

SOUTH GALLATIN ZONING DISTRICT

ZONING ORDINANCE

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SECTION 1 TITLE, CREATION AND ADOPTION

- 1.1 This ordinance shall be known as the South Gallatin Zoning Ordinance and is adopted specifically for the South Gallatin Zoning District. This district has been created by resolution of the Board of County Commissioners, Gallatin County, Montana.
- 1.2 Pursuant to Section 76-2-101, M.C.A., there has been created a Planning and Zoning Commission for the South Gallatin Zoning District which consists of the three County Commissioners, the County Surveyor and the County Assessor.
- 1.3 Pursuant to Section 76-2-101, M.C.A., there is hereby adopted a development pattern consisting of the South Gallatin Zoning Ordinance, Zoning Map, and South Gallatin Zoning District General Plan.
- 1.4 The Planning and Zoning Commission shall have all the powers given to it by the state statutes of the State of Montana and by this ordinance.

SECTION 2 PURPOSES

- 2.1 The purpose of this ordinance is to:
 1. Maintain and enhance the lifestyle and recreational values of the district and the principle economic activities of the area.
 2. Protect and preserve the existing ecosystem from unnecessary alteration and disturbance.
 3. Encourage preservation and wise stewardship of the natural environment and scenic values of the South Gallatin Canyon.
 4. Blend future development with the special natural environment of the South Gallatin District.
 5. Develop land use alternatives designed to enhance the compatibility of existing and new land uses in the Canyon.
 6. Protect existing residential and tourist/recreation developments in the district and provide for additional development of these uses on a limited basis that will preserve and be compatible with the character of the area and can be supported by the limited commercial activities in the canyon.

7. Limit commercial development to concentrated areas necessary to the support of existing recreation activities.
 8. Insure that commercial areas are easily accessible from primary circulation routes and prohibit manufacturing and businesses traditionally incompatible with wilderness recreation and dispersed residential uses in the district.
 9. Control the development of recreational land uses in the district and limit to activities which depend upon, and are compatible with, retention of the area's natural character.
 10. Promote the health, safety and general welfare of County residents.
- 2.2 This ordinance is adopted under provision of Section 76-2-101 through Section 76-2-112, M.C.A., and is intended to be in effect only when adopted under said law in conjunction with a zoning map.

SECTION 3 DEFINITIONS

For the purpose of this ordinance certain terms and words are defined as follows: words used in the present tense shall also include the future; words or phrases used in the singular shall also include the plural, and words used in the plural shall also include the singular; the word "building" includes structure and "structure " includes building; the words "used" or "occupied" shall include within their meaning "intended, arranged, or designed to be used or occupied." The word "person" shall include corporation, partnership, or other legal entity, where other definitions are necessary and are not defined herein, the South Gallatin Planning and Zoning Commission may define such terms.

- 3.1 Accessory Building or Use - A building or use which: (1) is subordinate in area, extent or purpose to the principal building or principal use served; (2) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use.
- 3.2 Agriculture - The tilling of soil, the raising of crops, horticulture and gardening, dairying or animal husbandry including all uses customarily incidental thereto, but not including any agricultural industry or business such as fruit packing plants, fur farms, animal hospitals, commercial dog kennels, commercial feed lots or similar uses.
- 3.3 Bed and Breakfast - An establishment which provides overnight lodging to the public for compensation, is located in the proprietor's residence, and serves meals to registered guests.
- 3.4 Building - A structure, having a roof, and built for support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- 3.5 Building Height - The vertical distance from the average elevation of the proposed finished grade at the front of a building to the highest point of a flat roof, the deck line of a mansard

roof, and the mean height between eaves and ridge for gable, hip and gambrel roofs.

- 3.6 Building Perimeter - The foundation walls of a building and/or supports for appendages thereto.
- 3.7 Campground - An outdoor facility providing overnight visitor accommodations in the form of tent or recreational vehicle sites, and having no permanent structures other than a management office, storage facilities and sanitary facilities.
- 3.8 Caretaker's Residence - Dwelling unit for a person that takes care of a house or land unit for an owner.
- 3.9 Club, Private - An association of persons for the promotion of a common objective.
- 3.10 Cluster Development - A development approach in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that allowed.
- 3.11 Commercial - A land use classification that permits facilities for the buying and selling of goods and services.
- 3.12 Commercial Feed Operations - Any premises on which animals are held or maintained for the purpose of feeding for market. An operation shall be considered a commercial feed operation where there are 150 head or more cattle, 150 head or more hogs, 150 head or more sheep, 150 or more poultry or rabbits, and 150 or more of any other animal. Livestock which have access to forage on a regular seasonal basis shall not be considered a commercial feed operation.
- 3.13 Conditional Use - Uses, other than permitted uses, that may be allowed in a specific zoning category, but which require a public hearing by the governing body to consider additional safeguards to maintain and assure the health, safety, and

general welfare of the community and to maintain the character of the South Gallatin Zoning District.

- 3.14 Construction - Making or forming by combining or arranging parts or elements.
- 3.15 Convenience Commercial - A convenience retail establishment that secures its principal trade by supplying the daily needs of neighborhood residents and travelers.
- 3.16 Corral - A pen or enclosure for confining or capturing livestock.
- 3.17 Density - The total number of dwelling units allowed per gross acre.
- 3.18 Dwelling, Single Family - A building designed with complete, permanent, and independent living facilities for one family.
- 3.19 Dwelling Unit - A building or portion thereof providing permanent cooking, eating, sleeping and living facilities for one family and its resident domestic employees.
- 3.20 Dude Cabins - Detached living quarters used to house patrons of dude ranches, resorts, corporate retreats and private clubs. Dude cabins shall not be offered for sale as an individual dwelling unit.
- 3.21 Dude Ranch - A private ranch that offers lodging, meals and recreation at a package price. Guests are accepted by reservation only; single-night overnight trade is not solicited. The package price includes all meals and recreational facilities. Dining, recreational and other facilities are only available for use by ranch guests.
- 3.22 Employee Housing - Dormitories, bunkhouses or cabins for people who labor for the same entity where employee housing is located. Available only for use by employees and not for use by paying guests.
- 3.23 Family - Any individual or two or more persons related by blood or marriage, or a group of not more than four persons (excluding servants) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.
- 3.24 Gateway Sign - An archway over a main access to an establishment or structure and limited to the name of the establishment or structure.
- 3.25 General Plan - General plan shall include any document or portion of any document duly adopted by the Zoning Commission which is intended to guide the growth and development of the area.
- 3.26 Guest House - Detached living quarters used to temporarily house visitors, without kitchens or cooking facilities, clearly subordinate and accessory to a single family home on the same building site. Guest houses shall not be offered for rent or sale as an individual dwelling

unit.

- 3.27 Guest Ranch/Resort - A building or group of associated buildings containing accommodations for guests, consisting of individual guest rooms, suites and separate dwelling units, dining facilities and other types of accessory facilities, including but not limited to, private recreation facilities, horse related activities, fishing, outfitting, meeting, banquet and conference rooms, recreational activities and such other usual and customary activities carried on and conducted at a guest ranch/resort in the area.
- 3.28 Home Occupation - Any use customarily conducted entirely within a dwelling by the inhabitants thereof, which is clearly incidental and secondary to the use of the character thereof and in connection with which there are: no sales of products or services not produced on the premises; no more than one additional employee other than the residents of the building; no generation of pedestrian or vehicular traffic beyond that normal to the district in which it is located; no signs or structures advertising the occupation; no excessive or unsightly storage of materials, supplies or equipment. For guidance, the following uses are examples of home occupation: the making of clothing; the giving of music lessons; the creation of original artifacts; and the providing of children day care services. In no case shall more than one home occupation be carried on in the same premises.
No home occupation conducted entirely within a dwelling shall occupy more than twenty percent (20%) of the gross floor area nor more than four hundred (400) square feet of gross floor area.
- 3.29 Landscaping - The placement of ornamental fixtures such as fountains, ornamental walls, fences, benches, along with vegetative plantings of trees, shrubs, grass, flowers, etc. This definition shall also include the designing of the placement of such materials.
- 3.30 Lot - A parcel or plot of land shown as an individual unit of ownership on the most recent plat or other record of subdivision.
- 3.31 Lot, corner - A lot situated at the junction of and abutting on two or more streets.
- 3.32 Lot, coverage - The total area of a lot covered by the principal and accessory buildings.
- 3.33 Lot lines - The lines bounding a lot as defined herein.
- 3.34 Lot width - The width of a lot along a line parallel to the frontage thereof and lying a distance equal to the required front yard setback on such lot.
- 3.35 Manufactured Housing - Residential dwellings constructed entirely or substantially off-site.
- 3.36 Mobile Home - Forms of housing known as "trailers", "house-trailers", or "trailer coaches", built to be transportable on its own chassis, comprised of frame and wheels, and designed to be used as a dwelling when connected to appropriate utilities.

- 3.37 Motor Home - See Travel Trailer, Section 3.50.
- 3.38 Outfitting - Providing a commercial service and equipment to help the public better enjoy outdoor recreational activity.
- 3.39 Overnight Accommodations - Permanent, separately rentable accommodations which are not available for residential use. Overnight accommodations include dude ranches, resorts, bed and breakfast inns and cabins. Individually owned units may be considered overnight lodging if they are available for overnight rental use. Tent sites, recreational vehicle parks, employee housing, and similar accommodations do not qualify as overnight accommodations for this definition.
- 3.40 Parcel - a tract or plot of ground.
- 3.41 Parcel of Record - Means a parcel of land, irrespective of ownership, that can be identified by a legal description, independent of any other parcel of land, using documents on file in the records of the County clerk and recorder's office.
- 3.42 Parking Lots - A structure or an area, other than a public street or alley designed or used for the temporary parking of motor vehicles and available for public use whether free, for compensation, or an accommodation for customers or clients.
- 3.43 Parking space, off-street - A space located off any public right-of-way which is at least nine feet by twenty feet in size for parking of any motor vehicle, with room to get out of either side of the vehicle, with adequate maneuvering space, and with access to public streets or alleys.
- 3.44 Pasture - Land used for grazing.
- 3.45 Private Club - A building and related facilities owned or operated by a corporation, association, or group of individuals established for the fraternal, social, educational, recreational, or cultural enrichment of its members and not primarily for profit and whose members pay dues and meet certain prescribed qualifications for membership.
- 3.46 Ranch - An agricultural establishment used for the production or maintenance of crops, hay, or livestock, including structures or other improvements incidental to such activities.
- 3.47 Restaurant - A commercial establishment with dining facilities which serves meals and beverages to the general public and which may provide music or dancing as an incidental use. The term restaurant does not include outdoor cooking or food service facilities.
- 3.48 Retreat, Corporate - Facility which provides accommodations, meeting rooms, eating facilities and recreational activities to private groups only. Corporate retreats are not open to the general public and do not accept reservations from individuals. All meals, lodging

and recreational facilities are provided as a package to guests.

