be submitted.

2108.01.07 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections, staff reports, legal notices, and referral agency and public comment requests.

2108.02 When an application is submitted, the submittal shall be reviewed by CDP Staff assigned to the project and a determination of completeness shall be made within five (5) working days after the submittal. If deemed complete, a determination of sufficiency shall be made within fifteen (15) working days following the completeness determination. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.

2108.03 Once the submittal is determined to be complete and sufficient, CDP Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2108.04 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by CDP Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2108.05 CDP Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing and the associated subdivision application has been deemed complete and sufficient, Staff shall schedule a public hearing before the Planning Board. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the Planning Board. The Staff will provide the public notice for the hearing as set for in Section 2112.

2108.06 The Planning Board shall concurrently evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony for both the PD and its associated major subdivision; and then shall recommend approval, conditional approval, or denial of the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01. Such recommendations shall

include, but not necessarily be limited to, lot area, permitted and conditional uses, landscaping and buffering, buildable area, open space, setbacks, density, height of structures, signs, parking, loading areas, lighting, and design standards.

2108.07 At the hearing on the application for a PD, the Planning Board shall consider, but shall not be limited to, the following items:

2102.08.01 The proposed PD will be consistent with the Growth Policy.

2102.08.02 The physical features of the land.

2102.08.03 The existing land uses surrounding the proposed PD.

2102.08.04 The planned land uses within the area of the proposed PD, how they will relate to adjoining properties and the general neighborhood, and their compatibility with existing uses of said adjoining properties and the general neighborhood.

2102.08.05 The proposed density and how it relates to adjoining properties and the general neighborhood.

2102.08.06 The existing and/or proposed public improvements in the area such as schools, roads, parks, and other such features.

2102.08.07 The availability of utilities.

2102.08.08 Comments received from interested citizens and/or agencies.

2108.08 After said public hearing and review, the Planning Board shall make a written recommendation to the BoCC regarding the proposed PD and its associated major subdivision.

2108.09 The BoCC shall concurrently evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony/comments for both the PD and its associated major subdivision; and then shall approve, conditionally approve, or deny the applications based on the evidence presented and compliance with the Approval Criteria under Section 2102.01.

2108.10 If the PD is granted preliminary approval, the applicant shall submit a final plan in accordance with the approval of the BoCC. When the BoCC approves the final plan, the area of land involved shall be redesignated as a PD district by resolution which shall incorporate the final plan, including any conditions or restrictions that may be imposed by the BoCC.

2108.11 If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the BoCC's written decision.

2109 Submittal Requirements and Process for PD Preliminary Plan with a Minor Subdivision

2109.01 The applicant shall submit the following to the CDP:

2109.01.01 A completed application form (*available from the CDP*).

- 2109.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.
- 2109.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
- 2109.01.04 Application fee (*available from the CDP*).
- 2109.01.05 An application for a minor subdivision, in accordance with the Lewis and Clark County Subdivision Regulations, along with the application fee.
- 2109.01.06 A PD preliminary plan that contains the following:
- 2109.01.06.1 Detailed information ensuring that there is adequate water available to meet the long-term needs of the proposed PD (RR District only) that includes one of the following:
- (a) Acquire provisional water rights and extend water lines from the Helena Valley Alluvial Aquifer for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water lines prior to final approval).
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 - (c) A professional hydrogeologist shall conduct an extensive analysis of the Tertiary and/or bedrock aquifers that will serve the proposed PD. Supporting information presented shall include:
 - (1) A thorough preliminary investigation that includes an analysis of prior data (e.g., precipitation, groundwater levels, aquifer tests, surface water impacts) within or near (must be within the same aquifer) the proposed PD. A comprehensive report shall be prepared that demonstrates water availability that will provide for the long-term needs of the proposed PD. If the preliminary investigation does not provide sufficient evidence of water availability, then (2) below is required.
 - (2) A hydrogeologic and hydraulic analysis for the proposed PD must be conducted. The

analysis shall assess aquifer properties and seasonal variability with the emphasis on extraction, storage, and recovery to measure long-term sustainability. Methods may include, but are not limited to, the installation of test wells, an aquifer/pumping test that may require the installation of at least one observation well, and/or modeling efforts. Lewis and Clark County shall be consulted regarding the method approach guidance to ensure water availability. The selected approach shall exceed the MDEQ ARM 17.36.330, ARM 17.36.331, and ARM 17.36.332 rules. From the selected analysis, a comprehensive groundwater report shall be prepared providing sufficient evidence of water availability that will provide for the long-term needs of the proposed PD.

