

ARTICLE I: GENERAL PROVISIONS

Section 1 Legislative Findings

1.01 Since adoption of the *Gallatin County Growth Policy (Growth Policy)* in 2003, the Commission has been investigating methods and techniques to implement its goals and objectives. In doing so, the Commission focused on several key themes inherent in the *Growth Policy*: ensuring private property rights are respected; protecting valuable agricultural operations; providing options for landowners of large rural properties to realize value from their landholdings with or without development of their properties; limiting the financial burden placed on County taxpayers for the provision of government services to new development, especially in areas not planned or zoned for development; and protecting valuable natural resources. Using the above themes, these Regulations are among several initiatives that implement the *Growth Policy*. The Commission finds creation of a unified Regulation for all Gallatin County's zoning districts adopted pursuant to Title 76, Chpt. 2 Part 2, MCA, is in the best interest of the public because the unification of the regulations aids in greater efficiency and consistency in administering and enforcing the regulations while not affecting the substance of any of the existing Part 2 zoning district regulations.

Section 2 Title, Creation and Adoption.

2.01 This Regulation shall be known as the *Gallatin County Part 2 Zoning Regulation* (Regulation). It is adopted for the several zoning districts adopted pursuant to Title 76, Chpt. 2, Part 2 included herein by resolution of the Commission and was created (*date*).

2.02 This Regulation is adopted pursuant to § 76-2-201, MCA, *et seq*, in accordance with the *Growth Policy* and any other applicable growth policy or formally adopted neighborhood or community plan adopted by the Commission.

2.03 Copies of this Regulation and all the official Zoning Maps are on file for public inspection with the Gallatin County Clerk and Recorder's Office and the Gallatin County Planning Department.

Section 3 Purpose and Intent of Regulations.

3.01 Compliance with Gallatin County Growth Policy. This Regulation has been created in accordance with the *Growth Policy* (adopted April 15, 2003) and any other applicable growth policy or formally adopted neighborhood or community plan adopted by the Commission for the purpose of promoting the public health, safety, and general welfare. Additionally, in accordance with § 76-2-203, MCA, this Regulation is designed to:

- Lessen congestion in the streets.
- Secure safety from fire, panic, and other dangers.
- Provide adequate air and light.
- Prevent the overcrowding of land.
- Avoid undue concentration of population.
- Facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements.
- Give reasonable consideration to the character of specific locations and neighborhoods throughout the County and consider their peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the jurisdiction.

3.02 Implementation of Gallatin County Growth Policy/Other Plans. This Regulation is intended to implement the *Growth Policy* any other applicable growth policy or formally adopted neighborhood or community plan adopted by the Commission. Specifically, this Regulation implements those planning documents by:

- Fulfilling the adopted goals and policies;
- Promoting consistency, concurrency, and compatibility between land uses, the natural environment, and the provision of community facilities;
- Providing incentive programs for preserving agricultural lands, environmentally sensitive lands, and significant open space areas; and
- Promoting development within or near existing cities, towns, and existing communities where the provision of services is most cost effective.

3.03 Intent. Generally, the intent of the Regulation is to regulate and promote orderly development.

Section 4 Application of Regulations.

4.01 Minimum Requirements. The requirements established by these Regulations are minimum regulations and apply uniformly to each class or kind of structure as indicated throughout the several districts. Regulation provisions shall be held to the minimum that protects and promotes the public health, safety and general welfare of the various zoning districts.

4.02 Continuation of Non-conforming Uses. This Regulation includes a “grandfather clause,” as provided under § 76-2-208, MCA, which allows existing non-conforming uses of land or buildings, which would otherwise be restricted or regulated under the terms of this Regulation, to continue as legal non-conforming uses.

4.03 Zoning Regulation Compliance.

4.03.1 No building, Structure, or land shall hereafter be used or occupied, and no building, Structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified and for the district in which it is located.

4.03.2 No Tract of Record, parcel, unit, yard or lot, etc. existing at the time of adoption of this Regulation shall be reduced in dimension or area below the minimum requirement of the requirements for a specific zoning district except as provided herein. Yards or lots created after the effective date of this Regulation shall meet the minimum requirements of this Regulation.

4.03.3 Property owners are responsible for ensuring all activity within the various district boundaries comply to this Regulation.

4.04 Land Divisions. Any division of land, as defined by the Montana Subdivision and Platting Act, must comply with this Regulation unless otherwise exempted according to law. Subdivisions are reviewed and permitted as provided by the Gallatin County Subdivision Regulations and the Montana Subdivision and Platting Act.

