

## ARTICLE \_\_\_\_ ADMINISTRATION AND ENFORCEMENT

A. Within the zoning districts herein defined and as indicated on the Official Zoning Map and subject to the requirements of ARTICLES \_\_\_\_\_, no building or structure shall be erected, reconstructed, or structurally altered, nor shall any land, building, or structure be used for any purpose except in conformity with the district regulations in which such building, land or use is located.

### B. Board of Adjustment

#### 1) Organization, Powers and Duties

The County Planning and Zoning Commission shall act as the Board of Adjustment for Special Zoning District Number 21. The Board of Adjustment shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or interpretation of these regulations or of any resolution adopted pursuant thereto. The Board of Adjustment is authorized upon appeal in specific cases to grant a variance from the terms of these regulations as will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations chapter will result in unnecessary hardship, and so that the spirit of this chapter shall be observed, and substantial justice done.

In exercising the above mentioned powers, the board of adjustment may, in conformity with the provisions of these regulations, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the office from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision or determination of any administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under these regulations or to affect any variation in the application of this chapter.

Any person aggrieved by any decision of the board of adjustment, or any affected taxpayer, or any officer, department, board, or bureau of the county may appeal the decision by presenting a petition to a court of record. The petition must set forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) calendar days after the filing of the decision of the board.

If the board of adjustment fails to act on a matter that is before it or scheduled to be before it for any reason other than on motion duly continuing the matter, the applicant may deem the matter be denied and may immediately proceed by appeal as provided above.

If an application for an administrative review or variance is denied by the board of adjustment, another application shall not be filed within a period one (1) year from the date of denial.

#### 2) Procedures

a) Before any variance may be granted or the consideration of an appeal, the board of adjustment shall hold a public hearing. No less than fifteen (15) days before the public hearing the subject property shall be posted with a sign, property owners within 150 feet of the subject property shall be notified by mail and a legal notice of the variance request or appeal shall be placed in a newspaper of general circulation. The application shall be presented on forms and at such times as provided by the Zoning Coordinator.

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) No variance from the uses allowed, prohibited or limited as provided within the district regulations is allowed under this procedure. Changes to allowed, prohibited or limited uses must be considered as an amendment to the text of the regulations and the Official Zoning Map.

#### D. Amendment to the Text or Official Zoning Map

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 Resolution.

##### 2) Application for Official Zoning Map Amendment

Unless initiated by the Board of County Commissioners or the County Planning and Zoning Commission, all applications for an amendment to the official map, or to the text of this chapter must be submitted in person and signed by the record property owner. An application for an amendment affecting the same property shall not be submitted more than once every twelve (12) months.

3) Each application for an amendment to the Official Zoning Map 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, 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 list certified by the County Clerk and Recorder of the names and addresses of owners of property within 300 feet to the exterior boundaries of tract(s) and payment of all applicable fees.

b) Any application for an amendment to the Official Zoning Map must be submitted with all applicable fees and documents to the Zoning Coordinator at least 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 Zoning Coordinator shall advertise notice of the application in a newspaper of general circulation. The notice shall contain: the classification sought or the proposed amendment to the regulations, the location of the property and the date, time and place of the public hearing. In addition, the Zoning Coordinator shall post the property with a sign in a conspicuous location and on at least two (2) other public places within the district. The notice shall indicate that a change in zoning classification is requested or the text of the Resolution has been applied for and the date, time and location of the public hearing on the application. In addition, the Zoning Coordinator shall notify by mail the owners of property within 300 feet to the exterior boundaries of the property subject to reclassification. In the case of an amendment to the text of the regulations, all property owners within the boundary of zoning district shall be notified

by mail. Such notice shall contain a description of the property, the classification applied for and the time, date and place of the public hearing. In the case of an amendment to the text of the regulations, the general description of the amendment and the time, date and place of the public hearing shall be included in the notice. The Zoning Coordinator may notify property owners more than 300 feet from the subject parcel if it is determined the proposed change would likely have a substantial impact on surrounding land uses.

d) An application for zone change may not be withdrawn or amended after the legal advertising as required by this section. 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 prejudice with respect to the twelve (12) month period after the application shall have first been submitted. The notice of withdrawal and reasons must be submitted in writing to the Chairman of the Planning and Zoning Commission twenty-four (24) hours in advance of the public hearing.

#### 4) County Planning and Zoning Commission Action

The County Planning and Zoning Commission shall make a recommendation to the Board of County Commissioners to either grant or deny the application for amendment to the Official Zoning Map, or to the text of the regulations. The County Planning and Zoning Commission shall also have the authority to delay action on the application for a period not to exceed sixty (60) days. The County Planning and Zoning Commission shall submit its recommendations in writing along with a statement indicating its reasons and findings of fact for granting or denying the amendment within twenty (20) days following the close of the public hearing on the application.

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

#### 5) Board of County Commissioners Action

Before taking any action on an application for an amendment to the Official Map, or amendment to the text of this Resolution, the Board of County Commissioners shall first hold a public hearing on the application or amendment. The Board of County Commissioners may approve, deny or delay action on the application for a period not to exceed thirty (30) days. In no case shall the Board approve an amendment for a classification other than the one advertised.

### E. Application for Special Review

1) Each zoning district is primarily intended for a predominant type of use as identified in Article \_\_\_\_ above. There are also a limited number of specific uses that may or may not be appropriate in a particular district, depending upon all the circumstances of the individual use on the site and in context with surrounding development. Consideration of these uses includes examination of the location, nature of the proposed use, the character of the surrounding development, traffic capacities of adjacent streets, and potential environmental effects, and whether specific conditions can be applied to mitigate the potential negative impacts of the use. Special Reviews are special exceptions to the general terms of this Zoning Code.

