

# Table of Contents

<b>1.0</b>	<b>GENERAL PROVISIONS</b>	<b>1</b>
1.1	Title	1
1.2	Severability	1
1.3	Repealing Clauses	1
1.4	Purpose	1
1.5	Dates	1
<b>2.0</b>	<b>ESTABLISHMENT OF DISTRICTS</b>	<b>2</b>
2.1	Official Zoning Map	2
2.2	Interpretation of Boundaries	2
2.3	Interpretation of Uses	3
<b>3.0</b>	<b>APPLICATION OF DISTRICT REGULATIONS</b>	<b>4</b>
3.1	Application of District Regulations	4
3.2	AG-1: Agricultural	5
3.3	R-1 Residential	6
3.4	R-2 Residential-Multi Family	7
3.5	R-3 Residential and Modular Home	8
3.6	C-1 General Commercial	10
3.7	I-1 Industrial	12
3.8	P-1 Public	14
3.9	Planned Unit Development District (PUD)	15
<b>4.0</b>	<b>SUPPLEMENTAL REGULATIONS</b>	<b>17</b>
4.1	Uses, Signs, Lots	17
4.1.1	Signs in AG-1, C-1 and I-1 Districts	17
4.1.2	Signs in Residential Districts	17
4.1.3	Other Signs (All Districts)	18
4.1.4	Directional Signs	18
4.1.5	Discontinuance	18
4.1.6	Non-Conforming Signs	18
4.2	Natural Production Use	19
4.3	Abandoned Buildings / Items	19
4.4	Zoning Designation Per Lot / Tract of Land	19
4.5	Visibility at Intersections	20

4.6	Porches	20
4.7	Projecting Architectural Features	20
4.8	Fences	20
4.9	Transition Regulations – Different Zoning Districts	20
4.9.1	Lots in Two Districts	20
4.9.2	Side and Rear Yard Transition	21
4.9.3	Front Yard Transition	21
4.9.4	Corner Yard Transition	21
4.10	Off-Street Parking	21
4.10.1	Dwellings	21
4.10.2	Auditorium, Stadium, Theater, Churches, Or Other Places Of Public Assembly	21
4.10.3	Motels and Hotels	21
4.10.4	Restaurants, Night Clubs, Taverns, or Other Eating Places	22
4.10.5	Hospital, Sanitarium, or Nursing Home	22
4.10.6	Stores	22
4.10.7	Office Buildings	22
4.10.8	Industrial or Manufacturing Establishments	22
4.10.9	General	22
<b>5.0</b>	<b>NON-CONFORMING USES AND STRUCTURES</b>	<b>23</b>
5.1	Alterations and Additions	23
5.2	Natural Disaster	23
5.3	Discontinuance	23
5.4	Changes	23
5.5	Displacement	24
5.6	District Changes	24
5.7	Natural Resources Protected	24
5.8	Existing Platted Subdivision	24
<b>6.0</b>	<b>FLOODPLAIN REGULATIONS</b>	<b>25</b>
<b>7.0</b>	<b>PERMITS REQUIRED UNDER THESE REGULATIONS</b>	<b>26</b>
7.1	Zoning Conformance	26
7.2	Conditional Use	26
7.3	Applicability	26
<b>8.0</b>	<b>SITE PLAN REVIEW</b>	<b>27</b>
8.1	Intent of Site Plan Review	27

8.2	Land Use Changes Subject to Review	27
8.3	Application Requirements	27
8.4	Zoning Administrator Review	28
8.5	Zoning Administrator Decision	28
8.6	Appeal of Zoning Administrator Decision	29
<b>9.0</b>	<b>STANDARDS FOR CONDITIONAL USE PERMITS</b>	<b>30</b>
9.1	General Provisions	30
9.2	Required Plan	30
9.3	Staff Review	31
9.4	Board of Adjustment Review	31
9.5	Expiration	32
9.6	Existing Violations	32
9.7	Standards Applicable to all Conditional Uses	32
9.8	Revocability	33
<b>10.0</b>	<b>AMENDMENTS TO REGULATIONS AND ZONING MAP</b>	<b>34</b>
10.1	Application	34
10.2	Application Requirements	34
10.3	Hearing before the Zoning Commission	35
10.4	Hearing before the County Commission	35
10.5	Action after Hearing	36
<b>11.0</b>	<b>VARIANCES</b>	<b>38</b>
11.1	Application	38
11.2	Minor Variances	38
11.3	Processing the Application	39
11.4	Appeal from the Board of Adjustment.	40
<b>12.0</b>	<b>ZONING ADMINISTRATOR</b>	<b>42</b>
12.1	Creation	42
12.2	Powers and Duties	42
12.3	Limitations of Power	43
<b>13.0</b>	<b>ZONING COMMISSION</b>	<b>44</b>
13.1	Creation	44
13.2	Membership	44
13.3	Powers and Duties	44
<b>14.0</b>	<b>BOARD OF ADJUSTMENT</b>	<b>45</b>

14.1	Creation	45
14.2	Membership	45
14.3	Powers and Duties	45
<b>15.0</b>	<b>APPEALS FROM THE ZONING ADMINISTRATOR</b>	<b>47</b>
15.1	Basis of Appeal	47
15.2	Application and Procedure	47
<b>16.0</b>	<b>APPEALS FROM THE BOARD OF ADJUSTMENT</b>	<b>49</b>
<b>17.0</b>	<b>ENFORCEMENT</b>	<b>51</b>
17.1	Enforcement of These Regulations	51
17.2	Penalties	51
<b>18.0</b>	<b>DEFINITIONS</b>	<b>52</b>

## **1.0 GENERAL PROVISIONS**

### **1.1 Title**

This title and all chapters herein shall be known and cited as the “Custer County Zoning Regulations” in accordance with and exercising the authority of the laws of the State of Montana, 76-2-201, M.C.A.

### **1.2 Severability**

Where any word, phrase, clause, sentence, paragraph, or section, or other part of these regulations is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid.

### **1.3 Repealing Clauses**

Resolution Number(s) \_\_\_\_\_ of the City of Miles City, Montana, that address the administration and enforcement of zoning regulations of property outside of the City limits are repealed due to the adoption of a growth policy by Custer County as identified in 76-2-311, MCA and the repeal is subject to the requirements of 76-2-305, MCA,

### **1.4 Purpose**

The purpose of these regulations is to promote the public health, safety, well-being, and general welfare of the residents of Custer County. This includes:

1. securing safety from fire, and other dangers;
2. promoting public health, public safety, and general welfare; and
3. facilitating the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.

### **1.5 Dates**

For the purposes of these regulations, all days are calculated as calendar days unless otherwise noted.

## **2.0 ESTABLISHMENT OF DISTRICTS**

### **2.1 Official Zoning Map**

For the purpose as described in Section 1, the entirety of Custer County exclusive of the municipalities of Miles City and the Town of Ismay is hereby divided into the following use classification districts:

- (1) AG-1:           Agricultural/Rural Residential
- (2) R-1:            Residential Single Family
- (3) R-2:            Residential Multi-Family
- (4) R-3:            Residential Modular Home
- (6) I-1:                            Industrial
- (7) C-1:            General Commercial
- (8) P-1:                            Public
- (9) PUD:            Planned Unit Development

The official zoning map, including any amendments made pursuant to these regulations, shall be maintained by and available at the Zoning Administrator's Office and is also available on-line at the County's website. The official zoning map shall be the final authority as to the current zoning status of properties, buildings and other structures in the county's jurisdiction and shall be on file with the County Clerk and Recorder's Office.

### **2.2 Interpretation of Boundaries**

Where uncertainty exists as to the boundaries of districts as shown on the official zoning map, the boundaries shall be interpreted as following the nearest logical line to that shown:

1. Boundaries indicated as approximately following the centerline of streets, highways, or alleys shall be construed to follow such centerlines;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following city limits shall be construed as following such city limits;

4. Boundaries indicated as approximately following railroad lines shall be construed as following such railroad lines;
5. Boundaries indicated as approximately following the centerline of streams, rivers, canals, or ditches shall be construed as following such centerlines;
6. Boundaries indicated as parallel to or extensions of features indicated on the official zoning map shall be determined by the scale on the map;
7. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map or where other circumstances or controversy arise over district boundaries, the Zoning Administrator shall interpret the district boundary; and

Where property abuts an un-zoned public or private right-of-way, the zoning designation of the property adjoining the right-of-way shall be deemed to extend to the centerline of the right-of-way.

### **2.3 Interpretation of Uses**

If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Zoning Administrator shall determine the appropriate classification for that use. In interpreting use classification, the Zoning Administrator shall determine the listed, use, if any, which is so like the requested use in purpose, function, character, and effect as to be substantially similar to said listed use. Neither the intent of these regulations nor the intent of the district will be abrogated by such classification.

## **3.0 APPLICATION OF DISTRICT REGULATIONS**

### **3.1 Application of District Regulations**

Except as otherwise provided herein,

1. No building, structure or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located.
2. No yard or lot existing at the time of adoption of these regulations shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of these regulations shall meet at least the minimum requirements established by these regulations.
3. The following shall be an exception to the required lot areas: Lots which are non-conforming in respect to lot area requirements.  
  
Sublots are not subject to the area, yard, or other dimensional requirements of these regulations, but the parent tract shall be subject to the property development standards of each zoning district and the density requirements set forth in these regulations.
4. No use of land shall be permitted or conditionally permitted within Custer County that is in violation of federal, state, or local law.
5. No building shall hereinafter be erected or altered:
  - a) To exceed the height standards as required in each district;
  - b) To accommodate or house a greater number of families per dwelling unit than permitted by the regulations for each district;
  - c) To occupy a greater percentage of lot area than permitted by the property development standards for each district; or
  - d) To have narrower or smaller rear yards or front yards than is specified herein for the District in which such building is located.
6. No part of a yard or other open space adjacent to any building required for the purpose of complying with these regulations shall be included as part of a yard or other open space similarly required for another building.

Any land area used as the basis for meeting the requirements of these regulations in obtaining a conformance permit may not also be used as the basis for meeting the requirements for subsequent conformance permit.



### **3.2 AG-1: Agricultural/Rural Residential**

#### **Intent**

A District to maintain and protect the operation of agricultural uses throughout the County.

#### **Permitted Uses**

1. Agricultural uses of land; typical agricultural buildings and structures
2. Farms
3. Ranches
4. Rural residential uses on lots larger than 1 acre in size.

#### **Permitted By Conditional Use Permit**

1. Airports-privately owned with adequate flight path buffers
2. Campground or Recreational Vehicle Park
3. Cemetery
4. Commercial wind/solar generation farm
5. Community center
6. Day care – (12 or fewer children)  
Day care– center (13 or more children)
7. Firearms retailer, dealers, or repair
8. Freight terminal
9. General sales, including agriculture, auctions, convenience, and specialty sales
10. Golf courses
11. Group homes
12. Homeless shelters
13. Indoor and outdoor rifle and pistol ranges
14. Law enforcement and fire stations
15. Manufactured home sales
16. Mobile Home Parks
17. Motor sports entertainment provided no residences are within one mile
18. Nursing or retirement home
19. Power Plants
20. Quarry (including cutting, breaking, shaping, and finishing of quarry rock), sand and gravel pit, top soil stripping.
21. Recreational sports complex including soccer, baseball and softball fields.
22. Rental and/or repair of large and small equipment
23. Residential care home or facility
24. RV Parks
25. Salvage yard, provided parcel is larger than 20 acres
26. Schools - K-12
  - a. post-secondary
  - b. commercial
27. Small Contractor yard
28. Solid waste, recycling and composting facility, provided no residences are within one mile
29. Utilities (both major and minor)

30. Veterinary clinic
31. Workforce housing—temporary and permanent

### **3.3 R-1 Residential**

#### **Intent**

The intent of this district is to provide for low density residential uses.

#### **Permitted Uses**

1. Accessory Uses
2. Hobby agriculture and horticulture
3. Dwelling – detached single family
4. Dwelling: manufactured home placed on a permanent foundation
5. Home occupations
6. Parks
7. Safe houses
8. Townhouse units not in excess of two dwelling units

#### **Permitted By Conditional Use Permit**

1. Amateur radio operations taller than 100 feet in height.
2. Bed and breakfast
3. Cemeteries
4. Church
5. Community center
6. Day care – home (12 or fewer)
7. Day care – center (13 or more)
8. Dwelling: tri-plex, 4-plex
9. Golf courses
10. Greenhouses, nursery, landscaping materials
11. Group home – 8 or fewer
12. Guest house
13. Law enforcement and fire stations
14. Residential care home or facility
15. Schools – K-12  
Post-secondary
16. Utilities (primary distribution site)
17. Tower and studio facility related to radio, television broadcasting stations, telecommunications, and/or antenna meteorological towers, residential wind turbines.

#### **Property Development Standards**

1. Minimum Lot Area (sq ft):
  - a. 5,500 single-family dwelling

- b. 5,500 duplex;
- c. 7,200 3-plex;
- d. 8,900 4-plex;
- 2. Minimum Lot Width (ft): 50
- 3. Minimum Setbacks (ft):
  - Front Yard - 25
  - Side Yard - 5
  - Rear Yard - 20
  - .Side Corner- 15
  - Attached Garage (Front/Side Corner) - 15
- 4. Maximum Building Height (ft): 35
- 5. Permitted Lot Coverage (%):45
- 6. Parking – At least two (2) off-street parking space for each dwelling unit within the building or buildings.
- 7. Off street parking per the requirements of Section 4.13 of these regulations
- 8. Fences
  - Maximum Height (ft):
    - Front - 4
    - Rear - 6.5
    - Side - 6.5
    - Side Corner - 6.5

### **3.4 R-2 Residential-Multi Family**

#### **Intent**

A district intended to provide for higher density detached single-family dwellings and multi-family dwelling units.

#### **Permitted Uses**

- 1. Dwelling – detached single family
- 2. Home occupations
- 3. Manufactured Home – single family on a permanent foundation
- 4. Multi-Family dwellings up to 4-plex
- 5. Parks
- 6. Safe houses

#### **Permitted By Conditional Use Permit**

- 1. Bed and breakfast
- 2. Church
- 3. Community center
- 4. Day care – home (12 or fewer)
- 5. Day care – center (13 or more)
- 6. Dwelling – Multi-family greater than 4-plex
- 7. Golf courses

8. Group home - 8 or fewer
9. Law enforcement and fire stations
10. Residential care home or facility
11. Schools – K-12  
Post-secondary
12. Utilities (primary distribution site)

**Property Development Standards**

1. Minimum Lot Area (sq ft):
  - a. 5,500 single-family residence
  - b. 5,500 duplex;
  - c. 7,200 3-plex;
  - d. 8,900 4-plex;
  - e. 10,600 5-plex;
  - f. 12,300 6-plex;
  - g. 14,000 7-plex
  - h. 15,700 8-plex.
2. Minimum Lot Width (ft):
  - a. 50 single-family and duplex;
  - b. 75 3-plex and 4 plex;
  - c. 100 5-plex and 6-plex;
  - d. 125 for 7-plex and 8-plex.
3. Minimum Setbacks (ft):
  - a. Front Yard - 15
  - b. Side Yard - 5
  - c. Rear Yard - 20
  - d. Side Corner - 15
  - e. Attached Garage (Front/Side Corner) - 20
4. Maximum Building Height (ft): 35
5. Permitted Lot Coverage: 35 %
6. Parking - At least two (2) off-street parking space for each dwelling unit within the building or buildings.
7. Off street parking per the requirements of Section 4.13 of these regulations
8. Fences
 

Maximum Fence Heights (ft):

  - Front Yard - 4
  - Side Yard - 6.5
  - Rear Yard - 6.5
  - Side Corner- 6.5

**3.5 R-3 Residential and Modular Home**

**Intent**

A district intended to provide urban residential density development within the County.

