



DAWSON COUNTY

Highland Park Zoning Ordinance

Regulations effective June, 2023

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Article 11.1.0 GENERAL PROVISIONS

11.1.10 *TITLE, CREATON, AND ADOPTION*

These regulations shall be known as the "Highland Park Zoning Regulations" and are adopted for the Highland Park Planning and Zoning District. The District having been created by resolution of the Board of County Commissioners of Dawson County, Montana, December 3rd, 1962 and as hereafter amended.

11.1.20 *AUTHORITY*

Pursuant to the provisions of MCA 76-2-104 Title 16, Chapter 41 Revised Codes of Montana 1947 there is hereby adopted a development pattern. The Development pattern shall consist of the Highland Park land use plan and the Highland Park Zoning.

11.1.30 *PLANNING AND ZONING COMMISSION*

11.1.31 CREATION

Pursuant to MCA 76-2-102 there has been created a Planning and Zoning Commission for the Highland Park Planning and Zoning District, which shall consist of three (3) County Commissioners, the County Clerk and Recorder, or the County Surveyor (should a County Surveyor be elected or appointed) and two citizen members residing in a different planning and zoning district and a county official appointed by the Commissioners.

11.1.32 POWERS

The Planning and Zoning Commission shall have all the powers granted it by the laws of the State of Montana and by these regulations.

Article 11.2.0 PURPOSE

The purpose of these regulations is:

1. To promote the health, safety, and general welfare of the people of the Highland Park Planning and Zoning District.
2. To carry out the land use plan for the Highland Park Planning and Zoning District.
3. To avoid undue population concentration.
4. To preserve property values.
5. To preserve and maintain so far as possible the “single family, residential”, character of the area and promote the growth of the area commensurate with this character.
6. To promote businesses compatible with the residential character of the area.

Article 11.3.0 DISTRICTS BOUNDARIES AND ZONING MAP

11.3.10 *PURPOSE AND INTENT*

11.3.11 Zoning Map

The Highland Park Planning and Zoning District is described by that certain map entitled: "HIGHLAND PARK PLANNING AND ZONING DISTRICT MAP" dated **June 20, 2023** and recorded in the Dawson County Clerk and Recorder's Office and as thereafter amended. This map and all notations thereon are certified to be and are hereby declared to be Section 4.5 of these regulations and is the official map for the Highland Park Planning and Zoning District.

These regulations and the official map establish various districts within Highland Park Planning and Zoning District within some, all or none of which it shall be lawful to erect, construct, or alter buildings or structures; or to carry on certain trades, business or occupations, or to conduct certain uses of buildings or land, and within which the height of future buildings shall be limited; within which certain spaces shall be required about future building and consisting further of appropriate regulations to be enforced in such districts as set forth in these regulations.

11.3.20 *ZONING DISTRICTS ESTABLISHED*

The following Zoning Districts and Zoning Overlay Districts:

11.3.21 Residential Zoning Districts

- A. RESIDENTIAL ZONING DISTRICT (R-HP)
- B. MOBILE/MANUFACTURED HOME RESIDENTIAL ZONING DISTRICT (MF-HP)

11.3.30 *OFFICIAL ZONING MAP*

11.3.31 Certification

Official Map

A copy of the official map shall be available in the planning office and shall bear a certificate with the signature of the Chairman of the County Commissioners with the signature attested by the County Clerk and Recorder.

Unofficial Map

A copy of the map will be included with the text of these regulations but if a discrepancy exists between that map and the official map the official map will regulate.

11.3.40 *INTERPRETATION OF DISTRICT BOUNDARIES*

11.3.41 Interpretation of Boundaries

Where exists as to boundaries of zones shown on the official map, the following rules shall apply:

- A. Where boundaries are indicated as approximately following center line of streets, highways, roads, or alleys or right-of-way lines, they shall be constructed to be such boundaries.
- B. Where boundaries are so indicated as approximately following lot lines, such lines shall be constructed to be such boundaries.
- C. Where boundaries are so indicated that they are approximately parallel to the center line or right-of-way lines of highways, streets, or roads such boundaries shall be constructed as being parallel and at such distance as indicated on the zoning map. If no distance is given, dimensions shall be by the scale of the map.

Article 11.4.0 APPLICATION OF REGULATIONS

11.4.10 *APPLICATION OF REGULATIONS AND INTERPRETATION*

11.4.11 Except as hereafter provided:

No building or land shall hereafter be occupied or used and no building or part thereof shall be erected, moved or altered unless in conformity with the regulations for the district in which it is located.

No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, or to have narrower or smaller front yards, side yards and rear yards.

No land shall hereafter be subdivided to create a lot or lots which are not in conformity with the minimum sizes and dimensions contained in these regulations.

No part of a yard or other open space around any building as required for the purpose of complying with the provisions of these regulations shall be included as a part of a yard or other open space similarly required for another building.

11.4.20 *INTERPRETATION*

Interpretation and Construction.

In interpreting and applying the provisions of these regulations, they shall be held to be the minimum requirements for the promotion of the public health, safety, morals, order, convenience, happiness, prosperity, and general welfare. It is not intended by these regulations to interfere with, or abrogate or annul any easements, covenants, or other agreements between parties; provided, however, that wherever these regulations are at variance with other regulations, laws, ordinances, rules, or permits or by easements, covenants, or agreements, the more restrictive or those imposing higher standards, shall govern.

