



Anaconda-Deer Lodge County Planning Department

Project:

Development Permit System
Comprehensive Update 2015

The following documents are included in this PDF and we encourage you to review them all; however, you may start with the document you would like to focus on by clicking on the one of the selections below:

Public Information Memo

Introductory note to the Proposed Final Draft Pages M1-M4

Edit Tracking Worksheet Page E1

Table of Contents

ADLC Development Permit System

Proposed Final Draft (3/27/15)..... Page i

**ANACONDA-DEER LODGE COUNTY
PLANNING DEPARTMENT**

800 South Main
Anaconda, Montana 59711
Phone No. (406) 563-4010
Fax No. (406) 563-4076



TO: GENERAL PUBLIC

FROM: Douglas Clark, Planning Director

RE: Proposed Final Draft of the Development Permit System
(Comprehensive Update 2015)

DATE: Tuesday, March 31, 2015

Welcome and thank you for taking the time to review this proposed Final Draft of the Anaconda-Deer Lodge County Development Permit System, also known as the ADLC DPS.

This PDF represents the Proposed Final Draft of the County's first comprehensive update since the County first adopted the Development Permit System in 1992. Once adopted, this updated DPS will be codified as part of the ADLC Code of Ordinances and is intended to provide ordinances to help the County accomplish a variety of objectives, including...

- Enacting the goals of the County Growth Policy;
- Providing standards that promote proper and compatible property uses;
- Standardizing the procedures essential to promoting orderly development, as well as consistency and fairness in applying the law;
- Preserve and maintain valuable resources and environmental features
- Minimizing the potential negative impacts of development to protect public health, safety and property values.

The ADLC DPS is similar in purpose to other development codes you would find in many other cities and counties and it is adopted under the provisions of State Laws governing zoning (MCA §76-2-301). However, our code is also unique and larger in scope than some development codes in other Counties as it is a hybridized combination of zoning and institutional controls. Institutional Controls (or "ICs" as we call them in the Planning Department) are public safety standards related to environmental and public health adopted as a result of the County's status as a federally designated Superfund area. These standards are intended to help the County protect residents from potential environmental hazards related to lead and arsenic and which are of particular concern when soil excavation, development and construction projects take place.

On behalf of the ADLC Staff and DPS Revision Team, thank you for taking the time to review the Draft DPS. We particularly encourage you to review those portions that apply specifically to your properties, businesses or interests. If you have questions, concerns or are interested in further information, feel free to contact or visit the ADLC Planning Department at your convenience. The following few pages provide some information that you may find helpful as you review this Proposed Final Draft of the ADLC DPS.

NOTES, TIPS, & RESOURCES:

- The Table of Contents (TOC) contains “hotlinks” or “hyperlinks” for convenient and fast navigating to the parts of the DPS you want to review. When you find the section you want to read in the TOC, just click on that section and the document will jump to the proper page.
- If you would like to compare the proposed DPS standards to the existing standards, the current ADLC DPS is found in Chapter 24 of the ADLC Code of Ordinances and is available for review online at: www.municode.com
- If you are interested in reviewing State laws pertaining to Zoning and Subdivision, these are found in Title 76 of the Montana Code Annotated (MCA). These are also available online at: http://leg.mt.gov/bills/mca_toc/76.htm

DPS UPDATE SCHEDULE –

The anticipated review and adoption schedule for the DPS update is as follows:

April 13th Monday	Planning Board Review and Public Hearing 6:00pm ADLC County Courthouse, 3 rd Floor Courtroom
May 5th Tuesday	County Commission Public Hearing 6:00pm ADLC County Courthouse, 3 rd Floor Courtroom
May 12th Tuesday	County Commission Review 6:00pm ADLC County Courthouse, 3 rd Floor Courtroom
May 19th Tuesday	County Commission Final Vote 6:00pm ADLC County Courthouse, 3 rd Floor Courtroom
June 18th Thursday	Ordinance Effective

These meetings are open for public comment and those interested in attending should verify these dates on the week that they occur as they could change. Please note that the County has spent multiple years and substantial Staff time and money to complete this project, the County fully intends to work aggressively to adhere to these dates in order to finalize this project before this fiscal year is complete.

RURAL DEVELOPMENT DISTRICTS

The topic of rural standards is of particular concern to County Staff as there was a lot of feedback on this topic throughout the last several years. But there was particular concern following our last set of public meetings in October/November 2014.

In some rural areas of the County there is little consensus as to how much or how little should be done to address development standards. In some cases there are people who are strongly against any standards and others who are strongly for increasing standards beyond what are included in this Proposed Final Draft. Staff has struggled tremendously to find a balance knowing that some people will see these standards as too strict and others will be frustrated that we have not done enough. That said, it is virtually a daily occurrence for County Staff to hear someone complain about “too many”

standards only to have that same person ask us to address a property or land use issue that they are concerned about but which we can't address, due to lack of standards. At the end of the day the County Staff understands that we simply cannot please everyone; but we also know that it is virtually impossible to please *anyone* when there are no local standards at all.

So, please read and carefully consider the actual standards included in the Proposed Final Draft of the DPS before taking a position for or against them. Consider not only how having standards might impact you and your neighbors but also think about the long-term consequences that might result from having no standards. Think about the standards, not simply in terms of the negatives or sacrifices you may see in them but also in terms of the protections that they may afford you in cases where your neighbor may not be as considerate and reasonable as you assume yourself to be.

Keep in mind Staff is trying very hard to respect and balance the feedback it received from the Rural Districts and we welcome your feedback; however, requests for "no standards at all" are not realistic or usable feedback. In the end, our goal in preparing this Proposed Final Draft has been to boil-it-down to the most basic and essential standards that meet the real needs of our rural residents. Staff feels strongly that this Proposed Final Draft provides the most realistic and essential standards for our rural districts. And that this draft effectively and pragmatically addresses the most common and practical issues that the public asks the Planning Department and the County to engage on a daily basis.

As you review the rural development district standards, please note the following...

- The standards proposed in this final draft are much simpler than those in the previous drafts that were shared during the community meetings held last Oct/Nov 2014. During those public meetings, Staff and our Consultant heard many of your concerns about "too many standards" or standards that were "too strict". Consequently, we tried to simplify, create consistency in rural areas where it was appropriate to do so, while also addressing the unique but essential needs of specific rural areas in the County; this draft focuses on the following items:
 - **Setback standards** – These are essential to avoid many of the property boundary disputes that we frequently encounter (particularly in Opportunity and Old Georgetown, and a few other denser rural neighborhoods). Please note that any variation of setback standards in different rural areas is based on reviews of existing averages in each area. In nearly all rural area, setback requirements are very minimal.
 - **Permitted Uses** – These are list of uses that, if adopted, will be allowed in the district without a property/home/business owner being required to go through a substantial permitting process. An Administrative Development Permit (ADP) may still be required in certain cases, but these are much easier and cheaper to obtain than a Major Development Permit (MPD) which must be reviewed by the Planning Board and approved by the Commission.

***IMPORTANT NOTE: Currently, nearly all non-residential uses in rural areas are subject to a Major Development Permit which is much more costly and takes much more time than an ADP. Adopting a list of "permitted uses" significantly decreases the probability that you will need to obtain an MDP permit for certain projects.
 - **Density Standards** – These standards are necessary for two basic purposes:
 - 1) To achieve consistency with the goals and objectives of the ADLC 2010 Growth Policy to preserve the character of rural areas; as encouraged by many rural residents.

- 2) To try and moderate and/or minimize the significant impacts often created by dense development in rural areas, particularly those created by the introduction of new septic systems and well systems.
- **Preservation of Wildlife and Wildlife Habitat** – Many rural areas are within areas identified by the State as critical wildlife habitat areas. Because wildlife is an essential resource in Montana and a primary reason many people enjoy living in rural areas, the County has particularly proposed standards in some rural districts to help prevent the spread of disease among Big Horn Sheep, which is a valuable resource but is prone to large losses in herd population if exposed to certain diseases.
 - **Minimal Property Maintenance Standards** – Please note that these proposed standards are, in fact, quite minimal. However, as proposed they would more clearly require that people keep their property reasonably clean and maintained to avoid impacting neighbors and surrounding property values. Please review the following table for an overview of what these maintenance standards include and what they don't include. The full text of these standards is found in Appendix A of the Proposed Final Draft DPS.

Proposed Property Maintenance Standards	
includes...	<i>does not include...</i>
<ul style="list-style-type: none"> • A requirement to keep <u>dismantled items</u> (vehicles, parts, campers, etc.) adequately screened and out of public view. • A requirement to keep solid waste, organic waste, trash and debris from impacting neighbors and wildlife. • A requirement to keep structures safe, habitable and reasonably maintained. As well as requiring that construction projects be completed in a reasonable amount of time without creating improper impacts on neighbors or surrounding property values. 	<ul style="list-style-type: none"> • Requirements about: <ul style="list-style-type: none"> – what color you have to paint your house; – what length your lawn is; – whether you can have a flag pole in your yard; – whether or not you can keep your garage door open at night or the porch light on. • A limit on how many intact vehicles you can own or keep on your property in rural areas. <u>We are not introducing any new junk vehicle standards</u> beyond the current State Laws that address this. • Except in critical habitat areas or cases where Superfund or existing State laws require it, there are no requirements as to how much or what type of landscaping you must have and/or maintain.

CONTACT INFO (DPS Update Team)

If you have any questions, concerns, or suggestions regarding this Proposed Final Draft DPS the following people are available you may contact whoever you feel can best assist you:

- | | | |
|--|--|--|
| Planning Department –
(406) 560-1121 | Doug Clark, Planning Director
Kaitlin Leary, Planner I
Paula Arneson, Dept Secretary | dclark@anacondadeerlodge.mt.gov
kleary@anacondadeerlodge.mt.gov
parneson@anacondadeerlodge.mt.gov |
| Superfund/ICs Staff –
(406) 563-7476 | Carl Nyman, ADLC Superfund Coordinator
Jay Slocum, ICs Program Administrator | cnyman@qwestoffice.net
jslocum@wet-llc.com |
| Planning Consultant –
(406) 250-6632 | Bob Horne, Applied Communications | rhorne@appcom.net |

Anaconda-Deer Lodge County
Proposed Final Draft – 3/27/15
Comprehensive Update 2015

Edit Tracking Worksheet

The current DPS Draft (3/27/15) available on the ADLC Website is considered to be the Proposed Final Draft; however, though it is referred to as a proposed “Final” draft, this document is still a draft and is subject to change. Most changes at this point are focused on proofreading and copy editing as the substantive form of this document is largely complete. This Proposed Final Draft (3/27/15) is scheduled to be reviewed by the ADLC Planning Board and will be subject to a public hearing before the Planning Board on Monday, April 13th, 2015.

While Staff does not intend to introduce significant changes to this draft before it goes before the Planning Board, there are still some minor substantive adjustments that will be made between now and then. Substantive changes are any change which specifically alters a standard or set of standards, and/or a change that alters the meaning and intent of the text. Consequently, Staff is including this sheet to track any substantive changes made between now and April 13th, 2015. Any changes in the main text will be noted in superscript. Anytime you see a footnote in the document you can refer to this Edit Tracking Page, which will provide an explanation of each change. The County will also maintain copies of the original draft text for to allow for comparison. Copies of previous versions can be obtained from the Planning Department.

<i>Edit #</i>	<i>Date</i>	<i>Made by</i>	<i>Location</i>	<i>Explanation of Change</i>
1	4/3/15	Doug Clark, Planning Dir.	Chapter XXV, Page 80	<p>Changed the minimum acreage standard from 10-acres to 20-acres.</p> <p>This change is based on a significant ongoing discussion among Staff which is charged with implementing the County’s Growth Policy as well as the DPS. The East Valley Area is a rural area that is largely agricultural and the ADLC 2010 Growth Policy notes the significance of agricultural area as an asset and the Land Use goals include protecting natural assets within the County. Consequently, Staff has chosen to propose an acreage standard that more strongly reflects the current Growth Policy.</p>

**Anaconda-Deer Lodge County
Development Permit System**

TABLE OF CONTENTS

Chapter I: Title, Purpose, Authority, and General Administrative Provisions

- A. Title 1
- B. Purpose..... 1
- C. Authority 2
- D. Conflicting Regulations Appealed 2
- E. Vesting 2
- F. Most Restrictive Standards Apply 3
- G. Interpretation..... 3
- H. Restrictive Covenants 3
- I. Burden of Proof..... 3
- J. Severability 4
- K. Liability..... 4

Chapter II: Administrative Procedures

Division 1- Permit Procedures

- A. Development Permit Required..... 5
- B. Exemptions 6
- C. Utility Emergencies 8
- D. Application Fees 8
- E. Site Inspections 8
- F. Administrative Development Permits (ADP)..... 8
- G. Major Development Permits (MDP)..... 9
- H. Development Permits Valid for Two Years..... 11
- I. Issuance of a Development Permit 11
- J. Suspension of Development Permits 12
- K. Revocation of Development Permits 12

Division 2- Appeals and Variances

- L. Administrative Appeals 13
- M. Variances..... 14

Division 3-Roles and Responsibilities

- N. Administrator 16
- O. Superfund Coordinator..... 17
- P. Planning Board..... 18
- Q. Board of Adjustment..... 18

Division 4- Enforcement

- R. Cease and Desist Order 19
- S. Violations and Penalties..... 19

Division 5- Amendments	
T. Development Permit System Amendments	20
U. Amendments to the Development District Map	21
V. Growth Policy Amendments.....	21

Chapter III: Establishment of Development Districts and Treatment of Nonconforming Uses, Lots, and Structures.

A. Purpose and Intent.....	23
B. Development Districts Established.....	23
C. Overlays	23
D. Permitted, Special, and Accessory Uses.....	24
E. Official Map.....	24
F. Development District Boundaries.....	24
G. Nonconforming Lots of Record, Land Uses, and Structures	25
H. Nonconforming Conversions to Private Ownership.....	27

Chapter IV: Anaconda Rural Estate District (ARED).....	29
---	-----------

Chapter V: Low Density Residential Development District (LDRD)	33
---	-----------

Chapter VI: Medium Density Residential Development District (MDRD) and Institutional Overlay (IO).....	35
---	-----------

Chapter VII: High Density Residential Development District (HDRD).....	37
---	-----------

Chapter VIII: Goosetown Neighborhood Conservation District (GNRD).....	39
---	-----------

Chapter IX: Neighborhood Commercial Revitalization District (NCRD)	41
---	-----------

Chapter X: Central Business Development District (CBDD) and Main Street Overlay (MSO).....	43
---	-----------

Chapter XI: Highway Commercial Development District (HCDD)	45
---	-----------

Chapter XII: Light Industrial Development District (LIDD).....	47
---	-----------

Chapter XIII: Heavy Industrial Development District (HIDD).....	49
--	-----------

Chapter XIV: Planned Industrial District- PID-1 (Light) and PID-2 (Heavy).....	51
---	-----------

Chapter XV: Railroad Transitional Development District (RRTD).....	57
---	-----------

Chapter XVI: Open Space Review Development District (OSRD)	59
Chapter XVII: Public/Semi-Public Development District (P/SPD)	61
Chapter XVIII: Georgetown Lake Development District (GLDD)	63
Chapter XIX: Spring Hill Development District (SHDD)	67
Chapter XX: West Valley Development District (WVDD)	69
Chapter XXI: Big Hole Development District (BHDD)	71
Chapter XXII: Aspen Hill/Clear Creek Development District (AHCCDD)	73
Chapter XXIII: Opportunity Triangle/Mill Creek Industrial Development District (OTMCID)	75
Chapter XXIV: Opportunity Development District (ODD)	77
Chapter XXV: East Valley Development District (EVDD)	79
Chapter XXVI: Lost Creek Development District (LCDD)	81
Chapter XXVII: Airport Planned Development District (APDD)	83
Chapter XXVIII: Airport Safety Overlay District (ASOD)	85
Chapter XXIX: Adult Use Overlay (AUO)	89
Chapter XXX: Superfund Planning Overlay District (SPAOD)	91
Chapter XXXI: Superfund Domestic Well Area Overlay District (SDWAOD)	97
Chapter XXXII: Urban Area Planned Unit Development Option (UA/PUD)	101
Chapter XXXIII: Rural Area Planned Unit Development Option (RA/PUD)	105
Chapter XXXIV: Definitions	109

Appendix A:	
Division 1: Home Based Businesses.....	129
Division 2: Fencing and Retaining Walls	130
Division 3: Landscape Standards.....	132
Division 4: Off-Street Parking and Loading Standards	137
Division 5: Property Maintenance Standards	143
Division 6: Use of Recreational Vehicles (RV) on Property	
Other Than RV Parks and Campgrounds	144
Division 7: Keeping of Hooved Animals on Residential Property.....	145
Appendix B: Lakeshore Protection Standards.....	147
Appendix C:	
Division 1: Critical Areas Development Standards	153
Division 2: Site Restoration and Erosion/Sediment Control Standards.....	158
Appendix D: Guidance for Developments with Existing Protective Covers	
 or Storm Water Controls	161
Appendix E: Guidance for Developments without Existing Protective	
 Covers or Storm Water Controls	163
Appendix F: Map of Superfund Overlay.....	165
Appendix G: Map of Superfund Domestic Well Overlay	167
Appendix H: Map of Superfund Waste Management Areas.....	169
Appendix I: Commercial Historic Preservation Standards.....	171

Chapter 1: Title, Purpose, Authority, and General Administrative Provisions

A. Title

The regulations, standards, and procedures contained herein shall be known as the Anaconda-Deer Lodge County Development Permit System (*DPS Regulations*¹). These *DPS Regulations* constitute one component of the *County*-wide land development regulations. Companion components include the official *Development District* map, the *County* subdivision regulations, adopted public improvement design standards, and regulations and guidelines adopted pursuant to *Superfund*.

B. Purpose

The primary purpose of these *DPS Regulations* is to promote the public health, safety, and general welfare through implementing the *County's Plan*. Other purposes of the *DPS Regulations* are:

1. To promote orderly and efficient growth and development.
2. To provide for a strong and diversified economy.
3. To protect public and private investment.
4. To preserve and enhance community/neighborhood scale and character where recommended in the *Plan*.
5. To preserve and enhance natural resources, including clean air and water, scenic vistas, access to public lands, forest resources, wetlands, and wildlife habitat, where and as recommended in the *Plan*.
6. To preserve and enhance historic and cultural resources where and as recommended in the *Plan*.
7. To preserve and enhance historic and cultural resources where and as recommended in the *Plan*.
8. To provide for efficient and cost effective community services and facilities.
9. To coordinate land *Development* with *Response Actions* taken pursuant to *Superfund*.

¹ All terms which are capitalized, italicized and bolded are defined in Chapter XXXIV of the *DPS Regulations*.

10. To establish fair, effective, and efficient *Development* review and decision making processes and procedures that provide procedural due process for applicants, permittees and the general public.

C. Authority

Sec. 7-5-201, MCA allows consolidated governments to proceed under state enabling legislation for either cities or counties. For purposes of these *DPS Regulations*, the *County* will function as a city. Therefore, these *DPS Regulations* are adopted under authority of Sec. 76-2-301, MCA, et seq. *Airport Development District* regulations included within these *DPS Regulations* are authorized by Sec. 67-7-201 MCA, et seq.

D. Conflicting and Prior Regulations Repealed

All prior ordinances and resolutions related to sections of the *County's DPS Regulations*, as originally adopted on December 2, 1992, and as subsequently amended, are hereby repealed.

E. Vesting

1. *Vested Rights* to proceed with any *Development* initiated prior to the adoption and effective date of these *DPS Regulations* shall be established only by:

- a. Having submitted a complete application for a *Development Permit* that conforms to applicable prior regulations; or
- b. Having been issued a finding of sufficiency for a preliminary *Plat* in compliance with the Montana Subdivision and Platting Act and Sec. II-A-6.b of the *County's* subdivision regulations. Approval or conditional approval of a preliminary *Plat* establishes a right to proceed with a final *Plat* under state law and the *County's* subdivision regulations. Approval or conditional approval of a preliminary *Plat*, or recording of a final *Plat*, does not establish a *Vested Right* for any particular use or *Development* standards that might have existed under prior regulations.

2. *Vested Rights* to proceed with *Development* under the provisions of these *DPS Regulations* shall be established only by:

- a. Recording a final *Plat* in full compliance with the Montana Subdivision and Platting Act and the *County's* subdivision regulations; or
- b. Having a valid *Development Permit* in full compliance with these *DPS Regulations*. *Permits* may expire pursuant to Sec. II.H. Any *Vested Right* to proceed with *Development* expires with the *Development Permit*.

F. Most Restrictive Standards Apply

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

G. Interpretation

All provisions of these *DPS Regulations* shall be interpreted as the minimum requirements necessary to protect the public health, safety, and general welfare, and to implement the *County's Plan*. These *DPS Regulations* are designed to be consistent with the *Plan*, and shall be liberally construed to achieve its purpose, intent, policies, and recommendations. Actual interpretation of these *DPS Regulations* is the responsibility of the *Administrator* as set forth in Sec. II.N of these *DPS Regulations*.

H. Restrictive Covenants

The County is not legally empowered to enforce private restrictive covenants (CC&Rs) that have been placed on property by a developer at the time of subdivision. However, the *Administrator* is hereby authorized to defer to standards set forth in CC&Rs when the following conditions are met:

1. Development standards set forth in these *regulations* are less restrictive than those set forth in duly enacted and recorded CC&Rs.
2. Regulations set forth in the CC&Rs are actively enforced by the homeowner's association or other authorized entity.
3. Other developed properties within the subdivision have clearly adhered to the regulations set forth in the CC&Rs.
4. The *Administrator* finds that the properties subject to the CC&Rs have developed in an orderly manner that is consistent with the purpose and intent of these regulations and of the ADLC Growth Policy.

When the *Administrator* defers to development standards contained in CC&Rs pursuant to this section, those standards shall be enforced by *the County* in place of the *County* standards. Notwithstanding other guidance stated in this Section H, the Administrator is not authorized to deviate from the requirements of Chapters XXX and XXXI.

I. Burden of Proof

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

J. Severability

Should any provision of these *DPS Regulations* be held invalid by any court, the remaining provisions shall continue in full force and effect.

K. Liability

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

Chapter II: Administrative Procedures

Division 1- Permit Procedures

A. Development Permit Required

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

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

- a. Construction of and additions to single-family dwellings.
- b. Fencing of any kind.
- c. Construction of agricultural *Buildings* for which a building permit is also required.
- d. Home occupations.
- e. Changes of use of any *Building* or *Structure* from one principal permitted use to another principal permitted use in any *Development District*.
- f. Any *Excavation* in preparation for *Development*.
- g. Any *Excavation* that displaces more than one cubic yard of material within the Superfund Overlay, or five cubic yards of material outside of the *Superfund Overlay*.
- h. Any *Excavation* that displaces any component of any existing *Protective Cover* or *Storm Water Control* within a *Superfund Waste Management Area*.
- i. Any installation of a new domestic well within the Superfund Domestic Well Overlay.
- j. Water and sewer permits and permits issued pursuant to the General Utility/Street Construction and Repair (GUS) program that are reviewed and approved pursuant to the Superfund Institutional Controls Plan are considered to be Administrative Development Permits (ADPs) for purposes of these regulations.

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

- a. Special uses as specifically listed in the regulations for applicable *Development Districts*.
- b. Planned Unit Developments.
- c. *Excavation* of any kind within stream or lakeshore protection zones established by these *DPS Regulations*. In addition, any and all *Development* activity along the Big Hole River must comply with ADLC Ordinance No. 208.
- d. *Development* or construction of any single *Structure* in a *Commercial* or *Industrial Development District* that exceeds 30,000 square feet of gross floor area.
- e. Any residential *Building* in any *Development District* that exceeds four (4) units, including townhome units.

B. Exemptions

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

1. *Developments* located **outside** of the *Superfund Overlay*: While not exempt from the requirements and standards of these *DPS Regulations*, the following development, construction, and activities are exempt from *Development Permits*:
 - a. Any activity conducted by any agency, employee, or contractor of the United States government or a Potentially Responsible Party (PRP), as required by the U.S. Environmental Protection Agency (EPA) as part of a *Response Action* in compliance with the provisions of *Superfund*, provided that the *Administrator* is notified prior to the commencement of any work.
 - b. Typical and customary agricultural activities in agricultural *Development Districts*, including but not necessarily limited to pasturing, crops, and the raising of and caring for *Livestock*, provided said activities do not take place within a stream bank or lakeshore protection area identified in these *DPS Regulations*. This exemption does not include slaughtering/packing operations or Concentrated Animal Feed Operations (CAFO) at any scale.
 - c. *Excavation* associated with agricultural activities permitted by these *DPS Regulations*, gardening, or the maintenance of existing uses provided said activity does not take place within a stream or lakeshore protection area or flood plain.
 - d. *Excavation* (other than those exempted in Sec. B.1.c above) that involves less than five (5) cubic yards of material, provided such activity does not take place within a stream or lakeshore protection area or *Floodplain*. Re-grading of existing private roadways and driveways are also exempt, provided that new material added or material removed does not exceed five (5) cubic yards.

- e. Residential and agricultural **Accessory Structures** that are also exempt from building permits (less than 120 square feet of floor area and less than 10 feet in height), provided that such **Accessory Structures** meet any applicable set back standards, and are not located within stream bank or lakeshore protection areas or **Floodplains**.
 - f. **Expansion** of the use of property that does not involve additions to the existing **Structure**, except that where bearing walls are modified or relocated, a building permit may be required.
 - g. **Signs** are subject to **Sign** permits as set forth in the **County's** Sign Code, and are not subject to **Development Permits**.
 - h. Repair or replacement of floating docks, and the repair and replacement of the decking of existing piling supported docks, provided that the area of the dock and area disturbed within the stream or lakeshore protection area is not increased.
 - i. Minor utility installations such as service lines, except within stream or lakeshore protection areas. A General Utility/Street Construction and Repair (GUS) Permit is required for any work performed in an ADLC public right-of-way or easement.
2. The following **Development** activities located **within** the **Superfund Overlay** are exempt from **Development Permits**. However, anyone undertaking an exempt activity is encouraged to contact the **Administrator** to confirm the exempt nature of the activity:
- a. Any activity conducted by any agency, employee, or contractor of the United States government or a Potentially Responsible Party (PRP), as required by the U.S. Environmental Protection Agency (EPA) as part of a **Response Action** in compliance with the provisions of **Superfund**, provided that the **Administrator** is notified prior to the commencement of any work.
 - b. Agricultural activities as set forth in Sec. B.1.b, provided that such activities do not take place within a **Superfund Waste Management Area**.
 - c. **Excavation** associated with any agricultural activity, gardening, and maintenance of existing uses and **Structures**, and **Excavation** and general earthwork as set forth in Sec. B.1.c and d. above, provided that such activities take place outside of **Superfund Waste Management Areas** and not more than one (1) cubic yard of material is displaced.
 - d. **Expansion** of the use of property that does not involve additions to the existing **Structure**, except where bearing walls are modified or relocated, a building permit may be required. Persons undertaking repairs or remodels within the **Superfund Overlay** are encouraged to consult with the **Superfund Coordinator** for educational information regarding possible interior dust contaminants and available sampling and abatement services.

- e. **Signs** as set forth in Sec. B.1.f. above, except for ground **Signs** and monument type **Signs** where more than one (1) cubic yard of material is displaced.
- f. Residential and agricultural **Accessory Structures** as set forth in Sec. B.1.d. above provided that no more than one (1) cubic yard of material is displaced.
- g. Any activity conducted by any employee or contractor of the Old Works Golf Course Authority at the Old Works Golf Course pursuant to the Old Works Golf Course Operation and Maintenance Plan and any amendments thereto, approved pursuant to **Superfund**.

C. Utility Emergencies

- 1. Work necessitated by utility emergencies such as water line breaks and sewer and storm drain blockages that is within the purview of the **County** shall be carried out according to the ADLC General Utility/Street Construction and Repair (GUS) Permit.
- 2. Emergency utility work on private property may proceed without a GUS permit provided that all **Excavated** materials are stockpiled for later inspection and testing if necessary. All such emergency work must be reported to the **Administrator** within 48 hours of discovering the emergency and a GUS permit shall be applied for after the fact.

D. Application Fees

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

E. Site Inspections

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

F. Administrative Development Permits (ADP)

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

1. The applicant shall file a properly completed application form, including a *Site Plan*, project description, and any other required supporting materials, with the *Administrator*. Once all required materials are submitted, the *Administrator* shall deem the application complete. This does not preclude the *Administrator* from requesting additional information which may be needed to complete the *Development* review.
2. The *Administrator* shall review the application to determine compliance with these *DPS Regulations*. Should the *Administrator* find that the application is in compliance, the application shall be approved. However, the *Administrator* may impose reasonable conditions to assure compliance with these *DPS Regulations* as well as the regulations promulgated by other agencies as they may apply.
3. Within ten (10) business days of receipt of a properly completed application, the *Administrator* may determine that the proposed *Development* has a substantial impact on the landscape, surrounding neighborhood, natural resources, and/or local facilities and services. The *Administrator* shall then inform the applicant in writing that the proposal will be reviewed as a *MDP* pursuant to Sec. II.F, and the reasons therefore.
4. Except if the *Administrator* determines that the application will be reviewed as a *MDP*, the application shall be approved or denied by the *Administrator* within 20 business days, and the applicant shall be notified in writing within seven (7) business days of the decision. If the *Administrator* determines that the application will be reviewed as a *MDP*, the provisions of Sec. II.G shall apply.

G. Major Development Permits (MDP)

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

1. The applicant shall request a pre-application conference with the *Administrator*. The primary purpose of this conference is to provide guidance to the applicant on the *MDP* review process, submittal requirements, and to identify any issues that the applicant may wish to address in the formal application. The *Administrator* shall make a record of this conference, and upon request shall provide this record to the applicant.
2. The applicant shall submit an application for a *MDP* on a form supplied by ADLC, and shall remit the applicable fee. All material required on the application form must be submitted. Incomplete applications cannot be accepted by the *Administrator*.
3. Once an application for a *MDP* is complete, the *Administrator* shall schedule the application for a public hearing before the *Board* at the next available regular or special meeting.

4. Owners of land within 150 feet of the subject land (exclusive of rights-of-way) shall be notified of the application by first class mail sent no later than 15 days prior to the scheduled public hearing.
5. A public notice shall be published in a newspaper of general circulation at least 15 days prior to the scheduled public hearing. The public notice shall give the time, date, and location of the public hearing, and shall describe the nature of the *Permit* request.
6. The *Board* shall conduct a hearing on the proposed *MDP* following the procedures outlined in the *Board's* adopted "Rules of Procedure".
7. Following the public hearing, the *Board* may adopt a recommendation of approval, approval with conditions, or denial, and forward the request to the *Commission* for final action.
8. In making a recommendation for approval of an *MDP*, the *Board* must make a finding that the following criteria and standards are each met in substance as they may apply to the *Permit* application:
 - a. That the proposed *Development* or use is in compliance with the *County's Plan*.
 - b. That the proposed *Development* or use meets with the purpose and intent of the *Development District* in which it is located.
 - c. That the site is suitable for the proposed *Development* or use in terms of size, location, access, and environmental constraints such as a flood plain or steep slopes.
 - d. That the proposed *Development*, if located within the *Superfund Overlay*, has or will receive *Response Actions* in accordance with *Superfund*.
 - e. That the proposed *Development* or use is consistent with the scale, character, and prevailing design of the surrounding neighborhood.
 - f. That impacts to air and water quality, forest resources, wildlife, and other natural resources are *Minimized* or mitigated.
 - g. That potentially adverse impacts to the surrounding neighborhood such as noise, vibration, dust, smoke, glare, and odors are avoided or effectively mitigated.
 - h. That pedestrian and vehicular circulation and access are adequate and safe for the proposed use, and that traffic impacts associated with the proposed *Development* will not be detrimental to the surrounding neighborhood or the community at large.
 - i. That all necessary public services and facilities are adequate for the proposed *Development*, and that the *Development* will not place an inordinate demand on local services and facilities. Local services include, but are not necessarily limited to water,

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

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

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

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

H. Development Permits Valid for Two Years

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

I. Issuance of a Development Permit

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

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

J. Suspension of Development Permits

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

1. The *Administrator* may suspend a *Development Permit* in order to provide a permittee with time to meet conditions imposed on the *Development Permit*, and/or to provide additional time for the permittee to obtain licenses or other permits required by other government agencies.
2. The *Administrator* shall notify the permittee in writing of the suspension. This communication shall contain the following as applicable:
 - a. The effective date of the suspension.
 - b. The specific reasons for the suspension, including the conditions, licensing, permits, or other requirements to be met for the suspension to be lifted.
 - c. At the discretion of the *Administrator*, a time limit may be set for all requirements to be met and the suspension lifted, after which time the *Development Permit* may proceed to revocation as set forth in Sec. II.J.
3. Once all conditions have been met and any and all permits and licenses obtained, the *Administrator* shall notify the permittee in writing that the *Development Permit* has been reinstated.

K. Revocation of Development Permits

1. *Development Permits* may be revoked for good cause shown. Procedures to revoke *Development Permits* may only be initiated by the *County*, and only the *Commission* is authorized to revoke a *Development Permit*.
2. Prior to initiating any *Development Permit* revocation procedure, the *County* shall have:
 - a. Conducted an inspection of the subject land.
 - b. Thoroughly investigated any complaints.
 - c. Contacted the landowner, operator, or permittee (as applicable) in writing notifying him/her of the nature of complaints, issues, and/or potential violations.

