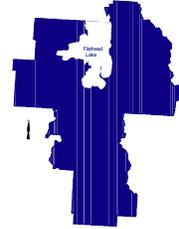


**LAKE COUNTY**  
**HISTORIC KOOTENAI LODGE**  
**(a.k.a. Kootenai Lodge Estates)**  
**ZONING DISTRICT & REGULATIONS**  
**(Effective October 19, 2007)**



**I. Purpose**

The purpose of the Historic Kootenai Lodge (a.k.a Kootenai Lodge Estates) Zoning District is to lessen congestion in the streets; secure safety from fire, panic and other dangers; promote public health and general welfare, provide adequate light and air; prevent overcrowding of land, avoid undue concentration of population; and to facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements. This zoning district and regulations have been made in accordance with the Lake County Growth Policy and with consideration to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of the land. These regulations also ensure the use of the Historic Kootenai Lodge (a.k.a Kootenai Lodge Estates) property conforms to the April 10, 2006 Revised Conditional Approval of the Historic Kootenai Lodge (a.k.a. Kootenai Lodge Estates) Condominium Subdivision and/or other appropriate documents.

**II. Boundary**

Kootenai Lodge Estates, (a.k.a. The Historic Kootenai Lodge Condominium Subdivision) located in Section 11, and Section 14, Township 26 North, Range 19 West, P.M.M., Lake County Montana, according to the map or plat thereof on file in the office of the Clerk and Recorder of Lake County, Montana.

**III. Permit Requirements**

**A. Zoning Conformance**

This document is intended to address property development after the construction of the structures approved by the April 2006 preliminary approval statement is complete.

Prior to construction of any new building or impervious surface area, modification or change of any land use or building 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 Swan Lake is regulated by the Lakeshore Protection Regulations.

Except for modifications to those structures built in compliance with the 2006 subdivision approval, all construction in the area between 20 feet and 80 feet of the high water mark of Swan Lake or River 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 80 feet of the high water line of Swan Lake or River, and provided they meet all requirements of the Zoning District.

**1. Applicability**

- a. 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.
- b. 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, well, and stormwater management rules and regulations.
  - 2. The Lake County Planning Department for compliance with the Zoning, Lakeshore Protection, and Floodplain Regulations.
  - 3. The Lake County Conservation District for compliance with lakeshore construction on Swan River
  - 4. The Montana Department of Labor and Industry for compliance with state building, electrical, plumbing and mechanical codes.

**IV. General Requirements**

**A. Land Use Restrictions**

**1. Permitted Uses**

- a. Individual dwelling units are for residential purposes only.
- b. The renting of a dwelling unit if the rental period is no less than 30 continual days within each rental period.

**2. Prohibited Uses**

- a. No dwelling unit or any part of the zoning district shall be used at any time for any business, trade, manufacture or other commercial purpose.
- b. The use of any homes or facilities for short term rental (less than 30 days) including bed and breakfasts, hotels, motels, rooming houses, boardinghouses, tourist homes and outfitting and guide facilities, as defined in Montana Code Annotated Title 50, Chapter 51, is prohibited.
- c. No dwelling unit or any facilities shall be used for access by non-residents of the Historic Kootenai Lodge (a.k.a. Kootenai Lodge Estates) Subdivision to Swan Lake and/or Swan River
- d. Ownership of dwelling units on a fractional or interval basis.

**B. Development Restrictions**

1. No portion of the zoning district shall be further subdivided.
2. Only 42 dwelling units, one community center/lodge with food service (Kootenai Lodge), pool facility, the barn to be used as a maintenance facility for the units, and a not-for-profit museum are permitted within the zoning district.
3. Boat slips for use by the dwelling units within the district shall be limited to a total of 24 upon review and approval of a lakeshore construction permit. Allocation and use of the slips shall be determined by the Unit Owners Association's Board of Directors or similar appropriate body.

**C. Building setbacks**

**1. Swan Lake and Swan River**

All new structures shall be located a minimum of 80 feet from the high water mark of Swan Lake and the Swan River. Lake related structures permitted by Lake County are exempted from this portion of the regulation.

**2. Johnson Creek**

No new structures shall be located within the 100-year floodplain of Johnson Creek or within 80 feet of either side of the stream, whichever is greater.

**3. Eastern District Boundary**

All new structures shall be located a minimum of 50 feet from the eastern district boundary.

**4. Northern and Southern District Boundaries**

All new structures shall be located a minimum of 20 feet from the northern and southern district boundaries.

**D. Existing structures**

After completion of the construction approved by the April 2006 preliminary approval statement, existing residential structures that do not meet setback or size requirements may be rebuilt in their present location in the event of being destroyed by fire or other natural disaster provided that:

1. The degree of non-conformity is not expanded;
2. No portion of the structure shall extend closer than the existing structure to any non-conforming setback requirement (as measured from the closest extension of the structure to the high water line of Swan Lake, the Swan River, or other district boundaries;
3. The storm water drainage (management) requirements of these regulations are complied with; and
4. All appropriate permits are secured from Lake County.

**E. Average Building Height**

The average building height for new structures and/or modifications to existing structures shall be a maximum of 30 feet, except the Kootenai Lodge

and barn. The Kootenai Lodge (community center/lodge) building and barn may maintain its existing height.

**F. Nighttime Outdoor Lighting**

All nighttime outdoor lighting shall be downward pointed and side shielded to prevent glare from leaving the property.

