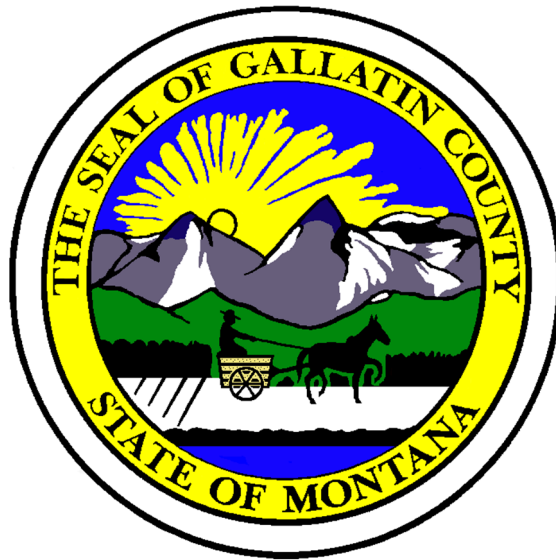


# TRAIL CREEK ZONING REGULATION

GALLATIN COUNTY, MONTANA



MAY 26, 2020

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## SECTION 1 ADMINISTRATION

- 1.1 Title. This Regulation shall be known as the Trail Creek Zoning Regulation (“Zoning Regulation”) and is adopted specifically for the Trail Creek Zoning District (“Zoning District”). The Zoning District was created by Resolution of the Board of County Commissioners, Gallatin County, Montana, on April 17, 1990.
- 1.2 Planning and Zoning Commission. Pursuant to [Section 76-2-101](#), MCA there has been created a Planning and Zoning Commission for the Zoning District which consists of the three County Commissioners, the County Surveyor, a county official appointed by the County Commissioners, and two citizen members appointed by the County Commissioners. The Planning and Zoning Commission shall have all the powers given to it by Montana statutes.
- 1.3 Development Pattern. Pursuant to [Section 76-2-101 through 76-2-117](#), MCA, there is hereby adopted a development pattern for the Zoning District consisting of the Trail Creek Zoning Regulation, Zoning Map, and Trail Creek Plan.
- 1.4 Zones. The jurisdiction of the Zoning District is hereby divided into zones or "districts", as shown on the Official Zoning Map, which together with all explanatory matter thereon, the Official Zoning Map is hereby adopted by reference and declared to be a part of this Regulation.
- 1.5 Zoning Map. Regardless of the existence of purported copies of the Official Zoning Map which may from time to time be made or published, the Official Zoning Map kept in the office of the County Clerk and Recorder shall be the final authority as to the current zoning designation of property in the Zoning District.
  - a. Zoning Map Certificate. The Official Zoning Map shall be available in the County Clerk and Recorder's Office and shall bear a certificate with the signature of the Chairman of the County Commissioners attested by the County Clerk, including the Resolution of Adoption number and the date of adoption.
  - b. Zoning Map Changes. If any changes to the Official Zoning Map are made by amendment to this Zoning Regulation in Accordance with Section 14 of the Administrative Regulation, such changes shall be made to the Official Zoning Map and signed, dated, and certified upon the Map.
  - c. Zoning Map Replacement. In the event the Official Zoning Map becomes damaged, destroyed, lost, or difficult to interpret due to

changes or additions thereto, the County Commission may adopt and certify a new Official Zoning Map which shall supersede the prior Official Zoning Map.

1.6 Administrative Regulations. Pursuant to County Commission Resolution No. 2019-047 adopted May 21, 2019, there is hereby adopted the Gallatin County “Part 1” Zoning Administrative Regulation (Administrative Regulation). The Administrative Regulation supplements these Regulations. In the case of a conflict between the Administrative Regulation and these Regulations, the Administrative Regulation shall control. The Administrative Regulation includes the following administrative rules and procedures:

- Title, Adoption, and Applicability
- Definitions
- Application of Zoning Regulations
- Administration
- Non-Conforming Parcels, Uses, and Structures
- Land Use Permits
- Change of Use Permits
- Certificate of Completion
- Zoning Improvements Agreement
- Conditional Uses
- Variances
- Complaints and Enforcement
- Appeals
- Amendments