- d. Provided the landowner, operator, or permittee every reasonable opportunity to address and correct conditions, violations, or deficiencies.
3. A ***Development Permit*** may be revoked based on one or more of the following findings:
 - a. That the initial application and/or representations made by the applicant in connection with the application were fraudulent or otherwise inaccurate or misleading to the extent that the decision to grant the ***Development Permit*** was based upon or influenced by said application or representations.
 - b. That operation of the authorized use or ***Development*** has become a public nuisance and/or an imminent threat to the public health, safety, and general welfare.
 - c. That the permittee has not adhered to any or all of the conditions of the ***Development Permit***.
4. The ***Commission*** may revoke a ***Development Permit*** upon approval by simple majority where findings and cause for the revocation are set forth in the motion to revoke.
5. The permittee shall be notified of the revocation action through a cease and desist order.

Division 2- Appeals and Variances

L. Administrative Appeals

1. Except as provided in Sec. II.L.2., any interpretation of these ***DPS Regulations*** or any decision made by the ***Administrator*** pursuant to these ***DPS Regulations*** may be appealed to the ***BOA*** following the procedures set forth below. Such appeal shall be taken within a reasonable time as provided by the rules of the ***BOA***.
 - a. The appellant shall file a written appeal, and shall provide all relevant supporting information. A filing fee shall be paid by the appellant.
 - b. Upon receipt of the appeal, the ***Administrator*** shall publish a notice in the official ***County*** newspaper at least ten (10) days prior to the next scheduled meeting of the ***BOA***, and shall place the appeal on the ***BOA***'s agenda for that meeting. The ***BOA*** must meet within 30 business days of an appeal filed with the ***Administrator***.
 - c. The ***BOA*** shall conduct a hearing on the appeal following procedures set forth in the ***BOA***'s adopted Rules of Procedure. No appeal shall be heard if the appellant or a representative is not present. If the appeal involves an action taken or permit granted to a third party, such as a non-landowner developer, no hearing shall be conducted unless the third party is present.

- d. Based upon relevant findings and conclusions, the **BOA** may uphold, overturn, or modify the action or interpretation made by the **Administrator**. The **BOA** shall take final action within 35 days of the initial opening of the public hearing.
 - e. The **Administrator** shall notify the appellant and other interested parties in writing of the **BOA**'s decision within ten (10) business days.
 - f. Any decision of the **BOA** may be appealed to District Court as provided in Sec. 76-2-327, MCA. Notice of intent to file an appeal shall halt all proceedings by the **Administrator** to carry out the **BOA** decision, unless in the judgment of the **Administrator**, such action is imperative due to imminent public health or life safety concerns.
2. Any interpretation of Chapters XXX or XXXI or Appendices D, E or F of these **DPS Regulations** or any decision made by the **Superfund Coordinator** pursuant to Chapter XXX or XXXI or Appendices D or E of these **DPS Regulations** may be appealed to the **Commission**. All procedures for filing, public notice, and conduct of a hearing on the appeal shall be as set forth in Sec. II.L.1., except that the hearing shall be conducted by and a decision on the appeal rendered by the **Commission** rather than the **BOA**. Appeals from the decision of the **Commission** shall be to District Court as set forth in Sec. II.L.1.f. **The Commission** shall not render any decision which will serve to adversely affect any **Protective Covers** or **Storm Water Controls** within the **Superfund Overlay** or which will result in a failure to meet the **Superfund** actions levels set for in Chapters XXX and XXXI.
 3. When in the judgment of the **Administrator**, his/her decision or interpretation of the regulations will affect a specific land or class of lands, and/or have a potentially significant impact on a neighborhood or landscape of the **County**, the Administrator shall notify **Adjacent** landowners via first class mail of his/her intent to render a decision or interpretation. The letter sent shall explain the pending decision and shall invite comment for a period of not less than 15 days following the date of the notice. At the end of this comment period, the **Administrator** may officially render the decision or interpretation, and communicate it in writing to all parties involved. Once the decision or interpretation is finalized, the decision or interpretation may be appealed to the **BOA** through the procedure set forth in this Sec. II.L.1.

M. Variances

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

1. The applicant shall apply for a **Variance** on a form supplied by the **County**. The applicable filing fee shall be paid, and all relevant supporting materials shall be submitted.
2. Upon receipt of the application, the **Administrator** shall publish a notice in the official **County** newspaper at least 15 days prior to the next regular meeting of the **BOA**, and shall place the **Variance** on the **BOA**'s agenda for that meeting.

3. The **Administrator** shall notify all landowners within 150 feet of the subject land by regular first class mail at least 15 days prior to the date of the hearing by the **BOA**.
4. The **BOA** shall conduct a hearing on the proposed **Variance** following procedures set forth in the **BOA**'s adopted Rules of Procedure. No hearing shall be conducted if the applicant or a representative is not present.
5. In applying the provisions of Sec. 76-2-323(1)(c), MCA, the **BOA** may only grant a **Variance** upon a finding that the following criteria are met in substance as they may apply to the application:
 - a. The **Variance** is necessitated due to exceptional and/or extraordinary circumstances or conditions that are unique to the subject land, and are not generally characteristic of similarly situated properties.
 - b. Approval of the **Variance(s)** will preserve a property right or use that is generally enjoyed by owners of similarly situated properties, and conversely, approval of a **Variance** will not bestow a special privilege on the applicant that is not generally enjoyed by the owners of similarly situated properties.
 - c. The alleged hardship has not been created by the applicant.
 - d. Specific relief from these **DPS Regulations** shall be the minimum necessary to accomplish the applicant's stated objectives.
 - e. Adverse impacts associated with granting relief from these **DPS Regulations** are avoided or effectively mitigated.
6. Conditions may be imposed by the **BOA** that will cause the above criteria to be met.
7. Final action is required on a **Variance** request within 35 days of the initial opening of the public hearing.
8. The **Administrator** shall notify the applicant and interested parties of the **BOA** decision in writing within 10 days.
9. Decisions of the **BOA** may be appealed to District Court as set forth in Sec. 76-2-327, MCA.
10. Any request for a **Variance** from the standards and requirements of Chapters XXX or XXXI or Appendices D or E of these **DPS Regulations** shall be heard by the **Commission**.
 - a. All procedures for filing, public notice, and conduct of a hearing on the **Variance** shall be as set forth in Sec. II. M.1 through Sec. II.M.4., except that the application shall be filed with the Superfund Coordinator and the hearing shall be

conducted by and a decision on the *Variance* rendered by the *Commission* rather than the *BOA*.

- b. Prior to rendering any such decision, the Commission shall receive a written report and recommendation from the Superfund Coordinator detailing the potential impact of any variance upon any Protective Covers, Storm Water Controls, or Superfund action levels.
- c. Appeals from the decision of the *Commission* shall be to District Court as set forth in Sec. II.M.9.
- d. In addition to the finding required pursuant to Sec. II.M.5., the *Commission* may only grant a *Variance* if the specific relief requested will not serve to adversely affect any *Protective Covers* or *Storm Water Controls* within the *Superfund Overlay* or result in a failure to meet the *Superfund* actions levels set forth in Chapters XXX and XXXI.

Division 3- Roles and Responsibilities

N. Administrator

1. The *Administrator* shall be the *County*'s Planning Director, who is charged with the administration, interpretation, and enforcement of the *DPS*.
2. The *Administrator* or his/her designees shall have the following powers and duties:
 - a. Enforce any and all provisions of these *DPS Regulations*.
 - b. Keep complete, accurate, and secure records.
 - c. Accept applications and appeals and ensure their appropriateness and completeness.
 - d. Update these *DPS Regulations* and the official *Development District* map as directed by the *Commission*.
 - e. Report to the *Board* and the *Commission* any recommendations for amendments and improvements to these *DPS Regulations* and the procedures contained herein.
 - f. Subject to Sec. II. N.3, interpret these *DPS Regulations* as they apply to specific properties and *Developments*.
 - g. Determine the location of any *Development District* boundary.
 - h. Render lawful similar use rulings for uses not specifically listed in the *Development Districts* for which a use table has been adopted.

- i. Receive and investigate allegations of noncompliance or violation of these **DPS Regulations**, and take appropriate abatement action.
 - j. Review and issue **ADPs**.
 - k. Make recommendations to the **Board** and **Commission** on the issuance of **MDPs** and amendments to these **DPS Regulations** and the official **Development District** map.
 - l. Make recommendations to the **BOA** on **Variance** applications.
 - m. Defer to development standards set forth in restrictive covenants pursuant to Sec. I. H. of these regulations.
 - m. Initiate suspension of a **Development Permit** pursuant to Sec. II. J.
 - n. Initiate revocation of a **Development Permit** pursuant to Sec. II. K.
3. The **Administrator** or his/her designees shall have no power to interpret these regulations in a manner that will result in adverse impacts to **Protective Covers** or **Storm Water Controls** or will result in any failure to meet the **Superfund** action levels set forth in Chapters XXX and XXXI.

O. Superfund Coordinator

The Superfund Coordinator and his/her designees shall have the following responsibilities and duties:

1. Responsible for all coordination between the County and Atlantic Richfield, and between the County and all state and federal agencies involved in Superfund.
2. Responsible for the administration and enforcement of Chapters XXX and XXXI, and Appendices D and E of these regulations.
3. Responsible for representing Anaconda-Deer Lodge County in Superfund meetings and negotiations with Atlantic Richfield, and all state and federal agencies involved in Superfund.
4. Responsible for reporting to and advising the Commission on all aspects of Superfund administration, implementation, and management.
5. Responsible for coordinating Superfund activities and requirements among County departments.
6. Responsible for providing Superfund-related comments and recommendations on development permit, variance, and subdivision applications to the Administrator, Board, BOA, and Commission as requested.
7. Responsible for ensuring that requests for soil, dust, and domestic well sampling are processed and delivered in a timely manner.
8. Responsible for ensuring that ICMP work plans are issued in a timely, competent, and professional manner.

9. Is empowered to issue "stop work" orders when Superfund requirements of these DPS Regulations are not complied with, including when work within the Superfund Overlay proceeds without the proper permits.

P. Planning Board (*Board*)

1. The *Board* is advisory to the *Commission* on matters of long range planning and *Development* review so that ADLC may carry out its responsibilities under Title 76, MCA.
2. The *Board* is established by ADLC Ord. 209, as may be amended from time to time.
3. The *Board* shall consist of nine members, appointed by the *Commission*, all of whom must reside in the *County*.
4. The *Board* shall serve without compensation except for expenses authorized in the performance of their duties.
5. A member of the *Board* may not simultaneously be a member of the *BOA*. Members of the *Board* may be appointed to special ad hoc task forces or study groups from time to time.
6. It shall be the duty of the *Board* to hold public hearings when necessary and to make recommendations to the *Commission* on matters concerning the creation and boundaries of *Development Districts*, amendments to these *DPS Regulations*, and *MDPs*.

Q. Board of Adjustment (*BOA*)

1. The *BOA* shall consist of five members appointed by the *Commission*.
2. The *BOA* is established by ADLC Ordinance No. 181, as may be amended from time to time.
3. The *BOA* shall serve without compensation except for expenses authorized in the performance of their duties.
4. Except as provided in Sec. II.L.2. and Sec. II.M.10., the *BOA* shall have the authority to:
 - a. Hear and decide appeals in which it has been alleged that there is an error in order, requirement, decision, or interpretation made by the *Administrator* in the enforcement of these *DPS Regulations*.
 - b. Hear and grant or deny any proper application for a *Variance* to the terms, conditions, or standards of these *DPS Regulations*.
5. The *BOA* shall conduct hearings according to its own adopted rules of procedure.

Division 4 - Enforcement

R. Cease and Desist Order

The *Administrator* may issue a cease and desist order to any person who has committed the offense of violating these DPS Regulations as provided in Sec. II.S.1. The cease and desist order shall specify the violation that has occurred and the actions which must be taken to correct the violation. Violations of property maintenance standards contained in Appendix A, Division 5 of these regulations shall be investigated and enforced pursuant to “community decay” as set forth in Chapter 10, Article V of the ADLC Code of Ordinances.

S. Violations and Penalties

1. A person commits the offense of violating these *DPS Regulations* whenever the person:
 - a. undertakes or proceeds with an activity for which a *Development Permit* is required by these *DPS Regulations* without having obtained a *Development Permit*;
 - b. purposely or knowingly makes any misrepresentation in any application for a *Development Permit* required by these *DPS Regulations*;
 - c. fails to fulfill any condition imposed on the approval of an application for a *Development Permit* in order to ensure compliance with these *DPS Regulations*; or
 - d. fails to maintain any improvement required for compliance with these *DPS Regulations*.

2. The penalties for violations of these *DPS Regulations* shall be, as provided in 76-2-315, MCA, a fine, not exceeding \$500 or imprisonment in the *County* jail not exceeding six months or both. Additionally, as provided in 76-2-308, MCA, if any *Development* or *Structure* is erected, constructed, reconstructed, altered, repaired, converted or maintained or any *Development* or *Structure* is used or maintained in violation of these *DPS Regulations*, the *County* may institute any appropriate actions or proceedings:
 - a. to prevent a violation of these *DPS Regulations*;
 - b. to restrain, correct or abate a violation of these *DPS Regulations*;
 - c. to prevent the occupancy of the *Development* or *Structure*; or
 - d. to prevent any illegal act, conduct business or use in or about the *Development* or *Structure*.

Division 5 – Amendments

T. Development Permit System Amendments

Any person may petition for the amendment of these *DPS Regulations*. The amendment procedure shall be as provided here and in 76-2-303, MCA, et seq.

1. The applicant shall file a properly completed application form, the required supporting materials, and the required application fee with the *Administrator*.
2. The *Administrator* shall place a hearing on the application for a zoning amendment on the agenda of the next regular *Board* meeting for which the notice requirements can be met and at which time allows for its proper consideration.
3. The *Administrator* shall publish notice of the hearing in a newspaper of general circulation at least 15 days before the hearing. The cost of this notice shall be billed to the applicant and shall be in addition to the required application fee. The notice shall be as required by 76-2-303, MCA.
4. The *Administrator* may contract for professional review of the application, with the cost of that review being covered by the application fee. Such reviews shall be prepared in the form of a written report submitted to the *Administrator* for use at the hearing. The *Administrator* shall, upon its receipt, provide a copy of this report to the applicant and place it on file for public review with the other application materials.
5. The *Board* shall conduct a hearing on the proposed amendment. At the hearing, the *Board* shall determine whether the proposed amendment is consistent with the *Plan*, the purpose and intent of the *DPS*, and the requirements of *Superfund*, and recommend that the *Commission* approve or disapprove it accordingly. Action on a proposed *DPS* amendment may be tabled for further review, but for no more than 35 days.
6. The *Administrator* shall convey the *Board*'s recommendation to the *Commission* which shall set a time and place for a public hearing.
7. The *Commission* shall conduct a public hearing on the proposed amendment. At the hearing, the *Commission* shall consider the recommendation of the *Board* and all testimony received, and then approve or disapprove the amendment. Action on a proposed amendment may be tabled for further review, but for no more than 35 days.
8. The *Commission* shall not adopt any amendment to the *DPS* which is inconsistent with the requirements of *Superfund*.
9. The *Administrator* shall notify the applicant and other interested parties of the *Commission*'s decision within 10 days.

U. Amendments to the Development District Map

1. The *applicant* shall file a properly completed application form, the required supporting materials, and the required application fee with the *Administrator*.
2. All other review and public hearing procedures shall be conducted in accordance with subsections 2. through 9. of Sec. II.T., above, except that in addition to evaluating consistency with the *Plan*, the purpose and intent of these *DPS Regulations* and the requirements of *Superfund*, the *Board* and the *Commission* respectively shall give due consideration to the criteria and guidelines set forth in 76-2-304, MCA.

V. Growth Policy (*Plan*) Amendments

Any person may petition for amendment of the *County's Plan*. The amendment procedure shall be as provided here and in 76-1-601, MCA, et seq.

1. The applicant shall file a written summary and analysis of the amendment request with the *Administrator*.
2. The *Administrator* shall schedule a public hearing on the application for a *Plan* amendment on the agenda of the next regular *Board* meeting for which the notice requirements can be met and at which time allows for its proper consideration.
3. The *Administrator* shall publish notice of the hearing in the official newspaper of the *County* at least 15 days prior to the hearing.
4. The *Administrator* shall prepare a review or may contract for professional review of the application. Such reviews shall be prepared in the form of a written report submitted to the *Administrator* and the *Board* for use at the hearing. The *Administrator* shall, upon its receipt, provide a copy of this report to the applicant and place it on file for public review with the other application materials.
5. The *Board* shall conduct a hearing on the proposed amendment. Action on a proposed zoning amendment may be tabled for further review, but for no more than 35 days.
6. The *Administrator* shall convey the *Board's* recommendation to the *Commission* and, unless the application is withdrawn, place a hearing on the application on the agenda of the next regular *Commission* work session. The *Commission* may at its option, schedule a public hearing on the amendment application, or consider a resolution of intent to adopt the amendment.
7. The *Commission* shall not adopt any amendment to the *Plan* which is inconsistent with the requirements of *Superfund*.

8. The *Administrator* shall notify the applicant and other interested parties of the *Commission*'s decision within 10 days.

CHAPTER III: Establishment of Development Districts and Treatment of Nonconforming Uses, Lots, and Structures

A. Purpose and Intent.

This chapter creates a system of development districts, each with its own unique set of regulations based upon the type and density of existing development, the desired scale, character, and qualities of the area, and any recommendations for preservation, conservation, or growth management provided for the area in the Anaconda-Deer Lodge County Growth Policy.

B. Development Districts Established. The following development districts are hereby established:

1. Anaconda Urban Planning Area development districts
 - a. Anaconda Residential Estate District (ARED)
 - b. Low Density Residential Development District (LDRD)
 - c. Medium Density Residential Development District (MDRD)
 - d. High Density Residential Development District (HDRD)
 - e. Goosetown Neighborhood Conservation District (GNRD)
 - f. Neighborhood Commercial Revitalization District (NCRD)
 - g. Central Business Development District (CBDD)
 - h. Highway Commercial Development District (HCDD)
 - i. Light Industrial Development District (LIDD)
 - j. Heavy Industrial Development District (HIDD)
 - k. Planned Industrial Districts (PID-1 and PID-2)
 - l. Railroad Transition Development District (RRTD)
 - m. Open Space Review Development District (ORDD)
 - n. Public/Semi-Public Development District (P/SPD)
2. Rural development districts
 - a. Georgetown Lake Development District (GLDD)
 - b. Spring Hill Development District (SHDD)
 - c. West Valley Development District (WVDD)
 - d. Big Hole Development District (BHDD)
 - e. Aspen Hill/Clear Creek Development District (AHCCDD)
 - f. Opportunity Triangle/Mill Creek Industrial District (OTMCID)
 - g. Opportunity Development District (ODD)
 - h. East Valley Development District (EVDD)
 - i. Lost Creek Development District (LCDD)
 - j. Airport Industrial Development District (AIDD)

C. Overlays. The following development district overlays (overlay districts) are hereby established:

1. Adult Use Overlay (AUO)
2. Airport Safety Overlay District (ASOD)
3. Superfund Overlay (SO)

4. Superfund Domestic Well Overlay (SDWO)
5. Main Street Overlay (MSO), within the CBD.
6. Institutional Overlay (IO), within the MDRD

D. Permitted, Special, and Accessory Uses

Each development district in these regulations includes a list of **permitted uses**, and some also contain a list of **special uses**. Some districts also include a list of **accessory uses**.

1. **Permitted uses** (or principal permitted uses) are those uses considered to be appropriate and desirable in the applicable development district. Therefore, they are permitted “by right”, meaning that no additional entitlement steps are necessary in order to secure one permitted use per lot or parcel. (Subdivision may be necessary in order to create two or more lots from one lot or parcel of land.) **Permitted uses** are subject to an **Administrative Development Permit (ADP)** to ensure that all development standards set forth in the development district are complied with.
2. **Special uses** are those uses that may be desirable in the development district, but due to special circumstances or conditions and/or the nature of the proposed special use, these uses must be examined on a case by case basis. In addition, conditions may be imposed on special uses to ensure they are compatible with the applicable development district and that adverse impacts to the surrounding neighborhood are avoided or effectively mitigated. **Special uses** are subject to **Major Development Permits (MDP)** as set forth in Sec. II. A. and II. G of these regulations. Land uses not specifically listed as **special uses** in the development districts that include a list of special uses cannot be permitted through an **MDP**.
3. **Accessory uses** are those uses that are customary and incidental to the primary use (**permitted use**) of the subject property and are clearly ancillary to the **permitted use**. An **accessory use** cannot be established on the subject property without a **permitted use** also having been established. **Accessory uses** and **accessory structures** are subject to an **ADP**.

E. Official Map

The “Official Development District Maps of Anaconda-Deer Lodge” are adopted, by reference, as part of these regulations. Dated copies of those maps, certified to be correct by the signature of the chairman of the Board, shall be maintained for public inspection at the office of the Administrator.

F. Development District Boundaries

Development and overlay district boundaries shall be as shown on the official maps adopted pursuant to Sec. III.D. Any person who disputes the location of a boundary, as interpreted by the Administrator, may request review of the Administrator’s decision using the appeals procedure of II.O. When the Administrator makes a district boundary determination pursuant to this section, the Commission, Board, and Chief Executive shall be notified in writing. The following rules shall guide the Administrator’s determination of development district boundaries. The Administrator may only deviate from these rules if substantial evidence exists to do so:

1. Where a district boundary appears to follow a property line of a legal lot of record, the district boundary shall be deemed to follow the property line. Should such a property line be relocated as a result of resubdivision, certificate of survey, or any other legal instrument, the development district boundary shall remain
2. Where a district boundary appears to follow a section line or other line delineating an aliquot part (half section, quarter section, etc.), the district boundary shall be deemed to follow said section line or aliquot part boundary.
3. Where a district boundary appears to follow a county jurisdictional boundary, the district boundary shall be deemed to follow said county boundary.
4. Where a district boundary appears to follow a water course, the boundary shall be deemed to follow the thalweg of the water course. Should the water course meander over time, the location of the development district boundary shall remain fixed in its original position as adopted until such time as it is legally changed pursuant to Sec. II. Z of these regulations.
5. Where a district boundary appears to follow a right-of-way (public or private street, alley, railroad, etc.), the district boundary shall be deemed to follow the centerline of the right-of-way. This rule shall not apply to public or private easements.

G. Nonconforming Lots of Record, Land Uses, and Structures

1. **Status of Nonconformities.** This section provides the standards and requirements by which legal nonconforming lots, uses, and structures may be continued, maintained, and even transferred. It is the County's intent that the adoption of these regulations will render no legal lot of record "unbuildable", and that any use which was legal and proper under prior regulations will continue to be legal and proper under this Development Permit System.
 - a. Lots, uses, and structures that were legally nonconforming under prior regulations, and which do not conform to these regulations, remain legally nonconforming.
 - b. Lots, uses, and structures that were legal and conformed to prior regulations, but do not conform to these regulations, become legally nonconforming under these regulations.
 - c. Lots, uses, and structures which were **not legal** under prior regulations, and do not conform to these regulations, remain **illegal** under these regulations.
 - d. Legally nonconforming lots and/or nonconforming lots with nonconforming structures as well as nonconforming uses of land, may be transferred to heirs and assigns in a manner similar to any conforming lot, structure, or use.
2. **Nonconforming Lots**
 - a. Legal lots of record that previously existed on the effective date of this DPS that do not conform to the regulations contained herein due to lot area, width, or other dimensional standard, may continue to exist as legally nonconforming lots under these regulations.

- b. Nonconforming lots may be developed for any of the principal permitted, accessory, and special uses (subject to the provisions set forth in Sec. II. H.) allowed by the applicable development district.
 - c. Nonconforming lots are subject all standards of the applicable development district, including setbacks, floor area ratios, landscape ratios, and structural height limits.
- 3. Nonconforming Land Uses**
- a. Any land use that previously existed on the effective date of this DPS, conformed to the prior regulations, but does not conform to these regulations, may continue to exist as a legally nonconforming land use.
 - b. No such nonconforming use shall be enlarged nor extended to occupy a greater area of land or structure than was occupied on the effective date of these regulations.
 - c. No such nonconforming use shall be moved in whole or in part to any portion of the lot or parcel other than that occupied on the effective date of these regulations.
 - d. Any nonconforming use, except for nonconforming outdoor storage, abandoned for more than 24 months shall be terminated. Abandonment shall not be measured by the owner's intent, but solely by the fact that use ceases for a period of 24 or more months. The period required to establish that nonconforming outdoor storage has been abandoned shall be six months.
 - e. No additional structure not conforming to this DPS shall be erected in connection with such nonconforming use of land or structures.
 - f. One nonconforming use may be changed to another nonconforming use of equal or lesser intensity through issuance of a Major Development Permit. Indicators of equal or lesser intensity may include, but are not necessarily limited to, off-street parking requirement, noise, dust, smoke, or odor, vehicle trips, or a general lessening of adverse or potentially adverse impacts.
- 4. Nonconforming Structures**
- a. Any structure that previously existed on the effective date of this DPS, which conformed to the prior regulations, but does not conform to these regulations in terms of height, setbacks, floor area ratio, landscape ratio, or other such standards, may continue to exist as a legally nonconforming structure under these regulations.
 - b. No such nonconforming structure may be enlarged, expanded, or altered in a way that increases its nonconformity, but may be altered to decrease its nonconformity.
 - c. Should such nonconforming structure be moved for any reason and for any distance, it shall thereafter conform to these regulations.

- d. Should any nonconforming structure or nonconforming portion of a structure be destroyed by any means to an extent greater than 50% of its floor area, it shall not be reconstructed except in conformity with these regulations.
 - e. Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of any structure or portion of a structure declared to be unsafe by an official charged with protecting the public safety, upon order of such official.
 - f. Nonconforming structures and portions of nonconforming structures may be maintained, including paint, siding, roofing, and replacement of windows and doors, provided that the degree of nonconformity is not increased by said maintenance.
 - g. Conflicting provisions of this section notwithstanding, a non-conforming fence nor a portion thereof may not be replaced, regardless of the reason for destruction or demolition, except in conformance with these regulations.
- 5. Nonconforming Manufactured Homes**
- a. Legally existing Class B and Class C manufactured homes in any development district may only be replaced by a Class A manufactured home or a site built dwelling unit.
 - b. Existing Class B and C manufactured homes are subject to applicable provisions in subsections 3. and 4. above.

H. Nonconforming Conversions to Private Ownership

Whenever land is converted from public to private ownership, the uses and buildings on that land shall, if they fail to conform to these regulations, be treated as nonconforming uses and buildings, subject to the provisions of Sec. III.G.

This page intentionally left blank.

CHAPTER IV: Anaconda Residential Estate District (ARED)

A. Purpose.

The Anaconda Residential Estate District (ARED) is intended to be applied to rural and suburban lands within the Anaconda Urban Planning Area, but outside the urban areas of Anaconda to which urban development districts (MDRD, LIDD, HCDD, etc.) have been applied. Because these lands vary in density, use, and character, the ARED consists of three sub-districts:

- ARED 1.0
- ARED 2.5
- ARED 10.0

B. Permitted Uses.

Permitted uses in the ARED vary somewhat by sub-district. The following uses are allowed in the ARED (as noted by sub-district) subject to an Administrative Develop Permit (ADP):

1. ARED 1.0
 - a. Single-family residential dwellings (one per lot of record)
 - b. Residential accessory structures.
 - c. Day care homes providing care for 12 or fewer children.
 - d. Home occupations.
2. ARED 2.5
 - a. Single-family residential dwellings (one per lot of record)
 - b. Residential accessory structures.
 - c. Day care homes providing care for 12 or fewer children.
 - d. One guest house, guest quarters, or accessory residential unit (ARU) on conforming lots only.
 - e. Home occupations.
 - f. Cottage industries on conforming lots only.
3. ARED 10.0
 - a. Single-family residential dwellings (one per lot of record).
 - b. Tourist home or tourist quarters within a home.
 - c. Residential and agricultural accessory structures.
 - d. Home occupations and cottage industries.
 - e. Keeping of hooved and non-hooved animals.
 - f. General agriculture.
 - g. Day care homes providing care for 12 or fewer children.
 - h. One guest house or guest quarters.
 - i. One accessory residential unit (ARU).

C. Special Uses.

The following are special uses in the ARED, and are subject to a Major Development Permit (MDP) pursuant to Chapter II of these regulations:

1. ARED 1.0
 - a. Tourist home or tourist quarters within a home.
 - b. Churches and other religious institutions.
 - c. Community residential facilities meeting the definition of Sec. 76-2-411, MCA, and subject to the following conditions:
 1. The facility must be licensed by the Montana Department of Public Health and Human Services.
 2. Off-street parking shall be provided to all staff assigned to the facility.
 3. The minimum lot area shall be 10,500 square feet.
 - d. Accessory residential units (ARU); one per lot of record.
 - e. Guest house or guest quarters; one per lot of record.
 - f. Cottage industry (on conforming lot only).
 - g. Public and private schools.

2. ARED 2.5
 - a. Tourist home or tourist quarters within a home.
 - b. Bed and breakfast establishment.
 - c. Churches and other religious institutions.
 - d. Public and private schools.
 - e. Community residential facilities meeting the definition of Sec.76-2-411, MCA, and subject to the following conditions:
 1. The facility must be licensed by the Montana Department of Public Health and Human Services.
 2. Off-street parking shall be provided to all staff assigned to the facility.
 3. The minimum lot area shall be 10,500 square feet.

3. ARED 10.0
 - a. Bed and breakfast establishment.
 - b. Guest cabins/dude ranch.
 - c. Sand and gravel mining and processing.

D. Development Standards.

The following standards apply in the ARED and respective subdistricts:

1. ARED 1.0
 - a. Setbacks
 1. Front- 30 feet.
 2. Side- 10 feet.

3. Rear- 10 feet.
 - b. Structural height- 35 feet.
 - c. Minimum lot size- One (1) acre (43,560 square feet).
 - d. Minimum lot width- 75 feet at building setback line.
 - e. Maximum lot coverage- 35%
2. ARED 2.5
 - a. Setbacks
 1. Front- 30 feet
 2. Side- 10 feet
 3. Rear- 10 feet
 - b. Structural height- 35 feet
 - c. Minimum lot size- 2.5 acres (108,900 square feet)
 - d. Minimum lot width- 150 feet at building setback line
 - e. Maximum lot coverage- 25%
3. ARED 10.0
 - a. Setbacks
 1. Front- 30 feet
 2. Sides- 10 feet
 3. Rear- 10 feet
 - b. Structural height- 35 feet, except that agricultural accessory structures such as barns, grain/feed storage facilities, windmills, etc., may exceed 35 feet subject to approval of the Administrator.
 - c. Minimum lot size- 10 acres
 - d. Minimum lot width- 200 feet at building setback line.
 - e. Maximum lot coverage- 20%

This page intentionally left blank.

CHAPTER V- Low Density Residential Development District (LDRD)

- A. Purpose and Intent.** The LDRD is intended to provide for single-family residential development at urban to suburban densities while maintaining the character and qualities of those neighborhoods that have already developed in this manner.
- B. Permitted Uses.** The following uses are permitted outright in the LDRD subject to an Administrative Development Permit (ADP):
1. Single-family detached dwellings, including Class A manufactured homes.
 2. Residential accessory structures (Sec. V. D. 2.).
 3. Day care homes providing care for 12 or fewer children.
 4. Home occupations.
- C. Special Uses.** The following are special uses in the LDRD, and therefore, are subject to a Major Development Permit (MDP):
1. Tourist homes.
 2. Churches and other religious institutions.
 3. Community residential facilities meeting the definition of Sec. 76-2-411, MCA, subject to the following conditions:
 - a. The facility must be licensed by the Montana Department of Public Health and Human Services.
 - b. Off-street parking shall be provided to all staff assigned to the facility.
 - c. The minimum lot area shall be 10,500 square feet.
 4. Accessory residential unit (ARU); one per lot of record.
 5. Public and private schools, including latchkey facilities and programs.
- D. Development Standards.** The following standards apply in the LDRD:
1. Setbacks, principal structure:
 - a. Front: 15 feet to the building envelope, subject to prevailing setbacks. Unenclosed porches, decks, similar outdoor living areas, and steps may encroach into the required front setback provided a front yard of not less than nine (9) feet is achieved. Handicap accessible ramps may encroach to the front property line.
 - b. Side: 5 feet.
 - c. Rear: 5 feet.
 2. Setbacks, accessory structures: All accessory structures must be contained within the building envelope defined by the setbacks in Sec. V. D. 1. above.
 3. Maximum structural height: 30 feet
 4. Minimum lot size: 7,000 square feet
 5. Minimum lot width: 50 feet at building setback line
 6. Maximum lot coverage: 50%

This page intentionally left blank.