### **Permitted Uses**

1. Day care - home (12 or fewer)
2. Dwelling – detached single family
3. Dwelling – townhouse/condominium (3 or more attached units)
4. Home Occupations
5. Manufactured home – single family on a permanent foundation
6. Modular Home - single family only.
7. Parks
8. Safe houses

### **Permitted By Conditional Use Permit**

1. Bed and breakfast
2. Church
3. Community center
4. Day care – center (13 or more)
5. Golf courses
6. Group home - 8 or fewer
7. Law enforcement and fire stations
8. Mobile Home Parks
9. Multi-Family dwellings up to 8-plex
10. Residential care home or facility
11. Schools - K-12  
Post-secondary
12. Utilities (primary distribution site)

### **Property Development Standards**

1. Minimum Lot Area (sq ft): 6,000
2. Minimum Lot Area:
  - a. 5,500 - single-family residence
  - b. 5,500 - duplex;
  - c. 7,200 - 3-plex;
  - d. 8,900 - 4-plex;
  - e. 10,600 - 5-plex;
  - f. 12,300 - 6-plex;
  - g. 14,000 - 7-plex
  - h. 15,700 - 8-plex
3. Minimum Lot Width (ft): 50
4. Minimum Setbacks (ft):
  - Front Yard- 15
  - Side Yard- 5
  - Rear Yard- 10
  - Side Corner- 15
  - Attached Garage (Front/Side Corner) - 20
5. Maximum Building Height (ft): 35
6. Permitted Lot Coverage (%): 45

7. Parking - At least two (2) off-street parking space for each dwelling unit within the building or buildings.
8. Off street parking per the requirements of Section 4.13 of these regulations
9. Fences
  - Maximum Heights (ft):
  - Front - 4
  - Side - 6.5
  - Rear - 6.5
  - Side Corner - 6.5

### **3.6 C-1 General Commercial**

#### **Intent**

A district providing for a variety of sales and service establishments to serve both the residents of the area and the traveling public.

#### **Permitted Uses**

1. Administrative Services
2. Agricultural Sales and Service
3. Athletic club
4. Assembly - light manufacturing
5. Auction sales
6. Auto parking - surface
7. Auto (RV, boats, motorcycles) sales and/or repair
8. Auto rental, limo, shuttle (taxi) services
9. Auto service station
10. Bakery
11. Banks and financial institutions
12. Barber and beauty services
13. Bus station
14. Car wash, auto detailing shop
15. Casino-not adjacent to a residential district
16. Catering establishments
17. Construction Material Sales
18. Day care - home (12 or fewer)  
Day care - center (13 or more)
19. Film production studios
20. Financial Services
21. Food bank
22. Fuel Sales
23. Funeral homes and crematoriums
24. Greenhouses, nursery centers and landscaping materials
25. Health Care Facility
26. Home occupations

27. Hotel, motel
28. HVAC/electrical/plumbing, sales/service
29. Indoor Sports and Recreation Facility
30. Janitor services
31. Laboratories, tech research, development and testing
32. Laundromats or dry cleaners
33. Lumber/building material sales (with outdoor display/storage)
34. Manufactured home sales
35. Media (newspaper, radio, TV)
36. Media, towers and facilities (accessory)
37. Microbreweries
38. Mini-storage/recreational vehicle storage
39. Office - professional/governmental  
    medical (with limited overnight stay)
40. Pack and ship shops
41. Parks
42. Photographic studio
43. Law enforcement and fire stations
44. Print and copy shops
45. Post office
46. Recreation area, indoor
47. Rental service stores and yards
48. Repair shops - appliance  
    clothing/electronics
49. Restaurants
50. Retail business
51. Retail, limited (showrooms only)
52. Schools - commercial
53. Shooting/archery - indoor
54. Small engine sales, service and repair
55. Storage units.
56. Tattoo parlor
57. Tavern/Bar
58. Taxidermy facilities
59. Technology - research, design, engineering and telecommunication facilities
60. Theaters
61. Veterinary clinic - small animals
62. Veterinary clinic - large animals
63. Woodworking shops, mill work

**Permitted By Conditional Use Permit**

1. Assembly halls/stadiums/convention hall facilities (includes public fair grounds, auditoriums, and racetracks)
2. Auto or vehicle body and/or repair shops
3. Auto parking - structure
4. Campground/RV Park

5. Commercial Kennel
6. Contractor Yard Large-small
7. Group home - 8 or fewer persons  
9 or more persons
8. Homeless shelters
9. Recreation area, outdoor
10. Residential care home or facility
11. Shooting/archery – indoor
12. Utilities (primary distribution site)

### **Property Development Standards**

1. Minimum Lot Area (sq ft): 7000
2. Minimum Lot Width (ft): 70
3. Minimum Setbacks (ft):
  - a. Buildings may be built to the property lines, except where a commercial district and a residential district are adjacent to each other.
  - b. Where a commercial and a residential district are adjacent to each other, construction of commercial buildings shall maintain the applicable residential setbacks along the common boundary between zoning districts.
4. Maximum Building Height (ft): Height is not to exceed the limits of existing fire department equipment in the County.
5. Permitted Lot Coverage (%): N/A
6. Off street parking per the requirements of Section 4.13 of these regulations.
7. Site Plan Review. A review of the site plan by the Zoning Administrator shall be required prior to issuance of the conformance permit per the requirements of Section 7.0.

## **3.7 I-1 Industrial**

### **Intent**

A district intended to provide areas for industrial uses.

### **Permitted Uses**

1. Aircraft maintenance/repair
2. Art foundry, metal sculpture, molding and casting
3. Assembly - light
4. Composting facility
5. Contractor's storage yards
6. Farm machinery assembly, repair and sales
7. Feed/seed/processing/cleaning
8. Fertilizer, bulk sales
9. Food processing
10. Forest products and manufacturing
11. Freight terminal



12. Fuel Tank Farm
13. Heavy equipment sales and service
14. Laboratories, tech research, development and testing
15. Laundromats or dry cleaners
16. Manufacturing – light (no smoke, fumes, odor, dust)
17. Monument manufacture and sales
18. Oil field supply services
19. Law enforcement and fire stations
20. Railroad Yard
21. Recycling center
22. Solid waste transfer station
23. Truck and trailer rental
24. Truck terminal
25. Utility storage yards and associated offices
26. Warehousing and distribution
27. Wind farms (less than 1 megawatt)

**Permitted By Conditional Use Permit**

1. Asphalt Batch Plants
2. Assembly-heavy
3. Auction yards, livestock
4. Auto wrecking/salvage yards
5. Energy production
6. Extractive industries
7. Grain elevators
8. Manufacturing-heavy
9. Mini-storage/recreational vehicle storage
10. Pre-release centers
11. Quarry (including cutting, breaking, shaping, and finishing of quarry rock), sand and gravel pit, top soil stripping, located a minimum of 200 feet from an adjacent property or street.
12. Scrap processing yard (recycle/metal yard)
13. Sexually oriented business
14. Telecommunication towers and cellular communication towers (including radio, TV, internet, phone and cable providers)
15. Utilities (primary distribution site)
16. Wastewater treatment facilities
17. Wind farms (more than 1 megawatt)

**Property Development Standards**

1. Minimum Lot Area (ft): 7000
2. Minimum Lot Width (ft): 70
3. Minimum Setbacks (ft):
  - Front Yard - 20
  - Side Yard - 10

Rear Yard - 10

Side Corner - 20

Accessory Structures - See Section 27.20.020

4. Maximum Building Height (ft): 40 (60 with Conditional Use Permit)
5. Permitted Lot Coverage (%): N/A
6. Off street parking per the requirements of Section 4.13 of these regulations.
7. Site Plan Review. A review of the site plan by the Zoning Administrator shall be required prior to issuance of the conformance permit per the requirements of Section 7.0.

### **3.8 P-1 Public**

#### **Intent**

A district intended to provide and reserve areas for public uses including schools, public buildings and parks etc.

#### **Permitted Uses**

1. Bus station
2. Cemeteries
3. Community center
4. Food bank
5. Law enforcement and fire stations
6. Libraries, museums and similar cultural facilities
7. Office – professional/governmental
8. Parks
9. Post office
10. Recreation area, outdoor
11. Schools - K-12  
post-secondary

#### **Permitted By Conditional Use Permit**

1. Aircraft hangers
2. Airport-public with adequate flight path buffers
3. Golf courses
4. Homeless shelters
5. Hospital (including treatment centers and 24 hour care facilities)
6. Jail facilities
7. Landfill
8. Pre-release center
9. Safe houses
10. Telecommunication towers and cellular communication towers (including radio, TV, internet, phone and cable providers)
11. Utilities (primary distribution site)

## Property Development Standards

1. Minimum Lot Area (sq ft): 7000
2. Minimum Lot Width (ft): 70
3. Minimum Setbacks (ft):
  - Front Yard- 15
  - Side Yard- 5
  - Side Corner- 10
  - Rear Yard- 15
  - Attached Garage (Front/Side Corner) - 20
4. Maximum Building Height (ft): 40 (60 with Conditional Use Permit)
5. Permitted Lot Coverage (%): 45
6. Off street parking per the requirements of Section 4.13 of these regulations.
7. At least one (1) parking space for each five (5) seats provided for patrons based on a maximum seating capacity.
8. Off street parking per the requirements of Section 4.13 of these regulations
9. Fences
  - Maximum Heights (ft):
    - Front- 4
    - Side- 6.5
    - Rear- 6.5
    - Side corner- 6.5

## 3.9 Planned Unit Development District (PUD)

### Intent

The purpose of the planned unit development district is to encourage imagination and the efficient utilization of land through greater development flexibility, the consolidation of open spaces, the clustering of buildings and the integration of compatible land uses. The resulting mixture of land uses is intended to create a more attractive and desirable environment in which people can enjoy employment, residence and leisure within close proximity to each other.

The request for classification as a planned unit development district shall be submitted and processed simultaneously under the requirements of Section 8 Site Plan Review as well as with the planned unit development provisions contained in the Custer County Subdivision Regulations, if the PUD is subject to subdivision review.

Because such a request will be an amendment of the existing zoning regulations, the request would also need to undergo review and recommendation by the Zoning Commission following the provisions of Section 10 Amendment of Regulations, with final approval of the request to be designated as a PUD being approved by the County Commission.

Suitability of a particular area for the plans and development shall be determined by reference to the County Growth Policy, the character of surrounding developments, and the

level of existing services and facilities. Property to which the PUD classification has been applied shall be developed only in conformance with the regulations adopted for the PUD designation and if applicable the preliminary plat approval granted under the County Subdivision Regulations.

## **4.0 SUPPLEMENTAL REGULATIONS**

The provisions of these regulations shall be subject to the requirements of Sections 7, 8 and 9 and to such exceptions, conditions, or modifications as herein provided by the following supplementary regulations.

### **4.1 Uses, Signs, Lots**

#### **4.1.1 Signs in AG-1, C-1 and I-1 Districts**

There shall be a limit of one (1) total freestanding signs per tract of land containing one acre or less in parcel size. There shall be a limit of two (2) total freestanding signs per tract of land greater than one acre in parcel size. The maximum height of the freestanding signs shall not exceed thirty (30) feet measured from the average ground area on the parcel of land as determined by the Zoning Administrator. The maximum square foot total per freestanding sign per side cannot exceed 300 square feet per freestanding sign. No sign shall occupy any front, side or rear landscaping buffer area.

Signs located within 660 feet of an interstate highway measured from the outer edge of the interstate right-of-way, shall comply with the Montana Department of Transportation's Outdoor Advertising Control regulations.

Signs may be illuminated provided that they shall be limited to transformers not exceeding sixty (60) mill amperes on all exposed tubing and all animated or flashing portions shall be limited to transformers not exceeding thirty (30) mill amperes on all exposed tubing.

Total signage on a building side shall not exceed 30% of the building wall area square footage of that side and shall not exceed 10 feet above the height of the building.

Outdoor advertising (billboard signs) shall only be allowed in Ag-1, C-1 and I-1 zoned parcel, shall not exceed 672 square feet per side, shall not exceed 48 feet in length and shall not exceed 30 feet maximum height, measured from the highpoint of the highway adjacent to the location of the sign and may not be located within 500 feet of another outdoor advertising (billboard) sign. No sign or billboard shall be permitted within 250 feet of an R district. No sign or billboard shall be permitted within 500 feet of any P - 1 district.

#### **4.1.2 Signs in Residential Districts**

Signs in residential districts(R-1, R-2 and R-3) shall be limited to non- commercial uses, such as religious institutions, fraternal organizations, schools, etc. Bulletin

boards for worship facilities, educational facilities, or other public, religious, or educational institution are allowed provided such sign is located not less than ten (10) feet from the established right-of-way line of any street or highway and does not obstruct traffic visibility at street or highway intersections. Such signs shall not exceed thirty-two (32) square feet in area.

#### **4.1.3 Other Signs (All Districts)**

Temporary signs, including but not limited to For Sale Signs, Real Estate Sale Signs, shall not be required to obtain a location/conformance permit. These signs must be placed entirely upon private property.

Political Signs shall be regulated pursuant to the Montana Codes Annotated.

#### **4.1.4 Directional Signs**

Including, but not limited to, enter, exit, parking, air, etc., are excluded from the signage requirements, provided they not exceed eight (8) square feet maximum in size and be no greater than eight (8) feet in height and may not contain any advertising.

Signs as mentioned above do not include the normal public highway regulatory or informational signs. In the event federal, state or other requirements regulating signs exist, the provisions of Section 1.2 shall apply.

#### **4.1.5 Non-Conforming Signs**

Signs at the time of enactment of this Regulation which are not conforming to the provisions, but which did conform to previous laws at the time of installation and were properly permitted at the time of installation, shall be regarded as nonconforming signs which may remain if properly repaired, maintained, and if in compliance with other regulations of Custer County and the State of Montana. Nonconforming signs which are structurally altered, relocated, or replaced must comply immediately with all provisions of these regulations.

