

RECORDED: 10/02/2001 2:35 PF

*Medora Taylor*

CLERK AND RECORDER BY: *Tena L. Miller*

FEE: \$5.00

THE COPY OF THE MCA CODES REFERENCED IN THE ORIGINAL NORTH ILLINOIS BENCH ZONING FILED UNDER PF#7650 IS BEING ADDED TO AMEND THE INITIAL DOCUMENT.

(SEE ATTACHED -- RESOLUTION 609) \*\*\*PER INSTRUCTIONS FROM PLANNING & COMMISSIONERS 10/02/01

~~27-30-101~~ ~~Definition of nuisance~~ (1) Anything which is injurious to health, indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, or which unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, river, bay, stream, canal, or basin or any public park, square, street, or highway is a nuisance.

(2) Nothing which is done or maintained under the express authority of a statute can be deemed a nuisance.

(3) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public or private nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

~~27-3-111~~ ~~Public nuisance~~ (1) "Public nuisance" means:

(a) a condition which endangers safety or health, is offensive to the senses, or obstructs the free use of property so as to interfere with the comfortable enjoyment of life or property by an entire community or neighborhood or by any considerable number of persons;

(b) any premises where persons gather for the purpose of engaging in unlawful conduct; or

(c) a condition which renders dangerous for passage any public highway or right-of-way or waters used by the public.

(2) A person commits the offense of maintaining a public nuisance if he knowingly creates, conducts, or maintains a public nuisance.

(3) Any act which affects an entire community or neighborhood or any considerable number of persons (as specified in subsection (1)(a)) is no less a nuisance because the extent of the annoyance or damage inflicted upon individuals is unequal.

(4) No agricultural or farming operation, place, establishment, or facility or any of its appurtenances or the operation thereof is or becomes a public nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation.

(5) Noises resulting from the shooting activities at a shooting range during established hours of operation are not considered a public nuisance.

(6) A person convicted of maintaining a public nuisance shall be fined not to exceed \$500 or imprisoned in the county jail for a term not to exceed 6 months, or both. Each day of such conduct constitutes a separate offense.

History: En. 94-8-107 by Sec. 1, Ch. 513, L. 1973; amd. Sec. 30, Ch. 359, L. 1977; R.C.M. 1947, 94-8-107(1) thru (4); amd. Sec. 2, Ch. 123, L. 1981; amd. Sec. 9, Ch. 415, L. 1991.

~~53-1-309~~ ~~repealed~~ Sec. 315, Ch. 42, L. 1997.

History: En. Sec. 1, Ch. 182, L. 1955; amd. Sec. 1, Ch. 126, L. 1965; amd. Sec. 2, Ch. 18, L. 1974; R.C.M. 1947, 53-119.1(part).

*Home Owners Assoc  
Po Box 6661  
Victor MT 59875*

*Rat*

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~~75-15-203. Definitions:~~ As used in this part only, the following definitions apply:

- (1) "interstate system" means that portion of the national system of interstate and defense highways located within this state as officially designated or as may hereafter be so designated by the state transportation commission and approved by the secretary of transportation pursuant to the provisions of Title 23, United States Code, "Highways".
- (2) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber debris, or waste; iron, steel, and other old or scrap ferrous or nonferrous material.
- (3) "Junkyard" means any establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, excluding a motor vehicle graveyard or motor vehicle wrecking facility which is regulated under Title 75, chapter 10, part 5, and excluding a garbage dump or sanitary landfill which is regulated under Title 75, chapter 10, part 2.
- (4) "Primary system" means that portion of connected main highways as officially designated or as may hereafter be so designated by the commission and approved by the secretary of transportation pursuant to the provisions of Title 23, United States Code, "Highways".

History: En. Sec. 2, Ch. 285, L. 1967; R.C.M. 1947, 32-4514; amd. Sec. 1, Ch. 340, L. 1983; amd. Sec. 6, Ch. 75, L. 1995.

