

COMMISSIONERS APPROVAL

IMAN

CHILCOTT

FOSS

KANENWISHER

STOLTZ

PLETTENBERG (Clerk & Recorder)

Members Present..... Commissioner J.R. Iman, Commissioner Greg Chilcott, Commissioner Suzy Foss, Commissioner Matt Kanenwisher and Commissioner Ron Stoltz

Date.....September 7, 2011

► Minutes: Beth Perkins

► The Board met for the first reading to repeal Ordinances No. 1, 2, 5, 6, 7, 8, 12, 14, & 17 at 9:30 a.m. Present were Ravalli Republic Reporter Whitney Bermes and Administrative Assistant Glenda Wiles.

Commissioner Stoltz stated the purpose of this repeal is to clean up old ordinances that were superseded by law, ruled unconstitutional by Judge Langton or simply not needed anymore. The Board reviewed these ordinances and discussed why they should be repealed. Commissioner Chilcott expressed his concern with repealing Ordinance No. 12 for off-premise outdoor advertising specifically signage that affects traffic safety. He would like to see a replacement prior to repeal. Discussion followed regarding a due date for a draft ordinance to replace Ordinance No. 12. Commissioner Kanenwisher stated Ravalli County has established, by precedence, a process where fees are collected and utilized for mitigation. He considers Ordinance No. 17 a way to “double-dip” by collecting impact fees. There were two requests made for impact fees and they failed. He cannot see a reason to keep this ordinance in this economy. Commissioner Iman disagreed with Section 1 Item A for “a fee imposed upon new development for service payable by all users creating additional demand on a public facility”.

Commissioner Kanenwisher made a motion to approve the first reading to repeal Ordinance No. 1 – Ravalli County Vicious Dog Ordinance whereas it is superseded by Ordinance No. 16 – Animal Protection Services. Commissioner Foss seconded the motion and all voted “aye”. (5-0)

Commissioner Kanenwisher made a motion to approve the first reading to repeal Ordinance No. No. 5 – Ravalli County Vicious Dog Ordinance whereas it is superseded by

Ordinance No. 16 – Animal Protection Services. Commissioner Chilcott seconded the motion and all voted “aye”. (5-0)

Commissioner Kanenwisher made a motion to approve the first reading to repeal Ordinance No. 14 - Ravalli County Dog Ordinance whereas it is superseded by Ordinance No. 16 – Animal Protection Services. Commissioner Stoltz seconded the motion and all voted “aye”. (5-0)

Commissioner Chilcott made a motion to approve the first reading to repeal Ordinance No. 2 whereas judicial action has deemed it unconstitutional. Commissioner Foss seconded the motion and all voted “aye”. (5-0)

Commissioner Kanenwisher made a motion to approve the first reading to repeal Ordinance No. 6 – Distribution of Obscenity Ordinance, Ordinance No. 7 – Public Indecency Ordinance, Ordinance No. 8 – Harmful to Minors Ordinance, whereas cause No. DV-96102 has declared that Ordinances No. 6, 7 & 8 are invalid and cannot be enforced legally. Commissioner Chilcott seconded the motion and all voted “aye”. (5-0)

Commissioner Kanenwisher made a motion to approve the first reading to repeal Ordinance No. 17 – Imposition of Impact Fees to Fund Capital Improvements whereas the current economic climate does not warrant the implementation of impact fees. Commissioner Foss seconded the motion. Discussion: Commissioner Chilcott stated the Impact Fee Advisory Board has been in place for four years and money has been spent for research whereas no impact fees have been adopted. All voted “aye”. (5-0)

► Administrative Assistant Glenda Wiles presented the Board with the following administrative matters:

- Commissioner Chilcott made a motion to approve the notice to proceed for the Corvallis CTEP Project. Commissioner Kanenwisher seconded the motion and all voted “aye”. (5-0)
- The Board concurred to pay a bill submitted by Eclipse Engineering for \$390.36.

► Commissioner Stoltz attended the Airport Board meeting at 2:00 p.m.

*Final Copy
see form
File # 7121*

ORDINANCE NO. 1

RAVALLI COUNTY VICIOUS DOG ORDINANCE

1. STATEMENT OF PURPOSE.

It is the purpose of this ordinance to promote public health, safety and general welfare in unincorporated areas of Ravalli County by regulating the control and containment of vicious dogs and for the destruction of vicious dogs permitted to run at large.

2. DEFINITIONS.

A. "Owner" - Every person who owns, harbors, or keeps a dog.

B. "Vicious dog" - A dog which bites or attempts to bite any human being without provocation or which harasses, chases, bites, or attempts to bite any other animal, including livestock and domestic pets.

C. "Officer" - the Sheriff, Deputy Sheriff, or other person specifically designated to perform the duties set forth in the Ordinance.

3.

Any dog, whether licensed or not, which while off of the premises owned by, or under the control of its owner, shall bite or attack any person, domestic or hooved game animal, shall be deemed to be a public nuisance and may be killed. Upon notification by an officer, the owner shall kill such dog within twenty-four (24) hours, and if he fails to do so, the officer shall kill, or cause the dog to be killed, upon order of the court. The head of any dog that has bitten a person and has been subsequently destroyed shall be submitted to an appropriate diagnostic laboratory, unless deemed unnecessary by competent authority.

4.

The officer shall determine whether or not there is evidence that the dog is a vicious animal as defined in Section 7-23-2109 (3) M.C.A. The biting of a person while the dog is off of the owner's property shall constitute prima facia evidence that it is a vicious dog. The results of any investigation shall

be delivered to the Ravalli County Attorney, who shall bring action for the destruction of the animal.

5. _____.

The animal shall immediately be placed in quarantine, either by the owner at his expense, or if he refuses to do so, the sheriff shall seize the animal and place it in quarantine at an animal shelter to determine whether or not it is carrying a communicable disease.

6. _____.

Upon filing the petition with the Justice of the Peace, notice shall be issued to the owner thereof, setting forth the date, time and place of such hearing to determine whether or not the animal is a vicious dog which must be destroyed.

7. _____.

Upon determination by the court that the animal is a vicious dog and must be destroyed, the sheriff shall see to it that the dog is destroyed in a humane manner.

8. _____.

No dog may be ordered destroyed when it is the finding of the court that any of the following occurred:

- A. That the dog was properly confined and its enclosure was breached by the injured party.
- B. That the dog was provoked by the injured party or another.
- C. That the dog was protecting its owner.
- D. That the dog was acting under the orders of its owner.

9. _____.

The owner of any dog that displays a tendency to be vicious must confine the animal in a structure or enclosure designed to prevent escape of the animal; and there must be sufficient warning to anyone who may otherwise be authorized or given license to enter the enclosure of the danger created by the dog.

10. _____.

Nothing herein contained shall affect the rights or liabilities of the owner or other parties in any civil proceedings.

11. _____.

Any person violating the provisions of this ordinance shall be guilty of a Misdemeanor and may be imprisoned in the county jail not to exceed six (6) months, or may be fined not more than \$500.00, or both such imprisonment and fine.

12. _____.

The effective date of this ordinance shall be the 1st day of January, 1987.

APPROVED AND PASSED this 2nd day of December, 1986.

BOARD OF COUNTY COMMISSIONERS
Ravalli County, Montana

F. B. Tossberg
F. B. Tossberg, Chairman

F. J. Williams
F. J. Williams, Member

Marion H. Davis
Marion H. Davis, Member

ORDINANCE NO. 2

An Ordinance to Control Community Decay Caused by Accumulation of Rubble, Debris, Junk or Refuse; and Establishing Procedures for its Enforcement

WHEREAS, MCA Section 7-5-2111, authorizes counties to enact an ordinance to control community decay; and

WHEREAS, the Ravalli County Commissioners have determined there is a need for an ordinance to control community decay in Ravalli County; and

WHEREAS, the Ravalli County Commissioners are desirous of establishing such an ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF RAVALLI COUNTY, STATE OF MONTANA:

Section 1. Definitions

1. "Department" means the county department designated to enforce the community decay ordinance.
2. "Community decay" means a public nuisance created by allowing rubble, debris, junk, or refuse to accumulate resulting in conditions that are injurious to health, inoffensive to the senses or obstructive of the free use of property so as to interfere with the comfortable enjoyment of life or property. "Community decay" as used in this ordinance may not be construed or defined to apply to normal farming, ranching or other agricultural operations, or to a farm, ranch, or other agricultural facility, or any appurtenances, thereof, during the course of its normal operation.
3. "Person" means an individual, firm, partnership, company, association, corporation, city, town, or any other entity whether organized for profit or not.
4. "Public nuisance" means a nuisance which affects, at the same time, an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted on individuals may be unequal.
5. "Public view" is any point six feet above the surface of the center of any public road from which the community decay can be seen.
6. "Shielding" refers to fencing or other manmade barriers to conceal community decay from public view. It also refers to natural barriers. Any shielding barrier must conform to all local zoning, planning, building and protective covenant provisions. Any shielding is to be of sufficient height so

that none of the violation on the premises is visible to public view. This is not intended to require that permanent buildings, other structures, utility poles or any farm buildings, ranch buildings, or other agricultural facilities or appurtenances are to be included in this and be shielded.

Section II. Powers and Duties of Agencies

1. The county governing board hereby designates the County Sanitarian and the Ravalli County Planning Board as the departments which shall have the following powers and duties:

a. Sanitarian's Office

- 1) The duty to inspect when there has been a complaint by more than one person that "Community Decay" is present in the area.
- 2) The power to determine whether this ordinance applies after an inspection of the property or area. The violation must be within public view.
- 3) The duty to send a written notice of violation to the owner of property in question.
- 4) The power to enter upon the property in violation, after written notice, to determine if steps to abate the "Community Decay" have been taken.
- 5) The power to assess the property owner for the actual costs of an abatement made by the department.
- 6) The power to request a show cause hearing before the County Justice of the Peace.
- 7) The power to request a review of the case before the County Planning Board. In such event the review will take place as follows:
 - a) The Planning Board President will decide on an appropriate date to schedule the review and

notify the Sanitarian's Office of the date, time and place for the meeting.