## **SECTION 2            PURPOSES**

- 2.1    The purpose of this regulation is to:
- a.     Promote the health, safety, and general welfare of County residents;
  - b.     Lessen congestion in the streets;
  - c.     Secure safety from fire, panic, and other dangers;
  - d.     Provide adequate air and light;
  - e.     Prevent overcrowding of land;
  - f.     Avoid undue concentration of population;
  - g.     Facilitate the adequate provision of transportation, water, sewage, parks, and other public requirements;
  - h.     Promote the preservation of wildlife and fish habitat;
  - i.     Protect scenic qualities, fresh air, groundwater, and open space;
  - j.     Preserve the rural atmosphere;
  - k.     Provide for orderly growth of agricultural pursuits;
  - l.     Encourage good design and orderly growth.

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## SECTION 3 DEFINITIONS

For the purpose of this regulation certain terms and words are defined as follows: Words used in the present tense shall also include the future; words or phrases used in the singular shall also include the plural, and words used in the plural shall also include the singular; the word "building" includes structure and "structure" includes building; the words "used" or "occupied" shall include within their meaning "intended, arranged, or designed to be used or occupied". The word "person" shall include corporation, partnership, or other legal entity. Where other definitions are necessary and are not defined herein, the Trail Creek Planning and Zoning Commission may define such terms.

- 3.1 Accessory Building or Use. A building or use which: (1) is subordinate in area, extent or purpose to the principal building or principal use served; (2) contributes to the comfort, convenience, or necessity of occupants of the principal building or principal use.
  - a. Accessory dwelling unit. A second dwelling unit either in or detached from the main dwelling unit. The accessory dwelling is on the same lot as the primary dwelling unit, and is a complete independent living facility.
- 3.2 Agriculture. The tilling of soil, the raising of crops, horticulture and gardening, dairying or animal husbandry including all uses customarily incidental thereto, but not including any agriculture industry or business such as fruit packing plants, fur farms, animal hospitals, commercial dog kennels, commercial feed lots or similar uses.
- 3.3 Building. A structure, having a roof, and built for support, shelter, or enclosure of persons, animals, chattels, or property of any kind.
- 3.4 Building Height. The vertical distance from the average elevation of the proposed finished grade at the front of a building to the highest point of a flat roof, the deck line of a mansard roof, and the mean height between eaves and ridge for gable, hip and gambrel roofs.
- 3.5 Building Perimeter. The foundation walls of a building and/or supports for appendages thereto.
- 3.6 Conditional Use. Uses, other than permitted uses, that may be allowed in a specific zoning category, but which require a public hearing by the governing body to consider additional safeguards to maintain and assure the health, safety, and general welfare of the community and to maintain the character of the Trail Creek Zoning District.

- 3.7 Density. The total number of dwelling units allowed per gross acre.
- 3.8 Dwelling, Single Family. A building designed with complete, permanent, and independent living facilities for one family.
- 3.9 Dwelling Unit. A building or portion thereof providing permanent cooking, eating, sleeping and living facilities for one family and its resident domestic employees.
- 3.10 Family. Any individual or two or more persons related by blood or marriage, or a group of not more than four persons (excluding servants) who need not be related by blood or marriage, living together as a single non-profit housekeeping unit.
- 3.11 General Plan. General plan shall include any document or portion of any document duly adopted by the Zoning Commission which is intended to guide the growth and development of the area.
- 3.12 Home Business. The use of a portion of a dwelling or accessory building for business conducted on the premises. The home business may require the use of additional vehicles, have a greater impact on the neighborhood than a home occupation, and have a sign.
- 3.13 Home Occupation. The use of a portion of a dwelling or accessory structure as an office, studio, or work room for occupations at home. The activity must be clearly incidental to the use of the dwelling for a residence and shall not change the character or appearance thereof. In addition, the activity shall have no impact on the surrounding neighborhood, and shall not result in any smells, noise, or create additional traffic greater than that caused by normal residential use.
- 3.14 Landscaping. The placement of ornamental fixtures such as fountains, ornamental walls, fences, benches, along with vegetative plantings of trees, shrubs, grass, flowers, etc. This definition shall also include the designing of the placement of such materials.
- 3.15 Lot. A parcel or plot of land shown as an individual unit of ownership on the most recent plat or other record of subdivision.
- 3.16 Lot, corner. A lot situated at the junction of and abutting on two or more streets.