- 3.49 Ridgeline - A line connecting the highest points along a ridge or crest.
- 3.50 Structural alteration - Any change in the shape or size of any portion of a building or of the supporting members of the building or structure such as walls, columns, beams, arches, girders, floor joist, or roof joist. The term structural alteration does not include modifications not visible from the building's exterior.
- 3.51 Structure - That which is built or constructed, an edifice or building of any kind of any piece of work artificially built up or composed of parts joined together in some definite manner.
- 3.52 Travel Trailer - A vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation uses which is not more than eight feet in body width.
- 3.53 Use - Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

- 3.54 Variance - A device which grants a property owner relief from certain provisions of the zoning ordinance when, because of the particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner, as distinguished from an inconvenience.
- 3.55 Viewline - See ridgeline.
- 3.56 Water Gap - A fenced area leading from a corral or pasture to a water source.
- 3.57 Wildlife Habitat - The combination of physical parameters such as food, water, vegetative cover, and space that provides for the biological and behavior needs of wildlife for the purposes of the South Gallatin Plan this definition specifically applies to those large mammals of primary concern outlined in the Plan, which include elk, grizzly bears and moose.
- 3.58 Yard, front - An open space extending across the full width of the lot between the front building line and the front lot line.
- 3.59 Yard, rear - An open space extending across the full width of the lot between the rear building line and the rear lot line.
- 3.60 Yard, side - An open space extending from the side building line to a side lot line running from the front to the rear lot lines.
- 3.61 Zoning Enforcement Officer - The duly authorized agent appointed by the Planning and Zoning Commission for the purpose of administering and enforcing this ordinance.

SECTION 4 ESTABLISHMENT OF DISTRICTS

- 4.1 The jurisdiction of the South Gallatin Zoning District is hereby divided into zones of "districts", as shown on the official zoning map, which together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this ordinance.
- 4.2 Certificate - The Official Map shall be available in the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairperson of the South Gallatin Planning and Zoning Commission, attested by the County Clerk and the date of adoption of this ordinance. The Certificate shall read as follows:

This is to certify that this is the Official _____ Zoning Map referred to in Section 4 of the South Gallatin Zoning District Ordinance.

CHAIRPERSON, SOUTH GALLATIN PLANNING AND ZONING DISTRICT

Attested _____

Date of Adoption _____

If any changes to the map are made by amendment of this ordinance in accordance with Section 21 hereof, such changes shall be made to the Official Zoning Map and signed, dated, and certified upon the map or upon the material attached thereto.

Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map kept in the office of the County Clerk and Recorder shall be the final authority as to the current zoning status of land and water areas, buildings, and other structures in the zoning district.

4.3 Replacement of Official Zoning Map - In the event that the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret because of the nature or number of changes or additions thereto, the South Gallatin Planning and Zoning Commissioners may adopt and certify a new Official Zoning Map which shall supersede the prior Official Zoning Map.

The new Official Zoning Map may correct drafting or other errors or admissions in the prior map, but no such corrections shall have the effect of amending the original zoning map or any subsequent amendment thereof.

"This is to certify that this Official Zoning Map supersedes and replaces the Official Zoning Map adopted _____ as part of the zoning ordinance for South Gallatin Zoning District, Gallatin County, Montana.

CHAIRPERSON, SOUTH GALLATIN PLANNING AND ZONING COMMISSION

Attested _____

Date _____

4.4 Interpretation of 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; where:

1. Boundaries indicated as approximately following the center line of streets, highways, or alleys, shall be construed to follow such center lines;
 2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
 3. Boundaries indicated as following the center line of streams, rivers, canals, or ditches shall be construed to follow such center lines;
 4. Boundaries indicated as parallel to or extensions of features indicated on the Official Zoning Map shall be determined by the scale of the map;
 5. Boundaries indicated as following section lines or quarter section lines or quarter-quarter section lines shall be construed as following such lines;
 6. 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 South Gallatin Planning and Zoning Commission shall interpret the district boundary.
- 4.5 Interpretation of Uses - If questions arise concerning the appropriate classification of a particular use, or if the specific use is not listed, the Zoning Commission shall determine the appropriate classification for that use, using the criteria listed under the applicable section of this ordinance.

SECTION 5 APPLICATION OF DISTRICT REGULATIONS

Except as herein provided with respect to supplementary regulations, conditional uses, non-conforming uses and non-conforming buildings, and variances, the regulations set by this ordinance shall be minimum regulations and all regulations as categorized shall apply uniformly to each class or kind of structure or land and particularly:

- 5.1 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 for the district in which it is located.
- 5.2 No building or other structure shall hereafter be erected or altered: a) to exceed the required height or bulk set forth in these regulations; b) to accommodate or house a greater number of families; c) to occupy a greater percentage of lot area; d) to have narrower or smaller rear yards, front yards, side yards, or other open space.

- 5.3 No part of any yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this ordinance, shall be included as part of a yard, open space, or off-street parking similarly required for any other building.
- 5.4 No yard or lot existing at the time of adoption of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this ordinance shall meet at least the minimum requirements established by this ordinance.

SECTION 6 RECREATION AND FORESTRY DISTRICT (RF)

- 6.1 Purpose and Intent - This district is intended to provide areas for recreational activities, wildlife habitat and limited year-round single-family residential life. It is intended that this district remain a very low density area to protect its natural, scenic and environmental qualities. It is also the purpose of this district to recognize the existing constraints to development, such as unstable soil, wildlife habitat, steep slopes and riparian areas, and to ensure that any development be planned accordingly.
- 6.2 Characteristics - The RF District has been applied to areas that have the following characteristics:
- a. Access is limited. Limited access means that roads are not built to Gallatin County standard, do not have a formal maintenance association and program, may be private and may not have recorded easements.
 - b. Typical uses are guest ranches, recreation and logging.
 - c. The land is in private ownership.
 - d. Existing density is very low with abundant open space.
 - e. Wildlife use is common.

6.3 Development Rights - Land in the South Gallatin Zoning District that is zoned for recreation and forestry shall have development rights for residential use and other uses as set forth below. To maximize the protection of the land, wildlife and natural resources, residential development rights may be increased if a cluster development plan is used.

6.4 Assignment of Density Rights - Density rights are assigned as follows:

Single Family Dwelling Unit	1 unit per 100 acres
Corporate retreat	3 maximum within the district each of which shall require as a minimum 640 acres
Dude ranch	1 additional dude ranch to those existing in the District at the date of adoption of this Ordinance and which shall require 640 acres
Private clubs	4 maximum within the district each of which shall require 320 acres

All density rights may be freely transferred within the RF District following the procedure set forth in Section 7.6.

Upon the use of an approved cluster development for the development of single family residential dwellings within the RF District, the density rights for single family residential dwellings may be increased to 2.0 units per 100 acres.

6.5 Minimum Parcel Size - Minimum parcel size shall be as follows:

Single Family Dwelling Unit	100 acres
Corporate Retreat	640 acres
Dude Ranch	640 acres
Private Clubs	320 acres

6.6 Uses Permitted as a Matter of Right -

1. Growing and harvesting of timber and other forest products and related activities, including logging and

- all operations incidental to and connected therewith; crop farming and harvesting;
2. Forest stations and lookouts;
 3. Grazing;
 4. Riding and hiking trails for non-motorized use;
 5. Stables and corrals;
 6. Public and private playgrounds and parks;
 7. Picnic areas;
 8. Structures accessory to any use listed above;
 9. Signs in accordance with Section 11.7.
 10. Non-agricultural home occupations and hobbies when conducted within buildings and structures, the principle use of which is one of the foregoing uses.
 11. The raising, feeding, managing and breeding of livestock, poultry, fish, birds, and other animals which do not constitute commercial feed operations.
 12. Signs warning against trespass, shooting and hunting on premises, without limitation as to number.
 13. Signs indicating the name of owners of the property or the agricultural product produced on the premises.
 14. Signs for the selling of produce or property.
 15. Signs for real estate for sale and streets. Signs shall meet all requirements of Section 11.7.
 16. Temporary buildings for and during construction only.
 17. One single family dwelling unit per one hundred acres or any single parcel of record on the effective date of this ordinance.
 18. Employee housing.
 19. Outfitting operations that do not require additional permanent structures.

