

9500612550

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Susan W. Haverfield
Flathead County Clerk & Recorder
Joan Schreiner
Deputy 9500612550

RESOLUTION NO. 1049R

WHEREAS, the Board of Commissioners of Flathead County, Montana, held a public hearing, following publication of legal notice, on the 15th day of November, 1994, concerning a proposal to adopt the Canyon Area Land Use Regulatory System;

WHEREAS, the Board of Commissioners did hear public comment on the proposal to adopt the Canyon Area Land Use Regulatory System at that hearing;

WHEREAS, the Board of Commissioners reviewed the recommendation of the Flathead County Planning Board regarding the proposal to adopt the Canyon Area Land Use Regulatory System;

WHEREAS, based upon that recommendation and the public testimony, the Board of Commissioners made revisions to the proposal of the Planning Board and, in accordance with Section 76-1-205, M.C.A., adopted a resolution of intention (Resolution No. 1049) on November 21, 1994, to adopt the Canyon Area Land Use Regulatory System; and

WHEREAS, notice of passage of that Resolution was published once a week for two weeks, on November 23 and December 1, 1994, and the Board of Commissioners received written protests from forty percent (40%) of the freeholders within the Lower Canyon Region of the Canyon Area Land Use Regulatory System and did not receive written protests from forty percent (40%) of the freeholders within the Middle and Upper Canyon Regions of the Canyon Area Land Use Regulatory System.

NOW THEREFORE, BE IT RESOLVED that the Board of Commissioners of Flathead County, Montana, in accordance with Section 76-2-205(e), M.C.A., hereby creates the Canyon Area Land Use Regulatory System within the Middle and Upper Canyon Regions.

BE IT FURTHER RESOLVED that the property described on Exhibit A hereto shall be included within the Canyon Area Land Use Regulatory System.

BE IT FURTHER RESOLVED that the land use regulations set forth on Exhibit B, shall apply to the property as described in Exhibit A, and the Performance Standards and Regulations of the Canyon Area Land Use Regulatory System shall govern the property in the Middle and Upper Canyon Regions.

DATED this 19th day of December, 1994.

BOARD OF COUNTY COMMISSIONERS
Flathead County, Montana

By *William E. Rodstrom*
William E. Rodstrom, Chairman

By *Howard W. Gipe*
Howard W. Gipe, Member

By *Sharon L. Stratton*
Sharon L. Stratton, Member

ATTEST:
Susan W. Haverfield, Clerk

By *Joan Schreiner*
Deputy Clerk

EXHIBIT "A"

MIDDLE CANYON REGION:

Primarily encompasses the communities of Lake Five and West Glacier and more specifically described as being all that land lying easterly of the Flathead River in Sections 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, of Township 31 North, Range 19 West, P.M.M., Flathead County, and those portions of Sections 26, 27, 34, 35, & 36 of Township 32 North, Range 19 West, P.M.M., Flathead County, Montana, lying southerly of the Flathead River.

UPPER CANYON REGION:

Primarily encompasses the communities of Nyack, Pinnacle, Essex, and Bear Creek and as more specifically described as being situated between the boundaries of Flathead National Forest (on the South) and Glacier National Park (on the North) along the U.S. Highway corridor between Section 30, Township 32 North, Range 18 West, P.M.M., Flathead County, Montana (on the West) and Marias Pass in Section 1, Township 29 North, Range 14 West, and Section 36, Township 30 North, Range 14 West, P.M.M., Flathead County, Montana (on the East).

STATE OF MONTANA,) SS
County of Flathead)

Louise H. Steinfeld
COUNTY CLERK AND RECORDER, AND FOR THE
SAID COUNTY OF FLATHEAD, STATE OF MONTANA
HEREBY CERTIFY THE ANNEXED AND FOLLOWING TO
BE A FULL TRUE AND CORRECT COPY OF A CERTAIN

Book 1049A

TOGETHER WITH THE ENDORSEMENT THEREON, AS
THE SAME APPEARS OF RECORD IN THIS OFFICE
IN THE YEAR AND SEAL OF SAID FLATHEAD

WITNESSED MY HAND AND SEAL THIS
19th DAY OF
A. D. 1995
Louise H. Steinfeld
[Signature]

9500612550

CANYON AREA LAND USE REGULATORY SYSTEM

(ZALURS)



**RESOLUTION NO. 1049A
ADOPTED DECEMBER 29, 1994
FLATHEAD COUNTY, MONTANA**

95006 12550

CANYON AREA LAND USE REGULATORY SYSTEM
(CALURS)



RESOLUTION NO. 1049A
ADOPTED DECEMBER 29, 1994
FLATHEAD COUNTY, MONTANA

Document No. _____
Records of Flathead County, Montana

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CHAPTER 1
GENERAL PROVISIONS

1.1 AUTHORITY

This document shall be known as the Canyon Area Land Use Regulatory System (CALURS). These standards constitute land use regulations as adopted pursuant to Section 76-2-201 through Section 76-2-228 M.C.A. This review system supplements the existing land use regulations of Flathead County and specifically references the Flathead County Zoning Regulations and the Flathead County Subdivision Regulations where appropriate.

1.2 PURPOSE

- A. This system establishes three major land use regulatory concepts:
1. Range of permitted uses;
 2. Development performance standards and guidelines;
 3. Incentives for optional clustering new residential and commercial development.
- B. The purpose of this regulatory system is to:
1. Implement the goals contained in the Canyon Plan;
 2. Recognize and protect the unique and natural resources of the Canyon;
 3. Promote a tourist economy consistent with the unique resource values and amenities of the Canyon;
 4. Seek cooperation and collaboration among resource and regulatory agencies;
 5. Promote the public health, safety and general welfare;
 6. Provide affordable housing;
 7. Provide for creative planning solutions like clustering;

8. Preserve open space;
9. Secure safety from fire,
10. Facilitate the adequate provision of transportation, air, water, sewage, schools, parks and other public services;
11. Encourage the most appropriate use of land in the Canyon;
12. Avoid environmental degradation; and
13. Provide for the administration of these regulations by defining the procedures for the review and approval of subdivisions and land use changes.