#### **4.1.6 Discontinuance**

Whenever a non-conforming sign shall be discontinued for a period of one (1) year, such sign shall not thereafter be re-used and any future sign shall be in conformity with the provisions of these regulations. The Zoning Administrator shall determine to the best of his or her ability the date of a discontinuance of a non-conforming sign based on substantiating evidence from the applicant and any other historical records or documents.

## **4.2 Natural Production Use**

Natural production uses are only permitted as Conditional Uses in the AG-1 or I-1 districts and those uses include:

- a) the excavation of sand and gravel, topsoil, clay, shale, or other natural mineral deposits
- b) the crushing of rock,
- c) cement plants,
- d) or other crushing machinery, or other physical or chemical process for treating the mineral product ,

The following conditions may be imposed as part of the Conditional Use Permit:

1. In the case of an open excavation there shall be a substantial fence, suitable gates, completely enclosing the portion of the property which the excavation is located in, and such fence shall be located at all points forty (40) feet or more from the edge of the excavation.
2. In the case where a natural production use abuts any designated Residential District, or the Commercial District, a sight obscuring fence, berm or other such improvement shall be required along the site perimeter(s) adjacent to the aforementioned abutting zone(s) and shall be installed or caused to be installed by the party to whom the special permit was issued prior to beginning operations under said special permit issued therefore. Said sight obscuring fence, berm or other such improvement shall be of a height sufficient to block the line of sight from occupancies of the aforementioned abutting zone(s) as determined by the Zoning Board of Adjustment.
3. Hours of Operation for the above listed uses shall be limited to 7:00a.m. to 7:00 p.m.

## **4.3 Abandoned Buildings / Items**

Abandoned buildings / structures (including wind turbines, radio towers, telecommunications towers, and meteorological towers) that remain nonfunctional or inoperative for a continuous period of one year shall be deemed to be abandoned, shall constitute a public nuisance as defined under 45-8-111, MCA and shall be removed by the owner/operator.

## **4.4 Zoning Designation Per Lot / Tract of Land**

Each parcel of land shall have only one zoning designation.

## **4.5 Visibility at Intersections**

On a corner lot in any district, no wall, hedge, or other planting which would obstruct the vision of a motorist at the intersection of a street or road may be located within twenty (20) feet of the property line at the right of way of the street (see Clear Vision Triangle definition).

## **4.6 Porches**

An open or enclosed porch shall be considered a part of a building in the determination of the size of the yard or lot coverage.

## **4.7 Projecting Architectural Features**

The space of any required yard shall be open and unobstructed except for the ordinary projections of window sills, bell courses, and other architectural features, provided, however, that such features shall not project more than twelve (12) inches into any required yard.

## **4.8 Fences**

No fence in any residential district may exceed eight (8) feet in height measured from the natural grade (natural grade does not include landscaped berms). Any ornamental projections on a fence are not included in the height measurement.

A variance may be allowed by the Board of Adjustment where a higher fence is necessary to protect the health, safety, and welfare of the public upon approval by the Board of Adjustment.

No fence of a barbed or electrically charged type shall be erected in any residential district. Razor wire shall be located in only an I-1 District, must be signed, and must be at least eight (8) feet off of the ground measured from the midpoint of the difference of the ground elevation immediately adjoining on either side of it.

## **4.9 Transition Regulations – Different Zoning Districts**

### **4.9.1 Lots in Two Districts**

Where a district boundary line divides a lot in single or joint ownership of record at the time such line is adopted, the regulations for the less restricted portion of such lot shall extend not more than thirty (30) feet into the more restricted portion, provided the lot has frontage on a street in the less restricted district.



#### **4.9.2 Side and Rear Yard Transition**

Where a lot in a C-1 or I-1 district abuts a lot in a residential district, there shall be provided along such abutting lines a yard at least equal in width or depth to that required in a residential district.

#### **4.9.3 Front Yard Transition**

Where the frontage of one (1) side of a street between two (2) intersecting streets is zoned partly as an R district and partly as C-1 or I-1 district, the front yard depth in a C-1 or I-1 district shall be at least equal to the required front yard depth in the residential district.

#### **4.9.4 Corner Yard Transition**

On every corner lot in a residential district, there shall be provided on the side street, a side yard equal in depth to the required front yard depth of buildings fronting on said side street.

### **4.10 Off-Street Parking**

At the date these regulations become effective, the following parking spaces are minimum requirements (the standard parking stall is nine (9) feet wide and eighteen (18) feet deep) and shall be provided and satisfactorily maintained by the owner of the property for each structure, building or dwelling erected; or enlarged or altered to twenty percent (20%) of the gross floor area of the building for any of the following purposes:

#### **4.10.1 Dwellings**

At least two (2) off-street parking spaces for each dwelling unit within the building or buildings.

#### **4.10.2 Auditorium, Stadium, Theater, Churches, Or Other Places Of Public Assembly**

At least one (1) parking space for each five (5) seats provided for its patrons based on a maximum seating capacity.

#### **4.10.3 Motels and Hotels**

At least one off-street (1) parking space for each one (1) guest unit.

#### **4.10.4 Restaurants, Night Clubs, Taverns, or Other Eating Places**

A minimum of ten (10) stalls plus one (1) stall per one-hundred (100) square feet over one-thousand (1000) square feet of gross usable building area.

#### **4.10.5 Hospital, Sanitarium, or Nursing Home**

Hospital. At least one (1) parking space for each bed plus at least one (1) parking space for employee on a maximum shift plus one (1) parking space for each staff doctor. Sanitarium or Nursing Home. At least three (3) parking spaces for each four (4) beds.

#### **4.10.6 Stores**

C-1 District. One (1) parking space for each three hundred (300) square feet of building(s) gross floor area.

#### **4.10.7 Office Buildings**

At least one (1) parking space for each three hundred (300) square feet of office floor area on the ground floor and one (1) space for each five hundred (500) feet of floor space above the first floor and the same shall apply to basement floor areas.

#### **4.10.8 Industrial or Manufacturing Establishments**

At least two (2) parking spaces for each three (3) working people on a maximum shift.

#### **4.10.9 General**

All parking areas provided pursuant to this section shall be on the same lot or lots containing the building, except that the Board of Adjustment may permit the parking spaces to be on a lot within five hundred (500) feet of the building, if said Board of Adjustment determines that it is impracticable to provide parking on the same lot with the building.

## **5.0 NON-CONFORMING USES AND STRUCTURES**

The lawful use of any buildings or land existing at the time of the enactment of these regulations may be continued although such use does not conform to the provisions of these regulations, except as hereinafter provided.

### **5.1 Alterations and Additions**

A non-conforming building, unless changed to a conforming use, may not be structurally altered to an extent exceeding an aggregate of one-third ( $1/3$ ) of the square footage of the building existing at the time of the zoning enactment. In any event, the combined total square footage of the above-mentioned structural alteration shall not exceed one-third ( $1/3$ ) of the square footage of the original non-conforming building. A non-conforming land use may not be increased by more than one-third ( $1/3$ ) of the square footage in non-conforming use at the time of enactment of these regulations.

### **5.2 Natural Disaster**

A non-conforming building or use that has had one-half ( $1/2$ ) of its square footage destroyed or substantially damaged by a natural disaster such as fire, flood, etc., shall not be restored to a non-conforming use unless a variance is issued by the Zoning Board of Adjustment or unless the restoration occurs within twelve (12) months of the damage and the resulting structure occupies the same physical footprint and use as the original non-conforming structure.

### **5.3 Discontinuance**

Whenever a non-conforming use shall be discontinued for a period of one (1) year, such use shall not thereafter be re-established and any future use shall be in conformity with the provisions of these regulations. The Zoning Administrator shall determine to the best of his or her ability the date of a discontinuance of a non-conforming use based on substantiating evidence from the applicant and any other historical records or documents.

### **5.4 Changes**

Once changed to a conforming use, no building or land use shall be permitted to revert to a non-conforming use.

## **5.5 Displacement**

No non-conforming use shall be extended to displace a conforming use.

## **5.6 District Changes**

Wherever the boundaries of a district shall be changed so as to transfer an area from one district to another district of a different classification, the foregoing provisions shall apply to any non-conforming use existing therein.

## **5.7 Natural Resources Protected**

The provisions of these regulations shall not prevent the complete use, development or recovery of any mineral, forest, or agricultural resources by the owner thereof.

## **5.8 Existing Platted Subdivision**

A subdivision with a plat properly prepared and filed of record with the County Clerk and Recorder at the time of enactment of these regulations may be developed for the purposes identified in the preliminary plat approval regardless of which zoning district in which it is located. In the future, further development of said subdivision, shall meet all requirements per the appropriate district regulations found in Section 3.

## **6.0 FLOODPLAIN REGULATIONS**

The County Commissioners adopted the "Custer County Floodplain Regulations" on [insert date] which are incorporated into these regulations herein, the provisions thereof controlling within Custer County and outside of the jurisdictional boundary of the City of Miles City and the Town of Ismay. The Custer County Floodplain Regulations for the above-described area, copies of which are available at the County Clerk and Recorder's Office and the Custer County Planning Department, shall be administered and enforced by the Zoning Administrator.

A conformance permit shall not be issued for any non-residential use or structure within a designated floodplain area until all applicable floodplain permits have been issued.

## **7.0 PERMITS REQUIRED UNDER THESE REGULATIONS**

### **7.1 Zoning Conformance**

Prior to construction or expansion of a structure in any zoning district, a landowner shall obtain a zoning conformance permit from the Zoning Administrator to assure compliance with the zoning regulations. No permit shall be required for an accessory structure less than 100 square feet in size, provided that they structure meets the definition of an accessory structure and adheres to the Property Development Standards for each zoning district.

### **7.2 Conditional Use**

In order to protect the public welfare and guarantee conformance with the intended purpose of the Zoning Regulations, permits are required for all conditional uses listed for each individual zoning district. The Board of Adjustment may conditionally approve any such use subject to reasonable measures deemed to mitigate associated negative impacts. In addition to the purpose of these regulations and development standards defined in this document, the Board of Adjustment shall review and evaluate each conditional use request for the unique and special characteristics of the proposed use with respect to their location, design, size, method of operation, traffic circulation and requirements for public facilities.

### **7.3 Applicability**

Property owners should be aware that other local and state laws may apply to the use and/or development of their property. It is the responsibility of the property owner and their designated representative to obtain all required state and local permits. For information about permit requirements, the property owners should contact:

- a. The Custer County Environmental Health Department for compliance with septic, well, and storm water management rules and regulations.
- b. The Montana Department of Labor and Industry for compliance with state building, electrical, plumbing and mechanical codes.
- c. Custer County for compliance with the County Subdivision Regulations
- d. Custer County for compliance with the County Floodplain Regulations.

## **8.0 SITE PLAN REVIEW**

### **8.1 Intent of Site Plan Review**

It is the intent of this section to establish procedures for the review of certain land uses that could have a significant impact on neighboring land uses or public facilities. The proposed land uses may be compatible with the permitted uses in a particular location, but require individual review because of the location, scale, design, and the potential for impacts to the existing land uses and public facilities in the area. Furthermore, it is the intent of this chapter to ensure that development will comply with the standards of these zoning regulations.

### **8.2 Land Use Changes Subject to Review**

Site plan review is required for the following changes in land use:

1. Construction or establishment of a commercial building or use
2. Construction or establishment of a industrial building or use
3. Construction or establishment of a residential building

### **8.3 Application Requirements**

The application materials required for site plan review are listed below. One digital copy of each item shall be submitted in Adobe PDF unless waived by the zoning administrator. The requisite number of paper copies, as stated on the application form, shall be submitted. Additional information may be requested at any time by the Zoning Administrator if it becomes apparent during review that a reasonable decision cannot be reached based on the existing application materials. In such cases, the review period identified in Section 8.4 is suspended until the required information is submitted.

1. Application form
2. Fee
3. Vicinity map
4. Site plan drawing at a suitable scale (example: 1 inch = 10 feet). The site plan shall include, at a minimum, the following:
  - a) Name and address of applicant.
  - b) Legal description and boundary lines of property being considered for review.
  - c) Existing and proposed land use upon the site.
  - d) Names of owners and existing land use on adjacent property.
  - e) Location, size, dimensions and uses of existing and proposed buildings and improvements.
  - f) Location and description of existing and proposed utilities and related

- easements.
- g) Location and dimensions of streets, roads and rights of ways.
  - h) Location and dimensions of curb cuts and access points.
  - i) Location, size, dimensions and number of off-street parking spaces, including on-site vehicular driveways and type of surface improvements.
  - j) Location and type of existing and proposed landscaping or buffering.
  - k) Location, type and height of existing and proposed fencing and screening.
  - l) Location, type and height of sight-obscuring improvement surrounding areas of storage for raw materials, finished products, machinery and equipment.

#### **8.4 Zoning Administrator Review**

1. Within 5 working days of receipt of an application, site plan and fee, the Zoning Administrator shall determine whether the application contains all of the required information. The Zoning Administrator shall notify the applicant in writing whether the application is determined to be complete. If incomplete, the Zoning Administrator shall identify what additional information is needed for the application to be complete.
2. If deemed complete, the Zoning Administrator shall review the application and approve, approve with conditions, or deny the site plan application. The decision shall be based on the purposes identified Section 1 of these regulations and the standards identified in these regulations. The Zoning Administrator shall adopt findings of fact in support of his or her decision. The Zoning Administrator may require conditions of approval designed to limit impacts to neighboring land uses and public facilities.
3. Once the application is deemed complete by the Zoning Administrator, a decision shall be made on the application within 30 working days unless an extension is granted by the applicant.

#### **8.5 Zoning Administrator Decision**

The Zoning Administrator shall forward a copy of his or her decision, findings and conclusions and any conditions to the applicant within 15 working days of rendering its decision. A conformance permit will be issued along with a copy of the decision if the Zoning Administrator approves the site plan.



## **8.6 Appeal of Zoning Administrator Decision**

Any person, Custer County, or federal, state, county, school district or city government agency, may file an appeal when aggrieved by a decision or interpretation made by the Zoning Administrator with regards to a site plan. Appeals are made pursuant to the requirements of Section 12. Appeals from the Zoning Administrator.

## **9.0 STANDARDS FOR CONDITIONAL USE PERMITS**

### **9.1 General Provisions**

A conditional use shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, and in addition to other applicable requirements of these regulations. All such uses are hereby said to possess unique characteristics and special circumstances so that each specific use shall be considered on an individual basis.

A conditional use permit may be issued only upon meeting all requirements in these regulations for a use which is explicitly mentioned as one of the Uses Permitted By Conditional Use Permit as identified in Section 3 APPLICATION OF DISTRICT REGULATIONS for each respective zoning district.