6.7 Review of Certain Uses Permitted as a Matter of Right -

1. The following uses may be constructed as a matter of right in the RF District. These uses shall be reviewed by the Zoning Commission at a public hearing only to assure conformity with the zoning ordinance and the purpose and intent of the RF District.
 - a. One (1) additional dude ranch within the South Gallatin Zoning District, located on a minimum of 640 acres with facilities to accommodate a maximum of 100 guests and support personnel at any one time, subject to the approval of the development plan.
 - b. Three (3) corporate retreats within the South Gallatin Zoning District, each of which shall be located on a minimum of 640 acres with facilities to accommodate no more than 100 corporate invitees and support personnel at a time, subject to the approval of the development plan.
 - c. Four (4) private clubs within the South Gallatin Zoning District, each of which shall be located on a minimum of 320 acres, subject to the approval of the development plan.
 - d. Outfitting operations that require additional permanent structures..
2. Mandatory Standards. All uses listed in Section 6.7.1.a,b,c and d shall:
 - a. Preserve wildlife habitat and migration paths as shown on the Wildlife Habitat Map as attached. Preservation measures may include restricting use during migration, winter range use and calving; requiring bear-proof refuse storage; prohibiting the feeding of big game animals; meeting fence standards established by the Department of Fish, Wildlife and Parks to permit the movement of wildlife; and requiring dogs to be under the control of their owners at all times;
 - b. Construct roads to Gallatin County Standards and Forest Service standards where applicable;
 - c. Require structures to be built to Seismic Zone Three Standards;
 - c. Meet the appearance standards set forth in Section 11.3;

- d. Maintain as a minimum in permanent open space all cliffs, ravines, floodplains, creeks, rivers and geological faults;
 - e. Delineate and restrict the use of areas of unstable soils and avoid construction practices which significantly increase the likelihood of landslides;
 - f. Provide for the maintenance of roads;
 - g. Provide water quality protection measures, such as stream setbacks, where applicable;
 - h. Be located so to preserve the privacy and isolation that characterizes the RF District;
 - i. Minimize lighting disturbance on adjacent lands.
 - j. Preserve any historic or archeological resource determined to be significant by the Montana State Historic Preservation Office.
 - k. Comply with applicable Department of Health requirements.
 - l. Provide engineering data for any structures located on slopes greater than 15% and on sensitive soils;
 - m. Meet the intent of this section.
3. Procedure.
- a. All applications for reviewed uses by right shall be filed with the Zoning Commission accompanied with the required filing fee.
 - b. The Zoning Commission shall then designate the Zoning Enforcement Agent to review the application and determine if the application is complete and meets the provisions of this Section.
 - c. The Zoning Commission shall hold a public hearing to inform the public of the application. The Zoning Commission may continue such hearing if need be.
4. Required Information: The developer shall submit to the Gallatin County Planning Office ten (10) copies of the following information:
- (1) Number and types of proposed structures.
 - (2) Number of off-street parking spaces.

- (3) Location of any wildlife habitat critical to maintaining the Gallatin elk herd, based upon credible evidence.
- (4) Road location and design.
- (5) Renderings of all structures, which include materials, textures and colors.
- (6) A location map showing the project in relation to the surrounding area.
- (7) A site plan including all areas disturbed by construction which shows:
 - a. Property lines and easements, with dimensions and area;
 - b. Location, size, spacing, setbacks, and dimensions of all existing and proposed buildings, structures, improvements and utilities;
 - c. Topographic information showing existing features, such as cliffs, ravines, geological faults, and any proposed grading;
 - d. Existing vegetation, wildlife habitat, and water courses, floodplain, and any proposed alterations;
 - e. Existing land use;
 - f. Existing access to the project, proposed roads, and parking layout, all with dimensions;
 - g. Soil types, unstable soils, wetlands, and natural drainages.
- (8) Exterior lighting plan.
- (9) Location of any historic or archeological resource.
- (10) Engineering data for any structures located on slopes greater than 15% and on sensitive soils.
- (11) Documentation showing compliance with applicable Department of Health requirements.
- (12) Covenants or other documents which require structures to be built to Seismic Zone Three Standards, to restrict the use of areas of unstable soils, provide for maintenance of roads and provide water quality protection measures.

6.8 Uses Permitted After Securing Approval of a Conditional Use Permit -

1. Cluster residential developments at a density of up to 2.0 dwelling units per 100 acres.
2. Accessory buildings and structures, the principle use of which is the pursuit of non-agricultural/home occupations and hobbies;
3. Mines, oil and gas wells, and gravel pits;
4. Guest houses; limited to one per single family dwelling.
6. Cross country ski facilities, as an accessory use;
7. Community receiving antennas, microwave relay stations, and electric transmission lines;

8. Construction of roads;
9. Structures and uses accessory to the uses listed herein;
10. Caretaker's residence;
11. Bed and breakfast;
12. Sale of miscellaneous items for guest convenience or souvenirs.

6.9 Special Regulations Applicable to Wildlife Habitat -

Within the RF District, there are areas that require greater protection because they are critical to maintaining the Gallatin elk herd. These areas provide winter range, a traditional migration path and calving areas.

1. **Applicability.** This section applies to all land within Sections 1 and 3, Township Nine South, Range Three East and Sections 33 and 35, Township 8 South, Range 3 East, M.P.M., Gallatin County, Montana.
2. **Assignment of Density Rights.** The density rights assigned in Section 6.4 shall include the critical wildlife area.
3. **Use Permitted as a Matter of Right.**
 - a. Growing and harvesting of timber and other forest products and related activities, including logging and all operations incidental to and connected therewith;
 - b. Crop farming and harvesting;
 - c. Grazing; the raising, feeding, managing and breeding of livestock, poultry, fish, birds, and other animals which do not constitute commercial livestock confinement.
 - d. Signs warning against trespass, shooting and hunting on premises, without limitation as to number. Signs indicating the name of owners of the property or the agricultural product produced on the premises. Signs for the selling of produce or property. Signs for real estate for sale and streets. Signs shall meet all requirements of Section 11.7.
4. **Conditional uses**
 - a. Stables and corrals; public and private playgrounds and parks, picnic areas; structures accessory to any use listed above; non-agricultural home

- occupations and hobbies when conducted within buildings and structures;
- b. Temporary buildings for and during construction only.
 - c. One single family dwelling unit per one hundred acres or any single parcel of record on the effective date of this ordinance.
 - d. One additional (1) dude ranch to those existing within the South Gallatin Zoning District at the date of adoption of this Ordinance, located on a minimum of 640 acres with facilities to accommodate a maximum of 100 guests and the required number of support personnel at any one time, subject to the approval of the development plan.
 - e. Three (3) corporate retreats within the South Gallatin Zoning District, each of which shall be located on a minimum of 640 acres with facilities to accommodate no more than 100 corporate invitees and support personnel at a time, subject to the approval of the development plan.
 - f. Four (4) private clubs within the South Gallatin Zoning District, each of which shall be located on a minimum of 320 acres, subject to the approval of the development plan.
 - g. Cluster residential developments at a density of up to 2.0 dwelling units per 100 acres.
 - h. Accessory buildings and structures, the principle use of which is the pursuit of non-agricultural/home occupations and hobbies;
 - i. Mines, oil and gas wells, and gravel pits;
 - j. Guest houses;
 - k. Cross country ski facilities, as an accessory use;
 - l. Community receiving antennas, microwave relay stations, and electric transmission lines;
 - m. Construction of roads;
 - n. Structures and uses accessory to the uses listed herein;
 - o. Caretaker's residence;
 - p. Bed and breakfast;

- q. Sale of miscellaneous items for guest convenience or souvenirs.

6.10 Consistency with Goals and Purposes -

All conditional uses permitted shall be consistent with the intents and purposes of Section 2 of this Ordinance.

6.11 Site Development Standards -

1. Lot Width - No lot length shall be greater than three times its width.
2. Yards - Every lot shall have the following minimum yards:

Front yard	35 feet
Rear yard	25 feet
Side yard	25 feet
Highway 191:	See Section 11.10
3. Corral Setback - All corrals shall be set back 100 feet from the mean high water mark of any perennial stream. A fifteen foot wide water gap shall be permitted.
4. Floor Area - Each permanent dwelling unit shall have a minimum of 1,000 square feet of floor area.
5. Building Height - Maximum residential building height in this district shall be 32 feet.
6. Off-Street Parking - Off street parking shall be provided in accordance with the following:
 - a. Single family homes: Two parking spaces per home.
 - b. Dude Ranches: One parking space per guest cabin or per four guests, whichever is least.

- c. Private Clubs and Corporate Retreats: One parking space per every 3 members or guests.
- d. Required parking shall be located as to preclude backing maneuvers onto any public right-of-way and shall not be located in any setback area.
- e. A parking plan showing the number of spaces, location of spaces and aisles shall be reviewed and approved by the Zoning Enforcement Agent.

7. Lot Access - Access to lots not abutting a public road must be provided. The access may be in the form of an easement over the tract of land separating the lot from a public road. Minimum easement width shall be 20 feet. If the access is an easement over other land, the easement shall be irrevocable as long as the lot it serves has no other access approved by the governing body.

This lot access standard shall apply to all lots not subject to state and county subdivision review. Lots subject to such review shall meet the appropriate access requirements.

Procedure - Easements not subject to subdivision review shall be shown on a certificate of survey or described in a deed.

- 8. All developments and buildings shall be screened from public view of motorists by retention of natural growth or installation of landscaping. Screening shall be in accordance with the site plan requirements of Section 11.4.
- 9. All conditional uses permitted shall submit a site plan according to the requirements of Section 11.3 and 11.4.
- 10. All construction shall include preparation of and adherence to an erosion control plan, including recreation slopes, roads and parking lots.
- 11. Areas which are or may become denuded are to be revegetated.
- 12. All construction shall be designed not to interfere with the natural drainage pattern, unless satisfactory mitigation measures are included.

13. Strict limitations on treatment and disposal of sewage effluent pursuant to approval by the County Health Department and other appropriate governing agencies.
14. Employee housing shall be required for dude ranches and retreat centers.

SECTION 7 RESIDENTIAL CLUSTER DEVELOPMENT - RCD

7.1 Intent -

The intent of cluster development is to permit a procedure for development which will permit buildings at higher densities than otherwise allowed, and that will encourage development that considers the character and environmental sensitivity of the District.

The purpose of cluster developments is also to provide an alternative procedure under which land may be developed by transfer of permitted dwelling units to locations suited to such use, thereby retaining the remaining land in its pristine state.

This section only applies to residential development and is not applicable to the development of guest ranch cabins or dude ranch cabins.

7.2 Cluster Development - Special Definitions -

1. Cluster Development - A development approach in which building lots may be reduced in size and buildings sited closer together, usually in groups or clusters, provided that the total development density does not exceed that allowed.
2. Common Open Space - A parcel or parcels of land, or an area of water, or a combination of land and water within the site designated for a Cluster Development and designated and intended for the use or enjoyment of residents of the Cluster Development. Common open space may contain structures and improvements necessary and appropriate for the benefit and enjoyment of residents of the Cluster Development.
3. Development Rights - One of a series of rights inherent in fee simple ownership of land (others include air rights or mineral rights) which may be separated from the land. The rights to build dwelling units on one's land; the potential for the improvement of a parcel of real property, measured in dwelling units, existing because of the zoning classification of the parcel.
4. Landowner - The legal or beneficial owner or owners of all of the land proposed to be included in a Cluster Development; or the holder of an option or contract to purchase, a lessee having remaining term of not less than twenty (20) years, shall be deemed to be landowner for the purposes of these provisions.