1.3 SEVERABILITY

If any portion of this system is held invalid by a court, such judgment affects only that part held invalid.

1.4 BURDEN-OF-PROOF

The burden of proof shall, in all proceedings pursuant to these regulations, rest with the proponent or applicant.

1.5 JURISDICTION

This Review Process shall govern the development of land within the area described by the Canyon Plan (Flathead County Resolution No. 1009A) and as further described by specific reference in these regulations.

1.6 APPLICABILITY

Whenever the provisions of this regulatory system are at variance with other lawfully adopted rules, regulations, deed restrictions or covenants (e.g., Flathead County Subdivision Regulations, Flathead County Lake & Lakeshore Protection Regulations, Wild & Scenic River easement agreements, state and county road encroachment standards, private covenants, etc.) the provision setting the greater restriction or higher standard shall apply. However, it is not the intent that these regulations be superseded or otherwise supplanted by the provisions of any other county master plan or associated implementing regulations unless specifically referenced by these regulations.

CHAPTER 2**ADMINISTRATION****2.1 ADMINISTRATION**

The administration of these regulations is not intended to create a new "bureaucracy" nor is it intended to complicate or duplicate existing processes or services. For this reason, the administration of these regulations will follow, when applicable, the process and procedures as set forth in Chapter II of the Flathead County Zoning Regulations. The duty of "administrator" is currently being served by the director of the Flathead Regional Development Office (FRDO).

2.2 ADMINISTRATOR

The Administrator shall be charged with the administration, interpretation, and enforcement of these regulations. The appointment of said individual and duties of Administrator are set forth by Section 2.01 of the Flathead County Zoning Regulations which are hereby incorporated by reference into this document. In addition, the Administrator is delegated the authority to review, evaluate, and approve "minor land use actions", which may include the collection of fees to help offset administrative costs for the review and processing of applications.

2.3 PLANNING BOARD

The Flathead County Planning Board shall have the membership, duties and review authority as set forth in Section 2.02, Flathead County Zoning Regulations. In addition, The Flathead County Planning Board is authorized to review "major land use actions" consistent with the procedures for Major Land Use Review.

2.4 BOARD OF ADJUSTMENT

The Board of Adjustment shall have the membership, duties, and review authority for appeals and variances as set forth in Sections 2.03, 2.04, and 2.05 of the Flathead County Zoning Regulations. The application process, procedures for consideration, review criteria, and other pertinent aspects for review and consideration of applications before the Board of Adjustment are as set forth in these Sections.

2.5 BOARD OF COUNTY COMMISSIONERS

The County Commissioners shall be responsible for final decisions on all "major land use" actions.

2.6 MEMORANDA OF UNDERSTANDING

Implementation of the Canyon Plan and the intent of these regulations will require cooperation between the County and all other agencies that have some form of jurisdictional influence in the Region. Notably, this would include such agencies and entities as the Montana Department of Transportation, U.S. Forest Service, Glacier National Park, U.S. Fish & Wildlife Service, Montana Department of Fish, Wildlife & Parks, and Burlington Northern Railroad. It is the intent of these regulations that each agency, as affected, would enter into an agreement with Flathead County to cooperate with the implementation of the Canyon Plan and associated regulations. Areas of partnership should include such matters as weed control, solid waste storage and removal, fire protection, land trades, and resource conservation.

2.7 CITIZEN REVIEW PANEL

There is hereby created a citizen review panel for each of the Middle and Upper Land Use Regions of the Canyon. The membership of each citizen review panel shall consist of 3 members appointed by the Board of County Commissioners for 3 staggered year terms. Appointees must reside within the land use region of jurisdiction. Appointment of the initial citizen review panel, if other than the first of the year, shall include an appointment that expires in January of the first partial year so as to provide a staggered membership schedule. The members shall serve without compensation. Rules of Procedure shall be adopted by the Panels for establishing methods and procedures for meeting and making appropriate recommendations to the Flathead Regional Development Office or other designated bodies. The Panel is encouraged to solicit input from the larger community, as well as from adjoining landowners, when reviewing a proposed land use action.

The role of the Citizen Review Panel is to review and recommend actions on all Canyon-related applications from within the associated Region pending in the Flathead Regional Development Office (FRDO). The recommendations of the Panels shall be included in FRDO staff reports submitted to the Planning Board or Board of Adjustment, and/or to the County Commissioners (in situations involving minor subdivisions). Recommendations by the citizen review panels are advisory only. The Flathead Regional Development Office shall provide the Citizen Review Panels with the application materials at least 2 weeks before the FRDO staff reports on the pending applications are forwarded to the appropriate reviewing authority. Recommendations

from the Panel to the FRDO shall be received in writing by the FRDO by a date specified in the initial transmittals. Late or no response to the FRDO request for comments shall be deemed as "no comment" from the Panel.

2.8 NON-CONFORMING USES AND GRANDFATHERING

Non-conforming (grandfathered) uses shall be regulated as set forth in Section 2.07, Flathead County Zoning Regulations. In general, this provision allows "a non-conforming use to continue in the manner and to the extent that it existed or was being used at the time of adoption of these regulations. Such non-conforming status will run with the lot, building, structure, or use and shall not be affected by changes in ownership". This provision also allows for the reconstruction of said uses if destroyed, even though the use(s) may not be permitted by these regulations.

2.9 AMENDMENTS TO TEXT OF REGULATIONS

Amendments to the CALURS shall follow the application procedures and review process as set forth in Section 2.08.010 - 2.08.020, Flathead County Zoning Regulations. It is anticipated that these regulations may require modifications from time to time, either in response to unanticipated or overlooked information, or from significant changes resulting from events occurring within or outside the area of jurisdiction.

2.10 ENFORCEMENT

Violation of these regulations shall be subject to the penalties and remedies as set forth in Section 2.09, Flathead County Zoning Regulations.

