7.2 AGRICULTURAL (A) DISTRICTS

7.2.1 MINIMUM LOT AREA

The minimum lot or tract area in an A Agricultural District shall be twenty (20) acres except for lots created by any of the following processes as allowed under the Montana Code Annotated:

(1) order of any court of record in this state or by operation of law or that, in the absence of agreement between the parties to the sale, could be created by an order of any court in this state pursuant to the law of eminent domain;

(2) to provide security for mortgages, liens, or trust indentures for the purpose of construction, improvements to the land being divided, or for refinancing purposes;

(3) creates cemetery lots;

(4) is created for rights-of-way or utility sites;

(5) for gift or sale to a member of the immediate family; and

(6) a remainder of an original tract created by segregating a parcel from the tract for purposes of transfer if:

(i) the remainder is served by a public or multiple-user sewage system approved before January 1, 1997, pursuant to local regulations or current MT DEQ regulations; or

(ii) the remainder is 1 acre or larger and has an individual sewage system that was constructed prior to April 29, 1993, and, if required when installed, was approved pursuant to local regulations or current MT DEQ regulations.

7.2.0.1 MINIMUM LOT WIDTH

The minimum lot or tract width in an A District shall be two-hundred (200) feet.

7.2.0.2 HEIGHT LIMITS

No restrictions, except as regulated in the Military Overlay District.

7.2.0.3 REQUIRED YARDS

The minimum side yard, front yard, rear yard and streamside setback for any lot or tract in an A District shall be the same as that required for the Residential Districts as provided in Section 7.1.0.3.

7.2.0.4 LOT COVERAGE

All buildings and accessory buildings shall not cover more than forty percent (40%) of the lot or tract.

7.2.0.5 SIGNS

Agricultural District signs shall be subject to the regulations contained in Section 8.1.1, pertaining to permitted use, and on the same lot therewith. No off-premise signage allowed.

7.2.0.6 OFF-STREET PARKING

In an Agricultural District off-street parking shall be provided in accordance with Section 8.4.

7.2.2 PERMITTED PRINCIPAL USES

(1) Agricultural uses of land; usual agricultural buildings and structures.

(2) Public Building.

(3) Public Safety Facility.

(4) Park.

(5) Community Center.

(6) Public and private forest and wildlife preserve and similar conservation areas.

(7) Commercial dairy if on a parcel 20 acres or greater.

(8) Riding and roping arena, excluding commercial rodeo grounds, commercial stables, animal therapeutic facilities, providing such use shall be at least two hundred (200) feet from any lot in any other District. Participants must number less than twenty-five (25) total for all events or a special use permit is required. Parcel must be 20 acres or greater.

(9) A one or two family dwelling(s) on a parcel of 20 acres or greater.
(example: 1 single family home or 1 duplex for two families or

two single family homes). If a parcel is less than 20 acres, a second dwelling is allowed with an approved Special Use Permit.

(10) Golf driving range if located on a tract of five (5) acres or greater.

(11) Campground, Recreational Vehicle Park.

(12) Bed and Breakfast.

(13) Tourist Home.

(14) Tower and studio facilities related to radio, television broadcasting stations, telecommunications, amateur radio station and/or antenna meteorological towers, residential wind turbines not to exceed 50 kW, Amateur Radio operations, subject to the requirements in Section 8.8 of these regulations.

(15) Power Plant, Commercial Wind Farms/ (not to exceed one (1) megawatt) subject to the requirements of Section 8.10 of these regulations.

(16) Commercial building for raising, breeding and boarding small domestic animals provided that such building, including dog runs, shall be at least one hundred (100) feet from all property lines and shall comply with the standards listed in Section 8.7.

(17) Community Garden.

(18) On-Site Construction Office.

7.2.3 PERMITTED ACCESSORY USES LOCATED ON THE SAME LOT WITH THE PERMITTED PRINCIPAL USE

Accessory buildings and uses customarily incidental to any of the above A District uses

(1) On tracts of land 160 acres or larger, a dwelling or dwellings of owner or lessee of the land. These may be occupied by employees of the owner or lessee of the land. They may be occupied by any person or persons the owner or lessee of the land desires so long as the dwelling or dwellings are not rented, leased, or used for any commercial or industrial uses. (Acceptable uses include a ranch manager house on the ranch owner's property, a Hutterite colony, a farmer who allows his relatives to live in a house that he owns on his property, etc.).

(2) Roadside stands offering for sale only local agricultural products or other products produced on the premises.