- 3.17 Lot coverage. The total area of a lot covered by the principal and accessory buildings.
- 3.18 Lot lines. The lines bounding a lot as defined herein.
- 3.19 Lot width. The width of a lot along a line parallel to the frontage thereof and lying a distance equal to the required front yard setback on such lot.
- 3.20 Manufactured Housing. Residential dwellings constructed entirely or substantially off-site.
- 3.21 Mobile Home. Forms of housing known as "trailers", "housetrailers", or "trailercoaches", built to be transportable on its own chassis, comprised of frame and wheels, and designed to be used as a dwelling when connected to appropriate utilities.
- 3.22 Mobile Home Subdivision. A parcel of land that has been reviewed and approved for the placement of mobile homes for residential use.
- 3.23 Motor Home. See Travel Trailer, [Section 3.30.](#)
- 3.24 Natural Wood Siding. Wood in a natural state or milled, but not to include any reformed product or type of plywood.
- 3.25 Parking Lots. A structure or an area, other than a public street or alley designed or used for the temporary parking of motor vehicles and available for public use whether free, for compensation, or an accommodation for customers or clients.
- 3.26 Parking space, off-street. A space located off any public right-of-way which is at least nine feet by twenty feet in size for parking of any motor vehicle, with room to get out of either side of the vehicle, with adequate maneuvering space, and with access to public streets or alleys.
- 3.27 Planned Unit Development. An area of land in single ownership or control to be developed as a single integrated unit, the plan for which may not correspond in lot size, bulk or type of building, density, lot coverage, use, and required open space to the regulations established in the district.
- 3.28 Sign. Any face of any lettered or pictorial device and/or structure designed to inform or attract attention.

- 3.29 Structure. That which is built or constructed, an edifice or building of any kind or any piece of work artificially built up or composed of parts joined together in some definite manner.
- 3.30 Travel Trailer. A vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation uses which is not more than eight feet in body width.
- 3.31 Use. Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied or any activity, occupation, business, or operation carried on or intended to be carried on in a building or other structure or on a tract of land.
- 3.32 Yard, front. An open space extending across the full width of the lot between the front building line and the front lot line.
- 3.33 Yard, rear. An open space extending across the full width of the lot between the rear building line and the rear lot line.
- 3.34 Yard, side. An open space extending from the side building line to a side lot line running from the front to the rear lot lines.

**SECTION 4                    AGRICULTURAL RESIDENTIAL SINGLE FAMILY, ONE DWELLING PER TWENTY ACRES (AR-20)**

4.1 Intent. The intent of this district is to provide for single family and agricultural development in areas of severe physical limitation and preserve the rural and agricultural atmosphere of the area.

4.2 Permitted Uses.

- a. Single family dwelling units
- b. Home occupations
- c. Accessory uses and accessory buildings under 1,200 square feet
- d. Signs, as permitted by [Section 8](#) of this Regulation
- e. Agricultural uses
- f. Accessory dwelling unit for agricultural employees
- g. Accessory dwelling unit under 1,000 square feet.
- h. Temporary buildings for and during construction for up to eighteen (18) months.

4.3 Conditional Uses.

- a. Metal buildings that are not in conformance with [Section 6.8](#)
- b. Family day care homes as defined in [Section 53-4-501](#), M.C.A.
- c. Community residential facilities as defined in [Section 76-2-411](#), M.C.A.
- d. Accessory dwelling units not related to agricultural employees over 1,000 sq. ft.
- e. The development of natural resources, including gravel pits, mines, oil and gas wells
- f. Planned unit developments.
- h. Home businesses

- i. Temporary work camps
  - j. Guest ranches
  - k. Bed and Breakfasts
  - l. Schools, parks
  - m. Youth camps
  - n. Other related uses consistent with this code.
  - o. Accessory buildings over 1,200 square feet
  - p. Exteriors, other than natural wood siding
- 4.4 Lot Area and Width. Lot area for any use in this district shall be not less than twenty (20) acres in size and no lot width shall be less than 660 feet.
- 4.5 Lot Length. No lot length shall be three times greater than the average width of the lot.
- 4.6 Setbacks. Every lot shall have the following minimum setbacks:
- |                  |          |
|------------------|----------|
| Front setback    | 50 feet  |
| Rear setback     | 50 feet  |
| Side setback     | 50 feet  |
| Trail Creek Road | 100 feet |
- 4.7 Building Height. Maximum building height in this district shall be 32 feet.

