

SZD #14

RESOLUTION CREATING YELLOWSTONE COUNTY ZONING DISTRICT NO. 14

WHEREAS, a petition of 60 percentum (60%) of the free-holders affected thereby has been filed for the creation of a county planning and zoning district under the provisions of Chapter 41 of Title 16, Revised Codes of Montana 1947, encompassing the following area:

Township 2 South, Range 25 East, P.M.M.

All of Sections 1, 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36.

Those portions of Sections 3, 4, and 5, lying South of the Yellowstone River.

The East $\frac{1}{2}$ Section 8.

The East $\frac{1}{2}$ Section 19.

Said area comprising more than forty (40) acres or more of land totally outside the limits of the incorporated Cities of Billings and Laurel, Montana, and within the County of Yellowstone, Montana; and

WHEREAS, the creation of such planning and zoning district is required by the public interest or convenience.

BE IT THEREFORE RESOLVED there is hereby created a planning and zoning district comprised of the above-described area to be known as Yellowstone County Planning and Zoning District No. 14.

BE IT FURTHER RESOLVED, pursuant to Chapter 41 of Title 16, Revised Codes of Montana 1947, a planning and zoning commission for County Planning and Zoning District No. 14, consisting of three County Commissioners of Yellowstone County, the Yellowstone County Surveyor, and the Yellowstone County Assessor is hereby appointed.

ADOPTED this 2nd day of August, 1977.

(SEAL)

BOARD OF COUNTY COMMISSIONERS
YELLOWSTONE COUNTY, MONTANA

Red Grange

Leo Kamp, Chairman

M. E. McClintock

M. E. McClintock, Member

Duane E. Christensen

Duane E. Christensen, Member

Attest:

Merrill H. Klundt
Clerk and Recorder

By Dorothy da Graaf
Deputy

EXHIBIT "A"

The lands to be included within said planning and zoning district herewith petitioned for, are described as follows:

Township 2 South, Range 25 East, P.M.M.

All of Sections 1, 2, 9, 10, 11, 12, 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, and 36.

Those portions of Sections 3, 4, and 5, lying South of the Yellowstone River.

The East $\frac{1}{2}$ Section 8.

The East $\frac{1}{2}$ Section 19.

EXHIBIT "B"

ZONING AND BUILDING REGULATIONS

ZONING DISTRICT NO. 14

ARTICLE I

Section 1 Title

This Resolution and maps shall be known and cited as "Zoning and Building Regulations for Planning and Zoning District No. 14" as created in Yellowstone County, Montana.

Section 2 Boundaries of District

The lands to be included within said planning and zoning district are described in Exhibit "A" to these Regulations.

Section 3 Purpose

The zoning regulations, classifications, and the districts as herein set forth are in accordance with Title 16, Chapter 41, of the Revised Codes of Montana, 1947.

The development pattern adopted herein is for the purpose of furthering the health, safety, and general welfare of the people of the county.

The development pattern, with the accompanying maps, plats, charts and descriptive matter, shall show the planning and zoning commission's recommendations for the development of the districts within some of which it shall be lawful and with others of which it shall be unlawful to erect, construct, alter or maintain certain buildings, or to carry on certain trades, industries or callings, or within which the height and bulk of future buildings and the future uses of the land or buildings shall be limited and future building setback lines shall be established.

No planning district or recommendations adopted under this act shall regulate lands used for grazing, horticulture, agriculture, or for the growing of timber; providing that existing nonconforming uses may be continued, although not in conformity with such zoning regulations.

ARTICLE II

Section 1 Interpretations

Words shall have their customary meanings except for specific words which shall be defined as follows:

The word PERSON includes a firm, association, organization, partnership, trust, company or corporation as well as an individual. The present tense includes the future tense, the singular number includes the plural and the plural number includes the singular. The word SHALL is mandatory, the word MAY is permissive. The words USED or OCCUPIED include the words INTENDED, DESIGNED, or ARRANGED TO BE USED OR OCCUPIED. The word LOT includes the words PLOT or PARCEL. "Map" means "zoning map" of Planning and Zoning District No. 14.

Section 2 Definitions

Accessory: A use, a building or structure, and/or part of a building or other structure, which is subordinate to, and the use of which is incidental to that of the main building, structure or use on the same lot, including a private garage. If an accessory building is attached to the main building by a common wall or roof, such accessory building shall be considered a part of the main building.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage, grazing land, animal and poultry husbandry, feed lots and including the necessary accessory uses for packing, treating, storing, or shipping the produce.

Alley: A passage or way, open to public travel and dedicated to public use other than a public street, affording generally a secondary means of vehicular access to abutting lots and not intended for general traffic circulation.

