

## RESOLUTION 2022 - 51

### A RESOLUTION TO ADOPT AMENDMENTS TO THE HELENA VALLEY ZONING REGULATIONS

**WHEREAS**, the Lewis and Clark County Board of Commissioners (Board) is authorized to establish County Zoning in Lewis and Clark County (County), as set forth in Section 76-2-201, MCA; and

**WHEREAS**, the Board is authorized to establish distinct Zoning Districts for a part or all of the jurisdictional area, or divide the County into zoning districts with zoning regulations, as set forth in Section 76-2-202, MCA; and

**WHEREAS**, the Board is authorized to establish zoning district regulations with criteria and guidelines made in accordance with the growth policy, while encouraging the most appropriate use of land throughout the jurisdictional area, and must, as nearly as possible, be made compatible with the zoning ordinances of nearby municipalities, as further set forth in Section 76-2-203, MCA; and

**WHEREAS**, on November 19, 2020, the Board adopted the Helena Valley Zoning Regulations pursuant to Resolution No. 2020-98; and

**WHEREAS**, the Board is authorized to amend the Helena Valley Zoning Regulations, as set forth in Section 76-2-201, MCA; and

**WHEREAS**, the establishment of the herein proposed amendments to the Helena Valley Zoning Regulations are consistent with Section 76-2-202, MCA; and

**WHEREAS**, the establishment of the herein proposed amendments to the Helena Valley Zoning Regulations are consistent with Section 76-2-203, MCA; and

**WHEREAS**, the Board approved and adopted a Resolution of Intention (2022-32) in accordance with Section 76-2-205, MCA to adopt amendments to the Helena Valley Zoning Regulations, which are more particularly described and attached as Exhibit-A; and

**WHEREAS**, the Board received written comments regarding the Resolution of Intention No. 2022-32, a Resolution to Adopt Amendments to the Helena Valley Zoning Regulations, from persons owning real property within the district whose names appear on the last-completed assessment roll of the County for 30 days following the first publication of notice; and

**WHEREAS**, all required types and forms of legal notice of the comment period regarding the Resolution of Intention to Adopt Amendments to the Helena Valley Zoning Regulations has been provided compliant with Section 76-2-205, MCA; and

**WHEREAS**, a public meeting regarding the amendment of the Helena Valley Zoning Regulations following the comment period was held by the Board on July 12, 2022; and

**WHEREAS**, this public meeting regarding the consideration of amending the Helena Valley Zoning Regulations was held by the Board within 30 days after the expiration of the comment period; and

**WHEREAS**, the Board carefully reviewed and weighed all public comment and information provided as part of the process.




**NOW THEREFORE BE IT RESOLVED** by the Board of County Commissioners:

1. That the Board does hereby adopt this Resolution amending the Helena Valley Zoning Regulations, as shown on Exhibit A, as set forth in Section 76-2-205, MCA, attached hereto and made a part hereof.

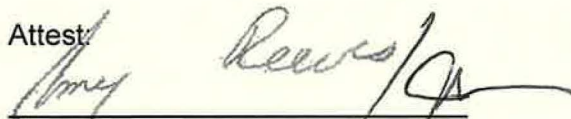
**PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS** on this 12<sup>th</sup> Day of July 2022.



LEWIS AND CLARK COUNTY  
BOARD OF COMMISSIONERS

  
Jim McCormick, Chair

Attest:

  
Amy Reeves, Clerk of the Board

Attachments:

Exhibit A: Amendments to the Helena Valley Zoning Regulations

## **EXHIBIT A (to Resolution 2022-51)**

Amendments to Sections 2, 7, and 21 of the Helena Valley Zoning Regulations,  
dated May 31, 2022

Amendments to Section 2 and Section 7 are depicted in the attached documents with additions in bold and underlined (**underlined**) and deletions in strikethroughs (~~strikethroughs~~).

With the exception of the title page, the amendments to Section 21 are included in the attached documents and are **NOT** depicted with additions in bold and underlined (**underlined**) and deletions in strikethroughs (~~strikethroughs~~) as all of the language proposed in this section is new language.

**SECTION 2 GENERAL REQUIREMENTS AND EXCEPTIONS**

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**201 Zone Districts**

The following zoning districts are hereby established to implement these Regulations:

- Urban Residential Mixed-Use Zone District (UR)
- Suburban Residential Mixed-Use Zone District (SR)
- Rural Residential Mixed-Use Zone District (RR)
- Fort Harrison Urban Growth Area Zone District (FHUGA)
- Fort Harrison Rural Growth Area Zone District (FHRGA)

**202 Overlay Districts**

In order to recognize special areas, and to afford flexibility in development design within the Helena Valley Planning Area, the following overlay district is hereby established:

- (a) Planned Development Overlay District (PD)

**203 Incorporation of Maps**

The location and boundaries of the zone districts hereby established by these Regulations are shown on the "Helena Valley Zone District Map of Lewis and Clark County", hereafter referred to as the Zoning Map, incorporated herein and made a part hereof.

**204 Zone District Boundaries**

District boundaries are shown on the Zoning Map. However, where uncertainty exists as to the boundaries of a district, the following rules shall apply:

- 204.01 A boundary indicated as approximately following the center line of a street, highway, streambed, railroad right-of-way (R-O-W), or alley shall be construed to follow such center line.
- 204.02 A boundary indicated as approximately following the right-of-way or easement line of a street, highway, or alley shall be construed to follow such right-of-way line or easement, and in the event of a change in such R-O-W or easement line the zoning boundary shall be construed as moving with the R-O-W or easement line.
- 204.03 A boundary indicated as approximately following platted lot lines shall be construed to follow such lot lines.
- 204.04 A boundary indicated as parallel to or an extension of features indicated in subsections 204.01 - 204.03 above shall be so construed. Distances not specifically indicated on the official Zoning Map shall be determined by the scale of the map.
- 204.05 Disputes concerning the exact location of any district boundary line shall be decided by the Zoning Administrator.
- 204.06 All streets, alleys, public ways, waterways and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone / classification area as the property immediately abutting upon such streets, alleys, public ways, waterways and railroad rights-of-way.
- 204.07 Where the centerline of a street, alley, public way, waterway or railroad right-of-way serves as a district boundary, the zoning/classification of such areas, unless otherwise

specifically designated, shall be deemed to be the same as that of the abutting property up to the centerline.

205 Exclusion of Uses

Uses not specifically listed, or reasonably similar to those uses listed, in any particular zone district shall be deemed to be excluded from the particular zone district.

Uses listed in any particular zone district shall be deemed to be excluded from any other zone district, unless such use is specifically listed in the other zone district.

206 Inclusion of a Use Not Listed

Uses not listed may be interpreted for inclusion in a specific zone district by the Zoning Administrator when such use is reasonably similar to those uses listed.

Uses not specifically listed, or not reasonably similar to those uses listed, or not interpreted for inclusion by the Zoning Administrator, in a specific zone district, may be added to the appropriate zone district upon the approval by the BoCC in accordance with the procedure set forth in Section 107.

207 Community Decay and Litter

All land must be in compliance with the Lewis and Clark County *Ordinance to Control Community Decay* (Document No. 3152137), as amended, and *Ordinance No. 2013-01: An Ordinance to Control Litter in Lewis and Clark County and Establishing Procedures for its Enforcement* (Document No. 3247987), as amended, on file with the Lewis and Clark County Clerk and Recorder.

208 Minimum Area

208.01 The area of a lot required for the purpose of complying with the provisions of these Regulations shall not be included as part of the area required for another lot.

208.02 A minimum lot area shall not be required for **public facilities, public services**, utility service facilities, telecommunication facilities, or major facilities of a public utility and telecommunication facilities.

208.03 Lots conforming to the minimum lot area requirements of a zone district that are reduced in land area due to land acquisition by a governmental entity shall be considered conforming to the minimum lot area requirements of the specific district for principal uses, accessory uses, conditional uses, and special exception uses, as if its size had not been reduced.

208.04 Lots approved to be created through the exemption process as listed in Section 76-3-207, MCA shall comply with all aspects of these Regulations, including but not limited, to lot size.

208.05 Lots approved to be created through the exemption process as listed in Section 76-3-201, MCA shall comply with all aspects of these Regulations, however, are exempt from the zone district minimum lot size.

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**SECTION 7 RURAL RESIDENTIAL MIXED-USE DISTRICT (RR)**

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**701 Intent**

To provide for lower density residential development, along with an opportunity for continued agricultural activities, within the rural areas of the Helena Valley. Also, on a limited basis, to provide areas for non-residential uses in balance with residential development and agricultural activities as an integral part of the community providing essential services and employment opportunities. Non-residential development within this district should be permitted in compact centers rather than in extended strips of development along roadways to provide for orderly development, minimized traffic congestion, and to provide for safe pedestrian movement.