CHAPTER VI- Medium Density Residential Development District (MDRD) and Institutional Overlay (IO)

- A. Purpose and Intent.** The MDRD is intended to provide for (mostly) single-family residential development at urban neighborhood densities while maintaining the character and qualities of those neighborhoods. Where appropriate, MDRD also allows single-family detached, duplex, twin homes, and multi-family structures with sufficient open space to protect the character and qualities of the neighborhood. The Institutional Overlay (IO) is incorporated into the MDRD to provide for the continued use of existing institutions and institutional structures. The IO applies only to the MDRD, and no other residential development district.
- B. Permitted Uses.** The following uses are permitted outright in the MDRD subject to an Administrative Development Permit (ADP):
1. One and two-family dwellings
 2. Class A manufactured homes
 3. Residential accessory structures
 4. Day care homes providing care for 12 or fewer children.
 5. Utility service lines
 6. In the IO only, public/semi-public institutions in existing buildings
- C. Special Uses.** The following are special uses in the MDRD, and therefore, are subject to a Major Development Permit (MDP):
1. Tourist homes
 2. Professional offices
 3. Churches and other religious institutions
 4. Community residential facilities meeting the definition of Sec. 76-2-411, MCA, subject to the following conditions:
 - d. The facility must be licensed by the Montana Department of Public Health and Human Services.
 - e. Off-street parking shall be provided to all staff assigned to the facility.
 - f. The minimum lot area shall be 10,500 square feet.
 5. Accessory residential unit (ARU); one per lot of record.
 6. Public and private schools, including latchkey facilities.
- D. Development Standards, New Development.** The following standards apply to lots in the MDRD that are completely vacant, or all existing structures are to be demolished prior to redevelopment:
1. Setbacks, principal structure:
 - a. Front: 15 feet to building envelope, subject to prevailing setbacks. Unenclosed porches, decks, similar outdoor living areas, and steps may encroach into the

required front setback provided a front yard of not less than nine (9) feet is achieved. Handicap accessible ramps may encroach to the front property line.

- b. Side: For lots 30' and less in width; 2.5 feet. For lots greater than 30' in width; 5 feet.
- c. Rear: 5 feet.
2. Setbacks, accessory structures: All accessory structures must be contained within the building envelope defined by the setbacks set forth in Sec. VI. H. 1. above.
3. Maximum structural height: 30 feet

E. Lot Standards, New Development. The following standards apply for newly subdivided land in the MDRD. For purposes of this subsection, resubdivided land where legally existing primary residential structures will remain are not considered newly subdivided lands:

1. Minimum lot area: 4,200 square feet.
2. Minimum lot width: 30 feet with alley access; 40 feet without alley access

F. Lot Standards, Existing Development. The following standards apply to lots in the MDRD when developed, and/or when existing lots are subdivided or resubdivided, and one or more existing principal structures is to remain:

1. Minimum lot area: 3,500 square feet.
2. Minimum lot width: 25 feet.

CHAPTER VII- High Density Residential Development District (HDRD)

A. Purpose and Intent. The purpose of the HDRD is to provide for multi-family housing in suitable areas where shopping, entertainment, recreation, and employment opportunities are all readily accessible. At the same time, the higher densities associated with multi-family developments should not be located so as to create adverse impacts to lower density neighborhoods.

B. Permitted Uses. The following uses are permitted outright in the HDRD subject to an Administrative Development Permit (ADP):

1. One and two-family dwellings.
2. Class A manufactured homes.
3. Multi-family residential structures not to exceed eight (8) units per building.
4. Accessory residential structures such as garages and storage buildings.
5. Utility service lines and related equipment and apparatus.
6. Day care homes providing care for 12 or fewer children.
7. Active and passive open space and related equipment and structures (play apparatus, picnic shelters, gazebos, etc.) associated with on-site multi-family housing and providing amenities for the residents thereof.
8. Home occupations.

C. Special Uses: The following are special uses in the HDRD, and therefore, are subject to a Major Development Permit (MDP):

1. Multi-family residential structures which exceed eight (8) units per building.
2. Community residential facilities meeting the definition of Sec. 76-2-411, MCA, subject to the following conditions:
 - a. The facility must be licensed by the Montana Department of Public Health and Human Services.
 - b. Off-street parking shall be provided to all staff assigned to the facility.
 - c. The minimum lot area shall be 10,000 square feet.
3. Religious institutions.
4. Public and private schools.

D. Development Standards. The following standards apply in the HDRD:

1. Minimum site area (for purposes of establishing an HDRD): 15,000 square feet.
2. Maximum gross density: 20 dwelling units per acre.
3. Maximum floor area ratio (FAR): .50
4. Minimum landscape ratio (LSR): .40
5. Setbacks, principal structure(s):
 - a. Front: 25 feet to foundation wall. Unenclosed porches, decks, and similar outdoor living areas may encroach into the required front setback by not more than eight

(8) feet. Steps may encroach an additional six (6) feet provided they are no more than 48" in width. Handicap accessible ramps may encroach to the front property line.

- b. Side: 12 feet.
 - c. Rear: 25 feet.
6. Setbacks, accessory structures:
- a. Front: 25 feet or behind the front wall of the principal structure, whichever is greater.
 - b. Side: 5 feet
 - c. Rear: 5 feet
 - d. All accessory structures over 400 feet of gross floor area must meet principal structure setbacks.
7. Maximum structural height: 35 feet.
8. Minimum lot size: no minimum

CHAPTER VIII. Goosetown Neighborhood Conservation District (GNCD)

A. Purpose: The purpose of the Goosetown Neighborhood Conservation District is to preserve the character and scale of this historic east side neighborhood while allowing for compatible infill and redevelopment. Standards are generally based on the standards to which this neighborhood was originally built, with additional provisions for open space and public safety.

B. Permitted Uses:

1. One and Two-family residential structures
2. Family day care homes and group day care homes licensed by the Department of Health and Human Services
3. Home occupations
4. Residential accessory structures

C. Special Uses:

1. Religious institutions
2. Cottage industries
3. Community residential facilities as defined in Sec. 76-2-411, MCA
4. Accessory residential unit.

D. Development Standards, Principal and Accessory Structures: Any accessory structure in excess of 200 square feet must comply with standards for principal structures.

1. **Minimum lot area:** 3,500 square feet for single-family structure; 5,000 square feet for two-family structure.
2. **Front build-to:** Defined by the average build-to line on the same block and on the same street. Once the average is established, the foundation wall of the structure may be placed back or forward by no more than 10%.
3. **Minimum side yard:** Prevailing setback for principal and accessory structures, but not less than 2.5 feet.
4. **Minimum rear yard:** 5'
5. **Maximum structural height:** 30'
6. **Maximum lot coverage:** 70%
7. **Minimum LSR:** 20%

E. Vehicular access: If an alley is available, no vehicular access from the street is permitted.

F. Urban Area/Planned Unit Development:

Through the use of the Urban Area/Planned Unit Development (UA/PUD), townhomes, twin homes, alternative single family units such as patio homes and cottage homes may

be allowed. Apartment buildings may also be approved through the UA/PUD provided that no single building contains more than four (4) living units. Dimensional standards and lot standards may also be varied through the use of the UA/PUD. See Chapter XXXI.

CHAPTER IX- NEIGHBORHOOD COMMERCIAL REVITALIZATION DISTRICT (NCRD)

- A. Purpose and Intent.** Several street corners on 3rd and 4th Streets in Anaconda are occupied by viable commercial structures. The Neighborhood Commercial Revitalization District (NCRD) is intended to allow the use, and the adaptive reuse, of these structures to bring compatible commercial activities and services back to the residential neighborhoods within walking distance of most residential areas.
- B. Permitted Uses.** The following uses are permitted outright in the NCRD subject to an Administrative Development Permit (ADP):
1. General merchandise and specialty retail shops of all kinds, including food stores, florists, office supply/print centers, antiques, home furnishings, drug/sundries, clothing/shoes, jewelers/watch, bakeries, wine/liquor, etc.
 2. Dining and drinking establishments including restaurants without drive-through facilities, sandwich shops, delicatessens, confectionaries, ice cream shops, coffee houses, bars, tavern, and casinos.
 3. Indoor recreation/entertainment such as game rooms and video arcades.
 4. Residential units above the primary street level.
- C. Special Uses.** The following are special uses in the NCRD, and therefore, are subject to a Major Development Permit (MDP):
1. Drive-through facilities of any kind.
 2. Financial institutions of all kinds.
 3. Professional, agency, and business offices including medical, dental, optometry, real estate, insurance, law, and similar services.
 4. Religious institutions and schools (private or public).
 5. Residential uses, either as a single use or mixed with a permitted or special use.
- D. Prohibited Uses.** The following uses are expressly prohibited in the NCRD:
1. Automobile dealerships, auto/truck/trailer/boat sales lots, and vehicle sales of any kind.
 2. Motorcycle, ATV, or snowmobile sales and/or service.
 3. Automotive repair of any kind, including detail shops and car washes.
 4. Automotive service stations with or without convenience retail.
 5. Lodging of all kinds, including hotels, motels, and bed and breakfast establishments.
- E. Accessory Structures.** Storage and maintenance structures that are clearly subordinate and incidental to the primary use of the property are allowed in the NCRD. Such structures must be located to the rear of the principal structure.

F. Landscaping/Screening. All landscaping and screening shall be in accordance with Appendix A, Division 3 of these regulations.

G. Parking and Loading. Off-street parking and loading facilities in the NCRD shall be as follows. No off-street parking or loading spaces shall be located between the principle structure and the street (street front or street side of a side yard):

1. Permitted uses: For all permitted uses listed in Sec. VII.B above, no off-street parking and loading facilities are required.
2. Special uses: For all special uses, except residential, listed in Sec. VII.C above, off-street parking and loading facilities may be required depending on the parking demand of the proposed use and the potential for adverse impacts to the surrounding neighborhood if parking and loading is not provided on site. Such determinations shall be made according to the criteria for approval of Major Development Permits set forth in Sec. II.H.8 of this DPS.
3. Residential uses: All residential uses shall provide off-street parking as required by Appendix A, Division 4 of this DPS.

H. Signs. All signage is required to comply with the provisions of the ADLC Sign Code.

I. Development Standards. The following standards apply to all new and expanded development in the NCRD, including accessory structures:

1. Structural setbacks.
 - a. Front: zero. Maximum setback: 10 feet
 - b. Sides: Street side- zero. Non-street side: 5 feet.
 - c. Rear: 10 feet, except that additional setbacks may be required to accommodate any required off-street parking and loading, depending upon specific uses(s) proposed.
2. Maximum height: 35 feet
3. Maximum floor area ratio (FAR): 2.0
4. Minimum landscape ratio (LSR): None, unless required by applicable design guidelines.
5. Maximum lot coverage: N/A

CHAPTER X- CENTRAL BUSINESS DEVELOPMENT DISTRICT (CBDD) and MAIN STREET OVERLAY (MSO)

A. Purpose and Intent. The Central Business Development District (CBDD) is intended to keep downtown Anaconda as the governmental, retail, entertainment, and financial center of the community. In addition, the CBDD promotes an attractive, walkable, diverse area for shopping and entertainment. The Main Street Overlay is intended protect and enhance the historic character and qualities of the core downtown area, promote investment, and to encourage the logical expansion of the historic core where practicable.

B. Permitted Uses. The following uses are permitted outright in the CBDD subject to an Administrative Development Permit (ADP):

1. General merchandise and specialty retail shops of all kinds, including food stores, florists, office supply/print centers, antiques, home furnishings, drug/sundries, clothing/shoes, jewelers/watch, bakeries, wine/liquor, etc.
2. Dining and drinking establishments including restaurants without drive-through facilities, sandwich shops, coffee houses, bars, and taverns. Restaurants with gaming machines are permitted throughout the CBDD, but casinos are only allowed outside of the MSO.
3. Lodging of all kinds, including hotels, motels, bed & breakfast establishments, and tourist homes.
4. Residential uses such as apartments and lofts when located on an upper level above a non-residential permitted use.
5. Financial institutions of all kinds without drive-through facilities.
6. Professional, agency, and business offices, including medical, and medical and dental clinics.
7. Theatres and other indoor places of entertainment.
8. Churches, schools (private or public), cultural facilities such as museums, libraries, and facilities for the performing and visual arts.
9. Governmental facilities and functions, including police and fire substations, customer service center, parks, and recreation centers.

C. Special Uses. The following are special uses in the CBDD, and therefore, are subject to a Major Development Permit (MDP):

1. Drive-through facilities of any kind. (Not permitted within the MSO.)
2. Automotive service stations, with or without convenience retail. (Not permitted within the MSO.)
3. Funeral homes and mortuaries.

D. Accessory Structures. Storage and maintenance structures that are clearly subordinate and incidental to the primary use of the property are allowed in the CBDD. Such structures must be located to the rear of the principal structure.

E. Historic Preservation Standards. All new and expanded development within the Anaconda Commercial Historic Preservation District shall be subject to the Commercial Historic District preservation standards set forth in Appendix I.

F. Parking and Loading. Within the MSO, no off-street parking and loading spaces are required. Outside of the MSO, parking and loading spaces are required in accordance with Appendix A, Division 4. No off-street parking provided in the CBDD shall be located between the principal structure and the street.

G. Signs. All signage is required to comply with the provisions of ADLC sign code.

H. Development Standards. The following standards apply to all new and expanded development in the CBDD, including accessory structures.

1. Structural setbacks.
 - a. Front: zero. Maximum setback: 10 feet
 - b. Sides: zero
 - c. Rear: zero
2. Maximum height: 50 feet within the MSO, otherwise 35 feet.
3. Maximum floor area ratio (FAR): Unlimited within the MSO, otherwise 1.90.
4. Minimum landscape ratio (LSR): None, unless required by the Anaconda Downtown Design Standards.
5. Maximum lot coverage: N/A

CHAPTER XI- HIGHWAY COMMERCIAL DEVELOPMENT DISTRICT (HCDD)

- A. Purpose and Intent.** The HCDD implements the Growth Policy by providing for the development of a wide variety of retail and commercial uses in suitable locations along arterial and collector roadways. Planning considerations for the HCDD include avoiding traffic congestion and improving the visual quality of the Anaconda community.
- B. Permitted Uses.** The following uses are permitted outright in the HCDD subject to an Administrative Development Permit (ADP):
1. Retail establishments and stores of all kinds including general and specialty merchandise, home furnishings, supermarkets, home improvement/building supply, tire and auto stores, and auto sales and service.
 2. Dining and drinking establishments, including restaurants with or without drive-through facilities, bars, taverns, and casinos. Also includes fraternal clubs and lodges.
 3. Hotels, motels, rental cabins, and tourist homes.
 4. Financial institutions of all kinds, with or without drive-through facilities.
 5. Professional, agency, and business offices.
 6. Theaters and other indoor places of entertainment.
 7. Churches, schools (public or private), cultural facilities such as museums.
 8. Governmental facilities and functions such as police and fire substations, customer service centers, parks, recreation centers, athletic facilities, etc.
- C. Conditional Uses.** The following uses are conditional uses in the HCDD, and therefore, are subject to a Major Development Permit (MDP):
1. Townhomes and apartments.
 2. Warehousing/distribution
 3. Open storage of vehicles and equipment (not including seasonal displays of merchandise).
 4. Any structure or complex of structures exceeding 30,000 square feet.
- D. Accessory Structures.** Storage and maintenance structures that are clearly subordinate and incidental to the primary use of the property are allowed in the HCDD.
- E. Landscaping/Screening.** All landscaping and screening shall be in accordance with Appendix A, Division 3: Landscape Standards, and Division 4: Off-Street Parking Standards.
- F. Signs.** All signage is required to comply with the provision of the ADLC sign code.
- G. Development Standards.** The following standards apply to all new and expanded development in the HCDD, including accessory structures:
1. Structural setbacks

- a. Front: 25 feet
- b. Sides: 10 feet
- c. Rear: 25 feet
2. Height: 35 feet
3. Maximum floor area ratio (FAR): .30 for the first structural level; .45 for structures with more than one level.
4. Minimum landscape ratio (LSR): .15
5. Maximum lot coverage: N/A

CHAPTER XII- LIGHT INDUSTRIAL DEVELOPMENT DISTRICT (LIDD)

A. Purpose. The LIDD supports the major Growth Policy objective of revitalizing the County's base economy and redeveloping areas that are impacted by contaminants from past industrial uses. This development district will facilitate a wide range of industrial, service commercial, and distribution uses in areas of the Anaconda community suitable for such activities.

B. Permitted Uses. The following uses are permitted outright in the LIDD subject to an Administrative Development Permit (ADP):

1. Light manufacturing, assembly, milling, and fabrication, including fabrics, sheet metal, and wood fabrication.
2. Food preparation and processing, including game processing, but not including slaughtering and packing.
3. Distribution, warehousing, and wholesale.
4. Freight terminals, including trucking and rail loading facilities.
5. Auto and truck repair and service, including paint and body, but not including dismantling and salvage.
6. Farm and ranch service and sales, feed, tack, veterinary services and care.
7. Building supply/lumber yard.
8. Contractors' offices and yards, including general contracting, plumbing, heating, mechanical, and electrical.
9. Commercial services such as janitorial service, building maintenance, and business and retail supplies and fixtures.

C. Accessory Uses. The following uses and structures are allowed as accessory in the LIDD, subject to an ADP:

1. Ancillary storage and maintenance structures.
2. One caretakers/security quarters per business or industry.

D. Performance Standards. All uses in the LIDD shall meet the following performance standards:

1. Uses in the LIDD shall not pose hazards of glare, fumes, dust, odor, explosion, or excessive noise.
2. Open storage of materials or supplies must be effectively screened from view by a sight obscuring fence or landscaping.

E. Landscaping/Screening. All landscaping and screening shall be in accordance with Sec. (Landscape Standards).

F. Signs. All signage is required to comply with the provisions of the ADLC sign code.

G. Development Standards. The following standards shall apply to all new and expanded development in the LIDD, including accessory structures:

1. Setbacks
 - a. Front: 25 feet
 - b. Sides: 10 feet
 - c. Rear: 25 feet
2. Minimum lot size: 40,000 square feet
3. Maximum structural height: 35 feet
4. Maximum floor area ratio (FAR): .35 for first level, .50 for two levels or more
5. Minimum landscape ration (LSR): .10
6. Maximum lot coverage: 45%

CHAPTER XIII- HEAVY INDUSTRIAL DEVELOPMENT DISTRICT (HIDD)

- A. Purpose.** The Heavy Industrial Development District provides development opportunities for heavy manufacturing, energy production, and large-volume product distribution facilities that are vital to the base economy of the County and region. Suitable sites are located well away from residential areas, are accessed primarily by state and county highways and arterial streets, and ideally, have rail access.
- B. Permitted Uses.** The following uses are permitted in the HIDD, subject to an Administrative Development Permit (ADP):
1. Heavy manufacturing and product and material fabrication and processing, including foundries and natural resource refining.
 2. Energy generation, production, and distribution, including generating plants, bulk fuel handling, storage, and distribution, wind and geothermal recovery systems and facilities, and biofuels production.
 3. Freight loading and handling facilities, including rail sidings and truck terminals.
 4. Waste management facilities for industrial and household waste and contaminated soils and material.
- C. Accessory Uses.** The following uses and structures are allowed as accessory in the HIDD, subject to an ADP:
3. Ancillary storage and maintenance structures, including outdoor storage of raw materials, product, equipment, and vehicles.
 4. One caretakers/security quarters per lot.
- D. Performance Standards.** All uses in the HIDD shall meet the following performance standards:
3. Uses in the HIDD shall not pose hazards of glare, fumes, dust, odor, explosion, or excessive noise.
 4. Open storage of materials or supplies must be effectively screened from view by a sight obscuring fence or landscaping.
- E. Landscaping/Screening.** All landscaping and screening shall be in accordance with Appendix A., Division 3. Landscaping Standards
- F. Signs.** All signage is required to comply with the provisions of the ADLC sign code.
- G. Development Standards.** The following standards apply to all new and expanded development in the HIDD, including accessory structures:
1. Setbacks
 - a. Front: 50 feet

- b. Sides: 25 feet
- c. Rear: 50 feet
- 2. Minimum lot size: 80,000 square feet
- 3. Maximum structural height: 60 feet; smokestacks, cooling towers, antennae, and similar appurtenances may be constructed to 90 feet in height.
- 4. Maximum floor area ratio (FAR): .40 for first level; .60 for structures of more than one level.
- 5. Minimum landscape ratio(LSR): .10
- 6. Maximum lot coverage: 50%

CHAPTER XIV: Planned Industrial Districts- PID-1 (Light) and PID-2 (Heavy)

A. Description:

These development districts are intended to apply primarily to newly developing industrial areas. They will provide for a broad range of research, product development, manufacturing, distribution, and industrial uses with operations which are appropriate to the East Anaconda area, particularly within the Superfund Overlay (SO). Developments within these districts should be planned, constructed, and operated to ensure a contemporary industrial environment that will serve the mutual interests of the community as a whole, any adjacent agricultural or commercial areas, and those of the occupants of the industrial district in particular. Planned industrial development districts shall be located on lands that are suitable for industrial development, have an acceptable relationship to the major thoroughfare plan and other applicable infrastructure master plans, and are in general compliance with the Growth Policy and East Anaconda Reuse Plan.

B. Purpose and Intent:

It is the purpose and intent of planned industrial districts to:

1. Provide appropriate areas for industrial activities such as manufacturing, research and development, processing or assembly of materials, goods and equipment, warehousing, and general distribution.
2. Promote consolidation of industrial uses into appropriately planned areas, and attract a compatible mix of industrial uses and support services that provide the community with a sound, diverse industrial base.
3. Provide adequate space for the industrial uses and their accompanying activities such as off-street parking, loading areas, storage, communications, landscaping, and accessory uses.
4. Make the maximum and efficient use of highway and rail transportation facilities and of available utilities.
5. Ensure compatibility with the community in general through controlling excessive noise, glare, odors, smoke, hazards, and other objectionable influences, and through thoughtful site planning and standards of design that will produce attractive facilities, streetscapes, and community gateways.
6. When located within the Superfund Overlay (SO), protect the public health and safety through remediation and maintenance of remedies pursuant to Superfund.

PID-1 Specific Provisions:**C. Permitted Uses:**

Permitted PID-1 uses are those that fall under the general category of “light industry”. These are light manufacturing, R&D, component assembly, and storage and distribution functions that have minimal impacts such as noise, smoke, dust, odors, light/glare, or life safety hazards (explosion, gas, toxic chemicals, hazardous fuels, etc.). Permitted uses also include business parks as defined in these regulations.

D. Special Uses:

The special uses allowed in this subsection are subject to a Major Development Permit (MDP) pursuant to Chapter II of this DPS:

1. Retail sales (beyond that allowed as an accessory use and/or associated with a business park use as defined in these regulations).
2. Restaurants primarily intended to serve the immediate industrial area
3. Office buildings/complexes
4. Financial institutions

E. Accessory Uses:

Accessory uses are those ancillary uses that, while operational necessities, are clearly incidental to the primary industrial use of the property. Accessory uses include, but are not necessarily limited to:

1. Retail sales related to the primary industrial use and not exceeding 5% of the gross floor area of the primary facility
2. Vehicle/fleet maintenance (internal use only)
3. Waste management/recycling (internal only)

F. Site Development Standards:

1. Setbacks
 - a. Front: 60 feet. Entry features such as canopies, porte-cochere, or vestibules may encroach into the front setback not more than 30 feet.
 - b. Side: 20 feet.
 - c. Rear: 20 feet
2. Floor area ratio (FAR): .30 maximum for one level, .40 for more than one level.
3. Landscape ratio: .25 minimum
4. Minimum lot size: N/A
5. Minimum site size for PID-1 development: 2 acres

G. Performance Standards:

The following performance standards shall be adhered to at all times during the development and subsequent use of the subject property.

1. No glare from exterior lighting shall be visible from off site.
2. No smoke, odors, or fumes shall be perceptible beyond site boundaries.
3. Dust shall be effectively suppressed both during construction and operation. All vehicle drive and parking areas shall be paved. Vehicle and material storage areas may be treated with turf blocks or similar products.

4. No fuels, chemicals, or other materials may be kept, used, or processed on site in such a manner that they constitute a life safety hazard.
5. No vibration, or noise exceeding 85dB, shall be detected at any property line.

H. Parking and Loading Standards

Off-street parking and loading shall be provided in accordance with Appendix A, Division 4: Off-Street Parking and Loading Standards.

I. Landscaping/Screening Standards

Landscaping and screening shall be provided according to Appendix A, Division 3: Landscaping Standards. In addition, the following recommendations are to be considered:

1. Promote biodiversity and native plant and animal communities. Use any high-quality natural areas as part of the required landscaping.
2. Landscape for water and energy conservation by using indigenous vegetation appropriate for the soil, climate, and any contaminants left in place.
3. Integrate site runoff, irrigation, snow storage, composting, and recycling of building waste.
4. *Xeriscaping* is allowed in areas where conveyance covenants or deed restrictions (pursuant to Superfund) prohibit or limit irrigation.

J. Architectural Standards

LEED Silver certification or equivalent is the target for all buildings in the PID-1. The architectural standards set forth herein allow a wide range of contemporary industrial façade materials. Acceptable materials would include, but would not necessarily be limited to:

- Split face masonry
- Stone (natural or synthetic)
- Dryvit-like material
- Pre-stress with exposed aggregate or stone
- Metal (only if painted, powder coated, or other acceptable finish)

Quonset-type buildings and unpainted concrete block are prohibited. Wood is discouraged for a siding material except for small and specialty buildings. Color bands, log trim, clerestories, and wainscots are to be encouraged. Use of petrochemical and volatile organic compounds (VOC) in building materials and furnishings is discouraged.

PID-2 Specific Provisions

K. Permitted Uses:

Permitted PID-2 uses are those that fall under the general category of “heavy industry”. These are foundries, heavy fabrication of all types, chemical manufacture and processing, building products manufacture and processing (including lumber, fencing, and utility poles), meat processing and packing, warehousing/distribution, and the processing of mining and smelting waste into other products.

L. Special Uses

The special uses allowed in this subsection are subject to a Major Development Permit (MDP) pursuant to Chapter II of this DPS:

1. Railway loading, unloading, and multi-modal facilities.
2. Restaurants primarily intended to serve the immediate industrial area.

M. Accessory Uses:

Accessory uses are those ancillary uses that are clearly incidental to the primary use of the property. Accessory uses include, but are not necessarily limited to:

1. Vehicle/fleet maintenance (internal use only)
2. Waste management/recycling
3. Security office/caretaker's quarters

N. Site Development Standards:

1. Setbacks
 - a. Front: 80 feet. Entry features such as canopies, porte-cochere, or vestibules may encroach into the front setback not more than 30 feet.
 - b. Side: 40 feet
 - c. Rear: 40 feet
2. Floor area ratio (FAR): .30 maximum for one level, .40 for more than one level.
3. Landscape ratio (LSR): .25 minimum
4. Minimum lot size: N/A
5. Minimum site area for PID-2 development: 4 acres

O. Performance Standards:

The following performance standards shall be adhered to at all times during the development, construction, and subsequent use of the subject property:

1. No glare from exterior lighting shall be visible from off site.
2. Dust shall be effectively suppressed both during construction and operation. All vehicle drive and parking areas shall be paved, but vehicle, equipment, and material storage areas may be compacted gravel, recycled asphalt, turf blocks, or any similar suitable material.
3. No fuels, chemicals, or other materials may be kept, used, stored, or processed on site in such a manner that a life safety hazard exists.

P. Parking and Loading Standards:

Off-street parking and loading shall be provided in accordance with Appendix A, Division 4: Off-Street Parking and Loading Standards.

Q. Landscaping/Screening Standards:

Landscaping and screening shall be provided according to Appendix A, Division 3: Landscape Standards. In addition, the following recommendations are to be considered:

1. Promote biodiversity and native plant and animal communities. Use any high-quality natural areas as part of the required landscaping.
2. Landscape for water and energy conservation by using indigenous vegetation appropriate for the soil, climate, and any contaminants left in place.

3. Integrate site runoff, irrigation, snow storage, composting, and recycling of building waste.
4. Xeriscaping is allowed in areas where conveyance covenants or deed restrictions (pursuant to Superfund) prohibit or limit irrigation.

R. Architectural Standards:

LEED Silver certification or equivalent is the target for all buildings in the PID-2. The architectural standards set forth herein allow a wide range of contemporary industrial façade materials for both light and heavy industry. Acceptable materials would include, but would not necessarily be limited to:

- Split face masonry
- Stone (natural or synthetic)
- Dryvit-like material
- Pre-stress with exposed aggregate or stone
- Metal (only if painted, powder coated, or other acceptable finish)

Quonset-type buildings and unpainted concrete block (and block that lacks an internal color) are prohibited except as accessory structures. Wood is discouraged for a siding material except for small and specialty buildings. Color bands and multi-color exterior schemes are encouraged. Use of petrochemical and volatile organic compounds (VOC) in building materials and furnishings is discouraged.

This page intentionally left blank.

CHAPTER XV: Railroad Transitional Development District (RRTD)

- A. Purpose and Intent.** The RRTD implements the Growth Policy by allowing for the transition of lands that were historically associated with the railroad. As the community has changed over time, many properties which were formally used for railroad operation, maintenance, and right-of-way have become suitable and desirable for other uses. When these other uses become viable and their redevelopment would constitute a community benefit, a redesignation of the property to the appropriate development district should be applied for.
- B. Permitted Uses.** The following uses are permitted outright in the RRTD subject to an Administrative Development Permit (ADP):
1. Expansion of existing office and commercial service uses.
 2. Expansion of existing railroad related uses.
 3. Accessory uses that are clearly incidental to primary permitted uses.
 4. Minor utility installations.
- C. Special Uses.** The following land uses are considered special uses in the RRTD and are subject to Major Development Permits (MDP):
1. New office and commercial service uses.
 2. New railroad related uses and facilities, including museums and other uses and displays of an historic and/or cultural nature relating to the railroad.
 3. Institutional uses.
 4. Residential uses of all types and densities.
- D. Development Standards.** The following standards apply to all development in the RRTD:
1. Setbacks:
 - a. Front- 25 feet.
 - b. Sides- 10 feet, zero (0) when necessary to accommodate railroad loading facilities.
 - c. Rear- 20 feet, zero (0) when necessary to accommodate railroad loading facilities.
 2. Maximum structural height- 35 feet.
 3. Maximum floor area ratio- .50
 4. Minimum landscape ratio- .15
 5. Minimum lot size- N/A
- E. Site Development and Property Maintenance Standards.**
1. Outdoor storage. Outdoor storage that is visible from a public street or park is expressly prohibited. Outdoor storage which would be visible from a public street or park must be screened with fencing or landscaping.

This page intentionally left blank.

CHAPTER XVI: Open Space Review Development District (OSRD)

- A. Purpose and Intent.** The OSRD implements the Growth Policy by providing that former industrial lands that are characterized as having contaminants must remain undeveloped until such time as they are remediated and made suitable for redevelopment. At that time, these lands should be redesignated to a suitable development district.
- B. Permitted Use.** The following uses are principal permitted uses in the OSRD, subject to an Administrative Development Permit (ADP):
1. Required waste management and remediation activities.
 2. Agricultural pasture land.
 3. Wildlife management.
 4. Minor utility installations
- C. Special Uses.** No special uses are designated for the OSRD. Any use of land of land other than those listed in Sec. XV.B requires the subject property to be redesignated to a suitable development district.
- D. Development Standards.** The following standards shall apply to all development within the ORDD:
1. Setbacks. No principal or accessory structure shall be placed any nearer than 25 feet from any boundary of the subject property.
 2. Maximum structural height. 35 feet, or as specifically set by an approved MDP.
 3. Landscaping. Provisions of Appendix A, Division 3 shall apply to any development within the ORDD, except that required landscaping may be waived by the Administrator for any property that is scheduled to be remediated within two (2) years of issuance of a development permit.

This page intentionally left blank.

CHAPTER XVII: Public/Semi-Public District (P/SPD)

- (A) Purpose:** The purpose of the Public/Semi Public District is to recognize and designate land for governmental and other public and semi-public facilities and services.
- (B) Permitted Uses:** Uses permitted in the P/SP District include all governmental functions and facilities, including but not necessarily limited to the following.
1. Public schools
 2. Federal, state, and local government buildings and offices
 3. Utilities and public facilities such as water and wastewater treatment plants
 4. Shop and maintenance yards, county and state highway maintenance work stations, and material storage facilities.
 5. Public libraries and auditoriums
 6. Hospitals and publicly operated clinics
 7. Public recreational facilities such as parks and golf courses
- (C) Development Standards:** The development standards in each separate P/SP District shall be established by the governmental or semi-public entity developing the site. Anaconda-Deer Lodge County invites and encourages cooperation with all government agencies and semi-public entities and organizations to develop public sites and facilities in a manner that respects the character, qualities, and scale of the host neighborhood. Facility master plans that are developed through community involvement are encouraged. Adherence to the landscaping, parking, fencing, architectural, and other site development standards is also encouraged.
- (D) Review Process:** Development Permits are required for development on property designated P/SPD and the same review procedures that apply to all other districts also apply in P/SPD. The Administrator shall determine whether a proposed development shall be reviewed as an Administrative Development Permit (ADP) or a Major Development Permit. As general guidance, additions to buildings or minor alterations to the site may be reviewed as ADPs provided that no adverse impacts to surrounding public and private properties are expected. All other improvements, such as new buildings or facilities, significant changes to the site (parking, access, open space, etc), or changes in the use(s) of the site, should be reviewed as MDPs.
- (E) Change of Ownership:** Should any land within a P/SP District be transferred to private ownership, the County will entertain an Official Development District Map amendment request to the appropriate development district. Such an application shall be filed and reviewed in conformance with state law and the applicable provisions of these regulations as set forth in Chapter II.

This page intentionally left blank.