Alterations: A change or rearrangement of the structural parts of existing facilities, or an enlargement by extending the sides or increasing the height or depth, or the moving from one location to another.

Board: The Board of County Commissioners, Yellowstone County.

Building: Any structure, except a mobile home or trailer house, having a roof supported by columns or by walls and which is designed for the shelter, support or enclosure of persons, animals, or property of any kind, and the primary utilization area thereof is located above ground level.

Building Height: The vertical distance from: (1) the average elevation of the adjoining ground level; (2) the established grade, whichever is lower to the top of the cornice of a flat roof, to the deck line of a mansard roof, to a point of the roof directly above the highest wall of a shed roof, to the uppermost point of a round or other arch type roof, and/or to the mean distance of the highest gable on a pitched or hip roof.

Building Main: The principal building or a use to accommodate the primary use to which the premises are devoted.

Dwelling: A building designed exclusively for residential purposes for one or more families.

Dwelling Unit: One or more rooms designed as a unit to provide complete housekeeping facilities for one family.

Family: An individual, or two (2) or more persons related by blood, marriage or adoption, or other legal means, or a group of not more than three (3) persons who are not related by blood, marriage or adoption, living together in a dwelling unit.

Feed Lot Operations: The confinement of more than fifteen (15) head of livestock for the purpose of supplemental and concentrated feeding and prevention of weight loss prior to sale, whether for hire, or commission, or for one's own account.

Flood Plain: The area adjoining the watercourse or drainway which would be covered by flood water of a flood of a 100-year frequency.

Floodway: A channel of a watercourse or drainway and those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the flood water of any watercourse or drainway.

Home Occupations: An occupation carried on by an occupant of a dwelling as an accessory activity to the main residential use of the building and meeting the following restrictions:

- a. No person shall be employed other than residents of said dwelling.
- b. No commodity shall be sold on the premises other than produced on the premises.

- c. The occupation shall be conducted wholly within the dwelling.
- d. Floor area devoted to the occupation shall not exceed twenty-five (25) percent of the total ground area occupied by buildings on the lot.
- e. The occupation shall not be objectionable to adjacent residences due to noise, hours of operation, traffic, electrical interference, etc.
- f. There shall be no signs other than those allowed by this Resolution in residential districts.
- g. There shall be no display or evidence apparent from the exterior of the lot that the premises are being used for any purpose other than that of a dwelling.

Junk Yard: Any use involving the storage or disassembly of wrecked automobiles, trucks, or other vehicles or the dismantling, demolition, or abandonment of automobiles or other vehicles or machinery of parts thereof; the keeping, abandonment, sale or resale of junk including scrap metal, used paper, or other scrap materials, salvaged house wrecking and structural steel materials and equipment; storage, baling or otherwise dealing in bones, animal hides, used cloth or rags, used plumbing fixtures, appliances, furniture, and used brick, wood or other building materials. Such uses shall be considered junk yards whether or not all or part of such operations are conducted inside a building or in conjunction with, addition to, or accessory to, other uses of the premises.

Lot: A single tract of land, no matter how legally described whether by metes and bounds, certificate of survey, and/or by lot or lots and block designations as in a recorded plat, under single ownership or control.

Mobile Home, Trailer House: A structure or structures equipped with the necessary service connections and constructed to be readily moveable as a unit or units on its own running gear and designed to be used as a dwelling unit without a permanent foundation.

Mobile Home Park: Land designed or used for the temporary or permanent parking of two (2) or more trailers or mobile homes where the lot is rented and not sold to the occupant, and where the development is pursuant to applicable county ordinances.

Nonconforming Use: A use which lawfully occupied a building or land at the time this Resolution becomes effective and which does not conform with the use regulations of the zone in which it is located.

Planning and Zoning Commission: A five (5) member commission consisting of the three (3) county commissioners, the county surveyor and the county assessor.

Principal Use: The primary or predominant use to which the property is or may be devoted and to which all other uses on the premises are necessary.

Projection: The distance any part of a structure extends over public property or beyond the building setback lines.

Right-of-Way: A strip of land dedicated or acquired for use as a public way.

School, Kindergarten, Elementary, Junior or Senior High, Including Public, Private and Parochial: An institution of learning which offers instruction in the several branches of learning and study required to be taught in the schools by the Montana State Board of Education.

Setback Line (or Building Line): A line beyond which no foundation wall, eave, or other part of any building shall project, unless specified exceptions are made elsewhere in these regulations.

