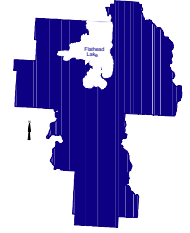


# **EAST SHORE ZONING DISTRICT** **AND REGULATIONS**



CREATED SEPTEMBER 1, 1991  
CREATED 1991 RESOLUTION # 831,  
AMENDED 1995 RESOLUTION # 95-47  
AMENDED 2008 RESOLUTION # 08-34  
Effective December 1, 2008

## **I. Purpose**

The purpose of the Zoning District and Regulations is to help guide growth and development in the area, to conform to the Lake County Growth Policy, to maintain the rural character of the area and allow for development that is consistent and compatible with the existing pattern of growth, to protect and enhance property values and amenities, and to protect and enhance the natural environment, water quality and wildlife habitat.

## **II. Boundary**

The boundaries of the district shall be as follows:

North boundary - The north section lines of Sections 27, 28, and 29 of T.26N., R.19W. (South of Woods Bay)

East boundary - The Mission Mountain Divide

West boundary - The highwater mark of Flathead Lake

South boundary - The south section lines of Sections 22 and 23, of T.24N., R.19W (South of Blue Bay)

## **III. Applicability**

The regulations shall apply to all lands within the District except land owned by the State, Local or Federal Government, unless it is a School Trust lease lot, as well as land owned by the Confederated Salish and Kootenai Tribes which lie within the boundaries of the Flathead Indian Reservation.

- A. Property owners should be aware that other local and state laws may apply to the use and/or development of their property. It is the responsibility of the property owner and their hired contractors to obtain all required state and local permits. For information about permit requirements, the property owners should contact:
1. The Lake County Environmental Health Department for compliance with septic, and stormwater management rules and regulations (when applicable).
  2. The Lake County Planning Department for compliance with the Lakeshore Protection, Floodplain and Zoning District Regulations.
  3. The Confederated Salish and Kootenai Tribe for all work below the high watermark of Flathead Lake for properties located on the Flathead Indian Reservation.
  4. The Montana Department of Commerce for compliance with state building, electrical, plumbing and mechanical codes.

**IV. Permitted Uses**

- A. Residential single family use, including manufactured housing
- B. Accessory Structures
- C. One guest house per tract for private use, which does not contain more than 1,000 square feet of living area.
- D. Agricultural Activities and forestry operations.
- E. Impervious surface area covering up to 29% of the buildable area of the lot
- F. Short-term vacation rental of the property as a whole if a State-license is obtained in conjunction with the use. No short-term independent rental or habitation of more than one living unit on a property within the district shall be allowed without approval of the governing body.

**V. Conditional Uses**

- A. Bed and Breakfast
- B. Home Occupation
- C. Expansion of existing business
- D. More than one guest house per tract for private use
- E. A guest house for private use containing more than 1,000 square feet of living area.
- F. Mobile homes
- G. Business sign in compliance with Section XI
- H. Duplex unit if the property meets the density requirements.
- I. A separate living facility within a single-family residential structure for family member use or live-in domestic help. This is not intended for creation of facilities for rental purposes.
- J. Any independent rental of more than one dwelling unit on a residential property if the use meets the density requirements for the district and also requires review and approval by the Board of Lake County Commissioners as a subdivision created by rent or lease.
- K. Retreat center and church camp
- L. Structures over 30 feet in average height
- M. Industrial use for processing local fruit
- N. Impervious surface area covering between 30 and 49 percent of the buildable area of the lot.
- O. Temporary Dwelling
- P. Disturbance of more than 500 square feet of slopes greater than 25% within 300 feet of the high water mark on lakefront lots
- Q. Disturbance of more than 2000 square feet of slopes greater than 25 % on interior lots
- R. Conversion of existing commercial use properties containing multiple uses and multiple units that were established prior to the creation of the East Shore Zoning District to individual condominium ownership, subject to compliance with all state and local subdivision and sanitation regulations.

**VI. Prohibited uses:**

- A. Residential multi-family units
- B. Condominium development or ownership other than that addressed in Section V

- C. Industrial other than that addressed in Section V
- D. Recreational vehicle campgrounds
- E. Mobile home parks
- F. Commercial uses, unless the landowner demonstrates to the Board of Adjustment that the property was an active commercial use, and assessed commercially by the Department of Revenue or County Assessor's Office for at least a continuous 5 year period since the time of adoption of the zoning regulations (1991), and the requested use is reviewed and approved as a variance by the Lake County Board of Adjustment pursuant to Section XVII.D.3 of these regulations and Chapter 76, Part 2, MCA.
- G. Impervious surface area covering more than 49% of the buildable are of the lot. If the lot existed prior to the implementation of the zoning district regulations, a variance to this provision may be considered by the Board of Adjustment provided a written plan is submitted by a professional engineer demonstrating that concerns with storm drainage can be mitigated.
- H. Development or construction in areas designated as being subject to a flood of a 100-year frequency or within a Federally recognized wetland.

**VII. Setbacks**

- A. The required setbacks for buildings shall be measured from the projection of the structure, including foundation walls, eaves, and attached decks, walkways and patios that ends closest to the applicable property line, right-of-way, road surface or lake, and shall be a minimum of:
  1. 50 feet from the high water mark of Flathead Lake with required vegetative buffer
  2. 100 feet from the centerline of Hwy 35, or 50 feet from the right-of-way, whichever is greater.
  3. 20 feet from other property lines except for on lots that exist at the time zoning was adopted which contain an average width less than 200 feet the setback shall be 10% of the lot width, provided that no structure shall be located closer than 10 feet to a property line.
  4. 50 feet from neighboring orchards. For the purposes of this provision, the orchard must constitute an agricultural activity as defined by these regulations and must be a maintained orchard (irrigated, pruned, sprayed, etc).