2109.01.06.2 Detailed information ensuring that roads leading to the proposed PD are in good and safe condition that includes:

- (a) Submittal of a Traffic Impact Study (TIS) prepared by a Professional Engineer registered in the State of Montana that meets the requirements of the Lewis and Clark County Public Works Manual and includes all roads within the PD's Traffic Impact Corridor.

AND

- (b) An engineering analysis, including a surfacing design analysis, must be completed that accounts for all traffic, including infrastructure and housing construction traffic, to and from the PD. This engineering analysis must also include a Geotech analysis with a 20-year design timeframe and Equivalent Single Axle Load (ESAL) analysis for construction vehicles based on the number of homes. This analysis must be approved by the County Engineer and/or Public Works staff.

AND

- (c) Certification from a Professional Engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will meet County Standards at full build-out of

the PD (projected traffic volumes, including construction traffic, must be accounted for).

OR

Certification from an engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will be considered excellent or good (6-10 for asphalt surface or 4-5 for a gravel road) under the PASER Analysis at full build-out of the proposed PD (projected traffic volumes, including construction traffic, must be accounted for). This certification must also conclude that the drainage for all roads within the Traffic Impact Corridor will meet or exceed DEQ-Circular 8.

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- (a) adjacent roads (including intersections) that are impacted by the proposed PD;
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- (c) off-site roads, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 10 percent of the annual average daily traffic on those roads; and
- (d) intersections, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 5 percent of the traffic volume on any approach leg of the intersection.

2109.01.06.3 Detailed information ensuring that fire protection will be provided that will not place long-term burdens on rural fire protection systems that includes:

- (a) A letter from the Board of Trustees or its designee (i.e. fire chief) for the Fire District and/or Fire Services Area with jurisdiction over the PD commenting on the following five items:
 - (1) A sufficient number of volunteers to fight an on-site fire.
 - (2) Volunteers have the required training to fight an on-site fire.

- (3) Appropriate apparatus are available to fight an on-site fire.
 - (4) Appropriate infrastructure is available to fight an on-site fire.
 - (5) Adequate water is available and accessible year-round to fight an on-site fire.
 - (b) A vegetation management plan that has been prepared by a qualified fire management specialist.
- 2109.01.06.4 A scaled vicinity map with a north arrow that clearly shows the property in question, its relationship to surrounding areas, including the existing land uses and zoning of both the site and the surrounding area within a one (1) mile radius.
- 2109.01.06.5 A site plan indicating how the PD relates to the affected land. It shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size):
- (a) Names and dimensions of roads adjacent to the site, including rights-of-way/easement and paved and/or gravel surfaces.
 - (b) Pedestrian and vehicular traffic circulation patterns within and around the site, including sidewalks and trails.
 - (c) Proposed location and height of building(s) including identification of types, density, and number of dwelling units or uses in each structure.
 - (d) General distances between buildings.
 - (e) Off-street parking facilities.
 - (f) Locations, dimensions, and area of open space.
 - (g) Proposed drainage patterns and any related drainage developments.
 - (h) Special Flood Hazard Areas.
 - (i) Existing and proposed topography at not less than five (5) foot contour intervals when the slope exceeds five (5%) percent and not less than two (2) foot contour intervals when the slope is less than five (5%) percent.
 - (j) Existing and proposed water system, wastewater treatment/sewer system, and stormwater drainage

improvements, gas, electric, telephone, and other utilities.

- (k) Such other physical features as existing streams, wetlands, canals, rock outcroppings, ridges, wooded areas, railroads, rights-of-way, or easements which affect or are affected by the proposed PD.
- (l) Building envelopes, if required by the Zoning Administrator.

2109.01.06.6 If a conditional use is being proposed, all information required under Section 14 Conditional Uses and Permits (CUP) must be submitted.

2109.01.07 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections, staff reports, legal notices, and referral agency and public comment requests.

2109.02 When an application is submitted, the submittal shall be reviewed by CDP Staff assigned to the project and a determination of completeness shall be made within five (5) working days after the submittal. If deemed complete, a determination of sufficiency shall be made within fifteen (15) working days following the completeness determination. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.

2109.03 Once the submittal is determined to be complete and sufficient, CDP Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

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All referral agency comments shall be provided by CDP Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2109.05 CDP Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing and the associated subdivision application has been deemed complete and sufficient, Staff shall schedule a public hearing before the Planning Board. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the

Planning Board. The Staff will provide the public notice for the hearing as set for in Section 2112.

