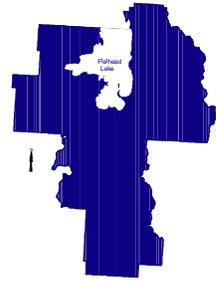


**LAKE COUNTY**  
**MASUMOLA ZONING DISTRICT**  
**AND REGULATIONS**



**Effective March 6, 2000**

***Resolution # 00-10***

**I. Purpose**

The purpose of the zoning is to help guide growth and development in the area, to maintain the rural character of the area and allow for development that is consistent and compatible with the existing pattern of growth, to protect and enhance property values and amenities, and to protect and enhance the natural environment, water quality, and wildlife.

**II. Boundary**

The District is contained within Sections 9, 16, 17, 20, and 21 of the Township 23 North, Range 20 West, P.M.M., Lake County, Montana as shown on the attached map.

(In general terms, its border on the south is Baypoint Lane and the north boundary is about one mile north of Kings Point Road. The border on the east is Flathead Lake and it extends one to one and one-half miles west of Rocky Point Road.)

The regulations shall apply to all lands within the District except land owned by the Confederated Salish and Kootenai Tribes, or land held in Trust by the Federal Government for the Tribes or their members.

**III. District Regulations**

**A. Uses**

1. Permitted Uses

- a. Single family residential, including manufactured homes
- b. Agricultural and forestry operations
- c. Impervious surface area covering up to 29 percent of the buildable area of the lot

2. Conditional Uses

- a. Home occupations
- b. Bed and breakfast
- c. Guest house/one per dwelling unit density
- d. Impervious surface area covering between 29 and 49 percent of the buildable area of a lot
- e. Temporary dwelling
- f. Disturbance of slopes greater than 25% (see definition G)

3. Prohibited Uses

- a. Industrial
- b. Commercial – except as provided for in Section III.A.(2)

- c. Mobile home parks
- d. Residential multi-family
- e. Recreational vehicle parks
- f. Marinas
- g. Commercial signs
- h. Mobile homes – except as provided for in Section III.A.(2).e
- i. Casinos
- j. Impervious surface are covering more than 49 percent of the buildable area of a lot
- k. Development or construction in areas designated as being subject to a flood of 100-year frequency or as a Federally designated wetland

#### **IV. Sub-District Regulations**

Due to the variation in existing land use patterns, the area is divided into Sub-Districts to allow for variable densities and uses. The densities set forth in these regulations are applicable only to lots created after the adoption of these regulations (February 16, 1994) and are not intended to prevent or prohibit development of an existing tract of record that does not conform to the density guideline of a particular Sub-District.

##### **A. Sub-District A- Grinde Bay**

This area includes land between Kings Point Road on the north to the Lake on the south and Rocky Point Road on the west to the Lake on the east. The east boundary is the common section line of Section 15 and 16 and the south boundary is the north boundary of the Patricia Bay Villa Site.

##### **1. Density**

- a. Lake front lots shall be a minimum of 1 acre in size and contain a minimum of 100 feet of frontage.
- b. All other land development shall not exceed one dwelling unit per 2 acres.

##### **B. Sub-District B- Sunnyshore**

This area includes land between Rocky Point Road and the Lake below the Grinde Bay Sub-district. It includes the Patricia Bay Villa, Sunny Shore Villa, and Deed Exhibit 254. It also includes land south of Sunny Shore Villa between Masumola Lane and Flathead Lake to the southern end of Masumola Lane (to the south boundary of Deed Exhibit H-811).

##### **1. Density**

- a. Lake front lots shall contain a minimum of 100 feet of frontage and contain 2 acres.
- b. All other land development shall not exceed one dwelling unit per 5 acres.

##### **C. Sub-District C- Johnson Point**

This area includes land between Rocky Point Road and the Sunny Shore Sub-District, and extends south between Rocky Point Road and Flathead Lake to the northern approach to Baypoint Road (north Boundary is Deed Exhibit H-287).