**VIII. Structures**

- A. Structures shall not be located on slopes which exceed 25 percent. Structures, for the purpose of this restriction, shall not include stairways, walkways, or other access related improvements. A reasonable variance shall be granted to allow construction of a residence on lots that exist at the time zoning was adopted which cannot meet this requirement, provided a written plan is submitted by a professional engineer demonstrating that concerns with fire protection and access, slope stability, soil erosion and storm drainage can be mitigated.
- B. Accessory structures shall meet all setback requirements, except as described in C.

below.

- C. Only lake related structures are permitted within the Lakeshore Protection Zone, which is defined as the area within 20 feet landward from the high water mark. All work in this Zone is governed by the Lake County Lakeshore Protection Regulations. Lake related improvements built within the 50-foot vegetative buffer required by the regulations shall comply with the standards required by the Lakeshore Protection Regulations.
- D. Structures shall not exceed 30 feet in average height as measured from the natural grade, unless as permitted under Section V.
- E. Satellite dish antennae shall meet all setbacks for structures.

**IX. Outdoor Lighting**

All new and replacement nighttime outdoor lighting must be direct its light downward and be side-shielded to prevent glare beyond the boundary of the subject property.

**X. Buffer Strips:**

A vegetated buffer strip at least 50-foot wide is required of all newly developed and subdivided lakefront properties as of the 2008 update of these regulations. The buffer strip shall be located on the waterward side of all impervious surfaces except those governed by the Lake County Lakeshore Protection Regulations, and shall be measured from the highwater mark of Flathead Lake to the closest impervious surface. A buffer strip design plan, including the different types of vegetation, storm water runoff control measures, and scaled sketches, shall be reviewed as part of the Zoning Conformance Permit process.

**A. Vegetation**

- 1. Buffers shall consist of a mixture of trees, shrubs, native grasses and forest duff/leaf litter. Examples of areas that do not qualify as buffer strips include grass lawns, orchards or landscaped areas where the understory has been modified. (Note: Native vegetation is typically better adapted to area soils, rainfall and temperatures and will require no fertilization and less long-term maintenance than non-native vegetation. It also provides high quality habitat to native wildlife species.)
- 2. A diversity of tree species and size classes that are representative of undisturbed forest stands shall be maintained.
- 3. In order to promote a healthy and effective buffer strip, the clearing of vegetation shall be limited to the following:
  - a. Removal of dead, windblown, damaged or diseased trees and branches.
  - b. Replacement of lawns or other modified landscaping with a variety of species and sizes to increase the buffering capacity of the area.

- c. Removal of up to one-half of the live trees to improve the scenic view and to minimize fire danger provided that at least 75 percent of the trees  $\geq 8''$  in diameter at breast height are maintained.
4. Removal of vegetation less than four feet in height is limited to that necessary to create a winding footpath, defensible space around a home, boat access or to remove noxious weeds and plants such as poison ivy.
5. Pruning of live tree branches is permitted provided that at least the top two-thirds of an individual tree's canopy is maintained.
6. Areas with a slope of 25 percent or greater are too steep to be effective as a treatment buffer and shall be left undisturbed if fully vegetated. If the area has been modified, restoration of the area by the creation of a buffer strip is encouraged.

**B. Lake Access**

1. Footpaths shall not exceed six feet in width.
2. Footpaths shall not run in a straight line directly to the water. Instead, they should meander and be designed to avoid the channelization of runoff.
3. Footpaths and boat access ways must include features (e.g., shallow stone trenches) that spread runoff from the hard surface into the vegetated buffer strip without channelizing the runoff, which causes the ground surface to erode.
4. Boat access shall be seeded or mulched to reduce erosion.

**C. Permitted Features and Activities:**

1. Within the buffer strip, permitted features include walking paths, boathouses, boat ramps and boat rail systems, as governed by the Lake County Lakeshore Protection Regulations.
2. Landscaping and the planting of vegetation in the buffer strip is permitted and shall incorporate every feasible step to minimize erosion. Restoring an altered area to a vegetative buffer is encouraged. The clearing of vegetation, as described above, is also permitted.
3. All vegetative buffers that exist within 50 feet of the highwater mark at the time of the adoption of these regulations shall be managed as vegetative buffer according to these regulations.

**D. Prohibited Activities:**

1. Except as necessary to access boat ramps and maintain docks and other recreational facilities, all driving of motorized vehicles in the buffer zone is prohibited to prevent soil compaction and erosion.
2. Except as permitted under the Lake County Lakeshore Protection Regulations, the construction of impervious surfaces is prohibited.
3. Removing a buffer strip that exists at the time of adoption of this regulation is prohibited.
4. Removing vegetation that exceeds the stipulations described above is prohibited.

**E. Long-Term Maintenance:**

1. Buffer strips must be maintained so that channelization of storm water runoff does not occur.
2. All foot paths and boat ramp accesses must be maintained to minimize erosion. Eroded areas or areas with bare soil shall be seeded or mulched.
3. Fertilizers, pesticides and herbicides shall not be used in the buffer strip to prevent nutrients and other chemicals from entering Flathead Lake.

**F. Variance:**

1. A variance from the above regulation may be granted in the following two circumstances:
  - a. For those lots created prior to the 2008 update of these regulations, a reasonable variance may be granted by the Lake County Board of Adjustment where compliance would result in unnecessary hardship due to the physical conditions and limitations of the property. However, a variance shall not allow for adverse impacts to the environment.
  - b. In order to protect homes from fire danger, the width of the buffer strip may be reduced so that a defensible space around the home may be created and maintained.