CHAPTER 3**APPLICATION OF DEVELOPMENT REGULATIONS**

All buildings, structures, and/or land shall hereafter be used, occupied, or changed in conformance with the provisions set forth herein, and all buildings, structures or parts thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered in conformance with all of the standards herein specified for the area in which it is located.

3.1 EXEMPTIONS

Certain land uses are exempt from review except that all new or expanding uses, even though listed as being "exempt", remain subject to the setback, minimum lot size, parking, and height standards set forth in these regulations. Examples of exempt uses include single family dwellings (refer to definition), accessory structures, home occupations, agricultural structures, and minor expansions of existing commercial structures. A specific listing of exempt uses is listed under the "Use Allowances" sections of these regulations.

3.2 RELATIONSHIP TO SUBDIVISION REGULATIONS

Subdivision of land must meet both the performance standard criteria and the subdivision design standards of the Flathead County Subdivision Regulations. For subdivision activities, the subdivision application form shall be sufficient for unified review. All meetings and approvals will be granted simultaneously.

3.3 REQUIRED REVIEW

Except for exempted uses, a performance standards review is required for changes and/or alterations in land use. The two types of review are:

Minor land use review

Major land use review

A. Minor Land Use Review

The Minor Land Use Review procedure allows for a 30-day review period. The review, evaluation and authority to approve a "minor land use action" is delegated to the Administrator. Minor Land Use Review is authorized under 76-2-207 M.C.A.

1. Step 1. Preapplication Conference.

Application for Minor Land Use Review may be filed by the applicant following a pre-application conference with the Administrator or his/her representative. Preapplication conferences shall be arranged by the applicant. The applicant shall submit a sketch plan as the basis for discussion at the pre-application conference.

The purpose of the pre-application conference is to be sure the applicant understands the requirements of the System as they affect the proposed project, to provide technical assistance and to answer questions. The pre-application conference is a service to the public, not a regulatory proceeding.

2. Step 2. Filing the Application.

After the pre-application conference, the applicant may file an application and processing fee with the Administrator.

3. Step 3. Review and Evaluation.

The Administrator shall record a review and evaluation of the application and proposed project. This evaluation describes the compliance or deviation with the performance standards of this review system. This review and evaluation will be completed in 30 days. Failure to respond will be deemed an approval.

4. Step 4. Decision on Review Approval.

Approval of the proposed land use change relies upon the compliance with each of the pertinent performance standards.

5. Step 5. Communication to Applicant.

A copy of the evaluation record and decision of the Administrator shall be transmitted to the applicant.

6. Step 6. Appeal.

In the event that the Applicant does not receive a finding of conformance, an appeal may be made by the applicant to the Board of County Commissioners as per the process for Major Land Use Review.

B. Major Land Use Review

Major land use review is required for all new or expanding commercial, multifamily dwellings, or industrial uses when not specifically exempted or subject to Minor Land Use Review. Review and recommendation to the County Commissioners shall be submitted by the Planning Board. The authority to approve, conditionally approve or deny a "major land use action" is that of the Board of County Commissioners.

1. Step 1. Pre-application Conference.

The applicant will schedule a preapplication conference with the Administrator. Applications for Major Land Use Review may be filed by the applicant after a pre-application conference with the Administrator. The applicant shall submit a sketch plan (see definitions) as the basis for discussion at the pre-application conference.

2. Step 2. Filing the Application.

The applicant may file an application and processing fee with the Administrator. Complete application shall be submitted at least thirty (30) days prior to a regularly scheduled meeting of Planning Board.

3. Step 3. Public Review.

- a. A sixty (60) day review period shall commence ten (10) days prior to the regular meeting of the Planning Board. After proper submission of the application, the Administrator shall submit a public hearing notice for publication in the Hungry Horse News not less than fifteen (15) days prior to the date of the hearing. The notice of publication shall advertise the hearing date, time and place, a description of the property to be developed, its acreage, and the nature of the land use change proposed. The public hearing may be continued to the next Planning Board meeting if conditions warrant such action and if the sixty (60) day review period is not violated.
- b. The Administrator shall notify all adjoining landowners of the property to be developed of the proposed development and public hearing by certified mail [or by registered mail if the mailing address is outside of the United States], at least fifteen (15) days prior to the public hearing. The applicant will be responsible to

Application of Development Regulations - Page 9

assemble the list of names and addresses of surrounding property owners. The Flathead Regional Development Office (FRDO) shall certify the list accurate, complete, and be responsible for the mailings.

- d. Upon receipt of an application, the Administrator shall solicit comments from any other agencies having jurisdiction in the project area. This may include state and federal resource management agencies, Montana Department of Transportation, affected Flathead County School Districts, Public Utilities (Water and Sewer), and fire suppression agencies.
- e. On the appropriate forms, the Administrator shall record a review and evaluation of the proposed development. This evaluation describes the compliance or deviation with the performance standards and performance guidelines by the proposed development. At the public hearing, the public comments shall be recorded in the evaluation record. After the public hearing, the Planning Board will establish a recommendation on the land use change for consideration by the Board of County Commissioners.

4. Step 4. Decision on Land Use Change.

Within the required sixty (60) day review period, the Board of County Commissioners shall review the evaluation record and approve, conditionally approve, or deny the land use change. If the proposed development complies with each of the performance standards and is in substantial compliance with the performance guidelines, the Board of County Commissioners shall approve or conditionally approve the land use change.

5. Step 5. Communication to the Applicant.

A copy of the evaluation record and, if the development was approved or conditionally approved, a letter of approval shall be transmitted to this applicant.

CHAPTER 4

PERFORMANCE STANDARDS APPLICABLE TO PROPOSED USES

4.1 Exempted uses excluded, all developments subject to minor or major review shall comply with the listed performance standards. These standards apply only to new or expanding uses, not existing uses or structures or to allowed changes of uses in existing structures.