Article 11.5.0 RESIDENTIAL ZONING DISTRICT (R-HP)

11.5.10 **PERMITTED USES**

No building or premises shall be used, constructed or structurally altered except for one of the following uses.

11.5.20 **ALLOWED USES**

Permitted Uses, R-HP District		
Permitted Uses		
Single family residences	Parks	Community gardens
Accessory Building	Signs (see general provisions)	Manufactured/modular homes built on a permanent foundation.
Facilities for public and private utilities including but not limited to water, sewer, electrical, natural gas and telephone	Temporary buildings, waste receptacles, portable toilets for construction and following construction for a period not to exceed thirty (30) days.	Portable storage containers for self-loading in the event of a move out/move in for a period not to exceed fourteen (14) days.
Double-wide Mobile/Manufactured homes if put on a permanent foundation or a basement foundation and are at least twenty-four (24) feet in width.	Truck farming or agricultural use not involving livestock or the raising of fowl.	
Administrative Conditional Uses*		
Home Occupations, provided all of the following are met.		
No employees of any person outside of the immediate family shall be allowed.	No outdoor storage of materials or products is allowed and the use shall not create offensive noise, dust, smoke, odors, heat, vibrations, or glare.	The activity must be clearly incidental and secondary to the use of the building for residential purposes and shall maintain the appearance and character of the structures as residential.

The use may not occupy more than 1/4 of the gross floor area of the residence.	Identification signs shall be limited to unlighted signs of not more than eight (8) square feet and shall be attached to the main building or garage	The administrator may require adequate parking or place limits on the hours of operation or otherwise condition the use such that it maintains the residential character of the home in which the use is allowed.
The use may also be allowed to occur in a garage if the use does not displace required parking spaces.		

Conditional Uses**		
Duplexes	Churches and schools	Police and fire stations
Multiple family dwellings	Libraries and museums	Nursing Homes/Adult Care Facility
Mobile/Manufactured dwellings	Clinics	

* Uses will be allowed if a determination is made by the Zoning Administrator that the use is compliant with the intent of these regulations and any impacts above those typical of a permitted use can be fully mitigated.

** Uses are permitted in the Residential District only after the Board of County Commissioners have made a finding of fact that the use is in harmony with principal permitted uses and is not detrimental to the health, safety, peace, morals, comfort and welfare of the neighborhood and that any impacts above those typical of a permitted use can be fully mitigated.

11.5.30 ***DIMENSIONAL STANDARDS***

Development in the R-HP District shall comply with the Dimensional Standards as described:

Dimensional Standards, R-HP District	
Lot Standards	
Lot Area. Minimum Square Feet. single family	7,150
Lot Frontage. Minimum Feet. single family	65
Duplex/Multi-Family Standards	
Lot Size. Minimum Square Feet. per dwelling unit	3,575
Internal Side Yard Setback (Feet)	0
Lot Frontage. Minimum Feet. per dwelling unit	32
Minimum Setbacks (Feet)	

Front* where twenty-five (25) percent or more of the frontage of any one block is developed, the average front yard depth of existing buildings shall be required.	Average of existing development within the same block but not less
Side	5
Rear	20
Side Corner	10
Building Standards (Feet)	
Building Height	35
Accessory Structures	
Setback, Rear (No Alley Access)	3*
Setback, Rear (Alley Access)	20
Height	35
*See Definitions of Setbacks for measurement	

Article 11.6.0 MOBILE/MANUFACTURED HOME ZONING DISTRICT (MF-HP)

11.6.10 **PERMITTED USES**

No building or premises shall be used, constructed or structurally altered except for one of the following uses.

11.6.20 **ALLOWED USES**

Permitted Uses, MF-HP District		
Permitted Uses		
Single family residences	Parks	Community gardens
Accessory Building	Signs (see general provisions)	Manufactured/modular homes built on a permanent foundation.
Facilities for public and private utilities including but not limited to water, sewer, electrical, natural gas and telephone	Temporary buildings, waste receptacles, portable toilets for construction and following construction for a period not to exceed thirty (30) days.	Portable storage containers for self-loading in the event of a move out/move in for a period not to exceed fourteen (14) days.
Double-wide Mobile/Manufactured homes if put on a permanent foundation or a basement foundation and are at least twenty-four (24) feet in width.	Truck farming or agricultural use not involving livestock or the raising of fowl.	Single and double wide Mobile/Manufactured homes
Administrative Conditional Uses*		
Home Occupations, provided all of the following are met.		
No employees of any person outside of the immediate family shall be allowed.	No outdoor storage of materials or products is allowed and the use shall not create offensive noise, dust, smoke, odors, heat, vibrations, or glare.	The activity must be clearly incidental and secondary to the use of the building for residential purposes and shall maintain the appearance and character of the structures as residential.

The use may not occupy more than 1/4 of the gross floor area of the residence.	Identification signs shall be limited to unlighted signs of not more than eight (8) square feet and shall be attached to the main building or garage	The administrator may require adequate parking or place limits on the hours of operation or otherwise condition the use such that it maintains the residential character of the home in which the use is allowed.
The use may also be allowed to occur in a garage if the use does not displace required parking spaces.		