CHAPTER XVIII- Georgetown Lake Development District (GLDD)

- A. Purpose and Intent.** The purpose of the Georgetown Lake Development District is to implement the Growth Policy by setting forth density, environmental, and property maintenance standards that will protect the character and qualities of this unique area even as it continues to accommodate additional growth.
- B. Permitted Uses.** The following land uses are permitted in the GLDD subject to an Administrative Development Permit (ADP):
1. Single-family detached residential dwelling units, including Class A manufactured homes.
 2. Tourist homes which are limited to one dwelling unit or one portion thereof.
 3. Guest houses and guest quarters.
 4. Home occupations.
 5. Day care homes providing care for 12 or fewer children.
- C. Special Uses.** The following are special uses in the GLDD, and therefore, are subject to Major Development Permits (MDP):
1. Mining or mineral extraction of any kind, including gravel mining and processing.
 2. Cottage industries.
 3. Lodging such as bed & breakfasts, hotel, motel, or rental cabins.
 4. Resource based recreational business establishments such as marinas, boat rentals, and outfitters.
 5. Convenience commercial primarily intended to serve local residents and visitors, with or without motor fuel dispensing, and only in those areas designated for commercial activity on the official Development District Map.
 6. Community residential facilities meeting the definition of Sec. 76-2-411, MCA, subject to the following conditions:
 - a. The facility must be licensed by the Montana Department of Public Health and Human Services.
 - b. Off-street parking shall be provided to all staff assigned to the facility.
 7. Recreational vehicle parks and campgrounds.
 6. Religious institutions.
- D. Accessory Uses and Structures.** The following accessory uses and structures are permitted in the GLDD, and are considered to be customary and incidental to the primary use of the property for residential purposes:
1. Garages, attached or detached, for private residential or home occupation use only.

2. Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal home occupation on the premises is expressly prohibited.
 3. Outdoor storage that meets the standards of Appendix A, Division 5.
 4. Use of recreational vehicles (RVs) for residing on property within the district while a residence is being constructed and/or for seasonal occupancy prior to a residence being constructed, is considered an accessory use of property in the GLDD.
- E. Development Standards.** The following standards apply to new or expanded principal structures within the GLDD. In some cases, these standards may be superseded by the standards of Georgetown Lakeshore Protection Standards (Appendix B).
1. Structural setbacks.
 - a. Front: 35 feet, except that for any property fronting Montana Hwy 1, that setback shall be not less than 60 feet.
 - b. Sides: 15 feet.
 - c. Rear: 30 feet.
 - d. In cases where a neighborhood setback exists the administrator may allow for standards that are consistent with the nature and character of existing development
 2. Maximum height: 28 feet.
 3. Maximum lot coverage (by principal and accessory structures): 20% .
 4. Maximum floor area ratio (FAR): .25
 5. Minimum lot size: 80,000 square feet.
 6. Rural PUD: The Rural Planning Area Planned Unit Development option (RPA/PUD) as set forth in Chapter XXXIII of these regulations may be used in the GLDD.
- F. Development Standards- Accessory Structures.** The following standards apply to new and expanded accessory structures with a ground floor area of 440 square feet or less. Accessory structures with a greater ground floor area shall comply with standards for principal structures set forth in Sec. XVIII. E. above.
1. Structural setbacks.
 - a. Front: All accessory structures shall be sited to the rear or the primary structure, or 50 feet from the front property line, whichever is less.
 - b. Sides: 10 feet.
 - c. Rear: 20 feet.
 2. Maximum height: 24 feet.

G. Development Standards- Georgetown Subdivision. The following standards apply exclusively to principal and accessory structures in the Georgetown Subdivision. These regulations are made necessary because of the extremely small (3,000 square feet) lots that comprise this subdivision. No further subdivision of any lot of record in the Georgetown Subdivision is permitted.

1. Setbacks:
 - a. Front- 20 feet
 - b. Side- 5 feet
 - c. Rear- 10 feet
2. Maximum height: 28 feet.

H. Keeping of Animals. The keeping of hooved animals on residential property is regulated by Appendix A, Division 7. The keeping of domestic sheep is prohibited in the GLDD.. Commercial dog breeding, commercial kennels, and the farming of fur-bearing animals are similarly prohibited. Rabbits and chickens are allowed for personal use only. Exceptions may be made by the Administrator for calves, rabbits, or other animals being raised as participation in 4-H, FFA, and similar sanctioned and supervised programs.

This page intentionally left blank.

CHAPTER XIX- Spring Hill Development District (SHDD)

A. Purpose and Intent. The purpose of the SHDD is to implement the Growth Policy by setting forth land use and density standards intended to preserve the rural character and modest scale of development in the Spring Hill area.

B. Permitted Uses. The following land uses are permitted in the SHDD subject to an Administrative Development Permit (ADP):

1. Single-family detached residential dwelling units, including Class A manufactured homes (one unit per lot of record).
2. Tourist homes which are limited to one dwelling unit or one portion thereof.
3. Guest houses and guest quarters.
4. Home occupations.

C. Special Uses. All other uses of property not specifically listed in Sec. XIX. B above are considered special uses and are subject to Major Development Permits (MDP).

D. Accessory Uses and Structures. The following accessory uses and structures are permitted in the SHDD, and are considered to be customary and incidental to the primary use of the property for residential purposes. Accessory uses that involve a structure may be subject to an ADP.

1. Garages, attached or detached, for private residential or home occupation use only.
2. Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal home occupation on the premises is expressly prohibited.
3. Outdoor storage that meets the standards of Appendix A, Division 5, Property Maintenance Standards..
4. Private dog breeding kennels.
5. Use of recreational vehicles (RVs) is regulated by Appendix A, Division 6.

E. Development Standards. The following standards apply to new or expanded principal and accessory structures within the SHDD. In some cases, these standards may be superseded by lakeshore protection standards.

1. Structural setbacks.
 - e. Front: 35 feet, except that for any property fronting Montana Hwy 1, the front setback shall be not less than 60 feet.
 - f. Sides: 10 feet.
 - g. Rear: 10 feet.
2. Maximum height: 35 feet.
3. Maximum lot coverage (by principal and accessory structures): N/A
4. Maximum floor area ratio (FAR): .N/A

5. Minimum lot size: Five (5) acres (217,800 square feet).

F. Keeping of Hooved Animals. The keeping of hooved animals on residential property is regulated by Appendix A, Division 7 of these regulations. The keeping of domestic sheep is not permitted in the SHDD.

CHAPTER XX: West Valley Development District (WVDD)

- A. Purpose.** The WVDD implements the ADLC Growth Policy by setting forth standards to guide development both along Montana Hwy 1 and in the more rural areas of the District. The West Valley District also provides separate standards for the many lots of 40,000 square feet or less which already exist in the valley area north of Hwy 1.
- B. Permitted Uses.** The following land uses are permitted in the WVDD subject to an Administrative Development Permit (ADP) unless otherwise noted.
1. Single-family detached residential dwelling units (one per lot of record).
 2. Typical and customary agricultural activities including but not necessarily limited to pasturing, crops, and the raising and caring for livestock. Such activities are exempt from ADP requirements pursuant to Sec. II. C. 1. b of these regulations.
 3. One guest house or guest quarters per primary residence.
 4. Home occupations.
 5. Day care facilities providing care for 12 or fewer children.

Special Uses. All other land uses not listed in Sec. XX.B above are considered special uses and are subject to Major Development Permits.

- C. Accessory Uses and Structures.** The following accessory uses and structures are permitted in the WVDD, and are considered to be customary and incidental to the primary use of the property for residential and/or agricultural purposes. Most accessory structures are subject to Administrative Development Permits (ADP):
1. Garages, attached or detached, for private residential or home occupation use only.
 2. Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal home occupation on the premises is expressly prohibited.
 3. Outdoor storage that meets the standards of Appendix A, Division 5..
 4. Private dog breeding kennels.
 5. The use of RVs on residential property is regulated by Appendix A, Division 6.
 6. Barns, storage buildings for vehicles and equipment, well houses, and similar accessory structures supporting a primary agricultural use.
- D. Site Development Standards- Existing Lots of 40,000 Square Feet or Less.** The following standards apply to any new or expanded principal and accessory structures within the WVDD for lots that were legally existing on the effective date of these regulations and which are 40,000 square feet or less in size. In some cases, these standards may be superseded by environmental standards:
1. Structural setbacks (minimum).

- a. Front: 25 feet, except for any property fronting MT Hwy 1, in which case the front setback shall not be less than 60 feet.
- b. Sides: 10 feet.
- c. Rear: 10 feet.
2. Maximum structural height: 35 feet
3. Maximum lot coverage by principal and accessory structures: 25%
4. Maximum floor area ratio (FAR): N/A
5. Minimum lot size: N/A. Existing lots of 40,000 square feet or less may not be further subdivided or resubdivided in any manner that will reduce lot size.

E. Development Standards- Newly Platted Lots and Existing Lots Greater Than 40,000 Square Feet. The following standards apply to any new or expanded principal and accessory structures within the WVDD for lots that were platted after the effective date of these regulations and for lots that were legally existing on the effective date of these regulations and are greater than 40,000 square feet in size. In some cases, these standards may be superseded by environmental standards:

1. Structural setbacks (minimum).
 - a. Front: 35 feet, except for any property fronting MT Hwy 1, in which case the front setback shall not be less than 60 feet.
 - b. Sides: 10 feet.
 - c. Rear: 10 feet .
2. Maximum structural height: 35 feet
3. Maximum lot coverage by principal and accessory structures: 25%
4. Maximum floor area ratio (FAR): N/A
5. Minimum lot size: Greater than 40,000 square feet.

F. Keeping of Hooved Animals. The keeping of hooved animals on residential property is regulated by Appendix A, Division 7. The keeping of domestic sheep is not permitted in the WVDD.

CHAPTER XXI: Big Hole Development District (BHDD)

- A. Purpose and Intent.** The primary purpose of the Big Hole Development District regulations is to preserve the rural character and qualities of the Big Hole area of Anaconda-Deer Lodge County. This includes preserving working agriculture and the landscapes of which it is a part. These regulations also seek to preserve and enhance the many environmental amenities of the Big Hole, including wildlife and wildlife habitat, scenic vistas, roadways, and river corridor, forested lands, riparian areas, water quality, and fisheries. Non-residential uses are extremely limited consistent with the ADLC Growth Policy.
- B. Permitted Uses.** The following land uses are permitted in the BHDD subject to an Administrative Development Permit (ADP) unless otherwise noted:
1. Single-family detached residential dwelling units, including Class A manufactured homes.
 2. Residential accessory structures (Sec. XXI. D. below).
 3. Typical and customary agricultural activities including but not necessarily limited to pasturing, crops, and the raising and caring for livestock. Such activities are exempt from ADP requirements pursuant to Sec. II. C. 1. b. of these regulations.
 4. Tourist homes which are limited to one dwelling unit or portion thereof.
 5. One guest house or quest quarters per primary residence. An accessory residential unit (ARU) may be substituted for a guest house or quarters.
 6. Day care homes providing care for 12 or fewer children.
 7. Home occupations.
- C. Special Uses.** All other land uses not listed in Sec. XXI.B above are considered special uses subject to Major Development Permits.
- D. Accessory Uses and Structures.** The following accessory uses and structures are permitted in the BHDD, and are considered to be customary and incidental to the primary use of the property for residential and/or agricultural purposes. Most accessory structures are subject to Administrative Development Permits (ADP):
1. Garages, attached or detached, for private residential or home occupation use only.
 2. Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal home occupation on the premises is expressly prohibited.
 3. Outdoor storage that meets the standards of Appendix A, Division 5.
 4. Private breeding kennels.
 5. Use of recreational vehicles (RVs) for residing on property within the district while a residence is being constructed and/or for seasonal occupancy prior to a residence being constructed, is considered an accessory use of property in the BHDD.

E. Site Development Standards. The following standards apply to any new or expanded principal and accessory structures within the BHDD. In some cases, these standards may be superseded by environmental standards:

1. Structural setbacks.
 - d. Front: 50 feet, except that for any property fronting Highway 569 or Highway 43, that setback shall not be less than 100 feet.
 - e. Sides: 10 feet.
 - f. Rear: 10 feet .
2. Maximum height: 35 feet
3. Minimum lot size: 20 acres

F. Density Standards. In addition to the density standard established by the minimum lot size above, the following standards may be used in conjunction with the Rural Planning Area PUD as set forth in Chapter XXXIII of these regulations:

1. Base gross density: 1 du/20 acres.
2. 10% open space allows a 10% density bonus (one unit per 18 acres).
3. 15% open space allows a 15% density bonus (one unit per 17 acres).
4. 20% open space allows a 25% density bonus (one unit per 15 acres).
5. 25 % open space allows a 35% density bonus (one unit per 13 acres).
6. 40% open space allows a 50% density bonus (one unit per 10 acres).
7. 50% open space allows a 60% density bonus (one unit per 8 acres).
8. Other open space and density bonuses are allowable based upon the same calculation.

G. Keeping of Hooved Animals. The keeping of hooved animals on residential property is regulated by Appendix A, Division 7. The keeping of domestic sheep is not permitted in the BHDD.

CHAPTER XXII- Aspen Hill-Clear Creek Development District (AHCCD)

- A. Purpose and Intent.** Standards set forth in the Aspen Hill-Clear Creek Development District implement the Growth Policy by providing a framework under which the decidedly rural character of the area may be maintained. Given the difficulty of access and steepness of terrain in this area, intensive development of any kind is not considered appropriate or in the interest of public health and safety. Development will mostly be limited to large-lot residential and home-based businesses.
- B. Permitted Uses.** The following land uses are permitted in the AHCCD subject to an Administrative Development Permit (ADP) unless otherwise noted.
1. Single-family homes including Class A manufactured homes (one primary residence per lot of record).
 2. Residential accessory structures (Sec. XXII. D. below).
 3. Tourist homes which are limited to one dwelling unit or portion thereof.
 4. One guest house or guest quarters per primary residence. An accessory residential unit (ARU) may be substituted for a guest house or quarters.
 5. Day care homes providing care for 12 or fewer children.
 6. Home occupations.
- C. Special Uses.** All other land uses not listed in Sec. XXII.B. above are considered special uses subject to Major Development Permits.
- D. Accessory Uses and Structures.** The following accessory uses and structures are permitted in the AHCCD, and are considered to be customary and incidental to the primary use of the property for residential and/or agricultural purposes. Most accessory structures are subject to Administrative Development Permits (ADP):
1. Garages, attached or detached, for private residential or home business use only.
 2. Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal home business on the premises is expressly prohibited.
 3. Outdoor storage that meets the standards of Appendix A, Division 5.
 4. Private dog breeding kennels.
 5. Use of recreational vehicles (RVs) is regulated by Appendix A, Division 6..
 6. Barns, storage buildings for vehicles and equipment, well houses, and similar accessory structures supporting permitted or special uses.
- E. Development Standards.** The following standards apply to all principal and accessory structures within the AHCCD. These standards may be superseded by stream bank setbacks or other environmental standards as applicable. As recommended in the Growth

Policy, property owners are encouraged to select building sites that facilitate wildlife movement through the district.

1. Setbacks:
 - a. Front- 50 feet
 - b. Side- 10 feet
 - c. Rear- 10 feet
2. Maximum structural height: 35 feet
3. Minimum lot size: 10 acres.

F. Keeping of Hooved Animals. The keeping of hooved animals is regulated by Appendix A, Division 7. The keeping of domestic sheep is not permitted in the AHCCDD.

CHAPTER XXIII- Opportunity Triangle/Mill Creek Industrial District (OT/MCID)

A. Purpose and Intent. The OT/MCID is intended to implement the ADLC Growth Policy generally and the East Anaconda Reuse plan specifically by providing developers with the flexibility to develop high quality business and industrial parks in order to stimulate employment and to solidify the County's base economy.

B. Applicable Sub-Districts. The OT/MCID has no use table or development standards of its own and is implemented through four existing development districts that function as "sub-district" within the OT/MCID. Those sub-districts are:

1. Heavy Industrial Development District (HIDD), generally applied to existing heavy industrial uses within the OT/MCID.
2. Light Industrial Development District (LIDD), generally applied to existing light industrial uses within the OT/MCID.
3. Planned Industrial District-1 (PID-1), intended and recommended for new light industrial and business park development within the OT/MCID.
4. Planned Industrial District-2 (PID-2), intended and recommended for new heavy industrial development within the OT/MCID

C. Establishment of Sub-Districts within the OT/MCID.

Within the OT/MCID, the sub-districts must be applied for and approved by the Commission by ordinance as set forth in Sec. II.S. of these regulations. In addition to the criteria for an amendment to the Official Development District Map set forth in Sec. 76-2-304, MCA, the Commission shall make a finding of fact that the proposed map amendment substantially complies with the East Anaconda Reuse Plan.

This page intentionally left blank.

CHAPTER XXIV- OPPORTUNITY DEVELOPMENT DISTRICT (ODD)

A. Purpose and Intent. The ODD implements the ADLC Growth Policy by preserving the small town feel, scale, and character of the Opportunity community while allowing for modest residential and limited commercial growth. Regulations reflect the limitations posed by the lack of central water and sewer, and by marginal drainage.

B. Permitted Uses. The following uses are permitted outright in the Opportunity Development District subject to an Administrative Development Permit (ADP):

1. Single-family homes including Class A and B manufactured homes (one unit per lot of record).
2. Residential accessory structures (Sec. XXIV. D. below).
3. Tourist homes which are limited to one dwelling unit or a portion thereof.
4. One guest house or quarters per primary residence. An accessory residential unit (ARU) may be substituted for a guest house or quarters.
5. Day care homes providing care for 12 or fewer children.
6. Home occupations.

C. Special Uses. All other uses of land not listed in Sec. XXIV.B. above are considered special uses subject to Major Development Permits.

D. Accessory Uses and Structures. The following accessory uses and structures are permitted in the ODD, and are considered to be customary and incidental to the primary use of the property for residential purposes. Most accessory structures are subject to Administrative Development Permits (ADP):

1. Garages, attached or detached, for private residential or home business use only.
2. Sheds for storage of firewood, tools, seasonal equipment and similar household items only. Storage for rent and storage of commercial goods and equipment not associated with a legal home business on the premises is expressly prohibited.
3. Outdoor storage that meets the standards of Appendix A, Division 5.
4. Private dog breeding kennels.
5. Use and storage of recreational vehicles (RVs) is subject to the standards contained in Appendix A, Division 6..
6. "Hobby" farming, which includes gardens and livestock contained on residential lots. Keeping of hooved animals is regulated by the standards of Appendix A, Division 7.

E. Development Standards. The following standards apply to all new and expanded principal and accessory structures within the Opportunity Development District. These standards may be superseded by stream bank setbacks or other environmental standards as applicable:

1. Setbacks:
 - d. Front- 35 feet

- e. Side- 10 feet
- f. Rear- 10 feet
- 2. Maximum structural height: 35 feet
- 3. Minimum lot size: 2 ½ acres.
- 4. Minimum lot width at building setback line: 50 feet

CHAPTER XXV- East Valley Development District (EVDD)

A. Purpose and Intent. The primary purpose of the East Valley Development District is to implement the Growth Policy through limiting substantial development in areas without services and to preserve open spaces, a quality rural living environment, and family-owned working agriculture.

B. Permitted Uses. The following land uses are permitted in the EVDD subject to an Administrative Development Permit (ADP) unless otherwise noted.

1. Single-family detached residential dwelling units (one per lot of record), including Class A and B manufactured homes.
2. Typical and customary agricultural activities including but not necessarily limited to pasturing, crops, and the raising and caring for livestock. Such activities are exempt from ADP requirements pursuant to Sec. II. C. 1. b of these regulations.
3. Tourist homes which are limited to one dwelling unit or one portion thereof.
4. Bed and breakfast establishments.
5. One guest house or quest quarters per primary residence.
6. Home occupations.
7. Day care facilities providing care to 12 or fewer children.

C. Special Uses. All land uses not listed in Sec. XXV.B. above are considered special uses subject to Major Development Permits.

D. Accessory Uses and Structures.

1. All uses and structures that are customary and incidental to a primary residential use are allowed, including but not limited to garages, workshops for a legal home business or avocation, sheds for the storage of residential items such as firewood, tools, lawn and garden equipment, etc. Most accessory structures are subject to an Administrative Development Permit (ADP).

2. Storage and use of RVs. The storage and use of RVs is regulated according to standards contained in Appendix A, Division 6.

3. Barns, storage buildings for vehicles and equipment, well houses, and similar accessory structures supporting a primary agricultural use.

E . Site Development Standards. The following standards apply to any new or expanded principal and accessory structures within the EVDD. In some cases, setbacks may be superseded by environmental standards:

1. Structural setbacks.
 - a. Front: 35 feet.
 - b. Sides: 10 feet.

- c. Rear: 10 feet .
2. Maximum height: 35 feet
3. Maximum lot coverage by principal and accessory structures: 15%
4. Maximum floor area ratio (FAR): N/A
5. Minimum lot size: 20 acres¹

F. Density Standards. In addition to the density standard established by the minimum lot size above, the following standards may be used in conjunction with the Rural Planning Area PUD as set forth in Chapter XXXIII of these regulations:

1. Base gross density: 1 du/20 acres.
2. 10% open space allows a 10% density bonus (one unit per 18 acres).
3. 15% open space allows a 15% density bonus (one unit per 17 acres).
4. 20% open space allows a 25% density bonus (one unit per 15 acres).
5. 25 % open space allows a 35% density bonus (one unit per 13 acres).
6. 40% open space allows a 50% density bonus (one unit per 10 acres).
7. 50% open space allows a 60% density bonus (one unit per 8 acres).
8. Other open space and density bonuses are allowable based upon the same calculation.

G. Keeping of Animals. Except for the operation of concentrated animal feeding operations (CAFO), there are no restrictions on the raising or keeping of livestock or pets, including pack animals and horse and dog breeding operations.

CHAPTER XXVI- Lost Creek Development District (LCDD)

A. Purpose. The LCDD implements the Growth Policy by keeping densities low in order to preserve the rural character and wildlife values that exist throughout most of this area. Residential densities will not be allowed to increase in the Lost Creek Loop Road Subarea until such time as sanitary sewer is available. These regulations will also help to preserve surface and ground water quality elsewhere in the district, while allowing for limited convenience commercial to support residents and visitors, and allowing for the continuation of many home based businesses.

B. Permitted Uses. The following uses are permitted outright in the LCDD subject to an Administrative Development Permit (ADP):

1. Single-family homes including Class A and B manufactured homes (one unit per lot of record).
2. Residential accessory structures (Sec. XXVI. D. below).
3. Typical and customary agricultural activities including but not necessarily limited to pasturing, crops, and the raising and caring for livestock. Such activities are exempt from ADP requirements pursuant to Sec. II.C.1.b of these regulations.
4. Tourist homes which are limited to one dwelling unit or portion thereof.
5. One guest house or guest quarters per primary residence. An accessory residential unit (ARU) may be substituted for a guest house or quarters.
6. Day care homes providing care for 12 or fewer children.
7. Home occupations.

1. **C. Special Uses.** Any use not listed in Sec. XXVI. B. above is considered to be a special use and is subject to a Major Development Permit (MDP) as set forth in Chapter II of these regulations.

D. Accessory Uses and Structures.

1. All uses and structures that are customary and incidental to a primary residential use are allowed, including but not limited to garages, workshops for legal home business or an avocation, sheds for the storage of residential items such as firewood, tools, lawn and garden equipment, etc.

2. Private dog breeding kennels.

3. Storage and use of RVs. The storage and use of RVs is regulated according to standards contained in Appendix A, Division 6.

1.

C. Development Standards- Lost Creek Loop Road Subarea. The following standards apply only to principal and accessory structures within the Lost Creek Loop Road Subarea. These standards may be superseded by stream bank setbacks or other environmental standards as applicable:

1. Setbacks:

- a. Front- 5 feet

- b. Side- 5 feet
 - c. Rear- 5 feet
2. Maximum structural height: 35 feet
 3. Minimum lot size: 2 ½ acres.
 4. Minimum lot width at building setback line: 50 feet

D. Site Development Standards- Remainder of LCDD. The following standards apply to principal and accessory structures associated with any new or expanded development within the LCDD outside of the Lost Creek Loop Road Subarea. These standards may be superseded by stream bank setbacks or other environmental standards as applicable:

1. Setbacks:
 - a. Front- 35 feet
 - b. Side- 10 feet
 - c. Rear- 10 feet
2. Maximum height: 35 feet
3. Minimum lot size: 5 acres

E. Density Standards. In addition to the density standard established by the minimum lot size above, the following standards may be used in conjunction with the Rural Planning Area PUD as set forth in Sec. X.MM of these regulations:

1. Base gross density: 1 du/5 acres.
2. 10% open space allows a 10% density bonus (one unit per 4.5 acres).
3. 15% open space allows a 15% density bonus (one unit per 4.25 acres).
4. 20% open space allows a 25% density bonus (one unit per 3.75 acres).
5. 25 % open space allows a 35% density bonus (one unit per 3.25 acres).
6. 40% open space allows a 50% density bonus (one unit per 2.5 acres).
7. 50% open space allows a 60% density bonus (one unit per 2 acres).
8. Other open space and density bonuses are allowable based upon the same calculation.

F. Keeping of Hooved Animals. The keeping of hooved animals on residential property is subject to the standards set forth in Appendix A, Division 7. The keeping of domestic sheep is not permitted in the LCDD.

CHAPTER XXVII: Airport Planned Development District (APDD)

(A) Purpose:

The APDD implements the Growth Policy by melding airport operations with compatible and complementary industrial and business activity. Therefore, these regulations are intended to both ensure the safe operation, maintenance, and storage of aircraft and to provide for supporting and compatible business enterprises.

(B) Permitted Uses:

The following uses are permitted in the APDD subject to an ADP:

1. Airport and all associated activities, including but not limited to the operation of aircraft, storage of aircraft, maintenance, fueling facilities, avigational equipment, administrative offices, and related off-street parking.
2. Light industries that, due to the nature of products produced and/or services offered, must be at or near an airport.
3. Business services related to aviation and/or air transport.

(C) Other Land Use Restrictions:

1. Retail that is clearly related to a permitted use is allowed provided that no more than 25% of the total floor area of the business or industry is devoted to retail space.
2. Freestanding retail not related to permitted uses in this district is expressly prohibited.

(D) Development Standards:

All land uses and development within the APDD shall be in compliance with the current Airport Layout Plan (ALP). Setbacks will be determined based upon the nature and scale of the proposed project and the size and configuration of the subject property, and will be determined by the Administrator through the review process described in Sec. XXVII. (E). Other development standards set forth in this DPS, such as off-street parking and landscaping, apply in the APDD as well.

(E) Review Process: Development Permits are required for development on property designated APDD and the same review procedures that apply to all other districts also apply in APDD. The Administrator shall determine whether a proposed development shall be reviewed as an Administrative Development Permit (ADP) or a Major Development Permit (MDP). As general guidance, additions to buildings or minor alterations to the site may be reviewed as ADPs provided that no adverse impacts to surrounding public and private properties are expected. All other improvements, such as new buildings or facilities, significant changes to the site (parking, access, open space, etc), or changes in the use(s) of the site, should be reviewed as MDPs. All development in the APDD is subject to review by the Anaconda-Deer Lodge County Airport Board,

who shall be advisory to the Planning Board or the Administrator, depending on which type of development permit applies.

CHAPTER XXVIII - AIRPORT SAFETY OVERLAY DISTRICT (ASOD)

A. What This Chapter Does

The purpose of the ASOD is to provide for the safety of aircraft pilots and passengers and protect a substantial investment of public funds by assuring that land development and construction activities within the ASOD are compatible with the continued safe use of the Anaconda Airport. The performance standards of this chapter are based on Federal Aviation Regulations Part 77 - Objects Affecting Navigable Airspace.

B. Height Limitation Zones

The ASOD is composed of several height limitation zones, which include all land lying beneath the approach surfaces, transitional surfaces, horizontal surfaces, and conical surfaces appurtenant to the Anaconda Airport. These zones are shown on the Official Development District Maps of Anaconda-Deer Lodge County, as established by III.C. of these regulations. An area located in more than one of these zones is considered to be only in the zone with the more restrictive height limitation.

1. Utility Runway Visual Approach Zone (approaches to Runway 4/22 and south approach to runway 16/34). The inner edge of the approach zone coincides with the width of the primary surface and is 250 (Runway 4/22) or 500 (Runway 16/34) feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
2. Utility Runway Non-precision Instrument Approach Zone (north approach to Runway 16/34). The inner edge of the approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Transitional Zones. The transitional zones are the areas beneath the transitional surfaces.
4. Horizontal Zone. The horizontal zone is established by swinging arcs of 5,000 feet from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
5. Conical Zone. The conical zone is the area that commences at the periphery of the horizontal zone and extends outward therefrom for a horizontal distance of 4,000 feet.

C. Height Limitations.

Except where a variance is issued, no structure or tree shall be allowed to exceed the height limitations established here.

1. Utility Runway Visual Approach Zone Height Limitation. Slopes twenty feet outward for each foot upward (20:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility Runway Non-precision Instrument Approach Zone Height Limitation. Slopes thirty-four feet outward for each foot upward (34:1) beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Transitional Zones Height Limitation. Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and extending to a height of 150 feet above the airport elevation (where it intersects the horizontal surface). In addition, there are transitional surfaces sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending to where they intersect the horizontal or conical surface.
4. Horizontal Zone Height Limitation. 150 feet above the airport elevation.
5. Conical Zone Height Limitation. Slopes 20 feet outward for each foot upward beginning at the edge of the horizontal zone and at 150 feet above the airport elevation, and extending to the outer edge of the conical zone.
6. Exceptions from Height Limitations. Nothing in these regulations shall prohibit the construction or maintenance of any structure of 30 feet or less in height, or the growth of any tree to a height up to 50 feet above the surface of the land within the horizontal or conical zones.

D. Use Restrictions

1. No use within any zone established by this chapter shall create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport or otherwise impair visibility in the vicinity of the airport, create bird strike hazards, or in any way endanger or interfere with the operation of aircraft.
2. There shall be no residential use (including accessory residences) within any approach zone established by this chapter.

E. Nonconforming Uses: Additional Regulations

Nonconforming uses and buildings are regulated by the provisions of Sec. III.F. and, within the ASOD, these additional requirements:

1. Nonconforming uses within the ASOD may include trees, and shall be required to permit the installation, operation, and maintenance of any markers and/or lights the county deems necessary to indicate their presence to the operators of aircraft. Such markers and lights shall be installed, operated, and maintained at the expense of the county.
2. The repair and, under specified circumstances, replacement of nonconforming uses and buildings is permitted by III.G., but no nonconforming use, building, or tree shall be permitted to become a greater hazard to air navigation than it was on the effective date of these regulations.

F. Permits: Additional Requirements

Permit requirements for development activity are established in Sec. II.B. Within the ASOD, permit requirements shall be expanded to include the planting of any tree with a growth habit of more than 50 feet and the construction of any building or structure that is more than 30 feet in height and is exempted from the requirement for a permit by Sec. II.C. (this may include agricultural outbuildings and similar accessory structures, and minor utility installations).

G. Variances

The variance procedure is described in Chapter II of these regulations. Any application for a variance of the height limitations established in this chapter shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. The Administrator shall also refer all applications for variances of the height limitations to the Anaconda-Deer Lodge Airport Board for its review and comment.

H. Obstruction Marking and Lighting

The approval of any application for a permit or variance may be conditioned on the installation, operation, and maintenance, at the owner's expense, of the markings and/or lights necessary to indicate the presence of an obstruction to aircraft operators.

This page intentionally left blank.

Chapter XXIX: Adult Use Overlay (AUO)

- (A) Purpose:** The purpose of the Adult Use Overlay is to provide for potentially controversial and volatile land uses in appropriate locations within the community that will minimize land use conflicts.
- (B) Permitted Uses:** In addition to the permitted uses in the underlying zoning district, the following uses are permitted within the Adult Use Overlay:
1. Adult book stores.
 2. Adult entertainment.
 3. Adult retail establishments.
- (C) Non-conforming Adult Uses:** Adult uses that were legally located outside of the Adult Use Overlay may continue to operate subject to Sec. III.F of these regulations.
- (D) Development Standards:** All permitted uses in the Adult Use Overlay are subject to all development standards of the underlying zoning district. In addition, general development standards apply including, but not necessarily limited to off-street parking, signage, landscaping, and architectural standards.

This page intentionally left blank.

Chapter XXX – Superfund Overlay

A. Purpose and Intent

The purpose of the *Superfund Overlay* is to implement the County's *Plan* by protecting public health and the environment while allowing appropriate *Development* activities within the *Superfund Overlay* consistent with the requirements of *Superfund*. The requirements applicable to the *Superfund Overlay* will:

1. Assure that future land use in the *Superfund Overlay* is protective of human health;
2. Provide for the preservation of *Protective Covers* and *Storm Water Controls* in the *Superfund Overlay*;
3. Require that future *Development* in the *Superfund Overlay* employs construction practices that are consistent with the protection of public health and the environment, as determined by *Superfund*; and
4. Assure that the remediation of soil containing metal concentrations in excess of the *Superfund* arsenic and lead action levels contained in Tables XXX.A.1 and XXX.A.2 occurs in conjunction with *Development* within the *Superfund Overlay*.

Table XXX.A.1. - Arsenic Action Levels by Land Use

<i>Use</i>	<i>Action level (ppm) or mg/kg</i>
Residential	250
Commercial/Industrial	500
Recreational/Open Space	1,000

Table XXX.A.2. - Lead Action Levels by Land Use

<i>Use</i>	<i>Action level (ppm) or mg/kg</i>
Residential	400

The requirements of this Chapter XXX also serve as institutional controls in the context of *Superfund*.

Division 1 – Additional Administrative Procedures

B. Requirements

The requirements set forth in this Chapter XXX are in addition to, and not in lieu of, the other applicable requirements of these *DPS Regulations*.

