

ORDINANCE NO. 352

AN ORDINANCE FOR PROMOTING THE HEALTH, SAFETY, MORALS, OR THE GENERAL WELFARE OF THOMPSON FALLS MONTANA, AND TO REGULATE AND RESTRICT THE HEIGHT, NUMBER OF STORIES AND SIZE OF BUILDINGS AND OTHER STRUCTURES; THE PERCENTAGE OF LOT THAT MAY BE OCCUPIED; THE SIZE OF YARDS, COURTS AND OTHER OPEN SPACES; THE DENSITY OF POPULATION; THE LOCATION AND USE OF BUILDINGS, STRUCTURES AND LAND FOR TRADE, INDUSTRY, RESIDENCE OR OTHER PURPOSES; AND PROVIDING FOR METHOD OF ALTERING ZONING REGULATIONS.

WHEREAS, Title 76, Chapter 2, Part 3, MCA, empowers the City to enact a zoning ordinance and to provide for its administration, enforcement, and amendment, and

WHEREAS, the city council deems it necessary for the purpose of promoting the health, safety or general welfare of the city to enact such an ordinance, and

WHEREAS, the city council, pursuant to the provisions of Section 76-2-307, MCA, has appointed a Zoning Commission to recommend the boundaries of the zoning districts and appropriate regulations to be enforced therein, and

WHEREAS, the Zoning Commission has recommended dividing the City into districts and has prepared regulations pertaining to such districts, and

WHEREAS, the city council, pursuant to the provisions of Title 76, Chapter 1, Part 6, MCA, has adopted a comprehensive plan for the jurisdictional area and the regulations have been prepared in accordance with the plan, and

WHEREAS, all requirements of Title 76, Chapter 2, Part 3, MCA, with regard to the preparation of a zoning ordinance and subsequent action of the city council have been met;

WHEREAS, the ordinance shall be in full force and effect thirty (30) days after its final adoption, passage, approval, recording and publication as provided by law.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MONTANA, AS FOLLOWS:

A City of Thompson Falls initiated ordinance generally amending Title 10, Thompson Falls Municipal Code, the City Zoning Ordinance, to incorporate revisions.

Be it ordained that Title 10 be repealed and replaced as follows:

TITLE 10

ZONING ORDINANCE OF THE CITY OF THOMPSON FALLS, MONTANA

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10-1-1. Short Title.

This Ordinance shall be known and cited as the "Zoning Ordinance of the City of Thompson Falls, Montana".

10-1-2. Authority.

This Zoning Ordinance is adopted under the authority of the Municipal Zoning Enabling Act (76-2-301 through 76-2-328, MCA).

10-1-3. Purpose and Intent of Zoning Ordinance.

The Purpose of this zoning Ordinance is to repeal and replace the existing zoning ordinance for the City and to promulgate and adopt regulations that:

1. Are designed in accordance with a comprehensive plan.
2. Are designed to lessen congestion in the streets.

3. Will secure safety from fire, panic and other dangers.
4. Will protect health and the general welfare.
5. Will provide adequate light and air.
6. Will avoid undue concentration of the population.
7. Will facilitate the adequate provision of transportation, water, sewage, waste disposal, schools, parks and such other public requirements.
8. Give reasonable consideration to the character of the district, and of the City, and preservation of the character of the City.
9. Give reasonable consideration to the district's peculiar suitability for particular uses.
10. Give reasonable consideration to conserving the value of building.
11. Will encourage the most appropriate use of land throughout the jurisdictional area.
12. Insure that the land uses of the community are properly situated in relation to one another, providing adequate space for each type of development, and preventing problems associated with incompatible uses.
13. Control the density of development in each area of the community so that property can be adequately serviced by such public facilities as streets, schools, recreation, and utility systems.
14. Improve the quality of the physical environment of the community.
15. Protect and maintain property values.
16. Preserve and develop the economic base of the community.
17. Encourage the provision of affordable housing for families of all income levels.

10-1-4. Jurisdictional area.

The zoning jurisdiction of the City of Thompson Falls shall include all land within the corporate limits of the City of Thompson Falls.

