

#### **I-A. Authority**

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

#### **I-B. Jurisdiction**

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

#### **I-C. Conflicting and Prior Regulations Repealed**

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

#### **I-D. Most Restrictive Standards Apply**

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

#### **I-E. Burden of Proof**

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

#### **I-F. Severability**

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

#### **I-G. Liability**

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

## **II-A. General Purposes**

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

Furthermore, these Regulations are to:

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

## **III-A. Definitions**

**ABANDONMENT OF USE:** An activity occurring by a Group 2 permit or Conditional Use Permit is deemed abandoned when the activity is inactive for 180 consecutive days.

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

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

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

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

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

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

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

**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.

**ON-PREMISE SIGN:** A sign which carries advertisements incidental to a lawful use of the premises on which it is located, including signs indicating the business transacted at, services rendered, goods sold or produced on the premises, name of the business and/or name of the person, firm or corporation occupying the premises.

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

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

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

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

**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.

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

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

#### **IV-A. Permit Required**

1. A Development Permit or Conditional Use Permit must be issued under these Regulations before any person may change current residential or agricultural uses to other uses as defined in subsequent sections of this ordinance.
2. A Development Permit or Conditional Use Permit must be issued under these Regulations when a change in use occurs; this can mean both intensification and de-intensification.
3. No development permit is required for any agricultural use or structure.
4. A Group 1 Development Permit is required for any new residential use.
5. A Group 2 Development Permit is required for any expansion or new commercial or industrial use that is not specifically identified as a Conditional Use.
6. A Conditional Use Permit is required for all activities described in the Conditional Uses section of these Regulations.

#### **IV-B. Nonconforming Use(s)**

1. Any lawful use of the land or structures existing at the date of passage of this ordinance and located on a property in which a permit would be required as a new use under these Regulations, is declared to be a nonconforming use, and not in violation of the ordinance. Nothing in these Regulations are intended to stop an existing nonconforming use from continuing in its current state.
2. No nonconforming use may be extended to occupy any land outside the structure nor any additional structures may be constructed for such nonconforming use at the date of adoption of this ordinance without issuance of a permit under these Regulations. The nonconforming use of land shall not be extended to any additional land not used at the date of adoption of this ordinance without issuance of a permit under these Regulations.
3. If any nonconforming use becomes abandoned for a period of 180 consecutive days, it shall not continue.

#### **IV-C. Violation**

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

#### **IV-D. Penalties for Violation**

1. Violation of the provisions of these Regulations or failure to comply with any of its requirements shall constitute a misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment in the County Jail not exceeding 6 months per § 76-2-

211, Mont. Code Ann. These Regulations may also be enforced by Carbon County through any additional remedy at law or in equity.

#### **IV-E. Abandonment of Group 2 or Conditional Use**

1. Any activity occurring by a Group 2 permit or Conditional Use Permit is deemed abandoned when the activity is inactive for 180 consecutive days or unless otherwise stated in these Regulations. Before any abandoned activity may resume, a new permit must be applied for. Permitting processes will be based on whether the activity is a Group 1, Group 2 or Conditional Use.

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

1. Development Permit Application Submittal
  - a. A Development Permit may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the County Planning Director.
  - b. The application shall include, but not be limited to, the following information:
    - i. A legal and general description of the tract(s) affected.
    - ii. A map and general site plan showing the dimensions, acreage and location of tract(s), and existing and proposed buildings and structures, access, agricultural water facilities, sewerage and water provisions, drainage and other features that may be important for review.
    - iii. A time schedule for development.
    - iv. Any other information the applicant believes will support their request.
    - v. For Group 2 applications, the applicant shall provide the names and mailing address of record for adjoining property owners for noticing purposes.
2. Staff Review
  - a. Upon receiving a complete application, the Planning Director shall evaluate the proposed development according to the following:
    - i. Consult with other departments of the County as applicable to fully evaluate the impact of the development upon public facilities including, access, drainage, traffic and other related facilities.
    - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the Growth Policy.
    - iii. Approval Criteria
      1. Water Supply: The development shall provide adequate water supply and adequate means of waste water disposal, and adequate disposal of solid and hazardous waste.