Conditional Uses**		
Duplexes	Churches and schools	Police and fire stations
Multiple family dwellings	Libraries and museums	Nursing Homes/Adult Care Facility
Mobile/Manufactured dwellings	Clinics	

* Uses will be allowed if a determination is made by the Zoning Administrator that the use is compliant with the intent of these regulations and any impacts above those typical of a permitted use can be fully mitigated.

** Uses are permitted in the Residential District only after the Board of County Commissioners have made a finding of fact that the use is in harmony with principal permitted uses and is not detrimental to the health, safety, peace, morals, comfort and welfare of the neighborhood and that any impacts above those typical of a permitted use can be fully mitigated.

11.6.30 ***DIMENSIONAL STANDARDS***

Development in the MF-HP District shall comply with the Dimensional Standards as described:

Dimensional Standards, MF-HP District	
Lot Standards	
Lot Area, Minimum Square Feet, single family/double wide	7,150
Lot Frontage, Minimum Feet, single family	65
Lot Area, Minimum Square Feet, single wide	3,575
Lot Frontage, Minimum Feet, single wide	32
Duplex/Multi-Family Standards	

Lot Size, Minimum Square Feet, per dwelling unit	3,575
Internal Side Yard Setback (Feet)	0
Lot Frontage, Minimum Feet, per dwelling unit	32
Minimum Setbacks (Feet) Single Family and Multi-Family	
Front* where twenty-five (25) percent or more of the frontage of any one block is developed, the average front yard depth of existing buildings shall be required.	Average of existing development within the same block but not less than 20 feet nor more than 40 feet.
Side	5
Rear	20
Setback, Rear (Accessory Structure No Alley Access)	3*
Setback, Rear (Accessory Structure Alley Access)	20
Side Corner	10
*See Definitions of Setbacks for measurement requirements	
Single wide Manufactured Home Standards	
Lot Size, Minimum Square Feet	3,575
Lot Frontage, Minimum Feet	32
Minimum Setbacks (Feet) Single wide Manufactured Homes	
Front	20
Side	10
Rear	3
Side Corner	10
Building Standards (Feet)	
Building Height	35
Accessory Structures	
Setback, Rear (No Alley Access)	3*

Setback, Rear (Alley Access)	20
Height	35
*See Definitions of Setbacks for measurement requirements	

Article 11.7.0 GENERAL PROVISIONS

11.7.10 *ALL USES MUST CONFORM TO THE FOLLOWING MINIMUM STANDARDS*

11.7.11 Open Space

Every part of a required yard shall be completely open and unobstructed from its lowest point to the sky. Patios, decks, and steps may project into the required side yard not more than three (3) feet, or into the rear yard a distance up to three (3) feet from the rear property line.

11.7.12 Accessory Buildings

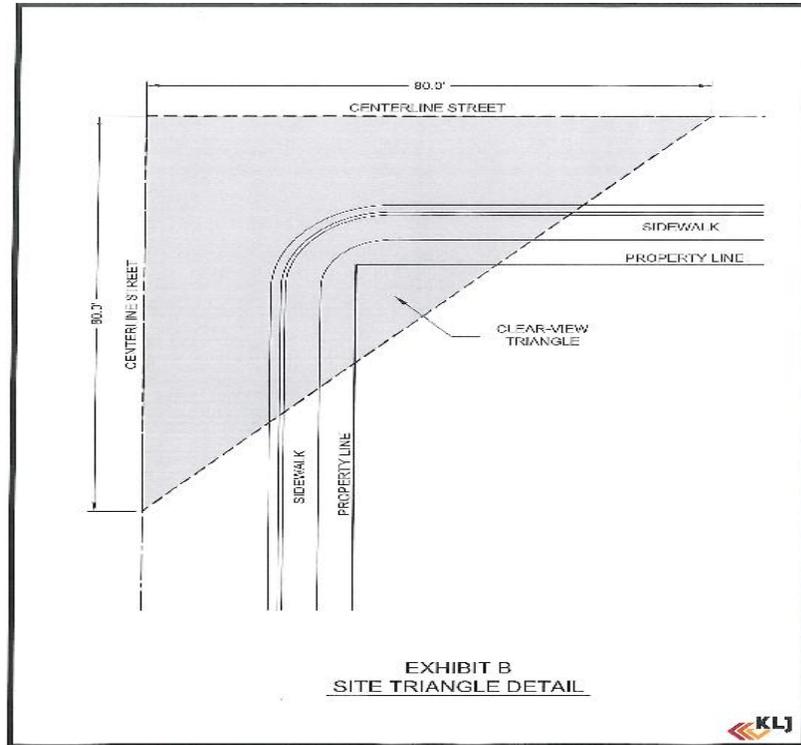
An accessory building shall not be closer than (5) feet to the side property line, and no closer three (3) feet to the rear property line. In addition, no accessory building may project into any required front yards.