10-1-5. Incorporation of Official Zoning Map.

1. The Official Zoning Map of the City of Thompson Falls, Montana, and all notations, references and other information shown on the map are hereby incorporated by reference and made a part of this Ordinance.
2. The Official Zoning Map shall be kept in City Hall, and shall be the controlling authority as to the current status of zoning districts in the City of Thompson Falls.
3. Whenever any changes are made to the district boundaries in accordance with the procedures of the Ordinance, those changes approved by the City Council shall be promptly entered on the Official Zoning Map, and a signed and dated certification shall be attached to the Map. No amendment to district boundaries shall become effective until those changes are presented to the City Council and approved by them.
4. No changes of any nature shall be made to Official Zoning Map, except in conformity with the procedures specified in this Ordinance.

10-1-6. Definitions.

When used in this title, the following words and phrases shall have the meaning ascribed to them in this section:

"Accessory building" means a subordinate building or portion of the main building which is located on the lot of the main building, and the use of which is clearly incidental to the use of the main building.

"Building" means a structure having a roof supported by columns or walls and which is placed on a permanent foundation for the support or enclosure of persons, animals or chattels.

"City" shall mean the City of Thompson Falls, Montana.

"Depth of lot" means the horizontal distance between the front and the rear lot lines.

"District" means a section of the city for which the regulations governing the use of buildings and premises are the same.

"Foundation" means a concrete footing with a concrete or cinder block and mortar wall and anchored to the structure.

"Lot" means land occupied or to be occupied by one building and accessory buildings and uses, including open spaces required under this title.

"Lot lines," means lines bounding a lot.

"Manufactured homes" means a single-family dwelling, which is a structure constructed off site with the intention of the same being transferred on wheels and axles in one or more sections. Said home must meet the U.S. Department of Housing and Urban Development code or the Uniform building code, in its construction 400 square feet minimum.

"Nonconforming use," means a use of a building or premises that does not conform with the regulations of the use district in which it is situated.

"Rear yard" means an open space unoccupied except for accessory buildings on the same lot with a main building, between the rear lines of the main building and the rear line of the lot, for the full width of the lot.

"RV or Recreational Vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use that either has its own mode of power or is mounted on or towed by another vehicle, including but not limited to a:

- (a) travel trailer;
- (b) camping trailer;
- (c) truck camper; or
- (d) motor home.

"Setback" means the minimum horizontal distance between the street wall of a building and the street line, or the wall of a building and the adjacent lot line.

"Side yard" means an open unoccupied space on the same lot with a building between the building and the side line of the lot extending through from the front building line to the rear yard, or to the rear line of the lot where no rear yard is required.

"Single-family dwelling" means a detached building having accommodations for and occupied by one family only. It also means a detached building used as a foster home, boarding home or community residential facility.

"Street line" means the boundary where the property meets the City right of way.

"Street wall" means the main wall nearest to and fronting on a street, including sun parlors, but not including bay windows or porches which are not closed in, and extend less than 5 feet from the main wall of the building.

"Temporary structure" means a structure without any foundation or footings and which is removed when the designated time period, activity, or use for which the structure was erected has ceased. A temporary structure must adhere to the same setback requirements as permanent structures, determined by the particular zoning of the property and have a maximum time limit of 18 months, with a provision to apply for a 6-month extension.

"Tiny House" means a permanent, single family dwelling under 400 square feet on a foundation. No additions to a tiny house are allowed.

"Zoning Compliance Officers" means Public Works Director and Chief of Police.

10-1-7. Administration and Enforcement.

A. Prior to locating any improvement on property within the City limits, the owner of such property shall make application to the City Clerk for a zoning compliance permit on a form supplied therefore. There shall be an application fee as established in the Schedule of Fees of the City of Thompson Falls. The application shall include the property description, the owner of the property, and a narrative description of the proposed improvement. A sketch of the property showing the proposed location of the improvement shall be included with the application. The sketch shall show distances from the improvement to the property boundary. The applicant shall be required to establish property boundaries to the satisfaction of the Zoning Compliance Officer. The Zoning Compliance Officer shall be charged with the enforcement of this title.