1. Density
  - a. Lake front lots shall be a minimum of 2 acres in size and contain a minimum of 150 feet of frontage.
  - b. All other land development shall not exceed one dwelling unit per 5 acres.
2. Special Conditional Uses
 

The following may be allowed as special conditional uses in addition to III.A.2., after public review and approval by the Lake County Board of Adjustment. (Also see Definition Y)

  - a. Retreat Center
  - b. Planned Unit Development
 

\* The minimum lot size and minimum lake front width may be varied in the approval for a PUD, provided the overall density and overall lake front use allowed is not exceeded.

D. Sub-District D- Hinman Point  
 This area includes land between Rocky Point Road and Flathead Lake, below the Johnson Point Sub-District.

1. Density
  - a. Lake front lots shall contain 100 feet of frontage.
  - b. All land development between Baypoint Road and the Lake shall not exceed one dwelling unit per 1<sup>1</sup>/<sub>2</sub> acres.
  - c. All other land development between Bay point Road and Rocky Point Road shall not exceed one dwelling unit per 5 acres.

E. Sub-District E- Stone Quarry  
 This area includes land that is north of Kings Point Road and west of Rocky Point Road to the north boundary of the zoning district. The southern boundary is the mid-section line of Sections 16 and 17 (north boundary of Patricia Bay Villa).

1. Density
  - a. All land development shall not exceed one dwelling unit per 2<sup>1</sup>/<sub>2</sub> acres.
2. Special Conditional Use
 

The following may be allowed as special conditional uses in addition to III.A.2. after public review and approval by the Lake County Board of Adjustment. (Also see Definition Y.)

  - a. Educational-recreational retreat facility of at least 40 acres. (See Definition W.)

F. Sub-District F- Johnson Range  
 This area includes land west of Rocky Point Road south of the Stone Quarry Sub-District to the south boundary of the Zoning District (Baypoint Lane).

1. Density
  - a. All land development within one-quarter mile of Rocky Point

- b. Road shall not exceed one dwelling unit per 5 acres.
- b. All other land development shall not exceed one dwelling unit per 20 acres.

2. Density Transfers

Landowners in this Sub-District may transfer rights for the allowable dwelling units per acre to another landowner in the Sub-District, provided that the overall density between the parcels included in the transfers does not exceed the maximum density allowed in Section IV.F.1 and provided a conservation easement or similar method is used to preserve the overall density that is allowable between the parcels.

3. Special Conditional Uses

The following may be allowed as special conditional uses in addition to III.A.2., after public review and approval by the Lake County Board of Adjustment. (Also see Definition Y.)

- a. Retreat center
- b. Planned Unit Development

**V. Structures**

- A. Structures shall not be located on slopes which exceed 25 percent. Structures, for the purpose of this restriction, shall not include stairways, walkways, or other access related improvements.
- B. Accessory structures shall meet all setback requirements, with the exception of lake-related structures (which are regulated under Lakeshore Protection Regulations).
- C. Structure height shall not exceed 30 feet as measured from the average ground elevation.
- D. Setbacks  
The required setbacks for structures shall be:
  - 1. 50 feet from the highwater mark of Flathead Lake.
  - 2. 20 feet from any public road (right-of-way or driving surface).
  - 3. 20 feet from property lines, except for lots with an average lot width less than 200 feet, the setback shall be 10 % of the lot width, provided that no structure shall be located closer than 10 feet to a property line.
- E. Satellite dish antennae shall meet all setbacks as structures, and shall not be visible from the Lake.
- F. Existing residential structures that do not meet the setback requirements may:
  - a. Be rebuilt in their present location in the event of being destroyed less than 50 percent by fire or other natural disaster.
  - b. Be remodeled at their present location.
  - c. Not be expanded.
- G. A reasonable variance shall be granted to allow construction of a residence on

lots that exist at the time zoning is adopted which cannot meet the setbacks in the zoning, provided that no residence shall be closer than 20 feet to the lake and that adequate storm drainage is assured.