2. Floodplain: The development shall conform to the Carbon County Floodplain regulations. There shall be no development in the floodway.
  3. Site Design: The development shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface run-off in a manner that will not adversely affect adjacent streams, lakes, reservoirs, or public roads.
  4. Setbacks: Proposed buildings or structures may not be erected on property lines or within right-of-ways or easements. All buildings and structures for residential 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 or street right of way.
  5. Access: legal and physical access shall be provided to the tract of land where the development is proposed. Any new proposed access on a County Road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation
  6. Agricultural Interference: Development shall not interfere with agricultural operations through the contamination of livestock or irrigation water supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities.
3. Issuance of Permit for Group 1 Development Permit (Residential Use Only)
    - a. The Planning Director shall issue a Development Permit within 30 days of receiving a complete application.
    - b. The Planning Director shall issue a Development Permit if the approval criteria has been met.
  4. Issuance of Permit for Group 2 Development Permit
    - a. The Planning Director shall issue a Development Permit within ~~30~~ 45 days of receiving a complete application.
    - b. The Planning Director shall notice all adjacent property owners and solicit public comment on the proposed development during a 30 calendar day comment period.
    - c. The Planning Director shall issue a Development Permit if the approval criteria has been met.
    - d. 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 and roads
- ii. Off-street parking
- iii. Fencing, screening and landscaping
- iv. Building bulk and location (setbacks)
- v. Signs and lighting
- vi. Weed control
- vii. Conditions to address other reviewing agency concerns

5. Appeals

- a. A person aggrieved by a decision of the Planning Director may appeal, in writing, within 10 calendar days, that decision to the Board of County Commissioners.
- b. The Board of County Commissioners may consider:
  - i. Whether the decision is consistent with the meaning and intent of the these Regulations and the Carbon County Growth Policy;
  - ii. Whether strict compliance with these Regulations or conditions of approval would create an unnecessary hardship or unreasonable situation on the particular property;
  - iii. Evidence of any adverse effects on other property or the general health, safety and welfare of the County.

**V-B. Administration and Procedures for Conditional Uses**

1. Conditional Use Application Submittal

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

- vi. Any other information required by these Regulations or information the applicant believes will support their request or that has been described elsewhere in these Regulations.

## 2. Staff Review

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

## 3. Planning Board Review and Recommendation

- a. The Planning Board shall hold a public hearing and take into consideration all public testimony.
- 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 structures may not be erected on property lines or within right-of-ways or easements. All structures for conditional uses shall be set back 10 feet from any side lot line, 20 feet from a rear lot line and 40 feet from the front lot line or street right-of-way. Setback requirements for wind energy, telecommunication towers, and oil and gas are required to exceed this standard to eliminate potential impacts to adjacent properties or roadways.
5. Easements: Easements or other legal rights-of-way shall be provided for utilities, this includes, but is not limited to, electric, telephone and natural gas.
6. Utilities: Development shall demonstrate it will be adequately served by public and/or private utilities. Written certification that capacity is available and that adequate rights-of-way or easements have been provided may be required.
7. Access: legal and physical access shall be provided to the tract where the development is proposed. Any new proposed access on a County road will require an approach permit. Approaches on state highways shall be approved by the Montana Department of Transportation.
8. Parking: Off street parking and loading areas shall be provided for commercial and industrial uses. One space per full-time employee is required, plus one space per 400 square feet of floor space.
9. Impact to Residential Areas: Conditionally approved uses shall not be located within existing residential tracts. Where a proposed conditional use would abut a residential use, a sight obscuring screen or fence at least eight feet in height is required to screen the residential use. The installation of landscape buffers between potential incompatible land uses shall be considered as an alternative.
10. Agricultural Interference: Development shall not interfere with agricultural operations through the contaminations of livestock or irrigation water supply supplies or obstruct, impair or impede irrigation canals, headgates, ditches, culverts or other irrigation facilities.
11. Additional Requirements: All proposed conditional uses shall, in addition to the identified approval criteria, meet the regulations identified within the conditional uses section of these Regulations and any other conditions as supported by findings in order to mitigate impacts.