A. OUTDOOR ADVERTISING:

1. All businesses in the Canyon shall have the right to outdoor advertising consistent with the standards set forth below. It is not the intent of these sign standards to impose a design standard that would require unreasonable expense on the part of the business owner. All legally existing signs, except where otherwise noted, are grandfathered.
2. A permit is required from the Montana Department of Transportation for outdoor advertising signs adjacent to U.S. Highway 2, as appropriate.
3. Signs for commercial businesses:
 - a. Billboards are prohibited.
 - b. Banners and pennants and other similar types of wind signs for individual businesses are prohibited. Community theme banners that convey noncommercial messages are permitted.
 - c. Off-premise signs are prohibited, except as follows.
 - (1) When consolidated into a single sign to announce available commercial services at the entrance to the community of West Glacier;
 - (2) Except a single sign not to exceed 8 sq. ft. erected at the primary access to properties having no direct access and visibility from the Highway.

NOTE: Off-premise signs should utilize logos for service identification.

Performance Standards Applicable to Proposed Uses - Page 11

- (3) Allowance of 1 freestanding sign per business <15 feet high with no single sign face exceeding 20 sq feet. Up to 2 freestanding signs may be permitted for businesses having frontage in excess of 300 feet along the highway.
 - (4) Portable signs are limited to one such sign per business not to exceed 16 square feet.
 - (5) Signs may have internal lighting but no signs shall flash, blink or rotate. All signs shall be in compliance with this standard within 2 years following the effective date of this regulation.
 - (6) Building signs shall be flush mounted or painted and occupy no more than 15% of any building face. An allowance of up to 25% may be permitted if no pole or ground sign is utilized.
- d. Structural modification to any existing sign shall require conformance to these standards.

B. ACCESS AND ROAD STANDARDS

1. All roads hereafter developed providing access to commercial or industrial lots or to new subdivisions from improved county roads shall provide, legal, all-weather access, and be constructed in accordance with County road standards and be designed to allow ready access to emergency vehicles or those specified in the Flathead County Subdivision Regulations. The developer or property owners shall be responsible for maintenance of access roads. This standard shall not be applied to existing residential driveways or to shared private roads serving tracts of record in existence at the time of adoption of these regulations.
2. New approaches onto improved County roads shall be reviewed and approved by the County Road Supervisor prior to construction.

C. SANITATION

1. All development requiring water or sewer services shall obtain the appropriate permits from the Environmental Health Services Division of the Flathead City-County Health Department and from the State Department of Health & Environmental Services, as appropriate.

2. Solid waste shall be disposed in a manner approved by the director of Flathead County Solid Waste. Storage of solid waste shall consider strategies designed to minimize attraction of bears.
3. Livestock held on property in designated community centers and service centers shall not be raised for commercial purposes. In no instance shall the number of animals within the community and service centers exceed:
 - A. Horse, cow, donkey, etc. 2 of any combination per acre
 - B. Sheep, goat, llama, etc. 5 of any combination per acre
 - C. Chickens, geese, fowl, etc. 25 of any combination per acre

D. FLOOD HAZARD AREAS

Structures shall be located outside the floodway of a 100 year frequency as defined by Title 76, Chapter 5, M.C.A., or land deemed subject to flooding as delineated by the most current maps available and accepted for use in Flathead County. FEMA maps are available for the major tributaries to the Flathead River drainage system.

E. NATURAL RESOURCE PROTECTION

1. Wetland and associated riparian vegetation shall not be disturbed by development activities. This requirement shall not apply to ponds and other artificially created wetlands when constructed in compliance with all applicable state or federal regulations.
2. Private lands created from the sale, trade, or exchange of federal lands following the effective date of these regulations shall not be eligible for any commercial or industrial development. Agricultural, forest management uses, passive recreational and open space uses, wildlife habitat management practices, and other similar practices will be permitted.
3. New roads, structures, and other forms of site alteration shall not be located within 50 feet of any natural water body or riparian/wetland area except for unavoidable road crossings of small streams.
4. New subdivisions shall require developer and/or homeowner responsibility for weed control and elimination of noxious weeds from common areas/homeowner association properties.

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Performance Standards Applicable to Proposed Uses - Page 13

- 5. New developments shall be designed to avoid blocking or altering of natural drainages.
- 6. Grading and drainage facilities shall be designed to remove storm run-off and prevent accumulation of standing water.

F. SITE DEVELOPMENT

- 1. Within designated community centers and service centers minimum lot sizes for new land divisions shall be 6,000 sq. ft.
- 2. Outside designated community centers and service centers minimum lot sizes shall be as follows:

<u>Region</u>	<u>Minimum Lot Size</u>
Middle Canyon Region 10 acres
Upper Canyon Region:	
Nyack Area 10 acres
Pinnacle Area 10 acres
Essex Area 10 acres
Bear Creek Area 20 acres

- 3. The minimum lot size for the placement, siting, or erection of any new structure requiring water or sewer, including single family dwellings, shall be 6,000 square feet with a minimum front lot width of 50 feet.
- 4. No structure shall exceed 35 feet above established grade as determined by the average elevation within 20 feet of the building footprint.
- 5. Easements or other legal right-of-way shall be provided for utilities: electric power, telephone, water, and natural gas, where appropriate.
- 6. All public improvements or facilities and utilities associated with the development must be designed and constructed by a professional engineer.
- 7. New telephone and power transmission lines shall be placed underground, when practical, and be located with respect to the natural terrain and vegetation so as to minimize visual impact disturbance of soil and vegetation.