11.7.13 Applicability

An approved CUP shall run with the land and may be transferred to another owner but only for the approved timeframe. The City Council may place the following conditions to mitigate any adverse impact from the project: Special yards;

11.7.14 Sight Triangle

Corner lots in all zones shall not be permitted to have any solid fencing or other site obstruction which constitutes a hazard to traveling public within the area designated as the "clear-view triangle". Fencing that meets with the requirements of Section 9.6 shall be deemed to comply with the "clear view triangle" requirements. This area can be determined by measuring eighty (80) feet from the center of the two (2) streets intersecting streets, along the centerlines of each street, then connecting the two (2) points with a straight line forming the hypotenuse of the "clear-view triangle". Trees within the "clear-view triangle" shall have their branches removed at the trunk from ground level to a minimum of seven (7) feet above ground level, shrubs within "clear-view triangle" shall be maintained no higher than (3) feet above elevation of the centerline adjacent street. (See Exhibit B).



11.7.15 Garage size

A garage may not exceed either 30% of the back-yard space or 1,000 square feet whichever is less.

11.7.16 Trees

Any trees within the Highland Park District whose branches extend over any street or alley shall have those branches trimmed to the nine (9) foot level.

11.7.17 Fences

No solid fence may be erected within the required front yard or clear vision triangle of any lot used for residential purposes.

No residential fence shall exceed a height of six (6) feet in the required side or rear yard. Any residential fence shall be built such that it will be both durable and aesthetic.

A chain link or similar open design fence may be erected within the required front yard, provided that the fence shall not exceed 48 inches in height. The term “open design” does not include the addition of any device or material into the manufactured openings to enhance privacy or reduce visibility. Any person proposing an ‘open design’ fence shall submit a sample of the material(s) with their application for a conformance permit.

11.7.18 Height Limits - Exemptions

The height limitations contained in any district regulations do not apply to spires, belfries, cupolas, chimneys, or antennas.

11.7.19 Storage Limitations

Storage of flammable or combustible liquids in outside or inside aboveground storage tanks is not allowed in the Highland Planning and Zoning District except for propane tanks typically used for and attached to barbeques, recreational vehicles, or small outdoor propane heaters

11.7.110 Conformance Permit- Required

No structure shall be built, moved, or structurally altered until a Zoning Compliance Permit has been issued. Permits shall be issued only for uses in conformity with these regulations.

Article 11.8.0 PARKING REQUIREMENTS

11.8.10 *INTENT*

It is the intent of this section to set down provisions for off-street parking, to prevent congestion in the streets, to promote and protect property values, and to provided for the health, safety and welfare of the citizenry.

11.8.11 Required off street parking shall be provided according to Table 11.8.20

Table 11.8.20

USE	PARKING SPACES REQUIRED
Residential, Single Family	2 per dwelling
Residential, Duplex or Multi-family	2 per dwelling
Mobile/Manufactured Homes	2 per dwelling
Churches, Auditoriums, or Similar Enclosed Places of Assembly	1 per 4 seats or 60 lineal feet in pew or 40 sq. ft. of gross area used for assembly purposes
Convalescent Homes for Aged	1 per 4 beds
Libraries and Museums	1per 200 sq. ft. gross floor 3 per 1000 sq. ft.
Schools: Elementary and Jr. High	5+1 for each classroom
Schools: High	1 per every 5 students +1 for each employee

11.8.12 Uses Not Specified

In the case of a use not specifically mentioned Table 11.8.20, the requirement for off-street parking facilities shall be determined by the Zoning Administrator Such determination shall be based upon the requirements for a comparable use listed or other reasonable sources/studies for parking generation.

11.8.13 Garages and Carports

Off street parking may be provided by either attached or detached garages or carports. In addition, it may be provided by driveways and other uncovered parking spaces measuring at least 9 x 18 feet and including any maneuvering room and space needed for entrance and exit from the vehicle.

11.8.14 Location of Parking

Off street parking facilities shall be located on the same lot as the building they are serving unless otherwise approved through an administrative conditional use or a conditional use permit.

11.8.15 Parking for Expansion and Enlargement

Whenever any building other than residential is enlarged in height or ground coverage, off-street parking shall be provided for said expansion or enlargement in accordance with the requirements of the schedule, provided, however, that no parking space need be provided in the case of enlargement or expansion where the number of parking spaces required for such expansion or enlargement is less than ten percent (10%) of the parking spaces specified in the schedule for the building. In the case additional units are added to an existing residential use, off street parking shall be required for the additional unit/s. Nothing in the provision shall be construed to require off-street parking spaces for the portion of such building existing at the time of adoption of these regulations.

11.8.16 Shared Parking - Joint Use

GENERAL, LOCATION OF OFF-STREET PARKING

The Planning and Zoning Commission may authorize the joint use of parking facilities for the following uses or activities under conditions specified:

1. Up to 100 percent (100%) of the parking facilities required by this section for a church or for an auditorium incidental to a public or parochial school may be provided by on street parking for if these uses are primarily of a daytime nature.

11.8.17 Conditions Required for Joint Use

The building or use for which application is being made to utilize the off-street parking facilities provided by another building or use shall be located within 300 feet of such parking facilities in addition to which:

1. The applicant shall show that is no substantial conflict in the principal operating hours of the two buildings or uses for which joint use of off-street parking facilities is proposed.
2. The applicant shall present a properly drawn legal instrument to be recorded with the County Clerk and Recorder, executed by the parties concerned for joint use of off-street parking facilities and approved as to form and manner of execution by the County Attorney; such instrument to filed with County Clerk and Recorder upon approval by the Commission.