- d. The Planning Board shall consider and may recommend to the governing body modifications or conditions concerning, but not limited to the following:
    - i. Street and road capacity
    - ii. Ingress and egress to adjoining streets and roads
    - iii. Off-street parking
    - iv. Fencing, screening and landscaping
    - v. Building bulk and location
    - vi. Usable open space
    - vii. Signs and lighting
    - viii. Noise, vibration, air pollution and similar environmental influences
    - ix. Weed control
  - e. The Planning Board shall recommend approval, approval with conditions or denial of the conditional use permit application. The Planning Board shall give findings for the recommendation.
4. Governing Body Approval/Issuance of Permit
- a. The Carbon County Commissioners shall approve, approve with conditions or deny the application for Conditional Use Permit within 60 days of receiving a complete application.
  - b. The Carbon County Commissioners shall consider the 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. Any aggrieved party wishing to appeal the decision of the Board of County Commissioners shall appeal to District Court.

**V-C. Administration and Procedures for Variances**

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

- 1. Variance Application Submittal
  - a. A variance may be applied for by the property owner, contract purchaser, or their authorized agent. The application shall be filed with the Planning Director. The variance application shall accompany the associated Development Permit or Conditional Use application.
  - b. The application shall include, but not be limited to the following information:

- i. A written description of the variance request and justification for how the request pertains to:
  1. Special conditions: There are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County; and
  2. Not a result of the applicant: The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations; and
  3. Strict application unreasonable: Due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner; and
  4. Necessary to provide reasonable use: Granting the variance is necessary to provide a reasonable use of the land or the building;
  5. Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building; and
  6. Not injurious; Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare; and
  7. Consistent with regulations: Granting the variance is consistent with the purposes and intent of these Regulations.

## 2. Staff Review

- a. Upon receiving an application for a variance, the Planning Director shall complete the following:
  - i. Consult with other departments of the County or State to fully evaluate the impact of the development upon public facilities including, Road and Bridge, Sanitation, DEQ and Emergency Services.
  - ii. Study each application with reference to its appropriateness and effect on existing and proposed land-use, and reference the Growth Policy.
  - iii. Notify, by mail, all adjacent property owners of the property subject to the variance and associated permit request of the time, date, and place of the public hearing.
  - iv. Publish public hearing notice for the 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 not recommend that a variance be granted unless:

1. Special conditions: There are special circumstances or conditions that are peculiar to the land or building for which the variance is sought that do not apply generally to land or buildings in County; and
  2. Not a result of the applicant: The special circumstances or conditions have not resulted from an act of the applicant or been established to circumvent these Regulations; and
  3. Strict application unreasonable: Due to the special circumstances or conditions, the strict application of these Regulations would deprive the applicant of reasonable use of the land or building or create an undue hardship on the landowner; and
  4. Necessary to provide reasonable use: Granting the variance is necessary to provide a reasonable use of the land or the building; and
  5. Minimum variance: the variance is the minimum variance necessary to allow a reasonable use of the land or building; and
  6. Not injurious; Granting the variance will not be injurious to the neighborhood or detrimental to the public welfare; and
  7. Consistent with regulations: Granting the variance is consistent with the purposes and intent of these Regulations.
- d. The Planning Board shall consider and may recommend conditions related to the variance request.
  - e. The Planning Board shall recommend approval, approval with conditions or denial of the variance. The Planning Board shall give findings for the recommendation.
4. Governing Body Approval
    - a. The Carbon County Commissioners shall approve, approve with conditions or deny the application for Variance within 60 days of receiving a complete application.
    - b. The Carbon County Commissioners shall consider the 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. Any aggrieved party wishing to appeal the decision of the Board of County Commissioners shall do so through District Court.