Sign: Any structure or part thereof or device attached thereto or represented thereon which shall display or include any letter, works, model, banner, flag, pennant, insignia or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" includes the word "billboard" or any other type of advertising device, but does not include the flag, pennants, or insignia of any nation, state, city or other political unit. Types of signs are defined in the following categories:

- a. Sign, Advertising: A sign which directs attention to a business commodity, service, or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises, if at all;
- b. Sign, Billboard: A type of advertising sign having more than one hundred (100) square feet of display surface which is either erected on the ground or attached to or supported by a building or structure.

c. Sign, Business: A sign which directs attention to the business or profession conducted on the premises. A "for sale," "to let" or "information" sign shall be deemed a business sign.

Street Line: The dividing line between a lot, tract or parcel of land and a contiguous street right-of-way.

Structure: A building or anything constructed in the ground or anything erected which requires location on the ground or in the water or is attached to something having location on or in the ground, but not including fences less than six (6) feet in height or paved areas.

Variance: An adjustment in the application of the specific regulations of this Resolution to a particular piece of property which property, because of special circumstances applicable to it, is deprived of privileges commonly enjoyed by other properties in the same vicinity and district and which adjustment remedies disparity in privileges and will not be contrary to the public interest.

Yard: An open or unoccupied space on the same lot with a principal building and unobstructed by buildings or structures from ground to sky, except where encroachments and accessory buildings are expressly permitted.

Yard, Front: A yard extending across the full width of the lot and situated between a main building and street lot line.

Yard, Rear: A yard extending across the full width of the lot and situated between the main building and a rear lot line.

Yard, Side: A yard not designated as a front yard or rear yard.

ARTICLE III ZONING DISTRICTS AND OFFICIAL ZONING MAP

Section 1 Zoning Districts

It is the intent of this article to establish zones wherein compatible uses of land may be located to create, protect, and maintain a desirable living environment, to stabilize and protect residential harmony and to conduct agricultural activities. It is also the intent of this article to make it possible to efficiently and economically design and install public facilities in terms of size and capacity to adequately meet the needs resulting from a defined intensity of land use.

To carry out the provisions of this Resolution, the Planning and Zoning District is hereby divided into the following zoning districts in which the erection, construction, alteration, reconstruction, repair or use of buildings, structures, and land shall be regulated and restricted. The regulations in each district shall be uniform throughout each district but may differ from those in other districts.

A-O Agricultural-Open Space

RS Residential Suburban

RMH Residential Mobile Home

P Public

A-O Agricultural-Open Space

A zone designed to preserve land for agriculture and related uses. Land within this zone is usually unsubdivided and with a minimum of roads, streets, and other utilities. It may be cultivated acreage or land less suitable for cultivation, yet suitable for various agricultural enterprises using the broadest scope of the agricultural definition. Land within the zone may be located adjacent to highways and arterials. The A-O zone is further intended to discourage the scattered intrusion of uses not compatible with an agricultural rural environment.

RS Residential Suburban

A zone intended to provide for low-density, single-family, residential developments.

RMH Residential Mobile Home

A zone intended to provide stable environments for individual mobile homes and compatible accessory uses.

P Public

A zone intended to reserve land exclusively for public and semi-public use in order to preserve and provide adequate land for a variety of community facilities which serve the public health, safety, and general welfare.

Section 2 Official Zoning Map

The Planning and Zoning District is hereby divided into zoning districts as shown on the Official Zoning Map for Planning and Zoning District No. 14 which, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this Resolution.

The Official Zoning Map shall be identified by the signature of the Board of County Commissioners attested by the County Clerk and Recorder and shall bear the words "Zoning Plan for Planning and Zoning District No. 14."

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Map shall be located in the office of the County Clerk and Recorder and such map shall be the final authority as to the current zoning status of land inside the Planning and Zoning District.

Changes made in district boundaries shall be promptly entered on the Official Zoning Map after amendment by the County Commissioners.

Amendments to the Official Zoning Map shall not become effective until entered on the map.

No changes of any nature shall be made in the Official Zoning Map or matter shown thereon except in conformity with the provisions set forth in this Resolution. In the event the Official Zoning Map is damaged or destroyed, the Planning and Zoning Commission may adopt a new Official Zoning Map. No such map shall have the effect of amending the Original Official Zoning Map or any subsequent amendment thereof.

