ANACONDA-DEER LODGE DEVELOPMENT PERMIT SYSTEM

Chapter II: Administrative Procedures

Division 1- Permit Procedures

A. Development Permit Required

A ***Development Permit*** shall be required for any ***Development***, ***Excavation*** or ***Expansion*** activity of any kind except as specifically exempted by Sec. II. B. (Subdivisions are not subject to ***Development Permits***, but shall be designed, reviewed, and approved pursuant to the ***County's*** subdivision regulations.) These ***DPS Regulations*** establish two basic types of ***Development Permits***:

1. Administrative Development Permits (ADP). ***ADP***s shall be reviewed and processed administratively as set forth in Sec. II. F. ***ADP***s are required for all ***Permitted*** uses and ***Structures*** and all ***Accessory*** uses and ***Structures*** in all ***Development Districts***. Specifically, ***ADP***s are required for the following:

a. Construction of and additions to single-family dwellings.

b. Fencing of any kind.

c. Construction of agricultural ***Buildings*** for which a building permit is also required.

d. Home occupations.

e. Changes of use of any ***Building*** or ***Structure*** from one principal permitted use to another principal permitted use in any ***Development District***.

f. Any ***Excavation*** in preparation for ***Development***.

g. Any ***Excavation*** that displaces more than one cubic yard of material within the Superfund Overlay, or five cubic yards of material outside of the ***Superfund Overlay***.

h. Any ***Excavation*** that displaces any component of any existing ***Protective Cover*** or ***Storm Water Control*** within a ***Superfund Waste Management Area***.

i. Any installation of a new domestic well within the Superfund Domestic Well Overlay.

j. Water and sewer permits and permits issued pursuant to the General Utility/Street Construction and Repair (GUS) program that are reviewed and approved pursuant to the Superfund Institutional Controls Plan are considered to be Administrative Development Permits (ADPs) for purposes of these regulations.

2. Major Development Permits (MDP). ***MDP***s require a public hearing before the ***Board***, and is subject to final approval by the ***Commission***. The review procedure is set forth in Sec. II.G. ***MDP***s are required for the following:

a. Special uses as specifically listed in the regulations for applicable ***Development Districts***.

b. Planned Unit Developments.

c. ***Excavation*** of any kind within stream or lakeshore protection zones established by these ***DPS Regulations***. In addition, any and all ***Development*** activity along the Big Hole River must comply with ADLC Ordinance No. 208.

d. ***Development*** or construction of any single ***Structure*** in a ***Commercial*** or ***Industrial Development District*** that exceeds 30,000 square feet of gross floor area.

e. Any residential ***Building*** in any ***Development District*** that exceeds four (4) units, including townhome units.

B. Exemptions

Development activities that are exempt from ***Development Permits*** will fall into one of two categories: those projects located within the ***Superfund Overlay***, and those located outside of the ***Superfund Overlay***.

1. ***Developments*** located **outside** of the ***Superfund Overlay***: While not exempt from the requirements and standards of these ***DPS Regulations***, the following development, construction, and activities are exempt from ***Development Permits***:

a. Any activity conducted by any agency, employee, or contractor of the United States government or a Potentially Responsible Party (PRP), as required by the U.S. Environmental Protection Agency (EPA) as part of a ***Response Action*** in compliance with the provisions of ***Superfund***, provided that the ***Administrator*** is notified prior to the commencement of any work.

b. Typical and customary agricultural activities in agricultural ***Development Districts***, including but not necessarily limited to pasturing, crops, and the raising of and caring for ***Livestock***, provided said activities do not take place within a stream bank or lakeshore protection area identified in these ***DPS Regulations***. This exemption does not include slaughtering/packing operations or Concentrated Animal Feed Operations (CAFO) at any scale.

c. ***Excavation*** associated with agricultural activities permitted by these ***DPS Regulations***, gardening, or the maintenance of existing uses provided said activity does not take place within a stream or lakeshore protection area or flood plain.

d. ***Excavation*** (other than those exempted in Sec. B.1.c above) that involves less than five (5) cubic yards of material, provided such activity does not take place within a stream or lakeshore protection area or ***Floodplain***. Re-grading of existing private roadways and driveways are also exempt, provided that new material added or material removed does not exceed five (5) cubic yards.

e. Residential and agricultural ***Accessory Structures*** that are also exempt from building permits (less than 120 square feet of floor area and less than 10 feet in height), provided that such ***Accessory Structures*** meet any applicable set back standards, and are not located within stream bank or lakeshore protection areas or ***Floodplains***.

f. ***Expansion*** of the use of property that does not involve additions to the existing ***Structure***, except that where bearing walls are modified or relocated, a building permit may be required.

g. ***Signs*** are subject to ***Sign*** permits as set forth in the ***County***'s Sign Code, and are not subject to ***Development Permits***.

h. Repair or replacement of floating docks, and the repair and replacement of the decking of existing piling supported docks, provided that the area of the dock and area disturbed within the stream or lakeshore protection area is not increased.

i. Minor utility installations such as service lines, except within stream or lakeshore protection areas. A General Utility/Street Construction and Repair (GUS) Permit is required for any work performed in an ADLC public right-of-way or easement.

2. The following ***Development*** activities located **within** the ***Superfund Overlay*** are exempt from ***Development Permits***. However, anyone undertaking an exempt activity is encouraged to contact the ***Administrator*** to confirm the exempt nature of the activity:

a. Any activity conducted by any agency, employee, or contractor of the United States government or a Potentially Responsible Party (PRP), as required by the U.S. Environmental Protection Agency (EPA) as part of a ***Response Action*** in compliance with the provisions of ***Superfund***, provided that the ***Administrator*** is notified prior to the commencement of any work.

b. Agricultural activities as set forth in Sec. B.1.b, provided that such activities do not take place within a ***Superfund Waste Management Area***.

c. ***Excavation*** associated with any agricultural activity, gardening, and maintenance of existing uses and ***Structures***, and ***Excavation*** and general earthwork as set forth in Sec. B.1.c and d. above, provided that such activities take place outside of ***Superfund Waste Management Areas*** and not more than one (1) cubic yard of material is displaced.

d. ***Expansion*** of the use of property that does not involve additions to the existing ***Structure***, except where bearing walls are modified or relocated, a building permit may be required. Persons undertaking repairs or remodels within the ***Superfund Overlay*** are encouraged to consult with the ***Superfund Coordinator*** for educational information regarding possible interior dust contaminants and available sampling and abatement services.

e. ***Signs*** as set forth in Sec. B.1.f. above, except for ground ***Signs*** and monument type ***Signs*** where more than one (1) cubic yard of material is displaced.

f. Residential and agricultural ***Accessory Structures*** as set forth in Sec. B.1.d. above provided that no more than one (1) cubic yard of material is displaced.

g. Any activity conducted by any employee or contractor of the Old Works Golf Course Authority at the Old Works Golf Course pursuant to the Old Works Golf Course Operation and Maintenance Plan and any amendments thereto, approved pursuant to ***Superfund***.