B. Violation--Prosecution. Prosecutions for violation of this title shall be in the Municipal court of the City, upon written complaint of the Zoning Compliance Officer, or the City council, or in the Court having the appropriate jurisdiction.

C. Violation--Penalty. Persons violating any provision of this title shall be subject to the general penalty provided by Montana law, fines are on the City's fee schedule per offense and injunctive relief allowable by law, to include reasonable costs of investigation and prosecution. Each day that a violation is permitted to exist shall constitute a separate offense.

D. Ordinances in Conflict. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

E. Severability. The invalidity of any section, clause, sentence or provision of this ordinance shall not affect the validity of any other part of this ordinance that can be given effect without such invalid part or parts.

F. Effective Date. The ordinance shall be in full force or effect thirty (30) days after its final adoption, passage, approval, recording and publication as provided by law.

10-1-8. Appeals.

A. Appeal from the rulings of the Zoning Compliance Officer concerning the enforcement of the provisions of this title may be made to the board of adjustment within 30 days. The appellant shall file with the board of adjustment a notice of appeal specifying the grounds thereof. The zoning compliance officer shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed was taken.

B. An appeal stays all proceedings in furtherance of action appealed from unless the officer from whom the appeal is taken certifies to the board of adjustment that a proceeding shall not be stayed except by a restraining order from the board of adjustment or from a court of record. (Prior code Section 10-1-08)

10-1-9. Use Districts Generally.

Use districts designated. For the purpose of classifying and regulating the use of real property, in the City limits, use districts are identified as follows:

"A" Residential;
"B" Residential;
Commercial;
Central Business District
Mixed Commercial-Residential District
Industrial

10-1-10. District Boundaries.

- A. The boundaries of the use districts shall be as shown on the use district map which is on file in the office of the city clerk.
- B. The use district map is adopted and incorporated as fully as if reproduced in this title.
- C. No land shall be used, and no building shall be erected or altered within a use district except in conformance with the regulations provided in this title.

10-1-11. "A" Residential

1. Conformance with provisions required. No building shall be erected or altered in "A" residential district except in conformity with the regulations prescribed in this chapter.

2. Permitted uses. In any "A" residential district, no land shall be used, and no building shall be erected or altered except for the following uses:

- A. Schools;
- B. Parks, recreation buildings and country clubs not conducted as a business or for profit;
- C. Accessory uses incident to the uses listed in this section, including private garages;
- D. Fire departments;
- E. Churches and temples;
- F. Libraries
- G. Senior Centers
- H. Single family residences, including manufactured homes and mobile homes of any size that meet or exceed the construction standards promulgated under the Uniform Building Code or by the U.S. Department of Housing and Urban Development (USC 42 Sec. 5401) that are 20 years old or newer where lots allow for minimum setbacks. The tongue, axles, transportation lights and removable towing apparatus shall be removed from any such home within 30 days of it being placed upon the premises

and a weather resistant skirting, compatible with the exterior siding shall be installed around the perimeter of said home within 60 days.

3. Development standards—General. In “A” residential district, the following standards apply:

- A. Building Area. Except as otherwise provided in this chapter, no building with its accessory buildings shall be erected or altered so as to occupy more than 50 percent of the area of a corner lot.
- B. Rear Yards. Except as otherwise provided in this chapter, every building shall have a rear yard, the depth of which shall not be less than 10 feet for all lot sizes
- C. Side Yards. Except as otherwise provided in this chapter, every lot shall have 2 side yards, each of not less than 5 feet in width.
- D. Height. Except as otherwise provided in this chapter, no building shall exceed 35 feet in height.
- E. Setback Line. No building shall be erected or altered so as to place its street wall nearer than 10 feet from the street line and adjoining property lines and 15 feet on corner lots.
- F. For all new builds, there shall be no less than two off-street parking spaces per unit, 10’ wide by 20’ deep per vehicle.
- G. All permanent dwellings must be connected to City water and sewer and approved electric. Generators shall not be the main source of power for any dwelling in any zone within the city limits. Generator use must be limited to use as a temporary power supply during emergency situations or construction.
- H. It is the responsibility of the property owner to comply with insurance requirements.
- I. Prior to erecting any fence, property owner shall locate survey pins indicating property boundaries. If pins cannot be located, a survey must be conducted.