Section 3 Rules for Interpretation of District Boundaries

A. Boundaries indicated as appearing to follow the center line of streets, highways, or alleys shall be construed to follow such center lines;

- B. Boundaries indicated as appearing to follow platted lot lines shall be construed as following such lot lines;
- C. Boundaries indicated as appearing to follow Planning and Zoning District boundaries shall be construed as following Planning and Zoning District boundaries;
- D. Boundaries indicated as following railroad lines shall be construed to be midway between the main tracks;
- E. Boundaries indicated as following shore lines shall be construed to follow such shore lines. In the event of change in the shore line, they shall be construed as moving with the actual shore line. Boundaries indicated as approximately following the center lines of streams, rivers, canals, lakes or other bodies of water shall be construed to follow such center lines. In the event of change in the location of streams, rivers, canals, lakes or other bodies of water, the boundaries shall be construed as moving with the actual body of water and following the center lines; and
- F. Boundaries indicated as parallel to or extensions of features indicated in subsections A through E above shall be so construed. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the map or by specific distances enumerated in an ordinance amending the Official Zoning Map.

Section 4 Application

Within the various zoning districts as hereinbefore defined and as indicated on the Official Zoning Map and subject to the requirements of ARTICLES IV-X, no building or structure shall be erected, reconstructed, or structurally altered, nor shall any land, building, or structure be used for any purpose except as they are allowed in the district in which such building, land or use is located.

No building or other structure shall hereafter be erected or altered.

- A. To exceed the height;
- B. To accommodate or house a greater number of families;
- C. To have narrower or smaller rear yards, side yards or other open spaces than required in ARTICLE IV of the Resolution.

ARTICLE IV DISTRICT REGULATIONS

LIST OF USES

SE-SPECIAL EXCEPTION

A=ALLOWED

	A-0	RS	RMH	P
Accessory uses and structures incidental to and on the same lot as the principal use	A	A	A	A
Agricultural uses	A	A		
Animal hospitals - veterinary clinic	A			
Auction houses - for livestock sales yards only	A			
Blacksmith	A			
Cemetery	A	A	A	A
Churches, convents, monasteries and other places of worship	A	A	A	A
Commercial livestock feeding yard	A			
Commercial recreation	SE			SE
Dwellings: A Single-family	A	A	A	A
B. Mobile homes			A	
Farm tenant house - mobile home	A			
Fire station or other emergency services customary accessory uses supported by Yellowstone Co. or a special district	A	A	A	A
Frozen food lockers	A			
Fur farm	A			
Grain Elevators	A			
Gravel Excavation	SE			
Guest house as an accessory building - not for permanent occupancy	A			
Gun & archery range - indoor and/or outdoor	SE	SE		
Home occupation	A	A	A	A
Horticulture nurseries & commercial greenhouses	A	SE	SE	SE
Kennel - Commercial	A			
Landfill, reclamation, sanitary septic-tank disposal sites, and sanitary incinerators	SE			
Mobile home parks			A	
Parks and playgrounds, private	A	A	A	A
Parks and playgrounds, public	A	A	A	A

ARTICLE IV DISTRICT REGULATIONS

LIST OF USES

SE-SPECIAL EXCEPTION

A-ALLOWED

	A-O	RS	RMH	P
Publicly owned or government operated building & uses, including community buildings & public parks, playgrounds, & other recreational areas	A	A	A	A
Riding stables	A	SE		
Schools (public & private), pre-school, elementary, junior or senior high school	A	A	A	A
Temporary structures	SE	SE	SE	SE

ARTICLE IV

TABLE 1 GENERAL REQUIREMENTS

<u>ZONING CLASSIFICATION DISTRICTS</u>				
	A-O	RS	RMH	P
<u>Zoning Requirement</u>				
Minimum lot area per dwelling unit				
One unit	20 Acres	1 Acre	1 Acre	N.A.
<u>Minimum Yard Requirement</u>				
Front	30	30	20	20
Side	10	10	5	0
Side adjacent to street	20	20	10	10
Rear	30	25	20	0
Maximum Height of Structures	-	25	25	-
Maximum Lot Coverage (%)	-	30	30	50

ARTICLE IV

Section 1 Supplemental Area, Yard, and Height Restrictions

The following requirements provide exceptions or qualify and supplement the specific district regulations set forth in Article IV.

A. Accessory detached buildings

1. Minimum of eight (8) feet must be maintained between structures.
2. A ten (10) foot setback from side and rear property lines.
3. A twenty (20) foot setback from side adjacent to street when garage has entrance facing side street.

B. Height exceptions

1. Height limitations contained in Article IV, Table 1 shall not apply to spires, belfries, cupolas, antennas, water towers or tanks, chimneys or smokestacks, power transmission lines, cooling or elevator towers, solar collecting panels, windmills, or similar and necessary appurtenances not used for human occupancy.