- 2109.06 The Planning Board shall evaluate the application, the staff report, referral agencies, applicant's responses, and public testimony for the PD; and then shall approve, conditionally approve, or deny the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01. Such recommendations shall include, but not necessarily be limited to, lot area, permitted and conditional uses, landscaping and buffering, buildable area, open space, setbacks, density, height of structures, signs, parking, loading areas, lighting, and design standards.
- 2109.07 At the hearing on the application for a PD, the Planning Board shall consider, but shall not be limited to, the following items:
- 2109.07.01 The proposed PD will be consistent with the Growth Policy.
- 2109.07.02 The physical features of the land.
- 2109.07.03 The existing land uses surrounding the proposed PD.
- 2109.07.04 The planned land uses within the area of the proposed PD, how they will relate to adjoining properties and the general neighborhood, and their compatibility with existing uses of said adjoining properties and general neighborhood.
- 2109.07.05 The proposed density and how it relates to adjoining properties and the general neighborhood.
- 2109.07.06 The existing and/or proposed public improvements in the area such as schools, roads, parks, and other such features.
- 2109.07.07 The availability of utilities.
- 2109.07.08 Comments received from interested citizens and/or agencies.
- 2109.08 After said public hearing and review, the Planning Board shall make a written recommendations to the BoCC regarding the proposed PD.
- 2109.09 The BoCC shall concurrently evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony/comments for both the PD; and then shall approve, conditionally approve, or deny the applications based on the evidence presented and compliance with the Approval Criteria under Section 2102.01.
- 2109.10 If the PD is granted preliminary approval, the applicant shall submit a final plan in accordance with the approval of the BoCC. When the BoCC approves the final plan, the area of land involved shall be redesignated as a PD district by resolution which shall incorporate the final plan, including any conditions or restrictions that may be imposed by the BoCC.
- 2109.10 If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the BoCC's written decision.

2110 Submittal Requirements and Process for PD Preliminary Plan with No Subdivision

2110.01 The applicant shall submit the following to the CDP:

2110.01.01 A completed application form (*available from the CDP*).

2110.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.

2110.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.

2110.01.04 Application fee (*available from the CDP*).

2110.01.05 A PD preliminary plan that contains the following:

2110.01.05.1 Detailed information ensuring that there is adequate water available to meet the long-term needs of the proposed PD (RR District only) that includes one of the following:

- (a) Acquire provisional water rights and extend water lines from the Helena Valley Alluvial Aquifer for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water lines prior to final approval).
- (b) Extend water service lines from either the City of Helena or City of East Helena for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water service lines prior to final approval).
- (c) A professional hydrogeologist shall conduct an extensive analysis of the Tertiary and/or bedrock aquifers that will serve the proposed PD. Supporting information presented shall include:
 - (1) A thorough preliminary investigation that includes an analysis of prior data (e.g., precipitation, groundwater levels, aquifer tests, surface water impacts) within or near (must be within the same aquifer) the proposed PD. A comprehensive report shall be prepared that demonstrates water availability that will provide for the long-term needs of the proposed PD. If the preliminary investigation does not provide sufficient evidence of water availability, then (2) below is required.

- (2) A hydrogeologic and hydraulic analysis for the proposed PD must be conducted. The analysis shall assess aquifer properties and seasonal variability with the emphasis on extraction, storage, and recovery to measure long-term sustainability. Methods may include, but are not limited to, the installation of test wells, an aquifer/pumping test that may require the installation of at least one observation well, and/or modeling efforts. Lewis and Clark County shall be consulted regarding the method approach guidance to ensure water availability. The selected approach shall exceed the MDEQ ARM 17.36.330, ARM 17.36.331, and ARM 17.36.332 rules. From the selected analysis, a comprehensive groundwater report shall be prepared providing sufficient evidence of water availability that will provide for the long-term needs of the proposed PD.

2110.01.05.2 Detailed information ensuring that roads leading to the proposed PD are in good and safe condition that includes:

- (a) Submittal of a Traffic Impact Study (TIS) prepared by a Professional Engineer registered in the State of Montana that meets the requirements of the Lewis and Clark County Public Works Manual and includes all roads within the PD's Traffic Impact Corridor.

AND

- (b) An engineering analysis, including a surfacing design analysis, must be completed that accounts for all traffic, including infrastructure and housing construction traffic, to and from the PD. This engineering analysis must also include a Geotech analysis with a 20-year design timeframe and Equivalent Single Axle Load (ESAL) analysis for construction vehicles based on the number of homes. This analysis must be approved by the County Engineer and/or Public Works staff.

AND

- (c) Certification from a Professional Engineer registered in the State of Montana that the roads

within the Traffic Impact Corridor for the proposed PD will meet County Standards at full build-out of the PD (projected traffic volumes, including construction traffic, must be accounted for).