4. Development standards—Schools, churches, temples, libraries, senior centers and fire departments.

- A. For the purpose of erecting schools, churches, temples, libraries, senior centers or fire departments, two or more adjoining lots shall be considered a single lot (hereinafter called a “plot”), provided, that the side line, rear yard and building setback provisions are observed.
- B. Two side yards of not less than 5 feet in width shall be provided on each plot.
- C. The depth of the rear yard of the plot shall not be less than 10 feet;
- D. The street wall of the building erected on the plot shall be placed no closer than 10 feet to the street line and 15 feet on corner lots.
- E. The building shall not exceed 35 feet in height.

10-1-12. “B” Residential District

- 1. Conformance with provisions required.** No building shall be erected or altered in a “B” residential district except in conformity with the regulations prescribed in this chapter.
- 2. Permitted uses.** In any “B” residential district, no land shall be used, and no building shall be erected or altered except for the following uses:
 - A. Any use permitted in an “A” residential district;
 - B. Manufactured homes and mobile homes of any size that meet or exceed the construction standards promulgated under the Uniform Building Code or by the U.S. Department of Housing and Urban

Development (USC 42 Sec. 5401) that are 20 years old or newer and at least 400 square feet. The tongue, axles, transportation lights and removable towing apparatus shall be removed from any such home within thirty days of it being placed upon the premises and a weather resistant skirting, compatible with the exterior siding shall be installed around the perimeter of said home within sixty days.

- C. Apartment houses and multiple-family dwellings;
- D. Hospitals;
- E. Police Departments;
- F. Professional or commercial offices.
- H. Tiny Houses;

3. Development standards. In a "B" residential district, the Following standards apply:

- A. Building Area. No building with its accessory buildings shall be erected or altered so as to occupy more than 50 percent of the area of an interior lot, or more than sixty percent of the area of a corner lot.
- B. Rear Yards. Every building shall have a rear yard, the depth of which shall not be less than 10 feet for all lot sizes
- C. Side Yards. 2 side yards shall be provided on every lot. The width of each side yard shall not be less than 5 feet from adjoining property lines.
- D. Setback Line. No building shall be erected or altered so as to place its street wall nearer than 10 feet from the street line and 15 feet on corner lots. No accessory building shall be erected nearer than fifteen feet from the street line.
- E. Height. No building shall exceed 35 feet in height. (Prior code Sections 10-3-03—10-3-07)
- F. For all new builds, there shall be no less than two off-street parking spaces per unit 10' by 20' deep per vehicle.
- G. All permanent dwellings must be connected to City water and sewer and approved electric.
- H. Generators shall not be the main source of power for any dwelling in any zone within the city limits. Generator use must be limited to use as a temporary power supply during emergency situations or construction.
- I. It is the responsibility of the property owner to comply with insurance requirements.
- J. Prior to erecting any fence, property owner shall locate survey pins indicating property boundaries. If property pins cannot be located, a survey must be conducted first.
- I. There shall be a maximum limit of 2 tiny houses per lot separated by 10' each connected individually to water, sewer and power.
- J. Recreational Vehicles (RV's) refer to ordinance # 343.

10-1-13. Commercial District.

- 1. Conformance with provisions required.** No building shall be erected or altered in a "Commercial " district except in conformity with the regulations prescribed in this chapter.
- 2. Permitted Uses.** In any commercial district, no land shall be used, and no building shall be erected or altered except for the following uses:
 - A. Any use permitted in an "A" or "B" residential district.

B. Light manufacturing carried on within entirely closed building, and which creates no objectionable noise, odor, smoke fumes, vapor, dust or gas.

C. Residential single-family homes may be permitted where such residential use is in support of and attendant to a commercial business or enterprise. A residential single-family home shall be defined as a frame dwelling with at least one bedroom and bathroom or a manufactured home of four hundred square feet in size with tongue and axles removed and placed upon a foundation consistent with municipal building codes.