C. Application Requirements

All applications for *Development Permits* within the *Superfund Overlay* shall include the following information, as may be applicable to any particular *Development*:

1. A completed *Development Permit* application form.
2. A *Site Plan* showing the locations of all existing and proposed *Developments* and new construction and all *Protective Covers* and *Storm Water Controls* associated with the proposed *Development* parcel.
3. A detailed grading plan showing the depth of all proposed *Excavation*/fill areas and the volume of soil to be moved on-site and/or relocated off-site.
4. An *Erosion and Surface Runoff Control Plan* to *Minimize* the negative effects or impacts on the *Development* parcel and on water quality. Such plan shall show final storm water drainage, control features and supporting calculations (if available) and the location and type of *Best Management Practices* to manage and control surface water runoff, and other measures to avoid collection and movement of *Visible Waste Material* and/or *Contaminated Soil* into the drainage systems.
5. Re-vegetation plan in areas where vegetative cover is a requirement of the remedy. This plan may address seedbed preparation, seed mix, fertilizer rates, mulching timing, application rates, weed control, etc.

D. Pre-Construction Meeting

Unless the requirement is waived by the *Superfund Coordinator*, an applicant shall be required to meet with the *Superfund Coordinator* prior to beginning the work identified in the applicant's *Development Permit* application.

E. Site Inspections

A permittee's land shall be open to inspection by the *Superfund Coordinator* in order to enforce the requirements of any *Development Permit* issued for land subject to the provisions of this Chapter XXX.

Division 2 – Performance Standards

F. Development on Sites within the Superfund Overlay

1. If existing *Protective Covers* or *Storm Water Controls* will be affected by the proposed *Development*, the *Superfund Coordinator* shall develop an *ICWP* in accordance with the

requirements of this Chapter XXX including, without limitation, the requirements of Sec. XXX.F.4 and the *Guidance for Developments with Existing Protective Covers or Storm Water Controls* (Appendix D of these regulations). The *ICWP* shall be incorporated into the applicant's *Development Permit* and shall be subject to enforcement pursuant to Chapter II, Division 4 of these *DPS Regulations*.

2. If existing *Protective Covers* or *Storm Water Controls* will not be affected by the proposed *Development*, the *Superfund Coordinator* will provide the applicant with pertinent information relating to the *Development* area including existing soil sample results. If soil sample results for the *Development* area do not exist, then the *Superfund Coordinator* may consult with the Atlantic Richfield Company or its designee, and may cause samples to be collected from the area proposed for *Development* in accordance with the *Community Soils OU Soil Sampling and Analysis Plan*. Subject to the terms of Sec. XXX.F.3, if *Contaminated Soil* and/or *Visible Waste* are present in the *Development* area, the *Superfund Coordinator* shall develop an *ICWP* in accordance with the requirements of this Chapter XXX including, without limitation, the requirements of Sec. XXX.F.4 and the *Guidance for Developments without Existing Protective Covers or Storm Water Controls* (Appendix E of these regulations). The *ICWP* shall be incorporated into the applicant's *Development Permit* and shall be subject to enforcement pursuant to Chapter II, Division 4 of these *DPS Regulations*.

3. The *Superfund Coordinator* will consult with the Atlantic Richfield Company in connection with any proposed change in land use under Tables XXX. A.1. or XXX. A.2. or any proposed residential *Subdivision* or *Commercial/Industrial Developments* within the *Superfund Overlay* prior to the development of an *ICWP* pursuant to Sec. XXX.F.2 to determine whether the performance of *Response Actions* by Atlantic Richfield Company may be required within the proposed *Development* area. If the performance of *Response Actions* by Atlantic Richfield Company is required within the proposed *Development* area pursuant to *Superfund*, Atlantic Richfield Company will, subject to the applicant's consent, perform the *Response Actions* within the proposed *Development* area either prior to, in conjunction with, or following the applicant's performance of the work identified in the applicant's *Development Permit*. Any *Response Actions* to be performed by Atlantic Richfield Company will be taken into account in an *ICWP* prepared pursuant to Sec. XXX.F.2.

4. The *ICWP* and related soils handling requirements will be developed in accordance with the ADLC Superfund Program *Field Portable X-Ray Fluorescence (FP-XRF) Soils Sampling and Analysis Plan* following alternatives as guided by the applicable *Development Guidance*.

a. Alternative Actions

- (i). *Contaminated Soil* and/or *Visible Waste Material* present in the existing cover material or material to be *Excavated* pursuant to the applicant's grading plan may remain on-site if covered with one or more *Protective Covers*.
- (ii). *Contaminated Soil* and/or *Visible Waste Material* present in the existing

cover material or material to be *Excavated* pursuant to the applicant's grading plan may be relocated to the soil repository designated by the *Superfund Coordinator*.

- b. Wherever the *Development* will cause an existing *Protective Cover* to be *Excavated* or disturbed, such *Excavation* shall be performed in a manner that serves to segregate the components of the *Protective Cover* from any underlying *Contaminated Soil* and/or *Visible Waste Material*. Upon completion of the *Excavation* or other activities causing the disruption, all components of the *Protective Cover* shall be fully replaced and any residual *Contaminated Soil* and/or *Visible Waste Material* shall be relocated to the soil repository designated by the *Superfund Coordinator*.
- c. Wherever the *Development* will cause *Contaminated Soil* and/or *Visible Waste Material* to be *Excavated* beneath a *Protective Cover*, dust suppression measures and storm water *Best Management Practices* may be required by the *Superfund Coordinator*, and will be included within the *Development Permit*. Options that may be considered to suppress dust in combination or individually include:
 - (i). limiting disruption of existing *Protective Covers*;
 - (ii). use of water or surfactants on exposed materials, while earth work is occurring or while *Contaminated Soil* and/or *Visible Waste Material* is exposed;
 - (iii). phasing of work to *Minimize* the area and time of exposure of *Contaminated Soil* and/or *Visible Waste Material*; or
 - (iv). avoiding opening new ground areas during windy periods.
- d. Any *Protective Cover* that will be *Excavated* or disturbed by *Development* activity shall be restored in a way that is at least equally protective of the environment and public health. The *Superfund Coordinator* shall include in the *Development Permit* the steps to be taken to achieve this objective.
- e. Only material meeting the applicable criteria set forth in the applicable *Development Guidance* shall be imported for use on any site within the *Superfund Overlay*. The import of more than one cubic yard of fill requires a permit (or explicit approval as part of a *Development Permit*), and such a permit shall be approved only where the specific source of the fill is identified and approved as meeting the applicable criteria set forth in the applicable *Development Guidance*. The *Superfund Coordinator* may inspect the imported fill from time to time for compliance with this performance standard.
- f. Transportation of *Excavated Contaminated Soil* and/or *Visible Waste Material* on public roadways shall be managed by the applicant to prevent the potential spread of such materials through spillage, blowing dust or tracking on the highway.

- g. The function of *Storm Water Controls* within the *Development* area, if any, shall be maintained or improved as a condition to all *Development Permits* issued pursuant to this Chapter XXX.
- h. The *Superfund Coordinator* may provide specifications and guidance for any requirements relating to soil type, re-vegetation, and weed control.

5. The *Superfund Coordinator* may contract for professional assistance needed to ensure the adequacy of application materials and plans and compliance with the performance standards adopted in this Chapter XXX.

G. Development in Public Right-of-Way and Utility Easements.

All *Development* in the public streets, alleys or road rights-of-way or in utility easements must be conducted in accordance with the requirements of this Chapter XXX. In addition, *Developments* in the public streets, alleys or road rights-of-way or in utility easements belonging to the *County* shall be conducted pursuant to a General Utility/Street Construction and Repair (GUS) Permit issued by the *County*.

Division 3 – Post-Development

H. Post-Development Sampling

Upon completion of all on-site *Development* activities and prior to any landscape improvements (e.g., sprinkler systems, seeding, sod installation, etc.), the *Superfund Coordinator* may cause samples to be taken within the *Development* area in accordance with the *Community Soils OU Soil Sampling and Analysis Plan* to ensure compliance with the *ICWP*.

I. Compliance with Development Permit Requirements

If inspection or sampling by the *Superfund Coordinator* indicates that all *ICWP* and *Development Permit* requirements have not been met, the *Superfund Coordinator* will require the permittee to implement such additional actions as may be necessary to ensure that all *ICWP* and *Development Permit* requirements are met.

A permittee shall be deemed out of compliance if the terms and conditions of the Development Permit and *ICWP* are violated. Violations will preclude the permittee from using, occupying, or establishing any change in use for the subject Development or Structure.

J. Certificate of Compliance

If the *Superfund Coordinator* determines that the requirements of the *Development Permit* and *ICWP* have been met, the *Superfund Coordinator* shall issue a *Certificate of Compliance* to the permittee.

This page intentionally left blank.

Chapter XXXI – Superfund Domestic Well Overlay

A. Purpose and Intent

The purpose of the *Superfund Domestic Well Overlay* is to implement the *County's Plan* by protecting public health consistent with the requirements of *Superfund* while allowing appropriate *Development* activities within the *Superfund Domestic Well Overlay*. The requirements applicable to the *Superfund Domestic Well Overlay* will assure that the water consumed from domestic wells within the *Superfund Domestic Well Overlay* does not exceed the *Superfund* arsenic action level of 10.0 micrograms per liter ($\mu\text{g/L}$).

The requirements of this Chapter XXXI also serve as institutional controls in the context of Superfund.

Division 1 – Additional Administrative Procedures

B. Requirements

The requirements set forth in this Chapter XXXI are in addition to, and not in lieu of, the other applicable requirements of these *DPS Regulations*.

C. Application Requirements

All applications for *Development Permits* for the installation of a new domestic well within the *Superfund Domestic Well Overlay* shall include the following information, as may be applicable to any particular *Development*:

1. A completed *Development Permit* application form.
2. A *Site Plan* showing the locations of all proposed new domestic wells.
3. A detailed installation plan showing the planned depth of all proposed new domestic wells.

D. Pre-Installation Meeting

Unless the requirement is waived by the *Superfund Coordinator*, all applicants shall be required to meet with the *Superfund Coordinator* prior to beginning the work identified in the applicant's *Development Permit* application.

E. Site Inspections

A permittee's land shall be open to inspection by the *Superfund Coordinator* in order to enforce the requirements of any *Development Permit* issued for land subject to the provisions of this Chapter XXXI.

Division 2 – Performance Standards

G. Initial Testing of New Domestic Wells within the Superfund Domestic Well Overlay

Following the completion of yield and drawdown tests, water from all new domestic wells within the *Superfund Domestic Well Overlay* will be sampled by an Atlantic Richfield Company designee in accordance with the *Domestic Well Sampling and Analysis Plan*. If the sample results show that the arsenic concentration is 10.0 µg/L or less, the *Superfund Coordinator* will issue a *Certificate of Compliance* in accordance with Sec. XXXIXXI.H. If the sample results show that the arsenic concentration is greater than 10.0 µg/L, a confirmation sample will be collected and analyzed by an Atlantic Richfield Company designee in accordance with the *Domestic Well Sampling and Analysis Plan*. If the confirmation sample results confirm an exceedance an Atlantic Richfield Company designee will be responsible for developing and implementing an appropriate plan for the installation of a replacement well or a point of use treatment system. Water from all replacement wells installed pursuant to this section, whether installed by an Atlantic Richfield designee or the applicant, will be sampled in accordance with the *Domestic Well Sampling and Analysis Plan*.

H. Certificate of Compliance

Subject to the long-term water quality monitoring requirements of Sec. XXXI.I, if sample results obtained pursuant to Sec. XXXI.G indicate compliance with the arsenic action level of 10.0 µg/L, or an appropriate point of use treatment system has been installed, and all other *Development Permit* requirements have been met, the *Superfund Coordinator* shall issue a *Certificate of Compliance* to the permittee. The permittee shall not permit or allow any human consumption of water from a new domestic well within the *Superfund Domestic Well Overlay* prior to the issuance of a *Certificate of Compliance* pursuant to this section.

I. Monitoring of New Domestic Wells within the Superfund Domestic Well Overlay

All *Development Permits* issued pursuant to this Chapter XXXI will include a condition which will allow an Atlantic Richfield Company designee to conduct additional water quality sampling of all new domestic wells within the *Superfund Domestic Well Overlay* following the issuance of a *Certificate of Compliance* pursuant to Section XXXI.H. The additional sampling will be conducted in accordance with the following criteria:

1. If sample results obtained pursuant to Sec. XXXI.G show that the arsenic concentration is between 5.0 µg/L and 10.0 µg/L, water from the well will be sampled by an Atlantic Richfield Company designee in accordance with the *Domestic Well Sampling and Analysis Plan* annually until the sample results show that the arsenic concentration is less than 5.0 µg/L, at which time the frequency of sampling shall be increased to once every five (5) years, or discontinued, as provided in Sec. XXXI.I.2.
2. If sample results obtained pursuant to Sec. XXXI.G or Sec. XXXI.H.1 show that the arsenic concentration is less than 5.0 µg/L, water from the well will be sampled by an

Atlantic Richfield Company designee in accordance with the *Domestic Well Sampling and Analysis Plan* once every five (5) years.

If water from the domestic well has been sampled a minimum of the three (3) times over any ten (10) year period and all results show an arsenic concentration level of less than 5.0 $\mu\text{g/L}$, sampling of the well will be discontinued.

This page intentionally left blank.

CHAPTER XXXII- URBAN AREA PLANNED UNIT DEVELOPMENT OPTION (UA/PUD)

- A. Purpose and Intent.** The purpose of the UA/PUD is to provide a tool that allows developers and designers to respond to the many different development situations encountered in the urban environment. Through the use of the UA/PUD, a compatible mix of uses can be achieved, a variety of residential product types offered, and the scale and character of the host neighborhood can be respected, and even enhanced. The UA/PUD is also intended as a redevelopment and revitalization mechanism for especially challenging redevelopment situations within the Anaconda urban area. Through the use of the UA/PUD, open space can be preserved and/or created, environmentally sensitive areas protected, and remedies for industrial contamination can be maintained in an effective and systematic manner.
- B. Deviations from Standards.** The following standards of the applicable development district may be deviated from through the PUD:
1. Setbacks
 2. Minimum lot area
 3. Minimum lot width
 4. Maximum structural height
 5. Density
 6. Floor area ratio
 7. Landscape ratio
 8. Lot coverage
- C. Applicability and Minimum Site Area.** The UA/PUD may be used in any development district in the Anaconda Urban Area. Minimum site area requirements for each urban development district are as follows:
1. Medium Density Residential Development District (MDRD)- 21,000 square feet.
 2. Low Density Residential Development District (LDRD)- 28,000 square feet.
 3. High Density Residential Development District (HDRD)- 21,000 square feet.
 4. East Anaconda/Goosetown Neighborhood Conservation District (EA/GNCD)- 21,000 square feet.
 5. Central Business Development District (CBDD)- 21,000 square feet.
 6. Highway Commercial Development District (HCDD)- 60,000 square feet.
 7. Light Industrial Development District (LIDD) and Heavy Industrial Development District (HIDD)- 200,000 square feet.
 8. ARED 1.0- Four (4) acres.
 9. ARED 2.5- Ten (10) acres.
 10. ARED 10.0- 40 acres.

- D. Permitted and Special Uses.** Permitted and special uses in the UA/PUD are the same as those of the underlying development district, except that townhomes, twinhomes, duplexes, multi-family units, and Class A manufactured homes are all permitted. . In non-residential development districts, the UA/PUD may include compatible residential uses. The PUD option can also be used for manufactured home parks or subdivisions for manufactured units other than Class A except in the Low Density Residential Development District (LDRD).
- E. Pre-submittal Conference:** All prospective UA/PUD applicants are encouraged to request a pre-submittal conference with the Administrator. The purpose of the pre-submittal conference is to review the proposed project conceptually, identify any issues associated with the prospective project (especially those issues which may need to be specifically addressed in the application), application requirements, review procedures, and decision making criteria. Upon request of the applicant, the Administrator shall provide a written summary of the pre-submittal conference. Any representations made by the Administrator in and/or pursuant to the pre-submittal conference are not binding upon the County, and are intended solely to assist the applicant.
- F. Application Procedures and Requirements.** A UA/ PUD may be applied for on a form provided by Anaconda-Deer Lodge County. In addition to the completed form, the following submittals are required:
1. A project narrative of the proposed development program that includes product type(s), density, percent open space, purpose of open space, what benefits that the community will derive from the UA/PUD (affordable housing, functional open space, more efficient use of infrastructure, protection of environmentally sensitive areas, protection/enhancement of water quality, etc.), an assessment of potential neighborhood impacts, and how those impacts will be mitigated. If applicable, and statement of how any environmental remedies will be maintained should be provided. In addition, traffic impact analyses, conceptual utility layouts, conceptual stormwater management plans, water and wastewater demand calculations, or other such studies or information may be required by the Administrator.
 2. A conceptual site plan prepared to an appropriate scale (1" = 10', 1" = 20', 1" = 50', etc.) that includes at a minimum:
 - a. North arrow
 - b. Indication of scale
 - c. Vicinity map
 - d. Names of adjacent streets, water bodies, and landmarks
 - e. Developer's contact information
 - f. Preparer's contact information
 - g. Indication of existing and proposed structures

- h. Existing and proposed streets, access points, parking and drive areas, etc.
- i. Setbacks
- j. Open space percentage and use
- k. Landscaping and/or screening
- l. Preliminary building elevations
- m. Conceptual drainage
- n. Phasing plan (if applicable)

G. Review Procedures. Basic review procedures for UA/PUD applications are the same as those for Major Development Permits (MDP) set forth in Sec. II. H. Applications require a public hearing before the ADLC Planning Board with final approval by the Board of County Commissioners. Because the UA/PUD is a development option and not a development district, it need not be adopted by ordinance. Property owners within 150 feet of the subject property must be notified of a UA/PUD application via First Class mail, and a public notice must be published in the County's newspaper of record.

H. Review and Approval Criteria. In order for a UA/PUD application to be approved, the Planning Board and Board of County Commissioners must find that the following criteria are substantially met:

1. The proposed development shall be in compliance with the ADLC Growth Policy.
2. The proposed development shall be consistent with the purpose and intent of the underlying development district.
3. A substantial and tangible community benefit shall result from the proposed development. (See Sec. XXXII. I. below.)
4. The proposed development is consistent with the scale and character of the surrounding area.
5. No impacts from smoke, noise, odors, glare, fumes, or similar nuisances will result from the proposed development.
6. Site generated vehicular traffic will be effectively managed to prevent infiltration into areas of lower density and/or less intense development.
7. Level of service impacts (LOS) are avoided or effectively mitigated.
8. Safe and efficient on and off-site pedestrian circulation shall be provided if applicable. This may include linkages to parks, schools, recreation facilities, and trails.
9. Environmentally sensitive areas are not compromised, and preferably, are enhanced by the proposed development.
10. Adequate open space suitable for the type of development proposed is provided.
11. All appropriate screening, buffering is provided, and landscaping is appropriate for the type of development proposed as well as the surrounding area.
12. Urban facilities and services, especially emergency services, are adequate or will be made adequate to properly and efficiently serve the proposed development.

I. Community Benefits. As a trade-off for deviations from standards, all UA/PUD applications must provide substantial and tangible community benefits. Generally, community benefits are things that can be provided through a development, and for which there is a documented need in the community. Community benefits may include, but are not necessarily limited to the following:

1. Providing a needed specialized housing type, such as for the elderly, affordable housing, workforce housing, etc.
2. Providing community open space and/or recreational opportunities.
3. Creating jobs that are likely to pay above the County median per capita income.
4. Providing needed community infrastructure, such as a utility main or a needed upgrade to a street and/or intersection. (Paying for or providing only the proposed development's pro rata share of such infrastructure should not be considered a community benefit.)
5. Preserving and/or enhancing an environmentally sensitive area or feature, including wetlands and stream banks that enhance water quality.
6. Providing or preserving scenic view corridors.
7. Providing access to public lands.
8. Preserving or enhancing critical wildlife habitat.
9. Redevelopment or revitalization of blighted areas.

J. Hearing and Standard of Decision: The Planning Board shall conduct a public hearing and consider testimony and other evidence, and review the particular facts and circumstances of the proposed UA/PUD. In considering a UA/PUD application, the Board may attach appropriate conditions to mitigate any adverse impacts identified, to ensure conformance with the Growth Policy, to ensure that the specific purposes of the UA/PUD as set forth herein are achieved, and that a significant community benefit is derived from any deviations from standards. An application for a UA/PUD may be approved as presented, conditionally approved, or denied by the Planning Board, and subsequently by the ADLC Board of Commissioners. Any action by the Planning Board and Commission shall be based upon findings of fact that the review criteria as set forth in Sec. XXXII. H., and that a community benefit(s) will result from the project as in Sec. XXXII. I. above.

K. Implementation and Effect of Approval. An approved UA/PUD shall run with the land and be implemented through the filing of a preliminary plat as set forth in the ADLC Subdivision Regulations. Development pursuant to an approved UA/PUD is limited to the development that is actually depicted and described in the application. UA/PUD approval does not convey broad, general development authority to the applicant or subsequent property owner.

CHAPTER XXXIII: Rural Planning Area Planned Unit Development (RPA/PUD) Option

A. Purpose and Objectives. The RPA/PUD is allowed as a development option in all rural development districts in Anaconda-Deer Lodge County. It is intended to encourage a creative response to a site that may be constrained by topography or environmentally sensitive areas, and to take opportunities presented by sites with significant wildlife habitat, scenic vistas, or other unique resources. The specific objectives of the RPA/PUD are:

1. To allow for flexibility and innovation of site planning and design.
2. To preserve working agriculture.
3. To preserve wildlife habitat and migration corridors.
4. To minimize terrain disturbance in environmentally sensitive areas.
5. To provide affordable and marketable residential product types.
6. To enhance water quality through use of community septic systems and through maintaining setbacks from rivers, lakes, local streams, and wetlands.
7. To allow for energy efficient development and to make the most efficient use of existing infrastructure and services.
8. To provide useable, functional open space.
9. To preserve and enhance scenic vistas.
10. To promote and maintain public access to water bodies and public lands.

B. Permitted and Special Uses: The permitted and special uses under the RPA/PUD are the same as those in the applicable district. When a proposed RPA/PUD includes a special use according to the underlying development district, the Major Development Permit for the special use may be combined into one RPA/PUD application.

C. Minimum Project Size: The minimum acreage for an RPA/PUD development shall be 20 acres in all rural development districts, except in the Opportunity Development District (ODD) and West Valley Development District (WVDD) where the minimum project size shall be five (5) acres.

D. Deviations From Standards:

1. All development standards in rural districts may be deviated from through the RPA/PUD. These standards may include but are not necessarily limited to density, minimum lot size, structural heights, and setbacks.
2. Lakeshore protection standards and critical area standards are **not** subject to deviation under the RPA/PUD option.
3. ADLC road standards as set forth in Resolution 06-58 may be deviated from through the RPA/PUD.
4. Health and sanitation standards may not be deviated from through this development option.

5. No state or federal standards may be waived or deviated from through the RPA/PUD.

E. Open Space Created: Any open space created by an RPA/PUD shall remain as open space and shall be dedicated to its intended use for the life of the project. This shall be secured by an easement encompassing the open space(s) in its entirety to which the homeowners association, Anaconda-Deer Lodge County, a bona fide land trust, or a state department or agency is grantee. Easement restrictions on the future development and use of open space lands shall also be noted on the subsequent plat. Management of the open space shall be addressed in the CC&Rs and in the easement itself. With the County's acceptance, open space may be dedicated to Anaconda-Deer Lodge County for maintenance as public park land.

F. Pre-submittal Conference: Prior to submitting an actual RPA/PUD application, it is highly recommended that the prospective applicant schedule a pre-submittal conference with ADLC Planning Department staff. At this conference, staff will assist the applicant in identifying any planning, service, environmental, or other issues likely to be raised during the project review process. Staff may also recommend supplementary studies or reports to provide information about possible impacts or issues associated with the proposed development.

G. RPA/PUD Application Procedures: An RPA/ PUD may be applied for on a form provided by Anaconda-Deer Lodge County. In addition to the completed form, the following submittals are required:

3. A project narrative of the proposed development that includes all proposed land uses and structures, residential product type(s), density, percent open space, purpose of open space, what benefits that the local community and/or ADLC in general will derive from the RPA/PUD (affordable housing, functional open space, more efficient use of infrastructure, protection of environmentally sensitive areas, wildlife habitat, working agriculture, protection/enhancement of water quality, etc.), and an assessment of potential neighborhood impacts, and how those impacts will be mitigated. Community benefits are described below in paragraph G.
4. A conceptual site plan prepared to an appropriate scale (1" = 10', 1" = 20', 1" = 50', etc.) that includes at a minimum:
 - o. North arrow
 - p. Indication of scale
 - q. Vicinity map
 - r. Names of adjacent streets, water bodies, and landmarks
 - s. Developer's contact information
 - t. Preparer's contact information
 - u. Location and dimensions of existing and proposed structures (or lots if applicable)

- v. Existing and proposed streets, access points, pedestrian circulation, parking and drive areas, etc.
 - w. Setbacks
 - x. Open space percentage and use
 - y. Landscaping and/or screening
5. Any reports or studies that might support or provide information about the proposed project, such as wildlife reports, traffic impact studies, floodplain maps and reports, groundwater, geotechnical investigations, etc. Studies such as these may also be recommended by staff at the presubmittal conference.

H. Public Notice: Public notice requirements shall be identical to those required for Major Development Permits as set forth in Sec. II.H. 4 and 5 of these regulations.

I. Community Benefit: When deviations from standards such as setbacks, height, and minimum lot size are allowed through the RPA/PUD, a substantial “community benefit” should result. This benefit should accrue to the surrounding neighborhood and/or the County at large, and may include such considerations as:

- 1. Preservation and/or enhancement of neighborhood character and qualities.
- 2. Provide substantial functional open space.
- 3. Environmental benefits such as preserving wildlife habitat, preserving existing vegetation and tree cover, avoiding development of environmentally sensitive areas, and providing for streamside and/or wetlands buffers to enhance water quality.
- 4. Providing community trails or pathways.
- 5. Maintaining or establishing public access to water bodies or surrounding public lands.
- 6. Preserving working agriculture.

J. Hearing and Standard of Decision: The Planning Board shall conduct a public hearing to consider testimony and other evidence, and to review the particular facts and circumstances of the proposed RPA/PUD. In considering an RPA/PUD application, the Board may attach appropriate conditions to mitigate any adverse impacts identified, to ensure conformance with the Growth Policy, to ensure that the specific purposes of the RPA/PUD as set forth in Sec. XXXIII. A above are achieved, and that a significant community benefit is derived from any deviations from standards. An application for an RPA/PUD may be approved as presented, conditionally approved, or denied by the Planning Board. Any action by the Board shall be based upon findings of fact that the following criteria are or are not substantially met:

- 1. The proposed RPA/PUD is in conformance with the Growth Policy.
- 2. The purposes and specific objectives of the RPA/PUD as set forth in Sec. XXXIII. A, as they may apply to the particular proposal, are substantially met.
- 3. That any identified adverse impacts are effectively mitigated.

4. That the proposed PUD will result in a tangible and significant community benefit(s).

K. Final Action: Final approval, conditional approval, or denial of a proposed RPA/PUD shall rest with the Anaconda-Deer Lodge County Board of Commissioners. Final action shall be by simple motion and majority vote.

L. Implementation: An approved PUD shall run with the land and as necessary, shall be implemented through the filing of a preliminary plat as set forth in the ADLC Subdivision Regulations.

CHAPTER XXXIV DEFINITIONS

Existing Definitions: (Note to reviewers: The next three pages contain existing, amended, and new definitions relevant to Superfund. Following agency review, these definitions will be combined with the remaining DPS definitions into one Chapter XXXIV.)

F. Administrator. Refers to the *County's* Planning Department Director or his/her designee.

AA. Excavation/Excavate. Any activity that involves the digging, removal, grading, tilling, blasting, or other displacement or disturbance of soil, dirt, rubble, rock or other earth materials for any reason including but not limited to roads, driveways, individual septic systems, landscaping, foundations, basements, fences, and wells of any kind, including geotechnical drilling. Within the *Superfund Overlay*, the term shall also include any displacement of any component of an existing *Protective Cover* or *Storm Water Control*.

WW. Plan. Refers to the *County's* current adopted Growth Policy.

LLL. Superfund. Refers to the requirements of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) as determined by EPA for the Anaconda Smelter NPL Site and all Records of Decision, and amendments and explanations of significant differences related thereto, issued by the United States Environmental Protection Agency with respect to the Anaconda Smelter NPL Site.

New Definitions:

ADP. Refers to an Administrative Development Permit.

Best Management Practices. This term refers to activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce potential negative impacts during and after *Excavation* in terms of surface water runoff, vegetation loss, erosion, cuts and fills on slopes and dust generation. Best Management Practices are commonly divided into two categories:

Structural BMPs. This term refers to engineered and constructed drainage or hillside retention measures, such as paved drainage basins, retention ponds, storm sewers, curbs, gutters or retaining walls, designed to contain, reduce or control surface water runoff and soil erosion.

Non-Structural BMPs. This refers to measures that primarily rely on natural materials or management practices such as grading, use of natural materials and vegetation to contain, reduce or control surface runoff that may be effective in limiting erosion on a site or onto abutting properties or into drainage ways.

Certificate of Compliance. Refers to the certificates of compliance issued by the Superfund Coordinator pursuant to Sec. XXX.J. and XXXI.H.

Community Soils OU Soils Sampling and Analysis Plan. The EPA-approved plan which details the methods for Pre-Development and Post-Development Soils Sampling and Analysis

for *Development* within the *Superfund Overlay*.

Contaminated Soil. Soil containing metal concentrations in excess of the arsenic and lead action levels contained in Tables XXX.A.1 and XXX.A.2 of Chapter XXX.

Development Guidance. Refers to the *Guidance for Developments with Existing Protective Covers or Storm Water Controls* or the *Guidance for Developments without Existing Protective Covers or Storm Water Controls*, as applicable.

Domestic Well Sampling and Analysis Plan. Refers to the Anaconda Regional Water and Waste – Final Long-Term Groundwater Monitoring Program – Sampling and Analysis Plan.

DPS Regulations. Refers to the Anaconda-Deer Lodge County Development Permit System.

Erosion and Surface Runoff Control Plan. A plan which contains information identifying how surface water will be transported on and from the *Development* area in a manner that will protect existing *Protective Covers and Storm Water Controls* and *Minimize* erosion and storm water pollution. The design contained in such a plan shall meet the minimum drainage criteria standards of ADLC or the Montana Department of Environmental Quality as applicable.

Field Portable X-Ray Fluorescence (FP-XRF) Soils Sampling and Analysis Plan. The EPA-approved ADLC Superfund Program plan which details the methods for screening and soils routing utilizing the FP-XRF for *Development* within the *Superfund Overlay*.

GIS. Refers to the Geographic Information System maintained pursuant to Superfund RODs.

Guidance for Developments with Existing Protective Covers or Storm Water Controls. Refers to the Guidance for Developments with Existing *Protective Covers or Storm Water Controls* set forth at **Appendix I** of these *DPS Regulations*.

Guidance for Developments without Existing Protective Covers or Storm Water Controls. Refers to the Guidance for Developments without Existing *Protective Covers or Storm Water Controls* set forth at **Appendix J** of these *DPS Regulations*.

ICWP. An Institutional Controls Work Plan developed in accordance with the requirements of Chapters XXX or XXXI which addresses the proper removal or covering of any *Contaminated Soil* and/or *Visible Waste Material Excavated* and the protection and/or replacement of any *Protective Cover* or *Storm Water Control* within a proposed *Development* area consistent with the requirements of Sec. XXX.F.4 and the applicable *Development Guidance*.

MDP. Refers to a Major Development Permit.

Protective Cover. Any cap or cover, and any component thereof, constructed or installed pursuant to Superfund or Chapter XXX which serves to prevent or limit exposure to *Contaminated Soil* and/or *Visible Waste Material* including, without limitation, each of the caps and covers depicted in Exhibit 1 to the *Development Guidance* and any *Treatment Area*.

Response Action. Any remedial or removal action taken pursuant to *Superfund* (including a determination that no action is required) including, without limitation, placement of a *Protective Cover* over *Contaminated Soil* and/or *Visible Waste Materials*, removal of *Contaminated Soil* or *Visible Waste Material*, reduction of elevated metals to a known concentration through *Treatment of Soil* or other means, and/or revegetation. The term shall also include construction of *Storm Water Controls* pursuant to *Superfund*.

Superfund Domestic Well Overlay. The Superfund Domestic Well Overlay depicted in Appendix K and on the *County's* official *Development District* map.

Superfund Overlay. The Superfund Overlay depicted in Appendix L and on the *County's* official *Development District* map. Previously referred to as the Superfund Planning Area Overlay District or SPAOD.

Storm Water Controls. Any engineered storm water control (channels, sedimentation basins, etc.), and any component thereof, constructed or installed pursuant to Superfund or Chapter XXX.

Superfund Coordinator. The *County* employee responsible for the implementation of the standards, requirements and procedures set forth in Chapters XXX and XXXI and Appendices H, I, and J of these *DPS Regulations*.

Superfund Waste Management Areas. The areas depicted as Waste Management Areas on the map set forth at Appendix M of these *DPS Regulations*.

Treatment Area. Any area where there has been *Treatment of Soil* pursuant to *Superfund*.

Treatment of Soil. The tilling or other preparation of the top soil and application of lime or organics pursuant to *Superfund* to create soil conditions capable of sustaining desirable vegetative growth.

