

## **APPENDIX C: POTENTIAL ACTIONS**

### **POWER POINT OVERVIEW**

Potential Actions  
for Plan Implementation

## **BIG HORN COUNTY LAND USE PLAN**

### **POTENTIAL ACTIONS**

- ✘ Revise Current Regulations
- ✘ New Regulatory Programs
- ✘ Spending/Infrastructure actions
- ✘ Coordination with other entities
- ✘ Information/Planning actions

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Potential Actions

### **REVISION OF CURRENT REGULATIONS**

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### **MINOR SUBDIVISION PROCESS**

- ✘ Option under state law where county can relax subdivision regulations for up to five lots
- ✘ Allows county to waive state DEQ review and other relatively expensive requirements
- ✘ Big Horn County now has simple subdivision process for two lots and major subdivision process for larger projects
- ✘ Could be drawn up in such a way as to be an incentive (i.e., relaxed process allowed if no irrigated land being subdivided)

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### **FINANCIAL GUARANTEES**

- ✘ Financial guarantees are intended to make sure developer constructs all required improvements in a subdivision
- ✘ State law requires financial guarantees but is not very specific about how to do it
- ✘ Current subdivision regulations would be improved by including specific standards for financial guarantees
- ✘ Specific standards would streamline the process and provide defined, approved means for meeting general requirements of state law

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### **PROPERTY OWNERS ASSOCIATIONS**

- ✘ Property owners associations can be used for long-term maintenance of roads, water systems, and other quasi-public facilities in subdivisions
- ✘ Association can levy assessments for maintenance
- ✘ HB 10 of 2009 requires this for subdivision beginning in July 2009
- ✘ County cannot require association to govern the use of private property in the subdivision

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### **IMPROVEMENT AND SERVICE DISTRICTS**

- ✘ Improvement and service districts are taxing entities that can be formed for a limited area such as a subdivision
- ✘ District is an alternative to property owners association
- ✘ District board is elected through county election process and taxes appear on county tax bill
- ✘ District are generally more powerful and enduring than property owners associations and therefore more likely to continue maintaining the subdivision

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### **SUBDIVISION COVENANTS**

- ✘ Covenants typically address land usage, building requirements, and related issues in a subdivision
- ✘ Developers commonly voluntarily propose covenants as a marketing device
- ✘ Covenants are binding on all lot purchasers
- ✘ Covenants enforced by individual lot owners or by property owners association
- ✘ Covenants are not usually enforced by county
- ✘ County cannot require covenants that restrict use of individual properties in subdivisions

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### **DEVELOPMENT PHASING**

- ✘ Often subdivision regulations will have procedures to allow phased development of large subdivisions
- ✘ Typically, conceptual approval is granted to whole development while final approval is granted to sequentially to sections of the development
- ✘ Phasing allows developer to build the subdivision in parts—this spreads developer's capital outlay out over time
- ✘ Makes subdivision process more economically feasible in some cases

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### **INFRASTRUCTURE EXTENSIONS**

- ✘ Subdivision regulations may include provisions requiring developments near towns to coordinated their designs with exist town facilities plans
- ✘ Example: requiring subdivisions to extend streets following the town street pattern
- ✘ Over-sizing of utilities may also be required—developers install utilities large enough not just for their own development but also for future development in the area
- ✘ Developer is compensated for extra cost by future developers

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### **IMPACT FEES**

- ✘ Can be required for cost of public services required for the development
- ✘ Can be required for roads or other off-site improvements to public facilities required for the development
- ✘ Must be based on careful analysis of true costs unique to each development
- ✘ Can be complicated and difficult to establish equitable basis for fees

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### **TRANSPORTATION IMPACT ANALYSIS**

- ✘ Involves determining how traffic from new subdivisions will impact the county road system
- ✘ Identifies roads and bridges that should be upgraded to properly handle added traffic
- ✘ Can be used to require developer funding of off-site road improvements or to reduce the size of the development

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### **FIRE PROTECTION STANDARDS**

- ✘ Subdivision regulations can contain standards for provision of fire protection facilities within subdivisions
- ✘ National fire prevention standards can be adapted for use in the county
- ✘ Fire protection standards for subdivisions often include provisions for:
  - + Fire fighting water supply
  - + Wildfire prevention or mitigation
  - + Access standards

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### **HAZARDS/ENVIRONMENTAL INVENTORY**

- ✘ Involves providing information of the extent of hazardous areas and sensitive environmental features on land to be subdivided
- ✘ Hazards could include landslide areas, unstable soils, flood plains, etc.
- ✘ Environmental features could include wetlands, wildlife habitats, sensitive aquifers, etc.
- ✘ Inventory mapping is reviewed during early stages of subdivision design process