11.8.18 Parking Plans for Conditional Uses

The plan of the proposed parking area shall submit to the Zoning Administrator where a parking area is required. Said plan shall clearly indicate the layout of the

proposed development, including location, size, shape, design, curb cuts, lighting, landscaping, and other features and appurtenances.

1. All traffic control devices such as parking stripes designating car stalls, directional arrows or signs, bull rails, curbs and other improvements, shall be installed and completed as shown in the approved plans.
2. Hard-surfaced parking areas shall use paint on devices to delineate car stalls and directional arrows.
3. Gravel parking areas shall use wood or concrete bull rails or wheel stops and posted signs to delineate car stalls and direction of traffic.
4. Where pedestrian walks are used in parking lots for use of foot traffic only, they shall be curbed, or raised six inches above the lot surface.

Article 11.9.0 ADMINISTRATION

11.9.10 *POWERS AND DUTIES, COMMISSIONERS*

The Board of County Commissioners has the power and duty to:

1. Appoint the members of the Planning and Zoning Commission.
2. Grant variances from these regulations. As used in these regulations, a variance is authorized for height, area, size of structure, size of yards and open spaces. Establishment or expansion of a nonconforming use shall not be allowed by variance, nor shall a variance be granted because of the presence of nonconforming use in a district or adjoining districts or parcels.
3. Grant conditional use permits.
4. Adopt amendments and amend the classification district boundaries and the Planning and Zoning District Boundaries.
5. Levy up to 1 mill on the taxable valuation of real property within Planning Zoning District.

11.9.20 *POWERS AND DUTIES, PLANNING AND ZONING COMMISSION*

The Planning and Zoning Commission has the power and duty to:

1. Appoint or hire the Zoning Administrator and other employees necessary for the enforcement and administration of these regulations and fix their compensation.
2. Provide for the issuance of Zoning Compliance Permits.
3. Accept or initiate recommendations for boundary changes or amendment to these regulations.
4. Budget and spend such funds as levied by the County for the Planning and Zoning District.
5. Hear appeals from decisions of the Zoning Enforcement Agent.

11.9.30 POWERS AND DUTIES ZONING ADMINSTRATOR

1. Issue Zoning Compliance permits in the name of the Planning and Zoning Commission.
2. Accept requests for text amendments, Zoning District boundary changes or changes to use classification within a district.
3. Accept requests for variances and conditional use permits.
4. Issue stop work orders for violations.
5. Interpret the provisions of these regulations subject to appeal to the Planning and Zoning Commission.

OVERVIEW OF DUTIES AND RESPONSIBILITIES

	Zoning Administrator	Planning Board & Zoning Commission	Board of County Commissioners
Receive Applications	A		
Determine Completeness	A		
Residential Development-Single Family	A		
Residential Development-Duplexes/Multi-Family	R	A	
Design Review	R	R	A
Appeal	R	A	A
CUP	R	A	
Variance	R	A	
Zoning Map Amendment	R	R	A
Zoning Ordinance Amendment	R	R	A
Enforcement Action	A	A	A
Appoint Zoning Administrator		A	A

Appoint Members of Boards & Commissions			A
R= Review & Recommend; A = Authority for Final Action			

Article 11.10.0 ZONING COMPLIANCE PERMITS

11.10.10 **PURPOSE**

No structure shall be built, moved or added to until a Zoning Compliance Permit has been issued by the Planning and Zoning Commission or their agent.

11.10.11 Zoning Compliance Permits

1. Zoning Compliance Permits shall be issued only for uses in conformity with these regulations or upon approved conditional use permits or variances where authorized by the County Commissioners.
2. For buildings which clearly comply with all of these regulations, Zoning Compliance Permits may be issued by the Zoning Administrator in the name of the Planning and Zoning Commission
3. In the event a prospective building does not comply with the provisions of these regulations or in the case of an administrative conditional use or a conditional use, no Zoning Compliance Permits may be issued unless a variance or conditional use approval has first been issued

11.10.12 Forms and Content

A Zoning Compliance Permits application shall be made on forms provided by the Planning and Zoning Commission or its agent and shall be accompanied by a scale drawing showing:

1. The shape and dimensions of the lot.
2. The position of the building on the lot and dimensions of the building.
3. The location of water and sewage lines.
4. The access to a street and/or alley.
5. North arrow and Scale.
6. Indication of bordering uses.
7. The location and height of any proposed fence.
8. And any other information that may be required to reach a decision.
9. The above requirements may be waived by the Zoning Administrator if the applicant consults with the Administrator prior to submission and the scale of the project does not require such detail to reach a decision.
10. A fee as set by the County Commissioners shall be submitted to the County Clerk & Recorder upon application for a Zoning Compliance Permits.

11.10.13 Conditional Use Permits or Variances

Conditional use permits and variances shall be issued by the Board of County Commissioners upon holding a Public Hearing and executing a written finding of fact that the intent and purpose of these regulations are upheld.

11.10.14 Administrative Conditional Use/Conditional use Permit

Conditional use permits may be issued for any uses or purposes for which such permits are required or permitted by the terms of these regulations. Such permits may be granted only if it is found that the establishment, maintenance, or operation of the use, or building will not be detrimental to health, safety, peace, morals, comfort, and general welfare of the neighborhood. Nor will the granting of such permit to be detrimental or injurious to property and improvements in the Planning and Zoning District or in the County.