7.2.4 USES PERMITTED UPON ISSUANCE OF A SPECIAL USE PERMIT

(1) Cemetery, including mausoleum and crematorium provided that any mausoleum or crematorium shall be a distance of at least two hundred (200) feet from any adjacent property or street and highway lines and provided, further, that any new cemetery shall contain an area of twenty (20) acres or more.

(2) Quarry (including cutting, breaking, shaping, and finishing of quarried rock) , sand and gravel pit, top soil stripping, providing that any building housing power or power producing machines shall be a distance of at least two hundred (200) feet from all adjacent property or street and highway lines. Operational hours shall be limited from 7:00 a.m. until 7:00 p.m.

(3) Public or privately owned airport, landing area, or helipad. Site must be a minimum of 20 acres and 1000 feet from schools.

(4) Storage of building materials and equipment and temporary building(s) utilized in conjunction with the construction of a development project. Such storage or building(s) shall not exceed the duration of such construction or a time as may be stipulated by the Zoning Board of Adjustment.

(5) Veterinary clinic provided that the structure and use are not less than two hundred (200) feet from any residential district.

(6) Commercial propagation, boarding, grazing or butchering of small animals and fowl provided that the animals may not be stabled or processed within two hundred (200) feet from any property line and the operation is not considered a wholesale feed lot or meat packing use.

(7) Commercially operated feedlots or concentrated animal feeding facilities if located on a tract of land 40 acres minimum in size and no adjacent residences are within one (1) mile at the time of application.

(8) Mobile Home Park/Mobile Home Court.

(9) Storage Facility, Self-Service where indoor storage space is provided for rent or lease and subject to the following conditions:

(a) Principal use of a rented or leased space shall be restricted to storage and shall not include processing, refining, transfer or distribution of any commercial material or product; and

(b) Storage of flammable or explosive liquids, solids, or gases shall not be permitted.

(c) Landscaping requirements shall be in accordance with Section 8.18

(d) All material must be stored inside units. Storage of licensed, operable, vehicles including but not limited to Recreational Vehicles, Cars, Trucks, Vans, Trailers, Boats, Motorcycles, and All Terrain Vehicles, may be outside provided that proper screening, approved by the Planning Director, as to shield these units will occur.

(10) Motorized Sports Entertainment provided that no residences are located within 1 mile of the proposed use, at the time of application.

(11) General Sales, including Agricultural Sales, Auction Sales, Convenience Sales, Shopping Center, Specialty Sales.

(12) Small and Large Equipment Rental / Sales / Repair and General Repair.

(13) Hospital, Health Care Centers and Facilities, provided parcel size is twenty (20) acres or greater.

(14) Solid Waste Disposal Site, Solid Waste Transfer Station, Recycling Center, and Composting Facilities, provided parcel size is twenty (20) acres or greater.

(15) Utilities both minor and major.

(16) Bus Transit Terminal, Freight Terminal, and Railroad Yards, provided parcel size is twenty (20) acres or greater.

(17) Junk Yard/Salvage Yard, provided parcel size is twenty (20) acres or greater.

(18) Outdoor Sports and Recreation / Outdoor Entertainment, including commercial rodeo grounds, commercial stables, riding academy, and animal therapeutic facilities.

(19) Indoor Sports and Recreation / Indoor Entertainment including commercial rodeo grounds, animal therapeutic facilities, riding academy, and commercial stables.

(20) Outfitter/Guide Facility.

(21) Federal Firearm Retailers, Dealers, Repairers.

(22) Guest Ranch, provided parcel size is 20 acres or greater.

(23) Oil and gas exploration, drilling, and production subject to the requirements of Section 8.13 of these regulations.

(24) Manufactured housing sales.

(25) Commercial propagation, boarding, grazing, or butchering of animals and fowl provided that the animals may not be stabled or processed within one (1) mile from any adjacent residences. The adjacent residences must be residences that are present prior to the date of receiving the application for this use. The operation can be used as a wholesale feed lot, meat packing plant, slaughterhouse, rendering plant, and the like.

(26) Distillery

(27) Value Added Agricultural Commodity Processing Facility. This may include processing, manufacturing, storage, and the like

(28) Warehouse.

(29) Parking structure/garage.

(30) Artisan shop.

(31) Light manufacturing & assembly.

(32) Power Plant.

(33) Tourist cabins.

(34) Worship facility.

(35) Educational facility.

(36) Golf course or country club, including directly associated incidental and accessory facilities including a pro shop, lounge and restaurant catering only to users of the golf course; but not including commercially operated pitch and putt course or miniature golf course. Also includes swimming pool, soccer, baseball, softball fields and the like.