Urban development within this district is strongly discouraged. Expansion of urban development into rural areas is a matter of public concern because of the challenges in satisfactorily addressing the impacts associated with the five key issues identified in the Growth Policy. Those key issues (fire, water, wastewater, roads, and flooding) along with the potential for conflicts between agricultural and urban activities support the lower development intensity levels of the Rural Residential Mixed-Use zone district. Development or use of land in this district is permitted only in accordance with the provisions herein.

**702 Principal Uses**

Only one (1) principal use is allowed on each parcel. The following principal uses are allowable in the Rural Residential Mixed-Use District:

- 702.01 Agriculture
- 702.02 Apiculture
- 702.03 Community Residential Facility – Type-I
- 702.04 Community Uses:
  - 702.04.01 Education Facility
  - 702.04.02 Library
  - 702.04.03 Open space/trails
  - 702.04.04 Park
  - 702.04.05 Public Facilities (without outdoor training)
- 702.05 Day-care Facility
  - 702.05.01 Adult Daycare
  - 702.05.02 Family Daycare
  - 702.05.03 Group Daycare
- 702.06 Forestry
- 702.07 Horticulture
- 702.08 Residence
  - 702.08.01 A single dwelling unit residence per parcel
  - 702.08.02 A two – dwelling unit residence per parcel
- 702.09 Septic Waste and Domestic Sludge Application
- 702.10 Silviculture
- 702.11 Telecommunication Facility
- 702.12 Temporary Use
- 702.13 Utility Site
- 702.14 Worship Facility

**703 Accessory Uses**

Each permitted accessory use shall be customarily incidental to the principal use established on the same parcel; be subordinate to and serve such principal use; be subordinate in area, extent,



and purpose to such principal use; and contribute to the comfort, convenience, or necessity of users of such principal use.

The following uses shall be allowed only when a principal use has already been established on the parcel:

- 703.01 Accessory Uses and Buildings
- 703.02 Home Occupations, in compliance with Section 16, of these Regulations.
- 703.03 Temporary Uses, in compliance with Section 15 of these Regulations.

#### 704 Conditional Uses

The following uses are permitted, upon approval of a Conditional Use Permit (CUP) by the Board of ~~Adjustment~~ ~~County Commissioners~~ (BOABoCC), in accordance with Section 14, of these Regulations:

- 704.01 Airstrip
- 704.02 Aircraft Hangars when in association with properties within or adjoining an airstrip
- 704.03 Animal Hospital, Veterinary Clinic
- 704.04 Batch Plant (concrete, mortar, or asphalt; not including temporary batch plants)
- 704.05 Bank/Financial Institution
- 704.06 Bar/Lounge
- 704.07 Bed and Breakfast Establishment
- 704.08 Building materials - wholesale/retail
- 704.09 Camp/ Retreat Center
- 704.10 Cemetery
- 704.11 Community Residential Facility, Type-II
- 704.12 Contractor's storage yard
- 704.13 Daycare Center
- 704.14 Equipment Rental
- 704.15 Extractive Industries
- 704.16 Funeral Home
- 704.17 General/Professional Services
- 704.18 General Repair
- 704.19 Greenhouse/Plant Nursery
- 704.20 Health Care Facility
- 704.21 Heliport
- 704.22 Hotel (including conference or convention facilities)
- 704.23 Industrial (must not emit unusual or excessive amounts of dust, smoke, fumes, gas, noxious odors, or noise beyond the parcel boundary)
- 704.24 Indoor Entertainment, Sports, and Recreation
- 704.25 Jail/Correctional Facility
- 704.26 Kennel
- 704.27 ~~Medical~~ Marijuana Dispensary
- 704.28 ~~Medical~~ Marijuana Grow Operation
- 704.29 ~~Medical~~ Marijuana Provider
- 704.30 Motor Vehicle Graveyard
- 704.31 Motor Vehicle Wrecking Facility
- 704.32 Motorized vehicle/equipment - service/repair and incidental sales
- 704.33 Outdoor Sports and Recreation

- 704.34 Outdoor Entertainment
- 704.35 Parking Lot - public or private
- 704.36 Propane Distribution/storage facility
- 704.37 Public Facilities (with outdoor training)
- 704.38 Recycling Facility/solid waste transfer facility
- 704.39 Renewable Energy Facilities
- 704.40 Research and Development Facility
- 704.41 Residence
  - 704.41.01 Multiple – Dwelling Unit Residence per parcel
- 704.42 Restaurant
- 704.43 Retail
- 704.44 Satellite Earth Station
- 704.45 Storage Facility, Self Service
- 704.46 Vehicle Fuel Sales
- 704.47 Vehicle Repair
- 704.48 Vehicle Sales and Rental
- 704.49 Warehouse
- 704.50 Water/Wastewater Treatment Facility

705 Special Exception Uses

The following uses are allowed in addition to an established principal use, an accessory use, or conditional uses:

- 705.01 Agricultural
- 705.02 Apiculture
- 705.03 Community Residential Facility – Type-1
- 705.04 Day Care Facility
  - 705.04.01 Adult Daycare
  - 705.04.02 Family Daycare
  - 705.04.03 Group Daycare
- 705.05 Forestry
- 705.06 Horticulture
- 705.07 Silviculture
- 705.08 Telecommunication Facility

706 Minimum Lot Area

~~The following requirements of this Section 706 shall become effective and in full force and effect June 1, 2022.~~

The minimum parcel size shall be ten (10) Acres, **with two exceptions: Cluster Design or Planned Development (PD).** ~~However,~~

**In order to permit creative and environmentally sensitive site design, smaller parcel sizes may be permitted through the use of a Cluster Design as detailed below.**

706.01 Cluster Lot Design

The purpose of this section is to encourage alternative design techniques that efficiently make use of land and water resources; protect environmentally sensitive areas, natural features and soils of agricultural importance; and promote cost savings in infrastructure development and maintenance. Clustering development allows for the creation of lots

smaller than the minimum lot sizes established in these Regulations, with the balance of the property maintained in open space.

**706.01.01 Lot Design** (NOTE: 706.01 through 706.02 have been renumbered)

- 706.01.01.1 The minimum size of parcels to be developed is the effective minimum size allowable under the Administrative Rules of Montana adopted by the Montana Department of Environmental Quality under Title 76, Chapter 4, MCA.
- 706.01.01.2 Apart from any parcel that will remain as undeveloped open space, the maximum size of each parcel to be developed in a cluster development is two (2) acres.
- 706.01.01.3 To reduce the potential for groundwater depletion due to the concentration of wells, the maximum number of parcels to be developed in a cluster development is ten (10). Additional non-clustered lots can be included in a subdivision plan for a cluster development to achieve the maximum density allowed under the Rural Residential Mixed-Use District as shown in Figure 1.
- 706.01.01.4 The minimum amount of land preserved in a cluster development is equal to the base density of ten (10) acres per parcel, minus the area in new lots planned for development. For example, an 80-acre parcel can be divided into eight (8) lots (80 acres ÷ a base density of 10 acres per lot).

In the eighty (80) acre example below in Figure 1, each of the eight (8) cluster lots is one (1) acre in size as allowed under DEQ rules for water and wastewater. The 9th parcel, seventy-two (72) acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately ninety (90) percent of the parcel is maintained in open space, and the need for road construction is minimized

The one hundred sixty (160) acre example below in Figure 1, shows a second example of development of a one hundred sixty (160) acre parcel. A one hundred sixty (160) acre parcel of land can be divided into sixteen (16) lots planned for development (160 acres ÷ a base density of 10 acres per lot). Each of the ten (10) cluster lots (the maximum number of cluster lots allowed) planned for development is two (2) acres in size. An added six (6) non-clustered lots of ten (10) acres each are allowed on the parcel being subdivided to achieve the full development potential of the quarter section of land. The 17th parcel, eighty (80) acres in size, is to be preserved as open space and/or a resource use(s). Under this development scenario, approximately half of the parcel is maintained in open space, and the need for road construction is minimized.

Numerous other combinations and configurations are possible so long as they comply with the provisions for cluster development and the density restrictions.