5. Open Space - Land subject to valid restriction against development which enhances living conditions in Cluster Development.
6. Plan - The provisions for development of a Cluster Development, including a plat of subdivision (where applicable), all covenants relating to use, location and bulk of buildings and other structures, intensity of use or density of development, streets, ways and parking facilities, and a general layout of water and sanitary facilities. The phrase "provisions of the plan", when used in these provisions, shall mean the written and graphic materials referred to in this definition.
7. Residential - If permitted in the basic zone, those uses allowed therein.
8. Transfer of Development Rights - The conveyance of development rights authorized by the South Gallatin Canyon Zoning Ordinance, to another parcel of land.

7.3 Uses Permitted -

Any uses permitted in the underlying zone classification, including single family dwelling units, condominiums and townhouses.

7.4 Where Allowed -

Residential Cluster development is allowed, upon approval according to the procedures of this section, in the RF, CC and CR districts.

7.5 Standards for Development -

1. The cluster development plan must locate and arrange the residential development so as to protect, to the maximum extent reasonable, the area's pristine features and environmental sensitivity and to reasonably minimize adverse impacts upon the character of the district in which the cluster will be located.
2. The cluster development plan must indicate an arrangement of residential development so as to reduce as much as possible any nuisance, jeopardy or conflict between the residential and dispersed recreational uses both within the tract and in relation to adjoining or nearby tracts, and to demonstrate the compatibility of the proposed cluster plan with existing development.
3. The cluster development plan must be so laid out, and protected during construction, as to remain as harmonious as possible with the natural environment, minimizing as much as possible the clearing of trees, grading of earth, disturbing of streams, and other similar dislocations of the natural environment.
4. The cluster development plan must demonstrate conservation of wildlife habitat and

protection of scenic vistas.

5. The Zoning Commission may refuse to approve the cluster method or a plan of cluster development if in its judgment:
 - a. Significant wildlife habitat, scenic vistas, pristine values, dispersed recreation or other recognized values would be significantly impacted under the cluster method.
 - b. The natural integrity of environmentally sensitive areas would be threatened.
6. Cluster development shall occur on no more than 10% of the area included in the development plan.
7. There shall be a maximum of twelve dwelling units allowed per cluster.

7.6 Density Rights and Transfer Procedure -

1. Assignment of Density Rights - Every 100 acres in the Recreation Forest District shall have one single family dwelling unit density right. In the Medium Density Canyon Residential District, every 3 acres shall have one single family dwelling unit density right. In the Canyon Commercial District, every 3 acres shall have one single family dwelling unit density right. A current record of available and transferred development rights shall be maintained by the Planning Office. Any transfer of development rights shall be recorded with the Office of the Gallatin County Clerk and Recorder and notification shall be provided to the Planning Office.
2. General - Development rights shall only be transferred within the boundaries of the zones designated on the official map. Development rights are valued by the private market, and may be conveyed and reconveyed. Development rights may be sold or accumulated without Zoning Commission approval. To use development rights, an application to the Zoning Commission must be made as set forth below.
3. Procedure for Use - Application shall be made to the South Gallatin Canyon Planning and Zoning Commission for the use of the development rights. The application shall consist of a document indicating the ownership or contract to purchase development rights and the necessary submittal for review as a cluster development, as required by the South Gallatin Canyon Zoning Ordinance and Gallatin County Subdivision Regulations.

Upon preliminary approval of the cluster development, the applicant shall record the approved development rights transfer with the Office of the Gallatin County Clerk and Recorder.

4. Staged Development - If the sequence of construction of various portions of the development is to occur in stages, then the open spaces and the recreational facilities proposed for the entire development shall be developed, or committed thereto, in proportion to the number of dwelling units constructed. At no time during the construction of the project shall the number of constructed dwelling units exceed the overall density per acre established by the provisions of the ordinance.

5. Procedure
 - a. Required information: The developer shall submit to the Gallatin County Planning Office ten (10) copies of the following information:
 1. Number and types of proposed dwelling units.
 2. Number of off-street parking spaces.
 3. Amount of open space or land to be left in natural state, by acreage.
 4. Amount of land, by acreage, to be covered by buildings.
 5. Materials, textures and colors of structures, if proposed.
 6. A location map showing the project in relation to the surrounding area.
 7. A site plan showing:
 - a. property lines and easements, with dimensions and area;
 - b. location, size, spacing, setbacks, and dimensions of all existing and proposed buildings, structures, improvements and utilities;
 - c. topographic information showing existing features and any proposed grading;
 - d. existing vegetation, wildlife habitat, and water courses, floodplain and any proposed alterations;
 - e. existing land use;
 - f. existing access to the project, proposed roads, and parking layout, all with dimensions;

- g. soil types, wetlands, and natural drainages;
8. Legal requirements: All cluster developments which contain areas of common ownership or access shall submit covenants and other legal documents which:
- a. create an automatic-membership, non-profit homeowners association or similar organization;
 - b. place title to any common property in the homeowners association, and limit title to residual lands so that residential use in excess of that permitted in this ordinance may not be made thereon;
 - c. restrict title to required open space (whether held in common or not) so that residential buildings or uses detrimental to the residential portion of the cluster development may not be conducted thereon;
 - d. appropriately and permanently limit the uses of the common property, open space, and residual lands in a manner that is consistent with land uses in the district where the development is to occur;
 - e. give each lot owner the right to use and enjoyment of the common property;
 - f. place responsibility for operation and maintenance of the common property and roads in the homeowners association;
 - g. allow for assessment of an association charge on each lot which will:
 - 1. Assure sufficient funds for maintenance of common property;
 - 2. Provide safeguards against unreasonably high charges and a method to adjust assessments;
 - 3. Provide for weed control in accordance with Gallatin County Regulations.

All legal documents required under this section shall not be acceptable until approved by the County Attorney when required by the County Commission. All deed restrictions and association rules and regulations may be enforceable by the

association.

7.7 Subdivision Approval for Cluster Development -

No residential cluster development may be constructed except in accord with a Preliminary Subdivision Plat approved by the County Commission under the Gallatin County Subdivision Regulations.

7.8 Cluster Development - Modification of Yard and Lot Requirements -

Modification and variation of yard and lot requirements may be permitted in accord with the pertinent sections of the applicable zone. Such modifications and variations must be shown on any cluster Preliminary Subdivision Plan.

SECTION 8 CC CANYON COMMERCIAL

8.1 Intent - The intent of this district is to provide:

- a. for limited retail development in appropriate locations for commercial services necessary for the population within the region and
- b. for limited guest facility development. Commercial development will be concentrated in the two areas shown on the zoning map; further commercial development outside these areas shall be prohibited.

8.2 Uses Permitted as a Matter of Right -

1. Growing and harvesting of timber and other forest products and related activities, including logging and all operations incidental to and connected therewith;
2. Crop farming and harvesting;
3. Grazing; the raising, feeding, managing and breeding of livestock, poultry, fish, birds, and other animals which do not constitute commercial feed operations.
4. One convenience commercial establishment as defined in Section 3.15.
5. Accessory uses and buildings customarily appurtenant to a permitted use.
6. Living quarters for owners or managers, and employees when accessory to the principal permitted use.
7. Signs in accordance with Section 11.7.

8. Restaurants, limited to two (2) in the canyon commercial district. The limit of two includes any in existence at the time this Ordinance is adopted.
9. Existing recreational vehicle parks, limited to existing spaces.
10. Home occupations (see definition).
11. Single family dwelling units.
12. Employee housing.
13. One guest ranch/resort.
14. Outfitting operations that do not require additional permanent structures.
15. Rental of recreational equipment.
16. Corral or pasture with access to stockwater.
17. Cluster guest ranch cabins.

8.3 Conditional Uses -

1. Public and quasi-public buildings and uses of a recreational, educational, religious, cultural, or public service type but not including corporation yards, storage yards, or warehouses.
2. Dude ranches (one additional).
3. Outfitting operations that require additional permanent structures.
4. Resort/guest ranch (one additional).
5. Overnight accommodations.
6. Caretaker's residence.
7. Bed and Breakfast.
8. The creation of lots between 1-3 acres in size.
9. Development of natural resources, including but not limited to, gravel pits, mines, and oil and gas wells.
10. Accessory buildings to resort facilities, accommodations, or dwellings not located

on a single parcel or a contiguous parcel.

8.4 Site Development Standards -

1. Commercial Lot Area and Width - Lot area for commercial uses shall be one (1) acre and no lot width shall be less than 200 feet.
2. Residential Lot Area and Width - Lot area for residential uses shall be 3 acres and no lot width shall be less than 100 feet.
3. Building Height - Maximum building height in this district shall be 32 feet.
4. Off-Street Parking - Off-street parking shall be provided in accordance with the following:
 - a. For commercial and office uses: One (1) off-street parking space for each two hundred (200) square feet of gross floor area.
 - b. One and one-half parking spaces per hotel unit.

- c. One (1) off-street parking space for each ten seats in any public assembly.
 - d. Required parking shall be located as to preclude backing maneuvers onto any public right-of-way and shall not be located in any setback area.
 - e. A parking plan showing the number of spaces, location of spaces and aisles shall be reviewed and approved by the Gallatin County Road Superintendent. Parking lots shall, at a minimum, be built to a gravel standard approved by the County Road Superintendent.
- 5. Setbacks - Minimum setbacks for buildings and structures shall be twenty-five (25) feet from any property line. See Section 11.10 for Highway 191 setback.
 - 6. All corrals shall be set back 100 feet from the mean high water mark of any perennial stream. A fifteen foot wide water gap shall be permitted.
 - 7. All resort facilities, accommodations and dwellings shall be located on a single parcel or on contiguous parcels.