#### **VI-A. Permitted Uses**

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

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

#### **VII-A. Group 2 Uses**

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

##### **1. Telecommunication Towers**

- a. The purpose of this section is to establish regulations for the siting of antenna support structures and antennae on public and private property. The goals of this section are to:
  - i. Encourage the location of antenna support structures in non-residential areas and minimize the total number of antenna support structures throughout the County;
  - ii. Strongly encourage the joint use of new and existing antenna support structures;
  - iii. Require wireless communication facilities to be located, to the greatest extent possible, in areas where the adverse impact on the County is minimal; and
  - iv. Require wireless communication facilities to be configured in a way that minimizes the adverse visual impact of the towers and antennae.
- b. Definitions
  - i. Antenna support structure: any structure specifically designed, constructed and/or erected for the purpose of attaching, mounting or otherwise affixing antennae. Antenna support structures may include, but are not limited to, self-supporting lattice towers, guyed towers, or monopole towers, microwave towers, common-carrier towers, cellular telephone towers, alternative antenna support structures and the like. The term includes the structure and any support thereto.
  - ii. Wireless Communication Facility: An unstaffed facility for the transmission and/or reception of radio frequency, microwave or other signals for commercial communication purposes, typically consisting of

an equipment enclosure, an antenna support structure and one or more antennae. Amateur radio, land mobile radio, and commercial radio and television facilities are excluded from this definition.

c. Requirements

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

**2. Signage (212 Corridor)**

- a. The purpose of this section is to promote the safety, convenience, and enjoyment of travel on and protection of the public investment in highways within Carbon County along the US 212 Corridor. These Regulations shall apply to all viewable lands from US 212 where a sign would be legible from the right of way. Furthermore, the intent of these Regulations is to:
  - i. Preserve and enhance the natural scenic beauty and aesthetic features of the highway and adjacent areas, this Regulation is intended to control the location, size and proximity to other of off-premise signs thereby promoting and protecting the public safety and welfare by reducing

roadside distractions, sign clutter, and obstructions that may contribute to traffic accidents and driving hazards.

- ii. Protect property values, create an attractive economic and business climate, enhance and protect the physical appearance of Carbon County.
- iii. Curb the deterioration of the traditional natural environment, and preserve view sheds, open space, and the scenic and natural beauty of Carbon County.
- iv. Not interfere with constitutional rights related to free speech.

b. Definitions:

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

c. Requirements:

- i. Height: The maximum total height of an off-premise sign shall not exceed fifteen (15) feet above the mean centerline elevation of the roadway.
- ii. Size: No off-premise sign shall exceed the maximum of eighty (80) square feet in sign area.
- iii. Setbacks: Any off premise sign shall be separated by at least 1,500 feet from any other existing off-premise sign.
- iv. Lighting: Lighting shall only be allowed so as to illuminate the message on the face of the sign. No lighting will face upwards nor be reflected onto the adjacent roadway or adjoining properties. No off-premise sign shall have flashing or blinking lights, moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one (1) footcandle or ten (10) lumens per sign face.
- v. Animation: No off-premise sign shall contain flashing or colored lights or electronically-changeable face on the sign.

**2. Commercial Kennels:**

- a. The purpose of these Regulations is to establish regulations for the siting of commercial kennels on private property. The goals of this section are to:
  - i. Encourage the location of these facilities in non-residential areas.
  - ii. Require these facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal.

b. Definitions:

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

1. Day use Kennel: any premises at which one or more dogs cats or both are kept during daytime hours for a commercial purpose including but not limited to grooming, training and or boarding.
  2. Limited Kennel: any premises at which one or more dogs cats or both are kept overnight for a commercial purpose including but not limited to breeding or selling a single incidental litter in a 12 month period is not a commercial purpose.
  3. Overnight Boarding Kennel: any premises at which three or more dogs cats or both are kept overnight for the commercial purpose of boarding.
- c. Requirements:
- i. The structure(s) housing the animals shall be adequately soundproofed to reduce noise levels during a period of normal operation;
  - ii. The structure(s) and outside runs or areas housing the animals shall be not less than 200 feet from any dwelling (other than the dwelling of the owner), and shall be no less than 50 feet to any property line of the subject site;
  - iii. Any permitted outside runs or areas shall be completely screened from view by sight-obscuring fencing or landscaping, or both, to serve as a visual and noise abatement buffer; and
  - iv. All animals are to be housed within a structure and no outside boarding of animals is permitted between the hours of 10:00 p.m. and 6:00 a.m.