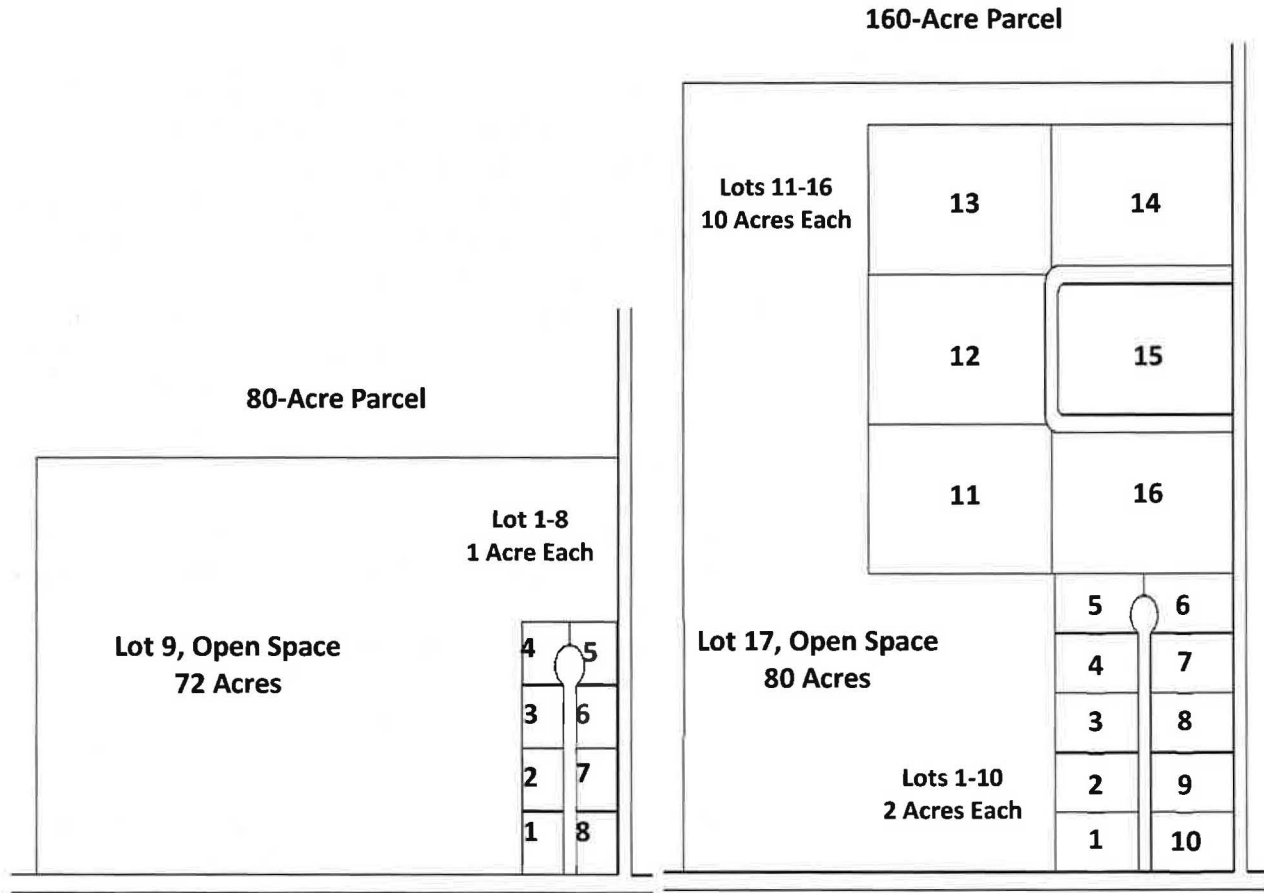


Figure 1 – Alternative layouts for clustered development (for illustrative purposes only, as many other scenarios are possible.)

706.01.02 Open Space Standards

The land preserved in open space and/or a resource use(s) must:

- 706.01.02.1 Be maintained on a long-term basis through a revocable covenant prohibiting further subdivision, division, or development of the open space and/or resource use parcel. Revocation of said covenant requires approval by the BoCC. Revocations may be considered if zoning and/or development constraint conditions no longer require density to be limited on the subject property;
- 706.01.02.2 Be accessible via a road and/or trail easement filed with the Lewis and Clark County Clerk and Recorder’s office;
- 706.01.02.3 Be identified on a final subdivision plat or certificate of survey (COS) (for exemptions from subdivision). The final subdivision

plat or COS shall include a notation as to the official recordation location of the revocable covenant;

706.01.02.4 Include a plan for ongoing use and maintenance as open space and/or a resource use(s) that includes provisions to manage vegetation and noxious weeds, and that may be amended by the BoCC in consultation with parties owning title to the land;

706.01.02.5 When present, include environmentally sensitive areas such as wetlands, streams, floodplains or riparian areas; agricultural soils (prime farmland); wildlife habitat; rare, threatened or sensitive plants; and scenic resources such as hillsides or forested areas; and,

706.01.02.6 Be located adjacent to the one (1) or more lots to be developed.

707 Maximum Gross Density

~~The following requirements of this Section 707 shall become effective and in full force and effect June 1, 2022.~~

The gross density shall not exceed one (1) parcel per ten (10) Acres, unless the parcel is located in an approved PD that allows for greater densities.

708 Minimum Setbacks (see 708.04 for non-conforming parcels)

~~The following requirements of this Section 708 shall become effective and in full force and effect June 1, 2022.~~

708.01 Principal Use for parcels ten (10) acres or greater in size: (also applies to Special Exception Uses)

Front: Twenty-five (25) feet.

Side: Twenty-five (25) feet.

Rear: Twenty-five (25) feet.

Principal Use for parcels under ten (10) acres in size: (also applies to Special Exception Uses)

Front: Ten (10) feet.

Side: Ten (10) feet.

Rear: Ten (10) feet.

708.02 Accessory Use for parcels ten (10) acres or greater in size:

Front: Twenty-five (25) feet.

Side: Fifteen (15) feet.

Rear: Fifteen (15) feet.

Accessory Use for parcels under ten (10) acres in size:

Front: Ten (10) feet.

Side: Ten (10) feet.

Rear: Ten (10) feet.

708.03 Conditional Use:

Same as Principal unless otherwise defined with the CUP.



~~708.04 Non-Conforming Parcel Minimum Setbacks:~~

~~For any parcel which does not meet the minimum lot area requirement as defined in Section 706 and which is subject to Section 1802, the front, side, and rear setbacks (for principal, accessory, and special exception uses) shall be ten (10) feet. A conditional use shall be subject to the same setbacks unless otherwise defined with the CUP.~~

709 Encroachments (Setbacks)

709.01 Utility distribution lines and related equipment may be located within a required setback.

709.02 Fences and walls in excess of forty-two (42) inches in height are not allowed in the front setback.

710 Building Height

Maximum building height: thirty-five (35) feet

The maximum building height shall not apply to belfries, cupolas, penthouses or domes not used for human occupancy, roof-mounted church spires, chimneys, skylights, ventilators, water tanks, silos, parapet walls, cornices, antennas, utility poles and necessary mechanical appurtenances usually carried above the roof level.

710.01 The height of an antenna shall be no greater than the distance to the nearest lot line.

~~711 Street Standards~~

~~Construction of streets shall be in accordance with the Lewis and Clark County, Montana Public Works Manual.~~

7121 Parking Standards

All non-residential parking requirements shall be as established in the Institute of Transportation Engineers (ITE) parking standards established in that document entitled "Parking Generation Manual, 5th Edition, 2019" or as otherwise set forth herein. All calculations are rounded up to the nearest whole number. The following minimum number of off-street parking spaces shall be provided under this zoning district: **(NOTE: Items will be renumbered from 712.01-712.22 to 711.01-711.22 in the document.)**

712.01 Community Residential Facility (Type I): two (2) spaces for each one thousand (1,000) square feet of gross floor area.

712.02 Educational Facility (K-12): one (1) space for each three (3) employees, plus five (5) spaces.

712.03 Educational Facility (Higher Education): 0.19 spaces per student.

712.04 Day Care Facility: one (1) space for every two (2) employees, plus two (2) additional parking spaces, plus one (1) loading space for every eight (8) clients.

712.05 Public Facility: four (4) spaces per one thousand (1,000) square feet of gross floor space.

712.06 Funeral Home; Worship Facility: one (1) space for every four (4) seats.

- 712.07 Vehicle Fuel Sales: one (1) space for each two (2) employees, excluding spaces to serve the gas pumps.
- 712.08 Bank Financial Institution (Walk-in Only): 0.63 spaces per one thousand (1,000) square feet of gross floor area.
- 712.09 Bank Financial Institution (Walk-in with Drive-up): 4.23 spaces per one thousand (1,000) square feet of gross floor area.
- 712.10 Health Care Center; Animal Hospital; Veterinary Clinic: 4.11 spaces per one thousand (1,000) square feet of gross floor area.
- 712.11 Administrative Government Agency; Bus Terminal (if operated by a Government Agency); Public Safety Facility: 3.84 spaces per one thousand (1,000) square feet of gross floor area.
- 712.12 Crematorium; General Repair; Light Industrial; Vehicle Repair: 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 712.13 Vehicle Sales and Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 712.14 Equipment Rental: 2.1 spaces per one thousand (1,000) square feet of gross floor area.
- 712.15 Hotel: 0.89 spaces per room
- 712.16 Indoor/Outdoor Entertainment, Sports, and Recreation; Outdoor Concerts and Theatrical Performances: 0.26 spaces per seat.
- 712.17 Specialized Food Production; Artisan Shop (with Production and Manufacturing): 1.59 spaces per one thousand (1,000) square feet of gross floor area.
- 712.18 Community Residential Facility (Type II): one (1) space for each three (3) dwelling units.
- 712.19 Residence: two (2) spaces for each residential dwelling unit.
- 712.20 Kennel or Other Animal-Related Services; General/Professional Services; General Retail Sales: 4.1 spaces per one thousand (1,000) square feet of gross floor area.
- 712.21 Bed and Breakfast; Camping and Retreat Center: one (1) space for each room for rent, plus two (2) additional spaces if a portion of the building is used as a single dwelling unit residence.
- 712.22 Other Uses: For any other use not specifically mentioned or provided for in this Section, the Zoning Administrator shall determine the standards to be applied for parking, using as a guide the listed use which most closely resembles the use proposed.

