



Gallatin County

MEMO

TO: Hebgen Lake Planning & Zoning Commission
Gallatin County Commission
Hebgen Lake Zoning Advisory Committee
Members of the Public

FROM: Sean O’Callaghan, Gallatin County Planning Department
Nicole Olmstead, Code Compliance Officer
Marty Lambert, County Attorney

RE: Proposed Amendment to Hebgen Lake Zoning Regulation

DATE: December 28, 2011

On October 11, 2011, the Gallatin County Commission passed Resolution 2011-092, a Resolution of Intention to Amend the Hebgen Lake Zoning Regulation (Exhibit A). Since October, the County Planning Department, Code Compliance Officer, and County Attorney have worked to implement the direction set forth in Resolution 2011-092 and prepared the attached draft amendments (Exhibit B) to the Hebgen Lake Zoning Regulation. Please note the current version of the Zoning Regulation can be found in its entirety on the web at the following address: http://www.gallatin.mt.gov/Public_Documents/gallatincomt_plandept/planning .

Resolution 2011-092 stated the intent to create a new part in Section 16 of the Zoning Regulation that “establishes specific requirements for short-term rentals”, and “prohibits the advertising of short-term rentals that are not in compliance with the Zoning Regulations.” While the attached draft establishes specific requirements for short-term rentals and addresses the advertising of short-term rentals, it stops short of a prohibition on advertising based on advice from the County Attorney.

The Hebgen Lake Planning & Zoning Commission will consider the attached amendments on February 16th at 10:30 am at the Holiday Inn in West Yellowstone. In the mean time, comments on the proposed draft can be sent to the Gallatin County Planning Department at 311 W. Main Street, Rm#108, Bozeman, MT, 59715. Please call (406) 582-3130 with any questions.

RESOLUTION NO. 2011 - 092**A RESOLUTION OF INTENTION OF THE
GALLATIN COUNTY COMMISSION
TO AMEND THE HEBGEN LAKE ZONING REGULATIONS**

This Resolution was introduced by the Gallatin County Planning Department, moved by Commissioner White, and seconded by Commissioner Skinner. The Resolution was adopted unanimously.

WHEREAS, the Hebgen Lake Zoning District (“Zoning District”) and Hebgen Lake Zoning Regulation (“Zoning Regulation”) were adopted by the Board of Gallatin County Commissioners on November 13, 1975, and amended thereafter; and

WHEREAS, the Zoning Regulation defines “Short-Term Rental” as: “rental of a dwelling for a period of less than 30 days”; and

WHEREAS, the Zoning Regulation prohibits the Short-Term Rental of dwellings in all but the Commercial District, and in that District only after a property owner has obtained a conditional use permit to authorize that use; and

WHEREAS, the adopted Hebgen Lake Zoning District Development Plan (“Plan”) recognizes that the scenic beauty and the natural environment are the greatest resources of the area and should be protected to the fullest extent possible while allowing development that is compatible with the area’s natural attractions and neighboring uses; and

WHEREAS, the Plan also that recognizes that commercial development is necessary to serve the needs of area residents and the travelling public, but supports limiting commercial development to a few key locations, primarily through the expansion within existing commercial zones; and

WHEREAS, the prohibition of Short-Term Rental in districts other than the Commercial District is consistent with the purposes of the Zoning District to: prevent over-crowding; allow for tourism and recreational uses, but not to the point that they destroy the character of the area or threaten aesthetic qualities of the environment, water quality or public safety; minimize impact on neighboring property owners; and conserve property values; and

WHEREAS, since March of 2010, Gallatin County has received numerous complaints and heard public testimony from citizens regarding the Short-Term Rental of various properties in the Zoning District where such use is prohibited; and

WHEREAS, complaints and public testimony have cited a variety of concerns about short-term rentals, including, but not limited to: increased traffic, noise, high occupant turnover, vandalism, health and safety concerns from renters exceeding the

design capacity of structures, neighborhood uncertainty, diminution of neighborhood character; and

