

## Section 4

### Review Procedures

4-1 Application

(A) Any person who proposes activity or work outlined in Section ~~3-4-3-5~~ of these regulations shall submit a completed "Application for Lakeshore Construction Permit." ~~The application along with appropriate review fees, along with a bid from a contractor. If a homeowner is doing the work themselves they shall submit a cost of materials bid from their materials resource. All information required shall be submitted to the Lake County Planning Department for processing.~~

(B) Review Fees

Review fees are authorized by the governing body and are set forth in the Lake County Planning Department fee schedule.

~~RESIDENTIAL AND COMMERCIAL~~

<del>Application for permit</del>	<del>FEE:</del>
<del>Cost of project:</del>	
<del>\$0-\$10,000.00</del>	<del>\$100.00</del>
<del>\$10,000.00-\$25,000.00</del>	<del>\$225.00</del>
<del>\$25,000.00-\$50,000.00</del>	<del>\$375.00</del>
<del>\$50,000.00-UP</del>	<del>\$500.00</del>
<del>Application for a Variance - Minor</del>	<del>\$200.00</del>
<del>Application for a Variance - Major</del>	<del>\$250.00</del>
<del>Extension of an existing permit</del>	<del>\$25.00</del>

(C) Additional Information

Additional information deemed necessary for adequate review may also be required.

If a variance is requested for the proposed project, the required variance information shall be submitted with the permit application. The facts and any mitigating measures which support the request shall also be described.

4-2 Application Procedure

(A) A permit application is accepted when it has been determined to be complete and is accompanied by the appropriate fee. If an application is determined incomplete, the Planning staff shall notify the applicant as to what additional information is needed to conduct the review.

(B) The planning staff shall review a completed application and other information for compliance with the requirements of these regulations and, based on this review, shall process the application as follows:

- (1) If a project meets the requirements of Section 4-3, it will receive administrative review in accordance with Section 4-3.
- (2) If a project does not meet the requirements of Section 4-3, but is in compliance with the policy criteria, construction requirements and design standards of these regulations, or if proper design modifications and necessary conditions can be incorporated into the project to bring it into compliance, it will receive summary review in accordance with Section 4-4.
- (3) If a project requires a variance, it will be reviewed in accordance with Section \_\_\_\_\_.

#### 4-3 Administrative Review Procedure

Certain activities and projects, by their very nature, when constructed within the approved requirements and standards of these regulations, have been pre-determined to have an insignificant impact on the lakeshore and lakeshore protection zone. For the activities listed below, the Planning staff may issue an administrative lakeshore construction permit when the Planning staff finds in each specific case that:

- (A) the proposed activity or activities will have an insignificant impact on \_\_\_\_\_ the lake and lakeshore protection zone; and
- (B) the activities comply with the construction requirements, design standards, and policy criteria of these regulations:

Projects eligible for Administrative Review:

- \_\_\_\_\_ Docks (for single-family or two-family residential use)
- \_\_\_\_\_ Boat rail systems
- \_\_\_\_\_ Boat Lifts
- \_\_\_\_\_ Boat Shelters
- \_\_\_\_\_ Waterlines or buried electrical lines
- \_\_\_\_\_ Rip rap repair/re-stacking
- \_\_\_\_\_ Gravel removal (dredging)
- \_\_\_\_\_ Ground-mounted decks
- \_\_\_\_\_ Walkways
- \_\_\_\_\_ Stairways

#### 4-4 ~~4-2~~ Summary Review Procedure

- (A) The planning staff shall review the application to determine whether or not the proposed project complies with the policy criteria, construction requirements and design standards contained in Sections ~~5-2 and 5-3~~ \_\_\_\_\_ of these regulations.

- (B) If the planning staff finds the project is in conformance with the policy criteria, construction requirements and design standards or if the applicant agrees to design changes and necessary "Conditions of Approval" in order to bring the project into compliance with such criteria, requirements and standards, the planning staff shall ~~so notify~~ recommend approval to the governing body, and the governing body may issue a permit.
- (C) If the planning staff determines that the project is not in compliance with the policy criteria, construction requirements and design standards, or the project will require a conditional use or variance pursuant to Section \_\_\_\_\_ of these regulations, the planning staff shall so notify the applicant. If the applicant does not elect to modify the project to bring it into compliance with these regulations or apply for a conditional use or variance pursuant to Section \_\_\_\_\_ of these regulations, the planning staff shall so notify the governing body. The governing body, based on its findings, shall deny, approve, or conditionally approve a permit. ~~the planning staff shall review the project to determine whether or not a variance could be granted pursuant to the requirements of these regulations.~~
- ~~(1) If the conditions for granting a variance pursuant to Section 3-5(B) are met, the staff shall so notify the governing body, and a permit may be issued.~~
- ~~(2) If the conditions for granting a variance pursuant to Section 3-5(B) may possibly not be met, the planning staff shall schedule the project for review by the planning board and so notify the applicant of the same.~~