OR

Certification from an engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will be considered excellent or good (6-10 for asphalt surface or 4-5 for a gravel road) under the PASER Analysis at full build-out of the proposed PD (projected traffic volumes, including construction traffic, must be accounted for). This certification must also conclude that the drainage for all roads within the Traffic Impact Corridor will meet or exceed DEQ-Circular 8.

For the purposes of the Section, a Traffic Impact Corridor is defined as:

- (a) adjacent roads (including intersections) that are impacted by the proposed PD;
- (b) two ingress-egress routes (including intersections) for proposed PDs to the nearest state or federal highway/road, Helena city limits, East Helena city limits, or to the boundary of Lewis and Clark County;
- (c) off-site roads, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 10 percent of the annual average daily traffic on those roads; and
- (d) intersections, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 5 percent of the traffic volume on any approach leg of the intersection.

2110.01.05.3 Detailed information ensuring that fire protection will be provided that will not place long-term burdens on rural fire protection systems that includes:

- (a) A letter from the Board of Trustees or its designee (i.e. fire chief) for the Fire District and/or Fire Services Area with jurisdiction over the PD commenting on the following five items:
 - (1) A sufficient number of volunteers to fight an on-site fire.

- (2) Volunteers have the required training to fight an on-site fire.
 - (3) Appropriate apparatus are available to fight an on-site fire.
 - (4) Appropriate infrastructure is available to fight an on-site fire.
 - (5) Adequate water is available and accessible year-round to fight an on-site fire.
- (b) A vegetation management plan that has been prepared by a qualified fire management specialist.
- 2110.01.05.4 A scaled vicinity map with a north arrow that clearly shows the property in question, its relationship to surrounding areas, including the existing land uses and zoning of both the site and the surrounding area within a one (1) mile radius.
- 2110.01.05.5 A site plan indicating how the PD relates to the affected land. It shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size):
- (a) Names and dimensions of roads adjacent to the site, including rights-of-way/easement and paved and/or gravel surfaces.
 - (b) Pedestrian and vehicular traffic circulation patterns within and around the site, including sidewalks and trails.
 - (c) Proposed location and height of building(s) including identification of types, density, and number of dwelling units or uses in each structure.
 - (d) General distances between buildings.
 - (e) Off-street parking facilities.
 - (f) Locations, dimensions, and area of open space.
 - (g) Proposed drainage patterns and any related drainage developments.
 - (h) Special Flood Hazard Areas.
 - (i) Existing and proposed topography at not less than five (5) foot contour intervals when the slope exceeds five (5%) percent and not less than two (2) foot contour intervals when the slope is less than five (5%) percent.

- (j) Existing and proposed water system, wastewater treatment/sewer system, and stormwater drainage improvements, gas, electric, telephone, and other utilities.
- (k) Such other physical features as existing streams, wetlands, canals, rock outcroppings, ridges, wooded areas, railroads, rights-of-way, or easements which affect or are affected by the proposed PD.
- (l) Building envelopes, if required by the Zoning Administrator.

2110.01.05.6 If a conditional use is being proposed, all information required under Section 14 Conditional Uses and Permits (CUP) must be submitted.

2110.01.06 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections, staff reports, legal notices, and referral agency and public comment requests.

2110.02 When an application is submitted, the submittal shall be reviewed by CDP Staff assigned to the project and a determination of completeness shall be made within five (5) working days after the submittal. If deemed complete, a determination of sufficiency shall be made within fifteen (15) working days following the completeness determination. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.

2110.03 Once the submittal is determined to be complete and sufficient, CDP Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2110.04 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by CDP Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2110.05 CDP Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the Planning Board. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the Planning

- Board. The Staff will provide the public notice for the hearing as set for in Section 2112.
- 2110.06 The Planning Board shall evaluate the application, the staff report, referral agencies, applicant's responses, and public testimony for the PD; and then shall approve, conditionally approve, or deny the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01. Such recommendations shall include, but not necessarily be limited to, lot area, permitted and conditional uses, landscaping and buffering, buildable area, open space, setbacks, density, height of structures, signs, parking, loading areas, lighting, and design standards.
- 2110.07 At the hearing on the application for a PD, the Planning Board shall consider, but shall not be limited to, the following items:
- 2110.07.01 The proposed PD will be consistent with the Growth Policy.
- 2110.07.02 The physical features of the land.
- 2110.07.03 The existing land uses surrounding the proposed PD.
- 2110.07.04 The planned land uses within the area of the proposed PD, how they will relate to adjoining properties and the general neighborhood, and their compatibility with existing uses of said adjoining properties and general neighborhood.
- 2110.07.05 The proposed density and how it relates to adjoining properties and the general neighborhood.
- 2110.07.06 The existing and/or proposed public improvements in the area such as schools, roads, parks, and other such features.
- 2110.07.07 The availability of utilities.
- 2110.07.08 Comments received from interested citizens and/or agencies.
- 2110.08 After said public hearing and review, the Planning Board shall make written recommendations to the BoCC regarding the PD.
- 2110.09 The BoCC shall evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony/comments for the PD; and then shall approve, conditionally approve, or deny the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01.
- 2110.10 If the PD is granted preliminary approval, the applicant shall submit a final plan in accordance with the approval of the BoCC. When the BoCC approves the final plan, the area of land involved shall be redesignated as a PD district by resolution which shall incorporate the final plan, including any conditions or restrictions that may be imposed by the BoCC.
- 2110.11 If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the BoCC's written decision.