## **VIII-A. Conditional Uses**

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

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

### **1. Industrial Uses**

- a. The purpose of this section is to establish regulations for the siting of industrial facilities. The goals of this section are to:
  - i. Encourage the location of industrial facilities and activities in non-residential areas;
  - ii. Require industrial facilities and structures to be located, to the extent possible, in areas where adverse impacts on the County is minimal;
- b. Definitions

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

## **2. Wind Energy**

- a. The purpose of this section is to promote the effective, efficient and safe use of the County's wind energy resources through Wind Energy Conversion Systems (WECS), and to regulate the construction, placement, operation of such systems so that public health, safety and welfare will not be jeopardized. The goals of this section are to:
  - i. Encourage the location of WECS to support structures in non-residential areas throughout the County;
  - ii. Require WECS facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal; and
  - iii. Require WECS facilities to be configured in a way that minimizes the adverse visual impact of the facilities and structures.
- b. Definitions
  - i. Wind Energy Conversion System (Commercial): Any device or assemblage which directly converts wind energy into usable thermal mechanical, or electrical energy for the primary purpose of resale or off-site use. WECS includes such devices as windmills and wind turbines, towers and supporting structures and such directly connected facilities as generators, alternators, inverters, batteries and associated control equipment.
  - ii. Wind Energy Conversion System (Non-Commercial): A wind driven machine that converts wind energy into electrical power for the primary purpose of on-site use and not for resale.

- iii. Wind Turbine: An alternate energy device which converts wind energy by means of a rotor to mechanical or electrical energy. A wind generator may also be deemed a windmill.
- c. Requirements
  - i. Regulations: Must meet all state, federal and local regulations regarding the uses.
  - ii. Setbacks: 1,000 feet from any property line or road right of way.
  - 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.

### **3. Animal Feed Lots**

- a. The purpose of this section is to establish regulations for the siting of animal feedlots. Furthermore, these Regulations intend to be consistent with the Right to Farm Act as contained in MCA 76-2-901 through 76-2-903. The goals of this section are to:
  - i. Not prohibit or terminate any existing agricultural activities, including commercial agriculture;

- ii. Not to prohibit or terminate any other approved existing uses.
  - iii. Not to prevent the use, development, or recovery of any agricultural resource.
  - iv. Not to prohibit or condition seasonal ranch operations lasting less than 90 calendar days per year. These regulations are intended exclusively for feeding operations only and do not apply to calving, birthing, or other containment scenarios.
- b. Definitions
- i. Animal Feed Lots: A lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising or holding of animals and significantly designed as a confinement area in which manure may accumulate or where vegetative cover cannot be maintained within the enclosure.
  - ii. Commercial Feed Operations: Any premises on which animals are held and maintained for the purpose of feeding for market. An operation shall be considered a commercial feed operation where there are 300 head or more cattle, 300 head or more hogs, 1,000 head or more sheep, 1,000 or more poultry or rabbits and 300 or more of any other animal. Livestock which have access to natural forage on a regular seasonal basis shall not be considered as a Commercial Feed Operation. Furthermore, Commercial Feed Operation does not include the normal seasonal feeding or wintering of livestock produced by the owner as part of an agricultural operation.
- c. Requirements:
- i. Setbacks: Feed lot enclosures or structures related to animal feed lots or commercial feed operations shall be located not less than 50' from any property line.

#### **4. Commercial Salvage or Wrecking Yard**

- a. The purpose of this section is to establish regulations for the siting of commercial salvage or wrecking yards on private property. The goals of this section are to:
  - i. Encourage the location of these facilities in non-residential areas.
  - ii. Require these facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal; and
  - iii. Require salvage and wrecking yard facilities to be configured in a way that minimizes the adverse visual impact of the facilities.
  - iv. Require these facilities to be in compliance with MCA 75-10-5, Motor Vehicle Recycling and Disposal.