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### **IRRIGATION STANDARDS**

Subdivision regulations may contain additional irrigation standards beyond minimum state standards covering such issues as:

- ✘ Easements and setbacks from irrigation ditches
- ✘ Banning flood irrigation on smaller subdivision lots
- ✘ Requiring developers to install subdivision irrigation systems
- ✘ Requiring subdivision water masters to regulate irrigation water within the subdivision

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### **ENHANCED WASTEWATER TREATMENT STANDARDS**

- ✘ Counties can adopt wastewater treatment rules that are stricter than state standard
- ✘ Lincoln County classifies subdivisions as minor or major based on density of septic systems in the area—more systems, including existing systems means tougher review process
- ✘ County could also specify when a subdivision must have central water and/or sewer systems
- ✘ Any such standards must be reasonable and based on health and safety concerns

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### **RIGHT-TO-FARM/RANCH**

- ✘ Intended to protect agricultural operations from nuisance complaints originating from new neighbors
- ✘ Requires notice on subdivision documents regarding right-to-farm/ranch laws
- ✘ Notices include recognition of the existence of agricultural operations and their activities (odor, dust, noise, chemicals, machinery, etc.) in the area

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### **AGRICULTURAL IMPACT MITIGATION**

- ✘ Subdivision regulations can have standards that address impacts of development on existing agricultural operations
- ✘ Standards can address issues such as:
  - + control of weeds, pests and litter
  - + confining domestic pets that may threaten livestock
  - + protection and maintenance of irrigation facilities
- ✘ Standards may also require changes to the subdivision layout to minimize conflicts with agriculture (buffers and enhanced setbacks)

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## WILDLIFE MITIGATION

- ✘ To identify important wildlife habitats and design subdivisions to mitigate impacts
- ✘ Can involve:
  - + requiring developer have wildlife professional prepare mitigation plan if the development is in pre-defined important habitats or
  - + asking WG&F to review and comment on all subdivisions
- ✘ Subdivision regulations would require mitigation when wildlife impacts are identified
- ✘ Could include requirements on building locations, fencing, vegetation management, etc.

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## VISUAL IMPACT MITIGATION

- ✘ Subdivision regulation may contain detailed standards for minimizing visual impacts of new development such as:
  - + Concentrating structures in the least visually obtrusive portions of a property
  - + Locating structures at or below tree lines
  - + Locating structures below ridge lines
  - + Installing utilities underground
  - + Using natural terrain contours to mitigate the visual impact of new roads
  - + Re-vegetating cleared areas with native plants
  - + Using natural materials such as stone or wood, earth tone colors and ranch or lodge type architectural structures

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## SUBDIVISION INCENTIVES

- ✘ Regulations can offer incentives for desirable subdivision features
- ✘ Basic incentives include:
  - + Shorter and simplified procedures
  - + Reduced subdivision fees
  - + Reduced improvement standard (reduced road widths is often a relatively strong incentive)

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Potential Actions

## NEW REGULATORY ACTIONS

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## ZONING GENERALLY

- ✘ Divides the county into different zones
- ✘ Each zone may have different rules on placement, size, and use of land and buildings
- ✘ Can segregate different and incompatible land uses
- ✘ Can be used to protect environmental resources
- ✘ Very adaptable to priorities of the county

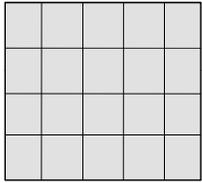
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## LARGE LOT ZONING

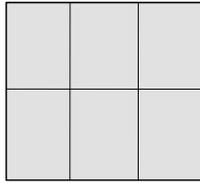
- ✘ Commonly used to limit growth
- ✘ Requires larger lot sizes in subdivisions, such as 5 acres and even as large as 160 acres
- ✘ Results in excessive consumption of land

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## LARGE LOT ZONING



5-acre minimum



15-acre minimum

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## AGRICULTURAL ZONING

- ✘ Specifically intended to preserve and protect agricultural uses of land
- ✘ Minimum lot size should be related to the minimum size of a viable agricultural operation
- ✘ In Big Horn County, minimum lot size in the range of 50 – 260 acres could be justified

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## SLIDING SCALE ZONING

- ✘ A form of agricultural zoning
- ✘ More flexible - allows small-lot development
- ✘ Disperses residential development
- ✘ Precludes large subdivisions

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## SLIDING SCALE ZONING

Size of Original Parcel	Number of Lots Allowed
0 - 15	1
15 - 40	2
40 - 80	3
80 - 130	4
130 - 180	5
180 - 240	6
240 - 300	7
300 - 370	8
370 - 450	9
450 - 530	10