**XI. Signs**

- A. New business signs may be allowed only along Hwy 35, and as a conditional use. The following standards apply:
1. Detached signs located at a place of business shall not exceed 16 square feet in sign area, or extend more than 15 feet in height above the average elevation of the natural ground level at the site.
  2. Signs attached to a place of business shall not exceed 16 square feet in sign area, or extend more than 30 feet in height above the average elevation of the natural ground level at the site.
  3. Signs, which are not located at the place of business, shall not exceed 16 square feet in sign area, or extend more than 10 feet in height above the average elevation of the natural ground level at the site.
  4. Signs shall be designed and constructed of materials and colors that blend with the surrounding natural environment, but also maintain visual clarity to convey their message to the public.
  5. Signs, if illuminated, shall be lighted by continuous, stationary, shielded external light sources, directed to illuminate only the sign as to not be obtrusive to adjacent landowners. (Internal illumination and neon are not permitted.) Signs shall not rotate, move, flash, change or blink, except if utilized by a government agency for public safety or information.

**XII. Home Occupations**

**A. Intent:**

The intent is to prevent the commercialization of a residential area, by limiting the

floor area and potential impacts resulting from an occasional commercial transaction.

**B. Determination:**

The decision as to whether a use is a home occupation under the zoning regulations shall be made by the Zoning Administrator and that decision may be appealed to the Board of Adjustment.

**C. Review Guidelines:**

A use that is determined to be a home occupation under the terms of the zoning regulations, may be allowed as a conditional use, and the following guidelines shall be considered by the Board of Adjustment:

1. The use of the residential property for a home occupation must be clearly incidental to its use for residential purposes.
2. The home occupation may be conducted within the residence or an accessory building, but the total floor area used for the home occupation shall not exceed 1200 square feet.
3. The outside appearance of the building or premises used for the home occupation shall be substantially similar to the appearance of other residential properties in the area.
4. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in the surrounding neighborhood.
5. No equipment or process shall be used in the home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property.
6. Vehicle or equipment repair shall be conducted only in enclosed buildings.
7. A home occupation shall not require any employees beyond the owners of the residence.
8. Outdoor storage shall be screened from public view by any effective combination of the placement of buildings, landscaped buffers, and screening fences or walls.

**XIII. Land Divisions/Density**

- A. All divisions of land within the District shall not exceed an average of one dwelling unit per 2 1/2 acres. The density requirements shall NOT be construed as a minimum lot size requirement. Subdivision development, which provides for lot sizes to be less than 2 1/2 acres may be allowed provided that the overall density of the subject parcel shall not exceed the required dwelling unit density per acre.
- B. Transfer of development rights between existing tracts is not allowed. All divisions of land must contain the acreage to meet the density requirement within the existing tract of record.
- C. All divisions resulting in individual tracts of land bordering the lake shall provide a minimum of 150 feet of actual lake frontage per single-family residential lot.

- D. When a division or development of land will include secondary lots or living units that will share a deeded common lake access, the common lake access shall be a minimum of one-half acre in size and contain a minimum of 150 feet of lakefront, except that an additional 10 feet of lakefront shall be added for each dwelling unit in excess of five.
- E. Any parcel of land, which is separated by deeded Montana Highway 35 right-of-way, shall be deemed to be divided by the highway and constitute two existing parcels of record, provided that the parcels meet the minimum size requirements of the State Department of Environmental Quality.
- F. All land divisions shall result in parcels that are able to be developed in conformance to the requirements of the zoning regulations.
- G. The property owner or agent shall be required to post notice of the subdivision proposal on the site of the subject property for a minimum of 21 days prior to the public hearing on the request. The notice shall be placed in a location that is conspicuous from the public roadway that accesses the property. This notice shall be printed on orange paper no smaller than 11" x 17" in size and shall contain the following language: "THIS PROPERTY IS THE SUBJECT OF A PUBLIC HEARING. CONTACT LAKE COUNTY PLANNING DEPARTMENT FOR MORE INFORMATION. 883-7235"

**XIV. Exemptions for Agricultural Activity and Sale of Produce**

- A. It is recognized that an integral part of the character of the East Lakeshore is the operation of orchards, vineyards, tree farms, and similar agricultural uses. Nothing in the zoning ordinance shall prohibit the normal operation of these activities. The following exemptions apply to the area:
  1. Fruit stands for the sale of produce grown in the local area are a permitted use. The purpose of this provision is not intended to allow for the purchase of non-local produce for resale on properties within the district, but rather to give local landowners engaged in agricultural activities the opportunity to sell local produce on properties within the district.
  2. On site facilities on agriculturally maintained properties for camping and housing for agricultural workers on a seasonal basis are permitted uses, provided such facilities comply with all Federal, State, and local Public Health requirements.
  3. Signs that advertise fruit stands or other aspects of the agricultural activities are a permitted use provided they are in place only on a seasonal basis. These signs shall not exceed 32 square feet in area if onsite, and shall not exceed 16 square feet of sign area if off site.

**XV. Storm Drainage**

- A. For each new structure or impervious surface area, it is the landowner's responsibility to manage all storm run-off without causing damage or harm to the



natural environment, water quality, or adjacent property.