### **9.2 Required Plan**

An applicant must notify the Zoning Administrator of his or her intent to submit an application for a conditional use permit and must request a pre-application meeting. The pre-application meeting will be scheduled within 15 days of the request. At this meeting, the Zoning Administrator will indicate the necessary information, process, and timeline for the conditional use permit process.

The application for a conditional use permit must include the following materials identified by Zoning Administrator during a pre-application meeting and other information relevant to the conditional use permit:

1. A conditional use permit application signed by the landowner and by the applicant if different from the landowner.
2. Fee
3. A vicinity map of the parcels and surrounding area clearly identifying the location of the property.
4. A legal description of the property.
5. A lot layout and narrative may be required indicating all of the following as applicable:
  - a. Identify any covenants, liens, easements or any other encumbrances upon the parcel.

If a description will not suffice, provide copies or exhibits when necessary.

- b. The land area of the parcel (found on deed, subdivision plat or certificate of survey at the Office of the County Clerk and Recorder or the County Planning Department).
- c. Describe the existing land use of the parcel and neighboring areas.
- d. Describe the anticipated impact upon neighboring property.
- e. On a lot layout, indicate the dimensions of the property under consideration, the size and placement of existing structures, parking areas and landscaping areas.
- f. On a lot layout, indicate the location of existing curb cuts or access points, traffic access and circulation, drives, signs, exterior lighting, required yards and open spaces, landscaping and screening.
- g. On a lot layout, indicate the location of any existing utilities such as water, sewer, gas, electricity, storm sewer, rivers, creeks, streams, irrigation ditches, easements, historical land marks, or any other items that may affect the application and/or other pertinent information as required in Section 8 (Site Plan Review) that may be necessary to determine if the conditional use meets the requirements of these regulations.
- h. List of property owners located within 150 feet of the subject property.

### **9.3 Staff Review**

After an application is reviewed by the Zoning Administrator and deemed to be complete, the Zoning Administrator will proceed with notification of adjoining property owners, determination of the date, time, and place for the public hearing before the Board of Adjustment and posting of the notification of public hearings.

### **9.4 Board of Adjustment Review**

The Board of Adjustment shall hold a public hearing on the application to gather facts and information from all interested parties. At least 15 days' prior to the hearing, notice shall be published in an official newspaper, or a newspaper of general circulation, in the city.

During the public hearing on a conditional use permit application, the Board of Adjustment will allow the staff, petitioner, and other interested parties to present competent, substantial, and material factual evidence relating to the required conclusions. The Board of Adjustment shall discuss the application and accompanying materials and make findings of fact to support the Board's decision.

The Board of Adjustment must render a decision to approve, conditionally approve or deny the application with 15 calendar days of the Board's public hearing. The Board's decision must be accompanied by the findings of fact supporting its decision.

**Note:** The petitioner bears the burden of presenting sufficient factual evidence to support findings of fact that allow the Board of Adjustment to reasonably reach each of the required conclusions.

The Board of Adjustment may continue the hearing to a later date, if necessary, to obtain additional information. If the hearing is continued, a second legal notice is not required if the time, date, and location of the continued hearing is announced at the hearing and placed in the official record of the Board of Adjustment.

The Zoning Administrator shall forward a copy of the Board of Adjustment's decision, findings of fact and any conditions to the applicant within 15 working days of rendering its decision. A conformance permit will be issued along with a copy of the decision if the Board of Adjustment approves the conditional use.

## **9.5 Expiration**

A conditional use permit shall only authorize one particular conditional use and shall expire if the conditional use shall cease for six (6) months for any reason. The Board of Adjustment may, depending on the situation, extend the approval for an additional six (6) month timeframe.

## **9.6 Existing Violations**

No permit shall be issued for a conditional use where there is an existing violation of these regulations or any other existing violations of Custer County, State, or Federal Regulations or laws or for delinquent county taxes.

## **9.7 Standards Applicable to all Conditional Uses**

Before the Board of Adjustment can approve any conditional use permit, it must first reach each of the following conclusions:

1. The proposed development will not materially endanger the public health or safety. Considerations:
  - a. Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and curb cuts.
  - b. Provision of services and utilities, including sewer, water, electrical, telecommunications, garbage collections, and fire protection.

- c. Soil erosion and sedimentation
- d. Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.
- 2. The proposed development will comply with all regulations and standards generally applicable within the zoning district and specifically applicable to the particular type of conditional use.
- 3. The proposed development will be in harmony with the area in which it is located. Considerations:
  - a. The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

## **9.8 Revocability**

A violation of a conditional use permit will be handled as any other violation under Enforcement in Section 17 of these regulations.

# 10.0 AMENDMENTS TO REGULATIONS AND ZONING MAP

## 10.1 Application

An amendment to the Zoning Resolution [regulations or map(s)] may be initiated on a motion from the County Commissioners of Custer County or by one (1) or more of the residents or landowners within the jurisdictional area of these Regulations. A petition for an amendment to the Zoning Regulations shall be submitted to the Zoning Commission for study and recommendation.

## 10.2 Application Requirements

An applicant must notify the Zoning Administrator and request a pre-application meeting with Zoning Administrator. The pre-application meeting will be scheduled within thirty (30) days of the request. At this meeting, staff will indicate the necessary information, fee, process, and timeline for the rezoning petition process. The application for an amendment must include the following and any additional materials requested by the Zoning Administrator during a pre-application meeting that are relevant to the rezoning:

1. A letter signed by at least one landowner within the area to be rezoned explaining the requested rezoning.
2. Fee
3. A vicinity map of the parcels and surrounding area clearly identifying the location of the property.
4. A legal description of the boundaries of the proposed district.
5. A narrative and lot layout indicating some or all of the following:
  - a. Identify any covenants, liens, easements or any other encumbrances upon the parcel. If a description will not suffice, provide copies or exhibits when necessary.
  - b. The land area of the parcel (found on deed, subdivision plat or certificate of survey at the Office of the County Clerk and Recorder or County Planning Department).
  - c. Describe the existing land use of the parcel and neighboring areas.
  - d. Describe the anticipated impact upon neighboring property.
  - e. On a lot layout, indicate the dimensions of the property under consideration, the size and placement of existing structures, parking areas and landscaping areas.
  - f. On a lot layout, indicate the location of existing curb cuts or access points.
  - g. On a lot layout indicate the location of any existing utilities such as water, sewer, gas, electricity, storm sewer, rivers, creeks, streams, irrigation ditches, easements, historical land marks, or any other items that may

affect the application.

6. Cite any previous request for a zone change or variance involving the parcel, as well as any action taken on previous requests.
7. Prepare a statement which addresses the following considerations:
  - a. Made in accordance with the growth policy and
  - b. Designed to:
    - o Secure safety from fire, and other dangers; and
    - o Promote public health, public safety, and general welfare; and
    - o Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
  - c. Reasonable provision of adequate light and air:
  - d. The effect on motorized and non-motorized transportation systems;
  - e. The character of the district and its peculiar suitability for particular uses; and
  - f. Must, as nearly as possible, be made compatible with the zoning regulations of nearby municipalities.

### **10.3 Hearing before the Zoning Commission**

The Zoning Commission shall hold public hearings on the amendment at which parties in interest and citizens shall have an opportunity to be heard.

1. At least 15 days prior to a hearing, notice of the time and place of such hearing shall be published in an official paper or paper of general circulation in the city.
2. All property owners within 150 feet of the site of the proposed zone change shall be notified via the United States mail at least 15 days prior to the public hearing.
3. Names and addresses of adjoining property owners will be provided to the city planning department by the applicant and will be certified by the county clerk and recorder's office or an authorized title company.
4. After such hearing or hearings, the Zoning Commission will make reports and recommendations on said petition or initiation to the County Commissioners.

### **10.4 Hearing before the County Commission**

Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must state:

1. The boundaries of the proposed district.

2. The general character of the proposed zoning regulations.
3. The time and place of the public hearing.
4. That the proposed zoning regulations or maps are on file for public inspection at the office of the County Clerk and Recorder and the County Planning Department.
5. Be posted not less than 45 days before the public hearing in at least five public places within the proposed district; and
6. Be published once a week for 2 weeks in a newspaper of general circulation within the county.

At the public hearing, the County Commissioners shall give the public an opportunity to be heard regarding the proposed change in a zoning district or regulation.

## **10.5 Action after Hearing**

After the public hearing, the County Commissioners shall review the recommendations of the Zoning Commission and shall make such revisions or amendments as it may deem proper. This may include attaching reasonable conditions to ensure public health, safety, and welfare, mitigation to potential impacts, and comments/concerns received during the application process are considered and addressed.

The County Commissioners may pass a resolution of intention to revise the boundaries of a zoning district or amend the zoning regulations.

The County Commissioners shall publish notice of passage of the resolution of intention once a week for two (2) weeks in a newspaper of general circulation within the county. The notice as applicable shall state:

1. The boundaries of the proposed district;
2. The general character of the proposed zoning regulations;
3. That the proposed zoning regulations or maps are on file for public inspection at the office of the County Clerk and Recorder and the County Planning Department; and
4. That for thirty (30) days after first publication of this notice, the County Commissioners will receive written comments to the creation of the zoning district, or to the creation of or amendment to the zoning regulations from persons owning real property within the district whose names appear on the last completed assessment roll of the county.



Within thirty (30) days after the expiration of the protest period, the County Commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district.

# 11.0 VARIANCES

## 11.1 Application

Certain circumstances exist or arise wherein an unnecessary hardship is created through strict adherence to the provisions of these regulations. There is hereinafter provided provisions for the granting of a variance from the provisions of these regulations, so that the public welfare is secured and substantial justice can be done to those so affected.

Application procedures for a variance follow:

1. Application for a variance may be filed by any property owner or their designated agent for the affected property.
2. Such application shall be made on a form provided by the office of the Zoning Administrator. Multiple requests for variance for the same project may be filed on a single application and charged a single fee.
3. The application must be complete and received with the required fee in the office of the Zoning Administrator at least 30 calendar days prior to the next regularly scheduled meeting of the Board of Adjustment.
4. No part of any such fee shall be refundable after an application is filed and such fee paid, except under petition by the applicant and approval by the Zoning Administrator. No fee paid for an action which is declared closed or ruled invalid shall be refunded.

## 11.2 Minor Variances

1. The Zoning Administrator shall have the authority to grant "minor variances" as defined by the Board of Adjustment which are within the general intent of these regulations limited to the following:
  - a. area and lot dimension requirements provided they may not be reduced by more than ten (10) percent of the area required by the district,
  - b. yard requirements may be reduced by permitting portions of a building or structure to extend into and occupy not more than ten (10) percent of the area of a required yard,
  - c. maximum building height requirements may be increased by not more than ten (10) percent.
2. A "minor variance" shall be granted if all adjacent property owners of the tract consent to the said "minor variance." The party petitioning to the "minor variance" shall obtain written consent from the adjacent property owners to the "minor variance." The denial by the Zoning Administrator of an application involving a minor

deviation shall not prohibit or affect the right of the applicant to file an application for a variance.

3. Appeals of the decision made by the Zoning Administrator are subject to the provisions of Section 15. Appeals from the Zoning Administrator found in these regulations.

### **11.3 Processing the Application**

1. Notice of the hearing shall be placed in a newspaper of general circulation in the community at least 15 days prior to the date of the hearing.
2. Written notice shall be mailed to all property owners within 150 feet of the subject property at least 15 days prior to the said hearing. (Where the subject property abuts a public right-of-way, the 150 foot measurement shall be in addition to this right-of-way along the abutting side.)
3. The zoning administrator shall transmit any application for a variance with all supporting materials to the Board of Adjustment within 3 days of the scheduled public hearing.
4. Before any variance can be granted, the Board of Adjustment shall make findings of fact based upon evidence produced at a public hearing setting forth and showing that the following circumstances exist:
  - a. In considering all proposed variances to these regulations, the board shall, before making any findings in a specified case, first determine that the proposed variance will not amount to a change in the use of the property to a use which is not permitted within the district;
  - b. That special conditions and circumstances exist which are peculiar to the land such as size, shape, topography or location, not applicable to other lands in the same district and that literal interpretation of the provision of these regulations would deprive the property owner of rights commonly enjoyed by other properties similarly situated in the same district under the terms of these regulations;
  - c. That the special conditions and circumstances do not result from the actions of the applicant;
  - d. That granting the variance requested will not confer a special privilege to the subject property that is denied other lands in the same district;
  - e. That granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity and zone in which subject property is situated;

- f. The Board of Adjustment shall further make a finding that the reasons set forth in the application justify the granting of the variance and that the variance is the minimum variance that will make possible the reasonable use of the land;
  - g. The Board of Adjustment shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of these regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare; and
  - h. The fact that property may be utilized more profitably will not be the sole element of consideration before the Board of Adjustment.
- 5. Every decision of the Board of Adjustment shall be made by motion and shall be based upon "Findings of Fact" and every finding of fact shall be supported in the record of its proceedings. The enumerated conditions required to grant a variance under these regulations shall be construed as limitation on the power of the board to act.
- 6. In approving a variance, the Board of Adjustment may impose such conditions as are in its judgment necessary to promote the general provisions of these regulations.
- 7. It shall take the affirmative vote of four members of the Board of Adjustment to grant a variance.
- 8. A hearing may be continued at the request of the applicant or upon motion of the Board of Adjustment, provided however, that the granting of the continuance is solely at the discretion of the board, and a refusal to continue is not a denial of a right, conditional or otherwise.
- 9. Decision on continuance of a hearing can be reached by a simple majority; but must be made prior to voting on the application itself.
- 10. A variance shall be valid indefinitely, provided it is exercised within one year of the date of issuance, or as otherwise provided for by the Board of Adjustment.

#### **11.4 Appeal from the Board of Adjustment.**

- 1. A request may be re-heard by the Board of Adjustment only when there has been a manifest error affecting the Board of Adjustment decision; or it appears that a substantial change in facts, evidence or conditions has occurred. Such determinations shall be made by the Zoning Administrator within 30 working days of final action by the board.

2. Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment may appeal the decision to the County Commissioners following the procedures identified in Section 16 Appeal from the Board of Adjustment of these regulations.

### **11.5 Hardship.**

1. An applicant for a variance must demonstrate that under these zoning regulations, that they will be deprived of all economic use or benefit from the property in question. The applicant must prove the following to show an unnecessary hardship:
  - a. That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
  - b. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
  - c. That the alleged hardship has not been self-created.

# 12.0 ZONING ADMINISTRATOR

## 12.1 Creation

There is hereby created the position of a Custer County Zoning Administrator who shall be a duly appointed person charged with the administration, interpretation and enforcement of these zoning regulations.