C. Utility Emergencies

1. Work necessitated by utility emergencies such as water line breaks and sewer and storm drain blockages that is within the purview of the ***County*** shall be carried out according to the ADLC General Utility/Street Construction and Repair (GUS) Permit.

2. Emergency utility work on private property may proceed without a GUS permit provided that all ***Excavated*** materials are stockpiled for later inspection and testing if necessary. All such emergency work must be reported to the ***Administrator*** within 48 hours of discovering the emergency and a GUS permit shall be applied for after the fact.

D. Application Fees

Application fees for each type of ***Development Permit*** and review procedure created by these ***DPS Regulations*** shall be established by resolution of the ***Commission***. No application shall be deemed complete until the applicable fee is paid.

E. Site Inspections

The filing of an application for any type of ***Development Permit*** constitutes consent of the landowner and applicant for authorized ***County*** personnel to conduct inspections of the subject land during the review process. Refusal of the owner or applicant to allow authorized personnel on site for necessary inspections may delay review of the ***Development Permit*** application, and/or result in denial of the application.

F. Administrative Development Permits (ADP)

The purpose of the ***ADP*** is to assure that all ***Building*** construction and ***Development*** activity complies with these ***DPS Regulations*** as well as regulations promulgated by other agencies as applicable. An application for an ***ADP*** may be filed concurrently with a building permit application, or prior to applying for a building permit. An ***ADP*** application may also be filed concurrently or prior to any application for a well permit or individual sewage disposal permit.

1. The applicant shall file a properly completed application form, including a ***Site Plan***, project description, and any other required supporting materials, with the ***Administrator***. Once all required materials are submitted, the ***Administrator*** shall deem the application complete. This does not preclude the ***Administrator*** from requesting additional information which may be needed to complete the ***Development*** review.

2. The ***Administrator*** shall review the application to determine compliance with these ***DPS Regulations***. Should the ***Administrator*** find that the application is in compliance, the application shall be approved. However, the ***Administrator*** may impose reasonable conditions to assure compliance with these ***DPS Regulations*** as well as the regulations promulgated by other agencies as they may apply.

3. Within ten (10) business days of receipt of a properly completed application, the ***Administrator*** may determine that the proposed ***Development*** has a substantial impact on the landscape, surrounding neighborhood, natural resources, and/or local facilities and services. The ***Administrator*** shall then inform the applicant in writing that the proposal will be reviewed as a ***MDP*** pursuant to Sec. II.F, and the reasons therefore.

4. Except if the ***Administrator*** determines that the application will be reviewed as a ***MDP***, the application shall be approved or denied by the ***Administrator*** within 20 business days, and the applicant shall be notified in writing within seven (7) business days of the decision. If the ***Administrator*** determines that the application will be reviewed as a ***MDP***, the provisions of Sec. II.G shall apply.

G. Major Development Permits (MDP)

In each ***Development District***, for which both principal permitted uses and special uses are listed, special uses are authorized only through approval of an ***MDP,*** as set forth in Sec. III.D. of these regulations. Other types of development that require MDPs are listed in Sec. II. A. of these regulations.

1. The applicant shall request a pre-application conference with the ***Administrator***. The primary purpose of this conference is to provide guidance to the applicant on the ***MDP*** review process, submittal requirements, and to identify any issues that the applicant may wish to address in the formal application. The ***Administrator*** shall make a record of this conference, and upon request shall provide this record to the applicant.

2. The applicant shall submit an application for a ***MDP*** on a form supplied by ADLC, and shall remit the applicable fee. All material required on the application form must be submitted. Incomplete applications cannot be accepted by the ***Administrator***.

3. Once an application for a ***MDP*** is complete, the ***Administrator*** shall schedule the application for a public hearing before the ***Board*** at the next available regular or special meeting.

4. Owners of land within 150 feet of the subject land (exclusive of rights-of-way) shall be notified of the application by first class mail sent no later than 15 days prior to the scheduled public hearing.

5. A public notice shall be published in a newspaper of general circulation at least 15 days prior to the scheduled public hearing. The public notice shall give the time, date, and location of the public hearing, and shall describe the nature of the ***Permit*** request.

6. The ***Board*** shall conduct a hearing on the proposed ***MDP*** following the procedures outlined in the ***Board***'s adopted "Rules of Procedure".

7. Following the public hearing, the ***Board*** may adopt a recommendation of approval, approval with conditions, or denial, and forward the request to the ***Commission*** for final action.

8. In making a recommendation for approval of an ***MDP***, the ***Board*** must make a finding that the following criteria and standards are each met in substance as they may apply to the ***Permit*** application:

a. That the proposed ***Development*** or use is in compliance with the ***County***'s ***Plan***.

b. That the proposed ***Development*** or use meets with the purpose and intent of the ***Development District*** in which it is located.

c. That the site is suitable for the proposed ***Development*** or use in terms of size, location, access, and environmental constraints such as a flood plain or steep slopes.

d. That the proposed ***Development***, if located within the ***Superfund Overlay***, has or will receive ***Response Actions*** in accordance with ***Superfund***.

e. That the proposed ***Development*** or use is consistent with the scale, character, and prevailing design of the surrounding neighborhood.

f. That impacts to air and water quality, forest resources, wildlife, and other natural resources are ***Minimized*** or mitigated.

g. That potentially adverse impacts to the surrounding neighborhood such as noise, vibration, dust, smoke, glare, and odors are avoided or effectively mitigated.

h. That pedestrian and vehicular circulation and access are adequate and safe for the proposed use, and that traffic impacts associated with the proposed ***Development*** will not be detrimental to the surrounding neighborhood or the community at large.

i. That all necessary public services and facilities are adequate for the proposed ***Development***, and that the ***Development*** will not place an inordinate demand on local services and facilities. Local services include, but are not necessarily limited to water,

sewer, storm drainage, schools, parks and recreation, fire protection, law enforcement, EMS, and local medical services.

j. That all screening, buffering, landscaping, parking, loading, lighting, and other ordinance requirements are met.

9. The ***Board*** may recommend reasonable conditions designed to avoid or mitigate any adverse impacts associated with the proposed use, and to ensure that the standards and criteria set forth above are substantially met.

10. The ***Applicant*** shall be notified in writing of the ***Commission***s' final action within ten (10) business days of the decision.

