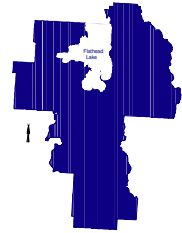


LAKE COUNTY
FINLEY POINT
ZONING DISTRICT & REGULATIONS



Effective September 1, 1991
Created 1991 Resolution 852, Amended 1993 Resolution 953, Amended
1995 Resolution 95-68, Amended 2000 Resolution 00-67,
Amended 2001 Resolution 01-37, Amended 2006 Resolution 06-41
Amended 2013 Resolution #13-33

I. Purpose

The purpose of the zoning is to help guide growth and development in the area to maintain the rural, residential, and recreational 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 are as follows:

North boundary - The north section lines of Sections 25, 26, and 27 of Township 24 North, Range 19 West

East boundary - The Mission Mountain Divide

West boundary - The highwater mark of Flathead Lake.

South boundary - The south section lines of Sections 32, 33, 34 and 35 of Township 23 North, Range 19 West.

(In general terms, the area begins on the north just south of Blue Bay and extends south to Hellroaring Creek, including all of Finley Point.)

These regulations shall apply to all lands within the District under the jurisdiction of Lake County.

III. Permit Requirements

A. Zoning Conformance Permit

Prior to construction of impervious surface area 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. Any construction within 20 feet of the high water mark of Flathead Lake is regulated by the Lakeshore Protection Regulations. Construction in the area between 20 feet and 50 feet of the high water mark must be lake related and shall adhere to the development guidelines of the Lakeshore Protection 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 line of Flathead Lake, and provided they meet all requirements of Sections V and VI for setbacks and structures.

B. Applicability

1. 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:

- a. The Lake County Environmental Health department for compliance with septic, and stormwater management rules and regulations.
 - b. The Lake County Planning Department for compliance with the Lakeshore Protection and zoning district Regulations.
 - c. The Confederated Salish and Kootenai Tribe for all work below the high watermark of Flathead Lake.
 - d. The Montana Department of Commerce for compliance with state building, electrical, plumbing and mechanical codes.
2. Covenants for individual properties may provide more restrictive development and use requirements. In the event that covenants are more restrictive than the zoning requirements, the property owner/developer shall demonstrate the governing homeowners association, or a majority of the landowners, have approved of the proposed plans and the covenants shall be updated to meet the proposal, prior to the issuance of a Zoning Conformance or similar permit.

C. Exemptions for Agricultural Use and Sale of Produce

It is recognized that an integral part of the character of the Finley Point area 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:

- a. Produce stands are a permitted use.
- b. Camping and housing for agricultural workers on a seasonal basis are permitted uses, provided that such facilities comply with all Federal, State, and Local Public Health requirements.
- c. Signs that advertise produce stands or other aspects of the agricultural operations are a permitted use provided they do not exceed 32 feet in sign area.

D. Conditional Use

In order to protect the public welfare and guarantee conformance with the intended spirit 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. In addition to the development standards defined in this document, the Board of Adjustment shall review and evaluate each conditional use request for the unique and special characteristics of the proposed use with respect to their location, design, size, method of operation, traffic circulation and requirements for public facilities.

E. Existing Uses

An existing use of property is a specific use of a building, structure or premises which was ongoing at the time of adoption of these regulations (September 1, 1991). Such a use is permitted, however the degree of non-conformity shall not be expanded.

The right to such a use shall terminate upon the cessation of that 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.

IV. District Regulations

A. Permitted Uses (See Section V for Conditional/prohibited Uses)

1. Single-family residential
2. One guest house per lot, which is not less than 200 square feet or more than 1,000 square feet of living area. Guest house must be in compliance with Section IV.B-D
3. Agricultural and forestry operations
4. Impervious surface area covering up to 15,000 square feet or 29% of the buildable area of the lot, which ever is less.
5. State-licensed short term vacation rental of the property as a whole; no independent rental or habitation of more than one living unit shall be allowed without approval of the governing body.