**7132** Lighting Standards

It is the purpose and intent of these Regulations to encourage lighting practices and systems that

will minimize light pollution, glare, and light trespass, while maintaining nighttime safety, utility, and security. **(NOTE: Items will be renumbered from 713.01-713.07 to 712.01-712.07 in the document.)**

713.01 Residential Outdoor Lighting

All exterior light fixtures shall be of a full-cutoff design except as otherwise permitted below.

713.02 Commercial Outdoor Lighting

All light fixtures shall be of a full-cutoff design. Light fixtures attached to a pole may not exceed a height of thirty-four (34) feet from the ground to the bottom of the fixture. Any existing fixtures out of compliance with this regulation shall be brought into conformance at the time of the replacement of the pole or fixture.

713.03 Feature Lighting

Monuments, natural terrestrial features, and buildings may be illuminated by upward directed light, providing that the light beam is narrowly focused so as not to exceed the width and height upon the object being illuminated; and the light is directed on the feature being lit and not directly upwards.

713.04 Signs

Illuminated signs shall be illuminated in such a manner that the light therefrom shall shine only on the sign or on the property on which it is located and shall not shine onto any other property, in any direction, except by indirect reflection.

713.05 Communication Towers

Lighting for towers and structures shall comply with the minimum mandates contained in the appropriate Federal Communications Commission (FCC) or Federal Aviation Administration (FAA) regulations or other State requirements. The more restrictive requirements shall apply in the event of a conflict between the regulations.

713.06 Exemptions

713.06.1 Fixtures producing two thousand eight hundred fifty (2,850) average lumens (equivalent of a one hundred fifty (150) watt incandescent bulb) or less.

713.06.2 American Flag illumination

713.06.3 Temporary Construction Sites

Lighting for nighttime security, provided the owner submits a lighting mitigation plan for approval that includes the duration, number, location, and height of each light source, and hours of operation.

713.06.4 Seasonal Lighting

Seasonal lighting used for the celebration of commonly acknowledged holidays and special events.

713.06.5 Emergency Lighting

Lights used during emergencies or by police, fire, public works and/or public utility personnel in their official duties are exempt from these Regulations.

**713.07 Prohibited Lighting**

The following types of lights are prohibited within the Rural Residential Mixed-Use Zone District.

- 713.07.1 The installation of any mercury vapor light fixture, lamp or replacement bulb for use as an outdoor light. Lighting that could be confused for a traffic control device.
- 713.07.2 Lighting designed for the creation of sky glow to attract attention (whether stationary or moving), in excess of the lighting used to provide safety, security, and utility.
- 713.07.3 When projected above a horizontal plane, beacons, laser source lights, strobe lights, or any similar high intensity light used for promotional or entertainment purposes.
- 713.07.4 Any lamp or bulb when not within a luminaire and which is visible from the property boundary line of the parcel on which it is located, except for landscape ornamental lighting with total per source level not exceeding an average of two thousand eight hundred fifty (2,850) lumens.

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**SECTION 21 PLANNED DEVELOPMENT OVERLAY DISTRICT (PD)**

~~The Planned Development Overlay Zone District is hereby adopted. Detailed regulations to be adopted with a future amendment.~~

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**2101 Intent**

To provide for an overlay district that allows densities beyond what are normally allowed and permits more flexibility in the use of such properties in the RR District and SR-10 Zones based on mitigation of development constraints. To provide a public process which affords the County and the public a way to satisfactorily address any impacts of a Planned Development (PD) and to ensure that the development constraints have been adequately addressed. To establish procedures for the review of a PD by the County Community Development and Planning Department (CDP), the Consolidated City and County Planning Board (Planning Board), and the BoCC with opportunities for the public to participate.

**2102 Criteria for Consideration of a PD**

The application may be approved only if the BoCC finds and concludes that the proposed PD satisfactorily addresses the criteria set forth in Section 2102.01.

**2102.01 Approval Criteria**

Each PD application shall demonstrate how the proposal will satisfactorily address the following approval criteria:

- 2102.01.01 Adequate water available to meet the long-term needs of the PD (RR District only).
- 2102.01.02 That roads leading to the PD are in good and safe condition and will continue to be following full build-out of the PD.
- 2102.01.03 That the PD will not place long-term burdens on rural fire protection systems.
- 2102.01.04 That the proposed uses for the PD will be compatible with adjoining properties and the general neighborhood.
- 2102.01.05 That the proposed density for the PD is compatible with adjoining properties and the general neighborhood.
- 2102.01.06 That public services and facilities, including wastewater/sewer, stormwater drainage, police protection, and schools, are available and adequate to serve the PD.
- 2102.01.07 That the PD is absent of environmental constraints or that these constraints have been mitigated and/or addressed.
- 2102.01.08 That the proposed PD will be consistent with the Growth Policy.

**2103 Approval Conditions**

The BoCC may impose conditions of approval where such conditions are necessary or appropriate to ensure a PD meets the criteria set forth in Section 2102.

**2104 Decision Based on Findings**

Every decision of the BOCC pertaining to the approval, conditional approval, denial, or amendment of a request for a PD shall be based upon "Findings of Fact". Each Finding of Fact

shall be supported in the records of the proceedings. The criteria set forth in Section 2102 as they relate to matters, which the BOCC is empowered to review under these Regulations and MCA, shall be construed as a limitation on the power of the BOCC to act in the matter of approval, conditional approval, denial, or amendment of a PD. A mere finding or recitation of the enumerated conditions, unaccompanied by findings of specific fact, shall not be deemed in compliance with these Regulations.

2105 Length of Approval

A PD shall be valid for a duration of one (1) year or for a time specified by the BOCC. An extension of this approval period may be granted by the BoCC, upon written request by the applicant. As necessary, the BoCC may include additional conditions with the time extension in order to ensure that the PD remains in compliance with the original approval.

The PD may transfer with the transfer of the land.

2106 Standards and Requirements for PDs

2106.01 Approval of a PD allow the normally applicable standards of the zone district to be replaced with alternative standards unique to the PD. For example, a mix of residential and commercial uses, different property line setbacks, alternative minimum lot sizes, parking, lighting standards, or increased building height may be approved as a PD. The PD must meet the requirements of these regulations not expressly varied through the PD approval process.

2106.02 If a conditional use(s) is being proposed in conjunction with a PD, the application for the PD must also contain the information required under Section 14 Conditional Uses and Permits (CUP).

2106.03 If land is being subdivided in conjunction with a PD, the subdivision must also meet the requirements of the Lewis and Clark County Subdivision Regulations. A subdivision application associated with a PD must be submitted and will be processed concurrently with the underlying PD application. Both the subdivision and PD applications must comply with their respective application requirements.<sup>3</sup>

2107 Submittal Pre-requisites

The applicant shall attend a pre-application meeting with the Zoning Administrator to discuss their proposal, the submittal process, and requirements for a PD.

2108 Submittal Requirements and Process for PD Preliminary Plan with a Major Subdivision

2108.01 The applicant shall submit the following to the CDP:

2108.01.01 A completed application form (*available from the CDP*).

2108.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.