H. Development Permits Valid for Two Years

Except as otherwise provided in this section, an ***ADP*** is valid for two (2) years from the date of approval by the ***Administrator*** and a ***MDP*** is valid for two (2) years from the date of approval by the ***Commission***. Any ***Development Permit*** for which the authorized work, use, construction, or improvements have not commenced within two (2) years of the approval date is deemed to have expired with no further action or notice on the part of the ***County***. The **issuance** of a building permit within two (2) years of approval of either an ***ADP*** or a ***MDP*** automatically extends the ***Development Permit*** for the duration of the building permit. Once approved, the ***Development Permit*** conditions and requirements are effective in perpetuity unless: The expiration or reauthorization of a ***Development Permit*** was a condition of its approval, or the ***Development Permit*** is revoked for cause as provided in Sec. II.J.

I. Issuance of a Development Permit

Development Permits issued pursuant to this Chapter are limited in their authorization to the work and/or ***Development*** expressly described therein. Issuance of a ***Development Permit*** does not convey any broad powers or authority to the applicant beyond the purpose for which the ***Development Permit*** was requested and issued. ***Development Permits*** remain connected to the site even if a change of ownership occurs so long as all work is in conformance with the approved ***Development Permit*** and all conditions are met. ***Development Permits*** are site specific, and are not transferrable to other land or property. Administrative Development Permits (ADP) may be amended without applying for a new development permit provided the following criteria are met:

1. The ADP is active and valid at the time the amendment is requested.
2. The original ADP was issued no earlier than January of the previous year.
3. The subject property for the amendment is the same as for the original ADP.
4. A Certificate of Compliance (COC) has not been issued for the original ADP pursuant to Superfund.

J. Suspension of Development Permits

The purpose of this section is to allow an administrative suspension of a ***Development Permit*** in order to provide the permittee with a time frame within which conditions of the ***Development Permit*** can be met. This includes licensing and permit approvals from divisions of state and/or federal government, whether or not the license or permit is a condition of ***Development Permit*** issuance. This procedure is intended as an alternative to revocation (See Sec. II.J. above.) in resolving problems with ***Development Permit*** conditions and other requirements.

1. The ***Administrator*** may suspend a ***Development Permit*** in order to provide a permittee with time to meet conditions imposed on the ***Development Permit***, and/or to provide additional time for the permittee to obtain licenses or other permits required by other government agencies.

2. The ***Administrator*** shall notify the permittee in writing of the suspension. This communication shall contain the following as applicable:

a. The effective date of the suspension.

b. The specific reasons for the suspension, including the conditions, licensing, permits, or other requirements to be met for the suspension to be lifted.

c. At the discretion of the ***Administrator***, a time limit may be set for all requirements to be met and the suspension lifted, after which time the ***Development Permit*** may proceed to revocation as set forth in Sec. II.J.

3. Once all conditions have been met and any and all permits and licenses obtained, the ***Administrator*** shall notify the permittee in writing that the ***Development Permit*** has been reinstated.

K. Revocation of Development Permits

1. ***Development Permits*** may be revoked for good cause shown. Procedures to revoke ***Development Permits*** may only be initiated by the ***County***, and only the ***Commission*** is authorized to revoke a ***Development Permit***.

2. Prior to initiating any ***Development Permit*** revocation procedure, the ***County*** shall have:

a. Conducted an inspection of the subject land.

b. Thoroughly investigated any complaints.

c. Contacted the landowner, operator, or permittee (as applicable) in writing notifying him/her of the nature of complaints, issues, and/or potential violations.

d. Provided the landowner, operator, or permittee every reasonable opportunity to address and correct conditions, violations, or deficiencies.

3. A ***Development Permit*** may be revoked based on one or more of the following findings:

a. That the initial application and/or representations made by the applicant in connection with the application were fraudulent or otherwise inaccurate or misleading to the extent that the decision to grant the ***Development Permit*** was based upon or influenced by said application or representations.

b. That operation of the authorized use or ***Development*** has become a public nuisance and/or an imminent threat to the public health, safety, and general welfare.

c. That the permittee has not adhered to any or all of the conditions of the ***Development Permit***.

4. The ***Commission*** may revoke a ***Development Permit*** upon approval by simple majority where findings and cause for the revocation are set forth in the motion to revoke.

5. The permittee shall be notified of the revocation action through a cease and desist order.

Division 2- Appeals and Variances

L. Administrative Appeals

1. Except as provided in Sec. II.L.2., any interpretation of these ***DPS Regulations*** or any decision made by the ***Administrator*** pursuant to these ***DPS Regulations*** may be appealed to the ***BOA*** following the procedures set forth below. Such appeal shall be taken within a reasonable time as provided by the rules of the ***BOA***.

a. The appellant shall file a written appeal, and shall provide all relevant supporting information. A filing fee shall be paid by the appellant.

b. Upon receipt of the appeal, the ***Administrator*** shall publish a notice in the official ***County*** newspaper at least ten (10) days prior to the next scheduled meeting of the ***BOA***, and shall place the appeal on the ***BOA***'s agenda for that meeting. The ***BOA*** must meet within 30 business days of an appeal filed with the ***Administrator***.

c. The ***BOA*** shall conduct a hearing on the appeal following procedures set forth in the ***BOA***'s adopted Rules of Procedure. No appeal shall be heard if the appellant or a representative is not present. If the appeal involves an action taken or permit granted to a third party, such as a non-landowner developer, no hearing shall be conducted unless the third party is present.

d. Based upon relevant findings and conclusions, the ***BOA*** may uphold, overturn, or modify the action or interpretation made by the ***Administrator***. The ***BOA*** shall take final action within 35 days of the initial opening of the public hearing.

e. The ***Administrator*** shall notify the appellant and other interested parties in writing of the ***BOA***'s decision within ten (10) business days.

f. Any decision of the ***BOA*** may be appealed to District Court as provided in Sec. 76-2-327, MCA. Notice of intent to file an appeal shall halt all proceedings by the ***Administrator*** to carry out the ***BOA*** decision, unless in the judgment of the ***Administrator***, such action is imperative due to imminent public health or life safety concerns.

2. Any interpretation of Chapters XXX or XXXI or Appendices D, E or F of these ***DPS Regulations*** or any decision made by the ***Superfund Coordinator*** pursuant to Chapter XXX or XXXI or Appendices D or E of these ***DPS Regulations*** may be appealed to the ***Commission***. All procedures for filing, public notice, and conduct of a hearing on the appeal shall be as set forth in Sec. II.L.1., except that the hearing shall be conducted by and a decision on the appeal rendered by the ***Commission*** rather than the ***BOA***. Appeals from the decision of the ***Commission*** shall be to District Court as set forth in Sec. II.L.1.f. ***The Commission*** shall not render any decision which will serve to adversely affect any ***Protective Covers*** or ***Storm Water Controls*** within the ***Superfund Overlay*** or which will result in a failure to meet the ***Superfund*** actions levels set for in Chapters XXX and XXXI.

