

ORDINANCE NO. 358

**AN ORDINANCE GENERALLY AMENDING TITLE 10,
CITY OF THOMPSON FALLS MUNICIPAL CODE, THE CITY ZONING
ORDINANCE TO INCORPORATE REVISIONS**

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 to amend Title 10 for the purpose of promoting the health, safety, or general welfare and to facilitate adequate provisions of transportation, water, sewerage, schools, parks, and other public requirements of the city; and

WHEREAS the Zoning Commission has previously divided the City into districts, which shall remain unchanged; and

WHEREAS the Zoning Commission has prepared amended 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 amended 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 amendments thereto, 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:

Title 10, Thompson Falls Municipal Code, the City Zoning Ordinance, is hereby amended to add a new Title 10, as set forth on Exhibit "A" to incorporate revisions. All other portions of Title 10 Thompson Falls City Code, not in conflict herewith, shall remain unchanged.

This Ordinance shall take effect from and after 30 days of its passage on second by City Council.

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 THOMPSON FALLS, MONTANA, AT A REGULAR SESSION THEREOF HELD ON THE 8TH OF JULY, 2024.



Rusti Leivestad, Mayor

ATTEST:



Chelsea Peterson, Clerk/Treasurer

EXHIBIT "A"

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 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 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 the building.
11. Will encourage the most appropriate use of land throughout the jurisdictional area.
12. Ensure 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 the 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:

4 Plex - also known as a quadplex, is a multi-family home with four different living spaces and separate entrances.

Accessory building - 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.

Accessory Building – A subordinate building, the use of which customarily is incidental to the main building or the main use of the premises such as granges and tool sheds.

Accessory Dwelling Unit – A smaller, independent residential dwelling unit located on the same lot as a stand-alone (i.e., detached) single-family home.

Adult Daycare - A facility, freestanding or connected to another health care facility, that provides adults, on a regularly scheduled basis, with the care necessary to meet the needs of daily living but that does not provide overnight care.

Adult-oriented businesses – A business that primarily relies on the sale of products, media or entertainment of a sexual nature, including, but not limited to: adult toys, pornographic photos, photographic videos, stripping, tease performances, lap dances and nudity.

Apartment—A room or suite of rooms suitable for occupancy as a residence for one family. An apartment is a residential unit that is part of one (or several) residential buildings or a separate dwelling within a house with its own entrance and bathroom.

Assisted Living - A congregate residential setting that provides or coordinates personal care, health-related services, scheduled and unscheduled 24-hour supervision and assistance, and activities.

Bed & Breakfast – A house in which the resident owner offers overnight accommodations and breakfast meal service to guests for compensation. The number of daily guests served does not exceed 18.

Building - 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.

Clear Sight Triangle- A clear sight triangle is an area of unobstructed vision at the intersection of two (2) or more vehicular use areas where drivers can view oncoming traffic from either direction.

Community Residential Facility –

1. A community group home for developmentally, mentally, or severely disabled persons that does not provide skilled or intermediate nursing care;
2. A youth foster home, a kinship foster home, a youth shelter care facility, a transitional living program, or youth group home as defined in MCA [52-2-602](#);
3. A halfway house operated in accordance with regulations of the department of public health and human services for the rehabilitation of alcoholics or drug dependent persons;
4. A licensed adult foster family care home; or
5. An assisted living facility licensed under MCA [50-5-227](#).

Conex Boxes –Is a storage container made from industrial-grade steel and is also known as a sea can, container express, Conex box or ConEx box.

District - A section of the city for which the regulations governing the use of buildings and premises are the same.

Day Care – Care for children provided by an adult, other than a parent of the children or other person living with the children as a parent, on a regular or irregular basis, as applicable, for daily periods of less than 24 hours, whether that care is for daytime or nighttime hours. [52-2-703\(2\)](#).

Day-care center - An out-of-home place in which daycare is provided to 16 or more children on a regular or irregular basis. The term does not include a place where daycare is provided if a parent of a child for whom daycare is provided remains on the premises.