C. Permitted projections in required setbacks

1. Fireplaces and bay windows not to exceed two (2) feet.
2. Roof overhangs, eaves, gutters, cornices or other architectural features not to exceed eighteen (18) inches.
3. Open exterior stairways or decks not to exceed two (2) feet in side yards nor four (4) feet in front or rear yards.
4. Covered unenclosed porches over front stoops or walkways not to exceed six (6) feet.

D. Division of lot

No recorded lot or combination of lots shall be divided into smaller lots unless such division results in the creation of lots which conform to all of the applicable regulations of the zoning district in which the property is located.

ARTICLE V BOARD OF ADJUSTMENT

Section 1 Organization, Powers and Duties

The Board of County Commissioners shall act as the Board of Adjustment for Planning and Zoning District No. 14. The Board of Adjustment is authorized to grant variances from the strict application of this Resolution when by reason of exceptional narrowness, shallowness or shape of specific parcels of property, exceptional topographical conditions, or other extra-ordinary situations of specific parcels of property, the strict application of these regulations or amendments thereto would result in peculiar and unusual practical difficulties to or exceptional or unnecessary hardship upon the owner of such property, provided that such variance will not be contrary to the public interest. This provision shall not be construed to permit the Board of Adjustment, under the guise of a variance, to change the use of land.

Section 2 Procedures

- A. Before any variance may be granted the Board of Adjustment shall hold a public hearing. The property shall be posted at least fifteen (15) days before the public hearing. The application shall be presented on forms and at such times as provided by the Board of Adjustment.
- B. The Board of Adjustment shall have ten (10) days after the public hearing within which to make a decision. The Board of Adjustment, if necessary, may request additional information at the public hearing.
- C. Any person aggrieved by any decision of the Board of Adjustment may, within thirty (30) days after such decision or order, appeal to the district court in the county in which the property involved is located.

ARTICLE VI AMENDMENT TO THE TEXT AND OFFICIAL MAP (ZONE CHANGE) AND
SPECIAL EXCEPTIONS

Section 1

The regulations, restrictions, and boundaries set forth in this Resolution may, from time to time, be amended, supplemented, changed or repealed by the Board of County Commissioners; provided, however, that no action on any application for amendment, change or repeal may be taken until the application has first been processed and advertised in accordance with the provisions of this Article.

Section 2 Application for Official Map Amendments or Special Exceptions

Unless initiated by the Board of County Commissioners or the Planning and Zoning Commission, all applications for an amendment to the Official Map, or to the text of this Resolution or for Special Exception must be submitted in person and signed by the recorded owner, the contract purchaser, or the authorized agent of the owner.

Each application for zone change on the Official Map or text or Special Exception shall be filed in person with the Board of County Commissioners and each application must be submitted under the following conditions:

(a) The application must be accompanied by a legal description of the tract(s) proposed to be reclassified or for Special Exception use, a map showing the dimensions, acreage and location of the tract(s) and adjacent uses, the present and proposed classification for the tract(s), a certified list of the names and addresses of the owners of property contiguous to the exterior boundaries of the tract(s), and payment of all applicable fees;

(b) Any application for an amendment to the Official Map or Special Exception must be submitted together with all applicable fees, to the Board of County Commissioners thirty (30) days prior to the date of the public hearing before the Planning and Zoning Commission;

(c) Fifteen (15) days prior to the public hearing before the Planning and Zoning Commission the Board of County Commissioners shall advertise notice of the application in a newspaper of general circulation. The notice shall contain: the classification sought, the location of the

property, and the date, time and place of the public hearing. In addition, the Board of County Commissioners shall place fifteen (15) days prior to the public hearing in a conspicuous location on the property and on at least three (3) public places within the Planning and Zoning District, a notice that a change in the zoning classification or Special Exception use has been applied for and the date, time and location of the public hearing on the application. In addition the Board of County Commissioners shall notify owners of property contiguous to the exterior boundaries of the property subject to the reclassification or Special Exception use. Such notice shall contain a description of the property, the classification applied for and the time, date and place of the public hearing. The Board of County Commissioners may notify property owners not contiguous if he determines that the proposed use of the property would likely have a substantial impact on surrounding land uses.

(d) An application for a zone change or special exception may not be withdrawn or amended after the legal advertising, as required by this section, has appeared for the final hearing before the Planning and Zoning Commission. An applicant may be allowed to withdraw at the time of the Planning and Zoning Commission hearing by a majority vote of the members present without requiring County Commissioner approval of the withdrawal and without prejudice with respect to the twelve (12) month waiting period providing, however, that no application be allowed to be withdrawn more than once with the twelve (12) month period after the application shall have first been submitted. The notice of withdrawal and reasons must be submitted to the Chairman of the Planning and Zoning Commission twenty-four (24) hours in advance of the public hearing in writing.