8. All building sites and parking area sites shall be properly graded and appropriate culverts, ditches, settling ponds, and other necessary facilities shall be provided to remove surface run-off in a manner that will not adversely affect adjacent streams, lakes, wetlands, property, or public roads.
9. All new buildings and structures must be set back from the right-of-way of any highways, roads, or street, and from any property boundary line a minimum distance of:

front:	20 feet (40 feet if along U.S. Highway 2); *
rear:	20 feet
side:	10 feet
side corner:	20 feet

*Setback along highway increases to 150 feet if outside designated community or service center.
10. Parking design and requirements shall be as set forth in Sections 6.01 - 6.10, Flathead County Zoning Regulations.
11. A minimum landscaping area equivalent to 10% of the required setback area must be established in the front yard of new commercial lots.
12. Development of commercial or industrial uses shall not be situated on slopes exceeding 25% without a specific plan designed by a licensed engineer that demonstrates how the development can be accommodated with engineering solutions that provide for soil stability, structural integrity of the slope, proposed buildings, and roads.
13. No commercial or industrial development shall extend above the ridge line of any hill, mountain, or elevated topography so as to intersect with the skyline as viewed from U.S. Highway 2.
14. Clustering: Clustering is a strategy to assemble lots and/or structures at a higher net density than would otherwise be permitted for any particular land use region. The allowance for clustered lots is intended to maximize the area of contiguous open space, provide for the efficient extension of services, and prevent the unnecessary fragmentation of habitat. Clustering is an option to traditional subdivision of land but the use of clustering when subdividing land is not a requirement of this ordinance. Standards applicable to clustering include:

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Performance Standards Applicable to Proposed Uses - Page 15

- a. Cluster lots must be ≤ 1 acre in size.
- b. Cluster lots and associated developed facilities must be concentrated in one region of the property and occupy no more than 25% of the total property area.
- c. A minimum land area equivalent to 50% of the property must be set aside as permanent open space. The difference in area between the 50% open space requirement and the total lot area shall be proportionately distributed to each lot for taxing purposes. All open space totaling 10 or more acres must be preserved as open space in perpetuity via conservation easements, donation to a public or nonprofit resource management agency, or via other similar techniques. Open space totalling less than 10 acres may be maintained as a natural homeowners park.
- d. Portions of property already subject to conservation easements or the like shall not be included in either the total acreage calculations of the cluster area or serve to satisfy the open space requirements for the cluster area.
- e. Cluster sites for structures must be sited to minimize impacts to critical habitats or other areas of special resource significance.
- f. A bonus density of twice the number of eligible lots/structures per gross acre is permitted in areas having minimum lot sizes of 10 acres or larger as an incentive to cluster.
- g. This cluster provision shall also apply to all proposals that would establish multiple dwellings on a single tract of land, except when otherwise specified by language in the Use Allowance sections of these regulations.

EXAMPLE: Parcel size = 50 acres
Base density allowance of land use region = 1 structure per 10 acres
Five (5) lots permitted with traditional subdivision
Ten (10) lots permitted with cluster subdivision
results in ≈ 10 acres of developed lots, 25 acres in open space, and 15 acres proportionately added back into the net area of each lot.

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15. Commercial development outside designated service center: All commercial uses proposed outside a designated service area shall:
 - a. Provide a visual screen between the proposed use and Highway in the form of landscaping, retention of an undisturbed vegetative buffer, landscaped berms, and other similar practices.
 - b. Provide a single or shared access. Paving of the access road and parking lot shall be required if access is directly off of U.S. Highway 2 and the proposed structure is within 300 feet of the Highway right-of-way.

G. PLANNED COMMUNITY

The purpose of this designation is to recognize the need for future community expansion in the vicinity of the West Glacier service center. Properties eligible for this designation must be situated within a 0.75 mile radius of the center point of the SE ¼ NE ¼ of Section 35, Twn 32N, Rng 19W, P.M.M., Flathead County, Montana. However, this radius may be expanded to include all properties held in common by a single landowner provided greater than 50% of the property held by the common landowner is within the designated radius. Both residential and tourist commercial uses are permitted as otherwise permitted in the designated service center for the Middle Canyon Region. However, a residential usage must be emphasized throughout the planned community area. Commercial uses must be subordinate to residential uses. The minimum acreage eligible for consideration of a planned community is 25 acres. Landowners having contiguous properties within the designated radius are encouraged to participate in order to meet the minimum acreage requirements and as a strategy to provide maximum opportunities to master plan multiple tracts of land. Review for a planned community designation will be coordinated with the existing Flathead County subdivision regulations. Other design and eligibility standards are described below:

1. Commercial uses and related support services/facilities must not exceed 30% of the property subject to the planned community designation;
2. All uses must have connection services to a public water supply system;
3. All uses must have connection services to a public sewage collection system;

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Performance Standards Applicable to Proposed Uses - Page 17

4. The boundary of the plan area must maintain a minimum landscaped perimeter of a least 30 feet with connection to an interior landscaped corridor or open space area;
5. Total area of open space shall be at least 25% of the plan area;
6. Natural vegetation should be retained to the extent possible;
7. Commercial uses shall be screened or located in such a fashion so as not to be readily visible from the highway or river;
8. All interior roads shall be paved;
9. Entrance signage shall be limited to a ground sign that announces the name of the planned community. Logos of individual businesses within the community center may be incorporated into the entrance sign. A flush mounted or painted wall sign is permitted for each commercial building provided the total sign area does not exceed 20 square feet;
10. Residential lot sizes should be no larger than 1 acre in size;
11. Maximum height of any structure shall be 35 feet;
12. Properties situated within the designated planned community center and outside the designated service center that choose not to seek review as a planned community are eligible for land division at a minimum gross density of 1 dwelling unit per 5 acres. Except for those uses otherwise permitted under Major Land Use review for the Middle Canyon Region, no commercial uses shall be permitted without a planned community review.

CHAPTER 5

PERFORMANCE GUIDELINES APPLICABLE TO ALL PROPOSED USES

[This section is intended to provide guidelines, as opposed to mandatory standards, to the development of new uses. The listed guidelines should be incorporated into project design whenever practical.]