B. Setbacks

All setbacks shall be measured from the projection of the structure, including foundation walls, and attached decks, walkways and patios that ends closest to the applicable property line, right-of-way, road surface or lake shall be a minimum of:

1. 50 feet from the highwater mark of Flathead Lake in compliance with Section VIII.
2. 20 feet from property lines
3. For lots with an average width of 200 feet or less, the setback from property lines shall be 10 percent of the lot width provided that no structure shall be located within 10 feet of a property boundary
4. 100 feet from the centerline of Highway 35 or 50 feet from the right-of-way, whichever is greater
5. 50 feet from county road rights-of-way

C. Structures

1. Accessory structures shall meet all setback requirements.
2. Only lake related structures are permitted within the Lakeshore Protection Zone, which 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.
3. Satellite dish antennae shall meet all setbacks for structures.
4. No structure shall exceed 30 feet in height as measured from the natural grade.
5. That portion of a driveway or walkway which provides access to the property and is in fact used for ingress and egress is exempt to the setback standards of Section 5.
6. Pipelines and other utility structures that are completely buried and are otherwise lawfully installed are exempt to the permit requirements, structure and setback standards of Sections V, VI and XII.

D. Storm Drainage

1. All development shall demonstrate that any storm run-off that results from physical improvement of the property will be managed without causing damage or harm to the natural environment, water quality, or adjacent property.
2. A buffer strip along the high water mark of Flathead Lake must be maintained in compliance with Section IX.
3. Driveways shall be held to the same standard as other development.
4. A storm water management plan, written by a registered professional engineer or other qualified professional, may be required by the zoning administrator prior to the granting of a permit or variance in order to demonstrate that the development will not result in the deterioration of water quality and to the properties adjacent to the subject property. 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.

E. Outdoor Lighting

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

V. Sub-Unit Regulations

A. Highway Lakeside

This area includes the land on the lakeside of Highway 35 from Blue Bay to Skidoo Lane.

1. Conditional Uses
 - a. Bed and breakfasts
 - b. Home occupations
 - c. Expansion of existing businesses
 - d. Guest house with more than 1,000 square feet of living area.
 - e. Single-wide mobile homes
 - f. Business signs
 - g. Retreat centers and church camps
 - h. Industrial uses for fruit processing, natural food products
 - i. Building on slopes which exceed 25% on interior lots
 - j. The disturbance of slopes exceeding 25% on lakefront lots
 - k. Resorts
 - l. Impervious surface areas covering between 15,001 and 20,000 square feet or 30 and 49 percent of the buildable area of the lot, which ever is less.
 - m. Temporary dwellings & structures
2. Prohibited Uses
 - a. Industrial establishments
 - b. Mobile home parks
 - c. Solid or hazardous waste sites

- d. Casinos
 - e. Residential multi-family dwellings
 - f. Recreational vehicle campgrounds
 - g. Commercial establishments
 - h. Impervious surface area covering more than 20,001 square feet or 49% of the buildable area of the lot, which ever is less.
 - i. Development or construction in areas designated as being subject to a flood of 100-year frequency or as a federally recognized wetland.
 - j. Rental of two or more individual living units on a property unless the property is greater than the required density and approval of the used is reviewed and approved by Lake County as a subdivision for rent or lease.
 - k. Gravel Pit and mining operations
3. Density
- a. Average density: 1.5 acres
 - b. Development on the lakeshore shall provide a minimum of 100 feet of actual lake frontage.

B. Highway Mountainside

This area includes the land on the mountainside of Highway 35 from Blue Bay to Skidoo Lane, and that area south of Finley Point to the unit boundary.

1. Conditional Uses
- a. Bed and breakfasts
 - b. Home occupations
 - c. Expansion of existing businesses
 - d. Guest house with more than 1,000 square feet of living area.
 - e. Single-wide mobile homes
 - f. Business signs
 - g. Retreat centers and church camps
 - h. Industrial uses for fruit processing, natural food products
 - i. Building on slopes which exceed 25%
 - j. Resorts
 - k. Impervious surface areas covering between 15,001 and 20,000 square feet or 30 and 49 percent of the buildable area of the lot, which ever is less.
 - l. Temporary dwellings & structures
2. Prohibited Uses
- a. Industrial establishments
 - b. Mobile home parks
 - c. Solid or hazardous waste sites
 - d. Casinos
 - e. Residential multi-family dwellings (other than duplexes)
 - f. Recreational vehicle campgrounds

