Ordinance No. 2004-7

A RIGHT TO FARM AND RANCH ORDINANCE

WHEREAS, land use and population changes in Beaverhead County have increased the incidence of conflicts between agricultural operators and residents of and visitors to rural parts of the County and have begun to impact the viability of agricultural operations; and

WHEREAS, Beaverhead County believes in a policy in accordance with 27-30-101(3), MCA, *that no agricultural or farming operation, place, establishment, or facility or any of its appurtenances of the operation thereof is or becomes a public or private nuisance because of the normal operation thereof as a result of changed residential or commercial conditions in or around its locality if the agricultural or farming operation, place, establishment, or facility has been in operation longer than the complaining resident has been in possession or commercial establishment has been in operation*; and

WHEREAS, it is desirable to educate the public, including non-agricultural residents and visitors, about the existence, validity, and importance of Beaverhead County's agricultural operations and activities; and

WHEREAS, pursuant to this ordinance, the Board will attempt to:

a. Conserve, enhance, and encourage ranching, farming, and all manner of agricultural activities and operations in the County where appropriate;
b. Minimize potential conflicts between agricultural and non-agricultural users of land;
c. Educate new rural residents and long-time agricultural operators alike to their rights, responsibilities, and obligations relating to agricultural activities; and
d. Integrate planning efforts to provide for the retention of traditional and important agricultural lands in agricultural production, as well as the opportunity for reasonable residential and other development; and

WHEREAS, the Board has determined that it is desirable and beneficial to the citizens of Beaverhead County to establish and adopt a Right to Farm and Ranch Ordinance involving the elements of protection of agricultural operations, education of property owners and the public; and

WHEREAS, the establishment of and adoption of such Ordinance would serve and promote the public health, safety, and welfare of the citizens of Beaverhead County;

NOW THEREFORE, BE IT RESOLVED, that:

1. **Ordinance Statement.** Ranching, farming, horticulture, silviculture, apiculture

and all manner of agricultural activities and operations in Beaverhead County are integral elements of and necessary for the continued vitality of the County's history, economy, landscape, open space, wildlife, lifestyle, and culture. Given their importance to the County and the State of Montana, agricultural lands and operations are worthy of recognition and protection.

a. Landowners, residents, and visitors must be prepared to accept the activities, sights, sounds, and smells of the County's agricultural operations as a normal and necessary aspect of living in a County with a strong rural character and a healthy agricultural sector. Those with an urban sensitivity may perceive such activities, sights, sounds, and smells as an inconvenience, eyesore or nuisance.

b. All persons must be prepared to encounter noises, odors, lights, mud, dust, smoke, chemicals, machinery on public roads, livestock on public roads, storage and disposal of manure, and the responsible application of fertilizers, soil amendments, herbicides, and pesticides, any one or more of which may ordinarily occur as a part of legal and responsibly managed agricultural operations. Operations may also take place at all hours of the day and night and may include use of waterways with cattle and machinery crossings.

2. **Additional Rights and Responsibilities.** All residents and landowners are encouraged to learn about their additional rights and responsibilities and act as good neighbors and citizens of the County, as follows:

a. With regard to the maintenance of fences and in accordance with Chapter 4 of Title 81, MCA, livestock must be fenced out.

b. With regard to irrigation ditches and in accordance with Title 85, MCA, irrigators have the right to maintain irrigation ditches through established easements that transport water for their use only as prescribed by a water right, and said irrigation ditches are not to be used for the dumping of refuse.

c. With regard to noxious weeds and in accordance with 7-22-2116, MCA, landowners are responsible for the control and treatment of noxious weeds on their property and should not plant or propagate invasive species.

d. Children and adults are exposed to different hazards in the country, than in an urban or suburban setting. Farm equipment, ponds and irrigation ditches, electrical power for pumps/center pivot operations and electrical fences, traffic, use of agricultural chemicals with possible over-spray, territorial farm dogs, and livestock present real threats to children and adults. Open irrigation waters are essential to agriculture and have legal rights of way that must not be obstructed. Open ditch operations often result in seepage and spills of storm waters at unpredictable locations and times. Controlling children's activities is important, not only for their safety, but also for the protection of the farmer's livelihood.

3. **Public Education and Property Owner Notification.** The Board, through the Beaverhead County Planning Board, Beaverhead County Extension Office, and County staff, shall support efforts to educate the public and notify property owners within the County of this Right to Farm and Ranch Ordinance by the following means:

   a. Distribution of this document throughout the County.
   b. Amendments, as appropriate, to the County subdivision regulations to ensure that subdividers and future lot buyers are aware of this Ordinance.
   c. Encouragement to title companies and real estate brokers countywide, to voluntarily disclose this Ordinance to purchasers of real property in Beaverhead County.

4. **Acknowledgment.** Subdivisions plats and certificates of survey filed in Beaverhead County shall contain on the face of the plat the following language: Beaverhead County has adopted a Right to Farm ordinance.

5. **Intergovernmental Agreements.** The Board may utilize intergovernmental agreements with cities, towns and other governmental agencies to further ensure effective implementation of this Ordinance throughout Beaverhead County.

ADOPTED this 19 day of July, 2004.

BY THE BEAVERHEAD COUNTY BOARD OF COMMISSIONERS, BEAVERHEAD COUNTY, MONTANA

Michael J. McGinley, Chairman

Garth L. Haugland

ATTEST:

Donna J. Sevalstad

Rosalee Richardson
Beaverhead County Clerk and Recorder