3. Prohibited uses. The following uses are prohibited in Commercial District:

- A. Storage yards for scrap, bulk or raw materials
- B. Railroad yards;
- C. Livestock corrals or feed lots;
- D. Junkyard

4. Screening and Buffering

Whenever a non-residential use or off-street parking area abuts a residential use, the use shall be effectively screened at the property line on all sides which adjoin or face the residential district or institutional use by a sight-obstructing wall, fence or planting screen, acceptable to the Zoning Compliance Officer, not less than 4 feet nor more than 8 feet in height, and shall be maintained in good condition.

10-1-14. Central Business District.

1. Permitted uses. In any "Central Business" district, no land shall be used, and no building shall be erected or altered except for the following uses:

- 1. Amusement and recreational facilities in enclosed building and parks.
- 2. Attached apartments.
- 3. Auditoriums, theaters.
- 4. Businesses or services conducted primarily within enclosed buildings.
- 5. Financial institutions.
- 6. Government, educational and institutional uses.
- 7. Professional clinics and offices.
- 8. Museums and art galleries.
- 9. Police and fire stations.
- 10. Libraries.
- 11. Restaurants.
- 12. Bars, taverns, lounges, nightclubs.
- 13. Senior Citizen centers.
- 14. Other uses commensurate with the above uses and compatible with the purposes of this District.
- 15. Marijuana Sales- medical and recreation (No manufacturing or cultivation).
- 16. Liquor stores.
- 17. Adult oriented businesses.

2. Prohibited Uses. In any "Central Business" district, no land shall be used, and no building shall be erected or altered for the following uses:

1. Detached living quarters.
2. Storage yards for scrap, building or raw materials.
3. Livestock corrals or feed lots
4. All businesses which create objectionable noise, odor, smoke, fumes, vapor, dust or gas.

10-1-15. Industrial District.

1. Permitted Uses. Buildings and premises may be used for any of the following industrial operations as hereinafter defined shall be permitted with Zone "Industrial" of the City zoning area:

1. The construction, maintenance, and operation of wood and metal product manufacturing plants.
2. The storage of finished products and the movement thereof.
3. The processing of manufactured products.
4. The construction, maintenance and operation of machinery and physical plant for manufacturing purposes.
5. Includes only those industries that manufacture, produce, process, or fabricate materials.
6. Railroad.

2. Prohibited Uses. No building or occupancy permit shall be issued for any of the following uses, until and unless, the location of such uses shall have been approved by the Council:

1. Wood pulp or paper processing plant.
2. Acid manufacture.
3. Distillation of bones, coal, or wood.
4. Explosive manufacture or storage.
5. Fat rendering.
6. Fertilizer manufacture.
7. Garbage, offal, or dead animal reduction.
8. Petroleum refining.
9. Smelting of any metals or ores.
10. Stock yards or slaughter animals.

10-1-16. Mixed Commercial/ Residential District

1. General Requirements. This provides area for a compatible mixture of business and residential land uses.

- A. Height: Buildings shall not be more than 35 feet.
- B. Setbacks/Yards: No front, back, or side yards shall be required for commercial buildings in this district. Residential buildings shall comply with setback regulations as otherwise provided in this Code.
- C. Lot Area Per Family: Every building hereafter erected, structurally altered or maintained for residential purposes shall provide a lot area of not less than 3,480 square feet per family.
- D. Use: No building, structure or premises shall be used, and no building or structure shall be erected, structurally altered or maintained, unless otherwise provided in this article, except for one or more of the uses listed below. No business, trade or industry shall be permitted in this district which is noxious

or offensive by reason of the emission of odor, dust, smoke, gas, vibration or noise, or which imposes any extraordinary hazard to life or property.