- g. Commercial establishments
- h. Impervious surface areas covering more than 20,001 square feet or 49% of the buildable area of the lot, which ever is less.
- i. Development or construction in areas designed as being subject to a flood of 100-year frequency or as a federally recognized wetland.
- j. Rental of two or more individual living units on a property unless the property is greater than the required density and approval of the used is reviewed and approved by Lake County as a subdivision for rent or lease.
- k. Gravel Pit and mining operations

3. Density

- a. Average density: 3.5 acres

C. Skidoo Lane

This area includes the land served by Skidoo Lane and Harrells Lane

1. Conditional Uses

- a. Home occupations
- b. Expansion of existing businesses
- c. Guest house with more than 1,000 square feet of living area.
- d. Single-wide mobile homes
- e. Business signs for home occupations
- f. Industrial uses for fruit processing, natural food products
- g. Building on slopes which exceed 25% on interior lots
- h. The disturbance of slopes which exceed 25% on lakefront lots
- i. Impervious surface areas covering between 15,001 and 20,000 square feet or 30 and 49 percent of the buildable area of the lot, which ever is less
- j. Temporary dwellings & structures

2. Prohibited Uses

- a. Industrial establishments
- b. Mobile home parks
- c. Solid or hazardous waste sites
- d. Casinos
- e. Bed and breakfasts
- f. Residential multi-family dwellings
- g. Recreational vehicle campgrounds
- h. Retreat centers and church camps
- i. Commercial establishments
- j. Impervious surface areas covering more than 20,001 square feet 49% of the buildable area of the lot, which ever is less.
- k. Development or construction in areas designed as being subject to a flood of 100-year frequency or as a federally recognized wetland.
- l. Rental of two or more individual living units on a property unless the property is greater

than the required density and approval of the used is reviewed and approved by Lake County as a subdivision for rent or lease.

m. Gravel Pit and mining operations

3. Density

a. Average density: 2 acres

b. Development on the lakeshore shall provide a minimum of 100 feet of actual lake frontage

D. Finley Point Lakeshore

This area includes the land on the lakeside of the North Finley Point Road and South Finley Point Road and the land of the Point north of the intersection of these roads, and that area south of Finley Point on the lakeside of Highway 35 to the unit boundary.

1. Conditional Uses

a. Bed and breakfasts

b. Home occupations

c. Expansion of existing businesses

d. Guest house with more than 1,000 square feet of living area.

e. Single-wide mobile homes

f. Business signs for home occupations

g. Retreat centers and church camps

h. Industrial uses for fruit processing, natural food products

i. Building on slopes which exceed 25% on interior lots

j. The disturbance of slopes which exceed 25% on lakefront lots

k. Impervious surface area covering between 15,001 and 20,000 square feet or 30 and 49 percent of the buildable area of the lot, which ever is less.

l. Temporary dwellings & structures

2. Prohibited Uses

a. Industrial establishments

b. Mobile home parks

c. Solid or hazardous waste sites

d. Casinos

e. Residential multi-family

f. Recreational vehicle campgrounds

g. Commercial establishments

h. Resorts

i. Impervious surface areas covering more than 20,0001 square feet or 49% of the buildable area of the lot, which ever is less.

j. Development or construction in areas designed as being subject to a flood of 100-year frequency or as a federally recognized wetland

k. Rental of two or more individual living units on a property unless the property is greater than the required density and approval of the used is reviewed and approved by Lake

County as a subdivision for rent or lease.

1. Gravel Pit and mining operations
3. Density
 - a. Average density: 1.5 acres
 - b. Development on the lakeshore shall provide a minimum of 100 feet of actual lake frontage

E. Finley Point Interior

This area includes the land on the interior of Finley Point between the North and South Finley Point roads including the land bordering the East Bay in Section 29, Township 23 North, Range 19 West.