Day-care facility - A person, association, or place, incorporated or unincorporated that provides daycare on a regular basis or a place licensed or registered to provide daycare on an irregular basis, as provided for in subsection (3)(a), or for children suffering from illness. The term includes a family day-care home, a day-care center, a group day-care home, or a facility providing care in a child's home for the purpose of meeting registration requirements for the receipt of payments as provided in [52-2-713](#). The term does not include:

1. A person who limits care to children who are related to the person by blood or marriage or under the person's legal guardianship, unless registration or licensure as a day-care facility is required to receive payments as provided in [52-2-713](#); or
2. Any group facility established chiefly for educational purposes that limits its services to children who are 3 years of age or older.

Family day-care home – a private residence in which daycare is provided to three to eight children on a regular basis.

Group day-care home – a private residence or other structure in which daycare is provided to 9 to 15 children on a regular basis.

School-age care – an adult-supervised program that is provided for school-age children during non-school hours.

76-2-412. Relationship of foster homes, kinship foster homes, youth shelter care facilities, youth group homes, community residential facilities, and day-care homes to zoning.

1. Foster home, kinship foster home, youth shelter care facility, or youth group home operated under the provisions of 52-2-621 through 52-2-623 or a community residential facility serving eight or fewer persons is considered a residential use of property for purposes of zoning if the home provides care on a 24-hour-a-day basis.
2. A family day-care home or a group day-care home, as defined in 52-2-703, is considered a residential use of property for purposes of zoning.
3. The facilities listed in subsections (1) and (2) are permitted use in all residential zones, including but not limited to residential zones for single-family dwellings. Any safety or sanitary regulations of the Department of Public Health and Human Services or any other agency of the state or a political subdivision of the state that is not applicable to residential occupancies, in general, may not be applied to a community residential facility serving 8 or fewer persons or to a day-care home service 15 or fewer children.

Duplex – A duplex home is a small type of multifamily building with two connected dwellings that have separate entrances on a single property. Each dwelling is considered a duplex apartment. Often, a duplex looks like a house with two front doors, either split between floors (with one apartment upstairs and the other downstairs) or split down the middle of the building.

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

Fence - Any structure, materials, or vegetation planted that prevents or restricts movement or visibility from public right-of-way.

Home Occupation - Any occupation or profession carried out by members of a family residing on the premises which is clearly incidental and secondary to the use of the dwelling purposes and does not change the character thereof. Home occupations do not include equipment or processes that create noise, vibration, glare, fumes, odors, or electrical interference detectable to normal senses off the lot. In the case of electrical interference, no equipment or process is used that creates visual or audible interference in any radio or television receivers or causes fluctuations in line voltage off the premises.

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

Lot lines - Lines bounding a lot.

Manufactured homes -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 with a 400 square feet minimum.

Mixed-use development – A development consisting of residential and nonresidential uses in which the nonresidential uses are less than 50% of the total square footage of the development and are limited to the first floor of buildings that are two or more stories.

Motel –

1. A building or structure kept, used, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, or public lodging house;
2. A place where sleeping accommodations are furnished for a fee to transient guests, with or without meals.76-2-3-304

Multi-family - Multiple separate housing units for residential inhabitants are contained within one building or several buildings within one complex.

Multiple-unit dwelling - A building designed for five or more dwelling units in which the dwelling units share a common separation like a ceiling or wall and in which access cannot be gained between units through an internal doorway, excluding common hallways.

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

Preschool - A half-time or full-time program to prepare children for entry into kindergarten and governed by standards adopted by the board of public education. 20-7-117(3)(b).

Rear yard - 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 - A vehicular type of 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:

1. Travel trailer.
2. Camping trailer;
3. Truck camper; or
4. Motor home.

Setback - 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.

Short-Term Rental - Any individually or collectively owned single-family house or dwelling unit or any unit or group of units in a condominium, cooperative, timeshare, or owner-occupied residential home that is offered for a fee for 30 days or less.