- 5.1 Developments should be designed and constructed to minimize cutting and filling of slopes.
- 5.2 Developments should be designed and constructed to minimize the disturbance of trees and other natural vegetation soils, streambanks and lakeshores. Disturbed soils should be revegetated within the earliest growing season with plant species native to the region.
- 5.3 New growth is encouraged to locate near existing community centers.
- 5.4 The proposed building, structure, or alteration will not obstruct, hinder, impede, or conflict with road, water, sewer, power, and any other public or utility services presently provided or any reasonable or foreseeable extension thereof.
- 5.5 Expansion of existing commercial uses is preferred over the establishment of new commercial uses outside of established community service centers.
- 5.6 New commercial uses and residential subdivisions should be located within a rural fire district or be able to obtain contract services from a fire fighting agency.
- 5.7 Use of unpainted metal siding on commercial buildings visible from U.S. Highway 2 is discouraged.
- 5.8 New development should minimize disturbance of forest and other vegetation associations in proximity to the footprints of the structure(s), roads, etc.
- 5.9 New roads should provide suitable access to serve the intended uses without excessive road width, looping, or fragmentation of habitats. Paving of roads is encouraged especially in close proximity to existing community centers.
- 5.10 Clustering of uses is encouraged so as to minimize the area of actual disturbance or alteration of habitat features.
- 5.11 Site planning should encourage the siting of new structures away from critical habitats including wildlife movement corridors.

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- 5.12 Subdivision approval of additional lots should consider impacts to school enrollment and to other public services.

CHAPTER 6

USE ALLOWANCES

A range of permitted uses is listed for each region of the Canyon. The list of permitted uses is intended to not only identify a list of permitted uses but also to establish a philosophy of development for individual regions in the Canyon.

6.1 UPPER CANYON REGION

A. Exempted uses

1. Single family dwellings (1 dwelling per lot/tract of record when consistent with the "Exemptions" provisions of these Regulations).¹
2. Accessory structures.
3. Agricultural structures.
4. Community parks.
5. Up to 30 cabins plus a single manager's residence to be built and regulated as per the Tunnel Creek Undevelopment Company Ownership Rules on property owned by the Tunnel Creek Undevelopment Company and as generally described as being Tract 1AD, HES 662, Records of Flathead County, Montana. Said Ownership Rules [as in force on the effective date of these Regulations] are hereby incorporated into these regulations by reference and shall be used as specific performance standards for the development of all cabin sites.
6. Home occupations such as artists, craftspersons, day-care (12 or fewer children), social service providers, tutors, and other such activities carried on entirely within the residence by the homeowner.
7. Minor expansions of existing commercial or industrial buildings when the expansion is less than 25% of the existing floor areas and the total area expansion does not exceed 1000 square feet.

¹Multiple dwellings (single family) are permitted on agricultural tracts exceeding 100 acres in size. Total number of dwellings on a single tract shall not exceed 1 unit per 10 acres.

B. Minor Land Uses

1. Public utility structures.
2. Bed & breakfast.
3. Police/fire stations and other emergency service buildings.
4. Post office, school, church.
5. Expansion of existing commercial or industrial structures and/or activity area greater than 25% when total use area involves less than 1 acre.
6. In-home offices for accountants, bookkeepers, realtors, attorneys, etc.
7. Guest cottage.¹
8. Above-garage sleeping/office space.¹
9. Family hardship dwelling.¹

¹Listed uses may be accessory to an existing residential dwelling. Only 1 such accessory structure is permitted per tract of record.

C. Major Land Uses

1. Guest cabins: The number of permitted cabins is determined based on a land area ratio of 1 cabin per 5 acres. Maximum number of cabins per parcel shall be 10. Clustering is required to maximize area of contiguous open space.
2. Artist studio and gallery.
3. Outfitting establishments: minimum lot size requirement of 10 acres. Open space requirement of 50% of parcel area.
4. RV parks: at least 40% of parcel shall remain as undisturbed open space.
5. Retail food/gas store < 3,000 sq. ft. in floor area.
6. Restaurant: must be located in association with other commercial use or be in close proximity to a designated community center.

6.2 MIDDLE CANYON REGION**A. Exempted Uses**

1. Single family dwellings (1 dwelling per lot/tract of record when consistent with the "Exemptions" provisions of these Regulations).
2. Agricultural structures.
3. Accessory structures.
4. Community park.
5. Home occupations such as artists, craftspersons, day-care (12 or fewer children), social service providers, tutors, and other such activities carried on entirely within the residence by the homeowner.

6. Minor expansions of existing commercial or industrial buildings when the expansion is less than 25% of the existing floor areas and the total area expansion does not exceed 1000 square feet.
7. Duplex within designated community center of West Glacier.

B. Minor Land Uses

1. Public utility structures.
2. Police/fire stations and other emergency service buildings.
3. Post office, school, church, museums, libraries.
4. Expansion of existing commercial or industrial structures and/or activity area greater than 25% when total use area involves less than 1 acre.
5. Bed & breakfast.
6. In-home offices for accountants, bookkeepers, realtors, attorneys, etc.
7. Within designated service center if proposed use and/or activity is 5,000 sq. ft. or less:
 - (a) All exempt and major land uses plus:
 - (1) Motel.
 - (2) Medical office/clinic.
 - (3) Restaurant.
 - (4) Retail food/gas store < 3,000 sq ft in floor area.
 - (5) Gift, book and other similar retail stores < 3,000 square feet in floor area.
 - (6) Tourist equipment rentals, non-motorized.
 - (7) Laundromat.
 - (8) Artist studio and gallery.
 - (9) Day care center.
 - (10) Beautician/salon.
 - (11) Guest cottage.¹
 - (12) Above-garage sleeping/office space.¹
 - (13) Family hardship dwelling.¹

¹Listed uses may be accessory to an existing residential dwelling. Only 1 such accessory structure is permitted per tract of record.

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C. Major Land Uses

1. Transportation center.
2. Guest cabins: The number of permitted cabins is determined based on a land area ratio of 1 cabin per two acres. Maximum number of cabins per parcel shall be 10. Clustering is required to maximize area of contiguous open space.
3. Guided hunting, fishing, rafting establishments.
4. Expansion of existing commercial or industrial structures and/or activity area greater than 25% when total use area involves more than 1 acre.
5. Visitor/tourist center.
6. Science research center.
7. Expansion of existing RV parks.
8. RV parks (new) in designated service center only.
9. Planned community center (see performance standards).