2111 PD Final Plan

- 2111.01 The applicant shall submit the following to the CDP:
- 2111.01.01 A completed application form (*available from the CDP*).
 - 2111.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.
 - 2111.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
 - 2111.01.04 Application fee (*available from the CDP*).
 - 2111.01.05 The final site plan shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size).
 - 2111.01.06 A narrative explaining how each of the conditions of approval of the preliminary plan have been met, and documentation that all conditions have been satisfied.
 - 2111.01.07 The final enumeration of how the final plan deviates from the requirements of the underlying zoning.
 - 2111.01.08 If the PD contains mixed-use development, the final plan shall show the locations of uses.
 - 2111.01.09 Copies of any documents, such as deed restrictions, restrictive covenants, or homeowners' association articles of incorporation or bylaws that are associated with the PD or that will be used to control the use, development, operation, or maintenance of the property and improvements.
 - 2111.01.10 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the final site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections and staff reports.
- 2111.02 After review of the complete application for the final plan, the CDP shall make a recommendation to approve or deny the request to the BoCC. In making a decision regarding approval of a final plan, the BoCC shall make the following findings:
- 2111.02.01 All applicable conditions of the preliminary PD approval have been met.
- 2111.03 The applicant shall submit four (4) signed copies of the final plan and related documents. Upon approval of the final plan by the BoCC, one (1) signed copy shall be returned to the applicant, one (1) signed copy shall be retained on file in the Lewis

and Clark County Clerk and Recorder’s Office, and one (1) signed copy each shall be provided to the CDP and BoCC.

2112 Public Notice Requirements

The following requirements shall apply to a PD. In calculating the time period for public notification, see Section 106 of these Regulations.

2112.01 Written Notice (Planning Board Hearing)

At least fifteen (15) days prior to the Planning Board hearing, CDP Staff shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice as required by this Section.

2112.01.01 The notice shall indicate:

- (a) The date, time, and location of the hearing;
- (b) An explanation of the PD;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

2112.01.02 The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

CERTIFICATE OF MAILING
<p>I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____ day of _____, 20 __, and addressed as follows:</p> <p>(attach list of addresses if necessary)</p> <p>_____</p> <p>(signature of person completing the mailing)</p>

2112.02 Published Notice (Planning Board Hearing)

At least fifteen (15) days prior to the Planning Board hearing, CDP Staff shall:

2112.02.01 Publish a notice in at least one (1) publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and

2112.02.02 Obtain a publisher's affidavit of said published notice prior to the hearing.

2112.02.03 The notice shall indicate:

- (a) The date, time, and location of the hearing;
- (b) An explanation of the PD;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and

CERTIFICATE OF MAILING

I, _____, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this ____ day of _____, 20__, and addressed as follows:

(attach list of addresses if necessary)

(signature of person completing the mailing)

2112.05 Published Notice (BoCC Meeting)

At least fifteen (15) days prior to the BoCC meeting, CDP Staff shall:

2112.05.01 Publish a notice in at least one (1) publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and

2112.05.02 Obtain a publisher's affidavit of said published notice prior to the meeting.

2112.05.03 The notice shall indicate:

- (a) The date, time, and location of the meeting;
- (b) An explanation of the PD;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

2112.06 Posted Notice (BoCC Meeting)

At least fifteen (15) days prior to the BoCC meeting, CDP Staff shall post a notice on the land for which the PD is requested.

NOTICE OF PUBLIC MEETING BEFORE THE BOARD OF COUNTY COMMISSIONERS

This land shall be considered for a Planned Development for a *(insert specific use)* in the _____ zone district. The public meeting is *(date)*, in *(location)* at *(time)*. For more information call County Planning, 406-447-8374

File No./Name: _____

2112.06.01 An affidavit of sign posting shall be submitted by the person who posted the sign for the file in the CDP prior to the meetings. The sign(s) shall be photographed by the person who posted them and attached to the affidavit as follows:

<p><i>(attach photo here)</i></p> <p><i>(sign lettering must be legible in photo)</i></p> <p>I, <u>(person posting sign)</u>, attest that the above sign was posted on <u>(date)</u> abutting <u>(name of street)</u>.</p> <p>_____ <i>(signature)</i> File No./Name: _____</p>	
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2112.07 Additional public notice may be required by the Zoning Administrator.