## SECTION 5 PLANNED UNIT DEVELOPMENT (PUD)

5.1 Intent. The intent of this zoning map overlay is to provide, as an option, for the clustering of residential development in order to:

- a. Achieve the preservation of open space and unique natural areas;
- b. Properly plan and utilize land with some areas unsuitable for development;
- c. Encourage flexibility of design;
- d. Promote attractive site planning;
- e. Provide economies in the provision of public services;
- f. Preserve agricultural lands; and
- g. Preserve the rural atmosphere.

To achieve these purposes:

- a. A greater variety of building types is permitted within this overlay.
- b. Procedures are established to assure adequate maintenance and restricted use of open space areas for the benefit of the inhabitants of the subdivisions or for dedication to public use.
- c. Procedures are established to assure adequate protection of existing and potential developments adjoining the proposed PUD.

5.2 Special Definitions.

- a. Certificate of Development Rights. A certificate entitling the owner to build (1) one single family dwelling unit per twenty acres. Interpolation is permitted by rounding off to the nearest dwelling unit.
- b. Common Open Space. A parcel or parcels of land, or an area of water, or a combination of land and water within a planned unit development designated and intended for the use or enjoyment of residents of the development. Common open spaces may contain complementary structures and improvements as are necessary and appropriate for the benefit and enjoyment of occupants of the development.

- c. Development Rights. One of a series of rights inherent in fee simple ownership of land (others include air rights or mineral rights) which may be separated from the land. The rights to build dwelling units on one's land, the potential for the improvement of a parcel of real property, measured in dwelling units, existing because of the zoning classification of the parcel.
  - d. Landowner. The legal or beneficial owner or owners of all the land proposed to be included in the PUD. The holder of an option or contract to purchase, a lessee having remaining term of not less than (20) twenty years or other persons having an enforceable proprietary interest in such land, shall be deemed to be Landowner for the purposes of these provisions.
  - e. Property Owners Association. An incorporated, non-profit organization operating under recorded land agreements through which (a) each property owner in the planned unit development is automatically a member and (b) each owner is automatically subject to a charge for a proportionate share of the expenses for the organization's activities and (c) common open space and facilities are maintained.
  - f. Transfer of Development Rights. The conveyance of development rights by certificate authorized by the Trail Creek Zoning Regulation, to another parcel of land and the recordation of that conveyance at the Office of the Gallatin County Clerk and Recorder.
  - g. Site. The entire area within the perimeter boundary of a proposed planned unit development.
- 5.3 Where Permitted. Subject to the issuance of a conditional use permit, in accordance with the provisions of Section 10 of the Administrative Regulations, a planned unit development may be permitted in the PUD designated areas.
- 5.4 Maximum Number of Units. A PUD may contain a maximum of six (6) dwelling units per one hundred acres. However, a PUD may contain up to 12 dwelling units per one hundred acres if development rights are transferred in from another part of the district.
- 5.5 Standards for Planned Unit Developments. A PUD may be authorized by the Zoning Commission when the following conditions are met:



- a. The site shall be a minimum of one hundred (100) acres.
  - b. Townhouse units shall have a central water and sewer system.
- 5.6 Density Bonus. A density bonus of up to twice the number of allowable units may be authorized by the Zoning Commission when development rights are transferred into the PUD area from other areas in the zoning district.
- 5.7 Permitted Uses.
- a. Townhouses
  - b. Condominiums
  - c. Single family residences
  - d. One accessory storage unit
  - e. Garages
  - f. One rental living unit or guest unit not to exceed one thousand (1,000) square feet.
  - g. Home Occupations
- 5.8 Standards for Development.
- a. General Design. The PUD is intended to be used for clustered residential development and shall be designed and developed in a manner compatible with and complementary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter shall give consideration to protection of the property from adverse surrounding influences, as well as protection of the surrounding area from potentially adverse influences within the development. In addition, the PUD shall relate harmoniously to the topography of the site, make suitable provision for conservation of water courses, wooded areas, rough terrain and similar natural features and areas, and shall otherwise be so designed as to use such natural features and amenities to best advantage. Other developments within the area and existing agricultural lands shall be given proper attention in the design.
  - b. Setbacks. Every lot shall have the following minimum setbacks:

Front setback	50 feet
Rear setback	50 feet
Side setback	50 feet
Stream setback	35 feet
Trail Creek Road	100 feet

- c. Off-Street Parking. All residential parking shall be off-street. A minimum of two off-street parking spaces shall be provided for each dwelling unit. Parking for townhouses and condominiums shall be located out of view of Trail Creek Road.
- d. Open Space. Not less than 70 percent of the planned unit development site shall be designated and maintained as common open space for the use of the occupants of the development, unless the area is designated for agricultural use. If the area is designated for agricultural use, then the use is reserved to the person who has the agricultural lease.
- e. Landscaping. Landscaping may be required to provide a buffer between proposed uses or between different adjacent district classifications.
- f. Height. All buildings and structures shall be a maximum of thirty-two (32) feet in height.
- g. Signs. Interior street, building and other signs shall be uniform in design and in conformance with [Section 8](#) of this Regulation.
- h. Townhouse and Condominium Standards. Townhouses and condominiums shall be designed so there are not more than four individual dwelling units in each attached structure.

5.9 Legal Requirements. In a PUD containing areas or facilities of common or restricted ownership, the subdivision plat, dedication, covenants, and other recorded legal agreements shall:

- a. Legally create automatic membership in a non-profit property owners association or similar instrument.
- b. Place title to any common property or facility in the property owners association.
- c. Appropriately and permanently limit the uses of common property and open space.

- d. Give each lot or unit owner the right to use and enjoyment of any common property or facility.
- e. Place responsibility for operation and maintenance of the common property in the property owners association.
- f. Place an association charge on each lot or unit in a manner which will:
  - i. Assume sufficient funds for maintenance and operation; such charge to be a lien on the property; and
  - ii. Provide adequate safeguards for owners against undesirable high charges.
- g. Set forth the articles of incorporation for the property owners association.
- h. In a PUD located in an AR-20 District where agricultural use of the land is to be retained. Legal documentation designating the agricultural land shall be submitted.

5.10 Procedures for Approval.

- a. The method for considering a Planned Unit Development shall be the Conditional Use Permit procedure.
- b. If the PUD is considered a subdivision according to the definitions contained in [76-3-101 et seq.](#), M.C.A., the development shall also be subject to review as set forth in the Gallatin County Subdivision Regulations.

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## SECTION 6 SUPPLEMENTARY REGULATIONS

- 6.1 Structures to have Access. Every residence hereafter erected or moved shall be on a lot with access to a public street, or private street.
- 6.2 Outdoor Lighting. Outdoor lighting of trees, bushes, fountains, swimming pools, grounds or residences shall not illuminate or be reflected upon any adjacent property.
- 6.3 Corner Lots. When a lot faces more than one street, and front yard setbacks have been established, corner lot setbacks shall be at least as great as established for each street.
- 6.4 Protection of Street Right of Way. No land use permit shall be issued or use proposed in any street right-of-way or any proposed street right-of-way proposed on any official Master Plan adopted by the Board of County Commissioners which is still in effect.
- 6.5 Protection of Irrigation Ditch Easements. No land use permit shall be issued or use proposed within fifteen (15) feet of either side of an active irrigation ditch.
- 6.6 Fences, Walls and Hedges. Fences, walls and hedges in any district may be located on lot lines provided such fences, walls and hedges are constructed of materials consistent with the character of the area. Fences used in an agricultural pursuits to retain stock animals shall be excepted. However, no fences, walls, and hedges shall obstruct the visibility of traffic from the road.
- 6.7 Outside Storage. All accumulation of storage or salvage materials, including fuel tanks, shall be stored in an accessory building or screened from view.
- 6.8 Metal and Other Accessory Buildings. All accessory buildings in the AR-20 and PUD Districts shall meet the following requirements:
- a. No unfinished reflective siding shall be allowed. All storage buildings over 1,200 square feet in size shall require a conditional use permit.
  - b. Agricultural buildings are excepted from this section.
  - c. All accessory structures appearance will be in keeping with the main structure.