**VI. Zoning Conformance Permit**

Prior to construction of any structure in the zoning district, the landowner shall obtain a zoning conformance permit from the Lake County Land Services Department to assure compliance with the zoning regulations. No permit shall be required for structures less than 100 square feet in size, provided they are not located within 20 feet of the high water mark of Flathead Lake, and provided they meet all requirements of Section V for structures.

**VII. 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 acre in size and contain a minimum of 100 feet of lake front, except that an additional 10 feet of lake front shall be added for each dwelling unit in excess of five.

**VIII. Cluster Development**

The density requirement shall not be construed as a minimum lot size requirement. Development, which provides for lot sizes to be less than the density limitation may be allowed provided that the overall average density of the subject parcel shall not exceed the required density per acre. However, no variation of the minimum lake frontage per lot shall be allowed.

**A. Density Bonus**

A density bonus allocation may be given for clustering development and committing land in open space, resource use, common area, or parkland. The allocation shall be based upon the percentage of the tract left in open space, as follows:

% of tract in open space	<u>20</u>	<u>30</u>	<u>40</u>	<u>50</u>	<u>60</u>	<u>70</u>	<u>80</u>	<u>90</u>
% Increase in units/acre	<u>05</u>	<u>10</u>	<u>15</u>	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>

**B. Subdivision Review**

All land division that utilizes density clustering shall be subject to subdivision and sanitation reviews, and the governing body shall determine whether the resulting development is compatible with surrounding land uses and the neighborhood.

**IX. Home Occupations**

**A. Intent**

The intent is not to restrict or infringe on the privacy of one's home, and a home occupation for purposes of a conditional use shall be one that requires customers on a continuing basis to come to transact business, aside from an occasional commercial transaction.

**B. Determination**

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

appealed to the Board of Adjustment.

C. **Review Guidelines**

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

1. The use of the residential property for a home occupation must be clearly subordinate to its use for residential purposes.
2. The home occupation may be conducted within the residence or an accessory building, but the total floor area used for the home occupation shall not exceed 1200 square feet.
3. The outside appearance of the building or premises used for the home occupation shall be substantially similar to the appearance of other residential properties in the area.
4. No traffic shall be generated by the home occupation in greater volumes than would normally be expected in the surrounding neighborhood.
5. No equipment or process shall be used in the home occupation, which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the property.
6. Vehicle or equipment repair shall be conducted only in an enclosed building.
7. A home occupation shall not require more than two (2) employees beyond the owners of the residence.

X. **Existing Uses**

Nothing in these regulations shall be construed to prevent or prohibit the use of any existing building, structure, or lot at the time of adoption of such ordinance.

XI. **Nonconforming Uses of Land and Structures**

Where, at the time of passage of these regulations, a lawful use of land or a structure exists which would not be permitted by the regulations, the use may be continued where it remains otherwise lawful, provided:

- A. A nonconforming use may not be enlarged or increased, nor extended to occupy a greater area of land or structure than was occupied on the effective date of adoption or amendment of these regulations;
- B. No nonconforming use may be moved in whole or in part to any portion of the lot or parcel other than that occupied by such use on the effective date of adoption or amendment of these regulations;
- C. Should any nonconforming use cease for any reason for a period of more than one year, any subsequent use of the land or structure shall conform to the regulations specified by these regulations for the district in which such land is located;
- D. No additional nonconforming structure shall be erected in connection with such nonconforming use of land or structures.

**XII. Storm Drainage and Pollution Mitigation**

- A. All development shall ensure that any storm water run-off that results from physical improvements of the property will be removed without causing damage or harm to the natural environment and water quality on property adjacent to the subject property
- B. New development adjacent to the Lake shall submit a vegetative buffer plan for review with the applicable zoning permit prior to development.