8.5 Screening -

Service, storage and refuse areas or structures shall be screened from view of any residential district or public street with a solid fence or masonry wall. Average height of the screening material shall be one (1) foot more than the height of the enclosed structure, but shall not be required to exceed eight (8) feet in height.

8.6 Site Plan -

A site plan, drawn at a minimum scale of one inch equals twenty feet (1" = 20') shall be submitted and shall include the following information:

- a. Parcel dimensions.
- b. Existing and proposed grades.
- c. Location and dimensions of existing and proposed buildings, fences and walls.
- d. Storage, refuse and service areas.
- e. Landscaping:
 - 1. Percent of site to be landscaped.
 - 2. Plant legend showing total number of plants and trees, by common

names, and estimated sizes at time of installation and at maturity.

3. Location of individual plants and trees.

f. Sign location and design.

g. Stormwater drainage.

8.7 Standards for Exterior Appearance -

1. A Corridor Commercial establishment shall be designed to be compatible with the residential character of the South Gallatin Zoning District. Renderings which show the exterior of the structure shall be submitted for review.
2. Minimum roof pitch shall be not less than one foot of rise for each four feet of horizontal run.
3. Residential-style sidings shall be log, rustic wood, or natural material. Wood siding may run in either a horizontal, vertical, or diagonal direction. All siding shall be in earth-tone colors.

8.8 Installation of Improvements -

All parking, screening, and improvements shall be installed before occupancy of the structure or shall be guaranteed in the form of a bond enforceable by Gallatin County or cash deposit, upon approval from the Zoning Commission.

SECTION 9 PUBLIC LANDS (PL)

9.1 Intent - The intent of this district is to provide for those lands which are in public ownership and to provide for the preservation of the environmental quality, wildlife habitat and undeveloped character of these public lands.

9.2 Applicability - If public lands change to private ownership, the following restrictions of Section 9.3 shall apply until such time as the property owner requests and receives a change in zoning designation. If private lands change to public ownership, either the property owner or the zoning commission shall initiate a zone change to PL within 120 days.

9.3 Uses Permitted as a Matter of Right -

- a. Growing and harvesting of timber and other forest products and related activities, including logging and all operations incidental to and connected therewith;
- b. Crop farming and harvesting;

- c. Grazing; the raising, feeding, managing and breeding of livestock, poultry, fish, birds, and other animals which do not constitute commercial feed operations.
- d. Signs warning against trespass, shooting and hunting on premises, without limitation as to number. Trail and informational signs. Signs shall meet all requirements of Section 11.7.

9.4 Conditional Uses -

- a. The development of natural resources, including gravel pits, mines and oil and gas wells.

SECTION 10 CR CANYON RESIDENTIAL - MEDIUM DENSITY (1 unit per 3 acres)

10.1 It is the intent of this district to allow medium density residential development in limited areas in close proximity to US 191. To protect the South Gallatin Zoning District's wilderness environment and aesthetic value, development guidelines that reflect the District's character are set forth, and include screening from highway views.

10.2 Uses Permitted as a Matter of Right -

- 1. Growing and harvesting of timber and other forest products and related activities, including logging and all operations incidental to and connected therewith;
- 2. Crop farming and harvesting;
- 3. Grazing; the raising, feeding, managing and breeding of livestock, poultry, fish, birds, and other animals which do not constitute commercial feed operations.
- 4. Seasonal corralling of horses for commercial use.
- 5. The keeping of animals and fowl for family food production and the keeping of horses and dogs for private use, together with their dependent young as hereinafter set per 1 acre:

- a. 3 horses or any other animal over 100 lbs, or 24 fowl (chicken, pheasants, pigeons, etc.) or six larger fowl (ducks, geese, turkey, etc.). The keeping of dogs shall be in accordance with the County dog control ordinance.
6. Signs warning against trespass, shooting and hunting on premises, without limitation as to number or size. Signs indicating the name of owners of the property or the agriculture produced on the premises. Signs for the selling of produce or property. Signs for real estate for sale and streets. Signs shall meet all requirements of Section 12.7.
7. One single-family dwelling unit on three (3) acres or any single parcel of record on the effective date of this ordinance.
8. Uses or structures accessory to the uses permitted.
9. The sale on the premises of products produced thereon.
10. The packing, storing and processing of products grown on the land, together with accessory buildings required therefore.
11. Non-agricultural home occupations and hobbies when conducted within buildings and structures, the principle use of which is one of the foregoing uses.
12. Temporary buildings for and during construction only.
13. Pasturing of horses for commercial use.

10.3 Uses Permitted After Securing Approval of a Conditional Use Permit -

1. The development of natural resources, including gravel pits, mines and oil and gas wells.
2. Accessory buildings and structures, the principle use of which is the pursuit of non-agricultural/home occupations and hobbies.
3. Guest houses, accessory buildings larger than 1200 square feet.
4. One bed and breakfast inn.
5. Cluster housing, according to the provisions of Section 7.
6. Signs advertising uses located within the South Gallatin Zoning District but

not in the Canyon Residential Zone. Such signs shall meet the criteria of Section 11.7.1, 11.7.2, and 11.7.4a.

7. The creation of lots between 1-3 acres in size.

10.4 Consistency with Goals and Purposes - All conditional uses permitted shall be consistent with the intents and purposes of Section 2 of this Ordinance.

10.5 Lot Area - The lot area of this district shall not be less than three acres in size, unless approved as a clustered development or as a conditional use.

10.6 Yards - Every lot shall have the following minimum yards:

Front Yard	100 feet
Rear Yard	25 feet
Side Yards	25 feet
Highway 191	See Section 11.10

10.7 Corral Setback - All corrals shall be set back 100 feet from the mean high water mark of any perennial stream. A fifteen foot wide water gap shall be permitted.

10.8 Building Height - Maximum residential building height in this district shall be 32 feet.

10.9 Off-Street Parking - Two off-street parking spaces shall be provided for each dwelling unit.

10.10 Lot Access - Access must be provided to lots not abutting a public or approved private street. The access may be in the form of an easement over the tract of land separating the lot from a public street. Minimum easement width shall be 20 feet. If the access is an easement over other land, the easement shall be irrevocable as long as the lot it serves has no other access approved by the governing body.

This lot access standard shall apply to all lots not subject to state and county subdivision review. Lots subject to such review shall meet the appropriate access requirements.

Procedure - Easements not subject to subdivision review shall be shown on a certificate of survey or described in a deed, approved by the Zoning Enforcement Agent and recorded with the County Clerk and Recorder.

SECTION 11 SUPPLEMENTARY REGULATIONS

11.1 Fencing -

See guidelines used by Montana Department of Fish, Wildlife, and Parks.

11.2 Bed and Breakfast Inns -

All bed and breakfast inns shall be subject to the following supplementary regulations:

1. The bed and breakfast inn must be the proprietor's actual residence.
2. Meals shall only be served to registered guests.
3. There shall be no alteration to the exterior of the structure which would change the character thereof. Any alteration to the exterior of the structure which is for the purpose of increasing the number of guest rooms shall be reviewed as a conditional use.
4. The number of guest rooms shall be limited to five (5).
5. One (1) parking space per guest room shall be provided, in addition to the two (2) parking spaces required for a single family dwelling unit. All parking shall be off-street.
6. No outside on site recreational facilities, such as but not limited to horse or snowmobile rental, shall be offered to guests.

11.3 Exterior Appearance Standards -

General: All structures shall be designed to be compatible with the rustic, western character of the zoning district. All structures shall be finished in earth tone colors. Refuse areas shall be screened from view by vegetation or a log structure.

Single Family
Homes:

All single family homes shall meet the following requirements:

- a) Minimum width of the main portion of any dwelling unit shall be twenty (20) feet.
- b) The pitch of the main structure shall be not less than one (1) foot of rise for every four (4) feet of horizontal run.
- c) All dwellings shall be built on permanent mortared block or concrete foundations. Adequate openings for access and ventilation shall be provided in each foundation.
- d) Metal siding shall run in a horizontal direction and shall be lapped. Wood siding may run in either a horizontal, vertical or diagonal direction.
- e) All dwelling units manufactured substantially or entirely off-site shall meet current Department of Housing and Urban Development guidelines.
- f) Fire retardant shingles shall be used.
- g) Spark arrestor screens shall be placed on fireplace and woodstove chimneys.
- h) Smoke detectors shall be installed on each level of dwelling units.
- i) Areas within 30 feet of habitable structures shall be cleared of all logs and dead vegetation. Ornamental trees and shrubs shall not touch any buildings. Trees shall not overhang roofs near chimneys and flues.

Maintenance

Buildings: Maintenance buildings shall be kept from view of the travelling public, and shall be screened from view of Highway 191 by topography, vegetation or a 200 foot setback.

11.4 View Protection Standards -

General: The intent of these standards is to provide for the preservation of the scenic, rugged beauty of the District. The beauty of the District is an economic asset that contributes to the physical, social, cultural, recreation, aesthetic and general welfare of the District.

11.4.1 Construction on Slopes Greater Than 10% - Roads shall be designed to follow the lay of the land, to be as unobtrusive visually as possible, and to minimize cuts and fills.

Structures shall be constructed so that the highest point of the structure is

below the crestline of a hill or mountain.

11.4.2 Vegetation - Existing vegetation shall be retained where possible. On sites that include open meadows, structures shall be sited at the edges of the meadows or will be screened using the standards for the Highway 191 visual corridor.

11.4.3 Highway 191 Visual Corridor - Structures that will be located within 300 feet of U.S. Highway 191 shall be located to be as visually unobtrusive as possible. Existing vegetation and topography shall be used to provide a visual screen to passing motorists, or a vegetative screen shall be planted. As such time as a vegetative screen is planted, it shall consist of species native to the Zoning District. Berms may be included. The screen shall begin at a point 10 feet from the right-of-way and shall extend the distance necessary to provide a visual screen to passing motorists but in no case shall be required to obstruct the view from the principle use on the property.

11.4.4 Procedure - A visual screening plan shall be submitted with applications for a land use permit, conditional use permit, and/or a subdivision application. Screening shall be planted within 180 days of issuance of a land use or conditional use permit. If a permit extension is granted, the extension shall also apply to the screening requirements.

