



Fallon County, Montana

WORKFORCE HOUSING
RESOLUTION NO. 2015-05

August 2015



EXHIBIT A

Fallon County Zoning for Workforce Housing Facilities

1. Definitions

- . *Administrator*: The person appointed by the Governing Body who is responsible for carrying out the terms of these regulations.
- . *Applicant*: Applicant is a generic term used in this ordinance which means the owner, or designated representative, of land on which a housing facility is proposed, the person or firm who proposes the facility and intends to run it, and/or their representatives.
- . *Board of Adjustment*: A board appointed by the Fallon County Commissioners to hear and decide appeals, special exceptions and variances to the terms of the zoning regulation, in harmony with its general purposes and intent. (Sections 76-2-221 through 228, MCA.)
- . *Certificate of Compliance*: A permit applied for by the Applicant and granted by the Administrator upon completion of all improvements required under this ordinance. This certificate signifies that all requirements of a conditional use permit have been met.
- . *Conditional Use Permit*: A permit that may be granted by the Administrator after determining that the proposed land use and application complies with the requirements of this ordinance, will be adequately served by public facilities and services and, either on its own merits or with the addition of conditions, sufficiently mitigates expected impacts to neighboring landowners.
- . *Governing Body*: The Board of Fallon County Commissioners.
- . *Land Development Activity*: Includes, but is not limited to, the clearing, grading, excavation, construction, re-construction, change of occupancy, change of use, or building activity.
- . *Nonconforming*: The lawful use of land or buildings at the time of adoption or amendment of these regulations which does not comply with the requirements of these regulations.
- . *Workforce Housing Facility*: A housing facility serving more than two workers who are not related by blood, marriage, or adoption to the landowner, and that is designed and intended to be used for a specific period of time. A workforce housing facility may also be known/referred to as a man camp, crew camp, work camp, or crew housing facility. Workforce housing facilities may include the use of skid units, travel trailers, recreational vehicles, campers, mobile homes, park models, modular homes or any combination of these.

This definition is not meant to include the use of agricultural land to allow for the placement of recreational vehicle campers during harvest seasons or for the use of such campers for family social events. This definition does not include camps set up for a specific, short term or seasonal project such as a school or highway construction project. It also does not include



the placement of living units on oil and gas well sites during drilling operations or at gravel pits during gravel mining operations so long as the residents work at the site.

- . *Zoning Commission:* The Fallon County Planning Board or other commission appointed by the Fallon County Commissioners to recommend amendments to the zoning regulations and classifications. (Section 76-2-220, MCA.)

2. Workforce Housing Facilities Authorized

- . Workforce housing facilities shall be permitted, upon review and approval of a conditional use permit application and after demonstrating compliance with these regulations, in the unincorporated areas of Fallon County that fall under the jurisdiction of the Fallon County Commissioners, excluding incorporated areas as follows: City of Baker and the Town of Plevna.
- . A conditional use permit must be granted prior to any land development activity related to a workforce housing facility.
- . All workforce housing facility units shall be limited for use consistent with the conditional use permit as reviewed and approved, and shall not be converted to any other use without prior approval by the Governing Body.
- . A workforce housing facility conditional use permit is valid for up to two (2) years. Upon expiration of the permit, the applicant shall dismantle the facility and reclaim the site to its original state in accordance with the approved site closure and restoration plan for the workforce housing facility unless otherwise approved by the Governing Body. At least 30 days prior to the expiration date, the applicant may apply for renewal of the permit, subject to review under the rules in effect at that time.

3. Other Regulations

- . In cases where the workforce housing facility is comprised of more than one building, structure or improvement, and individual facilities are proposed to be made available for rent, lease, sale, or other form of conveyance, compliance with the Fallon County Subdivision Regulations and the Montana Subdivision and Platting Act shall be required. Compliance with applicable subdivision requirements shall be concurrent with or following conditional use permit review and approval. If a conditional use permit is issued for a workforce housing facility without compliance with subdivision requirements, and the facility or any portion thereof is thereafter rented, leased, sold, or otherwise conveyed, penalties may be assessed (refer to Section 7 below).
- . These regulations supersede regulations governing buildings for rent or lease.
- . Water, wastewater, storm water, and solid waste disposal facilities shall meet the requirements of the Montana Department of Environmental Quality (DEQ), the Fallon County Health Department, and/or the Montana Department of Public Health and Human Services (DPHHS), as applicable.
- . All site development shall comply with applicable floodplain requirements.



