

General Purposes

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

Specific Purposes

The specific purpose of these regulations are to:

1. Implement the land use goals, objectives and policies set forth in the Carbon County Growth Policy as well as those purposes further specified in these regulations.
2. Preserve open space and manage development by encouraging and channeling the more intensive developments to within or close to existing cities and communities of Carbon County; ensuring the continuance of natural open space, and fish and wildlife habitat; and not diminishing quality or quantity of groundwater in the greater area of the developments.
3. Minimize, where possible, impacts of new developments upon existing and new government services and infrastructure such as roads, wildfire protection, or health and safety or emergency services.
4. Limit industrial development to those areas best suited considering any constraints, such as physical, economic, social and environmental.

Jurisdiction

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

Definitions

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

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

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

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

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

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

CURRENT USE: The current use of each parcel of land in Carbon County based on its status in the Carbon County Department of Revenue at the time of adoption will constitute present use of that parcel of land.

DEVELOPMENT: Any construction of a structure, use of, or occupancy of a parcel of land which intensifies land use for any use, including agriculture.

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

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

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

PARCEL OF LAND: Any contiguous quantity of land, subdivided or undivided, in the ownership of the same person, group of persons, corporation, or claimant.

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

RECREATIONAL USE: Any use of the land primarily for facilities and equipment used for recreational purposes including but not limited to, swimming pools, tennis courts, golf courses, riding trails, rifle and pistol ranges, ski areas, and play grounds.

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

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

USE: The purpose for which a parcel of land or structure or portion thereof is designed, intended, arranged, erected, moved, altered, or enlarged; the purpose for which a parcel of land or structure or portion thereof is or may be occupied or maintained.

Permit Required

1. An exempt permit is required for any residential or recreational use. The intent of an exempt permit is to notify owners of the general types of permits required for building a house within Carbon County (see permit flowchart).
2. A commercial development permit must be issued under these regulations before any person may:
 - a. Construct or place any commercial building or other structure;
 - b. Install improvements or take action which would change the current use of land or buildings for commercial uses.
 - c. Alter or modify current land use, facilities, buildings or other structure for commercial uses.
 - d. Construct or place any Telecommunication Towers.
3. A conditional use permit must be issued under these regulations before any person may:
 - a. Construct or place any commercial, industrial, recreational facility, building or other structure;
 - b. Install improvements or take action which would change the current use of land or buildings for any use including residential, recreational and agricultural.
 - c. Alter or modify current land use, facilities, buildings or other structure for the any uses including residential, recreational or agricultural.

Penalties for Violation

1. Violation of the provisions of this Resolution or failure to comply with any of its requirements shall constitute a misdemeanor. § 76-2-211, Mont. Code Ann. This regulation may be enforced by Carbon County through any remedy at law or in equity.

Administration and Procedures for Exempt Uses

1. Exempt Permit Application Submittal
 - a. Fill out simple one-page form to be submitted to County Planning Office.

- b. County Planning office provides information on other necessary permits and facilitates review by other County offices (road, sanitarian, etc.).

Administration and Procedures for Permitted Uses

1. Development Permit Application Submittal
 - a. A Development Permit may be applied for by the property owner, contract purchaser, or his authorized agent. The application shall be filed with the County Planning Director.
 - b. The application shall include, but not be limited to the following information:
 - i. A legal and general description of the tract(s) affected
 - ii. A map and general site plan showing the dimensions, acreage and location of tract(s), and existing and proposed buildings and structures.
 - iii. A time schedule for development
 - iv. Any other information the applicant believe will support their request.
2. Staff Review
 - a. Upon receiving a complete application, the Planning Director shall evaluate the proposed development for the following:
 - i. Consult with other departments of the County to fully evaluate the impact of the development upon public facilities including, drainage, traffic and other related facilities.
 - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the growth policy.
 - iii. Approval Criteria
 1. Water Supply: The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste.
 2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway.
 3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface run-off in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads.
 4. Setbacks: Proposed buildings or structures may not be erected on property lines or within right-of-ways or easements. All buildings and structures for residential or agricultural uses shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 30 feet from the front lot line.