CHAPTER 7
DEFINITIONS

- 7.1 **AGRICULTURAL USE:** Any use of the land primarily for the production of crops or livestock including ranching, farming, dairying, pasturage, animal husbandry, poultry husbandry, floriculture, horticulture, silviculture, and other similar uses.
- 7.2 **BEAR CREEK AREA:** Those parcels of land outside of designated community centers in Sections 13, 24, & 26 of Township 29 N, Range 15 W, P.M.M., Flathead County, Montana and Sections 15, 16, 21, & 22 of Township 29 N, Range 14 W, P.M.M., Flathead County, Montana. This area also includes tracts 1 and 37 of HES 1266, Exchange Survey as found in Section 1, Township 29 N, Range 14 W and in Section 36, Township 30 N, Range 14 W, P.M.M., Montana.
- 7.3 **BED & BREAKFAST:** A single family detached dwelling containing, in addition to living accommodations for the resident manager, individual sleeping rooms without cooking facilities for the purpose of providing to the general public for compensation, lodging, bathroom facility, and breakfast only to overnight patrons.
- 7.4 **CANYON:** A general term describing the jurisdictional area of these regulations.
- 7.5 **CHANGE IN USE:** Any development of or alteration of the use of a parcel of land from any of the above defined uses (i.e. Agricultural Use, Residential Use, Recreational Use, Commercial Use, and Industrial Use) to another of the defined uses.
- 7.6 **COMMERCIAL USE:** Any use of land primarily for the sale, offering for sale, purchase, or any other transaction involving the handling or disposition of any article, commodity, substance, or service; also the occupancy or management of office buildings, and the use of structure and premises by professions and trades or persons rendering services.
- 7.7 **CURRENT USE:** The current use (Agricultural Use, Residential Use, Recreational Use, Commercial Use, or Industrial Use) of each parcel of land based on its status in the Flathead County Appraisal Office at the time of the adoption of this Resolution will constitute the present use of that parcel of land.
- 7.8 **DESIGNATED COMMUNITY CENTER:** An area of concentrated residential or commercial development generally associated with the existing platted townsites of West Glacier and Pinnacle. Denoted by the location of subdivisions having platted lot sizes of ≤ 0.5 acres and the availability of a public water supply. These centers may grow as necessary infrastructure is expanded.

- 7.9 **DESIGNATED SERVICE CENTER:** An area designated for concentration of various retail and service businesses; primarily intended to serve the retail needs of the local residents and of the tourists but not intending to provide regional retail products or services. These centers may grow as necessary infrastructure is expanded. Designated service centers are:
- A. **WEST GLACIER:** Those portions of the West Glacier Townsite consisting of Block 1 of the originally platted West Glacier Townsite and all those properties lying southerly of the Old River Bridge Road as extending to Going To The Sun road in the SE $\frac{1}{4}$ NE $\frac{1}{4}$ of Section 35, Twn 32N, Rng 19W, P.M.M., Flathead County, Montana together with that portion of the SW $\frac{1}{4}$ NW $\frac{1}{4}$ of Section 36, Twn 32N, Rng 19W, P.M.M., Flathead County, Montana lying within a 300 foot parallel distance of the southerly right-of-way of U.S. Highway 2.
- 7.10 **DEVELOPMENT:** Any construction of a structure use of, or occupancy of a parcel of land which intensifies land use for OTHER THAN agricultural purposes.
- 7.11 **ESSEX AREA:** Those parcels of land outside of designated community centers in Sections 2,3,10,11,14, & 15 of Township 29 N, Range 16 W, P.M.M., Flathead County, Montana.
- 7.12 **FAMILY HARDSHIP DWELLING:** A temporary dwelling used for housing a member of the immediate family whose physical or mental condition requires constant care or assistance.
- 7.13 **GUEST CABIN:** A small detached dwelling unit that is rented for temporary occupancy much like a motel unit. Denotes a log cabin or rustic wood-type appearance that may include kitchen facilities and generally 1 or 2 bedrooms.
- 7.14 **GUEST COTTAGE:** A detached structure being an accessory to a one family dwelling with not more than two bedrooms having no kitchen facilities and which shall be used and/or designed for use primarily by guests and/or servants for sleeping quarters only. One guest house is allowed per tract of record.
- 7.15 **HOME OCCUPATION:** A use conducted entirely within the dwelling and carried on by the members of the family which use is clearly incidental and secondary to the dwelling for dwelling purposes and does not change the character thereof and in connection therewith are no commodities sold from the premise except that which is produced thereon. Such uses may include , but are not limited to, art and/or photography studios, computer programming, insurance sales, and handicrafts provide the use does not involve more than one-third of the total square footage of the dwelling.

Customer visits associated with the home occupation should be less than 10 trips per day.