- . State and Fallon County building permits, as applicable, shall be obtained after a conditional use permit is granted pursuant to these regulations but prior to any land development activity.
- . The Applicant shall submit copies of all applicable permits to the Administrator prior to a certificate of compliance being issued.¹

4. Nonconforming Uses

- . The lawful use of land or buildings at the time of adoption or amendment of these regulations may continue although such use does not conform to the provisions of these regulations.
- . If a nonconforming use is discontinued for a period of 12 months, any future buildings, structures or premises shall conform to the regulations in effect at that time.
- . There shall be no limit on the maintenance and repair of a nonconforming use or buildings, provided that no such activity increases the degree of nonconformity. The degree of nonconformity is the measured extent to which an existing building or use fails to comply with the standards contained herein. For example, the degree of nonconformity of an existing workforce housing facility can be measured by, among other things, the number of beds. No increase in the number of beds shall be permitted except by demonstrating compliance with this resolution through the conditional use permit process.

5. Development Standards

A conditional use permit for a workforce housing facility shall not be approved by the Administrator unless the Applicant proves the following minimum development standards have been met or will be met prior to issuance of a certificate of compliance:

- . An accessible, adequate, safe, and potable supply of water for domestic purposes shall be provided to the workforce housing facility, installed in accordance with all applicable state and county health codes and requirements.
- . The workforce housing facility shall be properly connected to a wastewater treatment system designed and installed in accordance with all applicable state and county health codes and requirements. When a public sewer connection with the capacity to serve the facility is available, a connection shall be made thereto and used exclusively. Site- specific wastewater treatment systems shall be used where connection to a public system is not available.
- . Solid waste collection and disposal for the workforce housing facility shall be provided by the Applicant in locations that are screened from public view and are of sufficient capacity to accommodate the needs of the facility. Solid waste shall be collected weekly or more often and shall be disposed of in accordance with state law.
- . Electrical and telephone utilities at a minimum shall be provided to the workforce housing facility. Other utilities including but not limited to public water, sewer, gas and cable, if existing, shall be provided to the workforce housing facility.

¹ Permits that may be applicable to a workforce housing facility include, but are not limited to: DEQ or DPHHS approval for water supply, wastewater treatment, solid waste, and stormwater runoff (or a municipal facilities exclusion); a DEQ stormwater pollution prevention plan permit (SWPPP); health



department approval from DPHHS or County Health Department; state and local building permits; a street/road encroachment permit; and wetland and stream construction permits.

- . The workforce housing facility shall have adequate emergency medical, fire protection, law enforcement and/or security services. The required level of services, including whether on-site services shall be provided, shall be determined by the Administrator through consultation with local service providers. Prior to the issuance of a conditional use permit, the Applicant shall provide written confirmation from each local service provider of the availability and level of service able to be provided.
- . A grading and drainage plan for the workforce housing facility shall be approved and implemented in accordance with MDEQ Circular No. 8 - "Montana Standards for Subdivision Storm Drainage."
- . Legal and physical access shall be provided to the site, and direct physical access shall be provided to each structure on the property. All roads leading to and within the workforce housing facility must be designed by a licensed professional engineer and constructed to adopted Fallon County standards for subdivisions.
- . Common laundry facilities shall be provided for residents of the facilities. The number of washers and dryers provided shall be proportional to the number and type of residents anticipated.
- . All water, sewer, electricity, and telephone utilities provided to the workforce housing facility shall be placed underground. No overhead utilities are permitted within or to the workforce housing facility site.
- . Adequate recreational facilities shall be provided to serve the expected number and types of residents. The type and scale of required recreational facilities shall be proportional to the number and type of residents anticipated.
- . The following site design standards shall apply:
 - . The minimum distance between workforce housing facility units is 15 feet. This separation requirements includes but is not limited to attached awnings, slide-outs or other extensions of the units;
 - . The minimum distance between any workforce housing facility unit and any internal road right-of-way or easement is 25 feet;
 - . The minimum distance between any workforce housing facility unit and any external property boundary or site boundary is 50 feet;
 - . The minimum distance between any workforce housing facility unit and an inhabited structure or any school, cemetery or church property boundary is 800 feet.
 - . Off-street parking shall be provided at a rate of one parking space (9' x 20') per bed for residents plus one per each employee (caretaker or on-site manager) on duty per shift. No on-street parking shall be permitted. One visitor parking space shall be provided for every 10 resident parking spaces.