**G. Water and Sewer Facilities**

Each unit shall be connected to DEQ approved water system and the DEQ approved sewer system provided by the Kootenai Lodge-Lake County Water and Sewer District. Zoning conformance applications to modify any structure requiring water and sewer shall demonstrate adequate water and sewer capacity to serve the proposal.

**H. 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. Driveways shall be held to the same standard as other development.
3. A storm water management plan, written by a registered licensed professional engineer or other qualified licensed professional, may be required by the zoning administrator prior to the granting of a permit in order to demonstrate that the development will not result in the deterioration of water quality and/or to the properties adjacent to the subject property if the proposed development does not comply with the stormwater management plan approved by the Department of Environmental Quality.
4. Stormwater cannot be channeled to bypass any buffer strip.

**I. Vegetation Buffers**

1. All existing vegetation within the setbacks required by the zoning and as defined on the final subdivision plat shall be maintained as defined herein in order to protect water quality, wildlife habitat, and to provide a visual buffer of the subdivision from the lake/river, adjacent properties, and the County roadway. At the time of the subdivision review and approval, the setback along Swan Lake consisted of a grassy lawn and old growth trees and may be maintained as such.

The modification of any buffer shall consist of a mixture of native trees, shrubs, native grasses and forest duff/leaf litter. Examples of areas that do not qualify as buffer strips include grass lawns, orchards or more than 80% of 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. The height and width of the berm along the northern property boundary shall be maintained.
  3. Within the buffer strip, permitted features include walking paths, boat ramps and boat rail systems, as governed by the Lake County Lakeshore Protection Regulations or permitted by the Lake County Conservation District. Landscaping and the planting of vegetation in the buffer strip is permitted and shall incorporate best management practices to minimize erosion. The clearing of vegetation, as described below, is also permitted.
  4. 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. Maintenance of landscaping with a variety of species and sizes
    - c. Removal of live trees only to minimize fire danger provided that at least 75 percent of the trees  $\geq 8''$  in diameter at breast height are maintained.
    - d. Within the Eastern property boundary setback, vegetative disturbance shall also be permitted the purpose of constructing roads and utilities.
    - e. Within the waterfront buffers, removal of vegetation 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.
    - f. Vegetation required for modification of existing structures, shall be limited to only those structures outside the required setbacks.
    - g. Pruning of live tree branches is permitted provided that at least the top two-thirds of an individual tree's canopy is maintained.
  5. **Waterfront Pedestrian 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.
  6. **Prohibited Activities:**
    - a. Except as necessary to access maintain the lawn, 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.
    1. Fertilizers, pesticides and herbicides shall not be used in the buffer strip to prevent nutrients and other chemicals from entering Johnson Creek, Swan Lake and Swan River

**7. 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.

**V. Administration**

**A. Permits Required Prior to Construction**

Prior to the construction or remodeling of any structure greater than 100 square feet in size, a Zoning Conformance Permit shall be obtained from the Lake County Planning Department to ensure compliance with these regulations and the April 10, 2006 Revised Conditional Approval of the Historic Kootenai Lodge (a.k.a. Kootenai Lodge Estates) Condominium Subdivision and/or other appropriate rules and regulations. All lake-related structures shall be permitted under the Lake County Lakeshore Protection Regulations when they are to be located 80 feet of the high water mark of Swan Lake or the Swan River.

After the initial 42 dwelling units and the Kootenai Lodge together with appurtenant structures and facilities are restored, remodeled and/or constructed, when architectural review and approval is required by a design review committee or similar body as stated in the covenants, conditions and restrictions, the applicant shall demonstrate such approval prior to any permit being issued by Lake County.

**B. Amendment**

These regulations may be amended as defined in MCA 76-2, with the concurrence of a majority of the unit owners within the district. For such purposes, each unit shall have one vote.

**C. Appeals, Variances and Exceptions**

Appeals of a zoning officer's decision, variances and special exceptions from these regulations shall be heard by the Lake County Board of Adjustment as per the policies established by Lake County.

**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.

## **VI. Definitions**

### **A. 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. 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 shall be determined as if the structure were to be squared off when viewing the structure from a point perpendicular to that major 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, benning, mounding, or excavating solely for the purpose of building the structure.

### **B. Business, Trade, Manufacture or Other Commercial Purpose**

Any use of land or facilities 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. This does not include the rental of homes as specified above.

### **C. Fractional Ownership** Legal ownership and title possession to a home and property share within the Historic Kootenai Lodge (a.k.a. Kootenai Lodge Estates) Zoning District by multiple parties that are not related by lineage or

marriage. This in no way prohibits unit ownership by a limited liability company or similar entity.

**D. Funneling** Non-resident access to Swan Lake or the Swan River.

**E. Highwater mark** An approximate location along the shore of a water body that is visually identified by a distinct coloration and an accumulation of debris.

**F. Interval Ownership**

Legal ownership and title possession to a home and property share within the Historic Kootenai Lodge (a.k.a. Kootenai Lodge Estates) Zoning District by multiple parties that are not related by lineage or marriage whereby each party uses the facilities during different portions of the year. This in no way prohibits unit ownership by a limited liability company or similar entity.

**G. Lake Related Structures**

Docks, boat houses, storage facilities for aquatic equipment, enclosed facilities for the change of clothing or any other structure intended specifically for use related to the waters of Swan Lake or the Swan River.

**H. Residential and Recreational Use**

Use of one or more home and common facilities by the owner and his or her guests for occupancy and personal enjoyment. Such use is distinct from use of one or more homes and common facilities for business, trade, manufacture or other commercial purposes.

**I. 100-year floodplain**

The area that will be inundated by a flood event having a one percent chance of occurring in any given year.