- 7.16 INDUSTRIAL USE:** Any use of land primarily for the manufacture, fabrication, processing, reduction, or destructions of any article, substance, or commodity, or any other treatment thereof in such a manner as to change the form, character or appearance thereof - including warehouses, wholesale storage, storage elevators, and truck storage yards.
- 7.17 JURISDICTIONAL AREA:** The area subject to these regulations and as further described by the Middle Canyon Region and Upper Canyon Region as heretofore defined.
- 7.18 LAND USE REGIONS:** Areas defined for application of land use regulations based on physical, cultural, and biological values and characteristics. Two land use regions are recognized for application of regulations:
- A. **Middle Canyon Region:** Primarily encompasses the communities of Lake Five and West Glacier and more specifically described as being all that land lying easterly of the Flathead River in Sections 1,2,3,4,5,7,8,9,10,11,12,13,14,15,16,17, of Township 31 N, Range 19 W, P.M.M., Flathead County, Montana and those portions of Sections 26, 27, 34, 35, & 36 of Township 32 N, Range 19 W, P.M.M., Flathead County, Montana lying southerly of the Flathead River.
 - B. **Upper Canyon Region:** Primarily encompasses the communities of Nyack, Pinnacle, Essex, and Bear Creek and as more specifically described as being situated between the boundaries of Flathead National Forest [on the south] and Glacier National Park [on the north] along the U.S. Highway corridor between Section 30, Township 32 N, Range 18 W, P.M.M., Flathead County, Montana [on the west] and Marias Pass in Section 1, Township 29 N, Range 14 W, and Section 36, Township 30 N, Range 14 W, P.M.M., Flathead County, Montana [on the east].
- 7.19 MULTIFAMILY DWELLING:** Any residential dwelling providing more than 2 dwelling units but less than 5 units per structure and as existing in the form of rental units as opposed to individual or shared ownership as generally associated with townhouses, condominiums, timeshares, and the like.
- 7.20 NYACK AREA:** These parcels of land outside of designated community centers in Section 35 and 36 of Township 32 N, Range 18 W, P.M.M., Flathead County, Montana and Sections 6,7, & 18, Township 31 N, Range 17 W, P.M.M., Flathead County,

Montana and Section 1 and 12, Township 31 N, Range 18 W, P.M.M., Flathead County, Montana

- 7.21 **OPEN SPACE:** That portion of property set-aside, reserved, or otherwise protected via a variety of techniques to ensure the perpetuation of the inherent natural features of the area. Designation of an area as "open space" does not necessarily preclude opportunities to pursue certain agricultural or silvicultural practices.
- 7.22 **OUTFITTING ESTABLISHMENT:** A business providing commercial outdoor recreational opportunities including guided fishing, hunting, trail rides, and camping opportunities. The base facility may include overnight lodging facilities.
- 7.23 **PARCEL OF LAND:** Any contiguous quantity of land, subdivided, in the ownership of the same person, group of persons, corporation, or claimant.
- 7.24 **PASSIVE RECREATIONAL USE:** Outdoor forms of recreation normally associated with such non-motorized and non-commercial activities as hiking, picnicking, bird watching, etc.
- 7.25 **PINNACLE AREA:** Those parcels of land outside of designated community centers in Sections 6,7,16,17,18,19,&21 of Township 30 N, Range 16 W, P.M.M., Flathead County, Montana and Section 1, Township 30 N, Range 17 W, P.M.M., Flathead County, Montana.
- 7.26 **PROPERTY:** A parcel of land, tract or lot on file and of record in the office of the Clerk & Recorder, Flathead County, Montana. A "zoning lot" may include multiple contiguous lots held in common ownership upon written determination by the Administrator.
- 7.27 **RESIDENTIAL USE:** Any use of the land primarily for a structure to be used as the private dwelling place or sleeping place for one or more human beings.
- 7.28 **SEASONAL FRUIT/PRODUCE STAND:** A small booth that is established for the display and selling of seasonal fruit and vegetable produce. The booth may occupy a temporary location for a period not to exceed 3 months.
- 7.29 **SECOND HAND STORE:** Any retail establishment in which the principal portion of the articles, commodities or merchandise handled, offered for sale, or sold on the premises, is used or not new.

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7.30 SETBACK: The horizontal distance required between any structure and a lot line. This distance to be measured at right angles to the lot line. The setback line shall be parallel with the lot lines.

7.31 SIGN: Any device, structure, fixture, or placard using graphics, symbols, and/or written copy designed specifically for the purpose of advertising or identifying any establishment, product, goods, or services.

- A. **BANNERS:** A sign made of fabric or any nonrigid material with no enclosing framework.
- B. **BILLBOARD:** An off-premise sign exceeding 8 sq. ft. of sign area, traditionally designed with a surface on which temporary poster panels or painted bulletins are mounted for the purpose of conveying a visual advertising message. "Billboard" shall not include a community entrance sign.
- C. **FREESTANDING:** A sign supported upon the ground by poles or braces not attached to any building.
- D. **GROUND:** A sign affixed to the ground having less than 5 feet separation between the message board and ground.
- E. **OFF-PREMISE:** A sign advertising an establishment, merchandise, service, or entertainment, which is not sold, produced, manufactured or furnished at the property on which the sign is located. For the purposes of this definition, a billboard shall be considered an off-premise sign.
- F. **PENNANTS:** Any lightweight plastic, fabric, or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in series, designed to move in the wind.
- G. **PORTABLE:** Any sign not permanently attached to the ground or other permanent structure, or a sign designed to be transported, including, but not limited to, signs designed to be transported by means of wheels; signs converted A or T- frames; readerboards; menu and sandwich board signs, balloons used as signs; umbrellas used for advertising; and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normally-to-day operations of the business.

7.32 SINGLE FAMILY DWELLING: A building set or constructed upon a permanent foundation designed with living quarters for occupancy by one family only, having a minimum structural width of 14 feet, and containing one dwelling unit on a lot.

- 7.33 **SKETCH PLAN:** A schematic diagram of the lot, tract or parcel and showing the specific locations of all existing and proposed features, such as buildings, other structures, driveways, parking, landscaped areas, easements, utilities, drainage, etc.
- 7.34 **STRUCTURE:** Any appurtenance constructed or erected on a fixed location on the ground which intensifies land use (including signs and billboards).
- 7.35 **USE:** The purpose for which a parcel of land or structure or portion thereof is designed, intended, arranged, erected, moved, altered, or enlarged; the purpose for which a parcel of land or structure or portion thereof is or may be occupied or maintained.
- 7.36 **VISUAL SCREEN:** Shrubs, trees, berms, or any combination thereof that provides a visual break between a business and adjoining public road. The purpose of the screen is to shield commercial structures from roadway views. If vegetation is the predominant landscape feature, the vegetation must achieve the desired visual screen within 4 years after planting.
- 7.37 **ZONING LOT:** See "property"

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