5. Access: legal and physical access shall be provided to the lot where the development is proposed. Any new proposed access on a County Road will require an approach permit. Approaches on state highways shall be approved by the Department of Transportation
 6. Agricultural Interference: Development shall not interfere with agricultural operations through the contaminations of livestock or irrigation water supply supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities.
3. Issuance of Permit
 - a. The Planning Director shall approve, approve with conditions or deny the application for Development Permit within 30 days of receiving a complete application.
 - b. The Planning Director shall issue a Development Permit if the approval criteria has been met. The Planning Director may, within reason, impose conditions of approval to mitigate adverse effects on adjacent properties. Conditions may include, but not be limited to the following:
 - i. Ingress and egress to adjoining streets
 - ii. Off-street parking
 - iii. Fencing, screening and landscaping
 - iv. Building bulk and location (setbacks)
 - v. Signs and lighting
 - vi. Weed control
4. Appeals
 - a. A person aggrieved by a decision of the Planning Director may appeal, in writing, within 10 days, that decision to the Board of Adjustments.
 - b. The Board of Adjustments shall have all powers delegated to it in accordance with Sections 76-2-221 through 76-2-228, Mont. Code Ann.
 - c. In exercising these powers the Board of Adjustments may consider:
 - i. Whether the decision is consistent with the meaning and intent of the these regulations and the Carbon County Growth Policy;
 - ii. Whether strict compliance with these regulations would create an unnecessary hardship or unreasonable situation on the particular property;
 - iii. Any adverse affects on other property.
 - d. The Board of Adjustments shall:
 - i. Adopt rules governing its operation to include application procedures and meeting dates;

- ii. Perform its duties in accordance with Sections 76-2-221 through 76-2-228, Mont. Code Ann.; and
- iii. Before rendering a decision, shall issue public notice and hold a public hearing regarding the decision in questions. Public notice shall be given as provide in Section 7-1-2121, Mont. Code Ann.

Permit Requirements specific to Telecommunication Towers

The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:

1. Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the community;
2. Strongly encourage the joint use of new and existing antenna support structures;
3. Require wireless communication facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal; and
 - a. Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae.
4. Definitions
 - a. Antenna support structure: any structure specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures and the like. The term includes the structure and any support thereto.
 - b. Wireless Communication Facility: An unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communication purposes, typically consisting of an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.
5. Requirements
 - a. Setbacks: Wireless communication facilities or structures shall be located at least 150' from any property line.
 - b. Height: Not to exceed two hundred fifty feet.
 - c. Fencing: A fence at least 6 feet in height is required at the base of a wireless support structure.
 - d. Lighting: Antenna support structures shall not be artificially lighted unless required by the FAA or other local, state, or federal agency. If the FAA requires safety lighting, the use of red beacons shall be used.

- e. Signage: The structure shall not provide advertising of any kind. One sign, limited to four square feet shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency. Other acceptable signage is limited to non-illuminated warning and equipment identification signs.
- f. Visual Impacts/Aesthetics:
 - i. Wireless communication facilities shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA or other applicable local, state, or federal agency, be painted a neutral color or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness.
 - ii. Wireless communication facilities attached to new or existing structures shall be designed to blend with the structure's architecture and should be placed directly above, below or incorporated with vertical design elements of a structure.
 - iii. Wireless communication facilities shall be located as to minimize their visibility and not be placed scenic corridors

Administration and Procedures for Conditional Uses

- 1. Conditional Use Application Submittal
 - a. A Conditional Use Permit may be applied for by the property owner, contract purchaser, or his authorized agent. The application shall be filed with the Planning Director.
 - b. The application shall include, but not be limited to the following information:
 - i. A legal and general description of the tract(s) affected
 - ii. A map showing the dimensions, acreage and location of tract(s)
 - iii. The name and addresses of the owner(s) of the tract(s) and their agents, if any and the names and addresses of property owners of record within three hundred feet of the property affected.
 - iv. A site plan showing major details of the proposed development including but not limited to, existing buildings and structures, parking and loading, service and refuse areas, means of ingress and egress, landscaping, screening and signs.
 - v. A time schedule for development
 - vi. Any other information the applicant believe will support their request.
- 2. Staff Review
 - a. Upon receiving an application for a development permit, the Planning Director shall do the following:

- i. Consult with other departments of the County to fully evaluate the impact of the development upon public facilities including, schools, drainage, traffic and related facilities.
 - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the comprehensive plan.
 - iii. Notify, by mail, all property owners within three hundred feet of the exterior boundaries of the property subject to the development permit of the time, date, and place of the public hearing.
 - iv. Publish public hearing notice for the Planning Board meeting.
- 3. Planning Board review and recommendation
 - a. The Planning Board shall hold a public hearing.
 - b. The Planning Board shall evaluate the staff report prepared by the Planning Director
 - c. The Planning Board shall consider the following approval criteria:
 - 1. Water supply: The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste. Where reliance on individual water supplies is proposed, evidence shall be provided that adequate quantities and quality of water is available for the proposed development.
 - 2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway. All development within the floodplain or Special Flood Hazard Area requires a floodplain permit.
 - 3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface run-off in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads.
 - 4. Setbacks: Proposed buildings or structures may not be erected on property lines or within right-of-ways or easements. All buildings and structures for conditional uses shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 40 feet from the front lot line. Setback requirements for wind energy and telecommunication towers are required to exceed this standard.
 - 5. Easements: Easements or other legal rights-of-way shall be provided for utilities, this includes, but is not limited to, electric, telephone and natural gas.