3. When in the judgment of the ***Administrator***, his/her decision or interpretation of the regulations will affect a specific land or class of lands, and/or have a potentially significant impact on a neighborhood or landscape of the ***County***, the Administrator shall notify ***Adjacent*** landowners via first class mail of his/her intent to render a decision or interpretation. The letter sent shall explain the pending decision and shall invite comment for a period of not less than 15 days following the date of the notice. At the end of this comment period, the ***Administrator*** may officially render the decision or interpretation, and communicate it in writing to all parties involved. Once the decision or interpretation is finalized, the decision or interpretation may be appealed to the ***BOA*** through the procedure set forth in this Sec. II.L.1.

M. Variances

Except as provided in Sec II.M.10., the ***BOA*** may in specific cases grant relief from the standards and requirements of these ***DPS Regulations*** through a ***Variance*** as set forth in Sec. 76-2-323, MCA.

1. The applicant shall apply for a ***Variance*** on a form supplied by the ***County***. The applicable filing fee shall be paid, and all relevant supporting materials shall be submitted.

2. Upon receipt of the application, the ***Administrator*** shall publish a notice in the official ***County*** newspaper at least 15 days prior to the next regular meeting of the ***BOA***, and shall place the ***Variance*** on the ***BOA***'s agenda for that meeting.

3. The ***Administrator*** shall notify all landowners within 150 feet of the subject land by regular first class mail at least 15 days prior to the date of the hearing by the ***BOA***.

4. The ***BOA*** shall conduct a hearing on the proposed ***Variance*** following procedures set forth in the ***BOA***'s adopted Rules of Procedure. No hearing shall be conducted if the applicant or a representative is not present.

5. In applying the provisions of Sec. 76-2-323(1)(c), MCA, the ***BOA*** may only grant a ***Variance*** upon a finding that the following criteria are met in substance as they may apply to the application:

a. The ***Variance*** is necessitated due to exceptional and/or extraordinary circumstances or conditions that are unique to the subject land, and are not generally characteristic of similarly situated properties.

b. Approval of the ***Variance***(s) will preserve a property right or use that is generally enjoyed by owners of similarly situated properties, and conversely, approval of a ***Variance*** will not bestow a special privilege on the applicant that is not generally enjoyed by the owners of similarly situated properties.

c. The alleged hardship has not been created by the applicant.

d. Specific relief from these ***DPS Regulations*** shall be the minimum necessary to accomplish the applicant's stated objectives.

e. Adverse impacts associated with granting relief from these ***DPS Regulations*** are avoided or effectively mitigated.

6. Conditions may be imposed by the ***BOA*** that will cause the above criteria to be met.

7. Final action is required on a ***Variance*** request within 35 days of the initial opening of the public hearing.

8. The ***Administrator*** shall notify the applicant and interested parties of the ***BOA*** decision in writing within 10 days.

9. Decisions of the ***BOA*** may be appealed to District Court as set forth in Sec. 76-2-327, MCA.

10. Any request for a ***Variance*** from the standards and requirements of Chapters XXX or XXXI or Appendices D or E of these ***DPS Regulations*** shall be heard by the ***Commission***.
    a. All procedures for filing, public notice, and conduct of a hearing on the ***Variance*** shall be as set forth in Sec. II. M.1 through Sec. II.M.4., except that the application shall be filed with the Superfund Coordinator and the hearing shall be

POWELL COUNTY DEVELOPMENT CERTIFICATE

CHAPTER III – DEVELOPMENT CERTIFICATE REQUIRED

These regulations set forth the requirements for Development Certificates.

III-A. Development Certificate – A Development Certificate must be obtained from the Planning Department before any person changes existing land use to a residential use through the construction or placement of a single family residence.

A Development Certificate will be issued only when the proposed change to residential use will meet the conditions specified in this chapter and the other requirements specified in these regulations.

III-B. Applications for a Development Certificate for the purpose of constructing second or multiple residences must be accompanied by a CUP application. The Development Certificate application fee will be waived when accompanied by a CUP application.

III-C. Applications for a Development Certificate must be accompanied by either, (1) a showing that there is minimum danger from wildfire, or (2) a written fire prevention plan to prevent any wildfires from endangering the structure(s). A fire prevention plan should address fire retardant construction materials, cutting or cropping of grass, thinning or removing timber in an adequate area around the structures, or other methods for protecting the structures from wildfire. Upon advice from the local fire department or Fire Warden, the Planning Department may require additional or more restrictive provisions be included.

III-D. Procedure for Application, Review and Granting a Development Certificate

III-D-1. Before commencing a change in land use involving construction or placement of a single-family residence, a person must submit a completed Development Certificate application form to the Planning Department. The application must include a sketch plan, showing the dimensions and shape of the parcel, the sizes and location of the proposed single-family residence and any other existing or proposed structures on the parcel. The application shall include a description of the current and proposed uses of buildings and land; the location of the dwelling unit proposed; and such other matters as may be necessary to determine conformance with these regulations.

Where the parcel of land contains a large acreage of agricultural, timbered or otherwise undeveloped land, the sketch plan need show only the area currently or proposed to be developed and in which the change of land use will occur. The application should then indicate the approximate amount and location of undeveloped land in the parcel.

Applicant must include a showing that the construction will not be in an area subject to wildfires or must include a written fire protection plan to prevent damage from wildfires as required by these regulations.

III-D-2. The Planning Department shall review the application to ensure the required information is complete. When the application and submitted information are complete, the Planning Department shall analyze within 30 working days whether the proposed building, structure, alteration or use is permitted at the proposed location, and whether the proposal will comply with the provisions of these regulations.

III-D 3. Should the Planning Department find that the proposed land use change is consistent with these regulations, it will approve the Development Certificate and distribute copies as indicated on the application. The applicant shall be notified in writing of the Planning Department's decision.

III-D-4. Should the Planning Department find that the proposed use change is not appropriate under a Development Certificate, the applicant will be notified of such decision by certified mail and will be advised of the right to appeal to the Planning Board.

III-D-5. Construction, installation, alteration, placement or use of structures must be consistent with the approved certificate.

III-D-6. Development Certificates permitting the land use change shall be in effect for one year from the date of approval. Extensions for the start of any construction activity may be given on an individual case basis, upon request of the applicant to the Planning Department.

III-E. General Requirements for Development Certificate Approval - A Development Certificate will be issued only when the applicant demonstrates that the proposed development will comply with the following standards:

1. **Developments May Not Interfere With Agricultural Operations**

   a. Developments shall not impede or diminish the quantity of, add sediments or other contaminants to, or otherwise adversely affect ground or surface water sources used for human consumption, livestock watering or irrigation.

   b. Developments should not obstruct or impair canals, ditches or other irrigation waterways; or interfere with the operation or function of head gates, culverts or other irrigation facilities.

   c. Developments and subsequent uses may not impede or cause conflict with the normal conduct of agricultural operations or uses.