1. Conditional Uses
 - a. Bed and breakfasts
 - b. Home occupations
 - c. Expansion of existing businesses
 - d. Guest house with more than 1,000 square feet of living area.
 - e. Single-wide mobile homes
 - f. Business signs for home occupations
 - g. Industrial uses for fruit processing, natural food products
 - h. Building on slopes which exceed 25% on interior lots and the disturbance of slopes which exceed 25% on lakefront lots
 - i. Impervious surface area covering between 15,001 and 20,000 square feet or 30 and 49 percent of the buildable area of the lot, which ever is less
 - j. Temporary dwellings & structures
2. Prohibited Uses
 - a. Industrial establishments
 - b. Mobile home parks
 - c. Solid or hazardous waste sites
 - d. Casinos
 - e. Residential multi-family dwellings (other than duplexes)
 - f. Recreational vehicle campgrounds
 - g. Commercial establishments
 - h. Retreat centers and church camps
 - i. Impervious surface areas covering more than 20,001 square feet or 49% of the buildable area of the lot, which ever is less
 - j. Development or construction in areas designed as being subject to a flood of 100-year frequency or as a federally recognized wetland.
 - k. Rental of two or more individual living units on a property unless the property is greater than the required density and approval of the used is reviewed and approved by Lake County as a subdivision for rent or lease.
 - l. Gravel Pit and mining operations

3. Density
 - a. Average density: 3.5 acres

F. Finley Point Highway

This area includes the land on Finley Point between Highway 35 and Gilman Lane and the main Finley Point Road as it aligns with Gilman Lane.

1. Conditional Uses
 - a. Bed and breakfasts
 - b. Home occupations
 - c. Expansion of existing businesses
 - d. Guest house with more than 1,000 square feet of living area.
 - e. Single-wide mobile homes
 - f. Business signs for home occupations
 - g. Retreat centers and church camps within 500 feet of the centerline of Highway 35
 - h. Industrial uses for fruit processing, natural food products
 - i. The disturbance of slopes exceeding 25% on lakefront lots and building on slopes exceeding 25% on non-lakefront lots
 - j. Resorts within 500 feet of the centerline of Highway 35
 - k. Impervious surface area covering between 15,001 and 20,000 square feet or 30 and 49 percent of the buildable area of the lot, which ever is less
 - l. Temporary dwellings & structures
 - m. Recreational vehicle campgrounds within 500 feet of the centerline of Highway 35
 - n. Community Commercial within 500 feet of the centerline of Highway 35 - except as prohibited in 2 (F) (2)
 - o. Building on slopes which exceed 25% on interior lots
 - p. Change of use of existing commercial properties
2. Prohibited Uses
 - a. Industrial establishments
 - b. Mobile home parks
 - c. Solid or hazardous waste sites
 - d. Casinos
 - e. Residential multi-family dwellings
 - f. Impervious surface areas covering more than 20,001 square feet or 49% of the buildable area of the lot, which ever is less
 - g. Development or construction in areas designated as being subject to a flood of 100-year frequency or as a federally recognized wetland.
 - m. Rental of two or more individual living units on a property unless the property is greater than the required density and approval of the used is reviewed and approved by Lake County as a subdivision for rent or lease.
 - n. Gravel Pit and mining operations
 - o. Non-community commercial properties

3. Density
 - a. Average density: 2.5 acres

VI. Conditional Uses

A. Home Occupations

The intent is to prevent the commercialization of residential area by limiting the floor area and potential impacts resulting from occasional commercial transactions. 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.

1. 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:

- a. The use of the residential property for home occupations must be clearly incidental to its use for residential purposes.
- b. 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.
- c. The outside appearance of the building or premises used for the home occupation shall be substantially similar to the appearance of their residential properties in the area.
- d. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in the surrounding neighborhood.
- e. 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 sensed off the property.
- f. Motor vehicle repair shops (excluding watercraft) shall perform all repairs in enclosed buildings. All vehicles or equipment in need of repair or awaiting customer retrieval at the repair shops shall be stored out of public view.
- g. A home occupation shall not require any employees beyond the owners of the residence who occupy the structure as their home.

B. Signs

1. New commercial business signs may be allowed only along Highway 35 and as a conditional use.
 - a. Detached signs located at a place of business shall not exceed 32 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.
 - b. Signs attached to a place of business shall not exceed 32 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.
 - c. Signs that 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.
 - d. 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.

- e. Home occupations shall not be permitted to have off-premise business signs.
- f. Home occupation on-premise signs shall be limited to 12 square feet in size.
- g. Business signs shall not be lighted.

2. Exemptions

- a. Political signs shall be allowed as a permitted use during campaign seasons, provided that they do not exceed 32 square feet of sign area.
- b. Temporary signs, such as real estate and garage sale signs, are permitted in each subunit if they are 32 square feet or less in sign area.