- B. All applications for a zoning conformance permit shall contain a stormwater management plan. **\*\*Note:** many properties have Montana DEQ and/or Lake County Environmental Health Department approvals, which outline specific requirements of the stormwater management plan. Stormwater management plans previously approved by these agencies may be adequate for these requirements.
- C. All stormwater management plans shall be reviewed for substantial compliance with any existing approval or the adopted standards of the State of Montana Department of Environmental Quality.
- D. The total impervious surface coverage (the area of the roof, overhangs, attached decking, paved driveways and walkways, etc.) shall be calculated to design the appropriate stormwater technique, and the required size of collection tanks/infiltration chambers.
- E. Stormwater techniques used should include rain gutters and associated discharge pipes. The type of tank or infiltration system should meet the following guidelines/ requirements:
  - a. The system shall use the best methods for managing stormwater based upon soil types and the degree and amount of slopes.
  - b. The perforated pipe method with infiltration trenches/chambers are often the best method, dependent upon soil type and slope.
  - c. Dry wells and other bored, drilled, driven shafts, or dug holes that are deeper than their widest surface dimension are discouraged, as these types of subsurface infrastructures are considered “Class V injection wells” by the EPA, and require permitting from that agency.
  - d. All discharge of stormwater must be outside the 50-foot setback from Flathead Lake and/or other surface waters.
  - e. Where slopes are an issue, it is preferred that all stormwater is retained inland of the structure on lakefront lots.
  - f. Retention swales may be used for stormwater management of impervious surface coverage created by hard-surfaced driveways. However, these swales should not be within 50-feet of Flathead Lake and/or other surface waters.
- F. The storm water management plan may be required by the zoning administrator to be written by a registered professional engineer or other qualified professional, prior to the granting of a conditional use permit or variance. The zoning administrator will consider such factors as slope, soil type, vegetative cover, the percentage of impervious surface area, and the intensity of the proposed development project when determining if a management plan is required and assessing a plan’s adequacy.

## **XVI. Existing Uses**

Nothing in this regulation shall be construed to prevent or prohibit the use of any legally existing building, structure, or premises in use at the time of adoption of such ordinance. An existing use of property is a specific use of a building, structure or premises which was ongoing at the time of the effective date of these regulations (September 31, 1991). Such a use is permitted, however it is considered a nonconforming use if it does not comply with these regulations and therefore, the degree of non-conformity shall not be expanded.

The right to such a use shall terminate upon the cessation of the legally existing use (voluntary or otherwise) for a period of eighteen months, or at the time the structure(s) housing such use is destroyed. If fire or other natural disaster destroys a non-conforming structure or use, the replacing structure must meet the terms of these zoning regulations. The Board of Adjustment may grant a variance if a literal enforcement of this regulation will result in unnecessary hardship.

## **XVII. Administration**

### **A. Reviewing Authority**

The Lake County Board of Adjustment and the Lake County Planning Department administer these regulations. All permit applications shall be filed with the Lake County Planning Department. The Lake County Board of Adjustment has been created by the Lake County Board of Commissioners and shall have the authority to hear and decide upon appeals, conditional uses, and variances in accordance with Section 76-2-223, M.C.A and these regulations. Where Board review and action is required, the Lake County Board of Adjustment shall review the application.

### **B. Interpretation**

The Lake County Planning Director shall be designated as the Zoning Administrator with the responsibility to implement the zoning regulations. Any interpretation of decision by the Zoning Administrator concerning the zoning district and regulations may be appealed to the Lake County Board of Adjustment by any landowner within the district in accordance with the appeals section of these regulations.

### **C. Permit Requirements**

#### **1. Zoning Conformance Permit**

A permit shall be required for any regulated use or building activity listed as “permitted” in these regulations. Prior to any work, use, or construction on property within the zoning district, the landowner shall obtain a zoning conformance permit from the Lake County Planning Department to assure compliance with the Zoning Regulations. No permit shall be required for structures less than 100 square feet in size, provided they are not located within 50 feet of the high water mark of Flathead Lake, and provided they meet all other requirements of these regulations, including setbacks.

- a. An application shall be completed and submitted with the established review fee to the Lake County Planning Department by at least one holder of an interest in the real property of the land on which the development is

proposed.

- b. The applicant shall stake the exterior boundaries of any proposed structure, as well as any property lines necessary for permit review at the time the application is submitted.

## 2. **Conditional Use Permit**

In order to protect the public welfare and guarantee conformance with the intended purpose of the Zoning Regulations, permits are required for all conditional uses upon review and approval by the Lake County Board of Adjustment, which may condition approval of any use subject to reasonable measures deemed to mitigate associated negative impacts. A conditional use approval shall be required for any land use or building activity listed as a “conditional use” in these regulations prior to issuance of a permit for any work, use, or construction on the property commences.

- a. An application for all conditional use requests shall be completed and submitted with the established review fee to the Lake County Planning Department by at least one holder of an interest in the real property for which the conditional use is proposed within 30 days of a regularly scheduled meeting of the Board of Adjustment.
- b. At the Administrator's discretion, based on appropriate findings, a conditional use request application may be referred to a technical expert for review. The technical expert shall be a party agreed upon by the Zoning Administrator and the applicant. Such review shall be at the applicant's expense.
- c. The applicant shall stake the exterior boundaries of any proposed structure as well as any property lines necessary for the application review. This staking shall be performed at the time the application is submitted, and must remain in place until after the public hearing for the conditional use request.
- d. In addition to the application, the following information shall be submitted:
  - 1. A plan of the proposed site for the conditional use showing the location of all buildings, parking and loading area, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, landscaping, utilities, water and sewer services, signs, rendering of building exteriors, stormwater management plan, a letter of review and comment from the local fire department regarding the proposal, and such other information as the Zoning Administrator may require to determine if the proposed conditional use meets the intent and requirements of the Zoning District.
  - 2. A narrative statement that addresses the effects such elements as noise, glare, etc. of the proposal on adjoining property, and discusses the general compatibility of the proposal with other properties in the district as well as the relationship of the proposed use to the intent of