(37) Day Care Center, Group Day Care Home, Family Day Care Home, Community Residential Facility.

(38) Nursing Home, Retirement Home.

(39) Second dwelling unit on parcel less than 20 acres.

(40) Contractor Yard, small (8.15.1).

(41) Workforce Housing (Permanent Labor Camp).

(42) Temporary Workforce Housing (Temporary Labor Camp).

(43) Agricultural Commodity Storage Facility.

(44) Membership Club.

9.4 MINOR VARIANCES

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

9.5 VARIANCES

9.5.1 APPLICATION AND REVIEW PROCEDURE FOR VARIANCES THAT DO NOT RELATE TO THE SUBDIVISION REGULATIONS

(1) **Submittal of application**. The applicant shall submit a completed application to the County Planning Division along with the application / appeal fee **($250**) as may be established by the County Commission.

(2) **Determination of completeness**. Within 10 working days of submittal, the Planning Director shall determine if the application is complete. If the application is deemed incomplete, it shall be returned to the applicant and the applicant has 6 months to resubmit the application or forfeit the application fee. The director shall take no further steps to process the application until the deficiencies are remedied

(3) **Notice**. Consistent with Section 12 of these regulations, the director shall provide for public notice, property owner notification, and agency notification, when applicable. If a variance is requested for Military Overlay District height regulations, a copy of the application will be sent to Malmstrom for review and comments. Any comments or recommended mitigations will be forwarded to the Zoning Board of Adjustment to consider with their decision. If no comments are received within 15 working days, it will be determined Malmstrom's reviewing staff had no objections. A height variance may only be denied due to a concern expressed by the US Military that cannot be mitigated to the Military's satisfaction.

(4) **Staff report.** The director shall prepare a written staff report as described in this article and mail it to each member of the Zoning Board of Adjustment, the applicant, and the applicant's agent, if

any, no later than 3 days prior to the public hearing. He/she shall also provide a copy to interested people upon request.

(5) **DNRC notification of application.** If the variance is related to the floodplain regulations, the floodplain administrator shall send a copy of the application to the Montana Department of Natural Resources and Conservation, Floodplain Management Section.

(6) **Public hearing.** Allowing for proper notice, the Zoning Board of Adjustment shall hold a public hearing to review the application.

(7) **Decision.** Within 30 days of the determination of completeness, the Zoning Board of Adjustment shall approve the application, approve it with conditions, or deny it. Such decision shall be in writing and shall include the findings in support of its decision and if approved any conditions as may be imposed.

(8) **DNRC notification of decision.** If the variance is related to the floodplain regulations, the floodplain administrator shall send a copy of the decision to the Montana Department of Natural Resources and Conservation, Floodplain Management Section.

(9) **Applicant notification.** Within 5 days following the decision, the director shall mail the applicant the original (signed) copy of the decision and retain a copy for the public record.

(10) **Additional procedural steps.** If the Board grants the variance, the applicant shall then follow other review procedures as may be required.

9.5.2 BASIS OF DECISION FOR A DIMENSIONAL VARIANCE

A dimensional variance shall only be granted when the evidence shows and a finding can be made that each of the following conditions exists:

(1) The variance is not contrary to the public interest.

(2) A literal enforcement would result in unnecessary hardship, owing to conditions unique to the property.

(3) The spirit of this Section would be observed and substantial justice done by granting the variance.

9.5.3 ADDITIONAL FINDINGS NECESSARY FOR A FLOODPLAIN VARIANCE

In addition to the general findings required above, the following findings shall apply to variances from floodplain requirements:

(1) The proposed use will be adequately flood-proofed.

(2) A reasonable alternate location outside the floodplain is not available.

(3) The granting of the variance will not cause increased flood hazards, present additional threats to public safety, create an extraordinary public expense, create a nuisance, or otherwise conflict with federal, State, or other local laws.

9.5.4 VOTE NEEDED FOR ZONING BOARD OF ADJUSTMENT ACTION

The concurring vote of 3 members shall be necessary to approve a variance. (MCA)76-2-224.

9.5.5 LIMITATIONS ON ISSUING A VARIANCE

The following actions shall not be allowed by a variance:

(1) Expansion of a nonconforming use.

(2) Modification to lot or other requirements so as to increase the permitted density or intensity of use.

(3) Any project within a floodway that increases flood velocities or elevations.

(4) Allow an amortized sign to continue.