WHEREAS, in investigating the complaints received by the County, staff from the Planning, Code Compliance; and County Attorney's offices has determined that the following amendments to the Zoning Regulation are necessary to eliminate inconsistencies in the Zoning Regulation and bolster the County's ability to enforce the Zoning Regulation as it applies to Short Term Rental.:

- Incorporate standard language into the Application of District Regulations Section 3.2 to clarify that all structures and uses of land within the Zoning District that are not specifically authorized by the Zoning Regulation are prohibited;
- Modify the definition of "Residential Renting", as set forth in the Definitions Section 6.64;
- Incorporate a new defined term "Short-Term Rental, Advertise or Advertisement" in the Definitions Section 6;
- Authorize "Residential Renting" as a permitted use in Section 9, the Section governing the Existing Planned Unit Development (PUD-X) District
- Simplify the existing language in the R-5 and R-10 Residential District Sections 10.3(6) and 11.3(6) to authorize town homes and condominiums in open space developments only within the R-5 and R-10 Residential Districts;
- Authorize "Residential Renting" as a permitted use in Section 12.2, the Section governing the Hebgen Lake Estates (HLE) District
- Change the title of Section 16 from "Development Standards" to "General Standards"
- Create a new subsection in Section 16 that establishes specific requirements for short-term rentals, prohibits the advertising of short-term rentals that are not in compliance with the Zoning Regulations; and
- Any other amendment identified by Staff to add clarity or further the intent of the Zoning Regulation related to short-term rentals.

WHEREAS, Section 20.2 of the Zoning Regulation provides that amendments to the Zoning Regulation may be initiated by a Resolution of Intention of the Board of County Commissioners; and

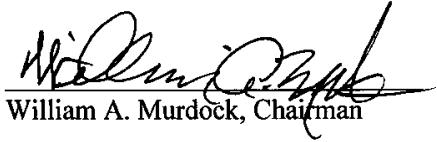
WHEREAS, the Gallatin County Commission conducted a public hearing on October 11, 2011, at which the public were given an opportunity to be heard regarding the initiating of amendments to the Hebgen Lake Zoning Regulations.

NOW THEREFORE BE IT RESOLVED:


The Gallatin County Commission directs the Planning Department and Code Compliance Officer to work with the County Attorney's Office to prepare the above amendments to the Zoning Regulation, make them available for public review and comment, and initiate the public hearing process to adopt the proposed text amendments.

Dated this 11th day of October, 2011.

GALLATIN COUNTY COMMISSION


William A. Murdock, Chairman

ATTEST:


Charlotte Mills, Clerk and Recorder

SECTION 3 APPLICATION OF DISTRICT REGULATIONS

3.2 Conformance with Zoning Regulations.

1. No building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless it is in conformity with all of the regulations herein specified for the district in which it is located. No building, structure, or land in any district may be used for any purpose unless such use is listed as a permitted or conditional use in that District and approval for that use is obtained through the proper procedure. All other uses are prohibited.
2. No building or other structure shall hereafter be erected or altered unless it is in compliance with the height, bulk, lot area and setback requirements of this Regulation.
3. No part of any yard, or other open space, or off-street parking required about or in connection with any building for the purpose of complying with this Regulation, shall be included as part of a yard, open space, or off-street parking similarly required for any other building.
4. No yard or lot existing at the time of adoption of this Regulation shall be reduced in dimension or area below the minimum requirements set forth herein. Yards or lots created after the effective date of this Regulation shall meet at least the minimum requirements established by this Regulation.
5. Exception: Any public utility pipeline, well, or structure necessary for provision of services required for public health and safety, may be exempted from provisions of this Regulation by the Zoning Enforcement Agent upon finding that such structures will not create a hardship for other property owners. (Not to include any commercial utility service establishment.)
6. Land Divisions: Any division of land must comply with this Regulation. Subdivisions are reviewed and permitted as provided by the Gallatin County Subdivision Regulations. All subdivisions must be consistent with the development plan for the HLZD and this Regulation.