2) It is the intent of this section to provide a system of review of such uses so that the community is assured that the uses are compatible with their locations and with

surrounding land uses and will further the purpose of this Zoning Code and the objectives of the County growth policies. Only those uses identified as Special Reviews in Article \_\_\_\_ above may be approved pursuant to these procedures.

3) All applications for a Special Review must be submitted in person and signed by the record property owner or an authorized agent for the owner.

4) Each application for a Special Review must be submitted under the following conditions:

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

b) Any application for a Special Review must be submitted with all applicable fees and documents to the Zoning Coordinator at least 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 County Planning and Zoning Commission, the Zoning Coordinator shall advertise notice of the application in a newspaper of general circulation. The notice shall contain: The Special Review proposed, the location of the property and the date, time and place of the public hearing. In addition, the Zoning Coordinator shall notify by mail the owners of property within 300 feet to the exterior boundaries of the property subject to the proposed Special Review. Such notice shall contain the same information as the legal advertisement in addition to any site plan or development plan submitted with the application. The Zoning Coordinator may notify property owners more than 300 feet from the exterior boundary if it is determined the proposed use would likely have a substantial impact on surrounding land uses.

d) An application for Special Review may not be withdrawn or amended after the legal advertising as required by this section. An applicant may be allowed to withdraw at the time of the County Planning and Zoning Commission hearing by a majority vote of the members present. The notice of withdrawal and reasons must be submitted in writing to the Chairman of the County Planning and Zoning Commission twenty-four (24) hours in advance of the public hearing.

#### 5) County Planning and Zoning Commission Action

The County Planning and Zoning Commission shall make a recommendation to the Board of County Commissioners to either approve, conditional approve or deny the requested Special Review. The County Planning and Zoning Commission shall submit its recommendations in writing along with a statement indicating its reasons and findings of fact for approval, conditional approval or denial of the request Special Review. The Planning and Zoning Commission shall consider each of the following criteria:

a) The Special Review is consistent with the County's growth policy and applicable neighborhood plans, if any;

b) The establishment, maintenance, or operation of the use will not be detrimental

to or endanger the public health, safety, morals, comfort, or general welfare;

c) The site for the proposed use is adequate in size and topography to accommodate the use while meeting the other requirements of this Zoning Code, including zone district dimensions, landscaping requirements, and parking.

d) The use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood;

e) The use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district;

f) Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided;

g) Adequate measures have been or will be taken to provide ingress and egress to minimize traffic congestion in public streets; and

h) The use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the County Commission.

Conditions necessary to protect the public health, safety, and general welfare can be established, including but not limited to conditions on:

- i. Regulation of the use;
- ii. Special setbacks, buffers, or screening;
- iii. Surfacing of parking areas;
- iv. Street, alley, or service road dedications, improvements, or bonds;
- v. Regulation of points of vehicular ingress and egress;
- vi. Regulation of signs;
- vii. Regulation on the performance of the site, including noise, vibration, and odors;
- viii. Regulation of the hours of activities;
- ix. Timeframe for development
- x. Duration of use; and
- xi. Other relevant conditions that will ensure the orderly development of the site.

#### 6) Board of County Commissioners Action

Before taking any action on an application for a Special Review, the Board of County Commissioners shall first hold a public hearing on the application. The Board of County Commissioners may approve, conditionally approve or deny the requested Special Review. The Board of County Commissioners decision shall be based on findings of fact that include the criteria above.

### F. Enforcement

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

#### 1) Zoning Enforcement Officer

It shall be the duty of the Code Enforcement Officer for Yellowstone County to be the enforcement officer for Special Zoning District Number 21. The enforcement officer is hereby given the authority to enforce the provisions of this Resolution. The Zoning Coordinator in the City/County Planning Department is hereby given authority to administer the provisions of this Resolution.

The Zoning Coordinator in the City/County Planning Department shall supervise and effectuate the processing of applications for amendment to the Resolution, requests for variances and appeals to the Board of Adjustment and the issuance of Zoning Compliance Permits.

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.

## 2) 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.

## 3) Zoning Compliance Permit

A Zoning Compliance Permit is required for properties that are located within Planning and Zoning District 21. No change of land use may be made; or no building or other structure shall be erected, moved, enlarged, rebuilt, added to, or structurally altered without first having received a Zoning Compliance Permit issued by the Zoning Coordinator or his/her designee, who shall determine that the permit is issued in compliance with the regulations set forth in this Resolution. The review of a Zoning Compliance Permit application shall be limited only to a review of the applicable zoning regulations and shall not constitute a review of compliance with any applicable county, state or federal codes.

Each application for a Zoning Compliance Permit shall be accompanied by a site plan, building elevations and any other information requested by the Zoning Coordinator to adequately review the proposed project. The Board of County Commissioners may set an application fee by Resolution for review of a Zoning Compliance Permit. The Zoning Coordinator or his/her designee may waive the submittal requirements for some of the above mentioned plans. Zoning Compliance Permits are valid for a period of six (6) months from the date of approval and may be extended for an additional six (6) months with written approval from the Zoning Coordinator.

#### 4) Penalty for Violation

Violation of the provisions of this Resolution or failure to comply with any of its requirements may constitute a misdemeanor. Each violation and each day such violation continues shall be considered a separate offense. This Resolution shall be enforceable by Yellowstone County by injunctive action in addition to other remedies at law or in equity.