4.05 Exception. Under certain circumstances, unless the provisions of a zoning district require otherwise, the Zoning Enforcement Agent may exempt from the provisions of this Regulation certain Structures necessary for the provision of services required for public health and safety, such as public utilities, communication facilities, or pipelines.

4.06 Vesting. An application for a permit or compliance with these Regulations is subject to the Regulations for a district in effect at the time of submittal.

4.07 Contradictions. If the requirements of this Regulation conflict with the requirements of any other lawfully adopted rules, regulations or covenants, the most restrictive (or higher standard) shall govern.

4.08 Natural Resources. Except as provided under § 76-2-206 and § 76-2-209, MCA, and as authorized by the provisions of a zoning district, this Regulation may not prevent the complete use, development, or recovery of a mineral, forest, or agricultural resource.

4.09 Interpretations. The Zoning Enforcement Agent is authorized to make official interpretations of the Zoning Regulation and Official Zoning Map. If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Zoning Enforcement Agent shall determine the appropriate classification of that use. Requests for official interpretations may require a fee, must be in writing and shall be completed by the Zoning Enforcement Agent in writing.

An official interpretation by the Zoning Enforcement Agent may be appealed to the Board of Adjustment pursuant to the provisions in **Art. II, Sect. 7**.

4.09.1 In interpreting a use classification, the Zoning Enforcement Agent shall determine that the use and its operation:

- Is compatible with the uses permitted in that district;
- Is similar to one or more uses permitted in that district;
- Will not adversely affect property in that neighborhood or district; and
- Will not abrogate the intent of the *Growth Policy* or any other applicable growth policy or formally adopted neighborhood or community plan adopted by the Commission or this Regulation by such classification.

Section 5 Description of Jurisdiction for the Zoning Regulations.

5.01 Legal Description. This Regulation applies to the following:

The lands within each particular zoning district created pursuant to Title 76, Chpt. 2, Part 2, MCA, and resolution of the Commission and which is included within this Regulation who boundaries are as legally described by the specific provisions of the Article establishing said zoning district.

Section 6 Establishment of Zoning Districts and Official Zoning Map.

6.01 Zoning Districts and Sub-Districts. This Regulation applies to the several Gallatin County zoning districts adopted herein which may be divided into zoning sub-districts, all as shown on the official Zoning Maps, and as explained in this Regulation.

6.02 Official Zoning Map. The official Zoning Map for each district shall be available in the Office of the Gallatin County Clerk and Recorder and shall bear certificate with the signature of the Chairman of the Commission attested by the Clerk and Recorder, and the date of adoption of the official Zoning Map. If any changes to the official Zoning Map are made by amendment of this Regulation in accordance with **Art. II, Sect. 6** hereof, such changes shall be made to the official Zoning Map and signed, dated and certified upon the map or upon documentation attached thereto.

6.03 Interpretation of Map Boundaries. Where uncertainty exists as to the boundaries of districts as shown on the official Zoning Map, the boundaries shall be interpreted as following the nearest logical line to that shown. Boundaries indicated as approximately following the centerline of streets, highways or alleys shall be construed to follow such centerlines. Boundaries indicated as approximately

following platted lot lines shall be construed as following such lot lines. Boundaries indicated as approximately following city limits shall be construed as following such city limits. Boundaries indicated as following railroad lines shall be construed to be midway between the main track(s). Boundaries indicated as following the centerline of streams, rivers, canals, or ditches shall be construed to follow such centerlines. Boundaries indicated as parallel to or extensions of features indicated on the official Zoning Map shall be determined by the scale of the map.

Where physical or cultural features existing on the ground are at variance with those shown on the official Zoning Map or where other circumstances or controversy arise over district boundaries; the Zoning Enforcement Agent shall interpret the district boundary; such interpretation may be subject to appeal to the applicable Board of Adjustment.

Section 7 Invalidation and Severability

7.01 If any section, subsection, subdivision, sentence, clause, paragraph, or phrase of this Regulation, or any attachments hereto, is for any reason held to be unconstitutional or void, such decision shall not affect the validity of the remaining portions of the regulations to render the same operative and reasonably effective for carrying out the purposes and intentions of this Regulation.

Section 8 Articles and Sections.

8.01 This Regulation is comprised of Articles and Sections. The Articles are intended to divide the Regulation into major categories. The Sections divide each Article into smaller categories. Throughout this Regulation, citations to a specific section are given, for example, as “Art III, Sect. 5.” This citation refers to Section five of Article three. Where a citation to a section lacks a reference to an Article, the citation refers to the same article in which the citation is located.