**XIII. Signs**

- A. Residential Sign Standards
  - 1. Off-premise signs are prohibited unless they are residential directional signs less than 2 square feet in size and are not illuminated.
  - 2. On-premise signs are permitted if they are less than 4 square feet in size.
- B. Commercial signs are prohibited, with the exception of on-premise signs advertising a home occupation or a bed and breakfast.
- C. Political signs shall be allowed as a permitted use during campaign seasons, provided they do not exceed 32 square feet in sign area, and are removed within one week after the date of the applicable election.
- D. Temporary signs, such as garage sales and real estate, are permitted if they are 16 square feet or less in size.

**XIV. Lighting And Other Nuisances**

- A. Permanent outdoor lighting must be shielded to prevent glare beyond the boundary of the property being illuminated.
- B. In consideration of existing adjacent agricultural usage and farmsteads all property owners acknowledge agricultural usage is a permitted usage and may be contained and maintained in perpetuity in a reasonable manner following good husbandry practices, subject to lawfully adopted rules, regulations an ordinances of County and State government.
- C. Use of fireworks is restricted to July 1, 2, 3, 4, & 5 and December 30, 31, and January 1.

**XV. Administration**

- A. Interpretation  
The Lake County Zoning Administrator shall be designated as the Zoning Officer with the responsibility to implement the zoning regulations. Any interpretation or decision by the Zoning Officer concerning the zoning district and regulations may be appealed to the Lake County Board of Adjustment in accordance with the appeals section of these regulations.
- B. Appeals, Conditional Uses, and Variances.  
The Lake County Board of Adjustment has been created by the Lake County Board of Commissioners and shall have the authority to hear and decide upon

appeals, conditional uses, and variances in accordance with Section 76-2-223 M.C.A.

C. Grievance

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

**XVI. Variance**

A. The County Board of Adjustment shall have the authority to grant reasonable variances from the standards of this Regulation where the Board determines that due to unusual circumstances a strict enforcement of such regulations would result in undue hardship, that no reasonable alternatives exist which do meet the standards contained herein, and that granting of a variance will not result in potential adverse effects on the public health safety, welfare, or water quality.

B. Required findings to approve a variance:

1. The need for a variance results from physical limitations of the lot or parcel.
2. Without a variance, no reasonable conforming use of the lot or parcel is possible and will cause undue hardship to the landowner.
3. The alleged hardship has not been created by action of the owner or occupants. A self-claimed financial hardship is not a valid reason for granting a variance.
4. Approval of the variance will not create a nuisance or have an adverse affect on implementation of the zoning regulations.
5. The variance is the minimum relief from the requirements of the regulations necessary to permit a reasonable conforming use.

**XVII. Violation**

A. Filing a Complaint

Whenever a violation of this Ordinance occurs or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis of the violation, shall be filed with the Zoning Administrator. They shall properly record the complaint and investigate and take action as provided by this Ordinance.

B. Penalties

A violation of the zoning ordinance 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. In case any building or structure is erected, constructed, reconstructed, altered, or converted, or any building or structure of land is used in violations of this Ordinance, 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.

**XVIII. 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. The Planning Board may propose amendments to the zoning regulations.

B. Amendment Procedure

The zoning regulations may be amended in whole or in part by the affirmative vote of the Board of Commissioners after a public hearing is held. 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.

**XIX. Separability Clause**

Should any section or provision of this regulation be declared unconstitutional or invalid by a court of competent jurisdiction, the decision shall not affect the validity of the regulations as a whole, or any part thereof other than the part declared unconstitutional or invalid.

**XX. Definitions**

A. Agricultural Use

Any management of the land for agriculture: raising of cows, horses, pigs, poultry and other livestock: forestry: horticulture or orchards: including the sale of products grown or raise 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 building measured from the average elevation of the finished grade within twenty (20) feet of the structure to the highest point of the roof. Average building height is generally determined by measuring the highest point on each major side of a structure and dividing the total height by the total number of walls.

C. Bed and Breakfast

A home operated for the purpose of providing short term travelers: accommodations in which not more than five (5) guest rooms are provided. Owner of the property must be in residence. Bed and breakfasts are required to be licensed by Montana Department of Environmental Quality as lodging establishments.