- the Zoning District.
- e. Standards for evaluation: The Board shall review the particular facts and circumstances of each proposed conditional use in the terms of the following standards and shall find adequate evidence showing that such use at the proposed location:
    - 1. Will, in fact, constitute a conditional use as established for the zoning district involved;
    - 2. Will be harmonious with and in accordance with the objectives of this Zoning District;
    - 3. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such use will not change the essential character of the same area;
    - 4. Will not be hazardous to existing or future neighboring uses;
    - 5. Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, water and sewer and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such services;
    - 6. Will not involve uses, activities, processes, materials, equipment and conditions of operation that will be detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, dust, odors, vibration, water pollution or safety hazards; and
    - 7. Will have vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares.
  - f. Hearing Notices: The Zoning Administrator shall place notice of the proposal in the local newspaper and notify all landowners adjoining the property to which the conditional use is proposed within 14 days of the Board of Adjustment Hearing.

The property owner or agent shall be required to post notice of the pending permit request on the site of the subject property for a minimum of 21 days prior to the public hearing or Board meeting on the request. The notice shall be placed in a location that is conspicuous from the public roadway that accesses the property. This notice shall be printed on orange paper no smaller than 11" x 17" in size and shall contain the following language: "THIS PROPERTY IS THE SUBJECT OF A PUBLIC HEARING. CONTACT LAKE COUNTY PLANNING DEPARTMENT FOR MORE INFORMATION. 883-7235"

**D. Appeals, and Variance**  
**1. General Requirements**

An application for all variance requests and appeals shall be obtained from the Lake County Planning Department, completed and submitted by at least one holder of an interest in the real property for which variance is proposed within 30 days of a regularly scheduled meeting of the Board of Adjustment. The applications shall be accompanied by the fee associated with its review as determined by the Lake County Board of County Commissioners.

## **2. Appeal**

Any person, the city, or federal, state, county, or city government agency, may file an appeal when aggrieved by a decision or interpretation made by the zoning administrator; provided, that the appeal is based on an allegation that the zoning administrator made an error in interpretation of these regulations, and the erroneous interpretation specifically aggrieves the appellant.

- a. The zoning administrator shall transmit any appeal with all supporting materials to the board of adjustment at least five (5) calendar days prior to the date of their next regularly scheduled meeting.
- b. An appeal under the terms of these regulations stays all proceedings in the matter appealed from unless the zoning administrator certifies to the board of adjustment hearing the application that, by reason of the facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property. In such case, proceedings shall not be stayed, except by a restraining order granted by the board hearing the appeal or by a court of record on application and notice to the zoning administrator from whom the appeal was taken and on due cause shown.
- c. Decisions of the board of adjustment shall be by motion. The basis for the decision on each appeal, and a detailed summary of the facts and basis supporting the determination, shall be recorded in the decision and shall constitute a part of the record thereof.
- d. Any person aggrieved by a decision of the board of adjustment may file an appeal with a court of record within thirty (30) days of the filing of the decision by the board.

## **3. Variance**

In addition to the application, the following information shall be submitted:

- a. A plan of the site for the variance proposal addressing all elements necessary to evaluate the request. These may include location of buildings, parking and loading area, traffic access and traffic circulation, open spaces, easements, existing and proposed grade, landscaping, refuse and service areas, utilities, water and sewer services, signs, stormwater management plan, and such other information as the Zoning Administrator may require.
- b. A narrative statement discussing the proposed use, the hardship peculiar to the property, and how the request is the minimum thing to alleviate the hardship. It should also evaluate the effects of the proposal on neighboring properties and the public, which includes consideration of the compatibility

of the proposal with other properties in the district and the relationship of the proposed use to the intent of the Zoning District.

c. Standards for evaluation

1. Hardships: Certain circumstances exist or arise wherein an unnecessary hardship is created through strict adherence to the provisions of these regulations. These provisions for the granting of a variance from the regulations are to ensure that the public welfare is secured and substantial justice can be done to those so affected.
2. Review: The Board shall review the particular facts and circumstances of each proposed variance. Findings are required to be made by the board for approval of a variance. No variance shall be granted unless the board finds all the following conditions are met or found to be not pertinent to the particular case:
  - a. Strict compliance with the terms of these regulations will limit the reasonable use of the property; and deprive the applicant of rights enjoyed by other properties similarly situated in the district.
  - b. The hardship is the result of lot size, shape, topography or other circumstances over which the applicant has no control.
  - c. The hardship is peculiar to the applicant's property.
  - d. The hardship was not created by the applicant.
  - e. The hardship is not economic (when a reasonable or viable alternative exists).
  - f. Granting the variance will not adversely affect the neighboring properties or the public.
  - g. The variance requested is the minimum variance which will alleviate the hardship.
  - h. Granting the variance will not confer a special privilege that is denied other similar properties in the district.

3. Hearing Notices

The Zoning Administrator shall place notice of the variance proposal or appeal in the local newspaper and written notice shall be sent by regular mail to all landowners adjoining the property to which the conditional use is proposed within 14 days of the Board of Adjustment Hearing.

The property owner or agent shall be required to post notice of the pending permit request on the site of the subject property for a minimum of 21 days prior to the public hearing or Board meeting on the request. The notice shall be placed in a location that is conspicuous from the public roadway that accesses the property. This notice shall be printed on orange paper no smaller than 11" x 17" in size and shall contain the following language: "THIS PROPERTY IS THE SUBJECT OF A PUBLIC HEARING. CONTACT LAKE COUNTY PLANNING DEPARTMENT FOR MORE INFORMATION. 883-7235"

E. **Grievance:**

An aggrieved landowner, within the district, may appeal the decision of the Zoning Officer to the Board of Adjustment or a decision of the Board of Adjustment to a Court of Record provided that the appeal is filed in 30 days or less of the issuance of decision to be contested.