2. Permitted Uses. The following uses are permitted in a Mixed Commercial/Residential area:

1. Adult oriented businesses located not less than 500 feet from a church or similar place of worship or a school.
2. Any use permitted in the "B" Residential District along with any specific requirements therein.
3. Apartments, condominiums and cityhouses. Apartments or condominiums may be located above retail or business operations. The minimum lot area per family in subsection C above and the design standards located in the "B" residential district do not apply when located above retail or business operations. The minimum living area per family unit is 500 square feet. When one or more residences are located above a business, one off-street parking space 10' by 20' per unit is required.
4. Amusement arcade providing games of skill to patrons at a cost where wholly contained within the building.
5. Art galleries and studios.
6. Assembly hall.
7. Automobile repair shops, garages and sales
8. Bakery
9. Bank
10. Bar
11. Barber shop/Beauty parlor
12. Boarding house
13. Bowling alley
14. Building supply store
15. Business or professional office
16. Car wash
17. Casino
18. Coffee shop, café, espresso stand
19. Computer services
20. Dry cleaning and dyeing
21. Electronics service and repair
22. Florist shop
23. Feed store
24. Food products or preparation, except such uses as are involved in handling live animals or fowls to finished products.
25. Furniture store
26. Gasoline or oil retail supply station, including filling station
27. Gift store
28. Greenhouse
29. Grocery store
30. Governmental, cultural and institutional facilities
31. Hardware store
32. Health studio, gym
33. Hospitals, clinics and related medical goods and services

34. Hotels, motels and other hospitality and entertainment uses.
35. Ice plant or ice storage for less than 5 tons
36. Laundry
37. Light manufacturing in connection with uses herein permitted, provided that no more than 25% of the total floor space of the building or structure in this district is not used for manufacturing
38. Liquor store
39. Machine shop
40. Motor vehicle sales
41. Marijuana sales
42. Music and video studio
43. Public or private garage or parking area
44. Newspaper publishing, printing and bookbinding
45. Radio or television broadcasting station
46. Retail sales and service
47. Restaurant
48. Senior citizen center
49. Sheet-metal working
50. Shoe-shining or shoe repairing
51. Signs
52. Sporting goods store
53. Storage facility
54. Theater
55. Upholstery and drapery shops
56. Veterinarian office, small animal
57. Wireless communication facility with one or all antennae located on an existing tower or monopole or attached to an existing building or structure, camouflaged and/or hidden to the extent possible, collocated to the extent possible and not greater than 70 feet in height.
58. Wholesale business

10-1-17. Nonconforming Uses Generally.

1. Application of Chapter. The provisions of this chapter shall apply to building, structures, lands and uses that are nonconforming, as defined.

2. Nonconforming Lots of Record.

A. In any district in which single-family dwellings are permitted, notwithstanding limitations imposed by other provisions of this chapter, a single-family dwelling and customary accessory buildings may be erected on any vacant single lot of record, with the county clerk and recorder, on the effective date of adoption or amendment of the ordinance codified in this chapter. The lot must be in separate ownership and not contiguous frontage with other lots in the same ownership. This section shall apply although the lot fails to meet the requirements for area or width, or both, generally applicable in the district, except that yard dimensions and other requirements not involving area or width, or both, of the lot shall conform to the regulations for the district.

B. If two or more vacant lots or combinations of lots and portions of lots with contiguous frontage are in single ownership of record at the time of passage or amendment of the ordinance codified in this chapter, and if all or part of the lots do not meet the requirements for lot widths and areas as established by this chapter, the lots shall be deemed to be an undivided parcel for the purpose of this chapter, and no portion of said parcel which does not meet lot widths and area requirements established by this chapter shall be used for a building site. No division of the lots shall be made which leaves remaining any lot with width or area smaller than the requirements in this chapter.

3. Nonconforming uses of land. A lawful use of land existing on the effective date of adoption or amendment of any ordinance or district regulation governing its use, or change of district boundaries, made no longer permissible by such adoption, amendment, or change in district boundaries, may be continued so long as it remains otherwise lawful, subject to the following conditions:

A. No such nonconforming use shall be enlarged, increased or extended to occupy a greater area of land than was occupied at the effective date of adoption or amendment of any ordinance, or change in district boundaries;

B. No such nonconforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption or amendment of any ordinance, or change in district boundaries;

C. If the nonconforming use of land ceases for any reason for a period of two years, subsequent use of such land shall conform to the regulations specified by this chapter for the zone in which the land is located.