11.5 Appeals -

1. Appellant:

Appeals to the Planning and Zoning Commission may be made by any person aggrieved or affected by any decision, or any order to stop, cease, and desist, issued by the Zoning Enforcement Office in enforcing the provisions of this ordinance.

2. General Rules and Procedures for Appeals:

- a. Any appeals from the ruling of the Zoning Enforcement Office concerning the enforcement and interpretation of any provision of this chapter shall be filed with the Planning and Zoning Commission within 30 days after the date of the officer's decision thereon.
- b. All appeals and applications made to the Commission shall be in writing.
- c. All appeals and applications shall refer to the specific provisions of the district's regulation.

11.6 Similar Uses -

1. Any use or service found to be consistent following the procedure below shall be permitted.
2. The Commission shall determine that such similar uses conform to the basic characteristics and intent of the district. The Commission shall also determine that such use does not create any more offensive noise vibration, dust, heat, smoke, odor, glare or other objectionable influences, nor generate any more traffic than the minimum amount normally resulting from the other uses listed. Such similar uses shall not adversely impact wildlife, water quality, scenery or any other environmental quality more than the minimum amount normally resulting from the other uses listed.
3. When any use has been added to the district (whether as a use by right or a use with conditions) in accordance with this Section, such use shall be deemed to be listed in the Section, and shall be added thereto in the published text of this Ordinance at the first convenient opportunity.

11.7 Signs -

1. Intent. All signs shall meet the purpose of this ordinance as set forth in Section 2.1. This section shall not preempt state and federal laws about posting or no trespassing signs.
2. General. No blinking, neon, temporary or portable signs shall be permitted in the South Gallatin Zoning District. Signs shall be made of wood; be rustic in appearance; be natural, earthtone colors; and shall only be illuminated indirectly. All existing signs must be in compliance with the terms of this Ordinance within 5 years of the date of its adoption.
3. RF District.
 - (a) Cluster developments or subdivisions: One (1) identification sign per entrance, not to exceed sixteen (16) square feet or one gateway sign per entrance not to exceed 80 square feet.
 - (b) Residential Uses: One (1) identification sign, no larger than nine (9) square feet or one gateway sign per entrance not to exceed 80 square feet.
 - (c) Real Estate for sale signs: One sign per parcel, no larger than four (4) square feet.
 - (d) Dude ranches, corporate retreats, resorts and private clubs: No more than three signs per ranch, retreat, or club. Each gateway shall be no larger than 80 square feet. Each freestanding sign shall be no larger than sixteen (16)

square feet.

4. Canyon Commercial District.

- (a) Two free standing wooden sign no larger than fifty (50) square feet each and no higher than 24 feet; and
- (b) An additional sign may be installed on the building and shall be no larger than fifty (50) square feet.
Signs shall pertain only to a use permitted on the premises; shall not project above the highest point of the roof; shall be integral with the building, or shall be attached flat against the building, or shall be suspended entirely beneath the canopy portion of the building; and
- (c) One gateway sign no larger than 80 square feet.
- (d) Real Estate for sale signs: One sign per parcel, no larger than four (4) square feet.

5. Canyon Residential District.

- (a) Agricultural uses: one identification sign no larger than fifteen (15) square feet or one gateway sign no larger than 80 square feet.
- (b) Bed and breakfast inn: two identification signs no larger than sixteen (16) square feet each or one

identification sign and one gateway sign no larger than 80 square feet.

- (c) Subdivisions: one (1) identification sign, not to exceed sixteen (16) square feet or one gateway sign no larger than 80 square feet.
- (d) Residential Uses: One (1) identification sign, no larger than nine (9) square feet or one gateway sign no larger than 80 square feet.
- (e) Real Estate for sale signs: One sign per parcel, no larger than four (4) square feet.

11.8 Bear Proof -

All refuse shall be stored in bear proof containers or made unavailable to bears.

11.9 Stream Setback -

There shall be a 50 foot setback from the highwater mark of the Gallatin River and the Taylor Fork. There shall be a 25 foot setback from the highwater mark of all other streams in the Zoning District. In that setback, no development or alteration of the natural environment shall be allowed. Nothing in this paragraph shall prohibit repairs or improvements to existing roads, ditches, utilities or utility lines or bank maintenance or stream stabilization measures otherwise allowable under federal or state laws.

11.10 Highway 191 Setback -

All buildings shall maintain a minimum 100' setback from Highway 191. The intent of this setback requirement is to establish a uniform 100' wide landscaped buffer between buildings and the roadway. Right-of-way widths vary along designated Highway 191. In order to establish uniform setback distances, setback requirements for individual properties will vary depending upon the width of adjacent rights-of-way widths are as follows:

- 1) The minimum setback for buildings adjacent to 60' wide rights-of-ways shall be 100'.
- 2) The minimum setback for buildings adjacent to 80' wide rights-of-ways shall 90'.
- 3) The minimum setback for buildings adjacent to 120' wide rights-of-ways shall be 70'.

- 4) The minimum setback for buildings adjacent to 160' wide rights-of-ways shall be 50'.

The following methodology shall be used to determine setback requirements for right-of-way widths other than those indicated above:

The potential road width of 60' (four travel lanes at 12' and two 6' shoulders) shall be used for all calculations. The portion of the right-of-way to be considered as a part of the entry corridor setback area is determined by subtracting half of the potential road width (30') from half of the right-of-way width. The resultant figure is then subtracted from 100 to determine the entry corridor setback requirement.

SECTION 12 NON-CONFORMING PARCELS, USES AND STRUCTURES

12.1 Intent -

Within the districts established by this ordinance or amendments thereto, there exist parcels, structures, uses of land and structures, and characteristics of use which were lawful before this Ordinance was adopted or amended, but which would be prohibited, regulated, or restricted under terms of this Ordinance or future amendments. It is the intent of this Ordinance that non-conformities shall not be enlarged upon, expanded or extended, nor used as grounds for adding other structures or uses prohibited elsewhere in the same district.

Non-conforming uses are declared by this Ordinance to be incompatible with permitted uses in the district involved. However, to avoid undue hardship, nothing in this Ordinance 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 to this Ordinance, and upon which actual building construction has been carried on diligently. Actual construction is defined to include the placing of construction materials in permanent position and fastened in a permanent manner. Where excavation or demolition or removal of an existing building has been 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.

12.2 Non-Conforming Parcels of Record -

In any district, notwithstanding other limitations imposed by this ordinance, structures permitted in said district may be erected on any single parcel of record on the effective date of this ordinance. A parcel of record that does not meet parcel area or parcel width requirements must still meet other requirements of the district.

12.3 Non-Conforming Uses of Land -

Where at the time of passage of this Ordinance lawful use of land exists which would not be

permitted by the regulations imposed by this ordinance, the use may be continued so long as it remains otherwise lawful, provided:

12.3.1 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 ordinance.

Completion of a building upon which actual construction was begun prior to enactment of this ordinance shall not be deemed an enlargement of a non-conforming use.

12.3.2 No such non-conforming uses shall be moved in whole or in part to any portion of the parcel other than that occupied by such use at the effective date of adoption or amendment of this ordinance.

12.3.3 If any such non-conforming use of land ceases for any reason for a period of more than two years, any subsequent use of such land shall conform to the regulations specified by this ordinance for the district in which such land is located.

12.3.4 No additional non-conforming structure in connection with the requirements of this ordinance shall be erected in connection with such non-conforming uses of land, unless the additional structure is in conformance with the requirements of the district in which the parcel is located.

12.4 Non-Conforming Structures -

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

12.4.1 No non-conforming structure may be altered or enlarged in any way which increases its non-conformity, but any structure or portion thereof may be altered to decrease its non-conformity. Completion of a building upon which actual construction was begun prior to enactment of this ordinance shall not be deemed an enlargement or alteration of a non-conforming structure.

12.4.2 Should a non-conforming structure or non-conforming portion of a structure be destroyed by catastrophic event, it may be reconstructed if it is rebuilt in substantially the same manner as it existed prior to destruction. Reconstruction of a non-conforming use does not require prior approval of the South Gallatin Zoning Commission. Any use which is not substantially the same as the original use or structure must conform with applicable

provisions of this ordinance.

12.4.3 Should a non-conforming structure be moved for any reason for any distance, it shall thereafter conform to the regulations for the district in which it is located after it is moved.

12.5 Non-Conforming Uses of Structures -

If lawful use of a structure or of structures and premises exists at the effective date of adoption or amendment of this ordinance that would not be allowed in the district under the terms of this ordinance, the lawful use may be continued so long as it remains otherwise lawful, providing that:

12.5.1 No existing structure devoted to a non-conforming use shall be enlarged, extended, constructed, or structurally altered, unless the use is changed to a permitted use.

12.5.2 Any non-conforming use may be extended to any other part of a building designed for such use, but no such use may be extended in any way to occupy land outside the building.

12.5.3 Non-conforming use of buildings, structures, or premises may be changed to another non-conforming use, provided that a conditional use permit is obtained from the South Gallatin Planning and Zoning Commission. In determining whether or not to grant the conditional use permit, the South Gallatin Planning and Zoning Commission shall determine that the proposed use is equally appropriate or more appropriate to the district than the existing non-conforming use.

12.5.4 Any structure, or structure and land, in or on which a non-conforming use, if superseded by a permitted use, shall thereafter conform to the regulations of the district in which it is located, and the non-conforming use may not thereafter be resumed.

12.5.5 Whenever a non-conforming use of a structure or a premises ceases, the structure or premises shall not thereafter be used except in conformance with the regulations of the district in which it is located. The term "ceases" as used in this subsection shall mean that the activity in question has not been in operation for a period of two years.

12.5.6 Where non-conforming use status applies to both structure and land, the removal or destruction of the structure shall eliminate the non-conforming status of the land.

12.6 Repairs and Maintenance -

On any non-conforming structure or portion of the structure containing a non-conforming use, work may be done on ordinary repairs and fixtures, wiring, plumbing, or repair or replacement of non-bearing walls, to an extent not exceeding 50 percent of the replacement value of the building in any one year, provided that such work does not increase the cubic content of the building. Nothing in this ordinance 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 public official or other person qualified to make such a declaration.