## 12.2 Powers and Duties

The Zoning Administrator, his or her assistant or designee will:

1. Enforce the provisions of these regulations.
2. Keep complete, accurate and secure records.
3. Accept applications and appeals and ensure their appropriateness and completeness.
4. Accept and remit fees as established in the adopted administrative procedures.
5. Update these regulations and the official zoning map as directed by the County Commission.
6. Provide for the accuracy and security of the official zoning map.
7. Undertake any other administrative function appropriate to the office of the Zoning Administrator.
8. Report to the County Commission any recommendations for changes and improvements in these regulations and the procedures therein.
9. Issue any permit granted by the Board of Adjustment and make periodic inspections to verify that all conditions of such granted permits are complied with by the applicant or his agent.
10. Receive and investigate allegations of noncompliance or violation of these regulations and file a complaint where such allegations are based on apparent fact.
11. Refer any matters under appeal to the Board of Adjustment for their action.
12. Make recommendations to the Board of Adjustment in connection with any application for variance or Conditional Use Permit.

13. Determine the location of any district boundary shown on the zoning map adopted as part of these regulations when such location is in doubt.
14. Refer to the Board of Adjustment any appeal of the determination of the Zoning Administrator as relative to Section 15.
15. Issue zoning lot determinations upon request for a landowner who desires to utilize multiple contiguous lots as a single parcel for application of the bulk and dimensional requirements of these regulations.

### **12.3 Limitations of Power**

The Zoning Administrator shall not:

1. Make any changes in the uses categorically permitted in any zoning classification or zoning district, or make any changes in the terms of these zoning regulations, or make any changes in the terms, classifications or their boundaries on the official zoning map without the prior specific direction of the County Commissioners following the procedures herein set forth by these regulations.
2. Issue any variance or Conditional Use Permit without the specific direction to do so from the Board of Adjustment or the County Commissioners.

# **13.0 ZONING COMMISSION**

## **13.1 Creation**

There is hereby created the “Zoning Commission” also known as the Custer County Zoning Commission for the Custer County in accordance to 76-2-220 (MCA).

## **13.2 Membership**

The membership of the “Zoning Commission” shall consist of seven members, having terms and qualifications as set forth by 76-2-220, MCA. The members of the Zoning Commission shall serve without compensation, other than reimbursement for approved budgeted expenditures incurred in carrying out the functions of the Zoning Commission.

## **13.3 Powers and Duties**

It shall be the duty of the Zoning Commission to hold public hearings where necessary and make recommendations to the County Commissioners on all matters concerning or relating to the creation of zoning districts, the boundaries thereof, the appropriate regulations to be enforced therein, the amendments of these regulations and any other matter within the scope of the Zoning Commission. The Zoning Commission is also authorized to confer and advise with other county, city, regional, or state planning or zoning commissions.



## **14.0 BOARD OF ADJUSTMENT**

### **14.1 Creation**

There is hereby created the “Board of Adjustment” for the Custer County in accordance to 76-2-221, MCA.

### **14.2 Membership**

The membership of the Board of Adjustment shall consist of five members having terms and qualifications as set forth by 76-2-222, MCA. The members shall serve without compensation.

### **14.3 Powers and Duties**

The Board of Adjustment shall have authority to:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of these regulations.
2. To hear and decide special exceptions, such as Conditional Use Permits, to the terms of the zoning regulations upon which said board is required to pass under such resolution that created the regulations;
3. To authorize upon appeal in specific cases such variance from the terms of these regulations as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will result in unnecessary hardship, and so that the spirit of these regulations shall be observed and substantial justice done.

### **14.4 Limitations of Power**

The Board of Adjustment shall not by either variance or appeal process make any change in the uses categorically permitted in any zoning classification or zoning district; or amend the zoning text or map.

## **14.5 Meeting Procedures**

1. Meetings of the Board shall be held at least once a month; provided, there is business to transact and at such other times as the chairman of the board may determine.
2. All regular Board meetings shall be open to the public.
3. The Board shall adopt its own rules of procedure and keep minutes of its proceedings, findings and action in each case and the vote of each member present on each question considered in the proceedings, unless a member disqualifies himself.
4. The presence of four members shall be necessary to constitute a quorum.
5. Four affirmative votes shall be necessary for granting a variance or appeal.
6. No proxy vote is permissible.

## **15.0 APPEALS FROM THE ZONING ADMINISTRATOR**

### **15.1 Basis of Appeal**

Any person, Custer County, federal or state agency, school district or city government, may file an appeal with Board of Adjustment when aggrieved by a decision or interpretation made by the Zoning Administrator, provided that the appeal is based on an allegation that:

1. The Zoning Administrator made an error in interpretation of these regulations; and
2. The erroneous interpretation specifically aggrieves the appellant.

### **15.2 Application and Procedure**

1. Appeals must be filed in the manner provided, and after payment of fees as prescribed by the County Commissioners, within 30 calendar days from the time the officer charged with enforcement of these regulations has made a written interpretation or determination of these regulations.
2. No part of any such fee shall be returnable after an appeal is filed and such fee is paid, except upon petition by the appellant and approval by the Zoning Administrator. No fee paid for an action which is declared closed or ruled invalid shall be refunded, provided that a refund shall be allowed upon petition by the applicant if the board rules in favor of the applicant.
3. The appeal, fee, and supporting materials must be received in the office of the Zoning Administrator at least 30 calendar days prior to the next regularly scheduled meeting of the Board of Adjustment.
4. The Zoning Administrator shall fix a reasonable time for the hearing and give notice thereof to the parties of interest and the public by publishing notice in a newspaper of general circulation in the community, at least 15 calendar days prior to such hearings.
5. Where an appeal concerns a particular piece of property, all property owners within 150 feet of the subject property shall be notified by mail at least 15 calendar days prior to said hearing. (When the subject property abuts a public right-of-way, the 150 foot measurement shall be in addition to this right-of-way along the abutting side.)
6. The Zoning Administrator shall transmit an appeal with all supporting materials to the Board of Adjustment within three days of the scheduled public hearing.
7. An appeal under the terms of these regulations stays all proceedings in the

matter appealed from unless the Zoning Administrator certifies to the Board of Adjustment that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by a court of record on application and notice to the Zoning Administrator from whom the appeal was taken and on due cause shown.

8. Decisions of the Board of Adjustment shall be by motion. The basis for the decision on each appeal, and a detailed summary of the facts and basis supporting such determination shall be recorded in the decision and shall constitute a part of the record thereof.
9. The concurring vote of four members of the Board of Adjustment shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter.
10. A hearing may be continued by the Board of Adjustment at the request of the applicant or upon motion of the Board of Adjustment, provided however, that the granting of a continuance is at the discretion of the Board of Adjustment, and a refusal to continue is not a denial of a right, conditional or otherwise.
11. Decision on continuance of a hearing can be reached by a simple majority, but must be made prior to voting on the application itself.

## **16.0 APPEALS FROM THE BOARD OF ADJUSTMENT**

1. Any person or persons, jointly or severally, aggrieved by a decision of the Board of Adjustment may appeal the decision to the County Commissioners.
2. An appeal to the County Commissioners must be initiated by presenting to the County Commissioners a petition, duly verified, setting forth that the decision of the Board of Adjustment is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the County Commissioners within 30 calendar days after the filing of the decision of the board of adjustment, and a final decision must be made within 60 calendar days of receipt of the petition.
3. The Zoning Administrator shall fix a reasonable time for a hearing before the County Commissioners and give notice thereof to the parties of interest and the public by publishing notice in a newspaper of general circulation in the community, at least 15 calendar days prior to such hearings.
4. Following the public hearing on the petition, the County Commissioners may:
  - a. remand the special exception to the Board of Adjustment;
  - b. reverse or affirm, wholly or partly, the decision of the Board of Adjustment; or
  - c. modify the decision of the Board of Adjustment.
5. Any person or persons, jointly or severally, aggrieved by a decision of the County Commissioners may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. The petition must be presented to the court within 30 calendar days after the filing of the decision in the office of the appropriate board.
6. Upon presentation of a petition, the court may allow a writ of certiorari directed to the County Commissioners to review the decision of the County Commission and shall prescribe in the writ the time within which a return must be made and served upon the relator's attorney, which may not be less than 10 days and may be extended by the court. The allowance of the writ may not stay proceedings upon the decision appealed from, but the court may, upon application, on notice to the County Commissioners, and on due cause shown, grant a restraining order. The County Commissioners may not be required to return the original papers acted upon by it, but it is sufficient to return certified or sworn copies of the original papers or of portions of the original papers that may be called for by the writ. The return must concisely set forth other facts that may be pertinent and material to show the grounds of the decision appealed from and must be verified.
7. If, upon the hearing, it appears to the court that testimony is necessary for the proper disposition of the matter, the court may take evidence or appoint a referee to take evidence as it may direct and report the evidence to the court with the referee's findings of fact and conclusions of law, which constitute a part of the proceedings upon which the determination of the court must be made.

8. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

## **17.0 ENFORCEMENT**

### **17.1 Enforcement of These Regulations**

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the county, in addition to other remedies, may institute any appropriate action or proceedings to:

- a. prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
- b. restrain, correct, or abate a violation;
- c. prevent the occupancy of the building, structure, or land; or
- d. prevent any illegal act, conduct, business, or use in or near the premises.

For the purposes of enforcing subsections (1)(a) through (1)(c), the county shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to the penalties under 76-2-211 of the Montana Code Annotated.

The County Commission may appoint enforcing officers to supervise and enforce the provisions of the zoning resolutions.

### **17.2 Penalties**

A violation of this part or any resolution adopted pursuant thereto is a misdemeanor and shall be punishable by a fine not exceeding \$500 or imprisonment in the county jail not exceeding 6 months or both.

# 18.0 DEFINITIONS

## Definitions

All words in these regulations shall be first defined as provided herein and, if not defined herein, shall have their customary dictionary definitions. For the purposes of these regulations certain words and terms used herein are defined as follows:

Words used in the present tense include the future tense; words used in the singular include the plural, and words used in the plural include the singular; the word “shall” is always mandatory, the word “person” includes a firm, association, organization, partnership, trust, corporation or company, as well as an individual; the word “lot” includes the words “plot” or “parcel”; the word “building” includes the word “structure”; the words “used” or “occupied,” as applied to any land or building, shall be constructed to include the words “intended, arranged, or designed to be used or occupied”; the words “map” or “zoning map” mean the zoning map(s) of the zoning jurisdiction of the Custer County that delineate the area to be governed by these regulations.

1. **Abandonment.** The act of intentionally and permanently giving up, surrendering, deserting or relinquishing **property**, or a property right. In regard to a use, it is the actual cessation of a “nonconforming use” coupled with the intent not to put the premises again to the same use. Proof of said intent not to abandon must be clearly inferable from existing facts, such as actively pursuing in good faith the sale of lease of a property as a continuation of the existing use.
2. **Accessory Building/Structure.** A **detached** subordinate building/ structure situated on the same lot with the principal building/structure and used for an accessory use.
3. **Accessory Use.** A **subordinate** use of a building, other structure, or use of land:
  - a. Which is clearly incidental to the primary use of the principal building, other structure, or use of land; and
  - b. Which is used customarily in connection with the principal building, other structure, or use of land; and
  - c. Which is located on the same zoned lot with the principal building, other structure, or use of land.
4. **Agriculture.** The production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for commercial purposes per 15-1-101(a), MCA.



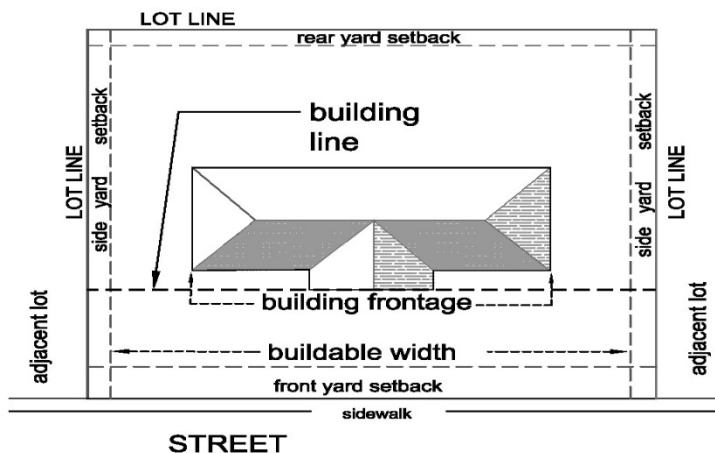
5. **Airport.** Any runway, **landing** area or other facility whether publicly or privately owned and operated, and which is designed or used either by public carriers or by private aircraft for the landing and taking off of aircraft and/or helicopters, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.
6. **Alley.** A passage or way, open to public travel, and dedicated to public use, affording a secondary means of vehicular and pedestrian access to abutting lots and not intended for general traffic circulations.
7. **Alteration.** A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another.
8. **Animal Feeding Operation.** Is a lot or facility where animals (other than aquatic) have been, are or will be stabled or confined and fed or maintained for a total of 45 days or more in any twelve month period and where crops, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility
9. **Animal Wintering Operation.** The confinement of domestic livestock used or kept for breeding purposes in a feedlot or sheltered area at any time between October 15 and May 15 of each production cycle under circumstances in which these animals do not obtain a majority of their feed and nutrients from grazing. The term includes the weaned offspring of domestic livestock, but it does not include breeding operations of more than 1,000 animal units or weaned offspring, which are kept longer than 120 days and are not retained for breeding purposes.
10. **Arterial.** A street having the primary function of moving traffic and secondary function of providing access to adjacent land. Arterials generally carry relatively large volumes of traffic. Arterials have two to four lanes of traffic and provide limited access to abutting property.
11. **Assembly – Heavy.** The fitting or joining of parts of a mechanism by means of fasteners, nuts and bolts, screws, glue, welding, or other similar technique which may include the construction, stamping, or reshaping of any of the component parts. Heavy assembly may generate noise, vibration, smoke, or odors outside of the structure housing the activity or off-site. Activity may occur both indoors and outdoors.
12. **Assembly – Light.** The fitting together of already manufactured parts into a complete or semi-complete unit. (This would not limit the casting or forming of some components on site but such processes would typically not generate noise, vibration, smoke or odor.) Typically, all activity usually occurs indoors.
13. **Assembly halls/stadiums/convention hall facilities.** An open, partially enclosed, or fully enclosed facility used or intended to be used primarily for spectator sports, entertainment events, expositions, and other public gatherings. Typical

uses include convention and exhibition halls, sports arenas, and amphitheaters.

