RESOLUTION 2007-087

A RESOLUTION TO ADOPT AMENDED DEVELOPMENT STANDARDS FOR PART ONE "CITIZEN-INITIATED" ZONING DISTRICT #9.

WHEREAS, Zoning District #9 was created in December 1958 as a Part One Planning and Zoning District; and,

WHEREAS, in March 2007 the County received an application to amend the development standards in Zoning District #9; and,

WHEREAS, a Notice of Hearing, to be held on May 23, 2007, was mailed to freeholders within the district via first class mail on April 24, 2007; and,

WHEREAS, notice was posted in at least three public places within the areas affected, at least 15 days prior to the May 23, 2007, hearing; and,

WHEREAS, a Notice of Hearing, to be held on May 23, 2007, was published in the Missoulian on May 6, 2007 and May 13, 2007; and,

WHEREAS, the Planning and Zoning Commission held a public hearing on May 23, 2007, on the request to amend the development standards in Zoning District #9; and,

WHEREAS, the Planning and Zoning Commission voted to recommend approval of the proposed development pattern for Zoning District #9, with amendments; and,

WHEREAS, on May 23, 2007, the Board of County Commissioners voted in favor of accepting the Planning and Zoning Commission's recommendation to adopt the development pattern for Zoning District #9, as amended.

NOW, THEREFORE, BE IT RESOLVED that the district development pattern for Zoning District #9 is hereby amended as attached to this resolution.

DATED THIS 31st **DAY OF** May, **2007**

ATTEST:

VICKIE M. ZEIER, Missoula County Clerk
By Brenda M. Gerlson
DEPUTY

Vickie Zeier, Clerk and Recorder

BOARD OF COUNTY COMMISSIONERS
MISSOULA COUNTY

Barbara Evans

Barbara Evans, Chairman

Jean Curtiss

Jean Curtiss, Commissioner

Bill Carey

Bill Carey, Commissioner

APPROVED AS TO FORM AND CONTENT:

Michael Sehestedt

Michael Sehestedt, Deputy County Attorney

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Zoning District No. 9
Established December 27, 1958

Section I – Purpose

This Part One ("Citizen-Initiated") Planning and Zoning District strives to maintain the rural character of the area. As such, maintaining the prescribed density and limiting dense developments are the highest priorities of this district.

Section II – Applicable

Lots 33, 37, 38, 59, 60, 61 and 64 of Dinsmore's Orchard Homes Addition, and the Webber and Brenda Additions. See History.

Section III – Space and Bulk Requirements

Maximum Residential Density:	Two dwelling units per acre
Setbacks:	
Front and Rear:	Twenty Five (25) feet
Side:	Fifteen (15) feet
Accessory Structures:	Three (3) feet from side and rear lot lines
Height:	Maximum of Thirty (30) feet
Lot Building Coverage:	Cumulative building coverage shall not exceed 25% of the lot.

Section IV – Permitted Uses

1. Single residential dwelling units on a permanent foundation, including manufactured homes and mobile homes on permanent foundations. Manufactured and mobile homes not on a permanent foundation may be replaced with manufactured or mobile homes not on a permanent foundation.
2. Churches and temples
3. Libraries
4. Schools and colleges
5. Parks and playgrounds
6. Any public fire station, telephone exchange where no public telephone business office and no repair, or storage facilities are maintained or any necessary public utility business.
7. Accessory buildings incidental to the above use located on land owned by the owner of the building of which the principal use is made and contiguous thereto, provided that such accessory buildings do not involve the conduct of any business, industrial or commercial enterprise.
8. Any agricultural, horticultural or stock raising enterprise and, in connection therewith, buildings such as barns, silos, granaries, garages, sheds, and the like, may be maintained, altered or erected; provided, however, that such buildings be reasonably designed for use in connection with the purposes specified in this sub-paragraph 8, and not used for any other purpose.
9. The growing and harvesting of timber, but it shall be unlawful to conduct or operate any sawmill, planing mill or other establishment for the processing of timber and the manufacture of wood products within the above-described planning and zoning districts.