F. **Violation**

Where the administrator finds any building or structure is erected, constructed, reconstructed, altered, or converted, or any land is used in violation of this Regulation a notice of non-compliance shall be issued in writing to the person responsible for such violations, as well as the property owner. The notice of violations shall indicate the nature of the violation and ordering the action necessary to correct it. The notices shall also order discontinuance of illegal uses, buildings or structures or of illegal additions, alterations, or structural changes.

If the person in violation chooses to appeal the notice of non-compliance he may file an appeal with the Board of Adjustment as set forth in this section. If the party in violation does not comply with or appeal the notice within thirty days the Administrator shall forward the notice of non-compliance to the Lake County Attorney.

The County Attorney may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, or use to restrain, correct, or abate such violation, to prevent occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises. A violation of the Zoning Regulations is a misdemeanor and shall be punishable by a fine not exceeding \$500.00 or imprisonment in the county jail not exceeding 6 months or both.

## **XVIII. Amendment**

A. **Mandatory Review**

The Lake County Planning Board shall review the zoning regulations in the fifth and tenth year of each decade. The Planning Board may propose amendments, and shall submit a written finding to the Board of Commissioners, which addresses the applicability of the zoning regulations to the current land use, development, social, economic, and environmental situation in the district.

B. **Amendments**

The zoning regulations may be amended in whole or in part by the affirmative vote of the Board of Commissioners after a public hearing is held in accordance with 76-2-205 MCA. A proposal to amend the zoning may be initiated by any landowner within the district, the Lake County Planning Board or Planning Department staff. However, prior to taking any action to amend the regulations the Commissioners shall solicit a recommendation on the proposed action from

the Lake County Planning Board. When considering an application for amendment to the provisions of these regulations the planning board and the board of commissioners shall be guided by and consider the criteria identified in state law Title 76, Chapter 2 MCA.

1. **Procedures:**

- a. Requests to amend the text of these regulations may be initiated by providing the zoning administrator with the proposed amendment and the applicable review fee at least thirty (30) days prior to a regularly scheduled planning board meeting.
- b. An owner of record, or his authorized agent shall sign the application for amendment.
- c. The applicant shall provide the names and addresses of all property owners adjoining the proposed amendment area.
- d. After acceptance of the completed application by the zoning administrator, the planning staff shall set a public hearing date and publish a public notice in compliance with state law.
- e. The planning board shall consider the application and make a recommendation to the board of commissioners to grant, amend or deny the application.
- f. Upon receipt of the recommendation of the planning board, the board of commissioners shall render a decision to grant, amend or deny the requested amendment based on the results of the public input, the staff report, and findings of the planning board.
- g. Should the proposed amendment be adopted by resolution in compliance with state law, the zoning administrator shall incorporate the amendment into the appropriate section or paragraph of these regulations.
- h. In the event that an application to amend these regulations is denied by the board of commissioners or the application for amendment is withdrawn after the hearing of the planning board, the zoning administrator shall have the authority to refuse to accept another application for any similar amendment within one year from the date of hearing of the previous application before the board.

2. **Amendments To Official Zoning Map (Rezoning):** An amendment proposing changes in the official zoning map shall follow substantially the same procedures as provided for above, with the following additional requirements to be adhered to:

- a. If property outside the zoning district is to be annexed into the district, it shall be adjoining and all proposals shall expand or compliment the existing subunit of the zoned property.
- b. In the event that an application filed by a real property owner in the area involved includes any property other than that owned by the applicant, then before the application will be accepted for processing, a petition in favor of the request signed by the real property owners representing at



least sixty five percent (65%) of the land area to be included in the application must be submitted. The petition shall bear the property owners signatures and addresses, the legal description and land area of each property represented in the petition, the total land area represented by the petition and the total land area of individual properties included in the application.

- c. In the event that the board of commissioners grants the application to amend or rezone, they shall notify the zoning administrator of their action and he shall be responsible for updating the official zoning map. The updating shall include the posting on the face of the official zoning map the date and the number of the resolution or ordinance amending the map.
- d. In the event that an application to amend (rezone) is denied by the board of commissioners or that the application is withdrawn after the planning board hearing, the zoning administrator shall have the authority to refuse to accept another application for any similar amendment within one year from the date of the hearing of the previous application before the board.

## **XIX. Definitions**

### **A. Accessory Structure**

Any structure, building or portion thereof, which is not a dwelling unit but is intended or designed to include features which allow it to support a dwelling unit, another structure or permitted use on a property. Accessory structures shall not contain typical living quarters, such as bedrooms or kitchen facilities. Accessory structures may contain a bathroom or laundry facilities appropriate to support its dependent use.

### **B. Agricultural Activities and Forestry Operations**

Land management and use that occurs in connection with the commercial production of locally produced farm or timber products, as identified in Sections I and XIV of this regulation. Uses include but are not limited to: raising of cows, horses, poultry, and other livestock, forestry, horticulture or orchards, and the construction, alteration or maintenance of agricultural buildings, roads, drainage systems, irrigation systems, and farm ponds.