- . A five (5) foot minimum landscaped area shall be required along exterior boundaries of the workforce housing facility site to provide a visual buffer from adjacent off-site properties. Landscaping shall consist of rocks, shrubs, trees, or grasses that are native to the area and that require minimal maintenance; berming may be utilized to enhance the landscaped buffer, as appropriate. Non-metal fencing, not to exceed six (6) ft. in height, may also be incorporated in the landscape buffer areas.
- . Internal roadways and walkways shall be lit using light sources directed away from adjacent off-site uses, downward-facing, and screened appropriately so as to illuminate travel surfaces and addresses for emergency service providers but without encroaching upon the living units or adjacent off-site properties.
- . Each structure (and individual living unit, as applicable) shall have an address assigned by the local address coordinator, posted near an exterior entrance and large enough to be visible from the nearest roadway or access point to ensure emergency service personnel can locate a specific building or unit quickly and efficiently in the event of an emergency.
- . All workforce housing facility units shall be anchored to the ground.
- . No workforce housing facility unit shall be more than ten (10) years old on the day of installation.
- . Enclosed porches, carports, awnings, room additions, and similar accessory structures are prohibited. Small, unenclosed entry decks are permitted, not to exceed 25 square feet in floor area; and shall meet the separation requirement in (K)(i).
- . Storage buildings are limited to a maximum of 100 square feet of floor area per workforce housing facility unit. If individual storage buildings are provided, only one storage building is permitted per unit and shall be located within 15 feet of the unit it serves.

6. Site Restoration and Security Required

- . Upon expiration of the conditional use permit, or termination of use of the workforce housing facility, if earlier, the Applicant shall restore the site to pre-development condition or a more pristine state in accordance with an approved site closure and restoration plan. Restoration shall include removal of all infrastructure and facilities including sewer, water, electrical, telephone, roads, and all site improvements, re-grading (as applicable), weed control, and planting and fertilization necessary to restore the site to pre-development or more pristine condition.
- . Prior to obtaining a certificate of compliance, the Applicant shall submit to the Administrator a restoration security, in the form of a cash bond or other acceptable security as provided in the Fallon County Subdivision Regulations, that will cover the cost of restoring the site to pre-development or more pristine condition.
- . The amount of the security shall be determined at the Applicant's expense by an engineer licensed in the State of Montana who calculates the costs of implementing the site closure and restoration plan, including projected hours of labor for removal and restoration. The engineer shall submit for the Administrator's review all calculations and pricing based on current projected costs. The bond amount shall be in an amount of 125% of the engineer's



total estimated costs. The Administrator reserves the right to reject the engineer's calculations if it determines the estimated costs do not represent an accurate projection of the required work, costs and labor. The minimum amount of the security to be provided shall be as follows:

0-50 beds -- \$50,000

51-100 beds -- \$75,000

101-250 beds -- \$100,000

251-500 beds -- \$250,000

501 + beds -- \$350,000

- . The amount of the security shall be reviewed and updated upon an application for renewal of the conditional use permit for the workforce housing facility.
- . Prior to expiration of the conditional use permit, or termination of use of the workforce housing facility, the Applicant may request the Governing Body's permission to prepare the site for an alternate use. Upon written approval of the Governing Body, and in compliance with all rules and regulations, the Applicant shall make all preparations for alternate use prior to the Governing Body releasing the security.

7. Administration

. Application Submittal

The Applicant shall submit an application for a conditional use permit, an application for variance (if applicable), supplementary materials, and any permit fee(s) as established by the governing body to the Administrator for review. Submittal materials shall include:

- . A workforce housing facility site plan (one or more sheets) drawn to scale showing the location of:
 - . property and site boundaries;
 - . topographic contours;
 - . surface waters and areas of high groundwater;
 - . proposed on-site setbacks;
 - . existing and proposed easements;
 - . all utilities and connections;
 - . fire protection, solid waste, grading, drainage, and stormwater facilities;
 - . legal and physical access to the site and each structure;