6.9 Exterior Appearance. All single family homes in this district shall meet the following standards:

- a. All residential buildings shall have natural wood siding. Colors in keeping with the character of the area shall be used.
- b. The pitch of the main structure shall be more than one (1) foot of rise for every four (4) feet of horizontal run. Unpainted galvanized metal roofs are not allowed in the district. Galvanized metal roofs shall be painted colors that are consistent with the character of the area.
- c. All dwelling units manufactured substantially or entirely off-site shall meet current Department of Housing and Urban Development (HUD) codes.
- d. All dwellings units shall be constructed to be consistent with the character of the area.
- e. All exterior construction shall be completed within eighteen (18) months.
- f. All dwellings shall have a width of more than one-half (1/2) their length.
- g. All residences shall have a minimum of twelve (12) inch overhang on gables and eaves.
- h. All exteriors shall have a finished appearance.

6.10 Utilities.

- a. Utilities, other than lines used for the distribution of electricity in new service areas as defined in [Section 69-4-102](#) MCA, shall be installed underground unless a variance is granted pursuant to Section 11 of the Administrative Regulations.
- b. Lines used for the distribution of electricity in a new service area shall be installed underground, provided however, the Zoning Commission may grant a variance to allow overhead lines for the distribution of electricity when the applicant shows that the installation of underground distribution lines would be technically or economically infeasible as defined in [Section 69-4-102](#), MCA, and Rule 38.5.1002, ARM, of the Montana Public Service Commission.

- c. If the Zoning Commission determines that the applicant requesting a variance to install overhead distribution lines for electricity fails to make the requisite showing to support the variance, the applicant may request that the Public Service Commission review the matter and issue an order concerning the installation of overhead distribution lines for electricity. The order of the Public Service Commission shall be conclusive. Upon presentation of an order issued by the Public Service Commission confirming the installation of overhead distribution lines for electricity, the Zoning Commission will grant the variance.

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## **SECTION 7                    HOME BUSINESSES**

Home businesses are permitted in the AR-20 District upon obtaining a conditional use permit. The applicant shall prepare an application as required by Section 10 of the Administrative Regulations.

- 7.1     The occupation or profession shall be carried on wholly within the principal building, other accessory structure, or screened from view.
- 7.2     Not more than four (4) people who are not a member of the applicant's immediate family and who are not a resident of the applicants home may be employed on-site.
- 7.3     The use of electrical or mechanical equipment that would change the fire rating of the structure or create visible or audible interference in radio or television receivers or cause fluctuations in line voltage outside the dwelling unit is prohibited.
- 7.4     There shall be no offensive noise, vibration, smoke, odors, heat or glare produced as a result of the home business.
- 7.5     The primary unit shall remain a residential structure, there shall be no exterior display or alteration that changes the residential character of the premises.
- 7.6     If the business is an auto related business all vehicles shall be stored and worked on within an enclosed building, or screened from view.
- 7.7     The home business may involve the use of up to two (2) commercial vehicles limited in size to two (2) tons, for delivery of products and materials to and from the premises. Vehicles will be stored in a garage, or screened from view.
- 7.8     All outside storage of business related materials shall be stored in an accessory building or screened from view.

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## **SECTION 8            SIGNS**

Signs within the districts shall be subject to the following requirements. No blinking, neon, or portable signs shall be permitted in the Trail Creek Zoning District.

- 8.1 Planned Unit Development (PUD). Signs within the PUD District shall be limited to resident identification signs, real estate sale signs, and street signs, no larger than six (6) square feet.
- 8.2 Residential Single Family (AR-20). One sign no larger than six (6) square feet shall be allowed. Signs shall be for products produced on premises. Signs shall only be illuminated indirectly. Resident identification, home business, political, real estate for sale, no trespassing, no hunting, etc., and street signs shall be allowed.
- 8.3 Park (P). Two (2) signs no larger than fifteen (15) square feet, for identification purposes only.

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## **SECTION 9            ADOPTION**

This entire Regulation was adopted on July 24, 1991, by the Trail Creek Planning and Zoning Commission.