### **C. Average Building Height**

The vertical distance of a structure is computed by determining the average of the highest point of each major side of a structure. The highest point does not include typical extensions above a roofline such as chimneys or antennas. The highest point shall be measured from the top of the highest component of each major side to the average ground elevation along that side. For the purposes of these regulations, all structures will have a maximum of four sides, and the highest point shall be determined as if the structure were to be squared off. The ground elevation for this purpose shall be measured from the lower of (1) existing grade prior to construction or (2) the newly established grade after construction,

exclusive of any filling, berming, mounding, or excavating solely for the purpose of locating the structure.

- D. **Bed & Breakfast**  
A single family dwelling containing individual sleeping rooms without kitchen facilities operated for the purpose of providing accommodations to short term travelers accommodations in which not more than (5) guest rooms are may be provided.
- E. **Buildable Area**  
That portion of a lot, which meets the setback requirements of these regulations and has less than a 25% slope, and upon which a building may be lawfully constructed
- F. **Church Camp ( See Retreat Center)**
- G. **Commercial Use**  
Any use involving the sale, rental, or distribution of goods, services, or commodities, either retail or wholesale, or the provision of recreation facilities or activities for a fee, except as may be allowed as a conditional use.
- H. **Conditional Use**  
Those uses requiring the review by of the Board of Adjustment following a public hearing. Because of characteristics peculiar to the uses, or because of the size, or because of the exact location with reference to topography, streets and existing improvements or demands upon public facilities, these uses require a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same area. The use may be authorized, upon finding by the Board that it is compatible with surrounding land uses and will comply with all conditions and standards for location, design, and operation of such use.
- I. **Destroy**  
A building/structure is considered destroyed if greater than 50% of the original structure that existed at the time of damage is deteriorated by the destructive action or is determined to no longer be able to be used for its intended purposes.
- J. **Duplex**  
An attached or semi-attached residential dwelling where not more than two individual dwelling units are entirely separated by vertical walls or horizontal floors that are un-pierced except for access to the outside or to a common cellar. These structures are normally used for rental purposes, which require governing body review and approval, but may also be used for family member use or live-in domestic help, which is a conditional use under section V.I. Duplexes are not residential multifamily dwelling units for the purposes of these regulations.

- K. Dwelling Unit  
Any structure, building or portion thereof within a larger structure, which is intended or designed for human occupancy as a residential use. A dwelling unit will include standard features such as bedrooms, bathrooms, a kitchen, laundry, and other facilities to support human inhabitants.
- L. Guest House  
An dwelling unit designed for use and occupancy on a temporary, short-term basis by the landowner's guests. A guest house shall not be rented.
- M. High Water Mark  
For the purposes of these regulations, the Zoning Administrator shall determine the approximate location of the high water mark by a visual identification of watermarks and debris along the shoreline, caused by standing water. When disputed or unclear this elevation shall be 2893.2 feet above sea level.
- N. Home Occupation  
Any occupation carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of said residence as a dwelling and does not change the residential character thereof, is conducted in such a manner as to not give any outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term, and does not infringe upon the rights of neighboring residents to enjoy a peaceful occupancy of their homes.
- O. Impervious Surface Area  
The part of the lot that is covered with man-made improvements. This includes, but is not limited to, such items as a house, garage, shed, decks, and hard surfaced (non gravel) driveways and parking areas.
- P. Industrial Use  
Any manufacturing, production, or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions. This term includes junkyards and similar facilities or uses. This term does not include manufacturing, production, or assembly that may be allowed as a home occupation under a conditional use.
- Q. Lake Frontage  
For the purpose of administering these regulations, lake frontage shall be based on the linear feet of lake frontage of the lot or tract to be developed. Where a property may be adjacent to publicly owned land for which a private improvement may be permissible, lake frontage is measured in linear feet along the high water mark elevation at the projection of the property boundary lakeward.
- R. Lakeshore Protection Zone

The lake, lakebed and the land area which is within twenty (20) horizontal feet of the parameter of the lake and adjacent wetlands when the lake is at the mean annual high water elevation, all work in this area requires a Lakeshore Construction Permit.

- S. **Legally Existing**  
The use is in full compliance with all applicable laws, rules, and regulations, including but not limited to possession of and compliance with any permit, license, or other approval required under Federal, State or Local regulations.
  
- T. **Manufactured Housing**  
Homes that are fabricated at a factory in accordance with the Uniform Building Code Standards applicable to site built homes and are transported to the site for final assembly on a permanent foundation. The term does not include mobile homes.  
  
For the purpose of these regulations, a manufactured house must be a minimum of 20 feet in width, placed on a permanent foundation, at least 1,000 square feet in size, and contain a pitched roof, siding and roofing materials that are customarily used on site-built homes.
  
- U. **Mobile Home**  
Any structure that is transportable in one or more sections, and which in the traveling mode is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation.
  
- V. **Mobile Home Parks**  
Any parcel of land under single or undivided ownership, which is designed and improved for the placement of two or more mobile home units.
  
- W. **Natural Grade**  
The elevation of the ground surface in its natural state before man made alterations including but not limited to stripping, cutting, and filling.
  
- X. **Nonconforming Use**  
A lawful use of a building, other structure or land, which predated the adoption of the zoning use regulations now in effect, and which would not be a use authorized in the district designation currently applied to that site.
  
- Y. **Prohibited Use**  
A use that is not permitted within the Zoning District. A landowner cannot be granted a variance for a prohibited use unless otherwise stated by these regulations.
  
- Z. **Residential Single-Family Use**  
The use of a property for occupancy by one family, and containing one primary

dwelling unit designed for independent use as well as accessory buildings that support the primary dwelling. This also includes a guest house as permitted by these regulations.