~~76-2-205. Procedure for adoption of regulations and boundaries:~~ The board of county commissioners shall observe the following procedures in the establishment or revision of boundaries for zoning districts and in the adoption or amendment of zoning regulations:

- (1) Notice of a public hearing on the proposed zoning district boundaries and of regulations for the zoning district must be published once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:
  - (a) the boundaries of the proposed district;
  - (b) the general character of the proposed zoning regulations;
  - (c) the time and place of the public hearing;
  - (d) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder.
- (2) At the public hearing, the board of county commissioners shall give the public an opportunity to be heard regarding the proposed zoning district and regulations.
- (3) After the public hearing, the board of county commissioners shall review the proposals of the planning board and shall make any revisions or amendments that it determines to be proper.
- (4) The board of county commissioners may pass a resolution of intention to create a zoning district and to adopt zoning regulations for the district.
- (5) The board of county commissioners shall publish notice of passage of the resolution of intention once a week for 2 weeks in a newspaper of general circulation within the county. The notice must state:
  - (a) the boundaries of the proposed district;
  - (b) the general character of the proposed zoning regulations;
  - (c) that the proposed zoning regulations are on file for public inspection at the office of the county clerk and recorder;
  - (d) that for 30 days after first publication of this notice, the board of county commissioners will receive written protests to the creation of the zoning district or to the zoning regulations from persons owning real property within the district whose names appear on the last-completed assessment roll of the county.
- (6) Within 30 days after the expiration of the protest period, the board of county commissioners may in its discretion adopt the resolution creating the zoning district or establishing the zoning regulations for the district. However, if 40% of the freeholders within the district whose names appear on the last-completed assessment roll or if freeholders representing 50% of the titled property ownership whose property is taxed for agricultural purposes under 15-7-202 or whose property is taxed as forest land under Title 15, chapter 44, part 1, have protested the establishment of the district or adoption of the regulations, the board of county commissioners may not adopt the resolution and a further zoning resolution may not be proposed for the district for a period of 1 year.

History: En. Sec. 5, Ch. 246, L. 1963; amd. Sec. 19, Ch. 272, L. 1971; R.C.M. 1947, 16-4705; amd. Sec. 2, Ch. 591, L. 1995.

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I CERTIFY THAT I RECEIVED AND FILED

THIS INSTRUMENT ON THIS

10 DAY OF Mar 10 92

AT 9:55 O'CLOCK A M

BOOKED

37 pages

INDEXED

Beth J. Wood

CLERK & RECORDER

BY Corvine A. Vahl DEPUTY

No fee

RESOLUTION NO. 609

RESOLUTION TO CREATE A ZONING DISTRICT

WHEREAS, a petition was received from 62% of the owners of the real property in the North Illinois Bench area, requesting that the BOARD OF COUNTY COMMISSIONERS of Ravalli County create a zoning district with certain regulations; and

WHEREAS, a public hearing was held on December 17, 1991 to take comment on the proposed district and regulations; and

WHEREAS, A "Notice of Intent to Create a Zoning District" was published in the Ravalli Republic on January 30, 1991 and February 6, 1992; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS, Ravalli County, Montana, waited 30 days after the first publication of the "Intent to Create a Zoning District"; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS, received one letter from freeholders in the proposed district in opposition to the proposed zoning district; and

WHEREAS, THE BOARD OF COUNTY COMMISSIONERS of Ravalli County has determined that the creation of said district is in the best interest of the citizens within the proposed district and Ravalli County;

NOW THEREFORE BE IT RESOLVED that the BOARD OF COUNTY COMMISSIONERS of Ravalli County establish a zoning district and regulations for that district as described herein, in accordance with provisions of Section 76-2-205, M.C.A.

REGULATIONS FOR

NORTH ILLINOIS BENCH ZONE

PURPOSE OF THE RURAL AGRICULTURAL-RESIDENTIAL DISTRICT

This rural agricultural-residential district is hereby established to maintain, provide for and assure rural and semi-rural development of land parcels primarily for agricultural and low-density residential use. The purpose of this district is to

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conserve and protect open land use and thereby protect wildlife habitat, natural vegetation and water sheds. Further, the purpose is also to foster orderly growth, to prevent urban and agricultural land use conflicts; and to preserve aesthetic values of the area.

These regulations protect water quality by controlling toxic and industrial contamination, restrict uses that degrade the scenic quality, and protect agriculture by assuring that agricultural operations can be continued without restriction.

#### NON-CONFORMING USE AND RIGHTS

A parcel of land under one ownership and of record existing on the effective date of these restrictions, which by its size does not comply with the provisions herein, is hereby deemed a legally existing parcel.

Where a lawfully existing structure, use of structure, or use of land is made non-conforming by the provisions of these restrictions, said structure or use of structure or land may be continued indefinitely.

If such non-conforming structures, use of structure or use of land is destroyed by any method, it may be restored. Such non-conforming structures, use of structure or land may be sold or otherwise transferred and may continue upon transfer as a non-conforming use. Non-conforming structures, use of structures, or use of land may not be expanded to adjacent land parcels without being authorized by the variance procedure set forth in this resolution.