VII. Land Divisions

- A. All land divisions shall conform to the requirements of the zoning regulations (See Section V for Sub-unit density requirements). Any parcels of land which are separated by a deeded 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 go through subdivision review and meet the minimum size requirements of the State Department of Environmental Quality.
- B. Cluster development may be allowed in order to preserve wildlife habitat, recreational opportunities and open space, while providing for land development. All land divisions that utilize cluster development shall incorporate a green belt that would buffer potential impacts to adjoining landowners and the natural environment and can be utilized by the residents of the subdivision. Cluster developments are not granted by right, all subdivisions are subject to review, and the governing body shall make a determination whether the resulting development is compatible with the surrounding land use and neighborhood.
- C. Common Lake Access For development of secondary lots or living units which include common lake access, the common lake access shall be a minimum of one-half acre in size and contain a minimum of 100 feet of lakefront, except that an additional 10 feet of lakefront shall be added for each dwelling unit in excess of five.

VIII. Buffer Strips:

Intent:

The intent of this section is to provide for the development of shoreline properties while maintaining the chemical, physical, and biological integrity of Flathead Lake. This section is intended to complement the Lake County Lakeshore Protection Regulations, which govern development from the highwater mark of Flathead Lake to 20 horizontal feet inland.

Rationale:

Because vegetative buffer strips have been shown to minimize the soil erosion that results from residential development, contribute organic matter that is a source of food and energy for the aquatic ecosystem, enhance scenic and recreational resources, provide riparian wildlife habitat, and remove pollutants delivered from storm water runoff, the following regulation has been added to

the Finley Point Zoning Regulations:

A vegetated buffer strip at least 50-foot wide is required of all newly developed and subdivided lakefront properties as of December 2000. 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.

Procedure:

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.

Design:

Vegetation

- A. 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.)
- B. A diversity of tree species and size classes that are representative of undisturbed forest stands shall be maintained.
- C. In order to promote a healthy and effective buffer strip, the clearing of vegetation shall be limited to the following:
 - 1. Removal of dead, windblown, damaged or diseased trees and branches.
 - 2. Replacement of lawns or other modified landscaping with a variety of species and sizes to increase the buffering capacity of the area.
 - 3. 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.
- D. 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.

Lake Access

- A. Footpaths shall not exceed six feet in width.
- B. 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.
- C. 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.
- D. Boat access shall be seeded or mulched to reduce erosion.

Permitted Features and Activities:

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. 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.

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.

Prohibited Activities:

- A. 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.
- B. Except as permitted under the Lake County Lakeshore Protection Regulations, the construction of impervious surfaces is prohibited.
- C. Removing a buffer strip that exists at the time of adoption of this regulation is prohibited.
- D. Removing vegetation that exceeds the stipulations described above is prohibited.
- E. Fencing within the 50 foot buffer is allowed so long as any solid fencing is a maximum of 4 feet in height and outside the Lakeshore Protection Zone.

Long-Term Maintenance:

- A. Buffer strips must be maintained so that channelization of storm water runoff does not occur.
- B. 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.
- C. Fertilizers, pesticides and herbicides shall not be used in the buffer strip to prevent nutrients and other chemicals from entering Flathead Lake.

IX. Administration

A. Interpretation

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

B. Permit Requirements

A permit shall be required for any land development and building construction of permanent structures greater than 100 square feet. These regulations establish two kinds of permits:

1. **Zoning Conformance Permit:** A permit shall be required for any land use or building activity listed as “permitted” in these regulations prior to any work on the property to develop the proposed use.
 - a. An application for all zoning conformance permits shall be completed and submitted with the established review fee to the Lake County Planning Department by the owner or one owner of interest of the subject property.
 - b. The applicant shall stake the exterior boundaries of any proposed structure at the time the application is submitted.
 - c. Incomplete applications will be returned