14. **Athletic Club.** A facility designed for the major purpose of physical fitness which includes, but is not limited to, such equipment as weight resistance machines, whirlpools, saunas, showers, swimming pools and lockers.
15. **Auction Yards, Livestock.** Any sale where livestock is sold by an auctioneer in an outdoor setting.
16. **Automobile Sales and/or Repair.** An area, other than a street, used for the display, sale or repair of new or used automobiles, boats, RVs, motorcycles, or trailers, whether inside a structure or in an outside area.
17. **Automobile Detailing Shop.** A facility wherein automobiles are cleaned. The seats and carpet are generally shampooed and the engine compartment degreased. The exterior is generally waxed. Customary and incidental associated uses shall not include painting, body work, or mechanical repair.
18. **Automobile or Vehicle Body Shops.** A facility which provides collision repair services, including, but not necessarily limited to, welding, body frame straightening, replacement of damaged parts, and painting.
19. **Automobile Service Station.** Any building or premises used primarily for the retail sale of gasoline and lubricants, but which may also provide for the incidental servicing of motor vehicles including grease racks, tire repairs, battery charging, hand washing of automobiles, sale of merchandise and supplies related to the servicing of motor vehicles and minor replacements, but excluding body and fender work, engine overhauling, painting, welding, storage of automobiles not in operating condition or other work involving noise, fumes, glare or smoke.
20. **Automobile Wrecking/Salvage.** The dismantling or wrecking of motor vehicles or trailers, or the storage, sale or dumping of dismantled or partially dismantled, obsolete or wrecked vehicles or their parts.
21. **Bakery.** An establishment primarily engaged in the retail sale of bakery products, but which may involve the production of baked goods for off-site sales.
22. **Banks and Financial Institutions.** An establishment that is open to the public and primarily engaged in the receipt, disbursement of exchange of funds and currencies, and that performs closely related functions such as making loans, investments, and fiduciary activities.
23. **Barber and Beauty Services.** Includes barber shops, hair styling, salons, nail care, hair removal, ear piercing, and other such similar businesses.
24. **Bars and Taverns.** An establishment whose primary activity is the sale of alcoholic beverages to be consumed on the premises.

25. **Bed and Breakfast.** “Bed and Breakfast” means a single-family dwelling with a resident family or manager in permanent residence where bedrooms without individual cooking facilities are rented for overnight lodging. Breakfast may be provided by the resident(s) to the overnight patrons.
26. **Billboard.** A standard outdoor advertising sign no larger than 288 square feet in area which is designed to advertise products, services or businesses not located on the premises on which the sign is located. A sign shall not be considered a billboard unless the sign is designed with a surface on which temporary poster panels or painted bulletins are mounted for the purpose of conveying a visual advertising message.
27. **Buffer.** Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.
28. **Buildable Width.** The distance between the required side setbacks (or side and side corner setbacks) of a lot. (Figure 13)

**Figure 13: Building Width, Building Frontage, and Building Line**

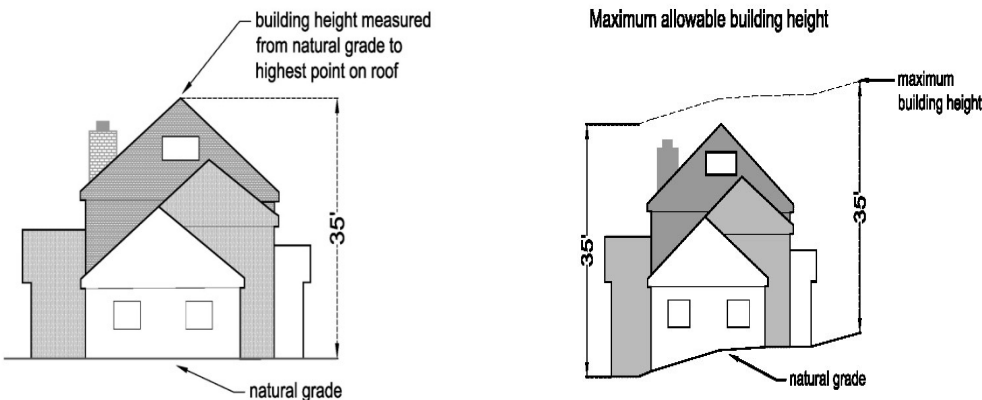


29. **Building.** Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate building.
30. **Building Frontage.** The maximum width of a building measured in a straight line parallel with the abutting street, or, if the abutting right-of-way is a curved line, parallel with a line tangent to the property line at its midpoint. (See figure 13 above)
31. **Building Height, Maximum.** The maximum allowable vertical distance from the undisturbed ground level at the eave line of the building to a plane that is

parallel with that undisturbed ground at the highest point of the roof or parapet wall. Variable slopes would require multiple planes to be established. (Figure 14)

**Figure 14: Building Height, Maximum**

Measuring building height



**32. Building Line.** The line of that face, corner, roof or part of a building nearest the property line. A building line shall be established parallel to the property line which that side of the building faces or, if the abutting right-of-way is a curved line, parallel with a line tangent to the property line at its midpoint. (See figure 13 above)

**33. Business.** The purchase, sale, offering for sale, or other transaction involving the handling or disposition of any article, service, substance or commodity for livelihood or profit, or the management or occupancy of the office buildings, offices, recreation or amusement enterprises, or the maintenance and use of buildings, offices, structures, or premises by professions and trades or persons rendering services.

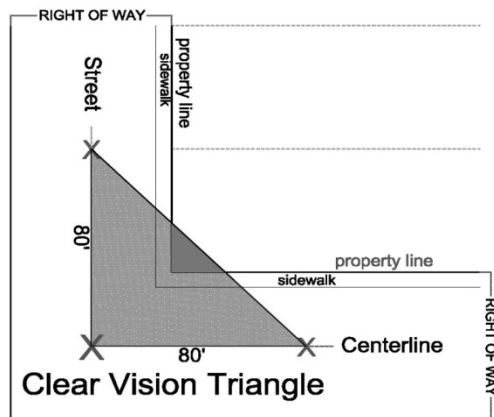
**34. Campground.** Any area or tract of land used or designed to accommodate two or more camping parties, including cabins, tents, camping trailers or other camping outfits (see also: Recreational Vehicle Park).

**35. Canopy Structure.** Any overhead protective structure which is constructed in such a manner as to allow pedestrians/vehicles to pass under.

**36. Carport.** A structure to house or protect motor vehicles which has at least fifty percent of the total area of its sides open to the weather.

37. **Casino.** An establishment that offers any form of legalized gambling authorized under Title 23, Chapter 5, Parts 1 (except for Section 23-5-160 regarding shaking dice or shake-a-day games) and 3 through 6, Montana Code Annotated, either as a primary use or as an accessory use. Organizations and facilities designated as exempt under state law shall not be classified as casinos.
38. **Catering Establishment.** An establishment in which the principal use is the preparation of food and meals on the premises, and where such food and meals are delivered to another location for consumption.
39. **Change of Use.** The replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.
40. **Church.** A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building, together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.
41. **Clear Vision Triangle.** An area established within a triangular area formed by the intersection of the center lines of the adjoining streets and a straight line connecting points on such center lines eighty feet from such intersection, in which the height of landscaping and vegetation is limited. (Figure15)

**Figure 15: Clear Vision Triangle**

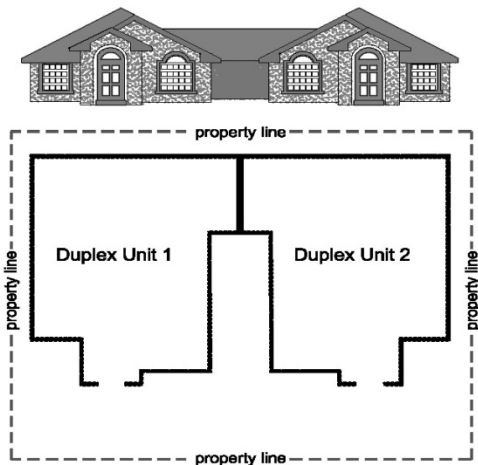


42. **Club.** An incorporated or unincorporated association of persons organized for social, fraternal, religious, athletic, educational, literary or charitable purposes whose activities are confined to the members and their guests and are not extended to the general public.

43. **Collector.** A street or road having the equally important functions of moving traffic and providing access to adjacent land. Collector streets have two traffic lanes and two parking lanes.
44. **Commence.** To start or begin; in relation to a project, “commence” means taking active steps towards starting a project, as opposed to intentions, and includes, but is not necessarily limited to, good faith efforts to secure financing, finalize plans, acquire additional permits necessary for construction, site preparation/construction, and/or actually beginning operation of the business/use. See also: abandonment.
45. **Commercial.** Any activity conducted with the intent of realizing a profit from the sale of goods or services to others.
46. **Community Center.** A place, structure, area, or other facility used for and providing religious, fraternal, social, or recreational programs. It is not operated for profit and generally open to the public and designed to accommodate and serve the community.
47. **Conditional Use.** “Conditional use” means a use that may be allowed in one or more zones as defined by these regulations but which, because of characteristics peculiar to such use, or because of the size, technological processes or equipment, or because of the exact location with reference to surroundings, streets and existing improvement or demands upon public facilities, requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones.
48. **Condominium.** An estate in real property consisting of an undivided interest in common in a portion of a parcel of real property, together with a separate interest in the space in a residential, industrial, or commercial building on such real property such as an apartment, office, or store.
49. **Contractor’s Storage Yard.** Open spaces used for the storage of machinery, equipment, materials, and supplies used by the contractor in the pursuit of his business. This is intended to be a yard owned or leased by a contractor engaged in some kind of construction work.
50. **Day Care.** A use which means care for children or adults other than the parent or other person living with the individual on a regular basis for daily periods of less than 24 hours, whether that care is for daytime or nighttime hours. Family day care home means a place in which supplemental care is provided to three to six children or adults on a regular basis. Group day care home means a place in which supplemental care is provided to seven to 12 children or adults on a regular basis. Day care center means a place in which care is provided to 13 or more children or adults on a regular basis.
51. **Density.** The number of dwelling units per gross acre in any residential development.  
**Detached.** A building/structure surrounded on all sides by open space.

52. **Developed Properties.** A lot upon which a principal structure is located upon or a lot that is developed for its intended use (e.g. parking lot or park.)
53. **Discontinued Sign.** A sign which no longer identifies or advertises a bona fide business, service, product or activity on the property where it is located.
54. **District, Use.** An area defined as to boundaries and location on an official zoning map and within which area only certain types of land uses are permitted and within which other types of land uses are excluded, as set forth in these regulations.
55. **Dwelling.** A building used for human residential purposes.
56. **Dwelling, Duplex.** A building designed as two structurally joined dwelling units and occupied exclusively by one family per dwelling unit living independently of each other, and with separate entrances. “Structurally joined” means a substantial structural connection with a roof and other features. “Structurally joined” shall not include such improvements as decks, patios, architectural embellishments, below-grade connections, or other connections not involving a substantial roof connection.

**Figure 16: Dwelling, Duplex**



57. **Dwelling, Manufactured home.** A single-family dwelling, built off-site in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production.

- 58. Dwelling, Multi-Family.** A building or buildings attached to each other and containing five or more dwelling units. The term “multi-family dwelling” is intended to apply to such dwelling types as tri-plex, four-plex, or apartments where any dwellings have their primary access to a common hallway or corridor or directly to the outside.
- 59. Dwelling, Single-Family.** A building designed with living quarters for occupancy by one household only, and containing one dwelling unit on a lot.
- 60. Dwelling, Townhouse.** Ownership of a parcel of land with an attached single-family dwelling unit that is connected with one or more similar dwelling units but separated from the other similar dwelling unit(s) by a common party wall having no doors, windows or other provisions for human passage or visibility. In order to be considered a townhouse as opposed to another dwelling type, such as a duplex or multi-family dwellings, each of the attached dwelling units must have (a) independent water and sewer service lines and metering pursuant to the applicable plumbing code and any other city regulations; and (b) a two hour fire wall separating the unit from any adjoining units.
- 61. Dwelling Unit.** One or more rooms designed for or occupied by one household for living or sleeping purposes and containing kitchen and bathroom facilities for use solely by one household. All rooms comprising a dwelling unit shall have access through an interior door to other parts of the dwelling unit.
- 62. Energy Production.** Any facility or installation such as a windmill, hydroelectric unit or solar collecting which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for primarily off-site use.
- 63. Enlarged.** For structures, additions which increase the square footage of the structure; for uses, expansion of services offered or an increase in the square footage of the building or lot occupied.
- 64. Environmental Factors.** Physical characteristics such as streams, rivers, hills, ponds, wetlands and high ground water which affect development of the land. This includes but is not limited to slopes in excess of 30%, the 100-year floodplain and critical wildlife habitat.
- 65. Extractive Industries.** “Extractive industries” are commercial or industrial operations involving the removal and processing of natural accumulations of sand, rock, soil, gravel or any mineral.
- 66. Farm.** An area of land and its buildings used for growing crops and rearing animals for commercial purposes.
- 67. Fence.** A masonry wall or a barrier composed of posts connected by boards, rails, panels or wire for the purpose of enclosing space or separating parcels of land. The term “fence” does not include retaining walls.



- 68. Floodplain.** The areas subject to the Custer County Floodplain Management Regulations, generally the channel of a river or stream and the area adjoining a river or stream, which would be covered by floodwater of a base flood except for designated shallow flooding areas that receive less than one foot of water per occurrence. The floodplain consists of a floodway and a floodway fringe.
- 69. Food Bank.** An establishment operated by a non-profit entity for the distribution of groceries to the general public for free.
- 70. Food Processing – Heavy.** The preparation, processing, or canning and packaging of food products. Associated preparation, processing, canning or packaging of food may generate noise, vibration, smoke, or odors outside of the structure housing the activity or off-site.
- 71. Food Processing – Light.** The preparation, processing, or canning and packaging of food products. Associated preparation, processing, canning or packaging of food would typically not generate noise, vibration, smoke or odor outside of the structure housing the activity.
- 72. Forest Products and Manufacturing.** An establishment which utilizes wood in conjunction with mechanical or chemical transformations to create new wood products such as boards, veneers, particle board and fiber board for construction purposes.
- 73. Foundation – Permanent.** A foundation designed to qualify for Federal Housing Administration Title II Insurance, which includes the following four components: a.) Perimeter Enclosure, also referred to as a curtain wall, must be continuous and prevent vermin from entering the crawlspace area. The wall must also be constructed with materials considered to be permanent such as brick or masonry block. Vinyl Skirting is not acceptable. b.) Piers must be mortared or bonded with a surewall material. c.) Footings must be reinforced concrete at a depth suitable for that regions frost line. d.) The home must be anchored in concrete footers. Ground anchors are not acceptable.
- 74. Four Sided Architecture.** Design of a building to create a street view design elements to all sides of a building.
- 75. Frontage.** The length of the property line of any one premise along a public right-of-way on which it borders.
- 76. Frontage, Lot.** The distance for which the front boundary line of the lot and the street line are coincident.
- 77. Garage.** An accessory building or an accessory portion of the main building, enclosed on not less than three sides and designed or used only for the shelter of vehicles owned or operated by the occupants of the main building or buildings and which does not exceed 1,000 square feet in size.