#### 4-5 Variances

##### (A) General Criteria for all Variances

Variances may only be granted when the governing body determines that:

- (1) Due to unusual circumstances a strict enforcement of such requirements and standards would result in undue hardship,
- (2) The hardship is not economic in nature; and
- (3) No reasonable alternatives exist which meet the standards herein.

##### (B) Minor Variance

Minor variances from the construction requirements or design standards of these regulations may be granted when the governing body determines that:

- (1) The variance request meets the "General Criteria for All Variances" outlined in Section 4-5(A);
- (2) The variance request is a minor deviation from the construction requirements or design standards of these regulations;

- (3) Granting of the variance will not result in a threat to public safety, health, or welfare, and will not be injurious to other persons or property; and
- (4) Granting of the variance will not be adverse to the Policy Criteria outlined in Section \_\_\_\_\_.

(C) Major Variance

A variance request shall be considered major when the governing body determines that the variance request meets the "General Criteria for All Variances" outlined in Section 4-5(A) and that at least one of the following criteria are met:

- (1) The variance request deviates substantially from the construction requirements or design standards of these regulations; or
  - (2) The variance request is adverse to the Policy Criteria outlined in Section \_\_\_\_\_; or
  - (3) The variance request creates a major environmental impact.
- ~~(a) —~~

(D) Review Procedure

(1) Minor Variance

- (a) The applicant shall submit the required variance information, including relevant facts and any mitigating measures which support the request, along with appropriate review fees to the Planning Department.
- (b) The planning staff shall review the request and forward a recommendation to the governing body, including planning staff's findings as to the appropriateness of the variance.
- (c) The governing body, upon receipt of all materials and recommendations, may take any of the following actions:
  - (i) request comment from adjacent or other property owners that may be affected by approval of the variance request;
  - (ii) hold a public hearing;
  - (iii) determine that the variance request deviates substantially from the construction standards or design standards of the regulations, and require review as a major variance;
  - (iv) grant, modify, or deny the variance request based on the Variance Criteria outlined in Section \_\_\_\_\_.

(2) Major Variance

Major variances require the preparation of an environmental

impact statement, review by the planning board, and a holding of a public hearing by the governing body.

- (a) The applicant shall submit the required variance information and fees, including an environmental impact statement. The environmental impact statement shall be prepared at the expense of the applicant and shall contain the following information:

~~3-5 Variances (moved from Section 3, General Procedures)~~

~~(A) The governing body may grant a variance from the "Policy Criteria for Issuance of a Permit" (Section 5-1) only after preparing an environmental impact assessment, at the expense of the applicant, which conforms to the requirements of section, and after holding a public hearing as specified in this section.~~

~~(1) The environmental impact assessment shall contain the following information:~~

- ~~(i)(a)~~ description of the proposed project,
  - ~~(ii)(b)~~ description of, and the reason for, the variance being considered,
  - ~~(iii)(c)~~ description of existing conditions,
  - ~~(iv)(d)~~ description of known environmental effects, probable environmental effects, and any unavoidable environmental effects,
  - ~~(e)~~ probable environmental effects, and
  - ~~(f)~~ any unavoidable environmental effects, and
  - ~~(v)~~ description of anticipated impacts as they relate to each of the Policy Criteria in Section 5-1, and
  - ~~(vi)(g)~~ alternatives to the proposed project including an analysis of the impacts on the environment and neighboring properties for each alternative, and
  - (vii) any other information that may be required.
- ~~(b) Copies of the environmental impact statement shall be made available, at the expense of the applicant, to persons, agencies or organizations that may have an interest in the proposed project.~~
- ~~(c) The planning staff shall review the application, environmental impact statement, and other information, and schedule review by the planning board. Planning staff shall forward the application, all submitted information and staff findings and recommendations to the planning board for review.~~
- ~~(d) At a regular meeting of the planning board, the planning board shall review the submitted information and planning staff's findings and recommendations.~~

(e) The planning board shall make findings and submit recommendations to the governing body. In reviewing the variance request, the planning board shall consider the following:

(i) Compliance with the Policy Criteria;

(ii) Existence of unusual circumstances where strict enforcement of these requirements and standards would result in undue hardship;

(iii) Whether reasonable alternatives exist which meet these standards; and

(iv) Whether granting of the variance will result in a threat to public safety, health, or welfare, or will be injurious to other persons or property.