- b) The Sanitarian's Office will notify the accused of the date, time and place for the review by certified mail at least seven days prior to the meeting.
- c) The Planning Office will notify the Planning Board Members of the scheduled meeting.
- d) If the accused or his representative does not attend the review the matter shall be referred to the next sequential step of the ordinance.
- e) The procedure for the review will follow the procedure outlined in Section 111.

b. Planning Board

- 1) The power to review alleged "Community Decay" cases when requested by the accused or the Department. When such a request is made the review shall be limited to the following issues.
 - a) Does in fact "Community Decay" exist as defined in this document?
 - b) Was proper notification given to the accused?
 - c) Can a solution be formulated that is agreeable to both the accused and the Department?
 - d) Will an extension of the time period given by the

Department offer a solution to the problem:

- 2) The power to grant an extension of the time period given by the Department. Such an extension shall be granted only under the following conditions:
 - a) That the accused understands the violation must be remedied by the deadline set by the Planning Board.
 - b) The extension of time is granted to allow for climatic conditions, geographic limitations or other such pertinent physical restrictions and not as a result of the accused resistance to comply with the ordinance.
- 3) The power to deny an extension of the time period set by the Department and refer the case to the next sequence specified by this document.
- 4) The power to arbitrate between the accused and the Department and make recommendations to the two parties for remedying the violation.

Section III. Notification

1. When the department receives complaints that a public nuisance has been created by allowing rubble, debris, junk, or refuse to accumulate resulting in conditions that are injurious to health, indecent, offensive to the senses, or obstructive of the free use of property, the department shall inspect the property alleged to be in violation of this ordinance.
2. If there appears to be a violation of this ordinance, the Department shall notify the owner of the property in writing of the violation. This notice shall be sent by certified mail, or served by the Sheriff's Office. This notice shall include a statement specifically describing the violation.

3. The notice of violation to the owner shall specify that the owner has thirty (30) days from receipt of such notice in which to comply with this ordinance by means of removal or shielding of the conditions.
4. After notification of the violation the owner may submit a plan of abatement to the Department which shall include:
 1. Type of abatement or shielding;
 2. Proposed date for commencement of action and the deadline for completion;
 3. Reason why abatement cannot be started within the thirty (30) days.
 4. The Department may accept such plan and defer further proceedings under this ordinance pending abatement; it may request a review through the County Planning Board or it may refuse the request and refer the problem to the next sequential step in the ordinance.
5. Thirty (30) days after the notice of violation has been received by the owner of the property in violation, the Department shall determine whether the violation has been abated by the owner.
6. If the owner has failed to act, the Department shall send a notice setting a date and time for a hearing before the Justice of the Peace. The owner shall appear to show cause why the violation has not been abated.
7. A show cause hearing will be held by the Justice of the Peace. Both the Department and the owner may give evidence. At the end of the hearing the Justice shall determine if the violation in fact exists, and if proper notification was made, the owner shall be ordered to abate it within a reasonable time.
8. If after a show cause hearing the owner has not complied with the court-ordered abatement, the Department shall send written notification by certified mail and allow ten (10) days further to complete abatement. Ten (10) days after the mailing of notice to the owner, the Department may enter upon the owner's property with the specific purpose of abating or shielding the violation, whichever the Department deems appropriate.
9. The Department may assess the property owner/user for the actual costs of the abatement by the Department of the violation.
10. Nonpayment of the assessment by the owner may be taken as a lien upon the property and enforceable in the same manner as nonpayment of property taxes.

11. This ordinance applies to the whole of Ravalli County with the exception of incorporated municipalities that have ordinance making powers.
12. This ordinance shall be in full force and effect thirty (30) days after its passage and adoption by the Ravalli County Commission.
13. This ordinance will not affect previously enacted state and local statutes and ordinances if they are most applicable to the complaints made.

Section IV. Community Decay Standards.

1. It shall be a violation of the Ravalli County Community Decay Ordinance to allow any of the following conditions to exist within public view, as defined within this ordinance, on any land or property in Ravalli County that is not considered to be a normal farm, ranch or other agricultural operation or facility:
 - a. The dumping, piling, or stacking of bricks, concrete blocks, waste wood, and similar material on open lots or fields, unless said material is stacked in neat piles and all waste material from the cleaning of such items, such as mortar, wood splinters, broken and unusable bricks, is removed to a licensed solid waste disposal facility or to some other location which has been approved by the department within a reasonable period approved by the department. Should such an operation be an on-going continuous business, it shall be located in an area properly zoned for such a salvage business and shall be shielded from public view. Shielding shall meet the shielding standards outlined within these Community Decay Ordinance Standards and/or Ravalli County Zoning Regulations.
 - b. The storage or large accumulation of cardboard boxes, broken packing boxes, paper or other similar items on lots or fields.
 - c. The piling, dumping or depositing of waste products and demolition wastes including wood, bricks, concrete, used road blacktop and other similar materials on any lots or fields, unless such material is to be utilized for fill material. If such material is used as fill material, all such material shall be completely covered with clean fill material within ten (10) days and the fill area shall be adequately fenced to restrict

access to the area. Failure to comply with the ordinance constitutes a violation of this ordinance.

- d. The storage and accumulation of iron, metal, component vehicle and machine parts, junk vehicles, household appliances, barrels and other salvaged metal items, unless such material is stored behind approved shielding. If such material is being accumulated as part of an on-going, active salvage business, said salvage business must be located in a properly zoned area for such a business and shall be shielded from public view. Shielding shall meet the shielding standards outlined within these Community Decay Ordinance Standards and/or Hawaii County Zoning Regulations.
- e. The accumulation and storage of any other rubble, debris, junk, or refuse that, upon investigation by the Department is deemed to be a public nuisance as defined in this ordinance.

Section V. Shielding Standards

1. All plans for shielding shall be approved by the Department prior to commencing construction of shielding.
2. When fences are used for shielding the boards may be spaced and/or slanted to reduce wind load. The space between boards when viewed from a broad-side view shall not be more than one and one-half (1 1/2) inches and the interval between spaces shall not be less than seven and one-half (7 1/2) inches. Rough dimensional lumber or better is acceptable. Chain link fences with standard fiberglass or other inserts are acceptable, provided the gap between adjacent slats does not exceed one and one-half (1 1/2) inches.
3. Shielding with shrubs and trees shall provide a similar degree of shielding at all times of the year. Dirt berms are acceptable for shielding purposes, provided the berm slopes are graded smooth and seeded with an adequate grass seed formula.
4. Other types of fencing or equivalent permanence, attractiveness, and shielding qualities, including corrugated metal, are also acceptable.

- 5. No more than one of the approved shielding materials shall be used on any one side of shielding fence.
- 6. The fencing is to be maintained by the property owner or occupant in a neat and workmanlike manner and shall be replaced when necessary.

APPROVED AND PASSED this 18th day of June,
1987.

BOARD OF COUNTY COMMISSIONERS
Ravalli County, Montana

F. B. Tossberg
F. B. Tossberg, Chairman

Marion H. Davis
Marion H. Davis, Member

Jerry L. Allen
Jerry L. Allen, Member

Betty J. Lund

CLERK AND RECORDER BY

Linda W. Beisel

DEPUTY *Mc Gee*

ORDINANCE NO. 5

RAVALLI COUNTY VICIOUS DOG ORDINANCE

1. STATEMENT OF PURPOSE.

IT IS THE PURPOSE OF THIS ORDINANCE TO PROMOTE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE IN UNINCORPORATED AREAS OF RAVALLI COUNTY BY REGULATING THE CONTROL AND CONTAINMENT OF VICIOUS DOGS AND FOR THE DESTRUCTION OF VICIOUS DOGS PERMITTED TO RUN AT LARGE.

2. DEFINITIONS.

- A. "OWNER" - EVERY PERSON WHO OWNS, HARBORS, OR KEEPS A DOG.
- B. "VICIOUS DOG" - A DOG WHICH BITES OR ATTEMPTS TO BITE ANY HUMAN BEING WITHOUT PROVOCATION OR WHICH HARASSES, CHASES, BITES, OR ATTEMPTS TO BITE LIVESTOCK, DOMESTIC PETS OR HOOFED GAME ANIMALS.
- C. "LIVESTOCK" - ANY ANIMAL DEFINED BY MONTANA STATUTES AS LIVESTOCK AND INCLUDES DOMESTICATED POULTRY, RABBITS, SWINE, AND OTHER ANIMALS RAISED FOR THE PURPOSE OF FOOD OR FOOD PRODUCTS.
- D. "OFFICER" - THE SHERIFF, DEPUTY SHERIFF, OR OTHER PERSON SPECIFICALLY DESIGNATED TO PERFORM THE DUTIES SET FORTH IN THE ORDINANCE.
- E. "COMPETENT AUTHORITY" - A JUSTICE OF THE PEACE, ACTING JUSTICE OF THE PEACE, OR DISTRICT COURT JUDGE.

3.