- 2108.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
- 2108.01.04 Application fee (*available from the CDP*).
- 2108.01.05 An application for a major subdivision, in accordance with the Lewis and Clark County Subdivision Regulations, along with the application fee.
- 2108.01.06 A PD preliminary plan that contains the following:
- 2108.01.06.1 Detailed information ensuring that there is adequate water available to meet the long-term needs of the proposed PD (RR District only) that includes one of the following:
- (a) Acquire provisional water rights and extend water lines from the Helena Valley Alluvial Aquifer for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water lines prior to final approval).
  - (b) Extend water service lines from either the City of Helena or City of East Helena for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water service lines prior to final approval).
  - (c) A professional hydrogeologist shall conduct an extensive analysis of the Tertiary and/or bedrock aquifers that will serve the proposed PD. Supporting information presented shall include:
    - (1) A thorough preliminary investigation that includes an analysis of prior data (e.g., precipitation, groundwater levels, aquifer tests, surface water impacts) within or near (must be within the same aquifer) the proposed PD. A comprehensive report shall be prepared that demonstrates water availability that will provide for the long-term needs of the proposed PD. If the preliminary investigation does not provide sufficient evidence of water availability, then (2) below is required.
    - (2) A hydrogeologic and hydraulic analysis for the proposed PD must be conducted. The analysis shall assess aquifer properties and seasonal variability with the emphasis on extraction, storage, and recovery to measure long-term sustainability. Methods

may include, but are not limited to, the installation of test wells, an aquifer/pumping test that may require the installation of at least one observation well, and/or modeling efforts. Lewis and Clark County shall be consulted regarding the method approach guidance to ensure water availability. The selected approach shall exceed the MDEQ ARM 17.36.330, ARM 17.36.331, and ARM 17.36.332 rules. From the selected analysis, a comprehensive groundwater report shall be prepared providing sufficient evidence of water availability that will provide for the long-term needs of the proposed PD.

2108.01.06.2 Detailed information ensuring that roads leading to the proposed PD are in good and safe condition that includes:

- (a) Submittal of a Traffic Impact Study (TIS) prepared by a Professional Engineer registered in the State of Montana that meets the requirements of the Lewis and Clark County Public Works Manual and includes all roads within the PD's Traffic Impact Corridor.

**AND**

- (b) An engineering analysis, including a surfacing design analysis, must be completed that accounts for all traffic, including infrastructure and housing construction traffic, to and from the PD. This engineering analysis must also include a Geotech analysis with a 20-year design timeframe and Equivalent Single Axle Load (ESAL) analysis for construction vehicles based on the number of homes. This analysis must be approved by the County Engineer and/or Public Works staff.

**AND**

- (c) Certification from a Professional Engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will meet County Standards at full build-out of the PD (projected traffic volumes, including construction traffic, must be accounted for).

OR



Certification from an engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will be considered excellent or good (6-10 for asphalt surface or 4-5 for a gravel road) under the PASER Analysis at full build-out of the proposed PD (projected traffic volumes, including construction traffic, must be accounted for). This certification must also conclude that the drainage for all roads within the Traffic Impact Corridor will meet or exceed DEQ-Circular 8.

For the purposes of the Section, a Traffic Impact Corridor is defined as:

- (a) adjacent roads (including intersections) that are impacted by the proposed PD;
- (b) two ingress-egress routes (including intersections) for proposed PDs to the nearest state or federal highway/road, Helena city limits, East Helena city limits, or to the boundary of Lewis and Clark County;
- (c) off-site roads, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 10 percent of the annual average daily traffic on those roads; and
- (d) intersections, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 5 percent of the traffic volume on any approach leg of the intersection.

2108.01.06.3 Detailed information ensuring that fire protection will be provided that will not place long-term burdens on rural fire protection systems that includes:

- (a) A letter from the Board of Trustees or its designee (i.e. fire chief) for the Fire District and/or Fire Services Area with jurisdiction over the PD commenting on the following five items:
  - (1) A sufficient number of volunteers to fight an on-site fire.
  - (2) Volunteers have the required training to fight an on-site fire.
  - (3) Appropriate apparatus are available to fight an on-site fire.
  - (4) Appropriate infrastructure is available to fight an on-site fire.

- (5) Adequate water is available and accessible year-round to fight an on-site fire.
  - (b) A vegetation management plan that has been prepared by a qualified fire management specialist.
- 2108.01.06.4 A scaled vicinity map with a north arrow that clearly shows the property in question, its relationship to surrounding areas, including the existing land uses and zoning of both the site and the surrounding area within a one (1) mile radius.
- 2108.01.06.5 A site plan indicating how the PD relates to the affected land. It shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size):
- (a) Names and dimensions of roads adjacent to the site, including rights-of-way/easement and paved and/or gravel surfaces.
  - (b) Pedestrian and vehicular traffic circulation patterns within and around the site, including sidewalks and trails.
  - (c) Proposed location and height of building(s) including identification of types, density, and number of dwelling units or uses in each structure.
  - (d) General distances between buildings.
  - (e) Off-street parking facilities.
  - (f) Locations, dimensions, and area of open space.
  - (g) Proposed drainage patterns and any related drainage developments.
  - (h) Special Flood Hazard Areas.
  - (i) Existing and proposed topography at not less than five (5) foot contour intervals when the slope exceeds five (5%) percent and not less than two (2) foot contour intervals when the slope is less than five (5%) percent.
  - (j) Existing and proposed water system, wastewater treatment/sewer system, and stormwater drainage improvements, gas, electric, telephone, and other utilities.
  - (k) Such other physical features as existing streams, wetlands, canals, rock outcroppings, ridges, wooded areas, railroads, rights-of-way, or easements which affect or are affected by the proposed PD.

- (l) Building envelopes, if required by the Zoning Administrator.

2108.01.06.6 If a conditional use is being proposed, all information required under Section 14 Conditional Uses and Permits (CUP) must be submitted.

2108.01.07 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections, staff reports, legal notices, and referral agency and public comment requests.

2108.02 When an application is submitted, the submittal shall be reviewed by CDP Staff assigned to the project and a determination of completeness shall be made within five (5) working days after the submittal. If deemed complete, a determination of sufficiency shall be made within fifteen (15) working days following the completeness determination. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.

2108.03 Once the submittal is determined to be complete and sufficient, CDP Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2108.04 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by CDP Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2108.05 CDP Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing and the associated subdivision application has been deemed complete and sufficient, Staff shall schedule a public hearing before the Planning Board. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the Planning Board. The Staff will provide the public notice for the hearing as set for in Section 2112.

2108.06 The Planning Board shall concurrently evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony for both the PD and its associated major subdivision; and then shall recommend approval, conditional approval, or denial of the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01. Such recommendations shall

include, but not necessarily be limited to, lot area, permitted and conditional uses, landscaping and buffering, buildable area, open space, setbacks, density, height of structures, signs, parking, loading areas, lighting, and design standards.

- 2108.07 At the hearing on the application for a PD, the Planning Board shall consider, but shall not be limited to, the following items:
- 2102.08.01 The proposed PD will be consistent with the Growth Policy.
  - 2102.08.02 The physical features of the land.
  - 2102.08.03 The existing land uses surrounding the proposed PD.
  - 2102.08.04 The planned land uses within the area of the proposed PD, how they will relate to adjoining properties and the general neighborhood, and their compatibility with existing uses of said adjoining properties and the general neighborhood.
  - 2102.08.05 The proposed density and how it relates to adjoining properties and the general neighborhood.
  - 2102.08.06 The existing and/or proposed public improvements in the area such as schools, roads, parks, and other such features.
  - 2102.08.07 The availability of utilities.
  - 2102.08.08 Comments received from interested citizens and/or agencies.
- 2108.08 After said public hearing and review, the Planning Board shall make a written recommendation to the BoCC regarding the proposed PD and its associated major subdivision.
- 2108.09 The BoCC shall concurrently evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony/comments for both the PD and its associated major subdivision; and then shall approve, conditionally approve, or deny the applications based on the evidence presented and compliance with the Approval Criteria under Section 2102.01.
- 2108.10 If the PD is granted preliminary approval, the applicant shall submit a final plan in accordance with the approval of the BoCC. When the BoCC approves the final plan, the area of land involved shall be redesignated as a PD district by resolution which shall incorporate the final plan, including any conditions or restrictions that may be imposed by the BoCC.
- 2108.11 If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the BoCC's written decision.

2109 Submittal Requirements and Process for PD Preliminary Plan with a Minor Subdivision

- 2109.01 The applicant shall submit the following to the CDP:

2109.01.01 A completed application form (*available from the CDP*).

- 2109.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.
- 2109.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
- 2109.01.04 Application fee (*available from the CDP*).
- 2109.01.05 An application for a minor subdivision, in accordance with the Lewis and Clark County Subdivision Regulations, along with the application fee.
- 2109.01.06 A PD preliminary plan that contains the following:
- 2109.01.06.1 Detailed information ensuring that there is adequate water available to meet the long-term needs of the proposed PD (RR District only) that includes one of the following:
- (a) Acquire provisional water rights and extend water lines from the Helena Valley Alluvial Aquifer for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water lines prior to final approval).
  - (b) Extend water service lines from either the City of Helena or City of East Helena for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water service lines prior to final approval).
  - (c) A professional hydrogeologist shall conduct an extensive analysis of the Tertiary and/or bedrock aquifers that will serve the proposed PD. Supporting information presented shall include:
    - (1) A thorough preliminary investigation that includes an analysis of prior data (e.g., precipitation, groundwater levels, aquifer tests, surface water impacts) within or near (must be within the same aquifer) the proposed PD. A comprehensive report shall be prepared that demonstrates water availability that will provide for the long-term needs of the proposed PD. If the preliminary investigation does not provide sufficient evidence of water availability, then (2) below is required.
    - (2) A hydrogeologic and hydraulic analysis for the proposed PD must be conducted. The

analysis shall assess aquifer properties and seasonal variability with the emphasis on extraction, storage, and recovery to measure long-term sustainability. Methods may include, but are not limited to, the installation of test wells, an aquifer/pumping test that may require the installation of at least one observation well, and/or modeling efforts. Lewis and Clark County shall be consulted regarding the method approach guidance to ensure water availability. The selected approach shall exceed the MDEQ ARM 17.36.330, ARM 17.36.331, and ARM 17.36.332 rules. From the selected analysis, a comprehensive groundwater report shall be prepared providing sufficient evidence of water availability that will provide for the long-term needs of the proposed PD.