- b. Definitions
  - i. Salvage and Wrecking Yards: Means any use involving the storage or processing of four or more inoperable, dismantled or wrecked vehicles, equipment or machinery.
- c. Requirements
  - i. Setbacks: shall be set back 30' from all property lines or street right-of-way and shall not encroach upon a swale, gully, ravine or other similar land mass and not be located within 300' of any natural or manmade water course.
  - ii. Signage: The tract or structure may not contain off-premise sign advertising. Only services or products sold or stored on-site may be advertised by means of signage.
  - iii. Fencing and Landscaping: Shall be screened from view of any public street or highway, and any adjacent property by a fence at least eight feet in height.
  - iv. Environmental: Shall retain surface run off on-site.

## **5. Rifle and Other Shooting Facilities**

- a. The intent and purpose of this section is to establish regulations for the siting of shooting ranges and outdoor target practice facilities on private property. The goals of this section are to:
  - i. Encourage the location of these facilities in non-residential areas.
  - ii. Require these facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal.
- b. Definitions:
  - i. Shooting Range: A facility, including its component shooting ranges, safety fans or shotfall zones, designed for the purpose of providing a place for the discharge of various types of firearms or the practice of archery. This definition is exclusive of occasional target practice by individuals on property owned or leased by the individuals or for sighting of weapons for hunting purposes.
  - ii. Safety Fan: Applies only to rifle and pistol firing ranges. The safety fan of a firing range consists of three parts: the direct fire zone, the safety zone, and the ricochet zone. The direct fire zone is that area into which all shots are fired during the normal course of shooting. The length of the direct fire zone extends to the maximum range of the ammunition and firearm used on the firing range, but can be shortened by physical barriers or other devices which reduce the maximum distance of a bullet's trajectory. The safety zone extends 10 degrees to the left and right of the direct fire zone and protects against errant bullets caused by cross fire or

accidental discharge of a firearm. The ricochet zone is that area 45 degrees to the left and right of the firing line, and extended a certain distance dependent on the type of firearm and ammunition allowed on the range.

c. Requirements:

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

## 6. Oil and Gas Development

- a. The purpose of this section is to promote the effective, efficient and safe use of the County's oil and gas resources through well development to ensure public health, safety and welfare will not be jeopardized. The goals of this section are to:
  - i. Require the placement and siting of such wells to be at a distance which will not harm residential structures in the vicinity;
  - ii. Require oil and gas facilities to be located, to the extent possible, in areas where the adverse impact on the County is minimal; and

b. Definitions

- i. Abandoned Oil and Gas Activity: Any oil and gas activity is abandoned if it has been abandoned for a period of at least two (2) years.
- ii. Derrick: Any portable framework, tower mast and/or structure which is required or used in connection with drilling or re-working a well for the production of oil or gas.
- iii. Drilling Pad: The area of surface operations surrounding the surface location of a well or wells. Such area shall not include an access road to the drilling pad.
- iv. Deviated Well: A well that is directionally or horizontally drilled resulting in a total deviation from the wellbore, measured from a perpendicular line descending from the surface opening of the wellbore of more than one hundred (100) feet.
- v. Environmental Impact Study: The detailed study of the potential effects of designated development on the local environment.
- vi. Fracking: The process of injecting customized fluids, sand, steam, or gas into a gas well under pressure to improve gas recovery.
- vii. Hydraulic Fracking: The introduction through a wellbore of fluid under pressure into a formation containing oil or gas for the purpose of creating cracks in the formation to serve as channels for fluids to move to or from the wellbore.
- viii. Oil and Gas: Crude oil, natural gas, methane gas, coal bed methane gas, propane, butane and/or any other constituents or similar substances that are produced by drilling an oil or gas well.
- ix. Oil and Gas Development or Development: well site preparation, construction, drilling, re-drilling, hydraulic fracturing, and/or site restoration associated with an oil or gas well of any depth; water and other fluid storage, impoundment and transportation used for such activities; and the installation and use of all associated equipment, including tanks, meters, and other equipment and structures whether permanent or temporary; and the site preparation, construction, installation, maintenance and repair of oil and gas pipelines and associated equipment and other equipment and activities associated with the exploration for, production and transportation of oil and gas.
- x. Oil or Gas Well: A pierced or bored hole drilled or being drilled in the ground for the purpose of, or to be used for, producing, extracting or injecting gas, oil, petroleum or another liquid related to oil or gas production or storage, including brine disposal.
- xi. Oil or Gas Well Site: The location where facilities, structures, materials and equipment whether temporary or permanent, necessary for or