#### PERMITTED USES

1. Any land parcel may be used for agricultural purposes. Agriculture includes ground cultivation, rearing of livestock, grazing, tillage, husbandry, horticulture, orchards, nurseries, greenhouses, and tree farms. This includes the necessary fencing, irrigation equipment, machinery, tool, and product storage for these uses.

2. One (1) single family residential dwelling may be erected on any land parcel of five acres or more west of Illinois Bench Road. East of Illinois Bench Road one single family residential dwelling may be erected on any district parcel as shown on the plat for Sunnyside Orchards No. 4, Block 13, (attached hereto as Exhibit B) on the effective date of these restrictions.

3. All such dwellings must be constructed on the site or be modular homes.

4. An owner may occupy a mobile home, camper or other non-

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permanent dwelling for a period of one (1) year while constructing a permanent residence. (Excluding page 5, item #8) This one year term shall begin on the date the mobile home, camper or other non-permanent dwelling is placed on the parcel. Extensions of the one-year period must be applied for under the variance procedure contained herein.

5. An owner may have a home occupation (as defined herein) employing less than five (5) persons who are not residents at the dwelling.

6. An owner may operate a commercial business employing not more than five (5) persons at the home site.

#### PERMITTED ACCESSORY USES

1. One (1) guest home may be erected on a land parcel in addition to the single family residence. Such home must be constructed on the site or be modular homes.

Erection and use of structures incidental to permitted uses such as barns, storage sheds, stables, workshops, private garages and the like are allowed but may not be used by individuals other than the owner or tenant of the premises or their employees.

#### EXCLUDED USES

The following uses are prohibited:

1. Operation of a commercial landfill, garbage dump or garbage transfer station either by a private or governmental entity.
2. Junkyard, salvage yard, motor vehicle wrecking facility, and unlicensed automobiles and trucks.
3. Commercial operations employing more than five (5) non-family members.
4. Toxic waste storage or dumps.
5. Any use, activity, or structure which constitutes a nuisance.

#### PROPERTY DEVELOPMENT STANDARDS

These standards apply to all development not existing on the effective date of these regulations:

1. All single family dwellings referred to in Nos. 2 and 3 of "Permitted Uses" must encompass a minimum of 1100 square feet of floor space exclusive of garages, decks and porches.
2. Residences may not be constructed on less than five (5) acres

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west of Illinois Bench Road.

3. East of Illinois Bench Road, land parcel size will remain as shown on the plat for Sunnyside Orchards No. 4, Block 13, (attached hereto as Exhibit B) on the effective date of these restrictions.

4. The dwellings referred to in "Permitted Accessory Use" No. 1 need not be 1100 square feet.

5 All dwellings (Permitted or accessory) must be set back a minimum of 50 feet from roadways and property boundaries.

6. All accessory buildings, corrals, and storage facilities must be set back a minimum of 50 feet from roadways and property boundaries.

7. New roads, excluding driveways, must be constructed to county standard.

8. Wells, septic and drainage fields must be spaced at least 200 feet from those on adjacent parcels. Existing wells and septic systems on adjacent properties must be considered by applying the same 200-foot criteria when installing new systems. Each land parcel must maintain the space requirement and have a separate septic system.

9. Because the geologic structure of the soil in the area can inhibit drainage field percolation, the following septic system requirements are imposed:

-An inspection hole 8-feet deep must be dug at the drainage field location prior to inspection by the county sanitarian. The sanitarian will specify proper drainage field installation requirements.

-Drainage field pipes will be end-capped.

-Septic tanks will be placed on a 6-inch sand base, filled with water, and leak tested for 24 hours prior to being covered.

-Leaking tanks will be replaced.

10. All wells and septic systems must be approved by appropriate county agencies.

11. Owners are responsible for containing their livestock and other domestic animals.

12. Modular dwellings must be placed on a permanent foundation within 60 days of arrival on site. Said foundations must conform to minimum construction standards of the State of Montana.

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13. County decay and garbage ordinances will be strictly enforced.

14. The developer for residential development and/or persons establishing commercial operations assume the responsibility for environmentally safe dust abatement and reasonable road maintenance on the effected roads within the zone when the resulting traffic will increase the traffic count by more than 20 trips per day averaged over one typical week. The homeowners association will establish the existing traffic count and be responsible for any interpretation of the change.

15. Signs: Business professional signs not larger than four (4) square feet may be permanently painted or attached to dwellings and accessory buildings or be freestanding. Temporary real estate, political campaign, and construction signs not exceeding twelve (12) square feet may be erected. Said signs must be removed within ten (10) days following termination of the activity for which they were intended. Signs shall not be flashing or utilize intermittent illumination. No sign shall be paced so as to obstruct traffic visibility at road intersections.