2109.01.06.2 Detailed information ensuring that roads leading to the proposed PD are in good and safe condition that includes:

- (a) Submittal of a Traffic Impact Study (TIS) prepared by a Professional Engineer registered in the State of Montana that meets the requirements of the Lewis and Clark County Public Works Manual and includes all roads within the PD's Traffic Impact Corridor.

**AND**

- (b) An engineering analysis, including a surfacing design analysis, must be completed that accounts for all traffic, including infrastructure and housing construction traffic, to and from the PD. This engineering analysis must also include a Geotech analysis with a 20-year design timeframe and Equivalent Single Axle Load (ESAL) analysis for construction vehicles based on the number of homes. This analysis must be approved by the County Engineer and/or Public Works staff.

**AND**

- (c) Certification from a Professional Engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will meet County Standards at full build-out of

the PD (projected traffic volumes, including construction traffic, must be accounted for).

OR

Certification from an engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will be considered excellent or good (6-10 for asphalt surface or 4-5 for a gravel road) under the PASER Analysis at full build-out of the proposed PD (projected traffic volumes, including construction traffic, must be accounted for). This certification must also conclude that the drainage for all roads within the Traffic Impact Corridor will meet or exceed DEQ-Circular 8.

For the purposes of the Section, a Traffic Impact Corridor is defined as:

- (a) adjacent roads (including intersections) that are impacted by the proposed PD;
- (b) two ingress-egress routes (including intersections) for proposed PDs to the nearest state or federal highway/road, Helena city limits, East Helena city limits, or to the boundary of Lewis and Clark County;
- (c) off-site roads, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 10 percent of the annual average daily traffic on those roads; and
- (d) intersections, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 5 percent of the traffic volume on any approach leg of the intersection.

2109.01.06.3 Detailed information ensuring that fire protection will be provided that will not place long-term burdens on rural fire protection systems that includes:

- (a) A letter from the Board of Trustees or its designee (i.e. fire chief) for the Fire District and/or Fire Services Area with jurisdiction over the PD commenting on the following five items:
  - (1) A sufficient number of volunteers to fight an on-site fire.
  - (2) Volunteers have the required training to fight an on-site fire.

- (3) Appropriate apparatus are available to fight an on-site fire.
  - (4) Appropriate infrastructure is available to fight an on-site fire.
  - (5) Adequate water is available and accessible year-round to fight an on-site fire.
  - (b) A vegetation management plan that has been prepared by a qualified fire management specialist.
- 2109.01.06.4 A scaled vicinity map with a north arrow that clearly shows the property in question, its relationship to surrounding areas, including the existing land uses and zoning of both the site and the surrounding area within a one (1) mile radius.
- 2109.01.06.5 A site plan indicating how the PD relates to the affected land. It shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size):
- (a) Names and dimensions of roads adjacent to the site, including rights-of-way/easement and paved and/or gravel surfaces.
  - (b) Pedestrian and vehicular traffic circulation patterns within and around the site, including sidewalks and trails.
  - (c) Proposed location and height of building(s) including identification of types, density, and number of dwelling units or uses in each structure.
  - (d) General distances between buildings.
  - (e) Off-street parking facilities.
  - (f) Locations, dimensions, and area of open space.
  - (g) Proposed drainage patterns and any related drainage developments.
  - (h) Special Flood Hazard Areas.
  - (i) Existing and proposed topography at not less than five (5) foot contour intervals when the slope exceeds five (5%) percent and not less than two (2) foot contour intervals when the slope is less than five (5%) percent.
  - (j) Existing and proposed water system, wastewater treatment/sewer system, and stormwater drainage



improvements, gas, electric, telephone, and other utilities.

- (k) Such other physical features as existing streams, wetlands, canals, rock outcroppings, ridges, wooded areas, railroads, rights-of-way, or easements which affect or are affected by the proposed PD.
- (l) Building envelopes, if required by the Zoning Administrator.

2109.01.06.6 If a conditional use is being proposed, all information required under Section 14 Conditional Uses and Permits (CUP) must be submitted.

2109.01.07 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections, staff reports, legal notices, and referral agency and public comment requests.

2109.02 When an application is submitted, the submittal shall be reviewed by CDP Staff assigned to the project and a determination of completeness shall be made within five (5) working days after the submittal. If deemed complete, a determination of sufficiency shall be made within fifteen (15) working days following the completeness determination. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.

2109.03 Once the submittal is determined to be complete and sufficient, CDP Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2109.04 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by CDP Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2109.05 CDP Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing and the associated subdivision application has been deemed complete and sufficient, Staff shall schedule a public hearing before the Planning Board. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the

- Planning Board. The Staff will provide the public notice for the hearing as set for in Section 2112.
- 2109.06 The Planning Board shall evaluate the application, the staff report, referral agencies, applicant's responses, and public testimony for the PD; and then shall approve, conditionally approve, or deny the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01. Such recommendations shall include, but not necessarily be limited to, lot area, permitted and conditional uses, landscaping and buffering, buildable area, open space, setbacks, density, height of structures, signs, parking, loading areas, lighting, and design standards.
- 2109.07 At the hearing on the application for a PD, the Planning Board shall consider, but shall not be limited to, the following items:
- 2109.07.01 The proposed PD will be consistent with the Growth Policy.
- 2109.07.02 The physical features of the land.
- 2109.07.03 The existing land uses surrounding the proposed PD.
- 2109.07.04 The planned land uses within the area of the proposed PD, how they will relate to adjoining properties and the general neighborhood, and their compatibility with existing uses of said adjoining properties and general neighborhood.
- 2109.07.05 The proposed density and how it relates to adjoining properties and the general neighborhood.
- 2109.07.06 The existing and/or proposed public improvements in the area such as schools, roads, parks, and other such features.
- 2109.07.07 The availability of utilities.
- 2109.07.08 Comments received from interested citizens and/or agencies.
- 2109.08 After said public hearing and review, the Planning Board shall make a written recommendations to the BoCC regarding the proposed PD.
- 2109.09 The BoCC shall concurrently evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony/comments for both the PD; and then shall approve, conditionally approve, or deny the applications based on the evidence presented and compliance with the Approval Criteria under Section 2102.01.
- 2109.10 If the PD is granted preliminary approval, the applicant shall submit a final plan in accordance with the approval of the BoCC. When the BoCC approves the final plan, the area of land involved shall be redesignated as a PD district by resolution which shall incorporate the final plan, including any conditions or restrictions that may be imposed by the BoCC.
- 2109.10 If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the BoCC's written decision.

**2110 Submittal Requirements and Process for PD Preliminary Plan with No Subdivision**

2110.01 The applicant shall submit the following to the CDP:

2110.01.01 A completed application form (*available from the CDP*).

2110.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.

2110.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.

2110.01.04 Application fee (*available from the CDP*).

2110.01.05 A PD preliminary plan that contains the following:

2110.01.05.1 Detailed information ensuring that there is adequate water available to meet the long-term needs of the proposed PD (RR District only) that includes one of the following:

(a) Acquire provisional water rights and extend water lines from the Helena Valley Alluvial Aquifer for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water lines prior to final approval).

(b) Extend water service lines from either the City of Helena or City of East Helena for the proposed PD. (NOTE: All associated easements must be dedicated for the extension of these water service lines prior to final approval).

(c) A professional hydrogeologist shall conduct an extensive analysis of the Tertiary and/or bedrock aquifers that will serve the proposed PD. Supporting information presented shall include:

(1) A thorough preliminary investigation that includes an analysis of prior data (e.g., precipitation, groundwater levels, aquifer tests, surface water impacts) within or near (must be within the same aquifer) the proposed PD. A comprehensive report shall be prepared that demonstrates water availability that will provide for the long-term needs of the proposed PD. If the preliminary investigation does not provide sufficient evidence of water availability, then (2) below is required.