Side yard—An open, unoccupied space on the same lot with a building between the building and the sideline of the lot extending 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 - 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.

Single-family residence – A structure maintained and used as a single dwelling unit. A dwelling unit that shares one or more walls with another dwelling unit is a single-family residence if it has direct access to a street or thoroughfare and does not share heating facilities, hot water equipment, or any other essential facility or service with another dwelling unit.

Street line - The boundary where the property meets the City's right of way.

Street wall - The main wall nearest to and fronting 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 - 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 one-time 6-month extension.

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

Zoning Compliance Officers— The Public Works Director and/or his designee, approved by the mayor.

10-1-7. Administration.

1. Prior to locating any improvement on property within the City limits, the owner of such property shall make an 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.

10-1-8. Appeals.

1. 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.
2. An appeal stays all proceedings in furtherance of the 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.

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.

1. The boundaries of the use districts shall be as shown on the use district map on file in the City Clerk's office.
2. The use district map is adopted and incorporated as fully as if reproduced in this title.
3. 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 are 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. Multi-Family Dwellings - Duplexes and/or Apartments
 - i. 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.
 - j. Home Occupation
 - k. Assisted Living
 - l. Group Home
 - m. Family Daycares
 - n. Preschools
 - o. Short-Term Rentals & Bed and Breakfast Business
 - p. Tiny Houses
 - q. Community Residential Facility
 - r. Conex boxes are allowed, but a placement permit must be obtained to ensure compliance with setback requirements.
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 buildings, 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, the property owner shall locate survey pins indicating property boundaries. A placement permit so our public works department can approve it before building the fence.
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 sideline, 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

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.

1. **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.
- g. Tiny Houses.
- h. Funeral home
- i. Parks
- j. Conex boxes are allowed, but a placement permit must be obtained to ensure compliance with setback requirements.

2. 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, the property owner shall locate survey pins indicating property boundaries. If property pins cannot be located, a survey must be conducted first.

- k. There shall be a maximum limit of 2 tiny houses per lot separated by 10' each connected individually to water, sewer, and power. A placement permit will be required.
- l. 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 an 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 an 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.
 - d. Conex boxes are allowed but must obtain a placement permit to ensure compliance with setback requirements.
- 3. **Prohibited uses.** The following uses are prohibited in the Commercial District:
 - a. Storage yards for scrap, bulk, or raw materials
 - b. Railroad yards;
 - c. Livestock corrals or feed lots.
 - d. Junkyard
 - e. Dry Cleaning and dyeing
 - f. Adult-oriented businesses.
- 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:
 - a. Amusement and recreational facilities in enclosed buildings and parks.
 - b. Attached apartments.

- c. Auditoriums, theaters.
 - d. Businesses or services conducted primarily within enclosed buildings.
 - e. Financial institutions.
 - f. Government, educational, and institutional uses.
 - g. Professional clinics and offices.
 - h. Museums and art galleries.
 - i. Police and fire stations.
 - j. Libraries.
 - k. Restaurants.
 - l. Bars, taverns, lounges, nightclubs.
 - m. Senior Citizen centers.
 - n. Other uses commensurate with the above uses and compatible with the purposes of this District.
 - o. Marijuana Sales- medical and recreation. No cultivation or manufacturing permitted.
 - p. Liquor stores.
 - q. Conex boxes are allowed, but a placement permit must be obtained to ensure compliance with setback requirements.
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:
- a. Detached living quarters.
 - b. Storage yards for scrap, building, or raw materials.
 - c. Livestock corrals or feed lots
 - d. All businesses that create objectionable noise, odor, smoke, fumes, vapor, dust, or gas.
 - e. Adult-oriented businesses.
 - f. No manufacturing or cultivation of Marijuana.

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:
- a. The construction, maintenance, and operation of wood and metal product manufacturing plants.
 - b. The storage of finished products and the movement thereof.
 - c. The processing of manufactured products.
 - d. The construction, maintenance and operation of machinery and physical plant for manufacturing purposes.
 - e. Includes only those industries that manufacture, produce, process, or fabricate materials.
 - f. Railroad.
 - g. Conex boxes are allowed, but a placement permit must be obtained to ensure compliance with setback requirements.