2113 Withdrawal of PD

A request to withdraw an application shall be submitted, in writing, to the CDP. Once withdrawn, the submittal of a new application and processing fee shall be required in order to re-initiate the application; and such re-initiation shall be considered and processed as a new application.

2114 Inactive Files

Files that become inactive, because the applicant has not responded to CDP Staff’s request for information or otherwise action in the process, for a period of more than six (6) months, shall become void and the resubmittal of a new application and fees shall be required to pursue the PD request. After five (5) months of inactivity, Staff shall notify the applicant in writing that the application will become void within thirty (30) days. If the applicant fails to submit the required additional information or request a hearing date within thirty (30) days, Staff shall notify the applicant in writing that the application is void. This provision shall apply to all PD applications on file with the CDP upon the effective date of adoption and any application thereafter. The Zoning Administrator may grant an extension of time, of no more than six (6) months, upon a written request by the applicant.

2115 Post Denial Application

If denied by the BoCC, a resubmittal of the same or substantially same PD application shall not be accepted within one hundred eighty (180) days from the date of denial by the BoCC, or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the Zoning Administrator showing that there has been a substantial change in physical conditions or circumstances, the Zoning Administrator may reconsider the PD sooner than the above noted one hundred eighty (180) days. A new application and processing fee shall be required.

2116 PD Amendments

2116.01 A minor modification or amendment to a previously approved PD may be granted by the Zoning Administrator if it is determined that the requested modification or amendment would not constitute a substantial change to the findings of fact in the original approval, and that the proposed modification or amendment and the original conditions of approval would not be altered or be detrimental to the public health, safety, or general welfare.

2116.02 The Zoning Administrator shall deny the requested modification or amendment upon finding the request constitutes a substantial change. In such cases, the applicant may

apply for approval of a modification, amendment, or condition modification, as appropriate, in accordance with the procedures for PD approval set forth in this Section.

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SECTION 22 RESERVED.

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SECTION 23 RESERVED.

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SECTION 24 SUBDIVISION EXEMPTIONS; VESTED RIGHTS

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2402 Subdivisions and Exemptions..... 24-2
2403 Private Agreements 24-2
2404 Termination..... 24-2

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2401 Intent

This section defines vested rights relating to specific approvals and recorded documents approved and/or recorded prior to the effective date of these Regulations.

2402 Subdivisions and Exemptions

For subdivisions or exemptions from the Montana Subdivision and Platting Act and the Lewis and the Clark County Subdivision Regulations, as amended, a vested right to proceed with the creation of one or more new parcels of land shall be established by obtaining a letter of sufficiency, from the Zoning Administrator or designee, for a subdivision application, or concept approval for the use of an exemption from subdivision review as such may be deemed acceptable by the Survey Review Committee, prior to the date of adoption of these Regulations.

2403 Private Agreements

Adoption of these Regulations does not nullify easements, covenants, and/or similar private agreements, but where any such easement, covenant, and/or agreement imposes requirements less restrictive than those adopted herein, the requirements of these Regulations apply.

2404 Termination

Any right to carry out the preliminary plat of a subdivision or approval of an exemption from subdivision review which was submitted or approved prior to the adoption of these Regulations shall terminate upon the expiration of any such approvals unless extended by prior approval by the BoCC.

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SECTION 25 BOARD OF ADJUSTMENT

-Section Contents-

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2502 Membership25-2
2503 Powers25-2
2504 Operations25-2

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2501 Board of Adjustment

The Lewis and Clark County Board of Adjustment (BOA) exists by statutory authority in accordance with Section 76-2-221, MCA.

2502 Membership

2502.01 The BOA shall consist of five (5) members appointed by the Board of County Commissioners.

2502.02 BOA members shall serve without compensation, other than reimbursement for approved budgeted expenditures incurred in carrying out the functions of the BOA.

2502.03 BOA members shall be appointed for a term of two (2) years.

2503 Powers

2503.01 The powers and duties of the BOA, including hearing Conditional Use Permits, Variances, and Appeals, are set forth in Sections 76-2-221 through 76-2-228, MCA, and as also set forth in these Regulations in Sections 14, 19, and 20.