- (2) A hydrogeologic and hydraulic analysis for the proposed PD must be conducted. The analysis shall assess aquifer properties and seasonal variability with the emphasis on extraction, storage, and recovery to measure long-term sustainability. Methods may include, but are not limited to, the installation of test wells, an aquifer/pumping test that may require the installation of at least one observation well, and/or modeling efforts. Lewis and Clark County shall be consulted regarding the method approach guidance to ensure water availability. The selected approach shall exceed the MDEQ ARM 17.36.330, ARM 17.36.331, and ARM 17.36.332 rules. From the selected analysis, a comprehensive groundwater report shall be prepared providing sufficient evidence of water availability that will provide for the long-term needs of the proposed PD.

2110.01.05.2 Detailed information ensuring that roads leading to the proposed PD are in good and safe condition that includes:

- (a) Submittal of a Traffic Impact Study (TIS) prepared by a Professional Engineer registered in the State of Montana that meets the requirements of the Lewis and Clark County Public Works Manual and includes all roads within the PD's Traffic Impact Corridor.

**AND**

- (b) An engineering analysis, including a surfacing design analysis, must be completed that accounts for all traffic, including infrastructure and housing construction traffic, to and from the PD. This engineering analysis must also include a Geotech analysis with a 20-year design timeframe and Equivalent Single Axle Load (ESAL) analysis for construction vehicles based on the number of homes. This analysis must be approved by the County Engineer and/or Public Works staff.

**AND**

- (c) Certification from a Professional Engineer registered in the State of Montana that the roads

within the Traffic Impact Corridor for the proposed PD will meet County Standards at full build-out of the PD (projected traffic volumes, including construction traffic, must be accounted for).

OR

Certification from an engineer registered in the State of Montana that the roads within the Traffic Impact Corridor for the proposed PD will be considered excellent or good (6-10 for asphalt surface or 4-5 for a gravel road) under the PASER Analysis at full build-out of the proposed PD (projected traffic volumes, including construction traffic, must be accounted for). This certification must also conclude that the drainage for all roads within the Traffic Impact Corridor will meet or exceed DEQ-Circular 8.

For the purposes of the Section, a Traffic Impact Corridor is defined as:

- (a) adjacent roads (including intersections) that are impacted by the proposed PD;
- (b) two ingress-egress routes (including intersections) for proposed PDs to the nearest state or federal highway/road, Helena city limits, East Helena city limits, or to the boundary of Lewis and Clark County;
- (c) off-site roads, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 10 percent of the annual average daily traffic on those roads; and
- (d) intersections, exclusive of the two ingress-egress routes, where projected traffic from the proposed PD will account for at least 5 percent of the traffic volume on any approach leg of the intersection.

2110.01.05.3 Detailed information ensuring that fire protection will be provided that will not place long-term burdens on rural fire protection systems that includes:

- (a) A letter from the Board of Trustees or its designee (i.e. fire chief) for the Fire District and/or Fire Services Area with jurisdiction over the PD commenting on the following five items:
  - (1) A sufficient number of volunteers to fight an on-site fire.

- (2) Volunteers have the required training to fight an on-site fire.
  - (3) Appropriate apparatus are available to fight an on-site fire.
  - (4) Appropriate infrastructure is available to fight an on-site fire.
  - (5) Adequate water is available and accessible year-round to fight an on-site fire.
- (b) A vegetation management plan that has been prepared by a qualified fire management specialist.
- 2110.01.05.4 A scaled vicinity map with a north arrow that clearly shows the property in question, its relationship to surrounding areas, including the existing land uses and zoning of both the site and the surrounding area within a one (1) mile radius.
- 2110.01.05.5 A site plan indicating how the PD relates to the affected land. It shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size):
- (a) Names and dimensions of roads adjacent to the site, including rights-of-way/easement and paved and/or gravel surfaces.
  - (b) Pedestrian and vehicular traffic circulation patterns within and around the site, including sidewalks and trails.
  - (c) Proposed location and height of building(s) including identification of types, density, and number of dwelling units or uses in each structure.
  - (d) General distances between buildings.
  - (e) Off-street parking facilities.
  - (f) Locations, dimensions, and area of open space.
  - (g) Proposed drainage patterns and any related drainage developments.
  - (h) Special Flood Hazard Areas.
  - (i) Existing and proposed topography at not less than five (5) foot contour intervals when the slope exceeds five (5%) percent and not less than two (2) foot contour intervals when the slope is less than five (5%) percent.

- (j) Existing and proposed water system, wastewater treatment/sewer system, and stormwater drainage improvements, gas, electric, telephone, and other utilities.
- (k) Such other physical features as existing streams, wetlands, canals, rock outcroppings, ridges, wooded areas, railroads, rights-of-way, or easements which affect or are affected by the proposed PD.
- (l) Building envelopes, if required by the Zoning Administrator.

2110.01.05.6 If a conditional use is being proposed, all information required under Section 14 Conditional Uses and Permits (CUP) must be submitted.

2110.01.06 An electronic copy (*read only* PDF) of all application materials, including an additional electronic file format for the site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections, staff reports, legal notices, and referral agency and public comment requests.

2110.02 When an application is submitted, the submittal shall be reviewed by CDP Staff assigned to the project and a determination of completeness shall be made within five (5) working days after the submittal. If deemed complete, a determination of sufficiency shall be made within fifteen (15) working days following the completeness determination. The applicant shall be notified in writing if the submittal is incomplete and/or insufficient, and any inadequacies shall be specifically identified. An incomplete or insufficient application will not be processed.

2110.03 Once the submittal is determined to be complete and sufficient, CDP Staff will notify the applicant in writing of the number of copies of the submittal information required for distribution to referral agencies.

2110.04 If the referral agencies elect to comment, they may comment within thirty (30) days from the date the referral packets were mailed or electronically distributed, unless the applicant grants, in writing, an extension of no more than thirty (30) days.

All referral agency comments shall be provided by CDP Staff to the applicant. The applicant shall be given the opportunity to address the comments of all referral agencies by identifying, in writing, the extent to which the project has been revised in response to the comments. The applicant is strongly encouraged to provide the Staff with a written response. The applicant is encouraged to meet with the referral agencies and the Staff to address any concerns.

2110.05 CDP Staff will review the referral agency comments and discuss any concerns with the applicant. Upon receipt of written notice from the applicant that they are ready to proceed with a public hearing, Staff shall schedule a public hearing before the Planning Board. Once such public hearing has been determined, Staff shall notify the applicant in writing of the hearing date and time and prepare a staff report for the Planning

- Board. The Staff will provide the public notice for the hearing as set for in Section 2112.
- 2110.06 The Planning Board shall evaluate the application, the staff report, referral agencies, applicant's responses, and public testimony for the PD; and then shall approve, conditionally approve, or deny the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01. Such recommendations shall include, but not necessarily be limited to, lot area, permitted and conditional uses, landscaping and buffering, buildable area, open space, setbacks, density, height of structures, signs, parking, loading areas, lighting, and design standards.
- 2110.07 At the hearing on the application for a PD, the Planning Board shall consider, but shall not be limited to, the following items:
- 2110.07.01 The proposed PD will be consistent with the Growth Policy.
- 2110.07.02 The physical features of the land.
- 2110.07.03 The existing land uses surrounding the proposed PD.
- 2110.07.04 The planned land uses within the area of the proposed PD, how they will relate to adjoining properties and the general neighborhood, and their compatibility with existing uses of said adjoining properties and general neighborhood.
- 2110.07.05 The proposed density and how it relates to adjoining properties and the general neighborhood.
- 2110.07.06 The existing and/or proposed public improvements in the area such as schools, roads, parks, and other such features.
- 2110.07.07 The availability of utilities.
- 2110.07.08 Comments received from interested citizens and/or agencies.
- 2110.08 After said public hearing and review, the Planning Board shall make written recommendations to the BoCC regarding the PD.
- 2110.09 The BoCC shall evaluate the application, the staff report, referral agency comments, applicant responses, and public testimony/comments for the PD; and then shall approve, conditionally approve, or deny the application based on the evidence presented and compliance with the Approval Criteria under Section 2102.01.
- 2110.10 If the PD is granted preliminary approval, the applicant shall submit a final plan in accordance with the approval of the BoCC. When the BoCC approves the final plan, the area of land involved shall be redesignated as a PD district by resolution which shall incorporate the final plan, including any conditions or restrictions that may be imposed by the BoCC.
- 2110.11 If a party is aggrieved by this decision, they may appeal the decision to the district court in Lewis and Clark County; such appeal must be filed within thirty (30) days of the BoCC's written decision.