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:

- a. Wood pulp or paper processing plant.
- b. Acid manufacture.
- c. Distillation of bones, coal, or wood.
- d. Explosive manufacture or storage.
- e. Fat rendering.
- f. Fertilizer manufacture.
- g. Garbage, offal, or dead animal reduction.
- h. Petroleum refining.
- i. Smelting of any metals or ores.
- j. Stockyards 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:

- a. Any use permitted in the "B" Residential District along with any specific requirements therein.
- b. Apartments, condominiums, and city houses. 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.

- c. Amusement arcade providing games of skill to patrons at a cost where wholly contained within the building.
- d. Art galleries and studios.
- e. Assembly hall.
- f. Automobile repair shops, garages and sales
- g. Bakery
- h. Bank
- i. Bar
- j. Barber shop/Beauty parlor
- k. Boarding house
- l. Bowling alley
- m. Building supply store
- n. Business or professional office
- o. Car wash
- p. Casino
- q. Coffee shop, café, espresso stand
- r. Computer services
- s. Electronic service and repair
- t. Florist shop
- u. Feed store
- v. Food products or preparation, except such uses as are involved in handling live animals or fowls to finished products.
- w. Furniture store
- x. Gasoline or oil retail supply station, including filling station
- y. Gift store
- z. Greenhouse
- aa. Grocery store
- bb. Governmental, cultural and institutional facilities
- cc. Hardware store
- dd. Health studio, gym
- ee. Hospitals, clinics and related medical goods and services
- ff. Hotels, motels and other hospitality and entertainment uses.
- gg. Ice plant or ice storage for less than 5 tons
- hh. Laundry
- ii. 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
- jj. Liquor store
- kk. Machine shop
- ll. Motor vehicle sales
- mm. Marijuana sales
- nn. Music and video music studio

- oo.** Public or private garage or parking area
- pp.** Newspaper publishing, printing and bookbinding
- qq.** Radio or television broadcasting station
- rr.** Retail sales and service
- ss.** Restaurant
- tt.** Senior citizen center
- uu.** Sheet-metal working
- vv.** Shoe-shining or shoe repairing
- ww.** Signs
- xx.** Sporting goods store
- yy.** Storage facility
- zz.** Theater
- aaa.** Upholstery and drapery shops
- bbb.** Veterinarian office, small animal
- ccc.** 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.
- ddd.** Wholesale business
- eee.** Parking Lots
- fff.** Conex boxes are allowed, but a placement permit must be obtained to ensure compliance with setback requirements.

10-1-17. Nonconforming Uses Generally.

- 1. Application of Chapter.** The provisions of this chapter shall apply to buildings, 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 any remaining lot with a 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. Alteration of Zoning Regulations – Protest.

1. A regulation, restriction, and boundary may be amended, supplemented, changed, modified, or repealed. The provisions of § 76-2-303 (MCA) relative to public hearings and official notice apply equally to all changes or amendments.
2. An amendment may not become effective except upon a favorable vote of two-thirds of the present and voting members of the city or town council or legislative body of the municipality if a protest against a change pursuant to subsection (1) is signed by the owners of 25% or more of:
 - a. the area of the lots included in any proposed change; or
 - b. those lots or units, as defined in § 70-23-102 (MCA), 150 feet from a lot included in a proposed change.
3. For purposes of subsection (2), each unit owner is entitled to have the percentage of the unit owner's undivided interest in the common elements of the condominium, as expressed in the declaration, included in the calculation of the protest. If the property, as defined in § 70-23-102, spans more than one lot, the percentage of the unit owner's undivided interest in the common elements must be multiplied by the total number of lots upon which the property is located.

The percentage of the unit owner's undivided interest must be certified as correct by the unit owner seeking to protest a change pursuant to subsection (2) or by the presiding officer of the association of unit owners 76-2-303.