9.5.6 IMPOSITION OF CONDITIONS

In approving a variance, the Zoning Board of Adjustment may impose such conditions and restriction as may be necessary to grant approval.

9.5.7 AIRPORT HEIGHT VARIANCES

If a variance to the height restrictions for parcels in the vicinity of the Great Falls International Airport is granted, the County may require the applicant, at the applicant's expense, to install, operate, and maintain the lights and markers necessary to warn pilots of the presence of an airport hazard. (MCA) 67-4-314.

9.5.8 NOTIFICATIONS REGARDING SPECIFIED VARIANCES

If a variance is granted to allow construction of a structure below the 100-year floodplain elevation, the floodplain administrator shall notify the applicant that flood insurance premium rates may be higher than normal and such construction increases risks to life and property.

9.5.9 STAFF REPORT CONTENT

At a minimum, the staff report shall contain the following information:

(1) A summary of the comments received from the interdepartmental/agency review.

(2) Findings for each of the decision criteria listed in this article.

(3) A preliminary list of conditions if approval is recommended; and

(4) A recommendation to approve the application, approve it with conditions, or deny the application.

9.5.10 EFFECT OF APPROVAL

An approved variance merely sets aside the rule or regulation from which relief is sought. All other rules and regulations not part of the variance decision must be followed.

9.5.11 EXPIRATION OF APPROVAL

The variance shall expire one year after the date of issuance unless substantial work has commenced under the permit and continues in good faith to completion.

9.5.12 APPEAL

The applicant and/or an aggrieved person may appeal a final decision made pursuant to this section by filing an appeal with a court of competent jurisdiction within 30 days of the final decision. (MCA) 76-2-227 (1).

SECTION 10. STANDARDS FOR SPECIAL USE PERMITS

10.1 GENERAL PROVISIONS

A special use is a use for which conformance to additional standards will be required and shall be deemed to be a permitted use in its respective district, subject to the standards and requirements set forth herein, in addition to other applicable requirements of these regulations. All such uses are hereby said to possess characteristics of such unique and special forms that each specific use shall be considered as an individual case.

A special use permit may be issued only upon meeting all requirements in these regulations for a specific use which is explicitly mentioned as one of the "Uses Permitted Upon Issuance of a Special Use Permit as Provided in Section 10" within the respective zoning districts contained in Section 7 or Section 8.1.5 hereof. After the public hearing is closed, the Zoning Board of Adjustment can approve, deny, or approve with conditions the Special Use Permit. A separate Special Use Permit shall be required per each tract of land. The Special Use Permit fee shall be $450.00.

10.2 REQUIRED PLAN

An applicant must notify the Planning Division and request a pre-application meeting with planning staff. The pre-application meeting will be scheduled within thirty (30) days of the request. At this meeting, staff will indicate the necessary information, process, and timeline for the special use permit process.

The application for a special use permit must include the following and any additional materials requested by Planning Staff during a pre-application meeting or relevant to the Special Use Permit:

(1) A special use permit application signed by the land owner and by the applicant if different from the land owner.

(2) A vicinity map of the parcels and surrounding area clearly identifying the location of the property.

(3) A legal description of the property.

(4) A lot layout plan may be required indicating some or all of the following:

(a) Identify any covenants, liens, easements or any other encumbrances upon the parcel. If a description will not suffice, provide copies or exhibits when necessary.

(b) The land area of the parcel (found on deed, subdivision plat or certificate of survey at the Office of the County Clerk and Recorder or Planning Division).

(c) Describe the existing land use of the parcel and neighboring

areas.

(d) Describe the anticipated impact upon neighboring property.

(e) On a site plan, indicate the dimensions of the property under consideration, the size and placement of existing structures, parking areas and landscaping areas.

(f) On a site plan, indicate the location of existing curb cuts or access points, traffic access and circulation, drives, signs, exterior lighting, required yards and open spaces, landscaping and screening.

(g) On a site plan, indicate the location of any existing utilities such as water, sewer, gas, electricity, storm sewer, rivers, creeks, streams, irrigation ditches, easements, historical land marks, or any other items that may affect the application and/or other pertinent information as required in Section 10.5 that may be necessary to determine if the special use meets the requirements of these regulations.

10.3 PUBLIC NOTIFICATION

A public hearing shall be required for all special use permit applications heard by the Cascade County Zoning Board of Adjustment. Notice shall be provided for as set by MCA 7-1-2121. The notice shall be published in a newspaper of general circulation in Cascade County, twice with at least six (6) days separating each publication.