4. Nonconforming Structures. A lawful structure existing on the effective date of adoption or amendment of the ordinance codified in this chapter which could not be built under this chapter by reason of restriction on area, lot coverage, height, yards, or other characteristics of the structure or its location on that lot, may be continued so long as it remains lawful, subject to the following conditions:

A. No such structure may be enlarged or altered in a way which increases its nonconformity unless an enlargement or structural alteration is required by law;

B. Any such structure destroyed by any means to an extent that the cost of replacement is more than fifty percent of the cost of replacing the entire structure at the time of destruction shall not be reconstructed or replaced except in conformity with the provisions of all applicable ordinances;

C. Any structure moved for any reason for any distance whatever shall thereafter conform to the regulation for the district in which it is located after it is moved;

D. Any structure may be altered if necessary to adapt a nonconforming building to a new technologies or equipment pertaining to uses housed in such building, but any enlargement necessary to adapt to new technologies shall be authorized only by a variance.

10-1-18. Rezoning.

A. If the boundary change is requested by petition or initiated by the City Council, the same shall then be referred to the City Council, which shall make a careful investigation and hold public hearing thereon. The City Council shall cause notice to be published twice in the local newspaper of the City and at City Hall of the time and the place set for the hearing upon the boundary changes. The first publication of such notice shall be made no less than fifteen days before the date of such hearing. 100 % of affected

property owners need to be notified of change by certified mail. At such hearing the City council shall hear all persons and all objections and recommendations relative to the proposed change. Action shall be taken upon such ordinance by the City Council at the next regularly scheduled meeting and the action shall be final and conclusive as to all matters and things involved in the boundary change signed by the owners of 35 percent or more, either of the area of the lots included in the proposed change, or of those immediately adjacent in the rear thereof extending 150 feet therefrom, or those adjacent on either side thereof within the same block, or of those directly opposite thereof extending 150 feet from the street frontage of such opposite lots, the amendment shall not become effective except by the favorable vote of three-fourths of all members of the City Council. Individual owners requesting rezone will be responsible for all fees associated with the project, postings, certified mail expense, letters and time invested by City employees.

B. Such protest petitions must be filed with the City clerk's office by 3 pm of the Thursday preceding the public hearing before the City Council.

C. When such proposed amendment has been rejected by the city council, neither it nor one involving only the same property shall be offered for adoption within 1 year after such rejection.

10-1-19. Variances.

A. A board of adjustment is established as provided by MCA Sections 76-2-321/76-2-328. It shall consist of 5 members appointed by the mayor, with the approval of the City Council, for terms of 3 years. It shall hold its meetings in the Main City Hall or at such other place as may be designated by its chairman in the city, and the presence of 4 members shall be necessary to constitute a quorum. Its duties and powers shall be as defined by state law, and it shall be the duty of other departments of the city to render such assistance as may be reasonable required.

B. Changes in the regulations, restrictions and boundaries of districts may be made only by the City Council, and in the manner designated by law.

C. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the provisions of this chapter, or any amendment thereto, the board of adjustment shall have the power, after public notice and hearing, in a specific case, to vary or modify any of the regulations or provisions relating to the construction, structural changes or alterations of buildings or structures in harmony with their fundamental purpose and intent, or any use thereof, so that the public health, safety and general welfare may be conserved and substantial justice done.

D. In every case, however, where a permit is either granted or revoked by the board of adjustment, it must be affirmatively shown that an unnecessary hardship or practical difficulty exists, and the records of such board shall clearly indicate in what particular and specific respects an unnecessary hardship or practical difficulty would be created.

10-1-20. Conditional Use.

Generally: A Conditional Use Permit may be required when a resident operates a business or function, that is not permitted in a particular zone designation.

A. An application and Guidelines for Conditional Use is available from the City Clerk.

B. Completed application, supporting documentation, and fees must be submitted to the Zoning Compliance Officer before application will be considered by City Council. See Appendix: Table of Fees.

- C. Applicant must show proof that the Conditional Use will not negatively impact the community, and provide affidavits of approval from residents and property owners impacted by the Conditional Use.
- D. Upon reviewing the application for Conditional Use and supporting documentation, the City Council may grant approval for the Conditional Use.
- E. Conditional Use is temporary, having a start date and end date.
- F. Conditional Use Permit may be renewed, pending review by City Council.