D. Buildable Area

The portion of a lot which meets the setback requirements of these regulations and has less than 25% slope.

E. Commerical Use

Any use involving the sale, rental, or distribution of goods, services, or commodities, either retail or wholesale, or the provision of recreational facilities or activities for a fee, except as may be allowed as a conditional use.

- F. **Conditional Use**  
Following a public hearing, the Board of Adjustment may authorize such use, upon finding that it is compatible with surrounding land uses and will comply with the conditions and standards for location, design, and operation of such use.
- G. **Disturbance**  
For purposes of these regulations any excavation of native slopes to prepare a property for development. Examples: Construction of driveways, pathways, footpath, ect. Not intended to include landscaping or other minor alterations of slope.
- H. **Dwelling Unit**  
A structure or portion thereof which is used exclusively for human habitation.
- I. **Guest House**  
Any accessory building designed for use for occupancy on a temporary basis by the landowners' guests.
- J. **Home Occupation**  
Any occupations carried on entirely within a residence by the occupants thereof, which activity is clearly incidental to the use of said residence as 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.
- K. **Impervious Surface Area**  
The part of the buildable portion of a lot that is covered with man-made improvements. This area includes but is not limited to such items as a house, garage, shed, decks, hard surfaced driveways, and parking areas.
- L. **Industrial Use**  
Any manufacturing, production, or assembly of goods or materials, including any on-site waste disposal area directly associated with an industrial use. This term does not include mineral extractions. This term includes junkyards and similar facilities or uses. This term does not include manufacturing, production, or assembly that may be allowed as a home occupation under a conditional use.
- M. **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.
- N. **Manufactured Housing**

A single family dwelling, built off-site in a factory, that is a minimum of 20 feet in width, that is placed on a permanent foundation, is at least 1,000 square feet in size, has a pitched roof, siding and roofing materials that are customarily used on site-built homes, and is in compliance with the applicable prevailing standards of the United States Department of Housing and Urban Development at the time of its production.

- O. **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.
- P. **Mobile Home Parks**  
Any parcel of land under single or undivided ownership which is designed and approved for the placement of two or more mobile home units.
- Q. **Permanent Foundation**  
A permanent foundation in terms of these regulations shall be a foundation constructed of wood, concrete, or masonry and meet the minimum requirements of the Uniform Building Code.
- R. **Planned Unit Development**  
A land development project subject to subdivision review consisting of a 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.
- S. **Prohibited Use**  
A use that is not permitted within the zoning district. An individual cannot be granted a variance to a prohibited use.
- T. **Recreational Vehicle Campground**  
A place used for public camping where persons can rent space to park individual camping trailers, pick-up campers, motor homes, travel trailers, or automobiles for transient dwelling purposes.
- U. **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.
- V. **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.
- W. **Retreat Center (educational or recreational as allowed in Sub-unit E)**

A quiet facility where people may come to for seclusion, education, or non-motorized recreation. Examples: camping, biking, hiking, arts and crafts. Examples of land uses that do not qualify as an educational-recreational retreat facility under this definition are hotels, motels, and commercial resorts.

X. Slope or Grade

The degree of deviation of a surface from horizontal. For the purpose of these regulations, slope or grade is expressed in percent and is calculated in percent by dividing the vertical distance by the horizontal distance of the improvements proposed.

Y. Special Conditional Use

A special conditional use is a conditional use that may be allowed in a specific sub-district after public review and approval by the Lake County Board of Adjustments, provided that it is compatible with surrounding land uses and the purpose of these regulations and will not adversely impact neighboring properties to an extent greater than the allowable residential density. Examples of special conditional uses are retreat centers and planned unit developments. The use of the term "special" does not imply that these conditional uses are more acceptable or more likely to be approved by the Board of Adjustments.

Z. 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 five (5) months. The temporary structure shall be removed from the lot for a period of at least 30 days in order to activate a new 5-month period.

# Masumola Zoning District

## Lake County, MT

Located in  
Township 28 North  
Range 20 West