Visible Waste Material. Visually discernible mining, milling, or smelting wastes such as tailings, slag or other waste material or debris.

This page intentionally left blank.

Chapter XXXIV- Definitions

A. Purpose. This chapter provides definitions for important terms used in these regulations. Commonly understood definitions are essential for fair and consistent administration of these regulations, and the Administrator should be guided by the definitions contained herein. Any interpretation or application of these terms by the Administrator may be appealed pursuant to Sec. II. L. of this DPS.

B. Interpretation of Commonly Used Terms and Words.

1. Words used in the present tense include the future tense.
2. Words used in the singular include the plural, and words used in the plural include the singular unless the natural construction of the wording indicates otherwise.
3. The words “used for” shall include the meaning and application of “designed for”.
4. The word “shall” is always mandatory.
5. The word “encouraged” is directory, and is used to express an intent, although not necessarily a requirement.
6. Where there appears to be a conflict between the content of the text of these regulations and any definition provided in this chapter, the text shall take precedent.
7. Should any question of definition arise for a term not listed in this chapter or not defined elsewhere in these regulations, the Administrator may at his/her discretion, research the term and provide a definition for general use in administering and interpreting these regulations.

C. Definitions of Terms and Words. The following definitions of terms and words are to be used in the administration, interpretation, and enforcement of this title.

Access, legal: The legally established means of approach to provide vehicular and/or pedestrian physical entrance to a property. The most common legally established means of access are public and private rights-of-way and easements.

Access, physical: The actual physical means of gaining access via the established legal access. The most common physical means of access are roads or streets, sidewalks, allies, and driveways.

Access, shared: The joint and co-operative use of an access point and/or facility (such as a driveway) by two or more entities.

Accessory: Customarily associated with and incidental and subordinate to.

Accessory residential unit (ARU): An independent and separate dwelling unit that is subordinate to a primary residential use of a property. Includes the terms “accessory dwelling unit”, “accessory apartment”, “garage apartment”, “granny flat”, and “mother-in-law apartment”.

Accessory building: A building that is detached from the principal building on the same lot, and is customarily incidental and subordinate to the principal building and/or use of the property. Examples of accessory buildings include detached garages, storage/tool sheds, and material, supply, and merchandise storage structures on commercial and industrial property. Includes the term “accessory structure”.

Accessory use: A use of land or of a building or portion thereof that is customarily incidental and subordinate in area, extent, or purpose to the *principal use*, and is located on the same lot as the *principal use*. An accessory use or building may not exist on a *Subject Property* without a *Principal Permitted Use* having been established. (Reference Sec. III. D.)

Administrator: Refers to the *County*’s Planning Department Director or his/her designee.

ADP: Refers to an Administrative Development Permit, as further defined in this chapter.

Adult book store: An establishment having all or a portion of its display area, stock-in-trade, or floor area used for the sale or rental of books, magazines, publications, tapes, film, video discs, or other media that is distinguished or characterized by an emphasis on sexually oriented and/or sexually explicit material, describing, relating to, or depicting sexual activities.

Adult entertainment: An establishment, either with or without a liquor license, offering sexually oriented live entertainment which may include but is not necessarily limited to entertainers, male or female, performing disrobed, partially disrobed, or in the act of disrobing, and/or touching patrons in a sexually explicit or sexually suggestive manner.

Adult retail establishment: A business that offers films, books, manuals, toys, likenesses, marital aids, and other items of a sexually explicit nature for sale to the general public.

Agriculture: The use of land for farming, dairying, grazing, the growing of crops, or the raising and/or breeding of animals for meat and/or live sale. This definition does not include feed lots or slaughtering and/or packing facilities.

Auto salvage yard: Any space, either inside or outside of a building, greater than 200 square feet in area, used for the storage, dismantling, disassembling, or salvaging wrecked or otherwise immobilized motor vehicles, including snowmobiles, motorcycles, trailers, and ATVs.

Bed and breakfast establishment: A private owner or manager occupied residence that rents rooms therein by the night or week to transient guests for compensation, and in which breakfast is provided only to room guests, the cost of which is included in the price of the room. Terms of occupancy in a bed and breakfast shall be not more than 30 consecutive days. For purposes of

these regulations, no bed and breakfast establishment shall have more than six (6) rooms available for rent, and all rooms shall be contained within the principal structure on the lot.

Best Management Practices (BMPs): This term refers to activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce potential negative impacts during and after *Excavation* in terms of surface water runoff, vegetation loss, erosion, cuts and fills on slopes and dust generation. Best Management Practices are commonly divided into two categories.

BMPs, Non-structural: Measures that primarily rely on natural materials or management practices such as grading, use of natural materials and vegetation to contain, reduce or control surface runoff that may be effective in limiting erosion on a site or onto abutting properties or into drainage ways.

BMPs, Structural: Engineered and constructed drainage or hillside retention measures, such as paved drainage basins, retention ponds, storm sewers, curbs, gutters or retaining walls, designed to contain, reduce or control surface water runoff and soil erosion.

Building: Any structure having a roof supported by columns, posts, or walls and intended for the shelter, housing, or enclosure of any individual, group of individuals, animal, process, equipment, goods, or material of any kind.

Building height: See “Height, structural”.

Building permit: For purposes of these regulations, a "building permit" is a permit issued by Anaconda-Deer Lodge County and/or the Montana Department of Labor and Industries verifying that the project described in said permit meets all standards and requirements of the applicable International codes. Includes the terms “electrical permit”, “plumbing permit”, and “mechanical permit”.

Business Park: A development that contains a number of separate businesses, offices, light manufacturing facilities, and/or office/warehouse/showroom configurations along with accessory and supporting uses; incorporates common open space and shared parking, access, and drive areas, all planned and designed in a coordinated, integrated manner.

Casino: An establishment or any portion of an establishment that offers live and/or machine gambling to patrons. Includes the term “gambling enterprise” as defined in Sec. 23-5-112(15), MCA.

Certificate of Compliance: Refers to the certificates of compliance issued by the Superfund Coordinator pursuant to Sec. XXX.J. and XXXI.H.

Character: Special physical features, characteristics, or scale of a structure or area that set it apart from its surroundings and contribute to its interest and/or individuality.

Child: A person under 13 years of age or a person with special needs, as defined by the Montana Department of Health and Human Services, who is under 18 years of age or is 18 years of age and a full-time student expected to complete an educational program by 19 years of age. (Sec. 52-2-703, MCA)

Child care: See “day care”.

Church: See “religious institution”.

Community residential facility: This term is defined by Sec. 76-2-411, MCA:

- (1) a community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care;
- (2) a youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or youth group home as defined in Sec. [52-2-602, MCA](#);
- (3) 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;
- (4) a licensed adult foster family care home; or
- (5) an assisted living facility licensed under Sec. [50-5-227, MCA](#).

Community Soils OU Soils Sampling and Analysis Plan. The EPA-approved plan which details the methods for Pre-Development and Post-Development Soils Sampling and Analysis for *Development* within the *Superfund Overlay*.

Contaminated Soil: Soil containing metal concentrations in excess of the arsenic and lead action levels contained in Tables XXX.A.1 and XXX.A.2 of Chapter XXX.

Contract construction: This land use term is defined as the business of erecting buildings or other structures, including but not necessarily limited to roads, bridges, dams, communications facilities, utilities, and non-mining excavations; involves the use, storage, and maintenance of heavy equipment including but not limited to graders, excavators (including back hoes, track hoes, etc.), dump trucks (tandem and single-axle), concrete mixers and pumpers, and lift trucks. Also may involve the storage of construction materials such as lumber, gravel, pipe, wire, culverts, conduit, and roofing and siding material. An administrative office without the aforementioned vehicles and equipment does not constitute contract construction for purposes of these regulations.

Cottage industry: For purposes of these regulations, a cottage industry is a category of home-based business. (See Appendix A, Division 1.)

Credit union: See “financial institution”.

Day care: Care for children provided by an adult, other than a parent of the children or other person living with the children as a parent, on a regular or irregular basis, as applicable, for daily periods of less than 24 hours, whether that care is for daytime or nighttime hours. Also includes the term “child care”. (Sec. 52-2-703, MCA)

Day care center: An out-of-home place in which day care is provided to 13 or more children on a regular or irregular basis. (Sec. 52-2-703, MCA)

Day care home: A home based child care facility licensed by the State of Montana Department of Health and Human Services and providing day care for not more than 12 children. This term includes “family day care home” and “group day care home” as defined in Sec. 52-2-703, MCA.

Development District: As used in these regulations, this term refers to the individual development districts established by this Development Permit System and in effect throughout Anaconda-Deer Lodge County, such as Low Density Residential Development District (LDRD), Medium Density Residential Development District (MDRD), Highway Commercial Development District (HCDD), Georgetown Lake Development District (GLDD) etc.

Development Guidance: Refers to the *Guidance for Developments with Existing Protective Covers or Storm Water Controls* or the *Guidance for Developments without Existing Protective Covers or Storm Water Controls*, as applicable.

Development Permit, Administrative (ADP): A type of development permit that usually applies to permitted and accessory uses in each development district; reviewed by ADLC Planning Department staff, often with input from other County departments, and without a public hearing or notice to nearby property owners. (Sec. II. G. of these regulations)

Development Permit, Major (MDP): A type of development permit applied to “special uses” listed in each development district as well as to planned developments when that option is available. MDPs require notice to surrounding and nearby property owners, published notice, and a public hearing by the County Planning Board. Final decision making authority over MDPs rests with the ADLC Board of Commissioners.

Dining and drinking establishment: Includes any type of restaurant, café, or coffee shop where patrons are served prepared food and/or beverages (including alcoholic beverages), for consumption on premises, for compensation; may include drive-through facilities if so allowed in the applicable development district. This term also includes the terms “bar”, “tavern”, “pub”, “public house”, “brew pub”, and “road house”, and also includes “carry out” and “delivery” services for off premise consumption of prepared foods. This term **does not include** “casinos”.

Domestic Well Sampling and Analysis Plan: Refers to the Anaconda Regional Water and Waste – Final Long-Term Groundwater Monitoring Program – Sampling and Analysis Plan.

DPS Regulations: Refers to the Anaconda-Deer Lodge County Development Permit System.

Drive-through facilities: Site facilities and/or features that by design provides access to the site for customers to order, shop, make purchases, and/or generally conduct business while remaining in their motor vehicles. Includes the terms “drive-up facilities” and “drive-in facilities”.

Dwelling unit: One or more rooms, designed, occupied, or intended for occupancy as separate living quarters, with cooking, sleeping, and sanitary facilities provided within the unit for the exclusive use of a single family maintaining a household.

Dwelling unit, multi-family: A dwelling unit within a structure situated on a single lot and designed for and containing three (3) or more separate dwelling units. This definition is inclusive of the terms “apartment” and “multi-family housing unit”.

Dwelling unit, single-family detached: A structure designed and intended for residential use, that contains one dwelling unit, and is not attached or physically connected to any other dwelling by any means (except for an ARU which may be allowed by these regulations), and is surrounded by open space or yards.

Dwelling unit, two-family: A dwelling unit within a structure situated on a single lot and designed for and containing two separate and distinct dwelling units. This term includes the terms “duplex unit” and “twin home unit”.

Erosion and Surface Runoff Control Plan: A plan which contains information identifying how surface water will be transported on and from the *Development* area in a manner that will protect existing *Protective Covers and Storm Water Controls* and *Minimize* erosion and storm water pollution. The design contained in such a plan shall meet the minimum drainage criteria standards of ADLC or the Department of Environmental Quality as applicable.

Excavation/Excavate: Any activity that involves the digging, removal, grading, tilling, blasting, or other displacement or disturbance of soil, dirt, rubble, rock or other earth materials for any reason including but not limited to roads, driveways, individual septic systems, landscaping, foundations, basements, fences, and wells of any kind, including geotechnical drilling. Within the *Superfund Overlay*, the term shall also include any displacement of any component of an existing *Protective Cover* or *Storm Water Control*.

Extractive industries: The business of removing minerals and other material from the ground; includes quarrying, the removal of sand, soil, stone, gravel, or clay, and all mining operations. This term also includes on site processing such as crushing, stockpiling, and hauling activities.

Family: An individual, or two or more persons related by blood, marriage, or adoption, or, five (5) or fewer individuals who need not be so related, living together as a single housekeeping unit.

Field Portable X-Ray Fluorescence (FP-XRF) Soils Sampling and Analysis Plan. The EPA-approved ADLC Superfund Program plan which details methods for screening and soils routing utilizing the FP-XRF for *Development* within the *Superfund Overlay*.

Financial institution: An establishment duly licensed by the state and/or federal government to provide banking, saving, brokerage, safe deposit, and other types and combinations of consumer financial services. Does not include offices whose sole function is brokerage and/or financial planning services.

Floor area ratio (FAR): Total gross floor area divided by gross lot area.

GIS: The Geographic Information System maintained pursuant to Superfund.

Grade: Slope of the land, whether natural or man-made. Also, the percentage or ratio of rise or descent of a sloping surface. (Example- The grade of a street, or grade of a site or lot.) Grade is measured as vertical rise (or descent) divided by a given horizontal distance. (Example- A lot on which the elevation rises ten (10) feet from front to rear, and is 100 feet in depth, has a grade, or slope, of 10%; also expressed as a ratio of 1:10.)

Grade, finished: The final elevation of the average ground level adjoining a structure at all exterior walls after development. Also refers to the state of the land after grading and/or filling is complete.

Grade, natural: The elevation and/or slope of the land in its natural state, prior to any excavation, filling, or construction.

Grading: Any stripping, cutting, filling, or stockpiling of earth or land in order to alter natural or preexisting grades for any reason, including development. Vegetation removal without any alteration of the terrain is not considered grading for purposes of these regulations.

Grocery store: Permanent business establishment selling prepared or unprepared and packaged food items and miscellaneous household items at retail. Term includes “food co-op”, but does not include temporary uses such as farmers markets, farm stands, produce stands, or mobile food vendors.

Gross floor area: The total floor area of a structure, including all hallways, stairs, restrooms, storage, lobbies, and other common areas. In residential situations, gross floor area does not include basements that are totally below ground level and that do not have egress windows.

Ground cover: Grasses and other low growing plants, intended primarily to stabilize the soil. Also, grass or low growing plants as part of a landscape treatment.

Guidance for Developments with Existing Protective Covers or Storm Water Controls: Refers to the Guidance for Developments with Existing *Protective Covers or Storm Water Controls* set forth at Appendix D of these *DPS Regulations*.

Guidance for Developments without Existing Protective Covers or Storm Water Controls: Refers to the Guidance for Developments without Existing *Protective Covers or Storm Water Controls* set forth at Appendix E of these *DPS Regulations*.

Height, structural: The mean lineal distance from the ground level on finished grade at the mid-point and immediately adjacent to each of the walls of a structure to the highest point of the structure, not including antennae, chimneys, steeples, or roof top mechanical devices.

Home-based business: A business conducted from a residence, and conducted primarily by the inhabitants thereof. (See Appendix A, Division 1.)

Home occupation: For purposes of these regulations, a category of home-based business. (See Appendix A, Division 1.)

Homeless shelter: A facility providing temporary housing to indigent, needy, or homeless persons.

Hospice: A facility for the care of terminally ill persons.

Hotel: A facility offering transient lodging accommodations to the general public, and which may include additional facilities and services such as restaurants, meeting rooms, entertainment, personal services, and fitness/recreational facilities. Includes the term “motel”, but does not include the terms “bed and breakfast” or “tourist home”.

ICWP: An Institutional Controls Work Plan developed in accordance with the requirements of Chapter XXX which address the proper removal, treatment or covering of any *Contaminated Soil* and/or *Visible Waste Material Excavated* and the protection and/or replacement of any *Protective Cover* or *Storm Water Control* within a proposed *Development* area consistent with the requirements of Sec. XXX.F.4 and the applicable *Development Guidance*.

Industry, Heavy: Land uses involved in the processing and manufacturing of materials or products primarily from extracted or raw materials. These include, but are not necessarily limited to manufacture of metal products (smelting and foundries), wood products (sawmill, including utility poles and fencing), paper products, and chemical and petrochemical processing and refinement of all kinds.

Industry, Light: Land uses involving research and development, component assembly, processing and fabrication primarily involving finished products or parts (sheet metal, wood, cardboard, machine finished parts or components, etc.), repair of said products and/or components, packaging, wholesaling, warehousing, and distribution.

Institutional Controls Plan: A plan developed and adopted by Anaconda-Deer Lodge County designed to protect citizens and the general public from the health risks associated with industrial contamination of air, water, dust, and soil. (Sec. II. B.)

Institutional Controls Work Plan: An individual work plan for a specific property that contains detailed measures for dealing with contaminated soil during development. The work plan becomes a part of the development permit. (Sec. II. B.)

Junk: Any scrap, waste, reclaimable material, or debris, including vehicle parts, whether or not stored, for sale, or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other use or disposition.

Junk vehicle: An inoperable motor vehicle, or component parts thereof, meeting the definition set forth in Sec. 75-10-501, MCA.

Kennel, boarding: An establishment in which dogs or other domesticated animals are housed, groomed, boarded, or trained, all for a fee for service.

Kennel, breeding, private: The keeping, breeding, raising, showing, or training of four or more dogs over the age of six (6) months, either for the personal enjoyment of the owner or occupant, and for which commercial gain is not the primary objective.

Kennel, breeding, commercial: A facility for the breeding, raising, showing, and/or training of more than four (4) dogs, all of which must be registered with a nationally or internationally recognized registration and standardization organization, which are kept or harbored for the purpose breeding purebred or pedigreed dogs primarily for sale.

Landscape ratio (LSR): The amount of landscaped area measured in square feet divided by the gross lot area.

Landscaping: For purposes of these regulations, trees, shrubs, grasses and other ground covers, and other materials such as rock, wood chips, decorative features (bird baths, sculpture, etc.), patterned walks, fountains, pools, and similar naturalistic features for the primary purpose of highlighting, complementing, or enhancing a structure(s) or any other development on a site or lot. (Also see *xeriscaping*.)

Landscape plan: A scaled drawing of a lot or site that depicts areas to be landscaped, and on which is shown some or all of the following:

1. Proposed tree and plant species
2. Number of each species to be planted and installed size.
3. Methods of protecting existing vegetation during construction
4. Proposed treatments of hard and soft surfaces
5. Proposed decorative features (if applicable)
6. Grading plan (if applicable)
7. Buffers and screening devices

Latchkey facilities and programs: A program, including a facility that houses a program, that provides after school day care for school aged children who would otherwise be unsupervised in the home until a parent returns from work.

Lawful similar use: A use that is not necessarily in the list of permitted or special uses for a particular development district, but which in the judgment of the Administrator, has similar characteristics, traffic generation, intensity of use, and neighborhood and community impacts as uses that are so listed. (See Sec. II. N. h.)

Lodging use: The provision of temporary living quarters, with or without meals, for transient guests for a fee, and for a period of less than 30 days.

Lot: A unit of land described by letter or number in a legally recorded subdivision. Also includes a parcel of land described by metes and bounds, the description of which has been so recorded and appears on its deed. Term includes “lot of record”.

Lot coverage: The amount of space on a lot or parcel taken up by principal and accessory structures; usually expressed as a percentage of the gross lot area. (Example: Maximum allowable lot coverage: 35%.)

Lot, double frontage: A lot that fronts on one street with its side lot line lying adjacent to an intersecting street; a corner lot.

Lot, flag: A lot that is positioned, usually because of topography, behind other lots and connected to a street via a long narrow portion of the lot often called a “flag stem”.

Lot frontage: The area of a lot adjacent to the street right-of-way from which it gains access. Also refers to a measurement of the width of the lot at the street right-of-way.

Lot line, front: The boundary segment of a lot that lies adjacent to the street from which the lot gains access and/or is addressed.

Lot line, rear: The boundary segment of a lot that lies most opposite the front lot line.

Lot line, side: Any boundary segment or segments connecting the front and rear lot lines.

Lot, through: A lot which fronts on one street and runs through to a parallel street in the rear.

Luminaire, cut-off: A complete lighting unit consisting of a light source, housing, and all necessary electrical, mechanical, and decorative parts, and which by design, limits the illumination to a specific area and does not allow glare to be encountered beyond the illuminated area.

Major recreational equipment: This term includes, but is not necessarily limited to, snowmobiles and snowmobile trailers, livestock trailers, boats and boat trailers, travel trailers (including pop-ups), pickup camper tops when not mounted on a vehicle, motor homes, tent trailers, as well as the cases, boxes, or containers used for transporting or shipping recreational equipment, whether or not occupied by such equipment.

Manufactured home, Class A: Single-family housing built off site on a chassis, or otherwise designed and constructed to be transported to a site for installation and use when connected to required utilities. In addition, Class A manufactured homes meet the following standards:

1. Constructed after January 1, 1990 and certified as meeting the mobile home construction standards of the U.S. Department of Housing and Urban Development.
2. Is at least 20 feet in width at its narrowest point.
3. Has a roof pitch not less than 4:12 and eaves not less than 12 inches, not counting any gutter.

4. Utilizes roofing materials which are generally acceptable for site built housing. Roofing materials must have the appearance of a shake, shingle, or tile roof.
5. Siding material which has the appearance of wood, masonry, or non-reflective metal siding.
6. Is placed on a permanent foundation for which a building permit has been issued, or has perimeter skirting that resembles a conventional of a site built home, and is constructed of brick, concrete, concrete block, or treated lumber.
7. The hitch or tongue has been removed from the unit.

This definition does not include the terms “mobile home” or housetrailer as set forth in Sec. 15-1-101, MCA.

Manufactured home, Class B: A manufactured home meeting the mobile home construction and safety standards of the U.S. Department of Housing and Urban Development, but not meeting all criteria 1 through 6 for Class A manufactured homes.

Manufactured home, Class C: A manufactured home which does not meet the mobile home construction and safety standards of the U.S. Department of Housing and Urban Development, but which is at least ten (10) feet in width and 40 feet in length excluding the hitch or tongue.

Manufactured home park: An area designed for and occupied by two (2) or more manufactured homes of any class where designated spaces are rented or leased to persons having their own manufactured homes. Also includes similar areas in which the manufactured home and the space are rented or leased to tenants.

Manufactured home subdivision: A land subdivision in which lots are designated and sold specifically for placement of manufactured homes of any class.

Motel: See “hotel”.

MBMG: Refers to the Montana Bureau of Mines & Geology.

MDP: Refers to a Major Development Permit, which is further defined in this chapter.

Non-conforming lot of record: Any legally created lot of record that conformed to prior regulations, but that does not conform to the standards set forth in these regulations for lot area, dimensions, or configuration. (See Sec. III. E.)

Non-conforming structure: A structure of any kind that was legal under prior regulations, but does not conform to these regulations in terms of setbacks, height, FAR, or LSR on the subject lot. (See Sec. III. E.)

Non-conforming use: A use of land that was allowed under prior regulations, but which does not conform to these regulations. (See Sec. III. E)

Nuisance: A condition or situation that results in an interference with the enjoyment and use of property.

Occupant: An individual, individuals, or entity in actual possession of a premise, whether as an owner, renter, or lessee.

Off-street parking: Spaces for automobiles that are provided, or are required to be provided under these regulations, on private property, usually on the same lot or parcel as the business, residence, or other entity served by the parking, and not located on a street or other public way.

Ornamental tree: A deciduous tree planted primarily for its beauty, color, flower, or leaf rather than primarily for screening purposes.

Parapet: The extension of the main walls of a structure above roof level.

Parapet, top of: The highest point of a parapet; often used in the measurement of structural height.

Permitted use: See “principal use”.

Personal services: Establishments primarily engaged in providing services, for compensation, involving the care of a person or his or her personal goods or apparel.

Plan: Refers to the County’s growth policy.

Principal use: The primary or predominant use of any lot or parcel. This term includes the terms “permitted use” and “principal permitted use”. (Reference Sec. III.D.)

Protective Cover: Any cap or cover, and any component thereof, constructed or installed pursuant to Superfund or Chapter XXX which serves to prevent or limit exposure to *Contaminated Soil* and/or *Visible Waste Material* including, without limitation, each of the caps and covers depicted in Exhibit 1 to the *Development Guidance* and any *Treatment Area*.

Recreational vehicle (RV): See “major recreational equipment”.

Recycling center: Land, building, and equipment used for the collection, sorting, and reshipping of used materials for eventual reuse in new products.

Religious institution: A church, synagogue, temple, mosque, or other facility where prayer, worship, fellowship, and education are partaken in by persons of similar beliefs. Also, a special purpose building or complex of buildings that is architecturally designed or particularly adapted for the primary use of conducting formal religious services on a regular basis.

Residential use: Use of land and/or buildings for sleeping, eating, congregating, and general housekeeping by an individual, group of individuals (See “family”), or family for a period of 30 days or more.

Response Action: Any remedial or removal action taken pursuant to Superfund (including a

determination that no action is required) including, without limitation, placement of a ***Protective Cover*** over ***Contaminated Soil*** and/or ***Visible Waste Materials***, removal of ***Contaminated Soil*** or ***Visible Waste Material***, reduction of elevated metals to a known concentration through ***Treatment of Soil*** or other means, and/or revegetation. The term shall also include construction of ***Storm Water Controls*** pursuant to ***Superfund***.

Restaurant: See “dining and drinking establishment”.

Retail: The business activity through which durable and non-durable goods of all kinds, including food and specialty items and household furnishings, are offered for sale to the general public. This term does not include sales of motor vehicles, heavy equipment, trailers, trucks, and RVs, nor does it include the sale of medical marijuana.

Retaining wall: A structure that is constructed between lands of different elevations in order to stabilize the surfaces, prevent erosion and/or collapse, and protect other structures such as homes and businesses.

Rubbish: Generic term for solid waste, excluding food waste and ashes, taken from residences, commercial establishments, and institutions.

Scale: The proportioned relationship of the size of parts to one another, as the scale of buildings or of a neighborhood. Also, the relationship between distances on a map and actual ground distances.

Scale of development: The relationship of a particular project, development, or structure in terms of its size, height, bulk, intensity of use, and aesthetics, to its surroundings.

Self-storage facility: A building or group of buildings containing separate, individual, and private storage spaces or varying sizes available for lease or rent for varying periods of time. Includes the terms “mini-storage” and “mini warehouses”.

Setback: The distance between a structure and any given lot line (front, side, or rear).

Setback line: The line that delineates the required minimum distance from any lot line, and establishes the area within which a principal or accessory structure may be erected or placed.

Shrub: A woody plant, smaller than a tree, consisting of several small branches from the ground or small branches near the ground; may be deciduous or evergreen.

Sign: An object, device, display, or structure, or part thereof, situated outdoors or indoors, that is intended and used to advertise, identify, display, direct, or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, design, symbols, fixtures, colors, illuminated, or projected images.

Sign, off-premise: A sign specifically designed to direct attention to a business, product, or service, or attraction that is not provided on the premises on which the sign is located; billboard.

Sign, temporary: A sign or advertising display constructed of cloth, canvas, fabric, plywood, or other light material and designed or intended to be displayed for a relatively short period of time; not permanent.

Smoke shack: A four-sided building no larger than 96 square feet, one side of which is totally open. On the remaining three sides, there shall be continuous ventilation gaps of no less than eight (8) inches in width between the wall and ceiling and the wall and the floor.

Soils Sampling and Analysis Plan: The EPA-approved plan set forth at Appendix H of these *DPS Regulations* detailing the methods for Pre-Development and Post-Development Soils Sampling and Analysis for *Development* within the *Superfund Overlay*.

Special use: A use of land or structures allowed within a development district upon issuance of a Major Development Permit by the Board of County Commissioners following a review process and public hearing. A use of land or structures is not a special use and cannot be permitted as a special use unless the use is specifically listed in the applicable development district as such. (Reference Sec. III. D.)

Specimen tree: A particularly impressive or outstanding example of a species because of its size, shade, age, or other trait that epitomizes the character of the species; in a landscape plan, species of trees that will grow the largest and are usually installed at the largest sizes of any other plan materials in the plan. May be coniferous or deciduous.

Storm Water Controls: Any engineered storm water control (channels, sedimentation basins, etc.), and any component thereof, constructed or installed pursuant to Superfund or Chapter XXX.

Structure: A combination of materials, that when combined and assembled in the process of construction, form a substantial object for use, occupancy, or ornamentation whether installed on, above, or below the surface of land or water; a combination of materials assembled and set upon the land for a beneficial use.

Subdivision: The division of a lot, tract, or parcel of land into two or more lots, or other divisions of land for sale, development, or lease. A division of land meeting the definition of subdivision set forth in Sec. 76-3-103, MCA.

Subject property: This term describes the property for which a particular development is proposed. When the subject property is comprised of more than one lot or parcel, all such lots or parcels for which development is proposed shall be considered the subject property.

Superfund: Refers to the requirements of the Comprehensive Environmental Response Compensation and Liability Act (CERCLA) as determined by EPA for the Anaconda Smelter NPL Site and all Records of Decision, and amendments and explanations of significant differences related thereto, issued by the United States Environmental protection Agency with respect to the Anaconda Smelter NPL Site.

Superfund Coordinator: The *County* employee responsible for the implementation of the standards, requirements and procedures set forth in Chapters XXX and XXXI and Appendices D and E of these *DPS Regulations*. A full list of the Superfund Coordinator’s responsibilities and duties is set forth in Sec. II. O.

Superfund Domestic Well Overlay: The Superfund Domestic Well Overlay depicted in Appendix G and on the *County’s Official Development District Map*.

Superfund Overlay: The Superfund Overlay depicted in Appendix F and on the *County’s Official Development District Map*. Previously referred to as the Superfund Planning Area Overlay District or SPAOD.

Superfund Waste Management Areas: The areas depicted as Waste Management Areas on the map set forth at Appendix H of these *DPS Regulations*. Also includes the term “waste management areas”.

Tavern: See “dining and drinking establishment”.

Theater: A building or part thereof used to show motion pictures or theatrical productions including drama, dance, musical/concerts, or other live performances.

Treatment Area: Any area where there has been *Treatment of Soil* pursuant to *Superfund*.

Treatment of Soil: The tilling or other preparation of the top soil and application of lime or organics pursuant to *Superfund* to create soil conditions capable of sustaining desirable vegetation growth.

Tourist home: A lodging use of a residence where the entire residence or rooms therein are rented to transient guests, with or without meals, for compensation and for a term of occupancy of less than 30 days.

Telecommunications facility: A Federal Communications Commission licensed facility, including at least one tower and support functions, designed and used for the purpose of transmitting, receiving, and relaying voice and data signals from various wireless communication devices and equipment. Does not include broadcast antennae, amateur radio transmission facilities, or antennae for public service communications such as police, fire, and other emergency services.

Travel trailer: See “major recreational equipment”.

Visible Waste Material: Visually discernible mining, milling, or smelting wastes such as tailings, slag or other waste material or debris.

Xeriscape (xeriscaping): Landscaping characterized by the use of vegetation, usually indigenous, that is drought-tolerant or otherwise requires low water use to keep it alive and viable for the desired landscape application; water conserving landscaping that also makes effective use of non-live materials such as natural wood, local stone, and hardscape.

This page intentionally left blank.

APPENDIX A

Division 1: Home Based Businesses

A home-based business is a non-residential accessory and incidental use of residential property. Typically, it is a business operated from a home with part of the floor area of the residential unit and/or an accessory structure devoted to the business. Employees are limited to a small number and/or the residents of the dwelling unit in order to control the scale of the non-residential use. The DPS recognizes two types of home-based businesses: home occupations and cottage industries.

A. Home Occupations. The following standards apply to home occupations:

1. A home occupation may be located within a dwelling or an accessory building, but no home occupation shall occupy a floor area larger than that of the dwelling to which it is accessory.
2. No home occupation shall have more than one employee who does not reside on the premises.
3. Home occupations shall provide off-street parking for all employees and any vehicles associated with the home occupation in compliance with Appendix D.
4. The storage of any materials, equipment, or machinery associated with a home occupation shall be contained within an enclosed structure.
5. Only one non-illuminated wall sign of no more than six (6) square feet is allowed.
6. All home occupations shall obtain a business license from Anaconda-Deer Lodge County.
7. Medical marijuana caregiving shall not be allowed as a home occupation in any development district except for a caregiver that serves no more than two (2) registered patients, both of which must reside within the caregiver's household.

B. Cottage Industries. The following standards apply to cottage industries. Where cottage industries are listed as special uses in the applicable development district, additional conditions may be imposed in order to mitigate adverse impacts and/or to meet other criteria set forth in Sec. II. H. 8 of this DPS.

1. Cottage industries may be conducted by any member(s) of the household of the primary single-family residence on the subject property. In addition, up to three persons who do not reside on the premises may be employed on premises in the cottage industry.
2. One off-street parking space for each employee not residing on premises must be provided. Said parking shall be in a driveway or to the side or rear of the primary residence.
3. The minimum lot area for a cottage industry shall be 10,000 square feet, and the associated residence must be a single-family detached dwelling unit.
4. The cottage industry may be conducted in the home, in an attached garage (provided that at least the minimum number of required parking spaces is maintained), or in an

- accessory structure that conforms to the standards of the applicable development district.
5. In the urban development districts only, no outdoor storage is permitted with the exception of two (2) boats, trailers, RVs, ATVs, etc., that are used in the operation of the cottage industry. Such storage is not permitted in the front yard area of the primary residence. No such restrictions exist in the rural development districts.
 6. Two (2) signs are permitted for a cottage industry. One sign may be mounted on a wooden post(s) in the front yard of the primary residence. This sign may be no more than four (4) feet in height and six (6) square feet per side in area. The second sign shall be mounted flat to the wall of the structure in which the cottage industry is conducted, and near the entryway. This sign shall not exceed two (2) square feet in area.
 7. No cottage industry may impact adjacent residential properties with noise, smoke, glare, fumes, dust, or odors in excess of that which is typical of a dwelling unit.
 8. No cottage industry shall cause visual or audible interference in any radio or television receivers off premises, or cause fluctuations in line voltage off premises.
 9. Other than employees as allowed in this subsection, no traffic shall be generated by any cottage industry greater than what would normally be expected in a residential neighborhood. Any delivery and supply vehicles shall be no larger than those that normally make deliveries to residential neighborhoods. On site retail sales are expressly prohibited as a cottage industry in the urban development districts.
 10. All cottage industries are subject to a business license issued by ADLC.