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## PERFORMANCE ZONING

- ✘ Does not rely on allow/not allowed uses and specific lot size minimums
- ✘ Performance standards regulate form of development
- ✘ Standards cover issues like traffic impacts, light and glare impacts, noise impacts, landscaping, compatibility with neighboring uses, and others
- ✘ Can be harder for all to understand what is allowed
- ✘ Can be more flexible and accommodating than traditional zoning

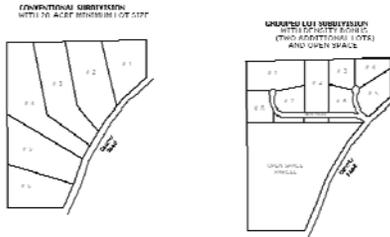
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## CLUSTER ZONING

- ✘ Addition to and modifies more basic zoning
- ✘ Allows smaller than standard lots in exchange for retention of open space
- ✘ May include “density-bonus” incentive
- ✘ Good at protecting part of a property
- ✘ Saves on infrastructure costs
- ✘ Density bonus means more development than would occur otherwise

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## CLUSTER ZONING



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## OVERLAY ZONES

- ✘ Addition to and modifies more basic zoning
- ✘ Overlay is usually set up to address specific resource or issue
- ✘ Overlay adds additional requirement to base zoning (must meet requirements of both)
- ✘ Commonly used for airports, floodplains, and scenic areas

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## DESIGN CONTROLS

- ✘ Zoning that requires compliance with design guidelines
- ✘ Used to address visual impacts and appearance of new development
- ✘ Guidelines can address building design, colors, materials
- ✘ Guidelines can address the way land is developed including utility locations, road designs, and building site locations

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## SIGN CONTROLS

- ✘ Commonly included in zoning
- ✘ Can be used to control size, location, lighting, height, etc., of advertising signs
- ✘ Absent zoning, sign control is limited to State program along U.S. highways

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## MOBILE/MANUFACTURE HOME STANDARDS

- ✘ Standards for mobile/manufactured homes can be specified in zoning
- ✘ Minimal requirement is HUD certification (1975-era homes or newer)
- ✘ Some counties require adherence to 1993 HUD Code (1993-era homes or newer)
- ✘ Additional requirements often address foundation systems, skirting, etc.
- ✘ Zoning or building code needed to address mobile/manufactured homes

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## NUISANCE LAND USES

- ✘ Zoning can be used to set standards for a variety of nuisance land uses
- ✘ Nuisance land uses can include junk yards, junk vehicles, sexually-oriented businesses, and others as defined by the locality
- ✘ Easier to enforce than the existing laws on junk and junk vehicles
- ✘ Can be adapted to local preferences

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### CONSERVATION DESIGN PROCESS

- ✦ New state enabling legislation (HB 9 of 2009)
- ✦ Optional at county's choice
- ✦ Allows clustering in land divisions made pursuant to the 35-acre exemption
- ✦ Allows up to 2 lots per 35 acres (doubles density) if 65% of land is preserved as open space
- ✦ Additional density bonus is allowed at county option (more than 2 lots per 35 acres)
- ✦ Outside the normal subdivision review process
- ✦ Zoning is not necessary to use this process

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### LARGE ACREAGE SUBDIVISIONS

- ✦ New state enabling legislation (SF 11 of 2008)
- ✦ Optional at county's choice
- ✦ Allows full county subdivision review of 10 or more lots of 35 to 140 acres
- ✦ For fewer than 10 lots, county can require survey, water rights and irrigation review, and water supply study

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### NUISANCE ABATEMENT REGULATIONS

- ✦ Statute modified in 2008 (SF 27)
- ✦ Counties may enact regulations defining nuisances that threaten health and safety
- ✦ After adopting such regulations, county can issue orders requiring abatement of nuisances
- ✦ Recipient of order can force a court hearing before county's order is final
- ✦ Fine is \$100 per day

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### TRANSFER OF DEVELOPMENT RIGHTS

- ✦ Allows landowners in rural areas to be compensated for restricting development
- ✦ Development rights on rural land are transferred to areas where development is wanted for consideration
- ✦ Increases development in "receiving areas" over what is normally allowed (this can be a problem)
- ✦ Usually only successful when development pressure is intense
- ✦ Technically very complex to administer
- ✦ Must have zoning to do transfer of development rights

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### POTENTIAL ACTIONS SPENDING/INFRASTRUCTURE ACTIONS

Potential Actions

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### PURCHASE OF DEVELOPMENT RIGHTS