2. **Developments Must Be On Suitable Lands** – Unless special measures approved by the Planning Board and appropriate under these regulations are taken to overcome the associated problems, developments are prohibited on slopes greater than 25 percent. Further:

a. All new roads constructed between a public road and the property boundary for land use change purposes must have legal access.

b. County Road Standards for residential driveways off the county right of way are advisory.

c. Grading and drainage facilities shall be designed to remove storm run-off waters and prevent accumulation of standing water.

d. An approach permit for all new approaches on the county roads must be obtained. All applications for approaches onto county roads will be reviewed and approved in writing within 30 working days by a County Commissioner or designee prior to construction.

e. In addition, some land use changes may need to comply with state or federal rules. Where such is the case, compliance is the responsibility of the applicant, and proof of such compliance may be required by the Planning Board.

3. New Developments Must Be Compatible With the County's Agricultural and Rural Character

a. Developments shall be designed and constructed to avoid blocking or altering natural drainages.

b. Developments shall be designed and constructed to minimize the disturbance of stream banks and lakeshores, and riparian areas abutting such water bodies.

c. Telephone and power transmission lines shall be located with respect to natural terrain and vegetation to minimize visual impact, and to minimize disturbance of soil and vegetation.

d. All soil disturbances associated with land use changes will be treated for noxious weeds and revegetated within the earliest growing season. This responsibility rests with the certificate or permit holder.

e. New developments may be restricted or may not be allowed in designated fish and wildlife habitat areas (see Chapter VI-C).

4. New Developments Must Be Compatible With the County's Existing Residential Developments and Other Developments in the Area

Developments must not substantially diminish the light, air and open space, or cause unsightly conditions, for existing residential developments. Housing generally similar to existing housing shall not of itself be considered to have negative impacts to open space.

POWELL COUNTY DEVELOPMENT CONDITIONAL USE PERMIT

CHAPTER IV – CONDITIONAL USE PERMIT REQUIRED

These regulations set forth the requirements for Conditional Use Permits (CUPs).

IV-A. For uses other than those which can be authorized by a Development Certificate, a CUP must be obtained from the Planning Board before any person may begin to construct, place, move or significantly expand approved uses identified in each Zoning District.

A CUP may be issued only when the proposed building, structure, parcel or use are consistent with the general and specific purposes stated in these regulations, will meet the conditions specified in this chapter and will meet the other requirements specified in these regulations.

IV-B. Applications for CUPs must be accompanied by either, (1) a showing that there is minimum danger from wildfire, or (2) a written fire prevention plan to prevent any wildfires from endangering the structure(s). A fire prevention plan should address fire retardant construction materials, cutting or cropping of grass, thinning or removing timber in an adequate area around the structures, or other methods for protecting the structures from wildfire. Upon advice from the local fire department or Fire Warden, the Planning Department may require additional or more restrictive provisions are included.

IV-C. Conditions required - A CUP for any use that may change traffic flow or volume, noise, visual pollution, air quality, or may otherwise or unacceptably affect the natural or human environment be harmful to health and safety, shall be subject to such conditions as the Planning Board deems necessary.

IV-D. Procedure for Application, Review and Granting a CUP – The purpose of the conditional use permitting process is to provide a more detailed and comprehensive review of certain proposed developments that could significantly impact neighboring properties or the community; to ensure protection of the public health, safety and welfare; to ensure that the location or manner of development is appropriate in relation to existing neighboring uses and to ensure that the use will be consistent with the general and specific purposes stated in these regulations. Applications must address the items in this chapter.

IV-D-1. The use of any structure or land may not be changed unless a CUP has been granted except for situations requiring a Development Certificate.

IV-D-2. Conditional uses must comply with the requirements of these regulations and any additional conditions prescribed by the Planning Board relating to the following:

a. Adequate legal and physical access to the property and proposed structures with particular concern for automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other emergency.

b. Adequacy of existing roads, streets, driveways, bridges, cattle guards and other infrastructure and possible impacts of additional traffic and other uses on existing access for neighboring and area properties.

c. Adequate off-street parking and loading areas, where required, with particular attention to access, traffic flow, vehicular and pedestrian safety, and avoidance of adverse effects on neighboring properties and uses.

d. Significant odor or air, water or noise pollution.

e. Location of garbage containers and garbage pickup to avoid adverse effects on neighboring properties and uses.

f. Availability, capacity and quality of utilities and community services.

g. Adequate landscaping and adequate screening and buffering, where required (see Chapter VIII).

h. A fire protection plan to protect structures (see III-C).

i. General compatibility with the Powell County Growth Policy.

IV-D-3. Signs

a. Permanent Signs for a new or expanded land use must be specifically approved through the CUP process and must be consistent with these regulations and with the Powell County Growth Policy.

b. New or enlarged signs for existing land uses do not require a CUP but must meet the criteria of c, below.

c. For the purpose of this regulation:

   i. "Sign" shall include all signs larger than 24 square feet in size, whether attached to a structure or free-standing; so-called traditional signs with static lettering on a signboard or neon signs; logos; thematic indicators; and any other man-made or altered structure, item, or feature which appear to be intended to advertise the land use or to entice potential customers, clients or other members of the public. Arches, spires, cupolas, and imitation natural objects, whether or not used in other jurisdictions and/or a recognized corporate or business symbol, shall be considered to be signs.

   ii. Electronic LCD-type signs that flash, change or scroll lettering or images are presumed to be inconsistent with these regulations and with the Powell County Growth Policy.

iii. Any sign must be in compliance with the following:

1. Signs must be on the property of the new or expanded or existing land use that they relate to, and must be in reasonable proximity to the primary site of the land use.

2. Signs, including supporting posts, shall not be of a height higher than 10 feet above the main structure, exclusive of cupolas, antennas, or other projections, of the land use that they relate to. Each individual sign shall not exceed 128 square feet in size, exclusive of supporting posts.

3. Not more than two exterior signs may be emplaced for any individual land use. A group of signs shall not be considered to be one sign, but shall be counted as the individual items that make up the group.

4. Signs existing on the date these regulations are approved shall be allowed as a non-conforming use. However, replacements for such non-conforming signs must comply with these regulations.

d. Excluded from these requirements shall be temporary signs and up to two signs located on the premises of an agricultural operation advertising the name of the operation.

IV-D-4. An accurate and complete written application for a CUP must be submitted to the Planning Board through the Planning Department. All applications for CUPs must be accompanied by plans drawn to scale, showing the dimensions and shape of the parcel to be built upon; the sizes and locations of any existing buildings on the parcel; the location and dimensions of the proposed buildings or alterations; and information that clearly states how the conditions for the use will be met, including the relation to structures on adjacent parcels.