- A. ANY DOG, WHETHER LICENSED OR NOT, WHILE OFF THE PREMISES OWNED BY, OR UNDER THE CONTROL OF ITS OWNER, WHICH BITES OR ATTEMPTS TO BITE ANY HUMAN BEING WITHOUT PROVOCATION, SHALL BE DEEMED TO BE A VICIOUS DOG AND MAY BE ORDERED DESTROYED. THE HEAD OF ANY DOG THAT HAS BITTEN A PERSON AND HAS BEEN SUBSEQUENTLY DESTROYED SHALL BE SUBMITTED TO AN APPROPRIATE DIAGNOSTIC LABORATORY, UNLESS DEEMED UNNECESSARY BY COMPETENT AUTHORITY. ANY COSTS INCURRED MAY BE CHARGED TO THE OWNER.
- B. ANY DOG, WHETHER LICENSED OR NOT, WHICH WHILE OFF THE PREMISES OWNED BY, OR UNDER THE CONTROL OF ITS OWNER, SHALL HARASS, CHASE, OR ATTEMPT TO BITE ANY OTHER ANIMAL, INCLUDING LIVESTOCK AND DOMESTIC PETS, SHALL BE DEEMED A VICIOUS DOG AND MAY BE KILLED. THIS SECTION DOES NOT ABROGATE THE RIGHTS OF ANY LIVESTOCK OWNER AS SET FORTH IN SECTION 81-7-401 MCA.

4.

AN INVESTIGATION WILL BE CONDUCTED, BY THE RAVALLI COUNTY SHERIFF'S OFFICE, TO DETERMINE WHETHER OR NOT THERE IS EVIDENCE THAT THE DOG IS A VICIOUS ANIMAL AS DEFINED IN THIS ORDINANCE. THE BITING OF A PERSON WHILE THE DOG IS OFF OF THE OWNER'S PROPERTY SHALL CONSTITUTE PRIMA FACIA EVIDENCE THAT THE DOG IS A VICIOUS DOG. THE RESULTS OF ANY INVESTIGATION SHALL BE DELIVERED TO THE RAVALLI COUNTY ATTORNEY, WHO MAY BRING AN ACTION, IN A COMPETENT COURT, CHARGING THE OWNER WITH VIOLATING THIS ORDINANCE AND REQUESTING AN ORDER FOR THE CONFINEMENT OF THE ANIMAL, BY THE OWNER, PENDING THE HEARING IN CONFORMANCE WITH SECTION (8) OF THIS ORDINANCE.

5.

UPON FILING OF AN ACTION, NOTICE SHALL BE ISSUED TO THE OWNER THEREOF, SETTING FORTH THE DATE, TIME AND PLACE OF SUCH HEARING TO DETERMINE WHETHER OR NOT THE ANIMAL IS A VICIOUS DOG AND WHETHER OR NOT THE ANIMAL MUST BE DESTROYED. IMMEDIATELY, UPON RECEIPT OF ANY ORDER DIRECTING THE OWNER TO CONFINE THE ANIMAL PENDING HEARING, THE OWNER SHALL CONFINE THE ANIMAL IN CONFORMANCE TO SECTION (8) OF THIS ORDINANCE. FAILURE OF THE OWNER TO PROPERLY CONFINE THE ANIMAL PENDING HEARING SHALL CONSTITUTE CONTEMPT OF COURT UNDER 3-10-401 M.C.A., FOR EACH DAY THE OWNER FAILS TO PROPERLY CONFINE THE ANIMAL, THE PENALTY MAY BE \$100 AND/OR 1 DAY IN JAIL.

6.

UPON DETERMINATION BY THE COURT THAT THE ANIMAL IS A VICIOUS DOG UNDER SECTION 3 (A) OR (B) AND MUST BE DESTROYED, THE OWNER SHALL HAVE THE DOG DESTROYED IN A HUMANE MANNER. FAILURE OF THE OWNER TO ABIDE BY THE ORDER OF THE COURT FOR THE DESTRUCTION OF THE DOG SHALL CONSTITUTE CONTEMPT OF COURT UNDER 3-10-401 M.C.A. THE PENALTY MAY BE \$100.00 AND/OR 1 DAY IN JAIL FOR EACH DAY THE OWNER FAILS TO ABIDE BY THE ORDERS OF THE COURT.

7.

NO DOG MAY BE DESTROYED WHEN IT IS THE FINDING OF THE COURT THAT ANY OF THE FOLLOWING OCCURRED:

- A. THAT THE DOG WAS PROPERLY CONFINED AND ITS ENCLOSURE WAS BREACHED BY THE INJURED PARTY.
- B. THAT THE DOG WAS PROVOKED BY THE INJURED PARTY OR ANOTHER.
- C. THAT THE DOG WAS PROTECTING ITS OWNER.
- D. THAT THE DOG WAS ACTING UNDER THE ORDERS OF ITS OWNER.

8.

FOR PURPOSES OF THIS ORDINANCE, CONFINEMENT MEANS THAT THE ANIMAL WILL BE PLACED IN A STRUCTURE OR ENCLOSURE THAT WILL PREVENT THE ESCAPE OF THE ANIMAL. THERE MUST BE SUFFICIENT WARNING TO THE PUBLIC, OR ANYONE WHO MAY OTHERWISE BE AUTHORIZED OR GIVEN LICENSE TO ENTER OR APPROACH THE ENCLOSURE, OF THE DANGER CREATED BY THE DOG.

9.

NOTHING CONTAINED HEREIN SHALL AFFECT THE RIGHTS OR LIABILITIES OF THE OWNERS OR OTHER PARTIES IN ANY CIVIL PROCEEDINGS.

10. PENALTIES

A. ANY OWNER WHOSE DOG HAS BEEN DETERMINED TO BE VICIOUS UNDER THIS ORDINANCE SHALL BE GUILTY OF A MISDEMEANOR AND, UPON A FIRST CONVICTION MAY BE IMPRISONED IN THE COUNTY JAIL NOT TO EXCEED NINETY (90) DAYS, OR MAY BE FINED NOT MORE THAN \$300, OR BOTH SUCH FINE AND IMPRISONMENT. IN ADDITION TO THE CRIMINAL PENALTIES, THERE MAY ALSO BE IMPOSED ALL COSTS OF DESTROYING, CONTAINING, QUARANTINE, OR OTHER ASSOCIATED COSTS.

B. ON A SECOND OR SUBSEQUENT CONVICTION, THE PERSON CONVICTED SHALL BE FINED NOT LESS THAN \$300.00 NOR MORE THAN \$500.00 OR BE IMPRISONED IN THE COUNTY JAIL FOR A TERM NOT LESS THAN TEN (10) DAYS NOR MORE THAN SIX (6) MONTHS OR BY BOTH SUCH IMPRISONMENT AND FINE. IN ADDITION TO THE CRIMINAL PENALTIES, THERE MAY ALSO BE IMPOSED ALL COSTS OF DESTROYING, CONTAINING, QUARANTINE, OR OTHER ASSOCIATED COSTS.

C. THESE PENALTIES ARE NOT EXCLUSIVE. VIOLATORS ARE ALSO SUBJECT TO PROSECUTION UNDER ANY OTHER APPLICABLE PROVISION OF MONTANA CODE ANNOTATED INCLUDING SECTION 45-7-309, M.C.A., "CRIMINAL CONTEMPT."

11. EFFECTIVE DATE

THE EFFECTIVE DATE OF THIS ORDINANCE SHALL BE THE 2nd DAY OF July 1994.

APPROVED AND PASSED THIS 2nd DAY OF June 1994.

BOARD OF COUNTY COMMISSIONERS, RAVALLI COUNTY, MONTANA

Steven Powell
STEVEN POWELL, CHAIRMAN

Jerry Allen
JERRY ALLEN, MEMBER

Allen C. Horsfall Jr.
ALLEN C. HORSFALL, JR., MEMBER

Betty T. Jensen
Attest: Clerk & Recorder

STATE OF MONTANA
FILED JUNE 2, 1994

COUNTY OF RAVALLI
3:26PM PERM FILE

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4 OF 8 PAGES

*Put minutes here.
when they come in*

AFFIDAVIT OF PURIFICATION

STATE OF MONTANA) as
County of Ravalli)

Victoria Howell being
duly sworn, deposes and says that

she is the Editor of the
BITTERROOT STAR, a weekly
newspaper of general circulation,
published in Stevensville,
Ravalli County, Montana, and
that the subjoined notice, a
copy of which is hereto attached,
was published in the regular and
entire issue of said paper for

two successive weeks,
commencing on the 20 day of

April 1994
and published on the following dates
thereafter:

22 April 1994

Signed Victoria Howell

Subscribed and sworn to before me

this 24 day of April 1994

Dorothy L. Seals

Dorothy L. Seals
NOTARY PUBLIC for the State of Montana
Residing at Stevensville, Montana
My Commission Expires March 4, 1995

**NOTICE OF FIRST
AND SECOND READ-
ING FOR PROPOSED
RAVALLI COUNTY OR-
DINANCE NO. 8 - VI-
CIOUS DOG ORDI-
NANCE**

You are hereby notified
that the Board of County
Commissioners will hold a
first reading of the proposed
Vicious Dog Ordinance in
their office at the Courthouse
in Hamilton, Montana on May
4, 1994 at 1:30 p.m.

A second reading of the
proposed ordinance will take
place on May 17, 1994, at
1:30 p.m. in their office at the
Courthouse in Hamilton,
Montana.

These readings are for
the purpose of public dis-
cussion prior to any formal
adoption of the Ordinance.

/s/ Gary L. Allen, Presi-
dent
BS 420 2-37704

MEMORANDUM

TO: Sheriff Jay Printz, Justice Sabo & Sperry
FROM: Glenda - Commissioners Office
DATE: May 17, 1994
RE: Vicious Dog Ordinance

A second reading of the proposed vicious dog ordinance was held this date. The Commissioners would like to revise the proposed ordinance in section 3, by taking out the words "on or" and in section 4 taking out the words "on or" as discussed by George in his memo dated May 6th.

If you have any comments please advise. Chairman Powell will sign the ordinance and it will become effective thirty days after his signature.

FIRST READING OF PROPOSED
VICIOUS DOG ORDINANCE - MAY 4, 1994

Board Members Present:

Commissioner Steve Lowell
Commissioner Allen C. Horsfall, Jr
Commissioner Jerry Allen

Guests Present:

Ruth Thorning
Hal Kraft
Walt Tucker
Phillip Roddy
Al Bradley

Commissioner Powell called the meeting to order to advise those present that this was the time set aside for the first reading of the proposed vicious dog ordinance that will replace the previous dog ordinance currently on file.