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SECTION 26 CONSOLIDATED CITY AND COUNTY PLANNING BOARD

-Section Contents-

2601 Planning Board 26-2
2602 Powers 26-2

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2601 Planning Board

The City of Helena and Lewis and Clark County Consolidated City and County Planning Board (CCCPB), formed pursuant to Section 76-1-101, et seq., MCA shall have the powers and duties as set forth in this section.

The CCCPB for Lewis and Clark County may also be referred to as the “Planning Board”.

2602 Powers

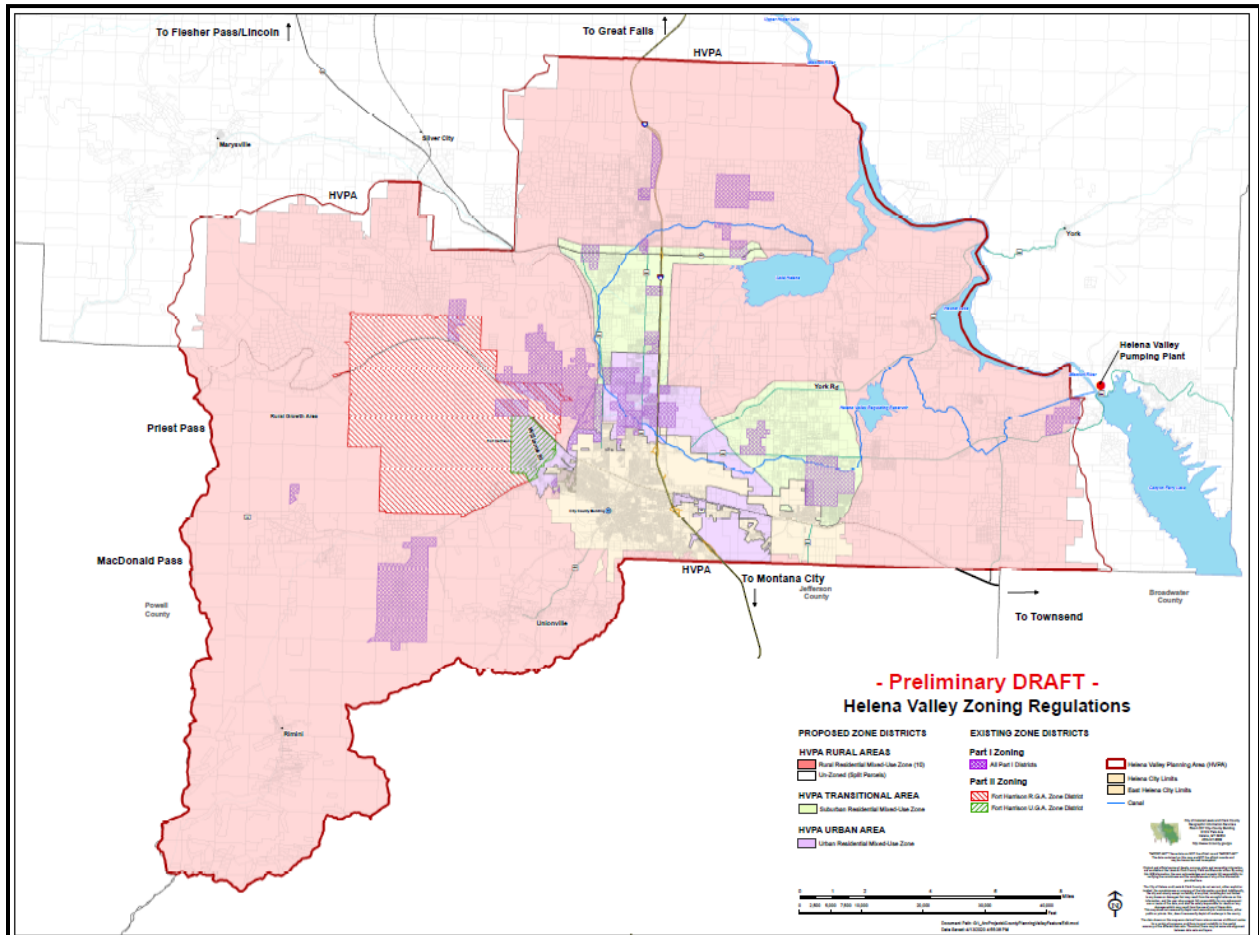
2602.01 In addition to its powers and duties as may be set forth in its governing documents and statutory authority, the Consolidated City and County Planning Board shall hold public hearings and make recommendations to the Board of County Commissioners on all matters relating to the creation and amendment of zoning districts and the regulations to be enforced therein.