Where the parcel of land contains a large acreage of agricultural, timbered or otherwise undeveloped land, the sketch plan need show only the area currently or proposed to be developed and in which the change of land use will occur. The application should then indicate the approximate amount and location of undeveloped land in the parcel.

IV-D-5. Notice shall be published in the official Powell County newspaper within 30 working days of a completed application and at least 14 days in advance of a public hearing before the Planning Board, and the owner of the property and adjacent landowners for which a CUP is sought, or their agents, shall be notified of the hearing by certified mail, all at the applicant's expense.

IV-D-6. At the public hearing any party may appear in person, or through an agent or attorney, and give written or oral comment.

IV-D-7. The Planning Board shall make its decision at or within 35 working days after the public hearing. It shall make a written statement supporting its decision on the application. The decision will be to (1) approve, (2) approve with conditions, (3) deny or (4) table the proposal to a definite time. The written statement of the decision will include findings that set forth the factual basis or reason(s) for the decision; cite the statute, rule, ordinance, resolution or other legal authority for the decision; explain how the legal authority is interpreted by the Planning Board so as to authorize the decision; and provide information about any appeal or other process by which a person aggrieved by the decision may seek relief from the decision.

IV-D-8. Following issuance of a CUP, the Planning Department shall periodically inspect the site to ensure that the implementing actions are consistent with the approved permit.

a. The Planning Department shall notify the Permittee of any inconsistencies or violations found. If notification is in writing, the notice shall require compliance within 30 days.

b. Permittee may request and provide reason for additional time to comply, or may appeal the notice to the Board of Adjustment.

IV-D-9. Upon application or on its own motion, the Planning Board may amend a CUP.

a. An amendment that corrects errors made by the Planning Department or the Planning Board, or that is considered to be minor changes that will not adversely affect neighboring properties and that are fully consistent with the requirements of these regulations including the purposes stated in these regulations, may be made without prior public notice.

b. An amendment that substantially changes the permit, including any conditions imposed thereon, or that may be considered to be adverse to any neighboring or affected properties may be made only after public notice and hearing as provided above for the issuance of a CUP.

IV-D-10. The Planning Board may revoke, cancel or hold to be void a CUP. Such action must be only for cause, such as violation by the Permittee of the CUP terms and conditions, refusal or neglect by the Permittee to comply with the CUP terms, or if the CUP was granted in violation of law or these regulations.

IV-D-11. A Conditional Use Permit, permitting the land use change, shall be in effect for one year from the date of approval. A one-year extension for the start of any construction activity may be given by the Planning Board on an individual case basis, upon written

BILLINGS ZONING COMPLIANCE

Planning and Community Services Department

510 Broadway, 4th Floor
Billings, MT 59101

Phone: (406) 657-8246

Fax: (406) 657-8327

ZONING COMPLIANCE PERMIT INFORMATION

PURPOSE:

To ensure development occurs in accordance with the applicable zoning regulations, a Zoning Compliance Permit is required Section 27-623 prior to the construction of any structure within Yellowstone County's Zoning Jurisdictional Area, and Special Zoning Districts.

PROCESS:

I. Prior to Residential Construction

- **Applicant consults applicable zoning regulations –** Contact a planner at the Planning and Community Services Department if you have any questions – (406) 657-8246

- **Applicant should contact the City-County Health Department for a septic permit** – (406) 256-2770, 217 N. 27th Street (3rd floor, Yellowstone County Courthouse)

- **Applicant should contact the State of Montana Building Codes Division** to ensure compliance with state building code regulations – (406) 841-2040

- **Applicant submits 2 COPIES of required materials** and $43.00 application fee to the Planning and Community Services Department, to include:

  Zoning Compliance Permit Application, completed and signed.

  Site Plan, including all existing and proposed structures, decks/porches, driveways, property lines, watercourses and easements (drawn to scale with **setback** measurements from property lines labeled).

Building Elevation Plans (drawn to scale with measurements labeled).

Floodplain location information (**If Applicable)** – If property may be located in a floodplain, contact the Yellowstone County Floodplain Administrator, Yellowstone County Courthouse, 217 N. 27th Street, 4th Floor, (406) 256-2775

II. Prior to Commercial Construction

- **Applicant consults applicable zoning regulations –** Contact a planner at the Planning and Community Services Department if you have any questions – (406) 657-8246

- **Applicant should contact the City-County Health Department for a septic permit** – (406) 256-2770, 217 N. 27th Street (3rd floor, Yellowstone County Courthouse)

- **Applicant should contact the State of Montana Building Codes Division** to ensure compliance with state building code regulations – (406) 841-2040

- **Applicant submits 2 COPIES of required materials** to the Planning and Community Services Department, to include:

  Zoning Compliance Permit, completed and signed.

  Site Plan, including all existing and proposed structures, decks/porches, driveways, off-street parking, loading areas, property lines, watercourses and easements (drawn to scale with **setback** measurements from property lines labeled).

  Landscaping Plan, showing how the property will be landscaped in adherence to the landscaping requirements of the zoning district the commercial project is located in.

  Building Elevation Plans (drawn to scale with measurements labeled).

  Floodplain location information (**If Applicable)** – If property may be located in a floodplain, contact the Yellowstone County Floodplain Administrator, Yellowstone County Courthouse, 217 N. 27th Street, 4th Floor, (406) 256-2775

III. Planning Department Permit Processing

- **Planning and Community Services Department reviews the application materials and may make a site inspection**. Completed applications will usually be reviewed within 5 working days for residential permits and within 20 working days for commercial permits.

- **Planning Division notifies the applicant whether the application is approved or denied.**

- **If approved, applicant builds structure** in accordance with the specifications submitted in the Zoning Compliance Permit, and in compliance with the requirements of the applicable zoning regulations.

Section 27-623. County Zoning Compliance Permit

A Zoning Compliance Permit is only required for properties that are located outside the limits of the City of Billings but within the Unincorporated Jurisdictional Area.

No change of land use may be made; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a Zoning Compliance Permit issued by the Zoning Coordinator or his/her designee, who shall determine that the permit is issued in compliance with the regulations set forth in this Resolution/Ordinance. The review of a Zoning Compliance Permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any applicable building codes. A separate sign permit is required prior to the erection of any sign.

Each application for a Zoning Compliance Permit shall be accompanied by a site plan, building elevations and any other information requested by the Zoning Coordinator to adequately review the proposed project. Additionally, commercial projects require submittal of a landscaping plan and a site plan showing off-street parking, loading, etc. The Board of County Commissioners may set an application fee by Resolution for review of a Zoning Compliance Permit. The Zoning Coordinator or his/her designee may waive the submittal requirements for some of the above mentioned plans. Zoning Compliance Permits are valid for a period of six (6) months from the date of approval and may be extended for an additional six (6) months with written approval from the Zoning Coordinator.