- . proposed and existing on-site and adjacent off-site streets and roads, with applicable specifications;
 - . required off-street parking;
 - . landscaping, fences, lighting, and signage;
 - . all on-site structures and improvements, including a description of each and the number of beds, if any;
 - . each proposed phase, if phasing of development is proposed.
- . A workforce housing facility site maintenance and management plan, including an evacuation plan for the site, current owner and onsite manager contact information, and provisions for the maintenance and management of:
 - . water supply;
 - . sewage and solid waste disposal;
 - . stormwater facilities;
 - . on-site emergency medical, fire, security, and law enforcement, if any;
 - . unit numbers for emergency responders;
 - . laundry and recreational facilities;
 - . road and parking areas;
 - . landscaping, including irrigation and weed and dust control;
 - . operational rules of the facility;
 - . exterior lighting; and
 - . an updated occupancy and contact list, to remain on-site and be available at all times.
 - . A landscaping and buffer plan, illustrating the location and type of all on-site vegetation, berms, and hardscaping elements.
 - . A site closure and restoration plan, including a timeline and narrative describing how the workforce housing facility will be dismantled and restored to pre-development or more pristine condition. The plan shall include provisions for:
 - . removal of all infrastructure and facilities, including sewer, water, electrical, telephone, roads, and all site improvements;
 - . re-grading (as applicable); and



- . weed control, planting, and fertilization; and
- . the Applicant's proposal for restoration security, including the engineer's preliminary removal, restoration and labor calculations.
- . A phasing plan, if the entire project is not intended to be developed at once. The phasing plan shall include a site map showing the location of improvements and infrastructure that will be developed with each phase, and a timeline and narrative detailing the type and number of workforce housing facility units, infrastructure, and other improvements to be completed with each phase.
- . A current map and list of all landowners within 150 feet of the boundaries of the property, produced by the County's GIS Department or a title company.
- . If 50 or more beds are proposed, a transportation impact analysis prepared by a licensed professional engineer.
- . A request for variance, if any, from one or more required development standard(s), security, or other conditions imposed.
- . Application Completeness and Sufficiency

Upon receipt of an application for a workforce housing facility conditional use permit, the Administrator shall within 15 working days determine whether the application contains all of the items required for review, with enough clarity and detail to allow the Administrator to determine compliance with these regulations. The Administrator shall notify the applicant in writing of any deficiencies in the application and allow the applicant to supplement or revise the application materials.

If the Applicant corrects the deficiencies and resubmits the application the Administrator shall have 15 working days to notify the Applicant whether the resubmitted application contains all the materials required under section 7 "Application Submittal," as applicable.

- . Administrator Review
 - . The Administrator shall review the proposed workforce housing facility application for compliance with these regulations. In reviewing the application, the Administrator may seek input from departments with jurisdiction over the services to be provided to or by the applicant, including but not limited to law enforcement, fire, parks, sewer and water, roads, solid waste, and other departments, agencies, or service providers.
 - . The Administrator may schedule and hold a public hearing to receive public input on a proposed workforce housing facility. The Administrator shall provide notice of any public hearing.
- . Administrator Decision
 - . The Administrator may issue a conditional use permit for a workforce housing facility upon a finding that all of the following evaluation criteria are met:



- . The application and supplementary materials, as submitted or conditioned, comply with the applicable development standards of these regulations and sufficiently mitigate the anticipated impacts on public health, safety, and general welfare;
- . Adequate facilities and services are available to serve the workforce housing facility;
- . The workforce housing facility is in substantial compliance with the County's Growth Policy;
- . The appearance of the workforce housing facility, in terms of the arrangement, height, scale, and design of the structures, location of parking areas, landscaping and other features, is compatible with the character of the area.
- . If the Administrator finds the application, as submitted or conditioned, fails to comply with any one of evaluation criteria set forth herein, s/he shall deny the conditional use permit.
- . Within fifteen (15) days of the Administrator's decision, written notice of the decision shall be mailed to the applicant at the address shown upon the application. The decision of the Administrator may be appealed in accordance with subsection (F) of this ordinance. For the purpose of appeal, the decision shall be considered to be filed on the day it is postmarked.
- . Variance Process and Review Criteria
 - . Any variance requests submitted with an application for a workforce housing facility shall be decided by the Board of Adjustment prior to the Administrator's decision on the conditional use permit.
 - . The Board of Adjustment shall not approve a variance unless it finds that all of the following criteria have been met:
 - . The hardship is due to the size, physical surroundings, shape, or topographical conditions of the property;
 - . The hardship is peculiar to the property;
 - . The hardship was not created by the applicant;
 - . The hardship is not purely financial;
 - . The variance requested is the minimum variance necessary to alleviate the hardship;
 - . Granting the variance will not be detrimental to the public health, safety, or general welfare;