Section V – Prohibited Uses

1. Any commercial uses
2. Any industrial uses

Section VI – General Regulations

1. The following are specifically not to be deemed family dwellings: tents, shacks, garages, and outbuildings, and shall not be used temporarily or permanently as a residence. (12JUL73)
2. Definitions of terms as contained in the Missoula County Zoning Resolution #76-113, as amended, and the Montana Code Annotated shall apply in this district.
3. General Regulations as stated in Chapter 3 of the Missoula County Zoning Resolution No. 76-113, as amended, shall apply in this district, except that Section 3.06 M. Density Bonus shall not be applicable in this district.

Section VII – Nonconforming Lots, Uses and Structures

1. Buildings and structures may be erected on any single lot on record in the Missoula County Clerk and Recorder's office after the effective date of adoption of this zoning regulation. This shall apply although the lot fails to meet the density requirement contained in Section III of this zoning district.

2. A legal non-conforming use existing on the effective date of adoption of these regulations may be continued so long as it remains otherwise lawful, subject to the following conditions:
    a. No such legal non-conforming use shall be enlarged or increased or extended to occupy a greater area of land than was occupied at the effective date of adoption of these regulations.
    b. No such legal non-conforming use shall be moved in whole or in part to any other portion of the lot or parcel occupied by such use at the effective date of adoption of these regulations.
    c. If any such legal non-conforming use of land ceases for any reason for a period of two years, any subsequent use of land shall conform to the regulations specified by these regulations.

3. A legal non-conforming structure is a structure which does not comply with these regulations at the time of their adoption.
    a. A legal non-conforming structure may continue to exist and be maintained as constructed.
    b. A legal non-conforming structure may be enlarged, replaced or extended to occupy a greater area of land than was previously occupied as long as the structure complies with all applicable regulations.

Section VIII – Variances

The Board of County Commissioners may authorize such variance from these regulations as will not be contrary to the public interest where, owing to special conditions, literal enforcement would result in unnecessary hardship.

Section IX – Records

Reference is made to the descriptive matter contained in the petition filed in connection with this district and to its map which is on file with the Secretary of the Planning and Zoning Commission (Contact Planning Office).

Section X – Violations

Whenever a violation of these regulations occurs, or is alleged to have occurred, any person may file a written complaint fully stating the causes and basis of the complaint with the Planning Office. The Planning Office shall record and investigate the compliant, and if it is determined that any of the provisions of these regulations are being violated, the Planning Office shall submit a written investigation report to the Office of the County Attorney for appropriate legal action.

If any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if any building, structure, or land is used in violation of this part or of any resolution adopted under this part, the County, in addition to other remedies, shall take any appropriate action or begin proceedings to:

1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
2. Restrain, correct, or abate a violation;
3. Prevent the occupancy of a building, structure, or land; or
4. Prevent any illegal act, conduct, business, or use in or near the premises.

Section XI – Submittal Requirements for Zoning Compliance Permits

Any proposed new use, change in use, or building construction shall receive a Zoning Compliance Permit from the Planning Office. Each application for a Zoning Compliance Permit shall be accompanied by a site plan drawn to a scale not less than 1" = 30' which demonstrates compliance with the regulations in this zoning district. A fee will be charged for this service and may from time to time be revised by the Planning Office to reflect the estimated cost associated with the processing of the Zoning Compliance Permit.

Section XII – Appeals

Any person aggrieved by any decision of the commission or the Board of County Commissioners may, within 30 days after such decision or order, appeal to the Missoula County District Court.

Section XIII – Severability

In the event any court of competent jurisdiction holds any section, subsection, part, term, clause or provision contained in the standards of this Zoning District to be invalid, illegal, unconstitutional or otherwise unenforceable, then, nevertheless, all other and remaining sections, subsections, parts, terms, clauses and provisions thereof and hereof shall continue and remain in force and effect.

Section XIV – History

Duplexes from the Webber Addition deleted. (3SEP1968)

Duplexes from the entire district deleted. (12JUL1973)

Allowing the continuance of non-conforming uses, both of structures and land, provided the use was not discontinued for more than two years. The structures associated with nonconforming uses may be maintained, altered, or enlarged provided the use does not change to another nonconforming use. (12JUL1973)

Specify maximum residential density, setbacks, height, lot building coverage and prohibited uses; allow manufactured and mobile homes; apply definitions and most general regulations from County Zoning Resolution #76-113; modify provisions for legal non-conforming lots, uses and structures; new sections – Variances, Records, Violations, Submittal Requirements for Zoning Compliance Permits, Appeals, and Severability. (23MAY2007)