~~(b)~~(f) After receiving the recommendation of the planning board, the governing body shall hold a public hearing.

~~(2) After the governing body has prepared and distributed the environmental impact assessment, a public hearing shall be held.~~ Notice of the time and place of the public hearing shall be given by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing. The applicant and all adjoining landowners shall be sent notice of the time and place of the hearing and one (1) copy of the environmental impact assessment by certified mail not less than fifteen (15) days prior to the date of the hearing.

(g) Following the public hearing, the governing body may grant the variance, modify the variance, deny the variance, or continue the hearing to provide for the input of additional information. The governing body shall make findings based on the variance criteria outlined in this section and the following:

(i) Compliance with the Policy Criteria; and

(ii) Whether granting of the variance will result in a threat to public safety, welfare, or is injurious to other persons or property.

If a variance is granted, the governing body may attach "Conditions of Approval".

*(from Section 3, General Procedures)*

~~(B) The governing body may grant reasonable variances from the construction requirements and design standards contained in Sections 5-2 The and 5-3 of these regulations when the governing body determines that due to unusual~~

~~circumstances a strict enforcement of such requirements and standards would result in undue hardship, no reasonable alternatives exist which do meet the standards contained herein, and granting of the variance will not be adverse to the "Policy Criteria for Issuance of a Permit" as outlined in Section 5-1 of these regulations. Variances from design standards which would be adverse to the "Policy Criteria for Issuance of a Permit" must be reviewed under the provisions of Section 3-5(A) of these regulations.~~

~~(E)~~ (C) Variance requests require additional staff and board review. Therefore, these projects ~~is~~ are subject to supplemental fees as ~~outlined in Section 4-1(B)~~ set forth in the Lake County Planning Department Fee Schedule. All fees shall be paid at the time of application for variance. These fees are non-refundable.

#### ~~4-3~~ Planning Board Review Procedures

~~(A)~~ (A) ~~At a regular meeting of the planning board, the planning staff shall present its findings to the planning board in regards to the site investigation; the applicant may meet with the planning board in order to discuss the variance request.~~

~~(B)~~ (B) ~~After review of the planning staff's report and related discussion and inquiry, the planning board shall make a finding as to whether or not the proposed project is in compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1).~~

~~(1)~~ (1) ~~If the planning board finds the project to be in compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1), the board may recommend to the governing body that the variance request be granted, provided that "Conditions of Approval" may be attached to the permit.~~

~~(2)~~ (2) ~~If the planning board finds the project to be adverse to the "Policy Criteria for Issuance of a Permit" (Section 5-1), the board shall recommend to the governing body that the variance request be denied; such a recommendation shall include reasons for disapproval.~~

~~(C)~~ (C) ~~The findings of the planning board shall constitute a recommendation to the governing body. After receiving the recommendations of the planning board, the governing body shall review the variance request and the findings of the planning board in order to determine whether or not the project is in compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1).~~

~~(1)~~ (1) ~~If the governing body determines that the project will comply with~~

~~the "Policy Criteria for Issuance of a Permit" (Section 5-1), the governing body may issue a permit.~~

~~(2) If the governing body determines that the project can be brought into compliance with the "Policy Criteria for Issuance of a Permit" (Section 5-1) through minor changes in design or construction plans, the governing body may issue a conditional permit and list the specific "Conditions of Approval."~~

~~(3) If the governing body determines that the project will be adverse to the "Policy Criteria for Issuance of a Permit" (Section 5-1), the governing body shall deny the variance request and no permit shall be issued.~~

#### ~~4-4 Variance of "Policy Criteria for Issuance of a Permit"~~

~~If an application is denied, the applicant may initiate review of the application pursuant to Section 3-5(A) of these regulations by entering into a contract with the governing body and providing assignable security of not less than five hundred dollars (\$500.00) to cover costs incurred by the county to draft the impact statement, reproduce and distribute the impact statement, hold a public hearing for which notice has been published, and draft final findings and recommendations to the governing body.~~

~~The applicant shall reimburse the county for all costs incurred in reviewing a request for a variance from the "Policy Criteria for Issuance of a Permit" (Section 5-1). The contract, the security provided and the amount of security provided shall be expressly subject to acceptance by the governing body.~~

#### 4-5 Review Time Period

- (A) Review of an "Application for a Lakeshore Construction Permit" and its approval, conditional approval or disapproval shall take place within a ninety (90) day period unless the applicant agrees to an extension of the review period. The time period shall commence to run the day the application is submitted for review, provided all required information and review fees have been properly submitted. This review period does not apply to variance requests.
- (B) If an application is inadequate for review purposes in that all the required information or review fees have not been submitted, the planning staff shall notify the applicant of such ~~within five (5) working days of the submittal date~~ and the review period shall not commence until the application is suitable for review.