Section 3 Planning and Zoning Commission Action

The Planning and Zoning Commission shall make a recommendation to the Board of County Commissioners to deny the application for amendment to the Official Map or text or Special Exception, grant the application for amendment to the Official Map or text or Special Exception, delay any recommendation on the application for a period not to exceed thirty (30) days, or allow withdrawal of application. The Planning and Zoning Commission shall submit its recommendations in writing along with a statement

indicating its reasons for granting, denying, or delaying the amendment or Special Exception within ten (10) days following the public hearing.

In no case shall the Planning and Zoning Commission make a recommendation that a reclassification or Special Exception be granted for a zone that was not advertised.

Section 4 Board Of County Commissioners Action

(a) Before taking any action on an application for an amendment to the Official Map, or amendment to the text of this Resolution or Special Exception, the Board of County Commissioners shall first hold a public hearing on the application. The Board may approve an application, deny the application or delay the application for a period not to exceed thirty (30) days. In no case shall the Board approve an amendment for a classification or Special Exception other than the one advertised. An application for an amendment to the Official Map or Special Exception shall not be submitted which affects the same tract(s) more often than once in any twelve (12) month period.

(b) In the event that an applicant or a protestant desires to submit additional evidence or facts subsequent to the hearing herein, he shall first make an application in writing directed to the Board of County Commissioners of the desire for a rehearing setting forth a brief statement of the facts he wishes to present, the reasons therefore, and the reasons that said facts were not presented at the original hearing herein. Said application for rehearing shall be presented within five (5) days of receipt of notice of determination by said Board of County Commissioners and will determine whether or not a rehearing shall be granted. In the event a rehearing is granted, notice of the same shall be given to all parties that were required to be notified at the time of the original hearing and in the same manner as notice in the original hearing. Any discussion by an applicant with a member of the Board of County Commissioners subsequent to a hearing on an application or a reapplication herein shall disqualify said application or reapplication from further consideration by the Board of County Commissioners.

Denial by the Board of County Commissioners of a rehearing or any determination after a rehearing shall be final and no further consideration shall be given to the matter. Consideration by the Board of County Commissioners of an application for rehearing to determine whether a rehearing shall be granted shall be done in the absence of any interested parties to said matter.

ARTICLE VII NON-CONFORMING LOTS, NON-CONFORMING USES OF LAND, NON-CONFORMING STRUCTURES, AND NON-CONFORMING USES OF STRUCTURE AND PREMISES

Section 1 Intent

The provisions of this Article shall apply to buildings, structures, lands and uses which became non-conforming as a result of the application of this Resolution to them, or from classification or reclassification of property under this Resolution, or any subsequent amendments thereto. If a use originally authorized by a variance, special exception, or other valid use permit prior to the effective date of this Resolution is located within a zone in which such use is not permitted by the terms of this Resolution, such use shall be non-conforming use; however, pre-existing valid uses requiring a special exception after the effective date of this Resolution shall not require a special exception.

To avoid undue hardship, nothing in this Resolution shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the effective date of adoption or amendment of this Resolution and upon which actual building construction has been carried on diligently. "Actual Construction" is hereby defined to include the placing of construction materials in a permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been substantially begun preparatory to rebuilding, such excavation or demolition or removal shall be deemed to be actual construction, provided that work shall be carried on diligently.

Section 2 Non-Conforming Lots of Record

In any zone in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this Resolution, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record at the effective date of adoption or amendment of this Resolution. Such lot must be in separate ownership and not of contiguous frontage with other lots in the same ownership. This provision shall apply even though such lot fails to meet the requirements for area or width, or both, that are generally applicable in the zone, provided that the yard dimensions and other requirements not

involving area or width or both, of the lot shall conform to the regulations for the zone in which such is located. An additional variance for yard requirement shall be obtained only through affirmative action by the Board of Adjustment.

If two or more vacant lots or combinations of lots and portion of lots with continuous frontage in single ownership of record at the time of passage or amendment of this Resolution, and if all or part of the lots do not meet the requirements for lot widths and area as established by this Resolution, the land involved shall be considered to be an undivided parcel for the purpose of this Resolution, and no portion of said parcel shall be used or sold which does not meet lot width and area requirements established by this Resolution, nor shall any division of the parcel be made which leaves remaining any lot with width or area below the requirements stated in this Resolution.

Section 3 Non-Conforming Uses of Land

Where, at the effective date of adoption or amendment of this Resolution, lawful use of land exists that is no longer permissible under the terms of this Resolution as enacted or amended, such use may be continued, so long as it remains otherwise lawful, subject to the following provisions:

(a) No such non-conforming use shall be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of this Resolution.