AA. Residential Multi-Family Unit

Any townhouse, condominium, or similar building, including the conversion of an existing single family dwelling into multiple individual dwelling units that are entirely separated by vertical walls or horizontal floors that are un-pierced except for access to the outside or to a common cellar. Multi-family units are designed for occupancy in separate living quarters by three or more families. Two family Units are considered Duplexes.

BB. Recreational Vehicle Campground

A place used for public or private camping where spaces are available to park individual camping trailers, pickup campers, motor homes, travel trailers, or automobiles for transient dwelling purposes.

CC. Retreat Center (church camp)

Any area or tract of land containing buildings and accessory uses that are intended to provide people with a common pursuit in a quiet location designed for seclusion. (Examples of land uses that qualify under this definition are a treatment facility for health purposes, and educational or religious facility, or an executive meeting facility. Examples of land uses that do not qualify as a retreat center under this definition are hotels, motels, and commercial resorts.)

DD. Slope or Grade

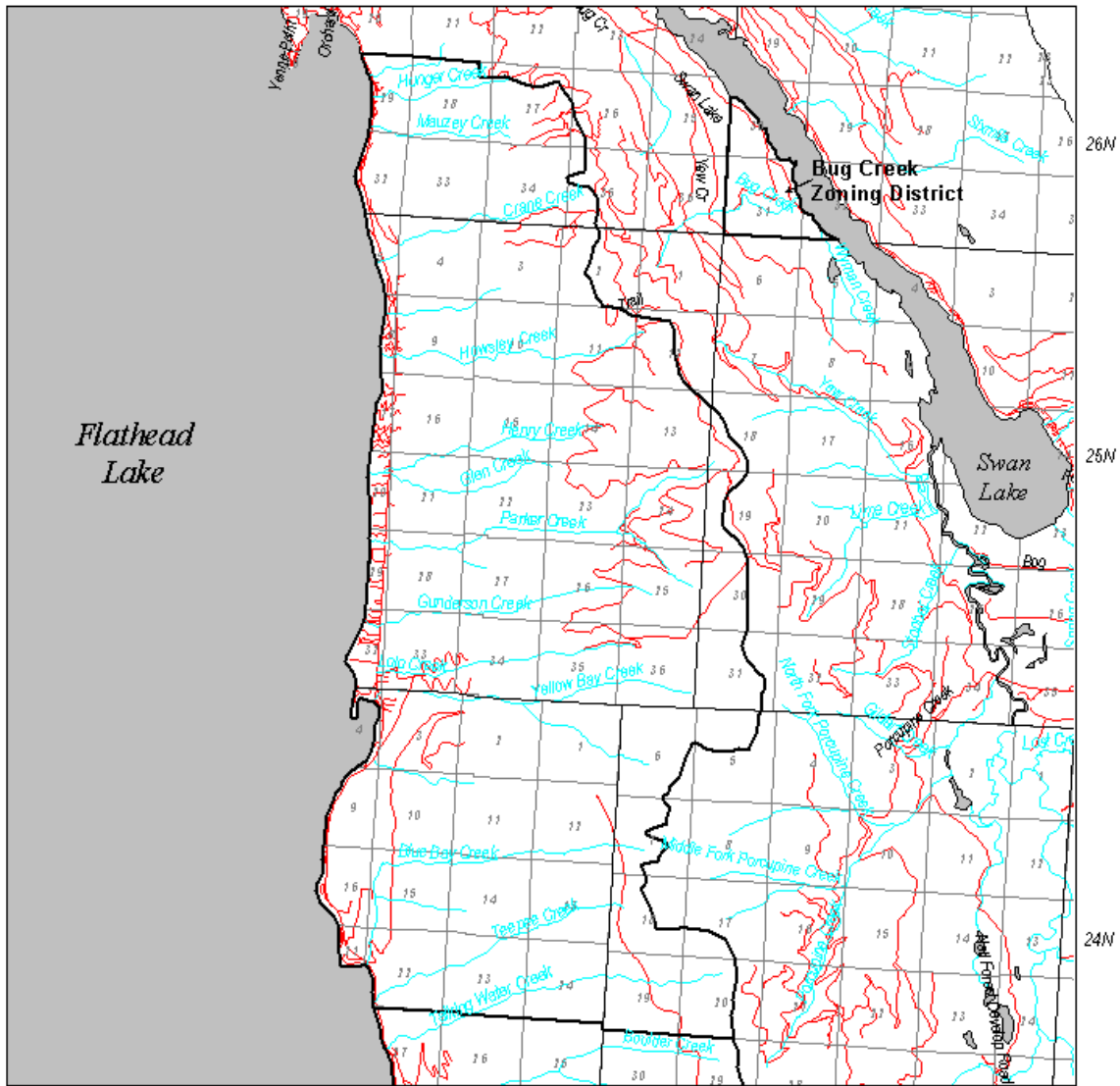
The degree of deviation of a surface from horizontal measured from the natural grade. For the purposes of these regulations, slope or grade is expressed in percent. Slope can be calculated in percent by dividing the vertical distance by the horizontal distance of the natural grade beneath the improvements proposed.

EE. Temporary Dwelling

- i. Establishment of a travel type trailer or single wide mobile home for a construction period not to exceed two (2) calendar years.
- ii. A temporary structure may be used on a seasonal basis provided that the structure shall not remain on the lot for more than five (5) months. The temporary structure shall be removed from the lot for a period of at least 30 days in order to activate a new 5-month period.

# East Shore Zoning District

Located in  
Townships 24-26 North  
Range 19 West



- Zoning districts
- Townships
- Waterbodies
- Sections
- Waterways
- Roads



Scale 1:120,000  
Lambert Projection

Lake Co. Plat Dept.  
Attn: 323/planning/assessment  
October, 2000