10-1-19. Variances.

1. 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 reasonably required.
2. Changes in the regulations, restrictions, and boundaries of districts may be made only by the City Council and in the manner designated by law.
3. 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.
4. 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.

1. An application and Guidelines for Conditional Use is available from the City Clerk.
2. Completed application, supporting documentation, and fees must be submitted to the Zoning Compliance Officer before an application will be considered by City Council. See Appendix: Table of Fees.
3. 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.
4. Upon reviewing the application for Conditional Use and supporting documentation, the City Council may grant approval for the Conditional Use.
5. Conditional Use is temporary, having a start date and end date.
6. The Conditional Use Permit may be renewed, pending review by the 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 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. A fence installed for the purpose of excluding deer from a property must not restrict drivers' vision of the roadway or intersection. The total height of the fence is limited to 6 feet and must be open wire.
- d. Electrically charged fences are not permitted as perimeter fences except for around beehives, chickens, ducks, quail, rabbits, and garbage cans. Any electric-charged fence permitted under this section shall be noticed and clearly identified as being electrically charged.

3. Standards in Residential zones

- a. A placement permit is required and needs to be approved by Public Works Director and Mayor
- b. Fences shall be no taller than 6 feet.
- c. On corner lots, in all districts, no solid fence that obstructs vision around a corner, wall, or planting in excess of 30 inches above the street centerline grades is permitted within a triangular area defined as follows: beginning at the intersection of the projected curb lines of two intersecting streets, thence 15 feet from the property pin along one property line, thence diagonally to a point 15 feet from the point of beginning on the other property line, then to the point of beginning. Any permitted fence within the clear sight triangle must be able to be seen through, such as chain-link fences or a wire fence. No privacy slats, tarps, or shrubs that would obstruct vision are permitted.
- d. All fences must be on or behind the property line.
- e. Interior fences shall not be regulated.

4. Standards in Commercial and Industrial Zones:

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

5. Standards for All Fences:

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

6. 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.

7. 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.

8. 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.

10-3-1 Violations, enforcement, and remedies

Enforcement of Zoning Provisions. The effective enforcement of adopted standards is necessary to accomplish their intended purpose. The city has a variety of options for the enforcement of this Zoning Code. The zoning compliance officer may select the option which, in their opinion, is most suitable to the circumstance and violation. More than one enforcement option may be used to attain compliance with the standards of this Zoning Code when deemed appropriate. The remedies and enforcement powers established in this Zoning Code are cumulative, and the city may exercise them in any order and combination.

1. If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or any building, structure, or land is used in violation of this part or of any ordinance or resolution adopted under this part, the city, in addition to other remedies, may institute any appropriate action or proceedings to:
 - a. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use.
 - b. Restrain, correct, or abate a violation.
 - c. Prevent the occupancy of the building, structure, or land; or
 - d. Prevent any illegal act, conduct, business, or use in or near the premises.

For the purposes of enforcing subsections (a) through (c), the city shall attempt to obtain voluntary compliance at least 30 days before filing a complaint for a violation of this part that is subject to penalties under **76-2-315**.

The Public Works Director or his designee shall be the enforcing officers to supervise and enforce the provisions of the zoning resolutions.

2. Municipal infractions. A first and second violation of this Zoning Code is a municipal infraction and may be punishable by a civil penalty of \$100 for the first offense and \$300 for a second offense. Each day such violation continues is considered a separate offense and is punishable as such.
3. Criminal Penalties. A third violation of the provisions of this Zoning Code or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with the grant of variances or special review uses or any of the required conditions imposed by the review authority is a misdemeanor and shall be fined not to exceed \$500 or be

imprisoned in the county jail for any term not to exceed 6 months, or both. Each day such violation continues is considered a separate offense and is punishable as such.

4. Prosecutions for violation of this Zoning Code 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.

10-4-1 Other Provisions

1. **Ordinances in Conflict.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.
2. **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.