Commissioner Powell then read the proposed ordinance and asked if there were any questions from floor.

Hal Kraft asked if the dog was exempted from being vicious if he was on his own property protecting it?

Commissioner Horsfall indicated he felt the dog would be protected under the section of provocation, that is if he was on his own property.

Commissioner Powell indicated the old ordinance, or the one this is meant to replace, has the same language except the dog was always the guilty one, in the new ordinance, the owner would be the guilty one, and now we would have a way to prosecute the owner.

Al Bradley asked if the owners of the dog and property had to give an access to the front door or meter.

Commissioner Powell indicated that was unknown, they would have to check.

There was some general discussion about licensing dogs if the owner has over one dog.

Commissioner Powell indicated the second reading would be May 17, 1994 at 1:30 P.M., and they would check into the dog being protected or exempted from the penalties if he were to be on his own property at the time of any incidents involving biting etc.

Meeting was adjourned.

SECOND READING OF PROPOSED VICIOUS DOG
ORDINANCE - MAY 17, 1994

Board Members Present:

Commissioner Steve Powell
Commissioner Allen G. Horsfall, Jr.
Commissioner Jerry Allen

Guests Present:

None

Commissioner Powell called the meeting to order to read the proposed dog ordinance with the changes in section 3 and section 4 to take out the words "on or".

After some discussion the Commission decided to revise the ordinance with the above changes and at that time Chairman Powell will sign the ordinance and the effective date will be thirty days from his signature.

Ordinance No 6RESOLUTION NO. 706

WHEREAS section 45-8-201(5), MCA, passed by the Montana voters via initiative number 79 in 1978, allows local governments to adopt obscenity ordinances more restrictive than state law, and

WHEREAS numerous citizens in Ravalli County have either petitioned or requested by letter that the Board of County Commissioners pass more restrictive obscenity ordinances and the Board did not act, and

WHEREAS the BOARD OF COUNTY COMMISSIONERS have made it clear that enforcement costs or legal costs of more restrictive ordinances would be cost prohibitive to the existing budget, and

WHEREAS the United States Supreme Court decisions have primarily treated legal tests of obscenity ordinances under the rights guaranteed by the First Amendment, and

WHEREAS a proposed ordinance entitled "Distribution of Obscenity" has been presented to the Board of County Commissioners

BE IT THEREFORE RESOLVED, that the "Distribution of Obscenity" proposed ordinance as attached be sent to all registered voters and be placed on the general election ballot in November 1994 as follows:

Shall Ravalli County adopt Ordinance No. 6 - "Distribution of Obscenity" YES or NO

BE IT THEREFORE RESOLVED, that since State Law is clear in Section 45-8-201 (5), MCA, that cities or towns are legally vested with the authority to adopt their own more restrictive obscenity ordinances, then if the "Distribution of Obscenity" issue passes, it's effect by law will be exclusive to Ravalli County and not the jurisdiction of cities and towns.

DISTRIBUTION OF OBSCENITY

WHEREAS, Sections 7-5-131 through 7-5-132, Montana Code Annotated, provide a method for proposing and adapting ordinances for Ravalli County, Montana; and

WHEREAS, the dissemination of obscene materials constitutes a public nuisance and presents a danger to the health, safety and welfare of the citizens of Ravalli County; and

WHEREAS, Section 45-8-201(5) Montana Code Annotated authorizes the adoption by said county of an ordinance more restrictive as to obscenity than the existing provisions of section 45-8-201 and 45-8-202, Montana Code Annotated.

Now, THEREFORE the following ordinance shall be in full force and effect in all of Ravalli County, Montana.

Section 1. Definitions. The following definitions apply in this ordinance:

- (a) "Disseminate" means to transfer, distribute, dispense, lend, show, display, exhibit, send, transport, sell, deliver, provide, or agree to sell, deliver or provide.
- (b) "Obscene". Any material or performance, whether through pictures, photographs, drawings, writings, cartoons, recordings, films, videotapes, or other such medium, is "obscene" if,
 - (1) the average person, applying contemporary community standards, would find that the material or performance, taken as a whole, appeals to the prurient interest; and
 - (2) the material or performance depicts or describes, in a patently offensive way, sexual conduct, sadomasochistic sexual abuse, or lewd exhibition of the genitals; and
 - (3) the material or performance, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (c) "Material" means any book, magazine, newspaper, advertisement, pamphlet, poster, print, picture, figure, image, drawing, description, motion picture film, phonographic record or recording tape, video tape, or other tangible thing capable of producing or reproducing an image, picture, sound or sensation through sight, sound, or touch.
- (d) "Performance" means any motion picture, film, video tape, played record, phonograph, or tape, broadcast, preview, trailer, play, show, skit, dance, or any other exhibition performed or presented to or before an audience of one or more, transmitted by means of electrical, radio, television, telephonic, or other communicative device or facility to a known closed or open circuit audience of one or more persons or to the general public.

Page 2

DISTRIBUTION OF OBSCENITY, (CONT'D)

- (e) "Person" means any individual, corporation, company, partnership, firm, association, business, establishment, organization, or other legal entity of any kind.
- (f) "Prurient" means a lustful lascivious, erotic, shameful, or morbid interest in sexual conduct, sexually explicit nudity, sadomasochistic sexual abuse, or lewd exhibition of the genitals. Materials or performances may be deemed to appeal to the prurient interest when they have a tendency to excite lustful thoughts or lascivious desires, or when they are designed, marketed, promoted, or disseminated to cater or appeal to such an interest. Where the material or performance is designed for or primarily disseminated or promoted to a clearly defined deviant sexual group, rather than the public at large, the prurient-appeal requirement is satisfied if the dominant theme of the material or performance, taken as a whole, appeal to the prurient interest in sex of the members of the intended and probable recipient group.
- (g) "Sexual Conduct" means ultimate sexual acts, normal or perverted, actual or simulated, involving a person or persons or a person or persons and an animal, including acts of masturbation, sexual intercourse, fellatio, cunnilingus, anilingus, or physical contact with a person's nude or partially denuded genitals, public area, perineum, anal region, or, if such person be female, a breast.
- (h) "Sadomasochistic sexual abuse" means actual or simulated flagellation, rape, torture, or other physical or sexual abuse, by or upon a person who is nude or partially denuded or in a condition of being fettered, bound, or otherwise physically restrained for the actual or simulated purpose of sexual gratification of abuse or represented in the context of a sexual relationship.

Section 2. Affirmative defense. It is an affirmative defense to a charge under this ordinance that the material or performance involved was disseminated or promoted for a bona fide medical, psychological, legislative, judicial, or law enforcement related purpose, by or to a physician, psychologist, legislator, judge, prosecutor, law enforcement officer, or other person having such bona fide interest in such material or performance.

Section 3. Disseminating obscene material. A person commits the offense of disseminating obscene material when, with the knowledge of the general nature and character of the content of the material involved irrespective of the absence or presence of an evil motive, bad purpose or intent to violate or disregard the law, he:

- (a) willfully disseminates obscene material; or,
- (b) knowing or having reason to know that it will be disseminated, willfully finances the manufacture or production, produces, manufactures, directs, photographs, poses, acts, or in any way assists in the production, copying or production of visually represented obscene material.

FILED AUGUST 4, 1994

11:52AM PERM FILE

7973

DISTRIBUTION OF OBSCENITY (Cont'd)

page 3

Section 4. Penalty. A person convicted of the offense of disseminating obscene material shall be guilty of a misdemeanor.

Section 5. Severability clause. If any provision of this ordinance is held to be invalid, such invalidity shall not effect other provisions which can be given effect without the invalid provision. To this end provisions of this ordinance are to be severable.

Passed this 4th day of August, 1994
BOARD OF COUNTY COMMISSIONERS

Steven D. Powell, Chairman

Allen C. Horsfall, Jr.

Allen C. Horsfall, Jr., Member

Jerry L. Allen

Jerry L. Allen, Member

Attest: *Betty T. Sunal*

Clerk & Recorder

Resolution No. 706

FILED

AUGUST 4, 1994

10:57AM

PERM FILE

7974

Betty T Lund CLERK AND RECORDER BY

B L McChristian

DEPUTY No Fee

*Ordinance No. 7*RESOLUTION NO. 707

WHEREAS section 45-8-201(5), MCA, passed by the Montana voters via initiative number 79 in 1978, allows local governments to adopt obscenity ordinances more restrictive than state law, and

WHEREAS numerous citizens in Ravalli County have either petitioned or requested by letter that the Board of County Commissioners pass more restrictive obscenity ordinances and the Board did not act, and

WHEREAS the BOARD OF COUNTY COMMISSIONERS have made it clear that enforcement costs or legal costs of more restrictive ordinances would be cost prohibitive to the existing budget, and

WHEREAS the United States Supreme Court decisions have primarily treated legal tests of obscenity ordinances under the rights guaranteed by the First Amendment, and

WHEREAS a proposed ordinance entitled "Public Indecency" has been presented to the Board of County Commissioners

BE IT THEREFORE RESOLVED, that the "Public Indecency" proposed ordinance as attached be sent to all registered voters and be placed on the general election ballot in November 1994 as follows:

Shall Ravalli County adopt Ordinance No. 7 - "Public Indecency"
YES or NO

BE IT THEREFORE RESOLVED, that since State Law is clear in Section 45-8-201 (5), MCA, that cities or towns are legally vested with the authority to adopt their own more restrictive obscenity ordinances, then if the "Public Indecency" issue passes, it's effect by law will be exclusive to Ravalli County and not the jurisdiction of cities and towns.