incidental to the preparation, construction, drilling, production or operation of an oil or gas well. This definition also includes exploratory wells.

- xii. Natural Gas Compressor Station: A facility designed and constructed to compress natural gas that originates from an gas well or collection of such wells operating as a midstream facility for delivery of gas to a transmission pipeline, distribution pipeline, natural gas processing plant or underground storage field, including one or more natural gas compressors, associated buildings, pipes, valves, tanks and other equipment.
- xiii. Natural Gas Processing Plant: A facility designed and constructed to remove materials such as ethane, propane, butane, and other constituents or similar substances from natural gas to allow such natural gas to be of such quality as is required or appropriate for transmission or distribution to commercial markets but not including facilities or equipment that is designed and constructed primarily to remove water, water vapor, oil or naturally occurring liquids from the natural gas.
- xiv. Storage Well: A well, used for and in connection with the underground storage of natural gas, including injection into or withdrawal from an underground storage reservoir for monitoring or observation of reservoir pressure.

c. Requirements

- i. Site Design/Development Plan: The applicant shall prepare and submit upon application of a conditional use permit a site design and development plan. At minimum the plan shall include all existing and proposed structures, well pad location(s), rights-of-way, pipelines, pertinent surface features, surface water and well locations within ¼ mile of the proposed drilling site, and retaining ponds. Applicant shall submit color photos of well location, and of area from well to north, south, east and west.
- ii. Residential Setbacks: Any proposed drilling activity shall be setback from all residential dwellings a minimum of 750'. The 750' setback requirements shall be waived if the dwelling owner submits a notarized statement declaring their acceptance of a lesser setback. The notarized statement shall be submitted with the Conditional Use Permit application materials.
- iii. Baseline Water: The applicant, at their expense, shall provide baseline water testing analysis as a part of the Conditional Use Permit application. The testing must be completed by a qualified professional licensed or certified in the state of Montana. A minimum of 4 samples will be

required within ¼ mile of the proposed drilling activity. The samples shall consist of both ground and surface water when available. If there are no ground or surface water sources within a ¼ mile, the testing area shall be extended to ½ mile. In the event 4 testing sites are not located within ½ mile, the requirements shall be waived to include only the sources available. If a property owner will not allow the applicant to access the water sources for testing, this requirement shall be waived. Initial testing must occur within 12 months prior to setting a conductor pipe in a well or the first well on a multi-well site, or commencement of drilling an injection well. The baseline water testing shall account for the following:

- Arsenic
  - Barium
  - Benzene
  - Calcium Carbonate
  - Diesel Range Organics
  - Ethane
  - Ethene
  - Ethyl benzene
  - Fluoride
  - Gasoline range organics
  - Iron
  - Magnesium
  - Manganese
  - Methane
  - Nitrogen
  - Selenium
  - Sodium
  - Specific Conductance
  - Strontium
  - Sulfate
  - Toluene
  - Total Dissolved Solids
  - Total Petroleum hydrocarbons
  - Xylene
- iv. Dust Mitigation Plan: The applicant shall provide a dust mitigation plan which identifies haul roads. These roads must be located so they are not directed through recreational, residential or rural residential areas to the extent possible. Dust free (site) access roads may be required near concentrated residential areas. The governing body shall approve the dust mitigation plan on a case-by-case basis.