2. **Conditional Use Permit:** A conditional use permit shall be required for any land use or building activity listed as a “conditional use” in these regulations prior to any work on the property to develop the proposed use.
 - a. An application for all conditional use permits shall be completed and submitted with the established review fee to the Lake County Planning Department by the owner or one owner of interest of the subject property twenty eight (28) days prior to a regularly scheduled meeting of the Board of Adjustment.
 - b. At the Administrator's discretion, based on appropriate findings, a conditional use permit 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. This staking shall be performed two (2) weeks prior to the public hearing for the conditional use permit.
 - d. In addition to the application, the following information shall be submitted:
 1. A dimensional plan of the proposed site with a scale of 1inch equal to 20 feet 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, a 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.
 2. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district and 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. Constitute a conditional use as established for the applicable zoning district;
 2. Is in accordance with the general objectives or with any specific objective of this Zoning District;
 3. Is 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. Is not hazardous or disturbing to existing or future neighboring uses;
 5. Is served adequately by essential public facilities and services such as roadways, 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. Does not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
 7. Does 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
 8. Provides vehicular approaches to the property which shall be designed as not to create an interference with traffic on surrounding public thoroughfares.
3. 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.

C. Appeals, and Variance:

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 28 days of a regularly scheduled meeting of the Board of Adjustment. The applications shall be accompanied by the fee in the amount set by the Lake County Board of County Commissioners.

1. Appeal: Any person may file an appeal when aggrieved by a decision or interpretation of the zoning administrator by delivering notice of the appeal to the zoning administrator within 28 days of the date of the decision being challenged.
 - a. The zoning administrator shall notify the Board of Adjustment of the appeal and deliver the case file to the Board at least seven (7) calendar days prior to the next regularly scheduled meeting.
 - b. The Board shall either affirm or reverse the decision of the administrator. The decision shall be in writing and contain the basis for the decision on each appeal, and a detailed summary of the facts and basis supporting the determination.
 - c. A person aggrieved by a decision of the board of adjustment may file an appeal with a court of record as provided by law within thirty (30) days of date of the decision by the

board.

2. 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. There is hereinafter provided provisions for the granting of a variance from the provisions of these regulations, so 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.
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.

D. Grievance

An aggrieved landowner, within the district, may appeal the decision of the Zoning Administrator 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.

E. Violation

Where the administrator finds any building or structure is erected, constructed, reconstructed, altered, or converted, or any building or structure of land is used in violation of this Regulation, or a person is violating any of the provisions within the zoning district regulations, 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 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 the notice within 20 days, the Administrator shall file a complaint with the Board of Adjustment. If the party in violation does not comply with the notice within thirty days or file an appeal with the Board of Adjustment within such a period, 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.

X. Amendment

A. Mandatory Review

The Zoning Regulations shall be reviewed by the Lake County Planning Board in the fifth and tenth year of each decade. The Planning Board shall conduct a public hearing and 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. Amendment Procedure

The zoning regulations may be amended in whole or in part by the affirmative vote of the Board of Lake County 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 Lake County 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/her authorized agent shall sign the application for amendment.
- c) The applicant shall provide the names and addresses of all property owners within and 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 notice in compliance with state law.
- e) The Planning Board shall consider the application and make a recommendation to the Board of Lake County Commissioners to grant, amend or deny the application.
- f) Upon receipt of the recommendation of the Planning Board, the Board of Lake County 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 Lake County 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 complement the existing sub-district 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 Lake County Commissioners grants the application to amend or rezone, they shall notify the Zoning Administrator of their action and he/she 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 Lake County 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.

XI. Definitions

A. Agricultural Use

Any management of any land for agriculture: raising of cows, horses, pigs, poultry and other livestock; forestry; horticulture or orchards; including the sale of products grown or raised directly on such land; and including the construction, alteration or maintenance of agricultural buildings, roads, drainage systems, irrigation systems, farm ponds, and fish ponds.

B. 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 on each major side shall be measured from the average ground elevation to the highest point of the structure. For the purposes of these regulations, all structures will have a maximum of four sides. 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. The highest point does not include typical extensions above a roofline such as chimneys or antennas. 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 building the structure.

C. Bed and Breakfast

A single family dwelling containing individual sleeping rooms without individual kitchen facilities which is operated by the owners who reside on the premises for the purpose of providing travelers with shore term travelers. A maximum of five guest rooms may be provided.

D. Buildable Area

That portion of a lot which meets the setback requirements of these regulations, has less than a 25 percent slope, and upon which a building may be lawfully constructed.

E. 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 by the Board of Adjustment after a public hearing, and upon finding that it is compatible with surrounding land uses and complies with the standards and the purpose of these regulations. The Board of Adjustment may prescribe conditions for such use.