A. TERMS OF ISSUANCE

An administrative conditional use/conditional use permit may be issued for a revocable, temporary, permanent, or fixed-term period. It may contain such conditions including but not limited to:

1. Requirements for landscaping to protect adjoining property.
2. Regulations of placement of uses in the property.
3. Regulations of the nature and extent of the use.
4. Requirements for guarantees in the form of bonds, cash deposits and/or other evidence of compliance to secure compliance with the terms of the permit

11.10.15 Procedure - Conditional Uses and Variance

- a. Application for conditional use permits or a variance shall be filed with the Zoning Administrator on forms provided, accompanied by a non-refundable fee set by the Commissioners.
- b. Notice of Public Hearing: Whenever an application of filing. At least ten (10) days before such hearing the Board of County Commissioners shall give notice to all persons owning property within 100 feet of the lot or lots in question and publish the notice at least once in a newspaper of general circulation in the county.
- c. Consultation with the Planning and Zoning Commission. The recommendation of the Planning and Zoning Commission may be sought before the public hearing.
- d. Decision: After completion of the Public Hearing the Board of County Commissioners shall make its decision in writing, which shall include finding of fact that the criteria of these regulations were satisfied and the use is within the intent and purpose of these regulations and include any conditions of approval.
- e. If an application for a conditional use permit or variance is rejected on its merits, by the Board of County Commissioners, no further application for a permit for the same use on the same property maybe filed for a period of one (1) year from the date of the decision, unless with the permission of the Board of County Commissioners. Such permission shall be granted only if the application can show a substantial change of conditions from those existing at the time of the denial.

11.10.16 Appeal.

- a. Appeals from any decision of the Zoning Administrator concerning the interpretation of these regulations may be taken in writing to the Planning and Zoning Commission. They must be submitted to the Planning and Zoning Commission within ten (10) working days from the decision of the Zoning Enforcement Agent. A public hearing shall be held only if a variance or conditional use permit is involved.
- b. The applicant, or any person residing in the Planning and Zoning District, or any other person aggrieved by any decision of the Planning and Zoning Commission, or the Board of County Commissioners, may seek review by the District Court of the State of Montana, in and for Dawson County. Such appeal shall be by petition to the District Court and shall be initiated by serving and filing a petition thirty (30) days after the Commission's or Board's decision has become final.

11.10.17 Revocation, Modification, Expiration of Zoning Compliance Permits, Conditional Use Permits, and Variances.

- a. All Zoning Compliance Permits unless otherwise provided by the Planning and Zoning Commission, shall expire after ninety (90) days unless utilized by engaging in the use authorized work. In addition, the exterior of the building must be completed within one (1) year from the issuance date of the Zoning Compliance Permits.
- b. All variance and conditional use permits, unless otherwise provided by the Board of County Commissioners, shall expire after one (1) year unless utilized by engaging in the use authorized.
- c. If a permit or variance has not been utilized or work has not begun at the time of reclassifications, district boundary changes or amendments to these regulations that affect the terms of the permit becomes effective, the permit or variance automatically expires.
- d. If the conditions of the permit or variance are not met within one year of granting and not modified through the same granting procedure, it shall become void.
- e. Extensions for Zoning Compliance Permits may be granted by the Planning and Zoning Commission or by the Zoning Administrator at least fifteen (15) days in advance of the expiration date. Extensions shall be granted for ninety (90) days only.
- f. Extensions for conditional use permits or variances may be granted by the Board of County Commissioners if application is made at least thirty (30) days in advance of the expiration date. Extensions shall be granted for only one (1) year and the Planning and Zoning Commission must issue a written finding of fact that there exists no substantial change in conditions upon which the original permit or variance was granted.

Article 11.11.0 ENFORCEMENT

1. All Departments, Officials, and Public Employees of Dawson County which are vested with the duty or authority to issue permits or licenses, shall issue no such permits or licenses for a use, building, or purposes which are not in conformity with these regulations, if issued in conflict with these regulations they shall be null and void.
2. It shall be the duty of the Planning and Zoning Commission, its officers, agents, and employees to enforce the provisions of these regulations. It shall be the duty of all officers of Dawson County whose duty is the enforcement of County Regulations to enforce these regulations.
3. Upon order of the Board of County Commissioners, the County Attorney shall bring action in the name of Dawson County in the District Court to enjoin violation of these regulations.
4. Penalty: Any person, firm, or corporation that violates, disobeys, omits, neglects, or refuses to comply with these regulations shall be fined not less than twenty-five dollars (\$25.00) and not more than three hundred dollars (\$300.00) for each day the violation exists after being served written notice of violation by the Zoning Enforcement Agent. Any building erected, moved, or structurally altered or land or premises use in violation of these regulations is hereby declared to be a common nuisance and as such may be abated.

Article 11.12.0 AMENDMENT

11.12.10 **AMENDMENT**

- a. Amendments, supplements, or modifications of the text of these regulations or the official map can be initiated by petition of:
- b. Twenty percent (20%) of the land owners of the entire Planning and Zoning District;
- c. Fifty percent (50%) of the land owners affected by a boundary change; or
- d. By recommendation of the Planning and Zoning Commission.
- e. Petitions shall state the nature of the amendment or boundary change and the reason for the request, and shall be submitted to the Planning and Zoning Commission or the Zoning Administrator and shall be accompanied by a non-refundable fee as set by the County Commissioners.