(b) No such non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of this Resolution.

(c) If any such non-conforming use of land ceases for any reason for a period of two (2) years, any subsequent use of such land shall conform to the regulations specified by this Resolution for the zone in which such land is located.

Section 4 Non-Conforming Structures

Where a lawful structure exists at the effective date of adoption or amendment of this Resolution that could not be built under the terms of this Resolution by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on the lot, such structures may be continued so long as it remains lawful, subject to the following provisions:

(a) No such structure may be enlarged or altered in a way which increases its non-conformity unless an enlargement or structural alteration makes the building more conforming or is required by law.

(b) Should such structure be destroyed by any means to an extent of more than fifty percent (50%) of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this Resolution.

(c) Should such structures be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the zone in which it is located after it is moved.

(d) Structural alterations may be permitted if necessary to adapt a non-conforming building to new technologies or equipment pertaining to uses housed in such building. Any enlargement necessary to adapt to new technologies shall be authorized only by a variance.

(e) Use of a mobile home for resident purposes shall not be subject to the provisions of this section.

Section 5 Non-Conforming Uses of Structures

If lawful use of a structure or of structures and premises in combination exists at the effective date of adoption or amendment of this Resolution, that would not be allowed in the zone under the terms of this Resolution, the lawful use may be continued so long as it remains otherwise lawful, subject to the following provisions:

(a) No existing structure devoted to a use not permitted by this Resolution in the zone in which it is located shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted in the zone in which it is located.

(b) Any non-conforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the Resolution, but no such use shall be extended to occupy any land outside such building.

(c) If no structural alterations are made, any non-conforming use of a structure, or structure or premises, may be changed to another non-conforming use provided that the Board of Adjustment, either by general

rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the zone than the existing non-conforming use. In permitting such change, the Board of Adjustment may require appropriate conditions and safeguards in accord with the provisions of this Resolution.

(d) Any structure or structures and land in combination, in or on which a non-conforming use is superseded by a permitted use, shall thereafter conform to the regulations for the zone in which such structure is located, and the non-conforming use may not be thereafter resumed.

(e) When a non-conforming use of a structure or structures and premises in combination is discontinued or abandoned for two (2) years, the structure or structure or premises in combination shall not thereafter be used except in conformance with the regulations of the zone in which it is located.

(f) Where non-conforming use status applies to a structure and premises in combination, removal or destruction of the structure for two (2) years shall eliminate the non-conforming status of the land.

Section 6 Repairs and Maintenance

Nothing in this Resolution shall be deemed to prevent the strengthening or restoring to a safe condition of any building or part thereof declared to be unsafe by any official charged with protecting the public safety, upon order of such official.

ARTICLE VIII GENERAL REQUIREMENTS

Section 1 Off-Street Parking

There shall be at least two (2) permanently maintained parking spaces per dwelling unit. Each parking space shall have an area of at least one hundred eighty (180) square feet of usable shape and condition.

Section 2 Signs

No sign of any kind shall be displayed to the public view except as follows:

(a) One sign of not more than twenty-five (25) square feet for each subdivision or group of contiguous tracts advertising lots or tracts within such subdivision or group for sale.

(b) One sign on any lot of not more than five (5) square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

(c) One sign on any lot of not more than ten (10) square feet advertising home occupations conducted on the premises and the products thereof, and recreational facilities.

Section 3 Visibility at Intersections

On corner lots at intersections of streets no fence, hedge, wall, shrub or structure over thirty (30) inches in height above an established street grade shall be located within a triangular area formed by the intersecting lines at points twenty-five (25) feet distant from the point of intersection as measured along the lot property lines.

Approved advertising signs, public-use controls and systems, and trees with a maximum trunk diameter of one (1) foot measured four (4) feet above the ground line and trimmed up to eight feet (8) may be permitted in this above defined triangular area.

Section 4 Visibility at Private Drive Approaches

On the street side of all lots where a driveway enters the street right-of-way, a triangular clear vision zone shall be maintained. Said zone shall measure ten (10) feet into the lot as measured from the property line and twenty (20) feet along the property line away from the outer edge of the driveway. No fence, wall, hedge or shrub over

three (3) feet in height shall be erected or maintained within the above defined clear-vision zone.

Approved advertising signs, public-use controls and systems, and trees with a maximum trunk diameter of one (1) foot measured four (4) feet above the ground line and trimmed up to eight feet (8) may be permitted in this above defined triangular area.