10-2-1. Fencing.

1. Purpose. Fences can create a sense of privacy, protect children and pets, provide separation from busy streets, and enhance the appearance of property. The negative effects of fences can include the creation of street walls that inhibit public safety, decrease the sense of community, hinder emergency access, lessen solar access, hinder the safe movement of pedestrians and vehicles, and create an unattractive appearance. These standards are intended to promote the positive aspects of fences and to limit the negative ones. These standards are applicable to all Zoning designations within the City of Thompson Falls.

2. Materials. Perimeter fences and walls shall not be constructed of or contain any material that will do bodily harm, such as electric or barbed wire, broken glass, spikes, or any other hazardous or dangerous materials, except as follows:

- A. Barbed wire is permitted on top of a 6-foot-tall fence in commercial, industrial, and commercial zones. The total height of the fence and barbed wire is limited to 8 feet. Barbed-wire-only fences are prohibited except as allowed in subsection B.
- B. Large Animal Containment. Where cattle, sheep, horses or other livestock are permitted or existed when the property was annexed to the City, barbed wire is permitted within 6 inches from the top of a fence at least 4 feet tall that is used to contain or restrict large animals
- C. Deer Fence. Fence installed for the purpose of exclusion of deer from a property must not restrict drivers' vision of the roadway or intersection. The total height of the fence is limited to 8 feet and must be open wire.
- D. Electrically charged fences are not permitted as perimeter fence except for around beehives, chickens, ducks, quail, rabbits and garbage cans. Any electric charged fence permitted under this section shall noticed and clearly identified as being electrically charged.

3. Standards. Fences and walls shall meet the following standards. If a fence or wall is used to meet required screening, it shall meet the provisions in Chapter 18.08.060.

A. Standards in Residential zones (See also C. standards for ALL fences)

- 1. Fences shall be no taller than 6 feet.
- 2. Corner properties, which by definition have 2 front yards, may have a Fence no taller than 6 feet in the front yard adjacent to the street that does not contain the main door entrance which does not restrict a driver's vision of the roadway or intersection.
- 3. All fences must be on or behind the property line.
- 4. Interior fences shall not be regulated.

B. Standards in Commercial and Industrial Zones:

Fences in front yards. Fences shall be no taller than 6 feet in required front yards. 6-foot fences containing barbed wire on top or fences taller than 6 feet are not permitted in the front yards.

C. Standards for All Fences:

1. In no instance or zone shall a fence exceed 6 feet except when permitted in Fence Ordinance,
2. In no instance shall a fence extend beyond the property line.
3. Should an existing structure sit on a common property line; no fence shall be placed that prevents use of an existing or required emergency exits.
4. No fences shall restrict a driver's vision of the roadway.

D. Measuring Fence Height.

Fence height shall be measured from the average height of the grade adjacent to where the fence is to be located. If a fence is to be constructed on top of a berm, the height shall be measured from the bottom of the berm. Fence height includes the height of the fence, wall, or picket and does not include the posts, or arbors and trellises at entrance gates.

E. Maintenance.

Every fence, whether required or not, will be maintained. No fence is allowed to become or remain in a condition of disrepair including, but not limited to noticeable leaning, missing slats, broken supports, and overgrowth of weeds or vines.

4. Non-conforming Fences.

Existing fences that were constructed legally and/or that were in place at the time the property was annexed to the City that do not meet the current fencing standards shall be considered a legal non-conforming use, provided that the barbed wire or upturned barbed selvage does not extend over a street or alley and where it does slant toward the public right-of-way it shall not be located less than 1 foot from said right-of-way.

Effective Date. The ordinance shall be in full force or effect thirty (30) days after its final adoption, passage, approval, recording and publication as provided by law.

PASSED AND ADOPTED BY THE CITY COUNCIL OF APPROVED BY THE CITY OF THOMPSON FALLS, MONTANA, AT A REGULAR SESSION THEREOF HELD ON THE AUGUST 8, 2022.



Mark Sheets, Mayor

ATTEST:



Chelsea Peterson, Clerk/Treasurer