4-6 Lakeshore Construction Permit Validity

- (A) The permit issued under the authority of these regulations is valid for one (1) calendar year from the date of issuance. The approval period may be extended for a period not to exceed one (1) calendar year, provided the applicant requests an extension of time from the governing body before the original permit expires and the governing body agrees to the extension of time. Only one such extension may be granted. Once the approval period lapses, the permit becomes null and void. A new application must be submitted for review and a new permit obtained before the project may proceed.
- (B) The permit issued pursuant to these regulations strictly limits construction to authorized plans on file with the governing body, to all "General Construction Requirements" of Section ~~5-2~~, to all "Design Standards" of Section ~~5-3~~, and to all "Conditions of Approval" attached to the permit.
- (C) The permit issued pursuant to these regulations shall signify that the proposed project is in compliance with the "Policy Criteria for Issuance of a Permit" contained in Section ~~5-4~~ of these regulations. The issuance of a permit shall not be construed as insurance that the project is structurally sound, that the project will withstand environmental forces acting upon it, or that the project will accomplish its intended purpose.
- (D) The permit issued pursuant to these regulations shall grant authorization to begin construction of an approved project within the property and/or riparian boundaries of the applicant's property. The issuance of a permit shall not be construed as verification that the approved project is within such ~~riparian~~ boundaries; it is the applicant's responsibility to ascertain that the approved project is situated within ~~the riparian~~ such boundaries ~~of the subject property~~.
- (E) The permit issued pursuant to these regulations (along with the "Conditions of Approval") shall be publicly displayed within the vicinity of the twenty feet (20') of the project site during the entire construction period.
- ~~(F) If a proposed project requires a variance to the standards contained herein the applicant shall:~~
- ~~(1) waive the 90-day review time frame for the permit application,~~
- ~~(2) pay the necessary additional fees for a variance, as specified in section 4-3 (B),~~
- ~~submit the required application for the variance(s). (The variance request shall be acted on within 90 days of receipt of request.)~~

*moved from Section 3, General Procedures*

4-73-6 Violations

- (A) Each violation constitutes a separate offense and occurs if an individual:
- (1) Does or authorizes work on or alters a lake, lakebed, or the lakeshore protection zone without first obtaining a Lakeshore Construction Permit for such work; or
  - (2) Does work in excess of, or inconsistent with, that authorized by the issued Lakeshore Construction Permit. ~~A person who violates an order issued under the authority of these regulations, or a person who knowingly violates a provision of these regulations, or a person who knowingly does or authorizes work on or alters a lake, lakebed, and lakeshore without first obtaining a permit for such work, or does work in excess of a permit,~~
- (B) ~~Each violation is~~ commits a misdemeanor and, upon conviction, an individual may be sentenced to thirty (30) days in the county jail, fined five hundred dollars (\$500.00) or both, per violation.
- ~~(C)~~ (B) Fines collected under this section shall be paid to the General Fund of Lake County for the purpose of administering these regulations.
- (D) The governing body may also corrective measures to mitigate damage caused by a violation. Failure to comply with all requirements or the order may results in the County taking action under Section 4-7(B). A Lakeshore Construction Permit issued to mitigate the impacts of violations shall be subject to fees as described in Section 4-1.

4-83-7 Judicial Review and Enforcement

- (A) The District Court may hear and decide any complaint and petition of a governing body or an interested person for an order to restore a lake, lakebed, or lakeshore protection zone to its previous condition or to enjoin further work in the lakeshore protection zone.
- (B) The District Court may hear and decide any petition of an interested person for review of final action of the governing body on an application for a permit.

*Move to Section 1, General Provisions*

1-73-8 Amendment of Regulations

- (A) These regulations may be amended from time to time. Prior to adopting any proposed amendments, the governing body shall hold a public hearing thereon. The governing body shall give notice of the time and place of the public hearing by publication in a newspaper of general circulation in the county not less than fifteen (15) days prior to the date of the hearing.

- (B) Following the public hearing, the governing body may adopt proposed amendments and thereby effect a change in these regulations. The county may publish adopted changes in a form which is convenient for use.