Passed this 4th day of August, 1994

BOARD OF COUNTY COMMISSIONERS

Steven D. Powell, Chairman

Allen C. Horsfall, Jr.
Allen C. Horsfall, Jr., Member

Jerry L. Allen
Jerry L. Allen, Member

Attest: Betty T. Suvol
Clerk & Recorder

Resolution No. 707

PUBLIC INDECENCY

WHEREAS, Sections 7-5-131 through 7-5-132, Montana Code Annotated, provide a method for proposing and adapting ordinances for Ravalli County, Montana; and

WHEREAS, Section 45-8-201(5) Montana Code Annotated authorizes the adoption by said county of an ordinance more restrictive as to obscenity than the existing provisions of section 45-8-201 and 45-8-202, Montana Code Annotated; and

WHEREAS, The public performance of nude exhibitions in a public place constitutes a public nuisance and presents a danger to the health, safety and welfare of the citizens of Ravalli County,

Now, THEREFORE the following ordinance shall be in full force and effect in all of Ravalli County, Montana.

PUBLIC INDECENCY

Section 1. A person who knowingly and intentionally, in a public place:

- (a) engages in actual or simulated sexual intercourse, masturbation, sodomy, bestiality, oral copulation, flagellation, excretory functions or other ultimate sex acts;
- (b) appears in a state of nudity; or
- (c) fondles the genitals of himself, herself, or another person;

commits the crime of public indecency, a misdemeanor.

Section 2. Definitions.

(a) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(b) "Public place" means location, place, or business open to or accessible to the public or to a segment thereof, or in any place exposed to the public view, regardless of whether an admission or other charge is levied or collected and regardless of whether minors are admitted or excluded and regardless of whether attendance is conditioned upon the presentation of a membership card or other token.

TO: RAVALLI COUNTY COMMISSIONERS

FROM: RAVALLI COUNTY CLERK & RECORDER/ELECTION ADMINISTRATOR

RE: RAVALLI COUNTY ORDINANCES 6, 7, 8

I, Betty T. Lund, Election Administrator of Ravalli County do hereby certify that the following is a true and accurate total of votes cast for the Ravalli County Ordinances in the November 8, 1994 General Election.

Ordinance No. 6 "Distribution Of Obscenity"

YES - 6447
NO - 5958

Ordinance No. 7 "Public Indecency"

YES - 7050
NO - 5311

Ordinance No. 8 "Harmful to Minors"

YES - 7756
NO - 4628

Dated this 9th day of November, 1994.



Betty T. Lund

Election Administrator

*Ordinance No 8*RESOLUTION NO. 708

WHEREAS section 45-8-201(5), MCA, passed by the Montana voters via initiative number 79 in 1978, allows local governments to adopt obscenity ordinances more restrictive than state law, and

WHEREAS numerous citizens in Ravalli County have either petitioned or requested by letter that the Board of County Commissioners pass more restrictive obscenity ordinances and the Board did not act, and

WHEREAS the BOARD OF COUNTY COMMISSIONERS have made it clear that enforcement costs or legal costs of more restrictive ordinances would be cost prohibitive to the existing budget, and

WHEREAS the United States Supreme Court decisions have primarily treated legal tests of obscenity ordinances under the rights guaranteed by the First Amendment, and

WHEREAS a proposed ordinance entitled "Harmful To Minors" has been presented to the Board of County Commissioners

BE IT THEREFORE RESOLVED, that the "Harmful To Minors" proposed ordinance as attached be sent to all registered voters and be placed on the general election ballot in November 1994 as follows:

Shall Ravalli County adopt Ordinance No. 8 - "Harmful To Minors"
YES or NO

BE IT THEREFORE RESOLVED, that since State Law is clear in Section 45-8-201 (5), MCA, that cities or towns are legally vested with the authority to adopt their own more restrictive obscenity ordinances, then if the "Harmful To Minors" issue passes, its effect by law will be exclusive to Ravalli County and not the jurisdiction of cities and towns.

Passed this 4th day of August, 1994

BOARD OF COUNTY COMMISSIONERS

Steven D. Powell, Chairman

Allen C. Horsfall Jr.
Allen C. Horsfall, Jr., Member

Jerry L. Allen
Jerry L. Allen, Member

Attest: Betty T. Leonard
Clerk & Recorder

Resolution No. 708

WHEREAS, Sections 7-5-131 through 7-5-132, Montana Code Annotated, provide a method for proposing and adapting ordinances for Ravalli County, Montana; and

WHEREAS, Section 45-8-201(5) Montana Code Annotated authorizes the adoption by said county of an ordinance more restrictive as to obscenity than the existing provisions of section 45-8-201 and 45-8-202, Montana Code Annotated; and

WHEREAS, The public display of material harmful to minors constitutes a public nuisance and presents a danger to the health, safety and welfare of the citizens of Ravalli County,

Now, THEREFORE the following ordinance shall be in full force and effect in all of Ravalli County, Montana.

DISPLAYING MATERIAL HARMFUL TO MINORS

Section 1. Definitions. As used in this act the following definitions apply:

- (1) "Harmful to minors" means that quality of a description, exhibition, presentation, or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sadomasochistic abuse when the material or performance, taken as a whole has the following characteristics:
 - (a) it has a predominant tendency to appeal to a minor's prurient interest in sex;
 - (b) it depicts or describes nudity, sexual conduct, sexual excitement, or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 - (c) it lacks serious literary, scientific, artistic, or political value for minors.
- (2) "Material" means a book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape, or videotape.
- (3) "Minor" means an unmarried person under 18 years of age.
- (4) "Negligently" means consciously disregarding a risk or existence of circumstances of which a person should be aware to the degree that the risk deviates from the conduct of a reasonable person concerning:
 - (a) the character and content of any material or performance that is reasonably susceptible to examination; and

- (b) the age of the minor. However, an honest mistake will constitute an excuse from liability if the defendant made a reasonable bona fide attempt to ascertain the true age of the minor.
- (5) "Newsstand" means a stand that distributes or sells newspapers or magazines.
- (6) "Nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a full opaque covering, the showing of any portion of the female breast below the top of the nipple with less than a full opaque covering, or the depiction of covered male genitals in a discernibly turgid state.
- (7) "Performance" means any motion picture, film, videotape, phonograph record, compact disk, tape recording, preview, trailer, play, show, skit, dance, or other exhibition played or performed before an audience of one or more, with or without consideration.
- (8) "Person" means any individual, partnership, association, corporation, or other legal entity of any kind.
- (9) "Reasonable bona fide attempt" means an attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or a governmental or educational identification card or paper rather than relying solely on the oral allegations or apparent age of the minor.
- (10) "Sexual Conduct" includes:
- (a) vaginal, anal, or oral intercourse, whether actual or simulated, normal or perverted;
 - (b) masturbation, excretory functions, or lewd exhibition of uncovered genitals;
 - (c) sadomasochistic abuse, meaning an act or condition that depicts torture, physical restraint by being fettered or bound, or flagellation of or by a nude person or a person clad in undergarments or in a revealing or bizarre costume.
- (11) "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

Section 2. Public Display or Dissemination of Material Harmful to Minors. A person having custody, control, or supervision of any commercial establishment or newsstand may not negligently:

- (1) display material that is harmful to minors in such a way that minors, as a part of the invited public,

will be able to view the material; provided, however, that a person is considered not to have displayed material harmful to minors if the material is kept behind devices commonly known as blinder racks so that the lower two-thirds of the material is not exposed to view and the material is not accessible to minors;

- (2) sell, furnish, present, distribute, or otherwise disseminate to a minor or allow a minor to view, with or without consideration, any material that is harmful to minors; or
- (3) present to a minor or participate in presenting to a minor, with or without consideration, any performance that is harmful to minors.

Section 3. Penalties.

- (1) A person who is convicted of violating section 2 is guilty of a misdemeanor and may be fined an amount not to exceed \$500 or be imprisoned for a term not to exceed 6 months, or both.
- (2) Each day that a violation of section 2 occurs or continues constitutes a separate offense and is punishable as a separate violation.
- (3) Every act, thing, or transaction prohibited by section 2 constitutes a separate offense to each item, issue, or title involved and is punishable as a separate offense.
- (4) For purposes of section 2, multiple copies of the same title, monthly issue, volume and number issue, or other identical material constitutes a single offense.

TO: RAVALLI COUNTY COMMISSIONERS

FROM: RAVALLI COUNTY CLERK & RECORDER/ELECTION ADMINISTRATOR

RE: RAVALLI COUNTY ORDINANCES 6, 7, 8

I, Betty T. Lund, Election Administrator of Ravalli County do hereby certify that the following is a true and accurate total of votes cast for the Ravalli County Ordinances in the November 8, 1994 General Election.

Ordinance No. 6 "Distribution Of Obscenity"

YES - 6447
NO - 5958

Ordinance No. 7 "Public Indecency"

YES - 7050
NO - 5311

Ordinance No. 8 "Harmful to Minors"

YES - 7756
NO - 4628

Dated this 9th day of November, 1994.



Betty T. Lund

Election Administrator

RECORDED: 06/16/2000 2:38 PF

Patty J. Ford CLERK AND RECORDER BY: *[Signature]*

FEE: \$0.00

ORDINANCE NO. 12

THE CREATION OF A RAVALLI COUNTY OFF-PREMISE
OUTDOOR ADVERTISING ORDINANCE

The facts giving rise to this Ordinance are the citizens of Ravalli County have expressed concerns regarding the increase in the number of large off-premise signs in Ravalli County. The Ravalli County Commissioners held a legally publicized public hearing on April 12, 2000 and May 19, 2000 for the purpose of taking citizen input on a sign ordinance in Ravalli County.

During those public hearings and public comment periods that followed the public hearing, the citizens of Ravalli County have expressed that any further proliferation of large off-premise signs will have a negative affect on traffic safety, and detract from the scenic resources of Ravalli County.