- ✦ County purchases "development rights" off land and landowner retains title with conservation easement or similar deed restriction over the land
- ✦ Very effective for protecting agricultural land, scenic areas, wildlife habitats, and other important resource lands
- ✦ Relatively expensive to carry out on a broad scale
- ✦ Works best with dedicated funding stream

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### **FUNDING FOR AFFORDABLE HOUSING**

- ✘ Public funds can be used to provide infrastructure that would make affordable housing projects possible
- ✘ Best if projects are located in or near towns where public utilities are available

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### **COUNTY ROAD & BRIDGE ASSESSMENT**

- ✘ Involves quantifying the capacity of county roads and bridges as baseline for reviewing development impacts
- ✘ When new development traffic would overload the existing roads and bridges, developer would need to contribute to upgrade costs or scale back the development

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### **FUND EXPANSION OF TOWN INFRASTRUCTURE**

- ✘ Assist towns in expanding streets, water systems, sewer systems, etc., to prepare growth areas for development
- ✘ Could include:
  - + direct county funding and/or
  - + county support for grants or other outside funding

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### **FUNDING FOR TOWN AMENITIES**

- ✘ Assist towns in providing parks, non-motorized trails, etc.
- ✘ Could include:
  - + direct county funding and/or
  - + county support for grants or other outside funding

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### **PLANNING TECHNICAL ASSISTANCE FOR TOWNS**

- ✘ Towns will need technical assistance to plan their growth areas
- ✘ County could offer technical assistance to the towns for this planning
- ✘ Would probably require additional planning staff at county

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Potential Actions

### **COORDINATION WITH OTHER ENTITIES**

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### **TOWN-COUNTY PLANNING AGREEMENTS**

- ✘ Intergovernmental agreements that address process of joint town-county review of developments near towns but in county
- ✘ Best if based on up-to-date town master plans that address type, location, and intensity of development in border areas
- ✘ Should include county ratification of town plans as pertaining to border area

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### **TOWN-COUNTY IMPROVEMENT OF ENTRYWAYS**

- ✘ Towns and County can work together to improve the appearance of the main entry routes into the towns
- ✘ Land in county adjoining towns less regulated for appearance issues and may attract unsightly land uses not allowed in towns
- ✘ County regulation of signs, junkyards, etc, near towns could lessen disparity and improve appearance of entryways

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### **TOWN-COUNTY INFRASTRUCTURE PLANNING**

- ✘ Towns and county can jointly plan infrastructure improvements for future growth
- ✘ Coordination on improvements to town streets and county roads and bridge
- ✘ Could involve county technical assistance to towns

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### **COUNTY COORDINATION WITH FEDERAL AGENCIES**

- ✘ County has various avenues for becoming more influential with federal land management agencies
- ✘ County could create a county “federal land policy office” that:
  - + monitors federal processes
  - + gets involved in the process
  - + represents county concerns

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### **COUNTY SUBDIVISION ENFORCEMENT**

- ✘ County has a problem with illegal land divisions bypassing the subdivision review process
- ✘ Correcting this will take coordination between county offices including planner, clerk, attorney, and possibly others
- ✘ Public education and outreach are also vital

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Potential Actions

### **INFORMATION/PLANNING ACTIONS**

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### **DEVELOPER'S HANDBOOK**

- ✘ A “developer’s handbook” is a guide to county regulations presented in a more user-friendly format than typical regulations
- ✘ It is intended to explain county requirements in a more understandable format
- ✘ Does not take the place of formal regulations
- ✘ Should include information on other related regulatory requirement of the state and other jurisdictions

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### **PREFERRED (NON-REGULATORY) STANDARDS**

- ✘ County can produce informational/educational booklets that may help people voluntarily plan better projects
- ✘ Design guidelines for rural development (subdivisions, home building, etc.) are a common example
- ✘ “Code of the West” from Larimer County, Colorado has been adapted to many Western counties and addresses what to expect when moving to a rural location

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### **SCENIC RESOURCE ASSESSMENT**

- ✘ Scenic Resource Assessment is a systematic inventory and evaluation of the scenic resources of an area
- ✘ Reduces subjectivity and injects local values in prioritizing scenic resources
- ✘ Can be the basis for justifying decisions about the visual impact of development projects
- ✘ Much more defensible than ad-hoc decision making about visual impacts
- ✘ Would be a significant undertaking in terms of cost and effort

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### **CUMULATIVE WATER SUPPLY IMPACTS**

- ✘ Hydrologic and geologic information can be used to develop estimates of available water supplies and anticipated demand
- ✘ Could be used to identify areas where water may be or become a limiting factor on development
- ✘ Would be a significant undertaking in terms of cost and effort

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