F. Community Commercial

A commercial use that offers the benefit of convenience to area residents. The use shall be found to be compatible with surrounding land uses and shall not create a nuisance or public health and safety concern. Nuisances that shall be reviewed and found insignificant for the purposes of this use include but are not limited to smell, noise, lighting, & hours.

G. Conditional Use

Following a public hearing, the Board of Adjustment may authorize such use, upon a finding that it is compatible with surrounding land uses and will comply with all conditions and standards for location, design, and operation of such use. The Board of Adjustment may prescribe conditions for such use.

H. Destroy

A building/structure or nonconforming use is considered destroyed if greater than 60% of the original floor area that existed at the time of damage is deteriorated by the destructive action.

I. Dwelling Unit

Any structure, building or portion thereof within a larger structure, which is intended or designed for human occupancy and/or use and is supplied with water by a piped system.

J. Guest House

An attached or detached accessory building designed for occupancy on a short term basis to house guests of the occupants of the primary residence. Guest houses shall not exceed one per tract. Guest houses shall not be used for rental purposes and shall never be independently rented or offered for rent.

K. Highwater 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 coloration and debris along the shoreline caused by standing water.

L. 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.

M. Impervious Surface Area

The part of the buildable portion of a 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 driveways and parking areas. This definition shall not include fencing and vegetation use for

landscaping.

N. Industrial Use

Any manufacturing, production or assemble of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term includes junkyards and similar facilities or uses. This term does not include manufacturing, mineral extractions, production, or assembly that may be allowed as a home occupation under a conditional use.

O. 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 as well as any adjoining undeveloped lots under the same ownership. Lake Frontage is measured at the high water mark.

P. Lakeshore Protection Zone

The lake, lakebed and the land area which is within twenty (20) horizontal feet of the perimeter 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.

Q. 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.

R. 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 which means a detached residential dwelling unit which may consist of two or more sections fabricated at a factory and designed to be towed on its own chassis to a building site for occupation as a dwelling with or without a permanent foundation.

S. 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.

T. 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.

U. 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.

V. 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.

W. Planned Unit Development

A land development project subject to subdivision review consisting of residential cluster, or retreat center, or any combination thereof which comprises a planned mixture of land uses built in a prearranged relationship to each other and having open space and community facilities in common ownership of use.

X. Primary Residence

The permanent or main location of the residency on a property zoned for single-family residential use.

Y. Prohibited Use

A use that is not permitted within the zoning district. An individual cannot be granted a variance for a prohibited use.

Z. Residential Single-Family

Any detached building containing one dwelling unit, containing facilities for cooking, living and sleeping, and designed for permanent occupancy by one family.

AA. Residential Multi-Family

Any apartment, townhouse, condominium, or similar building, including the conversion of an existing single family dwelling, designed for occupancy in separate living quarters by more than one family.

BB. Recreational Vehicle Campground

A place used for public camping where persons can rent space to park individual camping trailers, pickup campers, motor homes, travel trailers, or automobiles for transient dwelling purposes.

CC. Retreat Center

A quiet facility that people may come to 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. Resort:

A self-contained facility offering short-term lodging, sanitary facilities, recreational horseback

riding, boating, fishing, biking, tennis and/or swimming. All resorts must have privacy fences and vegetative strips to buffer their visual and noise-related impacts. Tent camping and recreational vehicle parks do not constitute resorts.

EE. Short Term

On a basis less than 30-days.

FF. Slope or Grade

The degree of deviation of a surface from horizontal measured from the natural grade. For the purpose 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.

GG. Substantial Damage

Damage sustained by a structure where the cost of restoring the structure to its condition before the damage would equal or exceed fifty percent (50%) of the market value of the structure before the damage occurred.

HH. Temporary Dwelling

1. Establishment of a travel type or single wide mobile home for a construction period not to exceed two (2) calendar years.
2. A temporary structure may be used on a seasonal basis provided that the structure shall not remain on the lot for more than six (6) months. The temporary structure shall be removed from the lot for a period of at least six (6) months in order to activate a new 6-month period.

II. Vacation Rental

Rental of the property and associated living units to one entity on a basis less than 30-days. All short term rentals must obtain a public accommodation license from the State of Montana.

Finley Point Zoning District

Lake County, MT

Located in
Townships 23 & 24 North,
Ranges 18 & 19 West