Planning and Community Services Department

510 Broadway, 4th Floor
Billings, MT 59101

Phone: (406) 657-8246

Fax: (406) 657-8327

ZONING COMPLIANCE PERMIT

Permit #_____ Fee $43.00

Application Information

Applicant Name: _____ Date: _____

Applicant Address: _____ Phone: _____

Property Owner Name: _____

Property Owner Address: _____Phone:_____

Property Information

Property Address: _____

Section, Township, Range: _____ Zoning District: _____

Lot size: _____ sq.ft. Lot area covered by structure(s): _____sq.ft.
_____%

Subdivision/COS: _____ Block: _____ Lot: _____

Building Information

Type and use of proposed structure(s): _____

Building separation in feet (for multiple buildings on one lot):_____

Is structure manufactured off-site? Yes / No --- If yes, was it built to Federal Department of Housing and Urban and Development (HUD) or International Building Code (IBC) standards? Yes / No

If the structure was manufactured off-site and built to IBC standards, please provide the Factory Built Building (FBB) number #_____

Number of dwelling units: _____

Total Square feet (including garages and unfinished spaces): _____

Building Height (calculated according to zoning regulation definition): _____

(Commercial Only) Landscaping Coverage: _____ sq.ft.

(Commercial Only) Number of Off-Street Parking Spaces: _____

Description of other existing structures on the property: _____

AGREEMENT

The undersigned hereby certifies that the information submitted in this application is true and correct; and that the proposed work shall be done in accordance with the plans and specifications submitted in this application, and in compliance with the requirements of the applicable zoning regulations.

Applicant's signature_____ Date_____

FOR OFFICE USE ONLY

Check # _____ Amount:_____ Rect. #:_____

Date Received: _____Date Completed: _____

Approved: ___ Denied: ___

Comments:

_____

_____

_____

_____

_____

Approved by: _____Title: _____Date:_____

Signature

BILLINGS SPECIAL REVIEW

SPECIAL REVIEW

APPLICATION INFORMATION PACKET
2014-2015

Yellowstone County

YELLOWSTONE COUNTY

SPECIAL REVIEW APPLICATION

Planning & Community Services Department
2825 3rd Ave North, 4th Floor
Billings, MT 59101
Phone: 657-8246 Fax (406) 657-8327
Website: www.co.yellowstone.mt.gov

NOTICE TO PETITIONER

The Zoning Coordinator will check the application for completeness after the deadline date. If the application is unacceptable, you will be notified as to what changes need to be made. Incomplete and/or unacceptable applications may delay the review process by four weeks or longer. Make sure your application is totally complete or your request will be delayed.

INSTRUCTIONS

All applications shall be submitted to the Planning & Community Services Department, 2825 3rd Ave North, 4th Floor. The filing fee must accompany the application in order for it to be accepted.

All questions must be answered fully. Please type or print. You may attach further pages if additional space is needed. All plans and other exhibits submitted with this application will be retained as a part of the permanent record.

1. Answer the following questions:
   - A. In what ways is your proposal consistent with the goals and policies of the adopted Growth Policy?
   - B. Why is there a need for the intended use of the property at this location?
   - C. How will the public interest be served if this application is approved?
   - D. Prepare a written statement addressing what is intended to be done with the property, including new construction or change in the use of the property, and why the special review is being sought.

2. Prepare a dimensioned site plan as follows:
   - A. One full sized site plan and one reduced copy of the site plan at 8½"x11" or 11”x17”.
   - B. Scale of the full sized site plan shall not be less than 1" = 40'. Exceptions may be made for larger properties.

3. If applicable, the site plan must also include but not necessarily be limited to the following:
   A. North arrow.
   B. The locations and dimensions of all vehicular points of ingress and egress, drives, alleys, off-street parking spaces and loading spaces.
   C. Illustrate lot size showing lot line dimensions.
   D. The locations and dimensions of all existing and proposed buildings, structures, and improvements including those which will be removed. Please label all information.
   E. Show setbacks from all property lines for existing and proposed buildings.
   F. Show the centerline of major and minor arterial streets.
   G. Illustrate the square footage of existing and proposed buildings and structures.
   H. Names and locations of adjacent streets, alleys, properties, etc.
   I. Illustrate the height of any proposed structures.
   J. A detailed landscaping plan of the site.
   K. Location and description of proposed signs.
   L. Other pertinent features as determined by the Zoning Coordinator.
   ** An example of a dimensioned site plan is attached as part of this application packet.

4. Photographs may be submitted and are often helpful. They should be of a size adequate to show the nature of the property.

5. Obtain from the Planning & Community Services Department a three hundred (300) foot radius map showing all property which lies within 300 feet of the exterior boundaries of the subject property.

6. Obtain a certified list of names and addresses of the owners of all property shown within the 300 foot radius on the map as provided by the Planning & Community Services Department. The first step is to take the radius map to the Montana Department of Revenue. The Department of Revenue is located on the 14th Floor of the Wells Fargo building at the southeast corner of North 27th Street and 2nd Avenue North. The Department of Revenue will generate a list of property owners and forward this list to the County Clerk & Recorder who will certify the list and notify you when it is complete. <u>There is a certification charge, payable to the County Clerk & Recorder, of .50 cents per certified name.</u> This list of names and mailing addresses must then be placed on gummed mailing labels and must be <u>typed or neatly printed</u>.

7. A filing fee must accompany all applications for Special Review. No application will be accepted until the filing fee is paid in full. Checks shall be made payable to the *City of Billings*. **<u>THIS APPLICATION FEE IS NON-REFUNDABLE AND IS NO GUARANTEE THAT THE SPECIAL REVIEW WILL BE GRANTED.</u>**

   RESIDENTIAL: $801.00
   COMMERCIAL: $1,066.00

   <u>A $45.00 deposit for posting of zoning request signs is required at the time the application is received. The deposit will be returned when the sign is returned by the applicant or agent at the first public hearing. If the sign is not returned at the first public hearing, the deposit will be retained.</u>

8. A public hearing shall be held for all applications submitted for a Special Review. As part of the notification procedure, the Zoning Coordinator will notify the property owners on the list prepared by the petitioner for the proposed Special Review. All persons identified as owners of property within 300 feet of the exterior boundaries of the property proposed for Special Review shall be notified by mail not less than fifteen (15) days prior to the date of the public hearing before the County Zoning Commission. In addition, notification of the proposed Special Review shall be posted in a conspicuous place on the property, and legal notice shall be published not less than fifteen (15) days prior to the public hearing in a newspaper of

general circulation.

9. IMPORTANT NOTICE TO PETITIONER: You will be notified by mail approximately 1-week in advance as to the time, date and place of the public hearing on your petition. Attendance at the public hearing is not required, but is strongly recommended, so that you may present your case to the Commission.

Procedures and Review Criteria for Special Review requests
Unified Zoning Regulations Section 27-1509 et seq.