75-15-104 MCA allows any lawful ordinance or resolution that is more restrictive than the state statutes. 7-1-101 MCA states that a local government unit with self-government powers may exercise any power not prohibited by the constitution, law or charter. These powers include, but are not limited to general power governments. 7-1-102 MCA states a local government with self-government powers may provide any service or perform any functions not expressly prohibited by the Montana Constitution, state law or charter.

Accordingly the BOARD OF COUNTY COMMISSIONERS wishes to adopt by ordinance, the "RAVALLI COUNTY OFF-PREMISE OUTDOOR ADVERTISING ORDINANCE", as attached as Exhibit A, Sections 1.00 through Section 10.00.

VIOLETIONS OF THIS ORDINANCE ARE PUNISHABLE BY A FINE OF NOT MORE THAN \$500.00 OR IMPRISONMENT IN THE COUNTY JAIL NOT TO EXCEED SIX MONTHS, OR BOTH.

Ordinance No. 12 - Off-Premise Signs
Page 1 of 7 (attachments - Exhibit A)

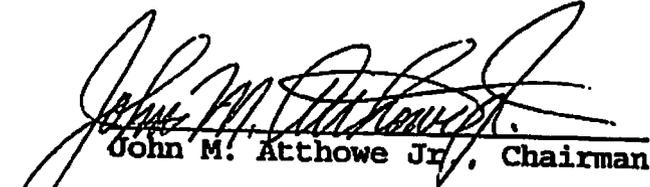
*Return
Commissioners
Office*

The effective day of this ordinance shall be thirty (30) days after the second adoption by this Board.

1. Read, adopted, approved and passed this 30th day of May, 2000.

2. Read, adopted, approved and passed this 15th day of June, 2000.

BOARD OF COUNTY COMMISSIONERS


John M. Atthowe Jr., Chairman


Alan Thompson, Member

" " "

"Smut" Warren Member


Attest: Clerk & Recorder

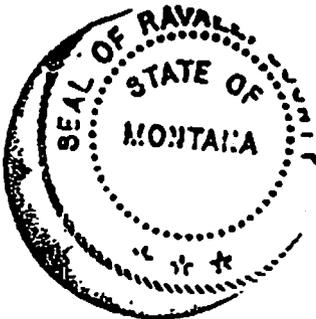


EXHIBIT A

RAVALLI COUNTY

OFF - PREMISE

OUTDOOR ADVERTISING ORDINANCE

Section 1.00	Purpose
Section 2.00	Applicability
Section 3.00	Administration
Section 4.00	Definitions
Section 5.00	Standards
Section 6.00	Variations
Section 7.00	Nonconforming Signs & Amortization
Section 8.00	Exemptions
Section 9.00	Penalties
Section 10.00	Severability

Section 1.00 Purpose

The stated purpose of this Ordinance is to promote and protect the public's health, safety and general welfare by regulating off-premise signs in Ravalli County. It is further intended to ensure that such signage in Ravalli County be compatible with the character of the County and to preserve scenic values and viewsheds. It is recognized that the principal function of outdoor advertising is to provide information and direction.

Section 2.00 Applicability.

This Ordinance shall apply in all of the unincorporated areas of Ravalli County. Nothing contained herein shall prohibit more restrictive covenants, easements, agreements or zoning for any particular area.

Section 3.00 Administration.

A sign administrator shall be appointed by the Director of the Ravalli County Land Services Department for the purpose of effective and uniform administration of this Ordinance. The sign administrator shall have the responsibility and full authority to administer and enforce all provisions of this Ordinance.

A sign permit shall be required for any off-premise sign allowed by this Ordinance. Applications for sign permits shall be obtained in the Ravalli County Land Services Department. The County shall require reasonable information to be provided by the applicant, including a signed and dated statement from the land owner that they have consented to the erection and maintenance of the sign on their property. A sign permit fee (established by Resolution of the Board of Ravalli County Commissioners) shall be charged for each individual sign erected, as allowed by this Ordinance. These fees are intended to provide for the costs of administration and enforcement of the Ordinance.

Section 4.00 Definitions

For the purposes of this Ordinance, the following definitions shall apply:

1. **Off-Premise Sign.** A sign structure advertising an establishment, merchandise, service or entertainment which is not sold, produced, manufactured, or furnished at the property on which the sign is located. This shall include billboards.
2. **Maximum Total Height.** The vertical distance from elevation of the finished grade at the structure to the highest point of the sign structure.
3. **Abandoned Sign.** A sign which no longer correctly directs or exhorts any person, advertises a bona fide business, lessor, owner, product or activity conducted or product available. Any sign that remains blank, or contains only the owner/agent's advertisement for lease, for more than 60 days.

Section 5.00 Standards.

The standards for all off-premise signs within the unincorporated areas of Ravalli County are as follows:

Setbacks.

All off-premise signs shall be set back a minimum of one-hundred (100) feet from the public right-of-way. The setback shall be determined from the physical part of the sign structure nearest to the right-of-way.

Height.

No off-premise sign shall exceed a maximum of ten (10) feet in elevation above the elevation of the center line of the adjacent roadway. The maximum total height of any off-premise sign shall not exceed twenty (20) feet.

Separation.

All off-premise signs shall be separated by a minimum of 1,000 feet.

Size.

No off-premise sign shall exceed the maximum of thirty-two (32) square feet in area. The sign area shall be determined by the smallest rectangle that can encompass the lettering or sign face.

Lighting.

Lighting shall only be allowed so as to illuminate the message on the face of the sign. No lighting shall be reflected onto the adjacent roadway or adjoining properties. No off-premise signs shall have flashing or blinking lights, movement or moving parts, or simulate motion with reflective parts. The maximum allowable reflected light shall be one (1) footcandle or ten (10) lumens per sign face. All electrical work associated with a lighted sign must be completed by an electrical contractor, bonded, and licensed by the State of Montana.

Identification.

Every off-premise sign permitted by these regulations shall have an identification of the owner's name attached to the sign structure.

Maintenance

All signs and sign components shall be maintained in good repair and in a safe, clean, and competent condition.

Construction Standards.

All off-premise signs shall meet the following minimum standards:

1. All requirements of applicable building and electrical codes;
2. All requirements of the Montana Department of Transportation (MDT), where applicable;
3. Anchoring.
 - a. No sign shall be suspended by non-rigid attachments that will allow the sign to swing or sway.
 - b. All freestanding signs shall have self-supporting structures erected on or permanently attached to concrete foundations.
 - c. All temporary signs, as allowed under Section 8.00, shall be braced or secured so as to prevent any motion.
 - d. Shall be constructed to withstand a windload of 80 mph.

Inspection.

Sign structures shall be inspected to ensure compliance with all provisions of this Ordinance. A certificate of compliance shall be filed in the Land Services Department. Such inspection and a subsequent certification shall be made every two (2) years.

Section 6.00 Variances.

The Board of Ravalli County Commissioners may, under exceptional circumstances, grant a reasonable variance from the standards of this Ordinance. Requests for variances shall be filed with the Department of Land Services on forms provided by the sign administrator. The variance application form shall be submitted at least thirty (30) days prior to any decision by the Board. A public notice, at the expense of the applicant, shall be published in a newspaper of general circulation at least fifteen (15) days prior to the Board meeting for action on the variance.

No variance shall be granted unless the applicant can effectively demonstrate a hardship that is created by the strict application of the Ordinance. A financial hardship does not constitute grounds for a variance. The Board of County Commissioners, in considering an application for a variance, shall determine:

1. That special conditions and/or circumstances exist which are peculiar to the land, the lot or something inherent in the land which causes the hardship, and which are not applicable to other lands.
2. That a literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other lands.
3. That granting the variance will not confer on the applicant any special privilege that is denied by this Ordinance to other lands.
4. That the granting of the variance will be in harmony with the general purpose and intent of this Ordinance.
5. In granting any variance, the Board of County Commissioners may prescribe appropriate conditions and safeguards in conformity with this Ordinance. Violation of such conditions and/or safeguards, when made a part of the terms upon which the variance is granted, shall be deemed a violation of this Ordinance, and subject to Section 9.00.

Section 7.00 Nonconforming Signs & Amortization

Signs not conforming to the requirements of this Ordinance, and which were legally erected prior to the adoption of the Ordinance are permissible nonconforming signs. Any such sign shall be brought into compliance under the following circumstances:

1. At such time as the sign is replaced;
*Changing the sign face does not constitute replacement.
2. At such time as the sign is abandoned for a period of ninety (90) days or more;
3. At such time when the sign suffers damage of greater than 50% of its appraised value;
4. Within seven (7) years from the effective date of the Ordinance.

These provisions shall not apply to off-premise signs on U.S. Highway 93.

Section 8.00 Exemptions

The following signs are exempt from the provisions of this Ordinance, unless specifically addressed below.

1. Real Estate Signs. A sign used concurrently with the sale, lease or rent of the real estate on which the sign is located.

2. **Political Signs.** A sign used to advertise a ballot issue or person running for political office. Such signs shall be removed within ten (10) days following the election.
3. **Event Signs.** A sign used concurrently with a specific commercial or non-commercial event or activity, not to exceed seven (7) days duration.
4. **Official/Non-Profit/Information Sign.** A sign as defined in 75-15-111 (a), (e), (f), and (g), MCA.

Section 9.00 Penalties

Any person, firm, or corporation that violates the provisions of this Ordinance shall be guilty of a misdemeanor. Criminal responsibilities of firms or corporations shall be governed by relevant provisions of 45-2-311 and 45-2-312, MCA.

A penalty of \$100 shall be assessed to the cost of a sign permit for any sign construction that commenced prior to obtaining the required permit.

Section 10.00 Severability

If any part of portions of this Ordinance shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder shall nonetheless continue in effect.