12.7 Conditional Uses -

Conditional uses provided for under Section 12 of this Ordinance shall not be deemed a non-conforming use in the district in which it is permitted.

SECTION 13 CONDITIONAL USES

13.1 Intent -

The intent of conditional use permits is to provide for specific uses, other than those specifically permitted in each district, which may be appropriate under certain safeguards or conditions.

13.2 Conditional Use Requirements -

No structure or land may be used for any purpose in any district where such use is not a permitted use, unless such use is listed as a conditional use in that district and approval for that use is obtained through the proper procedure.

Conditional use permits shall be granted only by the South Gallatin Planning and Zoning Commission, when its findings are that:

- a. The use conforms to the objectives of the South Gallatin Development Plan and the intent of this Ordinance, and
- b. The use will not materially and substantially adversely affect nearby properties or their occupants, and
- c. The use meets density, coverage, yard, height, and all other regulations of the district in which it is to be located, unless otherwise provided for in this ordinance, and
- d. Public hearings have been held, after the required legal notices have been given and the public has been given a chance to be heard upon the matter.

13.3 Conditional Use Procedure -

13.3.1 All applications for conditional use permits shall be filed with the South Gallatin Planning and Zoning Commission, accompanied with the required filing fee.

13.3.2 The South Gallatin Planning and Zoning Commission shall then cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each application is consistent with the intent and purpose of this Ordinance. Upon receipt of a complete application, a public hearing shall be held within sixty days.

13.3.3 Upon completion of such investigation the South Gallatin Planning and Zoning Commission shall hold a public hearing to gather needed facts from all interested parties. The South Gallatin Planning and Zoning Commission may continue such hearing, if need be, to take additional information. Thereafter, the South Gallatin Planning and Zoning Commission shall either approve or deny the application. Written findings of fact shall be sent to the applicant stating either conditions of approval or reasons for denial.

13.3.4 Notice of public hearing for conditional use permits shall be published at least twice 15 days prior to the hearing in a newspaper of general circulation. Adjacent property owners shall be notified by certified mail.

13.4 Conditional Approval -

The South Gallatin Planning and Zoning Commission may make the granting of a conditional use permit subject to reasonable limitations or conditions as it may deem necessary to enhance the appearance of the property, to reduce any adverse effects on nearby property or residences, to preserve the character of the area or to make it more acceptable in other ways. The conditions may include but not be limited to the following:

- a. Special setbacks, yards, open spaces, and buffers;
- b. Fences and walls;
- c. Lighting;
- d. Regulation of signs;
- e. Regulation of vehicular ingress and egress;
- f. Regulation of time of certain activities;
- g. Landscaping and its maintenance;
- h. Time schedule of proposed development;
- i. Regulation of odors, smoke, dust, airborne particles, vibration, glare, heat, and noise;
- j. Requiring dedication of rights-of-way;
- k. Requiring improvements of rights-of-way;
- l. Regulation of placement of uses on the property;
- m. Regulation of height;
- n. Regulation of the nature and extent of the use;
- o. Regulation of the length of time the use may be permitted.

13.5 Security -

The South Gallatin Planning and Zoning Commission may require bonds, cash deposits, and/or other guarantees in order to secure compliance with conditions imposed.

13.6 Expiration -

All conditional use permits issued for a definite term shall automatically expire at the end of the term.

13.7 Authorized Use -

For the purpose of this ordinance, a conditional use permittee shall not be considered as engaging in the authorized use on the site until the following conditions are satisfied:

- a. Buildings proposed for construction in connection with the proposed use are in the process of actual construction on the site, or
- b. If remodeling proposed for existing buildings in connection with the proposed use has actually begun on the site, or
- c. If no construction or remodeling is contemplated, then the permittee must be regularly engaged on the site in performing the services or in selling the goods, materials, or stocks in trade of the use, and has secured all necessary federal, state, and local permits and licenses.

13.8 Revocation or Modification of Conditional Use Permits -

13.8.1 A conditional use permit may be revoked or modified by the South Gallatin Planning and Zoning Commission.

13.8.2 A permit may be revoked or modified only under the following circumstances:

- a. A substantial change of conditions has occurred from the time that the permit was granted; and
- b. Revocation or modification is necessary to protect the health, safety, and welfare of the area in which the property is located or the residents of the county and to preserve the integrity of existing use patterns in the area in which the property is situated; and
- c. The person holding the permit has not materially changed his position by detrimentally relying on the permit; or
- d. If the person holding the permit has not complied with the conditions

of the permit.

13.8.3 The same procedures for the consideration of an application for a conditional use permit shall be used for consideration of modification or revocation.

13.9 Conformance -

No conditional use permit shall be issued unless in conformance with this Ordinance. Permits issued on the basis of plans and specifications approved by the South Gallatin Planning and Zoning Commission or Zoning Enforcement Agent only authorize the use, arrangement, and construction set forth in the approved plans and applications, and no other use, arrangement or construction. A use, arrangement, or construction at variance with that authorized through the land use permit shall be a violation of this Ordinance.

13.10 Permits: Extensions -

13.10.1 No later than thirty (30) days prior to the expiration of the conditional use permit, the permit holder may file written application with the South Gallatin Planning and Zoning Commission requesting an extension of time and setting forth the reasons for such request. Each application shall be accompanied by the non-refundable fee as adopted by the South Gallatin Planning and Zoning Commission.

13.10.2 Within five (5) days of receiving the application for extension, the South Gallatin Planning and Zoning Commission shall mail a notice of the application to persons, or their successors in interest of record in the County Clerk and Recorder's office, who received mailed notice of the original application. The notice shall inform the recipients that any person objecting to the extension shall, within fifteen (15) calendar days from the date the notice was mailed, notify the Zoning Commission of the objection.

13.10.3 If any objection is received from those notified, the procedures under Section 13.3 shall be followed.

13.10.4 If no objection is received, the South Gallatin Planning and Zoning Commission may extend the permit for a period equivalent to the original period for which granted, or for one (1) year, whichever is shorter.

13.10.5 An extension may be granted only upon a finding of fact by the South Gallatin Planning and Zoning Commission that there has been no material and significant change of circumstances which would have been grounds for denying the original application.

13.10.6 The South Gallatin Planning and Zoning Commission shall consider a request for extension only once at the end of the approval period.

SECTION 14 VARIANCES

14.1 Authorization to Grant or Deny Variances -

The South Gallatin Planning and Zoning Commission may authorize a variance from the requirements of this ordinance when it can be shown that because of special and unusual circumstances related to a specific piece of property, strict application of the ordinance would cause an undue or unnecessary hardship. No variance shall be granted to allow the use or development of property for a purpose not authorized within the district in which the proposed development would be located. In granting a variance, the South Gallatin Planning and Zoning Commission may attach conditions it finds necessary to achieve compliance with the criteria of Section 14.2.

14.2 Criteria For Granting a Variance -

A variance may be granted only upon finding compliance with all of the following criteria.

14.2.1 Unique circumstances apply to the property that do not apply generally to other properties in the same district or vicinity and that result from lot size or shape, topography, or other circumstances over which the owners of property have had no control since enactment of this ordinance.

14.2.2 The variance is necessary for the preservation of a property right of the applicant that is substantially the same as that possessed by owners of other property in the same district.

14.2.3 The variance would not be materially and substantially detrimental to property in the same district or vicinity in which the property is located.

14.2.4 The variance requested will not be inconsistent with the intent and purpose of this ordinance and the South Gallatin Development Plan.

14.3 Procedure -

Written applications for a variance shall be filed with the Zoning Enforcement Agent. The appropriate fee, as adopted by the Zoning Commission, shall accompany each application. An application shall not be regarded as having been filed until the fee is paid.

The South Gallatin Planning and Zoning Commission shall cause to be made such investigation of facts bearing on the application as will provide necessary information to assure that the action on each such application is consistent with the intent and purpose of this Ordinance.

14.4 Hearing and Notice -

There shall be a hearing for each application. Upon receipt of a complete application, a public hearing shall be held within sixty days. Testimony shall be taken by the South Gallatin Planning and Zoning Commission from persons interested in the application and from the Zoning Enforcement Agent.

Notice of hearing shall be published once in a newspaper of general circulation within the county at least fifteen (15) days prior to the hearing date. In addition, the Planning Office shall send a certified letter to record owners of property adjoining a proposed variance.

14.5 Approval -

In approving an application for a variance, the South Gallatin Planning and Zoning Commission may designate any conditions that will secure protection for the public health, safety, and general welfare and shall find the request to meet the criteria set forth in Section 14.2. Any approval under this section shall be subject to any terms and conditions required by the South Gallatin Planning and Zoning Commission.

14.6 Revocation and Modification of Variance -

A variance may be revoked or modified under the same

circumstances and procedures specified for the revocation or modification of a conditional use permit in Section 13.8.

SECTION 15 LAND USE PERMITS

15.1 Procedures for Obtaining Land Use Permits -

15.1.1 No structure shall be built, moved or structurally altered until a land use permit has been issued under this Section.

15.1.2 Land use permits shall be issued only for uses in conformance with this Ordinance and the conditions and terms of a conditional use permit. No land use permit shall be issued until time for appeal on a conditional use permit or variance has elapsed and all appeals are finally decided.

15.1.3 Land use permits shall be in writing and shall be in the form specified by the South Gallatin Planning and Zoning Commission.

15.1.4 An application for a land use permit shall be filed with the Zoning Enforcement Agent. Land use permits may be issued by the Zoning Enforcement Agent.

15.1.5 If an application for a land use permit is denied by the Zoning Enforcement Agent, the applicant may apply for a variance or appeal to the South Gallatin Planning and Zoning Commission.

15.1.6 Where new sanitary facilities or the extension of the existing sanitary facilities are contemplated a land use permit shall not be issued until the applicant has first obtained authorization from the County Health Department or approval of sanitary facilities from the Montana Department of Health and Environmental Sciences, whichever is appropriate.