- . Granting the variance will not cause a substantial increase in public inconvenience or costs;
 - . Granting the variance will not have the effect of nullifying the intent and purpose of these regulations;
 - . Granting the variance will not adversely affect neighboring properties or the public; and
 - . Granting the variance will not confer a special privilege that is denied other similar properties in the same district.
- . The applicant has the burden of proving that all of the criteria for obtaining a variance have been met.
- . Appeal
 - . Any person aggrieved or any officer, department, board, or bureau of the County affected by a decision of the Administrator on an application for a workforce housing facility conditional use permit, including development standards, security, or other conditions imposed, may appeal that decision to the Board of Adjustment within 30-days of the issuance of the decision or as provided by the rules of the Board, and in accordance with the procedures set forth in Section 76-2-226, MCA.
 - . Any person aggrieved by a decision of the Board of Adjustment or the Board of County Commissioners, or any taxpayer, officer, department, board, or bureau of the County may petition the district court within 30 days of the Board's decision, in accordance with the procedures set forth in Section 76-2-227, MCA.
 - . Certificate of Compliance

No workforce housing facility unit may be used or occupied until the Administrator has issued a Certificate of Compliance. The applicant may apply for and receive a Certificate of Compliance from the Administrator upon meeting the following conditions:

- . a Certificate of Compliance fee is submitted as established by the Governing Body under a separate document;
- . all conditions of approval have been met;
- . all infrastructure has been appropriately installed and certified;
- . the required restoration security is in place;
- . a professional engineer licensed in the State of Montana has signed a Certificate of Improvements, certifying that all required improvements have been installed to required specifications; and
- . a final maintenance and management plan has been submitted to the Administrator and placed on-site as specified therein.; and



8. Annual Inspection, Compliance Fee Required

- . The Governing Body, Administrator or other appointed official shall inspect all workforce housing facilities at least once per year to assess compliance with these regulations and all conditions of approval.
- . At a minimum, the inspector shall give the facility operator at least 24 hour notice by telephone.
- . An Annual Inspection Compliance fee shall be required for all temporary workforce housing facilities is to be submitted as established by the Governing Body under a separate document.
- . The compliance shall be paid to Fallon County by January 15 of each calendar year.

9. Enforcement and Penalties

- . Any building, structure, or land erected, constructed, reconstructed, altered, repaired, converted, maintained, or used contrary to the provisions of these regulations shall be, and the same is hereby declared to be, unlawful.
- . Upon learning of any violation of a conditional use permit issued hereunder, the Administrator shall notify the on-site manager and applicant of the violation by certified mail and/or posting on the site.
 - . The notice shall describe the violation, cite the section of these regulations being violated, and request the responsible party to voluntarily comply within 30 days.
 - . The notice may include a “stop work order” that requires all non-corrective development to cease, states the specific development to be stopped, the specific reasons for the ordered stoppage, and the conditions under which development may resume. While a “stop work order” is in effect or until a violation is corrected, no permits or development approvals shall be granted for the property.
- . Any person who receives a notice of violation may, within the 30 days allowed, request inspection by the Administrator to show that compliance has been attained or appeal the Administrator’s notice of violation to the Board of Adjustment.
- . If, after the 30 days for voluntary compliance has lapsed, compliance has not been attained or an appeal has not been filed, the Administrator shall request the County Attorney begin legal action against the landowner and any responsible party.
- . Upon request by the Administrator, the County Attorney may immediately commence actions and proceedings for the abatement, removal, and enjoinder thereof in the manner provided by law; and shall take such other steps and shall apply to any court as may have jurisdiction to grant such reliefs as will abate or remove such building, structure, or use and restrain and enjoin any person, firm or corporations from erecting or maintaining such building or structure or using any property contrary to the provisions of this title.



- . This enforcement process may be accelerated where the Administrator finds that public health and safety are endangered by a violation hereof.
- . Penalties
 - . A violation of these regulations is a misdemeanor punishment by a fine not exceeding \$500, or imprisonment in jail not exceeding six months, or both.
 - . The violation of any one provision herein is considered a separate violation, and each day in violation thereof shall constitute a separate, additional violation.
 - . In addition to the penalties set forth herein above, any person who violates these regulations may be required by court order to abate or remove any building, structure, or use in violation of these regulations or otherwise restore the property to its pre-existing condition.