Division 2: Fencing and Retaining Walls

- A. Fencing.** Fences are allowed as accessory structures in all development districts, subject to development permits. The following standards shall apply:
1. Urban and suburban areas. In the HDRD, LDRD, MDRD, CBDD, HCDD, and in the WVDD on residential lots of 15,000 square feet or less and in all commercial development, no fence, hedge, or freestanding wall (not part of a building) located within or bounding a required front setback, may exceed forty-two (42) inches in height. In the WVDD the front setback for all uses is assumed to be 25 feet. Fencing other than in the front setback in the HDRD, LDRD, MDRD, and in the WVDD on residential lots of 15,000 square feet or less shall not exceed six (6) feet in height. Allowable fencing materials and designs include:
 - a. Wood or vinyl (including PVC) picket or rail fencing.
 - b. Wood or vinyl board fencing provided a minimum space of 1" is maintained between boards.

- c. Wood or vinyl board-on-board fencing provided that boards on opposite sides of stringers do not overlap.
- d. Chain link and woven metal fencing.
- e. Other similar materials and designs as approved by the Administrator.
2. Rural areas. In all rural development districts, no fence may exceed a height of six (6) feet, with the following exceptions:
 - a. Open security fencing for commercial and industrial storage areas as set forth in sub-paragraph 8. below.
 - b. Corrals, stalls, and pens to control livestock may be constructed up to eight (8) feet in height.
3. Residential privacy fencing. 100% sight-obscuring privacy fencing up to six (6) feet in height is allowed in residential applications around decks, patios, pools, hot tubs, and similar outdoor living spaces. Such fencing must be no more than 20 feet from the primary residential structure and may not encroach in any setback.
4. Institutional security fencing. Open security fencing up to six (6) feet in height may be allowed by the Administrator for schools, correctional facilities, and other public and quasi-public institutions when necessary for the safety or restraint of the occupants thereof, without regard to the setbacks specified in sub-paragraph 1. above.
5. No portion of any fence shall pose a continuous visual obstruction between the heights of 2 ½ and 10 feet at a street intersection within a triangular area defined by measuring 30 feet along the pavement lines of the intersecting streets, beginning where there pavement lines meet.
6. Ornamental pedestrian entries, such as arches or arbors, shall not exceed ten (10) feet in height.
7. Vehicular entries for subdivisions, parks, and development projects (including farms and ranches) shall not exceed twenty (20) feet in height and thirty-six (36) feet in width.
8. Within the Anaconda Planning Area and in the WVDD on lots of 15,000 square feet or less, barbed wire, razor wire, concertina wire, and similar wire products are not allowable fencing materials, except that for commercial and industrial storage areas in all districts located in side or rear yards, open security fencing may be constructed up to ten (ten) feet in height and may be topped with barbed wire. The barbed wire course is calculated as part of the allowable fence height.
9. Outside of the Anaconda Planning Area, including the WVDD for lots over 15,000 square feet, all fencing to control pastured livestock shall meet guidelines set forth in the Montana Department of Fish, Wildlife, and Parks publication, *A Landowners Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind*.

10. Wildlife exclusion fencing up to eight (8) feet in height is allowed for gardens, haystack yards, and similar areas, provided that the guidelines set forth in *A Landowners Guide to Wildlife Friendly Fences: How to Build Fence with Wildlife in Mind* are followed.
11. Any fence, or any portion of a fence such as entry ways and arbors, that exceed six (6) feet in height is subject to a building permit.

B. Retaining Walls

Retaining walls over four (4) feet in height require a building permit and must be designed by a professional engineer (PE) registered in the state of Montana.

Division 3: Landscape Standards

A. Purpose and Intent: This division sets forth the standards and policies for the design, planting, and maintenance of all required landscape areas within the County. The planting of trees and other landscape materials serves to preserve and stabilize property values and enhance the built environment, especially of urbanized areas. Trees in particular are recognized for their importance in shading and cooling, noise and wind reduction, open space, visual relief, architectural enhancement, prevention of soil erosion, production of oxygen, dust filtration, carbon dioxide uptake, providing habitat for wildlife, and contributing to the aesthetic and economic value of real property. Landscape areas that are specially designed to function as drainage retention and snow storage areas are encouraged by ADLC.

B. Applicability:

1. Areas required to be landscaped. The standards set forth herein apply to all required landscaped areas within the Anaconda Urban Planning Area and urban development districts except for the ARED. However, landscaping may be required as mitigation for an identified adverse impact associated with a Major Development Permit anywhere within the County. Area required to be landscaped is set by many urban development districts as a “landscape ratio”, or LSR. Landscaping may also be required for neighborhood compatibility and mitigation of adverse impacts in both Administrative and Major Development Permits. Within the Anaconda urban area, each property owner must also landscape and maintain the parkway area of the street right-of-way that lies between the front property line and the curb, pavement, or attached sidewalk as applicable. Parking areas with five (5) or more spaces are required to be landscaped according to the standards set forth in Sec. H of this Division.

2. Exemptions. One and two-family residential properties and parking areas with four (4) or fewer spaces are exempt from submitting landscape plans pursuant to paragraph C. below provided that, at a minimum, the following landscaping is installed:
 - a. For one and two family residential properties in the LDRD, MDRD, and HDRD that are not part of a planned unit development of any kind, turf grass (seeded or sodded) or a live ground cover must be installed across the entire front yard between the front foundation wall of the primary structure and the curb (or edge of pavement) on the adjacent street. One (1) specimen tree (coniferous or deciduous) meeting the installed size standards set forth in paragraph G. below is also required in this area.
 - b. For parking areas with four (4) or fewer spaces, car height screening consisting of two (2) shrubs or multi-stems per ten (10) linear feet of parking area adjacent to any public street shall be provided.
3. Non-conforming properties. On properties for which development or additional development is proposed, but which do not meet the landscape requirements of this division and/or the applicable development district, required landscaped area(s) are set forth in Sec. E of this division.

C. Landscape Plan Required: For each development where landscaping is required under this division, a landscape plan shall be submitted as part of the application for any development permit. Landscape plans shall be drawn to scale and shall include:

1. Symbols for each type and species of plant proposed.
2. Area in square feet of each part of the site to be landscaped.
3. A legend specifying the number and installed size of each type of plant material.
4. Irrigation . Indigenous, drought tolerant plant materials are recommended, and irrigation to help these plants become established is highly recommended.
5. Utilities and fencing. Care should be taken to avoid damaging utility service lines and fencing when installing landscaping. Utility locates are advised prior designing landscaping.

D. Development Permit and Institutional Controls Work Plan (ICWP): The ICWP is the primary tool by which property owners, homeowners, landscape contractors, and others within the Anaconda Smelter Superfund Site can take steps to both protect human health and the environment, and ensure against Superfund liability. An Administrative Development Permit is required with all landscaping projects where total terrain disturbance exceeds five (5) cubic yards outside of the *Superfund Overlay*) and one (1) cubic yard within the *Superfund Overlay*. (Refer to Sec. II. B. of this DPS.) If the project area has previously been remediated, is a commercial development, or is highly likely to

contain mine and/or smelter related waste material, an ICWP will be developed according to the provisions of Chapter XXX of this DPS and must be adhered to. For landscaping that is being undertaken in conjunction with development for which a development permit is already required, a separate development permit and ICWP solely for landscaping are not required.

- E. Non-Conforming Properties:** Properties that do not meet the landscape standards set forth in this DPS, but which were legally developed prior to the effective date of these regulations, may continue as legally non-conforming properties. However, additional landscaping toward meeting the standards of this code shall be required in the event of:
1. The use of the property changing from one permitted use to another.
 2. The use of the property changing from a permitted use to a special use.
 3. An additional structure is constructed on the subject property.
 4. The existing floor area of all structures on the property is increased by 25% or more.
 5. The parking area is paved and/or reconstructed.
- The amount and extent of additional landscaping required on non-conforming properties shall be to the extent practicable as determined by the Administrator.

F. Selection of Plant Materials:

All plant materials should be selected for their hardiness and survivability in Anaconda-Deer Lodge County, which is in USDA Hardiness Zone 3/4. Specimen trees and ornamentals should be selected from the tree list provided at the end of this division.

- G. Minimum Installed Sizes:** All landscape materials must meet at least the minimum installed sizes set forth below. Trees and plants recommended for USDA Plant Hardiness Zone 3b are preferred.
1. Coniferous specimen trees (Austrian pine, blue spruce, Douglas fir, etc.)- 8' in height as measured from ground surface.
 2. Deciduous specimen trees (Northern red oak, quaking aspen, Patmore ash, green ash, maple, etc.) – 2" caliper as measured one (1) foot above the ground surface.
 3. Ornamentals, multi-stem trees/shrubs (multi-stem aspen, amur maple, various caragana, mountain ash, crabapple, etc.) 5' height as measured from ground surface.
 4. Shrubs (potentilla, dwarf Arctic willow, snowberry, serviceberry, red twig dogwood, etc.) 5-gallon containers.
 5. Groundcovers (kinnikinik, sweetfern, cliff green, tammy juniper, etc.) 3-gallon containers. Rock, bark, and similar materials are suitable for use in planting beds, but not as a general ground cover.
 6. Turf; seeding or sodding of turf grass areas are both permitted; grasses should be drought tolerant such as buffalo grass, blue grama, wheatgrass, etc. Rock, bark, and similar materials may not be substituted for turf grass.

H. Planting Standards and Guidelines: This subsection contains standards and guidelines for the number and installed size of plant materials for each type of landscape area.

1. General guidelines. For each 1,200 square feet of landscaped area, the following plant materials are to be provided. Except for specimen trees, the quantities of plant materials are guidelines, and varying of these guidelines to accommodate the unique features of a development site is encouraged. However, specimen trees are required as set forth below :
 - a. One specimen tree. No more than 75% of the required specimen trees shall be either conifer or deciduous.
 - b. Two ornamental trees.
 - c. Three large shrubs/multi-stems.
 - d. Ground cover and/or turf as appropriate.
2. Planting Strips: When landscape areas consist of strips no less than 6 feet and no more than 12 feet in width (such as in setbacks and adjacent to parking areas), the standards set forth in this subsection shall be applied.
 - a. One specimen tree for each 40 linear feet of planting strip. Trees may be either deciduous or coniferous as appropriate for the application. Trees need not be uniformly spaced, but may be grouped to present a more natural looking landscape.
 - b. One ornamental tree for each 25 linear feet. Ornamentals may also be grouped or clustered for a more natural look.
3. Parking Lot Landscaping: This term refers to landscaping within and immediately adjacent to the parking area. The parking area is comprised of spaces for autos, delivery, and service vehicles, and all drive and access aisles.
 - a. Regardless of development district, the street frontage of any parking area subject to landscape requirements must consist of a landscaped buffer area of not less than eight (8) feet in width. The street side of a side yard must contain a buffer strip of not less than six (6) feet in width. All landscaping required by this provision counts toward the total landscaping that may be required in the applicable development district.
 - b. Landscape Islands: Landscape islands shall be provided at least every 10 parking spaces (20 spaces for a head-to-head parking configuration). Islands shall be the approximate length of the adjacent parking space(s) and shall be at least eight (8) feet in width. At least one deciduous specimen tree is required per island, and the use of confers for this purpose is highly discouraged. The specimen tree should be selected so that it does not cause a visibility hazard to motorists as they maneuver in the parking area. Four shrubs not to exceed 3 ½' in height as measured from the driving surface are also required in each island.

- c. For parking areas that are subject to landscape standards and that lie adjacent to any public street (front and/or side), car height screening is required. Two shrubs or multi-stems for each 10 linear feet of planting strip shall be provided, and may be clustered for a natural affect. Bark or mulch may be used in the shrub bed.
 - d. Landscape Strips (between parking rows): The use of landscape strips that separate two rows of parking spaces is discouraged.
- I. Reclamation and Revegetation:** When any terrain or soil is disturbed in the process of development for which a development permit is required, the area of disturbance must be reclaimed in order to prevent erosion and resulting dust and siltation of local streams. For properties that have been remediated pursuant to Superfund, restoration according Chapter XXX of this DPS, or to the applicable covenants or deed restrictions, will suffice to meet the requirements of this section. Reclamation may also consist of landscaping pursuant to this division, and any landscaped area will count toward meeting the landscape requirement (if any) in the applicable development district. Structural reclamation measures may also acceptable, subject to review by ADLC as part of the development permit. Maintenance of all reclamation and revegetation measures are the responsibility of the property owner.
- J. Installation, Phasing, and Surety:** Generally, landscaping shall be installed prior to issuance of a certificate of compliance (COC). If no COC is required, installation must take place prior to occupancy (residential) or opening (non-residential). Exceptions for landscape phasing and for building occupancy during seasons of the year not conducive to planting are set forth below:
- 1. Should any project for which landscaping is required be completed and ready for occupancy between October 1 and April 15, landscape installation may be postponed until such time as weather and soil conditions allow for efficient installation and the best chance for survival of plant materials. Occupancy, opening, or issuance of a COC as appropriate, may be allowed by ADLC upon the posting of a surety (bond or letter of credit) equal to 110% of the estimated cost of the landscape installation.
 - 2. For development projects of two (2) acres or more, landscaping may be phased over two planting seasons, provided that at least 50% of the required landscaping is installed during the first season prior to opening or occupancy as set forth in subsection 1. above. In that event, a surety shall be provide equal to 110% of the estimated cost of the remaining landscaping.
- K. Maintenance and Removal or Dead and Diseased Plant Materials:** All required landscaping shall be maintained in a park like condition as it was originally approved. All diseased or dead plant materials must be replaced during the current or next planting season as applicable. Substitute plant species (a different species than was shown on the

original approved landscape plan) may be approved by the Administrator upon request. Failure to maintain required landscaping is deemed a violation of this DPS.

Division 4: Off-Street Parking and Loading Standards

- A. **Purpose and Intent:** The purpose of this division is to provide functional parking areas with safe and efficient circulation patterns that meet the needs of users while avoiding the negative environmental and urban design impacts that can result from parking lots and other vehicular use areas. To that extent, the provisions of this chapter aim to protect the public health, safety, and general welfare by: avoiding spillover parking into adjacent neighborhoods, lessening and/or mitigating traffic congestion; encouraging multi-modal transportation options; enhancing pedestrian safety; reducing the environmental impacts of storm water runoff; improving air quality through dust abatement; encouraging in-fill development; and providing flexible methods to respond to the transportation and access demands of various land uses in different areas of the county.
- B. **Applicability:** Requirements set forth in this division apply in the following situations:
1. **New Construction.** Unless otherwise stated, the parking standards of this division apply to all new structures and all new uses established in all development districts.
 2. **Additions and Expansions.** Unless otherwise expressly stated, the parking standards of this division apply whenever an existing building or use is enlarged or expanded to include additional dwelling units, floor area, seating capacity, employees or other units of measurement used for establishing off-street parking requirements. In the case of enlargements or expansions triggering requirements for additional parking, additional off-street parking spaces are required only to serve the enlarged or expanded area, not the entire building or use. This division imposes no requirement to address lawfully existing parking deficits.
 3. **Change of Use.** When the principal use of a property changes, and the result of that change is a greater parking requirement, additional off-street parking must be provided to accommodate the new use.
- C. **Exemptions:** Except for lodging and residential uses, no off-street parking is required in the Central Business Development District/Main Street Overlay (CBDD/MSO).
- D. **Calculating Off-Street Parking Requirements:** When calculating required off-street parking, the following procedures shall be used:
1. **Computing Floor Area.** When calculating parking requirements based upon floor area, total gross floor area must be used.
 2. **Fractions.** When calculations of the required number of spaces results in a fraction of a space, any fraction (represented as a decimal) of less than .5 is rounded down to the nearest whole space. Any fraction of .5 or greater is rounded up to the next whole space.

3. Mixed uses. If more than one type of land use occupies a single structure or parcel of land where shared parking and access have been provided for, the total requirement for off-street parking shall be the sum of the requirements for all uses minus 10% of the total. If the peak parking demands of the various mixed uses occur on different days or at different times of the day, the land owner or developer may, upon producing relevant data and other evidence, request a reduction in the total parking requirement from the Administrator.

E. General Requirements

1. Location of parking spaces and access.
 - a. All required parking spaces shall be on the same lot or an adjoining lot under the same ownership or lease with the principal building(s) that the parking serves.
 - b. When required off-street parking is on land subject to a lease or easement, the minimum period of time for which the lease or easement must be in effect is five (5) years. Furthermore, the terms of the lease or easement must require that the County be notified upon termination of the instrument. In the event of the termination of a lease or easement that provides off-street parking, the owner of the property upon which the development being served by the off-street parking is located is responsible for providing substitute off-street parking.
 - c. In the LDRD and MDRD, parking is prohibited in front and street side setbacks except that parking spaces may be located in front of a garage or carport. No more than 40% of the front yard area in a residential district may be paved or used for the parking or storage of vehicles. On corner parcels, not more than 20% of the street side yard area may be paved or devoted to parking or other vehicle use.
 - d. In HDRD and all non-residential development districts, parking is permitted in all setbacks provided it complies with Appendix A, Division 3: Landscaping Standards.
 - e. In no case shall a parking space be located such that it allows a vehicle to park across an external property line.
 - f. Except for one and two-family dwellings, no parking area shall be designed and constructed such that vehicles are permitted to back into a public street.
 - g. Except for one and two-family dwellings, tandem parking is not permitted. (Note: Tandem parking will be defined.)
2. Surface material. All parking and drive areas within the CBDD, HCDD, LDRD, MDRD, and HDRD shall be surfaced with asphalt, concrete, or similar material, with an adequate sub-surface base to produce a long lasting, durable, weather proof surface. Exceptions to this standard are:
 - a. One and two-family residential development where the parking and drive area is accessed from an unpaved street or alley, provided that the parking and drive area surface is kept dust free.
 - b. At the discretion of the Administrator, spillover parking or other parking that is not used on a regular and/or frequent basis may be treated with “turf block”, “grasscrete”, or similar products that allow grass or ground cover to grow in

- spaces between the structure of the product while still supporting the weight of vehicles.
- c. Emergency access across open space or landscaped areas may be treated with products described in b. above, subject to approval of the Administrator and local fire department.
 3. Surface material in other districts. In all development districts other than CBDD, HCDD, LDRD, MDRD, and HDRD, compacted gravel or similar material may be used to surface parking and drive area provided that such areas are kept dust free.
 4. Lighting. For parking areas of 8 or more spaces, lighting of the parking area and walkways shall be provided to a 1.5 foot-candle level of illumination. Light sources shall be directed downward and shall be shielded to prevent spillover lighting onto adjacent properties.
 5. Curb stops. Where a vehicle overhang is adjacent to a walkway, landscaped area, or a wall, curb stops are required.
 6. Maintenance and use. The maintenance of all parking and drive areas is the responsibility of the property owner. The following maintenance and use standards apply to all required off-street parking except for one and two-family residential development:
 - a. Required off-street parking areas must be used solely for the temporary parking of licensed motor vehicles in operating condition.
 - b. Required off-street parking spaces may not be used for the display of goods for sale or lease.
 - c. Required off-street parking may not be used for open storage, storage of building materials, or storage of inoperable vehicles.
 - d. Off-street parking spaces must be maintained to be free of potholes, trash, debris, dirt, and dust.
 7. Positive drainage required. All parking and drive areas shall be designed for positive drainage so that no ponding occurs in these areas.
 8. Snow storage and drainage retention. The design of parking facilities with areas for snow storage, drainage retention, or both functions within the same area, is encouraged by ADLC. Such areas may be provided within landscape areas and setbacks.
 9. Shared parking and shared access. In any development where are two or more businesses both using the same parking area and common points of access, the property shall be encumbered by a 'shared parking, shared access' easement. This easement may be placed on the face of the plat, or may be filed by separate instrument. The administrator may require proof of such an easement prior to, or as a condition of, a development permit.
 10. Drive-thru facilities. Where drive-thru facilities are allowed, no queuing of vehicles shall be allowed to cross a sidewalk or private pedestrian way, encroach on any public right-of-way, or interfere with any lawful access to any other property.

F. Parking Requirements by Use

The numbers of spaces required in this section are minimums and shall be maintained by ownership, easement, or lease, for as long as the land use which is served by the parking exists.

1. Maximum number of spaces. Provision of more than 125 percent of the minimum number of spaces required is not permitted.
2. On-street parking. No credit against the required off-street parking shall be allowed for on-street spaces.
3. Uses not specifically listed. For uses not listed in the space requirements set forth in this subsection, the Administrator shall determine the appropriate requirement based upon any similar uses that are listed and/or upon research.
4. At the option of the applicant, in lieu of the schedule of required off street spaces by use set forth below, an overall parking plan may be proposed. The plan shall contain an analysis of the parking demands of the proposed mix of land uses, including documentation of peak parking demands and the time(s) of the day that those peaks occur.
5. Required off-street parking spaces. The minimum number of parking spaces by land use is as follows:

Residential

- a. One and two-family residential, including townhomes, manufactured, and mobile units: 2 spaces per unit
- b. One-bedroom units, including “efficiency apartments”: 1 space per unit
- c. All other multi-family units: 1.75 spaces per unit
- d. Multi-family elderly: 1 space per unit
- e. Accessory residential unit (ARU): 1 space per unit

Commercial

- f. Theaters and other assembly: 1 space per 4 seats
- g. Restaurants (sit down): 1 space per 4 seats
- h. Restaurants (high turnover): 1 space per 3 seats
- i. Taverns: 1 space per 4 seats table space, 1 space per 2 bar seats
- j. Retail (general and specialty): 1 space per 250 gsf (gross square feet)
- k. Retail (home furnishings/home improvement) 1 space per 600 gsf
- l. Auto repair/quick lube: 1 space per service bay
- m. Hotel/motel: 1 space per room or suite
- n. Bed & breakfast: 2 spaces plus 1 space per rentable room or suite
- o. Child care (commercial): 1 space for every employee required by the facility’s license, plus two (2) spaces; one off-street drop-off area

Office

- p. General/agency/professional office: 3 spaces per 1,000 gsf
- q. Medical/dental: 1 space per 250 gsf
- r. Veterinary clinic: 1 space per 400 gsf

Public/Semi-Public

- s. Churches: 1 space per four seats in main assembly area
- t. Recreation center/facility: determined by function
- u. Government offices: determined by function

Industrial

- v. Manufacturing/assembly/fabrication: 1 space per 800 gsf of active production area.
- w. Warehousing/distribution: 1 space per 2,000 gsf

G. Off-Street Loading Areas

1. All commercial and industrial buildings of 10,000 gross square feet or greater shall provide one properly signed off-street loading area for each additional 10,000 square feet of gross floor area.
2. Off street loading spaces shall be located on the same lot as the building they serve.
3. Off-street loading spaces shall be designed to accommodate the largest delivery vehicle that may be reasonably anticipated for use on the site.
4. No off-street loading space shall be designed such that a vehicle using the space extends into a public right-of-way or access easement.

H. Handicap Accessible Parking

1. Handicap accessible spaces required. Handicap accessible off-street parking shall be required according to the following schedule:

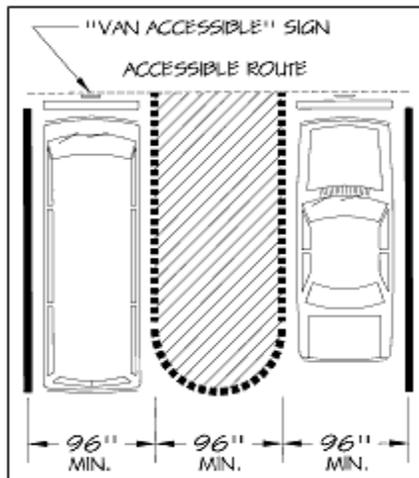
Total Spaces Provided	Handicap Acc. Spaces (min.)
5 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 plus	3% of total spaces required

2. Van accessible spaces. One out of each six (6) accessible spaces provided, but at least one space in each parking facility, shall be van accessible.
3. Location. Accessible parking spaces shall be located so as to provide the shortest accessible route to a primary building entrance.
4. Curb ramps and accessible routes. Curb ramps and accessible routes shall be provided which allow unobstructed travel from an accessible parking space to an accessible entrance. Parked vehicle overhangs shall not reduce the clear width of an accessible route. Parking spaces and access aisles shall not exceed 2% grade in all directions.
5. Signage. Each accessible space shall be identified by a sign showing a universal symbol of accessibility (wheelchair). Van accessible spaces shall have an additional sign (“Van Accessible”) mounted below the accessibility symbol. Each sign shall be no smaller than 1’ x 1’ and shall be located at the end of the space at a height between four (4) feet and seven (7) feet. The sign(s) may be either wall mounted or

freestanding. In addition, a painted accessibility symbol shall be painted directly onto the parking lot surface within the accessible space(s).

6. Dimensional standards. All handicap accessible spaces shall be a minimum of 20 feet in length. Where two spaces share an accessible area, the minimum stall width shall be eight (8) feet, and the width of the common accessible area shall also be eight (8) feet.

Exhibit 36-5. Layout of standard and van accessible parking spaces



This illustration shows one van accessible space and one car/truck space utilizing a common accessible area. The width of each space is 8'. At least one van accessible space is required in each parking facility.

I. Dimensional Standards

This section sets forth standards for the length and width of parking stalls and drive areas.

1. Parallel spaces. Parking spaces designed parallel to a curb or wall shall be at least 10' in width and 22.5' in length.
2. 90-degree spaces. All 90-degree parking spaces (perpendicular to the aisle) shall be at least 10' in width and 20' in length. The two-way aisle shall be not less than 24' in width.
3. 60 and 45-degree spaces. All 60 and 45-degree parking spaces (angle from the aisle) shall be at least 10' in width and 20' in length. A one-way aisle shall be 15' in width and a two-way aisle shall be not less than 22' wide.

J. Bicycle Parking

Developments are encouraged to provide parking spaces for bicycles in accordance with the following design standards:

1. Bicycle parking areas shall consist of bike racks or lockers that are anchored so that they cannot be easily removed.
2. Bike racks should be of solid construction, resistant to rust, corrosion, hammers, and saws and should allow both the bicycle frame and the wheels to be locked with the bicycle in an upright position using a standard U-lock. Bike racks should facilitate easy locking without interference from or to adjacent bicycles.
3. Bicycle parking areas should be in highly visible, active, well-illuminated areas that do not interfere with pedestrian movement.

Division 5: Property Maintenance Standards

- A. **Purpose.** Property maintenance standards are intended to protect neighborhood quality, character, and property values by eliminating public health, safety, and nuisance issues associated with the accumulation of junk, debris, and the substandard maintenance of buildings and structures.
- B. **Dismantled Vehicles and Parts:** Dismantled vehicles or parts of vehicles, including but not limited to auto and truck bodies, boats, trailers, motorcycles, snowmobiles, RVs, engines, tires, rims, transmissions, etc., may not be stored openly. Such materials may be stored behind a sight obscuring fence or landscaping. Assembled and intact but inoperable vehicles are not subject to these provisions, but are subject to ADLC's community decay standards.
- C. **Trash and Debris:** No trash or debris shall be allowed to accumulate on properties, including but not necessarily limited to garbage, rubbish, ashes, yard and garden waste, tree trimmings, packaging, broken concrete or asphalt, furniture, appliances, scrap wood, demolition waste, used and/or scrap building materials, etc. Useable building materials, firewood, or other materials that are customary and incidental to a residence, legal business, or home business on the premises, and that are stored in an organized and orderly manner, are permitted under this Division.
- D. **Organic Waste:** Accumulation of organic waste is expressly prohibited, and such wastes must be disposed of immediately. Organic waste includes but is not necessarily limited to septic tank pumpage, sludge, sewage of any kind, waste food items, dead animals and animal parts of any kind. Compost bins are allowed in side and rear yard areas provided that any applicable set backs are met, odors are undetectable from adjacent properties, and that they do not attract wildlife.
- E. **Building Condition and Maintenance:** All buildings and structures shall be kept in a sound and livable condition and properly maintained, including siding, roofing, paint or stain, decks, porches, balconies, and windows, including screens and sashes. Structures are not permitted to remain in an obvious partially constructed state without continuous progress being made to complete the structure.
- F. **Building Construction:** During construction, all building materials and construction waste must be contained on site. Outdoor burning of waste building materials is subject to Anaconda-Deer Lodge County regulations.
- G. **Not Applicable to Agriculture:** Nothing in this division shall be construed, interpreted, or applied in any manner that will restrict the ability of bona fide agriculture to store,

repair, maintain, or otherwise keep agricultural vehicles, implements, equipment, livestock, or materials necessary for agricultural practice.

- H. **Enforcement:** Enforcement of the provisions of this division shall be in accordance with those set forth for community decay in Chapter 10, Article V of the ADLC Code of Ordinances.

Division 6: Use of Recreational Vehicles (RV) on Property Other Than RV Parks and Campgrounds.

A. Anaconda Urban Residential Districts (LDRD, MDRD, HDRD, ARED, etc.)

1. RVs may be stored openly on any property where the primary use is residential provided that all setbacks for an accessory structure are met. An RV may not be stored in such a manner that it occupies a required parking space under these regulations.
2. No RV may be stored on a public right-of-way or access easement open to the public.
3. One RV may be set up and used as temporary quarters for non-paying guests one time per calendar year for a period not to exceed 45 days provided the applicable setbacks for an accessory structure are met.
4. One RV may be used by the owner of any residential property as a temporary residence during construction of a residential structure on the property provided accessory structure setbacks are met.
5. Renting an RV as permanent or temporary living quarters is not permitted on any property at any time, nor is it permissible to charge a fee for RV storage on any residential property under this section.

B. Anaconda Urban Commercial and Industrial Districts.

1. RVs may be used as caretakers' or security quarters subject to an Administrative Development Permit (ADP).
2. Fees may be charged for RV storage subject to a Major Development Permit (MDP).

C. Rural Development Districts (GLDD, BHDD, LCDD, EVDD, etc.)

1. RVs may be stored openly on any property. An RV may not be stored in such a manner that it occupies a required parking space under these regulations.
2. No RV may be stored on a public right-of-way or access easement open to the public.
3. One RV at a time may be set up and used as temporary quarters for non-paying guests.
4. One RV may be used by the owner of any property as a temporary residence during construction of a primary structure on the same property.
5. Renting an RV as permanent or temporary living quarters is not permitted on property at any time.

6. RVs may be stored for fees only upon issuance of a Major Development Permit (MDP).

D. Sanitation Standards. All state and local sanitation standards must be complied with.

Division 7: Keeping of Hooved Animals on Residential Property

A. Applicability.

1. The term “hooved animal” means any horse (including miniature), mule, donkey, burro, cow, calf, steer, heifer, goat, sheep, llama, alpaca, or swine of any kind. Some development districts prohibit the keeping of domestic sheep due to the possibility of transmitting disease to wild sheep.
2. The term “residential property” means any lot or parcel, the primary use for which is residential at any density and within any development district.
3. Standards set forth in this division do not apply to any property that is primarily used for agriculture even though residential may be an accessory use.
4. Standards set forth in this division do not apply to the keeping of chickens, ducks, geese, pigeons, or other fowl.
5. No hooved animals may be kept on any residential property that is less than one (1) acre (43,560 square feet) in size.
6. All hooved animals kept on residential property must be the property of the owner or tenant. The boarding of animals for fees is not authorized by these regulations.
7. These standards do not apply to the East Valley Development District (EVDD).

B. Standards. The following standards apply to corrals, pens, and other outdoor enclosures where hooved animals are kept.

1. No enclosure may be located within 100 feet of any body of water, including intermittent (seasonal) streams.
2. No enclosure may be located within a wetland, wetland buffer, or flood plain.
3. No enclosure may be placed in an area where the grade is 10% or greater.
4. No roof drains or surface water runoff of any kind may be directed into a hooved animal enclosure.
5. No ponding of water shall be allowed within a hooved animal enclosure.
6. An area of natural or planted vegetation with a minimum width of eight (8) feet shall be maintained around the enclosure.
7. No odors or fumes which, in the assessment of the Administrator, prevent or impair the use and/or enjoyment of adjacent or neighboring properties shall be permitted.

C. Best Management Practices (BMP). The following BMPs are recommended in order to meet the standards set forth above and the intent of this division.

1. Remove manure from enclosures daily. If manure is stored on site prior to disposal, store in a moisture and insect proof container (and bear proof if applicable). Plan for 15 cubic feet of storage per horse per week.
2. Consider composting if conditions are suitable.
3. Underlay the corral area with a layer of gravel to promote good drainage.
4. Control potential overflow from water troughs with automatic water level controls or similar means.
5. Maintain vegetation and replant bare spots around enclosures.
6. Do not store feed in a manner that attracts bears and other wildlife.