SEC. 27-1509. SPECIAL REVIEW BY COUNTY ZONING COMMISSION.

(a) *General.* Although each zoning district is primarily intended for a predominant type of use, there are a number of uses which may or may not be appropriate in a particular district depending upon all the circumstances of the individual case. For example, the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets and potential environmental effects, all may indicate that the circumstances of the development should be individually reviewed. It is the intent of this chapter to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with surrounding land uses, and will further the purpose of this chapter and the objectives of the comprehensive plan.

(b) *Application procedure.* An application for a special review may be submitted by the property owner, contract purchaser or his/her authorized agent. Such application shall be filed with the zoning coordinator and shall be submitted under the following conditions:

(1) The application shall include, but not be limited to, the following information:

a. A legal and general description of the tract(s) upon which the special review use is sought;

b. A map showing the dimensions, acreage and location of the tract(s);

c. The names and addresses of the owner(s) of the tract(s) and his/her authorized agent, if any, along with the recorded property owner's signature;

d. A certified list of the names and addresses of the owners of property within a radius of three hundred (300) or more feet, as determined by the zoning coordinator, of the exterior boundaries of the tract(s);

e. Gummed mailing labels with the names and mailing addresses typed or printed neatly of all of the property owners indicated on the certified list;

f. A site plan showing major details of the proposed development including but not limited to: the location of proposed and existing buildings and structures; off-street parking and loading; service and refuse areas; means of ingress and egress; landscaping, screening, signs and open space areas;

g. The application must be accompanied by the payment of all applicable fees; and

h. Any other information the applicant believes will support his/her request or other information as requested by the zoning coordinator or planning department.

(2) An application may be withdrawn or amended at any time prior to the publication of the legal advertisement for the public hearing before the county zoning commission. After legal notice for the county zoning commission public hearing has been published, the request for withdrawal shall be submitted to the planning department office at least twenty-four (24) hours prior to the public hearing. The county zoning commission may allow withdrawal of the application, after

advertisement of the zoning commission public hearing has been published, by a majority vote of the members present, without prejudice with respect to the twelve (12) month waiting period after the application has first been submitted. However, no application shall be allowed to be withdrawn more than once within the twelve (12) month period after the application shall have first been submitted.

(3) An applicant may request a delay for a period not to exceed thirty (30) days on the hearing of his/her application before the county zoning commission. The request for the delay and reasons must be submitted in writing to the planning office or chairperson of the county zoning commission twenty-four (24) hours in advance of the public hearing. Approval of a delay shall require a majority vote of the members present, without requiring county commission approval of the delay. Only one (1) such delay shall be allowed on any application.

(4) the application must be submitted, together with all applicable fees, to the zoning coordinator twenty (20) days prior to the date of the public hearing.

(c) *Planning department action.* The zoning coordinator, upon receiving an application for a special review use, shall do the following:

(1) Consult with other departments of the city and/or county to fully evaluate the impact of the use contemplated under the special review application upon public facilities and services;

(2) Study each application with reference to its appropriateness and effect on existing and proposed land uses, and its correspondence with the comprehensive plan;

(3) Advertise notice of the application in a newspaper of general circulation fifteen (15) days in advance of the date of the county zoning commission public hearing. The notice shall contain the time, date and place of the county zoning commission public hearing;

(4) Notify, by mail, the applicant and/or his/her authorized agent, of the time, date and place of the public hearing five (5) days in advance of that date;

(5) Notify the property owners, by mail, within three hundred (300) feet of the exterior boundaries of the tract(s) subject to the special review of the time, date, place and proposed use at least fifteen (15) days prior to the public hearing date. The zoning coordinator may notify property owners within a distance greater than three hundred (300) feet if he/she determines that the proposed use would be such as to have a substantial environmental impact on the surrounding land uses;

(6) Place notice of the public hearing on the property subject to the special review fifteen (15) days in advance of the public hearing; and

(7) Report his/her conclusions and findings, in writing, to the county zoning commission, which report shall become a matter of public record.

(d) *County zoning commission action.* The county zoning commission shall consider each application in accordance with the provisions of this chapter, and at a public hearing at which time the application has been legally advertised. Each application shall be presented to the county zoning commission, by the zoning coordinator or his/her designee, together with his/her conclusions and findings on the matter. The county zoning commission may, by a majority vote of the members present, delay action for a period not to exceed thirty (30) days, without prejudice to the applicant. A written report of the commission's decision and recommendation and the zoning coordinator's report shall be submitted to the board of county commissioners.

The county zoning commission shall make a recommendation to the board of county commissioners to:

(1) Approve the application;

(2) Conditionally approve the application; or

(3) Deny the application.

Recommendations from the county zoning commission shall be based on findings of fact and shall be transmitted to the applicant, or his/her agent and the board of county commissioners within fifteen (15) days of the date of the public hearing before the commission.

Before approving a special review use, the county zoning commission shall find that the contemplated use:

(1) Complies with all requirements of this chapter;

(2) Is consistent with the objectives and purposes of this chapter and the comprehensive plan; and

(3) Is compatible with surrounding land use or is otherwise screened and separated from adjacent land in such a way as to minimize adverse effects.

Further, the county zoning commission shall consider and may impose modifications or conditions concerning, but not limited to the following:

(1) Street and road capacity;

(2) Ingress and egress to adjoining streets;

(3) Off-street parking;

(4) Fencing, screening and landscaping;

(5) Building bulk and location;

(6) Usable open space;

(7) Signs and lighting; and/or

(8) Noise, vibration, air pollution and similar environmental influences.

(e) *Board of county commissioners action.* Notice of the board of county commissioners public hearing shall be placed in a newspaper of general circulation. The notice shall contain the time, date and place of the board of county commissioners public hearing. Before taking any action on an application for a special review use, the board of county commissioners shall first consider the findings and recommendations of the county zoning commission. In no case shall the board approve a special review use other than the one advertised. The board shall:

(1) Approve the application;

(2) Conditionally approve the application;

(3) Deny the application;

(4) Allow withdrawal of the application; or

(5) Delay the application for a period not to exceed thirty (30) days.

PRIMARY GOALS AND OBJECTIVES OF THE 2003 GROWTH POLICY

Land Use Element

1. ISSUE: Neighborhoods are experiencing pressures from new development and land use changes.
GOAL: Predictable land use decisions that are consistent with neighborhood character and preferred land use patterns identified in neighborhood plans.
OBJECTIVES:
• Preserve neighborhood integrity.
• Empower neighborhood groups.

2. ISSUE: The current zoning ordinances and subdivision regulations do not always prevent incompatible uses in and adjacent to existing City neighborhoods and County townsites.
GOAL: New developments that are sensitive to and compatible with the character of adjacent City neighborhoods and County townsites2.
OBJECTIVES:
• Maintain a high quality of life for new and