Betty T. Lund

CLERK AND RECORDER BY:

Janice A. Sall

FEE: \$0.00

ORDINANCE NO. 14

RAVALLI COUNTY DOG ORDINANCE

1. STATEMENT OF PURPOSE

It is the purpose of this ordinance to promote public health, safety and general welfare in the unincorporated areas of Ravalli County by regulating the control and containment of "at large" and "vicious" dogs and by allowing for the destruction of vicious dogs and establishing penalties for Owners who allow their dog(s) to run at large or own a vicious dog(s).

2. JURISDICTION

This Ordinance is adopted pursuant to the authority granted to the County under MCA §§ 7-23-2108 and 7-23-2109 applies to the unincorporated areas of Ravalli County. Any violation of this Ordinance is a misdemeanor as defined in MCA § 45-2-101(41).

3. DEFINITIONS

- A. "Owner" – any person or authorized agent who owns, harbors or keeps a dog, or any person responsible for the temporary care of a dog.
- B. "Dog" – any of the various species of family canidae and includes males, females, and neutered animals.
- C. "Livestock" – any animal defined in Montana statutes as livestock including but not limited to domesticated poultry, chickens, ducks, geese, ostriches, rheas, emus, rabbits, swine, cattle, sheep, goats, horses, llamas, elk, deer, moose, bighorn sheep, buffalo, or any other animal raised for purposes such as food, animal by-products or profit.
- D. "Vicious Dog" – a dog that bites or attempts to bite any human being without provocation or that worries, harasses, chases, bites, or attempts to bite any livestock, domestic pet, or hoofed game animal.
- E. "At Large" – any dog off the premises owned or under the control of the dog's Owner or the premises of another person consenting thereto and not under the immediate control of its Owner or authorized agent of its Owner, either by leash, tether,

COMMISSIONERS' OFFICE

lead, or other physical control devise, or voice restraint and/or signal control of a person capable of controlling, subduing, or restraining the dog; or by complete confinement within or upon a vehicle with permission of the vehicle Owner. Dogs controlling or protecting livestock or in other related agricultural activities, and a police service dog engaged in the lawful performance of its duties are to be excluded from this definition and this ordinance.

- F. **“Worry”** – to cause to feel uneasy in the mind, trouble, bother, pester causing anxiety or vexation; or to harass by tearing, biting, snapping, shaking, or pulling at with the teeth
- G. **“Harass or Harasses”** – worries, chases, or runs after livestock in a manner that may lead to subsequent injury to that livestock
- H. **“Officer”** – the sheriff, deputy sheriff or other person specifically designated to perform the duties set forth in this ordinance
- I. **“Competent Authority”** – a justice of the peace, acting justice of the peace, or district court judge
- J. **“Confinement or Confined”** – as used in this ordinance, confinement means the animal shall be placed in a structure or enclosure that prevents the animal’s escape. Sufficient warning of the danger posed by the dog shall be given to the public or any person who is authorized or given license to enter or approach the enclosure.

4. Enforcement

- A. The Ravalli County Sheriff’s Office shall investigate to determine if the dog in question is at-large or vicious as defined in this ordinance.
- B. If a dog bites any person while off the Owner’s property, this shall constitute prima facia evidence that the dog is vicious.
- C. If as a result of the investigation the Officer finds probable cause a violation has occurred, he may issue a citation charging the Owner with violation of this ordinance and ordering the Owner to appear in a court of proper jurisdiction. The Officer may at the time of issuing the citation impound the dog pending resolution of the charges.

5. Procedure

- A. The Justice Court for Ravalli County shall hear any charges filed pursuant to this Ordinance in conformity with the rights and procedures afforded all persons charged with a misdemeanor under MCA Title 46.
- B. The Court upon initial appearance may order the Owner charged to confine the dog at the Owner's expense pending resolution of the charge(s). Failure of the Owner to abide by the court's order of confinement shall constitute contempt of court as defined in MCA § 3-10-401 and is punishable by one day in jail and/or a \$100.00 fine for each day the Owner fails to abide by the order.

6. Dogs Running At Large

- A. Any Owner of a dog who allows the dog to run at large is guilty of a misdemeanor punishable as provided in this Ordinance.
- B. Any at large dog may be detained by any person and shall only be released to the Owner or an Officer at the discretion of the person detaining the dog.
- C. Any dog detained by an Officer or released to an Officer as provided in subsection (B.) may be impounded pending resolution of any charges.
- D. Any at large dog held in detention may be humanely destroyed after notice to the Owner and the Owner refuses to retrieve the dog or if the Owner is unknown, after notice is published in the lost and found classified section of the Ravalli Republic for three consecutive days, describing the dog, where it was captured and who to contact, and no one claims the dog.
- E. In addition to any penalty imposed, upon a finding of guilt on the offense of allowing a dog to run at large, the Owner is responsible for all reasonable costs associated with the capture, detention, impound and destruction of the dog and/or any reasonable damages caused by the dog while at large.

7. Vicious Dogs

- A. Any Owner who owns or harbors a vicious dog is guilty of a misdemeanor punishable as provided in this Ordinance.
- B. Any dog that is determined by a competent authority to be a vicious dog shall be destroyed. The Owner shall have the dog destroyed in a humane manner at the Owner's expense. Failure to abide by the Court' order shall constitute contempt of court as defined in MCA § 3-10-401 and is punishable by one day in jail and/or a \$100.00 fine for each day the Owner fails to abide by the order.
- C. Any dog while at large that bites or attempts to bite any person without provocation shall be deemed a vicious dog and may be immediately destroyed and the head of the dog shall be submitted to an appropriate diagnostic laboratory unless deemed unnecessary by a competent authority. Any cost to capture, destroy and/or test shall be paid by the Owner upon a finding of guilty under this ordinance.
- D. Any dog while at large which worries, harasses, chases, bites or attempts to bite any living livestock, domestic pet, or hoofed game animal shall be deemed a vicious dog and a public nuisance and may be destroyed in the same manner as provided in MCA § 81-7-401 which reads as follows:

MCA § 81-7-401. Killing of dogs harassing, destroying, or injuring stock – notice to owner – penalty

(1) As used in this section, "harasses" means worries, chases, or runs after livestock, including ostriches, rheas, and emus, in a manner that may lead to subsequent injury to the livestock.

(2) A dog, whether licensed or not, that, while off the premises owned or under control of its owner and on property owned, leased, or controlled by the livestock owner, harasses, kills, wounds, or injures livestock not belonging to the owner of the dog is considered a public nuisance and:

(a) may be killed immediately by the owner of the livestock or an agent or employee of the owner; or

(b) the owner of the dog, when reasonably notified after due process, shall kill the dog within 24 hours of notification. If the owner fails to do so, an officer may be notified and shall kill the dog or cause the dog to be killed.

(3) A dog may not be killed in a manner that will endanger a person.

(4) This section does not apply to a dog herding livestock under the direction of its owner or the agents or employees of its owner.

(5) This section does not apply to a dog engaged in legitimate sport hunting or predator control activities under the direction of its owner or the agents or employees of its owner.

(6) The owner of a dog that harasses, kills, wounds, or injures livestock is guilty of a misdemeanor and upon conviction shall be fined not more than \$500

- E. No dog may be destroyed when it is the finding of the competent authority that any of the following facts existed:
1. The dog was properly confined and the injured party breached its enclosure.
 2. That the injured party or another person with the injured party provoked the dog.
 3. That the dog was protecting its Owner.
 4. That the dog was acting under the orders of its Owner.

8. Penalties

- A. Any Owner convicted of an offense under this Ordinance is guilty of a misdemeanor punishable by a fine up to \$500.00 or imprisonment in the Ravalli County Jail up to six (6) months or any combination of the two.

B. Costs and Restitution: Upon conviction, in addition to any fines or jail time imposed, the Court may also impose upon the Owner any reasonable costs and/or restitution allowed under Montana law or under this ordinance.

9. Other Laws

Nothing contained within this ordinance shall affect any rights to seek other civil or criminal remedies as provided in Montana law.

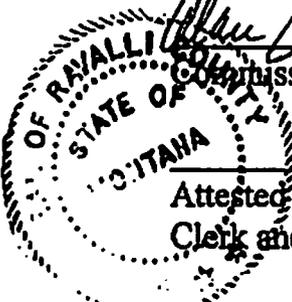
10. Effective Date

The effective date of this Ordinance shall be the 26th day of November, 2000.

APPROVED AND PASSED AT FIRST READING THIS 12th DAY OF Oct., 2000 BY THE RAVALLI COUNTY BOARD OF COMMISSIONERS, RAVALLI COUNTY MONTANA.

Alan Thompson Commissioner Matthew J. [Signature] Commissioner _____ Commissioner

Betty T. Lund
Attested by _____
Clerk and Recorder for Ravalli County, Montana



APPROVED AND PASSED AT SECOND READING THIS 26th DAY OF Oct., 2000 BY THE RAVALLI COUNTY BOARD OF COMMISSIONERS, RAVALLI COUNTY MONTANA.

Alan Thompson Commissioner Smart Warren Commissioner _____ Commissioner

Betty T. Lund
Attested by _____
Clerk and Recorder for Ravalli County, Montana



Betty T. Lunde CLERK AND RECORDER BY: Tena L. Miller

FEE: \$0.00

RESOLUTION NO. 1137

Resolution to allow Ordinance No. 14 to Supersede
Ordinance No. 5

WHEREAS, the BOARD OF COUNTY COMMISSIONERS did by proper procedure pass Ordinance No. 14, also known as the Dog Ordinance, by a first and second reading; and

WHEREAS, Ordinance No. 14 becomes effective November 26, 2000; and

WHEREAS, Ordinance No. 14 supersede any previous Dog Ordinance, namely Ordinance No. 5;

THEREFORE BE IT APPROVED THAT BY RESOLUTION, ORDINANCE NO. 14 IS NOW IN EFFECT AND DOES SUPERSEDE ORDINANCE NO. 5 AND FURTHER THIS RESOLUTION BE ATTACHED TO PERMANENT FILE NO. 471871.