15.1.7 A land use permit is required for agricultural structures, for the purpose of enforcing property line setbacks.

15.2 Conformance -

No land use permit shall be issued unless in conformance with this Ordinance. Permits issued on the basis of plans and specifications approved by the Zoning Enforcement Agent only authorize the use, arrangement, and construction set forth in the approved plans and applications and no other use, arrangement, or construction. A use, arrangement, or construction at variance with that authorized shall be deemed a violation of this Ordinance.

15.3 Notice of Completion -

The applicant shall file with the Office of the Zoning Enforcement Agent a notice of completion when the applicant believes that all conditions attached to the application have been fully fulfilled and performed. The office of the Planning Director shall review the conditions attached to the application and the application itself to determine compliance. If compliance has been met, occupancy or use of the premises shall be allowed. If the conditions have not been fully met, occupancy or use of the premises shall be denied until the conditions are fully complied with.

15.4 Expiration of Permits -

15.4.1 A land use permit shall expire if the building or work authorized by the permit has not commenced within twelve (12) months from the date of the issuance of the permit or if the building or work authorized by the permit is suspended or abandoned at any time after the work is commenced for a period of 12 months. A land use permit may be extended for a period of 12 months for good cause shown.

15.4.2 After a land use permit has expired no work can be recommenced until a new permit is obtained. The fee for a new permit shall be one-half (1/2) of the amount required for the original permit, provided that no changes have been made or will be made in the original plans and specifications for the work and that abandonment has not exceeded one year.

15.4.3 All exterior construction shall be completed within twelve (12) months of the date of issuance of the land use permit.

SECTION 16 ADMINISTRATION

16.1 Employees and Officers -

16.1.1 The South Gallatin Planning and Zoning Commission is authorized to appoint and hire employees and officers, including a Zoning Enforcement Agent, as is necessary to administer and enforce this Ordinance.

16.1.2 The Zoning Enforcement Agent may be an employee of Gallatin County, and if so, shall perform the duties under this Ordinance without remuneration in excess of the county salary.

16.2 Duties of the Zoning Enforcement Agent -

16.2.1 The Zoning Enforcement Agent shall issue all land use permits and review all applications for conditional use permits, variances, rezoning requests and amendments to this Ordinance.

16.2.2 If the Zoning Enforcement Agent finds that this Ordinance, permit, or condition is being violated, the Agent shall give written notice to the person responsible for the violation, indicating the nature of the violation and requesting the remedial action to be taken to correct or abate the violation.

16.2.3 If the Zoning Enforcement Agent finds a violation the Agent may request the discontinuance of the illegal use of land, buildings, or structures; removal of illegal buildings, structures or additions, alterations, or structural changes; or discontinuance of any illegal work being done.

16.2.4 The Zoning Enforcement Agent may take any other action authorized by this Ordinance to enforce the provisions of this Ordinance or prevent the violation of its provisions.

16.3 Appeals from Decisions of Zoning Enforcement Agent -

16.3.1 An appeal from a decision of the Zoning Enforcement Agent may be made to the South Gallatin Planning and Zoning Commission.

16.3.2 An appeal shall be in writing and shall be filed with the Gallatin County Planning Office within ten (10) working days after the decision which is appealed.

16.3.3 A public hearing will be held on an appeal by the South Gallatin Planning and Zoning Commission if the matter appealed was required by this Ordinance to be decided after holding a public hearing.

16.3.4 All appeals of decisions made by the Zoning Enforcement Agent shall be decided within 60 days of the date they are filed or the decision of the Zoning Enforcement Agent shall be deemed overruled.

SECTION 17 FEES, CHARGES AND EXPENSES

- 17.1 No permit, district change, conditional use, variance or amendment shall be issued or approved until all costs, charges, fees or expenses required by this Ordinance are paid.
- 17.2 The South Gallatin Planning and Zoning Commission shall adopt a fee schedule for amendments, zoning changes, variances, conditional use permits and land use permits.
- 17.3 Fees, charges, and expenses are not refundable.

SECTION 18 COMPLAINTS AND INVESTIGATIONS

18.1 Compliance:

Any person may file a written complaint with the Gallatin County Planning Department whenever a violation of this regulation occurs or is alleged to have occurred. The complaint shall state fully the facts supporting the complaint.

Upon receipt of a complaint, or upon its own initiative, Gallatin County Planning Department and/or Compliance Department staff shall immediately investigate and take action as provided by the regulation. The investigator shall notify the person of the alleged violation and request access for an inspection. If access is denied, the investigator may seek an administrative warrant. With reasonable cause, the Planning and/or Compliance departments may revoke any land use permit, issue cease and desist orders requiring cessation of any building, moving, alteration or use which is in violation of the regulation and require corrective action, including dismantling or removal of non-complying structures, to remedy the violation.

(Amended: County Commission Resolution No. 2004-67)

SECTION 19 ENFORCEMENT AND PENALTIES

19.1 Injunction:

After the exhaustion of administrative remedies and pursuant to MCA § 76-2-113, the County Attorney, in conjunction with the Code Compliance Specialist, may bring an action in the name of the County of Gallatin in the District Court to enjoin any violations of this ordinance.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent or other person/entity who commits, participates in, assists or maintains such violation may each be held accountable for a separate violation.

The prevailing party may be awarded all costs, including attorney's fees.

19.2 Fines:

The Planning and Zoning Commission may assess violators’ fines of up to \$500 per day of violation for noncompliance until the violation is remedied. When determining the amount and duration of a fine, the Planning and Zoning Commission shall consider the nature, circumstances, extent and gravity of the violation, any prior history of such violations, the degree of culpability, and such other matters as justice may require. In addition, the violator may be required to pay administrative costs. If the fine is not paid, it shall become a lien upon the property. An alleged violator may appeal the assessment of a fine to the County Commission as set forth below.

19.3: Appeal Process (Violations)

An alleged violator may appeal a Gallatin County Planning or Compliance Department’s decision regarding a violation in writing via certified mail to the Planning and Zoning Commission within ten (10) business days.

The Planning and Zoning Commission shall hold a hearing within 45 business days from the date that the appeal was received. The Planning and Zoning Commission shall, in writing, affirm, modify or withdraw the Department’s decision within 20 business days after the hearing. Once an appeal for a hearing has been made, the Department’s decision shall be stayed until the Planning and Zoning Commission has held the hearing and affirmed, modified or withdrawn the determination of the Department. Any final decision made by the Planning and Zoning Commission will be binding upon the Department.

Any person may appeal a final decision of the Planning and Zoning Commission within 30 days to the Eighteenth Judicial District Court.

19.4: Appeal Process (Fines)

An alleged violator may appeal a Planning and Zoning Commission’s assessment of a fine for noncompliance to the County Commission with 10 business days in writing via certified mail. The County Commission shall hear the appeal at a regularly scheduled meeting within 45 business days from the date the appeal was received, and shall, in writing, affirm, modify or withdraw the Planning and Zoning Commission’s decision within 20 business days after the hearing. Once an appeal for a hearing has been made, the Planning and Zoning Commission’s decision shall be stayed until the County Commission has held the hearing and affirmed, modified or withdrawn the determination of the Planning and Zoning Commission.

Any person may appeal a final decision of the Board of County Commissioners within 30 days to the Eighteenth Judicial District Court.

(Amended: County Commission Resolution No. 2004-67)

(Amended: County Commission Resolution No. 2004-144)

SECTION 20 MINIMUM REQUIREMENTS

- 20.1 In the interpretation and application of this Ordinance, the provisions of the Ordinance shall be held to the minimum requirements adopted for the promotion of the health, safety and general welfare of the zoning district.
- 20.2 Wherever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rule or regulation, the most restrictive, or that imposing the higher standards, shall govern.

SECTION 21 ADVISORY COMMITTEE

- 21.1 Advisory Committee Created - there is hereby created a permanent South Gallatin Advisory Committee consisting of five members, appointed by the South Gallatin Planning and Zoning Commission. Members shall be freeholders in the South Gallatin Planning and Zoning District. This shall be a non remunerative committee.
- 21.2 Term - Advisory Committee members shall be appointed for two year staggered terms. Initially, two members shall be appointed for one year terms and three members shall be appointed for two year terms.
- 21.3 Role and Duties - All applications received by the Planning and Zoning Commission shall be forwarded to the Advisory Committee. The Advisory Committee shall consider and formulate a recommendation on all applications submitted to the Planning and Zoning Commission. The recommendation shall be advisory only and shall not be binding upon the Planning and Zoning Commission.

SECTION 22 AMENDMENTS AND CHANGES

- 22.1 This ordinance may be amended whenever the public necessity and convenience and general welfare require such amendment, according to the procedure prescribed by law, and this Ordinance.
- 22.2 An amendment may be initiated as follows:
 - a. A land owner(s) of property effected by the proposed amendment may file a petition with the Zoning Enforcement Agent requesting an amendment. The petition shall be signed by the petitioning land owner(s).
 - b. The Gallatin County Commission or the South Gallatin Planning and Zoning Commission may initiate an amendment through a resolution of intention.
- 22.3 An amendment shall not become effective until a hearing is held before the South Gallatin Planning and Zoning Commission. Notice of the hearing shall be given in a newspaper of general circulation in the County not less than fifteen (15) days prior to the date of hearing.

SECTION 23 INVALIDATION

If any Section or part of this Ordinance or any attachments or amendments hereto is for any reason held to be invalid, the remaining portions of this Ordinance shall be valid and effective.

SECTION 24 ADOPTION

This Ordinance was adopted on February 10, 1994.

DATED THIS 10th day of February, 1994.

SOUTH GALLATIN PLANNING AND ZONING COMMISSION

_____/s/_____
Shelley M. Cheney, Chairman

_____/s/_____
Kris Dunn, Member

_____/s/_____
Jane Jelinski, Member

_____/s/_____
A. D. Pruitt, Member

_____/s/_____
Stan Hughes, Member

Amended by Resolution No. 2004-05 of the Planning and Zoning Commission on April 8, 2004, and by Resolution No.2004-67 of the Gallatin County Commission on May 4, 2004.

Amended by Resolution No. 2004-21 of the Planning and Zoning Commission on October 14, 2004, and by Resolution No.2004-144 of the Gallatin County Commission on October 20, 2004.