6. Utilities: Development shall demonstrate they will be adequately served by public and/or private utilities. Written certification that capacity is available and that adequate rights-of-way or easements have been provided may be required.
 7. Access: legal and physical access shall be provided to the lot where the development is proposed. Any new proposed access on a County road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation.
 8. Parking: Off street parking and loading areas shall be provided for in industrial uses. One space per full-time employee is required, plus one space per 400 square feet of floor space.
 9. Impact to Residential Areas: Conditionally approved uses shall not be located within existing residential areas. Where a proposed conditional use would abut a residential use, a sight obscuring screen or fence at least eight feet in height is required to screen the residential use. The installation of landscape buffers between potential incompatible land uses shall be considered as an alternative.
 10. Agricultural Interference: Development shall not interfere with agricultural operations through the contaminations of livestock or irrigation water supply supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities.
 11. Additional Requirements: All proposed conditional uses shall, in addition to the identified approval criteria meet the regulations identified within the conditional uses section of these regulations and any other conditions as supported by findings in order to mitigate impacts.
- d. The Planning Board shall consider and may impose modifications or conditions concerning, but not limited to the following:
- i. Street and road capacity
 - ii. Ingress and egress to adjoining streets
 - iii. Off-street parking
 - iv. Fencing, screening and landscaping
 - v. Building bulk and location
 - vi. Usable open space
 - vii. Signs and lighting
 - viii. Noise, vibration, air pollution and similar environmental influences.
 - ix. Weed control

- e. The Planning Board shall recommend approval, approval with conditions or denial of the development permit application. The Planning Board shall give reason for the recommendation.
4. Governing Body Approval/Issuance of Permit
- a. The Carbon County Commissioners shall approve, approve with conditions or deny the application for Development Permit within 60 days of receiving a complete application.
 - b. The Carbon County Commissioners shall consider the Planning Board recommendation, written or spoken testimony provided at the public hearing, the application and the staff report provided by the Planning Director.
5. Appeals
- a. To Be Determined.

Conditional Uses

Conditional uses will be evaluated by the County Planning Board and approved by the Carbon County Commissioners.

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

1. Industrial Uses

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

2. Wind Energy

- a. The purpose of this section is to promote the effective, efficient and safe use of the County's wind energy resources through Wind Energy Conversion Systems (WECS), and to regulate the construction, placement, operation of such systems so that public health, safety and welfare will not be jeopardized. The goals of this section are to:
 - i. Encourage the location of WECS to support structures in non-residential areas throughout the community;

- ii. Require WECS facilities to be located, to the extent possible, in areas where the adverse impact on the community is minimal; and
 - iii. Require WECS facilities to be configured in a way that minimizes the adverse visual impact of the facilities and structures.
- b. Definitions
- i. Wind Energy Conversion System (Commercial): Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy for the primary purpose of resale or off-site use. WECS includes such devices as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment.
 - ii. Wind Energy Conversion System (Non-Commercial): A wind driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale.
 - iii. Wind Turbine: An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.
- c. Requirements
- i. Regulations: Must meet all state, federal and local regulations regarding the uses.
 - ii. Setbacks: 1,000 feet from any property line.
 - iii. Height: Height restrictions are evaluated on an individual basis. In no case shall the height of the tower combined with the longest point of the blade exceed the setback.
 - iv. Noise: Measured from property lines
 - 1. Residential Use: 50 db(A)
 - 2. Commercial Use: 60 db(A)
 - 3. Industrial Use: 75 db(A)
 - 4. Hours of operation may be limited due to excess noise.
 - v. Fencing: Must be fenced or protected to prohibit unauthorized access.
 - vi. Climbing Apparatus: All climbing apparatuses shall be located at least 12 feet above the ground and the system tower must be designed to prevent climbing within the first 12 feet above the ground.
 - vii. Lighting: No lights shall be installed on the system, unless required to meet Federal Aviation Administration regulations.
 - viii. Signage: The system tower or blades shall not be used for signs and advertising of any kind. One sign, limited to four square feet shall be posted at the base of the tower. The sign shall include a notice of no trespassing, a warning of high voltage, and the telephone number of the property owner/operator to call in case of emergency.

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