- 78. Golf Course.** A tract of land laid out for playing a game of golf and improved with tees, greens, fairways, and hazards. A golf course may include a clubhouse (which may include a restaurant, bar and limited retail), restrooms, driving range, and shelters as accessory uses.
- 79. Grade.** The average level of the finished ground surfaces surrounding a structure, within a distance of 20 feet.
- 80. Greenhouses, Nursery, Landscaping Materials.** An establishment where flowers, shrubbery, vegetables, trees, and other horticultural and floricultural products are grown both in open and enclosed buildings and includes the storage and sale of dirt, rocks, bark, mulch and similar complimentary materials for the landscaping and growing of flowers, shrubbery, vegetables and trees.
- 81. Gross Acreage.** The entirety of the area within the boundaries of the proposed development properties.
- 82. Gross Area.** The area of a lot including all private accessways, roadway and/or alley easement within the lot boundaries.
- 83. Group Home.** A residential facility for eight or fewer persons (as a protected use under state law) or for nine or more persons, excluding the supervisors/operators, providing living facilities, sleeping rooms and meals and which shall have a permit issued by the appropriate governmental agency (See Section 76-2-412, MCA). This definition also includes a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or youth group home as further defined in Section 52-2-602 MCA; a halfway house operated in accordance with regulations of the department of public health and human services for the rehabilitation of alcoholics or drug dependent persons; a licensed adult foster family care home; or an assisted living facility licensed under Section 50-5-227 MCA.
- 84. Growth Policy.** A general long range plan which guides development and growth of the county and is officially adopted by the County Commissioners.
- 85. Heavy Equipment, Sales and Service.** The sale and repair of large equipment including but not limited to: trucks with greater than a one and one-half ton rating, cranes, crawler-type tractors, earth movers, dump trucks, and other equipment of equal or greater size and weight.
- 86. Heavy Industrial.** Industrial uses and services that include the processing of raw materials (timber, wood chips, minerals, gravel, etc.) and use yards or out buildings for the storage and manipulation of the raw materials. Uses include, but are not limited to, mills, refineries, crushing facilities, stamping facilities, etc. These uses are often, but not always, associated with by-products.
- 87. Hobby Agriculture and Horticulture.** The production of food, feed, and fiber commodities, livestock and poultry, bees, biological control insects, fruits and vegetables, and sod, ornamental, nursery, and horticultural crops that are raised, grown, or produced for personal, not commercial use.

- 88. Home Occupation.** A home occupation is any occupation, profession, activity or use which is clearly a customary, incidental and secondary use of a residential dwelling unit and which does not alter the exterior of the property or affect the residential character of the neighborhood.
- 89. Homeowner's Park.** A park which has been dedicated as part of a subdivision for the primary use by the property owners within the subdivision, and is maintained through private funds provided from annual fees paid to the homeowner's association. A homeowner's park may include a community center.
- 90. Hotel/Motel.** A building, containing five or more individual sleeping rooms or suites, each having a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, excluding accommodations for employees. Where a hotel/motel is permitted as a principal use, all uses customarily and historically accessory thereto for the comfort, accommodation and entertainment of the patrons, including the service of alcoholic beverages, shall be permitted upon proper licensure. However, any use classified as a "casino" shall be considered to be a separate principal use on the property and shall be subject to the appropriate regulations under these regulations.
- 91. Industrial.** Of or relating to factories, the people who work in factories, or the things made in factories
- 92. Interior Lot Lines.** The common boundary line between two or more adjoining lots under common ownership.
- 93. Kennel, Animal Shelters.** The boarding, breeding, raising, grooming, or training of five or more dogs, cats, or other household pets of any age not owned by the owner or occupant of the premises, and/or for commercial gain.
- 94. Laboratories, Tech Research, Development and Testing.** A building or group of buildings in which are located facilities for scientific research, development, testing, assembly, repair, and manufacturing such as: biotechnology, pharmaceuticals, medical instrumentation or supplies, communications and information technology, electronics and instrumentation, and computer hardware and software. Office, warehousing, wholesaling, and distribution of the finished products produced at the site are allowed as part of this use.
- 95. Landfills.** A lot or portion thereof used for the burial of non-hazardous and non-medical farm, residential, institutional, commercial, or industrial waste.
- 96. Landscaping.** Some combination consisting primarily of planted, living trees, shrubs, hedges, vines, ground cover and flowers suitable for the climate, exposure and site condition. In addition, the combination or design may include earth sculpture, cobble, bark, mulch, edgers, flower tubs, rock and such structural features as foundations, pools, art works, screens, walls, fences or benches, but such objects alone shall not meet the requirements of this provision. The selected combination of objects and plants for landscaping purposes shall be

arranged in a harmonious manner compatible with the building and its surroundings.

**97. Light Manufacturing.** The manufacturing, fabricating or casting of individual components of a larger unit or a complete unit. All such processing must occur indoors and would not typically generate noise, vibration, smoke, dust or odor detectable at the property boundary line. Furthermore, all new materials and final components should be limited in size, bulk and weight so that they could be handled by one worker without the aid of machines.

**98. Loading Space.** A space or berth used for the loading or unloading of cargo, products, or materials from vehicles.

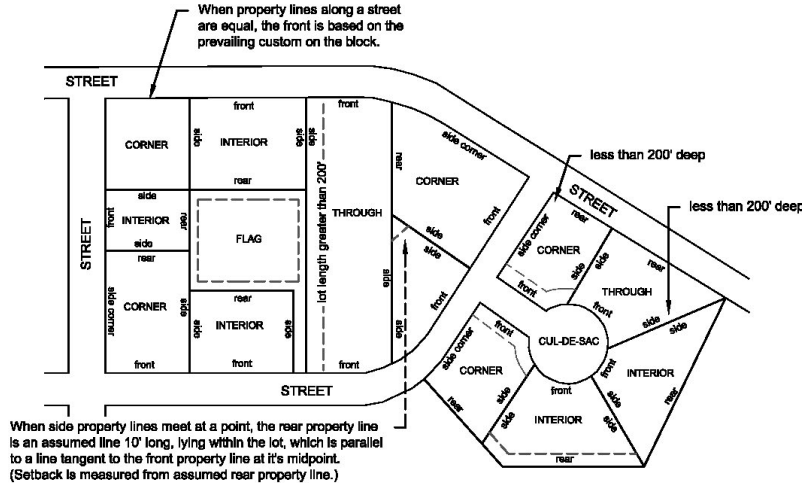
**99. Lot.** A parcel of land, tract, or lot on file and of record in the office of the Clerk and Recorder, Custer County, Montana. A zoning lot may include multiple contiguous lots held in single ownership upon written determination by the Zoning Administrator.

**100. Lot Area.** The total horizontal area within the boundary lines of a lot. Where surface utility or street easements are located within a parcel, lot area computation shall not include that area contained within the easement.

**101. Lot Coverage.** The total area of a lot covered by the principal and accessory buildings, or structures including any area occupied by overhangs or roofs and any attachment to a building or structure, but excluding (a) open decks less than 30 inches in height. (Measured from grade to top of the platform); and (b) an eave extending up to two feet from the exterior wall of the building or structure.

**Figure 17: Lot Types and Setbacks**

**LOT TYPES AND SETBACKS**



102. **Lot, Flag.** An irregularly shaped lot typified by being almost entirely land-locked and having limited access and/or no direct frontage. Access to a public or private street is typically by an extended strip of land either deeded or by easement. For development setbacks, the property boundary abutting a public or private street shall be the front of the lot with the associated front setback; all other lot line setbacks shall adhere to the rear setback requirement of the district.
103. **Lot, Interior.** A lot fronting on one street. (See Figure 17 above)**Lot, Length.** The length (or depth) of a lot shall be:
- a. If the front and rear lines are parallel, the shortest distance between the lines.
  - b. If the front and rear lines are not parallel, the shortest distance between the midway point of the front lot line and midpoint of the rear lot line.
  - c. If the lot is triangular, the shortest distance between the front lot line and a line parallel to the front lot line, not less than ten feet long lying along the rear of the lot but still wholly within the lot.
104. **Lot, Front** – The front property line of a lot shall be determined as follows:
- a. **Corner Lot** – The front property line of a corner lot shall be the shorter of the two lines adjacent to the streets as platted, subdivided or lay out. Where the lines are equal, the front line shall be that line which is obviously the front by reason of the prevailing custom of the other buildings on the block. If such front is not evident, then either may be considered the front of the lot, but not both.
  - b. **Interior Lot** – The front property line of an interior lot shall be the line bounding the street frontage.
  - c. **Through Lot** – The front property line of a through lot shall be that line which is obviously the front by reason of the prevailing custom of the other buildings in the block. Where such front property line is not obviously evident, the Zoning Administrator shall determine the front property line. Such a lot over 200 feet deep shall be considered, for the purpose of this definition, as two lots each with its own frontage.
  - d. **Lot, Rear** – The rear property line of the through lot is that lot line opposite to the front property line. Where the side property lines of a lot meet in a point, the rear property line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to the front property line. In the event that the front property line is a curved line then the rear property line shall be assumed to be a line not less than ten feet long, lying within the lot and parallel to a line tangent to the front property line at its midpoint.

- e. Lot, Side – The side property lines of a lot are those lot lines connecting the front and the rear property lines of a lot.
  - f. Lot, Side Corner – On a corner lot, it is the remaining street frontage after the front lot line has been determined.
105. **Lot, Through.** A lot fronting on two streets that do not intersect on the parcel's lot lines. May be referred to as "double frontage lot". (See figure 17 above)
106. **Lot Width.** The dimension of the lot line at the street, or in an irregular shaped lot the dimension across the lot at the building line, or in a corner lot the narrow dimension of the lot at a street or building line.
107. **Manufactured Home.** A single-family dwelling, built off-site in a factory on or after January 1, 1990, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof and siding materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production. A manufactured home does not include a mobile home or house trailer, as defined in 15-1-101, MCA.
108. **Manufacturing – Heavy.** The manufacturing of products from raw or unprocessed materials, where the finished product may be combustible or explosive. This category shall also include any establishment or facility using large unscreened outdoor structures such as conveyor belt systems, cooling towers, cranes, storage silos, or similar equipment that cannot be integrated into the building design, or engaging in large-scale outdoor storage. Any industrial use that generates noise, odor, vibration, illumination, or particulate that may be offensive or obnoxious to adjacent lands uses, or requires a significant amount of on-site hazardous chemical storage shall be classified under this land use. Heavy manufacturing may generate noise, vibration, smoke, or odors outside of the structure housing the activity or off-site. Activity may occur both indoors and outdoors.
109. **Manufacturing – Light.** An establishment engaged in the indoor manufacturing, assembly, fabrication, packaging or other industrial processing of finished parts or products, primarily from previously prepared materials where such process would not typically generate noise, vibration, smoke or odor. Typically, all manufactured fabricated parts and the final assembled or packaged product would be limited in size, bulk and weight so that it could be handled by one worker without the aid of machines. Furthermore, all activity usually occurs indoors.
110. **Marquee.** Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, generally designed and constructed to provide protection from the weather.
111. **Maximum sign area allowance.** The total amount of sign area permitted for a lot.

112. **Media (newspaper, radio, TV).** Establishments primarily engaged in the provision of broadcasting, electronic or printed publications containing information and editorials on current events and news of general interest.
113. **Media, towers and facilities (accessory).** A tower, pole, or similar structure that supports a telecommunications antenna operated for receiving or transmitting communication signals in the day to day operations of a media company. Such tower, pole, or similar structure shall be located on the same lot as the media company utilizing such equipment.
114. **Micro-Brewery, Brew Pub and Mini-Brewery.** A brewery where the total amount of beer sold or delivered directly to all retailers does not exceed 10,000 barrels a year and is licensed in accordance with state law.
115. **Mini-Storage/Recreational Vehicle Storage.** Storage facilities intended primarily for domestic usage and generally do not exceed 400 square feet per unit.
116. **Mobile Home.** A mobile home is a factory-built home that is 1) built before June 15, 1976, and 2) not built in accordance with the United States department of housing and urban development code and the federal Manufactured Home Construction and Safety Standards.
117. **Modular Home.** "Modular home" means a home built in a factory setting in units, transported to the home site, placed on a permanent foundation, and joined.
118. **Moved.** The physical act of transporting a structure from one location on a lot to another location on the same lot or from one lot in the city to a different lot in the city.
119. **Neighborhood.** Less than city-wide in scale. Typically this would be an area of one-half (1/2) mile, but not more than one mile, in radius which has a set of unifying characteristics such as housing style or quality, similar income strata, economic livelihood, topographic features, local recreational facilities or convenience shopping. Residents would normally be within walking distance of basic convenience services. Factors such as a railroad and highway rights-of-way, major streets, rivers and severe topographic constraints will form boundaries and serve to separate neighborhoods.
120. **Nonconforming.** A condition that occurs when, on the effective date of adoption of these regulations or previous regulations or on the effective date of resolution amending the text or rezoning, an existing lot, structure, building, sign, development, or use of an existing lot or structure does not conform to one or more of the regulations currently applicable to the district in which the lot, structure, building, sign, development, or use is located.
121. **Office – Medical with Limited Overnight Stay.** A facility other than a hospital where human patients may be lodged overnight for up to five days for

examination and treatment by a group of physicians or other health care professionals.