11.12.20 **Notice**

- a. Notice of the public hearing on the amendment or boundary change shall be posted in at least three (3) public places within the area affected.
- b. Notice of the public hearing and the resolution of intent to amend these regulations shall be published at least once in a newspaper of general circulation at least ten (10) days prior to the hearing. In the case of a boundary change all property owners affected by the change as well as those within one hundred (100) feet of the proposed change shall be notified by mail.

11.12.21 County Planning Board

The advice of the County Planning Board may be sought before a recommendation is made.

11.12.22 Public Hearing

Notice of the public hearing shall be posted as follows:

- a. Not less than fifteen days from the posting, a public hearing shall be held by the Planning and Zoning commission.
- b. The Planning and Zoning Commission shall review the petition and make a recommendation in writing to the County Commissioners within thirty (30) days of receipt for the petition.
- c. A vote of the majority of the Planning and Zoning commission is required to make a change.

11.12.23 Decision Timing

Within twenty (20) days of receiving the Planning and Zoning Commission's recommendation the Board of County Commissioners shall vote on a resolution to adopt, modify, or reject the proposed amendment. The Board of County Commissioners may change or modify the amendment but not to the extent that it negates the original intent of the proposed amendment. The amendment, if approved, shall be adopted by resolution and such action shall be final as to all matters involved in the petition; provided, however, if there is a valid written protest.

11.12.24 Aggrieved Parties

An applicant, or any person in the Planning and Zoning District, or any other person aggrieved by any decision of the Planning and Zoning Commission, or the Board of County Commissioners, may seek review by the District Court of the State of Montana in and for Dawson County. Such appeal shall be by petition and shall be initiated by saving and filing a petition within thirty (30) days after the Commission's decision has become final.

11.12.30 **NONCONFORMING USES**

11.12.31 General

The provisions of this section shall apply to buildings, structures, lots, and uses which become nonconforming as result of the application or amendment of these regulations.

11.12.32 Continuation

The lawful use of land, buildings, or structures existing at the time of adoption of these regulations, although such use does not conform to these regulations may be continued, but if such nonconforming use is discontinued for a period of twelve (12) months any further use of such building or lands, shall be in conformity with the provisions of these regulations.

11.12.33 Alteration - Enlargement

No nonconforming building or structure shall be altered, enlarged, or extended which increase its nonconformity, but may be altered, enlarged, or extended to decrease its nonconformity.

11.12.34 Alteration - repair

Any nonconforming building or structure may be repaired or altered in a manner that does not increase its nonconformity whenever such repairs are necessary or convenient to the use of the building or when such repairs are ordered by legal authority.

11.12.35 Damage or Destruction

Any nonconforming building or structure that is damaged or destroyed to the extent of its assessed valuation shall not be rebuilt and the use of the land shall conform to these regulations.

Article 11.13.0 SEVERABILITY

Should any section, clause, or provision of these regulations be declared by the court to be invalid, the same shall not affect the validity of these regulations as a whole or any part thereof, other than the part declared to be invalid.

11.13.10 *PURPOSE AND INTENT*

For the purpose of these regulations, certain terms and words are hereby defined. Words used in the present tense shall also include the future, words or phrases used in the singular shall also include the plural, words in the plural shall also include the singular, the word “building” includes structure and “structure” includes building. The word “shall” is mandatory, the word “lot” shall include the word “plot”, “tract”, “piece”, and “parcel”.

11.13.20 *DEFINITIONS*

Accessory Building - A subordinate building or structure on the same lot, or part of the main building, occupied or devoted to a use incidental to the main use. Any accessory building that is greater than 120 square feet in size must meet the alley access setback standard.

Accessory Use - A use subordinate to the main use on a lot and incidental to the main use.

Alley - A minor public thoroughfare within a block upon which the rear of building lots generally abut, and which is not intended as a regular thoroughfare and is generally used for service purposes.

Building Height -The vertical distance from the average elevation of the finished grade at front of the building to the roof elevation.

Building Line - A line parallel to the lot line drawn at the point nearest the closest point of the foundation or bottom edge of a structure which is used to measure the set-back requirements.

Building Site - That portion of the lot that can be occupied by structures excluding the required front, side, and rear yards, rear parking area.

Curb Cut - A cut in the curb line for passage of vehicles.

Dwelling -A building or portion thereof, designed or used for residential occupancy, including single family, duplex, multiple family, modular and manufactured homes and primarily intended for permanent occupancy.

Dwelling, Duplex -One building designed for or occupied by two (2) families living independently of each other.

Dwelling, Manufactured Home - A dwelling which is either wholly or in substantial part manufactured at an off-site location, is larger than two hundred fifty-six (256) square feet in area and over thirty-two (32) feet in length and over eight (8) feet wide, which is constructed on its own chassis with wheels and designed to be towed to its destination. This definition also includes two (2) units which may be constructed separately but are designed to be joined into one unit on site, commonly referred to as a double-wide. Manufactured homes do not include mobile homes which is manufactured housing constructed prior to June 15, 1976 when HUD safety standards became effective

Dwelling, Modular - A factory built dwelling constructed off-site to meet a local or state building code and intended for placement on a permanent foundation. This dwelling may consist of several separate units or components that are intended to be joined as one unit on site.