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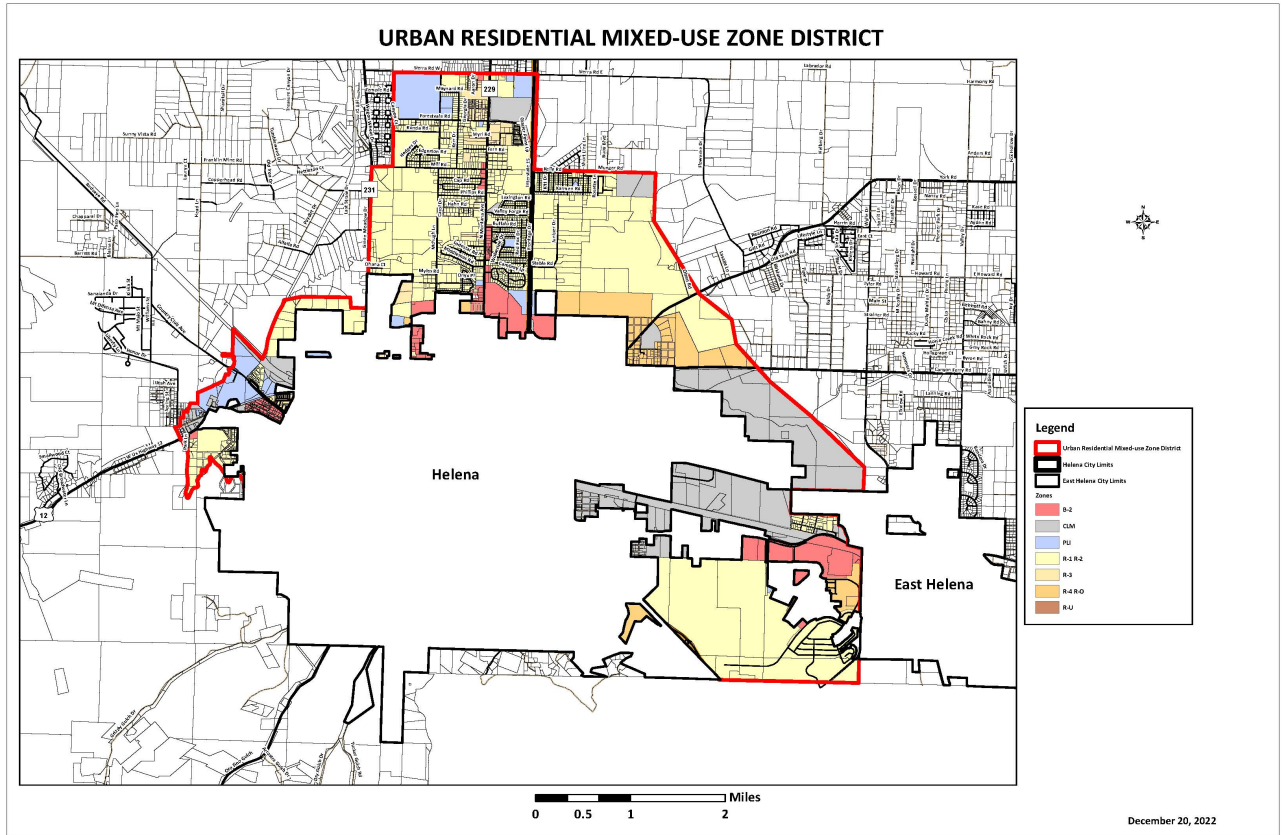
APPENDIX - A HELENA VALLEY ZONING REGULATIONS DISTRICT MAP

The official Helena Valley Zoning Regulations map can be accessed on-line at the following location: <https://www.lccountymt.gov/cdp/zoning.html>.

An unofficial version of the map is shown below:



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APPENDIX – B CITIZEN INITIATED (PART -1) ZONING DISTRICTS

The enclosed existing Part-1 zoning documents were each previously approved as shown within each such document. Their inclusion here is merely for the convenience of the user of this document and their existing status in no way is affected by the adoption of these Helena Valley Zoning Regulations. Nothing contained within each of these Part-1 zoning documents apply to these Helena Valley Planning Area (Part-2) Zoning Regulations or the existing Fort Harrison (Part-2) regulations, and vice versa.

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APPENDIX – C PLANNING AND ZONING COMMISSION (*PART-1 ZONING ONLY*)

The Lewis and Clark County Planning and Zoning Commission exists by statutory authority in accordance with Section 76-2-102, MCA. It has no purview over these Part-2 zoning regulations for the Helena Valley, or for the Fort Harrison Part-2 zoning districts, and its reference is merely contained here for convenience purposes relative to the Part-1 zoning regulations contained in Appendix-B.

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