SECTION 6 DEFINITIONS

- 6.64 Residential Renting. Long-term renting (30 days or longer) of a dwelling unit to one and the same family for the entire rental period, ~~consistent with State of Montana inspection requirements.~~
- 6.70.a Short-Term Rental, Advertise or Advertisement. Any written or electronic publication, dissemination, solicitation, circulation, or public notification that is intended to induce any person to engage in Short-Term Rental of a Dwelling Unit. This definition includes, but is not limited to mailings, print advertisements, internet listings, e-mail publications or other printed or electronic means.

SECTION 9 EXISTING PLANNED UNIT DEVELOPMENT DISTRICT (PUD-X)

9.3 Uses Permitted Upon Approval of a PUD Plan. The following uses shall be permitted as part of an approved PUD plan:

1. Accessory uses.
2. Bars.
3. Gasoline service stations.
4. Home occupations.
5. Laundromats.
6. Motels.
7. Multi-family dwellings.
8. Recreational facilities.
9. Restaurants.
10. Retail stores serving the development.
11. Signs as permitted by Section 16.11.
12. Single-family dwellings.
13. Temporary structures for and during construction, only.
14. RV parks.
15. Mobile home parks.
16. Storage facilities.
17. Guest houses.
18. Fire stations.
19. Horse riding facilities.
20. Marinas.
21. Guest ranches.
22. Residential Renting

SECTION 10 RESIDENTIAL DISTRICT (R-5)

10.3 Conditional Use. The conditional uses that may be permitted in the R-5 shall be:

1. Accessory structures over 1,200 square feet.
2. Churches.
3. Fire stations.
4. Guest houses.
5. Guest ranches on contiguous parcels of 60 acres or more.
6. ~~Attached housing, Town homes and condominiums~~ in open space developments only. ~~Attached housing shall be permitted in the form of town homes and condominiums, but time share condominiums and other short-term rentals are commercial uses, and shall be confined to the C zone.~~
7. Schools.
8. Wind generators for residential uses.

SECTION 11 RESIDENTIAL DISTRICT (R-10)

11.3 Conditional Use. The conditional uses that may be permitted in the R-10 shall be:

1. Accessory structures over 1,200 square feet.
2. Churches.
3. Fire stations.
4. Guest houses.
5. Wind generators for residential uses.
6. Guest ranches on contiguous parcels of 60 acres or more.
7. ~~Attached housing, Town homes and condominiums~~ in open space developments only. ~~Attached housing shall be permitted in the form of town homes and condominiums, but time share condominiums and other short term rentals are commercial uses, and shall be confined to the Commercial zone.~~
8. Schools.

SECTION 12 HEBGEN LAKE ESTATES DISTRICT (HLE)

12.2 Permitted Uses. The permitted uses in the HLE shall be:

1. Accessory uses.
2. Home occupations.
3. Single-family dwellings.
4. Duplex dwelling units on the following lots: Block 2, Lots 1, 2, 3, 4, 7, 8, 16, 18, 19, and 22; Block 3, Lots 47 and 48.
5. Multiple-family dwelling units on the following lots: Block 1, Lots 6, 7, and 9; Block 2, Lots 12, 13, 14, and 15.
6. Office/administration uses on Block 3, Lot 18.
7. Signs, as permitted by this Regulation (see Section 16.11).
8. Temporary buildings for and during construction only.
9. Residential Renting.

SECTION 16 ~~DEVELOPMENT~~ GENERAL STANDARDS

This chapter consists of standards with which all development and uses must comply, as applicable.

16.17 Short-Term Rentals

1. Restrictions. Short-Term Rentals are only allowed in the Commercial District. Within that district Short-Term Rentals are only authorized with a current Conditional Use Permit.
2. Advertisement. Advertising of Short-Term Rentals, other than Short-Term Rentals located in the Commercial District with a valid CUP, shall be considered prima facie evidence of the owner's or agent's intent to lease or operate Short-Term Rentals. Advertisement of short-term rentals may subject owners or agents to enforcement action under this regulation.