The owner of the property for which a special use is sought or their agent and all adjacent land owners shall be notified of the hearing by certified mail. At the public hearing, the Zoning Board of Adjustment will hear testimony from proponents and opponents of the special use permit application. After the public hearing is closed, the Zoning Board of Adjustment may approve, deny, approve with conditions, or table for further consideration until the next Zoning Board of Adjustment meeting, the special use permit.

10.4 EXPIRATION

The Zoning Board Of Adjustment approval of the Special Use Permit shall be valid for only one particular use and shall expire one year after the date of the approval, if construction or the use has not started. The Zoning Administrator may grant a one time only six (6) month extension on the Zoning Board Of Adjustment approval.

The Special Use Permit shall expire if the use ceases for six (6) months for any reason. Any further extension requests must be granted by the Zoning Board of Adjustment prior to the date of expiration.

10.5 EXISTING VIOLATIONS

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

10.6 STANDARDS APPLICABLE TO ALL SPECIAL USES

Before the Board of Adjustment can approve any Special Use Permit, it must first reach each of the following conclusions:

(1) Conditions may be required that the Zoning Board of Adjustment determines if implemented, will mitigate potential conflicts in order to reach these conclusions.

(2) The proposed development will not materially endanger the public health or safety.

Considerations:

(a) Traffic conditions in the vicinity, including the effect of additional traffic on streets and street intersections, and sight lines at street intersection and approaches.

(b) Provision of services and utilities, including sewer, water, electrical, telecommunications, garbage collections, and fire protection.

(c) Soil erosion, sedimentation, and stormwater runoff.

(d) Protection of public, community, or private water supplies, including possible adverse effects on surface waters or groundwater.

(3) The proposed development will not substantially injure the value of adjoining property, or is a public necessity.

Considerations:

(a) The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(b) Whether the proposed development is so necessary to the public health, safety, and general welfare of the community or County as a whole as to justify it regardless of its impact on the value of adjoining property

(4) The proposed development will be in harmony with the area in which it is located.

Considerations:

(a) The relationship of the proposed use and the character of development to surrounding uses and development, including possible conflicts between them and how these conflicts will be resolved.

(5) The proposed development will be consistent with the Cascade County Growth Policy.

Considerations:

(a) Consistency with the Growth Policy objectives for the various planning areas, its definitions of the various land use classifications and activity centers, and its locational standards.

(b) Consistency with the municipal and joint land use plans incorporated by the Growth Policy.

10.7 OPERATIONS

Operations in connection with the Special Use permits shall not be more objectionable to nearby properties by reason of noise, fumes, vibrations, or flashing lights, than would be the operation of any permitted use.

10.8 STAFF REVIEW

After an application is reviewed by the Planning Staff and deemed to be complete, staff will proceed with notification of adjoining property owners, posting of the notification of public hearings, and determine the date, time, and place for the public hearing to occur before the Cascade County Zoning Board of Adjustment.

10.9 ZONING BOARD OF ADJUSTMENT REVIEW

In reviewing Special Use Permit Applications, the Zoning Board of Adjustment will hold a public hearing to allow the staff, petitioner, and other interested parties to present competent, substantial, and material factual evidence relating to the required conclusions. The Board will then discuss the petition and makes findings of fact supported by the presented evidence. Based on those findings, the Board will decide whether or not it can reach each of the required conclusions. The Board may approve a petition only if it reaches all of the required conclusions. The Board may approve a petition subject to conditions reasonably necessary to carry out the purposes of this ordinance.

Note: The petitioner bears the burden of presenting sufficient factual evidence to support

findings of fact that allow the Board to reasonably reach each of the required conclusions.

After hearing presented evidence and the Board's discussion, the petitioner may ask the Board's permission to revise the petition to address raised concerns. If the Board grants the request, the Board may either adjust conditions to the Special Use Permit or table the review process until the next Zoning Board of Adjustment meeting to allow all interested parties the ability to submit additional comments to the revised petition.

If the petition is approved, the Planning Staff will prepare and issue the petitioner a conditional letter of approval indicating the conditions upon which the Special Use Permit will be issued. Once the petitioner satisfies the conditions set forth by the Zoning Board of Adjustment, the Planning Staff will issue the Special Use Permit.

10.10 APPEALING ZONING BOARD OF ADJUSTMENT DECISION

Appeals of the Zoning Board of Adjustment decision shall follow the process as outlined in Section 12 of these regulations.

10.11 REVOCABILITY

A violation of a special use permit will be treated as any other violation under Section 13 of these regulations.