APPENDIX B
Georgetown Lakeshore Protection Standards

- A. Purpose.** The purpose of this section is to set forth standards for development within the protection zone of Georgetown Lake. These regulations will apply to all lakefront properties within Anaconda-Deer Lodge County. Specifically, the purposes of these regulations are:
1. Protect the sensitive lakeshore areas from overdevelopment.
 2. Protect water quality in Georgetown Lake through the preservation of natural shoreline areas and beneficial riparian vegetation.
 3. Maintain the visual quality of Georgetown Lake for all to enjoy.
 4. Protect property values on the lake by ensuring quality, responsible development.
 5. Protect property rights, lake use, and lake access through the establishment of reasonable and prudent lakefront development standards.
- B. Authority.** The authority (requirement) for local governments to enact and administer lakeshore protection standards is set forth in Sec. 75-7-207, MCA.
- C. Jurisdiction.** These regulations govern any work or development described herein which alters Georgetown Lake below mean annual high water as well as the land which is within twenty (20) horizontal feet of the mean annual high water elevation. The mean annual high water elevation for Georgetown Lake has been established according to Sec. 75-7-202(4), MCA at 6,429.6 msl.
- D. Effective Date:** Notwithstanding the effective date of this Development Permit System, the regulations contained in this Appendix B shall become effective on January 1, 2015.
- E. Effect of Regulations.** These regulations supplement all other regulations, and any permit issued hereunder does not supersede or negate the necessity of obtaining any other permits required by local, state, or federal agencies. It is the express responsibility of the property owner, and not Anaconda-Deer Lodge County or its elected and appointed officials, to determine if additional permits are required.
- F. Uses and Structures Allowed Without Permits.** The following uses and structures are allowed in the lakeshore protection zone without Administrative or Major development permits issued by Anaconda-Deer Lodge County:
1. Docks, swimming docks, and shore stations, subject to the standards set forth in Sec. H, Dock Standards.

2. Routine repair and maintenance of docks and other structures within the LPZ, including legally non-conforming structures.
3. Removal of docks and storage for the winter season.

G. Uses and Structures Allowed With Permits: The following uses and structures are allowed in the lakeshore protection zone with an Administrative Development Permit (ADP):

1. Walkways and pathways constructed of permeable materials not exceeding eight (8) feet in width.
2. Private boat ramps constructed entirely of permeable materials.
3. Appurtenances such as stairs, ramps, and landings, which may encroach into the LPZ up to 12 feet.

H. Uses and Structures Prohibited. The following uses and structures are expressly prohibited within the LPZ:

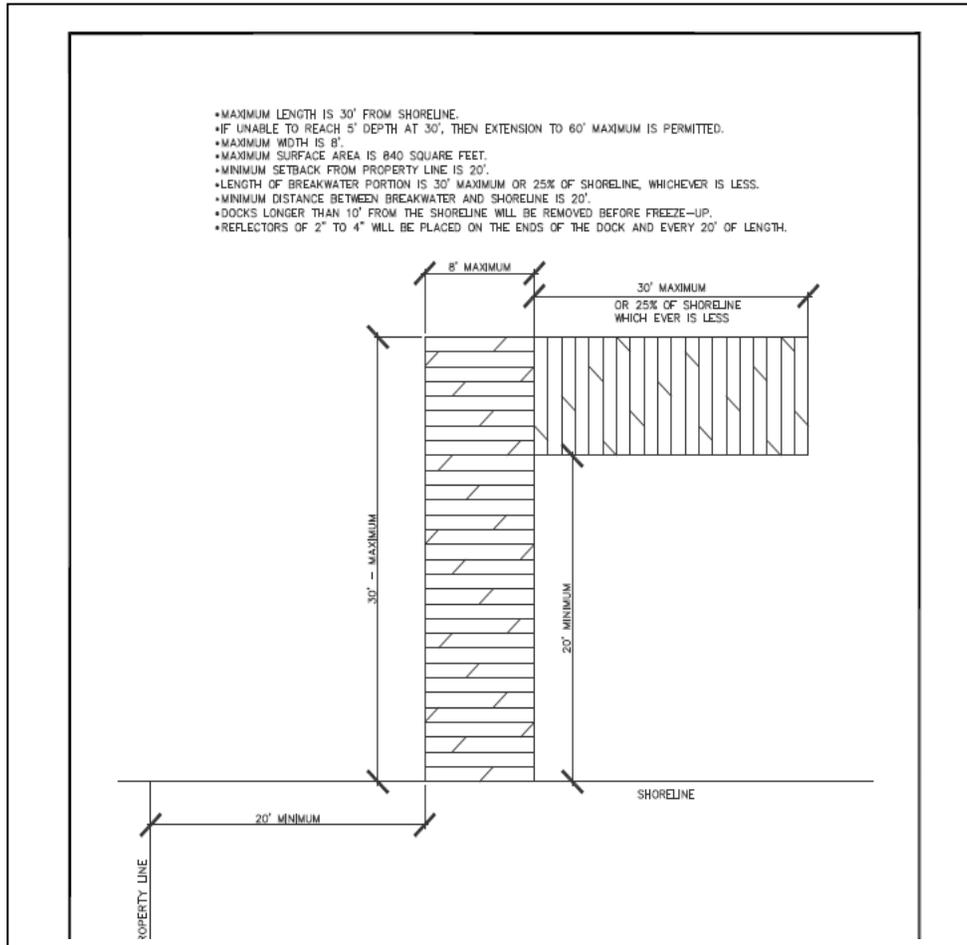
1. Dwelling units of any kind, including guest houses, and additions thereto.
2. Decks, patios, gazebos, and similar structures
3. Storage or utility sheds
4. Permanent storage of any kind
5. Boat houses
6. Asphalt or concrete paving of any kind, including for boat ramps
7. Satellite receiving dishes
8. Crib docks
9. Hot tubs
10. Planting of non-native plant species
11. Wood stains and metal coatings and treatments that are injurious to water quality shall not be used or allowed to enter the LPZ.
12. With the exception of bona fide marinas and homeowner's associations, the rental of private dock space is prohibited.

I. Dock Standards. All private docks constructed on single-family lakefront lots or parcels shall meet the following standards:

1. Floating docks and stationary retractable docks only are allowed on Georgetown Lake. No wood or concrete pilings are allowed in the construction of docks.
2. Dock flotation systems may not include metal barrels or any similar devices that will fail over time due to corrosion.
3. Anchoring systems shall employ non-polluting weights and other components. The use of automobile parts and any other objects that may introduce hydrocarbons or other pollutants into the lake is expressly prohibited.
4. Floating docks and flotation components shall be clearly and permanently marked with the name and contact information of the owner.

5. All dock flotation styrofoam shall be extruded closed cell polystyrene or otherwise permanently encased to prevent deterioration.
6. Only one dock and one swimming dock per lakefront property is allowed.
7. Total surface area of boat docks shall not exceed 880 square feet per lakefront lot. (Swimming docks, gangways, shore stations, and personal watercraft bays are not included in this total.) See Fig. APPC-1 below.
8. Dock section widths, including wings and breakwaters, shall be no wider than eight (8) feet.
9. Docks may extend no more than 30 feet from the shoreline where there is at least five (5) feet depth of water at the end of the dock at annual mean high water. Additional dock length up to a total of 60 feet may be allowed to reach a water depth of five (5) feet at the end of the dock.
10. The breakwater portion of the dock shall run parallel to the shoreline and shall extend no more than 30' or 25% of the lakeshore frontage, whichever is less.
11. Where boat slips parallel the shoreline, there must be a minimum of 20 feet of open water between the wing forming the slip and the shoreline at mean high water.
12. Docks may be no closer to the riparian boundary than 20 feet. Common facilities constructed by two or more owners are not subject to this requirement when the riparian boundary lies between two participating properties.
13. One reflector of not less than two (2) inches nor greater than four (4) inches in diameter shall be installed and maintained every 20 linear feet of dock space, and at the end of all docks. The minimum number of reflectors required shall be two (2).
14. Docks for homeowners associations, common areas, and commercial marinas are subject to Major Development Permits as set forth in Sec. II.H of these regulations.
15. In the interest of public safety, all floating, retractable, or otherwise removable docks that exceed 10 feet in length must be removed from the water prior to the lake surface freezing for the winter season.

Fig. APPB-1 Dock Standards (Note: These standards are for private docks at single-family residences only. Docks for homeowners associations, marinas, and other docks intended for use by multiple individuals are subject to Major Development Permits as set forth in Sec. I.14. above.)



- J. Vegetation and Landscaping.** Native riparian vegetation is vitally important to water quality and general lake health, and shall be preserved wherever possible.
1. Only native grasses and other plant materials are recommended in the lakeshore protection zone.
 2. Terrain disturbance within the LPZ must be restored as soon as practicable to prevent erosion and impacts to water quality. (Reference Appendix A, Division 4, *Site Restoration and Erosion/Sediment Control Standards*, and Sec. J below.)
 3. Use of fertilizers, pesticides, insecticides, and herbicides not expressly approved by the ADLC Weed Coordinator for use in the LPZ, is not recommended.
- K. Erosion Control and Sedimentation.** The natural protective armament of the lake bed and lakeshore shall be protected and preserved wherever possible. In addition to the standards set forth in Appendix A, Division 4, the following shall apply.
1. The proposed activity shall not cause, directly or indirectly, increased sedimentation, an increase in suspended sediments, or an increased discharge of nutrients into the lake either during its construction or utilization.
 2. Any point source runoff which is diverted to the lake shall be detained and filtered prior to entering the lakeshore protection zone.
 3. Prior to beginning construction on any lakefront site, the landowner or contractor shall erect a construction fence landward of the LPZ, and shall place siltation barriers on either side of the fence.
- L. Non-Conforming Uses and Structures.** Non-conforming uses and structures in the LPZ are generally subject to the provisions of Chapter III of this Development Permit System, with the exception of the following provisions:
1. Non-conforming docks and other appurtenances and structures within the LPZ may not be expanded.
 2. Non-conforming docks, swimming docks, boat houses and similar structures within the LPZ that have become unserviceable because of age, effects of the elements, or lack of maintenance, may not be rebuilt and must be dismantled in a manner that will not adversely affect water quality or marine or riparian habitat. Any replacement of unserviceable facilities must be according to the standards and provisions of this Appendix B.

This page intentionally left blank.

APPENDIX C

Division 1: Critical Areas Development Standards

- A. Purpose.** The purpose of this division is to implement the ADLC Growth Policy by protecting and enhancing water quality, open spaces, and wildlife habitat. These objectives shall be accomplished by:
1. Setting standards for vegetated buffers and setbacks for buildings from stream banks, lakes, and wetlands.
 2. Setting development standards for lands with slopes in excess of 25%.
 3. Providing standards and alternatives for preserving critical wildlife habitat.
- B.** Establishing a procedure for granting a reasonable use exemption from these regulations should the regulations render a legal lot of record “unbuildable”. **Authority.** These regulations are authorized by the same Montana statutes under which general zoning is authorized, Sec. 76-2-301, MCA.
- C. Jurisdiction.** These regulations are in effect throughout Anaconda-Deer Lodge County, regardless of development district. No type of development or use of land is exempt from these provisions unless expressly authorized in this Appendix D.
- D. Exemptions.** All development and land uses that are exempt from development permits pursuant to Sec. II.C. are likewise exempt from the provisions of this Appendix. If these regulations apply to any development in a manner that is contradictory to standards and procedures set forth in Chapter XXX, *Superfund Overlay*, the standards and procedures of Chapter XXX shall prevail. Development and land use activities exempted herein may not be exempt from Conservation District, U.S. Corps of Engineers, water quality or other permits administered by the Montana Department of Environmental Quality, or local floodplain management regulations.
- E. Density Calculations.** Allowable densities under the DPS are calculated based upon gross area. Areas of steep slope, critical wildlife habitat, and buffers for lakes, streams, and wetlands all count as gross acreage in calculating allowable densities.
- F. Variances.** Variances from the standards of this Appendix may be granted by the Board of Adjustment pursuant to Sec. II.M of these regulations, or through the PUD. Except for the reasonable use exemption procedure set forth in Sec. H of this Appendix, the Administrator is not authorized to vary or waive standards of this Appendix. Variances to the standards contained in Ordinance No. 208 pertaining to the Big Hole River shall follow the process set forth in that ordinance.

G. Public Agencies and Utilities. If the application of standards set forth in this Appendix would prohibit a development by a public agency or public utility, the agency or utility may apply for a reasonable use exemption, which shall follow the procedures and criteria of Sec. H of this division, as applicable, and shall also demonstrate that application of these standards would otherwise unreasonably restrict the ability to provide services to the public.

H. Reasonable Use Exemption (RUE). It is the intent of the DPS that no legal lot of record shall be rendered “unbuildable” by virtue of these regulations. Should the regulations set forth in this Appendix by themselves, or in conjunction with other regulations set forth in the Development Permit System, render a legal lot of record “unbuildable”, a reasonable use exemption (RUE) to the regulations contained in this Appendix may be granted by the Administrator, subject to the following procedures and standards:

1. Application for an RUE shall be made on a form provided by the County. The application shall include a site plan of the entire property which shall indicate at least one preferred building site. The site plan shall indicate slope, proposed terrain alteration, natural features, and any other information of a similar nature required by the Administrator to render a decision on the RUE.
2. In issuing an RUE, the Administrator shall grant relief that has the least possible impact on the protected resource(s) (wetland, vegetated buffer, wildlife habitat, etc.) while still allowing for a reasonable use of the subject property.
3. An RUE shall not be approved solely to improve views or vistas or proximity to a natural or man-made amenity such as a lake, stream, or open space. If a reasonable use is already afforded a property owner without relief from the standards of this Appendix, the Administrator is not authorized to grant relief in order to access an alternative development site.
4. Once approved, the RUE becomes an enforceable component of the Administrative or Major Development Permit.
5. Any decision made by the Administrator may be appealed to the Board of Adjustment pursuant to Sec. II.L of this DPS.

I. Steep Slopes. For purposes of these regulations, steep slopes are considered to be any ground slope greater than 25%. All land with a slope greater than 25% shall remain in a natural and vegetated state to the extent possible to accommodate a proposed development. When any terrain disturbance associated with a development or land use for which a development permit is required takes place on any slope greater than 25%, the following is required:

1. A grading plan showing existing and proposed contours.

2. A slope stabilization and revegetation plan to include both natural erosion control and structural stabilization measures in accordance with Appendix D, Division 2: Site Restoration and Erosion/Sediment Control Standards. Retaining walls in excess of 48" inches in height may require a separate building permit. Any land with slopes over 25% that is denuded of vegetation and/or is unstable or potentially unstable as a result of past damage, development, or harvesting of timber shall likewise be revegetated and stabilized.

These plans will be reviewed as components of any submittal for a development permit, whether Administrative or Major, and become an enforceable part of the development permit upon approval.

- J. Wetland, Lake, and Streambank Buffers.** Buffers are considered to be areas adjacent to a wetland or water body that provide for hydrologic and water quality functions critical to the health and function of these key environmental features. Buffers also may contain a floodplain, thereby protecting life and property if buffers are observed. Required buffer widths are as follows:

Table D.1

Water Body	Vegetated Buffer	Building Setback from vegetated buffer
Perennial streams & rivers	200'	50'
Other streams	100'	50'
Wetlands	N/A	50'
Lakes (other than Georgetown Lake)	75'	30'

1. Buffers for rivers and streams are measured from mean high water or top of bank, whichever is farther from the thread of the stream. If no bank is discernible, measurement shall be from mean high water. It shall be the responsibility of the property owner to determine mean high water, subject to approval by the Administrator.
2. Building setbacks for wetlands shall be measured from the discernible boundary of the wetland as indicated by the presence of hydric soils, and not necessarily by wetlands vegetation.
3. Buffers for lakes other than Georgetown Lake shall be from mean high water.

4. All buffers shall be expanded by the presence of any floodplain, whether or not mapped, associated with the wetland or water body in question.
5. When used in this Appendix, the term “vegetated buffer” means a specified linear distance over natural undisturbed or restored terrain that may include, trees, shrubs and other woody plants, riparian vegetation, and native grasses and forbs.
6. When the buffer standards contained in this Appendix as in conflict with those set forth in Ordinance No. 208 for the Big Hole River, the provisions of Ordinance No. 208 shall take precedent.

K. Exempt Wetlands. All isolated wetlands rated as category III or category IV using the Montana wetland assessment method, as developed and updated by the Montana Department of Transportation (MDT), and that are less than one thousand (1,000) square feet shall be exempt from these regulations

L. Allowable Activity Within Buffers. Human activity within buffers shall be kept to a minimum so as not to impact the hydrologic function(s) performed by the buffer.

Activities and structures within buffers are limited to the following:

1. Viewing structures. Viewing structures, decks, gazebos, and similar structures are allowed provided they do not exceed a ground coverage of 100 square feet and are not constructed of lumber or posts treated with creosote or similar substance. One such structure per lot of record is allowed, subject to a development permit.
2. Walkways and trails. Walkways and trails are allowed in buffer areas subject to the following standards:
 - a. If applicable thresholds for terrain disturbance are met, walkways and trails are subject to development permits.
 - b. Walkways and trails which are part of the County and/or a regional pathway system shall be constructed according to the approved plans for the trail or pathway.
 - c. Best management practices to prevent erosion shall be employed. Should walkways and pathways become subject to erosion to the extent that resource damage is observed, the Administrator may require corrective action.
 - d. Walkways and trails shall be of completely permeable materials and construction unless required to meet Americans With Disabilities Act (ADA) standards. In that event, impervious surface widths shall be the minimum necessary to meet ADA standards.
 - e. Walkways and trails designed to access a resource, such as U.S. Forest Service trails or Montana Fish, Wildlife, and Park fishing accesses, are permitted in buffer areas and shall be the responsibility of the sponsoring agency.
 - f. Trails designed and intended for equestrian and/or bicycle use shall be kept out of buffer areas to the extent possible. When such trails are located within buffer

- areas, it is solely the responsibility of the sponsoring agency to minimize resource damage as a result of construction and operation of these trails.
- g. No motorized use of trails is authorized within buffer areas except for trails developed by a public agency on public land, and no mechanical lifts or similar devices are permitted except to meet ADA requirements.
3. Stream crossings. Stream crossings by public and private roads shall be minimized to the extent possible, and only those crossing absolutely necessary to provide access to public and private lands shall be permitted.
 - a. Fish/wildlife friendly culverts may be required by the Administrator upon recommendation from the Montana Department of Fish, Wildlife, and Parks.
 - b. Measures shall be taken to prevent soil erosion and stream siltation during construction and permanently during use of the bridge or culvert.
 4. Stormwater management facilities. Stormwater management facilities, including but not limited to conveyance ditches, piping, intakes, drop structures, and energy dissipaters, may be located in the outter 25% of a buffer area provided:
 - a. No other location that would result in less impact is feasible.
 - b. Mitigation of impacts is provided to achieve no net loss or a net gain in buffer function.
 5. Tree removal. Tree removal for the health of the stand, including fuel reduction, habitat improvement, removal of diseased wood, and thinning for acceleration of multi-age, multi-story characteristics. Trees planted by the current property owner may be removed at the sole discretion of that property owner and need not be replaced unless they were required as mitigation or through an enforcement action under this section. Tree removal for the sole purpose of enhancing views and vistas is expressly prohibited.
 6. Utility service lines are allowed provided that use of the buffer area is the most feasible and most environmentally safe route, and that a restoration plan for replacement of disturbed vegetation is approved by the Administrator.
 7. Stream bank stabilization is allowed subject to approval of the Administrator. Bioengineering or soft armoring techniques for stream bank stabilization are preferred. Stream bank stabilization may be subject to permits from the Conservations District and/or other agencies.

M. Restoration Within Buffer Areas

Following any construction permitted pursuant to Sec. L. above, complete restoration of the affected buffer area is required. Restoration shall be as natural as possible and consistent with the terrain and plant materials typically found within the buffer. Restoration plans shall be submitted with the application for a development permit and shall generally follow the standards and recommended practices set forth in this Appendix C, Division 2: Site Restoration and Erosion/Sediment Control Standards.

- N. Use of Pesticides, Herbicides, and Fertilizers in Buffer Areas.** Generally, pesticides, herbicides, and fertilizers are discouraged in buffer areas. However, they can be used subject to the following standards and conditions:
1. Only pesticides that are formulated for use in riparian habitat shall be used in buffer areas, and manufacturers' instructions shall be strictly followed.
 2. Herbicides may only be used against noxious weeds as directed by the product manufacturer and the ADLC Weed Supervisor.
 3. Fertilizers may only be used as part of an approved buffer enhancement or mitigation plan. The amount and content of macronutrients (N,P,K) shall be consistent with the need for fertilization within the buffer. Measures shall be taken to prevent fertilizers, including fertilizer dissolved in runoff, from entering water bodies and wetlands.
- O. Wildlife Habitat.** According to the ADLC Growth Policy, abundant wildlife is closely tied to the quality of life in the County and is highly valued by its residents. Therefore, wildlife and wildlife habitat shall be preserved and protected to the extent possible.
1. Crucial winter range. Crucial winter range for most big game species (elk, moose, deer, bighorn sheep) is mapped by the Montana Fish, Wildlife, and Parks Department (FWP). When developing property where crucial winter range is present, measures shall be taken to cluster development away from crucial areas through the use of the Rural Area Planned Unit Development (RA/PUD) or through the cluster development provision in the ADLC Subdivision Regulations.
 2. Calving areas. Calving and fawning areas are not usually mapped by FWP, and therefore, these areas are most often identified through on site investigations and/or knowledgeable local residents and sportsmen. Like crucial winter range, calving and fawning areas should be avoided through use of the RA/PUD or cluster option in the local subdivision regulations.
 3. Daily and seasonal wildlife movement corridors. These corridors are used by wildlife for both seasonal migrations and for daily movement around their habitat between areas for bedding, grazing, and water sources. Such corridors are not mapped by FWP, and can only be identified through on site investigations by wildlife experts and those with very specific local knowledge of wildlife movements and patterns. These corridors should be protected from encroachment through setbacks, clustering, and/or restrictive covenants as appropriate. Control of household pets through covenants may also be necessary.

Division 2: Site Restoration and Erosion/Sediment Control Standards

- A. Purpose and Intent:** This division provides standards to ensure that any terrain disturbance for which a development permit is required institutes on-going restoration

and sediment control standards. Measures taken pursuant to this division are intended to protect the site and surrounding properties from the harmful impacts of erosion and dust, prevent sedimentation of local lakes and streams.

- B. Applicability:** The standards and requirements set forth in this division shall apply to any terrain disturbance for which a development permit is required. Additional restoration measures may be required by Superfund, and where these standards are in conflict with Superfund, the Superfund standards shall prevail. These requirements do not apply to agricultural production (tillage, defoliation, weed control, seeding, etc.) or any other practice or use of land not requiring a development permit.
- C. Site Restoration Measures Required:** Along with any development permit application in which terrain will be disturbed, specified measures to restore and revegetate disturbed areas must be submitted. Such measures may include those recommended in *Erosion and Sediment Control Best Management Practices: A Field Guide*, Montana Department of Transportation; *Stormwater Management During Construction: Field Guide for Best Management Practices*, Montana Department of Environmental Quality, or similar or subsequent publications. Restoration is required for any part of the site that is disturbed, but is not occupied by structures, parking and drive areas, or landscaping at the completion of construction. Maintenance of site restoration measures is the responsibility of the property owner.
- D. Measures Required During Construction.**
- 1. Sedimentation Control.** When terrain to be disturbed by development as described in paragraph C. above is located adjacent to a stream, lake, pond, or wetland, specific measures to control erosion and resulting sedimentation are required during project construction, and must be specified in the development permit application. Property served by the Anaconda storm drainage system is also subject to this requirement. When the area of disturbance lies adjacent to Georgetown Lake, erosion and sedimentation control measures must be set on or landward of the 20-foot setback from mean high water. As in paragraph B. above, erosion/sedimentation control measures may include those recommended in the ADLC publication, *Best Management Practices for Site Restoration and Erosion and Sedimentation Control*.
 - 2. Dust Control.** During construction, dust and blowing dust from construction sites, parking and equipment storage and staging areas, and roadways must be effectively controlled. Measures may include, but are not limited to watering, dust suppressants (magnesium chloride or other), and temporary vegetative covers. The spreading of oil and other substances that can contaminate ground water are prohibited for use as dust suppressants.

- 3. Tracking Of Mud and Dirt onto Public Streets.** The tracking of mud, dirt, and other debris from construction sites onto paved public streets and roads is expressly prohibited by the County. Tracking pads and other devices may be employed to remove mud and dirt from vehicle tires prior to entering a paved street or road.

Appendix D

GUIDANCE FOR DEVELOPMENTS WITH EXISTING PROTECTIVE COVERS OR STORM WATER CONTROLS

Any *Development*¹ within the *Superfund Overlay* that will affect existing *Protective Covers* must maintain or improve upon the function of the *Protective Covers*. Exhibit 1 hereto describes in detail how each type of EPA approved *Protective Cover* was constructed. There are typically 11 approved types of *Protective Covers*. In addition, engineered *Storm Water Controls* (channels, sedimentation basins, etc.) exist in some locations. The function of existing engineered *Storm Water Controls* constructed pursuant to *Superfund* must be maintained or improved by any *Development*. Modifications to the original design of *Storm Water Controls* must be certified by a professional engineer.

If it is necessary to breach an existing *Protective Cover* as part of a *Development*, and the underlying soils have been verified to contain *Visible Waste Material* or *Contaminated Soil* in excess of the applicable action level,² or it is not known whether the underlying soils contain *Contaminated Soil* in excess of the applicable action level, then the *Protective Cover* material must be segregated from the underlying unclassified material, *Visible Waste Material*, or *Contaminated Soil*, and then stockpiled in such a way that the *Protective Cover* material can be reused to reconstruct the *Protective Cover* to its full depth. See Exhibit 1. The underlying *Visible Waste Material* or *Contaminated Soil* must be addressed by one of the methods described below, and must be approved by ADLC as part of the *Development Permit*.

- a. Capped with one of the EPA approved *Protective Covers* detailed in Exhibit 1.
- b. Re-used as backfill around *Building* foundations, so long as the surface of the backfill is capped with a *Protective Cover*, as described in item a. above.
- c. Disposed of at the Anaconda Smelter Development Repository at the Opportunity Ponds. Appropriate measures must be taken to ensure that *Excavated* material is not spilled on roadways during transport.

¹ All terms which are capitalized, italicized and bolded are defined in **Chapter XXX** of the *DPS Regulations*.

² Applicable *Superfund* action levels for soil are shown below and further described in **Chapter XXX** of the *DPS Regulations*:

Land Use	Arsenic	Lead
Residential	250 mg/kg	400 mg/kg
Commercial	500 mg/kg	NA
Open Space/Recreational	1000 mg/kg	NA

The segregated *Protective Cover* material may be used elsewhere on the land as part of a *Protective Cover* or other land *Development*.

If required pursuant to the *Community Soils OU Soils Sampling and Analysis Plan* or deemed necessary by the *Superfund Coordinator*, the applicant will be required to allow *the Atlantic Richfield Company* to facilitate post-*Development* soil sampling. Upon verification that the requirements of the *Development Permit* have been met, *County* personnel will issue a *Certificate of Compliance*. *The Atlantic Richfield Company will* prepare an “as-built” of the developed land to show the sample locations as well as the locations of key site features such as *Protective Covers, Storm Water Controls, Buildings*, paved areas, etc. The as-built will be incorporated into the *GIS* database for future reference.

Even if a *Development Permit* is not required, **it is recommended** that the soil be addressed by one of the methods described above.

Appendix E

GUIDANCE FOR DEVELOPMENTS WITHOUT EXISTING PROTECTIVE COVERS OR STORM WATER CONTROLS

Any *Development*¹ within the *Superfund Overlay* that will not affect existing *Protective Covers* or *Storm Water Controls* must be conducted in a manner that results in the proper on-site management and/or off-site disposal of excavated *Visible Waste Material* or *Contaminated Soil*. The following are examples of the types of actions that could be included in the *Development Permit* if the existing surficial soil or underlying soils have been verified to contain *Visible Waste Material* or *Contaminated Soil*:

- a. Capped with one of the EPA approved *Protective Covers* detailed in Exhibit 1.
- b. Re-used as backfill around *Building* foundations, so long as the surface of the backfill is capped with a *Protective Cover*, as described in item a. above.
- c. Disposed of at the Anaconda Smelter Development Repository at the Opportunity Ponds. Appropriate measures must be taken to ensure that *Excavated* material is not spilled on roadways during transport.

If required pursuant to the *Community Soils OU Soils Sampling and Analysis Plan* or deemed necessary by the *Superfund Coordinator* the applicant will be required to allow the *Atlantic Richfield Company* to facilitate post-*Development* soil sampling. Upon verification that the requirements of the *Development Permit* have been met, *County* personnel will issue a *Certificate of Compliance*. *The Atlantic Richfield Company* will prepare an “as-built” of the developed land to show the sample locations as well as the locations of key site features such as *Protective Covers*, *Storm Water Controls*, *Buildings*, paved areas, etc. The as-built will be incorporated into the *GIS* database for future reference.

The *Superfund Coordinator* will consult with the Atlantic Richfield Company in connection with any proposed change in land use under **Tables XXX. A.1 or XXX. A.2** of the *DPS Regulations* or any proposed new residential *development* or *Commercial/Industrial Development* within the *Superfund Overlay* to determine if a *Response Action* by Atlantic Richfield Company may be required within the proposed *Development* area. If a *Response Action* by Atlantic Richfield Company is required within the proposed *Development* area, Atlantic Richfield Company or its designee will, subject to the applicant’s consent, perform the *Response Actions* within the proposed *Development* area either prior to, in conjunction with, or following the applicant’s performance of the work identified in the applicant’s *Development*

¹ All terms which are capitalized, italicized and bolded are defined in **Chapter XXXIV** of the *DPS Regulations*.

Permit. Any *Response Actions* to be performed by Atlantic Richfield Company will be taken into account in the *Development Permit*.

Even if a *Development Permit* is not required, **it is recommended** that the soil be addressed by one of the methods described above.

Appendix F

MAP OF SUPERFUND OVERLAY

This page intentionally left blank.

Appendix G

MAP OF DOMESTICE WELL OVERLAY

This page intentionally left blank.

Appendix H

MAP OF WASTEMANAGEMENT AREAS

This page intentionally left blank.

Appendix I

Historic Preservation Standards

A. Purpose and Intent:

This appendix implements the Growth Policy by establishing both voluntary and mandatory standards for the construction, reconstruction, or alteration of structures within Anaconda's Commercial Historic Preservation District located in downtown Anaconda.

B. Applicability of Standards:

All historic preservation standards set forth in this chapter fall into one of two categories: voluntary or mandatory. Those standards described as recommendations using terms such as "recommended measures include", or "it is recommended that..." are to be considered advisory to the property owner. Any standards not so described shall be considered mandatory, and shall have the same status as any other regulation set forth in this Development Permit System. When voluntary standards and mandatory standards (from this or any other section of these regulations) conflict, the mandatory standards shall apply. These standards are to be considered interim until such time as permanent standards are formulated and adopted pursuant to the Anaconda Downtown Revitalization Plan.

C. Commercial Historic District (CHD) Standards:

The Commercial Historic District encompasses most of the Anaconda downtown area, and includes property designated both CBDD and CBDD/MSO.

1. Development standards. All development standards, including structural height, setbacks, lot coverage, and floor area ratio, are as set forth in Chapter VI of these regulations for the CBDD or CBDD/MSO as applicable.
2. Building form. The preferred building form in the CHD is rectangular buildings with 1 and 2-bay storefronts. Additional bays are allowed provided that facade modulation is employed to mitigate horizontal mass of the structure. Facades should be vertically oriented, and structures should extent from the street front rearward toward the alley.
3. Orientation and access. All buildings shall be oriented toward the street, and at least one main customer entry shall face the street from which the structure gains access. No vehicle access is allowed from the street to which the building is oriented. Vehicular access may be taken from a side street or alley.
4. Main entries. The main entryway shall be located in the principal façade of the structure, and shall be oriented toward the street. For structures on corner lots, a secondary entry may be located on side frontage (defined as the long side of the lot), and a main entry may be located on the side only if there is no access to the primary (short side) street frontage. The primary entrance must be readily apparent as a prominent architectural component. Main entries shall be recessed from the front

- property line so that patrons have a queuing area out of the pedestrian flow. The recessed area shall be at a minimum one and one-half times of the door width. Doors shall permit clear two-way visibility, and wood and/or glass are preferred materials.
5. Windows. Street level windows are required of all principal buildings, including the sides of buildings occupying corner lots. Windows shall be placed at least three (3) feet above the sidewalk and extend upward at least 48 inches. (Note: I have not researched this yet, so this standard may change.) Street level windows should be designed to engage the pedestrian and to invite visual inspection of the interior or the establishment and to view displays and merchandise. Recessed and other multi-sided windows are encouraged. Stenciled signage or other signage types that allow for visibility through the lettering is encouraged. Reflective glazing is expressly prohibited.
 6. Roof lines. Flat roofs with parapets are preferred.
 7. Exterior materials. Brick, stone, and wood are all allowable primary materials. Metal is not permitted as a primary façade material in the CHD, but may be used as trim.
 8. Landscaping. There is no specific landscaping or open space requirement associated with the CBDD and CBDD/MSO. Window boxes and planters are encouraged, and may be placed on the street right-of-way subject to a revocable permit from the County.
 9. Lighting. Exterior lighting (and interior lighting that is directed outward via a window or door) shall generally be downcast and shall not produce direct glare outside of the structure.

