

**CANYON AREA LAND USE REGULATORY SYSTEM**

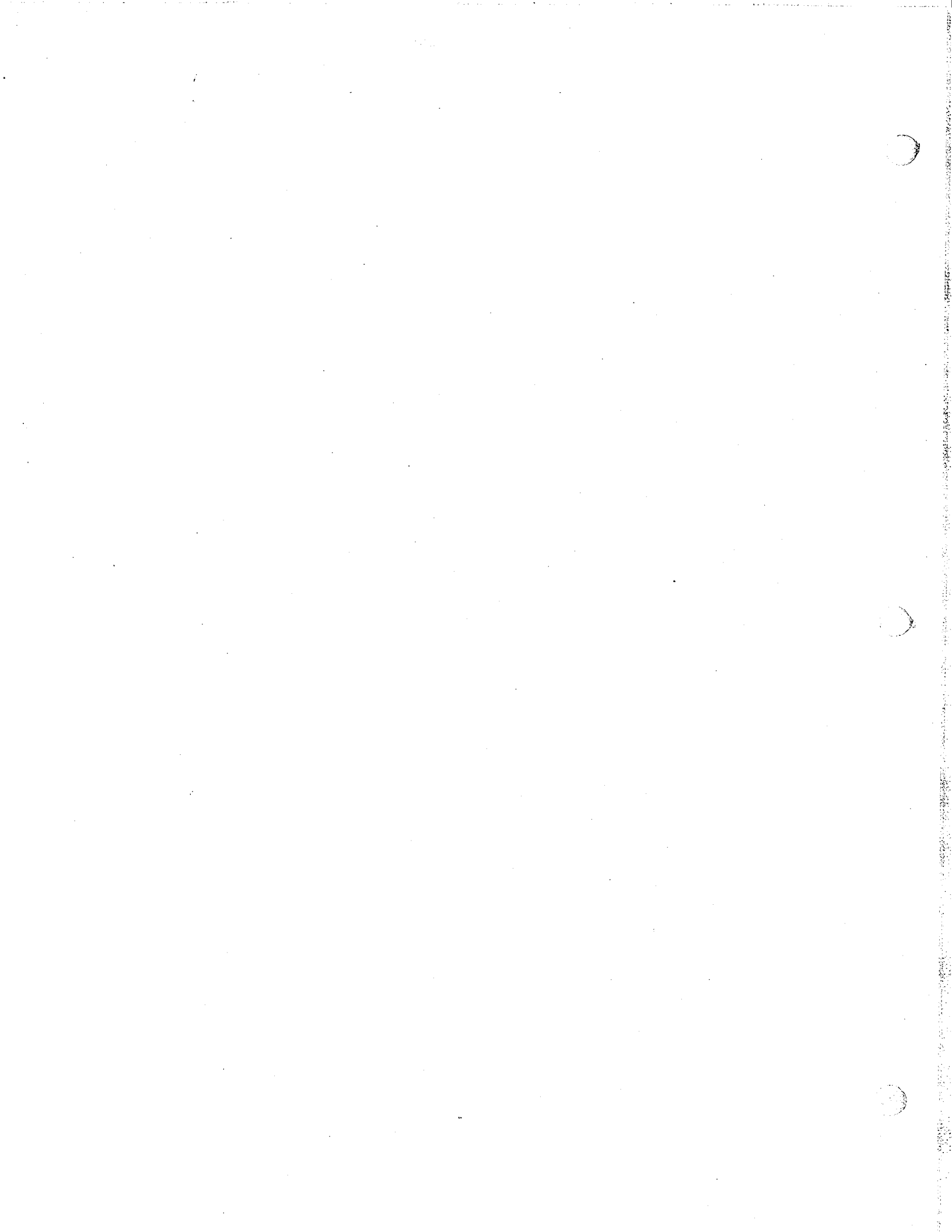
**(CALURS)**

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



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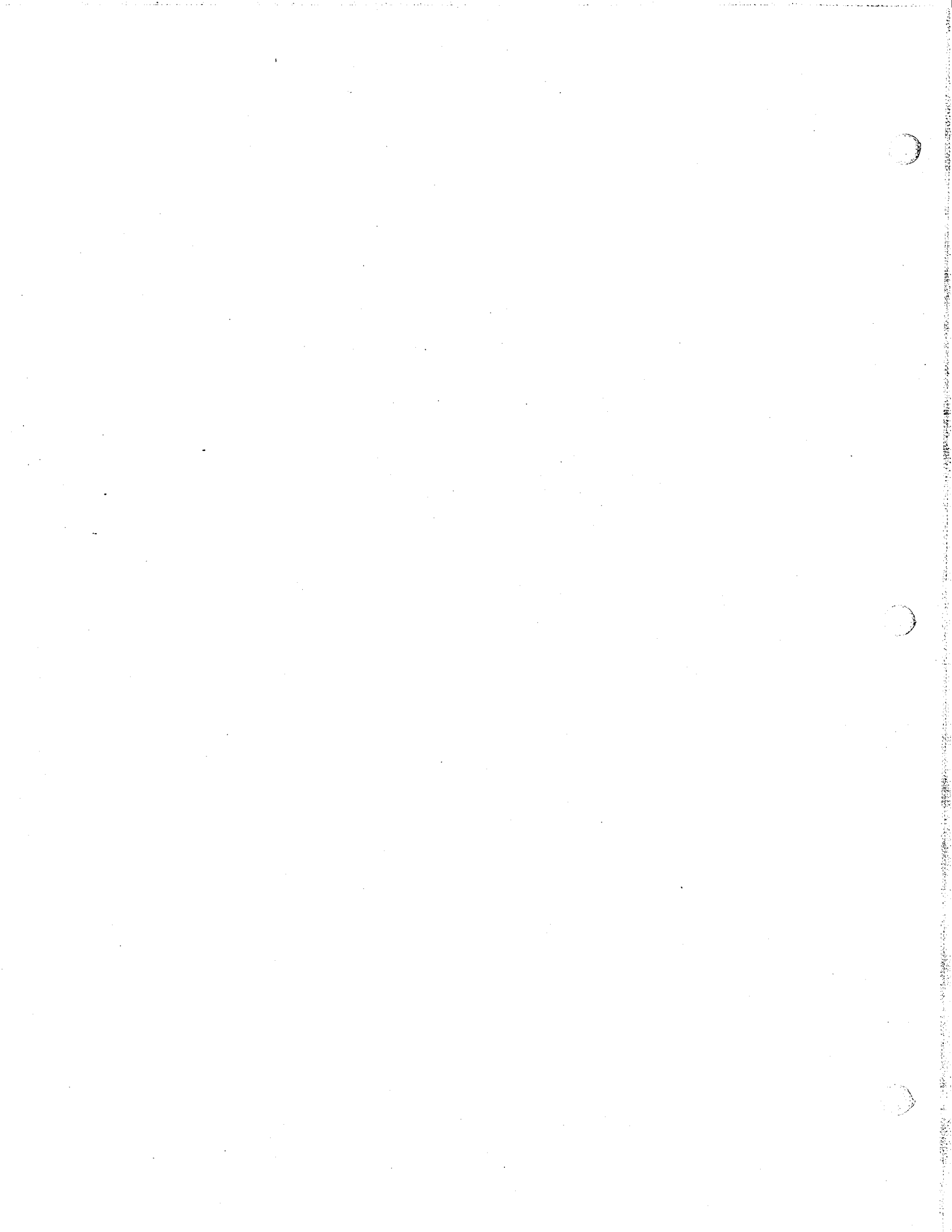
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## CHAPTER 1

### GENERAL PROVISIONS

#### 1.1 AUTHORITY

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

#### 1.2 PURPOSE

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

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

### **1.3 SEVERABILITY**

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

### **1.4 BURDEN-OF-PROOF**

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

### **1.5 JURISDICTION**

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

### **1.6 APPLICABILITY**

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

## CHAPTER 2

### ADMINISTRATION

#### 2.1 ADMINISTRATION

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

#### 2.2 ADMINISTRATOR

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

#### 2.3 PLANNING BOARD

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

#### 2.4 BOARD OF ADJUSTMENT

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

## **2.5 BOARD OF COUNTY COMMISSIONERS**

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

## **2.6 MEMORANDA OF UNDERSTANDING**

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

## **2.7 CITIZEN REVIEW PANEL**

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

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

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

## **2.8 NON-CONFORMING USES AND GRANDFATHERING**

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

## **2.9 AMENDMENTS TO TEXT OF REGULATIONS**

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

## **2.10 ENFORCEMENT**

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

## CHAPTER 3

### APPLICATION OF DEVELOPMENT REGULATIONS

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

#### 3.1 EXEMPTIONS

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

#### 3.2 RELATIONSHIP TO SUBDIVISION REGULATIONS

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

#### 3.3 REQUIRED REVIEW

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

Minor land use review

Major land use review

##### A. Minor Land Use Review

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

1. Step 1. Preapplication Conference.

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

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

2. Step 2. Filing the Application.

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

3. Step 3. Review and Evaluation.

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

4. Step 4. Decision on Review Approval.

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

5. Step 5. Communication to Applicant.

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

6. Step 6. Appeal.

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