16. Exterior lights (especially yard lights) must be shielded to prevent glare for adjacent landowners.

17. Mail boxes will be located as specified by the post office. Any additional expense or construction required will be borne by the person(s) causing the changes. The support structure required will be the minimum size possible to house the mail boxes and will be arranged to reduce the impact on the adjacent landowners. If the total number exceeds 10 boxes, cluster boxes will be installed as soon as they are available from the post office.

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#### HOMEOWNERS ASSOCIATION

1. This ordinance provides for the establishment of a North Illinois Bench Homeowners Association, the bylaws of which are attached hereto as Exhibit C. This association is to be open to all owners of land within the external boundary of this zone.
2. The Homeowners Association will be the first recourse for grievances as a result of violations of these regulations.
3. When the homeowners association is unable to resolve a grievance, they will refer it to the Ravalli County Board of County Commissioners for resolution.
4. However, nothing in this provision will be construed as preventing an individual property owner from taking a grievance directly to the Ravalli County Board of County Commissioners should the Homeowners Association refuse or be unable to act.

#### CHANGES IN THE REGULATIONS

1. These regulations may be altered, amended, voided, or terminated by a 60 percent vote of the freeholders of real property within the described areas as set forth in Exhibit "A" of this document and as approved by the Ravalli County Commissioners.

#### VARIANCE PROVISIONS

1. Any landowner may request a variance from the requirements of this regulation. Variances from the terms of these resolutions must not be contrary to the public interest as expressed by the whole of these resolutions. In addition to not being contrary to the public interest, variances will be granted only where owing to special conditions, a literal enforcement of the provisions of the resolution will result in unnecessary hardships and so that the spirit of the resolution shall be observed and substantial justice achieved. The procedures for obtaining a variance are:
  2. A written application for variance must be submitted to the North Illinois Bench Homeowner Association Executive Committee stating the purpose of the proposed variance, the reasons the regulation cannot be fully complied with, and the steps the applicant is willing to take to reduce the impacts of the variance on adjacent landowners.
3. Separate variances must be filed for each land parcel.



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4. The Executive Committee will set a date not less than fifteen (15) nor more than thirty (30) days in the future for a hearing with the applicant and affected parties.

5. The applicant will notify all adjacent landowners at least fifteen (15) days in advance of the hearing, that a variance is requested, the terms of the request, and the date and time of the hearing.

6. The Executive Committee will conduct the hearing and notify the applicant of its findings within five (5) days.

7. The Executive Committee may approve, disapprove, conditionally approve, or refer the request to the general body of the homeowners association.

8. If the Executive Committee refers the issue to the general body, the variance request would be mailed to the members at the expense of the applicant. The decision on the variance would be based on the majority view of the responses received.

9. The applicant may appeal the homeowner association decision to the Ravalli County Board of County Commissioners. The Executive Committee will represent the homeowners association view to the County Commissioners.

10. Each party has the right to make further appeal to the courts in the event the decision received is unsatisfactory for either party.

11. Once a final decision is obtained, the applicant is responsible to file the variance decision with the Ravalli County Clerk and Recorder.

#### INTERPRETATION

1. Nothing herein shall repeal, abrogate, annul, or in any way impair or interfere with any provision of law or any rules or regulations, other than zoning regulations, adopted or issued pursuant to law relating to the construction and use of buildings or premises.

2. Where this resolution imposes a greater restriction upon the use of buildings or premises or upon the height of buildings or requires larger yards than are imposed or required by other provisions of law, rules, regulations, covenants or agreements, the provisions of this resolution shall control, but nothing herein shall interfere with, abrogate or annul any easements, covenants, deed restrictions or agreements between parties which

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impose restrictions greater than those imposed by this resolution.

3. Further, covenants or deed restrictions in force at the time of the effective date of this regulation are incorporated in this regulation for the land parcels effected if they are more restrictive than this document.

#### VALIDITY

1. Each section subsection, provision requirement, regulation or restriction established by this resolution or any amendment hereto, declared invalid or ineffective for any cause shall not affect nor render invalid the resolution or amendment thereto as a whole or any other part thereof except the particular part so declared to be invalid.

2. Failure to enforce any of the restrictions, rights, reservations and limitations contained in these regulations shall not, in any event, be construed or held to be a waiver therefore consent to any further, continuing or succeeding breach or violation thereof.

#### DEFINITIONS

For the purposes of this regulation, certain words and terms contained herein are defined as follows:

ACCESSORY BUILDING: A building constructed for any purpose that will not house people.

COMMERCIAL: The operation of a business for the exchange of goods and services, including manufacturing, research, and the providing of services.