**2111 PD Final Plan**

- 2111.01 The applicant shall submit the following to the CDP:
- 2111.01.01 A completed application form (*available from the CDP*).
  - 2111.01.02 Proof of ownership that includes an updated or current title insurance policy or title commitment, or other acceptable form of title verification, no more than six (6) months old from the date of application.
  - 2111.01.03 A notarized letter of authorization from the landowner permitting a representative to process the application, when applicable.
  - 2111.01.04 Application fee (*available from the CDP*).
  - 2111.01.05 The final site plan shall be submitted at a scale sufficient to minimize the number of sheets while maintaining clarity (at least 11" x 17" in size).
  - 2111.01.06 A narrative explaining how each of the conditions of approval of the preliminary plan have been met, and documentation that all conditions have been satisfied.
  - 2111.01.07 The final enumeration of how the final plan deviates from the requirements of the underlying zoning.
  - 2111.01.08 If the PD contains mixed-use development, the final plan shall show the locations of uses.
  - 2111.01.09 Copies of any documents, such as deed restrictions, restrictive covenants, or homeowners' association articles of incorporation or bylaws that are associated with the PD or that will be used to control the use, development, operation, or maintenance of the property and improvements.
  - 2111.01.10 An electronic copy (*read only PDF*) of all application materials, including an additional electronic file format for the final site plan, such as a JPG, PNG, TIF, or GIF, at a resolution that facilitates visual clarity for use in multiple situations, such as presentation projections and staff reports.
- 2111.02 After review of the complete application for the final plan, the CDP shall make a recommendation to approve or deny the request to the BoCC. In making a decision regarding approval of a final plan, the BoCC shall make the following findings:
- 2111.02.01 All applicable conditions of the preliminary PD approval have been met.
- 2111.03 The applicant shall submit four (4) signed copies of the final plan and related documents. Upon approval of the final plan by the BoCC, one (1) signed copy shall be returned to the applicant, one (1) signed copy shall be retained on file in the Lewis

and Clark County Clerk and Recorder's Office, and one (1) signed copy each shall be provided to the CDP and BoCC.

**2112 Public Notice Requirements**

The following requirements shall apply to a PD. In calculating the time period for public notification, see Section 106 of these Regulations.

**2112.01 Written Notice (Planning Board Hearing)**

At least fifteen (15) days prior to the Planning Board hearing, CDP Staff shall mail a written notice of the hearing by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice as required by this Section.

2112.01.01 The notice shall indicate:

- (a) The date, time, and location of the hearing;
- (b) An explanation of the PD;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

2112.01.02 The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

**CERTIFICATE OF MAILING**

I, \_\_\_\_\_, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and addressed as follows:

(attach list of addresses if necessary)

\_\_\_\_\_

(signature of person completing the mailing)

**2112.02 Published Notice (Planning Board Hearing)**

At least fifteen (15) days prior to the Planning Board hearing, CDP Staff shall:

2112.02.01 Publish a notice in at least one (1) publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and

2112.02.02 Obtain a publisher's affidavit of said published notice prior to the hearing.

2112.02.03 The notice shall indicate:

- (a) The date, time, and location of the hearing;
- (b) An explanation of the PD;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and

(e) That questions should be directed to the CDP.

2112.03 Posted Notice (Planning Board Hearing)

At least fifteen (15) days prior to the Planning Board hearing, CDP Staff shall post a notice on the land for which the PD is requested.

<b>NOTICE OF PUBLIC HEARING BEFORE THE PLANNING BOARD</b>
This land shall be considered for a Planned Development for a ( <i>insert specific use</i> ) in the _____ zone district. The public hearing is ( <i>date</i> ), in ( <i>location</i> ) at ( <i>time</i> ). For more information call County Planning, 406-447-8374
File No./Name: _____

2112.03.01 An affidavit of sign posting shall be submitted by the person who posted the sign for the file in the CDP prior to the hearing. The sign(s) shall be photographed by the person who posted them and attached to the affidavit as follows:

<i>(attach photo here)</i> <i>(sign lettering must be legible in photo)</i>
I, ( <u>person posting sign</u> ), attest that the above sign was posted on ( <i>date</i> ) abutting ( <i>name of street</i> ).
_____ ( <i>signature</i> )                      File No./Name: _____

2112.04 Written Notice (BoCC Meeting)

At least fifteen (15) days prior to the BoCC meeting, CDP Staff shall mail a written notice of the meeting by first-class mail to the address of each abutting landowner as such address is shown in the records of the County. The notice shall read substantially the same, as the published notice as required by this Section.

- 2112.04.01 The notice shall indicate:
- (a) The date, time, and location of the meeting;
  - (b) An explanation of the PD;
  - (c) The general location of the land that is the subject of the request;
  - (d) The file name and number; and
  - (e) That questions should be directed to the CDP.

2112.04.02 The person completing the mailing of the written notice shall execute a certificate of mailing. Such certificate shall read as follows:

**CERTIFICATE OF MAILING**

I, \_\_\_\_\_, hereby certify that a true and correct copy of the attached written notice was placed in the U.S. mail, first-class, postage prepaid this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and addressed as follows:

(attach list of addresses if necessary)

\_\_\_\_\_  
(signature of person completing the mailing)

**2112.05 Published Notice (BoCC Meeting)**

At least fifteen (15) days prior to the BoCC meeting, CDP Staff shall:

2112.05.01 Publish a notice in at least one (1) publication of a daily or a weekly legal newspaper of general circulation, printed or published in whole or in part in the County; and

2112.05.02 Obtain a publisher's affidavit of said published notice prior to the meeting.

2112.05.03 The notice shall indicate:

- (a) The date, time, and location of the meeting;
- (b) An explanation of the PD;
- (c) The general location of the land that is the subject of the request;
- (d) The file name and number; and
- (e) That questions should be directed to the CDP.

**2112.06 Posted Notice (BoCC Meeting)**

At least fifteen (15) days prior to the BoCC meeting, CDP Staff shall post a notice on the land for which the PD is requested.

**NOTICE OF PUBLIC MEETING BEFORE THE BOARD OF COUNTY COMMISSIONERS**

This land shall be considered for a Planned Development for a *(insert specific use)* in the \_\_\_\_\_ zone district. The public meeting is *(date)*, in *(location)* at *(time)*. For more information call County Planning, 406-447-8374

File No./Name: \_\_\_\_\_

2112.06.01 An affidavit of sign posting shall be submitted by the person who posted the sign for the file in the CDP prior to the meetings. The sign(s) shall be photographed by the person who posted them and attached to the affidavit as follows:

<p><i>(attach photo here)</i></p> <p><i>(sign lettering must be legible in photo)</i></p> <p>I, <u>(person posting sign)</u>, attest that the above sign was posted on <i>(date)</i> abutting <i>(name of street)</i>.</p> <p><u>(signature)</u> File No./Name: _____</p>	
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2112.07 Additional public notice may be required by the Zoning Administrator.

2113 Withdrawal of PD

A request to withdraw an application shall be submitted, in writing, to the CDP. Once withdrawn, the submittal of a new application and processing fee shall be required in order to re-initiate the application; and such re-initiation shall be considered and processed as a new application.

2114 Inactive Files

Files that become inactive, because the applicant has not responded to CDP Staff's request for information or otherwise action in the process, for a period of more than six (6) months, shall become void and the resubmittal of a new application and fees shall be required to pursue the PD request. After five (5) months of inactivity, Staff shall notify the applicant in writing that the application will become void within thirty (30) days. If the applicant fails to submit the required additional information or request a hearing date within thirty (30) days, Staff shall notify the applicant in writing that the application is void. This provision shall apply to all PD applications on file with the CDP upon the effective date of adoption and any application thereafter. The Zoning Administrator may grant an extension of time, of no more than six (6) months, upon a written request by the applicant.

2115 Post Denial Application

If denied by the BoCC, a resubmittal of the same or substantially same PD application shall not be accepted within one hundred eighty (180) days from the date of denial by the BoCC, or in the event of litigation, from the date of the entry of the final judgment. However, if evidence is presented to the Zoning Administrator showing that there has been a substantial change in physical conditions or circumstances, the Zoning Administrator may reconsider the PD sooner than the above noted one hundred eighty (180) days. A new application and processing fee shall be required.

2116 PD Amendments

2116.01 A minor modification or amendment to a previously approved PD may be granted by the Zoning Administrator if it is determined that the requested modification or amendment would not constitute a substantial change to the findings of fact in the original approval, and that the proposed modification or amendment and the original conditions of approval would not be altered or be detrimental to the public health, safety, or general welfare.

2116.02 The Zoning Administrator shall deny the requested modification or amendment upon finding the request constitutes a substantial change. In such cases, the applicant may

**apply for approval of a modification, amendment, or condition modification, as appropriate, in accordance with the procedures for PD approval set forth in this Section.**

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