Dwelling, Multiple Family - One building designed for or occupied by three (3) or more families.

Dwelling, Single Family - Any building structure designed with accommodations for occupancy by only one (1) family.

Family - Any individual, or two or more persons related by blood, marriage, or adoption, or a group of not more than four (4) persons who need not be related by blood, marriage, or adoption living together as a single non-profit housekeeping unit.

Floor Area - The gross floor area within the exterior walls of a building excluding basements and garages.

Fowl - Birds typically raised for meat, eggs, or feathers such as but not limited to chickens, ducks, geese, guinea hens, or peacocks.

Garage - An accessory building or portion of a main residential building used primarily for the storage of private passenger motor vehicles, or other private transportation vehicles.

Home Occupation - Any occupation or business carried on in a residence or its accessory buildings by one or more members of the family and which is clearly incidental and secondary to the use for residential purposes. **A Marijuana Dispensary, by definition, is not an allowable Home Occupation.**

Livestock - Farm animals such as but not limited to cattle, sheep, pigs, goats, rabbits, horses, donkey, and mules.

Livestock or Fowl: The keeping or raising of domestic livestock or fowl for show, breeding or other purposes is prohibited within the in the Zoning District.

Lot (parcel plot piece, tract) - Land held as an individual unit of undivided ownership shown on the most recent plat or other record of subdivision.

Lot, Corner - A lot located at the intersection of two (2) streets bounded on two contiguous sides by a street or road.

Lot Coverage -The total area of a lot covered by the principal and accessory buildings.

Lot, Interior - A lot other than a corner lot.

Lot Lines - The lines bordering a lot as described in the deed or other record of conveyance, or street right-of-way line in the case of road easements.

Lot, Through - An interior lot having frontage on two streets which are parallel or nearly so.

Manufactured/Modular Homes - See Dwelling - Manufacturing Homes.
 Modular Home - See, Dwelling, Modular Home.

Nursing Home/Adult Care Facility - A long term care facility which provides nursing and/or assisted living for health-related services on a 24-hour basis.

Marijuana Dispensary. A Marijuana Dispensary is any building, premises, facility, or part thereof where marijuana is made available to consumers in accordance with Montana Law. A Marijuana dispensary is NOT an allowable Home Occupation.

No Alley Access - A structure not having access to the alley is limited to a penetration facing the alley not greater than 35 square feet in size.

Parking, Off Street - A space located on site, off any public/private right of way and with access to a public/private street or alley intended for parking of a motor vehicle, measuring at least 9 x 18 feet and including any maneuvering room and space needed for entrance and exit from the vehicle.

Setback - The minimum horizontal distance required between any structure and lot line. For the Primary Structure, this distance is measured from the point of the foundation or bottom edge of the structure which is nearest to the lot line. For all accessory structures, this distance is measured from the farthest protrusion of the structure to the lot line.

Sign - Any face of any lettered or pictorial device and/or structure designed to inform or attract attentions.

Story - That portion of building included between the surface of a floor and the ceiling next above it.

Story, Half - A story under a gable, hip or gambrel roof, the wall plates of which on at least opposite exterior walls, are not more than two (2) feet above the floor of such story.

Street - A public thoroughfare minimum thirty (30) feet or more in width.

Street, Front - A street on which the lots of a subdivision or a city block generally front.

Street, Side - A street intersecting a front street.

Structure - Anything which is constructed or erected, the use of which requires a more or less permanent location on the ground or attachment to something having a permanent location on the ground.

Truck farm - A farm devoted to the production of vegetables for market.

Use - Any purpose for which any tract of land or building or other structure is designed, arranged, intended, maintained, or occupied; or any activity, occupation, business or operation carried on or intended to be carried on or in a building or other structure or on a tract of land.

Use, Permitted - Those uses allowed in a specific district as a matter of right listed in to the district regulations.

Use, Administrative Conditional - A use which is not allowed as a matter of right but which may be permitted upon a determination by the Zoning Administrator that the use is compliant with the intent of these regulations and any impacts above those typical of a permitted use can be fully mitigated.

Use, Conditional - A use which is not allowed in a district as a matter of right but which is permitted upon a finding of the Commissioners that the use are in harmony with the principal permitted uses of that district. Allowable conditional uses are specifically listed under each district regulations. Uses not so listed shall not be allowed as conditional uses.

Use, Nonconforming - Any use of land or buildings that lawfully exists, which, after the passage of these regulations or any amendment thereto, does not conform to the regulations of the district in which it is located.

Variance - The relaxation of the terms of the zoning regulations that will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulations would result unnecessary and undue hardship.

Yard - An open space on the same lot with the building, unoccupied or unobstructed by any portion of a structure excluding steps, decks, porches, and eaves from the ground upward. For accessory structures steps, decks, porches and eaves shall meet the setback.

Yard, Front - A yard extending across full width of the lot between the front building line and front lot.

Yard, Rear - A yard extending across the full width of the lot between the rear building line and rear lot line.

Yard, Side - A yard extending the full depth of the lot between the building line and the side lot line.

Setback Diagram