COVENANTS: An agreement, in writing, of two or more parties by which any of the parties pledges to the other that something is done or shall be done.

DEED RESTRICTIONS: Those covenants that are made a part of and included in the land deed and are permanently affixed to the deed.

DRIVEWAY: Any road serving as a single dwelling.

DWELLING: Any building used in whole or in part as an independent living facility for a family or household.

FAMILY RESIDENCE: See Dwelling.

HOME OCCUPATION: An activity conducted for profit within the family residence or dwelling.

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**INDUSTRIAL:** Activities conducted for profit which require material modification through assembly, molding, refinement, or tooling.

**JUNK:** Means old or scrap copper, brass, rope, rags, batteries, rubber debris, waste iron, steel or other ferrous and non-ferrous scrap or material.

**JUNK YARD:** As defined in MCA-75-15-203): "means any place of business operated or used for storing, keeping, buying or selling junk, excluding wrecking facilities and garbage dumps".

**LAND PARCEL:** A tract of land owned by a single person, firm, corporation, or any other legal entity shown in the records of the county clerk and recorder as holding legal title or a contract to purchase the tract.

**MANUFACTURING:** An activity that alters the configuration or assembly of any material.

**MOBILE HOME:** defined as stated in MCA-61-4-309 and as further defined here. A factory-assembled structure equipped with the necessary service connection and made readily transportable on its own running gear. To be used as a dwelling without a permanent foundation.

**MODULAR HOME:** A structure built at one site and delivered to another site and placed on a permanent foundation.

**MOTOR VEHICLE WRECKING FACILITY:** Any place having more than four (4) unlicensed vehicles and operated for the buying, selling, or dealing of parts, scrap, or re-manufacture.

**NUISANCE:** Any use, activity or structure that interferes with the use or enjoyment of any property, which may endanger health or safety or unreasonably disturb the residents of the district or is offensive to the senses, or any condition defined or described in sections 27-30-101 M.C.A. (1991) and 45-8-111 M.C.A. 1991.

**ROAD:** Any street or corridor used to carry vehicular traffic that serves at least two (2) dwellings.

**SALVAGE YARD:** A location where items are housed, stored, disassembled, packed or otherwise processed.

**SUBDIVIDE:** The act of separating a tract of land which results in two (2) or more separate land parcels.

**SUBDIVISION:** A division of land which creates two (2) or more separate land parcels so that the title to or possession of the

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parcels may be transferred, rented, leased, or otherwise conveyed.

The North Illinois Bench Zone area is described as follows:

Beginning at a point 128.2' East of the corner common to Sections 5, 6, 7, and 8, Township 9N, Range 19W, P.P.M. thence East along the section line common to Sections 5 and 8 to the N 1/4 corner of Section 8; thence South along a straight line to the S 1/4 corner of Section 8; thence West to the Section corner of Sections 7, 8, 17 and 18, thence West along the section line common to Sections 7, and 18 to the E 1/16 corner common to Section 7 and 18; thence South along a straight line to the EC 1/16 corner of Section 18; thence West along a straight line to the WC 1/16 corner of section 18; thence North along a straight line to the W 1/16 corner common to Section 7 and 18; thence northerly to the southwest corner of Lot 17, Block 11, Sunnyside Orchards #3; thence North along the West boundary of Lots 17-21, Block 11, to the NW corner of Lot 21, Block 11, Sunnyside Orchard #3; thence East, 1103.9' to the NE corner of Lot 21, Block 11 Sunnyside Orchard #3; thence N 89 59' 39" E, 646.95' to the NE corner of Lot 13A, Block 12, Sunnyside Orchard #3; thence N 89 59' 38" E, 558.19' to the NE corner of Lot 13B, Block 12, Sunnyside Orchard #3 which is the NW corner of the southern part of Lot 11, Block 12, Sunnyside Orchard #3 as described in Deeds Volume 191 Page 576; thence East, 330' to the NW corner of Lot 21; thence East, 694.80' to the NE corner of Lot 21B; thence East, 627.33' to the NE corner of Lot 21A; thence North along the East boundary of Lots 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, and 32 to the point of Beginning.

PASSED AND APPROVED THIS 2ND DAY OF MARCH, 1992.

BOARD OF COUNTY COMMISSIONERS  
Ravalli County, Montana

*Jerry L. Allen*  
Jerry L. Allen, Chairman

*Shirley D. Powell*  
Shirley D. Powell, Member

*William P. Horsfall, Jr.*  
William P. Horsfall, Jr., Member

*Betty T. Lund / Nadene P. Taylor*  
Betty T. Lund, Clk. & Rec.