PASSED AND APPROVED THIS 27TH DAY OF NOVEMBER, 2000.
BOARD OF COUNTY COMMISSIONERS

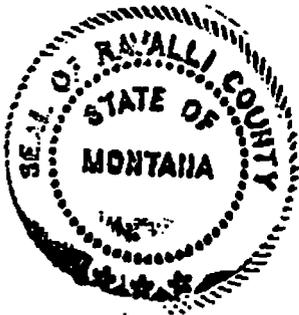
Ret: Commissioners

John M. Atthowe Jr.
John M. Atthowe Jr., Chairman

Alan Thompson
Alan Thompson, Member

Absent
"Smut" Warren, Member

Betty T. Lunde
Attest: Clerk & Recorder



Tena L. Miller

RAVALLI COUNTY ORDINANCE NO. 17

AN ORDINANCE AUTHORIZING AND ESTABLISHING THE PROCEDURE FOR IMPOSITION OF IMPACT FEES TO FUND CAPITAL IMPROVEMENTS FOR PUBLIC FACILITIES IN RAVALLI COUNTY, MONTANA.

SECTION 1. Statement of Purpose.

- A. Montana State legislation regulating impact fees to fund capital improvements (§§7-6-1601 through 7-6-1604, MCA) became effective April 19, 2005, and sets forth the procedures and requirements for the imposition of impact fees by local governments. An impact fee represents a fee imposed upon new development for service payable by all users creating additional demand on a public facility.
- B. The Board of Ravalli County Commissioners commissioned and received a completed Ravalli County Impact Fee Feasibility Study (TischlerBise, February 9, 2006) which examined the potential effects upon public facilities generated by new residential growth and continued commercial and industrial development in Ravalli County. This study determined that "...[Ravalli] County has insufficient revenue to maintain and provide existing levels of service, particularly capital facilities" and recommended that new development should contribute its fair and proportionate share towards the cost of additional demand upon public facilities.
- C. It is the finding of the Board of Ravalli County Commissioners that it is in the best interests of Ravalli County that certain impact fees be considered and imposed upon new development to fund capital improvements and that a procedure be established for this purpose that is compliant with state law.

BE IT THEREFORE ORDAINED BY THE BOARD OF RAVALLI COUNTY COMMISSIONERS, AS FOLLOWS:

SECTION 2. Establishment of a Standing Impact Fee Committee. On July 30, 2007, Ravalli County established the Ravalli County Impact Fee Advisory Committee ("Advisory Committee") via Resolution No. 2178. Ravalli County shall maintain this Advisory Committee. This Advisory Committee shall include at least one representative of the development community and one certified public accountant. The Advisory Committee shall review and monitor the process of calculating, assessing, and spending impact fees. The Advisory Committee shall be provided with adequate financial reports on a quarterly basis, shall meet at least quarterly, and shall provide the Board of Ravalli County Commissioners with a report of their findings and recommendations within 45 days after each meeting. Ravalli County shall not consider or adopt any impact fees that have not been first considered by the Advisory Committee. The Advisory Committee shall serve in an advisory capacity to the Board of Ravalli County Commissioners.

SECTION 3. Calculation and Imposition of Impact Fees. Any impact fees to fund capital improvements for public facilities may not be approved and adopted by Ravalli County unless those fees have been calculated and imposed in accordance with §7-6-

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1601 through -1604, MCA, or as such statutes may later be amended. Impact fees may not be imposed for remodeling, rehabilitation, or other improvements to an existing structure, or rebuilding a damaged structure, unless there is an increase in units that increase service demand as set forth by state law. If impact fees are imposed for remodeling, rehabilitation, or other improvements to an existing structure or use, only the net increase between the old and new demand may be imposed. The data sources and methodology supporting adoption and calculation of an impact fee shall be available to the public upon request.

SECTION 4. Impact Fee Application Process.

A department, district, or designated representative may submit an impact fee proposal for a public facility, which addresses the requirements of §7-6-1602, MCA, to the Advisory Committee for its review and recommendation. The impact fee proposal should be submitted in writing, including all studies and materials referenced in the proposal, to the Ravalli County Planning Department for submission to the Advisory Committee.

The Advisory Committee shall conduct at least one (1) public meeting within forty-five (45) business days of receipt of an impact fee proposal. Public comment will be heard and considered by the Advisory Committee, after which the Advisory Committee will submit a written recommendation regarding the proposal to the Board of Ravalli County Commissioners.

The Board of Ravalli County Commissioners shall conduct at least one (1) public hearing, with 14 days' public notice in accordance with §7-1-2121, MCA. The public hearing(s) shall be held within 45 business days of receipt of the written recommendation from the Advisory Committee, unless the parties agree to an extension or suspension of this time period. The public hearing(s) shall provide opportunity for submission of both oral and written testimony.

The Board of Ravalli County Commissioners may approve the proposal, approve the proposal with conditions, deny the proposal, or postpone its decision (but not beyond 45 business days after receipt of the Advisory Committee's written recommendation). If the proposal is approved or approved with conditions, a written resolution shall be adopted setting the amount of impact fees in a manner which complies with Montana law and this Ordinance, and setting an effective date for imposition of those fees.

SECTION 5. Collection of Impact Fees.

(A) Upon collection, all impact fees shall be deposited in a special proprietary fund, which shall be invested with all interest accruing to the fund.

(B) Ravalli County may impose impact fees as allowed by law, including impact fees on behalf of local districts. Any impact fee imposed may include an administrative fee as allowed under §7-6-1601, MCA.

(C) If the impact fees are not hereafter collected or spent in accordance with this ordinance and any applicable resolutions, or are not in compliance with §7-6-1602, MCA, any impact fees that were collected must be refunded to the person who owned the property at the time that the refund was due, in compliance with §7-6-1603 (1)(c).

(D) The Ravalli County Treasurer shall collect all impact fees imposed. All impact fees imposed must be paid no earlier than the date of issuance of a building permit if a building permit is required for the development or no earlier than the time of wastewater or water service connection or well or septic permitting.

SECTION 6. Contribution in Lieu of Impact Fee Payments. Ravalli County, in its sole discretion, may accept the dedication of land or the construction of public facilities in lieu of payment of impact fees if:

(A) The need for the dedication or construction is clearly documented pursuant to §7-6-1602, MCA; and

(B) The land proposed for dedication for the public facilities to be constructed is determined to be appropriate for the proposed use by Ravalli County; and

(C) The value of the proposed dedication or construction has been established by a licensed independent appraiser, which appraisal has been subject to peer review and the cost of such appraisal and review shall be paid by the developer; and

(D) In the event the value of the proposed dedication or construction exceeds the impact fee due from an individual development, a means to establish credits against future impact fee revenue has been addressed by written agreement between the district receiving the impact fee and the developer. This written agreement shall be subject to approval by Ravalli County prior to acceptance of the dedication. If no written agreement can be reached between the district and developer, or the written agreement is not approved by Ravalli County, Ravalli County may make alternative arrangements to credit the excess worth to the contributor if it decides to accept the dedication.

SECTION 7. Appeal Process. Notice of imposition of an impact fee will be sent by the designated county department by certified mail, return receipt requested, to the party upon whom an impact fee has been imposed. Any party upon whom an impact fee has been imposed has the right to appeal the imposition or amount of the impact fee if the person believes an error has been made. The appellant must perfect the appeal by submitting a written notice of the appeal ("Notice of Appeal") to the Planning Department within ten (10) business days following receipt of the notice of imposition of an impact fee, along with the full amount of the required impact fee, in cash or cash equivalent, as an Appeal Bond. The form of the Notice of Appeal shall be sufficient if it contains the name and address of the appellant, the location of the individual development and the related impact fees being appealed, and a statement identifying the error that has allegedly been made.

Upon receiving the Notice of Appeal and Appeal Bond, the appropriate Planning Department official shall, within five (5) business days, notify both the Advisory Committee and the Board of Ravalli County Commissioners. The Board of Ravalli County Commissioners will place the matter on its agenda for a public meeting not less than fifteen (15) or more than forty-five (45) business days following the filing of the Notice of Appeal and the Appeal Bond.

The Board of Ravalli County Commissioners shall hear evidence from the appellant, the Advisory Committee, County staff, and any other necessary parties and shall make the determination whether the impact fee imposed upon the appellant is compliant with state law, this County ordinance, and any applicable resolutions. In the event that the Board of Ravalli County Commissioners determine that the imposition of the impact fee is not compliant with either state law, this County ordinance, and any applicable resolutions, the Board of Ravalli County Commissioners may either grant a partial refund of such impact fees, if such fees are determined to be in excess, or shall return the Appeal Bond paid by the appellant if the Board of Ravalli County Commissioners determines that the impact fees should not have been imposed.

SECTION 8. Effective Date. This Ordinance shall be effective thirty (30) days from and after the date of its final passage and approval.

SECTION 9. Severability. If any part or portion of this Ordinance shall be declared invalid or unenforceable for any reason by a court of competent jurisdiction, the remainder shall nonetheless continue in effect.

READ AND ADOPTED at first reading this 17th day of November, 2008.

By Charlotte J. Carlitz

By John E. Nicholas

By William Thompson

By [Signature]

By [Signature]

ATTEST on the 17th day of November, 2008:

By: Rayna Pattenberg
Ravalli County Clerk & Recorder



APPROVED AND PASSED at second reading this 4th day of DECEMBER, 2008.

By Charlotte J. [Signature]

By [Signature]

By Allen [Signature]

By [Signature]

By _____

ATTEST on the 4th day of December, 2008:

By Rigina Pitterberg
Ravalli County Clerk & Recorder