122. **Office, Professional/Governmental.** An office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists, and the like (but wherein no overnight care for patients is given). This would also include, but not be limited to, title companies, travel agencies, insurance companies, real estate offices, and other persons providing services utilizing training in and knowledge of the mental discipline as distinguished from training in occupations requiring mechanical skill or manual dexterity or the handling of commodities.
123. **Official Zoning Map.** The map delineating the boundaries of zoning districts which, along with the zoning text, comprises the zoning regulations.
124. **Off-Street Loading Berth.** A space, exclusive of driveways, aisles, maneuvering areas, ramps, and landscaping areas for the temporary parking of a commercial vehicle while loading or unloading goods or materials, and which abuts upon a street, alley, or other appropriate means of access.
125. **Off-Street Parking.** Parking facilities for motor vehicles on other than a public street or alley.
126. **Open Space.** Any part of a lot unobstructed by structure(s) from the ground upward. Any area used for parking or maneuvering of automotive vehicles or storage of equipment or refuse shall not be deemed open space.
127. **Pack and Ship Shops.** A small, primarily retail establishment which, in addition to selling supplies for mailing and shipping, would accept packages for shipping through private carriers. A public post office is not a pack and ship shop.
128. **Parent Lot.** In instances where sublots are created, the parent lot is defined as the land within the exterior boundaries of those sublots which are intended to have adjoining structures and intended to be developed with townhouse-style construction with no setbacks along the interior subplot lines within the parent lot. Setbacks and other property development standards are applied to the external boundaries of the parent lot.
129. **Parks.** A noncommercial, not-for-profit facility designed to serve the recreation needs of the residents of the community. Such facilities include mini parks, neighborhood parks, community parks, large urban parks, regional parks, and conditional use areas, linear parks and open spaces, all as described in the Parks and Recreation Comprehensive Master Plan. Such facilities may also include, but shall not be limited to, ball fields; football fields, soccer fields, and pools/spray parks if they meet the above definition. Commercial amusement facilities, such as water slides, go-cart tracks, and



miniature golf courses and passive open spaces shall not be considered parks. (See also: Homeowner's Park)

130. **Planned Unit Development (PUD)** A land development project consisting of residential clusters, industrial parks, shopping centers, or office building parks that comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership or use (Source: 76-3-103 MCA).
131. **Permanent.** Having attachment to the ground through the use of a footing and foundation system in conformity with existing building codes.
132. **Permanent Residence.** An individual's primary place of abode.
133. **Permitted Use.** Any use authorized or permitted alone or in conjunction with another use in a specified district and subject to the limitations of the regulations of such use district.
134. **Person.** For the purposes of this chapter, any individual, corporation, association, firm, partnership, or similarly defined interest.
135. **Photographic Studios.** An establishment primarily engaged in the business of taking and processing photos, typically with a room designed for portrait sessions, as distinguished from a retail store which would process photos taken by a customer.
136. **Platted Lot Lines.** Lot lines established through the subdivision process.
137. **Point of Purchase Display.** Advertising of a retail item accompanying its display, e.g., an advertisement on a product dispenser.
138. **Pre-Release Center.** Pre-release centers are community based correctional facilities operated by either the State or non-profit Montana corporations under contract with the Department of Corrections. The facilities provide supervision, counseling, assistance in locating employment, life skills training, and guidance. They function as a component of the State correctional system.
139. **Principal Use.** The primary or predominant use to which the property is or may be devoted, and to which all other uses on the premises are accessory.
140. **Principal Structure.** The main structure on a property which would typically house a principal use.
141. **Print and Copy Shops.** An establishment primarily engaged in the business of providing services related to photocopying, printing, and production of documents for individual customers, as opposed to larger scale printing/publishing operations.
142. **Property Development Standards.** Standards general relating to bulk and dimensional requirements which govern the development of land and/or structures.

143. **Public Nuisance.** Public nuisance" means:
- (a) a condition that endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;
  - (b) any premises where persons gather for the purpose of engaging in unlawful conduct; or
  - (c) a condition that renders dangerous for passage any public highway or right-of-way or waters used by the public.
144. **Quasi-Public.** Any facility to which a class or a group of the public is permitted to attend or use subject to the regulations of a club or other organization owning or regulating such facility.
145. **Ranch.** A large farm, where cattle or other animals are bred and raised for commercial purposes.
146. **Reader Board.** Any sign which is designed to intermittently change copy, whether electronically, manually, or by changing panels. In relation to electronic reader boards, this definition encompasses any sign that uses changing lights to form a sign message or messages wherein the sequence of messages and rate of change is electronically programmed and can be modified by electronic processes.
147. **Reconstructed.** The rebuilding of a structure in such a manner and to such an extent as to substantially replace the existing structure.
148. **Recreational Area, Indoor.** A commercial recreational land use conducted entirely within a building, including, but not necessarily limited to, an arcade, bowling alley, gymnasium, pool or billiard hall, skating rink, swimming pool, or tennis court.
149. **Recreational Area, Outdoor.** Predominantly participant uses conducted in open or partially enclosed or screened facilities. Typical uses include driving ranges, go-karts, miniature golf, swimming pools, and tennis courts.
150. **Recreation Vehicle.** A travel trailer or camping trailer designed to be towed, motorized homes, and pick-up campers or coaches designed and constructed for human habitation, which can be operated independently of utility connections and designed to be used principally as a temporary dwelling for travel, recreation and vacation and is not intended for permanent or year-round habitation.
151. **Recreational Vehicle Park.** Any lot, tract or parcel of land used or offered for use in whole or in part with or without charge for the parking of occupied recreational vehicles, tents or similar devices used for temporary (i.e. 180

days or less) living quarters for recreational camping or travel purposes. (See also: Campground).

152. **Realtor.** A person who brings a public lawsuit, typically in regards to the abuse of an office or franchise.
153. **Repairs and Maintenance.** The repair or replacement of fixtures, wiring, roofing, plumbing, or structural components not exceeding 25% of the replacement value of the building or structure.
154. **Replacement Permit.** In relation to billboards, it is a permit issued to anyone who permanently removes a lawfully existing billboard which allows the installation of a new billboard at the same or different location.
155. **Residential.** Regularly used by its occupants as a permanent place of abode, which is made one's home as opposed to one's place of business and which has housekeeping and cooking facilities for its occupants only. In situations where a dwelling is rented or leased, a residential use would involve lease periods of one month or more.
156. **Residential Care Home or Facility.** A facility that provides for long-term residence with one or more of the following types of care: 24-hour per day substitute care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home.
157. **Restaurant.** Any land, permanent building, structure or portion thereof, where food is provided for sale for consumption on the premises for three or more persons, or where food is prepared and sold for consumption off the premises, including a café, coffeehouse, lunchroom, tearoom, dining room, drive-in, carry-out, or other similar establishments, shall be considered a restaurant; however, any establishment where the preparation of food is merely incidental to the sale of food products, such as grocery stores and food markets, shall not be included. Restaurants and cafeterias connected with the operations of hospitals, nursing homes, boarding houses, schools, and private industry for employees and their guests shall be considered as accessory to the principal use.
158. **Retail.** A business serving the consumer needs of the general public as opposed to a business that is a producer or a wholesaler of goods. Retail businesses include, but are not limited to the following:  
shops/stores/businesses that sell gifts, cards, appliances, art, art supplies, automobile parts, bicycles, books, stationary, camera supplies, clothing, flowers, groceries, furniture, garden supplies, hardware, toys, paint, shoes, sporting goods, wall and floor coverings, jewelry, electronics, pet and pet supplies, and/or crafts. Except as otherwise referenced elsewhere in these regulations, other uses specifically listed as permitted or conditional uses in Section 27.04 through 27.18 shall not be deemed retail businesses for the purpose of these regulations.

159. **Retail, Limited.** A retail use limited to a specified list provided in the regulations.
160. **Right-of-Way.** Any road or street maintained and used for access and travel. A right-of-way includes not only the constructed roadway, but also the entirety of the strip of land acquired by reservation, dedication, prescription, or condemnation, or otherwise set aside, for purposes of the right-of-way. A right-of-way may be either private (not publicly owned and maintained) or public.
161. **Right-of-Way Line.** The lines that form the boundaries of the right-of-way.
162. **Road.** See “Street.”
163. **Safe Houses.** A safe house is typically operated as a community based non-profit organization intended to stop abuse in the family environment by providing crisis intervention, shelter services for abuse victims, counseling, advocacy and education without regard to gender, age, race or economic status. The safe house will typically operate on a 24 hour basis providing victims of domestic violence and their children a refuge from their abusers.
164. **School, Commercial.** A building where instruction is given to pupils in arts, crafts or trades, and operated as a commercial enterprise as distinguished from K-12 schools and college/universities endowed and/or supported by public taxation, or similar private institutions. This category of use would also include such forms of instruction as music lessons, martial arts studios and dance studios.
165. **Scrap Processing Yard (Recycle/Metal Yard).** Outdoor establishments primarily engaged in assembling, breaking up, sorting, and the temporary storage and distribution of recyclable or reusable scrap and waste materials, including auto wreckers engaged in dismantling automobiles for scrap, and the incidental wholesale or retail sales of parts from those vehicles. Includes light and heavy processing facilities for recycling.
166. **Service Area.** An outdoor area on a lot primarily used for loading, waste disposal, deliveries, and/or similar activities.
167. **Setback.** The horizontal distance required between any structure (i.e. the furthest extension of the structure, typically an eave line or deck) and a lot line. This distance is to be measured at right angles to the lot line. The setback line shall be parallel with the lot line.
168. **Shelter.** A facility operated by a public or private party wherein the temporary boarding of the transient, homeless, or indigent is provided as a public service to satisfy a demonstrated public need.
169. **Shielded.** In relation to light fixtures, shielded means a solid or opaque covering made of metal, plastic, or similar material which creates a full cut-off fixture by blocking light emitting from above a 90 degree angle.

170. **Shooting and Archery.** The use of an outdoor area (outdoor) or a structure (indoor) for archery and/or the discharging of firearms for the purposes of target practice or temporary competitions.
171. **Shopping Center.** One or more buildings containing at least three separate businesses planned, developed and managed as a unit, with off-street parking provided on the property.
172. **Showroom.** A use that is primarily industrial in nature but provides limited show room and/or retail floor area for the purpose of display and sales. The predominate industrial character of the business would be established by recognized product storage, warehousing, and distribution of products. These business uses should include the manufacture, storage and distribution of items as a primary component of the business. The use may include delivery of items as a routine and regular part of conducting business. This may include warehousing, staging and rental or sale of large items or products. This would not include large scale retail outlets that routinely warehouse and hold large inventories.
173. **Sign.** Any device, structure, fixture, attractant, object, holographic, projected or electronic image, lighting or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or service.
174. **Sign, Area of.** The area of the sign shall be measured as follows:
- a. The area around and enclosing the perimeter of each cabinet, module, or other signage shall be summed and then totaled to determine total area. The perimeter of measurable area shall not include embellishments such as pole covers, framing, decorative roofing, etc., provided that there is not written advertising copy on such embellishments. (Figure 20)
  - b. The area of each cabinet, module, or other signage shall be within a single, continuous perimeter composed of straight lines which encloses the extreme limits of the advertising message.
175. **Sign Face.** A side of the sign upon which advertising copy is placed. A sign face may have multiple cabinets or modules. A double-faced sign is typically comprised of two parallel faces oriented in opposite directions, but would refer to any sign with an angle of 30 degrees or less. Signs with an angle of more than 30 degrees are considered a single face. (Figures 20 and 4)
176. **Sign Height.** The vertical distance measured from the highest point of the sign, including decorative embellishments, to the surface grade beneath the sign. (See figure 20)
177. **Sight Obscuring.** In relation to fences and landscaping, sight obscuring means the creation of a visual buffer between adjoining uses, or between a use and a right-of-way.

178. **Site Built Home.** A residential structure constructed on the lot where it is intended to be permanently located.
179. **Small Engines.** Engines generally associated with lawnmowers, motorcycle engine, outboard motors, chain saws, tillers and the like. Does not include automobile engines.
180. **Stacking Space.** A place designed for cars to temporarily wait while in a drive-through lane. Vehicles in stacking spaces typically are left running with the driver remaining in the vehicle.
181. **Storage Containers.** Any factory-built container or part thereof designed or used for freight or storage and includes Conex boxes and sea-land containers. Conex boxes are lockable box-like containers designed for use by businesses to ship supplies overseas. Sea-land trailers are semi-truck trailers with detachable undercarriages that can be stacked for ship or rail transport.
182. **Storage Warehouse/Yard.** Any lot, or portion of a lot, which is used for the sole purpose of the outdoor storage of fully operable motor vehicles, construction equipment, construction materials, or other tangible materials and equipment.
183. **Street.** A public or private thoroughfare which affords the principal means of access to abutting properties.
184. **Structure.** A combination of materials constructed and erected permanently on the ground or attached to something having a permanent location on the ground, including signs. Not included are residential fences less than six feet in height, driveways, sidewalks, patios and other at grade improvements, retaining walls, rockeries, and similar improvements of a minor character less than three feet in height.
185. **Structural Alterations/Modifications.** Any change in the supporting members of a structure, such as bearing walls or partitions, columns, beams or girders, sign supports and frames, or any substantial change in the roof or in the exterior walls.
186. **Structural Expansion.** Any work which results in the enlargement of a structure's height, footprint, cubic content, or other measurement of size.
187. **Subdivision Regulations.** The Custer County Subdivision Regulations which govern the subdivision of property with Custer County.
188. **Sublot.** A portion of a platted lot designed for separate ownership from other portions of the lot and used for townhouse or other construction that has separate ownership of parcels. Areas of common ownership to be utilized as open space, setback areas, or for other purposes are not considered to be sublots.

189. **Tattoo Parlor.** A commercial use involving the marking of skin of persons with a design by a process of pricking or ingraining an indelible pigment or by raising scars, or similar method. A tattoo parlor would also involve body piercing on any body part below the neck, as opposed to beauty services.
190. **Telecommunication Companies and/or Radio Common Carriers.** A company that provides wireless services. As used in this subsection, “carrier” shall also include companies that build telecommunications towers and lease tower space to carriers.
191. **Telecommunication Towers and Cellular Communications Towers.** A tower, pole, or similar structure that supports a telecommunications antenna operated for commercial purpose above ground in a fixed location, freestanding, guyed, or on a building or other structures, as distinguished from accessory media towers and facilities.
192. **Temporary.** For the purposes of these regulations, temporary shall mean a limited period of time, generally less than 180 days when in reference to a time frame, or not having or requiring permanent attachment to the ground, or involving structures which have not required permanent attachment to the ground.
193. **Truck Terminal.** Any premises used by a motor freight company as a carrier of goods, which is the origin or destination point of goods being transported, for the purpose of storing, transferring, loading, and unloading goods.
194. **Use.** Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
195. **Use District.** (See District, Use)
196. **Utilities (Primary Distribution Site).** A public or quasi-public service performing some public service and subject to special governmental regulations, or a governmental agency performing similar public services. Such services would typically include, but are not limited to; water tanks, electric substations, and TV cable antenna farms. This category is not intended to cover utility lines, lift stations, and other standard minor infrastructure components.
197. **Utility Storage Yards and Associated Offices.** Open spaces used for the storage of machinery, equipment, materials, and supplies used by the utility, and offices used in support of the utility company.
198. **Veterinary Clinic, Large Animals.** A building or premises for the medical or surgical treatment of small or large animals or pets, including dog, cat, livestock or other large animals. the boarding of hospitalized animals, but excluding the boarding of animals not subjected to medical or surgical treatment.

199. **Veterinary Clinic, Small Animals.** A building or premises for the medical or surgical treatment of small animals or pets, including dogs and cats but not livestock or other large animals. This category includes the boarding of hospitalized animals, but excludes the boarding of animals not subjected to medical or surgical treatment.
200. **View-Obscuring.** (See Sight-obscuring)
201. **Warehousing and Distribution.** A use where goods are received and/or stored for delivery to the ultimate customer at remote locations.
202. **Woodworking Shops, Mill Work.** An establishment, relatively small in scale, where furniture or other items made primarily of wood are constructed through manual labor (with or without the use of power tools) as opposed to larger scale operations, particularly those using automated equipment.
203. **Yard.** A space on the same lot with a principal building, which is open and unoccupied other than by steps, walks, terraces, driveways, lamp posts and similar structures, and unobstructed by structures, except as otherwise provided in these regulations. (See also: Lot line)
204. **Yard, Required.** The minimum dimension of a front, side, rear, or side corner yard as established by the use regulations for each district.