Section 5 Plats Recorded After Effective Date

Notwithstanding any other provisions of this Resolution, any subdivision or Certificate of Survey platted and recorded within sixty (60) days after the effective date of this Resolution and in which any lot or tract does not comply with the minimum lot area requirements for the zone in which it is located, said lot or tract shall not be deemed to be a non-conforming lot or tract for the purpose of this Resolution.

Provided, however, that any subdivision, resubdivision, or Certificate of Survey platted and recorded more than sixty (60) days after the effective date of this Resolution shall be required to comply with the minimum lot area requirements of the zone within which it is located.

Nothing in this Section shall be interpreted to grant relief from any requirement of the State of Montana respecting minimum lot or tract area for sanitary restrictions.

Section 6 General Rules

The regulations set by this Resolution within each zone shall be minimum regulations and shall apply uniformly to each class or kind of structure or land except as hereinafter provided:

- (a) No building, structure, or land shall hereinafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered after the effective date of this Resolution unless in conformity with all of the regulations herein specified or the zone in which it is located except non-conforming uses and structures as provided in Article VII;
- (b) No building or other structure shall hereafter be erected or altered:
 1. To exceed the height,
 2. To accommodate or house a greater number of families,

3. To occupy a greater percentage of lot area, and
4. To have narrower or smaller rear yards, front yard, side yards or other open spaces than herein required, or in any manner contrary to the provisions of this Resolution;

(c) No part of a yard, or other open space, or off-street parking, or loading space required about or in connection with any building for the purpose of complying with this Resolution shall be included as part of a yard, open space, or off-street parking, or loading space similarly required for any other building; and

(d) No yard or lot existing at the time of passage of this Resolution shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Resolution shall meet at least the minimum requirements established by this Resolution.

ARTICLE IX ADMINISTRATION AND ENFORCEMENT

It is the intent of this Resolution to provide for the efficient, reasonable, and impartial enforcement of this Resolution by authorizing an enforcement officer, the basic procedure for complying with the Resolution, and the penalties for violators.

Section 1 Zoning Enforcement Officer

It shall be the duty of the Zoning Coordinator to be the Enforcement Officer for the Zoning Resolution. He is hereby given the authority to administer and enforce the provision of this Resolution for the Planning and Zoning District No. 14.

The Zoning Coordinator shall supervise and effectuate the processing of applications for amendments to the Zoning Resolution, requests for special exception or variance request, and other applications under the terms of this Resolution.

It shall further be the responsibility of the Zoning Coordinator to aid the various Boards, Commissions, and Departments in transmitting appeal records to the Board of County Commissioners and to otherwise promote procedural regularity in the administration of this Resolution. The position of Zoning Coordinator shall be within the organizational structure of the City-County Planning Department.

Section 2 Zoning Compliance Permit Required

No building or other structure shall be erected, moved, added to, or structurally altered without having a Zoning Compliance Permit issued by the Zoning Coordinator who shall first determine the permit is issued in conformance with the Zoning Resolution and other existing Codes and Ordinances.

All applications for Zoning Compliance Permits shall be accompanied by plans in the specified number of copies and drawn to scale showing the actual dimensions of the lot or parcel or property to be built upon, the sizes and the locations on the lot or parcel of any existing buildings or structures, the shape, size, height, use, and location on the lot or parcel of the building or structures proposed to be erected or altered, and such other information as may be necessary to provide for the enforcement of the provisions of this Resolution. If no

substantial progress in construction has been made within six (6) months of the date of the issuance of the Zoning Compliance Permit, the permit becomes invalid.

Section 3 Remedies

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this act, or of any resolution made under authority conferred hereby, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use to restrain, correct, or abate such violation to prevent the occupancy of such building, structure, or land to prevent any illegal act, conduct, business, or use in or about such premises.

ARTICLE X SEPARABILITY CLAUSE, REPEAL OF CONFLICTING RESOLUTIONS,
EFFECTIVE DATE

Section 1 Provisions of this Resolution Developed to be Minimum Requirements

In their interpretation and application, the provisions of this Resolution shall be held to be the minimum requirements adopted for the promotion of the public health, safety, or general welfare.

Wherever the requirements of this Resolution are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances, deed restrictions, or covenants, the most restrictive or that imposing the higher standards shall govern.

Section 2 Separability Clause

If any provision of this Resolution or its application to any person or circumstances is held invalid, the remainder of the resolution or the application of the provision to other persons or circumstances is not affected.

Section 3 Repeal of Conflicting Resolutions Effective Date

All Resolutions or part of Resolutions in conflict with this Resolution are hereby repealed to the extent necessary to give this Resolution full force and effect. This Zoning Resolution for the Planning and Zoning District No. 14 shall become effective on the ____ day of _____, 19____.

